

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

---

Appeal from Charleston County

Kristi F. Curtis, Circuit Court Judge

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RECEIVED

Sep 23 2021

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

BRANDON CHRISTOPHER GRAYER,

APPELLANT.

APPELLATE CASE NO. 2020-000556

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RECORD ON APPEAL

---

DAVID ALEXANDER  
Appellate Defender

ALAN WILSON  
Attorney General

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

MELODY J. BROWN  
Senior Assistant Deputy Attorney General

JULIANNA E. BATTENFIELD  
Assistant Attorney General  
Post Office Box 11549  
Columbia, SC 29211 1549  
(803) 734-6305

ATTORNEY FOR APPELLANT

SCARLETT A WILSON  
Solicitor, Ninth Judicial Circuit  
101 Meeting Street  
Charleston, SC 29401  
(843) 958 1900

ATTORNEYS FOR RESPONDENT

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|                              | ) |                           |
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|                              | ) |                           |
| Defendant.                   | ) |                           |
|                              | ) |                           |

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March 9-12, 2020  
Charleston, South Carolina

B E F O R E:

The Honorable Kristi F. Curtis, Judge; and a jury

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

Anne Williams, Esquire  
Jordan Smith, Esquire  
Attorneys for the State

Chad Shelton, Esquire  
Joseph Kaiser, Esquire  
Attorneys for the Defendant

Krystal J. Smith  
Circuit Court Reporter

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25DEFENDANT'S EXHIBITS

| <u>NO.</u> | <u>DESCRIPTION</u> | <u>ID.</u> | <u>EV.</u> |
|------------|--------------------|------------|------------|
| 1          | Chain of custody   | 189        |            |
| 2          | Report             | 326        |            |
| 3          | DNA study          | 433        |            |

COURT'S EXHIBITS

| <u>NO.</u> | <u>DESCRIPTION</u> | <u>ID.</u> | <u>EV.</u> |
|------------|--------------------|------------|------------|
| 1          | Juror letter       |            | 60         |
| 2          | Jury note          |            | 640        |
| 3          | Jury note          |            | 644        |
| 4          | Jury note          |            | 645        |
| 5          | Jury note          |            | 647        |

COURT REPORTER LEGEND

dashes -- intentional or purposeful interruption  
or change in thought

ellipses . . . trailing off

[ph] phonetically written

[sic] written as said

1 THE CLERK: Ladies and gentlemen of the jury, if you  
2 will please stand and raise your right hand.

3 Do you swear or affirm that you shall well and truly try  
4 and a true deliverance make between the State of South  
5 Carolina and the defendant at the bar, whom you shall have in  
6 charge, and a true verdict render according to the evidence  
7 and the law, so help you God? Please indicate by saying "I  
8 do."

9 THE JURORS: I do.

10 THE COURT: Okay. We're ready to move into opening  
11 statements. Ms. Williams or Ms. Smith?

12 MS. SMITH: Thank you, Judge.

13 OPENING STATEMENT ON BEHALF OF THE STATE

14 MS. SMITH: You are here because on September 23<sup>rd</sup>, 2016,  
15 this defendant, Brandon Grayer, and five of his friends got  
16 into their vehicles. They piled into two separate vehicles  
17 and they drove into the Liberty Hill neighborhood in North  
18 Charleston and they unloaded their guns and they began  
19 shooting at ██████ Hassell Avenue.

20 They shot and they killed Ivan Greene. They don't know  
21 Ivan Greene. Ivan Greene was an innocent bystander. He  
22 lived on Hassell Avenue with his sister, where he'd lived his  
23 entire life. He lived across the street from ██████ and when  
24 these defendants opened fire from their Lincoln Navigator, he  
25 immediately dropped.

1           These defendants didn't stop their spree with the  
2 killing of Ivan. They then fled from their vehicles on foot  
3 and they ran through yards and over fences to two streets  
4 over to Ezekiel Avenue. They were -- they were running there  
5 to hide from the crime that they just committed.

6           They saw a pink trailer. It was the trailer of Pinero  
7 Gambrell. They knocked on the door and when Mr. Gambrell  
8 opened the door, they pushed their way in. They forced Mr.  
9 Gambrell to turn off the lights in his house. They forced  
10 him to give them his phone. They took out the battery and  
11 they hid there, asking him to remain silent for the next hour  
12 and a half until their co-defendants circled back around and  
13 picked them up from the scene of their crime.

14           Mr. Gambrell was also a stranger to these defendants and  
15 that is the reason why you are here because Ivan Greene was  
16 murdered by someone that he didn't know for a reason that he  
17 had nothing to do with and because Mr. Gambrell's home was  
18 burglarized. He was kidnapped when he was held involuntarily  
19 in his home for an hour and a half while these defendants  
20 were trying to elude capture.

21           That is the core reason why you are here and when  
22 ultimately you hear from multiple witnesses and you're  
23 presented with an abundance of physical evidence, I'm asking  
24 you from the outset to remember that story. That is why you  
25 are here, for Ivan Greene and for Pinero Gambrell.

1           There are much more details to this story, and you'll  
2 hear all of them. Know that you are going to be presented  
3 with everything, but I'm telling you from the outset it is  
4 horrendous.

5           You'll hear that earlier in the day on September 23<sup>rd</sup>,  
6 2016, Brandon Grayer was on Bailey Drive and he was shot. He  
7 saw a distinctive vehicle that he recognized. It was  
8 something that he took with him when he went to the hospital  
9 and met his friends back at their friend's house.

10           And what he -- the distinctive vehicle that he saw was a  
11 red Nissan Altima. He believed the person that was in that  
12 Nissan Altima was the person that had shot him earlier that  
13 day.

14           So he and his five friends, Brandon Grayer, Nathan  
15 Burnett, Randall Myers, Maurice Washington, Antoine Gill, and  
16 Vinny Robinson, they met at Burnett's trailer off of Stall  
17 Road and they were talking about what happened to Grayer  
18 earlier in the day. While they were all together, they  
19 logged into Facebook. They saw a picture. They saw a  
20 picture of Marquise Bryant standing beside none other than a  
21 red Nissan Altima, and that is where their plan began, their  
22 plan to find, track down, shoot, and kill Marquise Bryant.  
23 That was their plan.

24           So ultimately, this defendant and his five friends left  
25 Burnett's house on Stall Road. They drove down Rivers Avenue

1 towards North Charleston. They stopped at an apartment  
2 complex off Rivers because one of them thought that they knew  
3 that a red Nissan Altima lived in that neighborhood.

4 They didn't find Marquise Bryant there. So they  
5 continued down Rivers to get back to East Montague, went down  
6 to Liberty Hill neighborhood and they turned on Hassell  
7 Avenue. When they started driving down Hassell Avenue, they  
8 saw their target, exactly what they were looking for, the red  
9 Nissan Altima with Marquise Bryant inside, and that is when  
10 Brandon Grayer, Randall Myers, and Nathan Burnett unloaded  
11 their guns on ██████ Hassell Avenue. That's when Ivan Greene  
12 dropped, and that is why you are here.

13 As soon as they began shooting the residence at Hassell  
14 Avenue, the citizens that lived in that community heard what  
15 was going on. They came out of their house and that's when  
16 the defendants got more than they bargained for because the  
17 residents and the citizens, rightfully so, defended  
18 themselves and they returned fire in self-defense.

