

VOLUME I of II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Georgetown County

Honorable Paul M. Burch, Circuit Court Judge

DOMINIC A. LEGGETTE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2018-001793

APPENDIX

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S.C. SUPREME COURT

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF GEORGETOWN) 08-GS-22-944, 945

State of South Carolina,	)	
	)	
Plaintiff,	)	Transcript of Record
	)	
vs.	)	Hearing
	)	
Dominic Alexander Leggette,	)	March 29 through
	)	April 1, 2010
Defendant.	)	

B E F O R E :

Honorable Benjamin H. Culbertson
Georgetown County Courthouse
Georgetown, South Carolina

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

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Ronald Hazzard, Esquire
Attorney for Defendant

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Circuit Court Reporter

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Georgetown County Circuit Court RANDOM STRIKE SHEET

JUDGE NAME : Culbertson, Benjamin H

TRIAL TYPE : Criminal

PANEL ID : 08GS2200944&45

COURTROOM CTR

DESCRIPTION : STATE vs DOMINIC A LEGGETTE

Sorted by: Random Nbr

Trial

NAME	JUROR NBR	RACE	SEX	STATE	DEF	CR	REMARKS
• 1 Smith, Wanda J	122	B	F	(✓)	(✓)	()	
2 Jones, Sharon M	71	W	F	(✓)	(X)	()	
• 3 Roberts, Francis W	111	W	M	(✓)	(✓)	()	
4 Plummer, Graham J	99	W	M	(X)	()	()	
5 Alston, Donovan A	1	B	M	(X)	()	()	
6 Elmore, Patricia A	38	B	F	(X)	()	()	
• 7 Fowler, Jimmy D	43	W	M	(✓)	(✓)	()	
8 Linnen, Ronald	82	B	M	(X)	()	()	
9 Bird, Christopher P	6	W	M	(✓)	(X)	()	
• 10 Nooft, Victoria E	95	W	F	(✓)	(✓)	()	
• 11 Scott, Carol J	119	W	F	(✓)	(✓)	()	alt. 1 person
• 12 Reed, Linda	106	B	F	(✓)	(✓)	()	
13 Feagin, Kimberly N	42	W	F	(X)	()	()	
• 14 Washington, Linda G	141	B	F	(✓)	(✓)	()	
• 15 Alston, Samuel SR	2	B	M	(✓)	(✓)	()	
16 Culbertson, Richard M JR	28	W	M	(✓)	(X)	()	
• 17 Grover, Joyce R	55	W	F	(✓)	(✓)	()	
18 Byrd, Patricia M	17	W	F	(✓)	(X)	()	
• 19 Thomas, Gerald K	132	B	M	(✓)	(✓)	()	
• 20 Coleman, Jasper D	23	B	M	(✓) ^{ac 2044}	(✓)	()	
• 21 Sullivan, Barbara J	126	W	F	(✓)	(✓)	()	
22 Grimes, Cheryl R	54	W	F	(✓)	(✓)	()	alt. 1
23 Byrne, Alex D	18	W	M	(✓)	(✓)	()	alt. 2
24 Eubanks, Joyce A	40	W	F	()	()	()	

Voir Dire

1

1 (On the record, March 29, 2010.)

2 THE COURT: Let me see the attorneys for just one
3 brief second.

4 (Whereupon, a bench conference was held.)

5 THE COURT: All right, Mr. Solicitor.

6 MR. HIXSON: Thank you, Your Honor, may it please the
7 Court?

8 THE COURT: Yes, sir.

9 MR. HIXSON: Your Honor, at this time the State of
10 South Carolina will call the matter of the State versus
11 Dominic Leggette. It's a trial, Your Honor, and specifically
12 I'm referring to two indictments the State would present to
13 the Court, 2008-GS-22-944, that is the State of South Carolina
14 versus Dominic Alexander Leggette. He's been charged with
15 murder in that indictment, Your Honor, and that case has been
16 true-billed by our Grand Jury.

17 Also, 2008-GS-22-945, that is the State of South Carolina
18 versus Dominic Alexander Leggette. That's an indictment for
19 assault and battery with intent to kill, and also, Your Honor,
20 that item has been true-billed.

21 THE COURT: All right, sir.

22 Thank you, sir.

23 All right, ladies and gentlemen of the jury panel, we are
24 getting ready to start the trial of the case of the State of
25 South Carolina versus Dominic Alexander, is it Leggette?

1 MR. HAZZARD: Yes, sir.

2 THE COURT: Leggette. Mr. Leggette has been charged
3 and indicted by the Grand Jury on the crime of murder, the
4 allegations being that on or about August 13th, 2008, that he
5 committed murder by killing Antonio Tisdale with malice
6 aforethought, that occurring in Georgetown County.

7 Also, on that same date he is alleged to have committed
8 the crime of assault and battery with intent to kill upon the
9 alleged victim, Al Ingram.

10 Now, is there any member - now, previously we have gone
11 through jury qualifications to determine whether or not you
12 were qualified to serve as jurors this week of General
13 Sessions Court. What I'll now go over with you is voir dire
14 questioning. Now, the purpose of this questioning is to
15 determine whether or not you're qualified to serve as jurors
16 on this particular case and it also gives the attorneys some
17 additional information that assists them in the selection
18 process. As I told you during the qualification process
19 you're constantly taking oaths; and so, I'll need everyone in
20 the jury panel to please stand and raise your right hand while
21 the clerk administers the oath for these voir dire
22 questioning.

23 (Whereupon, jury panel sworn by clerk.)

24 THE COURT: All right, thank you very much. Is there
25 any member of the jury panel who did not respond to the

Voir Dire

3

1 Clerk's oath by saying I do, if so, please stand.

2 (No response.)

3 THE COURT: All right, as I told you earlier the
4 Defendant in this case is Dominic Alexander Leggette. The
5 alleged victims are Antonio Tisdale and Al Ingram. Now, is
6 there any member of the jury panel related by blood or
7 marriage to either the Defendant or either of the alleged
8 victims?

9 (No response.)

10 THE COURT: Is there any member of the jury panel have
11 any business relationship, social relationship, personal
12 relationship or any other type of relationship with the
13 Defendant or either of these alleged victims, if so, please
14 stand.

15 Yes, sir, your name and jury number?

16 MR. EARLY: Kenneth Early, 37.

17 THE COURT: All right, Mr. Early, who is it that you
18 know or are related to?

19 MR. EARLY: Victoria Leggette, his mother and I run a
20 small car lot in Andrews.

21 THE COURT: All right.

22 MR. EARLY: And would rather not be on this case.

23 THE COURT: Okay, and I understand your reluctance to
24 be on this case; however, what I need to find out is whether
25 or not you're qualified to be on this case and whether or not

1 it's going to be up to the parties to strike you because of
2 whatever reason or whether or not you are unable to give or
3 preside as a fair juror. Now, you say you know the
4 Defendant's mother?

5 MR. EARLY: She was a good customer of mine.

6 THE COURT: All right, would that relationship
7 prohibit you from giving both the State and the Defendant in
8 this case a fair and impartial trial?

9 MR. EARLY: I'd rather not be on this case.

10 THE COURT: Okay, I understand your reluctance, but
11 would that relationship - would you be able to set that
12 relationship aside or would it influence your decision in this
13 case?

14 MR. EARLY: I don't think that I could set that aside,
15 no.

16 THE COURT: Okay, all right, Mr. Early, thank you for
17 that. I'll excuse you from this case.

18 All right, ma'am, your name and number?

19 MS. MILLER: 87, Cecelia Miller, I am known with the
20 Mitchum family.

21 THE COURT: I'm sorry, say that again.

22 MS. MILLER: I know the Mitchum family, we all live in
23 the same neighborhood.

24 THE COURT: All right, now, the Mitchell [sic] family
25 is?

Voir Dire

5

1 MR. HIXSON: Your Honor, the Mitchum family is Mr.
2 Tisdale's family, the deceased.

3 THE COURT: Okay, all right, now, when you say you
4 know the Mitchum family how do you know them?

5 MS. MILLER: We grew up in the same neighborhood.

6 THE COURT: All right, would that relationship effect
7 your ability to give both the State and the Defendant a fair
8 and impartial trial?

9 MS. MILLER: No, sir, it will not.

10 THE COURT: Okay, what number are you, what juror
11 number?

12 MS. MILLER: 87.

13 THE COURT: 87. All right, Ms. Miller, how often do
14 you see members of the Mitchum family?

15 MS. MILLER: Daily.

16 THE COURT: Excuse me?

17 MS. MILLER: Daily.

18 THE COURT: Dailey?

19 MS. MILLER: Uh-huh.

20 THE COURT: Do you talk to them daily?

21 MS. MILLER: No, sir.

22 THE COURT: Okay, when you say you see them daily how
23 do you see them?

24 MS. MILLER: Basically passing.

25 THE COURT: Okay.

1 MS. MILLER: Or run into each other in the store or
2 somewhere.

3 THE COURT: Okay, you all live in the same
4 neighborhood?

5 MS. MILLER: Yes, sir.

6 THE COURT: Okay, now, which members of the Mitchum
7 family is it that you know?

8 MS. MILLER: The parents of the deceased.

9 THE COURT: Okay, and how well do you know them?

10 MS. MILLER: Well.

11 THE COURT: Extremely well?

12 MS. MILLER: Well to a point, yes, sir.

13 THE COURT: Okay, do you go to the same church or
14 anything?

15 MS. MILLER: No, sir.

16 THE COURT: Okay, do you have any business
17 relationship?

18 MS. MILLER: No, sir.

19 THE COURT: Do you see each other socially?

20 MS. MILLER: No, sir.

21 THE COURT: Okay, do you ever socialize, go over to
22 their house or do they ever come to your house?

23 MS. MILLER: No, sir.

24 THE COURT: Have you ever discussed this case with any
25 of them?

Voir Dire

7

1 MS. MILLER: No, sir.

2 THE COURT: Would you be able to disregard those
3 relationships in their entirety and if you were selected as a
4 juror in this case base your decision exclusively on the
5 testimony and evidence presented in this case?

6 MS. MILLER: Yes, sir.

7 THE COURT: Okay, do you have any problem presuming
8 the Defendant to be innocent of all of these charges?

9 MS. MILLER: No, I do not.

10 THE COURT: All right, all right, Ms. Miller, thank
11 you very much.

12 Is there anybody else related by blood or marriage, have
13 a business relationship, social relationship, personal
14 relationship or any other type of relationship with either the
15 Defendant or any of the alleged victims; if so, please stand.

16 (No response.)

17 THE COURT: All right, I need you to listen up
18 carefully. Here are or is a list of potential witnesses who
19 may testify in this case: Investigator Eddie Lee of the
20 Andrews Police Department; Al Ingram; Jamar Mitchum; Dr.
21 Schandl, Schandl, how do you pronounce it?

22 MR. HIXSON: Schandl, Cynthia Schandl.

23 THE COURT: Schandl, S-C-H-A-N-D-A-L [sic] of the
24 Medical University of South Carolina; Investigator Michael
25 Thacker of the Georgetown County Sheriff's Office; Chief

1 Harvey Knox of the Andrews Police Department; Verney Cumbee of
2 the Andrews Police Department; Craig Jackson; Ron Gardner;
3 Investigator Steve Brown.

4 Is there any member of the jury panel related by blood or
5 marriage, have any close personal relationship, social
6 relationship, business relationship or any type of
7 relationship with any of these potential witnesses; if so,
8 please stand.

9 Yes, sir, your name and number for the record?

10 MR. CULBERTSON: It's Richard Culbertson, Juror Number
11 28.

12 THE COURT: All right, Mr. Culbertson, how - who is it
13 that you know and how do you know them?

14 MR. CULBERTSON: In the capacity where I work we
15 occasionally will work with Investigator Lee and also
16 Investigator Thacker we occasionally work with. I also attend
17 a few meetings occasionally with Chief Knox.

18 THE COURT: All right, would those relationships
19 effect your ability to give both the State and the Defendant
20 in this case a fair and impartial trial?

21 MR. CULBERTSON: No, sir, it would not.

22 THE COURT: Would you be able to disregard those
23 relationships in their entirety and base your decision in this
24 case exclusively on the testimony and evidence presented in
25 the trial of this case?

Voir Dire

9

1 MR. CULBERTSON: Yes, sir.

2 THE COURT: All right, thank you for bringing that to
3 our attention.

4 Anyone else know any of these potential witnesses?

5 (No response.)

6 THE COURT: All right, the attorney for the State in
7 this case is Attorney Scott Hixson of the 15th Circuit
8 Solicitor's Office. The attorney for the Defendant in this
9 case is Attorney Ron Hazzard of the Office of Indigent
10 Defense.

11 Is there any member of the jury panel related by blood or
12 marriage, have a business relationship, social relationship,
13 personal relationship or any other type of relationship with
14 any of these attorneys; if so, please stand.

15 (No response.)

16 THE COURT: Is there any member of the jury panel who
17 either personally or has a family member employed with the
18 Office of the 15th Circuit Solicitor's Office or the Office of
19 Indigent Defense for the 15th ---

20 MR. HAZZARD: Technically, Your Honor, it would be the
21 Public Defender's Office for the 15th Judicial Circuit.

22 THE COURT: All right.

23 MR. HAZZARD: Comprised of Horry and Georgetown
24 Counties.

25 THE COURT: All right, any member of the jury panel

1 either personally or have a family member employed by the
2 Public Defender's Office for the 15th Circuit Solicitor's -
3 15th Circuit comprised of Horry and Georgetown Counties; if so,
4 please stand?

5 (No response.)

6 THE COURT: Is there any member of the jury panel ever
7 been represented by either of these attorneys; if so, please
8 stand.

9 (No response.)

10 THE COURT: Is there any member of the jury panel who
11 has ever been involved in any legal action in which either of
12 these attorneys represented another party to that action; if
13 so, please stand.

14 (No response.)

15 THE COURT: Has any member of the jury panel formed or
16 expressed an opinion about any issue or matter involved in
17 this case; if so, please stand.

18 (No response.)

19 THE COURT: Is there any member of the jury panel
20 aware of any bias or prejudice towards either the State or the
21 Defendant in this case; if so, please stand.

22 (No response.)

23 THE COURT: Is there any member of the jury panel that
24 was a member of the Grand Jury that issued the indictment in
25 this case; if so, please stand.

Voir Dire

11

1 (No response.)

2 THE COURT: Is there any member of the jury panel who
3 is a member of or a contributor to any organization which has
4 as its primary concern the promotion of law enforcement or
5 victims' rights? These groups include, but are not limited to
6 Mothers Against Drunk Driving, commonly referred to as MADD;
7 Students Against Drunk Drivers, which is common referred to as
8 SADD; Citizens Against Violent Crime or commonly referred to
9 as CAVC; or Citizens Against Spousal Abuse, also known as
10 CASA. Is anybody a member of or a contributor to any of these
11 organizations or any similar type organizations? If so,
12 please stand.

13 Is there - yes, sir, your name and number?

14 MR. ANDERSON: William Anderson, Juror Number 3.

15 THE COURT: All right, Mr. Anderson, what organization
16 are you a member of or contributor to?

17 MR. ANDERSON: First off, I'm a board member at Fireside
18 Ministries. We strongly contribute to CASA. We have
19 Christmas parties, I mean, baby-sit their children for
20 different parties and so on.

21 THE COURT: What organization is that?

22 MR. ANDERSON: CASA.

23 THE COURT: No, the one that you're a member of.

24 MR. ANDERSON: Fireside Ministries.

25 THE COURT: Okay.

1 MR. ANDERSON: I'm a board member there.

2 THE COURT: All right, sir.

3 MR. ANDERSON: And my wife works for her dad, she
4 publishes. Her dad is the director of Teen Challenge which is
5 a faith-based drug and alcohol abuse program here in South
6 Carolina.

7 THE COURT: All right, would your associations with
8 those organizations prohibit you in any way from giving both
9 the State and the Defendant in this case a fair and impartial
10 trial?

11 MR. ANDERSON: No, sir.

12 THE COURT: Would you be able to disregard that
13 association in its entirety and base your decision in this
14 case exclusively on the testimony and evidence presented in
15 the trial of this case?

16 MR. ANDERSON: Yes, sir.

17 THE COURT: All right, thank you very much for
18 bringing that to our attention, Mr. Anderson.

19 Anybody else a contributor to or member of any type of
20 organization that has as its primary purpose the promotion of
21 law enforcement or victims' rights; if so, please stand.

22 (No response.)

23 THE COURT: Is there any member of the jury panel who
24 has a religious or moral opposition to the consumption of
25 alcohol; if so, please stand?

Voir Dire

13

1 (No response.)

2 THE COURT: Is there any member of the jury panel know
3 of any reason whatsoever why he or she should not serve as a
4 juror in this case with particular emphasis being placed on
5 your ability to be fair and impartial to both the State and
6 the Defendant in this case; if so, please stand.

7 (No response.)

8 THE COURT: As I said earlier these charges arose out
9 of an alleged incident that occurred on or about August the
10 13th, 2008. Where did this occur?

11 MR. HIXSON: In the Andrews Section of Georgetown
12 County, Your Honor.

13 THE COURT: All right, in the Andrews Section of
14 Georgetown County.

15 Is there any member of the jury panel who has read
16 anything, heard anything, discussed anything or knows anything
17 about this case; if so, please stand.

18 All right, ma'am, I apologize, but for the record we have
19 to create a record. Your name and number again?

20 MS. MILLER: Juror 87, Cecelia Miller.

21 THE COURT: All right, Ms. Miller, don't tell me what
22 you heard, read, discussed or anything but is this something
23 that you have discussed with someone, someone has discussed
24 with you or something you have read or heard?

25 MS. MILLER: All the above.

1 THE COURT: All of the above?

2 MS. MILLER: Right.

3 THE COURT: All right, all right, Ms. Miller, I'm
4 going to go ahead and excuse you from presiding over this,
5 serving as a juror in this case. Thank you though.

6 Anybody else know anything, heard anything, discussed
7 anything or read anything about this case; if so, please
8 stand.

9 (No response.)

10 THE COURT: Any additional questions from the State?

11 MR. HIXSON: Nothing from the State, Your Honor.

12 THE COURT: Any from the Defense?

13 MR. HAZZARD: Nothing on behalf of the Defense, Your
14 Honor.

15 THE COURT: All right, thank you very much.

16 All right, ladies and gentlemen, how we proceed now in
17 this age of automation, your names are fed into a computer and
18 they are printed out on a list at random. Your names will be
19 called one at a time from that list and if you have not been
20 excused in this case when your name is called we'll ask that
21 you come forward and stand here in front of the attorneys,
22 turn and face the attorneys. Now, in this case the State gets
23 a certain number of strikes and the Defense gets a certain
24 number of strikes and we follow that procedure until we select
25 12 jurors and two alternates, we'll select 12 jurors and two

Voir Dire

15

1 alternates in this case. So, when your name is called, if
2 your name is called, if you would please come forward, stand
3 in front of the bench here, face the attorneys and wait for
4 further instructions. If you have any coats, pocketbooks,
5 umbrellas or anything like that please bring it with you when
6 you come forward.

7 Now, if you are excused as a juror, struck as a potential
8 juror in this case, whether it be from the Defense or from the
9 State, please don't take it personally. It just means that
10 for whatever reason the attorney in this particular case does
11 not feel that you fit what they're looking for as a juror in
12 this particular case. Oftentimes I've seen an attorney strike
13 a juror in one case and then another trial that week accept
14 the same juror. By the same token I've seen an attorney take
15 a juror and then strike him in the next case. So, there's no
16 rhyme or reason as to why an attorney will strike a particular
17 juror or a potential juror in a particular case. So, please
18 don't take it personally. So, if - have we got that list?

19 Thank you, ma'am.

20 All right, ladies and gentlemen, please listen up. When
21 your name is called if you would please come forward, bring
22 with you anything that you have, stand in front and face the
23 attorneys.

24 THE CLERK: Juror Number 122, Wanda Smith.

25 THE COURT: That's fine right there. Thank you.

Jury Selection

16

1 THE CLERK: What says the State?
2 MR. HIXSON: Please present Ms. Smith.
3 THE CLERK: What says the Defense?
4 MR. HAZZARD: Please swear Ms. Smith.
5 THE CLERK: Please take a seat in the jury box.
6 Juror Number 71, Sharon Jones.
7 What says the State?
8 MR. HIXSON: Please present Ms. Jones.
9 THE CLERK: What says the Defense?
10 MR. HAZZARD: Please excuse Ms. Jones from the trial of
11 this particular case.
12 THE CLERK: You may return to your seat.
13 Juror Number 111, Francis Roberts.
14 What says the State?
15 MR. HIXSON: Please present Mr. Roberts.
16 THE CLERK: What says the Defense?
17 MR. HAZZARD: Please swear Mr. Roberts.
18 THE CLERK: Please take a seat in the jury box.
19 Juror Number 99, Graham Plummer.
20 What says the State?
21 MR. HIXSON: Please excuse Mr. Plummer.
22 THE CLERK: You may return to your seat.
23 Juror Number 1, Donovan Alston.
24 What says the State?
25 MR. HIXSON: Please excuse Mr. Alston.

Jury Selection

17

1 THE CLERK: You may return to your seat.
2 Juror Number 38, Patricia Elmore.
3 What says the State?
4 MR. HIXSON: Madam Clerk, is this Juror Number 38? Is
5 that correct?
6 THE CLERK: Yes.
7 MR. HIXSON: Please excuse Ms. Elmore.
8 THE CLERK: You may return to your seat.
9 Juror Number 43, Jimmy Fowler.
10 What says the State?
11 MR. HIXSON: Please present Mr. Fowler.
12 THE CLERK: What says the Defense?
13 MR. HAZZARD: Please swear Mr. Fowler.
14 THE CLERK: Please take a seat in the jury box.
15 Juror Number 82, Ronald Linnen.
16 What says the State?
17 MR. HIXSON: Beg the Court's indulgence, ma'am.
18 THE COURT: All right.
19 MR. HIXSON: Please excuse Mr. Linnen.
20 THE CLERK: You may return to your seat.
21 Juror Number 6, Christopher Bird.
22 What says the State?
23 MR. HIXSON: Please present Mr. Bird.
24 THE CLERK: What says the Defense?
25 MR. HAZZARD: Please excuse Mr. Bird from the trial of

Jury Selection

18

1 this particular case.

2 THE CLERK: You may return to your seat.

3 Juror Number 95, Victoria Nooft.

4 THE COURT: Excuse me. How do you pronounce your

5 name?

6 MS. NOOFT: Victoria Nooft.

7 THE COURT: Nooft, okay, thank you.

8 THE CLERK: What says the State?

9 MR. HIXSON: Please present Ms. Nooft.

10 THE CLERK: What says the Defense?

11 MR. HAZZARD: Please swear Ms. Nooft.

12 THE CLERK: Please take a seat in the jury box.

13 Juror Number 119, Carol Scott.

14 What says the State?

15 MR. HIXSON: Please present Ms. Scott.

16 THE CLERK: What says the Defense?

17 MR. HAZZARD: Please swear Ms. Scott.

18 THE CLERK: Please take a seat in the jury box.

19 Juror Number 106, Linda Reed.

20 What says the State?

21 MR. HIXSON: Please present Ms. Reed.

22 THE CLERK: What says the Defense?

23 MR. HAZZARD: Please swear Ms. Reed.

24 THE CLERK: Please take a seat in the jury box.

25 Juror Number 42, Kimberly Feagin.

Jury Selection

19

1 What says the State?

2 MR. HIXSON: Please excuse Ms. Feagin.

3 THE CLERK: You may return to your seat.

4 Juror Number 141, Linda Washington.

5 Are there any challenges from the State?

6 MR. HIXSON: Please present Ms. Washington.

7 THE CLERK: What says the Defense?

8 MR. HAZZARD: Please swear Ms. Washington.

9 THE CLERK: Please take a seat in the jury box.

10 Juror Number 2, Samuel Alston, Sr.

11 Are there any challenges from the State?

12 MR. HIXSON: Please present Mr. Alston.

13 THE CLERK: What says the Defense?

14 MR. HAZZARD: Please swear the juror.

15 THE CLERK: Please take a seat in the jury box.

16 Juror Number 28, Richard Culbertson, Jr.

17 Are there any challenges from the State?

18 MR. HIXSON: Please present Mr. Culbertson.

19 THE CLERK: What says the Defense?

20 MR. HAZZARD: Please excuse Mr. Culbertson from this

21 particular case.

22 THE CLERK: You may return to your seat.

23 Juror Number 55, Joyce Grover.

24 Are there any challenges from the State?

25 MR. HIXSON: Please present Ms. Grover.

Jury Selection

20

1 THE CLERK: What says the Defense?
2 MR. HAZZARD: Please swear the juror.
3 THE CLERK: Please take a seat in the jury box.
4 Juror Number 17, Patricia Byrd.
5 Are there any challenges from the State?
6 MR. HIXSON: Please present Ms. Byrd.
7 THE CLERK: What says the Defense?
8 MR. HAZZARD: Please excuse Ms. Byrd from this
9 particular trial.
10 THE CLERK: You may return to your seat.
11 Juror Number 132, Gerald Thomas.
12 Are there any challenges from the State?
13 MR. HIXSON: Please present Mr. Thomas.
14 THE CLERK: What says the Defense?
15 MR. HAZZARD: The Court's indulgence, Your Honor.
16 MR. THOMAS: I'm sorry?
17 MR. HAZZARD: I'm still thinking. Thank you.
18 MR. THOMAS: Okay.
19 MR. HAZZARD: If I could get a second.
20 Okay, this is Juror 132, Madam Clerk?
21 THE CLERK: Yes, that's what it's showing.
22 MR. HAZZARD: Okay, all right, please swear the juror.
23 THE CLERK: Please take a seat in the jury box.
24 Juror Number 23, Jasper Coleman.
25 Are there any challenges from the State?

Jury Selection

21

1 MR. HIXSON: Please excuse Mr. Coleman.

2 THE COURT: Hold for one second. Let me see the
3 attorneys.

4 (Whereupon, a bench conference was held in the presence
5 but out of hearing of the jury panel.)

6 THE COURT: All right, any challenges from the State?

7 MR. HIXSON: Beg the Court's indulgence, Your Honor.

8 THE COURT: All right.

9 MR. HIXSON: Your Honor, I withdraw my challenge to Mr.
10 Coleman. Please present Mr. Coleman.

11 THE COURT: All right.

12 MR. HAZZARD: Your Honor, and Madam Clerk, I apologize,
13 during jury qualification I did not catch Mr. Coleman's
14 employment and if the Court would so inquire I would greatly
15 appreciate it.

16 THE COURT: All right, Mr. Coleman, where do you work?

17 MR. COLEMAN: I'm unemployed right now.

18 THE COURT: You're unemployed? Where did you
19 previously work?

20 MR. COLEMAN: I was a student, but spring of last year
21 at Wal-Mart.

22 THE COURT: At Waccamaw?

23 MR. COLEMAN: Wal-Mart.

24 THE COURT: Wal-Mart, okay, thank you very much.

25 MR. HAZZARD: Please swear Mr. Coleman.

Jury Selection

22

1 THE COURT: All right, sir.

2 THE CLERK: Please take a seat in the jury box.

3 Juror Number 126, Barbara Sullivan.

4 Any challenges from the State?

5 MR. HIXSON: Madam Clerk, please present Ms. Sullivan.

6 THE CLERK: What says the Defense?

7 MR. HAZZARD: The Court's indulgence, Your Honor.

8 THE COURT: All right.

9 Excuse me, just one second. He's still looking.

10 MR. HAZZARD: Please swear Ms. Sullivan.

11 THE CLERK: Please take a seat in the jury box.

12 THE COURT: All right, we'll go with the first

13 alternate. The State will have one strike. The Defense will

14 have two.

15 THE CLERK: Juror Number 54, Cheryl Grimes.

16 What says the State?

17 MR. HIXSON: Please present Ms. Grimes.

18 THE CLERK: What says the Defense?

19 MR. HAZZARD: Please swear the juror.

20 THE CLERK: Please take a seat in the jury box.

21 THE COURT: All right, we'll go for the second

22 alternate, the State will have one strike, Defense will have

23 two.

24 THE CLERK: Juror Number 18, Alex Byrne.

25 What says the State?

Jury Selection

23

1 MR. HIXSON: Please present Ms. Byrne, excuse me, Mr.
2 Byrne, sorry about that.

3 THE CLERK: What says the Defense?

4 MR. HAZZARD: Please swear the juror.

5 THE CLERK: Please take a seat in the jury box.

6 THE COURT: All right, ladies and gentlemen, you are
7 the jury that will comprise the jury of this case. I'm going
8 to excuse you back to the jury room for just a minute. I'll
9 bring you out shortly, but I've got some matters that I need
10 to go over with the attorneys first before we do that, but
11 this will give you an opportunity to stretch your legs, use
12 the restroom or whatever the case may be, but we'll bring you
13 out shortly in just a minute.

14 Please do not discuss the case, don't conduct any
15 independent investigation, don't even talk about the case
16 among yourselves at this point in time. We'll let you know
17 when you can begin your deliberations but it's still premature
18 at this point in time, but I'll excuse you back to the jury
19 room and bring you out in just a second. Thank you very much.
20 Everybody else please remain seated while the jury is excused.

21 (Whereupon, the following takes place outside the
22 presence of the jury.)

23 THE COURT: All right, any challenges to the selection
24 or composition of the jury by the State?

25 MR. HIXSON: Nothing from the State, Your Honor.

Jury Selection

24

1 THE COURT: Any from the Defense?

2 MR. HAZZARD: The Court's indulgence, Your Honor.

3 THE COURT: All right.

4 (Mr. Hazzard and Mr. Leggette confer.)

5 MR. HAZZARD: Nothing from the Defense in that regard,
6 Your Honor.

7 THE COURT: All right.

8 MR. HAZZARD: With regard to the composition of the
9 panel.

10 THE COURT: Thank you, sir.

11 (Remaining jury panel excused with call-in instructions.)

12 THE COURT: All right, you all say the remainder of
13 the day will be taken up with pretrial matters?

14 MR. HIXSON: Yes, Your Honor.

15 THE COURT: Okay, I think what I'll do is probably
16 call the jury back in, excuse them for the remainder of the
17 day and have them come back - what time do we want them back
18 tomorrow morning?

19 MR. HIXSON: Nine o'clock?

20 MR. HAZZARD: 9:30 would be preferable for the Defense,
21 Your Honor.

22 THE COURT: Okay, well, let's do this. I'll tell them
23 to be back because I do want them to pick a foreman and do
24 that. I'm going to tell them to come back at 9:15 so that we
25 can get started at 9:30. How is that? Okay.

Instructions by Court

25

1 MR. HAZZARD: That's fine from the Defense, Your Honor.

2 MR. HIXSON: That's great, Your Honor.

3 THE COURT: All right, let's bring the jury back in.

4 (Whereupon, the following takes place in the presence of
5 the jury.)

6 THE COURT: All right, ladies and gentlemen, welcome
7 back. We are getting ready to start the trial of the case of
8 the State versus Dominic Alexander Leggette as I told you
9 earlier before we started the jury selection process.
10 However, we do have some pretrial matters that will take the
11 balance of the afternoon. So, I'm going to excuse you for the
12 remainder of the day and we'll get started with the
13 evidentiary portion of this trial tomorrow morning, but I
14 don't want to tie you up here any longer than we have to. So,
15 I am going to excuse you for the remainder of the day and I'll
16 ask that you be back in the jury room at 9:15 tomorrow morning
17 and then hopefully soon thereafter we can get started with the
18 trial of the case.

19 Now, when you get back tomorrow morning if I could get
20 you to do me a favor and that would be to select a foreperson
21 for this jury. If you're not able to select a foreperson,
22 don't worry about it. I can appoint someone to serve as
23 foreperson and many judges appoint forepersons for their
24 juries, but I like to give the jury the opportunity to select
25 one on their own if they're able to do so.

1 Now, the foreperson has absolutely no more authority, no
2 more influence or no more importance than any other juror.
3 The sole purpose and function of the foreperson is to act as a
4 contact between the Court and the jury. If the jury has a
5 need, the foreperson lets the Court know. If the jury has a
6 question the foreperson lets the Court know. When it's time
7 to deliberate the foreperson will preside over the
8 deliberations, and when the jury reaches a verdict the
9 foreperson will let the Court know that the jury has reached a
10 verdict, but other than that the foreperson has no more
11 influence or authority or importance than any other jury,
12 member of the jury.

13 Now, when you select a foreperson tomorrow morning if you
14 would just write that person's name on a sheet of paper with
15 their jury number, give it to the bailiff and the bailiff will
16 bring it back into court and we'll publish it.

17 When you come back into the courtroom tomorrow morning,
18 the foreperson will occupy this first seat that would be
19 closest to the jury, excuse me, closest to the witness. Ms.
20 Grimes and Mr. Byrne, you will always occupy the two alternate
21 seats in the back. The rest of you are at liberty to sit in
22 whichever seat you like. You can sit in the same seat
23 throughout the trial of the case. You can alternate seats
24 throughout the trial of the case, whichever makes you feel
25 more comfortable. There's no, no requirement that you occupy

Instructions by Court

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1 any particular seat other than the foreperson occupying the
2 first seat and the alternates occupying the two alternate
3 seats.

4 I caution you again, please do not discuss this case with
5 anyone. Don't conduct any independent investigations into
6 this case. Don't listen to any news accounts, look through
7 any newspapers, go on the internet or try to find out anything
8 about this case. Your responsibility as jurors is to act
9 fairly and impartially to both the State and the Defendant and
10 base your decision in this case exclusively on the testimony
11 and evidence presented during the trial of this case without
12 any influence from any outside source. That is your duty as
13 jurors and I'll have some further instructions and directions
14 for you tomorrow morning. However, I'm going to excuse you
15 for the remainder of the day. I hope everyone has a good
16 evening, and we'll see you back at 9:15 tomorrow morning.
17 Thank you very much.

18 Everybody else please remain seated while the jury is
19 excused.

20 (Whereupon, the following takes place outside the
21 presence of the jury.)

22 THE COURT: All right, Mr. Hixson, anything from the
23 State?

24 MR. HIXSON: Yes, Your Honor, I think we have quite a
25 few pretrial motions, I only guess would maybe free flow back

1 and forth. I just think we're - I think we're doing some of
2 the same motions, Your Honor. Specifically I guess we can
3 start with Mr. Leggette after his arrest and detention, this
4 incident occurred August 13th of 2008. He was finally brought
5 into custody on September 10th, 2008. At that time law
6 enforcement, specifically Eddie Lee and Chief Harvey Knox from
7 the Andrews Police Department, interviewed him. He gave a
8 voluntary statement that was recorded, and I believe that it
9 will be appropriate at this time to have a evidentiary hearing
10 on the voluntariness of that statement, make sure there isn't
11 any problems if ultimately that statement is admitted.

12 THE COURT: All right.

13 MR. HIXSON: Is that safe to say, Mr. Hazzard?

14 MR. HAZZARD: Yes, sir.

15 THE COURT: All right, sir.

16 MR. HIXSON: Your Honor, at this time the State would
17 call Detective Eddie Lee to the witness stand, Investigator
18 Lee, excuse me.

19 Whereupon, Eddie Lee was called to the stand, duly sworn
20 by the clerk and testified as follows:

21 THE CLERK: Thank you. Please be seated and state
22 your name for the record, please.

23 MR. LEE: Investigator Lee, Andrews Police
24 Department.

25 THE COURT: All right, Mr. Hixson.

Motions

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1 MR. HIXSON: Thank you, Your Honor.

2 EXAMINATION

3 BY MR. HIXSON:

4 Q Good afternoon, sir.

5 A How you doing?

6 Q What do you do for a living?

7 A I'm an investigator with the Andrews Police Department.

8 Q And how long have you been in that capacity?

9 A I was working at the Andrews Police Department about 25
10 years. I've been an investigator about 15 years.

11 Q Okay, so, that means you were working around August 13th
12 of 2008?

13 A Yes, sir, I did.

14 Q And did you have an opportunity to be involved in a
15 homicide investigation during that period of time?

16 A Yes, I did.

17 Q And at some point in time was a suspect generated in that
18 murder?

19 A Yes, sir, through my investigation, yes, sir.

20 Q And who was that suspect?

21 A Dominic Alexander Leggette.

22 Q Okay, and at some point in time was Mr. Leggette taken
23 into custody?

24 A Yes.

25 Q Do you recall was that on September 10th of 2008?

1 A Yes, sir.

2 Q Okay, and did you have an opportunity to interview Mr.
3 Leggette?

4 A Yes, sir, twice.

5 Q And could you please tell the Court about the facts and
6 circumstances surrounding that interview?

7 A Basically that he made the contact with me I think was on
8 the 10th of September and also on the 13th he wanted me to talk
9 to him and I made contact with him at the jail and at the
10 Georgetown Sheriff Department.

11 Q Okay, let's focus on the September 10th incident. I
12 handed you a piece of paper. I need to make sure Madam Court
13 Reporter ---

14 A Yes.

15 Q --- is aware of what I'm doing. Hold on for a second.

16 MR. HIXSON: And Your Honor, I'm marking this as a
17 Court's Exhibit, Court's Exhibit Number One. The caption on
18 this says Andrews Police Department Miranda warnings on the
19 piece of paper, Judge.

20 THE COURT: All right.

21 (Whereupon, Court's Exhibit Number One [Miranda Warning]
22 appropriately marked.)

23 BY MR. HIXSON:

24 Q Take a look at that, Investigator, and tell me what that
25 is. Do you recognize that item?

Motions

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- 1 A Yes, sir, I do.
- 2 Q And what is that?
- 3 A It's an Andrews Police Department Miranda warning rights
4 file.
- 5 Q And generally speaking what's your understanding of
6 Miranda rights?
- 7 A It means that anytime a suspect is allegedly accused of
8 anything you've got to give him his rights before you ask him
9 any questions, advise him he's got a right to remain silent or
10 either get a, have an attorney present while being questioned.
- 11 Q Okay, now, that form, is that a form that you also add
12 information to?
- 13 A Yes, sir.
- 14 Q And what type of information would you add to that form
15 if someone was giving a voluntary interview?
- 16 A Once I would read it to him and once the subject agreed
17 to talk to me I would let him initial "do not want a lawyer at
18 the time," and he usually put his initials inside and sign it,
19 I have a witness to it.
- 20 Q Okay, now, let's go back and talk specifically, factually
21 about this form, okay. Did you have an opportunity to
22 interview Dominic Leggette in reference to the facts of this
23 case?
- 24 A Yes, sir, I did.
- 25 Q And what date did that occur?

1 A This the date I got before me is on the 10th, 2008.

2 Q And to the best of your recollection where did that
3 interview take place?

4 A This happened at the Georgetown County Sheriff
5 Department.

6 Q Okay, and was that process recorded in any way?

7 A Yes, sir, video, video and audio.

8 Q Did you provide the video equipment to do that?

9 A No, sir, the Sheriff Department did.

10 Q Okay, let me show you what's also been marked as a
11 Court's Exhibit. It has not been yet, this is a copy. Mr.
12 Hazzard.

13 Let me present to you what's been marked as Court's
14 Exhibit Number One [sic], that's not for evidence, just for
15 here. It's a - do you know what's on that?

16 A Yes, sir.

17 Q And what is that?

18 A The interview, the interview we had with Dominic Leggette
19 at the Georgetown Sheriff Department in which Chief Harvey
20 Knox was with me during this same time.

21 Q Okay.

22 A On the 10th of September, 2008.

23 Q Okay, now, prior to interviewing him did you read him his
24 Miranda rights?

25 A Yes, I did.

Motions

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1 Q And did you follow the information on that sheet?

2 A Yes, I did.

3 Q And for the Court - for the Court's purpose could you
4 tell us and read to the Court what's on that sheet of paper?

5 A Okay, "Before we ask you any question you must understand
6 your rights. You have the right to remain silent, anything
7 you say can and will be used against you in a court of law.
8 You have the right to talk to a lawyer and have him present
9 while you're being questioned. If you cannot afford to hire a
10 lawyer one will be appointed to represent you before any
11 questioning if you wish one. If you decide not, ask questions
12 without a lawyer you have the right to stop at any time."

13 Q Okay, did you ask Mr. Leggette if he understood that
14 information?

15 A Yes, sir, I did.

16 Q Did he acknowledge?

17 A Yes, sir, he did. Verbally he acknowledged he understand
18 his rights.

19 Q And did he make - execute that document in any way?

20 A He execute the document by circling the word "do not want
21 a lawyer at this time," and placed his initials inside the
22 circle.

23 Q Did you have a conversation with him about each sentence
24 in that piece of paper?

25 A Yes, sir, I did. I actually got him to put his initials

1 by each one of them, also along with the waiver of the rights
2 as well.

3 Q Okay, did he appear as if he understood when you were
4 interviewing him?

5 A Yes, sir, he did. He said he understood and I make sure
6 he understood.

7 Q Okay, and you indicated that was witnessed by someone?

8 A Yeah, Chief Harvey Knox of the Andrews Police Department,
9 Chief of Police.

10 Q Okay, and did that witness execute anywhere on that
11 document?

12 A Yes, sir, it is.

13 Q Okay, I also noticed on the top of this this says date,
14 place, it says Andrews Police Department on that.

15 A There's some discrepancy on that. We was actually at the
16 Georgetown Sheriff Department. I think I made that part of
17 video, audio and video statement that we was actually at the
18 Georgetown Sheriff Department because normally when I
19 mirandize somebody normally always be at the police
20 department. This time it was at Georgetown Sheriff
21 Department.

22 Q So, that's an - that's an error on that sheet?

23 A Not an intentional error, just a error.

24 Q Okay, now, was this process recorded on video on this?

25 A Yes, sir.

Motions

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1 Q And so, the Miranda readings are on this also?

2 A On that as well, yes, sir, it's recorded.

3 Q Approximately how long do you think this interview
4 lasted?

5 A Approximately maybe about a hour, you know, this happened
6 back in - I'm saying it might be a little longer.

7 Q And did you provide him an opportunity to take a break
8 for food or drink, anything?

9 A Yes, sir, we respected him, I mean, we treat him like
10 somebody.

11 Q Okay, and once again, just to clarify that, did he, in
12 fact, waive his rights and talk to you at that time?

13 A Yes, sir, he did.

14 Q And did he execute his intent of any way on that
15 document?

16 A Yes, sir, he actually circled the word "do not want a
17 lawyer," and we went forward, put his initials inside the
18 circle where he put do not.

19 Q Okay.

20 MR. HIXSON: Your Honor, at this time I have no further
21 questions for this witness.

22 THE COURT: All right, Mr. Hazzard.

23 MR. HAZZARD: I have no questions for this witness, Your
24 Honor.

25 THE COURT: All right, sir, you may step down. Thank

1 you very much.

2 You can call your next witness.

3 MR. HIXSON: Your Honor, perhaps, may I - there was a
4 second statement and perhaps it might be appropriate, Mr. Lee,
5 Investigator Lee can comment on that second statement as well,
6 perhaps we should do them at the same time.

7 THE COURT: If you want to call him that'll be fine.

8 MR. HAZZARD: I would submit that that would be somewhat
9 confusing because I would think that the Jackson v. Denno
10 hearing is to determine the voluntariness of each statement
11 individually; and so ---

12 THE COURT: We can handle it however you want to. It
13 doesn't really matter to me. I mean, I, I agree with you. I
14 need to judge each of them individually but how you want to
15 present it I'll leave it up to the State, however you want to
16 go forward.

17 MR. HIXSON: That's fine, Your Honor. I'll just, would
18 just request that I'm able to recall Investigator Lee then.

19 THE COURT: That'll be fine.

20 All right.

21 MR. HIXSON: At this time the State would call Chief
22 Harvey Knox.

23 THE COURT: All right.

24 Whereupon, Harvey Knox was called to the stand, duly
25 sworn by the clerk and testified as follows:

Motions

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1 THE CLERK: Thank you. Please be seated and state
2 your name for the record.

3 MR. KNOX: Chief Harvey Knox.

4 EXAMINATION

5 BY MR. HIXSON:

6 Q Good afternoon, sir.

7 A Good afternoon.

8 Q What do you do for a living, sir?

9 A Currently hold the position of Chief of Police for the
10 Town of Andrews.

11 Q And how long have you done that?

12 A Approximately two years.

13 Q Okay, so, back in August 13th of 2008 were you working for
14 the Andrews Police Department?

15 A Yes, sir, I was.

16 Q Okay, and did you have an opportunity to participate in
17 the homicide investigation around that period of time?

18 A Yes, sir, I did.

19 Q And specifically one involving the Defendant in this
20 case, Dominic Leggette?

21 A Yes, sir.

22 Q Did you have an opportunity to interview Mr. Leggette?

23 A Yes, sir, I participated in that first interview.

24 Q And could you please tell the Court about the facts and
25 circumstances surrounding this interview we're referring to?

1 A Basically, basically, Your Honor, the, the event in
2 question took place in the center of Town in Andrews. We were
3 in the midst of a homicide investigation and Mr. Leggette was
4 the prime suspect.

5 Q Okay, at some point in time was Mr. Leggette placed into
6 custody?

7 A Yes, sir, he was.

8 Q And in fact, was the U.S. Marshal Service involved in
9 that apprehension?

10 A Yes, sir, they were.

11 Q After that apprehension did you interview Mr. Leggette?

12 A Yes, we did.

13 Q And where did that interview take place?

14 A That interview took place at Georgetown County Sheriff's
15 Office.

16 Q And were other people present in the room during the
17 course of that interview?

18 A Myself and Investigator Lee.

19 Q Okay, now, is it your department policy or tell us about
20 department policy relating to the use of Miranda warnings.

21 A Miranda warnings, that's, it's a very, very strict rule
22 that we adhere to. We will interview no one unless we
23 mirandize them.

24 Q Okay, and did you, in fact, mirandize Mr. Leggette on
25 this occasion?

Motions

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1 A He was mirandized by Investigator Lee and I witnessed.

2 Q Okay, and you witnessed that, did you say that?

3 A Yes, sir.

4 Q Let me show you what's been marked as a Court's Exhibit,
5 State's Exhibit or Court's Exhibit Number One. Do you
6 recognize that item?

7 A Yes, sir, I do.

8 Q And what is that?

9 A This is the official Andrews Police Department Miranda
10 warning.

11 Q And you use that during, during your ordinary operations
12 at Andrews?

13 A Yes, sir, we do.

14 Q And what does that document contain?

15 A It contains the rights of the person being interviewed.

16 Q Okay, and could you please read that document just rather
17 quickly.

18 A Yes, sir, "Before we ask you any question you must
19 understand your rights. You have the right to remain silent.
20 Anything you say can and will be used against you in a court
21 of law. You have the right to talk to a lawyer and have him
22 present with you while you're being questioned. If you cannot
23 afford to hire a lawyer one will be appointed to represent you
24 before questioning if you wish one. If you decide to answer
25 any questions without a lawyer present you have the right to

1 stop answering at any time. Waiver of rights," and it also
2 states, "I have been given my Miranda warning both verbally
3 and in writing. I understand that my rights are - what my
4 rights are. I do or do not want a lawyer at this time. I
5 understand and know what I am doing, no promises or threats
6 have been made to me or no pressures or coercion of any kind
7 has been used against me."

8 Q Okay, and did you witness this process?

9 A Yes, I did.

10 Q And did Mr. Leggette during that period of time appear to
11 understand those questions being asked of him?

12 A Totally.

13 Q Okay, did he act appropriately to the response of those
14 questions?

15 A Yes, he did.

16 Q Okay, and did you execute that document as a witness?

17 A Yes, sir, I did.

18 Q And was this process captured on audio or video recording
19 device?

20 A Both audio and video.

21 Q Okay.

22 A Yes, sir.

23 MR. HIXSON: Your Honor, I have no further questions of
24 Chief Knox.

25 THE COURT: All right, Mr. Hazzard.

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1 MR. HAZZARD: No questions.

2 THE COURT: All right, sir, you may step down.

3 A All right.

4 THE COURT: Thank you.

5 Call your next witness.

6 MR. HIXSON: Your Honor, we - as it relates to this
7 particular statement we're referring to, which is an audio
8 recording on September 10th of 2008, I have asked - if it's
9 necessary for me to play the statement it's about two hours
10 long or to see if Mr. Hazzard would stipulate if Your Honor
11 needs that that recording does contain the Miranda warnings on
12 the recording. If we were to listen to that we could hear
13 that as well. At this time I would just move the Court, I
14 think the State has made a sufficient showing that this
15 statement was given voluntarily, pursuant to Miranda, and as
16 such the State doesn't intend to admit it at this time, Your
17 Honor, but in the end, in the interest of judicial efficiency,
18 if in fact this comes up in cross examination we have cleared
19 this issue up pretrial.

20 THE COURT: All right.

21 MR. HAZZARD: Your Honor, the Defense moves to call
22 Dominic Leggette for the purposes of this motion hearing.

23 THE COURT: All right, I'll allow that. Mr. Leggette,
24 if you'd come forward, please.

25 Whereupon, Dominic Alexander Leggette was called to the

1 stand, duly sworn by the clerk and testified as follows:

2 THE CLERK: Thank you. Please be seated and state
3 your full name for the record.

4 MR. LEGGETTE: Dominic Leggette.

5 EXAMINATION

6 BY MR. LEGGETTE:

7 Q Please spell your last name for the record, sir.

8 A L-E-G-G-E-T-T-E.

9 Q Okay, Mr. Leggette, you are the Defendant in the case
10 that brings us here today, the State of South Carolina versus
11 Dominic Leggette; is that correct?

12 A Yes, sir.

13 Q You're charged with one count of murder, one count of
14 assault and battery with intent to kill; is that correct?

15 A Yes, sir.

16 Q Okay, now, sir, were you arrested on or about September
17 10th of 2008?.

18 A I was arrested on September the 9th.

19 Q Okay, and around what time of day or night were you
20 arrested?

21 A I was arrested about nine, nine in the night.

22 Q Okay, and if you would tell the Court about how that
23 arrest came about. Did you call the police or did they just
24 show up at your door? How did that come about?

25 A They showed up at a friend's house looking for me and I

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1 wasn't there. So, when I learned about the incident I called
2 the U.S. Marshal that was looking for me. I called them. I
3 told them, his name was Rudy Tisdale. He called me, I called
4 him and I told him I said, "Are you asking" - I asked him, I
5 say, "Are you looking for me, Mr. Rudy Tisdale?" He said,
6 "Yes, sir." He said, "Where are you?" I said, "I just now -
7 I'm in the same place you are, that you just now left, Green
8 Sea Floyd," and he said, "All right." So, he said, "Stay on
9 the phone with me until I come." So, when he got there he
10 arrested me. He put me in handcuffs and he brought me down,
11 he brought me - he was bringing me to Andrews when he called
12 Investigator Eddie Lee on the phone.

13 Q Okay.

14 A And when he called - at the time he called Investigator
15 Lee on the phone he, he fervently stated to Investigator Eddie
16 Lee that I turnt myself into him.

17 Q Okay.

18 A And ---

19 Q Okay, let me, let me stop you right there and interrupt
20 you for a second. So, this arrest or you were taken into
21 custody sometime around nine p.m. on September the 9th; is that
22 correct?

23 A Yes, sir.

24 Q Okay, and so, you were traveling at that point in the
25 custody of the U.S. Marshal, Marshal Tisdale; is that correct?

1 A Yes, sir.

2 Q Okay, at some point were you turned over to another law
3 enforcement agent?

4 A Yes, sir.

5 Q Okay, tell us about that if you would, sir.

6 A I was turned over to Patrick Cumbee on 41, Highway 41, a
7 couple, about three miles out of Andrews.

8 Q Okay, and you were arrested initially or taken into
9 custody in Horry County; is that correct?

10 A Yes, sir.

11 Q Okay, and so, then Marshal Tisdale subsequently turned
12 you over to Patrick Cumbee?

13 A Yes, sir.

14 Q And who does Patrick Cumbee work for to your
15 understanding?

16 A He was working for Andrews Police Department.

17 Q Okay, and about what time was this that this occurred on
18 Highway 41, sir?

19 A Probably about, probably about ten, 10:30, 11 o'clock.

20 Q Okay, now, at any time from the time you were taken into
21 custody to the time you were turned over to Officer Cumbee
22 were you given a bathroom break or asked if you needed
23 anything or anything of that nature, sir?

24 A No, sir.

25 Q Okay, and now, tell us what happened once you were placed

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1 into Patrick Cumbee's custody.

2 A I was escorted to Georgetown County Detention Center.

3 Q Okay, and then what happened?

4 A When I got there I stayed the night in booking and the
5 next morning they moved me to D Block, their maximum security.

6 Q Okay, well, let's back up. You were placed in booking;
7 is that correct?

8 A Yes, sir.

9 Q So, I mean, were you just sitting there by the booking
10 desk or do they have special booking cells at the Georgetown
11 County Detention Center?

12 A They put me in a booking cell right in front.

13 Q Okay, and approximately how - what size is that cell,
14 sir?

15 A About the same, about the same size as this area right
16 here.

17 Q Okay, approximately, let the record reflect he's
18 indicating approximately five and a half feet by seven feet?

19 A Yes, sir.

20 Q Sound about right? Okay, and you spent the night there
21 you said?

22 A Yes, sir.

23 Q Okay, did anyone, any law enforcement officer come and
24 speak with you at that time?

25 A No, sir.

1 Q Okay, what was your next - did they feed you at some
2 point?

3 A Yes, sir.

4 Q Okay, and when did they feed you?

5 A That morning.

6 Q Okay, the following morning?

7 A Yes, sir.

8 Q Okay, were you in the booking cell by yourself or with
9 other detainees?

10 A By myself.

11 Q Okay, now, what happened the following morning, the
12 morning of the 10th?

13 A The morning of the 10th I was awoken and they took me to
14 their maximum security holding and known as D housing and
15 around, right before lunchtime they - I was came and got by
16 Mr. Knox and Mr. Eddie Lee.

17 Q Okay, had you asked to speak to them?

18 A No, sir.

19 Q Okay, but they came to interrogate you?

20 A Yes, sir.

21 Q Okay, what did they say when they came to get you?

22 A They didn't, they didn't say nothing at the time. I -
23 the only thing I was told is that where you're going with
24 these, with Investigator Lee and Mr. Harvey Knox.

25 Q Okay, did anyone tell you you had the option of not going

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1 with them?

2 A No, sir.

3 Q Okay, okay, so, what happened? Were you turned over into
4 Chief Knox and Investigator Lee's custody?

5 A Yes, sir.

6 Q Okay, and what happened once you were given into their
7 custody?

8 A Once I was given into their custody I was - we traveled
9 to the Sheriff's Department here in Georgetown.

10 Q Okay, so, they removed you from the Georgetown County
11 Detention Center and took you to the Georgetown County
12 Sheriff's Office; is that correct?

13 A Yes, sir.

14 Q Okay, do they have interview rooms at the Georgetown
15 County Detention Center?

16 A Yes, sir.

17 Q Okay, was there any conversation between you and Chief
18 Lee or Chief Knox and Investigator Lee during the drive from
19 the Georgetown County Detention Center to the Sheriff's
20 Office?

21 A Not that I recall.

22 Q Okay, did you ask them any questions that you recall?

23 A No, sir.

24 Q And you don't recall them making any statements to you at
25 that time?

1 A No, sir.

2 Q Okay, so, what happened once you arrived at the Sheriff's
3 Office, sir?

4 A When I arrived there I was escorted into, to a
5 interrogation room ---

6 Q Okay.

7 A --- and I was - I was informed of my rights and I was
8 interrogated.

9 Q Okay, now, tell the Court if you would, describe the
10 interrogation room, give the Court, if you can, an
11 approximation as to the size of the interrogation room.

12 A The interrogation room is probably about the size of
13 where you're standing at right now from, from you, from where
14 I'm sitting to where Mr. Scott is sitting.

15 Q Okay, and do you have any idea how, how, what distance
16 that would be in feet?

17 A No, sir.

18 Q Okay, let's see.

19 MR. HAZZARD: The Court's indulgence.

20 BY MR. HAZZARD:

21 Q From where you're sitting about right here?

22 A No, like right in front, right here.

23 Q The front of the jury ---

24 A Yes, sir.

25 Q The front of the witness stand.

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- 1 A Yes, sir.
- 2 Q To where Mr. Scott is sitting?
- 3 A Yes, sir.
- 4 Q You mean Scott Hixson the prosecutor?
- 5 A Yes, sir.
- 6 Q Okay, it appears to be about 14 paces, I'm a man of
- 7 approximately six feet one and a half inches tall, 14 paces,
- 8 would you think that would approximate about 14 feet? Do you
- 9 think the room is that wide, that big?
- 10 A No, it wasn't that wide. It was about that long.
- 11 Q It was about that long.
- 12 A Yes, sir.
- 13 Q Okay, and about how wide was it?
- 14 A Probably about eight.
- 15 Q About eight feet wide?
- 16 A Yeah.
- 17 Q Okay, and who all was present in this room?
- 18 A Mr., Mr. Harvey Knox and Mr. Ed Lee.
- 19 Q Okay, and I take it you were in the room as well;
- 20 correct?
- 21 A Yes, sir.
- 22 Q Okay, no one else was present?
- 23 A No, sir.
- 24 Q Okay, were either Chief Knox or Detective Lee armed with
- 25 a weapon in the room?

1 A I can't recall, I can't - I don't remember right now.

2 Q Okay, now, when they sat you in the room were you still
3 in handcuffs, did they remove the handcuffs?

4 A I was still in handcuffs.

5 Q Were your hands cuffed in front of you or behind your
6 back?

7 A In front of me.

8 Q Okay, did they secure the handcuffs to a u-bolt on the
9 table or anything of that nature?

10 A No, sir.

11 Q Okay, so, you had your hands cuffed in front of you.
12 What did they say then, sir?

13 A They informed me of my Miranda rights.

14 Q Okay, now, there's a form here that's been marked as
15 Court's Exhibit Number One for the purposes of this particular
16 hearing and I'll show you this form and ask you did you
17 execute this form with your signature?

18 A Yes, sir.

19 Q Okay, first of all I notice that you're looking at that
20 very closely. How is your eyesight, Mr. Leggette?

21 A Fairly bad.

22 Q Okay, and when you say fairly bad can you read what is on
23 that form?

24 A Not like this, I got to get close on it.

25 Q Okay, how close? Show the Judge how close you have to

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1 get to see what's on the form.

2 A Probably have to get about this, like this close right
3 here.

4 Q Okay, now, on this particular date, September 10th, when
5 you were in the interview room with Chief Knox and
6 Investigator Lee did you look at what was on the form, did you
7 listen to what they were saying to you?

8 A I listen to what they're saying but I glanced at the
9 form.

10 Q Okay, that's fine. So, you listened to what they were
11 saying.

12 Did they read what was on the form? Did they tell you
13 you have the right to remain silent?

14 A Yes, sir.

15 Q Did they tell you you had the right to an attorney?

16 A Yes, sir.

17 Q Did they tell you you didn't have to talk?

18 A Yeah.

19 Q Okay, did you feel that you actually had those rights?

20 A Not at the time.

21 Q Why not? They told you that. Why not?

22 A Because it was - the whole, the procedure, it was like
23 but was basically like I didn't have no say-so at the time
24 because the way, the way that everything that went I was
25 basically hunted, I was basically hunted for something that I

1 didn't even know I was accused of until that, until the day of
2 - until the day of the U.S. Marshals ---
3 Q Yes, sir.
4 A --- a friend, appearing at my friend's house.
5 Q Yes, sir.
6 A So, I was kind of - I was fairly scared.
7 Q You were fairly scared. Okay, once they read you the
8 rights and you signed that piece of paper, approximately how
9 long as far as you recall did the interrogation last?
10 A I'd say about an hour 30 minutes, probably two hours.
11 Q So an hour and a half to two hours?
12 A Yes, sir.
13 Q At any point during that time did they ever take a break?
14 A No, sir.
15 Q Did they ever ask you if you needed anything to drink?
16 A No, sir.
17 Q Did they ever ask you if you needed anything to eat?
18 A No, sir.
19 Q Did they ever ask you if you needed to use the bathroom?
20 A No, sir.
21 Q Did they ever tell you that you had the right to use the
22 bathroom?
23 A No, sir.
24 Q Okay, who was doing the questioning? Was it just Chief
25 Knox, just Detective Lee?

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1 A Basically it was like both, but Mr., Mr. Knox didn't say
2 too much.

3 Q Uh-huh, okay. Did you feel threatened at the time of
4 this questioning?

5 A Yes, sir.

6 Q All right, thank you. Please answer any questions the
7 Court or the Prosecutor may have.

8 MR. HIXSON: Briefly, Your Honor.

9 THE COURT: All right.

10 EXAMINATION

11 BY MR. HIXSON:

12 Q How are you doing, Mr. Leggette?

13 A I'm fine, how are you?

14 Q Isn't it true that you called your mother, Victoria, a
15 couple of times during the period of time from September,
16 August 13th till September 10th?

17 A No, sir.

18 Q Okay, you didn't call her?

19 A No, sir.

20 Q How about Rhonda Brown?

21 A Once.

22 Q Okay, and didn't you tell, tell the officers and stuff
23 that you didn't - that you knew that people were looking for
24 you at that period in time and didn't want to drag her into
25 it?

1 A No, sir.

2 Q Okay, did she give a - do you know if she's given a
3 written statement to that effect?

4 A I saw that in my motion.

5 Q Okay.

6 A Yes, sir.

7 Q You saw that in your motion of discovery?

8 A Yes, sir.

9 Q And isn't it true that they did offer you a drink of
10 water, I guess, when Mr. Knox had to leave, Harvey Knox had to
11 leave the room to go tend to some other business and there's a
12 period of silent on the tape and asked about whether you
13 wanted something to drink; isn't that right?

14 A I don't remember that.

15 Q You don't remember that?

16 A No, sir.

17 MR. HIXSON: Okay, I have no further questions, Your
18 Honor.

19 THE COURT: Anything on redirect?

20 MR. HAZZARD: Nothing further in that regard, Your
21 Honor.

22 THE COURT: All right, you may step down.

23 The Defense can call any other witnesses.

24 MR. HAZZARD: No other witness for the - witnesses for
25 the Defense with regard to this motion, Your Honor.

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1 THE COURT: All right, anything in reply from the
2 State?

3 MR. HIXSON: No, Your Honor.

4 THE COURT: All right.

5 MR. HAZZARD: Your Honor, if the Defense might be heard
6 briefly on the motion.

7 THE COURT: All right.

8 MR. HAZZARD: Thank you very much, Your Honor.

9 Your Honor, the position of the Defense, the Defendant
10 has testified that he was in the custody of not one but two
11 law enforcement officers, that he was taken from the
12 Georgetown County Detention Center, not given any information
13 indicating that he did not have to go with them. There has
14 been no testimony that the purposes of removing him from the
15 Georgetown County Detention Center was for the purposes of
16 booking or taking him in front of a magistrate or any other
17 administrative proceeding. So, he's removed from his place of
18 custody for the pure purpose of interrogating him. He is not
19 told at the time he is taken away for interrogation that he
20 has the option of not going. So, at that point anything else
21 they say with regard to, "Oh, you have the right to an
22 attorney," and this, that and the third with regard to the
23 Miranda rights, we would argue as the Defendant has testified,
24 he did not truly feel that he had those rights. He has
25 testified before this Court that for the period of

1 approximately an hour and a half to two hours he was
2 questioned by not one but two law enforcement officers, he was
3 not at any point in time given an opportunity to take a break,
4 he was not at any time given an opportunity to eat, nor was he
5 given the opportunity to use the bathroom. He has indicated
6 that he was fearful and that he was coerced. I would note
7 that the information placed forward by the State in this
8 regard goes specifically to the knowing and voluntary nature
9 of his signature on the form, but does not in any way, shape
10 or form address the specificity of what Jackson versus Denno
11 was about, which is is there coercion present that presents,
12 prevents the Defendant from making a knowing and voluntary
13 waiver. There's not a single word submitted by the State that
14 addresses the issue of coercion; and the Defendant, therefore,
15 is the only evidence before the Court, his statement to this
16 Court, his evidence and testimony before the Court is that he
17 felt that he was in a coerced situation, a coerced state and
18 was not in a position to refuse the officers. We would,
19 therefore, submit that any statement made by the Defendant on
20 that date, September 10th, 2008, be excluded from evidence in
21 this case.

22 THE COURT: All right, I think the State has satisfied
23 the requirements of Jackson versus Denno. I find that the
24 statement given on September 10th, 2008, is admissible. The
25 Defense can still argue voluntariness to the jury but I think

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1 that the State has met its burden to at least get it to the
2 jury. All right.

3 MR. HIXSON: Thank you, Your Honor.

4 We have a subsequent statement like three days later
5 though I believe we would probably need to address now. That
6 also involves Investigator Lee.

7 THE COURT: All right. You can call your first
8 witness.

9 MR. HIXSON: Investigator Eddie Lee from the Andrews
10 Police Department.

11 THE COURT: Since it's another statement let's go
12 ahead and swear him again.

13 Whereupon, Eddie Lee was called to the stand, duly sworn
14 by the clerk and testified as follows:

15 THE CLERK: Thank you. Please be seated and state
16 your name for the record, please.

17 MR. LEE: Do you need me to repeat my name again?

18 THE CLERK: Yes, sir.

19 MR. LEE: Investigator Eddie Lee, Andrews Police
20 Department.

21 EXAMINATION

22 BY MR. HIXSON:

23 Q Sir, we've already, we've already met and had a little
24 discussion before. Let's get straight to the point. Two
25 days after, three days after this, after September 10th of 2008

1 did you receive some kind of information that Mr. Leggette
2 wanted to speak with you?

3 A Captain Wineglass, he's a captain at the detention
4 center, she notified me, told me Mr. Leggette wanted to see me
5 and I got that documented in my report.

6 Q Okay, do you recall what date that was?

7 A I think it was on the 13th. I'm not sure now. I think it
8 was.

9 Q Let me show you this document, see if that refreshes your
10 recollection.

11 A Yes, this is on the 13th of September, 2008.

12 MR. HIXSON: And Your Honor, what I've handed the
13 investigator in this case is a document ---

14 A Document.

15 MR. HIXSON: --- marked Court's Exhibit Number Three,
16 Your Honor.

17 A Yeah, Andrews ---

18 Q Do you recognize that, Mr. Lee?

19 THE COURT: Hold it, hold it for a minute. The court
20 reporter can't pick it up if both of you are talking at one
21 time. So, let him ask the question and then you can answer,
22 okay.

23 MR. HIXSON: Your Honor, I've handed up Court's Exhibit
24 Number Three to Mr. Lee, Investigator Lee.

25 A Yes.

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1 Q Investigator, do you recognize that?

2 A Yes, sir.

3 Q And what is that?

4 A It's an Andrews Police Department Miranda warning form.

5 Q Is that the same style or form that you would have used

6 three days earlier?

7 A Yes, sir.

8 Q And what is the date on that?

9 A The date on it is 9-13-2008.

10 Q And what is the - is there a location indicated on that?

11 A Yeah, the place is Georgetown County Detention Center.

12 Q And why did you respond to that again?

13 A Because of Captain Wineglass said that Mr. Leggette

14 wanted to talk to me.

15 Q Okay, and so, you went to the detention center this time?

16 A Yes, I did.

17 Q And did you read him those Miranda warnings?

18 A Again, I read it to him again.

19 Q And this is a separate hearing.

20 A Separate, yes.

21 Q So, could you please read that document into the record.

22 A Okay, "Before we ask you any question you must understand

23 your rights. You have the right to remain silent. Anything

24 you can and will be used against you in a court of law. You

25 have the right to talk with a lawyer, have present with you

1 while you're being questioned. If you cannot afford to hire a
2 lawyer one will be appointed to represent you before any
3 questioning if you wish. One, decide now to answer questions
4 without the lawyer, a lawyer, you have the right to stop at
5 any time." The second part is the waiver of rights. "I have
6 been given my Miranda warnings both verbally and in writing.
7 I understand what my rights are." They got two indication of,
8 "I do and I do not want a lawyer at this time. I understand
9 what I'm doing, no promise or threat has been made to me and
10 no pressure" ---

11 Q Investigator Lee, can you slow down just a hair?

12 A Okay.

13 Q Madam Court Reporter is doing her best.

14 A "I understand and know what I'm doing, no pressure, no
15 promise or threat has been made to me, pressure, coercion of
16 any kind has been used against me."

