

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Greenville County

Honorable Robin B. Stilwell, Circuit Court Judge

WILLIE M. WILLIAMS,

RESPONDENT/PETITIONER

V.

STATE OF SOUTH CAROLINA,

PETITIONER/RESPONDENT

APPELLATE CASE NO 2020-000796

JOINT APPENDIX

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STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

COURT OF GENERAL SESSIONS

2013-GS-23-3238

2013-GS-23-3239

2013-GS-23-3240

ORIGINAL

STATE OF SOUTH CAROLINA,

vs.

TRANSCRIPT OF RECORD

WILLIE MARVIN WILLIAMS,
DEFENDANT.

VOLUME I

May 13 and 14, 2013
Greenville, South Carolina

B E F O R E:

THE HONORABLE DEADRA L. JEFFERSON, JUDGE; and a jury.

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

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I N D E X

(SW) - Denotes State's Witness
 (DW) - Denotes Defense Witness
 (IC) - Denotes In Camera

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P R O C E E D I N G S

(WHEREUPON, State's Exhibit Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, and 59 were marked for identification only.)

THE COURT: Is the State ready to proceed with jury selection?

MS. MUNSON: Yes, ma'am.

THE COURT: Is the Defense?

MR. WARDER: Yes, Your Honor.

THE COURT: Okay. Now, it is my understanding that each of indictments has been true billed; is that correct?

MS. MUNSON: Yes, ma'am, Your Honor.

THE COURT: And does the Defendant wish to have a formal arraignment on any of the indictments?

MR. WARDER: No, Your Honor.

THE COURT: Do we need to bring the panel up? Is that what we do?

THE CLERK: Yes.

(Pause.)

(WHEREUPON, the jury panel entered the courtroom.)

THE COURT: Do we have everybody?

THE BAILIFF: Yes, ma'am.

1 THE COURT: Good morning, ladies and gentlemen.

2 I am Deadra Jefferson. I am a circuit judge for the
3 State of South Carolina. My resident circuit is
4 Charleston, which is the Ninth Circuit, which is made up
5 of Charleston and Berkeley County. Your circuit is the
6 Thirteenth Circuit, which is Greenville and Pickens
7 County.

8 Circuit judges in South Carolina travel throughout
9 the State and hold court. Under the Constitution, we're
10 supposed to travel six months out of the year. But
11 because of severe deficits with our budgets, we have been
12 traveling a week a month, which, actually, is ideal when
13 you think about it. It's just enough to be a honeymoon,
14 and just enough to appreciate home.

15 We are going to select a jury for the case of Willie
16 Marvin Williams. And that involves three indictments.
17 One is -- those are indictments 2013-GS-23-3238, which is
18 an indictment for murder. And that indictment alleges as
19 follows, that Willie Marvin Williams did in Greenville
20 County on or about the 10th day of July, 2010, unlawfully
21 and with malice aforethought kill Natasha Kerns by means
22 of shooting her, and that Natasha Kerns died as a
23 proximate result thereof alleging a violation of Code
24 Section 16-3-10 of the South Carolina Code of Laws as
25 amended.

1 And, count two, possession of a weapon during the
2 commission of a violent crime, which alleges as follows,
3 that Willie Marvin Williams did in Greenville County on or
4 about the 10th day of July, 2010, possess or visibly
5 display a handgun during the commission or attempted
6 commission of a violent crime, to-wit, murder, alleging a
7 violation of Code Section 16-23-490 of the Code of Laws as
8 amended.

9 And indictment 2013-GS-23-3239 is an indictment for
10 attempted murder. And that indictment alleges as follows,
11 that Willie Marvin Williams did in Greenville County on or
12 about the 10th of July, 2010, unlawfully and with malice
13 aforethought and with the intent to kill, attempt to kill
14 Anthony Wilson, alleging a violation of Code Section
15 16-3-29 of the Code of Laws as amended.

16 And indictment 2013-GS-23-3240, unlawful conduct
17 towards a child, which alleges as follows, that Willie
18 Marvin Williams did in Greenville County on or about the
19 10th day of July, 2010, while being the legal custodian,
20 parent, or guardian did place the child, J.K., one, at
21 unreasonable risk of harm affecting the child's life,
22 physical, or mental health, or safety; or, two, unlawfully
23 or maliciously do or cause to be done any bodily harm to
24 the child so that the life or health of the child is in
25 danger or likely to be endangered; or, three, willfully

1 abandon the child, alleging a violation of code section
2 63-5-70. Alleging all of these actions to be against the
3 peace and dignity of the State of South Carolina, and
4 contrary to the statutes as provided in each case.

5 Ladies and gentlemen, we're going to go through a
6 process called voir dire, which is simply a legal term
7 meaning that I'm going to ask some questions of the panel,
8 generally, so that the attorneys can more effectively
9 exercise their preemptory challenges in jury selection.
10 If a question applies to you, please, stand and in a loud
11 and clear voice give us your name, your juror number, and
12 answer to the question. And remain standing until the
13 Court has completed questioning you.

14 Is there -- and before we do that, I'm going to ask
15 counsel for the State to introduce themselves, anyone who
16 will be assisting them in the trial of this case and,
17 also, publish the names of the members of their office.

18 And if counsel for the Defense would have their
19 client stand, face the panel, introduce themselves and
20 provide us with the same information regarding whom they
21 may be practicing law with.

22 You may proceed, Solicitor.

23 MS. MUNSON: May it please the Court, Your Honor.

24 THE COURT: Yes, ma'am.

25 MS. MUNSON: I'm Judy Munson of the Thirteenth

1 Circuit Solicitor's Office. I'm an assistant solicitor,
2 prosecutor.

3 Seated with me is Eric Whaley, an investigator with
4 the Greenville County Sheriff's Office. Working in our
5 office and will be assisting today is Melissa Bishop, one
6 of our investigators. And that's Will Timmons over there
7 in the back that will be assisting.

8 Thank you.

9 Thank you, Your Honor.

10 THE COURT: Do you know the names of the members of
11 your office, the solicitors in your office?

12 MS. MUNSON: All 30 of them? All of them?

13 THE COURT: Yes, as many as you can remember.

14 MS. MUNSON: Okay. Our big boss is Walt Wilkins. He
15 is the elected solicitor. Right underneath him is Lucas
16 Marchant and Betty Strom. Then we have a bunch of unit
17 heads, Jeff Weston, Barbara Tiffin, Will Timmons, of
18 course, Ryan Holloway, Charlie Bondurant, Sarah Lee
19 Drawdy, Kris Hodge, Mark Moyer, Betty Strom. I already
20 said Betty Strom. Joyce Monts, Allen Fretwell, Bryna
21 Seay.

22 I'm afraid that's as good as I can do, Your Honor. I
23 apologize.

24 THE COURT: Is the Defense ready to proceed?

25 MR. WARDER: Yes.

1 THE COURT: You may proceed.

2 MR. WARDER: May it please the Court.

3 THE COURT: Yes, sir.

4 MR. WARDER: I'm Richard Warder. I'm a sole
5 practitioner here in Greenville. It is my privilege to be
6 trying this case with Townes Jones. And he's a sole
7 practitioner from Greenwood. My client -- or our client
8 is --

9 Mr. Jones, stand up and turn around.

10 Willie Williams is our client. And this is Cindy
11 Vaughn. She's a paralegal in my office.

12 Thank you very much.

13 THE COURT: And, Mr. Jones, is there anybody in your
14 office that you practice law with, or are you a sole
15 practitioner as well?

16 MR. JONES: Your Honor, I have an associate in my
17 office. His name is Fred Spivey from Whitmire, South
18 Carolina, over near Union. And he's not here today and
19 will not be participating in the trial.

20 THE COURT: Thank you, sir.

21 JURY QUALIFICATION

22 THE COURT: Is there any member of the panel related
23 by blood or marriage to Willie Marvin Williams, Anthony
24 Wilson, or anyone who is related to the deceased, Natasha
25 Kerns? If so, please, stand at this time.

1 (WHEREUPON, there was no response.)

2 THE COURT: Does any member of the panel have a close
3 personal, social, or business relationship with Willie
4 Marvin Williams, Anthony Wilson, or anyone related to
5 Natasha Kerns? If so, please, stand.

6 (WHEREUPON, there was no response.)

7 THE COURT: The following are a list of potential
8 witnesses. I would ask that you listen very carefully.
9 David R. Price, PhD; Kendra Williams; Stephanie Williams;
10 Kenyatta Jiles; Jakyre K[REDACTED]; Marie Simkins; Renee
11 Beaufort; Anthony Wilson; Willie Robinson; Burley
12 Williams; Tracy Irby; Cynthia Booker; Teresa Boyd; Leonard
13 Paden; Margaret Williams; Laura Campbell; Matthew Waters,
14 Michael Kastner, Wayne Campbell, Craig Hawkins, Sergeant
15 David Hayes, all with the Greenville County Sheriff's
16 Office; Christopher Horrell, Michael Jarvis, Justin
17 Lanford, Christopher Miller, Eric Whaley, all of the
18 Greenville County Sheriff's Office; Dr. Michael Ward,
19 Greenville County Medical Examiner; Ryan Mahaffey,
20 Greenville County EMS; Ila Simmons, of the South Carolina
21 Law Enforcement Division, commonly known as SLED; Joshua
22 Garrison, Greenwood City Police Department; James
23 Armstrong; Sergeant Jonathan Hamilton; Christopher Gary,
24 Greenville County Department of Public Safety.

25 Is there any member of the panel related by blood or

1 marriage to any of the people that I've just listed, or
2 does anyone have a close personal or social relationship
3 with any of these individuals? If so, please, stand at
4 this time.

5 (WHEREUPON, there was no response.)

6 THE COURT: Has any member of the panel ever been
7 represented by any of the attorneys involved in this case,
8 or anyone in their law firms? If so, please, stand at
9 this time.

10 (WHEREUPON, there was no response.)

11 THE COURT: Is there any member of the panel who is
12 related by blood or marriage to, or have a close personal
13 or social relationship with any of the attorneys involved
14 in this case, or anyone in their law firms, or in the
15 Solicitor's Office? If so, please, stand at this time.

16 JUROR #131, JEFFERY ROEDER: Yes.

17 THE COURT: Yes, sir.

18 JUROR #131, JEFFERY ROEDER: What would you say would
19 be a social relationship?

20 THE COURT: Someone who might be a passing
21 acquaintance, someone you might see as a -- if you've had
22 any contact with the person and you would consider it
23 significant. Because most places are small. So, you
24 know, you may know the name but if you've not interacted
25 with them, say, on a social basis, go to church with them,

1 go to their homes, you know, what you would consider a
2 friend or a social acquaintance.

3 JUROR #131, JEFFERY ROEDER: I think that would put
4 me in the category, a next door neighbor being involved
5 with social gatherings.

6 THE COURT: Okay. Tell me your name and your juror
7 number.

8 JUROR #131, JEFFERY ROEDER: Jeffery Roeder, #131.

9 THE COURT: And who is it that you have the social
10 acquaintance with?

11 JUROR #131, JEFFERY ROEDER: Mr. Warder.

12 THE COURT: Sir, as a result of this experience, do
13 you feel you could remain fair and impartial, and render a
14 fair and impartial decision in this case based solely on
15 the evidence as it will be presented and on the law as the
16 Court will instruct?

17 JUROR #131, JEFFERY ROEDER: I think I could.

18 THE COURT: Okay. I need -- only you can answer this
19 question. There's no right or wrong answer, but it has to
20 be a "yes" or "no" answer. And I need you to search
21 yourself.

22 Do you think you can answer the question "yes" or
23 "no"?

24 JUROR #131, JEFFERY ROEDER: Yes.

25 THE COURT: Okay. Thank you, sir.

1 You may take your seat.

2 Is there any member of the panel who has ever been
3 represented by any of the attorneys in the Solicitor's
4 Office? If so, please, stand at this time.

5 (WHEREUPON, there was no response.)

6 THE COURT: Is there any member of the panel who has
7 formed or expressed an opinion about any issue or matter
8 involved in this case? If so, please, stand at this time.

9 Is --

10 Yes, ma'am. If you would stand for me, please. Tell
11 me your name and your juror number.

12 JUROR #174, WHITNEY WHITEHILL: Whitney Whitehill,
13 #174.

14 Can you repeat that question, please?

15 THE COURT: Is there any member of the panel who has
16 formed or expressed an opinion about any issue or matter
17 involved in this case?

18 JUROR #174, WHITNEY WHITEHILL: I don't have an
19 opinion, but I am not comfortable with being on this
20 panel.

21 THE COURT: Okay. I'm going to ask another question
22 that I think would probably address your concerns. So, if
23 you would, listen -- and if I don't, then if you would
24 stand for me again at the end of the inquiry.

25 Is there any member of the panel aware of any bias or

1 prejudice towards either the State or the Defense in this
2 case? If so, please, stand at this time.

3 (WHEREUPON, there was no response.)

4 THE COURT: Is there any member of the panel who is a
5 member of the Grand Jury which issued the indictments in
6 this case? If so, please, stand at this time.

7 (WHEREUPON, there was no response.)

8 THE COURT: Is there any member of the panel who's a
9 member of or contributor to any group which has as its
10 primary concern the promotion of law enforcement or
11 victims rights? These groups would include, but are not
12 limited to Mothers Against Drunk Driving, Students Against
13 Drunk Driving, Citizens Against Violent Crime, People
14 Against Rape, Citizens Advocate and Return to Decency and
15 Ethics, and Parents Empowered to Save Teens? If so,
16 please -- or any other community-type watch organization?
17 If so, please, stand at this time.

18 (WHEREUPON, there was no response.)

19 THE COURT: Has any member of the panel read,
20 watched, or listened to any media accounts of this case?
21 That includes anything that could have been in the
22 newspaper, on radio, television, or Internet? If so,
23 please, stand at this time.

24 (WHEREUPON, there was no response.)

25 THE COURT: Is this any member of the panel who has

1 any moral, religious, or philosophical opposition to
2 sitting in judgment of a fellow human being? If so,
3 please, stand at this time.

4 (WHEREUPON, there was no response.)

5 THE COURT: Is there any member of the panel who has
6 any moral, philosophical, or religious opposition to the
7 ownership or possession of a firearm? If so, please,
8 stand at this time.

9 (WHEREUPON, there was no response.)

10 THE COURT: Is there any member of the panel who has
11 ever been involved in what you would characterize as a
12 criminal domestic violence incident? If so, please, stand
13 at this time.

14 (WHEREUPON, there was no response.)

15 THE COURT: Does any member of the panel know of any
16 reason whatsoever why he or she should not serve as a
17 juror in this case, with particular emphasis being placed
18 on your ability to be fair and impartial to both the State
19 and the Defense? If so, please, stand at this time.

20 (WHEREUPON, there was no response.)

21 THE COURT: Ma'am, I think that would include you.

22 Are you telling the Court that you could not be a
23 fair and impartial juror in this case?

24 JUROR #174, WHITNEY WHITEHILL: Yes.

25 THE COURT: Tell me your name and juror number again.

1 JUROR #174, WHITNEY WHITEHILL: Whitney Whitehill,
2 #174.

3 THE COURT: Ma'am, I'll excuse you from the trial of
4 this case only. You may take your seat.

5 Are there any additional questions from the State?

6 MS. MUNSON: No, Your Honor.

7 THE COURT: Any additional questions from the
8 Defense?

9 MR. WARDER: Your Honor, this case has been
10 prosecuted by the Greenville County Sheriff's Department.
11 I would ask if anybody has friends or relatives that work
12 for that organization?

13 THE COURT: Do you mean outside the list that I
14 already published?

15 MR. WARDER: Yes, ma'am. If they have a friend or
16 relative that worked or is employed there?

17 THE COURT: Is there any member of the panel who has
18 a family member who is employed with the Greenville County
19 Sheriff's Department? If so, please, stand at this time.

20 (WHEREUPON, there was no response.)

21 THE COURT: Any additional questions?

22 MR. WARDER: No, Your Honor.

23 THE COURT: Okay. Thank you.

24 The strikes will be 10 and five.

25 Ladies and gentlemen, we're going to go through the

1 jury selection process. If your name is called, please,
2 come forward and stand where the bailiff is standing with
3 all of your personal belongings until we either seat you
4 or excuse you as a juror.

5 Thank you in advance for your patience.

6 Madam Clerk, you may proceed when you're ready.

7 THE CLERK: Thank you.

8 THE COURT: Thank you very much.

9 JURY SELECTION

10 THE CLERK: Juror #81, Brian Wolfe.

11 (WHEREUPON, Juror #81, Brian Wolfe, a white male,
12 came forward.)

13 THE CLERK: What says the sate?

14 MS. MUNSON: Please present the juror.

15 THE CLERK: Thank you.

16 MR. WARDER: Please seat the juror.

17 THE CLERK: Thank you.

18 You may be seated in the jury box.

19 Juror #18, Lisa Bratten.

20 (WHEREUPON, Juror #18, Lisa Bratten, a white female,
21 came forward.)

22 THE CLERK: What says the State?

23 MS. MUNSON: Please present the juror.

24 THE CLERK: Thank you.

25 What says the Defendant?

1 MR. WARDER: Please seat the juror.

2 THE CLERK: Thank you.

3 You may be seated in the jury box.

4 Juror #48, Carole Dugan.

5 (WHEREUPON, Juror #348, Carol Dugan, a white female,
6 came forward.)

7 THE CLERK: What says the State?

8 MS. MUNSON: Please present the juror.

9 THE CLERK: Thank you.

10 What says the Defendant?

11 MR. WARDER: Please excuse the juror from the trial
12 of this matter.

13 THE CLERK: Thank you.

14 Ms. Dugan, you may be seated. You're excused from
15 the trial of this case.

16 Juror #87, Sean Lindsay.

17 (WHEREUPON, Juror #87, Sean Lindsay, a white male,
18 came forward.)

19 THE CLERK: What says the State?

20 MS. MUNSON: Please excuse the juror from the trial
21 of this matter.

22 THE CLERK: Thank you.

23 You may be seated. You're excused from the trial of
24 this case.

25 Juror #19, Harold Breazeale.

1 (WHEREUPON, Juror #19, Harold Breazeale, a white
2 male, came forward.)

3 THE CLERK: What says the State?

4 MS. MUNSON: Please present the juror.

5 THE CLERK: Thank you.

6 What says the Defendant?

7 MR. WARDER: Please seat the juror.

8 THE CLERK: Thank you.

9 You may be seated in the jury box.

10 Juror #131, Jeffery Roeder.

11 (WHEREUPON, Juror #131, Jeffery Roeder, a white male,
12 came forward.)

13 THE CLERK: What says the State?

14 MS. MUNSON: Please excuse the juror from the trial
15 of this matter.

16 THE CLERK: Thank you.

17 You may be seated. You're excused from the trial of
18 this case.

19 Juror #15, Bentley Bowling.

20 (WHEREUPON, Juror #15, Bentley Bowling, a white male,
21 came forward.)

22 THE CLERK: What says the State?

23 MS. MUNSON: Please present the juror.

24 THE CLERK: Thank you.

25 MR. WARDER: Please swear the juror.

1 THE CLERK: Thank you.

2 You may be seated in the jury box.

3 Juror #114, Brent Noblitt.

4 (WHEREUPON, Juror #114, Brent Noblitt, a white male,
5 came forward.)

6 THE CLERK: What says the State?

7 MS. MUNSON: Please present the juror.

8 THE CLERK: Thank you.

9 MR. WARDER: Please swear the juror.

10 THE CLERK: Thank you.

11 You may be seated in the jury box.

12 Juror #76, Heather Howard.

13 (WHEREUPON, Juror #76, Heather Howard, a white
14 female, came forward.)

15 THE CLERK: What says the State?

16 MS. MUNSON: Please present the juror.

17 THE CLERK: Thank you.

18 MR. WARDER: Please excuse the juror from the trial
19 of this matter.

20 THE CLERK: Thank you.

21 You may be seated. You're excused from the trial of
22 this case.

23 Juror #32, Anne Cash.

24 (WHEREUPON, Juror #32, Anne Cash, a white female,
25 came forward.)

1 THE CLERK: What says the State?

2 MS. MUNSON: Please present the juror.

3 THE CLERK: Thank you.

4 MR. WARDER: Please excuse the juror from the trial
5 of this matter.

6 THE CLERK: Thank you.

7 You may be seated. You're excused from the trial of
8 this case.

9 Juror #91, Benjamin Macmillan.

10 (WHEREUPON, Juror #91, Benjamin Macmillan, a white
11 male, came forward.)

12 THE CLERK: What says the State?

13 MS. MUNSON: Please excuse the juror from the trial
14 of this matter.

15 THE CLERK: Thank you.

16 You may be seated. You're excused from the trial of
17 this case.

18 Juror #139, Robert Shalvoy.

19 (WHEREUPON, Juror #139, Robert Shalvoy, a white male,
20 came forward.)

21 THE CLERK: What says the State?

22 MS. MUNSON: Please present the juror.

23 THE CLERK: Thank you.

24 What says the Defendant?

25 MR. JONES: What number?

1 THE CLERK: Oh, I'm sorry. #139.

2 MR. WARDER: Please swear the juror.

3 THE CLERK: Thank you.

4 You may be seated in the jury box.

5 Juror #81, Paul Johnson.

6 (WHEREUPON, Juror #81, Paul Johnson, a white male,
7 came forward.)

8 THE CLERK: What says the State?

9 MS. MUNSON: Please excuse the juror from the trial
10 of this matter.

11 THE CLERK: Thank you.

12 You may be seated. You're excused from the trial of
13 this case.

14 Juror #116, Leslie Norris.

15 (WHEREUPON, Juror #116, Leslie Norris, a white
16 female, came forward.)

17 THE CLERK: What says the State?

18 MS. MUNSON: Please present the juror.

19 THE CLERK: Thank you.

20 MR. WARDER: Please swear the juror.

21 THE CLERK: Thank you.

22 You may be seated in the jury box.

23 Juror #84, Jacqueline Krysh.

24 (WHEREUPON, Juror #84, Jacqueline Krysh, a white
25 female, came forward.)

1 THE CLERK: What says the State?

2 MS. MUNSON: Please present the juror.

3 THE CLERK: Thank you.

4 What says the Defendant?

5 MR. WARDER: Please swear the juror.

6 THE CLERK: Thank you.

7 You may be seated in the jury box.

8 Juror #3, William Allgood.

9 (WHEREUPON, Juror #3, William Allgood, a black male,
10 came forward.)

11 THE CLERK: What says the State?

12 MS. MUNSON: Please present the juror.

13 THE CLERK: Thank you.

14 What says the Defendant?

15 MR. WARDER: Please swear the juror.

16 THE CLERK: Thank you.

17 You may be seated in the jury box.

18 Juror #109, Jill Moore.

19 (WHEREUPON, Juror #109, Jill Moore, a white female,
20 came forward.)

21 THE CLERK: What says the State?

22 MS. MUNSON: Please present the juror.

23 THE CLERK: Thank you.

24 What says the Defendant?

25 MR. WARDER: Please swear the juror.

1 THE CLERK: Thank you.

2 You may be seated in the jury box.

3 Juror #138, Jennifer Seppala.

4 (WHEREUPON, Juror #138, Jennifer Seppala, a white
5 female, came forward.)

6 THE CLERK: What says the State?

7 MS. MUNSON: Please excuse the juror from the trial
8 of this matter.

9 THE CLERK: Thank you.

10 You may be seated. You're excused from the trial of
11 this case.

12 Juror #130, Susan Roberts.

13 (WHEREUPON, Juror #130, Susan Roberts, a white
14 female, came forward.)

15 THE CLERK: What says the State?

16 MS. MUNSON: Please present the juror.

17 THE CLERK: Thank you.

18 MR. WARDER: Please excuse the juror from the trial
19 of this matter.

20 THE CLERK: Thank you.

21 You may be seated. You're excused from the trial of
22 this case.

23 Juror #100, Charles McKinney.

24 (WHEREUPON, Juror #100, Charles McKinney, a white
25 male, came forward.)

1 THE CLERK: What says the State?

2 MS. MUNSON: Please present the juror.

3 THE CLERK: Thank you.

4 What says the Defendant?

5 MR. WARDER: Please swear the juror.

6 THE CLERK: Thank you.

7 You may be seated in the jury box.

8 Juror #12, Robert Bishop.

9 (WHEREUPON, Juror #12, Robert Bishop, a white male,
10 came forward.)

11 THE CLERK: What says the State?

12 MS. MUNSON: Please excuse the juror from the trial
13 of this matter.

14 THE COURT: You've exhausted your strikes.

15 MR. JONES: Your Honor, I counted five, so we still
16 have an option of accepting the juror?

17 THE COURT: Yes, you do.

18 The State has exhausted its strikes only for cause.
19 You only have five.

20 MS. MUNSON: Present the juror, Your Honor.

21 MR. WARDER: Please swear the juror.

22 THE CLERK: Thank you.

23 You may be seated in the jury box.

24 THE COURT: Two alternates. The strikes are one and
25 two.

1 THE CLERK: Yes, Your Honor.

2 Juror #23, Virginia Burgess.

3 (WHEREUPON, Juror #23, Virginia Burgess, a black
4 female, came forward.)

5 THE CLERK: What says the State?

6 MS. MUNSON: Please present the juror.

7 THE CLERK: Thank you.

8 MR. WARDER: Please swear the juror.

9 THE CLERK: Thank you.

10 You may be seated in the jury box.

11 Juror #94, Robert Masters.

12 (WHEREUPON, Juror #94, Robert Masters, a white male,
13 came forward.)

14 THE CLERK: What says the State?

15 MS. MUNSON: Please present the juror.

16 THE CLERK: Thank you.

17 MR. WARDER: Please excuse the juror from the trial
18 of this matter.

19 THE CLERK: Thank you.

20 You may be seated. You're excused from the trial of
21 this case.

22 Juror #43, Matthew Cottrell.

23 (WHEREUPON, Juror #43, Matthew Cottrell, a white
24 male, came forward.)

25 THE CLERK: What says the State?

1 MS. MUNSON: Please present the juror.

2 THE CLERK: Thank you.

3 MR. WARDER: Please swear the juror.

4 THE CLERK: Thank you.

5 You may be seated in the jury box.

6 THE COURT: Are there any motions regarding the
7 selection of the jury from the State?

8 MS. MUNSON: Nothing from the State, Your Honor.

9 THE COURT: From the Defense?

10 MR. WARDER: No, Your Honor.

11 THE COURT: Ladies and gentlemen, we thank you for
12 your time, your attention, and your patience this morning.
13 With the assistance of the bailiffs, we're going to return
14 you to your jury assembly room for further instructions.

15 Have a great day.

16 (WHEREUPON, the remaining jury panel members exited
17 the courtroom.)

18 THE COURT: Ladies and gentlemen, if you would stand
19 for me, please, and raise your right hand so the Clerk can
20 administer the oath.

21 THE CLERK: The answer to the oath is "I will."

22 You shall well and truly try the case

23 2013-GS-23-3238, the State v. Willie Marvin Williams,
24 indicted for murder and possession of a weapon during the
25 commission of a violent crime, 3239 for attempted murder,

1 and 3240 for unlawful conduct towards a child, and a true
2 verdict render according to the law and the evidence, so
3 help you God.

4 (WHEREUPON, the jury was sworn at approximately
5 12:16 p.m.)

6 THE CLERK: Thank you.

7 You may be seated.

8 THE COURT: Did you include count two, possession of
9 a firearm during the commission of a violent crime?

10 THE CLERK: I believe I read it.

11 THE COURT: Ladies and gentlemen, I need to discuss
12 some scheduling matters with the attorneys. I'm going to
13 send you to your jury room while we complete that process.
14 I need to decide whether we should break for lunch and
15 come back for opening argument and instruction, or whether
16 we will maybe press forward a little bit before lunch.

17 During this break, please, do not discuss the case
18 among yourselves. Please don't speculate about what you
19 think it may or could be about. If you would, go with the
20 bailiffs, please.

21 (WHEREUPON, the jury was excused from open court at
22 approximately 12:17 p.m.)

23 THE COURT: Are there any matters we need to take up
24 before we begin opening instruction and opening argument
25 from the State?

1 MS. MUNSON: No, ma'am.

2 THE COURT: From the Defense?

3 MR. WARDER: Your Honor, if it pleases the Court.

4 THE COURT: Yes, sir.

5 MR. WARDER: From the Defense, we would move to
6 sequester the witnesses in this case.

7 THE COURT: I would assume there's no exception to
8 that.

9 MS. MUNSON: None, Your Honor.

10 THE COURT: The witnesses will be sequestered with
11 the exception of the victims, because they cannot be
12 sequestered by statute, and the lead case agent.

13 Do y'all want to break for lunch and start after
14 lunch, or do y'all want to go ahead and do opening
15 argument and opening instruction before lunch?

16 MR. WARDER: Your Honor, if you're asking for a
17 preference, I would probably have a preference to go ahead
18 and break. And then we can just continue after we start
19 and continue on.

20 MS. MUNSON: I'd rather get started Your, Honor.

21 THE COURT: Yeah. We've got a lot of witnesses.

22 I guess the question becomes how many of these
23 witnesses do you plan to call from the State's witness
24 list?

25 MS. MUNSON: I can tell you, Your Honor, on the

1 record that Witness #13, Matthew Waters, will not be
2 testifying.

3 THE COURT: Okay.

4 MS. MUNSON: The Defense and I have entered into a
5 stipulation, which will mean witness #25, Ms. Simmons from
6 SLED, will not be testifying.

7 THE COURT: Okay.

8 MS. MUNSON: #28, Christopher Gary, will not be
9 testifying. And it depends on how well some of the
10 witnesses do whether or not I need to bring somebody else.

11 So I think I can thin the herd rather quickly, Your
12 Honor. I don't anticipate calling every single one of
13 them.

14 THE COURT: Give me a round number of how many you
15 anticipate calling. Because there's 29 people on here,
16 less the three you just said, so that's 26. And they have
17 four. So that's a total of 30.

18 MS. MUNSON: I would say 20, Your Honor.

19 THE COURT: How long are y'all's opening arguments
20 going to be?

21 MS. MUNSON: Mine will be less than 10 minutes, Your
22 Honor.

23 THE COURT: How about the Defense?

24 MR. WARDER: Your Honor, on opening?

25 THE COURT: Uh-huh.

1 MR. WARDER: It will be very brief.

2 THE COURT: Give me a round number. I'm not going to
3 hold you to it, but give some estimate of what you think
4 it will be.

5 MR. WARDER: Five minutes.

6 THE COURT: Okay. Why don't we go ahead and do
7 opening argument and opening instruction, and then we'll
8 break for lunch. And then I'll determine how long we'll
9 be out for the lunch.

10 Do we have note paper and pen or pencils for the
11 jury?

12 THE CLERK: Typically, it's when they ask, but would
13 you like for them to have -

14 THE COURT: Yes. That will be wonderful.

15 Do you all want to go ahead and go to the restroom
16 while we're getting note paper, pads, and pencils for the
17 jury?

18 Let's take a brief break.

19 (WHEREUPON, a break was taken.)

20 THE COURT: Is the State ready to proceed?

21 MS. MUNSON: Yes, ma'am, Your Honor.

22 THE COURT: Is the Defense ready to proceed?

23 MR. WARDER: Yes, Your Honor.

24 THE COURT: Did y'all -- I got a list of exhibits
25 that indicated they were pre-marked. Did y'all agree on

1 those exhibits, or is there still contention regarding
2 those exhibits?

3 MS. MUNSON: We'll probably agree to a lot of them,
4 Your Honor, from my standpoint. I just pre-marked them --

5 THE COURT: Okay.

6 MS. MUNSON: -- to help things move along.

7 THE COURT: Have y'all looked at that list of
8 exhibits? Has the Defense looked at that list of
9 exhibits?

10 MR. JONES: The Defense?

11 THE COURT: Well, the State gave me a lengthy list of
12 exhibits indicating that those were premarked. And I'm
13 trying to determine if you all can agree to any of those
14 exhibits.

15 MR. WARDER: I'm sorry. I didn't get that list. I
16 didn't get a list -- a copy of that list.

17 THE COURT: Can y'all, please, give him a copy of
18 that list?

19 MS. MUNSON: I'll have to make it, Your Honor. What
20 I did do, Your Honor, is go over to their office on Friday
21 and give them copies of all the photographs that I intend
22 to introduce. However, not the numbers associated with
23 them. So we'll get them a copy of that.

24 THE COURT: Well, what I have is more than
25 photographs. It's some other things, aren't there?

1 MS. MUNSON: Yes, ma'am.

2 We can let them have a look at them right now.

3 THE COURT: A lot of them are photos.

4 (Pause.)

5 MR. WARDER: Your Honor --

6 THE COURT: Yes, sir.

7 MR. WARDER: -- I have a projectile that's in
8 property and evidence. It's in a wrapper and in the
9 envelope. And I need to see that before I can enter it.

10 Is there any way that we can --

11 THE COURT: Who's the witness?

12 You can't open it until the witness that's coming --

13 MS. MUNSON: The first witness will be Jonathan
14 Hamilton this afternoon.

15 THE COURT: Is that who that witness who deals with
16 that -- what's the witness associated with that exhibit?

17 MS. MUNSON: He's the forensic evidence guy who took
18 it out of the wall. And then there will be James
19 Armstrong, who tried to compare it with the projectile
20 from Natasha's head.

21 THE COURT: And what order are those witnesses?

22 MS. MUNSON: Mr. Hamilton will be first.

23 THE COURT: And then what order is your next witness?

24 MS. MUNSON: After Mr. Hamilton, I would probably
25 call Mr. Armstrong.

1 THE COURT: Okay. So he's going to open that exhibit
2 then; correct?

3 MS. MUNSON: Mr. Hamilton will.

4 THE COURT: Okay. I prefer for chain purposes --

5 MR. WARDER: That's what I wanted to --

6 THE COURT: -- the person who put -- who sealed it
7 needs to open it.

8 MS. MUNSON: Now, Mr. Hamilton, originally, sealed it
9 and then Mr. Armstrong.

10 THE COURT: Well, you get the gist of what I'm
11 saying?

12 MR. WARDER: Your Honor.

13 THE COURT: Yes, sir.

14 MR. WARDER: The first exhibit would be State's
15 Exhibit No. 1, which would be a 911 call. We do have some
16 objections to that.

17 THE COURT: And what are those objections?

18 MR. WARDER: Your Honor, we would object to that --

19 THE COURT: Can you play it for me? Maybe that will
20 help me first. Before I hear that, let me hear the tape
21 itself.

22 How long of a tape is it?

23 MS. MUNSON: Eight minutes and 11 seconds.

24 THE COURT: Yeah, let me listen to it. That will
25 help.

1 Do you have the equipment to play it on?

2 MS. MUNSON: Yes.

3 THE COURT: Are you going to make reference to it in
4 your opening argument?

5 MS. MUNSON: I am not, Your Honor. Because I don't
6 know whether or not it will get in.

7 THE COURT: That's prudent. Let me listen to it
8 right quick.

9 (WHEREUPON, State's Exhibit No. 1 was played in open
10 court.)

11 THE COURT: That's the extent of the tape?

12 MS. MUNSON: Yes, ma'am, Your Honor.

13 THE COURT: For what purpose will the State be
14 offering it?

15 MS. MUNSON: It's incredibly probative as to what was
16 going on at the time. It gives the jury, basically, an
17 ear witness account of what was going on. It's offered
18 for the purpose of identifying the Defendant. That's the
19 purpose of it.

20 THE COURT: What's the objection basis?

21 MR. WARDER: Your Honor, if it please the Court.

22 In the discovery was the information that the voice
23 on the tape, the victim, had made numerous other calls to
24 the police. When the police went to investigate, she
25 would either recant, say they weren't true and take them

1 back. If this tape comes in, Your Honor, not only because
2 of its hearsay nature, it will violate completely our
3 right to confront the declarant in that statement against
4 the truth or falsity of that allegation, or the truth or
5 falsity of what she saw.

6 She had called them on other occasions. The
7 difference being on this occasion something happened. And
8 we have no way of cross-examining her on the reliability
9 of those things, or whether they're just statements. And
10 they go to including my client as the person that does and
11 excluding others. And that's the real central issue of
12 the case. And I will not be able to present any
13 cross-examination --

14 THE COURT: Is there anything that's going to
15 preclude you from bringing in or questioning other
16 witnesses regarding other statements that you say she made
17 and then recanted?

18 MR. WARDER: I would assume that they -- well, I
19 guess it would bring up the relevancy, if they would be
20 relevant on that issue.

21 THE COURT: Well, your issue is credibility, isn't
22 it?

23 MR. WARDER: Yes.

24 THE COURT: And the veracity of the statement?

25 MR. WARDER: And the -- credibility of it?

1 THE COURT: And you say your basis of that is that
2 she made other statements to the police which she later
3 recanted; correct?

4 MR. WARDER: Yes, sir -- yes, ma'am.

5 THE COURT: And is the State going to object to them
6 bringing any of those statements in?

7 MS. MUNSON: I would love for them to talk about all
8 the other incidents between this Defendant and Ms. Kerns,
9 including one a few days before.

10 THE COURT: Did she recant that one?

11 MS. MUNSON: No. He was not charged.

12 THE COURT: Okay.

13 MS. MUNSON: And she asked that he not be charged.

14 MR. WARDER: And it's forcing us to bring in evidence
15 of other crimes if we do it that way.

16 THE COURT: Well, it's not forcing you to do
17 anything. It's strategically your decision if you claim
18 credibility as an issue. And those are things that you
19 would have to assess. I guess I'm trying to figure out --
20 you know, that's why we have exceptions to the hearsay
21 rule.

22 So I guess my next question becomes what exception --
23 he says his objection is hearsay and --

24 MR. WARDER: Confrontation clause.

25 THE COURT: And confrontation.

1 What would your response be to that?

2 MS. MUNSON: My response to confrontation is this is
3 a non-testimonial conversation between Natasha and the
4 dispatcher. My response to is it hearsay would be the
5 exception would be 803(1), present sense impression.

6 THE COURT: Would you like to respond?

7 MR. WARDER: It seems to me that it -- it isn't just
8 conversation. It's -- the declarant is talking about the
9 central issue of the case, whether my client came there.

10 The other thing about it is that its prejudicial
11 value far outweighs any probative value.

12 MS. MUNSON: I just can't disagree strongly enough,
13 Your Honor. It gives the jury an ear witness account.

14 THE COURT: Do you plan to offer this through your
15 first witness?

16 MS. MUNSON: Yes, ma'am.

17 THE COURT: Okay. I want to take the matter under
18 advisement and think about it during the lunch break. But
19 I will tell you preliminarily that I am inclined to agree
20 with the State, that it is non-testimonial, that it does
21 come under 803(1), which is the presence sense impression
22 exception, which is a statement describing or explaining
23 an event or condition while the declarant was perceiving
24 the event, or condition, or immediately thereafter.

25 And I don't know. I haven't heard all the testimony.

1 It might well even fit under an excited utterance, as well
2 as res gestae. And I am not inclined to agree with the
3 Defense that it is more prejudicial than probative. I
4 think it is more probative than prejudicial. Because it
5 gives -- it is part of the res gestae of this event, which
6 describes what happens.

7 Now, if you have issues regarding her credibility, I
8 don't know whether -- I have to think through that a
9 little bit as to whether any other statements that she may
10 have recanted may be relevant or admissible. I'm just not
11 certain at this point. This is not analogous to the
12 situations you described, which is one where she recanted.
13 This is a situation that ended in her demise --

14 MR. WARDER: Yes, Your Honor.

15 THE COURT: -- as a part -- I mean, you hear it on
16 the recording. So I'm inclined to believe that it is
17 admissible. But I'll make a final decision after lunch.

18 Since we have exhausted our time, why don't we break
19 for lunch and resume at 2:00, which gives an hour and 10
20 minutes for lunch.

21 Is there any exception to that from the State?

22 MS. MUNSON: No, ma'am.

23 THE COURT: From the Defense?

24 MR. WARDER: No, Your Honor.

25 THE COURT: Okay. Please bring in the jury.

1 Did we ever find notebooks for them?

2 THE BAILIFF: Yes, ma'am.

3 THE COURT: Perfect. You can just leave them right
4 there and we'll give them to them after lunch.

5 (WHEREUPON, the jury came into open court at
6 approximately 12:48 p.m.)

7 THE COURT: Ladies and gentlemen, we appreciate your
8 patience. We had anticipated beginning with opening
9 argument and instruction, but I had some matters of law I
10 needed to take up with the attorneys briefly that
11 exhausted some of our time. So we're going to go ahead
12 and break for lunch. We'll resume at 2:00.

13 During the break, please, do not discuss the case
14 among yourselves or with anyone else. Please don't
15 speculate about what you think it may or could be about.
16 Don't do any independent research of any type, that
17 includes anything that could be found on the Internet,
18 radio, television, or otherwise. And, please, don't
19 watch, read, or listen to any media accounts about this
20 case on any media outlet, that includes newspaper, radio,
21 or television, or Internet. I keep forgetting we have
22 that other resource.

23 Also, please, do not discuss your jury service on any
24 social networking sites, don't even mention it. That
25 includes Facebook, social cam, Instagram, Flickr.

1 There's so many. I have lost track of them. I probably
2 need to have a list. But that would be greatly
3 appreciated as well. Because, sometimes, an innocent
4 comment can be very easily misinterpreted. I would not
5 want someone to think that you're inappropriately
6 discussing the facts and circumstances of this case
7 prematurely.

8 You're to return directly to your jury room after
9 lunch. And the bailiffs are going to show you all how to
10 do that. Please don't have any conversations with anyone
11 in or about the courthouse that you do not recognize to be
12 a fellow juror. People look very different outside the
13 courthouse than they look inside the courtroom. And,
14 again, I would not want an innocent conversation to be
15 observed by someone and misinterpreted.

16 I hope you all have a good lunch. And we'll see you
17 at 2:00. If you'll go with the bailiffs for me, please.

18 (WHEREUPON, the jury was excused from open court at
19 approximately 2:50 p.m.)

20 THE COURT: Okay. I, also, wanted to ask for PCR
21 purposes, were there any deals extended to the Defendant?

22 MS. MUNSON: Yes, ma'am, Your Honor.

23 THE COURT: And what were they?

24 MS. MUNSON: I offered to allow him to enter a guilty
25 plea to murder for a term of 30 years. I would dismiss

1 the offense against Mr. Wilson. And I would have not gone
2 forward on the unlawful conduct towards a child.

3 THE COURT: So you would dismiss the attempted
4 murder, and the unlawful conduct, and possession of a
5 firearm, and allow him to plead to the murder?

6 MS. MUNSON: For 30 years.

7 THE COURT: Okay.

8 MS. MUNSON: That was extended.

9 THE COURT: And what is his record, if he has any?

10 MS. MUNSON: He has a conviction for arson, which he
11 had a -- got a probationary sentence. And let me see. He
12 got a sentence of three years -- I'm sorry, 10 years
13 suspended on the service of three years with five years
14 probation for the offense of arson in 19 -- he started
15 that sentence -- I'm having difficulty reading this. He
16 began the sentence on March the 9th of 1990.

17 THE COURT: So that's his only criminal history?

18 MS. MUNSON: He has a conviction for malicious injury
19 to property at the magistrate level back in 1989. And
20 that is -- that's it, Your Honor.

21 THE COURT: Okay. And when was that offer extended?

22 MS. MUNSON: It was extended in February.

23 THE COURT: And did it have an expiration date?

24 MS. MUNSON: It did, Your Honor, but not like a
25 formal one. We're kind of old school and we just talk on

1 the phone a lot. But I told him that I would have to put
2 it on the docket in May if we couldn't come to some kind
3 of agreement.

4 THE COURT: Mr. Jones, and, Mr. Warder, did you fully
5 discuss that offer with your client?

6 MR. WARDER: Yes, we did.

7 THE COURT: And did he accept or reject the offer?

8 MR. WARDER: He rejected the offer.

9 THE COURT: And did he do that with or without your
10 advice?

11 MR. JONES: Your Honor, I was present when the offer
12 was explained to Willie, along with Mr. Warder. We were
13 with him together at the Greenville County Detention
14 Center within a week of the offer having been made. And,
15 you know, we discussed a number of things with Willie as
16 it related to the offer, and what the 30 years meant if he
17 pled to murder. And that it would be day for day that he
18 could expect to serve that.

19 THE COURT: How much pre-detention time has he
20 served?

21 MR. JONES: It will be three years in July. July
22 10th of this year will be three years, Your Honor.

23 THE COURT: Okay.

24 MR. JONES: We extended as much information to him as
25 we could. We had an opportunity to review most of the

1 evidence in this case, some of which came to us -- a small
2 portion of it came to us last week. There were some
3 things that the Prosecutor, Ms. Munson, didn't realize had
4 not been included on some tapes that had been provided to
5 us that they went back and made us the portions that
6 weren't provided to us. And that's part of the
7 stipulation that we're agreeing to.

8 But it would not have been -- I don't believe
9 evidence that would have caused Willie to change his mind
10 about his decision. But it was his decision to reject the
11 offer and -- but he made it with full advice and counsel
12 from both me and Mr. Warder.

13 THE COURT: Okay. Sir, stand for me, please, and
14 raise your right hand to be sworn.

15 WHEREUPON,

16 WILLIE MARVIN WILLIAMS,
17 after first having been duly sworn, testified as follows:

18 THE COURT: You can put your right hand down.

19 I'm doing this for PCR purposes. People's memory
20 gets hazy after a trial. I need to have a contemporaneous
21 record that, in fact, the offer was fully explained to him
22 and that he either accepted it or rejected it, and that he
23 did it freely and voluntarily of his own will without any
24 duress, not under the influence of any drugs or alcohol.

25 Sir, you stated your full name for the record;

1 correct?

2 DEFENDANT WILLIAMS: Willie Marvin Williams.

3 THE COURT: Sir, how old are you?

4 DEFENDANT WILLIAMS: 47.

5 THE COURT: How far have you gone in school?

6 DEFENDANT WILLIAMS: Twelfth grade, and two years of
7 technical college.

8 THE COURT: So you graduated?

9 DEFENDANT WILLIAMS: Yes, ma'am.

10 THE COURT: Have you had a full opportunity to
11 discuss the offer that was extended to you by the State,
12 which was to enter a plea of guilty to the charge of
13 murder with all the other charges being dismissed for a
14 sentence of 30 years?

15 DEFENDANT WILLIAMS: Yes, ma'am.

16 THE COURT: And did you fully understand their
17 explanation to you of that offer?

18 DEFENDANT WILLIAMS: Yes, ma'am.

19 THE COURT: Did you accept or reject the offer?

20 DEFENDANT WILLIAMS: I rejected it.

21 THE COURT: And did you do that freely and
22 voluntarily and of your own will?

23 DEFENDANT WILLIAMS: Of my own will.

24 THE COURT: Do you feel anybody forced you or had you
25 under any duress to make you make that decision?

1 DEFENDANT WILLIAMS: No, ma'am.

2 THE COURT: Were you suffering from any mental
3 disabilities, or under the influence of any drugs or
4 alcohol at the time?

5 DEFENDANT WILLIAMS: Well, I take medication three
6 times a day.

7 THE COURT: What medications do you take three times
8 a day?

9 DEFENDANT WILLIAMS: I take Trazodone, Depakote,
10 Risperdal.

11 THE COURT: What are all those for? What's your
12 diagnosis?

13 DEFENDANT WILLIAMS: Well, I have been recently
14 diagnosed with post-traumatic stress disorder.

15 THE COURT: Were you diagnosed with that when they
16 discussed the offer with you in February? When you say
17 "recently," I need you to tell me what does recent mean?
18 Last few months? Last year? When were you diagnosed with
19 it? Do you remember?

20 MR. WARDER: It was before then, I think.

21 THE COURT: Okay. So he's been taking those
22 medications, as far as you know, before y'all talked to
23 him?

24 MR. JONES: Oh, yes.

25 THE COURT: Sir, do those medications in any way

1 affect your ability to understand where you are or what
2 you're doing?

3 DEFENDANT WILLIAMS: It's like a mood stabilizer. It
4 just have me --

5 THE COURT: Yeah. But does it make you unclear, or
6 does it make you more clear?

7 DEFENDANT WILLIAMS: No, ma'am.

8 THE COURT: Okay. Did you understand my question?

9 DEFENDANT WILLIAMS: Yes, ma'am.

10 THE COURT: I'm trying to make sure there wasn't
11 anything that affected your ability to understand where
12 you are or what you were doing. Some medications make
13 people hazy. They make them unclear.

14 DEFENDANT WILLIAMS: It didn't affect that.

15 THE COURT: So I need to make sure that the
16 medications you just explained to me, you were taking
17 those when your lawyers explained the offer to you?

18 DEFENDANT WILLIAMS: Yes, ma'am.

19 THE COURT: And did they affect your ability to
20 understand where you were or what you were doing?

21 DEFENDANT WILLIAMS: No, ma'am.

22 THE COURT: Okay. I have no further questions for
23 the Defendant. You can take your seat.

24 We'll break until lunch at 2:00. Have a wonderful
25 lunch. I'll see you at 2:00.

1 (WHEREUPON, a lunch break was taken.)

2 THE COURT: Is the State ready to proceed?

3 MS. MUNSON: Yes, Your Honor.

4 THE COURT: Is the Defense ready to proceed?

5 MR. WARDER: Your Honor, I have kind of a
6 housekeeping matter.

7 THE COURT: Yes, sir.

8 MR. WARDER: Initially, when we started off this
9 morning, we brought my client the wrong size clothes. And
10 his pants don't fit. And I brought him some new clothes
11 over the lunch hour.

12 THE COURT: Okay.

13 MR. WARDER: But we didn't get them to him.

14 THE COURT: Okay.

15 UNIDENTIFIED WOMAN: They're down there, but --

16 MR. JONES: Can I go double-check? We left them with
17 some deputies at the metal detector.

18 THE OFFICER: I'll go see if I can find them.

19 THE COURT: Okay.

20 (Pause.)

21 THE COURT: Would it be an inconvenience for him to
22 remain in those clothes until we do opening argument and
23 instruction, or is it that uncomfortable for him?

24 MR. JONES: We can wait.

25 THE COURT: I think in the interest of time, why

1 don't we do that. When we take our first restroom break,
2 why don't we let him change clothes then.

3 Is there anything further before we resume with the
4 trial from the State?

5 MS. MUNSON: No, Your Honor.

6 THE COURT: From the Defense?

7 (WHEREUPON, there was no response.)

8 THE COURT: Is the Defense ready to proceed?

9 MR. WARDER: Yes, Your Honor.

10 THE COURT: Okay. Bring in the jury, please.

11 (WHEREUPON, the jury came into open court at
12 approximately 2:11 p.m.)

13 INTRODUCTORY REMARKS

14 THE COURT: Ladies and gentlemen, I hope you all had
15 a pleasant lunch recess. We appreciate your patience.

16 I'm going to give you some preliminary instructions
17 so that you will know how we will be proceeding in the
18 trial of this case. As I've already announced for
19 purposes of the record, this is the case of the State of
20 South Carolina v. Willie Marvin Williams, the Defendant.
21 And, as I've already explained, what I will now say is
22 intended to serve as an introduction to the trial of this
23 case. These remarks are not a charge on the law of this
24 case. So that you know, "charge" is a legal term of art
25 that means instruction. So when you hear me use the word

1 "charge," it simply means instructions. And I may use
2 those words interchangeably.

3 I will instruct you on the law applicable to this
4 case at the end of the trial before you retire to consider
5 your verdict. This is merely an explanation of the
6 procedure that we will follow in the trial of this case so
7 you may better understand what is happening.

8 During the course of this trial, you will be given
9 the opportunity to take notes. And the bailiff is going
10 to pass some notebooks out to you.

11 Madam Bailiff, if you could go ahead and pass those
12 notebooks out for me, along with some pens or pencils.

13 And on the front first page of that notebook, you
14 should write your juror number so you will be able to
15 identify which notepad belongs to you. Because during
16 breaks and recesses, we will keep your notes in
17 safekeeping. And that is to safeguard against any
18 premature deliberation in this case. And I will give you
19 some additional instructions regarding note taking near
20 the conclusion of this instruction. And, again, place
21 your juror number on the first sheet of the notebook so
22 you will be able to identify which notepad belongs to you.

23 The Defendant is charged by several indictments filed
24 with this Court with the crimes of murder, attempted
25 murder, possession of a firearm during the commission of a

1 violent crime, and unlawful conduct towards a child. The
2 elements of which I will explain to you at the conclusion
3 of the trial before you retire to deliberate regarding
4 your verdict.

5 The indictments, ladies and gentlemen, are simply the
6 charge by which the case is brought into court. And it is
7 not in any sense evidence of any of the allegations the
8 indictment contains. The Defendant has pled not guilty to
9 these indictments. The State, therefore, has the burden
10 of proving each of the elements of each indictment beyond
11 a reasonable doubt. And it will be your duty, ladies and
12 gentlemen, to decide whether the State has met that burden
13 or not.

14 Your purpose as jurors is to find and determine the
15 facts. You are the sole judges of the facts in this case.
16 If at any time I make any comment regarding the facts, you
17 must disregard it. You are to determine the facts from
18 the testimony you hear and the other evidence introduced
19 in court. It is up to you to determine the inferences
20 which you feel may be properly drawn from the evidence.
21 It is especially important that you perform your duty of
22 determining the facts diligently and conscientiously.
23 Because, ordinarily, there is no way to correct an
24 erroneous determination of the facts made by a trial jury.

25 On the other hand and with equal emphasis, the same

1 law that makes you the judges of the facts makes me the
2 judge of the law. The law, as given by the Court, is the
3 only law you may consider. You must accept and follow it
4 even though you may disagree with it.

5 The Court cannot tell you what the facts are, and you
6 cannot disagree with the Court about what the law is or
7 what the law should be. Your responsibility, ladies and
8 gentlemen, is to take the law as I instruct it, and apply
9 it to the facts as you find them from the testimony of the
10 witnesses and other evidence that is introduced.

11 After doing that, you will render your verdict, a
12 true and just verdict, under the solemn oath you have
13 taken as jurors in this case. Until I advise you to begin
14 your deliberations, you must not discuss this case with
15 anyone, and that includes among your fellow jurors, your
16 friends, your family members, and anyone else involved in
17 the case. After the case is submitted to you, you must
18 discuss it only in the jury room amongst your fellow
19 jurors.

20 The attorneys and the parties have been advised that
21 they should not speak with you at all. So if you should
22 see them about the courthouse, or in the garage, or
23 parking facility, or a local restaurant during lunch and
24 they don't speak with you, please, don't think they're
25 being unfriendly. They're simply following the Court's

1 instructions. Again, we would not want an innocent
2 conversation to be observed and misinterpreted.

3 During the trial, you're not to read, listen to, or
4 watch any media accounts about this case. This includes
5 anything that may be in the newspaper, on the radio,
6 television, or Internet. And you're not to do any
7 independent research or any type of searches on the
8 Internet. You must not consider anything you may have
9 read or heard about this case outside the courtroom,
10 whether before or during the course of this trial.

11 You are bound by your oath to decide this case
12 according to the sworn testimony and the evidence that
13 will be presented. It is important and essential that you
14 maintain an open mind and not decide any issue in this
15 case until all of the evidence has been presented, and the
16 parties have made their closing arguments, and I've
17 instructed you on the law applicable to this case.

18 It is your solemn responsibility to determine the
19 guilt or innocence of the Defendant. And your verdict
20 must be based solely on the evidence as it is presented to
21 you in this trial, and on the law as I will instruct you
22 during and at the close of this trial.

23 In just a moment, the Solicitor will make what is
24 called an opening statement in which they will explain to
25 you what they believe the issues to be in this case. It

1 is often said that the attorneys will argue what they
2 believe the evidence in a case will show. The attorney
3 for the Defendant may, also, make an opening statement,
4 although he is not required to do so.

5 Keep in mind, ladies and gentlemen, that what the
6 attorneys tell you during opening statements is not
7 evidence in this case. It is only their contention as to
8 what they believe the evidence will show in the case, and
9 what they believe the issues are in the case. The
10 evidence in this case will be presented to you by the
11 testimony of sworn witnesses from the witness stand,
12 and/or by exhibits that may be introduced into evidence.

13 From time to time during the trial, you may hear one
14 of the attorneys say, Your Honor, I object. Just as in
15 sports, business, or any other structured activity, there
16 are certain rules that attorneys must obey in the
17 presentation of evidence. These rules have a definite
18 purpose. They ensure that you receive the most
19 trustworthy and reliable evidence available.

20 An objection is the procedure that an attorney uses
21 to call a possible violation to my attention as the Judge
22 of this Court. And, for this reason, you should never
23 hold an attorney's objection against them, nor should you
24 conclude from the Court overruling or sustaining an
25 objection that I favor one side or the other.

1 Also, from time to time, you may hear one of the
2 attorneys say something like, Your Honor, I believe we
3 have a question of law, or they may ask to approach the
4 bench, or I may ask them to approach the bench, or,
5 sometimes, it might be necessary for us to excuse you from
6 the courtroom for a short while while we discuss matters
7 of law. The reason we do this is, as I've explained, you
8 are the fact finders.

9 And, sometimes, when I'm discussing matters of law
10 with the attorneys, it may be necessary for me to make
11 some comment about the facts in connection with ruling
12 whether a particular rule applies, or a statute, or a
13 procedural rule, or otherwise. And, for this reason, we
14 exclude you from the courtroom so that in no way will you
15 be influenced by anything that the Court may say or do in
16 connection with the facts of this case.

17 In determining what the true facts are in this case,
18 you must decide whether or not the testimony of a witness
19 or witnesses is believable. It is my responsibility to
20 rule as a matter of law as to whether certain testimony is
21 admissible at all or not. But once it is admitted,
22 whether or not you believe is solely a matter for you to
23 determine in your fact-finding province.

24 In deciding whether to believe a witness, you have
25 the right to consider the interest of any witness, the

1 bias of any witness, the prejudice of any witness, the
2 opportunity for the witness to have seen the matters and
3 things about which the witness may testify, and the way
4 the witness acts on the witness stand, something we
5 commonly refer to as demeanor. You have a right to
6 consider anything that is in the record that will help you
7 evaluate the testimony of the witnesses. That means,
8 ladies and gentlemen, that it is your duty to pay close
9 attention to the witness, to observe them, to listen to
10 them, and to pay close attention to the attorneys and the
11 Court.

12 Although I know it is very difficult, please, do not
13 allow your thoughts to wander. But give strict attention
14 to the testimony so that at the end of the testimony,
15 after the arguments of the attorneys and the charge on the
16 law is given by the Court, you will then be in a position
17 to determine what the true facts are, and apply the law to
18 those facts, and, thus, render a true and just verdict in
19 this case.

20 Ladies and gentlemen, during the course of this
21 trial, you will be given the opportunity to take notes.
22 Note taking is a privilege that you may choose to exercise
23 or choose not to exercise. Please do not feel you're
24 required to take notes. It is not a requirement. Not
25 everyone finds note taking helpful to them.

1 If you should decide to try to take notes, please,
2 don't try to record everything that is said. It is
3 physically impossible. The average person speaks at over
4 200 words a minute. And that's not even someone that
5 speaks fast, that's just the average speaker.

6 So, as you can well imagine, it would be impossible
7 to take down what is being said verbatim. The only
8 person, really, that's equipped to do that is our court
9 reports. And that's because she is trained in a very
10 specialized and complicated form of shorthand that allows
11 her to take large amounts of words phonetically, and she
12 can do that. But, even with that, she still has a tape
13 that she maintains that she goes back and listens to that
14 tape when she's transcribing her record to make sure that
15 she's gotten it all correct. So, as well, you can imagine
16 that it would be impossible for the average person to take
17 a verbatim account of the testimony. And, also, as I've
18 instructed, as the fact finders, it is absolutely
19 essential that you rely on your powers of observation.

20 So, please, don't try to report everything that is
21 said. And, please, don't allow note taking to become a
22 distraction to you such that it diverts your attention
23 from being able to observe the witnesses as they testify.
24 You may want to keep an outline of the main points that
25 are being made so that when you retire to deliberate, you

1 can allow your notes to refresh your memory.

2 Please be reminded that your notes are for your
3 specific and your individual purposes. They're not to be
4 shared with anyone. They're only to be used to refresh
5 your own memory. And, also, please, be reminded that
6 someone else's memory should be considered just as
7 reliable as notes that may have been taken by another
8 juror.

9 During breaks and recesses, your notes will be left
10 in your seats. And we'll secure them during the evening
11 recess. And, again, we do that so there's no premature
12 desire to deliberate regarding anything you may have heard
13 before a break or recess.

14 I have appointed your Foreperson. That is a
15 completely random process that the Court employs. That
16 person does not have any greater vote or voice than you
17 do. It is purely administrative. That person fills out
18 the verdict form and writes out any questions that the
19 jury may have during deliberations. So, again, I
20 emphasize, that person does not have any greater vote or
21 voice than you do. It is purely administrative.

22 And, Mr. Foreman, I will give you -- it is your duty
23 to write the verdict. And I will give you further
24 instructions about that at the conclusion of the case.

25 In order to preserve everyone's rights, I'm going to

1 give the attorneys an opportunity to take exception to
2 anything the Court has said by way of opening instruction.

3 Are there any exceptions from the State?

4 MS. MUNSON: No, ma'am, Your Honor.

5 THE COURT: From the Defense?

6 MR. WARDER: None from the Defense, Your Honor.

7 THE COURT: Ladies and gentlemen, I will ask that you
8 give the attorneys your undivided attention in opening
9 argument.

10 The State may proceed when its ready.

11 MS. MUNSON: May it please the Court, Your Honor.

12 THE COURT: Yes, ma'am.

13 OPENING STATEMENTS

14 MS. MUNSON: The evidence in this case will show that
15 Natasha Kerns was 28 years old when she died in her own
16 Greenville County home on July 10th, 2010. Any time
17 someone so young dies, it's a tragedy. The evidence in
18 this case will show that it's not only a tragedy, it was a
19 crime. And that crime is murder. And the person guilty
20 of the murder of Natasha Kerns is Willie Marvin Williams.

21 Shortly before 5:00 in the morning on July 10th,
22 Natasha Kerns was in her home asleep. In bed with her was
23 Anthony Wilson. Also, in bed with them was two-year-old
24 Jadance K[REDACTED], Natasha's two-year-old daughter, the
25 daughter of the Defendant. Also, in the house was

1 nine-year-old Jakyre K[REDACTED], Natasha's son, in another
2 room.

3 The evidence will show that Mr. Wilson heard
4 something. He woke Natasha. She jumped up, grabbed the
5 gun that was next to her bed, and went to investigate.
6 What she found as she went into her living room was the
7 Defendant outside her house on her porch. And what
8 happened next is that the Defendant, while he was outside
9 Natasha's house, fired a shot. That bullet went through
10 the window and hit Natasha right in the head. She went
11 down and died almost instantly.