19 And that's where their plan fell apart. You see, ██████  
20 Hassell Avenue, it's located at the end of Hassell at a dead  
21 end. So what did they do next? They -- Antoine Gill was the  
22 driver of this Lincoln Navigator. He was in front. Maurice  
23 Robinson and Vinny Robinson were in the black pickup truck  
24 behind them when they turned onto this dead-end street.

25 They panicked. They tried to zoom and reverse out.

1 Gill backed into the black pickup truck. He tried to do a  
2 three-point turn and he wrecked into an electric pole. It  
3 was then that everyone bailed out on foot. They ran through  
4 yards. They ran over a fence to two streets over where they  
5 found Pinero Gambrell's trailer, you know, this place where  
6 they were going to hide.

7 And they did hide and they waited, again, for over an  
8 hour and a half. They knocked on Pinero's door and forced  
9 their way in at 11:30 in the evening, and they didn't get  
10 picked up until after midnight or around midnight the next  
11 day.

12 Throughout the course of the testimony this week, you  
13 will hear from Antoine Gill and you will hear from Maurice  
14 Washington. Ladies and gentlemen, they are also charged in  
15 this case. They are co-defendants of this defendant and  
16 they're not good people. Devils don't hang out with angels.

17 You will hear that Brandon Grayer is charged with  
18 murder, attempted murder, burglary in the first degree,  
19 kidnapping, and possession of a weapon during the shooting.  
20 This is his week in court. This is his day in court, and  
21 those co-defendants, they'll have their day. This is not  
22 their day. This is Grayer's day.

23 You'll hear from those co-defendants and you'll hear --  
24 and the reason why you'll hear from them is because you'll  
25 hear -- we want to present to you the inside of this plan.

1 We want you to hear how this developed, how they left  
2 Burnett's trailer, how they knew what they were looking for  
3 because they saw the picture on Facebook, how they drove down  
4 Rivers over to Hassell, unloaded, wrecked, and Maurice  
5 Washington circled back and picked them up.

6 But we're not asking you to blindly accept the testimony  
7 of the co-defendants because you'll also be presented with an  
8 abundance of physical evidence. And when you hear the  
9 testimony from the investigators and the analysts in this  
10 case, you'll hear information that corroborates exactly what  
11 these co-defendants are going to tell you.

12 You're going to hear that fingerprint analysis was done  
13 from latent prints that were found in the backseat of the  
14 Lincoln Navigator and you'll hear that they match this  
15 defendant. So we'll know he was in the vehicle.

16 You'll hear that when the Lincoln Navigator was  
17 recovered, it was wrecked on scene and abandoned. When they  
18 recovered it, they looked in the back floorboard, rear  
19 driver's-side floorboard, and they found a Springfield .45  
20 caliber firearm. They took that gun for testing. They did  
21 swabs and they found DNA on that. That DNA matches this  
22 defendant, Brandon Grayer. So we know that he had the gun in  
23 the backseat of the car that his fingerprints are in. And  
24 you'll hear that the shell casings from that gun were found  
25 alongside that Lincoln Navigator, outside of the vehicle on

1 the street where it pulled up.

2 And you'll hear from analysts who were able to look at  
3 the cell phones that were all found in the Navigator, and the  
4 maps that they'll present to you will plot out exactly what  
5 the witness's testimony will corroborate. They started at  
6 Burnett's, moved down Rivers first, ultimately getting to  
7 Liberty Hill.

8 You're going to hear a lot of testimony and you're going  
9 to hear some complex legal theories and things that you may  
10 not have heard before. One of the things that you're going  
11 here is the theory of accomplice liability, and what that  
12 means is when a big group of people go out and they plan and  
13 they end up committing a crime together as a result of their  
14 plan, how do you determine that they're guilty? How do you  
15 determine who's responsible?

16 Well, in South Carolina, our accomplice liability theory  
17 is called the hand of one is the hand of all. And simply  
18 what that means is that when a group of people plan to hunt  
19 down, shoot, and kill someone, when they then carry out their  
20 plan, the hand of one co-defendant is the hand of all co-  
21 defendants.

22 After you've heard all of the evidence and you've been  
23 presented all of the physical evidence and the testimony from  
24 the witnesses, we are going to return to stand before you at  
25 the end of this trial during closing arguments and we are

1 confident you will be firmly convinced the State has met its  
2 burden and that this defendant is guilty, and we're going to  
3 ask at that point that you render a verdict of the same.

4 Thank you.

5 THE COURT: Thank you.

6 Mr. Shelton.

7 MR. SHELTON: Thank you, Your Honor. May it please the  
8 Court.

9 OPENING STATEMENT ON BEHALF OF THE DEFENDANT

10 MR. SHELTON: Passion, prejudice, and sympathy. That's  
11 what the State wants to use for you to convict Brandon  
12 Grayer. Passion, prejudice, and sympathy. The problem is  
13 that's not the law.

14 The State -- the judge just told you that you are to  
15 follow the law. Whether you agree with it or not, you're to  
16 follow the law, and the judge is going to tell you the law at  
17 the end. So I'm telling you a little bit about the law. The  
18 law is you cannot use passion, prejudice or sympathy. You  
19 have to go base your decision off of the evidence, solely off  
20 of the evidence, and there is no evidence.

21 An innocent person died. Ivan Greene. He didn't  
22 deserve it. He was sitting in his front yard. He didn't  
23 deserve to die. Sympathy.

24 Pinero. Pinero Gambrell did not deserve men to come  
25 into his house. He didn't deserve it. Sympathy. They'll

1 try to use that sympathy for you to convict Brandon Grayer.  
2 You can't let them use that.

3 Reasonable doubt. Brandon you'll hear was shot at 1:30  
4 p.m. He was shot in the head, shot in the chest. He went to  
5 the hospital. Reasonable doubt that he was able to go and do  
6 this spree at 10 -- 9 -- 10 -- 11 o'clock. Reasonable doubt.

7 The State is going to throw around all kinds of words  
8 about doubt and different types of doubt. It doesn't have to  
9 be beyond all doubt, but reasonable. What's a reasonable  
10 person -- how does a reasonable person act?

11 Accomplice liability. I'm glad the State brought that  
12 up because the part of accomplice liability, hand of one hand  
13 of all, is they have to prove that he is guilty beyond mere  
14 association.

15 Prejudice. I'm not going to argue with anybody that  
16 Brandon didn't know Maurice Washington and Antoine Gill. I'm  
17 not going to argue with that, but just because he's  
18 associated with it, that does not make him guilty. They want  
19 to use that prejudicial -- prejudice of him being associated  
20 with these other people for you to find him guilty, and you  
21 can't do that. You have to look at the evidence. Look at  
22 what's being brought out.

23 The burden of proof. I was pulled over the other day by  
24 the police for speeding. I really did not believe I was  
25 speeding. It was dark. There was another car that passed

1 me. So I feel the police officer pulled the wrong person  
2 over. I'm a lawyer; so we're going to court to figure it  
3 out, but I have -- you can't prove a negative. It's hard to  
4 prove a negative. How is it -- how am I going to prove that  
5 I wasn't speeding?

6 Brandon doesn't have to prove a thing. The State has to  
7 prove it. Burden. They have the burden. It's a high  
8 burden, especially -- it's a high burden in small cases,  
9 speeding cases, but it's especially in murder cases. You  
10 have to hold the State to that burden. You have to.

11 The judge is going to give you -- she already did give  
12 you some about credibility and believability. This case is  
13 because of an overzealous prosecutor. You're going to hear  
14 that Brandon was not arrested for a year after this. You're  
15 going to hear that he wasn't arrested until after Maurice  
16 Washington and Antoine Gill provided their proffer  
17 statements, after they signed away an agreement, but let's  
18 talk about Maurice.

