VOLUME I of III

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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S.C. SUPREME COURT

CERTIORARI TO SUMTER COUNTY

The Honorable DeAndrea G. Benjamin, Circuit Court Judge

Case No. 2016-CP-43-02038
Appellate Case No. 2018-002268

LONDON A. KELLY #00362015,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2018-002268

APPENDIX

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STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM SUMTER COUNTY

George C. James, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

LONDON A. KELLEY,

APPELLANT

APPELLATE CASE NO. 2014-002412

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State of South Carolina)
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County of Sumter)
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State of South Carolina, Plaintiffs

vs.

London A. Kelley, Defendant

Transcript of Record
2014-GS-43-00724

October 27th-31st 2014
Sumter, S.C.

BEFORE THE HONORABLE George C. James, Jr., Judge.

Volume I

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Court Reporter

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MR. CORBETT: This is the case of London Antoinett Kelley. Ms. Kelley is before the court on a true billed indictment alleging murder, accessory after the fact of murder, and conspiracy. She is represented by attorney Charlie Johnson present in the courtroom. Your Honor, if I may, I will hand up the original indictment. And I believe the court has the State's list of potential witnesses.

THE COURT: Ladies and gentlemen of the jury, we are now going to select a jury for the trial of the case of the State of South Carolina versus London Antoinette Kelley. When the State called the case through Mr. Corbett, he will be representing the State in this case. He announced that the charges against Ms. Kelley are, murder, accessory after the fact of murder, and conspiracy.

The questions that I am going to ask you are designed to make sure that we impanel a jury that will be fair and impartial and one which will base a verdict in this case solely on the evidence and the law free from any outside influences or concerns. In other words, your verdict will be based on the evidence and the law. The questions

that I am going to ask you again are designed to make sure that we impanel a jury of that kind. You are under oath. I will be asking you some very speak questions.

If I ask a question that applies to you, the first thing I want you to do is stand up. After that, we will get your name and we will get your jury number. What I don't want you to stand up and say your name and just start talking. Some of you may be inclined to do that. I Don't want you to do that. It may well be that I have you come up one at a time and give me information. The reason for that for that quite frankly is, I do not have -- I am probably not going to know want to know what you tell me. It may not have any relevance or any it may not be a true response to the question. And so if I do ask you to come up here, one thing on that, do not go back to any fellow jurors and tell them what we talked about. And anyone that didn't come up here, don't ask a jury what did you all talk about up there.

There is a reasoning behind the approach that we take, so please follow those instructions first tell you, Ladies and gentlemen, that the fact that person is arrested or charged or

indicted for criminal offense is not evidence of anything. In South Carolina, we use the indictment process. If a person has been arrested, charged, indicted, that is not evidence that the person is guilty or not guilty. The defendant is presumed innocent of these charges, she has entered pleas of not guilty. She does not have prove to anything. She does not have to disprove anything. The State has the burden of proving the elements of the crime charged beyond a reasonable doubt. And again, the burden remains with the State at all times.

The fact that I now refer to these charges is not intended to be a comment by me on the facts, because the jury is the sole judge of the facts. In other words, you will reach the verdict in this case. And I don't have anything to do with what your verdict is going to be. The allegation in the indictment is that on or about April 9th 2011, the defendant Lyndon Antoinette Kelley, did willfully, feloniously and intentionally kill the victim one Darrell Epps with the malice aforethought, either express or implied, by shooting him and that he did die as a approximate result of that shooting on or about

April 9th 2011.

The second count alleges that on or about the same date the defendant with knowledge that the felony of murder had been completed and did harbor or assist the principal felon in escaping detection or arrest in violation of the law. The third count is that the defendant on or about the same date did conspire with one or more other people to commit the crime of murder. Those are charges. Mr. Corbett, was any -- what particular part of the community or did the events occur?

MR. CORBETT: Your Honor, the State alleges the incident took place in the Cherryvale neighborhood of Sumter County, across from Shaw Air Force Base.

THE COURT: Ladies and gentlemen, again, as I mentioned, those are the allegations that the State has to proof what I have just reviewed for you. But I need to give you that information so I can ask you this question. Is there anything on this jury panel who knows anything about this case at all? And that might be from knowing a lot about it or hearing a lot about it or Very, very, little. So if there is anyone who has heard anything about it, read anything about it,

listened to anything about it, or have any information whatsoever however small or however big. I want you to stand.

(Whereupon, no response.)

THE COURT: Ms. Kelley, if you could please stand and face, oh, I am sorry, we have one juror standing. Come forward please ma'am. And your name please.

THE JUROR: Ms. Wilson. 146.

THE COURT: 146 Ms. Wilson.

(Whereupon, the following takes place outside the hearing of the jury panel.)

THE COURT: See the lady right here, she is going to be taking down everything you say. So she and I need to hear you. Have you heard about this?

THE JUROR: I know her.

THE COURT: That is going to be my next question. How long have you known her?

THE JUROR: I know of her and we travel in the same circles.

THE COURT: And you heard that she had been charged with this offense?

THE JUROR: It was on the news.

THE COURT: Ma'am?

THE JUROR: It was on the news.

THE COURT: what did you hear or see on the news?

THE JUROR: Just that they were arrested for it.

THE COURT: Do you have any preconceived notion of whether or not she is guilty or not guilty?

THE JUROR: I have no.

THE COURT: Have often do you see her when when you travel in those circles.

THE JUROR: Well this is the first time I have seen here in years.

THE COURT: If you were on this jury, could you be completely fair and impartial to the State and to M. Kelley?

THE JUROR: Yes.

THE COURT: Could you set aside completely, the fact that you travel and are so associated in the same circles with her---

THE JUROR: Uh-huh. (Affirmative.)

THE COURT: ---and put aside completely what you heard on the television or the the radio.

THE JUROR: Yes, sir.

THE COURT: And can be completely fair and

impartial?

THE JUROR: Yes, sir.

THE COURT: Any additional questions, Mr. Corbett and Mr. Johnson?

MR. CORBETT: No, sir.

MR. JOHNSON: I have nothing, Judge.

THE COURT: Thank you. Don't talk to any of the other jurors about anything that you seen or heard. Thank you.

THE BAILIFF: Three more standing, Judge.

THE COURT: Come up, please. Your name, please.

THE JUROR: Ms. Days.

THE COURT: Ms. Days. Okay.

THE JUROR: I am a relative of his girlfriend.

THE COURT: To whose girlfriend?

THE JUROR: Daryl's girlfriend.

THE COURT: And you are related to his girlfriend?

THE JUROR: Uh-huh. (Affirmative.)

THE COURT: And that's going to be one of the questions I ask of you. How are you related to her?

THE JUROR: By her daddy.

THE COURT: And do you see her?

THE JUROR: All the time.

THE COURT: Do you know anything about this case?

THE JUROR: No.

THE COURT: Do you have preconceived idea about whether this defendant is guilty or not guilty?

THE JUROR: No.

THE COURT: If you were on this jury, would you feel uncomfortable?

THE JUROR: Yes.

THE COURT: Here's what I am going to ask you do. Do not tell anybody on this jury anything that you know. You will not have to stand or answer any more questions on this case. Even if anything ask, applies to you, you don't have to stand.

THE JUROR: All right.

THE BAILIFF: Juror No. 105, Judge.

THE COURT: Your last name.

THE BAILIFF: Pleasant.

THE COURT: Pleasant. And what is your answer to that question.

THE JUROR: I went to high school with

her. And I personally know her daughter.

THE COURT: How long have you known her daughter?

THE JUROR: She goes to my church.

THE COURT: Do you know anything about this case?

THE JUROR: I read up on it.

THE COURT: Do you think you would have a preconceived idea about whether she is guilty or not guilty?

THE JUROR: I don't know.

THE COURT: And would that put you in a bad situation to be on this juror?

THE JUROR: Yes, sir.

THE COURT: And your last name again was?

THE JUROR: Pleasant.

THE COURT: Pleasant. And you don't have to stand up and answer any more questions in this case. Don't talk to anyone on the jury what about what you know.

THE BAILIFF: Juror No. 20.

THE COURT: This case is likely to go into Thursday. What about your doctor's appointment?

MR. CORBETT: That's correct judge.

THE COURT: What is your answer to my

question.

THE JUROR: Well I went to school with one of them.

THE COURT: Which one?

THE JUROR: I went to school.

THE COURT: With who?

THE JUROR: The defendant that was murdered.

THE COURT: Ms. Kelley?

THE JUROR: No, the victim.

THE COURT: The victim.

THE JUROR: Uh-huh. (Affirmative.)

THE COURT: And do you know anything about the case at all?

THE JUROR: No, just what was in the newspaper.

THE COURT: In this particular case you don't have to stand up anymore. Since you are not going to be on this case anyway. Don't talk to anybody on the jury about anything you've seen or heard. Thank you. You can have a seat.

Ms. Kelley, now you can stand, please and face the jury panel. As I go through these questions, if I use the term tend to or being an immediate family member that means related by

blood or marriage. Also I use the term close relative that typically would mean a, your father, your father and mother, brother, sister or child.

Here is the question. Is there anyone on this panel or to your knowledge is there anyone in your immediate family who is first of all, related by blood or marriage or kin to London Antoinette Kelley.

(Whereupon, no response.)

THE COURT: Is there anyone on the panel or anyone your immediate family who has any type, and that would be now or in the past, any type or connection or acquaintance or association with Ms. Kelley. It may have been having gone to school with her, church with her, work with her, see her periodically, see her often. Had any type of connection now or in the past with Ms. Kelley? If so please stand.

(Whereupon, no response.)

THE COURT: Thank you, Ms. Kelley. Now what I going to do now, Ladies and gentlemen, is read a list of potential witnesses. And the question is going to be the same. And it may well be that you would respond to more than of these witnesses, so listen carefully to all of these so

that we can get a complete picture of any associations or kinships you might have with any of these witnesses. If any of the witnesses are here, when your name is called, stand briefly. Turn around so the jury can see you, and then you can have a seat right after you stand up.

Again, these potential witnesses. They may all be called, they may not all be called, but they're possible witnesses. Crystal Skinner, turn around and face the back please. Cedric Burgess, Erin Goodman, Dexter Dickey, Lee Ernest Dickey, Tiffany Witherspoon, Hope Brown, Andrea Brown, Sheila Michael, Jeremy Holland, Christopher Dingle, John Kennedy, Terrell Hudson, Altonio Kennedy, April Sinner McFadden, Dion Moore, Jessica Bradford, Chris Miller, Edward Brown, Susie Oaks Thomas, Shaniqua Oaks, Ricky Epps Trevor Davis, Carolyn Davis, John Davis, Calvin Singletary. Also Bryan Horton, is he with the fire department and the sheriff's office?

MR. CORBETT: Formerly with the fire department now with a different agency.

THE COURT: Bryan Horton, Willie McFadden, Heath Gardner, Jacob Mithchell, Janice Ross, sled.

MR. CORBETT: Newberry Pathology.

THE COURT: Okay, that's right. Illa Simmons of sled, Tony Broom. She's with sled. Teresa Ray Lee, at the Sumter Lee regional detention center. Paul Meeh, M-E-E-H, and with who?

MR. CORBETT: Sled.

THE COURT: And Verona Gibson.

MR. CORBETT: With sled.

THE COURT: And the following witnesses from the Sumter County Sheriff's Office, Kevin Lindsey, Curtis Hice, Rick Nelson, Mike Bean, Bobby Richardson, Misty Lee, Julia Blare, Wesley Gardner, Jamie Williams, Trip Mays, Jennifer Thomas, Robert Burnish, Jim Atkinson, Derron Soloman, Wayne Dubose, Joe Lane.

Again, anyone on the panel or any member of your immediate family related by blood or marriage, obviously that means kin to or have any other connection, acquaintance or association however strong or slight with these witnesses. Ms Ficklin, do you know your juror number?

THE JUROR: 37.

THE COURT: First of all, the names, what witness or witnesses?

THE JUROR: Misty Lee and the detective.

I can't remember any name.

THE COURT: Ms. Thomas?

THE JUROR: Yes.

THE COURT: And are these relationships social or business?

THE JUROR: One is social. Misty is my grandchildren's aunt and Detective Thomas helped us when we had a break in.

THE COURT: Now how long have known Misty Lee?

THE JUROR: Probably 15 years.

THE COURT: And she is the aunt to your grandchildren?

THE JUROR: The aunt to my grandchildren.

THE COURT: She is their blood relative or not their blood relative.

THE JUROR: Their blood relative but not mine. On the other side.

THE COURT: And the question is this. Would you be able to set aside both of the circumstances that you mentioned to me, and be completely fair and impartial to both sides?

THE JUROR: Yes, sir.

THE COURT: And would you be able to base your verdict on the evidence and the law as a

whole and not particularly on what one of these potential witnesses would say?

THE JUROR: Yes, sir.

THE COURT: Thank you, ma'am. You can have a seat for the time being. Your name, please, ma'am.

THE JUROR: Ms. Fry.

THE COURT: Ms. Fry. Do you know your juror number?

THE JUROR: 38.

THE COURT: Yes, ma'am. First of all, which witness or witnesses?

THE JUROR: Jennifer Thomas.

THE COURT: Do you know her socially?

THE JUROR: Socially.

THE COURT: How long have you known her?

THE JUROR: She and my oldest daughter went to school together and played softball together. And we have a mutual friend at this and time.

THE COURT: So you have known her for some years.

THE JUROR: Yes.

THE COURT: How often do you seen her now?

THE JUROR: Not often.

THE COURT: And in the past how often did you see her?

THE JUROR: I would say maybe once every 6 months or so.

THE COURT: Would you be able to set aside that acquaintance completely and base your verdict solely on the evidence and law in this case?

THE JUROR: Yes, sir.

THE COURT: And would you be able to be completely fair and impartial to the State and to the defendant?

THE JUROR: Yes, sir.

THE COURT: Thank you, ma'am. Mr. Seth, do you know your number?

THE JUROR: No, sir.

THE COURT: 122. Which witness or witnesses?

THE JUROR: Deputy Richardson. He is a client of mine. I assisted in his mother's estate.

THE COURT: Is that completed?

THE JUROR: Yes, sir.

THE COURT: How long ago was that?

THE JUROR: Within the year.

THE COURT: If that is the case, would you

be able to set aside that relationship and be completely fair and impartial to both sides in this case?

THE JUROR: I will.

THE COURT: And would you be able to base your verdict on the evidence and the law and not on the fact that he may be a witness or because he's employed by the sheriff's office?

THE JUROR: I can.

THE COURT: Thank you, Mr. Seth. Your name, sir.

THE JUROR: Stephen Scurry.

THE CLERK: 121.

THE COURT: Mr. Scurry is No. 121. Which witness or witnesses?

THE JUROR: Mr. Mays.

THE COURT: Is that a social acquaintance?

THE JUROR: I went to school with him.

THE COURT: How long ago was that?

THE JUROR: It's been many years now.

THE COURT: Is that high school?

THE JUROR: Yes, sir.

THE COURT: It looks like that would have been back in the late 80's?

THE JUROR: Yes.

THE COURT: Well you all are younger than me. Did you see him frequently then socially or was it just a school made connection?

THE JUROR: School friends.

THE COURT: Do you see him often or any at all now?

THE JUROR: Every now and again. In passing mostly.

THE COURT: Would you be able to set aside those circumstances and base your verdict on the evidence and the law?

THE JUROR: Yes, sir.

THE COURT: Could you be completely fair and impartial to both sides?

THE JUROR: Yes, sir.

THE COURT: Thank you, sir. Mr. Corbett, you can stand and introduce yourself and anyone else who might be assisting you from the solicitor's office.

MR. CORBETT: Good morning. My name is Jason Corbett and I am one of the assistant solicitor's here in Sumter County. Assisting in the trial of this case will be assistant solicitor Kirk Griffin. And also you will see in the courtroom from time to time Investigator Miller

with our office.

THE COURT: Thank you. Mr. Johnson.

MR. JOHNSON: Thank Your Honor. My name is Charlie Johnson. Assisting me will be my investigator Ms. Amy Jones and my other investigator Mr. Danny Webb.

THE COURT: Thank you, Mr. Johnson. Is there anyone on this jury panel or anyone in your immediate family to your knowledge, first of all, related by blood or marriage to either Mr. Corbett or Mr. Johnson or the folks that were introduced to you by them? Anyone on the panel or anyone in your immediate family have any type or connection or acquaintance or association at all with any of these individuals? Mr. Seth.

THE JUROR: Yes, Your Honor. 122, is it not?

THE COURT: Yes, sir.

THE JUROR: I obviously most of the lawyers on the other side of the bar, and I know Mr. Webb from way back.

THE COURT: When you say back is that?

THE JUROR: When I was City Judge, I think he was an officer with the city police then.

THE COURT: Could you set aside all of

those circumstances and be completely fair and impartial?

THE JUROR: I can.

THE COURT: And base your verdict on the evidence and the law.

THE JUROR: I will.

THE COURT: And you were a city judge back in the 80's?

THE JUROR: I am under oath. Yes, sir.

THE COURT: Would you be able to set aside any preconceived notions of the law and follow the instructions that I give you?

THE JUROR: I will.

THE COURT: Thank you, Mr. Seth. Your Name, sir.

THE JUROR: Mike Murley. NO. 90.

THE COURT: Murley.

THE JUROR: Yes, sir.

THE COURT: Mr. Murley is No. 90. Yes, sir, your answer.

THE JUROR: About 15 years ago Tom Miller and myself were co-workers as paramedics.

THE COURT: Could you set that aside and be completely fair and impartial?

THE JUROR: Yes, sir.

THE COURT: And base your verdict on the evidence and the law?

THE JUROR: Yes, sir.

THE COURT: Mr. Miller is not listed as a witness, is he, Mr. Corbett?

MR. CORBETT: No, sir, Your Honor.

THE COURT: Thank you, Mr. Murley. Is there anyone on the panel who is a member of or a contributor to any organization that has as its primary focus the promotion of law enforcement or the enforcement of victim's rights? And these organizations include but they are not limited to things such as Students Against Drunk Driving, Mother's Against Drunk Driving, Citizens Against Violent Crime, the State Trooper's Association, South Carolina Law Enforcement Association, organizations of that kind? Now would be a member of or a contributor to.

And by the way, is anyone on the panel ever been represented by any of these attorneys?

(Whereupon, no response.)

THE COURT: Is there anyone on the jury panel related by blood or marriage or a close personal friend of someone who is employed a law enforcement agency as a law enforcement officer.

And that would be again, anyone on this panel who is related by blood or marriage or a close friend of anyone employed as a law enforcement officer.

And there are different kinds of agencies, obviously. And those are sheriff's office, city police, FBI, sled, military police, things of that nature. Mr. Murley.

THE JUROR: Yes, sir. No. 90.

THE COURT: Yes, sir.

THE JUROR: I am not sure of the definition of close, I've got several law enforcement friends, but we don't like hang out or drink together or anything like that.

THE COURT: And what agencies are those?

THE JUROR: Clarendon Police Department.

THE COURT: You can sit down just for the time being. I'll have you stand up in just a minute. Your name, sir.

THE JUROR: Gregory McGuire.

THE COURT: McGuire. Yes, sir, do you know your number?

THE JUROR: No, I do not.

THE COURT: It is 84. Yes, sir, Mr. McGuire.

THE JUROR: My uncle is Detective Rick

Morris with Sumter City.

THE COURT: City police?

THE JUROR: Yes, sir.

THE COURT: Anyone else? Thank you, Mr. McGuire, you can have a seat for the time being. Your name, please, ma'am.

THE JUROR: Deborah Williams. My son-in-law works Wateree Detention.

THE COURT: As a correctional officer?

THE JUROR: Yes.

THE COURT: How long has he been there?

THE JUROR: About 2 years.

THE COURT: Mr. McGuire, how long has your uncle been a police officer?

THE JUROR: It's been around 5 or 6 years. I am not completely sure.

THE COURT: Thank you. You can have a seat too, please, ma'am. Your name.

THE JUROR: Talma Johnson, 65.

THE COURT: Yes, ma'am.

THE COURT: My husband actually is retired. And he is also the security officer for on suit command on Shaw Air Force Base.

THE COURT: How long was he a military policemen?

THE JUROR: He actually served honorably, 20 years.

THE COURT: How long has he been a security officer?

THE JUROR: 14 years.

THE COURT: 14. Has that all been at Shaw or well obviously the 20 years was not.

THE JUROR: No, BRAC law bought us here. So we've been here for 4 years.

THE COURT: Your name, please, ma'am.

THE JUROR: Katherine Tyrone. 139.

THE COURT: Number what?

THE JUROR: 139.

THE COURT: Ms. Tyrone.

THE JUROR: My nephew by marriage is in law enforcement Washington, North Carolina.

THE COURT: How long have he been in that job?

THE JUROR: Probably, 15, 20 years.

THE COURT: Thank you, ma'am. Your name. please, ma'am.

THE JUROR: Sharp.

THE COURT: 123. Yes, ma'am.

THE JUROR: My brother-in-law is a correctional officer in Missouri.

THE COURT: Missouri. And how long has he has that job?

THE JUROR: About 15 years.

THE COURT: Okay. If you folks who answered that question, can stand back up. You can probably gather what the follow up questions are going to be. The question is whether you can be completely fair and impartial to the State and to the defendant. And set aside those relationships or those folks that you've described who have the employment as law enforcement officers. If you can set all of that aside and be completely fair and impartial and base your verdict solely on the evidence and the law in this case, just raise your hand. You ladies can have a seat. Mr. Murley, you and, Mr. McGuire, if you could come up, please.

(Whereupon, jurors confer with judge at the bench.)

THE COURT: No. 90.

MR. MURLEY: Yes, sir.

THE COURT: What would be your situation.

THE JUROR: Well, you know, I worked as a paramedic and I've had dealings with law enforcement protection. And I worked with the

sheriff's department as an undercover narcotics.

THE COURT: What I am going to do is stand you aside in this case. You don't have to answer any more questions in this case. And do not talk to any of your fellow jurors about anything that you have described. Thank you.

Yes, sir, Mr. McGuire.

THE JUROR: My uncle is a city police officer.

THE COURT: Do you think you could be a fair and impartial juror.

THE JUROR: No, sir.

THE COURT: Is that correct?

THE JUROR: Yes, sir.

THE COURT: What I am going is to stand you aside in this case. Do not tell any of your fellow jurors anything about your particulars, okay. You don't have to stand up and any answer any more questions in this case. Thank you. As the background of this question, Ladies and gentlemen, in the counties in this state, crimes are typically prosecuted by solicitor's offices. In South prosecuted by solicitor's offices.

In South Carolina we have 16 judicial circuits. And there are 16 elected solicitors.

One of whom certainly is Mr. Finny who I have previously introduced. The chief law enforcement officer for the State of South Carolina is the State Attorney General. And in the attorney general's office, there are a good many lawyers on his staff. The same goes for the solicitor's throughout the state.

The question is this. Is there anyone on this panel or anyone in your immediate family, or do you have a very close personal friend who is employed by the South Carolina Attorney General or a solicitor's office or perhaps in another state, another prosecuting attorney. In some states they are called district attorneys or state's attorneys. Again, anyone on the panel or anyone in your immediate family or a very close friend who is employed by the attorney general, a solicitor or any other prosecuting attorneys office?

Ms. Fry.

THE JUROR: Yes. I am related to Christy Newman. She works for the attorney general in Columbia.

THE COURT: What does she do?

THE JUROR: She is lawyer over the

attorney generals.

THE COURT: Do you know how long she has been in that job?

THE JUROR: A long time. I don't know exactly.

THE COURT: And if you are on this jury, could you set aside that circumstance and be completely fair and impartial to both sides?

THE JUROR: Yes, sir.

THE COURT: And could you base your verdict on the law and completely discount her employment?

THE JUROR: Yes, sir.

THE COURT: Thank you. Anyone else? Your name?

THE JUROR: Melba Johnson No. 65. My aunt is the lead public defender for the State of Indiana, Hope Five.

THE COURT: And would you be able to set that aside? That's not a prosecuting job, but I appreciate you standing. Is there any reason that would make you not be able to be fair and impartial.

THE JUROR: No, sir.

THE COURT: Thank you. Is there anyone

on the panel who has ever been a testifying witness in a criminal trial. Ms. Johnson, is that your employment?

THE JUROR: Actually not. My ex-husband was shot during the snipper attack at Fort Bragg.

THE COURT: Okay.

THE JUROR: The general court marshal. I actually gave testimony for the prosecution.

THE COURT: And would you be able to set all of those circumstances aside completely?

THE JUROR: I am uncertain.

THE COURT: I'll have you -- I'll talk to you in a just a minute. And Ms. Sharp No. 123 is that correct?

THE JUROR: Yes.

THE COURT: First of all, you were a -- where were you witness?

THE JUROR: In the State of Virgina.

THE COURT: How long ago?

THE JUROR: About 45 years.

THE COURT: 45 years. Okay. And what kind of case was it?

THE JUROR: A rape case.

THE COURT: I'll talk to you about that in just a few minutes too, okay. Now in the law,

Ladies and gentlemen, there are, there is to me at least it's a little confusing. We have things called violent crimes and crime of violence. But the question I am going to ask you is restricted to this.

And the violent crimes that I am talking about, would be things such as, murder, robbery, that is when someone actually robs someone else face to face either with a gun or by threat. Burglary, that's entering a dwelling or a building without consent to commit a crime, sexual assault and things of that nature. I am not talking about breaking into your car or stealing something from the store where you work. I am not talking about those kinds of things.

The question is this, is there anyone on this jury panel or anyone in your immediate family who has been the victim or ever been accused of, committing a violent crime. Is there anyone on this panel or anyone in your immediate family who has ever been the victim of or ever been accused of a violent crime? Beginning with Ms. Sharp, and also Ms. Johnson if you can go ahead and get in line, you all can come up. And the folks who did stand, if you could just simply stand in line,

okay. Ms. Johnson, you can come on up.

(Whereupon, jurors approach and confer with judge.)

THE COURT: No. 65.

THE JUROR: Yes, sir.

THE COURT: What is your answer to the other question and this one?

THE JUROR: Actually I will tell you that I have a nephew who actually is in jail for statutory rape of a minor. And also I have another nephew who will be released from a violent crime of using a weapon against my brother. But most of all, it would be what I would have issues is, murder. I actually gave testimony of a gentleman who was put on death row. His sentence has been commuted. Every year I do receive information from the parole board.

THE COURT: You were the victim.

THE JUROR: Actually my ex-husband was shot at point blank range. And he did survive. Just let you know. He did ten rounds or surgery. He died three times on the table. And it was a bullet.

THE COURT: And that would make it difficult to be fair in this case?

THE JUROR: It may, yes, sir.

THE COURT: What I am going to do is stand you aside in this case. You don't have to answer any more questions on this case. But you can't leave yet. Don't discuss the circumstances of this with the other jurors.

THE JUROR: I understand.

THE COURT: Thank you.

THE BAILIFF: Juror No. 64, Mr. Jenkins.

THE COURT: Mr. Jenkins. Yes, sir. What is your answer to that question.

THE JUROR: I am a victim of a home break-in.

THE COURT: When was that?

THE JUROR: About two years ago.

THE COURT: Here in Sumter?

THE JUROR: Yes, sir.

THE COURT: Was anybody arrested?

THE JUROR: No one was ever found.

THE COURT: Nothing was ever filed.

THE JUROR: The person was never caught.

THE COURT: Oh, never caught. Could you set all that aside and be fair and impartial in this case?

THE JUROR: And base your verdict on the

verdict on the evidence and law in this case?

THE JUROR: Yes, sir.

THE COURT: Thank you, sir.

THE CLERK: 142, Ms. Williams.

THE COURT: You live close to me. Do you live on ?

THE JUROR: Yes, sir.

THE COURT: Since you are up here and the fact that I am the judge in this case has nothing to do with you. Do feel okay with that?

THE JUROR: Yes, sir.

THE COURT: What is your answer to that question?

THE JUROR: When I was younger there was a child molestation.

THE COURT: How long ago was that?

THE JUROR: When I was 17.

THE COURT: Was anyone ever prosecuted?

THE JUROR: Yes.

THE COURT: Where was that?

THE JUROR: Alabama.

THE COURT: And if you are, you have obviously you have heard the allegations in this case, would you be able to set all of that aside and be able to be fair to the state and to the

defendant?

THE JUROR: Uh-huh. (Affirmative.)

THE COURT: Can you base your verdict on the evidence and the law in this case?

THE JUROR: Yes, sir.

THE BAILIFF: Ms. Sharp.

THE COURT: Ms. Sharp.

THE BAILIFF: 123, Judge.

THE COURT: Yes, ma'am. What is your answer to the question.

THE JUROR: A family member, a niece, who was raped.

THE COURT: And you were a witness?

THE JUROR: No. She did not go to trial. Her case didn't go to trial. I was a witness No. 72 for a friend who knows the defendant.

THE COURT: The defendant in a rape case?

THE JUROR: Yes.

THE COURT: Was he convicted?

THE JUROR: Yes.

THE COURT: So no one was prosecuted in the case involving your niece?

THE JUROR: I am sorry?

THE COURT: No one was prosecuted.

THE JUROR: No.

THE COURT: Was either one of those in Sumter County?

THE JUROR: No.

THE COURT: These are both in Virginia.

THE JUROR: Uh-huh. (Affirmative.)

THE COURT: Could you set all that aside and base your verdict in this case solely on the evidence and the law in this case?

THE JUROR: Yes, sir.

THE COURT: Could you be completely fair to both sides?

THE JUROR: Yes, sir.

THE COURT: And you would be an impartial juror?

THE JUROR: Yes, sir.

THE COURT: Thank you.

THE BAILIFF: 87, Mr. Moore.

THE COURT: Yes, sir. Mr. Moore.

THE JUROR: My brother's house has been burglarized twice in the last several years.

THE COURT: In the county?

THE JUROR: Yes.

THE COURT: What's his name?

THE JUROR: Chris Moore.

THE COURT: What does he do?

THE JUROR: He's a farmer.

THE COURT: Anybody caught?

THE JUROR: I think somebody was caught. I don't remember.

THE COURT: There are certainly no allegations of burglary in this case. And burglary is a violent crime in some situations. Could you set all of that aside and be fair to both sides?

THE JUROR: Yes.

THE COURT: And base your verdict on the evidence in this case?

THE JUROR: Yes.

THE COURT: Thank you.

THE BAILIFF: Juror No. 1 Ms. Adams.

THE COURT: Your last name.

THE JUROR: Adams.

THE COURT: Yes, ma'am.

THE JUROR: Two or 3 years ago my house was broken into. And then my younger son was also serving time for burglary.

THE COURT: Was anybody ever caught in your burglary?

THE JUROR: No, it just fell through the cracks. No one ever did fingerprints.

THE COURT: Was that here in Sumter?
THE JUROR: Yes.
THE COURT: Was that city or county?
THE JUROR: City.
THE COURT: Where do you live?
THE JUROR: , off of

THE COURT: If you know, what time of year was that?
THE JUROR: That was back in the summer.
THE COURT: And your son is in jail now.
THE JUROR: He's in Turbeville.
THE COURT: Was he prosecuted here?
THE JUROR: He was.
THE COURT: Do you remember who the lawyer was?
THE JUROR: That was a young lawyer.
THE COURT: Who was the prosecutor, do you know? Male or female?
THE JUROR: Male.
THE COURT: Do you remember the last name?
THE JUROR: No, sir.
THE COURT: Could you set all of that aside and be fair in this case? There are no allegations of burglary obviously. But you did

respond appropriately to the question itself? Could you be fair to both sides?

THE JUROR: Yes, sir.

THE COURT: And could you base your verdict on the evidence and the law in this case?

THE JUROR: Yes, sir.

THE COURT: Would you have any reservations at all about serving as a juror in this case?

THE JUROR: No, sir.

THE COURT: Thank you.

THE BAILIFF: 109, Ms. Rednour, Judge.

THE COURT: Ms. Rednour.

THE JUROR: Yes, sir.

THE COURT: Yes, ma'am.

THE JUROR: In 1982 I was charged with domestic violence. Those charges against me were dismissed.

THE COURT: And was that or?

THE JUROR: That was in Horry County.

THE COURT: Were the charges against the the other person carried through?

THE JUROR: Yes, sir. He was convicted.

THE COURT: He was convicted?

THE JUROR: Yes, sir.

THE COURT: Was it a violent altercation of just?

THE JUROR: It was. It was my first husband. He was regularly abusive.

THE COURT: There are no specific allegations of criminal domestic violence in this case. But could you set aside what happened to you and be fair and impartial to both sides?

THE JUROR: Absolutely.

THE COURT: And base your verdict on the evidence and the law in this case.

THE JUROR: Yes, sir.

THE BAILIFF: 93, Ms. Nelson.

THE COURT: Yes, ma'am, Ms. Nelson.

THE JUROR: Yes, my son was convicted of a violent crime.

THE COURT: What was that crime?

THE JUROR: Robbery.

THE COURT: Here in Sumter?

THE JUROR: Yes.

THE COURT: His name.

THE JUROR: Marcus Frierson.

THE COURT: How long ago was that?

THE JUROR: In 96. 97.

THE COURT: Did he have a lawyer?

THE JUROR: A public defender.
THE COURT: Did he go for a jury trial or plead guilty?
THE DEFENDANT: Plead guilty.
THE COURT: Is he still in prison?
THE JUROR: Yes, sir.
THE COURT: How long will he be in there?
THE JUROR: Two more years.
THE COURT: And did any of that -- does any of that give you any reason that you could not be fair and impartial?
THE JUROR: No, sir.
THE COURT: Could you be fair?
THE JUROR: Yes, sir.
THE COURT: And can base your verdict on what the evidence is in this case?
THE JUROR: Yes.
THE COURT: Thank you.
THE BAILIFF: Juror No. 2, Mr. Amore.
THE COURT: And your answer to that.
THE JUROR: I've been -- I was accused of a violent crime.
THE COURT: What crime?
THE JUROR: Assault and battery high of a high and aggravated nature.

THE COURT: Were you prosecuted?

THE JUROR: No, sir. It was dropped.

THE COURT: How long ago was that?

THE JUROR: That was about 5 years ago, 6 years ago.

THE COURT: Here in Sumter?

THE JUROR: Yes, sir.

THE COURT: Did it ever get to the point where there was a prosecutor?

THE JUROR: No, sir. Joe Davis was the magistrate. He had been in front of him when it came up for the term of court, but the other guy dropped it. I had 13 witnesses.

THE COURT: Taking all that into account could you be completely fair and impartial to both sides?

THE JUROR: Yes, sir.

THE COURT: And base your verdict on the evidence and the law in this case?

THE JUROR: Yes, sir.

THE COURT: Is there anything that would give you pause and could you be fair?

THE JUROR: I can be fair. If they would take the evidence and the 13 witnesses and can be solved. The other guy dropped it.

THE COURT: So you don't have any animosity against the police or.

THE JUROR: No, sir, not at all.

THE COURT: Thank you.

THE BAILIFF: 132, Mr. Styles.

THE COURT: Good morning, Mr. Styles.

THE JUROR: Good morning. Your Honor, and I don't know the difference but I had testimony regardless, a spouse.

THE COURT: Where does she work? What does she do?

THE JUROR: She's an officer. That's all I know.

THE COURT: Would that have any impact on your ability to be fair and impartial?

THE JUROR: No, sir. But to be honest, I don't think I have the right to have judge somebody else's life. Not taking your place but I mean, just standing here.

THE COURT: Well on a jury, the trial consists of witnesses being called to testify and you can see perhaps documents, pictures and that kind of thing. And the case there would be 12 people on the jury would to have collectively reach a unanimous verdict. Could you do that?

THE JUROR: I reckon so, sir.
THE COURT: And you wouldn't be the only one, but you would be one of them. Could you be fair and impartial to both sides?
THE JUROR: I reckon so, sir.
THE COURT: When you say reckon.
THE JUROR: Yes, sir.
THE COURT: Could you base your verdict on the evidence and the law in this case?
THE JUROR: Yes, sir.
THE COURT: Thank you. Is there anyone on the panel who has ever served on a jury in a trial before? Actually been picked and sat in a box and been a juror in a trial? And I am going to get this information. If you would please stand. I'll get this -- my last couple of follow up questions. And Ms. Rednour, do you remember your number?
THE JUROR: Yes, sir. 109.
THE COURT: Yes, ma'am.
THE JUROR: I served on a civil jury a few years ago here in Sumter County.
THE COURT: You can have a seat for the time being. Your last name again, sir.
THE JUROR: Jenkins.

THE COURT: Yes, sir.

THE JUROR: 64.

THE COURT: And your answer.

THE JUROR: Just traffic court.

THE COURT: Thank you. Your name please.

THE JUROR: Angela Williams.

THE COURT: Do you know your juror number?

THE JUROR: 144.

THE COURT: 144. Yes, ma'am.

THE JUROR: And I served in 2012 right across the street to the old courthouse.

THE COURT: And what kind of case was it. Were just about criminal court you remember what charge was?

THE JUROR: It was just a criminal court.

THE COURT: Do you remember what the charge was or just served as a juror?

THE JUROR: I was on the jury. I can't remember what it was.

THE COURT: Thank you. Your name please.

THE JUROR: Sandra Branstra. No. 8.

THE JUROR: Yes, ma'am.

THE COURT: It was in Sumter County at the Magistrate Court.

THE COURT: Do you remember what kind of

case?

THE JUROR: Yes, sir. It involved a traffic accident. Someone suing someone.

THE COURT: Thank you. Your name, please, ma'am, right behind her.

THE JUROR: Lee No. 72. It was in the old courthouse. It was the same kind of situation. I am not sure what the case was. It was a juror though.

THE COURT: Thank you. Ms. Ficklin.

THE JUROR: 37. It was the last court in that building. And I on a criminal court murder charge.

THE COURT: Thank you, ma'am. Your name, sir.

THE JUROR: Kendrick Eaddy.

THE COURT: Kendrick Eaddy. Yes, sir.

THE COURT: I was just remember that the courthouse across the street a few years ago.

THE COURT: What kind of case?

THE JUROR: A rape case.

THE COURT: Your name, please, ma'am.

THE JUROR: Catherine Premann.

THE COURT: Yes, ma'am.

THE COURT: I was on a court marshal

panel at the Oson, Korea in 2000, an assault case.

THE COURT: An assault case? Thank you. And right behind her. Yes, ma'am.

THE JUROR: Jennifer Nelson, 93. I can't remember. It was like 80, 90. It was so long ago, I served as a juror.

THE COURT: Was is criminal or civil?

THE JUROR: I think it was criminal.

THE COURT: Thank you. Your name, please, ma'am.

THE JUROR: Lisa Adams, No. 1. And Magistrate's Court. And it was back 2011.

THE COURT: What kind of case?

THE JUROR: Traffic accident.

THE COURT: Thank you. And your name, please.

THE JUROR: Teresa Johnson. No. 67. I don't know what it was. But it was a doctor's case against a doctor's office.

THE COURT: Here---

THE JUROR: It was in the old.

THE COURT: In the old courthouse?

THE JUROR: Yes.

THE COURT: Thank you. The folks who did stand, I'll just let you stay seated for the time

being. The follow up question as you can probably anticipate. Did your service on jury in another case in the manner that you've described, would that have any impact on your ability to be completely fair and impartial. And would that have any impact on your ability to decide this case on the evidence and the law in this case.

If you feel like you could not be fair or it would have any impact on your ability to decide this case on the evidence and the law, simply stand. If you don't think you could be fair.

(Whereupon, no response.)

THE COURT: No one stood. Now one of the things that I will tell you during this case, I'll tell you probably at the beginning, at the end, and I'll tell you now. You'll get be required to sit as a juror in this case. The jury is the sole and the body and the finder of facts. In other words, you all reach the verdict. In doing that, you use your good common sense. You look at the evidence. And you also rely on the law as I give it to you. One of the things that I will tell you is that you have to base your verdict on the law as I give it to you, and not based on what you think the law is and what you think it ought to

be.

If there's anyone who would not be able to follow that basic instruction, please stand.

(Whereupon, no response.)

THE COURT: Likewise, as I have already told you, a defendant who is accused of a crime, is presumed innocent. Does not have to prove anything. Does not have to disprove anything. It's a very fundamental principal that the State has the burden of establishing or proving the elements of a crime charged beyond a reasonable doubt. Is there anyone on the jury panel who feels they could not abide by that fundamental legal principal?

(Whereupon, no response.)

THE COURT: No one stood. Is there anyone on the jury panel who knows of any bias or prejudice that you might have for or against the State, the defendant, either of the attorneys or any of the possible witnesses in this case? Again, that's a bias or a prejudice for or against one side or the other. Or any of the witnesses?

(Whereupon, no response.)

THE COURT: No one stood. Is there anyone on the panel, this is somewhat of a follow

up. Is there anyone on the panel who would be more inclined to believe or not believe the testimony of that any witness whose name I have read out? Anyone on the jury would be more inclined to believe or not believe to the testimony of a witness whose name I have called out?

(Whereupon, no response.)

THE COURT: No one stood. Is there anyone on the panel who knows of any reason why you should not serve as a juror in the trial of this case?

(Whereupon, no response.)

THE COURT: Any additional questions from the State.

MR. CORBETT: Nothing from the State, Your Honor.

THE COURT: Mr. Johnson.

MR. JOHNSON: I have nothing, Your Honor.

THE COURT: Ladies and gentlemen, what we are going to do is this. The -- let me see the lawyers up here one more time before we start this next one.

(Whereupon, judge and attorneys confer.)

THE COURT: We will select a jury of 12,

with two alternates. And both sides agree 5 and 10. And one and two on the alternates.

THE BAILIFF: Juror 109 Elizabeth Rednour (f-w) accepted. Juror No. 143 Eric White (m-b) state struck. Juror No. 131 Anastasia Spann (f-b) accepted. Juror No. 37 Victoria Fickling (f-w) defense struck. Juror No. 38 Leisa Frye (f-w) defense struck. Juror No. 8 Sandra Bandstra (f-w) accepted. Juror No. 87 Shawn Moore (m-w) defense struck. Juror No. 59 James Houck (m-b) state struck. Juror No. 7 Victor Baker, Jr. (m-b) accepted. Juror No. 102 Harry Peterson (m-b).

MR. CORBETT: Your Honor, may we approach?

THE COURT: Yes, sir.

(Attorneys approach and confer with judge.)

THE BAILIFF: State struck. Juror No. 132 Marcus Stiles (m-w) state struck. Juror No. 71 McSwain Laws (m-b) defense struck. Juror No. 130 Melonese Snowden (f-b) accepted. Juror No. 107 Linda Price (f-b) accepted. Juror No. 94 Tonya Nelson (f-b) accepted. Juror No. 93 Jennifer Nelson (f-b) accepted. Juror No. 67 Teresa Johnson (f-b) accepted. Juror No. 4 William Anderson (m-w) accepted. Juror No. 145 Debra

Williams (f-w) defense struck. Juror No. 121 Steven Scurry. Defense struck. Juror No. 106 Tiffany Wheeler (f-b) accepted. Juror No. 31 Kendrick Eady (m-b) accepted.

THE COURT: All right one and two.

THE BAILIFF: Alternate Juror No. 34 Bruce Erb (m-w) accepted. Second Alternate Juror No. 23 Michael Cook (m-b) state struck. Juror No. 139 Katherine Tyron (f-w).

THE COURT: Any objections or any other matters, motions, issues pertaining to jury selection from the State?

MR. CORBETT: Nothing from the state.

THE COURT: From the defense?

MR. JOHNSON: Nothing from the defense.

THE COURT: Can I see the lawyers up here just a minute?

(Whereupon, the attorneys approach the bench and confer with judge.)

THE COURT: Ladies and gentlemen, you all have been selected as jurors in the trial of this case, we're actually going to begin the trial at 3:15. I've got to take care of a couple of things in a couple other cases. That's going to impact our time. But if you right now the

bailiffs are going to show you to where your jury room is. You report back there properly at 3:15 p.m. and we will be ready to go.

As I will tell you repeatedly throughout this case. You cannot talk about this case with anyone in the world. That includes among yourselves. This may be the only thing that the 14 of you have in common, but it's the only thing you can't talk about it all. You may hear testimony this afternoon or in the morning. You can't go to your jury room or on the way to the car and talk about what you've just seen or heard. Likewise by order of the chief justice, I am required to tell you that you cannot read anything about this case. You cannot watch anything about this case or listen to anything about at all.

If you find that that happens, you can just -- you can let a bailiff know, and the bailiff will report it to me. The reason for all that is that you are going to be taking an oath to try this case and render a verdict according to the evidence and the law. You will get all of that in this courtroom. It would totally improper for you to gather any other information from any other source.

I'm also required to tell you that you cannot get on a blog, however you might do. I don't even know how you do it. And type or write or speak anything about this case. You can't get on facebook or tweeter or any other social media and communicate with others and put on there for example that about anything about your jury service or anything about this case. You can't do it. So, no communications with anyone else including amongst yourselves about this case. Don't go home or go back to work or wherever you might over lunch or tonight when we break and talk to friends, co-workers, family or anybody. You can't talk about it all.

If someone by chance says something about the case in front of you, they may have done it unintentionally or intentionally, you're required to report that. For example, you get on the elevator to leave or go down the steps if you hear somebody talking about it, well let them know you are on the jury. And they'll stop or they should stop. But do report those things to a bailiff and they will rely that to me. 3:15 we will see you back, and we will be prepared to forward at that time.

(Jury is dismissed at 12:47 p.m.)

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

THE COURT: The motion that both sides made in my office that the witnesses be sequestered. Mr. Corbett, who are the two lead investigators?

MR. CORBETT: Investigator Mays, and Investigator Thomas.

THE COURT: They can stay in the courtroom at all times. Mr. Johnson, your client here too, you said her parents?

MR. JOHNSON: They're not here, Your Honor.

THE COURT: But they're not witnesses.

MR. JOHNSON: They're not. Your Honor, they're not her parents. They're---

THE COURT: Grandparents.

MR. JOHNSON: They're her daughter's grandparents. She has no family here.

THE COURT: But they're not witnesses.

MR. JOHNSON: No.

THE COURT: And the victim's family, Mr. Corbett.

THE COURT: That's correct, Judge. The

victim's fiancee and parents are both in the room. The fiancee is a witness. The parents are not.

THE COURT: Mr. Johnson, any position on the fiancee remaining in the courtroom?

MR. JOHNSON: Your Honor, until she testifies, I would object to her being in the courtroom.

THE COURT: We'll talk about that further in just a minute. And you had a motion that your client remain out on bond?

MR. JOHNSON: That's correct, Your Honor. I know I've only been involved briefly, but she's always been present. She's always been here. While she was out on probation I mean, out on bond before, she never violated. She's also appeared.

THE COURT: Mr. Corbett.

MR. CORBETT: Judge, given the seriousness of these charges and the fact that the case has been called for trial, the State would request the the defendant be remanded to custody.

THE COURT: Do you want to anything motion wise before we stop for lunch or would you all like to come back at 2:15?

MR. CORBETT: Judge, my preference would be to come back at 2:15.

THE COURT: Mr. Johnson.

MR. JOHNSON: I have no preference, Your Honor.