17 Q Okay, did Mr. Leggette appear awake and alert and
18 understanding of that?

19 A Yes, he did.

20 Q Did he execute anything on that document as well?

21 A Yes, he circled the word do not and placed his initials
22 inside the circle.

23 Q Okay, and what's the context of what you referred to, do
24 not what?

25 A Do not want a lawyer at this time.

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- 1 Q Meaning that he wanted to make a statement?
- 2 A He wanted to make a statement, yes.
- 3 Q Okay, did you coerce him in any way?
- 4 A No, sir, he sent for me.
- 5 MR. HIXSON: Let me follow up, Your Honor. I'm handing
- 6 the witness Court's Exhibit Number Four.
- 7 BY MR. HIXSON:
- 8 Q What is that?
- 9 A This a voluntary written statement from Dominic Leggette.
- 10 Q Okay, let me back up for a second. Was the meeting on
- 11 September 13th, was that audiotaped or videotaped?
- 12 A No, this just was, just, I just got a verbal written
- 13 statement from him on this. There was no audio, videotape on
- 14 this.
- 15 Q Okay, and did you have a discussion with Mr. Leggette
- 16 when you first arrived on why he wanted you there?
- 17 A Yes, he did, but before - I told him before I could talk
- 18 to him I had to give him his Miranda warnings before I asked
- 19 him anything.
- 20 Q Okay, and then after the warnings what did he say?
- 21 A He actually give me a verbal written statement addressing
- 22 the issues as, as before us today.
- 23 Q Okay, so, do you recognize that item?
- 24 A Yes, sir.
- 25 Q And what is that?

1 A That's a written statement from Dominic Alexander
2 Leggette.

3 Q Okay, and did you witness him writing this?

4 A Yes, sir, I did.

5 Q Okay, and did he execute that document in any way?

6 A Yes, sir, he execute it by placing his signature on it.

7 Q Okay, are there any warnings on that document?

8 A No, not this document. It's a voluntary written
9 statement form.

10 Q Okay, above his written statement is there a repetition
11 of the Miranda warnings above that?

12 A Yes, it is.

13 MR. HIXSON: That'll be a Court's Exhibit, Your Honor.
14 I'll let the Court review that as well. I'd just point out
15 for the Court that this says this statement was given to
16 Investigator Lee and that his Miranda warnings once again are
17 reiterated on the top of that.

18 Q Is that correct?

19 A Yes, sir; yes, sir, it is. It's right there on top.

20 Q And you - were you the only one present during this?

21 A Yes, sir. Let me see - let me take a look back. Yes, I
22 was because he - the only initials on here is his and mine
23 because he actually met - send for me.

24 Q Okay, I have no further questions.

25 THE COURT: All right, so, Court's Exhibit Three is

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1 Miranda warnings and Court's Exhibit Four is the statement.

2 MR. HIXSON: Is actually the statement itself.

3 THE COURT: From September 13th, 2008.

4 MR. HIXSON: That's correct, Your Honor.

5 THE COURT: Okay, all right, I got you.

6 All right, Mr. Hazzard, any questions?

7 MR. HAZZARD: No questions, Your Honor.

8 THE COURT: All right, sir, you may step down.

9 A All right, thank you, Judge.

10 THE COURT: Call your next witness.

11 MR. HIXSON: I have no more - no other witnesses on
12 this statement, Your Honor.

13 THE COURT: All right, Mr. Hazzard.

14 MR. HAZZARD: No argument in this one, Your Honor.

15 THE COURT: All right, all right, the Court's ruling
16 is that the State has satisfied the requirements of Jackson v.
17 Denno as to the statement given on September 13th, 2008. It'll
18 be admissible to the jury subject to any other - I mean, the
19 Court finds it's voluntary, but it can still be argued,
20 voluntariness can still be argued to the jury by the
21 Defendant.

22 All right.

23 MR. HIXSON: Thank you, Your Honor.

24 We also have a six-pack lineup that was used in this,
25 Your Honor. Perhaps we should address that pretrial.

1 THE COURT: All right, all right.

2 MR. HIXSON: We would call Investigator Eddie Lee of
3 the Andrews Police Department.

4 Whereupon, Eddie Lee was called to the stand, duly sworn
5 by the clerk and testified as follows:

6 THE CLERK: Thank you. Please be seated and state
7 your name for the record, please.

8 MR. LEE: Investigator Eddie Lee, Andrews Police
9 Department.

10 EXAMINATION

11 BY MR. HIXSON:

12 Q Good afternoon, sir. We already know that you
13 participated in the investigation of a shooting that happened
14 in Andrews August 13th of 2008; is that correct?

15 A Yes, sir.

16 Q Did you at some point in time interview a witness in this
17 case, specifically Al Ingram?

18 A Yes, I did.

19 Q And what did Mr. Ingram tell you?

20 A He basically give me a voluntary witness statement that
21 on the 13th him along with the victim was on West Main Street
22 walking toward the Super Chic and that he made contact with
23 Mr. Leggette who actually shot the victim and shot Mr., I
24 think from what I recall, Mr. Ingram in his right heel, I
25 think it is.

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1 Q Okay, and based on that statement did you feel it was
2 important to provide a, created what's commonly referred to as
3 a six-pack lineup?

4 A Yes, sir.

5 Q And did you in fact create one of those?

6 A Yes, sir.

7 MR. HIXSON: Your Honor, let me show - Your Honor, I
8 have the original as well as photocopies of the original in
9 case there's any question about that. I'd like to try to use
10 the copies for - but I can put the original into evidence. It
11 doesn't matter, however.

12 THE COURT: Any objection to copies?

13 MR. HIXSON: Made copies front and back. It doesn't

14 ---

15 MR. HAZZARD: No objection, Your Honor.

16 THE COURT: All right, without objection that'll be
17 Court's Exhibit ---

18 MR. HIXSON: Five and Six because it's a front, front
19 and back, the warnings are on the back of it.

20 THE COURT: All right, Court's Exhibits Five and Six.

21 (Whereupon, Court's Exhibit Five [Lineup] and Six
22 [Warnings] appropriately marked.)

23 BY MR. HIXSON:

24 Q Mr. Lee, I'll give you these, specifically Number Five,
25 what is that?

1 A This is a photo lineup of six black males.

2 Q Okay, and did you create that?

3 A Yes, sir.

4 Q And please tell the Court how you went about creating
5 that.

6 A Well, based on the information we got we know, on my
7 information that the subject, Mr. Leggette, was a black male.
8 So, you know I've got to get six black males, basically, you
9 know, to be fair with him, not be suggestive, background, hair
10 and skin color and I did the photo lineup.

11 Q Okay, so, did you select those photographs - how did you
12 select those photographs?

13 A Based on the description of Mr. Leggette himself and
14 other subjects here basically match his description.

15 Q Okay.

16 A To be fair to him.

17 Q Were you provided a general description of what the
18 suspect looked like?

19 A Yes, ma'am - yes, sir.

20 Q Do you recall what that general description was?

21 A Black male, approximately about maybe six feet tall, got
22 dreads in his head.

23 Q Okay.

24 A Kind of large eyes, yes, sir, and I know him.

25 Q Okay, and at what point in time did you receive that

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1 description?

2 A I did that on - I actually made contact with Mr. Al
3 Ingram on the 14th and he actually pick him out the lineup as
4 the subject who shot him and the victim.

5 Q Okay, now, did you prepare the lineup on the 14th?

6 A I did that - yes, sir, I did that myself, too.

7 Q Okay, did you get the - what day did you get the initial
8 description of what the suspect looked like?

9 A I got that at the, at the - on the 13th, the same day when
10 the murder and Mr. Ingram got shot, the same day.

11 Q Okay, how much time do you believe transpired between the
12 time you were given - between the incident and the time that
13 the description was taken down?

14 A Okay, well, the incident happened on the 13th. I actually
15 did it the following day, which would be the 14th and the
16 witness identified Mr. Leggette as the shooter, which it would
17 be the next day.

18 Q Okay, the next day, and did you take any steps to make
19 sure that that lineup didn't appear presumptive in any way?

20 A Yes, sir, and how I did that in reference to the
21 background itself, make sure all the photograph looks the same
22 and also if you can tell by some of it, the photo lineup
23 basically you got some of the subjects basically got hair and
24 same description and in some way in the same description as
25 Mr. Leggette is, all, and all the males is dark complected.

1 Q Okay, now, describe what procedure you go about to give
2 the lineup to the witness.

3 A Basically what I do is I usually get the lineup, have to
4 get the information, make contact with the, with the, with the
5 witness, and inform the witness, "I've got a lineup of six
6 black male," and, and to be fair to Mr. Leggette I want to see
7 if he can pick out the subject who he says shot him.

8 Q Okay, okay, are there any - let me ---

9 MR. HIXSON: Judge, let me mark this and just so I
10 don't have to go around the instructions on here. I may as
11 well just put this part of the record, Judge, and make it.

12 THE COURT: All right, so, that'll be Court's Exhibit
13 what number?

14 MR. HIXSON: Number Seven, Judge.

15 THE COURT: Court's Exhibit Seven.

16 (Whereupon, Court's Exhibit Number Seven [Lineup]
17 appropriately marked.)

18 BY MR. HIXSON:

19 Q Take a look at that Investigator Lee, what is that?

20 A This is a lineup of six black males on a Georgetown
21 County Sheriff Department case folder.

22 Q Now, is that the actual lineup form that you used that
23 day?

24 A Yes, sir; yes, sir.

25 Q Okay, and could you please describe to the Court if there

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1 are any warnings contained on that document?

2 A Yeah, there are some warnings on the back of it, but I
3 didn't read those to him. I basically just told the witness
4 that the, you know, to see if he can pick out the subject who
5 he said did the shooting, did he know him.

6 Q Now, did you pressure that witness in any way?

7 A No, sir.

8 Q Did you tell the witness that he had to pick somebody
9 out?

10 A No, sir.

11 Q Did you make it clear to him there may not - the
12 Defendant may not be there?

13 A Well, I basically told him that he have to pick him out.
14 I am - I made it explicit to him that, you know, to be fair,
15 fair to Mr. Leggette that he'll have to pick out the subject.
16 I can't assist him or aid him in any way.

17 Q Did you, in fact, assist him or aid him in any way?

18 A No, sir.

19 Q Ultimately on the 14th did Mr. Ingram come into the
20 office?

21 A Yes, sir, I actually did this at his, if my memory serves
22 me right, we did it at his residence. I think it's on MLK
23 Drive.

24 Q I apologize. I apologize.

25 A Yes, sir.

1 Q So, you came in contact with Mr. Ingram at some point in
2 time?

3 A Yes, sir; yes, sir.

4 Q And did you present him with that lineup?

5 A Yes, sir.

6 Q And how did Mr. Ingram react?

7 A He immediately went to lineup number five. He actually
8 placed his initials and the day's date when I made contact
9 with him over on Mr. Leggette.

10 Q Okay, and how much time you said, how much time did you
11 say from the time you showed it till he identified the person?

12 A He actually went to it basically ---

13 REPORTER: Judge, they've got to stop running over
14 each other.

15 THE COURT: Yeah, you're going to have to slow down
16 because we're going too fast. The Court reporter can't pick
17 it up, okay.

18 MR. HIXSON: Thank you, Your Honor.

19 THE COURT: All right, ask your question again and
20 then when he finishes asking the question you can start your
21 answer. All right, sir.

22 MR. HIXSON: Thank you, Your Honor.

23 BY MR. HIXSON:

24 Q How long - how much time transpired between the time that
25 you showed that document, that lineup to Al Ingram and to the

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1 point he reacted to it?

2 A I would say probably - I'm just guessing maybe less than
3 five seconds. I mean, he immediately went to lineup number
4 five.

5 Q Okay, did you ask him to indicate on that form in any way
6 his choice?

7 A Yes, sir, after he - I asked him, after he picked lineup
8 number five, I asked him to place his initials and today's
9 date, which he did.

10 Q Okay.

11 MR. HIXSON: I have no further questions from this
12 witness, Your Honor.

13 THE COURT: All right, Mr. Hazzard.

14 MR. HAZZARD: No questions for this witness, Your Honor.

15 THE COURT: All right, let me see, let me see the
16 exhibit for a second.

17 MR. HAZZARD: The Defense would like to be heard prior
18 to the Court's ruling.

19 THE COURT: All right.

20 All right, you may step down.

21 A Yes, sir.

22 THE COURT: Call your next witness.

23 MR. HIXSON: The State would call Al Ingram to the
24 witness stand, please.

25 Whereupon, Al Ingram was called to the stand, duly sworn

1 by the clerk and testified as follows:

2 THE CLERK: Thank you. Please be seated and state
3 your name for the record.

4 MR. INGRAM: Al Ingram.

5 EXAMINATION

6 BY MR. HIXSON:

7 Q Good afternoon, sir. You want to slide up a little bit
8 so you can make sure you speak clearly. We're not going to
9 get into the whole thing, Al. We're just going to talk about
10 one part of it; okay?

11 A Yes, sir.

12 Q Were you involved in a shooting incident down on Main
13 Street in Andrews?

14 A Yes, sir.

15 Q Did you get shot down there?

16 A Yes, sir.

17 Q Okay, did during the course of that incident did you see
18 the person that shot you?

19 A Yes, sir.

20 Q Did you recognize the person that shot you?

21 A Yes, sir.

22 Q Had you seen that person sometime in the past?

23 A I seen him like throughout, throughout town, you know
24 what I'm saying? I didn't actually know his name but I just
25 know his face throughout town.

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1 Q Okay, so, prior to - do you recall being in Andrews
2 August 13th of 2008?

3 A Yes, sir.

4 Q Okay, and so, you had seen the Defendant prior to that?

5 A Yes, sir.

6 Q Okay, okay, let's go back to the August 13th, okay. At
7 some point in time you were shot during that period of time;
8 is that correct?

9 A Yes, sir.

10 Q Okay, what did you do after that?

11 A Well, after I was shot, well, when I realized I was shot
12 I immediately fell to the ground and I jumped back up and I
13 looked at Antonio, he looked at me and we just started running
14 back towards the car.

15 Q Okay, now, who is Antonio?

16 A It is my friend who I was with during the shooting.

17 Q Okay, who's - what's his whole name just for the record
18 just to clarify for the Court.

19 A Antonio Billy Tisdale.

20 Q Okay, is that the deceased?

21 A Yes, sir.

22 Q Okay, you looked at each other and took off running; is
23 that right? That's where we are?

24 A Yes, sir.

25 Q Okay, and then tell me what happened after that.

1 A He was running toward - we was trying to get to the car,
2 but while we was running I stated to Mr. Tisdale that I was
3 shot and he said back to me, "He shot me, too." After he said
4 that I just kept running. I kept running till I got to the
5 car and I looked back. I didn't see Mr. Tisdale. When I went
6 back to the front of the club that's when I seen Mr. Tisdale
7 on the ground.

8 Q Okay, let me ask you this, about how long that evening,
9 how long did you see Mr. Leggette, the whole night, I'm not
10 talking about, I mean, just before and after that incident.

11 A Maybe 10 minutes at the most.

12 Q Okay, and how close were you from him? How clearly,
13 clear was he to you when you saw him?

14 A A good 15 to 20 feet.

15 Q Okay, could you see his face?

16 A Yes, sir.

17 Q At any point in time did he try to obscure his face?

18 A While, while we was - while we was walking down towards
19 Super Chic.

20 Q Okay, and keep going on that. When you're walking
21 towards Super Chic what did he do?

22 A I seen him try to put like a white fabric, a fabric or
23 maybe a white shirt over his face, like try to tie it over his
24 face and the next think I know I just seen him, he just
25 started shooting.

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1 Q Okay, what was the lighting - what were the lighting
2 conditions around that period of time?

3 A It was like it was like the Super Chic lights was on
4 actually, so, I knew who it was, I seen who it was.

5 Q Okay, and then when the - actually when the gun went off
6 about how far were you from Mr. Leggette?

7 A I want to say between 10, no more than 15 feet.

8 Q Okay, and where were your - where was your focus at that
9 time? What were you looking at?

10 A I wasn't - I was just looking at the gun, really.
11 That's, that's what really just made me try to get out the
12 way.

13 Q Okay, after this happened did at some point in time did
14 you give a statement to law enforcement?

15 A Yes, sir.

16 Q And did you give a description of who the shooter was?

17 A Yes, sir.

18 Q And what did you say?

19 A A black male, dreadlocks, black t-shirt, blue jeans.

20 Q And did you use the person's name?

21 A After I found out who it was, yes, sir.

22 Q Just in the statement, just at that time did you use his
23 name?

24 A No, sir.

25 Q Did you know who it was?

1 A By face, yes, sir.

2 Q Okay, and well, I won't ask you that. Did that
3 information - at some point in time did Investigator Lee talk
4 to you about this incident?

5 A Yes, sir.

6 Q And at some point in time did he ask if you would look at
7 some pictures?

8 A Yes, sir.

9 Q Okay, please tell us about that.

10 A He gave me a chart looking envelope that had six black
11 males on it. He told me, he told me that to look and see if
12 any, if Mr. Leggette was in the lineup. I looked at the
13 lineup. I immediately seen number five, that was Dominic
14 Leggette and I initialed and put the date.

15 Q Okay.

16 MR. HIXSON: Your Honor, may I have that, Your Honor?

17 BY MR. HIXSON:

18 Q Al, let's take a look at what's been marked as State's or
19 Court's Exhibit Number Seven. Take a look at that. Do you
20 recognize that?

21 A Yes, sir.

22 Q And what is that?

23 A It's a six photo lineup.

24 Q Okay, is that the same item that you saw August 14th?

25 A Yes, sir.

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1 Q Okay, did - were you - did you feel like you were under
2 any pressure to pick a specific person?

3 A No, sir.

4 Q Were you told - what other - were any other instructions
5 given to you or, or do you, or do you recall if there were?

6 A I don't remember, sir.

7 Q Okay, were you told that you had to pick somebody?

8 A No, sir.

9 Q Will you turn that around on the back of that form,
10 please, and what is that on the back of this form?

11 A Just a statement asking me to look at the groups in the
12 photograph, the pictures, and ---

13 Q Do you recall if you were apprised of those warnings on
14 that day?

15 A I'm not sure.

16 Q Okay, but you didn't feel pressure to pick somebody?

17 A No, sir.

18 Q And in fact did you pick somebody?

19 A Yes, sir.

20 Q Okay, and who did you pick?

21 A Number five, Dominic Leggette.

22 Q Okay, and about how long, how much time transpired from
23 the time that you first saw that form until you picked
24 somebody?

25 A I want to say less than ten seconds.

1 Q And did, did Investigator Lee ever tell you that Dominic
2 Leggette was in that form?

3 A No, sir.

4 Q Okay, okay, I just wanted to clarify that. Once you saw
5 - picked number five, what did you do?

6 A I put my initials and the date.

7 Q Okay, did anything else happen during that meeting?

8 A No, sir.

9 Q Okay.

10 MR. HIXSON: Your Honor, I have no further questions
11 for this witness.

12 THE COURT: All right, Mr. Hazzard.

13 EXAMINATION

14 BY MR. HAZZARD:

15 Q Okay, Mr. Ingram, you knew who Dominic Leggette was
16 because you had had previous fights with him, correct?

17 A Yes, sir.

18 Q Okay, when was that?

19 A A year prior to the shooting.

20 Q Okay, and no fight two days prior to the shooting?

21 A No, sir.

22 Q And no - because August 13th was on a Wednesday, correct?

23 A Yes, sir.

24 Q Okay, and you all did not have an altercation the
25 preceding Monday and then the Saturday prior to that?

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- 1 A Not between me and Mr. Leggette.
- 2 Q Okay, well, then who was it between, sir?
- 3 A Well, people that he associate with.
- 4 Q Got you. So, that was on that Wednesday, the Wednesday
- 5 when the incident occurred where you were injured, correct?
- 6 A Yes, sir.
- 7 Q And then there was some prior altercation two days prior
- 8 to that, that Monday?
- 9 A Yes, sir.
- 10 Q And then an altercation two days prior to that, that
- 11 Saturday; is that correct?
- 12 A Yes sir.
- 13 Q Okay, now, when Detective or Investigator Lee showed you
- 14 the photographs there, he did not - he said he couldn't tell
- 15 you who it was, he said you had to pick it out on your own;
- 16 correct?
- 17 A Yes, sir.
- 18 Q Okay, but he never specifically said the person who shot
- 19 you might not be in these pictures; did he?
- 20 A No, sir.
- 21 Q Okay, thank you.
- 22 MR. HAZZARD: No further questions.
- 23 THE COURT: Mr. Hixson?
- 24 MR. HIXSON: No further questions, Your Honor.
- 25 THE COURT: All right, you may step down. Call your

1 next witness.

2 MR. HIXSON: I have nothing, just argument, Your Honor.

3 THE COURT: All right, anything from the Defense?

4 MR. HIXSON: Very briefly, Your Honor, as the Court
5 knows in this type of Biggers situation, what concerns the
6 Defense is that Investigator Lee by his statements and actions
7 intimated that the perpetrator of the crime, their picture
8 could be found in that photo array, and as the Court knows
9 that is extremely improper. Detective Lee could not indicate
10 that he read the actual warnings on the back of the folder.
11 The witness, Mr. Ingram, has indicated that he either does not
12 recall or does not believe he was ever read those warnings,
13 which I would think the warnings specify that the person that
14 committed this offense may or may not be included. So, you
15 don't have that and you have Detective Lee saying, "I can't
16 help you, but you have to pick him out yourself," which gives
17 the impression and imprimatur that the guilty party can be
18 found among those six photos. We would submit that makes the
19 lineup itself unduly suggestive and improper. We would submit
20 that, therefore, it should be excluded from evidence in this
21 case.

22 THE COURT: All right, Mr. Hixson?

23 MR. HIXSON: Your Honor, we presented this information
24 to the Court out of an abundance of caution. We don't really
25 believe this is a Neil v. Biggers issue at all simply because

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1 Mr. Leggette or, excuse me, Mr. Ingram already knew Mr.
2 Leggette. He told the detectives that he knew who did it. He
3 knew him before but couldn't remember his name. Just out of
4 an abundance of caution we try to present this pretrial to
5 clear up the issue at trial, but Neil v. Biggers applies
6 specifically when there has never been any identification
7 before and they see that person to begin with the first time
8 during the course of the incident and that makes sure there's
9 nothing suggestive prior to that. There's testimony from Mr.
10 Ingram that he knew him from the neighborhood, knew him
11 before. In fact the cross examination line by Mr. Hazzard
12 indicated he tried to run - ran home the point that he knew
13 him before. So, not only do we feel that the - we have
14 accomplished and satisfied the Court's questions on Neil v.
15 Biggers, but our second position would be that or perhaps our
16 first position that Biggers doesn't apply.

17 THE COURT: All right.

18 MR. HIXSON: That the ID had already occurred.

19 THE COURT: All right, well, regardless, I think, I
20 think there has been a showing of reliability under the
21 totality of the circumstances. It will be up to the jury to
22 determine how much weight to give to the identification, but I
23 think the State's satisfied its burden to at least make it
24 admissible.

25 All right, anything else?

1 MR. HAZZARD: Okay, Your Honor. Do you have something
2 else (to Mr. Hixson)?

3 MR. HIXSON: Your Honor, just a few more things
4 relating to photographs, but I think that Mr. Hazzard and I
5 can look at those together and come to a resolution relating
6 to objections at an appropriate time.

7 MR. HAZZARD: Have I seen all of them?

8 MR. HIXSON: Not yet.

9 MR. HAZZARD: Okay.

10 Your Honor, a couple of things from the Defense
11 perspective, one, obviously, the Defense would request that
12 any and all witnesses on both sides be sequestered prior to
13 their testimony.

14 THE COURT: All right, any opposition to that?

15 MR. HIXSON: No, Your Honor.

16 THE COURT: All right, so all witnesses will be
17 sequestered except for Mr. Leggette and who is going to be
18 your chief investigating officer?

19 MR. HIXSON: Investigator Eddie Lee.

20 THE COURT: All right, with the exception of
21 Investigator Lee. I'm trying to write this down.

22 MR. HIXSON: Your Honor, I apologize about that, Mr.
23 Brown, Investigator Brown needs to work on the audio-video
24 equipment on the computer, and if that's the case then I need
25 to have Mr. Brown present to run that.

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1 MR. HAZZARD: Defense has no objection to both
2 Investigator Lee and the, you know, and, and Officer Brown
3 being present, Investigator Brown being present.

4 MR. HIXSON: Thank you, Mr. Hazzard.

5 THE COURT: All right, so, Mr. Lee - Investigator Lee
6 can be present, Investigator Brown can be present, the
7 Defendant can be present, all other witnesses will be
8 sequestered.

9 MR. HIXSON: Thank you, Your Honor.

10 MR. HAZZARD: All right, the second thing with regard to
11 the Defense perspective, Your Honor, I would want to - there
12 is a very real possibility that the Defendant will take the
13 stand, and in order to streamline things I didn't know if the
14 Court wanted to address the issue of his prior convictions on
15 whether any of that would be admissible against him if he
16 decided to take the stand, that way once we get into the trial
17 and get into the Defense case, we would not have to take a
18 break for that purpose. We could make that determination
19 today, if the Court so wishes.

20 MR. HIXSON: Your Honor, my understanding he doesn't
21 have any impeachable convictions. I will run a new NCIC on
22 him, but my understanding he's been incarcerated during the
23 pendency of this trial and I would not expect to find anything
24 additional other than, of course, for impeachment if he, you
25 know.

1 THE COURT: Let's do it this way, how about go ahead
2 and do your NCIC or whatever you got to get and give it to Mr.
3 Hazzard and at least we'll have it on notice so when it comes
4 time, the State rests, we can address it at that time, okay?

5 MR. HIXSON: Thank you, Your Honor.

6 THE COURT: But at this time you're saying you don't
7 know of any impeachable offenses?

8 MR. HIXSON: No, there doesn't appear to be any.

9 THE COURT: Okay, all right, well ---

10 MR. HIXSON: Based on a prior conviction.

11 THE COURT: --- you'll need to bring it to the Court's
12 attention before you introduce anything, okay?

13 MR. HIXSON: Yes, sir.

14 THE COURT: All right, Mr. Hazzard?

15 MR. HAZZARD: Okay, Your Honor, with regard to the
16 Defense subpoenas, we would like to place a couple of things
17 on the record; number one, the Defense subpoenaed a young man
18 by the name of Jamie White. It is our understanding through
19 investigation that although he would be a possibly pivotal
20 witness in this case, it is our understanding through
21 investigation that, number one, he is no longer in the State
22 of South Carolina, he is in the state of Virginia, and number
23 two, that he is - as the result of an illness he is physically
24 incapacitated; and therefore, even if he were present would
25 not be available to testify; and so, I did want to place that

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1 on the record because Mr. Leggette had mentioned that this
2 individual could shed some light on the facts of the case, and
3 we have tried to obtain his testimony on the Defendant's
4 behalf. Secondly, with regard ---

5 THE COURT: Well, first, excuse me, let me back up.

6 MR. HAZZARD: Yes, sir, sure.

7 THE COURT: I apologize for interrupting, but what do
8 you want me to do with regard to that?

9 MR. HAZZARD: Nothing, Your Honor, I'm simply placing
10 it on the record because the Defendant had indicated to me
11 that as a matter of course I ask all my clients, "Who would
12 you want to have available to testify at trial?" He had
13 indicated Mr. White was someone he wanted available and I did
14 not want there to be any question as to why the Defense did
15 not produce Mr. White.

16 THE COURT: All right.

17 MR. HAZZARD: Okay?

18 THE COURT: All right, sir.

19 MR. HAZZARD: There are a couple of individuals who are
20 subpoenaed by the Defense in addition to Mr. White. One is a
21 Sharon McGee. I would place on the record with the Court,
22 Mr. McGee has been subpoenaed, he did appear today pursuant to
23 the subpoena. I requested that he return pursuant to the
24 subpoena at approximately 11 a.m. tomorrow, and I place that
25 on the record in case he doesn't appear. I would then ask the

1 Court to request that the sheriff go and obtain his presence.

2 The second witness, and I believe both parties have this
3 individual subpoenaed, is Craig Jackson. I do not know if he
4 is present at this time, have not spoken to him but if he does
5 not come tomorrow, then I would be making that same request,
6 Your Honor.

7 THE COURT: All right.

8 MR. HIXSON: And Your Honor, Mr. Jackson just heard
9 what he said. So, I think he'll be here.

10 MR. HAZZARD: All right, excellent.

11 Nothing further from the State [sic] with regard to
12 pretrial motions in this case, Your Honor.

13 THE COURT: All right, anything further from the
14 State?

15 MR. HIXSON: No, your Honor, other than that it's just
16 if we can clear up the pictures and make sure that's
17 streamlined and I think we're in good shape.

18 THE COURT: Do you all want to do that now or ---

19 MR. HIXSON: Yes, sir.

20 THE COURT: --- or get together?

21 MR. HIXSON: Yes.

22 THE COURT: All right.

23 MR. HAZZARD: Okay, Defense has no objections to the
24 photographs, Your Honor.

25 THE COURT: All right, let's go ahead and get them on

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1 the record for identification, not that we're putting them in
2 now, but at least we'll have a record that you've reviewed
3 them.

4 MR. HIXSON: Number one is a - you want them one by
5 one, Judge?

6 THE COURT: Well, no, just tell me, give - they're
7 marked for identification as State's Exhibits what?

8 MR. HIXSON: State's Exhibit One is an overhead aerial
9 photograph.

10 THE COURT: You don't have to tell me what they are,
11 just what the numbers.

12 MR. HIXSON: Okay, two through - I believe they are
13 all the way - one through 30.

14 THE COURT: All right, so ---

15 MR. HIXSON: They'd all be photographs, 29 is a
16 photograph, 30 should be a crime scene sketch.

17 THE COURT: All right, so, the Defense has no pretrial
18 objections to Plaintiff's Exhibits one through 30?

19 MR. HAZZARD: That is correct, your Honor.

20 THE COURT: All right. All right, anything else?

21 MR. HIXSON: Nothing from the State, Your Honor.

22 THE COURT: Anything from the Defense?

23 MR. HAZZARD: Nothing further from the Defense at this
24 time, Your Honor.

25 THE COURT: All right.

1 MR. HIXSON: I do have one other thing, Judge, I
2 apologize.

3 THE COURT: All right.

4 MR. HIXSON: Chief Knox is on the witness list, mainly
5 for pretrial matters and I would - don't mind excusing him
6 subject to recall so he can tend to his duties.

7 THE COURT: Any objection by the Defense?

8 MR. HIXSON: And also be ---

9 MR. HAZZARD: Without objection.

10 THE COURT: All right, he'll be excused. He's still
11 under subpoena which means that once you're contacted you
12 would need to return pursuant to the subpoena, but we're not
13 going to make you sit in court throughout the trial.

14 MR. HIXSON: All right, would that be appropriate then
15 if he wants to come in he can watch because I don't intend to
16 call him as a witness?

17 THE COURT: Well, if he's going to appear as a
18 witness he's going to be sequestered.

19 MR. HIXSON: He's not.

20 THE COURT: Okay, all right, otherwise he's - anybody
21 that is not sequestered will not be allowed to testify except
22 for Investigator Lee, Investigator Brown and the Defendant.

23 MR. HIXSON: Thank you, Your Honor.

24 THE COURT: All right, anything else before we break?
25 All right, we'll stand in recess until 9:30 tomorrow morning.

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1 MR. HIXSON: Thank you, Your Honor.

2 THE COURT: All right, thank you.

3 OFF THE RECORD

4 (On the record, Tuesday, March 30, 2010.)

5 (Whereupon, the following takes place outside the
6 presence of the jury.)

7 THE COURT: All right, I understand that there is at
8 least one pretrial matter that we need to bring up; is that
9 correct?

10 MR. HIXSON: That's correct, Your Honor, I think
11 there's a couple, there is two of them.

12 THE COURT: All right, all right, well, let me do
13 this, rather - the jury has been back there for a while.
14 Let's go ahead and bring the jury in. I'm going to tell them
15 that we still have some pretrial matters, apologize to them
16 for keeping them back there so long, but it's something that
17 can't be avoided so that they'll - they won't be sitting back
18 there, you know, wondering what's going on. I did receive a
19 note from the jury, Carol Scott, Juror Number 119, has been
20 selected as the foreperson and we'll mark this note as Court's
21 Exhibit Eight.

22 (Court's Exhibit Number Eight [Foreperson Selection]
23 appropriately marked.)

24 THE COURT: Thank you. All right, let's bring the
25 jury in.

1 (Whereupon, the following takes place in the presence of
2 the jury.)

3 THE COURT: All right, ladies and gentlemen, welcome
4 back. I hope everyone had a good evening. We're getting
5 ready to start the trial of this case, but I wanted to bring
6 you out at this point in time to, number one, thank you for
7 being prompt and being here ready to go and, number two, to
8 apologize to you for keeping you back in the jury room for so
9 long. I do have some opening instructions that I will be
10 giving to you shortly; however, I wanted to let you know why
11 we're keeping you back in the jury room at this point in time
12 and I'll explain it a little bit more later on when we start
13 the trial of the case, but what I will instruct you in my
14 preliminary charges are that you, the jury, are the sole
15 deciders of the facts in this case. I, on the other hand, as
16 the judge decide the law that is applicable to this case and
17 there are certain legal matters that require me and the
18 attorneys to discuss issues of law and when we decide these
19 issues of law sometimes it requires us to discuss factual
20 matters and we don't want anything that the attorneys say or
21 anything that I say as a judge to influence you in your
22 findings of the fact and I'll explain it a little bit later
23 when I give you my opening charge, but suffice it to say that
24 for the time being, you and you alone decide the facts of this
25 case based upon the testimony and evidence presented at trial.

Opening Instructions by Court

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1 Now, nothing that I say in deciding these legal issues and
2 nothing that the attorneys say in arguing these legal issues
3 is testimony or evidence; and therefore, you should not be
4 influenced by what we say during the course of these legal
5 matters and that's why we excuse you to the jury room while we
6 discuss it. It's so that you will not be influenced by
7 anything that the attorneys say or anything that I say.
8 I understand that Ms. Scott has been selected as foreperson,
9 and I thank you for serving in that capacity. If you would
10 always occupy that seat where you are, Ms. Grimes and Mr.
11 Byrne, if you would always occupy the alternate seats, the
12 rest of you are at liberty to sit wherever you like.

13 Now, before we proceed in this matter, I want to go ahead
14 and introduce you to some of the court personnel, who you have
15 met some of them and the others that you will be working with
16 this week.

17 (Court personnel introduced by Court.)

18 THE COURT: Now, at this point in time we do have some
19 more legal matters that I need to take up with the attorneys
20 before we start the trial of this case. So, I'm going to
21 excuse you back to the jury room, give you another opportunity
22 to stretch your legs before we get into this case. So, please
23 do not discuss the case even among yourselves at this point in
24 time and we'll bring you out very shortly. Thank you very
25 much.

1 (Whereupon, the following takes place outside the
2 presence of the jury.)

3 THE COURT: All right, Mr. Hixson, what issue do we
4 want to take up first?

5 MR. HIXSON: Thank you, Your Honor. We have a matter
6 we alluded to yesterday about, I think, three dying
7 declarations. Thought it would be appropriate to take that
8 matter up and provide the foundation for that pretrial. I
9 believe we've had a discussion with Mr. Hazzard and he would
10 like to suppress those. I think it's his motion and I'm
11 prepared to go forward.

12 THE COURT: All right, as I explained back in our
13 conference, I can leave it up to you, Mr. Hazzard, whether or
14 not you want to bring a motion, oral motion in limine to
15 suppress those or wait until they are offered, however you
16 want to proceed.

17 MR. HAZZARD: In light of the fact that those - that I
18 know the State intends to attempt to introduce them, I would
19 make an oral motion in limine at this time to suppress any
20 alleged dying, dying declarative statements made by Antonio
21 Tisdale.

22 THE COURT: All right, all right, Mr. Hixson, do you
23 want to go ahead and proffer your testimony and let's see how
24 we're going to do it?

25 MR. HIXSON: Yes, Your Honor, that'd be great.

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1 THE COURT: Okay, all right.

2 MR. HIXSON: The State would call Craig Jackson to the
3 witness stand, please.

4 Whereupon, Craig Jackson was called to the stand, duly
5 sworn by the clerk and testified as follows:

6 THE CLERK: Thank you. Please be seated, state your
7 name for the record.

8 MR. JACKSON: Craig Jackson.

9 EXAMINATION

10 BY MR. HIXSON:

11 Q Good morning, sir.

12 A How you doing?

13 Q Tell us what you do for a living.

14 A I'm a cook.

15 Q Okay, and you live here in Georgetown County?

16 A Yes, in Andrews.

17 Q And I'll try to shortcut this a little bit since we're
18 not in front of the jury here. Do you recall being in the
19 Andrews Section of Georgetown County back on August 13th of
20 2008?

21 A Yes, I was.

22 Q And where were you?

23 A I was at Carnell's Bar and Grill.

24 Q Okay, and did an incident, a shooting incident happen
25 down - during that period of time?

1 A Yes, sir, it did.

2 Q Okay, at some point in time, just try to fast forward you
3 to the point we're talking about. Did you hear gunshots?

4 A Yes, I did.

5 Q Okay, did you actually see a shooting?

6 A Yes, I did.

7 Q Okay, did you see the victim or the victims in that
8 shooting?

9 A Yes, sir, I did.

10 Q And who were they?

11 A It was Billy better known as Tony and Alfonso.

12 Q Okay, you talked about a couple of different names there.
13 Can you be more - describe to the Court exactly what people
14 you're talking about?

15 A Tony is the victim, the one that was, that's deceased.

16 Q Antonio Tisdale?

17 A Yes.

18 Q Did he - do you know, did he go by any other nicknames?

19 A Billy.

20 Q He went by Billy also?

21 A Yeah.

22 Q So, when you say Billy, Tony and Antonio, all of that is
23 Mr. Tisdale; is that correct?

24 A Well, Antonio I think his - the other guy name is
25 Alfonso; right? You talking about Alfonso?

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1 Q Al Ingram is the victim in the assault and battery with
2 intent to kill indictment.

3 A Yes.

4 Q I'm just trying to clarify the names because I know there
5 are some names floating around there.

6 A Right.

7 Q Okay, so, let me back up. So, did you see the victims in
8 this shooting?

9 A Yes, I did.

10 Q And who were they?

11 A The first one, the one that's deceased was Tony, better
12 known as Billy.

13 Q Okay.

14 A And the second was the one with the, with the, with the
15 wound or that's still living is Alfonso.

16 Q Okay, now, tell us what happened from the time that you
17 saw the shooting, what happened after that?

18 A From the time I saw the shooting?

19 Q Uh-huh.

20 A Well, after I saw the shooting, after I saw the shooting
21 they both came back running by me and then Tony stopped and
22 said, "Dominic shot me," and held his shirt up and he kept on
23 running. Well, Alfonso kept on running, Tony stopped at me
24 and said, "Dominic shot me," and when he held his shirt up, I
25 saw the hole in his chest.

1 Q Okay, now, tell me, you intimated that they both - let's
2 just talk about Mr. Tisdale, the one that passed away ---

3 A Right.

4 Q --- the person that passed away. Did you say he was
5 running back towards you?

6 A They both were, but Tony stopped to me because I was
7 standing right in front of Carnell's on the right hand side of
8 the door. Alfonso kept right on running, but Tony stopped for
9 a brief moment and said, "Dominic shot me."

10 Q Okay.

11 A And then he kept, he - Alfonso was running and Tony kept
12 - after Tony said that to me he kept - he ran, then he
13 collapsed right near Blue's place.

14 Q Okay, tell us about, I know this may seem like a silly
15 question, but tell us about what Mr. Tisdale's demeanor was
16 like during that period of time.

17 A You mean when he stopped in front of me?

18 Q Yeah, when you saw him coming towards you, all through
19 the conversation and beyond.

20 A Well, he was, he was panicked, you know, I guess, I guess
21 in shock that, you know what I'm saying, that he got, that
22 they, that they got shot.

23 Q Okay, but he ---

24 A I mean that's what I see, that's what I saw.

25 Q Okay, and from the time that he made that statement to

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1 you, from ---

2 A He, he was, he was upset, he was, he was, he was
3 panicked, you know, it was like he couldn't believe it that he
4 got shot.

5 Q From the time that he made the statement, "Dominic shot
6 me" ---

7 A Uh-huh

8 Q --- how much time transpired until Mr. Tisdale collapsed?

9 A Not even, not even a minute.

10 Q Okay, did Mr. Tisdale regain consciousness after that?

11 A Well, I don't really know, well, because what I did was
12 after, after, after he stopped in front of me and said that
13 the guy shot him, I stepped back inside real fast and told
14 them, you know, that, that the two, that they got shot, and
15 then I came back outside. When I did come back outside he was
16 laying in his brother's arm. I went and looked at him. Then
17 I went across the street to my car.

18 Q Were other people around?

19 A A lot of people.

20 Q While Mr. Tisdale was on the ground?

21 A Yes.

22 Q Did he appear to you to seem like he was still under the
23 stress of the incident?

24 A You mean when he was laying on the ground?

25 Q Well, let me back up.

- 1 A Okay.
- 2 Q Was he unconscious when he was laying on the ground?
- 3 A From what I see he was.
- 4 Q Okay.
- 5 A From what I saw.
- 6 Q Prior to him becoming unconscious, did he appear to you
- 7 to seem to be still under the stress of this incident?
- 8 A You mean when he was laying on the ground or ---
- 9 Q No, when he was still conscious.
- 10 A When he was still conscious? Can you answer that - ask
- 11 that question again?
- 12 Q Was he excited and stressed out?
- 13 A Yes, he was.
- 14 Q And just briefly to clarify for the Court, how much time
- 15 transpired from when you heard the shots fired till you saw
- 16 what was going on down there ---
- 17 A Uh-huh.
- 18 Q --- until Mr. Tisdale ultimately fell unconscious?
- 19 A I'd probably say three to four minutes at least cause
- 20 they were running, running pretty fast, you know.
- 21 Q So, it's all around the same time period?
- 22 A Yeah.
- 23 Q A pretty quick incident?
- 24 A Pretty quick incident.
- 25 MR. HIXSON: I have no further questions of this

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1 witness at this time, Your Honor.

2 THE COURT: All right, any challenges?

3 EXAMINATION

4 BY MR. HAZZARD:

5 Q Good morning, Mr. Jackson. How are you?

6 A How you doing?

7 Q Now, you indicated that you actually saw the shooting
8 occur?

9 A Yes, I did.

10 Q How far away did it occur from where you were standing?

11 A At least 20, maybe - at least 30 feet from where I was or
12 more.

13 Q Okay, at least 20 or 30 ---

14 A Yeah.

15 Q --- possibly more?

16 A I'd say, yeah.

17 Q Okay.

18 A Uh-huh.

19 Q Now, let's back up a little bit. Did you see Mr. Ingram
20 and Mr. Tisdale before this alleged shooting occurred?

21 A Yes, I did.

22 Q Okay, and tell us about that if you would.

23 A Well, what happened was I was, I was, I was on the inside
24 of the bar and grill. So, I said I was going to step outside
25 and catch some air and as soon as I step outside to catch the

1 air, I lean on the wall and all the guys were standing to the
2 left of me. All of them had on white t-shirts.

3 Q All what guys, sir?

4 A Alfonso and Tony, better known as Billy, and a bunch of
5 more of his, a bunch of more of the friends.

6 Q Okay, and was there any conversation between you and them
7 at that time?

8 A None. I was just standing there by myself.

9 Q Okay, and then what happened?

10 A And then someone said, "That's Dominic right there." So,
11 when they said that was Dominic right there, I got up off the
12 wall and I looked, I start - Tony - after Tony and Alfonso
13 started walking down the street, I got up off the wall and I
14 looked, you know what I'm saying, then Dominic started walking
15 back down the street and they went, you know, they were
16 walking behind him.

17 Q Okay, did they ever indicate that they were looking for
18 him or wanted to see him?

19 A No, nobody wasn't - they wasn't - nobody wasn't saying a
20 thing, nothing. Nobody wasn't saying anything. All I heard
21 was when they said, "That's Dominic right there," when they
22 started walking behind him, I figured there was going to be a
23 fight. So, I got up off the wall and I started looking down
24 the street.

25 Q Okay.

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1 A Uh-huh.

2 Q All right, no further questions.

3 A All right.

4 THE COURT: Redirect?

5 MR. HIXSON: No, Your Honor.

6 THE COURT: All right, you may step down.

7 A All right.

8 MR. HIXSON: Simply argument, Your Honor.

9 THE COURT: All right.

10 MR. HIXSON: As it relates to the statement that we

11 intend to proffer by Mr. Jackson, that that satisfies the

12 elements as a 804(B)(2). That specifically is a statement

13 based on the belief of an impending death. Mr. Tisdale was

14 shot. It was a traumatic event. He was aware of the fact

15 that he was shot during that period of time. He suffered an

16 immediate impact of that shooting event; in fact, he lost

17 consciousness within minutes after the event. Testimony

18 proffered indicates that he is obviously feeling the effects

19 or stress of the event and we feel like we have satisfied that

20 element under 804(B)(2). In addition to that we also would

21 proffer that as an excited utterance if Your Honor finds that

22 unsatisfactory.

23 THE COURT: All right.

24 MR. HAZZARD: Your Honor, I would submit there was

25 nothing, no statement made by Mr. Tisdale that would give the

1 indication that he believed that he was suffering impending
2 death. In fact, the man was running apparently right up to
3 the point where he dropped. He was running and then he
4 stopped and then he pulled up his shirt more out of surprise
5 and said, "Dominic shot me." Then apparently according to Mr.
6 Jackson's testimony proceeded onward. That would not indicate
7 an individual who believed that they were facing impending
8 death, Your Honor.

9 THE COURT: All right, I find that the statement by
10 the victim, Antonio Tisdale, that "Dominic shot me," is
11 admissible under Rule 803(2), South Carolina Rules of Evidence
12 as an excited utterance. I think it satisfies those
13 requirements. So, I deny your motion in limine to suppress
14 that statement. You still may raise an objection when it's
15 tendered at trial, you know the groundwork still has to be
16 laid at trial, but I'm not going to grant your motion in
17 limine. All right, anything else?

18 MR. HIXSON: Yes, Your Honor, we have two more of the
19 same statements.

20 THE COURT: All right.

21 MR. HIXSON: At this time the State would call Jamar
22 Mitchum to the stand, please.

23 Whereupon, Jamar Mitchum was called to the stand, duly
24 sworn by the clerk and testified as follows:

25 THE CLERK: Thank you. Please be seated and state

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1 your name for the record.

2 MR. MITCHUM: Jamar Mitchum.

3 EXAMINATION

4 BY MR. HIXSON:

5 Q Good morning, sir. Good morning, sir, how are you?

6 A I'm fine.

7 Q Can you please tell the Court what your relationship is
8 to Billy Tisdale?

9 A He's my brother.

10 Q Okay, and I'm sorry about your loss.

11 Were you in the Andrews Section of Georgetown County, August
12 13th of 2008?

13 A Yes, sir.

14 Q Were you outside of an area in the uptown area around
15 Carnell's and Blue's, that area?

16 A In between Blue's Nightclub and Carnell's Nightclub.

17 Q Okay, and did a shooting incident occur during that
18 period of time?

19 A Yes, sir.

20 Q Okay, we'll - to try to get straight to the point
21 relating to that, at some point in time did you see who the
22 victims of the shooting case were?

23 A Yes, sir.

24 Q Okay, and who were they?

25 A Antonio Tisdale and Alfonso Ingram.

1 Q Okay, tell me what you saw. Did you hear gunshots?

2 A Yes, sir.

3 Q Tell me what you saw after you heard gunshots.

4 A Well, I saw Al fell in the road. He took off running
5 back towards us first and if you're looking directly down the
6 sidewalk from Blue's Nightclub or Carnell's Nightclub, you
7 cannot see down the sidewalk, bushes are sticking up. So,
8 when I did step in the road after I heard the gunshots, I saw
9 my brother running right behind Al. I said well maybe whoever
10 did the shooting maybe just had shot in the air. So, when he
11 got up to me after he passed Carnell's Nightclub, he collapsed
12 and I was holding him. His last words been to me, "Miles," he
13 called me, "Bro, please carry me to the hospital. Dominic just
14 shot me."

15 Q Okay, could you tell the Court again what - in what
16 position was Mr. Tisdale when he spoke to you?

17 A Yeah, he was in shock, but he was in his right mind.

18 Q Okay, was he excited?

19 A A little like he was, it shocked him that he was shot.
20 He still was talking, he still was breathing, he had a pulse.
21 After he, after he collapsed, he still was breathing.

22 Q Okay.

23 A You know, when I - I just left, I couldn't see him like
24 that.

25 Q Okay.

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- 1 A And I came back.
- 2 Q At some point in time did Mr. Tisdale lose consciousness
- 3 while you were there, just ---
- 4 A No, not to my knowledge.
- 5 Q --- okay, don't guess at the future, just what you saw.
- 6 A No.
- 7 Q Okay, he was still conscious?
- 8 A He was still in his right mind.
- 9 Q Okay, did you see, did he have a shirt on when you saw
- 10 him?
- 11 A Yes, I, I - well, I the one helped took the shirt off
- 12 after he collapsed and was holding it on the wound.
- 13 Q Okay, so you were trying to tend, some medical assistance
- 14 to him?
- 15 A Yeah, I was telling him, well I kind of panicked, but I
- 16 was telling him just to stay calm and I couldn't see him like
- 17 that, I mean.
- 18 Q Okay, tell me how much time transpired from the time that
- 19 you heard gunshots till you heard what Antonio told you?
- 20 A It wasn't that far apart because, I mean, I walked from
- 21 Super Chic to Blue's, Carnell's Nightclub is no longer than
- 22 two minutes maybe. So, and they was running. So, it wasn't
- 23 that long, but after everything happened I give him three to
- 24 four minutes maybe, and he was ---
- 25 Q So, about three - let me see if I understand, about three

1 minutes from the time you heard the shots till they ran - till
2 Antonio and Al ran up there?

3 A Al got back to Blue's Nightclub.

4 Q Till he collapsed and he said, "Take me to the hospital.
5 Dominic shot me"?

6 A Yes, sir.

7 Q Okay, did he still seem to be under the stress of what
8 just happened? He was stressed out?

9 A Yes, well, I mean because he was still talking, he was in
10 his right mind, I mean, but he was shocked.

11 Q I have no further questions, Your Honor.

12 THE COURT: All right, Mr. Hazzard?

13 MR. HAZZARD: No questions, Your Honor.

14 THE COURT: All right, you may step down.

15 MR. HIXSON: And Your Honor, our argument on this
16 would be the same as the other, we believe that the statement
17 was made in the fear of impending death. The Defendant, some
18 of the case law and interpretation of 804(B)(2) doesn't
19 indicate that the victim absolutely had to know that he was
20 going to die for sure, he was under the stress of the event,
21 ultimately passes on, as well as we proffer as well under
22 excited utterance.

23 THE COURT: All right, all right, I find that that
24 statement, "Miles, take me to the hospital. Dominic just shot
25 me," is - qualifies under Rule 803(2) and Rule 804(B)(2) for

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1 admissible as an excited utterance and as a dying declaration.
2 So, I'll permit it. I deny the motion in limine to suppress
3 that statement. All right.

4 MR. HIXSON: Thank you, Your Honor.

5 The State would call Al Ingram.

6 Whereupon, Al Ingram was called to the stand, duly sworn
7 by the clerk and testified as follows:

8 THE CLERK: Thank you. Please be seated and state
9 your name for the record.

10 MR. INGRAM: Al Ingram.

11 EXAMINATION

12 BY MR. HIXSON:

13 Q Good morning, sir.

14 A Good morning.

15 Q You've testified a little bit yesterday; didn't you? So,
16 you're a little familiar with what we're going to talk - I'm
17 going to get kind of straight to the point on this, too.
18 We'll save the other stuff in front of the jury, okay?

19 A Yes, sir.

20 Q Were you in Georgetown, excuse me, Andrews in Georgetown
21 County, August 13th of 2008?

22 A Yes, sir.

23 Q Were you down in front of Carnell's, Blue's Nightclub,
24 that area?

25 A Yes, sir.

1 Q At some point in time did a shooting incident happen down
2 there?

3 A Yes, sir.

4 Q Okay, were you, in fact, shot that evening?

5 A Yes, sir.

6 Q Okay, let's go, not to get in a whole bunch of detail
7 yet, let's go back to the moment you were shot, okay. Did you
8 see who shot you?

9 A Yes, sir.

10 Q Okay, tell me what happened from the time that you were
11 shot, what happened after that?

12 A Well, after I was shot I instantly just I fell in the
13 street, and I just ---

14 Q Was anybody with you? I apologize. Was anybody with you
15 also?

16 A Yes, sir.

17 Q Okay, who was with you?

18 A Antonio Tisdale.

19 Q Okay, the one we some - some folks are calling Billy,
20 that's the same person?

21 A Yes, sir.

22 Q Okay.

23 A After I was shot, I instantly fell in the street, and I
24 just remember hopping right back up and I just looked at
25 Antonio, he looked at me and then I just remember it was just

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1 start taking off running back towards the car, and while we
2 was running we was really basically side to side. I wasn't -
3 he wasn't too far from behind me and I just remember saying he
4 was, I just remember saying to him, I was like, "Billy, he
5 shot me," and he said back to me, he was like, he was like,
6 "He shot me, too", and I just remember kept running till I got
7 to the car.

8 Q Okay, did you see Antonio, Billy, after that, that
9 moment when he said that? What happened after that?

10 A I just remember I just kept running until I got to the
11 car, and then when I turned around to see if Billy was by me
12 and near the car I didn't see him. So, that's when I walk
13 back to the front of the club and that's when I seen he had
14 collapsed.

15 Q Okay, did you have, exchange anymore words? Did he say
16 anything to you after that moment?

17 A No, that was the last thing he said to me, sir.

18 Q Okay, can you describe to the Court what his demeanor was
19 like, how he was acting? I guess he was running at the time,
20 right?

21 A Yes, sir. I think at the time it probably really didn't
22 faze him because like it happened so quick. Like my
23 adrenaline was pumping, I didn't - I really didn't feel the
24 shot. I really at the time I don't think he really felt it
25 until he collapsed. That's when he realized that it was real

1 bad.

2 Q Did you say adrenaline was running?

3 A Yes, sir.

4 Q Did it appear to you that Billy's adrenaline was
5 running?

6 A Yes, sir.

7 Q Did he seem excited about the incident? I know that's s
8 a silly question, but ---

9 A Yes, sir.

10 Q Okay.

11 MR. HIXSON: I have no further questions, Your Honor.

12 THE COURT: All right, Mr. Hazzard?

13 EXAMINATION

14 BY MR. HAZZARD:

15 Q Sir, whose car were you and Mr. Tisdale running to?

16 A Mr. Tisdale's car, sir.

17 Q What type of car is that?

18 A It's a, I want to say a Cadillac Deville.

19 Q Okay, what color was it?

20 A White.

21 Q Okay, and you indicated that you and he were running and
22 then at some point you realized that he was no longer
23 following you?

24 A Yes, sir.

25 Q Okay, all right. Thank you, no further questions.

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1 THE COURT: All right, redirect?

2 MR. HIXSON: No, Your Honor.

3 THE COURT: All right, you may step down.

4 MR. HIXSON: And Your Honor, I would just - for the
5 Court's efficiency, the same argument that I made two prior
6 times.

7 THE COURT: All right. I deny the motion in limine
8 to suppress the statement, "He shot me, too." I think that's
9 an excited utterance, qualifies for admissibility under Rule
10 803(2), South Carolina Rules of Evidence.

11 All right.

12 MR. HIXSON: Thank you, Your Honor.

13 THE COURT: Anything else?

14 MR. HAZZARD: Simply, Your Honor, the Court ruled on
15 our motion for sequestration yesterday, indicating that all
16 witnesses other than the Defendant, Investigator Brown and
17 Investigator Lee would be sequestered and I would ask that
18 that be done at this time.

19 THE COURT: All right. Any objection?

20 MR. HIXSON: No, Your Honor, not at all.

21 THE COURT: All right, anybody who's going to testify
22 in this case you need to go with the security and the
23 bailiffs. We'll sequester you and we'll call you out as we
24 need.

25 MR. HIXSON: May we approach?

1 THE COURT: All right.

2 (Whereupon, a bench conference is held.)

3 THE COURT: All right, sir.

4 MR. HIXSON: Your Honor, we have one additional
5 individual, Ron Gardner, that heard factually the substance of
6 the same statements that were made to the other witness that
7 we have proffered. We're prepared to go forward with the
8 pretrial motion on that if necessary, but just I'm bringing to
9 the Court's attention just for judicial efficiency.

10 THE COURT: All right, Mr. Hazzard, do you want to
11 move in limine to suppress that statement?

12 MR. HAZZARD: The Defense would.

13 THE COURT: All right.

14 MR. HAZZARD: Okay.

15 THE COURT: Let's go ahead and call him.

16 MR. HIXSON: Thank you, Your Honor. The State calls
17 Ron Gardener to the witness stand, please.

18 Whereupon, Leron Gardner was called to the stand, duly
19 sworn by the clerk and testified as follows:

20 THE CLERK: Thank you. Please be seated and state
21 your name for the record.

22 EXAMINATION

23 BY MR. HIXSON:

24 Q What's your name, sir?

25 A Leron Gardner.

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1 Q Okay, Mr. Gardner, I believe - can you speak up just a
2 little bit? Madam Court Reporter is going to have to hear
3 everything you say.

4 A Leron Gardner.

5 Q Okay, how are you doing, sir?

6 A I'm doing all right.

7 Q All right, were you in Georgetown Section, Andrews in the
8 Georgetown Section of Georgetown County - let me back up.
9 Were you in Andrews on August 13th of 2008?

10 A Yes, sir.

11 Q And was there a shooting incident occurred around that
12 period of time?

13 A Yes, sir.

14 Q Did you, did you see anything that happened with the
15 victims in that case during that period?

16 A Yes, sir.

17 Q Okay.

18 A I saw Antonio running back from being shot, but I didn't
19 see who shot him.

20 Q Okay.

21 A And ---

22 Q Was he with - was Antonio with anybody?

23 A Yes, sir, he was with Al Ingram.

24 Q Okay, okay, so, tell the Court what happened from the
25 time, let me back up. Did you hear gunshots?

1 A Yes, sir.

2 Q Okay, tell the Court what you saw from the time you heard
3 gunshots, did Al, the deceased, Mr. Tisdale say anything to
4 you or did you hear him say anything, I should put that?

5 A Yes, sir, he said, "Dominic shot me."

6 Q Okay, now, tell, tell the Court what happened from the
7 time that you heard the shots up until you heard those words?

8 A From the time - repeat that question, sir?

9 Q Tell the Court what happened from the time you heard the
10 shots, what you saw, up until you heard Mr. Tisdale say those
11 words.

12 A From the time I heard the shots, I saw Billy and Al
13 running from like the area between Super Chic and up in that
14 area and they were running back and Billy was like in with
15 adrenaline, like he really didn't feel the shot or whatever at
16 that time and then he passed out. Well, before he passed out
17 they hold up his shirt and see the wound and stuff, then I
18 caught him and then Miles was right there beside me and we was
19 talking through the whole situation. Then he walked off and
20 he came back and then ---

21 Q Who is he? When you say - who, who walked off and came
22 back?

23 A Jamar.

24 Q Okay, that's Mr. Tisdale's brother?

25 A Yes, sir.

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1 Q Okay, during that period of time when Billy, Antonio,
2 the same person, finally get up to that area, where was Mr.
3 Tisdale when he said those words to you?

4 A Right in front of Carnell's area like where the little
5 alley is in between.

6 Q Okay.

7 A Both of those areas.

8 Q Okay, and was he standing? Was he laying down? What was
9 he doing?

10 A He was standing at that moment.

11 Q Did you see the bullet wound?

12 A Yes, sir.

13 Q Okay, and about how much time transpired between the time
14 you - he said those words and did he pass out or lose
15 consciousness?

16 A In my arms he lost consciousness.

17 Q He did?

18 A Yes, sir.

19 Q Okay, did he appear to be, I know it's a silly question,
20 did he appear to be stressed out with the event going on?

21 A No, sir.

22 Q Okay, then tell me, tell the Court how he appeared to
23 you, what his demeanor was like.

24 A He was like kind of relaxed, he was like relaxed.

25 Q Did you feel like he was going into shock?

1 A I can't really say that cause I wasn't really him, but

2 ---

3 Q Okay

4 A --- to me he seemed kind of relaxed and calm about the
5 situation.

6 Q But you know he was aware he just got shot in the chest?

7 A Yes, sir.

8 Q Okay.

9 MR. HIXSON: I have no further questions, Your Honor.

10 THE COURT: All right, Mr. Hazzard.

11 EXAMINATION

12 BY MR. HAZZARD:

13 Q Good morning, Mr. Gardner.

14 A Good morning.

15 Q Very briefly, you told the prosecutor that initially
16 Jamar Mitchum was holding Mr. Tisdale; correct?

17 A No, I was holding him.

18 Q You were holding him? So, Mr. Mitchum never was?

19 A He was right beside me.

20 Q Okay, but then you said Mr. Mitchum left?

21 A Yes, sir.

22 Q Did you see where Mr. Mitchum went?

23 A He stepped off just a little bit not far from - I could
24 still see him in my eye.

25 Q I mean, he just walked away but - he just walked away a

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1 distance?

2 A Yes, sir.

3 Q But he was still outside or where was he?

4 A He was still outside.

5 Q Okay, now, let's back up a little bit. Did you see Mr.

6 Ingram and Mr. Tisdale prior to this alleged shooting?

7 A Yes, sir.

8 Q Okay, and where did you see them?

9 A In the front of us, me and Dominic, in the front of us at

10 Carnell's.

11 Q Okay, and what happened then?

12 A There was like an altercation going on. I really didn't

13 know too much what was going on, but it was like an

14 altercation going on.

15 Q Between whom, sir?

16 A Between a group of people and Dominic.

17 Q Between a group of people and Dominic Leggette?

18 A Yes, sir.

19 Q Okay, and then what happened?

20 A Dominic was getting nervous or whatever and he took off

21 running.

22 Q Okay.

23 A And they ran after him, sir.

24 Q And they, when you say they, does that include Mr. Ingram

25 and Mr. Tisdale?

1 A Yes, sir.

2 Q All right, thank you, sir. No further questions.

3 THE COURT: Redirect?

4 MR. HIXSON: No, Your Honor. I'll take it up in front
5 of the jury.

6 THE COURT: All right, you may step down. Thank you.

7 MR. HIXSON: And Your Honor, once again, would be the
8 same argument relating to the dying declaration and excited
9 utterance, Your Honor.

10 THE COURT: All right, yeah, I'm going to rule that
11 it's admissible as an excited utterance under Rule 803(2)
12 South Carolina Rules of Evidence.

13 MR. HIXSON: Your Honor, I believe the last thing we
14 have and we discussed this a little bit pretrial. I don't
15 know if Your Honor is able to craft a remedy I think we'll
16 have to see the testimony, but we have concerns relating to
17 prior incidences of bad conduct with individuals not related
18 to this case, not the victim and not the Defendant, State vs.
19 Day or among other ones indicate that incidences of bad
20 conduct are inadmissible unless they relate specifically to
21 between the victim and the Defendant. Since I don't know,
22 Your Honor is aware, we don't know exactly what all is going
23 to come out through the testimony and through the testimony of
24 the Defendant. I just want to bring it to the Court's
25 attention because we had, we have been discussing that.

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1 THE COURT: Yeah, I know we discussed it and I don't
2 know how to address it until when and if it comes up, then Mr.
3 Hixson, you can raise your objection and I'll deal with it at
4 that time.

5 MR. HAZZARD: Okay, because for the record, Your Honor,
6 obviously we would be going under rule 404(A)(2) the
7 character - character evidence generally is not admissible
8 except character of a victim, evidence of a pertinent trait of
9 character of the victim of the crime offered by an accused or
10 by the prosecution to rebut same. So, 404 and 405 with regard
11 to the methods of proving that character are controlling as
12 far as the Defense perspective is concerned and I would submit
13 that these rules of evidence would be controlling in this
14 issue.

15 THE COURT: All right.

16 MR. HIXSON: And Your Honor, just as it relates to the
17 record, I'm sure this will develop more into an issue. The
18 State's position is evidence of a victim's other specific
19 instances of violence are only admissible if directed against
20 the Defendant or if directed against others were only so
21 closely connected at the point of time or occasion with the
22 killing to reasonably indicate the victim's state of mind,
23 that's State versus Day, 341 S.C. 410, and that's kind of what
24 we're dealing with, Your Honor, that's the State's opinion.

25 THE COURT: All right, well, as I say, unless and

1 until it presents itself I don't really know how to deal with
2 it. Just raise your objections and we'll deal with it at that
3 time; okay?

4 MR. HIXSON: Thank you, Your Honor.

5 THE COURT: All right, anything else pretrial?

6 MR. HAZZARD: Nothing from the Defense, Your Honor.

7 THE COURT: Anything from the State?

8 MR. HIXSON: No, Your Honor.

9 THE COURT: All right, let's take about a ten minute
10 break and then we'll come back, bring the jury in and get
11 started, okay?

12 OFF THE RECORD

13 (On the record.)

14 (Whereupon, the following takes place outside the
15 presence of the jury.)

16 THE COURT: All right, anything before we bring in the
17 jury?

18 MR. HIXSON: Yes, Your Honor, one brief point, my
19 victim advocate brought to my attention as well that it wasn't
20 clear during the course of your order for sequestration, Al
21 Ingram is a victim in the case, and as such under the Victim's
22 Bill of Rights under our constitution he has a right to be
23 present during the course of this trial and your sequestration
24 order didn't specifically address that and we're asking for
25 clarification from the Court.

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1 THE COURT: All right, Mr. Hazzard?

2 MR. HAZZARD: Your Honor, the Defense position is that
3 Mr. Ingram is an integral witness in this case, as the Court
4 has already heard throughout the course of the pretrial
5 motions, the testimony the Court has heard is that there are
6 some very differing statements as to what occurred on that
7 night. I would not want there to be a situation where these
8 witnesses would have a chance to hear each others testimony
9 and piggy back on it. That would be to the detriment of the
10 Defendant's constitutional rights to a fair trial under the
11 Fourth, Fifth, Sixth and Fourteenth Amendments of our
12 Constitution. We would, therefore, respectfully request that
13 the Court maintain its sequestration order with regard to Mr.
14 Ingram, and obviously I believe the Court's practice normally
15 is that once a witness has given his testimony then the
16 sequestration order no longer applies to him. So, I do not
17 believe it will be a hardship on this victim, Your Honor.

18 THE COURT: Okay, yeah, I'm going to go ahead and
19 leave him sequestered. I understand the argument, but I'm
20 going to go ahead and leave him sequestered.

21 MR. HIXSON: Thank you, Your Honor.

22 THE COURT: All right, anything else before we bring
23 the jury in?

24 MR. HIXSON: No, Your Honor.

25 MR. HAZZARD: Nothing from the Defense.

1 THE COURT: All right, I think we'll bring them in,
2 swear them, I'll give them the opening charges and then you
3 all can go straight into your opening statements; okay?

4 MR. HAZZARD: Very good.

5 THE COURT: All right, let's bring the jury in. Thank
6 you.

7 (Whereupon, the following takes place in the presence of
8 the jury.)

9 THE COURT: All right, ladies and gentlemen, we are
10 now ready to begin the trial of the case of Dominic Alexander
11 Leggette. I have some opening charges, but as I told you
12 during jury qualifications and during voir dire, juries are
13 often taking oaths and now it's time for you to take your oath
14 to serve as jurors on this particular case. So, if everyone
15 will please stand, raise your right hand while the clerk
16 administers the oath.

17 (Jury sworn by Clerk.)

18 THE COURT: All right, any member of the jury who did
19 not respond to the oath by saying I do, please stand.

20 (No response.)

21 THE COURT: Good.

22 All right, ladies and gentlemen, as I stated earlier we
23 are beginning or getting ready to start the trial of the case
24 of the State of South Carolina vs. Dominic Alexander Leggette,
25 and before we begin this trial, I want to tell you that this

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1 trial will probably be different from what you are accustomed
2 to or from what you might expect. Many people do not have a
3 chance to attend actual court sessions as you're doing now and
4 may think from watching television or the movies or reading
5 books that trials are often full of high drama, intense action
6 and riveting circumstances. Now, while all of these things
7 may be true in this case, it probably won't be. A trial is
8 not for entertainment. It is a fundamental part of our
9 democracy, a search for the truth in an effort to make sure
10 that justice is done between the parties.