19 Let's talk about Maurice. Maurice Washington. He lies.  
20 He lied before, he lied after he signed the agreement, he  
21 lied, he lied, and he lied. He continues to lie. The State  
22 is using him because they got what they wanted. They're  
23 coming after somebody with no evidence.

24 Antoine Gill lied, lied, lied, lied. He wasn't there,  
25 wasn't there. Then you're going to hear him say more things

1 that are different than what he originally said, what he  
2 signed. After he signed the agreement, he lied.

3 Marquise Bryant. Let's see if we hear from him.

4 All these people have things that they want. You're  
5 going to hear how the prosecutor got it out of them, their  
6 theory of the case. I'm not necessarily talking about this  
7 prosecutor. You're going to hear how the prosecutor got it  
8 out of them for them to go after Brandon with no evidence.

9 So the solicitor talked about fingerprints. Well,  
10 Brandon was shot in the left -- left shoulder. So what have  
11 we got? We've got one fingerprint outside of a car, left  
12 hand, same hand he was shot in. That's what you're going  
13 hear. One fingerprint on the outside of the car. Mere  
14 association. Prejudicial. Prejudice. They're trying to use  
15 prejudice because he's merely associated with these people.

16 DNA. This isn't talking about blood. We're not talking  
17 about hair. We're not talking about saliva. You're going to  
18 hear -- and I'm using quotes -- touch DNA. It's a mixture.  
19 When they first analyzed it, you're going to hear that they  
20 couldn't come up with anybody because of that mixture, but  
21 now there's this great computer system that they're able to  
22 use. So that's what you're going to hear.

23 Mere association. You don't know when fingerprints or  
24 DNA got on any of this. Mere association.

25 You're also going to hear from the SLED agent. SLED,

1 South Carolina Law Enforcement Division, and how many cases  
2 they have, and did they check up on everything?

3 The prosecutor -- they had a theory in the case and they  
4 didn't -- they did not -- so they got Maurice Washington and  
5 Antoine Gill to say Brandon was there. They don't care about  
6 the evidence. They care about trying to convince you through  
7 passion, prejudice, and sympathy. In the law, you cannot do  
8 that. In the law, you cannot.

9 You've agreed to follow the law. Those questions that  
10 we asked while you were on voir dire was to determine if you  
11 have some prejudice, some sympathy for law enforcement,  
12 sympathy as a victim that you let us know. You've agreed  
13 that you don't. You have to set that aside and look at these  
14 facts.

15 You cannot use that prejudice, that passion, that  
16 sympathy to convict Brandon. You can't. I'm confident when  
17 you hear all this evidence, when you see that there's  
18 nothing, you will find Brandon not guilty. Thank you.

19 THE COURT: Thank you.

20 The State?

21 MS. WILLIAMS: Thank you, Your Honor. The State would  
22 call Sgt. Jamel Foster.

23 (WHEREUPON, there was a pause until the witness entered  
24 the courtroom.)

25 THE CLERK: Place your left hand on the Bible and raise

## JAMEL FOSTER - DIRECT

1 your right hand for me. Do you swear or affirm the testimony  
2 you shall give the Court and the jury shall be the truth, the  
3 whole truth, and nothing but the truth, so help you God?

4 THE WITNESS: Yes, ma'am, I do.

5 THE CLERK: Please take a seat. Please state your full  
6 name and spell your last name for the record.

7 THE WITNESS: Jamel Casadario Foster, F-o-s-t-e-r,  
8 Foster.

9 JAMEL FOSTER, being first duly  
10 sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. WILLIAMS:

13 Q: Sgt. Foster, where do you work?

14 A: I work at the City of North Charleston Police  
15 Department.

16 Q: And how long have you been employed there?

17 A: Sixteen years.

18 Q: And what are your duties and responsibilities presently?

19 A: I'm currently the south-end sergeant, the supervisor for  
20 the evening shift.

21 Q: And were you working in that capacity on September 23<sup>rd</sup>,  
22 2016?

23 A: I was working as -- I was a patrolman back then. Yes,  
24 ma'am.

25 Q: Okay. And did you respond to a call at 2245 Bailey

## JAMEL FOSTER - DIRECT

1 Drive?

2 A: I did.

3 Q: Do you remember about what time that was?

4 A: I think it was around, like, 1:30, 1:40.

5 Q: Would it refresh your memory to look at your report?

6 A: Yes, ma'am.

7 MS. WILLIAMS: Your Honor, I'm going to show this  
8 witness what's been previously marked as 141 and 142 for ID  
9 only. May I approach the witness?

10 THE COURT: Yes.

11 BY MS. WILLIAMS:

12 Q: If you would look at that and see if that refreshes your  
13 recollection?

14 A: Oh, yes, ma'am.

15 Q: So about what time was it?

16 A: 1:39.

17 Q: And what is the -- is there a number that's associated  
18 with police cases?

19 A: There's a case number, yes, ma'am.

20 Q: Okay. And what's the case number for this particular  
21 case?

22 A: The case number for this case is 2016-029115.

23 Q: Okay. And who was the victim in that shooting? Or let  
24 me back up for a minute. Withdrawn.

25 What type of call was it?

## JAMEL FOSTER - DIRECT

1 A: It was a call in reference to a shooting.

2 Q: Okay. And who was the person that was shot?

3 A: Brandon Grayer.

4 Q: And when you got to the scene, what was the appearance  
5 of the scene as you saw it?

6 A: When I -- when I arrived on the scene, I seen Mr. Grayer  
7 sitting on a porch at a residence. He was bleeding from --  
8 bleeding from his head and he had a bloodstain. I believe it  
9 was on his right -- I mean -- I'm sorry -- a bloodstain on  
10 the left side of his shoulder.

11 Q: Okay.

12 A: With a projectile protruding from his chest.

13 Q: Okay. And what kind of vehicle was he in at that time,  
14 if you -- if you can refresh your memory?

15 A: Well, there was -- there was a red Jeep Cherokee parked  
16 across the street from that location.

17 Q: Okay. And was Mr. Grayer cooperative?

18 A: No, ma'am, not at all.

19 Q: Did he tell you who shot him?

20 A: He didn't.

21 Q: Did he want medical care?

22 A: No, ma'am, he didn't.

23 Q: Was that the extent of your involvement in that  
24 particular case?

25 A: Yes, ma'am, it was.

## JAMEL FOSTER - DIRECT

1 Q: Now, did you have any involvement at all in the case  
2 that Mr. Grayer was involved in later that day on Hassell  
3 Street?

4 A: No, ma'am.

5 MS. WILLIAMS: Thank you. No further questions.

6 THE WITNESS: Yes, ma'am.

7 THE COURT: Mr. Shelton?

8 MR SHELTON: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. SHELTON:

11 Q: Officer Foster, he -- Mr. Grayer did go to the hospital?

12 A: He did.

13 Q: Okay. So EMS was called and he was transported to the  
14 hospital; correct?

15 A: He was.

16 Q: Okay. And you said it happened at -- like, 1:39 was the  
17 -- about when you got called out there?

18 A: Yes, ma'am. I'm sorry.

19 Q: It's okay.

20 A: I apologize.

21 Q: 1:39. It was p.m.; correct?

22 A: Yes, p.m.

23 Q: Okay. And did you collect any evidence?

24 A: I didn't.

25 Q: Did you call out detectives?

26

## JAMEL FOSTER - CROSS

1 A: Detectives were called out.

2 Q: Okay. And he was bleeding? Was he bleeding pretty good  
3 coming from his face?

4 A: He was bleeding from his head pretty good, yes.

5 Q: Okay. And there was -- there was a lot of blood in his  
6 eyes and that sort of thing?

7 A: I don't recall that it was in his eyes, but he was  
8 bleeding from his head.

9 Q: Okay. And it his left side and you could actually see  
10 the projectile in his left side?

11 A: It was -- it was a solid red bloodstain on his left  
12 side. I believe when EMS came, they -- I believe they cut  
13 his shirt off and you could see the projectile protruding  
14 from the upper left side of his chest and shoulder area.

