

VOLUME I OF II

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Certiorari to Beaufort County

S.C. SUPREME COURT

Brooks P. Goldsmith, Circuit Court Judge

TRAVIS ABE POLITE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2021-000241

APPENDIX

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STATE OF SOUTH CAROLINA)	
)	Court of General Sessions
COUNTY OF BEAUFORT)	Case No. 2012-GS-07-02233
_____)	and Case No. 2012-GS-07-02234
STATE OF SOUTH CAROLINA)	
)	
vs.)	Transcript of Record
)	
TRAVIS ABE POLITE,)	
)	
Defendant.)	Date: January 20 - 22, 2015
_____)	

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1 (Whereupon, the venire has been sworn.)

2 THE COURT: As you heard, my name is Brooks
3 Goldsmith. I now live on Edisto Island. About a year and a
4 half ago, I retired and was living in Lancaster, South
5 Carolina. I'm now serving as what's called a retired active
6 judge status and now I'm working two or three weeks a month.

7 It's my pleasure to be with you for this one-week
8 term of court. We all understand that for the most part,
9 most of you would prefer not to be here. We understand that.
10 We are going to do our best to try and minimize the
11 inconvenience that we know this is causing to you and your
12 personal and business lives.

13 In just a few minutes, I'm going to ask you some
14 questions to determine your qualifications and your
15 eligibility to serve as jurors. If you need to respond, I
16 ask that you stand, give us your name and juror number and
17 then tell us why you stood. Try to speak distinctly so that
18 I can hear you up front. For the most part, most of you will
19 not be required to stand and respond to anything. As to a
20 few of you, you may consider a couple of the questions to be
21 personal. And you may prefer not to answer those questions
22 in the presence of everyone in the courtroom. And if that's
23 the way you feel when you stand, just let me know that, give
24 me your name, juror number, and ask that you respond later.
25 And at the end of all of the questioning I will give you an

1 opportunity to come down front and we will speak a little
2 more privately about these matters.

3 If at any time this morning or at any time later in
4 the week, if I do anything that causes you a difficulty in
5 hearing me or understanding me, if I do something like drop
6 my voice and move and turn away like that and you can't hear
7 me, if somebody would please get my attention or get the
8 attention of one of the bailiffs, raise your hand or do
9 something, and that really applies if you get selected on a
10 jury. If you have any problem understanding or hearing
11 what's going on, please get somebody's attention so that we
12 can take care of the problem. You know, for the most part,
13 the lawyers involved know that they need to speak up so you
14 can hear, but every now and then, they will turn your back to
15 you and speak away from you, and may cause you difficulty in
16 understanding them.

17 So, first question, ladies and gentlemen, is there
18 any member of the jury panel who is not a citizen of the
19 United States of America? If so, please stand.

20 (No response from the jury.)

21 THE COURT: Is there any member of the jury panel
22 who is not a resident and citizen of Beaufort County? If so,
23 please stand.

24 (No response from the jury.)

25 THE COURT: In other words, if you move to another

1 county, but nevertheless, got a jury summons but no longer
2 live here, that would apply to you. If so, please stand.

3 (No response from the jury.)

4 THE COURT: Is there any member of the jury panel
5 who is unable to read, write, speak, or understanding the
6 English language? If so, please stand.

7 (No response from the jury.)

8 THE COURT: Is there any member of the jury panel
9 who has less than a 6th grade education or its equivalent?
10 If so, please stand.

11 (No response from the jury.)

12 THE COURT: Is there any member of the jury panel
13 unable because of a mental or physical infirmity to render
14 efficient jury service this week? For example, does anyone
15 have a medical condition that would prevent you from serving
16 on a jury? If so, please stand.

17 (No response from the jury.)

18 THE COURT: Has any member of the jury panel been
19 convicted by way of a guilty plea or trial in a state or
20 federal court of record of a crime punishable by imprisonment
21 for more than one year and your civil rights have not been
22 restored by way of pardon or amnesty? And punishable by more
23 than one year means you could have received a sentence of
24 more than one year regardless of what sentence you may have
25 actually received. If that applies to you, please stand.

1 THE COURT: Yes, sir; your name and number?

2 PROSPECTIVE JUROR: Juror number 16, permission to
3 answer later.

4 THE COURT: All right. And tell me your number
5 again.

6 PROSPECTIVE JUROR: 16.

7 THE COURT: Yes, sir. We will see you in a few
8 minutes.

9 Anyone else?

10 Any member of the jury panel a clerk or deputy clerk
11 of court, a constable, a sheriff, or some other commissioned
12 law enforcement officer, a probate judge, a county
13 commissioner, a magistrate, or some other county officer, or
14 are you employed within the walls of any courthouse? If so,
15 please stand.

16 And your name and number.

17 PROSPECTIVE JUROR: I'm number 23. I'm SLED
18 certified security. We are SLED.

19 THE COURT: What is it you do for a living?

20 PROSPECTIVE JUROR: SLED certified armed security.

21 THE COURT: That's what you do?

22 PROSPECTIVE JUROR: Yes, sir.

23 THE COURT: And your jurisdiction is limited to?

24 PROSPECTIVE JUROR: Just to Frip Island, yes, sir.

25 THE COURT: But you have a Power to arrest on Frip?

1 PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: Not restricted to any certain area of
3 Frip?

4 PROSPECTIVE JUROR: No, sir, the entire island.

5 THE COURT: You can arrest for anything that any
6 other law enforcement officer could do?

7 PROSPECTIVE JUROR: Yes, sir.

8 THE COURT: All right, sir. I'm going to find you
9 are not qualified to serve on jury duty because of your Power
10 of arrest. Thank you, sir. You may be excused.

11 (Whereupon, Juror 23 is excused.)

12 THE COURT: Is there any member of the jury panel
13 who has previously served on jury duty in circuit court --
14 not magistrate's court or city court or federal court -- this
15 calendar year? If so, please stand.

16 (No response from the jury.)

17 THE COURT: Has any member of the jury panel served
18 as a member of the Beaufort County Grand Jury in the past few
19 years? If so, please stand.

20 PROSPECTIVE JUROR: Excuse me, sir, in the past how
21 many years? Did you say few or two?

22 THE COURT: I said few.

23 PROSPECTIVE JUROR: Few.

24 THE COURT: Let me get your name and number while we
25 look you up.

1 PROSPECTIVE JUROR: Excuse me, Grace Best, Number
2 28. I believe I served on the Grand Jury in 2006 for 12
3 months. And then I was chosen to serve the extra six months,
4 but moved temporarily to a year and was not able to do the
5 final six months. But I believe it was in 2006.

6 THE COURT: All right. Thank you, ma'am.

7 Ladies and gentlemen, we now move to jury
8 exemptions. The state law provides for several exemptions to
9 jury duty. The legislature has determined for certain
10 individuals or categories of people that you are just not
11 required to serve on jury duty. And if this applies to you,
12 all you have to do is say, I choose not to serve. For
13 instance, those of you who may be 65 years of age or older
14 and otherwise qualified, have the absolute right to not to
15 serve if that's what you wish to do. So if anyone is 65 or
16 older and prefers not to serve, please stand.

17 Yes, ma'am, your name and number?

18 PROSPECTIVE JUROR: Angela Allen, Juror 5.

19 THE COURT: Ms. Allen, we can't talk you into
20 staying?

21 PROSPECTIVE JUROR: I would rather not.

22 THE COURT: If you prefer not to serve, you have the
23 absolute right not to serve. Thank you so much for coming,
24 though.

25 And your name and number?

1 PROSPECTIVE JUROR: Mildred Childers, 61.

2 THE COURT: 61? You don't want to stay?

3 PROSPECTIVE JUROR: Excuse me?

4 THE COURT: You don't want to stay with us?

5 PROSPECTIVE JUROR: No, sir.

6 THE COURT: I thought that's why you stood. Ms.
7 Childres, you are excused. Thank you for coming though.

8 PROSPECTIVE JUROR: Thank you, sir.

9 THE COURT: Another exemption concerns prior jury
10 service. No person is required to serve as a juror more
11 often than once every three calendar years. Therefore, if
12 there's any member of the jury panel who has served once
13 again in circuit court in the prior two calendar years and
14 wishes to be exempted, please stand.

15 (No response from the jury.)

16 THE COURT: A similar exemption to the one I
17 mentioned earlier applies to people who have served on the
18 Grand Jury in the last five calendar years. If that applies
19 to you and you wish to be exempted, please stand.

20 (No response from the jury.)

21 THE COURT: Next exemption deals with those of you
22 who have legal custody of young children. You may be excused
23 if you have a child under the age of 7 and you have legal
24 custody of a child and you are primarily responsible for
25 caring for the child and you are unable to find anyone to

1 care for the child while you are serving on jury duty, you
2 may be exempted. So if this applies to you and you wish to
3 be exempted, please stand.

4 And your name and number?

5 PROSPECTIVE JUROR: Barbara Neumann, number 241.

6 THE COURT: 241. Yes, ma'am.

7 PROSPECTIVE JUROR: I have two children three years
8 old and a seven-month-old that have to be picked up from
9 daycare by five o'clock on Hilton Head.

10 THE COURT: And you don't have anyone else who could
11 pick them up?

12 PROSPECTIVE JUROR: My husband, if he could make
13 arrangements with them, but typically he's not home until
14 seven o'clock usually.

15 THE COURT: Is that because he has a job that
16 requires him to be somewhere?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: There's no one else available to help
19 you pick up the children?

20 PROSPECTIVE JUROR: We don't have any family in the
21 area. I mean, you know --

22 THE COURT: I was just informed that you have
23 another bite at the apple because teachers have a right not
24 to serve also. Do you take care of the children all summer?

25 PROSPECTIVE JUROR: Yes, sir.

1 THE COURT: So you are there taking care of the
2 children --

3 PROSPECTIVE JUROR: Yes, sir.

4 THE COURT: -- during the summer. All right. We
5 will excuse you from jury duty. Thank you for coming.

6 (Whereupon a Juror is excused.)

7 THE COURT: If you are the primary caretaker of a
8 person who is 65 years of age or older, or otherwise severely
9 disabled and unable to care for themselves, and you have no
10 one else available to take care of them for you if you are
11 serving on jury duty and you wish to be exempted, please
12 stand.

13 (No response from the jury.)

14 THE COURT: As I mentioned earlier, there's a
15 similar exemption for those who are working in school or
16 attending a school. If you are a full-time student or
17 working in school in some capacity and jury duty would
18 interfere with your school responsibilities, we can transfer
19 you to another term. If that applies to you and you wish to
20 be transferred, please stand.

21 And your name and number.

22 PROSPECTIVE JUROR: Sherrell Lowery, 246.

23 THE COURT: And?

24 PROSPECTIVE JUROR: I'm a full-time student.

25 THE COURT: When would you like to come back? When

1 do you have -- are you going to be in school all summer?

2 PROSPECTIVE JUROR: I plan to. If this is going to
3 be a short term, then I will stay. But if it's going to be
4 all week, because I'm missing one morning class today, I've
5 got morning class on Tuesdays and Thursday and afternoon on
6 Monday and Wednesday.

7 THE COURT: Here's what we believe, that we will not
8 have court on Friday due to a requirement that all of the
9 judges appear somewhere else in the state on Friday. But we
10 could be here Thursday. We could be here from now, Tuesday,
11 Wednesday, Thursday.

12 PROSPECTIVE JUROR: Okay. Tech spring break is in
13 March, so I can do it March 9th through the 14th.

14 THE COURT: Let me see.

15 THE CLERK: We don't have court that week.

16 THE COURT: You would be here by yourself. Any idea
17 when you would be completing your studies?

18 PROSPECTIVE JUROR: Probably another year or two,
19 year and a half.

20 THE COURT: You aren't certain about your summer,
21 but you think you want to be in school in the summer?

22 PROSPECTIVE JUROR: Oh, I will be in school for the
23 summer.

24 THE COURT: All right. We are going to excuse you,
25 put you down, send you another notice in a year and a half.

1 THE COURT: Is there any member of the jury panel
2 who is employed with the Department of Corrections at a
3 penitentiary and would like to be exempted? If so, please
4 stand.

5 (No response from the jury.)

6 THE COURT: Is there any juror who performs services
7 for a business, commercial or agricultural enterprise, and
8 you are so essential to the operation of that business or
9 enterprise that if you are required to perform jury duty, the
10 business would be required to close or cease functioning? If
11 that applies to you and you wish to be exempted, please
12 stand.

13 PROSPECTIVE JUROR: Yes, Your Honor.

14 THE COURT: Your name and number?

15 PROSPECTIVE JUROR: George Priest, 259. I am a soul
16 practitioner. I've been away for a few days educating and I
17 have several patients on an emergency basis that are in need
18 of me and the office cannot run without me, obviously. I'm a
19 dentist, prosthodontist.

20 THE COURT: Okay. Let me ask you this. How long
21 have you been doing this?

22 PROSPECTIVE JUROR: Dentistry? About 40 years.

23 THE COURT: Okay. As a soul practitioner, how long?

24 PROSPECTIVE JUROR: Pretty much that whole time,
25 yes, sir.

1 THE COURT: Do you ever take time off?

2 PROSPECTIVE JUROR: Yes, I do.

3 THE COURT: I hope you do.

4 PROSPECTIVE JUROR: Sure.

5 THE COURT: What happens when you take time off?

6 PROSPECTIVE JUROR: It's hard, as a prosthodontist,
7 it's hard to get people to go on call for me. So I can't
8 take vacation more than seven or eight days because of that.
9 But in this case, unfortunately, it's my employees too, but I
10 was in Asheville educating for two of the days last week and
11 I got a couple of calls. And then when I'm here I got a
12 couple of calls, which is somewhat unusual. I'm already
13 booked up the next few days, two days, broken teeth.
14 Patients aren't going to die, but they don't really want to
15 see anyone else. It's sort of tough that way. When I plan
16 for vacations, patients aren't scheduled. Of course, I
17 didn't schedule for today, but the rest of the days, it's
18 important stuff. It's not just fillings. I do, you know,
19 cancer patients, things like that. It is not just your
20 typical dental needs. There are patients who are really in
21 need of services, not just aesthetic work and fillings and
22 that sort of thing.
23 And I want to do my civic duty. I'm retired Army
24 and served in Desert Storm. I feel guilty even asking you,
25 but it is a hardship.

1 THE COURT: But it sounds to me as though if you had
2 sufficient notice, you could arrange your schedule?

3 PROSPECTIVE JUROR: Well, I did for today. I did
4 for today only. I had no idea how long this would be going
5 on.

6 THE COURT: Okay. And sometimes we have a difficult
7 time ourselves until the day arrives. Sometimes court lasts
8 a couple of days. Sometimes a session of court will last
9 fives days. And, of course, as you read in the paper,
10 sometimes longer than that, but as a general rule, you know,
11 three or four days. I could almost let you pick a time to
12 come back.

13 PROSPECTIVE JUROR: I would rather do that.

14 THE COURT: All right. Do you want to pick now?

15 PROSPECTIVE JUROR: Get me in six months. I will
16 turn 65.

17 THE COURT: I thought you said you were concerned
18 about performing your civic duty.

19 PROSPECTIVE JUROR: Actually, I would be more happy
20 to do it then because I wouldn't be working. Goodness, if
21 it's going to be two days now, I would hate to be caught up
22 and rather do a week or two, because that would be my
23 vacation time. So, I'm in your hands.

24 THE COURT: Can you work with us today and tomorrow?

25 PROSPECTIVE JUROR: Yes, sir, I can do that.

1 THE COURT: All right. Then I'm going to ask our
2 Clerk of Court that she will make sure your name is not
3 pulled on the case that will last more than today and
4 tomorrow.

5 THE CLERK: Yes, Your Honor.

6 PROSPECTIVE JUROR: I appreciate that. Thank you,
7 Your Honor.

8 THE COURT: All right, sir. Anyone else?

9 Now, ladies and gentlemen, that actually concludes
10 the statutory list of qualifications and exemptions for jury
11 service. It may be that you are qualified and no specific
12 exemption applies to you, but, nevertheless, this turns out
13 just to be a terrible week for you and under certain
14 circumstances we can agree, as you've already seen, to
15 transfer you to another term of court. So if anyone wishes
16 to apply for a transfer based on a hardship, please stand.

17 PROSPECTIVE JUROR: 280, Roxanne Sauerbrei.

18 THE COURT: What was your number?

19 PROSPECTIVE JUROR: 280, Roxanne Sauerbrei. My
20 problem is transportation. My car is an old junker, 1999
21 Skylark Buick. When you start it up, all that lights,
22 everything is lighting up, the brakes, the engine. But
23 anyway, I'm just afraid if you can get me somewhere closer,
24 because I live in Hilton Head. It took me an hour ten
25 minutes to get here. And I'm afraid if my car breaks down,

1 I'm not going to have the money to get it towed and I'm in a
2 lot of trouble. It's just financially I'm not -- but I can
3 serve anywhere closer maybe, Bluffton maybe. It's just a
4 good drive and I'm afraid it might break down.

5 THE COURT: Believe it or not, we actually find
6 people who don't have a vehicle, you know, who live a long
7 distance and can't walk. But the Sheriff's Department could
8 arrange to give you a lift and that's what happens.

9 PROSPECTIVE JUROR: Oh, okay. That's fine with
10 me.

11 THE COURT: And let's make sure you give your name
12 and address to one of the bailiffs before you leave so we
13 make sure we've got the right location.

14 PROSPECTIVE JUROR: Okay. Thank you.

15 THE COURT: Anyone else?

16 PROSPECTIVE JUROR: Jeff Beck, juror 251. I've got
17 an attorney and a mortgage broker coming to my house at three
18 o'clock today. I didn't know about it until Friday, but I'm
19 67, but I'm still willing to serve in the future. But if
20 there's any way to -- I've been waiting for this thing to
21 happen for several days. I can come back tomorrow.

22 THE COURT: As best we can tell, we are going to
23 pick two juries today and both trials are going to start
24 today. If you really want to serve, and a lot of people
25 really do want to serve on jury duty, they really do, we

1 could transfer you to another term and get you another notice
2 and you can --

3 PROSPECTIVE JUROR: That would be fine.

4 THE COURT: Do you want to pick a time?

5 PROSPECTIVE JUROR: Whatever you want. I'm retired,
6 so ...

7 THE CLERK: If you would come around the back, she
8 can do it now and you can leave.

9 PROSPECTIVE JUROR: My name is Dolores Jenkins,
10 Juror No. 167. I prefer not to speak in public.

11 THE COURT: Okay. I will speak to you in just a
12 minute.

13 PROSPECTIVE JUROR: Steve Lazzarra, 198. My mother
14 is 84 and she has COPD. She requires constant attention.
15 She lives on Hilton Head. So I'm traveling from Bluffton to
16 Hilton Head to take care of her constantly in the morning and
17 in the evening. I do have somebody that comes by during the
18 day, but what are the hours, you know, that -- do you
19 understand?

20 THE COURT: I do. Generally speaking, court will
21 start at 9, 9:30, and we break for lunch an hour, hour and a
22 half depending what's going on. And we try to conclude the
23 business of the court around 5 or maybe 5:30. That's just
24 kind of a general rule about how court works. But, of
25 course, I'm sure you've seen on TV, if a jury begins

1 deliberations, sometimes they may deliberate longer than five
2 o'clock.

3 PROSPECTIVE JUROR: The cost of the care is really
4 huge. If I have to extend that, it's going to be very
5 expensive. She's on oxygen right now, but she just got out
6 of the hospital. You know, things are somewhat okay. But if
7 she has to go back or anything like that, I need to be
8 there.

9 THE COURT: In other words --

10 PROSPECTIVE JUROR: She's the only one. My father
11 is gone. My sister is gone. It's just me and her.

12 THE COURT: Hopefully, she will be better by the
13 summer.

14 PROSPECTIVE JUROR: Well, I hope so too. How about
15 if I transfer?

16 THE COURT: That's what I mean, I can transfer you
17 to next summer, five or six months down the road. Is that
18 okay with you?

19 PROSPECTIVE JUROR: Yes, sir.

20 THE COURT: Come down front and we will take care of
21 it now.

22 PROSPECTIVE JUROR: Payton Smith 293. I'm a
23 teacher, and I don't think I want to be out of the classroom
24 all week, so can I switch to the summer?

25 THE COURT: All right.

1 PROSPECTIVE JUROR: My number is 116. And if I
2 could just talk to you for a minute, that would be great.

3 THE COURT: Do it in just a minute.

4 PROSPECTIVE JUROR: I'm Juror No. 183. Thursday
5 afternoon I have dental surgery which is unavoidable. If I
6 could have a shorter juror duty, that will be fantastic.
7 It's at two o'clock on Hilton Head Island.

8 THE COURT: 183, we will not pick you on the long
9 case.

10 PROSPECTIVE JUROR: That would be great.

11 PROSPECTIVE JUROR: I'm Juror 110. And if I could
12 come up and speak.

13 THE COURT: Let's see down front if we could, Juror
14 16, Juror 167, Juror 116 and Juror 110, one at a time.

15 THE COURT: Go ahead and tell me your name.

16 PROSPECTIVE JUROR: Juror No. 337, Melanie Williams,
17 I'm a minister and I have a funeral slated today at two
18 o'clock.

19 THE COURT: We will need to transfer you then?

20 PROSPECTIVE JUROR: I can serve the remainder of the
21 week, just not today.

22 THE COURT: It's best we think things will work, we
23 will pick two juries today and both trials will begin today.
24 So we can transfer you if you want to come down. All right.

25 THE CLERK: Juror No. 110, Your Honor.

1 PROSPECTIVE JUROR: Work is slow right now. And I'm
2 paying child support. And so to give me like couple of days
3 a week just to make sure child support is paid, if I miss
4 these days, I want to be able to pay the child support. And
5 I can come back at any time during the summer when the season
6 pick up. I work at the Westin Resort in Hilton Head.

7 THE COURT: We will transfer you to a summer term
8 then. If you will step around the corner over there, they
9 will arrange it for you.

10 THE COURT: You got that?

11 THE CLERK: 110 transfer.

12 THE CLERK: 116, Your Honor.

13 THE COURT: You didn't tell me that.

14 PROSPECTIVE JUROR: Yeah. So I'm five months
15 pregnant and I can serve, but I require several restroom
16 breaks and I have very low blood pressure. So I have to stay
17 hydrated and eat every couple of hours. So if a transfer
18 would be better until the baby is here, or if it can be
19 accommodated, that is my worry. And I have fainting spells,
20 so that's my concern.

21 THE COURT: We actually can accommodate you. And I
22 should have told the whole group this. If at any time you
23 need a break, and this applies not just to you but to all the
24 jury, you do that, okay, say, I need a break, or, I've got to
25 have water, I've got to eat. You just do that if you get

1 picked. If you need a break, all you have to do is get my
2 attention or one of the bailiffs' attention, say, I need a
3 break.

4 PROSPECTIVE JUROR: I feel bad because it might be
5 frequent.

6 THE COURT: That's okay, every couple of hours,
7 that's no problem.

8 PROSPECTIVE JUROR: Okay. That's fine. I think --
9 I prefer a transfer just because it usually is about every
10 hour, I need to at least go to the restroom or something, so
11 if that would be possible. If not, I will suck it up. I can
12 do it.

13 THE COURT: How are we doing with our numbers?

14 THE CLERK: Currently 79.

15 THE COURT: 79 left?

16 THE CLERK: Yes, sir.

17 THE COURT: If you would like to be transferred --

18 PROSPECTIVE JUROR: Yes, sir.

19 THE COURT: Okay. We will transfer you.

20 PROSPECTIVE JUROR: I'm sorry. I'm okay.

21 THE COURT: It's okay.

22 THE CLERK: Juror No. 167, Your Honor.

23 PROSPECTIVE JUROR: Good morning.

24 THE COURT: How are you doing?

25 PROSPECTIVE JUROR: Not very well. I just had a

1 family member murdered and I just don't feel mentally,
2 physically.

3 THE COURT: Did you say you just had a family member
4 murdered?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Was that here?

7 PROSPECTIVE JUROR: Yes, in Beaufort.

8 THE COURT: All right. What if I transfer you to
9 next fall, something like that? Okay?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: If you will step right over there.

12 THE CLERK: 167 transferred.

13 THE CLERK: Juror number 16, Your Honor.

14 THE COURT: Mr. Hood, do you agree with that
15 transfer?

16 MR. HOOD: Yes.

17 THE COURT: I'm sorry. I forgot your number. Juror
18 16, I think I know why you came down.

19 PROSPECTIVE JUROR: I was convicted of felony
20 contributing to the delinquency of a minor. I'm actually
21 serving on probation right now.

22 THE COURT: I will disqualify you from serving on
23 jury duty. Thank you for coming.

24 PROSPECTIVE JUROR: No problem.

25 THE COURT: 116 -- excuse me, 16, 16 is

1 disqualified.

2 THE CLERK: Juror No. 211, Your Honor.

3 THE COURT: 211, yes, ma'am.

4 PROSPECTIVE JUROR: I'm not sure if it matters, but
5 my counselor told me to tell you I'm in treatment for drugs
6 and alcohol, clean and sober for 40 days. She just told me
7 to bring it up. I don't know what the case has to do with,
8 but --

9 THE COURT: Well, drugs has nothing to do with
10 anything. But you are okay with serving?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Thank you for coming down.

13 THE CLERK: Juror No. 313, Your Honor.

14 THE COURT: You came up because you think you know
15 some people that might be involved in the case.

16 PROSPECTIVE JUROR: The people -- I know people
17 because I live in the area. I live on the street that they
18 live on.

19 THE COURT: You are probably going to have to tell
20 me who you are talking about.

21 PROSPECTIVE JUROR: I saw people sitting over there
22 and the ones sitting over there.

23 THE COURT: On both sides of the courtroom,
24 defendant's family here and victim's family?

25 PROSPECTIVE JUROR: That guy sitting over there

1 supposed to be my grandbaby's dad.

2 THE COURT: So you know that group over there and
3 you know the group --

4 PROSPECTIVE JUROR: I know by face that group of
5 people of sitting over there. And I know the face sitting on
6 this side, because I live on Delaney Circle and some of the
7 people live on Young Circle and some of them live on Stuart
8 Place.

9 THE COURT: Could you all understand what she said?

10 THE COURT: All right. Thank you, ma'am.

11 PROSPECTIVE JUROR: What do I need to do?

12 THE COURT: You need to go sit back down. We will
13 talk to you in a minute. They don't know that situation.

14 MR. HOOD: Whether she is related to, I was
15 thinking -- I don't know.

16 MR. THORNTON: She said she knew the granddaughter's
17 dad, the victim in the case.

18 MR. HOOD: Quantize.

19 MR. THORNTON: I've got no problem putting her on if
20 you do, if she knows both parties.

21 MS. SWANSON: She just said her granddaddy's baby;
22 might be Travis.

23 MR. THORNTON: That's a problem.

24 MR. HOOD: She's got connections on both sides.

25 THE COURT: Do you want to address it now?

1 MR. HOOD: Let's do it this way, after we finish
2 this, we will say, are you related by blood or marriage or
3 whatever, and just do it that way. That way we get it out of
4 the way.

5 THE COURT: I find the jury panel qualified.

6 Ladies and gentlemen, earlier I told you that if you
7 couldn't hear me or couldn't hear anybody, to please raise
8 your hand and get somebody's attention. I need now to tell
9 you if anybody needs a break now, please raise your hand and
10 we will take a break. Otherwise, we can keep going, but I
11 see a hand or two. All right. Let's take a short ten-minute
12 recess, ladies and gentlemen, ask you to come back as soon as
13 you can.

14 (A recess transpired.)

15 THE COURT: Is your case ready to select the jury
16 in?

17 MR. THORNTON: Your Honor, the State is ready to
18 proceeding in Indictments 2002-GS-07-2233, charging the
19 defendant, Travis Polite, with the offense of murder;
20 2012-GS-07-2234, charging the defendant, Travis Polite, with
21 armed robbery, and 2012-GS-07-2377, the State vs. Travis
22 Polite, accusing him of kidnapping, Your Honor.

23 I will pass those indictments up to the Court. The
24 State is ready to proceed, Your Honor.

25 THE COURT: Is the defense ready to proceed?

1 MR. HOOD: Yes, we are, Your Honor.

2 THE COURT: Ladies and gentlemen, as you just heard,
3 we are about to begin the selection of a jury in this case.
4 And as best I can tell by reading the indictments that have
5 just been handed up to me, the indictments allege that the
6 events complained of in the indictments occurred on or about
7 September the 6th, 2012, and involved the death of one
8 Quantize Greer, if I'm pronouncing that name correctly.

9 Is that close enough?

10 MR. THORNTON: I said, Your Honor.

11 THE COURT: And involved allegations of kidnapping
12 of one Jessica Power and robbery of one Quantize Greer and
13 Jessica Power.

14 I tell you all those things, because in a few
15 moments, we will ask you about your relationship with any of
16 the people and your knowledge, if any, about any of the
17 allegations in these indictments.

18 The first thing that we are going to do, though, is
19 I'm going to ask the attorneys that are going to be involved
20 in the case if they will stand and identify themselves to
21 you, identify any potential witnesses to you. And after they
22 do all of that, I will begin asking you questions concerning
23 your relationship with, first of all, the attorneys involved
24 in the case, the relationship with the witnesses who may be
25 called in the case, your relationship with the defendant,

1 with the victim, and similar questions. We will begin with
2 the solicitor.

3 MR. THORNTON: Thank you, Your Honor.

4 Good morning, ladies and gentlemen. My name is Sean
5 Thornton. I'm the deputy solicitor for the 13th Circuit.
6 That's Beaufort, Colleton, Allendale, Jasper and Hampton. I
7 will be prosecuting this case this week.

8 Along with me is Hunter Swanson, who is an Mr.
9 Thornton in our office. The potential witnesses that may be
10 called in this case are as follows: Ivery Atkins with the
11 Beaufort County Sheriff's Office; Neil Baxley with Beaufort
12 County Sheriff's Office; Antonio Brewer; Tierra Brewer; Nija
13 Brown; Susan Cromer with the South Carolina Law Enforcement
14 Division, otherwise known as SLED; Billy Crumpton with the
15 Beaufort County Sheriff's Office; Brandon Disbrow with
16 Beaufort County Sheriff's Office; Jeremiah Fraser with the
17 Beaufort County Sheriff's Office; Tim French with the
18 Beaufort County Sheriff's Office; John Gobel, Beaufort County
19 Sheriff's Office; Tiffany Harris; Kalin Higgs; Chris Jabar;
20 Quornisha Jones; John Kelleher, Beaufort County Sheriff's
21 Office; Katrina Light, Beaufort County Sheriff's Office;
22 Carey McKnight; Jessica Power; Jeff Purdy, Beaufort County
23 Sheriff's Office; Andrew Rice, Beaufort County Sheriff's
24 Office; David Roche; Chad Seronka, Beaufort County Sheriff's
25 Office; Joe Schaffer with Beaufort County EMS; Melanie Smith,

1 who is with 911; Jennifer Stoner with South Carolina Law
2 Enforcement Division; William Squires, Beaufort County
3 Sheriff's Office; John Thompson, EMS; Lee Marie Tormos, who
4 is a pathologist at the Medical University of South Carolina;
5 Officer Whitney with the Beaufort Police Department; Chris
6 Wilson, Beaufort County Sheriff's Office; and Adam Zsamar,
7 Beaufort County Sheriff's Office.

8 Thank you, Your Honor. That's all from the State.

9 THE COURT: Thank you, Mr. Thornton.

10 Mr. Hood.

11 MR. HOOD: Ladies and gentlemen, I'm 14th Circuit
12 public defender for the five counties that Mr. Thornton just
13 named for you. And I have the pleasure of representing
14 Travis Polite here in this particular case. Seated with me
15 is Lauren Carroway. Lauren works in one of my offices here
16 in Beaufort County. And she will be assisting me in this
17 case throughout the proceedings.

18 Thank you.

19 THE COURT: Thank you, Mr. Hood.

20 The first question I have, ladies and gentlemen, is
21 this: Has any member of the jury panel ever been related by
22 blood or related by marriage to, first of all, any of the
23 attorneys involved in this case; second, to any of the
24 witnesses that may have been identified to you or to the
25 defendant himself, or, related by blood or marriage to any

1 member of any law enforcement agency?

2 If so, please stand and once again, give us your
3 name and number, and then tell us why you stood.

4 And we will hear from the lady on the first row who
5 stood first.

6 PROSPECTIVE JUROR: Alfreda Delaney, I'm Number
7 89.

8 THE COURT: Number 89. And tell me why you stood.

9 PROSPECTIVE JUROR: Because I'm related to the
10 defendant.

11 THE COURT: You've got to say it better than that.
12 I couldn't understand you.

13 PROSPECTIVE JUROR: Family member to the
14 defendant.

15 THE COURT: You are related to the defendant?

16 PROSPECTIVE JUROR: Uh-huh.

17 THE COURT: I need to ask you a couple of questions.
18 How are you related?

19 PROSPECTIVE JUROR: I was married -- my husband was
20 his father's first cousin.

21 THE COURT: Let me ask you a couple more questions.
22 Did you and Mr. Travis Polite ever see each other, family
23 gathering, social functions, things such as that?

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: I'm related to some people that I

1 haven't seen in years, so I don't really know. And how often
2 during a year's period of time would you see each other?

3 PROSPECTIVE JUROR: I see him all the time.

4 THE COURT: Regular basis? Now, Ms. Delaney, would
5 that fact that you just described to us interfere with your
6 ability to be a fair and impartial juror in this case?

7 PROSPECTIVE JUROR: I don't know. I will pass. I
8 say I pass. I don't want to be on it.

9 THE COURT: You don't believe that you could be fair
10 and impartial? That's what I understood you to say; am I
11 correct? Okay. All right. Thank you, ma'am. You may be
12 seated.

13 Anyone else? Don't forget. We might pick another
14 jury on another case, so you get to stay with us.

15 Yes, sir, gentleman in the dark coat.

16 PROSPECTIVE JUROR: No. 4.

17 THE COURT: No. 4?

18 PROSPECTIVE JUROR: I'm related to him on my
19 father's side.

20 THE COURT: Related?

21 PROSPECTIVE JUROR: Father was married into the
22 family.

23 THE COURT: Your father is related how?

24 PROSPECTIVE JUROR: He had a child into the family
25 and I'm related to the father by marriage. They are not

1 married anymore.

2 THE COURT: How often do you and Mr. Polite ever see
3 each other during the year?

4 PROSPECTIVE JUROR: Like every day.

5 THE COURT: Would that fact then cause you a problem
6 in serving as a fair and impartial juror? Does that mean
7 yes?

8 PROSPECTIVE JUROR: Yes, sir.

9 THE COURT: Okay. All right. Thank you, sir.
10 Yes, ma'am, your name and number.

11 PROSPECTIVE JUROR: Katherine Cooler, 75. I am
12 related through marriage to two deputies of Beaufort County,
13 but they are not on the witness sheet.

14 THE COURT: Probably still need to give me their
15 names, if you don't mind.

16 PROSPECTIVE JUROR: All right. J.P. Cooler and
17 Brandon Cooler.

18 THE COURT: And how are you related to them?

19 PROSPECTIVE JUROR: It's my husband's nephew, both
20 of them.

21 THE COURT: And how often do you see these two
22 gentlemen in a year's period of time?

23 PROSPECTIVE JUROR: Three or four times.

24 THE COURT: Is that in your home or someone else's
25 home?

1 PROSPECTIVE JUROR: Somebody else's home, but they
2 were not on the witness sheet.

3 THE COURT: I understand. Would that fact that you
4 are related to two people that works for the Sheriff's
5 Department interfere with your ability to be a fair and
6 impartial juror?

7 PROSPECTIVE JUROR: Absolutely not.

8 THE COURT: Thank you, ma'am.

9 PROSPECTIVE JUROR: Juror No. 9, John Aiken. I have
10 several relations that are law enforcement. None of them are
11 here in the state of South Carolina.

12 THE COURT: But they are relatives of yours?

13 PROSPECTIVE JUROR: Yes, sir.

14 THE COURT: And closest relative would be?

15 PROSPECTIVE JUROR: My wife, she's former law
16 enforcement. I have an uncle, sister-in-law, several cousins
17 in Georgia and Idaho.

18 THE COURT: Okay. But none of the people who were
19 listed as witnesses in this case?

20 PROSPECTIVE JUROR: No.

21 THE COURT: Would that fact interfere with your
22 ability to be a fair and impartial juror in this case?

23 PROSPECTIVE JUROR: No, it would not, sir.

24 THE COURT: Thank you, sir.

25 PROSPECTIVE JUROR: Richard Porter, 256.

1 THE COURT: 256, Mr. Porter.

2 PROSPECTIVE JUROR: I have a son who is a state
3 trooper in Massachusetts, but it would not interfere with my
4 participation.

5 THE COURT: You could be a fair and impartial juror?

6 PROSPECTIVE JUROR: Yes, Your Honor.

7 THE COURT: Thank you, sir.

8 Anyone else?

9 Yes, sir.

10 PROSPECTIVE JUROR: 230, Bryan Menghini. I have a
11 couple of relatives in that are law enforcement.

12 THE COURT: What kind of relationships?

13 PROSPECTIVE JUROR: My cousin is a detective in
14 Columbus, Ohio.

15 THE COURT: Would that fact interfere with your
16 ability to be a fair and impartial juror in this case?

17 PROSPECTIVE JUROR: No, sir.

18 THE COURT: Thank you, sir.

19 THE COURT: Anyone else?

20 PROSPECTIVE JUROR: I plan on staying, but my
21 brother is a retired sergeant and my other brother is an
22 active Sheriff's Office deputy in New Jersey. And it will
23 not effect my ability to make a decision.

24 THE COURT: Thank you, sir. Just for the record, I
25 need to get your name and number.

1 PROSPECTIVE JUROR: George Priest, 259.

2 THE COURT: I believe you are actually not going to
3 be selected on this jury anyhow, because of your work
4 schedule.

5 PROSPECTIVE JUROR: Thank you.

6 THE COURT: Has any member of the jury panel ever
7 had a close, personal or social relationship with any of the
8 attorneys involved in the case, with any of the witnesses
9 that have been identified to you, or with the defendant
10 himself? If you've ever had a close personal relationship
11 with any of those individuals, please stand.

12 And your name and number.

13 PROSPECTIVE JUROR: I'm 281. If it's the same
14 Jessica Power, I was her coach in high school, softball.

15 THE COURT: Let me think about what you've just
16 said.

17 Does anybody have any information on whether that's
18 a possibility or not?

19 MR. HOOD: Yes, she was a student here.

20 MR. THORNTON: It would be a possibility, Your
21 Honor.

22 THE COURT: I see.

23 MR. THORNTON: The State's position on that would
24 be, Judge, I think to err on the side of caution. I think we
25 should just assume that's correct when the Court questions

1 this particular juror.

2 THE COURT: Now, the last time that you would have
3 served as a coach for that individual?

4 PROSPECTIVE JUROR: It's been probably five years,
5 four years.

6 THE COURT: Four or five years?

7 PROSPECTIVE JUROR: Yes, Sir.

8 THE COURT: Since you were the coach, have you had
9 occasion to see that individual?

10 PROSPECTIVE JUROR: Very few times.

11 THE COURT: So that was your relationship, was being
12 a coach?

13 PROSPECTIVE JUROR: Yes, sir.

14 THE COURT: Would that fact interfere with your
15 ability to serve as a fair and impartial juror in this case?

16 PROSPECTIVE JUROR: I would hope not, but I think it
17 would.

18 THE COURT: You believe that you could not serve --
19 be fair and impartial to both the State and to the defense?

20 PROSPECTIVE JUROR: I don't think I could, no, sir.

21 THE COURT: All right.

22 Yes, sir, your name and number.

23 PROSPECTIVE JUROR: 168, and I have a relationship
24 with the defendant.

25 THE COURT: The defendant himself?

1 PROSPECTIVE JUROR: Yes. My brother used to be
2 married into his family. And we were kind of like into
3 the -- you know, going around, having parties and stuff. So
4 I know him very well.

5 THE COURT: Are you saying you see him and interact
6 with him on a regular basis?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Would that relationship then interfere
9 with your ability to be fair and impartial in this case?

10 PROSPECTIVE JUROR: Yes, sir.

11 THE COURT: All right. Thank you, sir.

12 And, yes, ma'am, your name and number.

13 PROSPECTIVE JUROR: Number 313 --

14 THE COURT: 313?

15 PROSPECTIVE JUROR: Yes, sir. My grandchild is --
16 he's uncle to my grandchild, so I don't know, but I do see
17 him often.

18 THE COURT: You see him?

19 PROSPECTIVE JUROR: I have no contact with him or
20 anything. I live in the area. Her father often comes back
21 and see her. That's about it. He's brother to Travis
22 Polite.

23 THE COURT: Well, would those facts that you've just
24 disclosed to us interfere with your ability to be fair and
25 impartial?

1 PROSPECTIVE JUROR: On this trial, yes, but I am
2 available.

3 THE COURT: Say that one more time.

4 PROSPECTIVE JUROR: For this trial, but I am
5 available for the rest of the week.

6 THE COURT: You don't believe you could be fair and
7 impartial in this case?

8 PROSPECTIVE JUROR: No, sir.

9 THE COURT: All right. Thank you, ma'am.

10 Has any member of the jury panel or member of your
11 immediate family ever been represented by any of the
12 attorneys involved in this case? If so, please stand.

13 (No response from the jury.)

14 THE COURT: Has any member of the jury panel ever
15 been employed by any law enforcement agency? If so, please
16 stand. That would include military.

17 You are going to have to start from the top and give
18 me name and number.

19 PROSPECTIVE JUROR: 230, Bryan Menghini. I was US
20 Marine for 6 years.

21 THE COURT: All right. Thank you, sir.

22 PROSPECTIVE JUROR: George Priest, 259, retired U.S.
23 Army.

24 THE COURT: Thank you, sir.

25 And the gentlemen closest to me.

1 PROSPECTIVE JUROR: Eric Holmberg, 26 years, United
2 States Navy, retired, 156.

3 THE COURT: Thank you, sir.

4 PROSPECTIVE JUROR: Number 9, 22 years, United
5 States Marine Corps.

6 THE COURT: Thank you, sir.

7 PROSPECTIVE JUROR: I'm number 281, United States
8 Marine Corps, eight years.

9 THE COURT: Juror 151, 21 years in United States
10 Marine Corps.

11 THE COURT: Thank you.

12 PROSPECTIVE JUROR: Charles Weidenof, 328, 22 years
13 United States Marine Corps.

14 THE COURT: Thank you, sir.

15 PROSPECTIVE JUROR: 312, Todd Taylor, 22 years, US
16 Marine Corps.

17 PROSPECTIVE JUROR: Lou Rhoden, 265, 38 years U.S.
18 Navy Reserve.

19 THE COURT: Thank you, sir.

20 PROSPECTIVE JUROR: David English, Number 97,
21 Vietnam era veteran, Marine Corps.

22 THE COURT: Thank you, sir.

23 Any member of the jury panel or member of your
24 immediate family ever been the victim of a violent crime; you
25 or member of your immediate family ever been the victim of a

1 violent crime? If so, please stand. Yes, ma'am, your name
2 and number.

3 PROSPECTIVE JUROR: Cheryl Holmes, juror number 72.
4 My grandfather was shot in an armed robbery.

5 THE COURT: Approximately how long ago?

6 PROSPECTIVE JUROR: Four years.

7 THE COURT: Thank you, ma'am.

8 PROSPECTIVE JUROR: Juror No. 209, my uncle was
9 killed by his son in '81.

10 THE COURT: Thank you, ma'am.

11 PROSPECTIVE JUROR: Jettie Hearn, 146. My
12 grandfather was beaten and hospitalized and was in coma for
13 several months, and that was 20 years ago.

14 THE COURT: Last part was what?

15 PROSPECTIVE JUROR: 20 years ago.

16 PROSPECTIVE JUROR: My name is Betty Anderson and
17 I'm No. 7. And I've got a brother Harold Polite. He is in
18 prison for sex offender.

19 THE COURT: Thank you, ma'am.

20 PROSPECTIVE JUROR: Joedon Boney, Juror 35. I had a
21 great grandfather that was murdered.

22 THE COURT: Approximately?

23 PROSPECTIVE JUROR: It was long time ago.

24 THE COURT: Any member of the jury panel ever been a
25 witness in a criminal trial? In other words, have you ever

1 been put on the witness stand as a witness in a criminal
2 trial? If so, please stand.

3 Yes, ma'am, your name and number,

4 PROSPECTIVE JUROR: Sally Smith, 296. I don't
5 remember the details. It was when I was in the second grade,
6 but a police officer harrassed a fellow student of mine and I
7 was called to the witness stand. I was there right next to
8 him, but I honestly don't remember the details. It was a
9 long time ago.

10 THE COURT: Thank you, ma'am.

11 All right. Has any member of the jury panel read,
12 seen or heard anything about this case in the media, print,
13 electronic, TV? If so, please stand. We will start on the
14 far end with the lady who stood first your name and number.

15 PROSPECTIVE JUROR: Kim Greenwell, 132. There was
16 an article in yesterday's Hilton Head Island Packet about
17 this, I believe.

18 THE COURT: All right. Let me ask you a question.
19 Is that the first time you remember reading, hearing or
20 seeing anything about this case?

21 PROSPECTIVE JUROR: I thought that I heard about it
22 previously, but didn't remember the details.

23 THE COURT: Did you read the entire article?

24 PROSPECTIVE JUROR: Yes. Skimmed might be a better
25 word.

1 THE COURT: Skimmed. Okay.

2 PROSPECTIVE JUROR: I figured you were going to quiz
3 me.

4 THE COURT: Now, the fact that you read that
5 article -- well, let me ask you another question. Have you
6 discussed this case or the allegations in this case with
7 anybody else?

8 PROSPECTIVE JUROR: No.

9 THE COURT: Would the fact that you read this
10 article -- did you read it yesterday or today?

11 PROSPECTIVE JUROR: I think it was yesterday.

12 THE COURT: Would you be able to put the statements
13 made in that article out of your mind and make -- and sit as
14 a juror in this case and make a decision solely based on what
15 occurs in this courtroom, which would include witnesses,
16 evidence, and a judge telling you about the law that applies
17 in the case? Could you put all of that out of your mind and
18 make a decision only on what happens here?

19 PROSPECTIVE JUROR: Yes, because I don't always
20 believe what I read in the media is true anyway, so I don't
21 think that would be too hard.

22 THE COURT: Thank you, ma'am.

23 And you have to do it again.

24 PROSPECTIVE JUROR: I'm sorry. I read the same
25 article and I can be objective. I just read the article. I

1 didn't want to influence my decision.

2 THE COURT: One more time for the record you have to
3 give me your name and number.

4 PROSPECTIVE JUROR: I'm sorry, Judge. George
5 Priest, 259.

6 PROSPECTIVE JUROR: Randy Fix, Juror 105. I read
7 the same article, as I do every day, the newspaper. I have
8 to say the details in the article may preclude me from being
9 fair and impartial.

10 THE COURT: Was that the first time you had heard
11 about this case?

12 PROSPECTIVE JUROR: No, seems to me it was some time
13 back I had, but yesterday's article sort of reminded me.

14 THE COURT: Did you read the entire article?

15 PROSPECTIVE JUROR: Yes, I did.

16 THE COURT: Do you think that might interfere with
17 your ability to be fair and impartial?

18 PROSPECTIVE JUROR: It may, yes, sir.

19 THE COURT: All right. Thank you, sir.

20 Yes, ma'am, your name and number.

21 PROSPECTIVE JUROR: Denise McAllister, 223. I read
22 the same article yesterday, but I could still be fair and
23 impartial.

24 THE COURT: Let me ask you a couple other questions.
25 Did you read the entire article? Did you study it, read it,

1 or just skim it?

2 PROSPECTIVE JUROR: Maybe half of it, kind of
3 scanned it.

4 THE COURT: Was that the first time that you recall
5 hearing anything?

6 PROSPECTIVE JUROR: That was the first time I had
7 seen anything about that.

8 THE COURT: Do you think that would not interfere
9 with your ability to be fair?

10 PROSPECTIVE JUROR: No, sir, it wouldn't.

11 THE COURT: Behind you would be juror number?

12 PROSPECTIVE JUROR: Cheryl Holmes, 72.

13 THE COURT: 72?

14 PROSPECTIVE JUROR: Yes, sir. And I read the same
15 article.

16 THE COURT: And was that the first time you recall
17 anything about this case?

18 PROSPECTIVE JUROR: I think I may have heard
19 something when it first happened but not in particular.

20 THE COURT: Did you read every word in the article,
21 did you skim it?

22 PROSPECTIVE JUROR: I did read the article.

23 THE COURT: You did read the article?

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: Now, would you be able to sit as a juror

1 in this case and, in effect, just disregard everything you
2 read and base the decision as a fair and impartial juror
3 solely on what you see and hear in this courtroom?

4 PROSPECTIVE JUROR: I would be concerned based on my
5 personal experience of being a juror in this case.

6 THE COURT: You think you might have a problem then
7 being a fair and impartial juror?

8 PROSPECTIVE JUROR: Yes, sir, I do.

9 THE COURT: Okay. Thank you, ma'am.

10 And, yes, ma'am.

11 PROSPECTIVE JUROR: Ellen Kelly, Juror No. 185.

12 THE COURT: 185?

13 PROSPECTIVE JUROR: Yes. I read -- the headline
14 struck me because I knew I had jury duty today. I read about
15 the first paragraph. I never heard of it before.

16 THE COURT: You say you read the first paragraph?

17 PROSPECTIVE JUROR: Yeah. I just scanned it a
18 little bit, because I knew I had jury duty today and I think
19 so, aw.

20 THE COURT: You probably weren't the only one who
21 said aw for jury duty. But you didn't read the rest of the
22 article?

23 PROSPECTIVE JUROR: No.

24 THE COURT: Is that the article on the first page or
25 the third page?

1 PROSPECTIVE JUROR: No, it was on the third page.

2 THE COURT: First page?

3 PROSPECTIVE JUROR: No, third page.

4 THE COURT: Would that fact interfere with your
5 ability to serve as a fair and impartial juror in this case?

6 PROSPECTIVE JUROR: No, sir.

7 THE COURT: Thank you, ma'am.

8 PROSPECTIVE JUROR: I'm 188. I read the same
9 article. I read it in detail because I knew I was coming in
10 today for jury duty. I usually don't get into -- care that
11 much about it, but I did read it all thoroughly. And I guess
12 I would say I did form some of an opinion in my mind about
13 what I think was the outcome or what should have been, but
14 I've never had a trial with a jury before listing all the
15 facts and making a fair decision.

16 THE COURT: It's hard not to read an article about
17 something that you are going to be part of. But you believe
18 that you've already formed an opinion by some matter or some
19 issue in this case?

20 PROSPECTIVE JUROR: I think there's enough
21 information there, the way it was read. The way I read it in
22 the paper, I kind of came up with my own opinion.

23 THE COURT: I'm really not trying to be smart, but
24 do you believe everything you read in the newspaper?

25 PROSPECTIVE JUROR: I read it every day for years,

1 so ...

2 THE COURT: Do you believe those opinions that you
3 reached reading that newspaper, as a result of reading that
4 newspaper, would interfere with your ability to be a fair and
5 impartial juror?

6 PROSPECTIVE JUROR: I would hope not, but I say I
7 specifically remember in my own mind saying, you know, this
8 is the way I feel about it right now.

9 THE COURT: All right. Thank you.

10 Any member of the jury panel discussed with another
11 individual the allegations, the facts in this case? If so,
12 please stand.

13 Yes, sir, your name and number.

14 PROSPECTIVE JUROR: Robert Smith, 294.

15 THE COURT: 294?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: You discussed some of these matters
18 with --

19 PROSPECTIVE JUROR: Yeah, back -- I lived in the
20 area I lived in, there was a lot of people talked about it
21 when it happened.

22 THE COURT: So this would have been couple of years
23 ago?

24 PROSPECTIVE JUROR: Yeah.

25 THE COURT: Since then, has anyone discussed --

1 PROSPECTIVE JUROR: No. It just popped -- when I
2 heard the solicitor, that's when I was thinking, I remember
3 that. I remember where I lived at the time everybody was
4 talking about it and trying to just describe to me what was
5 going on, you know.

6 THE COURT: Let me ask you this. Do you believe
7 that you could sit as a juror in this case and make a
8 decision based solely on what happens in this courtroom,
9 meaning, listen to the witnesses who testify?

10 PROSPECTIVE JUROR: I don't know. I think a lot
11 of -- since sitting here, a lot of stuff has come back to me,
12 you know, about when it actually happened, you know. So I
13 don't know. I mean, I have to stand up and say this, so I
14 don't know.

15 THE COURT: You are not sure?

16 PROSPECTIVE JUROR: Right. Well, yeah, because I
17 know -- I don't know the defendant personally, but like I
18 said, I remembered the stuff being said at the time, you
19 know, and the allegations.

20 THE COURT: Are you concerned then about your
21 ability to be fair and impartial?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: All right. Thank you, sir.

24 Any additional questions from the State?

25 MR. THORNTON: None from the State, Your Honor.

1 THE COURT: From the defense not previously
2 requested?

3 MR. HOOD: None from the defense.

4 THE COURT: Let me have a quick side bar with the
5 clerk and the two attorneys.

6 (Whereupon, a bench conference takes place.)

7 THE COURT: Ladies and gentlemen, what's getting
8 ready to happen is as soon as the computer decides to
9 cooperate is -- well, first thing that happens is the
10 computer is going to randomly select names. And one at a
11 time, names will be called and presented. Each side has the
12 opportunity to refuse a certain number. They are called
13 strikes. They get to strike you.

14 The attorneys don't get to select who sits on the
15 jury. They kind of get to decide who they prefer not to sit
16 on a jury. They don't have to give us reasons. It's just --
17 it could be anything. Could be your occupation, your
18 spouse's occupation, where you live, just what you wore to
19 court today, whether you wear a beard, whether you are bald.
20 There's all kinds of reasons the attorneys might have that
21 they are not required to tell you or me as a general rule.

22 So while we are waiting on the computer to
23 cooperate, let's be at ease. You may stand and stretch.
24 Hopefully, it's just going to be a few minutes and we will
25 begin the process.

1 (A recess transpired.)

2 THE COURT: The State ready to pick a jury?

3 MR. THORNTON: The State is ready to proceed, Your
4 Honor.

5 THE COURT: Defense ready?

6 MR. HOOD: Defense is ready.

7 THE COURT: Madam Clerk, give us the jury.

8 THE CLERK: 75, Katherine Cooler.

9 MR. THORNTON: Please present this juror.

10 THE CLERK: What says the defense?

11 MR. HOOD: Please excuse the juror.

12 THE CLERK: Juror No. 222, Fiana Mbriwa, what says
13 the State?

14 MR. THORNTON: Please present this juror.

15 THE CLERK: What says the defense?

16 MR. HOOD: Please seat the juror.

17 THE CLERK: Juror No. 312, Todd Taylor, what says
18 the State?

19 MR. THORNTON: Please present this juror.

20 THE CLERK: What says the defense?

21 MR. HOOD: Please excuse the juror.

22 THE CLERK: Juror No. 146, Jettie Hearn, what says
23 the State?

24 MR. THORNTON: Please present this juror.

25 THE CLERK: What says the defense?

1 MR. THORNTON: Please seat the juror.

2 THE CLERK: Juror No. 239, Matthew Morgan. What
3 says the State?

4 MR. THORNTON: Please present this juror.

5 THE CLERK: What says the defense?

6 MR. HOOD: Please excuse the juror from the trial of
7 this case.

8 THE CLERK: Juror No. 256, Richard Porter. What
9 says the State?

10 MR. THORNTON: Please present this juror.

11 THE CLERK: What says the defense?

12 MR. HOOD: Please excuse the juror.

13 THE CLERK: Juror No. 231, Nolan Messex. What says
14 the State?

15 MR. THORNTON: Please present this juror.

16 THE CLERK: What says the defense?

17 MR. HOOD: Please seat the juror.

18 THE CLERK: Juror No. 117, Stephanie Gadson. What
19 says the State?

20 MR. THORNTON: Please present this juror.

21 THE CLERK: What says the defense?

22 MR. HOOD: Please seat the juror.

23 THE CLERK: Juror No. 28, Grace Best. What says the
24 State?

25 MR. THORNTON: Please present this juror.

1 THE CLERK: What says the defense?

2 MR. HOOD: Please excuse the juror.

3 THE CLERK: Juror No. 265, Louis Rhoden. What says
4 the State?

5 MR. THORNTON: Please present this juror.

6 THE CLERK: What says the defense?

7 MR. HOOD: Please excuse the juror.

8 THE CLERK: Juror No. 144, Chris Haynes. What says
9 the State?

10 MR. THORNTON: Please present this juror.

11 THE CLERK: What says the defense?

12 MR. HOOD: Please seat the juror.

13 THE CLERK: Juror No. 156, Eric Holmberg. What says
14 the State?

15 MR. THORNTON: Please present this juror.

16 THE CLERK: What says the defense?

17 MR. HOOD: Please excuse the juror.

18 THE CLERK: Juror No. 69, Christine Cohen. What
19 says the State?

20 MR. THORNTON: Please present this juror.

21 THE CLERK: What says the defense?

22 MR. HOOD: Please seat the juror.

23 THE CLERK: Juror No. 209, Debra Lynard, what says
24 the State?

25 MR. THORNTON: Please excuse the juror.

1 THE CLERK: Juror No. 59, Donna Chaplin. What says
2 the State?

3 MR. THORNTON: Please present this juror.

4 THE CLERK: What says the defense?

5 MR. HOOD: Please seat the juror.

6 THE CLERK: Juror No. 339, Patti Wilson. What says
7 the State?

8 MR. THORNTON: Please present this juror.

9 THE CLERK: What says the defense?

10 MR. HOOD: Please seat the juror.

11 THE CLERK: Juror No. 286, Crystal Seymore. What
12 says the State?

13 MR. THORNTON: Please present this juror.

14 THE CLERK: What says the defense?

15 MR. HOOD: Please seat the juror.

16 THE CLERK: Juror No. 172, Cheryl Jimenez. What
17 says the State?

18 MR. THORNTON: Please present this juror.

19 THE CLERK: What says the defense?

20 MR. HOOD: Please seat the juror.

21 THE CLERK: Juror No. 35, Joedon Boney. What says
22 the State?

23 MR. THORNTON: Please present this juror.

24 THE CLERK: What says the defense?

25 MR. HOOD: Please excuse the juror.

1 THE CLERK: Juror No. 177, Morgan Jones. What says
2 the State?

3 MR. THORNTON: Please present this juror.

4 THE CLERK: What says the defense?

5 MR. HOOD: Please seat the juror.

6 THE CLERK: Juror No. 280, Roxanne Sauerbrei. What
7 says the State?

8 MR. THORNTON: Please excuse the juror.

9 THE CLERK: Juror No. 232, Glendon Meyers. What
10 says the State?

11 MR. THORNTON: Please present this juror.

12 THE CLERK: What says the defense?

13 MR. HOOD: Please excuse the juror.

14 THE CLERK: Juror No. 250, Katherine Pavone. What
15 says the State?

16 MR. THORNTON: Please present this juror.

17 THE CLERK: What says the defense?

18 MR. HOOD: Please seat the juror.

19 THE CLERK: We are now selecting for our alternates.
20 Alternate one, Juror No. 180, Pentti Karki. What says the
21 State?

22 MR. THORNTON: Please present this juror.

23 THE CLERK: What says the defense?

24 MR. HOOD: Please seat the juror.

25 THE CLERK: Now for our second alternate. Juror No.

1 230, Bryan Menghini. What says the State?

2 MR. THORNTON: Please present this juror.

3 THE CLERK: What says the defense?

4 MR. HOOD: Please excuse the juror.

5 THE CLERK: Juror No. 164, Pamela James. What says
6 the State?

7 MR. THORNTON: Please present this juror.

8 THE CLERK: What says the defense?

9 MR. HOOD: Please seat the juror.

10 THE COURT: Any matters of law the Court needs to
11 consider concerning the selection of composition of the jury
12 from the State?

13 MR. THORNTON: Nothing from the State.

14 THE COURT: From the defense?

15 MR. HOOD: Nothing, Your Honor.

16 THE COURT: Ladies and gentlemen, I'm going to ask
17 you to follow the bailiff to the jury room. We are going
18 to -- and I'm going to ask you to come back at two o'clock.
19 We hope to begin the trial of the case.

20 During this break, don't talk to anybody about the
21 case. Don't let anybody talk to you about the case. See you
22 back at two o'clock, ladies and gentlemen.

23 (Whereupon, the jury leaves open court at 12:33
24 p.m.)

25 THE COURT: We are going to move to Courtroom 3.

1 (Whereupon, recess transpired.)

2 (State's Exhibit No. 1, Miranda Warning Form, was
3 marked for identification.)

4 (State's Exhibit No. 2, Miranda Warning Form, was
5 marked for identification.)

6 (State's Exhibit 3, Chain of custody, was marked for
7 identification.)

8 THE COURT: All right. Mr. Thornton, Mr. Hood, it's
9 my understanding we need to take up a few matters before we
10 begin the trial of the case.

11 MR. THORNTON: We do, Your Honor. My understanding
12 is we probably just have two motions for right this minute,
13 which would be a Jackson vs. Denno and a Biggers, Neil v.
14 Biggers for identification for Antonio Brewer, I think would
15 be the two. And then we can discuss the matter we discussed
16 in chambers dealing with the redacted audio and videotapes
17 that the Court and Mr. Hood are going to need to take a look
18 at. Again, my suggestion would be in the overnight, and if
19 there's any further redactions Mr. Hood wants to make a
20 motion of, we can take it up in the morning or perhaps late
21 this afternoon, depending how many witnesses we get through
22 today and what the status is.

23 THE COURT: All right.

24 MR. THORNTON: If the Court has no preference one
25 way or the other, my suggestion would be we go ahead and go

1 through the Jackson vs. Denno first.

2 MR. HOOD: No objection. The only thing we have is
3 the sequestration of the witnesses that we discussed earlier.
4 That was one of the other --

5 MR. THORNTON: And if we want to go ahead and
6 enforce that now, I can have the officer step out. I haven't
7 done that until we started the trial, but I'm happy to go
8 ahead and do that.

9 THE COURT: It's my understanding pursuant to the
10 agreement of the parties, the witnesses will be sequestered
11 and not allowed in the courtroom except during their
12 testimony and after their testimony.

13 MR. THORNTON: I have no objection to after, Your
14 Honor, if Mr. Hood does not, Judge. The only other thing,
15 John Gobel is the case officer. Obviously, he's in the room
16 and will be testifying. I would ask that he be allowed to
17 remain.

18 MR. HOOD: I don't have any objections to Gobel
19 being in the room.

20 The only thing is that I ask that I be allowed to
21 make my decision on whether they be excused after they
22 testify.

23 THE COURT: Court agrees. All right. Mr. Gobel can
24 stay. And we will decide on a case-by-case basis whether the
25 witness can stay after testifying.

1 So, Mr. Thornton.

2 MR. THORNTON: Thank you, Your Honor.

3 Your Honor, at this time, the State calls Staff
4 Sergeant Jeremiah Fraser. I hope I got his rank right.

5 JEREMIAH FRASER,

6 having been duly sworn, testifies as follows:

7 THE CLERK: State and spell your name for the court
8 record.

9 THE WITNESS: Jeremiah Fraser, F-r-a-s-e-r.

10 DIRECT EXAMINATION

11 BY MR. THORNTON:

12 Q. Mr. Fraser, is your current rank staff sergeant?

13 A. It is.

14 Q. Staff Sergeant Fraser, where do you work?

15 A. For the Beaufort County Sheriff's Office.

16 Q. Did you work on for the Beaufort County on or about
17 September the 6th of 2012?

18 A. I did.

19 Q. And did you have any occasion to talk to the
20 defendant in this case, Travis Polite?

21 A. Yes, sir, I did; two times.

22 Q. And I handed to you -- you indicated two times. I
23 handed you what's been marked for identification as State's
24 Exhibit No. 1 for the purposes of this hearing. Are you
25 familiar with that document?

1 A. I am. This is the Miranda form we use before we
2 spoke to Mr. Polite.

3 Q. Is that the actual form you used for the interview
4 of Mr. Polite?

5 A. No, I believe it's a copy.

6 Q. Yes, sir, is it an accurate photocopy?

7 A. I guess.

8 Q. Changed or altered in any way?

9 A. No, sir.

10 Q. Would you please, sir, indicate whether or not
11 there's any statement of rights on that form?

12 A. There is. Would you like me to read them?

13 Q. I would, sir.

14 A. Under the statement of rights, it says: You have
15 the right to remain silent. Anything you say can and will be
16 used against you in a court of law. You have the right to
17 have an attorney present before or during questioning. And
18 finally, if you cannot afford an attorney, one will be
19 appointed for you before any questioning if you wish.

20 It goes onto the waiver which says: Do you
21 understand each of these rights I have explained to you?

22 Followed by: Having these rights in mind, do you
23 wish to talk to us now?

24 Q. And did Mr. Travis Polite initial by any or all of
25 of these rights?

1 A. Yes, sir. He initialed by all of them. And
2 initialed yes to both of the waiver of rights questions.

3 Q. Did you in fact sign anywhere on that form?

4 A. I did. Mine is the second signature, first
5 witness.

6 Q. And who else's signature appear on State's Exhibit
7 No. 1 for identification?

8 A. Mr. Polite, and I believe it's Lieutenant Averill.

9 Q. Again, were those rights read to Mr. Polite?

10 A. Yes, sir, they were.

11 Q. Did he make those initials?

12 A. He did.

13 Q. And has that form been changed or altered in any
14 way?

15 A. No, sir.

16 MR. THORNTON: Your Honor, I would ask that State's
17 Exhibit 1 be moved into evidence for the purpose of this
18 hearing.

19 MR. HOOD: No objection.

20 THE COURT: Moved in without objection.

21 (State's Exhibit 1, Miranda Warning, is moved into
22 evidence.)

23 Q. This first interview, who else was in the room with
24 you?

25 A. I believe Lieutenant Averill was there for part of

1 it and Investigator Rice was also present.

2 Q. Were you and Investigator Rice the primary
3 questioners of Travis Polite?

4 A. Yes, sir.

5 Q. Did either of you threaten him in any way?

6 A. No, sir.

7 Q. Did you make any promises to him?

8 A. No, sir.

9 Q. Did he seem to understand when you went over his
10 rights and over the rights form, did he seem to understand
11 your statements to him and any questions you asked?