11 Now, searching for the truth and making sure that justice
12 is done is often a slow, deliberate and repetitive process,
13 the opposite of what you might have come to expect in the
14 movies and television and reading books and other types of
15 medias.

16 Now, the attorneys appearing before you are advocates for
17 the parties they represent, but first and foremost, they're
18 officers of the court. They are sworn to uphold the integrity
19 and fairness of our judicial system and to help you in the
20 search for the truth. You can expect them to be professional,
21 competent and ethical in the representation of their clients'
22 interest.

23 Now, what I will now say is intended to serve as an
24 introduction to the trial of this case. These remarks are not
25 a charge on the law in this case and I will instruct you on

1 the law applicable to this case at the end of the trial before
2 you begin your deliberations and consider your verdict. This
3 is merely an explanation of the procedure that we'll follow in
4 the trial of this case so that you can better understand what
5 may be happening.

6 Now, the Defendant is charged by indictments filed with
7 this court with the crimes of murder and assault and battery
8 with intent to kill, the elements of which will be explained
9 to you at a later time. The indictment is simply the charge
10 by which this case is brought into court and it is not in any
11 sense evidence of any of the allegations it contains. The
12 Defendant has pled not guilty to these indictments; and
13 therefore, the State has the burden of proving each element of
14 the indictments beyond a reasonable doubt. It will be your
15 duty, ladies and gentlemen, to decide whether or not the State
16 has met that burden of proof. Your purpose as jurors is to
17 find and determine the facts. You are the sole judge of the
18 facts. If at anytime I make any comment regarding the facts
19 you must disregard my comments. You are to determine the
20 facts from the testimony you hear and the other evidence
21 introduced in court, and it is up to you to determine the
22 inferences which you feel may reasonably be drawn from that
23 evidence. It is especially important that you perform your
24 duty of determining the facts diligently and conscientiously,
25 because ordinarily there is no way to correct an erroneous

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1 determination of the facts by a jury.

2 On the other hand and with equal emphasis, the same law
3 that makes you the judge of the facts makes me the judge of
4 the law. The law as given by the Court is the only law that
5 you may consider. You must accept and follow the law as I
6 give it to you even though you may disagree with it. Just as
7 I cannot tell you what the facts of this case are, you cannot
8 disagree with me about the law to be applied in this case.
9 Your job is to take the law as I give it to you and apply it
10 to the facts as you find those facts to be from the testimony
11 and evidence presented during the trial of this case. After
12 doing that you'll render your verdict, a true and just verdict
13 under the solemn oath that you just took as jurors. Now,
14 until I advise you to begin your deliberations, you must not
15 discuss this case with anyone, including your fellow jurors.
16 Do not discuss it with any friends, family members or anyone
17 involved in the case. After the case is submitted to you, you
18 must discuss it only in the jury room with your fellow jurors.
19 The attorneys and parties in this case have been advised that
20 they are not to talk to you at all. So, if you see anyone
21 involved in the case and they do not say hello to you they are
22 not being rude, they are just following the instructions of
23 the Court.

24 During the trial do not read, listen to or watch any news
25 reports about the case. This includes anything that may be in

1 the newspapers or on the internet, the radio or television.
2 You must not consider anything you may have read or heard
3 about the case outside of the courtroom, whether before or
4 during the trial of this case. It is important that you keep
5 an open mind and not decide any issue in this case until all
6 of the evidence has been presented, the parties have made
7 their closing argument and I have instructed you on the law of
8 the case. It is your solemn responsibility to determine the
9 guilt or innocence of the Defendant and your verdict must be
10 based solely on the evidence as it is presented to you in this
11 trial and on the law as I instruct you during and at the close
12 of the trial.

13 Now, in just a moment the Solicitor will make what is
14 called an opening statement, in which the Solicitor will
15 explain to you the issues in this case or at least what the
16 Solicitor thinks the issues in this case are. The attorney
17 for the Defendant may also make an opening statement, although
18 he is not required to do so. What the attorneys tell you
19 during their opening statements is not evidence in this case;
20 it is only their contention as to what the issues in this case
21 are. The evidence in this case will be presented to you by
22 the testimony of sworn witnesses from the witness stand or by
23 any exhibits that may be introduced into evidence.

24 Now, from time to time we may take breaks to address
25 legal matters, but as I advised you earlier that is simply to

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1 keep you from being influenced by anything that I may say or
2 that the attorneys may say about the factual issues because
3 your determination of the facts is to come exclusively from
4 the testimony of the witnesses and any other evidence that is
5 introduced in the trial of this case.

6 Now, in determining what the true facts are in this case
7 you must decide whether or not the testimony of a witness is
8 believable. It will be my responsibility to rule as a matter
9 of law as to whether certain testimony is admissible at all or
10 not, but once the testimony is admitted whether or not you
11 believe it is solely within your discretion. In deciding
12 whether to believe a witness you have the right to consider
13 the interest of any witness, the bias of any witness, the
14 prejudice of any witness, the opportunity for the witness to
15 have seen the matters and things about which the witness may
16 testify and the way the witness acts on the witness stand.
17 You have the right to consider anything that is in the record
18 that will help you evaluate the testimony of the witnesses.
19 That means that it is your duty to pay close attention to the
20 witnesses, to observe them, to listen to them and to pay close
21 attention to the attorneys and to the Court. Don't let your
22 thoughts wander but give strict attention to the testimony in
23 this case so that at the end all of the testimony, after the
24 arguments of counsel and a charge on the law, you will then be
25 in a position to determine what the facts of this case are and

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1 apply the law to those facts and thus render a true and just
2 verdict.

3 All right, any challenges or additions to opening
4 statements by the State?

5 MR. HIXSON: Not a one, Your Honor.

6 THE COURT: Any from the Defense?

7 MR. HAZZARD: None by the Defense, Your Honor.

8 THE COURT: All right, ladies and gentlemen, at this
9 time we'll begin the trial of this case with opening
10 statements. Mr. Hixson?

11 MR. HIXSON: Thank you, Your Honor. May it please the
12 Court?

13 THE COURT: Yes, sir.

14 MR. HIXSON: Three shots. Bang. Bang. Bang. An
15 absolute celebration of power, celebration of power. In that
16 celebration those bangs didn't come from bottle rockets, they
17 didn't come from firecrackers on the 4th of July. It was a
18 coming out party, a coming of age for Dominic Leggette. About
19 to turn 20 years old, about to turn 20 years old. He's coming
20 of age.

21 You're going to hear a lot about the Andrews Section of
22 Horry [sic] County in this case, that's where this murder
23 happened. You're going to hear about problems between people
24 who live in this part of town and this part of town. You're
25 going to hear a lot of stories about 16 year olds, 20 year

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1 olds, 22 year olds, everybody coming of age.

2 Now, we all come of age in different ways, different
3 times. Some people graduate from high school. That's how
4 they come of age, but we're talking about young males here,
5 we're not talking about young females, we're talking about
6 young boys, 16 to 22. Some people maybe they graduate from
7 high school, their parents kick them out of the house and go,
8 "You're on your own, son." Maybe sometimes the father dies
9 and the mom has to say, "Son, now's your chance to be a man,
10 you're going to have to take care of us, you're just - you're
11 coming of age." You could go to college. Maybe you go in the
12 military, now you're a man. Dominic Leggette decided he was
13 going to be a man by packing a gun, taking it to a place to
14 get into a confrontation. He knew he was going to get into a
15 confrontation with people from the other side of town, and in
16 three shots he came of age. That's what we're going to talk
17 about today, that's what we're going to talk about.

18 You're going to hear testimony from the officers at the
19 scene who set up the crime scene about what happened, what
20 they observed, what they saw, three shell casings, in their
21 best efforts never found a gun that committed this crime.
22 You're going to hear about from the forensic pathologist who's
23 going to talk to you about Antonio Tisdale. That's the young
24 man who lost his life on that day. You're going to hear about
25 a bullet wound to the chest and the bullet recovered from his

1 body on an autopsy table down in Charleston, South Carolina.
2 That's what you're going to hear about.

3 You're also going to hear the testimony of a second
4 person who was shot in this incident. That is Al Ingram, 16
5 years old at the time, shot in the ankle. You're going to
6 hear a bullet was not recovered from that. Those are the
7 facts that, those aren't in dispute. The question is how does
8 a man become of age? That's the question.

9 You're going to hear about bad blood, you're going to
10 hear about whether someone ran or walked down there to get in
11 a fight with this young man. You're going to hear testimony
12 there was no other weapon involved other than one gun and
13 three shots. That's what this case is going to be all about.

14 Now, as you heard during jury selection my name is
15 Assistant Solicitor, excuse me Deputy Solicitor Scott Hixson.
16 I represent every citizen in Georgetown County and all the
17 citizens in Georgetown County, collectively through me, have
18 decided to indict this young man for murder, and murder in
19 South Carolina is the intentional, unlawful killing of the
20 person of another with malice aforethought, malice either
21 express or implied. That's it, that's all there is to it.
22 We'll get in a lot more detail about that during the course of
23 our closing arguments when we talk about the law and we'll
24 talk about what we heard, but right now that's the one charge
25 we're facing and that is the murder of Antonio Tisdale, Billy

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1 Tisdale. He goes by two names, done at the hand, really the
2 trigger finger of a young man coming of age, Dominic Leggette.

3 During the course of this altercation, Al Ingram was also
4 shot, but fortunately Mr. Ingram didn't pass on; and so, in
5 South Carolina, we don't have a murder, attempted murder. We
6 have what's called assault and battery with intent to kill.
7 That's what the second indictment before you is is whether or
8 not Dominic Leggette on April, excuse me, August 13th of 2008
9 attempted to assault and batter Al Ingram with malice
10 aforethought, with intent to kill him, but he didn't pass on
11 fortunately. So, you get to hear from Mr. Ingram. He'll
12 testify.

13 That's what this case is all about. It's going to be
14 about whether bad blood and fistfights, if you deserve to be
15 killed over bad blood, fistfights. The State's position is
16 clear, you're not allowed to do that and at the end of this
17 I'll come back before you to talk about what we heard and ask
18 you at that time to render a verdict of murder in the death of
19 Billy Tisdale and assault and battery with intent to kill in
20 the death of Al Ingram, at the hands of a young man coming of
21 age.

22 THE COURT: Mr. Hazzard, does the Defense wish to
23 make an opening statement?

24 MR. HAZZARD: Yes, sir, Your Honor. Thank you very
25 much. Well, let's see. Good morning, ladies and gentlemen.

1 Thank you for your time and your patience. As we discovered
2 yesterday my name is Ronald Hazzard. I am a senior trial
3 attorney for the Public Defender's Office of 15th Judicial
4 Circuit. That is obviously comprised of Horry and Georgetown
5 Counties and I spend most of my time in Horry County, but
6 every now and then you folks are good enough to show me a
7 little hospitality and let me come down here and work with
8 you.

9 Here I have seated with me is a Leah Cio [spelled
10 phonetically]. She is a senior getting ready to graduate from
11 Coastal Carolina University and she has been very instrumental
12 in this case and here we have a young man, Dominic Leggette,
13 okay? Now, Mr. Hixson wants to say this is about a young man
14 coming of age. What this case is about is the fact that
15 defending yourself is never a crime. Defending yourself is
16 never a crime. On August 13th of 2008, evidence and testimony
17 will show that the State's own witnesses will admit that at a
18 club in Andrews named Carnell's Bar and Grill on that evening
19 Dominic Leggette went to this club to deliver a - something as
20 innocuous and innocent as a car charger to his then girlfriend
21 Rhonda Brown. Evidence and testimony will show that there
22 were young men, who are the State's witnesses, who had
23 previously had altercations with Mr. Leggette, previously had
24 beaten up Mr. Leggette, previously beaten members of Mr.
25 Leggette's family. Evidence and testimony will show that on

Opening Statement by Defense

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1 the evening of August 13th Dominic Leggette did go to that club
2 to deliver the car charger to Ms. Brown, that once he got
3 there, sure as day follows night, the State's witnesses began
4 to harass him and hound him. Evidence and testimony from the
5 State's witnesses will show that Dominic Leggette attempted to
6 remove himself from the scene, that he left, that he went down
7 the street in the fading daylight and that evidence and
8 testimony will show that once they saw him leave, that Antonio
9 Tisdale and Alkanese [spelled phonetically] Ingram then ran
10 after him. As evidence and testimony will show, that two on
11 one by himself, this man in fear for his life did what he felt
12 he needed to do to protect himself, protect his life. That's
13 what the evidence and testimony will show, ladies and
14 gentlemen, and it will be up to you, because the Judge, I
15 believe, at the end of this case will tell you the law and in
16 telling you the law one of the things he's going to tell you
17 is that self defense is a complete and pure defense under the
18 law. That if I did not cause a dispute, okay, I didn't bring
19 it on myself, like this young man leaving the scene, if I am
20 in fear of death or serious bodily injury, if any reasonable
21 person would be in fear under those circumstances, then I have
22 the right to defend myself, and on August 13th of '08 that's
23 what this young man did and that's what the evidence and
24 testimony will show in this case.

25 I look forward to working with you and I thank you for

1 your time and your attention.

2 THE COURT: All right, Mr. Hixson, the State can call
3 its first witness.

4 MR. HIXSON: Thank you, Your Honor. The State would
5 call Officer Verney Cumbee of the Andrews Police Department.

6 Whereupon, Verney Cumbee was called to the stand, duly
7 sworn by the clerk and testified as follows:

8 THE CLERK: Thank you. Please be seated and state
9 your name for the record.

10 MR. CUMBEE: Verney Cumbee.

11 DIRECT EXAMINATION

12 BY MR. HIXSON:

13 Q Good morning, sir.

14 A Good morning.

15 Q Please tell this jury what you do for a living.

16 A I work routine patrol in the Andrews area, Georgetown
17 County.

18 Q About how long have you been in that capacity?

19 A About five years.

20 Q Okay, and what are yours duties and responsibilities as
21 an officer for Andrews?

22 A What I do is respond to numerous calls; can be anything
23 from an alarm call to a burglary call, shots fired. I also
24 write traffic tickets, you know, numerous traffic tickets,
25 speeding violation, any kind of traffic offense.

Verney Cumbee - Direct by State

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1 Q Okay, so, you've been working there that long. That
2 must mean you were working August 13th of 2008.

3 A Yes, I was.

4 Q And did you have an occasion to respond to the - I guess
5 is that considered the uptown section of Andrews?

6 A Yeah, Main Street area, that's correct.

7 Q Okay, and what did you respond to?

8 A Respond to a shots fired and a victim, well, somebody
9 being shot.

10 Q Okay, and just to clarify, Andrews where this occurred
11 is that in Georgetown County, South Carolina?

12 A That's correct.

13 Q Okay, please tell the jury what you did.

14 A On that date in hand, like I said, I work routine
15 patrol. So, on that day at hand I was working routine patrol,
16 got a call from my dispatch saying it was shots fired and
17 someone had been shot on Main Street between the area of Main
18 and Beech. Myself, along with my backup partner, well, I
19 proceeded first. I was the first one on scene. When I
20 arrived on scene, when I got up to the area of, like I stated,
21 Main and Beech, it's two nightclubs right close to each other
22 called Carnell's and Blue's. When I passed Carnell's, I had
23 my window down in my vehicle. When I looked to the left,
24 'cause I was coming back west on Main Street, I saw a crowd of
25 people standing around and they were yelling, saying, "Come

1 here. Come here. Tony just got shot," and I was going there
2 anyway.

3 Q Can you approximate what you mean by a group of people,
4 how many people you think that was?

5 A Maybe 15 at the most, probably.

6 Q And this was after the incident had occurred?

7 A This was after the incident had occurred, that's
8 correct.

9 Q Okay, sorry to interrupt you.

10 A You want me to proceed?

11 Q Sure.

12 A Like I stated, when I pulled up I saw everybody standing
13 on the corner. They were huddled around Tony at that time.
14 After I got out my vehicle, well, I turned my vehicle around,
15 came back, turned on my lights and I just parked in the middle
16 of the road with my lights on. When I came out, I saw Mr.
17 Tisdale, Tony Tisdale laying on the pavement and he was in a,
18 I can't recall who arms he was in at that time and when I
19 walked up, I just, my normal thing is to ask questions and try
20 to tend to the victim, which was Tony at that time. So, at
21 that time when I was walking up I had individuals, well, when
22 I was asking them what happened, they said, "Dominic just shot
23 Tony," and I said, "Okay," and when I saw Tony laying there,
24 like I said, I can't remember somebody was holding him. I
25 can't remember who was holding him at that time and there was

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1 a bunch of other people just yelling, going around. So, like
2 I said my thing was to try to find out what happened, where's
3 he at? My backup officer came, and the next thing, you know,
4 was to try to tend to the victim.

5 Q Okay, let me show you what's been marked as State's
6 Exhibit Number One. It's not in evidence yet. See if you
7 recognize that item.

8 A Yes, sir, that's an aerial view of the Andrews area, Main
9 Street from Beech Avenue to Farr Avenue to about middle ways
10 to - well, almost from Farr to Morgan Avenue.

11 Q Okay.

12 MR. HIXSON: And I've already shown this to Defense
13 counsel, Your Honor. I believe we've discussed these
14 pretrial.

15 BY MR. HIXSON:

16 Q Let me ask you, is that a fair and accurate
17 representation of the scene in Andrews, South Carolina?

18 A Yes.

19 Q That you responded to?

20 A Yes.

21 Q Okay.

22 MR. HIXSON: At this time the State would move State's
23 Exhibit Number One into evidence, Your Honor.

24 THE COURT: Any objections?

25 MR. HAZZARD: No objections.

1 THE COURT: That's State's Exhibit Number One
2 admitted into evidence without objection.

3 (Whereupon, State's Exhibit Number One [Aerial
4 Photograph] admitted into evidence and appropriately marked.)

5 MR. HIXSON: And Your Honor, may I publish this to the
6 jury at this time?

7 THE COURT: Yes, that'll be fine.

8 MR. HIXSON: And let me see how - could I ask the
9 witness to come around, Your Honor? I'm not sure if you all
10 can ---

11 THE COURT: As long as he's near a microphone or
12 facing the court reporter where the court reporter can take,
13 take down what's ---

14 BY MR. HIXSON:

15 Q How about that? You want to try to do it that way and
16 see if ---

17 A I guess so, yes.

18 Q You want to hold on to that, see if you can describe -
19 let me back away so you all can see it.

20 All right, Mr. Cumbee, can you describe - kind of start
21 over again now that we have a visual reference, the jury can
22 see what you're talking about.

23 A All right, like I said when I was on patrol, I was
24 further on the east side of town which this area is Main
25 Street.

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1 Q Use your microphones, Officer.

2 A Okay.

3 Q And perhaps you can stay by one of those and I'll hold
4 it. That's a little tough to see.

5 A Okay.

6 Q Go ahead. Sorry about that.

7 A This is the east side of town. This is the west end.
8 This is what I call West Main Street here is back this
9 direction. Like I stated I was coming west when I got the
10 call. Tony and everybody else, this is Hammond's building.
11 This here is Blue's building and if you'll look in between
12 here there's a little crack-way. This is like a little small
13 alley where someone can walk in between. When I came
14 everybody was huddled up right here. Like this white pickup
15 truck, everybody was huddled up right there and that's where
16 Tony was laying.

17 Q Okay, now, this photograph was taken in the daytime,
18 What time did you arrive, approximately what time?

19 A About - I got the call at 10:40.

20 Q Okay.

21 A So, it took me a minute, less than a minute to get there
22 and that's running with my lights on.

23 Q So, obviously, the incident would have happened prior to
24 10:40?

25 A Probably so because usually we - dispatch might get the

1 call a little earlier and then they give it out to us soon as
2 they get all the information and relay it to us.

3 Q Okay, please continue. I'm sorry.

4 A Like I said, when I was coming west on Main Street, I
5 saw everybody up in this area here. So, I turnt my vehicle
6 around right here in this intersection and parked right here
7 in the road. When I parked in the road, I immediately exited
8 my vehicle, went to where the crowd was at, where they say
9 Tony was. As I stated I saw a crowd of people around, someone
10 holding Tony. I asked what happened to numerous people and
11 everybody just kept saying, "Dominic shot him. Dominic shot
12 him." So, I said okay. Then I went to attending to the victim
13 Tony hisself. I looked. I saw he didn't have a shirt on, saw
14 a gunshot hole in his chest. So, I put my gloves on and put
15 my hand over the gunshot and started talking to him, telling
16 him - because he was - he wasn't conscious, but he was
17 breathing. I could look at him. His eyes was open. He was
18 steady breathing, steady breathing. So, my thing was to ---

19 Q Let me interrupt you for a second. Let's come back to
20 that. Let's just finish with this and talk about this area
21 through here. Is this the area we're dealing with?

22 A Yes, sir, this is the area.

23 Q Please describe for the jury what those, those landmarks
24 are.

25 A You want all the landmarks?

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1 Q Yeah, it's just a ---

2 A All right, what we got right here is Blue's Club. Like I
3 stated this is the Hammond's building, this here is Carnell's
4 Club. This here is now what is a fish, a fish house where
5 they sell seafood at. This is the alleyway that comes out to
6 a back road. This here is the old vacant furniture store.
7 This here is just open bush area that this here used to be a
8 health clinic. This here I think was like a old police
9 building back in - years ago. This here was an old vacant
10 building. This here is Farr Avenue and this here is Momma's
11 Kitchen and right here we have the Super Chic parking lot and
12 the Super Chic building.

13 Q And what is the Super Chic for folks that haven't been
14 up that way?

15 A It's known for gas and mainly for chicken, for selling
16 chicken.

17 Q There you go. I know who's from Andrews now.
18 It's a convenience store as well?

19 A A convenience store as well.

20 Q Open late hours, that type thing?

21 A Yes, open Wednesdays night, Wednesday night they're open
22 24 hours. They stay open all night.

23 Q Okay.

24 A That was then, now they close up on Wednesdays and
25 Thursdays now, but Wednesday night they open all night.

1 Q So, the Super Chic was open all night on the night when
2 this took place?

3 A Yes, it was, yes, it was.

4 Q Okay, now we got - you all got the lay of the land.
5 Now, please, you were at an important part. Tell us about,
6 you indicated I think you got out of your vehicle.

7 A Yes, well, like I stated, when I got out of my vehicle, I
8 went to - after I listened to everybody was telling me Dominic
9 shot Tony, Dominic shot Tony.

10 Q Take your seat back. Officer, please continue from that
11 please.

12 A All right, after I heard everybody saying that my next
13 thing was just to make sure he wasn't around or anybody was in
14 harm and then I tended to the victim. Like I stated, when I
15 went to Tony, he was laying in somebody's arms, they
16 eventually laid him down, I got my hand and put it over the
17 bullet wound cause I saw like some of the blood coming out,
18 just to stop it, and my next thing was to keep him, you know,
19 responsive. So, I just started talking to him. I could look
20 in his face, his eyes was open and he just kept - I could see
21 his chest just going up and down. I just kept telling him,
22 "Keep breathing, keep breathing, if you can, if you can hear
23 me keep breathing, keep breathing." So, I just kept talking
24 to him just to try to keep him up and I didn't know if he was
25 hearing me or not, but like I said, my thing was to try to

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1 hold that wound until medic arrived, and you know, they can
2 take it from there.

3 Q Did ultimately assistance arrive to you?

4 A A few minutes later they came in, my backup officer was
5 there and he was trying to keep everybody back. The medic
6 unit came, saw me had my hand over the wound, asked me to move
7 my hand. I moved it. They said, "All right, put pressure
8 back on it, keep it there." I did that. I kept talking to
9 him. Like I said could still see him, his chest and
10 everything moving, but when I would say anything, "Tony, can
11 you hear me? Can you hear me," you know, he never responded,
12 but his eyes were just still open looking up in the sky. So,
13 I just kept asking him, you know, "Can you hear me?" "If you
14 can hear me, keep breathing, keep breathing."

15 Q Okay, now, on several occasions you have referred to him
16 as Tony. Does Mr. Tisdale go by any other name?

17 A Billy, I know him. People talk - call him in the street
18 they call him Billy.

19 Q Okay.

20 A Some will call him Antonio.

21 Q And on that evening was that the first time that you had
22 seen Mr. Tisdale?

23 A Yes.

24 Q Had you known him - I mean, did you know him prior to
25 this period?

1 A I known him prior to that.

2 Q Okay, help arrived to you. During that period of time
3 when you were attending to Mr. Tisdale's medical needs, was he
4 able to say anything to you during that period of time?

5 A No, he wasn't.

6 Q Okay, and then ultimately was he ultimately transported?

7 A Yes, yes, he was transported. Like I stated I sat there
8 and just hold my hand over it, EMS came. After I moved my
9 hand, put it back, they went and got some more stuff from out
10 the ambulance, came. Also, the fire department was sent out
11 for extra help. They came and took over from there and I got
12 up.

13 Q Okay, did, did you have - sounds like you had your hands
14 full. Did you put forth any effort to try to secure the crime
15 scene area or your interest was pretty much in the victim?

16 A At that time my interest was pretty much on the victim
17 itself, you know, trying to make sure that we could keep him
18 going. So, I wasn't even focused on the crime scene, the area.
19 I had my other officer trying to do that when he came, but I
20 was just still focusing because I had already start something.

21 Q And given the severity did you call for investigators,
22 investigative assistance?

23 A Yes, I called. After EMS came and tend to Mr. Tisdale,
24 then I finally - well, on the way coming, I told my dispatch
25 to just go ahead and notify the investigator, which is my

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1 protocol to notify the investigator, and they also told me
2 that they had sheriff's officers in route coming to assist me,
3 also.

4 Q Now, at some point in time did it come to your attention
5 there was a second victim?

6 A Yes, when I was standing there dealing with Mr. Tisdale,
7 I look and I saw Mr. Al Ingram, who's the other victim in this
8 here. He was standing up and people were pointing to me and
9 saying, you know, he was involved ,too. So, I asked him, I
10 said, "Did you see who, who shot you," and he was like,
11 "Yeah." I said, "Do you know his name?" He said, "No, I
12 don't know his name." I said, "Have you seen him before?" He
13 said, "Yeah, I already seen him around, but I don't know his
14 name," and I said, "Well, are you shot?" He said, "Yeah, I
15 think I was," and I looked at his foot. When I was looking at
16 Tony, I look and glanced across because he was standing right
17 beside, behind Mr. Tony, Mr. Tisdale and I looked at Mr.
18 Ingram's foot and when I looked at his foot, he had on some
19 sneakers and you could see the blood coming out of his
20 sneakers, and I said, "You were shot, too," and I said, "I
21 think you were shot in your foot," and he say, "I think I
22 was." So, I took my finger and I pulled his shoe back and his
23 socks down and you could see the bullet hole in his shoe. So,
24 I told him, I said, "Well, sit right here. We got EMS coming
25 so they can look at you, also."

1 Q Okay, was that - to clarify, Mr. Tisdale, was he on the
2 sidewalk?

3 A He was laying on the sidewalk, that's correct.

4 Q And Mr. Ingram, was he in the street?

5 A No, at that time when I came he was standing behind Mr.
6 Tisdale.

7 Q And I guess at some point ---

8 A When I looked and saw the bullet wound in his foot, he
9 was standing behind Mr. Tisdale.

10 Q Let me, let me - at some point in time was he asked to
11 rest in the street on the back of a pickup truck? I guess is
12 what I'm asking?

13 A Yeah, it was after - what I did is after they got Mr.
14 Tisdale, I told him, I said, "Come and" - that same white
15 pickup truck that's sitting right there, put the tailgate down
16 and asked him to sit on the back of the truck because they had
17 to call another medic unit to come and attend to him.

18 Q Okay, and ultimately did Mr. Ingram receive medical
19 attention?

20 A Yes, he did.

21 Q Did you go to the hospital or anything?

22 A No, I didn't.

23 Q Okay, well, just tell the jury about the end of your,
24 end of your contact, I guess, and the end of your shift.

25 A All right, after both of them got transported I helped

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1 | them, went and secured the crime scene. Investigator Lee
2 | finally came and I told him what we had. Like I said we had
3 | some other officers from the sheriff's department come and
4 | help. We had from Main and Beech secured off all the way to
5 | half of the Super Chic parking lot. So, that's probably about
6 | a half, a block and a half, almost two blocks secured off.

7 | Q Let me refer you back to State's Exhibit One. I believe
8 | that's State's Evidence One. It's in evidence now. Can you
9 | just point to what area you crime scened off?

10 | A Right here was what I did is we backed a patrol car up.
11 | We had a patrol car sitting right here, which this is Main and
12 | Beech, the intersection of Main and Beech. They had a patrol
13 | car sit up here. So, we had yellow tape run from this area,
14 | around this patrol car to it's a light pole and a trash can
15 | right here on the corner. We had that secured off and then it
16 | was secured from here all the way to, we had another patrol
17 | car set up middle ways of the road here and it was secured all
18 | the way to, half way that parking lot up in that area.

19 | Q Okay.

20 | A On this street, both of these, Farr Avenue, you couldn't
21 | come across here because it was also secured with yellow tape,
22 | also.

23 | Q And then into the Super Chic parking lot?

24 | A Yes, sir.

25 | Q Okay.

1 MR. HIXSON: Beg the Court's indulgence, Your Honor.

2 THE COURT: All right.

3 MR. HIXSON: I have no further questions from this
4 witness, Your Honor. Please answer any questions Mr. Hazzard
5 may have.

6 THE COURT: Mr. Hazzard.

7 MR. HAZZARD: Thank you, Your Honor.

8 CROSS EXAMINATION

9 BY MR. HAZZARD:

10 Q What is your rank? You were a patrolman at the time.
11 Are you still a patrolman or what do you?

12 A Yes, sir, I'm still a patrolman, also the K-9 unit.

13 Q And you are Verney Cumbee.

14 A That's correct.

15 Q And are you related to Patrick Cumbee?

16 A That's correct.

17 Q How are you related to Patrick?

18 A First cousins.

19 Q Okay, now, is Patrick still with the force or no longer
20 with the force?

21 A No, he's no longer with the force.

22 Q Okay, now you told Mr. Hixson that you had prior
23 knowledge of Antonio Tisdale, the deceased; is that correct?

24 A That's correct. That's correct.

25 Q Okay, now, how were Mr. Ingram and Mr. Tisdale dressed on

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1 that night to your recollection, and if you don't recall
2 that's fine?

3 A I don't recall. I know when Mr. Tisdale was laying down
4 he didn't have a shirt on, and that's the only thing I can
5 remember about him on that.

6 Q Okay, now, did you complete an incident report as a part
7 of your work in this case?

8 A Yes, sir.

9 Q Okay, do you have a copy of that incident report?

10 A Here in front of me.

11 Q Yes, sir.

12 A No, sir.

13 Q Okay, do you have one available to you?

14 A Yes, sir.

15 Q If you could retrieve that I would appreciate it, sir.

16 A It's in my patrol car.

17 MR. HIXSON: Your Honor, I would just object. He can
18 ask the question. If he can answer we don't need an incident
19 report.

20 Q Okay.

21 THE COURT: Okay, he doesn't have it with him, he
22 said it was in a patrol car.

23 MR. HAZZARD: All right, the Court's indulgence, if I
24 may approach the witness, hand him a document I have been
25 provided and see if it is, in fact, your incident report.

1 A Yes, sir, that's it, without reading everything in the
2 narrative to make sure that's it word for word, but that sure
3 is.

4 Q Okay, all right, now, I note on the report that it says
5 here that you spoke to the victim who is a juvenile and the
6 victim stated that him and the other victim, which would be
7 Mr. Tisdale, correct?

8 A Correct.

9 MR. HIXSON: Your Honor, I object to that. That's
10 hearsay. He'll get a chance to ask the witnesses when they
11 testify but he can't get statements in through ---

12 MR. HAZZARD: I'm asking him what's in his report.

13 THE COURT: Yeah, but how is that not hearsay?

14 MR. HAZZARD: Okay.

15 THE COURT: I sustain the objection.

16 BY MR. HAZZARD:

17 Q As a part of your investigation, okay, as a part of your
18 investigation did you speak with Al Ingram?

19 A Yes.

20 Q Okay, and Al Ingram is the alleged victim in this case;
21 correct?

22 A Correct.

23 Q Now, in speaking with Mr. Ingram as a part of your
24 investigation, did you get the impression that Mr. Ingram did
25 not know the identity of his alleged assailant?

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- 1 A By name.
- 2 Q Okay, now, when you came up and you tended to Mr.
- 3 Tisdale; correct?
- 4 A Correct.
- 5 Q You indicated that Mr. Ingram was standing behind him.
- 6 How far behind him was he standing?
- 7 A It was close enough that I could reach out and touch his
- 8 foot ---
- 9 Q Okay.
- 10 A --- and pull his socks down like I stated what I did.
- 11 Q Okay, and by your testimony, I get the impression Mr.
- 12 Ingram never volunteered any information. In other words, did
- 13 Mr. Ingram ever say to you, "Hey man, I've been shot, too. I
- 14 was injured, too," or did you have to ask him?
- 15 A If I recalled, somebody else made the statement that he
- 16 might have been shot, too, and I think I asked him on that,
- 17 "Was you shot, too," but I ---
- 18 Q Okay, and how long had you been on the scene when you
- 19 finally asked Mr. Ingram if he had been injured as well?
- 20 A I can't recall because my focus was basically on Mr.
- 21 Tisdale at that time because I thought he was the only one
- 22 that was ---
- 23 Q Five minutes, 10 minutes, 30 minutes?
- 24 A Maybe five at the most.
- 25 Q Okay, so, someone else had to bring it to your attention

1 that Al Ingram had been involved in an altercation; correct?

2 A That's correct.

3 Q Okay, now, as a part of your investigation, did you in
4 any way secure, tow and process Antonio Tisdale's vehicle?

5 A No.

6 Q Okay, to your knowledge and as a part of your
7 investigation and your involvement in this case, do you know
8 whether or not Mr. Tisdale's vehicle was ever secured, towed
9 and processed by the authorities?

10 A No.

11 Q Okay. Thank you.

12 MR. HAZZARD: No further questions.

13 THE COURT: Redirect?

14 MR. HIXSON: No, Your Honor.

15 THE COURT: All right, you may step down.

16 All right, Mr. Hixson, you can call your next witness.

17 MR. HIXSON: Thank you, Your Honor. The State would
18 call Investigator Michael Thacker from the Georgetown County
19 Sheriff's Department.

20 Whereupon, Michael Thacker is called to the stand, duly
21 sworn by the clerk and testified as follows:

22 THE CLERK: Please be seated and state your name for
23 the record.

24 MR. THACKER: Michael Thacker.

25 MR. HIXSON: If it please the Court, Your Honor?

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1 THE COURT: Yes, sir.

2 DIRECT EXAMINATION

3 BY MR. HIXSON:

4 Q Good afternoon, sir.

5 A Good afternoon.

6 Q Please tell the jury what you do for a living.

7 A I'm a criminal investigator for the Sheriff's Office
8 here in Georgetown County.

9 Q And how long have you been in that capacity?

10 A Ten years.

11 Q Okay, where did this incident occur?

12 A City of Andrews.

13 Q Okay, and I notice that you said you work for Georgetown
14 County; is that right?

15 A Yes, sir.

16 Q So, how in the world did you get involved in this?

17 A We was asked to respond to process the scene there.

18 Q Okay, so, you provided assistance based on the request
19 of the Andrews?

20 A Yes, sir.

21 Q Okay, so, did you, in fact, respond to the City of
22 Andrews on August 13th of 2008?

23 A Yes, sir.

24 Q Okay, and please tell us what you did.

25 A I - the first thing is I spoke with the officers that

1 were there on scene as I was in route there and they advised
2 me that the scene had been secured with tape that's placed
3 around the location that they had identified and also ---

4 Q Was Investigator Lee present on the scene at that time?

5 A I'm not sure if I saw him when I first got there. I
6 spoke with one of my officers that was there to assist. They
7 had came there prior to my arrival, and I spoke with him and I
8 believe that Investigator Morris, who is - who my contact was
9 was speaking to Investigator Lee at that point.

10 Q Okay, okay, very good. Sorry about that. Please
11 continue.

12 A That's okay. Well, once I got there and verified that
13 the scene had been secured with the tape the first thing I did
14 was spoke with Investigator Morris again, a little background
15 information on the information they had at that time. At that
16 point I surveyed the scene, did a walkthrough of the areas
17 identifying any potential items that could be of evidentiary
18 value, continued through there to look for any other items
19 that was outside of that scope of where they had placed the
20 tape as well and photographed the scene, at that point placed
21 markers down to identify items, photographed those items once
22 again, prepared a sketch, measurements, collected the items
23 that I had placed markers with.

24 Q Okay, let me show you what's been marked and in evidence
25 as State's Evidence Number One, which is an overhead diagram,

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1 see if you recognize that?

2 A I do.

3 Q Okay, and what is that?

4 A That's an overhead view of the location area of the City
5 of Andrews, Main Street.

6 Q Okay, now, this is in evidence. So, we've already
7 published it. So, if you don't mind, can you point and just
8 show the jury where you responded to and the areas you were
9 looking at.

10 A My areas were from Farr and Beech Avenue. That means this
11 area here down through to this area.

12 Q Okay, and let me also show you, just take a look at all
13 those. I'll ask you some questions after - for judicial
14 efficiency maybe take a look at all of them and I'll ask you
15 some questions all at once. If you have any issues with any
16 of them just point and pull those aside.

17 A Okay.

18 Q Okay, do you recognize those items?

19 A All, all but the last four.

20 Q Oh, I apologize. I didn't mean to give you the last
21 four. I'm sorry about that. Let me sit those back up there.
22 And what are those?

23 A These are photographs I had taken of the scene.

24 Q Okay, who took those photographs? Did you take those
25 photographs?

1 A I took the photographs, yes, sir.

2 Q Okay, let me show you - there are a couple of more that
3 are out of order. That's why I've set these aside. These -
4 because they're out of order, I'm referring to State's Exhibit
5 Number Two, Number Three, Number Five and Number Seven. Take
6 a look at all those, also.

7 Okay, do you recognize those items?

8 A Yes, sir.

9 Q What are those items?

10 A These are also photographs of the scene that I took ---

11 Q Okay.

12 A --- on that night.

13 Q And did you - you took those photographs?

14 A Yes, sir.

15 Q Okay, now, all of these, and what I'm specifically
16 referring to are photographs Nine, State's Ten, State's 11,
17 State's 12, State's 13, State's 14, State's 15, 16, 17, 18,
18 19, 20, 21, 22, 23, 24 and ultimately 25, as well as Two,
19 Three, Five, Seven, Your Honor. Okay, I went kind of fast.
20 Are we good with that?

21 THE COURT: All right, you moving to put those in?

22 MR. HIXSON: Yes, Your Honor.

23 BY MR. HIXSON:

24 Q Are these a fair and accurate representation of the scene
25 that you saw August 13th of 2008?

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1 A Yes, sir.

2 Q Okay.

3 MR. HIXSON: At this time the State would move those
4 items that I read to Madam Court Reporter into evidence.

5 THE COURT: Any objection?

6 MR. HAZZARD: No objection.

7 THE COURT: All right, Plaintiff's [sic] Exhibits
8 Two, Three, Five, Seven and Nine through 25 are admitted into
9 evidence without objection.

10 (Whereupon, State's Exhibits Two, Three, Five, Seven and
11 Nine through 25 [see index for description of exhibit]
12 admitted into evidence and appropriately marked.)

13 MR. HIXSON: Okay.

14 BY MR. HIXSON:

15 Q All right, Detective, if you don't mind, and Investigator
16 Brown, I'm ready to roll, State's Two, which is number one may
17 we publish those to the jury, Your Honor?

18 THE COURT: Yes.

19 Q Please describe what we're looking at there, Investigator
20 Thacker.

21 A This is the photograph of where the store called the
22 Super Chic and this crime scene tape is what was placed up
23 there prior to my arrival.

24 Q Hold on for a second, make sure we're - having a little
25 technological difficulty over there now. Are we okay? Power

1 on?

2 MR. HAZZARD: We have no - okay, now something is on,
3 okay.

4 MR. HIXSON: Can you see it, Ron?

5 MR. HAZZARD: I assume I can see what you're talking
6 about, yes, we have the picture, all right.

7 BY MR. HIXSON:

8 Q I apologize, Investigator. Let's try that again. Tell
9 the jury what we're looking at at State's Two.

10 A Okay, this is a photograph of the parking lot that you
11 can see of the Super Chic convenience store and the crime
12 scene tape that was placed around and this side where they had
13 at that point, as I was told, established where some of the
14 incident had began, possibly.

15 Q And can you correspond that to this overhead? Where is
16 that picture looking from, what angle are we looking at?

17 A Okay, this is from here - let me stand up. From the -
18 this is east and west. So, I was standing on the east side
19 pointing back towards.

20 Q Taking a picture this way?

21 A Right, at an angle towards the parking lot.

22 Q Okay, let's take a look at State's - the next photograph
23 that's State's Two or Three, excuse me.

24 A There we go, okay.

25 Q What is that?

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1 A That's a ---

2 Q Who is that, let's start with who is that.

3 A That, that's Investigator Morris. He was there to assist
4 me there and the person I had - the contact I had he had
5 arrived prior to my arrival and this is a photograph I had
6 asked him to point out the general area where the shell
7 casings were located.

8 Q Did Investigator Lee already recover the shell casings?

9 A Exactly, yes, sir.

10 Q So, you did not personally see they were - had already
11 been picked up by the time you got there?

12 A I did not.

13 Q Okay, they, they were already picked up?

14 A They had already been picked up and this was, this was a
15 photograph of the general area where, where I was told that
16 they had been located.

17 Q Okay, how about the next photograph. That's State's
18 Number Five. Excellent. How about that one?

19 A And this is just a closer, a closer shot of the same area
20 where Investigator Morris is pointing out the general
21 direction.

22 Q Where a second shell casing was recovered?

23 A Exactly.

24 Q Okay, State's Seven, the next photograph.

25 A Okay.

1 Q Tell me if those don't match because we have some
2 Foamcore there. That's it?

3 A Yes, that's it. This, again, this is the same
4 photograph. It's a closer, a closer view of the photographed
5 general area, shell casing.

6 Q Okay, now, relating to those series of photographs can
7 you please show what area the photograph was taken from the
8 overhead? And, please, you all tell me if you can't see it,
9 we need to move this over that way.

10 A I can probably ---

11 REPORTER: Judge, he needs to stop rubbing on the mike. I
12 can't hear. I'm sorry.

13 A I'm sorry. Sorry about that. Okay, it would be right in
14 this area right here.

15 Q Okay.

16 A There's a large trash can in the parking lot of the Super
17 Chic. So, it's right in that area.

18 Q Okay, and the detective, in case you can't see, pointed
19 to this area.

20 Please continue, sir. To the next photograph, Mr. Brown,
21 Investigator Brown. They should be in order for you.

22 A Okay.

23 Q And what is that photograph?

24 A All right, and this a photograph I'm approximately in the
25 general area of the prior photographs where the casings

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1 generally are casings located. To the left of that building
2 would be the trash can. So, this is going back west.

3 Q Okay, and that is Momma's Kitchen? Is that what that
4 ---

5 A That's correct.

6 Q --- that signs says?

7 A That's correct.

8 Q Okay, and please continue. What's the next photograph
9 depict?

10 A Okay, this is, I'm walking west on the sidewalk. So, I'm
11 standing approximately right before the intersection of the
12 next street where Momma's Kitchen to the left.

13 Q Are you walking back towards the area where Carnell's is?

14 A I'm, I'm walking west, correct. I'm walking down the
15 street. I'm following a path of some items that I've
16 identified on the street.

17 Q Okay, next photograph.

18 A Okay, this is at the corner of the first intersection,
19 and there's crime scene tape there to the left. It's
20 cordoned off that road.

21 Q Okay, since we have a street involved let's point to -
22 point out what you're referring to.

23 A Okay, right here at south Farr, right on the corner.

24 Q In which direction would the camera be pointing?

25 A The camera is pointing west. It's pointing that way.

1 Q In this direction?

2 A Yes, sir.

3 Q Okay, go ahead. Now, this is the first marked piece of
4 evidence you've come across; is that correct?

5 A Correct, yes, sir.

6 Q Now, what does that picture depict?

7 A Okay, this is a marker that I had placed down beside some
8 red stains of suspected as blood.

9 Q Okay, now, during the course of your duties and
10 responsibilities do you - tell me about what your normal
11 procedures are? You mentioned to it earlier about when you
12 arrive on scene the things that you do.

13 A Uh-huh.

14 Q Can you just kind of briefly highlight that again?

15 A Sure, the first thing I want to make sure is that the
16 area is secure, properly cordoned off, that there is not - a
17 smaller area, you know, it's large enough to where it
18 encompasses what we know at the time as far as the incident
19 and the next thing that I do is just do a walk through of the
20 general area first, and then do another walk and see if I can
21 identify any items that may be of value pertaining to that
22 case, and at that time doing a good search of some outlining
23 areas for any other items that may be involved with the case
24 as in this one possibly a firearm. So, all those areas are
25 searched and once I feel pretty good about that then I'll go

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1 back and make sure that there's not any other items that's
2 anywhere else that I want to identify and place markers next
3 to those items, and at that point then photograph those items
4 individually.

5 Q And so, there were no markers for the shell casings; is
6 that right?

7 A Correct.

8 Q And why is that just to clarify?

9 A That's because there was none there when I arrived.

10 Q Okay, and then do you do a - try to do some diagram to
11 reference the information that you found?

12 A That's correct.

13 Q Okay, did you do that in this case?

14 A I did a sketch, yes, sir.

15 Q Okay, let me show you what's been marked as State's
16 Exhibit 30. See if you recognize that.

17 A Uh-huh, yes, sir, that's ---

18 Q What is that?

19 A This is a - the sketch that I had completed.

20 Q Do you write it on a piece of foamcore like that?

21 A No, this is actually blown up. It's - I actually do it
22 on graph paper. So, it's a copy.

23 Q This prepared for trial?

24 A Yes, sir.

25 Q Okay, and is this sketch or this recreation of your

1 sketch a fair and accurate representation of the scene that
2 you saw?

3 A It is with the exception of scale obviously.

4 Q Right, and is this sketch to scale?

5 A No, it's not.

6 Q No, it's not scale. Very good.

7 MR. HIXSON: Your Honor, at this time the State would
8 move State's Exhibit Number Three into evidence, 30, excuse
9 me, into evidence.

10 THE COURT: Any objection?

11 MR. HAZZARD: No objection.

12 THE COURT: State's Exhibit Number 30 admitted into
13 evidence without objections.

14 (Whereupon, State's Exhibit Number 30 [Sketch] admitted
15 into evidence and appropriately marked.)

16 MR. HIXSON: And we would like to publish this to the
17 jury as well.

18 THE COURT: All right.

19 BY MR. HIXSON:

20 Q Can you maybe - see if we both can see. Can you briefly
21 describe the orientation of that exhibit to the jury?

22 A Sure, as was in the photos, where I had began the
23 photographing this is east in this direction and west going
24 this direction. This is South Farr, the first intersection of
25 the last photo, and all the items that are marked have numbers

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1 and they follow in correspondence all the way down the
2 sidewalk here. There is also an A and a B. Those are
3 telephone poles that I use as reference points for
4 measurements. So, there'll be measurements from each, each
5 item, from each pole.

6 Q Okay, now, the photographs, the earlier ones we were
7 referring to, the one with Dustin Morris, Investigator Morris
8 pointing ---

9 A Uh-huh.

10 Q --- those are not marked on there; is that correct?

11 A They are not.

12 Q And where were - what was the area he was pointing to?

13 A He was in this general area here. I'm sorry, right in
14 this area.

15 Q And then finally to completely finish it, I guess, if
16 I'm referring to showing the jury State's One, if you turn
17 that exhibit on its side, that's what we're dealing with; is
18 that correct?

19 A That's correct.

20 Q Okay, for clarification.

21 A Uh-huh.

22 Q So, does this area correspond to this sidewalk through
23 here; is that correct?

24 A That's correct.

25 Q Farr is here?

1 A That's Farr.

2 Q Okay.

3 A Uh-huh.

4 Q Very good. Thank you. Now that I did all that, let's
5 talk about State's One and use your diagram now you can show
6 us and see what we're talking about.

7 A Okay.

8 Q Excuse me, I didn't mean State's One. The photograph
9 that shows ---

10 A Photograph.

11 Q --- your marker one.

12 A Item one, yes, sir.

13 Q There you go. Sorry about that.

14 A Okay, item one is going to be identified on the sketch.
15 It's going to be on South Farr just around the corner of this
16 building of where Momma's Kitchen was located.

17 Q And how about look at the next photograph as well, item
18 two, and please describe that photograph as well and where it
19 corresponds on your diagram.

20 A Okay, item two is in the same general location as well,
21 on South Farr.

22 Q Okay, and what were those items?

23 A They were - it's red stains I, I listed as suspected
24 blood until further known.

25 Q Sure, let's look at the next photograph or next series

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1 of photographs is fine. Let's take a look at, let's take a
2 look at your next one. I noticed there are several markers in
3 there for, I guess, for efficiency. Tell us what those are.

4 A Right, this, this is a photograph. It's a mid-range
5 photograph of items three and four. Now, this is going back,
6 pointing back west, east, excuse me. So, I'm at this point
7 standing in this location taking a photograph back, back east.

8 Q Okay, take a look at the next picture or next couple,
9 you can ---

10 A Got you, okay.

11 Q And all these markers you're referring to, markers, the
12 five, the ones that correspond, what are those items of
13 evidence that you have, you have marked?

14 A These are all stains that are on the sidewalk.

15 Q Okay.

16 A Uh-huh.

17 Q Presumptive human blood stains?

18 A Correct, and this is a photograph of the same, in the
19 same orientation back east of three, four and five, items
20 three, four and five.

21 Q Okay, the next photograph.

22 A That's the same, that's the same photograph as before.

23 Q That's marker six?

24 A It was out of order, yes, three, four and five.

25 Q Okay.

1 A Uh-huh.

2 Q The next one?

3 A Okay, this is again in the same, the same direction,
4 east, and this is a photograph of item six which again is a -
5 it's a stain of suspected blood.

6 Q Next photograph.

7 A This is a photograph of items six, seven and eight, and
8 again, that's suspected blood, and at this point right here on
9 the, on the sketch.

10 Q Next photograph, sir.

11 A Okay, and this is a photograph of nine, 10, 11 and 12,
12 same, same direction, orientation with the photograph back
13 east.

14 Q The next photograph, also, please by all means just
15 continue this if you ---

16 A Yeah, all right, this is item 13 and 14. All right, and
17 this is items 15 through 22, and that's again the suspected
18 blood on the sidewalk, orientation east with the photographs,
19 and this photograph is 23, 24 and 25. In the background you
20 can, you can make out the prior markers. They're not in
21 focus, but these were focused on items 23, 24 and 25, and
22 we're up at this area, this point.

23 Q You can actually see a corresponding vehicle in that
24 photograph?

25 A There is, it's, it's right beside a vehicle. Okay, and

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1 this photograph is 27, 28, 29 and 30, and that's - we're past
2 the vehicle here in this, in this area with the sketch.
3 Okay, and 31, 32 and 33 and that's these three here at the
4 top. It's ---

5 Q Is that the end of the blood trails, the photos to the
6 west?

7 A This is the last that I located beside this vehicle, 32
8 and 33.

9 Q And do you recall the business or the businesses that
10 that blood trail ends in front of?

11 A I do not. I wrote it on one of my - on my form but I do
12 not have it on the sketch here, no, sir.

13 Q Fair enough, fair enough and I believe there's one
14 subsequent photograph.

15 A There's one more that's back beside the first vehicle
16 that's marked as item 34.

17 Q Okay, item 33, the photograph, the last photograph, that
18 was on the sidewalk?

19 A 33 was on the sidewalk; correct.

20 Q And then the blood pool on 34 that's in the street?

21 A That's correct.

22 Q To the rear of the white pick-up truck?

23 A That's right at the - I believe, I'm trying to think, I
24 have to look at the photograph, that's in the front of the ---

25 Q The front part of the truck.

1 A --- of the truck and 31, item 31 was actually a shirt and
2 that was in the street as well in front of the vehicle.

3 Q I'm sorry, and then, I'm sorry referring to the last
4 photograph, I'm sorry, 34.

5 A Yeah, 34 was the suspected blood and that was in the
6 street in front of the vehicle.

7 Q Okay, all right, did you find any other items of
8 evidentiary value?

9 A I did not.

10 Q Did you search the area of the crime scene tape for
11 weapons?

12 A I did.

13 Q Did you find any firearms?

14 A No firearms.

15 Q Did you find any edge weapons, knives?

16 A There was nothing else located.

17 Q Okay.

18 MR. HIXSON: Beg the Court's indulgence, Your Honor.

19 THE COURT: All right.

20 BY MR. HIXSON:

21 Q Once again out of an abundance of caution did this
22 incident occur in Georgetown County?

23 A That's correct.

24 MR. HIXSON: I have no further questions of this
25 witness, Your Honor.

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1 THE COURT: All right, Mr. Hazzard, cross examination?

2 MR. HAZZARD: Thank you, Your Honor.

3 CROSS EXAMINATION

4 BY MR. HAZZARD:

5 Q Sir, what is your, what is your title?

6 A I'm an investigator.

7 Q So, Investigator Thacker, how are you today, sir?

8 A Fine, sir.

9 Q Okay, let's see, I've been provided by Mr. Hixson, he was

10 nice enough to provide me with a narrative report that bears

11 your name. Did you prepare a narrative report in this case?

12 A That's correct, yes, sir.

13 Q Now, is it fair to say that your report indicates that

14 you arrived on the scene at about 11:55 p.m.; is that correct?

15 A No, sir, I did not. I was contacted at my residence at

16 about approximately 11:55 pm.

17 Q Got you, okay. All right, and what time did you arrive

18 on the scene, sir?

19 A I believe it was after 12:30, I mean, it was after

20 midnight because I had to leave my residence and pick up some

21 items at my office and then drive to Andrews. So, it was at

22 least, at least 40 minutes, 30 minutes.

23 Q Okay, and the officer log, I believe, has you signing

24 out of the scene at 3:20 a.m., does that sound about accurate?

25 A Yes, sir.

1 Q Okay, now, so you're at the scene for a little under
2 three hours; correct, from 12:49 until about 3:20 a.m.; is
3 that correct?

4 A Yes, sir

5 Q And all of the pictures there depict the actions that you
6 took, the evidence that you documented and collected; correct?

7 A That's correct.

8 Q Okay, now, all of the evidence you documented and
9 collected, there isn't anything that you saw or documented or
10 collected at that scene that is inconsistent with Alkanese
11 Ingram and Antonio Tisdale attacking this young man, him
12 shooting in self defense and them then turning and running
13 away; is there?

14 MR. HIXSON: Your Honor, I'll object to that. That
15 requires speculation on items that aren't in evidence.

16 THE COURT: Okay, I think - it's cross examination.
17 I'm going to allow it, overruled. Go ahead.

18 A I wouldn't know how to answer that honestly, sir. I was
19 there to assist them and process the items that was in front
20 of me. I wasn't handling any part of the investigation side
21 of it.

22 Q All right, how long have you been a police officer, sir?

23 A Ten years.

24 Q Okay, and you have training with regard to investigation;
25 correct?

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1 A Yes, sir.

2 Q Now, with regard to that training, sir, no evidence
3 collected at that scene that is inconsistent with Al Ingram
4 and Antonio Tisdale attacking this young man, him shooting in
5 self defense, then them turning and running away leaving the
6 blood trail that you collected; is that correct?

7 A I - you could say so, yes, sir.

8 Q Okay.

9 A Yes, sir.

10 Q No further questions.

11 THE COURT: Redirect?

12 MR. HIXSON: Just one question, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. HIXSON:

15 Q Investigator Thacker, the evidence that you looked and
16 put in front of this jury is that evidence also consistent
17 with an ambush killing?

18 A It could be, yes, sir.

19 MR. HIXSON: No further questions.

20 THE COURT: You may step down. Let me see the
21 attorneys for a second. Mr. Hazzard, let me see you for a
22 second.

23 (Whereupon, a bench conference was held in the presence
24 but out of the hearing of the jury.)

25 THE COURT: All right, ladies and gentlemen, I just

1 wanted to check with the attorneys to see if it was a good
2 time to break for lunch and I think everybody agrees it's a
3 good time for us to go ahead and break for lunch. It's 12:30.
4 I'm going to go ahead and excuse you for lunch. Please be
5 back in the jury room at 2:00. As I cautioned you before,
6 please do not discuss this case even among yourselves, don't
7 discuss it with anyone else, don't conduct any independent
8 investigations into this matter. I hope everybody has a good
9 lunch and we'll see you back at 2:00. Thank you very much.
10 Everybody else please remain seated while the jury is excused.

11 (Whereupon, the following takes place outside the
12 presence of the jury.)

13 THE COURT: Anything before we recess for lunch?

14 MR. HIXSON: No, Your Honor.

15 THE COURT: Anything from the Defense?

16 MR. HAZZARD: Nothing from the Defense, although I will
17 admit I did not hear what time the Court wanted to reconvene.

18 THE COURT: I'd like to get started back at two
19 o'clock; okay?

20 MR. HAZZARD: Okay.

21 MR. HIXSON: Thank you, Your Honor.

22 THE COURT: So, let's stand in - we'll stand in recess
23 till two o'clock.

24 MR. HAZZARD: Thank you.

25 THE COURT: Thank you.

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1 OFF THE RECORD

2 (On the record.)

3 (Whereupon, the following takes place outside the
4 presence of the jury.)

5 THE COURT: All right, anything from the State before
6 we bring the jury in?

7 MR. HIXSON: No, Your Honor.

8 THE COURT: Anything from the Defense?

9 MR. HAZZARD: Nothing on behalf of the Defense.

10 THE COURT: All right, let's bring the jury in. Thank
11 you.

12 (Whereupon, the following takes place in the presence of
13 the jury.)

14 THE COURT: All right, ladies and gentlemen, welcome
15 back. I hope everyone had a good lunch. We are now ready to
16 resume the trial of this case of the State versus Dominic
17 Alexander Leggette.

18 All right, Mr. Hixson, you can call your next witness.

19 MR. HIXSON: Thank you, Your Honor. At this time the
20 State would call Dr. Cynthia Schandl.

21 THE COURT: All right.

22 Whereupon, Cynthia Schandl was called to the stand, duly
23 sworn by the clerk and testified as follows:

24 THE CLERK: Thank you. Please be seated and state
25 your name for the record, spelling your last name, please.

1 MS. SCHANDL: Cynthia Anna Schandl, S-C-H-A-N-D-L.

2 DIRECT EXAMINATION (BY MR. HIXSON)

3 Q Good afternoon, Dr. Schandl.

4 A Hi.

5 Q Can you please tell this jury what you do for a living?

6 A Yes, I'm a forensic pathologist.

7 Q And what exactly is that?

8 A A forensic pathologist is a pathologist, so a licensed
9 physician or doctor who specializes in the field of forensics
10 and forensic pathology in particular is concerned with
11 determining the cause of death and the manner of death in
12 individuals and in particular those - so, the manner of death
13 that we're looking at may be homicide, suicide, accident,
14 natural or undetermined. So, frequently we'll get individuals
15 who have died in the community from different, what - by
16 different ways to our office referred through the coroner's
17 office and try to determine the cause and manner of death.

18 Q Where is your office?

19 A I'm employed at the Medical University of South Carolina
20 in Charleston, South Carolina.

21 Q Okay, and how long have you been in that capacity?

22 A I've been faculty there for almost six years.

23 Q Okay, and it sounds like you needed some specialized
24 training to do what you do. Do you, in fact, have any
25 specialized training?

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1 A Yes, so, a bachelor's degree to start and then you go to
2 medical school. So, I went to the medical school at South
3 Carolina, MUSC, Medical University of South Carolina and
4 completed medical school to become a medical doctor and then
5 following that there is additional training in pathology. So,
6 both anatomic and clinical pathology there's what they call a
7 residency and following that training there is specialized
8 training in forensic pathology, so, an additional year called
9 a fellowship in forensic pathology, and then following that
10 training there are American Board of Pathology certifications
11 to be earned by examination in anatomic pathology, clinical
12 pathology and forensic pathology, all three of which I am
13 board certified.

14 Q And Doctor, have you ever been qualified as an expert in
15 a court of law here in South Carolina before?

16 A Yes, sir.

17 Q And have you ever testified in court before?

18 A Yes, sir.

19 MR. HIXSON: At this time the State would offer Dr.
20 Cynthia Schandl as an expert in the field of forensic
21 pathology.

22 THE COURT: All right, any questions or challenges?

23 MR. HAZZARD: No questions, challenges or objections,
24 Your Honor.

25 THE COURT: All right, I find this witness to be

1 qualified as an expert in the field of forensic pathology.

2 Now, ladies and gentlemen of the jury, ordinarily when a
3 witness testifies a witness can only testify as to what that
4 witness personally knows, what they saw, what they tasted,
5 what they smelled, what they felt, things of that nature.
6 However, an exception to this rule are for witnesses qualified
7 as expert witnesses. What that means is because a person has
8 a special training, special education or special experience in
9 a certain field they can be qualified as an expert to give an
10 opinion in that field and that is really the only distinction
11 between an expert and a lay witness is that an expert is
12 allowed to give his or her opinion in the field in which they
13 are qualified. I'll give you some further directions on
14 expert witness testimony later when I charge you on the law in
15 this case, but suffice it to say for right now that I have
16 found this witness qualified as an expert in the field of
17 forensic pathology, which means she can render an opinion in
18 that field. All right, Mr. Hixson.

19 MR. HIXSON: Thank you, Your Honor.

20 BY MR. HIXSON:

21 Q Doctor, were you working in this capacity on August
22 14th, 2008?

23 A Yes, sir.

24 Q And were you in Charleston?

25 A Yes, sir.

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1 Q And did you happen to have an opportunity to come across
2 a deceased individual by the name of Antonio Tisdale?

3 A Yes, sir. I performed an autopsy on Antonio Tisdale on
4 the 14th of August in 2008.

5 Q Okay, can you please give the jury just a real general
6 idea of what your day is like when you're getting - how does
7 the victim arrive, are they clothed, kind of general things
8 like that?

9 A Yes, so, basically cases are like I mentioned referred
10 to our office, the forensic pathology office through the
11 coroner's office or county coroners. So, the county coroner
12 will contact our office and inform us that they have a case
13 for us, and from there the body will be transported to
14 Charleston to the Medical University of South Carolina to our
15 morgue and then when we're ready to perform the case that body
16 will come up to the autopsy suites and go onto the autopsy
17 table. At that point that individual will be in whatever
18 condition they were in at the scene or at the hospital or
19 whatever, wherever they were when they died. So, if they had
20 clothes on then they will still have their clothes on. If
21 they didn't have any clothes on or if the clothes were removed
22 during attempts at resuscitation then those clothes would be
23 absent. So, it just depends on where they were when they
24 died. That's how we get the body.

25 Q Did you - do you, part of your process, do you make a

1 photographic record of what you do?

2 A Yes, we do take photographs and make diagrams as we go
3 through each case in order to document our findings.

4 MR. HIXSON: Your Honor, at this time I'm offering
5 three, four items for the witness, State's Exhibit 26, 27, 28
6 and 29.

7 BY MR. HIXSON:

8 Q If you can just look at those briefly, Doctor, and see if
9 you recognize those items and then we'll deal with them later.

10 A Yes, these are four photographs. Each of them have the
11 case number assigned to Antonio Tisdale which is FA08-554 from
12 our photographs variably representing portions of the case.

13 Q Okay, and you saw those items in that condition at the
14 time those photographs were taken?

15 A That's correct.

16 Q And all of those photographs are fair and accurate
17 representation of the items and the scene that you saw on
18 August 14th, 2008, while at the Medical University of South
19 Carolina?

20 A Yes, during, during the course of the autopsy, yes, sir.

21 Q Okay, thank you.

22 MR. HIXSON: Now, specifically, Your Honor, I would
23 like to draw the witness's attention to State's 26.

24 BY MR. HIXSON:

25 Q And see if you recognize that.

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1 A Yes, State's Exhibit 26 is that of Mr. Tisdale's
2 clothing, including socks and shoes and pants and so forth as
3 well as the other personal effects that he had on his - in his
4 clothing.

5 Q Okay.

6 MR. HIXSON: Your Honor, at this time the State would
7 move State's 26 into evidence.

8 THE COURT: Any objection?

9 MR. HAZZARD: No objection.

10 THE COURT: All right, State's Exhibit Number 26
11 admitted into evidence without objection.

12 (Whereupon, State's Exhibit Number 26 [Photograph]
13 admitted into evidence and appropriately marked.)

14 MR. HIXSON: At this time we'd like to publish that for
15 the jury if Your Honor so deems appropriate.

16 THE COURT: All right, that'll be fine.

17 MR. HIXSON: Mr. Brown, you have it?

18 BY MR. HIXSON:

19 Q And on the screen, Doctor, is that the same
20 representation you see in the picture that you have in your
21 hand?

22 A Yes, it is very similar. It's the same picture.

23 Q Okay, now, Doctor, let's talk about on some of your
24 findings and some of the processes that you have gone through.
25 Can you please describe to the Court, the jury what - not

1 your findings you made, what you observed.

2 A Yes, so, an autopsy consists of several portions,
3 several different examinations comprise an autopsy. First, we
4 have the external examination and we'll take a look again at
5 the clothing which you've seen, take the clothing off of the
6 body and then begin what we call the external examination.
7 The external examination includes those things that would be
8 significant for identification of the body such as the height,
9 the weight, the hair color, any scars or tattoos, that sort of
10 thing, as well as any injuries to the body that you can see on
11 the outside. So, if there were stab wounds or gunshot wounds
12 or abrasions, scrapes, other things like that, we would
13 document those during the external examination, and in this
14 case Mr. Antonio Tisdale there was a single entrance gunshot
15 wound to the left chest and that we could document upon
16 external examination.

17 Q Doctor, let me show you what's been marked as State's
18 Exhibit 27, see if you recognize that item.

19 A Yes, this is a photograph taken during the course of the
20 autopsy that shows a portion of Mr. Tisdale's chest, including
21 the area of the gunshot wound.

22 Q And also State's Exhibit 28.

23 A And State's Exhibit 28 shows that same gunshot wound
24 closer up. So, we're nearer to the gunshot wound. You can
25 just see the nipple of the chest and the gunshot wound

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1 superior or above that on the chest.

2 Q And I believe you already indicated those are fair and
3 accurate representations of the scene that you saw as you were
4 performing your services.

5 A That is correct.

6 MR. HIXSON: At this time the State would move State's
7 Exhibit 27 and 28 into evidence, Your Honor.

8 THE COURT: Any objection?

9 MR. HAZZARD: No objection, Your Honor.

10 THE COURT: All right, State's Exhibits 27 and 28
11 admitted into evidence without objection.

12 (Whereupon, State's Exhibit Number 27 and 28
13 [Photographs] admitted into evidence and appropriately
14 marked.)

15 MR. HIXSON: At this time the State would like to
16 publish 27 to the jury, Your Honor.

17 THE COURT: All right.

18 Q And specifically as it relates to those, Doctor, did you
19 have any specific finding as to the direction of travel or the
20 depth of the injury at that point in time?

21 A Well, during the external examination we do very little
22 as far as determining where the projectile, where the bullet
23 goes. So, basically, we're just looking at those what you can
24 see on the outside at the external examination. So, then the
25 next part of the autopsy examination is the internal

1 examination which is what many people think of as the autopsy
2 where the Y-incision is made and the chest plate can be
3 removed and then we can look further to see where that
4 projectile or bullet in this case went, through which organs;
5 and so, we do that at that part of the autopsy, the internal
6 examination.

7 Q Okay, then let's clear up this last little bit. Could
8 you look at 28 into evidence. That's this one.

9 MR. HIXSON: And we published that ---

10 THE COURT: All right.

11 Q Will you share that, please?

12 A So, again, this is the gunshot wound which is designated
13 with a letter A and it's the case number above it, and you can
14 see the nipple below it. So, that's at left chest.

15 Q Okay, now, you also indicated that while we're talking
16 about it external findings did you - were you able to
17 determine the height and the weight of the deceased?