15 Q: So no doubt he got shot?

16 A: He got shot.

17 MR. SHELTON: No further questions.

18 MS. WILLIAMS: Nothing further, Your Honor.

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

20 MS. WILLIAMS: The State calls Jackie Ong.

21 (WHEREUPON, there was a pause until the witness entered  
22 the courtroom.)

23 THE CLERK: Good afternoon. Place your left hand on the  
24 Bible and raise your right hand for me. Do you swear or  
25 affirm the testimony you shall give the Court and the jury

## JACKIE ONG - DIRECT

1 shall be the truth, the whole truth, and nothing but the  
2 truth, so help you God?

3 THE WITNESS: I do.

4 THE CLERK: Please take a seat. Please state your full  
5 name and spell your last name for the record.

6 THE WITNESS: Jacqueline Michelle Ong. Last name is  
7 spelled O-n-g.

8 MS. SMITH: Thank you.

9 JACKIE ONG, being first duly  
10 sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. SMITH:

13 Q: Jackie, where do you currently work?

14 A: Charleston County Emergency Management.

15 Q: And prior to working for the County, where were you  
16 previously employed?

17 A: North Charleston Police Department.

18 Q: And what -- in what capacity did you work for the North  
19 Charleston Police Department?

20 A: I was a law enforcement officer assigned to the forensic  
21 unit.

22 Q: How long did you work with the forensic unit at North  
23 Charleston Police Department?

24 A: A little over five years.

25 Q: And can you explain for the jury a little bit about what

## JACKIE ONG - DIRECT

1 your duties and your responsibilities were as a crime scene  
2 investigator, forensic investigator?

3 A: Respond to different crime scenes, take photographs,  
4 identify items of evidence, collect the evidence, package the  
5 evidence, coordinate with external labs for further  
6 processing and testing. Yeah, in a nutshell.

7 Q: And as part of your employment as a forensic  
8 investigator or crime scene investigator, did you receive any  
9 training? Did you complete any certifications in that field?

10 A: Yes.

11 Q: And were you working as a crime scene investigator  
12 between the months of September of 2016 and October of 2016?

13 A: Yes.

14 Q: And you worked on two different cases relating to the  
15 case that we're in court for today?

16 A: Yes.

17 Q: And meaning cases different as law enforcement case  
18 numbers?

19 A: Yes.

20 Q: And the first case I want to talk to you about is the  
21 OCA from 2016, the case number ending in 9115. Can you tell  
22 me what that case was?

23 A: I was involved with a search warrant of a vehicle.

24 Q: And where -- did you respond to the vehicle warehouse  
25 that the North Charleston Police Department had to process

## JACKIE ONG - DIRECT

1 this vehicle?

2 A: Yes.

3 Q: On September 26<sup>th</sup> of 2016?

4 A: Yes.

5 Q: And what was the vehicle that you arrived to process?

6 A: It was a red Jeep. Do you want me to read the VIN?

7 Q: What was the last four of the VIN?

8 A: 3714.

9 Q: Before we talk about how you processed that vehicle, can  
10 you just explain what the North Charleston vehicle warehouse  
11 is so the jury understands sort of how that part of your job  
12 worked?

13 A: So it's a large warehouse, a secured facility, both  
14 with, like, physical locks and a fenced-in area inside an  
15 alarmed and passcode door warehouse, and that's where we  
16 would store vehicles, just large items of evidence that  
17 couldn't fit in the normal evidence compound.

18 Q: Who has access to that facility?

19 A: The forensic officers and the evidence technicians.

20 Q: Okay. And moving into processing the vehicle, when you  
21 process a scene or a vehicle or a piece of evidence, what are  
22 you looking for?

23 A: It kind of depends on each case. We can look for  
24 fingerprints, DNA, like blood or other bodily fluids, residue  
25 from firearms, physical items of evidence like guns or drugs

## JACKIE ONG - DIRECT

1 or whatever the case may be.

2 Q: Whatever is available to you in that case?

3 A: Yes.

4 Q: And in this case, you processed a vehicle?

5 A: Yes.

6 Q: Can you tell us what you did?

7 A: I met with the detectives, confirmed they had a signed  
8 search warrant in hand. I identified the Jeep and then I  
9 proceeded to photograph overall the exterior of the Jeep.

10 So I start from the back and personally I would move in  
11 a counterclockwise fashion around the vehicle, photographing  
12 straight on from the back, angled, full on driver's side, and  
13 then kind of the front angle, and so forth all the way  
14 around. Then I would open up all the doors, photograph the  
15 interiors of the doors and then move into the interior of the  
16 vehicle and photograph overall, just as is untouched, the  
17 interior of the vehicle.

18 Q: And in this case, did you locate any physical evidence  
19 that relates to this case?

20 A: Yes.

21 Q: What did you locate?

22 A: Two brass shell casings, both were RP .45 auto, and two  
23 cell phones.

24 Q: Where were the shell casings recovered from in this  
25 vehicle?

## JACKIE ONG - DIRECT

1 A: One was recovered from the rear floorboard underneath  
2 the driver's seat, and the second one was recovered from the  
3 front passenger floorboard.

4 Q: When you located these items, what did you do with them?

5 A: Brought it to the detective's attention. I photographed  
6 them and then collected them and put each casing in its own  
7 separate envelope, labeled it, and secured it in my vehicle.

8 Q: What is the purpose of securing the items in the manner  
9 you are required to do so?

10 A: Twofold. Obviously, it will -- it will keep each  
11 specific item uniquely identified so you know exactly where  
12 that one item came from, and then also keeping it secured.  
13 It is keeping the -- the integrity of the item intact. So  
14 from the untouched vehicle, I took custody by collecting it,  
15 and then I'll submit it to the evidence compound, which is  
16 another secured facility, and it's a way to just track and  
17 ensure nothing's happened to the item.

18 Q: And preserve it for any subsequent testing?

19 A: Yes.

20 Q: And you did collect them in this case, the shell casings  
21 in this case?

22 A: Yes.

23 Q: And you did log them into the evidence?

24 A: Yes.

25 Q: Okay.

## JACKIE ONG - DIRECT

1 MS. SMITH: May I approach the witness, Judge?

2 THE COURT: Yes, ma'am.

3 BY MR. SMITH:

4 Q: Jackie, I am showing you what has been marked for  
5 identification as State's Exhibit 109 and 110. Will you tell  
6 me -- will you take a look at those and tell me if you  
7 recognize these items?

8 A: Yes.

9 Q: How do you recognize them?

10 A: First, the -- my handwriting on the back of the envelope  
11 and then also the unique barcode sticker that I generated  
12 labeling the envelope and then also the initials on the  
13 integrity tape, like the sealed tamper -- tamper-proof tape.