12 A. Yes, sir.

13 Q. And was he able to respond to you?

14 A. Yes, sir.

15 Q. And did he agree, in fact, to talk to you?

16 A. Yes, he did.

17 Q. And was that interview videotaped?

18 A. It was.

19 Q. And audio, obviously?

20 A. Yes, sir.

21 Q. And were these rights read to him on that video?

22 A. Yes, sir.

23 MR. THORNTON: Your Honor, Court's indulgence for
24 just a moment.

25 BY MR. THORNTON:

1 Q. Staff Sergeant Fraser, while you were in the room, I
2 know I've asked you if you promised the defendant,
3 Mr. Polite, anything or threatened him in any way; did anyone
4 else in your presence?

5 A. No, sir.

6 Q. And you said there was a second interview. I'm
7 going to hand you what's been marked as State's Exhibit 2 for
8 identification. And I will ask you if you recognize that?

9 A. I do, yes, sir.

10 Q. And what is it, sir?

11 A. It's the same Miranda form that the Sheriff's Office
12 uses. It's got a different date and this one was conducted
13 at the detention center.

14 Q. And were you present for that questioning also?

15 A. Yes, I was.

16 Q. And is that a questioning of Travis Polite?

17 A. Yes, it was.

18 Q. And without having to go through each of the rights,
19 are they the same? Is it the same form with the same rights
20 printed on it?

21 A. Yes, sir.

22 Q. And did you go back over those rights again?

23 A. Yes, we did.

24 Q. And did Mr. Polite seem to indicate that he
25 understood all of his rights?

1 A. Yes, sir.

2 Q. And did he agree to talk to you at that time as
3 well?

4 A. Yes.

5 Q. And at the second interview, was that videotaped or
6 just audiotaped?

7 A. The second interview was an audiotape.

8 Q. You said that occurred where?

9 A. At the detention center.

10 Q. And who initiated the second interview? When I say
11 initiated, probably an inartful question. Did you go over to
12 the detention center to talk to him, or did he ask for you to
13 come down?

14 A. He asked for us to come over and speak with him.

15 Q. When I say he, the defendant, Travis Polite?

16 A. Yes.

17 Q. Is he the one who requested to talk to someone from
18 the Sheriff's Office?

19 A. Yes, sir.

20 Q. And while you were there at the detention center,
21 did anyone in your presence threaten or promise anything to
22 Travis Polite to try to get him to talk?

23 A. No, sir.

24 MR. THORNTON: I'm going to go into just a very
25 brief, at this point, explanation of what the statements are.

1 Again, my purpose will not be to introduce the statements
2 themselves right now, unless the Court wants to go ahead and
3 hear them. I think we have to deal with the redaction issue
4 that Mr. Hood has requested. So unless the Court feels like
5 you need a great deal of details in terms of volunteering
6 this, I am going to hit it in the barest terms and would just
7 request the ability to come back to you if you feel there's
8 some issue.

9 THE COURT: All right.

10 BY MR. THORNTON

11 Q. Staff Sergeant Fraser, would it be fair to say that
12 the two statements given by Mr. Polite in this case between
13 the first and second statement that they are markedly
14 different?

15 A. Yes, sir.

16 Q. Did he admit to knowing anything about anything
17 dealing with this case during the first statement?

18 A. No.

19 Q. Did he, in fact, deny knowing about it, knowing
20 where it was, when it was, or anything else?

21 A. Essentially, yes, sir.

22 Q. And, again, I know that it's a -- there's a lot to
23 the statement, but just in terms, was that true also for the
24 second statement?

25 A. In the second statement, he indicated what -- he

1 made a completely different statement in the second one
2 indicating what he knew about the incident.

3 Q. The second statement, would it be fair
4 characterization to say that he admits being there, admits
5 knowing about it, admits going, but says he only did it
6 because he was scared of Walter Tucker, also known as Oowee?

7 A. Essentially, yes, sir.

8 Q. But he admits to everything else as far as being
9 there, being present, knowing about it, and what he knew of
10 it and what he observed?

11 A. Yes, sir, that's correct.

12 Q. Did he also indicate during the second statement
13 that Mr. Tucker, also known as Oowee, was, in fact, the
14 trigger man and had fired some shots, and came back and made
15 a statement something to the effect of, I did it, I think I
16 killed him, or something like that?

17 A. Yes, sir.

18 Q. So would it be fair to say markedly different
19 between the first statement as to what his knowledge and
20 participation was and the second statement?

21 A. Yes, sir.

22 Q. At any point in time, did Mr. Polite seem to be
23 under the influence of any alcohol, drugs, narcotics, or
24 unable to converse with you?

25 A. No.

1 Q. And at any time, was he threatened to try to get him
2 to provide a statement?

3 A. No.

4 Q. No question as to that he was in custody?

5 A. Correct.

6 MR. THORNTON: Your Honor, for the purpose of this
7 hearing, the State will concede that he was in custody when
8 he was questioned by law enforcement.

9 That's all I have for this witness. I have -- and,
10 I'm sorry, as to the second statement, who was with you on
11 the second statement, if anybody?

12 THE WITNESS: Investigator Rice was present. I
13 believe Investigator Rice was the one that read the Miranda
14 form to him.

15 BY MR. THORNTON:

16 Q. Investigator Rice was the one that actually signed
17 it?

18 A. Yes.

19 MR. THORNTON: If I haven't done this, I'm going to
20 ask State's Exhibit 2 be moved into evidence for the purpose
21 of this hearing.

22 MR. HOOD: I have one matter.

23 CROSS-EXAMINATION

24 BY MR. HOOD:

25 Q. I believe that the second time when Mr. Polite

1 called you and you guys came over to the jail to talk to him
2 about this matter, that the reason that he had called you was
3 because his wife was being threatened by Mr. Tucker
4 apparently; is that correct?

5 A. I don't recall that. I recall he had concern for
6 his family. And he had requested that we provide some form
7 of protection for him.

8 Q. Protection for his family; is that correct?

9 A. Yes.

10 THE COURT: So motion is granted.

11 MR. THORNTON: Thank you, Your Honor.

12 And the only other thing I would ask is, and we may
13 have already touched on this, I apologize, but this one was
14 audio only, not video.

15 THE WITNESS: That's correct.

16 MR. THORNTON: Thank you. I have no further
17 questions, Judge. The State would call Andrew Rice to the
18 stand.

19 (State's Exhibit 2, Miranda Warning, is moved into
20 evidence.)

21 ANDREW RICE,

22 having been duly sworn, testifies as follows:

23 THE CLERK: State your name and spell it for the
24 record.

25 THE WITNESS: Andrew Rice, A-n-d-r-e-w, R-i-c-e.

1 DIRECT EXAMINATION

2 BY MR. THORNTON:

3 Q. What is your current rank? Let me start off with
4 the easy one first. Who do you work for?

5 A. Beaufort County Sheriff's Office.

6 Q. What's your present rank?

7 A. Sergeant.

8 Q. Sergeant Rice, did you work for the Beaufort County
9 Sheriff's Office in September of -- specifically September
10 the 6th of 2012?

11 A. Yes, sir, I did.

12 Q. And did you have occasion to work on the case and
13 talk to one Travis Polite or Travi Polite?

14 A. I did.

15 Q. And how many times did you talk to him?

16 A. Two different dates.

17 Q. And on the first date, if you will look up there, I
18 believe still in front of you is going to be State's Exhibit
19 1, which is already in evidence. Can you tell us what that
20 is, sir?

21 A. Yes, sir. This is a Beaufort County Sheriff's
22 Office Miranda warning form. It was completed October 19th,
23 2012.

24 Q. And was that form completed in part by you or in
25 your presence?

1 A. Yes, sir, it was.

2 Q. And does your signature appear on that form?

3 A. It does.

4 Q. And is that the form that was used when you
5 interviewed or assisted in interview on one Travis Polite?

6 A. I take that back. I didn't initial or sign this
7 form, but it was done in my presence.

8 Q. I'm sorry. So it was done in your presence?

9 A. Yes, sir.

10 Q. Was that done in your presence when you and Jeremiah
11 Fraser with the Beaufort County Sheriff's Office talked to
12 the defendant in this case?

13 A. Yes, sir.

14 Q. Were all those rights read to him?

15 A. Yes, sir, they were.

16 Q. And were they all read to him in your presence?

17 A. Yes, sir.

18 Q. And, in fact, was this first interview, was it
19 videotaped, audio taped, both, neither?

20 A. It was both video and audio taped.

21 Q. Were those rights read to him on the tape?

22 A. Yes, they are.

23 Q. When I say he, using pronoun, did the defendant in
24 this case have any trouble understanding you?

25 A. No, sir, he did not.

1 Q. Did he seem to have any problems at all conversing
2 with you?

3 A. No, sir.

4 Q. And the rights have already been read into the
5 record, but did Mr. Polite initial by each one of the rights
6 that you indicated he had?

7 A. Yes, sir, he did.

8 Q. And as to the first interview, did he seem to
9 understand those rights?

10 A. He did.

11 Q. And did anyone, including you, threaten Mr. Polite
12 in any way to get him to talk to you?

13 A. No, sir.

14 Q. Did any of you promise him anything to get you to
15 talk to him?

16 A. No, sir.

17 Q. And as to the second statement, same question. Did
18 anybody in your presence, including yourself, threaten or
19 promise Mr. Polite anything to get him to speak with you?

20 A. No, sir.

21 Q. As to the second statement, did he seem to still
22 understand all of his rights?

23 A. Yes, sir, he did.

24 Q. Did he appear to be under the influence of any
25 narcotics or alcohol or anything to the extent that he was

1 unable to understand you or understand what was going on?

2 A. No, sir.

3 Q. Did you go over there -- did you initiate the
4 conversation on the second date, or did he?

5 A. He initiated it.

6 Q. And in what way?

7 A. He had completed an inmate request form, sent it
8 to -- through the jail staff to the Sheriff's Office asking
9 for Sergeant Gobel to come speak with him.

10 Q. And is that when you and Sergeant Rice, Staff
11 Sergeant Rice went over to speak with Mr. Polite?

12 A. Yes, myself and Staff Sergeant Fraser.

13 Q. That second interview, was it video, audio, both or
14 neither.

15 A. Only audiotaped.

16 Q. Where did it take place?

17 A. Inside the detention center.

18 Q. There's no question -- the State's already conceded
19 Mr. Polite was in custody when you talked to him?

20 A. Yes, sir.

21 Q. Now, as to the statements themselves, and again, we
22 are just going to cover it in a very most general terms
23 possible, would you say that the two statements he gave were
24 the same or very similar, or were they markedly different?

25 A. They were markedly different.

1 Q. Did he indicate in the first statement basically,
2 that he didn't know anything, didn't see anything, didn't
3 know what you were talking about?

4 A. Yes, sir.

5 Q. Was that carried over into the second statement or
6 did he now claim he had a lot more knowledge in the second
7 statement?

8 A. The second statement he had a lot more knowledge.

9 Q. And was the second statement where he discussed what
10 he says he knew, didn't know, and the fact that he was there,
11 knew what was going on, and that Oowee or Walter Tucker was
12 the trigger man?

13 A. Yes, sir.

14 Q. And is that the statement he gave you on the second
15 time or the first time?

16 A. The second time.

17 Q. At any time, did you or anyone else threaten or
18 promise him anything to get him to talk to you?

19 A. No, sir.

20 Q. And again, the first statement is video and
21 audiotape; second statement is audiotape?

22 A. Yes, sir.

23 MR. THORNTON: Your Honor, I have nothing further
24 for this witness.

25 MR. HOOD: I have a couple, Your Honor.

1 CROSS-EXAMINATION

2 BY MR. HOOD:

3 Q. Officer Rice, is this the same person we've been
4 talking about? I mean, we've been talking about Travis
5 Polite. Is this Travis Polite?

6 A. Yes, sir.

7 Q. And does he look the same as he did two years ago?

8 A. Yes, sir.

9 Q. Okay. The second time you were talking to Mr.
10 Polite, apparently, he indicated that he had some serious
11 concerns about the safety of his family; is that correct?

12 A. Yes, sir, he did.

13 Q. And that's the reason that he wanted to talk to you
14 guys; is that correct?

15 A. Yes, sir.

16 Q. So he didn't want to do anything but protect his
17 family, and that's the reason he was talking to you; is that
18 correct?

19 A. Yes, sir.

20 MR. HOOD: Okay. And I think that's all. Thank
21 you.

22 MR. THORNTON: Just one brief question.

23 REDIRECT EXAMINATION

24 BY MR. THORNTON:

25 Q. That's the only reason Travis Polite told you, was

1 that he thought his family was in danger; correct?

2 A. Yes, sir.

3 Q. Whether or not that's true would be whether or not
4 you believe Travis Polite?

5 A. Yes, sir.

6 MR. THORNTON: I don't have anything further,
7 Judge.

8 THE COURT: Thank you, sir. You may step down.

9 MR. THORNTON: Your Honor, those are all the
10 witnesses I would have as to the two statements. Again, one
11 is videotaped. One is audiotaped. If you want to, I will
12 let Your Honor talk to myself and Mr. Hood about that, if you
13 would rather wait on ruling on the motion, I will argue at
14 the appropriate time, but that's all I've got for
15 witnesses.

16 MR. HOOD: I have no objections, Your Honor.

17 THE COURT: Well, let's just wait. You are going to
18 have that this afternoon some time?

19 MR. THORNTON: I've got copies I think I can give
20 you in the next two minutes, Judge. But obviously you are
21 going to have to listen to them if you want to do it for the
22 ruling. I have Mr. Hood -- Hunter has already taken care of
23 of it for me. As normal, she's two steps ahead of me. That
24 is Mr. Hood's copies. And, Your Honor, I've your copies as
25 well. I have redacted everything I think needs to be

1 redacted, Judge. So I would -- obviously, if Mr. Hood has
2 anything extra, I would be happy to argue that whenever the
3 Court is ready.

4 THE COURT: Are we going to do this this morning?

5 MR. THORNTON: Yes, sir, I would think so, give you
6 time in the overnight. And I've got Dillon Hightower with
7 our office ready if there is another redaction the Court
8 orders me to make, we can have that done tomorrow.

9 THE COURT: All right. Then as discussed, Court
10 takes that matter under advisement until tomorrow morning,
11 which brings us to --

12 MS. SWANSON: Thank you, Your Honor. The next issue
13 we need to address is an identification hearing. in the Neil
14 v. Biggers, my first witness will be Antonio Brewer.

15 ANTONIO BREWER,

16 having been duly sworn, testifies as follows:

17 THE CLERK: State and spell your name for the court
18 record.

19 THE WITNESS: Antonio Brewer, A-n-t-o-n-i-o,
20 B-r-e-w-e-r.

21 DIRECT EXAMINATION

22 BY MS. SWANSON:

23 Q. Thank you, Mr. Brewer. Were you at Taylor's Mobile
24 Home Park on September 6th of 2012?

25 A. Yes, ma'am.

1 Q. You were there when a murder took place?

2 A. Yes, ma'am. I was living there.

3 Q. Okay. And what lot number was that?

4 A. I don't remember.

5 Q. Lot number 60?

6 A. 60? It was the second trailer behind the office.

7 Q. Okay. Was there an incident at your residence on
8 September 6th?

9 A. Yes, ma'am.

10 Q. And did you give information to investigators
11 regarding that incident?

12 A. Yes, ma'am.

13 Q. Did this incident take place during daylight or at
14 nighttime?

15 A. Daylight? Between noon and just after noon.

16 Q. You got a good look at everyone who was involved?

17 A. Yes, ma'am.

18 Q. Did you relay all of that information to
19 investigators?

20 A. Yes, ma'am.

21 Q. Did you relay it all at once or did you eventually
22 relay everything?

23 A. I eventually relayed everything to the
24 investigators, because in the beginning, out of fear, I
25 wouldn't come forward with the truth. So I just kind of just

1 grew into the truth and came clean with the investigators.

2 Q. So eventually, on October 10th of 2012, did you go
3 speak to Investigator Gobel again?

4 A. Yes, ma'am.

5 Q. And what did you tell him?

6 A. Well, I pretty much just told him that -- I partly
7 told him the truth. And I kind of stretched the truth a
8 little. And I left some stuff out and --

9 Q. What was it that you left out, Antonio?

10 A. That I actually saw the guy who pulled the
11 trigger.

12 Q. Okay. And you got a good look at that guy?

13 A. Yes, ma'am.

14 Q. Did you see him inside of the trailer and outside of
15 the trailer?

16 A. Yes, ma'am.

17 Q. All right. Where were you when you saw him?

18 A. Before I went in my back room, I saw him in my
19 living room sitting in a chair. And then when I was in the
20 back room and some commotion was going on, I looked out of my
21 room window, I then again saw the guy as he was doing -- as
22 he was committing the murder, or as he was pulling the
23 trigger, I should say.

24 Q. When you saw him sitting in your living room, what
25 was he wearing?

1 A. White T-shirt on his head. It was either like a
2 tank top or another white T-shirt and then some jeans.

3 Q. Was he wearing that white T-shirt on his head when
4 you looked out the window and saw him pulling the trigger?

5 A. Yes, ma'am.

6 Q. And you actually saw him fire a shot?

7 A. Yes, ma'am.

8 Q. Describe just briefly what you saw happen.

9 A. Well, I looked out the window, and the car was
10 backed in -- the car was backed in front of my front door.
11 And the guy with the white T-shirt, I saw him walk to the
12 driver's window, like telling the guy to down the window.
13 And as the guy downed the window, the guy with the white
14 T-shirt drewed his gun. And the guy tried to put the window
15 back up, and guy with the white T-shirt shot him.

16 Q. So in October when you speak to Gobel, did you give
17 him a name as to who the trigger man was?

18 A. Yes, ma'am.

19 Q. What was that name that you gave him?

20 A. Travis Polite.

21 Q. I'm going to show you what's been marked as State's
22 Exhibit 3. These are documents that came out of this bag,
23 and ask if you recognize what these are. Do you remember
24 seeing these?

25 A. Yes, ma'am.

1 Q. What are these documents that I'm showing you?

2 A. Those are documents of the --

3 Q. What are they?

4 A. They are photos of that investigator showed me to
5 pick out who I saw as the shooter.

6 Q. And there are six photos here, is that right?

7 A. Yes, ma'am.

8 Q. Okay. And you circled and put your initials on
9 photo number 6?

10 A. Yes, ma'am.

11 Q. Okay. Are those your initials right there?

12 A. Yes, ma'am.

13 Q. And prior to showing you these photos, did the
14 investigators read you a statement?

15 A. Yes, ma'am.

16 Q. And did you sign that you heard this statement?

17 A. Yes, ma'am.

18 Q. And in preparation for your testimony today, did you
19 review the videotaped interview with Sergeant Gobel?

20 A. I did.

21 Q. Okay. And how quickly were you able to pick out the
22 person in the photo lineup as the trigger man?

23 A. It took a little while, because I just still had the
24 fear in me.

25 Q. No, I mean, when you flipped the pictures over --

1 A. Oh, right, when I seen the picture, I remembered
2 that face and --

3 Q. So it was immediate?

4 A. Immediate.

5 Q. And are you familiar with Travis Holmes (sic)? Had
6 you ever seen him before -- I mean, Travis Polite?

7 A. Once before I seen him.

8 Q. But you knew him from the area? My question is, how
9 did you know that was Travis Polite?

10 A. Well, I knew of him from school. And just, you
11 know, he's not much older than me, and I know a lot of people
12 who knows him and knows -- I mean, I just know a lot of
13 people who know of him and know --

14 Q. Right, so --

15 A. That that's him.

16 Q. You are familiar with him through growing up in the
17 area?

18 A. Yes, yes.

19 Q. You would recognize him if you saw him on the
20 street?

21 A. Yes.

22 Q. And you got a good look at him that day?

23 A. Yes.

24 Q. Antonio, do you see Mr. Polite in the courtroom
25 today?

1 A. Yes, ma'am.

2 Q. Can you point him out for me?

3 A. Right there. (Witness indicates.)

4 MS. SWANSON: Thank you. Let the record reflect
5 that he pointed out and identified the gentleman sitting
6 besides Mr. Hood as Travis Polite. I have nothing further at
7 this time.

8 THE COURT: Mr. Hood.

9 CROSS-EXAMINATION

10 BY MR. HOOD:

11 Q. I didn't quite understand the answer to some of the
12 questions. When was the last time you reviewed the videotape
13 of your interview with Officer Gobel? When was the last
14 time?

15 A. Reviewed the tape today.

16 Q. Today? Okay. And when was the last time -- well,
17 that was the last time. When did you review it again? Was
18 that back in October of last year?

19 A. in October -- I had the interview. Can you kind of
20 explain your question more?

21 Q. Well, you know, this occurred back in what year?

22 A. 2012.

23 Q. Okay. And it was October -- actually, the alleged
24 incident took place on the 6th of September; is that correct?

25 A. Yes.

1 Q. And your identification of Travis Polite was in
2 October; isn't that correct?

3 A. Yes, sir.

4 Q. About the 10th of October, is that good?

5 A. Yes, correct.

6 Q. So that was the first time?

7 A. Yes, sir.

8 Q. Okay. Now, when have you reviewed that tape again?

9 A. This morning.

10 Q. Never again?

11 A. No, sir.

12 Q. Okay. And is that the only contact that you've had
13 with Officer Gobel or law enforcement since the October
14 interview?

15 A. No, sir. We met a couple of times to discuss why I
16 wasn't telling the truth in the beginning and, you know, to
17 make sure that my testimony that I'm giving is the full truth
18 now.

19 Q. And did you record these statements?

20 A. I'm not sure.

21 Q. Well, did you go to him or did he come to you?

22 A. He visited me where I was staying over on Ladies
23 Island. Second thought, let me rewind. I think that was
24 before the video, if I'm not mistaken. I think that was
25 before the video, before the interview.

1 Q. And you discussed the incident and your testimony
2 with him at that time; is that correct?

3 A. Yes, sir.

4 Q. And on these other occasions, you did the same
5 thing; is that correct?

6 A. Yes, sir.

7 Q. Okay. And each time you would give him more
8 information; is that correct?

9 A. Well, it wasn't necessarily more information. The
10 only new information I brought was that I seen the guy pull
11 the trigger.

12 Q. Okay.

13 MR. HOOD: I don't have any further questions at
14 this time. Thank you.

15 MS. SWANSON: Thank you, Your Honor. Nothing
16 further for Mr. Brewer at this time.

17 THE COURT: Thank you. You may step down.

18 MS. SWANSON: The State calls Investigator Gobel.

19 JOHN GOBEL,

20 having been duly sworn, testifies as follows:

21 THE CLERK: State and spell your name for the court
22 reporter.

23 THE WITNESS: Detective Sergeant John Gobel,
24 G-o-b-e-l.

25 DIRECT EXAMINATION

1 BY MS. SWANSON:

2 Q. Were you involved in the investigation of the
3 Taylor's Mobile Home Park murder that took place in September
4 2012?

5 A. Yes, I was.

6 Q. And as a result of the investigation, did you speak
7 with Antonio Brewer?

8 A. Yes.

9 Q. How many times did you speak with him?

10 A. Several.

11 Q. And on that last time, did he have information for
12 you that was different than the previous two times or --

13 A. Yes.

14 Q. in addition to?

15 A. Yes, yes.

16 Q. Did he give you a name?

17 A. Yes, Travi, or Travis Polite.

18 Q. Who all was present during that interview?

19 A. I think I was in there by myself.

20 Q. Officer Rice?

21 A. Andy may have been with me also. He was the co-case
22 agent.

23 Q. Did you guys present Mr. Brewer with a photo lineup?

24 A. I did.

25 Q. With Travis Polite in it?

1 A. I did.

2 Q. Okay. I'm going to show you what's been marked as
3 State's Exhibit 3 and ask for you to identify this and tell
4 us exactly how you presented Mr. Brewer with that lineup.

5 A. This is six different photos of individuals, one of
6 which being Mr. Polite, which is numbered number 6 of 1
7 through 6. Initially when I brought them in, brought them in
8 face down. And I read a waiver to Mr. Brewer. Would you
9 like me to read that waiver?

10 Q. Yes, please.

11 A. You will be asked to look at a group of photographs.
12 The fact that the photographs are shown to you should not
13 influence your judgment. You should not conclude or guess
14 that the photographs contain the picture of the person who
15 committed the crime. You are not obligated to identify
16 anyone. It is just as important to free innocent persons
17 from suspicion as it is to identify guilty parties. Please
18 do not discuss the case with other witnesses or indicate in
19 any way that you have identified someone.

20 I asked Mr. Brewer if he understood that statement.
21 And he stated that he did. I then asked him to sign the
22 form, which he did. And I also initialed the form.

23 I then instructed him to turn over the photographs
24 and see if the person that he saw shot the victim on that
25 date was in those photographs. He turned over the

1 photographs and he identified the defendant.

2 Q. All right. And that number 6 that he circled and
3 initialed is Travis Polite?

4 A. Yes.

5 Q. All right. Did he identify the defendant
6 immediately?

7 A. It was pretty quick.

8 Q. Okay. Is there anything in that particular photo
9 that stands out from the other ones? Do they have similar
10 backgrounds?

11 A. They do, similar backgrounds, similar dress, similar
12 facial features, similar hair. Photos are all very similar
13 to each other.

14 Q. And how certain was Mr. Brewer of his
15 identification?

16 A. He was completely certain.

17 MS. SWANSON: Okay. Nothing further. Thank you,
18 investigator.

19 THE COURT: Any questions, Mr. Hood?

20 MR. HOOD: I don't have any questions at this
21 time.

22 THE COURT: Thank you. You may step down.

23 MS. SWANSON: Thank you, Your Honor. That's all we
24 have. State's Exhibit 3 is just for identification purposes
25 at this time.

1 THE COURT: Okay. Is that it?

2 MS. SWANSON: Yes, sir, as far as the Biggers
3 hearing goes, the State believes that there's nothing that's
4 been shown to be suggestive in the lineup and that it should
5 come in.

6 THE COURT: Mr. Hood, do you want to be heard on
7 that?

8 MR. HOOD: I do not.

9 THE COURT: Well, I know there was testimony about
10 it, about it being unduly suggestive.

11 MS. SWANSON: Sure.

12 THE COURT: Do you object to me looking at it?

13 MR. HOOD: Judge, you can look, just like I would
14 look. Go right ahead.

15 THE COURT: Testimony is there was nothing unduly
16 suggestive about it. The Court finds the evidence supports
17 that statement. The witness was absolutely or completely
18 certain of his identification. He said he actually knew him
19 ahead of time. He would have recognized him on the street.
20 Court will admit the identification.

21 What else do we need to do today?

22 MR. THORNTON: I think that's it until the jury
23 comes in. We will have the matter dealing with the witness,
24 Daniel Byrne that I need to qualify the jury, the members of
25 the jury to, just make sure there's no issue with that. And

1 then the State will be ready to move forward with -- I think
2 I've got at least the first five to six witnesses lined up,
3 Judge. So I may need 'til two o'clock to come in. I know
4 the jury is going to get back about 2. If you can give us
5 until 2 or so.

6 THE COURT: 2:15?

7 MR. THORNTON: That will be great. That will give
8 me enough time to talk to who I need to talk to.

9 THE COURT: Now, we are moving back to courtroom
10 number 1.

11 MR. THORNTON: Yes, I've been informed as long as
12 they've picked their jury by then, we should be able to be
13 back in courtroom number 1, Your Honor.

14 THE COURT: We will be in recess until 2:15.

15 (Luncheon recess is taken.)

16 (State's Exhibit 4, CD audio of 911 call, was
17 marked for identification.)

18 (Whereupon, the jury returns to open court at 2:24
19 p.m.)

20 THE COURT: Good afternoon. Welcome back, ladies
21 and gentlemen. We apologize for the delay, but we should be
22 proceeding in just one moment, but we need to talk about one
23 thing first. Apparently, there was the name of a potential
24 witness left off of the list that you were asked about this
25 morning, but so we need to tell you one potential witness is

1 known as Daniel Byrne, who is with EMS, Beaufort County EMS.
2 Any of you ladies and gentlemen related by blood or related
3 by marriage to Daniel Byrne? If so, please raise your right
4 hand.

5 (No response from the jury.)

6 THE COURT: Any of you ladies and gentlemen a close
7 personal friend of Mr. Daniel Byrne? If so, please raise
8 your right hand.

9 (No response from the jury.)

10 THE COURT: Have any of you as jurors spoken with
11 Daniel Byrne about this case?

12 (No response from the jury.)

13 THE COURT: Thank you. I believe we are now ready
14 for you to have the oath administered to you by your Clerk of
15 Court.

16 Madam clerk.

17 (Whereupon, the jury is sworn.)

18 THE COURT: Before I begin, just a few words, ladies
19 and gentlemen. As you know, the defendant has been indicted
20 in this case or charged, but I need to tell you that the fact
21 that the defendant was indicted is not relevant to the issues
22 in this case. It's not to be considered by you as evidence
23 in the case. The indictment is simply the vehicle that
24 brings the case into the courtroom.

25 The indictment contains allegations. The defendant

1 has pled not guilty to these allegations. And it would be
2 your duty, ladies and gentlemen, to determine whether or not
3 the State meets its burden of proving each of the elements of
4 the indictment to you beyond a reasonable doubt. Your
5 purpose as jurors, ladies and gentlemen, is to determine the
6 facts of this case. You are the sole judges of the facts of
7 this case. If during this trial, I do anything to cause you
8 to believe that I have an opinion about the facts of the
9 case, you must disregard it. The law prohibits me from
10 expressing an opinion about the facts of the case in your
11 presence, because as I said, you are the sole judge of the
12 facts of the case.

13 But my job is basically to preside over the trial,
14 to rule on the admissibility of evidence, and to rule on the
15 law, and to tell you about the law that applies in this case.
16 You find what the facts are from the evidence presented
17 during the case, and apply those facts to the law as I tell
18 you it is, and reach a fair and just verdict.

19 From time to time, you will probably see the
20 attorneys ask to see me at a side bar or say they need to
21 discuss something with me outside your presence. Normally,
22 the reason that's done is because I'm required to discuss
23 with the attorneys a matter of law. But in doing that, it
24 may require me to discuss the facts. And as I already told
25 you, I can't discuss the facts in your presence.

1 Until the case is completely over, though, I ask you
2 to keep an open mind. Don't let anybody discuss the case
3 with you. You don't discuss the case any anybody, not even
4 at home, not even in the jury room until the case is over.
5 In other words, while you are in the jury room, you can't
6 even talk among yourselves about the facts of this case. And
7 they expect this case to go on for a couple of days.

8 The attorneys in a few moments may make opening
9 statements to you where they try to convince you what they
10 believe the evidence is going to show or not show. And you
11 will hear -- see witnesses testify from the witness stand and
12 will be examined and cross-examined. Documents may be
13 introduced in the case. Then the attorneys make their
14 closing arguments to you where they try to convince you to
15 see the case the way they see it. Once all that is done,
16 then I tell you about the law that applies in the case. That
17 is when you begin your deliberations.

18 Ladies and gentlemen, we will now receive opening
19 statements from the attorneys, beginning with the State.

20 MR. THORNTON: Thank you, Your Honor. September the
21 6th, 2012, Quantize Greer and Jessica Powers went to buy
22 marijuana at the Taylor's Mobile Home Park. It's on Paris
23 Island Gateway. A lot of you probably know where that is.

24 And by the end of that meeting, Quantize Greer had
25 been murdered, Jessica Powers had been kidnapped and robbed.

1 And the defendant, Travis Polite, along with Walter Tucker,
2 also known as Oowee, and Brandon Singleton, are the ones who
3 did it. in just a sentence or two, that's what this case is
4 about. And I wanted to come up and tell you that that's what
5 it's about from the beginning.

6 There's a reason that in civil court, some of you
7 may have sat in civil court, you may have had a lawsuit or
8 been sued or seen it on television, it's this person versus
9 that person. But in criminal court, it is the State of South
10 Carolina, in this state, vs. Travis Polite. And the reason
11 is, because even if you don't particularly like what the
12 victim is doing, if you don't believe people should go out
13 and buy marijuana, it is illegal after all, that doesn't give
14 you the right to murder somebody. And that's why it's the
15 State of South Carolina vs. Travis Polite and not Quantize
16 Greer and Jessica Power.

17 When you are selected as jurors, all -- myself, all
18 Mr. Hood can ask, all the Court can ask, is that you bring
19 your common sense and your life experiences to court when you
20 are making the decision. And don't make a decision just
21 based on what one small piece of evidence is. You have to
22 look at the evidence as a whole. You are going to hear the
23 testimony from several witnesses, some who were present on
24 scene. You are going to hear some statements made by Travis
25 Polite and interviews with police department. What you have

1 to do is take all of the evidence into account before you
2 make your final decision.

3 And the judge is going to tell you at several stages
4 through these proceedings, don't go back and discuss the case
5 yet. And the reason is because you don't know everything
6 yet. That's why we went through the talk we did earlier
7 about the newspaper and if you read something in the
8 newspaper and even if you could put all that aside. The
9 reason is the only evidence in the case, what you have to
10 make your decision on, is the testimony from the witnesses,
11 any exhibits or stipulations that Mr. Hood make or that we
12 introduce into evidence. That's what the case is based on.
13 And that's all that the case can be based on. And it
14 wouldn't be fair to the State or to the defense for you to
15 prejudge until you have all of the evidence, until every
16 person that can has testified, until all of the evidence is
17 in, until the documents are in, until everything is available
18 for you that we can present. That's when you need to make a
19 decision. And that's what we ask you to do.

20 And you will hear a lot of -- you may have seen it
21 on television, people will say, you know, verdict is the
22 truth, or Latin for the truth. It's to speak the truth. And
23 that's what we are after, is the truth, the truth about what
24 happened, and to hold the guilty accountable for what they've
25 done. Because even if you didn't like the fact that Quantize

1 Greer goes out there to buy pot, he doesn't deserve to pay
2 for it with his life. Jessica Power didn't deserve what
3 happened to her that you are going to hear testimony from her
4 about. So keep in mind as we go through these proceedings
5 that it's not Jessica and Quantize vs. Travis Polite. It's
6 the State of South Carolina, because it's not okay to kill
7 people. And it's not okay to set people up for robberies in
8 a marijuana deal, just not okay.

9 All I can ask you to do, ladies and gentlemen, is --
10 nothing I tell you, not now, not in argument, nothing that I
11 say that comes out of my mouth is evidence. Same goes for
12 Mr. Hood. We present to you what we think the evidence is
13 going to show. And at the end, we get a chance to argue to
14 you, but nothing we say is evidence. All the evidence comes
15 from up there. So all anybody can ask you to do is to sit
16 patiently, attentively, listen to what the people are saying,
17 see what makes sense and what doesn't in regards to just by
18 itself. And then with all the other evidence, what does make
19 sense and what doesn't and use your common sense.

20 But at the end of the day, this case is about going
21 to buy marijuana and being shot and killed for no reason.

22 Thank you.

23 THE COURT: Thank you.

24 MR. HOOD: May it please the Court. First off, I
25 would like to apologize for my voice. I have been using one

1 of these sleep apnea machines for about two months and it's
2 about like this case, it seems to change every day. My voice
3 is getting different and I'm sort of following the same
4 pattern, as I said, with respect to this case.

5 You know, it's sort of like when I took this case
6 on, like going back to the first grade. You learn something
7 new just about every day, because people change their
8 statements. Now, your job is going to be to have to decide
9 which one of them are true. You know, they tell all kinds of
10 different stories which make it extremely difficult to keep
11 track of what's going on. And that's what you guys are going
12 to have to do, to listen to all of this and then make a
13 decision on this young man's life. That's the bottom line.
14 And you have to be satisfied beyond a reasonable doubt on
15 each and every one of these charges as to his or his not
16 guilt. That's your job.

17 Our job is to provide you with, hopefully, all of
18 the information that these witnesses can give you. And
19 hopefully, we will bring out all of the differences and
20 changes in their testimony from one time to another, and then
21 we will try to explain to you why they are doing that, why
22 they are changing their stories.

23 Some of you, not as old as me, but probably remember
24 the story of a movie called "The Sting." Well, that's been
25 around for a few years, but that's sort of like this

1 particular case. And the question is, how many people were
2 involved in it? Movie called "The Sting," who was the odd
3 man or men out in this particular case? Because there are a
4 lot of players. And there's some of them that left out of
5 the knowledge of what's going to happen, the game that they
6 are playing. Two people are left out. You are going to have
7 to make the decisions as concerning which two that were left
8 out and why they were left out.

9 Listen very carefully. It's vitally important.
10 There is absolutely not one shred of physical evidence that
11 put Travis inside of a trailer where this event took place.
12 Outside of a trailer where this event took place, nothing,
13 absolutely nothing; no DNA, no fingerprints, no nothing.

14 That's basically all I can give you right now. But
15 hopefully, again, you will listen very closely to the
16 testimony you are going to hear. Because it's the testimony
17 that's going to make the difference, because there's no other
18 evidence. Testimony, credibility, why people lie, basically.
19 Thank you.

20 THE COURT: Thank you, Mr. Hood.

21 Solicitor, you may call your first witness.

22 MR. THORNTON: Thank you. The State calls Melanie
23 Smith to the stand.

24 MELANIE SMITH

25 having been duly sworn, testifies as follows:

1 THE CLERK: Please state and spell your name for the
2 court record.

3 THE WITNESS: Melanie Smith, M-e-l-a-n-i-e,
4 S-m-i-t-h.

5 DIRECT EXAMINATION

6 BY MR. THORNTON:

7 Q. Ms. Smith, where do you work?

8 A. Beaufort County Sheriff's Office 911 Center.

9 Q. Did you work for 911 on or about September the 6th
10 of 2012?

11 A. Yes.

12 Q. And as part of your duties with 911, are you in the
13 habit of keeping certain records or recordings?

14 A. Correct.

15 Q. And what are those recordings?

16 A. Recordings of all radio transmissions going in and
17 out of the center and all phone calls going in and out of the
18 center.

19 Q. In other words, when somebody calls 911, do you
20 record that?

21 A. Correct.

22 Q. I'm going to hand you what's been marked for
23 identification as State's Exhibit No. 4 and ask you if you
24 can identify that.

25 A. Yes. It's the 911 calls for State vs. Tucker,

1 Polite and Singleton.

2 Q. All right. Tucker, Polite and Singleton, of course,
3 Travis Polite, the defendant we are trying today; correct?

4 A. Correct.

5 Q. And are those copies of 911 calls that were placed
6 about the murder of Quantize Greer?

7 A. Correct.

8 Q. And have you had an opportunity to review that disk?

9 A. Yes.

10 Q. In fact, on more than one occasion at my request?

11 A. Correct.

12 Q. Did you initial that disk for me?

13 A. Yes.

14 Q. And do your initials still appear on it?

15 A. Correct.

16 Q. And are those recordings that appear on that disk,
17 are those accurate as to 911 calls that were placed on
18 September the 6th of 2012?

19 A. Yes.

20 MR. THORNTON: Your Honor, at this time I would ask
21 that State's Exhibit No. 4 be moved into evidence.

22 MR. HOOD: No objection.

23 THE COURT: Without objection.

24 (State's Exhibit 4 is moved into evidence.)

25 MR. THORNTON: Your Honor, I have a copy of these

1 that have already been placed for expediency sake on the
2 computer and ask to publish to the jury at this time.

3 MR. HOOD: Without objection.

4 (State's Exhibit 4, CD, being played.)

5 MR. THORNTON: No further questions, Your Honor.

6 THE COURT: Thank you, sir.

7 MR. HOOD: No questions.

8 THE COURT: Ma'am, you may step down. Call your
9 next witness.

10 MR. THORNTON: Your Honor, the State calls Daniel
11 Byrne, Beaufort County EMS.

12 DANIEL BYRNE,

13 having been duly sworn, testifies as follows:

14 THE CLERK: Please state and spell your name for the
15 court record.

16 THE WITNESS: Daniel Byrne, B-y-r-n-e.

17 DIRECT EXAMINATION

18 BY MR. THORNTON

19 Q. Mr. Byrne, who do you work for, sir?

20 A. Full-time engineer paramedic with the Burn and Fire
21 District and part-time paramedic for the Beaufort County EMS.

22 Q. Did you work some for Beaufort County EMS on or
23 about September the 6th of 2012?

24 A. I was on duty that day, yes, sir.

25 Q. And you are a paramedic; is that correct?

1 A. I am, yes, sir.

2 Q. And can you tell me -- walk me through briefly what
3 the different levels of an EMS person -- I believe it's
4 basic, intermediary and paramedic. So could you go through
5 those real quick?

6 A. Yes, sir. An emergency medical technician basic is
7 basically -- best way to describe is an external. They apply
8 bandages, splints, put on oxygen masks, CPR, mostly all
9 external work.

10 Intermediary or EMT intermediate, they can do all
11 the basics can do. They can start IV's.

12 And a paramedic can do what an intermediate and
13 basic can do, but also trained to apply cardiac monitor,
14 interpret the rhythm, apply appropriate standing protocols
15 for advanced airways, inner thoracic decompressions, can
16 administer any medication in the South Carolina formula. So
17 I'm more advanced than basic.

18 Q. And let me ask you this. What type of education or
19 schooling do you have to get, if any, to become a paramedic?

20 A. At least a high school diploma. My paramedic school
21 was 19 months long. I graduated in 2003.

22 Q. So at the time of 2012, is that nine years
23 experience as a paramedic?

24 A. That's correct, yes, sir.

25 Q. And you are still a paramedic as of now?

1 A. I am, yes, sir.

2 Q. Did you have occasion to respond out to the Taylor's
3 Mobile Home Park out on Paris Island Gateway on September the
4 6th of 2012?

5 A. I did, yes, sir.

6 Q. And did you find there a victim by the name of
7 Quantize Greer on the ground?

8 A. Yes, I did.

9 Q. Can you describe for me what you saw when you got
10 there and what you did?

11 A. We arrived on scene. We pulled into the lot. There
12 was a deputy sheriff directing traffic. There were some
13 bystanders off to the side of the road. And I noticed the
14 victim was face down with the bystander looked like applying
15 aid. I immediately left the ambulance and went to make
16 contact. My partner, who was an intermediate, got the
17 equipment. I reached to the bystander and the victim. The
18 bystander was encouraging the victim to breathe and to hold
19 on. I asked the bystander if he was conscious and breathing.
20 Bystander said he didn't think so. The bystander was holding
21 a cloth over the mid-actuary line on the left side.

22 Q. Slow down for me for a second. I see you
23 indicating; what does that mean?

24 A. On the side of the rib cage.

25 Q. Go ahead, sir.

1 A. I noticed there was some blood there, but not a lot.
2 I rolled the patient over into the back position. I
3 Confirmed the patient did not have a pulse or respiration.
4 We started the CPR immediately, applied the cardiac monitor.
5 The patient was in an asystolic rhythm, which is asystole or
6 a flat line.

7 Q. Let's take that one at a time. You said you took a
8 pulse.

9 A. Yes.

10 Q. Meaning you are feeling for a heart rate?

11 A. Yes, just like you see on TV.

12 Q. Did you find one of Quantize?

13 A. No. Confirmed he had no pulse, no respiration.

14 Q. When you checked Quantize, he had no pulse and he
15 wasn't breathing?

16 A. That is correct.

17 Q. Now, what is the cardiac monitor that you are
18 talking about?

19 A. The cardiac monitor, it takes a look at the heart's
20 electrical activity. We applied the limb leads four
21 different directions. And the cardiac monitor was showing no
22 electrical activity. It was a flat line.

23 Q. Meaning so not only are you not feeling the pulse,
24 but your equipment shows --

25 A. No electrical activity either.

1 Q. And I know this is going to sound like a really dumb
2 question, but is there anything -- if a person has no pulse,
3 no respiration and shows no activity, I know you don't
4 pronounce people dead, but is that indicative of someone who
5 is deceased?

6 A. Yes. We call that a lethal rhythm.

7 Q. Go ahead. What did you do after you discovered no
8 electrical activity?

9 A. We applied the asystolic cardiac rhythm, which is
10 basically CPR. We administer first round of drug, which is
11 epinephrine. We continue to what we work the patient, CPR,
12 apply the appropriate protocol. We lowered the patient for
13 transport in the back of the ambulance. We were able to
14 convert the patient from an asystole rhythm to a pulseless
15 electrical activity rhythm, which means the heart has
16 electrical conduction, but doesn't have the mechanical action
17 to go along with it. So we continue to apply that protocol.
18 We continued that rhythm to transport to Beaufort County
19 Memorial Hospital. We transferred him over to Dr. Rehman,
20 who is the attendant physician and also our medical director.

21 He worked on the patient for about -- I couldn't
22 say amount of time I was in the room, but he pronounced the
23 patient before I left the room.

24 Q. Pronounced meaning --

25 A. He pronounced the patient dead.

1 Q. in all the time you worked on Quantize Greer, other
2 than the electrical activity noted, there was no pulse, no
3 respiration; did that ever change?

4 A. No, that did not change.

5 Q. And you were actually in the room when emergency
6 room physician pronounced him dead; is that correct?

7 A. That is correct, yes, sir.

8 Q. So at no time, other than I know the electrical
9 activity, at no time did he appear to regain consciousness, a
10 pulse or respiration?

11 A. There were no signs of life other than electrical
12 activity.

13 Q. Did you notice any wounds on Quantize Greer, when
14 you were performing your medical treatment on him.

15 A. Yes, sir. I did notice there was a small hole right
16 here by the -- next to the rib cage. We call them
17 mid-axillary line. There was one small hole. We could not
18 find an exit wound. We were unsure if that was an entrance
19 or an exit. We assumed it was an entrance because it was
20 rather small. There was some moderate bleeding coming out of
21 that wound. We searched the victim for any other hole. We
22 couldn't find any. So went under the assumption that was the
23 only bullet hole. That's all I found and that's all we know
24 of.

25 MR. THORNTON: Court's indulgence, one moment,

1 please.

2 Thank you very much, Mr. Byrne. I appreciate it. I
3 have no further questions.

4 MR. HOOD: I only have one question.

5 CROSS-EXAMINATION

6 BY MR. HOOD:

7 Q. What was the deceased or the person you were working
8 on wearing at that time?

9 A. He was -- I don't recall.

10 Q. If I told you it was a white tank top, a white
11 T-shirt, would that be something that would --

12 A. Whatever he had on, we cut off pretty quick. So I
13 honestly could not recall.

14 MR. HOOD: I don't have any further questions.

15 THE COURT: Thank you, sir. You may step down.

16 Call your next witness.

17 MR. THORNTON: David Roche. And, Your Honor,
18 obviously, I ask that he be excused and allowed to go back to
19 work.

20 THE COURT: Certainly, without objection.

21 (Whereupon, the witness is excused.)

22 DAVID ROCHE,

23 having been duly sworn, testifies as follows:

24 THE CLERK: Please state and spell your name for the
25 court reporter.

1 DIRECT EXAMINATION

2 BY MR. THORNTON:

3 Q. Let me ask you a quick question. How do you spell
4 your last name, by the way, for the record?

5 A. For the record, R-o-c-h-e.

6 Q. Let me ask you a quick question. Where do you
7 currently live, sir?

8 A. ■ Chesterfield Lake Drive in Beaufort.

9 Q. And did you live there on or about September the 6th
10 of 2012?

11 A. I did.

12 Q. And is there anything in particular across the
13 street or near there; is there a mobile home park?

14 A. No, not from my residence.

15 Q. Right. Where did you work at the time?

16 A. I was working in Bubba's Antiques, which is across
17 the street from -- right across the street from Taylor's
18 Mobile Home Park.

19 Q. Mr. Roche, that was completely my fault. I skipped
20 ahead in my mind without asking you the right question. So
21 across the street from where you work, though, is Taylor's
22 Mobile Home Park; is that correct?

23 A. Yes.

24 Q. Could you see it from where your place of employment
25 is?

1 A. Oh, certainly. Where I was working, though, I could
2 not see -- I didn't have direct access to Taylor's Mobile
3 Home.

4 Q. Right. Are you familiar with what Taylor's Mobile
5 Home looks like?

6 A. Yes, I am.

7 Q. And I realize it's an aerial, sir, but I'm going to
8 show you -- it's a large picture. Is that a fair and
9 accurate depiction, do you believe, of Taylor's Mobile Home
10 Park?

11 A. Yes, uh-huh.

12 Q. Were you working on September the 6th of 2012?

13 A. Yes, I was. I was working doing furniture
14 refinishing and repair at Bubba's antiques.

15 Q. Did you have occasion to see something unusual at
16 work that day?

17 A. Well, as I was working, it was early afternoon. I
18 heard three gunshots. And I immediately looked around to see
19 what was going on. And then I stopped what I was doing,
20 walked around the corner, and then I walked toward Paris
21 Island Gateway. And as I was approaching the road, I saw a
22 vehicle come out of Paris -- or out of Taylor's Mobile Home,
23 and it took a left, then proceeded north.

24 Q. All right, sir. Do you remember what kind of
25 vehicle it was or what color it was?

1 A. It wasn't a subcompact, but it was a small-sized,
2 small mid-sized vehicle. It was really -- it was either real
3 dark navy blue or a black. It had tinted windshield and
4 tinted side mirrors or side windows in the front. The
5 backside windows and the back window were really tinted. In
6 fact, it was black. To me, it was black.

7 Q. You mentioned that you heard three gunshots and that
8 is when you walked out.

9 A. Yes.

10 Q. Were the gunshots one right after another or was
11 there any hesitation?

12 A. There was the first gunshot, and then there was like
13 a half second hesitation, and then two more in rapid
14 succession.

15 Q. Are those the shots that you heard?

16 A. Those are the shots I heard, yes.

17 Q. And the vehicle that you saw, you described as a
18 black kind of mid-sized vehicle with tinted windows?

19 A. Yes, uh-huh, very much so.

20 MR. THORNTON: Court's indulgence, Your Honor,
21 please.

22 BY MR. THORNTON:

23 Q. As you saw the car coming out and making, I think
24 you said left turn --

25 A. Left turn heading north.

1 Q. Did you see the car stop and anybody get out of
2 it --

3 A. No.

4 Q. -- or did it keep going?

5 A. No, sir.

6 MR. THORNTON: I don't have any further questions,
7 Your Honor. Please answer any questions that Mr. Hood may
8 have for you.

9 THE COURT: Cross-examination.

10 CROSS-EXAMINATION

11 BY MR. HOOD:

12 Q. You never lived in Taylor's Mobile Home Park?

13 A. I'm sorry?

14 Q. Have you ever lived in Taylor's Mobile Home Park?

15 A. No, I have not.

16 Q. Basically, what you saw there is what you think is
17 there; is that correct?

18 A. I drive by there every day, yes, sir.

19 MR. HOOD: Okay. Thank you.

20 THE COURT: Thank you.

21 MR. THORNTON: Your Honor, I ask he be excused.

22 THE COURT: Step down. You are excused.

23 Call your next witness.

24 MR. THORNTON: Kalin Higgs.

25

1 KALIN HIGGS,

2 having been duly sworn, testifies as follows:

3 THE CLERK: Please state and spell your name for the
4 court record.

5 THE WITNESS: Kalin Higgs, K-a-l-i-n, H-i-g-g-s.

6 DIRECT EXAMINATION

7 BY MR. THORNTON

8 Q. Ms. Higgs, where do you currently live?

9 A. in Woodbridge, Virginia.

10 Q. And have you traveled a long way to come here and
11 testify today?

12 A. I have.

13 Q. Did you live or were you at a Taylor's Mobile Home
14 Park on September the 6th of 2012?

15 A. I was visiting, yes.

16 Q. And at some point, did you -- obviously you weren't
17 in here. Did you call 911 and talk to a dispatcher with the
18 Beaufort County Sheriff's Office?

19 A. Yes, sir.

20 Q. What did you see that day, obviously, that was
21 unusual, that you don't normally see? What happened?

22 A. I was in the living room in my sister's home and --

23 Q. Let me stop you there. I should have asked you
24 that. You said you were staying there at the time and you
25 were with who?

1 A. I was visiting my sister. She lived there.

2 Q. And she lived by herself or was someone else there
3 as well?

4 A. She lived with her husband and their three boys.
5 And my baby was with me as well.

6 Q. So were all of you present at the trailer?

7 A. We were.

8 Q. So it's your sister, your sister's husband, their
9 three kid. How old were they at the time?

10 A. At the time one was one, three, and I believe eight.

11 Q. How old was your child at this time?

12 A. My baby was three months old at the time.

13 Q. So all of you were inside her trailer at Taylor's
14 Mobile Home Park; correct?

15 A. Yes.

16 Q. What happened?

17 A. There was gunshots. I heard about three of them. I
18 turned to look out the window that was directly behind my
19 head. And there was a man running in the opposite direction
20 of me into the wooded area.

21 Q. All right. And were you able to give a description
22 to the police, at least in general terms, of what the man
23 looked like and what he was wearing?

24 A. I saw what he was wearing. He had dark jeans on, a
25 white tank top. And there was a -- something wrapped around

1 his head. And as he was running, he took that off.

2 Q. What color was the thing wrapped around his head?

3 A. It was white.

4 Q. And you saw him running?

5 A. Yes.

6 Q. And did he have anything in his, either of his
7 hands?

8 A. He had a gun in one of his hands. I don't remember
9 exactly which one, but he was running with it, and took it
10 off with his other hand.

11 Q. So you see a black male running with a gun in his
12 hand and he's got on a white wife beater, jeans and has
13 something white wrapped or tied around his head, is that
14 accurate?

15 A. Yes, yes.

16 Q. Now, did you see anyone else out there?

17 A. I did. I looked down to the left out the window and
18 there was someone laying on the ground facedown.

19 Q. And once you noticed him, now, is that a separate
20 person than the one you saw running into the woods with the
21 gun?

22 A. Yes, yes.

23 Q. So the man you saw with a gun running into the woods
24 was in a white tank top or wife beater, jeans with a white
25 something tied around his head?

1 A. Yes.

2 Q. And you see someone laying on the ground. Were they
3 moving around or were they lying? Did they appear to be
4 lying pretty still?

5 A. He was lying pretty still. His feet were moving.
6 And it looked like he was trying to lift his head, but ...

7 Q. Let me ask it a better way. Did he appear to be
8 able to get and move around --

9 A. No.

10 Q. -- or was he staying put?

11 A. He was staying put.

12 Q. Did any of you go outside to see what had happened
13 or to see what was going on with the man lying on the ground?

14 A. My brother-in-law did. He ran outside. He came
15 back in and got a dish towel to run out and try to help put
16 pressure on the wound.

17 Q. Is he the person that was there when EMS got there
18 that was applying pressure to the wound?

19 A. Yes.

20 Q. And did you go out and get any closer to the victim
21 laying on the ground?

22 A. I went right out the back door. I didn't get close.
23 I stayed closer because my baby was inside. And I looked
24 around. There was a gun on the ground farther away.

25 Q. There was gun -- obviously, you weren't in here, but

1 there was a 911 call. So there's a gun actually laying on
2 the ground?

3 A. Yes.

4 Q. And again, that would be a different gun, I'm
5 assuming, than the one you saw the man running into the woods
6 with?

7 A. Yes.

8 Q. So there's a gun laying on the ground. And did
9 anybody pick it up or handle it while you were out there?

10 A. No.

11 Q. Now, once you saw the man with the white something
12 tied around his head take off, did you see him after that, or
13 was that the last time you saw him running into the woods?

14 A. That was the last I saw.

15 Q. And I say into the woods, don't let me put words in
16 your mouth. I know you said towards trees or woods, but you
17 saw him running away. Did you see him after that?

18 A. I did not.

19 Q. Do you have any other independent knowledge, not
20 what anybody else told you, but any other independent
21 knowledge other than what you've just testified here today?

22 A. No.

23 MR. THORNTON: Your Honor, thank you. I have
24 nothing further.

25 MR. HOOD: I have one question, Katie.

1 CROSS-EXAMINATION

2 MR. HOOD:

3 Q. You made this statement September 6, '12; is that
4 correct?

5 A. Yes.

6 Q. And you described the item that the person was
7 wearing on their head and took off I believe as a do-rag,
8 didn't you say that?

9 A. I believe so.

10 Q. Yeah, yeah. So it wasn't a towel, a turban or
11 anything like that, it was a do-rag; is that correct?

12 A. Yes, I would say so.

13 MR. HOOD: Thank you.

14 REDIRECT EXAMINATION

15 BY MR. THORNTON:

16 Q. I'm sorry if I asked inartful questions. You
17 described it in your statement as a do-rag, that was white in
18 color; correct?

19 A. Yes.

20 Q. Could it have been a T-shirt?

21 A. It could have been.

22 Q. What you saw and recognized was as a do-rag; is that
23 correct?

24 A. Yes.

25 MR. THORNTON: All right. Thank you.

1 RE CROSS-EXAMINATION

2 BY MR. HOOD:

3 Q. It's kind of strange. I believe you have -- you
4 prepared a written statement at that time; isn't that
5 correct?

6 A. Yes.

7 Q. And that written statement would accurately reflect
8 what you saw at the time more so than what you are telling us
9 here today; is that correct?

10 A. Probably.

11 Q. And if I showed you a copy of a statement that's
12 dated 9/6/12, do you recognize that particular document?

13 A. I do.

14 Q. And what does it say about the person's description
15 of the clothing there?

16 A. This part?

17 Q. Yeah.

18 A. He had on a white do-rag and a white wife beater
19 tank.

20 MR. HOOD: That's good. Thank you.

21 MR. THORNTON: Briefly, Judge, since we are going to
22 do this.

23 REDIRECT EXAMINATION

24 MR. THORNTON:

25 Q. Did you also see jeans? If we are going to do the

1 statement, we might as well finish and let you finish. Go
2 ahead and finish the rest of it. Might as well be complete
3 if we are going to do it.

4 A. With dark-wash jeans on.

5 Q. And was that the description, the complete
6 description that you gave of the clothing?

7 A. Yes.

8 MR. THORNTON: Thank you so much. Now, Judge, I
9 have nothing further unless Mr. Hood does. And ask she be
10 excused and allowed to go back to Virginia.

11 MR. HOOD: I have no further questions.

12 THE COURT: You are excused.

13 You may call your next witness.

14 MR. THORNTON: The State calls Jessica Power to the
15 stand.

16 JESSICA POWER,

17 having been duly sworn, testifies as follows:

18 THE CLERK: Please state and spell your name for the
19 court record.

20 THE WITNESS: My name is Jessica Power, P-o-w-e-r.

21 DIRECT EXAMINATION

22 BY MR. THORNTON

23 Q. Jessica, let me ask you a question. On or about
24 September the 6th of 2012, where did you live?

25 A. On Ladies Island.

1 Q. So is that here in Beaufort County?

2 A. Yes, Beaufort County.

3 Q. And did you have an occasion to go out to an area or
4 a mobile home park called Taylor's Mobile Home Park?

5 A. Yes.

6 Q. And did you go out there on September the 6th of
7 2012?

8 A. Yes.

9 Q. I'm going to show you a photograph I have not marked
10 yet. Is that an accurate depiction of Taylor's Mobile Home
11 Park?

12 A. Yes.

13 Q. Is that where you went on September the 6th of
14 2012?

15 A. Yes, sir.

16 Q. Who went with you, if anybody?

17 A. Me and Quantize Greer went together.

18 Q. Why were you going out to Taylor's Mobile Home Park
19 with Quantize that day? What was the purpose of going out
20 there?

21 A. To buy marijuana.

22 Q. And had you bought marijuana with Quantize before?

23 A. Yeah.

24 Q. And let me ask you this. Who had you talked to
25 about going out there? In other words, who did you know you

1 were going out there to see?

2 A. I know I was going out there to see Oowee and
3 Brandon.

4 Q. Oowee and Brandon Singleton. If you don't know,
5 that's fine, does Oowee have any other name that you know, in
6 other words, what his real name is? I'm assuming his birth
7 name is not Oowee.

8 A. Yeah, I don't know.

9 Q. You don't know? I'm sorry, you have to answer out
10 loud. Do you?

11 A. No, I don't.

12 Q. So you know him as Oowee; is that correct?

13 A. Yes.

14 Q. And had you met him before you were supposed to go
15 out and meet with him and Brandon Singleton at Taylor's
16 Mobile Home Park?

17 A. Yes.

18 Q. And tell me about when you met with him, Oowee.

19 A. I met him at the gas station. He was with Brandon
20 Singleton at the gas station across from Applebee's. And he
21 had introduced himself. And then was talking -- he was
22 talking about how he was getting weed shipped in from Atlanta
23 and that he had just gotten into town and he was staying with
24 Brandon.

25 Q. And at some point, did you talk to Oowee after that?

1 A. Yes.

2 Q. And did you at some point meet up with him, where
3 his hotel is?

4 A. Yes, I brought him some weed.

5 Q. All right. And did you communicate with him at some
6 point about meeting with -- meeting so you and Quantize could
7 get marijuana on September the 6th, 2012?

8 A. Not the day that I met him. It was the day that it
9 all happened, was the day that we talked about picking up the
10 weed.

11 Q. Fine. All right. So on September the 6th of 2012,
12 who all did you talk to about this marijuana deal?

13 A. Oowee.

14 Q. Did you talk to Brandon Singleton at all about it
15 that day, that you recall?

16 A. Not that I recall. I mean, he might have used
17 Brandon's phone.

18 Q. All right. Now, so once it was arranged, do you
19 remember how much you were supposed to get or how much
20 Quantize was supposed to get?

21 A. Well, at first Quantize wanted to buy a pound, and
22 he wouldn't negotiate the price. So he just decided to get a
23 half a pound.

24 Q. All right. And how much was that supposed to be?

25 A. \$2500.

1 Q. And what happened -- so did you go out to Taylor's
2 Mobile Home Park at some point that day?

3 A. Yes, I met with Quantize first.

4 Q. And was that the original meeting location, or did
5 the location change at all or --

6 A. We were supposed to originally meet at -- I forget
7 the name of the place, some boutique. Brandon Singleton's
8 wife shop, we were supposed to meet there. And while we were
9 on the way there is when they called and changed the
10 location.

11 Q. And the location was changed to Taylor's Mobile Home
12 Park?

13 A. Taylor's Mobile Home, yes.

14 Q. Do you remember by any chance what lot it was or
15 what the number was, which one you were supposed to go to?

16 A. No, he just said he would be standing outside of
17 it.

18 Q. All right. And when you got there -- he being
19 Oowee?

20 A. Oowee, yes, said he would be outside.

21 Q. When you got there, was Oowee standing outside one
22 of the trailers?

23 A. Yes, he was.

24 Q. What happened after that?

25 A. Well, when we first pulled in, Quantize drove past

1 it, and then he backed up into the parking spot. And then
2 him and Oowee tried to negotiate a different price. And
3 Oowee wouldn't take -- he wouldn't change his mind. So
4 Quantize agreed and then he started counting the money --

5 Q. He?

6 A. Quantize.

7 Q. Quantize, okay, Quantize started counting the money.
8 Go ahead.

9 A. And then he gave it to me and asked me to put it in
10 my purse because it was too much to carry in his pocket.

11 Q. Did you put the money in your purse?

12 A. I put the money in my purse, yes.

13 Q. And did you go into the trailer?

14 A. Yes.

15 Q. And were you -- did you go in by yourself? Was
16 Quantize with you? What happened?

17 A. We proceeded -- I walked out of the car and walked
18 around first. And Quantize was getting out of the car behind
19 me. And we were both walking up. And Oowee was holding the
20 door open for us. And then as I walked in through the door,
21 I turned around, and he slammed the door and locked it and
22 pulled out a gun.

23 Q. And when you say he did that --

24 A. Oowee did that, yeah.

25 Q. So was there anybody else in the room?

1 A. When I first walked in the room, I saw a guy with a
2 white T-shirt on his head pretending -- or looked like he was
3 sleeping on a chair.

4 Q. And you did not -- that was -- did you know that
5 person?

6 A. No.

7 Q. Was it Brandon Singleton?

8 A. No.

9 Q. And you've already testified Oowee pulls out a gun
10 when you walk in so it's not Oowee either, correct?

11 A. Correct.

12 Q. So it's not Oowee and it's not Brandon Singleton?

13 A. Correct.

14 Q. What happens after that, Oowee pulls the gun out on
15 you?

16 A. He told me to give him the fucking money, you stupid
17 white bitch.

18 Q. And what did you do?

19 A. I didn't want to give him the money at first, and
20 then they put me on the ground.

21 Q. You need to speak up so the jury can hear you. You
22 said you didn't give him the money at first.

23 A. At first I was like, no, no. And then he was like,
24 give me the money, and was pointing the gun at me. And then
25 someone grabbed my arm and made me lay down on the floor.

1 Q. And you said someone, is that the person that was
2 seated in the room with the white T-shirt on his head?

3 A. Yeah. Yes.

4 Q. And what happened after that, if anything? Did you
5 give him the money then?

6 A. He took my purse and couldn't find the money in it.
7 And then he threw me back the purse and told me to give him
8 the money. And I took the money out of my purse and gave it
9 to him.

10 Q. What happened after that?

11 A. And then all of a sudden, the guy with the white
12 shirt on asked or -- he was looking out the window, and then
13 all of a sudden asked -- or him and Oowee were having words.
14 And then Oowee handed him a gun. And then he ran out the
15 door and we heard a gunshot.

16 Q. What happened when the gunshot went off?

17 A. And then Oowee jumped up and ran outside and you
18 hear more gunshots.

19 Q. Now, you said Oowee gave this person that you had
20 not seen before, were not able to identify with the white
21 T-shirt on their head, gave them a gun, and they went outside
22 and that's when you heard a shot?

23 A. Yes.

24 Q. Now, at this point, was Quantize in the room with
25 you, or he was still locked up?

1 A. No, he was never in the room.

2 Q. And after you hear the first shot, you said Oowee
3 jumped up. Did Oowee have a second gun?

4 A. Yes, he pulled one out of his pocket.

5 Q. And he ran outside and you heard more gunshots?

6 A. Yes.

7 Q. What happened when Oowee ran outside? What did you
8 do?

9 A. I ran to a back room and was ducking and just trying
10 to figure out what to do. And I noticed that the window was
11 too high to jump out of. And then I look across and I see
12 this guy bust out of this back door and --

13 Q. Hold tight for a second. You see a guy bust out of
14 a back door?

15 A. Like straight across from me.

16 Q. Inside the trailer?

17 A. Inside the trailer.

18 Q. Is that the same guy that you saw earlier with the
19 white --

20 A. No, it was completely different guy.

21 Q. Okay. So this is a different guy in the back?

22 A. That I hadn't seen the whole time.

23 Q. And did he threaten you or do anything to you?

24 A. No.

25 Q. What was he doing?

1 A. He ran out the back door.

2 Q. Did he appear to be frightened?

3 A. He looked just as scared as I did.

4 Q. And what did you do when you saw him bust out the
5 back door or whatever, however you described it?

6 A. I ran right out the back door after, because he
7 looked just as scared as I did. And that was the only safe
8 thing that I felt at the time was to do, was to run.