18 A Yes, sir.

19 Q And what were those findings?

20 A His weight was approximately 145 pounds and he was about
21 five foot nine and a half high, height.

22 Q Okay, five foot nine, 145; is that right?

23 A Yes, yes, sir.

24 Q Thank you. Okay, Doctor, now, how did your procedure
25 continue from that point?

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1 A Okay, so, following the external examination we,
2 again, continued to the internal examination and the findings
3 were that the bullet did go through the left lung, both
4 through the left upper lobe of the lung and through the left
5 lower lobe of the lung and it did so going through about the
6 third rib. So, we have 12 ribs. So, you can kind of figure
7 that out. So, about the third rib, between the 3rd and the 4th
8 rib, through the upper lobe, through the lower lobe and then
9 it hit the eighth rib in the back. Now, the bullet was
10 recovered from the chest cavity. So, it basically, kind of
11 bounced off that, that rib in the back, that eighth rib in the
12 back and we got the bullet out of the chest cavity, and in
13 association with that injury there was a great deal of
14 bleeding into that chest cavity. He at this point, at the
15 point of autopsy, he still had almost a whole liter of blood
16 in that left chest cavity and that's after medical
17 intervention where he had had a chest tube placed which we
18 presume also drained some blood. So, there was a great deal
19 of bleeding that is associated with this injury through the
20 left lung.

21 Q Okay, you, in fact, indicated you recovered an object
22 from inside the victim, Mr. Tisdale?

23 A That is correct.

24 Q Okay, let me show you what's been marked as State's
25 Exhibit 33, see if you recognize that item?

1 A Yes, this is - this is the container that we use when
2 we're packaging bullets and other items and it has our case
3 number and my writing here that designates that this is the
4 bullet from this case.

5 Q Okay, and you recovered that from the person, the
6 deceased person of Mr. Tisdale?

7 A Yes, from Mr. Tisdale's left chest cavity.

8 Q Okay, Doctor, do you recognize that item?

9 A Yes, sir, that is the bullet that was recovered from Mr.
10 Tisdale.

11 Q Okay, did you make a photographic record of that item?

12 A Yes, yes, sir.

13 MR. HIXSON: Your Honor, at this time the State would
14 show State's Exhibit 29 to the witness. I don't believe
15 that's in evidence quite yet.

16 BY MR. HIXSON:

17 Q Do you recognize that item?

18 A Yes, sir, this is a photograph of that bullet after
19 taking, after it was taken out of the left chest cavity.

20 Q Okay, and obviously that, you indicated before that's a
21 fair and accurate representation of the scene you saw when you
22 removed the bullet from Mr. Tisdale?

23 A Yes, it is.

24 MR. HIXSON: At this time the State would move State's
25 29 into evidence, Your Honor.

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1 THE COURT: Any objection?

2 MR. HAZZARD: No objection.

3 THE COURT: All right, State's Exhibit Number 29
4 admitted into evidence without objection.

5 (Whereupon, State's Exhibit Number 29 [Photograph]
6 admitted into evidence and appropriately marked.)

7 MR. HIXSON: May I publish that to the jury, Your
8 Honor?

9 THE COURT: Yes, sir.

10 MR. HIXSON: And State's 33?

11 THE COURT: State's 33 has not been admitted yet.

12 MR. HIXSON: I'm sorry. At this time the State would
13 move State's 33 into evidence.

14 THE COURT: Any objection?

15 MR. HAZZARD: The Court's indulgence, Your Honor.

16 THE COURT: All right.

17 MR. HAZZARD: I just want to make sure I've seen it
18 before. I'm pretty sure I have.

19 THE COURT: All right.

20 MR. HAZZARD: Okay, no objection.

21 THE COURT: All right, State's Exhibit Number 33
22 admitted into evidence without objection.

23 (Whereupon, State's Exhibit Number 33 [Bullet] admitted
24 into evidence and appropriately marked.)

25 MR. HIXSON: At this time we would publish 29, Your

1 Honor?

2 THE COURT: All right.

3 MR. HIXSON: As well as 33.

4 BY MR. HIXSON:

5 Q Doctor, did you make any other findings of note relating
6 to the Defendant's extremities or anything of note that you
7 recorded?

8 A Let's see. There was a healing abrasion on one of his
9 hands. So, it was a - not, not to do with this time period
10 but something that had happened earlier, a small abrasion
11 which is just a scrape to the - it's actually the back of his
12 right wrist and then the other things were included several
13 scars and then evidence that he had - that resuscitation
14 attempts had been tried including IV access and endotracheal
15 tube placement and those sorts of things.

16 Q So, there didn't appear to be anything remarkable
17 relating to extraneous injuries that you recall?

18 A No, no, no other injuries, no, sir.

19 Q Did you - based on your observations did you record
20 these observations in any type of reports?

21 A Yes, we generate a complete autopsy report which is what
22 I have been referring to here and then that report goes to the
23 coroner's office.

24 Q Okay, and part of the process do you do toxicology on
25 the victim's blood?

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1 A Yes, it is - on, on all of our forensic cases when
2 possible, whenever possible we do do toxicologic studies on,
3 on the blood.

4 Q Okay, and was there anything of note that you - in the
5 victim's blood at this time?

6 A His toxicology was positive for ethanol, which is
7 alcohol, at 106 mg per deciliter which is the same thing as
8 0.106 percent and his blood was also positive for Delta nine
9 tetrahydrocannabinol which is the active ingredient in
10 marijuana as well as a metabolite, an inactive metabolite of
11 marijuana and it was also positive for nicotine which is from
12 possibly smoking cigarettes or other form of tobacco use as
13 well as a metabolite of nicotine which is called cotinine and
14 was otherwise negative.

15 Q Okay, and all of those items do you take all that into
16 account and generate a report based on that?

17 A Yes, sir.

18 Q Okay, and could you please tell the Court about the
19 significant findings you made in this case?

20 A The cause of death is left lung perforation due to a
21 penetrating gunshot wound to the left chest.

22 Q Okay, and based on, based to a reasonable degree of
23 medical certainty I would ask you to offer this Court your
24 opinion on whether or not this bullet wound to the chest was
25 the proximate cause of this victim's death.

1 A Yes, sir, it was.

2 MR. HIXSON: I have no further questions, Your Honor.

3 THE COURT: All right, Mr. Hazzard, cross examination.

4 MR. HAZZARD: Thank you, Your Honor. Thank you.

5 CROSS EXAMINATION

6 BY MR. HAZZARD:

7 Q Good afternoon, Dr. Schandl, how are you?

8 A Fine, thank you.

9 Q Okay, now, you are a forensic pathologist; and so, your
10 sole responsibility is to make the determination of the actual
11 cause of death of an individual; correct?

12 A Yes, sir.

13 Q Okay, you were not involved in determining how or what
14 incidents led up to that death; is that correct?

15 A That is correct.

16 Q Okay, so, you are not here to tell the jury in any way,
17 shape or form that Dominic Leggette was not defending himself
18 when he fired the gun that led to the fatal shot that led to
19 the death of Antonio Tisdale; are you?

20 A No, sir, I have no information to that effect.

21 Q Okay, now, with regard to the entry wound, was the entry
22 - was - I'm confused. To your knowledge did the bullet enter
23 the chest from the front or from the back?

24 A From the front.

25 Q Okay, so, wasn't like any type of an ambush or anything

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1 like that? It was a shot that was fired from in front of the
2 decedent Antonio Tisdale; correct?

3 A Well, there are always many - there are - I cannot tell
4 you where the two individuals were in space. However, the
5 gunshot wound itself was to the front of the chest.

6 Q Okay, it entered the front?

7 A Yes, sir.

8 Q All right, thank you. No further questions.

9 THE COURT: Redirect?

10 MR. HIXSON: No, Your Honor.

11 THE COURT: All right, you may step down. Thank you
12 very much.

13 MR. HIXSON: And may we excuse the doctor to return to
14 her duties?

15 THE COURT: Any objection to excusing the witness?

16 MR. HAZZARD: No, Your Honor, no objection.

17 THE COURT: All right, you're free to go. Thank you
18 very much.

19 All right, Mr. Hixson, you can call your next witness.

20 MR. HIXSON: At this time the State would call Al
21 Ingram to the witness stand.

22 THE COURT: All right.

23 Whereupon, Al Ingram was called to the stand, duly sworn
24 by the clerk and testified as follows:

25 THE CLERK: Thank you. Please be seated and state

1 your name for the record.

2 MR. INGRAM: Al Ingram.

3 DIRECT EXAMINATION

4 BY MR. HIXSON:

5 Q Good afternoon, sir.

6 A How you doing, sir?

7 Q Good, good, good. Please tell everybody where you live
8 now.

9 A Fayetteville, North Carolina.

10 Q Okay, and who do you live with up in Fayetteville?

11 A My mother and my brothers and sisters.

12 Q Okay, and where were you born and raised?

13 A Newark, New Jersey.

14 Q I apologize?

15 A Newark, New Jersey.

16 Q Okay, and just make sure that - Madam Court Reporter has
17 to hear everything you say. So, just if you need to slide up
18 and speak more clearly as she wants to hear everything as well
19 as everybody else. Okay?

20 At some point in time did you come to South Carolina?

21 A Yes, sir.

22 Q About how old were you when you came to South Carolina?

23 A I want to say about 12, 13.

24 Q Okay, do you have any brothers or sisters?

25 A Yes, sir.

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1 Q Okay, how many brothers and sisters?

2 A I've got two brothers and one sister.

3 Q Okay, where are you age-wise?

4 A I'm the oldest.

5 Q You're the oldest one?

6 A Yes, sir.

7 Q Okay, and how about your brothers, tell me about them,
8 your brothers and sisters how much - what are their ages?

9 A I've got one brother he just turned four, one brother is
10 nine and my sister is 16.

11 Q Okay, so, at some point in time did your family come to
12 live in - around Andrews, South Carolina?

13 A Yes, sir.

14 Q Okay, do you remember when that was?

15 A I want to say in 2006.

16 Q Okay, let's fast forward a little bit in 2006, back up
17 to 2008, okay.

18 A Okay.

19 Q Specifically around August 13th of 2008, do you remember
20 that?

21 A Yes, sir.

22 Q Okay, where were you August 13th, 2008, in the evening
23 hours?

24 A I was up at a nightclub called Blue's.

25 Q Okay, now, what's Blue's like? Is this a nightclub? Is

1 it a - what, what's Blue's?

2 A It's more - I wouldn't say a nightclub but more just a
3 hangout spot for everybody.

4 Q Okay, let me show you something that we've used already.
5 This is State's Exhibit One. It's in evidence. See if you
6 recognize this. Let me get it oriented for you. Do you
7 recognize that?

8 A Yes, sir.

9 Q Take a look at that and tell me what that is.

10 A That's Main Street in Andrews.

11 Q Okay, well, can you point out to the jury since this is
12 already in where, where's Blue's on this document?

13 A This, this is Blue's right here.

14 Q Okay, let me try to slide over here and see if this
15 helps. Okay, and show me where everything else is. Now,
16 where is Carnell's on that, on that sheet?

17 A This right here is Carnell's.

18 Q Okay, and show me where the Super Chic is on that
19 diagram.

20 A This the Super Chic.

21 Q Okay, and is there a sidewalk down in front of all of
22 this?

23 A Yes, sir.

24 Q So, now we know what we're talking about, let's talk
25 about just generally what Carnell's is like, what Blue's is

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1 like.

2 A Like I say, it's just really much a hangout spot for
3 everybody in town. They pretty much come there, hang out,
4 talk, whatever, just hang out pretty much.

5 Q Do you all stay inside, outside or what's it like?

6 A I want to say both, sometime shoot pool, sometimes we
7 just hang out outside.

8 Q Do they have food there?

9 A Nah, I wouldn't say really food, like chip and soda,
10 things like that.

11 Q Okay, how about Carnell's?

12 A No, Carnell's is more of a club, like a small nightclub
13 setting.

14 Q Okay, and there's - well, is there more alcohol? Is
15 there alcohol in both places?

16 A Yes, sir.

17 Q What do you mean by it's more like a night club?

18 A Like it's more of a, more of an - more older people be
19 at Carnell's than Blue's, I should say.

20 Q Okay, let's talk about that night. Okay, that night
21 I'm referring to we're talking about August 13th of 2008. Were
22 you down there around - well, tell me what happened. Tell me
23 what you saw.

24 A We was at - in front of Blue's around maybe 9:30, 10
25 o'clock, just out there hanging, you know what I'm saying,

1 with a group of friends that I normally be with or whatever
2 from my side of town and we was just ---

3 Q What do you mean by your side of town?

4 A At the time I was staying on Jones Avenue, on Jones
5 Avenue.

6 Q Okay, and I mean that's where you - your house was,
7 that's where you lived?

8 A Yes, sir.

9 Q Okay, go ahead. I'm sorry. I didn't mean to interrupt
10 you.

11 A I was just hanging out whatever, me and Antonio we was
12 together or whatever. I can't say really too much of what
13 happened right then because we had left, me and Antonio had
14 left and when we came back it was - I don't know exactly what
15 was going on but I just know it was like words being exchanged
16 with people from my side of town and Dominic Leggette.

17 Q Okay, let me back up a little bit and you said a whole
18 bunch right there. At some point in time, and you already
19 answered it, did you see Dominic Leggette?

20 A When I came back, yes, sir.

21 Q Did you recognize Dominic Leggette by face or by name or
22 what?

23 A I just at the time I didn't know his name. I knew his
24 face. I just knew his face through town.

25 Q Okay, and where is Dominic Leggette from in Andrews?

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- 1 A He's from what they call uptown.
- 2 Q Okay, and do people from uptown and Jones get along?
- 3 A No, sir.
- 4 Q And - okay, so, let - you said you left and came back?
- 5 A Yes, sir.
- 6 Q Did you speak to Dominic Leggette before he left?
- 7 A No, sir.
- 8 Q Did you speak to Dominic Leggette when he came - excuse
- 9 me, Mr. Leggette, the Defendant when he came back?
- 10 A No, sir.
- 11 Q Did you - was there a fight going on?
- 12 A No, sir.
- 13 Q Well, you have to describe the scene a little bit to the
- 14 jury because everybody wants to understand, so.
- 15 A Okay, when we - when I, when I first was there Dominic
- 16 wasn't there. He wasn't, he wasn't up there at the club
- 17 anywhere but when we came back that's when I seen him as I was
- 18 walking up, I seen him and I can't really say who all words
- 19 was exchanged but I just know it was him and maybe two or
- 20 three other people. Words were exchanged and when I was
- 21 walking up with Antonio I just hear people saying, "There go
- 22 Al right there. There go Al right there." I guess once he
- 23 seen me or whatever I seen him, once he seen me he just start
- 24 walking off towards Super Chic I want to say.
- 25 Q Let me, let me ask you this, why would anybody care that

1 Dominic Leggette was there?

2 A I guess because like they don't like him I guess.

3 Q All right, is it because he's from the wrong side of
4 town?

5 A Yes, sir, I'll say that.

6 Q Had you ever been in a fight with the Defendant, Dominic
7 Leggette?

8 A It was one, one incident where we had got into it but it
9 wasn't towards him. It was other people that he associated
10 with that I had problems with and I was fighting him and he
11 was trying to help them. So, blows was exchanged between me
12 and him.

13 Q And how long ago prior to August 13th was that?

14 A That was maybe a year before this even happened.

15 Q So, a year before August 13?

16 A Yes, sir.

17 Q Had you ever had any interaction or fight with the
18 Defendant between - do you remember where that fight was? Do
19 you remember where that fight a year prior to this one
20 happened?

21 A Yes, sir.

22 Q Where did it happen?

23 A It happened behind a club called Take a Break.

24 Q Okay, is that in the city limits of Georgetown?

25 A It's in ---

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1 Q I mean, yeah, the city limits of Andrews, excuse me, in
2 Georgetown County?

3 A Yes, sir.

4 Q Okay, were any weapons involved in that fight?

5 A No, sir.

6 Q What was the nature of that fight?

7 A It was just basically a fistfight.

8 Q Okay, did everybody go home after that was over?

9 A Yes, sir.

10 Q Did you talk about that to the police?

11 A If I don't - no, sir, because I don't, I don't remember
12 any police showing up.

13 Q Okay, did you know Dominic Leggette's name then?

14 A No, sir.

15 Q Just knew him by his face?

16 A Yes, sir.

17 Q Okay, did you have any, did you and the Defendant have
18 any fights or threats or anything from that time at Take a
19 Break up until leading up to this night in question?

20 A No, sir.

21 Q Okay, do you - I won't ask you that. You don't know
22 what he said. Okay, we're back in front of Blue's, okay.

23 A Yes, sir.

24 Q Try to reset. You said you left and then you came back.

25 A Yes, sir.

1 Q Now, let's start up from there, okay? Tell us what you
2 saw.

3 A Like I said, when I came back, whatever, like I said it
4 was him and two other people, whatever, words was exchanged or
5 whatever and all I know is when me and Antonio walked up
6 everybody was saying, "There go Al right there. There go Al
7 right there," and when I looked down I seen Dominic standing
8 by the Carnell's and he walked off and all I know ---

9 Q Which way, you say he walked off ---

10 A He walked off ---

11 Q --- which way did he walk off?

12 A --- towards Super Chic.

13 Q Okay, let me show you - let me just to make sure we're
14 all on the same page, I'm referring the witness to State's
15 Exhibit One in evidence. Can you point to the area we're
16 talking about and the areas that you saw Mr. Leggette go?

17 A Okay, he was standing here and then he start walking
18 this way towards this way towards Super Chic.

19 Q Okay, very good, that's good. Now, once again, why
20 would someone tell you, "There goes, there goes Dominic?"

21 A I guess the - I should say I guess to start up a fight
22 or whatever, whatever it was but me and him never had no, I
23 say me and him never had no real problem. Any problem I had
24 was with other people that he hung out with. It was never
25 between me and him.

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1 Q Did you see where Dominic Leggette went, where the
2 Defendant went when he started walking away?

3 A He was just walking on the sidewalk like he just was
4 just walking or whatever and when he was walking I said I'm
5 very - I was like, "I'm not even about to mess with him
6 tonight," you know what I'm saying? That's exactly what I
7 said.

8 Q Okay, do you remember what he was wearing?

9 A He had a black T-shirt on and blue jeans.

10 Q Okay, did he have anything in his hands?

11 A He had like a, it was just like a white shirt, white
12 type fabric he had. It was like at the time it was in like
13 his back pocket.

14 Q And so, when you saw him he was walking down the street
15 away from you to Super Chic?

16 A Yes, sir.

17 Q Okay, then what did you all do?

18 A As he was - he was a good, good feet away from us and
19 that's when Antonio Tisdale, Billy, he told me he was like,
20 "Let's walk to the store to get some cigarettes." So, I was
21 like, "All right, fine, ain't nothing wrong with that." So,
22 as we was walking we, we was walking --

23 Q Which direction did you go to get, according to Billy,
24 get cigarettes?

25 A Towards Super Chic because that was the closest store

1 that was open.

2 Q Okay, please go ahead.

3 A And as we was walking we just was walking on the
4 sidewalk like regular people do just walking, and I want to
5 say we got towards - before we could even get to Momma's
6 Kitchen it's a, it's a building - it's not - I don't think
7 it's open now but it's called Momma's Kitchen, and when we
8 got close to that area he just - I just seen him start tying
9 like something around his face like a shirt, like a white
10 shirt or a fabric, whatever it was, tying around his face, but
11 I didn't think nothing about it like anything was going to
12 happen, and before we could even get to the end of Momma's
13 Kitchen to even see Super Chic, I just know he just turned
14 around and just start shooting.

15 Q Did you yell at him?

16 A No, sir.

17 Q Did you yell - did, did Billy Tisdale yell at him?

18 A No, sir.

19 Q Did you all exchange words of any kind?

20 A He maybe said two or three words to us but I didn't hear
21 - I didn't know exactly what he said. I just know he said
22 maybe one or two, maybe three words at the most.

23 Q Okay, let's take a look at State's One and point to the
24 area we're talking about here, okay.

25 A Yes, sir.

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1 Q Okay, tell me where, where the walk started.

2 A Okay, the walk started from here from Blue's.

3 Q Okay, and where were you standing when you first saw Mr.
4 Leggette, the Defendant, Mr. Leggette?

5 A I was standing in front of Blue's. He was standing down
6 here by Carnell's.

7 Q Okay, and then you said that - you testified that Mr.
8 Leggette started walking I guess that's east, that's towards
9 Georgetown down the sidewalk; is that correct?

10 A Yes, sir.

11 Q Okay, and just show us the direction of travel where you
12 were going.

13 A Okay, and he was already walking, whatever, and that's
14 when Antonio asked me, "Let's go get some cigarettes." So,
15 that's when we started walking on the sidewalk coming down,
16 came down until we got about here, about right here. That's
17 when I seen him start tying the fabric or the white shirt
18 around his face. By the time we got to about right here, I
19 want to say before we can get to the end of this building
20 that's when he just started shooting.

21 Q Okay, can you tell us about this white t-shirt or fabric
22 on his face you were talking about? Can you describe in what
23 style you saw that? Like how, how was it done?

24 A It was tied like, like, like over his, over his face and
25 his mouth, like he tied it like that like it in a knot or

1 whatever and like I say he just had it on his face like he was
2 trying to hide his face or something. I don't know what he
3 was trying to do.

4 Q Did you hear shots go off?

5 A Yes, sir.

6 Q Now, tell the jury about that.

7 A After he tied the fabric around his face or whatever
8 that's when he maybe said, like I said he maybe said maybe
9 three words at the most and then he just turned around and he
10 just alike, like spent and just started firing the gun maybe
11 three to four times.

12 Q Did you see - prior to this did you see a gun on him?

13 A No, sir.

14 Q Where did he reach for that firearm?

15 A It was like on his, on his waistline where, where his
16 belt was.

17 Q Okay, what were the pacing of the shots? By that I mean
18 how fast did they come?

19 A They came pretty - I couldn't get out the way. I seen
20 him when he reached for the gun and I was trying to get out
21 the way but it was just too fast.

22 Q Did you have a weapon on you?

23 A No, sir.

24 Q Did you have a knife on you?

25 A No, sir.

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1 Q How long were you with Billy Tisdale prior to that,
2 prior in the night to, earlier in the night to that?

3 A I want to say I was with him maybe an hour, hour and 30
4 minutes.

5 Q Did you see Billy Tisdale pull a weapon?

6 A No, sir.

7 Q Did you see him pull a gun?

8 A No, sir.

9 Q Or a knife?

10 A No, sir.

11 Q Was anybody - did anybody walk down behind you as you
12 were going to the Super Chic?

13 A No, sir.

14 Q Tell us what happened after the gunshots.

15 A After the gunshots, like I say, he fired maybe three or
16 four times. As he was firing I was, I was, I seen one bullet
17 ricocheted off the ground and that was the bullet that
18 actually hit me in the foot.

19 Q What do you mean by you saw that? What do you mean?

20 A Like I seen it spark like when it came off the ground
21 and it hit me in the foot, and after that, after that it was
22 maybe two more shots and I instantly fell to the ground, you
23 know, I remember just hopping, jumping back up, and then I
24 looked at Antonio. He looked at me and then we start running
25 back towards Blue's to where the car was.

1 Q Okay, where was - when you were going past Momma's
2 Kitchen, you weren't quite to the Super Chic yet ---

3 A Yes, sir.

4 Q --- you said you - you testified that you saw him with a
5 white T-shirt or fabric or I think that's what you said?

6 A Yes, sir.

7 Q He was starting to tie something around his face.

8 A Yes, sir.

9 Q Where was Billy in relation to you during that period of
10 time?

11 A He was like, he was on the right side of me. I was
12 closer - I was - when we was on the sidewalk I was closest to
13 the street. He was on the inside.

14 Q Okay, and about how far away from the Defendant, how far
15 behind the Defendant were you during this last period of time?

16 A I want to say a good 10 to 15 feet.

17 Q Were you in striking distance?

18 A No, sir.

19 Q Are you in punching distance?

20 A No, sir.

21 Q Are you in stabbing distance?

22 A No, sir.

23 Q How about Mr. Tisdale?

24 A No, sir.

25 Q About how long did it take from the time that you saw

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1 this - the white shirt, the fabric till Mr. Leggette turned
2 around?

3 A I want to say a good 10, 15 seconds.

4 Q Okay, did - had Mr. Leggette made it to the Super Chic
5 parking lot yet?

6 A He made it to where the lights was but he didn't
7 actually like make it towards the parking lot. He made it to
8 the like basically to the end of Momma's Kitchen.

9 Q Okay, was he running?

10 A At the time as he was shooting, no, but after the shots
11 let off that's when he ran.

12 Q Did you see which direction he ran?

13 A I'm not sure, sir.

14 Q You did not see him or you did not - not sure of the
15 question or what?

16 A I'm not sure exactly which way he ran.

17 Q Okay, okay. That's good. Let me point something out to
18 you here. There's a Super Chic, can you point to where the
19 area you believe that you were shot?

20 A I believe I was shot right up in here.

21 Q And where would Mr. Leggette have been standing when he
22 turned?

23 A He was standing about, about right here.

24 Q Okay, and that's in the parking lot of the Super Chic
25 pretty much; is that correct?

- 1 A Yes, sir.
- 2 Q Okay, what is this area here? Is this an alley?
- 3 A Yes, sir.
- 4 Q Okay, is that called Super Chic alley?
- 5 A Yes, sir.
- 6 Q Okay, had you been shot?
- 7 A Before?
- 8 Q No, no, I apologize. Let me clarify. After the gunfire
- 9 went off I think you said you hit the ground. Can you
- 10 describe from that point on?
- 11 A After, after he shot or whatever I was hit, I was hit.
- 12 I seen I was hit. That's when I, I instantly fell to the
- 13 ground and I remember jumping back up and I looked at Antonio.
- 14 He looked at me and we just start running back towards Blue's
- 15 to get to the car.
- 16 Q Did, did Antonio fall down?
- 17 A I don't think so, no, sir.
- 18 Q Were you watching him during that period of time?
- 19 A Yeah, yes, sir.
- 20 Q And what - you had to think about that. So, what do you
- 21 mean by that? What did you, what did you have to think about?
- 22 A Because when I was hit, no, I wasn't watching him but
- 23 when I jumped back up he was right there, like he was standing
- 24 right there.
- 25 Q Did it hurt?

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1 A At the time, no, sir.

2 Q Okay, then tell us what happened.

3 A When I got back up I looked at Antonio. He looked at me
4 and we start running back towards Blue's to get to the car.

5 Q Okay, tell us about that. Did you all say anything
6 during the running back or why you running?

7 A Because we just been shot at and we didn't know whether
8 the shots was going to keep coming or we didn't, we didn't
9 know what was going to happen. I knew I was hit. At the time
10 I didn't know Mr. Tisdale was hit at the time, okay, and as we
11 was, as we was running back we was running basically side to
12 side by each other and I said to him, I said, I said, "Tony,
13 he shot me," and he was like, "I know. He shot me, too," and
14 when he said that I just remember I just kept running until I
15 got to the car and when I got to the car I looked back. I
16 didn't see Antonio. So, that's when I went back to the front
17 of the club and that's when I seen him laying down in front of
18 Carnell's and Blue's.

19 Q Did you get into that car?

20 A No, sir.

21 Q And why didn't you get into a car?

22 A Because Antonio had the keys in his pocket at the time.

23 Q All right, was the car locked?

24 A Yes, sir.

25 Q Tell us, tell us about when you went back to where

1 Antonio was.

2 A When I went back where Antonio was he was like I want to
3 say stretched out, laying down on the concrete and it was like
4 people trying to hold him up, you know what I mean, trying to,
5 I guess, help him fight for his life.

6 Q Were you bleeding?

7 A Yes, sir.

8 Q Let's talk about your injury a little bit. Where were
9 you shot?

10 A In the ankle.

11 Q Okay, can you please describe as best you can to the
12 jury about your wound?

13 A It was, it's basically, it was basically two holes where
14 the bullet went in and the bullet came out.

15 Q Okay.

16 MR. HIXSON: Your Honor, we would ask permission to
17 show that injury. It's on his ankle so the jury ---

18 THE COURT: All right, any objection?

19 MR. HAZZARD: No objection.

20 THE COURT: All right.

21 BY MR. HIXSON:

22 Q Can you come around? You want to try to show - can - so
23 the juror - everybody can see from here, maybe the back row
24 can slide around. Okay, that's the entrance wound right
25 there?

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- 1 A Yes, sir.
- 2 Q And exit wound right there?
- 3 A Yes, sir.
- 4 Q Can you slide back here for a second, see the folks in
5 the back row, and the lady in the back make sure she can see
6 it. That's an entrance wound right there?
- 7 A That's it.
- 8 Q An exit wound right there?
- 9 A Yes, sir.
- 10 Q Thank you.
- 11 So, no bullet was recovered from that?
- 12 A No, sir.
- 13 Q Was it bleeding bad?
- 14 A Yes, sir.
- 15 Q Let me show you a couple of photographs. These have
16 already been presented to the jury. The jury has already had
17 a chance to see these. Beginning with State's Two, see if you
18 recognize that.
- 19 A Yes, sir.
- 20 Q Is that the area we were talking about that's in front
21 of ---
- 22 A Momma's Kitchen.
- 23 Q And the Super Chic?
- 24 A Yes, sir.
- 25 Q Okay, I'm going to show Two.

1 MR. BROWN: Number Two.

2 Q State's Exhibit Two, I think that's the first photograph.

3 MR. BROWN: The first one.

4 Q Is that it? Make sure that's the right one. That's the
5 right one.

6 A Yes, sir.

7 Q Okay, let me show you photograph eight. That's, that's
8 not - our number photograph eight it's State's Exhibit 12 and
9 State's Exhibit 13 into evidence that's our photograph nine.
10 Some blood. Is that the area where you all bled?

11 A Yes, sir.

12 Q And can you show the next one, Mr. Brown, Investigator
13 Brown, and then there's a bunch of photos, Al. So, let me get
14 them just to be sure. I'm showing the witness State's
15 Exhibit 21. That's photograph 17. Do you recognize - well,
16 do you recognize that area?

17 A Yes, sir.

18 Q Is that where - the area that you and Mr. Tisdale ran?

19 A Yes, sir.

20 Q Is that where you all bled?

21 A Yes, sir.

22 Q I'm showing photograph 20, State's Exhibit 24. That's in
23 evidence. Do you recognize that?

24 A Yes, sir.

25 Q Is that where Mr. Tisdale was lying?

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- 1 A Yes, sir.
- 2 Q Thank you.
- 3 Did you have to go to the hospital for your bullet
- 4 wound?
- 5 A Yes, sir.
- 6 Q And you received some medical treatment for that?
- 7 A Yes, sir.
- 8 Q How are you doing because of that wound I should say,
- 9 clarify that.
- 10 A It was, it was hurting pretty bad, but I was doing okay
- 11 I should say.
- 12 Q Okay, now, did you give a statement to the police
- 13 concerning the identity of the person that shot you?
- 14 A Yes, sir.
- 15 Q And what did you tell the police?
- 16 A I told them I didn't know his name but I knew him by
- 17 face.
- 18 Q Okay, and who did you give that statement to?
- 19 A Inspector Eddie Lee.
- 20 Q Okay, and then after that did Mr., Investigator Lee give
- 21 you any pictures to take a look at?
- 22 A Yes, sir.
- 23 Q Okay, did you provide a description of the clothing that
- 24 the person was wearing that night to Investigator Lee?
- 25 A Yes, sir.

1 Q Is that the same description you've given the court
2 today?

3 A Yes, sir.

4 Q About blue jeans and a dark T-shirt?

5 A Yes, sir.

6 Q Okay, tell us what happened when Mr. Lee came out to
7 your house.

8 A Mr. Lee came to my house, asked me about could I pick
9 out, if I was to look at some pictures could I pick out who
10 the shooter was.

11 Q Okay, did he provide you with any photographs?

12 A Yes, sir.

13 Q Okay, I have in my hand what's been marked as Court's
14 Exhibit Number Seven and which will be State's Exhibit 34.
15 It's not in evidence yet. Do you recognize that item? Take a
16 look at that.

17 A Yes, sir.

18 Q What is that?

19 A It's photographs of six black males.

20 Q Okay, is what they call a lineup?

21 A Yes, sir.

22 Q Okay, how did Investigator Lee present that information
23 to you?

24 A He basically told me he was going to show me a lineup of
25 six black males telling me that he can't help me pick out

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1 anybody, I had to do it myself, if I see the suspect
2 acknowledge that.

3 Q Okay, did you see anybody in there you recognized?

4 A Yes, sir.

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

6 A I told Investigator Lee which, which exact picture I
7 knew it was.

8 Q And which picture was that?

9 A Number five.

10 Q Okay, and did you make any indication on that file in
11 writing on who you picked?

12 A Yes, sir.

13 Q What did you do?

14 A I put my initials and the date.

15 Q Okay, and do you see that person that you picked in this
16 courtroom today?

17 A Yes, sir.

18 Q Who is that?

19 A Over here Mr. Dominic Leggette.

20 Q And what is he wearing?

21 A White ---

22 Q To make sure we're clear we're talking about the right
23 person.

24 A --- got the dreadlocks, white collared shirt and blue
25 tie.

1 MR. HIXSON: At this time the State would move State's
2 Exhibit 34 into evidence.

3 THE COURT: Any objection?

4 MR. HAZZARD: Subject to previous motion, Your Honor.

5 THE COURT: All right, State's Exhibit Number 34
6 admitted into evidence.

7 (Whereupon, State's Exhibit Number 34 [Lineup] admitted
8 into evidence and appropriately marked.)

9 MR. HIXSON: And may I publish this, Your Honor?

10 THE COURT: Yes, sir.

11 BY MR. HIXSON:

12 Q Now, from the time that Investigator Lee handed that to
13 you until the time you identified the person that shot you how
14 long did that take you to do that?

15 A I want to say less than five seconds.

16 Q But you had seen him before; is that right?

17 A Yes, sir.

18 Q But the only reason you did that because you didn't know
19 his name; is that correct?

20 A Yes, sir.

21 Q Okay.

22 MR. HIXSON: Beg the Court's indulgence.

23 BY MR. HIXSON:

24 Q Let's talk about this. You been in trouble before?

25 A Yes, sir.

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1 Q You been in trouble as a juvenile before?

2 A Yes, sir.

3 Q Okay, what kind of trouble you been in?

4 A Possession of a weapon.

5 Q Okay, did you get adjudicated for that, guilty of it?

6 A Yes, sir.

7 Q What kind of sentence did you get for that?

8 A It was a 13 month sentence.

9 Q As a juvenile for DJJ?

10 A Yes, sir.

11 Q Okay, how old were you when this happened?

12 A I was 13.

13 Q 13 years old and how about how old were you when this
14 shooting occurred when you were shot?

15 A I was 16.

16 Q Okay, once again, did you fight with Dominic Leggette
17 within a year prior to this happening?

18 A No, sir.

19 Q Okay.

20 MR. HIXSON: I have no further questions at this time,
21 Your Honor.

22 THE COURT: All right, Mr. Hazzard, cross examination.

23 CROSS EXAMINATION

24 BY MR. HAZZARD:

25 Q Good afternoon, Mr. Ingram, how are you, sir?

1 A How you doing, sir?

2 Q I'm fine. Thank you very much for asking.

3 So, at age 13 you were carrying an unlawful weapon?

4 A Yes, sir.

5 Q And what type of weapon was that, sir?

6 A It was a 22 caliber handgun.

7 Q 22 caliber handgun, okay.

8 Now, August 13th of 2008 was a Wednesday; correct?

9 A Yes, sir.

10 Q Okay, and about what time was it that you and Mr. Tisdale
11 made your way to Blue's?

12 A I want to say 9:30 to 10 o'clock.

13 Q 9:30 to 10 o'clock, okay.

14 Now, that's a school night; isn't it?

15 A Yes, sir.

16 Q Okay, didn't you have school the next today?

17 A Yes, sir.

18 Q Okay, but you're out in the juke joint; is that correct?

19 A Yes, sir.

20 Q Okay, now, the forensic pathologist has said that Mr.
21 Tisdale had marijuana and alcohol in his system. Were you
22 drinking and smoking with him?

23 MR. HIXSON: Your Honor, I would object to that
24 relating to relevance.

25 THE COURT: All right, I sustain the objection.

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1 Q So, you got there about 9:30 or 10 o'clock; correct?

2 A Yes, sir.

3 Q Okay, and when you got there I believe you told Deputy
4 Solicitor Hixson that Mr. Leggette, that Dominic here was
5 already over by Carnell's; is that correct?

6 A Yes, sir.

7 Q Okay, so, this person that you didn't really know but
8 recognized by face you knew enough about him to know that he
9 was over there by Carnell's; right?

10 A Yes, sir.

11 Q Okay, now, how far is it from Carnell's to Blue's?

12 A Maybe 10 feet, it's not very far.

13 Q Practically side-by-side; right?

14 A Yes, sir.

15 Q Okay, so, when you - and was anyone else with you and
16 Mr. Tisdale or it was just the two of you?

17 A It was other people standing out there that was outside.

18 Q Okay, when you came to Blue's was it just you and Mr.
19 Tisdale?

20 A Yeah, we --

21 Q You all arrived together?

22 A Yes, sir.

23 Q Okay, in his car; is that correct?

24 A Yes, sir.

25 Q Okay, so, you get to Blue's and there were other - I

1 believe you told Mr. Hixson that there were words between
2 people from your side of town and Mr. Leggette when you got
3 there; is that correct?

4 A Yes, sir.

5 Q Okay, who were these people from your side of town, sir?

6 A I'm not, I'm not sure exactly who it was. I just know
7 it was people.

8 Q And when you say words, what kind of words?

9 A Like I wasn't trying to get into their conversation or
10 whatever they was talk - whatever they was talking about. I
11 just know it was words between him and them. That, that's all
12 I could verify.

13 Q So, when you say words though tell the jury whether it
14 seemed like a polite and casual conversation or did it catch
15 your eye because people from your side of town seemed to be
16 having a problem with Mr. Leggette or vice versa?

17 A Repeat that, sir.

18 Q Okay, sir, did it catch your eye because there was some
19 conflict in those words?

20 A I'm saying you see people arguing of course it's going
21 to catch your eye.

22 Q Okay, so, there was some arguing going on. Okay, and
23 roughly how many people from your side of town were we talking
24 about?

25 A I want to say two, three at the most.

Al Ingram - Cross by Defense

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1 Q Two or three and then at that point I believe you told
2 Mr. Hixson that when you and Mr. Tisdale come up Mr. Leggette
3 starts to leave; is that correct?

4 A Yes, sir.

5 Q And some of these people from your side of town when he
6 starts to leave they say, "Al, there goes Dominic"; isn't that
7 correct?

8 A Yes, sir.

9 Q But you have no idea why they felt the need to call out
10 Mr. Leggette's name to you, especially since according to you
11 you don't even know him by name; isn't that right?

12 A Yes, sir.

13 Q Okay, but apparently people from your side of town think
14 you know him by name; right?

15 A No, sir.

16 Q Well, you just said they said, "Al", when he started to
17 leave, they said, "Al, there goes Dominic"; right?

18 A Yes, sir.

19 Q All right, and so, Dominic takes himself away from the
20 situation, he starts walking down towards the Super Chic;
21 right?

22 A Yes, sir.

23 Q Okay, and how long after that did you and Mr. Tisdale
24 decided you all needed to follow him?

25 A We were never following him. We was going to the store.

1 Q Okay, how long after Dominic left and removed himself
2 from that altercation did you and Mr. Tisdale feel the need to
3 go in the same direction he went?

4 A I want to say maybe two, three minutes.

5 Q Two or three minutes. Now, I'm not good with distances
6 at all but for the sake of the jury you all have been pointing
7 on this all day. Is this the Super Chic building right here?

8 A Yes, sir.

9 Q Okay, now, which one of these buildings is Blue's?

10 A Right here.

11 Q This one and which one is Carnell's?

12 A This one.

13 Q Right there, okay, so, can you give me an idea on this
14 sidewalk here what kind of distance we're talking about from
15 the front of Carnell's to this intersection right here? What
16 kind of distance do you figure that is, sir?

17 A I'm not sure, sir.

18 Q Okay, any idea whatsoever?

19 A No, sir.

20 Q But it's less than a city block; right?

21 A Yes, sir.

22 Q Okay, so, in two or three minutes then according to you
23 you didn't, you all didn't follow after him for two or three
24 minutes but yet two to three minutes after he leaves from in
25 front of Carnell's you're saying this man didn't make it half

Al Ingram - Cross by Defense

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1 a city block before you all got behind him?

2 A No, sir.

3 Q Okay, now, where is the - you say that Dominic and his
4 family, his people are from what they call uptown; is that
5 correct?

6 A That's where he from far as I know.

7 Q Okay, and that's how the people in Andrews refer to the
8 area of town that he is from, they call it uptown area?

9 A Yes, sir.

10 Q Okay, where is the uptown area in relation to Carnell's
11 and Blue's?

12 A It's considered uptown.

13 Q Okay, so, that is the uptown area?

14 A Yes, sir.

15 Q Okay, and you say that you at that time were living I
16 believe you said on Jones Street or Jones Avenue?

17 A Yes, sir.

18 Q Okay, now, that's referred to more as west side; right?

19 A Yes, sir.

20 Q Okay, and where is that in relation to Carnell's and
21 Blue's?

22 A It's a couple of minutes away.

23 Q Okay, but this particular night in front of Carnell's
24 though people from your side of town, the west side, are out
25 there in front of Blue's, in front of Carnell's; correct?

1 A Yes, sir.

2 Q Okay, and Dominic Leggette was there - did it appear -
3 was anybody with him?

4 A Not that I seen. He was by hisself.

5 Q All right, so, you say there was a bullet - that you saw
6 a bullet that sparked off of the ground. Was that the first
7 shot, second shot, third shot?

8 A I'm not sure. I just know I seen a bullet hit the
9 ground and come up and hit me in the foot.

10 Q Okay, did you hear a bullet before one hit you in the
11 foot? Did you hear a shot before the bullet hit you in the
12 foot?

13 A I'm not sure. I just know he was shooting.

14 Q Okay, and your testimony to Mr. Hixson is that when
15 Dominic according to you for reasons satisfactory only to
16 himself turned around and started shooting at you and Mr.
17 Tisdale, according to you you all were still some 10 to 15
18 feet away; correct?

19 A Yes, sir.

20 Q Okay, but yet you have no idea how far it is from
21 Carnell's which is in the middle of the block to the
22 intersection at the end of the block where it happened; is
23 that correct?

24 A Yes, sir.

25 Q Okay, make sure I'm correct, Mr. Hixson, and I didn't

Al Ingram - Cross by Defense

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1 really get to see it, Mr. Hixson had you show the jury your
2 ankle injury but am I correct in stating that the entrance
3 wound is somewhere along the front of your ankle and it exits
4 kind of out of the side of your ankle?

5 A Yes, sir.

6 Q Okay, so, it's not like somebody shot you in the heel
7 from behind?

8 A No, sir.

9 Q Okay, now, you say that there were, there was a previous
10 fight some year prior between you and Dominic; right?

11 A It wasn't towards him but he was there, he was helping
12 his, his people or whatever and I was helping mine.

13 Q Okay, so, during that altercation about how many people
14 were on each side?

15 A I want to say a good four or five on each side.

16 Q Okay, and getting back to the night of August 13th, 2008
17 ---

18 A Yes, sir.

19 Q --- there was still a long-running beef from something
20 that had happened two days prior to that that involved you;
21 correct?

22 A Not between me and him.

23 Q Not between you and him but between him and his family;
24 right?

25 MR. HIXSON: Your Honor, once again, I would object to

1 that. It has to be relating to the victim and the Defendant,
2 not fights in general.

3 THE COURT: I'm going overrule it. I'll allow it. Go
4 ahead.

5 Q So, that preceding Monday there was another altercation
6 with you and your people and some of Dominic's family members;
7 is that correct?

8 A I won't say his family members but his associates who he
9 be with.

10 Q And do you know whether or not these people are members
11 of his actual blood family?

12 A I'm not sure.

13 Q Okay, and in fact, two days prior to that, the preceding
14 Saturday, Saturday the 9th, four days before this incident on
15 the 13th, you had an altercation with some of the members of
16 what you refer to as his associates; isn't that correct, sir?

17 A Yes, sir.

18 Q Now, on the 9th when this occurred how many of your
19 people were with you?

20 A I want to say maybe a good eight at the most.

21 Q And how many of Dominic's associates or family members
22 were with him, his relatives were, were there, were present
23 since you say he wasn't there?

24 A He wasn't there but it was a good four or five of them.

25 Q Okay, so, eight of you all, four or five of them and

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1 there was a physical altercation at that time; right?

2 A Yes, sir.

3 Q Okay, so, that's Saturday the 9th, then Monday the 11th
4 how many of your people were with you?

5 A It was four of us.

6 Q Okay, and how many relatives of Dominic's were involved
7 this time?

8 A It was a good eight or nine of them.

9 Q Eight or nine of them, okay, so, now, on the 13th
10 there's just Dominic; isn't it?

11 A Yes, sir.

12 Q And your people out in front of Carnell's, out in front
13 of Blue's, you and Mr. Tisdale get there and all of a sudden
14 people are saying, "Hey, Al, there goes Dominic"; isn't that
15 correct?

16 A Yes, sir.

17 Q Oh, this all started with you and Mr. Tisdale at Blue's;
18 correct?

19 A Yes, sir.

20 Q And you told Mr. Hixson here that Mr. Tisdale said,
21 "Let's walk down to the Super Chicken and get some
22 cigarettes"; right?

23 A Yes, sir.

24 Q They sell cigarettes at Blue's; don't they?

25 A Not that I know of.

1 Q Not that you know of. All right, no further questions.

2 THE COURT: Redirect?

3 MR. HIXSON: Yes, sir.

4 REDIRECT EXAMINATNION

5 BY MR. HIXSON:

6 Q I think Mr. Hazzard alluded to this quite a bit. So,
7 let's just, you know, get straight to that point, I guess.
8 Were those guys trying to encourage you to fight these guys,
9 your, your, your people as Mr. Hazzard said?

10 A Yes, sir.

11 Q Did you want to fight him?

12 A No, sir.

13 Q So, what did you say?

14 A I said exactly out of my mouth, "I'm not about to bother
15 him tonight." That's exactly what I said.

16 Q And so, the - isn't it - the group of the folks in front
17 of Blue's that discussion you had with, as Mr. Hazzard refers
18 to as your people, are you in a gang?

19 A No, sir.

20 Q Who were the people he's referring to?

21 A We all from Jones Avenue.

22 Q Okay, and Jones Avenue is the place you live?

23 A Yes, sir.

24 Q Do you know if Mr. Leggette is in a gang?

25 MR. HAZZARD: Objection, Your Honor.

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1 THE COURT: Sustained.

2 MR. HIXSON: Your Honor, just so I can put that on the
3 record, I believe Mr. Hazzard has opened the door relating to
4 that when he specifically refers to that group as relatives
5 and this group as people. That's, that's ---

6 THE COURT: I disagree. Overruled.

7 MR. HIXSON: Thank you, Your Honor.

8 THE COURT: I mean, sustain the objection.

9 MR. HIXSON: Thank you, Your Honor.

10 BY MR. HIXSON:

11 Q These prior altercations were there guns involved in
12 these?

13 A No, sir.

14 Q What were they?

15 A Just regular fistfights.

16 Q Okay, how old were the guys involved in these?

17 A Pretty much everybody was older than me. I was
18 basically the youngest out of everybody.

19 Q Okay, did Mr. Leggette routinely win those fights, beat
20 you up?

21 A No, sir.

22 Q Did - on the - in the fight around Christmastime were
23 you actually hitting Mr. Leggette, excuse me, Take a Break a
24 year prior.

25 A My intentions with him it wasn't to hit him but he was

1 coming towards me. So, I had to defend myself.

2 Q Okay, so, there are hittings, there's hitting going on
3 during that period of time. That's what I'm trying to say,
4 fistfights?

5 A Yes, sir.

6 Q Okay, but the other ones trying to get to is you and Mr.
7 Leggette were not involved in those fights together?

8 A No, sir.

9 Q Now, when he keeps talking about the relatives, his
10 relatives are that - is that mother and father?

11 A No, sir.

12 Q What is it referring to as the group that he's talking
13 about relatives?

14 A I guess his, his associates, his gang or whatever.

15 MR. HAZZARD: Your Honor, I'm going to object again
16 that characterization.

17 THE COURT: Sustained, sustained.

18 MR. HAZZARD: And ask that ---

19 THE COURT: I ask the jury please disregard the last
20 answer.

21 MR. HIXSON: Thank you, Your Honor.

22 BY MR. HIXSON:

23 Q Finally, Mr. Ingram, was there a fight going on in front
24 of Blue's and Carnell's that night?

25 A No, sir.

Al Ingram - Redirect by State

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1 Q Was there a fight going on in front of Momma's Kitchen
2 that night?

3 A No, sir.

4 Q Was there a fight going on anywhere at any period of
5 time during August 13th of 2008?

6 A No, sir.

7 MR. HIXSON: No further questions, Your Honor.

8 THE COURT: All right, you may step down.

9 Let me see the attorneys for a second.

10 (Whereupon, a bench conference is held in the presence
11 but out of the hearing of the jury.)

12 THE COURT: All right, ladies and gentlemen, before
13 we get to this next witness I think it's a good time for us to
14 take a break. We've been at it for about an hour and 15, 20
15 minutes now. So, I'm going to excuse you back to the jury
16 room, give you an opportunity to get something to drink, use
17 the restroom, stretch your legs, whatever the case may be but
18 please do not discuss this case even among yourselves at this
19 time. Thank you very much. Everybody else please remain
20 seated while the jury is excused.

21 (Whereupon, the following takes place outside the
22 presence of the jury.)

23 THE COURT: All right, let's stand in recess for about
24 10 minutes, okay?

25 MR. HIXSON: Your Honor.

1 THE COURT: Yes, sir.

2 MR. HIXSON: I do have one brief point. Mr. Ingram

3 ---

4 THE COURT: Hold for a second. Hold for a second.

5 All right.

6 MR. HIXSON: Mr. Ingram and his mother, his mother
7 really was trying to get back to Fayetteville for work and I'm
8 okay with excusing him from subpoena but I wanted to bring
9 that to the Court's attention, if we could have him excused
10 from his subpoena so that we can get his family back to
11 Fayetteville.

12 THE COURT: Any objection?

13 MR. HAZZARD: No objection.

14 THE COURT: All right, Mr. Ingram is free to go.
15 Thank you very much. All right, let's stand in recess for
16 about 10 minutes.

17 OFF THE RECORD

18 (On the record.)

19 (Whereupon, the following takes place outside the
20 presence of the jury.)

21 THE COURT: All right, anything from the State before
22 we bring the jury in?

23 MR. HIXSON: No, Your Honor.

24 THE COURT: Anything from the Defense?

25 MR. HAZZARD: Nothing from the Defense.

Eddie Lee - Direct by State

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1 THE COURT: All right, let's go ahead and bring the
2 jury in.

3 (Whereupon, the following takes place in the presence of
4 the jury.)

5 THE COURT: All right, ladies and gentlemen, welcome
6 back to.

7 Mr. Hixson, you can call your next witness.

8 MR. HIXSON: Thank you, Your Honor. The State would
9 call Investigator Eddie Lee from the Andrews Police
10 Department.

11 THE COURT: All right.

12 Whereupon, Eddie Lee was called to the stand, duly sworn
13 by the clerk and testified as follows:

14 THE CLERK: Thank you. Please be seated and state
15 your name for the record, please.

16 MR. LEE: Investigator Lee, Andrews Police
17 Department.

18 DIRECT EXAMINATION

19 BY MR. HIXSON:

20 Q Good afternoon, sir.

21 A Yes, sir, good evening.

22 Q Please tell the Court what you do for a living.

23 A I'm a criminal investigator for the Andrews Police
24 Department.

25 Q And about how long have you been in that capacity?

1 A I work for - I've been an investigator about 15 years
2 though I got about a total of 25 years of law-enforcement
3 experience.

4 Q Okay, and so, within the past 25 years I guess were you
5 working August 13th of 2008?

6 A Yes, I did.

7 Q And did you have an occasion to report to - at around 15
8 West Main Street in Andrews?

9 A Yes, sir.

10 Q In reference to a shooting incident?

11 A Yes, sir.

12 Q And please tell the jury what happened, what, what you
13 did.

14 A On that day in question on the August the 13th, 2008, I
15 was called, dispatched to West Main Street in reference to a
16 shooting.

17 Q Okay, and tell us what the scene looked like when you
18 arrived.

19 A It was roped off when I got there. I don't know who
20 roped it off but it was, it was roped off for collecting
21 evidence.

22 Q Okay, so, tell the jury what, Investigator, your role,
23 what normally you would do in cases like this.

24 A The first thing I would do is make contact with the
25 initial officer who would respond to the location and it's

Eddie Lee - Direct by State

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1 basically is a fact-finding, information, gathering
2 information and I usually ask them what happened, who's the
3 person involved, any witnesses and go down the line like that.

4 Q Okay, did you do that in this case?

5 A Yes, sir, I did.

6 Q Okay, let me show you what's been marked as State's
7 Exhibit Number Two in evidence. Can you take a look at that
8 photograph?

9 A Yes, sir.

10 Q And what is that?

11 A This is Momma's Kitchen on West Main Street beside the
12 Super Chic which is the Andrews Food Pantry on West Main
13 Street in Andrews.

14 Q Okay, and can - Investigator Brown, can you bring up
15 picture number one? Are you ready to do that or - okay, and
16 that's the picture you're looking at?

17 A Yes, sir, the same thing.

18 Q And that's the - that's what the scene looked like when
19 you arrived?

20 A Yes, sir.

21 Q The crime scene tape and such was in place like that?

22 A Yes, sir.

23 Q Okay, once you arrived then what do you do?

24 A I made contact with Patrol Officer Verney Cumbee. He
25 provided me with information that who, who was the alleged

1 shooter at that time.

2 Q Okay, were the victims still on scene when you arrived?

3 A The victim wasn't there when I arrived. The victim was
4 already transported to my information, he was already
5 transported to the hospital.

6 Q Okay, did you do any walk-through for evidence?

7 A Yes, sir.

8 Q Okay, and what did you find?

9 A I find three 380 shell casings approximately almost
10 right in front of Momma's Kitchen.

11 Q Okay, let me show you a photograph that's been marked.
12 It's in evidence as State's Exhibit Number Three. That's
13 photograph number two. That's in evidence. Do you recognize
14 that scene?

15 A Yes, sir.

16 Q And do you recognize Investigator Dustin Morris with the
17 Sheriff's Department?

18 A Yes, sir.

19 Q And why is he pointing in that direction?

20 A He's actually pointing to where I collected the 380
21 shell casings at.

22 Q Okay, let me show you, this is not in evidence yet.
23 This is State's Exhibit Number Four. Let me show you that
24 item.

25 A Yes, sir, those, those - this is one of the 380 shell

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1 casings I collected.

2 Q What is that you're looking at?

3 A This is a photograph of a 380 shell casing.

4 Q Okay, did you observe that scene?

5 A Yes, sir.

6 Q Okay, and is that photograph a fair and accurate
7 representation of the location you found that shell casing?

8 A Yes, sir, I did because I took the photograph.

9 Q Okay, and does that correlate with State's Exhibit
10 Number Two, the area where Dustin Moors is pointing?

11 A Yes, it does.

12 Q Okay.

13 MR. HIXSON: At this time the State would move State's
14 Exhibit Number Four into evidence.

15 MR. HAZZARD: Without objection.

16 THE COURT: All right, State's Exhibit Number Four
17 admitted into evidence without objection.

18 (Whereupon, State's Exhibit Number Four [Photograph]
19 admitted into evidence and appropriately marked.)

20 MR. HIXSON: And may I publish this to the jury, Your
21 Honor?

22 THE COURT: Yes, sir.

23 BY MR. HIXSON:

24 Q Did you, in fact, collect shell casings from that
25 incident?

1 A Yes, sir, I did.

2 Q Let me show you what's been marked as State's Exhibit
3 31. It's not in evidence yet. Take a look at that.

4 A Yes, sir.

5 Q What is that?

6 A A 380 shell casing.

7 Q Is that the one you recovered from that scene?

8 A Yes, sir, it is.

9 Q Okay.

10 MR. HIXSON: At this time the State would move State's
11 Exhibit 31 into evidence.

12 THE COURT: Any objection?

13 MR. HAZZARD: No objection.

14 THE COURT: State's Exhibit Number 31 admitted into
15 evidence without objection.

16 (Whereupon, State's Exhibit Number 31 [Shell Casing]
17 admitted into evidence and appropriately marked.)

18 BY MR. HIXSON:

19 Q Investigator Lee, can you take a look at State's Exhibit
20 Five in evidence, that photograph.

21 A Yes, sir.

22 Q And excuse me for a second. Let me see what photograph
23 that is. That's our number photograph three. Go ahead and
24 bring that up to show the jury which one we're talking about.
25 Did you recover a shell casing from that location?

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1 A Yes, sir, I did.

2 Q Okay, I'm showing State's Exhibit Six. It's not in
3 evidence, for identification only. Do you recognize that?

4 A Yes, sir.

5 Q Tell you what, Investigator Lee, here's another one.
6 How about State's Exhibit Eight for identification purposes
7 only. Take a look at that one, also.

8 A Yes, sir.

9 Q What are those?

10 A Two photograph of 380 shell casings, which I took all
11 two of the photographs, a total of three of them altogether.

12 Q Okay, and those photographs were taken in the location
13 where you originally found the shell casings?

14 A Yes, the original, yes, sir.

15 Q And you picked up those casings?

16 A Well, I took a photograph of them before I removed them.

17 Q Okay, are those - are those photographs fair and
18 accurate representations of the scene you saw August 13th,
19 2008, around 10, 11 o'clock at night?

20 A Yes, sir, it is.

21 Q Okay.

22 MR. HIXSON: Your Honor, at this time the State would
23 move State's Exhibit Six and Eight into evidence.

24 THE COURT: Any objection?

25 MR. HAZZARD: No objection.

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1 THE COURT: State's Exhibit Number Six and State's
2 Exhibit Number Eight?

3 MR. HIXSON: Yes, sir.

4 THE COURT: Admitted into evidence without objection.

5 (Whereupon, State's Exhibit Number Six [Photograph] and
6 Eight [Photograph] admitted into evidence and appropriately
7 marked.)

8 MR. HIXSON: And may I publish these, Your Honor?

9 THE COURT: Yes, sir.

10 BY MR. HIXSON:

11 Q And then finally we have a photograph, State's Seven,
12 this is already into evidence. Investigator Lee, could you
13 take a look at that?

14 A Yes, sir.

15 Q And what is that a photograph of?

16 A Photograph of basically some general area of the casings
17 that we found and with Investigator Dustin Morris is pointing
18 into.

19 Q Okay, and that item is in evidence.

20 A Yes, sir.

21 Q Take a look at State's - I'm handing the witness State's
22 32, Your Honor.

23 A Yes, sir.

24 Q For identification only.

25 A These are two 380 shell casings.

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1 Q Okay, did you collect those shell casings?

2 A Yes, I collected those as well.

3 Q Placed them in an evidence container?

4 A Yes, sir.

5 Q At the Andrews Police Department?

6 A Yes, sir.

7 THE COURT: Your Honor, at this time the State would
8 move State's Exhibit 32 into evidence and just for
9 clarification, and State's 31 if I have not already done so.

10 THE COURT: All right, any objection?

11 MR. HAZZARD: Simply ask that there be a specification
12 for the record that they have not been altered or amended in
13 any way, that they are in substantially the same condition
14 upon when he collected them.

15 MR. HIXSON: Fair enough. I don't mind laying the
16 foundation for that, Judge.

17 BY MR. HIXSON:

18 Q Investigator Lee, when you collect items of this nature

19 ---

20 A Uh-huh.

21 Q --- do you safeguard these items?

22 A Yes, sir.

23 Q Do you protect the integrity of these items?

24 A Yes, sir.

25 Q Do you manipulate or do anything with them in any way?

1 A No, sir.

2 Q And you assure their appearance in court?

3 A Their appearance, yes, sir, I do.

4 MR. HIXSON: That sufficient?

5 MR. HAZZARD: No objection.

6 THE COURT: All right, Plaintiff's [sic] Exhibit 31
7 is already in evidence. Plaintiff's Exhibit - excuse me,
8 State's Exhibit Number 32 admitted into evidence without
9 objection.

10 MR. HIXSON: Thank you, Your Honor.

11 (Whereupon, State's Exhibit Number 32 [Shell Casing]
12 admitted into evidence and appropriately marked.)

13 BY MR. HIXSON:

14 Q Investigator Lee, what's a head stamp on a cartridge?

15 A What's that?

16 Q Do you know what the stamp, a head stamp stamping on the
17 end of a cartridge is?

18 A The head stamp would basically show the caliber of the
19 casing.

20 Q Does it show the manufacturer?

21 A It, it should. I'm not sure. It should, it should.

22 Q Okay, could you read the ---

23 A Do you want me to take it out?

24 Q Yes, sir. Unless you can read it through the bag.

25 A I can't. I need my glasses on this one.

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1 Q Okay. It's small writing. Can you read it?

2 A I can't. It's kind of small. I really can't read it.
3 I don't want to try to manipulate nothing. I just can't see
4 it.

5 MR. HIXSON: Your Honor, do you mind - do you have an
6 objection if I read what the head stamp says?

7 A Because I can't see it.

8 MR. HAZZARD: No objection.

9 THE COURT: All right, go ahead.

10 MR. HIXSON: Or the Court may.

11 BY MR. HIXSON:

12 Q W-I-N, Winchester 380 aut.

13 A Winchester 380, yeah.

14 Q Okay, let's put that back in that one.

15 MR. HAZZARD: Out of an abundance of caution I would
16 ask that the Court review it and may - and take judicial
17 notice of what's on the head stamp.

18 THE COURT: All right.

19 MR. HAZZARD: So, that way there's no question.

20 MR. HIXSON: That's quite appropriate, Your Honor, and
21 I'm handing the Court - I have already handed the Court two
22 380 caliber Winchester casings in State's 32 in evidence and
23 I'm handing State's 31 which contains a single cartridge
24 casing.

25 THE COURT: All right, the Court will take judicial

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1 notice that both of these casings are stamped W-I-N 380 auto.

2 MR. HIXSON: And Your Honor, this is State's 31, and
3 I'll place that back.

4 THE COURT: Likewise, this casing is stamped, heading
5 is stamped W-I-N 380 auto.

6 MR. HAZZARD: Thank you, Your Honor.

7 THE COURT: Thank you.

8 BY MR. HIXSON:

9 Q Investigator Lee, therefore, all three of these casings
10 are the same caliber and manufacturer cartridge; is that
11 correct?

12 A Yes, sir.

13 Q Okay, once you pick up these shell casings and
14 photograph them tell us, tell the Court what you did then.

15 A What I basically do is package them and I send them off
16 to SLED.

17 Q Okay. Did SLED perform any analysis of these items?

18 A Yes, they did.

19 Q And what did they determine?

20 A Based on the information to my knowledge they determined
21 that it was a 380 round that came out of the shell casing.

22 Q Okay, did you make any efforts to try to find a pistol
23 involved in this case?

24 A Yes, sir, I did.

25 Q Can you just quickly, I guess, detail those, those,

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1 those efforts?

2 A Based on my fact-finding information got a guy named
3 Harry Cox I heard that he was alleged to be some associate of
4 Mr. Leggette. I made contact with him. He signed what you
5 call a custom receipt form and he actually relinquished the
6 gun. I received the gun, send the gun off to SLED for
7 comparison, but it didn't match up with the casing that we
8 found at the crime scene.

9 Q Now, was there any allegations that that was the gun
10 used in the offense?

11 A Well, I had heard it but I wanted to, you know, check it
12 out. I wanted to be fair not only to the victim, I wanted to
13 be fair to Mr. Leggette as well. That's why I did what I did.

14 Q Okay, and how far after the crime did this effort occur?

15 A I don't have an exact date. I'm just saying maybe a
16 week or two once I - as the information came in I had to take
17 everything and gather it together and make the right analysis
18 of it and when I got that information that he was associate of
19 Mr. Cox and Mr. Cox did own a 380 and we find a 380 shell
20 casing, I asked Mr. Cox would he relinquish the gun to me to
21 test to see if it match up with the shell casing we found at
22 the crime scene.

23 Q And this, Mr. Cox voluntarily did that?

24 A He voluntarily, he signed a property receipt and
25 relinquished the gun and I received it.

1 Q And did that investigation reveal that was the gun that
2 fired those shots?

3 A It revealed it wasn't the gun.

4 Q So, we still don't - you still have not been able to
5 find the murder weapon.

6 A No, sir, I have not.

7 Q Okay, please tell us what - how you generated the
8 Defendant as a suspect.

9 A Based on my initial contact with Corporal Cumbee the
10 night of the incident the 13th August.

11 Q Okay, was that based, was that based on eyewitness
12 testimony?

13 A That and also I - I also made contact with Mr. Al
14 Ingram. He was actually in the ambulance. The deceased
15 victim had already left the scene.

16 Q Okay, and did Al Ingram indicate he knew who had shot
17 him?

18 A He never did, he said he didn't know his name. He just
19 say he saw him around town at that time.

20 Q And did he say he could identify him by face?

21 A Yeah, he told me he could identify him but he didn't
22 know his name.

23 Q And then if you have a situation like that what does an
24 investigator - what do you do next?

25 A Well, the next thing you do is you get a description of

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1 the alleged suspect, you put them in what you call a photo
2 lineup.

3 Q Okay, did you do that?

4 A Yes, sir.

5 Q Okay, let me show you what's in evidence as State's
6 Exhibit 34, see if you recognize that.

7 A Yes, sir.

8 Q What is that?

9 A This is a lineup of six black males.

10 Q Okay, who created that lineup?

11 A I did.

12 Q Okay, and where did you draw the photos from?

13 A I got the photos from the Georgetown County Detention
14 Center.

15 Q Okay, do you make any steps to make sure that the lineup
16 is not presumptive in any way?

17 A Yes, sir, basically what I did, you know, originally,
18 you know, Mr. Leggette was a black male. So, I got six black
19 males. I basically got the background of the picture
20 basically all of them the same, like I said, to be fair to the
21 victim and Mr. Leggette and that's the way I did the photo
22 lineup.

23 Q Okay, at some point in time did you present that lineup
24 to Al Ingram?

25 A Yes, sir, I present it to him on the 14th of August.

1 Q Okay, did you give him any instructions or tell him
2 anything during - while you presented it?

3 A I basically told, I basically told him that he - I got
4 six black males and I want him to see if he could identify and
5 he'll have to pick him out.

6 Q Okay.

7 A If he's in the photographic lineup.

8 Q Okay, did Mr. Ingram pick somebody out?

9 A Yes, sir.

10 Q And what did you tell him to do if he recognized
11 anybody?

12 A I asked him to place his initials on which one of the
13 photo lineup numbered through - one through six to put his
14 initials and the date.

15 Q Okay, and he did that?

16 A He put his initials A-I and then he put 8-14-2008 on
17 number five.

18 Q On number five, and is that photograph a photograph of
19 Dominic Leggette?

20 A Yes, sir.

21 Q Is Mr. Leggette present in the courtroom?

22 A Yes, sir.

23 Q And where is he sitting?

24 A He is sitting to the right of Mr. Hazzard, white shirt,
25 blue tie and black pants, dreads in his hair.

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1 Q Based on this did you attempt to obtain warrants for Mr.
2 Leggette?

3 A Yes, sir.

4 Q Please tell us about your efforts in that regard.

5 A Well, basically, what I initially did once we find out
6 he left the scene we did what you call a NCIC and the
7 abbreviation of that is National Crime Information Center in
8 reference to the - he was wanted for the Andrews Police
9 Department for the two crimes. We also notified the U.S.
10 Marshal which is Stuart Cottingham. We tapped his phone. I
11 made contact with his girlfriend, family member, associate and
12 I think a couple of days later I got a call from one of the
13 marshals said that they actually had him up in the North
14 Carolina line. He got captured.