14 Q: And what are these items?

15 A: These are the shell casings that I collected from the  
16 vehicle.

17 Q: And those are the specific items that you securely took  
18 custody of, took to the evidence, and locked them in?

19 A: Yes.

20 MS. SMITH: Judge, at this time, we would move to admit  
21 State's 109 and 110 into evidence.

22 MR. SHELTON: No objection.

23 THE COURT: 109 and 110 are admitted.

24 (WHEREUPON, State's Exhibit No. 109 and 100, shell  
25 casings, were admitted into evidence.)

## JACKIE ONG - DIRECT

1 MS. SMITH: Thank you, Judge.

2 BY MS. SMITH:

3 Q: Did you also -- let me get those back from you.

4 A: Thank you.

5 Q: Did you also have the opportunity to work under a  
6 different case number but still related to this case?

7 A: Yes.

8 Q: And that would -- would you -- did you have the  
9 opportunity to respond to MUSC on October 4<sup>th</sup>, 2016, with  
10 relation to this case?

11 A: The 9194 case, yes.

12 Q: Yes. And what was that case that you were involved in?

13 A: I responded to MUSC to the forensic pathology department  
14 autopsy to collect items that autopsy had ready for us to  
15 bring back to North Charleston to submit into evidence.

16 Q: And who did the items that you picked up belong to or  
17 where were they recovered from?

18 A: The decedent, Ivan Greene.

19 Q: What items did you collect from MUSC?

20 A: A deformed copper jacketing, part of a bullet; a blood  
21 spot, which is a standard just like a blood sample from the  
22 decedent; and then a CD containing images or photographs of  
23 the autopsy.

24 Q: Once you collected those items from MUSC, what did you  
25 do with them?

## JACKIE ONG - DIRECT

1 A: I transported them back to the police department, the  
2 forensic unit. I further labeled them and then turned them  
3 over to the evidence unit.

4 MS. SMITH: Your Honor, may I approach the witness?

5 THE COURT: You may.

6 BY MS. SMITH:

7 Q: Jackie, I am showing you what has been marked as State's  
8 Exhibit 65. Will you take a look at this and tell me if you  
9 recognize it?

10 A: Yes.

11 Q: What is that?

12 A: It's the deformed copper jacketing.

13 Q: And how are you able to recognize this item?

14 A: The barcode label that I created.

15 Q: And that is the item that you collected from MUSC from  
16 the autopsy of Ivan Greene?

17 A: Yes.

18 MS. SMITH: At this time, the State moves into evidence  
19 Exhibit 65.

20 MR. SHELTON: No objection.

21 THE COURT: 65 is admitted.

22 (WHEREUPON, State's Exhibit No. 65, deformed copper  
23 jacket, was admitted into evidence.)

24 BY MS. SMITH:

25 Q: And after collecting these items from MUSC, did you have

JACKIE ONG - DIRECT

1 any other involvement in this case other than collecting  
2 those items and processing them?

3 A: No.

4 Q: Okay.

5 MS. SMITH: Jackie, I don't have any further questions  
6 for you at this time. Thank you.

7 CROSS-EXAMINATION

8 BY MR. SHELTON:

9 Q: The -- so you photographed the car, and I'm talking  
10 about Case Number -- the 2016-029115. So that's the car or  
11 the Jeep Cherokee that you photographed and processed;  
12 correct.

13 A: I just have it written down as red Jeep. I don't recall  
14 the make. So --

15 Q: But that -- it was that case number; correct?

16 A: Yes.

17 Q: Okay. So it was a red Jeep and you -- in addition to  
18 finding two casings, you -- I think you testified that you  
19 also found two cell phones?

20 A: Yes.

21 Q: And those were put into evidence?

22 A: Yes.

23 Q: Okay. And then I guess you did some swabs for the door  
24 handles and the steering wheel; correct?

25 A: Yes.

## JACKIE ONG - CROSS

1 Q: And that was placed into evidence?

2 A: Yes.

3 Q: You don't have any control over what happens after you  
4 place items into evidence?

5 A: No.

6 Q: Whose call is that? The detective?

7 A: Like, the whole investigative team.

8 Q: Okay. And that's not -- that's not you making that  
9 decision?

10 A: I just do as I'm told.

11 Q: All right. And you didn't -- you didn't go on scene to  
12 where the red Jeep was, did you?

13 A: No.

14 MR. SHELTON: No further questions.

15 REDIRECT EXAMINATION

16 BY MS. SMITH:

17 Q: Just one clarification for you, Jackie. The red Jeep  
18 was recovered from the crime scene on Bailey Drive?

19 A: I don't recall.

20 Q: Would you -- would your memory be refreshed if I showed  
21 you State's Exhibit 141 with the same case number?

22 A: Possibly.

23 Q: Will you please review this and tell me if it refreshes  
24 your memory?

25 A: Yes.

## JACKIE ONG - REDIRECT

1 Q: And the location of the case number that you responded  
2 to was at a residence on Bailey Drive where the vehicle was  
3 recovered from?

4 A: Say that again.

5 Q: Sorry. The red Jeep that you processed was located and  
6 recovered from a case that occurred on Bailey Drive?

7 A: Yes.

8 Q: Okay. I'll take that back from you.

9 And then the case that you responded to MUSC and  
10 collected State's Exhibit 65, the deformed metal jacket, do  
11 you know where that incident occurred?

12 A: No.

13 Q: But you know that that's from a different case number?

14 A: Yes. And I have that case number.

15 Q: What is that case number ending in?

16 A: What does -- what did you say after that? You said  
17 what's the case end with?

18 Q: What does that case number end with?

19 A: End with, okay. It ends with 9194.

20 MS. SMITH: Thank you, Jackie. I don't have any other  
21 questions.

22 MR. SHELTON: Just one.

23 RE CROSS-EXAMINATION

24 BY MR. SHELTON:

25 Q: You never went to any of these scenes or collected the

## JACKIE ONG - RECROSS

1 cars; correct? The Jeep? You didn't collect the Jeep, did  
2 you?

3 A: No.

4 Q: So your -- your knowledge of where the Jeep was is based  
5 off somebody else's report?

6 A: Yes.

7 MR. SHELTON: Nothing further.

8 THE COURT: Thank you. You can step down.

9 MS. SMITH: The State calls Ryan Heid.

10 (WHEREUPON, there was a pause until the witness entered  
11 the courtroom.)

12 THE CLERK: Good afternoon.

13 THE WITNESS: Good afternoon.

14 THE CLERK: Place your left hand on the Bible and raise  
15 your right hand, please. Do you swear or affirm the  
16 testimony you shall give the Court and the jury shall be the  
17 truth, the whole truth, and nothing but the truth, so help  
18 you God?

19 THE WITNESS: I do.

20 THE CLERK: Thank you. Please take a seat. Please  
21 state your full name and spell your last name for the record.

22 THE WITNESS: My name is Ryan Heid, H-e-i-d.

23 RYAN HEID, being first duly  
24 sworn, testified as follows:

25 DIRECT EXAMINATION

## RYAN HEID - DIRECT

1 BY MS. SMITH:

2 Q: Where are you currently employed?

3 A: At the Charleston County Aviation Authority.

4 Q: And in what capacity do you work with the Aviation  
5 Authority?

6 A: I work for the police department. I'm a police officer.

7 Q: And how long have you been employed with the Aviation  
8 Authority as a police officer?

9 A: About three years.

10 Q: Prior to the Aviation Authority, did you work in law  
11 enforcement at another agency?

12 A: Yes. I worked at the North Charleston Police  
13 Department.

14 Q: About how long were you with North Charleston?

15 A: A little over 10 years.

16 Q: And when you worked with North Charleston, what was your  
17 -- what was your role?

18 A: When I -- when I left, I was a -- I was a sergeant. I  
19 was a -- a supervisor on the night shift.

20 Q: And were you working as a night shift patrol sergeant on  
21 September 23<sup>rd</sup>, 2016?

22 A: I was.

23 Q: Were you dispatched to Hassell Avenue in reference to a  
24 shooting that had occurred on the night of September 23<sup>rd</sup>,  
25 2016?