9 Q. All right. And what did you do after you ran? I
10 mean, where did you run to?

11 A. I ran to my -- to behind someone else's trailer.

12 Q. Did you know somebody that had a trailer or
13 something at Taylor's Mobile Home Park?

14 A. Yes, at the time it was my boyfriend's trailer.

15 Q. And you said you hid. Is that where you hid?

16 A. Yes. And I called him and said that somebody was
17 shooting at me. And I just was terrified. I don't know.

18 Q. All right. Now, the purpose -- you testified
19 earlier the purpose of you going there with Quantize was to
20 buy marijuana; is that correct?

21 A. Correct.

22 Q. Did you ever -- did you have some deal with Oowee or
23 Brandon Singleton or Travis Polite or anybody else to murder
24 Quantize Greer?

25 A. No.

1 Q. Or to rob Quantize Greer?

2 A. No. We were just going to buy some weed.

3 MR. THORNTON: Court's indulgence please, Your
4 Honor.

5 THE COURT: Yes.

6 BY MR. THORNTON:

7 Q. Let me ask you a question. When you were there in
8 2012, in September of 2012, was your hair the same as it is
9 now, or is it different?

10 A. It's different.

11 Q. And what would your hairstyle best be described as
12 back then?

13 A. I had dreadlocks at the time.

14 Q. And did you make a statement at one time to law
15 enforcement that when you first met Oowee, he said he liked
16 your dreads; is that what you are referring to?

17 A. Yes, at the gas station, that's what they were
18 all -- when they got out of the car.

19 Q. And had you known Quantize for some time?

20 A. Yes.

21 Q. And what was your relationship with him? Were you
22 friends, boyfriend and girlfriend? Did you, you know, get
23 weed from him? I mean, what was your relationship with him?

24 A. I mean, I had met him, known him for awhile. We
25 were just friends and was buying weed off of him.

1 Q. Did you have any type of relationship with Oowee?

2 A. No.

3 Q. Other than what you've testified to, that you met
4 him and you met him on a couple of occasions?

5 A. Right.

6 Q. Were you involved in any plot to rob or murder
7 Quantize Greer?

8 A. No.

9 MR. THORNTON: Your Honor, I don't have any further
10 questions. I ask you to please answer any questions Mr. Hood
11 has for you.

12 THE COURT: Mr. Hood.

13 CROSS-EXAMINATION

14 BY MR. HOOD:

15 Q. I believe we've pretty much gotten you back to where
16 you were on that particular period of your life at the time,
17 while you were wearing dreads; is that correct?

18 A. Yes, sir, I had dreadlocks.

19 Q. Okay. You had dreadlocks. And the person that you
20 were with when you were at the gas station where you met
21 Walter Tucker, Oowee, who were you with?

22 A. I was by myself in my car.

23 Q. Okay. And who was with Oowee?

24 A. Brandon Singleton and one of their friends that they
25 introduced me to as T.J.

1 Q. T.J. Okay. And at that time, didn't Oowee tell you
2 that he liked your dreads, as he stated?

3 A. Yes.

4 Q. Isn't that correct? And he said that you were
5 pretty; isn't that correct?

6 A. Uh-huh.

7 Q. And you said that he gave you his phone number and
8 you gave him his (sic) phone number; is that correct?

9 A. Yes. Well, he called me off of Brandon's --

10 Q. But you exchanged numbers; isn't that correct?

11 A. I know Brandon Singleton had my number and then he
12 said that he would get it from him.

13 Q. And the reason Brandon Singleton had your number was
14 because you had a relationship with Brandon Singleton prior
15 to this; isn't that correct?

16 A. I used to buy weed from Brandon Singleton prior to
17 that.

18 Q. Yeah, but you had no other relationship with him?

19 A. Just bought weed from him.

20 Q. Okay. And so that was the first time that you had
21 any contact with this person named Oowee; isn't that
22 correct?

23 A. Correct.

24 Q. Okay. And so, a couple of days later, you get
25 another call from Oowee; is that correct?

1 A. A couple of days?

2 Q. Well, I mean, that didn't end your relationship with
3 Oowee or with Brandon, did it?

4 A. Right, because --

5 Q. in your first statement that you gave to police, I
6 believe you stated that you went to a motel room where Oowee
7 was at after he called you and asked you to come over?

8 A. Yeah, because him and Brandon couldn't find any
9 weed, and I had some, so I brought them some weed.

10 Q. So he and Brandon, Oowee and Brandon, were in this
11 motel room --

12 A. Well, when I showed up there, Brandon wasn't there.

13 Q. Well, was this the first time that you went in the
14 room with Oowee or the second time or the third time?

15 A. There was two times.

16 Q. Now, when you -- you arrived the first time. You
17 were called by who?

18 A. By Oowee.

19 Q. Okay. And how did you know that Brandon was there?

20 A. Because he told me.

21 Q. And so you went over to the room to give them
22 marijuana?

23 A. Right.

24 Q. Now, isn't it true that -- you just said previously
25 that Brandon was your supplier; isn't that correct?

1 A. But I hadn't -- that was awhile ago before that.
2 That was awhile ago. I hadn't seen Brandon for about three
3 months until that day at the gas station.

4 Q. Right. So I guess my question is, were you dealing
5 drugs?

6 A. I guess you could say that.

7 Q. Okay. You guess you could say that. Okay. So
8 these two guys call you and ask you to come to a motel to
9 bring them some weed; is that correct?

10 A. Yes, sir.

11 Q. You get there, you've got the weed, but Brandon is
12 not there; is that correct?

13 A. Correct.

14 Q. And how long do you stay in the room and what do you
15 do there?

16 A. We smoked. It was probably a couple of hours.

17 Q. Couple of hours? And who were you in the room with
18 during that period of time?

19 A. Myself and Oowee.

20 Q. And what were you doing during that period of two
21 hours or so in the room?

22 A. Smoking weed.

23 Q. Smoking weed. And what kind of weed were you
24 smoking? I mean, they have different varieties of marijuana,
25 don't they? I mean, if you know anything about marijuana,

1 there are different, you know, types, potency, and this, that
2 and the other; isn't there?

3 A. Yes, sir.

4 Q. Okay. All right. So what kind of marijuana were
5 you and Oowee smoking?

6 A. I would say it was some good weed.

7 Q. Some good weed?

8 A. Expensive.

9 Q. Expensive stuff. Okay. Did you guys smoke all of
10 the weed that you brought?

11 A. No.

12 Q. Well, what did you do with it?

13 A. He bought it from me.

14 Q. Oowee bought it from you?

15 A. Yes.

16 Q. Oh, okay. How much did he pay you for it?

17 A. \$50.

18 Q. Now, at the gas station -- let's drop back to the
19 gas station -- did you have any conversations with Oowee
20 and/or Brandon about their bringing in drugs from Atlanta?

21 A. Yeah, they told me -- they asked me if I had any
22 weed on me, because they were waiting for their weed to get
23 in from Atlanta and they didn't have any.

24 Q. That was at the gas station?

25 A. Yes, sir.

1 Q. So they didn't have any weed and they told you that
2 at the gas station, Oowee did, just first time he had ever
3 seen you in his life; is that correct?

4 A. They told me that they had just gotten back from
5 Atlanta at that time and smoked what they had and needed
6 more.

7 Q. Smoked what they had and needed more?

8 A. Until their shipment came in.

9 Q. Until their shipment came in. Okay. So then I
10 guess a day or so later, you meet him at the hotel room?

11 A. Yes.

12 Q. And where was this at? What hotel room?

13 A. The Quality Inn.

14 Q. Where is that located at, do you know?

15 A. in Beaufort.

16 Q. Okay. Let's back up a minute. How long have you
17 been in Beaufort? Been in Beaufort all your life?

18 A. No, sir, I moved here when I was 13.

19 Q. Okay. So how long had you been here at the time
20 this event took place?

21 A. Seven years.

22 Q. I'm asking. I don't know. Okay. Okay. Now, after
23 you spend this one night, couple of hours or so with Oowee,
24 what about the next time you went to visit Oowee in a motel
25 room? Was it the same motel room?

1 A. I'm pretty sure it was.

2 Q. Pretty sure it was. Okay.

3 A. It was three years ago, so ...

4 Q. Yeah, yeah, I know. Yeah. And on this other
5 occasion, how long did you stay there?

6 A. A few hours.

7 Q. And who was there at that time?

8 A. Oowee.

9 Q. And how did you come about going there? I mean,
10 somebody call you and say, come on over, let's party?

11 Q. Well, I worked at Applebee's, so I got off 2 a.m.
12 and Oowee was still waiting for his weed to come in so he
13 needed more.

14 Q. So you brought him some weed?

15 A. Yes.

16 Q. Again?

17 A. Yes.

18 Q. Was Brandon Singleton there?

19 A. That night for a little bit.

20 Q. For a little bit. Okay. And did they buy weed from
21 you then?

22 A. Yes.

23 Q. Again, the second time?

24 A. Yes.

25 Q. Okay. And what did you do? You said Brandon left;

1 is that correct?

2 A. Yeah, he was only there for a little bit.

3 Q. Now, the first time that you gave a statement back
4 in on the 6th of September, you only said you were in Oowee's
5 room one time; isn't that correct?

6 A. Yeah. Was that the statement right after everything
7 happened, after my friend died, that statement?

8 Q. Yeah, that statement. You never mentioned anything
9 about those visits, did you? Isn't that true?

10 A. Yes.

11 Q. Okay. And you never mentioned the fact that you and
12 Oowee were there with Brandon; isn't that true?

13 A. Yeah, I mean ...

14 Q. Now, when you were in the room the first, the
15 second, and/or the third time, were you always left alone
16 with Oowee?

17 A. No. I mean, I was the one time, but --

18 Q. Go ahead. I never heard this before. Go ahead.
19 Come on.

20 A. I don't have anything to say.

21 MR. THORNTON: Objection, Your Honor, to the
22 commentary. If Mr. Hood has a question, he can ask it. His
23 commentary is beyond the scope of the question.

24 THE COURT: I will sustain it.

25 MR. HOOD: I will try to do better, Your Honor.

1 BY MR. HOOD:

2 Q. Who else was there then?

3 A. I mean, my friend was shot and killed. Why does
4 this matter?

5 Q. Well, you know, it matters an awful lot. Who else
6 was there?

7 A. Who else was where?

8 Q. In the motel room with you and Oowee?

9 A. Me and Oowee.

10 Q. Okay. Now, you and Oowee. According to one
11 statement, you listen to a bunch of videos or something of
12 this nature; isn't that correct?

13 A. Yea, while we were smoking, he showed me videos of
14 him and Snoop Dogg in a rap video.

15 Q. Uh-huh. Uh-huh. And he had all of this expensive
16 jewelry too, didn't he?

17 A. He had a chain on that said BMF.

18 Q. What did that chain say?

19 A. BMF.

20 Q. What did that stand for?

21 A. I guess it stands for Black Mafia Family.

22 Q. Didn't he tell you that he was a member of this
23 family?

24 A. Yes.

25 MR. THORNTON: Objection, Your Honor; hearsay.

1 MR. HOOD: She answered the question already.

2 MR. THORNTON: Mr. Hood is asking her what someone
3 else told her. And I kind of let it go for a little while,
4 but it's hearsay.

5 THE COURT: Sustained.

6 BY MR. HOOD:

7 Q. What did -- what kind of marijuana was it you smoked
8 the second time?

9 A. The same kind that I had the first time.

10 Q. Okay. And what kind of marijuana was it that this
11 person was supposed to receive a shipment from Atlanta?

12 A. He said it was some Loud that he was receiving from
13 Atlanta and that they didn't want to drive in the car with
14 it.

15 Q. They didn't want to what?

16 A. Ride in the car with it.

17 Q. Ride in the car with it. Did you not state in your
18 original statement that you and Oowee were smoking some
19 marijuana called Loud?

20 A. Yeah, Loud, Good, Kush, it's all the same thing.

21 Q. Well, what was -- I mean, but this was a particular
22 type of marijuana, wasn't it?

23 A. Define type.

24 Q. Well, I mean, he had you over to the room and gave
25 you some of this Loud?

1 A. No, I gave it to him.

2 Q. Well, where did you get it from?

3 A. Quantize.

4 Q. Who?

5 A. Quantize.

6 Q. Quantize? Okay. So when you and Quantize meet up
7 on the 6th, who had called you to tell you it's in, it's
8 here, whatever, the dope?

9 A. Oowee had called me. I had talked to Quantize
10 earlier that morning.

11 Q. And the last time that you were in the room with
12 Oowee, you were again there for how many hours?

13 A. A few hours.

14 Q. A few hours, okay. And that's after that you left
15 your job at Applebee's; is that correct?

16 A. Uh-huh.

17 Q. Okay. Now, so did you ever speak to or think you
18 spoke to Brandon Singleton?

19 A. I mean, at one point, they were both calling me off
20 the phone.

21 Q. So now they were both calling you; is that correct?

22 A. Yes, sir.

23 Q. Okay.

24 A. That's the only reason I knew Brandon Singleton,
25 because I used to buy weed from him. I wouldn't just be okay

1 with some random guy.

2 Q. Okay. Well, what was the relationship between
3 Brandon Singleton and Oowee, do you know?

4 A. He introduced them and introduced me as his cousin.

5 Q. Introduced you --

6 A. No. Brandon introduced Oowee as his cousin to me at
7 the gas station.

8 Q. So you get the call. You call who? When you get
9 the call from Oowee on the 6th, who do you call?

10 A. Well, Quantize had called me. I met up with
11 Quantize earlier that morning and we had discussed that he
12 didn't have any weed and he needed some. And he told me that
13 if I knew anybody with some to give him a call. Because I
14 told him before that about how my friends were -- or how
15 Oowee and them were getting a shipment in from Atlanta.

16 Q. So, basically, you set up the deal; is that correct?

17 A. Yes.

18 Q. Okay. Okay.

19 A. But Quantize still talked to them as well.

20 Q. For Quantize. Okay. So you come and meet Quantize;
21 is that correct?

22 A. Yes.

23 Q. Okay. Then you leave in his car or your car?

24 A. He drove.

25 Q. He drove. Okay. And about what time was this?

1 A. I don't remember. 12:30 maybe.

2 Q. 12:30?

3 A. I'm not sure. It was three years ago.

4 Q. Three years ago.

5 A. It was when I was on lunch -- I don't know. I had
6 gotten off of work, my lunch, a lunch shift.

7 Q. So you arrive at Taylor's Mobile Home Park; is that
8 correct?

9 A. No, I'm went from work until Quantize's house.

10 Q. And how many more calls did you receive after you
11 got with Quantize?

12 A. I'm not sure exactly how many calls I received. I
13 know that we were calling to let them know we were on the
14 way, or they called me.

15 Q. Uh-huh. So when you arrive at Taylor's Mobile Home
16 Park, what do you see?

17 A. Oowee standing outside.

18 Q. And this is outside of the trailer; is that correct?

19 A. Yes, sir.

20 Q. Okay. And you pull in?

21 A. Quantize pulled in.

22 Q. Pulled in. Then what happens?

23 A. He parked the car.

24 Q. Parked the car?

25 A. And then him and Oowee were talking for a few

1 minutes.

2 Q. Where were they talking at?

3 A. Right outside.

4 Q. Windows up or windows down on the car?

5 A. The windows down.

6 Q. And you were hearing the conversation then?

7 A. Yeah, but it was none of my business.

8 Q. Yeah, it was none of your business, but you were
9 hearing it; isn't that correct?

10 A. Yeah, they were just talking about prices. He was
11 the one buying the weed.

12 Q. Okay. So they negotiate and they apparently,
13 according to you, came to an agreement on how much and how
14 many pounds or whatever it is they were going to get in
15 return, he was going to get in return; isn't that correct?

16 A. Yes.

17 Q. Okay. So he comes back to the car?

18 A. No, we were in the car.

19 Q. Oh, you were in the car?

20 A. Yeah, while they were talking. That's what I
21 said.

22 Q. So the window was down because Oowee was talking to
23 Quantize while he was inside of the vehicle with you; is that
24 correct?

25 A. Yes.

1 Q. Okay. What did Oowee have on?

2 A. A white tank top.

3 Q. And what did that white tank top say?

4 A. Nothing, it was like a white tank top.

5 Q. Wasn't it a -- you said one time before, I think in
6 a statement earlier, that it was a white wife beater maybe,
7 is that right?

8 A. That's what they call them, right?

9 Q. Okay. A white wife beater T-shirt?

10 A. Like an undershirt tank top.

11 Q. Undershirt tank top, so he had another white top
12 too?

13 A. No, he just had a tank top, like a white tank top.

14 Q. And that's all he had on?

15 A. Some shorts.

16 Q. Some shorts, okay. Nothing else? Is that it?

17 A. Yeah.

18 Q. Okay. Okay. So they are talking and you are
19 listening. And, by the way, was the car off or on?

20 A. It was off.

21 Q. It was off. Okay. So in park, cut off. Any music
22 playing?

23 A. No, the car was off.

24 Q. No music playing. Okay. So they speak and what
25 happens then?

1 A. I think Quantize started counting money.

2 Q. Well, does Oowee go into the house?

3 A. No.

4 Q. Well, do you remember the first statement that you
5 gave? Do you remember saying that you and Quantize arrived
6 and Quantize was told to pull into the side of the trailer,
7 and instead, Quantize backed into the trailer park area; is
8 that correct?

9 A. No.

10 Q. Well, what did he do?

11 A. We pulled in and he passed it, because we pulled in
12 the wrong entrance. And then that's -- he just backed in,
13 because I guess that's what he felt like doing.

14 Q. Okay. So he backed in. Okay. All right.

15 A. Because the parking spot was only so big.

16 Q. Yeah. And do you recall saying that Quantize got
17 out of the car, walked up to the door where Oowee was
18 standing, and he and Oowee had a conversation about the
19 amount and the price, and that Oowee went inside, Quantize
20 came back to the car, and got inside of the car; do you
21 remember that?

22 A. No.

23 Q. That didn't happen?

24 A. No. I was with Quantize the whole time.

25 Q. Well, I thought you said earlier that Quantize got

1 out of the car.

2 A. No, I said that when we were going inside to buy the
3 weed, he proceeded to get out of the car behind me, not when
4 they were talking. We were going to purchase the marijuana.
5 He got out of the car and was walking behind me.

6 Q. Okay. So Oowee is right there --

7 A. Holding the door open.

8 Q. Standing with -- oh, he's standing in the doorway?

9 A. When we started to get out of the car, he walked up
10 to the stairs and opened the door for us.

11 Q. Well, wait a minute. When you arrived, where was
12 Oowee standing?

13 A. Outside.

14 Q. On the concrete? I think there was a little
15 concrete patio there, wasn't there?

16 A. I don't recall like the exact details of the outside
17 yard.

18 Q. Were there door steps to go up?

19 A. There were steps to walk upstairs, yes.

20 Q. So you got out of the car and you obviously stepped
21 on something to get onto the steps; is that correct?

22 A. Yes.

23 Q. Okay. So tell me where Oowee was when you guys
24 arrived?

25 A. When we arrived, he was standing outside the trailer

1 either -- he was on the step.

2 Q. Was the door to the trailer open or closed?

3 A. Closed.

4 Q. Closed? Did the trailer door swing inside or
5 outside?

6 A. Outside.

7 Q. Okay. So open it up, walk in; is that correct?

8 A. Yes, sir.

9 Q. So Oowee is standing there with the door closed
10 behind him?

11 A. No, he was standing down by the car talking to
12 Quantize.

13 Q. So he wasn't on the steps?

14 A. He was when we pulled in and then he walked down.

15 Q. Okay. So he's standing right there next to the
16 car?

17 A. Yes.

18 Q. Did you ever tell anybody that before?

19 A. That they negotiated a price?

20 Q. No, no, no. Did you ever tell any law enforcement
21 officer or anybody else that Oowee was standing next to the
22 car and negotiating a price for the marijuana?

23 A. Yes.

24 Q. Who did you tell that to?

25 A. I don't know. I talked to like 20 people that

1 day.

2 Q. Well, was it a police officer? Was he a --

3 A. They were all cops.

4 Q. Okay. So you told him that; is that correct?

5 A. Yeah.

6 Q. Okay. Okay. That's all I want to know. You told
7 them that. So Oowee is standing there next to the door.

8 They negotiate a price. And, boom, what does Quantize do as
9 soon as they negotiated a price?

10 A. Said okay.

11 Q. Huh?

12 A. Quantize said okay.

13 Q. Okay. Okay. Then what happens?

14 A. Then Oowee started walking back up the stairs and
15 Quantize started counting his money.

16 Q. And when you looked up, did you see Oowee anymore?

17 A. Yeah.

18 Q. Where was he?

19 A. Well, he was still outside waiting for us on the
20 stairs.

21 Q. On the stairs. And how far away from the automobile
22 was he?

23 A. From the parking lot of the car to the stairs, car
24 was right in front.

25 Q. Well, you could see. I mean, was he as far as you

1 and I apart?

2 A. Probably, maybe a little further.

3 Q. Uh-huh. And could he see Quanze (sic) counting the
4 money out and this and that and the other?

5 A. I don't know what he could see.

6 Q. Okay. So Quanze (sic) --

7 A. Quantize.

8 Q. I'm sorry?

9 A. Quantize.

10 Q. Quantize; is that correct?

11 A. Uh-huh.

12 Q. So Quantize does what next? After they've
13 negotiated a price, boom, what does he do?

14 A. He handed me the money.

15 Q. Well, wait a minute. Wait a minute. Where did he
16 get the money from?

17 A. The center console thing.

18 Q. Okay. Well, go ahead. Okay. Where did he get the
19 money from? Take it out of his pants pocket? Take it from
20 underneath the seat in what did he do?

21 A. Center console, he opened up his center console.

22 Q. Okay. And does that open this way or that way or
23 that way?

24 A. This way. (Witness indicates.)

25 MR. THORNTON: Straight.

1 BY MR. HOOD:

2 Q. Straight up like this?

3 A. Straight up.

4 Q. Was this a bucket seat, in other words, a two seater
5 with a console in the middle?

6 A. Yeah.

7 Q. Opens it up and what does he do?

8 A. Gets his money out, counts it.

9 Q. Okay. What does he do?

10 A. Counted his money.

11 Q. Okay. And what did he do?

12 A. Then he handed it to me and asked me to put it in my
13 purse because it was too much to put in his pocket.

14 Q. Too much to put in his pocket? So what kind of
15 purse did you have?

16 A. Big zebra printed purse.

17 Q. Okay. Okay. So how much money did he count out?

18 A. \$2,500.

19 Q. And he got it out of the console?

20 A. Yeah.

21 Q. And was that all the money?

22 A. I'm not sure. I didn't count his money for him.

23 Q. Well, didn't you say originally back, oh, again,
24 back in September of '12, that Quantize had two stacks of
25 money in the console?

1 A. Right.

2 MR. THORNTON: Objection, , Your Honor, Mr. Hood has
3 referred to the victim by the wrong name about five times,
4 it's Quantize, not quaenz.

5 MR. HOOD: I'm sorry, Quantize, how about I say
6 Mr. Greer, how about that. Didn't you say that?

7 THE WITNESS: Say what?

8 BY MR HOOD:

9 Q. That he had in the console two stacks of money?

10 A. Right, but that could have been \$2,500 altogether,
11 I'm not sure, I didn't count it.

12 Q. Well, do you recall giving a statement to the police
13 that he had two stacks of money, one of them was \$2,000, he
14 took 500 out of the other stack and counted it off and gave
15 you \$2,500, put the rest back in the console?

16 A. I mean, yes, I know he counted money and then put
17 some back, I'm not sure how much it was.

18 Q. And what else did he have in the console?

19 A. He had a gun.

20 Q. He had a gun. Okay. He closes the console back; is
21 that correct?

22 A. Yes, sir.

23 Q. Okay. You get out of the car with the money?

24 A. Uh-huh, with my purse.

25 Q. With your purse. You go around, Quante's --

1 A. Quantize.

2 Q. Quantize, Quantize, gets out of the car too; is that
3 correct?

4 A. Yes.

5 Q. And he's going to go in with you; isn't that
6 correct?

7 A. Yes.

8 Q. And you guys are moving to the door and he's behind
9 you and you go up the steps and you get into the doorway?

10 A. And then the door was slammed.

11 Q. And he slams -- so this door swings out. So how did
12 Oowee -- did Oowee reach out and grab that door and slam it
13 around?

14 A. No. He was holding the door as we were walking in.
15 He already had his hand on the door.

16 Q. Okay. Okay. Okay. So you go in and he slams it
17 and --

18 A. Locks it.

19 Q. He locks it?

20 A. He locks it.

21 Q. Okay. So you see a guy on the couch?

22 A. I see a guy straight across from me. I'm not sure
23 if it was a couch or a chair or whatever. He was sitting
24 down.

25 Q. Yeah, yeah. And I believe you told the police that

1 he had dreads or braids; isn't that correct?

2 A. No, I told the police that he had a white T-shirt
3 over his head, which he could have been hiding one of those,
4 but ...

5 Q. Well, did you see -- I mean, you were wearing them.
6 I mean, you know what they are; isn't that correct?

7 A. They look different on everybody.

8 Q. So -- but this thing that this person had over his
9 head --

10 A. Was a white T-shirt.

11 Q. It was a what?

12 A. White T-shirt.

13 Q. I thought you told the police originally that it was
14 a white turban?

15 A. No.

16 Q. Like a turban wrapped around, a towel wrapped around
17 his head?

18 A. No. I said there was a white T-shirt wrapped around
19 his head.

20 Q. So you never told the police, this officer right
21 here, that it was a white towel wrapped around his head like
22 a turban?

23 A. I don't think I ever used the word turban. There
24 was a white shirt. The guy was laying down like this with a
25 white shirt over his head. I clearly saw it, man sitting on

1 the couch pretending like he was sleeping with his shirt over
2 his head.

3 Q. Okay. Does that mean that his body was bare?

4 A. No. He had white shirt under something. I don't
5 know. Everything happened so quick. Once the door was
6 locked, it all just happened. I can't describe what color
7 socks he had on.

8 Q. Well, I'm just asking you. I mean, before you gave
9 a very explicit statement about it originally. Let's see if
10 I can pull up your statement.

11 I have to look at your other statements. But
12 anyway, you gave several statements that day; isn't that
13 correct? You gave one handwritten statement; is that
14 correct?

15 A. That day, yes.

16 Q. Yes. And then you gave a statement to a sergeant by
17 the name of Rodriguez, or something of that nature; is that
18 correct?

19 A. I don't recall his name.

20 Q. The first officer who approached you, you gave him a
21 statement; isn't that correct?

22 A. Yes.

23 Q. Okay. And then you gave this officer a statement;
24 isn't that correct?

25 A. Yes.

1 Q. And then you prepared one statement, one handwritten
2 statement?

3 A. No, that statement was the first thing that I ever
4 wrote right away.

5 Q. Right, wrote right away. What I mean is, you had
6 talked to the officer, and then he told you to write a
7 statement; is that correct?

8 A. I don't recall. I was so shaken up, I don't know
9 what I did first.

10 Q. Okay. Okay. Let's go back to the incident itself.
11 Okay. You are standing in the doorway. Owee slams the
12 door. Then what happens?

13 A. I turn around, like, to see what was going on. And
14 he pulled a gun out of his pants and told me to give him the
15 money.

16 Q. Okay. And what did you do?

17 A. I gave him the money.

18 Q. Well, you actually gave him the purse, didn't you?

19 A. Yes, at first I gave him the purse because I didn't
20 know how to react when somebody is pointing a gun at you.

21 Q. Uh-huh. Then what happened? After he did that,
22 what happened?

23 A. He couldn't find the money, so he threw the purse
24 back at me and told me to give it to him.

25 Q. Where were you at at the time he threw the purse

1 back at you?

2 A. On the floor.

3 Q. On the floor. Were you laying on your back?

4 A. On my stomach.

5 Q. On your stomach. Okay. And he throws the purse
6 back to you; what do you do?

7 A. Got the money out and gave it to him.

8 Q. And then what happened?

9 A. And then the guy on the couch said, give me a gun.

10 Q. The guy on the couch said, give me your gun?

11 A. And then Oowee handed him a gun and he ran
12 outside.

13 Q. So the guy on the couch didn't have a gun; is that
14 correct?

15 A. I guess not. I'm not sure. I was lying on the
16 floor.

17 Q. Okay. Didn't you say in one of your statements that
18 the guy on the couch jumped up, slammed you facedown on the
19 floor?

20 A. Someone grabbed my arm and then he put -- someone
21 grabbed my arm to force me towards the floor. And then Oowee
22 said that to -- give me the money, you stupid white bitch.

23 Q. And didn't you say that the guy on the couch put a
24 gun to the back of your head?

25 A. No, Oowee did.

1 Q. So he didn't put the gun in your face; he put it to
2 the back of your head?

3 A. He had a gun the whole time he was robbing me,
4 like ...

5 Q. Okay. Okay. I see. So this Oowee was the one that
6 put the gun to the back of your head and --

7 A. I'm not sure. I was laying on the floor facedown.
8 I don't know who did it.

9 Q. Okay. Okay. Well, Oowee was going through your
10 purse, wasn't he?

11 A. No, not at that time. I gave him the money and then
12 they told me that if I snitched, they would kill me.

13 Q. So they said that?

14 A. Or somebody.

15 Q. Or somebody. Who else was there in the room?

16 A. I don't know.

17 Q. Could there have been another person in the room?

18 A. There was two people in the room robbing me.

19 Q. Could there have been a third person?

20 A. No, there was only two people.

21 Q. So those are the people you are talking about that
22 were saying this?

23 A. Yes.

24 Q. Okay. Was this all a tremendous surprise to you?

25 A. Yeah.

1 Q. Yeah. Okay.

2 A. I was robbed at gunpoint.

3 Q. But you were shocked that you were being --

4 A. Robbed by people that I bought weed from before.

5 Q. Yeah, yeah. So, now, Brandon Singleton, describe
6 Brandon for me.

7 A. He's short, dark-skinned and has dreads.

8 Q. Dreads. Okay. And did you see him that day?

9 A. No, I did not.

10 Q. But you've talked to him over the phone; is that
11 correct?

12 A. Right, because we were supposed to meet at his
13 wife's consignment shop before Taylor's and they had changed
14 it.

15 Q. Who changed it?

16 A. I can't recall, but it was Oowee or Brandon that had
17 called me back. I think it was Oowee that called me and
18 changed it.

19 Q. Okay. So now, what happens after they tell you not
20 to say anything about this or else they will kill you? What
21 happens?

22 A. Someone jumped over me and ran outside, and I heard
23 a gunshot.

24 Q. Someone? Who was it?

25 A. I'm not sure. I was not able to identify the

1 person.

2 Q. Okay. So did Oowee jump over you and go outside?

3 A. No, Oowee was still holding the gun to me.

4 Q. To the back of your head?

5 A. Right there kneeling down by me holding the gun to
6 me, yes.

7 Q. And this guy jumps up that you don't know who he is;
8 is that correct?

9 A. Correct. He was --

10 Q. He's wearing now a white T-shirt over his head?

11 A. Yes, it was a white shirt over his head.

12 Q. Now, when did you decide that it wasn't a white
13 towel on his head, like a turban, that it was a white T-shirt
14 over his head?

15 A. It was always a white T-shirt.

16 Q. Always a white T-shirt. Okay. Okay. Now, after
17 you have this guy step over you, what happens?

18 A. I hear a gunshot.

19 Q. Okay. Then what happens?

20 A. I hear couple gunshots, and then Oowee jumped up and
21 ran outside and left the door wide open. And I heard more
22 gunshots, so I ducked behind the couch. And then I ran into
23 the back room. It looked like a little girl's room. I was
24 going to climb out the window because I was scared, but it
25 was like -- then I looked straight across the trailer and saw

1 somebody swing their door open and just shoot out a back
2 door, and he looked just as scared as I did. So I felt like
3 I should run that way too, because he looked like he was
4 running away.

5 Q. Okay. Now, do you recall again -- going back to the
6 6th -- telling and putting in your statement that the guy who
7 was on the couch got a gun from Oowee, because obviously he
8 didn't have a gun?

9 A. Right, and asked him for one.

10 Q. And he goes out the door?

11 A. Out the front door.

12 Q. You hear one gunshot?

13 A. No, I heard a couple of gunshots.

14 Q. Well, I thought that you said, according to your
15 statement now again, that you heard one gunshot and then,
16 boom, Oowee jumps up and runs outside and you hear more
17 gunshots?

18 A. It could have been one. It could have been two.

19 There were gunshots. The first time I had --

20 Q. Well, I mean, did you hear more gunshots after Oowee
21 went outside?

22 A. Yeah, I heard a bunch of gunshots the whole time.

23 Q. Oh, you heard a bunch? Okay. Okay. Now, you had a
24 conversation with these guys inside of the trailer, didn't
25 you?

1 A. No, other than, give me the money.

2 Q. Well, apparently, they looked at the money, Oowee
3 did, apparently, and Oowee said, where is the rest of it, or,
4 where is more money; isn't that correct?

5 A. Yeah. He just kept talking about money, the money.
6 And all I kept saying is, I don't know, I don't know.

7 Q. Well, didn't you tell him that he had more money out
8 in the console?

9 A. No, I didn't tell them that.

10 Q. Didn't tell them that?

11 A. No. Why would I tell them that?

12 Q. And you didn't tell them that he had a gun in the
13 console?

14 A. No.

15 Q. So, what you are saying is, he got the money because
16 you took it out after he couldn't find it, and then this guy
17 who was in there jumps over you, gets a gun from Oowee, jumps
18 over you and goes outside. You hear a gunshot. Oowee jumps
19 up, and he goes outside, and you hear some more gunshots?

20 A. Yes.

21 Q. And he had the money; is that correct?

22 A. Who?

23 Q. Oowee.

24 A. Yeah, he had the money.

25 Q. Where did Oowee have it at?

1 A. I don't know. I was on the floor with a gun pointed
2 at me. I wasn't paying attention to that.

3 Q. So you stayed on the floor this whole time; is that
4 correct?

5 A. Yeah, until Oowee left me by myself, and then I
6 tried to get out.

7 Q. Okay. Okay. So this was all a total surprise to
8 you; isn't that correct?

9 A. Yeah. I was robbed.

10 Q. Yeah. And it was a surprise, wasn't it?

11 A. It was a complete shock.

12 Q. Yeah. Okay. All right. So they go outside. You
13 go out the back door; is that correct?

14 A. Yes, sir.

15 Q. And what do you see when you go out the back door?

16 A. Somebody else running. And I saw some people
17 standing at a bus stop.

18 Q. Some people standing at a bus stop?

19 A. Like these old ladies that it looked like they were
20 standing at a bus stop. It was probably like 2:30 in the
21 afternoon, now that I recall.

22 Q. About 2:30 in the afternoon now?

23 A. Yeah.

24 Q. Maybe 2:15? Does that ring a bell?

25 A. Somewhere around that time, yeah.

1 Q. Yeah, yeah. Okay. So you go outside along with --
2 are you in front of this person who's out the door or are you
3 behind him?

4 A. Behind him. They were all gone.

5 Q. You're behind him. And you don't see anything else
6 but these women at the bus stop; is that correct?

7 A. Well, when I first ran out, I saw a black car parked
8 behind the trailer.

9 Q. Oh, okay. All right. You saw a black car?

10 A. Uh-huh.

11 Q. And it was right next to the trailer that you just
12 came out of; isn't that correct?

13 A. Yes, yes.

14 Q. And was it running? Was the engine running?

15 A. I'm pretty sure the car was on because the brake
16 lights were on.

17 Q. The brake lights were on? Okay. And how many
18 people were in the car?

19 A. I didn't see. I was running.

20 Q. Okay. And did you hear anything?

21 A. Yeah, I heard somebody yelling, get in the car, get
22 in the car.

23 Q. Get in the car, get in the car. Okay. And where
24 was that sound coming from?

25 A. I don't know. I was running away, trying to --

1 still hearing gunshots.

2 Q. You could still hear gunshots?

3 A. Yeah.

4 Q. So you exit the trailer with this other guy?

5 A. No, I didn't leave with him; he left first.

6 Q. He left first. Okay. And you were behind him. You
7 saw the car. You ran past the car; is that correct?

8 A. It was literally right outside the door, the back
9 door.

10 Q. And was it the front end of the car that you run --

11 A. The back end.

12 Q. The back end that you ran past?

13 A. That's why I saw the brake lights.

14 Q. How far would you say you got before you heard, get
15 in the car?

16 A. It was probably 10 feet.

17 Q. Okay. 10 feet from the car; is that correct?

18 A. It's an estimation.

19 Q. Okay. I'm just asking. 10 feet. And you said you
20 were still hearing gunshots after that; is that correct?

21 A. Yeah, when I was running, I still heard gunshots.

22 Q. So somebody says, get in the car?

23 A. No, somebody yelled.

24 Q. Yells, get in the car. And then you are running
25 still and you are hearing gunshots as you are running; is

1 that correct?

2 A. Yes.

3 Q. Okay. So when you get over to this other trailer,
4 this -- was this your boyfriend's, or whose trailer was this?

5 A. At the time, yeah. Well, it was my ex-boyfriend.

6 Q. Ex-boyfriend?

7 A. Uh-huh.

8 Q. Okay. And had you been to that particular location
9 in the past when he lived there?

10 A. His trailer, yes.

11 Q. Yeah. Okay. So you were familiar with that
12 particular mobile home park; isn't that correct?

13 A. No, just that area, just -- I had been there like
14 twice before.

15 Q. So you know how the entrance is and you know --

16 A. I know the entrance to get to his. And that's why
17 we ended up going in the wrong way.

18 Q. Now, you gave the purse to Oowee; is that correct?

19 A. Yes.

20 Q. Now, you said it was some kind of a zebra. What
21 kind of fabric, or was it a -- what kind of substance was
22 this handbag made out of? I mean, is it leather or vinyl?

23 A. It was shiny. It was like a Kathy. I think the
24 brand was Kathy.

25 Q. Well, I mean, was it cloth or was it --

1 A. No, it wasn't cloth. It was like shiny.

2 Q. So --

3 A. And it had like 15 different pockets.

4 Q. Okay. Okay. But Oowee took your purse and went
5 through your purse and all of that stuff and couldn't find
6 the money?

7 A. Right, because it was located on the outside of the
8 purse and he thought it was on the inside.

9 Q. He thought it was on the inside and it was on the
10 outside?

11 A. Yeah. He was trying to find the money, I guess, as
12 quickly as possible.

13 Q. Let's back up to, unfortunately, back up to where
14 Quanze (sic) --

15 A. Quantize.

16 Q. -- Quantize was trying to get the money together.
17 Okay? Didn't you tell the police that he came back to the
18 car and he counted out the \$2,500 and that Oowee had told
19 him --

20 A. No, he was in the car the whole time.

21 Q. -- to send you into the trailer, send you into the
22 trailer with the money and he would give you the dope, isn't
23 that true?

24 A. Yeah. And I told Quantize to come with me. He
25 wasn't just going to let me go by myself with his money

1 somewhere. He was going in with me.

2 Q. But that's what he told you; isn't that correct?

3 A. What correct?

4 Q. I'm sorry?

5 A. I misunderstood your question.

6 Q. Oowee had told Greer to have you have the money and
7 come into the trailer, and they would give you the dope, and
8 they would take the money; isn't that correct?

9 A. And we were both going into the trailer to purchase
10 the marijuana together. He got out of his car and was
11 walking behind me.

12 Q. But you never told the police or anybody else that
13 you were given the money because Oowee had said, send her in
14 with the money and we will give her the dope?

15 A. He never said that.

16 Q. Did you ever say that to the police, that that is
17 what he told you?

18 A. No. He didn't ever tell me anything. He was
19 talking to Quantize.

20 Q. Well, how much money -- I mean, how big was this
21 stack of money?

22 A. However much \$2500 is.

23 Q. Well, I mean, was it that much, that much?

24 A. Probably about that much money. (Witness
25 indicates.)

1 Q. So you were never actually supposed to go into that
2 trailer; is that correct?

3 A. What?

4 Q. You were never supposed to go into the trailer; is
5 that correct?

6 A. No, we were going in together to purchase the
7 weed.

8 Q. Together?

9 A. Together.

10 Q. Okay.

11 A. Just like the whole thing was planned out. We were
12 together, that's why I drove to his house and rode with him,
13 because we were doing it together.

14 Q. Okay. After you are at the other trailer, your
15 boyfriend, ex-boyfriend, whatever he was, you -- the police
16 arrive. Do you give them your purse?

17 A. Yeah.

18 Q. Okay. And --

19 A. And my cell phone.

20 Q. I'm sorry?

21 A. Gave them my purse with my cell phone.

22 Q. Correct; is that correct? You gave them both those
23 items; isn't that correct?

24 A. Yes.

25 Q. Okay. And they found marijuana in your purse,

1 didn't they?

2 A. Yeah, a little bit.

3 Q. Okay. Okay. So they found marijuana in your purse.
4 They had your cell phone. And they used that because of
5 contacts; isn't that correct?

6 A. Used it because of what?

7 Q. Well, to show the contacts that you had had just
8 prior to --

9 MR. THORNTON: Objection, Your Honor. He's now
10 asking her to speculate what law enforcement wanted to look
11 at and what it was for.

12 THE COURT: Sustain the objection.

13 BY MR. HOOD:

14 Q. Okay. Okay. You had a cell phone; is that
15 correct?

16 A. Correct.

17 Q. Okay. Now, while you were at this trailer, you
18 received some telephone calls; isn't that correct?

19 A. Yeah, when I was hiding.

20 Q. I'm sorry?

21 A. When I was hiding.

22 Q. Uh-huh. And these calls were from who?

23 A. Oowee and other people that were threatening me. At
24 first they were acting like everything was okay, asking me
25 where I was, and I hung up on them. And I was trying to call

1 Quantize, and he wasn't answering. And I kept trying to call
2 him and he wouldn't answer. And then they called me, and
3 they told me that if I said anything about anything that
4 happened, that they would hurt my family.

5 Q. Who is "they"?

6 A. Oowee and like a bunch of people yelling in the
7 background.

8 Q. Like who? Who did you recognize?

9 A. I don't know, probably the people that just robbed
10 me.

11 Q. Uh-huh. How many different voices did you hear?

12 A. A few.

13 Q. Okay. A few meaning more than the one guy you were
14 talking to, meaning two or three?

15 A. Two or three.

16 Q. Okay. Okay. Okay. Now, you received -- did you
17 ever talk to anyone who identified himself as the guy who was
18 running in front of you?

19 A. Did I ever what?

20 Q. Did you ever have a phone conversation with the
21 person who you ran behind as you were exiting the trailer?

22 A. No.

23 Q. Who ran out of the trailer?

24 A. No, never saw him once, never spoke to him, nothing.

25 Q. Had no conversation with him on the phone or

1 otherwise; is that correct?

2 A. No.

3 Q. Okay. Who is Chucktown?

4 A. That was Quantize's nickname.

5 Q. Chucktown; is that correct? Okay. Okay. Now,
6 after the statements that you gave on the 6th when the event
7 took place, you made some other statements; isn't that
8 correct? Isn't that correct?

9 A. What was that, sir?

10 Q. After the 6th, the statement on the 6th, you had
11 another statement taken on the 7th; isn't that correct?

12 A. Yes.

13 Q. And you were shown some pictures of people?

14 A. Yes.

15 Q. Do you remember that? Okay. And how many people
16 were you looking for to identify?

17 A. At that time, I'm not quite sure. I looked at quite
18 a few lineups. I don't know how many people I was looking
19 for.

20 Q. Well, who were the people that you identified?

21 A. Brandon Singleton and Oowee.

22 Q. Okay. All right. Now, also, did you ever indicate
23 that it was possible that two other people in that lineup, in
24 those lineups, but you weren't sure?

25 A. Right. I wasn't sure, because the person had the

1 shirt on their head, so I wasn't ...

2 Q. Okay. Now, you had a third interview on the 12th of
3 September; isn't that correct?

4 A. Yeah.

5 Q. You made a statement then with respect to who or a
6 description of the person who was the second person, Oowee
7 and this other person; you gave a description of that person,
8 didn't you? Didn't you?

9 A. I mean, that was quite awhile ago. I'm not sure.

10 Q. And once again, you made the statement that the
11 person had dreads or braids?

12 A. I couldn't see what they had on their head because
13 they had a shirt.

14 MR. THORNTON: Objection, Your Honor. We need to
15 approach.

16 THE COURT: Ladies and gentlemen, are you okay or do
17 you need a break? Break? Let's take a five-minute recess,
18 ladies and gentlemen. I'll ask you to step in the jury room.
19 I remind you it's too early to begin discussing the case.

20 (Whereupon, the jury leaves open court at 4:34 p.m.)

21 MR. THORNTON: Your Honor, my objection, and forgive
22 me for not knowing exactly how to put it, Mr. Hood keeps
23 alleging that she's made statements she didn't make. You
24 know, he's already alleged, well, she said it was a turban.
25 I'm going to handle that with Detective Gobel, but nowhere

1 does she says it's a turban or a towel. He also accuses her
2 as saying the person has dreads. That's not what she said.
3 The interview notes from the officer -- because it wasn't a
4 written statement, it's going by -- I assume he's going by
5 the notes. Says: Power described him as a skinny
6 dark-skinned black male with something wrapped around his
7 head that made him look like he might have braids or dreads.
8 She never said he had braids or dreads. He is
9 mischaracterizing what she said.

10 And the turban thing that, unless he can show me
11 where it appears in any note given by Jessica Power, that
12 never came out of her mouth. So if we are going to, you
13 know, go after a witness, fine. I mean, it's fair game. But
14 he ought to at least do her the courtesy of, A, getting it
15 right; and, B, providing her with the investigator notes so
16 she can look at it, because it's not true. And he's
17 inferring to the jury, didn't you say it was a turban, it's a
18 towel. He's done it twice and that's not what it says.
19 Unless he can show it to me and I missed it. And I conferred
20 with Detective Gobel and that doesn't appear in anything he's
21 got.

22 So that would be my objection. I think he's
23 misleading the jury by saying she said things in statements
24 that she didn't say and it's not fair.

25 THE COURT: Mr. Hood, are you looking?

1 MR. HOOD: I'm looking. There's so many of them. I
2 will find it.

3 THE COURT: Why don't we all take a five-minute
4 personal recess.

5 MR. THORNTON: Thank you, Your Honor.

6 THE COURT: Which includes our witness on the
7 witness stand.

8 (A recess transpired.)

9 THE COURT: Mr. Hood.

10 MR. HOOD: I think I finally found the problem. It
11 was another witness whose statement was right together with
12 her statement, statements one right after another. And he
13 used the word a white towel, like a turban around his head.
14 And she has always said a white -- well, yeah, she said a
15 white T-shirt. So I will certainly, when I -- when you put
16 her back on the stand, I will make the necessary apologies
17 and correct the error myself.

18 MR. THORNTON: Judge, that's fine.

19 MR. HOOD: He could have done that himself on
20 redirect and simply said that, but I will be more than happy
21 to make that.

22 THE COURT: Let me ask you a question. How much
23 longer do you anticipate with this witness?

24 MR. HOOD: I think no more than probably ten minutes
25 or so. Shouldn't take more than ten minutes. That's what I

1 anticipate.

2 THE COURT: Does that mean that will do it, or do
3 you got one you can put up?

4 MR. THORNTON: I think that will do it. I do have
5 one I could bring up, but it would be long. It would be Mr.
6 Brewer. Based on the cross-examination of this witness, we
7 would be here late. Mr. Hood is right. The statements are
8 right directly next to each other. But it doesn't do me any
9 good two hours later to fix that problem. He is right, they
10 do appear next to each other. I'm sure that was inadvertant
11 on Mr. Hood's part.

12 THE COURT: Let me mention one other thing to you.
13 The bailiff indicated to me a moment ago that one of the
14 jurors, she did not tell me which one it was, would like for
15 the person sitting in that chair not to sit in that chair
16 anymore.

17 MR. THORNTON: Not a problem. Mr. Hightower was
18 there just to help me with the IT stuff.

19 THE COURT: All right. I assume we are ready. And
20 let's have our witness, Ms. Power, retake the witness stand
21 and bring our jury in.

22 (Whereupon, the jury returns to open court at 4:48
23 p.m.)

24 THE COURT: Welcome back, ladies and gentlemen. I
25 believe we are ready to resume with cross-examination of the

1 witness.

2 Mr. Hood.

3 BY MR. HOOD:

4 Q. Ms. Power, seems as though I owe you an apology. It
5 wasn't you that said it was a white towel wrapped the head
6 like a turban. It was another witness that said that. You
7 said white T-shirt. Okay?

8 A. Yes, sir.

9 Q. Now, after all of this is over with and you are no
10 longer questioned by the police, what do you do? Where do
11 you go?

12 A. To my house.

13 Q. Okay. Now I'm talking about after -- you don't stay
14 in this area, do you?

15 A. Yes, I don't.

16 Q. You don't. Okay. Now, when do you tell the police
17 about all of these threats that were made by all of these
18 people who were calling you immediately after the event?

19 A. Right away.

20 Q. Right away. None of that do you put in the
21 statement, do you?

22 A. I don't have my statement, so I can't -- if I put it
23 in there, I don't ...

24 Q. Do you remember Officer Gobel questioning you about
25 cell phone records that he came up with? Do you remember

1 that?

2 A. Yeah, I brought in the cell phone records.

3 Q. Okay. And there were calls on there immediately
4 after this event and during the event; isn't that correct, or
5 texts rather? It wasn't calls, some of them were texts; is
6 that correct?

7 A. Yeah, I think a few friends had texted me.

8 Q. And didn't you wipe off memory on your phone?

9 A. I just deleted the call log, because I was scared,
10 because I was threatened. My family was threatened. I
11 didn't know what was going on. I was just trying to call
12 Quantize to see if he was okay.

13 Q. But you wiped all of that off of your phone; isn't
14 that correct?

15 A. Just the call log, yeah.

16 Q. All right.

17 A. Because I was scared.

18 Q. Okay. Now, do you stay in Beaufort after this?

19 A. For a couple of weeks.

20 Q. For a couple of weeks. Okay. And do you have any
21 contact with anybody during that two-week period of time?

22 A. What do you mean?

23 Q. Well, do you have any contact with Brandon
24 Singleton?

25 A. No.

1 Q. With Oowee?

2 A. No.

3 Q. Anybody else who might have been involved in this
4 activity?

5 A. I had no contact with anybody that robbed me after
6 that day.

7 Q. Okay. And what did you do after the next couple of
8 weeks? After you stay a couple of weeks, where do you go?

9 A. I think that's disclosing information that I don't
10 have to share with you on where I went.

11 Q. Okay. Okay. But you go to another location; isn't
12 that correct? Isn't that correct?

13 A. Yeah, for my safety.

14 Q. Okay. You go to another location. And while you
15 are at -- while you are at that location, you are contacted
16 by the Sheriff's Office in that particular county; isn't that
17 correct?

18 A. Yes.

19 Q. Okay. And they have a photographic lineup for you
20 to look at; isn't that correct?

21 A. Yes.

22 Q. Okay. And do you identify anybody in that
23 photographic lineup?

24 A. I didn't identify anybody positively.

25 Q. So you could not identify anybody in that

1 photographic lineup; is that correct?

2 A. Identify as in positively identify or not sure, that
3 it could have been them?

4 Q. You had already made two not sures in the other
5 lineups you were shown here in Beaufort; is that correct?

6 A. Right.

7 Q. Did you tell or write anywhere on any of those
8 photographs that you weren't sure about this particular
9 person?

10 A. Not that I recall, no.

11 Q. Okay.

12 A. But that was how many years ago? Not sure exactly
13 what happened that day, but I do remember --

14 Q. But you didn't identify anybody; is that correct?

15 A. I'm pretty sure that's correct.

16 Q. One last question. This wasn't the way it was
17 supposed to happen; isn't that correct?

18 A. I was going there to buy weed. Wasn't supposed to
19 get robbed. They were supposed to buy weed with Quantize,
20 and then I was robbed at gunpoint and my friend was shot and
21 killed.

22 Q. And that was all a terrible surprise, wasn't it, to
23 you?

24 A. Yes.

25 Q. Okay. Because you thought these people basically

1 were friends; isn't that correct?

2 A. I wouldn't -- somebody that I bought weed from
3 before, yeah.

4 Q. And that you sold weed to?

5 A. Uh-huh.

6 Q. So you are buying and selling? You know they are
7 out of funds, I guess, because didn't buy any more weed from
8 you the second time or third time?

9 A. Because they didn't have their weed.

10 Q. I'm sorry?

11 A. What do you mean didn't have any funds? They bought
12 weed from me everytime I went and brought it for them. I
13 didn't give it out for free.

14 Q. You didn't give it out for free. Okay. Thank you.

15 THE COURT: Redirect?

16 MR. THORNTON: None, Your Honor. I ask she be
17 excused.

18 THE COURT: Thank you, ma'am. You may step down and
19 you may be excused from -- witness to be excused from her
20 subpoena, any objection?

21 MR. HOOD: I certainly have no intentions of
22 recalling her.

23 MR. THORNTON: Thank you, Your Honor.

24 Your Honor, I'm sorry, Court's indulgence one
25 moment.

1 Your Honor, at this point, the next witness is going
2 to be very long. And I see it's right at five o'clock. My
3 recommendation would be we go ahead and stop for today.

4 THE COURT: Ladies and gentlemen, we are going to
5 recess for the day, come back at 9:30. Y'all come back at
6 9:30. We are going to be earlier than that. We have matters
7 we have to take care of outside of your presence. I'm going
8 to ask you to do something that's going to be real hard
9 though, not to discuss this case with anybody. That's going
10 to be hard to do. Your family, friends and loved ones are
11 going to want to know what kind of case you are on. And
12 natural inclination is going to be to tell them. Their
13 natural inclination is going to be, let me tell you what I
14 think, I read about that. I saw it on TV, read it off the
15 internet, I did something. Well, you know, I think we
16 already know none of y'all have read any other third-parties'
17 comments about this. So if you go down that road and you let
18 other people tell you what they think, then at the end of the
19 day, there's a chance that one side or one table or the other
20 is going to be unhappy with your decision if they found out
21 you let other people talk to you about the case. Whether it
22 made any difference or not is not going to matter. Whether
23 you ignored what they told you and voted your conscience and
24 voted based on what you saw here isn't going to matter
25 because they are going to still think they got a raw deal,

1 one side or the other.

2 And, of course, the same thing applies with you've
3 already heard people talking about the newspaper article, the
4 online version or something like that. You can't go look
5 that up. You know, remember, just because it said in the
6 paper, doesn't mean it's true. It's true if we hear it in
7 here.

8 Anybody have a problem at 9:30 in the morning ladies
9 and gentlemen? Thank you so much.

10 (Whereupon, the jury leaves open court at 4:59 p.m.)

11 THE COURT: One of our jurors is 85 or so, don't we
12 have a juror on there that's 85 or something years old? At
13 any rate, anything else we can take up today?

14 MR. THORNTON: Your Honor, from the State's
15 perspective, only thing outstanding right now is Mr. Hood's
16 redaction issue. If you want to stay now and listen to it, I
17 will wait. If you would rather listen to it in the
18 overnight, Mr. Hood, that's fine.

19 THE COURT: How long is it? I don't know.

20 MR. HOOD: It was pretty long, Your Honor.

21 MR. THORNTON: I think the audio is probably 20 to
22 30 minutes. And the video is probably a little longer than
23 that. It's probably a good hour's worth, Judge, maybe even a
24 little longer than that. It's certainly not something you
25 will do in the next ten minutes.

1 THE COURT: I think I will listen to some on my way
2 home and maybe do it that way. Does anybody have a
3 transcript?

4 MR. THORNTON: No, sir, did not do a transcript.

5 THE COURT: All right. See you back at nine o'clock
6 in the morning. Court is in recess until tomorrow morning
7 nine o'clock.

8 (Whereupon, the proceedings adjourn for the day.)

9 (Whereupon, the trial continues on January 21, 2015.)

10 THE COURT: Mr. Hood, have you had an opportunity to
11 review the DVDs?

12 MR. HOOD: I did, Your Honor, very early this
13 morning.

14 THE COURT: And the results?

15 MR. HOOD: Well, I certainly hope I haven't missed
16 anything. I didn't detect anything at the time I listened to
17 those tapes.

18 THE COURT: You didn't see the billy club then in
19 the DVD that was used by the officer? I'm just kidding.

20 MR. HOOD: I didn't see the billy club, but I saw
21 the gun.

22 THE COURT: So does that mean we have no issues
23 then?

24 MR. HOOD: Unless I missed something on those tapes,
25 you know --

1 MR. THORNTON: Your Honor, I did. I went through it
2 after -- I knew Mr. Hood -- he had given me the courtesy of
3 letting me know he was going to be making that motion. When
4 he did it, I went through with Hunter Swanson in my office,
5 another lawyer and both investigators, and basically said we
6 have five sets of ears on it. We listened, and I took out
7 everything that in my opinion would have been objectionable.
8 And that's why we wanted you to listen to it as well if
9 there's something, Your Honor -- if Mr. Hood made the motion,
10 I was ready to go forward, but I think it's as clean as I can
11 make it.

12 THE COURT: All right. Then there's no objection
13 then to introduction of either of those?

14 MR. HOOD: Once they are authenticated, I guess they
15 wouldn't be a problem.

16 MR. THORNTON: Your Honor, the only other matter I
17 have related to that was, and I didn't want to say this
18 without Mr. Hood's consent and the Court's permission, is to
19 handle the fact that obviously you can -- you can't really
20 tell on the audio portion of the second CD, but the first
21 interview is videotaped. And there are clearly scenes that
22 you can tell it's been spliced, obviously. And I would like
23 to be able to, in some form or fashion, make sure the jury
24 understands that that is either by agreement of the parties
25 or from instruction from the State, the Court, so that it's

1 not held against me that I'm trying to hide something from
2 them when I'm doing it to be compliant with the rules.

3 THE COURT: Your thoughts on that?

4 MR. HOOD: Well, I think the thing speaks for
5 itself. I don't think -- if I recall, if I recall correctly,
6 listening to it and seeing it, I don't recall anything that
7 was so disproportionate that would cause me to say they cut
8 something out, you know. It's sort of flowed very well, I
9 thought. At least that's my opinion.

10 And by telling them that we've taken things out,
11 once again, we are saying -- well, anyway, it makes no
12 difference to me, let's put it that way.

13 THE COURT: All right. Makes no difference to him
14 as long as what you say suits him. So why don't you give me
15 25 words or less example of what you are going to say.

16 MR. THORNTON: Your Honor, I would say something to
17 the effect of, Your Honor, at this time I would like to
18 present this tape -- to publish this tape to the jury. The
19 portions, Your Honor, which were not relevant to this case
20 and, obviously, there were significant amounts of time where
21 nothing happened and Mr. Polite was just sitting in the room,
22 we've taken all of those out as instructed by the Court.

23 THE COURT: As instructed by the Court, I think
24 that's what I've done before.

25 MR. THORNTON: And, you know, that's what I would

1 ask. Because there's -- specifically, I know it jumps in a
2 couple of places. And Dillon and I thought Hightower's
3 office did a great deal of editing it. But one scene
4 particularly, in the end, Andrew Rice is in the room with him
5 and he just vanishes. So that's pretty obvious that
6 something has been edited at that point. So that would be
7 all I would say.

8 THE COURT: You have no objection to that statement?

9 MR. HOOD: No.

10 THE COURT: I think it sounds fine. So I guess we
11 are ready when the jury is ready.

12 MR. THORNTON: Yes, sir. I've got people lined up
13 and we will be ready to start at 9:30, if that is okay with
14 the Court.

15 THE COURT: Fine with me. All right. We will be at
16 ease until around 9:30.

17 MR. THORNTON: Thank you, Your Honor.

18 THE COURT: And just for the record, to make sure
19 there wasn't any problem with the record, I was kidding,
20 seriously kidding about the billy club, in case somebody
21 looks at this down the road.

22 MR. THORNTON: Your Honor, I was actually going to
23 respond in a similar fashion until I saw the court reporter
24 taking it down and I thought I should just remain silent.

25 THE COURT: All right. We will be at ease.

1 (Whereupon, a recess takes place.)

2 (State's Exhibit 5, Photograph, was marked for
3 identification.)

4 (State's Exhibit 6, Photograph, was marked for
5 identification.)

6 (State's Exhibit 7, Photograph, was marked for
7 identification.)

8 (State's Exhibit 8 through 22, Photographs, were
9 marked for identification.)

10 (State's Exhibit 23 through 28, Photographs, were
11 marked for identification.)

12 (State's Exhibit 29, Diagram of Scene, was marked
13 for identification.)

14 (State's Exhibit 30, Photograph, was marked for
15 identification.)

16 (State's Exhibit 31, Photograph, was marked for
17 identification.)

18 (State's Exhibit 32, Lipton tea bottle, was marked
19 for identification.)

20 (State's Exhibit 33, Projectiles from Autopsy, was
21 marked for identification.)

22 (State's Exhibit 34, 9-millimeter gun, was marked
23 for identification.)

24 (State's Exhibit 35, two \$50 bills, was marked for
25 identification.)

1 (State's Exhibit 36, one \$50 bill, was marked for
2 identification.)

3 (State's Exhibit 37, GSR kit from Mr. Brewer, was
4 marked for identification.)

5 (State's Exhibit 38, GSR kit from victim, was
6 marked for identification.)

7 (State's Exhibit 39, GSR kit from Ms. Power, was
8 marked for identification.)

9 (State's Exhibit 40, SLED bag GSR, was marked for
10 identification.)

11 (State's Exhibit 41, Aerial view of trailer park,
12 was marked for identification.)

13 THE COURT: Before we bring the jury in, let me
14 bring to your attention an issue just brought to my attention
15 by our bailiff. One of the jurors, 144, Chris Haynes,
16 advised her a few moments ago that he -- that one of his
17 customers he realized is a potential juror, Tim French, that
18 he has -- he's in the -- what kind of business?

19 THE CLERK: He's a Terminix owner.

20 THE COURT: Terminix. He just realized they aren't
21 friends but he's a customer.

22 THE CLERK: They have some kind of association.
23 They have been voting together, but he says he does not
24 socialize with him on a daily basis; probably hasn't spoken
25 to him in a year.

1 THE COURT: Okay. Any thoughts from anybody?

2 MR. THORNTON: Judge, I don't believe Mr. French is
3 going to be called, based on -- unless Mr. Hood is going to
4 argue about -- the only DNA test done in this shows that the
5 gun on scene, the DNA didn't come back to Mr. Polite. It
6 actually comes back to the victim. So I wasn't even going to
7 call Mr. French. I was just going to get that through one of
8 the detectives. I didn't think Mr. Hood would have an issue
9 with it, frankly. And there is no DNA that ties his client
10 to anything in the house. There was one DNA test done on a
11 Lipton tea bottle, which we will talk about, but, again, say
12 it did not come back to his client. Unless Mr. Hood has an
13 objection to that, I don't even need to call Mr. French. I
14 can do that through the detectives unless he has an issue.

15 MR. HOOD: Judge, I agree. I don't see any need for
16 French at all, unless we can't get the information correctly
17 from the officers involved, but I'm sure they will say what
18 they said.

19 THE COURT: So it's apparently a non-issue.

20 THE CLERK: All right. And I was just waiting on
21 one juror, Your Honor, so I will go see if he's arrived.

22 THE COURT: If you would. Thank you.

23 (A recess transpired.)

24 THE COURT: I'm informed all jurors are present. Is
25 the State ready?

1 MR. THORNTON: State's ready, Your Honor.

2 MR. HOOD: Ready.

3 THE COURT: Bring the jury.

4 (Whereupon, the jury returns to open court at 9:43
5 a.m.)

6 THE COURT: Good morning and welcome, ladies and
7 gentlemen. I believe we are ready to resume the trial of the
8 case with the presentation by the State.

9 MS. SWANSON: Thank you, Your Honor. The State
10 calls Antonio Brewer.

11 ANTONIO BREWER,

12 having been duly sworn, testifies as follows:

13 THE CLERK: State and spell your name for the court
14 record.

15 THE WITNESS: Antonio Brewer, A-n-t-o-n-i-o,
16 B-r-e-w-e-r.

17 DIRECT EXAMINATION

18 BY MS. SWANSON:

19 Q. Good morning, Antonio.

20 A. Good morning.

21 Q. Where were you living back in September of 2012?

22 A. Taylor's Mobile Home, lot 60.

23 Q. Okay. Is that within Beaufort County?

24 A. Yes, ma'am, Paris Island Gateway.

25 Q. And back on September 6th of 2012, did an incident

1 occur at your residence?

2 A. Yes.

3 Q. Okay. Let's just start by telling us everything
4 that you can remember and that you know took place on
5 September 6th. And if I need more detail, I'm going to stop
6 you. Okay?

7 A. Okay.

8 Q. Start from the beginning. How did this even come to
9 happen?

10 A. That morning started out by me going to a doctor's
11 appointment for my daughter. Well, my daughter was -- it was
12 a week before my daughter's birth. And we had an appointment
13 that morning. I left my cell phone at one of my cousin's who
14 lived in the trailer park. I left it on the charger. And we
15 went and took care of the doctor's appointment. When we came
16 back and I returned to my phone, I had a missed call from
17 Brandon, who was known as Bleek.

18 Q. Brandon who?

19 A. Singleton.

20 Q. Okay.

21 A. Singleton.

22 Q. And his nickname is Bleek?

23 A. Bleek.

24 Q. Okay. So you had missed calls from Brandon. Did
25 you call him back?

1 A. I called him back. Didn't get an answer a couple of
2 times. And I finally spoke with him. And he was telling me
3 that, I got a lick, I got a lick, man, and all I need is a
4 place, I don't have no place to go pull a lick. And I told
5 him, like, first thing first, I just left for a doctor's
6 appointment finding out that my daughter will be into the
7 world the following week, so I don't want to be involved in
8 nothing like that. So I was trying not to be involved, but
9 that didn't happen because he already spoke with a friend of
10 mine, J. Rock, trying to, I guess get him involved, which
11 that didn't go. So that led to them coming to my -- excuse
12 me, coming to my residence. Excuse me. Oh, man.

13 So, anyway, I was speaking with Brandon trying to
14 get him not to bring that kind of mess over to my place
15 because I already have a 6-year-old who was at the time three
16 or four that was living there. Also my wife was living
17 there. And we just -- that's not the kind of stuff that we
18 do around our home. We don't do any violent around our home.
19 And before I knew it, I was trying to leave home. And this
20 black sedan Chevy was pulling up with Brandon and his
21 acquaintance, Tucker.

22 Q. Do you know if Tucker had a nickname?

23 A. Oowee.

24 Q. Okay.

25 A. But prior to that day, I seen him before, he said

1 his name was Tricky, but I didn't know his name was Oowee
2 until I spoke with investigators. But not to jump ahead --

3 Q. Sure. He told you his name was Tricky at the time?

4 A. Yes. So when the car pulled up, it was Brandon and
5 Tucker. They both like just kind of swarm me, not in a
6 threatful way, just trying to convince me that, you know,
7 it's going to be easy, let's do this, and I'm going to look
8 out for you, I'm going to look out for you. But, again, I
9 just wasn't wanting to be involved with that.