15 Q Okay, do you recall what date Mr. Leggette was placed
16 into custody?

17 A I think it was on the 9th. I think it was on the 9th of
18 September I think it was. I'm not sure about that.

19 Q Okay, do you have your documentation with you by chance
20 ---

21 A Yes, sir.

22 Q --- to refresh your recollection on the incident, the
23 date of arrest?

24 A Yes, sir.

25 Q Now, when did this occur ---

1 A What, the ---

2 Q When did the, when did the shooting occur?

3 A On the 13th of August.

4 Q Okay, and do you recall when Mr. Leggette, the warrants
5 were served on Mr. Leggette, placed into custody?

6 A I don't, I don't - I got it in my case folder but I know
7 they were served on him.

8 Q Okay, if you looked at a document in your case folder
9 would that refresh your recollection?

10 A Yes, sir, it would.

11 Q Is this your case folder, sir?

12 A Yes, sir. Well, the warrants, yes, the warrants were
13 served on him on the 9th of September, 2008 by Officer Patrick,
14 Patrick Cumbee of the Andrews Police - former employee.

15 Q You said it was as a result he was placed in custody --

16 A Yes, sir.

17 Q --- and charged on September 9th?

18 A Yes, yes, sir.

19 Q For the incident date of August 13th; right?

20 A Yes, sir.

21 Q During that period of time from August 13th to September
22 9th the Defendant was at large?

23 A Yes, sir, he was at large, from the incident up until
24 the day he was arrested, which was the 9th of September.

25 Q Did you take steps to try to apprehend him during this

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1 period of time?

2 A Yes, sir, I did what you call a fugitive form. I went
3 through the Solicitor's Office. At that time was Bo Bryan.
4 He signed an order for us to get in contact with Stuart
5 Cottingham, the U.S. Marshal, actually faxed him all the
6 information on Mr. Leggette, then that's whenever they put a
7 tracking system on it.

8 Q What steps did you personally take besides utilizing
9 U.S. Marshals subsequently to locate this Defendant?

10 A I put him in what you call a NCIC, National Crime
11 Information Center, as being wanted by the Andrews Police
12 Department.

13 Q Did you make any phone calls?

14 A Yes, sir.

15 Q Tell us about that.

16 A I, well I actually made phone calls. I made - contact
17 some of his family members, also made contact with Mr. Stuart
18 Cottingham which is the U.S. Marshal. I also made contact
19 with the Solicitor's Office in reference to trying to locate
20 Mr. Leggette. So, I - we spend some several hours or more
21 trying to locate him several days.

22 Q Okay, did you speak to his family members?

23 A I talked to his mother as well. I also talked to - she
24 said she didn't know where he was. I talked - I think I
25 talked to his sister. They didn't know where he was. I also

1 talked to his father, Mr. George Leggette, Sr., who is in the
2 courtroom. He told me at that time and I got to be honest ---

3 MR. HAZZARD: Objection, Your Honor.

4 Q That's fine.

5 MR. HAZZARD: Objection, that would be hearsay
6 testimony. I mean, if they want to call Mr. Leggette he can
7 say what he, what he said but for the investigator to
8 characterize what a person who's present allegedly said and
9 also I think it's a mischaracterization. I think it's
10 actually the grandfather that's listed on the incident report,
11 not this gentleman here, but ---

12 THE COURT: All right. Well, I'm ---

13 MR. HAZZARD: So, we would object on all those grounds.

14 THE COURT: I'm going, I'm going to allow it but I
15 will give some curative instructions here.

16 Ladies and gentlemen of the jury, as I said earlier only
17 a person can, usually a person can only testify as to what
18 they personally observed, what they saw, smelled, whatever the
19 case may be and one of the restrictions is the hearsay, rule
20 against hearsay, which means a witness cannot testify as to
21 what they were told by someone else. Now, there is an
22 exception to that where this witness can testify as to what
23 was told to him, not to prove that the statement was true but
24 to explain his actions and why he acted in the way he did.
25 So, this testimony that Investigator Lee is now giving is not

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1 offered to show that the statement made to him was, in fact,
2 true or false. We don't know because the person who made the
3 statement is not testifying to it, but it is - I will allow it
4 to explain why Investigator Lee took the actions that he took.
5 All right.

6 MR. HIXSON: Thank you, Your Honor.

7 BY MR. HIXSON:

8 Q Now, just try to sum it up, Investigator Lee. Was Mr.
9 Leggette considered a fugitive from justice after this
10 shooting for several weeks?

11 A Yes, sir; yes, sir, he did.

12 Q Did you make efforts to try to locate him?

13 A Yes, sir.

14 Q And ultimately had to use the U.S. Marshals to find him?

15 A Yes, sir.

16 Q Did the U.S. Marshals - are you aware of the efforts
17 they made and when they find - raiding houses to find him?

18 A Yes, sir.

19 Q And ultimately did Mr. Leggette call the U.S. Marshals?
20 Do you know that?

21 A I'm not, I'm not aware of that. I heard him made that
22 statement but I don't have any information of that, Mr.
23 Hixson.

24 Q But you know they were actively executing search
25 warrants in the homes to find him?

1 A Yes, sir; yes, sir.

2 MR. HIXSON: I have no further questions, Your Honor.

3 THE COURT: All right, Mr. Hazzard, cross examination.

4 MR. HAZZARD: Thank you.

5 CROSS EXAMINATION

6 BY MR. HAZZARD:

7 Q Good afternoon, Detective Lee. How are you doing?

8 A Good, Mr. Hazzard.

9 Q Okay, now, I assume you were referring to this
10 investigative note that I assume you generated dated August
11 19th that says that on August 17th you talked to Dominic
12 Leggett's grandfather; is that, is that correct?

13 A Yeah, if it ---

14 Q Is that's what in your note; right?

15 A Yes, yes, sir, his grandfather and his father. It's
16 documented. It's in the report.

17 Q Okay, okay, but the note refers to you talking with his
18 grandfather; right?

19 A Yes, sir.

20 Q Okay, and Dominic called the U.S. Marshals when he heard
21 they were looking for him and he turned himself in; isn't that
22 correct?

23 A I don't have any information to support that, Mr.
24 Hazzard.

25 Q Well, you talked to the marshals; didn't you, sir?

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1 A Yes, sir, but I don't have no information of what
2 Dominic said about calling the marshals.

3 Q Did you ask the marshal how it is that they came into
4 contact with Dominic Leggette?

5 A Yes, sir, I did but the information I got is I don't
6 know anything about him calling the marshal himself. I don't
7 have that information, Mr. Hazzard.

8 Q You don't have that information.

9 A No, sir, I sure don't.

10 Q Okay, but Mr. Hixson has that information though?

11 A I don't know what Mr. Hixson got now.

12 Q Okay, all right, now, as part of your investigation you
13 spoke with several people; didn't you?

14 A Yes, sir.

15 Q You spoke with Rhonda Brown who was Dominic's girlfriend
16 at the time; right?

17 A Yes, sir.

18 Q Okay, and you spoke with Sharon McGee and several other
19 folks; right?

20 A Yes, sir.

21 Q And as a result of speaking with those people your
22 investigation concludes that Dominic felt that he was acting
23 in self-defense to save his life; isn't that correct, sir?

24 A No, sir.

25 Q No, sir?

1 A No, sir.

2 Q No, sir. Where - when you got a note here that says you
3 spoke with Ms. McGee and that or that with Ms. Brown and that
4 Dominic stated that he was on his way to Florida, he didn't
5 mean to kill Bill, meaning Antonio Tisdale.

6 MR. HIXSON: Your Honor, I object to that. That's ---

7 Q And that those boys had beaten him up.

8 MR. HIXSON: Objection.

9 THE COURT: Hold it, hold it, hold it. Okay, I
10 sustain the objection.

11 MR. HIXSON: Yeah, that's a self-serving statement.

12 THE COURT: That's hearsay. I sustain it.

13 MR. HAZZARD: Your Honor, it's coming from the same
14 report that he was allowed to testify to not more than a
15 minute ago, the exact same piece of paper.

16 THE COURT: But that is not explaining his actions.
17 That's being offered for the truth of the statement. So, it's
18 - I sustain the objection as hearsay.

19 MR. HAZZARD: All right, thank you, Your Honor.

20 BY MR. HAZZARD:

21 Q Now, sir, when you were on the scene of the incident on
22 August 13th of '08, okay, how long were you out there?

23 A Approximately maybe two and a half, maybe three hours,
24 it might be longer.

25 Q Now, at that time did you see Mr. Tisdale's white

Eddie Lee - Cross by Defense

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1 Cadillac?

2 A Yes, sir, it was out there.

3 Q Okay, and where was it out there in relation to where
4 Super Chicken, Carnell's and Blue's are?

5 A It was about a block down there on the West Main Street.

6 Q Okay, and when you say a block down the Court's
7 indulgence. Okay, I believe this is State's Exhibit Number
8 One.

9 A Uh-huh.

10 Q Is the location of that white Cadillac visible as far as
11 where it would've been parked on the night of the incident?

12 A If you stand out in the roadway in front of Super Chic
13 you can see parked somewhere up in this area right here.

14 Q So, when you say in this area right here you're
15 basically talking about in front of Blue's or in front of
16 Carnell's; correct?

17 A Carnell's, yes, sir, one of them, yes, sir.

18 Q Okay, all right, thank you.

19 Now, you told Mr. Hixson that you had spoken with
20 someone you referred to as this young man's associate, a Mr.
21 Eric Cox regarding a gun that Mr. Cox legally owned; correct?

22 A Yes, sir.

23 Q Legally owned?

24 A Yes, sir.

25 Q Okay, and did your investigation reveal the relationship

1 between Mr. Leggette and Mr. Cox, specifically that Mr. Cox is
2 related to Mr. Leggette on Mr. Leggette's mother's side?

3 A No, sir, I don't have - I don't know if they're related.
4 I just know they was friends with each other.

5 Q Okay, now, you talked with Al Ingram at some point;
6 correct?

7 A Yes, sir.

8 Q Okay, and what Al basically told you, gave you a written
9 statement on August 14th at about 2:30 in the afternoon; is
10 that correct?

11 A Yes, sir, I think that's correct, Mr. Hazzard.

12 Q Okay, and basically what his statement told you was that
13 just he and Antonio were going to the Super Chic to buy
14 cigarettes and they didn't know nothing about nothing and all
15 of a sudden somebody they didn't know turned around and
16 started shooting at them?

17 MR. HIXSON: Your Honor, again I'd object to that.
18 That's a hearsay statement for the truth of the matter
19 asserted. The witness has already testified, Mr. Ingram. He
20 can't get in other testimony through this witness. He has to
21 ask that witness himself and he's already cross-examined that
22 witness. That's a hearsay objection, Your Honor.

23 MR. HAZZARD: I'm asking him about a document that ---

24 THE COURT: It's a prior - if it's a statement taken
25 by the police as part of an investigation I think it can be

Eddie Lee - Cross by Defense

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1 offered as a prior inconsistent statement.

2 MR. HIXSON: That statement was consistent; wasn't it?

3 MR. HAZZARD: No, it wasn't.

4 THE COURT: Okay, overruled. I'll allow you to go
5 ahead and ask the question. Go ahead.

6 MR. HAZZARD:

7 Q Okay, all right, do you need me to repeat the question?

8 A Yes, I sure do. Yes, sir.

9 Q Okay, as part of the written statement that you took
10 from Al Ingram on August 14th of '08 at about 2:30 in the
11 afternoon his statement says that he and Antonio Tisdale were
12 just going to the Super Chic and to buy cigarettes and someone
13 he did not recognize just turned around and shot them; is that
14 correct?

15 A If that's what's in the statement that's what I got from
16 him, Mr. Hazzard.

17 Q Okay, so, that's what he told you at that time?

18 A Yes, sir.

19 Q Okay, did you - so, he never told you that there had
20 been other altercations between him and Dominic; did he?

21 A I wasn't aware of any other altercations between them.

22 Q Did he tell you there had been others?

23 A No, sir. I wasn't aware of any others.

24 Q Did he tell you about any other altercations between him
25 and members of Dominic's family?

1 A No, sir, I don't recall that, Mr. Hazzard.

2 Q Did he tell you about altercations two days prior to
3 that on the preceding Monday?

4 A I have no knowledge of that, Mr. Hazzard.

5 MR. HIXSON: Once again, Your Honor, I object to that.
6 I have no way of knowing Mr. Ingram's statements whether
7 they're, the truth or the veracity of any of the statements
8 he's asking the witness. It's not subject to cross
9 examination. I don't know if Mr. Ingram even made the
10 statements.

11 THE COURT: That's what he was asking him, did he make
12 the statement to him. So, I overrule the objection. Go ahead.

13 MR. HIXSON: Thank you, Your Honor.

14 Q Did he tell you about any altercation four days prior on
15 August the 9th?

16 A No, sir, he sure didn't.

17 Q Okay, and based on your investigation and the folks that
18 you had spoken with and your experience in 25 years your
19 investigation indicated that even prior to this particular
20 night in question or even prior to the incident that occurred
21 down the block at Super Chic your investigation indicated that
22 Al Ingram had every intention of attacking Dominic Leggette;
23 didn't he?

24 A Not to my knowledge, Mr. Ingram, I mean, Mr. Hazzard.

25 Q Okay. I'm going to hand you a copy of an incident

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1 report supplemental that has your name on it ask you to review
2 it and tell me if that is, indeed, a copy of your report that
3 has been provided to me by the Solicitor's Office.

4 MR. HIXSON: Your Honor, may I get a look at what Mr.
5 Hazzard is referring to?

6 MR. HAZZARD: Yes, sir, I'm be more than happy to.

7 MR. HIXSON: Thank you.

8 A Yes, sir, this is my report, yes, sir.

9 Q Okay.

10 A Sure is.

11 THE COURT: Before we question him on it let Mr.
12 Hixson see it.

13 MR. HAZZARD: Yes, sir.

14 BY MR. HAZZARD:

15 Q Now, you have had a chance to review the document that
16 I've handed you; correct, sir?

17 A Uh-huh, uh-huh.

18 Q And this is a report that you prepared as a part of your
19 official duties in this investigation; correct?

20 A Yes, sir.

21 Q Now, after having a chance to review this report and
22 specifically the highlighted portion I've highlighted for you
23 based on your investigation did you have knowledge and
24 information that indicated Al Ingram had an intention to
25 attack Dominic Leggette prior to that particular night, what

1 particularly happened that night but before 10 p.m. on August
2 13th was there information that he intended to attack Dominic
3 Leggette?

4 MR. HIXSON: Your Honor, I'm going to have to object to
5 that. He's referring to a line in a statement from Shannon
6 McGee who is available to testify subject to cross examination
7 of his thinking of what Al Ingram may have thought. That's
8 what he's referring to. It's hearsay. It goes to the truth
9 of the matter asserted. He can ---

10 THE COURT: All right.

11 MR. HIXSON: I don't mind the information coming out
12 but Shannon McGee has to say it.

13 MR. HAZZARD: Sharon McGee.

14 MR. HIXSON: Sharon McGee, excuse me.

15 THE COURT: All right, so, I'm going to sustain that
16 objection then.

17 MR. HAZZARD: All right, no problem.

18 BY MR. HAZZARD:

19 Q Have you ever been in Blue's club before, sir?

20 A Yes, sir, when I go in there probably to arrest
21 somebody.

22 Q Okay, so, you haven't spent any decent amount of time in
23 there. Don't, don't - all I'm going to ask is do you know
24 whether they sell cigarettes in there, sir?

25 A I don't have no knowledge whether they do or not.

Leron Gardner - Direct by State

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1 Q Don't know for sure do you. All right, nothing further.

2 THE COURT: All right, redirect?

3 MR. HIXSON: No, Your Honor, not at this time.

4 THE COURT: All right, you may step down.

5 A I can step down? Thank you, Judge.

6 THE COURT: Thank you very much.

7 Mr. Hixson, you can call your next witness.

8 MR. HIXSON: The State would call Ron Gardner, please.

9 THE COURT: All right.

10 Whereupon, Leron Gardner was called to the stand, duly
11 sworn by the clerk and testified as follows.

12 THE CLERK: Thank you. Please be seated and state
13 your name for the record, spelling your last name, please.

14 MR. GARDNER: Leron Gardner.

15 DIRECT EXAMINATION

16 BY MR. HIXSON:

17 Q Good afternoon, sir.

18 A Hey, how you doing?

19 Q Can you do us a favor and you have to speak up a little
20 bit in the microphone. You want to make sure the court
21 reporter and all these folks can hear you; okay?

22 A Yes, sir.

23 Q Okay, Leron, where are you from?

24 A I'm from Andrews, South Carolina, but I live in
25 Darlington, South Carolina.

1 Q Okay, and how old are you?

2 A 20.

3 Q 20 years old, okay, and about how long did you live in
4 Andrews?

5 A All my life practically.

6 Q Okay, and when did you leave Andrews to go to
7 Darlington?

8 A About three years ago.

9 Q About three years ago, okay, so, you were living in
10 Darlington around August 13th of 2008; is that true?

11 A Yes, sir.

12 Q Okay, now, tell us about your time in Andrews. Where
13 did you live?

14 A I lived in Big Dam, South Carolina, which they call over
15 the river and uptown in the projects and in Italy.

16 Q Okay, and during that course of time did you make any
17 friends in school and such?

18 A Yes, sir; yes, sir.

19 Q Did you come to know Dominic Leggette?

20 A Yes, sir.

21 Q Okay, and tell us about your friendship with Dominic
22 Leggette.

23 A We grew up together. We played baseball, football and
24 other things together, sir.

25 Q Okay, were you pretty good?

Leron Gardner - Direct by State

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1 A Not as good as him but I was all right.

2 Q Okay, all right, were you all pretty good friends during
3 this period of time until you moved away?

4 A Yes, sir.

5 Q Okay, well, have you - had you had any occasions to come
6 back to Andrews?

7 A I rarely came home to be honest because it wasn't a good
8 environment to be at.

9 Q Okay, okay, well, did you come home August 13th of 2008?

10 A Yes, sir.

11 Q Okay, tell us what - tell the jury what brought you
12 home.

13 A I wasn't, I wasn't even supposed to come to Andrews. I
14 was supposed to be in Charlotte but I left with my baby
15 brother and we went to Andrews.

16 Q Okay.

17 A And he was doing something and I was doing something.
18 So, we kind of split up and I was chilling.

19 Q When you say he I don't know - who, who are you talking
20 about?

21 A My baby brother Dezi.

22 Q Okay, okay.

23 A And we kind of split up and I met up with Dominic in the
24 projects and we were talking and walking.

25 Q About what time of day or night was that?

1 A About eight or nine. I would say around that time.

2 Q Okay, and how was - did you all have plans to go do
3 something that evening?

4 A Not really, sir, we just was chilling and he had got a
5 phone call from his girlfriend or somebody say he was going to
6 get a charger. So, we went and walk uptown.

7 Q What do you mean by charger, make sure we're clear on
8 that.

9 A Like a phone charger, sir.

10 Q Okay.

11 A And we went uptown, stand up for a while, wait. Then we
12 had a altercation with people trying to jump us and ---

13 Q Tell us about that walk on the way up there. Did Mr.
14 Leggette show you something on the walk up towards Carnell's?

15 A Yes, sir, he showed me a weapon but ---

16 Q What did he show you? Was it a gun?

17 A Yes, sir.

18 Q And where was the gun?

19 A In his waist.

20 Q Okay, and how in the world did that come up in
21 conversation?

22 A He just showed it to me like, "Check out what I got,"
23 like you know how homeboys do. He just basically showed me
24 his weapon like, "This is a nice gun," and stuff like that.

25 Q Okay, so, that happens on the walk from the projects up

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1 towards, I guess, let me show - make sure we're on the same
2 page here. Let me show you what's been marked as State's
3 Exhibit One. We've been using it a bunch but do you recognize
4 that, that picture?

5 A It looks a little different but I assume that look like
6 Andrews.

7 Q Is that what it looks like from an airplane. Well,
8 let's turn around here, if I point out, we've been using it a
9 bunch, it's in evidence. This is the Super Chic right here, a
10 bunch of people testified to that. Does that help you orient
11 yourself to the photograph?

12 A This right here is Super Chic?

13 Q Uh-huh.

14 A Okay, yes, sir, I know where that is.

15 Q Okay, do you know where Blue's and Carnell's would be?

16 A It would be like up in here, I guess.

17 Q Okay.

18 A Well, now, this Super Chic right here; right?

19 Q Yeah.

20 A So, it would be a little down further like about up in
21 here.

22 Q Okay, so, that's the area we're talking about; right?

23 A Yes, sir.

24 Q Okay, I guess that means you've never seen Andrews from
25 an airplane; have you?

1 A No, sir.

2 Q Okay.

3 A Don't fly.

4 Q Okay, so, you made it - you walked with Mr. Leggette
5 down to Blue's and Carnell's; is that right? I'm trying to
6 get started back again where we were and then you said there
7 was an altercation or something I think is what you were
8 talking about.

9 A Yes.

10 Q Tell us about that, what you saw.

11 A It was like a bunch of people just rushed up on us out
12 of nowhere out of the blue. I ain't gonna' story. I was
13 scared myself, but he, he took off running and he left and
14 then Billy and Al went running after him and then that's when
15 we heard gunshots.

16 Q Now, let's talk about that altercation you were talking
17 about right there. Did you hear what - did you know what that
18 was about?

19 A Oh, no, sir, I ain't - I don't know nothing about it.

20 Q Did you hear specific words that were said?

21 A I was scared, sir. I was scared.

22 Q Did you recognize any of the folks?

23 A Yes, sir.

24 Q Okay, were they folks that you remember from back when
25 you lived in Andrews?

Leron Gardner - Direct by State

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- 1 A Yes, sir, everybody know almost everybody in Andrews.
- 2 Q Did those folks recognize you?
- 3 A Nah, I kind of grew up and changed a little bit.
- 4 Q Okay, okay, so, you said that you were there. Did
- 5 anybody try to fight with you?
- 6 A Yes, sir.
- 7 Q Did anybody punch you?
- 8 A No, sir.
- 9 Q Did you see anybody punch Mr. Leggette?
- 10 A No, sir.
- 11 Q Did you see Mr. Leggette punch anybody?
- 12 A No, sir.
- 13 Q Did you see any, besides Mr. Leggette, when you saw the
- 14 weapon when you were walking to there, did you see any knives
- 15 or bats or guns or anything?
- 16 A No, sir.
- 17 Q Okay, so, now, Mr. Leggette, I think you said Mr.
- 18 Leggette ran to the Super Chic; is that right?
- 19 A He ran before he get to Super Chic. It's like a little
- 20 a cut in between. He ran down that road, and that's when we
- 21 heard gunshots.
- 22 Q Do you remember what Mr. Leggette was wearing?
- 23 A I believe he had on a black shirt, some jeans and that's
- 24 pretty much all I remember.
- 25 Q Did he have any, anything else in his hands or any other

1 shirts or anything; do you remember?

2 A Not as I remember, sir.

3 Q Okay, you made it down, you made it down to the, the -
4 you heard shots. Did you see what was going on down towards
5 the Super Chic?

6 A No, sir, it's impossible for you to see what's going on
7 because it's a - like a road in between you can't see if I'm
8 standing in the street.

9 Q Okay.

10 A You had to follow them to be able to see what happened.

11 Q Okay, let me show you - well, I won't worry about it
12 then. You heard the shots, then what happened?

13 A That's when we saw Al and Billy come running back
14 towards us.

15 Q And did you see them with weapons?

16 A No, sir.

17 Q So, you - they come up the street. What happened then?

18 A That's when Billy was fussing about him getting shot
19 like he was in what you want to call it hypertension or
20 whatever you call it. I don't know how to say it but he was
21 like pumped up and later on he like passed out and I caught
22 him.

23 Q Did he say anything to you?

24 A Yeah, he was like, "Dominic shoot me." He say some
25 other words, but that's what he practically said.

Leron Gardner - Direct by State

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1 Q Okay, well, go ahead and say what - we want to know what
2 the truth is. So, what did he say?

3 A "The MF has shot me."

4 Q Okay, where were you when he said those words?

5 A I was holding him.

6 Q You were?

7 A Yes, sir.

8 Q Was anybody else around?

9 A Miles, his brother.

10 Q Okay, well, how about Al, did you see Al?

11 A No, sir.

12 Q Okay, did you see him running from the - up the
13 sidewalk?

14 A Oh, yes, sir.

15 Q Okay, and then, and then where did you see him from
16 there?

17 A I wasn't focusing on him. I was focusing on Billy.

18 Q Okay, did you know Billy?

19 A Yes, sir.

20 Q Okay, you knew him from back when you lived in Andrews?

21 A Yes, sir.

22 Q Okay.

23 MR. HIXSON: Beg the Court's indulgence, Your Honor.

24 THE COURT: All right.

25 BY MR. HIXSON:

1 Q I have no further question, Leron. If you want to answer
2 any Mr. Hazzard has that'd be great.

3 THE COURT: Mr. Hazzard, cross examination?

4 MR. HAZZARD: Thank you, Your Honor.

5 CROSS EXAMINATION

6 BY MR. HAZZARD:

7 Q Good afternoon, sir.

8 A Good afternoon.

9 Q What is your full name, sir?

10 A My full name is Ebony Leron Gardner.

11 Q Okay, what do you go by?

12 A Leron.

13 Q All right, Leron, now, let me make sure I'm clear on
14 this. You say that you and Dominic got to somewhere around
15 Blue's or Carnell's; right?

16 A Yes, sir.

17 Q And you say these people kind of came out of nowhere?

18 A Yes, sir.

19 Q And you were frightened?

20 A Yes, sir.

21 Q Okay, so, I take it these people didn't, didn't intend
22 you any goodwill; did they?

23 A No, sir.

24 Q Okay, and you said Dominic took off running trying to
25 get away?

Leron Gardner - Cross by Defense

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1 A Yes, sir.

2 Q And you say that Al and Billy, that being Al Ingram and
3 Billy Antonio Tisdale went after him?

4 A Yes, sir.

5 Q Did they go after him immediately or two or three
6 minutes later?

7 A Immediately, sir.

8 Q Okay, now, did you - why were you scared? Why were you
9 scared, sir?

10 A Because there was a bunch of people.

11 Q Okay, no further questions.

12 THE COURT: Redirect.

13 MR. HIXSON: Just briefly, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. HIXSON:

16 Q Were words exchanged during that period of time when you
17 said that you were in front with a car charger?

18 MR. HAZZARD: Your Honor, I would object because I do
19 not believe that I mentioned anything in addition to what was
20 touched on on direct.

21 THE COURT: Redirect is limited to anything brought
22 out on cross that was not addressed in direct.

23 MR. HIXSON: Fair enough, fair enough, fair enough - I
24 was just playing it by - fair enough, Judge.

25 THE COURT: All right.

1 BY MR. HIXSON:

2 Q I was trying to - you said there was no weapons involved
3 during the period of time relating to your fear?

4 MR. HAZZARD: Objection.

5 THE COURT: Sustained.

6 Q I'm trying to get into the fear that you referred to on
7 cross examination that you said you were afraid.

8 MR. HAZZARD: Which he also referred to on direct
9 examination. It is not anything that I brought out that is
10 new, Your Honor.

11 THE COURT: Okay, well, it's redirect. I'm going to
12 let him explore it a little bit if he wants to. Go ahead.

13 Q How many people - are you - did you say when there are
14 lot of people, how many people do you think were there?

15 A I'd say about ten.

16 Q Ten folks?

17 A Yes, sir.

18 Q Was everybody about your age?

19 A No, sir.

20 Q Okay, folks older than you?

21 A Yes, sir.

22 Q Of course, how old were you then?

23 A Like 19.

24 Q 19 years old? Okay, do you know how old Al Ingram was?

25 A No, sir.

Leron Gardner - Cross by Defense

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1 Q Okay, did you know he was 16?

2 A No, sir.

3 MR. HIXSON: I have no further questions, Your Honor.

4 THE COURT: All right, you may step down.

5 All right, you can call your next witness.

6 MR. HIXSON: Your Honor, Leron and his dad, I won't
7 tell you where they live, they really would try - like to get
8 back home if they can and would ask if he be excused from his
9 subpoena.

10 THE COURT: Any objection?

11 MR. HAZZARD: No objection, Your Honor.

12 THE COURT: All right, he's released from his
13 subpoena. He can go. Thank you.

14 All right, you can call your next witness.

15 MR. HIXSON: At this time the State would call Jamar
16 Mitchum.

17 THE COURT: All right.

18 Whereupon, Jamar Mitchum was called to the stand, duly
19 sworn by the clerk and testified as follows.

20 THE CLERK: Thank you, please be seated and state your
21 name for the record, please.

22 THE COURT: State your name, please.

23 MR. MITCHUM: Jamar Mitchum.

24 THE COURT: All right.

25 DIRECT EXAMINATION

1 BY MR. HIXSON:

2 Q Good afternoon, sir. Where are you from?

3 A Andrews area of Georgetown County.

4 Q Okay, how old are you?

5 A 22.

6 Q Okay, and I'll say this gently, do you have any brothers
7 or sisters?

8 A Yes, sir.

9 Q And tell us about that.

10 A Well, Antonio Tisdale, one of my brothers, he's
11 deceased right now. I have one other sister and a older
12 brother.

13 Q Okay, how long have you lived in Andrews?

14 A All my life.

15 Q Okay, and what part of Andrews do you live in?

16 A Jones Avenue.

17 Q Jones Avenue, is that kind of called the west end?

18 A Yes, sir.

19 Q Okay, were you in Georgetown around August 13th, 2008?

20 A Andrews area.

21 Q Excuse me, I've been doing that a lot. Andrews, excuse
22 me.

23 A Uh-huh.

24 Q And in the early evening or rather the around eight
25 o'clock on August 13th, 2008, tell the jury what you were

Jamar Mitchum - Direct by State

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1 doing.

2 A Well, I was standing in between Blue's Nightclub and
3 Carnell's Nightclub.

4 Q Okay, and tell us what Blue's and Carnell's is like a
5 little bit.

6 A Well, a little bar you shoot pool, you know, deal with a
7 little alcohol and but it's pretty much a nightclub, shoot,
8 shoot a little pool every time, every now and then.

9 Q Okay, do you all hang inside and outside or where?

10 A Yes, sir.

11 Q That was a compound question I bet. Where do you, where
12 do you hang out when you go there?

13 A Well, mostly I be in the inside but the night of the 13th
14 of August I was on the outside.

15 Q A warm evening?

16 A Yes.

17 Q At some point in time did you see the Defendant in this
18 case, Dominic Leggette, in that area?

19 A Yes, sir.

20 Q Please tell the Court and the jury what you saw.

21 A Well, he walked by to meet a girl at Carnell's, okay, we
22 was standing on the outside and Alfonso Ingram and Antonio
23 Tisdale say they was going to walk down to Super Chic. They
24 walked towards him. He walked ahead of them.

25 Q Okay.

1 A But if you're standing on the sidewalk you can't really
2 see directly down the sidewalk because of the bushes. Okay, I
3 heard maybe three or four gunshots. I saw Alfonso fell in the
4 road and he jumped back up, came running ahead of Antonio.
5 So, after I saw him I saw Antonio. When he got up to where I
6 were he said, "Well, Miles," he called me Miles, he said,
7 "Miles carry me to the hospital. Dominic just shot me."

8 Q Okay, let's, let's back up first and talk about when you
9 first saw Mr. Leggette, the Defendant. Was there a fight, was
10 there a fight going on?

11 A No.

12 Q Tell us about that environment right there. What was
13 happening during that period of time?

14 A Well, all of us was just standing around.

15 Q Okay.

16 A I mean, as far as I - as far as I could have see or
17 whatever it wasn't no argument or no fight. So, they just
18 walked towards that way, was going next Super Chic.

19 Q And why did your, did your brother tell you why he was
20 walking that way?

21 A Well, maybe for cigarettes, food. I'm not sure now.

22 Q He didn't tell you anything?

23 A Nah.

24 Q About how long was the Defendant in that area before he
25 started walking down toward the Super Chic?

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1 A Maybe five or 10 minutes at the most.

2 Q Okay, I think you said he was supposed to meet a girl
3 there. Did you see - what did you see between him and anybody
4 else?

5 A Well, I saw, I saw him talking to the girl but, I mean,
6 I was maybe 20 feet away from them. So, I don't know what
7 they was talking about or nothing but he was talking to a
8 girl.

9 Q Okay, did you hear any argument going on?

10 A Not where we were.

11 Q I'm sorry?

12 A Not where I was at.

13 Q Okay, I kind of interrupted you now. Now, let's go
14 back, you said you heard shots. I think you said you couldn't
15 see because of the bushes from where you were; is that
16 correct?

17 A Yes, sir.

18 Q And now, I think you were at the point where you said
19 they were - that and - that Billy and Al were running back up
20 the sidewalk; is that right?

21 A Yes, sir.

22 Q Okay, can you start from that point forward?

23 A Well, they was running back towards me, and I mean, I
24 heard the gunshots. I thought maybe someone shot in the air
25 or something. They were running fine until he got up to me

1 and he was trying to take his shirt off and he was showing me
2 the wound. I helped him get out of his shirt. I was holding
3 him and then it was too much for me, I mean, I walked off -- I
4 was kind of in shock myself. I walked off and kind of cooled
5 off. I came back. There was a few other guys standing around
6 him but I done worked up, I mean, that's pretty much all I
7 saw.

8 Q Did you see any weapons?

9 A No, sir.

10 Q Did you see any knives or bats or anything?

11 A No, sir.

12 Q Did you see any weapons at that time on Mr. Leggette?

13 A No, sir.

14 Q Did you talk to ---

15 MR. HIXSON: Beg the Court's indulgence.

16 THE COURT: All right.

17 Q After, after you saw your brother did he - was he able
18 to say anything else to you?

19 A His last, his last word was to me is, "Miles, carry
20 me to the hospital. Dominic just shot me," but he was
21 still in his right mind. He was breathing and we was
22 telling him, you know, everything'll be all right,
23 holding his shirt on the wound or whatever and it, it
24 worked me up. I walked off and when I came back by
25 that time the ambulance and everything was there,

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1 you know, they took him but that was his last words to me.

2 MR. HIXSON: I have no further questions, Your Honor.

3 THE COURT: All right, Mr. Hazzard, cross examination.

4 MR. HAZZARD: Thank you.

5 CROSS EXAMINATION

6 BY MR. HAZZARD:

7 Q Now, when you say you were worked up and you walked off,
8 walked off for how long, sir?

9 A Maybe five or 10 minutes before I even came back to him,
10 10 minutes or more.

11 Q Okay, and when you walked off where did you go?

12 A I went to my car.

13 Q Okay, and where was your car parked?

14 A There's a car wash right across, well, I wouldn't say
15 across the street from Blue's, but on the side across the
16 street from Blue's nightclub.

17 Q Okay, now, I'm sorry, maybe I perhaps wasn't paying
18 close enough attention. Were you at Blue's or were you at
19 Carnell's?

20 A Blue's.

21 Q Okay, you were at Blue's and about what time did you
22 arrive there, sir?

23 A Maybe about seven o'clock that night.

24 Q Okay, I'm sorry. Please continue.

25 A I arrived there about seven o'clock that night. That's

1 where I were.

2 Q And this, this incident occurred, what, sometime after
3 10 p.m.?

4 A No, it was - I think it was before 10 p.m.

5 Q Okay, between nine and 10?

6 A Yes.

7 Q Okay, and what did you do while you were at Blue's
8 between seven and this - and the time of the incident?

9 A I was shooting pool until I step out on the sidewalk.

10 Q Okay, and why did you step out on the sidewalk?

11 A Because that where all my friends were.

12 Q That's where all your friends were. Okay, and about
13 what time did you step out on the sidewalk, sir?

14 A Maybe a little after eight. We was outside for a while.

15 Q Okay, now, what time to your recollection did your
16 brother Antonio and his friend Al Ingram arrive?

17 A It was after nine.

18 Q It was after nine?

19 A Yeah.

20 Q Okay, and to your recollection what time did Dominic get
21 there?

22 A Well, he get a - he get there about maybe 15, 20 minutes
23 before ten at the most.

24 Q So, if he got there 15 or 20 minutes before 10 and the
25 incident occurred before ten is it safe to say he wasn't in

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1 the area of Blue's and Carnell's very long; was he?

2 A He wasn't. I said that.

3 Q Okay, I just wanted to make sure. Now, when you saw
4 Dominic for the short period of time that he was there in
5 front of Blue's and Carnell's where was Al Ingram?

6 A He was standing right by Blue's nightclub.

7 Q Okay.

8 A Where all, all us were.

9 Q Okay.

10 A After he arrived that's where he were, where we were.

11 Q So, I'm sorry, go ahead, sir.

12 A After we have, after he had arrived at Blue's nightclub
13 he was standing where we were.

14 Q Okay, so, about how close was he to you?

15 A Maybe 5 feet.

16 Q Maybe 5 feet. So, you could hear what he could hear,
17 would you say?

18 A Yeah.

19 Q Okay, but is it your testimony to this jury that you
20 didn't hear any arguing or any altercation?

21 A Not where we were. Like I say I can't tell you what
22 happened on the other side of those bushes but where we were
23 no.

24 Q Uh-huh, so, you heard no arguing, no loud voices,
25 nothing?

1 A No, when I had arrived to the sidewalk out of Blue's
2 nightclub, no.

3 Q Uh-huh, did you, could you see Mr. Leggette ---

4 A Yes.

5 Q --- from where you were standing?

6 A Yes.

7 Q And could you see people near Mr. Leggette?

8 A Well, a few people were.

9 Q Okay, and did it look to you as if there was an
10 altercation going on?

11 A No, not to my knowledge it wasn't.

12 Q No problem, there was no problem whatsoever?

13 A No, sir.

14 Q And you are Antonio Tisdale's brother?

15 A Brother.

16 MR. HAZZARD: No further questions.

17 THE COURT: Redirect?

18 MR. HIXSON: No, Your Honor.

19 THE COURT: All right, you may step down.

20 MR. HIXSON: May we approach, Your Honor?

21 THE COURT: Yes, sir.

22 (Whereupon, a bench conference was held in the presence
23 but out of the hearing of the jury.)

24 THE COURT: All right, ladies and gentlemen, the
25 attorneys advise me this would be a good time to break. I

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1 think the next witness is going to take some time, and it's
2 about 25 till five at this time. So, we'll go ahead and break
3 for the evening. I'm going to ask you to be back in the jury
4 room tomorrow morning at 9:15 like you were this morning and I
5 appreciate everybody being on time again. Thank you for that.
6 I caution you, again, please do not conduct any independent
7 investigation. Do not watch any news reports. Don't read any
8 newspaper reports, listen to any radio reports. Don't conduct
9 any independent investigation into this case. Do not discuss
10 the case even among yourselves at this time. I'll excuse you
11 for the time being. I hope everybody has a good evening and
12 we'll see you back at 9:15 tomorrow morning. Thank you very
13 much. Everybody else please remain seated while the jury is
14 excused.

15 (Whereupon, the following takes place outside the
16 presence of the jury.)

17 THE COURT: All right, anything before we recess for
18 the evening?

19 MR. HIXSON: No, Your Honor.

20 THE COURT: Anything from the Defense?

21 MR. HAZZARD: Nothing from the Defense.

22 THE COURT: All right, we'll be in recess until 9:30
23 tomorrow morning. I'll have the jury come back at 9:15.
24 That'll give them the opportunity to get some coffee or
25 whatever before we come back in and start up at 9:30; okay?

1 MR. HIXSON: Thank you, Your Honor.

2 THE COURT: All right, thank you very much.

3 OFF THE RECORD

4 (On the record, Wednesday, March 31, 2010.)

5 (Whereupon, the following takes place outside the
6 presence of the jury.)

7 THE COURT: All right, anything from the State before
8 we bring the jury in?

9 MR. HIXSON: Yes, briefly, one, one item, Your Honor.

10 THE COURT: All right.

11 MR. HIXSON: The State's marked a document, Your
12 Honor, we had discussed this prior, Court's Exhibit Nine, that
13 is an Andrews Magistrate Court disposition record. What it is
14 it's a certified true copy of the record of conviction on
15 Dominic Alexander Leggette. He's been convicted of criminal
16 domestic violence first offense, Your Honor, had a bench
17 trial. This happened July 30th of 2007. We're making this
18 part of the Court's record, Your Honor. As Your Honor is well
19 aware this prohibits him federally from possessing a weapon as
20 of 2000 - excuse me, July 30th of 2007. We don't - we ask this
21 is not - does not go in front of the jury, Your Honor. It's
22 just a Court Exhibit.

23 THE COURT: All right, and so, that's Court's Exhibit

24 ---

25 MR. HIXSON: Court's Exhibit Nine, Your Honor.

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1 THE COURT: Nine, all right.

2 (Whereupon, Court's Exhibit Number Nine [Magistrate
3 Record] appropriately marked.)

4 MR. HIXSON: And that is, that comes in as a document
5 under C, I believe, Your Honor.

6 THE COURT: All right, Mr. Hazzard, as I understand
7 the purpose of that and the reason the State is introducing
8 that is under the new legislative statute that basically says
9 a person engaged - not engaged in any unlawful activity has no
10 duty to retreat. That more or less does this away - does away
11 with your getting a charge on that statute; correct?

12 MR. HAZZARD: Yes, sir, that is my understanding, Your
13 Honor, under 16-11-440 as previously discussed in chambers,
14 yes, sir.

15 THE COURT: Okay, all right, thank you very much.

16 MR. HAZZARD: But it is my understanding though that
17 the Defendant will be entitled or if sufficient evidence has
18 been presented the Defendant will be entitled to the standard
19 four prong self-defense from our case law ---

20 THE COURT: Right.

21 MR. HAZZARD: --- that thing obviously - okay.

22 THE COURT: But, but one of the prongs being that
23 there is a duty to retreat.

24 MR. HAZZARD: A duty to retreat, yes, sir.

25 THE COURT: Right, okay.

1 All right, anything else from the State before we bring
2 in the jury?

3 MR. HIXSON: No, Your Honor.

4 THE COURT: Anything from the Defense?

5 MR. HAZZARD: Nothing on behalf of the Defense.

6 THE COURT: All right, let's bring the jury in.

7 (Whereupon, the following takes place in the presence of
8 the jury.)

9 FOREPERSON: They just want ---

10 THE COURT: You'll need to ask the bailiff. She ---

11 FOREPERSON: I did. She said to ask the Judge.

12 THE COURT: Okay, well ---

13 FOREPERSON: We just want the witnesses to speak into
14 the microphone. Some of the people can't hear very well.

15 THE COURT: All right, let me - I'll ---

16 FOREPERSON: Would you like me to go back out and ask
17 the bailiff?

18 THE COURT: Yeah, tell the bailiff that you were
19 speaking to.

20 (Bailiff and Foreperson confer and Bailiff confers with
21 the Court.)

22 THE COURT: All right, thank you, ma'am, we'll make
23 sure that they speak into the microphone. I understand that
24 some of the jurors were having some trouble hearing some of
25 the testimony yesterday because the witnesses were not talking

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1 into the microphone. Can we turn the microphone up any?

2 THE CLERK: Yes, sir.

3 THE COURT: All right, let's turn it up and make sure
4 that the witnesses speak directly into the microphone. Okay,
5 thank you, ma'am. All right, ladies and gentlemen, welcome
6 back. I hope everyone had a restful evening. We're ready to
7 resume the trial of the case. If you have trouble hearing a
8 witness please raise your hand and let me know and we'll make
9 adjustments then, okay?

10 All right, Mr. Hixson you can call your next witness.

11 MR. HIXSON: Thank you, Your Honor. At this time the
12 State would call Investigator Steve Brown.

13 THE COURT: All right.

14 Whereupon, Stephen Brown was called to the stand, duly
15 sworn by the clerk and testified as follows:

16 THE CLERK: Thank you. Please be seated and state
17 your name for the record.

18 MR. BROWN: Stephen Brown.

19 DIRECT EXAMINATION

20 BY MR. HIXSON:

21 Q Good morning, sir.

22 A Good morning.

23 Q What do you do for a living?

24 A I am an investigator with the Fifteenth Circuit
25 Solicitor's Office.

1 Q And what does that, what does that occupation entail?

2 A Basically I work at the leisure of the Solicitor. We do
3 lots of - well, lots of different tasks actually. In this
4 case particularly I basically assisted Solicitor Hixson in
5 preparing for trial.

6 Q Okay, do - is the, part of the course of your duties do
7 you research records, serve subpoenas, review documents,
8 investigate documents?

9 A Absolutely.

10 Q Are you a certified law-enforcement officer?

11 A I am.

12 Q Okay, on this occasion did you have the opportunity to
13 look into whether or not Mr. Leggette possessed a valid
14 concealed weapons permit?

15 A I did.

16 Q And did you in fact, what steps did you take to
17 determine that?

18 A Well, dispatch was contacted, I contacted a dispatcher.
19 It's my understanding that the proper way to go about that and
20 they do what's called an NCIC report on that. That's the
21 National Crime Information Center. For instance, if there's
22 a traffic stop out there and someone has a weapon in the
23 vehicle the police officer would call dispatch and dispatch,
24 you know, if the person in the car claimed to have a legal
25 weapon in the vehicle dispatch would run an NCIC through that

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1 person's date of birth, Social Security number to see if there
2 was a valid concealed weapon permit on file.

3 Q Okay, did you in fact do that?

4 A I did for Mr. Leggette.

5 Q What were the results of your investigation?

6 A The results were that there was no concealed weapon
7 permit on file and it's my understanding that the dispatcher
8 checked that for past and present.

9 Q I'm going to show you an exhibit which has been marked
10 State's Exhibit 35. It's not into evidence. What is that
11 document?

12 A These are the documents that were faxed to me by the
13 dispatcher where she ran the inquiry on NCIC.

14 Q And the results of that are the same as you testified
15 to?

16 A No record on file with that name.

17 Q Okay, as such he doesn't have a concealed weapons
18 permit; is that correct?

19 A That's correct.

20 MR. HIXSON: No further questions, Your Honor. I
21 apologize, Your Honor. At this time the State would move
22 State's Exhibit 35 into evidence.

23 THE COURT: Any objection?

24 MR. HAZZARD: No objection.

25 THE COURT: All right, State's Exhibit Number 35

1 admitted into evidence without objection.

2 (Whereupon, State's Exhibit Number 35 [NCIC Report]
3 admitted into evidence and appropriately marked.)

4 THE COURT: All right, Mr. Hazzard, cross
5 examination.

6 MR. HAZZARD: No questions, Your Honor.

7 THE COURT: All right, sir, you may step down. Thank
8 you.

9 All right, Mr. Hixson, you can call your next witness.

10 MR. HIXSON: At this time the State would call Craig
11 Jackson, Your Honor.

12 THE COURT: All right.

13 Whereupon, Craig Jackson was called to the stand, duly
14 sworn by the clerk and testified as follows:

15 THE CLERK: Thank you. Please be seated and
16 state your name for the record.

17 MR. JACKSON: Craig Jackson.

18 DIRECT EXAMINATION

19 BY MR. HIXSON:

20 Q Good morning, sir.

21 A How you doing?

22 Q Tell us where you're from.

23 A I'm from Andrews.

24 Q And how long have you lived there?

25 A Like 40 years.

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1 Q Okay, were you born there?

2 A Yes.

3 Q Okay, so, you lived there your whole life, huh?

4 A Yes.

5 Q What do you do for a living?

6 A I'm a cook.

7 Q Okay, what part of Andrews you live in?

8 A Jones Avenue.

9 Q Okay, so, you living there 40 years I guess you lived
10 there around August 13th of 2008 then, huh?

11 A Of course.

12 Q Tell us about what you were doing - let's start around
13 say about seven o'clock on the 13th.

14 A Well, around about seven o'clock, 7:30 I went to
15 Carnell's, Carnell's Bar and Grill.

16 Q Okay, and what is Carnell's Bar and Grill?

17 A It's a club.

18 Q Is it?

19 A Yeah.

20 Q Is Wednesday dollar night at Carnell's?

21 A Yes.

22 Q Okay, tell us what happened after that.

23 A Well, I went there like maybe 7:30, eight o'clock, left,
24 went back again and I was on the inside having some drinks.
25 Then around 10:30 - about 9:30, 10 o'clock I step on the

1 outside leaning on the wall and it was a group of guys
2 standing to the left of me and I been standing there now all
3 them. The next thing I heard somebody say, "That's Dominic
4 right there," and Tony and Alfonso walked off, started walking
5 next Super Chic. So, I'm standing there looking figuring I'm,
6 figuring I'm about to see a fight and as they got down -
7 Dominic like in the front of them and he, you know, he had on
8 a black shirt and blue jeans. As he got to the side of that
9 building I think it's an hibachi Japanese restaurant now, I
10 saw when he turned, started shooting like, like three or four
11 shots. Tony and Alfonso fell in, fell in the street and jump
12 up and started back running. I'm standing there. Tony stopped
13 to me and said, "Dominic shot me." I mean, when the, when
14 the, when the shots went off I was shocked. Tony stopped at
15 me, said, "Dominic shot me," and he ran, ran on down and
16 collapsed.

17 Q Let's go into a little more detail about that now; okay?
18 You said you were inside Carnell's?

19 A Yes.

20 Q Okay, when you stepped back outside I think you said you
21 were leaning up against the wall; is that right?

22 A That's right.

23 Q Describe the scene, what you saw right around there when
24 you were leaning up against the wall.

25 A Well, it was a normal night, you know what I'm saying,

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1 all the guys were standing to the left and I was just leaning
2 there, you know what I'm saying, just catching some air.

3 Q Okay, when you say all the guys to the left let me show
4 you what's already in evidence as State's Exhibit Number One.
5 Let me see if - you haven't seen this. Let me see if you
6 recognize this.

7 A Yes.

8 Q Okay, what is that?

9 THE COURT: Excuse me, you're going to need to speak
10 into the microphone.

11 A I need to speak into the mike. Well, that's, that's
12 Super Chic and that's the Japanese restaurant right there,
13 that's --

14 Q Was that a Japanese restaurant then?

15 A No, it was Momma's Kitchen if I'm not mistaken. There's
16 another store, I think it was a maybe used to be a furniture
17 store. I know this used to be a furniture store. This is
18 Carnell's right there and this is Ms. Hammond's store and
19 that's Blue's ---

20 Q Okay.

21 A --- Nightclub.

22 Q Okay, so, Blue's, Hammond's, Carnell's.

23 A Well, this - well, this - really this, this is, this is
24 the fish market now. This is Carnell's right here.

25 Q I got you.

- 1 A Yeah.
- 2 Q Okay, so, show where you - when you came outside where
3 you were standing.
- 4 A I was standing right there ---
- 5 Q Okay.
- 6 A --- in front of Carnell's.
- 7 Q And you said you looked to the left, there were guys
8 standing to your left I guess is what you said.
- 9 A Well, Tony and all them was standing on this side to the
10 left of me.
- 11 Q Okay.
- 12 A Because I was standing facing the street.
- 13 Q Okay, I got you.
- 14 A Yeah.
- 15 Q About how far away to your left were these folks?
- 16 A Well, not even, not even four, five feet.
- 17 Q I mean, here - less than from here to the wall?
- 18 A Well, a little bit further, a little bit further than
19 that.
- 20 Q Got you.
- 21 A Yeah.
- 22 Q And what, what were those folks doing?
- 23 A They were just standing there talking like they, like
24 they usually do, a whole group of them.
- 25 Q Were they being rowdy and loud?

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1 A Nothing, no, it was normal.

2 Q Well, I know but we don't know what normal is. That's
3 what we're trying ---

4 A Well, they were just standing there talking, talking,
5 just they were standing there talking.

6 Q Okay, did that change at some point in time? Did, did
7 ---

8 A Well, not really I mean because like I said the only,
9 the only thing I heard was one of the guys say, "That's
10 Dominic right there," and I mean, I didn't, I didn't think
11 nothing was going to happen, I mean, after Tony and Alfonso
12 walked off I got up off the wall and started looking to my
13 right. I'm thinking that they were going to fight, it was
14 going to be a fight or something like that, you know.

15 Q Well, let me stop right there. Ask you right there you
16 said, "I didn't think anything was going to happen," but what
17 made you think there was going to be a fight?

18 A Well, I don't know. I just got up off the wall and
19 looked figuring that there was going to be something because
20 of the way he walked off.

21 Q The way, okay, let me - that's good. Did you see
22 Dominic?

23 A Yes, I did.

24 Q Which way did Dominic go?

25 A Well, he was walking, he was like he was coming towards

1 Carnell's at first and then he turned around, started walking
2 back next Super Chic.

3 Q Okay, when you stepped out of Carnell's was Dominic, was
4 the Defendant Dominic Leggette already there?

5 A No, I didn't see him.

6 Q Okay, so, when you stepped out of Carnell's did Dominic
7 Leggette come up or walk up in that area?

8 A I didn't see him until, I didn't see him until I got off
9 - until Alfonso and Tony started walking down the street and I
10 saw him walking in front of them, walking back near Super
11 Chic.

12 Q So, the first time you see the Defendant, Mr. Leggette
13 ---

14 A Right.

15 Q --- he is already walking towards ---

16 A Super Chic.

17 Q --- Super Chic.

18 A Yeah.

19 Q Okay, was he running?

20 A No, he was walking, taking, walking normal.

21 Q Okay.

22 A Casual walking.

23 Q Did you hear Mr. Leggette say anything to anybody?

24 A No.

25 Q How about you talked to Antonio and Al, Billy and Al?

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1 A Yes.

2 Q How about those guys, were they yelling at Mr. Leggette?

3 A Wasn't no yelling - nobody wasn't saying anything.

4 Q Well, you said somebody said something, "There goes".

5 A Well, this, this is before they started walking.

6 Q Okay.

7 A Yeah.

8 Q And what did they say?

9 A "That's Dominic right there."

10 Q Okay, and then about how far behind, how much time
11 transpired by the time the Defendant starts walking and
12 Antonio and Al, Billy and Al start walking?

13 A I would say maybe three to four minutes at the most.

14 Q Okay.

15 A Or less.

16 Q Well, how far behind the Defendant and the two victims
17 were they?

18 A Maybe four to five feet or more.

19 Q Did you say four to five or more?

20 A Yeah.

21 Q Okay, I didn't hear. I thought you said 45 for a second
22 there.

23 A Yeah.

24 Q Okay, so, from there to the deputy?

25 A Maybe a little bit further, maybe from here, maybe from

1 here to you.

2 Q Okay, well, we'll try to get a clear idea about it.

3 A Yeah.

4 Q Because we've got three to four minutes you get further
5 than that far apart; wouldn't you?

6 A Uh-huh.

7 Q Okay.

8 A It wasn't that far, you know what I'm saying, but like I
9 said maybe four to five feet or more or maybe a little bit
10 more.

11 Q Okay, did you see - can you see all the way down to the
12 Super Chic?

13 A Yes, I ---

14 Q --- when you're standing on the sidewalk?

15 A Yes, I could have made if you lean up, get up off the
16 wall you can look down the street and see. I mean, now you
17 can't because the bushes have grown out so far, you know.

18 Q So, did you - you said you get up off the wall, what
19 does that mean?

20 A Yeah, because when you lean on, if you're leaning on the
21 wall you can't really see all the way down the street but if
22 you get up off the wall and like stand up on the sidewalk and
23 just look down there you can see, you can see straight down to
24 Super Chic. I mean, you can't see the store but you can see
25 that hibachi restaurant.

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1 Q I got you.

2 A You know.

3 Q I understand. Did you move out into the street to see
4 that or is that ---

5 A I was standing on the sidewalk.

6 Q Okay.

7 A Uh-huh.

8 Q But you leaned ---

9 A But I had a clear view.

10 Q Okay, okay, now, we've got the progression down the
11 sidewalk. At what point in time does the walking stop?

12 A Well, the walking stopped after they, after they got on
13 the other side of the Japanese restaurant. That's when I saw
14 the gun went up, you know, the, the, the - when he threw his
15 hand up and the, and the flames coming from the gun. Tony and
16 Al fell in the street at that point. That's the time when the
17 walking stopped and they started back running towards me.

18 Q Okay, now, describe that in more detail. That's a
19 pretty good distance away. So, how - you're looking from the
20 back view of these folks walking this way?

21 A Yeah, I'm looking at, looking at the back of them.

22 Q Okay, and tell us what you saw then if this is how we're
23 laying out.

24 A Well, when they got down there he turned to the side and
25 I guess they - I just like they were - getting ready to turn,

1 turn, turn into Super, like turn into Super Chic that's when
2 the shooting starts. I mean, they weren't all the way to
3 Super Chic yet but they were right there on the side of the
4 Japanese restaurant.

5 Q Okay.

6 A On the right hand side.

7 Q So, which way, if I'm standing like this, which way did
8 you see the Defendant turn?

9 A He turned facing, facing the street.

10 Q So, facing the street would be this way?

11 A Yes.

12 Q Okay, and then, and then what did you see?

13 A I saw when the - well, when the bullet - I mean, the
14 flames coming from the gun and Tony and Alfonso fell in the
15 street at the same time.

16 Q What hand did you see a firearm in?

17 A Right hand.

18 Q This hand, right hand?

19 A Yes, yes.

20 Q Like this?

21 A Uh-huh.

22 Q About how far apart did you see Antonio and Billy, the
23 victims in the case, how far were they from where you saw the
24 Defendant turn?

25 A Well, they were fairly close, maybe about three feet or

Craig Jackson - Direct by State

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1 more.

2 Q Three feet?

3 A Three feet, yeah, three feet or less.

4 Q How far do you think it is from the rail to me?

5 A About two feet.

6 Q Two feet?

7 A Yeah.

8 Q So, you think, do you think that's three feet? I'm not
9 putting - how far do you think this is?

10 A Looks like about maybe two or three feet.

11 Q Do you think that's about how far away?

12 A Yeah.

13 Q Were they in close enough to punch?

14 A No, they wasn't close enough to punch.

15 Q Were they close enough to stab?

16 A No.

17 Q To hit with a bat?

18 A Nothing, no, they weren't.

19 Q Did you see any weapons?

20 A No weapons.

21 Q Did you see or I should say did you see a gun?

22 A Not - I saw the, you know, the, the, the - I mean, the
23 flame from the muzzle come from the gun that he had but the
24 other guys didn't have no gun.

25 Q Okay, did you see any weapons before you saw folks walk

1 that way?

2 A Nothing at all.

3 Q Did you see any weapons after folks ran back that way?

4 A None.

5 Q Did you see it on Al?

6 A None.

7 Q Did you see on Billy?

8 A No, no weapons.

9 Q After you saw the flashes and you just said, I think you
10 testified that they fell down?

11 A Both of them fall in the street simultaneously together
12 and they jump up at the same time they were running.

13 Q Tell - describe how the, the fall. Was it like on the
14 movies where you all are flying back in the street?

15 A Yes.

16 Q How was it, how was it?

17 A They both fell, they both fell on their behind and
18 jumped up and started running.

19 Q Okay, talk about the, talk about the running. When -
20 did you see him come all the way up the street towards you?

21 A Yes.

22 Q Okay, did you see the Defendant?

23 A I didn't see him anymore after that. I don't know where
24 he went.

25 Q So, that was the - when was the last time you saw the

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1 Defendant?

2 A After the shooting stopped.

3 Q Okay, did you see which direction he went?

4 A No.

5 Q Okay, have you seen him since that time until today or
6 not ---

7 A Not until today.

8 Q Is that the person that you saw pull the trigger on that
9 firearm?

10 A Yes.

11 Q And let the record reflect that I was pointing to the
12 Defendant, the Defendant's table, Dominic Leggette.

13 Okay, now, I think we're at the point you talk about
14 running back up the sidewalk; is that right?

15 A That's right.

16 Q Okay, tell us what happened once Billy and Al got back
17 to where you were standing.

18 A Well, they were running, they were running fairly fast,
19 like, you know, like they, like, like they were scared or
20 panicked or whatever and when, when - Al kept running and Tony
21 stopped at me and said, "Craig" - well, he didn't call my
22 name. He said, "Dominic shot me," and when he held his shirt
23 up I saw the hole right there in his chest, and he ran on down
24 but after he, after he, after he walk - just kept - walked on
25 down or ran right and panicked, I mean, and fell I walked on

1 inside Blue's - I mean inside Carnell's and told them, said,
2 "That guy just shot them, shot them guys, man, you know."

3 Q And why did you go into Carnell's? Why did you go into
4 Carnell's?

5 A I mean, because I was in shock, it shocked me, too. You
6 know, and I went back and told them, "Man, he just shot them,"
7 and I came back outside and that's when Tony was lying on the
8 ground, went to my car, I went and looked at him, then I went
9 to my car, then went, went, went to go tell his mother and his
10 father.

11 Q Why did you go to the, why did you go to the car again,
12 I'm sorry. That testimony came pretty fast.

13 A To go to - to go, to go, to go let his mother and his
14 father know what happened.

15 Q Did you drive to their house?

16 A Yes.

17 Q And tell ---

18 A I didn't - well, never made it to the house. I went, I
19 went to stop by his grandfather's, where his grandfather be
20 all the time at his girlfriend's house. Then I went to his,
21 to his grandfather's house and his nephew, his, his uncle was
22 sitting under the carport and I told him, said, "Tony just got
23 shot."

24 Q Okay, back on the street right there, back at the spot
25 where, did you ever see Mr. Tisdale lose consciousness?

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1 A I thought, when I went and looked at him after I came
2 out of Carnell's it looked like he was unconscious.

3 Q I should ask this, was he standing or ---

4 A He was laying on, he was laying down. His brother was
5 holding, holding his head then and his brother was panicking
6 then. When he let his head go, his head hit the, hit the -
7 when his head hit the pavement, I like, "Man," I'm saying in
8 my mind he's dead.

9 MR. HIXSON: I have no further questions, Your Honor.

10 THE COURT: Mr. Hazzard, cross examination.

11 MR. HAZZARD: Thank you, very much, Your Honor.

12 CROSS EXAMINATION

13 BY MR. HAZZARD:

14 Q Good morning, Mr. Jackson, how are you, sir?

15 A I'm doing fine. How are you?

16 Q I'm fine. How are you employed, sir?

17 A How am I what?

18 Q Employed.

19 A How am I employed?

20 Q Uh-huh.

21 A I'm a cook.

22 Q And where are you a cook, sir?

23 A Well, right now I'm unemployed but I basically do a lot
24 of cooking for myself on, on the side.

25 Q Okay.

1 A Yes.

2 Q Now, you indicated that you live on Jones Avenue; is
3 that correct?

4 A That's correct.

5 Q On the west side?

6 A That's right.

7 Q All right, and you know Antonio Tisdale's entire family
8 apparently; is that correct?

9 A Correct.

10 Q Because you wanted to go tell his mother and father and
11 went to the grandfather's house and basically went and talked
12 to the whole family or tried to talk to the whole family; is
13 that correct?

14 A That's right; that's correct.

15 Q Okay, now, when - about what time was it when all of
16 this occurred?

17 A Around 10.

18 Q Around 10 p.m. ---

19 A Yes.

20 Q --- on a Wednesday; is that right?

21 A That's right.

22 Q Okay, now, with regard to that street that Super Chic is
23 on and Carnell's is on and Blue's Club or whatever is on, at
24 10 p.m. on a Wednesday what other businesses on that street
25 are open?

Craig Jackson - Cross by Defense

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1 A Well, it's Carnell's, Carnell's and Blue's, Super Chic.
2 The restaurant wasn't open during that time. They just opened
3 the restaurant back up.

4 Q So, nothing else on that street is open at that time 10
5 p.m. on a Wednesday?

6 A Well, there are other businesses further down the
7 street.

8 Q Okay, like past Super Chic?

9 A Well, no, past Blue's - well, yeah, past Super Chic and
10 past Blue's.

11 Q Okay, so, let's make sure we're clear. We've all seen
12 the diagram, the photo several times. Basically one part of
13 the block you've got Blue's and then Carnell's and then on
14 down the block you got that building that was Momma's Kitchen
15 and then you have the Super Chic; right?

16 A Correct, correct.

17 Q Okay, so, the building that was Momma's Kitchen that
18 wasn't open at 10 p.m. on Wednesday, August 13th, 2008; right?

19 A Well, the building, the building was vacant during that
20 time.

21 Q Okay.

22 A If I'm not, if I'm not mistaken.

23 Q Okay, so, between Carnell's and Blue's which is right
24 here --

25 A Right.

1 Q --- there is no other business that was open at 10 p.m.
2 until you get to Super Chic; right?

3 A That's right.

4 Q All right, just wanted to make sure we're very clear on
5 that.

6 A Okay.

7 Q Now, you indicated that you walked outside of Carnell's
8 and you said you had been there about three hours; right?

9 A Correct.

10 Q Okay, and you have a little something to drink; right?

11 A For sure.

12 Q Okay, no problem. Can you buy cigarettes in Carnell's?

13 A No.

14 Q No, you can't, can you buy cigarettes at Blue's?

15 A No.

16 Q Cannot?

17 A No.

18 Q You're sure of that?

19 A I'm positive.

20 Q Okay, now, when you're in there and you come outside
21 about how many people were outside?

22 A Well, to the left of me I basically, I basically saw
23 maybe about 10 guys standing there. All of them had on white
24 T-shirts.

25 Q Ten guys all of them wearing white T-shirts?

Craig Jackson - Cross by Defense

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1 A Uh-huh.

2 Q Okay, were they all west side guys?

3 A I'm not positive. I mean, like I said I was basically
4 just minding my business until I heard what, you know what I'm
5 saying, heard them say that, "That's, that's Dominic."

6 Q Okay, let's back up a little bit before that.

7 A Okay.

8 Q You come outside ---

9 A Uh-huh.

10 Q --- and there are these 10 guys in white T-shirts out
11 there.

12 A Yeah.

13 Q What were you wearing?

14 A I can't remember exactly what I was wearing that night.

15 Q Okay, but you weren't wearing a white T-shirt or
16 anything like that?

17 A No.

18 Q You didn't have on a uniform of any type?

19 A None.

20 Q Okay, what was - were you talking to anyone? Do you
21 recall whether you were talking with anyone?

22 A I wasn't talking to no one. I was by - I was alone.

23 Q Okay, so, you just came outside to get some fresh air?

24 A That's right.

25 Q And you noticed these ten guys are out there as well?

1 A Yeah.

2 Q Okay.

3 A Uh-huh.

4 Q Did you happen to hear any of their conversation when
5 you first walked outside?

6 A No, sir, I didn't.

7 Q Okay, but were they talking or do you not recall?

8 A They were talking but I was, I was, I was - I was
9 basically paying, minding my own business, you know.

10 Q Okay, so, you weren't paying any attention to their
11 conversation?

12 A No, sir.

13 Q At that time.

14 A No, sir.

15 Q So, what was or what was so significant about the words,
16 "There goes Dominic right there"? What was so significant
17 that that caught your eye?

18 A Well, I guess, I guess it was just the way that, the way
19 that it was said, you know.

20 Q The way that it was said?

21 A Yeah.

22 Q And as soon as that was said ---

23 A Well, at - not as soon as it was said. Go ahead, go
24 ahead and ask your question.

25 Q No, go ahead and answer.

Craig Jackson - Cross by Defense

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- 1 A Well, as soon as it was said that's when I said Tony and
2 Alfonso started walking off. That's when I really paid
3 attention to what was going on, you know.
- 4 Q Yes, sir.
- 5 A Right.
- 6 Q Yes, sir, now, did you know Al Ingram before this
7 incident?
- 8 A No, sir, I didn't.
- 9 Q Okay, had you seen him around?
- 10 A I seen them around.
- 11 Q Okay, so, you knew who he was but ---
- 12 A I knew of him. I mean, I seen him, well, yeah.
- 13 Q Okay, okay, and he's kind of a - he's not a big guy; is
14 he?
- 15 A No, sir.
- 16 Q And he was probably even smaller back in 2008; right?
- 17 A I think he was.
- 18 Q A little bit smaller?
- 19 A I think he was.
- 20 Q And I don't think by the coroner's report, I don't think
21 Antonio Tisdale was a big fellow; was he?
- 22 A No, sir, he wasn't.
- 23 Q About 5-9, about 145?
- 24 A Right.
- 25 Q Now, Dominic here - stand up for me, please, sir. Now,

1 Dominic here ain't the smallest guy in the world; is he?

2 A No, he's not.

3 Q Okay, you can sit down, please, sir. Thank you very
4 much, but yet, August 13th in 2008 somebody says, "There goes
5 Dominic right there," and these two little guys walk off and
6 go towards him in a manner that caused you to think there was
7 going to be a fight; is that correct?