THE COURT: We will start back with this case at 2:15. The fiancee is a witness, but she is not a family member, is that correct.

MR. CORBETT: Correct.

THE COURT: And what' her name?

MR. CORBETT: Crystal Skinner.

THE COURT: And what order will she be in?

MR. CORBETT: And, Judge, I was about to say, this maybe a moot issue. I anticipate her being the first witness.

THE COURT: That will took care of itself. Mr. Johnson, I am going to inclined to remand your client, but I will make that decision after lunch.

Now, Ms. Kelley, if you would stand please. I want to make sure you understand this. I have not made a decision yet as to whether or not you'll be house in the detention center throughout the trial. I'll make that decision after lunch. But we're going to start back in this courtroom in this case at 2:15. I want you to be in seat at 2:15. If you are not here, we'll start without you, No. 1. And second of all, I'll

definitely have someone go out and find you and bring you back to the courtroom. You understand that?

THE DEFENDANT: Yes, sir.

THE COURT: Is she a resident of Sumter.

MR. JOHNSON: Yes, she is, Your Honor.

THE COURT: And has she been employed?

MR. JOHNSON: Yes, she has.

THE COURT: Where?

MR. JOHNSON: She was arrested at Papa John's, but when she was arrested, Your Honor, she lost her job.

THE COURT: But just be back here, please, ma'am, at 2:15. I would you be back earlier, because they're always parking issues and always elevator issues. But let's not be late okay. The witnesses are sequestered. Ms. Skinner, since she is the first witness, I think that's fine. During the opening statement, I'll just ask that she be seated in the anteroom, okay. Anything else before we break?

MR. CORBETT: Judge, yes,sir, briefly. At the time that we had come to the bench with the witness listen, Mr. Johnson indicated that he felt like any witnesses he may potentially call were

also on my list. I am not certain that I will call everyone on my list. And for sequestration purposes, I was wanting to know if he would tell us who his potential witnesses were so that we could keep that in mind for the sequestration purposes.

THE COURT: Well anybody's name was called is going to be sequestered, period. Because you may change your mind. So that ought to cure that. You think that answered it?

MR. CORBETT: Judge, I just, If I was in a situation where I knew I wasn't going to call someone, then I could tell them they weren't a witness and could be in the courtroom.

THE COURT: If that happens by chance, make sure that Mr. Johnson. Because I can tell you that if a witness comes in here in violation of the order that witness is not going to testify. Or it's going to be a really, really close call.

MR. JOHNSON: Your Honor, I can clarify this. Everybody on that list is a possible witness of mine, I want them sequestered.

THE COURT: So, Mr. Corbett, just don't tell anybody it's okay for them to come in if you're not going to call them.

MR. CORBETT: Well, Judge, a moment ago he made reference to his client's child's grandparents who I believe are on that witness list.

THE COURT: What are their names?

MR. JOHNSON: They're not on that list. They're names are John Johnson and Carolyn Johnson.

MR. CORBETT: Judge, they should have been on that witness list.

THE COURT: I don't remember calling their names out.

MR. JOHNSON: They're not on the list and they haven't been subpoenaed, Your Honor.

THE COURT: No Johnson's. There's a Hudson.

MR. CORBETT: Judge, I think I may have put Carolyn Davis and John Davis.

THE COURT: Who are they?

MR. CORBETT: I think that was a mistake on my part and I think I intended that to be Johnson.

THE COURT: What are they witnesses about? What's the nature of their involvement?

MR. JOHNSON: I have no idea, Your Honor.

THE COURT: Timeline.

MR. CORBETT: No, sir, Judge. There's a reference to a witness' statement to the Johnson's, and their communication with the defendant.

THE COURT: If they're on the witness list they're going to be sequestered. So that last name, the incorrect last name aside, they're not going to be able to be in the courtroom.

MR. JOHNSON: That's fine, Your Honor.

THE COURT: Unless you all both agree that Mr. Corbett is not going to call them and you're going to call them, then that will take care of it. But right now they're sequestered.

MR. JOHNSON: That's fine, Your Honor. I may need them. I just wasn't aware of it.

THE COURT: Okay. We'll start back with the motion at 2:15 and you will have all your witnesses here?

MR. CORBETT: Yes, sir, Judge.

THE COURT: Any other pretrial matters that you all anticipate?

MR. JOHNSON: The only other issue, if the State could just tell me the sequence of the witnesses.

MR. CORBETT: For the Jackson vs. Denno or?

THE COURT: I don't know. I thought that was the only one we had.

MR. CORBETT: Investigator Mays. Investigator Mays, Investigator Tripp Mays and Investigator Jim Thomas will be testifying at the Jackson v. Denno.

THE COURT: About all three statements?

MR. CORBETT: That's correct, Judge.

THE COURT: We're adjourned in this case.

(Whereupon, court breaks for lunch.)

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

THE COURT: Do you have your first witness, Mr. Corbett?

MR. CORBETT: Judge, we do. For purposes just for the court's sequestration, I believe there are individuals in the courtroom at this time, that aren't on the witness list. I understand this is a Jackson vs. Denno hearing, but I did want to bring that to the court's attention.

THE COURT: They are sequestered. They have to get out.

MR. CORBETT: And, Judge, if you give me just a moment to make sure. And, Judge, the reason I say that is, occasionally I will put potentially witnesses down that my folks may not have located yet.

THE COURT: Right.

MR. CORBETT: And sometimes, they manage to find their way up here without having received a subpoena or talked with us, and I just want to make sure we don't run afoul with that.

THE COURT: Mr. Johnson, would you like to make a Court's exhibit your voir dire so the record will include the ones I did not ask?

MR. JOHNSON: Yes, Your Honor.

THE COURT: I will hand it to the bailiff and it will be made a court's exhibit.

MR. JOHNSON: Thank you, Your Honor.

MR. CORBETT: Before the Court, the State of South Carolina versus London Kelley, Indictment 2014-GS-43-724. Judge, the jury having been selected, and we are now dealing with some pretrial matters. The State alleges that the Ms. London gave several statements from law enforcement.

The first of which was a voluntary

statement before she was considered a suspect. Then additional statements that she provided, were provided pursuant to a miranda warning and waiver of rights form. At this time, the State would like to call the investigators responsible for taking those statements. Your Honor, the first witness would be Investigator Tripp Mays.

Lohman C. Mays, III being first duly sworn, testified as follows:

THE BAILIFF: Please state your full name and spell your last name for the record.

A Lohman C. Mays, III. M-A-Y-S.

Direct Examination by Mr. Corbett:

Q Investigator Mays, good afternoon.

A Good afternoon, sir.

Q I am going to ask just a couple of basic questions that we probably all know the answer to, but we'll get them on the record. By whom are you employed?

A I'm employed with the Sumter County Sheriff's office.

Q And were you employed with the sheriff's office back in April of 2011?

A I was.

Q Now I know several investigators worked on

the case wherein Darrell Epps was killed.

A Yes.

Q Were you one of those?

A I was.

Q Now in connection therewith, I am going show you this document and ask if you can identify that.

A Yes, sir.

Q What is that document there?

A It's a Sumter County Sheriff's Office voluntary statement form.

Q And who filled out that statement?

A Ms. London Kelley.

Q Do you recall where that statement was taken?

A Yes, sir. It was on where the incident occurred at, accept for this up from where Mr. Epps was found at.

Q So it was taken in the same -- in the same neighborhood.

A Yes, sir.

THE COURT: What date was that again?

A It was taken April 10th 2011.

Q Is that same day Mr. Epps' body was discovered?

A Yes, it is.

Q And then Ms. Kelley, gave you that statement there at that neighborhood.

A Yes, sir.

Q Is that what I may refer to as Gem Mobile Home Park, and some folks refer to by the name of Harwood?

A That is correct.

Q Now at this point and time when you took this statement, was Ms. Kelly in custody?

A No, sir.

Q And did she voluntarily provide that statement to you?

A Yes, sir.

Q At this point and time did you have an arrest warrant for her, or some indication that you were going to arrest her?

A No, sir.

Q As a matter of fact, she ultimately would not be arrested for a couple more years, correct?

A That is correct.

Q Now if you would, just read that statement for us so we'll know something of the substance of that statement.

A The statement says: This afternoon about

1:00 p.m. to 2 p.m. Tank came to my house to see what we was doing. We asked him for a cigarette. He said his mama had one. We jumped into the car and drove to his mama's house. On the way down there, we noticed a red shirt. Then we noticed an elbow. Thought come to mind, was a dead body. We froze up went to American, told the officer, and come check.

MR. CORBETT: Your Honor, at this time, if we could have this marked State's No. 1 for identification.

THE COURT: Any objection to this being marked, Mr. Johnson?

MR. JOHNSON: No objection, Your Honor.

THE COURT: That's No. 1 for Id.

(Voluntary Statement marked State's Exhibit No. 1 for ID only.)

Q Investigator Mays, I am now going to show you this document and ask if you can identify that.

A Yes, sir. This form that I have in my hand is a Sumter County Sheriff's Office Miranda Warning and Waiver of Rights form.

Q Now who signed that form? Who was being questioned?

A London Kelley.

Q Now if you would please, just walk us through the blocks there at the top, and what information that provides to Ms. Kelley.

A The top of this form is the miranda warning. Of course, it's numbered 1 through 5. And No. 1, states that you have the right to remain silent. And course at the end of each line, which is numbered, has a line underneath, drawing a blank for the person to put their initials if they understand it. And of course No. 1 states, you have the right to remain silent. No. 2, anything you say can and will be used against you in a court of law. No. 3, you have right to talk to an attorney and have him or her present with you while you're being questioned.

No. 4, if you cannot afford to hire an attorney, one will be appointed to represent you before any questioning if you wish. No. 5, you can decide at any time to exercise these rights and not answer any questions or make any statements. The sentence down below those states, I understand these above rights which I have read and explained by, and of course, that was Investigator Williams, put his name there, of the

Sumter County Sheriff's Office, at of course that was at the sheriff's office at 107 East Hampton Avenue, Sumter. And the time was 3:45 p.m. Of course Ms. Kelley signed the top line and Investigator Williams signed the line below as a witness.

Q Were you present for that?

A Yes, sir.

Q So you were present when she was advised of her rights.

A That is correct.

Q Now you may have said it, and I may have missed it, what was the date of that?

A It was April 11th 2011. That's also when she signed the waiver at the bottom.

MR. CORBETT: Now, judge, if we may, I am going to go ahead and mark this for identification as State's Exhibit No. 2.

THE COURT: Go ahead and mark the next statement as 3 for ID.

(Miranda Warning marked State's Exhibit No. 2 for id. Voluntary Statement marked State's Exhibit 3 for id.)

Q Now I am going to show you what we have marked as State's 3 for identification, and ask if

you can identify that document.

A Yes, sir. This is another Voluntary Statement form from the Sumter County Sheriff's Office.

Q And who is the individual that filled out that statement?

A London Kelley again.

Q And does that statement reflect the advise of rights provided under State's No. 2?

A Yes, sir.

MR. CORBETT: Judge, if I can confer with counsel for just a moment.

Q Now, Investigator Mays, in connection with that statement, miranda was provided, correct?

A That is correct.

Q Was Ms. Kelley, under arrest at this point and time?

A No, sir.

Q So out of an abundance of caution you provided miranda rights?

A That's correct.

Q But at that point, not in custody, but it was at the sheriff's department.

A Yes, sir.

Q In connection with her statement, did you

or Investigator Williams make any representations, promises, threats, anything of that nature to induce Ms. Kelley to give you a statement?

A No, sir.

Q Do you know about how long that interview lasted?

A The advisement of rights was given at 3:45 p.m. And of course she signed the statement at 5:20 p.m. So a little over an hour and a half.

Q During the course of this time, was Ms. Kelley deprived of food, water, heat, cool, anything that nature?

A No.

Q No kind of funny business with regard to trying to get any promises made to her about the bond.

A No, sir.

MR. CORBETT: Judge, in that, Mr. Johnson has a copy of the statement, I was not going to have the witness read it in word for word. In that my assumption is that we're primarily concerned about voluntariness.

THE COURT: Hand it to me, please. I'll keep it up here. Unless you've got an extra copy for me, I'll take a look at it. So if he raises

any questions on cross, I'll hand it back to the witness.

Q Now, Investigator Mays, with regard to both statements, the first voluntary statement and the second one, at the sheriff's office after miranda, at any point and time, did Ms. Kelley seem under the influence of drugs or alcohol?

A No, sir.

Q Was there anything about her condition that lead you to believe that she was not competent to talk to you or to give you a statement?

A No, sir.

MR. CORBETT: Please answer any questions Mr. Johnson might have.

THE COURT: So there are two written statements that we're talking about, right?

MR. CORBETT: That is correct, Judge. One April 10th, and one on April 11th.

THE COURT: Mr. Johnson.

MR. JOHNSON: Your Honor, just briefly.

CROSS EXAMINATION BY MR. JOHNSON:

Q Good afternoon, Investigator Mays.

A Good afternoon, sir.

Q Just briefly, the statements that as they

are written, those were your full conversations with her, correct?

A Yes, sir.

Q And there was no addition, nothing left out. Those statements basically states your conversation with her, and what she told you, correct?

A Yes, sir.

MR. JOHNSON: No other questions.

THE COURT: Redirect?

MR. CORBETT: Nothing on redirect, Your Honor.

THE COURT: You can step down. Thank you, sir. Next witness.

MR. CORBETT: Investigator Jennifer Thomas.

Jennifer Thomas being first duly sworn, testified as follows:

THE BAILIFF: State your full name and spell your last name for the record.

A Jennifer Thomas. T-H-O-M-A-S.

Direct Examination by Mr. Corbett:

Q Tell us, by whom are you employed?

A The Sumter County Sheriff's Office.

Q And how long have you been with the Sumter

County Sheriff's Office?

A Almost 10 years.

Q Now did you have occasion to become involved in the investigation where Darrell Epps was killed?

A Yes, sir, I did.

Q And as a part of that investigation, did you speak with London Kelley?

A Yes, sir, I did.

(Miranda Warning marked State's Exhibit No. 4 for Id.)

Q I am going to hand you this document and ask you if you can identify that.

A Yes, sir, I can.

Q What is that?

A This is a Sumter County Sheriff's Office Miranda Warning and Waiver of Rights form.

Q Okay. And I apologize. I think I failed to say it has been marked for identification as State's Exhibit No. 4.

A Yes, sir, it is.

Q And who signed that Waiver of Rights form?

A London Kelley.

Q And was the date of that Advisement of Rights?

A March 12th 2013.

Q And do you recall where that interview was done?

A Yes, at the Sumter County Sheriff's Office our old building 107 East Hampton Avenue. For half of the interview. The other half was at a different location, at Gem Mobile Home Park.

THE COURT: Say it again now.

A The first part of the interview was at our sheriff's office at 107 East Hampton. The second half was done at Gem Mobile Home Park.

THE COURT: Okay. But the form was signed at the sheriff's office.

A At the sheriff's office, yes, sir.

Q Now again, I know this may sound a little repetitive. But tell us what rights Ms. Kelley is being advised of pursuant to that form.

A She is being advised of her rights. And it's numbered 1 through 5. The first one, you have the right to remain silent. The second one, anything you say can and will be used against you in the court of law. The third one, you have the right to talk to an attorney and have him with you while you are being questioned. The fourth one, if you cannot afford to hire an attorney, one will

be appointed to represent you before any questioning if you wish. And the 5th line, you can decide at any time to exercise these rights and not answer any questions or make any statements. Up under that it states, I understand each of my rights, which have been read and explained by, and there's a blank where my name is, Investigator J. Thomas of the Sumter County Sheriff's Office at 107 East Hampton Avenue and the date and time. Under that it has London Kelley's signature. And under that it's witnessed by me.

Q And you advised Ms. Kelley of these rights?

A Yes, sir, I did.

Q And she initially and signed that form?

A Yes, sir.

Q At any point during that interview, did you make any promises or representations to Ms. Kelley concerning any potential charges?

A No, I did not.

Q And let me ask you, at this point and time, was she under arrest for anything involving the death of Darrell Epps?

A No, she was not.

Q But she was in custody at this time?
A She was not in custody at that time. Not yet. She did have a warrant.
THE COURT: She had what?
A She had a warrant for arrest from another investigator from a different, separate incident.
Q Was she free to go?
A No, not after the interview.
THE COURT: Not after the interview.
A Or during the interview.
Q So it was an unrelated matter that she had a warrant outstanding for, but you also were asking some questions about this older investigation that you had picked up.
A That is correct.
Q And you advised her of her miranda rights.
A Yes, I did.
Q Now in connection therewith, did you make any promises about the other case or this case?
A No, I did not.
Q Any promises about bond, getting to go home, putting in a word, anything of that nature?
A No, I did not.
Q Was -- let me ask you. You said the interview take place both at the sheriff's

department and at

A Yes, sir.

Q So the interview would have lasted quite some time?

A Yes, sir.

Q Do you know about how long it lasted?

A Probably around 4 hours.

(Voluntary Statement marked State's 5 for Id.)

Q Now when you were interviewing Ms. Kelley after the advisement of rights, was there anything about her demeanor or appearance that suggested to you that she was under the influence?

A No, sir.

Q Was there anything about her behavior that lead you to believe she was not competent or in her right mind?

A No, sir.

Q Now I am going to ask you to take a look at what's been marked for identification as State's No. 5. First of all, how many pages is that?

A It's 5 pages total.

Q Is that a statement?

A Yes, sir.

Q Is that a statement given by London Kelley?

A Yes, it is, sir.

Q Is it typed or handwritten?

A It's handwritten.

Q Whose handwriting?

A London Kelley's handwriting.

Q So not your handwriting?

A No, sir.

Q So Ms. Kelley at some point during the course of this interview process sat down and wrote that statement for you?

A Yes, she did.

Q Was at the police department, at Gem, or back at the police department?

A Back at the sheriff's office.

Q I want to make sure I understand the sequence. You all talked at the sheriff's department.

A Yes, sir.

Q Went out to what I am referring to as Gem Mobile Home Park,

A Yes, sir.

Q And then went back to the sheriff's office.

A Yes, sir.

Q Where she gave that statement. Or where she wrote that statement.

A Yes, sir, that's correct.

Q But you had been talking with her and questioning her along the way.

A Yes, sir.

(Waiver of Rights marked State's Exhibit No. 6 for Id.)

Q Judge, if I may ask the witness. I think I forgot to ask a question concerning that. Now, Investigator Thomas, that statement is how many pages?

A It's 5 pages total.

Q And is that the statement that was given back to the advisement of right represented by State's No. 4 for Id.?

A Yes, sir, it is.

Q And that 5-page statement did it deal with events surrounding the death of Darrell Epps?

A Yes, it did.

Q And now I am going to show you this next document, which has been marked as a State's Exhibit No. 6. Judge, if I may, I will hand up the statement.

THE COURT: No. 5?

MR. CORBETT: Yes, sir.

Q And ask if you can identify this document.

A Yes, sir, I can.

Q And tell us what that document is.

A It's the Sumter County Sheriff's Office, Waiver of Rights form.

Q And what is date of that form?

A January 2nd, 2014.

Q Now January 2nd, 2014, was that the date that Ms. Kelley was arrested on this charge?

A Yes, sir, it was.

Q Now is that an Advisement of Rights form, waiver form?

A Yes, it is.

Q Did Ms. Kelley sign that?

A Yes, she did.

Q Did she make any statements pursuant to that advisement of rights?

A After I read her her rights and gave -- read her her warrant, right after that point, she asked for an attorney, and I took her to the jail at that point. Sumter Lee Regional.

Q So there were no statements made by Ms. Kelley at that time.

A No. No, sir.

(Waiver of rights marked State's Exhibit no. 7 for Id.)

Q And I am going to show you what has been marked for identification State's Exhibit No. 7, and ask if you identify that.

A Yes, sir, I can.

Q What is that?

A It's the Sumter County Sheriff's Office, Waiver of Rights form.

Q And was that signed by Ms. Kelley?

A Yes, it was.

Q What was the date on that form?

A This is January 6th 2014.

Q Now if you had already read her an Advisement of Rights form dated January 2nd of 2014, how is it there came to be another one dated January 6th?

A January 6th, I went to the Sumter Lee Regional Detention Center after I received a phone message from Mrs. Kelley from the jail stating she wanted to talk to me at that time about what had happened. And that was over the weekend. And that Monday morning when I got the message, I went straight to the jail, I read her, her rights and

that's when she said she had a visitor, and she wanted an attorney, and the interview ended.

Q If I can see that form for just a moment please. And there is some handwriting at the bottom of the form. Is that your handwriting?

A Yes, it is.

Q And those are some notations concerning the events, and her deciding not to give a statement after that form?

A Yes, sir.

Q Now at any point in any of miranda forms that you provided Ms. Kelley, did you in any way, shape or form, make any promises or representations about what you could do for her if she gave you a statement?

A No, I did not.

Q During the course -- I am sorry, let me back up. At any point during any of those miranda statements, did she appear to be under the influence of anything?

A No, she did not.

Q Did she appear to understand the circumstances, surroundings, and be in her right frame of mind?

A Yes, she did.

Q Now based on all of the circumstances, did it seem anything other than voluntary, the circumstances under which she gave you those statements?

A Yes, sir.

Q It was voluntary?

A Yes, sir.

MR. CORBETT: Please answer any questions Mr. Johnson may have.

A Yes, sir.

Cross Examination by Mr. Johnson:

Q Good afternoon, Investigator Thomas.

A Good afternoon, sir.

Q Concerning the March 12th 2013, the 5-page statement.

A Yes, sir.

Q She was actually turning herself in for another warrant, that's correct.

A Yes, sir, to another investigator.

Q And she was voluntarily turning herself in.

A Yes, sir.

Q And prior to that, you had no conversation with her at all, have you? I mean you did not call to tell her to come in or nothing like that.

She was coming in from notice for someone else, correct?

A Yes, sir.

Q So why were you there to question her at that time?

A I was actually one of the ones that told her to be up at the sheriff's office the next day. I was out at her house whenever she was advised.

Q Okay. But you didn't tell her at that time that you wanted to question her about the murder.

A Not at that time when she got there to the office.

Q So she had no prior knowledge to come in and turn herself in, that you wanted to question her?

A No, she did not.

Q So when came to turn herself in, why did you decide to be the only person she saw to question her about a murder that wasn't related to why she would turn herself in?

A Because I was working the case, and she was coming up to the office.

Q So you wanted to catch her by surprise.

A No, I told her before she -- whenever I

gave her her miranda that if she didn't want to talk, then she could have declined.

Q But prior to that, you knew the day before that you were going to question her when she comes, right?

A Yes, sir.

Q Your mind was already made up the day before when you saw, correct?

A No, sir.

Q And you didn't tell her because you wanted to surprise her.

A I don't know about surprising her. But yes, I wanted to speak with her.

Q Why didn't you tell her the day before?

A Because there was another issue going on with her co-defendant at the time.

Q And then when you met her, you actually had plans of taking her out after she had been arrested, to take her out to the scene because this interview went on for 4 hours, didn't it.

A Yes, sir, it did.

Q So all of this was planned before you got there, correct?

A No, it wasn't.

Q You wasn't planning on taking her out to

the scene?

A No, not the day before. No, I wasn't thinking like that. After I started talking with her at the office, I felt comfortable enough to take her out to the scene.

Q Even though she was actually not under arrest. Did you tell her that, that she was not under arrest for that charge?

A I didn't -- I didn't tell her about that -- the other charge. That was another investigator that spoke with her about that.

Q Not the other charge.

A Uh-huh. (Affirmative.)

Q At the time you took her out to investigate the murder,---

A Uh-huh. (Affirmative.)

Q ---she was not under arrest for that charge, correct?

A Correct.

Q But she was still under custody by you, correct?

A Technically, yes.

Q She couldn't leave you.

A Yes.

Q She was under your control.

A Yes.

Q You had surprised her because you didn't tell her the day before that you was going to investigate her, did you?

A I don't know about surprising. You keep saying surprising. I don't understand.

Q You didn't tell her the day before that you were going to investigate -- that you were going to interview her when she came that next day.

A Right.

Q And nobody else was waiting for her when she turned herself in but you, correct?

A Yes, and another investigator.

Q But your intent, you and that other investigator's intent, were to question her about this murder and not for the reason she would turn herself in, correct?

A That was my intent, yes.

Q Now on January the 2nd, when she was arrested, she told you that she wanted an attorney, correct?

A Yes, sir. After we read her, her warrant, yes, sir, she did.

Q And you stopped at that time, correct?

A Yes, sir.

Q Then on January 6th, apparently she got word to you she want to talk to you, correct?

A She called herself, yes.

Q But she didn't, on your voice message, she didn't say I want to talk to you about the incident, she just said I want to talk to you, correct?

A She said I am ready to talk now.

Q Right.

A Yes, sir.

Q But she didn't say about what.

A Right.

Q She signed this statement. I mean she signed this when she came and said she didn't want to talk to you, correct?

A Right.

Q You wrote the information on the bottom of this after, not in her presence, correct? You wrote that later.

THE COURT: Wrote what?

MR. JOHNSON: On the bottom of the....

THE COURT: Which exhibit number is that?

A This is Exhibit 7, sir.

Q Exhibit 7, Your Honor. Down on the

bottom.

A Yes, sir. That was a note to myself, yes, sir.

Q That was in your handwriting.

A I was writing it in her presence, yes, sir, at the jail.

Q But she didn't read it.

A I am not sure if she read it or not while I was sitting there.

Q I mean if she didn't read it,---

A Okay.

Q ---then she wouldn't know what you wrote, correct?

A Correct, she wouldn't know.

Q So that's just a note that you put on there?

A Yes, sir.

Q She didn't initial it or anything, did she?

A No, she did not initial it.

Q And that's your notes.

A That's my notes, yes, sir.

MR. JOHNSON: I have no questions related to this, Your Honor. I would have a motion later.

THE COURT: Mr. Corbett, redirect?

MR. CORBETT: Judge, nothing on redirect.

THE COURT: Thank you, ma'am, you can step -- well let me. May I ask the question. I want to make sure, Ms. Thomas, you interviewed her and got a substantive statement one time, is that correct?

A Yes, sir.

THE COURT: Two additional waivers with no resulting statements, is that correct?

A Yes, sir. That's correct.

THE COURT: You mentioned another investigator was with you on January 6th. Well actually---

A Yes, sir.

THE COURT: Who was that other investigator?

A On January 6th it was Investigator Gardner, Wesley Gardner.

THE COURT: And on January 2nd were there any other investigators?

A Yes, sir. Investigator Dubose, Wayne Dubose.

THE COURT: And on March 12th 2013, was there another investigator?

A No, it was just myself and Ms. Kelley.

THE COURT: Any follow up, Mr. Corbett?

MR. CORBETT: Nothing, Your Honor.

THE COURT: Mr. Johnson?

MR. JOHNSON: No follow up.

THE COURT: Thank you, ma'am. You can leave those exhibits right there on the rail. Any other witnesses, Mr. Corbett?

MR. JOHNSON: No, sir, Judge.

THE COURT: Mr. Johnson, do you have any witnesses?

MR. JOHNSON: No, I do not, Your Honor.

THE COURT: You do have a motion, is that correct?

MR. JOHNSON: That's correct.

THE COURT: First of all, you're seeking to get in the two handwritten statements on January 2nd and January 6th miranda forms.

MR. CORBETT: Judge, quite honestly, I don't think that I would have a relevant grounds for putting those in.

THE COURT: Well they probably wouldn't come in, because she invoked her right to remain silent. That's too close for comfort there, unless Mr. Johnson wants to put them in.

MR. JOHNSON: Not from me, Your Honor.

THE COURT: Your motion, Mr. Johnson.

MR. JOHNSON: Well my motion was on the January, well I guess kind of moot on one of them. The January 6th one, my motion was not to allow that in, because of the handwritten notes and basically what you already said, so.

THE COURT: I think if she invoked her right to remain silent, I think at least the immediate circumstances behind her at first asking to speak with Investigator Thomas, and then changing her mind, I wouldn't allow that in, because that is an exercise of her constitutional right. So no. 7 for Id. can remain for Id., but it's not going to come in unless at some other point somebody on either side, seeks introduction for a valid reason. Any other motions?

MR. JOHNSON: So that would be No. 7 and No. 6?

THE COURT: No. 7 and No. 6, yes, sir. I think Mr. Corbett agreed on both of those.

MR. JOHNSON: As it relates to No. 5, Your Honor.

THE COURT: Exhibit No. 5?

MR. JOHNSON: That's correct, Your Honor. Well I guess would 5 be considered the miranda and

the statement or is it 7?

THE COURT: Four is the form. Five is the statement.

MR. JOHNSON: It is our position that as stated by the officer, she saw my client the day before. Informed her that she needed to come in and turn herself in for an unrelated charge, and told her she could voluntarily turn herself in. She then on the next day, came and voluntarily turned herself in. And the officer stated that it was her intent to interrogate her on the murder charge. And she knew the day before that that was her intent.

Therefore, surprising my client and catching her in a vulnerable state, because she was under arrest. She couldn't leave.

THE COURT: For another offense.

MR. JOHNSON: For another offense. She couldn't -- she was then taken in the car and interrogated for 4 hours to get this statement.

THE COURT: Not all in car. Part.

MR. JOHNSON: Well in the car. At all times, she was detained. Under normal circumstances the way this would work is, that she was read her miranda, and she would be told that

you have the right to leave or do whatever. But at this point she is under arrest for something else unrelated.

And as a result of that, Your Honor, I make a motion that this statement was done under duress with the intent of the officer to put her under duress, by the officer's own statement.

THE COURT: And arrest is not the key. The key is whether or not she was in custody.

MR. JOHNSON: Correct.

THE COURT: Whether or not she was free to go whether it was for this or something else. But just to make sure the record is clear, she wasn't arrested for 10 more months.

MR. JOHNSON: Excuse me, on this particular charge. But she was arrested that day and put in jail, and was actually released on bond later.

THE COURT: Right. And to the extent it makes any difference so at least I'll know what was the other warrant for, Mr. Corbett?

MR. JOHNSON: I think it was harboring a fugitive?

MR. CORBETT: That is correct, Judge.

THE COURT: Unrelated to this case?

MR. CORBETT: Unrelated to this case, but similar parties involved.

THE COURT: What is the defendant's position on the circumstances, the specific reference, if this statement comes in. The specific reference as to why she was at the sheriff's office, and or, Gem Mobile Home Park? Do you object to reference to another charge that she was arrested on, or do you consider that to be too prejudicial?

MR. JOHNSON: I consider that to be too prejudicial, Your Honor.

THE COURT: And what I am doing is just thinking out loud about the fact that even the jury is going to have to decide the question about the duress. If you want that part to go to the jury if I let the statement in preliminarily. If you want the jury to hear the circumstances behind what you contend is duress, that may have to come in. But I am not going to make that decision at this stage on the admissibility part. So that's your argument on the second written statement.

MR. JOHNSON: That's correct, Your Honor.

THE COURT: Any additional arguments on that written statement?

MR. JOHNSON: No additional arguments. The statement itself, Your Honor, my client wrote it. There would no disagreement with it. It is our position about how the statement was actually coerced by my client to give.

THE COURT: And I haven't read it yet. It is 5 pages. Does she incriminate herself?

MR. JOHNSON: I believe not, Your Honor. However, it all depends on what evidence the State puts up or kind of evidence. But as it is written there, there is nothing incriminating on there. That's not no admittance of anything on there.

THE COURT: How about the first written statement, do you object to that as well?

MR. JOHNSON: No, I do not, Your Honor.

THE COURT: Mr. Corbett, what is your argument in response to Mr. Johnson's motion on Exhibit No. 5, which is the second written statement?

MR. CORBETT: Judge, we believe the appropriate test for a witness being interviewed is, were they advised of their rights. Now in particular instance, we admit that she was in custody. So we're not arguing about a statement,

a voluntary statement, rights not provided.

THE COURT: Well they can be read their rights and then be threatened. In other words, it's voluntary.

MR. CORBETT: That's correct, Judge. But throughout the course of the testimony by presented the State, there was no indication that there's any type of representations, promises, threats. There was no indication that the defendant was under the influence or anything of that nature. The officer did exactly what she was supposed to do. Advise the person of their rights, and ask them questions about an ongoing investigation in a manner that was not coercive. We believe that it was appropriate.

THE COURT: Anything else, Mr. Johnson?

MR. JOHNSON: I have nothing else, Your Honor.

THE COURT: Okay. Of course, My findings at this stage have to be, if I allow the statement in, it is by the greater weight of the evidence. Of Course, Mr. Corbett, you will have to basically re-present all of this evidence again.
Mr. Johnson has raised an objection to the second statement, which is Exhibit No. 5, claiming that

that was coerced in the sense that the defense was surprised, and on under the guise of being brought up there on another warrant, she was surprised by a questioning about a murder. Have you got something else?

MR. CORBETT: If I may interrupt you, Judge, just for purposes of clarity, you referred to it as a second statement. Technically it is the third. There is a voluntary statement without miranda. Then there was a statement under miranda.

THE COURT: I think I said the second written statement.

MR. CORBETT: Well they were all written, but I just wanted to make sure.

THE COURT: Well the second written statement I have got. I'll refer to it by date, which is March 12th 2013. Obviously, when there has really been no contention otherwise, she was advised of her right to remain silent. Anything she said could be used against her in court. She was advised that she had a right to talk to an attorney, and have the attorney present with her while being questioned. She was told that she -- if she could not afford to hire an attorney, one

would be appointed to represent her before questioning if that's what she wanted.

And she was also advised that she could decide at any time to exercise those rights, and not answer questions or make statements. That is abundantly clear. Mr. Johnson's argument, I must respectfully reject it. Just because she was there at the sheriff's office and or at Gem Mobile Home Park on in the car on the way, there is no evidence to me other than that statement was given freely and voluntarily. There was no threat, promise or hope of reward. And it was entirely given without duress. Even though she was not free to go, there's no evidence of duress. No coercion. No undue influence. No promise of reward or and there was actually no compulsion or inducement of any kind.

All in all, I conclude that the statement she gave was the product of her free and unconstrained will. For that reason, I am going to allow that statement in. I think the tricky part is going to be, Mr. Corbett, the witness, Investigator Thomas is going to have to explain to the jury simply that she was -- and I am not sure of the circumstances. Was she already in jail on

the unrelated warrant when she went out there?

MR. CORBETT: No, sir, Judge.

THE COURT: Was she already under arrest on the unrelated warrant?

MR. CORBETT: Judge, it had not been served on her yet. But it is my understanding that they were not going to let her leave the sheriff's department until they could serve the warrant on the unrelated matter.

THE COURT: Please make sure when you consult with her before she testifies that unless you and Mr. Johnson talked beforehand and reach a speculation otherwise, that she is not to mention to the jury that she -- that the defendant was actually at the law enforcement center, or the sheriff's office to be served with another warrant. Mr. Johnson is correct, I think that would at least at this time, be prejudicial. Mr. Johnson can introduce it if he wants to try to convince the jury that the statement was given under circumstances that would not make voluntary.

Of course I make all the or reach all the conclusions that I just recited by the greater weight of the evidence. Anything else on this subject? Anything else from the State as far as

pretrial matters?

MR. CORBETT: Judge, nothing further from the State.

THE COURT: Mr. Johnson?

MR. JOHNSON: I have nothing, Your Honor.

THE COURT: I know if some folks have been coming in and out and that is certainly perfectly fine. But I am going to read these names out, and then we will take a break and see if the jury is here. I want to make sure that other Krystal Skinner that the following people aren't in the courtroom.

(Witness list called out.)

THE COURT: Any of those folks here?

(Whereupon, no response.)

THE COURT: I will leave it up to you and Mr. Johnson, if you all want to give a copy of this to Mr. Brown and a copy in the back of the courtroom, he can ask folks when they come in and check. Because I sure don't want anything to go sideways because somebody comes in here because they don't know they are not supposed to be here. I'll leave that up to you all.

MR. CORBETT: May Mr. Johnson and I approach just briefly?

THE COURT: Yes, sir. And while you are all are coming up here, and I understand Mr. Johnson's argument. I just to put one more thing on the record. I don't think there's any -- well I am positive there is nothing illegal about the the way Investigator Thomas brought about the questioning on March 12th 2013. It certainly was within the line of proper questioning. And I don't think there is any rule that she can't just question her, because she's -- there's no rule that says she can't question her because she at the law enforcement center for a different reason.

(Whereupon, attorneys approach and confer with judge.)

THE COURT: Mr. Corbett, are you ready to go?

MR. CORBETT: We are ready to go.

THE COURT: Mr. Johnson.

MR. JOHNSON: The defense is ready, Your Honor.

THE COURT: You can bring the jury.

(Whereupon, the following takes place within the presence of the jury.)

THE COURT: Ladies and gentlemen, we are ready to begin. The first order of business will

be for Mr. Bradley will administer an oath to you. Mr. Bradley.

(Whereupon, the jury is sworn.)

THE COURT: Ms. Spann, I have appointed you as foreperson of this jury. That doesn't give you any greater authority, but you are the spokesperson for the jury. If there are any issues of any kind that arise during the trial inside or outside the courthouse, the jurors are to relay those concerns or issues to you, and in turn you will let one of the bailiffs know that there is an issue, and you have to tell me about it. Before we do get started with the trial, I am going to talk to you, Ladies and gentlemen, for just a few minutes about how the case will proceed, and what your responsibilities are and things of that nature. How many of you have actually sat on a jury before? So about half. A little over half.

Well I can tell you folks who have been on a jury before probably know, that when you are on a jury, and watch a trial it is not like anything that you see on television. That primarily is because if they do have rules in the trials they have on television, they certainly don't follow

those rules.

This case and all cases are tried in this state according to the South Carolina Rules of Procedure, and the South Carolina Rules of Evidence. These lawyers know those rules, and they will follow those. Now sometimes as I will talk to you about in just a minute, there will be some differences of opinion as to whether or not a rule is applicable on how something should be handled. I'll talk about that in just a minute.

But the lawyers are here, they're capable, they're effective advocates and they certainly will know the rules and they'll follow the rules. If they don't, certainly that's one of the areas where I come in. Now, under our system of laws, you Ladies and gentlemen as the jury is the sole, the judge of the facts.

You will see from your participation in this case is, it matters what you think about the evidence, it will not matter what I think about it. Because under our system of laws, you are judges of the facts, I am the judge of the law. Now how that is going to enter into this case is as follows: evidence is going to come before you just like it comes before any jury. It will come

to you by way of witness testimony. That is when a witness comes forward, is sworn. Sits in this chair and testifies. The witness will be testifying to you. So it matters what you think about the witness' testimony. So testimony is one way that evidence comes in. Another way is by way of exhibits. Those are things that you can typically see or touch. It might be a photograph. It might be a piece of paper. It might be a medical report. In any given case it might even be an automobile tire or hammer or gun or shoe.

Again, things that you can typically see or touch. If something -- if an exhibit is put into evidence, it will typically have a sticker or a tag on it that tells you what number it is You will hear the lawyers at any given time refer to an exhibit as No. 15 for identification. That's just to let the world know had it's been identified. If it comes into evidence it's not for identification, that's marked out. It's just in evidence. That's why y'all probably hear me ask repeatedly is that for Id. is that an agreed exhibit. But going back, that's another way evidence comes in by way of exhibit.

Another way evidence can come by is by way

of a stipulation. That is when the two sides agree that a certain fact or set of facts is true. I don't have any idea what any stipulations might be in this case, but if there is a stipulation, either one of the lawyers will read it or publish it to you, or they'll ask me to do it. And I'll certainly let you know when that is done. So, again, testimony, exhibits and stipulations are the ways that evidence comes in. When a witness testifies, you can imagine that you're going to have to determine whether or not you believe the witness who testified. Under the law, you use your common sense. There's no cookbook formula no magic formula in determining how you believe -- whether or not you believe somebody.

When you watch someone talk every day whether it's at work, watching somebody on television, you're at least subconsciously deciding whether or not you believe that person. Use your common sense. Some things that you can take into account if you want, are how the witness acts on the witness stand, hesitant, straightforward, consistent when answering questions. We call that demeanor. And again, that's how did they or appear on the witness

stand.

You can also take into account, if a witness testifies, does that witness have a reason to give testimony that helps or hurts one side over the other. We call that bias or prejudice. You can take that into account. You can also take into account, whether or not you think that witness' testimony has been strengthened or weakened by other evidence that is in the record. You can believed one witness over many, many witnesses over one. It doesn't matter. You don't count up the number of witnesses for a particular point and say well 12 said this. Eleven said otherwise. I've got to believe the 12. That's not how you do it. Again, you use your good common sense.

Other ways you can or other things you can take into account on the issue of believability is, what was the witness' ability to know what he or she claims to know. In other words, does it make sense to you that they know what they say they know. Again, other things that you can take into account that fall within your common sense, you can use those too. You can believe every word of what a witness says. You can disbelieve every

word, or you can believe parts and disbelieve the rest. That's entirely up to you. Now what you can't do is during the course of the trial if we take a break, you can't go back into your jury room. Of if we break at the end of the day and come back the next morning, you cannot compare your mental notes on what a certain said. You can't do that. Because you're not permitted to discuss this case at all with anybody, including amongst yourselves until I tell you that you can.

So don't go back there and start talking about a witness says and try to decide who to believe and what to believe and what to believe in that fashion. The testimony of the first witness, or the 10th or the 20th or the 50, those are all important. No one witness' testimony is more important than the other. So it would be completely inappropriate and against legal principals for you to begin making up your mind about your verdict is going to be until you have seen and heard everything.

And as I will mention to you at the end of the case, the State of South Carolina expects and is entitled to a fair trial at your hands. The defendant expects and is entitled to a fair trial

at your hand. The only way that you can do what you've sworn to do, is to make sure that you weigh all the evidence and follow all the rules that I give you. And I will tell you this, as you know, the defendant is charged with murder, accessory after the fact of murder, and a charge of conspiracy to commit murder. She has entered a plea of not guilty. She does have to prove anything. She does not have to disprove anything. The State has the sole burden of establishing the elements of the crime charged beyond a reasonable doubt. And proof beyond a reasonable doubt is proof that leaves you firmly convinced of a defendant's guilt. I will give you a very detailed instruction on that at the end of the case.

So how will the case go. It's going to go something like this. In a minute, the lawyers are going to stand up and give you what is called an opening statement. Mr. Corbett will do that for the State. Now that is his opportunity to tell you what he believes the evidence will or will not establish. He's not a witness. He's not going to testify. He's going to tell you what he believes the evidence is going to be. Give him your

undivided attention because that is a very important part of the trial. Mr. Johnson then for the defendant can if they choose, give an opening statement. He does not have to. He can not give one at all, or he can wait until the State rests and give an opening statement. That will be his choice.

Obviously the reason that he does not have to give an opening statement is because they don't have to prove anything to you. But he can if he wants to do that. It is customary to do it either way. After the opening statements, Mr. Corbett will begin calling witnesses, and presenting other evidence in the State's case in chief. That's just a term to describe what the State's first round of witnesses and other evidence is going to be. After that the State rests at some point this week, the defendant if she chooses can present evidence but she does not have to. And you know the reason for that, because she doesn't have to prove anything.

After the defendant presents any evidence if that's done, the State can present reply evidence if it falls within reply evidence rules. After all the evidence is in, the lawyers will

give a closing argument and then I will give you a charge on the law, and then you will be free to deliberate. Not until then can you talk about this case at call.

Now during the course of the trial when a witness is testifying or some other exercise is taking place in front of you, at one time or another, you may hear one or both of the lawyers stand up and make an objection. That's one of the areas where I come in. An objection is made when a lawyer wants to bring a legal point to my attention. We have the Rules of Procedure. Mine is in this -- my copy is in this purple book. We have the Rules of Evidence and my copy is in this copy is in this brown book. The rules themselves are pretty short, but the interpretation is not. So sometimes there's a good faith difference of opinion between the lawyers as to whether or not a question is proper, an answer is proper, an exhibit. Any one of a number of things.

Somebody may claim the other side is doing something against the procedural rules. These lawyers don't have any points to score with me, and they certainly are not making objections to make you think that they know more the other side

about the rules. These are legal points. Sometimes I'll send you out of the courtroom, because I may not know what they want to tell me, and they do have the right under those rules to air their arguments fully. I may send you out, and make a ruling. And you come back in and something else immediately comes up. If you blame someone blame me.

A lawyer is not going to make an objection, or a lawyer who makes an objection if that happens, that doesn't mean the other lawyer has tried to do something that he shouldn't have done. And by the same token, if a lawyer does make an objection, the lawyer is not trying to slip something in that ought not really come in. We have rules. We're going to follow those rules and these lawyers will certainly -- they're well versed in the rules, I can tell you that. Primary you just pay very close attention to everything that is done so that you can make or reach a verdict that speaks the truth. That's what the word verdict means. It means to speak the truth. That's a Latin word. Especially in the afternoon, this afternoon. We're not going to have that much of a problem because we're going to be here that

long. When you have lunch, your body clock is starting to wind down, and you might -- your lids might get heavy. This case is way too important, any case is way too important for you not to be paying very close attention.

So give all of the lawyers and all of the witnesses your undivided attention. Any objection to those remarks, Mr. Corbett?

MR. CORBETT: Nothing from the State, Your Honor.

THE COURT: Mr. Johnson.

MR. JOHNSON: I don't have nothing for the defense, Your Honor.

Mr. Corbett: Greed and jealousy. Motives that are as old as Cain and Able lead to the death of Darrell Epps. During the course of this trial what you will hear is that London Kelley seated at that table, had a hand in the death of Darrell Epps; that she was a party to his murder. April 9th, late on the evening into the early morning hours of April 10th 2011. At least three lived intertwined on that night. Daryl Epps, London Kelley, and an individual she identifies as Quinton Brown. And their lives intertwined on that night.

During the course of this trial, what we want to do is paint for you a picture of the events of that day and into the following day, of how these events transpired that lead up to the murder of Daryl Epps, and then what the police did to pursue those responsible. April 9th, Daryl Epps was with family and friends over on the eastern end of the county. He's over at T-bones. He's there for awhile. He tells his friends he is leaving and heading out. Sometime in the 10:00 p.m. On a parallel track is London Kelley and Quinton Brown. They begin part of evening at a party over in the Wedgefield area.

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And they leave there. At some point and time, these three lives intersect on which is known as Gem Mobile Home Park. I think the old name for it is Harwood. It's just off of Broad Street across from Air Force Base. And there along the way, these two individuals planned for the murder of Darrell Epps. They knew each other. They knew each other. And as a result of greed and jealousy it lead to them taking Darrell Epps life for no good reason.

During the course of this trial, what will

you hear? You will hear that Darrell Epps was shot with a handgun multiple times. You will hear that a shotgun was put the back of his head and it blew his head off with a shotgun. For no good reason. The back of his head. He was killed. Took his vehicle and drove it several miles down the road and burned it.burned it with gasoline poured in it to cover up this dastardly deed. To hide what they had done. Law enforcement becomes involved in the case, because just after midnight they get a call that a car is on fire. They respond to that scene. Notice that that's suspicious that a vehicle would burn under those circumstances with the reports that they have.