10 And I saw the guy Tucker had a hand pistol. So I
11 didn't want to go against him saying no and then he ended up
12 trying to, you know, harm me or, you know, kill me or
13 anything. I just didn't want to go against a guy with a gun.
14 So I just kind of, just rolled with it. And he's like, well,
15 if you don't want to be a part, you can step in your back
16 room. And I went to my back room and I stayed out of the
17 way. I never came back out.

18 Well, no, before the back room incident, it was
19 Travis Polite, it was Brandon and Tucker in my living room.

20 Q. Okay. Let me stop you right there. I'm going to
21 show you a couple of pictures, Antonio. Okay. We are going
22 to back up a little. I'm going to show you what's been
23 marked as State's Exhibit 7. I've shown defense counsel
24 these pictures previously. And ask if you recognize what's
25 in this picture. Okay?

1 A. That would be my front yard.

2 Q. And is that how it appeared on the day of the
3 incident?

4 A. Yes, ma'am.

5 MS. SWANSON: Okay. State moves 7 into evidence.

6 THE COURT: Without objection?

7 MR. HOOD: I don't have any objection.

8 THE COURT: Admitted without objection.

9 (S-7 is moved into evidence.)

10 BY MS. SWANSON:

11 Q. I'm going to show you what's been marked as State's
12 25 and 26, and ask if you recognize what's contained in those
13 pictures?

14 A. That's the living room inside.

15 Q. The living room of your residence?

16 A. Yes.

17 Q. Is that how it appeared on the day of the incident?

18 A. Yes.

19 MS. SWANSON: Okay. State moves 25 and 26 into
20 evidence.

21 THE COURT: Admitted without objection?

22 MR. HOOD: No objection.

23 (State's Exhibit 25 and 26 is moved into evidence.)

24 MS. SWANSON: I ask to publish to the jury.

25 THE COURT: Sure.

1 BY MS. SWANSON:

2 Q. Antonio, I'm going to put this picture up here for
3 the jury and for you to look at. This is your residence;
4 correct?

5 A. Correct.

6 Q. Okay. And the living room that you were just
7 referring to is right here in State's 25?

8 A. Correct, correct.

9 Q. Okay. And who did you see in the living room?

10 A. Well, I saw Mr. Polite sitting in the one-seater
11 chair, the old chair there.

12 Q. How was he dressed?

13 A. He had white T-shirt on his head. And I can't
14 remember if it was a T-shirt or like the tank top muscle
15 shirts, but it was white also, and then blue jeans.

16 Q. Okay. And this is State's 26. This is another
17 picture of the living room?

18 A. Correct.

19 Q. Okay. Let's back up a little. When you said that
20 Brandon had a lick, what does a lick mean to you?

21 A. To me, that's a robbery.

22 Q. Okay.

23 A. Means --

24 Q. When he said, we will take care of you, what did you
25 take that to mean?

1 A. Like, he wanted to pay me just to allow them to use
2 my place, but I just didn't want to -- I just didn't want to
3 take the money. I didn't want to be involved. I didn't want
4 it to be done at my home at all. Because, for one, it's the
5 office. It's a trailer. And then it's my trailer. So,
6 like, you couldn't get away with just a fist fight without,
7 you know, the front office noticing. Like, you are not going
8 to get away with anything where my trailer was. So I just
9 knew that that wasn't a good idea.

10 Q. What time of day was this?

11 A. The appointment was at 11:30.

12 Q. And you are referring to the doctor's appointment
13 that you referred to earlier?

14 A. Doctor's, and it was after the doctor's appointment.
15 So it was after 12, little before one when it all started
16 taking place.

17 Q. But completely daylight out?

18 A. Complete daylight.

19 Q. And you said the office is right in front of your
20 trailer, do you mean the office for the trailer park?

21 A. Yes, the managers or owners of the trailer park.

22 Q. Okay. I'm going to show you State's 41. Do you
23 recognize that? Is that the trailer park?

24 A. Yes.

25 Q. Okay.

1 A. That's the trailer park.

2 Q. I mean, I know it's an aerial view. You probably
3 haven't been over top of it, but does that look familiar?

4 A. Yes. This is the office. This is that one trailer.
5 And this would be the residence where I was staying.

6 MS. SWANSON: Okay. State move's 41 into evidence.

7 MR. HOOD: I have no objection to that.

8 THE COURT: Admitted without objection.

9 (State's Exhibit 41 is moved into evidence.)

10 BY MS. SWANSON:

11 Q. All right. So, Antonio, point out where the office
12 is for the jury?

13 A. This is the office. This is the trailer.

14 Q. in front of yours?

15 A. in front of my trailer, and this would have been my
16 trailer.

17 Q. Okay. So fairly close to the road too?

18 A. Yes.

19 Q. And when Oowee gets out of the car, you see him with
20 a gun?

21 A. Yes, ma'am.

22 Q. And he comes inside the house with the gun?

23 MR. HOOD: Excuse me. I don't mind you leading him,
24 but you are giving him the evidence. Why doesn't he testify?

25 MS. SWANSON: I'm sorry. He already mentioned that,

1 but I apologize.

2 THE COURT: All right.

3 BY MS. SWANSON:

4 Q. Did he come inside the house with the gun?

5 A. Yes, ma'am.

6 Q. And once they were in the house, what did you do?

7 A. I was shook up, like, why is this even happening?

8 Like why, why did this have to happen? Excuse me.

9 Q. Where did you go after --

10 A. And, Tucker was like, well -- and he saw me kept
11 paying attention to his gun. And every move he made, I was
12 just like trying to move, because he was just all talking
13 with his gun. And he's like, you don't have to worry, guns
14 won't go off unless I make them. And he's like, well, if you
15 are scared and don't want to be a part, just go in the back
16 room. And that's when I went to the back room and I stayed
17 there. I didn't come back out. And I guess that's when the
18 victim arrived at my residence. And I heard Brandon saying
19 like -- like, he was just trying to put it in order,
20 whatever, tell them don't back in, tell them don't pull in
21 the back. He was just trying to, like, put everything in
22 order or whatever.

23 And I heard like a tumble or like a thump in my
24 living room. So then and there, I knew something was wrong.
25 So I looked out the window. And I saw the victim's car

1 backed in. And I saw Mr. Polite walk up to the car like,
2 like, down the window. And the guy downed the window, and
3 then he drew a gun. And the guy was trying to up the window.
4 And he fired a shot. And when I saw that, I'm like, oh, it's
5 getting out of hand. And I took off and I jumped out my back
6 door and ran. And I ran and met with my baby mama. And I
7 left out of the trailer park.

8 And then as I was leaving, I received a call from
9 Brandon saying, call the white girl, the white girl is still
10 around.

11 Q. Did you see anyone as you were running out the back
12 door?

13 A. When I was leaving from -- oh, man. Do you have
14 that picture?

15 Q. Yes, sir. I'm going to show you these pictures.
16 Okay. Let's look at State's 24. And if you can describe
17 what's in that picture.

18 A. This is the bedroom where I was, which has the
19 window where I looked out and saw the guy pull the trigger.
20 But as I left out of this bedroom --

21 Q. Well, hang on just one second. Is this a fair and
22 accurate depiction of how your bedroom appeared on the day of
23 the incident?

24 A. Yes, that's it.

25 Q. Okay. State moves --

1 A. Well, I mean, well, my mattress, that could have
2 been from investigators or -- no, that's my daughter's
3 mattress.

4 Q. But that's your room, right?

5 A. Right, yes.

6 MS. SWANSON: Okay. State moves 24 into evidence.

7 THE COURT: Without objection.

8 MR. HOOD: No objection.

9 THE COURT: Admitted without objection.

10 (State's Exhibit 24 is moved into evidence.)

11 BY MS. SWANSON:

12 Q. State's 27, can you describe what's in that picture?

13 A. That's the same bedroom with the window that I
14 looked out of.

15 Q. Is that how it looked that day?

16 A. Yes, ma'am.

17 MS. SWANSON: State moves 27 into evidence.

18 THE COURT: Without objection?

19 MR. HOOD: No objection.

20 (State's Exhibit 27 is moved into evidence.)

21 BY MS. SWANSON:

22 Q. State's 23, what's that?

23 A. That's the hallway of the room that I was in And I
24 came out and I went out this back door here.

25 Q. Is that how it looked that day?

1 A. That's how it looked.

2 Q. And I'm going to put this up and we will tell the
3 story. Okay?

4 MS. SWANSON: State moves 23 into evidence.

5 MR. HOOD: No objection.

6 THE COURT: Without objection it's admitted.

7 (State's Exhibit 23 is moved into evidence.)

8 BY MS. SWANSON:

9 Q. All right. Antonio, what's that?

10 A. The bedroom where I was and looking out the
11 window.

12 Q. And is this the window right here?

13 A. That's the window.

14 Q. Okay. This is State's 27.

15 A. The same bedroom, same window.

16 Q. Okay. I'm going to put a picture of the front of
17 the trailer and --

18 A. If you look to the far end --

19 Q. The far end?

20 A. -- the back end of the trailer, that window is the
21 same window that I looked out of.

22 Q. Is that the car that you saw?

23 A. And that's the car. And if you could hold that
24 picture right there, that's like -- can you move the pen like
25 toward the street, to my right? To my right. Like, that's

1 the area where I saw Mr. Polite come from when they
2 approached the vehicle and fired the shot.

3 Q. Okay. So from this direction?

4 A. No, ma'am.

5 Q. No, from this direction?

6 A. Like if you would have come from behind the
7 trailer.

8 Q. Okay. All right. So after you see Travis Polite
9 shoot the victim, then what happens?

10 A. I get up to leave out of this room here and --

11 Q. And I'm showing State's 23.

12 A. The door that's open, that's the room I came out of.
13 But the opposite end of the room would be the living room.
14 And I saw --

15 Q. So down this hall is the living room?

16 A. Yes. And I saw the white female victim getting up
17 out of my living room, coming towards where I was coming out
18 of the room. And I jumped out the back door and I took off
19 running. And the black Chevy sedan was driving across the
20 backyard leaving. And then Mr. Polite was running across the
21 backyard with the white T-shirt on his head as if he was
22 going to go meet up with the guys in the black sedan.

23 Q. What is this door right here?

24 A. That's the back door. That's where I escaped out of
25 the house.

1 Q. Okay. And --

2 A. And --

3 Q. Was the white girl in front of you or behind you?

4 A. She was behind me. I actually thought she was
5 coming after me, really.

6 Q. Had you ever seen her before?

7 A. Never seen her before that day in my life. I never
8 even knew her.

9 Q. Okay. Let's just recap. How many people do you
10 recall seeing at lot 60 on the day of the incident?

11 A. Including the white girl?

12 Q. Yes. Let's go through all of them.

13 A. I seen a driver that I still yet can't describe, and
14 I saw --

15 Q. A driver of what car?

16 A. The black sedan that Brandon and Travis and we were
17 with.

18 Q. What was he wearing?

19 A. All I could remember is a gray cap.

20 Q. But you didn't recognize him?

21 A. No, ma'am.

22 Q. Okay.

23 A. If I had seen him right now, I wouldn't even -- I
24 couldn't say that was the guy. I don't know who he was.

25 Q. Okay. You see a driver with a gray hat?

1 A. Yes. I saw Brandon. I saw Oowee Tucker. And I saw
2 Mr. Polite.

3 Q. Okay.

4 A. And I saw --

5 Q. The white girl?

6 A. The white girl. I hate saying that, excuse me, but
7 I saw her.

8 Q. Did you see the driver of the Buick LeSabre pull up,
9 the victim?

10 A. No, ma'am.

11 Q. Did he remain -- was he in the car or was he outside
12 of the car?

13 A. He was inside of the car when I looked out the
14 window. He was inside of the car when Mr. Polite went to
15 approach the car for him to down the window. He was inside
16 the car. I never saw his face. I never -- I never even knew
17 him before until I got the name from the investigator. I
18 Never knew who he was either.

19 Q. How many gunshots did you hear that day?

20 A. Well, after I saw Mr. Polite pull the trigger, I
21 took off running out of the back door. And I heard like
22 three shots and then as I got further, maybe four more shots,
23 total of eight altogether.

24 Q. All right. How many shots did you see Travis
25 Polite -- how many times did you see Travis Polite shoot?

1 A. I saw him just that one time when I looked out the
2 window pull that trigger. And after that, it was just run,
3 run.

4 Q. Was there a pause between the shot that you
5 witnessed being fired and the other shots?

6 A. It was a shot. And when I jumped out the back door,
7 like I said, the car was here to my left. If you open the
8 back door, the car was here, the black Chevy sedan. And Mr.
9 Polite was coming like this across my backyard. But I still
10 heard more shots being fired. And Mr. Singleton, I saw him
11 at the time when I was running, I saw him inside the black
12 car that was pulling off. But like I said, there was still
13 shots that I heard being fired.

14 Q. Okay. Were you shown a photo lineup by Investigator
15 Gobel?

16 A. Yes, ma'am.

17 Q. Of the shooter?

18 A. Yes, ma'am.

19 Q. Okay. I'm going to show you what's been marked as
20 State's 3 just for identification. I'm just going to ask if
21 these were some instructions that Investigator Gobel read to
22 you?

23 A. Yes, ma'am.

24 Q. And this is your signature right here?

25 A. Yes, ma'am.

1 Q. And your initials. And did you pick someone out of
2 that lineup?

3 A. Yes, ma'am. I picked Mr. Polite.

4 Q. Okay. Did you circle his picture?

5 A. Yes, ma'am.

6 Q. Are those your initials, AB?

7 A. Yes, ma'am.

8 Q. Had you ever seen Travis Polite before?

9 A. Just around, around town and about, but it was never
10 anything personal. Like, we don't have any personal
11 relationships with each other, anything like that.

12 Q. So you are not friends?

13 A. We are not friends, but we weren't enemies. We were
14 just people of the town of Beaufort.

15 Q. Right. You grew up here?

16 A. Yes, ma'am.

17 Q. Do you see Travis Polite in the courtroom today?

18 A. Yes, ma'am.

19 Q. Can you point him out?

20 A. (Witness indicates).

21 Q. Okay. Let the record reflect that he pointed over
22 to Mr. Polite seated between Mr. Hood and Ms. Carroway?

23 THE COURT: So noted.

24 BY MS. SWANSON:

25 Q. How sure were you that it was Travis Polite that

1 pulled the trigger; and how sure are you today?

2 A. I'm 100 percent sure. I've had dreams seeing it
3 over again, nightmares. Like, I still lose sleep behind just
4 seeing it. I never witnessed anyone getting murdered before
5 or shot or anything, like --

6 Q. Now, Antonio, how many times did you talk to
7 Investigator Gobel?

8 A. It was several times. The first day of the
9 incident, I spoke with him maybe a little over hour, almost
10 two hours. And a day or two after, he brought me some photos
11 where I picked out Tucker and Brandon. And then I spoke with
12 him over the phone. And he was saying that for my safety, it
13 would be best if I had any family where I could leave
14 Beaufort, to try to do that. So I left for maybe a month or
15 two. And during that time, I saw him -- I saw him and
16 another investigator. They brought another lineup, a photo
17 lineup. Well, it was a couple of photo lineups. And I
18 didn't pick anyone from that, from that day.

19 And then afterwards, I came back to Beaufort. I
20 started attending church and everything and just trying to
21 stay on the right path. And I had a call from the
22 investigator saying that he wanted to meet with me at the --
23 right across the street here.

24 Q. Investigations office?

25 A. Yes. And we went there. I did that. And I kind

1 of -- well, from jump street, I didn't come all the way clean
2 with the investigator. But reason being, I see guys with
3 guns, and I just saw a guy get murdered, and I just didn't
4 know how long these guys would be on the streets or what the
5 case may be. I didn't want to be what they call on the
6 streets a snitch. And, you know, they say they kill
7 stitches, put you in a ditch, however they say it. I didn't
8 want to be a snitch, so I just tried and tried to just like
9 not tell what I knew and --

10 Q. So was there information that you initially left out
11 with Investigator Gobel?

12 A. Yes. Like, I didn't tell him up front that Mr.
13 Polite pulled the trigger. When we went to the
14 investigator's office for the meeting, that's when I came
15 clean about I saw the guy pull the trigger and I think -- and
16 I told him that when I told him that I was forced in the back
17 room by Tucker, I think I involved Brandon too. I told him
18 that, you know, I wasn't being honest about that. But I just
19 told him that out of fear, not knowing what these guys could
20 do to me being that they just -- well, they were just
21 involved in a murder. So it was just out of fear, I didn't
22 come clean up front.

23 Q. But what you told Investigator Gobel in October --

24 A. October 10th.

25 Q. October 10th?

1 A. Yes.

2 Q. And what you've told the jury here today, is that
3 the truth?

4 A. That's the truth.

5 Q. And are you leaving anything out?

6 A. I'm not leaving anything out. That's the truth. At
7 the investigator's office, I just knew once I saw the phone
8 records that, okay, there's no more lying. I'm not a good
9 liar. I can't keep up with a lie. So I'm like, he got my
10 records and my phone and this could lead to whatever. So
11 just come clean with the man. I told him, listen, sir, I
12 apologize, I wasn't being honest, but I was only not being
13 honest out of fear of these guys are dangerous to me. I
14 don't know what they are capable of doing to me now. And
15 he's like, he certainly understand, and as long as I'm
16 telling him the truth, I should make it out all right.

17 And ever since then, I only had meetings with like
18 solicitors just for the trial, because I guess we kind of
19 finally got to the conclusion.

20 Q. To review your statements and your interview with
21 Investigator Gobel?

22 A. Yes, ma'am.

23 MS. SWANSON: Beg the Court's indulgence.

24 THE COURT: Certainly.

25 MS. SWANSON: Thanks, Antonio. I don't have

1 anything further at this time.

2 THE COURT: Cross-examination.

3 CROSS-EXAMINATION

4 BY MR. HOOD:

5 Q. Let's clear up a couple of things right off the bat.

6 A. Yes, sir.

7 Q. Antonio, you have never been read your rights or
8 charged with any crime; is that correct, with respect to this
9 incident?

10 A. I was never read my rights or placed under arrest
11 for any crime.

12 Q. Okay. And you presently have no charges pending
13 against you as a result of this incident; is that correct?

14 A. You mean in like, as far as prior to the incident,
15 did I have any charges, is that what you mean?

16 Q. No, I mean, after the incident.

17 A. After the incident?

18 Q. Yeah, today, based on that incident in your trailer.

19 A. Right.

20 Q. Okay. What charges are you pending?

21 A. I'm not pending any.

22 Q. Okay. Okay. Now --

23 A. Or need I say, I'm not sure if I'm pending any
24 charges. I wasn't aware of any charges.

25 Q. Well, let me ask you another question. During the

1 course of your interviews with Officer Gobel sitting here --

2 A. Yes, sir.

3 Q. -- he made mention to you on several different
4 occasions, and particularly one after you had been shown some
5 cell phone records that you had, that he had gotten of yours,
6 that he didn't want you to catch a murder charge; isn't that
7 correct?

8 A. Correct.

9 Q. And then that's when you decided, okay, I saw Travis
10 Polite, I saw this. Okay? Is that a fair statement?

11 A. What you are saying is fair stated, but that -- it
12 was more of me tired of tying myself up with lies. So I just
13 got tired of it and I just wanted to just come clean with the
14 truth.

15 Q. Okay. Antonio, on the 6th of September of 2012, you
16 had a relationship with Bleek, Byron (sic) Singleton, in
17 which you were working --

18 MS. SWANSON: I'm sorry, Your Honor, it's Brandon
19 Singleton, just for clarification.

20 BY MR. HOOD:

21 Q. I'm sorry, Brandon Singleton; is that correct,
22 Bleek?

23 A. That's not correct.

24 Q. Well, didn't you tell Officer Gobel --

25 A. About receiving the package.

1 Q. That you were receiving packages of dope?

2 A. I never --

3 Q. Over at your place?

4 A. I never received a package. As far as we got with
5 that situation was me giving him an address. And the reason
6 I did was because the word around was that this Tucker guy
7 who was with him was supposed to be some big shot, part of
8 this big druglord gang from Atlanta, Georgia. And I just --
9 at first I wanted to just not be a part. I told him I didn't
10 know any addresses.

11 Then maybe two days before the September 6th
12 incident, I seen him, and I just gave him an address because
13 he asked me again, I need an address, I need an address. So
14 I just gave it to him. But I never received any package. I
15 never did any work for Mr. Singleton.

16 Q. But you went over to this address that you gave him,
17 which was a place that you knew, and you waited to see if the
18 package would arrive; isn't that correct?

19 A. That's not correct.

20 Q. Well, did you tell Officer Gobel that you did that?

21 A. I did not tell him that. I told him that I was
22 trying to get in touch with Mr. Singleton because I had to go
23 to my daughter's OB-GYN with her mom. Reminding you that
24 it's a week before my daughter was being born. And I was
25 trying to get in touch with Mr. Singleton that day to let him

1 know I'm not going to be able to be at that address to
2 receive that package.

3 Q. Well, let's clear up your child here that you are
4 talking about. Now, you lived in the trailer with who?

5 A. My wife.

6 Q. And who else?

7 A. And my younger daughter.

8 Q. Okay.

9 A. Who was already here.

10 Q. Now, this OB-GYN appointment that you are talking
11 about, that was where you were taking your wife?

12 A. No, sir.

13 Q. Okay.

14 MS. SWANSON: Your Honor, I'm going to object to the
15 relevance of this line of questioning.

16 MR. HOOD: Your Honor, on this particular day, he's
17 already described what he did. And all I'm doing is going
18 through and clarifying the statements that he made concerning
19 this OB-GYN child.

20 THE COURT: Overruled. Go ahead.

21 BY MR. HOOD:

22 Q. Okay. So who was this person?

23 A. Going to the appointment with me?

24 Q. Yeah.

25 A. That was my daughter's mom, Amber.

1 Q. Well, was your daughter born yet?

2 A. No, sir.

3 Q. Okay. Okay. So she was pregnant?

4 A. Yes, sir.

5 Q. And you are the father of that child; is that
6 correct?

7 A. Yes, sir. She's two years old now.

8 Q. Okay. So you were married to this other woman?

9 A. Yes, sir.

10 Q. You had impregnated this other female?

11 MS. SWANSON: Again, I'm going to object because I'm
12 not sure what relevance this has to the trial of Travis
13 Polite for murder.

14 THE COURT: Relevance?

15 MR. HOOD: Your Honor, it's the same thing, he was
16 the one day who was talking about the time, and I'm giving
17 the time schedule also to try to figure out exactly where he
18 was at, who he was with. Because during the course of this
19 investigation --

20 THE COURT: But that's not what your question is
21 about. Your question is about his relationship some other
22 lady.

23 MR. HOOD: Well, I will disregard that question
24 then, Your Honor. I won't ask that question.

25 THE COURT: Question is withdrawn.

1 BY MR. HOOD:

2 Q. Okay. So you go to this appointment?

3 A. Yes, sir.

4 Q. Now, prior to that, early in the morning, early in
5 the morning, your wife leaves to go to work?

6 A. Yes, sir.

7 Q. Your child goes with her to a school; is that
8 correct?

9 A. Yes, sir.

10 Q. And you are there by yourself; is that correct?

11 A. Correct.

12 Q. You have phone calls coming in during that period of
13 time?

14 A. Well, I spoke with my wife a couple of times, excuse
15 me, while she was at work. We do that every day. That's a
16 husband and wife thing, we talk. While she has free time at
17 work, she calls and we talk. But I spoke with my baby mother
18 that morning, she wanted me to go with her to the
19 appointment, and that's how I started my day. When I left
20 the house, I made one stop, and I was still in the trailer
21 park. And I just left my phone with my cousin. Because I
22 never took my baby mother to my trailer being the fact that I
23 live with my wife.

24 And I knew once I came back that we were going to
25 hang out, and I didn't want to have to go back to the house,

1 so I left my phone at my cousin's Sparkles on her charger
2 because my phone had needed a charge. And I left it there.
3 And I went to the appointment. I came back. I got my phone.
4 And at the time we were going to go get lunch, my baby mother
5 and I were going to get lunch. And I was like, I need to go
6 home and get some cash.

7 During that time, that's when I was returning
8 Brandon's phone calls and seeing why he was calling me. And
9 that's when the whole incident came about.

10 Q. Okay. Now, is it fair to say that on the 6th of
11 September, you made several statements to -- at least two to
12 Sergeant Gobel; is that correct?

13 A. Was it two? I'm sure I made one. Two I'm not sure.
14 I'm not sure I wrote two statements. I know I wrote one.

15 Q. You wrote one?

16 A. Yes, sir. That was the one where I didn't come
17 clean with the truth.

18 Q. Do you recall being called to the scene after the
19 incident has occurred?

20 A. Yes, sir.

21 Q. By your wife?

22 A. Yes, sir.

23 Q. Because she was with the police?

24 A. She came home from work, trying to come home, and
25 her house was yellow taped and ...

1 Q. Yeah. Well, she came home because you called her,
2 didn't you?

3 A. I called her saying, you need to find out what's
4 going on, because people are calling me saying that something
5 went down around our house, trying to -- I was trying to make
6 it as if I wasn't even there.

7 Q. Okay. And I believe that you told Sergeant Gobel
8 this story also, didn't you?

9 A. Yes, sir.

10 Q. Okay. Okay. And you told him that you called your
11 wife?

12 A. Yes, sir.

13 Q. And told her that somebody is breaking into our
14 trailer, call the management office?

15 A. Yes, sir.

16 Q. Okay. Okay. So then she comes home. You are not
17 there, are you?

18 A. I'm not.

19 Q. You are where?

20 A. I was at Joe Fraser at my baby mother's -- at the
21 time she was living with her mother, and we were over there
22 just -- I was just all shook up. And they were just all
23 telling me, if you didn't do anything, go back, because I was
24 just -- I was in tears. I was shook up, like, why did they
25 do this? I told them not to do this. Why did they do this?

1 And everybody was just like, well, if you're innocent, you
2 don't have anything to worry about, go back and tell the
3 truth.

4 Q. Okay. All right. Now, you had been threatened by
5 Brandon Singleton; isn't that correct?

6 A. I wouldn't necessarily say a threat. It was just a
7 text from his phone number saying, don't snitch, you know
8 what happens to snitches. And at the time I was -- excuse
9 me. I'm sorry.

10 Q. Go ahead.

11 A. At the time I was sitting with the investigator in
12 his vehicle and I was just like, well, as a matter of fact,
13 here you go, they are still trying to bother me on my phone.
14 I gave him the phone. And that's how he ended up taking the
15 phone, getting the phone records and everything. I just -- I
16 didn't want anything to do with those guys anymore calling me
17 because they already violated my home where me, my wife and
18 my daughter live. All right. I'm a family guy. I take care
19 of my family and my home.

20 Crimes, that's not a category for me, because I'm
21 not built to go lay down in nobody's prison for the rest of
22 my life and worry about who's raising my kids. I'm all for
23 doing the right thing. It's just something happened. I was
24 in the wrong place, which was home. And, you know, I don't
25 see how you can be in the wrong place being home, but, you

1 know, things happen. Unfortunately, we can't prevent certain
2 things from happening.

3 Q. Okay. Antonio, I understand all of that.

4 You were in that back bedroom; isn't that correct?

5 A. Correct.

6 Q. And while you were in the back bedroom, you were
7 checking your lottery numbers on your cell phone; isn't that
8 correct?

9 A. Correct.

10 Q. So you were so scared about what was going on and so
11 afraid that these guys were going to do bad things to you,
12 that you are in the back room checking your lottery numbers
13 on your cell phone; isn't that correct?

14 A. Okay. Again, I was afraid, but the fear that I told
15 the investigator about when I was in the back room, like I
16 said, I didn't come clean with the truth in the beginning,
17 because I told him that I was forced in the back room. And
18 when he -- when we had that meeting in investigator's office
19 and that same situation was -- it was like an itch to him,
20 like, how could all of this be going on and you are checking
21 your lottery at the same time? So it was more of, okay, you
22 don't want nothing to do with it, we're not going to let you
23 be a part of it, just get out of the way. Not thinking that
24 it was going to be as crazy as it was, like, these guys got a
25 gun, they want to do a robbery, I can't stop them, I don't

1 have a gun. So I just stay out of the way in my room, let me
2 check my lottery number. Let me just do anything besides
3 come out of this room, I'm not leaving out of this room.

4 Q. Okay. Okay. Okay. You never -- the first
5 statement that you made, okay, was to your wife that somebody
6 was breaking into your trailer and she needed to call
7 management office. Is that correct? Yes or no?

8 A. Yes.

9 Q. Okay. Now, the second statement that you make is
10 when you arrive after you've been called by your wife to the
11 scene where you speak to Sergeant Gobel, and he basically is
12 taping it on a phone or wireless that he had connected to his
13 body; is that correct?

14 A. That's correct.

15 Q. And in that particular statement, you tell him that
16 you came home for a snack and that you came into your trailer
17 and your phone rang and it was Brandon Singleton. And
18 Brandon tells you, we are going to do this lick, we are going
19 to be right there. And you say, okay?

20 A. I did not.

21 Q. Okay. So you didn't say okay? You said what?

22 A. I said, man, I don't want y'all to bring that here.
23 I don't want to do that.

24 Q. Yeah. Okay. Okay.

25 A. I don't want to do that because I'm preparing myself

1 for my daughter to be brought in this world the following
2 week. And not that is really relevant, but behind that
3 situation, I missed my daughter's birth, and that's one thing
4 that really hurt me deep, like, I have three kids, I never
5 seen any one of them born.

6 Q. Look, Antonio, I understand all of that. I mean,
7 that's not relevant to what we are talking about here. Okay?

8 A. I understand.

9 Q. We are talking about what statements you made to
10 various people during the course of this investigation.
11 Okay?

12 A. Right.

13 Q. So let's keep it to that.

14 A. Okay.

15 Q. So when you are talking to Brandon on the phone, he
16 tells you that you are coming -- he's coming?

17 A. And I'm like, okay, well, I'm going to just leave
18 before they come, because I already had my baby mother right
19 there. I was going to leave anyway. So I already had her
20 there. I was going to leave anyway. Just so happened --

21 Q. Wait a minute. Wait a minute. She was at the
22 trailer with you?

23 A. No, sir, she was at the trailer where I left my
24 phone, where I told you. I never bring -- I never brung
25 (sic) her to my trailer because my wife lived there. She was

1 at my cousin's across the trailer park.

2 Q. Okay, okay. All right. All right. Now, when did
3 you get all of these phone calls that you testified to
4 earlier from Brandon saying he was going to do a lick and
5 needed a place and -- when did all those take place?

6 A. When I returned to my phone and checked the phone,
7 there were missed calls from Brandon. And I called back a
8 couple of times. I didn't get an answer. And that one time
9 he answered, then he had me on hold. I hung up. We got in
10 touch again, and that's when he was like, I got this lick, I
11 need a place to do this lick, I got you, I'm going to look
12 out, I got you. And I'm like, I don't want to be -- I don't
13 want to have nothing to do with it, I don't want --

14 Q. Okay. Okay. Fine. So you are inside of the
15 trailer?

16 A. Yes, sir.

17 Q. What happens?

18 A. Well, I kind of just hung up the phone with him,
19 like, I'm just going to get out of here. But when I left out
20 of the trailer, as you can see, as soon as I open the door,
21 there's the street of the trailer park. When I was walking
22 out of the trailer, the car was pulling up. And that's why
23 Brandon and Tucker jumped out, because they didn't know
24 exactly where I lived. They saw me and was like, oh, he
25 right there. So they jumped out trying to convince me to let

1 them use my place.

2 Q. And they had guns; is that correct?

3 A. Tucker had a gun.

4 Q. Yeah. And this is broad daylight; correct?

5 A. Broad daylight; correct.

6 Q. And you were obviously afraid when you see this gun;
7 is that correct?

8 A. Yes, sir. I'm pretty sure any human being that
9 would have been in that situation would have been.

10 Q. You said you knew this guy; is that correct?

11 A. Which guy?

12 Q. Tucker.

13 A. I never knew him. I just knew of, like, word of
14 mouth and what people said, he's this big -- part of this
15 big -- is it Black Mafia Family gang? That's like a big gang
16 in Georgia that he's supposedly a part of.

17 Q. Are you a member of that?

18 A. Me?

19 Q. Yes.

20 A. No, sir.

21 Q. No, sir?

22 A. No, sir.

23 Q. Now, was Brandon a member of this?

24 A. I don't -- I don't believe so. That's something I
25 really don't know the answer to.

1 Q. Okay. Okay. Now, when the car pulls up, how many
2 people are in the automobile?

3 A. There were four people.

4 Q. Four people, four people in the automobile. Who is
5 driving the automobile?

6 A. The guy who I cannot describe was the driver, the
7 one with the gray cap. That's the only description that I
8 could give of that guy. He was driving. He was driving.
9 Brandon was in the back passenger. Tucker jumped out the
10 back driver, I'm pretty sure. And then it was Mr. Polite in
11 the front passenger. It could be mixed up, but that's the
12 way I'm remembering it.

13 Q. Okay. Okay. You were going to get paid for your
14 services; isn't that correct?

15 A. I was offered that. It wasn't even a specific
16 offer. It was, I'm going to look out for you, I'm going to
17 look out for you. That doesn't even guarantee me any money
18 or anything. Whatever the payment would have been, that
19 didn't -- you saying I'm going to look out doesn't guarantee
20 that you are looking out for me.

21 Q. Okay. Okay. Now, let's go back to the first
22 statement that you made concerning somebody's breaking into
23 our trailer. Okay? That's the first one?

24 A. I only said that to my wife verbally. I never wrote
25 that.

1 Q. That's correct. That's correct. But then it came
2 to light when you were interviewed; isn't that correct?

3 A. Correct.

4 Q. Okay. Okay. And then Officer Gobel talks to you
5 because he's already talked to the white female; isn't that
6 correct?

7 A. Correct.

8 Q. Okay. And he tells you that she told him certain
9 things; is that correct?

10 A. Correct.

11 Q. And at that time, you say, okay, I did know what was
12 going on, that there was going to be this thing, but these
13 guys went into my place and they held me by gunpoint and
14 marched me back to my bedroom, put me down on the floor and
15 told me to stay there and don't move; isn't that correct?

16 A. I said that, yes, sir.

17 Q. Okay. So that was the next statement that you gave
18 after you told Officer Gobel you didn't know anything other
19 than the fact that you were walking home and you saw this
20 guy, you heard couple of gunshots, and you ran back to this
21 other location where your baby mama was at; correct?

22 A. Correct.

23 Q. Okay. Okay. So then you've told this particular
24 statement that you were forced, you were held by gunpoint,
25 that Oowee pointed a gun at you, stuck it in your face and

1 said, I will kill you, I will kill your wife and I will kill
2 your child; isn't that correct?

3 A. I said that.

4 Q. Yeah. Okay. And you were so afraid that they
5 forced you back into the back bedroom and you stayed there;
6 is that correct?

7 A. I said that.

8 Q. Okay. And that while you were in that back bedroom,
9 you heard a shot; isn't that correct?

10 A. While I was in the back -- incorrect.

11 Q. Well, I guess it's the third statement that you've
12 made. The third statement that you made you basically said:
13 I heard a shot and scared me. I ran out the door. I'm going
14 out the back door. Is that correct?

15 A. It's not how you are stating it. It's the little
16 rumble like someone was thrown in my living room.

17 Q. Okay. Okay. Let me back up. You hear that?

18 A. Yes, yes.

19 Q. Then you hear a gunshot, and then you run out the
20 door?

21 A. No. When I heard that, I'm looking out of my
22 bedroom window. Like, I heard the rumble in my living room.
23 So, that there told me something is going on. Looked out the
24 window, I saw that Buick backed up in my yard, and I saw Mr.
25 Polite walk up to the Buick, told the guy, put the window

1 down like with his hands. And the guy downed the window
2 maybe -- you couldn't even stick your hand in the window, it
3 wasn't that much down. And when he reached for his gun, the
4 guy tried to up the window and pull off, I guess, but he
5 fired, Mr. Polite fired the shot. I'm looking out the window
6 at this time.

7 And when I saw that, it was just like -- I just saw
8 the bullet hit the driver window of the car, and I went, took
9 off.

10 Q. Okay. Okay. Okay. That's not the third statement
11 that you made, is it?

12 A. That is the --

13 Q. Well, let's go back. Okay? You made a statement on
14 the 6th of September, the one involving your wife, where you
15 call your wife and tell her this. Then you tell Officer
16 Gobel that, okay, after talking to the other gal, that the
17 story you told him before wasn't true about you walking home
18 to get a snack from your house and you are walking down the
19 street and you hear these gunshots and it's coming from
20 around your house and you run back up the road. That's
21 number two. And then number three is when you are called
22 back down by your wife to meet with the officers. You make
23 that statement to Gobel. Then he walks off and goes and sees
24 this female. Comes back, tells you, you ain't telling the
25 truth, you are lying; isn't that correct?

1 A. Yes, sir.

2 Q. And because he tells you what this white female has
3 said; isn't that correct?

4 A. Yes, sir.

5 Q. Okay. Now, we are on the right page. At that point
6 in time, that's all the statements that you give for that
7 particular day; isn't that correct?

8 A. Correct.

9 Q. Okay. All right. Now, on the 7th of September,
10 that's the next day, okay, you still haven't been charged
11 with anything or anything of that nature; isn't that correct?

12 A. Correct.

13 Q. Okay. Okay. On the 7th of September, you make
14 another statement; isn't that correct?

15 A. I pick someone out in a lineup the very next day.

16 Q. That's right. You picked out Oowee, didn't you?

17 A. Yes, sir.

18 Q. Who is Walter Tucker; is that correct?

19 A. That's correct.

20 Q. Who is the Black Mafia Family representative from
21 Atlanta, or wherever he's from; isn't that correct?

22 A. Yes, sir.

23 Q. Okay. Okay. And at that time is the first time
24 that you tell Officer Gobel and make a statement to the
25 effect that: He forced in me to do this. He stuck a gun in

1 my face and says. I will kill you. I will kill your wife.
2 I will kill your child. I will kill your baby mama. I will
3 kill everybody. Isn't that correct?

4 A. I think I told him that on the 6th, the day of the
5 incident.

6 Q. Well, did you talk to him on the 7th, next day?

7 A. When I picked Mr. Tucker out in the lineup, that's
8 all we discussed, you know. He was like, are you sure, are
9 you sure you don't know anyone else? But there was no
10 statements involved.

11 MS. SWANSON: Your Honor, may we approach?

12 MR. HOOD: I know what she's going to want to
13 approach for, Your Honor, but we can certainly do that. Come
14 on.

15 (Whereupon, a bench conference takes place off the
16 record.)

17 THE COURT: I will sustain the objection.

18 MS. SWANSON: Thank you, Your Honor.

19 BY MR. HOOD:

20 Q. So I guess I missed one step in this process. That
21 handwritten statement that you gave, that was on the 6th; is
22 that correct?

23 A. Correct.

24 Q. Okay. And that's where you also said that this guy
25 Oowee was threatening you, going to kill you and everybody

1 else?

2 A. Correct, correct.

3 Q. Then on the 7th, you had another interview with
4 Officer Gobel; is that correct?

5 A. Correct. That's where I picked him out in the
6 lineup.

7 Q. And you picked him out of the lineup and told your
8 story again; is that correct?

9 A. I don't think I told the story again. Because we --
10 Officer Gobel wasn't there that long. He just -- once I
11 picked him out in the lineup, he was asking me, am I sure
12 this is him? And, you know, the questions that he was
13 required to ask me, that's what we talked about.

14 Q. Okay. And did you also identify --

15 A. Mr. Singleton.

16 Q. -- Singleton at that time?

17 A. Was that the time? If it wasn't on the 7th, it was
18 that time he came when I had to leave Beaufort and he came
19 out and visited me and he brought that lineup -- no, no,
20 actually, it was on the 7th. It was on the 7th, because when
21 he came out and visited me, I didn't pick anyone out in that
22 lineup.

23 Q. Okay. Okay. So on the 7th you pick out Singleton
24 and you pick out --

25 A. And I pick out Tucker, yes, sir; correct.

1 Q. Now, prior to that, the only statement that was
2 actually recorded was the one that Officer Gobel had on his
3 person, the audiotape?

4 MS. SWANSON: Your Honor, that's actually incorrect.
5 We do have audio and video of the third, October 10th. So
6 again, can we just make sure we are clear on this?

7 MR. HOOD: This is not October 10th. This is going
8 back to the 6th.

9 MS. SWANSON: Right. And Mr. Hood referred to the
10 only statement that was recorded.

11 MR. HOOD: Well, I'm saying the only statement that
12 was recorded at the incident location was the one that
13 Officer Gobel had done which was just the audiotape.

14 BY MR. HOOD:

15 Q. Is that correct?

16 A. That's the only statement; that's correct. That's
17 correct.

18 Q. Then you made a written statement after another
19 conversation with Officer Gobel, is that correct, after he
20 had talked to the female?

21 A. On the same day, right, September 6th, right?

22 Q. Yes.

23 A. Correct, correct.

24 Q. Okay. I just want to get it squared away. Then on
25 the 7th, you come in and you identify Oowee. You identify

1 Brandon Singleton?

2 A. Yes, sir.

3 Q. Is that correct?

4 A. Yes, sir.

5 Q. Okay. Okay. And you also discussed the case,
6 obviously, with Officer Gobel; is that correct?

7 A. It wasn't a discussion. It was just -- he just
8 explained to me the purpose of me picking out the two guys in
9 the lineup. We didn't discuss a statement or anything.

10 The next time we discussed the incident that
11 happened was on October 10th. And he have a video and audio
12 where we had that interview, when we had that interview.

13 Q. Okay. Well, you are jumping ahead of me a little
14 bit there. Now, that was on the 7th when you do the picking
15 out Singleton and --

16 A. Tucker, yes.

17 Q. Is that correct? Then on the 14th of September, you
18 have another interview with Detective Gobel; is that correct?

19 A. That's when he came out. That's when he came out to
20 Jonesville where I was staying and brought the -- he brought
21 another lineup where I didn't pick anyone, because no one fit
22 the description.

23 Q. He showed you a lineup. And you could not -- those
24 other two people -- because you only identified two people
25 initially; is that correct?

1 A. Yes, sir.

2 Q. Okay. Then on the 14th of September, he brings you
3 another group of pictures of a whole bunch of people and he
4 says, are any of these the other two guys that were in the
5 car; is that correct?

6 A. Correct.

7 Q. Okay. And you tell him, after going through all
8 these pictures, no, I don't recognize any of the two guys who
9 were in the car as being one of those people; is that
10 correct?

11 A. That's correct.

12 Q. Okay. Okay. Okay. And, again, you talk about the
13 case somewhat; is that correct?

14 A. Like I said, it never really was a discussion of the
15 case. It was just -- he was just explaining to me why --
16 what was his purpose of coming to me with the photo lineups
17 for me to pick out, because there are two more people that
18 they are trying to find out that they couldn't find out. We
19 didn't discuss -- like I said, we didn't discuss it again
20 until October 10th.

21 Q. Okay. Then on October the 10th, this is a month
22 after the incident has occurred, is that correct, over a
23 month?

24 A. Yes; correct.

25 Q. Okay. Okay. This is where you are brought into the

1 office?

2 A. Yes, sir.

3 Q. And you also have at that time Officer Rice there;
4 is that correct?

5 A. Yes, sir.

6 Q. Okay. Okay. Just want to make sure we are talking
7 about the right one. And that one is a videotaped interview;
8 is that correct?

9 A. That's correct.

10 Q. And during the course of that interview, that's
11 where, for the first time, you decide, after you've been told
12 about the cell phone calls, isn't that correct, that Travis
13 Polite was the third person, one of the three?

14 A. Correct. But can I say something?

15 Q. I'm asking you a question. All I want is a yes or
16 no.

17 A. Okay.

18 Q. Is that correct?

19 A. You are correct. You are correct.

20 Q. Okay. Okay. Also, there were a number of calls
21 coming in on your cell phone going back out to Brandon, and
22 also, you made calls to this white female; isn't that
23 correct?

24 A. That's correct. That was after the incident had
25 occurred. And I stated earlier when I was giving my

1 testimony that Brandon called me saying, call the white girl
2 because she's still out there, call the white girl. I only
3 did it just because -- I just did it. I didn't want to not
4 do it and, once again, run into trouble with these guys.

5 Q. Well, what about the money? You mentioned something
6 about money.

7 A. Because he said the white girl got the money, which
8 that was a lie, because --

9 Q. Wait a minute. Whoa. Whoa. Whoa. Whoa. Whoa.
10 How do you know that?

11 A. Because I found out from the investigators that --

12 Q. When did you find out that?

13 A. On September 6th.

14 Q. So, in other words, they told you that she didn't
15 have the money; is that correct?

16 A. They didn't get the money. It was all because of me
17 not coming clean up front. And he was telling me that these
18 guys pulled off a lick that didn't -- they didn't even get
19 the money for.

20 Q. Okay. Okay.

21 A. That's how I knew. That's how I knew. Yes.

22 Q. So they didn't even get the money for?

23 A. Right.

24 Q. They pulled a lick and didn't even get the money; is
25 that correct?

1 A. Right. Right.

2 Q. Okay. Okay. And you mentioned I believe in your
3 earlier testimony here today that you thought when you saw
4 this female coming down the hall, that she was coming after
5 you; is that correct?

6 A. Correct.

7 Q. Uh-huh. And you were afraid of her because you
8 didn't know what she was doing; correct?

9 A. Correct, just took off running.

10 Q. You just took off running. Okay. Now, you made
11 these phone calls to the female. And how much time would you
12 say elapsed from the time you ran out of the trailer to the
13 time you got to where you were at?

14 A. I hadn't reached a destination. When I was -- when
15 Brandon told me to call the female, I was in the car leaving
16 from the mobile home. And he also had someone else trying to
17 call me at the same time. And I got disturbed, like, how can
18 I call the white girl if you calling me, you have other
19 people calling me and whatsoever. So he stopped and he gave
20 me the number. I called. Twice she didn't answer. And the
21 third time she answered. And I'm like, oh, boy wanted me to
22 call you to get you out of here. And she said, did you talk
23 to Chucktown? I hung up, because I didn't even know who
24 Chucktown was. I just hung up, like, I'm just going to leave
25 it alone, because I just was all shook up.

1 Q. Okay. Okay. That's fine. That's fine. in one of
2 your statements, and I think it was this particular statement
3 on October the 10th, didn't you also tell the investigators
4 that you heard some conversation in the living room prior to
5 the shot being fired?

6 A. I heard someone saying, hey, do my man have a gun in
7 that car.

8 Q. So you hear somebody in your trailer saying to
9 somebody else in the trailer, do my man have a gun in the
10 car?

11 A. And I believe they were talking to the female asking
12 her.

13 Q. Okay. Okay.

14 A. Because I think -- well, I'm pretty sure that's how
15 she rolled to my trailer. She rolled with the guy.

16 Q. So you hear that, and then you hear the gunshot; is
17 that correct?

18 A. Yes, sir.

19 Q. Okay.

20 A. But there wasn't a shot fired before I looked out
21 the window. The shot happened as I was looking out the
22 window. That's how come I identified Mr. Polite. I saw him
23 with my own eyes.

24 Q. Okay. Okay. You saw him coming off the road and
25 coming around and getting to the door?

1 A. Yes.

2 Q. Okay. Okay. That's what you say. Okay. Thank
3 you.

4 Now, on the 20th -- that was yesterday. Okay?

5 A. Yes.

6 Q. You were at another hearing; is that correct?

7 A. Yesterday?

8 Q. Yes. Were you present at a hearing, testified at a
9 hearing yesterday?

10 A. Oh, yes, sir. Yes, sir. Yes, sir.

11 Q. Okay.

12 A. I thought you were referring to like one of the
13 interviews with the investigators.

14 Q. No. Prior to yesterday, prior to yesterday, did you
15 ever tell Officer Gobel or any other investigator that Travis
16 Polite was in your house sitting on a chair with a T-shirt
17 over his head? Yes or no?

18 A. Meaning after October 10th or any time before
19 yesterday?

20 Q. Before yesterday.

21 A. Yes, sir.

22 Q. When did you tell him?

23 A. I told him that on October 10th in the interview.

24 Q. That he was inside of your house sitting in a chair
25 with T-shirt over his head?

1 A. Yes, sir.

2 Q. On the interview?

3 A. That's not when I said it?

4 Q. Well, I'm asking you.

5 A. And I'm pretty sure --

6 Q. Because your testimony was on the 20th that that
7 occurred. But you also said that you spoke to Officer Gobel
8 and were reviewing your videotape. So that must have
9 occurred after you had the videotape interview; isn't that
10 correct?

11 A. Can you explain the question more, or kind of ask it
12 in a better way, please?

13 Q. Okay. You had a videotape interview on 10th of
14 October?

15 A. Right.

16 Q. When have you had other discussions with Officer
17 Gobel or any other investigator after October the 10th?

18 A. Well, they were going to try Mr. Tucker a couple
19 months ago, and I had to meet at the Solicitor's Office to go
20 over my testimony. But we didn't -- like, nothing new was
21 added or nothing was -- I didn't take anything away. It was
22 the same from October 10th.

23 MS. SWANSON: Your Honor, may I approach?

24 (Whereupon, a bench conference takes place off the
25 record.)

1 BY MR. HOOD:

2 Q. I don't think I can be any clearer than I had been.
3 You had conversations with the officers after October the
4 10th concerning your testimony; isn't that correct?

5 A. I really don't know how to answer that question.

6 Q. Well, it's either yes or no.

7 A. I met with solicitors at the Bluffton Solicitor's
8 Office, but that was just to review what I had stated and to
9 make sure that I remember writing and signing that I said
10 this and that I picked out who I picked out in the lineup.
11 But it was not -- it was no other interview after October
12 10th, if that's what you are trying to ask. There was never
13 another interview with the investigator, if that's what you
14 are trying to ask.

15 Q. Let's go back to October the 10th. Maybe we can
16 clear up some of this stuff. Maybe I'm sort of confused.
17 Didn't you tell the investigators that when you ran out of
18 the back of the trailer, you saw a person with a white
19 T-shirt on, with a turban-like towel wrapped around their
20 head? Isn't that correct?

21 A. It was more like a white T-shirt wrapped around
22 their head.

23 Q. Running across --

24 A. If I came out of my backyard, this would be the
25 street.

1 Q. Okay.

2 A. Like, inside the trailer park, I was running towards
3 the back of the trailer park, but he came across this way.
4 He came across the backyard. And you've got to -- like, the
5 way it's set up, if you look on this way, you've got to run
6 in-between trailers. It is not a straight -- just straight
7 run. So you've got to run between trailers. So it was a
8 matter of a couple of seconds that, you know, I seen him run
9 past. I'm running. I look back one time just to make sure
10 he's not coming behind me, and I saw the white female. So
11 that's why I thought she was coming after me.

12 Q. Okay. Okay. Okay. On January the 20th, you made
13 another statement in court at a hearing; is that correct?
14 That was yesterday now. It wasn't that long ago.

15 A. Yesterday, yesterday when I was on the stand?

16 Q. Yes.

17 A. Yes.

18 Q. Yes, yes, yes. And on the stand, you said, during
19 the identification of Travis Polite, you said, I saw him
20 sitting on a chair?

21 A. in my living room.

22 Q. in your living room.

23 A. Yes.

24 Q. With a white T-shirt.

25 A. Yes.

1 Q. Over his head.

2 A. Yes.

3 Q. Just exactly like what the white female had
4 described; isn't that correct?

5 A. Correct.

6 Q. Okay. Okay. And also, you said, when I questioned
7 you, you said that you spoke to Officer Gobel and reviewed
8 your video. Is that correct?

9 A. That's incorrect.

10 Q. You didn't make that statement?

11 A. Well, let's not say incorrect. When you asked me
12 yesterday have I ever reviewed my video, I was telling you
13 that yesterday was when I reviewed my video. When I first
14 arrived here yesterday, that's when I reviewed the video that
15 I made in the investigator's office. If I said the wrong
16 thing, I misunderstood how you were questioning me. But
17 yesterday, when I got here, that was my first time watching
18 my video that I made over at the investigator's office. And
19 I do apologize for misunderstanding, if there was any.

20 Q. in one of your statements, and I don't know which
21 one, you indicated that Brandon and Oowee had guns; is that
22 correct?

23 A. I believe that was the first statement that I wrote.
24 And like I told the investigator, the part about Brandon
25 having a gun was false. I just said it just saying it, like,

1 out of fear again.

2 Q. Okay. Okay. Okay. You have never ever identified
3 the person who was the fourth person, the driver of the car;
4 is that correct?

5 A. That's correct.

6 Q. Yes. Yes. Okay.

7 THE COURT: Mr. Hood, let me interrupt you just one
8 moment please. How much longer do you anticipate
9 cross-examination of this witness? The jurors indicate they
10 may need a break.

11 MR. HOOD: It may be awhile, Judge. There are quite
12 a few more things that we need to go over. I will be more
13 than happy to go ahead and let's take a break now if you
14 would like.

15 THE COURT: Sure.

16 Ladies and gentlemen, let's take a ten-minute
17 recess. I remind you, it's too early to begin discussing the
18 case.

19 (Whereupon, the jury leaves open court at 11:04
20 a.m.)

21 THE COURT: We will be in recess for ten minutes.

22 (A recess transpired.)

23 (Whereupon, the jury returns to open court at 11:26
24 a.m.)

25 THE COURT: All right, sir. Welcome back, ladies

1 and gentlemen. I believe we are ready to resume with the
2 cross-examination.

3 Mr. Hood.

4 BY MR. HOOD:

5 Q. Okay. Antonio, now, you indicated that you had very
6 limited, if any, contact with Travis Polite before this
7 event; is that correct?

8 A. It was just pretty much seeing him around, like ...

9 Q. Okay. So after this event, did you have any contact
10 with Mr. Polite?

11 A. I never had any contact with either one of the guys.
12 The investigators had my phone. I didn't have a phone.

13 Q. So you didn't have any contact with Travis Polite?

14 A. No, sir.

15 Q. So he's never threatened you or your family or
16 anything else with regard to this event; is that correct?

17 A. That's correct.

18 Q. And he's the only one out of the bunch who you
19 didn't fear; is that correct?

20 A. Didn't fear?

21 Q. Yeah.

22 A. Well, I mean, I just wouldn't try him because he was
23 a part of those guys.

24 Q. But weren't you part of the same guys?

25 A. I was not a part of those guys.

1 Q. Okay. Okay. Now, so the only written statement
2 that you prepared was this one on the 6th?

3 A. Yes, sir. That's the one where I didn't come
4 forward with the truth at the time.

5 Q. Okay. Okay. Nor did you come forward on the days
6 after that, until October; isn't that correct?

7 A. Until October, correct, sir.

8 Q. Okay. Okay. And you've had no -- you say you
9 reviewed your video. When did you review that, yesterday?

10 A. Yes, sir.

11 Q. And you reviewed that with Officer Gobel; is that
12 correct?

13 A. I watched it on my own. There was a -- I don't know
14 the guy's name, but he just set it up on his computer for me
15 and I sat and watched it.

16 Q. Okay. Okay. And this was the video from October?

17 A. October 10th.

18 Q. The 10th?

19 A. Yes, sir.

20 MR. HOOD: Okay. I have no further questions.

21 THE COURT: Redirect?

22 MS. SWANSON: No, sir.

23 THE COURT: Thank you, sir. You may step down.

24 Call your next witness.

25 MS. SWANSON: Thank you. The State calls Officer

1 Seronka to the stand please.

2 CHAD SERONKA,

3 having been duly sworn, testifies as follows:

4 THE CLERK: Please state and spell your name for the
5 court record.

6 THE WITNESS: Corporal Chad Seronka, Beaufort County
7 Sheriff's Office.

8 DIRECT EXAMINATION

9 BY MS. SWANSON:

10 Q. Corporal Seronka, who do you work for?

11 A. Beaufort County Sheriff's Office.

12 Q. And were you working on September 6th of 2012?

13 A. I was.

14 Q. Did you respond to an incident at the Taylor's
15 Mobile Home Park?

16 A. Yes, ma'am.

17 Q. Can you tell us what you saw when you got there?

18 A. When I arrived, I parked not too far from the main
19 building. I immediately noticed a black male laying on the
20 ground on his back. Several EMS and fire officials were what
21 appeared to be trying to resuscitate him. When I walked up,
22 they said to me that he had a gunshot. There wasn't a whole
23 lot I could do after that, so I continued going.

24 The trailer that we were told the incident occurred
25 at, I approached it. There was a tree before the trailer.

1 On the ground I observed three \$50 bills that were blown
2 around. There was a Buick LeSabre that was still running in
3 the yard.

4 Q. Let me stop you right there. I'm going to show you
5 what's been marked as State's 5 and ask if you can describe
6 what's contained in this picture?

7 A. Yes, ma'am. The orange cone and the yellow marker
8 labeled number 3 is where the \$50 bills were observed on the
9 ground.

10 Q. Is that the trailer that you responded to?

11 A. It is.

12 Q. Is that a fair and accurate depiction of how it
13 appeared that day?

14 A. It is.

15 MS. SWANSON: State moves 5 into evidence and asks
16 to publish to the jury.

17 MR. HOOD: No objection.

18 THE COURT: Admitted without objection.

19 (S-5 is moved into evidence.)

20 BY MS. SWANSON:

21 Q. Okay. So this is the Buick LeSabre that you were
22 saying was running?

23 A. Yes, ma'am.

24 Q. And describe what the orange cone is for me.

25 A. The orange cone under the tree is where one of the

1 \$50 bills was observed. Next to it is a small yellow plastic
2 marker labeled number 3. That was where another bill was
3 located.

4 Q. And what was the purpose of you placing the orange
5 cones?

6 A. The cones were placed there to identify items that
7 needed to be photographed and collected once the
8 investigators arrived.

9 Q. Were you one of the first officers that arrived on
10 scene?

11 A. Yes, one of many.

12 Q. What else did you notice when you got there that
13 day?

14 A. After noticing the vehicle and the money, I walked
15 around the front of the trailer and there was a silver and
16 black, what appeared to be a semi-automatic pistol, laying on
17 the ground.

18 Q. I'm going to show you what's been marked as State's
19 6. I've shown this to defense counsel. Can you describe
20 what's in this picture?

21 A. This is the same trailer picture there with the
22 black and silver semi-automatic pistol laying on the ground.

23 Q. Is that a fair and accurate depiction of how it
24 appeared that day?

25 A. Yes, ma'am.

1 MS. SWANSON: State would like to enter 6 and
2 publish to the jury no objection.

3 MR. HOOD: No objection.

4 THE COURT: It will be admitted without objection.

5 (State's Exhibit 6 is moved into evidence.)

6 BY MS. SWANSON:

7 Q. So this is where you found the pistol?

8 A. Yes, ma'am.

9 Q. And did you mark that with the orange cones?

10 A. Yes, ma'am. They were put there to preserve it to
11 make sure that it didn't get disturbed or moved.

12 Q. And did you mark all the various items that you came
13 across with orange cones?

14 A. We put out what we could locate quickly. Those are
15 the items that I noticed immediately and that I basically
16 safeguarded and made sure didn't go away.

17 Q. Okay. What else did you do at the scene that day?

18 A. The immediate area was checked. We were not able to
19 locate any more victims. And myself and other officers
20 secured the scene with yellow police tape.

21 Q. Did you use a canine to search the area?

22 A. I did. Yes, ma'am. Once the investigators arrived
23 on scene and the area was locked down, I was asked to conduct
24 an area search with my canine to locate any evidence that may
25 have been dropped while the suspects fled the scene.

1 Q. Was that a search for the suspects or for actual
2 things?

3 A. That was not a search for an individual. That was a
4 search for any kind of clothing, gloves, a gun, anything that
5 could have been dropped by the individuals as they ran away.

6 Q. And so do you all call that an article search?

7 A. It is.

8 Q. Okay. Did you find anything?

9 A. No, ma'am.

10 Q. Did you search anywhere else with the dog?

11 A. Yes, ma'am, the interior of the residence.

12 Q. And did you find anything in there?

13 A. I personally did not. I worked the dog through the
14 trailer. The dog alerted to several locations which were
15 noted by other officers and then searched later. The only
16 thing that I noticed that I put in my report was a couple
17 small, what appeared to be green leafy vegetation that
18 appeared to be marijuana.

19 Q. Okay. And did the dog alert on those items?

20 A. Those areas, yes.

21 MS. SWANSON: Beg the Court's indulgence.

22 BY MS. SWANSON:

23 Q. Corporal Seronka, we are talking about a small or
24 large amount of marijuana?

25 A. We are talking about small flakes.

1 Q. Okay. Very small amount?

2 A. Very small flakes.

3 MS. SWANSON: Thank you. I have nothing further at
4 this time.

5 MR. HOOD: I only have one question.

6 CROSS-EXAMINATION

7 BY MR. HOOD:

8 Q. in your report you indicate you also found several
9 paraphernalia items?

10 A. Bowls that are used to smoke marijuana.

11 Q. Okay. Okay. Thank you.

12 THE COURT: All right. Thank you, sir. You may
13 step down.

14 MS. SWANSON: Thank you. I ask that this officer be
15 allowed to be excused.

16 MR. HOOD: I have no objection.

17 THE COURT: You may be excused from your subpoena.

18 (Whereupon the witness is excused.)

19 MS. SWANSON: Investigator John Kelleher.

20 JOHN KELLEHER,

21 having been duly sworn, testifies as follows:

22 THE CLERK: Please state and spell your name for the
23 court record.

24 THE WITNESS: Investigator John Kelleher,

25 K-e-l-l-e-h-e-r.

1 DIRECT EXAMINATION

2 BY MS. SWANSON:

3 Q. Who do you work for, Investigator Kelleher?

4 A. Beaufort County Sheriff's Office.

5 Q. Were you working on September 6th of 2012?

6 A. Yes, I was.

7 Q. Were you involved in the investigation of the
8 Taylor's Mobile Home Park murder?

9 A. Yes, ma'am.

10 Q. What did you do as a part of the investigation?

11 A. On that afternoon, I -- when the initial call came
12 out, we knew the investigation individuals were responding.
13 I went to the emergency room at Beaufort Memorial Hospital.

14 Q. What did you see when you got there?

15 A. Upon my arrival, the ambulance did not arrive yet.
16 And as it pulled up into the parking lot area, the doors
17 opened and I saw that they were -- the attendants, that EMS
18 were doing chest compressions on the victim inside.

19 Q. All right. Did you make any contact with the
20 victim?

21 A. No, he was never conscious.

22 Q. Did you exam the victim in any way?

23 A. They brought him into ER. I went into the ER room
24 that they were trying to revive him in, yes.

25 Q. Did you make any note of any types of injuries?

1 A. The doctor that was there, Dr. Rehman, he told me
2 that -- he said out loud that there was what appeared to be a
3 gunshot wound to the left side of the chest.

4 Q. Were you able to confirm the identity of the victim?

5 A. Yes, I was.

6 Q. And how did you do so?

7 A. It was done through Master Sergeant Purdy, who was
8 my supervisor at the time. He was able to obtain a -- I
9 believe it was a South Carolina DL, a driver's license photo.
10 And he sent it to me via phone through our telephones.

11 Q. What is a GSR kit?

12 A. A GSR is a gunshot residue kit.

13 Q. Did you perform one of those on the victim?

14 A. Yes, I did.

15 Q. And that's Quantize Greers?

16 A. Yes, ma'am.

17 MR. HOOD: Judge, to expedite this matter, I'm
18 willing to stipulate that the gunshot residue was taken by
19 him. The test was done and the results are negative to any
20 gunshot residue on the hands of the victim in the case,
21 Mr. Greer.

22 THE COURT: Do you agree with that stipulation?

23 MS. SWANSON: Yes, sir. The State would like to
24 enter at this time State's 38, which is the gunshot residue
25 kit.

1 MR. HOOD: No objection.

2 THE COURT: Without objection.

3 MS. SWANSON: Thank you.

4 (S-38 is moved into evidence.)

5 BY MS. SWANSON:

6 Q. Skipping forward, did you also perform a gunshot
7 residue kit on Antonio Brewer?

8 A. Yes. After I left the emergency room, I went to the
9 incident location and performed it on Mr. Greer --
10 Mr. Brewer.

11 Q. And --

12 MR. HOOD: I would be willing to expedite this
13 matter also. I mean --

14 MS. SWANSON: Yes, sir.

15 MR. HOOD: -- there is no gunshot residue found at
16 that time on this particular individual, Antonio Brewer.

17 MS. SWANSON: So at this time the State would like
18 to enter 37, which is the GSR kit --

19 MR. HOOD: And I have no objection.

20 MS. SWANSON: -- on Mr. Brewer.

21 THE COURT: Without objection.

22 MS. SWANSON: Thank you. That's all I have for
23 Investigator Kelleher.

24 (State's Exhibit 37 is moved into evidence.)

25 CROSS-EXAMINATION

1 BY MR. HOOD:

2 Q. Did you see the clothing of the victim in the case?

3 A. What was brought into ER, yes, I did.

4 Q. Was it a white wife beater T-shirt?

5 A. To be honest with you, sir, I cannot recall the
6 whole inventory of what was there. Whatever I obtained was
7 submitted into evidence. So I don't recall exactly if it was
8 a wife beater shirt.

9 MR. HOOD: Okay. Thank you.

10 THE COURT: Thank you, sir. You may step down.

11 MS. SWANSON: Thank you, Your Honor. The State
12 calls Investigator Chris Wilson.

13 CHRISTINE WILSON,

14 having been duly sworn, testifies as follows:

15 THE CLERK: Please state and spell your name for the
16 court record.

17 THE WITNESS: My name is Christine Wilson,
18 C-h-r-i-s-t-i-n-e, W-i-l-s-o-n.

19 DIRECT EXAMINATION

20 BY MS. SWANSON:

21 Q. Investigator Wilson, who do you work for?

22 A. I work for the Beaufort County Sheriff's Office.

23 Q. Were you involved in the investigation of a murder
24 that occurred at Taylor's Mobile Home park?

25 A. I was.

1 Q. Were you working on September 6th of 2012?

2 A. Yes, I was.

3 Q. And can you describe what you did in conjunction
4 with that investigation?

5 A. On the date of that investigation, I was asked to
6 acquire a search warrant for the residence where the incident
7 occurred.

8 Q. Okay. And did you execute that search warrant?

9 A. Yes, I did.

10 Q. Did you take pictures of that residence?

11 A. Yes, I did.

12 Q. What did you seize from that residence?

13 A. I seized a number of items. Would you like me to
14 list them?

15 Q. Please, just briefly.

16 A. I seized three cigarette butts. One it's listed as
17 a roach, which would be a partially smoked, believed to be a
18 marijuana cigarette; a red tin box containing roaches, a
19 scale and a pipe; another roach; a bottle of Lipton white
20 tea; another roach; three cigarette butts. I collected two
21 DNA swabs from an outer doorknob on a bedroom. And also
22 seized was a Buick LeSabre that was in the driveway in front
23 of the residence.