## RYAN HEID - DIRECT

1 A: Yes, I was.

2 Q: And around what time did you make it to Hassell Avenue  
3 on September 23<sup>rd</sup>?

4 A: I believe it was about 11:30 p.m.

5 Q: And is Hassell Avenue located in Charleston County?

6 A: Yes, it is.

7 Q: I am going to show you a document. Will you tell me if  
8 you recognize what is in State's Exhibit 46?

9 A: This appears to be a map or a satellite picture, an  
10 overhead view of that area of the Hassell Avenue area.

11 Q: And does it fairly and accurately reflect where you  
12 responded on September 23<sup>rd</sup>, 2016?

13 A: Yes, it does.

14 MS. SMITH: The State moves to admit Exhibit 45 [sic]  
15 into evidence and to publish, please.

16 MR. SHELTON: No objection.

17 MS. SMITH: 46.

18 MR. SHELTON: 46.

19 MS. SMITH: Excuse me.

20 THE COURT: 46 is admitted.

21 (WHEREUPON, State's Exhibit No. 46, overhead view map  
22 photograph, was admitted into evidence.)

23 (WHEREUPON, there was a pause in the proceedings for  
24 counsel to confer with the clerk off the record  
25 regarding the projection system in the courtroom.)

## RYAN HEID - DIRECT

1 BY MS. SMITH:

2 Q: Can you please -- you can touch that screen in front of  
3 you. Will you please show us where you responded on  
4 September 23<sup>rd</sup> on Hassell Avenue?

5 A: So initially upon getting there, the first place that I  
6 responded to was -- was right in that area there where the --  
7 where I just placed that marker, kind of in that area of that  
8 red marker that was already there. When I got there, I  
9 located a car that had crashed into a utility pole right at  
10 that area.

11 Q: And do you remember what kind of vehicle that was?

12 A: It was a -- I believe it was a Lincoln, a large black or  
13 dark-colored SUV, full-size.

14 Q: If you had an opportunity to review your report, would  
15 you remember what sort of vehicle?

16 A: Oh, yes. Yeah.

17 Q: Cpl. Heid, I am going to show you what's been marked for  
18 identification only as State's Exhibit 143. If you'll take a  
19 look at this and let me know if it refreshes your  
20 recollection of what sort of vehicle you came upon?

21 A: Yes, I was correct. It was a Lincoln Navigator.

22 Q: And you came upon that in the area that you made the  
23 spot on the screen?

24 A: Yes.

25 Q: What other observations did you make once you arrived?

## RYAN HEID - DIRECT

1 A: So as I said, it had -- it had crashed, but additionally  
2 the vehicle appeared to have sustained damage from gunshots  
3 and it was also unoccupied. There was no one in the vehicle  
4 at the time that I arrived.

5 Q: So what did you do once you arrived?

6 A: So initially, I took a quick look inside the car just to  
7 make sure that there was nobody in it, of course, and then I  
8 coordinated with other officers that were in the area to  
9 establish a perimeter around that area. We knew that we were  
10 responding to some sort of shooting, of course, and then --  
11 but we didn't know the extent of what occurred or if anyone  
12 had been injured at that time. So we started to set up a  
13 perimeter around that area to sort of contain whatever crime  
14 scene was going to exist.

15 Q: So did you start processing evidence at that point?

16 A: No. That wasn't my role. So when I located the  
17 vehicle, we maintain control of it, of course, but the  
18 processing of the car for any evidence that might exist  
19 within it would not have been the role of me or any of the  
20 other police officers that were there. We turn that over to  
21 the forensic unit to do.

22 Q: I'm going to publish Exhibits 1 through 11 that have  
23 already been marked and admitted by consent of the State and  
24 the defense. They are going to appear on the screen in front  
25 of you and we'll start with State's Exhibit No. 1, and can

## RYAN HEID - DIRECT

1 you describe what is seen in this picture?

2 A: This is a photograph of the vehicle that -- that -- that  
3 I observed that night that had collided with the utility  
4 pole.

5 Q: And that's the initial place where you responded?

6 A: Yes.

7 Q: State's 2?

8 A: A photograph of the pole itself.

9 Q: State's 3?

10 A: A side view of the same vehicle, passenger-side view.

11 Q: 4?

12 A: Another passenger-side view, this one more focused on  
13 the rear the vehicle.

14 Q: Did you observe any damage to the vehicle other than the  
15 gunshots that you mentioned and, obviously, the collision  
16 into the pole?

17 A: I -- I don't recall if I observed additional beyond the  
18 gunshots or the -- or the damage from the crash.

19 Q: State's 5?

20 A: Yeah, I do see some damage there to the rear.

21 Q: But you weren't aware whether that had occurred on scene  
22 or it had happened previously?

23 A: Right. I don't -- I don't know.

24 Q: State's 6?

25 A: A rear view of the same vehicle.

1 Q: State's 7?

2 A: A view of the front of the home in which the vehicle  
3 crashed in front of.

4 Q: State's 8?

5 A: Another rear view of the vehicle. The window is -- the  
6 window has been damaged and is broken completely out.

7 Q: You didn't open any of the windows or doors of the  
8 vehicle?

9 A: No.

10 Q: State's 9?

11 A: Some more damage to the driver's-side rear, again with  
12 another -- with another window out.

13 Q: And again, you didn't do anything to open this window?

14 A: No, no. That was -- all this, especially the window  
15 damage, that was all observed when I -- when I arrived there.

16 Q: State's 10?

17 A: More damage to the driver's-side rear.

18 Q: And State's --

19 A: Same vehicle.

20 Q: -- 11?

21 A: Cpl. Heid, did you open the door to this vehicle when  
22 you arrived?

23 A: No, I didn't.

24 Q: This is simply how you found it?

25 A: Right. Yes. So if the door -- I did not open the door.

## RYAN HEID - DIRECT

1 As you can see, the windows were out, some of the windows  
2 were down. I wouldn't have really needed to open the door.  
3 I don't recall specifically who took these pictures, but I  
4 know that I did not open any doors or open any windows.

5 Q: After securing the perimeter of the area where this  
6 Navigator was located wrecked, did you ultimately go to any  
7 other place on Hassell Avenue?

8 A: I did. So at some point during this event, I was -- I  
9 learned that there was a victim at a location further down  
10 Hassell Avenue and that EMS was already -- excuse me. That  
11 EMS was already there and had actually taken this gunshot  
12 victim away from the scene to the hospital. So being that I  
13 was the supervisor, I went to that location to try to gather  
14 some more information about what occurred down there because  
15 I had not been down there yet.

16 Q: Through your investigation, did you learn the identity  
17 of the gunshot victim that you just mentioned?

18 A: Yes, I did.

19 Q: Who was that?

20 A: I learned that his name was Ivan Greene.

21 Q: And after making these two different points of contact,  
22 did you have any further role or further investigation in  
23 this case?

