

VOLUME I of III

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

Aug 18 2021

Certiorari to Williamsburg County

S.C. SUPREME COURT

Honorable George M. McFaddin, Circuit Court Judge

LEVERN MCCREA,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2020-001426

APPENDIX

TAYLOR D GILLIAM
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

MICHAEL J. NEUBAUER
Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
PRETRIAL HEARING TRANSCRIPT DATED JUNE 22, 2011.....	1
TRIAL TRANSCRIPT DATED OCTOBER 17-21, 2011.....	43
APPLICATION FOR POST-CONVICTION RELIEF FILED JULY 9, 2012.....	700
AMENDMENT TO APPLICATION FOR POST-CONVICTION RELIEF FILED OCTOBER 22, 2012.....	717
RETURN FILED SEPTEMBER 4, 2013	729
AMENDED APPLICATION FOR POST-CONVICTION RELIEF FILED OCTOBER 20, 2014.....	736
MOTION FOR DEFAULT FILED OCTOBER 23, 2014.....	738
MOTION FOR SUMMARY JUDGMENT FILED DECEMBER 8, 2014	741
ORDER FILED APRIL 17, 2015	743
MEMO IN OPPOSITION TO SUMMARY JUDGMENT FILED JULY 15, 2015.....	745
MEMO IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT DATED NOVEMBER 10, 2015.....	767
ORDER FILED FEBRUARY 8, 2016	778
MOTION CHALLENGING ACCURACY OF TRANSCRIPT FILED JUNE 24, 2016.....	781
LETTER TO COURT REPORTER FILED AUGUST 22, 2016.....	783
LETTER TO JUDGE JOCELYN NEWMAN FILED SEPTEMBER 6, 2016.....	807
MOTION TO ENFORCE PRIOR ORDER AND MOTION FOR PRODUCTION OF DOCUMENTS FILED OCTOBER 26, 2016.....	810
ORDER FILED DECEMBER 7, 2016.....	813
RESPONSE TO ORDER FOR DISCOVERY FILED FEBRUARY 10, 2017	817
AMENDED APPLICATION FOR POST-CONVICTION RELIEF FILED MAY 5, 2017	821

FORM 4 ORDER FILED APRIL 6, 2018.....	823
PRE-HEARING BRIEF IN OPPOSITION TO POST-CONVICTION RELIEF	824
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED JUNE 1, 2018	844
PLAINTIFF’S EXHIBIT #1A (LETTER TO W. ANDERSON DATED 2/16/17, 2pgs.)	1031
PLAINTIFF’S EXHIBIT #1B (LETTER DATED 2/14/17, 5 pgs.)	1033
PLAINTIFF’S EXHIBIT #1C (SUPPLEMENTAL INCIDENT REPORT)	1038
PLAINTIFF’S EXHIBIT #1D (CLERK OF COURT LETTER, DATED 2/15/17, 1 pg.).....	1039
PLAINTIFF’S EXHIBIT #2 (LETTER FM ATTORNEY ANDERSON DATED 2/7/11).....	1040
PLAINTIFF’S EXHIBIT #3 (LETTER, 3 pgs.).....	1041
PLAINTIFF’S EXHIBIT # 4 (LETTER DATED 12/20/10, 1 pg.).....	1042
PLAINTIFF’S EXHIBIT #5 (LETTER DATED 4/25/11, 1 pg.).....	1043
PLAINTIFF’S EXHIBIT #6 (SUPPLEMENTAL INCIDENT REPORT, 1pg.).....	1044
PLAINTIFF’S EXHIBIT #7 (5 PHOTOS).....	1045
PLAINTIFF’S EXHIBIT #8 (SEARCH WARRANT DOCUMENT, 1 pg.).....	1050
STATE’S EXHIBIT #1 (LETTER DATED 6/14/10)	1051
STATE’S EXHIBIT #2 (LETTER DATED 8/18/10)	1053
STATE’S EXHIBIT #3 (LETTER DATED 2/9/11)	1058
STATE’S EXHIBIT #4 (LETTER DATED 5/17/11)	1065
POST-HEARING BRIEF IN OPPOSITION TO POST-CONVICTION RELIEF.....	1070
ORDER GRANTING POST-CONVICTION RELIEF.....	1076
MOTION TO ALTER OR AMEND PURSUANT TO RULE 59(e).....	1105
HEARING TRANSCRIPT DATED DECEMBER 30, 2019.....	1110
MOTION TO DISMISS APPEAL FOR LACK OF JURISDICTION FILED DECEMBER 31, 2019	1130

ORDER GRANTING RULE 59(e) MOTION	1136
INDICTMENTS	1154
TRANSCRIPT OF MOTIONS HEARING DECEMBER 6, 2010	1156
ORDER RELIEVING COUNSEL DECEMBER 6, 2010	1177
TRANSCRIPT OF BOND HEARING AUGUST 30, 2011	1178
ORDER RELIEVING COUNSEL SEPTEMBER 12, 2011	1203
TRANSCRIPT OF STATUS CONFERENCE HEARING OCTOBER 12, 2011.....	1212
POST-HEARING BRIEF IN SUPPORT OF PCR APPLICATION.....	1275

State of South Carolina)
)
County of Sumter)
)

JUN 26 PM 10:29

The State of South Carolina,
Plaintiffs

vs.

Leevern McCrea,
Defendant

Transcript of Record
2010-GS-45-00135

June 22, 2011
Kingstree, S.C.

BEFORE THE HONORABLE Howard P. King, Judge.

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

Ms. Kimberly Barr,
Assistant Solicitor for the State

Mr. Henry M. Anderson, Jr.,
Attorney for Defendant

Margaret T. Sullivan,
Court Reporter

1 THE COURT: The matter before the court
2 today is the matter of the State versus Leevern
3 McCrea. It is case number 2010-GS-45-135. It is
4 my understanding that Mr. McCrea is charged along
5 with a co-defendant Christopher Griggs. Let me
6 call on counsel to put your appearances on the
7 record, please. First for the state.

8 MS. BARR: Your Honor, please the Court,
9 Kimberly Barr on behalf of the State.

10 MR. ANDERSON: Your Honor, Henry M.
11 Anderson, Jr. on behalf of Mr. McCrea.

12 THE COURT: Thank you. The matter is
13 before the court today on Mr. Anderson's Motion to
14 be Relieved; as well as a status conference to
15 kind of find out where we are on connection with
16 this matter. First of all, before I call on
17 Mr. Anderson on his motion, let me call on
18 Ms. Barr to give me a summary of the charges
19 against the defendant. The State's version of the
20 facts that give rise to these charges and also
21 where you stand from the standpoint of a proposed
22 trial date.

23 MS. BARR: Your Honor, if it please the
24 court, his indictment arises from the murder of
25 Cora Brown on March 12th 2009. Ms. Brown's body

1 was discovered by her brother. She had been shot
2 multiple times inside her residence. The crime
3 remained unsolved for a period of about a year. A
4 statement was given by a co-defendant,
5 Mr. Christopher Griggs, indicating that the
6 defendant shot the victim. And that the
7 co-defendant Mr. Griggs was actually inside a
8 vehicle, which was parked outside the victim's
9 residence; and who heard gunshots and the
10 defendant came out.

11 Your Honor, subsequent to him giving a
12 statement, he also notified law enforcement as to
13 where the murder weapon could be found.

14 THE COURT: He, Mr. Griggs, notified law
15 enforcement about the murder weapon?

16 MS. BARR: That's correct, Your Honor.
17 And law enforcement was able to recover a weapon
18 that was indicated by the co-defendant that was
19 used in connection with the murder. Your Honor,
20 the defendant, Mr. McCrea, was subsequently
21 arrested I believe, in March of 2010. So
22 approximately a year after this murder of Cora
23 Brown.

24 Your Honor, I think as far as the
25 scheduling of this case, it's the State's intent

1 to try this case during the August term of court.
2 I think we have a two week term end of July,
3 beginning of August, if I am not mistaken.
4 Obviously the current motion before the court,
5 depending on how its resolved, may complicate that
6 schedule somewhat. But in any event that is our
7 plan.

8 THE COURT: One question about a factual
9 question is as to forensics that tie this weapon
10 to the crime and tie the weapon to this defendant.

11 MS. BARR: Your Honor it has not tied it
12 to the defendant. The weapon when it was
13 discovered and analyzed by the sled, because of
14 the condition of the weapon, and my suspicion is
15 that because of its exposure to the elements, that
16 sled could not definitely say that it was the
17 weapon used to murder to Ms. Brown. However, they
18 said that the model of the weapon as well as the
19 caliber of the ammunition was consistent with the
20 weapon used to kill the victim.

21 THE COURT: Mr. Griggs, the information
22 that I have is that he is now represented by
23 Mr. Carraway or Mr. Verdell Barr. Or what is the
24 situation with his representation?

25 MS. BARR: Mr. Carraway is the attorney of

1 record. During the last term of court in passing,
2 I had a very brief conversation with this Verdell
3 Barr about the status of this case. But I have
4 not been officially notified that Verdell Barr is
5 representing Mr. Griggs. And I have received no
6 letter of representation or -- I am sorry, Judge,
7 give me just a brief moment.

8 THE COURT: No problem.

9 MS. BARR: Judge, it appears that Verdell
10 Barr wrote back to me March the 14th 2011, and
11 served me with a Rule 5 Motion for Discovery. I
12 also received a Rule 5 Motion for Discovery that
13 was filed and served by Mr. Legrand Carraway on
14 May 3rd, 2011. And, Your Honor, it does not
15 appear that there is a substitution counsel order
16 in the file. And I responded to Mr. Carraway with
17 the State's Rule 5 Disclosure. And I've only
18 communicated with Mr. Carraway. And Mr. Carraway
19 was the only attorney who made appearances on
20 behalf of Mr. Griggs.

21 THE COURT: I am going to take care of
22 that this way. Even though Mr. Verdell Barr sent
23 you a request for Rule 5 and Brady information, he
24 has not filed a notice of appearance with you or
25 with the court. So Mr. Carraway will be

1 considered the attorney of record. And whatever
2 order comes out of this pretrial hearing, I want
3 the order to reflect that Mr. Carraway is the
4 attorney of record for Mr. Griggs, and that
5 Mr. Barr is not. And that if either of them wish
6 to have that changed in any way, they need to
7 submit an appropriate order to the court to either
8 have Mr. Barr substituted for Mr. Carraway, or
9 Mr. Carraway is going to need to move to be
10 relieved or whatever the situation is. But for
11 now, Mr. Carraway is the attorney of record, and
12 will be considered the attorney of record rather
13 than Mr. Barr.

14 And I guess it's because of Mr. Carraway's
15 representation that it was necessary for a 608
16 appointment for Mr. McCrea.

17 MS. BARR: That's correct, Your Honor.

18 THE COURT: And then I understand just
19 again by way of background and from the documents
20 that I have reviewed in this matter that, that 608
21 appointment was originally Mr. Ceasar McKnight.
22 Mr. McKnight would have been relieved at the
23 request of the defendant, Mr. McCrea. And
24 Mr. Anderson was appointed in his place. Is that
25 kind of where we are, Mr. Anderson?

1 MR. ANDERSON: Yes, Your Honor.

2 THE COURT: Thank you, Ms. Barr.

3 MS. BARR: Yes, sir, Judge.

4 THE COURT: Mr. Anderson your motion to be
5 relieved. And I will be glad to hear from you.
6 And I will tell you that I have and tell the
7 defendant in this case, Mr. McCrea, that I
8 received Mr. Anderson's motion. Actually it was
9 sent to Judge James' office, and he indicated that
10 he would take care of it. But I felt like since I
11 was the Administrative Judge of General Sessions
12 for this Circuit, that it was appropriate for me
13 to get this controversy resolved at last with
14 regard to representation. And I notified all
15 counsel that I would have the hearing today along
16 with the status conference on this matter. And
17 that's what we are here for today.

18 I have reviewed the motion made by
19 Mr. Anderson along with a copy of the letter that
20 he attached to the motion from Mr. McCrea. Yes,
21 Mr. Anderson?

22 MR. ANDERSON: Your Honor, very briefly
23 Judge, originally represented by Charles Barr. I
24 think his family---

25 THE COURT: That's correct.

1 MR. ANDERSON: ---actually retained
2 Charles Barr. Something happened there. And
3 Mr. Barr was relieved. And Cesar McKnight was
4 appointed. Then later, Your Honor, I think
5 Mr. McKnight and Mr. McCrea had some differences
6 of opinion. And Mr. McKnight was relieved. Then
7 I was appointed.

8 And, Your Honor, I guess I was appointed
9 in December. I have been representing him since I
10 was appointed in December. Your Honor, as my
11 typical practice anything that I get from the
12 State, I will certainly send it to the defendant.
13 I have done that any time the state has provided
14 me with information. I have sent it to Mr.
15 McCrea. I have done everything that Mr. McCrea
16 has asked me to do. Your Honor, any time his
17 girlfriend would call me, or another family member
18 would call me, I would return the phone call. I
19 have probably talked to his girlfriend and his
20 family probably in excess of 25 times.

21 Mr. McCrea and I had some differences of
22 opinion in February. Your Honor, I had to write
23 some letters to an office up in Columbia. They
24 have dismissed that complaint based on response by
25 me. Your Honor, I went to Mr. McCrea and tried to

1 reconcile with him; see if we could put our
2 differences aside and that I could continue to
3 represent him. Because I realized that I am the
4 third attorney. Your Honor, I thought we had that
5 matter resolved. I went for another bond hearing
6 in front of Judge James. That bond hearing was
7 denied, Your Honor.

8 THE COURT: The bond. Not the bond
9 hearing was denied. You had the hearing but the
10 was bond was denied.

11 MR. ANDERSON: That's correct, Your Honor,
12 the bond was denied. And Judge James said he
13 would reconsider it if this case was not retried
14 in August. Your Honor, within a day or two, I got
15 another letter from Mr. McCrea similar to ones I
16 have previously received from him. Again
17 questioning a lot of my motives and my
18 relationship with the state's attorney. And asked
19 me to be relieved. He told me he didn't want to
20 talk to me anymore. Forbid me to talk to his
21 girlfriend, his family. He didn't want anything
22 else to do with me. Your Honor, that's why I
23 filed this motion. I mean, I have reviewed this
24 information from the time I have gotten it. I
25 mean, I can go forward and try the case. But,

1 Your Honor, I know you were a trial lawyer before
2 you became a judge.

3 Your Honor, it's hard enough in these
4 cases when you have got someone helping you. But
5 when you have got someone who is pulling against
6 you and questioning everything you do and fussing
7 at you and cussing at you, it just makes the job a
8 lot harder. Your Honor, I want him to have
9 somebody that he believes in and that he trusts.
10 He asked me to file this motion and I filed it.

11 THE COURT: Okay, thank you, sir.
12 Mr. McCrea, let me address you for just a moment.
13 And then I am going to give you a chance to tell
14 me whatever you want to tell me. But I will say
15 to you first of all that when you were appointed
16 counsel, you don't get your choice of appointed
17 counsel. You take whoever comes up. In your
18 cases, you have already had two appointed counsel.
19 One was Mr. McKnight. You didn't like what he was
20 doing. And so you asked that he be relieved, and
21 he was relieved by a different judge. And now
22 you've got another appointed counsel. And you
23 don't get your choice of appointed counsel. You
24 take potluck. That's part of it.

25 Now you can retain whoever you want to

1 retain. And apparently you originally retained
2 Mr. Charles Barr, and you all had differences.
3 But when it comes to appointed counsel, you don't
4 get your choice. And you just have to take
5 whoever is appointed for you, and you have to work
6 with whoever is appointed for you.

7 I will tell you this, that Mr. Anderson is
8 a highly respective well thought of criminal
9 defense lawyer. Knows what he is doing. And is
10 hired by many people on a private basis, and
11 people who pay him good fees to represent them.
12 And I don't blame Mr. Anderson. He shouldn't have
13 to put up with the kind of conduct that I have
14 noticed in this letter that you the sent to him.
15 If he is representing you, and he is representing
16 you at the request of the court and by the
17 appointment of the court.

18 And I am almost at the stage right now to
19 tell you that you have got two choices. And I am
20 going to hear from you in just a minute. But I am
21 not going to just keep -- you can't just file a
22 grievance on a lawyer and get that lawyer removed.
23 Or you can't just decide that you don't think he
24 is doing what he should do, and get that lawyer
25 removed. That doesn't -- the system doesn't work

1 that way, and I am not going to put up with it.
2 And I'm almost to the point of saying that either
3 Mr. Anderson is going to stay on your case, or I'm
4 going to relieve him and require you to appear
5 pro se without a lawyer.

6 Now I will hear from you.

7 THE DEFENDANT: Yes. I understand
8 everything you just said, Your Honor. I
9 completely understand everything you've just said.
10 And the reason being that I put the motion in to
11 dismiss Mr. Anderson, and if I may start from the
12 beginning, the first attorney that has been
13 retained as well as the other two that has been
14 appointed by the court. To explain to you in
15 detail the ineffectiveness that I've had to deal
16 with within my first lawyer through my second
17 lawyer.

18 THE COURT: Well there is a procedure.
19 Listen to me now, and then I am going to let you
20 talk. But there is a procedure for dealing with
21 ineffective assistance of counsel after the matter
22 is over. And if somebody decides that a counsel
23 was ineffective there is a procedure in our law
24 for doing that, but go ahead.

25 THE DEFENDANT: I understand that as well,

1 Your Honor. Okay, Your Honor, my first retained
2 attorney Mr. Charles David Barr, was paid to
3 represent me on April 5, 2010, on these forced
4 charges of murder; that I'm set by alleged
5 co-defendant, Your Honor.

6 Attorney Barr who doliberately and
7 intentionally ignored my letters and phone calls
8 for 9 and a half weeks that he had my case, 2
9 minutes before I went in front of the judge on
10 May 14th 2010, attorney Barr decides then to ask
11 me my name, and address and other information that
12 he should have gotten from me within the 9 weeks
13 that he had my case, instead of hiding from me,
14 Your Honor.

15 In complying with the state's attorney's office,
16 Ms. Kimberly Barr to deprive me of a fair bond hearing,
17 who was paid to get all information about me before my
18 bond hearing instead of having to make up stuff about me
19 at my bond hearing to the court illegally, Your Honor.

20 THE COURT: But you chose Mr. Barr.

21 THE DEFENDANT: You are absolutely right.
22 And like you stated, Your Honor, this is a
23 procedure. If he's ignoring me, phone calls,
24 letters, he's supposed to be representing me. By
25 law he has a right to come see me to get

1 information that he was paid to represent me to
2 obtain, a police record; to have some information
3 to argue the fact against the state's attorney's
4 lies and inflated charges against me Your Honor.

5 Attorney Barr, Your Honor, conspired with
6 the state's attorney's office Ms. Kimberly Barr.

7 THE COURT: What evidence do you have of
8 that?

9 THE DEFENDANT: If I may continue, Your
10 Honor.

11 THE COURT: What evidence do you have of
12 that he conspired?

13 THE DEFENDANT: Because of the fact that
14 he ignored me. Nine weeks after that, he had my
15 case and didn't give me the benefit of the doubt
16 whatsoever---

17 THE COURT: I understand.

18 THE DEFENDANT: To come and talk to me.
19 He's representing me, Your Honor.

20 THE COURT: I understand that. You made
21 the statement though, Mr. McCrea that he conspired
22 with the state's attorney. I want to know what
23 your evidence is that he conspired with the
24 state's attorney.

25 THE DEFENDANT: Like I just said, he

1 ignored me for nine weeks. He was paid to
2 represent me. So ineffective assistance of
3 counsel. Then on June 9th, two and a half weeks
4 before my preliminary hearing, I've tried to
5 contact attorney Barr, who did nothing but ignore
6 my letters and phone calls again, Your Honor. So
7 I fired him at the beginning of my preliminary
8 hearing on June 9th, ineffective assistance of
9 counsel.

10 Two and a half weeks later, Your Honor,
11 June 23, 2010, the state's attorney's office,
12 brought me back to court for this illegal
13 preliminary hearing without my knowledge, with a
14 lawyer that's a family member or first cousin of
15 the victim; in which I addressed the court because
16 of this illegal practice and set up a preliminary
17 hearing. And then the family member of the victim
18 decided to address the court. And state that it
19 was a conflict of interest because he was a
20 relative of the victim.

21 This was an illegal setup from the state's
22 attorney office to deprive me of my 6th amendment
23 rights of ineffective assistance of counsel, Your
24 Honor. July 21st, the court appointed attorney
25 Cesar McKnight to represent me, Your Honor. But

1 before then my mother tried to retain Mr. McKnight
2 who deceitfully made her give him \$300 before he
3 would come talk to her or me. Attorney McKnight
4 came to see me. It lasted 30 minutes, Your Honor.
5 He gave me a price of \$15,000. Once I called my
6 mother to find out, or to her that his price was
7 15, she tells me he wants 25,000. He tried to
8 take advantage of my mother who is elderly and
9 sick. So my mother couldn't retain him, Your
10 Honor.

11 Again, July 21st, Judge Newman appointed
12 Mr. McKnight to represent me. One week later Mr.
13 McKnight put in a motion to be relieved, Your
14 Honor. And he stated to the court on August 12th
15 2010, in front of Judge Newman that everyone else
16 is getting paid to represent a client except him.
17 Unbelievable. So Judge Newman denied his motion.
18 September 20th, Your Honor, 2010, I wrote to
19 Mr. McKnight. I requested that he put in a motion
20 for a bond hearing; being that I had my Rule 5.
21 And I see where the state's attorney's office has
22 lied under oath repeatedly. And I requested Mr.
23 McKnight to put in another bond hearing because of
24 that fact.

25 He so boldly stated on the record in front

1 of Judge Newman on August 12, 2010, Mr. McKnight
2 demonstrated out of spite, that he wasn't going to
3 do anything in helping me obtain evidence for my
4 defense Your Honor. Ineffective assistance of
5 counsel.

6 And he stated, Your Honor, and here's a
7 letter I will read from attorney McKnight. And he
8 wrote me: "Now with regard to your letter dated
9 September 20th 2010, concerning receiving a
10 transcript from the bond hearing, preliminary
11 hearing, and a motion to the court to receive
12 these transcripts, requires a considerable
13 expense. The Court Reporter charges a fee to have
14 these transcripts. Beyond that, I don't see where
15 it is necessary to receive these transcripts, and
16 that they are not necessary for your defense."

17 Those transcripts that I requested from
18 attorney McKnight, have everything to do with my
19 defense. Because of the fact that the state's
20 attorney's office Ms. Kimberly Barr lied, added
21 inflated charges to the court to have the court to
22 deny my bond, Your honor. This is type of
23 representation that has been appointed to
24 represent me. An attorney that is not to do
25 anything in establishing a defense for my defense,

1 Your Honor.

2 Then I wrote Mr. -- attorney McKnight
3 excuse me, a bit upset. And he put in another
4 motion to be relieved. On November 12th 2010,
5 Judge James granted his motion on December 6th, to
6 be relieved, Your Honor. Yelling and screaming at
7 me. The judge yelling and screaming at me being
8 biased towards me, for no apparent reason when I
9 am trying to address a 14th Amendment violation
10 that I am entitled to, under the U.S.
11 Constitution, that the state's attorney's office
12 had taken away from me illegally.

13 December 12th 2010, Your Honor, the court
14 then appoints attorney Henry Anderson, who
15 deliberately lied to me on the very first day that
16 he came to see me on December 19th 2010. Telling
17 me that he worked with Judge James for 6 years and
18 that Judge James would give him anything he asked
19 for. And that he was going to get me a PR bond,
20 Your Honor. I read through the lies and many
21 letters that Mr. Anderson have sent to me like I
22 am stupid or something. Lies that I'm constantly
23 lying to me like this is some shoplifting charge.
24 I'm being falsely accused of murder, Your Honor.
25 And I cannot have an attorney that is supposed to

1 be representing me, lie to me unnecessarily.

2 That's the reason I put in the motion to have him
3 relieved as my counsel on February 9th 2011.

4 THE COURT: Can't you address him civilly,
5 Mr. McCrea?

6 THE DEFENDANT: Okay.

7 THE COURT: I mean I have got your letter
8 that you wrote to him, and that is not civil
9 conduct.

10 THE DEFENDANT: Okay. Like I stated, I
11 am a bit upset, because of the fact that I am
12 trying to prove that if he is supposed to be in my
13 best of interest; he don't. Which he has my case
14 since December 19th. I received dozens of
15 letters, lies, from that time on until the first
16 week of May.

17 THE COURT: Well let's go back though.
18 Let's go back to your letter. You're not
19 answering my question with regard to your letter
20 to Mr. Anderson on February 9th 2011, which is the
21 vilest, worst letters I have ever read from a
22 client to an attorney. And now that is not civil
23 conduct. How do you expect somebody to be
24 amenable to do what you want them to do when you
25 are addressing and dealing with him like you dealt

1 with Mr. Anderson in this letter? It looks like
2 to me it's about 10 pages long or maybe longer.
3 Calling him all kind of vile names and everything
4 else. That is not civil conduct.

5 THE DEFENDANT: And you are right, Your
6 Honor. You are absolutely right. And because of
7 the situation that's at hand, and because of his
8 lack of care concerning my case. And If I may
9 continue to just brief you. Because this is
10 important, Your Honor.

11 THE COURT: I am going to listen to you.
12 And I'm sitting here listening to you. But I
13 still want you to give me what your response is to
14 that letter of 2/9/11. And why you think that
15 Mr. Anderson reacted improperly.

16 THE DEFENDANT: Like I stated, Your Honor,
17 I am upset because of my situation. Because of
18 all the lies perpetrated. And the lies that the
19 state's attorney's office has added and inflated
20 towards me to the court.

21 THE COURT: You wouldn't like to receive a
22 letter like this, would you?

23 THE DEFENDANT: No, sir.

24 THE COURT: So you don't blame Mr.
25 Anderson for being upset about it.

1 THE DEFENDANT: Not at all.

2 THE COURT: Go ahead.

3 THE DEFENDANT: The letter dated December
4 20, 2010, Mr. Anderson wrote to me. I ordered a
5 copy of the transcripts from your bond hearing.
6 I've also written Cesar McKnight and asked him if
7 I could come get his file. In the meantime, I
8 will go ahead and subpoena the information from
9 the car dealership in Greenville. Hopefully, I
10 will have something soon.

11 Here is a letter dated April 25th 2011,
12 Your Honor. As I have told you on three separate
13 occasions, a motion for bond reconsideration was
14 submitted by Cesar McKnight November of 2010,
15 which is a lie. And I will prove to you in a
16 minute. I have written Ms. Barr and asked her to
17 schedule that as soon as possible. I am not even
18 sure what dealership you are talking about. But
19 then he states here on the letter dated December
20 20th 2010, I will go ahead and subpoena the
21 information from the car dealership in Greenville.
22 Hopefully I will have something soon. Why would
23 he write me back when he claims he has no idea
24 what I am talking about when it's as plain as day.
25 This is in the letter he wrote to me. And for him

1 to state, Your Honor, on the record that attorney
2 McKnight put in a Motion for a Bond
3 Reconsideration is a total lie. And If I may read
4 the letter dated from October 4th 2010, from
5 attorney McKnight, when it clearly states, Your
6 Honor, on a Motion to Reconsider bond, I have to
7 be able to show a significant change in the facts
8 and circumstances to warrant reconsideration by
9 the court.

10 As of the date of this letter, "There has
11 been no significant change in the facts and
12 circumstances that I would be able to present to
13 the court that would warrant me having a Bond
14 Reconsideration." So attorney McKnight never put
15 in motion for no bond reconsideration in November,
16 Your Honor. That's another lie for Mr. Anderson.
17 Why would he do that when I have it in writing
18 from Mr. McKnight?

19 THE COURT: Mr. McCrea, I am looking at a
20 document dated November 9th 2010, from Mr. Cesar
21 McKnight to the clerk that is a Motion for a
22 Speedy trial and or alternative for release from
23 jail. If that is not a motion to be for a bond
24 hearing, I don't know what it is.

25 THE DEFENDANT: But that was a Motion for

1 a Speedy Trial not a bond hearing.

2 THE COURT: It's a motion for a speedy or
3 in the alternative for release from jail.

4 THE DEFENDANT: Right. To the fact of a
5 Motion for a Speedy Trial, Your Honor.

6 THE COURT: Go ahead.

7 THE DEFENDANT: The reason that we are
8 here today, Your Honor, because of the
9 ineffectiveness and the lies that I have had to
10 deal with.

11 THE COURT: The reason that we are today
12 is because of your disrespect for your counsel by
13 the type of letters that you are writing to him on
14 2/9/11.

15 THE DEFENDANT: Your honor, well he added
16 to, because of what I just tried to explain to you
17 in writing, that I have in writing from him, I
18 haven't seen attorney Anderson since
19 December 19th, until the first week of May. He
20 hasn't been able to obtain the paperwork that I
21 personally sent to attorney McKnight in October
22 until the first week of May.

23 But he states in so many letters, Your
24 Honor, that dated January 13th, Your Honor, that I
25 have an appointment to go see Mr. McKnight next

1 week to obtain several things from him. I have
2 also written Margaret Sullivan. She was the Court
3 Reporter at the bond hearing. I am still trying
4 to get the discovery from the Solicitor's Office
5 in Kingstree, as well as, information from
6 Investigator Brown. Once I have it, I will know
7 more. I still haven't received it yet, okay.

8 Your Honor, January 14th, I have written
9 the Solicitor's Office in Kingstree on two
10 occasions. I still do not have the information
11 back. I wrote them again yesterday and advised
12 them I needed it immediately.

13 THE COURT: What you are telling me is,
14 you are showing me how much Mr. Anderson has tried
15 to do for you.

16 THE DEFENDANT: Your Honor, he still
17 doesn't have any of it yet.

18 THE COURT: I know it, but he's tried.

19 THE DEFENDANT: And it's been almost
20 6 months, Your Honor.

21 THE COURT: He's tried.

22 THE DEFENDANT: Your Honor, Judge James,
23 December, December the 6th, if I am not mistaken,
24 Your Honor, Judge James stated to the state's
25 attorney that they must turn over all exculpatory

1 evidence. Here it is June, still don't have it,
2 Your Honor.

3 Your Honor, January 27, 2011, a letter
4 from Mr. Anderson again. "Please be advised that
5 we will probably make a motion to change venue. I
6 do not know why the newspaper keeps doing that. I
7 think they do it because the more sensation of
8 something that the better it helps their selves."
9 Now, Your Honor, the state's attorneys office has
10 had for, as well as the Kingstree Police
11 Department, has had the newspaper constantly
12 putting my name, picture and address in the paper
13 calling me a murderer. And I have not been
14 convicted of a crime. Which has biased my case to
15 a defense for potential jurors that read that
16 newspaper to be biased against before there is
17 even a trial. And it's illegal.

18 THE COURT: And it looks like to me
19 Mr. Anderson is considering that as a part of
20 your defense by way of a Motion for Change of
21 Venue. And, you know, it shows he knows what he
22 is doing. And you can't stop the newspaper from
23 printing whatever they wanted to print.

24 THE DEFENDANT: Your Honor, the state's
25 attorney's office is constantly telling them,

1 okay.

2 THE COURT: Telling who?

3 THE DEFENDANT: The newspaper. Why would
4 they constantly do that.

5 THE COURT: What evidence do you have that
6 the state's attorneys is furnishing information to
7 the newspaper?

8 THE DEFENDANT: I guess there has been
9 four. Three or four times, Your Honor. I have
10 clippings.

11 THE COURT: But they don't say where they
12 got the information. The newspaper doesn't.
13 They're not saying they came from the state's
14 attorney.

15 THE DEFENDANT: Okay. Your Honor, and I
16 understand, okay. I am asking for a bond hearing
17 next week. But not next week. Hopefully I will
18 have something scheduled soon in the meantime. I
19 will probably come see you this week so we can
20 start going over discovery. He don't -- he did
21 not have the discovery at time, Your Honor. Still
22 haven't received any information yet, Your Honor.
23 Okay.

24 THE COURT: So what you are giving me is
25 numerous letters that Mr. Anderson has written to

1 you as to what he is trying to do on your behalf.

2 THE DEFENDANT: On evidence he still do
3 not have today.

4 THE COURT: But that he is trying to do on
5 you behalf.

6 THE DEFENDANT: Your honor, if I may, Your
7 Honor, if the court can make the state's attorney
8 office turn over evidence that I am entitled to as
9 a defendant, that will help my defense. Then
10 there is something with the judicial system.

11 THE COURT: Well that is what Mr. Anderson
12 is doing for you.

13 THE DEFENDANT: Your Honor, February 7th:
14 "As I am sure you are aware, we did not go to
15 court on the bond hearing. I tried to get them to
16 bring you over; however, based upon my schedule
17 in court last week, as well as the court in
18 Kingstree, we could not get it."

19 Your Honor, if he knew we wasn't going to
20 for a bond hearing the first week of February, he
21 said, I received this letter. Obviously he put
22 it in the mail that Friday, because I received it
23 that Monday. He knew from the start that we
24 wasn't going to go for no bond hearing. The first
25 week or the second week. It's obviously because

1 he wrote it right here, Your Honor.

2 Then as far as my motion, "I did not
3 actually file a motion." Of course, he didn't.
4 Because it don't take 6 months for a bond hearing
5 motion, Your Honor. I'm no attorney. And maybe
6 I'm not that intelligent, but I am not that
7 stupid. He just can't tell me anything like I am
8 an idiot and expect me to believe it. Okay, I
9 simply wrote Ms. Barr, "I'm sure you are aware
10 that Mr. Cesar McKnight filed a motion for a bond
11 hearing again."

12 THE COURT: We've been over this, move on.
13 You wrote him the letter of February 9th, 2011.
14 And called him every bad name and everything you
15 could think of.

16 THE DEFENDANT: I understand, Your Honor.
17 And with all due respect to the court, I gave the
18 reason. You constantly, you stated that okay.
19 And I wrote the letter.

20 THE COURT: The file in this case reflects
21 that not only did you have Mr. Barr, but on 28 May
22 of 2010, Mr. William Barr was appointed. No, I am
23 sorry. Yeah; was appointed. Apparently he was
24 relieved.

25 THE DEFENDANT: Excuse me, Your Honor,

1 with all due respect to the court, that wasn't my
2 doing. That was the Clerk of Court's doing.

3 THE COURT: I understand, because they had
4 some conflict. On June 28th 2010, Mr. William
5 Rivers was appointed and apparently relieved.

6 THE DEFENDANT: Relative of the victim.

7 THE COURT: And then Mr. -- that's right.
8 Then Mr. McKnight was appointed and relieved. And
9 now Mr. Anderson has been appointed. So over the
10 course of the times that you have been arrested in
11 May, 1, 2, 3, 4 attorneys have been appointed to
12 you.

13 THE DEFENDANT: Well, sir, Your Honor,
14 like I've just stated to you, there was error
15 within the Clerk of Court. And Judge Newman---

16 THE COURT: They have no way of knowing
17 whether there is a relative. And they did exactly
18 what they were supposed to. But what I am saying
19 is that you are going through lawyers like a hot
20 knife through butter.

21 THE DEFENDANT: The reason is ineffective
22 assistance of counsel.

23 THE COURT: There's a way to handle that
24 after the case is over.

25 THE DEFENDANT: Why should I have to

1 suffer in the meantime?

2 THE COURT: Because that's the way the
3 system works.

4 THE DEFENDANT: Wow. Your Honor, I have 5
5 more questions to ask the court.

6 THE COURT: All right.

7 THE DEFENDANT: What happens when the
8 state's attorney's office, parole and probation
9 deliberately lies under oath and inflates charges
10 on the defendant to mislead the court, Your Honor;
11 for the court deny the defendant a bond?

12 THE COURT: First of all, I am not going
13 to give you legal advice as to what happens. You
14 have to---

15 THE DEFENDANT: We're in a court of law,
16 and you're the judge. And I am asking you---

17 THE COURT: Yes, sir. And there is
18 nothing before me to rule on, and I am not going
19 to rule on it, and I'm not going to give you legal
20 advice. Next question.

21 THE DEFENDANT: So honestly they can
22 inflate charges and lie and get away with what
23 they want to, to influence the judge to deny the
24 defendant a fair---

25 THE COURT: I have answered that question.

1 Go to your next question.

2 THE DEFENDANT: The state's attorney's
3 office, Your Honor, Parole and Probation, stated
4 that I absconded. That I'm running from Parole
5 and Probation; that I have a Parole and Probation
6 warrant in Connecticut, which is a lie. How does
7 the court resolve that? Because it had some
8 influence on the judge.

9 THE COURT: It's not before me to rule
10 on. That matter has already been heard by Judge
11 James and decided. And at the appropriate point
12 if you don't agree with his ruling, you can appeal
13 it.

14 THE DEFENDANT: I tried to, and I intend
15 to pursue a whole lot more. I am not happy.

16 THE COURT: You are what, I am sorry?

17 THE DEFENDANT: I do not trust attorney
18 Anderson. I honestly believe he is not in my best
19 interest. He has proven that through letters that
20 I have. And I don't think I would have a fair
21 trial due to the fact that the newspaper has
22 constantly slandered my name through the things
23 that they have said. Constantly putting my name;
24 putting the address in the newspaper. And I
25 requesting to have an attorney that is going to be

1 represent me, not lie to me; exaggerate things
2 while coming to see me and still haven't done
3 anything. I have given him a list of 20 things to
4 do, he hasn't done one. I haven't seen one.

5 THE COURT: Well, Mr. Anderson is the
6 lawyer. He knows what is appropriate to do. The
7 client, he has the judgment and the training to
8 do those things that are appropriate to be done,
9 not you Mr. McCrea. You have admitted to me that
10 you are not a lawyer. You've told me that you are
11 not a lawyer.

12 THE DEFENDANT: Of course not.

13 THE COURT: Now wait a minute. And
14 Mr. Anderson is an officer of this court. And he
15 knows what he is supposed to do. And he does what
16 is appropriate. And he doesn't do what is not
17 appropriate when a client asks him to do something
18 that is not appropriate.

19 THE DEFENDANT: Why would I ask him to do
20 something that is not appropriate?

21 THE COURT: I have no idea, but apparently
22 you do.

23 THE DEFENDANT: You made a statement that
24 makes no sense, because I am being illegally
25 charged. Falsely accused. I wouldn't have him---

1 THE COURT: I have heard from you,
2 Mr. McCrea. You may have a seat.

3 MR. ANDERSON: Your Honor, just briefly.

4 THE COURT: Yes, sir.

5 MR. ANDERSON: Judge, I had some
6 conversations with Ms. Barr in January. She asked
7 me to get discovery from Mr. McKnight. Your
8 Honor, if you will recall in January, it was -- we
9 had some snow in January that actually knocked
10 some court out. Not court out, but knocked some,
11 the day I was supposed to go see Mr. McKnight and
12 pick up his file, it snowed. I later got his file
13 the first of February; copied it, and sent a copy
14 of everything that I had to Mr. McCrea on February
15 3rd.

16 All the discovery, Your Honor, I sent to
17 him on February 3rd. Judge, I asked the Court
18 Reporter for the transcripts from the first
19 hearing. Mr. McCrea told me that he did not want
20 to have a bond hearing until that transcript was
21 in. Your Honor, as you are aware, it takes
22 several months to get a transcript. Your Honor,
23 any time I got the letter from the Court Reporter
24 saying the Supreme Court has granted me a
25 continuance, I would send that to Mr. McCrea and

1 say, I still don't have it. Here is the Court
2 Reporter's letter. Your Honor, we got that
3 transcript in before the last hearing. I provided
4 it to Mr. McCrea. We had that transcript from the
5 first bond hearing at the second bond hearing. We
6 cleared up the issues of the warrant in
7 Connecticut, and the Probation and the Parole
8 violation. We cleared all that up.

9 Judge, I later got some additional
10 discovery from Kimberly Barr approximately 2 weeks
11 ago. The day I got it, I copied it and sent it
12 straight to Mr. McCrea. Judge, any discovery the
13 State has, I've gotten. And anything I have got,
14 Mr. McCrea has. He had some in February and he
15 got some about two weeks ago.

16 THE COURT: Thank you, sir. Mr.
17 Anderson -- I mean, Mr. McCrea, I have heard you
18 fully on this matter. I have heard from Mr.
19 Anderson. As I told you when we began this
20 hearing, you don't get your choice of appointed
21 lawyers. You take whoever is next in line. And
22 you lucked out in this case because it happened to
23 be Mr. Anderson; a well thought of, very capable
24 criminal defense lawyer.

25 But I am going to tell you right now, I am

1 going to leave it up to you. If I relieve Mr.
2 Anderson, but if I do relieve him, the court will
3 not and is not going to appoint you a new lawyer.
4 Your choice will be to appear to either retain
5 counsel or to proceed pro se; that is,
6 representing yourself. That's your choice. Do
7 you want Mr. Anderson relieved on those terms?

8 THE DEFENDANT: I do.

9 THE COURT: And what are you going to do,
10 appear pro se, or are you going to retain
11 counsel?

12 THE DEFENDANT: Yes, Your Honor. Like I
13 stated, I am not comfortable with attorney
14 Anderson.

15 THE COURT: I understand that. You've
16 told me you want him relieved on the terms as I
17 said. You either proceed pro se, or you retain
18 counsel. What are you going do?

19 THE DEFENDANT: And -- I'm requesting that
20 the court transfer me to a facility to have up to
21 date, State and Federal statutes so that I am able
22 to prepare my case. And also, Your Honor, the
23 court pro se, I won't be able to have a--

24 THE COURT: I can't hear you.

25 THE DEFENDANT: Well being pro se, I won't

1 be able to have the court to---

2 THE COURT: Sir?

3 THE DEFENDANT: Being pro se, representing
4 myself pro se, still there are some things that I
5 am going to need. But I am going to need to be
6 somewhere where I can -- I have State and Federal
7 Statutes.

8 THE COURT: Well the answer to my question
9 is, and that's all I am looking for right now, Mr.
10 McCrea. I said that the court will not appoint
11 someone else. And that you had two choices, and
12 that is either to appear pro se and proceed pro
13 se, or to retain counsel. Which of those two
14 options are you going to do?

15 THE DEFENDANT: Pro se.

16 THE COURT: So you are going to appear pro
17 se, and not -- and you want Mr. Anderson relieved.

18 THE DEFENDANT: The 6th Amendment
19 guarantees me the right to effective assistance of
20 counsel, Your Honor.

21 THE COURT: Not if you choose not to.

22 THE DEFENDANT: No, you are making me.

23 THE COURT: Yes, sir, because you want to
24 choose your counsel. You want to chose who is
25 appointed by the court. Now you listen, I have

1 had enough of you. I've listened to everything
2 that you had to say. I've told you when we
3 started you don't get your choice of appointed
4 counsel. You have been through Mr. McKnight.
5 First of all, you went through your retained
6 counsel Mr. Barr. And then you went through
7 Mr. McKnight. And now you have gone through
8 Mr. Anderson. And, you know, you are looking for
9 the court to appoint you a third lawyer.

10 THE DEFENDANT: I am looking for the court
11 to appoint me counsel that's effective.

12 THE COURT: The third lawyer.

13 THE DEFENDANT: Can I just -- I just
14 explained to you, Your Honor, in detail of the
15 ineffectiveness that I've had to deal with.

16 THE COURT: And I just explained to you in
17 detail that the matter of ineffective assistance
18 of counsel is not addressed pretrial. There is a
19 procedure for that, and ineffective assistance of
20 counsel can be addressed at the appropriate time;
21 not in preparation of a case. That's your
22 definition of ineffective assistance of counsel.
23 It may not be the legal definition of ineffective
24 assistance of counsel, and that's why it's done at
25 the end of the case as to whether counsel was or

1 was not ineffective. It's not done during the
2 course of the case, because your idea of what is
3 ineffective assistance of counsel may not be the
4 legal definition of what is the ineffective
5 assistance of counsel. And that's why there is a
6 procedure for addressing ineffective assistance of
7 counsel after a case is concluded.

8 THE DEFENDANT: Your Honor, I understand
9 that, Your Honor. But there's a constitution in
10 place. You can't be right -- I have the right to
11 effective assistance of counsel.

12 THE COURT: And if you don't get it, you
13 have the right to challenge it with a PCR.

14 THE DEFENDANT: 6th, 8th and 14th
15 Amendment, Your Honor.

16 THE COURT: Don't preach the constitution
17 to me.

18 THE DEFENDANT: I am not, Your Honor. But
19 I am not ignorant of that fact of some of the law
20 myself.

21 THE COURT: You are also not trained in
22 the law.

23 THE DEFENDANT: I'm not.

24 THE COURT: You admitted that.

25 THE DEFENDANT: Of course I'm not, Your

1 Honor.

2 THE COURT: Hush.

3 THE DEFENDANT: But I'm---

4 THE COURT: Hush.

5 THE DEFENDANT: With all due respect.

6 THE COURT: I've heard enough. No, sir, I
7 have heard enough.

8 THE DEFENDANT: I want to appoint---

9 THE COURT: I have heard enough. Now you
10 answer any questions. And you told me that if I
11 relieve Mr. Anderson you wish to appear pro se; is
12 that correct?

13 THE DEFENDANT: You give me no choice,
14 Your Honor.

15 THE COURT: Is that correct?

16 THE DEFENDANT: You're saying that is my
17 choice. But if you want to keep -- if I have got
18 to keep attorney Anderson, so be it.

19 THE COURT: Which do you want? Do you
20 want him relieved?

21 THE DEFENDANT: I don't have a choice.

22 THE COURT: You do have a choice.

23 THE DEFENDANT: No, I don't. I'll keep
24 him. I don't have a choice.

25 THE COURT: All right. What was that

1 remark?

2 THE DEFENDANT: I'm just saying---

3 THE COURT: I'm getting ready to hold you
4 in contempt. You address your remarks to the
5 court, you understand? Now I going to ask you a
6 series of questions, and I don't want a sermon. I
7 just want an answer. I will relieve Mr. Anderson
8 if you request that he do so, but I am not going
9 to appoint you another lawyer. Now do you want to
10 proceed pro se, or do you want to retain counsel?
11 Or do you want to keep Mr. Anderson? Three
12 choices, 1, 2, 3.

13 THE DEFENDANT: I don't have a choice. I
14 am going to have to keep him. I don't have a
15 choice; the court is not giving me a choice.

16 THE COURT: Mr. Anderson, do you want to
17 be heard?

18 MR. ANDERSON: No, sir, Your Honor.

19 THE COURT: Motion to Relieve Counsel is
20 granted. I expect you, Mr. McCrea, to treat
21 Anderson with respect. And put the kind of
22 letters and things that he has gotten, that you
23 sent to it have been filed before. And if it
24 happens again, I am going to relieve Mr. Anderson
25 if he tells me you are not treating him with

1 respect; not necessarily doing everything you
2 want him to do, but you treat him with respect.
3 And if I find out that you are not doing so, I am
4 going to relieve him and require you to go forward
5 pro se, and allow him as maybe a standby just to
6 advise you on procedure in the courtroom. But
7 that's as far as it will be if I come back on
8 this. But that's it.

9 He's a capable lawyer. He is going to do
10 what is required. And if you don't treat him with
11 respect, I want Mr. Anderson to advise me; in
12 which case I will relieve him without a motion.
13 And require you to appear pro se, and have him
14 stand by just to advise you with the procedure in
15 the courtroom. Mr. Anderson, would you do me a
16 brief order to that effect?

17 MR. ANDERSON: Yes, sir, Your Honor.

18 THE COURT: Thank you. This hearing is
19 adjourned.

20 -----End of Requested Transcript of Record---

21

22

23

24

25

C-E-R-T-I-F-I-C-A-T-E

I, Margaret T. Sullivan, Court Reporter, for the Third Judicial Circuit of the State of South Carolina, do hereby Certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the Court of General Sessions on June 22, 2011, in Williamsburg County, Kingstree, South Carolina.

I do further that I am neither kin, counsel nor interest to any party hereto.

9/17/11
DATE

Margaret T. Sullivan

COURT REPORTER

My Commission expires: 10-03-11

STATE OF SOUTH CAROLINA)
)
COUNTY OF WILLIAMSBURG)

COURT OF GENERAL SESSION

LEVERN MCCREA)

PLAINTIFF,)

v.)

STATE OF SOUTH CAROLINA,)

DEFENDANT.)

TRANSCRIPT OF HEARING
C/A #: 2013-GS-45-00135

WILLIAMSBURG COUNTY COURTHOUSE
Monday, October 17-21, 2011

VOLUME ONE

BEFORE:

HONORABLE W. JEFFREY YOUNG, PRESIDING JUDGE.

APPEARANCES:

Solicitor Kimberly Barr
Attorney for The State of South Carolina

Mr. Levern McCrea, Defendant, Pro Se

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

INDEX

	<u>PAGE</u>
Call of Case	15
Jury Selection Begins	15-28
Pretrial Matters	29
Judge Young to Jury	50
Opening by Ms. Barr	58-61
Opening by M McCrea	62-63
 <u>State's Case (10-18-11 A.M.)</u>	
Michael Brown	
Examination by Ms. Barr	64-80
Patricia Brown	
Examination by Ms. Barr	81-87
Cpl. Kennedy Grayson	
Examination by Ms. Barr	88-96
Christine Green-Young	
Examination by Ms. Barr	97-106
Cross Examination by Mr. McCrea	107-112
 <u>(10-18-11 P.M.)</u>	
Christopher L. Briggs	
Examination by Ms. Barr	115-161
Cross Examination by Mr. McCrea	162-209
Redirect Examination by Ms. Barr	211-214
 (Court ends for the day of 10-18-11 p.m. - Volume One)	

EXHIBITS

(ELEVEN RECEIPT FOR EXHIBIT PAGES ATTACHED)

Receipt for ExhibitsCase # 2010-05-415-0135Judge Jeffrey YoungPlaintiff State of South CarolinaPlt's Atty Kimberly BurkeDefendant Levern McCreaDef's Atty Levern McCreaDate Trial Started Monday, Oct. 17, 2011Date Trial Ended Friday, Oct. 21, 2011Received of Melissa R. Singletary Court Reporter for the above case, these exhibits:

1. Calendar of March 2009
2. Photograph of house from roadway
3. Photograph
4. Photograph of cars in front of home
5. Photograph of victim's front yard
6. Photograph of hedges front of residence
7. Photograph of markers in yard on items
8. Photograph of side of house
9. Photograph of side of porch
10. Photograph
11. Photograph of side door of house
12. Photograph
13. Photograph of window on right side
14. Photograph of house right back corner
15. Photograph of rear of house
16. Photograph of rear of house
17. Photograph of corner of back of house
18. Photograph of back left corner of house
19. Photograph
20. Photograph

This 21 day of October, 2011Page 1 of 10

Williamsburg County Clerk of Court

By: Carolyn J. Williams

Receipt for ExhibitsCase # 2010-05-45-0135Judge Jeffrey YoungPlaintiff State of South CarolinaPlt's Atty Kimberly BarrDefendant Levern McCraeDef's Atty Levern McCraeDate Trial Started Monday, OCT. 17, 2011Date Trial Ended Friday, OCT. 21, 2011Received of Melissa B. Singletary, Court Reporter for the above case, these exhibits:

21. Photograph of right side of house
22. Photograph
23. Photograph of rear view of Cadillac vehicle
24. Photograph of side view of Cadillac
25. Photograph
26. Photograph of front of Cadillac
27. Photograph of front of Toyota Corolla
28. Photograph of rear of Toyota
29. Photograph
30. Photograph
31. Photograph
32. Photograph of two items from front yard
33. Photograph of glove
34. Photograph of glove - black w/ red part
35. Photograph of paper opened up
36. Photograph of paper inside vehicle
37. Photograph of livingroom of house
38. Photograph of inside house
39. Photograph of couch at front door
40. Photograph of items in livingroom floor

This 21 day of October, 2011Page 2 of 10

Williamsburg County Clerk of Court

By: Charles F. Williams

Receipt for ExhibitsCase # 2010-05-45-0135Judge Jeffrey WangPlaintiff State of South CarolinaPlt's Atty Kimberly BarrDefendant Levern McraeDef's Atty Levern McraeDate Trial Started Monday, Oct. 17, 2011Date Trial Ended Friday, Oct. 21, 2011Received of Melissa R. Singletary, Court Reporter for the above case, these exhibits:

41. Photograph
42. Photograph
43. Photograph
44. Photograph
45. Photograph of victim's body and inside house
46. Photograph
47. Photograph of Paper showing man and woman
48. Photograph of victim showing gunshot ^(entrance) wound to back
49. Photograph of shot to back (entrance wound)
50. Photograph of hand
51. Photograph
52. Photograph
53. Photograph
54. Photograph
55. Photograph of watch on floor by victim
56. Photograph of inside house
57. Photograph
58. Photograph
59. Photograph
60. Photograph

This 21 day of October, 2011Page 3 of 10

Williamsburg County Clerk of Court

By: Andrew F. Williams

Receipt for Exhibits

Case # 2010-05-05-0135Judge Jeffrey YoungPlaintiff State of South CarolinaPlt's Atty Kimberly BarrDefendant Levern McCraeDef's Atty Levern McCraeDate Trial Started Monday OCT. 17, 2011Date Trial Ended Friday OCT. 21, 2011Received of Melissa R Singletary, Court Reporter for the above case, these exhibits:

01. Photograph
02. Photograph
03. Photograph
04. Photograph
05. Photograph
06. Photograph of blood spatter
07. Photograph of kitchen floor
08. Photograph of spatter
09. Photograph of inside house - kitchen floor
10. Photograph of kitchen floor
11. Photograph
12. Photograph of kitchen
13. Photograph of chair legs kitchen floor
14. Photograph
15. Photograph
16. Photograph of kitchen
17. Photograph of lottery ticket
18. Photograph of Pick 4 lottery ticket 3-10-09
19. Photograph of Pick 3 lottery ticket 3-10-09
20. Photograph of newspaper on couch

This 21 day of October, 2011Page 4 of 10

Williamsburg County Clerk of Court

By: Cathy L. Williams

Receipt for ExhibitsCase # 2010-85-45-D135Judge Jeffrey YoungPlaintiff State of South CarolinaPlt's Atty Kimberly BarrDefendant Levern McCleanDef's Atty Levern McCleanDate Trial Started Monday, Oct. 17, 2011Date Trial Ended Friday Oct. 21, 2011Received of Melissa R. Singletary, Court Reporter for the above case, these exhibits:

81. Photograph of newspaper unfolded - 3-11-09
82. Photograph of victim's driver's license
- ID 83. Photograph of victim
84. Photograph of bullet w/ ruler w/ number FA09138
85. Photograph
86. Photograph of bullet recovered in brain
87. Photograph
88. Photograph of bullet recovered from brain
89. Photograph
90. Photograph
91. Photograph
92. Photograph
93. Photograph
94. Photograph
95. Photograph
- ID 96. Photograph of victim
97. Photograph of scene where gun was
98. Photograph of school Bus stop ahead sign on road
99. Photograph
100. Photograph

This 21 day of October, 20 11Page 5 of 10

Williamsburg County Clerk of Court

By: Christy J. Williams

Receipt for Exhibits

Case # 2010-05-45-0135Judge Jeffrey YoungPlaintiff The State of South CarolinaPlt's Atty Kimberly BarrDefendant Levern McCreaDef's Atty Levern McCreaDate Trial Started Monday, OCT. 17, 2011Date Trial Ended Friday, OCT. 21, 2011Received of Melissa R Singotam, Court Reporter for the above case, these exhibits:

101. Photograph
102. Photograph of brown bag
103. Photograph
104. Photograph
105. Photograph
106. Photograph of black Allerson fanning Pack
107. Photograph of ski mask and holster and fanning Pack
108. Photograph of holster
109. Photograph of ski mask
110. Photograph of fanning Pack + .38 cal. cartridges
111. Photograph of weapon
112. Photograph
113. Photograph of 38 S+W specime
114. Photograph
115. Photograph of ^{bottom} ~~bullet~~ of gun
116. Photograph of victim
117. envelope addressed to Roberta Smith
- 117a
118. Ltr 5-17-10
- 118a
119. Ltr 8-11-2010
- 119a - envelope 119a - Ltr dated 11-15-2010
120. envelope addressed to Roberta Smith
- 120a - Ltr dated 2-22-11

This 21 day of October, 2011Page 6 of 10

Williamsburg County Clerk of Court

By: Charles F. Williams

Receipt for Exhibits

Case # 2010-OS-45-0135 Judge Jeffrey Young
 Plaintiff State of South Carolina Plt's Atty Kim Barr
 Defendant Levern McCrae Def's Atty Levern McCrae
 Date Trial Started Monday, OCT. 17, 2011 Date Trial Ended Friday, OCT. 21, 2011
 Received of Melissa R. Singletary Court Reporter for the above case, these exhibits:

- 121. Envelope addressed to Roberta Smith
- 121a. Ltr dated 6-20-2011
- 122. Photo ~~of~~
- 123. Photo ~~of~~
- 124. Photo ~~of~~
- 125. Photo ~~of~~
- 126. Photograph of paper found in victim's front yard
- 127. Photograph of paper found in victim's front yard
- 128. Photograph of paper found in victim's front yard
- 129. Evidence < glove right hand >
- 130. Photo (Cora Brown) paper work in front yard
- 131. Gun box w/ gun
- 132. Box containing Fanny Pack and Ammunition, cartridges
- 133. Box containing 3 plastic bags 2 Pwt / plain bag
- 134. Fired lead bullet C093392; Fired lead Bullet I3
- 135. Fired lead bullet
- 136. Photograph of victim's head
- 137. SLED
- 138. SLED
- 139. SLED
- 140. SLED

This 21 day of October, 20 11

Page 7 of 10

Williamsburg County Clerk of Court

By: Carlynn J. Williams

Receipt for Exhibits

Case # 2010-05-45-0135Judge Jeffrey YoungPlaintiff StatePlt's Atty Kim BarrDefendant Leevern McChaeDef's Atty Pro SeDate Trial Started Monday, OCT. 17, 2011 Date Trial Ended Friday, OCT. 21, 2011Received of Melissa R. Singletary Court Reporter for the above case, these exhibits:

10141. SLED

#142. Swab from glove

143. Hair & swabs from items

144. Box w/ ski mask and holster and stocking

145. ~~Victim's hand~~ withdrawn same as #51

146. Victim's head

147. Outline of man and woman paper

148. Receipt of Family Dollar 3-10-09

9.

10.

11.

12.

13.

14.

15.

16.

17.

18.

19.

20.

This 21 day of October, 20 11Page 8 of 10

Williamsburg County Clerk of Court

By: Barbara J. Williams

Receipt for ExhibitsCase # 2010-05-45-0135Judge Jeffrey YoungPlaintiff StatePlt's Atty Kimberly BarrDefendant Levern McCreaDef's Atty Levern McCreaDate Trial Started Monday, OCT. 17, 2011Date Trial Ended Friday, OCT. 21, 2011Received of Melissa R. Singletary, Court Reporter for the above case, these exhibits:Def. 1. Photograph of scene where gun was located10-28-11
DD#2. Photograph of paper found in victim's yard

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____

11. _____

12. _____

13. _____

14. _____

15. _____

16. _____

17. _____

18. _____

19. _____

20. _____

This 21 day of October, 2011Page 9 of 10

Williamsburg County Clerk of Court

By: Robert J. Williams

Receipt for ExhibitsCase # 2010-65-45-135Judge Jeffrey YoungPlaintiff State of SCPlt's Atty Kim BaerDefendant Levern McGeeDef's Atty (Pro se) Levern McGeeDate Trial Started Monday, Oct. 17, 2011Date Trial Ended Friday, Oct. 21, 2011Received of Melissa R. Singletary, Court Reporter for the above case, these exhibits:CT1. State's Responses to A's Rule 5 and Brady motions for DisclosureCT2. Notice of ~~State's~~ Admissibility of A's by A

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____

11. _____

12. _____

13. _____

14. _____

15. _____

16. _____

17. _____

18. _____

19. _____

20. _____

This 21 day of October, 2011Page 10 of 10

Williamsburg County Clerk of Court

By: Christine A. Williams

Receipt for ExhibitsCase # 2010-GS-45-135Judge Clifton NewmanPlaintiff StatePlt's Atty K. BurrDefendant Levern McCreaDef's Atty Pro seDate Trial Started Wednesday, Oct. 12, 2011Date Trial Ended Wed., Oct. 12, 2011Received of Melissa R. Singleton, Court Reporter for the above case, these exhibits:

1. A-1
2. Transcript Pages + Notations
3. Letters
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____
14. _____
15. _____
16. _____
17. _____
18. _____
19. _____
20. _____

This 12 day of Oct., 2011Page 1 of 1

Williamsburg County Clerk of Court

By: Carolyn L. Williams

Levern McCrea vs. State of South Carolina

15

1 The Court: All right, solicitor, you may call your
2 first case for trial

3 Ms. Barr: May it please the Court? Your Honor the
4 first case for trial this week is the State v. Levern
5 McCrea. Your Honor this is indictment 2010-GS-45-135 for
6 murder and possession of a weapon during the commission
7 of a violent crime. Mr. McCrea has elected to represent
8 himself and the State is ready for trial.

9 The Court: Mr. McCrea, do you have any voir dire
10 questions that you would like for me to ask?

11 Mr. McCrea: Yes, sir. I do, Your Honor.

12 The Court: All right. If you could provide me with
13 that list? I just need your list of questions.

14 Mr. McCrea: I didn't make a list, Your Honor.

15 The Court: Okay. We'll proceed then. You may have
16 a seat. I will just see at the end if there are any
17 questions. Ladies and gentlemen, the first case that is
18 called is the State of South Carolina v. Levern McCrea
19 under indictment number 2010-GS-45-135. Ladies and
20 gentlemen, there are some questions I need to ask you. I
21 will remind you that you are still under oath. The
22 reason that you are under oath is because this is such a
23 crucial stage of the trial. Just like a building without
24 a strong foundation to be protective of those who live in
25 it, so the jury must be strong is the basis for a fair

1 and impartial trial for those who participate. The
2 solicitor for the people, and the defendant who is on
3 trial. Now your answers to these questions are the
4 foundation by which they will build a jury and they are
5 relying on your truthfulness to these questions to help
6 them strike an unbiased jury who will diligently listen
7 to the facts and deliver a just verdict. And, again,
8 thank you in advance for being complete and truthful with
9 your answers. The first question - well, let me read the
10 the indictment reads under count one charge of murder
11 under section 16-310 says that Levern McCrea did in
12 Williamsburg County between March 12 2009 and March 13,
13 2009 feloniously, willfully, and with malice aforethought
14 kill one Cora Brown by shooting the victim and that the
15 said victim did die as a proximate result thereof in
16 violation of the statutory code of laws of the State of
17 South Carolina. Count two says that Levern McCrea did in
18 Williamsburg County between March 12, 2009 and March 13,
19 2009 possess or visibly displayed a fire arm during the
20 commission or attempted commission of a violent crime in
21 violation of section 16-23-490 of the South Carolina
22 code. Now, ladies and gentlemen, the fact that the
23 defendant was arrested, charged and indicted is not to be
24 considered by you that he is in fact guilty of this.
25 Ladies and gentlemen, he has plead not guilty, he is

Levern McCrea vs. State of South Carolina

17

1 presumed to be innocent and that will only be taken away
2 unless the jury determines that the state has proven
3 their case beyond a reasonable doubt. So, ladies and
4 gentlemen, the mere fact that he is indicted, please
5 don't infer that he is guilty. He has plea not guilty
6 and he has that right.

7 The first question I have, has anyone been related
8 by blood or marriage or had a close or personal
9 relationship with the defendant, Levern McCrea, who is
10 sitting at this table up front or the alleged victim,
11 Cora Brown? If so please stand up. Thank you there is
12 no one standing.

13 Ms. Barr: Judge, one of the jurors ...

14 The Court: Oh yes, ma'am.

15 Juror: I live in that ...

16 The Court: Tell me your name and where you are
17 from.

18 Juror: My name is Carol Graham, number 80. I live
19 in that community where this happened.

20 The Court: The fact that you live in that community
21 does that keep you from being fair and impartial.

22 Juror: Yes.

23 The Court: Is there any objection to this juror
24 being excused?

25 Ms. Barr: Not from the State, Your Honor.

Levern McCrea vs. State of South Carolina

18

1 Mr. McCrea: Yes, sir.

2 The Court: You have an objection to her being
3 excused?

4 Mr. McCrea: Oh, no sir.

5 The Court: Thank you ma'am, you are excused.

6 Ms. Williams: Excuse me. Stop her. She needs to
7 remain.

8 The Court: You need to remain, I'm sorry. This is a
9 list of possible witnesses in this case and it's a fairly
10 long list. The following is a list of witnesses.