24 Q. Okay. And you mentioned a Lipton tea bottle?

25 A. Yes.

1 Q. And did you turn all those items into evidence?

2 A. Yes, I did.

3 Q. And did you ask them to be processed by the forensic
4 lab?

5 A. Yes, I did.

6 Q. In hopes of what?

7 A. Maybe isolating a DNA profile.

8 Q. Okay.

9 MR. HOOD: Is this all the items that she was
10 talking about?

11 MS. SWANSON: Yes.

12 MR. HOOD: I don't have any objections to this. I
13 just would like for her to announce the results, and that's
14 all I'm interested in.

15 MS. SWANSON: Okay. Your Honor, I'm going to show
16 the witness what's been marked as State's 32.

17 BY MS. SWANSON:

18 Q. Investigator Wilson, if you can describe what this
19 is.

20 A. This is a brown paper evidence bag. And this is
21 what I used to package the Lipton ice tea bottle. It's
22 labeled one bottle of Lipton white tea containing liquid
23 located on the kitchen table inside the residence. And bears
24 my initials and date on the evidence seal.

25 Q. Okay. And I'm only asking you to identify this, I'm

1 not going to enter it into evidence. Was this the only item
2 that came out of the house that had a DNA profile?

3 A. I can't answer that.

4 Q. Okay. Do you know who it came back to?

5 A. I do. I have a copy of the report.

6 Q. Okay.

7 A. Do you want me to publish that?

8 Q. Yes, please. I'm sorry.

9 A. According to a copy of the DNA report, a
10 co-defendant, Walter Tucker, could not be excluded as a
11 possible contributor of the DNA that was isolated from the
12 ice tea bottle.

13 Q. Okay. Now, do you also take fingerprints for the
14 Sheriff's Office?

15 A. I do. I'm a latent print examiner for the
16 department, yes.

17 Q. Did you dust for prints at the incident location and
18 outside of it?

19 A. I did not. I dusted -- the only thing that I
20 processed for latent impressions was the Lipton ice tea
21 bottle. And also examined some latent impressions that were
22 taken from the vehicle.

23 Q. So you did examine some impressions. Were you able
24 to isolate anybody's identity from those prints?

25 A. From the prints of value that were collected from

1 the the victim's vehicle, I was able to identify -- there
2 were 22 latent lifts located total. And nine of those I
3 identified as the victim's. Six of them there was no
4 identification made. And seven of them were of no value for
5 identification.

6 Q. Okay. Is that unusual when we are talking about
7 fingerprints?

8 A. For a no-value print?

9 Q. Right.

10 A. It's not uncommon for people to touch items and not
11 leave fingerprints. In fact, it's more common for prints of
12 no value to be found. And the reason for that is that a
13 latent impression is also called a chance impression. When
14 you grasp an item, there's no guarantee that you are going to
15 leave a fingerprint, because of that chance touching of the
16 item may result in the prints smearing down the item or if
17 your fingertips are not sweating, they are not going to leave
18 a recording of your fingerprints on the item. Fingertips may
19 be dirty. The substance that's being touched may be dirty or
20 contaminated in some way. So it's not uncommon at all to not
21 find prints of value.

22 MS. SWANSON: Beg the Court's indulgence.

23 BY MS. SWANSON:

24 Q. Investigator Wilson, from what you examined and from
25 the DNA that came back off of the tea bottle, is it fair to

1 say that there's no DNA evidence or fingerprint evidence that
2 ties Mr. Polite to the incident location?

3 A. That would be fair, yes.

4 MS. SWANSON: Okay. Thank you. No further
5 questions at this time.

6 THE COURT: Cross-examination.

7 MR. HOOD: I don't have any.

8 THE COURT: Thank you. You may step down.

9 Call your next witness.

10 MS. SWANSON: The State calls Brandon Disbrow.

11 Your Honor, I would like to ask that Officer Wilson
12 be excused.

13 THE COURT: Any objection?

14 MR. HOOD: No objection.

15 THE COURT: You may be excused from your subpoena.

16 Thank You, ma'am.

17 (Whereupon the witness is excused.)

18 BRANDON DISBROW,

19 having been duly sworn, testifies as follows:

20 THE CLERK: Please state and spell your name for the
21 court record.

22 THE WITNESS: My name is Brandon Disbrow,
23 B-r-a-n-d-o-n. Last name is D-i-s-b-r-o-w.

24 DIRECT EXAMINATION

25 BY MS. SWANSON:

1 Q. Who do you work for?

2 A. I work for the Beaufort County Sheriff's Office.

3 Q. What's your rank?

4 A. I'm a corporal.

5 Q. And Corporal Disbrow, were you involved in the
6 investigation into the Taylor's Mobile Home Park murder?

7 A. Yes, ma'am. Yes, I was.

8 Q. Can you describe what duties you performed in
9 reference to that investigation?

10 A. I did the crime scene processing on the outside of
11 the mobile home.

12 Q. Okay. I'm going to show you what has been entered
13 as State's 41. Is this the mobile home park that we are
14 talking about?

15 A. Yes, ma'am.

16 Q. And what do you notice about this scene? Are the
17 trailers close together, far apart?

18 A. They are close together.

19 Q. Did you draw a diagram showing where you collected
20 various items?

21 A. I did.

22 Q. I'm going to show you what's been marked as State's
23 29. I ask if this is the diagram that you drew?

24 A. It appears to be a copy of the diagram.

25 MS. SWANSON: Okay. State moves 29 into evidence.

1 MR. HOOD: No objection.

2 THE COURT: Without objection.

3 (State's Exhibit 29 is moved into evidence.)

4 MS. SWANSON: Ask to publish to the jury.

5 THE COURT: Sure.

6 BY MS. SWANSON:

7 Q. Corporal Disbrow, why don't we go through your
8 diagram and you can tell us what you located and where.

9 A. Okay. If we -- may I speak freely?

10 Q. Yes.

11 A. If we look at the right side of the diagram, it's --
12 if you were to continue that diagram, there would be a Paris
13 Island Gateway, which would run north and south. There's a
14 small north arrow on the left-hand corner, kind of orient
15 where we are looking at. I entered the mobile home park, I
16 would say, the right side of that diagram. The very first
17 building, if you are looking from the right side, would be
18 right there, that would be the office building, where the
19 crime scene tape was set just outside there.

20 When I entered the crime scene, I was directed -- I
21 met with Master Sergeant Purdy at the time, at the time by
22 Master Sergeant Purdy, who was sergeant over investigations.
23 He directed me to the areas of interest on the exterior of
24 lot 60, lot number 59 and lot number 61.

25 And so if we look, the first cluster of circles

1 which I marked using evidence markers, were various pieces of
2 medical debris, medical waste. I was advised that that is
3 where the victim laid while EMS tended to his injuries. But
4 I decided to mark those anyway to kind of orient where he was
5 last seen in the area.

6 Continuing on, I walked over to lot number 59. And
7 near the tongue of the trailer, which is right near the
8 roadway, I noticed a 9-millimeter handgun. There was also
9 cones, orange cones next to that handgun, which I was advised
10 that other deputies had placed there as to notify everyone
11 not to move, not to touch, just to be aware there's something
12 there.

13 Q. Let me stop you right there. Corporal Disbrow, I'm
14 going to show you what's been marked as State's 34, if you
15 can just identify this please.

16 A. This is a description. This is my handwriting. It
17 says it's one Ruger 9-millimeter pistol with serial number
18 30620541. And I indicated that it was unloaded.

19 Q. Is that the handgun that you collected at the tongue
20 of lot 59?

21 A. Yes, ma'am.

22 Q. That's the one that was marked by the orange cones?

23 A. That's correct.

24 Q. And can you tell us what condition the handgun was
25 in?

1 A. Obviously, prior to handling, I did photograph it in
2 position where it lay. I removed the magazine, which holds
3 the bullets for the handgun. And I counted there was 15
4 bullets in that magazine. Checking the chamber, there were
5 no rounds in the chamber. So it appeared that the magazine
6 only held 15 rounds.

7 Q. And there was not a round in the chamber?

8 A. That's correct.

9 Q. Which in your experience in handling guns tells you
10 what?

11 A. That it was either not cycled through or the
12 magazine was just inserted. Either way, there was no action
13 of actually putting a round in that barrel.

14 Q. It had not been fired?

15 A. I couldn't tell if it had been fired. All I can say
16 is there was no round in the barrel.

17 Q. Okay. So that was number four right here at the
18 tongue.

19 A. Yes.

20 Q. What else did you recover?

21 A. Continuing on to lot number 60, there was a tree,
22 and around that tree was some cinder block base. That is
23 just to the right of a vehicle. When I approached that area,
24 the vehicle had the front -- two front doors open of the
25 driver's door and front passenger door. I was advised that

1 that was the vehicle which the victim drove to that area. I
2 examined the vehicle and I noticed that the victim's Beaufort
3 County school district name tag was hanging from the rearview
4 mirror.

5 The front driver's window, on the front side window,
6 had a hole in it which appeared to be consistent with a
7 gunshot. There was a hole where the glass was missing and
8 there was spidering, fracturing of glass coming from that
9 hole. Also, there was some money that was near the vehicle.
10 Some was on the ground and some was in that cinder block
11 base. These were marked also with orange cones by deputies
12 to mark it so it wouldn't be disturbed in its place.

13 Q. Okay. Let's stop right there and show you a couple
14 of items. These are State's 35 and 36. If you can please
15 describe what they are for us.

16 A. The first bag is what I listed as evidence marker
17 number 2, which were two \$50 bills. Do you want me to list
18 off the serial numbers of the bills?

19 Q. That's not necessary. Thank you. Are those the two
20 bills that you collected from the scene?

21 A. Yes, they are. Yes, ma'am.

22 Q. And what is the other item?

23 A. The other one is what I marked as evidence marker
24 number 3, which is one \$50 bill. And this was in the area of
25 near the tree, where the cinder block base.

1 Q. Okay. And that's the final \$50 bill that you
2 collected from the scene?

3 A. Yes, ma'am.

4 MS. SWANSON: Okay. State offers 35 and 36 into
5 evidence.

6 MR. HOOD: No objection, Your Honor.

7 THE COURT: Admitted without objection.

8 (State's Exhibit 35 and 36 is moved into evidence.)

9 BY MS. SWANSON:

10 Q. Let's go back and look at some pictures. I'm going
11 to show you State's 9 and 10. And ask if these are fair and
12 accurate depictions of what you observed?

13 A. Yes, they are. Yes, ma'am.

14 Q. And what are -- what are they pictures of?

15 A. 9 and 10 are a close-up view and a little further
16 away view of the 9-millimeter Ruger.

17 MS. SWANSON: Okay. I ask to publish to the jury
18 and would like to offer 9 and 10 into evidence.

19 MR. HOOD: No objection.

20 THE COURT: Admitted without objection. You may
21 publish them.

22 (State's Exhibit 9 and 10 is moved into evidence.)

23 MS. SWANSON: And this is State's 10.

24 MR. HOOD: Your Honor, she has all these photographs
25 up here. We will eventually get to them, but I have no

1 objection to any of them. And you can certainly put them
2 in.

3 THE COURT: They will all be admitted into evidence
4 without an objection unless we hear an objection.

5 MR. HOOD: That's correct.

6 (State's Exhibits 13, 14, 15 and 16, are moved
7 into evidence.)

8 BY MS. SWANSON:

9 Q. Corporal Disbrow, I'm handing you State's 13 through
10 16. It's a series of pictures. What are those pictures of?

11 A. These are the pictures of the 50 dollar bills I
12 located just right outside of the victim's vehicle.

13 MS. SWANSON: Okay. And I ask to publish 13 through
14 16, Your Honor.

15 THE COURT: Certainly.

16 BY MS. SWANSON:

17 Q. State's 13, 14, 15, and 16. Now, these placard
18 numbers, they correspond to the numbers that you have on your
19 key?

20 A. Yes, my crime scene sketch, that's correct.

21 Q. I'm going to show you a series of pictures 18
22 through 21 and ask you what these are pictures of?

23 A. These pictures are of the victim's vehicle.

24 MS. SWANSON: I ask to publish 18 through 21.

25 THE COURT: Certainly.

1 BY MS. SWANSON:

2 Q. All right. This is State's 18. Is that how you
3 found the vehicle?

4 A. Yes, ma'am.

5 Q. With the doors open like that?

6 A. With the doors open. You can't tell from the
7 picture, but the car was running.

8 Q. This is State's 19; what's that a picture of?

9 A. That is the hole in the front driver's side window.
10 And that is from, I guess, the interior view.

11 Q. Again?

12 A. Yes, close-up of the same hole.

13 Q. And what's that?

14 A. That is the victim's vehicle from the driver's side
15 displaying the shattering of the window.

16 Q. So just a different view --

17 A. Just a different view.

18 Q. -- of State's 21.

19 Did you locate anything else outside of the
20 residence?

21 A. I did. Do we have the crime scene sketch to pull
22 up? May make it easier to explain.

23 Q. Yes. Apologize. This is State's 29 I'm putting up
24 again.

25 A. The vehicle, if you are looking at lot 60, the

1 vehicle is just outside the front door. Continuing past lot
2 60, headed towards lot 61, I noticed near the roadway there
3 was a black sock. Couldn't tell if it pertained to the case,
4 but it was relatively fresh. It didn't appear to be
5 weathered, wasn't really dirty.

6 Q. Is that right there?

7 A. Yes, ma'am.

8 Q. And was that collected?

9 A. It was collected.

10 Q. All right. What does this area depict on lot 59?

11 A. Lot 59 there is what appeared to be a bullet hole
12 from, I guess, looking at it, the left side of lot 59, and
13 going through the corner. And there's an exit hole leading
14 off to the roadway near the lot number 59.

15 Q. I'm going to show you what's been entered at State's
16 11 and 12, two pictures, and ask what they depict?

17 A. This depicts the bullet hole into lot number 59.
18 And I added what we call trajectory rods to help define a
19 trajectory of a bullet when there's given holes.

20 MS. SWANSON: I ask to publish those to the jury,
21 Your Honor.

22 THE COURT: Certainly.

23 BY MS. SWANSON:

24 Q. So that's right here, corporal?

25 A. Yes, ma'am, where that line goes through that

1 corner.

2 Q. All right. That's State's 11 and State's 12. And
3 that is a trajectory rod?

4 A. Yes, ma'am.

5 Q. I'm going to put 29 back up there for you.

6 A. Continuing on with lot number 60, lot number 60 is
7 grass that was kind of a grassy field. All the residents in
8 the area have grass around it, for the most part.

9 Behind lot number 60, there were two sets of
10 parallel tracks in the grass which were very consistent with
11 tire impressions going through new pressed grass as a vehicle
12 drives through. And within that two parallel lines, there
13 was a rectangular portion of the grass that was charred,
14 which was consistent with a vehicle resting there, either
15 with a hot motor or a running motor. I was able to see
16 though, following the tracks, that they went and took a
17 left-hand turn. If you are going straight going south,
18 there's another roadway behind those lot numbers of the same
19 mobile home park. And those tracks took a left on to that
20 roadway, which would lead back to Paris Island Gateway --

21 Q. Okay. And we are talking about right here?

22 A. Yes, ma'am.

23 Q. And then this is the char mark?

24 A. That is correct.

25 Q. And these are the acceleration scuffs?

1 A. There are some acceleration scuffs or people
2 commonly refer to them as peel-out marks. The grass had been
3 torn up in that area, in the area of the depressed grass.
4 And if you are looking just outside that charred portion,
5 there was a cigarette butt that was there, which appeared to
6 be relatively fresh, recently dropped. There was no other
7 cigarette butts in the area. And that was also collected as
8 potential evidence.

9 Q. And the char mark and the acceleration marks are
10 behind the trailer of lot 60?

11 A. That is correct.

12 Q. I'm going to show you what's been marked as State's
13 22 and 28 and ask that you identify these pictures please.

14 A. These are pictures of the acceleration scuffs behind
15 lot number 60.

16 Q. Okay.

17 MS. SWANSON: Your Honor, I ask to publish these and
18 enter 22 and 28.

19 THE COURT: Certainly.

20 BY MS. SWANSON:

21 Q. Little difficult to see, but is this what you were
22 photographing right here?

23 A. Yes. And if you look just to the right of that,
24 there's another faint one. The difficulty of trying to
25 photograph in the grass, sometimes it's easier to see with

1 the human eye or camera's eye, and I try to get the best
2 photographs of those that I could.

3 Q. And that's State's 28. This is just another photo,
4 State's 22, and if you can just describe what we see here.

5 A. Same acceleration scuffs.

6 Q. Okay. So this is one and then this one?

7 A. Yes, ma'am.

8 (State's Exhibits 22 and 28 is moved into
9 evidence.)

10 BY MS. SWANSON:

11 Q. All the items that you collected, the sock,
12 cigarette butt, were they submitted for forensic testing?

13 A. They were.

14 Q. Do you know if there were any results?

15 A. I did not receive the results. That was sent off to
16 the lead investigator.

17 Q. I understand.

18 MS. SWANSON: Beg the Court's indulgence.

19 THE COURT: Certainly.

20 BY MS. SWANSON:

21 Q. Corporal, did you go into lot 59 to look for
22 evidence of a projectile?

23 A. We did. Lot 59 was a vacant lot. I got ahold of
24 Tracy Jeff Taylor, who is the maintenance manager. And he
25 runs a portion of the -- he runs the mobile home park in

1 conjunction with this family. He granted consent for us to
2 go inside the residence to check for any damages. He
3 provided a key. The door was locked. And we opened up the
4 lot number 59. And it was clear that it was vacant. There
5 was no furniture that we could see. We checked the area in
6 the cabinets.

7 Backtrack just a little. The area where the bullet
8 hole went through, that would be, I guess, considered the
9 kitchen area. I was just seeing some cabinets. We checked
10 all the interior of that lot number 59. We did not find
11 anything, projectile, no other damages. Opened up the
12 cabinets. Couldn't see any marks where the bullet would have
13 went through there. So I do not believe that anything
14 actually punctured the living space of lot number 59.

15 Q. Okay. Thank you. So you did not find anything of
16 any value?

17 A. That is correct, no.

18 Q. And did you process the outside and inside of the
19 victim's car?

20 A. I did. One of the things I did with the victim's
21 vehicle is I processed for latent fingerprints or
22 fingerprints in general using fingerprint powder. I was able
23 to obtain different prints from the outside of the vehicle.
24 If I can refer to my report, I can get the exact number how
25 many I pulled from the vehicle.

1 Q. Yes, sir. Do you have a copy or do you need a
2 copy?

3 A. I have a copy.

4 Q. You may refer to it.

5 MR. HOOD: Your Honor, just perhaps to expedite
6 matters again, the prints that were found, I'm willing to
7 stipulate that he found these prints and they were on various
8 parts of the automobile and that they were processed by him
9 and turned in And there is a laboratory report that came back
10 from Chris Wilson stating nothing towards Mr. Travis Polite
11 was found on that vehicle in any way, if that would help.

12 MS. SWANSON: Yes, sir. That's fine. I just wanted
13 to make sure that we established that Corporal Disbrow
14 processed the car, that prints were taken and sent off for
15 analysis.

16 THE COURT: All right then. Let me take a brief
17 moment to explain to the ladies and gentlemen of the jury.
18 The parties have entered into a stipulation concerning facts.
19 And I tell you that that stipulation constitutes facts that
20 you may consider.

21 MS. SWANSON: Thank you. That's all I have for
22 Corporal Disbrow at this time. I do want to make sure that
23 the pictures 11 through 16 and 18 through 21 are entered
24 without objection.

25 MR. HOOD: No objection.

1 THE COURT: Entered without objection.

2 (State's Exhibit 11 through 16 and 18 through 21
3 is moved into evidence.)

4 CROSS-EXAMINATION

5 BY MR. HOOD:

6 Q. Did you dust the \$50 bills for prints?

7 A. I did not.

8 Q. Okay. Did you determine when that round was fired
9 through the vacant trailer?

10 A. Are you asking could I definitively say when that
11 was?

12 Q. Yes.

13 A. No, I could not definitively say.

14 MR. HOOD: Okay. Thank you.

15 MS. SWANSON: I have nothing further for Corporal
16 Disbrow.

17 THE COURT: You may step down.

18 MS. SWANSON: If I may beg the Court's indulgence
19 for just one moment, I just want to confer with defense
20 counsel.

21 My next two witnesses I believe the defense is
22 willing to stipulate to the testimony. State's 39 is a
23 gunshot residue kit from Jessica Power taken on the date of
24 the incident. That was taken by Jeff Purdy, analyzed by
25 SLED. And the result was that there was no gunshot residue

1 on Jessica Power, as well as the other two kits that had been
2 entered. So I believe the defense is willing to stipulate
3 that there was no gunshot residue found as a result of any of
4 these kits.

5 MR. HOOD: Judge, I'm more than happy to do that
6 just to expedite this matter. You know, gunshot residue we
7 can talk about that fact later. But, yes, I'm willing to
8 stipulate to it.

9 THE COURT: That is a stipulation then of the facts,
10 ladies and gentlemen.

11 MS. SWANSON: And, Your Honor, at this time I will
12 not be calling the SLED witness, but entering 37, 38 and 39,
13 which are GSR kits from Antonio Brewer; that's State's 37;
14 State's 38, Quantize Greer, the victim; State's 39, Jessica
15 Power.

16 THE COURT: That's without objection.

17 MR. HOOD: Yes.

18 (State's Exhibits 37, 38 and 39 are moved into
19 evidence.)

20 THE COURT: The State calls Katrina Light.

21 KATRINA LIGHT,

22 having been duly sworn, testifies as follows:

23 THE CLERK: Please state and spell your name for the
24 court record.

25 THE WITNESS: Katrina Light, K-a-t-r-i-n-a,

1 L-i-g-h-t.

2 DIRECT EXAMINATION

3 BY MS. SWANSON:

4 Q. Is it staff sergeant?

5 A. It is.

6 Q. Staff Sergeant Light, who do you work for?

7 A. Beaufort County Sheriff's Office.

8 Q. And did you attend the autopsy of Quantize Greer?

9 A. I did.

10 Q. All right. And did you bring items back belonging
11 to Mr. Greer and coming out of his body?

12 A. Yes.

13 Q. I'm going to show you what's been marked as State's
14 33.

15 MR. HOOD: Is that a list of the items?

16 I have no objection to the projectiles that she was
17 given by the doctor after the autopsy was complete. I have
18 no objection to the clothing that she was given that belonged
19 to the victim in this case. And the fact that she received
20 them, I have no objection to any of the evidence.

21 THE COURT: All right. Thank you, Mr. Hood.

22 MS. SWANSON: Thank you, Your Honor.

23 THE COURT: It will be admitted without objection
24 then.

25 MS. SWANSON: Thank you. State enters 33. I have

1 no further questions.

2 (State's Exhibit 33 is moved into evidence.)

3 CROSS-EXAMINATION

4 BY MR. HOOD:

5 Q. The only question I have, you took the clothing; is
6 that correct?

7 A. Yes.

8 Q. And you indicated in the report that one of them was
9 a tank top; is that correct?

10 A. I believe so, sir.

11 Q. Okay. One tank top, one gray belt, one pair of
12 multi-color boxers shorts. Does that help your memory?

13 A. Yes, sir.

14 Q. And that tank top was white; isn't that correct?

15 A. The clothes were bloody, so --

16 Q. Was it white?

17 A. Yes.

18 MR. HOOD: Okay. Thank you. I don't have anything
19 further.

20 THE COURT: Thank you, ma'am. You may step down.

21 MS. SWANSON: The State calls Suzann Cromer.

22 SUZANN CROMER,

23 having been duly sworn, testifies as follows:

24 THE CLERK: Please state and spell your name for the
25 court record.

1 THE WITNESS: My name is Suzann, S-u-z-a-n-n,
2 Cromer, C-r-o-m-e-r.

3 MS. SWANSON: Your Honor, at this time defense has
4 stipulated that Ms. Cromer is an expert in firearms
5 identification. So we will not be going through the
6 qualification process.

7 And the projectiles have been entered, so I will
8 begin my questioning at that point.

9 MR. HOOD: That is correct.

10 THE COURT: Thank you, Mr. Hood.

11 DIRECT EXAMINATION

12 BY MS. SWANSON:

13 Q. Who do you work for?

14 A. I'm employed by the South Carolina Law Enforcement
15 Division, commonly referred to as SLED, in the firearms and
16 tool mark section.

17 Q. And what do you do there?

18 A. I do what we call firearms identification. I look
19 at ammunition components to determine whether they were fired
20 by or loaded into and extracted out of a specific firearm.

21 Q. State's 33 are listed as two projectiles removed
22 from victim. It has been entered into evidence. So if you
23 can please just confirm that these are the items that you
24 tested and describe your findings.

25 A. These were the items 4 and items 5, my item numbers

1 that I analyzed in this case. And they are still in a sealed
2 container, sealed with my initials and seal date.

3 What I did was, as I look at these, determine their
4 caliber and see whether or not they are suitable for
5 identification with a specific firearm. I determined that my
6 Item 4, which is a fired copper jacket, was most consistent
7 with .40 Smith & Wesson or 10 millimeter auto caliber
8 bullets. And it may or may not be suitable for
9 identification.

10 My Item 5 is consistent with being a lead core from
11 a fired bullet.

12 Q. Okay. Could that projectile have come from a
13 9-millimeter?

14 A. No, ma'am. This is .40 caliber. .40 caliber is
15 larger than 9-millimeter.

16 MS. SWANSON: Thank you. No further questions.

17 MR. HOOD: No questions.

18 THE COURT: Thank you, ma'am. You may step down.

19 MS. SWANSON: Your Honor, I just ask that this
20 witness please be excused.

21 MR. HOOD: No objection.

22 THE COURT: Thank you, ma'am. You may be excused
23 from your subpoena.

24 MR. THORNTON: Your Honor, at this time may we
25 approach about a scheduling matter?

1 THE COURT: Yes.

2 (Whereupon, a bench conference takes place off the
3 record.)

4 THE COURT: The last few witnesses have gone so
5 quickly, ladies and gentlemen, we are going to take a lunch
6 break right now for scheduling purposes until two o'clock.
7 The information we gave you earlier about having to work late
8 today, there may be some second thoughts about that. So we
9 may not be here until six o'clock tonight or so.

10 See you back at two o'clock. And remind you, don't
11 let anybody talk to you about the case. You don't talk to
12 anybody about the case. See you at two o'clock, ladies and
13 gentlemen.

14 (Whereupon, the jury leaves open court at 12:27
15 p.m.)

16 THE COURT: In recess until two o'clock.

17 (Luncheon recess was taken)

18 THE COURT: They tell me that all the jurors are
19 here. Do we need your client here when we resume?

20 MR. HOOD: I would hope so.

21 MR. THORNTON: The State is ready, Your Honor.

22 THE COURT: Defense ready?

23 MR. HOOD: Yes, Your Honor.

24 THE COURT: Bring the jury.

25 (Whereupon, the jury returns to open court at 2:06

1 p.m.)

2 THE COURT: Welcome back, ladies and gentlemen. I
3 believe we are ready to resume with the presentation of the
4 State's case.

5 Solicitor.

6 MR. THORNTON: Thank you, Your Honor.

7 Your Honor, at this time, the State calls John Gobel
8 to the stand.

9 JOHN GOBEL,

10 having been duly sworn, testifies as follows:

11 THE CLERK: Please state and spell your name for the
12 court record.

13 THE WITNESS: John Gobel, G-o-b-e-l.

14 DIRECT EXAMINATION

15 BY MR. THORNTON

16 Q. Mr. Gobel, what is your present rank, sir?

17 A. Detective sergeant with the Beaufort County
18 Sheriff's Office.

19 Q. To shorten that up, is sergeant still appropriate?

20 A. That will work.

21 Q. Sergeant Gobel, let me ask you a question, sir. How
22 long have you been with the Beaufort County Sheriff's Office?

23 A. Since 1988.

24 Q. And so has that been, more or less, a continuous
25 time of employment?

1 A. Well, yes and no. I started with law enforcement in
2 1979 with the military police here on the air station. Went
3 to work for the Sheriff's Office in '88. Started out as a
4 patrolman. Made detective in a couple of years. Worked
5 primarily narcotics for 17 years. I retired, was going to
6 move to Montana. That didn't work out. My wife was still
7 working, so she said if I'm working, you are working, so I
8 came back. And I've been working primarily rape, robbery,
9 homicide for the last seven years.

10 Q. All right, sir. And you said prior to even
11 your -- '88 -- almost 30 years now with Beaufort County
12 Sheriff's Office, prior to that, you had additional
13 experience in the military police; is that correct?

14 A. That's correct.

15 Q. Are you what would be called the case officer on the
16 case that we are here today, State vs. -- well, actually
17 three co-defendants, but Travis Polite?

18 A. Yes, sir.

19 Q. And, obviously, one person does not do everything on
20 a case. Would it be fair to say?

21 A. That's true.

22 Q. But are you the person who is, for lack of a better
23 word, in charge of this particular case from the point of the
24 Sheriff's Office?

25 A. Yes, sir. We typically call it the lead detective

1 on a case.

2 Q. And as the lead detective, are you aware at least at
3 some point of the items that are sent off to evidence and
4 things that are collected and reports and things like that?

5 A. Yes, sir. It's my overall -- the entire case is my
6 overall responsibility.

7 Q. Let me ask you something just to clarify a couple of
8 things. We had an officer, and of course, you've been in the
9 courtroom with me the entire time, I want to say it was
10 Brandon that was on the stand, but there was a sock
11 collected, I believe, at the scene; is that correct?

12 A. Yes.

13 Q. And there were other items that had been testified
14 to that were collected, just so that we are all clear and to
15 be fair. Did the DNA that was submitted -- first of all, did
16 much of the DNA come back with anything?

17 A. There were a lot of things that didn't come back
18 with DNA profiles at all. Unlike CSI, it doesn't happen that
19 way in the real world. We don't always get a DNA profile on
20 every item.

21 Q. And there was a -- was there a DNA test run on the
22 gun that was found at the scene, the 9-millimeter? It wasn't
23 introduced, but it was -- it was testified to?

24 A. Yes, there was.

25 Q. And that did not come back to Travis Polite, did it?

1 A. That's correct.

2 Q. In fact, was a DNA profile developed on that gun, a
3 touch --

4 A. DNA profile was developed on that gun, and it came
5 back consistent with the victim.

6 Q. Quantize Greer?

7 A. That's correct.

8 Q. Let me ask you a question while we are talking about
9 the pistol. The pistol in this case had been testified to.
10 Were you on scene when it was recovered?

11 A. Yes, I was.

12 Q. So you are familiar with that firearm?

13 A. Yes.

14 Q. And what kind of firearm would that be? Would it be
15 semi-automatic or revolver or --

16 A. That is a semi-automatic handgun.

17 Q. Are you familiar in your over 30 years experience
18 with the workings of a semi-automatic firearm just in
19 general?

20 A. Yes, I've carried one my entire career.

21 Q. If it was testified to earlier, again, you were
22 here, that there was no bullet in the chamber and there is a
23 full clip that held 15, had 15 in it, if you have a
24 semi-automatic pistol without one in the chamber, regardless
25 of how many are in the clip, in this case it was a full clip,

1 and you pulled the trigger, what would happen?

2 A. It won't go off.

3 Q. And is that because one is not -- I think the common
4 term that everybody probably hears about on television is
5 there's not one racked into the chamber?

6 A. That's true. With a semi-automatic handgun, it's
7 not like loading a revolver. When you load a revolver and
8 you pull the trigger, that gun is going to go off.

9 But when you load bullets into a magazine or a clip
10 and put that into a semi-automatic handgun and pull the
11 trigger, that gun still won't go off. You have to pull the
12 slide back on the handgun, release the slide, which chambers
13 one of those rounds. Then if the weapon was fired on a
14 working semi-automatic handgun, once that bullet is
15 discharged, the weapon automatically kicks out the spent
16 cartridge, picks up another cartridge, and puts it back into
17 the chamber.

18 Q. I'm sorry to interrupt. Will the pistol continue to
19 fire that way until the magazine is empty?

20 A. That's true.

21 Q. But in this case, when the gun -- the DNA ties to
22 the victim, there was not one in the chamber, was there?

23 A. No, no. This one simply had the magazine inserted,
24 which on a working semi-automatic handgun tells me that
25 weapon either hasn't been fired or doesn't work. Because if

1 it worked and it had been fired, there would be another round
2 in the chamber. Because when it kicked out the spent round,
3 it would have picked up another round and put it in the
4 chamber.

5 Q. Let me ask you this question while we are talking
6 about guns and gunshots. These items have already been
7 introduced, State's 37, 38 and 39. It's GSR kit from Antonio
8 Brewer; GSR kit from Quantize Greer, the victim in this case;
9 GSR kit from Jessica Power, the other victim in the case. I
10 don't believe you collected any of those personally, did you?

11 A. I did not. I was present when some of them were
12 done.

13 Q. in your position as case officer, were all those
14 taken at the scene, as far as the -- I'm sorry. Let me be
15 more specific. As far as the GSR kit on Jessica Power and
16 the GSR kit on Antonio Brewer, were those taken in your
17 presence while you were all -- all law enforcement was at the
18 scene?

19 A. Yes, sir.

20 Q. And as to the one on the victim, that was already
21 testified to that was done at the hospital; is that
22 correct?

23 A. Yes, sir.

24 Q. Now let me ask you this. Did you do any gunshot
25 residue test on Travis Polite?

1 A. No, sir.

2 Q. And when was Travis Polite arrested in connection
3 with this case?

4 A. It was well a month or so after the incident itself,
5 well.

6 Q. Would you as a detective on a case take a GSR kit
7 from someone who has been out and about for a month?

8 A. Oh, no, sir. No, sir. On a live person, SLED won't
9 accept a GSR kit unless it's done within six hours of the
10 incident. So if you run into the suspect the next day, a GSR
11 kit is irrelevant, because even if they showered, that
12 eliminates GSR.

13 Q. Let me talk to you a minute. When Mr. Hood was
14 questioning earlier, Jessica Power, one of the things he
15 asked her about was asking her about some cell phone calls,
16 or cell phone things that she deleted off her phone itself,
17 the physical phone. To your knowledge; is that accurate, had
18 she done that?

19 A. She did, and she told me about it immediately.

20 Q. And did you request that she print out the records
21 from the phone company to bring to you?

22 A. Yes.

23 Q. And did she do that?

24 A. Yes.

25 Q. So you were able to review the calls that she had

1 deleted by virtue of the phone records; is that correct?

2 A. Yes, that's true.

3 Q. I'm going to show you what's been marked as State's
4 30 and 31 for identification. Can you tell me what those are
5 photographs of?

6 A. These are photographs of a black Chevy Impala rental
7 vehicle which we believed is the vehicle used by the suspects
8 on this day.

9 Q. Did you take those photographs?

10 A. I did.

11 Q. Are they a fair and accurate depiction?

12 A. Yes.

13 Q. Did you alter or change these in any way?

14 A. No.

15 Q. I should point out or ask you, when were you able to
16 take these photographs? Was it immediately? Was it right
17 after this occurred?

18 A. This was probably two or three -- I have to look at
19 the report if you need an exact date, but it was two or three
20 weeks after the incident. We finally located the woman who
21 rented the car. I found the actual vehicle because of a
22 traffic stop that was made with Brandon Singleton in the car.
23 Eventually, I located the rental company in Savannah. When I
24 went to look at the car, the car had already been re-rented,
25 and I had to wait for it to come back in again.

1 Q. Is that why the car wasn't processed?

2 A. Exactly.

3 Q. Now, just in case I didn't ask you this, had these
4 been altered or changed in any way from what you saw on the
5 day you took these photographs?

6 A. No.

7 MR. THORNTON: I would ask that State's 30 and 31 be
8 moved into evidence.

9 MR. HOOD: No objection.

10 THE COURT: Admitted without objection.

11 (State's Exhibit 30 is moved into evidence.)

12 (State's Exhibit 31 is moved into evidence.)

13 BY MR. THORNTON:

14 Q. I'm not going to go through posting this to the
15 jury. This is a black Chevy Impala; is that correct?

16 A. Yes, it is.

17 Q. I'm going to hand you what's been marked for
18 identification as State's Exhibit No. 3 and ask you if you
19 can identify that for me?

20 A. This is a photo lineup identification of the
21 defendant, Travis Polite, which was made by Mr. Brewer on the
22 10th of October at my office during the interview.

23 Q. All right. Is that -- how many photographs are in
24 there?

25 A. There's six different photographs. Five of the

1 photographs are just random people who have the same type of
2 hair, the same facial build, similarities to the defendant,
3 but are not the defendant. And then one photograph is that
4 of the defendant, Travis Polite.

5 Q. And when you were doing this, and let's not talk in
6 generalities, when you did this lineup, did you infer to
7 Mr. Brewer that he should pick out a particular person or
8 not?

9 A. No, sir. When -- during this interview, Mr. Brewer
10 identified the defendant that he saw as the shooter in this
11 case and he called him by the name, Travi. He didn't use the
12 name Travis Polite; he used Travi. We are familiar with that
13 street name or nickname, as -- and we commonly know folks by
14 their street names.

15 MR. HOOD: Your Honor --

16 THE COURT: Just hold on. We've got an objection.

17 MR. HOOD: Side bar, Your Honor.

18 (Whereupon, a bench conference takes place off the
19 record.)

20 THE COURT: All right. I will sustain your
21 objection, order the last statement of the witness stricken
22 on the record. And, ladies and gentlemen, you are to
23 disregard the last statement of the witness.

24 You may proceed.

25 MR. THORNTON: Thank you, Your Honor.

1 BY MR. THORNTON:

2 Q. Sergeant Gobel, did you present these six
3 photographs to Mr. Brewer?

4 A. Yes, I did.

5 Q. And did he -- is there a set of instructions that go
6 along with a photo lineup?

7 A. There is. There's a --

8 Q. Before you get into that, let me just ask you. Is
9 that a fair and accurate copy of the photo lineup you showed
10 Antonio Brewer that day?

11 A. Yes, it is.

12 Q. Have you altered or changed it in any way?

13 A. No, sir.

14 MR. THORNTON: Your Honor, I believe this is State's
15 No. 3, I ask it be moved into evidence at this time.

16 MR. HOOD: I have no objection.

17 THE COURT: Admitted without objection.

18 (State's Exhibit 3 is moved into evidence.)

19 BY MR. THORNTON:

20 Q. Sergeant Gobel, if you would read the instructions
21 that are given that you gave to Antonio Brewer on that day?

22 A. Before we showed Mr. Brewer this lineup, he was
23 given this waiver, which I read to him. It says: You will
24 be asked to look at a group of photos. The fact that the
25 photographs are shown to you should not influence your

1 judgment. You should not conclude or guess that the
2 photographs contain the picture of the person who committed
3 the crime. You are not obligated to identify anyone. It's
4 just as important to free innocent persons from suspicion as
5 it is to identify guilty parties. Please do not discuss the
6 case with other witnesses nor indicate any way that you have
7 identified someone.

8 I then asked Mr. Brewer if he understood that
9 statement. And he stated that he did. I asked him to sign
10 it, and I also initialed it.

11 Q. And did you then show him the photographs?

12 A. I gave him the stack of photographs, which were
13 face-down, asked him to turn the photographs over and see if
14 there was anyone in there that he could identify that was at
15 the scene that day.

16 Q. And did he recognize anyone or indicate that he did?

17 A. He did. He selected photograph number 6 of Travis
18 Polite. He circled Mr. Polite's photograph and put his
19 initials on it.

20 Q. All right. Thank you, sir.

21 Sergeant Gobel, I'm going to hand you in just a
22 moment what's been marked for identification as State's
23 Exhibit 44 and 45.

24 MR. THORNTON: Your Honor, I've been informed
25 defense has no objection. These are the things mentioned by

1 Mr. Hood earlier.

2 BY MR. THORNTON:

3 Q. But just for the record purposes, can you identify
4 these items which is State's 44 and 45. Just start with 44
5 as to what's in the bag, if you can, sir.

6 A. One pair of gray cargo shorts, one gray belt, one
7 pair of multi-colored boxers shorts, one blood-stained tank
8 top.

9 Q. Is that -- who was that collected from?

10 A. That was collected from the victim, I believe at the
11 autopsy.

12 Q. All right, sir. And was that State's 44?

13 A. Yes, sir.

14 Q. And what is 45?

15 A. One pair of black Nike sneakers and one pair of
16 black socks.

17 Q. Were those also collected from the victim at
18 M.U.S.C.?

19 A. Yes, sir.

20 Q. And have they remained in the care and custody of
21 Beaufort County since that time?

22 A. Yes, sir.

23 Q. Will you go ahead and open those up, please.

24 MR. THORNTON: At this time, I ask they be moved
25 into evidence. My understanding is it's without objection.

1 MR. HOOD: No objection.

2 THE COURT: Admitted without objection.

3 MR. THORNTON: Thank you.

4 At this time I ask to publish to the jury.

5 THE COURT: Sure.

6 (State's Exhibit 44 and 45 is moved into evidence.)

7 BY MR. THORNTON:

8 Q. Go ahead one at a time, if you will bring out the
9 items. I realize you are wearing gloves for it, so as you
10 can. That would be the tank top in question?

11 A. Yes.

12 Q. All right, sir. Boxers shorts?

13 A. Yes.

14 Q. And belted cargo shorts?

15 A. Yes.

16 Q. Is that all for State's 44?

17 A. Yes.

18 Q. Thank you, sir. If you will resecure those and
19 then ...

20 A. Officer, could I get another glove, please?

21 And socks and the shoes.

22 Q. And that was what was the clothing that Quantize
23 Greer was wearing on the day when he was murdered?

24 A. Yes, sir.

25 Q. All right. Thank you, sir. If you will resecure

1 those and I will put them back.

2 Sergeant Gobel, there was a great deal of discussion
3 and testimony earlier, again that you were present for,
4 regarding Antonio Brewer and his statements to you.

5 A. Yes, sir.

6 Q. Did you interview him one time or several times?

7 A. Several times.

8 Q. And he gave -- how many -- did he give more than one
9 written statement or just one initial written statement?

10 A. He just gave one initial written statement.

11 Q. And did you then go back and interview him
12 subsequent to that?

13 A. I did. I did an initial taped interview. After the
14 taped interview, he did a written statement. And then I went
15 back and did a videotaped interview.

16 Q. And was the videoed interview, was that done in
17 October?

18 A. Yes, it was.

19 Q. And Mr. Hood obviously asked a lot of these
20 questions. Without regard to anything specific he told you,
21 as a general matter, you've observed his testimony today, was
22 it consistent with the information you gathered from him over
23 time?

24 A. Yes.

25 Q. Now, did he tell you -- did he give you the same

1 story from the first time you've talked to him 'til the end?

2 A. Oh, no, no.

3 Q. So would it be fair to say that the story changed on
4 more than one occasion?

5 A. It did.

6 Q. For lack of a better word, he lied to you?

7 A. He did.

8 Q. And one of the things that Mr. Hood brought out
9 earlier and asked about was some telephone records or records
10 off of his phone that indicated he was texting. Can you
11 explain that?

12 A. I'm not sure I understand your question.

13 Q. I'm sorry. I should be more specific. In regards
14 to when he was -- when he was claiming that he was forced in
15 the back at gunpoint, you were able to basically confront him
16 with some cell calls or cell records or -- could you just
17 kind of go into that real quick? Would it be fair to say,
18 before you do that, that that's where -- you know, I'm
19 probably just old enough to remember the Paul Harvey, the
20 rest of the story. Is that where he got into the rest of the
21 story?

22 A. Yes, sir.

23 Q. Would you go ahead and kind of explain how that
24 went.

25 A. in his original statement, he had basically told us

1 that he had been kidnapped or forced at gunpoint to cooperate
2 in letting these folks use his house. That was what was in
3 his original written statement and that's what was in his
4 original taped statement.

5 When I began looking at his phone records, I had
6 several problems with phone calls that were made to other
7 parties. And, specifically, it appeared that while the
8 incident was taking place, he was checking on his lottery
9 tickets. When I confronted him with that, he admitted that
10 he had lied to me originally, and then told me that he could
11 identify a third person that was at the scene.

12 Q. Let me stop you right there. I'm sorry to
13 interrupt. He says there were four people that pulled up in
14 the Impala; is that correct?

15 A. That's always been his story, that there was four
16 people, always.

17 Q. And that he can't identify the guy in the gray hat
18 who was in the car driving?

19 A. Right, he hasn't been able to identify him.

20 Q. Did he identify at one point Oowee or Walter Tucker
21 as being in the vehicle and coming in his trailer?

22 A. Yes.

23 Q. And did he indicate that Brandon Singleton was also
24 in the vehicle?

25 A. Yes, he did.

1 Q. So this last person -- and I want to ask you some
2 follow-up questions about this -- but this last person is
3 someone who he originally claimed he could not identify; is
4 that correct?

5 A. That's correct.

6 Q. All right. Now. in interview -- and feel free to
7 correct me, if we need to stop for a moment and get your
8 notes we can, but in an interview with you on, I believe it
9 was 9/6, the date of the incident, 2012, did he indicate to
10 you that one of the people he couldn't identify -- not the
11 guy in the gray hat, there was only, you know, according to
12 him four people -- that this other person had on a white
13 shirt or towel wrapped around his head like a turban or like
14 that style? Not that it was a turban, but it was a white
15 shirt or towel; is that accurate?

16 A. Yes. He did describe the other two people even in
17 the first interview. And he said specifically that one of
18 the individuals had a white shirt or towel wrapped around his
19 head like a turban.

20 Q. Now, in the October interview, after you've talked
21 to him -- and I'm sorry if I interrupted you. But after
22 you've talked to him about this lottery thing and he starts
23 to come clean, do you ask him about this person with the
24 white shirt that he hasn't identified?

25 A. Yes, I do.

1 Q. And does he indicate he can now tell you who that
2 is?

3 A. He does. He stated that the person in the white rag
4 around the head or T-shirt was Travis Polite.

5 Q. And did he then, as he did on the stand earlier,
6 identify him as the shooter?

7 A. Yes.

8 Q. Or a shooter?

9 A. Yes.

10 MR. THORNTON: Your Honor, Court's indulgence,
11 please, one moment.

12 BY MR. THORNTON:

13 Q. Sergeant, I'm going to direct your attention to
14 State's 29, which is already in evidence. This is the sketch
15 testified to earlier. On this sketch, where is -- we were
16 talking about lot 60. Is that the incident location; is that
17 correct?

18 A. Yes.

19 Q. And would that be this trailer right here?

20 A. Yes, sir, it is.

21 Q. And can you see that well enough, Sergeant?

22 A. I can, so far.

23 Q. And is this the location where the victim's car was
24 found?

25 A. Yes, sir.

1 Q. At lot 59, was testified to earlier, is that the
2 bullet hole --

3 A. Yes, sir.

4 Q. -- where the rod was stuck through that we saw the
5 corner of that trailer?

6 A. Yes, sir, the bullet hole was through the corner of
7 the trailer in lot 59.

8 Q. And the gun that has been associated with the victim
9 in this case, is that what was found at number four?

10 A. Yes, at the end of lot 59 there.

11 Q. And then the victim is eventually found -- or is the
12 victim eventually found in this area next to the office?

13 A. Yes.

14 Q. And all these numbers here, and I realize I don't
15 know you did those numbers, but what are those all associated
16 with?

17 A. Those are indicative of the medical paraphernalia
18 that was laying on the ground when I got there. The victim
19 had already been transported, but all the medical stuff where
20 they had tried to revive him was still laying on the ground
21 beside where they had tried to revive him.

22 MR. THORNTON: At this time, Your Honor, I have no
23 further questions. Obviously, as case officer he is subject
24 to recall, but I have no further questions at this time.

25 Sergeant, please answer any questions Mr. Hood may

1 have.

2 THE COURT: Mr. Hood.

3 CROSS-EXAMINATION

4 BY MR. HOOD:

5 Q. Now, Officer Gobel, you didn't make reference to one
6 statement that Antonio made here today and made Monday
7 afternoon concerning having seen Travis Polite in his trailer
8 sitting in a chair with the T-shirt over his head; is that
9 correct?

10 A. That's correct. During all of his interviews, he
11 described a black male with a T-shirt wrapped around the
12 head. But until yesterday, I heard -- hadn't heard him say
13 that he was sitting in a chair.

14 Q. Right. But you heard Ms. Power make that very same
15 statement, didn't you?

16 A. Ms. Power has always said that the black male
17 wearing the shirt was sitting in the living room when she
18 walked in. That's never changed.

19 Q. Well, that's what I'm saying. I mean, but his
20 statement was consistent with her statement; isn't that
21 correct? And that's the first time you had ever heard it,
22 was sitting right up here when he testified to; isn't that
23 correct?

24 A. It's not the first time he had talked about the
25 black male --

1 Q. That's not what I'm asking you.

2 A. It's the first time he said he was sitting in a
3 chair, yes.

4 Q. Okay. Inside of the trailer?

5 A. Yes.

6 Q. Okay. All right. That's all I want. You know?

7 Now, he said that you re-interviewed him and showed
8 him the tape again at that same hearing Tuesday; is that
9 correct?

10 A. No, sir, that's not what he said. He said that he
11 met with the Solicitor's Office and reviewed the tape. I've
12 never reviewed that tape with Mr. Brewer, ever. He reviewed
13 the tape yesterday morning when he came to the court with the
14 Solicitor's Office, which is the same thing he said on the
15 witness stand today.

16 Q. Well, you know, but do you recall me asking him at
17 his testimony on Tuesday in another courtroom, which you were
18 at, where he stated that: Spoke to Gobel and reviewed the
19 video?

20 A. No, sir, I don't remember that. I remember him
21 saying he reviewed the video.

22 Q. Okay. Okay. Okay. That's all I need.

23 A. I never reviewed the video with Mr. Brewer.

24 Q. Okay. Now, suffice it to say that every time
25 Mr. Brewer gives you a statement, basically, it was a lie; is

1 that correct?

2 A. No, sir.

3 Q. Well, let's just say that --

4 A. He lied to me --

5 MR. THORNTON: Objection. Your Honor, if he's going
6 to ask a question, the witness has a right to answer it.

7 THE COURT: Let him answer the question.

8 BY MR. HOOD:

9 Q. Go ahead.

10 A. I know he lied to me originally. I believe that he
11 eventually came forward with the truth.

12 Q. Why didn't you read him his rights?

13 A. He wasn't under arrest, sir. We are not required
14 to.

15 Q. You didn't think he committed a crime?

16 A. Didn't matter what I thought. We only read someone
17 their rights if they are in custody. Unlike TV where they
18 just read the rights when they talk to people, the law
19 doesn't require us to read someone their rights unless they
20 are physically in custody. Mr. Brewer has never been in
21 custody. So a rights advisement was never required.

22 Q. So when you suspect the person of being involved in
23 a crime, you aren't required to read them their rights,
24 advise them of the rights before you take a statement from
25 them?

1 A. No, sir, not if they are not in custody.

2 MR. THORNTON: Objection, Your Honor. He is still
3 not letting the witness answer.

4 THE COURT: Sustained.

5 BY MR. HOOD:

6 Q. Go right ahead.

7 A. If a person is free to leave and they are talking to
8 me freely and voluntarily, and they are not in police
9 custody, no rights advisement is required. That's my
10 understanding of the law. If you have a different
11 understanding of the law, sir, that -- I could be wrong, but
12 I don't think so.

13 Q. Or is it not a fact that if you do that believing
14 that this person is going to admit to a crime and you are
15 aware that you believe he has committed this crime, that if
16 you don't advise him of his rights, that statement can never
17 be used against him; isn't that correct?

18 A. No, sir, I don't believe you are correct. I talk to
19 suspects all the time who I believe committed the crime. But
20 if they are not under arrest, I don't give them their rights.
21 They have to be in police custody and there has to be
22 questioning. Both those things have to be there before I'm
23 required to give someone their rights.

24 Just because I believe someone may have done it, I
25 talk to people I think did it all the time who I don't read

1 their rights to.

2 Q. Okay. So several days now, you have read -- you
3 didn't read him his rights, but you told him I don't know how
4 many times, you don't want to catch a murder charge; isn't
5 that correct?

6 A. Yes, I did.

7 Q. Okay. And you also told him, when he asked,
8 apparently, later on, after he had given you all of this
9 information, he says, what's the worst that can happen to me,
10 or something to that effect; isn't that correct?

11 A. Something to that effect. I don't remember the
12 exact words.

13 Q. And you tell him that, well, you know, I will get
14 with the solicitor and the people and tell them that -- you
15 know, the worse I think could happen to you is maybe making a
16 false statement to the police; is that correct?

17 A. No, sir, that's not exactly how that conversation
18 went. What I said is that I will talk to the prosecutors in
19 this case and they will make the decision if you are charged
20 with anything. At this point in a murder case, the
21 solicitors make the final decision on who's indicted and what
22 for. I did advise him of several charges that could happen.
23 But, the fact is, I believe what he said and, therefore, I
24 did not believe that he freely and voluntarily was a party to
25 this crime.

1 Q. Okay. Based on the original information that
2 Mr. Brewer so freely gave you, you got a warrant for
3 kidnapping of Mr. Brewer; isn't that correct?

4 A. For your client? No, sir.

5 Q. Mr. Brewer, you got a warrant based on his
6 information for kidnapping; isn't that correct?

7 A. That is correct.

8 Q. And that kidnapping warrant was for Brandon
9 Singleton; is that correct?

10 A. Yes, sir.

11 Q. Oowee or Mr. Tucker; is that correct?

12 A. Yes, sir.

13 Q. And some unknown other person; if that's correct?

14 A. No, sir, there was no other warrant at the time.

15 Q. Okay. Now, you mentioned the thing about the
16 turban, towel and this and that and the other, or whatever it
17 may be, that Brewer indicated to you that the first time he
18 saw that person, that person was running in his area around
19 as he was going out of the back door of the trailer; is that
20 correct?

21 A. He described that -- that was one of the points
22 where he described, at that point, one of the two
23 unidentified suspects. He had always said that there were
24 four suspects. He described the two suspects that he wasn't
25 identifying. The one he has always described was just the

1 gray cap. That's the best he could ever do.

2 The other one he described as a black male with a
3 white T-shirt or towel wrapped around his head like a turban.
4 And he did say during the first interview that that was the
5 fourth person there. And that after the incident was over,
6 he saw that person running away with that towel still, or
7 T-shirt still, on their head.

8 Q. But he didn't see that person, though, until he came
9 out of the back of the trailer for the first time he saw that
10 person; isn't that correct?

11 A. No, sir, he told me he saw all four when they pulled
12 up in the vehicle.

13 Q. And so somebody was in the vehicle with this thing
14 wrapped around his head that he said he saw?

15 A. I don't think he specifically described him with the
16 rag around his head when they first pulled up, but he
17 described four people pulling up.

18 Q. Didn't he say that there were four people in the
19 automobile, two of them he knew and two of them he didn't
20 know and couldn't identify because he didn't get a good
21 enough look at them; isn't that true?

22 A. That's correct. That's what he said the first
23 time.

24 Q. Okay. Okay. That's what he said?

25 A. Yes.

1 Q. Then later on, after he bales out the back because
2 he thinks that this woman is going to get him, he says, I saw
3 this guy running around the area with this towel or shirt,
4 whatever you want to call it, wrapped around his head like a
5 turban; isn't that correct?

6 A. He said that, but not exactly in the context that
7 you are putting it in.

8 Q. Well --

9 A. He had always indicated that that person he saw
10 running behind the trailer was one of the four people who was
11 there originally. Now, he didn't identify that person at
12 that time. And he out and out lied to me because he knew who
13 that person was. But he always indicated that the person
14 running behind the trailer was one of the original four who
15 pulled up in the car.

16 Q. He was one of the people that he saw; is that
17 correct?

18 A. Yes, sir.

19 Q. Okay. Okay. Okay. Okay. And he couldn't identify
20 that person; is that correct?

21 A. I think he could identify the person. He just lied
22 to me about it.

23 Q. Well, yes, he lied to you about it. And when you
24 were questioning him about the lottery tickets, you had
25 gotten his cell phone records; is that correct?

1 A. Yes, sir.

2 Q. And he had made a lot of calls back and forth. He
3 even called Ms. Power, hadn't he?

4 A. Yes, sir, after -- once again, I'm going by what he
5 said today, after he was instructed to by Brandon
6 Singleton.

7 Q. Okay. Okay. Okay. Okay. So -- but you never once
8 have charged him with anything, have you?

9 A. No.

10 Q. Okay. Now, there was a lot of words about this BMF.
11 What is the BMF?

12 A. BMF is slang for the Black Mafia Family, which is a
13 street gang based out of Atlanta, fairly high-powered drug
14 street gang.

15 Q. And who do you believe was a part of that gang here
16 in this group?

17 MR. THORNTON: Objection, Your Honor. Calls for
18 speculation unless he has first-hand knowledge.

19 BY MR. HOOD:

20 Q. Well, didn't you prepare --

21 THE COURT: I will sustain that objection, but go
22 ahead.

23 BY MR. HOOD:

24 Q. Didn't you prepare an affidavit in this case?

25 A. Yes, sir.

1 Q. And if I recall correctly, item 48 says that Brandon
2 Singleton and Brewer are members of BMF; isn't that
3 correct?

4 MR. THORNTON: I'm sorry, Your Honor, I want to make
5 sure I heard that right, Brandon Singleton and Brewer?

6 MR. HOOD: That's correct.

7 THE WITNESS: The only member I know -- the only
8 person that I'm aware of in this case that is associated with
9 BMF is Walter Tucker.

10 BY MR. HOOD:

11 Q. Read item 48 on that document there.

12 A. While processing the crime scene, law enforcement
13 collected several pieces of evidence.

14 Q. Number 48, do you see 48 right there?

15 A. I do. And I see what -- I see it there, but what is
16 this from?

17 Q. This little thing here, affidavit of Investigator
18 John Gobel, that's your signature back there?

19 A. Yes, sir.

20 Q. Okay. Go ahead. What does it say, 48?

21 A. Both Singleton and Brewer are suspected members of
22 the Black Mafia Family.

23 Q. Okay. Give me that back.

24 MR. HOOD: I don't have any other questions. Oh, I
25 do have one. Gosh, I forgot this one.

1 BY MR. HOOD:

2 Q. You know, when you were doing this lineup, you
3 weren't the one that actually prepared the lineup, were you?

4 A. No, I was not.

5 Q. Okay. Officer Rice did that; isn't that correct?

6 A. That's correct.

7 Q. Yes. And Officer Rice, if I recall my memory from
8 this video correctly, he leaves the room when you guys --
9 when he's going to go out and prepare this lineup; is that
10 correct?

11 A. Yes, sir.

12 Q. Okay. When he comes back in, he turns to Mr. Brewer
13 and he says, did he have dreads; do you remember that?

14 A. I can't say yes or no. I just don't remember. It's
15 possible. I just don't know.

16 Q. Okay. Didn't that refer to Ms. Power's original
17 statement that the guy inside of the trailer had dreads?

18 A. I hadn't -- I don't even know if that statement was
19 made, much less what it refers to.

20 MR. HOOD: Thank you.

21 THE COURT: Redirect.

22 MR. THORNTON: Your Honor, I'm going to need the
23 Court's indulgence for one moment please, sir.

24 THE COURT: All right, sir.

25 REDIRECT EXAMINATION

1 BY MR. THORNTON:

2 Q. I'm going to hand you just to see, is this document
3 part of your investigative report?

4 A. Yes, sir.

5 Q. And does that reference one of the conversations
6 that Mr. Hood keeps asking you about?

7 A. Yes, sir.

8 Q. And in that, is that your notes that reflect what
9 the description that Jessica Powers gave you on that day?

10 A. Yes, sir.

11 Q. All right. Just so that we are clear and fair about
12 what was actually said, after reading that, does that refresh
13 your recollection on what verbatim she said?

14 A. Yes, sir.

15 Q. Did she say the person had dreads?

16 A. No, sir.

17 Q. Did she say the person had braids?

18 A. No, sir.

19 Q. What did she say?

20 A. Power described the individual in the living room as
21 a skinny, dark-skinned, black male with something wrapped
22 around his head that made him look like he might have had
23 braids or dreads.

24 Q. As far as this item 48 on the search warrant on the
25 affidavit, to your knowledge, do you have any evidence

1 whatsoever that you developed throughout your investigation
2 that ties Mr. Brewer to the Black Mafia Family?

3 MR. HOOD: I'm going to object to that, Your Honor.
4 He already signed an affidavit to that effect. He's already
5 admitted that he's signed the item. And he's also stated
6 that, yes, that statement was his in that particular
7 document. And he said suspected.

8 THE COURT: I will overrule the objection.

9 MR. THORNTON: Thank you, Your Honor.

10 BY MR. THORNTON:

11 Q. Would you answer the question?

12 A. No, I had no indication that Mr. Brewer is part of
13 the Black Mafia Family. I do have indication that Walter
14 Tucker is a reputed member of the Black Mafia Family and that
15 Brandon Singleton is an associate of him who may also, may
16 also, be involved with the Black Mafia.

17 Q. In order to be completely fair, you don't have any
18 evidence that Travis Polite's is a member of the Black Mafia
19 Family either, do you?

20 MR. HOOD: I'm going to object, Your Honor. That's
21 not part of his affidavit there.

22 MR. THORNTON: I'm sorry, Your Honor. I wasn't
23 aware that we were in a place where the entire case was based
24 just off an affidavit, but I will be happy to withdraw the
25 question.

1 THE COURT: The question is withdrawn.

2 RE-CROSS-EXAMINATION

3 BY MR. HOOD:

4 Q. So, basically, what you are saying is when you say
5 Brewer is suspected, you are not telling the truth; is that
6 correct?

7 A. No, sir. To tell you the truth, I believe his name
8 in that affidavit is a typo.

9 Q. Thank you. That's all.

10 A. I never suspected him.

11 REDIRECT EXAMINATION

12 BY MR. THORNTON:

13 Q. How many items are on that list, that affidavit that
14 you had written out or typed up? He was on 48. Do you
15 remember how many it was?

16 A. I don't remember how many; a lot.

17 Q. We know it was at least 48. So based on what you've
18 just told Mr. Hood, you think that was a typo?

19 A. I do. I'm surprised -- I was surprised when he
20 showed it to me. I think I probably made a mistake when I
21 was typing it up. Mr. Brewer has never been considered a
22 member of BMF.

23 MR. THORNTON: Thank you, sir. I have nothing
24 further.

25 THE COURT: Re-recross or whatever it is?

1 MR. HOOD: I don't think it would do any good, Your
2 Honor.

3 THE COURT: All right. Thank you, sir. You may
4 step down.

5 MR. THORNTON: I ask he be allowed to step down and
6 return to the stable.

7 THE COURT: Yes.

8 THE WITNESS: Thank you, Your Honor.

9 MR. THORNTON: Your Honor, at this time the State
10 calls Jeremiah Fraser to the stand.

11 JEREMIAH FRASER,

12 having been duly sworn, testifies as follows:

13 THE CLERK: Please state and spell your name for the
14 Court's record.

15 THE WITNESS: Staff Sergeant Jeremiah Fraser,
16 F-r-a-s-e-r.

17 DIRECT EXAMINATION

18 BY MR. THORNTON:

19 Q. Staff Sergeant, who do you work for, sir?

20 A. I work for the Beaufort County Sheriff's Office in
21 the criminal investigation.

22 Q. I'm going to hand you what's been marked as State's
23 Exhibit 1 and 2 and ask you if you can identify those for me?

24 A. Yes, sir, I can. These are Miranda forms.

25 Q. And are they Miranda forms in particular?

1 A. These are the standard forms that we use prior to
2 questioning anybody. We will read them their Miranda rights.
3 This is a department form that we use that lays out the
4 person's Miranda rights. After we read them each of their
5 rights, we have them initial that they understand. And
6 that's what we use prior to questioning.

7 Q. Are those Miranda rights, are they tailored to any
8 specific person, those two in particular, State's 1 and 2?

9 A. These Miranda forms are both for Travis Polite.

10 Q. And is that the defendant in this case?

11 A. It is, yes, sir.

12 Q. Now, as to State's Exhibit No. 1, does your
13 signature appear anywhere on that document?

14 A. It does. I'm listed as the first witness on this.

15 Q. And as to State's 1, is that form a form that you
16 read to Travis Polite?

17 A. It is, yes.

18 Q. What date was that, sir?

19 A. On October 19th, 2012, at approximately 11:10.

20 Q. And did you have occasion to interview Travis
21 Polite?

22 A. I did.

23 Q. And who else was with you, if anybody?

24 A. Investigator Rice was with me as well.

25 Q. And was that interview videotaped?

1 A. It was, yes, sir.

2 Q. Did you question Mr. Polite in relation to his
3 connection to this case?

4 A. Yes, we did.

5 Q. I'm going to ask you, are there certain rights that
6 are listed on that form like you see on television that get
7 read to people?

8 A. Yes. Would you like me to read it?

9 Q. I would, sir, please.

10 A. It starts out, under the statement of rights, says:
11 You have the right to remain silent. Anything you say can
12 and will be used against you in a court of law. You have the
13 right to have an attorney present before or during
14 questioning. If you cannot afford an attorney, one will be
15 appointed for you before any questioning if you wish.

16 Under that is the waiver of rights, which says: Do
17 you understand each of these right side as I've explained
18 them to you?

19 Followed by: Having these rights in mind, do you
20 wish to talk to us now?

21 Mr. Polite initialed each of the points under the
22 statement of rights. And he indicated yes to both questions
23 under the waiver of rights and signed the form.

24 Q. All right, sir. And did he talk to you?

25 A. He did, yes.

1 Q. And without going into a lot of details, it's
2 obviously the tape has been made, what did he tell you, if
3 anything?

4 A. During our first interview with him, he denied any
5 involvement in this incident.

6 Q. Did he deny any involvement, did he deny -- how
7 about knowledge, did he say anything to you about it?

8 A. If I remember right, he denied any knowledge, any
9 affiliation, anything with it, if I remember correctly.

10 Q. All right, sir. I'm going to show you what's been
11 marked as State's Exhibit No. 2. And ask you is that also in
12 reference to the interview you had with Travis Polite?

13 A. It is. This one was conducted on October the 23rd
14 at 1:15 in the afternoon.

15 Q. And as to both of these statements, Mr. Polite, he
16 was in custody when you were talking with him; is that
17 correct?

18 A. Yes, he was.

19 Q. And is that why you read him his Miranda rights
20 form?

21 A. Yes.

22 Q. As to the second statement, I don't believe your
23 signature appears on that, does it?

24 A. No, it doesn't.

25 Q. However, was it read to Travis Polite on that

1 occasion as well in your presence?