So they've now working a burned vehicle case. They continue working that case until the next day. While doing so they discovered that the vehicle was being driven by Darrell Epps. Because now enough hours have gone by that his family and his fiancee they are worried about where Darrell is. They had been looking for him that night, and can't find him. Y'all hear that Krystal talked to him that night. Last time she ever talked to him. The next time she saw him, it was from a distance because there was police tape up, she couldn't get

to his body.

The police, discovered Darrell Epps' body. They began to question individuals. They're putting this together as best they can. But unfortunately they can't get all the pieces together initially. Some time goes by. Different individuals take a look at it; talk to different witness. And then they are ultimately able to bring this case to you. So what we want to do is, we want paint this picture of really the last day that Darrell Epps was alive on this earth. And in so doing, you're going to hear from a lot of witnesses in this case. A lot of different individuals. And I would ask that you pay attention to each one of them as we continue to add those brush strokes to that picture for you.

And ultimately what that picture will conclude is London Kelley's own words, where when she felt compelled to tell another individual what she had done, when she told Suzie what she had done, she told it in detail that nobody else would know. Not Suzie saying London told me she did it. Details that nobody else would know. I will tell you, this is a difficult. A man's life has been taken for no good reason. That is why I will

repeatedly use the word murder. It was not an incident. It was not an accident. It was not some circumstances. It was cold blooded murder that London Kelley set up; that she participated in, and that she covered up. And it doesn't matter if you are person that pulled the trigger or not. If you plan it, if you participate in it, if you cover it up, your hand is in just like the hand that pulled the trigger. Because in South Carolina the hand of one is the hand of all.

Ladies and gentlemen, what will I ask to do during this trial, to look right here at this witness stand, to listen to these individuals testify, to hear their words. I know that your task is not particularly pleasant, but justice demands it. Justice demands that the individuals who will go out there with nothing but callousness, with no regard for another person's life and kill that person, murder them, for no good reason, they deserve they day on accountability. So as we go, I will as you to listen to the evidence. The evidence. Thank you.

THE COURT: Mr. Johnson, any opening statement?

MR. JOHNSON: Yes, sir, Your Honor.

Please the court. Good afternoon, Ladies and gentlemen. As I stated before my name is Charlie Johnson. I'm a defense attorney from the -- my office is Columbia, South Carolina. Sitting at next to me is London Kelly. She is charged with murder. She is charged with conspiracy. She is charged with accessory after the fact.

Now the charges she has against her should tell you something about the State and its evidence. Because she is charged with killing a person. But then if they can't prove that then they say well she conspired with somebody else to kill him. But just to make sure they can't prove that then they charge her with accessory after the fact, meaning that she's charged with killing -- not killing a person, but having something to do after the fact. By these three charges, they try to cover all the evidence, because when you ask the question, what evidence do you have that London Kelley killed someone, I want you to listen. You don't hear nothing, do you. Because you're not going to hear nothing in this case.

There is no evidence that State will present to you to show. They don't have a gun. There is no DNA. There's no fingerprints. There

is no blood evidence. They have phone records that they will produce of the victim the night he was killed going all the way back years. They haven't produced one phone call between my client the victim. They will not produce one witness that ever saw them together, ever say they even knew each other. You won't see that in this case. Took your time and look at the evidence. It is too important for you not to look at the evidence.

They have to prove this. They can't just stand here and say something. They are going to put up, as they say witnesses. That's why he keeps talking about witness. You ever notice he didn't say anything about evidence, not physical evidence. He is going to put up witnesses. These witnesses he is going to put up, they are in jail. The main witness they have will walk in here with shackles on her legs. And she's going to tell you believe here. Look at the story. They're not going to give you -- they might give you three stories where supposedly my client confessed. And none of the stories even match. A confession has to be consistent. You are the judges of truth. The judge will make the judgment about the law. You make the judgment about truth.

Ladies and gentlemen, you're going to have the opportunity that we very seldom have the opportunity to do anymore. You're going to have the opportunity to think and use your brain. You are not going to look at TV. They are not going to tell you that. You have to use your own brain and look at this case. And if you do that, just take your time, look at the evidence, judge these witnesses. Please judge these witnesses.

My client is presumed innocent until proven guilty. So it's correct, she doesn't have to prove anything. But I tell you what we would not sit here quietly and let the State say anything. We would make them prove their case. And it's my belief that if you look at this evidence, take your time and give it a serious question, you will come to the conclusion that London Kelley is innocent. And I suggest that you find her innocent, and release her. And then ask your question as citizens of this community, what did the police do. Nothing.

THE COURT: Thank you, Mr. Johnson. The first witness, Mr. Corbett.

MR. CORBETT: Thank you, Your Honor.

THE COURT: And by way is there anybody on

the jury who would like to take notes? We need to know now, and I'll talk to you about it, if there is anybody who wants to take notes. Four people. Can you get your four notepads, Mr. Bradley. Seven. And while he is getting those notepads for you, I will tell you that some people are better note takers than others. While you are writing something down, don't concentrate so much on what you are writing down that you miss the other things that the witnesses say. And also as I will tell you at the end of the case, if you write something down in your notes and somebody who didn't take notes remembers it a different way, the fact that you wrote something down does not carry any greater weight in that jury room. Okay.

So again, you can take notes. They will be locked up at night. Nobody is going to read them. As a matter of fact they will be shredded at the end of the day your notepad will stay here and Mr. Bradley will lock it up. Okay, they're getting that.

MR. BRADLEY: Yes, sir.

THE COURT: You can swear in her in.

Krystle Skinner, being first duly sworn, testified as follows:

THE BAILIFF: State your full name and spell your last name for the record.

A Krystle Felecia Skinner. S-K-I-N-N-E-R.

THE COURT: Crystal with a C?

A Krystle with a K.

THE COURT: K-R-Y-S-T-A-L?

A K-R-Y-S-T-L-E.

THE COURT: Okay. The witness has been sworn, you can begin your questioning, Mr. Corbett.

MR. CORBETT: Thank you, Your Honor.

Direct Examination by Mr. Corbett:

Q I am going to stand back here. It's going to kind of force you to talk a little bit louder, okay.

A Okay.

Q Tell us your name please.

A Krystle Skinner.

Q And do you live in the Sumter area?

A Dalzell.

Q Dalzell? And how long have you lived there?

A A little over 3 years.

Q And how did you know Darrell Epps?

A He was my fiancee, and the father of my

two kids.

Q And how long had you all known each other?

A 10 years.

Q And do you remember the events of April 9th 2011?

A Yes, I do.

Q When did you actually last see Darrell?

A Could you repeat it?

Q When did you last see Darrell?

A On April the 9th.

Q About what time?

A Maybe around 5, 6.

Q Tell me a little bit about that day, what you all were doing and what was going on.

A I stopped by his aunt's house to see him. I was on my way from Florence, and I just stopped by to see him.

Q And what part of the county does his aunt live in?

A In Sumter. The Shiloh area.

Q Shiloh area?

A Uh-huh. (Affirmative.)

Q So you saw him there some time in the afternoon, is that correct?

A Yes.

Q And where did you go?

A I went -- I came from Florence, and I stopped by there, and then I went back home.

Q Now were the two of you living in that location together?

A Yes.

Q In the Dalzell area?

A Yes.

Q Now how about Darrell? At that point and time, where was he?

A In Shiloh.

Q Did he go home with you?

A No.

Q So the last time you actually laid eyes on him was over in the Shiloh area sometime around 5?

A Yes.

Q Now when did you talk to him again?

A Around about 10.

Q Tell me about that.

A I talked to him around 10, and he told me was shooting pool. And after he finished, he was going to be on his way home.

Q And that was about 10:00 o'clock?

A Yes.

Q Now did you talk to him again that

evening?

A Maybe I talked -- I talked to him probably in between before 10. In between after I left and until about 10. Over and on calling and off and on talking to him.

Q Did you speak to him after approximately 10 p.m?

A No.

Q Did you continue to try to reach him?

A Yes.

Q Tell me about that.

A I called him when I was on my way from my aunt's house. And my phone was going dead, and I called around about 11. And my phone went dead in the process of me calling his phone.

Q Now at this point and time, where were you? What was your location?

A On my way home from Rembert.

Q And did you go to your house?

A Yes. After I left Rembert, I went home.

Q And who was at your house?

A No one.

Q Just you?

A Uh-huh. (Affirmative.)

Q Now at some point and time, did you try to

reach him again?

A Yes.

Q Tell me about that, please.

A I tried to reach him when I got home, and was able to plug my phone on the charger. It took a little while for it to charge up. And I keep trying to reach him, but it kept going to voice mail.

Q Now what do you mean by it kept going to voice mail?

A When I called, it would go straight to voice mail. It was a little after one 11. And I kept calling. I kept calling back. Usually he don't let his phone go dead, so I kept calling.

Q Now at some point and time, did you begin to get concerned about his whereabouts?

A Yeah, after like calling so many times and this is maybe 4 or 5:00 o'clock, and he is still not home and still not answering the phone, that wasn't normal for him.

Q What did you?

A After calling and attempting to call so many times that morning and he still wasn't home, I got up and started looking for him. And while I looking for him, I was still calling his phone,

but it kept still going to voice mail. I went around looking for him, calling hospitals and the jail house, to see whether he was at the jail house or anything, to see whether I could locate him.

Q Now at some point, at this point, you have been trying to call his number. You say you've called the jail, the hospital. Are you calling anybody else?

A I called my sister. I called his cousin. I stopped by his cousin's house. And I went by his grandmother's house. I even went by the place that he was -- that I last talked to him from. I went by there. It was closed. So I was trying to just locate him, and try to find out who know where he was.

Q What was the next piece of news or that you got concerning Darrell?

A I -- my sister's husband, Willie McFadden, called and said that---

Q Well hold on for me just a second. Now who is Willie McFadden?

A My sister's husband.

Q What does he do for a living?

A He's a police officer. At the time was

with the county.

Q When you say he was with the county, what do you mean?

A He was an officer with the county.

Q Sheriff's department?

A Sheriff's department.

Q Now I want to be careful about what other people said, but tell me how you became aware of what was going on.

A After looking for him and couldn't find him, my sister and my mother like kind of helped me look for him. But it was unusual for him to not show up at home, or not answer the phone or anything. So after Willie called in -- called it in, and said that they found a burnt car matching his description. And I went and identified it, and it was his car.

Q Let's hold up there for just a moment if we could. Let's talk about the car for just a moment if we could. By virtue of receiving a phone call, you went to look at the vehicle?

A Yes.

Q Where was the vehicle located?

A It was at a tow yard.

Q A tow yard?

A Yes.
Q Was that here in Sumter?
A Yes.
Q And I am going to show you what has been marked as Exhibit No. 8, can you identify that?
A Yes. That's his vehicle.
Q And I am sorry, whose vehicle is that?
A This was the vehicle Darrell was driving.
Q The vehicle he was driving?
A Uh-huh. (Affirmative.)
Q Now where did he get that vehicle?
A A place -- I took him to a place in Manning where he rented from.
Q How long had he been driving that vehicle?
A Maybe a day or two.
Q And you were able to recognize that as the one he had been driving?
A Yes.
Q Now did you go to that location with anyone else?
A My mother, my father, and my sister.
Q Now at this point, what are you thinking?
A Something is wrong.
Q What did you do next?
A We got a call that -- we went to the

location where the car was actually burned.

Q And do you recall where that was?

A On lake Cherryvale Drive.

Q Now at this point, the vehicle was no longer at Lake Cherryvale Drive, is that correct?

A Correct.

Q But you went to that location in any event.

A Yes.

Q Where did you go from the Lake Cherryvale location where the car had been burned?

A After I left the tow yard?

Q After you left the tow yard, you went to Lake Cherryvale Drive?

A Yes.

Q After that, where did you go?

A While we was there, we got a call that they found a body, a male, in the mobile home park.

Q And what did you do after that call?

A We left there and went to the mobile home park.

Q Now describe for me the scene when you got to mobile home park, please.

A When we arrived, it was an officer there.

And they had it already roped off, so they wouldn't let us go any further. So we just had to stop, right.

Q And do you recall if there was a lot of people there at that point?

A It was a lot of people at the -- on Lake Cherryvale Drive. The same people that was there, all of us went over to the mobile home park. So it was about the same amount of people. It was a lot of us.

Q That was some family of yours with you?

A Yes, my family and his family.

Q Krystle, do you remember what Darrell was wearing that evening?

A Yes.

Q What was he wearing?

A A red, black and white Paris shirt with some blue, dark blue jeans, Levy's. Some red and white Nike's and a red baseball cap.

Q Now the person found at Gem Mobile Home Park, did you ever get close enough to see that?

A No.

Q The police officers kept you back from that?

A Yes.

(Photo of keys marked State's Exhibit No. 9 for Id.)

Q Look at that and tell me if you can identify that.

A These are Darrell's keys.

THE COURT: What number is that, please, ma'am?

A Nine.

THE COURT: Nine, Id.?

A Uh-huh. (Affirmative.)

MR. CORBETT: Judge, I'm sorry. I neglected to say what's been marked for identification as State's No. 9. Who showed you those?

A Jennifer.

Q When you say, Jennifer, do you mean Investigator Thomas?

A Investigator Thomas.

Q And were those consistent with the keys that Darrell carried?

A Yes.

MR. CORBETT: Bear with me just one moment, please, Your Honor. Your Honor, may counsel and I approach for just one moment?

THE COURT: Yes, sir.

(Whereupon, attorneys approach and confer with Judge.)

(Baseball cap marked State's Exhibit No. 10 state for Id.)

Q Ms. Skinner, if you would please, take a moment to look at this item.

THE COURT: And for Id.?

MR. CORBETT: Yes, sir. State's No. 10 for identification.

Q Can you identify that?

A It looks like the hat that Darrell wore.

Q Did you find that item?

A I didn't find it, but I saw it in the road as I passed by when I was on my way looking for him. I passed by it in the road.

Q You passed by it in the roadway?

A Uh-huh. (Affirmative.)

Q Say yes or no for me, please.

A Yes.

Q And what does that look to be?

A It appears to be the hat that he wore.

Q And where did you pass it in the roadway?

A It was in between like American and the gun shop. Tony's Gun Shop.

Q Now keep in mind that a lot of these folks

might not know what you mean when you say American. What do you mean by American?

A American Mobile Home Park.

Q American Mobile Home Park somewhere in that vicinity and Tony's Gun Shop?

A Yes.

Q And that appears to be the hat that Darrell was wearing?

A Yes.

Q And you say it looks like the that Darrell had on that night?

A Yes.

Q And was that when you saw him---

A Earlier.

Q ---the night before?

A Yes.

Q And it looked just like that one?

A Yes.

Q And you said you passed it in the roadway. When would that have been?

A On the morning April 10th or the 9th. In between the 9th and the 10th.

Q Okay. So----

A That morning.

Q ---was it dark?

A The day he was found.

Q Dark or daylight when you saw it?

A It was daylight.

Q Now you indicated that you and Darrell had children together?

A Yes.

Q How many?

A Two.

Q And what are their ages?

A Four and 11.

Q Four and 11. And how long had the two of you lived together?

A Three years. Well before that, we lived 4 years before that. We lived -- the house we had just moved in there almost a year.

Q So 5 or more years?

A Yes.

Q Somewhere in that neighborhood. And you said it was ordinary (sic) for him to be gone this long without notifying you or being home?

A Yes.

MR. CORBETT: Ms. Skinner, please answer any questions Mr. Johnson has for you, okay.

MR. JOHNSON: May it please the court, Your Honor.

Cross Examination by Mr. Johnson:

Q Ms. Skinner, good afternoon.

A Good afternoon.

Q I want to give you my condolences about your loss.

A Thank you.

Q As you know, it's very important that I ask you some questions. And all I ask is that you just, if you don't understand, just ask me, okay.

A Okay.

Q If you need some time, just ask me. Just a couple of questions. The car that he was renting that was burnt, or the truck, the SUV, did it have power windows?

A I am almost uncertain. I didn't ride in the car, I had my own car.

Q Okay. And so you don't remember if it did or not?

A No, I don't.

Q Now when you look at the burnt vehicle, it was already taken from the scene?

A Yes.

Q About what time was that?

A I have no idea what time it was.

Q It was sometime in the afternoon or so?

A In between morning and after -- well it was probably after 12.

Q Now you had been looking for him all night, basically, right?

A Yes.

Q Because it was unusual for him to be gone that long.

A Yes.

Q Correct? Now you had been with him you say, I guess 10 years or so?

A Yes.

Q And you spent a lot of time. Well you had kids together. So you knew him pretty well, correct?

A Yes.

Q Did you ever once see him with London Kelley?

A No.

Q Did he ever mention that he knew London Kelley?

A No.

Q I am sure you looked at his phone before, because you described his phone. Did you ever see London Kelley's number in his phone?

A I looked at his phone from laying beside

me, but I never looked through his phone.

Q But you never saw anything saying London Kelley?

A No.

Q You never knew who London Kelley was until this thing happened. Or you heard of her?

A I knew of her.

Q Right. But you had anything suspected between her and him, correct?

A No.

Q Now isn't it true that this happened back in 2011. April 9th, correct?

A Yes.

Q You went out there that day, you saw what happened. Did the police ever question you until 2013? After that day?

A Yes, I spoke with this Investigator Thomas over the year, yes.

Q Over the years.

A Yes.

Q Right. Because didn't they close this case, and say they didn't have enough evidence to charge anybody?

A Not that I knew of, they didn't close it. They were still working on it.

Q Right. But two years and they said, and had questioned everybody, including London Kelley and everyone.

MR. CORBETT: Objection, Your Honor. He's asking this witness what law enforcement did.

THE COURT: Well what law enforcement may have told her---

MR. JOHNSON: I'm asking her what she knew, Your Honor.

THE COURT: Well it's likely hearsay if she got that information from law enforcement. What's the relevance of it, Mr. Johnson?

MR. JOHNSON: Well, Your Honor, I'm just trying to establish a time line as to when---

THE COURT: I think you can establish the time line without getting into what something about the evidence someone from law enforcement may have told her.

MR. JOHNSON: I understand. I can do it---

THE COURT: The objection is sustained.

Q I can do it this way. When you first met law enforcement, you gave a statement back on April the 10th 2011, right?

A Yes.

Q And in that statement you stated just what you just said. But I think the last thing was that they told you that they found a body at the trailer park.

A Yes.

Q By Mr. Johnson) Your Honor, can I approach?

THE COURT: Yes.

Q Do you recognize that?

A Yes.

Q Is that the statement that you wrote?

A Yes.

Q Will you please read the last line of that statement or the last sentence?

THE COURT: How many pages is it?

MR. JOHNSON: It's just one page.

A One.

Q Well I mean you can start -- you can start up higher.

A Do you want the last sentence?

THE COURT: Have you shown it to Mr. Corbett?

MR. JOHNSON: I got it from Mr. Corbett, but I will show it to him again.

Q Will you just read from here where you said, I called?

MR. CORBETT: Your Honor, I interpose an objection.

THE COURT: Let me see that, please, ma'am. Your objection? I am a little confused. You said it's the last sentence, but it's the last sentence on this page.

MR. JOHNSON: No. The second page there is a second statement, Your Honor.

THE COURT: Mr. Corbett, your objection.

MR. CORBETT: Your Honor, my objection is both hearsay grounds and also that we're going to attempt to extract portions of the statement. Now if we wish to put all of the statements in, I have no objection. But I do object to carving the statement up.

THE COURT: Let's do this. Ladies and gentlemen, if you would please step to your jury room. Of course, you may not discuss the case. You can take your note pads. Don't make any notes while you are in the jury room, okay.

MR. JOHNSON: Your Honor, I was going to withdraw that. I can go about it another way.

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

THE COURT: Mr. Johnson.

MR. JOHNSON: Your Honor, I would withdraw my question.

THE COURT: Are you going to try to elicit it by other means?

MR. JOHNSON: I'll try to elicit it by other means.

THE COURT: Why don't we walk through that just in case. It's probably not hearsay at least on the avenue he was going. But it might otherwise be objectionable, I don't know. Go ahead and ask the question.

Q Krystle, you gave this statement, and in your statement the last thing you say in your statement is that you went to the trailer park where the body was found, is that correct?

A Yes.

Q Now no one ever questioned you or asked you anything else about this case or asked you to give a statement even about what he had on, the red hat or any of that stuff, until January the 3rd of 2013.

A I had told him at the scene. My aunt brought it up. But I told them at the scene that I saw a red hat in the road. And they went back to get it.

Q Right. But as far as the statement that you wrote, the second statement, this was not even elicited from you until two years later, correct?

A I am not sure.

THE COURT: Just show it to her.

Q I can show it to you.

A I wrote the statement two years ago.

Q Right, that's what I am saying.

A I wrote the statement, yes.

THE COURT: Can we do this. Mark it Defendant's No. 1. If there is ever an issue about what it is we are talking about.

(Statement of Krystle Skinner marked Defendant's Exhibit No. 1 for Id.)

MR. JOHNSON: The defendant 1 for Id., Your Honor, is two statements. One dated April 10th 2011, and the second one dated January 3rd 2013.

THE COURT: Put a sticker on it. So the record is clear, the statement you have been discussing with this witness is that statement. Right, Mr. Johnson?

MR. JOHNSON: That's correct, Your Honor.

THE COURT: Any additional questions while the jury is out, Mr. Johnson?

MR. JOHNSON: Not related to this statement.

THE COURT: Any objection to this line of questioning, Mr. Corbett? He withdrew her reading the last sentence of the statement. He just asked her if the last thing she said in the statement was the police telling her that they found a body and she went to the scene. I think that's already come out. But any objection to that?

MR. CORBETT: Judge, the only issue I had, and maybe I misunderstood the line of questioning. But the reference to the hat in the second statement from 2013, that hat was actually recovered back at the time it was spotted back in 2011.

THE COURT: She explained that.

MR. CORBETT: Oh, okay.

THE COURT: She explained that. But that will up to you all to bring out to the extent that it is important, or extent you think it is important. So what I'm asking since the jury is out, Mr. Johnson has gone away from her reading the last sentence of the first statement, to just asking her if the last thing she told the police

in that statement was that they found the body at the mobile home park and that she went there. Any objection to that?

MR. CORBETT: No, Judge.

THE COURT: And I think---

MR. CORBETT: And I have no objections to the second statement.

THE COURT: Mr. Johnson, are you ready for the jury?

MR. JOHNSON: I'm ready, Your Honor.

THE COURT: Mr. Corbett?

MR. CORBETT: I'm ready, Your Honor.

THE COURT: You can bring them in if they are ready. And while he's bringing them in, who will be your next witness today?

MR. CORBETT: Judge, we intend to call Cedric Burgess.

(Whereupon, the following takes place within the presence of the jury.)

THE COURT: You can continue.

MR. JOHNSON: Yes, Your Honor. May it please the court.

THE COURT: Yes, sir.

Cross Examination continues by Mr. Johnson:

Q Ms. Skinner, once again, the first statement dated April 20th of 2011, it ended in you saying basically that you went back to the trailer park where there was a body found, correct?

A Yes.

Q And that was the end of your statement before April 10th 2011.

A Yes.

Q Now you have a second statement that you gave on January 3rd 2013, is that correct?

A Yes.

Q And in that statement then which is roughly a year and a half, almost two years later, in that statement, that's when you mentioned, in the written statement that it was red and black -- red, black and white, make sure I get this right. That he was wearing a red, black and white shirt and a red baseball cap, correct?

A Yes.

Q So that cap looked similar, but you can't be sure if that's the cap, correct?

A It looks similar to the one he was wearing.

Q Okay.

A It looks like that.
Q It looks like that.
A Yes.
Q And then you don't know what he was wearing actually that night, did he have a cap on or whatever, because you wasn't with him, correct?
A Correct. But usually he wears a hat. He's always with a hat usually.
Q Normally he would have a hat on.
A Normally he has a hat on.
Q Oh, and just one point. Since you have that cap, do you see any blood on that cap? Or anything that looks like blood?
A That hat is also red, so.
Q I know. I'm just asking. If you don't see, you can say I don't see.
A I don't see anything.
Q You don't see anything.
A It is dirty.
Q That's about it.
A It was raining that night. So It would have been wet.
Q I understand. But you don't see anything that looks like it has blood on it, do you?
A No.

MR. JOHNSON: I have no other questions.

THE COURT: Redirect?

Redirect Examination by Mr. Corbett:

MR. CORBETT: Your Honor, were the statements marked for the identification?

THE COURT: Mr. Johnson has got Defendant's No. 1 for Identification.

Q Now Mr. Johnson was referencing the statement that you gave, is that correct?

A Yes.

MR. CORBETT: Your Honor, we would move Defendant's No. 1 into evidence.

THE COURT: Any objection?

MR. JOHNSON: Yes, Your Honor. I would object to it.

THE COURT: Hand it to me, please, ma'am. Come up, please.

(Whereupon, attorneys confer with the judge at bench.)

THE COURT: Go ahead, Mr. Corbett. And we are still talking about Defendant's 1 for Id.

Q Now the statement that Mr. Johnson had you refer to, and in that statement you referred to the type of cell phone he had, correct?

A Yes.

Q And the clothing?
A Yes.
Q You talk about last talking to him sometime around 10:30.
A Between 10 and 10:30, yes.
Q And you reference, I'm sorry, 10 o'clock. He was shooting pool at T. Bubba's.
A Yes.
Q And it says the shop beside it?
A Yes.
Q What is T. Bubba's?
A It's a little, like a little hang out spot that they hang out in on Highway 53.
Q And some people call it T. Bubba's. And some people call it the shop.
A Yes.
MR. CORBETT: Your Honor, that's all the questions I have on redirect. We would offer Defendant's No. 1 into evidence.
THE COURT: Well if it's in, it's going to be State's No. 11 probably. But any recross, Mr. Johnson?
MR. JOHNSON: Just one other.
Recross Examination by Mr. Johnson:
Q Ms. Skinner, also on that second statement

you also said that the most he had in his pocket was about 200 to $250?

A Yes.

MR. JOHNSON: I have no other questions.

THE COURT: Anything else, Mr. Corbett?

MR. CORBETT: No, sir, Your Honor.

THE COURT: Thank you, ma'am. You can step down. Next witness.

MR. CORBETT: Yes, Your Honor. The State would call Cedric Burgess.

Cedric Burgess, being first duly sworn, testified as follows:

THE BAILIFF: State your name and spell your last for the record.

A Cedric Burgess. Last name is spelled B-U-R-G-E-S-S.

Direct Examination by Mr. Corbett:

Q Mr. Burgess, good afternoon.

A Good afternoon.

Q Mr. Burgess, I am going to stand down here. And it will kind of force you to talk to me so everybody can hear you okay.

A Okay.

Q Now, mr. Burgess, you told us your full name.

A Yes, sir.
Q What part of, do you live in Sumter County?
A Yes, sir.
Q I am not looking for your exact address, but what part?
A In the Shiloh community.
Q In the Shiloh area?
A Yes, sir.
Q Now do you -- did you know Darrell Epps?
A Yes, sir.
Q How did you know Darrell Epps?
A Well I know him all my life. Friend of the family.
Q So you all have been friends since you were young.
A Yes, sir.
Q Now do you recollection of the time leading up to his death?
A The only thing I know, the last time I seen him, when I talked to him. And that may have been about 10:00 o'clock or so at the T. Bubba's.
Q Stop right there for me for just a moment. And I want you to kind of back up for me just a little bit.

A Uh-huh. (Affirmative.)

Q You told me the last time you saw him at T. Bubba's but back up just a little bit, and how you all got there and where is T. Bubba's and that sort of information.

A Okay. Well T. Bubba is right there on Highway 53. And how I got there, I been driving my car, and he came up there in his car.

Q And do you know about what time you all got there?

A Well I know I been there, I think I have been there before he was. And he probably got around there maybe about, well at the time I say probably about 10 or so. We didn't say long, and he say he was about to go.

Q So you saw Darrell Epps at T. Bubba's at 10 p.m.

A 10.

Q Or excuse me, about 10.

A About 10.

Q Does T. Bubba's go by any other name that you know of?

A That's it. Tailor shop or whatever.

Q Now when you left T. Bubba's where were you heading?

A I think I was headed back home. I am not sure.

Q Any chance that you were going to someplace called Mack's?

A Yes.

Q What is that?

A That's in Lynchburg.

Q But what is it?

A Mack's Social Club. It's a club also.

Q Darrell did not go to Mack's?

A No, sir.

Q Of your knowledge, do you know where he was for going?

A No, sir.

Q And again, so the last time you saw Darrell alive was sometime around 10 p.m. at T. Bubba's.

A Yes, sir.

MR. CORBETT: Please answer any questions that Mr. Johnson may have.

A Yes, sir.

Cross Examination by Mr. Johnson:

Q I just have got one question. Well actually it is going to be two or three. Mr. -- you have known Mr. Epps for a long time, correct?

A Yes, sir.

Q You have been around for a long time,---

A Yes.

Q ---correct? Have you ever seen him with Ms. London over there?

A Never.

Q Never. And you've spent a lot of time with him, correct?

A Yes, sir.

Q And she wasn't with him that night that you saw him, did you?

A No. I don't even know her.

Q And how long have you been -- and how long have you known Mr. Epps?

A All my life.

Q And you have never seen him with her have you?

A No.

THE COURT: Redirect?

MR. CORBETT: Nothing on redirect, Your Honor.

THE COURT: Thank you, Mr. Burgess. You can step down. Okay.

MR. CORBETT: Judge, may we step forward to talk scheduling?

THE COURT: Yes, sir.

(Whereupon, attorneys approach and confer with judge.)

THE COURT: The next witness may take us somewhat past 5, and I don't want to inconvenience you any longer than we have to in this case this afternoon. We are going to stop. I will remind you that you will leave your notepads behind in the jury room. I'll tell you what, when you get up a in a few minutes, just leave them in your chair. Mr. Bradley will get those and he will lock those up in a locker. Over the night as you go to your cars today, we don't have this issue much, because it is still daylight outside. If anybody wants somebody to take you to your car, that's fine. That happens from time to time. I don't think we're expecting rain until the end of the week if at all.

But in any event, during the course of the evening and tomorrow until you come back here, you may not discuss this case with anyone in the universe. No one at all. That includes friends, family co-workers, anyone else you can imagine. You cannot talk about this case. You might see somebody tonight that knows you are on jury duty.

They may ask you about the case. The only thing you can tell them is you can't talk about it. Don't even tell them what the charge is.

You are not permitted to read anything about it, listen to anything about it. If you hear any words, you can't even look in a dictionary to see what a word means. You can't get on the internet or a website and look up anything about the issues, the parties, the lawyers or anything remotely involving this case. Again, as I mentioned don't read anything about it, listen to anything about it or watch anything about it. You're not permitted to blog about it, get on facebook, tweeter, anything else. You can't text people about it. So just put this case, as far as communication is concerned, out of your mind.

Now if anything happens that brings anything about this case to your attention intentionally or inadvertently, please let your foreperson know in the morning, and she will let a bailiff know. We will be back together tomorrow morning at 9:30 in your jury room, and we will start at that time. Of course the lawyers, the parties and forth will be hear earlier, and we

will begin the day promptly at 9:30. Thank you very much for your time and patience today.

(Whereupon jury dismissed at 4:38 p.m.)

THE COURT: Just I know the bailiffs are being watchful on it, I just want of make sure that no red or white or royal blue tee shirts. The last witness had a red shirt on which is fine, it had a collar. But I want to make sure that you tell your witnesses, Mr. Corbett, that's my rule in the courtroom. Anything before we break from the State other than the custody status of Ms. Kelley?

MR. CORBETT: No, sir, Your Honor.

THE COURT: Mr. Johnson.

MR. JOHNSON: I have nothing.

THE COURT: I am going to allow her to stay out. I will tell you this, Ms. Kelley, if you can stand again.

(Whereupon, the defendant is sworn.)

THE COURT: I am going to let you stay out of jail. A couple of things. Number one, you are to have no contact with any of the witnesses. Do You understand that?

THE DEFENDANT: Okay.

THE COURT: Your lawyer can do that. He

knows how to do it. But you're not under any circumstances permitted to have any contact unless you are with him. Is that suitable, Mr. Johnson?

MR. JOHNSON: That's fine, Your Honor.

THE COURT: Also you can put your hand down. Also I want you to make sure you are here in this courtroom by 9:10. No later than that. We'll be back on the record at 9:15. I will come out here to make sure that's nothing to take care of before we start back at 9:30. So if you, gentlemen have any issues that we have to resolve, make sure you be prepared to let me know at 9:15 what they might be. But, Ms. Kelley, if you don't come back on time, I'll reserve the right to put you in jail until the trial over. Also, we'll go forward without you. You have the right to be present, but if you choose not to be present, we will go on in your absence. Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: Is that agreeable, Mr. Johnson?

MR. JOHNSON: That's fine, Your Honor.

THE COURT: Anything else, Mr. Corbett, along these lines?

MR. CORBETT: No, sir, Your Honor.

THE COURT: Mr. Johnson?

MR. JOHNSON: I nothing, Your Honor.

THE COURT: See you tomorrow morning at about 9:15.

MR. CORBETT: Judge, if I may, I would like the record to reflect one issue. I have been trying to accommodate Mr. Johnson in any way I could, with any type of documentation in the file. And I had advised Mr. Johnson that duplicates of what I have provided to Mr. Murphy. And I will assist if needed, but I think some things were transmitted electronically. But I had mentioned to Mr. Johnson. I just wanted the record to reflect that I had advised him that Mr. Murphy was in possessions of these books.

THE COURT: Okay.

MR. CORBETT: And that if he could get them from Mr. Murphy, we would both have the same thing in front of us.

MR. JOHNSON: Your Honor, at the same time if I find out I don't have something, I should be able to go to the State, and ask them to show me a copy of it.

THE COURT: Sure. But it's not going to

be a discovery violation unless it's something Mr. Murphy didn't have.

MR. JOHNSON: I haven't brought that up at all, Your Honor. I understand. I'm just asking the State to accommodate me if for some reason I don't have that.

THE COURT: And that's fine. I mean I think you all can work that out.

MR. CORBETT: Absolutely.

THE COURT: I think Mr. Webb has got a pretty thick file he walked in here. I assume that's got Mr. Murphy's stuff in it. I don't see any notebooks, but I think you all are on the same page.

MR. JOHNSON: Yeah, we went back and got everything, Your Honor. But it's just certain little pieces that for whatever reason they didn't record.

THE COURT: See you tomorrow at 9:15.

(Whereupon, the trial commences at 9:15 on Tuesday, October 28, 2014.)

THE COURT: Mr. Johnson, is the defendant ready.

MR. JOHNSON: Yes, Your Honor., I am.

MR. CORBETT: And, Judge, we're going to

have the none witnesses family members come in as well.

THE COURT: Mr. Bradley, you can bring the jury.

(Whereupon, the following takes place within the presence of the jury.)

THE COURT: Ladies and gentlemen, we are ready to move forward. Mr. Corbett, you can call your next witness.

MR. CORBETT: Judge, our next witness is on the way in. Your Honor, the State would call Dexter Dickey.

Dexter Dickey, being first duly sworn, testified as follows:

A Yes, sir.

THE BAILIFF: Please state your full name and spell your last name for the record.

A Dexter Dickey.

THE BAILIFF: Spell your last name, please.

A Spell it?

THE BAILIFF: Yes, sir.

A D-I-C-K-E-Y.

THE BAILIFF: Thank you.

Direct Examination by Mr. Corbett:

Q Mr. Dickey, good morning.
A Good morning.
Q Mr. Dickey, you live here in Sumter County?
A Yes, sir.
Q Talk a bit louder for me, or either get a little closer to that microphone, okay.
A All right.
Q What part of Sumter County do you live in?
A Right over there in Windsor City, 521.
Q I'm sorry, say that again.
A Windsor City, 521.
Q Windsor City?
A Yes, sir.
Q Mr. Dickey, did you know Darrell Epps?
A Yes, sir.
Q How did you know Darrell Epps?
A I know him as a good loving person. You know, my cousin. First cousin.
Q First cousin.
A Yes, sir.
Q How long did you know Darrell Epps?
A I have known Darrell ever since born, and we were raised up.
Q You all were raised together.

A Yeah.
Q Now were you in regular contact Darrell?
A Yes.
Q Did you see him often?
A Yes.
Q What kind of work did he do?
A Paint with his father.
Q So he did painting work?
A Yes, sir.
Q Now did Darrell have kids?
A Yeah.
Q Do you know how many kids he has got?
A Two.
Q Now you said you've known Darrell a long time.
A Yes, sir.
Q Do you remember when he got killed?
A Do I remember when he got killed?
Q Yes, sir.
A Well I don't remember when he got killed, but, you know, I been the last person to talk to him.
Q I'm sorry, say that again.
A I been the last person to talk to him.
Q You were the last person to talk to him?

A Yes, sir.

Q Well let's back up a little bit and talk about that evening.

A Yes, sir.

Q Do you remember what date or night that was?

A Saturday.

Q And tell me a little bit about how you came in contact with Darrell that day. What you all were doing.

A I woke up. When I'm staying in Sumter, I woke up with my girlfriend. I called Darrell about 10 o'clock. Darrell said he been at his little boy's baseball practice. So I asked him was he going to the country. That's what we call Shiloh, the country. And he said, yeah. So I asked him what time he's going. He said around about 2 o'clock. So I tell him I want to catch him to the country. He said all right.

SO around 2:30 he been at my house. Like when I do go with him sometime, he don't come on the right exact time, but that day, you know, he came. I just felt like something suspicious already, because he at my house at 2:30. So we left and went to the country, you know. Well I

went to grandma's house, and I dropped some stuff off.

Q Let me stop you right there, because you talk about going to the country.

A Yes.

Q Do you all have family in that area?

A Yes, sir.

Q So that's why you would be going to what you call the country?

A Yes, ma'am.

Q And when you say the country, I think you've already said it. But what part of Sumter County are we talking about?

A What kind of Sumter County---

Q What part of Sumter County?

A What do you mean like?

Q What community? What area?

A Lynchburg.

Q Lynchburg.

A Yes, sir.

Q Please continue.

A So we're going to my aunt's house. We went to grandmama's house, and I dropped some stuff off. So we left and went to my aunt's house; went and I dropped his little boy off at

the school. We sit there and chill and stuff and laugh and talk. But Darrell just like wasn't his self, but I never thought nothing of it. So, you know, we laughed and talked and stuff. And his old lady came by and see him and stuff. She left, and then everybody left. And so we left, went to a cook out, me and Darrell and my cousin.

So after we put my cousin out, we went on the back road, ride around. Went back to the cook out. So we shared, drink a couple of beers and stuff. And later on that evening, a thunder storm was coming up, and it was around about eight, 08. So we say -- well Darrell said, let's go to the shop. So we say we load up and went to the shop.

Q Now I've got to ask this question about what you're calling the shop.

A T. Bubba's Lounge where we shoot pool at.

Q T. Bubba's lounge.

A Yes, sir.

Q I think you just answered my question but what were you all doing at T. Bubba's lounge.

A Yes, sir.

Q Go ahead.

A So we went to T. Bubba's lounge. Darrell

was like let's drink a gin. So I said all right. So everybody been shifting a little bit, drink some beer and liquor. Me and Darrell went in there. And nothing but me and Darrell shooting pool head up. So we started to shoot three games. But in between those three games, he been on the phone texting and playing and stuff. So I don't know what he been doing. So I shoot pool and stuff. So we left out around about 10 o'clock.

So I tried to get Darrell to go out that night, but Darrell said he ain't f'ing around, because he had a little mission to go on. So I begged him to go with me. I begged him to go with me. But he tell me, nah, he's good because he's got a little shorty to go to see. I been like all right.

Q You got stop there for me one moment. Because when the two of are talking, you may know what you're talking about, the rest of us may not.

A Yes, sir.

Q So you had a little mission, and something about a shorty.

A Yes, sir.

Q Slow down and explain to us what you're talking about.

A Well what I mean by shorty, he said he's been going to see a girl. In that statement he's going to see a girl, but that's why he ain't had want me must be go with him and know. Too many people there been know his business. But I try my best to go that night and get him to go out, but he ain't had want to go out.

Q Now when you -- I know this is an awkward way to ask it, but when you say going to see a girl somebody other than his fiancee.

A Yes, sir.

Q So you were going out and going somewhere else that night.

A Yes, sir.

Q And you wanted him to go with you, but he didn't?

A No, I had want to go with him.

THE COURT: Wait just a second.

MR. JOHNSON: Objection. He just keeps repeating what they's saying. He's testifying.

THE COURT: Objection is sustained. If you need clarification, just ask him to repeat it please. Thank you. Sustained.

Q When you were leaving T. Bubba's, where were you going?

A I'm going to the Max.
Q You said the Max?
A Yeah.
Q What is that?
A That's like a social club in the Lynchburg area.
Q Now did see Darrell leave?
A No, sir.
Q Do you know if anybody left with Darrell?
A No, sir.
Q Now did you talk to Darrell on the phone that evening?
A That evening after we left the shop?
Q Yes.
A No.
Q Now earlier you had told me that you were the last person that talked with him.
A Yes, I was.
Q And tell me about that.
A When I been leave the shop, I went to the Max, and chill at the Max a little while. So everybody decided to leave the Max, because it wasn't going on. So as my way on to the house, my mind said, call Darrell. So as I was getting out of the car, I called him. He answered the phone.

I been like, what's up. He was like nothing, chilling. I been like there ain't nothing going on the Max. The HD boy dropped me off at the house. But what was that last part?

A That been a cuss word. I don't want to use bad language.

Q What time did you talk to Darrell?

A Right around 11, 10.

Q So you were at the Max, and you called Darrell.

A No, I been getting dropped off at the house. I done been left the Max. And as I'm getting dropped off at the house, my mind said, call Darrell. So I called him. He answered the phone. So I been like, what up. He been like, nothing, chilling. So I been like, ain't nothing going on at the Max, because he's supposed to come back down here. But I been like ain't nothing going on at the Max. These boys dropped me off at the house.

So during that time, I heard a bunch of commotion in the background where like his voice been going in the house. And I hear some boys and girls and they are arguing in the background. But I ain't never asked him where he been at. And he

never tell me where he been at. But he been like, let me hit you back. So I ain't never thought nothing of it. I got in my bed and stripped. It's the next day, I know he been missing.

Q You indicated a moment ago that you called him and he said, what was the phrase he used? Let me hit you back?

A He said let me hit you back.

Q What did you understand that to mean?

A He was going to call me back. But that's the language he always used when I talked to him.

Q What if anything can you tell us about how he sounded or anything else that was going on in that phone call?

A He sounded just like his self. He ain't been sound too like he been upset, or like he been mad or angry or at a harm. But, you know, he sound like himself. But I heard a bunch of commotion in the background. But I don't where that lead to he's getting off the phone, but I heard a bunch of commotion in the background.

Q Did he ever call you back?

A No, sir.

Q When did you become aware that he shot and killed?

A Later on up in that day. He been missing, but we been looking for him. But we heard from a phone call later on that day. Sunday afternoon.

Q During the course of the time that you all were at T. Bubba's, do you by any chance know if he had any money on him?

A Yes, sir.

Q How would you know that?

A Because I seen him with it.

Q Tell us what you saw show.

A I saw he had about $800 at the bar. And then he has a few other dollars in his other pocket where he been paying me out to shoot pool.

Q Now I may have already asked this. I apologize if I'm going back over it. I was asking you about, did you see Darrell with money. Did you know if Darrell was working at this time?

A Yes, sir.

Q And what kind of work was he doing?

A Painting.

MR. CORBETT: Mr. Dickey, thank you. Please answer any questions Mr. Johnson has.

MR. JOHNSON: Please the court, Your Honor.

THE COURT: Yes, sir.

Cross Examination by Mr. Johnson

Q Good morning, Mr. Dickey. I've just got a simple question for you. You spent a lot of time with Mr. Epps?

A Yes, sir.

Q He was a good friend.

A Well, yes, sir.

Q So you all shared information and talked girls, everything, right?

A Yes, sir.

Q Have you ever seen Darrell Epps with that lady over there?

A No, sir.

Q Have you ever seen her before? Did he ever say anything about her?

A No, sir.

Q And he didn't say anything that night, did he?

A No, sir.

THE COURT: Redirect?

MR. CORBETT: Briefly, Your Honor.

Redirect Examination by Mr. Corbett:

Q Earlier you had used the phrase I wasn't familiar with about going to see a shorty.

A Uh-huh. (affirmative.)

Q What does that mean?
A Shorty means like -- well I refer to shorty as a women, a girl.
Q Did you ever tell you this individual's name?
A No, he never called no name.
MR. CORBETT: Thank you. That's all I have.
THE COURT: Mr. Johnson.
MR. JOHNSON: I have no other questions, Your Honor.
THE COURT: Thank you, sir. You can step down. Mr. Corbett.
MR. CORBETT: The State would call Tiffany Witherspoon.
Tiffany Witherspoon, being first duly sworn, testified as follows:
THE BAILIFF: State your full name and spell your last name for the record.
A Tiffany Sarina Witherspoon. W-I-T-H-E-R-S-P-O-O-N.
DIRECT EXAMINATION by Mr. Corbett:
Q Ms. Witherspoon, good morning.
A Good morning.
Q Ms. Witherspoon, what part of -- well

first of all, let me ask you, do you live in Sumter County?

A Yes, sir.

Q What part of Sumter County do you live in?

A I stay in Granada Park. Sumter, Sumter County.

Q Is that out going in the direction of Columbia, or just generally what area?

A It's down .

Q . Now do you know London Kelley?

A Yes, sir.

Q How do you know London Kelley?

A I've known London for like 10, 10 to 12 years. I've known her since 2002, 2003.

Q How do you know her?

A She's my friend.

Q Are you related? Cousins---

A No.

Q ---anything of that nature?

A No, sir.

Q How would you characterize your relationship with London Kelley?

A She's a people's person.

Q No, your relationship with her.

A My relationship with her. We're close friends.

Q Real close friends. Now are you aware of the case in which Darrell Epps was killed?

A Yes. Yes, sir.

Q So you had occasion to speak to law enforcement about that.

A Yes, sir.

Q Do you remember that time frame?

A I remember when Jennifer called me, but I don't remember the exact date she called me.

Q Would she have called you -- would you have talked with her on or about April 23rd of 2013?

A Like I say, I talked to her, but I don't remember the date.

(Voluntary Statement marked State's Exhibit No. 11 for Id.)

Q I am going to show you what's been marked for identification as State's Exhibit No. 11, and ask you if you can identify that.

A The first page?

Q All of it.

A No, not all of it.

Q Does the first page bear your signature?

A Yes, sir.
Q And what's the date on that?
A The 23rd.
Q So would that be the right date?
A Yes, it does.
Q I'm sorry, you said the 23rd. Tell me the full date.
A April 23rd 2013.
Q If I can hold that back for just a moment please. And does the second page bear your signature?
A Yes, sir.
Q Now do you recall the weekend that Darrell Epps was murdered?
A Yes, sir.
Q Tell us where you were that evening.
A I was home. We had a cook out.
Q When you say home, where is that?
A , ., South Carolina.
Q And tell me where is if you would. Describe how you would get to it.
A You -- well if you're coming down 76. And you want to make a left by Club Miami, you can go that road straight on out until you get to Delaine

School. When you get to Delaine School at that stop sign, you make a left. As soon as you get around the curve goes right there. The white house on the left hand. It's Down a dirt road.