11 Corporal Kennedy Grayson of the Williamsburg County
12 Sheriff's office, Sergeant Brenda Lambert of the Andrews
13 Police Department, Investigators Justin Whack of the
14 Williamsburg County Sheriff's Office, Investigator Willie
15 Brown of the Williamsburg County Sheriff's Office,
16 Investigator Debra Collins of the Williamsburg County
17 Sheriff's Office, Lt. Jeffrey Scott of the Williamsburg
18 County Sheriff's Office, Deputy D'Wayne Johnson of
19 Williamsburg County Sheriff's Office, Deputy Tyrone
20 Williams of the Williamsburg County Sheriff's Office,
21 Kimberly Denn of the South Carolina Law Enforcement
22 Division, Lt. Jeff Brooks of the South Carolina Law
23 Enforcement Division, Vicky Hallman of the South
24 Carolina Law Enforcement Division, Glenn McKellen of the
25 South Carolina Law Enforcement Division, Verona Gibson of

Levern McCrea vs. State of South Carolina

19

1 the South Carolina Law Enforcement Division, John G.T.
2 Roberts of the South Carolina Law Enforcement Division,
3 Catherine Leasy of the South Carolina Law Enforcement
4 Division, Tracy Thrower of the South Carolina Law
5 Enforcement Division, Doctor Ellen Riemer of the Medical
6 University of South Carolina, Randy Swinton of the
7 Williamsburg County Fire Department, Wayne McFadden,
8 Michael Brown, Patricia Brown, Francine Brown, Alberta
9 Presley, Christine Greene, also known as Christine Young,
10 Curtis Greene, Calinda McGee, Edna Gagum, Sharone McGee,
11 Curtis Avery Greene, Christopher Briggs, Roberta Smith,
12 Clorissa Briggs, Michael Harper, Chris Marsh, Sherry
13 Prosser, Batis Nesmith, Linda McCrea, Billy Jerome
14 Dorsey, Sylvester Smith, and James Ford. Is there anyone
15 in the jury who is related by blood or marriage or have
16 any personal or close relationship with any of the
17 potential witnesses in this case? If so, please stand.
18 All right thank you, no one is standing. The attorneys
19 who are trying this case are Ms. Kimberly Barr and Mr.
20 Tyler Brown of the solicitor's office. Has any member of
21 the jury ever been represented by either of these
22 attorneys or involved with the solicitor's office? If so
23 please stand. All right thank you no one is standing.
24 Has anyone ever been related by blood or marriage or had
25 a personal relationship with these attorneys? If so,

1 please stand. Has any member of the jury formed or
2 expressed an opinion about any issue of matter involved
3 in this case. If so, please stand. Thank you, no one is
4 standing. Is there any member of the jury panel who is
5 aware of any bias or prejudice toward either the State or
6 the Defendant in this case? If so, please stand. All
7 right thank you, no one is standing. Is there any member
8 of the jury panel that was ever a member of the grand
9 jury that indicted this case? If so, please stand. All
10 right thank you, no one is standing. Is there any member
11 of the jury panel who is a member of or a contributor to
12 any group which has as its primary concern the promotion
13 of law enforcement or victim's rights? These groups
14 would include but certainly would not be limited to
15 Mothers Against Drunk Drivers, Students Against Drunk
16 Driving, or Citizens Against Violent Crime? If so,
17 please stand. Thank you, no one is standing. Does any
18 member of the jury know of any reason whatsoever why he
19 or she should not serve as a juror in this case with
20 particular emphasis being placed on your ability to be
21 fair and impartial to both the state and the defendant.
22 If so, please stand. All right, thank you. Does the
23 state have any additional questions you would like for me
24 to ask?

25 Ms. Barr: No sir.

Levern McCrea vs. State of South Carolina

21

1 The Court: Does the defendant have any questions
2 that you would like for me to ask?

3 Mr. McCrea: I would like to address something,
4 Your Honor, if I may.

5 The Court: Do you have any questions you want me to
6 ask?

7 Mr. McCrea: Not at this moment.

8 The Court: Okay. Thank you. All right, ladies and
9 gentlemen, at this time we would strike our jury. When
10 your name is called, please come down and bring your
11 personal items with you. Each side will then have an
12 opportunity to determine whether you will be seated on
13 the panel or not. The state will have five strikes, the
14 defendant will have ten. And then we are going to pick
15 two alternates. All right, is everyone ready to proceed?

16 Clerk: Members of the petty jury. When I call your
17 name and your number, please come to the from of my desk,
18 stand, turn around, face counsel and await further
19 instructions. As the judge says, be sure to bring your
20 personal belongings with you.

21 Juror number 52, Nicole Cunningham. What sayeth the
22 State?

23 Ms. Barr: Please present the juror.

24 Clerk: What sayeth the defense?

25 Mr. McCrea: Seat her.

1 Clerk: Please have a seat to my right in the petty
2 jury box. Juror number ten, Martha Bon. What sayeth the
3 State?

4 Ms. Barr: Beg the Court's indulgence. Please seat
5 the juror.

6 Clerk: What sayeth the defense?

7 Mr. McCrea: Excuse her.

8 Clerk: Juror number 134, Tyrone Morris. What sayeth
9 the state?

10 Ms. Barr: Present the juror.

11 Clerk: What sayeth the defense?

12 Mr. McCrea: Seat him.

13 Clerk: Have a seat in the jury box. Juror number
14 94, David Haywood. What sayeth the state?

15 Ms. Barr: Please present the juror.

16 Clerk: What sayeth the defense?

17 Mr. McCrea: Excuse him.

18 Clerk: You may return to your seat. Juror number
19 15, April Boyd. What sayeth the state?

20 Ms. Barr: Please present the juror.

21 Clerk: What sayeth the defense?

22 Mr. McCrea: Seat her.

23 Clerk: Have a seat to my right in the petty jury
24 box. Juror number 2, Antionette Anderson. What sayeth
25 the state?

Levern McCrea vs. State of South Carolina

23

1 Ms. Barr: Please excuse the juror for just this
2 trial.

3 Clerk: You may return to your seat. Juror number
4 72, Danetta Frye. What sayeth the state?

5 Ms. Barr: Please present the juror.

6 Clerk: What sayeth the defense?

7 Mr. McCrea: Have a seat to my right in the petty
8 jury box. Juror number 137, James Nelson. What sayeth
9 the state?

10 Ms. Barr: Please excuse the juror.

11 Clerk: You may return to your seat. Juror number
12 175, Catherine Tisdale. What sayeth the state?

13 Ms. Barr: Please excuse the juror.

14 Clerk: You may return to your seat. Juror number
15 35 Sherill Caesar. What sayeth the state?

16 Ms. Barr: Please excuse the juror.

17 Clerk: You are excused. You may return to your
18 seat. Juror number 128, Betty McKnight. What sayeth the
19 state?

20 Ms. Barr: Please excuse the juror.

21 Clerk: You may return to your seat. Number 123,
22 Windham McGee. What sayeth the state?

23 Ms. Barr: Your Honor, may the defendant and I
24 approach you?

25 The Court: You may.

1 Ms. Barr: Judge, one of the witness' last name is
2 McGee and they are from Andrews. I just wanted to make
3 sure that this witness doesn't know of those.

4 The Court: Sir, are you related to any of the
5 McGees who are witnesses on the witness list?

6 A: I don't know them. Not from Andrews.

7 The Court: All right, very good. Thank you.

8 Ms. Barr: Present the juror?

9 Mr. McCrea: Seat the juror.

10 Clerk: Have a seat to my right in the jury box.
11 Juror number 147, Patrick Powell. What sayeth the state?

12 Ms. Barr: Please present the juror.

13 Clerk: What sayeth the defense?

14 Mr. McCrea: Seat him.

15 Clerk: Have a seat to my right in the petty juror
16 box. Number 143, Brandi Phillips. What sayeth the state?

17 Ms. Barr: Please present the juror.

18 Clerk: What sayeth the defense?

19 Mr. McCrea: Excuse her.

20 Clerk: You may return to your seat. Juror number
21 92, Patricia Harrison. What sayeth the state?

22 Ms. Barr: Present the juror.

23 Clerk: What sayeth the defense?

24 Mr. McCrea: Excuse her.

25 Clerk: You are excused. Juror number 44, Harry

Levern McCrea vs. State of South Carolina

25

1 Cooper. What sayeth the state?

2 Ms. Barr: Present the juror.

3 Clerk: You are excused. You may return to your
4 seat. Juror number 1, Robert Allen. What sayeth the
5 state?

6 Ms. Barr: Please present the juror.

7 Clerk: What sayeth the defense?

8 Mr. McCrea: Excuse him.

9 Clerk: You are excused Mr. Allen. Juror number 87,
10 Jeron Greene. What sayeth the state?

11 Ms. Barr: Please present the juror.

12 Clerk: What sayeth the defense?

13 Mr. McCrea: Excuse him.

14 Clerk: You are excused. Juror number 196, Rose
15 Wilson.

16 The Court: Hold on one second. Approach the bench.
17 (Ms. Barr and Mr. McCrea approach the bench)

18 Clerk: Juror number 196, Rose Wilson. What sayeth
19 the state?

20 Ms. Barr: Please present the juror.

21 Clerk: What sayeth the defense?

22 Mr. McCrea: Excuse her.

23 Clerk: You're excused. Juror Number 16, James
24 Bradley. What sayeth the state?

25 Ms. Barr: Excuse him.

1 Clerk: You're excused. Number 19, Jasper
2 Brockington. What sayeth the state?

3 Ms. Barr: Please present the juror.

4 Clerk: What sayeth the defense?

5 Mr. McCrea: Excuse him.

6 Clerk: Just a moment. Just a moment. You have ten
7 strikes.

8 The Court: Do you have a reason for cause.

9 Mr. McCrea: No, I don't.

10 The Court: Seat the juror.

11 Clerk: Have a seat to my right in the petty jury
12 box. Juror number 38, Mary Jennis. What sayeth the
13 state?

14 Ms. Barr: Please present the juror.

15 Clerk: Have a seat in the petty jury box.

16 The Court: Does the defense have a reason for cause
17 to excuse this juror?

18 Mr. McCrea: No, Your Honor.

19 Clerk: Number 168, Carol Tanner. What sayeth the
20 state?

21 Ms. Barr: Please present the juror.

22 The Court: Just a moment. Does the defense have
23 any reason for cause?

24 Mr. McCrea: No, sir.

25 Clerk: Have a seat in the petty jury box. Juror

Levern McCrea vs. State of South Carolina

27

1 number 53, Shannon Daniel. What sayeth the state?

2 Ms. Barr: Please present the juror.

3 The Court: Does the defense have any reason for
4 cause?

5 Mr. McCrea: No, sir.

6 Clerk: Have a seat in the petty jury box. Juror
7 179, Ada Waterman. What sayeth the state?

8 Ms. Barr: Please present the juror.

9 The Court: Does the defense have any reason for
10 cause?

11 Mr. McCrea: No, sir.

12 Clerk: Have a seat in the petty jury box. Juror
13 number 140, Faye Parsons. What sayeth the state?

14 Ms. Barr: Please present the juror.

15 The Court: Does the defense have any reason for
16 cause?

17 Mr. McCrea: No, sir.

18 Clerk: Have a seat in the petty jury box.

19 The Court: The state will have one strike for the
20 alternate and the defense will have two.

21 Ms. Barr: Juror number 46, Wilbert Cooper. What
22 sayeth the state?

23 Ms. Barr: Please present the juror.

24 Clerk: What sayeth the defense?

25 Mr. McCrea: Seat him.

Levern McCrea vs. State of South Carolina

28

1 Clerk: Have a seat to my right in the petty jury
2 box. Juror number 126, Keith McKenzie. What sayeth the
3 state?

4 Ms. Barr: Please present the juror.

5 Clerk: What sayeth the defense?

6 Mr. McCrea: Seat him.

7 Clerk: Have a seat in the petty jury box.

8 The Court: All right please call the roll of the
9 jurors.

10 Clerk: Nicole Cunningham. Please raise your hand
11 when your name is called. Tyrone Morris, April Boyd,
12 Danetta Frye, Windham McGee, Patrick Powell, Jasper
13 Brockington. Mary Jennis, Carol Tanner, Shannon Daniel,
14 Ada Waterman, Faye Parsons, Wilbur Cooper and Keith
15 McKenzie.

16 The Court: Are there any objections to the jury that
17 has been selected or the manner it has been selected from
18 the state.

19 Ms. Barr: Nothing from the state.

20 The Court: From the defense?

21 Mr. McCrea: Not at all.

22 The Court: Thank you. Ladies and gentlemen, for
23 those of you who have not been selected, I am going to
24 excuse you at this time.

25 (Jury panel was excused)

Levern McCrea vs. State of South Carolina

29

1 The Court: All right ladies and gentlemen, you have
2 been selected as our jurors for this case. Now this case
3 is not going to start until tomorrow. I'm going to
4 release you for the afternoon. Please do not discuss
5 this case with anyone. Ladies and gentlemen, all that
6 information will be given to you during the course of the
7 trial as you sit and hear it. Now, ladies and gentlemen,
8 I'm going to release you for the evening. Have a nice
9 day. We will see you back here tomorrow morning at 10:00
10 a.m. Thank you.

11 (Jury excused for today)

12 The Court: All right, I understand there's a number
13 of matters of law that need to be taken care of, why
14 don't we have lunch and we will start right at two
15 o'clock with pre-trial matters.

16 Ms. Barr: Yes sir. Thank you.

17 (Court Lunch Break was taken/Back on the Record)

18 The Court: All right, you ready to proceed?

19 Ms. Barr: Your Honor, if it please the court? We
20 are back on the record for indictment 2010-GS-45-135 and
21 there are several matters that I would like to address
22 before the court.

23 The Court: All right.

24 Ms. Barr: The first concerns supplemental discovery
25 that was served on Mr. McCrea. He should have received

1 this morning a copy of the SLED crime scene report and
2 that's actually dated November 16th of 2009 there were
3 probably about ten Sled reports in the case and I think
4 through an oversight that was not given to him but Judge,
5 I wouldn't think that it would change the defense or come
6 as a surprise to him because there is nothing in there
7 that is exculpatory. So I wanted the record to reflect
8 that he has received that. He's also received ...

9 The Court: You said nothing in it is exculpatory?

10 Ms. Barr: That is correct. Judge, he's also
11 received a latent print Sled report dated October 17,
12 2011 it was faxed to me as some point this afternoon and
13 I've given that to him as well. We had a pretrial
14 conference on last Wednesday and during that time that
15 Sled report had not been done because we just received
16 it. It was about a month or so ago. That's been done
17 and I've given that to him as well.

18 The Court: As soon as you got it, you gave it to
19 him?

20 Ms. Barr: Yes sir.

21 The Court: All right.

22 Ms. Barr: Your Honor we were initially served with
23 a Rule 5 request from the defendant's first attorney, Mr.
24 Cezar McKnight, and that was done in, I believe, October
25 of 2010 and I'll make that response as Court's Exhibit

Levern McCrea vs. State of South Carolina

31

1 Number One and his alibi notice as well. I'll make those
2 courts exhibits Judge.

3 (Court's Exhibit Numbers One and Two were marked)

4 The Court: These were given to his attorney?

5 Ms. Barr: I'll give Mr. McCrea a copy of what I've
6 handed the Court. He should have it. Your Honor,
7 essentially when we replied to Mr. McKnight's Rule 5 and
8 Brady material, we disclosed October 5, 2010 some
9 statements as well as a rap sheet and some SLED reports.
10 At that time, we also submitted a reciprocal Rule 5
11 request and we also requested notice of the defendant's
12 intent to offer the affirmative defenses of alibi and/or
13 insanity. In that disclosure you will note the state
14 maintains that the crime occurred between March 10, 2009
15 and March 12th, 2009 at [REDACTED] Mingo Channel Road in
16 Hemingway, South Carolina. In response to my disclosure
17 and my request, the defendant's attorney, Mr. McKnight
18 submitted notice of alibi and he named Roberta Smith as
19 an alibi witness. Judge, we would just want to make sure
20 that given Mr. McCrea is pro se that there are no other
21 alibi witnesses who we need to be made aware of because
22 we have not received anything further in response to our
23 request.

24 The Court: Mr. McCrea are there any other possible
25 alibi witness in this matter?

1 Mr. McCrea: Yes sir, Your Honor. There's a first
2 cousin by the name of Sharon McGee and there's another
3 individual named Calvin McGee. I had no opportunity to
4 even make contact with any alibi due to the fact of my
5 limited ability to make phone calls.

6 The Court: Did you inform your attorneys of this?

7 Mr. McCrea: Well, they kind of sprung this on me,
8 Your Honor, at the last minute a few weeks ago.

9 The Court: I'm talking about an alibi. I mean you
10 would have known all along if there was an alibi.

11 Mr. McCrea: I have Your Honor. My attorney, Mr.
12 Anderson, he did nothing to any reference to that. He
13 hasn't even contacted Roberta Smith. He's had this
14 information since December of 2010. So this has been a
15 roller coaster trying to obtain the evidence that I'm
16 entitled to coming from the State Attorney's office as
17 well.

18 The Court: We are talking about the alibi. Is
19 there anyone else that you need to disclose to the State
20 on an alibi witness?

21 Mr. McCrea: Sharon McGee, Calvin McGee.

22 The Court: Is that it?

23 Mr. McCrea: Yes sir.

24 Ms. Barr: Your Honor, we would also, at this time
25 make a motion to amend the indictment to reflect that the

Levern McCrea vs. State of South Carolina

33

1 date of the murder was between the dates of March 10,
2 2009 and March 12, 2009. Judge as you will also notice
3 ...

4 The Court: That's still within the time frame.

5 Ms. Barr: Correct.

6 The Court: Actually you're narrowing it, is that
7 correct?

8 Ms. Barr: That's correct Judge. I just wanted to
9 make sure that it was clear. There's a typographical
10 error on the indictment that says March 13, I think. But
11 her body was discovered on March 12th. That was a
12 typographical error in the indictment. We just wanted to
13 do a housekeeping matter to amend the indictment to
14 reflect the date of the murder was March 10th thru March
15 12th. The defendant was put on notice when we served our
16 initial response in October 2010 that the State
17 maintained that they murder occurred March 10, 2009 thru
18 March 12, 2009.

19 The Court: All right. Any objection?

20 Mr. McCrea: Yes sir, Your Honor.

21 The Court: Please stand.

22 Mr. McCrea: They stated, the actual date, 2006 as
23 falsifying their date on the transcripts of an actual
24 interview of this alleged witness for the state, Your
25 Honor.

1 The Court: Let me go back. On what you received on
2 October 10, 2010, the last paragraph of the discovery
3 states the crime occurred March 10, 2009 and March 12,
4 2009 st [REDACTED] Mingo Chandler Road, Hemmingway, South
5 Carolina. This information has been in your hands for
6 over a year, how are you prejudiced?

7 Mr. McCrea: It's been in my attorney's hand, Your
8 Honor.

9 The Court: Your attorney at that point in time, was
10 you. It's been in the defense hand for over a year.
11 Tell me how you're prejudice.

12 Mr. McCrea: I'm getting stuff late Your Honor
13 that's why.

14 The Court: You got this information over a year
15 ago.

16 Mr. McCrea: What was that indictment number again
17 on the paper you're talking about?

18 The Court: The state's response to the Defendant's
19 Brady Motion for disclosure. This is Court's exhibit
20 number one. It is dated October 5, 2010 and it was to
21 you and to your attorney Cezar McKnight. So tell me how
22 you're prejudiced by amending the indictment on October
23 17, 2011 for something that you knew about on October 5,
24 2010?

25 Mr. McCrea: Again, Your Honor I am just getting

Levern McCrea vs. State of South Carolina

35

1 evidence from actually July. I've been spoon fed from my
2 attorney. He's had my case, the last attorney, Your
3 Honor. Attorney Anderson.

4 The Court: You moved to have him relieved, is that
5 correct?

6 Mr. McCrea: Yes sir.

7 The Court: All right. Judge King has already been
8 over all of this with you?

9 A: Yes sir.

10 The Court: I find there is no prejudice to the
11 Defendant to amend the indictment. The indictment is so
12 amended. Thank you. Next issue.

13 Ms. Barr: Judge we would also renew our motion for
14 reciprocal discovery pursuant to Rule 5. If there are any
15 documents that the defendant intends to use or intends to
16 introduce during the trial of this case. We would ask
17 that the defendant disclose that to us. In our pretrial
18 conference he indicated to Judge Newman that he did not
19 have any such document that he intended to introduce. If
20 there are, we take the position that he needs to disclose
21 them.

22 The Court: Mr. McCrea, do you have any other
23 documents that you need to disclose to the state today? I
24 think last week you told Judge Newman you had none. Have
25 you acquired any since then.

1 Mr. McCrea No I haven't, Your Honor.

2 The Court: All right. Thank you.

3 Ms. Barr: Your Honor we would also make a motion in
4 limine to the defendant to prohibit the defendant from
5 making any references to any polygraph test or polygraph
6 results. The defendant and Mr. Christopher Briggs were
7 given a polygraph examination sometime ago and it's clear
8 from those results that both of them indicated that
9 deception was shown. We would make a motion in limine to
10 prohibit the defendant from asking any witnesses or
11 making any comments in opening and closing about the
12 results of any polygraph examinations.

13 The Court: Mr. McCrea, the results of a polygraph
14 examination are not admissible in Court. Of course, if
15 you had failed it you certainly wouldn't want the state
16 to bring that up and therefore what she is doing is
17 making a motion to say that you won't say anything about
18 it. Do you understand?

19 Mr. McCrea: Yes sir.

20 The Court: I am going to ask that you not say, I'm
21 going to actually tell you do not say anything in
22 opening, do not ask any witnesses any questions about the
23 polygraph. Do you understand?

24 Mr. McCrea: I understand what you're saying, Your
25 Honor.

Levern McCrea vs. State of South Carolina

37

1 The Court: Okay.

2 Mr. McCrea: It's just strange that she makes that
3 statement.

4 The Court: We haven't started the trial yet. We
5 are just trying to make sure it runs smoothly once it
6 starts.

7 Mr. McCrea: I understand.

8 The Court: All right.

9 Ms. Barr: Your Honor, last week when we had the
10 pretrial conference, Mr. McCrea identified Carolinda
11 McGee and Sharon McGee as witnesses. As a result, the
12 presiding judge directed the Clerk of Court to issue
13 subpoenas for those individuals and to have them report
14 today. I received a call on yesterday afternoon from
15 Sergeant Brenda Lambert of the Andrews Police Department.
16 She indicated she had gone by those addresses given for
17 the subpoenas for those witnesses and Carolinda McGee was
18 in North Carolina and the person who was at the residence
19 said Sharon McCee no longer lives there. She called me
20 this morning and said went back again today and the
21 information on Carolinda McGee being in North Carolina
22 and Sharon McGee not in terms of living there. Judge if
23 there is anything else that I need to do or can do to
24 assist the defendant in having those witnesses in court,
25 if we can find them, I would be happy to do that.

1 The Court: I don't know what else you could do.
2 Mr. McCrea, do you know what else the state could do to
3 help find those witnesses?

4 Mr. McCrea: No I don't Your Honor.

5 The Court: I find that at this point in time the
6 state has done all they can to notify potential witnesses
7 at this time.

8 Ms. Barr: Judge, I think the last thing that I may
9 have is to, I would like to just go ahead and pre-mark
10 some of these exhibits. They have all been provided to
11 him. They are photographs and I have a calendar that I
12 want to pre-mark as well.

13 The Court: Do you want to go over each one with him
14 to see if ...

15 Ms. Barr: Yes sir, Judge. Mr. McCrea, do you have
16 any objections to the calendar?

17 Mr. McCrea: No.

18 The Court: Without objection the calendar is in.

19 Ms. Barr: That would be State's #1.

20 (State's Exhibit Number 1 was marked)

21 Ms. Barr: These series of photographs are
22 photographs of the exterior of the home and the yard of
23 the home where the incident occurred. And they are
24 numbers two through through thirty six.

25 The Court: All right two through thirty six.

Levern McCrea vs. State of South Carolina

39

1 Mr. McCrea: No.

2 The Court: No objections, all right thank you.

3 (State's Exhibit Numbers 2 through 36 were marked)

4 Ms. Barr: Your Honor these series of photographs
5 are the interior of the home, including the body of the
6 victim and before I have them marked, I just want to make
7 sure that, Your Honor, doesn't have any problem. I'm
8 going to show them to you as well.

9 Mr. McCrea: No objections Your Honor.

10 The Court: Thank you. There are multiple
11 photographs of the victim. One I do have a problem.

12 Ms. Barr: Yes sir.

13 The Court: I am going to exclude this and please
14 show this to Mr. McCrea. I'm going to exclude this one.
15 We've got a number of them in there. I don' know if this
16 adds to it but, I certainly think that could be
17 inflammatory to the jury.

18 Ms. Barr: Yes sir. Your Honor, the third set of
19 photographs to which the defendant has no objection, are
20 the autopsy photos and I will show them to the court.

21 The Court: I do have a problem with one of these
22 autopsy photographs. What you could do is you could
23 crop it so that it can show the head wound without

24 Ms. Barr: Yes sir.

25 The Court: Thank you.

1 Ms. Barr: Judge, the second set of photographs is
2 Stat's exhibits thirty seven through eighty-three. Your
3 Honor, the photograph of the victim.

4 The Court: You may want to put this one for i.d.
5 only, too.

6 Ms. Barr: Yes, sir.

7 (State's Exhibit 37 through 83 were marked)

8 Ms. Barr: Your Honor I believe that the fourth set
9 of photographs are the location where the firearm and
10 bullets were recovered. And I'm not sure whether or not
11 the defendant has an objection to those.

12 The Court: Mr. McCrea, do you have any objections to
13 those photographs, the fourth set?

14 Mr. McCrea: No sir, Your Honor.

15 The Court: Okay. Without objection.

16 Ms. Barr: Do you need to see them, Judge?

17 The Court: No I don't need to see those.

18 Ms. Barr: Your Honor, I've given a whole bunch for
19 the court reporter to mark but that's all the matters
20 that the State has as of this time.

21 The Court: Let's give her a few minutes ten we'll move
22 on.

23 Court Reporter: Judge, there are so many you can go
24 ahead. I can talk and mark.

25 The Court: Okay. Anything further from the state?

Levern McCrea vs. State of South Carolina

41

1 Ms. Barr: No sir.

2 The Court: Mr. McCrea do you have any motions at
3 this time?

4 Mr. McCrea: Yes sir, Your Honor. I requested
5 copies of Investigator Brown, Wayne McFadden and
6 Investigator Lambert document infractions or complaints
7 against them and or acts of misconduct towards them, Your
8 Honor.

9 The Court: Do they relate to this case?

10 Mr. McCrea: Yes they are testifying to what they
11 discovered in reference to this case.

12 The Court: These were what now?

13 Mr. McCrea: Infractions and misconduct reports.

14 The Court: You're asking for that now?

15 Mr. McCrea: Yes sir.

16 Ms. Barr: Your Honor, I don't know that there's
17 been an infractions or reports. Well, first of all, I
18 don't know if these things even exist but they certainly
19 don't relate to the investigation of this case. So, Your
20 Honor, we would submit to the court that information,
21 should it exist is irrelevant.

22 The Court: Why would it be relevant in this matter
23 and why are you asking for it the day of the trial?

24 Mr. McCrea: Well, Your Honor, I haven't had an
25 opportunity to prevail due the fact that I'm still

1 getting late undisclosed evidence and then all of a
2 sudden I am representing myself pro se.

3 The Court: I understand that but that's because you
4 have relieved three attorneys.

5 Mr. McCrea: Yes and I've entered those exhibits in
6 for a reason to show cause as well.

7 The Court: Does the state know of any records such
8 as that?

9 Ms. Barr: Your Honor, not as it relates to this
10 case. I don't know the witnesses that the defendant
11 talks about but certainly. There was some sort of
12 complaint or something about an officer some time ago,
13 but completely unrelated to this case. To my knowledge
14 there's never been any complaint to this case.

15 The Court: She has nothing concerning the officers
16 of this case. That's where we stand.

17 Mr. McCrea: Yes sir, that's not what I was asking.
18 Your Honor I object to Mr. Brigg's entire testimony and
19 request, Your Honor, that he was coerced.

20 The Court: Who is Mr. Briggs?

21 Mr. McCrea: He is the alleged witness, Your Honor.

22 The Court: You're welcome to cross examine. That's why
23 we have cross examination.

24 Mr. McCrea: Due to the fact that Mr. Briggs at one
25 point was asleep. ____

Levern McCrea vs. State of South Carolina

43

1 The Court: All right that's fine. I'm not ruling
2 that he can't be called as a witness. You can cross
3 examine him. This trial will begin tomorrow morning at
4 ten o'clock. Nothing further for this case until tomorrow
5 morning.

6 **10-18-11a.m.**

7 Ms. Barr: Your Honor we do have a brief issue
8 related to another juror, Mr. McGee, and I'm not sure
9 what his juror name is, but when he came up after his
10 name was called ...

11 The Court: I asked him if he knew him and he said
12 that he did not.

13 Ms. Barr: He did Your Honor and subsequent to that,
14 one of the witnesses in the case indicated to me that he
15 knows the witness and he's possibly related to the
16 Defendant. He knows the witness by his nickname of Quan,
17 rather than the name of Christopher Briggs and I would
18 just ask, and that witness is in the courtroom, Judge.
19 Sometimes jurors may know somebody by their street name
20 or their nickname and so I would ask before we proceed
21 that we ask that juror if that is in fact the case.

22 The Court: Alright please bring Mr. McCrea ...

23 Ms. Barr: Mr. McGee.

24 The Court: Mr. McGee.

25 Ms. Barr: And Your Honor while we're waiting if I

1 could just allow the record to reflect that on yesterday
2 I gave the Defendant four photographs.

3 The Court: Come on over here. I've got a question
4 that I need to ask you. Mr. McGee, yesterday when you
5 came forward, I asked you if you knew the other, I guess,
6 McGees' ...

7 Ms. Barr: Yes.

8 The Court: ... who were in the courtroom. Do you
9 know a man by the name of Quan McGee?

10 Ms. Barr: Christopher Briggs, Christopher Quan
11 Briggs.

12 The Court: Christopher Quan Briggs?

13 Mr. McGee: (Shakes his head negatively).

14 The Court: You don't know him?

15 Mr. McGee: Not to my knowledge.

16 The Court: Do you know this gentleman here?

17 Mr. McGee: Yeah, I know that fellow, but I don't
18 know his name. We supposed to be related, but I don't
19 know the person name.

20 The Court: Okay, do you have any interaction with
21 him?

22 Mr. McGee: Not really. I mean, I know we suppose to
23 be kin, that's about it.

24 The Court: Do you see him in the community on a
25 regular basis or just briefly?

Levern McCrea vs. State of South Carolina

45

1 Mr. McGee: I see him, you know, because I, you
2 know, because I live in Andrews, I'm in and out.

3 The Court: Small town. Would the fact that you might
4 know him make it so that you can't be fair and impartial
5 to the State or the defense in this case?

6 Mr. McGee: I don't know nothing about the case now.

7 The Court: But you think you could be fair to the
8 State and to the Defendant?

9 Mr. McGee: Right.

10 The Court: Okay, anything further?

11 Ms. Barr: Nothing Your Honor.

12 The Court: Mr. McCrea do you have any questions?

13 Mr. McCrea: Nothing.

14 The Court: Alright thank you, we're going to leave
15 you on the jury. Thank you. Anything further.

16 Ms. Barr: Nothing further in regard to the issue of
17 the jury. Judge I just want to put you on the record that
18 on yesterday I gave the Defendant four photographs of Ms.
19 Roberta Smith's vehicle. Those photographs were taken on
20 Sunday and so I handed them to him on yesterday. In
21 addition Judge, there were two SLED reports from the
22 latent prints department, one that relates to a piece of
23 paper that was found in the yard of the Defendant and
24 that's why we had the Defendant's palm print and I gave
25 that to him on yesterday. Today I also gave him a copy of

1 the latent prints report from SLED also dated October 17,
2 2011 that relates to the firearm that was recovered in
3 the case and they indicated there was no prints
4 identifiable, but I just handed him that.

5 The Court: There were nothing ...

6 Ms. Barr: Right. So I just handed that to him.
7 Judge in addition, I subpoenaed Roberta Smith to come
8 here from North Carolina; after I subpoenaed her, I
9 issued a second subpoena duces tecum for her to bring any
10 letters that she may have written to the Defendant or the
11 Defendant may have written to her while he was
12 incarcerated. Yesterday, she did in fact bring several
13 letters and I have copied those letters that the
14 defendant wrote to her and I have given them to him.

15 The Court: This was his witness right?

16 Ms. Barr: Yes sir. This was his alibi witness. And
17 Judge if the record would reflect so that it's clear I
18 gave him a copy of a letter that he wrote to her August
19 11, 2010, a letter he wrote to her November 15, 2010, a
20 letter he wrote to her March, I'm sorry, June 20, 2010,
21 May 17, 2010 and February 22, 2011.

22 The Court: Mr. McCrea do you have those documents?

23 Mr. McCrea: Yes I do, Your Honor.

24 The Court: Those were your letters that you sent to
25 her, is that correct?

Levern McCrea vs. State of South Carolina

47

1 Mr. McCrea: Yes I did Your Honor and well Ms. Barr
2 to write her and ask her and even talk to her again is
3 illegal.

4 The Court: No sir.

5 Mr. McCrea: Why not?

6 The Court: She's a witness. They can talk to her if
7 they want to. A witness is a witness, not for the State
8 or defense, it's just a witness.

9 Mr. McCrea: Your Honor, the comment on this just
10 like I stated to you yesterday, Your Honor, I've been
11 spoon fed discovery that I should have had years ago and
12 here's one example.

13 The Court: Well, let me ask you. Didn't you just
14 tell them last week that you were going to call her as a
15 alibi witness?

16 Mr. McCrea: Right.

17 The Court: Wait a minute, let me ask her a question.
18 Is that correct?

19 Mr. McCrea: Yes.

20 The Court: So they didn't know she was an alibi
21 witness until last week?

22 Mr. McCrea: Well, no they had knowledge of her long
23 before then. My point is this, Your Honor, speaking in
24 reference to this report here dated October 17th and I'm
25 just now receiving this stating that she's just now

1 receiving this. I don't believe that at all, Your Honor.
2 This is one of the indictment done long ago, so we had
3 these prints back long before ...

4 The Court: Tell me how you're prejudiced by a SLED
5 report that says there's no prints?

6 Mr. McCrea: No, I'm not, what I'm saying was due to
7 the fact that she's been spoon feeding me, that's
8 exculpatory to me, that's my point, Your Honor. Also, I
9 have another issue. What took place in reference to, I'd
10 like to have this on the record for the appeal. Yesterday
11 you allowed them to change the date on an indictment for
12 their case because she, she, declare oversight on the
13 victim's death. I don't understand that part, Your
14 Honor.

15 The Court: Sir, you're not prejudiced because of the
16 fact that the discovery that they gave you well over a
17 year ago was clear on the dates that they were claiming
18 that the murder might have taken place, so they're not,
19 you weren't prejudiced by that. It was, it was a
20 technicality that did not effect you.

21 Mr. McCrea: On who's part?

22 The Court: It's on their part.

23 Mr. McCrea: Well yes, and that's a defective
24 indictment, Your Honor.

25 The Court: No sir.

Levern McCrea vs. State of South Carolina

49

1 Mr. McCrea: Okay.

2 The Court: You were, you were notified over a year
3 ago that they were claiming that the dates of the
4 possible shooting was. They cleared that up. There's no
5 prejudice to you, I find.

6 Mr. McCrea: Well that's their over sight, it's not
7 mine.

8 The Court: Okay, and there's no prejudice to you
9 because of that. You knew the dates they were thinking.

10 Mr. McCrea: Say it again Your Honor?

11 The Court: You knew the dates that they were
12 thinking about.

13 Mr. McCrea: I'm not here to assume anything, I'm the
14 defendant, Your Honor.

15 The Court: But you read the discovery ...

16 Mr. McCrea: Yes.

17 The Court: ... or your attorney had it. Anything
18 further?

19 Mr. McCrea: No, Your Honor.

20 The Court: Alright thank you. Anything further from
21 the State?

22 Ms. Barr: No, Your Honor.

23 The Court: Alright let's bring our jury in.

24 Clerk : Can we ...

25 The Court: Oh, okay, let's draw at random.

1 Clerk: Number 46, which is Wilbur L. Cooper.

2 The Court: 46 will become the primary juror.

3 Clerk: It's alternate number 1, Mr. Wilbur Cooper.

4 {Jury enters courtroom 10:15}

5 The Court: Ms. Williams, which juror has been
6 changed from alternate to primary?

7 Clerk: Mr. Wilbur Cooper, number 46.

8 The Court: Mr. Cooper you are now a primary juror.
9 Okay, you'll still be the alternate, so you'll remain in
10 that seat. Ms. Boyd I am appointing you to be the
11 foreperson of his jury, so from here on out, you'll sit
12 in this seat right up here. You don't have to move now,
13 but the next time you go out and come back. Now the rest
14 of y'all can sit where ever you want to; I have found
15 that jurors tend to be territorial and once they get in a
16 seat, they want to stay in that seat, but you don't have
17 to. You can, you can rotate as you want to. Now you're an
18 alternate aren't you?

19 Ms. Williams: Yes, Mr. McKenzie.

20 The Court: You don't need to move right now, but you
21 will sit in this seat. Alright, please swear the jury.

22 (Jury Sworn)

23 The Court: Alright Ladies and gentlemen before we
24 begin this trial, I want to tell you that this trial will
25 probably be different from what you might expect. You

Levern McCrea vs. State of South Carolina

51

1 know, most people never have the opportunity or the
2 chance to attend an actual court session as you are today
3 and may think from watching tv or movies or reading books
4 that trials are always full of high drama, intense action
5 and riveting circumstances. Now while all these things
6 may be true at times, this trial is not for
7 entertainment. This is a real trial, which is a
8 fundamental part of our democracy. This is a search for
9 the truth in an effort to make sure that justice is done.
10 In searching for the truth and ensuring that justice is
11 done, it's often slow, deliberate and repetitive; the
12 exact opposite of what you may have seen on tv, in movies
13 or read in books. Now Ladies and gentlemen this courtroom
14 is a place of honor that is dedicated to protecting the
15 preservation of citizens' rights through what has been
16 called, and I truly believe to be the greatest justice
17 system that has ever been created. The attorneys who are
18 appearing before you are advocates for the parties they
19 represent and in this case, the Defendant is representing
20 himself. But the attorneys are officers of this court who
21 are sworn to uphold the integrity and fairness of our
22 judicial system and to help you in your search for the
23 truth. You should expect the attorneys and the Defendant
24 to be professional, competent and ethical in the
25 representation and remember Ladies and gentlemen, you

1 just took an oath as well to listen to the evidence in
2 this case, to reach a fair and just verdict and you're
3 expected to be professional, reasonable and ethical as
4 well. And again let me thank you for accepting this
5 appointment of responsibility of jury service and your
6 contribution to our justice system. Now Ladies and
7 gentlemen what I'm going to tell you now is intended to
8 serve as an introduction to the trial in this case. These
9 remarks are not a charge on the law. I will charge you
10 the law that is applicable to this case at the end of the
11 trial. This is merely an explanation of the procedures
12 that we will follow throughout this case, so that you may
13 better understand what is happening. Ladies and gentlemen
14 let me tell you up front that you're not going to be
15 allowed to take notes and therefore, it's very important
16 that you listen closely throughout this trial. Ladies and
17 gentlemen the Defendant in this case is charged with
18 murder and possession of a weapon during a violent crime.
19 Now the specific elements will be explained to you later.
20 The indictment charging the Defendant is simply the
21 document by which the case is brought into court and is
22 not in any sense evidence of any of the allegations
23 contained therein. The Defendant has pled not guilty to
24 the charges in the indictment so the State therefore has
25 the burden of proving all of the elements to each of the

Levern McCrea vs. State of South Carolina

53

1 charges in the indictment beyond a reasonable doubt and
2 ladies and gentlemen it will be your duty as jurors to
3 decide whether the State has met that burden. Now ladies
4 and gentlemen your purpose is to determine the facts in
5 this case. You are to determine the facts from the
6 testimony that you hear from this witness stand and any
7 other evidence that is introduced to you in court. It's
8 up to you to determine the inferences which you feel may
9 be properly drawn from the evidence. Ladies and gentlemen
10 it is especially important that you perform your duty
11 diligently, conscientiously, because ordinarily there is
12 no way to correct an erroneous determination of facts by
13 a jury. On the other hand, but with equal emphasis, the
14 same law that makes you the judges of the facts, makes me
15 the judge of the law. The law is given to you by me.
16 It's the only law that you can consider. You must accept
17 the law as I give it to you and follow it even though you
18 may disagree. I cannot tell you what the facts are and
19 you cannot disagree with me about what you believe the
20 law is or what the law should be. Your job as jurors is
21 to take the law as I give it to you and follow it and
22 apply it to the facts as you find them from the testimony
23 of the witnesses and any other evidence that is
24 introduced. After hearing the evidence, you will
25 deliberate and render a true and just verdict under the

1 solemn oath that you just took. Now ladies and gentlemen
2 until I advise you to begin your deliberations at the
3 conclusion of the case, you must not discuss the case
4 with anyone, including your fellow jurors, except when
5 authorized to do so by me. You may not use a computer,
6 cellular phone or other electronic device with
7 communications capabilities while attendance here at
8 trial or during your deliberations. Now these devices may
9 be used when you're on a lunch break or when you go home
10 for the evening, however you still cannot use them to
11 obtain or disclose information about the case when you're
12 not in court. Information about the case would include
13 and certainly not limit to the following. Information
14 about a party, a witness, an attorney or court officer.
15 Any news accounts about the case, information collected
16 through juror research in any topic raised or testimony
17 offered by any witness or information collected through
18 juror research that you might believe to be helpful in
19 deciding this case. The idea ladies and gentlemen is that
20 all of the evidence that you will need to make a decision
21 in this case will come from this witness stand or by
22 exhibits that are placed into evidence. You should have
23 nothing from outside of this courtroom to use in deciding
24 your case. Now ladies and gentlemen after the case is
25 submitted to you, you must discuss it only in the jury

Levern McCrea vs. State of South Carolina

55

1 room with your fellow jurors when you do your
2 deliberations. The attorneys and the parties in this case
3 are advised that they are not to talk to you at all, so
4 if you see anyone that's around the courthouse and they
5 don't even say hello, they're not being unfriendly,
6 they're just following my instructions. Now ladies and
7 gentlemen it's very important that you keep an open mind
8 and not decide any issue in this case until all of the
9 evidence has been presented, the attorneys and the
10 Defendant have made their closing argument and I have
11 instructed you on the law. Ladies and gentlemen it is
12 your solemn responsibility to determine the guilt or the
13 innocence of the Defendant and your verdict must be based
14 solely on the evidence as it is presented to you in this
15 trial and on the law as I instruct you, during and at the
16 close of the trial. Now in just a moment, the Solicitor
17 will make what is called an opening statement in which
18 she will explain to you what she believes the issues are
19 in this case. The Defendant may also make an opening
20 statement, although he is not required to do so. What you
21 are told during these opening statements is not evidence
22 in the case, it is only contingent as to what they
23 believe the evidence will show or what they believe the
24 issues are in this case. Now ladies and gentlemen from
25 time to time during this trial, you may here the

1 prosecution, the Solicitor or the Defendant say something
2 like Your Honor I believe we have a question or a matter
3 of law to discuss with you; or Your Honor may we approach
4 the bench? Or sometimes, I myself may find it necessary
5 to excuse you from the courtroom for a short time so that
6 the attorneys and the Defendant and I can discuss a
7 matter of law. Now the reason for this is because, as I
8 told you earlier, you are the judges of the facts.
9 Sometimes, when I'm discussing matters of law, it may be
10 necessary for me to make some comment as to the facts in
11 connection with making a ruling as to whether or not a
12 particular law applies. As I said, I'm not supposed to
13 tell y'all what the facts are, so I would excuse you from
14 the courtroom while these discussions take place so that
15 you will in no way be influenced by anything that I might
16 say or do in connection with these facts. Also, during
17 the trial the attorneys or the Defendant may make an
18 objection to certain evidence that is about to be
19 presented. Whether I sustain, which would be to grant the
20 objection and stop the testimony or overrule, which would
21 be to deny the objection and allow the testimony to
22 continue, should not be construed that I favor one side
23 over the other; I do not. Nor should you include or infer
24 that the objecting party is trying to hide something from
25 you. In this court, as in all situations in life there

1 are specific rules that must be followed. The attorney or
2 Defendant making the objections is merely trying to
3 follow the rules of evidence in this court in making
4 their objection and I am only ruling based upon what I
5 believe the law of this state to be concerning the
6 evidence being presented. Now ladies and gentlemen in
7 determining what the true facts are in this case you must
8 decide whether or not the testimony of a witness is
9 believable. It will be my responsibility as the judge to
10 rule as a matter of law whether certain testimony is
11 admissible. Once the testimony is admitted, whether or
12 not you as jurors or the finders of facts, believe it is
13 solely for you to determine. In deciding whether to
14 believe a witness, you have the right to consider the
15 interest of any witness, the bias of any witness, the
16 prejudice of any witness, the opportunity for the witness
17 to observe the matters and things by which the witness
18 testifies and the way that the witness acts on the
19 witness stand. Ladies and gentlemen you have a right to
20 consider anything that is in the record that will help
21 you evaluate the testimony of the witnesses. Ladies and
22 gentlemen that means that it's your duty to pay close
23 attention to the witnesses, to observe the witnesses, to
24 listen to the witnesses and to pay close attention to the
25 attorneys and to the Court or to the Defendant. Don't let

1 your thoughts wonder, but give strict attention to the
2 testimony in this case. So at the end of all the
3 testimony, after the arguments of counsel and the charge
4 on the law by me, you will then be in a position to
5 determine what the true facts are, to apply the law to
6 those facts and thus render a true and just verdict.
7 Madam Forelady, in addition, it will be your job to
8 preside in the jury room and then be the jury's
9 spokesperson here in court. It will also be your duty to
10 write the verdict on the verdict form, but I'll give you
11 further instructions on that at the conclusion of the
12 case. Now, I want to preserve everyone's right and I will
13 give the parties an opportunity to object to anything
14 that I've stated. Does the State have any objection about
15 my opening charge to the jury?

16 Ms. Barr: The State does not.

17 The Court: Does the defense have any objection?

18 Mr. McCrea: None, Your Honor.

19 The Court: Alright thank you. Madam Solicitor you
20 may precede.

21 **OPENING STATEMENT BY MS. BARR:**

22 Ms. Barr: May it please the Court. Ladies and
23 gentlemen of the jury good morning. My name is Kimberly
24 Barr and I had a very brief opportunity yesterday to
25 introduce myself to you all and I want to take this

Levern McCrea vs. State of South Carolina

59

1 opportunity at this time to thank you all for being here
2 this morning and when I say thank you for being here, I
3 recognize that you all didn't ask to be here obviously;
4 you were forced to come. You had an invitation to come
5 join us on the week of October 17th and sit in on this
6 murder trial and I imagine that with all of you sitting
7 there, there are ten million other places that you would
8 rather be, than sitting up in this courtroom. So I
9 appreciate the sacrifice. Folks, I want to just go ahead
10 and tell you all that our jury system, I believe, is the
11 greatest system in the world. We honestly could not do
12 what we do every day without good folks like you all
13 willing to make the sacrifice from your families and from
14 your jobs. Some of you are missing work and you might not
15 get paid while you're sitting here with us and, and so we
16 do recognize that it is a sacrifice, jury service comes
17 with sacrifices, but we want you to know how much we
18 appreciate that sacrifice. Now obviously more than just
19 sitting here and the actual time you will be here, but
20 the most important thing in any kind of case is the
21 attention you give to this trial. You see for the State,
22 this is our only opportunity to render justice on a case
23 where a woman was murdered in our community and for the
24 Defendant, this is his only opportunity to have a day in
25 court and get a fair trial. And so it's very, very

1 important that you all pay close attention to the
2 proceedings today. Now, why are you all here this week?
3 Let me just share briefly why you all are here. You all
4 are here because back on March 12, 2009, the family of
5 Cora Brown got the kind of call that nobody wants to get.
6 It's the kind of call that just kind of stops your heart
7 for a second, it stops your breathing for a second and
8 it's the kind of call where someone told her family that
9 she didn't come to work today and you will hear evidence
10 in the case that her brother, Mr. Michael Brown, along
11 with her two sisters, Ms. Francine and Ms. Patricia went
12 to her home because they thought it was unusual for Ms.
13 Cora to miss work. When they came there, they will tell
14 you that the door to her residence had been locked. And
15 so her brother Michael removed an AC unit and climbed
16 into the window and to his great horror he found the
17 bloody, dead body of his sister lying on the floor in her
18 home. And he will tell you was lying face down. She was
19 lying on the floor in her home, not because she had had
20 an accident and fell. She was lying on the floor of her
21 home, not because she had a heart attack and passed out
22 or she had a stroke. I wish she had been so lucky as to
23 meet her maker in that fashion, but the evidence is going
24 to show that she was lying face down on the floor because
25 she had been shot multiple times, including in her chest

Levern McCrea vs. State of South Carolina

61

1 and in her head and that caused her death. Now the
2 evidence is also going to show that during the course of
3 the investigation, it was revealed that the Defendant,
4 Levern McCrea, was the person who murdered Ms. Cora
5 Brown. You will hear from a number of different witnesses
6 during the course of trial. Folks, we had a lot of names
7 on the witness list, but what we're going to try to do
8 for the sake of time, because we recognize it's
9 important, is narrow those witnesses down and only
10 present the ones who we think are going to kind of stream
11 line the case and help us in that fashion, so you're not
12 here any longer than you have to be. In addition, to some
13 witnesses that you'll hear from, you'll also see several
14 exhibits, including photographs. Now I want you all to
15 brace yourselves, there are crime scene photographs that
16 are in this case and there are autopsy photographs that
17 are in this case. So unfortunately it's the nature of
18 the beast, you all are going to see some disturbing
19 images. But after the trial of the case is concluded, I
20 get another opportunity to come before you and at that
21 time I'll be asking you, based on everything that you
22 have heard, and based on the law as the judge will give
23 it to you, I'll be asking you to return a guilty verdict
24 against this Defendant. I'm going to go ahead and sit
25 down, because I'm anxious to get started with the trial

1 of the case. Again, ladies and gentlemen I thank you for
2 your time, I thank you in advance for your attention.

3 The Court: Thank you Ms. Barr. Mr. McCrea?

4 OPENING STATEMENT BY MR. MCCREA:

5 Mr. McCrea: Yes sir. Good morning ladies and
6 gentlemen. Today, as you can see, I rely upon common
7 sense as opposed to legal sense. I stand before you to
8 present more of the factual element as opposed to the
9 Solicitors theories of this case. You'll hear things
10 about my past, or some things that I may be embarrassed
11 about, but it's not my past that's on trial here today.
12 I'm here today to defend my innocence, literally. The
13 facts are clear as opposed to the Solicitor's theory to
14 hearsay testimony from a person who has lied, not once,
15 or twice, but many times in the course of this matter to
16 try and save himself from further incarceration. The
17 Solicitor's sole case relies solely upon a convicted
18 felon, woman and wife beater, not evidence, just his
19 words to attempt to save himself. Members of this jury, I
20 don't have a fancy lawyer here to address you today,
21 because I've been forced to represent myself.

22 Ms. Barr: Objection Your Honor.

23 The Court: Sustained.

24 Ms. Barr: Move to strike.

25 The Court: The jury will disregard that remark.

Levern McCrea vs. State of South Carolina

63

1 Mr. McCrea: But as I'm sure the solicitor's office
2 will surely attempt to use their friends and colleagues
3 of the court as to create me into being a monster that
4 I'm not. But as we know as citizens, there are no morals
5 or principals to stand upon that's greater than the truth
6 itself. As we grow up, sometimes we're accused of things
7 that are not true and it hurts to have people we love
8 outright doubt us, but it's people today that are taught
9 to stand up and fight for ourselves when we're correct.
10 That's one of America's principals, to stand upon truth
11 and only truth. So members of this jury, I ask you to
12 please set aside the theory and focus solely on the
13 matter at hand. But more importantly observe the facts or
14 should I say the evidence. Not the theory, but just the
15 evidence and all of the testimony of the evidence. And
16 the testimony of those who tested the evidence and the
17 credibility of this alleged witness and the many
18 different statements he actually gave with regards to
19 this matter. But ladies and gentlemen of the jury, I beg
20 of you to focus on the facts and the truth only as
21 opposed to the solicitor's theory. Members of this jury,
22 I stand here before you today falsely accused immensely
23 and I beg of you to please listen to the inconsistencies
24 of this alleged witness for the State and to listen to
25 the many times Mr. Christopher Laquan Briggs changes his

1 story to set me up to this crime I didn't commit. Once
2 you've heard me explain the facts in detail of the many
3 lies from this alleged witness for the State I know that
4 members of this jury will bring about a not guilty
5 verdict for the Defendant, Mr. Levern McCrea. Thank you.

6 The Court: Thank you Mr. McCrea. The state may call
7 their first witness.

8 Ms. Barr: We call Michael Brown to the stand.

9 Clerk: Right here. Place your left hand on the
10 Bible. Place your left hand on the Bible and raise your
11 right hand. Do you solemnly swear that the evidence and
12 testimony you will give this court and jury to be the
13 truth, the whole truth and nothing but the truth, so help
14 you God?

15 A: I do.

16 Clerk: Have a seat please.

17 The Court: You may proceed.

18 DIRECT EXAMINATION OF MR. BROWN BY MS. BARR:

19 Q: Mr. Brown, let me get you to state your full name
20 for the record.

21 A: Michael Brown.

22 Q: Alright and sir you live in the State of South
23 Carolina?

24 A: Yes I do.

25 Q: And how long have you lived in the State of South

Levern McCrea vs. State of South Carolina

65

1 Carolina?

2 A: This last time, about three years now.

3 Q: And where did you move from?

4 A: From Virginia Beach, Virginia to Florence, South
5 Carolina.

6 Q: Now, sir are you married?

7 A: Yes I am.

8 Q: Do you have any children?

9 A: Yes I do.

10 Q: Are you currently employed?

11 A: Yes I am.

12 Q: And tell us the type of work you do.

13 A: I work for the Florence County School System; I'm
14 the naval junior reserve officer training instructor
15 for South Florence High School.

16 Q: You're a what now?

17 A: A naval junior reserved officer training instructor
18 for South Florence High School.

19 Q: Okay. And do you have a background in the military?

20 A: Yes, I served twenty-six years active duty.

21 Q: Okay, which branch to be clear?

22 A: The United States Navy.

23 Q: Now what is your relationship to Cora Brown?

24 A: She was my sister.

25 Q: Okay, Alright and where did Cora live?

1 A: [REDACTED] Mingo Chandler Road in Hemmingway.

2 Q: Okay, do you know how long she lived at that
3 address?

4 A: About thirty years. I think she moved into the
5 house about 1970, 71 and she had been there ever
6 since.

7 Q: Now, at the time of her passing, was your sister
8 married?

9 A: No, she was not.

10 Q: Does she have any children?

11 A: Yes she has two children.

12 Q: Okay and their names?

13 A: Keisha and Brian.

14 Q: Okay and they're both adults?

15 A: Yes they are.

16 Q: Alright now, sir were you particularly close to
17 Cora?

18 A: Yes I am. Yes I was.

19 Q: Do you recall the last time you would have spoken to
20 her?

21 A: I think it was that Sunday preceding her death. We
22 spoke to her on Sunday.

23 Q: Now in addition to you, Cora has other siblings. Is
24 that right?

25 A: Yes, she had, there's eight of us. Five sisters and

Levern McCrea vs. State of South Carolina

67

1 three brothers.

2 Q: Five sisters and three brothers?

3 A: Yes.

4 Q: Alright now, are two of her sisters present in the
5 courtroom today?

6 A: Yes they are. Francine and Patricia are here.

7 Q: Francine is there with the brown sweater on?

8 A: Yes.

9 Q: Alright and Patricia has the light green jacket on?

10 A: Yes she does.

11 Q: Now, in March of 2009, where were Francine and
12 Patricia living? Were they living in South Carolina?

13 A: They both lived in Nesmith, South Carolina.

14 Q: Okay the Nesmith area. Where was your sister and
15 when I say sister, I mean Cora, where was she
16 working at the time of her death?

17 A: She worked at a sewing plant in Hemingway. I think
18 the name of it was Hemingway Apparel Factory.

19 Q: Do you know how long she worked there?

20 A: Many years. At least fifteen or twenty years, I
21 think.

22 Q: Now, back on March 12 of 2009, you were at Cora's
23 house that night. Is that correct?

24 A: Yes I was.

25 Q: Now sir, I need you to tell the jurors what caused

1 you to come, well first of all, do you remember what
2 day of the week it was? Take your time.

3 A: It was Thursday, Thursday night.

4 Q: You remember that specifically?

5 A: Yes I do.

6 Q: What caused you to come to your sister, Cora's
7 house, on that Thursday, March 12th?

8 A: I got a call from my sister, Patricia saying that
9 some of her friends ...

10 Q: Mr. Brown you take as much time as you need to and
11 gather your composure. May I approach the witness?

12 The Court: Sure.

13 A: Thank you.

14 Q: You are welcome sir. Are you okay to continue?

15 A: Yes.

16 Q: What caused you to go to your sister's house that
17 night?

18 A: Basically they called me and said that they got word
19 that she hadn't shown up for work.

20 Q: Was that unusual for your sister?

21 A: Yes it was. She never really missed work.

22 Q: Alright now, do you recall the approximate time that
23 you got to her home in Hemingway that night?

24 A: I'm not certain, it was getting dark. I'd say around
25 seven, maybe eight o'clock. I can't really remember.

Levern McCrea vs. State of South Carolina

69

1 Q: Alright when you arrived at your sister's house, was
2 anyone else there?

3 A: No one else was there.

4 Q: You were, you were the first one there?

5 A: Well I --- when they called me I was living in
6 Florence.

7 Q: Yes sir.

8 A: And on the way there I stopped by my sister's house
9 and picked them up on the way there.

10 Q: When you say your sister's house and you picked them
11 up, you're talking about Francine and Patricia?

12 A: Yes.

13 Q: Alright so it was just the three of you all?

14 A: And my son, Philip was also with me.

15 Q: What type of vehicle were you driving?

16 A: I was driving a Chevy van.

17 Q: A Chevy van?

18 A: Yes.

19 Q: Alright, now when you arrived at your sister Cora's
20 house, tell us what you observed when you first got
21 there.

22 A: Well, I noticed both cars were in the yard. There
23 was a light on in the living room and maybe one in
24 the hallway.

25 Q: Okay, now you made those observations from being

1 outside the house?

2 A: Yes.

3 Q: Okay.

4 A: It look just like it did --- I drove past there in
5 the morning on my way to work, I use to go past
6 there going to work. When I drove past that
7 morning, it looked exactly like it did when I drove
8 past that morning.

9 Q: In terms of where her vehicles were parked, is that
10 right, when you say it looked exactly like it did
11 when you drove that morning?

12 A: Right, both cars parked in front of the housee.
13 Same lights were on when I drove past that morning.

14 Q: Okay.

15 A: It was getting dark when I got there and it was
16 typically dark when I drove past in the morning.

17 Q: Were her vehicles in the front of her residence or
18 in the rear of her residence?

19 A: They were both parked in front.

20 Q: I'm going to show you what's been previously
21 admitted as State's exhibit 4. Do you recognize
22 what's depicted in that photograph?

23 A: Yes, that's where the cars were parked.

24 Q: Okay, this is your sister, Cora's home?

25 A: Yes it is.

1 Q: Are these her two vehicles?

2 A: Yes they are.

3 Q: Alright, permission to publish Your Honor?

4 A: Yes. Ladies and gentlemen these have already been
5 admitted into evidence by agreement of the parties.

6 Q: When you arrived at her home, did you try to enter
7 the house?

8 A: Yeah, I checked the front door and it was locked.

9 Q: Okay.

10 A: Of course the backdoor is normally locked all the
11 time, so I tried anyway. I looked around the house
12 and everything was pretty much locked up.

13 Q: Okay, Alright now when you came back to her home
14 that night, in terms of, you said that you had
15 mentioned you had passed by her home earlier that
16 morning on your way to work. Is that right?

17 A: Yes.

18 Q: And you said you come to her home that night about
19 seven or eight, late, well, when it was getting
20 dark, you said it was getting dark, you observed her
21 vehicles to be in the same location as they were
22 earlier.

23 A: Right.

24 Q: Did that strike you as unusual?

25 A: Yes, it struck me as unusual that both her cars

1 being there when I drove pass that morning but I
2 didn't stop.

3 Q: Okay.

4 A: I mean I was headed to work.

5 Q: Mr. Brown can you see the screen from where you are?

6 A: Yes I can.

7 Q: And these are your sister's vehicles?

8 A: Yes they are.

9 Q: Alright and this is Cora's home?

10 A: Yes it is.

11 Q: Alright and there appears to be a little porch area
12 there?

13 A: Yes ma'am.

14 Q: Alright this her front door?

15 A: Yes ma'am.

16 Q: Alright now you indicated that you checked the front
17 door, this door?

18 A: Yes I did.

19 Q: And it was locked?

20 A: Yes, it was locked.

21 Q: Alright now, what did you do after having found that
22 the doors to your sister's home were locked?

23 A: I really wanted to get inside and see if she was in
24 there, so I went around the side where you see that
25 awning on the side of the house and I knew there was

Levern McCrea vs. State of South Carolina

73

1 an air conditioner in the window that I helped
2 install many years ago so I pushed the air
3 conditioner through the window and climbed in
4 through that.

5 Q: Okay, alright and let me make sure that we're clear
6 about what we're talking about. You indicated in
7 State's 4 that there's a, I think you said an awning
8 or something over the side window?

9 A: Yes.

10 Q: Is that here where I'm pointing?

11 A: Yes ma'am.

12 Q: Alright and if you're facing the victim's home, that
13 would be on the right side of her home. Is that
14 correct?

15 A: Yes.

16 Q: Alright I'm going to publish, if I may Your Honor,
17 State's exhibit 8 that's been previously admitted.
18 The Court: Yes, this has been admitted into
19 evidence.

20 Q: Sir, can you see that from where you are?

21 A: Yes I can.

22 Q: Alright now you described an awning and a side
23 window to your sister's home. Are you talking about
24 this window here?

25 A: Yes ma'am.

1 Q: Alright now, in this photograph, it appears that
2 that side window is open. Can you see it from where
3 you are?

4 A: Yes ma'am, it is open there.

5 Q: Okay and that's where you took the AC unit out and
6 went in?

7 A: Yes ma'am.

8 Q: Your Honor I'd like to publish State's Exhibit
9 number 11, which has also been admitted.
10 The Court: Alright.

11 Q: Alright and if we go to the right of your sister's
12 home, we see the side window that you referenced. Is
13 that correct?

14 A: Yes ma'am.

15 Q: And there's a side door here?

16 A: Yes ma'am.

17 Q: Alright you went in through this window with the
18 awning. Is that correct?

19 A: Yes ma'am.

20 Q: Alright now how were you able to get inside of that
21 particular window? Did you have to climb on anything
22 or were you able to get in there on your own?

23 A: Once I pushed that air conditioner through, I just
24 pulled my body up climbed through the window.

25 Q: Alright. Now, when you entered that particular

Levern McCrea vs. State of South Carolina

75

1 window, what room of your sister's home would you
2 had been in?

3 A: In the living room.

4 Q: In the living room, okay. Tell us what happened
5 after you climbed into the window.

6 A: After I pushed the air conditioner through the
7 window I could see her laying on the floor in the
8 house from there . So I just pulled myself into the
9 window and after I got in, I touched her, shook her
10 to make sure she wasn't going to wake and she didn't
11 and I opened the front door to let my other two
12 sisters in. I opened the front door.

13 Q: Okay, now when you saw her laying on the floor, was
14 she face up or face down?

15 A: She was face down.

16 Q: Alright and you indicated that you touched her?

17 A: I called to her from outside the house and, of
18 course, she didn't move, that's when I pulled out
19 and went through the window.

20 Q: Okay.

21 A: And went to touch her.

22 Q: Okay, did she have any obvious signs of injury at
23 that time?

24 A: I could see a hole in her back.

25 Q: Okay.

1 A: I saw the hole in her back.

2 Q: Okay.

3 A: And, and, that's, that's about as much as I can
4 remember right now.

5 Q: I understand. Now, Mr. Brown, I want to be as
6 sensitive and as sympathetic as I can be. Are you
7 okay if I show pictures inside the house or would
8 you prefer me not to do that?