2 A. Yes, it was.

3 Q. And are those -- were those same rights -- is it the
4 same form as the State's 1 is?

5 A. Yes, it is.

6 Q. And were the same rights read to Mr. Polite?

7 A. Yes.

8 Q. And let me ask you this something. Had you gone
9 down there to interview him, or did he request somebody to
10 come talk to him?

11 A. For the second interview, he requested somebody to
12 come back and speak with him.

13 Q. Did he request you by name or did he request
14 somebody else and you went instead?

15 A. I believe he just requested investigators to come
16 down and speak with him related to this case.

17 Q. And did you go talk to him the second time?

18 A. I did, with Investigator Rice.

19 Q. And would you characterize the second time you went
20 and talked to him as the same story, that he didn't know
21 anything and didn't participate, had nothing to do with it,
22 or was the story different?

23 A. It was completely different.

24 Q. And let me ask you something. State's 1 and 2, I
25 know you signed number 1, you did not sign 2, but it was done

1 in your presence. Have these been altered in any way since
2 then?

3 A. No, sir.

4 Q. Are they accurate copies of the Miranda rights forms
5 that were read?

6 A. Copies, yes, sir.

7 Q. Did Mr. Polite seem to understand what your
8 questions were?

9 A. He did.

10 Q. Was he able to converse with you?

11 A. He was.

12 Q. Did he appear to be under the influence of any
13 alcohol or drugs when you've talked to him?

14 A. No, he didn't.

15 MR. THORNTON: Your Honor, at this time I move
16 State's 1 and 2 into evidence.

17 THE COURT: Without objection?

18 MR. HOOD: No objection.

19 (State's Exhibit 1 is moved into evidence.)

20 (State's Exhibit 2 is moved into evidence.)

21 BY MR. THORNTON:

22 Q. Staff Sergeant Fraser, I'm going to hand you what's
23 been marked -- apologize. Staff Sergeant Fraser, I'm going
24 to hand you what's been marked as State's Exhibit No. 42 and
25 43, can you identify what those disks are copies of?

1 A. I can, these -- the first one you handed me, 42, is
2 the video interview we conducted first, a copy thereof I
3 believe. And the second one is the audio interview which was
4 the second interview we conducted.

5 Q. And at my request, in preparation for trial, have
6 you reviewed both of those interviews?

7 A. Yes.

8 Q. And are those accurate copies of your discussions
9 with Mr. Polite?

10 A. Yes, sir.

11 MR. THORNTON: Your Honor, at this time I'm going to
12 ask that State's Exhibit 42 and 43 be moved into evidence.

13 THE COURT: Without objection?

14 MR. HOOD: Yes, Your Honor, subject to anything that
15 I might hear that I didn't hear.

16 THE COURT: I understand.

17 (State's Exhibits 42 and 43 are moved into
18 evidence.)

19 MR. THORNTON: Court's indulgence please.

20 THE COURT: All right.

21 MR. THORNTON: Thank you very much, Staff Sergeant
22 Fraser. I appreciate it. Please answer any questions Mr.
23 Hood has for you.

24 THE COURT: Cross-examination.

25 CROSS-EXAMINATION

1 BY MR. HOOD:

2 Q. How long have you been with the Sheriff's
3 Department?

4 A. About 13 years.

5 Q. About 13 years. And you are a Staff Sergeant in the
6 investigation; is that correct?

7 A. Yes, sir.

8 Q. Okay. And when you initially brought Mr. Polite in,
9 you advised him of what he was suspected of; is that
10 correct?

11 A. Yes, sir.

12 Q. And that was murder; is that correct?

13 A. Yes, sir.

14 Q. And that was kidnapping?

15 A. Yes, sir, that sounds right.

16 Q. And armed robbery?

17 A. Yes, sir.

18 Q. And he immediately said: I didn't have nothing to
19 do with nothing. I wasn't there. I didn't do anything?

20 A. During the first interview, yes, sir.

21 Q. Okay. Okay. Thank you.

22 A. Yes, sir.

23 MR. THORNTON: Nothing further, Judge. I ask he be
24 excused.

25 THE COURT: Yes, you may be excused.

1 THE WITNESS: Thank you, sir.

2 MR. THORNTON: Andrew Rice.

3 ANDREW RICE,

4 having been duly sworn, testifies as follows:

5 THE CLERK: Please state and spell your name for the
6 court record.

7 THE WITNESS: Andrew Rice, R-i-c-e.

8 DIRECT EXAMINATION

9 BY MR. THORNTON.

10 Q. Detective Rice -- Court's indulgence. I apologize,
11 Judge.

12 Were you involved in two separate interviews with
13 Travis Polite?

14 A. Yes, sir.

15 Q. And do you see Travis Polite in the courtroom here
16 today?

17 A. I do; he's seated right over here.

18 Q. Is he the person that you talked to on two separate
19 occasions?

20 A. Yes, sir.

21 Q. I'm going to hand you what's already been introduced
22 into evidence State's 1 and 2. Are those the Miranda forms
23 you read to him?

24 A. They are. I didn't read them to him.

25 Q. I'm sorry. That were read to him in your

1 presence?

2 A. Yes, sir.

3 Q. Did you, in fact, sign both of those forms?

4 A. I signed the one of them. The other one I
5 witnessed.

6 Q. All right, sir. While you were discussing the
7 charges against Mr. Polite, did you promise him anything or
8 threaten him in any way to get him to talk to you?

9 A. No, sir, I did not.

10 Q. Did anyone else in your presence?

11 A. No, sir.

12 Q. Did he seem to understand all your questions?

13 A. Yes, sir, he did.

14 Q. And was he able to converse with you and talk to
15 you?

16 A. Yes, sir.

17 Q. And did he agree to talk to you?

18 A. Yes, sir, he did.

19 Q. And was that on both occasions?

20 A. Yes, sir.

21 Q. Now, the first interview that you conducted with
22 Travis Polite, is that one that was videotaped?

23 A. Yes, sir.

24 Q. And the second interview, was that done on
25 audiotape?

1 A. Yes, sir.

2 Q. Where was the second interview done at?

3 A. The second was completed at the detention center,
4 the Beaufort County Detention Center.

5 Q. I'm going to hand you what's already in evidence
6 State's Exhibit 42 and 43, and ask you, are those the copies
7 of those interviews?

8 A. Yes, sir, they are.

9 Q. Obviously, this is going to be on the tape, but one
10 of the things that I wanted to ask you about that's on there
11 and, frankly, I was going to ask Staff Sergeant Fraser and
12 didn't, so let me ask you, on one of the things that in the
13 first interview, I believe, that you discussed at great
14 length and say several times to Mr. Polite, did you talk to
15 him about cell phone and that basically that you can put him
16 at the scene by his cell phone?

17 A. Yes, sir, we did.

18 Q. Was that true?

19 A. No, sir, it wasn't.

20 Q. Would that be what would be termed a bluff?

21 A. It was, it was a bluff during the interview.

22 Q. And do sometimes -- do you sometimes lie to
23 defendants?

24 A. Yes, a lot of times during the interviews, we are
25 completing it with a suspect or a person of interest, we

1 often sometimes will bluff or use things that may not be true
2 that might make the person think we know more than we do to
3 either get further facts in the case and maybe get a
4 confession.

5 Q. During the first interview, did Travis Polite
6 indicate that he knew anything about this or had participated
7 or anything?

8 A. The first interview he didn't.

9 Q. And did that change substantially in the second
10 interview?

11 A. Yes, sir, it did.

12 MR. THORNTON: At this time, Your Honor, they've
13 been introduced into evidence, I'm going to go ahead and
14 publish them to the jury. Your Honor, for the record, for
15 Court's information, obviously, there are spots in any of
16 these interviews that nothing is going on and the person is
17 just sitting in the room. We have edited out anything where
18 he was just by himself and only the relevant portions on this
19 case, as the Court has instructed me, and that's what we will
20 be playing for the jury.

21 THE COURT: All right, sir.

22 And the first one you are going to play is estimated
23 to last how long?

24 MR. THORNTON: I've been informed by someone far
25 smarter to me about this stuff it's 37 minutes long.

1 THE COURT: Okay. Ladies and gentlemen, are you
2 going to be okay for 37 more minutes?

3 (Jury indicates in the affirmative.)

4 (Video Playing.)

5 MR. THORNTON: One of the bailiffs asked me if I
6 could turn it up. I can't. This is as loud as my system and
7 the clerk's system as it will go. I apologize, but that's as
8 loud as it is. I can check one thing if the Court will allow
9 me.

10 THE COURT: Sure.

11 MR. THORNTON: Your Honor, if you will give me two
12 minutes, I will try something. We have a backup set of
13 speakers. If you will allow me, I will take one minute and
14 we will redo it real quick.

15 THE COURT: The problem here is worth a few minutes
16 to see if we can get it. Do you all agree with that?

17 (Video Playing.)

18 MR. THORNTON: I will take just a moment to switch
19 over to the other one. I don't know if you want to find out
20 if they need a break.

21 THE COURT: Might be a good time. The next one will
22 be approximately --

23 MS. SWANSON: I believe it's 16 minutes, 30 seconds,
24 sir.

25 MR. THORNTON: It's somewhere between 15 and 20

1 minutes, Judge, long.

2 THE COURT: Do you want to take a short break?

3 Let's do it.

4 (Whereupon, the jury leaves open court at 3:50 p.m.)

5 THE COURT: All right. We will be at recess for
6 about ten minutes then.

7 (A recess transpired.)

8 THE COURT: Jurors' all ready.

9 MR. THORNTON: We are ready. It was a misstatement.
10 I'm glad we went ahead and took a break. It's 55 minutes,
11 not 15 minutes.

12 THE COURT: I wondered how you cut out --

13 MR. THORNTON: I didn't think that sounded right,
14 but we are ready to go when you are, Judge.

15 MR. HOOD: My client is in the restroom.

16 THE COURT: We are not quite ready.

17 (Whereupon, the defendant is present.)

18 THE COURT: All right. Let's bring our jury in.

19 (Whereupon, the jury returns to open court at 4:10
20 p.m.)

21 THE COURT: Welcome, ladies and gentlemen, I believe
22 we are ready to play another DVD or CD.

23 MR. THORNTON: We are, Your Honor. And I apologize,
24 I knew 15 didn't sound like. It's 50 minutes. So it's
25 probably a good idea we took the break when we did.

1 (Audio Playing.)

2 BY MR. THORNTON:

3 Q. Sergeant Rice, is this the audiotape of the second
4 interview?

5 A. Yes, sir, it is, at the detention center.

6 Q. And this occurred some time after the initial
7 interview, like days, a week, two weeks?

8 A. About three or four days after that the first
9 interview we had.

10 (Audio playing.)

11 THE COURT: You may call your next witness.

12 MR. THORNTON: Thank you, Your Honor. I have
13 nothing further for this witness.

14 THE COURT: I'm sorry. I forgot we had a witness
15 here.

16 Cross-examination.

17 CROSS-EXAMINATION

18 BY MR. HOOD:

19 Q. Mr. Rice, how are you?

20 A. Good, sir. How are you?

21 Q. Good. On the first day of the interviews there, you
22 were basically there because you had arrested Travis for a
23 murder charge, kidnapping charge, and an armed robbery
24 charge; is that correct?

25 A. Yes, sir.

1 Q. Okay. Okay. And then the second time, you actually
2 went for somebody else to see Travis in the jail; is that
3 correct?

4 A. Yes, sir. On the 23rd, we received an inmate
5 request form from Mr. Polite to the Sheriff's Office asking
6 for Detective Gobel, who wasn't available. So that's why
7 myself and Staff Sergeant Fraser went over there to talk with
8 him.

9 Q. Were you familiar with why Travis wanted to talk to
10 Officer Gobel or anybody else?

11 A. No, sir, not at the time, just that he wanted to
12 speak.

13 Q. Were you familiar with the letters --

14 MR. THORNTON: Objection, Your Honor, unless he can
15 show a foundation, he's going to describe letters that this
16 officer may or may not have any knowledge of.

17 MR. HOOD: I was just going to do that.

18 MR. THORNTON: Once the cat is out of the bag, it's
19 kind of hard to re-call it.

20 THE COURT: Are you getting ready to go somewhere
21 with that?

22 Q. I was just asking, were you aware of any matters
23 concerning his wife and his family being threatened or
24 anything of that nature?

25 A. Later on I became aware of that.

1 Q. Okay. Okay. All right. So they were letters from
2 Oowee; is that correct?

3 A. I'm not sure they were from Oowee. I was aware of
4 letters that weren't from Oowee.

5 Q. Okay. Okay. All right. Now let's go back, shift
6 gears a little bit. Did you know Brandon Singleton?

7 A. Yes, sir, I did.

8 Q. And Brandon has dreads, doesn't he?

9 A. Off and on.

10 Q. And he had them that particular period of time; is
11 that correct?

12 A. He may have. I don't recall if he did or not.

13 Q. Okay. All right. Now, when you and Sergeant Gobel
14 were together and you were doing the identification of
15 Travis, you put together the lineup; is that correct?

16 A. Me and Staff Sergeant Fraser were together, yes,
17 sir.

18 Q. But you left the room and went and -- no, wait a
19 minute. No, no, no. When Brewer now -- talking about
20 Brewer, you were in an interview with Sergeant Gobel?

21 A. Yes, sir.

22 Q. Yourself and Brewer?

23 A. Yes, sir.

24 Q. Do you recall that?

25 A. Yes, sir, I do.

1 Q. Okay. And he had just said, okay, I give up, I'm
2 going to tell you, Travis did it; is that correct?

3 A. Basically, yes, sir, sums it up.

4 Q. Something along that line. Okay. So you then leave
5 the room to put together a lineup; is that correct?

6 A. Yes, sir.

7 Q. Okay. You get the lineup together. You come back
8 into the room; is that correct?

9 A. Yes, sir.

10 Q. You look down at Brewer and you ask him, did he have
11 dreads; is that correct?

12 A. I think I did, yes, sir.

13 Q. Okay. Now, why did you ask him, Brewer, if this
14 person who he was identifying had dreads as being the
15 shooter?

16 A. I don't recall. I believe -- I don't know if there
17 was another suspect that we had that we were looking at, if
18 there were other names we were discussing in that interview,
19 but clarifying also to make sure that the lineup I put
20 together was one of Mr. Polite without dreads or with dreads,
21 depending on who he had seen.

22 MR. HOOD: Okay. I think that's it. Thank you.

23 THE WITNESS: Thank you.

24 REDIRECT EXAMINATION

25 BY MR. THORNTON:

1 Q. When you did that lineup, you asked that question so
2 you could make sure it was a fair lineup, that you didn't
3 have Mr. Polite by himself and everybody else with dreads or
4 the reverse, Mr. Polite with dreads and nobody else with
5 dreads; is that right?

6 A. Yes. I wanted to make sure it was Mr. Polite with
7 or without, and that it was correct and updated.

8 Q. Were you present when he picked out the picture?

9 A. Yes, I was.

10 Q. Who did he identify?

11 A. Mr. Polite, Travis Polite.

12 MR. THORNTON: Thank you. Nothing further.

13 THE COURT: Anything else?

14 MR. HOOD: Nothing.

15 THE COURT: Thank you. You may step down.

16 Solicitor.

17 MR. THORNTON: At this time, the State calls Dr.
18 Marie Tormos to the stand.

19 LEE MARIE TORMOS,

20 having been duly sworn, testifies as follows:

21 THE CLERK: Please state and spell your name for the
22 Court's record.

23 THE WITNESS: Hi. My name is Lee Marie Tormos,
24 T-o-r-m-o-s.

25 DIRECT EXAMINATION

1 BY MR. THORNTON:

2 Q. Dr. Tormos, where do you currently work?

3 A. I work at the Medical University of South
4 Carolina.

5 Q. And what do you do for -- is that also known as
6 M.U.S.C.?

7 A. M.U.S.C., yes.

8 Q. And what do you do for M.U.S.C.?

9 A. I am a forensic pathologist.

10 Q. And as part of your job there, do you perform
11 autopsy?

12 A. I do.

13 Q. Dr. Tormos, because of the late hour, we will do
14 this a little quicker than we normally did. I called you Dr.
15 Tormos. Do you have a medical doctorate?

16 A. Yes, I do. If I may.

17 Q. You can.

18 A. I went to college, did a four-year bachelor's degree
19 in science. Then I completed my doctorate degree in Puerto
20 Rico. Then proceeded to do a subspecialty training in
21 pathologist, also in Puerto Rico. Was in private practice as
22 a pathologist and a medical examiner for three years. Then
23 came to South Carolina, completed my subspecialty training of
24 forensic pathologist.

25 I'm currently a doctor. I'm board-certified in,

1 clinical pathology and forensic pathology.

2 Q. And have you -- how many autopsies do you think
3 you've performed in your career?

4 A. Over 1,000.

5 Q. And have you ever been qualified as an expert and
6 testified in court in South Carolina or elsewhere?

7 A. Yes, sir.

8 Q. About how many times?

9 A. About 20.

10 MR. THORNTON: Your Honor, at this time I ask Dr.
11 Tormos be recognized as an expert in the field of forensic
12 pathology.

13 MR. HOOD: We have no objection.

14 THE COURT: Motion is granted.

15 And, ladies and gentlemen, this will permit the
16 witness to testify or offer her opinion about matters in the
17 area of her expertise.

18 MR. THORNTON: Thank you very much, Your Honor.

19 BY MR. THORNTON:

20 Q. Dr. Tormos, as an initial matter, is it sometimes
21 necessary for you as a pathologist to testify regarding
22 autopsies that one of your co-workers and other pathologist
23 has actually performed?

24 A. Yes.

25 Q. Is that due to sometimes you may be called to

1 different court rooms at the same time, and is that like an
2 accepted practice?

3 A. That is accepted practice and it happens with
4 certain frequency.

5 Q. And in this case, you did not perform the autopsy on
6 Quantize Greer personally, did you?

7 A. I did not.

8 Q. Have you been given and have you had several --
9 actually, several months to study all of the documentation,
10 all the reports from Dr. Riemer who did do the pathology on
11 Mr. Greer?

12 A. Yes, my colleague, Dr. Riemer performed the autopsy
13 on Quantize Greer. And I have had ample chance to review her
14 notes, the autopsy pictures, radiographs and all the
15 documentation in the file.

16 Q. And have you also met me, met with me on at least
17 one, if not two occasions, and discussed the findings?

18 A. Yes, I have.

19 Q. Doctor, I'm going to ask you, if you would, would
20 you please go through the autopsy report as it relates to the
21 evidence of injury?

22 A. Okay. The autopsy report examines -- the autopsy
23 will examine the body on the outside and the inside. In
24 terms of the evidence of injury, we found that the decedent,
25 Quantize Greer, had a gunshot wound to the chest. And it is

1 described as the chest. But keep in mind that the gunshot
2 wound is actually back here, right behind the armpit, kind of
3 in the chest level, but a little bit further back than the
4 mid-axillary line.

5 That entrance gunshot wound was described and
6 documented. The bullet actually goes into the torso back
7 here on the left side. It goes through the fifth rib. And
8 then the projectile separates into two fragments.

9 The core of the projectile, the lead core, actually
10 continues its pathway through the upper lung, through the
11 heart, both ventricles. And then it becomes embedded under
12 the skin just to the left of the sternum, while the jacket is
13 found loose within the chest cavity.

14 Q. Was there an exit wound?

15 A. There is no exit wound. The projectile was
16 recovered.

17 Q. And was there any excess amount or any fluid, blood
18 or otherwise, that was retained in any of the body cavities?

19 A. Yes. At the time of the autopsy, there was half a
20 liter of blood in the left chest cavity. Now, this might
21 have been more, but because the doctors tried to perform
22 extensive, extensive resuscitation, part of it included
23 opening the left chest cavity and trying to do a cardiac
24 massage or internal CPR directly to the heart. And in that
25 process, may have drained part of the blood that was in the

1 chest cavity. At the time of the autopsy, we found half a
2 liter.

3 Q. And would you -- sometimes I know these questions
4 seem dumb to a doctor, but would this type of injury be one
5 that you would consider to be fatal?

6 A. This is completely fatal.

7 Q. Doctor, as part of your job, or in this case, Dr.
8 Riemer's job when you were doing an autopsy, do you determine
9 cause and the manner of death?

10 A. Yes, sir, we do.

11 Q. And was a determination in your expert opinion and
12 in the expert opinion of Dr. Riemer in this case made to both
13 cause and manner of death?

14 A. Yes. The cause of death was the gunshot wound to
15 the chest and the manner of death was the homicide.

16 MR. THORNTON: Thank you very much, Doctor. I have
17 no further questions. Please answer anything Mr. Hood has
18 for you.

19 THE COURT: Cross-examination.

20 MR. HOOD: Have a nice day.

21 THE COURT: Thank you, Doctor. You may be
22 excused.

23 MR. THORNTON: Your Honor, if I could have one
24 moment, please.

25 Your Honor, at this time the State rests.

1 THE COURT: The State rests.

2 Ladies and gentlemen, we are getting ready to recess
3 for the day. I'm going to ask you to be back at 9:30 in the
4 morning. Is anybody going to have a problem with that? 9:30
5 is okay?

6 in the jury room, when you come in in the morning,
7 or you can do it today if you want to stay, I would like for
8 you to see if you can select someone to serve as foreperson
9 for the jury. It must be one of the 12 of you, as opposed to
10 the alternate. I don't want you to get into a fuss or fight
11 over it. If you can't do it, I can appoint somebody. But if
12 y'all could do it, I'd appreciate it.

13 I remind you, between now and tomorrow in the
14 morning, don't let anybody talk to you about the case. You
15 don't talk to anybody about the case, even among yourselves.
16 Don't do any research on the case. Don't do any research on
17 anything relating to the case.

18 Ladies and gentlemen, I will see you in the morning
19 9:30.

20 (Whereupon, the jury leaves open court at 5:20 p.m.)

21 THE COURT: Does the State have any motions the
22 State wishes to make? Are you prepared?

23 MR. THORNTON: The State has no motions.

24 THE COURT: I'm sorry, I said the State; I'm looking
25 at the defense.

1 MR. HOOD: I thought you got me mixed up.

2 Judge, I'm going to make a motion to -- for you to
3 grant a directed verdict at this time based on the fact that
4 we believe if you take the light -- the evidence in the light
5 most favorable to the State, they have failed to reach their
6 burden of being able to show that, in fact, there was a
7 kidnapping or a robbery or a murder committed by Mr. Polite.

8 THE COURT: All right, sir. Do you want to respond?

9 MR. THORNTON: Briefly just. I will just say
10 there's certainly evidence, if the jury choose to believe it,
11 you have an eyewitnesses that said Travis Polite's shot him
12 in the process of doing a robbery. And there is certainly
13 other circumstantial evidence that would back that up if the
14 jury chose to believe that. I think that in and of itself
15 creates a jury issue and I respectfully request you deny Mr.
16 Hood's motion.

17 THE COURT: I agree. And, therefore, I'm compelled
18 to deny your motion.

19 MR. HOOD: Thank you, Your Honor.

20 THE COURT: Anything further?

21 MR. HOOD: There was one other thing we were going
22 to put on the record concerning the testimony of Detective
23 Sergeant Gobel. Do you remember when he made the comment
24 about --

25 THE COURT: We were. Thank you.

1 MR. HOOD: And --

2 THE COURT: We had a side bar.

3 MR. HOOD: That's correct. And you admonished the
4 jury and ordered the court reporter to strike that portion of
5 his testimony and for the jury, told the jury to disregard
6 that. I sort of still object to that, because I think that
7 there is no curative instruction that can be given to a jury
8 when the item is already before them. The cat is out of the
9 bag and there's no way to successfully put it back in the bag
10 to keep the jury from using that in their own minds as some
11 type of evidence. That's all I have to say about that.

12 THE COURT: Just for the record, why don't you
13 refresh our memories as to the specific objection you had,
14 the language, excuse me. It was a response, voluntary
15 response, I think, on the part of the witness.

16 MR. HOOD: That's correct. He -- the question was
17 asked by the State, and then during the course of the answer,
18 there was a change, if I recall correctly, and he went off on
19 this other tangent, if I remember correctly.

20 MR. THORNTON: We were talking about the process of
21 putting together and how many photos there were. And what
22 you indicated, and I believe what he said -- obviously, the
23 court reporter would have it verbatim -- but I believe what
24 Detective Gobel said was he indicated Travi, and I think he
25 said something to the effect of, and we are familiar with

1 him. And then he said something about from being in the area
2 about the time that Mr. Hood objected. And that's when we
3 went to the side bar. I believe that is what he said. He
4 said something to the effect that he was familiar with who
5 Travi was.

6 MR. HOOD: That they were familiar with him.

7 MR. THORNTON: They were, yes, sir.

8 THE COURT: They were, right. And that was the
9 reason we had the side bar.

10 MR. HOOD: Correct.

11 THE COURT: You objected to it.

12 MR. HOOD: You sustained it.

13 THE COURT: I sustained the objection and went
14 further.

15 MR. HOOD: Correct.

16 THE COURT: All right. Anything else?

17 MR. HOOD: Nothing that I'm aware of.

18 THE COURT: Any other motions of any kind?

19 MR. HOOD: Not at this time.

20 THE COURT: Would this be an appropriate time for me
21 to discuss with your client his right to testify?

22 MR. HOOD: I think so. I've given him an
23 opportunity to think on it overnight, Judge.

24 THE COURT: Mr. Polite, your name is Travis Polite?

25 MR. POLITE: Abe Travis Polite.

1 THE COURT: Abe, okay. At this time I'm going to
2 explain to you certain of your -- certain rights of yours.
3 And if at any time you don't understand what I'm saying or
4 want further clarification, just please let me know. If you
5 want further detail, please let me know.

6 But we have now, or in the morning, have reached the
7 stage in your trial where you may present your defense. I
8 need to tell you that you have the right to claim the
9 protections given to you by the Fifth Amendment to the
10 Constitution of the United States. The amendment states in
11 part as follows: No person should be compelled in any
12 criminal case to be a witness against himself. And this
13 means you cannot be required to testify in this case. You
14 have the right to testify, but no one can make you testify.
15 And this is a personal right that you have and no one can
16 waive this right except you.

17 If you decide to testify, you would be subject to
18 the same rules that govern other witnesses. And you may be
19 examined or cross-examined on any relevant issue in this
20 case.

21 In addition, if you have any convictions involving
22 dishonesty or a false statement or for crimes punishable by
23 imprisonment for more than one year, and the Court determines
24 that the probative value of admitting the evidence outweighs
25 its prejudicial effect to you, the solicitor would be able to

1 introduce your record to attack your credibility.

2 If you decide to testify, the decision on your part
3 must be made freely and voluntarily, with the knowledge of
4 the protections given to you by the Fifth Amendment and the
5 consequences of your decision to testify.

6 If you decide not to testify, I will instruct the
7 jurors they cannot give that fact, the fact that you didn't
8 testify, any consideration whatsoever. Because there's to be
9 absolutely no prejudice to you because you did not testify.

10 This matter or this issue is left entirely up to you
11 as to whether or not you testify. You can discuss this with
12 your attorney, friends, anyone else you wish to. But the
13 final decision is up to you. So far, do you understand what
14 I've said?

15 MR. POLITE: Yes, sir.

16 THE COURT: Do you have any questions about what
17 I've said?

18 MR. POLITE: No.

19 THE COURT: Have you had a chance to discuss with
20 your lawyer these matters?

21 MR. POLITE: Yes, sir.

22 THE COURT: And it's my understanding just based on
23 what your lawyer said a minute ago that you may make a final
24 decision between now and tomorrow morning; am I correct in
25 that?

1 MR. HOOD: That's correct, Your Honor.

2 MR. POLITE: Yes, sir.

3 THE COURT: Thank you, sir. Is there any issue
4 about his record?

5 MR. HOOD: I don't think so.

6 THE COURT: The issue of a record?

7 MR. THORNTON: He does have a record, Your Honor.
8 The only one I think I could use would be a 2006 grand
9 larceny, 1,000 to 5,000. He got four years suspended to two
10 years probation. So I think certainly that would qualify.
11 It's within 10 years. It also carries more than a year. And
12 I think it's evidence of dishonesty also it's been held. So
13 I think it would fit under any of the three category.

14 MR. HOOD: Your Honor, there's one minor problem.
15 We don't think -- this is Travis Abe Polite.

16 THE COURT: Say that one more time.

17 MR. HOOD: This individual's name on this document
18 is Travis Abe Polite.

19 THE COURT: Not Abe Travis?

20 MR. THORNTON: I will verify that.

21 MR. HOOD: Abe Travis.

22 MR. THORNTON: That's documents from my office. I
23 think that was just a typo, but I will verify that with
24 Mr. Hightower.

25 MR. HOOD: And my client says it's not him.

1 THE COURT: Not him. All right.

2 MR. THORNTON: Mr. Hightower indicates it is him, so
3 we can have that -- I can have Mr. Hightower come up and
4 testify at the appropriate time if he decides to testify, but
5 there's no question it is Mr. Polite.

6 MR. HOOD: Well, I guess it would be a simple matter
7 much checking with the probation office --

8 THE COURT: You would think.

9 MR. HOOD: -- to see who the probation officer was.
10 This guy, whoever he is, find out whether it's this guy.

11 MR. THORNTON: I will check. You know, if that's
12 not him, Judge, then we won't have an issue. But none of it
13 is going to matter if he doesn't get up to testify anyway,
14 but I will have the answer for you in the morning.

15 THE COURT: All right. Let's just assume for a
16 minute -- let's take another minute and assume a few things.
17 Let's assume that whether he testifies or not, right off the
18 bat, the case is ready to go to the jury. Does anybody have
19 any special request for charge yet?

20 MR. THORNTON: I do, Your Honor. It's a charge on
21 the hand of one is the hand of all, I think it would apply to
22 this case or any case where you have multiple actors, some
23 doing some things and some doing others.

24 MR. HOOD: Well, Your Honor, I would disagree. I
25 would object to the instruction of hand of one is the hand of

1 all. It's basically one of these. You've heard of all. You
2 know, didn't make any difference who did the shooting and the
3 killing. The hand of all means all of them fed the same and
4 they are all guilty of the crime.

5 THE COURT: Well, let's think about this. Is
6 there -- you tell me, Solicitor. Is there evidence -- I have
7 to think about it. Is there evidence that someone else other
8 than -- well, I guess there is, the defendant's statement.

9 MR. THORNTON: Yes, sir. And there's also evidence
10 that he -- obviously, we think that Travis Polite is one of
11 two shooters, but the shooter, based on Antonio Brewer's
12 statement, but Walter Tucker, Oowee is the one who is alleged
13 to have held the gun to Jessica Power's head. And, of
14 course, he denies even being in there, but if he is the other
15 person in the living room, which we believe that he is,
16 then -- and Walter Tucker is the one over Jessica Power with
17 the gun to her and the one threatening her and taking the
18 money from her, then certainly the other person in the room
19 that's assisting him would, also under the hand of one hand
20 of all, be just as guilty of Mr. Tucker of both kidnapping
21 and armed robbery.

22 THE COURT: I had that down as a potential charge,
23 but Mr. Hood --

24 MR. HOOD: Judge, there's a little bit wrong with
25 what he stated there. The facts of this case as we have them

1 right now, and this is from Mr. Brewer himself, is that when
2 he saw Travis Polite, he looked out of this window allegedly
3 and peaked, he saw him coming around the trailer to the car.
4 The door to the trailer that this other victim, this Jessica
5 Power, is right out in front of the car. So this person
6 would come out the door and be right there at the car. He
7 would not have seen him coming around the trailer into the
8 car. She very distinctly put it on the map for the jury to
9 see that he came from the area behind the road and around.
10 That's what he claims.

11 So I mean -- and the lady inside, Ms. Power, she
12 can't identify this person as being the person who was in
13 there with this Oowee character. So it's really not
14 contradictory evidence because she's saying he went out the
15 door. This guy Polite is saying -- I mean, Brewer is saying
16 he came around from the backside, front side of the house to
17 the car.

18 MR. THORNTON: That's actually not what he said.
19 What he said was he came from that direction. He didn't say
20 he came around all the way from behind, because he wouldn't
21 have seen which way he left out.

22 But even that so, even taking Mr. Hood's argument in
23 and of itself, let's say that Mr. Brewer is correct; he came
24 around that side, he being Travis Polite's, pulled the
25 trigger as part of the armed robbery going on, even if he

1 wasn't the person in the living room, which I believe he was,
2 and I think that's what the evidence shows, if he's outside
3 killing one of the victims while somebody else is inside
4 robbing the victims, I think the law would be pretty clear
5 that he would be responsible for the kidnapping regardless of
6 which direction he came around the trailer.

7 I mean, to follow that logic, if I took -- if Mr.
8 Hood and I went in and did a bank robbery and I was in one
9 room killing people and Mr. Hood was robbing them, I'm not
10 guilty of the bank robbery. And that's a ridiculous way to
11 look at it. The law clearly says if they were all involved
12 in a common scheme or purpose, and the murder or killing is a
13 reasonable -- is a reasonable, foreseeable circumstance of
14 that, then they are all the guilty under the hand of one is
15 the hand of all. Regardless of whether he was or was not in
16 the living room during the robbery of Jessica Power, he would
17 still be responsible for it if the jury believes that it was
18 part of them all acting as a group.

19 So the defense of, well, my guy didn't rob her
20 because he was outside killing somebody else, I don't think
21 really cuts the mustard, Judge, under the facts of this case
22 or the law. Thank you.

23 THE COURT: All right. I'm -- at this point, I'm
24 thinking about charging it, and probably am going to, so be
25 prepared for it. I'm going to think about it a little

1 further.

2 Anything else?

3 MR. HOOD: I want an instruction on mere
4 presence.

5 THE COURT: Well, I've got a lengthy, more lengthy
6 than the one handed up by the State, charge on the hand of
7 one that wraps into it, something akin to mere presence. You
8 know, y'all can actually find these on line. I didn't know
9 if you need the judicial website.

10 But go ahead. I didn't let the solicitor respond.

11 MR. THORNTON: Your Honor, you are going to have to
12 forgive me, I don't know that you are required to charge mere
13 presence because you charged hand of one is the hand of all.
14 And I didn't research that.

15 What I will say, in the mere presence charge that
16 I've seen that's a standalone, I think it was out of the Hill
17 case in '77, it's: Although mere presence at the scene is
18 not sufficient to establish guilt as an aider or abettor,
19 presence at the scene of the crime by a prearrangement to
20 aid, encourage, or abet is.

21 And what the interesting thing is, Judge, all our
22 witnesses, of course, point to Travis Polite, either
23 circumstantially or directly. That's obviously why they
24 testified. Mr. Polite's own statement says that he knew
25 about it and went up there and he was up there to be with

1 these guys because he was scared. So, you know, even by his
2 own definition, I don't think he's merely present at the
3 scene.

4 He was, as he said, he's the babysitter of all the
5 weed. He was up there to be part of the drug business they
6 had going on. So I don't think he was merely present at the
7 scene even by his own statement. That being said, Judge, I
8 don't want to run too far across the line. If there's some
9 case law says it has to be charged when you charge hand of
10 one is the hand of all, I won't object to it.

11 THE COURT: Y'all can find this on line, like I
12 said, if you want to. Court reporter is going to kill me,
13 but if I were to charge it from my charge book, it would be:
14 If a crime is committed by two or more people who are acting
15 together in a common crime, the act of one is the act of all.
16 The person that joins with another to accomplish an illegal
17 purpose is criminally responsible for everything done by the
18 other person which occurs as a natural consequence of the
19 act -- excuse me, the acts done in carrying out the common
20 plan or purpose.

21 If two or more people are acting together, assisting
22 each other in committing the offense, the act of one is the
23 act of all; or as it's sometimes said, the hand of one is the
24 hand of all.

25 Prior knowledge the crime is going to be committed

1 without more is not sufficient to make a person guilty of
2 that crime. Mere knowledge that another person is going to
3 commit a crime, even if the defendant is present when the
4 crime is committed, is not sufficient to convict the
5 defendant as a principal. The principal is shown by acts or
6 constructive presence at the scene as a result of a prior
7 arrangement. Therefore, finding of a prior arranged plan or
8 common scheme is necessary for finding of guilt as a
9 principal.

10 The State must prove beyond a reasonable doubt by
11 competent evidence the theory of hand of one is the hand of
12 all. Principal in a crime is one who either actually commits
13 the crime or is present, aiding or abetting or assisting in
14 the commission of a crime. When a person does act in the
15 presence of and with the assistance of another, the act is
16 done by both.

17 Where two or more are acting with a common plan or
18 intent are present at the commission of the crime, it does
19 not matter who actually commits the crime; all are guilty.
20 The hand of one is the hand of all.

21 Present at the commission of a crime means to be
22 sufficiently near to aid and abet and assist in the
23 commission of the crime. However, mere presence at the scene
24 is not sufficient to convict one as a principal in the theory
25 of aiding and abetting.

1 Intent is also a necessary element, for there must
2 be a common design or intent to commit the crime. And the
3 crime must be committed pursuant thereto with the person
4 aiding and abetting by some overt act. Intent means
5 intending the result which actually occurs.

6 MR. THORNTON: The State has no objection to that
7 charge, Judge.

8 THE COURT: Kind of includes what you are asking
9 for, doesn't it?

10 MR. HOOD: Yes.

11 THE COURT: All right. We've got an identification
12 charge. We've got the statement of the defendant. We've got
13 to decide whether -- they decide whether it was willful,
14 willfully given or not. We've got prior inconsistent
15 statement charge by a witness, armed robbery, kidnapping,
16 murder, expert witness charge.

17 On the murder charge -- let me find that, felony
18 murder charge.

19 MR. THORNTON: Your Honor, I would think so, but I
20 know that we've dealt with this with Judge Cooper in another
21 case we had as far as what that can be used for and what it
22 can't be used for. I think it would probably apply in this
23 case. If you go to a drug deal with no drugs and you are
24 armed to do a lick and somebody dies as a result, I think
25 that's a foreseeable consequence. So I think it's -- I would

1 like to think about it and research it, because obviously I
2 don't have it with me. But I do think it's certainly
3 potentially a charge.

4 THE COURT: We will come back in the morning and
5 talk about it.

6 Anything else? No? 9:15.

7 MR. THORNTON: Thank you, Your Honor. The State
8 will be ready.

9 THE COURT: Let's adjourn until 9:15.

10 (Whereupon, the proceedings adjourn for the day.)

11 (Whereupon, the proceedings continue on January 22,
12 2015.)

13 (Foreperson selected is Juror Number 69.)

14 (Whereupon, the defendant is present.)

15 THE COURT: I am informed by the bailiff that the
16 jurors imposed Juror No. 69, Christie Cohen, to be the
17 foreperson, who I believe she's actually served before.

18 Before we get to the issue of jury charges,
19 Mr. Hood, has your client made a decision yet about his
20 desire to testify or not?

21 MR. HOOD: He has, Your Honor.

22 THE COURT: And, Mr. Polite, your decision then is
23 what?

24 MR. POLITE: No.

25 THE COURT: To not testify; is that right?

1 MR. POLITE: Yes.

2 THE COURT: All right. Thank you, sir.

3 Mr. Hood, have you decided whether you are going to
4 present any evidence?

5 MR. HOOD: I do not intend to, Your Honor. I would
6 like to point out, though, also that the allegation yesterday
7 concerning conviction by Mr. Polite that we had some concern
8 about, he had concern about, me and him, and I didn't think
9 it was him, being him, I didn't think it was him either that
10 had that conviction, and turns out that I was right and he
11 was right. They were wrong.

12 THE COURT: Does it make any difference?

13 MR. THORNTON: No, sir, it doesn't. I'm sure Mr.
14 Hood feels better now. I was going to point that out to the
15 Court. Basically, it is on his rap sheet under the correct
16 birth date, the correct social. All the information came
17 back as correct. We ran it at least once, if not two more
18 times, contacted the department of probation and parole who
19 checked their system. He was in their system, but it's a
20 misnomer. It was put in incorrectly. So Mr. Hood is
21 correct. His client, I think there's -- I think it's Abe
22 Travis versus Travis Abe or something. It was put in
23 incorrectly. So he should probably get that straight on his
24 rap, because it shows up on all of his stuff and everything
25 checks. It's just the wrong person.

1 THE COURT: Which brings us back to the issue of
2 charges. My recollection is the State was going to think
3 more, research the issue of felony murder.

4 MR. THORNTON: Judge, I think "hand of one is the
5 hand of all" should absolutely go in. And I am fine with
6 felony murder also going in. I think they do have some very
7 similar language, but frankly, I'm not going to argue either
8 way. I think it's fine to go in but if the Court would
9 rather leave it out, I'm not going to argue real hard for it.
10 I do think it's appropriate based on the law and the language
11 in the standard felony murder rule charge, but I will leave
12 that part to the Court's discretion.

13 But I absolutely think that "the hand of one is the
14 hand of all", which incorporated the mere presence argument
15 that the Court gave yesterday, is sufficient and would be
16 applicable in this case.

17 THE COURT: Mr. Hood.

18 MR. HOOD: Judge, I object to the felony murder
19 charge. I don't think -- it's redundant. I mean, we are in
20 the same thing; it's either a murder or it's not a murder.
21 And we had the same circumstances. So, I mean, why charge
22 them with undue, unnecessary, you know, more charges that,
23 you know, would basically confuse the jury. So I would
24 object to that based on that basis.

25 THE COURT: All right. I won't charge it then.

1 MR. HOOD: And then I would like to say that, you
2 know, I object to really combining "the hand of one" with the
3 mere presence charge. Now, you had indicated that you had
4 taken this out of the judge's bench book; is that correct?
5 And I just request a separate charge on mere presence. Even
6 though you've included it in that charge that you have for
7 "the hand of one is the hand of all, I think that it's
8 appropriate just to give a separate charge also on mere
9 presence.

10 THE COURT: You mean take it out of my charge with
11 the -- take it out of "the hand of one" charge?

12 MR. HOOD: Well, not necessarily. I mean, you could
13 leave it in there because you make reference to it. But then
14 I think it's appropriate to give another instruction on
15 exactly what is mere presence.

16 MR. THORNTON: Obviously, Judge, I object to that.
17 Mr. Hood wants the defense charged twice. I think leaving it
18 in the context of the hand of one is the hand of all doesn't
19 highlight either, because they are both contained in the same
20 charge. I think when you start to split them out, then one
21 or the other is going to be alleged to be highlighted. And I
22 certainly don't think it's appropriate to charge the defense
23 part of it twice.

24 MR. HOOD: Also, I further have an objection to "the
25 hand of one/hand of all".

1 THE COURT: Right.

2 MR. HOOD: And the reason I am saying this is simply
3 because the indictment alleges that Travis Polite shot. The
4 arguments and the testimony that the State went after was
5 always Travis Polite shot. Now they want to say, well, if
6 you don't believe that Travis Polite shot him, but you
7 believe that somebody with Travis shot him, then you can find
8 him guilty anyway. Just isn't fair.

9 THE COURT: But there is evidence, is there not?

10 MR. HOOD: Well, you know, again, I'm saying the
11 same thing. I mean, the law may give you that opportunity,
12 but I think it's wrong. I think it's unfair and very
13 prejudicial to any accused person to be handicapped with that
14 particular way of approaching it, particularly when the State
15 has, you know, presented evidence to show that he is the
16 shooter.

17 Now, that jury --

18 THE COURT: The State presented evidence also that
19 he wasn't the shooter through his own statement, isn't that
20 right? The State presented it?

21 MR. HOOD: That's correct. That's correct. But
22 he's just denying that he was the shooter.

23 MR. THORNTON: Not to belabor the point, Judge, but
24 what Mr. Hood said in his initial -- what we want to do is
25 give the jury that option -- is absolutely correct. And

1 that's what the law says.

2 THE COURT: Okay. We argued a little bit of this
3 yesterday. So I am going to charge as indicated yesterday,
4 the hand of one, along with the mere presence, same charge
5 that I referred to yesterday, that I actually read into the
6 record yesterday.

7 Anything else?

8 MR. HOOD: Well, we need to first make a motion for
9 a directed verdict in the defense case. And I assume we can
10 do that now, as opposed to having the jury come out and send
11 them out and me make the objection, I mean, at that time. It
12 doesn't matter to me, but however you would like to handle
13 it.

14 THE COURT: But you do want to rest in front of the
15 jury, or not?

16 MR. HOOD: I'm saying I don't particularly care.
17 You could tell them that I have rested, you know. It really
18 doesn't matter. But -- I can do it and we will just -- if
19 you want to just go right straight into the instructions.
20 What I would like to do now is go ahead and make motion for a
21 directed verdict, renew my motion for a directed verdict and,
22 you know, continue to press with my objections to, you know,
23 the curative instruction that you gave, also with respect to
24 the charges which we have just discussed.

25 You know, I'm objecting to the hand of one is the

1 hand of all and to not giving a separate mere presence
2 instruction.

3 THE COURT: All right. I understand that. There
4 are no additional grounds not previously stated?

5 MR. HOOD: Not previously stated.

6 THE COURT: And I understand the motion is for the
7 same reasons as stated before. I would deny your motion.

8 MR. HOOD: You know, I'm sure that you are going to
9 give the -- there was one other instruction that I failed to
10 mention, and that was prior inconsistent statements.

11 THE COURT: Right, prior inconsistent statements,
12 let me find that. I do have it checked as one. Yes, there's
13 been evidence presented that the witness has made prior
14 statements that are not consistent with the witness's present
15 testimony?

16 MR. HOOD: Correct.

17 THE COURT: Yeah, and so on and so on, yes.

18 MR. HOOD: And I assume you are going to give beyond
19 a reasonable doubt and things of that nature; is that
20 correct?

21 THE COURT: Right, absolutely.

22 MR. HOOD: What's the standard that you are going to
23 use?

24 THE COURT: I usually do two. I usually say, first
25 of all, that reasonable doubt is the kind of doubt that would

1 cause a reasonable person to hesitate to act. I do that.
2 But then I go ahead and say that the State has the burden of
3 proving guilt beyond a reasonable doubt. And tell them some
4 of them may have served in civil cases where they were --
5 that charge. Proof beyond a reasonable doubt is proof that
6 leaves you firmly convinced of a defendant's guilt, and so
7 on.

8 MR. HOOD: Okay. And you mentioned yesterday about
9 the failure of the defendant to testify, that you would give
10 an instruction in that area; is that correct?

11 THE COURT: That they can't hold that against him,
12 is that what you mean?

13 MR. HOOD: Correct, correct.

14 THE COURT: Yes.

15 And I can give it or not give it, depends what --
16 does anybody want a charge on expert witnesses?

17 MR. HOOD: Well, they didn't expert anything.

18 THE COURT: They testified, but what did they
19 testify to? Yeah. Does anybody want it?

20 MR. THORNTON: Doesn't particularly matter to me,
21 Judge. I think it's fine. I think we had some expert
22 testimony, but it was mostly either stipulated to or the
23 qualifications were stipulated. And you, I believe, covered
24 that when you said an expert is allowed to give their
25 opinion. So I don't think either --

1 THE COURT: Doesn't make any difference?

2 MR. HOOD: I don't care.

3 THE COURT: Oh, I forgot about this. You know, this
4 day and age, more often than not, my experience has been that
5 jurors end up being handed verdict forms. My thoughts were
6 to hand them the indictments as it used to be done and just
7 merely tell them the verdict is either guilty or not guilty
8 on each one of the documents, and sign. I will be glad to
9 hear from y'all on that.

10 MR. THORNTON: State doesn't object to that,
11 Judge.

12 MR. HOOD: Judge, also, you probably noticed during
13 the course of the trial, several of the jurors were taking
14 notes, and I would like for you --

15 THE COURT: Not much, but they took -- a couple of
16 them took a little bit of notes.

17 MR. HOOD: There were two of them that I spotted
18 also. But just to be on the safe side, I would like for you
19 to give an instruction to them that the use of the notes are
20 specifically for the taker of the note and not to, you know,
21 be used by the rest as a, you know, definitive answer to
22 whatever question they have about these notes.

23 THE COURT: All right. Tell me more how you want it
24 now.

25 MR. HOOD: Well, that it is supposed to be used for

1 their own purposes and not to be shown to or, you know,
2 provided to other witnesses to influence their decision, only
3 specific piece of evidence. And the fact that they wrote it
4 down there, that doesn't mean that that's what actually
5 occurred in the courtroom.

6 THE COURT: The note should not take precedence over
7 the collective memory of the jury.

8 MR. HOOD: Correct.

9 MR. THORNTON: Only objection to that, Judge, would
10 be that I don't believe I ever heard the charge, this is just
11 for you and you can't show it to anybody. Obviously, they
12 are going to discuss their notes. I do think it's
13 appropriate to give them the instruction that their notes
14 should not take precedence over someone else's memory. And
15 the mere fact they took a note shouldn't be used in
16 preference to someone else's memory or something to that
17 effect. I forget what the standard charges are. I never
18 heard, these are just your notes and you shouldn't show them
19 to anybody.

20 THE COURT: I haven't heard that either.

21 MR. HOOD: Well, Judge, the written words sometimes
22 takes precedence over the oral word that the memory has to go
23 back and try to put together.

24 THE COURT: Okay.

25 MR. HOOD: I think that is all, Judge.

1 THE COURT: Anything from the State?

2 MR. THORNTON: Nothing else, Judge.

3 THE COURT: What do you all think, about ten minutes
4 each to argue, 30 minutes?

5 MR. THORNTON: Judge, I can't imagine I will go more
6 than 30 minutes. If I do, it would surprise me, not more
7 than that, maybe a little bit less.

8 THE COURT: Jurors are apparently all present.
9 State ready for the jury?

10 MR. THORNTON: The State is ready, Judge.

11 MR. HOOD: Ready, Your Honor.

12 THE COURT: Let's bring the jury in.

13 (Whereupon, the jury returns to open court at 09:34
14 a.m.)

15 THE COURT: Good morning, and welcome, ladies and
16 gentlemen. The bailiff handed me a note indicating that they
17 believe -- the bailiff believes that the jury has selected
18 Juror No. 69, Christie Cohen, as foreperson of the jury. Is
19 that correct? And would you be Ms. Cohen?

20 THE FOREPERSON: Yes.

21 THE COURT: It's a wise decision of the jury. I
22 agree. Thank you for serving.

23 If you recall, ladies and gentlemen, yesterday the
24 State rested, meaning the State had presented to you all of
25 the evidence the State was going to present to you. The

1 defense now has the opportunity, should they decide to do so,
2 to present evidence. Of course, they are not required to do
3 that.

4 MR. HOOD: Your Honor, at this time the defense
5 would also rest. Thank you.

6 THE COURT: The defense rests, ladies and gentlemen,
7 which means you have heard, seen and received all of the
8 evidence that you are going to see or receive. Nothing else
9 will be presented to you by way of evidence.

10 What remains to be done is the attorneys will make
11 their closing arguments to you, then I will tell you about
12 the law that applies in the case. Then you will retire to
13 the jury room and begin your deliberations.

14 And we will begin with the State.

15 MR. THORNTON: Thank you, Your Honor.

16 September the 6th of 2012, Quantize Greer was shot
17 in the chest, and he bled to death in Taylor's Mobile Home
18 Park. Also on September the 6th, Jessica Power was robbed at
19 gunpoint, kidnapped -- and we will talk about what the law is
20 here in a little while -- also, in Mobile Home. That's what
21 this case is about.

22 What this case is not about is about what ultimately
23 happens to Walter Tucker, also known as Oowee, or Brandon
24 Singleton. Those cases will be decided by a jury just like
25 you on another day. This case is about what Travis Polite

1 did on September the 6th of 2012, and what the evidence in
2 this case shows you about him.

3 Another thing this case does not deal with, Mr. Hood
4 questioned Sergeant Gobel about it: Well, you didn't charge
5 Antonio Brewer. Why didn't you charge Brewer?

6 That's not what this case is about either. Because,
7 ultimately, the charging decision is left to law enforcement
8 and to the Solicitor's Office. And whether or not Mr. Brewer
9 does or doesn't face charges is not what this case is about.
10 What this case is about is what Travis Polite did on
11 September the 6th of 2012.

12 What is it we know, by the way, that cannot be
13 disputed? Let's start there. We know there's a Taylor's
14 Mobile Home Park that's in Beaufort County. Got an aerial
15 view of it. We know there was a crime committed there on
16 September the 6th of 2012. We know that Jessica Power and
17 Quantize Greer went to lot 60 in Taylor's Mobile Home Park on
18 that day to buy marijuana.

19 Based on statements that you watched and listened
20 to, you know that Travis Polite was in the marijuana
21 distribution business, 60 pounds worth that he admitted to,
22 with Walter Tucker and Brandon Singleton. Out of his own
23 mouth, you know that he was there. He originally denied it.
24 And we will talk about that in a little while, but he told
25 you he was there.

1 He also said, if you listened -- and all of you I
2 saw were either taking notes or listening, I think everybody
3 picked up on this. What else did he say? He knew about it.
4 He knew what was going to happen before they got there. And
5 even if he hadn't told you that, you would still know that he
6 knew. Why? Who was the babysitter of the weed? Who kept
7 track of all the marijuana that they had? Travis Polite did.

8 So if you are going armed, because he said he knew
9 Oowee had a gun, you are going armed to a drug deal to sell
10 drugs and you don't take any drugs, what is likely going to
11 happen? But you don't have to figure that out, because he
12 told you he knew. And then he said Jessica was in on it and
13 Antonio was in on it. Everybody was in on it, apparently,
14 but Travis.

15 You know that multiple shots are fired. Every
16 witness said more than one shot was fired. Some said more
17 than others. Jessica said she heard a bunch. Antonio, I
18 believe, said a bunch. The other witnesses, Kalin Higgs,
19 Mr. Roche, they talked about three. Remember Mr. Roche said,
20 I heard one and then there was kind of a pause and then I
21 heard two more. But you know there are multiple shots fired.
22 Nobody can deny that.

23 What else do you know? You know that Quantize Greer
24 is parked in front of the trailer at lot 60. That's not in
25 dispute. He had his ID card and everything hanging. They

1 talked about his driver's license, all that stuff is there.

2 You know that.

3 What else do you know? You know there's a bullet
4 hole in the driver's side window. We'll do it a little old
5 school instead of me going up to the Elmo for today. There's
6 a bullet hole in the driver's side window.

7 You know that at the scene there are 50 and \$20
8 bills spread out right next to the car blowing in the wind
9 when law enforcement gets there. They put cones on them.
10 You think that would be consistent with a robbery?

11 You know that there's what appears to be a bullet
12 hole in the trailer right next-door, which, by the way, is on
13 the tract between Quantize Greer's car and the trailer where
14 this happened and where his body was ultimately found, where
15 he collapsed and died. Money that was found on scene right
16 outside the car. Do you remember where Jessica said that the
17 money was found or the money was? It was in that center
18 console, both doors, bullet hole in the window.

19 Something else interesting that you know. Quantize
20 Greer -- you should assume that Quantize Greer had a gun that
21 day. Okay? There was a gun found -- I don't know that there
22 was testimony of it -- several feet away from his body. But,
23 clearly, there was testimony about the gun. There's pictures
24 of the gun in there. But what's interesting about that gun
25 is, it's got a full clip and no round in the chamber. And

1 what any of you that know anything about semi-automatic
2 firearms know -- and we had the sergeant testify to it: Can
3 you fire that without chambering a round first? No. And if
4 it had been chambered, there would still be one in there.
5 Even if you fired that chamber round, another round is kicked
6 in until it's empty. So you know that that gun hadn't been
7 fired, at least not in those few minutes.

8 You also know that Quantize Greer had no gunshot
9 residue on his hands. He was tested. You know that neither
10 Jessica nor Antonio Brewer were found to have gunshot residue
11 on their hands. They were both tested.

12 You know that Quantize Greer was shot in the left
13 side of his chest. You know the bullet pierced his heart.
14 And you know that his chest cavity filled up with blood. You
15 know he died. You know that he was murdered. You know where
16 it happened. You know how it happened. And you know who was
17 on the scene at the time, even though he lied about it. You
18 know all of those things as facts.

19 So let's get to the only part in this case that
20 really still matters. What did Travis Polite do that day?
21 Because everything else you already know. Out of his own
22 mouth, you know he was there. You know he was in the drug
23 business with his co-defendants. And you even know that at
24 least three people -- Mr. Brewer got up, and we will talk
25 about each witness in a few minutes, said he saw four. He

1 saw the guy that didn't get out of the car with the gray hat,
2 the driver. He saw Tucker Singleton and Travis Polite. Mr.
3 Polite even tells you about three of them. So you know at
4 least those three.

5 So let's talk about those. You've got Walter
6 Tucker, Brandon Singleton, and Travis Polite out of his own
7 mouth which you heard and watched, you know those three are
8 there. So the question is, what did they do? And
9 specifically in this case, what did Travis do? And the only
10 way you can figure that out, ladies and gentlemen, is by
11 listening to the evidence.

12 Do you remember when I first got up here and I told
13 you, you know, what the evidence is is what the testimony is.
14 You know, when Mr. Hood was questioning Jessica specifically,
15 he repeatedly kept saying, but you said it was a turban in
16 another statement. Do you remember that? He said it two or
17 three times. But he was wrong, she didn't. And that's why
18 what lawyers say isn't evidence. What I say isn't evidence.
19 If I say something that is incorrect based on your memory, or
20 you want to hear it again, you can hear it again. If I say
21 something to a witness and it isn't backed up by what the
22 witness says and I don't produce anything else, it's the
23 testimony, that's what's evidence. Even this argument to you
24 that I'm making now is not evidence. It's simply my take on
25 what the evidence shows.

1 Let's go through some of the witnesses. Mr. Roche,
2 do you remember, works right across the street, hears one
3 gunshot, pause, two more gunshots. Runs out, watches, sees,
4 I think he said, dark-colored -- he said really dark blue or
5 black, sees the dark car come out and takes off down the
6 road. Didn't ask him very many questions, but there was one
7 really important one we will get to in a minute: Did you see
8 anybody get out of the car? What was his answer? No, didn't
9 stop; just talk off.

10 What about Kalin Higgs? She also hears several
11 shots. And I want to make sure I wrote this down to make
12 sure I get this right. She sees a man running with a gun in
13 a white do-rag. And I asked her, and she wrote down on her
14 statement -- Mr. Hood pointed that -- do-rag. And I asked
15 her, could it have been a white T-shirt? What did she say?
16 Yes, had a do-rag on his head which could have been a
17 T-shirt, a white wife beater and jeans, saw the victim on the
18 ground.

19 And we talked about the victim who had on a white --
20 we think white, it's blood-stained now -- white wife-beater
21 with gray shorts. Do you remember the cargo shorts that came
22 out with the belt? And I asked her, hopefully y'all remember
23 this: Now, we are talking about two different people? Yes,
24 I saw the victim on the ground, but I saw the man running
25 away and he had his gun in and forgive me, I think she said

1 gun in the right hand -- and was taking the thing that was
2 wrapped around his head off with his left as he ran. Then,
3 of course, she talked about the fact that I believe it was
4 her brother-in-law that went out and applied pressure to the
5 chest and the wound of Quantize Greer.

6 What about Jessica? You know, Jessica buys
7 marijuana. She sells it sometimes too. Does that make her a
8 good person? No. Does that mean she ought to be robbed and
9 kidnapped? No. And, again, we will talk about kidnapping
10 just to make sure everybody understands what the law is on
11 that.

12 She goes to that trailer, Taylor's Mobile Home Park,
13 with Quantize Greer to buy marijuana. Didn't try to hide
14 that fact from you. Do you remember we talked about that in
15 the opening, because that's what it is. That's what
16 happened. And what you are here to do is to find the truth,
17 the truth of what happened that day and the truth of the
18 responsibility of Travis Polite for what he did.

19 Jessica gets there. The money is counted out. She
20 goes up. She says Oowee is outside. When she walks in, she
21 says the door is slammed. And I won't go through everything
22 she testified to, because I know you were all paying
23 attention, but just some important points I want to review
24 with you. The door is slammed behind her. She's in there by
25 herself. She says Oowee basically pulls a gun on her. And

1 she sees another person in a chair across the room who she
2 doesn't know. Now, here's what's interesting. Travis Polite
3 says there were only three people that went up there that
4 day, Travis, Brandon Singleton, and Oowee, Walter Tucker.
5 Y'all remember that? Those are the three people he confirmed
6 two or three times.

7 Jessica knows Brandon Singleton. And she identified
8 Oowee as the person who let her in. According to Travis,
9 he's the only person left, because Antonio Brewer, remember,
10 is in the back. And she saw him running and she was running
11 behind him on the way out. And do you remember I asked her:
12 That was not the guy in the chair, was it? No.

13 What did she say he had on? A white T-shirt, a
14 skinny dark-skinned black male with a white shirt on his
15 head. He's the one that goes out first. He goes out first.
16 She hears a shot. Oowee gives him the gun. He goes out. He
17 hears a shot. Oowee goes out right after him. She hears
18 more shots. She takes off. She sees Antonio Brewer. She
19 didn't identify him by name, obviously, but she sees a man,
20 not the man that she saw in the living room, as he's tearing
21 out the back, and she follows behind him.

22 One other thing she said, said he was scared, that
23 he looked scared, just as scared as I was as they were
24 tearing out.

25 Antonio Brewer, you know, Antonio Brewer just

1 absolutely told a bald-faced lie when he first got to the
2 detective. The first thing he did was lie to his wife. Mr.
3 Hood pointed that out. Mr. Hood also pointed out that he's
4 had a child out of wedlock, because that's real relevant to
5 what we are doing here today. He made up a story to try to
6 explain to his wife why there might be police tape wrapped
7 around their house, and he lied.

8 And Sergeant Gobel caught him in the lie. Took him
9 a little while. Had to get phone records and showed him:
10 No, no, no, you weren't kidnapped, you are here checking
11 lottery numbers, you are in the back, nobody's kidnapped you.
12 And he comes clean.

13 Probably one of the toughest jobs a jury has to do
14 is figure out credibility, figure out who is telling the
15 truth and about what. But that's in this case the vast
16 majority of what you are going to have to do. You know, Mr.
17 Hood got up in his opening and he told you: There's not one
18 piece of physical evidence that puts my client in the trailer
19 or puts my client even at the scene.

20 That is absolutely true. But his client puts his
21 client at the scene. You heard that on tape in an interview.

22 Without going through all of his testimony,
23 obviously, he had inconsistent statements. You know, we
24 asked him, basically, he lied. Yes. How did he act on the
25 stand? That's for you to judge. Because what counts for

1 your purpose, what was his credibility when he testified?
2 When he swore to tell the truth and he told what he said
3 happened that day, just like Jessica Power, just like any
4 other witness that gets up there, just like Sergeant Gobel.

5 When Sergeant Gobel said -- and Mr. Hood pointed
6 out, well, this right here says Brewer's a suspected BMF. I
7 don't know if you saw the surprised look on his face, if you
8 looked at it. What is his testimony? Yeah, that's probably
9 a typo, I'm not aware of any evidence that says that. So is
10 he lying too? Is it a mass conspiracy of every person
11 involved in this except Travis Polite?

12 Antonio says, and I won't again go through all of
13 it, what he adds is that he identifies Travis Polite. You've
14 got the photo lineup, what they did, that he picked out. He
15 identifies Travis Polite as the shooter.

16 And there's some discrepancy. Jessica Powers says
17 the guy went out the front door. Mr. Brewer, I believe,
18 testified -- again, go with your memory, not mine -- looked
19 like he was going around the end when he came up to the car.
20 Is it possible that they saw it differently? Sure. Is it
21 possible that he also walked out and came back or that the
22 victim in the case, Quantize Greer, might have been out of
23 the car and he got back in the car maybe, you know, to get
24 some more money? There's just no way to know.

25 Is it a discrepancy? Yes. Does it matter? No.

1 Because what did he say? I saw Travis Polite shoot him. He
2 also identified him as white shirt wrapped around his head.
3 I believe he said white shirt or towel.

4 Here's what's interesting. What else did Antonio
5 Brewer say? He said he saw Travis Polite -- hopefully y'all
6 remember this -- as he was tearing out the back running. Do
7 you remember that? That he was not in the car. He was
8 running next to the car.

9 What person did Kalin Higgs see running with the
10 gun? She saw a person with a white wife beater with a white
11 do-rag on his head with a gun in his hand.

12 And you saw those trailers are right next to each
13 other. So there's another person that nobody else has
14 identified wearing jeans, a white wife beater and a white
15 thing over his head with a gun in his hand running in the
16 exact split second that occurred?

17 You know, one of the things, it's not just being
18 able to say this is the person. It's also being able to say,
19 this is the group of people that were there and we know it's
20 not this one, this one, and this one. And that only leaves
21 Travis Polite, because we know who was there out of his own
22 mouth.

23 You know, something else that's interesting is, when
24 you are looking at it, there's not a lot of physical evidence
25 in this case. There's some. There's not a lot. When you

1 are looking at what witnesses say, you have to look at, well,
2 this witness, are they more or less believable based on
3 things other people say? For instance, Antonio Brewer said,
4 I saw Travis; he shot Quantize Greer. He didn't use the name
5 obviously. He said he shot the victim. And I saw him
6 running. And he describes what he's wearing. Is that made
7 more or less believable based on what Kalin Higgs said she
8 saw? The State's position is it's made more believable.

9 What about when he said how Quantize Greer was shot?
10 He said he was shot through the driver's side window. Is
11 there a bullet hole in the driver's side window? Would a
12 bullet wound to your left side of your chest be consistent
13 with somebody pointing a gun at you while you were seated?
14 Is it made more or less believable by the testimony of the
15 pathologist in this case?

16 You know, there are a lot of things that Travis said
17 that just don't add up and they don't make sense. And we are
18 going to give technology a try here. We will see how it
19 works.

20 (Video Playing.)

21 MR. THORNTON: They couldn't put me there because I
22 ain't never been there.

23 (Video Playing.)

24 MR. THORNTON: Man, I ain't been there. I ain't
25 been with Brandon.

1 (Video Playing.)

2 MR. THORNTON: I guess he's never ridden in a car
3 like this Impala, that he then later said, yeah, I was there,
4 I was in it.

5 (Video Playing.)

6 MR. THORNTON: Really?

7 (Video Playing.)

8 MR. THORNTON: So first it's, I don't talk to them.
9 I don't hang out with Brandon. I never been in no car with
10 Brandon. I never been there. I don't know what you are
11 talking about.

12 But now, who were the three that were there? Who?
13 The dude, Oowee; it was me, Oowee and Brandon. You know the
14 three that were there. And you know the two that Jessica
15 knew and the one that she didn't. And the one that she
16 didn't know was Travis Polite.