8 A That's correct.

9 Q All right, no further questions.

10 THE COURT: All right, redirect?

11 MR. HIXSON: No, Your Honor.

12 THE COURT: All right, you may step down.

13 A All right.

14 MR. HIXSON: At this time the State of South Carolina
15 rests.

16 THE COURT: All right, all right, ladies and
17 gentlemen, the State has presented their case. It is now time
18 for me procedurally to address some matters of law with the
19 attorneys. So, I'm going to excuse you back to the jury room
20 for just a minute while we tend to these matters. It will
21 give you an opportunity to stretch your legs, use the
22 restroom, whatever the case may be and we'll bring you out in
23 just a minute. Thank you very much. Please do not discuss
24 the case even among yourselves at this time. Everybody else
25 please remain seated while the jury is excused.

Motions

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1 (Whereupon, the following takes place outside the
2 presence of the jury.)

3 THE COURT: All right, any motions?

4 MR. HAZZARD: Your Honor, at this time the Defense
5 makes two motions for a directed verdict. The first motion is
6 with regard to the sufficiency or insufficiency of the
7 evidence presented. In our light - in our view the evidence
8 presented by the State in this case, even taken in the light
9 most favorable to them, is insufficient to submit to the jury
10 for their consideration on the offenses for which the
11 Defendant is charged. The second part of the motion for a
12 directed verdict, Your Honor, our position is and has been
13 that based upon the evidence adduced from the State's own
14 witnesses that this is a case of self-defense, that there has
15 been sufficient evidence and information submitted where a
16 self-defense charge is appropriate in this case. As the Court
17 well knows under State versus Hendrix, 270 S.C. 653, 244 S.E2d
18 503, that - and also State versus Wiggins, 330 S.C. 538, 500
19 S.E.2d 489, a 1998 case under both of those the burden is on
20 the State to disprove self-defense. So, once evidence has
21 been adduced from that witness stand through testimony,
22 through other evidence that raises the issue properly of self-
23 defense, the burden is on the State to disprove it; and so,
24 we would submit that the State has not presented any evidence
25 to disprove the self-defense charge to which the Defendant is

1 entitled to. So, A, on the sufficiency or in this case
2 insufficiency of evidence to prove the charges against him,
3 that being murder, that being assault and battery with intent
4 to kill, specifically with regard to murder, Your Honor, there
5 has been absolutely no testimony or evidence submitted
6 whatsoever which would indicate that this Defendant killed
7 another unlawfully, you know, with malice aforethought.
8 There's been absolutely no evidence in that regard. So, we
9 would submit at the very least the charge of murder needs to
10 be stricken at this point.

11 Also, with regard to the self-defense we submit that
12 sufficient evidence through the State's own witnesses has come
13 up to make that an issue for the jury and that then pursuant
14 to Hendrix and Wiggins the burden then is on the State to
15 disprove that and that they have failed to do so, Your Honor.

16 THE COURT: All right, all right, I'm going to note
17 your motions. I'm going to deny them though. I think there
18 is enough - viewing the evidence in the light most favorable
19 to the prosecution at this point in time that there is enough
20 to go to the jury on those issues. So, I deny those motions
21 for a directed verdict. All right.

22 MR. HIXSON: Thank you, Your Honor.

23 THE COURT: Anything else?

24 MR. HAZZARD: Nothing further from the Defense.

25 THE COURT: All right, Mr. Hazzard, let me go ahead

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1 and put your client under oath so I can question him regarding
2 his right to testify, okay? Please put him under oath.

3 (Defendant sworn by clerk.)

4 THE COURT: All right, sir, your name is Dominic
5 Alexander Leggette?

6 MR. LEGGETTE: Yes, sir.

7 THE COURT: All right, Mr. Leggette, at this time I'm
8 going to explain to you certain rights that you have. If you
9 do not understand anything that I say please let me know.

10 MR. LEGGETTE: Yes, sir.

11 THE COURT: If you want me to explain anything in more
12 detail please let me know.

13 MR. LEGGETTE: Yes, sir.

14 THE COURT: Do you understand that?

15 MR. LEGGETTE: Yes, sir.

16 THE COURT: Okay, we've now reached the stage of the
17 trial where you may present your defense. You have the right
18 to claim the protections given to you by the Fifth Amendment
19 of the United States Constitution. This amendment states in
20 part that no person shall be compelled in any criminal case to
21 be a witness against himself. This means that you cannot be
22 required to testify in this case. You have the right to
23 testify on your own behalf. However, no one can make you
24 testify. This is a personal right and no one can waive this
25 right except you. If you decide to testify you will be

1 subject to the same rules that govern other witnesses and you
2 may be examined and cross-examined on any relevant issue in
3 this case. In addition, if you have any convictions involving
4 dishonesty or false statement or for crimes punishable by
5 imprisonment for more than one year and this Court determines
6 that the probative value of admitting this evidence outweighs
7 the prejudicial effect to you then the Solicitor will be able
8 to introduce your record to attack your credibility. If you
9 decide to testify this decision on your part must be freely,
10 voluntarily and intelligently made with knowledge of the
11 protections given to you by the Fifth Amendment of the United
12 States Constitution and the consequences of your decision to
13 testify. If you decide not to testify I will instruct the
14 jurors that they cannot give the fact that you did not testify
15 any consideration whatsoever and that there is to be
16 absolutely no prejudice to you because you did not testify.
17 It is left entirely up to you whether or not you testify. You
18 may talk with your attorney, with your family, with your
19 friends or anyone else that you want to talk to. However, the
20 final decision will be left entirely up to you. Now, do you
21 understand these rights as I have explained them to do?

22 MR. LEGGETTE: Yes, sir.

23 THE COURT: Have you had ample opportunity to discuss
24 this matter with your lawyer?

25 MR. LEGGETTE: Yes, sir.

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1 THE COURT: Would you like some additional time to
2 speak?

3 MR. LEGGETTE: Yes, sir.

4 THE COURT: Okay, now, do you have any questions that
5 you want to ask me at this time? I'll give you an opportunity
6 after you've talked to your lawyer if you want to ask me a
7 question then. I'll give you an opportunity to do it then.

8 MR. LEGGETTE: Thank you, sir.

9 THE COURT: Would you like to talk to your lawyer
10 first?

11 MR. LEGGETTE: Yes, sir.

12 THE COURT: All right, let's take about a ten, will
13 that be sufficient?

14 MR. HAZZARD: Ten should be sufficient, Your Honor.

15 THE COURT: All right, let's take about a 10 minute
16 recess. Let Mr. Leggette speak with his lawyer and then we'll
17 come back and at that time, Mr. Leggette, if you have any
18 questions I'll answer them for you. If you need any
19 additional time to talk to your attorney longer I'll give you
20 the additional time but when you're through talking with your
21 lawyer, with your family, with your friends, whoever you want
22 to speak with and you don't have any questions for me at that
23 time I'll be asking you whether or not you wish to testify;
24 Okay?

25 MR. LEGGETTE: Yes, sir.

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1 THE COURT: All right, let's stand in recess.

2 MR. LEGGETTE: Thank you, sir.

3 THE COURT: Thank you.

4 OFF THE RECORD

5 (On the record.)

6 (Whereupon, the following takes place outside the
7 presence of the jury.)

8 THE COURT: All right, Mr. Leggette, if you'd please
9 stand.

10 (Complies with request.)

11 THE COURT: Have you had ample opportunity to discuss
12 with your attorney your right to testify?

13 MR. LEGGETTE: Yes, sir.

14 THE COURT: Do you recall and understand all of
15 the rights that I explained to you before we took a
16 break?

17 MR. LEGGETTE: Yes, sir.

18 THE COURT: Do you have any additional questions for
19 your attorney?

20 MR. LEGGETTE: No, sir.

21 THE COURT: Do you have any questions for the
22 Court?

23 MR. LEGGETTE: No, sir.

24 THE COURT: All right, do you wish to testify in this
25 case?

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1 MR. LEGGETTE: Yes, sir.

2 THE COURT: Is that your decision to testify?

3 MR. LEGGETTE: Yes, sir.

4 THE COURT: Is it given freely and
5 voluntarily?

6 MR. LEGGETTE: Yes, sir.

7 THE COURT: All right, has anyone forced you or
8 coerced you or threatened you to get you to testify?

9 MR. LEGGETTE: No, sir.

10 THE COURT: And is it your desire to testify?

11 MR. LEGGETTE: Yes, sir.

12 THE COURT: All right, thank you very much.
13 You may be seated.

14 MR. LEGGETTE: Thank you.

15 THE COURT: All right, anything before we bring the
16 jury in?

17 MR. HAZZARD: Nothing from the Defense, Your Honor.

18 MR. HIXSON: Nothing, Your Honor.

19 THE COURT: All right, let's go ahead and bring the
20 jury in.

21 (Whereupon, the following takes place in the presence of
22 the jury.)

23 THE COURT: All right, ladies and gentlemen, welcome
24 back. We're ready to proceed with the trial of this case.
25 Mr. Hazzard, you can call your first witness.

1 MR. HAZZARD: Thank you, Your Honor. The Defense calls
2 Dominic Leggette.

3 THE COURT: All right.

4 Whereupon, Dominic Alexander Leggette was called to
5 the stand, duly sworn by the clerk and testified as
6 follows:

7 THE CLERK: Thank you. Please be seated and state
8 your name for the record.

9 MR. LEGGETTE: Dominic Leggette.

10 DIRECT EXAMINATION

11 BY MR. HAZZARD:

12 Q Could you spell your last name for the record, please,
13 sir?

14 A L-E-G-G-E-T-T-E.

15 Q And before August 13th of 2008, Dominic, where did you
16 live?

17 A In Andrews, South Carolina.

18 Q Okay, and had you lived in Andrews most or all of your
19 life up to that point?

20 A Yes, sir.

21 Q Okay, where did you go to high school?

22 A Andrews High.

23 Q Okay, and I think there's been some testimony that you
24 played sports while you were there; is that correct?

25 A Yes, sir.

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1 Q And what sports were those, sir?

2 A Football, basketball, baseball, track and field.

3 Q Okay, now, did you graduate?

4 THE COURT: I'm sorry.

5 FOREPERSON: Could you ask the witness to move up a
6 little bit?

7 THE COURT: Please slide up, speak into the
8 microphone. Let's turn up the sound a little bit more.

9 FOREPERSON: It's not the sound. It was the monitor
10 here. It's fine.

11 THE COURT: Okay, all right, thank you.

12 Q So, you said football, baseball, basketball, track and
13 field?

14 A Yes, sir.

15 Q Okay, now, did you graduate from Andrews High School?

16 A No, sir.

17 Q Why not?

18 A I was, I was an athlete and I lost my, I lost my
19 athletic abilities from prior missing days in school and that
20 made me not want to attend school anymore.

21 Q So, you were suspended from engaging in athletics
22 because you didn't go to enough classes?

23 A Yes, sir.

24 Q Okay, now, after you left high school did you start
25 working anywhere?

1 A Yes, sir.

2 Q And where is that?

3 A L and L.

4 Q What is L and L, sir?

5 A It's a - basically it's a diesel, it's a diesel shop,
6 they do diesel mechanics.

7 Q Okay, and what did you do there?

8 A I did a little diesel mechanic work.

9 Q Okay, now, in August of '08 where were you employed,
10 sir?

11 A 3D Metal.

12 Q Okay, and what is 3D Metal? What do they do, sir?

13 A They weld. They're known for welding, diesel mechanics
14 and things, and things of that caliber.

15 Q And what did you do for 3-D Metal?

16 A They had me pressure washing heavy equipment.

17 Q Okay, okay, now, I think there was some testimony from
18 Al Ingram, you know Al Ingram.

19 A Yes, sir.

20 Q Okay, there was some testimony from Al Ingram that you
21 and he had some prior difficulty in 2006 or 2007; is that
22 true?

23 A Yes, sir.

24 Q Okay, tell the jury about that if you would, sir.

25 A On - in 2006 Mr., when Mr. Ingram moved to Andrews he,

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1 he moved to the uptown, to the area known as uptown and then a
2 couple, like a month or two later he moved to an area called
3 Jones Avenue, known as West Andrews, and then about a night,
4 on a - no - I can't remember the date of the night an incident
5 occurred between Mr. Ingram. I was walking with my so-called
6 girlfriend at the time home.

7 Q Okay, now, what was her name?

8 A Her name was Kamera [spelled phonetically] Jackson.

9 Q Okay.

10 A And when we was coming, when we was walking home Mr.
11 Ingram and a couple of his friends rode up in a car and he
12 proceeded to talk to - try to holler at my girlfriend, try to
13 talk to my girlfriend and I kept walking to the point because
14 she was handling it by herself. She was basically letting him
15 know because he had already knew. He just was trying to be
16 funny. I ain't paying him no attention but she was handling
17 it and then he, when he got, he got to a point where he said,
18 "It don't matter. You can come and holler at me. Them boys
19 there already know." So, when he said that it made be angry.
20 I was like, "If them boys already know, what is you, what is
21 you talking about? What do you mean? What do I know? What
22 is you talking about? I don't know nothing about you," and
23 then so, from that the next day - I proceeded, they left. I
24 took, I took my girlfriend home. The next day I saw his
25 friend in the projects, in the apartments, Arbor Place

1 Apartments, and I saw, I saw his friend. I told his friend
2 that I didn't like the way Mr. Ingram approached me last night
3 with my girlfriend.

4 So, two nights after that I was at a - at the back of a
5 club, of a nightclub called Take a Break in Andrews and Mr.
6 Ingram, Mr. Ingram's friend came to me saying that Mr. Ingram
7 had want to fight me. So, it wasn't - I, I - at that point in
8 time I wasn't scared of Mr. Ingram. So, me and him got into a
9 confrontation. We had a fight. He knew my name because I
10 knew his name from being in our neighborhood. We had a fight.
11 The fight resulted in a big old fight and more people from
12 their side being on four people from my side, 10 to 12 people
13 from their side. So, we got jumped. So ---

14 Q Now, was this at the Take a Break --

15 A Yes, sir.

16 Q --- club? Okay.

17 A It was at the Take a Break club behind it in, in the, in
18 the road area. It wasn't - it was - as a result we - it was
19 no police involved. So, none of us went to the police and a
20 couple and we - and we left, and that, that was - and we left.
21 That was it.

22 Q Okay, now, after that incident in either 2006 or 2007
23 did you have any other difficulties with Mr. Ingram or Mr.
24 Tisdale up to August of 2008?

25 A Yes, on the, on the, on August 2008 ---

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1 Q Hold on, listen to my question. Between that issue at
2 Take a Break and August of 2008, between those times, did you
3 have any other issues with Mr. Ingram?

4 A Yes, we had a couple of confrontations, a couple, a
5 couple of lynchings had went on, jumpings that went on
6 throughout the neighborhood but it was nothing new. It was
7 nothing new it was going on.

8 Q Okay, well, when were these, sir?

9 A These were just throughout the years, throughout,
10 throughout the years. Andrews is not, Andrews is not a big
11 place. So, we see each other just about every day. So, it's
12 like every, every day, every two or three days it be a big
13 fight. It's, it's a whole lot more them than us. Most of the
14 time I mostly I be with my family and my family consists of my
15 brother, my cousins and all of us look at each other like
16 brothers. So, we - basically we call each other brothers.
17 So, we, we consist each other as brothers.

18 So, it goes on, we get jumped, we get jumped by 20, 30
19 people on eight people. That's not a fair fight but at the
20 same time we lick wounds and we go on about our business.

21 Q Now, let me ask you a question, when Investigator Lee
22 was on the stand there was some question about a 380 pistol
23 that he got from whom he referred to as your associate, Mr.
24 Eric Cox. Do you know Eric Cox?

25 A Eric Cox is my cousin.

1 Q Okay, so, he is indeed related to you by familial blood?

2 A Yes, sir.

3 Q Okay, and that, that gun that he got from Mr. Cox was
4 legally registered to him, had nothing to do with this case;
5 right?

6 A Yes, sir.

7 Q Okay, but they're just wanting to check it out?

8 A Yes, sir.

9 Q Okay, so, you're saying that there's these different
10 instances over the course of a period of time from 2006 or
11 thereabouts up to August of 2008; is that correct?

12 A Yes, sir.

13 Q Okay, now, let's go to August of 2008. This incident
14 where you defended yourself was on August 13th, Wednesday;
15 correct?

16 A Yes, sir.

17 Q Okay, let's go back four days to Saturday, August the
18 9th; okay. Tell us what if anything happened on Saturday,
19 August the 9th of 2008.

20 A Well, Saturday, Saturday, August the 9th, it was a night
21 - say - it was, it's a night that everybody gathers at Take a
22 Break in Andrews and people come from all over. So, Take a
23 Break is like a popular spot; and so, we was at Take a Break
24 inside the club and ---

25 Q When you say we, who are you referring to?

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1 A Me and my family members.

2 Q Okay, what are their names?

3 A Me, Mr. - and Mr. Terrell Cox, Mr. James Scott, I - my
4 brother, my brother - my other brother Jamie White and I had a
5 cousin. I had a cousin named Sharon there.

6 Q Okay, go ahead.

7 A And, and during the, during the course of the time I saw
8 my brother - I saw my brother, one of my brothers, one of my
9 cousins, well, girlfriend, baby mother dancing with a guy and,
10 and my brother was incarcerated at the time. So, basically,
11 she left his baby at home by himself, had - with somebody
12 watching him but she should've been there. She's out there
13 acting up. So ---

14 Q That's how you felt?

15 A Yes, sir, that's how I felt at the time being. So, I
16 approached her. I approached her and I told her, I say, "You
17 need to go home with my nephew and you need to go home right
18 now," and I didn't say, I didn't say it in a mean manner. I
19 didn't fly off the handle, didn't snatch her up or anything.
20 I just say, "You need to go home and talk to - and be with my
21 nephew." My brother, my - he, he, my cousin is in jail. He
22 was incarcerated in Williamsburg County at the time and I was
23 like, "You really need to be home. He left you good. He left
24 you home with money. He left you a car. He left you with
25 everything. Why is you out here dancing with these dudes and

1 he will be home soon." So, from that it escalated, it
2 escalated into a thing with Mr. Ingram. Mr. Ingram ---

3 Q Now, let's back up. You're talking to this young lady.
4 What was her name?

5 A Clarissa [spelled phonetically].

6 Q Okay, you're talking to Clarissa. How does Mr. Ingram
7 get involved in this?

8 A He was right beside, he was right on the other side like
9 a person down from when I was talking to Clarissa. I didn't
10 really pull her to the side but I was like, I like - was like
11 whispering - I was like talking to her but people couldn't
12 hear me.

13 Q Okay, okay, so, you're talking to her and then what did
14 Mr. Ingram do?

15 A That when, that when he got into a little uproar. He
16 got into a little uproar.

17 Q When you say that what did - did he say something?

18 A Yes.

19 Q Okay.

20 A It was some words exchanged.

21 MR. HIXSON: Your Honor, I would object to this in
22 that State versus Day specifically talks about that the facts
23 of a prior difficulty absolutely are admissible in court, but
24 details of specific conduct, of specific instances ---

25 THE COURT: I sustain the objection.

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1 MR. HIXSON: --- are not admissible because you can't
2 cross-examine.

3 THE COURT: Sustain it.

4 Q Okay, so, without then giving me the specific details
5 there was - was there a physical altercation involving you and
6 Mr. Ingram on Saturday, August the 9th of 2008?

7 A Yes, sir.

8 Q Okay, now, Sunday the 10th comes and goes; right?

9 A Yes, sir.

10 Q And then we get to Monday the 11th. Did anything happen
11 on Monday - what if anything happened on Monday, August the
12 11th, 2008?

13 A Monday, August the 11th we was in the Arbor Place
14 Apartments once again.

15 Q Okay, who is we?

16 A Me, me, Mr. James Scott, my brother - my cousin Jamie
17 White and it was my cousin, my cousin Mario Cox, Terrell Cox
18 and I had a person name that came out named Cameron Green. He
19 was there with us, too.

20 Q Okay, so, you all are there. What - and was there
21 another altercation at that time?

22 A Yes, sir, at that time we saw Mr. Ingram and he was, he
23 was in a, he was in a car basically. He, he was like - he
24 came through - they came through. He got out the car. He
25 said some things. Basically he was, basically he was ---

1 Q You can't, you can't get into the details of it
2 apparently. However, as a result of the incident that
3 occurred on August the 11th did that incident cause you to have
4 some fear for Mr. Ingram?

5 A Yes, sir.

6 Q Okay, now, let's back up a little bit. Mr. Ingram has
7 testified that he has and the Prosecutor has asked him about
8 his prior weapons charge when he was 13. Were you aware of
9 that?

10 A Yes, sir.

11 Q Okay, was that something that was known in the community
12 to your knowledge?

13 A Yes, sir.

14 Q Okay, so, that wasn't any secret?

15 A No, sir.

16 Q Okay, now, Monday the 11th there's another altercation;
17 right?

18 A Yes, sir.

19 Q Okay, now, Monday - I mean, Wednesday, the 13th, tell us
20 what happened, if anything.

21 A What happened was I was in the Arbor Place Apartments
22 probably about seven o'clock. I was out there, me, me and my
23 cousin Terrell Cox. We walked, we walked right up the block,
24 right up the road to Mr. Jamie White's house, my other cousin,
25 and we was at his house talking for a while and that when Mr.

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1 Ron Gardner came up here. He came up there. He - I know him
2 from playing sports together. We play sports together and we
3 went to school together but he moved away and anyway I was, I
4 was kind of, I was - I was kind of happy to see him. So, we
5 had, we had, we was talking. Then Mr. White, his girlfriend
6 showed up. So, we left and gave them some privacy and when we
7 were standing on the, on the - basically on the corner talking
8 because I was, I was telling them I'm about to go home when I
9 got a phone call from my ex-girlfriend at the time, Miss
10 Rhonda Brown.

11 Q Okay, let me interrupt you right there, and I apologize
12 for doing so, sir. Give the jury an idea of where these
13 apartments are in relation to Super Chic, Carnell's and
14 Blue's. How far away are these apartments where you say you
15 guys were from those locations?

16 A Probably about a hundred yards.

17 Q Okay, and you said you were getting ready to go home.
18 Where did you live at that time?

19 A I lived - actually, I used to - it was a path my
20 brother, from my brother house to my house. So, I could
21 basically walk through the path. I stayed right on the back
22 street, right on the back street from my brother house because
23 my brother's - Mr. White's house is on one block and Blue's
24 Nightclub and Carnell's is on another block.

25 Q Okay.

1 A They right side by side.

2 Q Okay, so, how far did you live from Blue's and Carnell's
3 roughly?

4 A Right behind them.

5 Q Basically right behind them?

6 A Yes, sir.

7 Q Okay, now, please continue.

8 A At that time when I got the phone call Miss Rhonda
9 Brown, my ex-girlfriend she gave me a call. She said that she
10 needed to use my phone charger. So, I got my phone - I had my
11 phone charger with me because I was like, "You need to come" -
12 I was like, "Come, come to the house and get it," because I
13 just I had a feeling, I had an iffy feeling. I had a messed
14 up feeling that something was going to happen and this is,
15 yes, this, this is my side of town but people from west
16 Andrews side, Jones Avenue side, tend to be up there because
17 this is Andrews. It's small. So, I had a feeling that they
18 would kind of be up, that they kind of be up there but she was
19 like, "No, bring it to me." So, I was like, "All right, I'll
20 bring you the charger." So, I took the charger up there to -
21 I took the charger to my girlfriend, my girl - my ex-
22 girlfriend, my girlfriend at the time and when I was walking
23 up there me, me and Mr. Ron Gardner was talking and, yes, I
24 did, in fact, show him a gun at the time.

25 Q Okay, now, what were you doing with this gun?

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1 A I bought the gun for protection, for, for my safety
2 because I was, I was - it was getting to the point - I was
3 kind - I was scared of Mr. Ingram because it was the things
4 what - it was happening too fast. Things were happening way
5 too fast and if you - Your Honor ---

6 THE COURT: Just answer the questions.

7 Q Okay.

8 A But ---

9 Q Let's - I'm sorry.

10 A Okay, okay.

11 Q Do you have a, do you have a question for me? Do you
12 need some water or something of that nature?

13 A No, I was ---

14 Q Are you not sure you can tell me something?

15 A Yes, sir.

16 Q Okay, then don't say it.

17 A Because ---

18 Q Don't say it.

19 A All right.

20 Q If you're not sure if you can say it don't say it.

21 We'll get to it. We'll cover it.

22 Now, you said things in your mind and in your view were
23 escalating too fast. So, without talking about the specifics
24 of the prior incidents between you and Mr. Ingram had
25 something happened prior to August 13th of '08 that caused you

1 to believe that this was no longer simply a matter of boys
2 having fistfights with boys?

3 A Yes, sir.

4 Q Okay, now, when you obtained this gun did you go to a
5 licensed, registered dealer and fill out and get a permit and
6 all that good stuff?

7 A No, sir, I was not able at that time and I was neither
8 old enough.

9 Q Okay, and so, what, you bought it on the street?

10 A Yes, sir, I bought it illegally.

11 Q Okay, all right, now, so, you showed this gun to Mr.
12 Gardner as you all were walking; right?

13 A Yes, sir.

14 Q Okay, and then what if anything happened next, sir?

15 A Well, then we proceeded walking down to the, to
16 Carnell's Nightclub where - well, right before I got up there
17 I saw Mr. Fabian Holmes and Mr. - I saw a person I know named
18 - known as DD. I shook their hands and I kept walking by
19 because I saw the person, the - I saw people from West, Jones
20 Avenue already up there in Blue's, in the Blue's space. So, I
21 kept moving. I didn't want no confrontation. I had a feeling
22 that something would've pop up. So, I didn't want a
23 confrontation. So, I moved away. I moved away from them.

24 All right, and I got there - when I got to Carnell's my
25 girlfriend was at the door at the time. So, I, I, I handed

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1 her my phone charger and I was like, I asked her, I said, "How
2 long you going to be there?" That's when Mr. Sharon McGee
3 comes around to in the front of me because I was facing this
4 way and my girlfriend was right here. Like, I was leaning
5 against the wall and she was leaning against the door. Mr.
6 Sharon McGee came around - comes around me and he was like ---

7 Q Let me stop you right there. Mr. McGee has not
8 testified yet in this case. So, it would be hearsay for you
9 to say what he said, but is it fair to say that he confronted
10 you?

11 A Yes, sir.

12 Q Okay, did anyone else confront you at the time?

13 A Yes, sir, personally, a fellow by the name of Carroll
14 Wilson.

15 Q Okay, and as a result of that confrontation what actions
16 did you take next?

17 A It was - as a result of that confrontation I was, I was
18 scared because it was more than one person. It was about - I
19 saw it was one here, one here, one here and a couple of people
20 behind them. So, I already, I already knew I was going to get
21 jumped, and my ex-girlfriend, my ex-girlfriend at the time ---

22 Q Let me ask you this.

23 A Sorry.

24 Q You were in an establishment, somebody runs this place I
25 take it; correct?

1 A Yes, sir.

2 Q Okay, but this establishment is such that they would
3 allow people to get jumped?

4 A Sir, it's - Andrews, this is an Andrews thing and it's
5 been going on for years. It's not a thing that they don't
6 know. It's a thing that everyone in Andrews knows about.

7 Q Okay, okay, all right, so, these individuals are kind of
8 around you in a semi-circle I think you're pointing at;
9 correct?

10 A Yes, sir.

11 Q Okay, what if anything happened next, sir?

12 A At that time, at that time, Mr. Tisdale and Mr. Ingram
13 come riding by in their car and Mr. McGee kind of like flagged
14 them down telling them that I was there, but before they got
15 back Mr. Wilson decided that he didn't want to fight me. So,
16 he - so, I walked off. I walked off and I called my cousin,
17 Mr. Eric Cox, to come pick me up from Super Chic, and in the
18 course of me walking off I heard someone coming behind me, and
19 when I heard someone coming behind me I wasn't sure what it
20 was but I heard the footsteps, you know, when somebody come
21 running behind you you can hear footsteps on the pavement and
22 then I heard somebody say, "What's up now? What's up now,"
23 and when I turned around the person was about from me to where
24 that orange cup is.

25 Q Okay, approximately three feet or thereabouts?

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1 A Yes, sir.

2 Q Okay.

3 A And when I turned around one hand was like that and the
4 other hand looked like he was grabbing for something.

5 Q Okay, hold on a second. When you say one hand stand up
6 if you would, will the Court allow him to stand up so the
7 jurors can see?

8 THE COURT: Yes.

9 Q Stand up and show these jurors what you - what actions
10 you're referring to.

11 A One hand was like this and the next hand was like he was
12 reaching in his waist for something.

13 Q And who are you referring to?

14 A Mr. Ingram.

15 Q Okay, what happened then?

16 A In that course of time I was already scared. I didn't
17 know what to do and I already prior, I already knew that it
18 escalated from facts, from prior facts and me knowing that he
19 known, is known for carrying guns. So, I automatically
20 thought that he was reaching for a gun. So, I proceeded to
21 pull my gun out and shot two, two to three times.

22 Q Okay, okay.

23 A And when I, when I finished, when I finished - when I,
24 when I, when I shot the two or three times I didn't stick
25 around. I ran past Super Chic and they have a alley there in

1 the back. I took the back alley and I ran off and during that
2 time I proceeded to leave Andrews.

3 Q Okay, now, when you left Andrews, when you ran off, I'll
4 put it this way, did you see Mr. Ingram and Mr. Tisdale get up
5 and head back towards their friends?

6 A No, sir.

7 Q Okay, okay, so, you just took off, you left?

8 A Yes, sir.

9 Q Okay, how long after this incident was it before you
10 were apprised of the fact that someone had died?

11 A It wasn't - right, the day, the day that I actually got
12 picked up that's the day that I really found out that the
13 person was - that actually had died. I had, I had rumor - I
14 had heard rumors that a person had died but I wasn't going on
15 rumors because I didn't see it in any paper and I didn't see
16 it on any news channel. So, I didn't, I didn't really know.

17 Q Okay, now, there's been some talk, some questions with
18 regard to Investigator Lee as far as how it is you came into
19 custody. The deputy solicitor mentioned that you might have
20 contacted the U.S. Marshal; is that correct, sir?

21 A That is correct.

22 Q Okay, tell us about that if you would.

23 A I was in the Green Sea Floyd area of Loris, outside of
24 Conway and they raided a person - they raided a friend of mine
25 house and they was basically looking for me. The U.S. Marshals

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1 made it known they were looking for me, and during the course
2 of the time the friend, the friend said that he knew me and he
3 had gave me a ride. So, they gave him - picked him up on
4 aiding and abetting; and so, being a true and honest person
5 and it was, it was getting tiresome. Every - I knew that I
6 was just - it was getting tiresome. I was tired of running.
7 So, I decided to currently turn myself in. I called the U.S.
8 Marshal, Rudy Tisdale, at the time and I said, "Mr. Tisdale, I
9 have been told that you are looking for me," and he was like,
10 "Yes, sir, I am." "This is Mr. Leggette?" I said, "Yes,
11 sir." I say - he said, "Where are you?" I said, "I'm right
12 where you just now left." He said, "Do you mind staying on
13 the phone with me?" I say, "No, sir." So, I stay on the
14 phone with him to the course of time that he got there. Then
15 I was taken into custody.

16 Q How - on August 13th of '08 how old were you?

17 A 19.

18 Q And how old are you now, sir?

19 A 21.

20 Q Okay, so, you were 19 at the time?

21 A Yes, sir.

22 Q Okay, after you were in custody you have occasions where
23 you spoke with Chief Knox and I believe for a couple of
24 minutes you might have spoken with Investigator Brown there
25 and with Investigator Eddie Lee; is that correct?

1 A Yes, sir.

2 Q Okay, and you weren't always truthful with them; were
3 you?

4 A No, sir.

5 Q Okay, in fact, in one instance you told them that you
6 didn't have anything to do with the shooting at all; didn't
7 you?

8 A Yes, sir.

9 Q Okay, but were you under oath when you gave those
10 statements?

11 A No, sir.

12 Q Okay, why did you give those statements, why did you
13 tell those untruths?

14 A Basically I was 19 at the time. I was - I have - I
15 haven't never been convicted of a serious crime to this
16 caliber. The longest I ever stayed in jail was 22 days and I
17 didn't really - yes, yes, I don't watch TV shows but there's
18 nothing like when you're actually into it of yourself and they
19 got you, holding you for this thing. So, I was, I was
20 scared. I was scared and then when they came to me I told
21 them, I told them two sets of lies which I, that's, which I
22 regret, which I regret doing, doing, doing so when I should've
23 basically told them the truth.

24 Q When you told - when you spoke with Chief Jackson, I
25 mean, when you spoke with Chief Knox and you spoke with

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1 Investigator Lee you discussed this whole issue of - I'll put
2 it this way, were you ever asked about prior difficulties with
3 Mr. Ingram and Mr. Tisdale?

4 A No, sir, not that I recall.

5 Q Okay, okay. Now ---

6 MR. HAZZARD: The Court's indulgence, Your Honor.

7 THE COURT: All right.

8 MR. HAZZARD: The Court's indulgence.

9 BY MR. HAZZARD:

10 Q Okay, sir, on the night of August 13th of 2008, did you
11 do anything to provoke Mr. Tisdale or Mr. Ingram?

12 A No, sir.

13 Q Okay, and when they came running after you I believe you
14 have testified that that caused you to be frightened and
15 fearful; is that correct?

16 A Yes, sir.

17 Q Okay, and let me ask you something while I've got you
18 here on the stand, Mr. Jackson has indicated, Craig Jackson
19 testified that you have Carnell's and you have Blue's right
20 here and then as you go down the street you got Super Chic
21 further on down the block; correct?

22 A Yes, sir.

23 Q Okay, was Super Chic - when you left and took off from
24 in front of Carnell's and Blue's was Super Chic the next
25 lighted place that was open where other human beings might

1 have been?

2 A Yes, sir.

3 Q Okay, were you able to make it to Super Chic?

4 A No, sir.

5 Q All right, thank you. Please answer any question that
6 Mr. Hixson might have.

7 THE COURT: Cross-examination.

8 MR. HIXSON: Thank you, Your Honor.

9 CROSS EXAMINATION

10 BY MR. HIXSON:

11 Q Good morning, sir, how are you?

12 A I'm fine, how are you doing, Mr. Hixson?

13 Q Need a drink of water or anything? Are you good?

14 A I've got some, sir. Thank you, sir.

15 Q Okay, so, let's start kind of after everything starts,
16 work our way back through. How's that?

17 A Okay.

18 Q Let's talk about the 9th of September of 2008. I believe
19 - isn't it true that you had warrants signed against you and
20 they were served on you on September 9th, 2008?

21 A Yes, sir.

22 Q And you were placed into custody on that day; isn't that
23 right?

24 A Yes, sir.

25 Q And then on September 10th of 2008 didn't you - isn't it

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1 true you sat down with Investigator Chief Knox, Chief Knox,
2 Investigator Eddie Lee ---

3 A Yes, sir.

4 Q --- in the Andrews Police Department?

5 A Yes, sir.

6 Q Didn't they take you down to the sheriff's department
7 to interview you?

8 A Yes, sir.

9 Q Okay, at that time did they read you your Miranda
10 rights?

11 A Yes, sir.

12 Q Let me take a look - let me show you a form. I believe
13 it's a Court's Exhibit. I have a copy of it here. I'll use
14 the Court's Exhibit, and it's been marked as Court's Exhibit
15 Number One. I think I'm going to put that into evidence.
16 So, let's mark that one a State's Exhibit, also. It's been
17 marked State's Exhibit 13 [sic]. It's a Andrews Miranda
18 form.

19 MR. HAZZARD: No objection.

20 Q Do you recognize ---

21 THE COURT: Are you putting it in evidence now?

22 MR. HIXSON: Let me make sure he recognizes it. We'll
23 go from there, Judge.

24 THE COURT: Okay.

25 BY MR. HIXSON:

1 Q Do you recognize that, sir?

2 A Yes, sir.

3 Q What is that?

4 A It's a Miranda form.

5 Q Okay, and what's a Miranda form? What's your

6 understanding?

7 A From my understanding your rights. It says Miranda

8 warning, your rights, right here.

9 Q Okay, did they read those rights to you?

10 A Yes, sir.

11 Q Did you sign that in any way?

12 A Yes, sir.

13 Q And what - isn't, isn't the purpose of Miranda form is

14 that you testify voluntarily?

15 A Yes, sir.

16 MR. HAZZARD: Objection to the term testify. That

17 would indicate under oath.

18 THE COURT: Sustained.

19 Q That you give a statement to law-enforcement

20 voluntarily?

21 A Yes, sir.

22 Q Okay, did you sign that?

23 A Yes, sir.

24 Q Did anybody threaten you?

25 A No, sir.

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1 Q Did anybody coerce you?

2 A No, sir.

3 Q Anybody withhold food or drink or make you stay up late
4 to get something out of you?

5 A They - I recall the - since you brought it to my
6 attention the other day I do recall one time when Mr. Knox
7 stepped out, that he asked me for something to drink, but they
8 did not give me a bathroom break or nothing else.

9 Q Okay, did you feel like you had to testify?

10 A Yes, sir.

11 Q Or excuse me ---

12 MR. HAZZARD: Judge ---

13 Q --- have to give a - did you feel like you had to give
14 a statement to law enforcement?

15 A Yes, sir.

16 Q Okay, does on that say that you have to do that?

17 A No, sir.

18 Q Okay, but you felt like you had to?

19 A Yes, sir.

20 Q How about ---

21 MR. HIXSON: At this time the State would move State's
22 Exhibit 36 into evidence.

23 THE COURT: Any objection?

24 MR. HAZZARD: No objection.

25 THE COURT: State's Exhibit Number 36 admitted into

1 evidence without objection.

2 (Whereupon, State's Exhibit Number 36 [Miranda Form]
3 admitted into evidence and appropriately marked.)

4 BY MR. HIXSON:

5 Q About three days later isn't it true you started having
6 second thoughts about the statement you gave to Investigator
7 Lee and Detective Knox and Investigator Knox?

8 A Yes, sir.

9 Q Isn't that right?

10 A Yes, sir.

11 Q So, isn't it true that you called a corrections officer
12 and said, "Can you please send him out here. I want to talk
13 to him again"?

14 A Yes, sir.

15 Q And on that date that was September 13th; is that right,
16 one month after the killing?

17 A Yes, sir.

18 Q Isn't that right?

19 A Yes, sir.

20 Q Investigator Lee came to the detention center to talk to
21 again; isn't that right?

22 A Yes, sir.

23 Q Gave you a second chance; isn't that right?

24 A Yes, sir, you can call it that.

25 MR. HIXSON: I'm looking at Court's Exhibit Number

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1 Three, Your Honor. We're going to make that a State's
2 Exhibit, also, put that into evidence.

3 Mr. Hazzard, this Andrews Miranda form is from the 13th,
4 the detention center.

5 THE COURT: What's the number?

6 MR. HIXSON: It's been marked as State's Exhibit 37.

7 THE COURT: All right, Mr. Hazzard, any objection?

8 MR. HIXSON: For identification right now.

9 MR. HAZZARD: No objection, Your Honor.

10 THE COURT: All right, State's Exhibit Number 37
11 admitted into evidence without objection.

12 MR. HIXSON: Thank you.

13 (Whereupon, State's Exhibit Number 37 [Miranda Form]
14 entered into evidence and appropriately marked.)

15 BY MR. HIXSON:

16 Q I know you've been through this already before. So,
17 take a look at that on the 13th. What is that?

18 A The same, the same form you just handed me earlier.

19 Q Okay, could you read that to the jury?

20 A Which ---

21 Q The whole, the whole thing.

22 A "Andrews Police Department warning, Miranda warning,
23 your rights, before we ask you any questions you must
24 understand your rights. You have a right to remain silent.
25 Anything you can - say - anything you can - anything you can

1 and will be used against you in a court of law. You have the
2 right to talk to an attorney if you have and to have him
3 present with you while you are being questioned. If you
4 cannot afford to hire a lawyer one will be appointed to
5 represent you before any questioning if one - if you wish one.
6 If you decide to answer questions without a lawyer present you
7 have the right to stop answering at any time. Waiver of
8 rights, I have been given my Miranda warning, my Miranda
9 warning both verbally and written. I understand what my
10 rights are. I do not - I do or do not want a lawyer at this
11 time. I understand, I understand and I know what I am doing.
12 No promises or threats have been made to me and no pressure or
13 coercion." That's it?

14 Q Coercion.

15 A Coercion?

16 Q Uh-huh.

17 A "Of any kind has been used against me."

18 Q Okay, and isn't it true you circled that you do not want
19 a lawyer at this time?

20 A Yes, sir.

21 Q And initialed that?

22 A Yes, sir.

23 Q Okay, did you sign the bottom of it?

24 A Yes, sir.

25 Q Witnessed by Eddie Lee, signed it 5:27 p.m.; isn't that

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1 right?

2 A Yes, sir.

3 Q And that is in evidence as State's 37. They talked to
4 you about three hours; isn't that right?

5 A Yes, sir.

6 Q The first time. The second time was a written
7 statement; isn't that right?

8 A Yes, sir.

9 Q Okay, you said they never ever asked you anything -
10 isn't it true you just testified they never ever asked you
11 about any prior difficulties; isn't that what you said?

12 A Not that I recall.

13 Q You said they never did.

14 A I say not that - I said not that I recall, sir.

15 Q Okay, well, let me be clear about this, let me make sure
16 I set the foundation for this properly. Do you recall being
17 at the Georgetown County Sheriff's Department on March 10th of
18 2008?

19 A Yes, sir.

20 Q Do you recall Investigator Knox, excuse me, Chief Knox
21 and Investigator Eddie Lee from the Andrews Police Department
22 were present in that room?

23 A Yes, sir.

24 MR. HAZZARD: Your Honor, if he is asking him about
25 events on March 10th of 2008 I would not see how this is

1 relevant ---

2 MR. HIXSON: If I misspoke I'll clarify.

3 MR. HAZZARD: --- because that's what it sounded like
4 to me.

5 THE COURT: All right, I'll let him ---

6 MR. HIXSON: I'll rephrase the question.

7 THE COURT: --- I'll let him question him further.

8 Go ahead.

9 BY MR. HIXSON:

10 Q On September 10th, 2008, the day I'm questioning about
11 do you recall being in the Georgetown County Sheriff's
12 Department?

13 A Yes, sir.

14 Q Present in that room were Harvey Knox and Eddie Lee?

15 A Yes, sir.

16 Q That session was videotaped, audio-taped?

17 A Yes, sir.

18 Q They were talking to you about the shooting death of
19 Antonio Tisdale, as well as the shooting of Al Ingram; isn't
20 that correct?

21 A Yes, sir.

22 Q Okay, and that happened at 2:05 p.m. that's when this
23 form was signed; isn't that correct? Date, time, place
24 substance, you recall that; isn't that true?

25 A Yes, sir.

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1 Q And I believe a copy of your statement has been provided
2 to Defense counsel as well, the recording that you recorded at
3 that time; isn't that correct?

4 A I think so.

5 Q Okay, well, isn't it true then and I'll refresh your
6 recollection if you want that you went through quite a bit of
7 detail about fight at the Take a Break Club on August 13th of
8 2007; isn't that correct?

9 A August 13th.

10 Q A year prior to this incident?

11 A Yes, sir.

12 Q Isn't it true you talked to Detective Lee about it, said
13 it was a fistfight at that time outside of Take a Break?

14 A I did not recall but ---

15 Q Do you recall that now?

16 A Yes, sir.

17 Q Okay, and do you recall telling them that you haven't
18 had any fistfights with Al Ingram until you saw him again this
19 time, you'd seen him around town but isn't it true you told
20 them you and he never punched each other during that period of
21 time in this run up; isn't that true?

22 A I do not recall that.

23 Q Okay, you don't recall saying that?

24 A No, sir.

25 Q Do you want us to play it for you?

1 A I don't recall it, I mean, sir.

2 Q Okay, okay.

3 A But if you said I said it I said it.

4 Q no, I'm not putting words in your mouth. I just want to
5 make sure we're clear on your statements.

6 Okay, let's start with your first statement. Isn't it
7 true that you told Eddie Lee that you did not have a gun that
8 night at all?

9 A Yes, sir, that is true.

10 Q Okay, isn't it true that you said that you never saw a
11 gun that night but you heard gunshots and when you heard
12 gunshots you ran?

13 A Yes, sir, that is true.

14 Q Okay, and that's not consistent with your testimony
15 tonight; is that correct?

16 A No, sir.

17 Q Today you say you saw Al turn and reach for something
18 and you shot because you thought that he was coming at you;
19 isn't that correct?

20 A Yes, sir.

21 Q But on September 10th, audio recording, you said, "I
22 didn't see no gun, I didn't see anything and I didn't have a
23 gun"; isn't that true?

24 A Yes, sir.

25 Q Isn't it true that you said, "I was like, nah, I ain't

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1 going to run tonight because this ain't me. I'm tired of
2 running. I was like, forget that, I'm a grown man. I'm about
3 to be 20 this year, this month on the 29th," excuse me. "I
4 was like fuck that, I ain't running. If I don't make a stand
5 now I ain't never gonna' make a stand for the rest of my life
6 to these guys. So, I was like F it. I ain't running. So I
7 kept walking and kept walking, I kept walking. Then all I saw
8 was knives, I saw a bat, I saw a knife."

9 MR. HAZZARD: Okay, Your Honor, at this point ---

10 Q Isn't that true you said that?

11 MR. HAZZARD: --- if he's going to ask him ---

12 THE COURT: Hold it. He's raised an objection, so
13 stop.

14 MR. HIXSON: Apologize, Your Honor.

15 THE COURT: Yes, sir.

16 MR. HAZZARD: If he's going to ask him about his
17 statement that is fine. I don't think he is allowed to
18 basically put the statement in evidence, then ask him if he
19 said it.

20 THE COURT: I sustain the objection.

21 BY MR. HIXSON:

22 Q Isn't it true you made the statement on the videotape
23 like that?

24 A I made a statement to some of that effect.

25 Q Okay, isn't it true you told Investigator Lee that you

1 were cut bad that night, you were stabbed and poked and cut
2 through?

3 A Yes.

4 Q And isn't it true you just testified that you weren't
5 touched at all, you were afraid, turned, fired and ran?

6 A Yes.

7 Q Isn't it true you told Investigator Lee that, "My
8 girlfriend picked me up on the alley outside of Super Chic and
9 took me to Loris"?

10 A I don't recall saying that to that effect. I recall
11 saying something to that effect but I don't recall saying that
12 to that effect.

13 Q Okay, so, you're not denying you made that statement.
14 You're just saying you don't remember that statement.

15 A No, sir.

16 Q Okay, isn't it true you had a little frustration with
17 the fact that people in Andrews don't give you the respect
18 that you feel like you deserve?

19 A Yes, sir.

20 Q Okay, isn't it true in the statement you gave to
21 Detective Lee you don't understand why these young kids are
22 more popular than you being 16 years old, you've been there
23 your whole life, these guys move in here and they carry more
24 of the load than you do.

25 A Said nothing to that - I don't remember saying nothing

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1 to that effect.

2 Q Okay, well, let me be a little more concise about that.
3 Isn't it true that you told Detective Lee you were frustrated
4 that you hang around people that are under you that get more
5 respect than you and that's not right?

6 A I may have say something to that effect.

7 Q Isn't it true that you told Investigator Lee that that
8 fight at Take a Break that you're not going to let it go?

9 A Sir?

10 Q Isn't it true that you told Investigator Lee in your
11 recorded statement that on the August 13th fight 2006 from a
12 year ago that you weren't ready to let that go?

13 A August 13th?

14 Q August 13, this happened the 13th day of August, "I
15 wasn't going to show anybody the injuries, myself, and I was
16 like I don't even got time for this but at the same time I was
17 like, man, I ain't going to let this go"; isn't that true you
18 said that to Investigator Lee?

19 A On August 13th of 2006?

20 Q You were talking about the past incident in your
21 statement, the statement happened on September 10th of 2008.

22 A The statement that you are referring to right now is the
23 statement that I was talking about the lynching that happened
24 at Take a Break at - on, on August the 9th.

25 Q That's correct.

1 A That's the statement, the statement that you are
2 referring to and the statement that you are referring to I
3 said that - I said something to that effect. I said
4 basically, basically what I said was I was - I felt real
5 disgrace because I had to be tend by, by a woman, I had to be
6 tended by by my loved one on - in a certain area of my body
7 that she shouldn't have - that she shouldn't have really had
8 to attend to me to and that it resulting in that incident.
9 So, it was real hard for me to come across that, come across
10 forgiveness them at that point in time.

11 Q Isn't it true you got, you got injury to your rear
12 hindquarters?

13 A Yes, sir.

14 MR. HIXSON: Beg the Court's indulgence, Your Honor.

15 THE COURT: All right.

16 BY MR. HIXSON:

17 Q Isn't it true during the course of your direct testimony
18 I believe you said that folks came around you and you
19 testified to questions by your attorney Mr. Hazzard that
20 Carroll Wilson walked off, the boys that came around you said
21 they weren't going to fight you and you started walking down
22 to Super Chic to get picked up.

23 A Yes, sir.

24 Q Let's talk about the marshal service for a second, let's
25 go over to there. So, this incident happened August 13th of

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1 2008; is that correct?

2 A Yes, sir.

3 Q And you were ultimately or taken into custody and served
4 with a warrant September 9th of 2008.

5 A Yes, sir.

6 Q Roughly 27 days?

7 A Something like that, yeah.

8 Q Something like that.

9 A Yes, sir.

10 Q Isn't it true your girlfriend picked you up at the Super
11 Chic, that's what you say in your statement, you said
12 consistent with here behind the Super Chic and drove you to
13 Loris; isn't that correct?

14 A She didn't - I - she didn't - I don't recall saying she
15 pick me up behind Super Chic.

16 Q Okay.

17 A Because it was not.

18 Q Did you not say that?

19 A I don't recall saying that right now. I don't recall
20 saying that she picked me up behind Super Chic.

21 Q Let's go back to the first part of your statement.

22 MR. HIXSON: Can you play 1959, please?

23 MR. BROWN: Track one?

24 MR. HIXSON: Track one, 1959, excuse me, 2002.

25 THE COURT: Wait a minute, let me see the attorneys

1 for a second.

2 (Whereupon, bench conference was held in the presence but
3 the hearing of the jury.)

4 MR. HAZZARD: Thank you, Your Honor.

5 BY MR. HIXSON:

6 Q So, let me rephrase and ask that question more directly.
7 Isn't it true that your - that after the shooting incident you
8 ran through Super Chic alley and your girlfriend picked you up
9 on the back side of the Super Chic? Isn't it true that's the
10 story you told Investigator Lee I should say?

11 A Yeah, something, something to that effect, yes, sir.

12 Q Okay, that's fine. So, during that period of 27 days
13 you were - there were warrants for you but you were at-large.
14 You were a fugitive at that time; is that correct?

15 A Yes, sir.

16 Q All right, and you made a couple of phone calls to some
17 people during that period of time; didn't you?

18 A Yes, sir.

19 Q Okay, but ultimately you were in Loris during that
20 period of time; isn't that correct?

21 A Yes, sir.

22 Q "I'm staying at a trailer up towards the Green Sea kind
23 of Cool Springs area, kind of Green Sea area"; isn't that
24 correct?

25 A You could say that.

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1 Q Okay, well, isn't it true you told Investigator Lee that
2 you were in a residence, a trailer in that area and you
3 watched the police pull up, the U.S. Marshal service and raid
4 that trailer and you ran out the back door of that trailer;
5 isn't that correct?

6 A Yes, sir.

7 Q Okay, now, isn't it true that quite a few folks that
8 were in that trailer were placed under arrest and taken to
9 Horry County; isn't that correct?

10 A One person was placed under arrest.

11 Q Okay, well, isn't it true you told Detective Lee they
12 hemmed everybody up and took them to jail in Horry County?

13 A Yes.

14 Q Okay, and based on that isn't it true you told him, "I
15 don't want other folks to get in trouble for what I did. So,
16 I'm going to call the marshal service and turn myself in"?

17 A That's what I did, yes, sir.

18 Q Okay, you did that after all your neighbors got
19 arrested; isn't that correct?

20 A I did, no, basically what it was, like I, like I said
21 earlier in my, in my, in my testimony he was a friend of mine
22 and I was, I was just --

23 Q Dominic?

24 A I was just walked, I just now walked away from his house
25 and when the U.S. marshals pulled up and I was in the other

1 house and I saw them, I ran out the back door; and so, during
2 that time, at that - during the course of time that I was gone
3 they - he said that, he said that he gave me a ride and they
4 took them and they tried to give him aiding and abetting. So,
5 what I basically did I turned myself in so that, so that they
6 couldn't charge him with aiding and abetting because they were
7 - it was something that he didn't know at the time. You don't
8 want to - I didn't want to put a person into something that it
9 was deaf, blind, dumb and dumb to the fact that what happened.

10 Q Okay, let me ask you about the - a little bit about -
11 let's go back to that second statement. After you gave a
12 statement to Detective Lee and Chief Knox about - but in that
13 statement isn't it true that you said you didn't have a gun?
14 Isn't it true in that statement you said, "I don't even know
15 who I shot"?

16 A Yes, sir.

17 Q Isn't it true in that statement you subsequent, you
18 changed that statement and you say, "These boys jumped me and
19 cut me and I had to shoot them to get them off me"; isn't that
20 true?

21 A Yes, sir.

22 Q Let's go to September 13th of 2008, had a chance to think
23 about this for a little bit, three days after the statement on
24 the 10th, where were you being housed at that period of time?

25 A In D holding.

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1 Q Okay, at some point in time did you call a corrections
2 officer and ask him if you - he - you can get - if he can get
3 in touch for you with law enforcement?

4 A Yes, sir.

5 Q At that time you give a written statement then?

6 A Yes, sir.

7 Q And isn't it true that in that written statement you
8 say, "I didn't have a gun, I didn't bring a gun. You thought
9 those boys were shooting at you and you ran"?

10 A Yes, sir, I believe I done answer that question one
11 time.

12 Q You didn't ask - answer it on this statement. I haven't
13 used this statement yet. I'm asking about this statement.

14 A Okay, yes, sir.

15 Q You answered that question on your first statement.

16 A Yes, sir.

17 Q So, isn't it true during the course of two days and two
18 statements that you start from no gun on your person, "isn't
19 it true your side didn't bring any gun up there"?

20 A Yes, sir.

21 Q No gun up there to you didn't have a gun, they did, to a
22 statement change that you brought the gun but it fell out till
23 you have the gun, you had to shoot them to get them off of
24 you, you were stabbed and cut and bleeding badly, hit with
25 bats and knives; isn't that true that you said that?

1 A Yes, yes, sir.

2 Q To three days later you're back to square one, you don't
3 know anything about it, you didn't have a gun and you don't
4 know who you shot because you didn't shoot; is that correct?

5 A Yes.

6 Q I have no further questions.

7 THE COURT: All right.

8 MR. HAZZARD: Very briefly, Your Honor.

9 REDIRECT EXAMINATION

10 BY MR. HAZZARD:

11 Q Dominic, Mr. Hixson asked you about where you were
12 housed on September 10th and where you were housed on
13 September 13th; is that correct?

14 A Yes, sir.

15 Q Okay, where have you been housed from September 9th of
16 2008 up until you come into this courtroom today?

17 A I was housed when I first got in jail in holding. Then
18 I - they put me in - they put me in a place called D Block,
19 actually, actually known as max, as their max, as their
20 maximum security. Basically they said that, they said that
21 they were scared for my safety for something because they
22 know, because they knew that something - one - basically what
23 Mr. Knox said he said it was for my safety because some of
24 them will strike me. So, they took me out of there and put me
25 in a block called - put me in a medical dorm. I've been

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1 housed in a medical dorm - I'm still housed in a medical dorm
2 currently because they are scared, they are saying that - they
3 are afraid of my safety. They're afraid that people going to
4 strike me because of what happened.

5 Q Okay, no further questions.

6 THE COURT: All right, you may step down.

7 A Judge.

8 MR. HIXSON: Brief redirect, Your Honor?

9 THE COURT: On? No, all right, step down.

10 A Your Honor ---

11 THE COURT: All right, call your next witness.

12 MR. HAZZARD: Your Honor, the Defense rests.

13 THE COURT: All right, let me see the attorneys for a
14 second.

15 MR. HAZZARD: Yes, sir.

16 (Whereupon, a bench conference was held in the presence
17 but out of the hearing of the jury.)

18 THE COURT: All right, ladies and gentlemen, the
19 Defense has presented their case. Given the hour I'm going to
20 go ahead and excuse you for lunch. We have some legal matters
21 that we need to take up and we still have some closing
22 arguments and the jury charge before you begin your
23 deliberations. So, please do not deliberate on this case. Do
24 not talk about this case. Do not discuss it even among
25 yourselves at this point in time. Don't conduct any

1 independent investigations or listen to any accounts or read
2 any newspaper accounts about it, but I am going to excuse you
3 to lunch. I'm going to ask that you be back in the jury room
4 at two o'clock. That will give you about two hours to eat
5 lunch and to get back. I hope you enjoy your lunch and we'll
6 see you back at two o'clock. Everybody else please remain
7 seated while the jury is excused.

8 (Whereupon, the following takes place outside the
9 presence of the jury.)

10 THE COURT: All right, anything from the State before
11 we break for lunch?

12 MR. HIXSON: Your Honor, just a brief position on
13 charging if that's appropriate now.

14 THE COURT: All right.

15 MR. HIXSON: I indicated to Your Honor a little bit
16 earlier that depending upon the testimony of the Defendant it
17 may be appropriate to charge mutual combat if in fact there
18 was testimony that he knew the individual was armed and went -
19 armed himself and went to a location where he anticipated a
20 conflict and that has been borne out. So, we would just not -
21 place that on the radar for Your Honor. We have some cases on
22 there to let Your Honor take a look at the break.

23 THE COURT: All right, I'll take a look at it.

24 MR. HAZZARD: And obviously the Defense position is all
25 the testimony from the State and the Defense is that he was

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1 leaving the area at the time. So, there is mutual combat is
2 something where two parties mutually agree to engage and is
3 not appropriate where one person is leaving the area.

4 THE COURT: Okay.

5 MR. HIXSON: Just briefly, to just clarify without
6 argument my - the State's understanding of the case law if an
7 individual arms themselves, knowingly arms themselves and he
8 knows the person he's going to a location to that knows
9 they're going to be there, he said, "I knew those boys were
10 going to be up there," and he testified he knew he was armed,
11 that's why he was afraid, he testified that he knew Al Ingram
12 had a gun and he was building fear because it was escalating.
13 That is a willingness to engage, potentially arguably, and
14 that's obviously for the Court, to engage in mutual combat
15 thus, you know, there's some questions relating to bringing on
16 the difficulty. That's the purpose of it.

17 THE COURT: All right.

18 MR. HIXSON: He may be at fault in bringing on the
19 difficulty. That's the case law and I'd just provide that for
20 Your Honor's attention.

21 THE COURT: All right, I'll take a look at the cases
22 that you want me to look at. All right.

23 MR. HAZZARD: At this time, Your Honor, the Defense
24 renews its motions for directed verdicts both with regard to
25 insufficiency of evidence with regard to the charges of murder

1 and assault and battery with intent to kill and with regard to
2 the State's failure to disprove the defense of self-defense.

3 THE COURT: All right, your motions are noted. I'm
4 going to deny it.

5 All right, anything else before break for lunch?

6 MR. HIXSON: No, Your Honor.

7 THE COURT: Anything from the Defense before we break
8 for lunch?

9 MR. HAZZARD: Your Honor, I would hand up three cases
10 for the Court's consideration at this time. That's State v.
11 Nichols, N-I-C-H-O-L-S, 325 S.C. 111, State v. Starnes, 340
12 S.C. 312, and State v. Harris, 674 S.E.2d 532, Nichols and
13 Starnes are Supreme Court of South Carolina cases. Harris is
14 a 2009 Court of Appeals case for the Court's consideration
15 with regard to crafting the appropriate self-defense charge,
16 if I might approach.

17 THE COURT: All right. All right, anything else?

18 MR. HIXSON: No, Your Honor.

19 MR. HAZZARD: Nothing on behalf of the Defense.

20 THE COURT: All right, we'll stand in recess till two
21 o'clock.

22 MR. HAZZARD: Thank you, Your Honor.

23 THE COURT: Thank you.

24 OFF THE RECORD

25 (On the record.)

1 (Whereupon, the following takes place outside the
2 presence of the jury.)

3 THE COURT: All right, Mr. Hixson, I understand the
4 State has no reply in this case; is that correct?

5 MR. HIXSON: That's correct, Your Honor.

6 THE COURT: All right, we're ready to go into closing
7 arguments and then a charge on the law?

8 MR. HIXSON: Yes, sir.

9 THE COURT: Is that correct with you also, Mr.
10 Hazzard?

11 MR. HAZZARD: That's correct, Your Honor.

12 THE COURT: All right, all right, ladies and
13 gentlemen, for those of you that are in the audience we're
14 getting ready to start closing arguments in this case and then
15 I will charge the jury on the law. I'm bringing that matter
16 to your attention at this point in time because once we start
17 closing arguments then I'm going to direct the bailiffs and
18 security not to let anybody in or let anybody leave. So, if
19 you are in here you will need to stay here throughout the
20 closing arguments and when I finish with the charge and the
21 then the jury retires to begin their deliberations, after the
22 jury leaves then you'll be able to leave the courtroom if you
23 want to, but unless - if you have to leave within the next
24 hour or two you probably need to go ahead and excuse yourself
25 at this time and this is just to make sure that the jury is

1 not distracted and that the attorneys are not interrupted
2 during their closing arguments and that there is no
3 interruption on the jury charge.

4 All right, anything from the State before we bring the
5 jury in?

6 MR. HIXSON: No, Your Honor.

7 THE COURT: Anything from the Defense?

8 MR. HAZZARD: No, Your Honor.

9 THE COURT: All right, let's go ahead and bring the
10 jury in.

11 (Whereupon, the following takes place in the presence of
12 the jury.)

13 THE COURT: All right, ladies and gentlemen, welcome
14 back. All of the evidence to be presented in this case has
15 been presented and now is the time of the trial when the
16 attorneys will make their closing arguments. Now, like their
17 opening statements these closing arguments are not evidence in
18 the case. It is simply the attorneys contention as to what
19 they think the evidence in this case has shown. You and you
20 alone are to decide the facts in this case based upon the
21 testimony and evidence that has been given in this case.
22 However, the attorneys are given the opportunity at this stage
23 to make a closing argument to you to give you their impression
24 as to what they think the evidence has shown. If at any time
25 an attorney makes a statement as to an issue of fact that

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1 differs from what you find those facts to be then you are to
2 disregard the attorney's statement. If either of the
3 attorneys makes a charge on the law in this case that differs
4 from the law as I will charge you at the close of their
5 arguments then you're to disregard their statements because
6 you and you alone decide what the facts are and then at the
7 close of their arguments I will give you a charge on the law
8 to be applied in this case. All right, Mr. Hazzard.

9 MR. HAZZARD: Thank you very much, Your Honor. May it
10 please the Court?

11 THE COURT: Yes, sir.

12 MR. HAZZARD: Good afternoon, ladies and gentlemen.

13 How far can you run? Honestly, how far can you run?
14 Because that's what this case is about. We all know now what
15 occurred August 13th of 2008 in Andrews, South Carolina, and
16 the reason we know is not just because of what Dominic
17 Leggette says. We know because of the witnesses presented by
18 the State. We know because of what Al Ingram says. We know
19 because of what Craig Jackson says. We know because of what
20 Leron Gardner says and what do they say? They say on August
21 13th of 2008 this young man, Dominic Leggette, went to this
22 juke joint or bar or whatever this place is called Blue's and
23 Carnell's, they're side - pretty much side-by-side. Why?
24 Simply to deliver a phone charger to his girlfriend. What did
25 the State's witnesses also say? They say that once Mr.

1 Leggette arrived he ended up in an altercation. He was
2 basically being threatened or bullied by somewhere between two
3 and ten people because if you remember Craig Jackson, Craig
4 Jackson said, the last gentleman who testified for the State,
5 he said there were ten guys out there all in white T-shirts,
6 don't know if that's some kind of uniform or whatever, but
7 that Craig Jackson walked outside to get a breath of fresh
8 air, those 10 guys are out there and one of them says, "Hey,
9 there goes Dominic. There goes Dominic," and what does the
10 State's witness tell you happens next? Immediately,
11 immediately Al Ingram and his sidekick, Antonio Tisdale, head
12 in that direction.

13 Now, if you see an automobile accident and you round up
14 all the witnesses you're going to have some discrepancies in
15 what people say happened, no question, you know, maybe even
16 down to the color of car but what isn't in dispute here by any
17 stretch of the imagination is that this young man was headed
18 away from Carnell's, he was headed away from Blue's. He was
19 headed towards, and this is important, why is he heading away
20 from there? Well, first of all, by all the State's witnesses'
21 accounts he's being harassed and threatened and the question
22 is, well, where does he go? Well, what did Craig Jackson tell
23 you? Other than Carnell's and other than Blue's there is no
24 other place at 10 o'clock on a Wednesday night in Andrews, no
25 other place that's open, no other place that's lit, no other

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1 place where other people might be who can intervene other than
2 the Super Chicken that stays open all night on Wednesdays.
3 Now, oddly enough where is he headed? He's headed towards
4 that one place of safety because if you think it's safe at
5 Carnell's and you think it's safe at Blue's, don't listen to
6 what he says. What does Investigator Eddie Lee tell you? I
7 asked him, "Have you ever been in the Blue's club?" "Yeah,
8 I've been in there to arrest people plenty of times." So,
9 there's no safety to be had there apparently. So, he's going
10 to the only other place where there's light and there might be
11 some safety, where there might be some people that can
12 intervene, where there might be people where others won't try
13 to harm him in their presence, but what did he tell you? "I
14 didn't make it that far."

15 Now, we started this case talking about self-defense and
16 I told you at the very beginning on the very first day, it is
17 never, ever a crime to defend yourself. Okay, never. Self-
18 defense, Judge Culberson will tell you, is a complete and
19 total defense, as it should be. Now, self-defense isn't
20 something that you can just cavalierly and casually claim.
21 It's not a coat that you can just slip on and slip off as you
22 may. It has four very significant elements and Judge
23 Culberson is going to tell you about those when he gives you
24 the law, but let's look at those four elements and let's see
25 whether they apply based on the evidence presented by the

1 State.

2 The first element of self-defense is that the Defendant
3 cannot have been at fault in bringing on the difficulty, okay,
4 cannot have been at fault in bringing on the difficulty. I'm
5 a very simple person. So, let's break it down like this.
6 Just like in the schoolyard, "I didn't start the fight, okay,
7 I didn't start the fight." That's the first thing. Well,
8 what does Al Ingram tell you? What does Leron Gardner tell
9 you? What does Craig Jackson tell you? What does every other
10 State's witness who was present tell you? Dominic Leggette
11 was headed the other way. Now, whether he was running,
12 whether he was walking, whether he was skipping, I don't know.
13 I really don't know. I think it was what Ron Gardner said.
14 Ron Gardner to me is the most important witness in this case
15 because think about it that's the young man, very nice young
16 man who says, "I live in Darlington now. I used to live in
17 Andrews but I don't live here anymore, still got family in the
18 area, came back to visit," but he's the one guy he ain't from
19 the west side boys, he's not a part of Dominic's family. He's
20 the one guy who doesn't have a dog in this fight, the one
21 person who doesn't have a dog in this fight who was there on
22 August 13th, 2008, when it happened and what does he say
23 happened? He said, "Man, we went up there to give Rhonda the
24 charger. We get there and immediately a group of guys
25 surround us," which kind of dovetails with what Craig Jackson

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1 said. He said, "Yeah, there are ten guys out here, all in
2 white T-shirts." Okay, and what else does Leron Gardner tell
3 you, he says, "Man, I was scared to death. I was scared to
4 death apparently just because I was with Dominic Leggette."
5 Now, if that ain't fear for you there is no fear, but, "Just
6 because I was with this guy, the way these people were acting
7 caused me to be scared," and what does Leron Gardner say
8 happened then? Dominic apparently wasn't the best friend in
9 the world because he left Leron in the lurch and took off
10 running, okay.

11 Now, you've heard a lot of other stuff. Al Ingram says,
12 "Well, yeah, I mean, Dominic was down there," and remember,
13 folks, Super Chicken, Carnell's, and Blue's, no matter how you
14 cut it that is barely a city block, and I don't know what the
15 deal is that these guys are saying, "Well, yeah, Dominic took
16 off or went walking or went skipping or went running," or
17 whatever and then three to five minutes later Antonio and Al
18 took a leisurely stroll after him.