9 A: I'm, I'm, I'm fine.

10 Q: Okay. Before I publish this, I'm going to have you
11 take a look at State's 37 and tell me which part of
12 the house is depicted in that photograph?

13 A: That's the living room.

14 Q: Okay, so that's the room?

15 A: That would be the front door.

16 Q: Okay, alright and if you look closely at that
17 picture, can you see any part of your sister in that
18 photograph?

19 A: Yes I can.

20 Ms. Barr: Permission to publish State's 37?

21 The Court: Yes ma'am.

22 Q: Alright and sir I think we saw in a previous
23 exhibit, to the front door I think there's a screen
24 door there?

25 A: Yes there's a storm door out front.

Levern McCrea vs. State of South Carolina

77

1 Q: And that's what is here?

2 A: Yes.

3 Q: And this is the front door to her residence?

4 A: Yes.

5 Q: And this room that the front door opens into is her
6 living room. Is that correct?

7 A: Yes.

8 Q: Alright and you indicated when I showed the
9 photograph to you, that on that exhibit that you
10 could see a part of Cora's body?

11 A: Yes I could.

12 Q: Would that be her legs here?

13 A: Yes it is.

14 Q: In terms of this particular photograph, it appears
15 that your sister is wearing jeans?

16 A: Yeah, she was wearing a pair of jeans.

17 Q: Okay, how were you able to tell that she had a hole
18 in her back?

19 A: She didn't have no blouse on.

20 Ms. Barr: Okay. Permission to publish State's 48?

21 The Court: Yes, which has also been admitted into
22 evidence.

23 Ms. Barr: Yes sir.

24 Q: And sir is this your sister?

25 A: Yes.

1 Q: Alright you indicated that you saw her with a hole
2 in her back. Are you talking about that wound there?

3 A: Yes.

4 Q: Alright you indicated that once she did not respond
5 to you and you touched her, she did not respond to
6 you, you opened the door and your sisters came in?

7 A: Right.

8 Q: And again, we're talking about Francine and
9 Patricia?

10 A: Yes.

11 Q: What happened next?

12 A: Francine came in and she just looked at her and she
13 also noticed that she had some wounds in her head
14 and I just decided to get everybody out the house
15 and call 911.

16 Q: Okay. And everybody had in fact, left out of the
17 house?

18 A: Yes.

19 Q: And we say everybody, again I need to be clear,
20 that's you, Patricia and Francine?

21 A: Right.

22 Q: Do you recall whether or not you touched anything or
23 disturbed anything inside the home when you all went
24 in? If you remember.

25 A: The only thing I disturbed was when I pushed the air

Levern McCrea vs. State of South Carolina

79

1 conditioner through the window; there was a
2 television set there and the vase and things like
3 that was on top of that, it all fell over.

4 Q: Okay.

5 A: But other than that, I didn't touch anything at all.

6 Q: It all fell over when you were trying to get inside
7 the house?

8 A: Yes.

9 Q: I understand. Alright now, you indicated that you
10 called 911?

11 A: Yes I did.

12 Q: Okay, which phone did you use to call 911?

13 A: I used my, I don't remember. I think it was my cell
14 phone.

15 Q: Alright do you know whether or not you used the
16 phone inside the residence?

17 A: I can't remember.

18 Q: That's fine. That's fine.

19 A: I can't remember whether I made the call or my
20 sister Francine made the call. I, I, I can't
21 remember. She might have called.

22 Q: I understand. Now, did EMS also arrive or did you
23 all summon EMS or anyone from Williamsburg county?

24 A: EMS was on the scene in about fifteen or twenty
25 minutes.

1 Q: Who arrived first? EMS or the sheriff's office?

2 A: EMS.

3 Q: And you essentially told them, law enforcement
4 everything that you shared with the jury?

5 A: Yes I did.

6 Q: Beg the Court's indulgence.

7 The Court: Yes ma'am.

8 Q: Mr. Brown please answer any questions from Mr.
9 McCrea.

10 The Court: Mr. McCrea, do you have any questions of
11 this witness?

12 Mr. McCrea: No I don't Your Honor.

13 The Court: Okay, thank you. You may step down. Why
14 don't we take a quick ten minute recess.

15 Ms. Barr: Yes sir.

16 The Court: Before we call the next witness.

17 Ms. Barr: Yes sir.

18 The Court: Court will be in recess for the next ten
19 minutes. Ladies and gentlemen, while you're back if you
20 want to get a cup of coffee but please do not discuss
21 this case.

22 {Jury break at 10:59}

23 The Court: Alright court will be in recess til,
24 let's say quarter after eleven.

25 Ms. Barr: Thank you.

Levern McCrea vs. State of South Carolina

81

1 (Court Break)

2 The Court: Anything before we bring the jury back?

3 Ms. Barr: No sir.

4 The Court: Alright bring the jury in.

5 (Jury enters courtroom 11:16)

6 The Court: Alright the State may call its next
7 witness.

8 Ms. Barr: We call Patricia Brown.

9 Clerk: Place your left hand on the Bible and raise
10 your right hand. Place your left hand on the Bible and
11 raise your right hand. Do you solemnly swear that the
12 evidence and testimony you will give this Court and jury
13 to be the truth, the whole truth and nothing but the
14 truth, so help you God?

15 A: I do.

16 Ms. Barr: May it please the Court?

17 The Court: yes ma'am.

18 DIRECT EXAMINATION OF MS. BROWN BY MS. BARR:

19 Q: Ms. Brown, tell us where you live.

20 A: 137 (can't hear her, too low).

21 Q: Now, how long have you lived at that address?

22 A: About a year.

23 Q: And you are the sister of Cora Brown?

24 A: Yes.

25 Q: Michael Brown, who just testified, is your brother?

1 A: Yes.

2 Q: How far did, did you live where Cora lived? How long
3 did it take to get from her house to your house?

4 A: About ten minutes.

5 Q: Were the two of you close?

6 A: Yes.

7 Q: How often would you see her in a month?

8 A: All the time.

9 Q: How old was she?

10 A: Fifty-four.

11 Q: Around fifty-four? Here's what I need you to do; I
12 need you to kind of scoot your chair up to the
13 microphone a little bit, so we can make sure that we
14 here you, because you're soft spoken. Okay? Now we
15 heard testimony that your sister, Cora, worked at
16 Hemingway Apparel. Is that right?

17 A: Yes.

18 Q: Alright what were her normal work hours?

19 A: She worked from seven thirty to five thirty.

20 Q: Okay, seven am to about five thirty pm?

21 A: Yes.

22 Q: Okay and did she work Monday through Friday or did
23 she work some weekends?

24 A: Well her work was Monday through Friday, but they
25 had laid off, sometimes she'd go in on Friday and

Levern McCrea vs. State of South Carolina

83

1 sometimes she wouldn't go in on Friday.

2 Q: Did she, is she a member of any particular church?

3 A: Friendship United Methodist Church in Nesmith.

4 Q: Friendship United Methodist Church in Nesmith.

5 Alright now, I'm going to take you back to the
6 afternoon, evening hours of March 12, 2009. Okay?

7 Now on that day, did you along with your brother
8 Michael and your sister Francine go to Cora's house?

9 A: Yes.

10 Q: Alright and tell us what caused the three of you to
11 go to her house.

12 A: Well, I been at church that night for choir
13 rehearsal.

14 Q: Where do you go to church?

15 A: Friendship United Methodist Church.

16 Q: Yes ma'am.

17 A: And another choir member came to me and said that
18 she wasn't at work and it was unusual for her not to
19 be there and she called in and said she wasn't, you
20 know at work but that's when I called my sister
21 Francine to go over to the house and see if she was
22 there. And she went up to the house and she came
23 back after church and told me that.

24 Q: Okay don't say what she told you. But in any event,
25 you asked your sister Francine to go to the house?

1 A: Right.

2 Q: And she went to the house and came back and the two
3 of you had a conversation back at the church, you
4 and Francine?

5 A: Yes.

6 Q: Okay, as a result of that conversation you had with
7 Francine, you then called Michael?

8 A: Yes.

9 Q: And the three of you went to Cora's home?

10 A: Yes.

11 Q: Now, we heard testimony that Cora's doors were
12 locked. Is that your recollection of going out there
13 on that day?

14 A: Yes.

15 Q: And we've also heard testimony that your brother
16 removed a AC unit from one of Cora's windows and
17 went into her home; is that also your recollection
18 of what happened that day?

19 A: Yes.

20 Q: At some point later, did you go into the home?

21 A: Yes.

22 Q: Alright tell us what you observed when you went
23 inside the home.

24 A: Once he opened the door for us to come in, we walked
25 in and she was lying on the floor with her face down

Levern McCrea vs. State of South Carolina

85

1 to the floor and her pants on and no top.

2 Q: And no top?

3 A: No.

4 Q: Now at that point, when you saw your sister, did you
5 know what had happened to her in terms of how she
6 died?

7 A: No, there was a shot, I mean a hole in her back, so,
8 you know, we could see she was shot.

9 Q: You assumed she had been shot?

10 A: Yes.

11 Q: Alright and did you and your sister Francine and
12 your brother Michael then leave the residence?

13 A: Yes, we went out and called 911.

14 Q: Alright do you know whether or not anyone used the
15 telephone inside your sister's home to call 911?

16 A: I don't remember.

17 Q: Alright did anyone else come in the home, other than
18 you, your brother Michael and your sister Francine?

19 A: Not at that time.

20 Q: EMS arrived and they went inside the home?

21 A: Yes.

22 Q: Alright you talked about the fire truck, do you
23 remember seeing Randy Swinton at Cora's house?

24 A: Yes.

25 Q: How did y'all see him?

1 A: He walked up to me and he hugged me and he went in
2 after everyone got there.

3 Q: Did someone flag him down when they saw him driving
4 by?

5 A: I don't remember.

6 Q: That's fine. Now, from the time that you left the
7 home. Up until time that EMS came and law
8 enforcement came, did you ever go back into the
9 house?

10 A: No, I didn't.

11 Q: How long do you think you stayed out at your
12 sister's residence that night?

13 A: It was after twelve o'clock that night.

14 Q: Were you there when they removed her body from the
15 residence?

16 A: I was on the outside.

17 Q: You were on the outside.

18 Ms. Barr: Alright ma'am that's all the questions
19 that I have for you. Hold on just a second. I beg the
20 Court's indulgence.

21 The Court: Yes.

22 Ms. Barr: Madam court reporter, if I can have this
23 marked as State's Exhibit 116.

24 The Court: Any objection Mr. McCrea?

25 Mr. McCrea: No Your Honor.

Levern McCrea vs. State of South Carolina

87

1 The Court: Without objection; State's exhibit 116.
2 Admitted without objection.

3 (State's Exhibit Number 116)

4 Q: Thank you Your Honor. Ms. Brown, I'm going to show
5 you what's been admitted as State's 116. Do you
6 recognize what's depicted in that photograph? Is
7 that your sister Cora?

8 A: Yes.

9 Ms. Barr: Permission to publish Your Honor?

10 The Court: Certainly.

11 Q: Now Ms. Brown, at my request, did your family obtain
12 a photograph of Cora? Did my office ask you to bring
13 a picture of your sister?

14 A: Yes.

15 Q: And that's the photograph that you all brought, one
16 of the photographs that you all brought?

17 A: Yes.

18 Ms. Barr: That's all the questions that I have.

19 Please answer any questions Mr. McCrea has.

20 The Court: Mr. McCrea, do you have any cross
21 examination questions?

22 Mr. McCrea: No, I don't Your Honor.

23 The Court: Alright thank you. You may step down.

24 Ms. Barr: We call Corporal Kennedy Grayson.

25 Clerk: Place your left hand on the Bible and raise

1 your right. Do you solemnly swear that the evidence and
2 testimony that you will give this Court and jury to be
3 the truth, the whole truth and nothing but the truth, so
4 help you God?

5 A: Yes, I do.

6 Clerk: Thank you.

7 The Court: You may proceed.

8 DIRECT EXAMINATION OF MR. GRACE BY MS. BARR:

9 Q: State your name for me.

10 A: Kennedy Grayson.

11 Q: And tell us where you are employed.

12 A: Williamsburg County Sheriff's Office.

13 Q: Alright and what do you do there?

14 A: I'm a, one of the patrol on shift.

15 Q: Okay, how long have you been employed by the
16 Williamsburg County Sheriff's Office?

17 A: Total nine years.

18 Q: And you've been a police officer that long or you've
19 been in law enforcement longer than that?

20 A: I've been a correctional officer for three years and
21 sheriff deputy for six.

22 Q: Okay, now sir you of course were working back on
23 Thursday, March 12th, 2009?

24 A: That's correct.

25 Q: And on that occasion did you respond out to the home

Levern McCrea vs. State of South Carolina

89

1 of Cora Brown on Mingle Chandler Road in Hemmingway?

2 A: Yes I did.

3 Q: Okay, is that property address located within
4 Williamsburg county?

5 A: That's correct.

6 Q: And what was the reason why you were at the
7 residence that night?

8 A: We had received a call from 911 that Mr. Michael
9 Brown had called in reference to having to force
10 himself into his sister's residence.

11 Q: Sure.

12 A: He hadn't seen her in a few days and once he got
13 inside, he noticed his sister was deceased.

14 Q: Alright now, do you recall what time you all
15 received the 911 call and what time you all arrived
16 at the scene?

17 A: May I refer to my notes?

18 Q: Do you have them with you?

19 A: Yes I do. The call came in at 21:05, which is 9:05
20 pm. We arrived on the scene at 21:19, which is 9:19.

21 Q: 9:19 pm?

22 A: That's correct.

23 Q: So it took you about fifteen minutes to arrive?

24 A: That's correct.

25 Q: Alright. Can you kind of describe for me the

1 location in which Ms. Brown's, Cora Brown's house
2 was? I mean, was this a residential area? Was there
3 a lot of houses or are the houses kind of spread out
4 or kind of give me a layout, if you will, of the
5 location of her home.

6 A: Mingle Chandler Road is an isolated road.

7 Q: Yes sir.

8 A: I know that, I'm not sure if there's one or two
9 houses, whether she was the only house on that road,
10 maybe kind of, I say approximately six or seven
11 miles long.

12 Q: Okay.

13 A: And she lived right at the end of it.

14 Q: When you all, when law enforcement arrive on the
15 scene, you often times when you all get these kind
16 of calls, word spreads quickly in the neighborhood
17 about a deceased's body being found?

18 A: That's correct.

19 Q: Alright and often times people just kind of start
20 just showing up?

21 A: That's correct.

22 Q: Alright. Do you recall whether or not any of her
23 neighbor's were outside, kind of showing up so to
24 speak?

25 A: There were a few other people there besides the

Levern McCrea vs. State of South Carolina

91

1 three Browns.

2 Q: Alright now once you arrived at the home of Cora
3 Brown, tell me who all was there that you remember,
4 that you reflected in your report.

5 A: The brother of the victim, Mr. Michael Brown.

6 Q: Yes sir.

7 A: His two sisters, Ms. Francine and Patricia Brown was
8 there.

9 Q: Yes sir. Right, were any personnel from EMS there?

10 A: That's correct. There were two EMS workers were
11 there, as well as Randy Sutton from the fire
12 department.

13 Q: Yes sir.

14 A: He was there as well.

15 Q: Okay, did our coroner actually come out there that
16 night? Do you remember?

17 A: Yes.

18 Q: Harrison McKnight?

19 A: Yes ma'am, it was like near the end.

20 Q: I understand. Now in terms of what your actions
21 would have been that night, when you first arrived
22 at the scene, tell us what you did.

23 A: I first spoke to Mr. Michael Brown and he told me
24 that he had went in through the ...

25 Q: Okay, you can't say what he told you.

1 A: Okay.

2 Q: You spoke with Mr. Brown?

3 A: That's correct.

4 Q: Alright did you also speak to his sisters Francine
5 and Patricia?

6 A: I recall maybe one of them adding on to what Mr.
7 Brown was telling me.

8 Q: I understand. Now, when you arrived at the scene,
9 were they on the inside or the outside?

10 A: On the outside.

11 Q: Alright what about EMS, were they outside the
12 residence or inside the residence?

13 A: They were outside.

14 Q: Alright and sort of tell me what your practice was
15 that night in terms of securing the scene.

16 A: Once I got there, also, Deputy Williams was there
17 also.

18 Q: Okay.

19 A: While I was in route, it was relayed to me that EMS
20 had already stated that the victim had no signs of
21 life.

22 Q: Yes sir.

23 A: And at that time I had them to make sure that
24 everybody leave out the residence and wait for me
25 til I got there.

Levern McCrea vs. State of South Carolina

93

1 Q: Yes sir.

2 A: And at that time I spoke, I speak with Mr. Brown, I
3 had everybody leave the yard, the property and I
4 roped off the yard area.

5 Q: Okay and when you say you roped the yard area, what
6 that means is that you put up the yellow crime tape?

7 A: That's correct.

8 Q: To establish a perimeter around the house?

9 A: That's correct.

10 Q: Alright and of course you went inside the residence?

11 A: I just stepped in the front door.

12 Q: Yes sir.

13 A: Took a look and turned around.

14 Q: When you stepped into the front door, did you see
15 the victim?

16 A: Yes I did.

17 Q: And in what position did you see her?

18 A: She was, she was lying face down.

19 Q: Now, I imagine that often times when people have
20 homicides or other major crimes that you will
21 solicit the assistance of other law enforcement
22 agencies like SLED for example. Is that right?

23 A: That's correct.

24 Q: Alright and SLED stands for South Carolina Law
25 Enforcement Division or State Law Enforcement

1 Division?

2 A: That's correct.

3 Q: Alright and on this occasion, Williamsburg county
4 sheriff's office sought and received the assistance
5 of State Law Enforcement Division?

6 A: That's correct.

7 Q: Alright so folks came from Columbia to help gather
8 certain evidence and take photographs and that sort
9 of thing?

10 A: That's correct.

11 Q: And I believe one of the persons from SLED came to
12 the scene that night would have been a young lady by
13 the name of Vicky Palmer?

14 A: I didn't get anybody's name from SLED.

15 Q: Would you recognize Ms. Hallman if you saw her?

16 A: No, I sure wouldn't.

17 Q: That's fine. Now I believe you note in your incident
18 report that you were later joined by other deputies
19 of the sheriff's department as well?

20 A: That's correct.

21 Q: I think Ms. Brenda Lambert and Mr. Justin Whack and
22 Lt. Jeff Scott?

23 A: Lt. Timmons.

24 Q: Rod Timmons.

25 A: That's correct.

Levern McCrea vs. State of South Carolina

95

1 Q: And Investigator Willie Brown?

2 A: Sergeant Ballard as well.

3 Q: Now also, I note in your report that you gathered
4 people's shoe sizes?

5 A: That's correct.

6 Q: Alright tell us what the purpose of you doing that
7 was?

8 A: So as to establish who all was inside the residence
9 or around the residence.

10 Q: Okay, did you get shoe sizes from Mr. Michael Brown?

11 A: Yes, if I can refer to my notes.

12 Q: Sure.

13 A: I've got a list of everybody's shoe size.

14 Q: Alright tell me about those, please sir.

15 A: Yes I did. Mr. Michael Brown.

16 Q: Who else?

17 A: Ms. Patricia Brown, Francine ...

18 Q: Yes sir.

19 A: Randy Swinton.

20 Q: Now Randy Swinton is who?

21 A: He works for the fire department.

22 Q: Yes sir.

23 A: And EMS workers Mr. Byrd and Ms. Quinn.

24 Q: Ms. Quinn also works for EMS?

25 A: That's correct.

1 Q: And I believe you indicated that Deputy Williams was
2 at the residence?

3 A: That's correct.

4 Q: Now in addition to getting the assistance of SLED
5 that night, did you then turn the case over to one
6 of the investigators with Williamsburg County?

7 A: That's correct.

8 Ms. Barr: Alright that's all of the questions that
9 I have. Please answer any questions of the defense.

10 The Court: Mr. McCrea, do you have any questions of
11 this witness?

12 Mr. McCrea: No I don't Your Honor.

13 The Court: Thank you. You may step down. Any
14 objection to this witness being excused?

15 Ms. Barr: No Your Honor.

16 The Court: Any objection?

17 Mr. McCrea: None Your Honor.

18 The Court: Okay, you are excused.

19 Ms. Barr: We call Christine Green.

20 Clerk: Place your left hand on the Bible and raise
21 your right hand. Do you solemnly swear that the evidence
22 and testimony you will give this Court and jury to be the
23 truth, the whole truth and nothing but the truth, so help
24 you God?

25 A: Yes.

Levern McCrea vs. State of South Carolina

97

1 Ms. Barr: Please the Court Your Honor?

2 The Court: Certainly.

3 DIRECT EXAMINATION OF MS. YOUNG BY MS. BARR:

4 Q: Ma'am please state your full name for the record.

5 A: Christine Green Young.

6 Q: Christine Green Young. Alright tell us where you
7 live.

8 A: Nesmith.

9 Q: Okay and how long have you lived at that address?

10 A: After I got married, I lived in Georgetown before I
11 moved back there, five years.

12 Q: Alright now I typically don't ask a woman this, but
13 I'm going to go ahead and ask you. How old are you?

14 A: Forty.

15 Q: Forty, okay. Of course you know the Defendant Levern
16 McCrea?

17 A: Uh-huh.

18 Q: I need you to say yes or no.

19 A: Yes.

20 Q: Alright and how is it that you know him and how long
21 have you known him?

22 A: All my life. His mama and my mama are sisters.

23 Q: Alright so he's your cousin?

24 A: Yes.

25 Q: Alright now, in terms of his location, do you know

1 where he's lived most of his life?

2 A: New Haven, Connecticut.

3 Q: Alright and at some point did he move to South
4 Carolina?

5 A: Yes.

6 Q: Okay, how many years ago do you think that's been?

7 A: I guess probably four or five years. Maybe a little
8 longer; I'm not quite sure.

9 Q: And where did he live in South Carolina when he
10 moved from New Haven, Connecticut.

11 A: I think it's ■ Gemstone Lane.

12 Q: It's on the same street as you?

13 A: Yes.

14 Q: Alright and do you know the victim in this case,
15 Cora Brown?

16 A: Yes.

17 Q: Okay and how did you know her?

18 A: Her aunt, well we have the same aunts.

19 Q: Okay, so you all are actually related to her as
20 well?

21 A: Yes.

22 Q: Now, how long have you known, how long did you know
23 Ms. Cora?

24 A: For a long time.

25 Q: Okay, what's a long time? More than ten years?

Levern McCrea vs. State of South Carolina

99

1 A: Yes.

2 Q: More than twenty?

3 A: Yes.

4 Q: How often did you speak to her or see her?

5 A: Not too often. Every now and then I would run into
6 her probably at a gas station or down the street.

7 Q: I'm going to take you to the middle of March and
8 then I need to take you back earlier, but let me
9 take you to the middle of March. On Thursday, March
10 12th or on Friday March 13, 2009, did you receive a
11 telephone call indicating that the police had
12 discovered Cora Brown's body?

13 A: On that Thursday.

14 Q: On that Thursday?

15 A: Uh-huh.

16 Q: Make sure you, remember, make sure you say yes or no
17 and not uh-huh and huh-uh. Okay? That's fine, I'll
18 stop you from time to time. I'm going to show you
19 what's been admitted as State's exhibit 1. Is that a
20 calendar from March of 2009? Does that appear to be
21 what that is?

22 A: Yes.

23 Q: Okay, Alright make sure you keep your voice up. Is
24 that a calendar from March of 2009?

25 A: Yes.

1 Ms. Barr: Permission to publish?

2 The Court: Certainly.

3 Q: Alright you indicated that you received a call on
4 that Thursday?

5 A: Yes.

6 Q: Is that March 12th?

7 A: Yes.

8 Q: Alright. And prior to that time, in terms of
9 receiving the call, within the last say six months,
10 so if we go back to say September of 2008, how often
11 had you seen the Defendant Levern McCrea?

12 A: Every once in a while.

13 Q: Now based on the address that you gave me, you all
14 were pretty much neighbors.

15 A: Yeah, I was next door.

16 Q: Okay, did you see him at least once a week?

17 A: Not every day.

18 Q: Okay, did you all ever socialize together in terms
19 of having a drink or going some place or anything
20 like that?

21 A: Yes, we were at my cousin Calinda a couple of times.

22 Q: Calinda is your cousin?

23 A: Uh-huh, yes.

24 Q: Now did there ever become a point in time, before
25 March 12, 2009 that the Defendant Levern McCrea had

Levern McCrea vs. State of South Carolina

101

1 a conversation with you about people that he
2 disliked?

3 A: Yes.

4 Q: Alright tell us about that conversation and tell us
5 when it took place.

6 A: We were out at my cousins house in Andrews.

7 Q: Now when you say we, who are you talking about?

8 A: Me and him.

9 Q: You and Mr. McCrea, the Defendant?

10 A: Yes.

11 Q: Go ahead.

12 A: And he, you know, named a couple of people, you
13 know, that he was going to get.

14 Q: He actually used the word that he was going to get?

15 A: Yes.

16 Q: Now what did he mean when he said that he had a
17 couple of people that he was going to get?

18 A: That's taking them out.

19 Q: Okay, and what did he say to you? Whose names did he
20 call? Take your time.

21 A: His mama, sister, Carmen and a couple of others I
22 can't remember they names.

23 Q: Now you said he said he was going to get his mama?

24 A: And his sister.

25 Q: And his sister. Do you know which sister he was

1 talking about?

2 A: Stephanie.

3 Q: Stephanie?

4 A: Yes.

5 Q: Where does Stephanie live if you know?

6 A: On Sandhill Road. I can't remember the address.

7 When you come in Andrews.

8 Q: Okay and you said Carmen?

9 A: Yes.

10 Q: Alright now who is Carmen? Is he related to you all
11 in any way?

12 A: He stayed on the same road that we live on.

13 Q: And when you say Carmen, you're talking about Carmen
14 Presley?

15 A: Yes.

16 Q: Did he call the victim's name, Cora Brown?

17 A: Yes.

18 Q: And he called her name in reference to what
19 specifically?

20 A: He didn't say, I mean, her name was the last one.

21 Q: And again, are we talking about the people he said
22 he wanted to get?

23 A: Yes.

24 Q: Alright. As it relates to the victim, Cora Brown,
25 did he tell you why he wanted to get her?

Levern McCrea vs. State of South Carolina

103

1 A: No he didn't.

2 Q: Alright who told you that Cora's body was found?

3 A: My mom, Audrey.

4 Q: What was your reaction when you learned that Cora's
5 body had been found?

6 A: I cried.

7 Q: Did you share with anyone in your family the
8 statement that the Defendant had made to you about
9 Cora Brown?

10 A: Yes.

11 Q: Okay, who did you tell?

12 A: My mama, my sister and some of my cousins.

13 Q: Okay, why did you share that information with them?

14 A: Because it hurt me.

15 Q: Now, have you ever told the Defendant Levern McCrea
16 that you told your family members about the threat
17 that he had made against Cora?

18 A: Yes.

19 Q: Okay and when you told him that, was it before or
20 after Cora was killed?

21 A: After.

22 Q: Okay, so after Cora was killed and her body was
23 found, you told him that you mentioned what he said
24 to your mom and your sister?

25 A: Yes.

1 Q: What was his reaction when you told him that?

2 A: He told me, he said no you didn't cuz. And I said
3 yes I did told them and then he told me you know you
4 just caused me life and death in prison.

5 Q: Alright now, when you received the call about the
6 police having found Cora's body, who was with you
7 other than the Defendant Levern McCrea?

8 A: Christopher Briggs.

9 Q: Christopher Briggs?

10 A: Yes.

11 Q: What do y'all call him?

12 A: Quan.

13 Q: Y'all call him Quan. Alright now is he related to
14 you as well?

15 A: Yes ma'am that's my step nephew.

16 Q: That's your step nephew, Quan is?

17 A: Yes.

18 Q: At some point after Ms. Brown's body was found, Ms.
19 Green, do you want me to call you Ms. Green or Ms.
20 Young? You want your married name?

21 A: Young.

22 Q: Okay, alright, Ms. Young, did you have a
23 conversation with any of the deputies from the
24 Williamsburg County Sheriff's Office?

25 A: Yes.

Levern McCrea vs. State of South Carolina 105

1 Q: And did you share with them the statement that Mr.
2 McCrea made before Ms. Brown was killed? Cora Brown
3 was killed?

4 A: Yes.

5 Q: Okay, alright, okay. After she was killed was when
6 you had the conversation with law enforcement?

7 A: Yes.

8 Q: Did you tell them what you told the jury just now,
9 in terms of what Mr. McCrea said?

10 A: Yes.

11 Q: Okay and when you are talking about Mr. McCrea, the
12 Defendant, we're talking about the man that's seated
13 there at the defense table correct?

14 A: Yes.

15 Q: Did you have any further discussions with Mr. McCrea
16 after the body of Cora Brown was found?

17 A: No I didn't.

18 Q: Was that at your urging or his urging or y'all just
19 didn't happen to see each other any more after that?

20 A: No he didn't want nothing to do with me. I was no
21 longer his family.

22 Q: And Ms. Young you were subpoenaed in this case? Is
23 that correct?

24 A: Yes.

25 Q: You were subpoenaed to come to Court?

1 A: Yes.

2 Q: Okay.

3 Ms. Barr: Beg the Court's indulgence.

4 The Court: Yes ma'am.

5 Q: Let me just ask you a couple of follow up questions.

6 When you all had the conversation, you and the

7 Defendant had the conversation about all these

8 people that Mr. McCrea wanted to get rid of, do you

9 recall where you all were physically?

10 A: We on our way going to Calinda's.

11 Q: Okay, so Calinda's house?

12 A: Yes.

13 Q: All right. When you had the conversation with him

14 where he said oh no you didn't cuz. You just caused

15 me life or death in prison, where were you all at

16 physically when you had the conversation?

17 A: I was at my house and he was at his house.

18 Q: Okay well how did y'all have that conversation if

19 you were at your house and he was at his house? Did

20 ya'll meet up at some point, or?

21 A: No, I called him on my cell phone.

22 Q: Okay, okay, I got it.

23 Ms. Barr: Alright that's all the questions that I

24 have Ms. Young. Please answer any he may have.

25 The Court: Alright Mr. McCrea, do you have any

Levern McCrea vs. State of South Carolina

107

1 questions of cross examination of this witness?

2 Mr. McCrea: Yes I do.

3 The Court: You may stand.

4 Cross Examination of Ms. Young by Mr. McCrea:

5 Q: Ms. Green, you've hated Mr. McCrea for many years
6 haven't you?

7 A: What?

8 Q: You've really hated Mr. McCrea for many years
9 haven't you?

10 A: No I didn't.

11 Q: Ms. Green, when did Mr. McCrea ever tell you to your
12 face that he was going to kill his own mother?

13 A: You told me.

14 Q: My own, his own mother?

15 A: Yes.

16 Q: His own mother who gave birth to him?

17 A: Yes.

18 Q: You're a liar.

19 The Court: Sir ...

20 Ms. Barr: Judge, we move to strike.

21 The Court: You can't make editorial comments.

22 Ms. Barr: We move to strike that comment.

23 The Court: It's stricken.

24 Q: Ms. Green, when did Mr. McCrea ever tell you out of
25 his own mouth that he was going to kill his own

1 sister?

2 A: You told me and I wasn't the only one you told that.

3 Q: Ms. Green, when did Mr. McCrea tell you that he was
4 going to kill Carmen Pressley?

5 A: It was a month before this happened. Me and you
6 were going to Andrews and you mentioned a couple of
7 names who you were going to get.

8 Q: You stated a month before this happened?

9 A: Yes.

10 Q: Well that's impossible Ms. Green, because ...

11 Ms. Barr: Objection, to the Defendant testifying.

12 The Court: Sustained.

13 Mr. McCrea: Your Honor, if I may, during that time I
14 was ...

15 Ms. Barr: Objection Judge. He can't testify.

16 The Court: You can't testify, sir. You're asking
17 questions.

18 Mr. McCrea: Yes sir, I understand.

19 Q: When did Mr. McCrea ever tell you out of his own
20 mouth that he was going to kill Ms. Cora Brown, Ms.
21 Green?

22 A: A month before this happened.

23 Q: Ms. Green, if Mr. McCrea had really told you that he
24 was going to kill all of these people, then why
25 would you be hanging out with someone that's talking

Levern McCrea vs. State of South Carolina

109

1 about killing multiple people?

2 A: If I knew that this already had happened, I wouldn't
3 have never ride to Andrews that day.

4 Q: You said ...

5 A: Cause it came in my mind, her name was one of the
6 names you called and I said I hope to God that you
7 didn't do it.

8 Q: That's not what you just stated. You said, you told
9 them a few minutes ago that I told you, now you
10 saying you hope to God I didn't say it.

11 A: No, I said I hope to God you didn't do it, because
12 you called her name.

13 Q: But you stated and you spoke with two investigators
14 stating that I told you, so you're contradicting
15 yourself in what you're saying now Ms. Green.

16 A: You mentioned her name to me and multiple other
17 peoples names to me.

18 Q: Ms. Green, isn't the only reason you're doing this
19 is because of the lottery money?

20 Ms. Barr: Objection, Judge, we move to strike. The
21 defendant can't make comments like that.

22 The Court: He can ask --- you can ask leading
23 questions.

24 Mr. McCrea: Thank you Judge.

25 The Court: Overruled.

1 Q: Ms. Green, you and some family members have always
2 tried to destroy me. Is that true?

3 A: No it's not.

4 Q: Ms. Green, as long as Mr. McCrea's lending you his
5 car, taking you to the store, taking one of your six
6 kids to an after school program or taking you to
7 meet some guy down the street, or buying you
8 something to drink or lending you some money,
9 because other than that, you could care less about
10 Mr. McCrea? Isn't that true?

11 A: No, it's not.

12 Q: Ms. Green why you telling these lies today?

13 A: I did not lie. I care about you as my cousin. I
14 just don't know.

15 Q: Ms. Green, you've done a lot of hateful things in
16 the past ...

17 Ms. Barr: Judge, move to strike.

18 The Court: Sustained.

19 Q: Ms. Green, do you drink alcohol every day?

20 A: No, I don't.

21 Q: Were you drinking yesterday?

22 A: Yeah, I had a couple yesterday.

23 Q: Have you been drinking today?

24 A: No.

25 Q: Are you an alcoholic?

Levern McCrea vs. State of South Carolina

111

1 A: No.

2 Q: Do you drink every day?

3 A: I drink every once in a while.

4 Q: Ms. Green, so basically, all you've ever done is use
5 Mr. McCrea for what he can do for you throughout the
6 years. Isn't that true?

7 A: No, it's not. I haven't every even bothered you.

8 Q: Well, was you ...

9 A: I didn't bother you.

10 Q: Ms. Green, when you and your husband needed a car to
11 drive, who did you come to?

12 A: I mean if I need a ride, if I needed to go
13 somewhere.

14 Q: Whenever you needed to go somewhere to gamble at one
15 o'clock in the morning, who did you come to?

16 Ms. Barr: Judge, I hate to keep objecting, but again
17 I have to protect the record and object on the relevance.

18 Mr. McCrea: Your Honor, I'm asking ...

19 The Court: That is an irrelevant question and I'm
20 going to strike it.

21 Q: What the bottom line is Ms. Green is the fact that
22 money is an issue and your gambling habits and
23 alcoholism plays a big part in your attempt to try
24 to destroy me, despite all the help that I've done
25 for you, because you got ...

1 Ms. Barr: Judge, again ...

2 The Court: I'm going to let her answer that
3 question.

4 A: Levern, you've hardly even done anything for me. If
5 anything, you come to my house and want this or I
6 feed you. I look out for you.

7 Q: Ms. Green, isn't it true, because of your gambling
8 habits ...

9 A: Ain't no gambling habit. I don't have no gambling
10 habit.

11 Q: Ms. Green, is it true that one day your kids didn't
12 have any food and they had to come to me because of
13 your gambling habits? Isn't that true?

14 A: No, it's not.

15 Q: Ms. Green ...

16 A: My refrigerator is full of food right now.

17 Q: Your husband called me and asked me ...

18 Ms. Barr: Judge, we're going to have to ...

19 The Court: Sustained. You cannot say what he say,
20 even on cross examination, sir.

21 Q: Ms. Green, I know you've hated me for some years and
22 you've used me for whatever I could have done for
23 you, but you are lying up here today.

24 A: Levern, I never hated you. I love you as my cousin.

25 Mr. McCrea: No further questions.

Levern McCrea vs. State of South Carolina

113

1 The Court: Thank you. Any re-direct?

2 Ms. Barr: No Your Honor.

3 The Court: Alright thank you. You may step down.

4 Ms. Barr: Your Honor we'd ask that this witness be
5 excused.

6 The Court: Okay, any objection to this witness being
7 excused Mr. McCrea?

8 Mr. McCrea: No, none at all Your Honor.

9 The Court: Thank you ma'am.

10 Ms. Barr: Judge, the next witness we are going to
11 call for the state will be a lengthy witness and I don't
12 know whether or not the court wants to ...

13 The Court: Alright if that's the case, why don't we
14 just go ahead and take an early lunch. Ladies and
15 gentlemen I'm going to dismiss you for lunch with the
16 instruction that you not speak to anyone or speak amongst
17 yourself on what you have heard. Why don't you be back
18 here just a little bit before 1:30 and we will begin at
19 that time. Alright thank you.

20 {Jury break 11:59}

21 The Court: Alright court will be in recess until one
22 thirty. Let me make one change in how we're doing this.
23 I'm going to sit the podium out in the middle here. You
24 will do your questioning from the podium.

25 Ms. Barr: Yes sir.

1 The Court: And you will do your cross examining. The
2 way it was some of the jurors couldn't hear, I don't
3 think, so I'm going to have you direct your examination
4 cross examination from the podium ...

5 Ms. Barr: Yes sir.

6 The Court: Alright thank you.

7 Ms. Barr: Your Honor may I also just note for the
8 record that I provided Mr. McCrea with a copy of Michael
9 Brown's rap sheet, Patricia Brown's rap sheet and
10 Christine Young's rap sheet and none of them have
11 criminal records. I just wanted to make sure that was on
12 the record.

13 The Court: Alright thank you. Alright court's in
14 recess until one thirty.

15 **10-18-11GS.PM**

16 The Court: Let's bring the jury back in.

17 (Jury enters courtroom 1:34 p.m.)

18 The Court: All right, Ladies and Gentlemen, I hope
19 you had a nice lunch. I always caution jurors not to eat
20 really big lunches. One afternoon in the last court term
21 we had, I noticed one of the jurors head was kind of
22 bobbing a little bit so I stopped and asked everybody to
23 stand up. Well, all but one stood up. So, we'll try to
24 take enough breaks so everyone is comfortable. Is the
25 State ready to proceed?

Levern McCrea vs. State of South Carolina

115

1 Ms. Barr: State is ready to proceed.

2 The Court: Defense ready to proceed?

3 Mr. McCrea: Defense is ready.

4 The Court: All right you may call your next
5 witness.

6 Ms. Barr: We call Christopher Briggs.

7 Clerk: Place your left hand on the Bible and raise
8 your right hand. Do you solemnly swear that the evidence
9 and testimony you will give this court and jury will be
10 the truth, the whole, truth and nothing but the truth so
11 help you God?

12 Mr. Briggs: Yes ma'am.

13 Clerk: Have a seat in the witness box.

14 (Witness complies)

15 Ms. Barr: May it please the court?

16 The Court: You may proceed.

17 Ms. Barr: Thank you, Your Honor.

18 Mr. Briggs - Examination by Ms. Barr:

19 Q: Mr. Briggs state your full name for the record.

20 A: My full name is Christopher Briggs.

21 Q: And how old are you Mr. Briggs?

22 A: I am 33 years old.

23 Q: Do you work?

24 A: Yes.

25 Q: Where do you live. What part of, do you live in

1 Williamsburg County or Georgetown County?

2 A: I live in Georgetown County.

3 Q: And how long have you lived in the State of South
4 Carolina?

5 A: All my life.

6 Q: All right. Do you have any children?

7 A: Yes I do.

8 Q: All right how many children do you have?

9 A: I have four.

10 Q: All right. Do you know the defendant Levern McCrea?

11 A: Yes I do.

12 Q: Tell the jurors how it is that you know the
13 defendant?

14 A: I know Levern through, being that my mom is married
15 to their cousin and ever since then we have known
16 each other since then.

17 Q: How many months or years has it been since you've
18 known him?

19 A: I've known him for twenty years.

20 Q: Did the two of you ever work at the same place?

21 A: We worked one time through the same company but we
22 never actually worked the same place.

23 Q: And which company is that?

24 A: That was Able Body Labor.

25 Q: That's out of Conway, Myrtle Beach area?

Levern McCrea vs. State of South Carolina

117

1 A: Yes.

2 Q: Now what about the victim in the case, Ms. Cora
3 Brown, did you know her?

4 A: No ma'am I only know her, Mr. Brown's mother.

5 Q: Which Brown's mother?

6 A: Her son. Brian.

7 Q: Brian Brown? Okay. Now do you know any of the
8 victim's sisters, Ms Francine or Ms. Patricia?

9 A: I know Ms. Francine and worked with her when I was
10 staying in Nesmith in 2009.

11 Q: Now prior to March 2009, did you and the defendant
12 ever socialize together? Did ya'll, I may be using
13 a fancy word, did ya'll hang out in other words?

14 A: You saying me and Levern?

15 Q: Yes.

16 A: We been together. We hang out.

17 Q: Did you go different places, maybe have a drink or
18 two? You would ride to difference places together?

19 A: We never hit a club together.

20 Q: Okay.

21 A: We just get a couple of drinks and maybe stop at a
22 few of our people's.

23 Q: Okay. Now in addition to you riding with the
24 defendant on occasion, occasions prior to March of
25 2009, did you also ride with Christine Greene?

1 A: Yes I did.

2 Q: So the three of you on occasion would hang out and
3 socialize together? When I say the three of you, I
4 mean you, Christine and the defendant.

5 A: That was the only additional day was when we made a
6 car payment. That was the only additional day.

7 Q: Okay. All right. Up until March of 2009, how did
8 you get along with Mr. McCrea?

9 A: We were good.

10 Q: You got along all right?

11 A: Yes.

12 Q: Never had any controversy or anything like that?
13 Conflict between the two of you?

14 A: No ma'am.

15 Q: All right, at some point prior to, I guess say March
16 the 10th, March the 11th of 2009, did you have a
17 conversation with the defendant Levern McCrea about
18 the victim Cora Brown?

19 A: Um.

20 Q: Wait a minute. First of all, answer the question.
21 Was there a conversation between the two of you
22 about Cora Brown?

23 A: Yes.

24 Q: Yes all right. Now, tell the jurors what the
25 substance of that conversation was.

Levern McCrea vs. State of South Carolina

119

1 A: The conversation was about she was going, well he
2 said that she was going around ...

3 Q: Mr. Briggs, hold on. When you say he, I need you to
4 be clear when you say he said.

5 A: Levern.

6 Q: Okay. The defendant?

7 A: Yes. Said that he was going around calling him a
8 faggot.

9 Q: Okay.

10 A: And that he didn't like that.

11 Q: Okay. All right.

12 A: That's basically what was said about Ms. Cora, that
13 she said that he was a faggot.

14 Q: Did he ever tell you or express to you in any way
15 what he wanted or intended to do about her because
16 she called him a faggot?

17 A: At one point in time, he did say that he wanted to
18 speak with her about the situation.

19 Q: All right, can you tell us what his demeanor was,
20 his state of mind was when he told you that Cora was
21 going around calling him a faggot? I mean was he
22 happy to hear that, sad, unemotional about it?

23 A: He was very emotional about the situation.

24 Q: In what terms when you say emotional, what do you
25 mean?

1 A: He was upset.

2 Q: All right, now did the defendant make any other
3 statements to you about his sister, his mother, or a
4 fellow by the name of Carmen Presley?

5 A: Yes he did.

6 Q: Tell us about that.

7 A: Okay he made a statement to me after the incident.
8 He told me that if he was to go down for this crime
9 that he ...

10 Q: Wait, we don't want to talk about after, after the
11 incident.

12 A: Okay.

13 Q: I mean before, did he tell you ...

14 A: Yeah he did.

15 Q: I'm not talking about after her body was found, I'm
16 talking about before. We will get to that later.

17 A: Before the body, I mean before this he told me that
18 he, you know, he wanted to hurt Carmen.

19 Q: Okay.

20 A: You know because, you know, he was laughing up in
21 his face trying to play him, you know what I'm
22 saying in front of people.

23 Q: Carmen Presley was?

24 A: Yes, it was.

25 Q: And again when you say he was laughing up in his

Levern McCrea vs. State of South Carolina

121

1 face trying to play him, you're talking about the
2 defendant?

3 A: Yes ma'am.

4 Q: All right. What if any statements did the defendant
5 make about his mother or his sister prior to the
6 death of Cora Brown?

7 A: He said that he wanted me to shoot his sister.

8 Q: All right, let me take you back to the week of
9 March, I guess the 9th would be that Monday. Were
10 you with the defendant the week that Cora Brown's
11 body was discovered?

12 A: Yes ma'am.

13 Q: Were you with him, in his company?

14 A: Yes ma'am.

15 Q: During that or before that week, did the defendant
16 ever work in Anderson, South Carolina? To your
17 knowledge?

18 A: Yes he did.

19 Q: How far is that from Mt. Olive, North Carolina? If
20 you know.

21 A: About five and a half hours.

22 Q: You testified that you were in the defendant's
23 company the week that Cora Brown's body was
24 discovered? Is that correct?

25 A: Yes I did.

1 Q: What were you doing that week?

2 A: On March 10, 2009, Mr. Levern left me at his
3 residence and he left and said I will be right back.

4 Q: On March 10, 2009, was that a Tuesday?

5 A: Yes it was.

6 Q: Okay please continue.

7 A: And he left and he came back and he was like let's
8 take a ride. And I said for what? He said she
9 didn't send me all the money. She only sent me
10 twenty dollars. So he was going ...

11 Q: Slow down. I don't mean to interrupt you but I need
12 to make sure I understand what you're saying. When
13 he said "she didn't send him all the money" who was
14 he talking about?

15 A: Ms. Roberta Smith.

16 Q: Okay who is Roberta Smith to him?

17 A: His baby's mother.

18 Q: All right. Where does Roberta live?

19 A: In Mount Olive, North Carolina.

20 Q: All right. Prior to March the 10th of 2009, had you
21 ever gone to Mount Olive, North Carolina?

22 A: No.

23 Q: Okay please continue where you left of. You said
24 she didn't send me all the money. Please continue.

25 A: He said she didn't send him all the money and he was

Levern McCrea vs. State of South Carolina

123

1 going down there to see what was going on so we
2 left. We gassed up and we got on the way and went
3 through Florence and got on 95.

4 Q: Okay.

5 A: On our way traveling, we stopped by McDonald's over
6 in Lumberton.

7 Q: All right, now who was driving when you all went to
8 North Carolina?

9 A: He was.

10 Q: And was it his vehicle that he was driving or was it
11 your vehicle?

12 A: It was his vehicle.

13 Q: And what kind of vehicle was it?

14 A: It was a Mercedes, gray one.

15 Q: A gray Mercedes?

16 A: Yes.

17 Q: All right and you've indicated that this would be
18 the first time you would have gone to his baby's
19 mother's house?

20 A: Yes ma'am.

21 Q: And you all stopped at a McDonald's in Lumberton,
22 North Carolina?

23 A: Yes we did.

24 Q: Was anybody in the vehicle with the two of you?

25 A: No just us.

1 Q: All right please continue.

2 A: And when we left there, we went to the drive-thru
3 and when we left there, we went on to Mount Olive
4 where she stayed and he called her.

5 Q: All right slow down. And what time was it, if you
6 remember, when you got to the McDonald's?

7 A: It was between the hours of 10 or 11:00 that
8 morning.

9 Q: All right and he drove straight from the McDonald's
10 to Mount Olive?

11 A: Yes he did.

12 Q: Do you recall how long it took you to get from
13 Lumberton to Mount Olive?

14 A: Apparently about an hour and a half maybe.

15 Q: All right tell me what happened when you all arrived
16 in Mount Olive.

17 A: When we arrived in Mount Olive, we stopped by a gas
18 station, close by her house, Ms. Roberta's house.

19 Q: Yes, sir.

20 A: And you know, he wiped off, I helped him wipe off
21 his car while we was waiting on her. I believe she
22 was at work or something like that or school or
23 something cause she had moved. He never had been to
24 her house where she had moved at.

25 Q: Yes, sir.

Levern McCrea vs. State of South Carolina

125

1 Q: She told him where she was at and she meet him
2 there, and after she meet him there, we went back to
3 her place.

4 Q: Now, Roberta met you and the defendant at some gas
5 station to show you all how to get to her house?

6 A: Yes she did.

7 Q: Do you recall the type of vehicle she was driving?

8 A: She had a Chevy white two door blazer.

9 Q: All right and you said she might have come from
10 work?

11 A: Work or school or something.

12 Q: Do you know what kind of work she did?

13 A: I think it was nursing or something like that.

14 Q: All right tell me what she did after she met you
15 all.

16 A: We went back to her place.

17 Q: Okay.

18 A: And after going back to her place, we went inside
19 and he went and talked to her for a few and I was
20 like man, we got to go to the store to get me
21 something to drink.

22 Q: Okay.

23 A: So he let me use his car because the store was right
24 up the street.

25 Q: Okay.

1 A: So I went to the store and I came back and that's
2 when he was like look man, you know, the movie's
3 right here. Go ahead and kick back and I'll be back
4 out here after while.

5 Q: All right let me understand what you're saying
6 because your voice is kind of leaving me a little
7 bit. You went to the store and came back and he
8 told you the movie's are right here?

9 A: Yes.

10 Q: This was at Roberta's house?

11 A: Yes it was.

12 Q: So he offered for you to watch some movies?

13 A: Yes. He went off to the room with her, Ms. Roberta?

14 Q: Were there any children at the home when you and Mr.
15 McCrea first arrived there?

16 A: No ma'am.

17 Q: All right tell me what happened next.

18 A: And then after they came out the room and whatnot,
19 she had went and got her kids because it was after
20 school being out and then she left the home, they
21 left the home ... no she left home and she went to
22 got her kids. We sat in the living room and watched
23 tv and drank. After, you know being there for a
24 while, because when she went out, I gave her my card
25 to use to get me something from the store.

Levern McCrea vs. State of South Carolina

127

1 Q: What kind of card?

2 A: My EBT card.

3 Q: EBT Card, okay.

4 A: And she came back and said it didn't work.

5 Q: All right at some point during the course of that
6 day, did you and the defendant leave North Carolina?

7 A: Yes we did.

8 Q: Now was it that day or the next day or do you know?

9 A: We left that afternoon. It was about dark.

10 Q: What was the purpose in leaving North Carolina?

11 A: Well, he said he wanted to tow his vehicle that he
12 had in Anderson.

13 Q: He wanted to tow his vehicle that he had in
14 Anderson?

15 A: Yes he had a Lincoln in Anderson that he wanted to
16 toll because he asked me can I get a dolly?

17 Q: A what now?

18 A: A dolly.

19 Q: A dolly, okay.

20 A: I told him my uncle got one. So he was like okay.

21 Q: Where was he supposed to tow his vehicle too?

22 A: Back to his residence in Sandhill.

23 Q: All right now when you all left, whose vehicle were
24 you driving at the time you left?

25 A: Ms. Roberta's.

1 Q: All right were you driving or was the defendant
2 driving?

3 A: He was driving.

4 Q: Do you know how it is or why it is that he, when he
5 left Roberta's house that he was driving her vehicle
6 as opposed to his vehicle?

7 A: Well the only reason why was because he said he
8 wanted to tow his car.

9 Q: Did she have a tow trailer on her car?

10 A: Yeah he hook a hitch up to it.

11 Q: Oh a hitch, I understand. Tell me what happened
12 when you all left her house and about what time was
13 it when you all left?

14 A: When we left her house, I told him to stop by Family
15 Dollar, Dollar General or whatnot so I can get
16 something on my EBT card.

17 Q: So you can do what now?

18 A: So I can get some food and drink on my EBT card. He
19 was like okay we can stop. So I got some chips and
20 something to drink.

21 Q: Okay.

22 A: After we got that, you know, we proceeded to leave
23 and, you know, get back on the highway.

24 Q: Okay.

25 A: After that, you know, we were drinking and whatnot.

Levern McCrea vs. State of South Carolina

129

1 Q: You say you were drinking? What were you drinking?
2 Alcohol?

3 A: Yes we was.

4 Q: Where'd you all get the beer from?

5 A: I get the beer form the store. I got like three or
6 four quarts.

7 Q: From the Family Dollar?

8 A: No from the store earlier.

9 Q: Okay I understand. So both of you were drinking?

10 A: Yes we was.

11 Q: Were you all doing any drugs?

12 A: I wasn't doing any drugs. he was.

13 Q: Okay what was he doing?

14 A: He had like a blunt, add a little bit, you know take
15 the back off the blunt and put a little bit in it
16 and put some powder in it.

17 Q: Little bit of what?

18 A: He put powder in it and he put a little bit of
19 tobacco inside the blunt.

20 Q: Now, you say a little bit of powder. Powder what?

21 A: Cocaine.

22 Q: All right was he smoking it at the time?

23 A: Yes.

24 Q: This didn't effect his ability to drive?

25 A: No.

1 Q: All right tell me what happened after you all got on
2 the interstate or the highway as you describe it?

3 A: Okay after being on the highway for a while, I dose
4 off and when I awoke I noticed that I was in Ms.
5 Cora's yard.

6 Q: Okay.

7 A: When I noticed I was in Ms. Cora's yard, I heard a
8 gun shot.

9 Q: Okay.

10 A: So I kind of panic a little bit and I'm looking
11 around and I didn't see Levern in the vehicle.

12 Q: What part of the vehicle were you in when you heard
13 the gun shot?

14 A: I was in the front of the vehicle.

15 Q: Driver's seat or passenger's seat?

16 A: Passenger.

17 Q: So you say that you heard a gun shot and you looked
18 around and you noticed that the defendant was not in
19 the vehicle.

20 A: Yes.

21 Q: And then what happened?

22 A: I was looking around and whatnot there was a mac
23 truck came by first and then another car came by.
24 When the other car came by that's when I heard
25 several other shots.

Levern McCrea vs. State of South Carolina

131

1 Q: All right now slow down for a minute. Was it dark
2 dark by this point or was light out or what?

3 A: It was dark.

4 Q: You said you heard a gun shot.

5 A: Uh-huh.

6 Q: Where was the noise of the gun shot coming from?

7 A: It was coming from the house.

8 Q: From Ms. Cora's house?

9 A: Yes.

10 Q: Now tell me how the houses are situated where Ms.
11 Cora lives. Are there houses right by each other
12 like in a suburban type neighborhood?

13 A: No, these are houses like you get to the stop sign
14 and take 512, there's a house, actually turn left on
15 512 there's a house to the left and then there's a
16 house right here when you make a right, right at the
17 other intersection, it's alike you make your right
18 and you make a quick left there's a house right here
19 and a house right in front of it.

20 Q: When you heard the first gun shot, you indicated
21 that you panicked.

22 A: Yes.

23 Q: Why didn't you just get out the car and run?

24 A: Because there was a few cars coming. Living in the
25 country, the first thing, if they see my face they

1 would have put me there at that scene and said that
2 I did that.

3 Q: Okay. All right now I'm going to publish some
4 photographs that were previously admitted into
5 evidence. States exhibit number four and five.

6 Ms. Barr: If it please the court, Judge, I'm publishing
7 states four and five.

8 The Court: All right. Admitted without any objection.

9 Q: Okay is this a photograph of Ms. Brown's front yard?

10 A: Yes it is ma'am.

11 Q: When you heard the first gun shot and it startled
12 you, did you happen to see, well first of all did
13 you know Ms. Cora's types of vehicles that she owns?

14 A: Well I never known the vehicles. I only seen those
15 two vehicles in the yard.

16 Q: Okay those were the two vehicles that were in the
17 yard at this time?

18 A: Yes.

19 Q: Okay from this photograph, can you see it from where
20 you are?

21 A: Yes I can.

22 Q: Okay can you tell in that photograph, can you show
23 in that particular photograph, where Ms. Smith's
24 vehicle was parked when you heard gun shots?

25 A: It was parked on the left side where that burgundy

Levern McCrea vs. State of South Carolina

133

1 car, near the road. Over there, right.

2 Q: Here?

3 A: Over there.

4 Q: I tell you what, let me do this. Let me get you to
5 step down for a moment if you will.

6 The Court: Please speak loudly when you're down there
7 because you don't have a microphone.

8 Q: All right you stand over here and make sure to keep
9 your voice up so we can hear. Is it visible on that
10 particular picture where you all were parked? Can
11 you see it on that particular picture?

12 A: No ma'am.

13 Q: All right can you give us a general direction of
14 where you would have been parked when you heard the
15 gun shots?

16 A: I was parked on this side over here, on this side of
17 the vehicle facing the road. The front was facing
18 the road.

19 Q: The front was facing the road?

20 A: Yes.

21 Q: And that's in front of Ms. Smith's vehicle?

22 A: Yes.

23 Ms. Barr: All right I'm going to publish states
24 five.

25 Q: Does that indicate, is that a little better view of

1 where you all would have been parked?

2 A: Yes it is.

3 Q: All right can you point to the jury and tell them
4 where Ms. Smith's vehicle was parked?

5 A: Right here.

6 Q: All right and you indicated about the burgundy
7 vehicle. You said it was to the left of the
8 burgundy vehicle?

9 A: That is correct.

10 Q: And the front of the vehicle, Ms. Smith's vehicle
11 was facing the roadway.

12 A: Yes.

13 Q: Okay you see the burgandy vehicle that you were
14 talking about?

15 A: Yes.

16 Q: All right. Stay with me for a minute. All right
17 you indicated that shortly after you heard the first
18 gun shot, you heard several more.

19 A: Yes ma'am.

20 Q: All right then what happened?

21 A: A couple moments later, Levern came out the house
22 out the front door and he had a bag in his hand and
23 a little small purse.

24 Q: All right you can have a seat. All right when he
25 came out of the door, can you tell us which door he

1 came from?

2 A: He came out of the front door.

3 Q: Now we saw in this photograph, there seems to be a
4 little porch area there.

5 A: Yeah.

6 Q: Did he come out of that door that the porch is
7 around?

8 A: Yes.

9 Q: All right and when he came out, was he walking out
10 of normal like I'm kind of walking now or was there
11 speed in the way he walked?

12 A: He was walking with a little speed, but not quite
13 that fast.

14 Q: And you indicated that when he came out, he said
15 something with him.

16 A: Yes he did.

17 Q: And my attention was diverted for a second, so tell
18 me what he had again?

19 A: He had a black bag and a little purse. Something
20 like I see my mothers has one that you put your
21 little cards in a little tote purse.

22 Q: Do you recall what color it was?

23 A: I think it was black or brown.

24 Q: Okay. And I'm going to hand you what's been
25 admitted a State's Exhibit Number 106, if you

1 remember, great if you don't great. Does that look
2 like anything he would have had in his hand when he
3 came out of the house?

4 A: No.

5 Q: Okay that's all right.

6 Mr. McCrea: Can I see that Your Honor?

7 The Court: Yes.

8 Mr. McCrea: He stated no?

9 The Court: He did say no, yes.

10 Q: All right he comes out the house and he has a little
11 purse and a bag. What happens next?

12 A: He got in the vehicle.

13 Q: Okay.

14 A: And we left. And when we left, he went left on 512,
15 onto the back way of Hemmingway and Johnsonville to
16 get, you know, back on 95. On the way to taking the
17 back area, he mention to me he said "man listen to
18 me, listen man my life in your hands. If you feel
19 like you going to say something I can go ahead and
20 take care of this now."

21 Q: What did you take that to mean?

22 A: I was like, you know, man, I got nothing to do with
23 that man. Just take me back from where I came from.

24 Q: But when he said "If you're going to say something,
25 I can take care of that right now." What did you

Levern McCrea vs. State of South Carolina

137

1 take that to mean when he said those words to you?

2 A: I took that as, you know, he wanted to do bodily
3 harm to me.

4 Q: When he came out of the house and he first got back
5 into the vehicle, he got into the driver's seat?

6 A: Yes he did.

7 Q: Was he looking for anything?

8 A: Yes he was.

9 Q: Tell us about that. What was he looking for?

10 A: He was looking for a black glove.

11 Q: Okay.

12 A: It's a glove like the finger parts in the front are
13 missing and they had like a strap on it, you know,
14 something red on it.

15 Q: And when you say he was looking for it, what did he
16 say about it?

17 A: He was looking for it and he couldn't find it so he
18 said oh well.

19 Q: Now was he looking for just the one glove or two
20 gloves?

21 A: He was just looking for that one glove.

22 Q: Did he tell or did he say, could you tell whether or
23 not it was a right hand glove or a left hand glove?

24 A: Right hand glove.

25 Q: Right hand glove?

1 A: Yes.

2 Q: Now did you notice any other gloves on him that
3 night?

4 A: A plastic rubber glove, you know, like they use in
5 the hospital.

6 Q: On which hand?

7 A: He had that on his right hand.

8 Q: Now when he came out of the house and he was looking
9 for the black glove, did you actually see the
10 plastic glove on his hand?

11 A: Yes.

12 Q: Okay. All right go to, publishes what's states
13 number thirty three. Do you recognize what's
14 depicted in that photograph?

15 A: Yes.

16 Q: How is it that you recognize it?

17 A: That's the glove that he was looking for.

18 Q: And you mentioned something about it having a red
19 part on it?

20 A: Yes it did.

21 Q: Now when you got into the vehicle at any point on
22 the way to South Carolina, did you notice that there
23 were any papers or anything inside the vehicle?

24 A: Yeah there was some papers, you know, in the floor
25 board part.

Levern McCrea vs. State of South Carolina

139

1 Q: Sir?

2 A: There were some papers on the floor board.

3 Q: What kind of papers?

4 A: Like school papers. Something like nursing or
5 something for a job.

6 Q: All right I'm going to publish what's been admitted
7 as states number thirty six. When you talked about
8 noticing paper inside the vehicle, is it similiar to
9 what is depicted in this photograph?

10 A: Yes.

11 Q: And your eyesight may not be as bad as mine but can
12 you read that from where you are?

13 A: No ma'am. I'm far sighted.

14 Q: Okay step down for me, please sir. All right can
15 you read it from where you are now?

16 A: Yes.

17 Q: All right make sure you keep your voice up because
18 your back is to the court reporter. Tell me what
19 the top of that says.

20 A: It says third nine weeks, human body project due
21 March 20, 2009.

22 Q: All right now all these words in that paragraph, can
23 you read those words?

24 A: No.

25 Q: You can have a seat. Okay, after the defendant made

1 the statement to you, "If you're going to say
2 anything, I can handle that now" did you all make
3 any stops before you got back on the road?

4 A: Yes we did.

5 Q: Okay tell us about it.

6 A: When we stopped it was a wooded area near a dirt
7 road.

8 Q: Near where?

9 A: A dirt road. And he got out to take a piss, after
10 taking a urine, he opened the back glass to get the
11 tag from Ms. Roberta's truck to get the tag.

12 Q: After you all left Cora Brown's house, he pulled on
13 one of the dirt roads to urinate. Is that right?

14 A: Yes he did.

15 Q: And you indicated that he opened up the glass to put
16 what now?

17 A: Her tag because the tag that was on the back of it
18 was the forty five day tag that he got from the
19 dealer from his vehicle. It was a forty-five day
20 tag that was on the vehicle.

21 Q: All right now I'm curious that point, when you all
22 left North Carolina, did Roberta Smith's vehicle
23 have North Carolina plates on it?

24 A: Yes it did.

25 Q: When you all left Cora Brown's house that night, the

1 defendant had his paper tag from where he purchased
2 his vehicle on Ms. Roberta's vehicle?

3 A: Yes it did.

4 Q: How far from the scene where the shooting happened
5 did he stop and change the tags? How many miles out
6 you think?

7 A: Five to ten miles.

8 Q: Okay. Did the Defendant make any statements to you
9 about the victim after you heard the gun shots when
10 he got back into the car?