Q How long would it take you to drive from there to Club Miami.

A Not that long. Probably three minutes.

Q So not far his Highway 76.

A Yes.

Q Or what I may called 378.

A Yes, sir.

Q Now what time did your cook out start?

A It started about 3:30, four.

Q And do you recall who all was there?

A Yes, sir.

Q Who was there that day?

A It was my two brothers, Darrian Sweat, Kenneth Witherspoon, London Kelley, Quinton, Marcus Branch, Towards McFadden, Andrea Brown, Essence Moore, Katrina Burton, Kenzie, I don't his last name. John Anderson, Linda Anderson, Shontay Anderson, Erica Anderson. Missy McGee, Antoine Sweat, that's my other brother. Tony Anderson, Derron Anderson.

Q A big crowd of people.
A Yeah, it was a whole bunch of people.
Q So you had a cook out starting about 3:30.
A Uh-huh. (Affirmative.)
Q Now you had already indicated London Kelley was there.
A Uh-huh. (affirmative.)
Q If you would say yes or no---
A Yes, sir.
Q ---for me so they can take that down.
A Yes, sir.
Q What -- do you about what time she arrived?
A About 6:30, 7.
Q And who did she arrive with?
A Quinton. It was her and Quinton and Peaches. It was her, Quinton and Peaches. Well Andrea, I'm sorry.
Q Andrea Brown?
A Yes, sir.
Q And do you know in what kind of vehicle they came?
A They had a gray Impala.
Q And when you said Quinton, who are we talking about?

A Quinton Brown.

Q Now how do you know Quinton Brown?

A Quinton Brown and my baby's father, are cousins.

Q Tell me if you would a little bit about the party that night. In particular, what were London and Quinton doing?

A What you do at a cook out, having a good time, drinking and eating. Socializing with everybody.

Q Did either of them leave the party?

A Yes.

Q Who left?

A Quinton and Satan left.

Q I'm sorry.

A Well Marcus Branch.

Q I'm sorry, what did you refer to him as?

A Satan.

Q Satan? That's a nickname?

A Yeah, it's in the statement right there.

Q So they left and then came back.

A Uh-huh. (Affirmative.)

Q To the party.

A Uh-huh. (Affirmative.)

Q Now at any point and time was there some

type of argument or disturbance between London and Quinton?

A Yes, when he came back.

Q Tell me about that.

A She had accused him of being with his other baby's mama.

Q And what did -- was that argument, a fight? What was that?

A It was an argument. She did hit him a couple of times.

Q Now what time did they leave the cook out at your house?

A Approximately about 1030, 10:45. I can't remember.

Q Now they left your house. You're estimating 10:30, is that fair?

A Like I say, I can't remember. 10:30, 10:45. Around that time frame.

Q Well I am going to show you that bottom line there, and ask if that refreshes your recollection.

THE COURT: Are you talking about 11 for Id.?

MR. CORBETT: That's correct, Judge.

A Yes, sir.

Q Now did London and Quinton leave together?
A Well I believe they did. I think it was her and Peaches -- no, not Peaches. It was her and Satan and Quinton that left together.
Q So London, Quinton and Satan left before the hail storm around 10:30.
A Yes.
Q Now when is next time that you talked to London?
A The next day. I talked to her the next day.
Q What was the purpose? What was the gist of that conversation with London? What did you all talk about?
A She was talking that she thought -- she felt like he was with his other baby's mama the night before.
Q Now do you remember about what time of day that was?
A No, sir.
Q Morning or afternoon?
A Probably the afternoon.
Q Did you all talk any about the Darrell Epps murder?
A No, sir.

Q So that didn't come up at all during the conversation.

A No, sir.

Q Now prior to this statement,---

A Uh-huh.

Q ---recent probably closer in time to this statement.

A Uh-huh. (Affirmative.)

Q Did you have a conversation with London---

A Uh-huh. (Affirmative.) About?

Q Did you have a conversation with London about her using your name?

A In the alibi?

Q Yes.

A Yes, sir. But that wasn't until Jennifer called me and told me that my name was used in the alibi. That's how I found out my name was used in the alibi.

Q Did you tell the investigator that London called you and said she used your name in an alibi?

A No. That was the whole reason why---

Q Well let me show you what's been marked for identification as State's Exhibit 11. I am going to ask you to review page 2.

A It's saying that London went to jail recently about March. But London got locked up in January. See what I'm saying? I never said anything about March. Jennifer called me and said your name was used in the alibi. I need you to come to the Sumter County Sheriff's Department when you get off at 8:30 sharp the next morning. I don't want to talk about it anymore. That was it, click. And that was it.

Q Did you give that statement to Investigator Thomas?

A No. She put in what she want to put in. When I did my statement, it was to the third line with my initial, and then it was crossed out. This is my TW. This is my TW. This is my TW. I never even said that Towards McFadden and Peaches left with Linda Anderson. Why would she take them, and not take her two daughters. I never said that neither.

Q Let me stop you there for just a moment, and let me ask it this way. You've gone through page 1 of that statement.

A Yes, sir.

Q That's accurate?

A Uh-huh. (Affirmative.)

Q But you deny page 2 of that statement.
A I told you it was to the third line.
Q Below the third line---
A Uh-huh. (Affirmative.)
Q ---you're saying that not's your statement.
A That's not my statement. This is not even my handwriting.
MR. CORBETT: Can I hold it at the moment?
A Yes, sir.
MR. CORBETT: Your Honor, we would offer into evidence State's Exhibit No. 11.
THE COURT: Mr. Johnson.
MR. JOHNSON: I would object, Your Honor, at this time, until I have some time to cross examine her.
THE COURT: Say again.
MR. JOHNSON: I would object to it, until I've had the opportunity to cross examine the witness on that statement, before I'd allow it into evidence.
THE COURT: Ladies and gentlemen, if you would go to your jury room. Of course, you may not discuss the case at all. Hand me that statement, Mr. Bradley.

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

THE COURT: Mr. Corbett, what rule would allow this statement to come in?

MR. CORBETT: Your Honor, that would be Rule 613. Prior statement of witnesses. Specifically, Judge, Subsection B, extrinsic evidence of prior inconsistent statement.

THE COURT: Well I think what the rule contemplates would be recalling Investigator Thomas to get this in, not extrinsic evidence in the form of this four corners, because she's denied making the statement. Rule 16(13)(b) says of course extrinsic evidence of a prior inconsistent statement is not admissible unless the witnesses advised of the substance of the statement, the time and place it was allegedly made, and the person to whom it made, and is given the opportunity to explain or deny it.

So far, certainly you've got the time and place. Well the time anyway. Not where it was done. You've gotten at least by inference that it was given to Ms. Thomas. The substance of the statement not yet, because you're just offering this last page or at least the statement or

without ever questioning the witness specifically. Did you tell Investigator Thomas this. No, I didn't. Did you tell Investigator Thomas this. No, I didn't. So forth and so on.

Then if she denies it or even equivocates under the case law, the substance of the statement would come in. Because it says after you have advised her of the substance of the statement, the time and place it was made, the person to whom it was made, and she is given the opportunity to explain or deny it, if she doesn't admit that she made it, extrinsic evidence is admissible.

The question would then be, does that extrinsic evidence come from Ms. Thomas on recall, or does it come from this document coming in. Mr. Johnson, what is your objection at this point?

MR. JOHNSON: Well at this point, Your Honor, my client is -- I mean, the the witness is basically stating that that's not her statement; that she didn't write that. And bringing it in as evidence and give to the jury without me at least being cross examine it and clarify it for the jury, the court needs to know, to have the opportunity to hear all issues before you can make a decision about whether to even let that

document in.

THE COURT: What I think the appropriate thing to do, Mr. Corbett, would be to, line by line or sentence by sentence, did you say this to Ms. Thomas. Or did you say this in your statement on such and such a date. And of course, you've heard her say that the first page is true. The first 3 lines of the second page are true. Of course, the jury has not heard all of that. I think that's the exercise you're going to have to go through.

If she continues to deny or equivocate on any of it, then I think you can easily recall or I would allow you to recall Ms. Thomas. But Mr. Johnson is probably right at this point, that this statement is not going to come in yet.

MR. CORBETT: Very Well, Your Honor.

THE COURT: But again, I think that the rule would require you to lay the foundation of what she admits. What she denies. And I really didn't understand her testimony about TW. I know those are her initials, but I don't really understand what she said about, are all of these her TW's. Okay.

MR. CORBETT: Very well, Judge.

THE COURT: Does anybody -- is everybody okay? Does anybody need to take a break?

MR. CORBETT: Judge, I need two minutes, please. And here's why, I just broke my reading glasses. And I have a spare downstairs and I need just a moment to get those.

THE COURT: Let me instruct the witness please. Ma'am, you are not -- I am going to allow you to step down. Do you need to go to the restroom or anything?

A I'm okay.

THE COURT: You can just sit there or in that jury box. We are going to take a recess. Of course, Mr. Corbett knows this rule. He can't talk to you during this very brief break. And you can't talk to anybody else. We'll take about 5 minutes, Mr. Corbett.

MR. CORBETT: Yes, sir.

(Whereupon, the Court Breaks.)

THE COURT: Do you understand my ruling?

MR. CORBETT: Yes, sir, Your Honor.

THE COURT: I think if you go through the right process. Of course to the extent that any other objections have no merit, I think that would be the best way to have at least the substance of

the statement in. I will go on to state that if there is some reason, I would be less inclined to let the actual pieces of paper in, unless there is some contention that she didn't make these initials, so the jury can see the actual physical initials on the page.

I'm not quite sure what the witness said, because I did not understand her when she was talking about that part, okay.

MR. CORBETT: Judge, for the court's information, prior to Ms. Witherspoon giving the statement, she was provided miranda warnings. So I'm going to sort of back up, go back to that point, establish that and then move forward into the statement.

Your Honor, I am going to argue that under the rule, that that is extrinsic evidence and it is admissible if she equivocates or denies it.

THE COURT: You've got to prove -- if she says she -- extrinsic evidence, threshold extrinsic evidence would be the person to whom the statement was given, saying this is what she told me. And I guess the icing on the cake would be, here's the piece of paper that shows it. But you've got to have the cake first. You've got

Investigator Thomas to say she did tell me this.

MR. CORBETT: Very well.

THE COURT: Because you've heard her -- the witness explain that I didn't say this below the third line. I don't really understand that, because the third line ends in, the sentence isn't over yet. So I don't understand all that. So I guess it's up to you to lay all that groundwork. And then if this comes in, in it's physical form, I will consider it then.

MR. CORBETT: Very well.

THE COURT: I know it's more cumbersome to go almost line by line or sentence by sentence. But to lay the foundation, I think you've got to do that. And then we can get to the point of 613.

MR. CORBETT: Very well.

THE COURT: Mr. Johnson, would you like to be heard on anything else before we go forward?

MR. JOHNSON: Not at the present time, Your Honor.

THE COURT: I'm going to hand -- should I hand this to you or the witness?

MR. CORBETT: The witness, Your Honor.

THE COURT: Are you ready for the jury?

MR. CORBETT: The State is ready.

THE COURT: You can bring them in if they are ready.

(Whereupon, the following takes place within the presence of the jury.)

THE COURT: Mr. Corbett, you can continue.

MR. CORBETT: Thank you, Your Honor.

Direct Examination by Mr. Corbett:

Q Ms. Witherspoon, we were talking about an occasion where you spoke to Investigator Thomas, correct?

A Yes, sir.

Q And do you remember the date that you gave those officers this statement?

A April 23rd 2013.

Q I am going to show you what's been marked as State's Exhibit No. 12 for identification.

A Uh-huh. (Affirmative.)

Q And ask if you can identify that document.

A Yes, sir.

Q Tell us what that document is.

A It's the miranda warnings and waiver of rights.

Q And did you complete that form before giving a statement to Investigator Thomas?

A Well I can't remember.

THE COURT: What number please?

MR. CORBETT: That's State Exhibit No. 12 for Id.

A Well I can't remember signing it. I can't remember.

THE COURT: Keep your voice up please ma'am.

A Okay.

Q Now let me ask you what is the date and time on that miranda statement?

A It has April 29th of 2013 at 2:19 p.m.

Q So in the afternoon. Where were you when you spoke with Investigator Thomas?

A In the interrogation room.

Q At?

A Sumter County Sheriff's Department.

Q At the sheriff's department.

A Yes, sir.

Q So you were the sheriff's department.

A Uh-huh. (Affirmative.)

Q And that statement was given to whom?

A To Mrs. Thomas.

Q Anyone else?

A It was her and Officer Dubose in there.

Q Officer Dubose was present also.

A Uh-huh. (Affirmative.)

Q Now on the miranda form that's marked as State's Exhibit No. 12, what information is contained in that?

A You have the right to remain silent. Are you talking about that right here?

Q Yes, please continue.

A Anything you say can and will be used against you in a court of law. You have the right to talk to an attorney and him/her present with you while you are being questioned. If you cannot afford to hire an attorney one will be appointed to represent you before any questioning if you wish. You can decide at any time to exercise these rights and not answer any questions or make any statements.

Q Now on that form, if I could hold it for just a moment.

A Uh-huh. (Affirmative.)

Q Each one of those lines that you just read to me, at the end of it, it's your initials, is it not?

A Yes, sir.

Q So you acknowledge each one of those rights.

A Yes, sir.
Q So you were fully advised of any rights that you had.
A Yes, sir.
Q Is that correct?
A Yes, sir.
Q And---
A Can I say something?
Q Bear with me just one moment. Then you signed here.
A Uh-huh. (Affirmative.)
THE COURT: You need to say yes or no.
A Yes, sir.
Q And you signed here.
A Yes.
Q Now if you would, take what's been marked as State's No. 11.
A Uh-huh. (affirmative.).
Q Does it bear a date and time?
A It has April 23rd 2013 at 3:56.
Q So based on the times written on the documents, that Waiver of Rights form was prior to your statement.
A That's what it has. But that's impossible, because I didn't get off until to

2:30 that day. And I came when I got off from work. At that time, that time she wrote the time after I signed my name and stuff. She didn't sign anything until after I signed everything. But I went up there at two -- when I got off at 2:30. I even got there late. I work on base. It took me about 15, 20 minutes to get there. I didn't leave there until like 4:30 that afternoon or 5 o'clock.

Q Let's leave the times alone for just a moment and let me ask the question this way if I might. Did you complete this form before signing the statement form?

A I told you, I can't remember.

Q You don't remember?

A I told I can't remember signing this before I signed this. I knew I signed -- I knew, this is my signature, because I signed all this.

Q Okay.

A But I don't know the exact time, because I didn't get off until the 23rd.

Q Well I am not asking the exact time. I'm asking---

A I said 2:30.

Q I'm asking, did you sign that first?

A I can't remember.

Q And I'm sorry, and when I say that, I'm sorry for purposes of the record, I'm referring to State's No. 12 the Waiver of Rights form. And your answer to that is?

A I don't remember signing that.

Q Now if you would, I believe you've got State's Exhibit No. 11 there in front of you.

A Yes, sir.

Q Now if you would, please, tell us what's at the top of that statement there in that box?

A My name, my nickname, my Social Security number, my address, the city, state, zip code, telephone numbers, my job, the date and time of interview and my driver's license number and the location of the interview and the interviewing agent.

Q Now and then there at the top it says that you understand that you do not have to say anything, and that you volunteer the following information.

A Yes, sir.

Q Of your own free will.

A Uh-huh. (Affirmative.)

Q For whatever purpose---

THE COURT: You need to say yes or no.

A Yes, sir.
Q For whatever purposes it may serve.
A Yes, sir.
Q You did indicate that you could read and completed the 12th grade.
A Yes, sir.
Q Now if you would please, let's go through your statement.
A Uh-huh. (Affirmative.)
Q First of all there at the beginning line, just to the left of the word V, what is that?
A My initials.
Q Your initials are there at the beginning, is that correct?
A Yes.
Q And if you would, please, read that line for us.
A The night of the murder, April 9th 2011, a Saturday, I had a cook out at my house that started at 3:30 p.m.
Q Continue.
A I was living at Wedgefield at the time.
Q Please continue.
A Some people that were there were my

brothers, Darian Sweat, Kenneth Witherspoon, my baby's daddy Shawn Anderson, his mother Linda Anderson, Gwen, his sisters, Shante and Erica Anderson, London Kelley, Quinton Brown, Satan Marcus Branch, Towards McFadden Key. London, Quinton, Satan and Key came to party in Quinton's Impala he was driving.

THE COURT: Slow down just a little bit.

A Finish?

Q Uh-huh. (Affirmative.)

A He was driving and London was in the front seat. Katrina Burton, Essence, I don't her last name. I also knew Essence 's last name. I didn't know her mother's last name when they asked me.

Q Well I tell you what, for right now read it as it's written, and then if there's something you need to explain, we will come back to it.

A Katrina Burton, Essence, I don't know her last name, but mother is a cop for Sumter City. As soon as London and them got to the party, Quinton and Satan, left the party to get bop in Quinton's car. They come back about an hour or one hour and a half later. That's when the altercation started between London and Quinton. London was mad because she was accusing Quinton to

be with his baby's mama, Ebony Montgomery, and London started wailing on Quinton, punching him in the face.

Q Slow down for me just a little bit. London started.

A Wailing.

Q Wailing. Please continue.

A London slapped Quinton. And Satan left before the hail storm around 10:30 p.m. in Quinton's car. London wanted to the Club Miami before midnight to get a wrist band. The day after the murder, London called me and started talking and said, I think Quinton was cheating on me with Ebony, but never said she found a body or anything else about the murder.

London went to jail recently about March. And when she got out, and she called out and she said she gave a statement and used my name for an alibi. And I said why am I just finding out. She said I never thought it would come down to something like this. About a week ago, London came to my house and told me the cops searched her car the day after the murder, but they did not search her house at Gem Mobile Home Park. Towards McFadden, Key, came to my party with Peaches and

left with her and Linda Anderson.

Q Now at the of page 1 after the word club.

A Uh-huh. (Affirmative.)

Q What is located there?

A My initial.

Q At the beginning of page 2, just before the word Miami, what is located there?

A My initial.

Q At the end of that paragraph ending in Gem Mobile Home Park, what is located there?

A My initials.

Q The next paragraph beginning with Tafarus, what's located just before Tafarus?

A My initials.

Q And at the end of that paragraph just after Anderson, what is located there?

A My initials.

Q Now this is the statement that you gave Investigator Thomas?

A Not all of this.

Q Not all of this.

A No.

Q What part of this did you not give Investigator Thomas?

A I did say he went to jail recently about

March and from that point on down. Because London went to jail in January.

Q So the sentence before that ending in, let me see, let me find the sentence before that. The day after the murder London called me and started talking to me and said, I think Quinton was cheating on with Ebony, but never said she found a body or anything else about the murder. And there is a period there.

A She told -- when she called me that day, she did call and told me she thought Quinton was cheating on her, because Jennifer asked me. But Jennifer also asked me, did she mention anything about a Darrell Epps. And I told her no. I did not write this statement. Jennifer wrote everything. I just signed it.

Q Okay. Now if it's your contention that the last thing you said was the sentence ending in murder, but your initials are not there, are they?

A No.

Q As a matter of fact, your initials appear two more times after that. Excuse Me, three more times after that, correct?

A Yes.

Q Go back to page 1 for me if you would

please.

A Uh-huh. (Affirmative.)

Q The typed portion there at the very bottom of the statement.

A Uh-huh. (Affirmative.)

Q And what did that say?

A I have read each page of the statement consisting of 2 pages. Each page of which bears my signature and corrections if any, bears my initials. And I certified that the facts contained herein are true and correct.

Q Is that your signature below it?

A Yes, sir.

Q Now did you tell the officer that London said she used your name in an alibi?

A No, sir.

Q You deny saying that.

A No, sir. Yes, sir, I did not tell her that.

Q Do you deny saying that London said to you, I never thought it would come down to something like this.

A I never said that to Jennifer.

Q May I hold 11, please, ma'am.

THE COURT: Is that stapled?

MR. CORBETT: It is not, Judge.

THE COURT: Go ahead and staple those 2 pages.

MR. CORBETT: Your Honor, if you will bear with me for just one moment.

THE COURT: Yes, sir.

Q Now you received a copy of this statement, did you not?

A I did not.

Q You've never received a copy of this statement.

A I never received a copy of the statement. The day when I was leaving, I asked, as God is my witness, can I get a copy. And she said, no. And Dubose was in there too when she said it.

Q Prior to today, have you reviewed this statement?

A No, I reviewed it with you.

Q Here in the courtroom.

A And when I came to the solicitor's office last Wednesday.

Q So you have reviewed this statement prior to today?

MR. JOHNSON: Your Honor.

THE COURT: She can finish. Let her

finish.

A I've reviewed this page right there. Because that's how he had it on the desk like this. It was stapled when I came to your office. And you said it was a whole bunch of statements. But do you recall this statement right here. I said yes. I never went to a second page or none of that. I did not. You were there.

Q Now back to State's No. 11.

A Uh-huh. (Affirmative.)

Q Your testimony is that you had occasion to review that document.

A Uh-huh. (Affirmative.) Yes.

Q But you did not look at the second page.

A Not with you.

Q And you've never looked at the second page prior to today.

A Right.

Q That's your testimony. Even though it bears your initials.

A Yes, sir.

Q So you initialed something on at least 4 occasions on that page 2, but you're saying you didn't read it or look at it.

A No, sir.

Q So it's your contention that Investigator Thomas added that.

A Yes, sir.

Q That she made that up.

A Yes, sir. Because I never knew anything about an alibi. She called me and said my name was used as an alibi. Ms. Thomas.

Q And how long have you known London Kelley?

A I've known London since 2002, 2003.

MR. CORBETT: That's all the questions I have, Your Honor.

THE COURT: Mr. Johnson.

Cross Examination by Mr. Johnson:

Q Good morning, Ms. Witherspoon.

A Good morning.

MR. JOHNSON: Your Honor, may I approach the witness?

THE COURT: Yes, sir.

Q This is State's Exhibit 11.

THE COURT: For ID right now.

Q Let's make this real clear. You're saying that the officer wrote the statement, is that correct?

A Yes, sir.

Q You told the officer and you had the

discussion with the officer, Ms. Thomas.

A Ms. Thomas.

Q About -- she asked you questions about that evening at the party, correct?

A Yes, sir.

Q And you told her the truth about things that was there, correct?

A Yes, sir.

Q And she wrote a statement. She wrote down on that -- she wrote paper herself.

A Yes, sir.

Q And asked you to sign it.

A Yes, sir.

Q Did you go over it completely, or did you miss that part?

A I went over the first page.

Q Okay.

A On the second page it only had that London called me, and started talking to me. And I said that Quinton was cheating on me with Ebony Montgomery. That's all I have -- that's all she had on the second page before I left there.

Q How can you explain your initials and stuff on the bottom part of the rest of that stuff down there?

A The TW by the Toward sentence, close. But my other ones are, you know.

Q So they look like, are you saying that's not your initials at the bottom?

A That's what I'm saying.

Q But just to make it clear, you're saying that what -- I want to make it clear for the jury.

A Yes, sir.

Q You're saying that the first page is correct.

A Yes, sir.

Q That those things did happen.

A Yes, sir.

Q But the part about my client calling you and telling you that she used you as an alibi, is not true.

A No, sir. Jennifer called me and told me that my name was used in an alibi; that I had to come to Sumter Sheriff's Office Department either come when I got off, or be there at 8:30 sharp the next morning and hung up. She said she wasn't talking about it or nothing else over the phone, and hung up.

Q And you went down there, correct?

A I didn't go down there that day.

Q Uh-huh. (Affirmative.)
A I went down there the next day.
Q And you've always went down when they asked you or you always cooperated.
A No, when I went down the next day, she said -- the lady called her from in the office when you go into Sumter County and then the City.
Q Right.
A She called and told her I was down there. The lady told her -- she told the lady that I was supposed to be there ever since yesterday, to come back the next morning. And I told the lady in there, I cannot come back at the next morning. I have a job. I have to go to work. So I have went back that that afternoon when I got off the next day, and I talked to her. I talked to her and Mr. Dubose.
Q So basically you're saying those statements that they're now saying that you made, you did you not make.
A Yes, sir.
Q And you told the State about it before today, didn't you?
A Yes, sir.
Q And they knew about it, didn't they?

A Last Wednesday---

MR. CORBETT: Objection, Your Honor.

THE COURT: Yes, sir.

MR. CORBETT: May we approach?

THE COURT: Yes, sir.

(Whereupon, the attorneys approach the bench and confer with judge.)

THE COURT: Go ahead, Mr. Johnson. You can restate the question.

MR. JOHNSON: Okay, I'll just restate it.

Q As it relates to the statement itself, the second page, on the second page, I am going to read this to you. And tell me where it stops being the truth, something that you said.

A Okay.

Q It says Miami before midnight to get a wrist band. That's true.

A Yes.

Q The day after the murder London called me and started talking to me and said, I think Quinton was cheating on me with Ebony.

A That's it.

Q That's it. So everything after that, it's your statement that you did not say.

A Yes, sir.

Q And just for clarification, you didn't write this yourself.

A I did not write that statement. None of it. Jennifer Thomas wrote it.

Q And when you asked for a copy of statement.

A She did not give me a copy.

Q You asked her for it.

A I asked for a copy before I left. It was her and Mr. Dubose in there. And they said they couldn't.

Q They could not give you a copy.

A They could not.

Q So you didn't see this statement until when?

A When I came here last week.

Q But then---

A The solicitor's office.

Q But then you only looked at the first page.

A Yes.

Q You didn't see the second page.

A They had the statement. I didn't even...

THE COURT: Well the question is, did you see the statement.

A No, sir.

Q By Mr. Johnson)No other questions, Your Honor.

THE COURT: Redirect?

Redirect Examination by Mr. Corbett:

Q So you say it should stop with the word Ebony.

A Yes.

Q Is that correct? I am going to show you what's been marked as State's Exhibit No. 11.

A Yes, sir.

Q Now you admit that that is your initial at the top left.

A That is my initial.

Q And you admit that that is your signature at the bottom.

A Yes, sir.

Q Is that correct?

A Yes, sir.

Q But your contention is that the officer left that Ebony word there hanging there empty, no punctuation. Had you sign. Then went back and added portions and your initials magically appeared on the added portion?

A No, I am not saying that. I am just

saying it stopped at Ebony, because I never said anything about finding a body or anything else about the murder. Jennifer asked me about a murder, which was Darrell Epps. And I told her I didn't know.

Q But you admit that those are your initials.

A Yes.

Q In the top left corner and three additional places.

A Yes.

Q So how did the statement end with the word Ebony? The remainder of that sentence gets added.

A It says but never said she found a body or anybody else about the murder, because I never said it.

Q Then we complete another paragraph.

A That said London went to jail recently about March. And London didn't go to jail in March. Come on that's my friend for 10 or 12 years. She went to jail in January. She didn't go in March. So I wouldn't even have said March. I didn't even say anything like that. Jennifer, like I said, Jennifer called me and said your name was used as an alibi. I need you here this

afternoon or 8:30 sharp. I don't want to talk about it over the phone, click.

Q When did she go to jail?

A In January.

Q Of when?

A January of what, this year? She got out in January of this year.

Q But the statement was given prior to that.

A My point exactly. That's what I am saying. She never been to jail before. Not that I know about. Not to this.

Q Your contention is that she has never been to jail before?

A Only when she got locked up in January. That's all I know.

Q But she has been to jail before.

MR. JOHNSON: Your Honor, objection. He's testifying.

THE COURT: Overruled.

A I've never known her to go to jail before about anything else. As God is my witness, I only know when she went in January.

Q So let's look at that very last paragraph.

A Yes, sir.

Q As Tafarus McFadden, Key, came to my party

with Peaches. And left with her and Linda Anderson.

A And Shante Anderson and Erica Anderson left with Linda Anderson.

Q So Investigator Thomas takes a statement from you. We're now, you're now alleging as in this information about London Kelley, correct?

A Yes.

Q And then throws in a paragraph about who Tafarus McFadden left with.

A Yes, because I never said Tafarus McFadden left with Linda Anderson or Peaches left with Linda Anderson.

Q So and your contention is that Investigator Thomas' most important job in this forging of this statement is to put in who Tafarus McFadden left with?

A Well I didn't put it in there. I didn't even write the statement.

Q Now the truth of the matter is, you do know that London Kelley went to jail on a different occasion.

A I know she went in January.

Q But you don't know about the time before that.

A All I know is January.

Q By Mr. Corbett)That's all I have, Your Honor.

THE COURT: Recross?

Recross Examination by Mr. Johnson:

Q Let's just try to clarify this as best we can. All you're saying is that that part that's written on that statement, you did not say, correct?

A I did not say it, yes.

Q You're not saying how it got there or why it's there.

A Correct.

Q All you're saying is that you didn't say it.

A I didn't say it, and I didn't write it.

MR. JOHNSON: I have no other questions.

THE COURT: You can step down. Thank you.

MR. CORBETT: Your Honor, may Mr. Johnson and approach for a moment? May we keep to witness here for just to moment.

THE COURT: Yes.

MR. CORBETT: May we keep the witness here for just a minute?

THE COURT: Sure.

(Whereupon, the attorneys approach the bench and confer with judge.)

THE COURT: Go ahead, Mr. Corbett, you can call your next witness.

MR. CORBETT: The State calls Hope Brown.

THE COURT: Everybody on the jury okay.

THE JURY: Yes.

Hope Brown, being first duly sworn, testified as follows:

THE BAILIFF: State to full name and spell your last name for the record.

A My name is Hope Brown. B-R-O-W-N.

Direct Examination by Mr. Corbett:

Q Ms. Brown, good morning.

A Good morning.

Q Do you know London Kelley?

A I do.

Q How long have you known London Kelley?

A A good many years.

Q What is your best estimate on how long?

A Maybe like 11 years, 10 years.

Q How would you characterize your relationship with London Kelley?

A You know, we hang out and go out together.

She's cool.

Q Would you consider yourself good friends?

A I would.

Q Close friends.

A Yeah, she's a good friend.

Q Do you recall back in 2011, when Darrell Epps was murdered?

A I remember the next day.

Q The next day?

A Yes, sir.

Q Do you remember the proceeding at night?

A Yeah, when I -- I remember that night.

Q Now tell me about that night. Where were you?

A I was at home. I was at work and then I went home. And we went out to the club that night.

Q Went out to the club?

A Uh-huh. (Affirmative.)

Q First of all, where were you working?

A Taco Bell.

Q Broad Street or Lafayette?

A Lafayette.

Q So you were working at Taco Bell.

A Uh-huh. (Affirmative.)

Q Got off work and went home.
A Uh-huh. (Affirmative.)
THE COURT: Ma'am, you need to say yes or no, not uh-huh or uh-uh.
A I was living in Old Line Mobile Home Park.
Q Now you indicated you went home.
A Uh-huh. (Affirmative.)
Q And then you went out.
A Yes, sir.
Q Did you talk to London Kelley that evening?
A No, I didn't.
Q When's the next time you talked to London Kelley?
A Maybe like -- I mean we always talk. But I know that night we were -- we was going to the club. And then we call her cell phone to see if she was going out, and we didn't get no answer. So we went to the club.
Q Who is we?
A Me, Andrea Brown and Sheneka Brown.
Q And now, and I apologize if I've asked this already. Did you see London Kelley that night?
A No, sir, I didn't.

Q Did you go to her house?

A Yes, sir, I did.

Q You went to her house.

A We went. We pulled up in the back yard. Blow the horn because it was photograph raining that night. And I don't know if she if could hear the horn, because it hard down raining. So we was like calling her phone to see, you know, if she was going out with us. And we didn't get no answer, so we left and went to the club.

Q So you said that you went to her house and called her phone, is that correct?

A Yes, sir.

Q And would that have been at 11:34 p.m.?

A Not I probably 11:30, I'm probably just calling and see like, you know, what's up. Are you going out tonight. It should have been like a later call than that. I probably just called around that time to see if she was going out.

Q So if your phone record indicates that you placed a call, now the call -- when you tried to call her, did she answer?

A No, sir. I never did talk to her.

Q So at 11:34, is it possible that your phone log shows a call from you to London Kelley

that was not answered?

A It is possible, because I never did talk to her.

Q And are you sure you called again.

A Yeah, I am pretty sure, because we called when we was in the yard blowing the horn. Because it was raining and I don't know, because she didn't hear the horn. We was calling and nobody didn't answer the phone or nothing, so we left and went out.

Q It was raining?

A It was raining. Nobody didn't get out there now. So we just blow the horn and called. And nobody didn't answer, so we just left.

Q And you're saying that was not 11:34.

A No. I never went to Miami at 11:34.

Q Now did you talk to anyone else about your testimony this morning?

A No, sir.

Q Did you talk to Andrea Brown about it?

A No, sir.

Q So if your phone record showed no other calls to London Kelley's phone, then is something wrong with the phone?

A No, it shouldn't been no 11 something

going out.

Q Weren't you trying to get to Club Miami before midnight because you get a wrist band?

A No, I know the guy who did the wrist band. I don't even have to pay to get in Club Miami when it was there. So the wrist band, yeah, you can get a free wrist band before 12, but I wasn't worried about getting no free wrist band. Because I don't even have to pay when I go there, because I know the guy who be at the door. He always lets me in.

Q Did you call London the next day?

A I'm not sure. It's probably possible. Probably just to see why you didn't go up. I'm not sure. I don't recall calling her.

Q Well I'm trying to understand that if there's a call from your phone to London's at 11:39, and the next one is at 3:53, the following afternoon, I am sorry yes, 3:53 the following afternoon, there were no calls between that time?

A No, because I probably just feel like why you didn't go out or nothing like that.

Q Let's go back to when you went to London's house.

A Yes, sir.

Q Where was that located?
A In Gem's Mobile Home Park.
Q Gem Mobile Home Park?
A Uh-huh. (Affirmative.)
Q That's just off of Broad Street?
A Yes, sir.
Q Now where did London live in Gem Mobile Home Park.
A On the left hand side like, I don't remember her lot number, but it was like maybe the like the 4th or 5th trailer. I am not sure of the lot number.
Q The 4th or 5th?
A Like when you first turn in, you know, you have two sides, and she stayed on this side.
Q What time did you go there?
A I am not sure like. Like I said, we go to club different times. I don't drive at all, so it all depends on who is driver, and, you know, what club we are going to. But I know that night, I remember we went out there. We blow the horn, and we was calling. No call, no answer, so we just left. Pulled back out of the back yard, left out, and went to the club.
Q So there was no lights on?

A I didn't see no lights, because it was dark and it was raining. And we saw her car. So that's why we was like, okay, what is London doing. You know her car is in the back yard.

Q Did you call Quinton's phone?

A No, I don't even know if he had a phone, no.

Q Did anybody else call London from the car?

A Yeah, because I know we was thinking about going out from earlier. And I know like maybe Shenaka called. Andrea probably called, just to see like her car is here, like, you know, is she going. Is she ain't. Because we are going to go.

Q Did anybody call Quinton's phone?

A Not as I recall. I know I didn't.

Q But you don't know what time this was.

A If I had to remember, I would have said, I don't remember.

Q Blew the horn, no response.

A Called.

Q Called no response. No lights on.

A Well the car was back there. So we was like, okay. What's going on. Is she going is she not, because her car is home.

Q So the car is there, but nobody is there?

A The car, I am saying, we was calling and blowing the horn so much, because her car was in the back yard. And maybe we thought like I said, she couldn't hear over the rain. That's why we kept calling.

Q And never got a response.

A Never.

Q Now you said it was still raining when you got there?

A Uh-huh. (Affirmative.) Because that's why nobody didn't want to get out and knock on the door.

Q Do you know what time the rain stopped that night?

A I didn't. Because I like I say, I went to the club. I was wanting to have a good time.

Q Your cell phone number is---

A Uh-huh. (Affirmative.)

Q --- .

A Yes, sir.

Q That is correct. Right?

A Yes, sir.

Q And at that time you would have been calling London's cell phone of , correct?

A I guess that was the number.

Q That was the number at the time.
A Yes, sir.
MR. CORBETT: That's all the questions I have, Your Honor.
THE COURT: Mr. Johnson.
Cross Examination by Mr. Johnson:
Q Good morning, Ms. Brown.
A Good morning.
Q Just a couple of questions.
A Yes, sir.
Q You met with the police before today, correct?
A Yes, sir.
Q And you give a statement, correct?
A I did.
Q Did you say anything today that you didn't tell them before?
A That's the same thing I said, like I said, that's exactly what he did. We went out that night. We was calling on the phone to see if she was going out, and no response. And we left and went to the club.
Q So the things you're saying today, is not the first time they heard that, have they?
A No, sir.

Q And you've been consistent in everything you've said the whole time.

A I am.

Q You are sure that her car was there, correct?

A I am positive. That's why was calling so much and blowing the horn. Because the car was there, we was okay maybe because it's raining. You know, what is she doing. I am sure, I remember.

Q But you didn't get out of the car because of what?

A The rain, and nobody didn't want to get wet, because we was going out.

Q It was heavy rain that night.

A It was heavy rain.

Q Was it sleeting that night?

A I don't know. I know it was raining real hard, that's why we was blowing the horn and calling.

Q So you don't that know that nobody wasn't in the house, but nobody came out of the house.

A Yes, sir.

Q And nobody went to the door and knocked.

A Nobody. Me, Andrea Brown and Shenaka

Brown, none of us got out of the car and knock on the door.

Q And let's be clear about something else. When you got to the club.

A Uh-huh. (Affirmative.)

Q London wasn't at the club.

A No, sir. I didn't see her in the club all night, no.

Q And you didn't see her at the club. And you never see anymore that night. And you went to the club that night, didn't you?

A Yeah, we continued to went on. Me -- we took a picture that night at the club. Me, Shenaka Brown, Andrea Brown. We just went on in to the club.

Q By Mr. Johnson) I have no other questions?

THE COURT: Redirect?

MR. CORBETT: Nothing on redirect, Your Honor.

THE COURT: Thank you, ma'am, you can step down. Mr. Corbett. While the next witness is coming in, can I see you all up here for just a minute?

(Whereupon, attorneys approach and confer with judge.)

MR. CORBETT: The State would call Andrea Brown.

Andrea Brown, being first duly sworn, testified as follows:

THE BAILIFF: State your full name and spell your last name for the record.

A Andrea Brown.

Direct Examination by Mr. Corbett:

THE BAILIFF: Spell your last name, please.

A Brown.

THE COURT: B-R-O-W-N.

THE BAILIFF: B-R-O-W-N.

Direct Examination by Mr. Corbett:

Q Ms. Brown, good morning.

A Good morning.

Q Ms. Brown, do you know London Kelley?

A Yes, I do.

Q How long have you known her?

A I've known her for awhile, but we got real close friends like maybe like 2003.

Q So you all are close friends.

A Yes, sir.

Q Is that correct?

A Yes, sir.

Q Do you know Quinton Brown?
A Yes, sir.
Q How do you know Quinton Brown?
A That's my nephew.
Q That's your nephew?
A Yes, sir.
Q Now do you remember the weekend when Darrell Epps was killed?
A Yes, sir.
Q When did you find out that Darrell Epps had been murdered?
A I think it was that Sunday.
Q Okay. Do you remember about what time?
A Maybe it was around like 3 or 4 that afternoon, Sunday afternoon.
Q Do you remember where you were when you found out?
A I was in Wal-Mart.
Q In Wal-Mart?
A Uh-huh. (Affirmative.)
Q So you received a phone call, is that correct?
A Yes, sir.
Q Now so you found out that Sunday. Do you remember where you were that Saturday night/Sunday

morning?

A That Saturday night maybe around, I would say anytime like after two, me and my sister and my niece went to the club, and then went we went back home. And then the next morning I went to work.

Q So about two?

A Uh-huh. (Affirmative.)

THE COURT: Say either yes or no, not uh-uh.

A Yes, sir.

Q Now did you go to London Kelley's house that night?

A Yes, sir.

Q Was it raining when you got there?

A Yes, sir.

Q It was raining.

A Yes, sir.

Q And about what time was this?

A I don't really know the exact time. I would say it's probably anytime after two, because that's the time we always go to the club.

Q Anytime after two.

A Uh-huh. (Affirmative.) Yes, sir.

Q Now when you got to London Kelley's house,

what did you?

A We pulled in the back yard, and blow the horn maybe 3 or 4 times. Nobody came to the door, so we pulled off.

Q And when you say we, who are you talking about?

A Me, Hope and my niece.

Q Hope Brown?

A Yes.

Q And what is your niece's name?

A Sheneka Brown.

Q Now were there vehicles in the yard?

A Yes, sir.

Q What vehicle was in the yard?

A Quinton and London's car. It was a Impala. A gray impala.

Q So the gray Impala was in the yard.

A Yes, sir.

Q It was raining.

A Yes, sir.

Q You blew the horn.

A Yes, sir.

Q No response.

A No, sir.

Q Did you call?

A Yes, sir.
Q Did you talk to anybody?
A No, sir.
Q Did you talk to London any at all that, I keep saying night, but I guess technically at this point it's early morning. That Saturday night before daylight Sunday, did you talk to him?
A No, sir.
Q You did not.
A No, sir.
Q Now at that time your cell phone number was . Correct?
A Yes, sir.
Q And that is the phone that you would have had with you.
A Yes, sir.
Q And London's cell phone number was .
A I don't really remember, but probably so.
Q Do you remember calling her phone at 11:34?
A I don't really remember, but I probably did. I talked to her on a daily basis every day.
Q Do you remember calling her phone at 11:34 and not getting an answer?

A No, sir, I don't really remember.
Q Do you remember calling her phone at 11:44 and not getting and answer?
A Maybe I did, I don't really remember. Like I say, I call her everyday on the daily basis.
Q Do you remember calling her phone at 11:45 and not getting an answer?
A No, sir.
Q Do you remember calling her phone at 11:47 and not getting an answer?
A No, sir.
Q Do you remember calling her phone at 2:05?
A Yeah, I know I called after two, because we was about to go to the club.
Q Do you remember London calling you back at 2:07?
A No, sir.
Q And being on phone for 134 seconds?
A No, sir.
Q Two minutes and 14 seconds, do you recall that?
A No, sir.
Q But you can tell us that it was raining when you got to London's house.

A Yes, sir.

Q And you're now saying it was after two.

A Yeah, I am pretty sure it was after two. That's what time we always go to the club. Anytime after two.

Q And their car was home, but they were not.

A I don't know if they were there. Nobody just came to the door.

Q Nobody came to the door. Nobody answered the phone.

A No, sir.

Q Where did you go prior to going to London and Quinton's house that evening?

A Before I went to their house?

Q Uh-huh. (Affirmative.) Did you make any other stops?

A I took my kids to my sister's house.

Q Where would that be located?

A In American trailer park.

Q American Mobile Home Park?

A Yes, sir.

Q Now does London live American Mobile Home Park?

A No, sir.

Q Does she have any family that lives there?

A No, sir.
Q Does Quinton live in American Mobile Home Park?
A No, sir.
Q Does he have any family that lives there?
A Yes, sir.
Q Who in his family lives there?
A His mom was staying there at the time.
Q How long did you stay at the club?
A Until the club was over. Maybe about 4:30.
Q And where did you go after that?
A Home. Well I picked my kids up, and then I went home.
Q Did you go by the Sonic?
A Yes, sir.
Q So you did go to the Sonic.
A We left from the club. We went to get something to eat from the Sonic. Went by American and picked my kids up.
Q And about what time would that have been?
A When I went to Sonic.
Q No, when you went ot pick the kids up.
A I would say maybe about 5:00 o'clock.
Q Where were you working at the time?

A At Taco Bell.
Q Did you go to work that Sunday?
A Yes, I did.
Q Okay, what time would you have gone to work?
A Maybe 10 or 11.
Q Do you remember what time you got off work?
A I usually work until five. But I remember that day I got off early. Maybe about 2 or 3.
Q Where did you go after that?
A I went to Wal-Mart.
Q And when did you talk to London again on the phone?
A It was while I was in Wal-Mart. I was doing some grocery shopping, and that's when she called me.
Q So is it possible that she would have called you sometime around shortly after 2:00 o'clock?
A It's a possibility. I don't really remember what time I got off work that day, but I know it before five my usual time.
Q And you were at
A Yes, sir.

Q Tell me about that telephone call.

A She called me. She said where are you at. And I was like Wal-Mart. She was like, we found a dead body. And I was like really. She said -- I asked her did they know who it was. And she was like, no. I can't remember the rest of the conversation. But I know that was something that we talked about.

Q Now did you talk to her again about it?

A I think I did talk to her later on that day, I can't really remember.

Q Now while at the Wal-Mart and talking to her, do you have occasion to use slang when you talk to each other?

A When I was talking to London?

Q Yeah, for example, would London have said, Bitch we found a dead body in Gems.

A Yes, sir.

Q And you possibly could have said, I said, Bitch stop lying.

A Yes, sir.

Q And then at some point you told her you needed to call her back?

A Because I was in Wal-Mart grocery shopping, and I didn't want to talk about that in

Wal-Mart.

Q You tried to call her back and she didn't answer.

A Yes, sir.

Q And then you went to your sister's house to get your kids.

A Yes, sir.

Q Was London there?

A I think so.

Q I don't know, who is your sister? Where would this have been?

A When I picked the kids up?

Q Yes, ma'am.

A From American trailer park.

Q American Mobile Home Park?

A Uh-huh. (Affirmative.) Yes, sir.

Q What's your sister's name?

A Brenda Brown.

Q So when you got there, did London start telling you the story of how they found the body?

A Yes, sir.

MR. CORBETT: One moment please, Your Honor. Your Honor, that's all the questions I have.

THE COURT: Mr. Johnson.

MR. JOHNSON: Thank you, Your Honor.

Cross Examination by Mr. Johnson:

Q Good afternoon, Ms. Brown.

A How are you doing.

Q Just a couple of questions. You are working at Taco Bell?

A Yes, sir.

Q Did London also work at Taco Bell during that time?

A Yes, sir. But we was at two different Taco Bells.

Q You went there that night and you said that it was around two.

A Yeah, it had to have been after two.

Q After two?

A Uh-huh. (Affirmative.)

Q Why after two? Why would you say after two?

A Because that's what time we always go to club. I know we don't never go to the club before 2 o'clock.

Q Before two?

A Uh-huh. (affirmative.) Yes, sir.

Q Was it raining pretty hard?

A Yes, sir. It was raining very hard.

Q Was her car there?
A Yes, sir.
Q You said you blew your horn about 3 or 4 times?
A Yes, sir.
Q So you don't know that nobody wasn't there, but nobody didn't come out.
A Nobody didn't come out.
Q You made some attempts to contact her by phone or something?
A Yes, sir.
Q But you didn't get an answer.
A Didn't get an answer.
Q Now the next day you heard from her when she told you about a body, is that correct?
A Yes, sir.
Q Now did she sound surprised?
A Yes, sir.
Q Did she sound -- well you tell me. What kind of expression did you get from her voice on the phone if you can tell me.
A I got they were -- she was kind of scared.
Q Yes.
A Yes, sir.
Q Did she call the person by name?