12 The Defendant then moved a little bit to his left,
13 kicked out a window in another room at the front of the
14 house and came in the house. He went down the hallway
15 where he encountered Mr. Wilson, who was trying to take
16 care of the children. He assaulted Mr. Wilson and he
17 fired four more shots. One of those shots struck
18 Mr. Wilson in the head. The evidence will show that it
19 was, for lack of a better term, a flesh wound.

20 The room into which these shots were fired is where
21 the Defendant's daughter was. Firing a gun in the house
22 like that is putting that child at unreasonable risk of
23 harm.

24 The Defendant then fled back to Laurens County where
25 he was living. He told his brother and he told another

1 witness that he had killed Natasha. He then led the
2 Laurens authorities on a chase. He was, eventually,
3 captured and taken into custody.

4 Now, at the close of this case, I'm going to have a
5 chance to talk with you again. And I'm going to ask you
6 to find the Defendant guilty of each one of the offenses
7 with which he's been charged. In order to do that, each
8 and every one of you has to be firmly convinced that he's
9 guilty of each element of the offenses. And Her Honor
10 will, certainly, give you those elements.

11 Let me tell you what you're not going to hear. This
12 is not one of those real fancy TV forensic cases. You're
13 not going to hear that we got a weapon off the Defendant
14 that was matched to the bullet that was taken out of
15 Natasha's head at autopsy. You're not going to hear that.

16 You're not going to hear that when the Defendant was
17 captured, he had Natasha's blood on him or Mr. Wilson's
18 blood on him. You're not going to hear that. But what
19 you are going to hear, ladies and gentlemen, will leave
20 you firmly convinced of his guilt.

21 As the Prosecutor in this case, it's my duty and it's
22 my great privilege to represent the people of Greenville
23 County. And, at the close of the case, on behalf of the
24 people, I will ask you to find him guilty.

25 Thank you for your time.

1 THE COURT: Would the Defense like to proceed?

2 MR. WARDER: Good afternoon.

3 I will be much shorter than I would have been. The
4 Judge covered much of what I wanted to tell you in her
5 charge. But I want to talk to you about the way a trial
6 proceeds.

7 In this trial, there will be the testimony phase of
8 the trial which will occur in two halves. The State will
9 get to present all of its evidence first. And after the
10 State is done, the Defendant then will have an opportunity
11 to present anything he wants. And it's important that you
12 keep an open mind. There's been studies of jury
13 deliberations done. And those studies often show that
14 jurors begin to make up their mind early in the process.
15 And because the first part of the process is where the
16 State gets to put forward its case, it's important to us
17 that you keep an open mind.

18 So I would ask you that if you feel yourself making
19 up your mind before you've heard our part of the case, the
20 evidence we present, that you consciously resist that.
21 And the reason is the second part of the studies on jury
22 deliberations found that once jurors made up their mind,
23 they seldom ever change them. If you would inadvertently
24 put me in the situation that you've already made up your
25 mind in the State's half of the case, the burden would be

1 much more difficult for the Defendant.

2 So I ask you to keep an open mind. And if you feel
3 yourself deciding before you've heard everything that you
4 resist that, and that you consciously focus back until
5 you've heard all the testimony. I'm sure that everybody
6 would think that a fair verdict would be a verdict that
7 they consider the testimony from the State and the
8 testimony from the Defense, and then decide whether there
9 was a reasonable doubt.

10 So that's the way we're going to proceed in this
11 case. And I hope that you will pay close attention not
12 only to the State's case, but to the Defendant's case. So
13 then you'll have all the facts. And when Judge Jefferson
14 gives you the law at the end of the testimony phase, you
15 will then have the law to apply to all the facts. And I
16 submit to you that if you were to make up your mind
17 prematurely that you would make it up on part of the
18 facts, and you would just apply that to the law and that
19 would lead to an unfair and unjust verdict.

20 I thank you very much.

21 THE COURT: The State may proceed.

22 MS. MUNSON: May it please the Court.

23 Your Honor, the State calls Marie Simkins.

24 THE CLERK: Ms. Simkins, would you, please, come
25 forward to be sworn in.

1 Please place your left hand on the Bible and raise
2 your right hand.

3 WHEREUPON,

4 CLARA MARIE SIMKINS,
5 after first having been duly sworn, testified as follows:

6 THE CLERK: Thank you.

7 You may be seated.

8 Would you, please, state your name for the record?

9 THE WITNESS: Clara Marie Simkins.

10 THE CLERK: Thank you.

11 DIRECT EXAMINATION

12 BY MS. MUNSON:

13 Q Ms. Simkins, who do you work for?

14 A The Greenville County Sheriff's Office.

15 Q How long have you been with the Sheriff's Office?

16 A Since '95.

17 Q What is your job title?

18 A Communications supervisor.

19 Q And what are your duties?

20 A I supervise a shift of 10 people, and answer 911
21 calls, non-emergency calls, and dispatch.

22 Q Were you with the Sheriff's Office back in July of
23 2010?

24 A Yes.

25 Q And what was your title then?

1 A Communications supervisor.

2 Q Okay. Were you working on that date?

3 A Yes, I was.

4 Q And did you get a call in reference to this case?

5 A Yes, I did.

6 Q Now, explain for the jury what the procedure is when
7 you answer the phone. When it's a 911 call, what is the
8 procedure you go through?

9 A When we answer the 911 call, our -- we automatically
10 get the name and location the caller is calling from.

11 Q Okay.

12 A And then we get more information and what's going on.

13 Q And while you're speaking with whoever is calling,
14 are you doing anything else?

15 A I'm entering the call for service so it can be
16 dispatched, or if I was the dispatcher on that channel, I
17 would be dispatching the call.

18 Q Okay. Now, the call we're talking about in this
19 case, were you the dispatcher, or did you receive the
20 call?

21 A I was the call taker. I received the call.

22 Q And, as you're receiving information, what are you
23 doing?

24 A Entering the information into the CAD for it to be
25 dispatched.

1 Q Into the CAD, what does that mean?

2 A The computer.

3 Q Okay. How often -- when a citizen calls 911, how
4 often are those calls recorded?

5 A All of our calls are recorded.

6 Q Okay.

7 A Non-emergency and emergency, as well as radio
8 traffic.

9 Q Every single one?

10 A Every single one.

11 Q On occasion, are those recordings preserved?

12 A Yes, they are.

13 Q And when does that happen?

14 A If there's a court case or a major incident.

15 Q Okay. Have you ever been the person to preserve one
16 of those calls?

17 A Yes. As the supervisor, we are assigned if there's a
18 case that comes up and they need to review the tape, we do
19 pull it.

20 Q And the way that the system was working back in 2010,
21 is that how it works now?

22 A Yes.

23 Q So did you get a call in reference to this case?

24 A I did. I received the call.

25 Q Do you remember the date?

1 A July 10th, 2010.

2 Q Do you remember what time the call came in?

3 A It was around 4:50, 4:55.

4 Q Okay. As the call came in, could you tell where it
5 came from?

6 A Yes. She called from her home address, which
7 verified the address, as well as her verifying the
8 address.

9 Q All right. And, at the end of the call, did you
10 listen to it again?

11 A Yes, I did.

12 Q And was that call preserved?

13 A Yes, it was.

14 Q In some form?

15 A Yes.

16 Q After the call was preserved in some form, did you
17 listen to it again?

18 A Yes, I did.

19 Q Was it an accurate recording of the call that you
20 took on July 10th?

21 A Yes, it was.

22 Q Now, after it was preserved, was there another few
23 instances where you were asked to listen to it?

24 A Yes, there was.

25 Q Several times?

1 A Several times, on May 6, and then, of course, today
2 as well.

3 Q Okay. Was there anything different about the call
4 from the night you took it in 2010 to the last time you
5 listened to it today?

6 A No, ma'am.

7 MS. MUNSON: May I approach the witness, Your Honor?

8 THE COURT: Uh-huh.

9 BY MS. MUNSON:

10 Q Ms. Simkins, I'm showing you State's Exhibit No. 1.
11 If you'll take a look at that.

12 A Uh-huh.

13 Q Do you recognize that?

14 A Yes, I do.

15 Q How do you recognize it?

16 A It's one of our recordings. And I initialled it,
17 also, when it was taken out of P&E. And I reviewed the
18 tape. And I reviewed the tape today as well.

19 Q After you reviewed the tape, did you put anything on
20 State's Exhibit No. 1?

21 A Yes, I did. I dated it and put my initials both
22 times.

23 MS. MUNSON: Your Honor, at this time, I move State's
24 Exhibit No. 1 into evidence.

25 MR. WARDER: Without objection, Your Honor.

1 THE COURT: Could counsel approach for a minute,
2 please?

3 (WHEREUPON, a bench conference was held.)

4 THE COURT: Mr. Foreman, and ladies and gentlemen, I
5 have a brief matter of law I need to take up with the
6 attorneys. During the break, please, do not discuss the
7 case and, please, leave your notepads in your seats. We
8 appreciate your patience.

9 (WHEREUPON, the jury was excused from open court at
10 approximately 2:36 p.m.)

11 THE COURT: I need to hear the tape again, please.

12 Can we make sure all the jurors are in the jury room
13 before they begin that? Because they're going to have to
14 turn it up a little loud so I can hear everything.

15 THE BAILIFF: Your Honor, they're in the jury room.

16 THE COURT: Okay.

17 (WHEREUPON, State's Exhibit No. 1 was played in open
18 court.)

19 THE COURT: I need you to start it over. And I need
20 you to turn it up loud enough where I can hear it. I'm
21 going to need you to turn it up loud enough where I can
22 hear the deceased, because she's whispering. That's why I
23 made sure all the jurors were in the jury room. Because I
24 need you to turn it up louder, and then start it from the
25 very beginning for me.

1 (WHEREUPON, State's Exhibit No. 1 was played in open
2 court.)

3 THE COURT: That's the extent of the recording;
4 correct?

5 Is there anything further, other than what the Court
6 has already heard argued prior to the break for lunch,
7 from the State?

8 MS. MUNSON: No, Your Honor.

9 THE COURT: Anything further from the Defense?

10 MR. WARDER: Your Honor, I apologize. When the
11 microphone is forward, I have a terribly hard time hearing
12 you.

13 THE COURT: Is there anything further, other than
14 what you have already argued prior to our lunch break
15 regarding the admissibility of the 911 tape?

16 MR. WARDER: No. No, there is nothing further.

17 THE COURT: All right. The objections to the tape,
18 several grounds have been raised. One is testimonial, the
19 other is that it is hearsay. I'll take them in opposite
20 order.

21 The tape is not hearsay in that it fits within
22 several exceptions. One of which is that it is a presence
23 sense impression under Rule 803(1). The other is,
24 clearly, it is res gestae. I don't think I need to go
25 with any further explanation. I think we all know that

1 that is under South Carolina precedent.

2 However, our case law is very clear that even when
3 there is an exception, or when a statement fits within an
4 exception and there has been some basis of an objection,
5 that being, as the Defense has raised in this case, lack
6 of confrontation, the Court is required to engage in
7 another analysis, that being whether the statement in and
8 of itself is testimonial.

9 And our case law draws the distinction in determining
10 whether a statement is testimonial or not. That being
11 whether the call was placed because the caller wants
12 protection from an immediate danger, not because the 911
13 caller expects the report to be used later at trial with
14 the caller bearing witness. Rather, there's a cloak of
15 unanimity surrounding 911 calls that encourages citizens
16 to make emergency calls and not bear repercussion. And
17 that is a quote from an outside source used by our courts
18 in State v. Davis. And, in that case, our court engages
19 in the analysis, which is found in the Crawford case,
20 dealing with whether a statement is testimonial or
21 non-testimonial.

22 And our courts have indicated that it would adopt a
23 bright line test, but require support, instead, to engage
24 in a case by case analysis of 911 calls, reports. And we
25 are required to look at, again, whether the person making

1 the call was merely making it for protection of themselves
2 or others, or whether they were under the impression that
3 the tape, much like a statement given to the police or an
4 emissary of the police, someone with police authority,
5 that being, in this instance, a 911 dispatcher was being
6 placed for the sole purpose of being used later at trial.
7 In other words, for the purposes of prosecution. The same
8 way in which the person giving the statement would give it
9 to a police officer for purposes of the statement to be
10 used later for prosecution.

11 And the distinction in this case -- and that's why I
12 asked to listen to the tape again, because I wanted to
13 hear very clearly what the deceased was saying. And I
14 think there's a fine line or a distinction which makes
15 this a non-testimonial statement versus a testimonial
16 statement. If she had called and said, I'm calling to
17 report that my ex-husband is here, that he's in violation
18 of this order, and I am calling because I want him to be
19 apprehended and prosecuted, that's different than someone
20 as this call initiated -- when this call is initiated, she
21 says I hear a noise outside.

22 The operator, clearly, asked her to identify who it
23 is -- and I'm paraphrasing the conversation. And she
24 clearly says, I can't see who it is. She then goes on to
25 say there's an order of protection and she's going through

1 a divorce. The dispatcher asks the husband's name. And
2 she gives that person's name, but she never says that he
3 is, actually, the person that is outside when she
4 initiates the phone call. She identifies herself.

5 And she, also, is then asked if she has a weapon.
6 She says what type of weapon she has. And then she goes
7 on to say there's somebody out there. As she's
8 whispering, she says there's somebody out there, ma'am.
9 And then she says he's on my front porch. And she's still
10 whispering. And then she tells the person to hold on.
11 And then you hear the gunshot.

12 So in this call she never, actually, identifies her
13 husband as the person who's on the porch. You can that
14 extrapolate from the conversation that she's having. But
15 she never, actually, says it is my husband, Willie Marvin
16 Williams, on my porch. She does say he's on my porch, but
17 she never says his name.

18 Now, it is clear from the context of this call that
19 she's in fear, that she's in apprehension, and that the
20 call is being made for the purposes of her protection and
21 for those who are under her roof. She does not make a
22 call under the -- with the intent of having him
23 prosecuted, so to speak.

24 And the distinction that the case law draws is when
25 you have somebody, for example, that calls in a robbery

1 and says, I'm at such and such place. This is the
2 address. Here's the description of the person that's
3 committing this offense or committed this offense, they're
4 in the process of doing it, you need to send the police
5 and have them arrested right now. That's a little
6 different. That's, clearly, a testimonial statement that
7 is for the purpose of being used to prosecute someone
8 versus a phone call, as most 911 calls are made, for the
9 purpose of protection.

10 And in this case, it is a non-testimonial statement
11 that the deceased made for the purpose of protecting
12 herself and, I would assume, her children that were in the
13 house, as well as any other occupants of the residence.
14 So the Court would find that it is non-testimonial.

15 In addition to that, there's been an objection raised
16 that the statement is more prejudicial than probative.
17 And based on res gestae, which is to give a clear -- this
18 is really the only contemporaneous account of what
19 happened at the time of this incident absent an
20 eyewitness. And, therefore, the Court would find,
21 especially under the circumstances and, at least, the
22 posture of this case as I now see it, that it is more
23 probative than prejudicial.

24 The other purpose of the hearsay rules and why there
25 are exceptions is that there are some statements,

1 especially when they're made under certain sorts of
2 stressors -- and, under this case, I think it may even
3 would fit under almost really in the nature of an excited
4 utterance when you're in a situation that's stressful and
5 you're making a statement under the stress of that event,
6 as well as a present sense impression of the law presumes
7 a certain level of veracity in those statements, and a
8 lack of the ability to make up statements or to fabricate
9 because of the stress of the impending event.

10 The Court will note the exception and overrule it.
11 And the tape is admitted subject to the exception.

12 Are we ready to proceed?

13 MS. MUNSON: Yes, ma'am, Your Honor.

14 THE COURT: Please bring in the jury.

15 (WHEREUPON, State's Exhibit No. 1 was admitted into
16 evidence.)

17 THE COURT: And I'm incorporating the two-prong
18 Crawford test in the Court's ruling, which is was the
19 statement made to a governmental agent, or in response to
20 a question from a governmental agent. And it does meet
21 that prong. Because, clearly, our law establishes that a
22 911 operator is a governmental agent. But the next part,
23 which is would the declarant expect his or her statement
24 to be later used at trial, it does not meet that prong of
25 the testimonial test.

1 (WHEREUPON, the jury came into open court at
2 approximately 2:58 p.m.)

3 THE COURT: Ladies and gentlemen, we appreciate your
4 patience. We'll now resume with the testimony of the
5 witness.

6 You may proceed.

7 MS. MUNSON: May it please the Court.

8 We request permission to publish State's Exhibit
9 No. 1.

10 THE COURT: You may proceed.

11 (WHEREUPON, State's Exhibit No. 1 was played in open
12 court.)

13 MS. MUNSON: I have nothing further of this witness
14 at this time, Your Honor.

15 THE COURT: Any questions for the witness?

16 MR. WARDER: Just a couple, Your Honor.

17 THE COURT: You may proceed.

18 CROSS-EXAMINATION

19 BY MR. WARDER:

20 Q Ms. Simkins, how many 911 calls have you received
21 since July 10th, 2010?

22 A A lot. I have no clue how many.

23 Q Thousands?

24 A Probably more.

25 Q Tens of thousands?

1 A Thousands.

2 Q Okay. You told us you listened to this tape, and
3 that it had not been changed in any way. Are you telling
4 us you remember every word that was said in a tape three
5 years ago?

6 A Yes, sir.

7 Q And it's not confused with the tens of thousands of
8 calls?

9 A No. This one stood out.

10 Q If one phrase was left out, you would have remembered
11 it?

12 A Do what?

13 Q Pardon?

14 A Could you repeat yourself?

15 Q If there was one phrase that was left out of that
16 tape or deleted, would you have remembered it?

17 A Yes.

18 Q Can you recite it from memory for me?

19 A Well, probably. I received the call. I said,
20 Greenville County 911 emergency. And she -- I asked her
21 address and her name. And she told me. I asked her did
22 she see the person.

23 And she said, No.

24 And then I asked her about her weapon. And she told
25 me she did have a weapon, it was a .380. I had spoken

1 with her before --

2 Q You're reciting the events, not the words.

3 A Okay.

4 Q You're not telling me, really, that you remember
5 every word out of there?

6 A Yes, I'm telling you I remember it.

7 Q Okay. Are you supposed to stay on the phone until
8 the police arrive?

9 A Pretty much.

10 Q Did you do that that night?

11 A Yes.

12 Q We never hear a siren or anything.

13 A I can't explain that. But --

14 Q We never hear a policeman say anything.

15 A I'm not sure.

16 Q Was it on it when you listened to it the first time
17 or the second time?

18 A Was it what?

19 Q Was it on the tape when you listened to it the first
20 time or the second time?

21 A No. There was no sirens or anything.

22 Q Pardon?

23 A No. There was not any sirens on there.

24 Q Were there any policeman on it?

25 A No.

1 Q What was the last word you said on that tape?

2 A Ma'am and her name.

3 MR. WARDER: Thank you.

4 THE COURT: Any redirect of the witness?

5 MS. MUNSON: No, Your Honor.

6 THE COURT: Any objection to the witness being
7 excused from the State?

8 MS. MUNSON: No, ma'am.

9 THE COURT: From the Defense?

10 MR. WARDER: No, Your Honor.

11 THE COURT: Ma'am, you're excused.

12 You may call your next witness.

13 MS. MUNSON: Your Honor, the State calls Jakyre

14 K[REDACTED].

15 (Pause.)

16 MS. MUNSON: Your Honor, I believe that before
17 Mr. K[REDACTED] takes the stand, we have an issue we need to
18 take up, an evidentiary issue.

19 THE COURT: Mr. Foreman, and, ladies and gentlemen,
20 we have a matter of law we need to take up. During the
21 break, please, do not discuss the case. And, please,
22 leave your notepads in your seats.

23 We thank you in advance for your patience.

24 (WHEREUPON, the jury was excused from open court at
25 approximately 3:11 p.m.)

1 THE COURT: What's the issue?

2 MR. WARDER: Your Honor, there are two photographs
3 that the State is going to introduce.

4 THE COURT: I need to see them.

5 MS. MUNSON: They're State's Exhibit Nos. 2 and 3,
6 Your Honor.

7 THE COURT: Thank you, ma'am.

8 THE CLERK: You're welcome.

9 MR. WARDER: And those are photographs taken sometime
10 later in the morning of the two children. And, Your
11 Honor, they have no probative value at all.

12 THE COURT: Well, I guess my first question becomes,
13 how are you going to introduce these through this child
14 since he didn't take them and he can't authenticate them?

15 MS. MUNSON: He can say that State's Exhibit No. 2 is
16 him and that's how he looked that day. And he can say
17 that State's Exhibit No. 3 is his little sister, and
18 that's how she was that day.

19 Also, Your Honor --

20 THE COURT: For what purpose -- is there any question
21 of fact as to whether they, actually, were there that day
22 or -- I guess I'm trying to figure out what the probative
23 value is of admitting them, and what fact or consequence
24 would make it more or less probative?

25 MS. MUNSON: Well, those were the kids that were

1 taken out of the house.

2 THE COURT: I don't think -- is there any contention
3 that those were the children taken out of the house?

4 MS. MUNSON: I can't ever assume that, Your Honor.

5 THE COURT: Are you all going to say these are the
6 children that were taken out of the house?

7 MR. WARDER: No. That's not an issue.

8 THE COURT: Okay.

9 MS. MUNSON: And if they're willing to stipulate that
10 State's Exhibit No. 3 is Jadance --

11 THE COURT: I don't know what State's Exhibit No. 3
12 is. What is State's Exhibit No. 3?

13 MS. MUNSON: It should be the picture of the little
14 girl in her pajamas.

15 THE COURT: Oh, okay.

16 MS. MUNSON: And that that is the Defendant's
17 daughter, and that she was in the house when this went
18 down.

19 THE COURT: Why don't y'all -- I don't think they're
20 questioning that she was there when this happened;
21 correct?

22 MR. WARDER: No. We're not questioning it at all,
23 Your Honor. It's not an issue.

24 I mean, they've got her standing there with a toy --

25 THE COURT: That's not my question.

1 Are y'all going to stipulate that these two children
2 were in the house at the time of this incident?

3 MR. WARDER: Yes.

4 THE COURT: And that the daughter was there, and that
5 it is his child and she was there at the time of the
6 incident?

7 MR. WARDER: Yes. That it's his child, yes.

8 THE COURT: That eliminates the photos.

9 MS. MUNSON: Suits me, Your Honor.

10 THE COURT: Thank you.

11 Okay. Is there anything else we need to take up
12 before we proceed?

13 MS. MUNSON: Nothing from the State, Your Honor.

14 MR. JONES: Not with this witness, Your Honor.

15 THE COURT: Could we go ahead and get the witness,
16 please, and have the witness on the witness stand before I
17 bring the jury back in?

18 You can go ahead and get the jury.

19 (Pause.)

20 THE COURT: Son, come on up here to the witness stand
21 for me, please.

22 THE CLERK: Would you like me to swear him before
23 they come in?

24 THE COURT: No, no.

25 THE CLERK: You can just stand right there, please.

1 (WHEREUPON, the jury came into open court at
2 approximately 3:15 p.m.)

3 THE COURT: The State may proceed.

4 MS. MUNSON: May it please the Court.

5 Your Honor, the State calls Jakyre K [REDACTED].

6 THE COURT: You may proceed.

7 THE CLERK: Jakyre, would you raise your right hand
8 for me, and place your left hand on the Bible?

9 WHEREUPON,

10 JAKYRE K [REDACTED],

11 after first having been duly sworn, testified as follows:

12 THE CLERK: Thank you.

13 You may be seated.

14 Would you, please, tell us your full name?

15 THE WITNESS: Jakyre K [REDACTED].

16 THE COURT: I need you to speak up just a little bit
17 more for me. And speak right into the microphone.

18 Thank you.

19 You may proceed.

20 DIRECT EXAMINATION

21 BY MS. MUNSON:

22 Q How old are you, Jakyre?

23 A 12.

24 Q Where do you live?

25 A I live in Greer, South Carolina.

- 1 Q Who do you live with?
- 2 A My uncle and my aunt.
- 3 Q Where do you go to school?
- 4 A Buena Vista Elementary.
- 5 Q What grade are you in?
- 6 A Fifth.
- 7 Q Do you have a favorite subject?
- 8 A Math.
- 9 Q Really. Do you have any things that you like to do
10 outside of school?
- 11 A Play basketball and football.
- 12 Q Okay. Who is your dad?
- 13 A Tony Robertson.
- 14 Q I'm sorry?
- 15 A Tony -- I mean, Tony.
- 16 Q Okay. And who's your mom?
- 17 A Natasha Kerns.
- 18 Q Okay. And you don't live with your mom?
- 19 A No.
- 20 Q Why not?
- 21 A Because she got shot.
- 22 Q Okay. Now, I want you to think back to that time
23 when your mother died. Okay.
- 24 A Okay.
- 25 Q Do you remember it?

1 A Yes.

2 Q How old were you?

3 A I think 10, or nine.

4 Q Okay. Well, when is your birthday?

5 A [REDACTED].

6 Q [REDACTED] the what?

7 A [REDACTED].

8 Q What year?

9 A 2000.

10 Q Okay. So you were almost 10; is that right?

11 A Yes, ma'am.

12 Q Where were you when your mom got killed?

13 A I was in my room.

14 Q Okay. In your room. Where were you living at the

15 time that your mom got killed?

16 A In Idlewild.

17 Q In Idlewild?

18 A Yes.

19 Q Do you remember the address?

20 A No.

21 Q Who else lived with you and your mom in the Idlewild

22 house?

23 A My sister and my mom's bodyguard.

24 Q Your mom's bodyguard?

25 A Yes.

1 Q Do you know his name?

2 A No.

3 Q Had you ever seen him before the night that your mom
4 got killed?

5 A No.

6 Q Okay. Now, who's your sister?

7 A Jadance.

8 Q And how old was she when your mom got killed?

9 A Two.

10 Q And who's her dad?

11 A Willie Robinson.

12 Q Willie Robinson?

13 A I mean, Williams.

14 Q Let me try again. Who is your sister's dad?

15 A Willie.

16 Q Okay. That's all right.

17 Now, the night that your mom got killed, you say you
18 were in your room?

19 A Yes.

20 Q And do you know, did this happen during the day, or
21 the night, or when?

22 A It was like in the morning.

23 Q Okay. How early in the morning? Real early?

24 A Yes.

25 Q Was the sun up yet?

1 A No.

2 Q How did you know that something was wrong?

3 A When I heard the first fire.

4 Q And where were you when you heard that fire?

5 A In my room.

6 Q Was anybody in your room with you when you heard
7 that?

8 A Yes.

9 Q Who was in your room with you?

10 A My mom's bodyguard.

11 Q Okay. When you heard the first shot, he was in your
12 room?

13 A Yes.

14 Q Okay. What did you do when you heard that shot?

15 A I woke up.

16 Q Okay. Did you get up?

17 A No.

18 Q Okay. Did you say anything?

19 A Huh-uh. Then I turned on the lights.

20 Q So you got up?

21 A Yes.

22 Q Okay. You turned on the lights where?

23 A In my room.

24 Q All right. And what happened when you turned on the
25 lights?

1 A My mom's bodyguard told me to turn them off.

2 Q Did you do that?

3 A Yes.

4 Q And what was the next thing you remember happening?

5 A I looked out the window.

6 Q Which window did you look out?

7 A My window in my room.

8 Q Okay. When you looked out your window in your room,
9 what did you see?

10 A A car.

11 Q What kind of car did you see?

12 A A 300.

13 Q What do you mean by a "300"?

14 A A Chrysler.

15 Q Okay. Had you ever seen that car before?

16 A Yes.

17 Q Whose car was it?

18 A My sister's dad.

19 Q Your sister's dad.

20 All right. When you looked out your window and you
21 saw your sister's dad's car, what happened next?

22 A Then I opened my door. And then I crawled to the
23 corner of our hallway.

24 Q Okay. Why were you crawling?

25 A Because I had heard gun fire.

1 Q All right. When you were crawling in your hallway,
2 did you see anything?

3 A No.

4 Q Okay. Did you see your mom?

5 A When I, finally -- when I got to the corner, yes, I
6 saw my mom.

7 Q Where did you see your mom?

8 A On the ground.

9 Q Did you talk to her?

10 A No.

11 Q Did you go close to her?

12 A Yes.

13 Q Was she able to talk to you?

14 A No.

15 Q All right. What's the next thing that you remember
16 after that?

17 A I saw Will Marvin.

18 Q You saw him where?

19 A Shooting my mom.

20 Q You saw him shooting your mom?

21 A Yes.

22 Q After she was on the ground?

23 A Yes.

24 Q Okay. Where did you see him?

25 A I saw him above my mom.

1 Q Okay. Do you remember what he was wearing?

2 A No.

3 Q Okay. How do you know it was him?

4 A Because I saw him.

5 Q Did you see his face?

6 A Yes.

7 Q Did he say anything to you?

8 A No.

9 Q Did you say anything to him?

10 A No.

11 Q How many shots did you hear?

12 A Nine or four, one of those two.

13 Q Nine or four. Okay. What did -- after you saw Will
14 Marvin shoot your mom, what -- where did he go?

15 A He went out the window.

16 Q Did you see the window that he went out?

17 A Yes.

18 Q Okay. And then what happened? Did you see him
19 leave?

20 A Yes. I saw his car leave.

21 Q You saw his car leave. And then do you remember the
22 police officers coming in the house?

23 A Yes.

24 Q Do you remember talking to them?

25 A Yes.

1 MS. MUNSON: May I approach, Your Honor?

2 THE COURT: Uh-huh.

3 BY MS. MUNSON:

4 Q All right. Jakyre, I am showing you State's Exhibit
5 Nos. 4 and 5. Can you take a look at those?

6 A Yes.

7 Q Have you ever seen those before?

8 A Yes.

9 Q Do you recognize them?

10 A Yes.

11 Q Do they show what your Idlewild house looked like
12 back in July when your mom was killed?

13 A Yes.

14 MS. MUNSON: Your Honor, at this time, I move State's
15 Exhibit Nos. 4 and 5 into evidence.

16 THE COURT: Please show them to counsel.

17 MS. MUNSON: Yes.

18 THE COURT: Any exception?

19 MR. WARDER: No objection, Your Honor.

20 THE COURT: Marked and admitted without objection.

21 (WHEREUPON, State's Exhibit Nos. 4 and 5 were admitted
22 into evidence.)

23 BY MS. MUNSON:

24 Q Jakyre, do you have that little laser pointer up
25 there?

1 A Yes.

2 Q I'm going to put up here State's No. 4. Can you take
3 a look at this?

4 MS. MUNSON: We might need a little help with the
5 lights.

6 BY MS. MUNSON:

7 Q All right. Jakyre, what is that?

8 A My house.

9 Q Can you show with the laser pointer on State's
10 Exhibit No. 4 where your window was that you looked out?

11 A Right there.

12 Q Right there. And is it fair to say it's the far
13 right window of State's Exhibit No. 4?

14 A Yes.

15 Q Okay. Now, let me show you State's Exhibit No. 5.
16 On State's Exhibit No. 5, can you show with the laser
17 pointer where your room is?

18 A Right there.

19 Q Okay. And show on State's Exhibit No. 5 where you
20 saw Will Marvin's 300?

21 A Right here.

22 Q To the left of the tree?

23 A Yes. Yes, ma'am.

24 Q Not between the trees?

25 A No, ma'am.

1 MS. MUNSON: If we could have the lights back on,
2 please.

3 BY MS. MUNSON:

4 Q Now, that car -- had you ever been in that car
5 before?

6 A Yes.

7 Q Do you know if Will Marvin had any other cars?

8 A He had a Mustang. He had a motorcycle. And he had a
9 truck.

10 Q Had you ridden in all of them?

11 A Not -- yes. Yes, I have.

12 Q Had he ever been over to your Idlewild house?

13 A Yes.

14 Q Had you seen him a lot?

15 A Yes.

16 Q Now, you've been talking about Will Marvin and your
17 sister's father. Is he in the courtroom?

18 A Yes.

19 Q Can you point out for the jury where he's sitting?

20 A Right there.

21 MS. MUNSON: Your Honor, may the record show that
22 he's identified --

23 BY MS. MUNSON:

24 Q Can you say something that he's wearing for the
25 record?

1 A Red.

2 Q A red what?

3 A Suit.

4 MS. MUNSON: Okay --

5 THE WITNESS: Or tie.

6 MS. MUNSON: It's the State's position, Your Honor,
7 that's adequate identification of the Defendant. And we
8 would ask the record to reflect that.

9 THE COURT: He has testified and identified the
10 Defendant.

11 MS. MUNSON: I have nothing further of this witness
12 at this time.

13 THE COURT: Any questions for the witness?

14 CROSS-EXAMINATION

15 BY MR. WARDER:

16 Q Do I understand that you were woken up by the sound
17 of a gunshot?

18 A Yes.

19 Q And did you immediately get up?

20 A No.

21 Q You laid in bed?

22 A Yes.

23 Q How long did you lay in bed before you did anything?

24 A For like two minutes.

25 Q About three?

1 A Two, not three.

2 Q You don't know?

3 A I said two.

4 Q Two minutes?

5 A Yes.

6 Q Okay. And then when you got up in two minutes, did
7 you turn the light on in your room?

8 A Yes.

9 Q Was -- okay. Was anybody else in the room?

10 A Yes.

11 Q Okay. Who was that?

12 A My mom's bodyguard.

13 Q Your mom's what?

14 A Bodyguard.

15 Q Bodyguard?

16 A Yes.

17 Q Was he her boyfriend?

18 A No.

19 Q Was he in bed with your mom?

20 A No.

21 Q He wasn't sleeping in bed with your mom?

22 A No.

23 Q Had he already gotten dressed?

24 A What you mean? He was already dressed.

25 Q Well, it was 2:00 in the morning. Was he in his

1 street clothes?

2 A He was in his regular clothes.

3 Q And was he shot?

4 A Yes.

5 Q When was he shot?

6 A The first bullet.

7 Q Pardon?

8 A The first shot that woke me up, he was shot.

9 Q He was shot the first shot?

10 A Yes.

11 Q The one that woke you up?

12 A Yes.

13 Q How many total shots did you hear?

14 A I said four -- between nine -- I don't know. It was
15 between nine or four.

16 Q Okay. And after the bodyguard was shot, then your
17 mom was shot?

18 A Yes.

19 Q Were you out in the room when that happened?

20 A Yes.

21 Q And she was shot twice?

22 A No.

23 Q Pardon?

24 A No. She was shot more.

25 Q She was shot one -- one shot missed her?

1 A No. More.

2 Q Pardon?

3 A More.

4 Q More?

5 A She got shot more than two times.

6 Q How many times did your mother get shot?

7 A Probably like four or five.

8 Q Did you see all four or five of those?

9 A I saw two.

10 Q Okay. Could you tell where she was shot at when she
11 was shot?

12 A She was shot right here and right here.

13 Q Okay. You pointed to -- and I think it was your
14 right shoulder; is that right?

15 A Yes.

16 Q And then she was shot more in the center of the
17 chest?

18 A Yes.

19 Q Okay. And when did -- did you go back into your room
20 then?

21 A No.

22 Q Okay. You stayed in the living room?

23 A Yes.

24 Q For how long?

25 A Until Will Marvin left.

1 Q When did you see Will Marvin's car leave? Was
2 that --

3 A After he ran out of bullets.

4 Q Okay. And you said you saw him through your bedroom
5 window?

6 A I saw his car.

7 Q The car through the bedroom window?

8 A Yes.

9 Q And was that when he was leaving in it?

10 A No. That's when he was arriving in it. That was
11 when he was already in there.

12 Q Okay. I thought you were asleep until you heard a
13 shot?

14 A I was asleep, yes, I was. But until I heard the
15 shot. And I looked out the window, and I turned on the
16 light. And then I -- then my mom's bodyguard told me to
17 turn off the light. And I looked out the window and his
18 car was already there, and his lights was on.

19 Q Did you see the car leave?

20 A Yes, I did. After he left -- after he ran out of
21 bullets, he ran out the window and he left.

22 Q And you're saying he went out the front of the house?

23 A Yes, not through the door.

24 Q Pardon?

25 A Not through the door.

1 Q Through the window?

2 A Yes.

3 Q Okay. Did your mother have a gun, too?

4 A Yes, she did.

5 Q Did she shoot it?

6 A No. Because she couldn't get to it.

7 Q When you say "she couldn't get to it," she didn't
8 have it with her right on her?

9 A No. She didn't have it right on her.

10 Q Do you know where her gun was at?

11 A Yes. It was in her closet.

12 Q In where?

13 A In her closet.

14 Q So she had a gun in her closet?

15 A Yes.

16 Q Do you know what kind of gun she had?

17 A No.

18 Q Where was your little sister at when this was going
19 on?

20 A She was in my mom's room.

21 Q And what room had the bodyguard been sleeping in?

22 A He hadn't been sleeping in our room. He hadn't been
23 sleeping in our house.

24 Q Okay. The bodyguard, was he sitting in the dark? Is
25 that what he did, just sat up all night?

1 A No, he was standing.

2 Q He stood up all night?

3 A Yes.

4 Q Okay. And what room was he standing in?

5 A He wasn't standing in a room. He was standing in the
6 hallway.

7 Q Okay. So the bodyguard kind of stood in the hallway
8 to guard the hall, I guess?

9 A Yes.

10 Q Do you remember what time you went to bed?

11 A Probably between like 12:00.

12 Q Okay. Was the bodyguard on duty standing in the hall
13 at 12:00?

14 A Yes.

15 MR. WARDER: Thank you.

16 THE COURT: Any redirect of the witness?

17 MS. MUNSON: Yes, ma'am, Your Honor.

18 THE COURT: You may proceed.

19 REDIRECT EXAMINATION

20 BY MS. MUNSON:

21 Q Jakyre, when you went to bed that night, do you know
22 what anybody else was doing in the house after you were
23 asleep?

24 A My mom went to sleep and she locked her door. And my
25 sister was in my mom's room in her cradle.

1 Q Okay. But after you fell asleep, you're asleep, do
2 you know what was going on at all in the house until the
3 shots woke you up?

4 A Yes. I didn't know what was going on, because I was
5 asleep.

6 Q Okay. So while you're sleeping, you didn't know what
7 was going on in the house?

8 A No.

9 Q You said in response to one of Mr. Warder's questions
10 that he ran out of bullets. How do you know that?

11 A Because he faced it at me.

12 Q Well, how do you know it was out of bullets?

13 A Because he shot it. He shot it at me. And then he
14 ran out of bullets. You know how a gun says -- when the
15 bullet goes out of bullets, and then it says pssh [phonetic]
16 and it's out of bullets. And then the gun is different.
17 It was out of bullets. And then he left.

18 MS. MUNSON: Nothing further, Your Honor.

19 THE COURT: Any objection to the witness being
20 excused from the State?

21 MS. MUNSON: No, ma'am.

22 THE COURT: From the Defense?

23 MR. WARDER: No, Your Honor.

24 THE COURT: Young man, you're excused.

25 You may call your next witness.

1 MS. MUNSON: Your Honor, might this be a good time to
2 publish the unwritten stipulation?

3 THE COURT: That's up to you. You might want to
4 discuss that with counsel and go ahead and call your next
5 witness.

6 MS. MUNSON: Okay. The State calls Laura Campbell.

7 THE CLERK: Ms. Campbell, please, come forward to be
8 sworn in.

9 Please place your left hand on the Bible and raise
10 your right.

11 WHEREUPON,

12 LAURA CAMPBELL,
13 after first having been duly sworn, testified as follows:

14 THE CLERK: Thank you.

15 You may be seated.

16 Please state your name for the record.

17 THE WITNESS: It's Laura Campbell.

18 THE CLERK: Thank you.

19 THE COURT: You may proceed.

20 MS. MUNSON: Thank you, Your Honor.

21 THE COURT: You're welcome.

22 DIRECT EXAMINATION

23 BY MS. MUNSON:

24 Q Ms. Campbell, who were you working for back in 2010?

25 A The Greenville County Sheriff's Office.

1 Q How long had you been with the Sheriff's Office back
2 then?

3 A Oh, about a year at the time.

4 Q Did you have any law enforcement experience prior to
5 that?

6 A Yes, ma'am. I was a police officer for the City of
7 Virginia Beach for a couple of years before I came here to
8 Greenville.

9 Q When did you leave the Sheriff's Office?

10 A About three weeks ago.

11 Q And why did you do that?

12 A I am moving to California.

13 Q All right. At the time -- during your time with the
14 Sheriff's Office, what different positions have you held?

15 A After I was a patrol deputy when this incident
16 occurred, I went to vice and narcotics for two years. And
17 for the last year of service with the Sheriff, I was his
18 public information officer. So I dealt with the media and
19 all the press releases, and things of that nature.

20 Q And in July of 2010, what was your job title?

21 A I was a deputy two with the Sheriff's Office. And I
22 had worked for uniform patrol.

23 Q And your duties were?

24 A Answering calls for service, initiating calls for
25 service. That -- I was in a marked patrol car in uniform.

1 Q And is that what your status was in July of 2010?

2 A Yes, ma'am.

3 Q Did you get a call in reference to this case?

4 A Yes, ma'am.

5 MR. WARDER: Your Honor, please, I have a matter of
6 law to take up at this time.

7 THE COURT: You may approach.

8 (WHEREUPON, a bench conference was held.)

9 THE COURT: You may proceed.

10 MS. MUNSON: Thank you, Your Honor.

11 BY MS. MUNSON:

12 Q So did you respond to a call in reference to this
13 case?

14 A Yes, ma'am, I did.

15 Q On what date?

16 A It was July 10th of 2010.

17 Q Do you know what time it was?

18 A Approximately 5:00 a.m.

19 Q Were you on duty?

20 A I was.

21 Q And where did you go in response to this call?

22 A To [REDACTED] in Greenville County.

23 Q Okay. When you got there, as you said, you were in
24 uniform and marked car?

25 A Yes, ma'am.

1 Q Was anybody in your car with you?

2 A No one was in my car. We ride solo deputies.

3 Q When you got to Idlewild -- about how long did it
4 take you to get there?

5 A Less than five minutes.

6 Q Okay. And when you got there, was any other law
7 enforcement personnel present?

8 A Yes, ma'am. There was a deputy by the name of
9 Matthew Waters that was already on scene. He beat me to
10 the call by about three minutes.

11 Q And did you see him when you got there?

12 A I did. He had taken a cover position behind a tree
13 in a vehicle that was to the left of the driveway of the
14 home.

15 Q Did you see anybody else around the house?

16 A No, ma'am.

17 Q Did you get out of your car?

18 A Yes, ma'am.

19 Q And where did you go?

20 A I went and met Deputy Waters at his position behind
21 the tree to find out what he had discovered.

22 Q Okay. Could you see the house from where you were?

23 A Oh, yes, ma'am. We were in the front yard of the
24 house.

25 Q What did you notice about the house?

1 A To the left, the very far left window was broken out.
2 And then, also, a window further towards the middle of the
3 house looked -- what appeared to be a bullet hole in the
4 window.

5 Q Did you hear anything while you were there?

6 A No, ma'am. It was eerily quiet.

7 Q Okay. How long did y'all stay there before you
8 decided to do anything?

9 A Deputy Waters had advised me that he had called out
10 and didn't get a response from inside the home. The tree
11 area where we were positioned was, gosh, maybe 10 yards
12 from the front of the house.

13 So we tactically moved closer. Because, at this
14 point, we had been advised that there was a shooting. We
15 didn't know where the suspect was or anybody, at this
16 point, just because it was so quiet.

17 So we did approach the house. And we approached to
18 the left of the house where the window was broken out.

19 Q Okay. As you were doing that, as you're approaching,
20 did any other law enforcement personnel arrive?

21 A Yes, ma'am. A deputy by the name of Justin Lanford
22 arrived. So it was the three of us that were making an
23 approach to the home.

24 Q And did you, eventually, go in?

25 A We did. We got within a number of feet, less than

1 five feet from that broken-out window. Deputy Waters
2 called out again --

3 Q I'm sorry to interrupt. But when you say he called
4 out, what does that mean?

5 A Typically, when we call out at a scene, we identify
6 ourselves to say something to the effect of Greenville
7 County Sheriff's Office, you know, make yourself known, or
8 something of that nature. But we announce that we are law
9 enforcement and that we're there at the scene. This
10 particular occasion, when Deputy Waters called out, we
11 were close to the home. And he did call out louder.

12 And, at that point, I would describe it as mayhem
13 broke loose. There was tons of screaming from inside the
14 house, screaming for help. And, at that point, the three
15 of us entered through the broken glass and into the home.

16 Q When you got into the home, could you see anything
17 inside the house at that point?

18 A No. The area in which we entered, I remember there
19 being some sofas. But there was no actual people in the
20 room where that broken window was. We go straight through
21 that room, make a right turn through some kind of beading
22 material that separated the doorway, and entered what
23 appeared to be a living room. The first thing I see is a
24 young boy in a pair of boxer shorts holding a very young
25 girl that looked to be less than two in a pair of

1 pink-footed pajamas. He was screaming at the time that
2 he --

3 MR. WARDER: Objection, to what he was screaming.

4 THE COURT: Mr. Foreman, and, ladies and gentlemen, I
5 have a very brief matter of law to take up with the
6 attorneys. During this break, please, do not discuss the
7 case. And, please, leave your notepads in your seats. We
8 appreciate your patience.

9 (WHEREUPON, the jury was excused from open court at
10 approximately 3:42 p.m.)

11 THE COURT: Ma'am, you may continue your answer.

12 THE WITNESS: The young boy was screaming, He killed
13 my mommy. I looked to the right of me and I saw the
14 victim, at that point, laying in the floor, and then,
15 also, an adult male with a pink towel wrapped around his
16 head.

17 Being a mother myself, I kind of went into mom mode
18 more than police mode. I grabbed the two children and ran
19 out of the house with both of them. I took the little
20 girl and took the little boy, Jakyre, by his hand and went
21 out the exact way we came in, through the window.

22 DIRECT EXAMINATION

23 BY MS. MUNSON:

24 Q But at no point --

25 MS. MUNSON: And I, certainly, wouldn't ask it this

1 way in front of the jury, Your Honor.

2 BY MS. MUNSON:

3 Q But at no point in the house did the little boy say,
4 Will Marvin killed my mom?

5 A No. It wasn't until we were outside in the car.

6 Q He just said --

7 A He just said, He killed my mommy.

8 Q And then once you got out into the patrol car --

9 A That's right. I had the little girl. She wouldn't
10 let go of me. So I held onto her and put her in the back
11 of Deputy Lanford's car, just trying to ascertain what was
12 going on. And that's when he said that Willie Marvin
13 killed my mom.

14 Q Did he say this in response to your questioning?

15 A Yes, ma'am.

16 MS. MUNSON: That would be the extent of it, Your
17 Honor.

18 THE COURT: I need to know exactly what questions she
19 asked him that elicited that response.

20 THE WITNESS: I wasn't trying to, I guess,
21 interrogate him or solicit information from him at this
22 point. I was merely trying to calm them down. He made a
23 lot of statements. So it's not like I directly questioned
24 him and said, who did this?

25 He was just saying a lot of things. Some that come

1 to immediate memory is he said, I knew he would do this.
2 He said, He would do this. Why else would he come in the
3 middle of the night? Willie Marvin called my mom and
4 killed my mom. And he would just repeat things.

5 But he'd, also, ask questions. He said, you know, My
6 mom is dead. But in the same token, he would turn around
7 and say, why Is my mom not coming out? And then he would
8 ask me why her eye looked like it did. And I did see it.
9 And her eye was coming out from the gunshot wound to the
10 head.

11 So it was more letting him just speak more than me
12 just asking questions. And I did reach out to
13 Investigator Whaley. And, at that point, he said just
14 turn on Deputy Lanford's video camera and let him talk.
15 But I never directly interrogated him.

16 THE COURT: Are there any other statements -- of the
17 statements she's made, which of those would the State be
18 seeking to introduce?

19 MS. MUNSON: I don't think that I would -- I'm not
20 going to ask this witness to recount the testimony that he
21 said he was going to do this, why else would he come in
22 the middle of the night, and things of that nature. I do
23 ask that she be allowed to say that the child said, He
24 killed my mommy, and that he, also, said that it was
25 Willie Marvin.

1 THE COURT: Okay. Is there an exception? What's the
2 basis of the objection?

3 MR. WARDER: The basis would be that it's hearsay,
4 Your Honor. It's an out-of-court statement offered for
5 the issue of who killed this person. And it's a
6 declaration by a witness that's already testified today.

7 THE COURT: Would the State like to respond?

8 MS. MUNSON: I apologize, Your Honor. I was
9 distracted.

10 THE COURT: He said it's hearsay. Would you like to
11 respond?

12 MS. MUNSON: Nothing other than 803(2), excited
13 utterance. Clearly, the child was under the influence of
14 an excited event, a shocking event very close in time to
15 when the event happened.

16 THE COURT: You never elicited from the officer how
17 long it took them to arrive at the scene, how close in
18 proximity to the call that they arrived.

19 THE WITNESS: I stated less than five minutes.

20 THE COURT: Okay. So you're saying within that
21 five-minute window is when you spoke to the child and he
22 made these statements?

23 THE WITNESS: No, ma'am.

24 From the time the call came out until the time I
25 arrived on scene, I believe, was less than five minutes.

1 From the time we entered the home was probably one or two
2 more minutes. And I would say from the time I picked the
3 little girl up and took him by the hand and took him
4 outside, he said it was Willie Marvin within a minute or
5 two. So I would say all and all, maybe less than 10 -- 10
6 to 15.

7 THE COURT: And what was his demeanor when he said
8 these things to you?

9 THE WITNESS: He was terrified. He was confused. He
10 wanted his mom. He repeated over and over he wanted his
11 mom.

12 THE COURT: The objection is overruled. The
13 statements are spontaneous and, clearly, come within the
14 exception of 803(2), which is an excited utterance. They
15 meet all three elements, that being that the statement
16 relates to a startling event or condition. The statement
17 was made while the declarant was under the immediate
18 stress of the excitement. And the officer's testimony is
19 it was within less than 15 minutes of this event. And the
20 stress must have been caused by the startling event or
21 condition.

22 And, clearly, a child witnessing their parent being
23 shot is a startling event. The officer has testified that
24 he was --

25 Repeat the words you used. Did you say hysterical?

1 THE WITNESS: He was terrified. And he was --

2 THE COURT: Terrified, that's the word I was looking
3 for. She testified he was terrified. And, clearly, the
4 stress was caused by the startling event or condition.
5 Therefore, it comes within the exception as an excited
6 utterance. Therefore, the objection is overruled.

7 Please bring in the jury.

8 And the Court has considered the totality of the
9 circumstances in making that ruling.

10 MR. WARDER: Your Honor.

11 THE COURT: Yes, sir.

12 MR. WARDER: For the record, I would, also, object
13 that it violates the confrontation clause and the right to
14 confront.

15 THE COURT: You can recall the witness if you'd like.
16 He's available. There's nothing unavailable about him.
17 You've had the ability to examine him and cross-examine
18 him regarding his statement.

19 And, clearly, it is not a testimonial statement --
20 well, it may well have been, but I don't believe that even
21 applies in this instance. It's, clearly, an excited
22 utterance. And if you want to recall the child as a
23 witness, you're welcome to. And you can cross-examine
24 him.

25 So you're not denied the ability to confront him.

1 Even though you have no burden of proof in this case,
2 there's nothing that precludes you from recalling him as a
3 witness, if you'd like to.

4 What was the deceased's maiden name?

5 MR. WILLIE ROBINSON: Kerns.

6 THE COURT: Is she related to any Robinsons? How is
7 she related to the Robinsons?

8 MR. WILLIE ROBINSON: My daughter.

9 THE COURT: So you're a Robinson and Ms. Kerns is
10 your daughter?

11 MR. WILLIE ROBINSON: She was my daughter. Her
12 grandmother wanted me to let her keep her last name.

13 (WHEREUPON, the jury came into open court at
14 approximately 3:53 p.m.)

15 THE COURT: You may continue.

16 MS. MUNSON: Thank you, Your Honor.

17 THE COURT: You're welcome.

18 CONTINUED DIRECT EXAMINATION

19 BY MS. MUNSON:

20 Q All right. Ms. Campbell, I'm kind of backtracking
21 myself here. When you got in the house and you saw the
22 small children, what was their demeanor?

23 A The little boy was holding his sister. They were
24 both screaming hysterically, staring at their mother on
25 the floor. Both were crying, screaming, Help us, and, He

1 killed my mommy.

2 Q Okay. Was there anybody else in the room with
3 Natasha's body?

4 A Yes. It was the two children and then a grown adult
5 male -- black male that appeared to be injured. He had a
6 pink bath towel wrapped around his head that was soaked in
7 blood.

8 Q And when you got the children, where did you go?

9 A I grabbed the little girl, took her. And then I took
10 Jakyre by his hand and went out the exact same way I came
11 and immediately took them to Deputy Lanford's patrol car,
12 which, at that time, was parked close to the front of the
13 home.

14 Q Okay. What was Jakyre saying as you got him out of
15 the house?

16 A He kept repeating, He killed my mommy, he killed my
17 mommy. I never directly interrogated him or asked him any
18 questions. But he would comment on the events. And he
19 said, Willie Marvin killed my mom.

20 Q When you got into the home and saw the body, did you
21 go around Natasha at all or move her?

22 A No. The way -- the door that came from that other
23 room which we entered, Natasha was to our right with her
24 head closest to the children. And the children were
25 directly in front of me, closer than me and this juror

1 right here in the plaid shirt.

2 MS. MUNSON: May I approach, Your Honor?

3 THE COURT: Uh-huh.

4 BY MS. MUNSON:

5 Q Ms. Campbell, I'm showing you State's Exhibit Nos. 6,
6 7, 8, 26, 9, 10 and 11. Will you just take a look at
7 those, please?

8 A Yes, ma'am.

9 Q Do you recognize those?

10 A Yes, ma'am.

11 Q Are they true and accurate depictions of what you saw
12 when you got to [REDACTED] [REDACTED]?

13 A Yes, ma'am.

14 MS. MUNSON: Your Honor, I offer State's Exhibit Nos.
15 6, 7, 8, 26, 9, 10 and 11 into evidence.

16 THE COURT: Any exception?

17 MR. WARDER: Your Honor, if it please the Court, we
18 have no objection to those photographs.

19 THE COURT: Tell me the numbers again, please.

20 MS. MUNSON: Yes, ma'am.

21 If I could get them back, please.

22 MS. MUNSON: Your Honor, the numbers are State's
23 Exhibit Nos. 6, 7, 8, 26, 9, 10 and 11.

24 BY MS. MUNSON:

25 Q All right. Ms. Campbell, if you would --

1 THE COURT: Wait one second, please.

2 MS. MUNSON: Yes, ma'am.

3 THE COURT: Marked and admitted without objection.

4 (WHEREUPON, State's Exhibit Nos. 6, 7, 8, 9, 10, 11,
5 and 26 were admitted into evidence.)

6 BY MS. MUNSON:

7 Q Ms. Campbell, if you'll grab that laser pointer
8 there. And I'm going to get you to go through some of
9 these, please.

10 I'm showing you State's Exhibit No. 6. Now, with the
11 laser pointer, can you show the jury on State's Exhibit
12 No. 6 where you saw what you believed to be a bullet hole?

13 A It's, essentially, in that window right there.

14 Q Okay. And where is the window through which you
15 entered the home?

16 A This far left window here.

17 Q Okay. Now, this is State's Exhibit No. 7. What does
18 that show you?

19 A This area in here is the -- what looked like a bullet
20 hole.

21 Q Okay. And then if we could let you look at State's
22 Exhibit No. 8.

23 A That's an enlarged picture of, basically, what you
24 just previously showed, which is the bullet hole in that
25 middle window.

1 Q All right. Now, I'm showing you a little out of
2 order here, I guess. State's Exhibit No. 26.

3 A Again, that's an enlarged picture of that middle
4 window with the bullet hole in it.

5 Q From where -- from what perspective is State's
6 Exhibit No. 26 taken?

7 A It appears to be from the inside out.

8 Q From the inside of the house?

9 A Yes, ma'am.

10 Q Now, this is State's Exhibit No. 9. What is depicted
11 here?

12 A This is that far left window that was broken out. If
13 you look at the picture, you can tell that the vertical
14 blinds from the inside are pushed out, which indicates
15 that someone exited the home through that window. And the
16 window here in that upper pane area is, again, that bullet
17 hole.

18 Q When you referred to Deputy Waters and you as taking
19 a tactical position around a car?

20 A Right.

21 Q Is the car depicted in State's Exhibit No. 9?

22 A It's this car right here, and then there's a tree
23 further back. Essentially, if you were to look at it from
24 where I'm sitting, I'm the tree in the picture.

25 Q Let me go back to what's already in evidence as

1 State's Exhibit No. 5. Is that more helpful,
2 Ms. Campbell, in showing the jury where you took up your
3 tactical position?

4 A Yes, ma'am. Because this is the driveway here.
5 Again, the tree -- all this -- we took the tactical
6 position to the left side of the home. This is all from
7 the right side of the home here.

8 Q All right. Then I have State's Exhibit No. 10. What
9 is the perspective here on State's Exhibit No. 10?

10 A As I initially testified, once we took -- got out
11 from our cover, which was the tree and the car, and we
12 approached the home to call out that we were the Sheriff's
13 Office, this is exactly the position where this picture is
14 taken where we were standing when we yelled into the
15 window.

16 Q And where on State's Exhibit No. 10 is what you saw
17 that you believed to be a bullet hole?

18 A It's this middle window right here.

19 Q Okay. Now, finally, I've got State's Exhibit No. 11.
20 Would you take a look at this?

21 A Yes, ma'am.

22 Q And where in relation to where you came in is State's
23 Exhibit No. 11?

24 A This is the room in the middle. Natasha's body is
25 lying directly underneath the window where that

1 bullet hole -- that bullet hole would be about right
2 there.

3 Q Okay. And is that the condition in which you found
4 her?

5 A Yes, ma'am.

6 MS. MUNSON: Thank you, Ms. Campbell.

7 I have nothing further at this time, Your Honor.

8 THE COURT: Any questions for the witness?

9 MR. WARDER: We have no questions of this witness,
10 Your Honor.

11 THE COURT: Any objection to the witness being
12 excused from the State?

13 MS. MUNSON: No, ma'am.

14 THE COURT: From the Defense?

15 MR. WARDER: No, Your Honor.

16 THE COURT: Ma'am, you're excused.

17 THE WITNESS: Thank you.

18 THE COURT: Yes, ma'am. You're welcome.

19 The State may call its next witness.

20 MS. MUNSON: Your Honor, the State calls Deputy
21 Justin Lanford.

22 THE CLERK: Deputy Lanford, if you'd come forward to
23 be sworn in, please.

24 Please place your left hand on the Bible and raise
25 your right hand.

1 WHEREUPON,

2 JUSTIN LANFORD,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: Thank you.

5 You may be seated.

6 Please state your name for the record.

7 THE WITNESS: Justin Lanford.

8 THE CLERK: Thank you.

9 DIRECT EXAMINATION

10 BY MS. MUNSON:

11 Q Who do you work for, sir?

12 A The Greenville County Sheriff's Office.

13 Q How long have you been with the Sheriff's Office?

14 A Six years.

15 Q What are your current duties?

16 A I work in the direct patrol unit, which is a
17 street-level narcotics unit.

18 Q How long have you been doing that?

19 A Since 2010.

20 Q All right. Were you with the Sheriff's Office back
21 in July of 2010?

22 A Yes, ma'am.

23 Q And did you get a call in reference to this case?

24 A Yes, ma'am.

25 Q Do you remember about what time of day or night it

1 was?

2 A I remember it was very early in the morning. I don't
3 remember an exact time.

4 Q Were you on duty?

5 A Yes, ma'am.

6 Q In response to the call that you got or the -- well,
7 was it a call, or was it dispatched over your computer, or
8 how did that work? Radio?

9 A Yes, ma'am. We have radios for the areas we work.
10 And we all can hear the calls that go out so in case we
11 need to back other deputies up. And that's how we heard
12 the call go out.

13 Q And when you heard the call go out, where did you go?

14 A I went to that address.

15 Q Was there any other law enforcement officers there
16 when you got there?

17 A Yes, ma'am.

18 Q Who was there?

19 A Deputy Waters and Deputy Campbell.

20 Q When you got on scene, were they in or out of their
21 cars? Where exactly were they?

22 A They were out of their cars advancing towards the
23 house, but not inside yet.

24 Q And what did you do when you saw that?

25 A I did the same, exited my vehicle and approached the

1 house as well.

2 Q Okay. And did you call out, or did you hear anybody
3 call out?

4 A Yes, ma'am. I believe Deputy Waters did several
5 times with no response.

6 Q And at some point, did you go in?

7 A Yes, ma'am. We saw that the side window had been
8 busted out. So we went into the residence and cleared it,
9 at which time we saw what had happened.

10 Q When you say you "cleared" the residence, what does
11 that mean?

12 A We go through every room to make sure there's
13 nobody -- or people inside the house that may be the
14 suspect involved and take care of the victims, if there
15 are any.

16 Q And do you remember who you found in the house?

17 A Two people with gunshot wounds, and two small
18 children.

19 Q Okay. Do you remember where you found the -- when
20 you say two people with gunshot wounds, do you remember
21 the sex of them?

22 A Yes, ma'am. One male and one female. They were both
23 in the living room of the residence.

24 Q All right. After you cleared the residence, did you
25 do anything else like outside the house?

1 A Yes, ma'am. We removed the children from the house.
2 And then I began placing crime scene tape around the house
3 so that nobody would come into the area of the crime
4 scene. And if they did enter, they had to go through us
5 where we got their names and what they were doing there.

6 MS. MUNSON: May I approach, Your Honor?

7 THE COURT: You may.

8 MS. MUNSON: Thank you.

9 BY MS. MUNSON:

10 Q Deputy Lanford, I'm showing you State's Exhibit Nos.
11 12, 13, 14, 15, 16, 17, and 18. If you'll just take a
12 look at those, please.

13 A (Witness complied.)

14 Q Do you recognize those?

15 A Yes, ma'am.

16 Q How do you recognize them?

17 A As being the house that we were called to.

18 Q Okay. Are those exhibits a true and accurate
19 depiction of the outside area of the house?

20 A Yes, ma'am.

21 MS. MUNSON: Your Honor, at this time, I offer
22 State's Exhibit Nos. 12 through 18 into evidence.

23 THE COURT: Any objection?

24 MR. WARDER: We have no objection, Your Honor.

25 THE COURT: Marked and admitted without objection.

1 What are those numbers again, please?

2 MS. MUNSON: I have no further questions of this
3 witness, Your Honor.

4 THE COURT: I need the numbers of those.

5 MS. MUNSON: I apologize.

6 THE COURT: That's okay.

7 MS. MUNSON: State's Exhibit Nos. 12, 13, 14, 15, 16,
8 17, and 18.

9 THE COURT: Marked and admitted without objection.

10 (WHEREUPON, State's Exhibit Nos. 12, 13, 14, 15, 16,
11 17, and 18 were admitted into evidence.)