11 A: Yes he did.

12 Q: What did he say?

13 A: He said I took care of that. Won't be calling nobody
14 else no faggot.

15 Q: Okay. Did he tell you how he got into her house?

16 A: Yes he did.

17 Q: What'd he say?

18 A: He said that when he knocked on the door, she
19 cracked the door and he forced himself into the
20 home.

21 Q: He forced himself into the home?

22 A: Yes he did.

23 Q: Did you all go back to Roberta Smith's home in North
24 Carolina straight from the scene of Cora's shooting?

25 A: Yes we did.

1 Q: What time did you all arrive back in North Carolina?

2 A: It was between the hours of 1:30, almost 2 o'clock,
3 somewhere around there.

4 Q: In the morning?

5 A: Yes.

6 Q: All right when you all arrived back at her house,
7 how did you get into her house?

8 A: He knocked.

9 Q: Who opened the door for you?

10 A: Ms. Roberta.

11 Q: What did you do when you all got back?

12 A: When we got back, I just went to the couch and he
13 went inside the room.

14 Q: All right did you then spend the night at her home
15 that night?

16 A: I don't believe we spent the night, we left back out
17 early.

18 Q: All right but when you all got back to her house at
19 1 to 2 o'clock that morning, did you stay there for,
20 I guess I'm saying night but it's actually early
21 morning? Would that be fair to say?

22 A: Yes.

23 Q: Did you stay there until the sun came up I guess is
24 what I should have asked you.

25 A: No. I don't believe no.

Levern McCrea vs. State of South Carolina

143

1 Q: Then what did you all do?

2 A: We came back to South Carolina.

3 Q: Tell me what happened when you all came back to
4 South Carolina.

5 A: When we came to South Carolina we went to my
6 cousin's house, Calinda, and we stayed there that
7 night.

8 Q: Did you ever tell Calinda what had happened and what
9 Levern had done?

10 A: No ma'am.

11 Q: Why not?

12 A: I mean I wasn't really, I mean, from what he told me
13 and I wasn't trying to get in the middle of it.

14 Q: Did you all ever go back to North Carolina to Ms.
15 Smith's house?

16 A: Yes we did.

17 Q: When was that?

18 A: It was Thursday night or Friday morning. Somewhere
19 around there. We went back because we came back
20 from North Carolina on Friday because I have my
21 visitation with my kids.

22 Q: And when you all went back there that Friday when
23 you had visitation with your kids, how long did you
24 stay in North Carolina with Ms. Smith?

25 A: We came, we was down there for about a week and then

1 we went back down there. About a week.

2 Q: Now at some point during the trip back to North
3 Carolina to Ms. Smith's home, did you have an
4 opportunity to meet her brother?

5 A: No, I did not.

6 Q: Did you go to her brother's house?

7 A: No I did not.

8 Q: Did you see the gun in North Carolina that the
9 defendant had that night?

10 A: Yes I did.

11 Q: Tell us about the circumstances under which you saw
12 the gun in North Carolina.

13 A: He had the gun in the room of Ms. Roberta's bedroom.
14 And he had like in a box, because when he pulled it
15 out there was a box laying there and he was trying
16 to get Ms. Roberta to sell the gun to her brother.

17 Q: Did he say how much he wanted for it?

18 A: I have no idea. I believe like Fifty dollars, sixty
19 dollars, somewhere around there.

20 Q: Did he in fact sell the gun to Roberta's brother?

21 A: No he did not.

22 Q: When you all went back to South Carolina, I guess it
23 would have been for the final time, did he have that
24 gun with him? After the shooting?

25 A: Yes.

Levern McCrea vs. State of South Carolina

145

1 Q: Now at any point in time, did you ever fire that
2 gun?

3 A: No.

4 Q: In any point in time did you ever have possession of
5 it?

6 A: No ma'am.

7 Q: And when I talk about that gun, I'm going to show
8 you state's exhibit number 111, and ask you if you
9 recognize what's in that photograph.

10 A: Yes.

11 Q: You recognize that?

12 A: Yes, I do.

13 Q: How do you recognize that?

14 A: Because that's the gun that he had when he was at
15 Ms. Roberta's house.

16 Q: When you talked about him trying to get her to sell
17 it to her brother, is that the weapon that you are
18 referring to?

19 A: Yes ma'am.

20 Q: Tell me about the trip back to South Carolina. That
21 final time after Ms. Cora was killed.

22 A: We was down there for about a week or so. I was
23 telling him, I was like man let's go back home and
24 you know he was like no let's try and get a job up
25 here where Ms. Roberta stays. We put a c couple of

1 applications in down there but I wanted to come home
2 so we came home. On our way traveling back to
3 Andrews, we was coming through Florence and I think
4 that's the Old River Road.

5 Q: In Florence?

6 A: Yes.

7 Q: Now does that road eventually meet up with Highway
8 378?

9 A: Yes ma'am. And we pulled over and there was a bus
10 stop ahead sign and Mr. Levern took a bag and throw
11 them over in the wooden area once we stopped.

12 Q: Okay. At that time, did he know that you knew where
13 he had thrown the bag?

14 A: He called me after the occasion and asked me does I
15 know where he placed the gun at and I told him no.

16 Q: Did you in fact know where he placed the gun?

17 A: Oh yeah.

18 Q: Okay. Why did you tell him no?

19 A: I didn't --- after consulted with police about the
20 incident, you know, the things that he said to me,
21 the police didn't want me to be around Levern and
22 him to be around me. It made me think a little bit
23 like why would the police do that? So, I kind of
24 back up a little bit, you know, trying to get that
25 gun and placing it in my house or anything and try

Levern McCrea vs. State of South Carolina

147

1 to get me convicted of that crime.

2 Q: Okay. Now were there any landmarks where he threw
3 the gun such that you would know where to go back to
4 get it?

5 A: No, there's no landmarks. It's just that, you know,
6 my sister stay in Florence and I travel that road
7 and I know that road, you know, that's the only sign
8 on that road coming from Florence. That's how I
9 remembered where it was.

10 Q: You said a sign. I'm sorry, tell me again about the
11 sign.

12 A: It said "bus stop ahead." Like a green sign on the
13 right hand side.

14 Q: Yes sir. I'm going to publish what's been admitted
15 as state's exhibit number 198. Do you recognize
16 what is shown in that photograph?

17 A: Yes I do.

18 Q: All right tell me how it is you recognize what is
19 shown in that photograph.

20 A: Because that's the sign coming from Florence where
21 we stopped at.

22 Q: Now, you initially talked to the police. They came
23 and wanted to interview you. Is that right?

24 A: Yes it is.

25 Q: That would have been within a couple weeks of Cora's

1 murder. Is that right?

2 A: Yes.

3 Q: And you gave them a recorded statement.

4 A: Yes.

5 Q: And in that statement, you didn't mention anything
6 to them about Mr. McCrea doing the shooting?

7 A: No I did not.

8 Q: Why not?

9 A: Because I didn't want to be a part of that incident.
10 I, you know, I was trying to keep my name out of
11 that because I had nothing to do with that incident.

12 Q: And it would be fair to say that the police actually
13 spoke with you many many times?

14 A: Yes they did.

15 Q: All right, I'm going to kind of fast forward to
16 about a year later in March of 2010 and ask you some
17 questions and I may need to go back and ask you some
18 questions. There were, well I should say there was
19 about a years period of time before anyone was
20 arrested and charged with Cora's murder. Does that
21 stand with your recollection?

22 A: Yes ma'am.

23 Q: All right. Do you recall being interviewed by law
24 enforcement on March 29, 2009?

25 A: Yes I did.

Levern McCrea vs. State of South Carolina

149

1 Q: And you were interviewed, where were you physically
2 interviewed on March 29, 2010?

3 A: I was in Georgetown.

4 Q: And you had been incarcerated in Georgetown because
5 of a domestic violence allegation between you and your
6 wife?

7 A: Yes I did.

8 Q: Now during this interview, in March 29, 2010 when you
9 were in Georgetown, Investigator Brown, was he one of the
10 persons asking you questions?

11 A: Yes he was.

12 Q: Did it appear to you at that time that the police
13 knew a little more about the case?

14 A: Really, I really had no idea.

15 Q: Did you give them more information during this
16 interview then you gave them in previous interviews?

17 A: Yes I did.

18 Q: In that interview, did you mention that you all had
19 gone to North Carolina and saw his girlfriend Roberta
20 Smith?

21 A: Yes.

22 Q: Did you also disclose to them that you all came back
23 to South Carolina and you were inside Ms. Smith's
24 vehicle?

25 A: Yes.

1 Q: And if you need to refer to the statements and you
2 need to see them, I will be happy to let you see them.

3 A: No I've seen them already.

4 Q: Sir, did you also agree to take law enforcement to
5 the location on Old River Road in Florence County, where
6 you maintained that the defendant Levern McCrea threw out
7 the gun?

8 A: Yes I did.

9 Q: And did you in fact do that?

10 A: I took them there.

11 Q: Were you able to show them where the gun was thrown?

12 A: I just told them over there. I didn't show them.

13 Took my hand and showed them the area.

14 Q: Okay. Did they in fact recover on that date, the
15 gun?

16 A: Yes they did, they was looking for like ten minutes,
17 seven to ten minutes later after looking around in the
18 woods, they discovered the gun.

19 Q: Okay do you recall how it was packaged when they took
20 it out of the woods?

21 A: No, I didn't recall. I know it was a brown bag.

22 Q: All right, I'm going to publish what has been
23 previously admitted as states exhibit number 102. Does
24 that look like the brown bag that they recovered, the
25 police officers recovered from the wooded area from Old

1 River Road?

2 A: Yeah that's the bag.

3 Q: I guess it's kind of difficult to tell because it's
4 almost the color of the leaves, but do you see a brown
5 plastic bag in that photograph?

6 A: I'd have to come up there.

7 Q: All right let me do this, let me show it to you up
8 close and then you can tell me for sure.

9 A: Yes.

10 Q: All right, do you know Lietenuant Deborah Collins?

11 A: Yes.

12 Q: Was she with you that day you went to Old River Road?

13 A: Yes she was.

14 Q: Now let me go back for a quick second. You
15 mentioned, and I neglected to ask you about it earlier,
16 you mentioned that when the defendant came out of Ms.
17 Cora's house he had a plastic bag with him and some sort
18 of purse or something?

19 A: Yes he did.

20 Q: Can you describe his clothing, his shoes, that night?

21 A: He had on some brown boots.

22 Q: Like timberlands or what kind of boots?

23 A: Yes, something like timberlands. He had long sleeves
24 on and some pants, I think sweatpants or something like
25 that.

1 Q: Now, did he keep those clothes on or did he change
2 the clothes after he came out of Cora's house?

3 A: After he came out of Cora's house, on the way coming
4 back from North Carolina, that's when he got rid of the
5 clothes he had on.

6 Q: How'd he get rid of them? You said he got rid of
7 them. How'd he do that?

8 A: I think he had some clothes in the vehicle once he
9 got to Ms. Roberta's house he put them on.

10 Q: He put on some different set of clothes?

11 A: Yes, he did.

12 Q: All right whatever happened to the purse and whatever
13 other items he came out of the house with. Whatever
14 happened to those?

15 A: He threw them away.

16 Q: Where?

17 A: We stopped at a car wash.

18 Q: Where?

19 A: Not too far from the town Mount Olive.

20 Q: Not too far from Mount Olive?

21 A: Yeah. As soon as you coming off the interstate not
22 too far from Mount Olive there's a car wash on your
23 right hand side there and we stopped right there.
24 There's a restaurant by there to it and store beside
25 it and he threw them out there.

Levern McCrea vs. State of South Carolina

153

1 Q: All right and when the police first interrogated you
2 in March or April of 2009, you did not disclose that
3 he had had thrown away clothes in North Carolina.

4 A: No I did not.

5 Q: All right. Now, since we have established that
6 there was a year that went by before an arrest was
7 made in the case. Did you have any communication
8 with the defendant during that years period of time?

9 A: Yes I did spoke with him. I had stopped at a store
10 and my car had ran hot that day and he had came
11 through there because he had stopped at the store.

12 Q: Where? Which store?

13 A: It was Bobby Watford(sp) out there on the 41
14 highway.

15 Q: In Hemmingway?

16 A: Andrews. And he just asked me what was wrong, you
17 know, with the car and whatnot. So after talking
18 with him, he mentioned something to me about, Dee
19 his ex girlfriend and I was like man leave that
20 alone, you know, and that was basically it.

21 Q: During the weeks or months after Cora was murdered,
22 did he ask you anything, to do anything, in the event he
23 was arrested?

24 A: Yes he did.

25 Q: Tell the ladies and gentlemen of the jury what he

1 asked you to do.

2 A: He asked me to get the gun that he used to kill Cora
3 to kill his sister with so they would think the
4 killer was still out there so he could be released.

5 Q: When he was talking about his sister, which sister
6 was he talking about?

7 A: He was talking about Stephanie.

8 Q: So he told you in the event that the police locked
9 him up, he wanted you to go get the gun ...

10 A: Yes.

11 Q: ... and kill his sister so the police would think
12 that ...

13 A: That the killer was still out there.

14 Q: What was your reaction when he asked you that.

15 A: I didn't ... I didn't know any.

16 Q: When he came out of Cora's house that night, did he
17 have any clothing with him? I mean out from the
18 house.

19 A: Clothing?

20 Q: Yes.

21 A: He had a black bag. I think some clothes was there.
22 After he told me, he said that, he took her clothes
23 off because he had touched them. So he took her
24 clothes of so there wouldn't be any finger prints on
25 him after they discovered her body.

Levern McCrea vs. State of South Carolina

155

1 Q: He was talking about Cora's body?

2 A: Yes.

3 Q: Now, I guess you all made several trips back and
4 forth from North Carolina to South Carolina. Was
5 there ever a point in time during the week of Cora's
6 murder that you all took a trip to Anderson, South
7 Carolina?

8 A: Yes we did.

9 Q: Okay what date did you all do that?

10 A: We took that trip on the 12th.

11 Q: That Thursday?

12 A: Yes. The 12th.

13 Q: The 12th of March?

14 A: Yeah.

15 Q: Okay. What was the purpose in going to Anderson?

16 A: He wanted to take him car there.

17 Q: Was it just the two of you or was there somebody
18 else with you?

19 A: No it was just myself, Mr. Levern, and Christine.

20 Q: Christine Greene?

21 A: Yes.

22 Ms. Barr: Your Honor, beg the court's indulgence.

23 The Court: Yes ma'am.

24 Q: When you all came back to South Carolina and he
25 threw the gun and the plastic bag on Old River Road,

1 what type of vehicle were you all driving at that
2 time?

3 A: We was driving his vehicle.

4 Q: The grey Mercedes that you described?

5 A: Yes.

6 Q: And who was driving the car when you all came back
7 from North Carolina?

8 A: He was.

9 Q: When you all rode to Anderson, whose vehicle were
10 you in?

11 A: What day?

12 Q: On the 12th I believe you said when Christine was
13 with you.

14 A: We were driving his vehicle coming from Anderson.

15 Q: When he came out of Cora's house that night after
16 the shooting, did you see a gun on him when he came
17 out of the house?

18 A: That night, no I didn't see the gun on him. He
19 appeared the gun after riding down the road when he
20 made a comment.

21 Q: He did what now? Say that again.

22 A: I didn't see the gun in his hand when he came out
23 the house but as we was driving down the road,
24 before we got to that dirt road, it appeared he had
25 the gun, he pulled the gun out, had it in his hand

Levern McCrea vs. State of South Carolina

157

1 and made the comment to me.

2 Q: And the comment was, if you're going to say
3 something I can take care of this right now?

4 A: Yes.

5 Q: And again, I need to be clear, the gun that he took
6 out and stated to you while you all were on the dirt
7 road, is that the same gun that's depicted in
8 State's number 111?

9 A: Yeah that's the same gun.

10 Q: Is that the same gun that he tried to sell to
11 Roberta's brother?

12 A: Yes ma'am.

13 Q: Now help me to kind of understand this. I'm going
14 to be wrapping up. This point when you are in North
15 Carolina, when you go back to North Carolina you
16 know what he's doing.

17 A: Yeah.

18 Q: I mean no doubt in your mind.

19 A: Yes.

20 Q: But yet you're continuing to associate with him,
21 you're continuing to be around him.

22 A: Yes.

23 Q: Explain that to me. I'm not understanding that.

24 A: Well, I was, you know, being close by because I
25 wanted to watch his moves, you know, trying to keep

1 him near by so I can see what he was trying to do,
2 to make sure he wasn't trying to frame me for his
3 doing.

4 Q: Did he ever tell you that, that he would frame you
5 or try and make it look like you did it?

6 A: Nah he just said that if I say something, that you
7 know, he gonna put me in the middle of it.

8 Q: Did you ever have any problem with Cora?

9 A: Never.

10 Ms. Barr: That's all the questions I have.

11 The Court: All right. Before we do cross
12 examination we are going to take a break. Ladies and
13 gentlemen of the jury please do not discuss this case in
14 the jury room.

15 (Jury break was taken 2:00)

16 The Court: You may step down but do not discuss
17 this case. Court will be in recess until three o'clock.
18 (Court recess)

19 The Court: Anything before we bring the jury back
20 in?

21 Ms. Barr: Yes, sir, Judge. The defendant is
22 beginning his cross examination of this witness and I've
23 provided Mr. McCrea with a copy of the witnesses rap
24 sheet and Judge I think there are certain defenses on his
25 rap sheet that may not be admissible because they are

Levern McCrea vs. State of South Carolina

159

1 outside that ten year period of time. Judge, he had a
2 grand larceny in 1998. In 1997, is when he was convicted
3 and I think he went to the Department of Corrections in
4 1998. Judge, I recognize that ...

5 The Court: When was he released?

6 Ms. Barr: I'm not sure.

7 Mr. Briggs: 2001. March of 2001.

8 The Court: That would be outside the ten years.

9 Mr. McCrea: He stated 2001?

10 The Court: Yes, sir. March of 2001.

11 Mr. McCrea: Yes, sir. That's within.

12 The Court: Please stand. No, sir. Today is the
13 18th of October, is when he testified. So he's outside
14 the ten hears.

15 Mr. McCrea: So, I'm not able to address that?

16 The Court: Excuse me?

17 Mr. McCrea: I'm not able to address that?

18 The Court: no, sir. What other crimes has he
19 committed?

20 Ms. Barr: He was convicted in 2002 for a domestic
21 violence.

22 The Court: I think he could bring that up.

23 Ms. Barr: July of 2002. And Your Honor we would
24 take the position that that conviction, although it
25 carried a penalty in excess of a year, it is more

1 prejudicial than probative if you look at the length of
2 time that it happened and also it doesn't bear on the
3 issue of the witness's credibility.

4 The Court: I'm still going to allow it.

5 Ms. Barr: Judge he had some fraudulent check
6 charges in 2006 but those were dismissed.

7 The Court: If they were dismissed then they are not
8 convictions.

9 Ms. Barr: It looks like in September of 2007 he had
10 a simple assault and battery. That was dismissed.

11 The Court: Dismissed is not a conviction.

12 Ms. Barr: He had a conviction for driving under
13 suspicion and open container in 2008 but and we would
14 take the position that's not relevant to the issue of
15 credibility.

16 The Court: I don't think that carries over a year,
17 does it?

18 Ms. Barr: It doesn't, Judge. He had another CDV
19 Charge and a simple assault charge in March of 2009.
20 That case was, he was found not guilty.

21 The Court: Then you certainly can't use that one.

22 Ms. Barr: And Your Honor it looks like he was
23 convicted in January of 2001 for CDV and I think it
24 mentioned he was in Georgetown County. Excuse me, 2010
25 and I think he mention he was in Georgetown County on a

Levern McCrea vs. State of South Carolina

161

1 CDV charge in March of 2010. And Judge, he was also
2 convicted of obtaining goods by false pretenses. And that
3 was this year.

4 The Court: That would certainly come in. The ones
5 that will come in are the earlier CDV in 2001. You said
6 the bad check charge ...

7 Ms. Barr: Was dismissed in 2006.

8 The Court: That can't come in.

9 Ms. Barr: The obtaining goods by false pretense,
10 the disposition date is 2010.

11 The Court That is certainly admissible. Because it
12 goes to his credibility.

13 Ms. Barr: Yes.

14 The Court: Are you clear as to what ones you can
15 bring up?

16 Mr. McCrea: No, I'm not.

17 The Court: You can bring up the CDV in 2001 and the
18 obtaining goods by false pretense.

19 Mr. McCrea: CDV in 2001.

20 The Court: Right.

21 Mr. McCrea: And the obtaining goods under false
22 pretense.

23 The Court: Do you understand?

24 Mr. McCrea: Yes.

25 The Court: All right let's bring our jury back in.

1 (Jury enters courtroom 4:42)

2 The Court: All right. Mr. McCrea you may cross
3 examine the witness.

4 Mr. McCrea: Can I have a minute?

5 The Court: All right. Mr. McCrea, you may proceed.

6 Mr. Briggs - Cross Examination by Mr. McCrea:

7 Q: Mr. Briggs.

8 A: Yes sir.

9 Q: You were just asked questions by Ms. Barr in
10 referenced to this alleged glove that was dropped at
11 the crime scene and you stated that this glove.

12 Mr. McCrea: How do I approach this, Your Honor, I
13 can show this glove ...

14 The Court: You can show it to him.

15 Q: You stated that this glove that was left had holes
16 in it.

17 Mr. McCrea: Ladies and gentlemen of the jury, as
18 you see this glove ...

19 The Court: Sir you do not get to talk to the jury.

20 Mr. McCrea: Okay. I'm sorry.

21 The Court: Direct your questions to the witness.

22 Mr. McCrea: I can show them this?

23 The Court: Is it evidence? Is that picture in
24 evidence?

25 Ms. Barr: That picture is not in evidence.

Levern McCrea vs. State of South Carolina

163

1 The Court: That picture is not in evidence.

2 Mr. McCrea: Okay, but he made a statement, Your
3 Honor, concerning ...

4 The Court: That was concerning the picture that was
5 in evidence. That picture is not in evidence but you can
6 ask him about it.

7 Q: Mr. Briggs, do you remember this glove?

8 A: Yes.

9 Q: Is this in fact the glove that you alleged that Mr.
10 McCrea dropped at the crime scene? Yes or no?

11 Excuse me.

12 A: Yes that was the glove that you was looking for.

13 Q: You stated when Ms. Barr asked you about this
14 particular glove you stated that it had holes in
15 the fingers.

16 A: Yes. The glove right where the hands are is
17 actually missing.

18 Q: Well, the picture of this glove has all the fingers.
19 There's no holes in the fingers of the glove.

20 The Court: Sir, I'm reminding you that is not in
21 evidence, you may not publish it to the jury.

22 Q: Mr. Briggs.

23 A: Yes sir.

24 Q: You were asked by Ms. Barr was he doing drugs and
25 you stated to Ms. Barr that he rolled up a blunt and

1 was sprinkling cocaine in the blunt on the date of
2 this alleged crime, correct?

3 A: Yes I did.

4 Q: Was that the only thing that he was doing, was
5 sprinkling cocaine in the blunt, Mr. Briggs?

6 A: And we had a few drinks.

7 Q: But on March the 29th transcript, page 14, you were
8 asked a question numbers 19 and 20, what kind of
9 drugs was he sniffing? You stated he was on powder.

10 A: I was saying cocaine.

11 Q: You stated a few minutes ago that I was rolling it
12 and smoking it in a blunt Mr. Briggs.

13 A: Because you did.

14 Q: Which one was I doing? You never mentioned anything
15 about a blunt here on March 29, 2010 on page 14.

16 Ms. Barr: Judge, ;, I've got an extra copy can I
17 give him a copy if the witness is going to be questioned
18 about it?

19 The Court: Yes.

20 Ms. Barr: May I approach?

21 The Court: Yes ma'am.

22 Ms. Barr: So that he can follow Mr. McCrea.

23 Q: Mr. Briggs, you were asked by Ms. Barr what he came
24 out of the house with.

25 The Court: Please give him the page and line number

Levern McCrea vs. State of South Carolina

165

1 so he can follow along.

2 Mr. McCrea: Yes sir.

3 Q: On April of 2008, you was charged with a DUI and a
4 driving with suspended license. Yes?

5 Ms. Barr: Judge, we would certainly object to that.

6 The Court: I have ruled on that and that is
7 inadmissible.

8 Ms. Barr: We moved to strike.

9 The Court: All right. The jury will strike that.

10 Q: Mr. Briggs, two days after the victim was murdered,
11 you was charged with criminal domestic violence, two
12 days after the victim was murdered. Isn't that true
13 Mr. Briggs?

14 A: Yes sir that was true. Yes sir.

15 Q: Is it true Mr. Briggs, that that's what you do,
16 correct, assault women?

17 A: No sir that charge was dismissed.

18 Q: Also Mr. Briggs, eight months later, you was charged
19 with another criminal domestic violence. Isn't that
20 true? On 1-15-2010?

21 A: Yes I did.

22 Q: So you remember punching and choking your wife ...

23 A: No, Your Honor ...

24 The Court: Sustained. It's been sustained, you
25 don't have to answer.

1 Mr. McCrea: Your Honor ...

2 Q: Mr. Briggs, I have a police incident report on 1-15
3 approximately 17:30 hours ...

4 Ms. Barr: Objection Judge.

5 The Court: Sustained. It's inadmissible.

6 Q: Mr. Briggs, how do you know Mr. McCrea?

7 A: I know you from my step father and my mother got
8 with him and married him and you came along and
9 being around the family and you actually back in
10 '92, you come and stayed with us some nights.

11 Q: Mr. Briggs, about how many years would you say that
12 you known Mr. McCrea?

13 A: For about twenty years.

14 Q: Twenty years. Mr. Briggs, has Mr. McCrea ever
15 helped you in any way throughout the years you've
16 known him?

17 A: Yes.

18 Q: Excuse me?

19 A: Yes.

20 Q: Mr. Briggs, what kind of help or favors has Mr.
21 McCrea ever done for you?

22 A: During the time of my separation at the time, I told
23 you that I just needed to cribb with you a couple f
24 days until I could get things figured out.

25 Q: Mr. Briggs, would you please tell me why were you

Levern McCrea vs. State of South Carolina

167

1 staying at Ms. Caroline McGee's house around the 7th
2 or 8th of 2009?

3 Ms. Barr: I'm sorry. I'm not sure what month?

4 Mr. McCrea: March the 7 of 2009. March the 7th and
5 8th of 2009.

6 Ms. Barr: Judge, we would object to relevance.

7 The Court: I'm going to let him ask it. He's on
8 cross examination.

9 Ms. Barr: Yes sir.

10 A: I don't remember those date and times.

11 Q: You don't remember staying at Ms. McGee's house?

12 A: I remember staying there but I don't indicate the
13 date.

14 Q: Isn't it true that you were homeless Mr. Briggs?

15 A: No.

16 Q: That's not true.

17 The Court: Sir, you don't get to comment. You can
18 ask him questions.

19 Q: Mr. Briggs, you heard that Mr. McCrea was back in
20 town and you gave him a call that afternoon on March
21 the 7th, 2009, yes or no?

22 A: I don't recall the day but I remember you was back
23 in town because you came to my mother's house and
24 she told you were I was. I didn't call you because
25 I didn't know your number.

1 Q: When you talked to Mr. McCrea, what were some of the
2 things you talked about on March 7th of 2009, Mr.
3 Briggs?

4 Ms. Barr: Judge, I'm sorry I hate to keep doing
5 this but we object on relevance grounds and hearsay
6 grounds.

7 The Court: It wouldn't be hearsay if it's him
8 stating it.

9 Ms. Barr: To the extent that it talks about what
10 the defendant may have said, I think that's probably the
11 basis of the conversation.

12 The Court: You can state what the defendant said,
13 that would not be hearsay. Overruled.

14 Q: What did we talk about Mr. Briggs on March 7, 2009?

15 A: You came to my house that night and you was talking
16 about the situation with your girlfriend, you got
17 tired so you left. We talked about you had just got
18 a new car. We basically talked about that. We went
19 to Ms. McGee's house that night.

20 Q: Mr. Briggs, we never talked about the brand new five
21 month old baby boy that I just had?

22 A: I don't know.

23 Q: Mr. Briggs, you called Mr. McCrea's cell phone
24 again, approximately 2:30 in the morning telling Mr.
25 McCrea that you was sleeping in someone's car and

Levern McCrea vs. State of South Carolina

169

1 that you were homeless. Isn't that true Mr. Briggs?

2 A: That I was homeless?

3 Q: Isn't it true, Mr. Briggs?

4 The Court: Let him answer the question.

5 A: I called you at night but I never told you that.

6 Q: Isn't that why you were staying at Ms. McGee's
7 house?

8 A: The only time I stayed at Ms. Calinda's house was
9 when we were over there, me and you.

10 Q: Which time was that?

11 A: We stayed there like after the murder took place and
12 it was only for a few days and we stayed there once
13 or twice. I went back to where I was in my aunt's.
14 house.

15 Q: Mr. Briggs, it appears that every time you in some
16 trouble or something you need, you call Mr. McCrea,
17 your big brother, isn't that true, Mr. Briggs?

18 A: Repeat that question.

19 Q: Every time you're in some trouble or you need some
20 help, you call your big brother Mr. McCrea to help
21 you. Isn't that true, Mr. Briggs?

22 A: Can you tell me in detail what you are talking
23 about?

24 Q: The details of what I'm talking about?

25 A: Yes.

1 Q: Mr. Briggs, you can see both of these Lincoln's
2 here. Does the brown Lincoln ...

3 The Court: You need to show it to him. Pass it up.
4 Ask him to identify it.

5 Q: Does that brown Lincoln look familiar?

6 A: Yes it do.

7 Q: Do you remember at any time Mr. McCrea letting you
8 drive that Lincoln for approximately three months
9 Mr. Briggs so that you were able to take your
10 disabled child to her mandatory appointments in
11 Charleston every month?

12 A: The reason I was driving that vehicle was because
13 you took out a loan on that vehicle and you couldn't
14 make the payments and I told you I would make
15 payments on it only if I drive it.

16 Q: Well, that's not true.

17 The Court: Sir, I'm reminding you that you don't
18 get to comment on his answer. You may ask other
19 questions.

20 Q: Mr. Briggs, you're looking at some real prison time
21 to definitely use Mr. McCrea as a get out of jail
22 free card a year later. Isn't that true?

23 A: I have no recollection of that, sir.

24 Q: Mr. Briggs, after you recklessly threw away more
25 than \$50,000 dollars from a car accident in 2005,

Levern McCrea vs. State of South Carolina

171

1 you borrowed Mr. McCrea's car, is that true?

2 A: Repeat that question again.

3 Q: After you recklessly threw away 50,000 dollars from
4 a car accident in 2005 that you was granted, you had
5 to ask Mr. McCrea to borrow a car. What'd you do
6 with all that money Mr. Briggs?

7 A: I still had my car. I loaned you \$1,200 for your
8 additional car that I helped put out the shop with
9 my uncle's truck.

10 Q: I don't remember that.

11 The Court: Mr. McCrea that's the last time I'm
12 going to tell you about editorilizing his answer.

13 Mr. McCrea: Excuse me Your Honor.

14 Q: Mr. Briggs, what was the alleged date that you and
15 Mr. McCrea allegedly left and came back on and he
16 allegedly committed this crime?

17 A: It was March 10th, 2009.

18 Q: March 10, 2009. Mr. Briggs, but on page March 29,
19 transcript page four, numbers two and six, you
20 stated ...

21 The Court: Let him get to it.

22 A: Page 4?

23 Q: Page 4, numbers two to six. I'm going to read. Are
24 you ready Mr. Briggs?

25 A: Go ahead I'm ready.

1 Q: You stated we were in South Carolina that specific
2 morning. I think it was a Monday or Tuesday
3 morning, I can't remember what date it was but we
4 were home. So are you sure which date it was Mr.
5 Briggs?

6 A: Yes I'm sure.

7 Q: Which date was it? Was it Monday or Tuesday
8 morning?

9 A: It was Tuesday morning.

10 Q: You just stated that you can't remember. I can't
11 remember but we were home. On March 31 transcript
12 Mr. Briggs, 2010. Page three, 22 thru 24. Now
13 you're stating, are you ready Mr. Briggs?

14 A: I am.

15 Q: Now you're stating "Yes sir, on the day of March the
16 13th, me and Christopher Briggs, we were in North
17 Carolina that specific day." But you just stated
18 that we were in South Carolina at my house Mr.
19 Briggs.

20 A: It was not stated at what time.

21 Q: You're talking about the date Mr. Briggs. On page
22 four.

23 A: What date?

24 Q: March 29th, 2009 transcript Mr. Briggs. Page four,
25 numbers 2 and 6. Are you with me?

Levern McCrea vs. State of South Carolina

173

1 A: Yes sir.

2 Q: You stated you were in South Carolina that specific
3 morning. I think it was Monday morning or Tuesday
4 morning. I can't remember what day it was but we
5 were home. Mr. Briggs now you're stating "Yes sir,
6 the day of March 12th me, Christopher Briggs and
7 Levern McCrea were in North Carolina." Which place
8 were you Mr. Briggs, North Carolina or South
9 Carolina? Is it possible to be at two ...

10 The Court: Hold on.

11 Mr. McCrea: Excuse me, I'm sorry, Your Honor.

12 A: Okay I answered that question, the question before
13 then on page three saying that we start from South
14 Carolina. That's when I mentioned that we were in
15 South Carolina that morning.

16 Q: Excuse me, Mr. Briggs. Let me read this to you
17 again. March 29th transcript 2009. I'm sorry 2010,
18 the year has been altered. You stated "We were in
19 South Carolina that specific morning, I think it was
20 that Monday morning or Tuesday morning. I can't
21 remember what date it was but we were home." You
22 said South Carolina. Now on March 31 transcript Mr.
23 Briggs, numbers 22-25 you stated "Yes sir, on the
24 day of March the 12th, me, Christopher Briggs and
25 Levern McCrea were in North Carolina on that

1 specific day."

2 A: It don't indicate a time. We was in South Carolina
3 that morning. We left that morning to go to North
4 Carolina. It don't indicate the time frame. We was
5 in South Carolina and North Carolina on the same
6 day.

7 Q: Mr. Briggs, was it in the day time or evening?

8 A: What place?

9 Q: Wait a minute, please. Was it in the day time or
10 evening time or night time when you and Mr. McCrea
11 left and came back from North Carolina and he
12 committed this crime?

13 A: It was night time when you committed the crime.

14 Q: At approximately what time Mr. Briggs, you allege?

15 A: It was around 9:45 or ten o'clock, somewhere around
16 there.

17 Q: 9:45 or ten o'clock. March 29, 2010 transcript, Mr.
18 Briggs, page four.

19 A: You said the 2010 transcript?

20 Q: March 29, 2010 transcript, page four, Mr. Briggs,
21 number seventeen to twenty.

22 A: Yeah.

23 Q: You stated a few minutes ago, it was 9:45 or ten
24 o'clock?

25 A: Repeat the question.

Levern McCrea vs. State of South Carolina

175

1 Q: Was it in the day time or evening time or night time
2 when you and Mr. McCrea allegedly came back from
3 North Carolina and he committed this crime?

4 A: You committed the crime between the hours of 9:45
5 and ten o'clock that night but we got back to Mount
6 Olive between the hours of 1:30 and two o'clock that
7 morning. Wednesday morning.

8 Q: Could you repeat that Mr. Briggs?

9 A: On March 10, possibly 9:45, ten o'clock p.m., was
10 the day that you allegedly did the crime and we got
11 back to Mount Olive, North Carolina around 1:30, two
12 o'clock that morning, Wednesday morning.

13 Q: What time were we in South Carolina when this crime
14 was allegedly committed like you just stated?

15 A: 9:45 to ten o'clock at night.

16 Q: 9:45. Mr. Briggs. Line seventeen to eighteen you
17 stated, "So we went to North Carolina that day. We
18 were down there, we stayed there basically until it
19 got dark because I fell asleep and he woke me up it
20 was late in the night." So you're saying it was
21 between 9:45 and ten o'clock.

22 A: Yes it was.

23 Q: Mr. Briggs, after March 14, what was the reason that
24 Mr. McCrea asked Ms. Roberta Smith to borrow her
25 truck in the first place?

1 A: Repeat the question.

2 Q: After March 14th, Mr. Briggs, when we were in North
3 Carolina, what was the reason that Mr. McCrea asked
4 Ms. Roberta Smith to borrow her truck in the first
5 place?

6 Ms. Barr: Judge, we're going to object to that
7 question ...

8 A: He ...

9 The Court: Sustained. Don't answer it.

10 Ms. Barr: The question talks about March 14th.
11 There's no evidence that they borrowed Ms. Smith's
12 vehicle on March 14th ...

13 The Court: It requires speculation.

14 Ms. Barr: And it assumes facts not in evicence.

15 Q: Mr. Briggs, after this alleged crime was committed
16 by Mr. McCrea allegedly, how many days did we
17 allegedly stay in North Carolina when we allegedly
18 came back that night after this crime was allegedly
19 committed, Mr. Briggs?

20 A: We stayed down in North Carolina for about a week.

21 Q: After this crime was committed?

22 A: Yes.

23 Q: Mr. Briggs, are you sure about that date?

24 A: Positive.

25 Q: You said it was a week. Isn't that true?

Levern McCrea vs. State of South Carolina

177

1 A: Yes it is.

2 Q: But on the supplemental report, Mr. Briggs, on page
3 one, you stated, "They remain when you was asked a
4 question by Investigator Brown, the length of time
5 that you alledgely were in North Carolina after this
6 crime you just stated a week, correct?

7 A: What form are you looking at?

8 Q: The supplemental report, Mr. Briggs.

9 The Court: You need to let him look at it.

10 A: I got it. The supplemental report.

11 Mr. McCrea: Ms. Barr, if you will provide that for
12 Mr. Briggs?

13 Ms. Barr: I'm sorry, tell me the date on the
14 supplemental report.

15 Mr. McCrea: It's on page one of the supplemental
16 report.

17 Ms. Barr: What's the date on it?

18 Mr. McCrea: The actual date up here has 3-29-2010.
19 I'm sorry. It's the very back page I believe, Your
20 Honor.

21 Ms. Barr: May I approach the witness?

22 The Court: You may.

23 Ms. Barr: Judge, I must certainly don't mind
24 showing this to him but it's the supplemental report of
25 an officer so I don't know if he can testify as to what

1 an officer ... I think we will have to ask that officer.

2 The Court: You're making an objection?

3 Ms. Barr: I would be Your Honor. Based on hearsay,
4 I think that the officer has to testify.

5 The Court: You'd have to ask the officer that
6 question.

7 Mr. McCrea: The officer was asking ...

8 The Court: It's hearsay. The officer's report.

9 Mr. McCrea: Yes sir. Okay.

10 The Court: You can ask him if he made the
11 statement.

12 Q: He made the statement.

13 The Court: You can ask him if he made the
14 statement.

15 Q: Do you remember the statement that you made Mr.
16 Briggs?

17 A: I remember talking to the officer.

18 Q: Do you remember the statement that you made, Mr.
19 Briggs?

20 A: Yes I do remember the statement that I said to Mr.
21 Brown.

22 Mr. McCrea: I can read this Your Honor? The
23 statement that he made?

24 The Court: You can ask him what the statement was
25 but that's hearsay. It's not his report. He didn't

Levern McCrea vs. State of South Carolina

179

1 write that report.

2 Mr. McCrea: Yes but he was being questioned Your
3 Honor.

4 The Court: You can ask him if he said something but
5 you can't ask him ...

6 Mr. McCrea: He stated it was a week.

7 The Court: You can ask him questions.

8 Mr. McCrea: Right. And that is one of my questions
9 is does he remember what he stated and he said yes but it
10 contradicts what he's saying here, Your Honor.

11 Ms. Barr: I withdrawal my objection. That's fine.

12 The Court: Objection withdrawn. You may ask the
13 question.

14 Q: You stated that after this alleged crime took place,
15 Mr. Briggs, a few minutes ago that we allegedly
16 stayed in North Carolina for a week. On the
17 supplemental report you stated a few days, Mr.
18 Briggs. Explain that please.

19 A: Explain that?

20 Q: Yes sir.

21 A: On March 10, we went to North Carolina, we stayed
22 down there until dark then we came back to South
23 Carolina where you did the alleged crime and we went
24 back to North Carolina and when we got to North
25 Carolina, we left early that morning and came back

1 to South Carolina where we stayed at Ms. Calinda's
2 house and on Thursday morning we came to your
3 address over on Sandhill.

4 Q: Excuse me Mr. Briggs. You stated a week a few
5 minutes ago but you stated a few days. That's a
6 problem Mr. Briggs. Mr. Briggs, after this alleged
7 crime was committed ...

8 Mr. McCrea: No, excuse me. Your Honor, Ms. Barr,
9 if not mistaken she did present this photo, correct?

10 The Court: Ms. Barr is that photo in evidence?

11 Ms. Barr: Yes sir.

12 The Court: Okay.

13 Ms. Barr: And Your Honor I think it's marked and
14 admitted as states number 111.

15 The Court: That's a similar photo. Is it a blow up
16 of it?

17 Ms. Barr: It appears to be, yes sir.

18 The Court: That would be states exhibit 111.

19 Mr. McCrea: Thank you ma'am.

20 Q: Is this the alleged murder weapon that you said Mr.
21 McCrea had, Mr. Briggs.

22 A: Yes it was a 38 hand gun.

23 Mr. McCrea: Your Honor I would like to read the
24 results of the test of that.

25 The Court: No sir. That's hearsay at this point in

Levern McCrea vs. State of South Carolina

181

1 time.

2 Mr. McCrea: Say it again.

3 The Court: It's hearsay at this point in time.

4 Mr. McCrea: It's hearsay at this point in time? I
5 will be able to present the facts.

6 The Court: Under proper foundation you can lay
7 them.

8 Mr. McCrea: Okay, I'm not familiar with ...

9 The Court: I'm not here to teach you the law, sir.

10 Mr. McCrea: I understand.

11 Ms. Barr: And Judge, for the record, those
12 witnesses will be here tomorrow.

13 Q: Mr. Briggs, when you and Mr. McCrea was allegedly
14 coming back from North Carolina, days later as you
15 you stated was a week then you stated a few days,
16 after Mr. McCrea allegedly committed this crime,
17 which window did he allegedly throw this gun out
18 while he was driving Mr. Briggs?

19 A: I never did see you throw anything out the window.

20 Q: Okay. What was your comment? Do you remember what
21 you stated Mr. Briggs?

22 A: I stated when we was on the way back and you
23 disposed of the clothes.

24 Q: We are talking about the gun now Mr. Briggs.

25 A: Oh the gun. The gun, you got rid of the gun after

1 we was coming back to South Carolina to stay, came
2 back to South Carolina to stay because you couldn't
3 get Ms. Roberta to sell the gun to her brother.

4 Q: Say that again Mr. Briggs.

5 A: I said you disposed of the gun on the way back
6 coming back to South Carolina in Florence because we
7 came down here to stay and you didn't want to take
8 the gun back with you in Williamsburg County so you
9 disposed of the gun in Florence when we was coming
10 home to stay.

11 Q: Mr. Briggs, on March 31 transcripts 2010, page
12 eight. Can you find that for me please, sir.

13 Ms. Barr: I don't think he has it up there with
14 him. I'll give im my ...

15 The Court: Do you have a copy?

16 Q: Do you remember what you said Mr. Briggs? On page
17 eight, numbers twelve through twenty.

18 A: Twelve through Twenty?

19 Q: Yes sir. If you could start with "I don't know what
20 ...

21 The Court: Hold on. Give him an opportunity to get
22 there.

23 A: All right.

24 Q: You stated "I don't know what Levern did. I know he
25 wrapped the gun and put in the bag. What all he put

1 in that bag, I have no idea. The only thing I saw
2 him when he threw it out, what he did with it or
3 what he put in there, I have no idea of knowing what
4 he put in there. I know he put that gun inside and
5 threw it out where I showed you guys where the gun
6 was at." Do you remember that statement Mr. Briggs?

7 A: Yeah I didn't know what you put in that bag. I know
8 you had the gun in that bag.

9 Q: Mr. Briggs, you stated before you and Mr. McCrea
10 allegedly left Ms. Brown's house that he wrapped the
11 gun up. What did Mr. McCrea allegedly wrap the gun
12 in Mr. Briggs?

13 A: When you left Ms. Cora's house, when we left Ms.
14 Cora's house, you didn't wrap the gun up.

15 Q: I didn't wrap it up?

16 A: No, you showed the gun to me. You wrapped the gun
17 up at Ms. Smith's house.

18 Q: Are you sure about that?

19 A: Yes.

20 Q: Mr. Briggs, on March 31 transcript, page six numbers
21 thirteen to twenty one. Can you find that for me
22 please? A: Thirteen through what?

23 Q: Twenty-one. Are you with me Mr. Briggs?

24 A: Yeah.

25 Q: You stated a few minutes ago that I didn't wrap the

1 gun up. But you're stating here, Mr. Briggs, "The
2 only thing I know of is before we left her house, I
3 know he wrapped the gun up in a towel and put it in
4 a bag. I didn't see nothing else in that bag. I
5 know he put the gun in the towel." You were asked a
6 question Mr. Briggs. What color was the towel? You
7 stated the towel was white. Well I'm confused Mr.
8 Briggs.

9 A: At Ms. Smith's house the towel was white.

10 Q: That's not what you just stated, Mr. Briggs. I
11 asked you a question "Was the gun wrapped up? What
12 did I wrap the gun up in allegedly, Mr. Briggs? You
13 stated nothing. This is what you stated Mr. Briggs.
14 Now you stating that it was wrapped in a towel.

15 A: Like I stated to Ms. Barr that I didn't see the gun
16 in your possession coming out the house but when you
17 got in the vehicle riding down the road you appeared
18 the gun, presented the gun to me while telling me
19 what you told me.

20 Q: Excuse me, you stated.

21 Ms. Barr: We would ask that he be allowed to finish
22 his answer.

23 The Court: Let him finish his answer.

24 Mr. McCrea: I apologize.

25 A: When you, the defendant, showed the gun to me,

1 that's when you told me that my life in your hands
2 if you're gonna say something then I'll go ahead and
3 take care of that now.

4 Q: Mr. Briggs, on numbers thirteen to seventeen, you
5 stated "The only thing I know of, is before we left
6 her house." I'm assuming you're talking about the
7 alleged victim. "I know he wrapped the gun up in a
8 towel and put it in a bag. I didn't see nothing
9 else in that bag. I know he put that gun in a
10 towel."

11 A: At the time that question was asked, I was confused
12 about what he was exactly speaking about with the
13 gun.

14 Q: You were confused?

15 A: Yes. We was talking about that point in time with
16 that question.

17 Q: You're absolutely right you were confused Mr.
18 Briggs. Mr. Briggs. Mr. Briggs.

19 A: Yes sir.

20 Q: Did Christine Greene ride with you and Mr. McCrea to
21 get his check in Anderson, South Carolina and to
22 Greenville, South Carolina to make his car payment
23 on March 12, 2009, yes or no?

24 A: I have no idea about a check but I know you made a
25 car payment and Ms. Greene went with us.

1 specific day."

2 A: It don't indicate a time. We was in South Carolina
3 that morning. We left that morning to go to North
4 Carolina. It don't indicate the time frame. We was
5 in South Carolina and North Carolina on the same
6 day.

7 Q: Mr. Briggs, was it in the day time or evening?

8 A: What place?

9 Q: Wait a minute, please. Was it in the day time or
10 evening time or night time when you and Mr. McCrea
11 left and came back from North Carolina and he
12 committed this crime?

13 A: It was night time when you committed the crime.

14 Q: At approximately what time Mr. Briggs, you allege?

15 A: It was around 9:45 or ten o'clock, somewhere around
16 there.

17 Q: 9:45 or ten o'clock. March 29, 2010 transcript, Mr.
18 Briggs, page four.

19 A: You said the 2010 transcript?

20 Q: March 29, 2010 transcript, page four, Mr. Briggs,
21 number seventeen to twenty.

22 A: Yeah.

23 Q: You stated a few minutes ago, it was 9:45 or ten
24 o'clock?

25 A: Repeat the question.

Levern McCrea vs. State of South Carolina

186

1 Q: You're not familiar with the purpose of going to
2 Anderson, South Carolina was to pick up a check?

3 A: The purpose was to make a car payment.

4 Q: On March the 29th transcript Mr. Briggs, page 11.
5 Number 69 Mr. Briggs. Mr. Briggs, did Christine
6 Greene ride with us to Anderson, South Carolina on
7 March 12, 2009? Yes or no sir?

8 A: You said March 12th?

9 Q: Yes sir.

10 A: Yes Christine did rode with us to Anderson.

11 Q: But on number nine Mr. Briggs, you stated ... well,
12 let me start from number 6, if I may. You stated
13 I'm positive Christine got with us. He went and
14 picked up Christine to go with him to Greenville.
15 That question was asked to Greenville and you stated
16 "But Christine never did." So was with Ms. Greene
17 with us or she wasn't Mr. Briggs? Yes number nine.
18 "But Christine never did." Do you recall making
19 that statement Mr. Briggs, "but Christine never
20 did?" It's on number nine Mr. Briggs. "But
21 Christine never did."

22 The Court: Hold on.

23 A: Christine never did but Christine wasn't with us
24 when we went to those places.

25 Q: I'm talking about number nine Mr. Briggs. Thank

1 you, you've answered it Mr. Briggs. Mr. Briggs, you
2 stated that you begged Mr. McCrea to bring you home
3 after he allegedly committed this crime when you and
4 Mr. McCrea allegedly went back to North Carolina
5 after, yes or no, Mr. Briggs?

6 A: Yes I did.

7 Q: You begged Mr. McCrea to bring you home?

8 A: Yes I did.

9 Q: Remember you stated it was a week later? And then
10 you also stated it was a few days?

11 A: It was the same week. It was the 13th of March when
12 you brought me back to South Carolina because I had
13 a date with my kids. I was supposed to get them
14 that weekend.

15 Q: But you stated that it was a week later and then you
16 made another statement that it was a few days. I'm
17 confused Mr. Briggs.

18 The Court: Is there a question there?

19 Q: Mr. Briggs, you stated that you begged Mr. McCrea to
20 bring you home and that was which date was that Mr.
21 Briggs? After this crime allegedly happened? After
22 I committed this crime allegedly. What was the
23 date?

24 A: It was the 13th of March.

25 Q: The 13th? That's when we allegedly came back to

1 South Carolina after this crime was committed?

2 A: We was coming from North Carolina because I begged
3 you to bring me back to South Carolina because I
4 wanted to get my kids and I wanted to spend time
5 with them. And you said okay but you didn't really
6 want to take me because we had just came from South
7 Carolina to go to North Carolina. You didn't really
8 want to take me but you did anyway. And after you
9 took me to the residence of my wife and that's when
10 me and her had the argument and after the argument
11 that's when you stated "forget her man, come on man
12 let's go back up there" and after what happened, I
13 couldn't get my kids, I was like well forget it,
14 let's go. That's when we stayed up there during
15 that week time.

16 Q: Mr. Briggs, after Mr. McCrea allegedly committed a
17 haneous crime of this magnitude allegedly, why would
18 you go back to North Carolina with Mr. McCrea?

19 A: I went back ...

20 Q: Excuse me Mr. Briggs, I'm not finished. Why would
21 you ride all the way back to North Carolina two days
22 later or three days later?

23 A: I went back with you like I stated because I wanted
24 to keep my eyes on you. I wanted to see what was
25 your moves. I know the kind of person you are and I

1 didn't want to get caught up in that situation
2 because I know the people you roll with. That's why
3 I wanted to stay nearby so I could keep my eye on
4 you.

5 Q: Mr. Briggs, on March 31 transcript, number sixteen
6 to twenty Mr. Briggs. You made a statement Mr.
7 Briggs, "on the way coming back to South Carolina.
8 We were coming from Florence, I think that's the
9 41/51 highway, stopped threw the gun out, I remember
10 when I looked up and saw the stop school bus sign.
11 I remember the sign." So that's where Mr. McCrea
12 allegedly threw the gun out Mr. Briggs?

13 A: Yes.

14 Q: Your Honor, did Ms. Barr display the location?
15 The Court: The sign of the picture in evidence.
16 Ms. Barr: It's number 98. States exhibit number
17 98.

18 The Court: State's Exhibit Number 98.

19 Q: You stated that Mr. McCrea just threw this alleged
20 gun, Mr. Briggs. Correct?

21 A: You got out of the vehicle.

22 Q: Is this the exact location Mr. Briggs? And how far
23 back was this alleged murder weapon?

24 A: Repeat yourself.

25 Q: Is this the exact location Mr. Briggs and how far

Levern McCrea vs. State of South Carolina

190

1 back was this alleged weapon that I threw in this
2 area Mr. Briggs?

3 A: It was before you threw it in that location.

4 Q: Is this the exact location when you alleged that Mr.
5 McCrea threw this alleged murder weapon?

6 A: Yes it is. It is the location.

7 Mr. McCrea: Your Honor I'm not sure if Ms. Barr
8 displayed the photos.

9 The Court: Ms. Barr, do you have the photos of the
10 area?

11 Ms Barr: Yes sir. It looks like states exhibit 98-
12 106 if I'm not mistaken but I did not publish them. If
13 he wants to publish them -

14 The Court: He can publish them. They're in
15 evidence.

16 Ms. Barr: Is there a particular one that you
17 wanted?

18 Q: Mr. Briggs, was Mr. McCrea standing by his car when
19 he allegedly threw his bag or black bag like you
20 stated?

21 A: No, popped the trunk and walked nearby to that area.
22 When you came out you got the bag and you stand by
23 that area and you just throw it.

24 Q: Was it near this pole here Mr. Briggs?

25 A: Your car was in front of the sign.

1 Q: Where was this alleged murder weapon located when
2 you brought them to this location.

3 A: I don't know the exact spot where the weapon was but
4 they looked for a while they located that weapon in
5 that area right there.

6 Q: Mr. Briggs, weren't you with them? Didn't you bring
7 them to this location?

8 A: I didn't never got out of the vehicle.

9 Q: So was it in front of this pole or behind the pole
10 Mr. Briggs?

11 A: You parked the vehicle in front of the pole and got
12 out and walked.

13 Q: And threw it right here at this pole?

14 A: No not at the pole. You parked at the pole.

15 Q: So I came off the street and parked at the pole?

16 A: Yes you did.

17 Q: Allegedly.

18 A: Yes you parked by the pole and you got out of the
19 car, popped the trunk and walked to the edge of the
20 woods and threw it into the woods.

21 Q: And how much further back would you say that?

22 A: I have no indication of knowing where.

23 Q: Excuse me?

24 A: I have no indication of knowing where. I just know
25 it was in that area.

Levern McCrea vs. State of South Carolina 192

1 Q: But you stated you was with them at this particular
2 time when you brought them to this alleged murder
3 weapon?

4 A: Yes I did.

5 Q: And you mean to tell me that you weren't looking Mr.
6 Briggs, while you were in the vehicle?

7 A: I was not looking as to where they all was going
8 because there was two or three officers, there were
9 three officers. No there was four officers on the
10 scene. I was sitting in the vehicle with Mr. Brown
11 at the time they were searching for the weapon.

12 Mr. McCrea: Your Honor there is also another
13 picture.

14 The Court: Is that one in evidence?

15 Ms. Barr: Your Honor, I will show the defendant a
16 copy of the photographs that are in evidence and I would
17 be happy to publish them. Is the one behind there, the
18 one you're referring to?

19 Mr. McCrea: I'm trying to find it.

20 Ms. Barr: Judge, I don't think the one he is
21 referencing is in evidence. I do have this one, I'll
22 display it. I don't know if he's talking about this one.
23 This is states exhibit number 97. I don't know that he's
24 talking about that one though.

25 The Court: Mr. McCrea are you wanting to put that

1 one in evidence?

2 Mr. McCrea: Yes sir, Your Honor.

3 The Court: Any objections?

4 Ms. Barr: No sir.

5 Mr. McCrea: And also ... __

6 The Court: This will be defense exhibit number one.

7

8 (Defense Exhibit Number One was marked)

9 Ms. Barr: Judge there is also writing at the bottom
10 so we want to redact that because I think he wrote
11 something at the bottom. Other than that, I don't have
12 an objection to it.

13 The Court: Defendant's Exhibit number one and two.
14 Before you show it to the jury you will have to redact
15 that or at least cut it off.

16 Ms. Barr: Ms. Williams, will you cut it off?

17 Ms. Williams: Okay.

18 Q: So you're not exactly sure Mr. Briggs how far, since
19 you stated I was at this pole allegedly when I got
20 out of my car, pulled off the street, drove by the
21 pole and threw this alleged murder weapon in the
22 bushes here.

23 A: You threw it out into the woods there.

24 Mr. McCrea: May I grab this one?

25 Ms. Barr: You may.

Levern McCrea vs. State of South Carolina

194

1 Mr. McCrea: Thank you ma'am. Thank you.

2 Q: It appears to be quite some distance from the street
3 Mr. Briggs.

4 A: Excuse me.

5 Q: The location of this gun is quite some distance from
6 the street where you allegedly said that I allegedly
7 threw this murder weapon. You stated, and he
8 stopped to throw the gun out.

9 The Court: Leave those up on the table if those are
10 evidence.

11 Mr. McCrea: Okay. This is Ms. Barr's.

12 The Court: Mr. McCrea the other pictures are marked
13 as evidence. Defense number one.

14 Mr. McCrea: Okay, thank you.

15 Q: Mr. Briggs.

16 A: Yes, sir.

17 Q: Investigator Lambert and Investigator Willie Brown
18 was asking, Mr. Briggs, on April 15, 2009,
19 supplemental report, on page three, two and a half
20 weeks after this crime was committed. Mr. Briggs,
21 you had ample time to tell Investigator Brown and
22 Investigator Lambert about this alleged crime that I
23 allegedly committed, Mr. Briggs. Can you explain?

24 A: Yes, on that form that you are looking at, I didn't
25 tell them anything because I was just thinking about

1 how I didn't want to be caught up in this situation.

2 Q: Well if you were allegedly with me Mr. Briggs, you
3 would have some involvement if this allegedly
4 happened with me.

5 A: I was not with you involving the crime. I was in the
6 vehicle. I wasn't aware of what you were doing.

7 Q: Mr. Briggs.

8 A: Yes sir.

9 Q: Investigator Lambert along with Investigator Brown,
10 state Christopher Briggs spoke in referenced to Ms.
11 Cora's death. Mr. Briggs stated that ...

12 Ms. Barr: Judge if he's reading form the
13 supplemental report of an officer we would object because
14 we take the position that the officer needs to testify to
15 that.

16 The Court: Sustained.

17 Mr. McCrea: Your Honor, as well as you allowing Mr.
18 Briggs to answer that question in reference to how long
19 did we stay and allegedly stay ...

20 The Court: You can ask him that question, you can't
21 read from ...

22 Mr. McCrea: Yes, I did. Yes, right, but Your Honor
23 this has a lot of bearing on it.

24 The Court: No, sir.

25 Mr. McCrea: Okay, I guess through Investigator

Levern McCrea vs. State of South Carolina

196

1 Brown.

2 The Court: Your choice.

3 Q: Mr. Briggs.

4 A: Yes sir.

5 Q: Why did you wait until you were locked up, in jail,
6 in trouble, to write a letter to the Georgetown County
7 jail to tell Investigator Lambert or Brown that you knew
8 something about what happened to Ms. Brown?

9 A: I didn't write no letter to the Sheriff's Department
10 telling them anything about a crime while being in
11 Georgetown County.

12 Q: Then how would they know to contact you Mr. Briggs?

13 A: Because they were looking for me and they check the
14 system and they found out that I was in jail.

15 Q: And this was on the ...

16 A: I have no idea when this happened.

17 Q: This was after 1-15, the assault on your wife Mr.
18 Briggs?

19 A: Yes.

20 Q: You remember that?

21 A: Uh huh (affirmative response).

22 Q: Also March 13, the assault on your wife two days
23 after the victim was killed, Mr. Briggs? Another
24 assault on your wife?

25 A: That was dismissed sir.

1 Q: Mr. Briggs, you used Mr. McCrea as a get our of jail
2 free card, that's why you contacted Investigator
3 Brown after you assaulted your wife on January 15.

4 The Court: Is there a question? You don't get to
5 testify. You have to ask him a question.

6 Mr. McCrea: Yes sir.

7 Q: Mr. Briggs, on March the 10th, 2010 transcripts ...

8 Ms. Barr: I'm sorry Your Honor, March 10, 2010?

9 Mr. McCrea: Yes.

10 The Court: Please clarify.

11 Mr. McCrea: Give me a minute Your Honor.

12 The Court: All right we're going to take a break.

13 Ladies and gentlemen when you go back to the jury room
14 please do not discuss anything about this case. We're
15 going to take a ten minute recess. You may step down.
16 You may not speak to anyone about your testimony.

17 The Court: All right we will be in recess for ten
18 minutes.

19 (Jury break was taken 4:29)

20 The Court: Anything before I bring the jury back
21 in?

22 Mr. McCrea: No sir.

23 The Court: State have anything before I bring the
24 jury back in?

25 Ms. Barr: Nothing.

Levern McCrea vs. State of South Carolina

198

1 The Court: All right bring the jury back in.

2 (Jury enters courtroom 4:42)

3 The Court: All right Mr. McCrea you may continue
4 your cross examination of Mr. Briggs.

5 Mr. McCrea: Thank you Your Honor.

6 Mr. Briggs - Cross Examination by Mr. McCrea:

7 Q: Mr. Briggs.

8 A: Yes sir.

9 Q: March 31st, 2010 transcript page eleven, numbers two
10 to four. You stated Mr. Briggs, " He wanted to stay
11 and find a job down there, that was his intention,
12 but I begged him to bring me home."

13 A: Yes sir.

14 Q: You remember making that statement, Mr. Briggs?

15 A: Yes sir.

16 Q: But you traveled back with Mr. McCrea on March the
17 14th, that Saturday morning, Mr. Briggs. Isn't that
18 true Mr. Briggs?

19 A: We didn't travel on March 14, it was March 13. That
20 was that Friday after me and my wife had an
21 altercation.

22 Q: So you said that March 13 now, Mr. Briggs, on April
23 1st, 2010 transcript, page 5.

24 Ms. Barr: I'm sorry Your Honor when?

25 Mr. McCrea: April the first. Yes April 1st, 2010,

1 Ms. Barr. Transcript page 5.

2 Ms. Barr: April 1st, 2010 or 2009?

3 Mr. McCrea: I'm sorry 2009 I looked at it wrong.

4 Ms. Barr: That's okay. I will just give him mine.

5 I need those transcripts back.

6 A: What page?

7 Q: Page five, numbers six to sixteen Mr. Briggs. I
8 would like for you to read off ...

9 The Court: Give him a chance to read it.

10 Q: Could you find March 31, 2010 transcripts for me
11 right quick Mr. Briggs, page eleven.

12 The Court: Wait a minute, you were talking about April
13 1st.

14 Q: Well April 1st ...

15 Mr. McCrea: Excuse me Your Honor. If I may address
16 what he stated on March 31st.

17 The Court: You can impeach him, if you want to do
18 that.

19 Q: Mr. Briggs, you stated on March 31, 2010
20 transcripts, "He wanted me to stay and find a job
21 down there, that was his intention but I begged him
22 to bring me home." And on the April 1, 2009
23 transcripts, you stated number six, "I just came
24 home to get my kids for that weekend because my mom
25 said she didn't have no way to get them there. I

Levern McCrea vs. State of South Carolina

200

1 said okay I'll come home to get that done. And when
2 we got home to get that done, after that what
3 happened shit there wasn't no use for me to stay
4 down here after I had done put in an application for
5 a job, we went back down there and after we couldn't
6 get no job I said man the hell with that. Let's
7 come on back home."

8 The Court: Is there a question there?

9 Mr. McCrea: Yes, sir.

10 A: What page are you on?

11 Q: I'm on April 1, 2009 transcripts Mr. Briggs, numbers
12 six to sixteen.

13 A: What page?

14 Q: Page five.

15 A: During that time I was being questioned, this was
16 the time that basically I was just speaking just to
17 not be a part of this situation on this transcript.
18 That was the first time I had been questioned.

19 Q: But you stated that you begged Mr. McCrea to bring
20 you home but you stated you just came home to get
21 your kids for the weekend. I'm confused Mr. Briggs.

22 A: Repeat that question again.

23 Q: One minute you're begging to come home, Mr. Briggs,
24 and the next minute you just came home to get your
25 kids for the weekend.

1 A: I answered that question. Yes, I begged you to
2 bring me home to get my kids. Yes I did and after
3 going down there to South Carolina and me and my
4 wife got into an altercation that's when you said to
5 me let her go man, ain't got time for that. You
6 might as well come on back down with me and that's
7 when I said yes I will.

8 Q: So after you assault your wife two days after this
9 crime was committed, and I'm threatening you like
10 you stated.