24 A: No. So we would have notified investigators that would  
25 have responded to the scene and taken over the rest of the

RYAN HEID - DIRECT

1 investigation. So we continued to remain on scene, but we  
2 assisted them with what they needed.

3 Q: Sure. And we are going to republish State's 46. Can  
4 you show me -- you've shown -- made this mark on the  
5 touchscreen where you initially found the Lincoln Navigator.  
6 Can you show me where you responded next?

7 A: Yes. So it was all the way down, maybe further down  
8 than that. It was all the way down at the dead end of  
9 Hassell. So on this particular picture, the house would've  
10 been on the right if you're looking at it from above. As you  
11 drive in, it would've been on the left, but it was -- it was  
12 a house at the -- at the very dead end of Hassell Avenue.

13 Q: And that's where the shooting occurred?

14 A: Yes.

15 Q: And so can you just draw a line on there from where you  
16 recovered the vehicle to where the --

17 A: Sure.

18 Q: -- shooting occurred?

19 A: Yes. So you would have had to go down Hassell and then  
20 all the way to the end.

21 MS. SMITH: Thank you, Officer Heid.

22 THE WITNESS: You're welcome.

23 CROSS-EXAMINATION

24 BY MR. SHELTON:

25 Q: Officer Heid, did you see a red Altima on Hassell

## RYAN HEID - CROSS

1 Street?

2 A: I don't recall seeing a red Altima.

3 Q: What about Marquise Bryant?

4 A: I don't know him.

5 Q: Okay. Did -- now, you -- were you one of the first  
6 officers on scene?

7 A: Yes.

8 Q: Okay. So describe this scene as far as the shell  
9 casings are concerned, whether it was just a large amount of  
10 shell casings?

11 A: I seem to recall some shell -- of course, it was dark.  
12 The -- the vehicle that we looked at earlier, when it struck  
13 the utility pole, it knocked out the power to the area; so it  
14 wasn't immediately apparent to us that there was a number of  
15 shell casings in the street. So it took us -- I don't know  
16 that I immediately noticed them, but later on as we started  
17 to observe the scene more, there was a number of shell  
18 casings located in the street.

19 Q: Okay.

20 MR. SHELTON: No further questions.

21 MS. SMITH: I don't have any further questions for this  
22 witness, Judge.

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

24 THE WITNESS: Thank you.

25 MS. WILLIAMS: The State calls Sandra Greene.

SANDRA GREENE - DIRECT

1 THE CLERK: Put your left hand on the Bible and raise  
2 your right hand for me. Do you swear or affirm the testimony  
3 you shall give the Court and the jury shall be the truth, the  
4 whole truth, and nothing but the truth, so help you God?

5 THE WITNESS: I do.

6 THE CLERK: Please take a seat.

7 THE WITNESS: Thank you.

8 THE CLERK: Please state your full name and spell your  
9 last name for the record.

10 THE WITNESS: Sandra Laverne Greene, G-r-e-e-n-e.

11 SANDRA GREENE, being first duly  
12 sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MS. WILLIAMS:

15 Q: Thank you, Ms. Greene. Who is Ivan Greene to you?

16 A: My brother.

17 Q: And how many of there are you [*sic*]? How many siblings  
18 do you have?

19 A: There were eight. After Ivan's death, seven of us now.

20 Q: Okay. Where was Ivan in the birth order?

21 A: Ivan was the baby in the family.

22 Q: And how about you?

23 A: I'm in the middle.

24 Q: Okay. And where were you living at the time that Ivan  
25 passed?

## SANDRA GREENE - DIRECT

1 A: I was living at 4655 Hassell Avenue in North Charleston,  
2 the Liberty Hill community.

3 Q: Okay. And who did you live with?

4 A: I'm sorry?

5 Q: Who did you live with?

6 A: Ivan and I lived together.

7 Q: And the home that you lived in, was that a family home?  
8 Tell us a little bit about that. How long had you lived  
9 there?

10 A: Yes. It was our parents' home. It was where we grew  
11 up.

12 Q: Okay. And I'm going to show you a map.

13 MS. WILLIAMS: I'm going to show defense counsel, Your  
14 Honor, what's been marked previously as State's 130. May I  
15 approach the witness, Your Honor?

16 THE COURT: Yes, ma'am.

17 BY MS. WILLIAMS:

18 Q: Do you recognize what's in that map?

19 A: I do.

20 Q: And does it accurately show the area that you lived in?

21 A: Yes, it does. It shows our street, Hassell Avenue.

22 Q: Okay.

23 MS. WILLIAMS: Your Honor, at this time, we would offer  
24 State's 130 into evidence.

25 THE COURT: Any objection, Mr. Shelton?

## SANDRA GREENE - DIRECT

1 MR. SHELTON: No objection.

2 THE COURT: 130 is admitted.

3 (WHEREUPON, State's Exhibit No. 130, map photograph, was  
4 admitted into evidence.)

5 MS. WILLIAMS: I'll publish 130.

6 BY MS. WILLIAMS:

7 Q: Do you see that on -- on your screen right there?

8 A: Yes, I can see it.

9 Q: So just show the jury where you lived at on that map.  
10 You can kind of draw it with your finger.

11 A: Okay. Where it shows the power pole, that's the church.

12 Q: Uh-huh.

13 A: Our house was directly right beside the church and, yes,  
14 our house would've been, like, right here.

15 Q: Okay. And where was Ivan when he died?

16 A: I'm sorry. I'm hard of hearing.

17 Q: Oh, that's okay. Where was Ivan when he died?

18 A: Oh, I'm sorry. Okay. Ivan would have been -- we live  
19 directly across from the Gathers'.

20 Q: Uh-huh.

21 A: Their -- their house would've been right here.

22 Q: Okay.

23 A: And Ivan was right there in their yard.

24 Q: Okay.

25 MS. WILLIAMS: And I'm going to show this witness --

## SANDRA GREENE - DIRECT

1 show defense counsel first State's 127, 128, and 129. May I  
2 approach?

3 THE COURT: Yes.

4 BY MS. WILLIAMS:

5 Q: Ms. Greene, if you would just look at these pictures and  
6 see if they accurately depict your street?

7 A: Yes, it does.

8 MS. WILLIAMS: Your Honor, at this time, we would offer  
9 127, 128, and 129 into evidence.

10 MR. SHELTON: No objection.

11 THE COURT: They are admitted.

12 (WHEREUPON, State's Exhibits No. 127, 128, and 129, map  
13 photographs, were admitted into evidence.)

14 MS. WILLIAMS: Thank you, Your Honor.

15 BY MS. WILLIAMS:

16 Q: Okay. So tell the jury what this is. What are we  
17 looking at here?

18 A: Okay. This is one of the houses on our street right  
19 here. This is the Gathers' house further up the street. Our  
20 house would've been right about here.

21 Q: Okay. And what about 128, please?

22 A: I'm sorry?

23 Q: Now, if you look there, you'll see another picture.

24 A: Oh, okay.

25 Q: Show us if your house is depicted in this picture.

## SANDRA GREENE - DIRECT

1 A: Okay. This is our house right here. That's Ivan's car.  
2 This is the Gathers' house right over here. Ivan's body  
3 would've been right where those cars are parked right there  
4 that night.

5 Q: Okay. And did Ivan frequently go over to the Gathers'  
6 house?

7 A: Yes. We all grew up together. They were our neighbors,  
8 and Ivan was very close with the younger Gathers, Michael  
9 Gathers. He did not live there, but they were around the  
10 same age.