A No, sir.
Q Did she act like she knew the person?
A No, sir.
Q She never mentioned his name as being Darrell Epps or anything like that?
A No, sir.
Q So from you conversation with her, as it was as if she had just walked up upon a dead body.
A Yes, sir.
Q Now you also was at picnic or the party earlier---
A Yes, sir.
Q ---the day before, correct?
A Yes, sir.
Q There have been some earlier questions, but let me ask you this one. Did you leave the party with Linda Anderson?
A No, sir.
Q Did you leave the party with Tafarus McFadden?
A No, sir.
Q So if that's in a statement where somebody said you left the party with Anderson---
MR. CORBETT: Objection, Your Honor.
THE COURT: Wait just a second.

MR. CORBETT: Hearsay.

THE COURT: Overruled.

Q If that's -- if there was a statement that said that you left---

MR. CORBETT: Objection, Your Honor. Pitting witnesses.

THE COURT: You can just ask her.

MR. JOHNSON: I'll rephrase, Your Honor.

THE COURT: I'll sustain that objection.

MR. JOHNSON: I'll rephrase, Your Honor.

Q Is it your statement that you did not leave the party with Linda Anderson or Tafarus McFadden?

A I did not leave the party with Linda Anderson.

Q Who did you leave with?

A I left with my niece, Sheneka Brown.

Q And what is your nickname?

A Peaches.

MR. JOHNSON: No other questions.

THE COURT: Redirect?

Redirect Examination by Mr. Corbett:

Q A moment ago you were asked about trying to make contact with her when you went to the house, is that correct?

A Yes, sir.
Q And you indicated it was raining.
A Yes, sir.
Q Your phone number, tell me that numbe- again.
A
Q Do you remember calling Quinton at 11:27?
MR. JOHNSON: Your Honor, this is outside the scope of my----
THE COURT: Almost, but I will overrule that. You asked her about pulling up in his driveway. If you want to explore it too, I'll let you, but I overrule your objection.
Q Do you remember calling Quinton's number at 11:27?
A I am not sure. I probably did.
Q And Quinton's number was
A I don't really remember. It probably was. I don't remember what his number was.
Q Do you remember calling at 11:43?
A I probably did.
Q Do you know the next time you would have called him?
A Maybe after 2 whenever I was calling London's phone, when I pulled in their back yard.

Q Would you have talked to him at 1:37 the next day?

A I don't really remember.

MR. CORBETT: Thank you. That's all at that I have.

THE COURT: Mr. Johnson.

Recross Examination by Mr. Johnson:

Q Well would you called at 11 o'clock? The two times you called around 11 or so or called Quinton's number, you wasn't at the house, were you?

A No, sir.

MR. JOHNSON: No other questions.

THE COURT: You can step down. Thank you. Mr. Corbett.

MR. CORBETT: Can we have the witness remain here just a moment if Mr. Johnson and I can approach for just a second.

THE COURT: Okay. Ma'am, you can just have a seat right on that first row, okay.

(Whereupon, attorneys approach and confer with judge.)

THE COURT: Ladies and gentlemen, the next witness for the State is in class and getting out noon. We are going to stop for lunch. We will

get back together at one o'clock. So you have about an hour and 35 minutes. In the meantime, as you know, you may not discuss the case amongst yourselves or with anyone else. Don't read anything about it, watch anything about it. Conduct any research on your own. If you find yourself in the position where someone mentions it, anything about this case in your presence, let them know that you're on the jury and then let your foreperson know. See you back at 1 o'clock. Thank you very much. You can leave your notepads in your chair.

(Whereupon at 11:21 a.m. jury goes to lunch.)

THE COURT: The other witness you wanted sequestered Hope Brown.

MR. CORBETT: Andrea Brown.

THE COURT: Ms. Brown, Andrea Brown, you are still subject to being recalled. So I want -- you are still what is called sequestered, which means you can't come in the courtroom while other people are testifying, and you can't talk to anyone else outside this courtroom about what you've said or what anyone else has said. Okay.

MS. ANDREA BROWN: Yes, sir.

THE COURT: Now, Mr. Corbett, what's your position as to whether or not you and Mr. Johnson can talk to this witness? She's been on the stand. Do you want leave to also speak to her? If you do, Mr. Johnson, can be heard on that. And if both of you all agree, both of you can talk to her.

MR. CORBETT: Judge, I honestly have no opinion. Whatever Mr. Johnson's pleasure.

MR. JOHNSON: I was going to ask for the opportunity to talk to her, Your Honor.

THE COURT: I'll let both of you talk to her.

MR. CORBETT: Thank you, Judge.

THE COURT: We'll get back together at 10 minutes until one, but you said earlier in my office that -- or Mr. Johnson said he had something he wanted to discuss. Is that something you want do now?

MR. JOHNSON: It can wait, Your Honor.

THE COURT: Okay. Wait till when? We can come back at quarter till one if that's what you want to or we can do it at some other time you think is appropriate.

MR. JOHNSON: Well, Your Honor, if I can

approach, I think I could just---

THE COURT: All right.

MR. JOHNSON: ---tell you real quick.

(Whereupon, attorneys and Judge confer at bench.)

THE COURT: Please be back in this courtroom no later than a quarter till one, and we'll get started back. If either side has anything they need to cover before the jury comes back in the courtroom, we'll do that at 10 minutes until one. Okay. Thank you.

(Whereupon, court breaks for lunch.)

THE COURT: Mr. Corbett, are you ready?

MR. CORBETT: Judge, I believe so.

THE COURT: Mr. Bradley, if you would put on the record what Juror Wheeler said to you please.

THE BAILIFF: Your Honor, Ms. Wheeler, said she taught at Delaine School, and she is familiar with some of the names that have been called. She don't have any direct connection with this case or anything. But she just wanted you know to she had members of some names that were called.

THE COURT: Mr. Corbett, any comments? Do

you have any comments about what Mr. Bradley said?

MR. CORBETT: Judge, why didn't this come up in voir dire?

THE COURT: I don't know. I'm just asking Mr. Bradley to repeat. She said she's familiar with some names that she has heard in here. Like all of these names like, Tafarus, some of these people. I don't know who she was talking about. But she said some names that she is familiar with. Not that she knows the people, but she is familiar with names. I'm going to question her on it, but I just wanted to know if you had any input on the front end.

MR. CORBETT: I do not, Judge.

THE COURT: Mr. Johnson.

MR. JOHNSON: No, Your Honor. Just do whatever questioning you would like to do.

THE COURT: Mr. Bradley, you can bring Ms. Wheeler in.

MR. BRADLEY: Your Honor, this is Ms. Johnson, I apologize.

THE COURT: Ms. Johnson, I'm sorry to bring you in here. You haven't done anything wrong.

THE JUROR: Okay.

THE COURT: You and Mr. Bradley indicated that you had told him when you returned from lunch that you recognized some of the names.

THE JUROR: I knew some of them, just from name, because I used to work over there in that area. I worked at Delaine for like 16 years.

THE COURT: What did you do there?

THE JUROR: I was a teacher's assistant and bus driver.

THE COURT: And what names have you recognized since you have been in the courtroom?

THE JUROR: Quincy Brown.

THE COURT: Ma'am?

THE JUROR: Quincy Brown.

THE COURT: Quincy Brown.

THE JUROR: Quinton Brown.

THE COURT: Quinton Brown. You've heard that name?

THE JUROR: Yes.

THE COURT: Any other names?

THE JUROR: None of the others.

THE COURT: Anything in particular that you've heard?

THE JUROR: No, I just know from the area that, you know, there was Browns in that area.

But not knowing of him like that.

THE COURT: Does that spurred or juggled your brain as to any memories about this case?

THE JUROR: No.

THE COURT: Would that have any impact on your ability to be fair and impartial?

THE JUROR: No, it wouldn't.

THE COURT: Could you set all of that aside and base---

THE JUROR: Yes, sir.

THE COURT: ---your verdict on what you hear and see in this courtroom.

THE JUROR: Yes, sir.

THE COURT: If you just stand out in the hall just a second. I am going to see if the lawyers want me to follow up with anything okay.

THE JUROR: Okay.

THE COURT: By the way, if you don't come back in, don't mention this to any of your fellow jurors.

THE JUROR: Okay, I won't.

THE COURT: Mr. Corbett, any additional questions?

MR. CORBETT: Nothing from the State, Your Honor.

THE COURT: Anything, Mr. Johnson?

MR. JOHNSON: I have nothing, Your Honor.

THE COURT: Does either side have any motions concerning this juror?

MR. CORBETT: Nothing from the State.

MR. JOHNSON: I have nothing, Your Honor.

THE COURT: You can tell her to go back in the jury room. I assume the State is ready.

MR. CORBETT: The State is ready, Your Honor.

THE COURT: The defendant ready?

MR. JOHNSON: The defendant is ready, Judge.

THE COURT: You can bring in the jury.

(Whereupon, the following takes place within the presence of the jury.)

THE COURT: Ladies and gentlemen, we are ready to continue. Mr. Corbett, you can call the State's next witness.

MR. CORBETT: Your Honor, the State would call Kevin Lindsey.

Kevin Lindsey, being first duly sworn, testified as follows:

THE BAILIFF: State your full name and spell your last name for the record.

A Kevin Lindsey. L-I-N-D-S-E-Y.

DIRECT EXAMINATION by Mr. Corbett:

Q Deputy Lindsey, good afternoon.

A Good afternoon.

Q Now, Deputy Lindsey, I know this is a going to be a silly question, but by whom are you employed?

A Sumter County Sheriff's office.

Q And how long have you been employed with the Sumter County Sheriff's Office?

A 16 and a half years.

Q So you with the sheriff's office back in April of 2011.

A Yes, sir.

Q And we've had occasion to talk about the case where you responded to a car fire that evening of April, excuse me, early morning of April 10th?

A Yes.

Q And now I am going to show you this document, and ask if you can identify that.

A Yes, sir, I can. This is an incident report that I wrote that morning.

Q Now just in terms of refreshing recollection, does it indicate what time you

responded?

A Yes, I received the call from dispatch at one, I'm sorry, at 12:24 a.m. I arrived on the scene at 12:43 a.m.

Q If I can hold that back a moment, please. Thank you. Now, I'm sorry I jumped ahead a little bit. You said responded to the scene. Tell us what we're talking -- what you are talking about there.

A It is a neighborhood in the Cherryvale area. North Lake Cherryvale. It turns in to South Lake Cherryvale. There is a pond on each side of the road. And that's where the car fire was at.

Q Now so on the early morning hours of April 10th 2011, you responded to a car fire.

A Yes.

MR. CORBETT: Judge, may I have the witness step down?

THE COURT: Yes. Keep your voice up. And why don't you stand on the side where Mr. Corbett is. And stand on the side close to me so the Court Reporter can hear your voice, okay.

A Yes, sir.

THE COURT: Can everybody on the jury see

what's on that easel?

THE JURY: Yes.

THE COURT: Have you got a pointer?

Q Now, Deputy Lindsey, I am going to ask you to take a moment and sort of familiarize yourself, because sometimes when you look at ab overhead map, it's different than being on the street.

THE COURT: Is this marked?

MR. CORBETT: Judge, this has not been marked as of yet.

THE COURT: Okay.

Q Are you able to locate Cherryvale Drive on this overhead photo?

A Cherryvale Drive doesn't show up on this photo. It would be more over in this area that is off---

Q Okay, I'm sorry.

A ---North Lake. Where the actual arson was, was North Lake Cherryvale Drive, which is this road here.

Q And do you recall about where the car was?

A Yes, sir. It was exactly right here. You had a pond on this side of the road, and a small pond on this side of the road. The car was right here.

MR. CORBETT: Your Honor, if we may mark this photograph for identification as State's, I believe we are at 13.

THE COURT: Is there going to be any objection to this one, Mr. Johnson?

MR. JOHNSON: No objection, Your Honor.

THE COURT: Are you going to offer that too?

MR. CORBETT: Your Honor, in that event, we'll go ahead and move this into evidence.

THE COURT: 13 will be in. And that's an aerial photo.

MR. CORBETT: That is correct, Judge.

(Aerial photo marked State's Exhibit No. 13 into evidence.)

Q Are you able to tell me where this is?

A This four lane highway is Broad Street. This softball field is around Shaw Air Force base.

Q Thank you very much. You can go back to the witness stand.

(Whereupon, witness resumes the witness stand.)

(Photos marked State's Exhibit Nos. 14 through 17 for ID.)

Q Officer Lindsey, I am going to show you

what's been marked for identification as State's 14, 15, 16 and 17, and ask you to take just a moment and look at those. Can you identify those?

A Yes, that is the vehicle that had been burned at the scene that I responded to.

MR. JOHNSON: No objection.

THE COURT: They're in. 14 through 17.

(Photos marked State's Exhibit Nos. 14 through 18 into evidence.)

Q Now when you responded to the North Lake Cherryvale, was the fire department also on the scene?

A Yes, sir.

Q And at that point, did you know anything about the vehicle or who owned it, or who was driving it?

A No, I did not.

Q Now I may have kind of put the cart before the horse here a little bit. But at that particular time at the sheriff's department, what division were you assigned to?

A Patrol division.

Q So were you on your normal patrol that night?

A Yes.

Q And it would be normal duties on patrol to respond to a calls such as this?

A Yes, It would.

Q Now if you know, was the vehicle towed from the location that evening?

A Yes, sir, it was towed that evening.

Q And you received a call again what time?

A I received a call from my dispatcher at 12:24 a.m.

MR. CORBETT: Thank you very much. Please answer any questions that Mr. Johnson might have.

MR. JOHNSON: I have no questions, Your Honor.

THE COURT: Thank you Deputy Lindsey.

A Thank you, Your Honor.

THE COURT: The next witness.

MR. CORBETT: The next witness is Jeremy Holland or Mr. Hice. Your Honor, the State would call Jeremy Holland.

Jeremy Holland, Being first duly sworn, testified as follows:

THE BAILIFF: Please state your full name and spell your last name for the record.

A Jeremy Robert Holland. H-O-L-L-A-N-D.

Direct Examination by Mr. Corbett:

Q Mr. Holland, good afternoon. Now are you from Sumter?

A Yes, sir.

Q Are you currently a student?

A Yes, sir.

Q Okay. Got you out of class today?

A Yes, sir.

Q Tell us a little bit about your background. Former military?

A Yes, sir. I spent 13 years in the guard. Spent 14 months in Iraq. I was wounded October 22, 2003. I just recently got out, and I started working towards my mechatronics degree.

Q So you spent some time in Iraq?

A Yes, sir.

Q You said injured over there?

A Yes, sir.

Q Purple heart?

A Yes, sir.

Q Let's talk about the early morning hours of April 10, 2011, if we could. Do you recall an occasion to call 911 that night?

A Yes, sir.

Q Just kind of walk us through what you did that evening. What you saw. What you observed.

A We were coming back from my cousin's house.

Q Slide a little closer to that microphone for me. Like you are talking to me down here.

A I was leaving my cousin's house. We came to drop a friend off and we road through Swan -- whatever the lake road drive is. And we come around the curve, and I seen the truck with all the doors and the back open and the lights on. And I seen a person towards the back of it. I couldn't see a face. I knew was a bigger male. And there was a figure out in the back. I couldn't really see what. I couldn't make out the sex of the person or anything like that.

And I rode on through. And I dropped a friend off. And on the way back through, it couldn't have been no more than about 10, 15 minutes. On the way back through, the truck was on fire. We had our windows down. I could feel the heat on it. I got back to the house, which was no more than maybe 6 minutes down the road and called the police. Called 911. And the first time I called them, I was a little on edge. The second time when I called, I was a little bit more clear. And I started to go over what I had seen;

that it was kind of suspicious when we ride by one time. And we come back through, and it is on fire. So, that's about all the evidence.

Q I am going to ask you to do this for me. But I don't want to put you in a bad spot. I am going to ask you to come over here and take a look at this if you can locate the area. If you can't, that's all right. But I want you to come take a look at this. Overheads can be a little tricky.

(Whereupon, witness steps down from the witness.)

THE COURT: You all switch places.

MR. CORBETT: Yes, sir.

THE COURT: Mr. Holland, keep your voice up, because this lady is the listening to everything you have got to say. She has got to take it down, okay.

Q So that is you.

A Right there.

Q So right in this area.

A Yes, sir. Back up this area right here. I believe if I am looking at it right, right in the curve.

Q Now you indicated that you saw the vehicle

when you first went past it.

A Yes, sir.

Q Is that correct? Now were you heading towards Broad Street or which direction?

A I was coming from this direction. And I cut down this road right here, and went back over here this way.

Q That was, I believe you said to drop a friend off?

A To drop a friend off. Yes, sir.

Q And then did you go back the same way.

A Yes, sir. The same road here. Right back through there.

Q I think I got it, but I want to ask you, when you came through the first time, what did you observe? And stand a little to the side for me while you, and I am going to step out of the way, so she can hear you.

A I observed the vehicle was facing in this direction with all the doors and the rear hatch open. And towards the back, there were two individuals that I had seen. And all the lights were on and the doors were open. We rode on through.

Q Back down this way.

A Back down to this road right here.

Q Now how long was it before you went back by?

A It could have been no more than 10 to 15 minutes, because we went right down the road to the trailer park to drop someone off.

Q Now when you went by the first time, was the vehicle on fire?

A No, sir. The vehicle was all the doors were open. The lights were on inside. There was nothing wrong with the vehicle. It just, all the way the first, I didn't give it no second thought to other than it's kind of weird for them to be back in the dark back there. I mean I really hadn't had had no all out suspicions until I come back and there was a fire so.

Q So then you came back through going this direction?

A Yes, sir.

Q And is that when you called 911?

A I called 911 when I got to the house, which is . Right here is a little dirt road. That house right there.

MR. CORBETT: Now I am going to let you get back to the witness stand.

A Yes, sir.

(Whereupon, the witness resumes the witness stand.)

Q Now your testimony was that when you rode by the first time, it was just odd that it was there in the dark.

A Yes, sir.

Q But you couldn't tell who the individuals were?

A No, sir.

Q And you indicated you called 911 a second time?

A I called 911 a second time.

Q What was the purpose of calling the second time?

A I wanted to make sure that they knew that people that I had seen, looked like they were coming from the pond area, from behind the vehicle.

Q So you gave some additional detail on the second call?

A Yes, sir.

Q And do you recall about what time this was?

A I believe it was the first time I went

through, close to 12. I am not sure too much.

Q Sometime close to 12?

A Yes, sir.

Q And then I don't want to put words in your mouth, you came back by?

A I came back by, yes, sir.

Q And that was 10, 15 minutes later.

MR. JOHNSON: Your Honor, objection. He's leading the witness.

THE COURT: Overruled. You can close it out. Don't necessarily summarize it for him--

MR. CORBETT: Very well.

THE COURT: --- but you can very well elicit the proper testimony.

MR. CORBETT: Yes, sir.

Q And how long was it before you came back by?

A It couldn't have been no more than 10 or 15 minutes, because all we did was drop a guy off, and walk back to the car and leave.

Q Okay.

A It's not very far.

Q By Mr. Corbett)Mr. Holland, thank you very much. Please answer any questions Mr. Johnson has.

Cross Examination by Mr. Johnson:

Q Mr. Holland.

A Yes, sir.

Q How are you doing today?

A I'm fine.

Q Just a couple of questions. I know it's been a while since this happened, so I can understand how your memory could be confused a little bit. So think about it your answers before I ask you, okay.

A Yes, sir.

Q It's very important. A minute ago, you say you saw two individuals and you couldn't make out of the sex of the other individual?

A Yes, sir.

Q You actually made two calls or one call?

A Two calls.

Q On your first call, didn't you say something that the doors are open and the light was still on? Or what did you say on your first call?

A I don't remember exactly what I said on the first call.

Q On the second call, didn't you actually say you saw two males?

A I said I saw two males. I don't remember

exactly.

Q But you -- I mean as they said before, I am not trying to put words in your mouth. But do you remember saying that it was two males?

A I remember saying two individuals. Whether I said males or not, I can't remember.

Q But you didn't say you couldn't tell which one it was. You said you saw two whatever you said.

A I said well whatever I seen, I couldn't identify them.

Q Then you wrote a report.

A Yes, sir.

Q Where you put down what you saw.

A Yes, sir.

Q Because I think this report was down, if I say, April 11th 2011, about 3:30 that afternoon. Refresh your memory?

MR. JOHNSON: Your Honor, can I approach?

THE COURT: Yes, sir.

Q Do you recognize that?

A Yes, sir.

Q What is that?

A It's a statement I made.

Q That's a statement you made.

A Yes, sir.
Q And you made that statement about being clear about what saw, correct?
A Yes, sir.
Q Would you please read that statement to the jury?
A On Saturday night while riding along the road in the Cherryvale area, when I seen a white SUV with all the doors open, parked along the road, in a wooded area. I seen a black male in the wooded area with a possible white tee shirt.
We drove on through thinking that something wasn't right. Ten or 15 minutes later, I rode back through, and the truck was blazing with fire. My cousin, Chris Devine, and my friend, Kevin, was with me.
Q You wrote that the next day after you made the two phone calls earlier, right?
A Yes, sir.
Q In that statement you don't mention two individuals, and not knowing what sex it was or anything.
A Yes, sir.
Q So will you say that is the correct statement of what you saw?

A I would say that's a statement I was trying to rush through.

Q And that's exactly what you saw.

A Huh? Well actually what I saw is what I said on the 911 call. This is actually a statement I was trying to rush through. I was not happy about having to keep coming up here and telling this to the police.

Q So this wasn't your first time?

A I had to -- this might have been the first time I talked to them. But I mean, I wasn't happy in just going up there. I didn't really want to make a statement.

Q So if the 911 call said that you say you saw two males, that would be correct?

A I saw two individuals. I was -- the night this happened, I was, when I made the calls the first time and the second time, I was full of adrenaline. So I was just calling out what I felt like I seen.

Q Was your number at that time ?

A Yes, sir.

Q And you approximately called, it looks like about 12:28. That would be your second call.

A I think the first one was close to 12:23.

Q And then your second one?
A A couple of minutes later.
Q But if the report said that you said two black males, you wouldn't have an argument with that?
A I couldn't -- I couldn't identify who it was, honestly.
Q Okay.
A I can't tell you who it was. I can tell you I rode through, I seen two individuals. I knew one of them was a male. But other than that, I couldn't tell you anything.
Q Well answer my question. Why is it so different now that you couldn't point out you couldn't tell whether the other individual was a female or not? Why is that important?
A I never could tell who it was. I just knew personally what it was. The second individual, I couldn't identify either one of them.
Q The question, the reason I am asking you this, have you discussed your testimony before you walked in today?
A No, sir.
Q I'm just wondering why now it's so

important to make it, distinguish that.

A It's not important, sir.

Q But on that statement you said you saw one---

A On this statement, I said I seen one person, yes, sir.

MR. JOHNSON: I've got no other questions.

THE COURT: Redirect?

MR. CORBETT: One moment please, Your Honor. Nothing further, your honor.

THE COURT: Thank you, Mr. Holland. You can step down.

THE COURT: Can the witness be excused?

MR. CORBETT: The witness may be excused.

THE COURT: Mr. Johnson.

MR. JOHNSON: That's fine with me, Your Honor.

THE COURT: Thank you, Mr. Holland. You can stay if you want, or you can leave. Next witness.

Curtis Hice, Being first duly sworn, testified as follows:

THE BAILIFF: Please state your full name and spell your last name for the record.

A It's Curtis Hice. H-I-C-E.

DIRECT EXAMINATION by Mr. Corbett:

Q Deputy Hice, good afternoon. Now, Deputy Hice, I know this is going to be a silly question, but by whom are you employed?

A With the Sumter County Sheriff's Office.

Q And how long have you been with the Sumter County Sheriff's Office?

A Just over 11 years.

Q And what are your duties with the Sumter County Sheriff's Office?

A I am a sergeant on patrol.

Q So you're in the patrol division?

A Yes, sir.

Q Now do you recall an incident where you became involved in a case that started with a burned SUV?

A Yes, sir.

Q Tell us how did you come to involved in that?

A I was actually contacted by Lieutenant Rick Nelson, who was my shift supervisor at that time. At the time I was working as K-9 officer on patrol. So they had found -- evidently they had burnt car the night before, and they wanted me to come out there with the K-9 to see if we could

track any human scent from the vehicle.

Q I am going to have you step down for a moment and look at two separate photographs. And ariels can be a little tricky. So I want you take a moment and see if you can orient the area where you responded to.

(Whereupon, the witness steps down from the witness stand.)

THE COURT: Is that numbered yet?

MR. CORBETT: Yes, sir, Judge. This is still State's 13.

THE COURT: Stand off to the side, after you have looked at it so the jury can see where you pointing to.

A This would have been North Lake Cherryvale right here. The vehicle would have been right up in here. If I'm looking right, there is a pond right here. The vehicle would have been right up here in the curve between North Lake and South Lake Cherryvale.

Q And let me do a different. Can I mark that one. Your Honor, for identification, State's No. 18.

(Aerial photo marked State's Exhibit No. 18 for Id.)

Q This is also an aerial photograph. Take a moment and see if you can orient with that one.

A This would have been the pond right here. And this would have been where the vehicle is, I believe.

Q Now you were contacted you said by shift lieutenant.

A Yes, sir.

Q And told to go to that scene. Do you remember what day that was?

A Not off the top of my head.

Q Was it the day, the next daylight after the car burned?

A Yes, sir.

Q What did you all -- what do you do when you arrived on the scene?

A When I got there, the car had already been moved. It was obvious where it had been burned at, because you could see all the soot and everything from the car. Then I got my canine out of the vehicle, and actually deployed him right here where the car was.

Q Now when you talk about your K-9.

A Yes, sir.

Q I know this is going to sound really

obvious, but we're talking about a dog.

A Yes, sir.

Q And what was it that you were trying to accomplish with that dog?

A Trying to see if there was human scent in the area that we could track off of.

Q Now this particular dog was trained for that purpose?

A Yes, sir.

Q And tell us what happened next.

A I actually put the dog out here. The dog actually did pick up human scent, and track down the side of the pond here. Then when we got to up in this area here, he actually cut into the woods, and into the back side of American Mobile Home Park.

Q Now upon arriving at American Mobile Home Park, what happened at that point and time?

A When we came out, like I say, it was me and Lieutenant Rick Nelson, he was running the track with me. We were actually approached by an individual. He came up to us and told us that there was somebody laying he said, in Gem's Mobile Home Park, I believe. And he told us that the guy didn't look like he had a breath of air in him.

Q Now upon receiving that report, what did you all do?

A At that time, me and Lieutenant Rick Nelson, we went back to our vehicles.

Q Tell and where were your vehicles?

A Our vehicles would have been down here.

Q Okay.

A And we drove over to Gem's Mobile Home Park.

Q And you actually went to Gem Mobile Home Park.

A Yes, sir.

MR. CORBETT: I am going to go ahead and let you get back on the witness stand.

(Whereupon, the witness resumes the witness stand.)

Q Well first of all let me ask you, these two pictures I showed you, do they accurately reflect North Lake Cherryvale and the area in which you tracked that evening?

A Yes, sir.

MR. CORBETT: Your Honor, we are going to offer State's No. 18 and State's No. 13.

THE COURT: 13 is in. Any objection to 18?

MR. JOHNSON: No objection, Your Honor.

THE COURT: 18 is in. Well they are both in now.

(Aerial maps marked State's Exhibit Nos. 13 and 18.)

Q Now you indicated that you went to Gem Mobile Home Park.

A Yes, sir.

Q Is that also known as

A It's -- yes, sir, it's on

Q And did you and Lieutenant Nelson go in the same vehicle or different vehicles?

A We went in two different vehicles.

Q When you got to Gem Mobile Home Park, what did you discover?

A We saw a black male laying on the ground between two of the mobile homes.

Q At that point, were you able to ascertain whether or not he was alive or dead?

A He was dead.

MR. CORBETT: Judge, may Mr. Johnson and I approach for a moment?

THE COURT: Yes, sir.

(Whereupon, the attorneys approach and confer with judge.)

THE COURT: I don't know how you're going to go about it, but the buttons that I push on this screen, depends on how you want to do with the witness, Mr. Corbett.

MR. CORBETT: Yes, Judge.

THE COURT: I'll leave it up to you. If you can just announce the numbers as you go through them.

MR. CORBETT: Yes, sir, Judge.

Q Deputy Hice, I am going to ask you to look at what's been marked for identification as State's Exhibit No. 19, 20, 21, 22, and 23. And if you would please, take a moment just to look at those for me. Have you had a chance to look at those?

A Yes, sir.

Q Now in those pictures, do they accurately reflect the way the body was lying when you found it?

A Yes, sir.

Q At this point and time, had you or Lieutenant Nelson or anyone, moved the body or done anything of that nature?

A No, sir.

Q Now I do notice in those pictures, I

believe we see some police crime scene tape.

A Yes, sir.

Q And we also see some markers, is that correct?

A Yes, sir.

Q Now those were not there when you first arrived.

A No, sir.

Q Some of your other officers put that there.

A Yes, sir.

Q By The Court) Any objection to those, Mr. Johnson?

MR. JOHNSON: I have no objection, Your Honor.

THE COURT: The number please.

MR. CORBETT: This is State's No. 19 for identification.

(State's Exhibit No. 19 marked into identification.)

Q Deputy Hice, it's a little bit hard to see in the monitor, but there in between the two mobile homes, it appears to be dark pants and a red shirt, is that correct?

A Yes, sir.

Q Is that the body that you discovered?
A Yes, sir.
Q Now you approached the body, is that correct?
A Yes, sir.
Q But you did not alter in it in any way.
A No, sir.
Q Was it obvious that the individual was deceased?
A Yes, sir.
Q What made that obvious? As delicately as you can.
A He obviously had a pretty major gunshot to his head. What appeared to be a gunshot I would think.
Q We are going to take a look at State's Exhibit No. 20. Again the body from the different angle.
A Yes, sir.
Q We are going to take a look at 21. Again just from a slightly different angle, is that correct?
A Yes, sir.
Q That was No. 22. Again the same picture, different angle?

A Yes, sir.

Q And finally State's No. 23. Is that the condition of the body when it was found?

A Yes, sir.

Q By Mr. Corbett) Your Honor at this time, the State would move into evidence.

THE COURT: Mr. Johnson, you didn't any objection, correct?

MR. JOHNSON: No, Your Honor.

THE COURT: Well they're already in, because---

MR. CORBETT: Very well.

THE COURT: ---they have been looked at anyway.

MR. CORBETT: 19 through 23.

(Photographs marked State's Exhibit Nos. 19 through 23.)

Q Deputy Hice, if you recall, do you know about what time you got to Gem Mobile Home Park?

A I can't recall off the top of my head.

Q I am going to show you this document, and ask if that can help refresh your recollection.

A Yes, sir. This is a copy of the crime scene log here. It's stating that I responded at 2:23 in the afternoon.

Q And you would have entered in what time you arrived on the scene?
A Yes, sir.
Q So there approximately 2:23.
A Yes, sir.
Q Now at this point and time, who was at Gem Mobile Home Park from law enforcement?
A I would say myself and Lieutenant Rick Nelson. We were, I believe, the first two that actually pulled up at Gem Mobile Home Park. And then we notified the investigator.
Q Is that what I would call standard operating procedure for the patrol division?
A Yes, sir.
Q So you discovered the body.
A Yes, sir.
Q Secured the scene, and notified investigations.
A Yes, sir.
Q Deputy Hice, that's all the questions I have. Thank you.
THE COURT: Mr. Johnson.
MR. JOHNSON: Thank you, Your Honor.
Cross Examination by Mr. Johnson:
Q Deputy Hice, how are you doing. Just a

couple of questions. When you first got to the scene, you went to where the car was burned, correct?

A When I first responded with the K-9? Yes, sir.

Q I said car, but I meant the SUV.

A Yes, sir.

Q And that was by the lake.

A Yes, sir. Right there at---

MR. JOHNSON: Your Honor, could the officer come down, please?

THE COURT: Sure.

(Whereupon, the witness steps down from the witness stand.)

Q Can you please point out again where the car would have been located?

A It would have been right here.

Q And at that time you weren't aware there was a body, correct?

A No, sir.

Q But you took your dog to see if it was alert on---

A Yes, sir.

Q ---some type of scent.

A Yes, sir.

Q And it did, correct?
A Yes, sir.
Q Now that scent would be like a human scent leading from---
A Yes, sir. It would human scent.
Q And it did alert on a human scent.
A Yes, sir.
Q And where did that human scent take you?
A We actually tracked down the side of the pond. I mean it was actually kind of, you know, how most ponds kind of have the side right there. We actually tracked down that. And we ended up cutting up into the woods up in here, and we came out into the back of American Mobile Home Park.
Q American Mobile Home.
A Yes, sir.
Q Now my client lives at Gem Mobile Home Park.
A I believe so.
Q Do you know where it was in relationship to this?
A In relationship to this, this would be Highway 378, and it actually back here closer to Sumter.
Q So it did not alert back towards them,

that the human scent that you alerted came back to there, correct?

A Yes, sir.

Q And at that point, that lead you to believe that whoever was at that car or the scent that you alerted to at the car, went back into American Mobile Home Park.

A Yeah, all I can say is there was human scent from here to here. I can't say whether it actually came from that car or not.

Q In a normal investigation, if your normal investigation if it lead you there, then normally you would have searched that area to see if there were any individuals or anything related to that.

A Yes, sir.

Q Correct? But you stopped.

A Yes, sir.

Q And nobody ever went back there and checked, did they?

A Like I say, I don't know.

Q Let met ask you this, did you go back and check?

A No, sir, I did not go back.

Q And once you found the other body, did you try to get a scent from the body in any way?

A No, sir.
Q You didn't do anything else, did you?
A No, sir. We secured the crime scene.
Q And you have had nothing else to do with this case since then.
A No, since I secured the crime scene.
Q And you can not look at my client and say she had anything to do with this, can you?
A No, sir.
MR. JOHNSON: I have no other questions for you.
THE COURT: Redirect?
MR. CORBETT: No redirect, Your Honor.
THE COURT: Thank you, deputy. Next witness.
MR. CORBETT: Rick Nelson, is making his way in the courtroom.
Rick Nelson, being first duly sworn, testified as follows:
THE BAILIFF: Please state your full name and spell your last name for the record.
A Richard H. Nelson, Jr. N-E-L-S-O-N.
Direct Examination by Mr. Corbett:
Q Mr. Nelson, good afternoon.
A Good afternoon.

Q Now for a long time I called you Deputy Nelson, but I guess it's Mr. Nelson now.
A Yes, sir.
Q Who did you used to be employed by?
A The Sumter County Sheriff's Office.
Q How long were you with the Sumter County Sheriff's Office?
A Approximately 25 years.
Q And you have moved on from policing?
A Yes, sir.
Q Are you moving toward retirement or doing some building work?
A Doing some building work.
Q Mr. Nelson, were you with the sheriff's department back in 2011?
A Yes, I was.
Q Do you have occasion to remember when you Deputy Hice were asked to respond to the location of a car fire, and look for any potential evidence?
A Yes, sir, I do.
Q Do you recall what you all did when you arrived on the scene?
A Yes, sir.
Q If you would please, tell us a little bit

about that.

A We were basically given information about a missing person and a car fire that might have been that subject's car. We put Deputy Hice' K-9 on the ground, and had the K-9 search around the pond area, trying to find any sign or any scent of anything. Did not come up with anything. We were about to give up. Walked out of the woods at the very back to American Mobile Home Park. I walked around the corner of the very back corner trailer. And there were, I want to say, 2 or 3 black males, and a black female standing at the door of a trailer. They were talking to whoever was inside. They seemed very excited. I couldn't hear what they were saying. But the one gentleman turned, saw me in uniform, and came straight toward myself and Mr. Hice.

At that point, he made a comment and said, It was -- I don't remember the exact words, but it was something like, there was a guy over there, and it looked like he is taking his last breath, was the comment he made to me. The subject then told me where this person was. And we immediately went to that location.

Q Now when you went to that location, how

did you get from where you were to that location?

A Walked back to my patrol car, and Mr. Hice's car, and drove over to the location. Maybe a mile and a half -- maybe a mile and a half away.

Q And do you remember what that location was?

A I want to say they called it the Harwood Mobile Home Park. It's had several names over the years. But it's on 378 right cross from the Veteran's Memorial.

Q There about well, I'll leave it at that. Now you went to that location. What did you find upon arriving at that location?

A We found a body laying between some mobile homes, between two mobile homes.

Q Now to you, could you tell if the individual was alive or dead?

A No, sir. When I approached, I could tell he was dead from the injuries that I saw; backed off, and secured the area and called for investigators.

Q How would -- what was it about the injury that told you that he was deceased?

A There was a rather serious injury to the back of the head, where I believe I could see what

looked like brain matter.

Q I am going to show you some photographs which have already been admitted, State's 19 through 23, and ask if you will take a look at those please.

A Yes, sir.

Q Now other than the crime scene tape or any sheriff's department markers, do those pictures accurately reflect the condition of the body when you discovered it?

A Yes, sir.

Q And who were you with you?

A I was with Sumter Sheriff's Office and Mr. Hice.

Q Deputy Hice was with you.

A Yes.

Q Now the individuals that you saw at American Mobile Home park.

A Yes, sir.

Q You said one of them a male came over to you.

A Yes, sir.

Q If you know, do you know what vehicle they were traveling in?

A It seems like I remember it to be a small,

it looked like a light brown colored vehicle, but I really don't remember for sure. I do know that when I secured -- when we secured the scene down there, that vehicle came back with two people in it in to the trailer that was, I believe two trailers, 2 or 3 trailers from where the body was.

Q So the vehicle that you saw at American Mobile Home Park, later arrived at what you call Harwood?

A Yes, sir.

Q Was it at least some of the same individuals that you had seen earlier at American Mobile Home Park.

A Yes, it was.

Q Now, Mr. Nelson, the individuals that you spoke to initially at America Mobile Home Park, for example, would you be able to recognize them now?

A I really don't know if I would or not, sir, it's been so long ago. Like I said, once I got here and we located a body, my primary was to secure the scene and wait on the investigators. I didn't question anybody after that.

MR. CORBETT: Thank you very much. That's all the questions I have.

THE COURT: Mr. Johnson.

MR. JOHNSON: Thank you, Your Honor.

Cross Examination by Mr. Johnson:

Q Mr. Nelson, how are you doing?

A Pretty good, sir.

Q After you got to the scene where the body was---

A Yes, sir.

Q ---the people that came back over, those were some of same people that was in that group, where the individuals told you there was a body down there.

A Yes, sir. There was two of them. A male and a female.

Q And they wasn't trying to avoid you or anything. They actually came out.

A They came back to their residence that was there.

Q Because that's how they knew a body was there. They came and told you.

A Well they didn't come and tell me. Like I said, I walked around the corner. They were at another location a mile or a mile and a half away.

Q They were talking to somebody.

A Yes, sir. They were talking to somebody.

And when he saw me in uniform, the gentleman came over to me and told me.

Q Right. He didn't run from you. He came to you.

A No, sir. He did not run from me.

Q He cooperated and told you what he.

A Yes, sir.

Q Then when you got to actual location where the body was, you secured the area.

A Yes, sir.

Q The dog was still there, right?

A The dog was in the car.

Q But nobody ever asked you to try to track anything from where the body was, did they?

A No, sir.

Q And you had nothing else to do with it from there on, did you?

A I just secured the scene and stayed on the scene the whole time until the investigators left.

Q And as far as any information you have as related to who killed the individual, you don't know nothing, do you?

A No, sir.

MR. JOHNSON: I have no other questions for you.

THE COURT: Redirect.

Redirect Examination by Mr. Corbett:

Q Mr. Nelson, just let me briefly follow up there. The reason that you went from American Mobile Home Park to what you refer to as Harwood.

A Yes, sir.

Q I think I may have referred to as Gem; was an individual came up to you and told you about it?

A Yes.

Q It wasn't a call dispatched to you or anything of that nature.

A No, sir. One of the gentleman that we walked out on, actually came from the front door and told me this gentleman was over there.

MR. CORBETT: Thank you. That's all I have.

MR. JOHNSON: I have nothing else, Your Honor.

THE COURT: Thank you, Mr. Nelson. Step down. Ladies and gentlemen of the jury, we will take a recess after this next witness, unless somebody needs to know. Anybody need to take a break now?

(Whereupon, no response.)

THE COURT: Mr. Corbett.

MR. CORBETT: Your Honor, I believe our next witness is going to be Brian Horton.

Brian James Horton, being first duly sworn, testified as follows.

THE BAILIFF: Please state your full name and spell your last name for the record.

A I'm Brian James Horton, H-O-R-T-O-N.

THE COURT: Brian with an I?

A With an I, yes, sir.

Direct Examination by Mr. Corbett:

MR. CORBETT: Your Honor, bear with me just one moment, please.

Q Mr. Horton, how are you this afternoon?

A I'm good, sir, how are you.

Q Good. I know I'll have to back track a little bit. By whom are you currently employed?

A I am employed by the City of Greenville Fire Department in Greenville, South Carolina.

Q How long have you been with the City of Greenville?

A For a year and a half.

Q Prior to being with the City of Greenville, where were you employed?

A I was employed with the City of Sumter

Fire Department.

Q And how long were you with the City of Sumter Fire Department?

A I believe it was 17 and a half years. And I was also with Sumter County as a volunteer for 20 years.

Q Very well. And in connection with your fire fighting, have you been to various training classes?

A Yes, sir. I have attended probably I think it's on my Curriculum Vitae, probably 1700 hours in fire cause and origin. I've testified as an expert, been qualified as an expert. I have helped write the arson program at the fire academy and helped teach that program currently.

MR. CORBETT: Your Honor, with regard to that, I was going to ask the witness some additional questions. My intention and purpose is to qualify him as an expert. Is your field known as arson investigation or cause and origin?

A I've been qualified in this judicial system as both, cause and origin, and expert in arson.

MR. JOHNSON: Your Honor, there is no additional questions. I will accept him as an

expert in that area.

THE COURT: Very well. Mr. Corbett, do you want to ask him anymore questions about his qualifications?

MR. CORBETT: If Mr. Johnson will stipulate to him being an expert in those two fields, we would just ask the court to advise the jury of that.

THE COURT: He's qualified as an expert in the field of origin and cause and also arson investigation. Ladies and gentlemen, I spoke to you briefly yesterday about the rules of evidence that we have. Typically those rules do not allow those witnesses to testify and give opinions. We call those witnesses lay witnesses. They can testify to what they saw or heard, smelled or touched. There is an exception in the rules for There is an exception in the rules for witnesses who are expert witnesses. And those are witnesses who are qualified by education, training or experience in a particular field or fields. Those witnesses can give opinions and they can give the reasons for those opinions. I will instruct you more closely at the end of the case, but you are to weigh the testimony of an expert just as you

would any other witness. And you are to give the testimony the weight that you believe it deserves. But the witness is qualified as an expert in origin and cause, or cause and origin, whichever the correct order would be, and also arson investigation.

Q Mr. Horton, were you with the Sumter Department back in 2011?

A Yes, sir, I was.

Q Specifically the early morning hours of April 10th. Do you have some recollection of responding to a vehicle fire?

A Yes, sir.

Q Do you remember the location of that vehicle fire?

A Yes, sir. It was between North Lake and South Lake Cherryvale. There's a -- it's where the two roads come together in kind of a swampy area, where it crosses over and under an underpass or canal, whatever you want to say, it goes right there, but yes, sir.

Q There along with the lake on either side?

A There's a lake on both sides. There's a piping under the road where the water hits from one side to the other.

Q And I'm going to start with these pictures. And we're going to add a few to it. But if you would -- well let me do these by number please. State's No. 14, 15, 16 and 17. If you would please take a moment to look at those.

A Yes, sir.

Q Okay. What are those pictures of?

A It's of a burnt vehicle. That was -- I believe I took these pictures there on the scene between North Lake and South Lake Cherryvale on the night of that fire.

Q Now if you would please -- well you responded there with the fire department?

A Yes, sir.

Q And based on your initial arrival at the scene and what you observed, what did these circumstances and events lead you to?

A When I arrived on the scene, I heard the call come out initially. I was volunteering with Cherryvale, who was the first responding fire department in that area. I didn't live too far from this location, so I responded -- I went straight to the scene.

When I arrived on the scene, I seen the vehicle in the middle of the roadway, with the

doors open on the driver's side. And the fire was burning inside the passenger compartment where people sit at. I remember walking around the vehicle, didn't see anyone around the vehicle. The engine compartment was not burnt. The hood area was not brunt. The trunk area was not burnt. But the fire was burning inside the vehicle on the seat cushions. The seat areas were actually burning. They were pretty well involved. And the fire was starting to come out of the doors. So the fire was burning a pretty good amount at that point when I got there. And then we were waiting on the trucks to get there to extinguish the fire.

Q Now again, I am not an expert in fire, but just looking in that photograph, it appears that the interior of that vehicle was pretty well consumed, does it not?

A That's correct. That's where the most -- that's where the heaviest the fire load was when we got there. The interior was burning the vehicle. If the engine department was burning the vehicle, you could see the fire coming from underneath the hood, the tires burning. The tires were in tack in the vehicle. I mean, I walked around the vehicle, the fire was coming out of the

passenger compartment. Make sure no one is around the vehicle, nobody in the vehicle. And like I said, the doors were open on the driver's side.

Q Now based on your training and experience, did you have an opinion as to what caused this?

A In looking at it, because there was no one around the vehicle, and it's in the middle of the roadway, we called the sheriff's office to begin with to come out with us. In looking at the fire, the engine compartment was isolated. There was no damage to the engine compartment to the battery areas. The electrical system under hood appeared to be in good condition. It wasn't damaged at that point. And due to the fact that the rear of the vehicle was in tact, the tires were in tact, and the fire appeared to be on the cushions and the chairs of the vehicle, and the fact that no one was around it and on the roadway, we felt like it was probably an incendiary fire and that's we -- or potentially set fire. And that's why we called, I called the sheriff's office to come out as well.

Q So is it your professional opinion that this vehicle was deliberately burned?

A Yes, it does appear to be an accidental.

We thought it was intentionally set fire. And based on what we seen at the scene, that's why we called the sheriff's office to further investigate it.

(Photographs marked State's Exhibit Nos. 24, 25, 26 for id. only.)

Q Now if you would look at what's been marked as State's Exhibits 24, 25 and 26.

A Okay.

Q Now are those some additional pictures that you took of the same vehicle that we previously looked at?

A They are. They are more of an interior shot of the vehicle where the seats were. And the condition of the interior of the vehicle after the fire.

MR. CORBETT: If we could, I'm going to, well first of all, let me check with Mr. Johnson.

THE COURT: Any objection?

MR. JOHNSON: I have none, Your Honor.

THE COURT: 24, 25 and 26 are in.

(Photographs marked State's Exhibit Nos. 24, 25, and 26 into evidence.)