11 Ms. Barr: Judge, we would object to the
12 characterization of him assaulting his wife.

13 The Court: Sustained. There were no charges
14 resulting from that.

15 Mr. McCrea: I guess from January the 15 Your Honor
16 there were charges resulting from that.

17 The Court: They were dismissed.

18 Q: No, sir, Your Honor.

19 The Court: Which ones were dismissed?

20 Ms. Barr: He's talking about March 13, 2009 when he
21 came down to see his kids. I think is what he's talking
22 about.

23 Mr. McCrea: No I'm talking about January 15.

24 The Court: Sir, I'm not going to let you go into
25 that.

Levern McCrea vs. State of South Carolina

202

1 Mr. McCrea: He was charged.

2 The Court: That's irrelevant.

3 Ms. McCrea: Okay but he was charged with that.

4 The Court: Was that the one that he ended up with a
5 conviction on?

6 Ms. Barr: I think that's correct, Judge, because he
7 was serving time in Georgetown.

8 The Court: Okay then you can ask him whether he had it
9 or not. I'm not going into the details of it. You don't
10 have to answer the question.

11 Q: You stated you begged Mr. McCrea to bring you home
12 and you stated again you just came back to get your
13 kids Mr. Briggs. Mr. Briggs, on March 31, 2010
14 transcript, page thirteen

15 The Court: Does he still have that?

16 Ms. Barr: I've got that.

17 Q: Number thirteen, page thirteen. All set Mr. Briggs?

18 A: I'm all set.

19 Q: Mr. Briggs, you stated, in number six, thirteen.

20 "Levern is a very destructive person. I didn't want
21 to cross him because I didn't know how to take him.

22 That's why I got myself away from him. You know
23 what I'm saying because I didn't trust him. I don't
24 trust him. That's why I got myself away from him."

25 Mr. Briggs, but you went back to North Carolina with

1 Mr. McCrea allegedly after he committed this crime?

2 A: When I stated that statement, I stated that after
3 being detained here for my wife. I stated to them
4 in Georgetown that because after the incident took
5 place in the CDV they mentioned some things about
6 the situation. My wife told me she was not going to
7 accept me back if I continued talking with you.
8 That's why I got myself away from you.

9 Q: Mr. Briggs, you went back to North Carolina with Mr.
10 McCrea after that fact so how can you sit there and
11 say you got yourself away from me? That makes no
12 sense Mr. Briggs.

13 A: On March 31, 2010, me and my wife got back together
14 April 2009 the last part of that month.

15 Q: Yeah

16 A: That was after I came out of jail for this
17 additional charge she put against me.

18 Q: That she put against you?

19 A: Yes.

20 Q: You assaulted her Mr. Briggs.

21 The Court: Sir you can't argue.

22 Mr. McCrea: I'm sorry Your Honor.

23 The Court: The jury will strike the last comment.

24 Q: April 1, 2009 transcripts page six Mr. Briggs.

25 A: What page sir?

Levern McCrea vs. State of South Carolina

204

1 Q: Page six. Numbers five to eight Mr. Briggs. You was
2 asked a question, yes we went down there. I went
3 back to get my kids and my wife didn't let me get
4 them again because of the altercation we had when we
5 went down there.

6 A: What are you implying? I don't know the question.

7 The Court: There is no question. Mr. McCrea you
8 must ask a question sir.

9 Q: He made the statement, Your Honor.

10 The Court: You must ask him about that statement.

11 Q: Can you tell me what you meant when you made that
12 statement Mr. Briggs?

13 A: When I made that statement, I was telling them that
14 you brought me down there after

15 Q: Who is him?

16 The Court: Let him finish his answer.

17 A: After I begged you to bring me down to get my kids,
18 my mother, I wanted to be down there also, but being
19 that when we got there we got into an altercation
20 about the kids, that's when you presented to me
21 about "man just let her go", you might as well come
22 on back down with me and I stated to you, yes, I
23 would.

24 Q: Mr. Briggs, on March 29, 2010 transcript page six,
25 numbers 18-19.

1 Ms. Barr: Judge I think I have that transcript.

2 The Court: Let Mr. Briggs please use that.

3 Q: You stated Mr. Briggs, well you were asked a
4 question. Excuse me, you stated, "we stopped at the
5 gas station to get some gas.

6 A: Yes, I did stated that.

7 The Court: You may proceed Mr. McCrea.

8 Q: Okay. If I may start.

9 The Court: You may ask him a question.

10 Q: You was asked a question Mr. Briggs and then you all
11 left ...

12 The Court: What are you referring to?

13 Q: A statement that he made, Your Honor.

14 The Court: Give him page and line, please.

15 Q: Page six, numbers eighteen to twenty-two. Nope, to
16 ...

17 Mr. McCrea: Wait a minute. Your Honor, please.

18 Q: Yes Mr. Briggs, we stated March 29, 2010 transcript,
19 page six at numbers twenty-three to twenty-five.

20 You stated Mr. Briggs, "I was sitting in the car,
21 and I heard some gun shots and I was scared at that
22 point in time and I was wondering what was going
23 on." Isn't that what you stated Mr. Briggs?

24 A: Yes I did.

25 Q: You stated, "I was sitting in the car and I heard

Levern McCrea vs. State of South Carolina

206

1 some gun shots and I was scared at that point in
2 time." But on March 31, Mr. Briggs, transcript 2010
3 page six, numbers twenty-three to twenty-four Mr.
4 Briggs,

5 A: What page?

6 Q: Page six.

7 A: I'm sorry.

8 Q: Page eight on March 31 on 2010 transcript. Page
9 eight, numbers twenty-one to twenty-four Mr. Briggs.

10 A: Go head.

11 Q: You stated when you was asked a question. So you
12 stated that when you got to the house you were
13 actually in the car sleeping, you stated. Yeah I
14 was in the car sleeping and I heard the gun shot and
15 that's why I jumped up. But on March 29, 2010
16 transcripts, Mr. Briggs, you said you were sitting
17 in the car and heard the gun shots. So were you
18 sleeping or sitting in the car?

19 A: When we first arrived yes I was sleeping. After a
20 while, after a few minutes I woke up and realized
21 and noticed I was in Ms. Cora Brown's yard.

22 Q: But you stated you was sitting in the car one minute
23 and the next minute you stated you was sleeping in
24 the car and I heard a gun shot and that's why I
25 jumped up. So which one was you doing Mr. Briggs.

1 A: When we first arrived I was sleeping. After being
2 there, I woke up and noticed we was at Ms. Cora's
3 house. After that I awoke in the vehicle so I would
4 be sitting in the vehicle awake.

5 Q: Mr. Briggs, March 31 transcript Mr. Briggs, pages
6 three. Numbers twenty-two to twenty-five and we are
7 going to continue on the next page. We are going to
8 start the statement that you made Mr. Briggs.

9 The Court: Give him an opportunity to read it.

10 Q: Yes sir. Let me know when you are ready Mr. Briggs.

11 A: Go ahead.

12 Q: You stated Mr. Briggs, "Yes sir, on the date of
13 March 12, Mr. Briggs and Levern McCrea were in North
14 Carolina on that specific day. Later on that day,
15 he wanted me to go back home with him and on the way
16 traveling back home, I asked him what was the
17 purpose of us going back home and he said he wanted
18 to talk to Ms. Cora. I never thought nothing of it
19 because I know he had talked to people certain
20 times."

21 A: And ...

22 Q: Excuse me Mr. Briggs, I'm not finished. You also
23 stated Mr. Briggs, "we stopped to get some gas, I
24 think, before, but I think it was after, but on the
25 way I was sleeping at that specific time. But when

Levern McCrea vs. State of South Carolina

208

1 I woke, I knew we were in Ms. Cora's yard and I
2 heard a gun shot." Isn't that what you said Mr.
3 Briggs.

4 A: What are you implying? What is the question?

5 Q: Mr. Briggs, you stated, and I will go back for you.
6 Mr. Briggs, are you bipolar?

7 A: No.

8 Q: Are you sure?

9 A: Positive.

10 Q: One minute you love your wife, the next minute ____
11 Ms. Barr: We are going to objection to that
12 comment.

13 The Court: No editorializing Mr. McCrea, you will
14 have your opportunity at the end.

15 Q: Mr. Briggs, you stated on the day March 12, me,
16 Christopher Briggs and Levern McCrea were in North
17 Carolina on that specific day. Later on that day he
18 wanted me to go back home with him. Page four Mr.
19 Briggs. On the way traveling back home, I asked
20 him, what was the purpose of us going back home.
21 And he stated he wanted to talk to Ms. Cora. Never
22 thought nothing of it. I know he talked to people
23 at certain times. You were asked the question how
24 do you know Ms. Cora? You said I guess from being
25 around Venus(sp) the family for so long and what

1 not. He was asked another question, you answered
2 "yes sir, we stopped to get some gas, I think it was
3 after, but on the way I was sleeping at that
4 specific time and when I woke I knew we were at Ms.
5 Cora Brown's yard because I heard a gun shot."

6 Ms. Barr: Judge, I'm going to have to object to the
7 nature of the question.

8 The Court: Yes, you get to ask questions Mr.
9 McCrea, you don't get to read it into evidence. I've
10 told you that, so please do not do it again.

11 Mr. McCrea: I'll try to remember. I apologize Your
12 Honor.

13 The Court: This is the last time I'm going to warn
14 you.

15 Q: Isn't that what you said Mr. Briggs?

16 A: On the day of March 12?

17 Q: Yes sir.

18 A: I did say that but I got the date confused.

19 Q: Well that's a problem Mr. Briggs because the victim
20 was deceased on March the 11th so it couldn't have
21 been March 12 Mr. Briggs. You were definitely with
22 someone else.

23 The Court: Sir is there a question there. You do
24 not get to testify.

25 Q: Isn't that what you stated Mr. Briggs?

Levern McCrea vs. State of South Carolina 210

1 The Court: Ladies and gentlemen of the jury, please
2 go to the jury room. I need to take up something with
3 the attorneys. Do not discuss this matter while you are
4 in there.

5 (Jury Break 5:14)

6 The Court: All right, Mr. McCrea, I have warned you
7 repeatedly about testifying during your cross
8 examination. You have a right to cross examine this
9 witness, however you don't have a right to testify and
10 then not be cross examined. You have an opportunity to
11 take the stand if you want to. You have the right to be
12 cross examined but it's not an absolute right. And the
13 next time you violate my rule on that, I will stop your
14 cross examination. Do you understand?

15 Mr. McCrea: Yes sir.

16 The Court: Are you sure?

17 Mr. McCrea: Yes sir. I do.

18 The Court: Because I have warned you several times
19 and you have failed to heed my warning. If you do it
20 again I am going to stop your cross examination. Do you
21 understand?

22 Mr. McCrea: Yes sir, I do.

23 The Court: I think now is probably, how much longer
24 do you think you are going to be cross examining this
25 witness?

1 Mr. McCrea: I have ... Your Honor, I'm all set with
2 this witness.

3 The Court: Bring the jury back in and she has a
4 right to redirect.

5 Mr. McCrea: I apologize Your Honor.

6 The Court: All right thank you. I'm not trying to
7 impinge on your right to cross examination but I'm not
8 going to let you testify.

9 Mr. McCrea: I understand.

10 The Court: Thank you. All right let's bring our
11 jury back.

12 (Jury enters courtroom at 5:17)

13 The Court: All right Ms. Barr do you have any
14 redirect?

15 Mr. Briggs - Redirect Examination by Ms. Barr:

16 Q: Mr. Briggs, I want to be clear about some things.
17 How many recorded statements did you give to law
18 enforcement?

19 Ms. Barr: Yes, very briefly if I may.

20 A: Three.

21 Q: Okay that's what you have up there, three?

22 A: Yes.

23 Q: Okay tell me those dates on those transcript of
24 those interviews.

25 A: Dated March 29, 2010, one is March 31, 2010 and one

1 is April 1, 2009.

2 Q: Okay in the April 1, 2009 interview you gave to law
3 enforcement, you've acknowledged that you were not
4 truthful?

5 A: Yes I did.

6 Q: In the March 29, 2009 interview, is that about
7 around the time you took law enforcement to where
8 you believed the gun was?

9 A: Yes I did.

10 Q: All right and you were truthful in that interview,
11 March 29th of 2010?

12 A: Yes I was.

13 Q: And after they found the gun, you gave another
14 statement to the police?

15 A: Yes I was questioned again.

16 Q: Sort of a follow up?

17 A: Yes.

18 Q: Now when the police took you out to, what did you
19 say Old River Road?

20 A: Yes.

21 Q: All right, did you remain in the police car?

22 A: Yes I did.

23 Q: All right did they allow you to go out and search
24 for the weapon?

25 A: No ma'am.

1 Q: The police did that?

2 A: Yes.

3 Q: They recovered the weapon and did they allow you to
4 ever touch the weapon at that point?

5 A: No ma'am.

6 Q: Now let's see one of those statements. March 29,
7 2010 page eleven, Mr. McCrea was asking you whether
8 or not Christine was with the two of you and there
9 was some conversations about Greenville and that
10 sort of thing. Do you remember that line of
11 questioning.

12 A: Yes.

13 Q: At this time, and I want you to look at the top of
14 that page, page eleven. When law enforcement was
15 asking you about Christine at the top of that page,
16 were they talking about going to Greenville or
17 Anderson or were they talking about going to Cora's
18 house? At the top of the page?

19 A: They was talking about Cora's home.

20 Q: On line twelve or line ten they asked you what?

21 A: If Christine ride with us to Greenville.

22 Q: All right. And the police also asked you, are you
23 sure Christine went with you all, talking about
24 Cora's house. Is that right? Look at the top.

25 A: Yeah, that's what they were talking about.

Levern McCrea vs. State of South Carolina

214

1 Q: Are you looking at the top?

2 A: Yes the top.

3 Q: And you told them Christine was not with you when
4 you all went to Ms. Cora's house?

5 A: Yes.

6 Q: Now you indicated that in the initial statement to
7 the police in April of 2009 that you didn't tell
8 them about what Mr. McCrea had done, is that right?

9 A: Yes.

10 Q: Your first statement?

11 A: Yes.

12 Q: And you were charged with not telling the police
13 with what you knew, is that right?

14 A: Yes I was.

15 Q: You were charged with misprision of a felony.

16 A: Yes.

17 Q: And you plead guilty to what you were charged with?

18 A: Yes I did.

19 Q: Now did I or anyone from my office offer you any
20 kind of deal to plead guilty or did you plea guilty
21 on your own?

22 A: No ma'am I plead guilty on my own. I was wrong. I
23 did hold back on the officers from them doing their
24 job.

25 Ms. Barr: That's all the questions I have.

1 The Court: Mr. McCrea, do you have any re-cross
2 based on her redirect.

3 Mr. McCrea: No I do not at the moment, Your Honor.

4 The Court: All right, thank you. You may step
5 down. All right ladies and gentlemen, that will be all
6 the testimony that we will hear today. I'm going to send
7 you home and remind you that you are not to use any
8 communication devices, you are not to use your computers
9 to do any research and you are not to talk about it to
10 anyone about this. So when you go home remember you
11 cannot say anything about it and we will resume testimony
12 tomorrow morning and have a nice evening. We are going
13 to get some rain so it's going to be a nasty night.
14 Ladies and gentlemen have a nice evening.

15 (Jury excused for the evening at 5:23)

16 The Court: What witness does the state have
17 tomorrow?

18 Ms. Barr: We anticipate calling SLED agents,
19 pathologist as well as Ms. Smith.

20 The Court: Will that be the rest of your witnesses?

21 Ms. Barr: I believe so, yes sir. I don't think
22 they will be as long as Mr. Briggs. I don't think there
23 will be anybody as long as Mr. Briggs.

24 The Court: When are you going to be calling them,
25 tomorrow morning?

Levern McCrea vs. State of South Carolina

216

1 Ms. Barr: Yes sir.

2 The Court: Mr. McCrea, would you be ready to start
3 your case on Thursday morning, if necessary?

4 Mr. McCrea: Yes sir.

5 The Court: And how many witnesses do you intend to
6 call? I'm just trying to get an idea of where we are.

7 Mr. McCrea: Investigator Brown as well as Roberta
8 Smith.

9 The Court: Okay. Thank you. Court adjourned until
10 10:00.

11 **(Court ends for the day of 10-18-11 p.m.)**

12 **10-19-11GS.AM**

13 The Court: All right. Anything from the State we
14 need to take up before we bring our jury in.

15 Ms. Barr: Nothing from the State.

16 The Court: Mr. McCrea?

17 Mr. McCrea: No, sir.

18 The Court: All right. Let's bring our jury in.

19 (Jury enters courtroom 10:04)

20 The Court: Good-morning. We're just having nasty
21 rain so it's a good day to be in here. We will continue
22 the testimony. Is the State ready to call its next
23 witness?

24 Ms. Barr: We are, Your Honor.

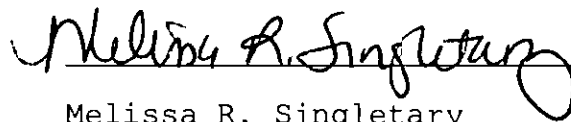
25 The Court: Call your next witness.

CERTIFICATE

This is to certify that Volume One of the hearing in the matter of Levern McCrea vs. The State of South Carolina, consisting of pages 3-216 is a true and correct transcript; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am not employed by any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 12th day of November, 2013.



Melissa R. Singletary
Certified Court Reporter

Notary Public for South Carolina
My Commission Expires: 3-5-2014

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSION
COUNTY OF WILLIAMSBURG	)	
LEVERN MCCREA	)	
	)	
PLAINTIFF,	)	TRANSCRIPT OF HEARING
	)	C/A #: 2013-GS-45-00135
v.	)	
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
DEFENDANT.	)	

WILLIAMSBURG COUNTY COURTHOUSE
Monday, October 17-21, 2011

VOLUME TWO

BEFORE:

HONORABLE W. JEFFREY YOUNG, PRESIDING JUDGE.

APPEARANCES:

Solicitor Kimberly Barr
Attorney for The State of South Carolina

Mr. Levern McCrea, Defendant, Pro Se

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

INDEX

	<u>PAGE</u>
<u>State's Case (10-19-11 A.M.)</u>	
Vicki Hallman	
Examination by Ms. Barr	217
Cross Examination by Mr. McCrea	287
Tracy Thrower	
Examination by Ms. Barr	288
<u>10-19-11 P.M.</u>	
Pretrial Motions	
Kimberly Dinh	
Examination by Ms. Barr	313
Verona Gibson	
Examination by Ms. Barr	317
Recall Vicki Hallman	
Examination by Ms. Barr	332
Catherine Leisy	
Examination by Ms. Barr	336
Dr. Ellen Riemer	
Examination by Ms. Barr	355
Wayne McFadden	
Examination by Ms. Barr	390
Cross Examination by Mr. McCrea	405
Redirect Examination Ms. Barr	415

(Court ends for the day - Volume Two)

EXHIBITS

(Eleven Pages of Receipt for Exhibits attached to Volume One)

1 Ms. Barr: We call Agent Vicki Hallman,

2 Clerk: Place your left hand on the Bible and raise
3 your right hand. Do you solemnly swear that the evidence
4 and testimony you will give this jury truth, the whole
5 truth and nothing but the truth so help you God?

6 A: Yes ma'am.

7 Ms. Kimberly Barr: May it please the court?

8 The Court: Yes.

9 Ms. Hallman - Examination by Ms. Barr:

10 Q: Good morning Ms. Hallman. If you would, please
11 introduce yourself to the ladies and gentlemen of
12 our jury.

13 A: I am Vicki Hallman. I'm a senior agent for the
14 South Carolina Law Enforcement Division and I'm
15 assigned to the crime scene latent prints
16 department.

17 Q: All right, when we talk about law enforcement, that
18 agency is commonly known as SLED, is that right?

19 A: Yes ma'am it is.

20 Q: Can you tell us very briefly what SLED does as an
21 agency.

22 A: We are an assisting agency. We are actually a State
23 agency. We assist local law enforcement agencies at
24 their request in any type of investigation that they
25 may need assistance on.

Levern McCrea vs. State of South Carolina

218

1 Q: And you all have bags and will travel throughout the
2 state, is that right?

3 A: Yes.

4 Q: Now how long have you been in law enforcement?

5 A: I have been in law enforcement for approximately
6 twenty years.

7 Q: And are you a certified law enforcement officer?

8 A: Yes ma'am I received my certification in 1992.

9 Q: And you have powers of arrest?

10 A: Yes ma'am.

11 Q: And tell us specifically what it is that you do day
12 to day and I guess I'm probably more concerned
13 around what your job responsibilities would have
14 been in say the month of March 2009.

15 A: In the month of March in 2009, it's kind of
16 confusing because the unit I work in is now a part
17 of the laboratory again but for about nine months we
18 were signed out to be regional offices. And for
19 SLED there's four regional offices. There's one
20 here in the Pee Dee region, there's one in the low
21 country. There's one in the midlands and there's
22 one in the Piedmont. We were signed out to those
23 regions and my primary function is crime scenes. I
24 also do some latent processing evidence. I do
25 footwear and tire trend comparison and blood stain

1 analysis.

2 Q: Ms. Hallman, of course this is not the first time
3 you have been to Williamsburg County to assist in a
4 criminal investigation.

5 A: That is correct.

6 Q: And it's not the first time you have come and been
7 subpoena as a witness and testified?

8 A: That is correct.

9 Q: All right now you spoke of when you initially began
10 your training as a law enforcement officer. Can you
11 tell us a little bit about your educational
12 background as it relates to your job responsibility?

13 A: I have a bachelor of arts in history from the
14 University of South Carolina. I also have a
15 master's in criminal justice from the University of
16 South Carolina. I am a sworn law enforcement
17 officer. I have been in crime scene for
18 approximately eleven years. I take continuing
19 education courses every year on finger print
20 identification and processing, footwear and tire
21 wear comparison, and crime scene processing and
22 crime scene processing and crime scene
23 reconstruction.

24 Q: And ma'am have you had occasion as you were
25 testifying in previous trials to be qualified as an

Levern McCrea vs. State of South Carolina

220

1 expert witness in the field of fingerprint ID?

2 A: Yes ma'am I have.

3 Ms. Barr: Judge, we would, at this time, tender Ms.
4 Hallman as an expert on fingerprint ID.

5 The Court: Mr. McCrea, do you have any objections to
6 her being deemed an expert in fingerprint ID?

7 Mr. McCrea: No I don't.

8 The Court: All right ladies and gentlemen of the
9 jury, normally a person cannot give opinion testimony.
10 Generally they can only testify to what they heard,
11 smell, tested or felt. However, there is an exception to
12 that when someone is qualified because of education or
13 experience they are permitted to give their opinion in a
14 certain area. And she has been proposed to be an expert
15 in fingerprint i.d. Therefore, she will be qualified to
16 give an opinion in that area. Now ladies and gentlemen,
17 just because she is an expert does give any greater
18 weight to her testimony then you would any other witness.
19 It just means you take this as any other piece of
20 evidence or testimony that is presented and you as the
21 jurors, as the finders of fact, should give the weight
22 that you deem appropriate. All right. Thank you. You
23 may proceed.

24 Q: Ms. Hallman, you testified that you received years
25 of training in the area of crime scene and DNA

1 splatters as well. Kind of explain to the jury what
2 you mean when you talk about DNA spatter.

3 A: Well we actually call it bloodstain pattern
4 analysis. Basically, because of the physics and the
5 chemical composition of the blood there are certain
6 things that you can determine by blood that's left
7 at a crime scene. We can possibly give you a
8 direction of where the blood came from, the
9 direction that the blood is traveling too. We can
10 possibly give you an area where the blood source was
11 located and a few other types of information along
12 those lines.

13 Q: And in terms of the area of crime scene analysis,
14 tell us a little bit about your training and what
15 you look for when you go onto a crime scene.

16 A: Well basically, the main thing that I am looking for
17 when I go into a crime scene is something that looks
18 like it doesn't belong is the easiest way to
19 describe it. If I go to a house that is normally
20 neat and there is one room that is extremely untidy
21 then that kind of leads me to look more in that area
22 because that doesn't seem like it fits in with the
23 rest of the house. If I know that I'm working a
24 shooting scene one of the biggest things I am
25 looking for is to see if there's a weapon that's

Levern McCrea vs. State of South Carolina

222

1 been left behind or any cartridge cases. Or if I
2 know it's a stabbing then I know I'm going to be
3 looking for a knife.

4 Q: Now when you talk about the area of blood stain
5 spatter analysis, have you ever testified in a
6 criminal case in the State of South Carolina before
7 today's date about that particular field, blood
8 stain pattern analysis?

9 A: Yes ma'am, I have.

10 Q: And you have been qualified as an expert in that
11 field?

12 A: Yes.

13 Q: Judge, we would also tender Ms. Hallman as an expert
14 in the field of bloodstain pattern analysis.

15 The Court: Any objections, Mr. McCrea?

16 Mr. McCrea: None at all, Your Honor.

17 The Court: I will qualify her as an expert in blood
18 stain pattern analysis. Ladies and gentlemen, as I told
19 you before it is up to you to determine what weigh to
20 give her testimony.

21 Q: Now, Ms. Hallman, you assisted the Williamsburg
22 County Sheriff's Office regarding a murder of Ms.
23 Cora Brown?

24 A: Yes.

25 Q: Tell us how you became involved in that case.

1 A: I received a call from my lieutenant, at the time,
2 who was Johnny Abraham, that Williamsburg County had
3 requested our assistance in working what appeared to
4 be a homicide scene.

5 Q: And you went out to [REDACTED] Mingle Chandler Road in
6 Hemingway?

7 A: Yes ma'am.

8 Q: All right, in terms of how you began to process a
9 crime scene, explain to the jurors what you do to go
10 about processing that scene.

11 A: One of the first things we do is make sure that we
12 have a search warrant or we have consent to go in.
13 I usually do a walk around the house. I usually
14 document that with photographs. I usually go in and
15 do a walk through of the scene to see what I see
16 before we get started with everything. We go back
17 in after the walk through and document everything
18 with photographs before we start doing any type of
19 evidence collection or marking. Once the photographs
20 are taken, then we're going to go back in and we're
21 looking for that evidence and marking the evidence.
22 Usually we re-photograph the scene with the markers
23 in it so that for future reference somebody else
24 goes over where the evidence was located then we are
25 actually going to collect the evidence.

1 Q: And you, in fact, back on, I guess it would have
2 been the night of March the 12th 2009, leading up to
3 March 13, 2009, collected several pieces of what you
4 considered may be evidence in connection with this
5 case.

6 A: Yes ma'am, we did.

7 Q: Now, you tell me where you are most comfortable. I
8 have a number of different photographs that I need
9 to go over. Are you okay there, do you think you
10 will be able to see it from here?

11 A: I think so.

12 Q: We'll make it large just to be on the safe side.
13 All right, Ms. Hallman, I'm going to publish now
14 what's been previously admitted as State's Exhibit
15 number five and ask you if you recognize what is
16 depicted in that particular photograph?

17 A: That is a photograph of the outside of the residence
18 of [REDACTED] ...

19 Q: Mingle Chandler Road?

20 A: Mingle Chandler Road. Yes ma'am.

21 Q: When you talk about the crime scene, this would have
22 been the crime scene that you processed that day?

23 A: Yes ma'am. The bulk of the crime scene is inside of
24 the residence but we always document the outside of
25 the structure or the house just so everything is

1 included.

2 Q: And we can see from the photograph that there are
3 two vehicles.

4 A: Yes ma'am there is.

5 Q: Now did you as a part of processing this scene, did
6 you actually look into those vehicles?

7 A: Yes ma'am we did.

8 Q: Okay can you describe the vehicles and what may have
9 been contained inside the vehicles?

10 A: Let me pull my notes out so I can give you specific
11 information about the vehicles.

12 Q: Sure.

13 A: The first vehicle that you see is a burgundy in
14 color Toyota Corolla.

15 Q: That's the vehicle here?

16 A: Yes ma'am.

17 Q: All right.

18 A: The license plate number is [REDACTED]. We went through
19 that vehicle and did not take any evidence from that
20 vehicle.

21 Q: You did not see anything that appeared to be
22 related?

23 A: No ma'am we did not.

24 Q: Tell me about this second vehicle. It appears to be
25 a silver colored vehicle.

Levern McCrea vs. State of South Carolina

226

1 A: I actually have it listed as tan but it's real light
2 colored. It's a Cadillac SLS with South Carolina
3 Tags [REDACTED]. This vehicle was also searched. In
4 comparison the little Toyota Corolla was not a
5 really neatly kept car. The Cadillac, I actually
6 thought of it as her going to church on Sunday car
7 because it was very neatly kept. About the only
8 thing in it was a church robe.

9 Q: She had a church robe inside the vehicle?

10 A: Yes ma'am.

11 Q: All right now, I noticed from these particular
12 photographs that there appears to be a white object
13 in the front yard, there appears to be a black
14 object in the front yard. Can you tell me whether
15 or not when you were at the scene that night if
16 there were any items from the front yard that you
17 collected?

18 A: Yes ma'am, there was the white object that you're
19 discussing is, I think, it's a two page, it almost
20 looked like her homework assignment but it was out
21 of place in the yard so we collected it. And then
22 the black item is a single, I think it was a
23 mechanic's glove, but it was a black glove.

24 Q: All right now, tell me why did you collect the
25 paper?

1 A: Because it was out of place. That is one of the big
2 things that you learn when you work a crime scene,
3 is if something looks out of place, we get one shot
4 at processing a crime scene so if it looks like it
5 doesn't belong we err on the side of caution and
6 usually collect it.

7 Q: Was the piece of paper that you described, did you
8 photograph that piece of paper that was found in the
9 yard?

10 A: Yes ma'am.

11 The Court: Are these photographs already in
12 evidence?

13 Ms. Barr: They are not. I am going to go ahead and
14 have them marked if Your Honor please.

15 The Court: Mr. McCrea, do you have any objections to
16 these photographs going into evidence?

17 A: No I don't, Your Honor.

18 The Court: Thank you. They are admitted without
19 objection.

20 (State's Exhibit Numbers 126, 127 and 128 were
21 marked)

22 Q: All right I'm going to hand you now what's been
23 admitted as State's Exhibit numbers 126, 127 and 128
24 and ask you what is depicted in those photographs?

25 A: Yes ma'am I do.

Levern McCrea vs. State of South Carolina

228

1 Q: Okay. How is it that you recognize?

2 A: These would probably, they appear to be blown up
3 photographs that we took that night of the item
4 before we collected it.

5 Ms. Barr: Move to publish, Your Honor?

6 The Court: Yes.

7 Q: I'm going to publish State's exhibit number 126.
8 And you indicated that this was a blow up of the
9 paperwork that you saw in the yard?

10 A: Yes ma'am

11 Q: And you can see the background from the yard here?

12 A: Yes ma'am

13 Q: And I'm going to publish State's 127, before I do
14 that, can you see there what that writing there at
15 the very top of that paper says?

16 A: I can't quite read it from here but ...

17 Q: If you need to step down you may do so.

18 A: The full line that I can see says due date March 20,
19 2009.

20 Q: March 20, 2009 due date.

21 A: Yes ma'am.

22 Q: All right, and you came down and processed this
23 scene on what date?

24 A: The 12th.

25 Q: Of March 2009?

1 A: Yes ma'am.

2 Q: All right. And now I'm going to publish State's
3 number 127. Is that simply another view of that
4 same exhibit?

5 A: Yes ma'am it is.

6 Q: And can you read the first line now there, now that
7 it's a little bigger?

8 A: The third nine weeks human body project and the
9 second line says due date March 20, 2009.

10 Q: I'm going to push it down a little bit more. And if
11 you can't read this part from where you are, I can
12 bring it to you.

13 A: I can't see quite that far.

14 Q: Okay that's fine. I wouldn't expect you to. In
15 terms of halfway down the page can you see something
16 down that page?

17 A: Okay. It was like a travel brochure at the top it
18 says 35%, it says for presentation 15% and it has a
19 grading scale and then it says digestive system
20 example and it has objectives listed. It has like
21 six objectives listed. Do you want me to read
22 those?

23 Q: No, you don't need to read them. Now let's talk
24 about the second item that you found in the front
25 yard. I'm going to publish what's been admitted as

Levern McCrea vs. State of South Carolina

230

1 State's Exhibit Number 33. Can you describe that
2 item to me?

3 A: It's a black mechanics glove.

4 Q: And there appears to be some yellow object that's
5 next to it that has the number one on there. Can
6 you tell us what the significance of that?

7 A: That would be one of our evidence markers.
8 Basically what we do is we put those evidence
9 markers down and we will take photographs again so
10 when you see a larger picture you'll know exactly
11 where each item was collected from.

12 Q: And you indicated that there was the white piece of
13 paper, there were two pieces of paper?

14 A: Yes ma'am.

15 Q: All right. I'm going to publish state's exhibit
16 number 36, does that reflect two pieces of paper?

17 A: Yes ma'am it does.

18 Q: This would be the first page and this would be the
19 second page. Is that correct?

20 A: Yes.

21 Q: And as it relates to state's exhibit number 128,
22 that's simply a blown up portion of the second page?

23 A: That's what it appears to be, yes ma'am.

24 Q: All right. Tell us about states exhibit 6.

25 A: State's exhibit number 6 is just a photograph of the

1 front of the residence.

2 Q: Now, what is this yellow item here attached to the
3 tree?

4 A: That would be crime scene tape.

5 Q: And what is that item there at the foot of the tree,
6 base of the tree.

7 A: They appear to be overturned chairs. Like plastic
8 outdoor chairs.

9 Q: Do you see the front door to the residence in that
10 picture?

11 A: Yes ma'am I do.

12 Q: That's here where I'm pointing, right in front of
13 the burgundy vehicle?

14 A: Yes ma'am.

15 Q: And these photographs, these are the first time that
16 I've shown them all to the jury so I'm just going to
17 go through all of them if it's okay. Tell us about
18 State's number 8.

19 A: That would be the side view of the house. If you
20 are facing the house, it would be to the right side.
21 It's the right front corner of the house.

22 Q: Tell us about State's number 9.

23 A: That's a photograph from the side of the porch and
24 you're basically looking towards the front door on
25 the porch.

Levern McCrea vs. State of South Carolina

232

1 Q: So the front door would be here?

2 A: Yes ma'am.

3 Q: And the front porch reflects that there are plastic
4 chairs on that front porch.

5 A: Yes.

6 Q: Now I am sort of curious. When I look at states
7 exhibit number nine, which I just published and I
8 want to specifically call your attention to the
9 chairs. Do you notice any similarities in states
10 exhibit number six?

11 A: It's the same type of chair that is underneath the
12 tree except it looks like one of them, if it's
13 multiple chairs, it looks like one of them may be
14 green.

15 Q: Now publishing back states number nine, and Ms.
16 Hallman, if you need to come down I will be happy to
17 let you do that. Do you see anything that was a
18 green chair in this photograph? Can you see it in
19 this photograph?

20 A: There actually appears that there is probably a
21 green chair here, that has some type of plants
22 sitting on it.

23 Q: And I'm going to publish states exhibit ten, tell us
24 about that photograph?

25 A: This is also another photograph from the front

1 porch. Where as the picture you just looked at was
2 taken this way in and this way gives you another
3 view so you can actually see what the entire porch
4 looks like.

5 Q: Does that appear to be the green chair that you
6 thought you may have seen in the previous exhibit?

7 A: Yes ma'am.

8 Q: I'll tell you what as we look at the pictures from
9 inside the house, I'll bring you back down so you
10 can look better and see it, but for comfort sake
11 I'll let you take a seat. Okay. Tell us about
12 states eleven.

13 A: That is the side view of the house. If you are
14 facing the house, that's going to be the right side.

15 Q: Tell us about number twelve.

16 A: That's just a more close up view of that right side
17 of the house where there's a side door.

18 Q: Tell us about states number thirteen.

19 A: States thirteen is a photograph of the window that's
20 on the right side of the house. We were advised
21 when we arrived on the scene that, I believe it was
22 the victim's brother had came by to check on her,
23 and had been unable to get in the front door so he
24 had actually removed the air conditioner from the
25 window and crawled in that window. So we just

Levern McCrea vs. State of South Carolina

234

1 documented that with photographs.

2 Q: Tell us about states number fourteen.

3 A: That's basically a photograph of the right back
4 corner of the house.

5 Q: And in this photograph, can we see the window that
6 the victim's brother went into?

7 A: Yes you can.

8 Q: All right. Tell us about State's fifteen.

9 A: That's going to be part of a rear of the house.

10 Q: I'm going to more really quickly with these, states
11 sixteen.

12 A: Another photograph of the rear of the residence.

13 Q: States eighteen.

14 A: That's also basically the other corner at the back
15 of the house.

16 Q: States fifteen.

17 A: We're basically making like a camera clockwise
18 pattern of the house and this is going to be the
19 back left corner of the house.

20 Q: All right let me ask you a quick question about hat.
21 Now you all go back there before you photograph the
22 scene and do a walk through the exterior of the
23 house and you don't see anything at the back or the
24 side of the house if you don't think it's important
25 do you still just document everything?

1 A: Yes ma'am, we do.

2 Q: States number 21, tell us about that.

3 A: That's going to be a view if you're facing the
4 house. That's the right side of the house. You
5 can see one of the vehicles sitting in the front
6 yard.

7 Q: All right is that the Cadillac vehicle that you
8 talked about that had the church robe in it?

9 A: Yes ma'am.

10 Q: All right and tell me about what's located in the
11 back of the house. What are these?

12 A: If I remember correctly, it's just a wooded area
13 behind the house.

14 Q: And tell us about states twenty-two. Let me bring
15 it up to you.

16 A: I actually ...

17 Q: You know what it is?

18 A: Yes ma'am.

19 Q: All right. Yes ma'am.

20 A: On the right side of that house that we had several
21 photographs that we were looking at these appeared
22 to possibly be some type of tire impression. We
23 actually just photographed that impression to show
24 that it was there.

25 Q: Now in terms of the location of what you thought may

Levern McCrea vs. State of South Carolina

236

1 have been tire impressions, which part of the house
2 would that have been on?

3 A: If you're facing the house, it's going to be to the
4 right side where the window was that the brother
5 went in and where that side door is.

6 Q: Okay. And there is some type of white bucket with a
7 yellow top there.

8 A: Yes.

9 Q: And that is shown in states twenty-one as well.

10 A: Yes ma'am it is.

11 Q: All right so the tracks would be somewhere up in
12 here.

13 A: This is correct.

14 Q: And the window that the brother went in was here?

15 A: Yes.

16 Q: States twenty-three, is that a rear view of the
17 victim's Cadillac vehicle?

18 A: Yes ma'am.

19 Q: Okay. States twenty-four.

20 A: It's basically just kind of a side view of that
21 Cadillac.

22 Q: And states twenty-six, is a front view of that
23 vehicle?

24 A: Yes.

25 Q: I believe we see the law enforcement vehicle back

1 here?

2 A: Yes ma'am.

3 Q: States twenty-seven.

4 A: That would be basically just a front shot of the
5 Toyota Corolla.

6 Q: Okay and is this the vehicle that you described as
7 not being as neat and tidy as the Cadillac?

8 A: Yes ma'am.

9 Q: Okay. All right, did you document the rear of the
10 burgundy vehicle as depicted in states twenty-eight?

11 A: Yes ma'am we did.

12 Q: Making sure to get the tag?

13 A: Correct.

14 Q: All right tell me about states thirty-two.

15 A: Those two items that we collected from the front
16 yard once we realized that they may be of some
17 importance and we took all of our general
18 photographs we went back out with markers and we
19 marked those two items so this is just a photograph
20 that contains those two markers with the actual
21 items that were present.

22 Q: Now let me show you states number thirty-four.

23 A: That's just a close up view of the paperwork that
24 was collected from the front yard at marker two.

25 Q: All right now does it appear that that piece of

Levern McCrea vs. State of South Carolina

238

1 paperwork is folded?

2 A: Yes.

3 Q: Okay and we saw previous exhibits where the paper is
4 straightened out and it is a whole sheet like what I
5 am holding now. Did you all open the piece of
6 paper?

7 A: Yes ma'am we did.

8 Q: So you photographed it in its closed state and its
9 opened state?

10 A: Correct.

11 Q: And that would be reflected in states thirty-five?

12 A: Yes.

13 Q: Tell us about states number two.

14 A: A lot of times what we'll do is we will actually
15 start out in the road way and kind of photograph in,
16 and that photograph would have been taken probably
17 from the road way, basically into the residence so
18 you can see. It's kind of that right front corner.

19 Q: Do you have any idea whose truck is this?

20 A: It's probably either mine or another agent who
21 responded to the scene because we drive silver dodge
22 vehicles.

23 Q: Law enforcement vehicles?

24 A: Yes ma'am.

25 Q: And you all documented the front of the mailbox that

1 was located in the front of the victim's home and
2 states exhibit three, showing that the address is
3 ■?

4 A: Yes that is correct.

5 Q: That's the dodge ram you are talking about there?

6 A: Yes ma'am.

7 Q: So in terms of how the property is situated, this
8 would be Mingo Chandler Road here?

9 A: Yes.

10 Q: All right let's go to the second set of exhibits.

11 The Court: And these are admitted?

12 Ms. Barr: They are admitted without objection. I
13 believe they are exhibits thirty-seven through
14 eighty-one.

15 Q: Tell me about states exhibit number thirty-seven.

16 A: Basically when we start our photographs, one of the
17 first photographs I take is I open the front door
18 and basically just take a picture looking straight
19 into the evidence.

20 Q: And from the vantage point of that photograph, can
21 you see the body of the victim?

22 A: Yes I can.

23 Q: And you see her legs here?

24 A: Yes.

25 Q: Tell us about states thirty-eight.

Levern McCrea vs. State of South Carolina

240

- 1 A: Basically the procedure that we use, as I go into
2 that front door and I'll shoot a series of
3 photographs around in a room and then I will go into
4 another location in the room and basically shoot
5 back the other way so that you can see what's on the
6 walls where I was initially standing and that's what
7 this photograph is. This photograph was probably
8 taken from the entrance of the kitchen and it goes
9 back to the front door.
- 10 Q: Tell us about States thirty-nine.
- 11 A: It is a picture of the couch at the front door.
- 12 Q: Now tell me what this pink and black item is there.
- 13 A: It's a purse.
- 14 Q: And this would have been at the resident as you
15 entered?
- 16 A: Yes that's right at the front door.
- 17 Q: Tell us about states forty.
- 18 A: As you walk into the front of the residence, this is
19 actually going to be to the right hand side. This
20 is also in the livingroom on the floor.
- 21 Q: All right and explain to us what these two black
22 items are.
- 23 A: I can't ...
- 24 Q: I'll bring them to you.
- 25 A: They're actually a pair of boots.

1 Q: And what is the black item next to the boots here,
2 Ms. Hallman?

3 A: It's a house phone.

4 Q: And it appears to be a house phone off the hook?

5 A: Correct.

6 Q: And that's how you found it?

7 A: Correct.

8 Q: Now if we are talking about the location of those
9 items, I'm trying to figure out, can you tell us in
10 relation to where you found the victim's body, would
11 this be to the right or to the left of the victim's
12 body?

13 A: It would be to the right hand side of the body.

14 Q: And you documented a closer view of the shoes and
15 the telephone and reflected in State's forty-one?

16 A: That is correct.

17 Q: And what is this here? I'll bring it to you.

18 A: I can't tell from there, I'm sorry.

19 Q: That's okay.

20 A: It appears to be a partial bottle of probably, just
21 by the shape of it, probably some type of liquor.

22 Q: Can you tell what's in it?

23 A: It looks like pennies.

24 Q: In terms of the condition of living room, how would
25 you describe the home?

Levern McCrea vs. State of South Carolina

242

1 A: It definitely had the lived in look. The living
2 room just appeared to be a lot more untidy than the
3 rest of the house. There was a lot of paperwork
4 scattered around on the floor.

5 Q: Now I imagine that when you go out to crime scenes
6 there are instances where, I guess we all live
7 differently, but there are instances when victims'
8 homes are not as tidy as other homes that you've
9 seen and there are instances where there's evidence
10 of some sort of struggle. Kind of tell me how you
11 viewed the living room as it relates to those two
12 matters.

13 A: It just looked like there was a possibility that
14 somebody had been searching for something and they
15 weren't very tidy in their search. It just didn't
16 look exactly in place with the rest of the house.

17 Q: Tell us about states forty-two.

18 A: That's just another area of the living room. You
19 can actually see the white cord that's running
20 through is part of that phone cord.

21 Q: And you see women's shoes here.

22 A: Yes.

23 Q: I think that's cigarettes?

24 A: Yes.

25 Q: Tell us about states forty-two.

- 1 A: That's a picture from inside the kitchen. You can
2 actually see the victim lying in that photograph and
3 you can see the front door in that photograph.
- 4 Q: The victim is here?
- 5 A: That is correct.
- 6 Q: The front door is here?
- 7 A: Yes ma'am.
- 8 Q: Tell us about forty-four.
- 9 A: That's a photograph from the front door of the
10 residence to the left you can see that couch and the
11 green item that you see to the right is a chair
12 that's sitting there.
- 13 Q: All right. When you say that pouch. Are you
14 talking about that pink and black pouch?
- 15 A: Couch, I'm sorry, couch.
- 16 Q: All right so this is the front door to the victim's
17 house?
- 18 A: That is correct.
- 19 Q: All right in terms of the location where the
20 telephone was found, it would be on this other side
21 here?
- 22 A: Yes, the telephone would be to the right of that
23 photograph.
- 24 Q: Tell us about states forty-five.
- 25 A: That would be an actual photograph of the victim

Levern McCrea vs. State of South Carolina

244

1 herself.

2 Q: All right let me do this because this is long ways.
3 Let me put it on its side. Which room of the house
4 is depicted here?

5 A: That's the kitchen.

6 Q: And tell me what all these pieces of paper are here.

7 A: A lot of them we found a large amount of lottery
8 tickets in the house. Some of that appears to be
9 paper that maybe a woman would keep in her purse.

10 Q: Okay a woman would keep in her purse?

11 A: Yes.

12 Q: Tell us about forty-six.

13 A: That's basically a photograph that we're showing the
14 position of the victim's head. We would have gotten
15 kind of down low to the floor to take that
16 photograph.

17 Q: And there appeared to be red marks, I think you've
18 previously testified that this is the kitchen area
19 of the home?

20 A: That is correct.

21 Q: There appear to be red marks on the floor of the
22 kitchen area.

23 A: That's correct.

24 Q: All right tell me why you would have kind of gotten
25 down that low to get that angle shot.

1 A: One of the main reasons is that we also want to show
2 what blood spatter is present. If you look on the
3 legs of that white chair you can actually see drops
4 of blood. There is actually quite a bit of blood on
5 the actual floor.

6 Q: Tell me about states forty-seven.

7 A: That's basically like a side shot of the victim as
8 we found her when we entered the residence.

9 Q: Now that last photograph show that the victim, well,
10 I'm not going to tell you --- describe her clothing.

11 A: She was dressed. She had on a pair of blue jeans,
12 white socks and a pair of tennis shoes and a black
13 bra. She did not have on any other type of under
14 otter garment.

15 Q: Now when you initially came in and you saw her body
16 in that position, what were you thinking when you
17 saw her? Were you thinking anything unusual when
18 you saw her in that state?

19 A: I don't usually find victims that are dressed that
20 way so my first thought was maybe that she had
21 allowed somebody in the house or somebody was in the
22 house with her that she felt comfortable enough with
23 that she would walk around without an under garment
24 on.

25 Q: In your mind, when you are first appearing on scene,

Levern McCrea vs. State of South Carolina

246

1 did you have any concerns of how she was dressed
2 that she may have been sexually assaulted in any
3 way?

4 A: That could have been a possibility, yes.

5 Q: In fact when you come onto a scene you have to
6 consider all possibilities.

7 A: Absolutely.

8 Q: And I am assuming that based on the information that
9 you saw or based on the items that you saw in the
10 house after everything was taken, you didn't have
11 any reason to, once you left, to believe she had
12 been seriously assaulted or did you?

13 A: No not really but usually if we think there is a
14 possibility of a body sent for an autopsy they will
15 actually do a protocol.

16 Q: Okay tell me what you mean when you say they do a
17 protocol at autopsy.

18 A: They would actually perform or they would actually
19 collect specimens that they could use to determine
20 whether or not she had been sexually assaulted.

21 Q: Like a vaginal swab?

22 A: Correct.

23 Q: And in addition to sort of photographing the outside
24 of the home and the interior of the home you also
25 wanted to photograph the victim to document evidence

1 of injury to her?

2 A: That is correct.

3 Q: All right tell us about states forty-eight.

4 A: States forty-eight is basically I just held the
5 camera over the top of the victim and just shot a
6 photograph down so that you could see what we were
7 seeing when we initially observed her.

8 Q: All right now as it relates to photographing the
9 backside of the victim's body, do you immediately
10 notice the evidence of an injury there?

11 A: Absolutely.

12 Q: All right that would be as depicted here?

13 A: That is correct.

14 Q: What did that appear to be to you?

15 A: It appeared to be either a entrance or exit wound of
16 a gun shot.

17 Q: And did you in fact or did someone working at your
18 assistance measure the size of that wound to her
19 back as evidence in States forty-nine?

20 A: Yes ma'am we did. We actually have something that
21 we call scale tape. It's actually basically like
22 regular tape but it has a scale built onto it and we
23 actually scaled it and photographed it so you could
24 see the exact size.

25 Q: And we're talking about the scale tape we are

1 talking about this white and black object here?

2 A: That is correct.

3 Q: Now, tell us about states fifty.

4 A: She appeared to have some type of debris on her
5 hands so we actually scaled that and photograph that
6 also.

7 Q: Do you have any idea what this dark spot is on her
8 hand?

9 A: I did not, so we collected a sample.

10 Q: Tell us about states fifty-one.

11 A: That's a close up of the hand. In the photograph
12 that you just saw previously is a more close up
13 version of this photograph.

14 Q: I'm going to ask you this question, and if you are
15 not qualified to answer it just let me know, I'm
16 just curious. Do the condition of her fingernails
17 indicate anything?

18 A: I don't honestly, they look unusual but I'm not
19 trained in that field so we just basically
20 documented it because it looked different.

21 Q: Okay. Tell us about fifty-two.

22 A: Fifty-two, she's basically laying with her head at
23 the entrance to the living room and this is just a
24 photograph if you're facing her from her feet, this
25 would be a photograph of the left hand side of the

1 wall and you can see her hands in the photograph.

2 Q: Now you said she's laying with her head facing the
3 entrance to the living room. Is it the living room
4 or the kitchen?

5 A: The kitchen. Her head is at the kitchen.

6 Q: All right so this is the living room here with I
7 guess brown carpeted?

8 A: Yes

9 Q: Brown carpeted and that's the kitchen.

10 A: Correct.

11 Q: Now tell me --- you already talked about the red
12 marks that you noticed in the kitchen floor. Do you
13 see any similar red marks in this particular
14 exhibit?

15 A: Yes there's actually some red marks on, it would
16 actually be the side going up of that entrance into
17 the kitchen.

18 Q: Going up the wall?

19 A: Yes.

20 Q: Okay now what was the significance in documenting
21 that?

22 A: Basically it would give up the position of the
23 victim, possible position of the victim when she
24 received the gun shot wound and when the blood was;
25 the terminology is where the blood was let at the

Levern McCrea vs. State of South Carolina

250

1 scene so there was a source of blood.

2 Q: All right tell us about states fifty-four. I'm
3 going to have it elongated and then I'm going to
4 turn it right side up.

5 A: It's a photograph of basically from the knees down
6 of the victim after she's been turned over.

7 Q: All right so and I wanted to be clear because in
8 some of the other pictures her legs were, well her
9 feet were turned down and now they're turned up.

10 A: That is correct.

11 Q: So either you or some other law enforcement official
12 turned her over?

13 A: Or the coroner because the coroner was actually on
14 scene with us also.

15 Q: All right now these papers you described as some
16 lottery tickets, is that correct?

17 A: Yes I believe there were lottery tickets in with
18 that but it was just miscellaneous types.

19 Q: And I'm curious, what is that item there located at
20 her feet?

21 A: It appears to be a watch.

22 Q: All right let me show you State's exhibit number
23 fifty-five. Can you see it any better from where
24 you are?

25 A: Yes it is a watch.

1 Q: Tell us about states fifty-six.

2 A: That would be, if you were actually entering the
3 front door of the residence, this would be what you
4 see to the right hand side.

5 Q: Now, it appears that these are some papers on that,
6 it appears to be some sort of shelf.

7 A: Actually, I think, if I remember correctly, it is a
8 piano.

9 Q: All right and there are photographs and papers
10 there.

11 A: Yes.

12 Q: And there appears to be a television set there?

13 A: Correct.

14 Q: All right and VHS tapes here?

15 A: Yes.

16 Q: I'm going to zoom it in. I don't know if you are
17 going to be able to tell me or not, is that a Bible
18 or do you know?

19 A: I don't recall.

20 Q: I'm going to ask you to tell me about states
21 fifty-seven.

22 A: That would be a photograph of that sidewall. It's
23 basically included in what we just saw in that last
24 photograph but in this photograph you can actually
25 see the window where the air conditioning unit came

1 out of.

2 Q: And the window that the AC unit came out of, that
3 would be here?

4 A: That is correct.

5 Q: Okay, tell us, if you will, about states
6 fifty-eight. I'm going to have it elongated then
7 I'm going to have it right side so you have an idea
8 of what I'm talking about.

9 A: That would be a photograph that is basically taken
10 from the living room area and it goes down the
11 hallway. Once you walk into the house, this would
12 be to the left hand side once you go into the
13 livingroom.

14 Q: So, in relation to how the house is, the kitchen
15 would be somewhere over here?

16 A: Yes, well it would be back a little bit, closer to
17 us and then here.

18 Q: Ms. Hallman tell us about State's fifty-nine.

19 A: That's a close-up photograph of a cell phone that we
20 found at the scene.

21 Q: At the scene?

22 A: Yes ma'am.

23 Q: Okay, tell us about state sixty. I'm going to
24 elongate it then I'll turn it right side up. That
25 you?

1 A: That is.

2 Q: Okay this time when you are in the picture, who
3 would be taking the pictures while you're in the
4 pictures?

5 A: Lieutenant Scott with Williamsburg was at the scene
6 with us and my partner who was Rhonda Fields was
7 also at the scene.

8 Q: All right when you say Lieutenant Scott, are you
9 talking about Jeffrey Scott?

10 A: That's correct.

11 Q: And he's the gentleman you see in the photograph
12 with the gray uniform on?

13 A: Correct.

14 Q: And in the instances where you come to Williamsburg
15 County and assisted the Sheriff's Department in
16 investigative crime you will traditionally have
17 Lieutenant Scott with you?

18 A: Correct, if he is available at that time.

19 Q: Now, I'm going to keep it this way and turn it right
20 side up. Tell me what this yellow item is that you
21 are holding.

22 A: This is actually rulers that we use when we want to
23 document height.

24 Q: And for what purpose would you want to use a ruler
25 and document height?

Levern McCrea vs. State of South Carolina

254

1 A: In this case we were looking at the height that the
2 blood splatter reached on the doorway.

3 Q: And why is that significant?

4 A: Because it tells you possible locations or possible
5 positions of the victim when they were shot.

6 Q: And I believe you may have already testified but I
7 want to be clear, as it relates to that particular
8 exhibit, I see that you were wearing gloves, plastic
9 gloves.

10 A: Correct.

11 Q: What's the purpose of wearing plastic gloves?

12 A: So that we don't contaminate any type of evidence
13 that we collect and we are also concerned with any
14 type of hazards at the scene in case a victim has
15 some contagious disease that we were not aware of.

16 Q: All right and there is an individual standing behind
17 you and that person is also wearing gloves?

18 A: That's correct.

19 Q: This is a law enforcement officer?

20 A: Correct.

21 Q: All right now I would imagine, correct me if I'm
22 wrong, when you all go out to a crime scene, the
23 last thing that you want to do as law officers, is
24 leave your finger prints at a crime scene?

25 A: Absolutely.

1 Q: Because you don't want to contaminate it?

2 A: Correct.

3 Q: A good way to avoid leaving your fingerprint at a
4 crime scene would be to wear the gloves?

5 A: Correct.

6 Q: And certainly that would prevent your prints or your
7 DNA from being in the crime scene.

8 A: It should, yes ma'am.

9 Q: All right and if we look in this photograph, we see
10 the victim's arm at the bottom?

11 A: That is correct.

12 Q: And the red spot there that's next to your ruler ...

13 A: Appeared to be blood?

14 Q: Talk to us about sixty-one. I'm going to elongate
15 it and then also turn it right side up.

16 A: It's basically a more close up photograph of that
17 ruler and it just shows a height.

18 Q: Now, let me start with the bottom and move my way
19 down. That's the victim's hand in that photograph
20 at the bottom.

21 A: Correct.

22 Q: All right and we have the red spots that you
23 indicated appear to be blood splatter.

24 A: Correct.

25 Q: All right. And I go all the way to the top of that

1 photograph, you have measured it. Is that right?

2 A: That is correct.

3 Q: All right and tell us what the measurements were as
4 it relates to what you were documenting in this
5 photograph.

6 A: The height on that ruler is thirty-six inches.

7 Q: That's three feet?

8 A: That's correct.

9 Q: All right and from your documentation in measuring
10 of what you thought to be blood splatter, what is
11 the height of that, what you believe to be blood
12 spatter?

13 A: With that ruler it goes up to at least thirty-six
14 inches which is three feet.

15 Q: Okay.

16 A: I notated in my written report that the height of
17 the splatter ... it says blood spatter on the door
18 frame to the right of the victim's head which is
19 actually the opposite side is approximately thirty
20 inches from the floor and on the door frame on the
21 left side of the victim's head which is this
22 photograph, is approximately thirty-six inches from
23 the floor. And most drops are small which would
24 indicate that there was a lot of force behind them
25 and they're traveling outward and upward from the

1 door.

2 Q: Outward and upward?

3 A: Up and out?

4 Q: Up and out?

5 A: Correct.

6 Q: Sort of like a spray?

7 A: Yes, that would be a easy way to describe it.

8 Q: All right, this wall here is white and there appears
9 to be some wood siding on there.

10 A: I think the kitchen area is actually kind of
11 paneled.

12 Q: All right and that's reflected also in states
13 sixty-two. The white wall and the panel wood wall.

14 A: Correct.

15 Q: And tell me the significance of doing a photograph
16 of State's sixty-two.

17 A: Basically what we are doing is we are showing a
18 close-up view because the photograph that you just
19 looked at, you really can't see it because we wanted
20 an overall shot and this would be a more close-up
21 shot so you could actually get an idea of how big
22 the blood drops really are.

23 Q: All right, Ms. Hallman tell me about states
24 sixty-three.

25 A: I basically just stood in the doorway close to the

Levern McCrea vs. State of South Carolina

258

1 chair and we just did the same thing with the ruler
2 so you could see height.

3 Q: All right and this is kind of unusual to me, so I
4 need to make sure I ask you about it. Of course
5 this is Ms. Brown's body.

6 A: Correct.

7 Q: And I may have these out of order but when you had,
8 whoever, whether it was law enforcement or the
9 coroner, when you turned her upright and turned her
10 over, did you all then turn her back on her back or
11 were these pictures taken before you turned her
12 over?

13 A: Those photographs were taken before she was turned
14 over.

15 Q: All right now tell us about the ruling because it
16 looks like the measurement that you all have, it
17 goes up to thirty-six feet.

18 A: They are three feet sticks so each stick will
19 measure thirty-six inches.

20 Q: Yes.

21 A: So if I think I have more than that, a lot of the
22 times I will tape the sticks together, on top of
23 each other, and you just have to add the sticks
24 together to figure out how tall it is.

25 Q: All right so you have the initial stick that goes to

1 the floor, to which looks like your hand. That's
2 thirty-six inches?

3 A: That's correct.

4 Q: And then you have another stick on top of it?

5 A: Correct.

6 Q: And that second stick goes to zero to thirty-six
7 inches?

8 A: Correct.

9 Q: All right and who is this in the photograph?

10 A: Me.

11 Q: All right and so the measurement that you used
12 there, you use it all the way to the top of the
13 measurement, it would be taller than you?

14 A: Yes it's seventy-two inches.

15 Q: Now in terms of, I need one more thing before I talk
16 to you about that, tell us about states sixty-four.

17 A: That's a photograph; we are basically moving off
18 that wall that we were just on to the left side of
19 her head. This is just a photograph that's a little
20 bit farther inside the kitchen and we basically just
21 did the same thing because we actually have spatter
22 on some of those items in the photograph.

23 Q: When you say spatter on some of the items in the
24 photograph, can you tell us what you mean? Which
25 items? And I'm specifically, I don't know whether

Levern McCrea vs. State of South Carolina

260

1 it is or not but there's a plastic bag there and
2 there appears to be stains there.

3 A: There is. I noted that there was blood spatter
4 pattern directionality from the livingroom toward
5 the kitchen which means that it's moving from the
6 livingroom into the kitchen indicating that one
7 bullet may have struck her while she was standing
8 because of the height of it. There's ninety-degree
9 blood drops that are on a pan in the laundry basket
10 that you saw in the last photograph in the floor in
11 the entrance of the kitchen. Basically, if you have
12 blood on your hand it drops straight down it's
13 basically going to form basically a perfect circle
14 or pretty close to a perfect circle and that is a
15 ninety-degree drop of blood.

16 Q: All right. Now, when you talk about the basket in
17 the kitchen in the last exhibit. That was number
18 sixty-three. You're talking about here?

19 A: Yes ma'am those laundry baskets on the chair.

20 Q: And you documented that in number sixty-five?

21 A: That's correct. And actually with that one, one of
22 the other things that we were trying to show is the
23 distance that the blood traveled into the kitchen.
24 The rulers kind of angled so that you can see that
25 it had to travel a fair amount of distance.

1 Q: Let me ask you a question. Now, I'm going to
2 publish again states forty-five and I will elongate
3 it. You talked about all the blood spatter that was
4 found here. In terms of from the victims feet back
5 toward the front door, did you all note any blood
6 spatter from that area?

7 A: No ma'am.

8 Q: None? And I've looked at these quickly. Sixty-six,
9 you documented blood spatter.

10 A: Yes ma'am that would be on the right hand side of
11 the victim's head.

12 Q: Sixty-seven.

13 A: Basically just showing some drops on the kitchen
14 floor with the direction that the drops are
15 traveling.

16 Q: Sixty-eight.

17 A: That basically just shows, that would be extremely
18 close to the victim's head and it's just showing the
19 size of the spatter that is present in that
20 photograph.

21 Q: So in this picture the victim's head would be
22 somewhere in here?

23 A: Probably or maybe a little bit over.

24 Q: Now this brown area, what is that?

25 A: I believe she was actually laying on a piece of

Levern McCrea vs. State of South Carolina

262

1 carpet that had been cut up and kind of put down as
2 maybe like a little rug.

3 Q: Okay. Sixty-nine.

4 A: That's just another photograph showing the direction
5 of the blood on the kitchen floor.

6 Q: Seventy, again I'll elongate and turn it right side
7 up. Can you see that?

8 A: Yes, that photograph is one that we are trying to
9 show how far the blood traveled into the kitchen
10 area.

11 Q: All right if I call your attention to the bottom of
12 that photograph and again there appears to be a
13 brown area, is that the rug in the living room?

14 A: Right. So her head would probably be that bottom
15 left corner of that picture, just outside of the
16 picture.

17 Q: I understand. And these tables here are tables
18 found in which room?

19 A: The kitchen.

20 Q: Seventy-two.

21 A: That's just a general shot of the kitchen from the
22 entrance to the living room.

23 Q: And that's the refrigerator here?

24 A: Yes.

25 Q: And those are the baskets that you talked about?

1 A: Correct.

2 Q: And those are the dining room tables? I mean
3 chairs?

4 A: Yes ma'am.

5 Q: And number seventy-three.

6 A: That would be those chairs are sitting right at the
7 entrance of the kitchen and we are just documenting
8 the size and the shape of the spatter pattern that's
9 there right at the entrance.

10 Q: Now I believe Ms. Hallman that this may be the
11 victim's hand, if you can see it?

12 A: Yes ma'am that's what that appears to be.

13 Q: Tell us about seventy-five. I'm almost done.

14 A: That's just a general shot of the kitchen and it's
15 actually the photograph that you saw earlier with
16 the refrigerator that's taken basically from that
17 angle out so you can see what the rest of the
18 kitchen looks like.

19 Q: Seventy-six.

20 A: That's just another photograph of the kitchen.

21 Q: And you have the refrigerator?

22 A: Correct.

23 Q: Now tell us about seventy-seven.

24 A: We actually found some fairly recently dated lottery
25 tickets among the items there so we documented those

Levern McCrea vs. State of South Carolina

264

1 with the photographs.