12 THE COURT: Any questions for the witness?

13 CROSS-EXAMINATION

14 BY MR. WARDER:

15 Q Deputy, when you went in the house, how did you go
16 into the house?

17 A The side window.

18 Q Okay. Were you the only deputy that went in at that
19 time?

20 A No, sir.

21 Q Who else went in?

22 A Myself, Deputy Waters, and Deputy Campbell.

23 Q So three deputies went through that window?

24 A Yes, sir.

25 Q Okay. And when you were in the house -- how long

1 were you in the house?

2 A Roughly 10 minutes, 15 minutes or so.

3 Q Okay. Did you or anybody else go back out that
4 window?

5 A Yes, sir.

6 Q Okay. You went out the window?

7 A Yes, sir.

8 Q Did the other deputies go out the window?

9 A I can't answer for them. I don't recall.

10 Q Okay. The pictures that were taken, they were taken
11 after you were in the house, weren't they?

12 A Yes, sir.

13 Q So, obviously, people had went in and out the window.
14 You even went in it, and you even went out it?

15 A Yes, sir.

16 Q And you can't remember whether the other deputies
17 went out the same way?

18 A I can't answer for them. I'm sorry.

19 Q Were you the last deputy out, or the first deputy
20 out?

21 A I don't recall.

22 MR. WARDER: Thank you.

23 THE COURT: Any redirect?

24 MS. MUNSON: Very briefly, Your Honor.

25 THE COURT: You may proceed.

REDIRECT EXAMINATION

BY MS. MUNSON:

Q Deputy Lanford, did y'all change the window at all, either in going in or coming out?

A No, ma'am.

Q In other words, like getting rid of debris, or anything like that?

A No, ma'am.

MS. MUNSON: Okay. Thank you.

RECROSS-EXAMINATION

BY MR. WARDER:

Q Deputy, did it change the position of the vertical things that were coming down? Did you move them to get in the window and out?

A I can't recall. I don't believe that anybody knocked anything over, no, sir.

Q How about moving the things, the -- I guess you would call them vertical slats? Were they fabric, or were they metal?

A Are you talking about the shades?

Q Yes.

A Plastic.

Q Plastic?

A Yes, sir.

Q Did they -- did you going out the window move any of

1 them on the outside of the window jam?

2 A No, sir.

3 Q How do you know that?

4 A Because we did our best not to contaminate anything
5 as much as we could going through that window.

6 Q Okay. How long was it before anybody took a picture
7 of that?

8 A I'm not sure.

9 Q Hours?

10 A I can't say.

11 MR. WARDER: Thank you.

12 THE COURT: Any further questions of the witness?

13 MS. MUNSON: No, ma'am, Your Honor.

14 THE COURT: Any objection to the witness being
15 excused from the State?

16 MS. MUNSON: No, Your Honor.

17 THE COURT: From the Defense, any objection to the
18 witness being excused?

19 MR. WARDER: I'm sorry?

20 THE COURT: Is there any objection to the witness
21 being excused?

22 MR. WARDER: No. I'm sorry.

23 THE COURT: You're excused, sir.

24 Mr.. Foreman, ladies and gentlemen, we're going to
25 take a very brief restroom break. During the break,

1 please, do not discuss the case. And, please, leave your
2 notepads in your seats.

3 (WHEREUPON, the jury was excused from open court at
4 approximately 4:12 p.m.)

5 THE COURT: We'll be at ease for a moment to give the
6 jury an opportunity to use the restroom.

7 Who is the State's next witness? Who is your next
8 witness?

9 MS. MUNSON: It will be Joshua Garrison.

10 THE COURT: How long do you think he'll be?

11 And, also, I'll allow him to change his clothes.

12 MS. MUNSON: 40 minutes. He's the very last one.

13 THE COURT: Of Greenwood City?

14 MS. MUNSON: He was working in Laurens at the time.

15 THE COURT: We'll try to finish him. But we have
16 some single parents that have to leave at 5:00. They have
17 babies that they have to pick up.

18 MS. MUNSON: We appreciate that, Your Honor.

19 (WHEREUPON, a break was taken.)

20 THE COURT: Have we got everybody in place?

21 We need to deal with two jurors before we call any
22 further witnesses, one of whom indicates they know the
23 Robinson family. But they didn't realize that the
24 Robinsons were related to the deceased until they saw them
25 in the courtroom. And another who indicates her child may

1 well know the deceased's son who just testified a moment
2 ago.

3 So I need to inquire exactly into the circumstances
4 that they relayed to the bailiff, and then determine where
5 we go from there.

6 So, first, we'll deal with #3, Mr. William Allgood.

7 If you could bring in Mr. William Allgood.

8 (WHEREUPON, Juror #3, William Allgood, entered the
9 courtroom.)

10 THE COURT: Yes, sir. How are you doing today?

11 JUROR #3, WILLIAM ALLGOOD: I'm doing well.

12 THE COURT: Tell me your name for the record.

13 JUROR #3, WILLIAM ALLGOOD: William Allgood.

14 THE COURT: And, Mr. Allgood, have you indicated to
15 the bailiff that your daughter is a Robinson, meaning
16 she's married to the Robinson family?

17 JUROR #3, WILLIAM ALLGOOD: Yes, ma'am.

18 THE COURT: And who is she?

19 JUROR #3, WILLIAM ALLGOOD: She's my daughter. But
20 she's a cousin of -- she is a Robinson. She's not got my
21 last name. Her mother is a Robinson.

22 THE COURT: Okay. So you have a daughter?

23 JUROR #3, WILLIAM ALLGOOD: Yes, ma'am.

24 THE COURT: How old is she?

25 JUROR #3, WILLIAM ALLGOOD: She's 23.

1 THE COURT: And you're not married to her mother?

2 JUROR #3, WILLIAM ALLGOOD: No, I'm not.

3 THE COURT: And her mother is a Robinson?

4 JUROR #3, WILLIAM ALLGOOD: Yes, ma'am.

5 THE COURT: And do you know what level of
6 relationship they are?

7 JUROR #3, WILLIAM ALLGOOD: I think they're cousins.

8 THE COURT: Do you know how far cousins, how close
9 cousins?

10 JUROR #3, WILLIAM ALLGOOD: No, ma'am, not exactly.

11 THE COURT: Do you have any interaction with them?

12 JUROR #3, WILLIAM ALLGOOD: The Robinsons, yes.

13 THE COURT: How much interaction would you say you
14 have with them?

15 JUROR #3, WILLIAM ALLGOOD: Well, interacting with my
16 daughter. Pretty much during her earlier years, I was
17 interactive with them. But during her later years, from
18 16 on up, I have not.

19 THE COURT: So from the time your daughter was 16,
20 and she's now 23, you have not had any interaction with
21 the Robinsons?

22 JUROR #3, WILLIAM ALLGOOD: No, ma'am.

23 THE COURT: And do you know any of them who are
24 seated in the gallery?

25 JUROR #3, WILLIAM ALLGOOD: Yes. I knew her Uncle

1 Willie.

2 THE COURT: Which is the gentleman on the front row?

3 JUROR #3, WILLIAM ALLGOOD: Sitting on the front row,
4 yes.

5 THE COURT: And how long ago would it have been that
6 you had seen him?

7 JUROR #3, WILLIAM ALLGOOD: Pretty much 12 years.

8 THE COURT: Over 12 years. So it's safe to say you
9 don't interact with them on a social basis?

10 JUROR #3, WILLIAM ALLGOOD: No, ma'am.

11 THE COURT: Okay. As a result of what you've
12 disclosed to the Court, do you feel that you can remain
13 fair and impartial?

14 JUROR #3, WILLIAM ALLGOOD: Yes, ma'am.

15 THE COURT: Do you feel you can render a fair and
16 impartial decision in this case, based solely on the
17 evidence as it will be presented and on the law as the
18 Court will instruct?

19 JUROR #3, WILLIAM ALLGOOD: Yes, ma'am, I do.

20 THE COURT: Thank you, sir.

21 If you would, just stand right back out in the hall
22 for me. And, please, do not discuss anything you've
23 disclosed to the Court with any of your fellow jurors.

24 JUROR #3, WILLIAM ALLGOOD: All right.

25 THE COURT: Thank you, sir.

1 (WHEREUPON, Juror #3, William Allgood, exited the
2 courtroom.)

3 THE BAILIFF: Your Honor, do you want the next one?

4 THE COURT: Give me one second.

5 Is there any exception to #3, Mr. Allgood, remaining
6 on the panel from the State?

7 MS. MUNSON: No, Your Honor.

8 THE COURT: From the Defense?

9 MR. WARDER: I need just a minute, Your Honor.

10 (Pause.)

11 MR. WARDER: Your Honor, if it pleases the Court.

12 I would have an objection. My client tells me that
13 the victim's father is an uncle to that daughter, and that
14 he feels that would greatly affect his ability to be fair.

15 THE COURT: That's contrary to what the witness --
16 what the juror has said. He did not say this gentleman
17 was her uncle, did he?

18 MR. WARDER: No. But --

19 THE COURT: I think he's in a better position to know
20 what the familial relationship is of someone to his child
21 than your client.

22 Do you have any objective proof that he is something
23 other than what the juror has said, other than what your
24 client presumes to know?

25 MR. JONES: Your Honor, Townes Jones.

1 My recollection is the witness said that Mr. Willie
2 Robinson was his daughter's uncle. In other words, I get
3 the feeling that his daughter is a daughter by marriage.

4 THE COURT: Let me get some more clarity on exactly
5 what the relationship is, because maybe I misunderstood.
6 Get Mr. Allgood for me again, please.

7 (WHEREUPON, Juror #3, William Allgood, entered the
8 courtroom.)

9 THE COURT: Mr. Allgood, could you tell me again what
10 is Mr. -- the gentleman that was seated on the front row,
11 what did you tell me his relationship was to your
12 daughter?

13 JUROR #3, WILLIAM ALLGOOD: I think it's an uncle.

14 THE COURT: Okay. And is that an uncle by marriage,
15 or an uncle because his sister is --

16 JUROR #3, WILLIAM ALLGOOD: His -- let me put it this
17 way.

18 THE COURT: Yeah, tell me. Break it down for me.

19 JUROR #3, WILLIAM ALLGOOD: My daughter's mom is his
20 niece.

21 THE COURT: So that's really not your daughter's
22 uncle?

23 JUROR #3, WILLIAM ALLGOOD: No, it's not.

24 THE COURT: It's your daughter's mother's uncle?

25 JUROR #3, WILLIAM ALLGOOD: Yes.

1 THE COURT: So that's a third cousin, basically?

2 JUROR #3, WILLIAM ALLGOOD: Yes.

3 THE COURT: To your baby's mother?

4 JUROR #3, WILLIAM ALLGOOD: Yes.

5 THE COURT: Okay. Thank you, sir.

6 If you could, just stand in the hallway for me,
7 please.

8 Don't take him back. I need him to stand in the
9 hallway.

10 (WHEREUPON, Juror #3, William Allgood, exited the
11 courtroom.)

12 THE COURT: Okay.

13 MR. JONES: Well, Your Honor, we'd like for him to be
14 excused. You know, we all want to see ourselves as being
15 able to be fair, and being able to exercise judgment based
16 on fact and not relationships. But relationships for all
17 of us are what we are about in life. And this
18 relationship is family. And --

19 THE COURT: Tell me how it's family when really --

20 MR. JONES: Well, it's distant related. But --

21 THE COURT: She's not even -- I mean, he's related to
22 her mother, but not to her really by extrapolation, I
23 guess, somehow. I was trying to do like the chart in my
24 head like in estates. And I don't even think that would
25 be on the chart, would it?

1 MR. JONES: Well, with all due respect, Your Honor,
2 more than the chart, what I'm referring to is his
3 understanding of this man on the front row is his
4 daughter's uncle. And he used that term, if you want to
5 call it loosely. But, nevertheless, he may have used it
6 the way he feels it. And that is they may feel that he's
7 more like an uncle than he is a third cousin.

8 I had an Uncle Gus who was from Greece. And I call
9 him Uncle Gus, because I was raised with him and my family
10 as an uncle. And he was as much like an uncle as any of
11 my blood uncles were.

12 THE COURT: Well, I understand that. But that's not
13 what he represented to the Court in terms of an analogy.

14 MR. JONES: Right. And he was -- and we appreciate
15 this caution with the Court. We wish it had occurred
16 prior to the trial. Now, it's occurred during the trial.

17 We have alternates that can replace him that have no
18 problem with family members or relatives not being only
19 the father of the victim in this case, but a potential
20 witness.

21 THE COURT: Is he a witness? Because he's in the
22 courtroom.

23 MR. JONES: Yes. He's a potential witness. He's
24 been listed.

25 THE COURT: Is he on the list?

1 MR. JONES: Yes.

2 THE COURT: What would he testify to? He wasn't an
3 eyewitness.

4 MS. MUNSON: He's -- I'm not going to need him, Your
5 Honor.

6 THE COURT: What's his name again?

7 MS. MUNSON: Willie Robinson.

8 THE COURT: Yes. My question would be, what would he
9 be testifying to?

10 MS. MUNSON: Well, he would be testifying -- well,
11 it's already been covered, so I just don't need him.

12 THE COURT: So you're not going to call him as a
13 witness then?

14 MS. MUNSON: I'm not going to call him.

15 THE COURT: Would the State like to respond to the
16 request of the Defense?

17 MS. MUNSON: No, ma'am. We'll leave it to the
18 discretion of the Court.

19 THE COURT: All right. Then I'll think about that
20 for a moment.

21 The next one we need to deal with is #109.

22 (WHEREUPON, Juror #109, Jill Moore, entered the
23 courtroom.)

24 THE COURT: Ma'am, how are you?

25 JUROR #109, JILL MOORE: Good.

1 Thank you.

2 THE COURT: Tell me your name.

3 JUROR #109, JILL MOORE: Jill Moore.

4 THE COURT: And, Ms. Moore, you're #109; correct?

5 JUROR #109, JILL MOORE: Yes.

6 THE COURT: You indicated to the bailiff that your
7 son is a friend of the little boy that testified, meaning
8 Jakyre?

9 JUROR #109, JILL MOORE: Yes.

10 THE COURT: And when you say "friend," describe that
11 for me.

12 JUROR #109, JILL MOORE: He's been -- we live -- my
13 understanding would be I've never met the parents. He
14 comes over to the house.

15 THE COURT: Okay.

16 JUROR #109, JILL MOORE: He lives on a street
17 that's -- like we live on one street, and he lives on the
18 street over. So my son goes over to that street. They
19 have a mutual friend that lives in one house there. And
20 they -- sometimes, they'll come over to the house.

21 THE COURT: Meaning your house?

22 JUROR #109, JILL MOORE: Yes.

23 THE COURT: So this other little boy you're
24 describing comes over to the house with Jakyre, and they
25 play with your son?

1 JUROR #109, JILL MOORE: And my son has been over
2 there as well.

3 THE COURT: Has been over to Jakyre's house?

4 JUROR #109, JILL MOORE: No. He's never been over
5 there. He's been over to the mutual friend's house.

6 THE COURT: And who's the mutual friend?

7 JUROR #109, JILL MOORE: Can I say his name?

8 THE COURT: Yes, absolutely.

9 JUROR #109, JILL MOORE: Reggie.

10 THE COURT: So Reggie lives sort of in between both
11 streets?

12 JUROR #109, JILL MOORE: I believe he lives on his
13 street. That's my understanding.

14 THE COURT: Okay.

15 JUROR #109, JILL MOORE: I've never been to his
16 house.

17 THE COURT: Okay. But Jakyre has been to your house?

18 JUROR #109, JILL MOORE: Yes.

19 THE COURT: And you didn't recognize him until he got
20 ready to testify today?

21 JUROR #109, JILL MOORE: No. I never knew his last
22 name.

23 THE COURT: So you just knew him as Jakyre?

24 JUROR #109, JILL MOORE: Uh-huh. And we've seen him
25 at this place where they go, a gym that they go to.

1 THE COURT: And how would you characterize your
2 interaction with him? Do you consider him a close friend
3 of your son's?

4 JUROR #109, JILL MOORE: Uh --

5 THE COURT: Don't let me put words in your mouth.
6 Tell me how you would describe that relationship.

7 JUROR #109, JILL MOORE: He's an acquaintance. He
8 comes over. When he sees me, he says -- like he knows me.
9 He would say, Hi, Ms. Moore.

10 THE COURT: How much would you say he comes to your
11 home?

12 JUROR #109, JILL MOORE: Not very often.

13 THE COURT: Can you quantify that for me, once a
14 month --

15 JUROR #109, JILL MOORE: And he's never been inside.
16 Like they would come over and play around the house --

17 THE COURT: In the yard?

18 JUROR #109, JILL MOORE: -- where there's basketball
19 courts.

20 THE COURT: But he's never been inside your house?

21 JUROR #109, JILL MOORE: No.

22 THE COURT: How often would you say he's been outside
23 to play basketball at your house?

24 JUROR #109, JILL MOORE: Just a couple of times.

25 THE COURT: Okay. Have you ever discussed this case

1 with him in any way?

2 JUROR #109, JILL MOORE: I had no idea about this.

3 THE COURT: Okay. So you have no idea of the facts
4 and circumstances of this case, or that he was involved in
5 this case?

6 JUROR #109, JILL MOORE: No.

7 THE COURT: As a result of what you have disclosed to
8 the Court, do you feel that you can remain fair and
9 impartial?

10 JUROR #109, JILL MOORE: (There was no response.)

11 THE COURT: There's no right or wrong answer. I just
12 need you to search your heart and tell me to the best of
13 your ability what you honestly feel.

14 JUROR #109, JILL MOORE: I don't think so.

15 THE COURT: Okay. If you would, just stand in the
16 hallway for me. And, please, do not discuss what you've
17 discussed with me with any of your fellow jurors. But
18 you're not going to go back to the jury room. I'm going
19 to have you stand in the hallway for me just in case I
20 need to talk to you further.

21 (WHEREUPON, Juror #109, Jill Moore, exited the
22 courtroom.)

23 THE COURT: Is there any exception to excusing Juror
24 #109 from the State?

25 MS. MUNSON: None at all, Your Honor.

1 THE COURT: From the Defense?

2 MR. WARDER: No, Your Honor. We would have no
3 objection.

4 THE COURT: Okay. She's indicated she cannot remain
5 fair and impartial. And, for the record, she's visibly
6 upset by the fact. What she disclosed to the bailiffs was
7 that she had no idea that Jakyre was involved in this
8 incident, or that he had lost his mother. And she had
9 become upset at that point. And it is clear to the Court
10 that she is visibly shaken. And I find credible her
11 report to the Court that she cannot remain fair and
12 impartial.

13 So we'll excuse her from the trial of this case.

14 If you could, bring her in for me, please, so I can
15 excuse her.

16 (WHEREUPON, Juror #109, Jill Moore, entered the
17 courtroom.)

18 THE COURT: Ma'am, we're going to excuse you from the
19 trial of this case. We appreciate your candor with the
20 Court.

21 Please do not discuss your jury service with anyone
22 until the entire panel is excused on Friday. And you may
23 well be called for another case if there are other cases
24 to be tried this week.

25 JUROR #109, JILL MOORE: All right.

1 THE COURT: We appreciate your time. Have a
2 wonderful day.

3 JUROR #109, JILL MOORE: Thank you.

4 THE COURT: You're welcome.

5 (WHEREUPON, Juror #109, Jill Moore, exited the
6 courtroom.)

7 THE COURT: And if you could bring Mr. Allgood back
8 in for me.

9 (WHEREUPON, Juror #3, William Allgood, entered the
10 courtroom.)

11 THE COURT: Mr. Allgood, how often do you see your
12 daughter?

13 JUROR #3, WILLIAM ALLGOOD: Almost every week.

14 THE COURT: Okay. And have y'all ever discussed
15 Mr. Robinson?

16 JUROR #3, WILLIAM ALLGOOD: Well -- her uncle?

17 THE COURT: The gentleman that you have referred to
18 that you recognize.

19 JUROR #3, WILLIAM ALLGOOD: Never.

20 THE COURT: Have you all ever discussed this case?

21 JUROR #3, WILLIAM ALLGOOD: Once upon a time when it
22 occurred.

23 THE COURT: Okay. And what was the nature of that
24 discussion?

25 JUROR #3, WILLIAM ALLGOOD: It was described to me

1 more like. It wasn't open for discussion, but it was
2 described to me.

3 THE COURT: It was reported that this incident had
4 occurred?

5 JUROR #3, WILLIAM ALLGOOD: Yes.

6 THE COURT: And did your daughter have any personal
7 knowledge of the facts and circumstances of the case?

8 JUROR #3, WILLIAM ALLGOOD: No, ma'am. I don't think
9 she's very social with them.

10 THE COURT: I can't hear you.

11 JUROR #3, WILLIAM ALLGOOD: I don't think she's very
12 sociable with them.

13 THE COURT: So you don't think your daughter sees
14 them particularly often is what you're telling me?

15 JUROR #3, WILLIAM ALLGOOD: Yes, ma'am.

16 THE COURT: Okay. When you say you don't believe
17 she's very social with them, does that mean she doesn't
18 see them --

19 JUROR #3, WILLIAM ALLGOOD: She wasn't that much
20 interactive with them.

21 THE COURT: Okay. As a result of what you and your
22 daughter discussed, did you form any fixed opinion about
23 the facts and circumstances of this case?

24 JUROR #3, WILLIAM ALLGOOD: No, ma'am. I only
25 listened.

1 THE COURT: I'm sorry?

2 JUROR #3, WILLIAM ALLGOOD: No, ma'am, I only
3 listened.

4 THE COURT: And do you believe you can remain fair
5 and impartial?

6 JUROR #3, WILLIAM ALLGOOD: Oh, yes.

7 THE COURT: Do you believe you can render a fair and
8 impartial decision in this case, based solely on the
9 evidence and the law as the Court will instruct?

10 JUROR #3, WILLIAM ALLGOOD: Yes, ma'am.

11 THE COURT: Okay. Sir, I appreciate you indulging
12 me. If you could stand back outside in the hallway for
13 me.

14 (WHEREUPON, Juror #3, William Allgood, exited the
15 courtroom.)

16 THE COURT: The Court will note the Defense's
17 exception to Juror #3, Mr. Allgood, remaining on the
18 panel. The Court is overruling that objection. I find
19 that there's no cause to excuse the juror. Out of an
20 abundance of caution, it's clear that he disclosed what he
21 believed to be a familial relationship with the deceased's
22 family and his daughter after recognizing a gentleman on
23 the front row.

24 I went to great extent to question him for that very
25 reason. Because I wanted to know the nature of the

1 relationship, how often, if ever, he sees them, if, in
2 fact, he had ever discussed the case with his daughter, or
3 was aware of any facts and circumstances of the case that
4 had not been previously divulged, and whether he had
5 formed a fixed opinion about the facts in this case, and
6 whether pursuant to the statute, as required, if he could
7 remain fair and impartial regarding the facts and
8 circumstances of this case.

9 I find credible his report to the Court that the
10 mother of his child, that being his daughter, is the third
11 cousin, basically, to the father of the deceased. Really,
12 so she has no familial relationship to him. I made
13 further inquiry based on the Defense's observation that
14 while they may not be blood related, they may have a
15 social relationship such that it rises to the level of a
16 blood relationship.

17 And what the juror has indicated is that his daughter
18 is not particularly -- or his words were very social and
19 not interactive with the Robinsons. And that he could --
20 even though he has contact with his daughter that he can
21 remain fair and impartial and render a fair and impartial
22 decision in the case, based solely on the evidence and the
23 law as the Court will instruct.

24 It is apparent from what he has related to the Court
25 that his daughter does not have a great deal of

1 interaction with the gentleman that was here in court,
2 that being the father of the deceased. The main concern
3 would be that somehow his daughter was so intertwined with
4 them that she had some level of loyalty with them such
5 that she would have the ability to influence her father
6 and to preclude his ability to be a fair and impartial
7 juror. And the Court just has not heard anything that
8 rises to that level and cannot discern from this juror
9 that he cannot remain fair and impartial.

10 Therefore, he will remain as a juror. And the
11 exception will be noted for the record.

12 Are we ready to proceed with the next witness?

13 MS. MUNSON: The State is ready, Your Honor.

14 THE COURT: How long is this witness's testimony?

15 MS. MUNSON: I can narrow it down as much as 15
16 minutes.

17 THE COURT: I just need to know.

18 Can you ask the jurors who have children how long
19 they can stay beyond 5:00?

20 Because they indicated at the beginning that they had
21 to leave at 5:00. There's several single parents, and I
22 would assume they have daycare.

23 MS. MUNSON: Yes, ma'am.

24 THE COURT: And they have to pick up children.

25 Although I've never had to deal with daycare, I understand

1 they charge exorbitant rates if they're there beyond the
2 time they're supposed to be picked up.

3 MS. MUNSON: I wouldn't push, Your Honor, except I've
4 got him here from another jurisdiction.

5 THE COURT: Yes. I understand. But I have to
6 accommodate my folks. Because what do we pay them, \$10 a
7 day? And we require them to miss work, and we don't
8 require their employers to pay them.

9 (Pause.)

10 THE BAILIFF: 5:30.

11 THE COURT: Okay. 5:30 is the latest?

12 THE BAILIFF: Yes, ma'am.

13 So Mr. Allgood remains?

14 THE COURT: Yes. But bring him back in here for me
15 for just one moment.

16 THE BAILIFF: Yes, ma'am.

17 (WHEREUPON, Juror #3, William Allgood, entered the
18 courtroom.)

19 THE COURT: Mr. Allgood, we appreciate your candor
20 with the Court. Please do not -- and I admonish you, do
21 not discuss what we have discussed with any of your fellow
22 jurors.

23 JUROR #3, WILLIAM ALLGOOD: Yes, ma'am.

24 THE COURT: Thank you, sir.

25 If you'll go with the bailiff -- well, actually, he

1 can go take his seat if he wants to. And y'all can get
2 the rest of the jurors. No need for him to go back.

3 MR. WARDER: Your Honor, we have two alternates. I
4 request that you transfer this juror from a regular to an
5 alternate.

6 THE COURT: I've already heard the matter, heard
7 argument, and I've ruled. We'll, by lot, determine which
8 alternate takes the place of the juror that was excused,
9 which is #109. Normally, what you would do -- the statute
10 says by lot, but we can take the first alternate. I'll
11 give you all the option how you would like to do it.

12 So what are you supposed to do? I can't remember
13 what the statute says. Or either by lot, I think, is what
14 it says. But, normally, what we do is just take the first
15 alternate.

16 How do y'all want do it?

17 That would be #23 would come to the panel where #109
18 was excused.

19 Any exception from the State?

20 MS. MUNSON: No, ma'am.

21 THE COURT: From the Defense?

22 MR. WARDER: No, Your Honor.

23 THE COURT: #23 then will be the -- #23 is, I
24 believe --

25 MR. JONES: Ms. Burgess.

1 THE COURT: Yes, Ms. Burgess. She'll be seated on
2 the regular panel. And then we'll just have the alternate
3 sit in the alternate seat.

4 (WHEREUPON, the jury came into open court at
5 approximately 4:47 p.m.)

6 THE COURT: Okay. Ladies and gentlemen, we
7 appreciate your patience. We're going to go a little
8 beyond 5:00 to accommodate a witness who's come here from
9 out of town. So we appreciate your patience in advance.
10 I know today has been a long day. And, please, know we do
11 not take your time for granted.

12 You may proceed.

13 MS. MUNSON: May it please the Court, Your Honor.

14 The State calls Joshua Garrison.

15 THE CLERK: Officer, if you would come forward to be
16 sworn in, please.

17 Place your left hand on the Bible and raise your
18 right hand.

19 WHEREUPON,

20 JOSHUA GARRISON,
21 after first having been duly sworn, testified as follows:

22 THE CLERK: Thank you.

23 You may be seated.

24 Would you, please, state your name for the record?

25 THE WITNESS: Joshua Garrison.

1 THE CLERK: Thank you.

2 DIRECT EXAMINATION

3 BY MS. MUNSON:

4 Q Officer Garrison, who do you work for?

5 A Currently, I work for the Greenwood City Police
6 Department.

7 Q Who were you working for in July of 2010?

8 A The Laurens County Sheriff's Office.

9 Q How long had you been with the Laurens County
10 Sheriff's Office back in July of 2010?

11 A Since 2009. I started there in 2009, January of
12 2009.

13 Q All right. What were your duties back in July of
14 2010?

15 A Uniform patrol, just stuff like that, answer calls
16 for service.

17 Q And did you get a call over the radio in reference to
18 the case?

19 A I'm sorry. Could you repeat?

20 Q Did you get a call over the radio in reference to
21 this case, this Greenville County case?

22 A I did. The shift commander at the time advised me to
23 do some routine patrol in search of a suspect vehicle in
24 the Boyd Road area.

25 Q What was the description of the vehicle you got?

1 A Champagne in color, Chevrolet Tahoe, older model, box
2 style.

3 Q About what time did you begin patrol looking for this
4 vehicle?

5 A Slightly after noon. I reckon somewhere around
6 12:30, 1:00, to the best of my knowledge.

7 Q Was anybody in your patrol vehicle with you?

8 A I had a reserve deputy, Chuck Strickland, riding with
9 me.

10 Q How were y'all dressed?

11 A Full uniform.

12 Q And what type of car were you driving?

13 A 2009 Crown Vic, fully marked, light bar on top.

14 Q And while you were looking for this vehicle, did you
15 see what you believed to be the vehicle?

16 A I did. I was, actually, pulled over on the shoulder
17 of the road speaking to another deputy referencing the
18 vehicle and the BOLO that was given out on the vehicle.
19 And I observed it approach me in the rear of my patrol car
20 through the rearview mirror.

21 Q And what road were you on when you saw this?

22 A Boyd Road, just off of Narry [phonetic] Road off of
23 Highway 14.

24 Q And what county is this?

25 A Laurens County.

1 Q And, as you were sitting in your patrol car and you
2 saw it coming behind you, could you describe if it was
3 coming quickly or slowly? What was going on?

4 A Normal speed. I'd estimate, I guess, 25 to 30 onto
5 Boyd Road from Narry [phonetic] approaching me from the
6 rear.

7 Q As the vehicle passed you, what did you do?

8 A I got in behind it. Because, obviously, it matched
9 the description that was just given to me by my shift
10 commander. I pulled in behind the vehicle and ran the
11 license plate. And it was confirmed through central
12 dispatch that that was the suspect vehicle we were looking
13 for.

14 Q And what did you do once you got that information?

15 A I activated blue lights and siren to initiate the
16 traffic stop.

17 Q And what did the car do when you turned on your
18 lights and sirens?

19 A It sped off at a high rate of speed.

20 Q Was there -- how far did you follow this car?

21 A Approximately 26.6 miles at speeds in excess of 110.

22 Q The whole time that you were chasing this car, this
23 26 miles at high speed, did any vehicles ever get between
24 you and that vehicle?

25 A No, ma'am.

1 Q All right. At some point after the 26 miles, did the
2 car come to a stop?

3 A Not to my knowledge. I don't remember if he did or
4 not.

5 Q How did the chase end?

6 A Well, the chase ended -- obviously, it came to an end
7 in the end. After 26.6 miles, it ended in Laurens City.
8 The vehicle was disabled and surrounded by two other
9 patrol units to keep it from backing up and proceeding
10 further.

11 Q Were you behind the vehicle when it became disabled?

12 A I was not. I sped on. I spun out of control. And I
13 was probably 20 yards away from where the suspect vehicle
14 stopped.

15 Q What do you mean it became "disabled"?

16 A I had to, actually, strike his vehicle with my patrol
17 car to spin him out of control. When he was spun out of
18 control, two more Laurens County units boxed him in so he
19 couldn't go any farther.

20 Q So you spun him out of control?

21 A I did.

22 Q And you kind of kept going?

23 A That's right, off of an embankment.

24 Q Did you ever get out of your vehicle and go to the
25 suspect vehicle?

1 A I did.

2 Q And what did you see when you got there?

3 A I saw a suspect in the driver's seat with a knife
4 sticking out of his chest.

5 Q Was there anybody else in the vehicle?

6 A No, ma'am.

7 Q When you first made contact with the vehicle, when
8 you first saw it behind you, could you see whether or not
9 there was anybody else in the car?

10 A I did not see anybody else in the car.

11 Q During the 26-mile chase, did anyone jump out of the
12 car?

13 A Not one time.

14 Q All right. So when you get to the car, there's a guy
15 with a knife in his chest. What did y'all do?

16 A Other officers that were already on the scene to
17 assist pulled the knife out and apprehended the suspect.

18 MS. MUNSON: May I approach, Your Honor?

19 THE COURT: You may.

20 BY MS. MUNSON:

21 Q All right. Officer Garrison, I am showing you
22 State's Exhibit Nos. 19, 20, 21, 22, 23, and 24. If
23 you'll just take a look at those.

24 A That's accurate.

25 Q Are these State's Exhibits true and accurate

1 depictions of where the vehicle landed and where your
2 vehicle landed in Laurens County?

3 A That's correct.

4 MS. MUNSON: Your Honor, I offer into evidence
5 State's Exhibit Nos. 19, 20, 21, 22, 23, and 24.

6 THE COURT: Any objection?

7 MR. WARDER: Your Honor, I have no objection.

8 THE COURT: Marked and admitted without objection.

9 (WHEREUPON, State's Exhibit Nos. 19, 20, 21, 22, 23,
10 and 24 were admitted into evidence.)

11 BY MS. MUNSON:

12 Q Deputy Garrison -- I'm sorry, Officer Garrison,
13 before we look at these photographs, let me ask you
14 something. Were you assigned to do anything before you
15 got the BOLO?

16 A I was not.

17 Q Okay. You didn't -- was there any address that you
18 were asked to go by and check, any of that stuff?

19 A Not me personally.

20 Q So you didn't do any of that?

21 A Just be on the lookout for the suspect vehicle in the
22 Boyd Road area.

23 Q Okay. Well, then let's just -- there's a laser
24 pointer up there to your right. Now, let's look at
25 State's Exhibit No. 19. On State's Exhibit No. 19, can

1 you point out with the laser pointer where your vehicle
2 ended up?

3 A Right there.

4 Q Okay. And I'm going to take these a little bit out
5 of order. But this is State's Exhibit No. 24. Now, what
6 does this depict?

7 A This is where my vehicle landed. This and this are
8 the two vehicles that blocked him in from leaving. I'm
9 not quite certain who he is.

10 Q Where --

11 A And -- go ahead.

12 Q Where were you in relation to the suspect vehicle
13 when it ended up on that bank like that?

14 A I was coming off this way. And I made a path like
15 this and spun around and stopped here.

16 Q Okay. So let me go back to State's Exhibit No. 19.
17 The suspect vehicle was in this parking lot?

18 A That's correct. Main Street is back this way.

19 Q Okay.

20 A And this is an empty parking lot, a city parking lot,
21 overflow parking. He entered this way. I struck around
22 here. And his vehicle went left down this embankment
23 right here, as you can see the dirt. When he spun out
24 this way, I went straight, this way, and ended up here.
25 And his vehicle was struck again by this unit.

1 Q Okay. Let's look at State's Exhibit No. 21. Now,
2 what is shown in State's Exhibit No. 21?

3 A This is where he came off here and he spun around
4 this way, obviously, ending up here. This is another unit
5 that was behind me throughout the entire chase. He boxed
6 him in from the back so he couldn't back out. And this
7 vehicle here is another one that was involved in the
8 chase.

9 Q Okay. And, finally, let's look at State's Exhibit
10 No. 20. When you're talking about the embankment, is that
11 depicted in State's Exhibit No. 20?

12 A That's correct.

13 Q Can you hit it with the laser point there for the
14 jury's benefit?

15 A This is the embankment where the Tahoe went off.

16 Q Okay.

17 A And it spun around that way.

18 Q And State's Exhibit No. 23, what does this indicate?

19 A This is where the Tahoe ended up after -- you see the
20 line here is where he was spun sideways. This is where he
21 was stop stuck throughout the 26 miles and kept on
22 driving on the rim.

23 Q Okay. Deputy, at the time that this chase took
24 place, did you make any sort of a record about what roads
25 you were on, and where you turned, and just the progress

1 of the chase?

2 A The common protocol when -- I was the initiating
3 officer in pursuant. If there's another officer with him,
4 he will call the chase out while the other officer drives.
5 And it was all documented through a CAD system, the road
6 for road and, of course, memory.

7 Q So that document was done how close in relation to
8 when you finished this chase?

9 A Before I submitted my incident report that day.

10 Q Oh, that same day?

11 A Yes, ma'am.

12 Q Okay. Can you recall right now today -- can you go
13 through what streets were turned on?

14 A Three years later, I cannot.

15 Q Okay. Let me show you State's Exhibit No. 25. If
16 you'll take a look at that.

17 A That's the route that was taken.

18 Q Do you recognize that?

19 A I do.

20 Q Does it accurately reflect the roads you remembered
21 back then?

22 A It does.

23 Q Now, let me take this back from you for the record.

24 Now, after having looked at State's Exhibit No. 25,
25 can you recount for the jury which road was gone, and the

1 route?

2 A Not by memory.

3 MS. MUNSON: Your Honor, I'm going to submit State's
4 Exhibit No. 25 pursuant to 803(5).

5 MR. WARDER: May it please the Court.

6 I object to this as being hearsay.

7 THE COURT: I need to see it. I don't have a clue
8 what you're talking about.

9 You would have to lay the appropriate foundation for
10 it to come in under 803(5). And I haven't heard that up
11 to this point.

12 MS. MUNSON: Okay.

13 BY MS. MUNSON:

14 Q Officer Garrison, when was this document created?

15 A Before I submitted my incident report.

16 Q How many days -- or how many hours after the
17 incident?

18 A I would say within the shift. I would have had it
19 completed before I left that day. I was on day shift at
20 the time. So before 7:00 was typical protocol. I might
21 have stayed over late that day finishing up paperwork. I
22 can't recall.

23 Q And was -- the information contained in State's
24 Exhibit No. 25, was it fresh in your mind at the time?

25 A It was.

1 Q And can you remember it now?

2 A Not by memory.

3 MS. MUNSON: At this point, I offer it asserting that
4 I've laid the proper foundation for 803(5).

5 THE COURT: Why don't you just let him use it to
6 refresh his memory?

7 MS. MUNSON: I -- okay.

8 THE COURT: I think that would be the proper use of
9 the document.

10 BY MS. MUNSON:

11 Q Just take a look at that.

12 A (Witness complied.)

13 Q Have you reviewed it?

14 A This is 14 different roads.

15 Q Have you reviewed it?

16 A I've reviewed it.

17 Q And, after reviewing this, can you now accurately
18 account for the jury each road that you went on during
19 this 26-mile chase?

20 A I believe I can.

21 Q You think you can?

22 A I think I can.

23 Q Well, then go ahead.

24 A It started on Boyd Road, went to Trinity Church Road,
25 back to Highway 76, to Georgia Road, to Main Street in

1 Gray Court, which is old Laurens Road, back to Trinity
2 Church Road again, to Eichelberger, left onto 76 again,
3 through the city limits of Laurens, left on Public Square,
4 West Public Square, North Public Square, I believe, the
5 parking lot crossing Caroline Street.

6 MS. MUNSON: May we approach, Your Honor?

7 It shouldn't take but a minute.

8 THE COURT: Pardon me?

9 MS. MUNSON: May we approach?

10 THE COURT: Uh-huh.

11 (WHEREUPON, a bench conference was held.)

12 BY MS. MUNSON:

13 Q This is the last time, Officer Garrison, I promise.
14 This is State's Exhibit No. 25 for identification only.
15 And, if you could, just read word for word what's on the
16 document.

17 A Boyd Road --

18 MR. WARDER: Your Honor, I object to this. I mean,
19 this is not refreshing his memory.

20 THE COURT: Under Rule 803(5), he's allowed to do it.
21 It doesn't come into evidence, but he can read it into the
22 record. They've established that it is a memorandum, that
23 it was done contemporaneously at the time. It comes
24 within the exception. He created the document.

25 MR. WARDER: I thought the testimony was the document

1 was created by somebody else that called it into a CAD
2 system.

3 THE COURT: He's the one that called it in, did he
4 not?

5 THE WITNESS: No, ma'am.

6 THE COURT: Okay. I misunderstood. Approach for me,
7 please.

8 (WHEREUPON, a bench conference was held.)

9 THE COURT: Proceed.

10 MS. MUNSON: I have nothing further of this witness,
11 Your Honor.

12 THE COURT: Any questions for the witness?

13 The document will be marked for ID only.

14 Any questions for the witness?

15 MR. WARDER: I have no questions, Your Honor.

16 THE COURT: Any objection to the witness being
17 excused from the State?

18 MS. MUNSON: No, ma'am.

19 Thank you.

20 THE COURT: From the Defense?

21 MR. WARDER: No, Your Honor.

22 THE COURT: Sir, you're excused.

23 THE WITNESS: Thank you, ma'am.

24 THE COURT: Mr. Foreman, and, ladies and gentlemen of
25 the jury, we appreciate your time and patience today. We

1 are used to this system, because it's what we do day in
2 and day out, but you all are not used to it. So I know
3 it's unfamiliar to you. I'm certain it was arduous and
4 tiring. So we appreciate your patience.

5 We're going to take our break for this evening.
6 We're going to resume in the morning at 9:30. During the
7 break, please, do not discuss this case among yourselves
8 or with anyone else. Please don't make any comments
9 regarding your service on any social networking site.

10 I'm certain there probably will be some media reports
11 about this case. I know that we've had some reporters in
12 and out of the courtroom during the course of the day. So
13 I would expect there probably will be an article in
14 tomorrow morning's paper, and probably on the Internet
15 version of the newspaper in the morning.

16 So I would ask that you especially take diligence to
17 guard yourselves against reading any media reports,
18 watching any reports on television, or listening to them
19 on the radio, or reading anything on the Internet. And as
20 tempting as things are to find on the Internet, please,
21 don't do any Internet searches to look at previous
22 articles or otherwise, or any other information that may
23 be found about this case on the Internet.

24 When you return to the courthouse, you're going to
25 come directly to your jury room. Please don't have any

1 contact with anyone in or about the courthouse. Again, I
2 would not want an innocent conversation -- there are lots
3 of witnesses in this case. And I would not want you to
4 inadvertently speak to a witness about the weather or
5 something, and someone observing that conversation
6 perceive that you're talking about the facts and
7 circumstances of the case.

8 If you would leave your notepads in your seats. We
9 will make sure that those are secured during the recess.
10 I hope you all have a wonderful evening. And we'll see
11 you in the morning at 9:30.

12 (WHEREUPON, the jury was excused from open court at
13 approximately 5:08 p.m.)

14 THE COURT: Okay. Is there anything we need to take
15 up before we adjourn for the evening from the State?

16 MS. MUNSON: No, Your Honor.

17 THE COURT: From the Defense?

18 MR. WARDER: No, Your Honor.

19 THE COURT: You all have a good evening.

20 (WHEREUPON, the proceedings were concluded at
21 approximately 5:09 p.m., to be reconvened on
22 Tuesday, May 14, 2013.)
23
24
25

1 TUESDAY, MAY 14, 2013

2 THE COURT: Is there anything we need to take up
3 before we proceed from the State?

4 MS. MUNSON: Yes, ma'am.

5 THE COURT: You said "yes, ma'am" or "no, ma'am"?

6 MS. MUNSON: Yes, ma'am.

7 THE COURT: You said, "yes, ma'am."

8 MS. MUNSON: Yes. I surprised you, didn't I?

9 THE COURT: Yes. I didn't expect that.

10 MS. MUNSON: I would just like to kind of clear up --
11 when the jury comes out, what I would request permission
12 to do is publish our two stipulations.

13 THE COURT: Have y'all agreed on the language of the
14 stipulations?

15 MS. MUNSON: We have preliminarily. One of them is
16 in writing, Your Honor. And I would just ask to move that
17 in as an exhibit. The other one is -- we stipulate that
18 both Jakyre K[REDACTED] and Jadance K[REDACTED] were in the Idlewild
19 home at the time of the incident, and that Jadance K[REDACTED]
20 is the daughter of Mr. Williams.

21 THE COURT: Okay.

22 MR. WARDER: We have stipulated to that. And the
23 Defense agrees that is the stipulation.

24 THE COURT: Anything else we need to take up before
25 we proceed from the State?

1 MS. MUNSON: No, ma'am.

2 THE COURT: From the Defense?

3 And I assume we got his clothing situated this
4 morning.

5 MR. JONES: Yes, Your Honor.

6 Thank you.

7 THE COURT: You're welcome.

8 And make sure that the alternate sits -- the -- one
9 of the alternates -- make sure that the one now on the
10 panel is seated with the panel. Because she was sitting
11 on the end yesterday as though she were still an
12 alternate.

13 THE BAILIFF: Yes.

14 THE COURT: She's now a part of the regular panel of
15 the jury. That's -- let's see here. She's #23,
16 Ms. Burgess.

17 (Pause.)

18 THE COURT: Is the State ready to proceed?

19 MS. MUNSON: Yes, ma'am.

20 THE COURT: Is the Defense ready to proceed?

21 MR. WARDER: Yes, ma'am.

22 THE COURT: Please bring in the jury.

23 Who's the State's next witness after the
24 stipulations?

25 MS. MUNSON: After the stipulations will be Ryan

1 Mahaffey from the Greenville County EMS, who's #24 on the
2 list.

3 THE COURT: Do you already --

4 MS. MUNSON: He's here.

5 THE COURT: I mean, you need to go ahead and get him.
6 I don't want us to wait to have to get him.

7 MS. MUNSON: Okay.

8 (WHEREUPON, the jury came into open court at
9 approximately 9:50 a.m.)

10 THE COURT: Good morning, ladies and gentlemen.
11 I hope y'all had a pleasant evening.

12 We'll now resume with the trial. I would ask that
13 you give the attorneys your undivided attention.

14 Solicitor, you may proceed.

15 MS. MUNSON: May it please the Court.

16 THE COURT: Yes, ma'am.

17 MS. MUNSON: Your Honor, at this time, I request
18 permission to publish two stipulation agreements that we
19 have with the Defense.

20 THE COURT: You may proceed.

21 MS. MUNSON: Thank you, Your Honor.

22 THE COURT: You're welcome.

23 MS. MUNSON: The first stipulation is that Jadance
24 K[REDACTED] and Jakyre K[REDACTED] were in the Idlewild house at the
25 time of the incident. Also, that Jadance K[REDACTED] is the

1 daughter of Mr. Willie Marvin Williams.

2 The next stipulation, Your Honor, is that a properly
3 administered and stored gunshot residue test was performed
4 on Anthony Wilson in relation to the above case. The test
5 showed that Anthony Wilson had gunshot residue on his
6 right palm, the back of his right hand, his left palm, and
7 the back of his left hand.

8 A latent print developed on the trunk of a 1995 Lexus
9 parked in the back of [REDACTED] are identified as those
10 of Anthony Wilson.

11 And I, also, offer State's Exhibit No. 59 into
12 evidence, Your Honor.

13 MR. WARDER: No objection, Your Honor.

14 THE COURT: Marked and admitted without objection.

15 (WHEREUPON, State's Exhibit No. 59 was admitted into
16 evidence.)

17 MS. MUNSON: Your Honor, at this time, the State
18 calls Ryan Mahaffey.

19 THE CLERK: Mr. Mahaffey, if you'll come forward to
20 be sworn in.

21 Please place your left hand on the Bible and raise
22 your right hand.

23 WHEREUPON,

24 RYAN MAHAFFEY,

25 after first having been duly sworn, testified as follows:

1 THE CLERK: Thank you.

2 You may be seated.

3 Would you, please, state your name for the record?

4 THE WITNESS: Ryan Mahaffey.

5 THE COURT: You may proceed.

6 MS. MUNSON: Thank you, Your Honor.

7 THE COURT: You're welcome.

8 DIRECT EXAMINATION

9 BY MS. MUNSON:

10 Q Mr. Mahaffey, who do you work for?

11 A Greenville County EMS.

12 Q What is your job title?

13 A EMT ERT.

14 Q What are your duties?

15 A Patient care.

16 Q All right. How long have you been with Greenville
17 County EMS?

18 A This June will be five years.

19 Q And did you get a -- respond to a call in reference
20 to this case?

21 A Yes, I did.

22 Q Do you remember where you went in response to that
23 call?

24 A Yes, I do.

25 Q Where did you go?

1 A As far as the address?

2 Q Yes, sir, if you remember it.

3 A Not off the top of my head.

4 Q Okay. Do you remember the date?

5 A Not off the top of my head.

6 Q Okay. That's fine.

7 When you got to the call that you went to, did you
8 see any other emergency personnel around?

9 A I did.

10 Q And did you go into the house that you were called
11 to?

12 A Yes, ma'am.

13 Q And did you treat a patient?

14 A I did.

15 Q All right. Describe for the jury the patient that
16 you took care of.

17 A The patient was found sitting upright on the couch
18 holding pressure to the right side of his head. He had a
19 superficial laceration noted to the right side of his
20 head.

21 He was, also, complaining of a little bit of chest
22 pain. Supposedly, he was kicked in the chest. We
23 bandaged his head to control the bleeding, very minimal
24 bleeding noted. The patient requested transport to
25 Greenville Memorial Hospital.

1 We loaded him up on the stretcher and took him to the
2 hospital for evaluation.

3 Q Okay. When you were talking with this patient --
4 first of all, do you remember what he looked like?

5 A What he looked like?

6 Q Can you describe him?

7 A Yes, ma'am. He was -- like I said, he was just kind
8 of sitting up on the couch leaning forward. He was
9 holding pressure to the right side of his head. He almost
10 appeared to be in some kind of shock.

11 Q Well, and I appreciate that. But what I'm asking you
12 is, was he a black male? A white male? What did he look
13 like?

14 A Oh, black male, pretty tall, a little heavy set.

15 Q When you were talking with him, was he able to
16 communicate with you?

17 A He was.

18 Q Did he appear to be making sense to you?

19 A Yes, ma'am.

20 Q Did you ask him questions?

21 A I did.

22 Q And did he respond, what you thought, appropriately?

23 A Yes, ma'am.

24 MS. MUNSON: I have nothing further at this time,
25 Your Honor.

1 THE COURT: Any questions for the witness?

2 MR. WARDER: Yes.

3 THE COURT: You may proceed.

4 CROSS-EXAMINATION

5 BY MR. WARDER:

6 Q Sir, how did you get inside the house?

7 A When we arrived on scene, we walked around to the
8 back of the house, and walked in through a sliding glass
9 window.

10 Q Okay. You entered on the backside through the
11 window, through the patio?

12 A Yes, sir.

13 MR. WARDER: Thank you.

14 THE COURT: Any redirect?

15 MS. MUNSON: No, ma'am, Your Honor.

16 THE COURT: Any objection to the witness being
17 excused from the State?

18 MS. MUNSON: No, ma'am.

19 THE COURT: From the Defense?

20 (WHEREUPON, there was no response.)

21 THE COURT: Any exception to the witness being
22 excused?

23 MR. WARDER: No, Your Honor.

24 THE COURT: Sir, you're excused.

25 You may call your next witness.

1 MS. MUNSON: The State calls Sergeant David Hayes.

2 THE CLERK: Sergeant Hayes, if you would come forward
3 to be sworn in.

4 Raise your right hand and place your left hand on the
5 Bible.

6 WHEREUPON,

7 DAVID JOHN HAYES,
8 after first having been duly sworn, testified as follows:

9 THE CLERK: Thank you.

10 You may be seated.

11 THE WITNESS: It takes me a minute to get seated with
12 all this on.

13 THE COURT: That's all right.

14 THE CLERK: Would you state your name for the record?

15 THE WITNESS: David John Hayes.

16 DIRECT EXAMINATION

17 BY MS. MUNSON:

18 Q Who do you work for, sir?

19 A The Greenville County Sheriff's Office.

20 Q How long have you been with the Sheriff's Office?

21 A I'm in my 24th year.

22 Q What is your current job title?

23 A Sergeant in the uniform patrol division.

24 Q What are your duties?

25 A Supervision of uniform patrol, basically to -- my

1 area of responsibility is the southern end of Greenville
2 County to make sure calls are answered on time properly,
3 answer any deputies questions, or go to any major crime
4 scenes that occur to make sure we have the scene secured.

5 Q Okay. And back in July of 2010, were your duties the
6 same?

7 A Yes, ma'am.

8 Q All right. And did you respond to a call in
9 reference to this case?

10 A I did.

11 Q Were you on duty that morning?

12 A Yes, ma'am.

13 Q When you responded to the call, where did you go?

14 A Initially, I was on another scene when the call first
15 came out. When I established what exactly was going on
16 through radio communications with dispatch, I cleared
17 other units to the scene, initially.

18 Once they were on scene, I cleared the call that I
19 was on en route. And once I responded to Idlewild where
20 the actual incident location was, we set up security for
21 that crime scene until investigators could arrive.

22 Q When you arrived on scene, were there other emergency
23 personnel already there?

24 A Oh, yes, ma'am.

25 Q What type of emergency person?

1 A EMS was, obviously, on the scene. And several other
2 deputies had already arrived prior to when I got there.

3 Q Okay. How many units of EMS personnel -- I mean, how
4 many trucks did you see or ambulances?

5 A I believe one truck and one emergency -- what they
6 call emergency response vehicle. It's the -- just one EMS
7 driver that can help provide any kind of assistance that
8 EMS may need once they get there to the paramedics that
9 are on hand.

10 Q Okay. Now, once you got on scene, did you make any
11 decisions about what you saw going on at the scene?

12 A Yes. My first responsibility is to make sure that if
13 we have any witnesses that they are separated and placed
14 into our custody, so to speak, so that we can keep them
15 separated. Make sure any aid is rendered to anyone on
16 scene that may need it. And then to make sure we have
17 secured the area. That means we keep it safe. There's no
18 one else inside the actual crime scene. I don't have any
19 kind of crowd coming in or out of my crime scene.

20 A lot of times, you'll notice, you'll see big pieces
21 of yellow tape around things that say, Sheriff's line, do
22 not cross. That's our initial responsibility is to get
23 that secured so that when the investigators get there from
24 our criminal investigation division, it's secured and
25 they're ready to go. And we turn the scene over to them.

1 Q Okay. Did you make any other -- how did you see
2 people going in and out of the residence when you got
3 there?

4 A The initial response when deputies got there, they
5 found a window on the rear of the house that had been
6 broken out. There was no other way for them to get in.

7 So, initially, they made entry in through that window
8 to render aid to the victim in the home. Once I realized
9 and got there, I made the appropriate phone calls and had
10 the scene secured. I had to stop them from coming in and
11 out of that window. I placed a deputy on the corner of
12 the house to stop that. We opened up a door to the side.
13 I ordered that door to be opened so there would be easier
14 access in and out of the home.

15 Q Now, let me ask you something. You said the window
16 that you saw them going into and out of, was it at the
17 rear of the home?

18 A My best recollection is it was on the backside of
19 the -- it was like a garage area that was made into a
20 room. It was on the backside.

21 Q Okay. Well, let's look at the four corners of the
22 house. If you're on the street looking into the front of
23 the house -- that's the front?

24 A Yes.

25 Q Side, side, and behind the house?

1 A Side.

2 Q You think it was on the side of the house?

3 A To my -- my best recollection from looking at the
4 home from that night is the left side towards the rear.

5 Q Okay. Would it help your recollection if you looked
6 at an exhibit from the State of the home that night that's
7 in evidence?

8 A It would.

9 MS. MUNSON: May I approach, Your Honor?

10 THE COURT: You may.

11 BY MS. MUNSON:

12 Q Sergeant Hayes, I'm showing you State's Exhibit No. 4
13 that's in evidence. Can you take a look at that?

14 A Yes, ma'am.

15 Q And, after looking at that, does that refresh your
16 recollection of where the window was?

17 A What I was thinking of was what was possibly like a
18 garage area on the home at that time. It's the window
19 there to the left of the front door.

20 Q If you'll just use that laser pointer just so we can
21 be clear. Now, use the laser pointer, Sergeant Hayes, if
22 you don't mind, and point to the jury where you saw people
23 going in and out of the home.

24 A That area right there.

25 Q Okay. Thank you very much.

1 Now, when you saw them going in and out of the home,
2 what did you do?

3 A After I was sure everyone was out of the residence
4 and we didn't have anyone else inside, there was no need
5 for us to continue to go into the home until I had my
6 investigators on scene.

7 Q Okay.

8 A I placed a deputy at that corner of the house --

9 Q Okay.

10 A -- to keep anyone from going in and out of it. And
11 then we had a door opened. And that's when I made the
12 decision to go ahead and open that door in case we needed
13 access in and out of it.

14 Q Now, what door was opened?

15 A Well, it's gone now.

16 Q Let me ask you this. Would it help you in your
17 testimony to the jury to look at an exhibit that's already
18 in evidence?

19 A Yes, ma'am, it would. I could probably explain a
20 little bit better by showing you.

21 MS. MUNSON: I beg the Court's indulgence.

22 (Pause.)

23 BY MS. MUNSON:

24 Q Sergeant Hayes, this is State's Exhibit No. 16 in
25 evidence. Does that look familiar to you?

1 A Yes, ma'am. I had a deputy posted on this corner.
2 Because we had residents, obviously, concerned coming out
3 to see what was going on, and people were trying to get in
4 the yard.

5 So I had a deputy posted -- there's a bush there on
6 the corner. And then another one over here on this back
7 side. It's like a sliding glass door, a door opened right
8 here. This is the one we were making entry into.

9 Q Okay. Thank you.

10 Now, do you know who opened that door?

11 A Deputy Waters.

12 Q And what happened when Deputy Waters opened that
13 sliding glass door?

14 A An alarm went off in the residence.

15 Q What kind of alarm? What do you remember about it?

16 A An audible, loud, piercing, screeching alarm went off
17 in the home once we opened that door.

18 Q And what did you do once that alarm went off?

19 A We went back inside the residence again, myself and
20 Deputy Waters, just to make sure that the residence was
21 clear, once again, and the scene was secured. I disabled
22 that -- if the Court doesn't mind, it was a box about -- a
23 little bit bigger than if the jury sees that fire alarm,
24 where it says "Fire" on it. It's a box about that size.
25 It was an audible alarm. I just removed the cover,

1 unplugged it, and turned the alarm off.

2 Q Once you disabled it, was it okay after that?

3 A Yes. We, actually, moved ourselves back from the
4 residence.

5 Q Now, are you -- at that time, were you Deputy Waters'
6 supervisor?

7 A Yes, ma'am.

8 Q Are you still?

9 A I am.

10 Q And why is he not here today?

11 A He is, actually, out on Family Medical Leave Act at
12 this time.

13 Q Now, as a supervisor, are you familiar with the
14 Sheriff's Office's policies about lights and sirens being
15 used?

16 A Yes, ma'am.

17 Q Briefly, what is that policy?

18 A It's covered under general order 202, which is
19 emergency vehicle responses. We operate under state law,
20 which allows an emergency vehicle in South Carolina to
21 exceed speed limits, for instance, avoid traffic lights,
22 i.e., if a light is red, we're able to proceed through an
23 intersection even into oncoming traffic.

24 However, under our policy, it's a little more
25 restrictive than state law. Obviously, a county the size

1 of Jasper or even Laurens County, when there's 50,000
2 people living there -- there's almost a half million
3 people in Greenville County. So we have to be more
4 restrictive in how we operate. We operate under the
5 theory of protecting life and property. Therefore, a
6 3,500-pound automobile traveling at 70 miles an hour, a
7 person needs to use due regard when they're operating that
8 vehicle.

9 So we're more restrictive in how we respond to calls,
10 which are given out in three different categories,
11 routine, priority, and emergency. An emergency response,
12 a deputy can clear himself through a call. However, it's
13 a supervisor's responsibility to come across the radio and
14 say that it is okay, you may respond in an emergency.

15 Q Okay.

16 A So that's how it's set up.

17 Q In responding to an emergency, does that mean -- what
18 does that mean as far as the equipment on the automobile?

19 A Yes. Emergency under policy is that lights and siren
20 are activated at that time.

21 Q Okay. And did that policy come into play on the
22 night of this case?

23 A It did.

24 Q And how did that happen?

25 A Once again, I was on another call. When the call

1 starts -- was being dispatched, coming in, and I realized
2 the severity of it, I ordered over the radio that all
3 units are cleared to proceed with signal, which means with
4 lights and siren on.

5 Q Now, what is the policy regarding when the lights and
6 sirens go off?

7 A Well, depending on what it is the deputy is
8 responding to -- and in this situation, you don't want to
9 approach a crime scene with lights and siren on for
10 various reasons. One, safety of the officer. What
11 happens is a violator or suspect may hear a siren and an
12 approaching deputy's arrival, and it allows the subject to
13 do two different things, flee, or fight, and/or destroy
14 evidence.

15 So the theory behind that is to deactivate all your
16 equipment, come in silent and unseen, if you can, approach
17 to the location of cover on foot, possibly observe any
18 type of criminal activity, and/or effect an arrest at that
19 time. So that's the reason why we would not respond in
20 there with lights and siren on.

21 Q Okay. And the decision to turn off the lights and
22 siren, does that have anything to do with what type of
23 area you're going into? For example, a neighborhood as
24 opposed to a field out in the middle of nowhere?

25 A No. I wouldn't -- it would be the individual

1 officer, what he's seeing, and what he feels once he
2 responds and pulls up in there.

3 MS. MUNSON: I have nothing further at this time,
4 Your Honor.

5 THE COURT: Any questions for the witness?

6 MR. WARDER: Yes.

7 CROSS-EXAMINATION

8 BY MR. WARDER:

9 Q When you arrived at the scene out there, how many EMS
10 were at the house?

11 A From my recollection, there was the one truck, which
12 standard operating procedure for EMS, to me, is two
13 paramedics and then the -- I think they call it like an
14 ERT. Have you ever seen like a 250 Ford truck with a
15 camper top on it? It's usually one of their supervisors
16 or somebody that's operating that truck that allows
17 support for that EMS truck. My best recollection, that's
18 what was there.

19 Q Were all three of the EMS people in the house?

20 A At the time I was there -- they were not by the time
21 I arrived.

22 Q Okay. So they had entered the house and they left
23 the house; is that right?

24 A By the time I was, actually, there on scene, yes,
25 sir. They were attending to someone in the ambulance.

1 Q Okay. So they had taken the victim out of the house,
2 and they had gotten their equipment in and out of the
3 house; is that correct?

4 A By the time I was there, yes, sir.

5 Q Okay. And, at that time, they had to go in and out
6 through that front window?

7 A At -- prior to my arrival, yes, sir.

8 Q Okay. So from what we can deduce from what you saw
9 is that the Defendant [sic] had been brought out the front
10 window, that the EMS person had went in, attended to him,
11 and done whatever they needed so they could bring him out.
12 And so there had been several people in and out of the
13 window?