19 Okay, my grandmother is on oxygen 24 hours a day. She
20 can walk a city block in less than five minutes. So, I don't
21 think there's any truth to that. So, you, and use your common
22 sense in bringing all of these, all these statements together
23 into one cohesive as to what the actual facts are. So, we
24 know by the fact of the very distance it's not a situation
25 where Dominic's down the street and two or three or five

1 minutes later Al and Antonio decide to go down there and get a
2 pack of cigarettes. If that were the case, because we never
3 heard any testimony about Dominic stopping and talking to
4 anyone and Dominic turning and coming back the other way,
5 Dominic sitting down on the sidewalk. No. He's walking or
6 he's running, one or the other, or something in between but
7 he's moving in the other direction, and if that's the case
8 then it wasn't two minutes, three minutes, five minutes from
9 where they started to the corner. We know that. We know that
10 as sure as we know the sun rises in the morning.

11 So, then, what are you left with? What Leron Gardner
12 says. "We got there, those guys surrounded us, Dominic took
13 off running and they went running after him," and that's very
14 interesting because one of the issues in this case - well, let
15 me get back to that. The first thing is he didn't start any
16 fight. That's the first element. Okay, now, the second issue
17 is, "Well, who's following after him?" Al Ingram and his
18 sidekick, Antonio Tisdale.

19 The second element, am I in fear of death or serious
20 injury, okay. Well, Leron Gardner, who doesn't even have a
21 dog in the fight, says he was scared to death, number one.
22 Number two, what is the State's witness Al Ingram say to you?
23 "Yeah, you know, my first conviction, weapons charge when I
24 was 13," okay. Does that cause you maybe to be a little
25 concerned about what this person might do, what they might be

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1 carrying because remember as I asked Craig Jackson, now, I saw
2 Al Ingram and I don't know any of these people, didn't know
3 them before this week, but Al Ingram ain't the biggest fellow
4 in the world and he's not that stocky or that strong looking
5 and remember Dr. Schandl, the forensic pathologist, said, I
6 believe, that Antonio Tisdale was about 5-9 and I think some
7 145 pounds, some incredibly small weight, and that makes me
8 wonder and I think it will make you wonder why would these two
9 little guys be brave enough and bold enough to go after this
10 fellow here? Do you think maybe they might have had something
11 to equal things up on? Do you think maybe they did?

12 Also, when we had all the talk about the different issues
13 and different problems that had been, that Dominic has had
14 with the west side boys, this is the only time that anyone
15 testified to where Dominic was by himself. He didn't have his
16 cousins, the Cox boys. He didn't have his brother Jamie
17 White. He had no one else with him, and when he is standing
18 in front of Carnell's and those west side boys see that, what
19 happens then? "Hey, hey, Al, Al, here he is, here he is, here
20 he is. This is our chance. This is our chance," and man,
21 they tried to make the most of it. They tried to make the
22 most of it.

23 Now, the Judge will tell you, I believe, because I'm not
24 a legal scholar but I try to do some reading occasionally that
25 when it comes to being afraid for your life and acting on that

1 that I've got the right to act on appearances, okay. I don't
2 have to diagram it out. I don't have to wait and let them get
3 the drop on me. I don't have to start taking a beating or
4 getting injured before I defend myself, and the right to
5 defend yourself is so strong, so strong that the law even says
6 so long as I had a truly reasonable belief that I was in
7 danger, even if I was wrong, even if I was wrong, so long as I
8 had a good-faith belief then that is good enough for the law
9 because honestly you don't have to wait until somebody fires
10 the fatal shot, until they take the fatal thrust, until they
11 get you down on the ground. You have the right to defend
12 yourself in this country.

13 Okay, now, the third one is is the fear reasonable? And
14 we've already covered that. Leron Gardner was fearful. He's
15 not even from the area anymore, but he's scared to death. If
16 two guys are chasing me I guarantee I'm going to be a little
17 concerned but I also believe that His Honor will explain to
18 you that when there are prior difficulties and prior history
19 you have the right to act on that as well. If I'm walking to
20 school every day and every day the bully beats me up and takes
21 my lunch money, okay, I have the right to act on that on the
22 day that I decide to come with a lead pipe. Okay, that's as
23 simple as I can put it. I don't have to wait for the bully to
24 beat me up again. Next time I see him I'm going to say, "All
25 right, there you are. I'm going to defend myself this time,"

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1 okay, and the fourth prong is you cannot have been able to
2 retreat without, without placing yourself in substantial
3 danger of death or serious injury, and folks, I don't know
4 about you but when two people are coming after me I think I'm
5 in a little more danger when I turn my back on them. Okay,
6 so, those are your four elements: one, can't have started the
7 fight; two, you have to have fear of death or bodily injury;
8 three, that fear of death or bodily injury has to be a
9 reasonable one, whether it's from appearance or actuality; and
10 number four, I can't be able to retreat without increasing or
11 keeping my level of danger.

12 Now, he was trying to retreat, no question about it but
13 couldn't retreat far enough, couldn't run fast enough,
14 couldn't run far enough. So, gets us back to the question,
15 how far do you have to run, how far did he have to run? Now,
16 the question may be raised about why didn't you just call the
17 police and tell them what was going on and all like that.
18 Well, apparently Deputy Solicitor Hixson talked with Dominic
19 about that to some extent because he asked him about and this
20 to me was very revealing and it's the little things to me that
21 are very revealing. Like my grandmother used to say, if you
22 want to know which way the wind is blowing don't look at the
23 big oak tree, look at the leaves on the trees and that will
24 tell you where the wind's blowing. So, about at the end of
25 his cross-examination Deputy Solicitor Hixson asked Dominic

1 about, "Yeah, you were very frustrated and upset and were
2 having a hard time letting this thing go with these west end
3 boys," and what did Dominic tell him, and it was hard for him
4 to say, hard for him to say but what did he say? He said, you
5 know, the reason I told Eddie Lee I was having a hard time
6 letting it go is because they put me in a position where a man
7 had to be tended to by a woman on a part of his body that she
8 shouldn't have to, and what did, what did, what did Mr. Hixson
9 say? He says, "Yeah, they hit, they hit you right here;
10 didn't they? They hit you right here."

11 Okay, now, how far do you have to run because obviously
12 he had tried it before and that's what he got for his
13 troubles. So, how many times are you supposed to run? Is
14 there any one of us who don't believe knowing Al Ingram and
15 his history and Antonio Tisdale running with them and the west
16 end boys, are there any of us who don't believe that if this
17 young man had not defended himself on that date that those
18 guys would be in this courtroom facing the jury right now.

19 Now, as I said I appreciate your hospitality. I really
20 do. I love coming down here. I love working with you folks
21 but I'm an Horry County boy and in Horry County we have a
22 saying that I would rather be judged by 12 than carried by
23 six, and I tell you if this young man had not protected
24 himself that night his family would be carrying him and we all
25 know that.

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1 Now, Mr. Hixson may say, "Well, those two little fellows
2 didn't even have a weapon on them." Let's talk about that for
3 a second. Let's talk about that for a second because there's
4 a lot and I'm sure you can tell that hasn't come out in this
5 case. First of all, again, two little fellows, but yet
6 something causes them to be brave enough to say, "We are going
7 to chase this man down and attack him." Again, do you think
8 they might have had a little equalizer on them somewhere?
9 Number two, what causes me and I wonder about this and maybe
10 you guys know better than I do, what did Jamar Mitchum,
11 that's, that's, that's Antonio Tisdale's brother, remember?
12 What did he testify to? He said, "Yeah, Antonio came running
13 back up the street. He'd been shot. He fell out on the
14 pavement and I went over to him and then I went to my car for
15 10 or 15 minutes." What in the world do you have to either
16 put in your car or get out of your car when your brother is
17 lying dying in the middle of the street? Okay, do you have to
18 put something away? Do you have to hide something before the
19 emergency personnel get there? Is that why you've got to go
20 to your car when your brother is in the middle of the street?

21 What did Craig Jackson say? Craig Jackson said, again,
22 "Antonio came running up, fell out." "And Craig, well, what
23 did you do then?" "Man, I turned around and went back in
24 Blue's, had another drank," okay. All these West end boys
25 when this went down all of a sudden they are scattering like

1 roaches when the lights come on. Do you think maybe they were
2 engaged in some illegal activity and they knew it when they
3 were chasing this man and hunting him like an animal? Is that
4 why nobody wanted to be around?

5 Oh, let's go further, what about Al Ingram, one of the
6 alleged victims. What did Officer Cumbee of the Andrews
7 Police Department say? Remember he was the gentleman, the
8 first witness, first responder, first person to administer to
9 Antonio Tisdale. What did he say? He said, "Well, Al Ingram
10 was kind of standing back a little bit and somebody else had
11 to tell me that Al Ingram had been shot. Somebody else had to
12 tell me that," and then what did he say? "Even then Al
13 doesn't say anything." He says, "I've got to reach over, lift
14 up his pants leg to see the blood in order to know that he is
15 a victim." Now, ladies and gentlemen, I tell you if somebody
16 has done me wrong and injured me I'll be the first one in
17 front of the police saying, "Hey, look, I need some help.
18 Give me, give me some bandages. Give me something." No. So,
19 do you think maybe they were doing something that was a little
20 bit wrong that caused them to say, "You know, we really don't
21 want to be talking to the police about this," and then, of
22 course, with Mr. Ingram you know with his conviction of
23 possessing a handgun three or four years prior or actually
24 five years prior, you know, when he was 13 in 2003. Now, you
25 may wonder, remember Mr. Ingram tells you that he and Mr.

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1 Tisdale were just walking down the street because Mr. Tisdale
2 said he wanted to get a pack of cigarettes, okay, and then you
3 get in the whole issue of, "We left two to five minutes after
4 Mr. Leggette," but somehow managed to not even make it to the
5 end of the block in that period of time, and I leave that to
6 your discretion as to the weight and veracity of that
7 statement but when you want to know whether someone is telling
8 the truth or not look at things like that and remember also
9 what Mr. Ingram, once he's run aground and he is identified as
10 being involved, well, you've got to have a story then. You
11 got to have a story. Then you've got to have an explanation
12 as to why someone would just pull out a gun and shoot you on
13 the street. So, what is his explanation? His explanation is,
14 "Well, I seen this guy around but I don't really, I don't know
15 his name, okay. I've seen him around but I don't know his
16 name." Okay, that's lie number one. That's the first one.
17 Why do we know it's not true? Because what did he tell you on
18 that stand? "Me and Antonio got there to in front of Blue's
19 and Carnell's and my boys, my west side boys immediately go,
20 'Al, there's Dominic, there's Dominic.'" Well, I'm sorry, if
21 I don't know somebody named Bill how do - why do I care who is
22 calling out there's Bill? "Okay, I don't know a Bill. So
23 what." Okay, so, we know that.

24 Number two, according to Mr. Ingram he and Mr. Tisdale
25 are walking down the street, discussing the weather, the stock

1 market, sporting news, whatever when this man they do not know
2 then pulls out this mysterious white shirt, wraps it around
3 his head or face and then turns around and begins shooting.
4 The significance of that to me is none of his west side boys,
5 all of whom say they saw this whole thing, and Jamar Mitchum
6 who is Antonio's brother, Craig Jackson, none of them say
7 anything about any white shirt, anybody disguising themselves,
8 but again, this is the day after. This is the first day after
9 when Eddie Lee is talking to him; and so, he's got to try to
10 come up with something; and so, that's the best he can come up
11 with, okay.

12 Now, I believe that Judge Culbertson will tell you that
13 you as the triers of the facts in considering the evidence in
14 a case can believe all of what a witness says, part of what a
15 witness says or none of what a witness says, if you find them
16 to be totally incredible and totally unbelievable; and so,
17 again, with regard to Al Ingram's testimony in that regard,
18 when you consider it in its entirety I am sure that you will
19 find that it is incredible and not to be believed. So, that
20 takes us out of the realm of he just turned and attacked us
21 for no reason. So, also, remember Craig Jackson because what
22 did Craig Jackson say, "I was coming out, standing up against
23 the wall with ten guys with the white T-shirts on, the posse
24 is out there, and everything is fine until someone says, 'Hey,
25 Al, there's Dominic,'" and this is just very strange, very,

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1 very strange. It's like no one wants to actually say it but
2 Craig Jackson couldn't help himself because what did he say.
3 He said, by the - "I wasn't listening to any of the
4 conversation of any of the ten guys but when one of them
5 shouted out, 'Hey, Al, there goes Dominic,'" caught his ear,
6 and so, he looks, and what does he say he sees? He says, "I
7 see immediately, immediately Al and Antonio heading towards
8 Dominic, heading down the street after him," whether it's
9 running, walking, who knows but what did he say? "I could
10 tell by the way they were walking that there was - that I was
11 about to see a fight. I can tell by the way they were walking
12 that I was about to see something," and ladies and gentlemen,
13 if that is not the indication of some people out bent on
14 mischief I don't know what is, and that's what one of their
15 own west end boys says, one of the Jones Avenue crew. That's
16 what he says. The State's witness says that, not us. As
17 Dominic has said in his testimony and, yes, in his, in his
18 statements that the Prosecution wants to call testimony, but
19 we know it's not, the statements he's given, he's given to the
20 police once he was arrested, did he lie to them? Oh, yeah, he
21 lied to them. He told them a bunch of fanciful tales and, "I
22 wasn't there and it wasn't me and this, that and the third.
23 Why? Because he was a 19-year-old boy who was scared to
24 death. All of us have done things that were not wise and
25 prudent and been less than truthful at that age, and I dare

1 say none of us were facing what he knew he was facing. So,
2 did he lie? Did he prevaricate? Did he try to figure some
3 way out of it? Yes, he did. Yes, he did. Yes, he did, but
4 even if you choose to say, "Dominic Leggette, you are a liar,
5 we don't find you to be a truthful person," and that's fine,
6 that's fine, listen to what the State's witnesses have said
7 because there lies self-defense, there - I mean, you can - no
8 matter who, this is an interesting case because no matter who
9 you listen to on either side, you know, there are variations,
10 but the thing that ain't never gonna' change no matter what
11 Mr. Hixson says, no matter what anybody says is that this
12 young man did not start a fight on the night of August 13th,
13 2008. This young man tried to leave the area where the
14 trouble was brewing. This young man had two people who for
15 reasons satisfactory only to themselves with hearts bent with
16 fatal mischief chased him down and attacked him and he
17 couldn't run fast enough or far enough to get away. That
18 doesn't change, ladies and gentlemen. That doesn't change.
19 That does not change. It is never, ever a crime to defend
20 yourself.

21 Now, this young man has been in custody since September
22 10th, 2008, as Mr. Hixson has mentioned, and that is 18
23 months. I have done what I can for him and now you as the
24 conscience of the community will decide whether his actions in
25 defending his life on that night are warranted and whether he

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1 will be able to go home to his family. Now, there are going
2 to be allegations made I assume and I haven't - and remember,
3 you're going to be told, I believe, with regard to the law
4 regarding prior difficulties and I haven't even really touched
5 on that because we don't go into the factual specifics of
6 those difficulties but be that as it may there's no question
7 difficulties were there and like Mr. Hixson said when he was
8 talking with Dominic, "Yeah, you tried to run and they hit you
9 back here; didn't they?" You can't run forever. You can't
10 hide forever. Thank you for your time and your attention.

11 THE COURT: Mr. Hixson.

12 MR. HIXSON: How many steps, how many steps does it
13 take to decide that you're going to be a man today, that
14 Dominic Leggette is going to be a man on this day, August
15 13th, 2008. According to the scale on Exhibit One that's
16 about 350 feet. That's the distance everyone was talking
17 about couldn't figure out. There's a scale on here. It's in
18 evidence. From Carnell's to the killing it's 350 feet.
19 That's how long it took for Mr. Leggette to decide today is
20 the day he's going to be a man and take no more. "Today is
21 the day I'm going to walk 100 yards from the place I armed
22 myself to go to a place where I know there's going to be
23 trouble and take no more."

24 You heard a lot of discussion about Al Ingram. You
25 didn't hear a word of bad things about Mr. Tisdale and that's

1 the man that lost his life. Heard all about Al. Don't know
2 if it's true or not. I know that's his testimony. Haven't
3 heard a word about Billy. That's the one that lost his life.
4 350 steps thinking about the embarrassment that he went
5 through, thinking about, "These young boys don't respect me.
6 I'm from Andrews. I'm West side. I'm uptown," excuse me. I
7 even get it confused. "They don't respect me. These boys,
8 16-year-old boys smaller than me and they don't respect me."
9 Take a 380 caliber pistol, put in his waistband and went to
10 the fight. That is bringing on the difficulty. Arming
11 yourself, going to a place he knows where there's a fight,
12 that is bringing on the difficulty. That's the first element
13 of self-defense that does not apply here, taking a gun to a
14 fistfight. That's bringing on the difficulty.

15 There was a ton of conflicting testimony. Mr. Hazzard
16 has alluded to that, but let's kind of calm the filter down a
17 little bit and talk about what is conflicting and what isn't
18 conflicting. Let's think about that for a second. It sounds
19 like we heard about nothing but fights for three years. It's
20 only been a couple of days, three days. It feels like three
21 years worth. You know what, there is not a single piece of
22 evidence in this record that said there was ever a fight on
23 August 13th of 2008, not a single fight. It's hard to believe
24 because it feels like fights are raining everywhere, but let's
25 think about this for a second. Let's go through it. The

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1 first character witness we talked about, not character
2 witness, excuse me, the first witness list, Verney Cumbee.
3 Verney Cumbee arrived and said that the Defendant was on the
4 ground. He didn't see a fight, didn't see an altercation.
5 When Investigator Michael Thacker arrived, crime scene
6 specialist, obviously he didn't see a fight. It was after the
7 fact; right?

8 Al Ingram, he specifically said, he specifically said,
9 "There were words, guys are trying to get me to fight him,"
10 said, "No, no, I ain't fighting him. I'm tired of that. I'm
11 not fighting him." That's what he said. That's the testimony
12 from the witness stand for Al Ingram.

13 Let's skip ahead. Mr. Leggette admitted there was no
14 fight going on in front of Blue's, there was no fight in front
15 of Carnell's. In fact, he said Carroll Wilson said he walked
16 away, said, "I ain't fighting him." There was no fight.

17 Ron Gardner, Ron Gardner, if you recall Mr. Gardner
18 testified he was a lifelong friend of Mr. Leggette. He said,
19 "We played sports together," said one was better than the
20 other. It was probably a little uncomfortable for Mr. Gardner
21 to be here. I thought it seemed, he seemed like he was trying
22 to help out his friend a little bit if he could. Mr. Gardner
23 is the only one that said Dominic Leggette ran down the
24 sidewalk. He is the only one. He is the only person that
25 said Billy and Antonio - excuse me, Al and Billy ran. Every

1 witness, including the Defendant himself, said he walked down
2 there. No one said he ran other than Ron Gardner, his
3 lifelong friend. I think trying to help him out just a little
4 bit, but in the end Mr. Gardner says, "I saw the gun on him."
5 He says, "You know how boys are, they show off their gun. You
6 know how boys are." I don't know how boys are. He - "I got
7 my gun. Check it out. You know how boys are," on the way to
8 where Mr. Leggette said he knew them boys was going to be.
9 Man, that's bringing on the difficulty.

10 Jamar Mitchum, if you recall Jamar Mitchum said there was
11 no fight. He said they hear words. Now, Mr. Mitchum was
12 inside playing pool, came back outside. There's no question
13 there's tension. There's no question there's words. There's
14 no question this overbearing thing. There's no question about
15 that. It's been going on for year and a half. According to
16 Mr. Leggette the Defendant they fight every two days according
17 to him, every two days. That's a little tough to believe but
18 nonetheless assuming it is every two days there's a fistfight,
19 no one gets shot, no one brings a gun to a fistfight, no one
20 says they had enough. They fight. Apparently it's his hobby.
21 We've learned a lot about that but it's a fight. If you could
22 shoot somebody in self-defense in South Carolina because you
23 had a fistfight with them a year ago half the families at
24 Thanksgiving in South Carolina would get a gunshot wound in
25 it. You can't shoot somebody because you had a fight with

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1 them a year ago, an unarmed man, two unarmed men, you can't do
2 it, can't do it. He testified he knew there was no weapon
3 involved. Didn't see a gun. Well, we'll get to his testimony
4 a little bit because there's about four different stories that
5 we need to talk about on that process, but nonetheless, he
6 never saw a gun, said he never saw a gun, not a single person
7 testified they saw a weapon at all. The only person that
8 testified was Ron Gardner and Ron Gardner said, "Look at that,
9 he's bringing a gun to a fistfight." That's bringing on the
10 difficulty.

11 Craig Jackson testified, said he saw, looked down a way,
12 can't see it down there for the bushes, step around and look,
13 sees flashing out of the gun, sees those shots. No one else
14 ever said they saw down that way. Said they couldn't.
15 There's bushes. Said they saw - heard shots and saw people
16 come running up. So, there was only one person that testified
17 they saw anything about a white T-shirt around the face and
18 that's the only living human being that was standing in
19 proximity to the shooter, is the only one that could have seen
20 whether he put a - something to disguise his face. That's Al
21 Ingram and he said he was standing this far away, not close
22 enough to lunge, not close enough to stab, nothing, unarmed,
23 autopsy photograph of what Mr. Tisdale is wearing that night
24 had on his person. He had a condom, keys, wallet, unopened
25 beer. Had no knife, no gun, blood-soaked boxer shorts and

1 shoes. That's the weapon that a 5 foot 9, 145 pound person
2 was going to do to a six footer with no prior problems with at
3 all, not a single testimony about any prior problems with this
4 young man.

5 Let's talk about what it takes to become a man in
6 Andrews, according to Mr. Leggette, not of course the other
7 good folks of Andrews. "I was like, nah, I ain't going to run
8 tonight because this ain't me. I was like, man, forget that.
9 I'm a grown man. I'm about to be 20 this year."

10 MR. HAZZARD: Your Honor, if he is referring to
11 something that is not in evidence I would submit that that is
12 improper.

13 THE COURT: Well, the jury is told to disregard
14 anything that is not presented in evidence in trial.

15 MR. HIXSON: And your - and ladies and gentlemen, if
16 you recall, I asked him, "Isn't it true that you gave a
17 statement to Investigator Lee," and he admitted to this
18 statement. He admitted to saying this to Investigator Lee in
19 and his statement. "I was like, man, forget that. I'm a
20 grown man. I'll be 20 this year this month on the 29th." I'll
21 delete the, "I was like F that. If I don't make a stand now I
22 ain't never gonna' make a stand for the rest of my life." 350
23 feet of thoughts like this going through that man's head.
24 Bringing a gun and turns around, shoots two people, a person
25 he doesn't have any hard time with. He admitted he said, he

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1 said on the witness stand, "I didn't know who I shot." I
2 don't know how now he can claim that he had prior difficulties
3 with somebody. He testified to that he didn't know who he
4 shot. I don't have prior difficulties with somebody I don't
5 know. He knows them. He's lying then, lying there or
6 something but he said, "Yes, I said I didn't know who, I
7 didn't know who it was," but he didn't have any beef with
8 Billy. Today is the day he's going to get respect in Andrews
9 because he's going to take care of it and he isn't going to
10 run anymore. "I'm going to walk down there and I'm going to
11 think about it and I'm frustrated because I got embarrassed in
12 front of my girlfriend, I got embarrassed with these fights."
13 Pow, pow, pow, "and I'm getting in the car and I'm rolling to
14 Loris," and that's what he did. That's what he did.

15 Now, let's talk about what a person who had come to the
16 decision to pull the trigger, commit a murder, how would that
17 person act, if you had a guilty conscience, if you had guilty
18 thoughts about what you did? Well, most people don't stay
19 around and talk to the police about it; do they? No, most
20 people hide or run, buy some time, get your story straight,
21 try to figure out what exactly we're going to do. If you
22 remember his testimony was he was walking down to the Super
23 Chic to pick up, to have someone pick him up. His testimony
24 from the witness stand wasn't that he was running, wasn't -
25 he thought the fight was over. He said Carroll Wilson didn't.

1 Carroll Wilson said, "We ain't fighting you, man." That was
2 out of the Defendant's words. Made it to the Super Chic
3 waiting for a ride is what he said he was doing. There's been
4 so many stories from Mr. Leggette, but I'm telling, you all
5 heard that testimony. Said he ran through Super Chic alley,
6 girlfriend picked him up, went to Loris. Now, said he turned
7 himself in, 27 days later with the help of the United States
8 Marshal Service on a fugitive task force, kicking in front
9 doors of people's houses, finally got the one next to him, for
10 his neighbor was getting arrested, "I did it in self-defense."
11 You want to talk about getting your story straight, Al
12 Ingram's got to get his story straight? If you had guilty
13 knowledge of the fact that you committed a murder would you
14 get rid of the gun that did it? Would you say, "Man, that guy
15 jumped me. Just please, what do I need to do to show I acted
16 in self-defense?" Get rid of the gun? Get out of town? Get
17 out of the county? Those are all things people do when they
18 know they did something wrong. Every single one of those
19 things this young man did, every single one of them.

20 Let's go back to that respect thing. When I asked him on
21 the witness stand, "Isn't it true that you have a problem with
22 people not respecting you in Loris," whatever the system of,
23 social system of respect is, excuse me, in Andrews, whatever
24 that social system is I don't know, but we're learning it
25 together, but I know he was very frustrated, raised his voice

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1 on the witness stand and said, "I got people I grew up with,
2 people that's under me. People look at me and they don't get
3 no respect from too - I don't get no respect from too many
4 people." "People under me," meaning people younger than him.
5 He's 21, 21 years old. Al Ingram is 16 years old. Ron
6 Hazzard, excuse me, Mr. Hazzard posed an interesting question.
7 I made a note of it. I thought it was interesting on his
8 part. Why would these two little fellows, five foot nine, 145
9 pounds, hanging out with their friends in front of Blue's
10 where no fight occurred, even though it sure sounds like it;
11 doesn't it? Not a word about a fight. He even said there
12 wasn't a fight, the Defendant no fight. "Why would these
13 young men walk down behind Dominic Leggette like that unless
14 they had an equalizer?" Why would they fear walking down
15 behind him if they didn't intend to do anything? I do think
16 it is interesting why a young man would pick a fight with a
17 bigger man unless you weren't trying to pick a fight, unless
18 it's true what Al said, "I'm done fighting with that, man.
19 I'm done." Oh, and it was a school night. August 13th, school
20 wasn't in session then. It's summertime. It's summer break.
21 That was a little tidbit in there that I thought interesting.
22 It was summer. School hadn't started yet, August 13th of 2008.
23 Interestingly enough smoking is a bad habit apparently
24 because we know the forensic pathologist said there was
25 nicotine in Billy Tisdale's lungs, tested for it. So,

1 apparently he's a smoker. Apparently it isn't that far to
2 think that maybe he was getting cigarettes. There's
3 independent evidence that shows that he was.

4 Okay, let's go through the elements of self defense a
5 little bit. We already have kind of beat a dead horse maybe a
6 little bit on bringing on the difficulty, bringing on a fault.
7 Clearly, he brought on the difficulty himself. By that he
8 went armed to a place where he knew those folks were going to
9 be by his own testimony and no fight occurred there. He
10 didn't walk away from a difficulty because there wasn't a
11 difficulty there. He interjected a firearm into a situation
12 where there wasn't even a fight unlawfully by his own
13 statement, unlawful in carrying it and illegally purchasing
14 it, both.

15 How about a reasonable fear of bodily harm? Now, I want
16 to clarify one point for you all. Bodily harm in South
17 Carolina means great bodily harm or death. It doesn't mean a
18 bully at a school for your lunch money. It means great bodily
19 harm or death. How many fights according to his testimony has
20 he been I, fistfights no weapons involved? Nobody ever hurt,
21 nobody getting medical attention other than maybe his
22 girlfriend tended to, the indignity of it all. No one had
23 ever been hurt in two years worth of fights, a year worth of
24 fights, twice a week worth of fights. There is no reasonable
25 person in that situation that believes you get great bodily

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1 injury or death with all the fights apparently these people
2 say they're going to be in. Can't bring a gun to a fistfight.
3 He brought a gun to a fistfight. He'd been in them enough.
4 He knows he ain't getting shot. No one else says anything
5 about it except for this Defendant that day when he's had
6 enough. He's got to get respect today, "because I'm stopping
7 it. Everybody is going to look at me, look at me like I'm the
8 man." That's a reasonable belief of great bodily harm, not
9 just any harm, not a fistfight, great bodily harm or death.
10 No evidence there was any instrumentality used to kill him,
11 not a bat, not a knife, not a gun, nothing.

12 Finally, he's talked a lot about duty to retreat, okay.
13 There are a lot of places this young man could go. He said he
14 lived right behind Carnell's, right behind it, said, "I live
15 right behind Carnell's," if you remember. He also said that,
16 "Where I came from is a hundred yards. I live right there. I
17 live right there." If, in fact, self-defense applies here and
18 I don't believe it does - excuse me, let me back up. Self-
19 defense doesn't apply here and one of the reasons why it
20 doesn't is he could have gone anywhere. There was no threat
21 of lethal force. There was no increase of harm to him if he
22 backed up. He was in the parking lot almost to the parking
23 lot of a lighted Super Chic. No one said they were running.
24 He is that close, to continue to walk in there and he's done.
25 Carnell's is right there, could have gone right there. He

1 said he wasn't running away from anybody, said he was waiting
2 on a ride. So, what made him decide that, "This is the spot
3 in the world I'm going to make my stand?" I don't know, but I
4 know he did and the reaction to these young men, pow, hit the
5 ground, hit the ankle, hit the ground, ran the other way,
6 didn't return gunfire, didn't get into a firefight, nothing,
7 ran the other way.

8 Let's talk a little about the Defendant's different
9 stories. He was very clear on the stand. You heard it when
10 Mr. Hazzard was directly examining him, he said, "I was
11 afraid, afraid for my life," although I don't know why he was
12 afraid of Antonio Tisdale and there's never been any weapon
13 used against him before that we could hear of, no, no evidence
14 of that, said, "These boys are rushing up behind me, I hear
15 them, I turn around, see him do something like this. So, I
16 get the drop on him, get the drop on him." What he had told
17 Eddie Lee that he didn't even have a gun before. Then he
18 said, "Well, one of them was carrying a gun but then that fell
19 out and somebody picked it up, and I thought I shot myself,
20 and then they ran up behind me and jumped me and hit me with
21 knives and baseball bats, all of them, all of them." Then
22 there was only one shot, well, there's two shots apparently
23 because we've got two folks that are hurt, then ten days
24 later, excuse me, three days later there's another statement,
25 "I didn't have a gun, didn't touch a gun, folks are running up

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1 behind me, I heard gunshots, so I took off through the Super
2 Chic alley." Those are all the stories that we've heard so
3 far that he's told law enforcement about what happened. This
4 is inconsistent with the rest of those stories. A person with
5 a legitimate claim of self-defense stands on the pillar and
6 announces to the world what happened. The mere fact that
7 there is so many contradictory stories is information for you
8 to use to analyze the credibility of his version of events.
9 So, what do we when we have all of that kind of noise we calm
10 down again and we think about it, think about what
11 independently do we know about this case to help us reach a
12 verdict, to have the truth come through this chatter, this
13 chatter. We know there's bad blood everywhere. West end
14 hates these guys, hates these guys, hates these guys, and it
15 doesn't appear as if it's going to change any time soon. We
16 know there was no other weapons involved in this assault or
17 this shooting other than the gun, other than a gun. We know
18 the Defendant has given strikingly different stories about
19 what happened from, "I don't know who I shot," to this, to
20 he pulled a gun to he didn't pull a gun, that's evidence you
21 use to not believe what he's saying. We know that these
22 fellows, Ron Gardner is the only one that said anybody ran.
23 We know we heard words, we heard, "What you doing up here?" We
24 know that. We know there was no fight. We know there was
25 this overview of bad blood. We know that the Defendant said,

1 "I'm tired of being disrespected. I'm tired of being
2 embarrassed. I'm tired of running. I'm not going to run no
3 more. I'm turning 20." You heard testimony that he put a T-
4 shirt on his face and turned around. You also didn't hear
5 from the forensic pathologist any close contact would or
6 stippling or anything from that testimony. Didn't hear
7 anything about that. The reasonable inference from that fact
8 is there's a distance from away where that gun was fired. You
9 also heard the forensic pathologist say there was no injuries
10 to Al's hand, to Antonio Tisdale's hands. There were no
11 bruising, no cuts, just an old scrape, no fist fighting, no
12 evidence of it, not a scintilla, not a scintilla. What we do
13 know, we do know this young man admitted to killing one man
14 and shooting another. The only question for you all is did he
15 do it illegally, was he justified in doing it? It's not a
16 whodunit. It's can he do it? I submit to you he cannot. He
17 brought a gun. He didn't have any reasonable fear of bodily
18 injury because he's been in this over and over again. The
19 malice aforethought that's necessary to convict this young man
20 of murder is pretty straightforward.

21 Let me tell you about the elements of murder. It's the
22 unlawful killing of the person of another with malice
23 aforethought, either express or implied, okay. Unlawful means
24 if you were legally justified in doing it, say a police
25 officer involved shooting, something like that, if you find

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1 self-defense that would be a lawful killing. This is an
2 unlawful killing, the person of another, Mr. Tisdale is a
3 natural person. You saw the pictures. You know he's a
4 natural human being. That's an easy one to get to there. The
5 person of another with malice aforethought, depraved heart,
6 ill will, prior plan. All of that there's evidence that you
7 can use to determine. The nature of the injuries, the nature
8 of the instrumentality, all of those things you can use to
9 decide whether you believe there was malice present. The
10 existence of prior ill will is evidence of malice, "had enough
11 of this, I'm going to do something about it today." All
12 that's evidence of malice and malice can be express or implied
13 meaning, "I'm going to kill you," and you deliver the goods or
14 the way you go about doing it such as putting a - deciding now
15 is the time, pulling the concealable weapon so the person
16 didn't see a weapon was there could be used as evidence of
17 malice. Okay, we have unlawful killing of the person of
18 another. Malice is all over the place on this thing. It's
19 not express, didn't hear any words. We heard a couple of
20 words. Actually Al Ingram testified there were a couple of
21 words but couldn't hear what he said. Maybe he couldn't hear
22 through the material on his face according to Mr. Ingram's
23 testimony. I don't know. He just said couldn't hear what he
24 said, then pow, pow, pow and ran that way. So, it's implied
25 malice and you can see malice through the instrumentality,

1 through the nature of the injury, through the prior ill, the
2 depraved heart. Malice can be established by gross
3 recklessness to the health and safety of others. If he says
4 he didn't know who he shot, he turned around and shot,
5 shooting down a street at people you don't know is gross
6 reckless disregard for the person. He knew exactly who he was
7 shooting at. He knew exactly who he was shooting at. He was
8 shooting at the guy he had bad blood with that's walking
9 behind him.

10 All right, assault and battery with intent to kill is
11 injury to a person of another of a violent nature with malice
12 aforethought either express - excuse me, express or implied,
13 very similar to murder. The only difference is a person
14 survives really. It's a violent injury, a gunshot wound
15 through the ankle with the same malice that was used at the
16 other person. Now, remember there wasn't any testimony that
17 he had ill will towards Mr. Tisdale, but we have what's
18 called transferred intent in South Carolina, in other words if
19 I'm really upset at Mr. Brown here and I fire a weapon at him,
20 due to my bad aim or whatever I strike someone else, the
21 intent that I had to cause harm to him is transferred to
22 another person. So, I don't get away with it because I'm just
23 a bad shot. That's transferred my intent to somebody else.
24 So, any ill will that Mr. Leggette had towards Mr. Ingram is
25 transferred to Mr. Tisdale as well, okay.

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1 Finally, the Judge is going to charge you on voluntary
2 manslaughter and what voluntary manslaughter is, said, it
3 basically means, it's still the unlawful killing of a person
4 of another but it's also accompanied by sufficient legal
5 provocation. In other words that means, the classic law
6 school example of that would be someone is at home and they
7 walk in and they see their husband, their wife or husband in
8 there together with somebody else and they're so enraged they
9 get a pistol and shoot somebody, put an end to their life.
10 It's still against the law. It just isn't quite as bad as
11 lying in wait at somebody. You know, it's still an
12 intentional act. You still intended to do what you did but
13 the law says you're not quite as bad as if you, you know,
14 didn't have any provocation whatsoever, okay. All of those
15 require - murder requires aforethought, in other words you
16 have to think about it before you pull the trigger, but
17 there's no set period of time, don't have to think about it
18 for two years, five years. You can form malice aforethought
19 in 350 steps. You can form it in one step as long as that
20 fills your heart and your mind and you say, "I'm going to
21 act." It can happen in a second. "Now is the time I'm going
22 to be a man right now. I'm going to get respect. That's
23 enough for malice aforethought, okay.

24 Voluntary manslaughter requires that you're under the
25 stress and excitement of a legally sufficient stress and you

1 act improperly but you act and kill somebody, but you had
2 sufficient legal provocation to do it. Not that mitigates,
3 you know, it's called a lesser included offense of the offense
4 of murder, okay.

5 Let me wrap up by saying it's difficult to try to figure
6 out what's going on in the minds of young folks, different,
7 different areas, different upbringing. What's normal for us
8 may not be normal for everybody else, but there are a few
9 standards that we all are governed by. You can't kill an
10 unarmed man when you know they're unarmed, when you've had
11 dealings with them before, you can't kill them, can't kill
12 them. When you bring on the difficulty yourself by bringing a
13 gun to a knife fight, carrying an illegal weapon down there
14 when you know you're getting into a problem, that's why when
15 you go back to your jury room and think about everything
16 you've heard and all this cacophony of contradiction, you'll
17 realize that a lot of bad stuff was going on but that doesn't
18 keep him from being able to kill two human beings on a Main
19 Street in the United States. Thank you.

20 THE COURT: All right, ladies and gentlemen, all of
21 the testimony and other evidence to be presented in this case
22 has now been presented to you and now is the time of the trial
23 when I will charge you with the law to be applied in this
24 case. The indictments in this case charge the Defendant with
25 murder and assault and battery with intent to kill. I remind

Charge

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1 you that the fact that the Defendant was arrested, charged and
2 indicted in this case is not evidence in this case and cannot
3 be considered by you as evidence of guilt in this case, nor
4 does it create any presumption or inference of guilt. These
5 documents are simply the formal written instruments which
6 contain the charges made against the Defendant. They are the
7 formal documents by which this case is brought into this
8 courtroom.

9 The indictments in this case allege several different
10 offenses against the Defendant. As I have stated these
11 charges are one indictment for murder and one indictment for
12 assault and battery with intent to kill. Each indictment
13 charges a separate and distinct offense. You must decide each
14 indictment separately on the evidence and the law applicable
15 to it, uninfluenced by your decision as to the other
16 indictment. The Defendant may be convicted or acquitted on
17 one or both of the offenses charged. You will be asked to
18 write a separate verdict of guilty or not guilty for each
19 indictment.

20 Now, the Defendant has pled not guilty to these
21 indictments and that plea puts the burden on the State to
22 prove the Defendant guilty. A person charged with committing
23 a criminal offense in South Carolina is never required to
24 prove his innocence. I charge you that an important rule
25 of the law is that the Defendant in a criminal trial, no

1 matter what the seriousness of the charge may be, will always
2 be presumed to be innocent of the crime for which the
3 indictment was issued unless guilt has been proven by evidence
4 satisfying you of that guilt beyond a reasonable doubt. This
5 presumption of innocence does not end when you begin your
6 deliberations but it accompanies the Defendant throughout the
7 trial unless you reach a verdict of guilt based on evidence
8 satisfying you of that guilt beyond a reasonable doubt. The
9 presumption of innocence is like a robe of righteousness
10 placed about the shoulders of the Defendant which remains with
11 the Defendant unless it has been stripped from the Defendant
12 by evidence satisfying you of the Defendant's guilt beyond a
13 reasonable doubt. The presumption of innocence is not a mere
14 legal theory. It is not just a legal phrase. It is a
15 substantial right to which every Defendant is entitled unless
16 you the jury are satisfied from the evidence of the
17 Defendant's guilt beyond a reasonable doubt.

18 Now, what is reasonable doubt in the law? A reasonable
19 doubt is the kind of doubt that would cause a reasonable
20 person to hesitate to act. Proof beyond a reasonable doubt is
21 proof that leaves you firmly convinced of the Defendant's
22 guilt. There are very few things in this world that we know
23 with absolute certainty, and in criminal cases the law does
24 not require proof that overcomes every possible doubt. If
25 based on your consideration of the evidence you are firmly

Charge

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1 convinced that the Defendant is guilty of the crimes with
2 which he has been charged you must find the Defendant guilty.
3 If on the other hand you think there is a real possibility
4 that the Defendant is not guilty you must give the Defendant
5 the benefit of that doubt and find the Defendant not guilty.
6 I remind you that during this trial you and I have certain
7 duties to perform. As the trial judge it is my responsibility
8 to preside over the trial of this case. I also have the duty
9 to rule on the admissibility of evidence offered during this
10 trial. You are to consider only the competent evidence before
11 you. If there was ever any testimony ordered stricken from
12 the record in this case during this trial you must disregard
13 that testimony. You are to consider only the testimony which
14 has been presented to you from the witness stand, any exhibits
15 which have been made a part of the record in this case and any
16 stipulations between the attorneys. I have the additional
17 duty to charge you the law applicable to this case. As the
18 presiding judge I am the sole judge of the law of this case
19 and it is your duty as jurors to accept and apply the law as I
20 now state it to you. If you already have any idea as to what
21 the law is or what the law ought to be and your idea differs
22 with what I now tell you the law is you must abandon your idea
23 of what the law is or ought to be because you are sworn to
24 accept the law and apply the law exactly as I state it to you.
25 In every case tried in this court before a jury the jury

1 becomes the sole and exclusive judge of the facts in a case.
2 A trial judge cannot intimate, state, comment on or make any
3 statement to a trial jury about the facts in a case. Since
4 you the jury are the sole judge of the facts in this case you
5 are not to infer from what I have said during the progress of
6 this trial in ruling on the admissibility of evidence or
7 otherwise or anything that I say now during the course of this
8 instruction to you that I have any opinion about the facts of
9 this case. The law does not allow me to have an opinion about
10 the facts in this case. This matter is solely for you the
11 jury to determine. As jurors it is your duty to determine the
12 effect, value, weight and truth of the evidence presented
13 during this trial.

14 Now, there are two types of evidence which are generally
15 presented during a trial, direct evidence and circumstantial
16 evidence. Direct evidence is the testimony of a person who
17 claims to have actual knowledge of a fact, such as an
18 eyewitness. It is evidence which immediately establishes the
19 main fact sought to be proved. Circumstantial evidence is
20 proof of a chain of facts and circumstances indicating the
21 existence of a fact. It is evidence which immediately
22 establishes collateral facts from which the main fact may be
23 inferred. Circumstantial evidence is based on inference and
24 not on personal knowledge or observation. The law makes
25 absolutely no distinction between the weight or value to be

Charge

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1 given to either direct or circumstantial evidence, nor is a
2 greater degree of certainty required of circumstantial
3 evidence than of direct evidence. You should weigh all of the
4 evidence in the case and after weighing all of the evidence if
5 you are not convinced of the guilt of the Defendant beyond a
6 reasonable doubt you must find the Defendant not guilty.

7 Necessarily you must determine the credibility of
8 witnesses who have testified in this case. Credibility simply
9 means believability. It becomes your duty as jurors to
10 analyze and to evaluate the evidence and determine which
11 evidence convinces you of its truth. In determining the
12 believability of witnesses who have testified in this case you
13 may believe one witness over several witnesses or several
14 witnesses over one witness. You may believe a part of the
15 testimony of a witness and reject the remaining part of the
16 testimony of that same witness. You may believe the testimony
17 of a witness in its entirety or reject the testimony of a
18 witness in its entirety. You may consider whether any witness
19 has exhibited to you any interest, bias, prejudice or other
20 motive in this case. You may also consider the appearance and
21 manner of a witness while on the witness stand.

22 Now, there has been evidence presented that a witness
23 made prior statements which are not consistent with the
24 witness's present testimony. You may use this evidence to
25 decide whether to believe the witness. You may also use

1 evidence of the earlier contradictory statement to determine
2 the truth of the statement. It is up to you to decide whether
3 to believe all, part or none of the earlier statement or all,
4 part or none of the testimony given at trial. If a witness is
5 shown to have knowingly testified untruthfully concerning any
6 material matter you may consider this in determining whether
7 you trust the witness's testimony as to other matters. You
8 may reject all testimony of that witness or give all or part
9 of the testimony the weight you think it deserves.

10 The Rules of Evidence ordinarily do not permit witnesses
11 to testify to opinions or conclusions. An exception to this
12 rule exists for witnesses we call expert witnesses. A witness
13 who by education and experience has become expert in some art,
14 science, profession or calling may state an opinion as to the
15 relevant and material matter in which the witness claims to be
16 an expert and may also state the reasons for that opinion.
17 You should consider any expert opinion received in evidence in
18 this case and like any other evidence give it the weight that
19 you think it deserves. If you decide that the opinion of an
20 expert witness is not based on sufficient education and
21 experience or if you conclude that the reasons given in
22 support of the opinion are not sound or that the opinion is
23 outweighed by other evidence you may disregard the opinion
24 entirely. An expert witness's testimony is to be given no
25 greater weight than that of any other witness simply

Charge

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1 because the witness is an expert. Further, you're not
2 required to accept an expert's opinion even though it is not
3 contradicted.

4 Now, ladies and gentlemen, this Court has admitted
5 evidence of statements allegedly made by the deceased victim
6 after the injuries. I have determined that these statements
7 should be admitted into evidence in this case. However, it is
8 for you to determine the believability of these statements.
9 In deciding this question you may consider whether the victim
10 was dying and he knew he was dying and whether the victim had
11 lost all hope of recovery at the time the statements were
12 made.

13 An issue in this case is the identification of the
14 Defendant as the person who committed the crime charged. The
15 State has the burden of proving identity beyond a reasonable
16 doubt. You must be satisfied beyond a reasonable doubt of the
17 accuracy of the identification of the Defendant before you may
18 convict the Defendant. Identification testimony is an
19 expression or a belief or impression by a witness. You must
20 determine the accuracy of the identification of the Defendant.
21 You must consider the believability of each identification
22 witness in the same way as any other witness. You may
23 consider whether the witness had an adequate opportunity to
24 observe the offender at the time of the offense. This will be
25 affected by things like how long or short a time was

1 available, how far or close the witness was, the lighting
2 conditions and whether the witness had a chance to see or know
3 the person in the past. Once again, I instruct you the burden
4 of proof is on the State and it extends to every element of
5 the crime charged and this specifically includes the burden of
6 proving beyond a reasonable doubt the identity of the
7 Defendant as the person who committed the crime. If after
8 examining the testimony you have a reasonable doubt as to the
9 accuracy of the identification you must find the Defendant not
10 guilty.

11 Now in order to establish criminal liability criminal
12 intent is required, for example the mental state required to
13 be proven by the State for a particular crime might be
14 purpose, intent, knowledge, recklessness or criminal
15 negligence. Criminal intent must be proven by the State
16 beyond a reasonable doubt. Criminal intent is always a matter
17 that must be determined by the jury from the circumstances
18 surrounding the situation. There's no way to prove intent to
19 a mathematical certainty. There is no way that medical
20 science can dissect a person's brain and determine what the
21 person had in mind. So, the law says that criminal intent may
22 be inferred from the circumstances shown to have existed.
23 This is how you make a determination of whether or not the
24 element requiring intent was present. It is not necessary to
25 establish intent by direct and positive evidence, but intent

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1 may be established by inference in the same way as any other
2 fact by taking into consideration the acts of the parties and
3 all of the facts and circumstances of the case. Criminal
4 intent is a mental state, a conscious wrongdoing. It is up to
5 you to determine what the Defendant intended to do based on
6 the circumstances shown to have existed. Criminal intent can
7 arise from action or a failure to act. It may arise from
8 negligence, recklessness or an indifference to duty or to
9 consequences that is considered by the law to be the
10 equivalent of criminal intent.

11 The Defendant is charged with murder. For the Defendant
12 to be found guilty of this charge the State must prove beyond
13 a reasonable doubt that the Defendant killed another person
14 with malice aforethought. Malice is hatred, ill-will or
15 hostility towards another person. It is the intentional doing
16 of a wrongful act without just cause or excuse and with an
17 intent to inflict an injury or under circumstances that the
18 law will infer an evil intent. Malice aforethought does not
19 require that malice exists for any particular time before the
20 act is committed but malice must exist in the mind of the
21 Defendant just before and at the time of the act - at the time
22 the act is committed. Therefore, there must be a combination
23 of the previous evil intent and the act.

24 Malice aforethought may be express or inferred. These
25 terms express and inferred do not mean different kinds of

1 malice but merely the manner in which malice may be shown to
2 exist. That is either by direct evidence or by inference from
3 the facts and circumstances which are proved. Express malice
4 is shown when a person speaks words which express hatred or
5 ill will for another or when the person prepared beforehand to
6 do the act which was later accomplished; for example, lying in
7 wait for a person or any other act of preparation going to
8 show that the deed was within the Defendant's mind would be
9 express malice.

10 Malice may be inferred from conduct showing a total
11 disregard for human life. If the Defendant with malice
12 aforethought attempts to kill another person but by mistake
13 kills a different person the Defendant still has the intent to
14 kill. The intent to kill is merely transferred from the
15 original person the Defendant attempted to kill to the actual
16 person killed.

17 If you find that the State has failed to prove beyond a
18 reasonable doubt that the Defendant committed murder you may
19 consider whether the State has proved beyond a reasonable
20 doubt that the Defendant committed, excuse me, committed
21 voluntary manslaughter. Included within the offense of murder
22 is the lesser offense of voluntary manslaughter. To prove
23 voluntary manslaughter the State must prove beyond a
24 reasonable doubt that the Defendant took the life of another
25 in the sudden heat of passion based on sufficient legal

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1 provocation. Both heat of passion and sufficient legal
2 provocation must be present at the time of the killing to
3 constitute voluntary manslaughter.

4 Sudden heat of passion may, for a time, affect a person's
5 self-control and temporarily disturb a person's reason. The
6 sudden heat of passion must be the type that would make an
7 ordinary person unable to coolly reflect on his actions and
8 would produce an uncontrollable impulse to do violence.

9 Sufficient legal provocation must be the type that would
10 make a person of ordinary reason and caution become enraged
11 and to lose control temporarily. The provocation needed for
12 voluntary manslaughter must come from some act of, or related
13 to, the victim.

14 Words alone, however vulgar or insulting, are not enough
15 to be legal provocation. Where death is caused by the use of
16 a deadly weapon, the words must be accompanied by some overt,
17 threatening act which could have produced the heat of passion.
18 The exercise of a legal right, no matter how offensive it is
19 to another, is never sufficient legal provocation for
20 voluntary manslaughter. If the heat of passion had cooled, or
21 if there was enough time between the provocation, if any, and
22 the killing for the passion of a reasonable person to cool,
23 the killing would not be voluntary manslaughter. In deciding
24 whether a reasonable person would have had enough time to cool
25 off, you should consider all of the circumstances surrounding

1 the killing. You may consider the nature of the provocation,
2 if any; the Defendant's mental and physical state; and the
3 circumstances and relationships between the parties.

4 The Defendant has also been charged with assault and
5 battery with intent to kill. In order to prove assault and
6 battery with intent to kill, the State must prove beyond a
7 reasonable doubt that the Defendant committed an unlawful act
8 of a violent nature to the person of another with malice
9 aforethought.

10 An assault occurs when a person unlawfully attempts or
11 offers to commit a violent injury upon another person and had
12 the present ability to complete the attempted injury. An
13 assault is the intentional creation of a reasonable fear of
14 immediate bodily harm. It is not necessary that the attempted
15 injury or harm actually take place. For example, if I walk up
16 to you and when we are within arm's reach, I draw back to hit
17 you, that is an assault.

18 A battery is the unlawful touching of another person by a
19 person who has committed the assault. An unlawful touching
20 can be caused by a part of the, excuse me, by a part of the
21 accused's body or any object the accused puts in motion. A
22 battery is the completion of the assault by using or applying
23 force to another person, however slight, in a rude, angry, or
24 resentful manner without legal justification for doing so.
25 Using my earlier example, if I carry through the assault by

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1 hitting you, then that is a battery.

2 Now, as I have instructed you before malice is required
3 in this charge, also. Malice is hatred, ill-will or hostility
4 towards another. It is the intentional doing of a wrongful
5 act without just cause or excuse and with an intent to inflict
6 an injury or under circumstances that the law will infer an
7 evil intent.

8 Just like before malice aforethought does not require
9 that malice exists for any particular time before the act is
10 committed, but malice must be - must exist in the mind of the
11 Defendant just before and at the time of the act it is
12 committed. Therefore, there must be a combination of the
13 previous evil and the act for this charge as well.

14 Malice aforethought just like the charge for murder in
15 this charge, malice aforethought may be express or inferred.
16 These terms, as I stated before, do not mean different kinds
17 of malice but merely the manner in which malice may be
18 shown to have existed, that is either by direct evidence or
19 by inference from the facts and circumstances which are
20 proved.

21 As stated before express malice is shown when a person
22 speaks words which express hatred or ill will for another or
23 when the person prepared beforehand to do the act which was
24 later accomplished; for example, lying in wait. Malice may be
25 inferred from conduct showing a total disregard for human

1 life.

2 Now, if facts are proved beyond a reasonable doubt
3 sufficient to raise an inference of malice to your
4 satisfaction this inference would be simply an evidentiary
5 fact to be considered by you along with other evidence in the
6 case and you may give it the weight you think it deserves. A
7 specific intent to kill is not an element of assault and
8 battery with intent to kill, but there must be a general
9 intent to commit serious bodily injury. Intent means
10 intending the result which actually occurs, not accidentally
11 or involuntarily. Intent may be shown by acts and conduct of
12 the Defendant and other - excuse me, and other circumstances
13 from which you may naturally and reasonably infer intent.
14 Evidence of the character of the assault, the character of the
15 instrument used, the manner in which it was used, the purpose
16 to be accomplished and the resulting wounds or injuries may be
17 considered in determining the intent with which the assault
18 was committed. Intent may be inferred when it was - is
19 demonstrated that the Defendant voluntarily and willfully
20 commits an act, the natural tendency of which was to destroy
21 another person's life.

22 Now, included within the offense of assault and battery
23 with intent to kill is the lesser offense of assault, of
24 assault and battery of a high and aggravated nature.
25 Therefore, if you find that the State has not proven that the

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1 Defendant is guilty of assault and battery with intent to kill
2 you must then determine whether the State has proved that the
3 Defendant is guilty of assault and battery of a high and
4 aggravated nature. Assault and battery of a high and
5 aggravated nature includes all of the elements of assault and
6 battery with intent to kill except malice aforethought. In
7 addition, the State must prove beyond a reasonable doubt an
8 aggravating circumstance. Assault and battery of a high and
9 aggravated nature is an unlawful act of violent injury to the
10 person of another accompanied by circumstances of aggravation.
11 Circumstances of aggravation include the use of a deadly
12 weapon, the intent to commit a felony, the infliction of
13 serious bodily injury, a great disparity between the ages or
14 physical conditions of the parties, a difference in the
15 genders of the parties, the taking of indecent liberties or
16 familiarities with a female through the use of force, the
17 purposeful infliction of shame and disgrace and the resistance
18 of lawsuit authorities. These are only examples of
19 circumstances of aggravation.

20 Now, the Defendant has raised the defense of self-
21 defense. Self-defense is a complete defense and if it is
22 established, you must find the Defendant not guilty. The
23 State has the burden of disproving self-defense by proof
24 beyond a reasonable doubt. If you have a reasonable doubt of
25 the Defendant's guilt after considering all of the evidence,

1 including the evidence of self-defense, then you must find the
2 Defendant not guilty. On the other hand, if you have no
3 reasonable doubt of the Defendant's guilt after considering
4 all of the evidence, including the evidence of self-defense,
5 then you must find the Defendant guilty.

6 The following elements are required to establish self-
7 defense. First, the Defendant must be without fault in
8 bringing on the difficulty. If the Defendant's conduct was
9 the type which was reasonably calculated to and did provoke a
10 deadly assault, the Defendant would be at fault in bringing on
11 the difficulty and would not be entitled to an acquittal based
12 on self-defense.

13 The second element of self-defense is that the Defendant
14 was actually in imminent danger of death or serious bodily
15 injury or that the Defendant actually believed he was in
16 imminent danger of death or serious bodily injury. If the
17 Defendant was actually in imminent danger, it must be shown
18 that the circumstances would have warranted a person of
19 ordinary firmness and courage to strike the fatal blow to
20 prevent death or serious bodily injury. If the Defendant
21 believed he was in imminent danger of death or serious bodily
22 injury, it must be shown that a reasonably prudent person of
23 ordinary firmness and courage would have had the same belief.

24 In deciding whether the Defendant actually was, or
25 believed he was, in imminent danger of death or serious bodily

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1 injury, you should consider all of the facts and circumstances
2 surrounding the crime, including the physical condition and
3 characteristics of the Defendant and the victim.

4 Now, the Defendant does not have to show that he was
5 actually in danger. He does not have to wait until he is
6 attacked to act in self-defense. It is enough if the
7 Defendant believed he was in imminent danger and a reasonably
8 prudent person of ordinary firmness and courage would have had
9 the same belief. The Defendant has the right to act on
10 appearances even though the Defendant's beliefs may have been
11 mistaken. It is for you to decide whether the Defendant's
12 fear of immediate danger of death or serious bodily injury was
13 reasonable and would have been felt by an ordinary person in
14 the same situation. Evidence of prior difficulties between
15 the Defendant and the victim may be considered in determining
16 whether a threat existed, whether the Defendant had a reason
17 to believe a threat existed and how serious that threat was.

18 The reputation of the victim as a violent person may be
19 considered in deciding whether there was a need for force,
20 whether the Defendant had reason to believe there was a need
21 for force and whether deadly force was reasonably necessary.
22 Prior instances, excuse me, prior instances of violence by the
23 victim may be considered in deciding whether the Defendant
24 actually believed he was in imminent danger of death or
25 serious bodily injury and was actually in immediate danger or

1 imminent danger. Threats made by the victim may be considered
2 in determining whether the Defendant actually was, or believed
3 he was, in imminent danger.

4 The final element of self-defense is that the Defendant
5 had no other probable way to avoid the danger of death or
6 serious bodily injury than to act as the Defendant did in this
7 particular instance. The Defendant has no duty to retreat if
8 by doing so the danger of being killed or suffering serious
9 bodily injury would increase. A person cannot be required to
10 make an exact calculation as to the degree or amount of force
11 which may be needed to avoid death or serious bodily harm.
12 Therefore, in self-defense the Defendant has the right to use
13 the force needed to avoid death or serious bodily harm. The
14 force used in self-defense does not have to be limited to the
15 degree or amount of force used by the victim. The Defendant
16 has the right to use so much force as appeared to be necessary
17 for complete self protection and which a person of ordinary
18 reason and firmness would have believed to be needed to
19 prevent death or serious bodily harm.

20 Now, there are three possible verdicts which you may
21 find for each indictment in this case. There's no
22 significance whatsoever in the order in which I state these
23 verdicts to you. I simply must state one first, one second
24 and one third.

25 On the charge of murder you may find one of these three

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1 verdicts; we, the jury, find the Defendant guilty of murder
2 or we, the jury, find the Defendant guilty of voluntary
3 manslaughter or we, the jury, find the Defendant not guilty.
4 On the charge of assault and battery with intent to kill you
5 can find one of these there verdicts: we, the jury, find the
6 Defendant guilty of assault and battery with intent to kill or
7 we, the jury, find the Defendant guilty of assault and battery
8 of a high and aggravated nature or we, the jury, find the
9 Defendant not guilty.

10 Now, ladies and gentlemen, your verdict must be a
11 unanimous one. Ms. Scott, as foreperson, when the jury agrees
12 on a verdict you will have two verdict forms, one for the
13 indictment for murder and one for the indictment for assault
14 and battery with intent to kill. When the jury reaches it
15 verdict you will sign your name under the appropriate verdict,
16 date it and then knock on the door and let the bailiff know
17 that the jury has reached a verdict.

18 Now, I'm going to excuse you back to the jury room at
19 this time, but please do not begin your deliberations. I have
20 to check with the attorneys to see if they have any
21 challenges, additions or corrections to the charge of the law
22 that I've given to you. If there are additions or corrections
23 that need to be made I'll bring you back out and I'll make
24 those to you. If there are none to be made then we will send
25 all of the evidence with the verdict forms and the indictments

1 back to you with instructions by the bailiff that you can
2 begin your deliberations. So, I'm going to excuse you back to
3 the jury room right now but please do not begin your
4 deliberations at present.

5 Everybody else please remain seated while the jury is
6 excused.

7 (Whereupon, the following takes place outside the
8 presence of the jury.)

9 THE COURT: All right, any challenges, exceptions or
10 additions to the charge by the State?

11 MR. HIXSON: No, Your Honor.

12 THE COURT: Any by the Defendant?

13 MR. HAZZARD: No exceptions, additions or deletions
14 requested by the Defense.

15 THE COURT: All right, let's go ahead and make sure we
16 get all the exhibits together. Here are the indictments.
17 Here are the verdict forms.

18 (Exhibits reviewed by counsel for State and Defendant and
19 approved.)

20 THE COURT: All right, we got everything?

21 MR. HIXSON: Yes, sir.

22 THE COURT: All right, here's the verdict form, the
23 indictments, take the exhibits back there to them and bring
24 out Ms. Grimes and Mr. Byrne, the alternates.

25 (Alternates enter courtroom.)

1 THE COURT: Mr. Byrne, Ms. Grimes, unfortunately
2 you're like the person that listens to the campaign speech but
3 then doesn't get to vote. As alternates in this case your
4 services were needed in the event one of the sitting jurors
5 became sick, ill or could not go forward in this case. The
6 unfortunate part is that you have to sit through the whole
7 trial, listen to all of the evidence, but then you don't get
8 to deliberate on guilt or innocence. So, your services in
9 this case would not be needed any longer. You're certainly at
10 liberty to sit and wait and see what the outcome is, you're
11 free to go if you wish to go, but you would not be allowed to
12 deliberate further in this case. Do you understand?

13 BAILIFF: A juror has a question about somebody in
14 the audience that he knows and he was asking about.

15 THE COURT: We'll get to that in just a minute; okay?
16 All right, so, let me have you sit for just a second and then
17 I'll bring you back up in just a minute; okay?

18 MR. BYRNE: In here?

19 THE COURT: Just have a seat right over here for a
20 second.

21 Go tell them to write the question on a sheet of paper
22 and bring it to me. Tell the foreman to write their question
23 on a sheet of paper.

24 BAILIFF: It's just one juror.

25 THE COURT: Well, have him write it out and then bring

1 it to me.

2 MR. HIXSON: May we approach, Your Honor?

3 THE COURT: Yeah.

4 (Whereupon, a bench conference is held.)

5 THE COURT: It appears that one of the - that there
6 is a question that they're bringing in. So, let's get Ms.
7 Grimes and Mr. Byrne - I might be cutting you loose
8 prematurely and that's what I've got to check on. Let's have
9 them sit in this jury room over here while I deal with this
10 question. We very well may not need you any further, but
11 until I confirm that let me, let me double-check on this
12 question; okay? So, I'm going to excuse you to this jury room
13 over here until we deal with this question first.

14 (Alternates exit courtroom.)

15 THE COURT: All right, this is from Juror Number 111,
16 Francis W. Roberts. It says, "After lunch when we came in I
17 seen a co-worker in the courtroom. His last name is Mitchum,
18 and one of the witness's last name was Mitchum. I do not know
19 if they are related. I just wanted the Court to be aware."
20 So, evidently when he came back after lunch he saw a co-worker
21 that he may now have the impression was related to one of the
22 witnesses. Do we need any questioning or are you all
23 satisfied that he's not going to be influenced by that?

24 MR. HIXSON: I'm satisfied with that in that he didn't
25 - there was no improper contact and we weren't - he wasn't -

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1 there was no voir dire on the issue of, "Do you know anybody
2 that's going to be in the audience." So, he addressed the
3 question truthfully.

4 THE COURT: Right.

5 MR. HIXSON: You know, so, there's no apparent
6 misleading or anything like that. I don't know which way it
7 cuts.

8 THE COURT: I don't either. I mean he certainly
9 didn't answer a question. As I understand this he's just
10 saying that, "I see a co-worker. His last name is Mitchum and
11 one of the witness's last name was Mitchum. I don't know if
12 they're related but I just wanted the Court to know that."

13 MR. HAZZARD: From the Defense perspective it concerns
14 me that it concerned this juror enough to bring it to the
15 Court's attention and I think so that the record is completely
16 clean I would suggest that it's appropriate to ask him, "Okay,
17 does this fact or possibility of a fact effect your ability to
18 fairly, you know, try the facts of the case?"

19 THE COURT: Well, I mean, we can do that or we can go
20 ahead and seat one of the alternates because if he says yes we
21 can seat the alternates. Whatever you want, whatever you want
22 to do.

23 MR. HAZZARD: Well, the Defense would move to seat one
24 of the alternates.

25 THE COURT: All right.

1 MR. HIXSON: I have no objection. I'm fine with
2 whatever remedy the Court crafts.

3 THE COURT: All right, as I understand in a criminal
4 case it has to be drawn by lot rather than in the order they
5 were picked.

6 All right, I put Juror Number 54, Cheryl R. Grimes, on
7 one sheet of paper, Juror Number 18, Alex D. Byrne, on the
8 other paper. Who do we want to pick?

9 MR. HAZZARD: The clerk, the clerk.

10 THE COURT: Huh?

11 MR. HAZZARD: The clerk.

12 THE COURT: All right, Mr. Clerk, pick one.

13 All right, Juror Number 54, Cheryl R. Grimes, is the
14 alternate.

15 All right, let's bring Francis Roberts, Juror Number 111,
16 out; okay?

17 Yeah, they've got the evidence, go tell them that they
18 need to stop deliberations and what I'll need to do is bring
19 them back out.

20 (Juror Number 11, Francis Roberts, enters courtroom.)

21 THE COURT: All right, Mr. Roberts, because as I
22 understand you raised a concern that there might be someone,
23 that you had a co-worker out there that might be related to
24 one of the witnesses?

25 MR. ROBERTS: Yes, sir.

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1 THE COURT: All right, out of an abundance of caution
2 I'm going to go ahead and excuse you from this trial and seat
3 one of the alternates; okay? All right, thank you very much.
4 You're free to go.

5 MR. ROBERTS: Thank you.

6 (Juror Number 111, Francis Roberts, exits courtroom.)

7 THE COURT: All right, let's - if you can go ahead and
8 excuse him. Let's go ahead and bring the jury back in and
9 let's bring the alternates in and let them be seated; okay?
10 Bring both alternates in and bring the jury back in.

11 (Alternates enter courtroom.)

12 THE COURT: If you all want to just have a seat back
13 up there in your alternate seats. Thank you.

14 (Whereupon, the following takes place in the presence of
15 the jury.)

16 THE COURT: All right, ladies and gentlemen, an issue
17 has come up which has required us to excuse one of the jurors,
18 and it's out of a sense of precaution and things of that
19 nature; and so, we've had to seat one of our alternate jurors.

20 Ms. Grimes, you were selected. So, you will now be a
21 part of the jury to participate in deliberations during this
22 case; okay?

23 Now, I don't know whether you had begun deliberations.
24 You certainly hadn't been back there very long to deliberate
25 long if at all. Having said that you will need to start

1 deliberations all over from the beginning. As I said I don't
2 know if you had begun deliberations. If you hadn't, that's
3 good. If you had you must start over from the beginning with
4 your deliberations with Ms. Grimes now participating in those
5 deliberations.

6 Okay, all right, I'll excuse you back to the jury room
7 and you can begin your deliberations at this time. Mr. Byrne,
8 if you would just remain where you are while they're excused.

9 (Whereupon, the following takes place outside the
10 presence of the jury.)