2 Q: Now when you say recently dated, is there an actual
3 date on that lottery ticket?

4 A: Yes ma'am it's right underneath that education
5 lottery logo and it says Monday, March the ninth and
6 I believe it's actually even time stamped.

7 Q: 13-18-25. Does that appear to be what it is?

8 A: Yes.

9 Q: And I guess it's military time.

10 A: Yes that would be 1:18 in the afternoon.

11 Q: Tell us about states seventy-eight.

12 A: That's a different lottery ticket that we found and
13 actually that happened to be the latest date that we
14 could find on any of her lottery tickets and it was
15 dated 3-10-2009 at 17:45 hours which is 5:45 in the
16 afternoon.

17 Q: Tell us about states seventy-nine.

18 A: That would be another lottery ticket that she
19 apparently purchased like a minute or so after the
20 previous one you saw.

21 Q: All right and that is dated?

22 A: 3-10-2009.

23 Q: And the time stamp?

24 A: 17:46:03

25 Q: So 5:46 pm?

- 1 A: Correct.
- 2 Q: Now tell us about states eighty.
- 3 A: That was a newspaper that was folded up on the
- 4 couch.
- 5 Q: Eighty-two.
- 6 A: That would be a copy or a photograph of Ms. Brown's
- 7 driver's license.
- 8 Q: Tell us about states eighty-one.
- 9 A: The newspaper that you saw in the photograph back,
- 10 this is that newspaper unfolded.
- 11 Q: All right so you unfolded the newspaper that was
- 12 depicted in State's number eighty and you
- 13 photographed it?
- 14 A: That is correct.
- 15 Q: What was the significance or the reason why you
- 16 photographed it?
- 17 A: We were interested in the date that was on the
- 18 newspaper.
- 19 Q: And what date is listed on the newspaper? Let me
- 20 zoom it for you. Can you see it there?
- 21 A: I know it says March 11, 2009 but I think it says
- 22 Wednesday March 11, 2009, is that correct?
- 23 Q: All right. It's taking a minute to focus.
- 24 A: I know the actual date is March 11 of 2009.
- 25 Q: Let me just bring it to you.

Levern McCrea vs. State of South Carolina

266

1 A: It says Kingstree, South Carolina. March 11, 2009.

2 Q: Now you're not from Williamsburg County?

3 A: No ma'am.

4 Q: You don't live here?

5 A: No, ma'am.

6 Q: Do you know when the Wednesday's edition of The
7 Kingstree News would be made available for the
8 public here in Williamsburg County?

9 A: I have no idea.

10 Q: I understand. The last picture that I am going to
11 talk to you about is states number seven. Can you
12 see that from where you are?

13 A: Yes ma'am.

14 Q: You talked about the paper and the blood and putting
15 those markers near those items.

16 A: Correct.

17 Q: All right in terms of where, when this picture was
18 taken, where was the photographer when this picture
19 was taken?

20 A: We were standing as if we were walking out of the
21 house. I'm not sure if we were still standing on
22 the porch or whether we had stepped into the yard,
23 that would be basically if you look underneath the
24 crime scene tape on the left hand side, you can
25 actually see the line marker for the highway.

1 Q: So that would be here, the line marker, the highway
2 would be here?

3 A: Yes ma'am.

4 Q: Now, you talked about ...

5 Ms. Barr: Judge, I'll probably be another fifteen to
6 twenty minutes, do we need to take a break? Is everybody
7 okay?

8 The Court: We can go ahead and take a break for a
9 reasonable time ladies and gentlemen. Do not discuss
10 anything about this case while you are back in the jury
11 room. Thank you.

12 (Jury break 11:13 a.m.)

13 The Court: Bring the jury in.

14 (Jury enters courtroom 11:53)

15 The Court: Solicitor, you may continue.

16 Ms. Barr: Thank you, Judge.

17 Q: Mrs. Hallman, when you entered the home and you
18 photographed the victim, other than the bullet wound
19 that was depicted in some of the photographs to her
20 back, did you notice if there was any other signs of
21 injury?

22 A: Yes ma'am there was an injury to her head.

23 Q: And what did the injury to her head appear to have
24 come from?

25 A: It also appeared to be a gun shot wound.

Levern McCrea vs. State of South Carolina

268

1 Q: All right, now were there any fired or unfired
2 bullets recovered from the scene?

3 A: I'm sorry?

4 Q: Were there any fired bullets or unfired bullets
5 recovered from the scene?

6 A: Yes ma'am. We recovered a projectile from Ms.
7 Brown's hair.

8 Q: From her hair?

9 A: Yes ma'am.

10 Q: The hair on her head?

11 A: Yes ma'am.

12 Q: So, and I need to be kind of clear. Sometimes when
13 you have a gun shot victim, a bullet may not exit
14 their body, it may still be lodged in their body and
15 sometimes it's through and through.

16 A: That's correct.

17 Q: Okay, now specifically as it relates to the one that
18 you collected, was it just one?

19 A: Yes.

20 Q: That appeared to have exited her head?

21 A: Yes it was in her hair.

22 Q: Now what did you do with it?

23 A: I would have taken it and it would have been sent to
24 the laboratory for analysis by our firearms
25 department.

1 Q: And what about the piece of paper that you found in
2 the yard. What would you have done with that?

3 A: I would have taken that back to the laboratory and
4 processed it with chemicals to determine if there
5 were any fingerprints on that item of evidence.

6 Q: What about the glove?

7 A: The glove, I took back to SLED and it was sent
8 through our evidence processing and our DNA
9 department to see if we could determine ownership.

10 Q: All right now, I'm going to hand you what's been
11 marked for identification purposes as State's number
12 130.

13 Ms. Barr: Your Honor, for the record, I've shown it
14 to the defendant and he has no objection.

15 The Court: Is that correct, Mr. McCrea?

16 Mr. McCrea: Yes sir.

17 The Court: Admitted into evidence without objection.
18 (State's Exhibit 130 was marked)

19 Q: We're going to first start with State's 129, let me
20 know if you recognize that exhibit?

21 A: I definitely recognize the container because my name
22 is written as the sealing agent for that container
23 and I dated it 3-24-2009 which would have been when
24 I sealed it closed.

25 Q: What is that?

Levern McCrea vs. State of South Carolina

270

1 A: On the outside of the bag, I indicated that it was
2 collected from marker one and it is an extreme
3 utility button black glove.

4 Q: All right and is that the same glove that you would
5 have recovered from the front yard of the victim's
6 home?

7 A: Yes.

8 Q: All right let me get you to take it out. Go ahead
9 and take it out the bag. Pull it all the way out of
10 the packaging. All right in terms of --- there
11 appears to be some writing on the white paper that
12 is surrounding this glove.

13 A: Yes ma'am.

14 Q: And does the white paper or the plastic bag that you
15 took the white paper and the glove indicate to you
16 whether or not it was analyzed by anybody else at
17 Sled?

18 A: It appears that it was sent through our evidence
19 processing department because that's standard for
20 how they package reports they collect.

21 Q: And this glove, does it appear to be a right hand
22 glove or a left hand glove?

23 A: It is a right hand glove.

24 Q: Tell me the significance of the numbers that is
25 written on the glove L09-3372 that is written on the

1 palm of the glove.

2 A: That's the Sled laboratory number that was assigned
3 to this case.

4 Q: Now the way that it is situated in terms of how I'm
5 holding it now, it appears that there are no
6 fingers.

7 A: It doesn't look to be, not from where you are
8 holding it.

9 Q: All right and of course in terms of the fingers
10 being inserted into the glove versus being out when
11 you found it in the yard it was inside the glove? I
12 mean the fingers were out?

13 A: Yes.

14 Q: All right so, if the fingers were inserted, the
15 gloves would have been in some other department
16 inside Sled?

17 A: Yes.

18 Q: All right I just needed to clarify that.

19 A: You want them all the way back in each package?

20 Q: Please. All right tell us about states 130.

21 A: It's a sealed manila envelope and my initials and
22 the date are one of the ones that's on the sealed
23 back of the envelope.

24 Q: What is that particular exhibit? What is it? You
25 can open it. Do you need a pair of scissors?

1 A: I think I can get it without it. This would be the
2 paperwork that was collected from the front yard.

3 Q: All right and based on the fact that it was sealed
4 in an envelope, tell us what the significance of the
5 sealing of that envelope is?

6 A: It basically, when I finished my examination that I
7 had to conduct, even if it's returning to the agency
8 or going to another department of Sled, we always
9 seal, initial, and date it basically to show that
10 nobody has touched or tampered with the evidence
11 between examinations.

12 Q: Did you actually perform an examination on that
13 item?

14 A: Yes ma'am I did.

15 Q: All right what was the purpose of the examination?

16 A: We were actually looking for any latent fingerprints
17 that would be on that item.

18 Q: Could you tell whether or not as it relates to this
19 item, whether there are any latent prints on the
20 item?

21 A: There were actually some latent finger prints
22 developed on that item.

23 Q: Now did you perform an analysis of the fingerprints
24 that were on this item?

25 A: I performed a partial examination at the time I only

1 had the fingerprints that belonged to Ms. Brown. I
2 did not identify her fingerprints with any of those
3 that were on that document.

4 Q: So you included the victim as having touched this
5 item or having left fingerprints on the item?

6 A: That's correct.

7 Q: All right now I know a lot of times Ms. Hallman,
8 when watch crime shows. They talk a lot about
9 fingerprints. Can you tell us how somebody actually
10 goes through the process of leaving a fingerprint
11 and if I were to touch anything in this courtroom
12 would my fingerprints automatically be left? Kind
13 of explain, help us understand that process.

14 A: They wouldn't necessarily be automatically left.
15 Fingerprints are basically residue that's left
16 behind. You actually do have some small pores in
17 your fingers. They actually secrete. Usually if we
18 process a scene during the winter time you may not
19 find as many fingerprints because people's hands
20 tend to be drier in the winter time than the summer
21 time. So you don't always find latent fingerprints
22 on items in evidence and it also depends on what
23 type of surface we are processing in order to obtain
24 those fingerprints.

25 Q: Now as it relates to this piece of paper, when you

1 all came out on the night of March 12, 2009, do you
2 know how long this particular, these pieces of paper
3 had been left?

4 A: I had no idea.

5 Q: Now the fact that it was outside versus inside, in
6 terms of possibly being exposed to elements, would
7 that make a difference onto whether or not you get
8 fingerprints?

9 A: It would somewhat, but paper is a little bit of a
10 different item than say like a piece of glass. A
11 paper is considered a course item and the
12 fingerprints actually do better on course like items
13 as opposed to non-course items.

14 Q: And I think that we, well I know that we have shown
15 states exhibit number 127 and 126 to the jury and I
16 think you talked about that being the piece of paper
17 that was found in the yard. Is that correct?

18 A: Yes ma'am.

19 Q: So as it relates to states exhibit number 127, that
20 has the grading and the objective and digestive
21 system on the front of that paper, right?

22 A: Yes.

23 Q: So that would be a part of the original document or
24 that would be reflected in the original document
25 that you took from the yard that night?

1 A: Yes.

2 Q: The grading and the digestive system.

3 A: Yes.

4 Q: And you talked about the last page in one of the
5 photographs that talked about, third nine weeks,
6 human body project, due March 20, 2009 and there
7 appears to be some wording in there. Can you kind
8 of tell us about that wording on there. I'll bring
9 it to you.

10 A: Are you asking me what it actually says?

11 Q: Yes.

12 A: The first word on there is digestion then it says
13 salivatory glands, epiglottis, esophagus, stomach,
14 sphincter valve, another word that I'm not sure how
15 to pronounce, but it appears to be body or some type
16 of anatomical or some medical terminology.

17 Q: Did you find, collect or see anything that might
18 have been the victim's bloody shirt at the scene?

19 A: No we did not.

20 Q: Did you all recover a firearm from the scene?

21 A: No we did not.

22 Q: Now you noted in your report that, of course,
23 somewhere that there were personal items underneath
24 the victim?

25 A: That is correct.

Levern McCrea vs. State of South Carolina

276

1 Q: What if anything did that suggest to?

2 A: It suggested that those were some of the papers that
3 kind of appeared might have came out her purse. It
4 appears that those were on the floor before she fell
5 to that position or before she was placed in that
6 position.

7 Q: Now I imagine that you and the people who were
8 working with you and under your direction would have
9 taken a whole bunch of pictures that night.

10 A: Yes ma'am we did.

11 Q: And certainly that's not all the pictures that were
12 shown in evidence. There were several other
13 pictures taken?

14 A: Yes ma'am.

15 Q: Pictures, close-ups of the victim's head wounds and
16 go forth?

17 A: That is correct.

18 Q: Tell me about what all you collected from the scene?

19 A: Specifically from the scene, I took a black and pink
20 lady's purse, a black telephone with a white cord,
21 three pieces of paper that were collected from the
22 front yard. We actually processed the front storm
23 door for latent fingerprints and there was one that
24 I actually did lift from that location. We
25 collected a gun shot residue kit from Ms. Brown, a

1 bullet that was recovered from her hair. I
2 collected two swabs from the center lower part of
3 her right hand, two swabs from the right thumb area,
4 two swabs from the back of the right wrist, two
5 swabs of suspected blood from the kitchen floor, two
6 swabs of suspected blood from the shelf in the
7 kitchen and the black utility glove.

8 Q: All right as it relates to the black and pink lady's
9 purse, I think we saw in one of the previous
10 exhibits, did you perform an analysis on that item?

11 A: Yes ma'am.

12 Q: All right tell us what the results were.

13 A: I did not find any latent fingerprint evidence to be
14 compared.

15 Q: All right tell us about the telephone. I think that
16 was a black telephone.

17 A: Yes ma'am. Also with that one I processed it for
18 latent fingerprints and they did not find any
19 fingerprint evidence.

20 Q: And tell us about the pieces of paper.

21 A: In that case, there were several latent fingerprints
22 that were developed, and at the time as I stated
23 earlier I only had Ms. Brown's fingerprints to
24 compare and I compared hers and I was able to
25 eliminate her or she was not included in who could

1 have deposited those fingerprints.

2 Q: And I want to kind of make sure that I am clear
3 about this, you see an item, for example, this piece
4 of paper was on the floor in this court room and you
5 picked it up, you may be able to see latent prints
6 on it?

7 A: Not necessarily with paper just because it is a
8 different type of item but if it was say like a
9 piece of glass or some other type of material, I
10 would possibly be able to see if it before I even
11 attempted to process it.

12 Q: All right if you're able to get latent prints or
13 visible prints from an item of evidence, do you have
14 to have something to compare it to know whose it is
15 and whose it's not?

16 A: It's better to have somebody to compare them to and
17 in this case when I was unable to match Ms. Brown's
18 fingerprints, we ran it. I had our AVIS operator
19 and AVIS is an automated fingerprint information
20 system computer. It's a database of fingerprints.
21 There is a South Carolina database and a federal
22 database. She actually ran the prints that were of
23 quality to be put into the system through the system
24 and we were not able to get a match.

25 Q: And I just want to make sure that I am clear on this

1 point, when you have a latent print on an item of
2 evidence, you need to be able to have some set of
3 fingerprints to compare it to. It's not like an ID
4 card when you see it and you automatically know who
5 it belongs to?

6 A: That's correct, and it's always better if you have a
7 possible suspect to pull that possible suspect's
8 fingerprint cards and do that for your comparison.

9 Q: All right and on that night did you all have a
10 possible suspect?

11 A: No ma'am we did not.

12 Q: Now tell us about the latent print that was lifted
13 from the storm door that you talked about?

14 A: It did not have sufficient ridge detail for
15 comparison.

16 Q: Now tell me what you mean when you say you did not
17 have sufficient ridge detail.

18 A: When it comes to fingerprints, there are certain
19 identifying characteristics. We look for different,
20 where a ridge will stop or a ridge that's split off.
21 In this case, the print that I lifted did not have
22 those sufficient characteristics or enough of those
23 sufficient characteristics to make a comparison.

24 Q: Did you lift prints from any other item of evidence?

25 A: No ma'am I did not.

Levern McCrea vs. State of South Carolina

280

1 Q: Now, at some point SLED received a firearm in this
2 investigation. Is that right?

3 A: Yes ma'am.

4 Q: About how long after the murder did you all receive
5 the firearm?

6 A: The firearm was submitted to the SLED laboratory
7 somewhere around April the 12th of 2010. Because I
8 collected or I picked it up from our incoming
9 evidence on the 12th of April of 2010 to be
10 processed.

11 Q: Is that when you picked it up or is that when it was
12 actually given to Sled by law enforcement?

13 A: I'm not sure the exact date that it was given to
14 SLED. That would be the date that I retrieved it
15 from our evidence area at Sled for processing.

16 Q: All right, just very briefly, tell me how that
17 works. If an agency such as the police department or
18 the Sheriff's department has an item of evidence if
19 they want SLED to perform an analysis on, do they
20 bring it into the physical building in Columbia?

21 A: That's correct. They bring it in and we have what's
22 called a log in section and they will actually enter
23 the evidence information into the computer along
24 with the requested analysis that they want completed
25 on it and on this case, since I had already worked

1 the initial crime scene, this analysis was assigned
2 to me and I picked it up. And we have different box
3 storage areas that evidence is kept and I picked it
4 up from one of those locked areas on April 12, 2010.

5 Q: So is it possible that the firearm could have been
6 brought to SLED a week or two weeks earlier than
7 April 12, 2010. Is that actually when you picked it
8 up to chart the analysis?

9 A: That is correct.

10 Q: Now tell us about your examination and your analysis
11 of the firearm that was submitted.

12 A: I also processed the firearm and I used a technique
13 and did a visual examination and then I used the
14 technique, it's called siacqulake which is better
15 known as super glue. I fumed the gun and it did not
16 --- no fingerprint evidence developed. After that,
17 I used black fingerprint powder and still did not
18 have any fingerprint evidence so I classified it as
19 no fingerprint evidence developed.

20 Mr. Barr: And that's in states 131 I believe? Mr.
21 McCrea, do you have any objection to the firearm?

22 The Court: Any objection to the firearm?

23 Mr. McCrea: No I don't.

24 The Court: Without objection. State's Exhibit
25 Number 131 is admitted.

1 Q: Tell me what this is, Ms. Hallman.

2 A: This is the gun box that the gun was received in.

3 And I can actually tell you that at some point I had
4 custody of it because my initials and the date 4-22
5 of 2010 is on that evidence tape.

6 Q: All right and by the time you actually performed
7 your analysis of the firearm to see whether or not
8 there were any prints on it, did you have a set of
9 case prints for the defendant Levern McCrea at this
10 time?

11 A: I did not.

12 Q: What about from the gentleman Christopher Briggs,
13 did you have a set of case prints from him?

14 A: I think I actually had their names and I had pulled
15 their fingerprint cards but I did not have palm
16 prints and there were some palm print evidence that
17 was developed on the paperwork.

18 Q: All right now I will get back to that in just a few
19 minutes. But as it relates to the firearm, there
20 were no fingerprints on it at all?

21 A: That's correct.

22 Q: And if someone were wearing plastic gloves or black
23 gloves, would that account or explain why, explain
24 the absence of fingerprints on the firearm or at any
25 point in time when it was handled?

1 A: Absolutely. Also, there is a --- you've got a time
2 frame between when the crime occurred and when the
3 gun is collected. And the fact that I believe the
4 gun was collected outdoors so that's going to be
5 detrimental to the fingerprints. And usually
6 firearms are not real easy to get latent
7 fingerprints off of.

8 Q: Now in addition to examining the firearm, did you
9 also have plastic bags that you were asked to
10 examine?

11 A: Yes.

12 Q: All right tell us the results of that examination.

13 A: Those were also processed in the same way that I did
14 the gun and I did not have any fingerprint evidence
15 developed on those.

16 Q: All right and I think that, Ms. Hallman, you were
17 also asked to perform an examination on a black
18 allergen fanny pack that's depicted in State's
19 exhibit number 106?

20 A: That's correct.

21 Q: All right and states exhibit number 132. And I'll
22 mark them just for identification purposes at this
23 time. Can you tell me what item lab number that is?

24 A: The lab number is L093392.

25 Q: What item number is it?

1 A: It is actually designated as a container, which
2 means that there's more than one item inside the
3 box.

4 Q: In terms of the evidence log, is that one of the
5 exhibits that would contain that black allergen
6 fanny pack.

7 A: Yes, the side of the box somebody's actually written
8 fanny pack with unfired cartridges on the side of
9 the box.

10 Q: Judge, we can move exhibits number 132 into evidence
11 at this time.

12 The Court: Do you have any objections Mr. McCrea?
13 Mr. McCrea: None.

14 Q: Tell us about the results of your analysis on that
15 item?

16 A: Actually, apparently within this box is the black
17 allergen fanny pack and also forty Federal 30-inch
18 cartridge shells that were inside that bag. There
19 was no fingerprint evidence developed on any of
20 those items.

21 Ms. Barr: All right. If I can have this marked as
22 ID for states 133. Judge, I wanted to make sure that I
23 actually moved State's 132 into evidence.

24 Q: Tell us about 133 please.

25 A: It's also another sealed box with a lab number

1 L093392 and it designates that it contains our item
2 number 36 which is three plastic bags, two of which
3 were Piggly Wiggly bags and the other one was just a
4 plain white plastic bag.

5 Q: Did you perform an analysis as it relates to that
6 piece of evidence?

7 A: Yes ma'am.

8 Ms. Barr: Your Honor, we would move State's exhibit
9 133 into evidence at this time.

10 The Court: Any objections, Mr. McCrea?

11 Mr. McCrea: None, Your Honor.

12 The Court: Without objection. State's Exhibit
13 Number 133 is in evidence.

14 Q: Let me get you to open it while you're up there.

15 A: Basically what I did when I completed for the
16 examination, all the items were actually received in
17 this brown evidence bag. I marked it on the bag
18 that it contained item 36. I processed the items
19 and they are put back in this sealed bag and my
20 initials and the date of 4-23-10 is actually on the
21 seal as to when I conducted and completed the
22 examination.

23 Q: And your results were there were no fingerprints on
24 that items?

25 A: Correct.

1 Q: You can put it back in. And Ms. Hallman, if I could
2 go back to State's 132. Let me get you to open this
3 box as well. Now tell us about the items that
4 you've taken from State's 132, please ma'am.

5 A: Once again inside the single container that I've
6 initialed. It is the bag that the evidence was
7 actually in, a paper bag. Flip it over and you can
8 actually see the fanny pack itself that's depicted
9 in that photograph. And then in another container,
10 I've actually sealed up all of the ammunition or all
11 of the cartridges that were collected out of it and
12 I just made a notation or a notation has been made
13 where they came from.

14 Q: All right. Those cartridges, are you familiar with
15 that type of cartridges those are?

16 A: I just notated when I received the items which is
17 brand, and they are special 38 cartridges.

18 Q: All right and I'm going to publish what's been
19 previously admitted as State's exhibit number 110.
20 Those appear to be the fanny pack and the 38 caliber
21 cartridges that you examined for the presence of any
22 fingerprints?

23 A: That's correct.

24 Q: Tell us what the results of that examination are?

25 A: I did not find any print evidence on the cartridges

1 on the fanny pack.

2 Q: Did you do - you can go ahead and put them back in
3 the bag. Thank you very much. Did you do any other
4 analysis as it relates to this case.

5 A: No ma'am.

6 Q: And just to be clear there were no unfired bullets
7 recovered from the scene of the murder?

8 A: That's correct.

9 Ms. Barr: All right that's all the questions I
10 have. Thank you so much. Please answer any questions
11 that have.

12 The Court: Mr. McCrea, do you have any cross
13 examination?

14 Mr. McCrea: Yes I do, Your Honor.

15 Ms. Hallman - Cross Examination by Mr. McCrea:

16 Q: The piece of paper that you found, did you find any
17 prints on the piece of paper because Ms. Barr hasn't
18 mentioned that fact.

19 A: I actually developed some fingerprints and I
20 compared them to Ms. Brown. Later on, another
21 examiner completed another comparison with the
22 defendant's fingerprints.

23 Q: Did you find any finger prints of the defendant?

24 A: She's here. She can testify to her report.

25 Q: Okay. But in conclusion to the glove were Mr.

Levern McCrea vs. State of South Carolina

288

1 McCrea's prints, did you find Mr. McCrea's print on
2 there?

3 A: I did not process the glove for fingerprints.

4 Q: Just for DNA?

5 A: It was processed by another department for DNA, yes
6 sir.

7 Mr. McCrea: Thank you.

8 The Court: Any redirect?

9 Ms. Barr: No Your Honor.

10 The Court: Thank you, you may step down. Any
11 objection to this witness being released?

12 Mr. McCrea: None, Your Honor.

13 The Court: Thank you, ma'am. You're released from
14 the subpoena.

15 Ms. Hallman: Thank you.

16 Ms. Barr: The State calls Tracy Thrower, please.

17 Clerk: Place your left hand on The Bible. Do you
18 solemnly swear that the evidence and testimony you will
19 give this Court and this jury will be the truth, the
20 whole truth and nothing but the truth so help you God?

21 A: I do.

22 Mr. Thrower - Examination by Ms. Barr:

23 Q: Sir, state your full name for the record.

24 A: Tracy J. Thrower, T-H-R-O-W-E-R.

25 Q: Mr. Thrower, tell us where you are employed.

1 A: I am also employed by the South Carolina Law
2 Enforcement Division also known as SLED in the
3 Forensic Services Building in Firearms Department.

4 Q: Okay. And sort of tell us kind of what you do for a
5 living?

6 A: Essentially I examine firearms and firearm related
7 evidence, any crime that is committed in the State
8 of South Carolina, fired bullets, projectiles
9 submitted to analysis. I can microscopically repair
10 those bullets, test them from a gun to see if they
11 were fired by a specific gun. I also perform tool
12 mark analysis essentially comparing tool marks like
13 bolt cutters to make a pad lock to see if they were
14 a particular set of bolt cutters that made the mark.
15 I do serial number restoration, muzzle distance
16 determination for patterns, destruction of firearms
17 for various police agencies for the State.

18 Q: Now would you give us very briefly a little bit
19 about your education background and your training
20 that qualifies you for the position that you hold at
21 Sled?

22 A: I have a bachelor's of science degree in biology,
23 I've also completed the Police Academy. I am a
24 police officer. I have also completed the course of
25 destruction that is taught by Sled, firearm and tool

Levern McCrea vs. State of South Carolina

290

1 mark identification repair. I was in approximately
2 a three and a half year mentor style training
3 program in which I was required to perform
4 extensive reading and studying. I was given oral
5 exams, written exams, practical problems. I had to
6 assist examiners for preparing cases. I was allowed
7 to attend various seminars. At the completion of
8 these courses I was able to work cases on my own.

9 Q: Now sir, how long have you been employed with SLED?

10 A: Approximately ten years now.

11 Q: And have you ever testified in court before?

12 A: Yes ma'am I have.

13 Q: And have you ever been qualified as an expert?

14 A: Yes.

15 Q: And in what specific area have you previously been
16 qualified as an expert witness?

17 A: Firearm identification.

18 Q: All right and tool marking analyses as well.

19 A: Yes. Tool marking identification also.

20 Ms. Barr: Your Honor at this time we would tender
21 Mr. Thrower as an expert in the field of firearms
22 identification and tool marking identification.

23 The Court: Mr. McCrea, do you have any objections to
24 him being identified as an expert in firearm
25 identification and tool marking analysis expert?

1 Mr. McCrea: No Your Honor.

2 The Court: Ladies and gentlemen, as with the last
3 witness, they will testify as to what they saw, smelled,
4 or touched, however the level of education and experience
5 I am going to name Mr. Thrower as an expert.

6 Q: Now Mr. Thrower, of course you were working for SLED
7 in 2009 and 2010 this year as well?

8 A: Yes.

9 Q: All right and as a result of your duties were you
10 involved in the or I shouldn't say involved, were
11 you asked to perform an analysis on certain pieces
12 of evidence in connection with this case.

13 A: Yes ma'am.

14 Q: Tell us about those items in evidence and when you
15 first received them.

16 A: The initial submission, I received, were there three
17 fired bullets.

18 Q: Yes, sir.

19 A: I brought them in. I compared the actual evidence
20 to what was listed on the evidence submission form
21 to make sure I received actually what was listed.

22 Q: All right in terms of your SLED lab number or item
23 number, there were three fired bullets, do you
24 recall when you would have received them and which
25 item number they would have been?

Levern McCrea vs. State of South Carolina

292

1 A: I received three bullets from our evidence control
2 department on March 20th of 2009.

3 Q: March 20th, 2009?

4 A: Yes ma'am.

5 Q: Okay.

6 A: The SLED numbers were Item 2, Item 3 and Item
7 eighteen.

8 Q: Let's talk about those first. I'm going to hand you
9 what's been marked as State's i.d. only as State's
10 exhibits 134 and 135 and tell me if you recognize
11 those items?

12 A: State's exhibit 134 is a sealed container that bears
13 my initials and date of 12-22-09.

14 Q: All right. And what is contained with that exhibit?

15 A: In states exhibit 134 are two smaller containers
16 both which are heat sealed with my initials and the
17 date 12-22-09. The first container is a fired lead
18 bullet. The bullet is Sled case number L093392,
19 Item 2 and my initials. The other container is
20 another fired lead bullet and the nose of the bullet
21 is with my item number and it's two fired bullets.

22 Ms. Barr: Your Honor, at this time we would move in
23 State's exhibit 134.

24 The Court: Any objections?

25 Mr. McCrea: No Your Honor.

1. The Court: State's exhibit 134 is admitted without
2 objection.

3 (State's Exhibit 134 in without objection)

4 Q: And Mr. Thrower, if you will, let me have you to
5 also look at State's 135 which is marked for
6 identification purposes only at this time.

7 A: This is also is another heat seal with my initials.
8 States exhibit 135, this is Item number 18, it also
9 bears heat seal, my initials and date. This is a
10 fired lead bullet that is scribed with my case
11 number, item number and initials as Sled item number
12 18.

13 Ms. Barr: Your Honor, we would like to move State's
14 exhibit 135 in at this time.

15 The Court: Any objection, Mr. McCrea?

16 Mr. McCrea: No sir.

17 The Court: State's 135 is in without objection.

18 (State's Exhibit Number 135 in without objection)

19 Q: Exhibit number 134, the previous exhibit that you
20 opened, it had two separate containers, each having
21 one fired bullet. Is that correct?

22 A: That is correct.

23 Q: State's 135 has a container also carrying one fired
24 bullet.

25 A: One fired bullet.

Levern McCrea vs. State of South Carolina

294

1 Q: Do you know why they are separated? Why you have
2 two, one in an envelope and one in another envelope?

3 A: I believe they were submitted at different times.

4 Q: All right, did you have a bullet that was received
5 from the crime scene and two other bullets received
6 from autopsy? Would that explain the difference in
7 when they were submitted?

8 A: State's Exhibit 135, the container in which it was
9 received was labeled as bullets recovered from
10 victim's hair, right side. The containers are
11 labeled as being from Cora Brown and appears to be
12 autopsy number.

13 Q: So the autopsy number was suggested those bullets
14 were recovered from the pathologist who performed
15 the autopsy.

16 A: Yes ma'am.

17 Q: Tell us the condition in which those three bullets
18 were when you first observed them. If you need to
19 look at them that's fine, otherwise if you'd like
20 you can put them back in the envelope. Whatever's
21 best for you. Whatever suits you.

22 A: As received, the bullets were fairly damaged. There
23 were lead bullets. You could tell they had struck a
24 hard object.

25 Q: Now when you say a hard object, I mean obviously

1 this desk is a hard object.

2 A: Yes ma'am.

3 Q: Is there anything that is contained in the human
4 body that would be hard like that and could cause
5 that damage to a bullet?

6 A: Absolutely. Yes ma'am.

7 Q: Like a skull or a backbone?

8 A: Yes ma'am.

9 Q: Now in terms of the condition of those bullets, were
10 you hopeful that you would be able to tie them to a
11 specific firearm? Initially when you just got the
12 three bullets.

13 A: When I initially received them before I analyzed
14 them. Yes, I was hopeful.

15 Q: Okay.

16 A: As I began to analyze them under my microscope so I
17 could see them in greater detail due to the damage
18 that was visible. I thought that there might be a
19 possibility. I did not feel confident but we never
20 know until we get it actually done just how much ...

21 Q: Now in this case, you prepared a report dated
22 December 23, 2009 as it relates to the three fired
23 bullets, is that right?

24 A: Yes ma'am.

25 Q: At that time did you have a firearm to compare those

1 bullets to?

2 A: No ma'am I did not.

3 Q: All right and I need you to help me understand. If
4 those bullets were submitted to SLED in March 2009,
5 can you kind of explain to us why a report was not
6 done until December of 2009?

7 A: Simply due to back log. There's crime happening all
8 over the state every day and SLED processes evidence
9 for the few entire state so unfortunately sometimes
10 it takes us months to analyze evidence that is
11 submitted.

12 Q: Can you tell anything about the type of firearm that
13 may have been used to fire those bullets in just
14 looking at the bullets themselves?

15 A: Yes ma'am there are certain things that we look at
16 called the overall physical characteristics of the
17 bullet. We look at the diameter of the bullet and
18 based on how round it is we can determine what
19 caliber of firearm may have fired it. Also based on
20 the weight of the bullet it can tell us what caliber
21 gun it may have been. They are certain bullets that
22 have a given diameter, there are certain bullets
23 with a bullet the same diameter, however, based on
24 the weight the heavier it is, we can determine what
25 caliber it is for instance, a 380 versus a 9mm Luger

1 versus a .38 special versus 357 magnum. They all
2 have roughly the same diameter though they are
3 different calibers based on weight.

4 Q: And based upon your experience and your examination
5 of those three fired bullets, what type of weapon or
6 firearm were you looking for that would have fired
7 those bullets?

8 A: Based on what I saw, it would be some sort of a
9 revolver.

10 Q: And what type of revolver?

11 A: There was some further analysis that I was able to
12 do also know as a general examination. Essentially
13 what we do is we look at those characteristics that
14 are placed on the fired bullets by the gun. One I
15 already discussed the diameter of the bullet and the
16 weight and that will explain how big the barrel is.
17 The next thing we look at inside the barrel of the
18 firearm is called rifling. Rifling is a series of
19 spirals and groves. The purpose of spiraling groves
20 is when you fire a bullet, you fire a firearm you
21 want the bullet to start to rotate or spin in a
22 sprilling motion as it goes down the barrel and
23 toward the target. The reason you want it to do
24 this is gyroscopic stability.

25 Q: You've got to spell that word for me. I'm sorry

Levern McCrea vs. State of South Carolina

298

1 what was the last word.

2 A: Gyroscopic stability.

3 Q: All right please continue.

4 A: The reason you want gyroscopic stability, have you
5 ever seen a really good quarterback throw a
6 football? They have that nice tight spiral when
7 they throw it. When I throw a football it goes kind
8 of crazy. What the gyroscopic stability does is it
9 will allow the projectile or the football to go
10 further. So firearm manufactures place this rifling
11 inside the barrel for accuracy and for distance.
12 What they can also choose, there are lands and
13 grooves. A land is simply the raised area. They
14 choose how many lands and how many grooves they want
15 to put in their barrel. They decide if they want to
16 make it conventional rifling or palinganull rifling.
17 They decide if they want that, before it goes down
18 the barrel do they decide if they want in spinning
19 in clockwise motion or counter clockwise motion?
20 Also, known as left to right hand twist. They
21 decide how wide they want each length and how wide
22 they want the groove. As part of my analysis, I
23 measure each of these things and take notes on them.
24 I plug all this information into a database provided
25 by the Federal Bureau of Investigations and it will

1 then provide me with a list of guns that could have
2 fired that bullet.

3 Q: All right based on your December 23, 2009 report,
4 you determined that those three fired bullets were
5 most consist with being loaded into a 38 special and
6 a 357 magnum?

7 A: Those were the calibers, yes ma'am that I found most
8 consistent.

9 Q: And to be clear, at that point you did not have a
10 firearm to compare the bullets to?

11 A: No ma'am I did not.

12 Q: All right now I'm going to hand you what's been
13 admitted as States exhibit number 131 and it's
14 already been opened so you can handle it however you
15 choose. Tell me if you recognize that exhibit.

16 A: States exhibit 131. First of all, ladies and
17 gentlemen of the jury, as you can see the gun has
18 been cleared, it is unloaded, it is safe to handle.
19 There is no ammunition in the chambers. It is a
20 Smith and Wesson model ten revolver. As received it
21 had an obliterated serial number.

22 Q: I'm sorry, it had been what now?

23 A: An obliterated. Somebody had removed the serial
24 number. Also there's my case number, item number
25 and my initials.

Levern McCrea vs. State of South Carolina

300

1 Q: All right now quick question. As it relates to your
2 report on December 23, 2009, did you indicate that
3 one of the possible, I guess manufacturers of the
4 gun that could have fired those bullets was a Smith
5 and Wesson?

6 A: Yes one of the brands that I determined from the
7 rifling examination could have fired those three
8 bullets was in fact a Smith and Wesson.

9 Q: Now you made that determination before you ever got
10 and actual firearm, is that right?

11 A: Yes ma'am.

12 Q: All right now when you talk about an obliterated
13 serial number, we will get back to the firearm. I
14 am going to publish States exhibit number 114. Well
15 before I do this, let me publish State's exhibit
16 number 111. Can you see that from where you are?

17 A: Yes ma'am.

18 Q: Is that a photograph of the firearm that you
19 analyzed?

20 A: It appears to be.

21 Q: Now I'm also going to publish states exhibit number
22 113. As far as that exhibit is concerned, does that
23 appear to be a photograph of the firearm that you
24 analyzed?

25 A: It is a picture of a barrel. It's rusty. It is

1 consistent with what I analyzed.

2 Q: And just to be clear, you didn't take any of these
3 pictures of the gun?

4 A: No ma'am.

5 Q: What does that say here at the top of, I know
6 absolutely nothing about guns, so that part of the
7 gun would be the ...

8 A: The barrel.

9 Q: Okay thank you sir. What does it say here at the
10 top of the barrel of the gun?

11 A: 38S&W Special and then you can see a c followed by
12 the cartridge.

13 Q: And of course is that on the firearm?

14 A: Yes ma'am.

15 Q: Now where would you normally expect to find a serial
16 number on that type of firearm?

17 A: On this type of firearm, it's an old style Smith and
18 Wesson, so the complete serial number is actually on
19 the butt of the gun. This number has been removed.
20 But these older style Smith and Wesson actually they
21 have hidden serial numbers or partial serial numbers
22 on back of the cylinder on the backside of the
23 extractor. Many times it will be on the insides of
24 the grips or the inside. There's a number of places
25 they will put extra serial numbers.

Levern McCrea vs. State of South Carolina

302

1 Q: And when we talk about the barrel of the gun, I want
2 to show you states exhibit 115 in evidence. Does
3 that look like the back of the gun?

4 A: That looks like this area right here.

5 Q: I'm going to publish that at this time and share
6 that information. Publish states 115. And again is
7 this the barrel of the gun that you talk about?

8 A: No ma'am.

9 Q: And where would you, in this photograph, where would
10 you normally expect to find the serial number?

11 A: You can see the area that's kind of out.

12 Q: Here?

13 A: Yes ma'am.

14 Q: Have you ever had occasion in your career to analyze
15 firearms where the serial numbers have been
16 obliterated?

17 A: Yes.

18 Q: What possible reason would a person have to
19 obliterate a serial number?

20 A: A lot of times they will have obliterated serial
21 numbers so they can't be traced. They could be
22 stolen. To take all the identity away from the
23 firearm they may remove information.

24 Q: Tell us about the condition of the firearm when you
25 received it and about the time frame in which you

1 received it.

2 A: I received the firearm around May 6, 2010. As I
3 received the firearm, it was kind of rusty. It was
4 also extremely dry and by dry I mean black
5 lubrication. The firearm didn't --- couldn't get
6 the cylinder open because the trigger did not want
7 to work properly. It as extremely dry.

8 Q: All right, did you have to do something to the
9 firearm to fire it? Is that a normal procedure in
10 terms of analyzing firearms to actually fire it?

11 A: Yes ma'am. In order to make the gun function
12 properly I applied a little bit of oil, lubrication,
13 at which time everything started working the way it
14 should. The departmental worksheet to test fire a
15 firearm and the bullet recovery. It's a stainless
16 steel pipe, it goes to our floor and at the bottom
17 of it is foam and a cup that sits in the funnel and
18 is filled with water, it goes into the water, the
19 water slows the projectile and the bullets to a safe
20 speed. At which time it goes to the bottom of our
21 tank and into the cup. Pull the chain up and you
22 can dump the test specimens in your hand. The water
23 protects all those microscopic markings on the
24 outside of the bullet.

25 Q: And I see that you noted dated August 13, 2010 that

Levern McCrea vs. State of South Carolina

304

1 the condition in which you found the firearms in and
2 your analysis none of them were presented being
3 fired during the in the testing process?

4 A: No ma'am. All I have to do is apply a little bit of
5 oil just to make it slid a little easier.

6 Q: And to be clear, SLED received this firearm, it
7 would have been some time after March of 2010?

8 A: Yes ma'am.

9 Q: All right tell us about what you identified to be
10 SLED item number 35.1.

11 A: Sled item 35.1 which is inside this sealed
12 container. Basically as I was analyzing, when I
13 first got the gun one of the first things I did was
14 put on a pair of gloves, handle the glove and look
15 over the gun to see if I could find anything that I
16 considered to be trace evidence. Trace evidence to
17 me is anything that does not belong there. At the
18 tip of the barrel up here, I found a little bit of
19 what I call fibrous debris. It was a fuzzy looking
20 material. I also note at the tip of the barrel was
21 very rusty. Reddish in color. So what I did was I
22 took a swab. I collected the fibrous debris and I
23 also swabbed the tip of the barrel to collect any
24 sort of trace material that may have been on the tip
25 of the barrel and I packaged it in that envelope.

1 Q: Now assume for me if you will, let me pose a
2 hypothetical to you. If a firearm had been in a
3 wooded area for a year, would that account for the
4 condition in which you found it, or it was found and
5 you saw it when you began your analysis?

6 A: Absolutely. This firearm is made out of steel. In
7 fact it's what they call a glue steel. It's the
8 type of finish. It's a finish that is more prone to
9 rust then on some other guns. So being out in the
10 weather, high humidity, rain would definitely cause
11 the firearm to rust. It would also wash away oil or
12 lubrication that has been on the firearm.

13 Q: All right and I believe that you also had your SLED
14 item number 40 and you also performed, I don't know
15 if analysis is the right word, but you also examined
16 that as well. Tell me what item forty is.

17 A: The SLED item number forty were actually a quantity
18 of forty unfired 38 special caliber cartridges.

19 Q: States number 110. While I do that, I will hand you
20 what's been previously submitted as states exhibit
21 number 132. I'm asking if you recognize anything
22 that's in this container.

23 A: Yes states exhibit 132 is SLED item number forty.
24 It has my number and initials. It's also got the
25 date I sealed with my initials on the bottom. This

Levern McCrea vs. State of South Carolina

306

1 is the forty unfired 38 special caliber cartridges.

2 Q: May I see that, please sir. All right and Mr.
3 Thrower, if you will, you indicated that these
4 cartridges were all unfired?

5 A: Unfired. Yes ma'am.

6 Q: Were they consistent or inconsistent with bullets
7 that could have been loaded into this Smith and
8 Wesson 38 special?

9 A: They were the proper caliber for firing in the Smith
10 and Wesson pistol.

11 Q: The three fired bullets that you had previously
12 received in 2009, would you compare those bullets to
13 SLED item number 35 which is states exhibit number
14 131, 38 Smith and Wesson.

15 A: Yes ma'am.

16 Q: All right tell us about your results of that
17 analysis.

18 A: I test fired the Smith and Wesson revolver like I
19 told you. In doing so I used test specimens from
20 it. That way I know exactly how that gun marks
21 because I test fired it myself. I use a comparison
22 microscope which is two microscopes side by side.
23 These two microscopes are connected to what they
24 call an optimal bridge. When I look through the eye
25 pieces I can see with both the microscopes at the

1 same time. Basically what you do is you place the
2 evidence specimen on the left microscope and place
3 your test specimen on the right microscope and then
4 you look through the eye pieces. What you see is two
5 images sitting side by side with a very small
6 hairline separating it. You can rotate each of the
7 bullets, the cartridge cases individually, you can
8 change the angle from lightening and you can change
9 the magnification. Basically what I did was I
10 compared the three bullets and three evidence
11 specimens that I was originally submitted. I
12 compared them to each other and got explicit
13 results. I was not able to tell if they were all
14 fired by one firearm or if they were fired by three
15 different firearms due to the amount of damage that
16 was present.

17 Q: Damage to what that was present?

18 A: Damage to those three bullets.

19 Q: Okay.

20 A: When they submitted the Smith and Wesson revolver, I
21 test fired that revolver and then I compared each of
22 those three bullets to my test specimen. Once again
23 I came back with inconclusive results. The three
24 bullets, the two and the one from Ms. Brown's hair I
25 just could not tell if they were fired from that

Levern McCrea vs. State of South Carolina

308

1 particular revolver or another one similar with like
2 characteristics.

3 Q: I want to be clear about your testimony here today.
4 You are telling us that based on the condition of
5 the fired bullets, you could not tell whether or not
6 that gun fired those bullets?

7 A: That is correct.

8 Q: Are you saying to us that they did not or could not
9 have come from the firearm?

10 A: No ma'am. That firearm could have fired those
11 bullets. Or a different firearm could have fired
12 them. I just could not tell.

13 Ms. Barr: Beg the court's indulgence.

14 Q: Now help me out with this. I've conceded that I
15 don't know much about firearms. In terms of this
16 particular revolver, often times in crime scenes
17 we'll see where spent cartridges are found at the
18 crime scene. Can you tell us whether or not this
19 particular firearm would have been the type of
20 firearm that would leave that type of evidence?

21 A: This is a revolver which means that little cylinder,
22 the round object that I pushed out the side to show
23 you that the firearm was not loaded. Each cartridge
24 is loaded in each one of those holes. As you pull
25 the trigger and fire it, it fires pull the trigger

1 and it rotates again, the cartridge cases do not
2 leave the gun, they remain in the gun. The only way
3 to get those fired cartridge cases out of the gun is
4 for somebody to manually open the gun or open that
5 cylinder and then manually remove them. As opposed
6 to a semi-automatic pistol which every time you fire
7 automatically ejects a fired cartridge cases leaving
8 it at the scene. This is not the type of gun that
9 does it on its own.

10 Q: Now when you received the firearm in 2010, did it
11 have any cartridges contained within it?

12 A: No ma'am. It did not.

13 Ms. Barr: Thank you so much Mr. Thrower. Please
14 answer any questions that the defendant, Mr. McCrea may
15 have for you.

16 The Court: Mr. McCrea, any questions for this
17 witness?

18 Mr. McCrea: He answered my questions pretty much.
19 Thank you.

20 The Court: You may step down. Any objection to this
21 witness being excused?

22 Ms. Barr: Not from the State.

23 Mr. McCrea: No sir.

24 The Court: All right this is an appropriate time to
25 break for lunch. We'll take about an hour and a half.

Levern McCrea vs. State of South Carolina

310

1 We'll be back at two o'clock Ladies and gentlemen.

2 Please do not discuss this case with anyone. As I told
3 you, you may be able to use your cell phones if you want
4 to but under the restrictions that I told you about.

5 Have a nice lunch and we'll see you back at two.

6 (Jury excused for lunch break 12:45)

7 The Court: Alright. Court is in recess until 2:00
8 p.m.

9 **(10-19-11 P.M.)**

10 MS. BARR: Your Honor, I've marked a photograph as
11 State's Exhibit Number 136. And I have two other
12 photographs that I have not marked but I only am showing
13 them to you for comparison purposes. And it's simply a
14 photograph of the victim at the crime scene with the
15 bullet in her hair. And that's one you may recall that
16 Agent Hallman talked about that she took out.

17 THE COURT: Right.

18 MS. BARR: And I wanted to ---

19 THE COURT: Well, let's see if Mr. McCrea has any
20 objections.

21 MS. BARR: He does. And that's why I needed you to
22 decide the issue. I'm seeking to introduce the first
23 photograph and I think that it's probably the less
24 inflammatory of the three.

25 THE COURT: Do you object to all three or just to --

1 -

2 MR. MCCREA: I've only seen one, Your Honor.

3 THE COURT: Do what?

4 MR. MCCREA: She only showed me one of them.

5 THE COURT: Show him all.

6 MS. BARR: And I'm not trying to get in all three,
7 just for the record, just the first one.

8 THE COURT: What would be your specific objection,
9 Mr. McCrea?

10 MR. MCCREA: Ms. Barr had showed me previously
11 already hasn't she, Your Honor? Hasn't she showed these
12 pictures?

13 THE COURT: No. Those were some other pictures and
14 I disallowed two of them that I thought were a little
15 heavy. Yeah. I've already disallowed two of them. The
16 first one -- the second two I'm not going to allow. All
17 right. The first one I am because it does show the
18 placement of the bullet in her hair.

19 MR. MCCREA: Okay.

20 THE COURT: It does not show her eyes or anything
21 like that.

22 MR. MCCREA: That's fine.

23 THE COURT: I want to keep it as gentle as I can.
24 It's important as a Judge, that I have a responsibility
25 to make sure the competent evidence is in. I'm going to

Levern McCrea vs. State of South Carolina

312

1 overrule your objection on the first photo that she
2 wanted to put in. The other two I am not going to allow.
3 (State's Exhibit Number 136 admitted into evidence.)

4 MS. BARR: Yes, sir.

5 MR. MCCREA: Thank you, Your Honor.

6 THE COURT: Thank you.

7 MS. BARR: And Judge we would like at the
8 appropriate time during the remainder of the trial this
9 afternoon, to recall Vicki Hailman just as it relates to
10 that exhibit.

11 THE COURT: Let's bring them in.

12 (Jury entered courtroom at 2:16 p.m.)

13 THE COURT: All right. Ladies and gentlemen, I hope
14 you had a good lunch. Let me emphasize that in addition
15 to being the Judge, I'm also like a train engineer. And
16 I like for my trains to run on time. And next time, the
17 train will run on time, but it will be without the one
18 who isn't here. Please be on time. We have a whole
19 courtroom full of people wanting to get this trial
20 started. So, let's not let it happen again. Thank you.
21 All right. Are we ready to proceed?

22 MS. BARR: The State's ready.

23 THE COURT: All right. You may call your next
24 witness.

25 MS. BARR: We'd call Ms. Kimberly Dinh.

1 KIMBERLY DINH,

2 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

3 MS. BARR: May it please the Court?

4 THE COURT: Yes, ma'am.

5 DIRECT EXAMINATION'

6 BY MS. BARR:

7 Q: Ms. Dinh, please state your full name for the record
8 and spell it for us?

9 A: Kim Dinh, D-I-N-H.

10 Q: And, ma'am, tell us where you're employed?

11 A: I'm employed at South Carolina Law Enforcement
12 Division, commonly known as SLED.

13 Q: And how long have you worked there?

14 A: I have been there for six years.

15 Q: And what do you do?

16 A: I work in the same department as special agent
17 Hallman. I'm assigned to crime scenes, assisting
18 other law enforcement agencies, working with the law
19 enforcement agencies around the state as well as
20 federal agencies in crime scene reconstruction,
21 latent prints, foot wear, tire wear.

22 Q: And in your capacity as a SLED Agent, of course,
23 you've testified in court before?

24 A: Yes, ma'am.

25 Q: All right. And you've been declared an expert

Levern McCrea vs. State of South Carolina

314

1 witness in the field of latent prints?

2 A: Yes, ma'am.

3 Q: All right.

4 MS. BARR: Judge, we would just tender Ms. Dinh as
5 an expert in the field of latent prints at this time.

6 THE COURT: Any objection, Mr. McCrea?

7 MR. MCCREA: No, none, Your Honor.

8 THE COURT: Ladies and gentlemen, as with the other
9 expert witnesses you can put the amount of weight that
10 you choose on her testimony. Okay.

11 Q: All right. And Ms. Dinh, you participated in
12 analyzing certain evidence that was submitted by the
13 Williamsburg County Sheriff's Office in connection
14 with the murder of Cora Brown; is that right?

15 A: Yes, I did.

16 Q: All right. And what specific item of evidence were
17 you called upon to render assistance?

18 A: I was submitted -- All right. There was major case
19 prints submitted from the suspect to this case and I
20 compared those major case prints to latent prints
21 that were already processed by Agent Vicki Hallman.

22 Q: Okay. And those latent prints were on which piece
23 of evidence?

24 A: It was the paper that was chemically processed. I
25 believe it was item twenty-five. I'm not sure of

1 the exhibit number.

2 MS. BARR: Do you have 131.

3 MADAM COURT REPORTER: 131 is the gun. The
4 paperwork is 130.

5 Q: All right. Ms. Dinh I've going to -- I'm going to
6 put it back in so you can see which exhibit number
7 it is. I'm going to hand you what's been previously
8 admitted as State's Exhibit Number 130 and ask you
9 if you recognize that exhibit?

10 A: This appears to be the original copy of what I
11 examined.

12 Q: Okay. All right. And that's the letter, the piece
13 of paper I should say, that Agent Hallman recovered
14 from the crime scene as far as you know?

15 A: Yes, ma'am.

16 Q: Okay. Fair enough. All right. Now, in terms of
17 your analysis of this particular item of evidence,
18 you talked about receiving case prints from suspects
19 related to this particular action; is that right?

20 A: Yes, ma'am, I did.

21 Q: All right. Did you also have fingerprints or major
22 case prints from the victim, Cora Brown?

23 A: I did.

24 Q: Okay. All right. And when talk about having prints
25 from the suspects in this case, we're talking about

Levern McCrea vs. State of South Carolina

316

1 the Defendant, Levern McCrea; is that right?

2 A: Yes, ma'am.

3 Q: And we're talking about an individual named
4 Christopher Briggs; is that correct?

5 A: That is correct.

6 Q: All right. Now, based on your analysis of that item
7 of evidence, were you able to tie that piece of
8 paper or those pieces of paper to the victim, Cora
9 Brown?

10 A: I was not.

11 Q: Okay. Were you able to tie those pieces of paper to
12 the Defendant, Levern McCrea?

13 A: I was not.

14 Q: All right. What about to Christopher Briggs?

15 A: No, ma'am.

16 Q: All right. Now, were there any other items of
17 evidence that you were ask to test or analyze in
18 this case?

19 A: That was it.

20 Q: Okay. All right. Now, Ms. Dinh, in terms of the
21 recovery of fingerprints and comparing them to
22 standards that were submitted to you, if an
23 individual never handled that piece of paper, would
24 that be consistent with not having that person's
25 prints on that piece of paper if they'd never

1 touched it?

2 A: Yes, ma'am.

3 Q: If an individual who may have touched it were
4 wearing gloves, would that be consistent with their
5 fingerprints not appearing on that item of evidence?

6 A: Yes, ma'am.

7 Q: That's all the questions that I have. Please answer
8 any questions that Mr. McCrea may have.

9 THE COURT: Mr. McCrea, do you have any questions of
10 this witness?

11 MR. MCCREA: No, she answered them for me. Thank
12 you, Your Honor.

13 THE COURT: All right. Thank you. You may step
14 down.

15 MS. BARR: We'd call, Your Honor, at this time, Ms.
16 Verona Gibson.

17 **VERONA GIBSON,**

18 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

19 DIRECT EXAMINATION

20 BY MS. BARR:

21 Q: Ms. Gibson, good afternoon?

22 A: Hi, how are you?

23 Q: Good. How are you doing? State your full name for
24 us?

25 A: Verona Gibson.

Levern McCrea vs. State of South Carolina

318

1 Q: And, you, of course, were subpoenaed as well as the
2 other employees of SLED to testify in this case; is
3 that right?

4 A: Yes, ma'am.

5 Q: All right. Tell us where you are officially
6 employed?

7 A: I am employed in the evidence processing department
8 within the DNA case work division of SLED.

9 Q: Okay. All right. And tell us what it is that you
10 do there specifically?

11 A: We get in larger items such as bed linens, clothing,
12 anything that's not about the size of a piece of
13 paper. And look for bodily fluids or ownership.

14 Q: Okay. Now, what's your official title there?

15 A: I'm a forensic DNA Tech.

16 Q: Okay. And would you give us a little bit of
17 information about your background and your
18 educational experience?

19 A: I have Associates Degree from Greenville Technical
20 College in Forensics. I have been with South
21 Carolina Law Enforcement Division for approximately
22 three and a half years. While there our training
23 program is under two court-qualified technicians,
24 processing the evidence for DNA.

25 Q: All right. Now, you have testified in court before?

1 A: Yes, ma'am.

2 Q: All right. And your services were called upon as it
3 relates to an item of evidence in this case?

4 A: Yes.

5 Q: All right. And let me hand you what's been admitted
6 as State's Exhibit Number 129. Can you tell us ---

7 THE COURT: Did you want her to be deemed as an
8 expert?

9 MS. BARR: I'm sorry, Judge. I do. If you give me
10 just a quick second.

11 Q: Let me ask you if you recognize that particular
12 exhibit?

13 A: Yes, ma'am.

14 Q: How is it that you recognize it?

15 A: The bag has my initials and the date that I resealed
16 up that bag. As well as the inside package.

17 Q: All right. Now, in terms of what you do day-to-day,
18 kind of explain to the jury what your job
19 responsibilities are?

20 A: We're responsible for making sure the integrity of
21 the evidence is followed throughout the chain. We
22 have to process the evidence for whatever requests
23 there is from the submitting agency. And then we
24 send whatever items we take cuttings from, the
25 cuttings to the DNA department.

Levern McCrea vs. State of South Carolina

320

1 Q: Okay. All right. And when you testified in
2 previous cases, have you ever been qualified as an
3 expert witness?

4 A: Yes, ma'am.

5 Q: In what field specifically?

6 A: Evidence processing.

7 Q: All right.

8 MS. BARR: Now, Your Honor , at this time, we would
9 tender Ms. Gibson as an expert in the field of evidence
10 processing.

11 THE COURT: Mr. McCrea, do you have any objection to
12 her being tendered as an expert in evidence processing?

13 MR. MCCREA: No, I don't, Your Honor.

14 THE COURT: Thank you. And again, ladies and
15 gentlemen, as before, she can render an opinion. As to
16 whether or not you want to accept it is totally up to you
17 as the finders of fact. Thank you. You may proceed.

18 MS. BARR: Thank you, Your Honor.

19 Q: Now, Ms. Gibson, I'm going to hand you again State's
20 Number 129. What's the SLED item number?

21 A: It's item twenty-four.

22 Q: Okay. And let me have you help me with something.
23 When you all get evidence in from the various
24 agencies, law enforcement agencies throughout the
25 State, you all assign a SLED Lab Number?

- 1 A: Yes, ma'am..
- 2 Q: That's specific with that case?
- 3 A: Yes, ma'am.
- 4 Q: All right. And each time you all get an item in you
- 5 label it one, two, three, four, five, six, seven,
- 6 eight, nine, ten, and so forth?
- 7 A: Right.
- 8 Q: All right. And so this would represent, I'm
- 9 assuming, the twenty-fourth item that was logged in?
- 10 A: Yes, ma'am.
- 11 Q: Okay. Tell us what it is?
- 12 A: It is a glove.
- 13 Q: Okay. All right. Now, can you pull it out for me?
- 14 A: (Witness complies).
- 15 Q: And what are you doing as we're kind of waiting.
- 16 Explain to us what you're doing?
- 17 A: We're usually dealing with biological evidence be it
- 18 blood, urine, semen, and it's just a common practice
- 19 in the lab that you don't touch any evidence without
- 20 gloves on. It protects us and also protects cross-
- 21 contamination from the evidence.
- 22 Q: Well, I've just screwed up because I've had my hands
- 23 on it all day, so...
- 24 A: It becomes habit.
- 25 Q: Yes, it does. All right. Describe the glove to me.

Levern McCrea vs. State of South Carolina

322

1 A: It is a black glove, extreme utility, with a gray
2 palm area.

3 Q: Okay. All right. Now, I notice that in that
4 particular exhibit, it appears that the fingers are
5 inserted within the glove?

6 A: Right. When I process the glove, I turn it inside
7 out and then we scrape the inside lining of the
8 glove and then swab it and swab whatever we scrape.

9 Q: Okay.

10 A: Just as a convenience, when we repackage it back up,
11 I just kind put that back right side so that my item
12 number and my initials and the lab number shows.
13 But usually, we don't take the time to undo every
14 finger.

15 Q: All right. So in terms of the glove in the state
16 that it is in now, I'm going to publish State's 33.
17 And I don't expect you to answer with precision, but
18 does that appear to be the same glove that you have
19 in your hand?

20 A: It appears to be the same.

21 Q: All right. So as is reflected on this particular
22 exhibit, the fingers of that glove, the fingers are
23 pointed out?

24 A: Yes, ma'am.

25 Q: All right. So as the glove is in your possession,

1 the fingers are inserted within the glove?

2 A: Correct.

3 Q: But you would have done that?

4 A: Yes, ma'am.

5 Q: As a part of processing it?

6 A: Yes, ma'am.

7 Q: I understand. Okay. Tell me about your processing
8 that item. What, if anything, you found and what
9 did you later do with it?

10 A: Like I said, we turn the glove inside out. We
11 scrape it. We swab the inside of the glove and
12 scrape what ever it is, We place that swab into an
13 envelope, which is like a little gold envelope. We
14 seal it, date it and initial, and it is placed into
15 a heat-sealed pouch similar to this, sealed and
16 forwarded to the DNA Department.

17 Q: Okay. All right. Now, when you were performing
18 your inspection of that item, what were you looking
19 for?

20 A: Hair is one of the visual things that we can
21 visualize, we can see to collect. With the
22 ownership, which was the request for this item,
23 there's not a lot to visualize. You're more trying
24 to collect the skin cells that were deposited onto
25 the item as it was worn. And those are not visible.

Levern McCrea vs. State of South Carolina

324

1 Q: Okay. Sure. I understand. Now, in terms of any
2 hair that may have been on that glove, did you find
3 any?

4 A: No, ma'am. I did not find any hair on this item.

5 Q: In terms of anything else that would have been
6 visible to the human eye, did you locate anything
7 else of significance on the glove?

8 A: No, ma'am.

9 Q: All right. You indicated that once you were through
10 processing it, you sent it to the DNA Department?

11 A: This swab I took from scraping it, yes, ma'am.

12 Q: Okay. What was the purpose in sending the swab to
13 the DNA Department?

14 A: So that they could test for potential DNA.

15 Q: All right. Did you handle any other item of
16 evidence in the case?

17 A: Yes, ma'am, I did.

18 Q: Okay. Tell us about that?

19 A: The other items I processed was a ski mask, SLED's
20 item 37.

21 Q: Okay.

22 A: SLED's item 38, which was a stocking. And SLED item
23 41 which was a holster.

24 Q: Okay. Now, let me go back just a quick second.

25 MS. BARR: Your Honor, I have marked for ID State's

1 Number 142, which is the swabbing from the glove. We
2 would ask the Defendant if he has any objection.

3 THE COURT: Do you have any objection.

4 MR. MCCREA: None, Your Honor.

5 THE COURT: All right. Without objection it'll be
6 State's Exhibit Number 142.

7 (WHEREUPON, State's Exhibit Number 142 admitted into
8 evidence.)

9 Q: All right. Ms. Gibson, tell us if you recognize
10 142?

11 A: Yes, ma'am. This is the swab that I collected from
12 scraping the glove. I can tell because my initials
13 are at the top of the inner bag. The outside bag it
14 also has that I'm the resealing person. And on the
15 back of the envelope, I can see my initials and the
16 date that I swabbed it.

17 Q: Now, when I was talking with you earlier about SLED
18 assigning item numbers to specific things that come
19 in for analysis, you told me that the glove was
20 labeled SLED item number 24?

21 A: Yes, ma'am.

22 Q: All right. And the swabbing that is contained
23 within that glove, it is labeled what?

24 A: 24.1

25 Q: 24.1. So when you have a number then, point -- a

Levern McCrea vs. State of South Carolina

326

1 decimal point with a number behind that, that
2 represents something that came from a particular
3 item?

4 A: Correct.

5 Q: Okay. Now, you mentioned that in addition to the
6 glove you received three other items. And, I'm
7 sorry. I need you to go over those things again for
8 me, please?

9 A: The first one was a ski mask.

10 Q: Yes, ma'am.

11 A: A stocking, and a holster.

12 Q: Okay. All right. And when I talk about, you
13 mention the ski mask -- I'm going to publish State's
14 Exhibit Number 107. Can you see it where you are?