14 A Can you clarify what you mean by the "Defendant" was
15 brought out the window?

16 Q I'm sorry. The victim was brought out the window.
17 The person they were treating had come --

18 A Yes, sir. I can agree to that.

19 Q Okay. In time, how long after the first call was
20 received, the emergency call, was it until you got there?

21 A Approximately six, seven minutes.

22 Q Okay. And --

23 A That's their arrival, and then by the time I was able
24 to clear where I was at, six to seven minutes. And if it
25 was longer, no more than 10.

1 Q Okay. And the person they were treating was on one
2 of those gurneys or those stretchers, whatever the correct
3 name for them is?

4 A Yes, sir. He was in the ambulance.

5 Q Okay. And do you know whether the gurney was -- he
6 was put on the gurney in the house, or out of the house?

7 A I do not know, no, sir.

8 Q By that time, did you notice any of the plastic
9 strips on the curtain laying outside of the house on the
10 ground?

11 A Well, from my recollection, from what I saw of the
12 photograph, there was one, maybe two of them outside the
13 window.

14 Q Okay. And you don't know which trip through the
15 window they got knocked down?

16 A No, sir. I wouldn't know. I wasn't there.

17 MR. WARDER: Thank you.

18 THE COURT: Any redirect?

19 MS. MUNSON: Briefly, Your Honor.

20 THE COURT: You may proceed.

21 REDIRECT EXAMINATION

22 BY MS. MUNSON:

23 Q Sergeant Hayes, would you say this was -- how would
24 you characterize this kind of a scene with a lot of people
25 there and things like that?

1 MR. WARDER: I'm not sure where she's going, but this
2 is beyond the scope of --

3 THE COURT: I don't take speaking objections.

4 Is the objection beyond the scope of cross?

5 MR. WARDER: Yes.

6 THE COURT: Overruled.

7 You may proceed.

8 MS. MUNSON: Thank you.

9 BY MS. MUNSON:

10 Q What was the level of activity?

11 A The best word to use for us is orchestrated chaos, if
12 you may say. There's a lot of activity. There's a lot
13 of -- now, by this time, upset residents are wanting to
14 know what's going on, wanting to know why there's all
15 these police officers in their neighborhood, and deputies.

16 We're doing our best at that point in time. We have
17 the situation under control. We're just trying to limit
18 any access in and out of this crime scene. So it's very
19 busy.

20 MS. MUNSON: Nothing further, Your Honor.

21 THE COURT: Any objection to the witness being
22 excused from the State?

23 MS. MUNSON: No, ma'am.

24 THE COURT: From the Defense?

25 MR. WARDER: No, Your Honor.

1 THE COURT: Sir, you're excused.

2 THE WITNESS: Thank you.

3 THE COURT: You're welcome.

4 You may call your next witness.

5 MS. MUNSON: The State calls Burley Williams.

6 THE CLERK: Mr. Williams, if you would come forward
7 this way.

8 Place your left hand on the Bible and raise your
9 right hand.

10 WHEREUPON,

11 BURLEY KEITH WILLIAMS,
12 after first having been duly affirmed, testified as follows:

13 THE CLERK: Thank you.

14 You may have a seat.

15 Would you, please, state your name for the record?

16 THE WITNESS: Burley Keith Williams.

17 THE CLERK: Thank you.

18 THE COURT: Sir, could you speak into the microphone?

19 THE WITNESS: Burley Keith Williams.

20 THE COURT: Thank you.

21 You may proceed.

22 DIRECT EXAMINATION

23 BY MS. MUNSON:

24 Q Hello, Mr. Williams.

25 A How are you doing?

1 Q I'm great.
2 How are you doing?
3 A All right.
4 Q Now, you know Willie Marvin Williams?
5 A Uh-huh.
6 Q How do you know him?
7 A He's my brother.
8 Q Is he older or younger than you?
9 A Older.
10 Q Where was he living back in July of 2010?
11 A Eichelberger Lane.
12 Q Okay. And what county is that?
13 A Laurens.
14 Q Did you live close to him?
15 A I lived in Belton.
16 Q So back in July of 2010, you didn't live anywhere
17 near -- you didn't live too close to him?
18 A No.
19 Q Is that fair?
20 A (There was no response.)
21 Q Are you close with your brother?
22 A Not like brothers should be.
23 Q Okay. What do you do for a living, Mr. Williams?
24 A I do construction.
25 Q Okay. Do you do anything outside of work?

1 A I'm, also, a minister.

2 Q Okay. Do you have your own church?

3 A Yes, I do.

4 Q What's the name of it?

5 A Peniel Tabernacle.

6 Q Do you do sermons, and preaching, and things?

7 A Yes.

8 Q Okay. Do you have any other brothers or sisters?

9 A Yes.

10 Q Who are they?

11 A Kathy Williams, Margaret Williams -- I mean, Margaret
12 Jackson, Stephanie Williams, George Williams, and Walter
13 Williams.

14 Q That's a good size family, huh?

15 A Yep.

16 Q Okay. Is your brother -- was -- your brother, back
17 in July of 2010, was he married?

18 A Was he married?

19 Q Yes, sir.

20 A As far as I knew, he was. Me and my brother don't
21 talk much.

22 Q You don't talk much?

23 A No.

24 Q You didn't talk much back in July of 2010?

25 A Just that one day.

1 Q Okay. Did you ever meet his wife?

2 A Probably two times.

3 Q Okay. Do you know her name?

4 A Natasha.

5 Q Now, how did you become aware that Natasha was dead?

6 A I got a -- Natasha being dead, I can't remember
7 exactly who confirmed she was dead to me.

8 Q Okay.

9 A I can't even really remember.

10 Q Okay. Well, do you remember the day of the incident
11 that brings us here today?

12 A Do I remember the day?

13 Q Yes, sir.

14 A Yes.

15 Q Okay. Now, on that day -- on that morning, did you
16 speak with your brother, Willie Marvin Williams?

17 MR. WARDER: Your Honor --

18 THE COURT: Basis?

19 MR. WARDER: We have a matter of law.

20 THE COURT: Approach.

21 (WHEREUPON, a bench conference was held.)

22 THE COURT: Mr. Foreman, ladies and gentlemen, I have
23 a brief matter of law to take up with the attorneys.
24 During this break, please, do not discuss the case. And,
25 please, leave your notepads in your seat. We appreciate

1 your patience.

2 (WHEREUPON, the jury was excused from open court at
3 approximately 10:17 a.m.)

4 THE COURT: Okay. You may proceed.

5 MR. WARDER: Your Honor, my client would like to
6 invoke the pastor-priest privilege. And we would assert
7 that the communications between him and his brother, who's
8 the minister, are privileged under South Carolina law.

9 If I can ask a few questions?

10 THE COURT: I need to know, first of all, what the
11 basis of your objection is. I need to know what statutes
12 or case law you're relying on. And then I'll determine if
13 a proffer is necessary. Because that's a matter of law
14 for me to determine whether, in fact, he can assert the
15 privilege, and whether there's sufficient information to
16 establish whether a privilege existed.

17 MR. WARDER: Well, Your Honor, the factual basis
18 would be that we would --

19 THE COURT: I need to know the legal basis you're
20 relying on, the case law or statutes you're relying on
21 asserting --

22 MR. WARDER: We believe it is set forth in the South
23 Carolina Code of Laws under Section 19-11-90.

24 THE COURT: And is there any case law you're relying
25 on that interprets that statute?

1 MR. WARDER: No. There's no particular case law.

2 I'm looking to -- I would refer Your Honor to the
3 testimony and privileges set forth in the South Carolina
4 Hornbook [phonetic] on Evidence, Section 15.4 of the
5 privilege.

6 THE COURT: I need for you to continue your
7 questioning of the witness, Madam Solicitor.

8 MS. MUNSON: Thank you, Your Honor.

9 DIRECT EXAMINATION

10 BY MS. MUNSON:

11 Q Did you talk to your brother the day of this
12 incident?

13 A Yes, I did.

14 Q And how did you talk with him?

15 A On the phone.

16 Q Did you ever speak with him in person?

17 A No.

18 Q While talking with him on the phone -- did he call
19 you?

20 A No.

21 Q You called him?

22 A Yes.

23 Q Why did you call him?

24 A Because I was looking for him.

25 Q Why were you looking for him?

1 A Because when I heard that a lot of things was going
2 on, and I wanted to talk to him. And I didn't even have
3 his phone number. And I called him and asked him what was
4 going on.

5 Q Okay. And what did he answer?

6 A He really didn't want to answer nothing. Because he
7 just said -- I said, What's going on?

8 And he said, Nothing really.

9 And, to be quite honest with you, I can't quite
10 remember everything we was talking about at the first
11 phone call.

12 Q How many times did you talk to him?

13 A Maybe three, two or three.

14 Q Okay. And you don't remember anything he said to you
15 during the first conversation?

16 A I'm trying to remember.

17 Q That's okay, Mr. Williams.

18 A It's just been a long time.

19 Q Yes, sir. But, at any time you spoke with your
20 brother that day, did he tell you what had happened at the
21 Idlewild house with Natasha?

22 A Did he tell me what happened?

23 Q Yes.

24 A He just told me that there was some conflicts, or
25 something.

1 Q Okay. Did he tell you that he had killed her?

2 A Did he tell me he killed her?

3 Q Yes. Did he tell you that he had killed her?

4 THE COURT: Instead of leading questions, why don't
5 you just ask him what did he tell him?

6 BY MS. MUNSON:

7 Q What did he tell you?

8 A He just told me that -- I know he said something
9 about it was a conflict between him and her. And I don't
10 even know who the guy was that was there. There was a
11 conflict. That's all -- well, that's all. But one thing
12 he was telling me about and -- I knew he said there was an
13 argument. I think he was -- there was a fight between him
14 and the other guy.

15 It [sic] was a lot said, it really was. And I just
16 can't remember it all. But I remember he asked me
17 probably on the second phone call -- I know he asked me
18 was Natasha dead. And I told him, Yes.

19 Because it seemed like an officer -- I asked the
20 officer whether she was alive because, at that time, I
21 didn't know. And I can't even remember what officer it
22 was that told me that.

23 Q Okay. What, if anything, did your brother tell you
24 about his plans as far as -- what did you say to him about
25 talking with the police?

1 A Me talking to the police?

2 Q No. What did you say to your brother about your
3 brother talking to the police, or turning himself in?

4 A Oh, what I did -- I knew something was definitely
5 wrong with him. Because he wouldn't directly answer me.
6 And I knew there was some problems going on. And I just
7 told him what I heard.

8 Q Okay.

9 A I just told him I heard that -- to be honest with
10 you, I was told that my brother was dead. That's what I
11 was told, that he was dead and his wife was dead. And
12 that's when I was, actually -- I was on my way home. I
13 can't remember where I was coming from. And I got a phone
14 call that I was told that my brother and his wife was
15 dead. And that's when I started rushing coming down to
16 Laurens.

17 And on my way down to Laurens, I was told that, no,
18 your brother is not dead, his wife is dead, and the police
19 is chasing him. I said, The police chasing him? I said,
20 What's going on?

21 And then when I heard the police was chasing him,
22 that's when I asked for his phone number, because I didn't
23 even know it.

24 Q And when you heard the police were chasing him, is
25 that when you called him?

1 A That's when I called him asking him what was going
2 on. And, of course, he hung up on me a couple times. He
3 said, Man, just a lot is going on. I'm tired and a lot is
4 going on.

5 I said, What's going on? Tired about what?

6 He said, I'm just tired.

7 And that's when I, actually, started talking to him
8 about salvation, giving his life to God.

9 Q Okay. So before you started talking to him about
10 salvation -- let me back up a little bit. You're a
11 minister. And I mean no disrespect, Mr. Williams, but are
12 you ordained?

13 A Yes, I am.

14 Q Okay. And how are you ordained?

15 A I'm an ordained minister from BCF Church Conference
16 in Ohio.

17 Q What kind of training was involved in that?

18 A The administration that I'm involved with is one of
19 Pastor Jeff Jenkins. I've been affiliated with them for
20 about 12 years.

21 Q Okay. And what is the practice -- or what's the
22 normal practice or discipline of that church body, BCF, as
23 far as communicating with people?

24 A Communicating?

25 Q Counseling people?

1 A I don't think I'm catching it. Say it again.

2 Q What sort of procedure were you taught to go through
3 when you were going to get a confidential communication
4 from someone?

5 A Well, first, you've got to try to find out what's
6 wrong, and get a person to open up to you, and tell what's
7 on their heart, and see where they're at. And then you
8 can see where they're trying to get to. And you just try
9 to counsel the person.

10 Q And in what setting are you trained to do that?

11 A Just talk to them and, sometimes, not talk directly,
12 talk indirectly to get their mind calmed down so they can
13 open up their heart and talk to you.

14 Q Okay. You said earlier that you didn't talk to your
15 brother much?

16 A No.

17 Q Was he a member of your church?

18 A Every time I asked him to come, he would come.

19 Q And how often was that?

20 A He came several times before he went to Afghanistan.

21 Q What's the procedure for becoming a registered member
22 of your congregation?

23 A Well, I don't believe as far as a person being a
24 registered member of my congregation.

25 Q Okay.

1 A Because you don't be [sic] a registered member in the
2 body of Christ. You're either born again or you're not.

3 Q So is it -- was he a member of your congregation?

4 A I wasn't -- no, he wasn't a member.

5 MS. MUNSON: I'm not sure how far you want me to go,
6 Your Honor.

7 THE COURT: You need to ask all the questions you
8 were going to ask in the presence of the jury, and what it
9 is you're trying to elicit from him.

10 BY MS. MUNSON:

11 Q Mr. Williams, before -- are you saying you don't
12 remember your brother telling you he killed Natasha?

13 A I remember him asking me was she dead. And it was
14 just a lot said, ma'am, to be honest with you.

15 Q So you just don't remember; is that right?

16 A I can't remember everything.

17 Q Do you remember speaking with law enforcement
18 officials at your brother's home?

19 A Yes. I seen him out there. I talked to a short
20 fellow, yeah.

21 Q Okay. And do you remember telling those law
22 enforcement officers that he killed her?

23 A Well, I remember the law enforcement asking me. And
24 about the time he asked me, that's the time a lot of
25 commotion was going on. And I seen Willie come flying

1 down the road in a car. The police was chasing him.

2 But, man, yeah, I remember -- yeah, he asked me that.

3 And if I'm correct, it seems like I told him I thought

4 Willie told me that -- or either Willie told me that about

5 his wife. Because he was asking me whether she was alive.

6 Q Okay. I'm not trying to be rough with you,

7 Mr. Williams.

8 A I mean, go ahead.

9 Q Did your brother tell you he killed her or not?

10 A Well, I'm just being honest with you, ma'am.

11 Q Okay.

12 A I'm just -- I just hate to say yes or no.

13 Q Okay.

14 A Because we did -- we talked.

15 Q Are you okay, Mr. Williams?

16 A No. Actually, I'm thinking. I'm fine.

17 Q All right.

18 A I'm just trying to backtrack on the conversation we
19 had. Because he asked me was she dead. I told him, yes,
20 it was confirmed.

21 But, ma'am, as far as saying that he killed her, I
22 know he said something about he was trying to walk away,
23 and she kept coming after him, something like that. And
24 then he said, I tried to walk away. She kept coming after
25 him. And I know -- all I can say is I know he shot. He

1 did -- there was some shooting that took place. Because
2 he said he tried to walk away, that there was some
3 shooting that took place.

4 And when the officer asked me -- I can't remember his
5 name -- when me and him was talking -- and me and Willie
6 did talk. There's a lot that happened. See, I'm trying
7 to -- all I can tell you is this, I do know he knew she
8 wasn't dead. Because he asked me was she dead. And he
9 tried to walk away. There was some scuffling going on.

10 And I'm trying to see did I take the assumption that
11 he killed her, or did he say he shot her because of the
12 conversation we was having. Because when he was talking
13 about what was taking place there, humanly, that would be
14 the first thing that would come into your mind, what have
15 you done. That's humanly what would come into your mind,
16 an assumption.

17 But I do know when me and him did talk that a
18 shooting did take place. And that's when I began asking
19 him about, you know, life in general. If you don't run
20 from the policeman or whatever -- I said, Just meet them
21 somewhere and turn yourself in. You don't need to be
22 running, and stuff like that.

23 Q So did your brother tell you that he killed Natasha?

24 A Yeah.

25 Q Now, when your --

1 A Well, I know he said he shot.

2 Q That he shot?

3 A There was a shooting taking place.

4 Q Now, when -- did you see your brother after you --
5 when the police caught him? Did you see your brother
6 then?

7 A No.

8 Q In Laurens?

9 A No. The only time I seen him is when they was
10 putting him in the helicopter.

11 Q So you went to that scene?

12 A Yeah. I was down there.

13 Q And did you speak with him or not?

14 A No.

15 Q How were you feeling when you went to that scene
16 where he was being taken in the helicopter?

17 A I was just totally just -- my mind was just all
18 messed up, heart broken, tore up. Because I thought he --
19 I thought that was it. I thought he was going to be dead.
20 I thought he was going to be shot. I thought it was over.
21 And I said, I'll never get to see my brother again.

22 Q Do you remember speaking with officers on that scene?

23 A I spoke to -- it seemed like it was --

24 Was it you?

25 Yeah. I spoke to the officer. But I can't remember

1 who he was.

2 Q Okay. Do you remember speaking -- what did you tell
3 the officers that you spoke with on the scene?

4 A When I got there -- of course, that's when he passed
5 by the house. I jumped in my van and I started following
6 him. I followed the street marks in the road. And when I
7 jumped out of my car, I ran right to the scene, which that
8 was wrong. I shouldn't have done that. I just wasn't
9 thinking. Because at any moment, I knew there was going
10 to be gunshots.

11 And when I ran to the scene, a policeman that was
12 there, he said, Who are you?

13 And I said, That's my brother.

14 And he said, Move back, move back.

15 And then I remember -- because I -- when I talked to
16 Willie, I -- somebody -- I got a phone call that said that
17 Willie was going to -- wanted the police to kill him. He
18 was just going to be done with life, something like that.
19 And so then that's why I ran down there. And I told the
20 officer, I said, Please don't shoot him because that's
21 what he wants you to do, from what I was told.

22 And then that's when the officer -- the officer that
23 I talked to which -- see, I can't remember his name. He
24 told me -- I seen him out there. And I motioned to him.
25 And he walked up to me. And I told him -- he said,

1 Burley, he said, Willie is okay.

2 I said, All right. He's okay.

3 And then that's when another officer, me and him
4 started having some words. And he -- because somebody
5 asked whose van is in the road. I said, That's my van.

6 They said, You need to move it.

7 So when I start to go move my van, when I was going
8 to move my van, the other officer, he kept saying a lot of
9 stuff. And I said, Man, all I want to do is see if my
10 brother is all right. That's all I want to do. And me
11 and him started having words. And, to be honest with you,
12 I got a little offended with him by the words that he was
13 saying. And that's when he just got mad and he said, Get
14 down on the ground.

15 And I said, For what? I haven't done nothing wrong.

16 He said, Get down on the ground.

17 And I said, For what? I said, Man, I ain't done
18 nothing. I'm walking off to go and move my van. And then
19 that's when they jumped me and pushed me down to the
20 ground.

21 Q I'm sorry about that.

22 How many officers did you speak with when you were at
23 Willie's house, when you were at your brother's house?

24 A It seemed like it was two there that -- I can just
25 kind of remember speaking to one, which I seen him out in

1 the hallway.

2 Q Okay. Is there anything else that you told those
3 deputies that your brother said?

4 A That I told the deputy?

5 Q Yes, sir.

6 A Not that I can remember no more than about -- are you
7 talking about the first time I talked to them?

8 Q Yes.

9 A No more that I can remember.

10 Q Okay. Did your brother tell you -- when you asked
11 your brother if she was dead -- did your brother tell you,
12 That's all I want, guess I'll meet her in hell? Did your
13 brother tell you that?

14 A Guess I'll meet her in hell? When you -- when I told
15 him that she was -- yeah, when I told him that -- he asked
16 me was she dead. And I said, yes.

17 He said, Okay. He said, Okay.

18 And I think he asked me how did I know. And I told
19 him it was confirmed through the police that she was dead.
20 He said, all right. I remember him saying that's -- he
21 said, All right. That's what I want to know. But as far
22 as meeting her in hell, I'll meet her in hell -- to be
23 honest, it seemed like he said that, I'll meet her in
24 hell.

25 Q Now, Mr. Williams, do you know what kind of cars your

1 brother had?

2 A I knew he had a black Dodge Charger and a black 5.0.

3 Q Okay. Nothing else?

4 A But the car that I seen him in when I went down to
5 the scene -- well, I just knew it was him when I seen him
6 pass by. I think it was a Tahoe, or something.

7 THE COURT: Do you have any other questions that
8 relate to statements?

9 MS. MUNSON: No, ma'am.

10 THE COURT: Do you have any questions for the
11 witness?

12 MR. WARDER: Yes, Your Honor.

13 THE COURT: Relating to any alleged statements. You
14 may proceed.

15 CROSS-EXAMINATION

16 BY MR. WARDER:

17 Q When you and your brother talked, were you talking to
18 him as a pastor in the official capacity?

19 A Yes, sir. I talked to my brother, like I said, in
20 the beginning because me and my brother really don't have
21 a brother-brother relationship the way it should be.

22 When I talked to my brother, I was concerned about
23 one thing, about salvation. I talked to him as a minister
24 would to a sinner.

25 Q Okay. And when you talked to him about the

1 salvation, was that supposed to be a confidential
2 conversation?

3 A Yes.

4 Q And were you acting as a clergyman when you talked to
5 him?

6 A Yes, sir.

7 Q Is confidentiality important to your church being --
8 making it able to function?

9 A Yes, sir.

10 Q Why is that?

11 A Because when somebody tells you something in
12 confidence, that's between you, them, and God. And you
13 don't -- you want people to have confidence in you. You
14 don't want to break that confidence.

15 Q Was -- that communication, whatever you had, was that
16 essential for you to be able to do your proper job?

17 A Yes, sir.

18 Q And your brother was concerned about his salvation at
19 that time?

20 A Yeah. He asked me about it, about salvation. And I
21 began to explain to him about accepting the Lord Jesus
22 Christ, that God can straighten out everything that's
23 wrong. Because he just said he was tired. And I hear
24 people say that a lot, I'm tired, I'm tired. And I just
25 tell them there's rest in Jesus Christ.

1 Q And when you talked to your brother about salvation,
2 was that part of your regular duties as a minister of the
3 church?

4 A Yes, sir.

5 Q Is that the way you talk to somebody in the regular
6 course of business of your church that wants to discuss
7 salvation?

8 A Yes.

9 MR. WARDER: Your Honor, that would be all the
10 questions I have.

11 THE COURT: Any redirect on the issue of the
12 statements?

13 MS. MUNSON: No, ma'am, Your Honor.

14 THE COURT: I'll be glad to hear your objection. I
15 want to hear the basis of your objection.

16 MR. WARDER: Your Honor, my client would assert that
17 these were privileged communications, that he would not
18 have to testify under Section 19-11-90 of the South
19 Carolina Code because he was speaking to his brother at
20 that time in his duties as a minister. And he expected
21 those conversations to be -- between him and his brother
22 to be confidential.

23 THE COURT: Would you like to respond to the
24 objection?

25 MS. MUNSON: Yes, ma'am.

1 Looking at 19-11-90, I will concede -- out of the
2 four things that the Defense, which has the burden, must
3 establish, I will concede that, number one, that
4 Mr. Burley Williams is a regular or duly ordained minister
5 or priest. I will concede that point.

6 I won't concede that this was -- the information --
7 the communication was properly entrusted to him as a
8 clergyman. The reason I will not concede that is because
9 Mr. Burley Williams says he's the one who picked up the
10 phone to call his brother to find out what was going on.

11 THE COURT: Is that really dispositive? Does the
12 case law require that? Does it matter who initiates the
13 contact?

14 MS. MUNSON: No. I don't think it will completely
15 make it go away.

16 As far as a communication being necessary and proper,
17 I mean, that's just such a wide thing in this particular
18 situation, Your Honor. Because there is no set practice
19 of how a confidential communication is supposed to go.

20 I mean, it's not like in a Catholic church, which
21 this is how it goes, not that the Catholic church is any
22 better than anybody else. But there there's a strict
23 situation where you know when it's confidential.

24 THE COURT: You don't have to be in a confessional
25 booth for it to be privileged.

1 MS. MUNSON: I agree.

2 THE COURT: Restate the position that whenever they
3 talk to you it's confidential.

4 MS. MUNSON: Yes, ma'am. I agree with that.

5 And the main thing bothering me about this is that
6 Mr. Williams broke that confidence by telling officers at
7 both scenes what his brother had told him. Now, he's
8 coming in here trying to use this cloak of --

9 THE COURT: What is it alleged that he told the
10 officers at the scene?

11 MS. MUNSON: He told the officers on the scene -- out
12 in front of Mr. Williams' house, he spoke with officers
13 Hawkins and Kastner, who are available. He told them that
14 he killed her and that he was trying -- that he,
15 Mr. Burley Williams, was trying to get the Defendant to
16 turn himself in.

17 Once the Defendant was captured and Mr. Burley
18 Williams went to the scene, Mr. Burley Williams was upset
19 and told the officers on the scene, he said he was either
20 going to shoot one of you, or make you shoot him. He's
21 been drinking a lot so that he can bleed out faster.

22 He, also, told Officer Kastner out in front of the
23 Defendant's house that he told the -- the Defendant told
24 Mr. Burley Williams that he did shoot her. And that the
25 Defendant asked Mr. Burley Williams if she was dead. And

1 that the Defendant responded to Mr. Burley Williams,
2 That's all I want. Guess I'll meet her in hell.

3 THE COURT: You say you conceded three points. What
4 are the three points you conceded?

5 MS. MUNSON: I will concede that Mr. Burley Williams
6 is a duly ordained minister, priest, or rabbi. I suppose
7 I would have to concede the last requirement that this was
8 in the -- that this was done according to the usual course
9 of practice or discipline of his church or religious body.

10 I do not concede that the communication from the
11 Defendant to Mr. Burley Williams was something properly
12 entrusted to him in his professional capacity. So I don't
13 concede those two points.

14 And my next argument is that he's already violated
15 the confidentiality, if it is confidential, by relating to
16 officers on the scene what the Defendant said to him.

17 MR. WARDER: Your Honor, I would argue to you that
18 the minister can't waive the penance privilege by talking
19 to somebody else. The privilege belongs to the pennant.

20 Now, it might be a different argument if she was
21 saying the pennant has went out and talked to other people
22 so he didn't intend for it to be confidential. But the
23 minister, under this, the fact he might talk to somebody
24 else wouldn't deprive the pennant, the Defendant, of the
25 privilege.

1 It's a privilege he can assert. And it isn't thus
2 waived by --even if -- and I'm not saying this minister
3 did anything wrong. But even if the minister did wrong
4 and disclosed a confidential thing, that doesn't take away
5 the pennant's rights.

6 THE COURT: Anything further from the State?

7 MS. MUNSON: Only that there's been no establishment
8 whatsoever that this is the properly entrusted
9 communication. Because there's no testimony that this
10 Defendant is a member of his church, or ever looked to him
11 as being his pastor. It's just not there. So --

12 THE COURT: I guess the place I'm at with this is
13 what exactly is it incriminating that you think you're
14 going to elicit from this witness, other than the
15 statement, I guess I'll see her in hell? Other than that,
16 what is it that is incriminating that you think you're
17 going to be able to elicit from him?

18 MS. MUNSON: That he said -- that the Defendant said
19 to Mr. Burley Williams that he killed her.

20 THE COURT: Well, he's sort of been ambivalent about
21 saying that, hasn't he?

22 MS. MUNSON: Yes, ma'am.

23 THE COURT: He has not come out and said that. He
24 has said there was a scuffle, there was some shooting.
25 And, as a result of that statement, he presumed someone

1 was shot. He has not on the stand said or articulated
2 that my brother said to me he shot her. He has said my
3 brother said, I guess I'll see her in hell. That's about
4 the clearest statement you've been able to elicit from him
5 up to this point.

6 MS. MUNSON: Yes, ma'am.

7 THE COURT: So I'm trying to figure out, other than
8 the equivocating that we have entertained this morning,
9 what directly is he going to say that's going to inculcate
10 the Defendant?

11 MS. MUNSON: Well, I know now that he's not going to
12 say much more than what he's said here, which means he's
13 been given a chance. He's been made aware of a prior
14 statement he made. He's either denying or saying he
15 doesn't remember the statement.

16 So I would intend to call the two witnesses to whom
17 Mr. Burley Williams made these statements to.

18 THE COURT: And what statements are those?

19 MS. MUNSON: That when the Defendant asked Burley
20 Williams if Natasha was dead, Burley Williams said, Yes.
21 And that the Defendant then said to Burley Williams,
22 That's all I want. Guess I'll see her in hell.

23 THE COURT: So you're going to seek to impeach this
24 witness with an extraneous statement?

25 MS. MUNSON: If necessary.

1 THE COURT: Because, normally, what you do is you
2 would impeach the person that, actually, made the
3 statement with an extraneous statement. Now, you're
4 talking about a double situation where you have somebody
5 else impeach somebody else about what somebody else said.
6 Yeah, that's, basically, what it amounts to. I've put it
7 in very basic terms and left out all the legal verbiage,
8 but that's kind of where we are.

9 Normally, what you would do is you have a witness who
10 you would say, did you say this on this date, and you give
11 that person the opportunity to admit or deny the
12 statement. Then if they admit it, then it's a non-issue.

13 MS. MUNSON: Right.

14 THE COURT: If they deny it, then you can bring in
15 another person to say that they did, in fact, make this
16 statement, thereby impeaching them. And then they have
17 the right to recall that witness and rehabilitate the
18 witness. You're now talking about him saying what someone
19 else said to him to someone else, and now having given him
20 the opportunity to admit or deny that bringing someone
21 else in to say that he said that someone else said this to
22 me.

23 Yes. I have to think about all that for a little
24 bit.

25 MS. MUNSON: Okay.

1 THE COURT: Coupled with the fact that I don't -- I'm
2 not aware of anything in the case law that says the
3 priest-pennant privilege can be abrogated by the priest
4 divulging the statement to someone else. There's only one
5 case that even interprets the statute. And it deals with
6 marriage counseling. And it deals with statements that
7 were directly divulged by the parties to the preacher who
8 was giving the counseling, who was later called as a
9 witness.

10 And the Defense is correct, that it is the
11 Defendant's right to assert the privilege. Priests can't
12 assert the privilege. The privilege can be waived by the
13 Defendant. But, in this instance, it is not.

14 What is problematic in this circumstance is you have
15 a preacher who's, also, the Defendant's brother. So he's
16 in a dual capacity. And I think we would be foolish to
17 believe that in some way, irregardless of what their
18 relationship was, he wouldn't be loyal to his brother,
19 especially at this point. So it is not -- and, now, we
20 are three years later, basically.

21 MS. MUNSON: Yes, ma'am.

22 THE COURT: And he says his memory is hazy. But his
23 memory is not hazy on the fact that he says he was -- and
24 therein lies the rub in this matter. Because the
25 Defendant has the burden of proof. That is not

1 articulated in the case law what that burden is. So I
2 would have to presume that that burden is by a
3 preponderance of the evidence, which is simply more likely
4 than not.

5 And you have the testimony of the witness who says
6 that at all times I was talking to him as a minister, that
7 at all times it was in the scope and realm of my
8 responsibility, and in the scope and responsibility of me
9 doing my job as a minister. And that when I talked to my
10 brother, my only concern was his salvation. So anything
11 else he divulged to me in the course of that, I considered
12 confidential, and that all conversations I had with him
13 were confidential.

14 On the other side of that coin, you have him at the
15 scene excited, upset, probably in some measure believing
16 he is going to mitigate in some way and save his brother's
17 life. Because he has gotten information that his brother,
18 basically, wants to, in essence, commit suicide by
19 enforcing a confrontation with the police and be -- have a
20 shoot out, so to speak.

21 He then divulges certain things to the police in an
22 attempt to -- I don't know, in some way, I guess, save his
23 brother's life by saying, don't shoot him, because he
24 wants you to do that and he wants to die. And then the
25 other statements regarding, I guess I'll see her in hell.

1 So I need to think about this a little bit.

2 Yes.

3 MS. MUNSON: Might I, Your Honor, ask Mr. Williams a
4 couple more questions?

5 THE COURT: Sure.

6 REDIRECT EXAMINATION

7 BY MS. MUNSON:

8 Q Mr. Williams, after the whole incident was over, do
9 you remember a member of the Sheriff's Office trying to
10 contact you to give a written statement?

11 A A written statement?

12 Q Or just talk to him?

13 A I got a phone call.

14 Q Let me tell you something, Mr. Williams. I'll make
15 this easy. How many police officers have tried to talk to
16 you about this case?

17 A When -- just one. I can't remember his name.
18 There's one that called me maybe a couple days after this
19 happened.

20 Q Okay. One a couple days after. How many at your
21 house?

22 A None.

23 Q No police officers asked you about this case at your
24 house?

25 A That come to my house, no.

1 Q I'm sorry. At your brother's house?

2 A At my brother's house?

3 Q Yes. How many were there and asked you what was
4 going on?

5 A Are you talking about -- are you talking about after
6 they caught him, or before?

7 Q Before they caught your brother when you were at your
8 brother's house, family members were around and police
9 officers came to your brother's house; right?

10 A Uh-huh.

11 Q How many?

12 A I remember two being there.

13 Q Okay. And then at the scene after your brother was
14 captured, did anybody ask you about the case?

15 A After he was captured?

16 Q Yes, sir.

17 A I got one phone call.

18 Q Okay. Now, recently, have you gotten a call from
19 anybody in the Solicitor's Office?

20 A Yes, to subpoena -- for a subpoena.

21 Q Okay. And how many of those people did you tell, I
22 can't talk about it, I'm his pastor, it's confidential?
23 How many did you tell that?

24 A I didn't tell any one of them that.

25 Q But did you tell the Defense that this was a

1 pastor-priest, pastor-pennant thing, and it was
2 confidential?

3 A Did I tell who that now?

4 Q Did you tell your brother's lawyers?

5 A Did I tell my brother's lawyers that? I knew there
6 was a law.

7 Q Okay. But you never said that to the police?

8 A I never said that, because I never talked to them.
9 But if they would --

10 Q You never told anybody that?

11 A I knew there was a law.

12 Q Who did you tell, I can't talk to you, it's
13 confidential?

14 A I didn't tell -- I didn't say it in that term, that
15 it's confidential.

16 Q You didn't say that, did you?

17 A No.

18 Q In fact, didn't you tell an investigator from the
19 Solicitor's Office that his lawyers told you not to talk
20 to us?

21 A No, I did not.

22 MS. MUNSON: Okay. You deny that.

23 That's all the questions I have, Your Honor.

24 THE COURT: Sir, does your church --

25 Do you all have any questions of him as a result of

1 the questions the Solicitor has asked?

2 MR. WARDER: No, Your Honor. Because -- and --

3 THE COURT: I didn't ask for argument. I asked if
4 you had any questions for the witness.

5 MR. WARDER: If he had --

6 THE COURT: I didn't ask for argument. We're trying
7 to make a record. I allowed her to ask additional
8 questions. I need to know if you have any additional
9 questions in response to what she asked.

10 MR. JONES: Could I speak to Mr. Warder?

11 THE COURT: Uh-huh.

12 (Pause.)

13 RECROSS-EXAMINATION

14 BY MR. WARDER:

15 Q Sir, did you consult any lawyers about this
16 privilege?

17 A Did I consult?

18 Q Yes, sir.

19 A No. I, actually, knew that law.

20 MR. WARDER: Okay. Thank you.

21 THE COURT: Sir, what denomination are you a member
22 of?

23 THE WITNESS: It's non-denomination.

24 THE COURT: And do you all have a church discipline
25 or rules of practice that's published as part of a manual

1 or anything that you received at the time that you were
2 ordained?

3 THE WITNESS: Yes. I have a discipline, yes.

4 THE COURT: Okay. Does any of that deal with
5 counseling, or communication, or determine how you're to
6 communicate with members of your discipline?

7 THE WITNESS: Yes.

8 THE COURT: Okay. Do you have that available to you?

9 THE WITNESS: No. I don't have it with me.

10 THE COURT: Okay. Where is it?

11 THE WITNESS: It should be at home.

12 THE COURT: Okay. And there's a section on
13 counseling parishioners?

14 THE WITNESS: It's called like church bylaws where
15 the pastor -- what a pastor's duty is, what he's supposed
16 to do, and so forth.

17 THE COURT: And how about to non-members, does it
18 have a policy regarding that?

19 THE WITNESS: To non-members?

20 THE COURT: Uh-huh.

21 THE WITNESS: Not that I recall.

22 THE COURT: Okay. Any questions as a result of the
23 Court's questions from the State?

24 MS. MUNSON: No, ma'am.

25 THE COURT: From the Defense?

1 MR. WARDER: No, Your Honor.

2 THE COURT: What I'm going to do is, sir, I'm going
3 to ask you to stand down. But you're still subject to
4 the subpoena, and you're still subject to being
5 recalled.

6 Do you understand?

7 THE WITNESS: Yes, ma'am.

8 THE COURT: I'm going to take the matter under
9 advisement. I need to think about it for a little while.
10 We're going to move on to the next witness.

11 Sir, you may step down. Just be aware that the
12 Solicitor's Office will call you when you need to return
13 to court.

14 THE WITNESS: So do I stay here?

15 THE COURT: Yes, sir.

16 But you can't stay in the courtroom, because the
17 witnesses are sequestered. But you can stay outside the
18 courtroom.

19 Thank you so much.

20 (WHEREUPON, Burley Williams exited the courtroom.)

21 THE COURT: Who is the State's next witness?

22 MS. MUNSON: That would be Tracy Irby, Your Honor.

23 THE COURT: Do y'all want to take a quick restroom
24 break while we've got the jury out? I'm probably not
25 going to stop again until lunch.

1 MR. JONES: Briefly, Your Honor, briefly.

2 MS. MUNSON: Well, Your Honor, I'm going to object to
3 that witness having any kind of conversation with the
4 Defense team right now.

5 MR. JONES: I'm going straight --

6 THE COURT: The witnesses are sequestered, so that
7 goes without saying. He's not supposed to talk to
8 anybody. Actually, have him come back in here for a
9 minute, because I should have told him that.

10 MS. MUNSON: I just heard him tell Mr. Jones, Come
11 here.

12 THE COURT: I need to have Mr. Williams come back in
13 for a quick second. I should have told him something I
14 neglected to tell him.

15 (WHEREUPON, Burley Williams entered courtroom.)

16 THE COURT: Mr. Williams, during this break, you may
17 not discuss your testimony with anyone, defense or the
18 Solicitor.

19 Okay. We'll be at ease for about five minutes.

20 (WHEREUPON, a break was taken.)

21 THE COURT: Is the State ready to proceed?

22 MS. MUNSON: Yes, ma'am.

23 THE COURT: Is the Defense ready to proceed?

24 MR. WARDER: Yes, Your Honor.

25 THE COURT: Okay. Who's the State's next witness?

1 You told me, but I forgot.

2 MS. MUNSON: Tracy Irby.

3 THE COURT: Is the witness ready?

4 MS. MUNSON: He's right out here, Your Honor.

5 THE COURT: You can go ahead and get him and bring
6 him in, or her, I'm sorry.

7 MS. MUNSON: Your Honor, are we going to explain to
8 the jury at all how --

9 THE COURT: No. Because I think that highlights
10 something that doesn't need to be brought to their
11 attention.

12 MS. MUNSON: Okay.

13 THE COURT: And then if I decide that the privilege
14 exists, you can call the witness for whatever limited
15 purpose you want. And if I decide it doesn't exist, then
16 you can recall the witness in its entirety.

17 If you decide not to recall him, I can instruct the
18 jury to disregard his testimony, that as a matter of law,
19 I have determined certain things. But I don't want to --
20 I think it's premature, at this point, before I make a
21 decision to say anything. Because once you say something,
22 you can't take words back.

23 MS. MUNSON: That's true.

24 THE COURT: So I think it's better to have a measured
25 approach to it.

1 MS. MUNSON: Okay.

2 THE COURT: And then with a full understanding decide
3 how I'm going to do it.

4 MS. MUNSON: Yes, ma'am.

5 Thank you.

6 THE COURT: You're welcome.

7 Sir, if you would, come forward and stand by the
8 witness stand for me.

9 Y'all can go ahead and get the jury.

10 (WHEREUPON, the jury came into open court at
11 approximately 11:28 a.m.)

12 THE COURT: The State may proceed.

13 Ladies and gentlemen, we appreciate your patience as
14 we worked through those matters. It took a little longer
15 than we expected. Please know that we do not take your
16 time for granted, and we truly appreciate your patience
17 with us.

18 You may proceed.

19 MS. MUNSON: Thank you, Your Honor.

20 THE COURT: You're welcome.

21 MS. MUNSON: The State calls Tracy Irby.

22 THE CLERK: Mr. Irby, if you'll place your left hand
23 on the Bible and raise your right hand.

24 THE COURT: He might not be --

25 THE CLERK: If you're able to.

1 WHEREUPON,

2 TRACY DEAN IRBY,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: Thank you.

5 You may be seated.

6 Would you, please, state your full name for the
7 record?

8 THE WITNESS: Tracy Dean Irby.

9 THE CLERK: Thank you.

10 THE COURT: Sir, if you could speak directly into the
11 microphone for me, please.

12 THE WITNESS: Okay.

13 DIRECT EXAMINATION

14 BY MS. MUNSON:

15 Q Where do you live, Mr. Irby?

16 A [REDACTED], South Carolina.

17 Q How long have you lived there?

18 A Since 2002, 10 years.

19 Q Okay. Are you married?

20 A Yes, ma'am.

21 Q And who all lives with you and your wife?

22 A My son.

23 Q Okay. How old is he?

24 A 16.

25 Q All right.

1 A He just turned 16.

2 Q Now, do you know Willie Marvin Williams?

3 A Yes, ma'am.

4 Q How do you know him?

5 A He's a friend and club -- bike club.

6 Q Okay. How long have you known him?

7 A I would say a good 15 -- something like that, 15
8 years.

9 Q A long time?

10 A Yeah, a long time.

11 Q How often do you see him?

12 A When he was at home, I seen him pretty regular.

13 Q I'm sorry to be difficult. But what do you mean by
14 "pretty regular"?

15 A He would come by the house.

16 Q Okay. Have you ever been to his house?

17 A Yes, ma'am.

18 Q And where was his house?

19 A Well, he had -- when I first met him, he had -- I
20 can't recall the road. I want to say Eichelberger.

21 Q Okay. How often would you go to his house?

22 A Very rarely.

23 Q Okay. So most of the time y'all got together --

24 A He would come over to my house.

25 Q What's this bike club that you mentioned?

1 A Well, a long time ago, we had a club called the
2 Rolling Thunders.

3 Q What sort of things would you do?

4 A Like we'd ride.

5 Q Motorcycles?

6 A Ride motorcycles, yes.

7 Q Just you and him, or a bunch of people?

8 A A bunch of people. It was a club.

9 Q Whenever Mr. Williams would come to your house, what
10 was he driving most of the time?

11 A He had different cars. He had so many cars.

12 Q Okay. Do you remember any of them?

13 A He had the Mustang. Later, he had bought the
14 Chrysler. I want to say his bike. I'm trying to think.
15 I can't remember. I can't remember all of them.

16 Q Do you remember anything bigger than a sedan?

17 A Like a Tahoe.

18 Q Is it --

19 A Yeah. I think it was a Tahoe.

20 Q All right. Do you know whether or not -- well, let's
21 think back to the incident that brings us all here today.
22 Do you remember that?

23 A I don't mean -- my mind -- I don't mean no harm, but
24 my mind, I can't say.

25 Q So you don't remember it?

1 A Not quite.

2 Q Okay. Well, let me ask you this. Do you know
3 whether or not -- back in July of 2010, do you know
4 whether or not Mr. Williams was married?

5 A I'm going to say he was.

6 Q Okay. To whom was he married?

7 A Don't ask me that name. I can't tell you. I don't
8 know her name.

9 Q All right. Did you ever meet her?

10 A A couple of times.

11 Q All right. Now, do you know where she is now?

12 A Yes.

13 Q Okay. Well, where is she?

14 A I'm assuming she -- dead.

15 Q Okay. How did you find out she was dead?

16 A Hearsay.

17 Q Okay. Well, who told you that she was dead?

18 A Just people. Generally, just people was running
19 around saying stuff.

20 Q Okay. Did you ever have a conversation with
21 Mr. Williams about her being dead?

22 A No.

23 Q Never?

24 A No.

25 Q Okay. Did you see Mr. Williams on the day of the

1 incident that brings us here?

2 A Yes, ma'am.

3 Q Okay. Where did you see him?

4 A He came by the house.

5 Q By your house?

6 A Yeah.

7 Q About what time of day was that?

8 A It was in the afternoon. I know it was daylight. So
9 I think around 12:00, maybe 11:00 or 12:00.

10 Q When he came by the house, did he get out of his
11 vehicle?

12 A No.

13 Q What vehicle was he driving?

14 A The Tahoe.

15 Q When he got to your house, how did you know he was at
16 your house?

17 A When he got -- I seen him.

18 Q Were you in or outside of the house?

19 A I was outside in the yard. I'm a yard person. I was
20 in the yard.

21 Q Okay. Had you had a conversation with anybody else
22 about Mr. Williams prior to seeing Mr. Williams at your
23 house?

24 A When I seen him, yeah.

25 Q Okay. Who did you talk to?

1 A One of his brothers.

2 Q Now, when Mr. Williams got to your house in the
3 Tahoe, describe how he looked.

4 A He looked like -- I would say he looked like Willie,
5 Marvin. I called him Marvin.

6 Q You called him Marvin. Was he acting normal?

7 A Yeah, pretty much.

8 Q And did you have a conversation with him?

9 A Yeah. I had a conversation.

10 Q How long did he stay at your house?

11 A It wasn't long. He didn't stay long.

12 Q And when he left, did you talk with him before he
13 left?

14 A Yes, ma'am.

15 Q Did you try to prevent him from leaving?

16 A Yes, ma'am.

17 Q Why did you do that?

18 A Because of what his brother and them had told me.
19 They told me they were looking for him.

20 Q Okay. Did you have a conversation with Mr. Williams
21 on the phone?

22 A Finally, yes.

23 Q Finally. When was that?

24 A I had called him a couple of times. And then he
25 called me back.

1 Q All right. And what did he tell you in that
2 conversation?

3 A I asked him where he were [sic]. And he just told me
4 he was riding around.

5 Q And that was the extent of it?

6 A He told me he was riding around.

7 Q All right. Now, do you remember giving a written
8 statement to some investigators in July of 2010?

9 A Uh-huh.

10 Q And where did that happen?

11 A At my house.

12 Q All right. And would you say your memory was fresher
13 in July of 2010 than it is today?

14 A Yes, pretty much.

15 MS. MUNSON: May I approach the witness, Your Honor?

16 THE COURT: You may.

17 THE WITNESS: Pretty much.

18 BY MS. MUNSON:

19 Q All right. Mr. Williams [sic], I'm going to hand you
20 this document and let you take a look at that.

21 A No.

22 Q No?

23 A (Witness shook head.)

24 Q No what?

25 A Right here, I see -- what is it -- Bernard, he told

1 me that he -- Willie had killed her, killed that girl.

2 Q Okay. So Bernard didn't say anything to you?

3 A The only thing Bernard told me is he think [sic]

4 Willie had messed up. Killing, no.

5 Q Okay. Now, the document that I just handed you, is
6 this your signature here?

7 A Yes, ma'am. I guess, yes.

8 Q And was this true when you signed it?

9 A As far as I know, like I said, it was the whole
10 situation. I don't know.

11 Q All right.

12 A But it was back then.

13 Q After looking at your -- what you identify as your
14 statement, now, do you remember in what condition the
15 Defendant was in when he got to your house?

16 A Yeah. Like I say, he was about normal. He came by.
17 And he talked, and he left.

18 Q He was normal?

19 A Pretty much normal, I'd say.

20 Q Well, what do you mean "pretty much"? I don't want
21 to put words in your mouth.

22 A Because when he came by the house, only I did -- he
23 stopped. And they said he had messed up.

24 Q He said he had messed up?

25 A No. I didn't say he, I said "they."

1 Q Okay. If you could read from your statement. Start
2 right there.

3 A He was -- what is it --

4 Q Let me ask you this --

5 A -- sweating a lot --

6 Q -- is that normal for Mr. Williams?

7 A He was sweating a lot. I would guess so. It was hot
8 that day. I'm telling you, it was hot that day. The
9 window was down.

10 Q And he was perfectly normal?

11 A Yeah.

12 Q And you didn't do anything to -- how did you try to
13 prevent him from leaving your house?

14 A The only thing I did was told him, stop, let me talk
15 to you.

16 Q Okay. And that's all you did?

17 A That's all I did.

18 Q You didn't try to reach in and get his keys?

19 A I told him to stop.

20 Q But you didn't reach in. All right. Whenever the
21 officers came to your house to get this statement, how
22 much of what you knew about the case did you put in this
23 statement?

24 A I couldn't tell you. I don't remember. Because,
25 like I said, when they came -- I'm nervous. I'm real

1 nervous. I'm going to tell you, I'm real nervous. And I
2 don't know.

3 Q Well, I'm not trying to make you nervous.

4 A Well --

5 Q Did you leave things out of this statement?

6 A Not that I know of.

7 Q Did the officers ask you about certain things that
8 you had left out of this statement?

9 A I'm not quite sure what you're saying.

10 Q All right. Let's look at your statement again. Is
11 this your statement right here, this part right here?

12 A Okay.

13 Q And what does it say?

14 A It says I jumped out of my truck.

15 Q And?

16 A And he took off.

17 Q Okay. So why did you jump out of your truck?

18 A I was trying to talk to him. I told you, I tried to
19 stop him.

20 Q Did you, also, say in your statement that he did not
21 have anything to live for?

22 A When I talked to him?

23 Q Yes.

24 A Uh-huh.

25 Q And did you, also, say in your statement he was

1 getting his paperwork together for his daughter?

2 A I think -- yeah, I guess.

3 Q Okay.

4 A Yeah, yeah.

5 Q Did he tell you over and over again that he had to go?

6 A Uh-huh.

7 Q Did he tell you that he had messed up?

8 A He said he had to go, yeah, because he said he had
9 messed up.

10 Q Okay. And you didn't leave things out of this
11 statement on purpose?

12 A No.

13 Q You didn't?

14 A No. I guess not, no. Not to my knowledge, I didn't.

15 Q After you wrote the statement -- did you have a
16 conversation with the officers after you wrote the
17 statement?

18 A After I wrote the statement? I didn't write the
19 statement.

20 Q After you signed the statement?

21 A I talked to them.

22 Q Okay. And what did they ask you about things that
23 were left out of the statement?

24 A I couldn't tell you. I don't remember.

25 Q Well, let me ask you this. What did you tell the

1 officers that you did not put in your statement?

2 A I can't -- I don't --

3 Q Did you tell the officers something you did not put
4 in your statement?

5 A No.

6 Q You did not?

7 A No, I didn't.

8 Q All right. Did they -- and you deny telling the
9 officers that you tried to get his key out of his truck --
10 out of his Tahoe?

11 A No. Like I said, I'm not going to jump in front of a
12 car, no.

13 Q All right. Did you talk to Mr. Williams again at all
14 after this day?

15 A I think the last time I talked to him -- I'm trying
16 to think. He called me. I was on a trip. And we talked
17 on the phone. That was it.

18 MS. MUNSON: I have nothing further at this time,
19 Your Honor.

20 THE COURT: Any questions for the witness?

21 MR. WARDER: Yes.

22 CROSS-EXAMINATION

23 BY MR. WARDER:

24 Q Tracy, the statement they had, who wrote that out?

25 A The officer.

1 Q Okay. Did you and them talk, and they chose what to
2 put in the statement?

3 A Yeah. They kept asking me questions.

4 Q Okay. And you'd answer the questions. And then
5 they'd write on the statement some?

6 A Right.

7 Q And then they'd ask you some more questions and
8 they'd write on the statement?

9 A Right.

10 Q Did you ever stop them from writing on the statement?

11 A No, sir.

12 Q And when they got done, they wanted you to sign it?

13 A They said to sign it. That's all.

14 Q Okay. And, now, they weren't taking down exactly
15 what you said, they were taking the substance of it down.
16 Would that be right?

17 A I would think so.

18 Q They asked you to read over it, or they asked you to
19 sign it, or how did that go?

20 A They asked me to sign it.

21 Q Okay. And you did sign it?

22 A Yes.

23 Q And after that, did you make any statement? Did they
24 ask you to sign anything else?

25 A No. The only time I talked to them again, the

1 Solicitor came by the house, what, about a month ago
2 maybe.

3 Q The officer and the Solicitor came by your house a
4 month ago?

5 A Yeah. Her and the guy back here in the back, and
6 said they were the Solicitor. They came by the house.

7 Q Okay. Did you make a statement that day?

8 A They talked to me. That was it. And then they
9 called me this morning. Well, they told me on my
10 statement -- that's why I'm here this morning, because
11 they told me -- brought me a statement and told me, well,
12 we don't need him. We won't use him because we don't need
13 him. But then they called me this morning and said the
14 Judge said I needed to hurry up and get here.

15 MR. WARDER: Okay. Just a minute, Your Honor.

16 THE COURT: Uh-huh.

17 (Pause.)

18 MR. WARDER: Your Honor, that would be all the
19 questions I have.

20 THE COURT: Any redirect?

21 MS. MUNSON: Yes, ma'am.

22 REDIRECT EXAMINATION

23 BY MS. MUNSON:

24 Q I came by your house?

25 A No. I said her and the guy, the black guy.

1 Q And what did you tell them?

2 A They asked me a question. They asked me about how
3 long they been separated, and stuff like that.

4 Q What did you tell them about Mr. Williams?

5 A The only thing I told them was about -- they asked me
6 questions. And I would answer them to the best of my
7 knowledge. They were asking me about how long he was
8 separated, and stuff like that.

9 Q Now, what did you tell them about Mr. Williams being
10 at your house?

11 A I couldn't tell you. I don't remember.

12 Q You don't remember?

13 A I don't. Honestly, I don't.

14 Q And you didn't tell anybody things that Mr. -- that
15 this Defendant -- you didn't tell anybody things that he
16 told you over the phone?

17 A What he told me over the phone?

18 Q Yeah.

19 A (Witness shook head.)

20 Q And it's your testimony that he never told you
21 anything about what happened at Natasha's, that's your
22 testimony?

23 A No. He never told me anything about it.

24 Q Nothing?

25 A No.

1 MS. MUNSON: Okay. Nothing further, Your Honor.

2 THE COURT: Any objection to the witness being
3 excused from the State?

4 MS. MUNSON: I would like to have the opportunity to
5 recall him, if necessary.

6 THE COURT: Sir, you're excused subject to being
7 recalled.

8 THE WITNESS: Okay.

9 THE COURT: You may call your next witness.

10 MS. MUNSON: The State calls Cynthia Booker.

11 THE WITNESS: Do they need me now, or can I leave?

12 THE COURT: You can leave the courthouse, but they
13 may call you to re-testify.

14 Thank you so much.

15 THE WITNESS: Okay.

16 THE CLERK: Ms. Booker, if you would come forward to
17 be sworn in.

18 THE COURT: Come forward.

19 MS. CYNTHIA BOOKER: Come up there?

20 THE CLERK: Yes.

21 Would you, please, place your left hand on the Bible
22 and raise your right.

23 MS. CYNTHIA BOOKER: It's against my religion to
24 swear, but I promise to tell the truth.

25 THE COURT: You can affirm, ma'am.

1 Do you want to affirm?

2 MS. CYNTHIA BOOKER: Yes.

3 THE CLERK: Thank you.

4 You may sit down.

5 Would you, please, state your name for the record?

6 MS. CYNTHIA BOOKER: Cynthia Booker.

7 THE CLERK: Thank you.

8 MS. CYNTHIA BOOKER: You're welcome.

9 THE COURT: You may proceed.

10 MS. MUNSON: May it please the Court.

11 DIRECT EXAMINATION

12 BY MS. MUNSON:

13 Q Where do you live?

14 A [REDACTED] here in Greenville.

15 Q Who lives with you?

16 A My son.

17 Q All right. Do you know Willie Marvin Williams?

18 A I know of him.

19 Q Okay. Well, did you ever meet him?

20 A Yes.

21 Q When was the first time you met him?

22 A I met him on June 28th.

23 Q And where did you meet him?

24 A I was at a clubhouse called Matrix. It's here in
25 Greenville.

1 Q Is it still around?

2 A Yes.

3 Q Where is it kind of generally?

4 A It's located off of White Horse Road.

5 Q What kind of a club is it?

6 A It's a place where bikers -- like motorcycle bikers
7 go and hang out.

8 Q Okay. How did you come to meet him there?

9 A My older sister, she had a birthday on [REDACTED] [REDACTED]. So
10 we was out like on the [REDACTED] with her. That was like on a
11 Sunday. And we wanted to bring in her birthday in that
12 way by being out with her. So we was at Matrix. And he
13 saw me. And he approached me and we started
14 conversating [sic].

15 Q Okay. What did he tell you about his marital status?

16 A At that time, he didn't.

17 Q Okay.

18 A He didn't discuss his marital status.

19 Q Not on the [REDACTED]?

20 A No.

21 Q Did he at some point?

22 A Yes.

23 Q And what did he tell you?

24 A When we met up again later in the middle of the week,
25 he told me he was a married man, and that they were

1 separated.

2 Q Okay. Now, when you conversated [sic] the first time
3 you met him, did you make any plans to meet later?

4 A Yes.

5 Q Okay. And how did you establish those plans?

6 A We just -- basically, you know, just wanted to pursue
7 the conversation, you know, that we had when we first met.
8 And he wanted to see me again.

9 Q Okay. And did you want to see him again?

10 A At the time, I did.

11 Q Okay. Now, when was the next time you, actually, saw
12 him?

13 A After the first time -- not meeting him, but after
14 the first time I saw him?

15 Q Yes, ma'am. After the 28th when you first started
16 talking at the Matrix, when was the next time you,
17 actually, saw him?

18 A It was on a Friday, Friday night of that same week of
19 the 28th.

20 Q Okay.

21 A Because I met him on a Sunday, and that was the 27th.
22 But, you know, over the morning hour, you would consider
23 that another day, which was the 28th.

24 Q Okay.

25 A And then after that, I met him -- we

1 conversated [sic] through the week. And we made plans to
2 meet on that Friday night of that same week of the 28th.

3 Q And did you, actually, meet?

4 A Yes, we did.

5 Q And do you remember what that date was that you met
6 with him?

7 A By that being the -- Monday, being the 28th, I don't
8 remember the date exactly as of this moment. But it was
9 that Friday.

10 Q When you say "that Friday," what do you mean?

11 A The week of.

12 Q All right. And where did you meet him?

13 A I met him at another location. We call it The Barn,
14 which is another clubhouse. And that's where people can
15 meet out and socialize.

16 Q Generally, where is The Barn?

17 A That place is, also, located off of White Horse Road.
18 But it's on the other end of White Horse Road where we had
19 first met.

20 Q Okay.

21 A And, actually, it was like near -- it was closer to
22 my apartment.

23 Q All right. And where was --

24 A The other place.

25 Q I'm sorry. Where was your apartment?

1 A I was -- resided at [REDACTED] [REDACTED] [REDACTED] [REDACTED] here in
2 Greenville.

3 Q All right. Now, how did y'all decide to meet at The
4 Barn? Who called who?

5 A He called me and I brought it up. Because I have
6 friends that be [sic] out there. And he wanted to see me.
7 And, at the time, I didn't want to be with him alone,
8 because I had just met him. So I had called my aunt to
9 ride with me. As a matter of fact, she was with me on the
10 night that I met him.

11 Q Okay.

12 A And I asked her to ride with me. Because, like I
13 said, I had just met him. And I just wanted her to kind
14 of like help me, you know, kind of judge what kind of type
15 of guy I'm getting involved with.

16 Q And did you meet him there at The Barn?

17 A So I met him there at The Barn -- no, no, I didn't
18 meet him at The Barn. We discussed about meeting at The
19 Barn.

20 Q Okay.

21 A So upon that discussion, he -- we got together at a
22 place called Steel Wheels. And Steel Wheels is -- it's
23 another motorcycle club. And we went -- we met up there.
24 And he hadn't got there yet.

25 So me and my aunt was there outside standing outside

1 my car. And we was talking. And he came like around
2 12:00. Because I seen him pulling up when I looked at my
3 watch.

4 Q Okay.

5 A I seen him pulling up. And he got there and parked,
6 and we talked. And that's when we were talking about
7 going to The Barn.

8 So we was there -- when he pulled up, we was right
9 there at Steel Wheels for about 45 minutes. And he said,
10 Well, let me follow you to your house, your apartment, and
11 let you park your car since The Barn was close to my
12 apartment, and you can ride with me.

13 So I told him I'm not going to ride with him alone,
14 could my aunt go? And he said, Yes. So we did that.

15 Q And you rode with him, you and your aunt?

16 A When we got to my house and parked my car, my
17 vehicle, we got into his car.

18 Q And what -- describe the car you got into.

19 A A black Chrysler 300.

20 Q And from there, you went to The Barn?

21 A Yes.

22 Q And how long did you stay there?

23 A When we got to The Barn, it was -- we was -- it was
24 like about 1:30 or so. And we stayed there until about --
25 I guess around 3:45 in the morning. Because they be [sic]

1 open late.

2 Q Okay. And when did you leave The Barn?

3 A Well, actually, I didn't leave with him. He left me
4 and my aunt.

5 Q Around when?

6 A Around -- it was about 3:45 when I saw the time.

7 Q Okay. And did you have a conversation with him
8 before he left?

9 A Well, when we got to The Barn, we all went inside.
10 And we stayed there up until 15 minutes before he decided
11 to leave, which the time became around 3:45.

12 Q Okay.

13 A You know, I had -- when we was there at The Barn, we
14 sat there and talked. And he was drinking. And, you
15 know, I had beer. And I was -- I had a beer. I don't
16 know how many he had, but I know it was more than one.

17 Q Okay.

18 A And my aunt was there. We all sat at the same table.
19 I had other friends there. So I decided to get up after
20 sitting there for a little while. And I wanted to go
21 outside The Barn. It's like a clubhouse.

22 Q Okay.

23 A And I went outside and started communicating with my
24 other friends there. And I guess I took too long being
25 outside. Because by the time I came in -- was going back

1 into The Barn -- they have two entrances. They have a
2 side entrance and they have a front entrance. So it's two
3 doors. And both doors was open.