17 He says Jessica was in on it. Do you remember that?
18 Jessica is in on it. If she's in on it, then she's in on it
19 with Oowee because he said the whole reason he thought that
20 was because she and Oowee were together. Right? Well, if
21 she was in on it, then why in the world would she ID Oowee as
22 the robber and fail to be able to ID him? Wouldn't Travis --
23 poor Travis, the one person in this whole thing who did
24 nothing but just sat chilling in the car with Brandon.
25 Didn't do anything. Wouldn't he be the perfect person to

1 finger? Wouldn't he be the perfect person to say, no, no,
2 no, Travis did it, right, because Travis is scared. He's
3 scared of Oowee. He's scared of Tucker. He's scared.
4 That's the only reason he did anything, which, of course, it
5 took us awhile to get to.

6 If he's so scared and he's the patsy and he's the
7 one that didn't do anything, why would you ID your boyfriend
8 as the person who robbed you and not be able to ID him? Does
9 that make any sense if she was in on it?

10 When she appeared before you and testified,
11 credibility, demeanor, how did she act? How did she behave?
12 How did she answer questions? Did it appear to you that she
13 was in on it? Did her behavior and the way she answered
14 questions indicate to you that she was in on it? Would that
15 make sense to ID your boyfriend and your other friend,
16 Brandon Singleton, and not ID the one perfect patsy, the
17 perfect fall guy, the guy who did nothing, that is scared of
18 everybody, wouldn't do nothing to you? Why wouldn't you
19 identify Travis Polite if you were in on it? Why call your
20 current boyfriend, who then calls 911, and says, she's hiding
21 behind a trailer, behind my trailer, go get her? Is that
22 consistent with someone who is in on it?

23 Another thing that he says doesn't make sense; he
24 was chilling in the car. Do you remember that? I was just
25 sitting there chilling in the car, and Brandon was in there

1 talking on the phone just chilling. Does that make sense
2 when you know there's about to be an armed robbery of a drug
3 buyer going on in the trailer? Would you just be kicked back
4 in the car right outside where the armed robbery is about to
5 happen? Does that make sense to you?

6 Do you remember when he was asked -- there's several
7 interesting things here you can look at. I know obviously
8 repeatedly he said, I didn't have a gun, I didn't shoot
9 nobody, I didn't rob anybody.

10 But look up there. The beginning of the day before
11 y'all even got over there, y'all robbed the white girl, and
12 he shoots him on the way out; what happened? He said, whoa,
13 man, I didn't rob anybody. And then he does later, right
14 there, he says, no, it was me and Travis and Brandon.
15 Also --

16 MR. HOOD: Your Honor, I hate to interrupt the
17 solicitor's statement here, but where did that transcript
18 come from?

19 MR. THORNTON: It's a demonstrative, Your Honor. If
20 Mr. Hood has an issue with the accuracy, I'm happy to address
21 it with him.

22 MR. HOOD: Should have been addressed before. It's
23 been put out to the jury.

24 THE COURT: I will sustain the objection.

25 MR. HOOD: Thank you, Your Honor.

1 MR. THORNTON: What else did he say that doesn't
2 make any sense?

3 MR. HOOD: It's still up there.

4 THE CLERK: It's off.

5 MR. THORNTON: Whenever you are done.

6 MR. HOOD: It's fine. Yeah.

7 MR. THORNTON: As I was saying, he tells you when
8 he's asked whose in the trailer. Do you remember that? They
9 said, well, who was in the trailer? And he said, it was just
10 Oowee and the guy who owned the trailer and the girl.

11 How would he know that if he was out back in the
12 car? How on earth could you possibly know who was inside the
13 trailer if you are outside in the car? Is that even
14 physically possible? Because he's adamant about who is in
15 there. He doesn't say, I think I saw this person. He says,
16 these are the people that were in there. If he wasn't that
17 person sitting on the couch, how would he know?

18 He also claims that while sitting outside the car,
19 he hears them ask: Hey, does that guy got a gun?

20 Do you remember? Jessica says, nobody asked me
21 that. Antonio said, I heard it was asked; I assumed it was
22 to the girl, but I definitely heard it being asked.

23 Do you remember that? How would he hear that? Even
24 with the windows down, Brandon is talking on his phone,
25 according to him, how would he hear that outside?

1 If he was in the back sitting in the car, Antonio
2 Brewer, Jessica Power tear out the back. It's not disputed.
3 They run out the back. As a matter of fact, if you remember
4 one of the 911 calls -- again, if my memory is different than
5 yours -- I believe the woman on the phone said, and I think I
6 saw my neighbor running the other way toward the back of the
7 lot. Brewer and Powers tearing off out the back door.

8 Did Travis Polite ever indicate that he saw them
9 while he was supposedly sitting in the car that they both saw
10 as they ran back? Do you remember? Both of them identified
11 it. Brewer said, it look like it was rolling or driving
12 away. Power said she saw brake lights when she ran. So she
13 thought it was on. Did Travis Polite ever see them come out?
14 Ever mention it? No. You know why? Because he wasn't out
15 back. He was inside. At that point, he was already out
16 front killing Quantize Greer.

17 He claims he was let out on the road. I talked to
18 you about that a few minutes ago. Mr. Roche, what did he
19 tell you? Works right across the street. I said, did you
20 see anybody stop and get out? No.

21 What is more consistent with the other statements by
22 the witnesses? That he's the one running with the gun in his
23 hand in the white shirt or do-rag, the white piece of
24 clothing around his head.

25 He also says he was scared. You saw him on tape.

1 Did he act like he was scared? Did he sound scared? You got
2 to be the judge of that. Based on what you saw from
3 Mr. Brewer and Ms. Power, was he scared?

4 I'll talk to you a little bit about the law in this
5 case. You've got murder, kidnapping and armed robbery. And
6 murder I think everybody understands. The judge is going to
7 give you the law and you have to follow that law as he gives
8 it to you. So I'm not going to go into too much detail
9 because I don't want to say something incorrect we have to
10 fix. But whatever he says about the law is the law in the
11 state of South Carolina and you have to accept that.

12 Murder is basically the unlawful killing of another
13 with malice aforethought. And we will go through the
14 definition.

15 Armed robbery is your common sense of what you think
16 an armed robbery would be. When you, by force or threat of
17 force, while armed with a deadly weapon, remove something of
18 value from somebody, like money.

19 Kidnapping is basically any restriction of your
20 liberty. It can be force. It could be -- as it was in this
21 case, it could be trickery. But the judge will give you more
22 detail of that. It doesn't -- a lot of people, I think, see
23 television and think it requires you to pick somebody up and
24 move them around. It just requires a restriction of liberty.
25 The judge will get into that.

1 Each of those charges -- and it's something Mr. Hood
2 said, I believe he said in his opening and it may be the one
3 thing we agree on -- each of the charges has to be looked at
4 by you individually. You have to make a decision on each
5 charge as it is to Travis Polite.

6 There's another part of the law that the judge is
7 going to charge you on is called the hand of one is the hand
8 of all. You may have heard that expression before. What it
9 basically means is, if you are acting in concert with another
10 and another person does an act which is a foreseeable
11 consequence of what you are doing, you are all responsible.
12 And it goes back to that old adage, if you lay down with a
13 dog, you wake up with fleas. Everybody understands that one.

14 If you work with a group or you participate in a
15 crime with another person or people, if one of you does
16 something that is a foreseeable event, it's something that
17 makes sense, then all of you are guilty as same as the
18 person. Typically, it's used in cases where someone pulls a
19 trigger.

20 Typical example is, if a bunch of people go in and
21 do a robbery, and one of them kills somebody, even the
22 persons who don't pull the trigger are all -- can be held
23 legally responsible for that murder under the law. And
24 you've heard bits and pieces of testimony.

25 The allegations are from Antonio Brewer that Travis

1 Polite shot Quantize Greer. You also heard that there were
2 other gunshots going off, but he was hit one time. We know
3 that. But we've charged three people with the murder. You
4 know that. You've heard testimony from that. And that's how
5 you can do that. Now, in this case, we have a positive
6 identification from Antonio Brewer that Travis Polite is the
7 one that shoots Quantize Greer.

8 Even if you don't believe that, but you believe that
9 Travis Polite acted with the others in doing the acts, he's
10 still guilty as a principal just as they are. And the judge
11 is going to talk to you about that.

12 But the State's position is that Travis Polite
13 pulled the trigger. That's what Antonio saw. And that's
14 what matches with the other evidence. It's always
15 interesting when I say matches with the other evidence. It's
16 always interesting any time somebody gets up and two
17 witnesses see something different or they have discrepancies
18 in what they saw. A lot of times defense likes to say,
19 somebody is wrong or somebody is lying because there's two
20 different things. But if both of them see the same thing,
21 then they must be colluding together, must be working
22 together. So you can't have it both ways.

23 Now, I'm going to sit down in a minute, ladies and
24 gentlemen. You know, you always feel like you left something
25 out. No matter how fast or slow you go, you always feel like

1 you left something out. And this is my last opportunity to
2 talk to you before you make that decision. Mr. Hood is going
3 to get up in a minute. He's going to have an opportunity to
4 speak with you. So this is it for me.

5 I want to talk to you about why you should care.
6 Any time you have a crime occur where someone who's doing
7 something that they shouldn't be doing gets hurt or gets
8 killed, like we have in this case, there's always a concern
9 on the part of the State that the jury needs to understand
10 why you should care. Why you shouldn't just say, they were
11 out there buying drugs, they deserved what they got. Well,
12 they didn't. We don't have the death penalty for buying
13 marijuana. And that's the price that Quantize Greer paid.
14 We don't have a price for robbery and kidnapping. But that's
15 the price that Jessica paid for buying pot.

16 Do you remember in my opening I told you it's not
17 Quantize Greer and Jessica Power vs. Travis Polite. It's the
18 State of South Carolina vs. Travis Polite. And that's
19 because what Travis Polite is accused of is a violation of
20 state law.

21 That's a pretty crowded trailer park. A lot of
22 people there. Kalin Higgs told you it was her, her
23 brother-in-law, her sister, and their four kids, including
24 her three-month-old. Thank goodness that was not hit.

25 in the state of South Carolina, we do not allow gun

1 fights. We do not allow shootings. We do not allow murders,
2 ever, certainly not in a crowded trailer park in the middle
3 of the day.

4 Now, ladies and gentlemen, in this case, what this
5 case is about is about what Travis Polite did on September
6 the 6th of 2012. He didn't do it because he was scared. The
7 one thing that he said that stood out more than anything else
8 that I want you to remember was, and I'm going to have to
9 paraphrase it, he said he was the babysitter of the weed and
10 he was tired of seeing them make all the money, stacks in
11 bands, and having all the fun.

12 Well, if this is the kind of fun that Travis Polite
13 wants to have, it's time for him to be held accountable,
14 because we don't allow that kind of behavior to go
15 unpunished. And Quantize Greer paid with his life.

16 Thank you.

17 THE COURT: Thank you, Solicitor.

18 Mr. Hood.

19 MR. HOOD: May it please the Court.

20 Travis, I tell you, has no fleas. So don't be
21 concerned with that. I would tell you that exactly what the
22 State is telling you is, as far as the law is concerned, is
23 basically somewhat true. There are other areas which the
24 judge will get into that you need to be aware of. And that's
25 dealing with mere presence at the scene of the crime. You

1 can be there. You can be standing five feet away. And if
2 you are not doing anything or you haven't helped plan it, put
3 it together, somehow be aiding and abetting by being there,
4 such as, I'm the lookout while these guys are breaking into a
5 house or something of that nature, you aren't guilty of a
6 crime. The law will tell you that. So no matter what Travis
7 knew about what they were going to do, makes no difference
8 unless he participated in the planning, the putting it
9 together.

10 Now, let's talk about it. I want to tell you, we
11 talked about Mr. Brewer. And solicitor mentioned that Brewer
12 had identified Travis Polite. Well, did he have a choice?
13 If you recall the testimony, Mr. Brewer never identified
14 either Travis or anybody else initially when he reported it
15 to his wife. He didn't tell who it was when Gobel approached
16 him at the scene after his wife had him come to the scene.
17 He didn't tell them who it was. He only told them who it was
18 later that day after Gobel talks to Jessica Power. Jessica
19 Power is the one who says it was Oowee and it was Brandon
20 Singleton.

21 Then, with that information given, Antonio, you
22 know, what you are telling me just ain't working because she
23 told me X. Okay. All right. It was, Brandon called me on
24 the phone and that's what started this thing.

25 So I'm going to tell you a little bit about why he

1 would want to do that. Why would he want to say that Travis
2 was the one that did the shooting as opposed to Brandon
3 Singleton or Oowee, Walter Tucker, or that mysterious fourth
4 person that he claimed every time, every time, was there?

5 Now, he claimed he was in the car. Remember, Travis
6 saw some black individual walking down the road or coming
7 around the road or something of that nature around the
8 trailer. Don't know who he was or anything else. We do not
9 know who was in that trailer. We don't have any earthly idea
10 because we are relying on the testimony of these people who
11 have all made different statements, completely different
12 statements.

13 Now, so why would Mr. Brewer want to identify Travis
14 out of all these other people? Well, it's very simple. He
15 worked for and was in business with Brandon Singleton. So,
16 you know, he had no choice but to identify him because Ms.
17 Power had already identified him as being one of the guys.
18 Same thing with Oowee.

19 So, Brandon has threatened him. He said -- do you
20 remember what he said? He has guns, you know. And he's
21 afraid of him. He's threatened him before. He's afraid of
22 him. Same thing with Oowee. He's threatened him. He has a
23 gun, and I was afraid of the gun, you know, what was he going
24 to do with it, and da, da, da, da. So he knows that these
25 two guys would do bad things to him. He told you, I don't

1 even really know Travis. You know, I just seen him around.
2 I don't know anything about him. But we know one thing. As
3 he stated, Travis never threatened him. He never said
4 anything to him before any time.

5 So who is the most logical person if you can't name
6 the fourth guy who -- you know, that fourth guy is bothering
7 me, as it has bothered law enforcement. You heard them
8 talking about that, that fourth guy. Well, he must be
9 worse than Walter Tucker was because everybody is a little
10 bit afraid to put this guy's name in the mix. So who is he
11 going to name? It's got to be Travis. Got to be Travis.

12 Then what happens? I'm going to tell you what my
13 theory of this case is here. And this is me talking. You
14 are going to have to use your own judgment, you know, on what
15 you heard up there on that witness stand. But I will tell
16 you that the State is trying to do a hit-and-run, basically.
17 Okay? He says in one breath, Travis shot him, you know.
18 That's the solicitor, shot him, we believe that, we put it in
19 the paper, he shot him, killed him.

20 Then he says, well, you know, if you use the "hand
21 of one is the hand of all" theory, somebody else could have
22 done it and Travis is just as guilty because he was there and
23 participated in this event. Has anybody testified? You
24 know, I mean, Travis -- the only one who has testified is
25 Brewer.

1 Power couldn't identify Travis. He sat there for
2 the whole time. Never been identified, lineups, the whole
3 nine yards. Has she ever identified him? No. How close was
4 she to him? She had to be awful close. Now we have her
5 saying, I don't know who that person was who was sitting in
6 the chair with the shirt around his head, whatever it was
7 around his head, and he looked like it could have been braids
8 or dreads that he had.

9 Do you remember the testimony of one of the officers
10 who interviewed Mr. Brewer? And he had a lineup put together
11 and he was going to take it in to show Brewer Mr. Travis
12 Polite's lineup. And he walks in and he asked him that one
13 question. He says, did he have dreads? And he said no.
14 Okay. Good. Then he goes through the lineup.

15 So they were looking for somebody. And, you know,
16 that's what they had been looking for all along, was that
17 person in that room. Now, could that be that mysterious
18 fourth person? We don't know. We don't know. Do we even
19 know that there was a fourth person in there? Do we even
20 know that beyond a reasonable doubt?

21 Well, you finally have Mr. Brewer, who on the 20th
22 of January, Tuesday of this week, he's in another hearing. I
23 will tell you what is true, he was in there identifying
24 Travis again from the lineup, because you have to do that,
25 you know. And you have to show that it was fair, it wasn't

1 prejudicial, that you didn't have one black guy and four
2 white guys in the lineup and say, which one is the black guy,
3 you know. So that's why he was there.

4 He takes the stand and he testifies under oath. And
5 he says, I saw Travis Polite sitting in the chair. Uh-oh,
6 that's what Ms. Power said, the guy was sitting in the chair.
7 And he had on a white shirt and he had a T-shirt pulled over
8 his head. God, that's what Ms. Power said. I'm thinking,
9 you know, first time I've ever heard it.

10 So, he makes that statement. And then he goes on to
11 say that he reviewed his videotape. And I'm sorry the way
12 it's videotaped for you. I just, you know, can't give you
13 that. But Mr. Polite, he has been identified now as the guy
14 that was sitting in the chair by two people. And then what
15 does Mr. Brewer say? I reviewed that tape with law
16 enforcement, now, prior to coming in here to testify,
17 allegedly. I don't know whether that's true or not. I
18 certainly don't take the statement that he made about
19 identifying Travis Polite sitting in that chair, but where
20 did he get that information from that matched her
21 information, and he never gave it before?

22 Investigator Gobel takes the stand. Did he ever
23 make that statement to you? No. Took a while to get it out,
24 but he eventually came around and said, no, he didn't, never
25 heard that before. The only thing he heard before was the

1 outside, you know, where some guy is running with a towel or
2 a T-shirt wrapped around his head like a turban. That's the
3 only time he says he made that statement. Yes, I got that
4 mixed up with Jessica Power, because they made so many
5 statements. And then I had all the statements right there
6 together. I had them lined up. I had them named, everybody,
7 this and that and the other, had it highlighted where I
8 wanted to go, this and that and the other. And doggone if I
9 didn't inadvertently put that in there. You know, I admitted
10 my mistake. You know, I make mistakes. You know, like
11 everybody else, I'm human.

12 So let me go to the theory of my case. Jessica
13 Power, this all starts with her. She's been involved in that
14 the drug business for some period of time. We know based on
15 her own testimony that the first person who she dealt with
16 was Brandon Singleton. She had an ongoing relationship with
17 Brandon Singleton for a period of -- I don't know -- months.
18 It's a considerable period of time.

19 Then Oowee arrives in town from Atlanta. Why is
20 Oowee coming in here? Oowee is coming here because Brandon
21 maybe is not reporting all of the money back the way he
22 should be or either he is -- he's not handling the money
23 properly, apparently. So Oowee is here to check it and
24 enforce it, make sure the guy's in the other places. See,
25 this is a distribution thing. These guys are big time. You

1 know, they come down here and they enforce the little guys,
2 you know, take care of them. So that's the reason he comes
3 down, to straighten out this mess that's going on in a
4 different county.

5 So, then, actually, Jessica has already gotten
6 another -- I don't know whether she's selling drugs for
7 Mr. Greer or whether she is just buying them from Greer and
8 then selling them out, you know, herself. I don't know how
9 she's -- what the arrangement was between those two, but she
10 told you that's who, you know, she was working with.

11 So then, along comes Oowee. And she put him at a
12 gas station. She meets Oowee and Brandon Singleton and some
13 other guy. We don't know who that is. So, anyway, she now
14 has Oowee who's going to be her supplier. But it's kind of
15 interesting, because she supplies Oowee with drugs and sells
16 them to him, according to her. And she also cells drugs to
17 Brandon Singleton. She said on -- originally said one time,
18 only one time. Then she changes to, oh, well, yeah, could
19 have been other times, yeah, it was at least twice, yeah,
20 maybe more than that.

21 Oowee tells her about all of this great stuff that
22 he's going to get in from wherever and, you know, if anybody
23 needs some, let me know. They exchange phone numbers and
24 everything that first day. So they must have had a pretty
25 good idea who they were dealing with, both of them, you know,

1 back and forth. So they exchange numbers, you know. And
2 then they start visiting each other late at night.

3 She stays several hours into the early morning hours
4 and does whatever she does. We know she's smokes dope. And
5 we know they smoked dope together. And we know she sells
6 dope. She says, I sold the dope, brought it to them because
7 they needed dope.

8 So then, after these rendezvous, however many there
9 were, short time after that, a day, maybe two, don't know who
10 calls who first. But we know that Jessica must call Oowee
11 because he's got the shipment that he's due in. And that's
12 the same one, probably, that perhaps Mr. Brewer was waiting
13 on who he talked about with Brandon Singleton providing a
14 place.

15 But, anyway, she apparently contacts him and says,
16 found somebody who needs some drugs; are you going to be
17 getting new stuff in? He says, yep, going to get it in.

18 So then what happens? Brandon Singleton is there,
19 apparently, I guess. I don't know. I wasn't there; neither
20 were you. We are relying on all these other people to tell
21 this story. But it makes sense because they need a place to
22 do this deal. So who do they call? One of their own. Okay?
23 And that is Mr. Brewer. They start calling him early.

24 Unfortunately, Mr. Brewer had to take his, I guess,
25 girlfriend, who is pregnant, to her OB-GYN appointment. And

1 he left his phone over at his cousin's place charging it. So
2 he couldn't get the messages until he comes back.

3 He gets back, he says, around 11:30 or 12. I think
4 it was probably later than that. But anyway -- or they went
5 somewhere else. Who knows? So he finally realizes that
6 there are calls on his phone from Brandon. He knows Brandon.
7 So he starts calling him back. And finally gets in touch
8 with Brandon. And Brandon says, okay, we want to come over
9 and we are going to do a setup, a drug rip-off, we are going
10 to pull a lick on this guy and steal his drugs. But don't
11 worry about it, this is my baby now, okay, because everything
12 is set up, we are ready to go. Brewer says, okay, what time?

13 Again, this is me. We don't know times or anything
14 like that. We just know that sometime around, we would say,
15 1:30, close to two o'clock, that's when some of this actually
16 takes place, or is put into motion.

17 So Brandon and Oowee have already, in my opinion,
18 set up this deal with Ms. Power. Ms. Power is aware of
19 what's going on. Maybe the competition knew she was there.
20 Who knows? I don't know. Maybe Oowee has sweet-talked her
21 into it because she's pretty and she has dreads. I don't
22 know.

23 But, anyway, my theory is that she was aware of what
24 was going on. She's the one that got Mr. Greer, took him
25 over to Taylor's Mobile Home Park, to Mr. Brewer's. They

1 were on the phone back and forth, her, Oowee and Brandon.
2 Cell phone records - we know all of this because they
3 produced all of these cell phone records, which put all these
4 people together. And we know about their relationship prior
5 to that.

6 There are only two people who are, let's say, out.
7 They are the odd man or odd men out. And that's probably
8 Travis Polite and Mr. Greer. Travis is there. He tells you
9 he's there. He says he was picked up and went for a ride and
10 went over to some trailer where -- over at waste management
11 or whatever, and that they were talking on the phone. And I
12 believe the solicitor actually misstated when the statement
13 was made concerning "does he have a gun". If you recall
14 correctly -- or maybe I'm incorrect, so you do whatever you
15 think is correct -- Travis says they picked him up and they
16 would go for a ride. And that's where they ended up over in
17 this waste management place in this trailer.

18 But anyway, on the way, who calls? Power. She
19 calls several times, apparently. Oowee then asked her,
20 according to Travis, does he have a gun? Okay. Well, Travis
21 hears that, but he doesn't know what's going to happen.

22 So they are riding along, and now we know there's
23 going to be -- perhaps somebody is -- they are going to do a
24 lick on somebody. And Mr. Polite is in the backseat. And we
25 believe that Brandon Singleton is in the passenger's seat in

1 the front. And we believe that Oowee is the driver of the
2 car, because he's the one who's got the automobile. He's the
3 one responsible for the car at that time.

4 So, they proceed to Taylor's Mobile Home Park.
5 There is not one cell phone conversation or any other type of
6 conversation between Travis Polite, Brewer, Power or Greer.
7 No traffic between them. And no traffic between Oowee and
8 Brandon. If you recall correctly, you know, they told him
9 that -- they lied to him. They said, we pinged your cell
10 phone, or something. That's neither here nor there. Anyway,
11 they get there.

12 Now, this is where the testimony -- and you hear
13 from Travis that he sees this woman which he's seen before.
14 He knows her as well as apparently these other people. She's
15 been around the area. So he sees her in this car. And he
16 knows that she is part of this deal. So they go to the front
17 and park. And Travis and Oowee and Brandon and maybe a
18 fourth guy are there in the back. Oowee goes inside, gets
19 with Brewer.

20 We aren't sure -- at least I'm not sure -- I know
21 Brewer is aware of everything. He's aware of the fact they
22 are going to do a lick because he admitted that. He admits
23 to all of these things about comparing this place and doing
24 all of these things and bringing a place for the people to do
25 their business.

1 Now, the solicitor talked about the hand of one is
2 the hand of all. Well, boy, he's right in there, isn't he?
3 But nothing is ever going to happen to him, right?

4 So anyway, then after they arrive. There apparently
5 is some kind of negotiation about the price or whatever,
6 according to Jessica. And we aren't sure where that
7 conversation takes place, whether it takes place outside on
8 the steps or where Oowee is waiting at the door or whether he
9 comes down the steps and comes to the window. And,
10 apparently, Oowee must -- I mean, Mr. Greer must have let the
11 window down so that, you know, they can discuss the price.

12 Now, interestingly enough, the automobile is
13 probably still on. But you remember what day this was of the
14 year. This was September the 6th in Beaufort County. It's
15 hot, as evidenced by all of the clothing that the people had
16 on who you see around in all of these events.

17 So, apparently, there's some kind of a negotiation
18 over the price. Now, if you believe Jessica Power, Jessica
19 says that Mr. Greer opens the console, pulls out two stacks
20 of money, one stack, and then counts off \$500 off the other
21 stack, puts the stack back, and there's the gun in the
22 console. She says that he says, how about put it in your
23 purse, it's too big for me to carry, the stack.

24 Well, I submit to you that I believe -- and the
25 evidence there is the evidence -- that he was wearing cargo

1 shorts. And the name should give you every indication of
2 what that means. There are pockets everywhere, and they are
3 big pockets. They are not these little tiny pockets or
4 whatever. They are huge pockets. Why would he want to give
5 the money to her unless Oowee had told him, give her the
6 money and have her come in, She gives us the money, I give
7 her the dope, she's out of there. Okay?

8 Back to the car. Counts the money out, boom, gives
9 it to him and says, go in, get the dope. Probably makes more
10 sense. However, she says, no, he counts the money out and
11 gives me the money. I put it in my purse. I get out of the
12 car. He gets out of the car. I'm in front of him and we are
13 walking up to go into the trailer. And Oowee slams the door
14 behind her. And what does that mean? That means that poor
15 Mr. Greer is caught out there saying, hey, wait a minute, I
16 want to be a party. Remember he said he wanted to be a party
17 of this thing.

18 Well, I say that it was planned that she would be
19 the one to come in with the money. Only problem is, when she
20 gets in there, may be a surprise, I'm not quite sure, or
21 maybe Oowee takes the purse, she says it's in the purse, he
22 takes the purse, looks in the purse, where is the money?
23 Well, I don't know, maybe he's got it. What do you mean he's
24 got it? Well, boom, has he got a gun? Yes.

25 Remember, somebody had to know that this guy had

1 more money out there and a gun out there in that console. It
2 was there. We know that for a fact because it was out on the
3 ground, you know. So at that point in time, things going a
4 little -- not according to plan. You know, the plan was, we
5 are going to go in there, we are going to get the dope, get
6 the money, and we are going to walk out the back door in a
7 car that's running. It was hot, you know. And we are going
8 to hop in the car and we are going to shoot off and leave
9 with Mr. Greer sitting out there with his automobile waiting
10 on Jessica.

11 And maybe that's the reason for crying and whatever,
12 you know, supposedly. And, boom, Oowee goes out to get the
13 money from Mr. Greer. That's where the shooting takes place.
14 And there are several shots.

15 Now, if you believe Jessica, the other guy in the
16 thing when they had closed the door, they immediately grabbed
17 her and -- well, actually, I think they talked to her, you
18 got the money, or something along that line, I mean, you
19 bitch, or something. But anyway, they immediately then take
20 her. And Oowee sticks the gun in her face, give me the
21 money. It's in the purse. Boom. He takes the purse. Can't
22 find the money. Where is the money? Where is the money?
23 She says, I gave it to him.

24 If she gave them the money, why then did they go
25 out, somebody, and confront Mr. Greer unless they knew there

1 was money there and been told by somebody. Had to be her.

2 And had to be her telling them that the gun was there.

3 Boom. Event takes place. Everybody starts moving.

4 Jessica Power runs in one direction. Mr. Brewer, he says,

5 this woman was after me, you know, I thought she was part of

6 the deal. So she's taking off after of him. So he's scared.

7 So he runs and gets his girlfriend, and they hop into the car

8 and take off.

9 Jessica goes back down, supposedly, behind some

10 trailer. Then almost immediately, what did she say? There

11 were phone calls, several of them. Brewer says there were

12 several of them. Brewer gets a call from who? Brandon

13 Singleton, take care of the white female; she's got the

14 money.

15 Why would he say that if that wasn't true? I mean,

16 maybe they didn't find the money. And that's what started

17 all of this. He had it. And maybe they thought when he

18 slammed the door, you know, this guy actually had the money

19 in his pockets. Who knows? We don't know. But common sense

20 would tell you if this guy was following her up to go into

21 the trailer and the door -- remember, Oowee was holding the

22 door like this, you know. And, obviously, he can see this

23 guy coming. And he slams the door and locks it.

24 Now, this guy is not going to, I would think, you

25 know, say, whoa, wait a minute, that doesn't seem right to

1 me, something is wrong, you know. So I'm not sure that he
2 was in the car and was struck by a shot, a bullet, in the
3 car. We don't know whether the car door was open or closed
4 at the time that round went through. There is no evidence
5 from the inside of the car to say that bullet went through
6 the window into him in the car. No glass inside the car. No
7 evidence of anything there. The door is wide open when they
8 get there.

9 Well, we know that this guy had a gun, Mr. Greer.
10 So, eventually, that gun ends up all the way around in front
11 of the tongue of another trailer where it apparently is
12 dropped. We know, hopefully -- maybe we are wrong again --
13 that there was a sum of money, good bit of money in the
14 console of the car when Jessica first left to go inside of
15 the trailer. So, again, it is -- well, who knows?

16 But somebody, because the Sheriff's Department, they
17 don't find any money inside of the console. They don't find
18 any money except out there, the bills that were laying up
19 around the rocks. That's all they find. So somebody else
20 came back and went in that car and took the money out. Must
21 have, unless it flew out. I don't know.

22 But there's so many things that we talked about here
23 that, you know, it leads one to believe that this thing was a
24 group of people who got together to rip off a drug dealer,
25 okay, of his money. And that Jessica Power, Brandon

1 Singleton and Oowee and Brewer were a party to that
2 particular crime. Travis Polite, as he's always maintained,
3 sat in the car, knew these guys were going to rip this guy
4 off of his money or his dope or whatever it was, but: I had
5 no part in it. Didn't want nothing to do with it. When I
6 found out he shot somebody, I said, let me out of the car.
7 Let me out.

8 That's about it. I hope I haven't bored you to
9 death. I will tell you that Antonio Brewer, it was either
10 name somebody, or as Detective Gobel said, you are going to
11 catch a murder charge. What do you do? You do like Travis
12 did. You deny. You deny. You deny.

13 And then finally, you know, you've got to say, okay,
14 you know, I didn't do this. I know somebody's name. There
15 were telephone calls coming out of the jail. You know,
16 remember the cell phone he was talking about and the
17 pictures, texts that Brandon was sending out of the jail and
18 this and that and the other. All of that, they have copies
19 of the records of the case files, the whole thing.

20 So all I can tell you is that Mr. Brewer is the only
21 piece of evidence. And there is no, as I said, physical
22 evidence to tie Travis Polite to inside of that trailer or
23 the inside of that vehicle which Mr. Greer was driving, or to
24 the gun or any of the other evidence that was found. The
25 only person who that evidence was connected to that was found

1 inside of the trailer was connected to Walter Tucker. That's
2 the only person.

3 Now, did they miss fingerprints? Well, I never
4 heard them say that they had actually tested the front doors,
5 you know, back doors, anything of that nature, to see if
6 there were any prints. I know they didn't do any prints on
7 the money. And money prints, like anything else, you secret
8 when you touch DNA, fingerprints, all this other kind of
9 stuff, you know. So none of that was done. None of that was
10 done.

11 There's a definite discrepancy between what Ms.
12 Power says, this guy jumps off of a chair and comes and gets
13 her and then gets a gun from Oowee, give me a gun, because he
14 didn't even have a gun, apparently. So Oowee gives him the
15 gun. So then this guy jumps up and goes outside. She
16 supposedly hears the shots.

17 Now, remember the picture, the car is pulled up just
18 like that. And the door's about like this. They are about
19 not too far apart. So you go out that door of that trailer,
20 that car is right down there, right at you. That's where
21 this individual was located at.

22 So if Mr. Brewer, if you believe him, he says the
23 guy was down -- let me show you on the little viewer there --
24 down at the end of the trailer on the road here, coming
25 around towards the car, you know. Can't be -- got to be one

1 or the other. Can't be both.

2 So, this person who shot, obviously, goes after
3 whoever it is with this gun. His only problem is, he forgot
4 to chamber a round. When you are in this type of situation,
5 I would assume that you are going to go in the drug business,
6 got to have a round chambered so you are prepared to shoot
7 when you pull a gun, because you've got to chtt, chtt (ph.),
8 you know, before you can chamber a round.

9 So the gun is found. Part of the money is found.
10 And he's found all the way around on another part of the
11 grounds of the trailer park. So he obviously was going in
12 that direction for some reason. Was somebody going in that
13 direction? He's chasing somebody with a gun? He had his
14 gun. We know that because nobody else's DNA was on that gun,
15 even though it wasn't fired.

16 I want to thank you very much for your attention
17 during the course of this. I know I have worn you out as far
18 as this matter is concerned. But I want to say one more
19 thing and then I will sit down. You heard all the stuff
20 about Travis babysitting drugs and things of that nature. He
21 admitted that. You know, he admitted he does store drugs,
22 that he's a drug dealer. He does that. He said that. So,
23 you can't, again, take that and say, well, because he stores
24 it, he's going to be part of a robbery and a murder.

25 Nobody, as I told Ms. Power, I said, this was all a

1 big surprise, wasn't it? Yes, it was. Because nobody,
2 nobody expected Oowee to go off and shoot Mr. Greer. Nobody.
3 Everything was smooth, except for the money issue. And I
4 still can't figure that out. I mean, the telephone call from
5 Brewer back up to her, and Brewer wanting to know, obviously,
6 about the money, he's been told by Brandon that she's got the
7 money, get ahold of her, you know.

8 Tough case. Tough case. But don't just -- you
9 know, guilt by association is no way to do business. You
10 must be firmly convinced. If you hesitate, then you are not
11 convinced that Travis Polite was involved in putting it
12 together, acting, aiding and abetting or any of these things,
13 that he was merely there, merely there.

14 Thank you.

15 THE COURT: Thank you, Mr. Hood.

16 Ladies and gentlemen, what remains is for me to tell
17 you or give you the law, as we say. It may take about 15 or
18 10 minutes. Anybody need a break? All right. Let's take a
19 break, five-minute break. I remind you it is too early to
20 begin discussing the case.

21 You let us know when you are ready to come back into
22 the jury room, Madam Foreperson.

23 (Whereupon, the jury leaves open court at 11:02
24 a.m.)

25 THE COURT: We will be in recess for five minutes.

1 (Recess is taken.)

2 THE COURT: Jurors are all ready. State ready for
3 the jury? Defense ready for the jury? Let's bring them in.

4 (Whereupon, the jury returns to open court at 11:10
5 a.m.)

6 THE COURT: Ladies and gentlemen, I remind you that
7 the fact that the defendant was arrested, charged and
8 indicted in this case is not evidence and cannot be
9 considered by you as evidence of guilt, nor does this create
10 any presumption or inference of guilt. The indictments are
11 simply the documents that bring the charges into the court.

12 The defendant has pled not guilty to these
13 indictments and that plea puts the burden upon the State to
14 prove the defendant guilty. A person charged with committing
15 a criminal offense in South Carolina is never required to
16 prove himself innocent. I charge you that it is an important
17 rule of law that the defendant in a criminal trial, no matter
18 what the seriousness of the charge may be, will always be
19 presumed to be innocent of the crime for which an indictment
20 was issued, unless guilt has been proven by evidence that
21 satisfies you of that guilt beyond a reasonable doubt.

22 This presumption of innocence does not end when you
23 begin your deliberations, but it accompanies the defendant
24 throughout the trial until you reach a verdict of guilt based
25 on evidence that satisfies you of that guilt beyond a

1 reasonable doubt.

2 The presumption of innocence is like a robe of
3 righteousness placed about the shoulders of a defendant,
4 which remains with the defendant until it has been stripped
5 from the defendant by evidence that satisfies you of that
6 guilt beyond a reasonable doubt.

7 The presumption of innocence is not a mere legal
8 theory and it's not just a legal phrase. It is a substantial
9 right to which every defendant is entitled, unless you, the
10 jury, are satisfied from the evidence of the defendant's
11 guilt beyond a reasonable doubt.

12 A reasonable doubt is the kind of doubt that would
13 cause a reasonable person to hesitate to act. Some of you
14 may have served on juries in civil cases where you were told
15 that it was only necessary to prove that a fact is more
16 likely true than not true, such as by the greater weight or
17 the preponderance of the evidence. But in criminal cases,
18 the State's proof must be more powerful than that. It must
19 be beyond a reasonable doubt.

20 Proof beyond a reasonable doubt is proof that leaves
21 you firmly convinced of a defendant's guilt. Of course,
22 there are very few things in this world that we know with
23 absolute certainty. And in criminal cases, the law does not
24 require proof that overcomes every possible doubt. If, based
25 on your consideration of the evidence, you are firmly

1 convinced that the defendant is guilty of the crime charged,
2 you must find the defendant guilty.

3 If, on the other hand, you think there's a real
4 possibility that the defendant is not guilty, you must give
5 the defendant the benefit of the doubt and find the defendant
6 not guilty.

7 I remind you that during this trial, you and I have
8 had certain duties to perform. As the trial judge, it has
9 been my responsibility to preside over the trial of the case,
10 rule on the admissibility of evidence. You are to consider
11 only the competent evidence before you. And if there was any
12 testimony ordered stricken from the record during the trial,
13 you must disregard that testimony. You are to consider only
14 the testimony which has been presented from this witness
15 stand and any exhibits that were made part of the record in
16 this case and any stipulations of the attorneys.

17 I also had the additional duty to charge you or tell
18 you about the law that applies in this case. As the
19 presiding judge, I am the sole judge of the law in this case.
20 And it is your duty as jurors, ladies and gentlemen, to
21 accept and apply the law as I now state it to you. If you
22 already have any idea as to what the law is or what the law
23 should be and it does not agree with what I tell you, you
24 must abandon that idea. Because under your oath, you are
25 sworn to accept the law as I tell you it is.

1 In this case, by or before this Court, before a
2 jury, the jury becomes the sole and exclusive judge of the
3 facts of the case. And the trial judge, such as myself,
4 cannot intimate, state, comment on, or make any statement to
5 the jury about the facts of the case. Since you, the jury,
6 are the sole judges of the facts of this case, you are not to
7 infer from anything I have said or done during the progress
8 of this trial on ruling on the admissibility of evidence or
9 otherwise that I have an opinion about the facts of this
10 case. As I told you before, the law does not allow me to
11 have an opinion about the facts of this case. That is a
12 matter solely for you.

13 As jurors, it is your duty to determine the effect,
14 the value, the weight and the truth of the evidence presented
15 during the trial. Typically, there are two types of evidence
16 presented during a trial, direct evidence and circumstantial
17 evidence.

18 Direct evidence, of course, is testimony of a person
19 who claims to have actual knowledge of a fact, such as an
20 eyewitness. It is evidence which immediately establishes the
21 main fact to be proved.

22 Circumstantial evidence is proof of a chain of facts
23 and circumstances indicating the existence of a fact. It is
24 evidence which immediately establishes collateral facts from
25 which the main fact may be inferred. Circumstantial evidence

1 is based on inference, not on personal knowledge or
2 observation.

3 The law makes no distinction, though, between the
4 weight or the value to be given to either direct or
5 circumstantial evidence, nor is a greater degree of certainty
6 required of circumstantial evidence than direct evidence.

7 You should weigh all of the evidence in this case.
8 And after weighing all of the evidence, if you are not
9 convinced of the guilt of the defendant beyond a reasonable
10 doubt, you must find the defendant not guilty.

11 Necessarily, you must determine the credibility of
12 the witnesses who have testified in this case. This simply
13 means the believability of the witnesses. It becomes your
14 duty as jurors to analyze and to evaluate the evidence and
15 determine which evidence convinces you of its truth.

16 in determining the believability of the witnesses
17 who have testified, you may believe one witness over several
18 witnesses, or several witnesses over one witnesses. You may
19 believe part of the testimony of a witness and reject the
20 remaining testimony of that witness. You may believe the
21 testimony of a witness in its entirety or reject the
22 testimony of a witness in its entirety.

23 And you may consider whether the witness has
24 exhibited to you any interest, any bias, prejudice or other
25 motive in the case. And you may consider the appearance and

1 manner of the witness while on the witness stand.

2 Some of you have taken notes in this case. Notes, I
3 tell you, should not be given priority over a juror's memory
4 of what the facts are in this case or the testimony or
5 evidence shown in this case.

6 I instruct you and emphasize that the fact that the
7 defendant did not testify is not a factor to be considered by
8 you in any way in your deliberation and your consideration on
9 the question of the guilt or innocence of the defendant. It
10 must not be considered by you in any manner whatsoever. A
11 defendant has a constitutional right to remain silent, and
12 the assertion of this right must not be considered by you in
13 your deliberations. I repeat, under your oath, you are to
14 draw no conclusions whatsoever from the fact that the
15 defendant in this case did not testify. The fact that the
16 defendant did not testify should not even be discussed in the
17 jury room.

18 (Whereupon, a juror needed to step out due to
19 illness.)

20 THE COURT: Let me see the attorneys at side bar
21 real quick.

22 (Whereupon, a bench conference takes place.)

23 THE COURT: I'm going to ask you, ladies and
24 gentlemen, if you will step into the jury room a few minutes.
25 I'm going to talk to that juror and find out whether she

1 believes she can continue or not. I hope to be in touch with
2 you shortly.

3 (Whereupon, the jury leaves open court at 11:52
4 a.m.)

5 THE COURT: Bailiff believes that is Juror No. 250.

6 (Whereupon, Juror No. 250 enters the courtroom.)

7 THE COURT: Are you going to be okay?

8 JUROR 250: I am.

9 THE COURT: We still have an alternate juror if you
10 can't stay.

11 JUROR 250: I know.

12 THE COURT: If you think you'll be fine, we'll do
13 it.

14 (Whereupon, Juror 250 leaves the courtroom.)

15 (Recess transpires.)

16 THE COURT: Welcome back again, ladies and
17 gentlemen. I know I said some of this a few moments ago
18 before we took a break, but bear with me. I did not complete
19 what I wanted to tell you. It had to do with the failure of
20 the defendant to testify.

21 As I told you earlier, that fact is not a factor to
22 be considered by you in any way in the deliberation, in your
23 consideration of the question of the guilt or innocence of
24 the defendant. It must not be considered by you in any
25 manner whatsoever. The defendant has a constitutional right

1 to remain silent. And the assertion of that right must not
2 be considered by you in your deliberations. I repeat, under
3 your oath, you are to draw no conclusions whatsoever from the
4 fact that the defendant in this case did not testify. The
5 fact that this defendant did not testify should not even be
6 discussed in the jury room.

7 The burden of proof, as I've stated to you, is upon
8 the State. The defendant is not required to prove his
9 innocence. The burden of proof remains on the State to prove
10 guilt to your satisfaction beyond a reasonable doubt.

11 There has been evidence presented that witnesses may
12 have made prior statements not consistent with the witness's
13 present testimony. You may use this evidence to decide
14 whether to believe the witness. You may also use evidence of
15 the earlier contradictory statement to determine the truth of
16 those statements. It is up to you to decide whether to
17 believe the earlier statements or the testimony given at
18 trial.

19 If a witness is assumed to have knowingly testified
20 inconsistently concerning a material matter, you may
21 considering this in determining whether to trust that
22 witness's testimony as to other matters. You may reject all
23 the testimony of that witness or give all or part of the
24 testimony the weight you think it deserves.

25 A statement alleged to have been made by the

1 defendant has been admitted into evidence. While the Court
2 has determined that the statements are admissible, I instruct
3 you that you make the ultimate decision on whether or not the
4 defendant made the statement. If the defendant did make the
5 statement, you must determine whether the statement was made
6 by the defendant voluntarily and of his own free will. This
7 means the statement was not caused by pressure, force, fear,
8 threats, coercion or intimidation, or by any hope or promise
9 of leniency or reward of any kind.

10 in determining whether the statement was voluntary,
11 you should consider the characteristics of the defendant and
12 the details of the question. Some of the factors which you
13 may consider could be the age of the defendant, the
14 defendant's education or lack of education, the defendant's
15 mental capacity, the defendant's IQ or intelligence or the
16 defendant's background and environment, the place and length
17 of detention, the nature of the question, the advice or lack
18 thereto to the defendant of his constitutional rights,
19 including, but not limited to, his right to remain silent and
20 that any statement can be used against him in a court of law,
21 that he is allowed to have a lawyer present, and if he
22 couldn't afford a lawyer, a lawyer may be appointed to
23 represent him without cost, and he can stop making the
24 statement at any time.

25 You must carefully consider all of the surrounding

1 circumstances before you give any weight to an alleged
2 statement. The State has the burden of proving beyond a
3 reasonable doubt that the alleged statement was voluntary.
4 If you determine it was, you may give the State further
5 consideration that you deem proper. You must decide what
6 weight, if any, to give to the alleged statement. If you
7 determine the alleged statement was not a freely and
8 voluntarily statement of the defendant, you must not consider
9 the testimony -- excuse me, the statement at all.

10 The defendant has been charged with armed robbery.
11 In order to prove this, the State must first prove beyond a
12 reasonable doubt that the defendant took personal property
13 from a person or presence of another person. The State must
14 also prove beyond a reasonable doubt that the defendant
15 carried the property away intending to permanently deprive
16 the owner of the property and to keep the property for the
17 defendant's own use. The taking away of the property must
18 have been done with violence or by putting the owner of
19 property in fear of violence.

20 And, finally, the State must prove beyond a
21 reasonable doubt that the defendant was armed with a deadly
22 weapon during the robbery.

23 The defendant is also charged with kidnapping. The
24 State must prove beyond a reasonable doubt that the defendant
25 knowingly and unlawfully seized or confined or kidnapped or

1 abducted or carried another person away without the authority
2 of the law. To do a thing unlawfully is to do it willfully
3 against law.

4 Knowing means with knowledge, consciously, not
5 accidentally.

6 And seize means to take hold of suddenly or
7 forcibly.

8 And confines means to limit, restrict, or enclose
9 within bounds, imprison, or shut or keep in.

10 The State does not have to prove that the defendant
11 did all of these things. Instead, if you find beyond a
12 reasonable doubt that the defendant did any of these things,
13 you may find the defendant guilty of kidnapping. The
14 kidnapping does not have to be for any personal or monetary
15 gain or for any illegal purpose. It may be for any reason
16 whatsoever.

17 The defendant is also charged with murder. The
18 State must prove beyond a reasonable doubt that the defendant
19 killed another person with malice aforethought. Malice is
20 hatred, ill will or hostility towards another person. It is
21 the intentional doing of a wrongful act without just
22 cause or excuse and an attempt to inflict or injure under
23 circumstances that the law would infer an evil intent.

24 Malice aforethought does not require that the
25 malice exists for any particular time before the act is

1 committed. But malice must exist in the mind of the
2 defendant just before and at the time the act was committed.
3 Therefore, there must be a combination of the previous evil
4 intent and the act.

5 Malice aforethought may be expressed or inferred.
6 And these terms expressed and inferred do not mean different
7 kinds of malice but merely the manner in which malice may be
8 shown to exist. That's either by direct evidence or by
9 inference from the facts and circumstances which were proved.

10 Expressed malice is assumed when a person speaks
11 words which express hatred or ill will towards another, a
12 person prepared beforehand to do the act which was later
13 accomplished. Malice may be inferred from conduct showing a
14 total disregard for human life.

15 Inferred malice may also arrive when the deed is
16 done with a deadly weapon.

17 I tell you that if a crime is committed by two or
18 more people who are acting together and committing a crime,
19 the act of one is the act of all. A person who joins with
20 another to accomplish an illegal purpose is criminally
21 responsible for everything done by the other person which
22 occurs as a natural consequence of the acts done in carrying
23 out the common plan and purpose. If two or more people are
24 together acting together, assisting each other in committing
25 the offense, the act of one is the act of all, or as it is

1 sometimes said, the hand of one is the hand of all.

2 Prior knowledge of the crime being committed without
3 more is not sufficient to make a person guilty of that crime.
4 Mere knowledge that another person is going to commit a
5 crime, even if the defendant is present when the crime is
6 committed, is not sufficient to convict the defendant as a
7 principal.

8 Guilt as a principal is shown by actual or
9 constructive presence at the scene as a result of a prior
10 arrangement. Therefore, a finding of a prior arranged plan
11 or common scheme is necessary for a finding of guilt as a
12 principal. The State must prove beyond a reasonable doubt by
13 competent evidence the theory of the hand of one is the hand
14 of all.

15 A principal in a crime is one who either actually
16 commits the crime or is present aiding, abetting or assisting
17 in committing the crime. When a person does an act in the
18 presence of and with the assistance of another, the act is
19 done by both. Where two or more are acting with a common
20 plan or intent or presence at the commission of the crime,
21 does not matter who actually commits the crime; all are
22 guilty. The hand of one is the hand of all.

23 Present at the commission of the crime means to be
24 sufficiently near to aid, abet and assist in the commission
25 of the crime. However, mere presence at the scene of a crime

1 is not sufficient to convict one as a principal on the theory
2 of aiding and abetting.

3 Intent is also a necessary element. There must have
4 been a common design or intent to commit the crime. And the
5 crime must have been committed pursuant thereto with a person
6 aiding and abetting by some overt act. Intent means
7 intending the result which actually occurred, not
8 accidentally or involuntarily. Intent may be shown by acts
9 and conduct of the defendant and other circumstances from
10 which you may actually and reasonably infer intent. The
11 State must prove these elements beyond a reasonable doubt.

12 An issue in this case is the identification of the
13 defendant as the person who committed the crime charged. The
14 State has a burden of proving identity beyond a reasonable
15 doubt. You must be satisfied beyond a reasonable doubt of
16 the accuracy of the identification of the defendant before
17 you may convict the defendant.

18 Identification testimony is an expression of the
19 belief or impression by a witness. You must determine the
20 accuracy of the identification of the defendant. You must
21 consider the believability of each identification witness in
22 the same way as other witnesses. You may consider whether
23 the witness had an adequate opportunity to observe the
24 offender at the time of the offense. And this may be
25 affected by things like how long or short a time was

1 available, how far or close the witness was, the lighting
2 conditions, whether a witness had a chance to see or know the
3 person in the past.

4 Once again, I instruct you, the burden of proof is
5 on the State, and that extends to every element of the crime
6 charged. And this specifically includes the burden of
7 proving beyond a reasonable doubt the identity of the
8 defendant as the person who had committed the crime.

9 If after examining the testimony, you have a
10 reasonable doubt as to the accuracy of the identification,
11 you must find the defendant not guilty.

12 Ladies and gentlemen, these indictments each charge
13 several different offenses against the defendant. Each
14 indictment charges a separate and distinct offense. You must
15 decide each indictment separately on the evidence and the law
16 that applies to it, uninfluenced by your decision as to any
17 other indictment. The defendant may be convicted or
18 acquitted on any or all of the offenses charged.

19 For there to be a verdict in this case, the verdict
20 must be unanimous. In other words, all 12 of you must agree.
21 Once there is a unanimous verdict reached, I am going to ask
22 our foreperson if she would write that verdict on the back of
23 each of the indictments underneath the word verdict. And, of
24 course, there are only -- as to each indictment, the verdict
25 can only be either guilty or not guilty, and then sign your

1 name.

2 So, once again, once the jury has reached a
3 unanimous verdict on an indictment, the foreperson will write
4 guilty or not guilty and sign as foreperson.

5 Ladies and gentlemen, at this time I'm going to ask
6 all of you, including our alternate jurors, to step into the
7 jury room. Don't yet begin your deliberations. It's still
8 going to be a couple of minutes. I will send to the jury
9 room the exhibits and these indictments, that will be the cue
10 for our alternate jurors to step back out into the courtroom
11 and leave the jury room, and for the remaining 12 jurors to
12 begin deliberations. Your lunch is on the way.

13 When you have reached a verdict on each of the
14 charges, you are to please knock on the door, notify the
15 baliff, and we will see you back in the courtroom with the
16 indictments.

17 So, ladies and gentlemen, please retire to the jury
18 room. I will be in touch with you shortly. Don't begin
19 deliberations until you receive word from the bailiffs.

20 (Whereupon, the jury leaves open court at 12:15.)

21 THE COURT: Exceptions from the State?

22 MR. THORNTON: No exceptions or additions from the
23 State, Your Honor.

24 MR. HOOD: Court's indulgence just one moment.

25 Judge, I have one issue that I need to bring up. We

1 addressed this, the statement, closing of the solicitor in
2 which he used language under the picture of the -- which we
3 know was not admitted in court. And out of abundance of
4 caution, I'm going to ask for a mistrial. I hate to do that,
5 but I'm going to have to ask for a mistrial. You provided
6 him with that evidence and everything.

7 THE COURT: Let me hear from the State on this.

8 MR. THORNTON: Your Honor, the evidence was
9 admitted. All I did was take the audio that was already
10 there and put words behind it as a demonstrative. So the
11 actual words themselves were in evidence. I changed the
12 format and added -- we had some audio problems in here
13 yesterday and I wanted to make sure they heard it or were
14 able to follow it. My position would be that the evidence
15 was admitted in and I was commenting on things that were
16 admitted.

17 It would be no different than me saying what it was.
18 I didn't call it -- Mr. Hood got up and called it a
19 transcript. I didn't indicate it was any more accurate than
20 anything else, no different than me reciting what I thought
21 it was. And I specifically said, nothing I said was
22 evidence. In other words, Judge, I may have changed the
23 format, but the words themselves were in evidence, would be
24 my position.

25 When Your Honor ruled against me, we immediately

1 pulled it off, and I didn't go back to it.

2 MR. HOOD: The words he said are the problem. You
3 know, what he thinks it should up there is, you know --
4 that's not the same. I mean, you recognized immediately. I
5 recognized it immediately that that was an error. And you
6 can't -- once again, no instruction is going to pull that
7 horse back into the barn. It's already done.

8 THE COURT: Well, Mr. Thornton suggested that --
9 argued whether your objection should be sustained or not,
10 argued that it was accurate, and therefore, there was nothing
11 improper about it. Was there any inaccuracy that you are
12 aware of?

13 MR. HOOD: I'm not in the business of doing that. I
14 mean, that is an exhibit which has been admitted into
15 evidence. And he has taken that exhibit, inserted words that
16 he believes are consistent with what's on that exhibit
17 without you or myself having an opportunity to examine it and
18 to object to it. And that's the problem.

19 MR. THORNTON: Two things, Judge. That is not --
20 that would be no different than me getting up and writing the
21 words down that I think he said on an easle, number one.

22 Number two, as you know, mistrial is a manifest
23 necessity. I don't think it comes anywhere near that.
24 Rather than belabor the point, I just stopped. I had about
25 another half dozen slides, didn't go to them. Didn't mention

1 back the words on the screen or anything else. But that is
2 in evidence. No different than me writing what I think he
3 said down on an easel. I'm certainly allowed to do that.

4 And if Mr. Hood wants to object that that's an
5 inaccurate statement, you know, lawyers get up and we
6 repeatedly tell the jury, if something I tell you is wrong
7 about what the evidence is, you have to go with what the
8 evidence is.

9 And the evidence is the disk that they can watch
10 again that contains the words on it. So I fail to see how
11 that is any different than me telling them what I think he is
12 saying or writing it down on an easle as he does it, both of
13 which I've done and have never been objected to. First of
14 all, that point, Judge.

15 Second of all, it's out of manifest necessity.

16 MR. HOOD: Well, I personally feel that if you have
17 an exhibit up there, now you have decided what the words are
18 being used by that particular person. Now, I may interpret
19 that entirely different from the way that I hear it. I may
20 hear it different from the way he hears it. But he has
21 decided that's what he said. And he's got the picture up and
22 the exhibit there for them to listen and follow along and
23 read. And that's what's inadmissible about this.

24 THE COURT: Well, I understand you said you are not
25 in the business of interpreting or insuring that what he said

1 was correct or not, but are you aware of any inaccuracies in
2 what was presented?

3 MR. HOOD: Judge, I have no clue. I mean, again, I
4 have no way of knowing.

5 THE COURT: Would you like for the Court to instruct
6 the jury to disregard what they may have seen, if they recall
7 any of it or not?

8 MR. HOOD: I'm asking for a mistrial. I will defer
9 to you.

10 THE COURT: Here's the reason I ruled in your favor,
11 because I thought it was possible that the jury might have
12 concluded that this was, in fact, an accurate transcription
13 of what was said. Nothing had been mentioned to it, but it
14 was only out there for a couple of minutes. I say that; it
15 may have been three. Without knowing that there was anything
16 that was inaccurate about it, I didn't see anything that
17 appeared to be inaccurate, I don't see the prejudice to you.

18 And, therefore, I deny your motion for a mistrial.
19 Now, if you want me to do a curative, tell them to disregard
20 that, I will.

21 MR. HOOD: That again is in your hands. I've been
22 denied, so ...

23 THE COURT: If there had been -- let me try to
24 analyze it another way that we do see sometimes. Sometimes
25 you see one attorney say to the jury, here's what witness A

1 said. The other attorney objects, that's not what he said at
2 all. Oftentimes, I don't know what was said. I tell the
3 jury, you have to decide what was said. What the lawyers are
4 saying here is not evidence, you decide. At any rate, okay,
5 anything else from the State?

6 MR. THORNTON: Your Honor, the only other thing I
7 would say is that if the Court feels like it's necessary to
8 bring them in and comment on it, rather than tell them
9 disregard it, I would just say there were words on the
10 screen, if those words are not the same as your recollection,
11 you have to go with your recollection, because those words
12 were Mr. Thornton's interpretation. You know, if you just
13 tell them just to disregard it, it almost looks like I have
14 somehow made a mistake, and I didn't.

15 There never was no error up there that I'm aware of.
16 So, if we could keep it innocuous, I'm fine with you telling
17 them, go back, just like I did, nothing I tell them is
18 evidence. You could tell them that wasn't a transcript, that
19 was a demonstrative used by Mr. Thornton; nothing the
20 attorneys say is evidence.

21 I would prefer something along those lines, but
22 that's all I have additional. Thank you, Your Honor.

23 THE COURT: And so, what's your position?

24 MR. HOOD: I object to that. You know, the fact is
25 that the exhibit was being used that was in evidence. It

1 altered --

2 THE COURT: Just so we are clear, this wasn't the
3 actual exhibit.

4 MR. THORNTON: No, sir, it wasn't. And I frankly
5 resent that I have altered an exhibit. The exhibit is the
6 CD. I took portions of that, just like I would in many other
7 cases. I did not alter an exhibit that was entered into
8 evidence.

9 MR. HOOD: I stand by my motion for a mistrial and
10 my objection to --

11 THE COURT: You object to any statement. The Court
12 will not bring the jury back in.

13 All right. Anything else?

14 MR. THORNTON: Nothing from the State.

15 THE COURT: We got all the exhibits ready to go to
16 the jury?

17 MR. THORNTON: The State is satisfied all the
18 exhibits are there, Judge.

19 MR. HOOD: I'm satisfied.

20 THE COURT: All right. Let's get our baliff to take
21 those along with the indicements to the jury and tell them
22 they may begin deliberations. And we'll get the two
23 alternates out and before the Court. Do they have the
24 ability in the jury room to watch the CD?

25 MR. THORNTON: They do not, Your Honor. They have

1 to send back something or they have to come in here to do it.

2 Normally they come in here.

3 THE COURT: Let's send the CDs. If they want to
4 watch them, we'll address that later.

5 (Whereupon, the jury begins deliberations at 12:19
6 p.m.)

7 THE COURT: A note from the jury: We would like to
8 get a copy of Judge's instructions on the laws of the three
9 charges and especially the hand of one/hand of all sections;
10 need clarification. Would prefer to have a copy to continue
11 to refer to it, if possible.

12 MR. THORNTON: The State has no objection to you
13 sending the printed copy of charge back, Judge.

14 MR. HOOD: Judge, you know, I think it's bad
15 practice to send back your charges. I think it's more
16 appropriate for them to come out, recharge them on the areas
17 they want, and then let them go back to it again. That is my
18 opinion.

19 THE COURT: It sounded to me -- well, when they
20 refer to the three charges, I'm assuming only that they are
21 talking about armed robbery, kidnapping and murder charges.
22 I don't know that.

23 MR. HOOD: I don't know.

24 THE COURT: What do you think?

25 MR. THORNTON: Yes, sir, that's the way I took it,

1 and the hand of one is the hand of all charge. And, you
2 know, my position would be, Judge, it's not just that they
3 asked to be recharged, they asked for a copy of it so they
4 can refer to it in case something else comes up later. So
5 it's not the situation where they just had a question about
6 the law. This is something they specifically asked for. And
7 I think it's allowable under the law. And I would ask you to
8 consider sending back the printed charge so we are not
9 bringing them in and out. If they have additional questions,
10 they can just refer to your charge.

11 Thank you, Your Honor.

12 THE COURT: Isn't there a case that addresses this
13 issue about recharging only -- is somebody working on it?

14 MR. THORNTON: Yes, sir, got two people working on
15 it right now.

16 THE COURT: Got a case that says you can just charge
17 them on law that's been accused -- that the defendant is
18 being accused of violating, that you can't just do that.

19 MR. THORNTON: In a case like that, Judge, I'm fine
20 with you sending the entire charge back, if that is what is
21 necessary. My point is, just to keep them from coming in and
22 out if they may have additional questions, just send whole
23 charge back is fine with me, and they can look at what they
24 need.

25 THE COURT: A lot of the judges do that. But the

1 defense still objects to sending back original charge, a
2 written charge?

3 MR. HOOD: I do, Your Honor.

4 THE COURT: I'm going to think about it a few
5 minutes and let me see.

6 MR. THORNTON: Your Honor, I've got -- I haven't
7 obviously shepardized or anything yet, but State vs. Lemire,
8 406 S.C. 558. And I'm just going by the head note, and the
9 head note two is: A trial court may, in its discretion,
10 submit its instructions on the law to the jury in writing.

11 Furthermore, a party disputing submission of the
12 written charge must show prejudice to obtain relief on this
13 ground. The trial court should use this practice sparingly
14 and only when it will aid the jury and not prejudice the
15 defendant. In any event, it is never appropriate to give
16 only part of the charge to jury.

17 So, I don't know if that's one you are looking at or
18 looking for.

19 THE COURT: What year is that?

20 MR. THORNTON: 2013, March 28, 2012; heard October
21 16th, 2013, and it's a South Carolina Court of Appeals case.
22 And I will now let somebody shepardize it that does that a
23 lot better than I do.

24 I've been told that is still good law, Your Honor.

25 THE COURT: I'm looking now from Covert, State vs.

1 Covert, 2009 case, 382 S.C. 205. It held that it was
2 improper of the Court to give the jury written copies of a
3 standard unless they are going to give them written copies of
4 entire charge, is the way I read it.

5 MR. THORNTON: Yes, sir. And that dealt with the
6 issue of whether it was okay just to send the statutes back,
7 and it was not, unless you send back the entire written
8 charge, which is what Lemire, I think, says, that it should
9 be the entire charge that was sent back.

10 THE COURT: Well, I know in this day and age, most
11 people would say, well, isn't that a fairly simple matter to
12 do? Well, it's not. Therefore, I have no choice but to
13 recharge it. And it will be glad to hear any additional
14 arguments against that.

15 MR. THORNTON: None from the State, Your Honor.
16 Thank you.

17 THE COURT: From the defense?

18 MR. HOOD: Your attorney, are you going to read
19 whole charge?

20 THE COURT: A to Z.

21 MR. HOOD: A to Z. Okay. I guess you mean that you
22 don't have another copy of charge; the one you got is pretty
23 marked up, is that correct?

24 THE COURT: You're reading between the lines.

25 MR. HOOD: Thank you, sir.

1 Let's bring the jury back. And this a Court's
2 exhibit.

3 (Court's Exhibit 1, Jury note requesting jury
4 charge, was marked for identification.)

5 (Whereupon, the jury returns to open court at 2:03
6 p.m.)

7 THE COURT: Welcome back, ladies and gentlemen. I
8 received the note from the jury indicating that the jury
9 would like copies of a certain portion of instructions that I
10 did give you earlier. I think you were talking about the
11 specific laws that the defendant is being charged with
12 violating, and then also the charge of hand of one.

13 I'm not going to be able to do exactly what you
14 want, so bear with me. As I told you earlier, the fact that
15 the defendant was arrested, charged and indicted is not
16 evidence and cannot be considered by you. The defendant has
17 pled not guilty to the indictments and that plea puts the
18 burden upon the State to prove the defendant guilty. I tell
19 you that a person charged with committing a criminal offense
20 in South Carolina is never required to prove himself
21 innocent. I tell you that it is an important rule of law
22 that a defendant in a criminal trial, no matter what the
23 seriousness of the charge may be, will always be presumed to
24 be innocent of the crime for which an indictment was issued,
25 unless guilt has been proven by evidence that satisfies you

1 of that guilt beyond a reasonable doubt.

2 Presumption of innocence does not end when you begin
3 your deliberations, but it accompanies the defendant
4 throughout the trial until you reach a verdict of guilt based
5 on the evidence that satisfies you of that guilt beyond a
6 reasonable doubt.

7 The presumption of innocence is like a robe of
8 righteousness placed about the shoulders of the defendant,
9 which remains with the defendant until it has been stripped
10 from the defendant by evidence that satisfies you of that
11 guilt beyond a reasonable doubt.

12 Presumption of innocence is not a mere legal theory.
13 It's not just a legal phrase. It is a substantial right to
14 which every defendant is entitled, unless you, the jury, are
15 satisfied from the evidence of the defendant's guilt beyond a
16 reasonable doubt.

17 A reasonable doubt is the kind of doubt that would
18 cause a reasonable person to hesitate to act. As I told you
19 earlier, some of you may have served on jurors in civil cases
20 where you were told that to prove a fact, it was only
21 necessary to prove by a greater weight or the preponderance
22 of the evidence. But in criminal cases, the State's proof
23 must be more powerful than that. It must be beyond a
24 reasonable doubt.

25 Proof beyond a reasonable doubt is proof that leaves

1 you firmly convinced of a defendant's guilt. Of course,
2 there are very few things in this world that we know with
3 absolute certainty. And in criminal cases, the law does not
4 require proof that overcomes every possible doubt. If, based
5 on your consideration of the evidence, you are firmly
6 convinced that the defendant is guilty of the crime charged,
7 you must find the defendant guilty.