Q Mr. Horton, if you would, I am going to put these on the monitor. And some of the

information you were just sharing with us about what you're looking for in determining cause and origin, if you can kind of sort of walk the jury through that.

A When you look inside that vehicle, that's actually the back seat of the vehicle.

Q Hold up just a moment.

THE COURT: The witness can go over there and position the document on that screen and talk about it. I think there's a little way you can do your fingernail on it too.

A The -- now that's the rear of vehicle. If you notice the driver -- that's the rear passenger door was open. And what you see there---

MR. CORBETT: If it's all right, I am going to have you come down here. And that way you can point out anything on that that particular picture.

(Whereupon, the witness steps down from the witness stand.)

A If you look that is what is left of the seats. That's the spring materials you will see. Typically it's covered with a cushion and a polyurethane type material. None of that was present. Typically when you see a fire you will

see remanents of material still left in a vehicle. You could be depending on extent, normally get those types of things. When I arrived on the scene, the whole rear of that back area was completely involved. There was mats. There was no cushions up. There was no material left. And it was ascending into the front of the compartments or the front part or the driver's seat was the passenger seat, which was actually burn on the front seats as well. But that's the back of -- it's the rear seat. And then what you're looking at here, is the back of the driver's seat, and the back of the passenger seat. It just doesn't have cushion on it. It's what is the left after the fire. It's the steel and metal.

Q That's No. 24. Now if you will take 25 and tell us a little bit about that.

A If you're looking at it here, what you see right here is what's left of the center console area. The emergency brake is there. As you look forward and go up to where the front of the dash is on the vehicle, it's usually covered some type of a leather or cloth or whatever of type of vehicle it is you see. And then you see some of

wiring from the main wiring in the vehicle.

Again, when we first got there, the fire was burning, the interior was kind of going towards from the back seat towards the front seat. And as I looked in the vehicle and looked at a distance, you can still see, most of that material is still there. The fire was more in the back than it was in the front of the vehicle. You can also -- if you look there on the floor, is what is left of the steering wheel as well.

Q I think this is a little bit wider view, if you will show us that as well.

THE COURT: What number is that?

MR. CORBETT: I'm sorry, Judge. State's 26.

Q Again, this is a wider shot. It's showing more of, you see the passenger seat and the driver's seat. You can see where the dash area is, and what was left. And where the dash is after the fire. That's where we determined the fire was inside that compartment. You can see when I first got there and observed myself, and where we mostly put the fire out.

MR. CORBETT: I am going to let you go back to the witness stand.

(Whereupon, the witness resumes the witness stand.)

Q Let me ask it this way first. Do you recall approximately what time you responded to this call?

A I don't. Cherryvale got toned out by our dispatch center. And I left my residence and I arrived on the scene. I was the first one on the scene. I know that much. The time I don't know.

Q I am going to show you this document and ask if you can to identify that.

A It appears be to CAD, which will come from law enforcement off of our computer dispatch, which is a CAD. So when you call 911, the call comes in, it time stamps it and will dispatch it to us. And it should time stamp each time when a person leaves or arrives on the scene as well.

Q From that document, are you able to determine approximately what time the fire department would have been dispatched out?

A I believe this is at 19:52, but it's hard to read this copy. I can't. Or excuse me, yes, down here at the bottom call received. It says call received 19:52.

Q Now 00:19:52 what is that?

A 00:19:52, should be military time for 11:52. I think, no, excuse me. 24 hours, I am sorry. Military time 19:00.

Q I had somebody in the military get this mixed up one time.

A Yeah, so it's---

Q 00 is just after midnight, that's correct?

MR. JOHNSON: Your Honor, he's testifying for the witness.

Q I'm sorry. If you know.

THE COURT: Sustained. He can tell from the document.

A If it's using 24-hour military time, again we have a fire report that I would have filled out that would have had this as differently than what I normally look at. But it's 00:19:48 is 24 hours minutes and seconds on this CAD report, then it would 19, 19 minutes after midnight. So it's 19 after midnight.

Q Now maybe we have -- I believe we may have already addressed this. But based on your training and your experience and your opinion regarding the cause and origin of this vehicle fire, is what?

A It was an intentionally set fire.

MR. CORBETT: Thank you. That's all the questions I have.

THE COURT: Mr. Johnson.

MR. JOHNSON: Thank you, Your Honor.

Cross Examination by Mr. Johnson

Q Good afternoon.

A Good afternoon, sir.

Q Just a couple of questions for you. I have a copy of a county incident report. Will you please take a look at that. Your Honor, if I could approach.

THE COURT: Yes, sir.

Q Just to try to refresh your memory.

A Okay.

Q I want to ask you some questions about that. When you initially receive your report, do you get some of that basic information that was on that report; such as, who reported, and what you was going to?

A When we get the information from dispatch, it's typically sent to us that where we're going, and what type of fire it is.

Q But as far as who was reporting it, you didn't get that information.

A No, sir. We wouldn't told by dispatch.

Our priority is where the call is, and what type of call is it.

Q So you actually was one of the first at the scene, correct?

A I was first from the department, yes, sir, on the scene.

THE COURT: There is some behind you.

Q This has been marked, I guess, Defendant's Exhibit No. 24.

THE COURT: State's 24.

Q I'm sorry. State's 24.

A Yes, sir.

Q Would you take a look at that?

A Yes, sir.

Q Do you recognize that?

A Yes, sir.

Q What is that?

A It's a picture of the back seat area of vehicle.

MR. JOHNSON: Your Honor, if he could step down and put it on the screen.

(Whereupon, the witness steps down from the witness stand.)

Q Now is that a picture of the back of the car? I mean, that's the, could you point out what

that picture is?

A Is it the passenger compartment where people sit at. And this is the, what's left of the back seat of the back of that vehicle. And this is the driver's seat. And the passenger front seat of the vehicle.

Q Now did you examine this area after the fire was put out?

A I looked at the fire. I looked in the area for anything that would be electrical in there, anything that would possibly cause the fire to be there. I didn't see anything in that seat area whatsoever. I did not have an occupant on the scene to talk to about the fire. And what I observed when I got there, is where the fire was burning heaviest at, was the most consumptions from the fire was in that back seat area.

Q Did you find any bullet holes?

A No, sir. I wasn't looking for bullet holes.

Q Did you see any?

A No, sir.

Q On the head rest area if you could point at that here?

A Yes, sir.

Q Now that's where the head rest was, right?
A Yes, sir.
Q Now on the head rest, that's where the cover is holding?
A There's usually some type of polyurethane material and then a leather or cloth something in the area.
Q And the head rest material looks like it was just -- where the head rest is at, it looks like it was just burnt. It was not damaged at all, was it?
A There is no metals. There is no material left at all. Just metal.
Q Right. But there's no damage to the metal.
A No, sir, where there is metal I can see.
Q So in your opinion when you look at that metal, and if you look at damage such as a gunshot damage like from a shotgun, shooting somebody in the back of the head, does that appear to be damaged?
A I wasn't looking for that. I mean I---
Q I'm asking, do you see if now.
A Without having any other type of material there, cloth or anything else, I couldn't tell

you, sir.

Q As far as looking at the metal, does it appear to be damaged?

A The metal does not appear to be damaged, no, sir.

MR. JOHNSON: I have no questions.

THE COURT: Redirect?

MR. CORBETT: Nothing on redirect, Your Honor.

THE COURT: Thank you, Mr. Horton. Travel safely. Can the witness be excused?

MR. CORBETT: From the State's perspective, yes, Your Honor.

MR. JOHNSON: I have no need of him, Your Honor.

THE COURT: Thank You. Ladies and gentlemen, we are going to take an afternoon break at this time. It will be about 10 minutes. When we're ready to resume, if you're not quite ready to come back out, just let the bailiff know. There are certainly I guess, soft drinks in there, Mr. Bradley.

MR. BRADLEY: Yes, sir, Judge.

THE COURT: Water and whatever else there might be. Just help yourself. And we'll take a

10 minute break. Of course you may not discuss the to case in any way at all. Thank you.

(Whereupon, the Court Breaks.)

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

THE COURT: Mr. Corbett, is the State ready.

MR. CORBETT: The State is ready.

THE COURT: Mr. Johnson is the defense ready.

MR. JOHNSON: Defense is ready.

THE COURT: You can bring in the jury.

(Whereupon, the following takes place within the presence of the jury.)

THE COURT: Mr. Corbett.

MR. CORBETT: The State calls offer Officer Willie McFadden.

Officer Willie McFadden, being first duly sworn, testified as follows.

THE BAILIFF: Please state your full name and spell your last name for the record.

A Willie McFadden. M-C-F-A-D-D-E-N.

Direct Examination by Mr. Corbett:

Q Officer McFadden, good afternoon.

A Good afternoon, sir.

Q Now I know this is going to be an obvious question, by whom are you employed?

A At this time of the incident or?

Q Right now.

A Right now with Sumter Police Department.

Q And how long have you been with the Sumter Police Department?

A Since April of this year.

Q Now did you at one time work for the Sumter County Sheriff's Department?

A Yes, that's correct.

Q And when did you work for Sumter County Sheriff's Department?

A I started in May 2005.

Q And how long were with them?

A Until July of 2012.

Q So you were working with the sheriff's department in April of 2011.

A That is correct.

Q Now did you become involved in the case wherein Darrell Epps was murdered?

A Yes, I was.

Q First of all, tell us because you knew Darrell Epps?

A Yes, sir, I did.

Q How did you know Darrell Epps?
A At that time with my fiancee, her sister was basically dating him.
Q What is, you said at that time my fiancee.
A Yeah, April McFadden.
Q What is your current status?
A We are married.
Q So you're married to April McFadden.
A That's correct.
Q And April's sister is Krystal Skinner?
A Skinner, yes, sir.
Q And I don't want to put words in your mouth, but Krystal at that time was dating or the fiancee of Darrell.
A That is correct.
Q Now back in April of 2011, what were your duties with the sheriff's department?
A My main assignment, I was assigned to the CAD team. I was working the Cherryvale area.
Q So you're familiar with that area.
A Yes, sir.
Q Tell me how did you first become involved in this case whether officially or through family connections, how did you become aware of the circumstances?

A What I first remember is Krystal calling my wife April early that morning. And my wife actually left and went to help her look for Darrell early that morning. I thought this was just maybe he might have spend the night somewhere, or out, or whatever the situation might have been. But and then as they further couldn't get in contact with him, you know, she called me and I was coming to work that day. When I came out to work that morning, that's when I initially tried to help them locate Darrell as well, just to make sure everything was all right.

Q Now at this point and time, it was not a police investigation.

A No, sir. It was pretty much a missing person investigation.

Q Now if you would, sort of tell us how it proceeded, and what the steps accelerated to.

A I met them. I first, when I came out, I met them in Lynchburg at a, I think the name of the place was T-Bubba's lounge off of the Lynch's River Road. Highway 53, if I am mistaken. I went out there and talked to his cousin. And then initially stated that, I guess, he's was supposed to be going to a club.

MR. JOHNSON: Your Honor.

THE COURT: Wait just a second.

MR. JOHNSON: Objection, that's hearsay.

THE COURT: Well I guess it all depends on what the answer is. Of course, We don't know that. Mr. Corbett, if you could streamline it. If it's something you feel necessary to get in that you feel isn't hearsay or there is an exception, you can -- we can take it up separately.

Q Very well. Let's do it this way. Let me stop you there and ask another question. So you and some family members were going out in the Sumter area looking for him.

A That's correct.

Q Now at some point you went to, do I call it Lynchburg or Shiloh area?

A It's known as both, Lynchburg/Shiloh.

Q Now you talked with some individuals there.

A Yes, sir.

Q What did you do next?

A I got the description of the vehicle that he was driving. And that's when I called dispatch to see if that if that was as vehicle that maybe

towed or something like that. And they did confirm that a vehicle was towed that was burnt last night matching that description.

Q So at this point, you have called in to dispatch.

A Yes, sir.

Q And---

A They give me the location.

Q I just want to make -- at this point, you did not know the vehicle was burned.

A No, sir.

Q So you called dispatch. And you were asking them if they had any tow reports or other information about this particular white SUV.

A Yes, sir.

Q And then what information did you receive?

A I received information from my dispatch that a vehicle fitting that description was burnt on South Lake Cherryvale Drive. South Lake or North Lake. I couldn't remember exactly which one. But it's right there in the middle of the curve.

Q Now after receiving that information, what did you do?

A I went to that burnt sight. The burn

scene where the vehicle was at on the North Lake Cherryvale Drive. And tried to see if there was anything out. Any evidence that we can see that or maybe other than him being missing.

Q Now you went to that location. Did you find anything relevant at that location?

A There was a black tee shirt there. Whether it was his or somebody else's, I don't know.

Q And what did you do from that location -- where did you go from there?

A I actually stayed there and looking, the shift, some of the people from shift came out and helped us look through the area. And make sure there wasn't nobody in the area. Then we had a K-9 officer out there. And Lieutenant Rick Nelson was also on the scene.

Q Now at some point and time, did you see the vehicle?

A I -- yes, sir. I went to Kenny's towing.

Q So the vehicle was not at the location on Cherryvale at that point and time.

A Oh, no, sir. No, sir. It's already been towed. And we did go out there, Krystal and April and other family members was out there, and they

were able to verify that that was the truck that he was in, to Ken & Sons Towing.

Q Ken & Son's Towing is where the vehicle was.

A Yes, sir.

Q I just want sure I am tracking correct. Sometime that morning or midday, I'm sorry, sometime -- about what time did you become aware of this?

A I have to be honest with you, I don't recall exactly what time it was.

Q But your initial steps were, you were looking for Darrell.

A Uh-huh. (Affirmative.)

Q Called dispatch. Discovered a vehicle matching the description had been burned.

A Yes, sir.

Q Now did you -- I'm sorry, did you go to Ken & Son's first?

A I went there first. Ken & Son's Towing first, and then to the burn site. I just wanted to make sure that was the vehicle that he was in before I went out there.

Q Okay. So we've gone to Ken & Son's to see the vehicle. Now we're at North Lake Cherryvale.

A Yes, sir.
Q What do you do next?
A I stayed at the burn site while they looked for a possible, you know, body.
Q Ultimately where did you go from that location?
A I then go to Gem Mobile Home Park after everything was taken care of there. I went there to assist with the scene, and also verify Darrell Epps.
Q Now I am going to show you what already has been admitted as State's Exhibits No. 19 through, I believe 24. Excuse me, 19 through 23.
A Yes, sir.
Q And ask if you can identify those.
A This is the scene from the Gem Mobile Home Park.
Q Now in those pictures are you able to see where the body of Mr. Epps was found?
A Yes, sir.
Q Was that the position of the body when you arrived?
A Yes, sir.
Q Did it fall to you to identify Mr. Epps?
A Yes, sir.

Q So you were the one that identified the body?

A Yes, sir. I told them who it was.

Q Now I am going to show you this document, and ask if that looks familiar.

A Yes, sir. This is a Crime Scene form with Sumter County Sheriff's Office.

Q Does your name appear on that document?

A Yes, it is.

Q In terms of that document, does that give you some indication of about what time you arrived at Gem?

A Yes, sir.

Q When was that?

A It says 15:30. That is 3:30 p.m. in the afternoon.

Q Now this is going to sound like a technical question but I have to ask you this.

A Yes, sir.

Q In terms of where Mr. Epps' body was found, you've referred to as Gem Mobile Home Park.

A Yes, sir.

Q Is that located in Sumter County?

A Yes, it is.

Q Can you give us kind of a brief

description of where Gem is located?

A As you, just before on , , on the left hand side.

Q Now let me show you this. This has been marked for identification as State's Exhibit No. 10, and ask if you can identify that.

A Yes, sir.

Q What is that item?

A This is the hat that I collected in front of a vacant business in the roadway. In the front of American Mobile Home Park on Broad Street.

MR. CORBETT: Your Honor, at this time, we would move State's No. 10 into evidence.

MR. JOHNSON: Your Honor, I object.

THE COURT: Basis?

MR. JOHNSON: It has not been identified as having any relationship in this case.

THE COURT: We will talk about that later. But it's been offered, so I will consider that at next break, Mr. Corbett.

MR. CORBETT: Yes, sir.

(Baseball hat marked State's Exhibit No. 10 for Id. only.)

THE COURT: The witness testified that he

retrieved from the street in front of American Mobile Home Park.

MR. CORBETT: That is correct, Judge. Highway 378.

Q In terms of recovering the hat, were you directed to that location?

A Yes, sir. I don't recall who directed me that way at all.

Q But you were advised that the hat was in that area?

A Yes, sir. It was a hat over there. Yes, sir.

Q Let me show you this document, and ask if you identify that.

A This is the Sumter County Sheriff's Office evidence, Chain of Custody.

Q And which piece of evidence is referred to on that form?

A It's a red baseball hat with the white letter with a C on the front.

Q Does that form, is it in reference to this item?

A Yes, it is.

Q And what other information is contained on that form?

A It has the name, Darrell Epps. Received from in the roadway in front of a vacant building, 4362 Broad Street in Sumter, South Carolina. It has the address information of Darrell Epps. Offense. Case number. Date and time received, and the officer's name and computer number.

Q Okay.

A And also who took it. Who took this Chain of Custody. The other officer had took it into custody and put into evidence.

Q Is it your name that's on the form?

A Yes, it is.

Q And does it indicate what date you recovered it?

A Yes, it does.

Q And what is that?

A It says April 10th 2011 at 16:15.

MR. CORBETT: Your Honor, we would offer this as State's Exhibit, I believe we're up to 27, Judge.

THE COURT: So what he has identified as the chain of custody form?

MR. CORBETT: That's correct.

THE COURT: Any objection, Mr. Johnson?

MR. JOHNSON: I have no objection.

THE COURT: That's in.

(Chain of Custody marked State's Exhibit No. 27 into evidence.)

THE COURT: The only item is the hat on that form. Is that what the witness said?

MR. CORBETT: That is correct, Judge.

MR. JOHNSON: Your Honor, just for clarification, I have no objection to the Chain of Custody coming in, if that exists. But I still hold my objection to the hat. I would like to address the court about that.

THE COURT: We will do that in just a minute.

MR. JOHNSON: Thank you.

MR. CORBETT: Mr. McFadden, thank you very much. please answer any questions Mr. Johnson has.

THE COURT: Mr. Johnson.

Cross Examination by Mr. Johnson:

Q Just a couple of quick questions. The Chain of Custody form, that's just a standard form you fill out when you collect any type of material, correct?

A In tact evidence, yes, sir.

Q And the evidence and the information that

you put on top of the form, you collected evidence in relationship to that case, but that doesn't mean that that evidence is connected to that case, is that correct?

A What do you mean? Say that one more time.

Q You collected this evidence as you was working on this particular case.

A Correct.

Q But you have no evidence that that evidence is actually connected to the case, do you?

A That's where I collected it for, the evidence for this case.

Q Right. But you have no evidence that -- you just picked this up while you was investigating this case.

A Yes, sir.

Q And you have and so what I am saying is that, you have no have Other knowledge about this hat except that you collected this hat in relationship to this case.

A Yes, sir. That is correct.

MR. JOHNSON: I no other questions.

THE COURT: Redirect?

Redirect Examination by Mr. Corbett:

Q But your collection of that piece of evidence was information provided by someone else.

A Yes, sir.

THE COURT: Anything else, Mr. Johnson?

Recross Examination by Mr. Johnson:

Q But you don't know who gave you that information for picking up the hat.

A No, sir. I don't recall.

THE COURT: Anything else?

MR. CORBETT: No, sir, Your Honor.

THE COURT: Thank you, sir. You can step down. Can I see the lawyers for just a minute?

(Whereupon, the attorneys approach and confer with judge.)

THE COURT: Ladies and gentlemen, for reasons that are my fault, we are going to stop early today. And I apologize for that. So we're going to break now for the day. We'll get back tomorrow at 9:30. So you know what I am going to tell you next between now and then. Don't read anything about this case. Don't watch anything about it, listen to anything about it. Don't gather any information about it at all. Don't blog, tweet, facebook, whatever else you might do or whatever else can be done. You can't

communicate or receive communications about this case with anyone in the world.

In addition to that, if someone does discuss this case in your presence, even very casually, please remove yourself from that situation. And please report that to your foreperson so she can let a bailiff know. We'll begin tomorrow morning at 9:30. Thank you for you patience today. You can leave your notepads in your chairs.

(Whereupon at 3:13 p.m. jury is dismissed.)

THE COURT: Mr. Johnson, your objection to the hat is what?

MR. JOHNSON: The State has any given any evidence that that hat is connected to this case. When they first presented this hat to the fiancee, she stated that it appears to be the cap.

THE COURT: What is this. It was in the hat.

MR. JOHNSON: It looks like something that was found in the bushes, Your Honor, that was connected with the cap.

THE COURT: And, you know, obviously if there is, let's say it was a bloody shirt or a tee

shirt, you have objections, periodically to the the chain of custody not being completed with the person to whom Mr. McFadden gave it. It's put in the evidence locker. Mr. Bean or Mr. Atkinson, not Mr. Bean but Mr. Atkinson gets it out and brings it to court. That's not the objection you have. You Just an objection saying this isn't connected to the case.

MR. JOHNSON: Correct. The State has not presented any evidence connecting that hat. They cannot have somebody says that seems similar to the cap. They have to be positively identified.

THE COURT: Well Ms. Skinner said---

MR. JOHNSON: It appears to be.

THE COURT: Well I wrote down what she said. Let me see. 4:11 yesterday afternoon, No. 10 for Id. is a Cincinnati Red's hat she said Darrell was wearing. It looked like it.

MR. JOHNSON: Looked like it. There is other evidence in this case, Your Honor, related to this, that the State has not presented yet.

THE COURT: Say again.

MR. JOHNSON: There is other evidence that the State has given me in this case that describes the hat.

THE COURT: They haven't given it to you?

MR. JOHNSON: No, they have given it.

THE COURT: What is that evidence?

MR. JOHNSON: That's the evidence from Suzie Oaks, but they haven't put her up yet.

THE COURT: Was she there when he had the hat on?

MR. JOHNSON: No, that's part of her confession.

THE COURT: Given by your client, as to what Ms. Oaks says.

MR. JOHNSON: That's a part of a confession given by my client. That they stated my client gave. And in that confession, Suzie Oaks said my client said it was a Nike cap.

THE COURT: But what we have now is, we have Ms. Skinner saying that it was -- it looks like the hat he had on.

MR. JOHNSON: That is correct, Your Honor. And that's my point. She could not possibly have identified that cap.

THE COURT: She doesn't have to positively identify it. She said it looked like the hat he had on. It was found on the road between American Mobile Home Park and Tony's Guns. How far is that

from where the body was found?

MR. JOHNSON: It's approximately maybe a half a mile, Your Honor.

THE COURT: So the mobile home parks are close together. Gem and American, are they close together?

MR. JOHNSON: Yes.

THE COURT: So you don't dispute, do you dispute that he had a hat on at all? If it was found right next to his body, would you have a problem?

MR. JOHNSON: I would not. But it was not found next to his body. There is no evidence that he had a cap on. That cap, there is no DNA on that cap. There is no hair found on that cap. There is no blood on that cap. And the victim in this case had, he was shot in the head with a shotgun.

THE COURT: But that doesn't mean he had the hat on. You know, I frankly don't see what the big deal is about the hat. Because what we know is a few things. We know that Mr. Epps was in that area. We know he was, because he was found dead there.

MR. JOHNSON: I have no disagreement with

that. But one of the issues in this whole case, Your Honor, but the State is alleging that my client's alleged confession, there is certain evidence, there is certain things said in the confession that is so unique to this case. A red hat that the confession had to be given by my client, because only somebody that was there would have known about it. And by the State is attempting to get that in, and show a red cap, showing this supposedly confession that Ms. Suzie Oaks has given is true.

THE COURT: Well and of course I am not going to -- I mean this is not my business really, but it seems like to me you would want this hat in, if this supposed confession talks about a different kind of hat.

MR. JOHNSON: I understand that, Your Honor. But at some point, I don't know if the State is going to put Ms. Oaks up. I have to deal with me at the present time. And what is before me at the present time is that hat, the State has not presented evidence as far as far saying that hat actually belonged to Mr. Epps. If the State would come in here, they could another red cap in to say that this appears to be that. And then you

put it in.

THE COURT: A better question might be this. Mr. Corbett, what is this relevant to? What does it -- what fact in issue does it tend to prove or disprove, This hat?

MR. CORBETT: Yes, sir. The State will allege through the witness, Suzie Oaks Thomas, that London Kelley said to her, that after killing the victim, or I'm sorry, let me rephrase that. After shooting the victim, that they were driving back down the road.

THE COURT: With him in the car?

MR. CORBETT: That part -- that portion of it, I can't say with certainty. But it does say that the hat, a red and I believe it is referred to as a red Nike hat, blew out the window.

THE COURT: Where?

MR. CORBETT: Judge, I'm sorry, I Don't know. I don't think she specified an exact location. I think it was more said something along the lines, on the way back or something of that.

THE COURT: Well maybe I'll wait until then to decide. If she says Nike, or whatever she -- I assume she gave a written statement.

MR. CORBETT: That is correct.

THE COURT: I will make my decision then. Now while we're on the subject of Ms. Thomas, she will be here tomorrow?

INVESTIGATOR THOMAS: Yes, Your Honor.

THE COURT: I'm the one, she is in prison because I sent her there. I think everybody understands that.

MR. CORBETT: It was either Your Honor or Judge Cothran. It may have been both.

THE COURT: I think I gave her two consecutive 5-year terms. But in any event, do both sides agree that the fact that I sentenced her is not to be discussed in front of the jury. Everybody agree with that?

MR. JOHNSON: Your Honor, I would have no problem in agreeing to mention your name.

THE COURT: No, if she's impeached, she will impeached with her criminal record. It's irrelevant for impeachment purposes who sentenced her.

MR. JOHNSON: But then that is correct, Your Honor. I don't have a problem with that. My question is, if she comes in here and I ask her, have you lied in court before, and she says no, I

can point out issues where she did.

THE COURT: To me?

MR. JOHNSON: Well I wouldn't mention your name, but yes, to you.

THE COURT: And that was after I sentenced her? Or I guess I -- did I reserve -- I may have reserved sentencing, and she didn't show back up.

MR. JOHNSON: Correct, and she said she would be back. So I can ask her about that incident. If she comes, I can ask her if she is lying.

THE COURT: Well I can't remember the order. So if the fact that she lied in court becomes an issue, it doesn't necessarily have to be that she lied to me.

MR. JOHNSON: On, but no, Your Honor. I would not mention your name.

THE COURT: I am trying to remove myself from the jury thinking I feel one way about testimony, because I was involved in her illegal activities on the judicial side.

MR. JOHNSON: I will not be the one to mention your name, Your Honor.

THE COURT: So if somebody feels like that is necessary, I just don't think that any

involvement that I may have had in her criminal convictions, is necessarily relevant. If you all want to tell me otherwise, that's fine. But I don't want the jury to be thinking that I'm also questioning her credibility.

MR. JOHNSON: Your Honor, to me the only way that your name would ever come in this case, if she's not honest.

THE COURT: Well I don't know whether I would---

MR. JOHNSON: That's up to her, Your Honor.

THE COURT: I don't whether I would put it that way. But perhaps you all can give me, I remember it very well. I remember her numerous charges. I remember her daughter. I remember her telling me she was going to come back to court on the day after Labor Day of 2012 maybe, and she didn't come. And I remember that she was located. And I thought, I can't remember the order of when I sentenced her. I do remember I wasn't very happy about it. I don't know whether I held her in contempt or not. But if my involvement in it is going to become an issue, I would like for you all to alert me to that beforehand, so that I can

deal with it first outside the presence of the jury.

MR. JOHNSON: I don't believe that if your name will come up, Your Honor. But If I see that it would, I would definitely say something to the court before.

THE COURT: Now, Mr. Corbett, was there another exhibit that I have not yet ruled on? The photo, I just want to make sure that as you go through this, that you don't have a mistaken notion that something is in, and it's not. I guess you all can with Melissa and see. The hat is still for identification.

MR. CORBETT: Right. And there's still a number of photos that are for identification.

THE COURT: As long as you have got a good handle on that, we can cross those bridges as you need to.

Mr. CORBETT: And, Your Honor, was reserving ruling on one of the statements.

THE COURT: And I have got my notes on that. And because of the way Ms. Witherspoon put it to the jury about what she thinks was done with her written statement the -- Ms. Thomas can be recalled as a 16(13)(b) witness. And if those

blocks are laid properly, I would be inclined to let in the actual 2 pages of the statement. Because it's not only the fact of whether or not she said it, but it what it actually physically looked like on the paper. And there was another statement too.

MR. CORBETT: That's correct, Judge. That would be statement of Krystal Skinner.

THE COURT: And I will deal with that in the morning too. Anything else? Shemaka and Ms. Thomas may testify tomorrow?

MR. CORBETT: That's correct, Judge. We're still working on spacing everyone. We also have Dr. Ross scheduled tomorrow as well.

THE COURT: At 2 o'clock.

MR. CORBETT: That's correct. One of our crime scene guys whose no longer with Sumter County, we've got him scheduled in the morning.

THE COURT: Mr. Bean?

MR. CORBETT: No, sir, that would be Mr. Richardson.

THE COURT: That's right, he's in Lexington. So we'll be prepared to go promptly at 9:30.

MR. CORBETT: Yes, sir, Your Honor.

THE COURT: Mr. Johnson, anything before we stop?

MR. JOHNSON: I can't think of anything, Your Honor.

THE COURT: Ms. Kelley, will you stand again, please. You've already told me yesterday you were going to tell me the truth. You are still under oath. You understand that if you're not back here tomorrow by 9:15, somebody will come after you with a warrant. Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: And also if you're not here while they're out looking for you, we're going to go on in their absence. Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: Do you have any questions about that?

THE DEFENDANT: No, sir.

THE COURT: Okay. And in addition to that, you're still forbidden from having any contact with any past or future prospective witnesses, do you that?

THE DEFENDANT: Yes, sir.

THE COURT: And do not ask anyone to talk to any of these witnesses for you. That would be

case whether you were in jail or out of jail. Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: Mr. Johnson knows how to do it in accordance with the rules that we have, but you're not permitted to do it on your own. Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: And if there is any question about that, y'all be examined accordingly. Of course taking into conjunction all of your 5th Amendment Rights. Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: Anything else, Mr. Johnson?

MR. JOHNSON: Nothing else Your Honor.

THE COURT: I'll see you all at 9:15. Thank you.

(Whereupon, the trial commences on Wednesday, October 29, 2014, at 9:15 a.m.)

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

(Photographs marked 28 through 38 for Id. only.)

THE COURT: Mr. Corbett, have you shown Mr. Johnson the ones you had marked.

MR. CORBETT: I did remove several from the stack.

THE COURT: Show them the ones or you seek to introduce.

MR. JOHNSON: Your Honor, in looking at these, I have no objection to them.

THE COURT: To any of them? Now there is one fairly graphic one. You saw it.

MR. JOHNSON: Yes, sir.

THE COURT: That will resolve that issue. Is the State ready to go?

MR. CORBETT: The State is ready to go, Your Honor.

THE COURT: Is the defendant ready?

MR. JOHNSON: The defendant is ready, Your Honor.

(Whereupon, the following takes place within the presence of the jury.)

THE COURT: Good morning, Ladies and gentlemen we're ready to continue. The State can call its next witness.

MR. CORBETT: Thank you, Your Honor. The State would call Bobby Richardson.

Robert W. Richardson, Being first duly sworn, testified as follows:

THE BAILIFF: Please state your full name and spell your last name for the record.

A Robert W. Richardson. R-I-C-H-A-R-D-S-O-N.

Direct Examination by Mr. Corbett:

Q Mr. Richardson, good morning.

A Good morning.

Q You traveled down from Lexington County for us this morning?

A Yes, sir.

Q Now I am going to ask you back in 2011, by whom were you employed?

A By the Sumter County Sheriff's Office.

Q How long were with the Sumter County Sheriff's office?

A Off and on about 27 years.

Q Back in 2011, specifically April of 2011, what were your duties with the Sumter County Sheriff's Office?

A I was a crime scene investigator.

Q Now I am going to show you what's previously marked for identification as State's 28 through 38. Now back at that time period, April 10th of 2011, were you called to the scene where a body was found?

A Yes, sir, I was.

Q Do you remember the location?

A Yes, sir, it was also known as Gem's Mobile Home Park.

Q If you would please, take a moment to look through those pictures and let me ask if you identify those.

A Yes, sir. These are photographs that I took that day.

Q I am sorry, I got a little bit ahead of us. I am going to show you some photographs that have already been marked. This is Sate's No. 21. Excuse me. 20 and 21. That's 19. Also 22 and 23. Would you take a look at those for me as well?

MR. JOHNSON: Your Honor, excuse me.

THE COURT: Sir?

MR. JOHNSON: I'm sorry. They've got to use that one.

THE COURT: They've got to use that and they're not -- those are already in. You can come up here and watch what he is looking at.

MR. JOHNSON: That's fine.

A Yes, sir. These also photographs that I take that day.

Q Now when you, back when you responded, what were you duties with the sheriff's department?

A I was a crime scene investigator.

Q And would you have been the person that placed the yellow markers?

A Yes, sir, I would have.

Q Now I'm going -- the pictures that have already been entered, from those pictures, does that reflect the position of the body when you arrived?

A Yes, sir, it does.

Q So at this point, you had not moved the body or anything.

A No, sir.

Q Now I am going to show you what's been marked, or is in evidence State's Exhibit No. 21. And that appears to show two mobile homes and the body between them?

A Yes, sir, that's correct.

Q Now I'm going to show you what's been marked as State's Exhibit No. 28. Well let me do this. State's 28 is that a close up of what we also see in State's Exhibit No. 21?

A Yes, sir, it is.

MR. CORBETT: Your Honor, we would offer State's 28 into evidence.

MR. JOHNSON: No Objection, Your Honor.

THE COURT: 28 is in.

(Photograph marked State's Exhibit No. 28 into evidence.)

Q And I am going to show what's previously been marked for identification as State's 29 and State's 30. And does that show the position of the body when you first found it?

A Yes, sir, it does.

Q By Mr. Corbett)Your Honor, we would offer into evidence State's Exhibit 29 and State's No. 30?

MR. JOHNSON: No objection, Your Honor.

(Photographs marked State's Exhibit Nos. 29 and 30.)

Q Now, Mr. Richardson, when you arrived on the scene, it appears in this picture that you have already placed a couple of identifier markers, is that correct?

A That is correct.

Q And that's the condition of the body when you found it?

A Yes, sir, it is.

Q And is that a similar view?

A Yes, sir, it is just from the different angle.

Q I am going to show you what's been marked for identification as State's Exhibit No. 31, State's 37 and State's 38. If you can tell us what we're looking at there in those pictures.

A Yes, sir. These are photographs that I took of a body, parts of the body.

Q And what does it appear to be in those photographs?

A It's actually parts of the skull.

Q By Mr. Corbett) Your Honor, at this time we would offer State's 31, State's 37, State's 38 into evidence.

MR. JOHNSON: No, objection, Your Honor.

BY THE COURT: Those are in.

(Photographs marked State's Exhibit Nos. 31, 37 and 38 into evidence.)

Q Investigator Richardson, what are we looking at here in this picture?

A That is a part of the skull along with my marker No. 4, which is part of my process in marking evidence.

Q And what are we looking at here?

A That is another piece of the skull with

another evidence marker, indicating Marker No. 3.

Q And is this one of same pictures prior to placing the marker?

A Yes, sir, it is.

Q And for just a moment, and I'm sorry I neglected to include No. 36, which I believe falls into that same series.

A Yes, sir. It's also part of the skull with Maker No. 2.

THE COURT: Has that been offered?

MR. CORBETT: We would offer 36 into evidence.

MR. JOHNSON: No objection, Your Honor.

THE COURT: Okay.

(Photograph marked State's Exhibit No. 36 into evidence.)

Q And you've indicated that was another piece of what appeared to be skull bone?

A Yes, sir, it is.

Q Now, Investigator Richardson, just for context, I am going to put up what has already been admitted State's Exhibit No. 23. Now is this a wider shot referencing the markers you were just referring to?

A Yes, sir, it is. It's the body with the

different markers indicating where the parts of the skull were located.

Q Now I am going to show what's been marked as State's Exhibit No. 32, and ask if you can identify that.

A Yes, sir. This is a photograph of the body after we turned him over.

Q Now at this point, you have actually physically altered the stance of the body.

A That is correct. We physically turned the body over.

MR. JOHNSON: Your Honor, I would like to object to this picture.

THE COURT: Okay. If you would please, Ladies and gentlemen, step out of the courtroom. Go to your jury room. You may not discuss the case.

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

THE COURT: You can continue with your questions. Well let me, I thought that I understood that you didn't have 403 objections to 28 through 38. Maybe that was the one that you didn't catch. That was in those ones that before the jury came in, you said you didn't have any

prejudice objections to.

MR. JOHNSON: Well, Your Honor, that was before, I wasn't aware that he had turned the body over.

THE COURT: What is your objection to it?

MR. JOHNSON: My objection is, that's the body altered from the original scene. And what is the purpose of showing it then.

THE COURT: Go ahead and ask him those questions, Mr. Corbett, and we will see where we are on that point. And we're talking about 32, is that right?

MR. CORBETT: That is correct, Your Honor.

MR. JOHNSON: That's correct, Your Honor.

Q I'm referring to State's No 32. And, Judge, for comparison purposes I am going to place State's No. 30 in front of the witness. No. 30 reflects how the body was found, is that correct?

A That is correct.

Q And that's more or less in a face down position?

A That's correct, face down.

Q Now in State's for identification No. 32, at that point, the body was turned over, is that correct?

A That is correct.

Q And what is the purpose of turning the body over to show that picture?

A To show the extent of the injuries to the body. And explain where these other parts actually came from that we found.

THE COURT: Anything else at this stage?

MR. CORBETT: Not at this stage, Your Honor.

THE COURT: Mr. Johnson, do you have any questions of the witness that you would like to ask him that would help us out on your objection?

Cross examination by Mr. Johnson:

Q Were you directed to turn the body over, or you just turned it over.

A As a standard practice, we investigate the crime scene.

Q But so it served no particular purpose, just standard what you do everytime.

A No, sir. We were trying to determine where these extra body parts that we were finding, the parts of the skull actually came from.

MR. JOHNSON: I have no other questions, Your Honor.

THE COURT: Any follow up, Mr. Corbett?

MR. CORBETT: Judge, also with regard to that, Investigator Richardson, in looking at what's been marked for identification as State's 33, 34 and 35. If you'll take a look at those for a moment. Now do those photographs reflect what appear to gunshot wounds to the torso of the victim?

A Yes, sir, they do.

Q So as part of your normal practice, you would turn the body over and photograph any visible injuries.

A That's correct.

MR. CORBETT: I believe, that's all that I have, Your Honor.

THE COURT: Mr. Johnson, any questions?

MR. JOHNSON: I have no questions. I have no objections to those three.

THE COURT: But how about, you still have an objection to 32?

MR. JOHNSON: I still have an objection to 32.

THE COURT: And that is based on the fact that the body was moved or turned over?

MR. JOHNSON: That is correct, Your Honor. And it serves no purpose other than I guess to

inflame the jury is my.

THE COURT: Well if you've got a 403 objection, which is probative values being substantially outweighed by the danger of unfair prejudice, I thought that's what you said you didn't have.

MR. JOHNSON: As I say, Your Honor, I have no objection to the body being in -- I have no problem to the pictures of the body being in the normal state how it was found.

THE COURT: Let me ask you, I guess a better way to ask it might be this. If the gentleman had been found face up and a photograph taken, No. 32 had been taken as, and he been found exactly in that way, would you have an objection?

MR. JOHNSON: No, I wouldn't. My objection is that the body was moved. It was not in the actual spot. And that's the only reason they are taking it face up. I guess it would be a 403 objection, Your Honor. I just wasn't aware that it was moved at that time.

THE COURT: Mr. Corbett, to the extent he's raised a 403 objection, what does that show? What fact will it prove?

MR. CORBETT: Judge, it shows the extent

of the injury. It also tends to support the fact that it was an intentional act. And it was an intentional act with malice.

THE COURT: Is the pathologist going to testify about the direction from which the shotgun blast was fired?

MR. CORBETT: It's my understanding that she will.

THE COURT: And what's her testimony going to be? That it was from behind, the side, the front, or what?

MR. CORBETT: Judge, my understanding is that she will testify that the shotgun blast was from the back of the head forward.

THE COURT: And I guess I'll need a little help on that. How does that fit in a particular theory that you have, and what you're trying to establish? Obviously we know if he didn't die from one of the other, I think somebody said, 6 or 7 gunshots, he likely would have died obviously from that picture, from the shotgun. But does she have an opinion as to which wound caused his death?

MR. CORBETT: Judge, it is my understanding of the autopsy report, that there

were three fatal wounds. That any of one of the three would have been fatal.

THE COURT: And how many guns are you all, do you think were used? In other words, what's the evidence going to establish on that?

MR. CORBETT: Judge, I believe there were two.

MR. JOHNSON: At least 2, possible 3.

THE COURT: What were the calibers of the other two?

MR. CORBETT: Judge, what I am aware of is, that the rounds to the body were most consistent with a 380 auto.

MR. JOHNSON: And there is also some indication of a 3 -- there were indications of other rounds, Your Honor, found that could have cane from a 9 millimeter, but they wasn't conclusive. They could have been shot out of the 380.

THE COURT: Okay.

MR. JOHNSON: But it was stated that it was at least two guns.

THE COURT: Of course, the Supreme Court as kind of a warning to the bench and to prosecutors about photographs. It says

photographs calculated to arouse the sympathy or prejudice of the jury, should be excluded if they are irrelevant or not necessary to substantiate material facts or conditions. Of course, everybody knows what 403 says. Relevant evidence may be excluded if it's probative value is substantially outweighed by the danger of unfair prejudice.

Of course, there are other factors. But in this case, it be unfair prejudice. And to be classified as unfairly prejudicial, photographs must have a tendency to suggest a decision on an improper basis which is commonly though not necessarily, an emotional one. I am little bit confused right now about what Mr. Johnson's objection is. You do have a 403 objection.

MR. JOHNSON: Yes, I do, Your Honor.

THE COURT: Of course, Torres dealt with autopsy photographs. The Supreme Court said and affirmed the admission of the autopsy photographs in that case. And it said we take this opportunity to address in an area of growing concern. The photographs while admissible, are at the outer limits of what our law permits a jury to consider. We strongly encourage all solicitors to

refrain from pushing the envelope on admissibility in order to gain a victory, which is in all likelihood was already assured because of other substantial evidence. Of course at least at this stage we certainly don't have that. Does this tend to support anything that any other witness is going to say about this defendant's involvement?

I think you're entitled to get in a photo showing a shotgun wound. What I'm struggling with is whether this is the one. Because it is extremely graphic.

MR. CORBETT: Judge, a couple of points. Obviously, it's not an autopsy. It is a photo from the scene where the body was recovered.

THE COURT: I understand that.

MR. CORBETT: Second of all, of the other pictures, we voluntarily removed pictures that we thought were more graphic than that.

THE COURT: Can I see those?

MR. CORBETT: Yes, sir.

THE COURT: I guess what the Supreme Court is saying, well I don't guess, I know what the Supreme Court is saying; is that, there's really no reason to come back. If she's convicted, there is no reason to come back a second time and try

this case, because this photograph really didn't matter in the scheme of things. I agree with you the ones that you have handed me, except for that.

MR. CORBETT: I believe that was a duplicative.

THE COURT: I agree with you, the ones you've handed me are doubly worse. If worse is the right term or doubly graphic, let's put it that way. And there are no other photographs perhaps from a greater distance or more of a few feet way showing the wound?

MR. CORBETT: Judge, unfortunately, they're either a considerable distance, or they're, that is the nearest to, I think we would say, in between that I am aware.

THE COURT: And you want to put these in to prove what again?

MR. CORBETT: Judge, I think it shows intentionality and it shows malice. It also provides some context for the witness' testimony about the bones around the body.

THE COURT: Now you're offered it. Are other witnesses going to testify about it? About that picture?

MR. CORBETT: Judge, I had not

specifically gone to this point yet. But Investigator Mays was also present on the crime scene that day. And his testimony may touch on the photographs as well.

THE COURT: Anything else, Mr. Johnson?

MR. JOHNSON: I have nothing else, Your Honor.

MR. CORBETT: And, Judge, and I'm sorry. And I should have said obviously, if I ask the pathologist if the photograph was consistent with the wounds that she observed.

THE COURT: That's the kind of thing I'm looking for. If the pathologist is going to give testimony and look at that photograph and say this is consistent with my opinion, that he would have died from the shotgun blast, and that came from behind him, that's more along the lines of what it would be permitted to prove. So I'm going to hold my ruling in abeyance on that. And if you can link that up, I will likely let the photo in. But and again, we know what the warning is.

There's a recent case out of an upstate county, where the defendant was accused of letting his pit bulls run amuck, and the child was mauled beyond recognition. Those photos were allowed in,

in spite of that excerpt I read from State vs. Torres. It's lent itself to little bit of confusion about what we're supposed to do. So Mr. Johnson your objection has been stated. I am not going to allow it in for the jury at this stage. But at the appropriate time that the pathologist, I think It would be perhaps wise to review these points again.

MR. CORBETT: Very well. And, Judge, to that note so Mr. Johnson won't be surprised, again, this is a very graphic, but there was a substantial amount of brain matter. You saw it in one of the other photographs we did not offer.

THE COURT: Right.

MR. CORBETT: That was also delivered to the pathologist. As of right now, that's not an issue. But that could be referenced in the pathologist testimony.

THE COURT: So the record will be preserved, the next break, would you please mark the ones you did seek to introduce, which are closer up and are doubly graphic in my view.

MR. CORBETT: Yes, sir.

THE COURT: So at least some other court at some other time will see what you had choose

from.

THE COURT: Okay. I note, anybody need to take a break.

THE COURT: So right at least 32 is for ID only. And you can continue with your examination once the jury comes in. I think you can bring them in. And the dog case was State vs. Collins just so the record will be clear.

(Whereupon, the following takes place within the presence of the jury.)

THE COURT: Mr. Corbett, you can continue. I think the witness has the photographs that you are dealing with right now.

MR. CORBETT: Yes, sir, Your Honor.

Direct Examination continues by Mr. Corbett.

Q Mr. Richardson, I am going to show you what's been marked or identification as State's No. 32, just for identification at the moment. Now that picture was taken after you turned the body over?

A That is correct.

Q And the injuries observed, were consistent with the other evidence you found around the body?

A That is correct, yes.

Q The bone fragments.
A The bone fragments.
Q Now I am going to ask you to look at State's 33, 34 and 35.
A Yes, sir. These are photographs that I took of the injuries to the lower chest area of the body after it was turned over.
Q And what do those appear to be?
A They appear to be gunshot wounds.
THE COURT: What number are those?
MR. CORBETT: Yes, sir, Judge. These are 34. Excuse me, 33, 34 and 35. We would offer these into evidence.
THE COURT: Mr. Johnson.
MR. JOHNSON: I have no objection, Your Honor.
THE COURT: Those are in.
(Photographs marked State's Exhibit Nos. 33, 34, and 35 into evidence.)
Q Investigator Richardson, we are looking at State's Exhibit No. 33. And does that appear to show a gunshot wound to the decedent's---
A Yes, sir.
Q ---torso?
A Yes, sir, It does.