4 So I was going to the one I came out of. And
5 Mr. Williams was going out the other one. So I wasn't
6 going to chase him to see why he was leaving. Because I
7 have bronchitis and I'm not going to be chasing him. And
8 I went back in and asked my aunt why was he leaving. She
9 said that he was telling her to let me know he was ready
10 to go. And I said, Well, he could have told me he was
11 ready to go, you know. We're riding with him. But I
12 didn't pursue that conversation, you know, right then.

13 And so I -- the entrance -- the door I went back
14 into, I came back through. And I was going across the
15 doorway -- you have to go across the doorway to get to the
16 restroom. So I said let me use the restroom right quick
17 before we leave with him. Because I seen him going to his
18 car, which is the Chrysler 300. And I waved my hand like
19 wait a minute, like that. And he waved back, like okay.
20 And I seen him on his phone. And he was in his car. And
21 I went to the restroom. And I was telling her --

22 Q Well, don't say what you told anybody --

23 A I was telling my aunt -- I'm sorry. I was telling my
24 aunt in the restroom, because she went with me.

25 Q Okay.

1 A I was telling her that he had asked me to go --

2 MR. WARDER: I object to what she was telling her
3 aunt.

4 THE COURT: Sustained.

5 BY MS. MUNSON:

6 Q Ms. Booker, just -- when he left --

7 A Okay.

8 Q -- in his car, how did he leave?

9 A Okay. After leaving the restroom, coming out -- and
10 I was -- we was getting ready to go to him. I didn't have
11 a chance to because he kicked -- his car, he kicked the
12 wheel in the parking lot, rocks going everywhere. Because
13 it was gravel, and dirt, and rocks that you have to park
14 your car on. So we just got left.

15 Q What do you mean he "kicked the wheel"?

16 A He took off in his car. He left.

17 Q But what do you mean "kicked the wheel"?

18 A I mean, you know how a tire will kick the wheel, just
19 throw gravel if you're leaving in a hurry. That's what I
20 mean.

21 Q All right. Did you try to get in touch with him
22 after that?

23 A I couldn't, because I left my cell phone in my car.
24 I didn't have my cell phone. So I didn't know any numbers
25 by heart. And there was a lady there that seen we got

1 left, so she offered to give me a ride to my apartment.

2 Q And after you got back to your apartment, did you try
3 to get in touch with him?

4 A No. I was really -- at that time, I didn't. Because
5 my son was there. And he wanted to know what had
6 happened.

7 Q Okay.

8 A And I explained to him what happened. And my aunt --
9 it was late. And so my son said we're going to go in my
10 car and take her home. So I didn't get my phone out of my
11 car yet.

12 Q Okay. Did you ever try to contact him?

13 A Yes, I did.

14 Q How soon after the incident where you got left?

15 A It was like about I'd say 30 minutes. Because we
16 took my aunt home, and came back to my house. And then I
17 got my phone and called.

18 Q And did you get an answer?

19 A No, I didn't.

20 MS. MUNSON: Nothing further at this time, Your
21 Honor.

22 THE COURT: Any questions for the witness?

23 MR. WARDER: No questions, Your Honor.

24 THE COURT: Any objection to the witness being
25 excused from the State?

1 MS. MUNSON: No, ma'am.

2 THE COURT: From the Defense?

3 MR. WARDER: No, ma'am.

4 THE COURT: Ma'am, you're excused.

5 THE WITNESS: Thank you.

6 THE COURT: You're welcome.

7 You may call your next witness.

8 MS. MUNSON: Craig Hawkins -- may we approach, Your
9 Honor?

10 THE COURT: You may.

11 (WHEREUPON, a bench conference was held.)

12 THE COURT: Mr. Foreman, and, ladies and gentlemen,
13 we've moved a little more quickly than we expected this
14 morning. So we need to take a short break to determine
15 what witnesses are here and available to testify.

16 During the break, please, do not discuss the case.
17 And, please, leave your notepads in your seats. We
18 appreciate your patience.

19 (WHEREUPON, the jury was excused from open court at
20 approximately 12:03 p.m.)

21 THE COURT: We'll be at ease for five minutes while
22 the Solicitor determines who their next witness will be.

23 MS. MUNSON: Thank you, Your Honor.

24 THE COURT: You're welcome.

25 (WHEREUPON, a break was taken.)

1 THE COURT: Have you figured it out?

2 MS. MUNSON: Yes, ma'am, Your Honor.

3 I would suggest, Your Honor, that we take lunch now
4 in order to -- well, just that we take lunch now.

5 THE COURT: Does that mean you don't have an
6 available witness?

7 MS. MUNSON: I do have an available witness, but it's
8 not when I wanted to call them.

9 THE COURT: Oh, okay.

10 MS. MUNSON: I mean, I've really gone out of order
11 already.

12 THE COURT: Well, I hope you're not making a
13 decision based on when I'm going to make a decision. I
14 may not make a decision until almost the end of the
15 trial.

16 MS. MUNSON: No, ma'am. That's not it.

17 THE COURT: Okay. I just wanted to tell you that
18 just in case.

19 MS. MUNSON: I appreciate that.

20 THE COURT: All right. Is there any exception to us
21 taking lunch?

22 MR. WARDER: We'll do -- whatever Your Honor wants to
23 do is fine with us.

24 THE COURT: Well, then we'll come back at 1:30.

25 Get the jury for me, please.

1 (WHEREUPON, the jury came into open court at
2 approximately 12:15 p.m.)

3 THE COURT: Mr. Foreman, ladies and gentlemen, we're
4 going to take advantage of this break in testimony to take
5 our lunch recess. We're going to resume testimony at
6 1:30.

7 During the break, please, do not discuss the case
8 among yourselves or with anyone else. Please don't have
9 any contact with anyone in or about the courthouse. And
10 don't allow yourselves to be exposed to any media coverage
11 regarding the case. Have a good lunch. Please leave your
12 notepads in your seats. And we'll see you at 1:30.

13 (WHEREUPON, the jury was excused from open court at
14 approximately 12:17 p.m.)

15 THE COURT: We'll be at ease until 1:30.

16 (WHEREUPON, a lunch break was taken.)

17 THE COURT: Is the State ready to proceed?

18 MS. MUNSON: Yes, Your Honor.

19 THE COURT: Is the Defense ready to proceed?

20 MR. JONES: Yes, Your Honor.

21 THE COURT: Who's the State's next witness?

22 MS. MUNSON: Dr. Michael Ward.

23 THE COURT: All right. Please bring in the jury.

24 (WHEREUPON, the jury came into open court at
25 approximately 1:32 p.m.)

1 THE COURT: Ladies and gentlemen, I hope you all had
2 a pleasant lunch and recess. We're now going to resume
3 with testimony.

4 The State may proceed.

5 MS. MUNSON: May it please the Court, Your Honor.

6 The State calls Dr. Michael Ward.

7 THE CLERK: Dr. Ward, if you'll place your left hand
8 on the Bible and raise your right hand.

9 WHEREUPON,

10 MICHAEL EUGENE WARD, M.D.,
11 after first having been duly sworn, testified as follows:

12 THE CLERK: Thank you.

13 You may be seated.

14 Would you, please, state your name for the record?

15 THE WITNESS: Michael Eugene Ward.

16 THE CLERK: Thank you.

17 THE COURT: You may proceed.

18 MS. MUNSON: Thank you, Your Honor.

19 THE COURT: You're welcome.

20 DIRECT EXAMINATION

21 BY MS. MUNSON:

22 Q Who do you work for, sir?

23 A I'm employed by Pathology Associates of Greenville,
24 and by Greenville County as a forensic pathologist and
25 chief medical examiner for Greenville County.

1 Q What are your duties as the chief medical examiner of
2 Greenville County?

3 A My responsibilities are to investigate deaths that
4 occur in the county to determine cause of death, as well
5 as manner of death.

6 Q Please tell the jury about your educational
7 background.

8 A I have a Bachelor's Degree in Biology from the
9 University of Alabama. I received a Master's Degree in
10 Forensic Science from the University of Alabama at
11 Birmingham. My medical degree is from the University of
12 South Alabama, which is in Mobile.

13 I did a four-year anatomic pathology residency at the
14 Medical University of South Carolina in Charleston, and a
15 one-year fellowship in forensic pathology at the
16 University of New Mexico in Albuquerque. I'm board
17 certified by the American Board of Pathology in both
18 anatomic and forensic pathology.

19 Q What is forensic pathology?

20 A Well, pathology is the study of disease and disease
21 processes, and how they affect man. Forensics takes that
22 one step further to take disease processes trauma in
23 determining a cause and manner of death, and then the
24 presentation of that information in a court of law.

25 Q Okay. How long have you been the chief medical

1 examiner for Greenville County?

2 A 18 years.

3 Q Do you have any experience in forensic pathology
4 before you came to Greenville County?

5 A Yes. I worked for three years with the Office of the
6 Medical Investigator in New Mexico.

7 Q Are you licensed to practice medicine in South
8 Carolina?

9 A In South Carolina and New Mexico.

10 Q Okay. How do you do a -- when you're trying to
11 determine the cause of death, how do you do that?

12 A We do an external -- we do an examination of the
13 body. Generally, that's called an autopsy, which is a
14 detailed physical examination on someone who has died.
15 This includes an external examination and internal
16 examination to see the continuation of any injuries that
17 may be present on the outside to the inside to look at the
18 vital organs of the body to determine cause of death.

19 Q How many autopsies have you performed yourself over
20 the years?

21 A Well over 5,000.

22 Q Have you ever been qualified as an expert in the
23 field of forensic pathology in court?

24 A Yes, I have.

25 Q Approximately how many times?

1 A Over 100 of times.

2 Q In the courts of South Carolina?

3 A Yes.

4 MS. MUNSON: Your Honor, at this time, I offer
5 Dr. Ward as an expert in the field of forensic pathology.

6 THE COURT: Any objections or questions?

7 MR. WARDER: No, Your Honor.

8 THE COURT: So admitted without objection.
9 You may proceed.

10 MS. MUNSON: Thank you, Your Honor.

11 THE COURT: You're welcome.

12 BY MS. MUNSON:

13 Q Now, Dr. Ward, did you perform an autopsy in
14 reference to this case?

15 A Yes, I did.

16 Q On what date?

17 A The autopsy was performed on July 12th, 2010, and was
18 begun at 8:00 a.m.

19 Q And on whom did you perform this autopsy?

20 A Natasha Kerns.

21 Q Okay. Go through the process that you went through
22 in doing the autopsy on the body of Natasha Kerns.

23 A The initial portion of the autopsy begins with
24 reviewing information -- historical information,
25 generally, from the coroner's office. Then the next step

1 is an external examination where we look at the outside of
2 the body for any evidence that may be present, for any
3 documentation of wounds that may be present. And we
4 document those both photographically and diagrammatically.

5 We then proceed with an internal examination to look
6 at the organs of the chest, the abdomen, as well as the
7 brain to look for any disease process that may be present,
8 as well as any injury that we noted on the outside as it
9 continues to the inside of the body. We, also, remove
10 certain specimens for toxicological analysis, or looking
11 for alcohol and drugs.

12 Q And is that the process you went through with Natasha
13 Kerns's body?

14 A Yes, it is.

15 Q Let's just take them one at a time then. Tell the
16 jury what you found in the external examination of
17 Natasha's body.

18 A On external examination, there was a gunshot wound to
19 her face, which entered just inside of her right eye. So
20 between the bridge of the nose and the inner corner of her
21 eye was a gunshot wound entrance. This was a circular
22 gunshot wound. There was no evidence of any -- what we
23 call gun powder residue, which would be soot, unburned gun
24 powder present on the skin. But there were multiple areas
25 of abrasion of the skin, which are small scratches.

1 And these are irregularly shaped and
2 irregularly-sized superficial scratches of the skin
3 surrounding this gunshot wound. And that's best described
4 as intermediate target defect, basically, meaning that the
5 bullet passed through something else before it struck Ms.
6 Kerns in the face. And the object that the bullet passed
7 through, portions of those hit her in the face causing
8 those superficial scratches on the skin around the gunshot
9 wound, not only on the skin surrounding the wound, but,
10 also, on the inside portion of the eyes.

11 So her eyes were open when the bullet impacted her
12 face.

13 Q And the internal examination, what did you discover?

14 A Examination of the chest and abdomen revealed no
15 relevant findings as to her death. Examination of the
16 brain revealed that there were basilar skull fractures.
17 So those are bones of the face between the -- between the
18 face and the brain. That's the basilar portion of the
19 skull.

20 So there were fractures associated with the gunshot
21 wound at the entry, as well as the wound tract of this
22 missile as it went through both the right and left halves
23 of the brain.

24 Q Okay. With what you found in the internal
25 examination, from an injury like that, do you have an

1 opinion about whether or not Natasha would have been able
2 to move around and -- after that?

3 A In my opinion -- it's my opinion that Ms. Kerns would
4 have dropped virtually immediately after receiving that
5 gunshot wound. She may have shown signs of life. She
6 very likely had a heart beat.

7 There is autopsy evidence that she continued to take
8 some breaths after receiving this wound. And that's due
9 to the fact that she has blood present within her lungs
10 having inhaled that following the gunshot wound. But she
11 would not have had purposeful movement.

12 Q Okay. With an injury like this, what -- as far as
13 body fluids coming out, what would you expect as far as
14 that?

15 A I would expect that there would have been a great
16 deal of blood present at the scene coming from the gunshot
17 wound of entrance. There would have been blood in her
18 sinuses. As this bullet passes from the outside to the
19 inside, it goes through the sinus passages. So there
20 would be blood there.

21 So she's not only inhaling it, but may, also, cough
22 it out. As she breathes in, this may cause sort of a gag
23 reflex causing her to cough. So some of that blood may
24 have been coughed out. It would very likely be flowing
25 out of the wound onto her face, and then onto the ground

1 or onto the floor of her house. In fact, when she arrived
2 at the autopsy facility, she had a great deal of dried
3 blood on and about her face.

4 Q On the internal examination, were you able to recover
5 the bullet out of Natasha's head?

6 A Yes, I was.

7 Q And where did you find that?

8 A The entrance wound is just inside the right eye. The
9 missile was recovered on the left side of the back of the
10 head just beneath the skin. So this wound passed through
11 the bones of the face, through the brain, and then through
12 the bone of the left back portion of the skull, and then
13 stopped beneath the skin there.

14 So as we were removing the brain, as we peeled the
15 scalp forward, the missile was recovered.

16 MS. MUNSON: May I approach, Your Honor?

17 THE COURT: You may.

18 BY MS. MUNSON:

19 Q Dr. Ward, I'm showing you State's Exhibit No. 48.
20 Can you take a look at that?

21 A Yes, ma'am.

22 Q Do you recognize that?

23 A I do.

24 Q How do you recognize it?

25 A I recognize it from my description of the missile and

1 from the container in which I placed it in, which has
2 Ms. Kerns's unique autopsy number and my initials.

3 Q Okay. Thank you.

4 Now, Dr. Ward, did you, also, as part of preparation,
5 review two photographs?

6 A Yes, I did.

7 Q And would they or would they not be helpful in
8 explaining to the jury what you found at autopsy?

9 A They would, certainly, be helpful.

10 Q I'm showing you State's Exhibit Nos. 46 and 47. Do
11 you recognize them?

12 A Yes, I do.

13 Q Are they true and accurate depictions of Natasha
14 Kerns's face.

15 A Yes, they are.

16 THE COURT: You need to show them to the Defense.

17 MS. MUNSON: Your Honor, at this time, I move State's
18 Exhibit Nos. 46 and 47 into evidence.

19 MR. WARDER: Without objection, Your Honor.

20 THE COURT: Marked and admitted without objection.

21 (WHEREUPON, State's Exhibit Nos. 46 and 47 were
22 admitted into evidence.)

23 BY MS. MUNSON:

24 Q Dr. Ward, you may want to use that laser pointer
25 there. Let's look at State's Exhibit No. 46 first.

1 Dr. Ward, this is State's Exhibit No. 46. Which
2 portion of Natasha Kerns's face is this?

3 A This is the left side of Ms. Kerns's face. For
4 orientation, this is her left eyebrow, her eyelid, and
5 eyelashes. There is a bruise surrounding her left eye.
6 This is very common when we have a basilar skull fracture.
7 The blood is able to seep between the bones -- or through
8 the bones that are broken and then accumulate in the soft
9 tissue around the eyes.

10 So it shows this contusion -- or bruise around her
11 left eye. And it, also, shows these irregular areas of
12 abrasion, the intermediate target defect indicating that
13 this missile has passed through something else before it
14 struck Ms. Kerns on the right side of her face.

15 Q And let's look at State's Exhibit No. 47. And,
16 please, orient the jury to this exhibit.

17 A Yes, ma'am. This is the right side of Ms. Kerns's
18 face, her forehead, right eyebrow, eyelashes, and her
19 nose. So here's the bridge of the nose. And this is the
20 inner angle of her right eye.

21 And here's the gunshot wound of entrance, a circular
22 entry wound here with an abrasion collar surrounding it.
23 That helps us know that that's the gunshot wound of entry.
24 And, again, the multiple abrasions present on the skin
25 from the impacting material that this bullet passed

1 through.

2 Q Now, Dr. Ward, let me just show you one other exhibit
3 that's in evidence. Here it is. It's State's Exhibit
4 No. 11. The -- on the shirt of Ms. Kerns that's been
5 identified as Ms. Kerns on the scene, that area right
6 there, what does that appear to be to you?

7 A It looks like blood.

8 Q And how could that get on Ms. Kerns based on the
9 wound that she had?

10 A Certainly, as soon as this missile impacts Ms. Kerns
11 through the very vascular portion of the skin, her face is
12 going to start to bleed. As she's falling, it could,
13 certainly, be dropping onto her skin -- I'm sorry, onto
14 the clothing of her chest.

15 Q Okay. Now, Dr. Ward, do you have an opinion as to
16 the cause of Natasha Kerns's death?

17 A Yes, I do.

18 Q And what is that?

19 A Ms. Kerns died as a result of a gunshot wound of the
20 head.

21 Q And do you have an opinion as to the manner of her
22 death?

23 A Yes, I do.

24 Q What is that?

25 A The manner of death was homicide.

1 MS. MUNSON: Thank you.

2 I have nothing further, Your Honor.

3 THE COURT: Any questions for the witness?

4 MR. WARDER: Just a couple.

5 THE COURT: You may proceed.

6 CROSS-EXAMINATION

7 BY MR. WARDER:

8 Q Doctor, just kind of a summary. There was only one
9 gunshot wound in the victim; is that right?

10 A That is correct.

11 Q And it probably happened almost an instantaneous
12 death?

13 A It, certainly, was a near instantaneous
14 incapacitation. Clinically speaking as a physician, she
15 was not dead. But in an outward appearance, she probably
16 appeared dead, yes.

17 Q Okay. And would this be consistent with being shot
18 through a glass window, for example?

19 A Yes, it would.

20 MR. WARDER: Thank you very much.

21 THE COURT: Any redirect?

22 MS. MUNSON: No, ma'am.

23 THE COURT: Any objection to the witness being
24 excused from the State?

25 MS. MUNSON: No, ma'am.

1 THE COURT: From the Defense?

2 MR. WARDER: No, Your Honor.

3 THE COURT: Doctor, you're excused.

4 THE WITNESS: Thank you.

5 THE COURT: You're welcome.

6 The State may proceed.

7 MS. MUNSON: May it please the Court.

8 Your Honor, the State calls Wayne Campbell.

9 THE CLERK: Mr. Campbell, if you would come forward
10 to be sworn in, please.

11 Would you, please, place your left hand on the Bible
12 and raise your right?

13 WHEREUPON,

14 WAYNE TAYLOR CAMPBELL,
15 after first having been duly sworn, testified as follows:

16 THE CLERK: Thank you.

17 You may be seated.

18 Would you, please, state your name for the record?

19 THE WITNESS: It's Wayne Taylor Campbell.

20 THE CLERK: Thank you.

21 DIRECT EXAMINATION

22 BY MS. MUNSON:

23 Q Who do you work for, sir?

24 A The Greenville County Sheriff's Office.

25 Q What's your job title?

1 A I am a homicide investigator.

2 Q And what are your duties?

3 A My duties are to investigate violent crimes and
4 deaths.

5 Q How long have you been with the Sheriff's Office?

6 A I've been with them since 2002.

7 Q All right. And when did you become involved in this
8 case?

9 A I became involved in this case on Saturday, July 10th
10 of 2010.

11 Q And how did you get involved?

12 A Investigator Whaley -- I was at home and -- I live in
13 the northern part of Laurens County. Investigator Whaley
14 notified me that Laurens County was chasing a murder
15 suspect. He gave me the name. And I went on the DMV
16 files and learned that he lived about two miles from where
17 I lived. So I started heading in that direction.

18 Q And what happened as you started heading in that
19 direction?

20 A I pulled over to use my cell phone to try to get in
21 contact with another deputy. I couldn't reach him. So I
22 called dispatch to try to find out where the deputies that
23 were in pursuit of this suspect were. I learned that they
24 were in pursuit in the northern part of the county. And
25 while I was on the phone, the suspect's vehicle, as well

1 as three Laurens County deputies, came by me. I cut on
2 blue lights, siren, and joined in on the pursuit.

3 Q Did it, eventually, end?

4 A Yes, ma'am, it did.

5 Q When the pursuit ended, what did you do?

6 A It ended on the backside of the public square in
7 Laurens, the city of Laurens. I parked my vehicle away
8 from where the vehicle had come to rest. I went down.
9 They were starting to cuff the suspect, Mr. Williams.

10 At that point in time, I holstered my weapon and
11 assisted in handcuffing him. And I pulled his wallet --
12 after asking his name, he refused to answer. So we pulled
13 his wallet and made sure that was the person we were
14 looking for.

15 While I was -- he was lying handcuffed to the back
16 right on the sidewalk, the edge of the road. And I was
17 told to be careful that there was blood about his person.

18 At that point in time, I raised his shirt and could
19 see a laceration on, I believe, it was his left nipple. I
20 asked for, first, gloves and first aid stuff, and asked if
21 they would call EMS.

22 Q And did EMS, eventually, get there?

23 A They did.

24 Q Okay. Now, later on in the investigation,
25 Investigator Williams -- Campbell, did you get involved

1 with talking to any witnesses?

2 A Investigator Whaley, Miller, and myself met in
3 Laurens County. I had ran some errands the morning of --
4 I believe it's the 14th. It is the 14th, which was a
5 Wednesday. I had went and tried to collect some
6 documentation of the chase and things in Laurens County,
7 Laurens City. I met with them and we went over to
8 Mr. Irby's residence.

9 Q And do you know, generally, where the residence was?

10 A Referring to my report -- give me just a minute and I
11 can give you his address.

12 We went to [REDACTED] [REDACTED] [REDACTED] in Laurens, South
13 Carolina.

14 Q And during the process of your interview with
15 Mr. Irby, explain for the jury how that happened.

16 A Basically, we were invited in his residence to his
17 den area. Investigator Whaley was doing the interview.
18 Miller and I were just sitting back. We were going to
19 assist in a search warrant later that morning.

20 During the interview, Investigator Whaley was
21 handwriting the statement out. And a conversation struck
22 up between the three of us, Mr. Irby, myself, and Miller,
23 basically, about Mr. Williams --

24 Q Okay. Let's not go exactly there yet. As -- after
25 the statement was written out -- handwritten; is that

1 correct?

2 A It was handwritten.

3 Q By Investigator Whaley. What did you do with the
4 written statement then? What was done as far as Mr. Irby
5 goes with the written statement?

6 A He was allowed to proofread the statement, make sure
7 everything was correct, whether something needed to be
8 added, deleted, or anything like that, make sure it was
9 what he wanted it to say.

10 Q Okay.

11 A And then he was asked to sign it.

12 Q Okay. Now, how is he treated during this process?

13 A As respectful as you could treat someone. I mean, we
14 were in his home.

15 Q Was he under arrest, or anything like that?

16 A No, ma'am, he was not.

17 Q Now, after the statement was written and signed, did
18 you have a conversation with him about something that was
19 not in the statement?

20 A Yes. The -- like I say, the three of us started
21 talking about Mr. Williams. And he made some statements
22 that we tried to get put into the written statement, and
23 he did not want that there.

24 Q Okay. Now, when you say we tried to get him to put
25 it in the written statement, how did you go about doing

1 that?

2 A We just asked him if we could include that into the
3 statement that Investigator Whaley had handwritten.

4 Q And what was his response?

5 A He did not want to incriminate his friend.

6 MS. MUNSON: Your Honor, at this time, I think we
7 have a matter of law to take up.

8 THE COURT: Mr. Foreman, and, ladies and gentlemen,
9 we have a brief matter of law to take up. During the
10 break, please, do not discuss the case. And, please,
11 leave your notepads in your seats.

12 (WHEREUPON, the jury was excused from open court at
13 approximately 1:50 p.m.)

14 THE COURT: Yes, ma'am.

15 MS. MUNSON: May it please the Court.

16 Your Honor, at this time, I intend to elicit from
17 Investigator Campbell the fact that Mr. Irby, who earlier
18 on the stand denied telling the investigators that
19 Mr. Williams said that he killed Natasha, he denied that
20 on the stand. So I intend to introduce that now through
21 Investigator Campbell.

22 THE COURT: You should have introduced it through
23 Mr. Irby. You should have given him the opportunity --
24 you should have confronted him with the fact that you had
25 an extraneous statement and did he want to change his

1 story.

2 MS. MUNSON: I believe I did ask him that, Your
3 Honor.

4 THE COURT: You asked him if he said it, but you
5 didn't ask him -- you didn't ask him that specifically.
6 What you asked him was if he had left certain things out
7 of his statement, but you never asked him directly if that
8 is what he left out of his statement.

9 And we should have done it in-camera and given him
10 the opportunity to either admit or deny that. You asked
11 him, you said, was your memory better that night or then,
12 which -- and I'm paraphrasing what he said. He said, I
13 assume it was better then. You gave him an opportunity to
14 review his statement. And you asked him if there were
15 certain things he did not allow to be put in his
16 statement.

17 But you were never specific about what it was he
18 didn't put in his statement. You made a very generalized
19 statement about it, about whether there were things he had
20 left out of his statement. You have to give him the
21 opportunity to admit or deny that exact statement. And I
22 don't know whether he would have admitted it or not
23 in-camera such that he would have admitted it in the
24 presence of the jury. So, now, you've got hearsay on top
25 of hearsay.

1 MS. MUNSON: Well, I, specifically, remember asking
2 him, did they ask you about leaving something out? And he
3 denied that they even asked him did he leave something
4 out.

5 THE COURT: Yeah. But then we should have taken it
6 up in-camera so that you could ask him, specifically, what
7 it was that he left out. Because, otherwise, that's just
8 overly broad and vague. If you asked me that question, I
9 may have said the same thing myself if I didn't know what
10 you were talking about. You need to, specifically, ask
11 him, did you tell the police that your friend told you
12 that he killed this person?

13 MS. MUNSON: I believe I asked him that, Your Honor
14 and he said, no, he didn't tell them that.

15 THE COURT: I'd have to look back at the transcript.
16 But I know sometimes it looks like I'm not listening, but
17 I'm listening to every single word.

18 MS. MUNSON: I know you are, Your Honor.

19 THE COURT: I just don't like for the jury to think I
20 have a position about the facts of the case, because I
21 don't. So, sometimes, I may look like I'm looking away.
22 But I would have to look back at the transcript to see
23 exactly what you asked him.

24 It was never reduced to writing? It was never
25 reduced to their notes at all as to what he said, or was

1 purported to say?

2 MS. MUNSON: Yes. It's in their statement.

3 THE COURT: Say that one more time.

4 MS. MUNSON: It's in Investigator Campbell's
5 statement that Mr. Irby said that the Defendant admitted
6 to killing Natasha. And when they asked Mr. Irby to
7 include that in his statement, Mr. Irby refused to do that
8 because he did not want to incriminate his friend.

9 THE COURT: Why didn't you just ask Mr. Irby that
10 directly?

11 MS. MUNSON: Honestly, Your Honor, I thought I did.

12 THE COURT: You didn't ask him that directly. And if
13 you needed to have asked that directly, I would have taken
14 it up in-camera. Because that would have been a better
15 way to ask it, which is did you tell the police such and
16 such, give him the chance to admit or deny it. And did
17 you, in fact, tell them that you didn't want to put this
18 stuff in the statement because you didn't want to hurt
19 your friend?

20 MS. MUNSON: Well, he denied telling them that he
21 refused to put anything in. I mean, he denied the whole
22 thing. He denied --

23 THE COURT: But you really didn't confront him with
24 that. You confronted him with a very generalized and
25 vague statement from something three years ago, which is,

1 is there anything that you left out of this statement? I
2 mean, if you ask me something that broad, I don't know, it
3 was three years ago. He kept saying, I don't remember.

4 So you should have asked him very directly what it
5 was that you were -- you are advancing that he left out of
6 the statement. The rules are very specific. They require
7 that you ask the exact statement and give the person the
8 opportunity to admit or deny it.

9 So, now, what you have is you have a hearsay
10 statement that would have come in through him because it's
11 an admission against interest. But, now, you're seeking
12 to extrinsically impeach a hearsay statement through
13 someone else when we could have dealt with it when he was
14 here directly.

15 But he's subject to being recalled, isn't he?

16 MS. MUNSON: He is, Your Honor.

17 THE COURT: When confronted with it, I don't know
18 what he'll say. I don't know whether he'll admit it or
19 deny it.

20 MS. MUNSON: Well, honestly, I felt like he was
21 confronted with it. And I'll have to rely on the
22 transcript, but I thought I asked him, specifically --

23 THE COURT: Yeah. I'd have to look back at the
24 transcript, too. My memory is not perfect, so I would
25 have to rely on that.

1 But I remember you asking him a generalized statement
2 as to whether there was anything he left out of his
3 statement after you had him review it, or either before
4 you had him review it, I can't remember.

5 MS. MUNSON: It was after he reviewed it. And then I
6 asked him if he left something out, and did they try --

7 THE COURT: Yeah. But you should have asked him
8 directly, did you tell the police this, and give him an
9 opportunity to admit or deny it.

10 MS. MUNSON: Okay.

11 THE COURT: And then give him the chance to review
12 his statement to refresh his memory. Did you tell the
13 police that you wanted some things left out? Then you
14 could have extrinsically impeached him on -- with
15 extrinsic evidence as to him telling the police -- if he
16 denied it, I didn't tell them to leave things out. You
17 could have impeached him on that, but not, necessarily,
18 what he said. It's -- it gets to be very messy.

19 MS. MUNSON: Well, I understand that, Your Honor.
20 But I do think that the hearsay within hearsay rule --

21 THE COURT: But that's why we have the rules. And
22 that's why they're specific about how it is supposed to be
23 done.

24 MS. MUNSON: If the Court's position is --

25 THE COURT: The Court doesn't have a position.

1 MS. MUNSON: -- that I didn't do that, then all I
2 would ask you to do is allow me to recall him.

3 THE COURT: Yeah. I think you need to do that before
4 I can even make an informed decision about whether this
5 can be used as extrinsic. Because you didn't ask him,
6 specifically, did you tell the police that your friend
7 said he killed his wife -- or that he killed her, and give
8 him the opportunity to admit or deny. And maybe we need
9 to take that up in-camera with him so we can hear exactly
10 what the questions are going to be and what the responses
11 are going to be.

12 MS. MUNSON: All right.

13 THE COURT: But from three years ago to ask somebody,
14 did you leave something out of a statement. That's like
15 asking somebody at a wreck -- I don't know. There are a
16 lot of moving parts to a statement.

17 MS. MUNSON: Your Honor, I'm afraid I'm going to have
18 to ask --

19 THE COURT: Well, I would assume you have other
20 questions of this witness, don't you?

21 MS. MUNSON: No, not really, Your Honor.

22 THE COURT: Well, then what we can do then is for the
23 sake of not irritating this jury -- because in case you
24 haven't noticed, they are a little irritated with us.
25 They feel like we're wasting their time, actually.

1 MS. MUNSON: I'm doing my best, Your Honor.

2 THE COURT: Well, it's not your fault. They don't
3 understand the system. They don't understand the up and
4 down. And they don't understand us saying it's going to
5 be a short break, and then it's an hour.

6 So what we'll do then is if there are other questions
7 you need to ask of the witness other than what we've dealt
8 with, you can ask those questions. I'll give the Defense
9 an opportunity to cross-examine the witness. And then you
10 can recall Mr. Irby. And then we'll -- I mean, when you
11 can get in touch with him. I don't know how far away he
12 lives from the courthouse.

13 MS. MUNSON: We'll get him, Your Honor.

14 THE COURT: And then who would your next witness be?

15 MS. MUNSON: That would be Anthony Wilson.

16 THE COURT: Which is the other alleged victim;
17 correct?

18 MS. MUNSON: Yes, ma'am.

19 THE COURT: Do you have any other questions of the
20 witness?

21 MS. MUNSON: No, ma'am.

22 THE COURT: Well, you might want to make one up.
23 Just for continuity, you might want to pull one out of
24 your hat.

25 Go ahead and get the jury for me.

1 (WHEREUPON, the jury came into open court at
2 approximately 2:00 p.m.)

3 THE COURT: We appreciate your patience, ladies and
4 gentlemen.

5 The State may proceed.

6 MS. MUNSON: Thank you, Your Honor.

7 May it please the Court.

8 CONTINUED DIRECT EXAMINATION

9 BY MS. MUNSON:

10 Q Investigator Campbell, you said earlier you
11 were going to do a search warrant after talking with
12 Mr. Irby?

13 A Investigator Miller and I went to Mattie Pearl Drive
14 while Investigator Whaley went down to the magistrate's
15 office in Laurens. And we gave him the description of the
16 residence.

17 Q And did you go to Mattie Pearl Drive?

18 A Yes, we did.

19 Q And whose residence was that?

20 A That is supposed to be where Mr. Williams lived.

21 Q Just looking around the property, did you notice any
22 vehicles there?

23 A There were a couple of vehicles parked beside the
24 residence.

25 Q And what were they?

1 A I would have to review the photographs that I took
2 that day.

3 Q Okay. You don't have it in your report what vehicles
4 you saw?

5 A No, ma'am. I don't -- well, no, I don't.

6 MS. MUNSON: I have nothing further, Your Honor.

7 THE COURT: Any questions for the witness from the
8 Defense?

9 MR. WARDER: No.

10 THE COURT: Sir, you are excused subject to being
11 recalled.

12 THE WITNESS: Thank you.

13 THE COURT: You're welcome.

14 You may call your next witness.

15 MS. MUNSON: The State calls Anthony Wilson.

16 THE CLERK: Mr. Wilson, please, come forward.

17 Place your left hand on the Bible and raise your
18 right hand.

19 WHEREUPON,

20 ANTHONY BERNARD WILSON,
21 after first having been duly sworn, testified as follows:

22 THE CLERK: Thank you.

23 You may be seated.

24 Please state your name for the record.

25 THE WITNESS: Anthony Bernard Wilson.

DIRECT EXAMINATION

BY MS. MUNSON:

Q Hi, Mr. Wilson.

A How are you doing?

Q How old are you?

A I'm 36.

Q Where do you live?

A In Charlotte, North Carolina.

Q How long have you been living there?

A Living there since 2001.

Q Who do you live with?

A I live with me and my fiancée.

Q When are y'all going to get married?

A Probably about a year from now.

Q Okay. Now, I want you to think back to the incident

that brings us all here today. Do you remember that?

A I remember.

Q Do you remember what month it was?

A July.

Q Do you remember what year?

A 2010.

Q Okay. Back in July of 2010, were you dating anybody?

A No.

Q Were you friends with anybody?

A Yes.

1 Q Any females?

2 A Yes.

3 Q Who in particular?

4 A Natasha Kerns.

5 Q Natasha Kerns?

6 A Yes.

7 Q Where did you meet her?

8 A I met her at a night club called 10 Points in
9 Charlotte, North Carolina.

10 Q In Charlotte?

11 A Yes.

12 Q How much time did you spend with her when you met her
13 in Charlotte?

14 A Not that much time. We mostly conversed a lot over
15 the phone.

16 Q Okay. Did you ever come to Greenville?

17 A Yes.

18 Q And how much did you come to Greenville?

19 A I came down once.

20 Q Just once?

21 A Yes.

22 Q And let's back up a little bit. When you came down
23 here, how did you get here?

24 A I drove.

25 Q And what did you drive?

1 A I drove a Buick Rendezvous.

2 Q What color was it?

3 A It was blue.

4 Q Who, if anybody, did you come down here with?

5 A I came alone.

6 Q And when you got to Greenville, where did you go?

7 A She met me at a gas station. And, from that point, I
8 followed her to her place.

9 Q Do you remember where her house was?

10 A No. I'm not familiar with the area, so I couldn't
11 recall it.

12 Q Who lived in the house with her?

13 A Her kids.

14 Q Anybody else?

15 A No.

16 Q And do you remember when you got there?

17 A Around Thursday, Thursday night -- Thursday evening.

18 Q Did anything unusual happen on Thursday?

19 A No.

20 Q Okay. Let's move to Friday. Friday in the evening,
21 do you remember that time?

22 A Yes.

23 Q What had y'all been doing that Friday evening?

24 A We were out with the kids, actually, just out and
25 about, hanging out, going out to eat and stuff like that,

1 just pretty much normal stuff.

2 Q Okay. In whose car were you in when you were doing
3 all that?

4 A In her car.

5 Q About what time did you get back to Natasha's house?

6 A It was around maybe 12:00, 1:00 when we got back in.

7 Q And when you got back to Natasha's house, what did
8 y'all do?

9 A Nothing, just, actually, interacted with the kids,
10 talk, laugh, stuff like that, nothing, you know, too
11 strenuous, or anything like that.

12 Q All right. Now, when it was time to go to bed, where
13 did -- you say her "kids." Do you remember their names,
14 or anything about them?

15 A I remember her son. I think he was like 10 at the
16 time. The daughter was like two. She was very young.

17 Q Okay. When it came time for bed, where did the son
18 go?

19 A The son went to his room. The daughter was still up.
20 She was still, you know, interacting with us, and
21 everything. She went to sleep beside us.

22 Q About what time do you think y'all went to bed?

23 A We probably dozed off maybe 3:00 or so.

24 Q Okay. Who all was in what bed?

25 A Me, Natasha, and her little girl was in the bed.

1 Q In which bedroom?

2 A Her bedroom.

3 Q And what was kind of the order of where y'all were?

4 A Oh, all right. Her daughter was on the outside,
5 Natasha was in the middle, and I was on the outside.

6 Q Okay. Which side -- were you closer to the wall or
7 closer to the door?

8 A I was closer to the window, yeah.

9 Q Okay. And during the course of the evening, did
10 anything occur?

11 A Over the course of the evening when we was all
12 hanging out?

13 Q After you went to bed.

14 A After we went to bed, no, besides just she said she
15 got a few calls throughout the day, or whatever. She
16 never really mentioned anything in particular about what
17 was going on, but I know her mood kind of changed a little
18 bit, so.

19 Q Did the house phone ring while you were there?

20 A The house phone rang pretty late that night.

21 Q Do you remember about what time?

22 A No, I don't remember.

23 Q So after everybody had settled down and gone to bed,
24 what was the next thing that happened?

25 A Later on that night, I kind of woke up. I heard the

1 dog barking in the backyard. That really woke me up and
2 everything. And I started hearing some ruckus going on
3 around outside of the house.

4 Q Okay. What do you mean by "ruckus"?

5 A Like banging, just, you know, unusual noises for that
6 time of night. It was peaceful and quiet. The dogs were
7 barking in the backyard letting you know something's going
8 on outside somewhere. And I woke up, like I said, and I
9 hear like a banging going on like someone was trying to
10 get in.

11 Q Could you tell from where around the house that the
12 banging was coming from?

13 A It was from the front to the back, from the back to
14 the front.

15 Q Okay.

16 A Around that time, I woke her up and told her what was
17 going on.

18 Q Okay.

19 A So she got up.

20 Q When you woke Natasha up, what did she do?

21 A She immediately hopped up. She grabbed her weapon
22 and ran toward the front. It was so fast that I'm still
23 like what's going on, you know. I'm like is this a raid.

24 So I get myself together and grab her daughter.
25 Because it sounded like it might have been something a

1 little bit more than what it was supposed to be. So just
2 instinct, I grabbed her daughter and took her daughter to
3 the room with her son.

4 Q Okay. Let's back up a little bit.

5 A Okay.

6 Q She grabbed her gun. Did you see from where she got
7 it?

8 A No.

9 Q Had you ever seen it before?

10 A No. I didn't even know she had one, to be honest
11 with you.

12 Q How do you know she had it?

13 A I saw her take it. She went under her bed, took it
14 off the floor, or whatever, and just ran out.

15 Q And she ran out?

16 A Yeah.

17 Q And then you did what?

18 A I got myself together and grabbed her daughter, took
19 her daughter to her son's room. I listened out for a
20 little bit. And I heard her talking. I don't know what
21 she was saying exactly per say, because it was kind of
22 muffled a little bit.

23 When she did speak clearly, I heard her say something
24 about get away from my property, get away from my house,
25 and stuff like that.

1 Q And then when you heard that, where were you with the
2 kids?

3 A In the room -- I was placing -- I had the daughter in
4 my arms walking her to her brother's room to put her in
5 the bed with him.

6 Q Do you remember anything about the brother's room,
7 what color it was, or how big it was?

8 A Yeah. I think he had a bunk bed.

9 Q Okay.

10 A A TV, a little video game system.

11 Q Okay. That's fine.

12 And as you get to the brother's room with the little
13 girl, and you hear Natasha talking, then what did you do?

14 A After I heard Natasha talking and everything, I put
15 her in the bed, like I said, with her brother, and
16 everything. Before I could really turn around, I see an
17 image coming down the hallway.

18 Q An image?

19 A Yeah. It was a silhouette of a human being coming
20 down the hallway. But I knew instinctively it couldn't
21 have been her. Because it didn't fit her silhouette, the
22 person coming down the hallway.

23 Q Before you saw this silhouette coming down the
24 hallway, did you hear anything?

25 A I heard some, like I said, banging on the outside,

1 you know. And she was shouting herself. After that, it
2 went like straight silent.

3 Q After you saw the image or before?

4 A Before.

5 Q Okay. Now, when you put the two kids -- when you put
6 the daughter in the bedroom with the son, did you give any
7 instructions to them?

8 A No. I didn't give them any instructions. She was
9 still sleeping. I just laid her down.

10 Q And as the image -- you see the image in the hallway,
11 what did you do?

12 A After I saw the image coming down the hallway -- I
13 was like putting the baby in the bed with him. And I
14 looked over my shoulder. And I could see someone coming
15 down the hallway. And then it stopped by the bedroom.
16 Because her closet -- she had a light on in the closet.
17 That gave just a little bit of -- illuminating the room
18 just a little bit. The image just pretty much stood there
19 and looked in the room for a little bit, hesitated, looked
20 in there. And then he came into the kids room.

21 By the time I get ready to turn around all the way,
22 they was in the room, or whatever. And there was the
23 video game system on the floor, which kind of hindered me
24 from getting my balance all the way together to defend
25 myself in any kind of way I could.

1 Q Now, what can you tell the jury about the image?

2 Could you tell sex, race, size, anything?

3 A I know it was a male definitely. I could tell by the
4 shape. I could tell by the hair. Just the whole physique
5 of the person, it was not a female.

6 Q Okay. Was it a small person or a large person?

7 A A medium-size person. Just way bigger than her, I
8 know that much.

9 Q Okay. And as -- could you tell anything about how
10 the person was dressed?

11 A It looked more like to me like a mechanic outfit. It
12 was one piece. I know it was dark colors, either blue or
13 black, but it was dark. And all that was visible was the
14 hair. And I can remember the facial features pretty well.
15 Like I said, the light in the closet that gave off a
16 little bit -- you know, illuminated a little bit.

17 Q Had you ever seen this person before?

18 A No.

19 Q Could you tell whether or not you got a good look at
20 him?

21 A I got enough look. I got a good look, I did.

22 Q Okay. Now, as the person is coming down the hallway,
23 what's the next thing that happened?

24 A The person comes down the hallway into her room, like
25 I said, looks in. And then made their way into the kids

1 room.

2 I make my way -- I put the baby girl down. I turn
3 around. I tripped over the X-box, or whatever video game
4 system it was that didn't allow me to get my balance like
5 I wanted to. And three shots came toward me. The first
6 one -- I guess the first one hit me, or whatever. That
7 took me to the ground. And I avoided the other two that
8 went wherever else they went in the room.

9 Q Okay.

10 A I was out -- I'm not sure how long I was out or
11 unconscious for, or whatever. Because the son woke up and
12 he was shaking me. I woke up to him shaking me and
13 everything, so.

14 Q Now, before the shots went off, were you able to have
15 any physical contact with the person?

16 A I wasn't able to. Because, like I said, the video
17 game system kept me from getting any kind of balance
18 myself.

19 Q Do you know -- can you say how close the person was
20 to you when the shots went off?

21 A Close enough for me to have -- they said -- I was
22 told I had powder burns and stuff like that on my face and
23 over my clothing. So I was pretty close to the weapon
24 when it was fired.

25 Q Could you smell anything?

1 A Yes.

2 Q What did you smell?

3 A Gun powder.

4 Q After the shots, what's the next thing that you
5 remember?

6 A I remember her son shaking me and waking me up asking
7 me, Are you okay, wake up, wake up, wake up. And I was --
8 I came to, and whatever. And I was pretty calm. At the
9 time, I didn't know how injured I was. And I just told
10 him to be quiet. Because I wasn't sure if the intruder
11 was still in the house or not.

12 Q Who did you tell to be quiet?

13 A I don't remember -- her son -- I can't remember --
14 Jakyre.

15 Q The people who were in the house?

16 A Right.

17 Q And how did he act when you told him to be quiet?

18 A He was pretty calm, at the time, himself.

19 Q Okay. And what about the little girl? Do you
20 remember what she was doing?

21 A She was still asleep, or she was real quiet, so.

22 Q She was not making any noise?

23 A No. She was quiet.

24 Q After you came to, what did you do?

25 A What I did was -- I was covered in blood evidently.

1 I grabbed me a towel to like try to slow up the bleeding,
2 and everything, so I could make my way through the house.
3 Because I couldn't see anything, to be honest with you.

4 I told him to follow behind me, but not too close.
5 Because I wasn't sure if the intruder was still in the
6 house. I went back into the bedroom to use the phone. I
7 couldn't get a signal on my cell phone. So then I tried
8 to use the house phone. But the house phone was off the
9 hook because she had already called 911.

10 Q Okay.

11 A I made my way down the hallway. I see her laying on
12 the floor by the window on her back. I went over there to
13 check her pulse. Before I could even make an exit out of
14 the house and everything, the sheriff was coming in
15 through the back door.

16 Q Okay. Prior to them getting there, do you remember
17 hearing anything outside the house?

18 A No. All I heard in the distance was, I guess, the
19 ambulance and police officers coming in the far --

20 Q How did you know the police were there?

21 A I just heard the sirens, basically, in the distance.
22 I don't know how far away they were. But I guess, you
23 know, me hearing that coming, you know your time is...

24 Q Do you remember any voices calling to you?

25 A Just her son's.

1 Q Okay. Do you know how they got in the house? Did
2 you see them come in?

3 A No. I don't know how they got in.

4 Q The towel that you had on your head, do you remember
5 anything about that?

6 A No, just that it just slowed the bleeding just enough
7 for me to make my way through the house, so I did.

8 Q Okay. Mr. Wilson --

9 MS. MUNSON: May I approach, Your Honor?

10 THE COURT: Uh-huh.

11 BY MS. MUNSON:

12 Q Mr. Wilson, I'm going to show you State's Exhibit
13 Nos. 44 and 45. And I need for you to take a look at
14 these. Okay.

15 A (Witness complied.)

16 Q Do you recognize those?

17 A Yes.

18 Q Have you seen those before?

19 A I've never seen them before. Just to see myself like
20 that is --

21 Q You've never seen those photographs before?

22 A Not until the one time you showed me.

23 Q And when was that?

24 A That was on Wednesday week.

25 Q So you've seen them before?

1 A Yes.

2 Q Now, do these truly and accurately depict what you
3 looked like after you got shot that night?

4 A Yes.

5 MS. MUNSON: Your Honor, I offer State's Exhibit
6 Nos. 44 and 45 into evidence.

7 MR. WARDER: No objection, Your Honor.

8 THE COURT: Marked and admitted without objection.
9 You may proceed.

10 (WHEREUPON, State's Exhibit Nos. 44 and 45 were
11 admitted into evidence.)

12 BY MS. MUNSON:

13 Q I'm about to put this light up, Mr. Wilson, and put
14 these up on the projector.

15 Mr. Wilson, this is State's Exhibit No. 44.

16 A Okay.

17 Q The big knot there on the left side of your head, is
18 that how your head normally is?

19 A No.

20 Q And this is State's Exhibit No. 45. Can you take a
21 look at that?

22 A Yes.

23 Q And what is that?

24 A That is where the bullet went in and out.

25 Q What is this area right through here, Mr. Wilson?

1 A That's the trail of the bullet.

2 Q How -- and where were you when these photographs were
3 taken?

4 A I was at Greenville Memorial Hospital.

5 Q How long did you have to stay in the hospital?

6 A I stayed overnight.

7 Q Okay. And did you have to get stitches or what -- I
8 mean, what did they do to you -- or for you?

9 A They gave me a CT scan, a bunch of X-rays, you know,
10 just kept me under close watch.

11 MS. MUNSON: Okay. I have nothing further of this
12 witness, Your Honor.

13 THE COURT: Any questions for the witness?

14 CROSS-EXAMINATION

15 BY MR. WARDER:

16 Q You met Natasha up in Charlotte?

17 A Yes, sir.

18 Q You met her at a little club?

19 A Yes, sir.

20 Q What was the name of that spot?

21 A Club Tempo.

22 Q Okay. And after that first occasion, she came to
23 Charlotte a number of times?

24 A Yes. When she was hanging out with some of her
25 friends, she would let me know when she was in town. And

1 I would meet up with them.

2 Q Okay. How many times did y'all get together in
3 Charlotte?

4 A Maybe two or three times, not often.

5 Q Okay. And did you stay together when you were up in
6 Charlotte?

7 A No.

8 Q You came down here to Greenville?

9 A Uh-huh.

10 Q You stayed Friday night at her house?

11 A Correct.

12 Q She's got her two children there?

13 A Correct.

14 Q Had you ever seen her children before?

15 A No.

16 Q And you, Natasha, and the little girl end up in the
17 bed in the master bedroom?

18 A Correct.

19 Q Natasha gets up when you tell her there's a noise out
20 front and gets her gun?

21 A Correct.

22 Q You get dressed at that time?

23 A Yes.

24 Q Okay. You got dressed. Did you get your bags
25 together at that time?

1 A No.

2 Q Okay. When did you get your bags and everything
3 together?

4 A I never got my bags together. I just had my phone in
5 my bag.

6 Q Okay. Weren't you preparing to leave when the
7 sheriff came?

8 A No. I was preparing to get the kids out of the
9 house.

10 Q Did you tell the police that you checked her for
11 vital signs, and there was no answer or nothing from her.
12 At the same time, I was getting the -- I grabbed my bags,
13 got my keys, everything to get the kids out of there and
14 go. Were you getting your stuff to take the kids
15 somewhere and go back to Charlotte?

16 A Not to Charlotte, just anywhere to get out of that
17 house. I wasn't sure if the intruder was still there or
18 not. I had two kids with me.

19 Q You needed to get rid of the kids, and get out of
20 town?

21 A Not get rid of the kids, no, get them to safety.

22 Q Well, now, you told us that you were unconscious for
23 a while?

24 A Correct.

25 Q And when you were unconscious, where did your body

1 lie, where at in the house?

2 A It laid in the son's room.

3 Q Clear inside?

4 A Yes.

5 Q Was the light on or off?

6 A The light was off.

7 Q Okay. Who turned the light on?

8 A There was no light on.

9 Q It was off?

10 A Yes.

11 Q The closet light you mentioned, it was on at one
12 time?

13 A The closet light was on in her room.

14 Q Okay. But the son's room was completely dark?

15 A Correct.

16 Q Did you notice the son before you got shot in the
17 head? Did you notice him in bed, or anything?

18 A He was in bed.

19 Q Okay. Did -- was he awake?

20 A At the time, no.

21 Q Okay. He was asleep?

22 A He was awoken by the gun sound.

23 Q Now, you -- did you hear the first gunshot?

24 A I never heard the first one, no. If I had heard the
25 first one, I would know how I needed to defend myself.

1 Q And you heard two more or three more?

2 A After the first shot, they was right behind each
3 other, I heard two more.

4 Q So you heard a total of four shots?

5 A Three shots.

6 Q A total of three shots. One was shot outside of the
7 house or outside of the room?

8 A I'm talking about myself in the room.

9 Q What time was it when you woke up, or came to, or got
10 revived?

11 A Do you mean from her son?

12 Q From her son.

13 A Do you mean what time I woke up from her son waking
14 me up from being unconscious?

15 Q Yes.

16 A I have no idea. I'm sure it wasn't too long.
17 Because I heard sirens in the distance coming, so.

18 Q You said that you heard a siren at that time?

19 A Uh-huh.

20 Q How close was the siren?

21 A I don't know. It was close enough for me to hear in
22 the distance.

23 Q How long did it take the officer to arrive after
24 that?

25 A After I heard them, probably about five minutes.

1 Q So you heard the siren five minutes away?

2 A Yeah. You could hear it in the distance. It was
3 quiet, early in the morning, you could hear a lot of
4 things.

5 Q Had you been out to a club that night?

6 A No.

7 Q What club did you go to?

8 A We didn't go to a club that night. We had the kids
9 that day.

10 Q Okay. You didn't go out?

11 A No.

12 Q You stayed at home?

13 A We was out and about. We went out to eat, but that's
14 about it. But there was no clubbing going on.

15 Q Was she an entertainer when she was up in Charlotte?

16 A No.

17 Q She wasn't working at a club?

18 A No.

19 Q Did you ever go and see her when she did?

20 A As an entertainer?

21 Q Yeah.

22 A I came here. She sang one time before. And I saw a
23 video of her before, but that's about it.

24 Q You checked out of the hospital the next day and went
25 back to Charlotte?

1 A I was released, yes.

2 MR. WARDER: Thank you.

3 THE COURT: Any redirect of the witness?

4 MS. MUNSON: Yes, ma'am.

5 THE COURT: You may proceed.

6 REDIRECT EXAMINATION

7 BY MS. MUNSON:

8 Q An entertainer, what does that mean to you?

9 A It sounds like someone who works at a night club for
10 money when you say "entertainer" to me.

11 Q Is that what Natasha was doing?

12 A No.

13 Q Okay. And you say you saw a video of her?

14 A Uh-huh.

15 Q What kind of video?

16 A I saw her at an event somewhere in Greenville and she
17 was singing on stage.

18 Q Did she have her clothes on or off?

19 A Her clothes were on.

20 MS. MUNSON: Okay. Nothing further, Your Honor.

21 THE COURT: Any objection to the witness being
22 excused from the State?

23 MS. MUNSON: No, ma'am.

24 THE COURT: From the Defense?

25 MR. WARDER: No.

1 THE COURT: Sir, you're excused.

2 You may call your next witness.

3 MS. MUNSON: The State calls Margaret Williams.

4 THE CLERK: Ms. Williams, would you, please, come
5 forward to be sworn in.

6 Thank you.

7 Would you, please, place your left hand on the Bible
8 and raise your right hand?

9 WHEREUPON,

10 MARGARET A. WILLIAMS,
11 after first having been duly sworn, testified as follows:

12 THE CLERK: Thank you.

13 You may be seated.

14 Would you, please, state your full name for the
15 record?

16 THE WITNESS: Margaret A. Williams.

17 THE CLERK: Thank you.

18 DIRECT EXAMINATION

19 BY MS. MUNSON:

20 Q Hey, Ms. Williams.

21 A Hello.

22 Q Are you related to the Defendant?

23 A Yes. I'm his sister.

24 Q Okay. Are y'all close?

25 A Not that really close. But we're as close as we can

1 be as family.

2 Q All right. Back in July of 2010, where were you
3 living?

4 A I lived in front of my brother.

5 Q Okay. And -- in front of your brother?

6 A Uh-huh. He lived behind me.

7 Q And do you remember the day that all these events
8 started coming to light?

9 A Are you talking about that Saturday?

10 Q Yes, ma'am.

11 A Yes, a little bit.

12 Q Okay. At some point during that Saturday, did all
13 your family gather together at your brother's house?

14 A No. At my brother's house -- in front of me. We
15 have another house in front of us.

16 Q Okay.

17 A Which is the main house.

18 Q Okay. So that's where everybody had gathered?

19 A Yes.

20 Q About how many people were out there?

21 A It's kind of hard to say, because it was just a lot
22 of people coming.

23 Q Kind of coming and going?

24 A No, coming there and staying.

25 Q Okay. Do you remember having a conversation with

1 some officers --

2 A No.

3 Q -- a few days after the incident?

4 A Those that came down there to -- came down the side
5 road, parked on the side road going to Willie's house,
6 those detectives.

7 Q Okay. Now, what information did you give the police
8 about any upcoming court dates that your brother had?

9 A Nothing.

10 Q Okay. Did you not tell Investigator Campbell that
11 your brother had been served with a notice for court for
12 July --

13 A Yes.

14 Q For July the 7th?

15 A For July the 7th?

16 Q Yes, ma'am.

17 A No.

18 MR. WARDER: Your Honor, I have --

19 THE WITNESS: No, no --

20 MR. WARDER: I have a legal matter to take up with
21 the Court.

22 THE COURT: Approach, please.

23 (WHEREUPON, a bench conference was held.)

24 THE COURT: The objection is overruled. It goes to
25 motive and premeditation, acts of preparation.

1 You may proceed.

2 MS. MUNSON: Thank you, Your Honor.

3 THE COURT: You're welcome.

4 BY MS. MUNSON:

5 Q Did you tell the officers that your brother got
6 notice for a court date for July 7th of 2010?

7 A No.

8 Q You did not tell the officers that?

9 A No.

10 Q Okay. Did you know about your brother having a court
11 date?

12 A I was at home --

13 MR. WARDER: I object to --

14 THE WITNESS: I don't know nothing about a court
15 date.

16 THE COURT: Overruled. It goes to her credibility.

17 BY MS. MUNSON:

18 Q Did you know about it?

19 A No.

20 Q Did you have a conversation with your brother about
21 an upcoming court date?

22 A No.

23 MS. MUNSON: I have nothing further.

24 THE COURT: Approach for me, please.

25 (WHEREUPON, a bench conference was held.)

1 THE COURT: Mr. Foreman, ladies and gentlemen, I have
2 a brief matter of law I need to take up with the
3 attorneys. During the break, please, don't discuss the
4 case. And, please, leave your notepads in your seats.

5 (WHEREUPON, the jury was excused from open court at
6 approximately 2:34 p.m.)

7 THE COURT: Okay. There's some indication based on
8 the bench conference that this witness may be confused
9 about the dates.

10 Do you want to ask her again so we can make sure
11 she's not confused?

12 MS. MUNSON: Yes, ma'am.

13 Thank you, Your Honor.

14 THE COURT: So we don't have to --

15 Ma'am, I need you to listen very carefully to the
16 question. And I need you to be as honest as possible in
17 your recollection. Okay.

18 THE WITNESS: Okay.

19 THE COURT: All right. You may proceed.

20 DIRECT EXAMINATION

21 BY MS. MUNSON:

22 Q Ms. Williams, on Wednesday -- did you tell the
23 officers that on Wednesday, July the 7th, your brother was
24 served with court papers?

25 A Yes.

1 Q Okay. And did you tell the officers that he was
2 upset about child support?

3 A Yes.

4 THE COURT: Is there any exception now to that -- now
5 that we've clarified the dates?

6 MR. WARDER: No, ma'am.

7 Bring in the jury, please.

8 You need to re-ask those questions. And then I'll
9 allow cross-examination.

10 (WHEREUPON, the jury came into open court at
11 approximately 2:38 p.m.)

12 THE COURT: Ladies and gentlemen, we'll now resume
13 the testimony of the witness.

14 You may proceed.

15 MS. MUNSON: Thank you, Your Honor.

16 THE COURT: You're welcome.

17 CONTINUED DIRECT EXAMINATION

18 BY MS. MUNSON:

19 Q Ms. Williams, I did a bad job of asking a question
20 earlier. And I apologize for that. Did your brother get
21 served with any court documents before the incident?

22 A What year --

23 Q In 2010.

24 A -- are you talking about? When?

25 Q In 2010.

1 A I don't know if he got served or not.

2 Q Okay. Well, did you tell officers that on July 7th
3 of 2010, your brother was served with court papers?

4 A July what?

5 Q Did you tell the officers that on Wednesday, July the
6 7th of 2010, that your brother was served with court
7 papers?

8 A I don't quite remember the date.

9 Q You don't remember the date?

10 A No. I'm getting -- that's kind of like caused --
11 it's kind of like confusing me.

12 Q Yes, ma'am.

13 A When the incident and everything happened.

14 Q Okay.

15 A So my memory ain't all that good.

16 Q Okay. So -- and I'm not trying to give you a hard
17 time. Did you tell officers that your brother was served
18 with court papers on Wednesday, July the 7th of 2010?

19 A I might have did [sic]. But I, also, did tell them,
20 also, one thing, everything that I'm sitting up here
21 trying to say to y'all is secondhand information that was
22 told to me.

23 Q So you did tell that to the officers?

24 A I'm thinking that I did.

25 Q Did you tell the officers that your brother was upset

1 about child support?

2 A I might have.

3 MS. MUNSON: Nothing further, Your Honor.

4 THE COURT: Any questions for the witness?

5 MR. WARDER: Your Honor, if it please the Court, I
6 have no questions.

7 THE COURT: Any objection to the witness being
8 excused from the State?

9 MS. MUNSON: No, ma'am.

10 THE COURT: From the Defense?

11 MR. WARDER: No, Your Honor.

12 THE COURT: Ma'am, you're excused.

13 THE WITNESS: Thank you.

14 THE COURT: You're welcome.

15 You may call your next witness.

16 MS. MUNSON: The State calls Craig Hawkins.

17 THE CLERK: Sir, if you would come forward to be
18 sworn in.

19 Would you, please, place your left hand on the Bible
20 and raise your right hand?

21 WHEREUPON,

22 CRAIG HAWKINS,

23 after first having been duly sworn, testified as follows:

24 THE CLERK: Thank you.

25 You may be seated.

1 Would you, please, state your name for the record?

2 THE WITNESS: Deputy Craig Hawkins.

3 DIRECT EXAMINATION

4 BY MS. MUNSON:

5 Q Who do you work for, sir?

6 A The Greenville County Sheriff's Office in the
7 warrants division.

8 Q How long have you been with the Sheriff's Office?

9 A About 13 years.

10 Q All right. What are your duties in the warrants
11 division?

12 A Go out and find people that have active warrants for
13 their arrest.

14 Q Were you with the Sheriff's Office in July of 2010?

15 A Yes, ma'am.

16 Q To what unit of the Sheriff's Office were you
17 assigned back then?

18 A Back then, I was assigned -- I worked closely with
19 the U.S. Marshall's task force.

20 Q And did you get a call in reference to this case?

21 A I did.

22 Q Do you remember the date?

23 A July 10th of 2010.

24 Q Were you on duty when you got the call?

25 A No, ma'am.

1 Q Where were you?

2 A I was off-duty at home.

3 Q Who called you?

4 A Investigator Whaley.

5 Q After he called you, where did you go?

6 A I responded -- I gathered the information of who he
7 was looking for, responded to the law enforcement center
8 to print out pictures, and do some fast background work.