8 If, on the other hand, you think there's a real
9 possibility that the defendant is not guilty, you must give
10 the defendant the benefit of the doubt.

11 If I have done anything during my rulings in this
12 case to cause you to believe I have an opinion about the
13 matter, guilt or innocence, or any of the facts in this case,
14 you must put that out of your mind. As I told you earlier,
15 ladies and gentlemen, you are the sole judges of the facts of
16 this case.

17 As I told you earlier, I am the sole judge on the
18 law of the case. You are obligated under your oath to accept
19 the law as I give it to you and apply the law as you find the
20 facts to be. This is a matter solely for you, ladies and
21 gentlemen, as jurors, to determine the effect, the value, the
22 weight and the truth of the evidence presented during the
23 trial.

24 Necessarily, you must determine the credibility of
25 the witnesses who have testified. This simply means the

1 believability of the witnesses. It becomes your duty as
2 jurors to analyze and to evaluate the evidence and determine
3 which evidence convinces you of its truth.

4 In determining the believability of the witnesses
5 who have testified, you may believe one witness over several,
6 or several witnesses over one. You may believe part of the
7 testimony of a witness and reject the remaining testimony of
8 that very same witness. You may believe the testimony of a
9 witness in its entirety or reject the testimony of a witness
10 in its entirety. And you may consider whether the witness
11 has exhibited to you any interest, bias, prejudice or other
12 motive in the case.

13 As I told you earlier, the fact that the defendant
14 did not testify in this case is not a factor to be considered
15 by you in any way in your deliberations and in your
16 consideration on the issue of guilt or innocence of the
17 defendant. It must not be considered by you in any manner
18 whatsoever. Under your oath, you are to draw no conclusion
19 whatsoever from the fact the defendant did not testify. The
20 fact that the defendant did not testify should not even be
21 discussed in the jury room. Burden of proof, as I've stated
22 to you, is upon the State. The defendant is not required to
23 prove his innocence.

24 There's been evidence presented that witnesses have
25 made prior statements which are not consistent with the

1 witness's present testimony in court. You may use this
2 evidence to decide whether to believe a witness. You may
3 also use evidence of earlier contradictory statements to
4 determine the truth of those statements. It is up to you to
5 decide whether to believe the earlier statements or the
6 testimony given a trial. If a witness is shown to have
7 knowingly testified untruthfully concerning any material
8 matter, you may consider this in determining whether to trust
9 a witness's testimony as to other matters. You may reject
10 all of the testimony of the witness or give all or part of
11 the testimony the weight that you think it deserves.

12 A statement alleged to have been made by the
13 defendant has been admitted into evidence in this case. And
14 while the Court has determined that evidence is admissible, I
15 instruct you that you make the ultimate decision of whether
16 or not the defendant made the statement. If the defendant
17 did make the statement, you must determine whether the
18 statement was made by the defendant voluntarily and of his
19 own free will. This means the statement was not caused by
20 pressure, force, fear, threats, coercion or intimidation or
21 by hope or promise of leniency or reward of any kind.

22 In determining whether a statement was voluntary,
23 you should consider both the characteristics of the defendant
24 and the details of the questioning. Some factors that you
25 may consider are: The age of the defendant, the defendant's

1 education or lack of education, the defendant's mental
2 ability or capacity, the defendant's IQ or intelligence, the
3 defendant's background and environment, the place and the
4 length of his detention, the nature of the questioning, the
5 advice or lack thereto of the defendant of his constitutional
6 rights, including, but not limiting, the right to remain
7 silent, that any statement could be used against him in a
8 court of law, the right to have a lawyer, and if he could not
9 afford a lawyer, a lawyer would be appointed to represent him
10 without cost, and he could stop making any statement at any
11 time. You must consider all of the circumstances before you.

12 The State has the burden of proving beyond a
13 reasonable doubt that the alleged statement was voluntary.
14 And if you determine that it was, you may give the statement
15 any further consideration that you deem proper. You must
16 consider what weight, if any, should be given to the alleged
17 statement.

18 If you determine the alleged statement was not the
19 free and voluntarily statement of the defendant, then you
20 should not consider it at all, the statement at all.

21 The defendant has been charged with armed robbery.
22 In order to prove this defense, the State must first prove
23 beyond a reasonable doubt that the defendant took personal
24 property from a person or presence of another person. The
25 State must also prove beyond a reasonable doubt that the

1 defendant carried property away intending to permanently
2 deprive the owner of the property and keep the property for
3 the defendant's own use.

4 The taking and carrying away of the property must
5 have been done with violence or by putting the owner of
6 property in fear of violence. And the State must prove
7 beyond a reasonable doubt that the defendant was armed with a
8 deadly weapon during the robbery.

9 The defendant is also charged with kidnapping. The
10 State must prove beyond a reasonable doubt that the defendant
11 knowingly, unlawfully seized or confined or kidnapped or
12 abducted or carried away another person without the authority
13 of the law. To do a thing unlawfully is to do it willfully
14 against law.

15 Knowing means with knowledge, consciously, not
16 accidentally.

17 Seized means to take hold of suddenly or forcibly.

18 And confines means to limit, restrict, or enclose
19 within bounds, imprison or shut up or keep in.

20 Kidnap is to remove a person against their will by
21 unlawful force or by fraud.

22 Carrying away means to remove.

23 The State does not have to prove that the defendant
24 did all of these things. Instead, if you find beyond a
25 reasonable doubt that the defendant did any of these things,

1 you may find the defendant guilty of kidnapping. Kidnapping
2 does not have to be for any personal or monetary gain or for
3 any illegal purpose. It could be for any reason whatsoever.

4 The defendant is also charged with murder. The
5 State must prove beyond a reasonable doubt that the defendant
6 killed another person with malice aforethought. Malice is
7 hatred, ill will or hostility towards another person. It is
8 the intentional doing of a wrongful act without just cause or
9 excuse and with an intent to inflict an injury or under
10 circumstances that law will infer evil intent.

11 Malice aforethought does not require that malice
12 exists for any particular time before the act is committed,
13 but malice must exist in mind of defendant just before and at
14 the time the act is committed. Therefore, there must be a
15 combination of previous evil intent and the act.

16 Malice aforethought must be expressed or inferred.
17 These terms expressed and inferred do not mean different
18 kinds of malice, but merely the manner in which malice may be
19 shown to exist. It is either by direct evidence or by
20 inference from the facts and circumstances which are proved.

21 Expressed malice is shown when a person speaks words
22 which express hatred or illwill for another, or when a
23 person's prepared beforehand to do the act which was later
24 accomplished. Malice may be inferred from conduct showing a
25 total disregard for human life. Inferred malice may also

1 arise if the deed is done with a deadly weapon.

2 If a crime is committed by two or more people who
3 are acting together committing a crime, the act of one is the
4 act of all. A person who joins with another person to
5 accomplish an illegal purpose is criminally responsible for
6 everything done by the other person which occurs as a natural
7 consequence of the acts done in carrying out the common plan
8 and purpose.

9 If two or more people are acting together, assisting
10 each other in committing the offense, the act of one is the
11 act of all, or as it is sometimes said, the hand of one is
12 the hand of all.

13 Prior knowledge that a crime is going to be
14 committed without more is not sufficient to make a person
15 guilty of that crime. Mere knowledge that another person is
16 going to commit a crime, even if the defendant is present
17 when the crime is committed, is not sufficient to convict the
18 defendant as a principal.

19 Guilt as a principle is shown by actual or
20 constructive presence at the scene as a result of a prior
21 arrangement. Therefore, a finding of a prior arranged plan
22 or common scheme is necessary for a finding of guilt as a
23 principal. The State must prove beyond a reasonable doubt by
24 competent evidence the theory of the hand of one is the hand
25 of all.

1 A principal in a crime is one who either actually
2 commits the crime or who is present aiding, abetting or
3 assisting in committing the crime. When a person does an act
4 in the presence of and with the assistance of the another,
5 the act is done by both. Where two or more, acting with a
6 common plan or intent or presence at the commission of the
7 crime, does not matter who actually commits the crime; all
8 are guilty. The hand of one is the hand of all.

9 Present at the commission of the crime means to be
10 sufficiently near to aid and abet and assist in the
11 commission of the crime. However, mere presence at the scene
12 of a crime is not sufficient to convict one as a principal on
13 the theory of aiding and abetting.

14 Intent is also a necessary element, for there must
15 have been a common design or intent to commit the crime. The
16 crime must have been committed pursuant thereto with a person
17 aiding and abetting by some overt act. Intent means
18 intending the result which actually occurred, not
19 accidentally or involuntarily. Intent may be shown by acts
20 and conduct of the defendant and other circumstances from
21 which you may actually and reasonably infer intent. The
22 State must prove these elements beyond a reasonable doubt.

23 One issue in this case is the identification of the
24 defendant as the person who committed the crime charged. The
25 State has a burden of proving identity beyond a reasonable

1 doubt. You must be satisfied beyond a reasonable doubt of
2 the accuracy of the identification of the defendant before
3 you may convict the defendant.

4 Identification testimony is an expression of the
5 belief or impression by a witness. You must determine the
6 accuracy of the identification of the defendant. You must
7 consider the believability of each identification witness in
8 the same way as other witnesses. You may consider whether
9 the witness had an adequate opportunity to observe the
10 offender at the time of the offense. And this will be
11 affected by things like how long or short a time was
12 available, how far or close the witness was, the lighting
13 conditions, and whether the witness had a chance to see or
14 know the person in the past.

15 Once again, I instruct you that the burden of proof
16 on the State extends to every element of the crime charged.
17 And this specifically includes the burden of proving beyond a
18 reasonable doubt the identity of the defendant as the person
19 who committed the crime.

20 Ladies and gentlemen, I know that might not have
21 specifically and exactly done what your note requested, but I
22 hope that it suffices and I ask you if you will please return
23 to jury room and resume your deliberations.

24 (Whereupon, the jury leaves open court at 11:35
25 a.m.)

1 THE COURT: Any exceptions?

2 MR. THORNTON: None from State, Your Honor.

3 THE COURT: Exceptions?

4 MR. HOOD: None, Your Honor.

5 THE COURT: All right. We will be at ease once
6 again.

7 (Whereupon, a recess is taken.)

8 THE COURT: We are ready whenever they are ready.

9 (Whereupon, the jury returns to open court at 2:44
10 p.m.)

11 THE COURT: Welcome back, ladies and gentlemen. Ms.
12 Cohen, let me ask you a question as foreperson of the jury:
13 Has the jury reached a verdict in this case?

14 THE FOREPERSON: Yes, Your Honor, we have.

15 THE COURT: And they reached a verdict as to each
16 indictment?

17 THE FOREPERSON: Yes.

18 THE COURT: Was the verdict unanimous; all of you
19 agreed?

20 THE FOREPERSON: Yes.

21 THE COURT: As to each indictment?

22 THE FOREPERSON: Yes.

23 THE COURT: Did you tell write on the indictment the
24 verdict from the jury?

25 THE FOREPERSON: Yes, I did.

1 THE COURT: Will you please pass it forward.

2 Madam Clerk, will you please publish the verdict.

3 THE CLERK: In the case of South Carolina vs. Travis
4 Polite for robbery, armed robbery, robbery while armed,
5 guilty.

6 In the State of South Carolina vs. Travis Polite for
7 kidnapping, not guilty.

8 In the State of South Carolina vs. Travis Polite for
9 murder, guilty.

10 THE COURT: Anything further before the jury is
11 discharged?

12 MR. THORNTON: Nothing from the State, Your Honor.

13 MR. HOOD: I would like the jury polled, Your Honor.

14 THE COURT: If you would, Madam Clerk.

15 THE CLERK: Do you want name or number?

16 THE COURT: Both.

17 THE CLERK: Fiana Mbriwa, Juror No. 222, was this
18 your verdict?

19 JUROR 222: Yes.

20 THE CLERK: Is this still your verdict?

21 JUROR 222: Yes.

22 THE CLERK: Juror No. 146, Jettie Hearn, was this
23 your verdict?

24 JUROR 146: Yes.

25 THE CLERK: Is this still your verdict?

1 JUROR 146: Yes.

2 THE CLERK: Juror No. 231, Nolan Messex, was this
3 your verdict?

4 JUROR 231: Yes.

5 THE CLERK: Is this still your verdict?

6 JUROR 231: Yes.

7 THE CLERK: Juror No. 117, Stephanie Gadson, was
8 this your verdict?

9 JUROR 117: Yes.

10 THE CLERK: Is this still your verdict?

11 JUROR 117: Yes.

12 THE CLERK: Juror No. 144, Chris Haynes, was this
13 your verdict?

14 JUROR 144: Yes.

15 THE CLERK: Is this still your verdict?

16 JUROR 144: Yes.

17 THE CLERK: Juror No. 69, Christine Cohen, was this
18 your verdict?

19 JUROR 69: Yes.

20 THE CLERK: Is this still your verdict?

21 JUROR 69: Yes.

22 THE CLERK: Juror No. 59, Donna Chaplin, was this
23 your verdict?

24 JUROR 59: Yes.

25 THE CLERK: Is this still your verdict?

1 JUROR 59: Yes.

2 THE CLERK: Juror No. 339, Patti Wilson, was this
3 your verdict?

4 JUROR 339: Yes.

5 THE CLERK: Is this still your verdict?

6 JUROR 339: Yes.

7 THE CLERK: Juror No. 286, Crystal Seymore, was this
8 your verdict?

9 JUROR 286: Yes.

10 THE CLERK: Is this still your verdict?

11 JUROR 286: Yes.

12 THE CLERK: Juror No. 172, Cheryl Jimenez, was this
13 your verdict?

14 JUROR 172: Yes.

15 THE CLERK: Is this still your verdict?

16 JUROR 172: Yes.

17 THE CLERK: Juror No. 177, Morgan Jones, was this
18 your verdict?

19 JUROR 177: Yes.

20 THE CLERK: Is this still your verdict?

21 JUROR 177: Yes.

22 THE CLERK: Juror No. 250, Katherine Pavone, was
23 this your verdict?

24 JUROR 250: Yes.

25 THE CLERK: Is this still your verdict?

1 JUROR 250: Yes.

2 THE COURT: Anything further before the jury is
3 discharged?

4 MR. HOOD: Nothing, Your Honor.

5 MR. THORNTON: Nothing from the State, Your Honor.

6 THE COURT: Ladies and gentlemen, I want to thank
7 you for your service. We didn't tell you this was going to
8 be an easy job you were going to have when we selected you to
9 serve on the jury.

10 Previously we told you you couldn't talk about the
11 case. And now, of course, you are free to talk about case or
12 not. I don't have any reason to think anybody is going to
13 bother you about your verdict, but I try to tell every juror
14 that you have the right to talk about it or not talk about
15 it. And if somebody approaches you or calls you or contacts
16 you and you don't want to talk about it, that is your right,
17 you tell them you don't want to talk about it. If they
18 persist, tell them the judge has told you you don't have to.
19 If they further persist, report them to the Clerk of Court.
20 I don't have any reason to think that is going to happen.

21 I want to say one more thing. There's nobody in a
22 position to criticize the verdicts in this case that you have
23 reached. I say that for this reason. Only the 12 of you saw
24 all of the witnesses testify from the witness stand, heard
25 the attorneys make opening and closing statements to you,

1 listened to me tell you about law in case, and then went back
2 in that room and sat around and discussed the things that you
3 saw and heard and found in the courtroom. Nobody but the 12
4 of you did that.

5 I'm going to let you get. You are free to leave,
6 but it's likely there will be a sentencing in this case. The
7 Court will be required to impose sentencing. Typically, that
8 is done -- I haven't discussed it with these attorneys, but
9 typically that would be done in the next few minutes. You
10 are free to go or stay as you choose. Some jurors wish to
11 stay. Some want to get out of court as fast as they can.
12 Not to put you on the spot, but you can't stay there. So
13 what I'm going to let you do is exit through this door and go
14 in the hallway. If you want to come back in the courtroom,
15 the bailiff will escort you around and let you come in back
16 of court.

17 Ladies and gentlemen, does anybody have a problem?
18 Any questions?

19 Thank you for your service, ladies and gentlemen.

20 (Whereupon, the jury leaves open court at 3:44 p.m.)

21 MS. SWANSON: Judge, may I hand up the sentencing
22 sheets?

23 THE COURT: Sure. Is there any reason the Court
24 should not proceed now with the sentencing; from the State?

25 MR. THORNTON: No, sir. I will need maybe two

1 minutes. I'm finding out who from the family, if anybody,
2 wants to speak, but I think we can go ahead and get it done
3 now.

4 MR. HOOD: Nothing, Your Honor.

5 Your Honor, I think it would probably be appropriate
6 at this time to go ahead and make the motions that I intend
7 to.

8 THE COURT: I think it would. You are right.

9 MR. HOOD: I make a motion obviously for a new
10 trial. I renew my motions for a directed verdict. I also am
11 renewing all of my objections that were denied. I am also
12 renewing my motion for a mistrial. I think that is it.

13 THE COURT: Any additional grounds than already
14 stated?

15 MR. HOOD: No, Your Honor, other than what's been
16 previously stated.

17 THE COURT: State wish to be heard?

18 MR. THORNTON: No, we would stand on our previous
19 argument.

20 THE COURT: I understand each of the motions. For
21 reasons I previously stated, the Court feels compelled to
22 deny those motions, and does.

23 So whenever you are ready, Solicitor.

24 MR. THORNTON: Thank you, Your Honor.

25 THE COURT: You are still waiting on some people?

1 MR. THORNTON: No, Your Honor, I think we are ready
2 to go in about one second.

3 THE COURT: Defense have anybody they need to bring
4 in that is not available now?

5 MR. HOOD: We have -- his wife is here and his
6 mother is here in court.

7 MR. THORNTON: The State is ready to proceed, Your
8 Honor, whenever the Court is.

9 THE COURT: All right. I'm ready then, solicitor.

10 MR. THORNTON: Your Honor, obviously, this is not
11 going -- I'm not going to belabor any of the points. I just
12 would like to point out a couple of things, Your Honor. You
13 heard all of the evidence. You heard all of the testimony.
14 You know what this case is about.

15 The victim's family, Judge, has been here all week
16 and has been in constant contact with our office, has
17 indicated they are going to let me handle this and they don't
18 wish to be heard.

19 You know, Your Honor, one of those things that I
20 pointed out to jury and I would just point out to Your Honor,
21 this is -- this was not something that started one way and
22 then went bad. I know that kind of was something Mr. Hood
23 had pointed out, if I heard him correctly, and I would
24 respectfully disagree with that. You know, these three
25 defendants went to this place knowing they didn't have any

1 drugs to sell, armed to rip somebody off.

2 And when you go to a drug deal with no drugs, armed
3 to rip somebody off, I think it's a very foreseeable
4 consequence that somebody can die as a result.

5 They did this in a trailer park crowded with
6 trailers. There was a bullet hole in the trailer next to it.
7 And, you know, it struck me when I had Kalin Higgs on stand,
8 she had a three-month-old in the trailer just two trailers
9 away. They were the trailer right behind the office, I
10 believe. They had four kids in that trailer and three
11 adults, and one of children was three months old. This is
12 exactly the kind of situation where innocent bystanders get
13 struck and killed.

14 In this case, there were none, but you do have
15 Quantize Greer. And, yes, he was there to buy drugs and he
16 shouldn't have been. But he didn't deserve to get murdered.
17 And I would ask the Court, as Mr. Hood has correctly pointed
18 out, his client has no record of any significance, certainly.
19 And I think he has a pending armed robbery charge, unless I'm
20 incorrect about that. I do believe he has a pending charge
21 with our office for armed robbery. He has no convictions I'm
22 aware of of any significance.

23 But because of the nature of this offense and where
24 it took place and when it took place, Judge, I would ask for
25 a life sentence.

1 THE COURT: Thank you.

2 MR. HOOD: Judge, I believe that pending armed
3 robbery, I represent him on that particular charge, and I
4 think that is from 2006 or '07, something like that. So,
5 obviously, there hasn't been a lot of activity towards moving
6 that particular case. And there are obvious reasons for
7 that.

8 But, anyway, I would like to tell you a little bit
9 about Travis. Travis is 34 years old. He left school in
10 grade and basically has been working ever since, odd jobs,
11 landscaping, construction, quite a few, Your Honor. His wife
12 is here with him and they have three kids. The children live
13 with him. And Travis obviously provides support to the
14 family.

15 I have known Travis for quite some period of time.
16 Travis has always, always been like he is, polite, you know,
17 very responsive, you know. He shows up when he's supposed to
18 show up, you know. And he's not the type of person that I
19 think would not be someone who could be rehabilitated. I
20 think Travis has a lot of potential.

21 And, obviously, you know, the least he could receive
22 is a 30-year sentence on the murder. And that, in my
23 opinion, probably would be a more realistic type of sentence
24 for Travis. Travis is still a young man. He might be 64 or
25 so when he gets out, but, you know, I think that is an

1 appropriate sentence under the circumstances.

2 The armed robbery, you know, is whatever in your
3 discretion. I certainly would like for it to run concurrent.

4 And I don't know whether Travis wants to speak or
5 not, but I think his wife Maria would like to speak if she
6 can.

7 THE COURT: Certainly.

8 MRS. POLITE: Good afternoon, Your Honor.

9 THE COURT: Good afternoon, ma'am.

10 MRS. POLITE: I just want to say I apologize to the
11 family that lost a loved one. And I've been with them. I
12 lost a loved one as well. Someone else's mistake my husband
13 is paying for. I pray that you don't hold that over his head
14 for the rest of his life, because there's a lot of things
15 that we all go through in life that goes on account of
16 someone else, in relation to someone else.

17 But I just pray that you take into consideration to
18 be lenient on him, sir, for our kids, same for me and for our
19 family. I just pray that you could be lenient on him.

20 I know someone has to pay for it, but I just pray
21 that it was the right person. And I don't feel that my
22 husband was the right person. But I know someone has to pay.
23 We all want someone to pay for things that went wrong. But I
24 pray that you can be lenient on him and have compassion and
25 mercy upon the Court.

1 THE COURT: Thank you, ma'am.

2 MR. HOOD: I think Travis would also like to
3 speak.

4 THE DEFENDANT: I want to talk to the family. I'm
5 sorry. I never meant for none of this to happen. And I know
6 it hurt in your heart, and all those people too. But I
7 promise y'all, I didn't do this to your son. I don't even
8 how he look. I never hurt nobody like that. I did bad
9 things in my life, but I never take nobody's life. And I'm
10 sorry for y'all's loss, everybody.

11 I just wish this stuff never happened. And it seems
12 to happen every day. I just wish it go away and it just
13 never happened. So, again, I'm sorry. And I just -- I just
14 never meant for none of this to happen. But trust me, I
15 didn't do this.

16 Like I said before, I've been in back seat and I
17 never got out. Even though I got to get time -- you shaking
18 your head, man, you got to listen to me --

19 MR. THORNTON: Objection,, Your Honor. I ask that
20 he be stopped. He shouldn't be able to order the victim's
21 family to do anything.

22 THE DEFENDANT: Like I was saying, I just sorry for
23 all of this stuff that happened to the family. I had none --
24 like I said, again, a man threatened my family, my wife.
25 None of this was bring up that he was writing my wife letters

1 threatening us, saying all of this stuff throughout all of
2 this. I ain't heard this yet. But I get it, it's too late.

3 But I do want to see my family one day. I know it
4 might not be as soon as possible, but I don't want to die in
5 prison and never get to see my girls again. And I'm just
6 sorry for the family's loss. Thank you.

7 THE COURT: All right. Thank you. Somebody else
8 that's family that's trying to get your attention there,
9 Mr. Hood.

10 MS. SANDERS: Good afternoon. My name is Pastor
11 Sandors. I'm sister of Maria. I'm a sister of Travis. My
12 uncle adopted the family in their loss. I too am in a
13 situation like this to where my husband got killed in
14 Dorchester. So I understand being in pain and someone has to
15 pay. And we all want someone to pay. And everyone of us
16 have a judgment day and everyone want to point their fingers
17 and blame however it goes. But I'm asking the Court, Judge,
18 just to find in the heart. We've all had a childhood. We've
19 all done some things. But there comes a time to when we
20 learn.

21 I've had -- I grew up being older than Travis, so I
22 know, you know, a lot of his childhood. And I've seen a lot
23 of change in him. And I'm just asking that you find --
24 because you have the final say-so -- to find it in your
25 heart, if someone has to pay and someone is going the pay,

1 but if there's a right person, pay for this crime that has
2 been committed for this family that lost their son.

3 So it's like someone has lost. So just asking you
4 to -- attorney already gave his ruling on what he want. But,
5 Judge, you have the final say-so. And we all got to know
6 that we've got to sleep at night and sleep in that we haven't
7 sent an innocent man or woman to jail and gave the right
8 verdict.

9 So, Judge, just find it in your heart to deem
10 necessary that you have ruled out everything and that
11 everyone will be comfortable with whatever decision that is
12 placed today. Amen.

13 THE COURT: Thank you, ma'am.

14 Anything else?

15 MR. HOOD: That is all, Your Honor.

16 THE COURT: Anything else from the State?

17 MR. THORNTON: No, thank you, Your Honor.

18 THE COURT: Mr. Polite, on the charge of murder, I
19 sentence you to the Department of Corrections for a period of
20 39 years. That will be concurrent with the other sentence,
21 and you get credit for time served.

22 On the armed robbery charge, sentence you to 20
23 years. Once again, give you credit for time served.

24 MR. THORNTON: Thank you, Your Honor.

25 THE COURT: Court's adjourned.

1 (Whereupon, proceedings are concluded at 3:58 p.m.)
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CERTIFICATE OF REPORTER

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I, Karen V. Andersen, Registered Merit Reporter certified Realtime Reporter, and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate and complete Transcript of Record of the proceedings.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 6th day of March, 2015, at Charleston, Charleston County, South Carolina.


Karen V. Andersen
Registered Merit Reporter
Certified Realtime Reporter
My Commission expires:
September 14, 2016

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County

Brooks P. Goldsmith, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TRAVIS ABE POLITE,

APPELLANT

APPELLATE CASE NO. 2015-000182

FINAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the trial court erred in denying defense counsel's motion for mistrial where Sergeant Gobel testified that he was "familiar" with the defendant's "street name or nickname" of "Travi" and the trial court's order striking the testimony was insufficient to cure the prejudice from the admission of improper character evidence?

STATEMENT OF THE CASE

On December 13, 2012, the Beaufort County grand jury indicted Appellant Travis Abe Polite¹ for the offenses of murder, armed robbery, and kidnapping. R. 352.

On January 20 – 22, 2015, Polite appeared before the Honorable Brooks P. Goldsmith and jury for a trial on the above offenses. Polite was represented by Chief Public Defender Gene G. Hood and assistant public defender Lauren Carroway. The State was represented by assistant solicitors Sean Thornton and Hunter Swanson. R. 1.

The jury found Polite guilty of the murder and armed robbery. Polite was found not guilty of kidnapping. R. 349, ll. 3-9. Judge Goldsmith sentenced Polite to concurrent terms of thirty-nine years for murder and twenty years for armed robbery. R. 351, ll. 18-23; R. 356.

This appeal follows.

¹ Appellant is also known as Abe Travis Polite. R. 259, ll. 24-25.

STATEMENT OF FACTS

Trial Testimony

On September 6, 2012, Quantize Greer and Jessica Power went to the Taylor's Mobile Home Park, where Greer intended to purchase one-half pound of marijuana from Brandon Singleton and Walter Tucker, also known by the street name "Oowee." Power put the parties in contact with one another. R. 49, l. 5 – 51, l. 14. Greer suffered a gunshot wound to the chest and died. R. 253, l. 19 – 255, l. 15. Evidence was presented that Power knew that the drug sale was a pretext to rob Greer. R. 161, l. 20 – 163, l. 25; State's Exhibit 43, audio of Appellant's second interview (on file with this Court). However, Power claimed to be a victim, innocent of any such nefarious involvement. R. 55, l. 22 – 56, l. 2; R. 84, l. 24 – 85, l. 4.

Antonio Brewer was the owner of the mobile home at which the incident took place. Though he initially denied any knowledge related to the incident, Brewer later admitted being present when Walter Tucker, Brandon Singleton, and two other unknown males used his mobile home to do "a lick." Brewer claimed that he was in the back room during the incident, until he heard gunshots and ran out of the back of the mobile home. R. 117, l. 15 – 132, l. 13; R. 149, l. 6 – 151, l. 20. It was not until October 10, 2012, after detectives had paid him several visits and admittedly told him he would not want to "catch a murder charge," that Brewer claimed that Polite, who he knew from "around town," was the shooter. R. 132, l. 14 – 138, l. 14; R. 218, l. 5 – 226, l. 9; R. 248, l. 13 – 249, l. 21. Notably, Brewer identified Singleton and Tucker on September 7, 2013, despite the fact that they were associated with the Black Mafia Family (BMF) and

actually threatened him. R. 145, ll. 4-19; R. 150, ll. 12-16; R. 152, l. 23 – 153, l. 7; R. 155, l. 13 – 161, l. 19; R. 171, ll. 5-25; R. 226, l. 12 – 227, l. 22; R. 229, l. 24 – 230, l. 16.

Jessica Power's version of events inculpated only two individuals, Tucker and an unknown black male whom she saw seated in the living room of the mobile home with his eyes closed. According to Power, when she and Greer pulled up to the mobile home Tucker was outside. Greer tried to negotiate a better price for the marijuana but ultimately counted out the amount requested and gave it to Power. Power claimed that when they went to enter the mobile home, Tucker slammed the door behind her, leaving Greer outside. She was then forced to the floor and made to relinquish the \$2,500 in cash that Greer had given her to carry in for him. Power claimed that Greer gave her the money because it was too much for him to put in his pocket.² She claimed that the man on the couch asked Tucker for a gun and went outside the trailer. Power then heard a gunshot, at which time Tucker went outside. She heard several more gunshots as she ran to the back of the mobile home to hide. She encountered Brewer and both of them ran out of the back of the mobile home. R. 46, l. 16 – 55, l. 21; R. 68, l. 2 – 95, l. 13. Power was unable to identify Polite as the man who was sitting in the chair during the incident. R. 85, l. 22 – 86, l. 1.

David Roche and Kalin Higgs also testified, but neither of them provided any information actually linking Polite to the incident. R. 34, l. 22 – 38, l. 18; R. 39, l. 13 – 46, l. 7. A gun found in the vicinity of the incident had the victim's DNA on it. R. 116, ll. 2-18; R. 200, l. 21 – 201, l. 7. Power confirmed that Greer had a gun in the console of

² The inventory from the autopsy revealed that Greer was wearing gray cargo shorts at the time of the incident. R. 210, ll. 3-11.

his vehicle. R. 78, ll. 18-22. DNA was also collected from an iced tea bottle inside of Brewer's mobile home and co-defendant Walter Tucker could not be excluded as a possible contributor. R. 176, ll. 9-12. There was no DNA or fingerprint evidence that connected Polite to the incident location. R. 177, l. 24 – 178, l. 3.

Polite was arrested and interviewed twice by members of the Sheriff's Department after he signed waivers of his Miranda rights. During the first interview, on October 19, 2015, Polite denied any knowledge of or involvement in the incident. R. 234, l. 21 – 235, l. 21. On October 23, 2015, at Polite's request, Sergeant Fraser and Sergeant Rice met with Polite at the detention center. Polite told them that he was concerned for the safety of his wife and children due to threats from Walter Tucker. He described Tucker as "a killer," "scary," "crazy," and "psycho." Tucker told Polite that he murdered two or three other people before and claimed that he was protected by the devil. Tucker was part of the Black Mafia Family, who was making sure that Singleton was collecting and turning over the correct money from his marijuana sales. Polite "babysat" the marijuana that was shipped to the area from Atlanta for Singleton to sell. R. 232, l. 22 – 238, l. 18; R. 240, l. 10 – 248, l. 3; State's Ex. 43, audio of Appellant's second interview (on file with this Court).

Though Tucker was "locked up," Polite said that Tucker could place a phone call and that someone else from the Black Mafia Family would harm his family, just as Tucker threatened in the past. One of the officers told Polite that he was "half-ass telling" them the story of what happened. The officer said he understood that Polite wanted his family safe, but that "there is nothing we can do with half of the information." He said: "you're trying to work out some kind of a deal for your family; we can't do that until we get all the information and present it to the prosecutor." The officer said that they were not going to

protect someone who had only lied to them so far. State's Ex. 43, audio of Appellant's second interview (on file with this Court).

Polite said that Tucker and Singleton picked him up earlier on the date of incident and they drove around, as they had done in the past. Tucker received several phone calls from Power. She asked Tucker if he had any marijuana and said "my man [is] waiting on you." They then went to Brewer's trailer, where Polite and Singleton remained in the car. Polite was in the back seat. Tucker drove. When they arrived, Tucker went inside the trailer. Once the other vehicle arrived, Power entered the trailer through the back door. Polite said that Power's screams were feigned so that her friend would not know that she was "in on it." Polite suspected that Power arranged the "set up" due to her prior sexual relationship with Tucker. After Tucker robbed Power inside of the trailer, he shot the victim on the way out. State's Ex. 43, audio of Appellant's second interview (on file with this Court).

The only people who went inside the trailer were Tucker, Power, and Brewer. Polite said Brewer had prior interactions with Tucker and was "in" on the robbery. The only reason Polite accompanied Tucker and Singleton to the mobile home park was out of fear of Tucker. Once Tucker said he thought he killed someone, Polite insisted that they let him out of the car. State's Ex. 43, audio of Appellant's second interview (on file with this Court).

Motion for Mistrial

During Sergeant Gobel's testimony regarding Brewer's identification of Polite, the following exchange occurred:

Solicitor: I'm going to hand you what's been marked for identification as State's Exhibit No. 3 and ask you if you can identify that for me?

Sergeant Gobel: This is a photo lineup identification of the defendant, Travis Polite, which was made by Mr. Brewer on the 10th of October at my office during the interview.

Solicitor: All right. Is that -- how many photographs are in there?

Sergeant Gobel: There's six different photographs. Five of the photographs are just random people who have the same type of hair, the same facial build, similarities to the defendant, but are not the defendant. And then one photograph is that of the defendant, Travis Polite.

Solicitor: And when you were doing this, and let's not talk in generalities, when you did this lineup, did you in infer [sic] to Mr. Brewer that he should pick out a particular person or not?

Sergeant Gobel: No, sir. When -- during this interview, Mr. Brewer identified the defendant that he saw as the shooter in this case and he called him by the name, Travi. *He didn't use the name Travis Polite; he used Travi. We are familiar with that street name or nickname, as -- and we commonly know folks by their street names.*

R. 206, l. 17 – 207, l. 14 (emphasis added). Defense counsel objected and an off-the-record bench conference took place. The trial judge then sustained the objection and ordered the last statement of the witness stricken from the record. He ordered the jurors to disregard the last statement of the witness. R. 207, ll. 15-24.

Outside of the presence of the jury, defense counsel was allowed to place the reasoning for his objection and motion for mistrial on the record. Defense counsel argued that the curative instruction given by the court was insufficient and the police familiarity with Polite was already in the jurors' minds. R. 257, l. 21 – 259, l. 19. Though the trial judge did not state that the motion for mistrial was denied, his continuing on with the case was an implicit denial of the motion. Further, following the jury's verdict, defense counsel renewed the motion for mistrial and the court denied it. R. 350, ll. 9-22.

ARGUMENT

The trial court erred in denying defense counsel's motion for mistrial where Sergeant Gobel testified that he was "familiar" with the defendant's "street name or nickname" of "Travi" and the trial court's order striking the testimony was insufficient to cure the prejudice from the admission of improper character evidence.

The officer's testimony that he was "familiar" with Polite's "street name or nickname" of "Travi" was improper character evidence because Polite did not first put his character at issue. R. 206, l. 17 – 207, l. 14; see State v. Nelson, 331 S.C. 1, 501 S.E.2d 716 (1998) ("In a criminal case, the State cannot attack the character of the defendant unless the defendant first places his character in issue."); Rule 404, SCRE. The officer's statement implied that Polite had a criminal record, or at the very least was under suspicion by the police outside of the present incident.

In Priest v. State, 282 S.W.2d 390 (Tex. Crim. App. 1955), the Texas Court of Criminal Appeals found that a curative instruction was insufficient to cure the prejudice where the victim twice referenced the defendant's criminal history. He said that police showed him a file of "known pickpockets" and "the police files" on the defendant. 282 S.W.2d at 390-91. The Priest court found that the trial court was correct in sustaining the objections and instructing the jury to disregard the answers, finding that "[s]uch inquiries were inadmissible as they inferred that appellant was a criminal generally and had committed other extraneous offenses." Id. at 391. The court found the questions and answers "highly inflammatory and prejudicial." Id. Thus, they went a step further and found that "[n]otwithstanding the court's rulings and instructions, the jury could not wholly disregard and keep such testimony out of mind." Id. Priest's conviction was accordingly reversed and his case remanded for a new trial. Id.

In Hicks v. State, 355 S.W.2d 189 (Tex. Crim. App. 1962), the Texas Court of Criminal Appeals relied on its decision in Priest. The Hicks court reversed the defendant's conviction for robbery by assault where the trial court failed to grant a mistrial after an officer testified that he was familiar with the defendant's mug shot. 355 S.W.2d at 189. There was additional evidence that the jury did not abide by the court's instruction to disregard the officer's answer. Id. at 190. The Hicks court found that the "jury consider[ed] the appellant's character when it had not been put in issue, giving consideration to a statement implying strongly that the appellant had been in previous trouble, when no evidence was introduced showing any previous acts of misconduct or law violation." Id.

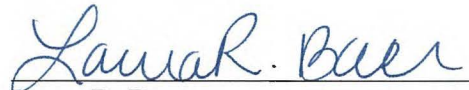
This Court found that "a vague reference to a defendant's prior criminal record is not sufficient to justify a mistrial where there is no attempt by the State to introduce evidence that the accused has been convicted of other crimes." State v. Thompson, 352 S.C. 552, 562, 575 S.E.2d 77, 82 (Ct. App. 2003). However, the determination of the degree of prejudice must be made on case by case basis. In Thompson, the jury could have reasoned that the officer's reference to the defendant's warrants related to the charged conduct and not some other incident. 352 S.C. 552, 561, 575 S.E.2d 77, 82. In the present case, the officer's knowledge of Polite's street name was obviously prior to the charged incident because Polite was not even a suspect until Brewer mentioned him. See State v. Council, 335 S.C. 1, 13 n. 7, 515 S.E.2d 508, 514 n. 7 (1999) (distinguishing the fingerprint card referenced in Council from the mug shot admitted in State v. Tate, 288 S.C. 104, 341 S.E.2d 380 (1986) because the date of the mug shot was one year prior to the trial, implying that Tate had a prior criminal record).

Here, the officer's testimony regarding law enforcement's familiarity with Polite's nickname implied that he either had a prior criminal record or was involved in some sort of unsavory activity that made him known to the police. Polite did not testify and did not present any witnesses to testify to his good character. Therefore, this attack on his character was improper. Further, Polite's defense was mere presence, which would clearly be impacted by an insinuation of his bad character. The instruction to the jury to disregard the testimony was not sufficient because the jurors could not reasonably put the comment out of their minds. It undoubtedly influenced their perception of all of the evidence presented. Though the trial judge ordered the statement "stricken" and instructed the jurors to "disregard the last statement," he failed to instruct the jury that the statement should not be considered for any purpose during deliberations. R. 207, ll. 20-23; see State v. Smith, 290 S.C. 393, 395, 350 S.E.2d 923, 924 (1986) ("Great care should be exercised in the 'delicate, difficult, and important matter' of instructing the jury to disregard incompetent evidence. The jury should be specifically instructed to disregard the evidence, **and not to consider it for any purpose during deliberations.**" (emphasis added)). The jury instructions given the following day were no more helpful given their remoteness in time. R. 313, ll. 10-16. Therefore, the motion for mistrial should have been granted.

CONCLUSION

Based on the foregoing, Appellant Travis Abe Polite respectfully requests that this court reverse his convictions and grant him a new trial.

Respectfully submitted,

A handwritten signature in blue ink that reads "Laura R. Baer". The signature is written in a cursive style and is positioned above a horizontal line.

Laura R. Baer
Appellate Defender

ATTORNEY FOR APPELLANT

This 19th day of April, 2016.

CERTIFICATE OF COUNSEL FOR APPELLANT

The undersigned certifies that to the best of my ability the Final Brief complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

April 19th, 2016

A handwritten signature in blue ink that reads "Laura R. Baer". The signature is written in a cursive style and is positioned above a horizontal line.

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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Beaufort County

Brooks P. Goldsmith, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TRAVIS ABE POLITE,

APPELLANT

CERTIFICATE OF SERVICE


The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon Sherrie Butterbaugh, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 19th day of April, 2016.



Laura R. Baer
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 19th day of April, 2016.

 (L.S.)

Notary Public for South Carolina
My Commission Expires: October 30, 2022.

**STATE OF SOUTH CAROLINA
In the Court of Appeals**

Appeal from Beaufort County
Brooks P. Goldsmith, Circuit Court Judge

THE STATE,

Respondent,

v.

TRAVIS ABE POLITE,

Appellant.

Appellate Case No. 2015-000182

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APPELLANT'S STATEMENT OF THE ISSUE ON APPEAL

Whether the trial court erred in denying defense counsel's motion for mistrial where Sergeant Gobel testified that he was "familiar" with the defendant's "street name or nickname" of "Travi" and the trial court's order striking the testimony was insufficient to cure the prejudice from the admission of improper character evidence?

RESPONDENT'S COUNTERSTATEMENT OF THE ISSUE ON APPEAL

Appellant's argument that the trial judge erred in denying defense counsel's motion for a mistrial following a reference to appellant's nickname is procedurally barred because the record clearly shows counsel did not make a motion for a mistrial, but simply objected to the reference; regardless, even if the argument is not procedurally barred, appellant cannot demonstrate sufficient prejudice to justify a mistrial, where the judge properly instructed the jury to disregard the reference, and any possible error was harmless beyond a reasonable doubt due to the overwhelming evidence of appellant's guilt.

STATEMENT OF THE CASE

A Beaufort County Grand Jury indicted appellant, Travis Abe Polite, for murder, armed robbery, and kidnapping. (R.pp.352-55). Appellant proceeded to a jury trial on January 20, 2015 and was represented by Gene Hood, Esquire, and Lauren Carroway, Esquire. (R.p.1). Sean Thornton, Esquire, and Hunter Swanson, Esquire, of the Fourteenth Circuit Solicitor's Office represented the State. (R.p.1).

On January 22, 2015, the jury found appellant guilty of murder and armed robbery, but found him not guilty of kidnapping. (R.p.349, lines 3-9). The Honorable Brooks P. Goldsmith sentenced appellant to concurrent terms of thirty-nine (39) years' imprisonment for murder and twenty (20) years' imprisonment for armed robbery, with credit for time served. (R.p.351, lines 18-23).

This appeal follows.

STATEMENT OF FACTS

On the afternoon of September 6, 2012, the victim, Quantize Greer, and a friend arrived at a mobile home park in Beaufort County to buy marijuana. (R.p.47, lines 3-5; p.47, line 17; p.47, line 21). Three men were waiting for them—appellant, Brandon Singleton, and Walter Tucker, known by his street name of "Oowee." (R.p.28, lines 1-3). Jessica Power was the victim's friend and testified she met Tucker for the first time at a gas station prior to the murder when Tucker introduced himself, told her he was from Atlanta, and that he was waiting on a shipment of marijuana.¹ (R.p.48, lines 19-24). Power subsequently met Tucker twice at his motel room to smoke marijuana. (R.p.60, lines 16-19; p.61, lines 21-23; p.63, lines 12-17). Power arranged the drug deal between the victim and Tucker and testified she went with the victim to the mobile home park to buy a half-pound of marijuana for \$2,500. (R.p.47, lines 3-5; p.47, line 17; p.47, line 21; p.49, lines 11-13; p.49, lines 21-25; p.68, lines 10-15).

When the victim and Power arrived, the victim tried to negotiate a better price, but Tucker refused. (R.p.51, lines 1-4). The victim counted out the money and Power testified he gave it to her to carry in her purse. (R.p.51, lines 4-10). Power got out of the vehicle and, when she got inside the mobile home, Power stated Tucker closed and locked the door and pulled out a gun. (R.p.51, lines 17-22). Power testified she saw a man she did not recognize sitting in a chair in the living room, with a white t-shirt wrapped around his head. (R.p.52, lines 1-13). Tucker demanded Power give him the money and, when she hesitated, Tucker shoved her to the floor and appellant grabbed her arm. (R.p.52, lines 14-20; p.52, line 23-p.53, line 3). Tucker took Power's purse, but could not find the money so he threw the purse back at Power and told her to find the money, which she did and she gave it to Tucker. (R.p.53, lines 6-9). Power testified she

¹ The investigation revealed that Tucker was a member of the Black Mafia Family, a street gang based out of Atlanta that deals heavily in drugs. (R.p.226, lines 12-14; p.227, lines 7-9).

saw appellant look out of the mobile home's window before he and Tucker had "words," and appellant demanded a gun from Tucker, then appellant ran outside and Power heard the first gunshot.² (R.p.53, lines 11-18; p.83, lines 9-12). Tucker jumped up and followed appellant outside, and Power heard more gunshots. (R.p.54, lines 2-6). Power testified she ran to a room in the back of the mobile home to hide, but when she realized she could not jump out of the window, she ran out of the back door after seeing a fourth man do the same. (R.p.54, lines 9-11; p.55, lines 1-11). Power testified she did not know about the plan to rob the victim, she did not know her friend would be murdered, and she was not in a relationship with Tucker. (R.p.55, line 22-p.56, line 2; p.57, lines 1-5; p.106, lines 18-21).

Two witnesses testified they heard a series of gunshots on that afternoon in September 2012. One man working across the street from the mobile home park stated he heard three shots fired—he heard one, there was a pause, and then he heard two more. (R.p.35, lines 16-18; p.37, lines 12-14). The man also testified he saw a dark-colored getaway car race out of the mobile home park after the shooting. (R.p.36, lines 17-23). A woman visiting her sister testified she called 911 after hearing three shots, looked out of the window, and saw a man running toward a wooded area. (R.p.39, lines 13-19; p.40, line 1; p.40, lines 17-20). The woman testified the man had something white wrapped around his head and a gun in his hand as he ran away. (R.p.40, line 24-p.41, line 3; p.41, lines 8-10).

Antonio Brewer owned the mobile home where the deadly confrontation took place. (R.p.117, line 22; p.117, line 25-p.118, line 2). Brandon Singleton called Brewer because he needed someplace to "pull a lick," or commit a robbery. (R.p.119, lines 1-4; p.122, lines 19-21). At first, Brewer told Singleton he did not want get involved and bring that type of violence into

² The autopsy later revealed the victim had been shot once in the chest. (R.p.253, line 24-p.254, line 16).

the home where he and his family lived. (R.p.119, lines 7-18). Brewer testified "before [he] knew it," Singleton arrived in a dark-colored vehicle with appellant and Walter Tucker inside. (R.p.119, lines 19-21; p.151, lines 6-12). Singleton and Tucker "kind of swarm[ed]" Brewer, trying to convince him to let them use his mobile home by telling Brewer "it's going to be easy, let's do this" and that they would "look out for" him. (R.p.120, lines 4-9). Brewer testified he saw Tucker's gun and, because he did not want to "go against" a man with a gun who could hurt or kill him, Brewer "just rolled with it." (R.p.120, lines 10-14). Tucker told Brewer to go wait in a back bedroom if he did not want to be a part of the robbery or if he was scared. (R.p.120, lines 14-16; p.125, lines 10-16). When Brewer walked inside his mobile home, he saw appellant sitting in a chair in the living room with a white t-shirt wrapped around his head. (R.p.122, lines 9-15). Brewer testified he went to a back room and "stayed there." (R.p.125, lines 16-17). While in the back room, Brewer heard a thump, and he looked out of the window and saw the victim's car—moments later, Brewer testified he saw appellant walk up to the car, point his gun at the victim, and fire a shot.³ (R.p.125, line 23-p.126, line 4; p.153, line 22-p.154, line 6). Brewer stated he realized the situation had gotten "out of hand," so he ran out of the back door. (R.p.126, lines 4-7). As he was running, Brewer saw Jessica Power leave the mobile home out of the same door and he also saw appellant running across the yard with the white t-shirt still on his head. (R.p.129, lines 16-22). Brewer also testified he heard more shots being fired.⁴

³ Brewer also told investigators, prior to seeing appellant shoot the victim, he heard someone in the living room ask Jessica Power if the victim had a gun in the car. (R.p.164, lines 3-12). Power later told investigators the victim had a gun in the center console of his car, and a gun found at the scene had the victim's DNA on it. (R.p.78, lines 18-20; p.200, line 21-p.201, line 7).

⁴ Brewer testified Brandon Singleton sent him a text message after the incident, telling him not to "snitch." (R.p.145, lines 6-8). However, at the time Brewer received the message, he was meeting with an investigator and Brewer testified he immediately showed the cell phone to the investigator and gave it to him because Brewer did not "want anything to do with those guys

(R.p.132, lines 9-10).

Brewer had seen appellant "around town" and was able to identify appellant in a photo lineup as the man who shot the victim. (R.p.132, line 14-p.133, line 11). Moreover, while Brewer admitted he did not initially implicate appellant in the murder because he was scared and did not want to be labeled a snitch,⁵ Brewer testified he was "100 percent sure" appellant was the man he saw pull the trigger and shoot the victim. (R.p.133, line 25-p.134, line 5; p.135, lines 1-9; p.135, lines 12-22). On cross-examination, Brewer specifically stated, "The shot happened as I was looking out the window. That's how come I identified [appellant]. I saw him with my own eyes." (R.p.164, lines 21-23).

Appellant was arrested about a month after the murder. (R.p.204, lines 2-5). Investigators interviewed appellant twice—and he gave two vastly different stories. (R.p.15, lines 11-15; p.236, lines 19-23). Both statements were admitted as evidence at trial and played for the jury. (R.p.238, lines 17-18; p.244, line 4; p.244, line 17; p.246, line 1). During his first statement, appellant denied any involvement and told investigators he did not know anything about the incident. (R.p.15, lines 16-21; p.235, lines 4-9). However, after his arrest, appellant requested that investigators visit him in the Beaufort County Detention Center because he wanted to give a second statement. (R.p.236, lines 8-16; p.242, lines 3-4; p.247, lines 4-8). In his second statement, appellant confessed that he was at the mobile home at the time of the murder, he knew about the plan to rob the victim, and he participated in the robbery because he was scared of Walter Tucker, whom appellant claimed shot the victim. (R.p.15, line 22-p.16,

anymore." (R.p.145, lines 11-19).

⁵ Brewer identified Walter Tucker and Brandon Singleton as participants shortly after the incident, and implicated appellant in the crime during an interview with investigators on October 10, 2012. (R.p.134, lines 10-11; p.135, lines 23-24; p.155, lines 13-22; p.160, lines 19-20; p.161, lines 12-14).

line 7; p.16, lines 12-17). Appellant told investigators he wanted protection for his family. (R.p.18, lines 5-7). Moreover, appellant admitted that he helped with Tucker's drug business, keeping track of the sales as the "babysitter" of the marijuana. (R.p.265, lines 4-6).

ARGUMENT

Appellant's argument that the trial judge erred in denying defense counsel's motion for a mistrial following a reference to appellant's nickname is procedurally barred because the record clearly shows counsel did not make a motion for a mistrial, but simply objected to the reference; regardless, even if the argument is not procedurally barred, appellant cannot demonstrate sufficient prejudice to justify a mistrial, where the judge properly instructed the jury to disregard the reference, and any possible error was harmless beyond a reasonable doubt due to the overwhelming evidence of appellant's guilt.

Relevant Facts:

As referenced above in the Statement of Facts, the evidence and testimony presented to the jury showed appellant was guilty of murder. Multiple witnesses testified they saw appellant at the scene of the crime or saw him with a gun, and Antonio Brewer actually saw appellant shoot the victim at least once. Moreover, appellant confessed to investigators that he knew about the plan to rob the victim and actively participated in it.⁶

Sergeant John Gobel was the lead investigator in the case. During Gobel's testimony, the State asked him about the photo lineup he used when Brewer identified appellant as the shooter. (R.p.206, lines 17-22). The State asked Gobel to describe the lineup:

A: There's six different photographs. Five of the photographs are just random people who have the same type of hair, the same facial build, similarities to the defendant, but are not the defendant. And then one photograph is that of the defendant, Travis Polite.

Q: And when you were doing this, and let's not talk in generalities, when you did this lineup, did you infer to Mr. Brewer that he should pick out a particular person or not?

A: No, sir. When—during this interview, Mr. Brewer identified the defendant that he saw as the shooter in this case and he called him by the name, Travi. He didn't use the name Travis Polite; he

⁶ While the State maintained appellant pulled the trigger and committed the murder, the State also argued appellant could be found guilty under the theory of accomplice liability because there was sufficient evidence to show he actively participated in the crime, including appellant's own statements to investigators. (R.p.287, line 6-p.288, line 13). The trial judge agreed and charged the jury on accomplice liability. (R.p.322, line 17-p.324, line 11).

used Travi. We are familiar with that street name or nickname, as—we commonly know folks by their street names.

(R.p.206, line 23-p.207, line 14). Defense counsel objected and a bench conference was held off the record. (R.p.207, lines 15-19). The trial judge sustained counsel's objection, ordered Gobel's last statement stricken from the record, and instructed the jury to disregard the statement.

(R.p.207, lines 20-23). Gobel continued to testify regarding Brewer's identification of appellant as the shooter, as well as appellant's subsequent statements to law enforcement. (R.pp.208-17). Following Gobel's testimony, the State called multiple additional witnesses prior to the end of its case, while the defense rested without calling any witnesses. (R.pp.2-4; p.255, line 25-p.256, line 1; p.268, lines 4-5).

Prior to closing arguments, defense counsel put on the record his reason for objecting to the reference to appellant's nickname, or street name. (R.p.257, line 21-p.258, line 6). Counsel asserted the trial judge's curative instruction was insufficient because the investigator's familiarity with appellant was already in the minds of the jurors and could be used "as some type of evidence." (R.p.258, line 6-p.259, line 10). However, counsel acknowledged that the judge sustained his objection at the time and "went further" with his instruction to disregard the statement. (R.p.259, lines 11-16). Moreover, during the jury charge, the judge reminded the jurors, "You are to consider only the competent evidence before you. And if there was any testimony ordered stricken from the record during the trial, you must disregard that testimony." (R.p.313, lines 10-13).

Following jury instructions, defense counsel made his first motion for a mistrial—but only in reference to a statement made by the solicitor during his closing argument.⁷ (R.p.326,

⁷ During the State's closing argument, defense counsel objected to an image the solicitor used with a reference to one of appellant's statements to investigators. (R.p.283, lines 10-23). The

line 25-p.327, line 6). Specifically, defense counsel argued the statement was a prejudicial error such that "no instruction [was] going to pull that horse back into the barn." (R.p.328, lines 2-7). The solicitor maintained a mistrial was not "a manifest necessity" because defense counsel could not demonstrate sufficient prejudice where the solicitor had used evidence previously admitted at trial to make a point during his closing argument. (R.p.328, line 19-p.329, line 15). The trial judge ultimately denied defense counsel's motion for a mistrial stating, "I didn't see anything that appeared to be inaccurate, I don't see the prejudice to you." (R.p.330, lines 10-18).

Following the guilty verdict on the charges of murder and armed robbery, defense counsel renewed his motion for a mistrial made in reference to the closing argument, which the trial judge again denied. (R.p.350, lines 11-22).

Discussion:

Appellant's Argument is Procedurally Barred

To begin, respondent submits appellant's argument that the trial judge erred in denying appellant's motion for a mistrial following a reference to appellant's nickname during Sergeant John Gobel's testimony is procedurally barred. Our courts have been clear in holding if a trial judge sustains a timely objection to testimony and gives the jury a curative instruction to disregard the testimony, any error in admitting the evidence is deemed to be cured. *State v. George*, 323 S.C. 496, 510, 476 S.E.2d 903, 911-12 (1996) (citations omitted). Our courts have also been clear that an issue is not preserved for appellate review if the objecting party accepts the judge's ruling sustaining his objection and does not contemporaneously make an additional objection to the sufficiency of the curative charge or move for a mistrial. *George*, 323 S.C. at 510, 476 S.E.2d at 912.

trial judge sustained defense counsel's objection and the solicitor continued with his closing argument. (R.p.283, line 24-p.284, line 6).

Here, defense counsel timely objected to Sergeant Gobel's reference to appellant's nickname, the trial judge sustained that objection, and immediately told the jury to disregard the statement. (R.pp.206-07). Counsel did not make an additional objection to the sufficiency of the curative charge and, despite appellant's contention, the record clearly shows counsel did not move for a mistrial at that time. (R.p.207). Moreover, counsel later acknowledged his acceptance of the judge's ruling sustaining his objection. (R.p.259). The record plainly shows the only motion for a mistrial made at trial was in reference to the State's closing argument and not following the reference to appellant's nickname during Gobel's testimony. (R.pp.326-30); *see also George*, 323 S.C. at 510, 476 S.E.2d at 912 (holding an issue is not preserved for appellant review if an objecting party fails to contemporaneously object to the sufficiency of the curative charge or move for a mistrial). Accordingly, appellant's current argument is not preserved for review by this Court.

Appellant's Argument Fails on the Merits

Regardless, even if the Court were to find appellant's argument is not procedurally barred, respondent submits the argument fails on the merits because the reference to appellant's nickname was not improper character evidence and did not create sufficient prejudice to warrant a mistrial.

Generally, evidence of a defendant's character is not admissible to prove the defendant has a criminal character or a propensity to commit the crime for which he was charged. Rule 404, SCRE; *State v. Brown*, 344 S.C. 70, 73, 543 S.E.2d 552, 554 (2001); *State v. Nelson*, 331 S.C. 1, 6, 501 S.E.2d 716, 719 (1998). Moreover, the State cannot attack the character of the defendant unless the defendant first places his character in issue. Rule 404(a), SCRE. However, it is well settled that evidence of other crimes or bad acts may be admissible to prove the crime

charged if the evidence tends to establish: (1) motive; (2) identity; (3) the existence of a common scheme or plan; (4) the absence of mistake or accident; or, (5) intent. Rule 404(b), SCRE; *State v. Stokes*, 279 S.C. 191, 193, 304 S.E. 814, 814-15 (1983); *State v. Lyle*, 125 S.C. 406, 406, 118 S.E. 803, 807 (1923).

The decision whether to grant or deny a mistrial is within the discretion of the trial judge and will not be reversed absent an abuse of discretion amounting to an error of law. *State v. Herring*, 387 S.C. 201, 216, 692 S.E.2d 490, 498 (2009); *State v. Harris*, 340 S.C. 59, 63, 530 S.E.2d 626, 628 (2000). Our courts favor the exercise of wide discretion of the trial judge in determining the merits of such a motion in each individual case. *State v. Howard*, 296 S.C. 481, 483, 374 S.E.2d 284, 285 (1988). "It is only in cases of abuse of discretion which result in prejudice that [the appellate court] will intervene and grant a new trial." *Id.*

A mistrial should not be granted except in cases of manifest necessity and granted only with the greatest caution and for very plain and obvious reasons. *State v. Wasson*, 299 S.C. 508, 510, 386 S.E.2d 255, 256 (1989); *see also State v. Council*, 335 S.C. 1, 13, 515 S.E.2d 508, 514 (1999) (noting a trial judge should exhaust other methods to cure possible prejudice before ordering a mistrial). The grant of a motion for a mistrial is an extreme measure which should be taken only where an incident is so grievous that the prejudicial effect can be removed no other way. *State v. Beckham*, 334 S.C. 302, 310, 513 S.E.2d 606, 610 (1999); *see also State v. Patterson*, 337 S.C. 215, 226-27, 522 S.E.2d 845, 851 (Ct. App. 1999) (stating the factors to be considering in ordering a mistrial include the character of the testimony, the circumstances under which it was offered, the nature of the case, and the other testimony presented). Because a mistrial should only be granted when absolutely necessary, a defendant must show both error and resulting prejudice in order to be entitled to a mistrial. *Council*, 335 S.C. at 12, 515 S.E.2d at

514 (citations omitted). The materiality and prejudicial character of the error must be determined from its relationship to the entire case and a review of the record. *State v. Mitchell*, 286 S.C. 572, 573, 336 S.E.2d 150, 151 (1985).

Here, Sergeant Gobel was testifying about the photo lineup that Antonio Brewer used to identify appellant as the shooter, and Gobel stated he was familiar with appellant's nickname of "Travi." (R.pp.206-07). It was a single reference by one witness, unsolicited by the State, and no other witnesses were asked to testify regarding their knowledge of appellant's nickname. Therefore, respondent submits the reference was not an attempt by the State to introduce improper character evidence. *See* Rule 404 (evidence of other crimes is not admissible to prove the defendant has a criminal character). The nickname does not suggest criminal behavior, but is a clear derivative of the name "Travis."⁸ Out of an abundance of caution, the trial judge sustained defense counsel's objection to the reference and instructed the jury to disregard Gobel's statement, and the judge further reminded the jurors of that duty to disregard the testimony in his charge following closing arguments. (R.p.207; p.313).

Respondent further submits it is questionable whether the jury understood the connection between a spontaneous statement by an investigator about his familiarity with appellant's nickname and a possible criminal record. Such a vague reference to potential prior bad acts did not create sufficient prejudice to justify a mistrial where the State did not attempt to introduce

⁸ Other jurisdictions have also found the use of a defendant's nickname is not improper character evidence, and therefore not prejudicial, if being used to fully identify the defendant. *See United States v. Brown*, 5 F.Supp.3d 786, 790 (E.D. Va. 2014) (holding the use of the defendant's nickname of "Doom" did not improperly imply the defendant had a violent character, when used to identify him as the man who received and sent text messages and not as evidence of prior bad acts); *Harrison v. State*, 32 N.E.3d 240, 257 (Ind. Ct. App. 2015) (finding the use of a nickname may be relevant to the issue of identity, and the use of the defendant's name of "Bam Bam" did not wrongfully imply criminality); *cf. United States v. Williams*, 739 F.2d 297, 299 (7th Cir. 1984) (finding the use of the defendant's nickname of "Fast Eddy" is impermissible when used only to demonstrate the defendant has some sort of reputation for "unsavory activity").

additional evidence of appellant's criminal history. *See Council*, 335 S.C. at 11-13, 515 S.E.2d at 513-14 (holding a witness's isolated testimony regarding fingerprint comparison was not so prejudicial to warrant a mistrial because it was questionable whether the jury connected the testimony with the defendant's past criminal activity); *George*, 323 S.C. at 510-11, 476 S.E.2d at 911-12 (stating defendant's possible involvement in past drug deals was merely suggested and no testimony was presented concerning such behavior); *see also State v. Thompson*, 352 S.C. 552, 561-62, 575 S.E.2d 77, 82-83 (Ct. App. 2003) (finding a deputy's single reference to past warrants did not constitute sufficient prejudice to justify a mistrial because there was no indication the warrants related to past charges, and the jury could have inferred they related to the case it was currently considering). The record demonstrates the State did not attempt to solicit knowledge of appellant's nickname or potential past crimes from other witnesses who testified at trial and the trial judge's instruction to the jury to disregard the reference to the nickname cured any possible prejudice. *See George*, 323 S.C. at 510, 476 S.E.2d at 911 (holding if a trial judge sustains a timely objection to testimony and immediately gives the jury a curative instruction, any error or prejudice in admitting the evidence is deemed to be cured).

Additionally, respondent submits the reference to appellant's nickname was not unduly prejudicial considering the overwhelming evidence of appellant's guilt presented at trial. *See Council*, 335 S.C. at 12, 515 S.E.2d at 514 (holding a defendant must show both error and resulting prejudice to be entitled to a mistrial). It is unlikely the reference contributed to the jury's guilty verdict when an examination of the record shows the State also admitted and the jury considered: (1) testimony from multiple witnesses who saw appellant at the scene of the shooting, including one who saw him running from the scene with a gun in his hand; (2) testimony from the owner of the mobile home who actually saw appellant pull the trigger and

picked appellant out of a photo lineup; (3) an inculpatory statement from appellant in which he admitted to participating in the armed robbery and gave details of the crime; and, (4) the testimony of multiple investigators who interviewed appellant. *See Mitchell*, 286 S.C. at 573, 336 S.E.2d at 151 (stating the prejudicial character of an error must be determined from its relationship to the entire case).

Accordingly, the vague reference to appellant's past interactions with law enforcement through an investigator's unsolicited use of appellant's nickname was not so prejudicial to justify a mistrial because it could not have contributed to the verdict. *See Beckham*, 334 S.C. at 310, 513 S.E.2d at 610 (holding a mistrial is an extreme measure which should only be used when prejudice is so grievous it can be removed no other way); *Wasson*, 299 S.C. at 510, 386 S.E.2d at 256 (a mistrial should be granted only in cases of manifest necessity). Further, the trial judge's curative instruction immediately following the reference to appellant's nickname and the judge's subsequent reminder during the jury charge to disregard the testimony were the appropriate actions to take in lieu of the severe measure of a mistrial. *See Council*, 335 S.C. at 13, 515 S.E.2d at 514 (noting a trial judge should exhaust other methods to cure possible prejudice before ordering a mistrial). Therefore, respondent submits the trial judge did not abuse his broad scope of discretion and appellant's argument is without merit.

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that the judgments, convictions, and sentences of the trial court should be affirmed.

Respectfully submitted,

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ATTORNEYS FOR RESPONDENT

April 20, 2016.

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Beaufort County
 Brooks P. Goldsmith, Circuit Court Judge

THE STATE,

Respondent,

v.

TRAVIS ABE POLITE,

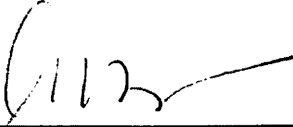
Appellant.

Appellate Case No. 2015-000182

CERTIFICATE OF COMPLIANCE

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and the April 15, 2014, Order of the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

This 20th day of April, 2016.



 SHERRIE BUTTERBAUGH
 Assistant Attorney General

ATTORNEY FOR RESPONDENT

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CERTIFICATE OF SERVICE

I, Sherrie Butterbaugh, counsel for the Respondent, certify that I have served the within Final Brief of Respondent and Certificate of Compliance on Appellant by depositing three (3) copies of the same via U.S. mail, first class, postage prepaid to his attorney of record, Laura R. Baer, Esq., SCCID/Division of Appellate Defense, 1330 Lady St., Ste. #401, Columbia, South Carolina 29201.

I further certify that all parties required by Rule to be served have been served.

This 20th day of April, 2016.



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