Q And what are we looking at here? And this is State's No. 34.

A That's also a gunshot wound.

Q And 35?

A Another gunshot wound to the body.

Q Now, Investigator Richardson, through your photographs, we have observed some of your evidence markers and the photographs that you took at the scene. At that point and time, you as a crime scene investigator, did that conclude your work on the case?

A No, sir. Once we leave the scene, additional work goes into it.

Q But at that point in terms of being out there that day, was that your primary responsibility?

A Yes, sir, it was.

Q Were you present when the body was removed from the scene?

A Yes, sir.

Q By Mr. Corbett) Your Honor, just one moment please. Thank you, Mr. Richardson. Please answer any questions Mr. Johnson has.

CROSS EXAMINATION by Mr. Johnson:

Q Good morning.

A Good morning.

Q I just have a few questions for you. You took, you're a crime scene investigator, is that correct?

A That's correct.

Q So you're able to take pictures, but you're also able to make determinations about certain things, or make certain assessments after looking at certain facts at the scene, is that correct?

A We go by what the evidence shows.

Q Right. From the evidence that this shows, as far as the gunshot to the head, does it indicate that a person was shot there?

MR. CORBETT: Your Honor, can we approach?

THE COURT: Yes, sir.

MR. CORBETT: I am going to interpose an objection.

THE COURT: Okay.

(Whereupon, attorneys approach and confer with judge.)

THE COURT: Mr. Corbett, your objection as to the lack of foundation.

MR. CORBETT: That is correct, Your Honor.

THE COURT: Overruled.

Q Based on your experience and what you personally saw at the scene, and as well as, you took pictures of brain matter, I guess, in different locations around the body, correct?

A That's correct.

Q And that's why you took the pictures and stuff, correct?

A Yes, sir.

Q Now that would indicate -- well what would that indicate to you, as far as, that particular gunshot to the head?

A The shotgun blast occurred at that location.

Q At that location.

A Yes, sir.

Q Not in a car, but at that location, correct?

A That would be my assessment, yes, sir.

Q Now you didn't find any other -- did you find any other -- I heard you say they had gunshot wounds, right?

A Yes, sir.

Q They were not shotgun wounds, correct?

A No, sir.

Q They were bullet holes.
A That's correct.
Q For lack of a better word. Now I'm assuming you didn't know what type of guns were used, because you couldn't make that assessment from what you saw, correct?
A That is correct.
Q But did you find any spent rounds there?
A I do not remember finding any.
Q And you didn't take any pictures of any, correct?
A No, sir.
Q And you examined the whole scene, correct?
A That's correct.
Q So from your -- and nobody else did any examination with you at that scene, correct?
A No, there were other officers there.
Q Okay. But you didn't find, there were no markers there of any, you would have took pictures of it if they were around.
A If it was there, I would have took pictures, yes, sir.
Q And because you didn't take any pictures, is it safe to assume they wasn't there.
A That's correct.

Q Were there a lot of, besides the brain matter and from the shotgun that occurred there, were there any indication of an extensive amount of blood at the scene?

A No, sir. It had been raining that particular, during that time.

Q So there wasn't an extensive amount of blood.

A No, sir.

Q Did you find anything to indicate that the person was actually shot there?

MR. CORBETT: Objection, Your Honor. Lack of foundation.

THE COURT: Overruled, except he was shot with.

MR. JOHNSON: Okay.

THE COURT: But your objection is overruled, Mr. Corbett.

Q From what you found at the scene, and what you personally observed, did you find any evidence that the person was actually not the gunshot wound, but just the handguns I'm assuming. I am saying handguns, but the shots. Did you find any evidence that that person was shot at that scene? Do you have any evidence of that?

A No, sir.
Q But you do have evidence that the person was shot with a shotgun at that scene.
A Yes, sir.
Q And that would be your assessment as a crime scene investigator, correct?
A That's correct.
Q Now if this person was shot in the foot, why didn't you take a picture of that?
A He had on shoes at the particular time.
Q But do you see a bullet hole through the shoe?
A I don't remember seeing one, no, sir.
Q But you probably didn't check. Or nobody didn't tell you look at that.
A No, sir. A lot of things are discovered at autopsy that we don't see additional wounds.
Q You didn't see the gunshot wound to the back either, did you? Or do you take the picture or there ain't no pictures or the picture to the back?
A I believe these are all in the front area.
Q In the front area. The person was also shot in the leg a number of times. Do you take any pictures of that?

A No, sir.
Q Why?
A We did not strip the victim in public like that.
Q Well I mean not strip. But I mean do you take any picture of the leg area, except for that long picture?
A Just the general body with the clothes on.
Q Did you find a gun at the scene?
A No, sir.
Q Other than the pictures of the body, did you find footprints?
A No, sir.
Q What evidence other than the body being there, did you find?
A At that particular scene?
Q Yes.
A It was just the body and the body parts.
Q And that was it.
A Yes, sir.
Q So no car tracks.
A Well there was a car track, but it was outside of....
Q So no pictures of that were taken.
A Yes, sir, I believe there was a picture of

the car track.

Q Okay. But it was outside the, I guess, the crime scene area, or what you call.

A Well it wasn't right at the body. It was a little ways out.

Q And I'm just asking you this question. because I just want to make sure I'm not missing anything. Is there any other evidence found other than the body at the scene? And maybe I've asked it already, but I just want make sure. Other than the pictures of the body and the body parts, did you discover any other evidence there?

A No, sir.

Q Did you find any evidence that there was a woman at that scene?

A No, sir.

Q Do you find any evidence that my client was at that scene?

A No, sir.

Q Do you have any evidence that my client committed this murder?

A Me personally, no, sir.

MR. JOHNSON: I have no other questions.

THE COURT: Lawyers come up, please.

(Whereupon, the judge and attorneys confer

at the bench.)

Redirect Examination by Mr. Corbett:

Q Now, Investigator Richardson, there was some discussion about the shotgun wound and where it may have taken place. I am going to show you what's previously been marked as State's Exhibit 32. You've already identified that as what I would refer to as Darrell Epps' body, after he had been turned over, is that correct?

A That is correct.

Q And that what you observed there was consistent with the evidence found around the body?

A Yes, sir, it is.

THE COURT: You are offering that?

MR. CORBETT: Yes, sir. We would offer this into evidence.

THE COURT: 32.

MR. JOHNSON: Yes, Your Honor. I just renew my objection.

THE COURT: The objection is now overruled.

(Photograph marked State's Exhibit No. 32 into evidence.)

Q Now are you able to some extent describe

the injury from where you're seated, or do you come look at picture here on my viewer?

A I can describe it from here. It's excessive trauma to the head area as result of shotgun blast. The skull is pretty much gone in the top region. And the actual brain is missing from the cavity.

Q But was that also found on the scene?

A Yes, sir, I was.

Q Just so I understand it, you had indicated that a large portion of the brain was outside of the body cavity?

A Yes, sir.

Q Near the body?

A Yes, sir, it was.

Q And the crime scene individuals recovered that as well?

A Yes, sir, we did.

MR. CORBETT: That's all we have, Your Honor.

THE COURT: Recross.

Recross-Examination by Mr. Johnson:

Q And just for clarification. And that picture was taken after you rolled the body over, correct?

A Correct.

Q And I guess you can see in that picture, the gunshot wound to the leg, or it appears to be something at the pants. I don't know if you have a picture before you.

MR. JOHNSON: Your Honor, may I approach?

THE COURT: Yes, sir.

A Yes, sir. I see what appears to be maybe a rip in the jeans.

Q In the jeans, correct. But there was no close up of that taken.

A No, sir.

Q And even by that picture, that would indicate that the person was basically, from the location of the body where you found it, would indicate that person was shot in the back of the head, correct? Or somewhere in the back area of the head. The shot came from the back.

A You are referring to the shotgun blast?

Q Yes, sir.

A Yes, sir.

Q And just for clarification again, and it was and it is your opinion that that shot happened there at that scene.

A Yes, sir.

MR. JOHNSON: No other questions.

THE COURT: Anything else from this witness?

MR. CORBETT: Nothing for this witness, Your Honor.

THE COURT: Thank you, Mr. Richardson. You may step down. Everybody on the jury okay?

MR. CORBETT: Judge, may I have about 5 minutes?

THE COURT: Sure. We will take a 5-minute break, Ladies and gentlemen. Of course you may not discuss the case. If you need anything in the jury room that you don't have within reason, we'll get it for you. Thank you.

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

THE COURT: Before we do break, I want to put on the record what we talked briefly about after cross. Of course Mr. Johnson was in the position as most lawyers get in, that he has got to take the undesirable with the desirable. In establishing a point about where the witness thought the shotgun blast was delivered, that brings into play again No. 32. The key part of the rule, in order for me to exclude that photo,

the probative value has to be substantially outweighed by the danger of unfair prejudice. The photo obviously has some probative value now added to, that the blast was delivered at that particular location. And ironically that came in over Mr. Corbett's objection. So I think that the probative value is enhanced by the round of cross examination even though the photos are, or that photo is extremely graphic.

In State vs. Collins, the Supreme Court, that was the dog mauling case. The Supreme Court discussed the issue again in detail, and quoted with approval a case from Alabama that says that courts and jury's can not be too squeamish about looking at unpleasant things or objects or circumstances in proceedings to enforce the law, and especially if truth is on trial. The mere fact that an item of evidence is gruesome or revolting, it sheds light on or strengthens or gives character to other evidence, sustained the issues in the case, that should not exclude it. I think that, or court should not exclude it.

I think that all and all, the probative value is not substantially outweighed by the danger of unfair prejudice. I just wanted to make

that clear. We will take 5 minutes

MR. CORBETT: And, Your Honor, whatever the time the court deems appropriate the pictures that we did not submit, we will proffer.

THE COURT: You can just mark them for Id. And right when we come back in, we'll just note for the record those are marked for Id. Once the numbers are on there.

MR. CORBETT: Yes, sir.

(Whereupon, the Court breaks.)

THE COURT: Which photographs are marked for Id.?

THE REPORTER: 39 through 45.

THE COURT: 39 through 45?

MR. CORBETT: That's correct, Your Honor. State's for identification numbers 39 through 45. These were also photos of Darrell Epps after being shot for comparison purposes to the one that was admitted, we would make those part of the record.

THE COURT: Mr. Johnson, do you agree those are simply closer up photographs?

MR. JOHNSON: Yes, Your Honor.

THE COURT: Just for record purposes those are marked for Id.

(Photographs marked State's Exhibit Nos.

39 through 45 for ID only.)

THE COURT: Mr. Corbett, who is your next witness going to be?

MR. CORBETT: The next witness will be Terrel Hudson.

THE COURT: And how many do you think you can get in before lunch if we were to stop around 12:30?

MR. CORBETT: Judge, I would anticipate three additional witnesses.

THE COURT: Are you ready for the jury, Mr. Johnson?

MR. JOHNSON: Excuse me, Your Honor?

THE COURT: Are you ready for the jury?

MR. JOHNSON: Yes, I'm ready.

THE COURT: Okay, bring them in.

MR. CORBETT: The State would call Terrel Hudson.

Terrel Hudson, being first duly sworn, testified as follows.

THE BAILIFF: Please state your full name and spell your last name for the record.

A Terrel Hudson. H-U-D-S-O-N.

THE COURT: And does Terrel have one L or two?

A One.

Direct Examination by Mr. Corbett:

Q Mr. Hudson, good morning.

A Good morning.

Q If you would get a little bit closer to that microphone so can hear you, okay.

A Good morning.

Q And if you would please, I'm going to ask you when you answer, to try say yes or no. Everything is being recorded. And the uh-huhs and the uh-uhs are hard to understand, okay.

A Yeah.

Q Mr. Hudson, you've told us your name. Are you from Sumter County?

A No.

Q Are you living in Sumter County?

A Yes, sir.

Q How long have you lived in Sumter County?

A 14 years.

Q 14 years? Do you recall where you living back in April of 2011?

A Gem's.

Q When you say Gem's what are we talking about?

A On 76.

Q Would that be Gem Mobile Home Park?
A Yeah.
Q Do you know the name of the road going into Gem Mobile Home Park?
A No.
Q Does sound right?
A Yeah, that's right.
Q So you were living at Gem Mobile Home Park?
A Yeah.
Q Do you remember which number lot?
A Seven.
Q No. 7. Were you living at that address with anybody in particular?
A No.
Q You lived there by yourself?
A Yes.
Q Now back in April of 2011, do you recall when a dead body was found there in Gem?
A Yeah.
Q Now as a starting point there, do you remember what day of the week it was?
A Sunday.
Q Now the day before, the Saturday, had you been home that day?

A No, sir.
Q Where had you been?
A In Manning.
Q In Manning. What I'm trying to find out is, how long had you been in Manning?
A Since five that evening, Saturday evening.
Q Since?
A Five Saturday evening.
Q About five. Were you at your house before 5?
A Yeah.
Q I am sorry?
A Yes, sir.
Q Before leaving your residence on Saturday was anything out of the ordinary?
A No.
Q Now you left and you indicated you went to Manning?
A Yeah.
Q What time did you return home?
A Between 10 and 11 Sunday morning.
Q Sunday morning. So you did not spend the night at your house Saturday night.
A No, sir.
Q Tell me what happened when you returned to

Gem Mobile Home Park that Sunday.

A As soon as I pulled up, I seen the guy named Tank was over there. And I asked for a cigarette. He said his mother had one. So we went down there and got a cigarette. That's when we saw it.

Q Let me back up for just a moment. You said you saw who?

A Tank.

Q Tank.

A Yeah.

Q Now where did you see Tank?

A At London's house.

Q At London's house?

A Yeah.

Q Where did London live in reference to you?

A In front of me.

Q On the same side of the road?

A Yeah.

Q So you returned from Manning Sunday morning, did you go to your house first?

A No.

Q You went straight to where?

A London's house.

Q Now London was living there?

A Yes, sir.
Q And when we say London, are we talking about the young lady sitting here at the table with the pink scarf?
A Yes, sir.
Q And did she live at location with anyone?
A Yeah.
Q And who was that?
A Quinton.
Q Quinton who?
A Brown.
Q Quinton Brown?
A Yeah.
Q So you went to London and Quinton's house Sunday morning. Was anyone else there?
A Yeah, Tank was over there.
Q How do you know Tank?
A He lived down the street.
Q Lived on the street. And what happened when you got there and Tank was there?
A I pulled up, and I asked him for a cigarette. And he said his mom had one.
Q You asked Tank for a cigarette?
A Yeah.
Q What did you -- what did you all do after

you asked him for a cigarette?

A Got in the car and went to his mom's house.

Q I'm going to ask you for a few details. Whose car?

A My girlfriend's car.

Q Your girlfriend's car?

A Yes.

Q Who got in the car?

A All of us.

Q When you say all of us, who are we talking about?

A London, Quinton, Tank and me.

Q So four people were in the car?

A Yeah.

Q Now to get to Tank's house, did you go back the way you came in, or the other direction?

A The opposite.

Q Mr. Hudson, I am going to show you, I'm sorry, let me go ahead and get this marked.

(Aerial photo marked State's Exhibit No. 46 for Id. only.)

Q What's been marked for identification as State's Exhibit No. 46. And aerial photographs are a little tricky, but I am going to ask you if

you can recognize any of this.

A Yeah.

THE COURT: You said yes?

A Yes, sir.

Q Tell me what we are looking at here.

A Gem Mobile Home Park.

Q That's Gem Mobile Home Park.

A Yes, sir.

Q Are you able to tell from this picture where your residence was located?

A Right here.

Q I am going to get a little closer. Well I'll tell you what, let's do this. I'm going to set it up here.

THE COURT: You can step down, sir. Get on the other side of it, so you are talking back this way so the jury and the court reporter can hear you, okay. He's going to give you the pointer. Use that pointer please, Mr. Corbett.

Q I am going to let you hold that one. Is this Highway 76?

A Yes, sir.

Q And do you know from this picture where your residence would be located?

A Right here.

Q Right here?
A Yeah.
Q And where would London and Quinton's residence be?
A Right here.
MR. CORBETT: Your Honor, we would offer this as State's 46.
MR. JOHNSON: No objection, Your Honor.
THE COURT: 46 is in. And just, I haven't seen it. And I don't need to see it. But is this the same aerial photo that other witnesses have spoken of?
MR. CORBETT: No, sir, Your Honor. This one is specific to Gem Mobile Home Park.
THE COURT: Okay.
(Aerial Photo marked State's No. 46 into evidence.)
Q So up in this area?
A Yeah.
Q Now if you would, keep your voice up for me since you are not in front of the microphone anymore, okay. Do you know where Tank lived?
A Right here.
Q So he lived down in this corner?
A Yeah.

Q Now I am going to back up for just a moment with you. You said that all of you got in the car.

A Yeah.

Q And that was your girlfriend's car?

A Yeah.

Q Where did you go?

A Down here.

Q Down this way?

A Yeah.

Q Okay. And everybody was in the car.

A Yeah.

Q And what did you observe on the way there?

A I mean he saw it, not me.

Q Who is we?

A Tank saw it.

Q Tank saw what?

A A dead body.

Q He saw the body?

A Yeah.

Q I am going to let you step back to the witness stand for just a moment. Now you indicated Tank was the person who initially pointed out the body?

A Yeah.

Q From where you were seated, could you see it as well?
A A little bit.
Q What did -- did you stop?
A No.
Q Well first of all, let me ask you, who was driving?
A Me.
Q You were driving. Did not stop. I am sorry, did you stop?
A No.
Q Did anybody get out of the car?
A No.
Q Did you go on to Tank's house?
A Yeah.
Q What happened what you got to Tank's house?
A We got the cigarette and we left?
Q You got the cigarette and left.
A Yeah.
Q Which vehicle did you leave in?
A What kind of car?
Q Well let me ask it this way. Did you leave in the same vehicle you drove down there?
A Yes, sir.

Q And that's your girlfriend's car.
A Yes.
Q Where did you go from there?
A American Mobile Home Park.
Q Now when you were here, and I am going to, if you would step down for so I make sure I point to the right portion.
(Whereupon, the witness steps down from the witness stand.)
Q So I am going let you stand on this side. So the four of you got in car in this area here.
A Yeah.
Q And drove to this residence.
A Yeah.
Q And that was to get a cigarette?
A Yeah.
THE COURT: Stand off a little bit more to the side.
Q Then the four of you got back in your girlfriend's car and left the mobile home park?
A Yeah.
Q On the way out, did you stop where the body was?
A No.
Q Did go anywhere else in Gem?

A No.

Q I am going to let you get back the witness stand. Thank you.

(Whereupon, th witness resumes the witness stand.)

Q Now either in the car or on the way to Tank's house or in the car on the way out, did anybody call the police?

A No.

Q Was there any discussion about calling the police?

A No.

Q From Gem's, you indicated you went to American Mobile Home Park, is that correct?

A Yeah.

Q Do you know how far that is from Gem?

A About a minute.

Q Down 378?

A Yeah.

Q What happened when you got to American Mobile Home Park?

A As soon as we got there, we saw the cops. And Tank told them. We all told them we saw a dead body.

Q So Tank went up to the officer and told

him about the body at Gem?

A Yeah.

Q How long were in American Mobile Home Park?

A You mean lived there?

Q No, sir. When you all left Gem, and drove over to American Mobile Home Park, well I'm sorry, let me ask it this way first. Where did you go in American Mobile Home Park?

A To London's house.

Q To whose house?

A London's house.

Q Now I thought you had told me London lived here.

A Yeah.

Q When you went American Mobile Home Park.

A You said American.

Q Yes, sir.

A I went to Breeze's mama's house.

Q Breeze's mama's house?

A Yeah.

Q Who is Breeze?

A Quinton.

Q Quinton Brown. And his mother lives at American Mobile Home Park?

A Yeah.

Q Now you've already told me that Tank went up to the officer and told him about the body.

A Yeah.

Q How long were you at American Mobile Home Park?

A Probably 10 minutes.

Q Where did you go from American Mobile Home Park?

A Windsor City.

Q Windsor City?

A Yeah.

Q Is that another mobile home park?

A Yeah.

Q So you were at American Mobile Home Park about 10 minutes, and then went to Windsor City.

A Yeah.

Q Who went to Windsor City?

A All of us.

Q I know it's---

A Breeze, Me, Tank and London.

Q You said Breeze, who we've established is Quinton Brown. You, London and Tank.

A Yeah.

Q Which car did go in?

A The same car.
Q Now where did you go at Windsor City?
A To one of their friend's house.
Q Say that for me one more time.
A One of their friend's house.
Q When we say one of their friend's, who are we talking about?
A One of London's friends.
Q And how long were you there?
A About 15 minutes.
Q What were you doing over at Windsor City?
A I guess we just went over, I don't know.
Q Whose idea was it to go to Windsor City?
A London.
Q And it was a friend's house there?
A Yeah.
Q Did you go inside?
A No.
Q Where were you?
A Outside.
Q Did anyone go inside?
A No.
Q So everyone was in the yard.
A Yeah.
Q Were there any people in the yard besides

the four of you?

A No.

Q And you say you were there for about 15 minutes?

A Yeah.

Q Now were you driving?

A Yeah.

Q At some point and time did all of you leave Windsor City?

A Yeah.

Q Where did you go?

A Back to Gems.

Q And why did you go back to Gem?

A Talk to an investigator.

Q So the police had asked you to go to Gem?

A Yeah.

Q Do you know how that message got to you to go back to Gem?

A Quinton's mom.

Q Quinton's mother? Now I am going to show you this and ask if you can identify that for me.

A Yes.

Q And what is that document?

A A statement.

Q Statement. Whose statement?

A Mine.
Q And what is the date of this statement?
A It's 2014.
Q Can you tell me the full date on that?
A 2/3/2014.
Q So February 3rd 2014?
A Yeah.
Q And who did you give that statement to?
A Who did I give it?
Q Yes, sir.
A I don't remember exactly.
Q Was there a police officer that you gave that statement to?
A Jennifer.
Q I'm sorry, say it again?
A Jennifer.
Q When you say Jennifer, who do you mean?
A Officer Jennifer.
Q Officer Jennifer. Is that her sitting here at the table?
A Yeah.
Q So who I have been calling Investigator Thomas.
A Yes.
Q And that was given to Investigator Thomas

in the afternoon?

A Yeah.

Q Where were you when you did that statement?

A I been incarcerated.

Q Now in that statement you had referenced that when you first spotted the body, that you told them to call the police.

A Yes, sir.

Q Is that correct?

A Yeah.

Q I mean, is that what you said?

A Yeah.

Q I told them to call the police.

A Yeah.

Q Did anybody call the police?

A No.

Q Now you knew London had a cell phone.

A No.

Q You didn't know she had a cell phone. She didn't call your cell phone the next day.

A No.

Q Quinton had a cell phone.

A Nobody called me.

Q Did Quinton have a cell phone?

A I think he had one, but I don't know if he had that one.

Q London had a cell phone.

A I don't know.

Q Now at that time, did you have a phone number ?

A Yeah.

Q And is it possible that London would have called you at 10:00 o'clock Sunday morning?

A 10:00 o'clock Sunday?

Q Yes, sir.

A I am not sure.

Q How about 11:38, would she have called you?

A I am not sure.

Q Well why didn't you call the police?

A I don't know.

Q Well put me in that car for a moment if you would. There's four of you in the car.

A Right.

Q You're riding from your residence down to Tank's, and you see a body on the side of the road. Correct?

A Right.

Q Does anybody say, let's check on that

person?

A No.

Q Did you know the person was dead?

A No.

Q So at that point you didn't know they were dead.

A No, I didn't know.

Q Did anybody say, we should go check on that body?

A No.

Q Did anybody other than you say, let's call the police?

A No.

Q Why didn't you call the police?

A I don't know. Scared I guess.

Q I'm sorry, say that again.

A I guess I was scared.

Q Why scared?

A Because I didn't know what was going on.

Q But it's your testimony that you did say to the individuals, I told them to call the police.

MR. JOHNSON: Your Honor, it's been asked and answered three times.

THE COURT: Overruled.

Q Correct?
A Yeah.
Q And nobody -- did anybody in the car call the police?
MR. JOHNSON: Your Honor, that's been asked and answered three times.
THE COURT: It's established at least from this witness that nobody called the police. If the jury -- the jury has heard that.
Q Did Quinton call you Saturday night?
A I am not sure.
Q Did he call you Sunday morning?
A I am not sure.
Q Did he call you Sunday afternoon, 2:44?
A Are you asking me or telling me?
Q No, I am asking, did he?
A I am not sure.
Q Did you call Quinton late Saturday night or earlier Sunday morning?
A I am not sure.
Q Now you had indicated, I am going to jump back to American Mobile Home Park for a moment. You all left American Mobile Home Park going to Windsor City.
A You said American, yeah.

Q In your car.
A Yes.
Q Was Quinton and London riding with you?
A Yeah.
Q Did they -- did you continue to give them rides for a few days?
A Yeah.
Q Why is that?
A Because they didn't have a car.
Q Didn't have a car?
A Yes.
Q What kind of car did Quinton drive?
A What kind he had?
Q Yes.
A An Impala.
Q What kind of -- what did his Impala look like?
A Gray.
Q Gray Impala?
A Yeah.
Q But you all didn't take the gray Impala that morning. That Sunday morning.
A No.
Q Took your girlfriend's car.
A Yeah.

Q Do you remember what kind of car it was?
A Chrysler Sebring.
Q Do you remember the color?
A Gray.
Q Did you see the Impala that morning?
A No, the car been at London's house.
Q The impala was over at America Mobile Home Park?
A Yeah.
Q When you all got there?
A Yeah.
Q Now how do you know London and Quinton?
A I've know them a long time.
Q How long?
A About two years, four.
Q I'm sorry?
A About 4, 5 years.
Q Four or 5 years. I mean, what was your connection to them? Good friends? Related?
A Friends.
Q Now if I've already asked you this, I apologize in advance. Why did you go to Windsor City?
A Because that's where they asked me to take them.

Q Did you know a reason why you went?
A No.
Q Now the individual that we referred to as Tank, do you know that person's name?
A No.
Q You don't know his real name?
A (Whereupon, no response.)
Q Now, Mr. Hudson, let me back up a little bit to coming home from Manning. You came home from Manning Sunday morning?
A Yeah.
Q And you indicated you did not go to your house.
A No.
Q Did London or Quinton call you, and ask you to come to their house?
A No.
Q So you didn't go home first.
A No.
Q So you came home, went to your residence, and without going in, went to London and Quinton's.
A Yeah.
Q Did you go inside?
A No.

Q You did not go inside.
A No.
Q Where were you?
A On the back porch.
Q On the back porch?
A Yes.
Q Were London and Quinton already up?
A No.
Q They were not?
A No.
Q What were they doing?
A They had their night clothes on.
Q I am going go show you what has been previously identified by you as a statement given to Investigator Thomas. If you would, start with this sentence right here starting with I.
A I pulled up and between the house, and I went inside. They were already up.
Q So they were up?
A They were up like, well with the night clothes. I told you that.
Q Now was it out of the ordinary for those folks to be up at that time?
A No.
Q You never indicated that that struck you

as odd?

A No.

Q Mr. Hudson, please bear with me, we are about done. You had asked Tank for the cigarette?

A Yes.

Q And you went to get the cigarette?

A Yes.

Q Why did all of you go?

A I don't know. I guess they want to get one too, I guess. I don't know, I mean, I asked for one.

Q I am sorry?

A I know I asked for one.

Q You asked for a cigarette.

A Yeah.

Q And then all four of you went down the street to get a cigarette.

A Yeah.

Q Was that common?

A I don't know.

Q Now you said -- did you get there first or did Tank get there?

A Tank was already there.

Q Tank was already there?

A Yeah.

Q Did he have night clothes on?
A No.
Q He was dressed?
A Yeah.
MR. CORBETT: Thank you. That's all the questions I have.
THE COURT: Mr. Johnson.
MR. JOHNSON: Thank you.
Cross Examination by Mr. Johnson:
Q Good morning, Terrel.
A Good morning.
Q I know you don't want to be here, so I'm not going to keep you long. Let's clarify some things. The reason you didn't call the police is because you don't like messing with the police, is that correct?
A Yes, sir.
Q And the reason you didn't call the police is because you didn't want to get involved.
A Yes, sir.
Q Now when you got to the house that morning, your back door and your front door -- I mean your back door, I mean, your front door is almost on the same side as their back door, that's correct?

A Yes, sir.
Q You all -- you and London and Quinton, you all always hang out together, didn't you?
A Yeah.
Q So it wasn't unusual for you all to get together and talk in the morning, right?
A No.
Q When you got there, you said Tank was already there, correct?
A Yeah.
Q Now in order for Tank to have gotten to the house where you and Quinton and London lived, he had to walk by the body to get there, correct?
A Yes, sir.
Q And he didn't say anything about seeing the body, did he?
A No.
Q When you got back in the car to go get a cigarettes, that's what you all were going to get, right? You were going back to Tank's house?
A Yeah.
Q Because Tank's mother and father lived there, right?
A Yeah.
Q On the way going back, isn't it true that

everybody saw something over there, correct?

A Yeah.

Q Somebody said they thought it was clothes. Somebody said it was a body, correct?

A Yeah.

Q Now who said that?

A That was London said about the clothes.

Q About the clothes?

A Yeah, Tank said a body.

Q A body. But everybody in there was surprised, right?

A Yeah.

Q Now it's very important. Did anybody that act like they knew that that body was already there?

A Well Tank did.

Q He acted like he knew it was there.

A Yeah.

Q But everybody else, London, you and Quinton were surprised, correct?

A Yeah.

Q Remember we talked before you came in?

A Yes, sir.

Q And what did you tell me about how surprised everybody was?

A They were shocked.

Q When you went to the house and when they made a big thing about you saying that you told them to call, to call the police, right?

A Yes.

Q You were referring to Tank's mother and father, isn't that correct?

A Tank's mother and father?

Q You told them to call the police, correct?

MR. CORBETT: Objection, Your Honor.

THE COURT: Sir?

MR. CORBETT: That wasn't his testimony.

THE COURT: Well, overruled. He can question him on what.

Q Is that who you meant when you said you told them to call the police?

A No.

Q Who you told? You just told everybody in the car---

A Yes.

Q ---to call the police.

A Yeah.

Q But you could have called the police yourself, correct?

A No.

Q You didn't have a phone?
A My phone was gone.
Q Your phone was gone. But nobody called the police?
A No.
Q When you left the house -- I mean when you left there and went to American Trailer Park, you were going to Quinton's mother house?
A Yeah.
Q Why were going over there?
A So we can call the police, but they was already over there.
Q The police was already there?
A Yeah.
Q And the minute you got there, I don't want to put words in your mouth. When you got there to the house and saw the police, what happened?
A Tank got out of the car, and told them. And then we all tell them the same thing.
Q So after Tank got there, everybody else walked over there and told them, correct?
A Yeah.
Q So everybody, yourself, London and Quinton talked to the police, right?
A Yeah.

Q And you all told them the truth about what you saw?

A Yes, sir.

Q Did anybody lie or did you hear anybody lie?

MR. CORBETT: Objection, Your Honor.

THE COURT: Sir?

MR. CORBETT: He's asking this witness did anybody lie.

THE COURT: Rephrase the question.

Q Did you hear anybody say anything that you knew to be untrue?

A No.

Q When you left American Trailer Park, you went somewhere else, correct?

A Yeah.

Q You all went to somebody's house else, correct?

A Yeah.

Q I know you don't want to admit it, but you went there to smoke a joint, right?

A Not me.

Q But they did.

A I don't know.

Q You don't know. Okay. But after that,

the police called and told you all to come back to the trailer park, correct?

A Yeah.

Q Did you all not go or did you go?

A We went.

Q They asked you questions, correct?

A Yeah.

Q And you answered questions, correct?

A Yeah.

Q Now they gave you a statement you gave in 2014 to investigator -- to the investigator, right?

A Yeah.

Q But didn't you give a statement back on April 19th of 2011, to them as well?

A Yeah.

Q Can I approach? Is that a copy of the statement?

A Yeah.

Q Now in that statement, the statement they showed you in 2014 when you meet Investigator Thomas, it was 2 pages, right? The one that they showed you earlier.

A Yeah.

Q Now this is just---

A Brief.
Q Brief.
A Yeah.
Q But this is the truth.
A Yeah.
Q Now why was the other statement so long? The second statement?
A Different questions.
Q She asked you different questions?
A Yeah.
Q But at that time in 2011, when it was fresh in your memory, this is all they asked you, correct?
A Yes, sir.
Q And they told you this fine.
A Yeah.
Q But now they got a problem with your second statement, correct?
A Yes.

MR. JOHNSON: No other questions.

THE COURT: Redirect?

Redirect Examination by Mr. Corbett:

Q You actually talked with the police on April 10th first, right?
A April 10th of what?

Q April 10th of 2011.
A Yeah.
Q Do you remember where you were located when you talked with them the first time?
A Gem's.
Q And you gave them a brief statement on that occasion, right?
A Yeah.
Q And did you tell them at that time, I was at my neighbor Mr. Brown's house when Tank came up?
A Yeah.
Q So did you get there before Tank?
A Something like that, I don't know.
Q Now you gave another brief statement on April 19th, is that correct? The one Mr. Johnson was just referring to?
A The 19th?
Q Yes, sir.
A Yeah.
Q And that statement also indicates that you were at their house, that you were London and Quinton's house when Tank walked up.
A Yeah.
Q And then on the way to Tank's house, Tank

said, that looks like a dead body over there.

A Yeah.

Q But there was no reference in any statements to who seemed surprised, was there?

A No.

MR. CORBETT: That's all I have. Thank you.

THE COURT: Recross.

Recross Examination by Mr. Johnson:

Q But there was no reference as who acted surprised because nobody didn't ask you that question, is that correct?

A No one asked me.

MR. JOHNSON: No other questions.

THE COURT: You can step down. Next witness. Can the witness be excused?

MR. CORBETT: From the State's perspective yes, Your Honor.

MR. JOHNSON: From defense as well, Your Honor.

THE COURT: Thank you, Mr. Hudson. Mr. Corbett.

MR. CORBETT: Your Honor, the State would call April McFadden to the stand.

April McFadden, Being first duly

sworn, testified as follows:

THE BAILIFF: Please state your full name and spell your last name for the record.

A April Skinner McFadden. M-C-F-A-D-D-E-N.

Direct Examination by Mr. Corbett:

Q Ms. McFadden, good morning.

A Good morning.

Q First of all, let's talk about April of 2011 for a moment. Were you April McFadden at that time?

A No, sir, I was April Skinner.

Q April Skinner. If you would please tell us, how did you know Darrell Epps, Krystle Skinner?

A Krystle Skinner is my sister, and she's been dating Darrell Epps at that time. Probably almost 10 years.

Q And they had some kids together?

A Yes, they have two boys.

Q So had you known Darrell for a long time?

A Yes, sir.

Q Now when did you first become aware that something was out of sorts with Darrell?

A Krystle first called it was sometime in the middle of the night late morning, that Sunday

morning, maybe about 4-ish. Around that time, she called said he hadn't came home.

Q He had not come home.

A Yes, sir.

Q What did you do? Or if anything, what did you do?

A I told her at that time to call, call the hospitals, call the jail, call the law enforcement to see if there may have been an accident. And if they didn't have the identity of the person, maybe they have an ID. And to drive by at the clubs and see if maybe he had gone out.

Q So basically looking at the places he may have been.

A Yes, sir.

Q And then what did -- kind of tell me how that morning progressed in terms of your involvement.

A And then Krystle she called me back after she did all that, and said that she didn't find anything. And so then finally I got up and went to Krystal's house and picked her up. And we went and like drove the trails that he might have taken to come some, to see if maybe he wrecked and the car was somewhere off the road where nobody had

seen it. And then we ended up at the shop down in the Saint John, Shiloh area, where he had been the night before.

Q Did any indication locate anything at that point?

A No, sir.

Q So you actually drove over to the Shiloh area.

A Yes, sir.

Q What did you do upon leaving the Shiloh area?

A We were standing there talking with some of his family and friends just trying to figure out what happened. And I contacted my husband Willie McFadden, and he came out and assisted us.

Q Now that's Officer McFadden with the Sumter Police Department?

A Yes, sir.

Q Now who was he working for back in 2011?

A He was working for the county, the sheriff's department then.

Q So you've now called him to tell him Darrell is missing.

A Yes, sir.

Q And you say everybody at this point is in

Shiloh?

A Yes, sir.

Q Okay. What do you all do after that?

A Then as my husband is there, Mr. McFadden, he gets the call from I think dispatch told him about burning car, the truck.

MR. JOHNSON: Your Honor, just for safety reasons, please inform the witness that she can't say what somebody else said.

THE COURT: Well that's not exactly the rule, but Mr. Corbett, if you could frame your questions to where they won't elicit any inadmissible hearsay or hearsay.

MR. CORBETT: Sure.

Q Now of your own knowledge, do you know if, I believe it was your fiancee at the time, your husband now.

A Yes, sir.

Q Do you know if your husband contacted the law enforcement agency?

A Yes, he told us that he called. He---

Q Not what he told you. Do you know if he called law enforcement?

A Yes, sir. He reported him missing. And then he asked us -- well he told us that they had

found a truck that was burning, and for us to go identify the truck.

MR. JOHNSON: Your Honor, objection again.

THE COURT: Okay. That's -- it's not offered to prove that they found the truck. It's just offered to lay same background. But, you know, you don't know until to what the answer is whether or not it's hearsay. And then you have got figure out whether it falls within exception. I'll overrule your objection at this stage, Mr. Johnson.

MR. CORBETT: And, Judge, I will try to shorten the questions, to make that a little more manageable.

Q So you are in the Shiloh area, is that correct?

A Yes, sir.

Q And we're going to back up here just a little bit. Does your husband of your knowledge, call anyone?

A Yes, sir.

Q And who is that?

A He's calling dispatch.

Q Now after his conversation with dispatch, do you all go to another location?

A Yes, sir.

Q What location do you go to?

A We went to, kind of like a junk yard where they store cars, to identify the truck.

Q Now who with you at that time?

A Me, my sister, Krystle Skinner, my mom, Gloria Skinner. I think my dad was with us also.

Q Now when you got to the junk yard, what if anything were you all able to determine?

A That it was the truck that he was driving. That it was the truck that Darrell was driving.

Q Now do you have any idea at this point about what time this is?

A It's mid-afternoon maybe, around noon, one.

Q Now do remain that location, or do you go to a different spot?

A I think we went to the spot where they found the truck the night before.

Q So we're now at the spot where the vehicle was found, correct?

A Yes, sir.

Q What happens while you were there?

A We were standing around searching for Darrell. We thought maybe he had been in the

water, but they didn't find him. And then I got a telephone call from Dionne Moore. He told me that---

MR. JOHNSON: Your Honor, objection.

THE COURT: I don't know. Mr. Corbett, you may know the answer, but if it's going to lead to hearsay, let's restructure the question.

MR. CORBETT: Yes, sir.

Q Now you received---

THE COURT: Dionne Moore?

Q You received a phone call from whom?

A Dionne Moore.

Q Do you know Dionne Moore?

A Yes, sir.

Q Now do you know Dionne Moore?

A Me and Dionne are friends.

Q Now you received a phone call from Dionne Moore.

A Yes, sir.

Q And what did Dionne tell you in that first phone call?

MR. JOHNSON: Objection, Your Honor.

THE COURT: Come on up please.

(Whereupon, attorneys approach and confer with judge.)

THE COURT: Ladies and gentlemen, if you would, please step to your jury room for just a minute. Of course you can't discuss the case.

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

THE COURT: It might be helpful if we could if you are going to question her about the statement that you mark for identification, please.

THE COURT: That would be No. 40 what?

THE REPORTER: 47.

MR. CORBETT: Your Honor, this is a statement of April McFadden. Dated January 13, 2013.

THE COURT: I guess first of all, question the witness like you would, absent the statement. And then if there is any reason to use the statement, you can get into it during this proffer.

MR. JOHNSON: That's just my copy and I will get your copy.

THE COURT: That's your, Mr. Johnson.

MR. JOHNSON: Yes.

THE COURT: The sticker can probably just come off.

(Statement of April Skinner marked State's Exhibit No. 47 for id.)

THE COURT: This is Ms. McFadden's statement dated what again?

MR. CORBETT: And, judge, we're going to have to be a little careful. The one that is dated January 3 of 2013.

THE COURT: Is there another one that you're going to perhaps reference?

MR. CORBETT: Judge, there's another statement dated April 10th of 2011.

THE COURT: You can question her.

Q Now, Ms. McFadden, when we had left off, you all were at the side of the road there in Cherryvale Lake area?

A Yes, sir.

Q And what happened while you were there?

A Dionne Moore called me and told me that a body had been found in Gem Mobile Home Park.

Q Now as result of getting that information, what did you do?

A We left and went to Gem Moble Home Park.

THE COURT: Speak up, please, ma'am.

A We left and went to Gem Mobile Home Park.

Q Now to your knowledge, do you know how

Dionne Moore received that information that she gave to you?

A Yes, from London Kelley.

THE COURT: And how do you know that?

A When she called me, she told me that London had just called her. Because I had called her earlier asking her to call London to see if Darrell had been to the club; did they see him in the club.

Q I'm sorry, back that up for a little bit and say that for us again.

A Earlier we were at the Shiloh area, I had called Dionne and asked to call London. Because I know London go out every weekend just about. And so to ask her had they seen Darrell at the club.

Q And so now it's moving back forward to where the vehicle was found, you received a call from Dionne advising you that a body was in Gem Moble Home Park.

A Yes.

Q And then you left that location and went where?

A To Gem Mobile Home Park.

Q Now when you got there, who was with you?

A There was a lot of people there.

Q I mean who went from the location to Gem with you?

A Me and Krystle, my sister.

Q Was your mother or father or anybody else with you at that point?

A We all went. I don't think they were in the car with me.

Q It may have been separate vehicles.

A Yes, sir. But we all left that location and went Gem's.

Q What happened when you arrived at Gem?

A They had it taped off. And then I started talking with Dionne again. She was there also. And she was telling me that -- she gave me the description of the person that was found. He was wearing a red shirt. And she asked did he have on Levy jeans. And I didn't know at that time, because my sister was over talking to somebody else. And so she said that she was told that he had on Levy jeans, a red shirt, and red sneakers and dreads.

Q Let's go ahead and address this now. Do you know how she knew that information?

A London told her when she called her.

Q Now you said you spoke to Dionne there at

scene.

A Yes, sir.

Q And you said there was a number of other friends and family members present?

A Yes, sir.

Q Now at any point and time, did you speak to London while at Gem?

A Yes, sir.

Q What was substance of that conversation?

A When London got there, she came over where me and Dionne was at.

THE COURT: Speak up, please, ma'am.

A London, when she got there, she came over where we were at. And she was telling us the description of the body. Basically she said that when they first drove by, that they thought it was a child because his body was so small. And then he had dreads. And she said the red shirt and red sneakers and the Levy jeans. And then we were saying who Darrell was. And we were saying that it was Tina Mays son. And she was like seemed shocked that it was Tina's son. And then pointed to Darrell's brother, and then she said he look just like William.

Q Now did William and Darrell favor one

another?

A They had dreads. They both had dreads.

Q Now I just want to make sure I understand it correctly. You indicated that the police already had it taped off at that point?

A Yes, when we got there they had a -- well we couldn't get past. They just had a caution right there where no cars could come past.

Q How long did you remain there at Gem?

A For a long time we stayed there.

Q Now do you know of your knowledge, if you know, if anybody there at that time identified Darrell's body?

A Yes, my husband did.

Q Now how do you know that?

A Because he came back and told us he did. He came because my dad was kind of upset that they wouldn't let any of the family like identify to make sure it was him. And so that's when my husband, you know, said that he had identified the body. And he said that the family, he didn't think it was a good idea for family to see the body.

Q Was anything said by London to you about his pockets?

A She did tell me. She said that he was laying on his side, and his pockets were turned inside out.

Q Now at some point you left Gem with your family?

A I left me and my sister Krystle, because we had go directly to the police station to do our statements.

Q And then does 7 p.m. sound about the time you would have given your statement?

A Yes, sir.

Q And when would you have given a follow up statement in January of 2013?

A Yes, sir.

MR. CORBETT: Judge, I believe that's all I have by way of proffer.

THE COURT: Questions, Mr. Johnson, first of all?

MR. JOHNSON: Your Honor, I have no questions.

THE COURT: Your objections.

MR. JOHNSON: My objection is of course anything that my client said is not part of my objections. But everything else is hearsay. It has no -- all these people are available.

They're on their witness list. Everything else would just be hearsay and serve no purpose, except to get in and elicit hearsay.

THE COURT: Mr. Corbett. Mr. Johnson is not objecting to any -- he's not objecting to anything that the defendant said, or that this witness said the defendant told her. How about the testimony that Dionne called her and told her a body was found at Gem. I frankly don't think that's hearsay.

MR. JOHNSON: I don't have any objection to that.

THE COURT: But that London told her that, that's hearsay.

MR. CORBETT: Yes, sir.

THE COURT: Is it not? You agree with that, inadmissible hearsay.

MR. CORBETT: I believe that I can ask the question in such a manner that will get us to Gem without having to go through the hearsay.

THE COURT: And I think pretty much for the most part, what Dionne may have told Ms. McFadden over the phone, is not particularly objectionable to the defendant, except where Dionne is saying London told her. Is that right,

Mr. Johnson?

MR. JOHNSON: That's correct, Your Honor.

THE COURT: Dionne -- I believe the witness can say, I was standing at the side of the road where they found the car. Dionne called me and told me a body was found at Gem. Period. We then went to Gem.

MR. CORBETT: Yes, sir.

THE COURT: Dionne came up, and I think probably what Dionne told her at the scene is inadmissible hearsay. The scene where the body was found. The witness is not going to be able to testify to, and I'm trying to help the witness out here too. The witness is not going to be able to testify anything that London, excuse me, that Dionne said London told her. But the witness can testify to things London told her specifically.

MR. CORBETT: Yes, sir.

THE COURT: Because it's not even hearsay under 801. If it is, it's probably a present sense impression exception. So are clear on that?

MR. CORBETT: Yes, sir.

THE COURT: Of course this is advanced evidence for the witness, and she may not understand a word of what we're talking about.

So, Ms. McFadden, what y'all be able to answer when you answer questions, please listen for the specific question and answer that only. You will be able to testify that Dionne called you while you were at the side of the road where the car was found, and told you that body was found at Gem. And in turn you all went to Gem. You're not permitted to say that Dionne told you London told her that. Okay. And when you get to the questions about at that scene where Mr. Epps was found, you can testify to what London told you there, but not what Dionne said to you there. Is that clear?

MR. CORBETT: Yes, sir, Judge.

THE COURT: Also the -- I don't assume Mr. Johnson you don't object to Willie McFadden or this witness saying what her husband said, it's Darrell.