9 Q Okay. After leaving the LEC, where did you go?

10 A Myself and Deputy Kastner responded down to [REDACTED]
11 [REDACTED].

12 Q Where did you meet up with Deputy Kastner?

13 A I ran into him at the homicide division at the law
14 enforcement center. And I found out he was actively
15 assisting Investigator Whaley on this case.

16 Q While on scene at Idlewild, did you come in contact
17 with another jurisdiction law enforcement agency, or reach
18 out to them?

19 A I reached out from that address. I reached out to a
20 road unit -- or I'm sorry, a road supervisor working for
21 Laurens County.

22 Q And after speaking with that road supervisor in
23 Laurens County, where did you go?

24 A I responded to meet with that lieutenant down in
25 Laurens to see if we could make contact at an address on

1 Mattie Pearl Drive.

2 Q And when you went to Laurens, who was with you?

3 A Deputy Kastner.

4 Q Did you find the address on Mattie Pearl?

5 A We found the address -- I thought it was 78 Mattie
6 Pearl, but the lieutenant took us directly there.

7 Q And when you went to the address, whose address did
8 you believe this to be?

9 A Willie Williams.

10 Q All right. When you got there, do you know about
11 what time it was?

12 A I do not.

13 Q Before or after lunch?

14 A It was probably around lunch time, or maybe a little
15 after.

16 Q Okay. As you approached the address at Mattie Pearl,
17 what did you notice?

18 A I noticed there was a lot of people in the front
19 yard.

20 Q A lot of people?

21 A 15 to 20 people, roughly, standing out front.

22 Q Okay. And when you got out -- did you get out?

23 A Yes, ma'am.

24 Q And what did you do?

25 A I got out of my vehicle. And I asked who was the

1 closest relative to Willie Williams, and people pointed
2 towards a gentleman. I didn't know his name at the time,
3 but it was Burley Williams.

4 Q Did he identify himself that way?

5 A Well, I walked up to Burley Williams. I introduced
6 myself as Deputy Hawkins. And that's how I found him to
7 be Burley Williams. He was the brother.

8 Q What titles, if any, did he introduce himself as?

9 A Just as Burley Williams.

10 Q How long were you at the Mattie Pearl address?

11 A We were there probably 20, 25 minutes maybe.

12 Q During the course of your time there speaking with
13 Burley Williams -- and don't say what anybody said. But
14 during the time that you were talking with him, did you
15 ask him questions about where his brother might be --

16 (WHEREUPON, there was a disruption in the courtroom.)

17 THE COURT: If there's anyone that has a cell phone
18 on, it needs to be turned off. And I'm speaking to those
19 in the gallery. If it is not turned off, it will be taken
20 from you and it will not be returned. Really, you
21 shouldn't be allowed to even bring them into the
22 courthouse.

23 So if you need to take yourself out of the courtroom
24 or out of the gallery to turn your phone off, you need to
25 do that. Not silent, off. And I'm instructing the

1 bailiff or the deputy to take whose ever phone if it goes
2 off again. And it will not be returned to you.

3 You may continue.

4 MS. MUNSON: Thank you, Your Honor.

5 THE COURT: You're welcome.

6 BY MS. MUNSON:

7 Q Did you have a conversation with Burley about his
8 brother?

9 A I asked him if he knew why I was there.

10 Q Okay. Don't say what he said. What else did you ask
11 him?

12 A I asked him, Do you know his telephone number?

13 Q Okay. And after -- or while you were there with
14 Burley Williams, what happened?

15 A While I was there with him?

16 Q Yes. Did you get any other information that made you
17 leave the Mattie Pearl address?

18 A Oh, we found out that they were, actually, chasing --
19 Laurens County had, actually, gotten in behind a vehicle.
20 And they were actively chasing Mr. Williams.

21 Q Okay. Let me back up a little bit. Investigator
22 Hawkins, when you got to the Mattie Pearl address, did you
23 see any vehicles around?

24 A Yes. I, basically, went down there to find out what
25 vehicles were at the residence. Because I was instructed

1 he had five vehicles registered to him. I wanted to know
2 if those vehicles were there. And I wanted to look at the
3 tags.

4 Q Okay. Did you see any vehicles?

5 A Yes.

6 Q What vehicles did you see?

7 A Myself and, I believe, Mr. Williams's niece walked
8 down to his residence where these vehicles were. I
9 noticed a Ford Mustang, a Ford Taurus. There was a
10 Chrysler 300, a Chevy Blazer, but the Tahoe was gone.

11 Q Okay. Now, after you got the information that there
12 was a chase going on, what did you do?

13 A I went out to the road with Deputy Kastner. We got
14 in my vehicle. And we got on the phone with Laurens
15 County. Because we didn't know which way the chase was
16 going. And they guided us in the direction where they
17 were going.

18 Q Okay. And did you go there?

19 A Yes, ma'am.

20 Q Did anybody go with you, other than you and Deputy
21 Kastner in your car?

22 A No, ma'am.

23 Q About how long did it take you to get to where the
24 chase was?

25 A Five to eight minutes.

1 Q Okay. What part, if any, did you play in the chase?

2 A I was not actively involved in it.

3 Q So by the time -- well, the location you went to,
4 what did you see when you went to that location?

5 A We arrived in the heart of downtown Laurens. And as
6 we were pulling up, we noticed a vehicle, a Tahoe had been
7 wrecked up on a curb or embankment. We exited our vehicle
8 and started going up to the vehicle. And I noticed they
9 already had Mr. Williams in custody, detained, or under
10 arrest.

11 Q Okay. In what condition was he?

12 A I didn't -- I know -- I didn't pay attention to that.
13 He was under arrest. But then I heard a -- as I was going
14 down to the vehicle and coming around, I noticed he was in
15 custody. And I heard a commotion coming from behind me.

16 Q What did you do when you heard a commotion?

17 A I turned around to see that Burley Williams had
18 arrived on scene.

19 Q And what did you do when you saw him?

20 A He was making -- his emotions were getting the best
21 of him. So I went back up there. He had to be forcibly
22 taken to the ground by Laurens City, because he was trying
23 to run up on the scene.

24 Q Okay. And once Laurens took custody of him, what did
25 you do?

1 A I started talking to him. I asked him -- trying to
2 calm him down. I advised him he would be okay. I asked
3 him what he was doing here.

4 Q Okay. And did he refuse to answer -- don't say what
5 he said. But did he refuse to answer any of your
6 questions?

7 A No, ma'am.

8 Q Okay. Did you have any more contact with
9 Mr. Williams -- with Burley Williams after that?

10 A No, ma'am.

11 Q All right. And, Deputy Kastner [sic], did y'all
12 leave together from that scene?

13 A No, ma'am.

14 Q Where did he go?

15 A Deputy Kastner got on the Medivac helicopter and rode
16 with Willie Williams to the hospital.

17 MS. MUNSON: Okay. I have nothing further at this
18 time, Your Honor.

19 THE COURT: Any questions for the witness?

20 MR. WARDER: Can I have just a minute?

21 THE COURT: Uh-huh.

22 (Pause.)

23 MR. WARDER: May it please the Court.

24 Your Honor, we have no questions.

25 THE COURT: Sir, you're excused subject to being

1 recalled.

2 You may proceed.

3 MS. MUNSON: Thank you, Your Honor.

4 The State calls Michael Kastner.

5 THE CLERK: Sir, if you'd come forward to be sworn
6 in.

7 Place your left hand on the Bible and raise your
8 right hand.

9 WHEREUPON,

10 MIKE KASTNER,

11 after first having been duly sworn, testified as follows:

12 THE CLERK: Thank you.

13 You may be seated.

14 Would you, please, state your name for the record?

15 THE WITNESS: Master Deputy Mike Kastner.

16 THE CLERK: Thank you.

17 DIRECT EXAMINATION

18 BY MS. MUNSON:

19 Q How long have you been with the Sheriff's Office?

20 A Six years.

21 Q And what are your current job duties?

22 A At this point, I'm appointed to -- as a Master Deputy
23 in the uniform patrol division.

24 Q Okay. And what does that -- what do your duties
25 entail?

1 A I am a patrol officer. I respond to normal calls for
2 service and patrol an assigned beat area.

3 Q Back in July of 2010, were you with the Sheriff's
4 Office?

5 A Yes, ma'am.

6 Q And what were your duties then?

7 A At that point, I was cross-training with the homicide
8 unit.

9 Q And did you get a call in reference to this case?

10 A Yes, ma'am.

11 Q Were you on duty at the time?

12 A I was at home at the time, but I was on call.

13 Q And once you got this call -- do you remember when it
14 was, how early or late in the day?

15 A It was early in the morning, around 5:30 in the
16 morning.

17 Q And once you got this call, where did you go?

18 A I went to Greenville Memorial Hospital where I met
19 with one of the victims from this case.

20 Q Do you know who it was? Do you remember him?

21 A An Anthony Wilson.

22 Q Do you remember speaking with him?

23 A Yes, ma'am.

24 Q Did you ask him questions?

25 A Yes, ma'am.

1 Q Was he able to respond to you?

2 A Yes, ma'am.

3 Q Was he having any trouble communicating at all?

4 A No, ma'am.

5 Q Okay. When you left the hospital, where did you go?

6 A I went back to the law enforcement center.

7 Q And once you were at the law enforcement center,
8 where is the next place you went?

9 A I went to the crime scene at Idlewild Avenue.

10 Q Was anyone with you?

11 A I was with Deputy Hawkins.

12 Q Okay. How long did you stay at the Idlewild address?

13 A I can't really recall exactly how long I was there
14 for, but we weren't there too long. We were there for
15 just a little bit. And we left for Laurens County.

16 Q Okay. You left for Laurens County. When you got to
17 the address you were looking for in Laurens County, what
18 did you notice?

19 A When we got to the address in Laurens County at
20 Mattie Pearl, we met family members of the Defendant and,
21 also, with deputies from Laurens County.

22 Q At the Mattie Pearl address, where were you in
23 relation to Deputy Hawkins in speaking with people?

24 A Deputy Hawkins was further away. He was, actually,
25 getting vehicle information. And I was speaking to family

1 members. At that point, he was kind of further away.

2 Q Okay. Had family members introduced themselves
3 before or after Deputy Hawkins went to look at the
4 vehicles?

5 A I can't recall exactly if it was before or after.

6 Q Okay. Was there any family member, in particular,
7 that you remember speaking with?

8 A Yes, ma'am.

9 Q And what is his name?

10 A Burley Williams.

11 Q Who was asking him questions? Was it you or Hawkins?

12 A I was.

13 Q All right. Now, without saying what he said -- first
14 of all, how did he introduce himself?

15 A He said that he was the brother of Willie Williams.

16 Q Did he define his relationship with Willie Williams
17 in any other way other than brother?

18 A No, ma'am.

19 Q Did he give you a title that he may have?

20 A No, ma'am.

21 Q Okay. Now, without saying what he said, did he
22 answer your questions?

23 A Yes, ma'am.

24 Q Once you left Mattie Pearl, where did you go?

25 A Me and Deputy Hawkins were attempting to get involved

1 in the pursuit with the gold Tahoe, which Willie Williams
2 was driving. We were informed while we were at Mattie
3 Pearl that Laurens County was behind him and actively in a
4 pursuit.

5 At that point, we left and tried to get in the middle
6 of the pursuit to apprehend him.

7 Q And were you successful in getting in the pursuit?

8 A We weren't successful in getting in the pursuit. But
9 while we were trying to catch up to it, I was informed by
10 Laurens County dispatch that Laurens County did stop the
11 vehicle and had the suspect in custody.

12 Q Okay. Did you approach the suspect? Did you see
13 them working on him?

14 A Yes, ma'am.

15 Q And after he was on the scene, do you know where the
16 suspect was taken?

17 A He was taken to Greenville Memorial Hospital.

18 Q How?

19 A By helicopter.

20 Q And how do you know that?

21 A I flew on the helicopter with the Defendant.

22 Q Okay. And once he got to the hospital, how long did
23 you stay there?

24 A Roughly -- I'd say maybe 30 minutes to an hour or so.

25 Q Okay. Do you remember what -- when you were flying

1 in the helicopter with him, do you remember what the
2 Defendant was wearing?

3 A No, ma'am.

4 Q Okay. Do you remember, not necessarily colors or
5 anything like that, but the style of his dress, anything
6 like that?

7 A No, ma'am.

8 MS. MUNSON: I have nothing further, Your Honor.

9 THE COURT: Any questions for the witness?

10 MR. WARDER: Your Honor, if it please the Court, we
11 have no questions of this witness.

12 THE COURT: Sir, you're excused subject to being
13 recalled.

14 THE WITNESS: Thank you.

15 THE COURT: Have a good day.

16 You may call your next witness.

17 MS. MUNSON: Your Honor, the State calls Eric Whaley.

18 THE CLERK: Place your left hand on the Bible and
19 raise your right hand.

20 WHEREUPON,

21 ERIC TODD WHALEY,

22 after first having been duly sworn, testified as follows:

23 THE CLERK: Thank you.

24 You may be seated.

25 Would you, please, state your name for the record?

1 THE WITNESS: Eric Todd Whaley.

2 THE CLERK: Thank you.

3 DIRECT EXAMINATION

4 BY MS. MUNSON:

5 Q Who do you work for, sir?

6 A The Greenville County Sheriff's Office.

7 Q How long have you been with the Sheriff's Office?

8 A Well, I've been with the Sheriff's Office since 1998,
9 but I had prior law enforcement experience, also.

10 Q And where was that?

11 A Well, I had four years military police in the United
12 States Air Force, a little over two years at the South
13 Carolina Department of Corrections, and five years at
14 Clemson City PD. And then I came to work in Greenville
15 County at Travelers Rest. And then I went on uniform
16 patrol in 1998.

17 Q All right. What are your current duties?

18 A I'm assigned to the criminal investigation homicide
19 unit.

20 Q How long have you been in the homicide division?

21 A Well, I've been in the criminal investigation
22 division since 2004. I started in sex crimes -- well, I
23 started in family violence, worked my way to sex crimes.
24 And then I was placed in the homicide unit.

25 Q All right. And how -- when did you become involved

1 in this case?

2 A The morning of the incident.

3 Q Were you on duty?

4 A I was on duty as the on-call violent crimes
5 investigator for the Sheriff's Office that week.

6 Q And when did you get notice of this case?

7 A In the early morning hours. I don't remember the
8 exact time. But I got a call, which normally comes
9 through dispatch, that I was being requested by one of the
10 road supervisors due to a major crime.

11 Q And where did you go?

12 A I immediately got up, got dressed, and headed to
13 Idlewild, the address of the incident location.

14 Q Okay. How many other emergency personnel were there
15 when you got there?

16 A Well, I had called quite a few. I had called several
17 other investigators to help me, so they were all en route.
18 And when I got there, the uniform patrol division had the
19 crime scene roped off. And EMS had already left prior to
20 me getting there. But I, also, had forensics there and --
21 they were there, also.

22 Q Okay. Why do you call out so many investigators?

23 A When we have a major scene like this, there's a lot
24 that takes place. And I have to have a lot of help. I
25 ask investigators to go to the Sheriff's Office to start

1 doing background checks to start securing search warrants
2 by talking to the deputies on scene so those will be ready
3 to go. And it just kind of expedites things so when we
4 get there, we don't have to stand around and wait.

5 And I, also, call forensics and the deputy coroner,
6 the Coroner's Office, I communicate with them. So I'm
7 talking to a lot of people when it's going on.

8 Q Once you got on scene, who was in charge?

9 A Well, the road supervisor who testified earlier, he's
10 in charge. And not to sound pushy, but once I get there,
11 I'm in charge.

12 Q Okay. How long would you say you were at the
13 Idlewild address?

14 A Hours and hours. We didn't leave until later that
15 afternoon. I'm one of the last people to leave. I make
16 sure everything is completed, that forensics has done
17 their job, that the Coroner's Office has done their job.
18 I'm communicating with the road supervisors to make sure
19 all his deputies did what they were supposed to. So I'm
20 there until late in the afternoon.

21 Q Okay. Did you go into the residence at Idlewild?

22 A Yes, ma'am, I did.

23 Q Okay. And did you speak with anybody there?

24 A I spoke with several people. There again, I'm really
25 busy talking to neighbors, talking to the deceased's

1 family, talking to the deputies at the hospital, talking
2 to the deputies at the law enforcement center, talking
3 with the dispatcher in Laurens County, talking with
4 Laurens County officers. I talked to dozens of people
5 that morning.

6 Q Okay. Well, how about the short people? Did you see
7 the children there?

8 A I did. I spent a lot of time talking to two very
9 small children.

10 Q Okay. And how were they doing?

11 A Well, when I was on my way, I spoke with Investigator
12 Laura Campbell, who testified yesterday. And she briefed
13 me of the children. She was kind of in the deputy-mom
14 mode and taking care of the kids for us. The kids were
15 talking, making statements. The oldest child, the male
16 child, was making statements.

17 So I asked her to put him in a marked patrol car, not
18 locked in it or anything, but to sit with him and turn the
19 camera on so we could get any kind of statements that he
20 was saying.

21 So when I got there, I did, too, speak with him. And
22 then my homicide supervisor got there. And I asked him,
23 Sergeant Chris Cooper, to, actually, also, sit with the
24 babies in the car.

25 Q Okay. What about their physical condition, were they

1 injured or bleeding?

2 A They had -- if I recall correctly, the little boy had
3 some blood on his shoes. They were not injured. They
4 were in night clothes. And we left them in that state
5 until we could get pictures of them.

6 Q Okay. Now, after you left the scene that evening, I
7 guess, what was the next thing you did in relation to this
8 case?

9 A We ended up going to -- I went back to the office
10 while a lot of deputies went to Laurens County. And then
11 if I recall correctly, I went back to the law
12 enforcement -- I went to the hospital and met with
13 Mr. Williams. That was one of the other things that I
14 did. And then I ended up, I believe, back at the law
15 enforcement center.

16 Q At any time, did you try to have a conversation with
17 any of the Defendant's relatives?

18 A I did. I spoke to many of the -- oh, the Defendant's
19 relatives. I thought you meant the victims. I did by
20 phone. I spoke with one of his relatives.

21 Q And who was that?

22 A Burley Williams.

23 Q Without saying anything anybody said, what was the
24 purpose of you calling him?

25 A To get information about the situation and his

1 brother.

2 Q And would he give you that information?

3 A He spoke with me -- yes, he spoke with me.

4 Q Would he answer your questions about the incident?

5 A Yes.

6 Q He did?

7 A Very limited. We didn't speak a lot. But very
8 limited.

9 Q Okay. How did he introduce himself to you?

10 A His brother, Burley Williams.

11 Q Did you ask him any specific questions about the
12 incident?

13 A Not that I recall, nothing specific.

14 Q Okay. Did he -- well, I'll move on from that.

15 At some point, did you go to Laurens County yourself?

16 A I did.

17 Q And what was the purpose of going there?

18 A We went down a couple of days later, one, to speak
19 with Mr. Irby, who I had communicated with his wife
20 earlier that day on the day of the incident, and to get a
21 search warrant for the Defendant's home.

22 Q All right. And when you went to speak with Mr. Irby,
23 who was with you?

24 A Investigator Hammett -- I'm sorry, Investigator Wayne
25 Campbell, who testified earlier today, and Investigator

1 Chris Miller.

2 Q And how did you go through the process of getting
3 this statement from Mr. Irby?

4 A How I learned of him?

5 Q How did it get put down on paper?

6 A Oh, okay. We went to his house. He invited us in.
7 I had gained some information earlier that he knew about
8 some information that we felt we needed to get. We went
9 into his home. We spoke. As is customary how we do as
10 we're taking a statement from somebody, as I'm writing it,
11 you would speak it to me and I would write it down.

12 At the completion of the statement, I would let him
13 look at it. He would read it, make any corrections on it
14 that he did not like, didn't think was correct, if I made
15 a mistake or a misspelling, which I normally do, and then
16 he would review it and he would sign it.

17 Q And is that how it went?

18 A Yes, ma'am.

19 Q So who, actually, wrote the statement?

20 A It's in my writing. As he tells it to me, I write it
21 down.

22 Q And after it was presented to Mr. Irby, what did he
23 do?

24 A He made a couple of corrections where I had made a
25 couple of errors where he had reviewed it. And he drew a

1 line through it, corrected it, and put his initials. And
2 at the bottom, he signed and put his initials.

3 Q Did he have any questions about what had just taken
4 place?

5 A Did I or did he?

6 Q Did he?

7 A He didn't have as many questions, I think, as I did.
8 I was the one that had the questions.

9 Q Was there information that he gave you that was not
10 in the statement?

11 A Yes, ma'am, there was.

12 Q Why?

13 A He did not want it in his statement.

14 Q And did he tell you why?

15 A Yes, ma'am, he did.

16 Q Why?

17 A Because he did not want to incriminate his friend.

18 Q After you left Mr. Irby, was there anything else that
19 you did in the Laurens area?

20 A I spoke with the Laurens Police Department about a
21 situation that they had on that day with another vehicle.
22 And then I went and met with some investigators from the
23 Laurens County Sheriff's Office, as is customary, to get a
24 search warrant for the home in Laurens County.

25 Since I don't have jurisdiction, I present my case to

1 the investigators, who present the case to the magistrate,
2 who issues a search warrant. So it's a dual search
3 warrant. It's, actually, Laurens County, but I go with
4 them. And we executed the search warrant at the
5 Defendant's residence.

6 Q Okay. When you got there, how did you, actually, get
7 into the Defendant's residence?

8 A When we got there, there was several family members
9 there. And we asked if anyone had a key, because we don't
10 want to do any damage. The family members there said
11 there was no key. They couldn't let us in.

12 So we proceeded to kick the front door in. Then they
13 stopped us and said, wait, we have a key. So we didn't
14 have to kick the door in the rest of the way.

15 Q Okay. About how long were you there?

16 A An hour and a half maybe.

17 Q All right. I'm going to back up a little bit,
18 Investigator Whaley, and show you a series of exhibits.
19 This is State's Exhibit Nos. 49, 50, 51, 52, 53, 54, 55,
20 and 56. If you'll just take a look at those.

21 A Sure.

22 Q Do you recognize those?

23 A Yes, ma'am. Those are my forensics photographs.

24 Q Okay. Are they true and accurate depictions of the
25 inside of the home?

1 A That's correct.

2 Q Okay. What I want you to do now, Investigator
3 Whaley, is walk the jury through the layout of this house?

4 A Certainly.

5 MS. MUNSON: Your Honor, at this time, I offer
6 State's Exhibit Nos. 49, 50, 51, 52, 53, 54, 55, and 56
7 into evidence.

8 THE COURT: Any exception?

9 MR. WARDER: No objection, Your Honor.

10 THE COURT: Marked and admitted without objection.
11 You may proceed.

12 (WHEREUPON, State's Exhibit Nos. 49, 50, 51, 52, 53,
13 54, 55, and 56 were admitted into evidence.)

14 BY MS. MUNSON:

15 Q Investigator Whaley, let's go over State's Exhibit
16 No. 49. Now, what does State's Exhibit No. 49 show?

17 A That is the sliding rear door -- glass sliding door.
18 This is the entrance where the door is slid to the left
19 and is an entrance into the back of the home on Idlewild.

20 Q Okay. And then State's Exhibit No. 50.

21 A This is that sliding door as it's opened to the left.
22 As you step into the residence, this is directly to the
23 left. This is the kitchen.

24 Q State's Exhibit No. 51.

25 A If I was standing here, this would look a direct line

1 into the home from the sliding glass door. So if I was
2 standing outside -- if the forensics took a picture
3 straight into the home, the sliding glass door would be to
4 the left, but I'm not quite in the kitchen.

5 Q Okay. State's Exhibit No. 52, what does this show?

6 A This is a little bit further into the kitchen. This
7 is the extent of the kitchen area, the kitchen floor.
8 That beaded wall that you saw, the beads you saw hanging
9 down would be over here to the right.

10 Q Okay. Now, let's go back to State's Exhibit
11 No. 51.

12 A Right there. What you just saw in that picture was
13 that little bit of flooring right there. And that's right
14 here, the same flooring.

15 Q So back to State's Exhibit No. 52.

16 A Yes, ma'am.

17 Q Now, to the right through those beaded things, what
18 is to the right?

19 A That was at one time a carport that had been closed
20 in. And that's the room in which the window was pushed
21 and broken in.

22 Q Okay. Now, let's look at State's Exhibit No. 53.

23 A Again, this is the end of the carpet, which is the
24 kitchen, which to the right is the beads here. And the
25 hallway is on the other side of this wall here. It goes

1 down that way. If you look right there, there is the
2 deceased.

3 Q And State's Exhibit No. 54.

4 A The deceased would have been over here. And then
5 there's the windows here and here. And then this would be
6 the front door. And all of this furniture was piled up
7 here as a barricade.

8 Q Okay. Now, State's Exhibit No. 55, what is this?

9 A This would be Natasha's bedroom.

10 Q How do you get to Natasha's bedroom from the kitchen
11 area?

12 A That wall that I spoke of, you would take a left and
13 walk straight down the hallway. As you're going down the
14 hallway, this would have been the last room to the left.
15 And the back picture of the home, there's a window right
16 here. That would be the outside window.

17 Q Okay. Let's look at State's Exhibit No. 56. Is that
18 window depicted on there?

19 A That's it right there.

20 Q All right. Now, let me show you State's Exhibit --
21 what's already in evidence as State's Exhibit No. 16. On
22 State's Exhibit No. 16, can you see the window to
23 Natasha's bedroom?

24 A That's the window right there.

25 Q Okay. And I want to show you what's in evidence as

1 State's Exhibit No. 11. What is to the left there?

2 A This?

3 Q Yes, sir.

4 A That's a gun.

5 Q Did you look at it?

6 A Yes, ma'am.

7 MS. MUNSON: Please turn on the lights.

8 BY MS. MUNSON:

9 Q Investigator Whaley, I'm showing you State's Exhibit
10 No. 58. Can you take a look at that?

11 A Would you like me to open it?

12 Q Please.

13 A This is the box that the weapon was sealed in with
14 the case number and the forensics investigator's signature
15 on the box. And this is the weapon that was found near
16 the deceased.

17 MS. MUNSON: Your Honor, I'm going to move State's
18 Exhibit No. 58 into evidence.

19 THE COURT: Any objection?

20 MR. WARDER: No objection, Your Honor.

21 THE COURT: Marked and admitted without objection.

22 (WHEREUPON, State's Exhibit No. 58 was admitted into
23 evidence.)

24 THE COURT: What number is that?

25 MS. MUNSON: State's Exhibit No. 58, Your Honor.

1 BY MS. MUNSON:

2 Q Investigator Whaley, do you know when the Defendant
3 was released from the hospital?

4 A Later that night, that evening.

5 Q The evening of the 10th? 11th?

6 A I think it was late the 10th.

7 Q Okay.

8 A That night.

9 Q Did you see him?

10 A Yes, ma'am. I spoke with him at the law enforcement
11 center.

12 Q How much time did you spend with him?

13 A Not too terribly long, maybe a couple of hours.
14 Because we had some administrative things that we took
15 care of.

16 Q All right. When you spoke with him, was he injured
17 anywhere, other than the chest?

18 A No. He just had his little chest wound.

19 Q Did you check?

20 A We did a search warrant and took photographs of him.

21 Q Did you check his hands, everything to see if he was
22 injured?

23 A We did. And we did not note any injuries.

24 Q Did he complain of anything?

25 A No, ma'am. He didn't complain.

1 Q Okay. Now, did you spend enough time with him to be
2 able to recognize him if you saw him again?

3 A Yes, ma'am.

4 Q And is he in the courtroom?

5 A Yes, ma'am.

6 Q Could you point him out to the jury?

7 A Would you like me to point with my finger, or just
8 describe him?

9 Q Just describe something he's wearing.

10 A It's the African-American gentleman between the two
11 defense attorneys in the blue shirt.

12 MS. MUNSON: Nothing further at this time, Your
13 Honor.

14 THE COURT: Any questions for the witness?

15 CROSS-EXAMINATION

16 BY MR. WARDER:

17 Q Do you recognize that drawing?

18 A Yes, I do.

19 Q Is that prepared as part of your investigation?

20 A Yes, sir, it is.

21 Q Okay. And is it a truthful and accurate
22 representation of the house?

23 A Yes, sir. That's correct.

24 Q Okay. And can you tell from it who, actually,
25 prepared it?

1 A Yes, sir, I can.

2 Q Who, actually, prepared it?

3 A Forensics Investigator Hamilton, J.F. Hamilton.

4 Q And when you say "forensics investigator," who is
5 that?

6 A When we have a crime scene and we go -- we work with
7 the Greenville County Forensics Department of Public
8 Safety. And they're trained forensics technicians. And
9 what they do -- they're the CSI as you would see on TV.
10 They go out and photograph, video, measure, make the
11 documents, the drawings to scale of the deceased, collect
12 all the evidence, and report those items back to us.

13 Q Okay. And so they would take actual measurements and
14 stuff, and then draw that to scale?

15 A Well, I'm not sure if this drawing is, actually, to
16 scale. But they take -- they do measurements at the home.
17 I'm not sure about this drawing. You'd have to ask
18 Mr. Hamilton.

19 Q But it does accurately reflect the home?

20 A Yes. That appears to be the inside of the residence.

21 MR. WARDER: Your Honor, I'd offer this into
22 evidence.

23 THE COURT: Any objection?

24 MS. MUNSON: No objection.

25 THE COURT: Marked and admitted into evidence as

1 Defendant's Exhibit No. 1.

2 (WHEREUPON, Defendant's Exhibit No. 1 was marked for
3 identification and admitted into evidence.)

4 BY MR. WARDER:

5 Q I'm going to ask you about some photographs. Do you
6 recognize that photograph?

7 A That's the back of the Defendant's head.

8 Q You went to the hospital and saw him?

9 A No, sir.

10 Q Okay. How do you know that's the back of his head?

11 A This is my office, and I was there when forensics
12 took these pictures.

13 Q You were there when it was taken?

14 A Yes, sir.

15 Q Does that accurately reflect what you saw that day?

16 A Yes, sir.

17 Q I'd ask you if you recognize --

18 MR. WARDER: And I'd ask that this photograph -- I
19 move it in as Defendant's Exhibit No. 2.

20 MS. MUNSON: No objection, Your Honor.

21 THE COURT: Marked and admitted without objection.

22 MS. MUNSON: Your Honor, if the Defense is going to
23 introduce these, we do not object.

24 THE COURT: If you would give them to the court
25 reporter so we can get them marked.

1 (WHEREUPON, Defendant's Exhibit No. 2 was marked for
2 identification and admitted into evidence.)

3 BY MR. WARDER:

4 Q And just so we have it, can you identify what that
5 is?

6 A Well, I imagine since those were taken in the same
7 orange jumpsuit in my office, that's the Defendant. I
8 can't see his head, though, but I'm sure that's him.

9 Q Okay. That's a closer-up of his elbow.

10 A Yes, sir, I imagine. No picture of the head, but I
11 won't argue that.

12 MR. WARDER: We'd offer them into evidence.

13 THE COURT: Marked and admitted into evidence without
14 objection.

15 (WHEREUPON, Defendant's Exhibit Nos. 3 and 4 were
16 marked for identification and admitted into evidence.)

17 BY MR. WARDER:

18 Q I'll give you one more photograph. Can you tell me
19 what that is?

20 A Well, it doesn't have a case number, so I can't say
21 what that is. It appears to be a letter "H" with a little
22 bit of maybe hair and blood, but I don't know.

23 Q Okay. You don't recognize that from the scene?

24 A No, sir, not without looking at our forensics
25 pictures. No, sir.

1 Q And can you recognize that at the scene?

2 A No, sir.

3 Q The gun that was introduced, that's a 9mm?

4 A I'd have to look at it again.

5 Yes, sir. It's a Hi-Point 9mm.

6 Q And it's a 9mm Luger, it says. Does that indicate a
7 particular caliber?

8 A Well, the Hi-Point is marked here on the pistol grip.
9 And it's a 9mm.

10 Q Okay. I guess that's the other side. Yes, it says
11 it on the box, 9mm Luger?

12 A Yes, sir.

13 Q That would be the caliber?

14 A The 9mm is the caliber, yes, sir. And the make is a
15 Hi-Point.

16 Q Do you know what the Luger refers to?

17 A I think that's a brand of the pistol, but I'm not
18 sure about that one.

19 Q I'll ask you about that photograph. Did you see
20 that -- can you tell where that is?

21 A No, sir.

22 Q You didn't see a hole in the wall at the house?

23 A I do see a hole there, but I -- no, sir.

24 Q Were you there when these photographs were taken?

25 A Not all the photographs. Since -- we've got so much

1 going on. And it takes them hours to take photographs.
2 I'm in and out of the house. I stay out of forensics way.
3 They're first, and then we follow behind.

4 So with every photograph being taken, I can't say I
5 was there for every single one, but I was in the area
6 inside or outside the house.

7 Q As a supervisor, do you inspect them? Are you aware
8 of them?

9 A Well, the forensics team has their own lieutenant
10 who, also, shows up. I wouldn't say I inspect their
11 photographs. They have their own supervisory division
12 that would do that. But I'm aware of what they take.
13 They report back to us what's going on. And we'll ask
14 them specific things that we want to know.

15 Q But you can't recognize any individual photograph as
16 being part of your investigation?

17 A I can if they're marked with the case number and they
18 came from our -- they have some sort of identifier. But
19 not your photographs, no, sir.

20 Q Okay. We have a stipulation we've entered into about
21 a handprint on the -- at the back of the house, are you
22 aware of that?

23 A Yes, sir.

24 Q Did you go out and view that handprint on that Lexus?

25 A That's correct, yes, I did.

1 Q And can you tell us where it was at on the Lexus?

2 A Not without looking at a picture. To the back of the
3 house, there was a vehicle and there was a bloody
4 handprint on it. If I saw a picture of the vehicle, I
5 could tell you. But I don't remember. It was on the
6 exterior. I'd have to look at the picture. I can't
7 remember everything.

8 Q And it was a bloody handprint?

9 A Yes.

10 MR. WARDER: Thank you.

11 THE COURT: Any redirect of the witness?

12 MS. MUNSON: Yes, ma'am.

13 THE COURT: You may proceed.

14 REDIRECT EXAMINATION

15 BY MS. MUNSON:

16 Q Was Mr. Williams actively bleeding anywhere other
17 than here?

18 A No, not to the best of my knowledge. You know, he
19 was in a little car accident, and he was taken to the
20 ground and handcuffed. But he didn't have any injuries,
21 black eye, bloody lip, or anything like that.

22 Q Were you in the Idlewild house when Mr. Williams left
23 the house?

24 A No. He was gone prior to my arrival. He was already
25 at the hospital.

1 MS. MUNSON: I have nothing further, Your Honor.

2 THE COURT: Sir, you may step down.

3 Mr. Foreman, ladies and gentlemen, we're going to
4 take advantage of this break in testimony to give you all
5 a rest, and break, and opportunity to stretch your legs.
6 During the break, please, do not discuss the case. And,
7 please, leave your notepads in the seats.

8 (WHEREUPON, the jury was excused from open court at
9 approximately 3:29 p.m.)

10 THE COURT: We'll be at ease for about five or 10
11 minutes, however long it takes them to use the restroom.

12 (WHEREUPON, a break was taken.)

13 THE COURT: Is the State ready to proceed?

14 MS. MUNSON: Actually, no, Your Honor.

15 Mr. Irby is supposed to be here now. They just went
16 downstairs to check on him.

17 THE COURT: Okay.

18 MS. MUNSON: Can I step out for a second?

19 THE COURT: Yes.

20 (Pause.)

21 MS. MUNSON: Yes. We're ready, Your Honor.

22 THE COURT: Why don't we deal with Mr. Irby outside
23 the presence of the jury first.

24 MS. MUNSON: Yes.

25 THE CLERK: Judge, should I swear him in again, or is

1 he still under oath?

2 THE COURT: I'll just remind him.

3 THE CLERK: Mr. Irby, you may come up and take the
4 stand, please.

5 Yes, sir. If you will take the stand for me, please.

6 Do you need help?

7 THE WITNESS: No, ma'am.

8 THE COURT: Take a deep breath.

9 THE WITNESS: Thank you.

10 THE COURT: You're welcome.

11 Sir, I'll remind you that you're still under oath.

12 You may proceed.

13 MS. MUNSON: Your Honor, for the purposes of this
14 hearing, may I lead?

15 THE COURT: Yes.

16 DIRECT EXAMINATION

17 BY MS. MUNSON:

18 Q Now, Mr. Irby, three Greenville County police
19 officers came to your house, deputies; right?

20 A Three or four.

21 Q Okay. And you let them in your house?

22 A Yes, ma'am.

23 Q And you talked about Mr. Williams --

24 THE COURT: Let's give him --

25 Sir, do you need some more time to catch your breath?

1 THE WITNESS: No. I'm okay.

2 THE COURT: Okay. Do you need some water?

3 THE WITNESS: Yes, ma'am, if you don't mind.

4 THE COURT: Could we get him some water, please?

5 THE CLERK: Yes.

6 (Pause.)

7 THE WITNESS: Thank you.

8 THE CLERK: You're welcome.

9 BY MS. MUNSON:

10 Q Are you all right now?

11 A Yes, ma'am.

12 Q So you remember these three or four investigators
13 from the Sheriff's Office coming to your home?

14 A Yes, ma'am.

15 Q And they asked you questions?

16 A Yes, ma'am.

17 Q Do you remember the names of the officers?

18 A No, ma'am.

19 Q Do you recognize any of them?

20 A No, ma'am, just the last one that came to the house.
21 That's the only one I know.

22 Q Okay. So you don't remember Investigator Whaley?

23 A No.

24 Q Or Investigator Miller?

25 A No.

1 Q Or Investigator Campbell?

2 A No.

3 Q But they did come to your house?

4 A They came there.

5 Q You're not disputing with me their names; correct?

6 A I don't know their names. I'm just saying yes.

7 Q And they asked you for a written statement?

8 A Yeah, they wrote -- yeah.

9 Q They wrote it out?

10 A Right.

11 Q Now, did you tell those investigators that you had a
12 conversation with Mr. Williams on the 10th of July, while
13 they were looking for him where he told you that he killed
14 her?

15 A No.

16 Q Okay. You did not tell these deputies that you --
17 that he said he killed her?

18 A No.

19 MS. MUNSON: I have nothing further at this time,
20 Your Honor.

21 THE COURT: Well, you need to ask whether there are
22 things -- whether he told them that, and whether he told
23 them he didn't want it in the statement because he didn't
24 want inculcate his friend. That's what we --

25 THE WITNESS: I can tell you that -- excuse me for

1 interrupting. But I can tell you that. I asked him --
2 whoever the guys was, I asked them, I said, now, I don't
3 mean no harm if I said anything that I shouldn't be.
4 Because I don't know what happened. And I said, I don't
5 want to say nothing they said where he already said that
6 he killed her. Now, that's what they told me.

7 MS. MUNSON: Okay.

8 THE COURT: I'm sorry, sir. Repeat that again so I
9 can understand what you're saying.

10 THE WITNESS: They came to the house. And they was
11 talking and they were asking me questions. And I said --
12 when they got through, I said, Did I say anything to
13 really incriminate my friend? Because I don't know
14 nothing about it.

15 And they said, No, because he already admitted to it.

16 Now, that's what they told me. I remember that.

17 BY MS. MUNSON:

18 Q So the deputies told you that the Defendant had
19 admitted it?

20 A Yes.

21 Q Now, let me go a little bit further. Did the
22 deputies question you about leaving something out of your
23 statement?

24 A No.

25 Q Okay. And did they say, Why isn't this in your

1 statement?

2 A No, not that I can remember, no. Not that I know of,
3 no.

4 Q Okay. So they did not question you about you
5 intentionally leaving out of your statement something that
6 the Defendant told you?

7 A No, not that -- no, not that I remember. I told them
8 all I knew. I'm really not getting your question.
9 Because I don't --

10 Q Then I'll try better. I apologize.

11 A I'm not a bright...

12 Q After Investigator Whaley wrote out your statement --
13 it was in his handwriting?

14 A Uh-huh.

15 Q He showed it to you.

16 A Uh-huh.

17 Q You made some corrections on it, didn't you?

18 A No.

19 Q And put your initials on it?

20 A Not that I know of.

21 THE COURT: Let him --

22 MR. JONES: If she would let him take a look at it,
23 Judge.

24 THE COURT: Yeah. That was what I was just saying.
25 Let him review the statement.

1 BY MS. MUNSON:

2 Q Is this your signature?

3 A Yes, ma'am.

4 Q Okay. Are these your initials?

5 A Yes, ma'am.

6 Q Are these your initials?

7 A Yes.

8 Q And here?

9 A Where about right here?

10 Q Yes, ma'am.

11 A No.

12 Q Okay. Are these your initials?

13 A Yes, ma'am.

14 Q Where that's scratched out --

15 A Yes, ma'am.

16 Q -- do you agree with me that's a correction?

17 A 202.

18 Q It's a correction?

19 A Okay.

20 Q And you initialed the correction?

21 A Yeah.

22 Q So you were given a chance to look at this and make
23 corrections?

24 A I guess, like I said, he just showed -- he asked me
25 to sign it. That's all I could do, ma'am. They asked me

1 to put my initials on it. And that's what I did.

2 Q They asked you to put your initials on there?

3 A Yes.

4 Q Okay. Were you forced to put your initials on
5 here?

6 A No.

7 Q Did you tell them the truth?

8 A As far as I know, I told them everything I knew.

9 Q As far as you know?

10 A Yeah.

11 Q And it's your testimony that the Defendant did not
12 tell you that he had killed Natasha?

13 A No.

14 Q He didn't tell you that?

15 A No.

16 Q And you did not tell the investigators who came to
17 your house --

18 A No.

19 Q Okay. And the investigators did not question you
20 about leaving a statement of the Defendant out of your
21 written statement, is that what you're saying?

22 A Yeah. I don't know. They asked me to sign the
23 papers. And that's what I did.

24 Q But they did not -- did they or did they not say,
25 Mr. Irby, why didn't you put in your statement that Willie

1 Williams --

2 A Oh, no, not that I remember. I don't remember -- the
3 only thing they did was asked me -- the only thing they
4 did was ask me to sign the paper right here, initial this
5 and sign the paper.

6 MS. MUNSON: I have nothing further at this time,
7 Your Honor.

8 THE COURT: Any questions for the witness?

9 MR. WARDER: No questions, Your Honor.

10 THE COURT: Sir, you may step down. But you're
11 subject to being recalled. So, please, don't leave the
12 courthouse. Okay.

13 THE WITNESS: Okay.

14 THE COURT: Thank you, sir.

15 MR. WARDER: Your Honor, I don't mean to interrupt,
16 and I don't want to. But I can't believe that I'm in the
17 position that the State is trying to impeach one of its
18 own witnesses to get evidence before a jury. And, of
19 course, I can't cross-examine him, you know, about a
20 statement he didn't make. It seems like this is about
21 a -- it's a complete violation of the confrontation
22 clause.

23 THE COURT: Who's the State's next witness?

24 MS. MUNSON: It depends on how you rule on this
25 issue, Your Honor. Because I would like --

1 THE COURT: I'm not in any hurry to rule. I learned
2 a long time ago -- I've been doing this 17 years -- to
3 afford myself the opportunity to think when it's
4 necessary. So it's not urgent at this moment. Your
5 witnesses are available to you. So I would assume you
6 have other witnesses.

7 Are you prepared to call other witnesses?

8 MS. MUNSON: Yes.

9 THE COURT: Who's your next witness?

10 MS. MUNSON: Chris Miller.

11 THE COURT: Okay. Are we ready to proceed?

12 MS. MUNSON: Yes, Your Honor, we're ready.

13 THE COURT: Please bring in the jury.

14 How long will that witnesses testimony be?

15 MS. MUNSON: I anticipate 20 minutes, Your Honor.

16 THE COURT: Is he already in the courtroom?

17 MS. MUNSON: He is, Your Honor.

18 THE COURT: And then who's your next witness after
19 that?

20 MS. MUNSON: After that, I would want to call
21 Jonathan Hamilton.

22 THE COURT: Who's that?

23 MS. MUNSON: The forensics technician who is, at
24 least, 40 minutes, and who is, also, an hour away.

25 THE COURT: So maybe we might need to start with him

1 in the morning?

2 MS. MUNSON: Yes, ma'am, if that would suit.

3 THE COURT: Because I don't want to keep the jury
4 after 5:00 again.

5 MS. MUNSON: Yes, ma'am.

6 Your Honor, would you like for the witness to go to
7 the stand.

8 THE COURT: That's fine.

9 (WHEREUPON, the jury came into open court at
10 approximately 3:59 p.m.)

11 THE COURT: The State may proceed.

12 MS. MUNSON: May it please the Court, Your Honor.

13 THE COURT: Yes, ma'am.

14 MS. MUNSON: Your Honor, the State calls Investigator
15 Chris Miller.

16 THE CLERK: Sir, would you, please, place your left
17 hand -- thank you.

18 WHEREUPON,

19 CHRISTOPHER TODD MILLER,
20 after first having been duly sworn, testified as follows:

21 THE CLERK: Thank you.

22 You may be seated.

23 Sir, state your name for the record.

24 THE WITNESS: Christopher Todd Miller.

25 THE COURT: You may proceed.

DIRECT EXAMINATION

BY MS. MUNSON:

Q Who do you work for, sir?

A The Greenville County Sheriff's Office.

Q How long have you been with the Sheriff's Office?

A A total of 18 years.

Q What are your current duties?

A I'm a sergeant in the criminal investigation division.

Q What are your duties as a sergeant in the criminal investigation division?

A I'm over the auto theft unit, juvenile investigations, and, also, victim/witness assistance.

Q Okay. What were your duties with the Sheriff's Office back in July of 2010?

A I was a homicide investigator at the time.

Q And did you get involved in this case?

A Yes, I did.

Q At what point did you become involved in this case?

A I was asked by Investigator Whaley to go with him to Laurens County to assist him with a search warrant.

Q Okay. And where did you go in Laurens County?

A We went to the Defendant's home.

Q Okay. Is there anything that you took from the Defendant's home pursuant to the search warrant?

1 A Yes. I found some bullets.

2 MS. MUNSON: May I approach, Your Honor?

3 THE COURT: You may.

4 BY MS. MUNSON:

5 Q I'm showing you State's Exhibit No. 57, Investigator.
6 Will you just take a look at those?

7 A (Witness complied.)

8 Q Do you recognize them?

9 A I do.

10 Q And what is State's Exhibit No. 57?

11 A That is .38 shell casings.

12 Q And where did you get these?

13 A Out of the Defendant's bedroom.

14 MS. MUNSON: Your Honor, I move State's Exhibit
15 No. 57 into evidence.

16 THE COURT: Any objection?

17 MR. WARDER: No, Your Honor.

18 THE COURT: Marked and admitted without objection.

19 (WHEREUPON, State's Exhibit No. 57 was admitted into
20 evidence.)

21 MS. MUNSON: No further questions of this witness,
22 Your Honor.

23 THE COURT: Tell me what that number was.

24 MS. MUNSON: State's Exhibit No. 57.

25 THE COURT: Any questions of the witness?

1 MR. WARDER: Just a minute, Your Honor. We have a --
2 we lost a photograph.

3 (Pause.)

4 CROSS-EXAMINATION

5 BY MR. WARDER:

6 Q Sir, did you go to the search of Willie Williams's
7 house?

8 A Yes, I did.

9 Q Okay. And what time of day did you go there?

10 A It was in the afternoon. I don't recall exactly
11 when.

12 Q And how long did you stay?

13 A We were there, at least, a couple of hours.

14 Q Okay. You recovered some bullets?

15 A That's correct.

16 Q Okay. Did you -- can you recognize that as a
17 photograph of those bullets?

18 A Yes, I do.

19 Q Okay. And there's two photographs of them. And
20 there's a table in the third photograph.

21 A Yes, sir.

22 Q When you came to the house, was that the condition of
23 how that table would have looked and the bullets that were
24 underneath it?

25 A Yes, sir.

1 Q Do you know who took that photograph?

2 A I do not recall at this time, sir.

3 Q Were you there when it was taken?

4 A I was there, but I don't recall which --

5 Q Which --

6 A -- technician took it.

7 Q But you know it was taken as part of the search you
8 were involved in?

9 A That's correct.

10 MR. WARDER: Your Honor, I would offer these three
11 photographs into evidence.

12 THE COURT: Any objection?

13 MS. MUNSON: No, ma'am.

14 (WHEREUPON, Defendant's Exhibit Nos. 5, 6, and 7 were
15 marked for identification and admitted into evidence.)

16 THE COURT: Marked and admitted without objection.

17 MR. WARDER: Your Honor, if it please the Court, that
18 would be all the questions I have.

19 THE COURT: Any redirect of the witness?

20 MS. MUNSON: No, ma'am, Your Honor.

21 THE COURT: Any objection to the witness being
22 excused from the State?

23 MS. MUNSON: As long as he's subject to recall, Your
24 Honor.

25 THE COURT: From the Defense?

1 MR. WARDER: No objection, Your Honor.

2 THE COURT: Sir, you're excused subject to being
3 recalled.

4 Mr. Foreman, and, ladies and gentlemen, we have a
5 scheduling challenge today. The next witness is about an
6 hour away and is not able to get here before we adjourn
7 court this afternoon. So, in consideration of the fact
8 that we kept you late yesterday, we're going to let you go
9 a little bit early today. We're going to resume in the
10 morning at 9:30.

11 During the break, please, do not discuss the case in
12 any manner whatsoever. Please do not watch, read, or
13 listen to any media accounts about the case or look up
14 anything on the Internet. And, again, don't have any
15 contact with anyone in or about the courthouse when
16 leaving or returning in the morning.

17 I hope you all have a great evening. If you'll leave
18 your notepads in your seats. We'll see you in the morning
19 at 9:30.

20 (WHEREUPON, the jury was excused from open court at
21 approximately 4:06 p.m.)

22 THE COURT: Is there anything else we need to take up
23 before we adjourn for the evening from the State?

24 MS. MUNSON: No, ma'am.

25 THE COURT: From the Defense?

1 MR. WARDER: No, Your Honor, there isn't.

2 THE COURT: I guess I need to ask preliminarily what
3 basis would the State be advancing to be able to use these
4 extrinsic statements to impeach Mr. Irby?

5 And I ask that question because the purpose of
6 admitting extrinsic evidence is to impeach the credibility
7 of the witness, not to prove that what was said to the
8 witness was, actually, true. And that's the problem
9 you've got with these statements, not so much -- because
10 the whole purpose you would be offering them would be to
11 impeach Mr. Irby's credibility.

12 MS. MUNSON: Yes.

13 THE COURT: But the prejudicial value of those
14 statements is so problematic. Because they cannot
15 cross-examine whether, in fact, their client, actually,
16 said it. And that's the rub you get into it. Because how
17 do I parse out those two things?

18 Because you can't offer extrinsic statements to prove
19 that the Defendant, actually, made those statements to
20 Mr. Irby. The only reason the rules allow you to offer
21 extrinsic evidence is to impeach Mr. Whaley's credibility,
22 in other words, call him a liar.

23 So how do you get beyond that original thresh?
24 Because, normally, when you're impeaching with extrinsic
25 evidence, you're impeaching the person that, actually,

1 made the statement. Because you're confronting them with
2 the time, place, and date that they, actually, made the
3 statement that was contrary to their best interest, which
4 is the whole purpose of the impeachment rules.

5 And then you're allowing somebody else to come in and
6 say that person said it to me. And, normally, what you're
7 doing is you're having that person say that this person
8 said this to me about themselves, not about somebody else.

9 In this instance, you have a real difficult issue.
10 Because the whole purpose of admitting the statement would
11 be to impeach Mr. Irby's credibility. But you can't offer
12 it to prove that Mr. Williams, actually, said it to
13 Mr. Irby. That's the problematic part of these
14 statements, as well as with his brother. Because you
15 would be trying to offer them for their truth, which is
16 that Mr. Williams, actually, told these folks that he
17 killed his ex -- or his wife, not for the purpose of
18 impeaching him. In other words, that he now says he
19 didn't make a statement to the police that he did make.
20 And I know that sounds a little -- is not as articulate as
21 I had hoped it would be.

22 MS. MUNSON: I think I have a case on point.

23 THE COURT: I'd be glad to look at it.

24 MS. MUNSON: I'm trying to scan. I'm not going to
25 sit here and tell you that it is directly on point,

1 because I haven't read it yet. But I'll give you the --

2 THE COURT: The citation.

3 MS. MUNSON: -- citation.

4 THE COURT: Because I haven't found anything on point
5 from the commentaries either, or any of the legal treatise
6 that would allow it. Because the whole purpose of it is
7 to impeach someone's credibility, not to offer as truthful
8 what the person, actually, said. Because, normally, it's
9 not a hearsay within a hearsay issue.

10 Usually, you have a person who, actually, said
11 something that was contrary to their best interest or
12 inculcates themselves. Or, usually, it's more in the
13 civil context where somebody will say -- I'm trying to
14 think of a real simple example. Where a person at a wreck
15 says they told -- they said, I wasn't injured and when
16 you -- and then they come in court and say, oh, no, I had
17 all of these horrible injuries and I said at the scene I
18 had all these horrible injuries. And you say, well,
19 didn't on this date you tell the EMS person that you
20 weren't injured and you didn't want help. And they all
21 say, no, I never said that.

22 So then you call in the EMS person that says, oh, no,
23 they said to me I wasn't injured and they refused
24 assistance. That's, usually, the kind of circumstance
25 where you would have extrinsic proof.

1 But I have not encountered -- and, actually, it may
2 even really be a Crawford. Usually, you run into it
3 with -- I'm trying to think if I've ever had this come up
4 before. And it seems like it did years ago. But the
5 problem you have is you're not offering it simply to
6 impeach this person's credibility. You're offering it
7 because you want the jury to believe Mr. Williams told
8 them that he killed his wife and they can't cross-examine
9 that. And that's problematic.

10 MS. MUNSON: Your Honor, if these two witnesses would
11 tell the truth --

12 THE COURT: Well, I don't know what the truth is. I
13 wasn't there. I'm not clairvoyant. I don't know what was
14 said.

15 MS. MUNSON: Then we'll leave that out.

16 THE COURT: And I believe perception is reality.

17 Now, I've listened to Mr. Irby. And he believes what
18 he said. And the officers believe what they heard. And
19 none of us was there, so we don't know what was said.

20 MS. MUNSON: If one of the witnesses took the stand
21 and said that Mr. Williams told me that he killed his
22 wife, where would a Crawford issue be there? Would that
23 not be admissible?

24 THE COURT: Wait a minute. Say that one more
25 time.

1 MS. MUNSON: If any witness takes the stand in this
2 trial and says that the Defendant told me he killed his
3 wife --

4 THE COURT: That's different. That's a plain, flat
5 out admission against interest.

6 MS. MUNSON: Right.

7 THE COURT: And they can cross-examine that witness
8 on their credibility --

9 MS. MUNSON: Right.

10 THE COURT: -- as to when the statement may or may
11 not have been made. That's a different situation. I
12 don't know. I've got to -- what's the case you wanted me
13 to look at?

14 MS. MUNSON: Okay. It is a Supreme Court case, State
15 v. Steven Bixby, 388 S.C. 528 and 698 S.E.2d 572.

16 MR. WARDER: Judy, what was the South Carolina cite?

17 MR. JONES: 388 S.C. 528.

18 MR. WARDER: Okay. The year?

19 MS. MUNSON: It was --

20 THE COURT: 2010.

21 MR. JONES: 2010?

22 THE COURT: Uh-huh.

23 How many other witnesses does the State have after
24 the witness you've indicated you're going to call
25 tomorrow?

1 MS. MUNSON: I can't find my witness list.

2 THE COURT: Are you calling Ms. Beauford?

3 MS. MUNSON: No, Your Honor.

4 We would have -- what we have left is --

5 THE COURT: Ms. Boyd?

6 MS. MUNSON: No, Your Honor.

7 THE COURT: Mr. Paden?

8 MS. MUNSON: No, Your Honor.

9 THE COURT: Mr. Horrell?

10 MS. MUNSON: No.

11 THE COURT: Mr. Jarvis?

12 MS. MUNSON: No, Your Honor.

13 THE COURT: Mr. James Armstrong?

14 MS. MUNSON: Yes, ma'am.

15 THE COURT: Jonathan Hamilton?

16 MS. MUNSON: Yes, ma'am.

17 THE COURT: And that would be three witnesses;
18 correct?

19 MS. MUNSON: Yes, ma'am.

20 THE COURT: Other than the ones we're dealing with.

21 Now, of the Defense's witnesses, how many of these do
22 you plan to call? I have a David Price, PhD, Kendra
23 Williams, Stephanie Williams, and Kenyatta Jiles.

24 MR. WARDER: Your Honor, I put -- Dr. Price would
25 only testify in the event of a conviction. He's a

1 mitigation witness.

2 THE COURT: Oh, okay. So he wouldn't be coming --

3 MR. WARDER: He would not be a trial witness. But as
4 a precaution, I put him on the list.

5 THE COURT: Okay. Do you plan to call these other
6 witnesses?

7 MR. WARDER: Your Honor, it's in serious doubt that
8 we'll call --

9 THE COURT: So how long do you think it's going to
10 take you all to finish your case, the last witnesses that
11 you have left, Ms. Munson?

12 MS. MUNSON: An hour and a half, Your Honor.

13 THE COURT: So we'd be ready to close and charge
14 midday tomorrow?

15 MR. WARDER: Well, we haven't made a final decision
16 on the Defendant.

17 THE COURT: Well, of course, that goes without
18 saying.

19 MR. WARDER: But outside of that, it's doubtful if we
20 have any other witnesses that will testify.

21 THE COURT: Okay. Is there anything else we need to
22 take up before we adjourn from the State?

23 MS. MUNSON: No, ma'am.

24 THE COURT: From the Defense?

25 MR. WARDER: Nothing from the Defendant, Your Honor.

1 THE COURT: Y'all have a good evening. I'll see you
2 at 9:30.

3 (WHEREUPON, the proceedings were concluded at
4 approximately 4:15 p.m., to be reconvened on
5 Wednesday, May 15, 2013.)
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STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

COURT OF GENERAL SESSIONS

2013-GS-23-3238

2013-GS-23-3239

2013-GS-23-3240

ORIGINAL

STATE OF SOUTH CAROLINA,)

vs.)

TRANSCRIPT OF RECORD

WILLIE MARVIN WILLIAMS,)
 DEFENDANT.)

VOLUME II

May 15, and 16, 2013
 Greenville, South Carolina

B E F O R E:

THE HONORABLE DEADRA L. JEFFERSON, JUDGE; and a jury.

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

JUDITH M. MUNSON, ESQ.
 Assistant Solicitor

RICHARD H. WARDER, ESQ.
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HOLLIE M. JENKINS
 Circuit Court Reporter

I N D E X

(SW) - Denotes State's Witness
 (DW) - Denotes Defense Witness
 (IC) - Denotes In Camera

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All Exhibits were retained by the Clerk of Court for Greenville County.

P R O C E E D I N G S

THE COURT: Is the State ready to proceed?

MS. MUNSON: Yes, Your Honor.

THE COURT: Is the Defense ready to proceed?

MR. WARDER: I just need a minute for my co-counsel to get back from the facilities, Your Honor.

THE COURT: Not a worry.

(Pause.)

MR. WARDER: We're ready, Your Honor.

THE COURT: Over the evening, I had an opportunity to do some research and have some reflective thoughts about some of the issues that were pending before the Court. The first being that of Mr. Irby's testimony and whether extrinsic statements are admissible to impeach his credibility.

Under Rule 613(b), when a person is given the opportunity to know the substance of the statement, and the time and place the statement was allegedly made, and given an opportunity to admit or deny the statement, if the statement is admitted, of course, extrinsic proof is not admissible. However, if they deny the statement, the rules provide that extrinsic proof is admissible for the purpose of impeaching that witness's credibility when they are subject to cross-examination and are available for cross-examination by the opposing party in a case.

1 To the extent that the rule is admissible to
2 Mr. Irby's testimony, the officers will be allowed to
3 impeach his credibility only to the extent that he told
4 them that there were certain things that he did not want
5 to be included in his statement as he did not want to
6 incriminate his friend. And that would be the sole extent
7 of what they would be able to testify to.

8 If you glean from the rule, the last sentence very,
9 specifically, says, This provision does not apply to
10 admissions of a party opponent as defined in Rule
11 801(d)(2), which is exactly what Mr. Williams's statements
12 are, they're admissions against his interest. So the rule
13 on extrinsic evidence is not applicable to his statements.
14 And, therefore, extrinsic evidence would not be available
15 for that purpose.

16 And once I read about it and thought about it some
17 more and did a little more research, it made sense to me
18 where my quandary laid in the analysis, which is that the
19 purpose of the rule is to impeach credibility, not to
20 offer someone else's statement, an out-of-court statement
21 offered for its truth to prove the veracity of that
22 statement when you would not be able to cross-examine that
23 person.

24 So to the extent that the rule is applicable, the
25 witnesses extrinsically that the State would like to offer

1 would be able to testify that they spoke with Mr. Irby,
2 the date and time that he allegedly made statements to
3 them, and the extent to which the statement was that he
4 did not want certain things included -- he didn't want
5 something included in his statement because -- his words
6 were I don't -- his words and his testimony were, I don't
7 want to say anything that's going to hurt my friend. Of
8 course, I'm paraphrasing it. The officer's testimony
9 would be that he didn't want certain statements included
10 because he didn't want to incriminate his friend.

11 So to the extent that that testimony would be
12 admissible as it regards Mr. -- and any statements
13 regarding Mr. Willie Marvin Williams saying to Mr. Irby, I
14 killed my wife or I killed her -- I don't remember exactly
15 what the extent of that statement -- would not be
16 permissible pursuant to 613(b) as the rules, clearly,
17 provide that the admissions of a party opponent as defined
18 in 801(d)(2) are not applicable to this rule.