11 THE COURT: All right, Mr. Byrne, unfortunately you
12 will not be able to participate in deliberations; and so, that
13 will conclude your duties as a juror - as an alternate for
14 this case. You are free to go if you want to go. If you want
15 to stay until the jury reaches a verdict or if you want to
16 wait and see how long it takes them it's up to you. You can
17 do whatever you want to do. I do want to thank you, however,
18 for being here. I want to thank you for serving as alternate
19 juror, as an alternate juror and rest assured that you have
20 fulfilled all of your duties as a juror. Even though you have
21 not participated in deliberations, the fact that you were here
22 and had to listen through the whole trial we appreciate your
23 service in that regard; okay?

24 If you want to go, as I said, you're free to go. If you
25 want to stay you can stay where you are there. We have an

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1 alternate jury room where you can sit to get you something to
2 drink, eat, use the restroom, whatever you wish to do; okay?
3 All right, thank you very much.

4 Anything else?

5 MR. HIXSON: No, Your Honor.

6 THE COURT: Anything from the Defense?

7 MR. HAZZARD: Nothing from the Defense.

8 THE COURT: All right, I'm going to stick Mr.

9 Roberts's question, that'll be Court's Exhibit what?

10 REPORTER: 10.

11 THE COURT: 10, all right, and we'll stand in recess
12 until we have a verdict.

13 (Whereupon, Court's Exhibit Number 10 [Note from Jury]
14 appropriately marked.)

15 (Deliberations begin at 4:19 p.m.)

16 OFF THE RECORD

17 (On the record, question from jury at 5:06 p.m.)

18 (The following takes place outside the presence of the
19 jury.)

20 THE COURT: All right, okay, I've gotten in a request
21 from the jury. It simply says, "Al's testimony when they
22 decided to walk to the Super Chic. We also want the brother's
23 testimony, Tony's brother." As I understand Tony's brother
24 that's Jamar Mitchum; is that correct?

25 MR. HIXSON: That's correct, Your Honor.

1 THE COURT: All right, I'll confirm it with the jury
2 but it sounds like to me that they want to hear that portion
3 of Al Ingram's testimony when he's testifying that they
4 decided to walk to the Super Chic and they're also, it appears
5 they're wanting Jamar Mitchum's testimony. So, I'm assuming
6 his entire testimony.

7 MR. HAZZARD: The Defense position would be that if
8 they wish to hear the testimony that it be played in its
9 entirety for them.

10 THE COURT: All right, let me hear from you on that,
11 just playing both testimonies of both witnesses in their
12 entirety.

13 MR. HIXSON: My feeling is, I guess, is for judicial
14 efficiency if they're able to focus on the issue in question
15 and they can articulate that it's appropriate to play that
16 part that satisfies that question if it's - especially if the
17 testimony is over an hour plus long. Mr. Mitchum's testimony
18 is not that long.

19 THE COURT: You all are going to make me do some
20 research. I don't know, what is it when they want to hear a
21 portion of the testimony? Do we have to play it in its
22 entirety or ---

23 MR. HIXSON: My understanding it's not - the standard -
24 the burden is in the discretion of the Court and if you feel
25 you address the question as posed to you by the foreman of the

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1 jury that that's proper.

2 THE COURT: All right, well, I'll ask them then if, if
3 they're just looking for that portion of Mr. Ingram's
4 testimony that deals with when they decided to walk to the
5 Super Chic, and if it is then I'll just play them that
6 portion. If they're hesitant as to how much or where to start
7 or where to end then I guess we'll just have to do the whole
8 thing; okay, and then let me find out exactly from them.

9 (Reporter and Court confer.)

10 MR. HAZZARD: One of the issues from the Defense
11 perspective is our position would be that the Court may send
12 the forelady an interrogatory asking for clarification
13 because, for instance, his testimony regarding their decision
14 to walk to the Super Chic is both on direct and on cross. So,
15 a question can be made asking for clarification, "Is there a
16 specific portion of testimony, direct or cross examination,
17 that the jury wishes to have replayed or is the jury
18 requesting that Mr. Ingram's testimony be replayed in its
19 entirety," and then we can go based on what they respond.

20 THE COURT: Yeah, that might be ---

21 MR. HIXSON: Your Honor, I would just suggest that we
22 ask for clarification on, "What exactly do you need" without
23 referring to anything else, not to what part, just, "Could you
24 clarify your question?"

25 THE COURT: Let me see.

1 I tell you what I'm going to do. I'm just going to call
2 them in and I'm going to ask them and then I'll just tell them
3 it'll take us a while to get it set up and I'll excuse them
4 back to the jury room and then once we get it set up I'll
5 bring them in and we can get started; okay? All right, let's
6 go ahead and bring the jury in.

7 (Whereupon, the following takes place in the presence of
8 the jury.)

9 THE COURT: All right, ladies and gentlemen, welcome
10 back. Ms. Scott, I understand the jury has made really two
11 requests and I just need clarification on what you're
12 requesting.

13 Number one you say, "Al's testimony when they decided to
14 walk to the Super Chic." Is the jury requesting to hear a
15 specific portion of Al Ingram's testimony, and if so, what
16 specific portion?

17 FOREPERSON: Yes, sir.

18 THE COURT: All right, what specific portion?

19 FOREPERSON: The specific portion when they were
20 talking about going to get a pack of cigarettes, that area.

21 THE COURT: Okay, and from then until the end of the
22 testimony or when do you want - at what point in time? Just
23 that portion when he's talking about going to ---

24 FOREPERSON: Just that portion to clarify who said what
25 about going to get the cigarettes.

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1 THE COURT: Okay.

2 FOREPERSON: Is that correct, you wanted?

3 THE COURT: All right, now, the second request, "We
4 also want the brother's testimony, Tony's brother."

5 FOREPERSON: Tony's brother.

6 THE COURT: That would be Jamar Mitchum?

7 FOREPERSON: Jamar, right.

8 THE COURT: Do you want that entire testimony?

9 FOREPERSON: Entire testimony.

10 THE COURT: Okay, all right, I'm going to excuse you
11 back to the jury room because it's going to take us a while
12 for the court reporter to get everything set up so we can
13 replay those testimonies for you.

14 FOREPERSON: Okay.

15 THE COURT: As soon as we get it set up we'll bring
16 you back in and play it for you then; okay?

17 FOREPERSON: Thank you, sir.

18 THE COURT: All right, now, is - oh, okay. I just saw
19 Ms. Grimes sitting back there in the alternate seat. You're
20 allowed to sit with the other jurors now. I understand.
21 Thank you.

22 FOREPERSON: It's her comfort zone.

23 THE COURT: Yeah.

24 (Whereupon, the following takes place outside the
25 presence of the jury.)

1 (Court and counsel review testimony.)

2 THE COURT: Well, another problem I've got now that I
3 just thought about since they left was there any cross
4 examination raised on that issue, too? So, are they talking
5 about just the direct testimony or the direct and the cross?

6 MR. HIXSON: I don't know, but I certainly the first
7 part of it you can ask after playing the first if that
8 satisfies their question or if they need to hear another
9 segment.

10 THE COURT: All right, well, let's, let's start it
11 where you've got now.

12 (Testimony reviewed by court and counsel.)

13 THE COURT: All right, let's go ahead and stop. The
14 only thing I know, I think I know where we can start the
15 testimony where they first start talking about where I told
16 her to mark it earlier about walking to the Super Chic to get
17 some cigarettes and then just leave it up to the forelady to
18 say, "That's all we wanted to hear," and stop it and let them
19 keep listening as long as they want to listen.

20 MR. HIXSON: Yes, Your Honor, that was going to be my
21 suggestion is that you instruct them that once they're
22 satisfied to indicate and you can shut it off at that point.

23 THE COURT: Just indicate to me that that's - that
24 they've heard what they wanted to hear. That's the only way I
25 know to handle it because they're kind of - I'm like you, they

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1 said they only wanted to hear a specific part and it dealt
2 with when they decided to walk to the Super Chic to get some
3 cigarettes. So, we know where to start. I don't know how far
4 into the testimony they're talking about. So, I think we'll
5 just do it that way, handle it, let it - say, you know, "You
6 let me know when you want to stop the testimony, that you've
7 heard what you wanted to hear or what you were looking to -
8 the testimony you were looking to hear again," and we'll stop
9 it then and then we'll go - because they did say they wanted
10 to hear Jamar Mitchum's testimony in its entirety.

11 (Reporter and Court confer.)

12 THE COURT: All right, anything before we bring the
13 jury in?

14 MR. HIXSON: No, Your Honor.

15 THE COURT: Anything from the Defense?

16 MR. HAZZARD: Your Honor, no, except note the Defense
17 position regarding the replaying of the testimony as
18 previously stated.

19 THE COURT: All right, all right, I understand that
20 you want it in its entirety. Since they said they only wanted
21 a specific part, that dealing with when they decided to go get
22 some cigarettes we know where to start. That's where I
23 indicated earlier. I agree with you, Mr. Hazzard, it's open-
24 ended as to how much they want to hear. So, I'm going to
25 leave it up to them as to stop me when and if they want to

1 stop it. They may want to hear the whole part. I don't know,
2 but we'll have to wait and see.

3 MR. HAZZARD: And again, obviously, my concern is that
4 there's no specification as to whether they want to hear
5 direct or cross examination or both with regard to that issue.

6 THE COURT: And that's why I'm going to wait and let
7 them stop the testimony when they want, when they want to.

8 All right, let's go ahead and bring the jury back in.

9 (Whereupon, the following takes place in the presence of
10 the jury.)

11 THE COURT: All right, they've come back in with some
12 other questions. I'm going to have to send you back out to
13 the jury room and I'll bring you back in in just a minute.

14 FOREPERSON: We just - I just wrote that real quick
15 because they were all on the way out.

16 THE COURT: All right, well, let me excuse you back to
17 the jury room right quick and we'll bring you back out in just
18 a moment.

19 (Whereupon, the following takes place outside the
20 presence of the jury.)

21 THE COURT: All right, as they came back in the
22 bailiff brought me another note then, says, "Four descriptions
23 of self-defense and voluntary manslaughter definitions." So,
24 all I know is to charge them again on the law on self-defense
25 and the law on voluntary manslaughter is all I know to do;

1 okay. Now, the question is do you want me to ---

2 MR. HAZZARD: Do you want to ask them which they want
3 first ---

4 THE COURT: Do what?

5 MR. HAZZARD: Do you want to ask them which they want
6 first as far as the descriptions or the tape or since they
7 asked for that first we do that and then do the second?

8 THE COURT: Well, that's what I was going to say. I
9 think the best thing would be for me to go ahead and charge
10 them on the law that they've requested, then play the
11 testimony and then excuse them. Don't you think?

12 MR. HAZZARD: All right.

13 MR. HIXSON: And of course, we just ask that you read
14 the standard charge in the order that you read the charge to
15 begin with.

16 THE COURT: Yeah, that's, that's what I'm going to do
17 is charge them first on voluntary manslaughter, then charge
18 them on self-defense and then let them listen to the testimony
19 and then we'll excuse them back to the jury room. All right.

20 MR. HAZZARD: Do they have a copy of the charge with
21 them?

22 THE COURT: No, it was one of the - I was going to
23 give them a copy of the charge and then we had some changes
24 there at the last minute. I didn't have a chance to print it
25 out. So, I just struck through and didn't give it back to

1 them.

2 MR. HAZZARD: All right.

3 THE COURT: All right, let's go ahead and bring, bring
4 the jury in.

5 (Whereupon, the following takes place in the presence of
6 the jury.)

7 THE COURT: All right, Ms. Scott, I understand that
8 the jury would like to hear the charge on voluntary
9 manslaughter again as well as the description of self-defense;
10 is that correct?

11 FOREPERSON: Yes.

12 THE COURT: All right, what we've decided to do is I'm
13 going to go ahead and give you those charges on the law and
14 then we're going to play the testimony that you've requested;
15 okay?

16 All right, as to voluntary manslaughter, to prove
17 voluntary manslaughter the State must prove beyond a
18 reasonable doubt that the Defendant took the life of another
19 in the sudden heat of passion based on sufficient legal
20 provocation. Both heat of passion and sufficient legal
21 provocation must be present at the time of the killing to
22 constitute voluntary manslaughter.

23 Sudden heat of passion may, for a time, affect a person's
24 self-control and temporarily disturb a person's reason. The
25 sudden, excuse me, the sudden heat of passion must be the type

1 that would make an ordinary person unable to coolly reflect on
2 his actions and would produce an uncontrollable impulse to do
3 violence.

4 Sufficient legal provocation must be the type that would
5 make a person of ordinary reason and caution become enraged
6 and to lose control temporarily. The provocation needed for
7 voluntary manslaughter must come from some act of or related
8 to the victim.

9 Words alone, however vulgar or insulting, are not enough
10 to be legal provocation. Where death is caused by the use of
11 a deadly weapon, the words must be accompanied by some overt,
12 threatening act which could have produced the heat of passion.
13 The exercise of a legal right, no matter how offensive it is
14 to another, is never sufficient legal provocation for
15 voluntary manslaughter. If the heat of passion had cooled, or
16 if there was enough time between the provocation, if any, and
17 the killing of the passion of a reasonable person to cool, the
18 killing would not be voluntary manslaughter. In deciding
19 whether a reasonable person would have had enough time to cool
20 off, you should consider all the circumstances surrounding the
21 killing. You may consider the nature of the provocation, if
22 any; the Defendant's mental and physical state; and the
23 circumstances and relationship between the parties.

24 Now, as to the defense of self-defense, self-defense is a
25 complete defense and if it is established, you must find the

1 Defendant not guilty. The State has the burden of disproving
2 self-defense by proof beyond a reasonable doubt. If you have
3 a reasonable doubt of the Defendant's guilt after considering
4 all of the evidence, including the evidence of self-defense,
5 then you must find the Defendant not guilty. On the other
6 hand, if you have no reasonable doubt of the Defendant's guilt
7 after considering all of the evidence, including the evidence
8 of self-defense, then you must find the Defendant guilty.

9 The following elements are required to establish self-
10 defense. First, the Defendant must be without fault in
11 bringing on the difficulty. If the Defendant's conduct was
12 the type which was reasonably calculated to and did provoke a
13 deadly assault, the Defendant would be at fault in bringing on
14 the difficulty and would not be entitled to an acquittal based
15 on self-defense.

16 The second element of self-defense is that the Defendant
17 was actually in imminent danger of death or serious bodily
18 injury or that the Defendant actually believed he was in
19 imminent danger of death or serious bodily injury. If the
20 Defendant was actually in imminent danger, it must be shown
21 that the circumstances would have warranted a person of
22 ordinary firmness and courage to strike the fatal blow to
23 prevent death or serious bodily injury. If the Defendant
24 believed he was in imminent danger of death or serious bodily
25 injury, it must be shown that a reasonably prudent person of

1 ordinary firmness and courage would have had the same belief.

2 In deciding whether the Defendant actually was, or
3 believed he was, in imminent danger of death or serious bodily
4 injury, you should consider all of the facts and circumstances
5 surrounding the crime, including the physical condition and
6 characteristics of the Defendant and the victim.

7 The Defendant does not have to show that he was actually
8 in danger. He does not have to wait until he is attacked to
9 act in self-defense. It is enough if the Defendant believed
10 he was in imminent danger and a reasonably prudent person of
11 ordinary firmness and courage would have had the same belief.
12 The Defendant has the right to act on appearances even though
13 the Defendant's beliefs may have been mistaken. It is for you
14 to decide whether the Defendant's fear of immediate danger of
15 death or serious bodily injury was reasonable and would have
16 been felt by an ordinary person in the same situation.
17 Evidence of prior difficulties between the Defendant and the
18 victim may be considered in deciding whether a threat existed,
19 whether the Defendant had a reason to believe a threat existed
20 and how serious that threat was.

21 The reputation of the victim as a violent person may be
22 considered in deciding whether there was a need for force,
23 whether the Defendant had reason to believe there was a need
24 for force and whether deadly force was reasonably necessary.
25 Prior instances of violence by the victim may be considered in

1 deciding whether the Defendant actually believed he was in
2 imminent danger of death or serious bodily injury or was
3 actually in imminent danger. Threats made by the victim may
4 be considered in determining whether the Defendant actually
5 was, or believed he was, in imminent danger.

6 The final element of self-defense is that the Defendant
7 had no other probable way to avoid the danger of death or
8 serious bodily injury than to act as the Defendant did in this
9 particular instance. The Defendant has no duty to retreat if
10 by doing so the danger of being killed or suffering serious
11 bodily injury would increase. A person cannot be required to
12 make an exact calculation as to the degree or amount of force
13 which may be needed to avoid death or serious bodily harm.
14 Therefore, in self-defense the Defendant has the right to use
15 the force needed to avoid death or serious bodily harm. The
16 force used in self-defense does not have to be limited to the
17 degree or amount of force used by the victim. The Defendant
18 has the right to use so much force as appeared to be necessary
19 for complete self protection and which a person of ordinary
20 reason and firmness would have believed to be needed to
21 prevent death or serious bodily harm.

22 All right, now, first what we are going to do is play you
23 that portion of Al Ingram's testimony that begins with when
24 they decided to walk to the Super Chic. Now, I don't know how
25 much of that testimony you want to hear. I do - I think we've

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1 got it down to where you wanted it to start. However, I'm
2 going to leave it up to you to let me know when you heard that
3 portion or portions or amount that the jury wanted to hear.
4 Then when you have reached that portion if you would just
5 raise your hand and let me know we'll stop it then and then
6 progress on to Jamar Mitchum's testimony. Okay, all right.

7 (Testimony of Al Ingram, page 201 line 17 through page
8 202 line 12 replayed.)

9 THE COURT: All right. Can you not hear it?

10 FOREPERSON: Yeah, it was a little muffled for them in
11 the back.

12 THE COURT: All right, what we're going to have to do
13 then is have the court reporter read back to you the
14 testimony, okay. All right, and if you would just let us
15 know when you want us to stop. Yeah, just start in that same
16 - is that where you wanted us to start?

17 JUROR: Yeah.

18 FOREPERSON: That's, that's what was in question.

19 JUROR: Judge, can she go back like in the
20 sentence before that?

21 THE COURT: Okay, we can go back as far as you all
22 want to go back.

23 JUROR: To the beginning of his testimony.

24 THE COURT: Excuse me.

25 JUROR: To the beginning of his testimony.

1 THE COURT: Well, do you want to hear his testimony in
2 its entirety?

3 JUROR: That's the beginning of it; right?

4 THE COURT: Okay, well.

5 FOREPERSON: That's not the beginning of his testimony.

6 THE COURT: No, that was not the beginning of his
7 testimony. That was the first - excuse me. That was the
8 first part of his testimony where they started talking about
9 walking when they decided to go the Super Chic.

10 JUROR: Go back just a little.

11 JUROR: Just a little bit.

12 JUROR: When he's asking questions.

13 THE COURT: Wait a minute, all right, all right. Let
14 me, let me do this. She's going to have to get it set up to
15 where she can read the - you're going to read it? Well, I'm
16 just wondering if we know - we need to send them back and let
17 them tell us where do they want us to start, okay. So, let me
18 excuse you all back to the jury room and let us know where you
19 want the testimony, if you want to hear the testimony in its
20 entirety or where you want it to start; okay?

21 All right, thank you.

22 (Whereupon, the following takes place outside the
23 presence of the jury.)

24 THE COURT: All right, I sent them back to decide
25 because they were starting to almost deliberate out here in

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1 open court and I wanted them - there may be - I think Mr.
2 Hazzard is right to a certain degree that when they started
3 hearing the testimony there may have been more that others
4 wanted to hear that others weren't concerned about hearing.
5 So, I'm going to let them decide how much they want to hear
6 and then we'll, we'll go there.

7 MR. HIXSON: Yes, sir.

8 THE COURT: All right, their first request on this
9 sheet of paper I'll mark this as Court's Exhibit 11 and their
10 second request is going to be Court's Exhibit 12.

11 (Court's Exhibit 11 and 12 [Questions from Jury]
12 appropriately marked.)

13 MR. HIXSON: I think it may clarify it like you - I
14 think Your Honor is exactly right I think they're starting to
15 deliberate but it seemed as though those folks wanted a small
16 amount but when this instruction - I think that we're hearing
17 ---

18 THE COURT: Well, I ---

19 MR. HIXSON: --- instructed to us once we find that
20 out.

21 THE COURT: Well, the things is is I agree with you.
22 I think they wanted - with - at least the foreperson was of
23 the impression that they just wanted a small amount and when
24 she reached it she said that's it and she turned around to
25 somebody in the back that said that's it and he's the one who

1 said, "Well, it's muffled. I couldn't hear it," and then you
2 had two ladies down there that said, "No, we want to hear some
3 more or we wanted him to back up a little bit more before
4 that."

5 MR. HIXSON: I know the one lady said, "Can I hear the
6 question leading into that," but I think we'll find out here
7 in a second, hopefully.

8 THE COURT: Yeah, so, we'll find out in a minute. My
9 question is is if they come back and they're wanting to hear
10 more testimony than that little bit we just played back with
11 it being a quarter till six now what do you - I guess my
12 question is do we play them the testimony and then send them
13 out and deliberate and keep plowing through it ---

14 MR. HIXSON: I think it'd be good if they got -
15 answered their questions, gave them a little time, see if that
16 sorted it out. If it takes too much then that might, that
17 might be it either way what they heard. I don't know.

18 THE COURT: All right, all right, well, let's sit in
19 recess until we find out from them. Don't go anywhere because
20 I'm assuming they're going to come back in just a minute, but
21 they might be in there deliberating now as to what they want
22 to hear, so.

23 OFF THE RECORD

24 (On the record.)

25 (Whereupon, the following takes place outside the

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1 presence of the jury.)

2 THE COURT: All right, they've come back and just
3 said, "We're okay with the testimony being read from the point
4 that was already played."

5 So, I guess we're going to have you just start reading it
6 from that point, and then I'm just going to tell her to again
7 let us know when they've heard what they wanted to hear and
8 we'll stop then and then we'll go to the testimony of Jamar
9 Mitchum.

10 (Reporter and Court confer.)

11 THE COURT: All right, I'm going to go ahead, let's go
12 ahead and mark this as 13.

13 (Whereupon, Court's Exhibit Number 13 [Note from Jury]
14 appropriately marked.)

15 THE COURT: Okay, let's go ahead and bring the jury
16 in.

17 (Whereupon, the following takes place in the presence of
18 the jury.)

19 THE COURT: All right, ladies and gentlemen, I
20 understand that you - the testimony can begin where we started
21 the recording; is that correct?

22 FOREPERSON: Yes, Your Honor.

23 THE COURT: All right, I'm going to have Ms. Hurley
24 read to you that testimony. There again, when we reach that
25 portion where you've heard what you want to hear, however much

1 that might be, just let me know and we'll stop then; okay?

2 FOREPERSON: Uh-huh.

3 THE COURT: All right, Ms. Hurley.

4 (Testimony of Al Ingram read back to jury starting on
5 page 201, line 17 and continuing through page 202, line 6,
6 "building".

7 THE COURT: All right, is that sufficient?

8 FOREPERSON: Yes, Your Honor.

9 THE COURT: All right, all right, now what we're going
10 to do is play you the testimony of Jamar Mitchum. If the
11 recording of that testimony is muffled like Al Ingram's and
12 you can't understand let us know and we'll read it as well,
13 but we're going to try to play it for you like we did Al
14 Ingram's testimony.

15 (Testimony of Jamar Mitchum played in open court.)

16 THE COURT: All right, all right, ladies and
17 gentlemen, before I send you out let me see the attorneys for
18 a second.

19 (Whereupon, a bench conference was held in the presence
20 but out of the hearing of the jury.)

21 THE COURT: All right, Ms. Scott, I understand that
22 the jury has another request where you say you would like, "a
23 written copy of what the Judge read to us regarding voluntary
24 manslaughter and self-defense"; is that correct?

25 FOREPERSON: Yes, Your Honor.

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1 THE COURT: Okay, all right, I will give you a copy of
2 my entire instructions. I can't give you some and not give
3 you others, but I'll give you a copy of the instructions in
4 written form in their entirety and during your deliberations
5 you can refer to these instructions to decide your decision
6 making. However you must consider the instructions as a whole
7 and not follow certain portions and ignore other portions and
8 then when you return after your deliberations I'll ask that
9 you bring the written instructions back with you at that time;
10 okay?

11 FOREPERSON: Thank you.

12 THE COURT: All right, it's going to take me just a
13 minute or two to get those together for you. I'll get them
14 together and I'll just send them back to the jury room then;
15 okay? All right, I'll excuse you back to the jury room and
16 let you resume your deliberations.

17 (Whereupon, the following takes place outside the
18 presence of the jury.)

19 THE COURT: All right, let's mark this as Court's
20 Exhibit 14.

21 (Whereupon, Court's Exhibit Number 14 [Question from
22 Jury] appropriately marked.)

23 THE COURT: And I'm going to clean up the copy where
24 we discussed in chambers that part that I originally had in
25 there that I redacted. I'm going to go ahead where I just

1 struck through it with a pen on this, I've saved it on my
2 computer and I'm just going to go redact it, print it out and
3 then just give it to the jury in that way. Is that agreeable?

4 MR. HIXSON: Yes, sir.

5 MR. HAZZARD: No objection from the Defense.

6 THE COURT: All right, all right, and we'll stand in
7 recess - now, it's getting to be about six o'clock. What I
8 generally do and I'll, I'll follow you all's guidance,
9 whatever you all want to do, but what I generally do is like
10 to leave it up to the jury as to whether or not they want to
11 deliberate a while and let us order them dinner or whether
12 they would rather break and come back tomorrow. The way I
13 usually pose it to them is if they want to deliberate and let
14 us order them dinner it's going to take about 45 minutes for
15 us to get dinner here. So, I don't know - I guess my question
16 was here in about the next 30 minutes do you want me to bring
17 the jury back in and ask them or can we just send a bailiff in
18 and ask them, "Do you want us to order you dinner or do you
19 want to break and then come back tomorrow," and if they say
20 they want to break and come tomorrow I'll bring them back in,
21 tell them that they have to stop deliberating, they can't
22 resume until everybody comes back the next day. Ordinarily if
23 they say, "We want to eat dinner," then I'll just tell the
24 bailiff to go ahead and order them dinner.

25 MR. HIXSON: I would like to have them go a little

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1 longer before that question is posed to them as oftentimes
2 when it's posed to them right away they - if there's any -
3 folks they kind of hold out till dinner and it's almost a
4 waste of time.

5 THE COURT: Well, what time do you think?

6 MR. HIXSON: Maybe a half hour, if we haven't heard
7 anything in a half hour then you pose the question and maybe
8 excuse them because you don't know if this answered the
9 question and may get it - get the job done here versus the
10 hold out saying.

11 THE COURT: Well, the fact of the matter is is it's
12 going to take about 45 minutes to an hour to get their food
13 here. So, I don't want to wait and ask them at 7:30 and have
14 them eating at 8:30 or quarter till nine.

15 MR. HIXSON: No question, I agree with that. I agree
16 with that.

17 THE COURT: So, my question to you all is is do you
18 want me to bring them back into the courtroom and pose the
19 question or can I send a bailiff to ask them?

20 MR. HIXSON: I'm more than happy the bailiff myself.

21 MR. HAZZARD: The problem with having the bailiff ask
22 is that it seems to me that this is a group that really likes
23 to discuss things. I don't know if it would be a quick vote
24 either way. If you ask them out here they may end up talking
25 amongst themselves. If you ask the bailiff to ask them maybe

1 if you pose the question in the matter of, "Do you wish to
2 continue deliberating or do you want us to order you dinner?
3 If we order you dinner that will not arrive until sometime
4 after 7 p.m.," and then see if - and then give them the option
5 of stopping now which is as much as I hate to say it a good
6 truncation point because then they can start fresh in the
7 morning with the written instructions that the Court is going
8 to provide them. So, either way is fine by me.

9 THE COURT: Okay, all right, well, let me think, let
10 me think on that for a minute. I might just send a
11 questionnaire back to them, just a generic questionnaire and
12 we'll see. All right, let me go clean this up and I'll get it
13 to them.

14 OFF THE RECORD

15 (On the record.)

16 (Whereupon, the following takes place outside the
17 presence of the jury.)

18 THE COURT: Look at this and see if this agreeable to
19 you to send back to them about whether to order dinner or let
20 them go home. I was just going to ---

21 MR. HAZZARD: They have been provided with the redacted.

22 THE COURT: Yeah, I've already given these.

23 MR. HAZZARD: They've got that.

24 THE COURT: Yeah.

25 MR. HAZZARD: This is fine.

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1 THE COURT: All right, that'll be good?

2 MR. HAZZARD: Yes, sir.

3 THE COURT: Do you all want a copy of the redacted
4 thing?

5 MR. HAZZARD: No, sir, because I know what's redacted.
6 Are we going to make, are we going to make a copy of it a
7 Court's Exhibit?

8 THE COURT: Yeah, when they bring it back I'll put it
9 a Court's Exhibit and put it in here. That'll be good.

10 MR. HAZZARD: Okay.

11 THE COURT: Now, is this ---

12 MR. HAZZARD: The Defense has no objection to the
13 interrogatory.

14 THE COURT: All right, this deals with letting them
15 decide whether they want to order dinner or not, if you would
16 just hand this, knock on the jury room door, ask them, just
17 tell them that we need them to answer that and give it back to
18 us. Let me know what they decide.

19 OFF THE RECORD

20 (On the record.)

21 (Whereupon, the following takes place outside the
22 presence of the jury.)

23 THE COURT: I'm going to bring them back in. I'm
24 going to let them go about another 15 minutes. They want to
25 go home for the evening. So, what I'm going to do is I'm

1 going to bring them back in, tell them to stop deliberations,
2 that they can't start back and I'll get all that on the record
3 when I come back but let's let them go about another 15
4 minutes, okay.

5 OFF THE RECORD

6 (On the record.)

7 (Whereupon, the following takes place outside the
8 presence of the jury.)

9 THE COURT: I said I was going to let them go for
10 about 15 minutes but I say let's go and bring them in and I'm
11 just going to - my instructions - well, first so we get it on
12 the record I sent a questionnaire back to the jury that said,
13 "Please choose one of the options below, check one of the
14 following options, one, the jury would prefer for the Court to
15 order dinner for the jury and allow us continue deliberating.
16 If this option is chosen it will take approximately 45 to 60
17 minutes for dinner to arrive, or two, the jury would prefer to
18 stop deliberations, go home for the evening and return
19 tomorrow to resume deliberations. If this option is chosen
20 the jury must stop deliberations completely and not resume
21 deliberations until instructed by the Court to resume
22 deliberations." They chose to stop deliberations, go home for
23 the evening and come back tomorrow. So, I'm going to bring
24 them in, tell them that they have to stop deliberations
25 completely, they cannot discuss the case with anyone, even

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1 among themselves at this point in time and they cannot resume
2 their deliberations until they're instructed to by the Court
3 tomorrow morning and then I'll have them come back at 9:30.
4 All right.

5 MR. HAZZARD: I would simply ask that the Court remind
6 them to leave all exhibits in the jury room, including the
7 instructions.

8 THE COURT: All right, yeah, we'll do that.

9 All right, let's go ahead and bring the jury in.

10 (Whereupon, the following takes place in the presence of
11 the jury.)

12 THE COURT: All right, ladies and gentlemen, welcome
13 back. I sent a questionnaire back to you and I understand
14 that the jury has decided that they wish to stop deliberations
15 for the evening and go home and then resume tomorrow morning;
16 is that correct?

17 FOREPERSON: Yes, Your Honor.

18 THE COURT: All right, all right, well, I am directing
19 you at this point in time to stop your deliberations. Now,
20 what that means is that you cannot discuss this case with
21 anyone even among yourselves. You can no longer discuss it
22 among yourselves from this point forward until the Court
23 directs you tomorrow morning that you can resume your
24 deliberations. So, do not discuss the case with anyone, with
25 any family members, any friends or even among yourselves at

1 this point in time. I'll let you know when you can resume
2 your deliberations.

3 Also, I caution you, please do not conduct any
4 independent investigations. Don't listen to any news reports,
5 don't read any newspaper accounts, don't go on the internet,
6 don't try to find out anything about this case because your
7 decision is to be based exclusively on the testimony and
8 evidence presented during the trial of this case.

9 I'm going to ask that you be back in the jury tomorrow
10 morning at 9:30, and soon thereafter, don't begin your
11 deliberations when you return to the jury room. I'll bring
12 you back into the courtroom and I'll tell you when you can
13 resume your deliberations. All exhibits, jury instructions
14 everything that the Court has given you must be left in the
15 jury room at this time; okay?

16 I hope everybody has a good evening. I do want to thank
17 you for your service. I thank you. I know it's not an easy
18 job. I thank you for your intense deliberations, for your
19 concerns in this case, and everybody is doing a fine job and I
20 want to thank you for that and I hope everybody has a good
21 evening, and we'll see you back at 9:30 tomorrow morning.

22 Everybody else please remain seated while the jury is
23 excused.

24 (Whereupon, the following takes place outside the
25 presence of the jury. Jury exits courtroom at 6:54 p.m.)

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1 THE COURT: All right, we'll be in recess until 9:30
2 tomorrow morning. I'm going to bring them back in, then tell
3 them to resume their deliberations.

4 (Scheduling for pleas discussed.)

5 THE COURT: That sounds good. We'll see you tomorrow
6 morning at 9:30.

7 OFF THE RECORD

8 (On the record, April 1, 2010.)

9 (Whereupon, the following takes place outside the
10 presence of the jury.)

11 THE COURT: All right, I understand that the jury has
12 returned for State versus Leggette - well, let's get Mr.
13 Leggette in here.

14 (Mr. Leggette enters courtroom.)

15 THE COURT: All right, anything from the State before
16 we bring the jury in?

17 MR. HIXSON: No, Your Honor.

18 THE COURT: Anything from the Defense?

19 MR. HAZZARD: Nothing from the Defense, Your Honor.

20 THE COURT: All right, let's go ahead and bring the
21 jury in, please

22 (Whereupon, the following takes place in the presence of
23 the jury.)

24 THE COURT: Good morning, ladies and gentlemen,
25 welcome back. I appreciate - I want to thank you again for

1 everybody being prompt and being on time. I want to thank you
2 for that.

3 It is now time for you to resume your deliberations in
4 the case of the State versus Dominic Alexander Leggette. So,
5 I'm going to excuse you back to the jury room. We have the
6 exhibits, the verdict forms as well as the charge on the law
7 that I will allow to be taken back to the jury room and you
8 can resume your deliberations at this time. When you reach a
9 verdict if you would complete the verdict forms as I
10 instructed during my closing charge, knock on the door and let
11 the bailiff know that you have reached a verdict.

12 Now, we'll be taking - I'm going to be taking - doing
13 some other court business while you are deliberating, but rest
14 assured when you reach a verdict we will get you back into the
15 courtroom as quickly as we can to publish that verdict; okay?

16 Thank you very much and you resume your deliberations at
17 this time. Let's make sure we've got all of the exhibits,
18 verdict forms, charge and indictments to go with them.

19 (Whereupon, the following takes place outside the
20 presence of the jury. Deliberations resume at 9:37 a.m.)

21 THE COURT: All right, anything further from the State
22 at this time in the case of the State versus Leggette?

23 MR. HIXSON: No, Your Honor.

24 THE COURT: Anything from the Defense?

25 MR. HAZZARD: Nothing from the Defense, Your Honor.

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1 THE COURT: All right, we'll stand in recess on that
2 case until we have some information from the jury; okay?

3 MR. HIXSON: Thank you, Your Honor.

4 THE COURT: All right.

5 OFF THE RECORD

6 (On the record, question from jury at 1:00 p.m.)

7 (Whereupon, the following takes place outside the
8 presence of the jury.)

9 THE COURT: All right, we got a request in from the
10 jury, "We would like to hear Dominic's testimony in its
11 entirety." So, they're wanting to hear the Defendant's
12 testimony again. All I know to do is we can set it up and
13 play it back for them. What is their situation - because
14 their second request is lunch with a question mark. Do we
15 know when it's coming? I thought it would have been here by
16 now. Let me call right quick.

17 I propose let's just tell them that when lunch gets here
18 we'll eat lunch. I wouldn't propose playing it back to them
19 before lunch because it's 1:15 because then you'll be - by the
20 time we get it set up it'll be 2:30 or after before they
21 finish hearing it and that'll be a little late for them to eat
22 lunch. So, okay, let's see about lunch because we ordered it
23 about an hour and a half ago.

24 She's got the food right now. All right, I'm going to go
25 ahead and bring the jury in and tell them that the food is on

1 its way. We're going to go ahead and feed them lunch, tell
2 them to stop their or I'll let them continue - well, no, I'm
3 going to tell them to stop deliberating until - since they've
4 made this request or do we want to tell them they can go ahead
5 and deliberate during lunch if they way to? I'll tell them to
6 stop until after we do this request and then we'll start back;
7 okay?

8 All right, let's go ahead and bring the jury back in.

9 MR. HAZZARD: Your Honor, once the jury comes in if we
10 could approach I have a suggestion. I would make it now but
11 I'm not sure how close the jury is to walking in. My thing is
12 if the Court were to instruct them that everyone must be
13 included in the deliberations over lunch then they can do so.
14 My only concern is they might break off into little different
15 groups and want to talk.

16 THE COURT: Well, that - yeah, my concern and I would
17 definitely instruct them that, my concern was whether or not
18 is there going to be any objection if they come back and say,
19 "We've reached a decision," before they hear Dominic's
20 testimony again.

21 MR. HIXSON: That's correct, that's the ---

22 MR. HAZZARD: Well, they have made a request, that's
23 true. That's true.

24 (Whereupon, the following takes place in the presence of
25 the jury.)

1 THE COURT: All right, ladies and gentlemen, welcome
2 back into the courtroom. I've really gotten one request and
3 one question from you, the question being lunch with a
4 question mark. I can answer that one easily. It's here.

5 The second is your request, "We would like to hear
6 Dominic's testimony in its entirety." So, we're going to set
7 that up and we're going to play it back for you.

8 Now, since lunch is here what I'm going to do is suggest
9 that we wait until you get through eating before we listen to
10 Dominic's testimony because rather than keeping you in here
11 and having, having the food out there I'm going to go ahead
12 and send you back to the jury room, let you each lunch.

13 Now, since you want to hear the Defendant's testimony
14 again I'm going to ask that you stop your deliberations during
15 lunch. Do not discuss the case even among yourselves or with
16 anybody during your lunch break.

17 Enjoy your lunch. When you get through eating lunch just
18 let the bailiff know that everybody is through eating lunch
19 and that you're ready to listen to the Defendant's testimony
20 and we'll bring you back into the courtroom then at that time
21 and we'll play the Defendant's testimony but please do not
22 deliberate at any - from this point forward until you're
23 instructed to do so. All right, thank you very much. Hope
24 everybody enjoys their lunch.

25 (Whereupon, the following takes place outside the

1 presence of the jury.)

2 THE COURT: All right, we would like to hear Dominic's
3 testimony in its entirety we'll mark that as Court's Exhibit
4 16.

5 We'll stand in recess until they get through eating
6 lunch. I don't know how long it's going to take them to eat,
7 but if you all would please just stay, stay close by because I
8 don't know if it'll take them 20 minutes, 30 minutes or an
9 hour. I wish I could be more definite but I don't want to
10 keep them back there in the jury room if they're ready to hear
11 testimony, okay.

12 MR. HIXSON: Your Honor, if in fact if we come back -
13 you know I'll be downstairs.

14 OFF THE RECORD

15 (On the record.)

16 (Whereupon, the following takes place outside the
17 presence of the jury.)

18 THE COURT: Anything from the State before we bring
19 the jury in?

20 MR. HIXSON: No, Your Honor.

21 THE COURT: Anything from the Defense?

22 MR. HAZZARD: No, sir.

23 THE COURT: Let's go ahead and bring the jury in.

24 (Whereupon, the following takes place in the presence of
25 the jury. Jury enters courtroom at 2:07 p.m.)

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1 THE COURT: All right, ladies and gentlemen, welcome
2 back. We've got everything set up now to play the testimony
3 back for you. I think we've got it tapped in where you should
4 be able to hear a little bit better than you did yesterday.
5 If you have trouble just raise your hand and we'll make
6 adjustments to make sure you can hear everything. Okay, all
7 right, this is the testimony of the Defendant.

8 (Testimony of Dominic Leggette played in open court.)

9 THE COURT: All right, ladies and gentlemen, that
10 concludes the testimony of Mr. Leggette. I'm going to excuse
11 you back to the jury room. You can now resume your
12 deliberations in this case. Thank you very much.

13 Everybody else please remain seated while the jury is
14 excused.

15 (Whereupon, the following takes place outside the
16 presence of the jury.)

17 THE COURT: All right, we'll stand in recess.

18 MR. HIXSON: Thank you, Your Honor.

19 THE COURT: Thank you.

20 OFF THE RECORD

21 (On the record, note from jury at 4:25 p.m.)

22 (Whereupon, the following takes place outside the
23 presence of the jury.)

24 THE COURT: All right, gentlemen, as I told you I got
25 a note from the jury that we'll put in as a Court's Exhibit,

1 says, "Your Honor, this jury is at an impasse. We feel it is
2 a hung jury. Do we have any other recourse? Do you have any
3 suggestions to help us get through this? I've approached this
4 in a manner of facts, law of charges and have stepped through
5 the process over and over," signed Carol Scott.

6 It's one of these they say they have a hung jury but then
7 they say, "Do we have any other recourse? Do you have any
8 suggestions?" So, based upon that I'm going to give them the
9 Allen charge and send them back out and see if they can reach
10 a verdict. Now, if they come in a second time then that would
11 be the mistrial.

12 Anything before we bring the jury in from the State?

13 MR. HIXSON: Nothing from the State, Your Honor.

14 THE COURT: Any from the Defense?

15 MR. HAZZARD: Nothing from the Defense, Your Honor.

16 THE COURT: All right, let's bring the jury in.

17 (Whereupon, the following takes place in the presence of
18 the jury.)

19 THE COURT: All right, ladies and gentlemen, welcome
20 back. I have received the note from the jury that says that
21 you feel that you're in an impasse and that you're hung but
22 that you wanted to know if there was any recourse or if I had
23 any suggestions and to assist you in this matter.

24 What the law states and what the law requires is that we
25 do have an additional charge that I can give to you which

Allen Charge

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1 basically says that you've stated that you're unable to agree
2 on a verdict in this case and as I instructed you earlier your
3 verdict must be a unanimous verdict.

4 Now, when a matter is in dispute it isn't always easy for
5 even two people to agree, much less 12 people to agree on one
6 thing. Twelve people make it a lot more difficult. In most
7 cases absolute certainty cannot be reached or expected.
8 However, you have a duty to make every reasonable effort to
9 reach a unanimous verdict. In doing this you should consult
10 with one another, express your own views and listen to the
11 opinions of your fellow jurors. Tell each other how you feel
12 and why you feel that way. Discuss your differences with open
13 minds.

14 Now, although the verdict of the jury must be unanimous,
15 every one of you has the right to your own opinion. The
16 verdict you agree to must be your own verdict, the result of
17 your own convictions and you should not give up your firmly
18 held beliefs merely to be in agreement with your fellow
19 jurors. The majority should consider the minority's position
20 and the minority should consider the majority's position. You
21 should carefully consider and respect the opinions of each
22 other and reevaluate your position for reasonableness,
23 correctness and impartiality. You must lay aside all outside
24 matters and reexamine the questions before you based on the
25 law and evidence in this case.

1 Now, if you do not agree on a verdict in this case I must
2 declare a mistrial. In this case it does not mean that
3 anybody wins. It just means that at some future time I will
4 try this case with some other jury sitting where you now sit.
5 The same participants will come and the same lawyers will ask
6 basically the same questions and get basically the same
7 answers and we will go through the whole process again.

8 Now, you were selected in the same manner and from the
9 same source as any future jury will be and there's no reason
10 for me to suppose that the case will ever be submitted to 12
11 more intelligent, impartial, conscientious and competent
12 jurors than you are or that a more or clearer evidence will be
13 produced for one side or the other. Therefore, I'm going to
14 ask that you return to the jury room, continue your
15 deliberations a little bit more, discuss it more and I don't
16 want to imply that you haven't discussed it because I know
17 that you have. There has been some time that's passed and I
18 know that you have been deliberating, but please do not get
19 discouraged because of the length of time. As I said, it's
20 hard for two people to agree on a disputed issue, much less
21 get 12 people to unanimously agree on an issue. Having said
22 that I'm going to send you back to the jury room and let you
23 deliberate a while longer; okay? Thank you very much.

24 (Whereupon, the following takes place outside the
25 presence of the jury.)

Verdict

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1 THE COURT: All right, this will be Court's Exhibit
2 17.

3 (Whereupon, Court's Exhibit Number 17 [Note from jury]
4 appropriately marked.)

5 THE COURT: All right, anything from the State before
6 we recess?

7 MR. HIXSON: No, Your Honor.

8 THE COURT: Anything from the Defense?

9 MR. HAZZARD: Nothing from the Defense.

10 THE COURT: All right, we will stand in recess.

11 OFF THE RECORD

12 (On the record. Verdict reached at 7:07 p.m.)

13 (Whereupon, the following takes place outside the
14 presence of the jury.)

15 THE COURT: All right, I understand the jury has
16 reached a verdict. Anything from the State before we bring
17 the jury in?

18 MR. HIXSON: No, Your Honor.

19 THE COURT: Anything from the Defense?

20 MR. HAZZARD: Nothing from the Defense.

21 THE COURT: All right, those of you who are in the
22 courtroom I want to set some ground rules. Now, this jury has
23 had a very difficult time and has gone above and beyond what
24 is usually required of jurors in reaching this decision. When
25 the decision, when they come into the courtroom and when

Verdict

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1 the decision is published there is to be absolutely no
2 comment, no show of emotion, no display in any manner
3 whatsoever. If you are in favor of the verdict keep it to
4 yourself. If you are opposed to the verdict keep it to
5 yourself. I say this to caution you that if there is any show
6 of emotion, any response to the verdict in any way, shape or
7 form then the offender I'm going to direct that officers bring
8 them forward, you will be held in contempt of court and you
9 will be sanctioned, whether it be jail time, a fine or both or
10 community service, whatever the Court deems appropriate
11 depending on the reaction. Now, I'm not saying that to
12 intimidate anybody. I am saying it to give you the
13 opportunity now if you do not feel that you can control your
14 emotions, regardless of the outcome, regardless of the verdict
15 then I want to give you the opportunity at this point in time
16 to go ahead and excuse yourself from the courtroom.

17 All right, since nobody has stood to leave, so I will
18 assume that everybody knows the game rules we're playing by.

19 All right, let's go ahead and bring the jury in.

20 (Whereupon, the following takes place in the presence of
21 the jury.)

22 THE COURT: All right, ladies and gentlemen, welcome
23 back. Ms. Scott, I understand the jury has reached a verdict;
24 is that correct?

25 FOREPERSON: Yes, we have, Your Honor.

Verdict

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1 THE COURT: And have you completed both verdict forms?

2 MS. SCOTT: Yes, I have.

3 THE COURT: All right, if you'd please give them to
4 the bailiff.

5 (Complies with request and Court reviews.)

6 THE COURT: All right, I'll ask the clerk if he would
7 please publish the verdict.

8 THE CLERK: State of South Carolina versus Dominic
9 Alexander Leggette, case number 2008-GS-22-944, as to the
10 charge of murder we, the jury, find the Defendant guilty of
11 voluntary manslaughter.

12 State of South Carolina versus Dominic Leggette,
13 Alexander Leggette, case number 2008-GS-22-945, we, the jury,
14 find the Defendant guilty of assault and battery of a high and
15 aggravated nature.

16 THE COURT: All right, Ms. Scott, is that the verdicts
17 of the jury?

18 FOREPERSON: Yes, it is, Your Honor.

19 THE COURT: And was it unanimous?

20 FOREPERSON: Yes, it was, Your Honor.

21 THE COURT: All right, any polling of the jury by the
22 Defense?

23 MR. HAZZARD: Yes, Your Honor.

24 THE COURT: All right.

25 All right, I can do that.

Verdict

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1 All right, when I call your name I'm going to ask you to
2 stand and I will ask you two questions. The first question
3 will be is this your verdict and the second question will be
4 is this still your verdict. So, when I call your name if you
5 would please stand and respond to the questions as they ask
6 them.

7 Juror Number 122, Wanda J. Smith.

8 Ms. Smith, is this your verdict?

9 MS. SMITH: Yes, sir.

10 THE COURT: Is it still your verdict?

11 MS. SMITH: Yes, sir.

12 THE COURT: Thank you.

13 Juror Number 43, Jimmy D. Fowler.

14 Mr. Fowler, is this your verdict?

15 MR. FOWLER: Yes, sir.

16 THE COURT: Is it still your verdict?

17 MR. FOWLER: Yes, sir.

18 THE COURT: Thank you.

19 Juror Number 95, Victoria Nooft.

20 Is this your verdict?

21 MS. NOOFT: Yes, sir.

22 THE COURT: Is it still your verdict?

23 MS. NOOFT: Yes, sir.

24 THE COURT: Thank you.

25 Juror Number 119, Carol J. Scott.

Verdict

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1 Is this your verdict?
2 MS. SCOTT: Yes, it is, Your Honor.
3 THE COURT: Is it still your verdict?
4 MS. SCOTT: Yes, it is, Your Honor.
5 THE COURT: Thank you.
6 Juror Number 106, Linda Reed.
7 Is this your verdict?
8 MS. REED: Yes, it is, Your Honor.
9 THE COURT: Is it still your verdict?
10 MS. REED: Yes, it is, Your Honor.
11 THE COURT: Thank you.
12 Juror Number 141, Linda G. Washington.
13 Is this your verdict?
14 MS. WASHINGTON: Yes, sir.
15 THE COURT: Is it still your verdict?
16 MS. WASHINGTON: Yes, sir.
17 THE COURT: Thank you.
18 Juror Number 2, Samuel Alston, Sr.
19 Is this your verdict?
20 MR. ALSTON: Yes, sir.
21 THE COURT: Is it still your verdict?
22 MR. ALSTON: Yes, sir.
23 THE COURT: Thank you.
24 Juror Number 55, Joyce R. Grover.
25 Is this your verdict?

Verdict

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1 MS. GROVER: Yes, Your Honor.
2 THE COURT: Is it still your verdict?
3 MS. GROVER: Yes, Your Honor.
4 THE COURT: Thank you.
5 Juror Number 132, Gerald K. Thomas.
6 Is this your verdict?
7 MR. THOMAS: Yes, Your Honor.
8 THE COURT: Is it still your verdict?
9 MR. THOMAS: Yes, Your Honor.
10 THE COURT: Thank you.
11 Juror Number 23, Jasper D. Coleman.
12 Is this your verdict?
13 MR. COLEMAN: Yes, sir.
14 THE COURT: Is it still your verdict?
15 MR. COLEMAN: Yes, sir.
16 THE COURT: Thank you.
17 Juror Number 126, Barbara J. Sullivan.
18 Is this your verdict?
19 MS. SULLIVAN: Yes, Your Honor.
20 THE COURT: Is it still your verdict?
21 MS. SULLIVAN: Yes, sir.
22 THE COURT: Thank you.
23 Juror Number 54, Cheryl R. Grimes.
24 Is this your verdict?
25 MS. GRIMES: Yes, Your Honor.

Verdict

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1 THE COURT: Is it still your verdict?

2 MS. GRIMES: Yes, Your Honor.

3 THE COURT: All right, thank you very much.

4 All right, ladies and gentlemen, that concludes your
5 services as jurors for this case and for the week and I
6 sincerely want to thank you for your services. The County of
7 Georgetown thanks you. I know the Defense thanks you, the
8 Prosecution, everybody involved in this case thanks you
9 because that is how this system works. Without you we could
10 have not reached a decision. I know it hasn't been easy.
11 It's been long hours, but you've done it diligently. The fact
12 that it's taken so long shows that you did deliberate in this
13 case, you do consider the case seriously and you performed
14 your duty as jurors and I want to thank you for that.

15 Now, I have told you before that you could not speak with
16 anyone about the case. Well, now, you're at liberty to, if
17 you wish to. It is up to you. If you want to talk about the
18 case you can talk about the case. If you don't want to you
19 don't have to and you can speak with whomever you want to
20 speak with about it, but you don't have to if you do not want
21 to.

22 You're free to go at this time and again I want to thank
23 you for your service. Thank you very much. Everybody else
24 please remain seated while the jury is excused.

25 (Whereupon, the following takes place outside the

Motions

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1 presence of the jury.)

2 THE COURT: All right, any post-trial motions at this
3 point in time?

4 MR. HAZZARD: Your Honor, at this time the Defense makes
5 a motion for a new trial. The position of the Defense is that
6 the verdict is inconsistent, the two verdicts are inconsistent
7 with regard to the evidence presented and would show passion,
8 caprice or prejudice on the part of the jury, and as a result
9 the Defense respectfully moves this Court for a new trial,
10 asks the Court to set aside the verdict and grant a new trial.

11 THE COURT: All right, your motion is noted. I'm
12 going to deny it.

13 Anything else?

14 MR. HAZZARD: No other motions at this time, Your Honor.

15 THE COURT: All right.

16 Any reason as to why the Court cannot go ahead and impose
17 sentence at this time?

18 MR. HIXSON: No, Your Honor.

19 THE COURT: Anything from the Defense?

20 MR. HAZZARD: No, sir, Your Honor.

21 THE COURT: All right.

22 MR. HIXSON: May I approach, Your Honor?

23 THE COURT: Yes.

24 (Whereupon, a bench conference was held.)

25 THE COURT: All right, Mr. Hazzard, anything in

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1 mitigation?

2 MR. HAZZARD: Yes, sir, Your Honor, the Court obviously
3 has heard all of the evidence in this case. The Court has
4 heard the testimony of Dominic Leggette, and as a result of
5 that testimony has a good idea of his life story already. So,
6 I will not belabor the Court with a retelling of that.
7 With regard to Dominic's situation I would point out to the
8 Court that he initially was charged with murder and assault
9 and battery with intent to kill. A jury that constitutes the
10 collective conscience of this community has seen fit to return
11 verdicts that are less than that charged by the State,
12 specifically of interest is the fact that they chose to come
13 back with assault and battery of a high and aggravated nature
14 as opposed to assault and battery with intent to kill in a
15 situation where obviously a deadly weapon is involved. Taking
16 that in light of also the fact that this jury has deliberated
17 long and hard for over 11 hours of actual deliberation I would
18 submit to the Court that that indicates that the conscience of
19 this community is somewhat divided as to the nature of the
20 crime that Dominic has been convicted of and that I think the
21 Court is very aware that the jury did not come to these
22 decisions lightly.

23 With regard to the conviction for voluntary manslaughter,
24 obviously the Court has a range, I believe, from two years to
25 30 years in sentencing. We would ask that the Court impose a

1 sentence not to exceed ten years, taking into account also the
2 assault and battery of a high and aggravated nature, which
3 carries that same possible penalty, Your Honor.

4 The Court is also aware that this young man now at the
5 age of 21 has virtually no prior record whatsoever, nothing to
6 speak of, definitely no offense involving violence, although
7 he did have one criminal domestic violence charge sometime
8 ago.

9 We would indicate to the Court that again the Court has
10 been in the best position and has heard the witnesses for the
11 Defense and has also heard the witnesses' character and
12 demeanor of the witnesses for the State, Your Honor, those
13 allegedly involved in this and we would submit that this is
14 not your garden variety voluntary manslaughter where someone
15 went off and did something incredibly reckless. The Court is
16 aware of the prior difficulties in this case between the
17 parties and we would submit that while the jury did not deem
18 it to be a clear case of self-defense, thus allowing him to
19 have a verdict of not guilty, that the 11 plus hours of
20 deliberation indicate that this jury thinks that it's
21 something that falls far, far short of your standard voluntary
22 manslaughter case and I would submit that had they had any
23 other option other than murder and voluntary manslaughter that
24 they very well may have come with a verdict of even less than
25 that, and in light of that, Your Honor, knowing the Court has

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1 a significant range again I believe in voluntary manslaughter
2 from two years to 30 years, we would respectfully request that
3 this Court give Dominic a sentence not to exceed ten years on
4 these offenses.

5 THE COURT: All right, all right, Mr. Leggette,
6 anything you would like to say or does anybody want to speak
7 on your behalf?

8 Who am I hearing from first?

9 MR. HAZZARD: Well, the Court asked Dominic if he wanted
10 to speak.

11 THE COURT: All right, let me hear from him then.

12 MR. LEGGETTE: First of all I thank Your Honor for
13 bringing me here today. I thank, I thank everybody for
14 bearing with me throughout this trial for I know it has been
15 hard and long and I know that everyone is tiresome, everyone,
16 including myself and Your Honor. I thank everyone for being
17 here.

18 I'm very sorry for the things that I'm here for today for
19 I made a bad decision that night on defending myself to the
20 caliber that I truly feel that I had to defend myself.
21 Whatsoever, I was truly scared to the point that I had to
22 defend myself.

23 Like Mr. Ron said earlier I was - it was to a point where
24 I, I really thought that I might would have been the one - my
25 people would have been burying me. That's why I feel like a

1 lot of the - a lot of things that, that, that was - that
2 needed to be said during the trial was not being - had not
3 been able to say, Your Honor, like repeated jumpings. There
4 were repeated getting beat up. I'm not a, I'm not a, I'm not
5 a guy that - I grew up hard. I grew up basically - I
6 basically raised myself because me and my father had
7 difficulties at one time. So, I was put out of my house. So,
8 I basically raised myself, and as a result of that I do not
9 like police officers. I do not. So, I do not come in contact
10 with them all the time.

11 One of the State's witnesses, Mr. Verney Cumbee is my
12 cousin and I do not speak to him because I do not like police
13 officers. I'm very sorry that I should have knowed it and set
14 that aside at that time and put all these things, put all
15 these things on record so that they would have showed the
16 Court what was going on these years. For this was going on
17 since I was in middle school up to the time that I - that the
18 incident happened.

19 Your Honor, on the night of the 11th when everything
20 happened in the Arbor Place Apartments Mr. Ingram showed me,
21 he was reaching in the back seat for a pistol. He actually
22 gave me the impression that this had already escalated. I
23 knew from that point on if that guy would have seen me by
24 myself he would try to kill me and later on that night I
25 didn't even know Mr. Ingram was going to come behind me that

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1 night on August the 13th, but he came behind me and when he
2 reached in his waistband my world lit up. I got scared and I,
3 I fired two shots and in doing so I missed and killed Mr.
4 Antonio Tisdale which I really am sorry for. I apologize to
5 the Mitchum family right now for I went to school with their
6 son, Jamar Mitchum. We went to school together. He was like
7 a friend to me. Antonio was not a person that I really had
8 too much problems with. Yes, we had a couple of fights but he
9 never really pulled a gun on me. Yes, we, yes, this is -
10 Andrews is small. Everyone knows, everyone knows. You can -
11 if you leave here today and you ask someone from Andrews how
12 long has these things been going on, they'll tell you for
13 years. They'll tell you since 2005. It started off as a
14 Christmas fight, as a Christmas fight and it escalated and it
15 kept escalating and kept escalating. Instead of us listening,
16 instead of us young people listening to the older folks that
17 said to leave it alone we see each other day, every other day,
18 every three days we fight, something that we should have left
19 alone. We took that negligence and that's why I'm here right
20 now. I took my negligence to a point that - where I, I, I was
21 hurt. I hurt myself. I hurt myself by hurting others, by
22 defending myself. Basically today what I really learned that
23 it's not right for me to defend myself, Your Honor. I felt
24 like - that's the way I feel. I feel like I, I have no right
25 in the State of South Carolina to actually defend myself. If

1 I get scared enough to the point where I think that somebody
2 is going to kill me I do not have the right to defend myself
3 and that's, that's why I feel like the State of South Carolina
4 has showed the people of South Carolina today in my case
5 because my case is going on defending yourself, a person got
6 repeated jumpings then letting things go by, letting bygones
7 be bygones to a point where he sees a man has a gun.

8 I bought a gun illegally but I did not carry that gun up
9 there that night to shoot Mr. Tisdale and Mr. Ingram. I went
10 up there to take a phone charger to my ex - to my current
11 girlfriend at the time and it escalated to them following me
12 and it escalated to me shooting at them.

13 THE COURT: All right, sir.

14 MR. LEGGETTE: Something that I'm very sorry that I did.
15 All I can do right now is say that I apologize to everyone and
16 I apologize to Mr. - to the Mitchum family, the Ingram family
17 and my family because everyone goes through something. We
18 don't - we as young folks these days we don't understand the
19 things that we put our families through that what we go
20 through. We, we do stupid things. We go out there. People
21 sell drugs. They buy guns, shoot at each other. They join
22 gangs. They drink, beat each other up, wreck cars. All these
23 things we affect our family. We affect our loved ones. These
24 are things that we need to take into consideration, things
25 that I have now took in consideration and I, I found the Lord

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1 while I was incarcerated. He showed me many things and I just
2 thank him for everything even though I haven't got - I didn't
3 get the verdict I was looking for today everything will work
4 out for me. He'll work it out to the best for me.

5 THE COURT: All right, sir. Thank you.

6 MR. HAZZARD: His father is here, Your Honor.

7 THE COURT: All right, sir.

8 Your name, sir?

9 MR. LEGGETTE, JR.: George Cleveland Leggette, Jr.

10 THE COURT: All right, Mr. Leggette.

11 MR. LEGGETTE, JR.: First of all I'd like to say to the
12 Mitchum family that I'm sorry for what happened because these
13 kids knew each other, but it's a lot farther than what's going
14 on now. Just because this right here is not going to stop it
15 and I'm being honest and sincere. These kids need to listen
16 to their parents just like he did. He wouldn't listen but
17 when he got in trouble he wanted me to understand where he was
18 coming from, which I did, but I told him to start with, "Don't
19 follow yourself out there into trouble."

20 Now, he's going to pay for his consequences, but I hope
21 everybody else will find it in their heart to forgive him like
22 he - like I forgive him because what's going on now is not
23 going to stop. I promise you that.

24 THE COURT: All right, sir, thank you.

25 Anything else?

1 MR. HAZZARD: Nothing further on behalf of the
2 Defendant, Your Honor.

3 THE COURT: All right, anybody from the victims wish
4 to speak?

5 MR. HIXSON: Yes, Your Honor, brief comments and then
6 I believe the father of Mr. Tisdale would like to address the
7 Court.

8 THE COURT: All right, if he - anybody that wants to
9 address the Court can address the Court.

10 MR. HIXSON: Your Honor, as it relates to the
11 Defendant's prior criminal record, in 2006 there's a public
12 disorderly conduct, purchasing beer or wine by a minor,
13 drinking in public, another criminal mischief type offense. In
14 2007 he was convicted of criminal domestic violence, and then
15 2008 arrested for the charges pending before today, and Your
16 Honor, just briefly would like to remind the Court that it was
17 Mr. Leggette that escalated this situation. No weapon had
18 been involved in any of this prior to the incident in
19 question. He is the one that escalated it. There - could
20 understand why there might be a situation with some - a beef
21 with Al Ingram but the person we're here talking about is
22 Billy Tisdale is the one that had a life taken from him, not
23 Mr. Ingram, and there was not a scintilla of testimony there
24 was a problem with that young man. That's the true victim in
25 the case and that's who should be sentenced for. Mr. Ingram

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1 [sic] will get one to 10 years on the ABHAN, even a 10 year
2 sentence we're looking at about five years for the beef
3 between Mr. Ingram and that may be about right. Mr. Tisdale
4 was 19 years and for that fact we'd ask for a minimum of 19
5 years for every year of Mr. Tisdale's life up to the 30 years,
6 Your Honor, that Your Honor may impose on that.

7 I believe that Mr. Tisdale would like to address the
8 Court - Mr. Mitchum, excuse me.

9 THE COURT: All right, sir.

10 MR. MITCHUM: Michael Mitchum.

11 THE COURT: All right, sir.

12 I'm sorry, your name again?

13 MR. MITCHUM: Michael Mitchum.

14 THE COURT: All right, Mr. Mitchum.

15 MR. MITCHUM: I hear a lot of stuff about Andrews, you
16 know. I wasn't born in Andrews and I hate it when my mother
17 and father moved me here from Brooklyn, New York, and I always
18 said when I get out of high school I'm going to go back to
19 Brooklyn, but when I go back to Brooklyn I see these things
20 going on. I say it's not a place for me to raise my family.
21 I grew up in Andrews. We fight. We might be friends the next
22 day or get back together, never no guns. Well, I raised my
23 sons to avoid trouble. My wife every night they leave out the
24 house she would tell them, "Jamar, be careful, don't get in
25 trouble." She would tell Antonio, which we call Tony, "Tony,

1 be careful, don't get in no trouble." Neither one of those
2 guys, boys right there, I got four of them, they can go
3 anywhere in Andrews by theirselves. They had no problem with
4 nobody. They wouldn't get jumped or nothing like that, and
5 something happening here today and I wanted to hear it for the
6 longest, it was like rumors that the Leggette family wanted to
7 come and talk to me and my wife. We was waiting on that and
8 open arms because that meant a lot to me. We knew each other.
9 It's a small community and there's no bad blood towards my
10 family, towards the Leggette family. All I just wanted that
11 little - they could have come talk to me because me and George
12 used to talk, you know. We did a lot of stuff together. We
13 throwed horseshoes together, I mean, and everybody know
14 everybody, but what I'm saying here today you got a group of
15 guys just like that night when they told them, "I'm not going
16 to fight you tonight," if it take one in that group to say
17 they ain't going to do nothing the rest of them will back off.
18 It wouldn't be no problem, but if they don't think it's going
19 to be a problem. So, all the young kids that I'm saying and I
20 want it to get back out in Andrews because if you can't think
21 for yourself, if you can it won't be a lot of trouble because
22 there can be seven of you. If one of them say, "Man, I'm not
23 going to do that. I'm not going to say. I'm not going to do
24 that," and an old guy told me one time, he said, "Yeah, you
25 young. You're growing up, you're growing up," but if you

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1 think about something for seven times before you do it
2 eventually you won't do it." You've got to think about things
3 before you just go ahead and do stuff, and I forgive Dominic,
4 although him and my son never had a beef. They never had
5 problems, but he's dead. He's gone, and it's hard, you know.
6 It's real hard because we really love him, and we felt like we
7 did the right thing by raising him and what gets me he got a
8 three year old that comes to my house right now who we have to
9 hide his pictures because when he see those pictures he don't
10 want to - he don't want to give them, he just, he just want to
11 hold it and that hurts. Thank you.

12 THE COURT: Thank you.

13 All right, Mr. Leggette.

14 MR. LEGGETTE: Yes, sir.

15 THE COURT: I'm ready to impose the sentence.

16 Although the jury did deliberate a long time they have reached
17 a verdict in this case convicting you of voluntary
18 manslaughter and of assault and battery of a high and a
19 aggravated nature. Now, both of these carry a wide range of
20 possible sentences. However, I often look at these cases and
21 look at the possible sentences and say when did the
22 legislature intend for a minimum sentence, when the
23 legislature intend for a maximum sentence and when did the
24 legislature intend for something in between, and the biggest
25 problem that I have with your case is the fact that with your

1 prior record by federal law you were prohibited from owning a
2 firearm. In spite of that you went and you purchased one
3 illegally and then you carried it down there that night.

4 Having said that, the sentence of the Court for assault
5 and battery of a high and aggravated nature, the sentence of
6 the Court is that you be confined to the State Department of
7 Corrections for ten years. On the charge of voluntary
8 manslaughter the sentence of the Court is that you be confined
9 to the Department of Corrections for 30 years. I'm going to
10 impose the maximum sentence. Thank you very much.

11 MR. HIXSON: Thank you, Your Honor.

12 THE COURT: All right.

13 (Adjourned.)

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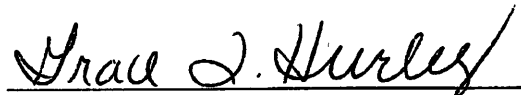
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C E R T I F I C A T E

I, the undersigned, Grace L. Hurley, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of The State versus Dominic Alexander Leggette, held in the Court of General Sessions for Georgetown County, Georgetown County Courthouse, Georgetown, South Carolina, on March 29-31, 2010, and April 1, 2010.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.



Grace L. Hurley, CVR-CM

Official Reporter

August 8, 2010.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Georgetown County

Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DOMINIC LEGGETTE,

APPELLANT

FINAL BRIEF OF APPELLANT

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