MR. JOHNSON: The only problem I would, Your Honor, is that her husband has already testified.

THE COURT: Right.

MR. JOHNSON: If she says something that he didn't testify to when he testified, I'm concerned about that.

THE COURT: Well I think what she can testify to is that Mr. McFadden came and told them that he had identified the person as being Darrell.

MR. JOHNSON: I have no objection to that.

THE COURT: Is that clear, ma'am?

A Yes, sir.

THE COURT: Any questions, Mr. Corbett.

MR. CORBETT: No, sir, I believe we're clear.

THE COURT: Are you all ready for the jury?

MR. CORBETT: The State is ready, Your Honor.

MR. JOHNSON: I'm ready, Your Honor. The defense is ready.

THE COURT: You can bring in the jury.

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

Examination continues by Mr. Corbett:

Q Ms. McFadden, you had taken us up to the point where you there where the vehicle had been found the night before, is that correct?

A Yes, sir.

Q And while you were there, you got a phone

call?

A Yes, sir.

Q What did you learn as a result of that phone call?

A That a body was found at Gem Mobile Home Park.

Q Gem Mobile Home Park. Did you know where that was?

A No, sir.

Q But at some point---

A I knew where it was at, but I didn't know it under that name. It was called Harwood once before.

Q So it's been known as Harwood and now known as Gem.

A Yes, sir.

Q So at that point, you're there where the car was found, what did you do?

A We leave and go to Gem Mobile Home Park.

Q So it was you and some of your family members?

A Yes, sir.

Q Including your sister?

A Yes, sir.

Q Now when got to Gem, what did you observe?

What did you see there?

A The police had it taped off, but we couldn't go past. So just like a bunch of family friends. Everyone is standing out there.

Q Now during the course of standing out there, you indicated it was a number of family and friends?

A Yes, sir.

Q Now you indicated that Dionne had called you?

A Yes, sir.

Q Had you had any previous phone contact with her that day?

A Yes, sir.

Q And that was in regard to what?

A When we were at the Shiloh location, I called her and asked her---

Q Well hold. Well I'm sorry, let me ask you this way. Did you call her and ask her to put the word out that you were looking for Darrell?

A Yes, sir.

Q So then she called you while you were there where the car was found.

A Yes, sir.

Q So you get to Gem. Is Dionne there?

A Yes, sir.

Q Do you remember if she got there before or after you?

A I don't.

Q Now do know London Kelley?

A Yes, sir.

Q Was she there?

A Yes, sir.

Q Now I believe at the time your fiancée, now your husband, was he there?

A Yes, sir.

Q Now did you have occasion to talk to London Kelley while you were there?

A Yes, sir.

Q Now what was that about?

A She basically gave me a description of the body. She said they were driving by and they thought it was a small child at first, because his body, he was so small. And she told me what he had on. She said he had on a red shirt, some Levy pants, some red shoes. And he had dreads. Then we told her whose son it was. And then that's when she pointed to Darrell's brother and said, oh yeah, he did look like him. We were saying William. She called him William.

Q Who is William?
A William is Darrell's brother.
Q What is William's last name?
A Fullwood.
Q William Fullwood.
A Yes, sir.
Q And they had a what similar hairstyle or?
A The hair. They both had dreads.
Q But said he looked like William?
A Yes, sir.
Q Now the description that was given to you all about the color shirt, shoes, etc., was that consistent with what you all knew at that point?
A Yes, sir.
Q Now while you were there on the scene at Gem, did you all ultimately discover that that was in fact Darrell?
A Yes, sir.
Q And how did you all learn that?
A My husband Willie McFadden identified the body.
Q Now do you know Quinton Brown?
A No, sir.
Q So you wouldn't know if he was out there or not?

A I know he was there, but I didn't know him until that incident.

MR. CORBETT: Bear with me one moment please.

THE COURT: Okay.

Q Now in terms of the conversation there at that scene between you and London, how did she describe the body?

A She said he was laying on his side, and his pockets were flipped inside it.

Q And how were the pants described?

A As Levy jeans.

Q Levy's.

A He had on Levy's.

Q And pockets turned inside out?

A Yes, sir.

MR. CORBETT: Please answer any questions Mr. Johnson may have.

MR. JOHNSON: Your Honor, I have no questions.

THE COURT: And, mr. Corbett, and, Mr. Johnson, the time I mentioned earlier about a possible lunch break, it's not set in stone, I was trying to get an idea.

MR. CORBETT: Yes, sir, Judge. We were

just taking a moment to consider the order of witnesses and the time of day that we had.

THE COURT: Take your time. Mr. Corbett.

MR. CORBETT: The State would call Dionne Moore.

Dionne Moore, being first duly sworn, testified as follows:

THE BAILIFF: State your full name and spell your first and last name for the record.

A Dionne Moore. D-I-O-N-N-E. Moore, M-O-O-R-E.

Direct Examination by Mr. Corbett:

Q Ms. Moore, good morning. Or I'm sorry, good morning. Dionne Moore, correct?

A That's correct.

Q Ms. Moore, do you know London Kelley?

A I do.

Q How do you know London Kelley?

A I've known her her whole life.

Q Are you related?

A No, we're not.

Q Would you consider yourself close friends?

A Yes, I consider her as a cousin.

Q I'm sorry, say that.

A I consider her as a cousin.

Q Consider her as a cousin.
A Yes.
Q Although, you're -- I just want to make sure I understand it correctly, because I have some neighbors that call people uncles that aren't their uncles.
A Uh-huh. (Affirmative.)
Q So are you related?
A No, we are not related.
Q But do you refer to yourselves as cousins.
A Yes.
Q Okay, I am with you now. Now do you remember the time frame back in 2011, where Darrell Epps was murdered?
A Do I remember the time, no.
Q The time frame. Do you remember those events?
A Yes.
Q If you would please, tell us how did you become aware of this.
A That particular morning I got a phone call from Ms. Skinner, April Skinner. And we were talking on the phone and she was saying that Krystle couldn't find Darrell. And so we was just, you know, just having a casual conversation,

nothing -- thinking nothing serious. And it just continued on. We hung up the phone, and she called me back. April called me back and she told me, call London, and see if London may have went to the club that night. And my response to her was, you know, how would London know who Darrell is. You know, because they didn't know each other. And tell me how would she know who Darrell is. So she pretty much, you know, described what he had on.

And I called my aunt to see whether or not, you know, she can get in contact with London. I didn't call London's phone, because sometimes she don't answer her phone. So I called my aunt, because my aunt always have her children. And I told her, I said, well see if you can get in contact with London, have London to call me so I can see whether or not she went to the club that night. And maybe a couple, I am not quite for sure of the time frame, I got a phone call back from London. And as soon as we got on the phone, I asked her, I said, London did you go to the club and she said, no.

Q Hold on for me there just---

A Okay.

Q ---one moment. Let me ask the question this way.

A Uh-huh. (Affirmative.)

Q At some point and time on that Sunday, did London Kelly let you know that a body had been discovered?

A Yes.

Q Tell me about that part.

A That goes back to the phone call. She gave me a phone call, and I asked her whether or not she went to the club. She told me no. And I said, oh, because we were looking for Krystle's boyfriend, Darrell. And she said who is Darrell. I said that's Krystle's fiancee. And she said, oh my God, guess what, you know, we found a body out in Gem's. And my response was, oh my God, you know, I hope that's not Darrell. And once again she was like, who is Darrell. And I explained that it was Krystle's fiancee.

Q So she called you and said there was a body in Gem Mobile Home Park?

A Yes.

Q What did you do after receiving that information?

A Once she told me that there was body out

there, like I said, I was in shock. Oh, my God, I hope it is not Darrell. So I hung up the phone right immediately, just hung up the phone. And I called April. And I said, you all need to go out there to Gem's, because I just talked to London, and she said it was a body out there in Gems; to go out there, because I know they were looking, not to far away from, you know, where the car was at. And so they got in the vehicle and they went over there.

Q What did you do?

A I hung up on the phone. I got dressed, and I went to Gem's.

Q So you went over there as well.

A I did.

Q Now you knew April Skinner?

A Yes.

Q You spoke with her there at Gem?

A Yes.

Q Did you speak with Krystle?

A We were all standing around. I may have, I am not quite sure.

Q So there's a group of people standing around.

A Yes, a group of people.

Q Now when you were speaking with London----

A Uh-huh. (Affirmative.)

Q ---was she able to describe the body?

A She couldn't describe his body. I had -- well, not really, no, she couldn't describe his body. Basically almost like what he may have had on, the red, the red shirt with the jeans, and some sneakers. And then he had real long dreads.

Q Real long dreads?

A Uh-huh. (Affirmative.)

Q I am going to show you this right here. Do you do you recognize that?

A I do.

Q And that's a statement you gave to the investigator?

A Yes.

Q So in that phone call, you had indicated to the investigators that London was able to tell you, that he had on a red and white shirt, jeans and red and white shoes?

A Yeah.

Q And the long dreads?

A Yeah. But that was my way of explaining to her who he was, because she had saw him at the club. But she explained to me that she didn't go

to the club.

Q Then you went to Gem.

A I did.

Q What was your purpose in going to Gem?

A For support.

Q So you knew April and Krystle?

A Yes.

Q You knew Darrell?

A Yes.

MR. CORBETT: Your Honor, that's all the questions I have of this witness.

THE COURT: Mr. Johnson.

MR. JOHNSON: Thank, Your Honor. If it please the court.

Cross Examination by Mr. Johnson:

Q Good morning.

A Good morning.

Q Just a few questions to clarify stuff. You said that you and London are so close friends, that you consider yourself cousins?

A Yes.

Q So you spent a lot of time together.

A Yes.

Q You've known her her whole life basically, correct?

A Yes.
Q You know Darrell, the victim in this case, right?
A Yes.
Q And you know that family, correct?
A Yes.
Q Would you lie for London?
MR. CORBETT: Objection, Your Honor.
THE COURT: Sir?
MR. CORBETT: That question about would she lie for someone, I believe that's improper.
THE COURT: Overruled.
Q Would you lie for London?
A No.
Q Would you lie for Darrell's family?
A No.
Q Do you have any knowledge that Darrell or London knew each other?
A No.
Q Did you ever see them together?
A No.
Q You made a statement that I think you said something that London sometimes doesn't return her calls?
A Yeah.

Q Could you reference that? What do you say that?

A Because if you call her phone, she may not answer. And you have to maybe keep calling and calling her, or have somebody else call that have her children, she may not answer her phone sometimes. A lot of times she don't answer her phone.

Q So this is not unusual if somebody calls her phone and she doesn't answer.

A Oh, no.

Q Now you actually called London first, right?

A I think I tried to call London first.

Q I mean once April came to you, you tried to get in touch with London? Or well explain to me how do you try to get in touch with London?

A Through my aunt.

Q Through your aunt?

A Yeah. Because I figured she would answer the phone for her, because she had her children.

Q What is your aunt's name?

A Sandy Livingston.

Q You contacted Sandy Livingston and asked her to try to contact London.

A Yes.

Q Then you received a call from London later.

A Yes.

Q But that was after you had contacted Sandy Livingston, is that correct?

A Yes.

Q And what did London tell you again?

MR. CORBETT: Objection, Your Honor.

THE COURT: Sir, basis?

MR. CORBETT: Bear with me one moment, Judge, I may -- withdrawn, Your Honor.

Q What did you say London said to you?

A When she got on the phone my first, I didn't let her get anything out. I asked her, I said, did you go to the club. She said, no. And I said, oh, because we were looking for Krystle's boyfriend. And was like, oh, my God, it's a dead body out here in Gem's. And that's when it went on from there. And I was like, oh my God, I hope it's not Darrell. And she said, who is Darrell. I said, that's Krystle's boyfriend. And she was like, oh, and I was just in shock. And I just, you know, I hung up the phone with her to call April and them to let them to know that, you know,

London said that it was a body in Gem's, and for them to go over there.

Q When you was talking to London could you hear the expression of her voice in the phone?

A Yeah, I mean.

Q What kind of expression did she have?

A Kind of like shocked. You know, like I never seen a dead body before.

Q And she gave you the impression that she shocked?

A Yeah. And that she was scared, yes.

MR. JOHNSON: I have no other questions.

THE COURT: Redirect?

Redirect Examination by Mr. Corbett:

Q And we have referenced the statement you had given law enforcement, correct?

A Yes.

Q And there was no reference in this statement about who knew people and who didn't know people, was there?

A I don't understand what you're saying.

Q That's your statement, correct?

A No, that is not my statement.

Q That's not your statement with your signature on it?

A No, the name is at the top. That's April's statement.

Q I am very sorry. Now that's the statement that you gave, correct?

A Correct.

Q And when was statement given?

A 4th month 11, of 11.

Q So April 11th of 2011?

A Yes.

Q And do you remember which investigator you were talking with?

A I don't recall.

Q Now if I indicated that it looked like Investigator Tripp Mays, would that sound correct?

A Who is Tripp Mays?

Q Well if you know. I don't want to put words in your mouth.

A Oh, no.

Q And Do you remember where you were when you gave that statement?

A Yeah, I was at the sheriff's department.

Q Sheriff's department?

A Yes.

Q Now in this statement, there is nothing in there about the prior phone calls describing who

Darrell is, is that correct?

A It's not.

Q There's nothing in there about anybody's tone of voice or how they appeared, is there?

A No.

Q Now, Ms. Moore, when you got that phone call about the body, did you call the police?

A No.

MR. CORBETT: That's all I have.

THE COURT: Recross.

MR. JOHNSON: Just a couple of questions.

Recross-Examination by Mr. Johnson:

Q He asked you about your statement about you didn't have anything in there about the expression or the phone call? Did anybody ever ask you that question?

A No, sir.

Q If they had, would you given the same answer?

A Yes, sir.

MR. JOHNSON: No other questions.

THE COURT: Anything else, Mr. Corbett?

THE COURT: Thank you, ma'am. You can step down. Mr. Corbett next witness.

MR. CORBETT: Judge, may we approach?

THE COURT: Yes, sir.

(Whereupon, the attorneys approach the bench and confer with judge.)

THE COURT: Ladies and gentlemen, we are going to stop for lunch right now. Obviously you can see the clock. It's shortly after 12. We will get back together at 1:15. So please be back in your jury room at 1:15. You may not in the meantime discuss the case at all. Follow my earlier instructions about communications, reading, watching, listening, things of that nature, and we'll see you back at 1:15.

(Whereupon, jury is dismissed for lunch.)

THE COURT: We note please to be back in the courtroom at 1:00. One o'clock, so we can cover anything that we might to take up before the jury comes back in.

MR. CORBETT: Judge, if I may, I am not sure if the witness Dionne Moore is still in the courtroom. Judge, I would ask there is a potential issue coming up with a second statement given at a later date, and ask that she continue to be sequestered.

THE COURT: Well I guess you all, that's fine with me. You will just have to find her and

let her know that.

MR. CORBETT: Very well. Thank you, Judge.

THE COURT: Okay. One o'clock. Thank you.

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

I, Margaret T. Sullivan, Court Reporter, for the Third Judicial Circuit of the State of South Carolina, do hereby Certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced on October 27th-31st 2014, in the General Sessions Court, Sumter County, Sumter, South Carolina.

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

5/2/15
DATE

Margaret T. Sullivan
COURT REPORTER
My Commission expires: 9/7/2021

State of South Carolina)
)
County of Sumter)
)

State of South Carolina, Plaintiffs

vs.

London A. Kelley, Defendant

Transcript of Record
2014-GS-43-00724

October 27th-31st 2014
Sumter, S.C.

BEFORE THE HONORABLE George C. James, Jr., Judge.

Volume II

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

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Assistant Solicitor for the State

Mr. Charlie J. Johnson, Jr.
Attorney for Defendant

Margaret T. Sullivan,
Court Reporter

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(Whereupon, trial commences at one o'clock October 29th 2014.)

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

THE COURT: Let's go on the record about what we spoke about a few minutes ago in my office. And, Mr. Johnson, and, Mr. Corbett, correct me if I'm wrong. There has been some indication expressed to Mr. Miller of some potential communication of some sort between a family member of the defendant and a juror. Mr. Miller, if you could come up, please and be sworn.

Thomas Miller, being first duly sworn, testified as follows:

THE BAILIFF: Please state your full name and spell your last name for the record.

A Thomas A. Miller. M-I-L-L-E-R.

THE COURT: Mr. Miller, back in my office a moment ago at the request of Mr. Corbett and certainly with your knowledge and participation of Mr. Johnson, you indicated to perhaps Mr. Corbett or someone in the solicitor's office about someone telling you what they had seen in the hallway. Could you just recount what you were told, and we

will go from there.

A Yes, sir. I was told initially this morning by another person in our office that assisting, that one of victim's family had indicated they had saw a juror talking with the defendant's family after court in the afternoon. I relayed that message to Mr. Finney, my boss. And there was some discussion. And we found out that it was at that time a third party that had seen it, so we went to investigate further. After further investigating that, we found out it was Mr. Lee Dickey who had seen that, and I reported that at time to Mr. Corbett, and we verified the court.

THE COURT: And was there anyone else who reported it you who also saw this? Another person.

A Yes, sir. Ms. Tiny Epps also.

THE COURT: And this was yesterday that this was made known to you?

A No, sir, this morning. This morning. It was during, one of witnesses was testifying. And it was whispered in my ear. And at that time, I passed the message on.

THE COURT: Anything specific that was

related to you that either Ms. Epps or Mr. Dickey or both saw?

A Yes, sir. I was told that some of the defendant's family was seen with this juror. They were taking.

THE COURT: Where? Where was this?

A In the hallway is my understanding, after court. That it seemed very cordial. There was some -- my understanding is that the juror actually padded or slapped one of family members on the back after court.

THE COURT: Did the person who related this to you, indicate that they were able to identify by name either the juror, or the family member of the defendant?

A No, sir. I was told which juror it was today, they didn't know the juror's name. I think it was more than one family member, is the way I understood it. It was the juror that was sitting in the back row with the blue shirt. A black gentleman with a bald head.

THE COURT: Was he here with a blue shirt today?

A Yes, sir.

THE COURT: A black gentleman with either

a shaved or a bald head?

A Yes, sir.

THE COURT: Any indication of age?

A No, sir.

THE COURT: Mr. Corbett, any questions?

MR. CORBETT: No, sir, judge.

THE COURT: Mr. Johnson.

Cross Examination by Mr. Johnson:

Q I just have one for clarification. Tiny Epps was not told to you yesterday. She was, her name came up today, is that correct?

A That is correct. Both names came up today. But you are correct. Initially her name wasn't involved. And when I went back out to find the whereabouts of Mr. Dickey today.

Q Right.

A That's when she said I saw two of the families. I guess she saw it as well.

Q So you were not told both names at the same time.

A No, sir. That's correct.

THE COURT: And, Mr. Miller, is Mr. Dickey, here today?

A I was told he's working somewhere in Columbia building a bridge, or in kind of bridge

building type thing.

THE COURT: Anything else, gentleman?

MR. JOHNSON: I have nothing, Your Honor.

THE COURT: Thank you, Mr. Miller. You can step down. Can someone bring Ms. McFadden in? April McFadden. Ms. McFadden, you can come up and have a seat in the chair. You're still under oath from earlier today, okay.

A Yes, sir.

THE COURT: Ms. McFadden, earlier today, and I just want to make sure you understand that I am trying to learn things. I don't know exactly what I'm going to ask you in advance. But it's been reported that perhaps someone either told you, or you may have witnessed some potential contact between a juror and some family member involved in this case. Do you know anything about that?

A Yes, sir, I was told that.

THE COURT: By whom?

A By Lee Dickey.

THE COURT: And what did Mr. Dickey tell you?

A He said that it was sometime after lunch, that one of the jurors were coming in---

THE COURT: Today?

A Yesterday.

THE COURT: Okay.

A That one of the jurors were coming in and tapped someone in London's family on the -- like tapped them on the back.

THE COURT: Did he tell you if he saw any words exchanged or any communication other than a tap on the back?

A No, he said the bailiff kind of got him.

THE COURT: The bailiff got him?

A Yeah, the bailiff made him move on.

THE COURT: Do you know what floor this may have happened on?

A This floor.

THE COURT: Third floor?

A Yes, sir.

THE COURT: Do you know anything else about it other than what you related to me?

A No, sir.

THE COURT: Have you heard anybody else talk about it, other than Mr. Dickey?

A No, sir. Well Tiny just said that she saw it also.

THE COURT: Questions, Mr. Corbett?

MR. CORBETT: Nothing from the State, Your Honor.

THE COURT: Mr. Johnson?

MR. JOHNSON: I have nothing.

THE COURT: Thank you, ma'am. You can step down. Ms. Epps.

Tina M. Epps, Being first duly sworn, testified as follows:

THE COURT: And your name is Tina Epps. E-P-P-S.

A Yes.

THE COURT: Ms. Epps, I would like for you to describe if you have any description, anything that you may have seen as far as any possible interaction between a to juror and someone who is involved in this case as a family member. And speak up for me if you could.

A It was yesterday during recess, a juror was coming in from this way.

THE COURT: From the elevator?

A Uh-huh. (Affirmative.) And he stopped and made contact with one of the family members.

THE COURT: And do you know the name of the family member?

A Uh-uh. (Negative.)

THE COURT: Do you know if it was a man or a woman.

A Woman.

THE COURT: Do you know the approximate age, older than you or younger than you?

A Probably younger.

THE COURT: How old are you?

A 47.

THE COURT: 47. What did you see, and hear if anything?

A I didn't hear nothing. When I actually see him, he stopped and pat her on the back and say a word. I couldn't hear what he had say.

THE COURT: And this was a juror?

A Uh-huh. (Affirmative.)

THE COURT: That's a yes?

A Yes, sir.

THE COURT: Any doubt in your mind about that?

A No, sir.

THE COURT: Did this -- was this -- were words exchanged that you couldn't hear or was nothing said at all?

A Words were exchanged, but I couldn't hear what it was.

THE COURT: How long did that last, a sentence or two, or longer than that?

A Maybe a sentence or two.

THE COURT: And did it appear to you to the extent that you can even say that, did it appear to you that they already knew each other?

A Yes, sir.

THE COURT: And who patted who on the back?

A I think she patted him on the back.

THE COURT: The lady patted the juror on the back?

A Uh-huh. (Affirmative.)

THE COURT: Ma'am?

A Yes, sir.

THE COURT: And then what did the juror do?

A He walked like he was going back to the room.

THE COURT: Do you what he has on today? Have you been in the courtroom?

A Yeah. I can't remember he has on.

THE COURT: And you're related to Mr. Epps.

A That's my son.

THE COURT: The victim is your son.

A Uh-huh. (Affirmative.)

THE COURT: Do you know anybody in the defendant's family?

A Yes.

THE COURT: Do you see the person in the courtroom who is engaged in this activity with the juror?

A Yes.

THE COURT: Who is it?

A That lady with the blue sweater on.

THE COURT: The blue sweater on next to the wall?

A Uh-huh. (Affirmative.)

THE COURT: With her arms folded?

A Uh-huh. (Affirmative.)

THE COURT: That's a yes?

A Yes, sir.

THE COURT: And do you know who that is?

A No, sir.

THE COURT: Mr. Corbett, any questions?

MR. CORBETT: Nothing from the State, Your Honor.

THE COURT: Mr. Johnson.

MR. JOHNSON: I have nothing.

THE COURT: Thank you, ma'am. You can step down. Ma'am, if you could come forward please.

Robin Steadman, Being first duly sworn, testified as follows:

THE BAILIFF: Please state your full name and spell your last name for the record.

A Robin Steadman. S-T-E-A-D-M-A-N.

THE COURT: Ms. Steadman, how are you today?

A All right. How about you.

THE COURT: I'm doing fine. You heard the folks who came up here and describe what they say they saw occur, especially Ms. Epps. You heard her say that?

A Yes.

THE COURT: Do you remember having any encounter at all with someone yesterday in the fashion that she described?

A No.

THE COURT: Did you have any contact with any juror in this case?

A I said, hi.

THE COURT: And what did the juror say back?

A Nothing.

THE COURT: Did you pat him on the back?

A No, we kind of bumped into each other.

THE COURT: Did you know the juror?

A Yes.

THE COURT: What's his name?

A Victor.

THE COURT: Victor is the name of the juror?

A Yes.

THE COURT: Was his last name Baker?

A I'm not sure. I worked with him at Bendix years ago.

THE COURT: Have you seen him since then until this case this week?

A No.

THE COURT: Have you had any communications with him all other than that what you just described in the hallway?

A No.

THE COURT: Did he call you by name?

A No.

THE COURT: And what is your relationship to the defendant's family, if any? Are you friends or related by blood or marriage?

A Well we're not blood, but we're real, real close.

THE COURT: Just good friends.

A Yeah. Just like a niece.

THE COURT: Was anyone else with you when this bumping occurred.

A It was a crowd. Everybody was leaving.

THE COURT: And was it down towards the elevators or in the hallway?

A In the narrow part, you know, going down. We was going out.

THE COURT: Towards the elevator.

A Yeah. But we wasn't nowhere near the elevator.

THE COURT: Okay. But so you were still in what would be the hallway right outside the courtroom.

A Yes, sir.

THE COURT: And describe it for me again if you would, please.

A We were just going -- we were just going out. We was coming out of here, and he was coming back in.

THE COURT: Okay.

A And I said hi, and we kind of bumped.

THE COURT: Okay.

A And that's it.

THE COURT: Any questions, Mr. Corbett?

Direct Examination by Mr. Corbett:

Q I am sorry, ma'am. You name, again.

A Robin Steadman.

Q Ms. Steadman, you knew the individual as Victor?

A Yes, sir.

Q And how long have you known him?

A We worked together in 86.

Q Do you all live in close proximity to one another?

A No, I don't know where he lives.

Q Does he know anybody else that with you in the hall?

A No.

Q To your knowledge, does he know London Kelley?

A No.

Q He doesn't, or you don't know?

A I don't know who he knows, but I don't think so.

MR. CORBETT: That's all I have, Your Honor.

THE COURT: Mr. Johnson.

CROSS EXAMINATION by Mr. Johnson:

Q Do you try to influence him in any way as it relates to this trial?

A I said hi, and that's all.

MR. JOHNSON: I have no other questions, Your Honor.

THE COURT: Thank you, ma'am. You can step down. According to the list, there is a juror named Victor. His name is Victor Baker, Jr. Juror No. 7. He is a black male. Is the State requesting any further action?

MR. CORBETT: Judge, the State would request that the court ask Mr. Baker concerning the contact.

THE COURT: Mr. Johnson.

MR. JOHNSON: I agree, Your Honor.

THE COURT: Okay.

MR. JOHNSON: I have no objection to that.

THE COURT: Ask for Mr. Victor Baker to come out.

Mr. Baker, you can have a seat right there.

(Whereupon Mr. Baker is seated in courtroom.)

THE COURT: I just want to ask you a few questions. As you know, I've given instructions. There are to be no contact and no discussions or anything involving this case. Did you have perhaps any type of encounter in the hallway yesterday with someone who may have been exiting, or been in close proximity to this courtroom?

A Yes.

THE COURT: Could you describe that for me?

A It was a girl that worked with me at Bosch. And all she did was just spoke and shook my hand.

THE COURT: And that was it?

A That was it.

THE COURT: Did you take that to mean as any type of influence that person was trying to exert on you?

A No, sir.

THE COURT: It was just a chance encounter in the hallway?

A Yes, sir.

THE COURT: Did it have any impact on you and your thinking in this case?

A No, sir.

THE COURT: As you have been sitting here, did you have any idea whether she might have been here as a supporter or a member of either family of the victim or the defendant?

A No, sir.

Q You don't know which side she may---

A No, sir.

Q ---have been supporting?

A No, sir.

THE COURT: If you would please, just stand right out in the hall. I'm going to ask these lawyers if there is anything else they want me to ask you, okay.

A Okay.

THE COURT: Mr. Corbett.

MR. CORBETT: Nothing further, Your Honor.

THE COURT: Mr. Johnson.

MR. JOHNSON: I have nothing further, Your Honor.

THE COURT: I'll have unless there is someone who convinces me otherwise, I am going to ask him certainly not to mention anything about all of this to his follow jurors. Does that suit you, Mr. Corbett?

MR. CORBETT: Suitable to the State, Your

Honor.

THE COURT: Mr. Johnson.

MR. JOHNSON: Fine with me, Your Honor.

THE COURT: Ask him to step back in. Mr. Baker, you can stand right there. Just don't mention any of our communication over the last couple of minutes to any of your fellow jurors, okay.

MR. BAKER: Okay.

THE COURT: Thank you, sir. I appreciate your help. Mr. Corbett anything from the State?

MR. CORBETT: Nothing from the State, Your Honor.

THE COURT: Anything from the defendant?

MR. JOHNSON: Nothing from the defendant, Your Honor.

THE COURT: I'm satisfied from listening to Ms. Epps and Ms. Steadman, Mr. Miller and the juror that there was no untoward contact or conduct. I believe that obviously in the quarters that we have on this courthouse, some type of harmless encounter is going to happen. I've always kind of wondered how people got from -- the jurors got from the elevator back to where they report. And that's just one of the things that

we're going to have to look at. In the near future we may have to just have the jurors go up to the second floor where a bailiff is, and have them come up another way. Especially when there is a crowd in the courtroom.

Mr. Tomlin, and, Mr. Brown, you all have heard what's been referenced here in the courtroom?

MR. TOMLIN: Yes, Your Honor.

MR. BROWN: Yes, sir.

THE COURT: Mr. Tomlin, did you see any of this by chance?

MR. TOMLIN: Your Honor, I didn't see any. The only thing I saw was a group people down there, and normally, we always try to remember the juror's faces off their numbers and stuff.

THE COURT: Yes, sir.

MR. TOMLIN: But if we see them congregating down there, we always say, hey, come on back down here.

THE COURT: Okay.

MR. TOMLIN: That's it. As to whether they bump into one another or whatever.

THE COURT: Mr. Brown.

MR. BROWN: I didn't see anything, Your

Honor.

THE COURT: Thank you, sir. We'll go forward now. Mr. Corbett, are you ready?

MR. CORBETT: Judge, we are ready. We're just trying to think scheduling wise who to use next. But I think we're ready to roll.

THE COURT: It looks like before Mr. Johnson has to get out and make his appointment that I'd previously authorized, we've we got about 2 hours. Maybe 2 hours and 10 minutes. Okay. Mr. Johnson, are you ready?

MR. JOHNSON: Yes, Your Honor. I'm ready.

THE COURT: Do you need a minute to make a decision Mr. Corbett?

MR. CORBETT: Dr. Ross, she's actually here. So we're going to change the order a little bit since she's present.

THE COURT: You can bring in the jury.

(Whereupon, the following takes place within the presence of the jury.)

THE COURT: Ladies and gentlemen, we are now ready to continue. I apologize for the delay, but we are ready to go forward now. Mr. Corbett, you can call your next witness.

MR. CORBETT: Yes, sir, Your Honor. The

State would call Dr. Janice Ross.

THE BAILIFF: Please state your full name and spell your last name for the record.

A Janice Edwards Ross. R-O-S-S.

Direct Examination by Mr. Corbett:

Q Dr. Ross, good afternoon.

A Good afternoon.

Q Tell us, by whom are you employed?

A Newberry Pathology Associates.

Q In what capacity?

A As a forensic pathologist.

Q Now when you say forensic pathologist, you're also an MD.

A Correct.

Q Medical doctor.

A That's correct.

Q If you would please, tell us a little bit about your education and your training and your experience in the field of forensic pathology.

MR. JOHNSON: Your Honor, I would stipulate to her qualifications.

THE COURT: You can continue to put those in, but when you want to offer her, I'll designate her as an expert. But you can continue if you want.

Q Yes, sir. I'll ask a few background questions.

THE COURT: Okay.

Q Tell us a little bit about your education and training, please.

A Yes. I went to the University of South Carolina, and got a Bachelor of Science degree. Then I received my MD, my Doctor of Medicine, from upstate medical center in Syracuse, New York. That's where I did further training in pathology. Pathology is the study of diseases. And as a pathologist, I diagnose diseases; such as, cancers and leukemias by using a tissue under the microscope and blood work from a laboratory. We learn how to do autopsies also to find out a cause of death.

I further trained in forensic pathology which means, forensic means legal. It's using our pathology knowledge on legal matters; such as, rapes and suicides, homicides and accidents. So we trained to do a specific type of autopsy, a more detailed autopsy, to identify paths of injury and document materials for the court of law. Obtain specimens for toxicology purposes. I am board certified in hospital and forensic

pathology.

Q Now, Dr. Ross, have you been qualified as an expert witness in the courts of South Carolina before?

A Yes.

Q In the field of forensic pathology?

A Yes.

MR. CORBETT: Your Honor, at this time, we would offer Dr. Ross as an expert in the field of forensic pathology.

THE COURT: And you had no objection, correct?

MR. JOHNSON: No objection, Your Honor.

THE COURT: Ladies and gentlemen, the witness is qualified as an expert in the field of forensic pathology. As I mentioned to you yesterday, an expert witness can give opinions during testimony, and also can give the reasons for those opinions. You give her testimony the weight you believe it deserves, and I will instruct you more closely on that at the end of the case. Mr. Corbett.

Q Dr. Ross, do have available to you an autopsy report numbered FA11-243.

A Yes,sir.

Q And who is the decedent in that report?

A Darrell Epps.

Q And when I say decedent, I'm referring to the individual who is dead, correct?

A Correct.

Q If go would, please, take us through the process what you do in an autopsy, and then we'll talk about what your findings were.

A Yes. The body is brought to us by the transport at the coroner's request and authorization. The coroner of the county involved. The body comes in a body bag, which we open. And we document what kind of clothing they have, or any kind of rings or other materials. We take photographs of the body clothed, and then we take the clothing off. And take photographs of the body unclothed. Then in the case like this, where there is obvious gunshot wounds and shotgun wound, we do x-rays to identify any residual bullets inside the body. So that was done. And then we do a specific type of autopsy to look at each organ and identify what organs are injured.

Q Now in the course of that process and in, particular with this autopsy, tell us what you were able to find.

A We found evidence of a shotgun wound in the head, which the head was fairly distorted, so but it was consistent with the bullet, with shotgun pellets. It's bird shot; going from sort of the top middle of the head and somewhat downward into the front. We found a gunshot wound of the right chest. A gunshot wound in the left abdomen. A gunshot wound of the back. And I'd say about a total of 4 gunshot wounds to the right and left thighs, and a gunshot wound of the left foot.

Q Now, Dr. Ross, I am going to show you what's been entered into evidence as State's Exhibit No. 32, which is it's been testified to, was a picture of the body before it was removed from the scene. And is that picture consistent with your findings?

A Yes.

Q Now I want to go back and talk about the wounds for just a moment, if I may. You had indicated the shotgun wound to the head. We referred to that wound first. And just now in your testimony, you were talking about bird shot.

A Yes.

Q Now for the folks who may not familiar

with shotguns and shot, would you tell us a little bit about that, and how may you made that determination.

A Well by x-ray and by visualizing them. Bird shot is kind of like little BB's, as opposed to pellets, which are larger. And sometimes shotguns are -- have slugs. But it's a single piece of metal. This bird shot could be visualized on the x-ray.

Q And based on your examination, it was the shotgun that made the large wound to the head.

A Correct.

Q Now as we move down, what's the wound that you examine or encounter?

A That would be the wound to the right chest. That went in the front of the chest. It went downward, backward. Front to back, and slightly to the right. And that bullet was found underneath the skin of the right lower back.

Q And is that referred to as gunshot wound No. 2 in your report?

A Correct.

Q Tell us about gunshot wound No. 3, please.

A We number these wounds according from top to bottom. It does not mean the order that they

were inflicted. The third shot went into the abdomen. Just to the left of the middle. And that one went downward also and to the right. And that bullet was found underneath the skin to the right lower back also.

Q And gunshot wound No. 4.

A Gunshot wound No. 4 went in the right back. It went downward and stayed pretty much underneath the skin. And that was found in the lower right back.

Q And gunshot wound No. 5.

A No. 5 was in the left thigh. It went front to back, slightly upward. And that was found in the -- I'm sorry it went in the, more towards the back of the thigh. And it was found near the ileac bone, which is the pelvic bone.

Q The ileac bone is the pelvic bone?

A Correct. On the left.

Q Gunshot wound No. 6 please.

A No. 6 went into the right thigh, front of the right thigh. It went slightly downward. It just went underneath the skin, and then it exited towards the outside of the thigh. It just went a short distance.

Q Gunshot No. 7?

A No. 7 went also into the left thigh. In front of the left thigh. And it went slightly upward into the right and then exited the right thigh. Lateral thigh. The side of the thigh.

Q Okay. Gunshot wound No. 8.

A That was into the posterior left thigh. It went upward and to the right and exited that thigh.

Q And gunshot wound No. 9.

A Gunshot wound No. 9, it went into the heel of the left foot, and it came out the outside -- the outside of the ankle of that foot. It went into the left heel and came out of the outer ankle.

Q Now there's a note in your report there, addressing gunshot wounds 2 through 9 and providing some additional information about those. What does that note there refer to?

A We just note that there -- whether there was evidence of soot or stippling, which is an indicator of the range of the wound. How close the gun was the skin. When a bullet comes out of a gun so does soot and powder. And if the soot or powder hits the skin, it will leave a mark. Or leave soot. But those the powder and the soot

only go a certain distance. So if you don't see any evidence of powder or soot, you can say that the wound is a distant shot. And that will depend on how far it is. But that means depends on the type of gun, the caliber et cetera. But it's generally it's two feet or more.

Q Now the report there about no soot or tattooing on wounds 2 through 9. Let's back up to No. 1 for just a moment, if we could. Your report makes reference to wound No. 1, the gunshot wound to the head. Splitting the scalp open. And please correct me if I my pronunciation is wrong, avulses the---

A Yes.

Q ---brain.

A Yes, it just---

Q Okay.

A ---spreads it open. And the brain, it takes the brain away from the skull.

Q Now with regard to that wound, was there any indication of distance for that wound?

A That appeared to be a contact wound. Indicating, meaning that there was evidence of the muzzle being against the skin.

Q Dr. Ross, based on your training and

experience, do you have an opinion to a reasonable degree of medical certainty as to what caused the death of Darrell Epps?

A Yes.

Q And what is that conclusion, please, ma'am?

A It means avulsion of the brain. Which means the brain evacuated from the skull, due to the shotgun wound to the head.

Q The other wounds that you describe, 2 through 9, any of those wounds potentially fatal?

A The No. 2 which went through the -- from the right chest. It went through the lung. That could have been fatal. That could have killed him. And the one in the abdomen is potentially fatal.

Q And is that based upon the damage that it did to internal structure?

A Correct.

Q Now, Dr. Ross, the other bullet wounds that you describe, if you are able, can you tell anything about the victim's location or placement at the time that those -- he is shot?

A Well all I can say is, bullets go straight. So for instance, the one that went into

the right chest, because it went downward and to the right, the gun was either above him or he was bent forward.

Q Okay.

A For instance. But so some of the wounds went front to back. Some went back to front.

Q Based on the wound tracks, are you able to tell if the person was seated or standing? Is there any way to tell?

A No.

Q And if you would, please, is that your original report you have with you?

A Well it's a copy of the original.

Q If you would, take just a moment to make sure that what I place there is a copy, an exact copy of what you have.

A Yes, it is.

MR. CORBETT: Your Honor, at this time, we would offer as State's Exhibit No. 48, Dr. Ross' pathology report?

THE COURT: Any objection?

MR. JOHNSON: No objection, Your Honor.

THE COURT: That's No. 48. It's stapled. It will be in.

(Autopsy report marked State's Exhibit No.

what 48 into evidence.)

MR. CORBETT: Your Honor, that's all the questions I have. Thank you.

THE COURT: Mr. Johnson.

MR. JOHNSON: Thank you. Please the Court.

Cross Examination by Mr. Johnson:

Q Good afternoon, Dr. Ross.

A Good afternoon.

Q Just a few questions concerning your examination. One second. Ms. Ross, this is State's Exhibit No. 23. That's a picture that was previously marked of the position of the body when it was found.

A Yes.

Q In looking at that picture and looking at your examination, as far as the shotgun shot, if the body was found in that position, is it safe to assume that the shotgun shot was the last shot?

A It could be.

Q Because if a person is laying in that position, it's safe to say that they could not have been shot in the chest, correct?

A Correct.

Q So therefore it's safe to say that the

shots to the chest came before the shotgun shot.

A Yes.

Q Now depending on if that's the position he was dead, from your examination of the ankle shot, it's safe to say that the ankle shot came before the shotgun shot, correct?

A Well the ankle shot could have been from while he was lying down, as well as the shot in the left upper thigh.

Q Okay. Maybe I was looking at it.

A It says left foot to the left heel, which looks down. It is difficult to say.

Q But it is probably well let put it in this. Is it possible then to say that the victim probably was in a fight by the number of shots say to his foot, leg, considering that the last shot was to be the shotgun shot or---

MR. CORBETT: Objection, Your Honor.

Q ---or he was tussling?

THE COURT: Yes, sir.

MR. CORBETT: Lack of foundation as to that particular question.

THE COURT: Lack of foundation lack. Lack of expertise or what?

MR. CORBETT: Both, Judge. The question

was phrased in such that, was he in a fight. And I don't know that's there's been substantial foundation laid to whether or not that answer can be given.

THE COURT: Overruled. To the extent the witness knows, I think the question is proper.

A The different directions of the wounds, some going up, some going down, some front and back, some back to front, indicates to me that there a lot of motion. Movement. This person was turning around, and somehow maybe stuck his left foot up to get it shot from the almost the bottom of the foot. So there was movement. Whether there was a fight or not, I didn't see any wounds on his hands indicating a fist fight.

Q And just for clarification, there was no gunshot residue test done, correct?

A I took one. We sent it to sled.

Q Do you know what the results of that was?

A I never get those results. Either we took one or let's see. I guess we did not take one at the morgue, but they may have done one at the scene.

Q But you didn't take one at the morgue.

A Correct.

Q And do you find any type of -- did you take anything from underneath the victim's fingernails?

A We took, see what we did. No, we did not.

Q Okay. When you exam the victim, he's normally brought to you basically in tact, as much as possible, from where they was able to move him and brought to you, right?

A Correct.

Q So they don't remove clothes or things of that. You do that yourself, correct?

A Correct.

Q Even watches, rings, all of those other things.

A Correct.

Q Did you find a wristband on his arm? Similar to the type of wristband people put on their arm when they go to a nightclub?

A I don't have that listed, but there was a watch.

Q There was a watch, correct?

A Yes.

Q But no wristband. And if there was something that you took off a wrist, you would have listed it, correct?

A It would be listed on the evidence form, yes, sir.

Q And since it's not on there, it's fair to say it wasn't on his arm, correct?

A Correct.

Q Were you able to determine what caliber of shells or gun was used?

A No, sir. We send those to sled for that.

Q How many rounds did you recover?

A Five.

Q Five.

A Plus the -- well 4 plus the shotgun.

Q Plus the shotgun pellets. Are any of the wounds that you have, are they described as reentry wounds?

A No.

Q A bullet leaves and reenter?

A No. No, they were not.

Q So each wound was unique to itself.

A Correct.

Q Meaning that he was shot, counting the shotgun, nine times.

A Correct.

MR. JOHNSON: One second, Your Honor.

THE COURT: All right.

MR. JOHNSON: I have no other questions, Your Honor.

THE COURT: Redirect.

Redirect Examination by Mr. Corbett:

Q Dr. Ross, I am going to show you this document, and ask if you're familiar with a document such as that.

A This is from trace evidence of sled. It looks like a GSR kit.

Q And based on that report, was there any gunshot residue recovered from the victim?

MR. JOHNSON: Your Honor, I would kind of object on how he's trying to get the report in.

THE COURT: Did she offer it?

MR. CORBETT: No, sir.

THE COURT: The basis for her testifying about it?

MR. CORBETT: Judge, it was brought up on cross examination, and I was addressing.

THE COURT: And he asked her whether she took a GSR kit.

MR. CORBETT: Yes, sir.

THE COURT: Objection is sustained.

MR. CORBETT: No further questions, your Honor.

THE COURT: Anything else Mr. Johnson?

MR. JOHNSON: No more questions, Your Honor.

THE COURT: Can the witness be excused.

MR. CORBETT: From the State's perspective. .

MR. JOHNSON: As well as me.

THE COURT: Next witness.

MR. CORBETT: The State would call Investigator Tripp Mays.

Lohman C. Mays, being first duly sworn, testified as follows:

THE BAILIFF: Please state your full name and spell your last name for the record.

A Lohman C. Mays. M-A-Y-S.

DIRECT EXAMINATION by Mr. Corbett:

Q Investigator Mays, good afternoon.

A Good afternoon.

Q Tell us, by whom are you employed.

A I'm employed with the Sumter County Sheriff's Office.

Q And long have you been with the Sumter County Sheriff's Office?

A I've been with the Sumter County Sheriff's Office since April of 2002.

Q And what do your duties with the sheriff's office include?

A I'm the sergeant in criminal investigations. We, you know, investigate crimes that occur within Sumter County.

Q Now with regard to the Darrell Epps murder, did you get involved in that case?

A Yes, sir.

Q If you would, tell us a little bit about your involvement in that case.

A Originally, how I become involved, I was on call as an on-call investigator. And whenever our on-call, we have a secondary and a primary. The secondary in general, and, you know, covers everything from daytime. Primary covers everything after 4:00 p.m. right on up. And I was notified by Investigator Williams earlier in the day of a possible missing person. And later on, he called me and told me that they were en route to Gem Mobile Home Park in reference to a body being discovered out there.

Q And did you respond to that scene?

A I did.

Q Now when you arrived on the scene, was the body still there?

A It was.

Q I'm going to show you a group of photographs, including State's 22, 21, 20, 19. Also 32, 23, 33, 30, 36, 38, 37, and 31, 29. And just ask if you will review those in just a moment, please. Are you able to identify those photographs?

A Yes, sir.

Q And is that what you observed when you arrived on the scene that day?

A Yes, I did.

Q I am going to show you this document and ask if you can tell us what that is.

A This is the Sumter County Sheriff's Office crime scene log.

Q And does your name appear on that document?

A It does.

Q Does it also give some indication of when you arrived on the scene?

A Yes, sir. It's showing that I arrived on the scene at 14:47, which would be 2:47 p.m.

Q Now you had indicated to us that you were the on-call investigator that day.

A Yes, sir.

Q This being a weekend.
A That's correct.
Q If you would, tell us a little bit about what part your investigation covered.
A At that point what we did, whenever we respond to a major crime scene like that, we try and get information from the responding officers to see if there any witnesses, or any type of information that we need to follow up on. In this case, there was three names given. And I can't remember if they were on the scene at that time or not. But I did speak with them individually on the scene.
Q Okay. Now at some point and time, did you have a car searched?
A Yes, sir.
Q Whose car was that?
A It was Quinton Brown.
Q Now was that car at Gem Mobile Home Park?
A No, sir. It was located at American Mobile Home Park.
Q Do you remember what type of car it was?
A It was a Chevrolet Impala.
Q Now you were at Gem Mobile Home Park, is that correct?