19 And 801(d)(2) deals with admissions by party
20 opponents. And we already know -- and that would be a
21 parties own statement, either an individual or a
22 representative capacity. And the rest of the rule
23 wouldn't be applicable to him. Because it deals with
24 statements made to agents or a co-conspirator. But,
25 clearly, that rule deals with admissions against interest.

1 So it would not be applicable.

2 As it regards Mr. Burley Williams's testimony, the
3 Court is not equipped to make a decision regarding
4 whether, in fact, Code Section 19-11-90 would apply to
5 that statement, and whether Mr. Williams would be able to
6 assert a pastor/priest privilege pursuant to that statute.
7 Because the rules provide and the case law interpreting
8 that statute provide that it is the penitent's privilege
9 to assert. And it is a subjective test that the Court
10 employs. And that deals with what the penitent perceived,
11 not what the priest perceived.

12 So I can't make a decision, based on what Mr. Burley
13 Williams perceived, whether the priest-penitent privilege
14 exists. So if you all decide you want to call the
15 penitent, it is your burden of proof, and it's up to you.
16 I'll leave that in y'all's hands as to how you want to
17 handle it.

18 But the Court cannot make a decision about what
19 Mr. Williams thought based on what his brother perceived.
20 He's not in his brother's mind. And it's not his
21 privilege to assert. And if I were to rely solely on what
22 he perceived, it would strain credulity for him to believe
23 it was confidential when he told everybody in earshot who
24 would listen to him. That sort of strains his thought
25 process that it was confidential.

1 But it's not for me to parse hairs and to split hairs
2 about what people believe about their religion. And I'm
3 not going to engage in that analysis.

4 So are we ready to proceed with the State's next
5 witness?

6 MS. MUNSON: Yes, ma'am, Your Honor.

7 THE COURT: Who is your next witness?

8 MS. MUNSON: Sergeant Jonathan Hamilton. And after
9 him would be, James Armstrong, #27, and then #26 in that
10 order.

11 THE COURT: Sergeant Jonathan Hamilton and then James
12 Armstrong?

13 MS. MUNSON: Yes, ma'am.

14 THE COURT: Are they here?

15 MS. MUNSON: I'm not sure about Mr. Armstrong.
16 Mr. Hamilton is here.

17 And, yes, Mr. Armstrong is as well.

18 THE COURT: Do you have him in the courtroom,
19 Mr. Hamilton?

20 MS. MUNSON: He's on his way, Your Honor.

21 THE COURT: I don't want the jury to have to wait.

22 MS. MUNSON: Yes, ma'am.

23 THE COURT: You can get the jury for me, please.

24 Where are their notebooks?

25 THE BAILIFF: I've already given them to them.

1 THE COURT: Don't do that in the future. I don't
2 want them to have them while they're idle. I don't want
3 them to have the temptation to talk about anything.

4 THE BAILIFF: Okay.

5 MR. WARDER: Your Honor, could we approach the bench
6 just on one matter?

7 THE COURT: Sure.

8 Don't bring the jury in yet.

9 THE BAILIFF: Yes, ma'am.

10 (WHEREUPON, a bench conference was held.)

11 THE COURT: You can bring in the jury.

12 (WHEREUPON, the jury came into open court at
13 approximately 9:44 a.m.)

14 THE COURT: Good morning, ladies and gentlemen.

15 I hope that you all had a pleasant and restful
16 evening.

17 We're now going to resume testimony. I would ask
18 that you give the attorney your attention.

19 You may proceed.

20 MS. MUNSON: May it please the Court, Your Honor.

21 THE COURT: Yes, ma'am.

22 MS. MUNSON: The State calls Sergeant Jonathan
23 Hamilton.

24 THE CLERK: Sir, if you'd raise your right hand.

25 WHEREUPON,

1 JONATHAN FRANKLIN HAMILTON,
2 after first having been duly sworn, testified as follows:

3 THE CLERK: Thank you.

4 You may be seated.

5 Would you, please, state your name for the record?

6 THE WITNESS: Sergeant Jonathan Franklin Hamilton.

7 THE CLERK: Thank you.

8 DIRECT EXAMINATION

9 BY MS. MUNSON:

10 Q Who do you work for, sir?

11 A The Greenville County Department of Public Safety,
12 the forensics division.

13 Q And what is your job title?

14 A I'm, currently, a supervisor over a group of forensic
15 officers for Greenville County.

16 Q And what are your duties?

17 A Supervisor. I take care of processing scenes, just
18 like any normal forensics officer. I, also, check off
19 reports, ensure that everything is done correctly for all
20 of my officers that are underneath me.

21 Q How long have you been with the forensics division of
22 the Greenville County Department of Public Safety?

23 A Six years.

24 Q And did you have law enforcement experience prior to
25 that?

1 A Yes, ma'am. I was a Greenville City police officer
2 for six years, where I left as a corporal to come to the
3 forensics division.

4 Q Okay. Do you have any specialized training regarding
5 your position as a forensics --

6 A Yes, ma'am, I do. I have, of course, in-house
7 training. Once you're hired on, we do a lot of in-house,
8 hands-on training to teach you how to do your job.

9 Also, I have additional training for NFSTC. It's a
10 training facility down in Florida. I've went down there
11 two or three different times for different aspects of
12 crime scene training and DNA training.

13 Q Okay. Now, as part of your duties as a forensics
14 investigator, are you familiar with the term or the
15 acronym, I guess, GSR?

16 A Yes.

17 Q What is that?

18 A Gunshot residue.

19 Q And as part of your duties, are you familiar with how
20 to test for that?

21 A I know how to collect using a collection kit, yes,
22 ma'am.

23 Q Okay. Thank you for correcting me.

24 A Yes, ma'am.

25 Q How do you collect it?

1 A There's two different types. There's an atomic
2 absorption and a scan electron microscope. SEM is what we
3 say, SEM and AA.

4 The SEM is the norm. We use that. It's kind of like
5 a dabber, kind of like a little sticky pad that goes on
6 each hand. You have one for the back of the hand, palm of
7 the hand for both the left and the right.

8 The atomic absorption is used. There's a chemical
9 that we put on a Q-tip. We have controls. So we'll swab
10 a place where it's covered with clothing, something that
11 cannot have access to any kind of gunshot residue. And
12 then we use the swabs to swab the hands, both the front
13 and the back. And they're put into separate vials.

14 Q Are there any guidelines for when you collect?

15 A At this point, it's six hours.

16 Q Six?

17 A Within a six-hour period, I believe, is the normal
18 that SLED has now.

19 Q And what does that mean? The six-hour period, what
20 does that mean?

21 A From the time of the supposed incident, six hours
22 forward.

23 Q And if it's been more than six hours since the
24 incident, what do you do?

25 A Then, normally, we don't test, because SLED normally

1 doesn't take it.

2 Q Now, did you get a call in reference to this case?

3 A I did.

4 Q Were you on duty?

5 A Yes, ma'am.

6 Q And where did you go in response to the call you got?

7 A [REDACTED].

8 Q Where is your office, by the way?

9 A 23 Winterberry Court, which is Greenville Technical
10 College. We're out of the technical college.

11 Q Is that where you were back in July of 2010?

12 A Yes, ma'am.

13 Q About how long did it take you to get to the crime
14 scene?

15 A Idlewild, it depends on if you take South
16 Pleasantburg Drive to Augusta Road, Augusta Road straight
17 down to Antioch Church Road, which is right near the
18 highway. I believe it's the toll road. You take a left,
19 and it's -- Idlewild is back in there. That probably will
20 take you about 18 minutes or so.

21 If you go down Fork Shoals from Old Augusta, that
22 usually takes you about 20 minutes, 18 to 20 minutes as
23 well.

24 So I'd say anywhere from 18 to 25 minutes, depending
25 on traffic and so on.

1 Q Now, when you got on the scene, how many other --
2 were there any other crime scene investigators there?

3 A Yes, ma'am. My Lieutenant, I, and Investigator
4 Derby.

5 Q Is your lieutenant still with you?

6 A No, he's not. He's retired now.

7 Q Good for him.

8 When you first got to Idlewild, did you have a
9 particular assignment?

10 A Yes. Whenever we have a bigger scene and there's
11 multiple forensics investigators on scene, we try to
12 separate the jobs. That way we can get it done more
13 effectively, and spend more time in areas that we need to.

14 In my case, mine, at first, was on the outside of the
15 home dealing with different aspects around the exterior of
16 the home.

17 Q Did you do anything on the interior of the home?

18 A Yes, I did. Once I completed any assignments on the
19 outside that I had, I went inside and helped collect
20 measurements for crime scene diagrams. I collected
21 certain pieces of evidence from inside the home, which was
22 found to be of importance that the lieutenant, who was the
23 lead -- I guess if you want to call it the lead
24 investigator in there that was requesting to be collected
25 or photographed.

1 Q Okay. Which portions of the interior of the home did
2 you go through while you were there?

3 A Well, we came in, which was the back sliding door
4 going into the dining room area, the main den or living
5 room area. And then there's a side room. I was in that
6 one as well, which is where a window we collected was at.

7 Also, the hallway leading off of the living room
8 going down the hall to the bedroom, which is at the end of
9 the hallway, a child's room, I believe it was.

10 MS. MUNSON: May I approach, Your Honor?

11 THE COURT: Yes.

12 MS. MUNSON: Thank you.

13 BY MS. MUNSON:

14 Q Sergeant Hamilton, I'm showing you State's Exhibit
15 Nos. 27, 28, 29, 30, and 31. If you could take a look at
16 those.

17 A Yes, ma'am.

18 Q Are those true and accurate depictions of the area
19 from which you collected at the window?

20 A Yes, ma'am.

21 MS. MUNSON: Your Honor, at this time, I move State's
22 Exhibit Nos. 27, 28, 29, 30, and 31 into evidence.

23 THE COURT: Any objection?

24 MR. WARDER: Your Honor, we have no objection.

25 THE COURT: Marked and admitted without objection.

1 (WHEREUPON, State's Exhibit Nos. 27, 28, 29, 30, and 31
2 were admitted into evidence.)

3 THE WITNESS: Do you mind if I come down? Because
4 it's hard to see.

5 MS. MUNSON: Do you mind, Your Honor?

6 THE COURT: No.

7 BY MS. MUNSON:

8 Q Sergeant Hamilton, if you would remember to keep your
9 voice up so the jury can hear you.

10 A Yes, ma'am.

11 Q This is State's Exhibit No. 27.

12 A Yes, ma'am.

13 Q Show the jury what State's Exhibit No. 27 depicts.

14 A This depicts the dining room area -- or not dining
15 room, the den area, which is going to be -- it appeared to
16 be an old converted carport, to be honest with you.

17 This is going to be facing the front of the home. If
18 you look out that window, you'd be looking down the
19 driveway. To the back is going to be the entranceway from
20 that room into the living area and the dining room/kitchen
21 area.

22 Q All right. State's Exhibit No. 28, from what
23 perspective is this?

24 A This is the same view, except turned to the left.

25 So, again, this is going to be the window looking straight

1 out and in -- at the driveway. This is going to be
2 looking down the wall, on the opposite side of that wall
3 is going to be the living room.

4 Q State's Exhibit No. 29, what does this show?

5 A Okay. This is going to be that window I was speaking
6 of that looks out to the driveway. This is going to be a
7 closer shot behind that couch, that little sectional couch
8 thing. This is going to be behind it with the window pane
9 here seen on the right side.

10 Q And State's Exhibit -- it's upside down. There we
11 go. State's Exhibit No. 30.

12 A This is going to be another shot of that window
13 looking at the driveway right here. The window pane will
14 be more behind us down here. And this is the sectional
15 couch and the space in between the window and couch.

16 Q Did you, actually, go behind where the couch and
17 window is in that space right there?

18 A Did we walk behind that?

19 Q Did --

20 A I can't advise. I'm sure we did to check and see if
21 there was any kind of evidentiary value of anything down
22 on the ground.

23 Q Was it big enough or small -- could you have fit
24 behind there? That's what I'm asking.

25 A Oh, yeah, definitely.

1 Q And, finally, we've got State's Exhibit No. 31. Now,
2 what does this show?

3 A Okay. This is going to be the entranceway going into
4 the living room, the dining room, and kitchen area. To
5 your right is going to be the windows I was speaking of to
6 the driveway. And to the left is a closet or laundry room
7 area. I'm not sure what that is.

8 Q Okay. You can take the stand.

9 A Yes, ma'am.

10 Q Now, after you had assisted with what you were doing
11 out there, did you do anything towards the back of the
12 house?

13 A Yes. I went to -- I was advised by Lieutenant
14 Peterson that there was some suspected projectile holes in
15 a -- appeared to be in a child's bedroom at the far end of
16 the home at the end of the hallway.

17 Q And what did you do in there?

18 A In there, I took some additional photographs,
19 measured off some holes, some suspected projectile holes.
20 I did some other trajectory and whatnot in that room. And
21 then I, also, cut into a wall and retrieved a projectile
22 from it.

23 Q And what did you do with that projectile?

24 A It was photographed, I believe, in the felt from the
25 insulation that's in the walls. When we pulled it out, we

1 just photographed it as it was. And then we collected it
2 into evidence.

3 Q Let me show you State's Exhibit No. 43.

4 A Okay.

5 Q Just take a look at that, please.

6 A It's not open. Can I cut it open?

7 THE COURT: He needs a pair of scissors.

8 MS. MUNSON: Yes.

9 THE WITNESS: The first thing I can attest to is
10 these are my initials on the outside of the bag, or the --
11 BY MS. MUNSON:

12 Q Which bag?

13 A The brown -- this one.

14 Q Okay.

15 A This one is not. This one is.

16 Q Okay.

17 A It's already opened. Okay.

18 Q Do you recognize State's Exhibit No. 43?

19 A It appears to be the same projectile I took out of
20 the wall.

21 Q Just kind of bag it back up there.

22 A Yes, ma'am.

23 Q All right. Now, Sergeant Hamilton, I'm going to show
24 you State's Exhibit Nos. 32, 33, 34, 35, 36, 37, 38, 39,
25 40, 41, and 42. Just take a look at those.

1 A Yes, ma'am.

2 Q Do recognize those?

3 A Yes, ma'am.

4 Q Are those true and accurate depictions of the area
5 leading to the child's room and where you recovered the
6 projectile?

7 A Yes, ma'am.

8 MS. MUNSON: Your Honor, at this time, I move State's
9 Exhibit Nos. 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, and
10 42 into evidence.

11 THE COURT: Any objection?

12 MR. WARDER: Your Honor, there is no objection.

13 THE COURT: Marked and admitted without objection.

14 (WHEREUPON, State's Exhibit Nos. 32, 33, 34, 35, 36,
15 37, 38, 39, 40, 41, and 42 were admitted into
16 evidence.)

17 BY MS. MUNSON:

18 Q Sergeant Hamilton, if you don't mind standing down
19 again.

20 A Yes, ma'am.

21 Q Let me ask you one thing. Why do y'all take so many
22 pictures?

23 A It's better to document as much as you can than not
24 have enough.

25 Q This is State's Exhibit No. 32. What does this show?

1 A This is going to be your hallway leading down from
2 the living room, kitchen, and dining room area.

3 Q And in State's Exhibit No. 32, where in relation to
4 that exhibit is Natasha Kerns's body?

5 A It would be over my right shoulder. It's in the
6 corner of the room behind where the picture is.

7 Q Let me back up a second.

8 A Yes, ma'am.

9 Q Right below the clock on State's Exhibit No. 32, and
10 then there's the thermostat, what is that mark in between
11 the thermostat and the decorative stand?

12 A That mark right there?

13 Q Yes.

14 A That was not --

15 Q Did you find anything of evidentiary value there?

16 A No, ma'am.

17 Q Now, let's look at State's Exhibit No. 33. Now, what
18 does this depict?

19 A This is a few steps forward down the hallway. You've
20 got the same closets that you saw before. And if you look
21 straight down that blue wall, that's going to be the room
22 I went to for the projectile.

23 Q Now, where is -- this is State's Exhibit No. 34.
24 What does this depict?

25 A This is at the end of the hallway where that blue

1 wall was, as you can see right here. And this is you
2 looking from the entranceway of that door into the
3 bedroom. And you can see the bunk beds here -- or bunk
4 bed style here. The front wall is going to be over to the
5 right out of sight.

6 Q And what is that on the floor?

7 A That there is suspected blood.

8 Q This is State's Exhibit No. 35.

9 A Okay.

10 Q From what perspective is this photograph taken?

11 A This is a few more feet inside the room. This is
12 passing that entranceway. And this is the bunk bed that I
13 spoke of earlier on the left side. This is going to be
14 your front window looking at the main roadway. And then
15 just the dresser, and clothing, and whatnot on the right
16 side.

17 Q And then State's Exhibit No. 36.

18 A Okay. This is going to be a shot of the room. The
19 entranceway door is going to be right behind you and to
20 the right. And this wall is where the entranceway door is
21 behind us. This is going to be the front window facing
22 outward to the front of the home.

23 Q Okay. Here is -- this is State's Exhibit No. 37.

24 A Okay.

25 Q What is this view?

1 A This is going to be the bunk bed that you saw in the
2 earlier picture, except this is going to be a left-hand
3 turn picture. The bed is going to be to your right. The
4 closet is going to be to your left. And then you're going
5 to be facing the side wall of the home.

6 Q And State's Exhibit No. 38.

7 A Okay. This is going to be the closet area. This is
8 going to be that wall that was on the side of the home.
9 The bed is going to be over here on this side out of
10 sight.

11 Q I want to go back a second, Sergeant --

12 A Yes, ma'am.

13 Q -- to State's Exhibit No. 34.

14 A Yes, ma'am.

15 Q And I am going to try without -- I'm going to try to
16 zoom this in a little bit. It's a little cloudy there.
17 But, Sergeant, if you could -- do you notice anything in
18 State's Exhibit No. 34 that was of evidentiary value to
19 you?

20 A Those projectile holes on the railing when we entered
21 the home.

22 Q And the railing is -- does State's Exhibit Nos. 34
23 show that projectile hole?

24 A It's cloudy. There's one right here.

25 Q On the railing?

1 A On the railing itself.

2 Q Let me let you look at it.

3 A Yes. Let me look at. Yes, it's right there.

4 Q Okay. So this is State's Exhibit No. 39?

5 A Okay.

6 Q What does this depict?

7 A It's the zoomed-in picture of a -- there's a red
8 piece of plastic on the top bed of that bunk bed. And
9 then right above that, this is the top railing. There's a
10 suspected projectile hole there.

11 Q Okay. And this is from what perspective? Are you
12 facing the bunk bed?

13 A That is facing the bunk bed with that wall where the
14 entranceway door is to your back.

15 Q Okay. Now, State's Exhibit No. 40. There we go.

16 A This is the same top railing from that bed, but this
17 is on the inside. So this is from where the mattress is
18 going -- facing outward. That's where the projectile
19 hole -- suspected projectile went in and came out on this.
20 It came out on this side.

21 Q Okay. Now, this is State's Exhibit No. 41.

22 A Okay.

23 Q Can you explain the yellow tape on the ceiling there
24 to the jury?

25 A Yes. We try to get a good measurement of where the

1 projectile holes are in relation to either the floor or to
2 the ceiling. That way, we have a good idea of any kind of
3 angle of trajectory, or any kind of measurement of any
4 sort.

5 And what we do is we'll put the tape down from the
6 top or from the bottom of its relevance down to where the
7 projectile hole is. That way, we have an idea if it's so
8 many feet, or so many inches down.

9 If you look, it's hard to see here in this corner,
10 but there's one in an L-shape. Because it's so close --
11 it's closer to the corner of the room. We use the ceiling
12 to make sure we get a measurement of where that projectile
13 is, both from the front wall or side walls, whatever it
14 is.

15 Q So on State's Exhibit No. 41, can you show the jury
16 where you found projectile -- suspected projectile holes?

17 A Okay. There's going to be one here, one in the
18 ceiling over here. There's another one over here. And
19 then there's one in the ceiling up here. And these are
20 the ones I measured that we thought maybe we could get
21 some trajectory from.

22 Q Okay. Now, let me show you State's Exhibit No. 42.
23 And then we're going to go back to State's Exhibit No. 41.
24 What is State's Exhibit No. 42?

25 A This is the same projectile that I looked at earlier.

1 This was taken from the wall as we'll see, I guess, in a
2 minute. It's -- the projectile head, we had to cut the
3 wall out, cut the sheet rock out to try to retrieve the
4 projectile. So this is the felt from the insulation.

5 Q So let's go back to State's Exhibit No. 41.

6 A Yes, ma'am.

7 Q Can you show the jury on State's Exhibit No. 41 from
8 where you recovered the projectile?

9 A The projectile was recovered in this area over here.
10 The projectile hit up top. And it did not go all the way
11 through the home -- or the wood, the studs in the wall.
12 It appeared to -- it just fell down after hitting impact.
13 And we got it down at the middle lower section of the
14 wall.

15 Q So you cut out parts of the wall?

16 A Yes, ma'am.

17 Q Did you find any other projectiles?

18 A No, ma'am.

19 Q Okay. Thank you.

20 Sergeant Hamilton, in your time with Greenville
21 County, are you familiar with the Crestfield area?

22 A Yes, ma'am. I mean, we -- we have gone to calls
23 there.

24 Q And what general area is that in relation to
25 Idlewild?

1 A If it's the general term -- since we deal with the
2 entire county, you know, several hundred plus square
3 miles, we don't know the general terminology of a lot of
4 the apartment complexes. We know them as addresses,
5 Idlewild, you know, Antioch Church. That's how we get to
6 and from since we go all over the county. We don't have
7 one specific beat area.

8 So a lot of times, those terminologies for those
9 areas, we're not as accustomed to as the sheriff's office
10 or the local agencies that we service.

11 Q Okay. So --

12 MS. MUNSON: Okay. Thank you.

13 I have nothing further at this time, Your Honor.

14 THE COURT: Any questions for the witness?

15 CROSS-EXAMINATION

16 BY MR. WARDER:

17 Q When you said something was in a suspected projectile
18 hole, that means it was just a hole in the wall roughly
19 the same size as a projectile?

20 A As a projectile, yes, sir.

21 Q Do you do any gunshot residue tests on a projectile
22 hole to make sure that's what it is?

23 A No, sir.

24 Q Now, did you make a tire print?

25 A I took photographs of a tire impression and, also,

1 casting of a tire impression.

2 Q Okay. Did you match that to any tire?

3 A I just collected it. Matching is done at a later
4 date.

5 Q Okay. You don't try and analyze the forensic
6 evidence as much as you try and collect it?

7 A That's correct, sir.

8 Q And like when you pointed out blood on the floor, you
9 didn't analyze that or anything to see what it was?

10 A I didn't do it, no, sir.

11 Q Did you collect a sample of it?

12 A Maybe the lead officer over the case did, Detective
13 Peterson.

14 Q You didn't collect a sample?

15 A That was not my specific area at that time.

16 Q Okay. You were just mainly concerned with
17 projectiles. Is that what your job was there?

18 A I was assisting with the projectiles, yes.

19 Q Okay. And so somebody else would have been assisting
20 with everything, other than a projectile?

21 A Yes, sir. We all had specific areas that Lieutenant
22 Peterson wanted us to pay attention to.

23 Q And the photographs that are taken by you are taken
24 just in support of your areas of focus?

25 A Yes, sir.

1 Q And there's some 1,400 photographs in this case. But
2 you were only involved in taking the ones that relate to
3 the things you were focused in on?

4 A Yeah. I would have taken them, yes, sir.

5 Q I've got one of your pictures that's in black and
6 white, and the rest of them are in color. Is there any
7 reason that the one showing the bullet is not in color, or
8 is it just --

9 A That may just be because it's black felt and a gray
10 bullet. It's State's Exhibit No. 42, I believe.

11 Q That photograph there, is that taken with a different
12 camera at a different time, or is that the same --

13 A No, sir, same picture.

14 Q It just came out black and white because everything
15 was black and white?

16 A Well, I assume, it's either whoever printed these
17 pictures out with a printer could have changed something.
18 I have no clue. Or the black felt with the gray bullet
19 and the white insulation makes everything look black and
20 white.

21 Q And after you collected the bullets, was your job
22 done, or -- and analyzed the holes and stuff?

23 A Yes, sir. I did the -- well, I don't know where you
24 want me to go with that. Because I did the report for the
25 crime scene diagram.

1 I, also, responded to process the suspect -- or the
2 Defendant and victim number two.

3 MR. WARDER: Thank you.

4 THE WITNESS: Yes, sir.

5 THE COURT: Any redirect of the witness?

6 MS. MUNSON: No, ma'am, Your Honor.

7 THE COURT: Any objection to the witness being
8 excused from the State?

9 MS. MUNSON: No, ma'am.

10 THE COURT: From the Defense, any exception to the
11 witness being excused?

12 MR. WARDER: No.

13 THE COURT: Sir, you may be excused.

14 THE WITNESS: Thank you.

15 THE COURT: You're welcome.

16 MS. MUNSON: Your Honor, the State calls James
17 Armstrong.

18 THE CLERK: Place your left hand on the Bible and
19 raise your right hand.

20 WHEREUPON,

21 JAMES WILLIAM ARMSTRONG,
22 after first having been duly sworn, testified as follows:

23 THE CLERK: Thank you.

24 You may be seated.

25 THE CLERK: Would you, please, state your name for

1 the record?

2 THE WITNESS: James William Armstrong.

3 THE CLERK: Thank you, sir.

4 THE COURT: You may proceed.

5 DIRECT EXAMINATION

6 BY MS. MUNSON:

7 Q Who do you work for, sir?

8 A I'm employed with the Greenville County Department of
9 Public Safety, the forensics division crime laboratory.

10 Q How long have you been with them?

11 A I've been there a little over 17 years.

12 Q What are your current duties?

13 A I have a dual responsibility. I'm known as a
14 criminalist where I do forensic drug identification and
15 forensic firearm identification.

16 Q All right. Do you have any specialized training in
17 the field of firearms identification?

18 A Yes, ma'am, I do.

19 Q Explain your training in that area to the jury.

20 A I have a Bachelor of Science Degree in Chemistry from
21 Erskine College. I trained in the area of firearm
22 identification for approximately two years under the
23 direction of Mark Steffen, who's a retired firearms
24 examiner from Philadelphia PD.

25 I am a member of the Association of Firearms and Tool

1 Mark Examiners. I have attended, at least, five armored
2 schools to learn how to work on different firearms. I've
3 attended 13 firearm manufacturing facilities to see how
4 firearms are manufactured from raw materials to finished
5 product. I've, also, been through four different
6 ammunition assembly plants. And I've testified in federal
7 and state courts as an expert in firearm identification,
8 at least, 33 times.

9 MS. MUNSON: Your Honor, at this time, I offer
10 Mr. Armstrong to the Court as an expert in the field of
11 firearms identification.

12 THE COURT: Any objections or questions?

13 MR. WARDER: No, Your Honor.

14 THE COURT: So admitted without objection.

15 MS. MUNSON: May I approach, Your Honor?

16 THE COURT: You may.

17 BY MS. MUNSON:

18 Q Mr. Armstrong, I'm showing you State's Exhibit
19 No. 58. Take a look at this, please.

20 A (Witness complied.)

21 Q Do you recognize that?

22 A Yes, ma'am, I do.

23 Q How do you recognize it?

24 A Well, for one, the serial number on the firearm,
25 which I, also, have in my report, is P1433220. And I have

1 my initials and the date where I opened the box on the
2 front and, also, underneath the evidence tape.

3 Q Okay. Also, inside the box besides the weapon, is
4 there anything else?

5 A There's a magazine and some cartridges.

6 Q All right. How many cartridges are in the box with
7 State's Exhibit No. 58?

8 A I would have to open the bag to see. There are eight
9 cartridges.

10 Q Now, what did you do with State's Exhibit No. 58?

11 A I retrieved the item from the property and evidence
12 room. I went to my office and did an operability check on
13 the firearm. I examined it, test fired it to make sure it
14 was operable. And then I compared the test shots that I
15 recovered from that firearm to some projectiles from
16 another case.

17 Q Okay. Now, give us kind of a brief lesson on how
18 that particular firearm works. First of all, what kind of
19 weapon is it?

20 A That is a Hi-Point model C9. It's a semiautomatic
21 pistol. It's a caliber 9mm Luger. It's, basically, a
22 semiautomatic. When you pull the trigger, if it is
23 loaded, one round will be fired. Then the action of the
24 firearm will come back. The slide will come back ejecting
25 the fire casing. And then when the slide goes back

1 forward, it, actually, feeds another round into the
2 chamber and then is ready for operation with the next pull
3 of the trigger.

4 Q So semiautomatic means you just don't have to cock
5 it, or what?

6 A It's -- for one pull of the trigger, one round is
7 fired. And then it automatically loads itself.

8 Q And when you refer to a casing gets ejected, what are
9 you talking about there?

10 A That is the brass portion of the cartridge that,
11 actually, holds the powder and the projectile.

12 Q And how many rounds does that -- is that particular
13 weapon capable of holding?

14 A That one has a maximum capacity of nine, eight in the
15 magazine and one in the chamber.

16 Q Okay. And when you examined the weapon, was there
17 one in the chamber?

18 A When I received it, it was all unloaded.

19 Q Okay. And how many -- were there any bullets in the
20 magazine when you got it?

21 A No, ma'am. They were all -- I'm assuming it's in
22 that bag right there. Because I never, actually, opened
23 the cartridge bag.

24 Q Let's talk about the magazine for a second. What is
25 that?

1 A The magazine is a black -- or in that particular
2 case, a black metal body constructed item, which is
3 designed to hold cartridges. It has a spring, which,
4 actually, pushes the cartridge to the top so the firearm
5 can, actually, feed with the action of the slide.

6 Q Okay. What happens if the magazine is not completely
7 in the gun?

8 A The firearm -- it depends on the firearm. Some will
9 not function. They have a magazine safety. And some, if
10 they do function, if the magazine is not completely
11 seated, it may not feed the next cartridge.

12 Q What do you mean "completely seated"?

13 A If it is not completely in the locked position in the
14 magazine well, it would be down a little bit from the
15 slide. So when the cartridge should be here, if it's down
16 to this little piece, it will not pick up and go into the
17 chamber.

18 Q I apologize, Mr. Armstrong. I'm going to have to ask
19 you about something here. I am showing you State's
20 Exhibit No. 11 that is in evidence. If you'll just take a
21 look at this for a second.

22 And you did not go to the crime scene, did you?

23 A No, ma'am.

24 Q Now, Mr. Armstrong, what does this appear to be on
25 the ground?

1 A That could be a pistol.

2 Q Let me let you look at it close up first before I
3 have it up there. Take a look at that.

4 A It does appear to be the grip portion and rear
5 portion of a slide. It is consistent with a Hi-Point
6 manufacturer.

7 Q Okay. And on State's Exhibit No. 11, can you see the
8 magazine?

9 A Yes, ma'am. The magazine portion is right here.

10 Q All right. Here you go. Does that magazine appear
11 to be properly seated?

12 A No, ma'am.

13 Q All right. Thank you.

14 MS. MUNSON: Could we have the lights back on?

15 BY MS. MUNSON:

16 Q Now, the shell casings -- well, a semiautomatic --
17 are all handguns semiautomatics?

18 A No, ma'am.

19 Q And what kind of handguns are not?

20 A You have revolvers, and there's, also, Derringer-type
21 pistols. You have single shots as well.

22 Q All right. With a revolver, what -- how does that
23 operate in comparison with a semiautomatic regarding the
24 shell casings?

25 A With the revolver, the shell casings will be --

1 maintain in what is known as a cylinder. That is what,
2 actually, rotates, gives the term revolver. They are not
3 ejected from the firearm until the owner or operator,
4 actually, opens the revolver cylinder up and then dumps
5 the cartridges out.

6 Q All right. Now, briefly explain what happens once a
7 firearm -- once a handgun is fired. What comes out
8 besides the bullet?

9 A When the firearm is fired, the projectile does go
10 down the barrel. And behind the projectile is, actually,
11 the gases from the burning powder that is, actually,
12 pushing the firearm out. So that's known as gunshot
13 residue.

14 Q Okay. How would gunshot residue get on a person's
15 hands?

16 A Gunshot residue can be transferred from actual
17 contact with an area that may have gunshot residue on it,
18 being in close proximity of a firearm when it's being
19 fired, or even handling firearms.

20 Q Okay. Let me show you State's Exhibit Nos. 48 and
21 43. If you'll just take a look at those.

22 A (Witness complied.)

23 Q Do you recognize those?

24 A Yes, ma'am, I do.

25 Q Let's start with State's Exhibit No. 48 first. What

1 is State's Exhibit No. 48?

2 A State's Exhibit No. 48 was my item number MW1. It's
3 a fire bullet specimen, caliber .38/9mm.

4 Q Okay. And do you recognize any of your writing on
5 this?

6 A Yes, ma'am, I do. The outside bag has my initials
7 and date where I sealed it. Inside, I, also, have my
8 initials, and the item number with the case number written
9 on another bag as well.

10 Q And is it sealed? Does it appear to be intact?

11 A That is my original seal.

12 MS. MUNSON: Your Honor, at this time, I move State's
13 Exhibit No. 48 into evidence.

14 THE COURT: Any objection?

15 MR. WARDER: No objection, Your Honor.

16 THE COURT: Marked and admitted without objection.

17 (WHEREUPON, State's Exhibit No. 48 was admitted into
18 evidence.)

19 BY MS. MUNSON:

20 Q And then the other exhibit you have up there, do you
21 recognize it?

22 A Yes, ma'am, I do.

23 Q How do you recognize it?

24 A One, on the inside of the envelope, there's my
25 initials and the date where I opened it. Two, on the base

1 of the projectile itself, I have the item number JFH4
2 engraved on the base on top of my initials JWA.

3 MS. MUNSON: Your Honor, at this time, I move State's
4 Exhibit No. 43 into evidence.

5 THE COURT: Any objection?

6 MR. WARDER: Without objection.

7 THE COURT: Marked and admitted without objection.

8 (WHEREUPON, State's Exhibit No. 43 was admitted into
9 evidence.)

10 BY MS. MUNSON:

11 Q And I'm, finally, going to show you State's Exhibit
12 No. 57. Do you recognize that?

13 A Yes, I do.

14 Q How do you recognize that?

15 A Well, the outside of the front bag has my initials
16 and the item number. Inside, I, also, have the item
17 number and my initials as well.

18 Q Now, let's start with State's Exhibit No. 43, which
19 is maybe your item number JFH4?

20 A Yes, ma'am.

21 Q What did you do with State's Exhibit No. 43?

22 A I received the item. I, basically, did some --
23 compared my note parts where I was, actually, looking at
24 the item to identify it, such as caliber. And then I
25 did a weight. And then I compared it to the other

1 items.

2 Q Did you go through, basically, the same process with
3 each exhibit, State's Exhibit Nos. 43 and 48, as far as
4 weighing?

5 A Yes. Everything is exactly the same. When I receive
6 the item, I make sure it is sealed. I then cut the seal
7 and initial the seal. I inventory the contents of the
8 sealed container. And while doing that, I record the
9 caliber, the weight, the type of projectile it is. And
10 then I engrave on the base of that projectile before I
11 open up another item to make sure nothing gets mixed up or
12 changed around.

13 Q And were you able to determine with either of these
14 exhibits, State's Exhibit Nos. 43 or 48, the caliber of
15 these projectiles?

16 A They are .38/9mm caliber range.

17 Q What does that mean?

18 A They are -- the consistency of those two projectiles
19 have a consistent caliber range of a .38 Special and the
20 9mm. The measurements of that are like .356 to .357
21 inches.

22 So I can't really tell the difference between a .38
23 Special to a 9mm. So in that range, just knowing that you
24 can, actually, take projectiles and reload, I always make
25 a general overview of saying it's a .38/9mm.

1 Q So it could be a .38, it could be a 9 mm?

2 A Well, the caliber range is .38/9mm.

3 Q Now, did you then compare these two exhibits to each
4 other?

5 A Yes, ma'am, I did.

6 Q And what was the purpose of that?

7 A To see if they were fired from the same firearm.

8 Q And how do you go about doing that?

9 A I do a side-by-side comparison on a forensic
10 comparison microscope.

11 Q And how long does that take?

12 A It depends on the case.

13 Q And were you -- when you made that comparison of
14 those two exhibits, State's Exhibit Nos. 43 and 48, what
15 was the result of the comparison?

16 A I found that the two bullet specimens, they're
17 of insufficient microscopic marks to permit
18 identification.

19 Q And how does that happen?

20 A When firearms are fired, that projectile is being
21 forced down the barrel. And with those particular ones,
22 they're made out of lead, so it's a soft metal.
23 Sometimes, that metal does not leave the rifling or the
24 markings from the barrel on it real well. And it depends
25 on the firearm as well.

1 If the firearm has poor markings, it's going to leave
2 a poor mark left behind. And, therefore, sometimes, it
3 just can't be compared, not only from the firearm, but,
4 also, what the projectile may have hit or gone through
5 during that time period.

6 Q So passing through -- how, if at all, can passing
7 through a glass window affect that?

8 A That can affect it.

9 Q How about passing through someone's skull?

10 A That can affect it as well.

11 Q Or a wall?

12 A Definitely.

13 Q Okay. Now, let's look at what's in evidence as
14 State's Exhibit No. 57. I want you to just take a look at
15 those and explain for the jury what you did with State's
16 Exhibit No. 57.

17 A State's Exhibit No. 57, basically, what I did with
18 those, I just, actually, identified what they were. And
19 it was five cartridges that are caliber .38 Special. They
20 are -- I have the brass is marketed by Federal on one of
21 them -- on all of them.

22 And I've, actually, disassembled one of the
23 projectiles and one of the cartridges to look at the
24 components. And in doing so, I tried to see if they were
25 consistent in manufacturing style and type as to the other

1 items that were submitted.

2 Q And what was the result of your comparison of that
3 exhibit to State's Exhibit Nos. 43 and 48?

4 A The projectile loaded in the disassembled cartridge
5 is to assist with caliber and design as to State's Exhibit
6 Nos. 43 and 48 bullet specimens.

7 Q But you can't say it's an exact match.

8 A I can't say. Because they're a company that makes
9 thousands of rounds of --

10 Q Okay. Let me ask you something else, Mr. Armstrong.
11 Do you have an opinion about whether or not -- State's
12 Exhibit No. 58, Natasha's gun, do you have an opinion
13 about whether or not that firearm could have fired the
14 rounds -- the projectiles in State's Exhibit Nos. 57 and
15 43?

16 A It did not fire from them.

17 Q Okay. How do you know that?

18 A The projectiles that are in State's Exhibit Nos. 43
19 and 48 have a general different rifling characteristic as
20 to the firearm. The pistol itself is a very unique
21 rifling. And those projectiles could not have been fired
22 from that gun.

23 MS. MUNSON: I have nothing further at this time,
24 Your Honor.

25 THE COURT: Any questions for the witness?

CROSS-EXAMINATION

BY MR. WARDER:

Q Mr. Armstrong, there was some testimony in this case about a .380 gun being involved. Are those bullets consistent with the same diameter and size of a .380?

A They're consistent with the diameter. However, they are too large to have been fired from a .380.

Q Are you talking about the --

A The overall length and weight would be too much for a .380.

Q What would happen if they were loaded into a cartridge of a .380?

A With the length of those projectiles, you would probably have a compressed load and may have a catastrophic failure.

Q Could it, also, fire?

A That is a possibility. I would have to try one and see.

Q Okay. So those bullets, though, they could have been fired by a .380, if loaded properly?

A The projectiles, yes, sir.

MR. WARDER: Thank you.

THE COURT: Any redirect?

MS. MUNSON: No, ma'am.

THE COURT: Any objection to the witness being

1 excused from the State?

2 MS. MUNSON: No, ma'am.

3 THE COURT: From the Defense?

4 MR. WARDER: No, Your Honor.

5 THE COURT: Sir, you're excused.

6 THE WITNESS: Thank you.

7 THE COURT: You're welcome.

8 The State may proceed.

9 MS. MUNSON: Your Honor, at this time, the State
10 would like to recall Investigator Eric Whaley.

11 WHEREUPON,

12 ERIC TODD WHALEY,
13 after first having been duly sworn, testified as follows:

14 THE CLERK: Thank you.

15 You may be seated.

16 DIRECT EXAMINATION

17 BY MS. MUNSON:

18 Q Investigator Whaley, do you recall as part of your
19 investigation going to Laurens to get statements?

20 A Yes, ma'am.

21 Q And from whom did you get a written statement in
22 Laurens?

23 A Mr. Irby.

24 Q How long did you spend time with him?

25 A We were probably there for an hour, an hour and a

1 half.

2 Q And, at the end of you getting his written statement,
3 did you ask him about something?

4 A I did.

5 Q And what did you ask him about the content of his
6 statement?

7 A He told us something while we were interviewing him.
8 And, as I said yesterday, we write down --

9 THE COURT: Let me interrupt you one second.

10 You need to approach, all of you.

11 (WHEREUPON, a bench conference was held.)

12 THE COURT: Is there anything other than that subject
13 matter that you wanted to cover?

14 MS. MUNSON: No, ma'am.

15 THE COURT: Officer, you may step down.

16 Does the State have any further witnesses?

17 MS. MUNSON: We just have that one unresolved legal
18 issue, Your Honor. I may have one more witness.

19 THE COURT: Approach.

20 (WHEREUPON, a bench conference was held.)

21 THE COURT: Anything further from the State?

22 MS. MUNSON: Your Honor, respectfully, I'm going to
23 need a minute.

24 THE COURT: Mr. Foreman, ladies and gentlemen, we're
25 going to take a brief restroom break. During the break,

1 please, do not discuss the case. And, please, leave your
2 note pads in your seats.

3 (WHEREUPON, the jury was excused from open court at
4 approximately 10:41 a.m.)

5 THE COURT: What other witnesses would the State have
6 to call?

7 MS. MUNSON: We would want to recall Sergeant Miller.

8 THE COURT: Okay.

9 MS. MUNSON: And if the Court would indulge me, I'm
10 still confused about the issue of the priest-penitent
11 privilege.

12 THE COURT: I don't think the Court has been
13 inarticulate. What I have said is they have the burden of
14 proof. It is theirs to assert.

15 MS. MUNSON: Right.

16 THE COURT: The Court is not in a posture to rule on
17 it. And I'm going to have to see how it plays out
18 strategically on who else they call as a witness.

19 If, in fact, they call no other witnesses, then I'll
20 rule. If, in fact, I rule it is not a privilege, then you
21 can call him in your case in rebuttal. There's nothing
22 that prevents you from doing that. And I can discern no
23 prejudice.

24 The State would suffer from that -- frankly, I think
25 it would probably procedurally be more advantageous to

1 you, because it would be the last thing before the jury.
2 So I don't know what the quandary is.

3 MS. MUNSON: I understand that, Your Honor. And
4 you're not inarticulate at all. Maybe I'm not --
5 everybody around here knows that I'm not the shiniest
6 apple on the tree.

7 THE COURT: I doubt that.

8 MS. MUNSON: This is the position I'm in, I want to
9 call Burley Williams.

10 THE COURT: I understand that.

11 MS. MUNSON: And what you're telling me now -- and I
12 understand they have the burden.

13 THE COURT: They do. It's theirs to assert.

14 MS. MUNSON: They haven't met the burden.

15 THE COURT: And I have instructed you that is not the
16 Court's posture. It's their burden. They don't have to
17 call any witnesses in your case in chief to meet their
18 burden of proof --

19 MS. MUNSON: No. I understand that. And they would
20 be calling Mr. Williams in-camera --

21 THE COURT: They may or may not call him. I don't
22 know. If they don't, then I'll make a ruling at that
23 point. But until they decide what they're going to do,
24 I'm not going to make a ruling.

25 MS. MUNSON: So you're just not going to rule on it

1 at this point?

2 THE COURT: That's correct.

3 And I think I made that clear from the beginning when
4 I allowed him to step down originally.

5 MS. MUNSON: Yes, ma'am. You, certainly, did.

6 THE COURT: It's their burden of proof. And I don't
7 know what they're going to do. And there's nothing in the
8 rules that requires them to call anyone in your case in
9 chief to meet that burden. They've asserted the
10 privilege.

11 The testimony that you've provided stands as well as
12 the cross-examination. And then it's for them, in their
13 case, if they want to call their client in-camera, or not
14 call their client in-camera. I don't know what they're
15 going to do strategically. I don't have a clue. So once
16 they make that decision, we'll go from there.

17 MS. MUNSON: Okay.

18 THE COURT: But it's their burden of proof. It's
19 their privilege to assert. It's not Mr. Williams --
20 Mr. Burley Williams's privilege to assert. It's not the
21 State's privilege to assert.

22 And I can't make a decision based on what Mr. Burley
23 Williams perceived of the Defendant. He's not in his
24 mind. He can't tell me what he thought. He can't tell
25 me what he perceived of the conversation. I haven't a

1 clue.

2 MS. MUNSON: Okay. I think I've got it now, Your
3 Honor. I appreciate your patience.

4 THE COURT: Not a worry. It took me a minute -- it
5 took me most of my night last night to think through it,
6 after I ate something very fattening that I should not
7 have.

8 MS. MUNSON: Was it the --

9 THE COURT: That's the whole purpose of being away
10 from home. It was pretty close.

11 Why don't we take advantage of this and take a
12 restroom break?

13 MS. MUNSON: Yes, ma'am.

14 THE COURT: We'll take a break.

15 (WHEREUPON, a break was taken.)

16 THE COURT: Is the Defense ready to proceed, or are
17 you all still talking to your client? Do you all need
18 more time to talk with your client, or are you ready to
19 proceed?

20 MR. JONES: Your Honor, the State has one more
21 witness.

22 MS. MUNSON: One more witness, Your Honor.

23 MR. JONES: And then would you give us a break when
24 they rest before we go forward, or did you want to go
25 forward right then?

1 THE COURT: We're going to take a break, because I
2 need to hear motions. And then I need to question your
3 client regarding his right to testify. And then we'll
4 take a break if he needs to talk with y'all more. And
5 then we'll go forward.

6 MR. JONES: Thank you.

7 He would need to talk to us a little bit more before
8 he tells you whether or not he's going to testify.

9 THE COURT: And then I need to know from you all
10 whether you plan to call him in-camera regarding the
11 privilege that you've asserted.

12 Yes, ma'am.

13 MS. MUNSON: I don't like to end badly in front of
14 the jury, but I think I'm going to. We're not going to
15 call our last witness, Your Honor. If you would let me
16 rest whenever they come out.

17 THE COURT: Why don't you rest. I'll go ahead and
18 hear motions, and then I can do everything. And that
19 way --

20 And if the jury wants to take a walk and stretch
21 their legs, or get a snack, or something, let them know
22 they can do that.

23 THE BAILIFF: Yes, ma'am.

24 THE COURT: The State has rested their case.

25 Are there any motions?

MOTIONS

1
2 MR. WARDER: Your Honor, our first motion would be as
3 to the charge of endangering the child.

4 THE COURT: It's unlawful conduct towards a child.
5 Actually, the charge that he was indicted is unlawful
6 conduct towards a child, 20-7-0050.

7 MR. WARDER: And I would move for a directed verdict
8 on that this is not a person who is a parent or guardian
9 who is responsible for the welfare of the child.

10 THE COURT: He is not the parent or guardian of the
11 small child that was in the house that's his daughter? Is
12 that what you're asserting?

13 MR. WARDER: Yes.

14 I'm saying that Part A requires that he --

15 THE COURT: He's not the little girl's father? Is
16 that what you're saying?

17 MR. WARDER: Yes. -- No. I'm saying --

18 THE COURT: I thought it had been stipulated.

19 MR. WARDER: No. I thought they charged it on the
20 little boy.

21 THE COURT: I don't think that's their posture.
22 Their posture is that both children were in the home when
23 this activity took place and that, therefore, constitutes
24 unlawful conduct towards a child.

25 Is that the State's posture?

1 MR. JONES: Against Jakyre.

2 MS. MUNSON: No, Jadance.

3 THE COURT: I get the names confused. The little
4 girl's name is Jadance; correct?

5 MS. MUNSON: Yes, ma'am.

6 THE COURT: And Jakyre is the little boy?

7 MS. MUNSON: Yes, ma'am.

8 THE COURT: I would assume that's the reason you
9 stipulated that both children were in the house?

10 MS. MUNSON: Yes, ma'am.

11 MR. WARDER: Well, I don't think they've -- they --
12 it said J.J. [sic] in the indictment.

13 MR. JONES: J.K. Both children have the same
14 initials. We assumed they were referring to Jakyre since
15 they wanted him to testify as a victim.

16 THE COURT: Well, you know, an indictment is a notice
17 document. It's just to put you on notice. You've already
18 engaged in discovery. So you're clear as to which child.
19 Either way, I don't know that it makes a difference.

20 MR. WARDER: Well, a bullet went in one's bedroom,
21 and it didn't in the other.

22 THE COURT: To endanger a child, you have to shoot at
23 them, or do they just have to be in the presence of that
24 activity?

25 MR. WARDER: Well, I think the bullet has to go

1 somewhere in the vicinity.

2 THE COURT: You need to make your motion in full, if
3 you're making a motion on directed verdict. On every
4 ground you assert, you're entitled to a motion so that the
5 State can respond in full.

6 (Pause.)

7 MR. WARDER: Your Honor, the other two, on the
8 attempted murder and possession of a weapon during the
9 commission of a violent crime, I would just move on the
10 sufficiency of the evidence on those. There's
11 insufficient evidence for the jury to find --

12 THE COURT: There's -- I can't hear you. I'm sorry.
13 I couldn't hear you. Your voice sort of trailed off.

14 MR. WARDER: Your Honor, there's insufficient
15 evidence on the other two to allow it to go to the jury.
16 The victim could not identify the Defendant as the one
17 that did it. And there's no other testimony that he's the
18 person that did it.

19 MR. JONES: Your Honor, if I might be allowed to
20 assist Mr. Warder with regard to this motion.

21 THE COURT: Sure.

22 MR. JONES: As far as the attempted murder charge,
23 that's indictment 3239, it's our position that the alleged
24 victim of that incident was unable to identify who it was
25 that shot him. He didn't even come close to trying to

1 make an in-court identification. I don't even recall him
2 specifying -- he did say gender, but not race. He
3 identified -- he said it wasn't a woman. It was too large
4 for a woman. I don't recall any other. And that falls
5 short of being sufficient circumstantial evidence.

6 I mean, I realize that the Court's authority here
7 involves a scintilla of evidence. But, you know -- and
8 there was an interesting article recently about what is a
9 scintilla. And, you know, you think about that a lot.
10 But, you know, from a practical standpoint, it's not
11 really just any evidence. But it's got to amount to
12 something that points towards Mr. Williams being the
13 perpetrator of the attempted murder. And the victim
14 himself had no ability to do that.

15 Now, even though there's evidence from Jakyre in the
16 record that he saw a car that looked like Mr. Williams in
17 the driveway or that he identified as being Willie's, he
18 never had him attempting to shoot or even fighting with
19 the victim, Mr. Wilson, in the attempted murder charge.
20 He did, you know, have Mr. Williams shooting his mother
21 between four and nine times -- two to four times. He
22 witnessed that. But he did not -- I don't recall any
23 evidence from him with regard to, you know, a fight or an
24 attempt on the part of Mr. Williams to assault Mr. Wilson,
25 the alleged victim.

1 And so they've got evidence from Mr. Wilson that he
2 was assaulted, but absolutely no evidence, even
3 circumstantial evidence, that would point to Mr. Williams
4 being the one that was in the house committing the
5 assault. I think that the Court is really -- if the Court
6 allowed the State to argue that Jakyre's testimony about
7 the vehicle being there and Mr. Williams being there, it
8 couldn't have been anybody else, well, that's -- that
9 falls short. That's a -- that's not -- that's leaving a
10 gaping hole in the circumstances that you're relying on to
11 allow circumstantial evidence to meet the burden of
12 scintilla.

13 In other words, what I'm trying to do is to ask the
14 Court to consider differentiating between any direct
15 evidence and circumstantial evidence. If they're going to
16 be allowed to rely on circumstantial evidence to prove the
17 evidentiary aspect of the attempted murder charge, then
18 they ought to be held more accountable when they're
19 attempting to prove it with circumstantial evidence than
20 if they were attempting to prove it with direct.

21 THE COURT: The law doesn't make any distinction
22 between direct or circumstantial evidence, does it?

23 MR. JONES: Well, Your Honor --

24 THE COURT: It's not a greater degree of proof
25 required. They're both the same. They're just shown

1 differently.

2 MR. JONES: And I'm not trying to concede -- as a
3 mater of fact, I argued earlier that this is not
4 circumstantial evidence. Circumstantial evidence as to
5 each and every aspect of the evidence has to be wholly
6 consistent with one another for it to be used to the
7 exclusion of any other reasonable hypothesis.

8 And, in this case, there are countless other
9 reasonable hypotheses that could be presented that could
10 have resulted in Mr. Williams --

11 THE COURT: But that's not their burden, is it? They
12 don't have to prove it to --

13 MR. JONES: They have to present evidence that is
14 sufficient.

15 THE COURT: I agree with that. But the case law says
16 they don't have to prove it to the exclusion of every
17 other reasonable hypothesis. That's sort of opposite of
18 what the case law says, isn't it?

19 MR. JONES: Well, as far as circumstantial evidence
20 is concerned, it's not to the extent to rely on it. But
21 as far as our motion for directed verdict, you know, we
22 would suggest to you that there is not a sufficient
23 factual basis. It's insufficient. It doesn't rise to the
24 level that would allow you to send the attempted murder
25 charge to the jury.

1 Your Honor, as far as the murder charge and the
2 possession of a weapon charge, 3238, you know, in all
3 candor, Jakyre's testimony, if believed by the jury,
4 suggests that he saw Willie in the house with a gun, that
5 Willie, actually, fired the gun at his mom, and turned and
6 fired it at him [sic]. He testified it was a gun. So we
7 would not be submitting to you a rational argument if we
8 tried to suggest that there was no testimony, no evidence
9 that Willie Williams had a gun in that house from the
10 State's witness.

11 And, you know, as far as the murder charge is
12 concerned, as inconsistent as Jakyre's testimony was with
13 both the coroner's testimony and the 911 testimony, as
14 inconsistent as his testimony was with that, again, it's
15 not a matter for you to decide whether his testimony is
16 truthful or not, or accurate or not, but whether or not it
17 exists. And if it does, it's up to the jury to decide.

18 So we would not -- argue that there's insufficient
19 evidence for to you present those two charges to the jury.

20 THE COURT: Is that your entire argument on directed
21 verdict?

22 MR. JONES: Well, again, Your Honor, I would
23 reiterate Mr. Warder's argument to you that I agree with
24 his argument, that there's no testimony that
25 Mr. Williams -- as a matter of fact, there's no testimony

1 that he had any idea that his daughter was in that house.
2 And, you know, there's no testimony -- without him having
3 knowledge that the child was there, he would not have the
4 necessary --

5 THE COURT: Was this child in somebody else's custody
6 primarily, other than the mother?

7 MR. JONES: They didn't call a witness who would have
8 testified that she had had the child up until 1:00 --

9 THE COURT: That's not my question. If she's the
10 primary parent, where else would the child be?

11 MR. JONES: With the neighbor who had been keeping
12 the children that day up until 1:00 that evening. It's
13 our position -- excuse me.

14 THE COURT: I was asking my clerk a question.

15 I don't recall any testimony that showed they were
16 anything other than in their mother's custody the entire
17 day.

18 MR. JONES: Well --

19 THE COURT: The testimony is they were out doing
20 family things with Mr. -- with the gentleman that was
21 visiting.

22 MR. JONES: Right.

23 But what I'm suggesting is there's no testimony that
24 Mr. Williams knew that they were in the house, that he saw
25 them or knew they were there. There's no testimony that

1 he had been advised that they were there. And he -- there
2 was testimony from Mr. Wilson -- or rather, there was
3 testimony -- some of it was outside the presence of the
4 jury and some of it was in the presence of the jury.

5 But, at one point, I recall some evidence that
6 Mr. Wilson was there on Thursday night and Friday night.
7 And then Mr. Wilson testified it was only Friday night
8 that he was there. He didn't go into Thursday night. But
9 there's no testimony that Willie Williams was notified by
10 anyone that his daughter was in the home.

11 Now, it, certainly -- I would argue that he had no
12 knowledge that his daughter was there and that, you know,
13 based on the testimony of the State's witnesses, there's
14 no evidence that he had knowledge. And that's a critical
15 element of the offense, that he knows that he's
16 endangering that child. And he did not know that.

17 I think to -- based on what has been presented that,
18 you know, there was a suggestion that he didn't know what
19 was going on at the house, that he didn't know who was
20 there, or who would be there. And that -- you know,
21 that's what the State's evidence would present, Your
22 Honor.

23 Thank you.

24 THE COURT: You're welcome.

25 Would the State like to respond?

1 MS. MUNSON: Briefly, Your Honor.

2 As to the unlawful conduct towards a child, even
3 if -- what Mr. Williams knew is irrelevant. It's the
4 State's position that physically and emotionally, he's put
5 this child in danger by shooting and killing her mother in
6 the head.

7 As to the attempted murder, the State's position is
8 that there's sufficient circumstantial evidence as to who
9 shot Anthony Williams in the head. And there's sufficient
10 direct and circumstantial evidence as to the murder of
11 Natasha Kerns.

12 The State would respectfully request that you deny
13 the Defense's motions for directed verdict.

14 THE COURT: Considering the evidence in the light
15 most favorable to the State, which is the burden and
16 standard the Court is required to employ, the Court is not
17 a fact finder on a motion for directed verdict. It is not
18 for me to weigh the evidence. It is not for me to weigh
19 the credibility of the witnesses. That is a function of
20 the jury as the fact finders.

21 The Court is required to look at the evidence and
22 determine if there is direct evidence or substantial
23 circumstantial evidence reasonably tending to prove the
24 guilt of the accused. Of course, the evidence has to
25 raise above mere suspicion. However, the Court is not

1 required to find that the evidence infers guilt to the
2 exclusion of any other reasonable hypothesis.

3 And the Defense is correct, all that is required is,
4 basically, a mere scintilla of evidence, that being either
5 direct or circumstantial evidence. And in our case law,
6 there is no distinction between direct evidence or
7 circumstantial evidence. They're both evidence, which the
8 Court -- which the jury is entitled to consider. They're
9 evidence as presented in different formats. One being
10 direct, one being from which a jury can infer certain
11 facts based on other facts.

12 I'll take the motions in the order that they were
13 presented, which is indictment 3240, which is unlawful
14 conduct towards a child. The statute requires that the
15 State prove beyond a reasonable doubt that the Defendant
16 had charge or custody of the child, was the parent or
17 guardian of the child, or was responsible for the care and
18 support of the child.

19 The State then must prove beyond a reasonable doubt
20 one of several things in the statute, that the child was
21 placed at unreasonable risk of harm affecting the child's
22 life, physical or mental health or safety, unlawfully or
23 maliciously did or cause to be done any bodily harm to the
24 child so that the life or health of the child is in
25 danger, or likely to be in danger, or did willfully

1 abandon the child.

2 And without belaboring the point, there is direct as
3 well as substantial circumstantial evidence that the
4 Defendant is the parent or guardian of the minor, Jadance.
5 The indictment merely says J.K. And so that could be the
6 male child or the female child.

7 But, as we know, our case law is very clear. An
8 indictment is merely a notice document designed to put a
9 defendant on notice as to what he has to answer -- what he
10 is being charged with and what he is being called to
11 answer. So it is clear from what has been presented in
12 this courtroom that the minor daughter, who is the
13 Defendant's child, was present in the house.

14 And there is direct evidence, as well as substantial
15 circumstantial evidence, that his conduct placed the child
16 at unreasonable risk of harm affecting the child's life,
17 physical or mental health or safety, that being the use of
18 a firearm in the residence. And there's, certainly,
19 direct, as well as substantial circumstantial evidence,
20 establishing that point.

21 In regard to the attempted murder charge, which is
22 indictment 3239, there was testimony from Mr. Wilson
23 regarding who he believes shot him. He said the room was
24 dark. However, there was a light in the closet. And he,
25 clearly, saw his assailant.

1 Although the State did not ask the next question of
2 him, which was to identify his assailant, he said that he
3 saw him clearly, that he saw the body type, that he saw
4 the features, and that it, clearly, was not the deceased
5 in this case, and that it was a male figure. When you
6 couple that with the testimony of the minor child, that
7 being the son of Ms. Kerns, he testified -- and I went
8 back and reviewed his testimony. He testified that the
9 bodyguard, meaning Mr. Wilson, was shot first by
10 Mr. Williams, and then his mother was shot. Whether that
11 testimony is consistent or inconsistent with other
12 testimony is a factual issue for the jury to sort out.

13 But it's, certainly, not for the Court to resolve any
14 issues of credibility or versions of stories. But,
15 certainly, there is direct, as well as substantial
16 circumstantial evidence, existing in the record that
17 Mr. Williams did, in fact, shoot Mr. Wilson, as well as
18 coupled with the child's testimony that he saw
19 Mr. Williams' vehicle at the residence.

20 So the motion regarding the unlawful conduct towards
21 a child as well as attempted murder are denied as there is
22 direct as well as substantial circumstantial evidence in
23 the record reasonably tending to prove the Defendant's
24 guilt.

25 Now, there has been no motion regarding 3238, which

1 is the murder and the possession of a firearm during the
2 commission of a violent crime. Therefore, the Court does
3 not need to address those issues.

4 Now, sir, if you would stand for me, please. And
5 raise your right hand to be sworn.

6 WHEREUPON,

7 WILLIE MARVIN WILLIAMS,
8 after first having been duly sworn, testified as follows:

9 THE CLERK: Thank you.

10 THE COURT: Sir, state your full name for the record.

11 DEFENDANT WILLIAMS: Willie Marvin Williams.

12 THE COURT: Sir, at this time, I'm going to explain
13 to you certain rights.

14 Let me ask a question. What is his record, or is
15 there any record that the State would be seeking to
16 impeach his credibility?

17 And I think you may have told me earlier, but I don't
18 remember.

19 MS. MUNSON: He does not have any offenses that I
20 would be allowed to impeach him with under the rules.

21 THE COURT: It seems like I remember you telling me
22 what they were.

23 MS. MUNSON: He was convicted in 1990.

24 THE COURT: Yes. I have it right here, arson and
25 malicious injury to personal property in 1989, which was a

1 magistrate's level offense; correct?

2 MR. WARDER: Correct.

3 MS. MUNSON: That is correct, Your Honor.

4 THE COURT: And neither would bear on credibility.

5 So there is no record the State would be seeking to
6 use to impeach his credibility; correct?

7 MS. MUNSON: Correct, Your Honor.

8 THE COURT: Sir, at this time, I'm going to explain
9 to you your rights. If you do not understand something
10 that I say, please, let me know. If you need me to repeat
11 something, please, let me know.