15 A: Yes, ma'am.

16 Q: Does this appear to be -- does it look like the
17 stocking that you handled?

18 A: It appears similar to my description, yes.

19 Q: And I'm also going to publish State's 109. Can you
20 see that from where you are?

21 A: I can see it.

22 Q: Does that appear to be an enlarged photo of the
23 stocking that we're talking about?

24 A: It appears close to what my description is, yes.

25 Q: All right. And just to be fair to you, I mean, you

1 didn't actually seize the stocking or the holster or
2 anything else from any scene?

3 A: No.

4 Q: It was just at SLED and you performed your
5 processing?

6 A: Correct.

7 Q: All right. Fair enough. And you mentioned a
8 holster. Let me show you State's Exhibit 107 and
9 see if that looks familiar to you.

10 A: From my description, yes, that does appear to be.

11 Q: I'm going to publish State's 107. And that appears
12 to be a photograph of a ski mask, a fanny pack, and
13 holster? Okay. I'm going to hand you what's been
14 marked for identification purposes as State's
15 Exhibit Number 144. Tell me if you recognize what
16 that exhibit is?

17 A: Yes, ma'am, this is the box containing the ski mask,
18 the stocking and the holster. I can recognize it
19 from my seal with the date and my name.

20 Q: Okay. All right.

21 MS. BARR: And, Your Honor, at this time, we would
22 move State's Exhibit Number 144.

23 THE COURT: Any objection, Mr. McCrea?

24 MR. MCCREA: No, Your Honor.

25 THE COURT: All right. Without objection, State's

Levern McCrea vs. State of South Carolina

328

1 Number 144 is into evidence.

2 (WHEREUPON, State's Exhibit Number 144 admitted into
3 evidence.)

4 Q: All right. And, Ms. Gibson, if I may, I'm going to
5 give you a pair of scissors so you can open the box
6 for me. Now, is that sealed?

7 A: Yes, ma'am, it is.

8 Q: Let me give you a little bit of room. I'll move
9 this one.

10 A: These appear to be the items.

11 Q: All right. If you would, please remove the items
12 that is contained, the items that are contained
13 within Exhibit 144 and kind of show them to the jury
14 and tell them what they are.

15 A: This is the ski mask that I processed.

16 Q: Okay.

17 A: This is the holster.

18 Q: What type of holster is that?

19 A: It was submitted to us as a holster. It appears to
20 be homemade.

21 Q: I'm sorry?

22 A: It appears to be homemade.

23 Q: Homemade, okay. You've got a lot of stuff to go
24 through there.

25 A: And this is the stocking.

1 Q: The stocking?

2 A: Yes, ma'am.

3 Q: All right. Now, I'm curious as to that stocking.

4 You know, when we talk about stockings, we have
5 women's stockings. Is that the type stocking you're
6 talking about?

7 A: We usually go with the descriptions that the agency
8 puts on the item unless it's very different from
9 what the item is. So it was the right material. It
10 looked like it could be a stocking of some sort, so
11 I left that description.

12 Q: I understand. All right. Now, if you can kind of -
13 - if you'd just put all of that back in the bag I'll
14 make sure it's properly packaged back. It'll just
15 give you some room up there. Okay. Tell us about
16 your processing and the order that you testified
17 about the ski mask.

18 A: The ski mask was scraped on the inside and the
19 outside, much as the way the glove was. Then the
20 item itself was scraped with a scraper that I use to
21 scrape. And the paper that I scrape on. Any
22 possible hair that was found was collected
23 separately, so those two items were packaged and the
24 coin envelope was sealed, initialed.

25 Q: Tell us about the stocking?

Levern McCrea vs. State of South Carolina

330

1 A: The stocking, we swabbed the entire item and then it
2 was placed in the coin envelope as well and possible
3 hair was collected from that as well.

4 Q: All right. Now, you said the coin what?

5 A: Coin envelope. Just the little gold envelope that
6 was in the bag a while ago. It's called a coin
7 envelope.

8 Q: All right. And tell us about the holster?

9 A: The holster, the entire item was swabbed and then
10 the swab was placed into an envelope and we sealed
11 the swab.

12 Q: All right. And the swabs that were taken from those
13 three items were, what happened to those swabs?

14 A: They were placed in a heat-sealed pouch and
15 forwarded to the DNA Department.

16 Q: Okay. Tell me if you recognize State's Exhibit
17 Number 143?

18 A: Yes, ma'am, these are the swabs and the possible
19 hair from those three items.

20 Q: Okay. And how do you know that?

21 A: It has my name here and where I sealed it at the
22 top. The container also is the container those
23 items were put into as part of our training. I can
24 see my initials and the date on the inside on the
25 envelopes.

1 MS. BARR: Judge, we would move State's Exhibit 143
2 into evidence?

3 THE COURT: Any objection, Mr. McCrea?

4 MR. MCCREA: None, Your Honor.

5 THE COURT: All right. State's Exhibit Number 143
6 is admitted into evidence without objection.

7 (WHEREUPON, State's Exhibit Number 143 admitted into
8 evidence.)

9 Q: Were there any other items that you processed in
10 connection with this case?

11 A: No, ma'am.

12 Q: Everything that you had you later forwarded to the
13 DNA Department?

14 A: Correct.

15 MS. BARR: I beg the Court's indulgence. I think
16 that's all I have.

17 THE COURT: Yes, ma'am.

18 Q: That's all the questions I have. Please answer ---

19 THE COURT: All right. Thank you. Mr. McCrea, do
20 you have any questions, cross-examination for this
21 witness?

22 MR. MCCREA: No, I don't, Your Honor.

23 THE COURT: All right. Thank you. Ma'am, you may
24 step down.

25 MS. BARR: Your Honor, at this time, we would recall

Levern McCrea vs. State of South Carolina

332

1 Agent Vicki Hallman.

2 THE COURT: All right. You're already under oath.

3 **VICKIE HALLMAN,**

4 HAVING BEEN PREVIOUSLY SWORN, TESTIFIED AS FOLLOWS:

5 DIRECT EXAMINATION

6 BY MS. BARR:

7 Q: All right. Ms. Hallman, you're reminded you're
8 still under oath, of course?

9 A: Yes, ma'am.

10 Q: All right. And I neglected through your direct
11 testimony earlier to actually talk with you about
12 the fired bullet that you testified that you took
13 out of the victim's hair at the crime scene. Do you
14 remember that testimony?

15 A: Yes, ma'am.

16 Q: All right. I'm going to show you what's been
17 admitted as State's Exhibit Number 136 and ask you
18 if you recognize what's in that photograph?

19 A: Yes, ma'am, I do.

20 Q: How is it that you recognize it?

21 A: It would be a photograph that we took the night we
22 processed the scene.

23 Q: And that was from Ms. Cora Brown's hair?

24 A: Yes, ma'am.

25 Q: All right. And would you do me a favor, please,

1 ma'am. Can you come down off of the witness stand?

2 A: (Witness complied.)

3 MS. BARR: Your Honor, permission to publish?

4 THE COURT: Certainly.

5 Q: All right. I have published the particular exhibit
6 that we're talking about. Can you point for the
7 benefit of the jurors to where the -- we see the
8 victim's head here or her face here?

9 A: Yes.

10 Q: And that would be to the right of the photograph?

11 A: Yes.

12 Q: Okay. All right. So kind of point to where her
13 head would be -- I mean, her face would be. I'm
14 sorry?

15 A: Actually, can I see one of the ---

16 Q: Sure.

17 A: --- if you don't mind.

18 Q: This is not in evidence so make sure not to publish
19 it.

20 A: (Reviews photograph). I'm sorry. I've got to get
21 the orientation correct.

22 Q: Sure.

23 A: I think you're correct. I think her face is this
24 side.

25 Q: Okay.

Levern McCrea vs. State of South Carolina

334

1 A: It's kind of hard to tell because the photograph is
2 such a closeup photograph.

3 Q: Sure. I understand. All right. Let me show you
4 this one again. This is not in evidence. See if
5 that helps any?

6 A: (Reviews photograph). Actually, that's better.

7 Q: Okay. When you move it over just a little bit. Let
8 me do this. So that I don't confuse you and confuse
9 myself ---

10 A: Okay.

11 Q: --- do you see what you believe to be a gunshot
12 wound to the victim's head?

13 A: Yes.

14 Q: All right. Point out that to the jury?

15 A: The wound actually appears to be here.

16 Q: Okay. All right. And as you recollect would that
17 injury have been to the right of Ms. Brown's head or
18 the left of her head?

19 A: It's on the right side of her head.

20 Q: Okay. And that would be once you turn her over?

21 A: Once we turn her over, it's the right side.

22 Q: Okay. All right. And do you see anything that's
23 depicted in that particular exhibit that is the
24 bullet that you removed from her hair?

25 A: Yes.

1 Q: All right. Tell us about that?

2 A: That's located here. And I don't believe we
3 actually saw the bullet until we rolled the body
4 over and we started examining the wound a little bit
5 closer. And that's when we noticed the bullet that
6 was in her hair.

7 Q: And that's that little silver part in here?

8 A: Yes, ma'am.

9 Q: All right. Thank you. You can go back -- yeah.

10 A: (Witness returned to witness stand).

11 Q: All right. And just to be clear, the holster, the
12 ski mask, and the stocking that your colleague, Ms.
13 Gibson, talked about just a few moments ago, that
14 was not recovered by you?

15 A: That's correct. It was not recovered by myself.

16 Q: All right. So you haven't seen it.

17 A: No, ma'am.

18 Q: Okay. All right. That's all the questions I have.

19 THE COURT: Mr. McCrea, do you have any cross-
20 examination questions of the witness?

21 MR. MCCREA: None, Your Honor.

22 THE COURT: Thank you. You may step down, ma'am.

23 MS. BARR: We call Ms. Catherine Leisy. And, Judge,
24 we'd ask that the witness be excused.

25 THE COURT: All right. Any objection to this

Levern McCrea vs. State of South Carolina

336

1 witness being excused?

2 MR. MCCREA: None, Your Honor.

3 THE COURT: Thank you.

4 CATHERINE LEISY,

5 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

6 DIRECT EXAMINATION

7 BY MS. BARR:

8 Q: Good afternoon, Ms. Leisy?

9 A: Good afternoon.

10 Q: All right. Please state your name for the record?

11 A: Catherine Leisy.

12 Q: Leisy?

13 A: L-E-I-S-Y.

14 Q: I'm sorry. I mispronounced it. Leisy. Okay. All
15 right. Tell us where you work?

16 A: I work at the South Carolina Law Enforcement
17 Division.

18 Q: Okay. And what do you do there?

19 A: I'm a forensic scientist assigned to the DNA and
20 Serology.

21 Q: All right. Now, we're going to talk about DNA in
22 just a minute but let me get a little bit of
23 information about your educational background,
24 training and experience.

25 A: I have a Bachelor of Science degree. I've worked at

1 SLED in this capacity for approximately five years.
2 I have received in-house training and passed
3 competency test in all the different types of tests
4 and analysis that we perform on DNA. I am also
5 required to have annual training to keep up. And
6 prior to my coming to SLED I spent approximately
7 four years working as a DNA Analyst in Germantown,
8 Maryland where I ran the same kind of tests that I
9 do here.

10 Q: All right. And I'm sorry, you've been employed by
11 SLED for how long?

12 A: Four or five years.

13 Q: All right. And have you had occasion to testify in
14 the State Courts in South Carolina as an expert
15 witness?

16 A: Yes, I have.

17 Q: And you've been qualified as an expert witness in
18 what field?

19 A: In the field of forensic DNA identification testing.

20 MS. BARR: Judge, we would so move that the witness
21 be qualified as an expert.

22 THE COURT: Any objection?

23 MR. MCCREA: None, Your Honor.

24 THE COURT: Thank you. Ladies and gentlemen, again,
25 she's going to be able to render her opinion in forensic

1 DNA identification. Thank you.

2 MS. BARR: Thank you.

3 Q: Ma'am, tell the jurors -- and we have an idea of
4 what it means, but tell the jurors for the record
5 what is meant by DNA, what it stands for?

6 A: DNA stands for Deoxyribonucleic Acid. It's the
7 genetic material found in all your body cells, with
8 the exception of your red blood cells. DNA the
9 instruction call chromosomes, which contain your
10 genes and genes are simply strands of DNA codes for
11 our physical characteristics, such as our eye color.
12 We receive half of our DNA from our mother, half of
13 our DNA from our father. Therefore, we have two
14 copies of ever gene. Now, approximately ninety-nine
15 point nine percent of DNA is identical to that of
16 everyone else's. And it's a variation of that
17 remaining point one percent that allows ...

18 Q: Okay. All right. Now, of course, you were called
19 upon to analyze certain evidence that was submitted
20 in this case?

21 A: Correct.

22 Q: As it relates to the victim, Cora Brown?

23 A: Yes.

24 Q: All right. Now, I believe that you analyzed -- you
25 made an analysis in 2009 and again in 2011; is that

1 right?

2 A: I actually issued three separate reports in this
3 case.

4 Q: Okay. All right. Now, is it unusual, based on your
5 experience, for you to get certain items from law
6 enforcement agencies at one time, and then at some
7 point later get separate items to analyze in the
8 same case?

9 A: It's actually very common. We will just -- when we
10 test the additional submitted items, we then issue
11 what we call a supplemental report that will
12 typically contain all the information for all the
13 items that we've tested to that point. So my, the
14 third report that I issued in September of this year
15 contains information on all the items that I tested.

16 Q: And it's quite frankly now different than if you had
17 DNA at a burglary site, but you didn't have a
18 suspect. And you get the DNA evidence. And then
19 once you get a suspect then you're asked to make a
20 comparison?

21 A: That's correct.

22 Q: Happens everyday?

23 A: It would be very common, yes.

24 Q: All right. Now, tell us -- and I guess we can go
25 one-by-one about the items that were submitted to

1 you. And your analysis and results from those
2 items.

3 A: Go through each one?

4 Q: Yes.

5 A: The first item that was submitted as identified as
6 SLED item number 4. It was identified as a vaginal
7 swab taken from Cora Brown.

8 Q: Okay.

9 A: I performed what we call a presumptive serology
10 testing on that item. Serology is just the
11 identification of bodily fluids. In this particular
12 case, the vaginal swab, as there might have been a
13 sexual assault, I was testing for possible presence
14 of semen and the test was negative so that no semen
15 was identified on the vaginal swabs and I did not
16 perform further testing on that item.

17 Q: All right. And the same result for SLED item number
18 5, which would have been rectal swabs from the
19 victim, Cora Brown?

20 A: That's correct.

21 Q: Did not contain the presence of semen?

22 A: Correct. Again, it was negative for the presence of
23 semen.

24 Q: And that also the same result as it relates to SLED
25 item number 6 would have been oral swabs from Cora

1 Brown?

2 A: Correct.

3 Q: Now, in terms of having a murder, do you all
4 typically see where law enforcement or do you like
5 where law enforcement will get fingernail clippings
6 from a victim?

7 A: Fingernail clippings are very often taken in both
8 potential sexual assault cases as well as homicides,
9 anywhere there may have been a physical altercation
10 between the victim and the potential suspect. What
11 we're looking for at that point is the transfer of
12 either skin cells or possibly blood, if the victim
13 fought the suspect and was able to scrape material.

14 Q: All right. And as it relates to fingernail
15 clippings from Cora Brown's right and left hand, can
16 you tell us about your results of those items of
17 evidence?

18 A: I was able to develop a DNA profile from both
19 clippings on the left and right hand. That DNA
20 profile was consistent with Cora Brown. And I was
21 not able to develop a foreign contributor to those
22 items.

23 Q: Okay. Now you just said a mouthful. Let me make
24 sure I understand. Basically when you analyzed the
25 clippings from the victim's right and left hand, the

1 DNA that was under her fingernails was her own DNA?

2 A: That's correct.

3 Q: All right. And you did not recover any foreign DNA
4 from under her fingers?

5 A: That's correct.

6 Q: All right. Now, let's talk about SLED 11, 11.1,
7 11.2, 11.3, and 11.4. Tell us about that.

8 A: What was identified as SLED item number 11 was a
9 collection of public hair combs.

10 Q: From?

11 A: From Cora Brown.

12 Q: Okay.

13 A: With a potential sexual assault, they will take a
14 plastic comb just like you know you or I might use,
15 they comb it through the pubic hairs to potentially
16 collect any hair that may be loose in the hopes that
17 it may have been contributed by the potential
18 attacker.

19 Q: Okay.

20 A: I microscopically examine the hair to try and
21 determine whether or not there was root material.

22 Q: Okay.

23 A: There is not testable DNA actually within the shaft
24 of the hair. You have to have the root or - I was
25 able to identify four hairs that I thought may have

1 enough root attached.

2 Q: Okay. All right. And as it relates to the analysis
3 of the pubic hair of the victim, what were your
4 conclusions?

5 A: Well, three of those four hairs, I was able to
6 develop a full DNA profile and that profile was
7 consistent with Cora Brown. There was no indication
8 of a foreign contributor. And the fourth hair, I
9 was only able to develop a partial profile, so there
10 was not enough DNA there for all the sites I tested
11 to give me any results. The partial profile also
12 matched that of Cora Brown. And, again, there was
13 no foreign contributor.

14 Q: So in terms of the pubic hair, you did not have any
15 DNA from anybody other than from the victim?

16 A: That's correct. None was detected.

17 Q: All right. Now, in addition you received SLED item
18 number 22, which was swabs from the kitchen floor.
19 Will you tell us about the results of that analysis?

20 A: I ran another presumptive serology test on swabs
21 from the kitchen floor, this time looking for blood
22 as that was the test indicated. That test was
23 positive indicating the possible presence of blood.
24 I then went on and developed a DNA profile from that
25 item and, again, the profile is consistent with that

1 of Cora Brown.

2 Q: Tell us about item number 23, which is swab from a
3 shelf in a kitchen?

4 A: Also presumptive serology was run on that item.
5 Blood again was indicated as I had a positive
6 result. I took that item on to DNA testing and
7 again, was consistent with that of Cora Brown.

8 Q: Okay. Now, as it relates to item 24.1, we just
9 heard Ms. Gibson testify that she had swabbed the
10 black utility glove in connection with this case.
11 Do you remember that testimony?

12 A: Yes, I do.

13 Q: All right. And when you're talking about your
14 analysis of the items that you just described, your
15 report would have been done May 6th, actually, 2009;
16 is that right?

17 A: I would have to check.

18 Q: All right. Let me show you what I have here, just to
19 make sure that -- is this a copy of that report?

20 A: Yes, ma'am.

21 Q: Okay. As it relates to item number 24, what were
22 your conclusions regarding 24.1, which is the swab
23 from the glove in May of 2009?

24 A: The DNA profile developed from SLED item 24.1, swab
25 from the glove, is a mixture of at least two

1 individuals. The partial DNA profile developed and
2 the main contributor from this mixture was an
3 unidentified male individual. And at that time, I
4 was able to exclude Cora Brown as a possible
5 contributor to the mixture.

6 Q: All right. So in terms of the swabbing that came
7 from inside the glove, what you can tell us is that
8 Cora Brown's DNA was not inside the glove?

9 A: I was not able to detect it. She was excluded from
10 that.

11 Q: Okay. And you indicated that a partial DNA profile
12 was developed from an unidentified male individual?

13 A: Correct.

14 Q: All right. Now, you talked about how you analyzed
15 the swabs that were taken from the kitchen and the
16 kitchen floor and the fingernail clippings. And you
17 made conclusions that those, the DNA from those
18 particular items were the victims. And so my
19 question would be you had a known standard then,
20 obviously, from Cora Brown?

21 A: Yes, I did. In the original submission of items
22 there was a blood stain identified as belonging to
23 Cora Brown.

24 Q: All right. And do you know where that known
25 standard from Cora Brown came from?

Levern McCrea vs. State of South Carolina

346

1 A: No, I don't. It would have been submitted here as a
2 tube of blood for the lab. Sometimes we receive it
3 already poured onto --- I'm not specifically ...

4 Q: All right. And when you have an individual who has
5 been murdered and then you receive a tube of blood
6 from that victim, would it be fair to assume that
7 that tube of blood came from the autopsy?

8 A: Yes. Typically, that's where it would come from.

9 Q: All right. Now, so at this point in May the only
10 DNA standard that you have to compare to is the DNA
11 standard from the victim?

12 A: That's correct.

13 Q: Now, tell us -- and that concludes the report as it
14 relates to May 2009?

15 A: Yes.

16 Q: All right. Tell us about your next report?

17 A: My next report again included all the information on
18 the items I tested at that point. It also included
19 results of testing I performed on the swabs from the
20 ski mask, from the stocking, the swab from the
21 holster and a DNA standard submitted by a
22 Christopher Briggs.

23 Q: Okay. All right. You received a DNA standard from
24 a Christopher Briggs.

25 A: Yes.

1 Q: Okay. All right. And when was that received?

2 A: If I may check my notes?

3 Q: Sure.

4 A: I took custody of that standard on April 27th, 2010.

5 Q: Okay. Tell us the results of your analysis at that
6 time?

7 A: On the swabs taken from the stocking, I was able to
8 only develop very limited, partial DNA profiles.
9 And the profiles were not suitable for reliable
10 interpretation so I couldn't make a comparison with
11 any DNA standard against those items. I was unable
12 to develop any DNA from the holster. I, therefore,
13 wasn't able to develop a profile. I wasn't able to
14 compare that DNA standard. I was able to compare
15 the DNA profile of Christopher Briggs to our item
16 24.1, the swab from the glove. And Mr. Briggs was
17 excluded as a potential contributor to that.

18 Q: All right. So Christopher Briggs, he was excluded
19 as being contributing to the DNA profile that was
20 developed from the glove?

21 A: Correct.

22 Q: And as it relates to the holster, there was no human
23 DNA on that?

24 A: Correct.

25 Q: All right. And as it related to the ski mask, you

1 indicated that there wasn't enough DNA there for you
2 to make an analysis of it one way or the other?

3 A: Correct. The amount was just so limited in the
4 partial DNA profile I developed not at all for a
5 comparison, in my opinion.

6 Q: And I believe that as it relates to that glove, item
7 24, there was -- I think Ms. Gibson already
8 testified there was no hair found on the glove?

9 A: There was none submitted to me when I received the
10 glove.

11 Q: Okay. At some point in the case did you receive a
12 known standard from the Defendant, Levern McCrea?

13 A: Yes, I did.

14 Q: And can you tell us when you received that
15 information?

16 A: I took custody of that item on August the 10th of
17 2011.

18 Q: All right. Tell us about your analysis as it
19 relates to the Defendant, Levern McCrea?

20 A: The only item really necessary to Mr. McCrea was the
21 swab on the glove, item 24.1. And Mr. McCrea is
22 excluded as a possible contributor of DNA from this
23 item.

24 Q: All right. Now, you say the only thing that you
25 could compare it to was the glove. And, again,

1 that's because the ski mask -- tell us about that
2 result. I want to make sure I'm clear?

3 A: It's because the DNA profile from the ski mask as
4 well as from the stocking is just too partial and
5 too weak to make any comparison. And the other
6 items the DNA profile coming back consistent with
7 Cora Brown. There was nothing else to compare to
8 Mr. McCrea, except that swab from the glove.

9 Q: All right. And as it relates to the holster, you
10 indicated there was no human DNA on the holster at
11 all?

12 A: I was not able to detect any, no.

13 Q: Now, let me ask you, based upon your experience --
14 do you have the glove up there with you or did I get
15 that back from you? Based upon your experience, if
16 the shooter of Cora Brown killed her while wearing a
17 plastic glove, sort of like what Ms. Gibson had, and
18 this black utility glove, SLED item number 24, would
19 you expect to find the shooter's DNA inside the
20 glove if they're wearing a plastic glove underneath?

21 A. I'd say it would reduce the likelihood that I would
22 find it just because there would be that physical
23 barrier in between the skin and the glove. To be
24 able to come up with a profile, I need some form of
25 transfer. At some point, the glove would have to be

Levern McCrea vs. State of South Carolina

350

1 in contact with his hand so the skin cells could be
2 transferred. Potentially, an individual sweating,
3 that would also increase the level of transfer. Any
4 type of physical barrier.

5 Q. Okay. All right.

6 MS. BARR: I beg the Court's indulgence.

7 Q: While I have you there, I'm going to ask you a
8 couple more questions. I'm going to publish State's
9 Exhibit Number 108. Does that look the holster that
10 you analyzed in this case?

11 A: I never had physical custody of the holster. That
12 was processed by Ms. Gibson, and I never received
13 the box.

14 Q: Oh. Fair point. This would certainly -- this
15 photograph would appear that there is a holster on a
16 ground surrounded by leaves and so forth.

17 A: Yes, ma'am.

18 Q: Would you agree with me on that?

19 A: I would.

20 Q: All right. Now, would the presence of DNA or your
21 ability to determine the existence of DNA, would it
22 be impacted at all if the holster had been in an
23 open environment subject to the elements?

24 A: It possibly could. When items are exposed to heat,
25 humidity, moisture, bacteria or enzymes that can be

1 found in nature, it helps to cause the DNA to
2 degrade or breakdown, and when it breaks down it
3 makes it difficult if not impossible for us to
4 develop a DNA profile. So it could limit our
5 ability to test.

6 Q: And does the length of time that a particular item
7 may have been in nature and exposed to the elements
8 of the weather, does the ability to, for you to
9 potentially recover DNA, does it lessen that ability
10 the longer it's exposed in the elements?

11 A: Correct. The longer the exposure the greater the
12 chance of degradation.

13 Q: Okay. And so you have something that's exposed to
14 the elements for one day, it makes it harder as
15 opposed to if it's exposed to the elements for one
16 year?

17 A: It could. And it depends on how much DNA is present
18 to begin with and how extreme conditions are, you
19 know, one day. But in general, a real length of
20 time will cause greater degradation.

21 Q: Thank you, ma'am. If you will, please answer any
22 questions Mr. McCrea might have.

23 THE COURT: Mr. McCrea, do you have any questions
24 for this witness?

25 MR. MCCREA: No, she answered everything. Thank

Levern McCrea vs. State of South Carolina

352

1 you, Your Honor.

2 THE COURT: Thank you. You may step down.

3 MS. BARR: Your Honor, are we okay or do you want to
4 take a break?

5 THE COURT: Why don't we go ahead and take a break.
6 Ladies and gentlemen, we're going to take about a fifteen
7 minute recess.

8 MS. BARR: Judge, we'd ask that that witness be
9 excused.

10 THE COURT: Any objection to this witness being
11 excused?

12 MR. MCCREA: None, Your Honor.

13 THE COURT: All right. Thank you.

14 (Jury exited courtroom at 3:13 p.m.)

15 THE COURT: All right. Court's in recess until
16 3:30.

17 (WHEREUPON, court stood at recess for a short
18 break.)

19 THE COURT: Just for the sake planning, will this be
20 your last witness for today?

21 MS. BARR: Judge, I have one brief officer. He's
22 the last one I can take and we'll be out in forty-five
23 minutes. Judge, I've marked State's Exhibits Numbers 145
24 and 146. 145 being a closeup photo of the hand of the
25 victim. It's my understanding that the Defendant has no

1 objection to that photograph. And we have 146 and the
2 Defendant has an objection to that one. And these are
3 for purposes of Ms. Riemer who's testifying next.

4 THE COURT: Mr. McCrea, what are your objections to
5 the one picture?

6 MR. MCCREA: Yes, Your Honor, she's shown me several
7 so far, Your Honor.

8 THE COURT: Excuse me?

9 MR. MCCREA: She's shown me several of them so far.

10 THE COURT: These are the only two you want, number
11 146?

12 MS. BARR: Yes, sir, that's the one that he has the
13 objection to.

14 THE COURT: What is your objection to that? Just
15 that it's too gruesome?

16 MR. MCCREA: Yeah. Yes, sir, Your Honor.

17 THE COURT: And what is your purpose for showing it?

18 MS. BARR: Judge, the purpose is to help explain the
19 entrance and exit wounds to the victim's head, which will
20 assist the pathologist in talking about the manner and
21 cause of death. Judge, as you can well imagine, there
22 were several autopsy photos taken of the victim. And we
23 tried to get one where there's not blood shown based on
24 the Court's previous instructions. And one where the
25 victim's face is not shown based on the Court's previous

Levern McCrea vs. State of South Carolina

354

1 instructions. And, Judge, those were the two that showed
2 the victim in a cleaned-up state, if you will. And it's
3 simply to show the entrance and exit wounds for her.

4 THE COURT: Yes, sir.

5 MR. MCCREA: Your Honor, I mean, it's apparent that
6 she's been shot and possibly showing photos like that is
7 prejudicial to me.

8 THE COURT: Well, generally, all evidence is
9 intended to be prejudicial to you quite frankly. But I
10 mean, I find that the probative outweighs any prejudicial
11 and I will allow it.

12 MS. BARR: And, Your Honor, we're ready to bring the
13 jury in. And I'm sorry for this. I would like to
14 withdraw 145 because that picture is in as State's
15 Exhibit Number 51. And that's the one of her hand. And
16 so I didn't see a need to have two. I didn't realize
17 that at first. They're the same thing.

18 THE COURT: All right.

19 (Jury entered courtroom at 3:38 p.m.)

20 THE COURT: Are you ready to proceed?

21 MS. BARR: The State's ready>

22 THE COURT: All right. You may call your next
23 witness.

24 MS. BARR: Your Honor, may it please the Court. We
25 call Dr. Ellen Riemer.

1 ELLEN RIEMER,

2 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION

4 BY MS. BARR:

5 Q: Good afternoon, Dr. Riemer?

6 A: Good afternoon.

7 Q: Spell your name for me, please?

8 A: It's Dr. Ellen, that's E-L-L-E-N, Riemer, R-I-E-M-E-
9 R.

10 Q: And tell us where you work?

11 A: I work at the Medical University of South Carolina.

12 Q: And Dr. Riemer, tell us what you do there?

13 A: I'm a forensic pathologist.

14 Q: You're a medical doctor?

15 A: Yes. I'm a physician and a forensic pathologist.

16 Q: All right. Now, tell the jury very briefly a little
17 bit about your educational background in terms of
18 any degrees that you hold, how long you've been
19 employed as a physician.

20 A: Well, first I received my Bachelor of Arts Degree
21 from Bryn Mawr College, which is in Pennsylvania.
22 And then after graduating, I went to law school and
23 obtained my J.D. Degree and practiced law for five
24 years and never liked one single day of it. So then
25 I decided to go to medical school. So then I went

Levern McCrea vs. State of South Carolina

356

1 to medical school and received my M.D. Degree in
2 four years. And after I graduated from medical
3 school with my medical degree, I did my pathology
4 residency training at Columbia University in the
5 City of New York at the College of Physicians and
6 Surgeons. After four years of pathology training, I
7 did sub-specialty, another sub-specialty training
8 program in forensic pathology, because that was an
9 area I wanted to specialize in. And I did that at
10 the Office of the Chief Medical Examiner of the
11 State of Maryland, which was in Baltimore, Maryland.
12 After completing that fellowship, I did a second
13 fellowship in cardiovascular pulmonary pathology,
14 which is pathology and disease of the heart and
15 lungs. And I did that Johns Hopkins University
16 School of Medicine. And after completing that, then
17 I accepted a position as a forensic pathologist and
18 physician at Wake Forest University Medical Center,
19 Baptist Medical Center in North Carolina. And I
20 worked there for six years prior to moving to
21 Charleston where I was recruited to pathologist at
22 the Medical University of South Carolina. And I've
23 been here approximately three years.

24 Q: Okay. And how long have you been a physician?

25 A: I graduated, I received my M.D. Degree in 1997. So

1 that would be ---

2 Q: Fourteen years?

3 A: About that.

4 Q: All right. And, of course, Dr. Riemer, you've been
5 to this courthouse before?

6 A: Yes.

7 Q: You've testified in other homicide cases?

8 A: Yes, I have.

9 Q: And you've been eminently as an expert witness in
10 the field of forensic pathology; is that correct?

11 A: I have been, yes, as an expert forensic pathologist.

12 Q: I'll put the eminently in there. I'll give that to
13 you.

14 MS. BARR: Now, Judge, at this time, we would tender
15 Dr. Riemer as an expert in the field of forensic
16 pathology?

17 THE COURT: Mr. McCrea, do you have any objection to
18 her being ---

19 MR. MCCREA: No, I don't, Your Honor.

20 THE COURT: All right. Thank you. And ladies and
21 gentlemen, as with the other experts, she will be able to
22 render an opinion. And whether or not -- and what
23 weight you decide to put on it will be solely up to you
24 as the finder of fact. Thank you.

25 MS. BARR: Thank you, Your Honor.

Levern McCrea vs. State of South Carolina

358

1 Q: Now, Dr. Riemer, kind of tell us what is meant by
2 pathology and what is meant by forensic pathology?

3 A: Well, pathology is a field of medicine which
4 specializes in the diagnosis of disease. So
5 pathologists do a wide variety of things. So, for
6 instance, if anybody ever had a breast biopsy, that
7 tissue is not just evaluated by a machine. There's
8 actually a pathologist that looks under the
9 microscope at the tissue to determine if it's cancer
10 or if it's not cancer, and one of the other, the
11 type. So that's one type of pathology. And then
12 there's another type, these are all pathologist do
13 lots of different things. Pathologist interpret
14 blood tests. And then forensic pathology is a sub-
15 specialty of pathology where the pathologist
16 specializes in evaluating disease processes, not
17 just natural disease but also non-natural injuries.

18 Q: Injuries such as a homicide?

19 A: Injuries such as something that's not the result of
20 a natural process, such as gunshot wounds or stab
21 wounds or scrapes or bruises. And the forensic
22 pathologist is familiar with the effects on the body
23 of non-natural injuries.

24 Q: All right. Now, Dr. Riemer, you were working back
25 on March the 13th of 2009?

1 A: Yes.

2 Q: Okay. And on that date you, along with another
3 physician, performed an autopsy on the body of Cora
4 Brown?

5 A: Yes, I did.

6 Q: Okay. All right. Now, the date of March the 13th
7 of 2009 is that the date that the body came into
8 MUSC or was that just the date that you performed
9 the autopsy?

10 A: That was the date the body was brought to MUSC.

11 Q: Do you all document the time that the autopsy was
12 performed?

13 A: Yes.

14 Q: Okay.

15 A: The autopsy began at 12:30 p.m. on that date.

16 Q: Okay. And do your records reflect the time and the
17 date of which the victim's body was found by law
18 enforcement?

19 A: Yes. I wasn't there when the body was found at the
20 scene. But it was told to me that the body was
21 found at approximately 8:50 p.m. on March 12th.

22 Q: So that's almost 9:00 on the night of March 12th?

23 A: That's correct.

24 Q: And your records reflect that the victim was fifty-
25 three years old?

Levern McCrea vs. State of South Carolina

360

1 A: Yes.

2 Q: Okay. All right. Tell us in general how you go
3 about an autopsy and then we'll talk specifically
4 about this autopsy?

5 A: Well, an autopsy is basically a specialized surgical
6 procedure, which begins by careful evaluation of all
7 the external findings of the body. And this could
8 include anything that looks unusual or for me to
9 observe the presence of any injuries that may be
10 there, in addition to other things that may have
11 been a result of natural disease. So a careful
12 external examination is how the autopsy begins. And
13 then only after that's complete and findings are
14 documented from the external exam, do I do a mid-
15 line incision through the torso and evaluate all of
16 the internal organs and tissues to see what injuries
17 or natural disease processes may have effected the
18 decedent, which is the deceased individual.

19 Q: All right. Now, when you say you do a mid-line
20 incision, what you're saying simply is that you
21 basically cut open the chest of the victim ---

22 A: That's right.

23 Q: --- to inspect her internal organs?

24 A: Well, it's more than an inspection. After the
25 incision is made, I actually remove all of the

1 organs and not just look at them, but I cut through
2 them very thoroughly so I make sure I don't miss
3 anything. Because I'm going to write up my
4 findings. And from my examination I'm going to be
5 asked for a determination of the cause and manner
6 of death. And so, therefore, it's my responsibility
7 to be as thorough as possible. I want to make sure
8 I don't miss anything.

9 Q: And so you want to make sure that you're able to
10 know what caused a person's death?

11 A: That's correct.

12 Q: Now, before you did the incision of Ms. Brown, you
13 physically observed her of course?

14 A: Yes.

15 Q: All right. And it was readily apparent to you that
16 she had several injuries to her?

17 A: Yes. She had multiple gunshot wounds.

18 Q: All right. Let's -- other than the gunshot wounds --
19 -- let me ask you this first. Other than the gunshot
20 wounds, did you notice any other obvious signs of
21 injury to Ms. Brown? Any stab wounds? Any bruises
22 like she'd been in a fight or any scratches or
23 anything along those lines?

24 A: Well, there was an abrasion, which is just a medical
25 word for a scrape, just below the right elbow.

Levern McCrea vs. State of South Carolina

362

1 Q: Okay.

2 A: And it was a very small one, so it was a small,
3 superficial scrape. And then she had another
4 superficial scrape on the left elbow. And then she
5 had another -- there were two scrapes on the left
6 elbow.

7 Q: All right. Would that be consistent or inconsistent
8 with a person falling to the floor and possibly
9 scraping the elbows against the surface of the
10 floor?

11 A: That's possible. That's possible reasoning.

12 Q: Can I get you to step down from the witness stand
13 for me?

14 A: Will I need to refer to my autopsy report?

15 Q: You can bring it with you.

16 A: (Witness complied).

17 Q: All right. And if you need to, you can -- yeah.
18 Put it there. Now, let me first publish State's
19 Exhibit Number 84, and kind of tell us the
20 significance of these numbers?

21 A: Okay. Okay. So every time an individual comes into
22 my autopsy room, every person has a name. But in
23 order to keep every effort to be as business-like as
24 possible, I assign a number to this individual. And
25 then everything that's associated with the

1 individual, this individual, has a specific number.
2 So, for instances, FA09 means forensic autopsy 09.
3 That's in 2009. And number 138, that would have
4 been the one hundred thirty-eighth autopsy performed
5 in that calendar year. So like starting January
6 1st, 2010, the numbers would go to FA10 and then the
7 first autopsy of that year would be number one. So
8 this was number one thirty-eight in the calendar
9 year of 2009. And so I can, you know, I can keep
10 track of all the findings under that number.
11 Because a lot of times people have very similar
12 names or, you know, I don't want to get mixed up
13 between the findings from one individual and the
14 findings in another.

15 Q: Okay. And a quick question right quick. Do you
16 know the gentleman seated here, Lieutenant Jeff
17 Scott?

18 A: He looks familiar to me.

19 Q: Okay. He looks familiar to you in terms of being a
20 person who might have been present during autopsy?

21 A: Yes. There are -- sometimes where there is an
22 individual who is a victim of a homicide or some
23 other reason that they died, there is law
24 enforcement individuals who are responsible for
25 investigating the incident that lead up to the

1 person's death. And this individual -- they don't
2 participate in the autopsy and nor do they influence
3 my decisions in any way whatsoever, but they sit in
4 a room and then collect, usually collect the
5 evidence that I would recover from the autopsy.

6 Q: Okay. So in terms of the evidence that you may
7 recover from the autopsy, in a case where you have a
8 gunshot victim, if there are bullets that are
9 contained within her body, you would then collect
10 those and hand them off to the law enforcement
11 agents?

12 A: Yes. Hand the off with his signature.

13 Q: All right. And that same thing holds true as it
14 relates to the victim's blood sample?

15 A: Yes. Every single person who I autopsy gets a
16 blood-spot card performed, which means I take drops
17 of blood from that person, from the actual person's
18 veins, and put them on a card so that -- and that
19 becomes -- so we know that that blood is actually
20 from that person, because I did it at the autopsy.
21 It wasn't anything found at the scene. So that's a
22 blood spot card.

23 Q: All right. And the same thing holds true as far as
24 the fingernail scrapings from a victim?

25 A: Right. I actually clipped the fingernails and

1 performed swabs on this individual. This is after I
2 did the external examination. Then I proceeded to
3 do, to collect those bits of evidence before doing
4 an internal examination.

5 Q: All right. Now, you indicated that the victim in
6 this case died of multiple gunshot wounds or had
7 sustained multiple gunshot wounds?

8 A: She died of multiple gunshot wounds. There were
9 four gunshot wounds, three of which were to the head
10 and one of which was to the torso, which is the
11 chest cavity.

12 Q: All right. Now, Dr. Riemer, when you say to the
13 chest cavity, I kind of just naturally assume you're
14 talking about here, the front of you?

15 A: Right.

16 Q: Your chest being in front of you?

17 A: Yes.

18 Q: All right. And in your instance, as a medical
19 professional, when you say to the chest cavity, what
20 do you mean? What are you embracing?

21 A: Well, the injury was to the chest. However, the
22 entrance wound, the entrance gunshot wound could be
23 either on the back or the front or the side,
24 anywhere on their, around the chest. And as long as
25 it goes through the chest, it's a gunshot wound to

1 the chest, okay?

2 Q: Okay.

3 A: But in this case, the gunshot wound was to the back.

4 Q: Okay. All right. And I'm going to publish what's
5 previously been admitted as State's Exhibit Number
6 48, a crime scene photograph. Can you tell the
7 ladies and gentlemen of the jury if that picture
8 depicts a gunshot wound to the victim, Cora Brown?

9 A: Yes. This is an entrance gunshot wound, which means
10 that's where the bullet entered the body. And as
11 you can see, it's just below the decedent's bra
12 strap in the back, very close to the middle.

13 Q: Now, the location of that entrance wound to her
14 back, what does that suggest to you about the
15 location of the victim to her shooter at the time
16 she was shot in the back?

17 A: Well, it's most likely that the shooter would have
18 been situated behind the victim.

19 Q: Yes, ma'am. All right. Now, from that particular
20 photograph, so you see any signs of injury to the
21 victim's head?

22 A: Yes. I can see that there is blood over here. But
23 the individual wounds that are present are not well
24 depicted in that photograph. But I can see that
25 there is blood coming out of the head at that area.

1 Q: All right. Now, in terms of the victim in this
2 picture being face-down, the blood that you talk
3 about that you can see in her head or what appears
4 to be blood in her head, would be to the left side
5 of her head?

6 A: That's correct.

7 Q: All right. Tell me about State's Exhibit Number 49?

8 A: Okay. It's actually upside down.

9 Q: It is. I'm sorry.

10 A: Okay. So this is a closeup of the same wound, the
11 same entrance gunshot wound that we had just looked
12 at previously, that was sort of more picture from
13 further back. And what we can see is there is a
14 very -- there is a round hole and that's where a
15 bullet entered. And there's a very prominent rim of
16 the dark gray material right around the entrance
17 gunshot wound. And what that dark gray material is,
18 is soot that is basically burned gun powder. It's
19 gun smoke that's been released from the barrel of
20 the gun. And that indicates that it's a very near
21 contact. It's a very close-to contact range gunshot
22 wound.

23 Q: Now, help me understand that part of your testimony.
24 Do you have an opinion as to a reasonable degree of
25 medical certainty as to whether or not the victim

Levern McCrea vs. State of South Carolina

368

1 was within a foot of her killer at the time that
2 wound was inflicted?

3 A: Definitely within a foot. It would have been much
4 closer in my expert opinion. That it is within
5 inches.

6 Q: Inches?

7 A: Yes.

8 Q: And I'm bad at distances. Would, in your
9 professional opinion, how far would you and I be --
10 and not just professional, I should say, even lay
11 opinion.

12 A: Yes.

13 Q: How far would you and I be from each other right
14 now?

15 A: Now, it's probably two feet.

16 Q: Okay. So Ms. Brown, would have been closer than I
17 am standing from you right now at the time that
18 injury was inflicted?

19 A: Right. It doesn't necessarily -- it indicates the
20 distance between her body and the barrel of the gun,
21 okay? So somebody could be standing further back.
22 It doesn't mean the person is standing like a couple
23 of inches away. It means that the barrel of the gun
24 is within a couple of inches from the body.

25 Q: All right. And if we assume that you're talking

1 about within inches, less than a foot, would it be -
2 - would you and I be closer?

3 A: Well, it doesn't matter. As I said, it's not
4 important the distance between the two people ---

5 Q: Sure.

6 A: --- but the barrel of the gun. I mean, unless
7 somebody's got an arm that's twenty feet long, it's
8 most likely they're pretty close to the person.
9 But, you know, it would have been a very close
10 distance that that barrel of the gun was at her
11 back.

12 Q: All right. Now, there were a number of photographs
13 that were taken at autopsy?

14 A: Yes.

15 Q: Is that usually the standard?

16 A: Yes.

17 Q: Okay. Now, obviously, you're probably accustomed to
18 it so you see gruesome details every day, but
19 needless to say, as a part of what you do, you all
20 sort of -- after you do the physical examination,
21 you do a cleanup process?

22 A: Yes. And the reason, the cleanup process means that
23 I -- frequently, when an individual's been shot,
24 there is a lot of blood that's matted all over the
25 skin. And it can obscure one's ability to actually

Levern McCrea vs. State of South Carolina

370

1 see where the injuries are. If there's blood
2 everywhere, you may not actually see where there's a
3 hole, or where the blood's coming from. So I
4 basically wash -- with my assistants I wash down the
5 body with just plain old water. And sometimes a
6 wash cloth if there's dried blood. But washing away
7 doesn't get rid of gunshot wounds. So gunshot
8 wounds remain, and then I can see them clearly
9 without interference by a lot of blood on the body.

10 Q: All right. And I am going to have this diagram
11 marked as an exhibit.

12 MS. BARR: Mr. McCrea, do you have any objection to
13 the diagram from autopsy?

14 MR. MCCREA: None.

15 THE COURT: That'll be 146.

16 MADAM COURT REPORTER: 147, Your Honor. It'll be
17 147.

18 THE COURT: Without objection, State's Exhibit 147
19 is admitted.

20 MS. BARR: Thank you, Your Honor.

21 (WHEREUPON, State's Exhibit Number 147 marked and
22 admitted into evidence.)

23 Q: All right. Dr. Riemer, is this a diagram, a drawing
24 that simply outlines the entrance and exit wounds to
25 Cora Brown?

1 A: Yes.

2 Q: Okay. All right. And do you all do these standard
3 diagrams to reflect the shape of a woman and a man?

4 A: Yes. So I have a pile of papers like that, that has
5 the outline of a woman and the outline of a man. So
6 when I'm taking notes during an autopsy, I can like
7 write down findings on the body, like approximately
8 where they are. And I have a diagram too, so I can
9 estimate that pretty well.

10 Q: All right. And let me -- this piece of paper is
11 bigger than the projection screen. But I guess what
12 it's easier for me to do is I'll just highlight
13 relevant portions of that diagram that I want to
14 talk about. Now, if I look at the right side of
15 that particular diagram, when you talk about the
16 gunshot wound to the back, is that reflected on this
17 particular diagram?

18 A: Yes. So the photograph we had just seen where it
19 had the gunpowder soot right around the entrance
20 wound, all right. I labeled that F, just
21 arbitrarily. You know, I'm going to label all the
22 holes on the body, A, B, C, D, E, F. And that's F.
23 It doesn't mean anything. It doesn't, you know, it
24 doesn't indicate the order in which any gunshot
25 wounds happened. But that's an F. And that's the

1 approximate location on the body.

2 Q: Okay. All right. And also to bring it over just a
3 little bit, you talked about abrasions to her
4 elbows. Did you all note that on the diagram as
5 well?

6 A: Yes.

7 Q: Okay. And you can use the pointer if you like, or
8 you can use your hands, whatever's most convenient
9 for you. Is that depicted on this particular
10 diagram?

11 A: Yes.

12 Q: Okay.

13 A: So there's two abrasions as I mentioned on the left
14 elbow. One's just above the elbow and one's just
15 below the elbow. And this one's a little bit more
16 than the other, the one right below.

17 Q: Yes, ma'am.

18 A: And then this one is a very small abrasion on the,
19 also the bottom side of the right elbow.

20 Q: All right. So based upon that diagram, that is as
21 if the victim were face-down ---

22 A: That's right.

23 Q: --- in terms of how you documented the injuries?

24 A: That's right. I mean, if I need to have a chart of
25 her side, I have that too. But in this case I was

1 able to document everything by noting that on the
2 back part and the front part.

3 Q: All right. Now, I'm going to push that down a
4 little bit so we can talk about the injuries to the
5 victim's head. Tell us about that.

6 A: Okay. There are -- I made three marks here on the
7 left side of the victim's head. And you can see one
8 is kind of towards the back, and then the other two
9 are above the left ear area, also sort of on the
10 left side. And these are three individual gunshot
11 wounds. Each one of these dots corresponds to a
12 gunshot, separate gunshot wound. And I arbitrarily
13 labeled this one G, and this one A, this one B.

14 Q: All right. So if we're showing this particular
15 diagram -- and this is a diagram of a female and
16 we're showing it as if she were laying down, the
17 three gunshot wounds that you've identified as being
18 here, here, and here -- and I guess you've got them
19 as A, B, and G?

20 A: Yes.

21 Q: Is that a G or a C?

22 A: G.

23 Q: G. A, B, and G. Those would be to the left side of
24 the victim's skull?

25 A: Yes. This is, you know, it's not the exact

1 location. I mean, you know, a photograph shows the
2 exact location. It's just giving me like sort of an
3 idea so that when I go back and I recollect what I
4 saw at autopsy, I know that I have three gunshot
5 wounds. And these are actually a little bit closer
6 to the side of her head, okay? These two. But I
7 put them over there like close enough to the side of
8 the head. So, you know, it's not the exact location
9 but it's pretty close.

10 Q: All right. So when we talk about the four gunshot
11 wounds that the victim sustained in this case, in
12 terms of what you have on this diagram as F, the
13 letter F being the entrance wound to the back, did
14 you recover a bullet that reflected the gunshot
15 wound to her back?

16 A: Yes. I recovered the bullet that we saw the
17 entrance wound right there in the back. What it did
18 was after it went into the back, it went through the
19 ninth rib, just below the skin. You know, we have
20 the back side of our ribs is in addition to the
21 front side of our ribs and it encloses the lungs.
22 Okay. And so after it went through the ninth rib,
23 it went through the ninth bone of the backbone,
24 okay? And then it's kind of going toward the right,
25 okay? So it sort of started out on the left and

1 then the bullet's going like toward the right,
2 toward the front, okay? And then after it went
3 through the backbone, it went into the right lung.
4 And then it was -- it went around like the third
5 intercostal space, which is between the third and
6 fourth ribs, sort of close, which is kind of close
7 to the armpit in the front. And then the bullet got
8 stuck. It didn't actually completely exit the body.
9 It sort of went through the skin partially, and the
10 bullet was kind of right there in the skin.

11 Q: All right. Now, in terms of how that bullet would
12 have traveled through Ms. Brown's body, you
13 indicated that it went through her backbone and it
14 went through her ribs?

15 A: Right. Her left -- just one rib.

16 Q: I'm sorry.

17 A: Okay. And then the ninth rib of the backbone, which
18 is basically right underneath here, okay. So it's
19 sort of going like that. It went through the bone.
20 And then it went through the right lung on its way
21 to end up on the right side of the front of the
22 chest.

23 Q: Based on the fact that it went through the victim's
24 bone, would that have caused the bullet to be
25 damaged or distorted in any way?

Levern McCrea vs. State of South Carolina

376

1 A: Bullets can be deformed as a result of going through
2 bone, because it's very hard. And sometimes bullets
3 can become deformed as well, just from being shot
4 out of a barrel of a gun. It depends on the bullet.

5 Q: Okay. All right. Now, I'll go back to the diagram
6 but just to make sure I understand your point as it
7 relates to the wound to the back, I'm going to
8 publish State's Exhibit Number 95. Does that show
9 the entrance wound to the back?

10 A: Yes. And that's when I first observed it without
11 using -- the one that I showed before was basically
12 after all the blood was washed off, but we could see
13 the soot remain. And you can actually see -- even
14 though there's a lot of blood on her back, you can
15 still see that there's raised soot right around the
16 entrance wound there.

17 Q: All right. In terms of how it traveled, when you
18 talk about it coming out on her right side, can you
19 tell me whether or not that is reflected in State's
20 91?

21 A: Yes.

22 Q: Okay. Tell us about State's 91?

23 A: Okay. Okay. So this is basically a profile of her
24 body. We're looking at the right armpit over here.
25 Okay. And then -- sorry --

1 Q: It's auto-focusing. That's okay.

2 A: Okay. So this is her armpit and then this is part
3 of her bra.

4 Q: Okay. This is her right or left armpit?

5 A: This is the right armpit. And this would be the
6 right breast over here, still in her bra.

7 Q: Okay.

8 A: And then you can see the location of the exit wound
9 right here. And there's a bullet right in that
10 location.

11 Q: All right. And I believe if we pull the picture
12 down a little bit, we can kind of see a little bit
13 of her face there?

14 A: Yes. That would look like that's sort of the right
15 side of her -- this is like kind of her neck area.
16 And then this would be like her chin over here, and
17 then the right side of her face.

18 Q: Yes, ma'am. All right. Now, let's go back to
19 State's Number 47. And what I'm going to do at this
20 point is like I'm going to call your attention to
21 the other side of that diagram where you have -- it
22 is as if the woman is now face-up. Tell us about
23 the significance of anything that's noted that was
24 an injury to the victim on this side of the diagram,
25 face-up.

Levern McCrea vs. State of South Carolina

378

1 A: Okay. These two are exit wounds, okay? So do you
2 remember we saw there were three entrance wounds on
3 the left side of the head, right? Okay. So those
4 three bullets went through her skull and brain. And
5 then two of them actually exited the head over here.
6 And one of the bullets didn't exit the head, but the
7 bullet stopped in the brain. And I recovered that
8 bullet at the autopsy.

9 Q: All right. So as it relates to this particular part
10 of that diagram, if I slide that down ---

11 A: Yes.

12 Q: I want to make sure I understand that the right side
13 of that diagram, if we assume the victim's face-
14 down, that shows the entrance wounds to the head?

15 A: The left side of the diagram ---

16 Q: Okay.

17 A: This is the left side, okay?

18 Q: The left side of the head?

19 A: Of the head.

20 Q: Yes.

21 A: That's exactly right. The left side of the head.
22 This is the right image on the diagram. But the
23 left side of the head is where the -- I always refer
24 to left and right in terms of the victim's body.
25 Because otherwise, you know, it's like ????. I'm

1 looking at her ??? it's always relative to that
2 individual. Okay? So these are entrance gunshot
3 wounds, three individual bullets entered the head on
4 the left side. And after traveling through the
5 head, you can see that, you know, they would be
6 going toward the right side. And here, this is the
7 right side. This is her right eye. This is her
8 left eye. So this is the right side of the head and
9 there are two exit wounds there, okay?

10 Q: Okay.

11 A: And then one of the bullets didn't make it out of
12 the head. It was still inside of the brain. And I
13 was able to find it when I actually sectioned the
14 brain. So I don't just look at outside. I, in
15 addition to doing that mid-line incision and looking
16 at the internal organs, I also look at the brain to
17 see what's wrong with the brain. And in this case,
18 there was a lot wrong with the brain because three
19 bullets went through it.

20 Q: All right. Now, there's been previous testimony in
21 the case that three fired bullets were recovered.
22 One from the crime scene and two from autopsy. Now,
23 you've indicated she was shot four times. Do you
24 know where the other fourth bullet is?

25 A: Well, there was an exit wound so it wouldn't have

Levern McCrea vs. State of South Carolina

380

1 come to me at autopsy. I don't know where that
2 bullet is.

3 Q: Explain to us, if you will, State's Exhibit Number
4 146. And does it help you kind of show the jury
5 what we're talking about.

6 A: Okay. Now, sometimes what I need to do, I mean, I
7 always -- autopsy does not mutilate the body in any
8 way. But in order to demonstrate gunshot wounds
9 that might appear under somebody's hair, it's
10 sometimes necessary for me to shave an area around
11 the gunshot wound so I can see the characteristics
12 of those gunshot wounds. And in this case, I can
13 see that there are three gunshot wounds. This is
14 actually just a little ??? that's kind of ???.

15 Q: And I was going to ask you about that. I wasn't
16 exactly sure what that is. Would that just be some
17 sort of water react?

18 A: So this is water coming out of a hose.

19 Q: Okay. What's the purpose of using that?

20 A: Because it rinses off blood so I can see what's
21 there clearly and I'm not making a wrong decision.

22 Q: I understand. Okay.

23 A: So I can see that there's actually three individual
24 wounds here.

25 Q: Okay.

1 A: Okay. This is the left side of her, okay? So this
2 is her left arm, okay. And this is her left ear,
3 which I just happened to peel back to -- because
4 there was some blood behind her ear. But I can see
5 that there's a gunshot wound over here and that
6 there's a gunshot wound over here, and the third
7 gunshot wound is somewhere around -- well, actually,
8 behind the ear.

9 Q: Okay. All right. Now, you have talked about the
10 soot that was located on the entrance wound to the
11 victim's back. Do you see a similar pattern as it
12 relates to the wound to her head?

13 A: Yes. I can see that there is this dense, there is
14 gray material around these entrance gunshot wounds.
15 And this indicates that it's near contact range of
16 fire. And even though she had a thick head of hair,
17 the hair doesn't stop the gunpowder soot.

18 Q: All right. So in terms of the distance from the
19 victim's head as it relates to the barrel of the gun
20 the shooter used, how close would the barrel of the
21 gun have been from the victim at the time that the
22 wounds were inflicted to her hair?

23 A: Within very few inches.

24 Q: Now, help me understand this. It looks like ---

25 A: Okay. Do you want me to explain her ear?

1 Q: Yes, please?

2 A: Okay. It just so happens that this photograph was
3 snapped while I was like pushing her ear, like
4 distorting her, that part of her ear so that I could
5 clean behind her ear with the water. But you can
6 see that there's a little bit of gray right over
7 here on the edge of her left ear. And if the ear
8 was back in its natural position, it would be like
9 round like that. Okay. If I let go, okay, like it
10 was taken after I let go of the ear, the ear would
11 go back to that position so that this would be lined
12 up right over there. So you can see that there's
13 actually a little of soot on the ear because it was
14 in its natural, its position without being bent, it
15 would have been right next to this gunshot wound.
16 In fact, this looks almost like a little bit
17 flattened because it's probably where her ear was.

18 Q: Okay. I'm going to publish State's Exhibit Number
19 51, which was a photograph taken at the crime scene.
20 Can you tell us about that?

21 A: Okay. All right. Okay. Another thing that I
22 observed at the autopsy, and this is a photograph
23 that was taken at the crime scene, not at the
24 autopsy. This is soot, that same gray material
25 that's from burned gunpowder that's released from

1 the barrel of the gun when a bullet's fired. And
2 this is on the right thumb, okay? So how would that
3 have gotten there, okay? She doesn't have a gunshot
4 wound on the right thumb, but most -- it indicates
5 that her right hand would have been up on the left
6 side of her head as if she's trying to like stop the
7 bullet from entering her head.

8 Q: Shield herself?

9 A: That's right. She was trying to shield herself from
10 the bullet. So, for instance, if she happened to be
11 on the floor, like her hand might have been over her
12 head in an effort to shield herself from a bullet
13 going to her head.

14 Q: All right. Now, in terms of her fingernails, I had
15 asked a witness about the color of her fingernails
16 and that witness was not able to give me any
17 information about that. Can you tell me if that
18 suggest anything to you?

19 A: Yes. Her fingernails actually look dark and gray.
20 And that's not soot. That has nothing to do with
21 gunpowder. That's actually drying artifact. Okay.
22 So after an individual dies, our bodies go through
23 decompositional changes and it happens very slowly,
24 over time. So that eventually our soft tissue dries
25 up or, you know, it undergoes decomposition. And

1 that's dryings because she has been dead a while.
2 And so some of the moisture from her fingertips have
3 started to dissipate or her fingers started to get
4 drier. And so that's one of the signs, her
5 fingernails start to look darker and grayer because
6 of drying.

7 Q: Okay. So that's what you would expect to see when
8 you have a body decomposing?

9 A: Yes. And if the atmosphere is very dry.

10 Q: All right. And, again, you would have performed
11 this autopsy in the middle of March?

12 A: Yes.

13 Q: When we talk about the soot that is around the
14 entrance wound to the victim's back, do you know
15 whether or not you would have that type of soot on
16 the entrance wound if the victim were wearing a
17 shirt at the time or do you know?

18 A: Yes. A shirt does not -- a simple shirt does not
19 stop soot. Soot goes right -- gunpowder, burned
20 gunpowder goes right through a plain old shirt,
21 okay? If a person was wearing a big ski parka,
22 well, some of it may not have gotten through, okay?
23 So it depends on the thickness of the clothing. But
24 a plain shirt or just a couple of layers of shirts,
25 does not stop soot from being deposited on the skin.

1 Q: When the victim's body was taken to autopsy at MUSC,
2 was she wearing a shirt?

3 A: She was wearing a black bra, which we saw. She was
4 wearing blue jeans and leggings, socks, sneakers and
5 panties. But was not wearing a shirt.

6 Q: Did that strike you as unusual at all or did it not?

7 A: No. No. It's absolutely not unusual.

8 Q: So you didn't think anything of it one way of the
9 other?

10 A: No. I mean, she was -- this -- people, you know,
11 are not always dressed for church, right?

12 Q: Okay. I got you. And I imagine that doing what you
13 do, you have victim's bodies come in in all forms,
14 from having a bunch of clothes to being totally
15 nude?

16 A: That's right. Usually, when people die, they're not
17 expecting that somebody's going to be looking to see
18 what they wore when they died.

19 Q: Sure.

20 A: You know, a lot of times, like especially in this
21 case, she was not expecting that that was going to
22 be her last moment on earth.

23 Q: Now, let me show you State's Exhibit Number 84.
24 Tell me what's depicted in that exhibit?

25 A: This is a bullet that I recovered from the body.

1 And I recovered two bullets from the body and I
2 arbitrarily labeled them one and two.

3 Q: Okay. All right. And this one is labeled number
4 one.

5 A: Okay.

6 Q: Is that right?

7 A: Yes, that's correct.

8 Q: All right. Where was this bullet recovered from?

9 A: Okay. This bullet was the one that was recovered in
10 the right, like near the right armpit, on the right
11 side of the front of the armpit.

12 Q: All right. And this particular photograph depicts
13 the bullet, I guess, as you have it laying down?

14 A: Yes. After I -- I mean, there's usually blood all
15 over it. So, again, I wash it off and it just shows
16 that there's rifling here. So it's a bullet, spent
17 bullet, a bullet that has been shot through the
18 barrel of a gun. And I can see that there's some
19 deformity of the tip and some -- if you can see,
20 it's not a bullet that's straight out of the box but
21 it's already been shot.

22 Q: All right. And is this just a different photograph,
23 a different angle of that particular item of
24 evidence that's depicted in State's 85?

25 A: Yes. This is bullet number -- again, the same

1 bullet, but I'm looking at the base of the bullet.

2 Q: Okay. Tell us about State's 86?

3 A: Okay. This is another bullet. This is the other
4 bullet that I recovered in the body. And this is
5 the one I recovered in the brain. And, again, this
6 doesn't have any jacket on it, like a copper jacket.
7 Some bullets are jacketed and some aren't. And I
8 can see that there's rifling marks. This is a spent
9 bullet that's being shown out of the barrel of a
10 gun. And there's also distortion of the shape of
11 the bullet as well.

12 Q: All right. Tell us about State's number 88?

13 A: Okay. That's just the same bullet, number two,
14 recovered from the brain, but the other side ???.

15 Q: Okay. All right. Dr. Riemer, you can take your seat
16 and take that back with you.

17 A: Thank you.

18 Q: The bullets that you recovered, of course, you would
19 have given them to law enforcement after you removed
20 them from the body?

21 A: Yes.

22 Q: Okay. All right. Based upon your examination of
23 Cora Brown, how would you classify all of the
24 gunshot wounds that she received in terms of the
25 distance her shooter was from her, all of them?

Levern McCrea vs. State of South Carolina

388

1 A: Near, close range. I mean, near contact range.

2 Q: Tell us about the findings of your autopsy?

3 A: Okay. The findings, the injury findings?

4 Q: Yes?

5 A: Okay. So as now that we've had an opportunity to
6 see some of the photographs, my autopsy findings,
7 the major autopsy findings consisted of four gunshot
8 wounds to the body, three of which -- there were
9 three gunshot wounds to the left side of the head,
10 which you saw. And two of those gunshot wounds
11 exited the right side of the head, and we saw those
12 wounds exit. And then one of the -- the third
13 gunshot wound to the head -- I don't know which one
14 it was because all the paths basically intersected
15 each other so I couldn't tell, you know, whether
16 this exit corresponded with this entrance, but there
17 were three closely, basically clustered entrances
18 and then two exit. And then one of the gunshot
19 wounds didn't exit, but resulted in a bullet that
20 was still in the body, in the head. So there were
21 three gunshot wounds to the head. Two of them went
22 through and then one got stopped in the head, where
23 I found the bullet. And then there was another --
24 there were four and may have been in a different
25 order, I don't know. There was another gunshot

1 wound to the back and that went into the left side
2 of the back, very close to the middle and went
3 through the left ninth rib, the ninth on the
4 backbone. And then when it's going toward the
5 right, on into the right lung. And the bullet kind
6 of partially made it through the skin of the right
7 armpit, but stopped and was recovered just beneath
8 the skin in the right armpit.

9 Q: Okay. Now, the law enforcement officers ask you to
10 get swabbings from the victim's vagina, rectum and
11 her mouth?

12 A: Yes.

13 Q: Okay. All right. And specifically when you
14 observed the victim's body, you didn't notice any
15 signs of a sexual assault?

16 A: No, I did not.

17 Q: All right. Tell us what was the cause of the death
18 of Cora Brown?

19 A: Multiple gunshot wounds to the head and chest.

20 Q: Okay. Did she have any other disease process that
21 would have resulted in her death?

22 A: No.

23 Q: And based upon your findings, how did you classify
24 the manner of death?

25 A: The manner of death was a homicide.

Levern McCrea vs. State of South Carolina

390

1 Q: Dr. Riemer, please answer any questions that the
2 Defendant may have.

3 THE COURT: Mr. McCrea do you have any questions of
4 Dr. Riemer?

5 MR. MCCREA: No, I don't, Your Honor.

6 THE COURT: All right. Thank you. You may step
7 down.

8 MS. BARR: Judge, we ask that Dr. Riemer be excused.

9 THE COURT: Any objection to her being excused?

10 MR. MCCREA: No, sir, Your Honor.

11 THE COURT: Thank you, ma'am. Why don't we take a
12 ten-minute break and then we'll come back.

13 MS. BARR: Yes, sir.

14 THE COURT: Ladies and gentlemen ---
15 (Jury exited courtroom at 4:30 p.m.)

16 THE COURT: Are you ready to proceed?

17 MS. BARR: Wayne McFadden is coming.

18 (Jury entered courtroom at 4:43 p.m.)

19 **WAYNE MCFADDEN,**

20 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

21 DIRECT EXAMINATION

22 BY MS. BARR:

23 Q: Good afternoon, Mr. McFadden?

24 A: Good afternoon.

25 Q: State your full name for me?

1 A: Wayne McFadden.

2 Q: Now, sir, back in 2009 and 2010 you were employed
3 with the Williamsburg County Sheriff's Office?

4 A: Yes, ma'am.

5 Q: And you were assigned in 2010 to the investigations
6 unit?

7 A: That's correct.

8 Q: Now, sir, were you actually physically working with
9 the sheriff's department on March the 12th of 2009
10 when Cora Brown's body was found?

11 A: Yes, ma'am.

12 Q: Okay. All right. Now, I just have a few quick
13 questions I need to ask you. In March of 2009 when
14 Cora Brown's body was found, was there at least a
15 year's period of time that it passed before an
16 arrest was made on the case?

17 A: Yes, ma'am.

18 Q: All right. Arrest no made until March of 2010?

19 A: That sounds about the time frame.

20 Q: In terms of this type of case, as of March the 1st
21 of 2010, given that it had been a year since the
22 homicide occurred, would you consider the case to be
23 cold at that point?

24 A: The case was stagnant. It came to a halt.

25 Q: Okay. Now, when you have -- as a police officer do

Levern McCrea vs. State of South Carolina

392

1 you have -- the case being stagnant, as you call it,
2 do you all rely on information that may come in
3 through a tip line or from anonymous sources to help
4 you in your investigation?

5 A: Yes, ma'am.

6 Q: And is that the case when the case becomes stagnant
7 or is that the case also where arrest are made right
8 away? Do you all get tips or anonymous calls in on
9 all kinds of cases?

10 A: Yes, ma'am.

11 Q: All right. And that's just a part of information
12 that comes in from the community?

13 A: Yes, ma'am.

14 Q: All right. And do you utilize any information that
15 comes in from anonymous sources or tip lines,
16 tipsters?

17 A: Yes, ma'am.

18 Q: And in terms of your experience as a police officer,
19 do the tips always pan out?

20 A: Some of the lead to dead ends, some of them actually
21 lead to life coming back to the case.

22 Q: Okay. And I imagine that some of them will kind of
23 have you going in the situation where you're just
24 running off in all sorts of directions?

25 A: Yes, ma'am.

1 Q: And some of them are unproductive and unproven?

2 A: Yes, ma'am.

3 Q: But typically as a law enforcement officer, do you
4 try to follow up on as many tips as you can?

5 A: Yes, ma'am.

6 Q: Now, I'm going to take you back to the date of March
7 the 27th of 2010. Did you receive any such tip
8 information in connection with the death of Cora
9 Brown?

10 A: I did.

11 Q: All right. Tell us about that information if you
12 will?

13 A: We received a call from an unknown caller asking us
14 to do a follow-up ---

15 Q: Do a what now?

16 A: Do a follow-up.

17 Q: A follow-up?

18 A: --- regarding a Roberta Smith, I believe that's her
19 name.

20 Q: All right. And I believe that as a result of that
21 call, you prepared a supplemental police report?

22 A: Yes, ma'am.

23 Q: And do you have a copy of that report with you?

24 A: I do.

25 Q: All right. And this is the report that you wrote;

Levern McCrea vs. State of South Carolina

394

1 is that right?

2 A: Yes, ma'am.

3 Q: All right. Specifically, what you wrote in your
4 report that's in quotations is what?

5 A: You want me to read it verbatim?

6 Q: Yes? Just that second sentence. Well, first of
7 all, tell me the date again? I guess read the first
8 two sentences that you wrote.

9 A: On 3/27/10, I received a call from an unknown
10 caller. The caller stated the sheriff's office
11 needed to speak with Roberta Cooper ---

12 Q: Roberta Cooper?

13 A: Excuse me. Roberta Smith.

14 Q: Okay.

15 A: Roberta Smith regarding a white Chevy Blazer
16 operated by Levern McCrea.

17 Q: All right. So some tip came in that the sheriff's
18 department needed to speak with Roberta Smith
19 regarding a white Chevy Blazer operated by Levern
20 McCrea?

21 A: That's right.

22 Q: All right. Now, as a result of that tip
23 information, did you try to follow-up on that lead
24 or that tip?

25 A: Yes, ma'am.

1 Q: All right. As a result of that information, what
2 did you do? What, if anything, did you do?

3 A: We did the background on Ms. Smith. And myself and
4 Investigator Willie Brown went to North Carolina to
5 speak with her.

6 Q: When did you go to North Carolina in relation to
7 receiving the call?

8 A: It would have been the next day on 3/28/2010.

9 Q: The next day. All right. Now, when you say you and
10 Investigator Willie Brown, you're talking about the
11 gentleman that's seated here at the prosecution's
12 table?

13 A: Yes, ma'am.

14 Q: All right. Now, what part of North Carolina did you
15 travel to?

16 A: Mount Olive.

17 Q: Mount Olive, North Carolina? And I'm assuming you
18 would have left from Williamsburg County?

19 A. Yes, ma'am.

20 Q. How long did it take you to get there?

21 A. It would take about three hours.

22 Q. About three hours? All right. And what time did
23 you and Investigator Brown arrive at Roberta Smith's
24 residence? Well, I'm presuming it was a residence.
25 Where did you meet her?

1 A. At her residence.

2 Q. Okay. How long did it take you to arrive at that
3 residence? Or what time did you get there? I'm
4 sorry?

5 A. I don't have the exact time we arrived at her
6 residence.

7 Q. Let me show you something to see if that refreshes
8 your memory? Don't tell me what that is. Just tell
9 me if that refreshes your memory as to the time?

10 A. On 3/28/2010 I began the interview with her at 5:00
11 at her residence.

12 Q. All right. Thank you, sir. 5:00 p.m., March 28th
13 2010; is that right?

14 A: That's correct.

15 Q: Now, I know that that interview took place, at this
16 point, I guess a year and a half ago. Do you
17 recognize the young lady seated in the courtroom in
18 the orange shirt as being the young lady who you met
19 with on 3/28/2010 in Mount Olive, North Carolina?

20 A: Yes, ma'am.

21 Q: That's Ms. Smith?

22 A: Yes, ma'am.

23 Q: All right. Now, I can't ask you about -- I cannot
24 ask you about the substance of her interview. But
25 did she agree to speak with you and Investigator

1 Brown?

2 A: That's correct.

3 Q: Did she give you a statement at that time?

4 A: Yes, ma'am.

5 Q: All right. Was that statement recorded?

6 A: Yes, ma'am.

7 Q: All right. And was that statement transcribed?

8 A: Yes, ma'am.

9 Q: Does this appear to be the transcript from that
10 interview?

11 A: It is.

12 Q: Okay. All right. Let me have you go, please, sir,
13 to the next report that you've prepared. Well,
14 before I do that. If you go back to that report
15 that you previously spoke about, did you actually
16 summarize, and, again, don't tell me what she said.
17 Did you summarize the statements that she gave you
18 on 3/28/2010?

19 A: I did.

20 Q: All right. And when I say "she gave you," I'm
21 talking about Ms. Roberta Smith?

22 A: Yes, ma'am.

23 Q: You did a summary of that interview?

24 A: I did.

25 Q: All right. Now, the next day as a result of the

Levern McCrea vs. State of South Carolina

398

1 information that you received from Ms. Smith, what,
2 if anything, did you do the next day?

3 A: I did an updated background check on Mr. Chris
4 Briggs and Levern McCrea.

5 Q: Okay.

6 A: At that point, I discovered Levern was -- excuse me
7 -- Chris Briggs was in custody at the Georgetown
8 County Detention Center.

9 Q: All right. And you all -- did you actually go to
10 the Georgetown County Detention Center to meet with
11 Mr. Briggs.

12 A: We did.

13 Q: All right. When I say "did you all," I'm talking
14 about you and Mr. Brown, Investigator Brown?

15 A: Yes, ma'am.

16 Q: Okay. Now, a quick thing. Let me ask you. When
17 Ms. Smith spoke to you and gave you a statement, you
18 did not arrest her or have any reason to arrest her;
19 correct?

20 A: No, ma'am.

21 Q: She wasn't in police custody?

22 A: No, ma'am.

23 Q: The interview took place in her house?

24 A: Yes, ma'am..

25 Q: And with her permission?

1 A: Yes, ma'am.

2 Q: And so in those circumstances, that's not usually a
3 situation where you would Mirandize a person?

4 A: No, ma'am. She wasn't Mirandized.

5 Q: Okay. And when I say "Mirandized," I need to make
6 sure that I communicate what that means, that means
7 when you give a person their Rights; is that
8 correct?

9 A: That's correct.

10 Q: Like we see on TV, Right to remain silent; Right to
11 have a lawyer and all those other things. You
12 didn't do that and Investigator Brown didn't do that
13 with Roberta?

14 A: No, ma'am.

15 Q: Because she was not a suspect or in custody?

16 A: That's correct.

17 Q: Now, you indicated that the next day you and Mr.
18 Brown went to the Georgetown County Detention Center
19 to speak with a Mr. Christopher Briggs.

20 A: That's correct.

21 Q: All right. And did you all share with Mr. Briggs at
22 that time that you had spoken to Roberta Smith?

23 A: Ye, ma'am.

24 Q: All right. Once you disclosed that information to
25 him, did he talk to you all?

Levern McCrea vs. State of South Carolina

400

1 A: Yes, ma'am.

2 Q: He gave you a recorded statement?

3 A: Yes, ma'am.

4 Q: He was Mirandized?

5 A: Yes, ma'am.

6 Q: And read his Rights?

7 A: Yes, ma'am.

8 Q: He agreed to speak with you?

9 A: Yes, ma'am.

10 Q: All right. Now, did you summarize the substance of
11 what he told you in a supplemental report?

12 A: I did.

13 Q: All right. And, again, I can't talk to you about
14 the substance of that statement. But based on that
15 statement, did he go with you and other deputies of
16 the Williamsburg County Sheriff's Department, did
17 you all leave Georgetown and go to Florence County?

18 A: We did.

19 Q: All right. What was the purpose in going to
20 Florence County?

21 A: To recover evidence mentioned in this --- case
22 file?

23 Q: All right. And in terms of kind of telling you all
24 and helping you all to know where to go, you relied
25 on the statements from Mr. Briggs?

1 A: ???

2 Q: He was actually, physically with you all?

3 A: Yes, ma'am.

4 Q: All right. And did you, in fact -- and did officers
5 of the sheriff's department in fact recover a
6 firearm and some unfired bullets and other evidence
7 in the case?

8 A: Yes, ma'am.

9 Q: All right. Tell the jury where it was recovered?

10 A: It's a road in the Florence County area that is the
11 Old River Road. For you all who's not familiar with
12 the area, it's right off of 378, coming through
13 Johnsonville, when you actually get to Highway 378,
14 you continue straight across and that will be Old
15 River Road, Florence County area.

16 Q: All right. And let me take it from kind of where I
17 think that you're taking about. If you get on
18 Highway 378 from Lake City, kind of like you're
19 going toward the beach.

20 A: Yes, ma'am.

21 Q: Are you familiar with where I'm talking about? And
22 Old River Road would be to the left of Highway 378,
23 like you're going toward the beach?

24 A: It would be toward the left. At Old River take a
25 right and come out at 41.

Levern McCrea vs. State of South Carolina

402

1 Q: All right. So if you take a right from 378, you'd
2 be on Highway 41?

3 A: Coming back from Johnsonville.

4 Q: All right. Now, what was the approximate distance
5 on Old River Road from Highway 378 that the firearm
6 that we talked about in this case was recovered?

7 A: I measured it at eleven point five miles.

8 Q: Eleven point five miles from Highway 378?

9 A: Yes, ma'am.

10 Q: Now, it has been suggested or insinuated at this
11 point that Mr. Briggs wrote a statement requesting
12 to talk to law enforcement back on March the 29th,
13 2010, and that was the reason why you all came to
14 see him; is that true?

15 A: No, ma'am.

16 Q: You never received any type of letter requesting
17 that he speak with you?

18 A: I don't have any knowledge of any letters.

19 Q: And the only reason why you all went to go see him
20 on the 29th of March of 2010 was because of what was
21 told to you by Ms. Smith?

22 A: Yes, ma'am.

23 Q: And was there any type of deal between the sheriff's
24 department and Christopher Briggs concerning him
25 providing you with information?

1 A: No, ma'am.

2 Q: Was there any promises made to get him out of jail?

3 A: No.

4 Q: All right. And as a matter of fact, after you
5 recovered a firearm on Old River Road in Florence
6 County, where did y'all take Christopher Briggs?

7 A: Back to the jail.

8 Q: Right back to jail.

9 A: Yes, ma'am.

10 Q: Is that right?

11 A: Yes, ma'am.

12 Q: And would the Williamsburg County Sheriff's Office
13 even have any control or say-so or authority related
14 to Georgetown County Cases?

15 A: No, ma'am. He's actually in custody for Georgetown
16 County. So we wouldn't have any say-so on those
17 matters.

18 Q: Now, the items that were recovered from Old River
19 Road, you transported those items to SLED in
20 Columbia?

21 A: I did.

22 Q: All right. And typically you all have items of
23 evidence that are taken to SLED in Columbia to be
24 analyzed. You all have Lieutenant Jeff Scott to do
25 that; is that right?

Levern McCrea vs. State of South Carolina

404

1 A: Yes. That's correct.

2 Q: And, again, Lieutenant Jeff Scott is the gentleman
3 who's seated at the end of the table in the green
4 uniform?

5 A: Yes, ma'am.

6 Q: He is Williamsburg County's -- what does he do for
7 Williamsburg County, the Sheriff's Department?

8 A: He's the evidence custodian also and ---

9 Q: I'm sorry.

10 A: Training and evidence custodian.

11 Q: All right. And why was it that you transported the
12 evidence to SLED rather than Lieutenant Scott?

13 A: He was unavailable during that time?

14 Q: He was on vacation that week?

15 A: That's correct.

16 Q: At some point arrest warrants were issued for Mr.
17 Briggs as well as Mr. McCrea?

18 A: Yes, ma'am.

19 Q: All right. Mr. Briggs was charged with misprision
20 of a felony?

21 A: Yes, ma'am.

22 Q: And the Defendant, Mr. McCrea was charged murder and
23 possession of a weapon?

24 A: Yes, ma'am.

25 Q: All right. Did you have an opportunity shortly --

1 and when I say "shortly," I mean within three to
2 four months after Mr. McCrea's arrest to attend a
3 hearing, a preliminary hearing on his case?

4 A: Yes, ma'am.

5 Q: All right. And at that time, was he represented by
6 an attorney?

7 A: Yes, ma'am.

8 Q: Who was his attorney at that time?

9 A: If I'm recalling correctly, it was either Charles
10 Barr or Cezar McKnight.

11 Q: Both of those are lawyers in Williamsburg County?

12 A: Yes, ma'am.

13 Q: And both of them represented him at one point?

14 A: Yes, ma'am.

15 MS. BARR: I beg the Court's indulgence.

16 THE COURT: All right.

17 Q: Mr. McFadden, that's all the questions I have.
18 Please answer any questions ---

19 THE COURT: Mr. McCrea, do you have any questions
20 for this witness?

21 MR. MCCREA: Yes, I do, Your Honor.

22 THE COURT: All right. Thank you. You may come
23 forward.

24 CROSS-EXAMINATION

25 BY MR. MCCREA:

Levern McCrea vs. State of South Carolina

406

1 Q: Investigator McFadden, can you give me the actual
2 date that you spoke with Ms. Roberta Smith again?

3 A: 3/28/2010.

4 Q: Was there another date sooner than 3/28/2010?

5 A: No, that was the only date that I spoke with her.

6 Q: The only date. Well, on 3/18, I have another date -

7 --

8 MS. BARR: Objection.

9 MR. MCCREA: Excuse me.

10 THE COURT: Hold on. She's made an objection.

11 MS. BARR: We would object. The Defendant is trying
12 to testify and offer evidence.

13 MR. MCCREA: Your Honor, no. I'm actually reading
14 from the supplemental report.

15 THE COURT: You may ask him questions.

16 Q: Okay. I'm asking the question. Was there another
17 date that you came -- went to go speak with Roberta
18 Smith?

19 A: I conducted one interview with Roberta Smith.

20 MR. MCCREA: Well, again, Your Honor, I have a
21 3/18/09 date.

22 THE COURT: He's answered your question.

23 Q: Investigator McFadden, on March the 29th, 2010 --
24 2009, you conducted an interview with Christopher
25 Briggs, along with Investigator Brown; correct?

1 A: That's correct.

2 Q: Can you please describe the contents of this
3 interview and how and/or what lead you to conduct
4 this interview with Mr. Briggs?

5 MS. BARR: And, Judge, we're going to -- first of
6 all, we have two objections. One, Mr. McCrea said March
7 of 2009. I believe it was 2010. Two, to the extent that
8 it calls for him to testify about what a witness said,
9 that's hearsay.

10 THE COURT: That's hearsay. Your objection is
11 sustained.

12 MR. MCCREA: If I may, Your Honor, well, obviously
13 that March 29th 2009 it has. But the original date has
14 been doctored.

15 THE COURT: No, sir. You may ask him questions.
16 And you will get an opportunity if you would like to
17 explain that at some point. But you just need to ask him
18 straightforward questions and he'll answer your question.

19 MR. MCCREA: Yes, sir. I understand. I just wanted
20 to bring that to your attention.

21 THE COURT: All right. That's enough sir. You ask
22 him questions.

23 MR. MCCREA: Yes, sir.

24 THE COURT: And then you will have your opportunity,
25 if you choose to do so.

Levern McCrea vs. State of South Carolina

408

1 MR. MCCREA: I understand.

2 Q: Investigator McFadden, did Mr. Briggs write you or
3 any member of the sheriff's office while he was
4 locked up in the Georgetown County jail requesting
5 to talk with you?

6 A: I don't have any knowledge of that.

7 Q: You have no knowledge of that?

8 A: No.

9 Q: Investigator McFadden, at which point did Mr. Briggs
10 implicate the Defendant as the person who allegedly
11 committed this crime?

12 A: The day me and Investigator Brown went to Georgetown
13 County to speak with him.

14 THE COURT: Could you speak up. I can barely hear
15 you and I'm right next to you.

16 A: When the interview was conducted with him at the
17 Georgetown County Detention Center.

18 Q: And what was that date again, sir?

19 A: 3/29/2010.

20 Q: And you received a tip from where, again, sir?

21 A: It was an unknown caller. You need to make a ---

22 Q: It was an unknown caller you stated.

23 A: It was a tip to go speak with Roberta Smith.

24 Q: Next question. Did you find Mr. Briggs' interview
25 to be credible?

1 MS. BARR: Object. We're going to have to object to
2 that. That's ---

3 THE COURT: Sustained. It calls for speculation.

4 MR. MCCREA: I need to grab the transcripts if I
5 may, Judge.

6 THE COURT: Yes, sir.

7 MR. MCCREA: Your Honor, I'd like Ms. Barr to hand
8 Investigator McFadden the March 31st, 2010 transcripts.

9 MS. BARR: Is that for Mr. Briggs?

10 MR. MCCREA: Yes, ma'am.

11 Q: Page 7. Mr. McFadden, can you read from 17 to 21
12 for me, please, sir?

13 MS. BARR: And, Your Honor, to the extent that he's
14 asking him to read, it's still hearsay.

15 THE COURT: This is Mr. Briggs' testimony?

16 MS. BARR: Yes, sir.

17 THE COURT: All right. Objection sustained. You've
18 already had Mr. Briggs on the stand. Those questions
19 were available to be asked at this time. You can't ask
20 this witness about another witnesses testimony.

21 Q: Do you recall the interview with Mr. Briggs on April
22 the 1st, 2009? And how long did this interview
23 last?

24 A: April 1st?

25 Q: April the 1st of 2009; yes, sir?

Levern McCrea vs. State of South Carolina

410

1 A: (Witness pauses).

2 MS. BARR: Your Honor, I may be able to help with
3 that. I believe Investigator Brown and Investigator
4 Lamberts were the ones that interviewed Mr. Briggs on
5 April 1st, 2009. Not this individual.

6 THE COURT: Oh, not this ---

7 MS. BARR: Right. Yes, sir. Judge, I believe
8 that's the transcript. Mr. McCrea should have it there.

9 Q: Investigator McFadden, do you remember the interview
10 on March the 29th with Mr. Briggs and how long did
11 that last?

12 A: I don't see it indicate an ending time. I think it
13 began four ---

14 Q: I can't hear you, sir?

15 A: I don't see it indicate an ending time. It began at
16 4:50 p.m.

17 Q: On March the 29th?

18 A: The 31st.

19 Q: I asked you about the 29th?

20 A: Mr. McCrea, that was a typo. I'm seeing 3/29/2010
21 on the report, 3/31/2010 on the statement.

22 Q: Well, I have here from 11:09, to 11:31.

23 A: Can I see what you have?

24 THE COURT: Yeah. Show him what you've got there.
25 He can't guess.

1 MS. BARR: Yes, sir.

2 A: Okay. Ask your question again, please?

3 Q: Did you record the interview with Mr. Briggs on
4 March the 29th and how long did this interview ---

5 THE COURT: What year?

6 MR. MCCREA: 2010, Your Honor.

7 THE COURT: Okay.

8 A: Beginning at 11:09 ended at 11:31.

9 Q: Investigator McFadden, do you recall the interview
10 with Mr. Briggs on March the 31st, 2010 and how long
11 did this interview last on and off the record?

12 A: On the 31st it began at 4:50 and I don't see an
13 ending time indicated.

14 Q: Do you recall going off the record with this
15 interview of March 31st, 2010, for about
16 approximately thirty-five minutes?

17 A: Off the record?

18 Q: Yes, sir?

19 A: What statement is that?

20 Q: Well, it originally started from -- 4:50 is the
21 ending time.

22 A: If I recall correctly, there was a malfunction with
23 the tape during the interview and we discontinued
24 taping until we got the problems fixed.

25 Q: Investigator McFadden, this interview was started at

Levern McCrea vs. State of South Carolina

412

1 4:15, but the record shows 4:50, which indicates a
2 thirty-five minute discussion before recording this
3 statement. What did you talk about? You had
4 thirty-five minutes?

5 A: We didn't talk about anything because the tape was
6 off.

7 Q: So you deliberately turned the tape off for thirty-
8 five minutes?

9 A: No, sir, there was a problem with the recorded.
10 That's why we discontinued the interview. Once we
11 had that problem corrected, we started the interview
12 back.

13 Q: So you had no other discussion about the case with
14 Mr. Briggs for thirty-five minutes?

15 A: No, sir.

16 Q: A malfunction you said?

17 A: Yes, sir.

18 MR. MCCREA: Your Honor, if I may, Your Honor. On
19 the question -- I'll skip that.

20 Q: Did you ever recover the alleged gun, Officer
21 McFadden?

22 A: We recovered a firearm.

23 Q: Was there a ballistic test done on that gun?

24 A: Yes, sir.

25 Q: And the test came back inconclusive, not a match,

1 sir?

2 MS. BARR: Objection. He can't testify to that.

3 THE COURT: Sustained. There was already a witness
4 who testified to that. You could have cross-examined
5 him.

6 Q: Investigator McFadden, did you ever recover the
7 white towel that Mr. Briggs alleged that the gun was
8 wrapped inside a black bag?

9 A: It's in a white towel?

10 Q: Yes, sir, it's in a white towel?

11 A: A white towel was not recovered.

12 Q: So the alleged murder weapon was not wrapped in a
13 towel at all; correct?

14 A: The firearm we recovered was not wrapped in a white
15 towel.

16 Q: Investigator McFadden, after conducting all of these
17 ballistics tests, did you confirm that my
18 fingerprints or DNA were on anywhere on these
19 alleged weapon at the crime scene; yes or no?

20 MS. BARR: Judge, we're going have to object.

21 THE COURT: Sustained. He's not competent to answer
22 that question. We've already had witnesses ...

23 MR. MCCREA: Inconclusive. Correct.

24 Q: Investigator McFadden, was there a mask recovered
25 from the residence?

Levern McCrea vs. State of South Carolina

414

1 A: From the residence?

2 Q: Yes, sir. Of Ms. Cora Brown's house?

3 A: I don't have any knowledge of a mask being recovered
4 from the residence.

5 Q: Investigator McFadden, your interviewed with Mr.
6 Briggs three different times and he's given you
7 three different stories of this alleged crime each
8 time you've interviewed him. Please explain, sir?

9 MS. BARR: Judge, I'm sorry. I hate to keep ---

10 THE COURT: Sustained. You can ask him how many
11 times he went on the interview. Mr. Briggs is the only
12 one who knows.

13 Q: So you concluded that Mr. Briggs' statement was
14 credible?

15 MS. BARR: Judge, we'd object. He can't talk about
16 the credibility of a witness. That's for the jury.

17 THE COURT: Sustained. That's the ultimate question
18 for the jury.

19 MR. MCCREA: That would be it for this witness, Your
20 Honor.

21 THE COURT: Excuse me?

22 MR. MCCREA: That would be it for this witness.

23 THE COURT: That's all for this witness?

24 MR. MCCREA: Yes, sir. Yes, sir.

25 THE COURT: All right. Thank you. Any redirect?

1 MS. BARR: I've just a few questions. I'll be
2 brief.

3 REDIRECT EXAMINATION

4 BY MS. BARR:

5 Q: Mr. McFadden, I'm going to hand you a piece of
6 paper. Can you tell us when arrest warrant was
7 issued for Mr. Briggs, what date?

8 A: 3/30/2010.

9 Q: March 30th, 2010?

10 A: Yes, ma'am.

11 Q: The day after he gave a recorded interview to you
12 and Mr. Brown?

13 A: That's correct.

14 Q: Now, let me see these transcripts that you have up
15 here with you. I'm going to call your attention to
16 the March 29th, 2010 interview with Mr. Briggs.
17 When you all record statements on a case, do you all
18 do your own transcription or do you let somebody
19 else transcribe the statements?

20 A: Somebody else transcribes them.

21 Q: Okay. And you mentioned that there was a
22 typographical error as it relates to the year on
23 that statement?

24 A: He gave me -- while I was getting another statement,
25 I was given that 31st statement instead of the 29th

1 statement.

2 Q: Okay. All right. Now, sir, on that particular
3 statement, let me make sure I'm referring to the
4 right one. The one that occurred at the Georgetown
5 County Detention Center with Christopher Briggs, the
6 transcribed copy states that it was done on March
7 29th, 2009. Is that what it says here?

8 A: That's correct.

9 Q: All right. But are you saying that the year is a
10 typographical error?

11 A: Yes.

12 Q: It should say March when?

13 A: 2010.

14 Q: March 29th, 2010? All right. No question that the
15 only time you interview Christopher Briggs at the
16 Georgetown County Detention Center was March 29th,
17 2010? No question about that?

18 A. No question.

19 Q. All right.

20 MS. BARR: That's all the questions I have, Judge.

21 THE COURT: All right. Any re-cross based on her
22 redirect, Mr. McCrea?

23 MR. MCCREA: None, Your Honor.

24 THE COURT: All right. Thank you. You may step
25 down.

1 MS. BARR: Judge, we'd ask that the witness be
2 excused.

3 THE COURT: Any objection to this witness being
4 excused, Mr. McCrea?

5 MR. MCCREA: None, Your Honor.

6 THE COURT: All right. Thank you. You are excused,
7 sir.

8 MS. BARR: Your Honor, the next witness that we have
9 may be lengthy. So if the Court is inclined to recess
10 for the day, that's fine.

11 THE COURT: All right. We will. That's appropriate
12 All right. Ladies and gentlemen, we are going to dismiss
13 you now. Court will resume at 10:00 tomorrow morning.
14 Please do not discuss this case with anyone. And,
15 please, let's be on time, ready to start right at 10:00.
16 All right. Y'all have a nice evening and get a good
17 night's rest. We'll see you in the morning.

18 (Jury exited courtroom at 5:25 p.m.)

19 **10-20-11GS.YOUNG.AM**

20 THE COURT: All right. At the end of court
21 yesterday, I was informed we may have a potential juror
22 situation. We need to bring that juror out.

23 (Whereupon, Juror number 53 was brought into the
24 courtroom.)

25 THE COURT: Please place the juror under oath.

Levern McCrea vs. State of South Carolina

418

1 (Whereupon, Juror number 53 was duly sworn.)

2 THE COURT: You are Juror number 58?

3 THE JUROR: 53, sir.

4 THE COURT: It's my understanding that you have
5 informed the bailiff that you may know one of the
6 witnesses; is that correct?

7 THE JUROR: Not one of the witnesses, but I did
8 recognize somebody in the audience yesterday that I do
9 know.

10 THE COURT: Okay. Who was that?

11 THE JUROR: A Ms. Alberta Pressley.

12 THE COURT: Is she a witness, possible witness in
13 this case?

14 MS. BARR: Judge, she was identified on the State's
15 witness list, but she will not be called as a witness in
16 the case.

17 THE COURT: Okay. All right. Well, thank you.
18 Thank you for advising us. And you didn't notice your
19 name on the potential witness list when it came out?

20 THE JUROR: (Shakes head negatively).

21 THE COURT: All right. Then we don't have a
22 problem. Thank you. You may return to the jury.

23 THE JUROR: Thank you, sir.

24 (Whereupon, the juror returns to the jury room.)

25 THE COURT: Is there anything from the State or the

1 Defense before we proceed with testimony.

2 MR. MCCREA: Yes, sir, Your Honor.

3 THE COURT: Yes, sir.

4 MR. MCCREA: Yes, sir, Your Honor.

5 THE COURT: Yes, sir.

6 MR. MCCREA: You did say that I was to show pictures

7 ...

8 THE COURT: I mean, you can see about putting them
9 into evidence. I mean, they ---

10 MR. MCCREA: The pictures are already in there.

11 THE COURT: If they're already into evidence you're
12 welcome to show them. They're evidence of the court once
13 they're there, they're everywhere.

14 MR. MCCREA: Okay.

15 THE COURT: Yes, sir.

16 MR. MCCREA: When we first ---

17 THE COURT: Speak into the microphone. I can barely
18 hear you.

19 MR. MCCREA: Is that clear?

20 THE COURT: Yes, sir.

21 MR. MCCREA: Okay. Yeah, that's basically it.

22 THE COURT: Okay. Anything from the State?

23 MS. BARR: Yes, sir, the next witness will be
24 Roberta Smith. And I just wanted to show the Defendant a
25 copy of her rap sheet.

Levern McCrea vs. State of South Carolina

420

1 THE COURT: All right. Are there any issues
2 concerning her, bring up her convictions?

3 MS. BARR: She doesn't have a criminal record.

4 THE COURT: Oh.

5 MS. BARR: Judge, there were exhibits that we had
6 marked for ID and we're going to seek to admit those
7 exhibits during the course of her testimony. And I don't
8 know if the Defendant has any objection. I guess we can
9 try to deal with that now.

10 THE COURT: Well, let's find out.

11 MS. BARR: Yes, sir. Your Honor, for the record,
12 they are State's Exhibits Number 117, 118, 119, 120, 121.
13 And those are inside each letter -- the exhibits are
14 letters, handwritten letters from the Defendant to the
15 witness. And inside the ---

16 THE COURT: From the Defendant's witness or from the
17 Defendant?

18 MS. BARR: From the Defendant to the witness.

19 THE COURT: Okay. Okay.

20 MS. BARR: I have each exhibit, the envelopes
21 containing those letters marked as the number. And then
22 the letters that are within those envelopes are 117-A,
23 118-A, by way of example. And, Judge, I don't know --
24 I'd provided the Defendant with a copy of those letters.
25 I don't know if he has an objection, but I'll show them

1 to the Court.

2 THE COURT: Mr. McCrea, do you have any objection to
3 these letters coming in?

4 MR. MCCREA: No, Your Honor.

5 THE COURT: All right.

6 MS. BARR: All right. And the same thing as it
7 relates to State's Exhibit Numbers 122, 123, 124, 125.
8 They're pictures of Ms. Smith's vehicle. I provided
9 those to Mr. McCrea as well.

10 THE COURT: Mr. McCrea, do you have any objection to
11 those pictures?

12 MR. MCCREA: No, I don't.

13 THE COURT: All right. Thank you.

14 MS. BARR: Thank you, Your Honor.

15 THE COURT: Anything further before we ---

16 MS. BARR: Not from the State, Your Honor.

17 THE COURT: All right. Let's bring our jury in.
18 (Jury in at 10:08 a.m.)

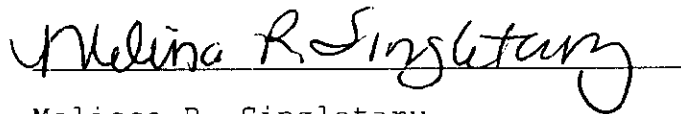
19 THE COURT: Well, good morning, ladies and
20 gentlemen. And I thank you for your promptness this
21 morning and we had one issue to take up before we
22 started. It's a little cooler out there today. But, you
23 know, it makes the temperature in the courtroom just
24 almost absolutely perfect. And we will start our
25 testimony at this time. Is the State ready?

CERTIFICATE

This is to certify that **Volume Two** of the hearing in the matter of Levern McCrea vs. The State of South Carolina, consisting of pages 217-421 is a true and correct transcript; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am not employed by any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 18th day of November, 2013.



Melissa R. Singletary
Certified Court Reporter

Notary Public for South Carolina
My Commission Expires: 3-5-2014

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

)
)
)

COURT OF GENERAL SESSION

LEVERN MCCREA

)

PLAINTIFF,

)

TRANSCRIPT OF HEARING

C/A #: 2013-GS-45-00135

v.

)

)

STATE OF SOUTH CAROLINA,

)

)

DEFENDANT.

)

)

)

WILLIAMSBURG COUNTY COURTHOUSE
Monday, October 17-21, 2011

VOLUME THREE

BEFORE:

HONORABLE W. JEFFREY YOUNG, PRESIDING JUDGE.

APPEARANCES:

Solicitor Kimberly Barr
Attorney for The State of South Carolina

Mr. Levern McCrea, Defendant, Pro Se

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

INDEX

	<u>PAGE</u>
<u>State's Case (10-19-11 P.M.)</u>	
	416
Roberta Smith	
Examination by Ms. Barr	422
Cross Examination by Mr. McCrea	505-528
Lunch Break	
Cross Examination Cont'd by Mr. McCrea	529
Redirect Examination by Ms. Barr	531
Willie Brown	
Examination by Ms. Barr	534
Cross Examination by Mr. McCrea	554
Redirect Examination by Ms. Barr	570
State Rest	577
Fifth Amendment Rights	578
Defense Rest	580
<u>(10-21-11 A.M.)</u>	
Closing by Ms. Barr	583
Closing by Mr. McCrea	588
Reply Closing by Ms. Barr	593
Charges on the Law	619
Deliberations Begin 12:13	631
Verdict Reached 1:43	631
Verdict Read by Clerk	632
Jury Polled	632
Victims' Family Addresses Court	638-640
Sentencing by The Court	640
Certificate of Service	642

EXHIBITS

(Eleven Pages of Receipt for Exhibits attached to Volume One)

1 statement.

2 Q: Okay. All right. Now, sir, on that particular
3 statement, let me make sure I'm referring to the
4 right one. The one that occurred at the Georgetown
5 County Detention Center with Christopher Briggs, the
6 transcribed copy states that it was done on March
7 29th, 2009. Is that what it says here?

8 A: That's correct.

9 Q: All right. But are you saying that the year is a
10 typographical error?

11 A: Yes.

12 Q: It should say March when?

13 A: 2010.

14 Q: March 29th, 2010? All right. No question that the
15 only time you interview Christopher Briggs at the
16 Georgetown County Detention Center was March 29th,
17 2010? No question about that?

18 A. No question.

19 Q. All right.

20 MS. BARR: That's all the questions I have, Judge.

21 THE COURT: All right. Any re-cross based on her
22 redirect, Mr. McCrea?

23 MR. MCCREA: None, Your Honor.

24 THE COURT: All right. Thank you. You may step
25 down.

1 MS. BARR: Judge, we'd ask that the witness be
2 excused.

3 THE COURT: Any objection to this witness being
4 excused, Mr. McCrea?

5 MR. MCCREA: None, Your Honor.

6 THE COURT: All right. Thank you. You are excused,
7 sir.

8 MS. BARR: Your Honor, the next witness that we have
9 may be lengthy. So if the Court is inclined to recess
10 for the day, that's fine.

11 THE COURT: All right. We will. That's appropriate
12 All right. Ladies and gentlemen, we are going to dismiss
13 you now. Court will resume at 10:00 tomorrow morning.
14 Please do not discuss this case with anyone. And,
15 please, let's be on time, ready to start right at 10:00.
16 All right. Y'all have a nice evening and get a good
17 night's rest. We'll see you in the morning.

18 (Jury exited courtroom at 5:25 p.m.)

19 **10-20-11GS.YOUNG.AM**

20 THE COURT: All right. At the end of court
21 yesterday, I was informed we may have a potential juror
22 situation. We need to bring that juror out.

23 (Whereupon, Juror number 53 was brought into the
24 courtroom.)

25 THE COURT: Please place the juror under oath.

Levern McCrea vs. State of South Carolina

418

1 (Whereupon, Juror number 53 was duly sworn.)

2 THE COURT: You are Juror number 58?

3 THE JUROR: 53, sir.

4 THE COURT: It's my understanding that you have
5 informed the bailiff that you may know one of the
6 witnesses; is that correct?

7 THE JUROR: Not one of the witnesses, but I did
8 recognize somebody in the audience yesterday that I do
9 know.

10 THE COURT: Okay. Who was that?

11 THE JUROR: A Ms. Alberta Pressley.

12 THE COURT: Is she a witness, possible witness in
13 this case?

14 MS. BARR: Judge, she was identified on the State's
15 witness list, but she will not be called as a witness in
16 the case.

17 THE COURT: Okay. All right. Well, thank you.
18 Thank you for advising us. And you didn't notice your
19 name on the potential witness list when it came out?

20 THE JUROR: (Shakes head negatively).

21 THE COURT: All right. Then we don't have a
22 problem. Thank you. You may return to the jury.

23 THE JUROR: Thank you, sir.

24 (Whereupon, the juror returns to the jury room.)

25 THE COURT: Is there anything from the State or the

1 Defense before we proceed with testimony.

2 MR. MCCREA: Yes, sir, Your Honor.

3 THE COURT: Yes, sir.

4 MR. MCCREA: Yes, sir, Your Honor.

5 THE COURT: Yes, sir.

6 MR. MCCREA: You did say that I was to show pictures

7 ...

8 THE COURT: I mean, you can see about putting them
9 into evidence. I mean, they ---

10 MR. MCCREA: The pictures are already in there.

11 THE COURT: If they're already into evidence you're
12 welcome to show them. They're evidence of the court once
13 they're there, they're everywhere.

14 MR. MCCREA: Okay.

15 THE COURT: Yes, sir.

16 MR. MCCREA: When we first ---

17 THE COURT: Speak into the microphone. I can barely
18 hear you.

19 MR. MCCREA: Is that clear?

20 THE COURT: Yes, sir.

21 MR. MCCREA: Okay. Yeah, that's basically it.

22 THE COURT: Okay. Anything from the State?

23 MS. BARR: Yes, sir, the next witness will be
24 Roberta Smith. And I just wanted to show the Defendant a
25 copy of her rap sheet.

1 THE COURT: All right. Are there any issues
2 concerning her, bring up her convictions?

3 MS. BARR: She doesn't have a criminal record.

4 THE COURT: Oh.

5 MS. BARR: Judge, there were exhibits that we had
6 marked for ID and we're going to seek to admit those
7 exhibits during the course of her testimony. And I don't
8 know if the Defendant has any objection. I guess we can
9 try to deal with that now.

10 THE COURT: Well, let's find out.

11 MS. BARR: Yes, sir. Your Honor, for the record,
12 they are State's Exhibits Number 117, 118, 119, 120, 121.
13 And those are inside each letter -- the exhibits are
14 letters, handwritten letters from the Defendant to the
15 witness. And inside the ---

16 THE COURT: From the Defendant's witness or from the
17 Defendant?

18 MS. BARR: From the Defendant to the witness.

19 THE COURT: Okay. Okay.

20 MS. BARR: I have each exhibit, the envelopes
21 containing those letters marked as the number. And then
22 the letters that are within those envelopes are 117-A,
23 118-A, by way of example. And, Judge, I don't know --
24 I'd provided the Defendant with a copy of those letters.
25 I don't know if he has an objection, but I'll show them

1 to the Court.

2 THE COURT: Mr. McCrea, do you have any objection to
3 these letters coming in?

4 MR. MCCREA: No, Your Honor.

5 THE COURT: All right.

6 MS. BARR: All right. And the same thing as it
7 relates to State's Exhibit Numbers 122, 123, 124, 125.
8 They're pictures of Ms. Smith's vehicle. I provided
9 those to Mr. McCrea as well.

10 THE COURT: Mr. McCrea, do you have any objection to
11 those pictures?

12 MR. MCCREA: No, I don't.

13 THE COURT: All right. Thank you.

14 MS. BARR: Thank you, Your Honor.

15 THE COURT: Anything further before we ---

16 MS. BARR: Not from the State, Your Honor.

17 THE COURT: All right. Let's bring our jury in.

18 (Jury in at 10:08 a.m.)

19 THE COURT: Well, good morning, ladies and
20 gentlemen. And I thank you for your promptness this
21 morning and we had one issue to take up before we
22 started. It's a little cooler out there today. But, you
23 know, it makes the temperature in the courtroom just
24 almost absolutely perfect. And we will start our
25 testimony at this time. Is the State ready?

Levern McCrea vs. State of South Carolina

422

1 MS. BARR: The State's ready.

2 THE COURT: Is the Defense ready? Mr. McCrea, are
3 you ready?

4 MR. MCCREA: I am, Your Honor.

5 THE COURT: All right. The State may call its first
6 witness for the morning.

7 MS. BARR: The State calls Roberta Smith.

8 **ROBERTA SMITH,**

9 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

10 MS. BARR: May it please the Court?

11 THE COURT: Yes, ma'am.

12 DIRECT EXAMINATION

13 BY MS. BARR:

14 Q: Good morning, Ms. Smith.

15 A: Good morning.

16 Q: Now, we've got a couple of rules of court that I
17 need you to talk about, that I need to explain to
18 you, okay? First, and foremost, I need you to speak
19 up very loudly and clearly so that we can all hear
20 you. You're sort of soft-spoken. It's important
21 that we be able to hear what you're about to say,
22 okay?

23 A: Okay.

24 Q: So if you need to move forward so that your mouth is
25 closer to the microphone, please do that. And when

1 I ask you questions, you have to give us verbal,
2 affirmative responses. You can't nod your head or
3 say Uh-uh, or Uh-huh, because the court reporter
4 has to take down everything that you say, okay?

5 A: Okay.

6 Q: State your full name for the record?

7 A: Roberta Smith.

8 Q: And Ms. Smith, how old are you?

9 A: Thirty-nine.

10 Q: Okay. And is it fair to say you don't want to be
11 where you're sitting right now?

12 A: Exactly.

13 Q: And how did you know to come to court? Did you
14 receive a subpoena?

15 A: Yes, ma'am.

16 Q: All right. And how was the subpoena for you to come
17 to court served on you?

18 A: Through mail and also an officer of Duplin County.

19 Q: An officer of what?

20 A: From Duplin County.

21 Q: Duplin County?

22 A: Yes.

23 Q: Is that in North Carolina?

24 A: Yes.

25 Q: An officer came by and gave you a subpoena?

Levern McCrea vs. State of South Carolina

424

1 A: Yes.

2 Q: And the subpoena required you to be in court today?

3 A: Yes.

4 Q: Now, after you received the first subpoena served by
5 the officer that required you to come to court and
6 testify, did you also receive a second subpoena
7 requiring you to bring certain things with you?

8 A: Yes.

9 Q: And that subpoena required you to bring any letters
10 that the Defendant, Levern McCrea, had wrote to you
11 during the last year, year and a half?

12 A: Yes.

13 Q: And did you, in fact, bring those documents as
14 ordered by the subpoena?

15 A: Yes.

16 Q: Well get back to that in just a moment. Now, tell
17 us where you live?

18 A: [REDACTED] Cuban(sic) Lane, Mt. Olive.

19 Q: And that address is located in Dublin [sic] County,
20 North Carolina?

21 A: No, ma'am.

22 Q: Which County is that located in?

23 A: Duplin.

24 Q: I'm sorry?

25 A: Duplin.

1 Q: Duplin. I'm sorry. I'm saying Dublin. Duplin
2 County, okay. All right. How long have you lived
3 at that address?

4 A: Three years.

5 Q: Okay. And are you married?

6 A: No, ma'am.

7 Q: Who lives at that address with you?

8 A: Me and my three kids.

9 Q: All right. And how old are you children?

10 A: Thirteen, nine, and two.

11 Q: Okay. Tell us a little bit, if you will, about your
12 employment and educational background?

13 A: Right now, I'm unemployed. I'm a certified nursing
14 assistant one.

15 Q: Certified nursing assistant one?

16 A: Yes.

17 Q: That's kind of like what we commonly hear people say
18 CNA?

19 A: Yes, ma'am. Certified Nursing Assistant.

20 Q: Okay.

21 A: And State certified in phlebotomy.

22 Q: And what is phlebotomy?

23 A: Drawing blood.

24 Q: Now, did you have to take any sort of examinations
25 to get your degrees or to engage in your profession?

Levern McCrea vs. State of South Carolina

426

- 1 A: Yes, ma'am.
- 2 Q: All right. What kind of exams did you have to take?
- 3 A: The state exam.
- 4 Q: Okay. And when did you take your state test?
- 5 A: 2010.
- 6 Q: 2010?
- 7 A: Yes.
- 8 Q: Did you pass?
- 9 A: Yes.
- 10 Q: Okay. All right. Now, what type of study would you
- 11 have to have engaged in to prepare you to be a CNA
- 12 and also to become a phlebotomist?
- 13 A: Can you repeat that?
- 14 Q: Yes, ma'am. What types of subjects would you have
- 15 to have studied in order to prepare you to be a CNA
- 16 and to practice in phlebotomy?
- 17 A: The human body.
- 18 Q: All right. And you have been in school for how
- 19 long? Total, after high school, presumably?
- 20 A: A total, about three years.
- 21 Q: When did you become a CNA one, first?
- 22 A: 2003.
- 23 Q: When did you become a CNA second?
- 24 A: 2005.
- 25 Q: And when did you get your -- or were able to

1 practice phlebotomy?

2 A: 2009/2010.

3 Q: 2009, 2010. Now, you said phlebotomy concerns
4 drawing blood?

5 A: Yes, ma'am.

6 Q: All right. And did you all actually have to do
7 clinical practices with a live person to draw blood
8 as a part of your training and your studies?

9 A: Yes, ma'am.

10 Q: And when you were trained to draw blood from an
11 individual, did you have to take certain precautions
12 when you draw blood?

13 A: Yes, ma'am.

14 Q: What precautions do you have to take?

15 A: We have to wear gloves.

16 Q: Okay. And are they the kind of gloves that we see
17 people in the hospital arena wearing?

18 A: Yes.

19 Q: The plastic gloves?

20 A: Yes.

21 Q: What color would they have been?

22 A: Blue and other colors, but most of the time it's
23 blue.

24 Q: Now, of course, we all know that there's different
25 shades of blue. We have sky blue. We have

Levern McCrea vs. State of South Carolina

428

1 something as dark as this blue. What color in terms
2 of the shade of blue would your plastic gloves be?

3 A: Mostly sky blue.

4 Q: In addition to your studies in preparing to become a
5 phlebotomist, did you have the plastic gloves inside
6 your residence?

7 A: Yes, ma'am.

8 Q: Where would you keep your plastic gloves?

9 A: Underneath my bathroom sink.

10 Q: I'm sorry?

11 A: Underneath my bathroom sink.

12 Q: All right. And that's the residence that's located
13 in Mt. Olive, North Carolina?

14 A: Yes, ma'am.

15 Q: How many bathrooms do you have inside that
16 residence?

17 A: Two.

18 Q: And do you have like a master bath and then a guest
19 bath?

20 A: Yes.

21 Q: Now, the master bath, how was it situated within
22 your home?

23 A: It was connected to my bedroom.

24 Q: Okay. All right. So as a guest in your home -- if
25 I were to come to your home as a guest, would I most

1 likely use your master bathroom or would I use the
2 other guest bathroom?

3 A: The guest bathroom.

4 Q: Now, when you're doing your studies and your
5 training to become a phlebotomist, do you wear any
6 certain type clothing?

7 A: Yes.

8 Q: Tell us about the clothing?

9 A: We have to wear scrubs.

10 Q: Okay. And that's, again, kind of like we see the
11 doctors wear and the nurses wear?

12 A: Yes, ma'am.

13 Q: All right. Do your scrubs contain any pockets like
14 my jacket here?

15 A: Yes.

16 Q: Okay. And what would you keep within those pockets,
17 if anything?

18 A: Our gloves and needles.

19 Q: Okay. And those are the plastic gloves that you
20 described earlier?

21 A: Yes.

22 Q: Okay. Now, when you would keep the gloves inside
23 your home, what purpose would you use your gloves
24 inside your home?

25 A: Cleaning.

1 Q: Cleaning?

2 A: Yes.

3 Q: I understand. Now, in terms of having the gloves
4 inside your pocket as a part of your studies, would
5 you also or would it have been unusual for you to
6 have them also within your vehicle?

7 A: Yes.

8 Q: It would be unusual?

9 A: No, ma'am.

10 Q: You would have them inside your vehicle?

11 A: Yes, ma'am. Most of the time I'd have them in my
12 vehicle. I would take them out of my pocket and set
13 them in between the seats.

14 MR. MCCREA: Your Honor, objection to this line of
15 questioning because there wasn't any gloves ---

16 THE COURT: Sir, what is your objection? Please
17 stand.

18 MR. MCCREA: To this line of questioning about
19 gloves being ...

20 THE COURT: Overruled. You'll have an opportunity
21 to cross-examine.

22 Q: I'm sorry. You may continue your answer.

23 A: Sometimes they fell out of my pockets, sometimes
24 just take them out and lay them between the seats.

25 Q: All right. Now, I'm going to hand you what's been

1 admitted as State's 122, 123, 124, and 125, and ask
2 you if you recognize what's depicted in those
3 photographs?

4 A: Those are pictures of my vehicle and my home.

5 Q: Okay. Describe your vehicle to us. What year,
6 make, model, color.

7 A: It's two-door white Chevy Blazer.

8 Q: How long have you had that vehicle?

9 A: About six or seven years now.

10 Q: Okay. It's registered in your name?

11 A: Yes.

12 MS. BARR: Your Honor, permission to publish State's
13 125.

14 THE COURT: Yes, ma'am.

15 Q: 122 now is your vehicle?

16 A: Yes.

17 Q: And this is your home in the back?

18 A: Yes.

19 Q: And, again, that's the home in North Carolina?

20 A: Yes.

21 Q: Now, you know the Defendant, Levern McCrea?

22 A: Yes.

23 Q: And what do you call him?

24 A: Lee.

25 Q: How long have you known him?

- 1 A: Almost three years.
- 2 Q: And what is or was your relationship with him?
- 3 A: We share a child together.
- 4 Q: Now, you mentioned you have three children. And so
- 5 you said you've known him for three years. I'm
- 6 assuming that's the two-year-old?
- 7 A: Yes, ma'am.
- 8 Q: All right. And what is -- the two-year-old's a boy?
- 9 A: Yes.
- 10 Q: What's his name?
- 11 A: [REDACTED] [REDACTED]
- 12 Q: You named him after [REDACTED]
- 13 A: Yes.
- 14 Q: What year was your son born?
- 15 A: 2002.
- 16 Q: 2002.
- 17 A: I'm sorry. My daughter's birthdate, I get this
- 18 mixed up, it's the same month.
- 19 Q: Okay.
- 20 A: He was born in 2008.
- 21 Q: Okay. What month?
- 22 A: October.
- 23 Q: Okay. All right. So, I mean, obviously we know
- 24 that you and the Defendant had, at one point, a
- 25 sexual relationship. Did you all ever get married

1 to each other?

2 A: No, ma'am.

3 Q: Did you all ever live together?

4 A: No, ma'am.

5 Q: How would you describe the status of your
6 relationship with Mr. McCrea between the time your
7 son was born up through, say, March, April 2009,
8 within that six-month period after your son was
9 born. How would you describe your relationship with
10 him?

11 A: Just trying to be parents to our child.

12 Q. Ma'am?

13 A. Just trying to be parents to our child.

14 Q: Now, how did you feel about the Defendant -- I'm
15 talking about before all of this stuff came out,
16 about the Defendant being involved in your son's
17 life?

18 A: How did I feel about?

19 Q: About the Defendant being involved in your son's
20 life before all of this came out?

21 A: (Witness pauses).

22 Q: What did you -- did you want it -- did you try to
23 encourage that relationship or were you against it
24 or how did you feel about it?

25 A: I just wanted him to be a part of the child's life

1 pretty much.

2 Q: Did the two of you ever have any discussions about
3 raising your son together?

4 A: We did.

5 Q: Was that something you wanted?

6 A: I wasn't sure at the time.

7 Q: Now, your son was born in October of 2008. Was the
8 Defendant -- let me ask you this. After your son's
9 birth in 2008, October 2008, when was the first time
10 you would have saw Mr. McCrea, the Defendant, again?

11 A: I saw him in February.

12 Q: Of what year?

13 A: '09.

14 Q: February of '09. All right. So he was not present
15 at the birth?

16 A: No, ma'am.

17 Q: When you saw him in February of 2008, how was it
18 that you saw him? Did you all meet in South
19 Carolina or did he come into North Carolina.

20 A: He came to North Carolina.

21 Q: All right. Now, after your son was born, where was
22 Mr. McCrea living at that time?

23 A: South Carolina.

24 Q: Do you know what part of South Carolina?

25 A: No, ma'am.

1 Q: Okay. Do you know whether he was working any place
2 around the time that your son was born or within the
3 four or five months period, after your son was born?

4 A: Yes, ma'am. I believe he was working at a motel.

5 Q: At a motel?

6 A: Yes.

7 Q: Where?

8 A: I'm not sure.

9 Q: Would it have been in North Carolina or South
10 Carolina?

11 A: South Carolina.

12 Q: All right. Do you have any brothers or sisters?

13 A: Yes.

14 Q: How many brothers and sisters do you have and how
15 old are they?

16 A: I have six brothers and three sisters.

17 Q: Six brothers and three sisters?

18 A: Yes.

19 Q: So there's ten-head of y'all as my grandmother would
20 say?

21 A: Yes.

22 Q: All right. And how old are your brothers?

23 A: 48, 47, 41, 27, 56 and another 48.

24 Q: Now, when the Defendant came to see you in February
25 of 2009 and came to see you and came to see the

Levern McCrea vs. State of South Carolina

436

1 baby, do you recall what type of vehicle he was
2 driving?

3 A: Mercedes Benz.

4 Q: A Mercedes Benz?

5 A: Yes.

6 Q: Do you know what color it was?

7 A: A silver gray color.

8 Q: All right. How long did he stay during that visit?

9 A: About three days.

10 Q: About three days?

11 A: I do believe, yes.

12 Q: Did he stay in a motel in North Carolina or did he
13 stay in the home with you and the child?

14 A: He stayed with me.

15 Q: All right. When was the next time that you saw him
16 after that visit in February of 2009?

17 A: In March.

18 Q: March 2009?

19 A: Yes.

20 Q: Okay. All right. So the following month?

21 A: Yes.

22 Q: All right. And when he came in March of 2009 --
23 well, when you saw him in March of 2009, did he come
24 and see you in North Carolina?

25 A: Yes.

1 Q: Were you expecting him to come?

2 A: Yes.

3 Q: Okay. And in terms of the time frame that we're
4 talking about, was this the beginning of the month,
5 around the middle of March 2009, the end of March
6 2009? Tell us about that time frame, if you will?

7 A: It was about the second week of March.

8 Q: Can you see this where you are?

9 A: Yes.

10 Q: All right. Do you recall that when he came the
11 second week in March whether it was during the
12 weekday or during the weekend day?

13 A: It was a weekday.

14 Q: Weekday. All right. So the second week in March of
15 2009 would begin on the 9th, which is that Monday if
16 we assume the week starts off on a Monday, through
17 the 13th, that Friday. Would you agree with me?

18 A: Yes.

19 Q: Now, when he came, did he call you in advance to let
20 you know he was coming?

21 A: Yeah.

22 Q: Okay. And for what reason did he tell you he was
23 coming?

24 A: To visit the baby.

25 Q: Sir? I mean, I'm sorry. Ma'am?

Levern McCrea vs. State of South Carolina

438

- 1 A: To visit his child.
- 2 Q: Okay. And that's your son?
- 3 A: Yes.
- 4 Q: Did he make any requests of you before he came? Did
- 5 he ask you for anything?
- 6 A: Yes.
- 7 Q: Okay. What did he ask you for?
- 8 A: Like a hundred dollars, hundred and fifty dollars to
- 9 make a payment.
- 10 Q: He asked you for a hundred and fifty dollars to make
- 11 a payment?
- 12 A: Yes.
- 13 Q: What kind of payment?
- 14 A: For his car.
- 15 Q: For his car?
- 16 A: Yes.
- 17 Q: Did you give him a hundred and fifty dollars?
- 18 A: I sent him a hundred.
- 19 Q: How did you send that hundred dollars to him?
- 20 A: Western Union.
- 21 Q: All right. What time approximately, and I'm not
- 22 going to hold you to it, but approximately what time
- 23 did he arrive in North Carolina?
- 24 A: Between the eleven and twelve o'clock hour.
- 25 Q: Between eleven, a.m., like in the daytime?

- 1 A: Yes.
- 2 Q: And twelve noon?
- 3 A: Yes.
- 4 Q: How did the two of you meet?
- 5 A: At a gas station.
- 6 Q: Okay. Why at the gas station?
- 7 A: He wasn't sure how to get to my home.
- 8 Q: Okay. And when you met him at the gas station, who
- 9 was with you?
- 10 A: No one.
- 11 Q: Okay. What were you driving?
- 12 A: My Chevy Blazer.
- 13 Q: When you met him at the gas station, did he have
- 14 anybody with him?
- 15 A: Yes.
- 16 Q: Did that surprise you?
- 17 A: Yes.
- 18 Q: Why did it surprise you?
- 19 A: I thought he was coming alone.
- 20 Q: How many people did he have in the car with him?
- 21 A: Just one.
- 22 Q: And who was the individual he had in the car with
- 23 him?
- 24 A: At that time, I know him as Quan.
- 25 Q: At that time you knew him as Quan?

Levern McCrea vs. State of South Carolina

440

1 A: Yes.

2 Q: All right. And who was Quan to Levern McCrea? Who
3 did he tell you that was?

4 A: I was told they were cousins.

5 Q: They were cousins?

6 A: Okay.

7 Q: Now, when we say "Quan," of course, you've been in
8 the courtroom. Did you see the person inside this
9 courtroom who came to North Carolina with Mr. McCrea
10 during the second week in March?

11 A: Yes.

12 Q: Was that a young man named Christopher Briggs?

13 A: Yes.

14 Q: All right. When you said he came in the second week
15 in March. Do you know what day of the week it was?

16 A: To my knowledge it was either a Tuesday or a
17 Wednesday?

18 Q: On a Tuesday or a Wednesday?

19 A: Yes.

20 Q: Now, that Tuesday, March the 10th, do you recall
21 ever going to a store and making any purchases? If
22 you do, fine. If you don't, fine?

23 A: I may have, but I don't remember.

24 Q: All right. So when you met the Defendant, Mr.
25 Briggs -- and for purposes to make it easier for

1 you, we'll just refer to him as Quan. Quan was with
2 him?

3 A: Yes.

4 Q: And they were in Mr. Briggs' silver Mercedes?

5 A: You mean Mr. McCrea's.

6 Q: I'm sorry. Mr. McCrea's silver Mercedes?

7 A: Right.

8 Q: Who was driving?

9 A: Levern was.

10 Q: Tell me what happened after you met at the
11 convenience store?

12 A: That I can remember, I took them straight to the
13 house.

14 Q: Okay. All right. What happened after they got to
15 the house?

16 A: We just talked.

17 Q: And then what happened?

18 A: I think I fixed them something to eat and I went to
19 go get my children.

20 Q: Now, your children at the time were either in
21 daycare or in school?

22 A: At the daycare. They went to school earlier that
23 day.

24 Q: Now, when you went to pick the children up from
25 daycare, did you then return back home with the

1 children?

2 A: Yes.

3 Q: What time would you have gotten back home?

4 A: About 5:30.

5 Q: Okay. All right. When you went to pick your
6 children up and you came back, were you driving your
7 Blazer vehicle?

8 A: I don't think so.

9 Q: If you weren't driving your Blazer vehicle, whose
10 vehicle would you have been driving?

11 A: I think at the time is when we swapped vehicles.

12 Q: And you say "we swapped vehicles," tell me who you
13 mean when you say "we?"

14 A: I let Mr. Levern borrow my Blazer.

15 Q: Okay. And you were driving his vehicle?

16 A: Yes.

17 Q: Now, when you -- at any point in time that day,
18 whether it was a Tuesday or Wednesday when he came
19 up, did -- when I say "he," I mean the Defendant and
20 Quan. When they came to your home in North
21 Carolina, at any point in that day did they leave?

22 A: Yes.

23 Q: Now, before this day, had you ever met this Quan
24 fellow?

25 A: No.

1 Q: Had he ever been to your house?

2 A: No, ma'am.

3 Q: All right. What were the circumstances under which
4 Quan and Mr. McCrea left North Carolina with your
5 vehicle? What reason was given to you?

6 A: That they needed to pull a car.

7 Q: I'm sorry?

8 A: They needed to pull a car.

9 Q: Okay. And why did they want your vehicle supposedly
10 for that?

11 A: My truck have a piece on the back that you can hook
12 a dolly up to.

13 Q: Did you have any concerns about letting either one
14 of them use your vehicle?

15 A: I didn't have any problems with Levern using the
16 vehicle.

17 Q: What about with Quan?

18 A: I didn't want him driving it.

19 Q: Ma'am?

20 A: I didn't want him driving it.

21 Q: Is that the first time you met him? You didn't know
22 anything about him?

23 A: Yes, ma'am.

24 Q: All right. Who did you give the keys to your
25 vehicle to?