12 Do you understand?

13 DEFENDANT WILLIAMS: Yes, ma'am.

14 THE COURT: Sir, we have now reached the stage of the
15 trial where you may present your defense. You have the
16 right to claim the protections given to you by the Fifth
17 Amendment of the United States Constitution. And that
18 amendment states in part that no person shall be compelled
19 in any criminal case to be a witness against himself.

20 This means that you cannot be required to testify in
21 this case. You have the right to testify on your own
22 behalf. However, no one can make you testify. This is a
23 personal right. And no one can waive this right except
24 you.

25 If you decide to testify, you will be subject to the

1 same rules that govern other witnesses. And you may be
2 examined and cross-examined on any relevant issue in this
3 case.

4 In addition, if you have any convictions involving
5 dishonesty or false statements and this Court determines
6 that the probative value of these statements are
7 outweighed by any prejudicial effect to you, the Solicitor
8 will be able to introduce your record to attack your
9 credibility. If you decide to testify, this decision on
10 your part must be made freely, voluntarily, and
11 intelligently with knowledge of the protections given to
12 you by the Fifth Amendment and the consequences of your
13 decision to testify.

14 If you decide not to testify, I will instruct the
15 jury that they cannot give the fact that you did not
16 testify any consideration whatsoever. And there's to be
17 no prejudice to you. I will instruct them that you have
18 no burden of proof in this case, that the burden remains
19 on the State to prove your guilt beyond a reasonable
20 doubt on every element of the offenses you've been charged
21 with.

22 And the fact that you did not testify cannot be
23 discussed in any manner whatsoever in the jury room. It
24 is left entirely up to you whether or not you testify.
25 You may speak with your attorneys, your family members,

1 your friends, or anyone else's. But the final decision is
2 ultimately yours.

3 Sir, do you understand your rights as I've explained
4 them to you?

5 DEFENDANT WILLIAMS: Yes, Your Honor.

6 THE COURT: Do you have any questions about your
7 rights as I've explained them to you?

8 DEFENDANT WILLIAMS: No, Your Honor.

9 THE COURT: Sir, have you discussed with your lawyers
10 whether you should or should not testify?

11 DEFENDANT WILLIAMS: Yes, Your Honor.

12 THE COURT: Do you wish to discuss with them any
13 further whether you should or should not testify?

14 DEFENDANT WILLIAMS: Yes, Your Honor.

15 THE COURT: Okay. We'll take a brief recess.

16 And I need to know, are you all going to be calling
17 him on the issue of the privilege in-camera for the Court
18 to make a decision regarding the admissibility of his
19 brother's testimony?

20 MR. JONES: Your Honor, that's another issue we were
21 going to discuss with him in finality.

22 THE COURT: Okay. I need you to discuss all of that.
23 Because I'm going to need answers when you come back.
24 Because if I need to do that in-camera, I need to do that
25 before I bring the jury back.

1 MR. JONES: Yes, Your Honor.

2 THE COURT: We'll take a break.

3 (WHEREUPON, a break was taken.)

4 THE COURT: Mr. Williams, if you'll stand, please.

5 I'll remind you that you're still under oath.

6 Have you had a full opportunity to discuss with your
7 lawyers whether you should or should not testify?

8 DEFENDANT WILLIAMS: Yes, Your Honor.

9 THE COURT: And, sir, do you wish to testify, or do
10 you wish not to testify?

11 DEFENDANT WILLIAMS: I wish to testify.

12 THE COURT: Okay. What we'll do then is go ahead --
13 and what are y'all going to do regarding the --

14 MR. JONES: We're going to call him in a proffer
15 opportunity to present only the issue --

16 THE COURT: Why don't we do that first.

17 MR. JONES: Only the issue concerning his
18 conversation with his pastor, Burley Williams.

19 THE COURT: We're going to do that first. And then
20 we'll do his testimony with the jury present.

21 Sir, if you would take the stand. I'll remind you
22 you're still under oath.

23 (WHEREUPON, Defendant Williams took the witness
24 stand.)

25 THE COURT: You may proceed.

DIRECT EXAMINATION

BY MR. JONES:

Q State your name for the record, please.

A Willie Marvin Williams.

Q All right. Willie, I want to ask you some questions about a conversation that you had with Burley Williams on the -- sometime during the day between midday and early afternoon on July the 10th, 2010.

Okay. Do you recall talking to Burley Williams around that time on that date?

A Yes, sir.

Q Okay. And, at that time, was your emotional state one of being fairly distraught? Were you in a state of emotional --

A I was emotionally and mentally disturbed.

Q Okay. Well, did you call him, or did he call you?

A My brother called me.

Q All right. Prior to this date, had you had occasions to attend his church?

A Yes, I have.

Q And where was his church that you attended?

A It's in Belton, South Carolina.

Q In Belton. Did you attend because you wanted to go, or at his invitation?

A He invited me the first time. Then after that, I

1 started going on occasion.

2 Q On occasion. Did you attend any other church
3 regularly during that time frame?

4 A No, just his.

5 Q And what was that time frame?

6 A It -- I liked to go like every other Sunday.

7 Q What years had you been to see his church -- had you
8 been in attendance with his church? Do you remember the
9 last year you had been to his church?

10 A Before I went overseas, I started going pretty
11 regularly. Because I wanted to be, you know, definitely
12 right with God. So I went like -- I really can't remember
13 in years.

14 Q Okay. Well, let me ask you this. Were you -- if you
15 consider a person your pastor, who would that be?

16 A My brother, Burley Williams.

17 Q There was nobody else that you considered in a
18 pastoral relationship with you?

19 A No other.

20 Q On the day that he called you -- July the 10th,
21 2010, who called who?

22 A My brother called me.

23 Q Okay. And did you speak to him the first time he
24 called?

25 A Briefly, then I hung up.

1 Q Did he call you back?

2 A Yes, he did.

3 Q How would you describe the character of his calls?

4 What was he calling you about, and what was he saying?

5 What was he wanting?

6 A He called me. He wanted to talk to me about my
7 salvation, you know, where I stood with God, you know. I
8 was very upset. And I kind of let him know I was like
9 suicidal.

10 Q You told him that? Did you discuss salvation or God
11 with him during that conversation?

12 A Yes, I did.

13 Q Do you recall the content -- the general content of
14 what you said back when he wanted to discuss your
15 salvation?

16 A Just, basically -- I was so confused. Basically, we
17 just talked in general about God, you know, life after
18 death, and stuff like that.

19 Q Well, was there an incident that you had been made
20 aware of and he had been made aware of?

21 A Yeah. He called me asking me where I was at, was I
22 okay, that he heard -- he was asking me all kinds of
23 questions. And I was so upset. That's why I -- at first,
24 I was hanging up on him.

25 Then I, finally, started listening to him. And he

1 talked to me. And he wanted me to come back to the house,
2 to my house on Eichelberger to talk to him, which he,
3 finally, convinced me to do.

4 Q Did you -- at any point in time, during the
5 conversation with him about salvation, about what you
6 should do, what was the right thing to do ask about your
7 wife? Did he say anything about your wife, Natasha?

8 A Yes. He -- at first, he thought it was a rumor or
9 something. And he was asking me did I know anything. And
10 I said, yes.

11 Q And did you ask him whether or not Natasha had been
12 killed, if he knew anything about it?

13 A Yes. I asked him was she dead.

14 Q Okay. During the course of your conversation with
15 him, was he able to persuade you to come to the family
16 home?

17 A Yes, he did.

18 Q And how did he go about doing that with regard to the
19 communications that he had with you? What were the things
20 in your mind, in your emotions, in your heart that he was
21 able to communicate to you to convince you to do that?

22 A He just really was just a comfort to me. And he just
23 walked me through, you know, calming me down and
24 everything. And, basically, he wanted to talk to me
25 face-to-face.

1 Q Did he talk to you about Jesus?

2 A Yes, he did.

3 Q Did he talk to you about coming home would be the
4 right thing to do?

5 A Right.

6 Q He told you that?

7 A Yes, sir.

8 Q And, at some point, were you -- at the time he told
9 you that, were you attempting to elude a police officer?

10 A No.

11 Q After he told you that, did you attempt to go home?

12 A Yes, I did.

13 Q And so you were on your way home when a police
14 officer turned the blue lights on you after having talked
15 to Burley?

16 A Right. I was like a street over to my house.

17 Q Why didn't you get home?

18 A Because when the police got behind me and activated
19 their lights, I was a mile from the house. So I was still
20 heading to the house. I wanted him to pull up in my drive
21 and, actually, talk to the police. But, actually, they
22 got right behind me like they was trying to bump me off
23 the road. But, you know, I just speeded up a little bit.

24 And then once I turned off of Barn Road onto Trinity
25 Church Road and turned back on to Eichelberger, which

1 leads to my house, and once I got down close to my drive,
2 there was a police car blocking the drive. So I kept
3 going and went back down and took a right, which took me
4 back on 76. And I took another left that takes me back to
5 Gray Court. And once I got to Gray Court, if I would have
6 kept going straight, I would have got to Fountain Inn.

7 Q All right. So you were trying to get home?

8 A Right.

9 Q And did you want to go there to talk to Burley as
10 well?

11 A Right.

12 Q Well, did you talk to other people during the same
13 time frame, on July 10th, 2010, other than Burley?

14 A Yes, I did.

15 Q Do you recall -- well, you talked to other people in
16 your family during that time; is that correct?

17 A Everybody was calling my cell phone.

18 Q You got a lot of calls from friends and family?

19 A Right.

20 Q Would you characterize all those other calls being
21 the same as the call you got from Burley, or was Burley's
22 different from those calls?

23 A His was different. Because, actually, I didn't
24 listen to too much of the other calls because it was so
25 much craziness and stories that was being told. So I,

1 basically, listened to Burley calling. And, you know, I
2 talked with him.

3 Q Was there any different feeling you had in talking
4 with him than you had with the others as far as -- whether
5 a friend or family member, did he take on a different
6 personality than them as far as --

7 A Yes, he did.

8 Q What was it?

9 A He was concerned. And he was caring about me. And
10 he was making sure I was all right. And he wanted me to
11 come to the house.

12 Q Were you talking to him as a brother or a pastor?

13 A As a pastor.

14 Q And how did you feel like he was talking to you, as a
15 brother or a pastor?

16 A A pastor.

17 Q Did you -- when you talked to him about the
18 conversations that you had, did you feel like what you
19 said to Burley was confidential?

20 A Yes, I did.

21 Q Did you ask him to keep them confidential?

22 A It's, basically -- he's a pastor. I mean, it's
23 automatic confidential.

24 If you're asking me whether I asked him to keep it
25 confidential, yes.

1 Q Well, did you expect him to?

2 A Yes, I did.

3 Q I mean, was the essence of your conversation one
4 about salvation, but, also, one about doing the right
5 thing?

6 A Right.

7 Q That's what you got from Burley's calls to you?

8 A Correct.

9 MR. JONES: Thank you, Your Honor.

10 THE COURT: Any questions for the witness?

11 MS. MUNSON: Yes, ma'am.

12 THE COURT: You may proceed.

13 CROSS-EXAMINATION

14 BY MS. MUNSON:

15 Q What's the name of your brother's church?

16 A Oh, the name of the church, I can't recall.

17 Q Does he wear robes, or just a suit when he preaches?

18 A Just, basically, like dress clothes.

19 Q Okay. Does Burley talk to a lot of people about
20 salvation?

21 A From my understanding, he do [sic].

22 Q Is it fair to say that he's concerned for most
23 people's salvation?

24 A Yeah. That's what a pastor does.

25 Q Did you tell Tracy Irby that you had shot Natasha?

1 A No, I didn't.

2 Q You didn't?

3 THE COURT: And this is limited to the
4 priest/penitent privilege.

5 MS. MUNSON: It is absolutely, Your Honor.

6 THE COURT: Only conversations he had with --

7 MS. MUNSON: But if he told that to someone else.

8 THE COURT: That's different. That's apples and
9 oranges.

10 MS. MUNSON: Okay.

11 THE COURT: He's going to testify. So you have
12 to ask all those other questions. But for this purpose,
13 in-camera, it's limited.

14 BY MS. MUNSON:

15 Q Do you think that any time you speak to your brother
16 it's confidential because he's a pastor?

17 A Yes. Because me and my brother's relationship is
18 distant. So whenever I do talk to him, I talk about
19 problems, things I go through. And he always keeps it
20 confidential between me and him. Because I don't never
21 hear nobody repeat our conversations.

22 Q So you think he keeps it confidential because you've
23 never found out about him repeating anything you said?

24 A Correct.

25 Q Okay. Is it fair to say that he reached out to you

1 that day, your brother reached out to you?

2 A He called me.

3 Q You didn't seek him out?

4 A At the time, I wasn't in the state of mind to talk to
5 anyone.

6 Q Okay. And you didn't want to talk to him at first,
7 did you?

8 A No, I didn't.

9 Q You hung up on him?

10 A Right.

11 MS. MUNSON: Nothing further.

12 Thank you, Mr. Williams.

13 THE COURT: Any redirect of the witness?

14 REDIRECT EXAMINATION

15 BY MR. JONES:

16 Q Despite the fact that you can't recall the exact name
17 of the church, whether it's an episcopal church or the
18 Resurrection, or Trinity Episcopal, or United Methodist,
19 you've been there; is that a fact?

20 A Yes, sir.

21 Q At his request?

22 A Yes, sir.

23 Q In an effort to try to get closer to the Lord?

24 A Right.

25 MR. JONES: Thank you.

1 No further questions.

2 THE COURT: Sir, you may step down.

3 In the interest of time, I'm going to take argument
4 regarding this after he's testified because the jury has
5 been sitting for a while. And I don't want them to have
6 to sit any longer.

7 So once we have him testify in the presence of the
8 jury, then I'll hear argument regarding the privilege.
9 And then I'll make a decision at that time.

10 Are you ready to go forward?

11 MS. MUNSON: I think Mr. Warder had some items at his
12 office that he needed to get.

13 THE COURT: Oh, I forgot about that. I completely
14 forgot about that. How far away is your office,
15 Mr. Warder?

16 MR. WARDER: I'm close, probably five blocks.

17 THE COURT: Well, we can break for lunch until 1:15,
18 and then resume at 1:15.

19 How is that?

20 MR. JONES: That would work.

21 THE COURT: Well, actually, if that's the case, then
22 I'll hear argument regarding the --

23 So let's break until -- I'll give the jury until
24 1:30. That gives us 15 minutes and gives them an hour --
25 gives them an hour and a half. It gives us an hour and 15

1 minutes.

2 Does that work for everybody?

3 MS. MUNSON: It works for me.

4 THE COURT: If you'd get the jury for me, please.

5 (WHEREUPON, the jury came into open court at
6 approximately 11:55 a.m.)

7 THE COURT: Mr. Foreman, ladies and gentlemen, you
8 all have been incredibly generous with us as you've been
9 waiting. While you've been waiting, we have been working
10 diligently dealing with some matters of law that have come
11 up during the course of this trial. We still have some
12 more time to work on those.

13 So I'm going to go ahead and send y'all to lunch so
14 you're not sitting in that room idle as you wait on us.
15 We're going to break for lunch until 1:30. Again, we will
16 still be working, however, beyond -- probably for another
17 15 or 20 minutes before we go to lunch.

18 During this break, please, do not discuss this case
19 among yourselves or with anyone else. Please don't do any
20 independent research, or read any media accounts, or
21 listen to any media accounts about this case. And, again,
22 don't have any contact with anyone as you return to the
23 courthouse after lunch. We'll resume at 1:30.

24 Have a good lunch. And, again, thank you for your
25 patience. And we'll see you at that time. Please leave

1 your note pads in your seats.

2 (WHEREUPON, the jury was excused from open court at
3 approximately 11:57 a.m.)

4 THE COURT: Okay. I'll be glad to hear argument.

5 MR. JONES: Hear from --

6 THE COURT: Yes. You have the burden of proof. You
7 would argue first.

8 MR. JONES: Your Honor, the four elements of the
9 analysis, as I read the law, would be that the person
10 Willie Williams was communicating with was a member of the
11 clergy. And he testified that he understood not only was
12 his brother a pastor, but he had been to his church
13 before. And he had talked to him prior to that about
14 joining the church, coming to the church. And that was
15 the only pastor that he had talked with in recent memory.
16 But he did consider Burley a member of the clergy.

17 He, also, distinguished his brother from other
18 individuals that he talked to that day. And the essence
19 of their conversation, although it involved some of the
20 issues causing Willie extreme emotional distress, they did
21 discuss, you know, how best to deal with it.

22 And the second element is for the purpose of seeking
23 spiritual counsel and advice. And, you know, although the
24 State would argue that Willie didn't initiate the call,
25 regardless of that, he did engage in the conversation.

1 And he testified that once he engaged in the conversation,
2 it was for the purpose of seeking spiritual counsel and
3 advice.

4 As a matter of fact, he said over the last several
5 years, that's primarily the substance of the conversations
6 that he had with his brother. Not only on this date, but
7 on previous occasions when he would talk to Burley, it was
8 to seek advice and counsel about matters that he wanted
9 kept confidential.

10 As far as it being in the usual course of Burley
11 Williams's practice as a clergy member, the State
12 presented and the Court examined Burley Williams about
13 that. And he said that it would have been in the usual
14 course. And that there was a certain amount of discipline
15 that his church had instructed him on about counseling
16 individuals. And that it was part of his role as a pastor
17 to counsel people who were in need.

18 And, clearly, as far as Willie Williams was
19 concerned, he was in need of counsel. Even though he
20 wasn't in the frame of mind, his brother's insistence on
21 talking about salvation, talking about Jesus, talking
22 about doing the right thing, talking about coming to grips
23 with where he was and what he needed to do came under the
24 course of Burley Williams's usual course of practice.

25 As Willie responded to the State's question on cross

1 when she said, So that's what your brother does, he goes
2 around counseling people?

3 And Willie said, Well, that's what all pastors are
4 supposed to do is try to get individuals to accept a
5 higher being, God, and become more spiritual in their
6 life.

7 So, Judge, we feel like we satisfied those three.

8 And then number four, it was made privately and not
9 intended for further disclosure. Willie testified both on
10 direct and on cross that he considered his conversation to
11 be confidential and private. And he did not expect it to
12 be disclosed to anyone.

13 We feel that his testimony on its face meets all four
14 requirements, Your Honor, certainly, the preponderance of
15 the evidence and clear and established with direct
16 testimony.

17 THE COURT: Would the State like to respond?

18 MS. MUNSON: Yes, ma'am, Your Honor.

19 The only case we could find --

20 THE COURT: There's only one.

21 MS. MUNSON: I'm sorry?

22 THE COURT: There's only one.

23 MS. MUNSON: Yes, ma'am.

24 I'm trying to make a record. Rivers v. Rivers, 292
25 S.C. 21. It's a Court of Appeals case. I absolutely

1 concede that the first element necessary has been
2 satisfied, that Burley Williams is a regularly or duly
3 ordained minister. This had to be a confidential
4 communication.

5 Now, I -- the Defendant testified that his brother
6 just doesn't talk to people. His brother -- he has told
7 his brother things before that his brother has not
8 blabbed. But I don't think that they have met the burden
9 of showing that this Defendant reached out and talked to
10 his brother for the purpose of confidential pastoral
11 counseling.

12 He can say that -- I mean, he knows he's a pastor.
13 He's the only pastor that he has ever dealt with. But he,
14 also, testified that he expects his brother just to be
15 like that. His brother is just not going to blab. I
16 think having a communication with a person you know that
17 doesn't normally blab is not the same thing as following
18 the law and entrusting information to a person in a
19 pastoral setting, and asking them to keep it confidential,
20 and expecting that it will be confidential.

21 And I think it is significant that the Defendant
22 didn't reach out to his brother for help. Mr. Burley
23 Williams called the Defendant. The Defendant hangs up on
24 him. The Defendant didn't want to talk to him. And from
25 what the Defendant said, he did begin to listen to Burley

1 Williams. Because Burley Williams cared for him and was
2 calming him down.

3 There's just -- the communication must be one that is
4 necessary and proper to enable the clergy to discharge
5 that function according to the usual course of practice or
6 discipline of his church. There's been no evidence put
7 forth on the record about what the normal course or
8 practice of this church is, or that keeping these things
9 confidential is necessary to Burley Williams discharging
10 his duties.

11 THE COURT: Actually, he testified to that.

12 MS. MUNSON: He testified that there are some rules
13 and --

14 THE COURT: No. They asked him that question
15 directly and he said, yes, that's what he was doing. They
16 tracked the statute when they questioned him at the end of
17 his questioning. And that was one of the questions they
18 asked. And he said that that was in his estimation what
19 he was doing.

20 MS. MUNSON: We have to assume, Your Honor, that
21 Burley Williams is nothing but an upstanding pastoral guy,
22 that he takes his role seriously. It's the State's
23 position that Burley Williams never would have
24 communicated information to anybody if the Defendant went
25 to Burley Williams in the pastoral setting and said,

1 you're my pastor, I'm telling you this confidential
2 information. If that happened, Burley Williams would have
3 never told anybody anything.

4 To allow -- the position we're in now is that any
5 time anybody talks to Burley Williams who knows that he's
6 a pastor, they have the right to expect that he's not
7 going to tell anybody. And that's true. You have the
8 right to maybe think that things are confidential. But
9 does it fall in the statute? Have they met the burden?
10 The State's position is that they have not.

11 To equate what happened between these two brothers,
12 with the one brother, as he described, emotionally upset,
13 distraught, running from the police, to equate what
14 happened there with Burley Williams calling him, trying to
15 calm him down, trying to get him so that he wouldn't get
16 hurt, trying to get him to come back to the house, trying
17 to turn himself into the police, that just overbroadens
18 the statute. That sort of will give anybody the right who
19 ever talks to somebody who happens to be a pastor -- it
20 would give them those protections under the statute.

21 And it's our position that that's not what it was
22 intended for. This situation is completely different from
23 the Rivers case where the person who was asserting the
24 privilege in that case went to a pastor, a clergymen, for
25 the purpose of counseling. And that clergyman was

1 following the guidelines set forth for the church.

2 So we would respectfully ask for the Court to
3 overrule the Defendant's objection and allow Mr. Burley
4 Williams to testify.

5 Thank you, Your Honor.

6 THE COURT: You're welcome.

7 Anything further from the Defense?

8 MR. JONES: Briefly, Judge.

9 That argument was really kind of vague and just
10 trying to say -- you know, as the Court pointed out
11 earlier, this issue is one without a lot of precedent.
12 But, at the same time, in addressing the issue, you know,
13 we shouldn't confine ourselves to the Catholic religion
14 and how formal -- you know, that came out earlier about
15 how even a Catholic priest, I don't think -- I'm not
16 Catholic, but I don't think they have to be in the cubicle
17 to --

18 THE COURT: A priest takes the position that if you
19 talk to him on the street, it's confidential. They're
20 never going to disclose that. So I don't think they're
21 discipline requires that either.

22 MR. JONES: I think it's really unreasonable. And
23 I'll sit down, but I don't want to accept the State's
24 position that because Burley Williams is Willie Williams
25 brother, it keeps him from being a pastor. It keeps him

1 from communicating with his brother as a pastor. It keeps
2 him from communicating spiritually with his brother in the
3 performance of his duties, and it keeps him from being
4 able to accept confidential information from his brother.
5 And his brother expected it to be confidential.

6 Willie testified any time he talked to him, he
7 thought it was confidential. That's really the only time
8 he did talk to him is when he was counseling with him.
9 And that's what's on the record, Judge.

10 So I just don't see that the State's argument in this
11 case, with all due respect, diminishes our proof and our
12 testimony. It's not -- you know, it has not been --
13 they're saying we've got to accept it. Well, that's what
14 was testified to. And that's the only evidence intended.
15 There's nobody else that has testified any differently.

16 Thank you, Judge.

17 THE COURT: You're welcome.

18 There is no -- well, there is one case, Rivers v.
19 Rivers. But there are some ALR articles or provisions
20 that interprets Rivers v. Rivers, which is found at 291 --
21 292, S.C. 21, which deals with Code Section 19-11-90,
22 which is the pastor -- I've got it in shorthand
23 pastor/priest -- actually, there's an Attorney General's
24 opinion that says both the clergyman and penitent alike
25 can assert the privilege. That has not been subject to

1 review either. And that's from a 2010 Attorney General's
2 opinion. Of course, that does not have the force and
3 effect of law, but it's just interesting anecdotally.

4 But 19-11-90 is the entitled priest/penitent
5 privilege. And it provides that any legal or quasi-legal
6 trial, hearing, or proceeding before any Court,
7 commission, or committee, no regular or duly-ordained
8 minister, priest, or rabbi shall be required in giving
9 testimony to disclose any confidential communication
10 properly entrusted to him in his professional capacity and
11 necessary and proper to enable him to discharge the
12 functions of his office according to the usual course of
13 practice or discipline of his church or religious body.

14 And then it goes on to provide, This prohibition
15 shall not apply to cases where the party in whose favor it
16 is made waives the rights conferred, which is inapplicable
17 to this case. Because there's no testimony that it was
18 ever waived.

19 And there is only one case that has interpreted
20 19-11-90, which, really, is not on point with this case --
21 well, it's on point because it deals with the statute.
22 But it's a situation where a couple was in counseling with
23 a pastor. And it dealt with whether he could testify
24 regarding the communications that were disclosed during
25 the course of those counseling sessions. And that is

1 Rivers v. Rivers. It was, actually, a case for alienation
2 of affection and criminal conversation. And it was in the
3 Family Court before Justice Finney, who was at the time --
4 it went up to the Court of Appeals. And it dealt with the
5 clergy/penitent privilege.

6 And, at that time, the Court held that the privilege
7 applied to communications made to an ordained minister who
8 provided marriage counseling. And, likewise, that case
9 established that the burden of showing the facts required
10 to establish the clergyman/penitent privilege rests on the
11 party objecting to disclosure of the communication.

12 And it, also, articulates that whether communication
13 is privileged is a question for the trial judge to decide
14 after making a preliminary inquiry into the surrounding
15 facts and circumstances leading up to the communication.
16 And a determination by the trial judge is conclusive in
17 absence of an abuse of discretion, which we know an abuse
18 of discretion is either lack of evidentiary support or an
19 error in interpreting the law. The Court found at that
20 time the statements made by a wife to an ordained minister
21 who provided marriage counseling were privileged and could
22 not be divulged.

23 And it articulates that under our statute, there are
24 four conditions that must be established before the
25 clergyman/penitent privilege applies. First, there must

1 be a confidential communication. Second, the confidential
2 communication must be disclosed to a regular or
3 duly-ordained minister, priest, or rabbi. Third, the
4 confidential communication must be entrusted to the
5 clergyman in his professional capacity. And, fourth, the
6 confidential communication must be one that is necessary
7 and proper to enable the clergyman to discharge the
8 functions of his office, according to the usual course of
9 practice or discipline of his church or religious body.

10 And our courts have observed that not every
11 disclosure or communication made to a clergyman is
12 privileged. The question of whether communication is
13 privileged is for the trial court to decide after making
14 that preliminary inquiry.

15 Now, considering those elements -- but, first --
16 well, I guess I may take them out of order. It is
17 uncontested that Burley Williams is an ordained minister.
18 And his testimony was that he has been in the discipline
19 where he was ordained for 12 years under Jeff Jenkins.
20 And I made an abbreviation of the church, which is DCF. I
21 would assume since the Defendant has the burden of proof
22 by a preponderance of the evidence, which is more likely
23 than not, and the only evidence the Court has before it is
24 the testimony of Burley Williams and the Defendant, Willie
25 Marvin Williams.

1 First, recapping the testimony of Burley Williams.
2 And his testimony, in essence, was he had heard certain
3 events. He wanted to contact his brother because he was
4 concerned. But the crux of his testimony is that -- and
5 that was established in both direct and cross-examination,
6 that he was talking to his brother as a minister. He was
7 concerned about his salvation. He considered the
8 conversation to be confidential, that he considered
9 himself to be a clergymen when he talked to him. And that
10 he believed the conversation was between -- and when he
11 thinks of a confidential conversation, he believes that
12 conversation to be between whomever he's speaking with,
13 them and God.

14 And he would not ever want to break that confidence.
15 And it is essential to him performing his job. That the
16 first conversations he had with his brother -- and the
17 other -- and, again, paraphrasing his testimony. He said
18 that I talked to him to get him at ease so I could talk to
19 him about salvation. And that was a part of his regular
20 duties to the church. And he talked to him the way he
21 would talk to any other person about salvation.

22 He seemed to have some lapses in terms of what he
23 recalled and exactly all of the conversations that he had
24 with his brother. And he took much time to think about
25 it. He, also, had some lapses in -- as to whether he, in

1 fact, ever said his brother said he did it. He
2 equivocated certain times -- several times when asked that
3 question. And he never really answered it directly. As
4 he said, he did not have a firm recollection of that
5 event. However, he did have a firm recollection of his
6 brother making a statement regarding seeing his -- the now
7 deceased in hell.

8 Then we have the testimony of the Defendant in this
9 case who indicates that -- and, also, which is
10 corroborated by his brother that they didn't have a
11 particularly close relationship. That he had only met the
12 deceased -- Mr. Burley Williams's testimony was he had
13 only met his brother's wife twice during the entire course
14 of their marriage. That their relationship was not as
15 close as it should be as brothers. And they rarely spoke
16 to one another. However, every time he invited him to the
17 church, he attended, especially before he went away to --
18 I believe he said Afghanistan, but I don't want to
19 misspeak. But it was concerning military service.

20 And then we have the testimony of the Defendant, who
21 indicates that he saw his brother as his pastor, that he
22 attended his brother's church in Belton, South Carolina.
23 That before he went overseas, he attended regularly
24 because he wanted to be right with God. That he
25 considered his brother to be his pastor. That they were

1 not particularly close. That they did not speak very
2 often.

3 And during the first phone call, he hung up. The
4 second, he was suicidal. And they talked about salvation
5 and life after death experiences, as well as his
6 well-being. And that he felt the course of the
7 conversation was to comfort him, because his brother had
8 that effect on him. That they spoke very rarely, but,
9 usually, they spoke about his problems. That he expected
10 those conversations to be confidential. Because his
11 brother had never disclosed the course of those
12 conversations previously.

13 And that when he talked to him on this event -- or
14 during the course of this event that he was talking to him
15 as a pastor, and not as a brother. It is correct that on
16 cross, he could not recall the name of his brother's
17 church. But he did say that his brother talks to a lot of
18 people about salvation. And their relationship is
19 distant. So when he talks to him, it's about problems.

20 Looking at the other elements, which are required
21 pursuant to the statute, as well as Rivers v. Rivers,
22 there must be a confidence communication. The only
23 evidence the Court has before it is the testimony of
24 Burley Williams and Willie Marvin Williams, who both
25 testified they expected the conversations to be

1 confidential. That the confidential communication must be
2 disclosed to a regular or duly qualified -- regularly or
3 duly-ordained minister, priest, or rabbi. That point has
4 been conceded, that Mr. Williams was, in fact, a regularly
5 duly-ordained minister. That the confidential
6 communication must be entrusted to the clergyman in his
7 professional capacity.

8 The only information the Court has or testimony the
9 Court has is that of Burley Williams, who says that it was
10 disclosed to him in the course of his professional
11 capacity.

12 And, fourth, that the confidential communication must
13 be one that is necessary and proper to enable the
14 clergyman to discharge the functions of his office
15 according to the usual course of practice or discipline of
16 his church or religious body. And the only testimony the
17 Court has is that of Burley Williams, who says that, in
18 fact, the communication was one that was necessary and
19 proper to enable him to discharge his functions.

20 There has been some conversations as to who initiated
21 the contact. I don't think it's dispositive. There's no
22 guidance from our case law that indicates who had to
23 initiate the contact, or who had to look for the
24 disclosure of the communication. In other words, there's
25 nothing that says the penitent had to initiate it or the

1 pastor had to initiate it.

2 There's, also, been a lot of discussion about the
3 discipline within the church. I would be remiss if I did
4 not recognize in our current society that there are a
5 plethora of different disciplines. And as a matter of
6 fact, there's been an explosion of non-denominational
7 disciplines that do not operate like the major churches
8 we're used to, such as the AME church, the Baptist church,
9 the Catholic church. Those are usually the ones we look
10 to, the COGIC church, which is the Church of God in
11 Christ, who have huge disciplines and other -- do things
12 in a certain organized things.

13 But there's a plethora of non-denominational churches
14 who do things very differently and have their own
15 disciplines. And I'm not going to split hairs about how
16 they do it, or how they approach it, or how they train
17 their ministers, or how their ministers perform their
18 duties and what is required for them to, as the case says,
19 discharge the functions of their office in the usual
20 course of their practice, or discipline, or religious body.

21 There is some commentary in ALR that indicates that
22 in terms of interpreting the Rivers case that -- and it
23 points to a New Jersey case, which looked like the only
24 other case that speaks on the issue. That the Court
25 should look objectively at the totality of the

1 circumstances to determine whether those involved believed
2 that the communication was secret, that it is made in
3 confidence to a cleric in that cleric's professional
4 character or role as a spiritual advisor.

5 I don't think that it's the Court's function to split
6 hairs about -- the unusual issue in this case -- or
7 factual circumstance in this case is that Burley Williams
8 is the Defendant's brother. And there could be some
9 argument that he was not acting in that function when he
10 was speaking to him, that he was speaking to him as a
11 brother, instead of a pastor.

12 And there could well be an argument that all of this
13 is contrived. In other words, that it was contrived after
14 the case in an effort to protect him, and in an effort for
15 the family to band together and for none of them,
16 essentially, to take a posture consistent with their
17 brother's position, or contributing to a finding of guilt
18 against him in this case. And it's palpable. I mean,
19 there -- it is reasonable. And I think it's reasonable
20 for the State to argue that.

21 However, Mr. Williams has the burden of proof. There
22 has been no evidence presented to the Court contrary to
23 the elements in Rivers v. Rivers. And, again, I am not
24 going to sit in judgment as to someone's religious
25 beliefs, as to whether they believe their brother was

1 their pastor or not.

2 And I'm, certainly, not qualified -- and our courts
3 have been very specific in other cases dealing with fights
4 with churches regarding the Court making decisions about
5 what a discipline requires of a church. Each church is
6 bound and governed by its own discipline and policies that
7 it articulates for its own guidance and direction of its
8 congregations. And we have been -- I mean, our case law
9 is very clear that the Court is to stay clear in making
10 any kind of decisions or judgment calls about that.
11 Because that's solely in the province of the church and
12 how they determine their disciplines are to be done
13 regarding how they're to act within their own
14 congregation, and how they are to advance the interest of
15 their religious organizations.

16 So based on what has been presented to the Court, the
17 only thing I have before me by a preponderance of the
18 evidence is that the elements of Rivers v. Rivers has been
19 met. And that the conversations between Mr. Williams and
20 his brother were made in the context of a pastor/penitent
21 relationship. And, therefore, he has met his burden of
22 proof by a preponderance of the evidence that the
23 privilege can be asserted.

24 Are we ready to proceed -- we're ready to go to
25 lunch. I forgot. I've got a one-track mind. I

1 apologize. I'll see y'all at 1:30.

2 (WHEREUPON, a lunch break was taken.)

3 THE COURT: Is the State ready to proceed?

4 MS. MUNSON: Yes, Your Honor.

5 THE COURT: Is the Defense ready to proceed?

6 MR. JONES: Your Honor, we are.

7 THE COURT: I hear a "but".

8 MR. JONES: Well, a hesitation. I had the -- I asked
9 the bailiff to locate an easel for me, and he's doing
10 that. At some point in time during my examination of
11 Willie Williams, I'll need to use an easel.

12 THE COURT: Okay. You can bring in the jury.

13 Ms. Munson, I'm going to need you to rest in front of
14 the jury.

15 MS. MUNSON: Yes, ma'am.

16 (WHEREUPON, the jury came into open court at
17 approximately 1:30 p.m.)

18 THE COURT: Ladies and gentlemen, I hope you all had
19 a pleasant lunch recess. We're now going to resume with
20 the trial.

21 Ms. Munson, you may proceed.

22 MS. MUNSON: May it please the Court, Your Honor.

23 That is the State's case.

24 THE COURT: Does the State rest?

25 MS. MUNSON: Yes, ma'am.

1 THE COURT: The Defense may proceed.

2 MR. JONES: May it please the Court, Your Honor.

3 THE COURT: Yes, sir.

4 MR. JONES: The Defense would call Willie Williams to
5 the witness stand.

6 THE COURT: Sir, if you would come to the stand and
7 be sworn.

8 THE CLERK: Sir, please, place your left hand on the
9 Bible and raise your right hand.

10 WHEREUPON,

11 WILLIE MARVIN WILLIAMS,
12 after first having been duly sworn, testified as follows:

13 THE CLERK: Thank you.

14 You may be seated.

15 Please state your name for the record.

16 THE WITNESS: Willie Marvin Williams.

17 THE COURT: Sir, if you could speak up a little bit
18 more for me, please.

19 THE WITNESS: Willie Marvin Williams.

20 THE COURT: You may proceed.

21 MR. JONES: Thank you.

22 DIRECT EXAMINATION

23 BY MR. JONES:

24 Q Willie, I want you to try to speak up so the jury and
25 the court reporter can hear your answers to my questions.

- 1 A Okay.
- 2 Q Tell us how old you are.
- 3 A I'm 47 years old.
- 4 Q Willie, where were you born?
- 5 A I was born in Laurens County.
- 6 Q In Laurens?
- 7 A Yes, sir.
- 8 Q And where did you grow up?
- 9 A In the city of Laurens.
- 10 Q Okay. Did you go to school in Laurens?
- 11 A Yes, sir. Laurens District 55 High School.
- 12 Q What grade did you finish?
- 13 A Twelfth.
- 14 Q So you graduated from Laurens District 55 High
- 15 School?
- 16 A In 1984.
- 17 Q After you graduated -- excuse me, Willie, after you
- 18 graduated, did you engage in any endeavors on a
- 19 professional or personal basis?
- 20 A Yes. I was seeking a military career.
- 21 Q So what did you do in that regard?
- 22 A I started out -- I joined the Laurens National Guard.
- 23 Q The Laurens National Guard?
- 24 A Yes, sir.
- 25 Q Go ahead.

1 A And that was right after high school. And I enjoyed
2 my summer. And I left in November of 1984. And my basic
3 training was in St. Louis, Missouri. I stayed there nine
4 weeks. And then I went to training for my job in Fort
5 Gordon, Georgia.

6 Q Do you recall how long you stayed at Fort Gordon
7 training for the National Guard?

8 A Once I completed my six months active duty, I was
9 assigned to my unit back in Laurens. And I served six
10 years.

11 Q While you were in your basic training in the National
12 Guard, did you receive any type of particular training for
13 self-defense, or any kind of military training along those
14 lines?

15 A Yes. We do riot control. Like if a riot breaks out
16 and stuff, they call in the National Guard. They call in
17 for that. And then we've got like another special
18 training like learning how to enter into dwellings, and
19 how to clear it. So we got training in that.

20 Q So you received that training during your basic
21 training -- or throughout your career?

22 A Throughout. We do drills like one week out of a
23 month. And then we -- like two weeks out of the year,
24 we'd go to like different places. And then we do
25 training.

1 Q Well, let me ask you, Willie. Once you completed the
2 six months initial service in the National Guard, had you
3 signed up for a particular length of time to be in the
4 National Guard?

5 A It was a six-year obligation.

6 Q Six-year obligation. Did you pursue employment
7 anywhere other than that?

8 A The National Guard was like part time. So I had a
9 regular job. And I was working in Clinton at a barium
10 plant. I was a machinist.

11 Q How long did you work there?

12 A I worked there about until 1989. So about three
13 years.

14 Q And was there any reason you left that employment?

15 A I found a better job. So I -- in about 1991, I
16 started working in Enoree Mills as a maintenance tech.

17 Q All right. And do you recall how long you stayed
18 there?

19 A I stayed there 10 years.

20 Q Now, at some point in time, did you move down to
21 Bishopville?

22 A I got laid off. And after they signed that textile
23 agreement and all that, the mills went under.

24 Q Do you recall about what year that was?

25 A That was like 2000.

1 Q All right.

2 A So I was classified as a dislocated worker. So I was
3 going down to One Stop. And I applied for a grant. So I
4 had to enter a program. And I took up truck driving. So
5 I tested out. And I was awarded the grant.

6 Q So you went to a truck driving school?

7 A In Bishopville, South Carolina.

8 Q Did you ever drive a truck?

9 A As far as classes and everything, I drove a truck. I
10 finished the five-week course. And I was getting ready to
11 go to -- I was like a pre-hire for U.S. Express where I
12 was going to go to Georgia. But I had went online and
13 applied for a military contractor job going over to Iraq.
14 And so they called me. And the money was great. So I
15 decided to go to Iraq.

16 Q What year was that?

17 A That was in --

18 Q Approximately?

19 A 2005.

20 Q Well, let me ask you this. Did you work anywhere
21 between 2000 and 2005 before you went to Iraq?

22 A Oh, yes, I forgot. I worked at Premier Roof in
23 Greer. We made convertible tops for the Z4 for BMW.

24 Q Why did you leave that employment?

25 A I was laid off.

1 Q Do you recall whether or not before you left for Iraq
2 you met anybody that you started dating?

3 A Yes. I met Natasha Kerns in 2004.

4 Q Where?

5 A I met her at a bike show, motorcycle-car show.

6 Q Well, tell the jury how that relationship developed
7 in that year, 2004.

8 A I met Natasha. And we traded phone numbers. Then we
9 started talking on the phone. Then after like two weeks
10 of talking on the phone, maybe three, we started meeting
11 and going out to eat.

12 And then she, finally -- she was living in
13 Greenville. And she invited me over to her apartment to
14 meet her son and her mom. And it went from there. We
15 kind of like were in a steady-like relationship.

16 Q Well, but you went ahead and took the job in Iraq; is
17 that correct?

18 A Right. I went ahead and took the job in November. I
19 went to Houston, Texas. That's where we go to the
20 deployment center to be trained and take all our exams,
21 medical, and passport, and all that. And I left -- I
22 ended up in Iraq on Thanksgiving night, November 25th of
23 2005.

24 Q Okay. And what were your duties over there in Iraq?
25 Where were you located? And who were you working for,

1 again. And what were you doing?

2 A I was working for KBR. It's a spin off of
3 Hollenberg [phonetic]. It was like a subcontractor of
4 Hollenberg [phonetic]. And I was doing -- at that time, I
5 was doing MCT. When all the truck supplies come into our
6 yard, we take the paperwork. And then we had like lanes
7 we put them in where they go throughout Iraq taking
8 supplies to different camps.

9 Q Okay. How far from Baghdad were you located?

10 A Well, my first tour, I was north of Baghdad. I was
11 assigned to the Marines. So I was with the Marines out of
12 Camp Pendleton out of California. And that's where I
13 worked and trained, whatever, to meet their needs.

14 And then I signed a one-year contract. And after
15 one -- after several months, my contract was cancelled.
16 Because they do like task orders. And there wasn't no
17 more funding. So I was sent home in about June of 2006.

18 Q And where was home at that time?

19 A I was still at Eichelberger.

20 Q Eichelberger?

21 A Yeah, Gray Court.

22 Q Gray Court, South Carolina?

23 A Right.

24 Q Tell the jury, in case they don't know, where Gray
25 Court is.

1 A Gray Court is in Laurens County, roughly, about 40
2 miles from Greenville. Like you're headed towards
3 Columbia, and you bear off and go into Gray Court. You
4 get on 14. And it will take you to the town of Gray
5 Court. And we've got like a rural area. You've got the
6 town of Gray Court. It's a lot of undeveloped land.

7 So I stayed in the rural section of Gray Court. It's
8 like -- it's, actually, five miles from Gray Court and
9 five miles from Laurens.

10 Q How far is Gray Court from Laurens?

11 A To the city, five miles.

12 Q Okay. Well, your house is from the city of Laurens,
13 it's five miles?

14 A Right. It's located like about 400 yards off the
15 road on a dead end. It's surrounded by trees on both
16 sides and in the back.

17 Q So that's where you came back home to in 2007 when
18 you got -- when the job ran out; is that correct?

19 A 2006.

20 Q Did you have a relationship with Natasha Kerns at
21 that time?

22 A Yes. When I got back home, I called and let her know
23 I was back. Even though I was gone, we did communicate,
24 you know. She called me. I called her while I was over
25 in Iraq.

1 Because we had like a phone system with a satellite
2 that would bounce off of London to Houston. So if you
3 call, it's like you're calling me from Texas, not Iraq,
4 not international. So we kept in touch, e-mailed.

5 Q Well, how long were you home in 2006? And what did
6 you do while you were here then?

7 A After I went home, I took another job in Moonville
8 right here in Greenville -- well, Piedmont. It was
9 another automotive BMW supplier. And they made -- they
10 had a Mercedes line and BMW line. I worked on the
11 Mercedes line as a lift gate operator where we built the
12 lift gate for one of the SUV's. And I worked there about
13 13 months.

14 Q Okay. And during that period of time, you continued
15 to have a relationship with Natasha Kerns?

16 A Yes, sir. Actually, my job was like three miles from
17 her house. So I worked the third shift. So when I got
18 off, I did go over to her house before -- she was going to
19 school at the time. She was working a job, plus going to
20 school at Greenville Tech. So I would go over and talk to
21 her and everything before she would go to school.

22 Q Was your relationship anymore than conversation at
23 that period?

24 A It was at first. I mean, we took things slow. So it
25 was like conversation. And we was like had like an open

1 relationship, you know. Because we wasn't rushing things.
2 We had like a difference in ages. So I was older than
3 her. And so we took it slow.

4 Q Well, approximately how much older than her were you?

5 A 15 years.

6 Q At some point in time during 2007, did y'all -- well,
7 did you discover some revelation about her condition?

8 A Yes. Natasha -- in January of 2007, she got real
9 sick and went to the emergency room. And the doctor told
10 her she was pregnant. And so she called me at work and
11 let me know that the doctor had told her she was pregnant.

12 And so after that, I more like moved in. I still had
13 my place at Gray Court. But I stayed more up there in --
14 I guess you would call that Moonville right there on
15 Idlewild, somewhere in the area.

16 So I started staying with her. And as she progressed
17 through the months, she got to where she couldn't work.
18 Then I started taking care of her financially, and
19 whatever her needs were.

20 Q Okay. And would you share with the jury, did she
21 have another child living with her at the time with the
22 two of you when you were staying with her?

23 A Yeah. She had -- when I met Jakyre, her son, he was
24 three years old, which we kind of -- should I say we kind
25 of became close? Because he like don't meet no strangers.

1 So we got real close throughout time.

2 Q Okay.

3 A And I treated him like he was my son.

4 Q What happened with Natasha's pregnancy?

5 A Her pregnancy kind of got -- she started getting real
6 sick all the time, throwing up, and all that. And so I
7 stayed more and more up there than I stayed in Gray Court.
8 And about -- she probably had the baby in October.

9 But one morning, she was real sick throwing up. And
10 so I told her that she don't have to suffer like this. We
11 went to the hospital. And she had the baby in Greer and
12 found out her -- the part of the body where all the waste
13 and stuff go [sic] had erupted. I don't know the medical
14 name for it. And so they had to do an emergency
15 C-section.

16 Q An emergency C-section?

17 A Yes, sir.

18 Q All right. Well, you were there when the baby was
19 born?

20 A Yes. I was scheduled to leave to go to Iraq in
21 September, but the baby was born. So I called Houston and
22 talked to HR. And they gave me time enough to stay home
23 with the baby.

24 Q And what -- did you name that baby? And who is that
25 baby?

1 A Her name is Jadance Unique K. [REDACTED]. And I had a
2 paternity test done. It was mine. So after that, I
3 started taking care of it as mine, her, and her son. And
4 then I ended up working a lot of overtime seven days a
5 week trying to pay for two different homes. So I
6 immediately went to Iraq.

7 Q For better pay?

8 A Better pay.

9 Q And how did you get the job back in Iraq? Tell us, I
10 mean, who were you working for this time. And where were
11 you staying?

12 A It was the same company. I had a friend of mine that
13 is retired military, and he was working over there. And
14 he told me to send him a resumé. I sent him a resumé.
15 And he had managers over there. And he sent it to them.
16 And they called Houston and pulled my resumé. And they
17 gave me a call. And that's how I ended up back over in
18 Iraq.

19 Q And so what was your understanding about how long
20 you'd be in Iraq, and what opportunities you'd have to
21 come back and be with your family?

22 A The job required me to sign a one-year contract, you
23 know. If you leave in October, the contract runs from
24 October to October.

25 So I signed a one-year contract. And every four

1 months, 120 days, you get vacation time. So every two
2 weeks out of four months, I'd fly home 15 -- about 18,000
3 miles back to Atlanta, back to Greenville. And I would
4 stay home, which my home then was Eichelberger -- not
5 Eichelberger, Idlewild. I came home to Natasha and the
6 kids.

7 Q At Idlewild?

8 A Right.

9 Q And tell us, again, if I could just ask you to
10 describe where your workplace was in Iraq during this time
11 frame beginning in November of 2007, you know, for that
12 one-year contract you signed. Where were you located in
13 Iraq?

14 A This time, they really put me right there in Baghdad.
15 We was like five miles from the city of Baghdad at a camp
16 where it sits right between -- it's in a flat -- it,
17 actually, was the National Guard Republican Army post to
18 the U.S. government -- the U.S. military took it over.

19 And we had the Shiites on one side and the Sunnis on
20 the other side. So when they were fighting back and
21 forth, we caught all the indirect fire. It hit the camp
22 and lot of people died.

23 Q And your job was to do what at that point in time?

24 A My job was, I was a property specialist,
25 property/logistics/material. Because all three

1 departments were procurement. So we all dealt -- one hand
2 feeds the other.

3 So we had supplies anywhere from toilet tissue, to
4 radio, to a car, vehicle, or whatever, to a bulldozer
5 track ho, whatever equipment the military requires for
6 their mission.

7 Q If it was disabled, would you have to go out in the
8 field and designate that it had been? And what would be
9 done with the property at that point in time?

10 A Yes. What we do is if equipment got to be what we
11 call PCP, proper control procedure, if equipment is -- a
12 person -- the military keeps a record of everything. So
13 if a person signs for, say, a \$30,000 vehicle, you'll give
14 them a hand receipt signing for that. And then you've got
15 responsibilities for proper care and use of that vehicle.
16 If that vehicle gets damaged, we fill out a package called
17 an LDD, which is lost, damaged, or destroyed.

18 So if it's damaged, we'd come out and assess the
19 damage of it. Say, if the car got a dent in it, we get a
20 motor vehicle to come out and do an estimate of it. And
21 then we'll take the paperwork and fill it out and submit
22 it to all the off sites and satellite sites.

23 So we'd send it to a home site. And they'll do what
24 you call another package of paperwork. And then they'll
25 send it to what you call the DCMA, defense contract

1 manager agent. And they'll be responsible for that
2 vehicle.

3 Q So you were living with constant gunfire going back
4 and forth over your head --

5 A Right.

6 Q -- and you were going out into the field to retrieve
7 property, or designate its demolition or dysfunctionally
8 for your company; is that correct?

9 A Right. And --

10 Q Go ahead.

11 A We had like water tanks. Water might come out of the
12 water tank and make a big spill. It's just like any
13 emergency service in the state. We had to have Hazmat
14 come out, property come out. The plumber would come out
15 and try to fix the leak, you know. It was just kind of in
16 that manner.

17 Q Okay. Well, did you come home the first four months
18 you were able to?

19 A I came home every four months.

20 Q How long did that go on?

21 A I did my first year obligation. So I signed for
22 another year. And so I continued to come home every four
23 months.

24 Q Do you recall approximately how much you were making
25 to do this work and put yourself in that position?

1 A Yes, sir. We got paid bi-monthly by hours. Our job
2 was that you work 12 hours a day, seven days a week. So
3 you put in 84 hours a week, you know. You can get
4 overtime.

5 So my job was real busy. So I did get a lot of
6 overtime. But for four weeks, I brought home 7,000. And
7 for five weeks -- I brought home 8,000 a month.

8 Q So you were making somewhere around \$96,000 a year
9 approximately?

10 A \$96,000 plus.

11 Q \$96,000 plus a year?

12 A Yes, sir.

13 Q And with that money, were you providing -- were you
14 spending it over there in Iraq?

15 A No. I had -- like everybody was required to have a
16 deposit bank account back in the states, you know, where
17 your money is automatically deposited the first of every
18 month wherever the first pay period lands on every month.

19 Q Well, I guess my question is, did you have a lot of
20 expenses in Iraq that you had to pay for?

21 A No, sir. Everything was on military. They took care
22 of housing, all our meals, and everything. We lived with
23 the military. So we was -- being an America, we were a
24 green badge. And we had access to all their gyms or
25 whatever.

1 Q All right. When you would come home during your
2 first year, how was your relationship with Natasha?

3 A It was great. It was great. I mean, I would come
4 home every four months. I would send her money every
5 month. I had like a Visa card that I would go online and
6 load. Every time I got paid, I would load money on to her
7 Visa -- prepaid Visa is what it's called. And I,
8 basically, just paid for everything.

9 And I wanted her just to go to school, and finish her
10 education, and raise the kids. But she wanted to work.
11 So that was fine. So I still continued doing -- providing
12 for her. And whatever she made was hers.

13 Q Well, how -- did you develop a relationship with your
14 daughter? I mean, how did you do that while you were away
15 so much?

16 A Now, that was a challenge. Because every time I came
17 home, she was like four months, eight months. So she
18 really didn't know me. So within a two-week period, I had
19 to spend as much time as I could with her. But we,
20 finally -- she, finally, realized me as a father figure.

21 Q So you went back. You say you signed up for another
22 year. And that started in November of 2008?

23 A No. Once you sign up, it will go like October 2007
24 to October 2008, October 2008 to October 2009, like that.

25 Q Well, did you do that year? And did you come home

1 every four months during that second year that you were in
2 Baghdad?

3 A Yes, sir.

4 Q You did?

5 A You're only allowed to be in the states 35 days out
6 of a year, because you've got a tax bracket you'll fall
7 in.

8 Q Well, tell the jury what your relationship was like
9 with Natasha in 2009, and what, if anything, happened in
10 that year while you were home that was different from the
11 previous years.

12 A In 2009, I came home in April. I had asked Natasha
13 to marry me. And she said she needed some time to think
14 about it. So the week I was home, we got married the day
15 before I went back to Iraq.

16 Q Where did you get married? Do you remember?

17 A This -- back in Gray Court, this minister have [sic]
18 a church in his yard and he have [sic], also, his home.
19 And, me, my daughter, and her mother, we went to his house
20 and we got married.

21 Q All right. And after that, what did you do?

22 A I went back to Iraq. And I came home that August for
23 her birthday and spent time -- well, I celebrate -- her
24 birthday was in August, and both the kids' birthdays was
25 in September. So I celebrated all three of them at one

1 time. Also, my birthday was in September.

2 So I celebrated them all at one time. And I went
3 back to Iraq. And then my contract ended in October. So
4 I got to stay home three weeks. So I came home for
5 Christmas and New Year's.

6 Q All right. How were you feeling about your service
7 and your work in Iraq, and the constant shelling, and the
8 constant fighting, and being away? What was going through
9 you as a person during that period?

10 A I started having problems with all the bombing, and
11 shelling, and the killing, and stuff. So I asked
12 management could they move me to another site. And so
13 after e-mails explaining -- they, finally, decided to move
14 me north of Baghdad, like 25 miles from the Iran border to
15 another camp.

16 I got there. I got there and it was fine. But I
17 found out it was a camp where the military trained the
18 Iraqi Army how to shoot and fight. So, basically, all
19 night you hear the machine guns going off, the explosives,
20 or whatever the training was required.

21 So then they had generators. They used generators
22 for power. So I started developing abnormal sleeping
23 habits and behavior. My job was stressful, 12 hours a
24 day, seven days a week. So I had difficulty sleeping,
25 concentrating. And then I would wake up in the night with

1 cold sweats where I had developed fear, and all that.

2 So I had went to the medic on base and explained all
3 my symptoms. And he said I was developing a lot of
4 stress, that I had been in the theater 28 months, and
5 maybe I needed to take a break. But I really didn't want
6 to leave the job because it paid good money. And I
7 enjoyed what I was doing, you know, supporting the troops.
8 So I tried to deal with it, but it only got worse.

9 So I went back to the medic. We only have medics.
10 We don't have doctors. The only doctors we have is in the
11 military. The contract put the burden on the military to
12 treat us when we were paid to take care of the military.
13 So they wouldn't give me psychiatric help. So I went to
14 HR about it. So HR decided that it was best for me to go
15 home and handle my problems.

16 And so I called Natasha. She was my wife at the
17 time. And I was telling her what I was going through, and
18 everything. And we decided it was best for me to come
19 home. And HR, I guess they thought they was doing me a
20 favor. And they said after I get better, I could come
21 back.

22 So in February of 2010, I resigned because of the
23 sleeping habits and behavior. And I came home to Natasha
24 and the kids in Greenville.

25 Q At what address?

1 A [REDACTED].

2 MR. JONES: Now, excuse me a minute, Your Honor. I
3 notice his mouth is getting a little dry. I'm going to
4 see if he needs some water.

5 May I approach, Your Honor?

6 THE COURT: Yes, sir.

7 THE WITNESS: Thank you.

8 BY MR. JONES:

9 Q So you moved back to Idlewild; is that correct?

10 A Yes, sir.

11 Q At [REDACTED]?

12 A Yes, sir.

13 Q And it was you, Natasha, Jadance, and Jakyre?

14 A Yes, sir. And, sometimes, her mom, she would stay
15 over.

16 Q And did Jakyre have his own bedroom?

17 A Yes, sir.

18 Q Okay. And do you remember where it was in the house,
19 the front or the back?

20 A Going down the hallway, here's how -- excuse me, his
21 bedroom was like at the end of the hall.

22 Q Okay. And did Jadance have her own bedroom?

23 A Yes, sir.

24 Q Separate from Jakyre's?

25 A Yes.

1 Q And where was hers?

2 A Hers, going down the hallway, it was the first on the
3 right.

4 MR. JONES: Your Honor, Defendant's Exhibit No. 1.

5 BY MR. JONES:

6 Q Willie, let me ask you to take a look at this, if I
7 may approach. Take a look and see if you recognize what
8 that represents, and if you've had a chance to look at it
9 before you took the stand today.

10 A Okay. That represents all the rooms inside the house
11 at [REDACTED] Greenville, South Carolina.

12 Q And have you had a chance to look at that diagram
13 before today? You've seen it before, haven't you?

14 A Yes, sir.

15 MR. JONES: Okay. Your Honor, at this point, I would
16 like to have --

17 THE COURT: It's already admitted?

18 MR. JONES: Yes. I've had it blown up. And I would
19 like to use it, at this point in time, with an easel that
20 the bailiff retrieved for me earlier.

21 Thank you.

22 BY MR. JONES:

23 Q Now, briefly, Willie, I'm going to ask you to step
24 down from the witness stand. And when you do, you heard
25 the Judge ask you to speak up earlier. You're going to

1 have to speak up louder, because you won't be speaking
2 into a microphone. Okay.

3 A Yes, sir.

4 THE COURT: Y'all are going to need to switch places
5 so he's talking towards the court reporter.

6 MR. JONES: Yes, Your Honor.

7 BY MR. JONES:

8 Q Okay. Now, does this diagram represent what you
9 looked at in Defendant's Exhibit No. 1 that I showed you
10 earlier, this Defendant's Exhibit No. 1?

11 A Yes, sir.

12 Q The same things that are depicted on this diagram are
13 on Defendant's Exhibit No. 1, as far as you can tell.
14 Take a look at it. Take your time.

15 A It's the same.

16 Q All right. Now, I was asking you if each of the
17 children had their own bedroom?

18 A Yes, sir.

19 Q Do you have a nickname for your daughter?

20 A I named her mookey [phonetic]. Because when she was
21 born, she was a little premature. And she was like a
22 little mook-mook [phonetic], small.

23 Q All right. Well, I want you to, first of all, show
24 the jury, if you recognize on this diagram, where Jakyre's
25 bedroom was. Put a "J" on his bed, if you would, for

1 Jakyre.

2 A (Witness complied.)

3 Q That's his bedroom there?

4 A That's his bedroom.

5 Q And how do you enter that bedroom? Show the jury on
6 this diagram. Just point with your finger.

7 A You come down the hallway here. And right here,
8 you're in his bedroom.

9 Q Now, I want you to point out where your daughter's
10 bedroom was. And since her name is Jadance, I want you to
11 put an "M" for mookey. You say "mookey"?

12 A Yes, sir.

13 Q Okay. Put an "M."

14 A (Witness complied.)

15 Q That's right next to it; correct?

16 A Correct.

17 Q And then I want you, if you can, to show the jury
18 where you and Natasha stayed when you were living there at

19 ██████████. Where was your bedroom?

20 A Right here.

21 Q All right. Put "W" and "N."

22 A I'll put it on the side.

23 Q Okay. Now, were you familiar with this house?

24 A Yes, sir.

25 Q How long did you stay there with your family from

1 February of 2010? Were you there in March of 2010?

2 A Yes, sir.

3 Q Were you there in April of 2010?

4 A Natasha got this house around about 2005 -- 2004,
5 somewhere in 2004. And so I'm well familiar with the
6 house, because, you know.

7 Q At some point in time, after she bought it, was there
8 a decision made to reconnect the burglary alarm system?

9 A Yes, sir.

10 Q And who paid for that?

11 A I was in Iraq. And Natasha called me and said she
12 woke up in the middle of the night and the back door was
13 open, which would be the door here where you go through
14 into the laundry room, this door right here.

15 Q Right here?

16 A Yeah. You go through this door. And this door, it
17 was open. So the house had a preexisting alarm system.
18 So it had what you call a three-zone system. And I just
19 had it activated. I already had IAT at Eichelberger. So
20 I just had it added onto my account. So they just added
21 it onto my account.

22 Q What -- to your knowledge, what three areas of the
23 house would be activated if they were touched off by
24 someone? How would you activate the three areas that were
25 subject to activation?

1 A You have one here on the front door. It connects
2 bottom and top. And you have another one on the wall
3 here, which is a motion sensor that would be activated.
4 If you're away and somebody comes into the house, it would
5 pick up their movement. And the other one is here. I
6 guess this represents the sliding door.

7 Q Yeah.

8 A There was another one right here that if you slide
9 back -- what we had -- the lock was broke on the sliding
10 door. So what we did is we put a stick in the trap. So
11 if you moved it, it would stop. But if you move that
12 door, it would automatically disconnect. And the top and
13 bottom would go off.

14 Q Were those the only three areas?

15 A Correct.

16 Q The front door, the sliding glass door -- in other
17 words, if you came in the back door, it wouldn't activate
18 the alarm system?

19 A No, sir, not to my knowledge.

20 Q Or if anybody tried to come in the windows, it
21 wouldn't activate the alarm system?

22 A No, sir.

23 Q Well, let me ask you to return to the stand for a
24 minute, please.

25 A Yes, sir.