11 Q: Okay. What did they do over there, if you know?

12 A: Well, there were two brothers that were living on the  
13 property. They were older. They were in their 60s, but they  
14 had children and grandchildren that lived there off and on.

15 Q: Uh-huh.

16 A: So they had friends that frequented, you know, the --  
17 you know, their home and they would have, like, barbecues and  
18 cookouts, you know, quite frequently, especially on the  
19 weekends.

20 Q: Okay. And is it fair to say there was, like, two  
21 generations kind of on that block, like the older guys would  
22 play checkers and have barbecues and then sometimes their  
23 younger kids would come around?

24 A: Yes. There weren't -- there weren't that many houses on  
25 our street. There were only about -- maybe about -- about

## SANDRA GREENE - DIRECT

1 eight. Most of the people were seniors. It was the  
2 grandchildren and the great-grandchildren of basically the  
3 Gathers that frequented the home, that had their crowd, like,  
4 every so often, you know, with the loud music, that sort of  
5 thing.

6 Q: Okay. But they weren't there all the time?

7 A: No, no, not at all.

8 Q: Okay.

9 Q: No. Every now and then.

10 Q: And at the end of that street, is there any way to get  
11 through? If you look at that picture, show us where the end  
12 there is.

13 A: Okay. This is a dead end. This is our house right  
14 here.

15 Q: Okay.

16 A: There is another house right behind ours.

17 Q: Okay.

18 A: And right directly across that was Ms. Dean's house,  
19 beauty shop. This is a dead end. There's only one way in  
20 and one way out.

21 Q: Okay. And what did Ivan do for a living?

22 A: Ivan -- Ivan and I lived together almost 30 years. We  
23 lived in Miami, Florida, and also in Charleston. Ivan worked  
24 for the Miami Herald newspaper company for a number of years  
25 on the loading dock. Then he transitioned over to

## SANDRA GREENE - DIRECT

1 construction work because that was the trade that my father  
2 taught him as a young man.

3       So Ivan worked as a field -- Ivan worked with field  
4 engineers -- I'm sorry -- as the layout guy because he knew  
5 how to read blueprints. So they built high-rise condominiums  
6 in Dade, Broward, and West Palm Beach County.

7       So when Ivan moved back to Charleston, we moved back  
8 home after our mother died to help take care of our father.  
9 So he continued to do construction work in Charleston and  
10 that's what he did up until his death, and he also had his  
11 own little lawn care service business cutting grass for  
12 people in the neighborhood.

13 Q:    Okay. I'm going to bring your attention to the evening  
14 of September 23rd, 2016.

15 A:    Okay.

16 Q:    When was the first time you remember seeing Ivan that  
17 evening? What did you do that day?

18 A:    I was at work and I came home about 7:30. Ivan was  
19 cooking dinner, and he was also on the phone talking on the  
20 phone when I came home.

21 Q:    Okay. And after that, what happened next?

22 A:    I remember when he was still talking on the phone and I  
23 remember a lot of, like, music playing outside. And because  
24 I worked two jobs, I had to work that evening -- I mean that  
25 next morning. I said, oh, man, I've got to go to work. I

## SANDRA GREENE - DIRECT

1 said, oh, they're starting up with all that music again.

2 And so I peeped out the window and I saw cars parked at  
3 the Gathers', which they -- this was a Friday evening, so  
4 they were getting ready -- I know they were getting ready to  
5 barbecue, and I said, boy, I hope I can get to sleep because  
6 I've got to go to work in the morning. And so I looked.  
7 That was about -- now, this -- I saw Ivan when I came home  
8 about 7:30. This was about -- maybe about 10 p.m.

9 Q: Okay.

10 A: And this was the last time I saw my brother. So when I  
11 looked out the window, I saw, you know, cars at the Gathers'  
12 and I said, well, I've got to go to work in the morning. So  
13 I looked at him and I said I'm going to sleep and he was  
14 still talking on the phone. So I went to bed. So . . .

15 Q: And then you went to bed. What do you remember  
16 happening next?

17 A: I remember after I somewhat maybe drifted off, I heard  
18 what I thought was firecrackers, but it was gunshots and  
19 there was so many, and that's what startled me and it just  
20 went on and on. And then I remember yelling and screaming,  
21 calling Ivan's name and telling him to get down. I said,  
22 Ivan, get down, get down, stay down, Ivan, stay down, stay  
23 down. He never answered me. So the shooting stopped. Then  
24 it started back up again and it was, like, never ending. And  
25 so I was just hoping that he was nowhere outside.

## SANDRA GREENE - DIRECT

1           And so after all the gunshots stopped completely, it  
2 just got completely quiet and after about maybe -- maybe less  
3 than a minute, everything went dark. The TV -- I had the TV  
4 on although I was -- sometimes I sleep with the TV on. Every  
5 -- all the lights went out, the whole neighborhood.

6           And so I tried to -- I was so frightened, but I tried to  
7 crawl off the bed and I couldn't see anything, so I tried to  
8 find a candle. And so I found a candle and I was trying to  
9 make my way into the kitchen because Ivan smoked cigarettes  
10 and I knew he would've had a lighter on the table. And so  
11 while I was trying to stand, there was a bam bam bam bam bam  
12 on the door and someone was calling, saying, "Sandra, Sandra,  
13 come quick." And I said, "Hold on, I can't see, I can't see,  
14 hold on."

15           And it was Clifford Gathers, one of the older brothers  
16 that lived across the street, and he said, "Sandra, come  
17 quick, Ivan's been shot."

18           And I said, "Okay, hold on, hold on."

19           So when I got up to the door and I set up and I opened  
20 the door, it was Clifford, and so I was right behind him. I  
21 said is Ivan dead or alive? He didn't -- he didn't answer.  
22 I had no shoes on. I just had my bedclothes, but I was right  
23 behind him.

24           And as I walked from my house going straight over to  
25 their house, I couldn't -- it was so dark, I couldn't even

## SANDRA GREENE - DIRECT

1 make out the faces of anybody. That's how dark it was. But  
2 I could see my brother on the ground and there was a light  
3 all around his body. I could see him just as clear as I'm  
4 looking at the faces here. And he didn't have a frightful  
5 look at all on his face. His eyes were open.

6 Ivan was always an impeccable dresser. He had a blue  
7 shirt on, white T-shirt, khaki pants, one shoe was off, one  
8 leg was up. But I could see him, but I couldn't see the  
9 faces of the other people.

10 So I remember just screaming out and just saying, "Oh,  
11 Lord, my brother is gone, my brother is gone." And I just  
12 asked the Lord to just hold him, to just hold him, and then I  
13 -- when I looked down, I saw Ivan.

14 I didn't even see his friend holding his hand on the  
15 ground until it started to lighten up just a little, and then  
16 I heard when he said -- it was some nickname that he had for  
17 my brother and he said, "Oh, no, Julie's not gone, Julie's  
18 not gone, get away from here, he's not gone."

19 And then I heard another person, "Hey, man, that's his  
20 sister."

21 And so I went to grab Ivan on the ground. I wanted to  
22 hold him, and so there were several people I heard say,  
23 Sandra, don't touch him, don't touch him, don't touch him.  
24 Then someone else said close his eyes, close his eyes. His  
25 eyes were open. So Larry Gathers that lived in the home, the

## SANDRA GREENE - DIRECT

1 oldest brother, he closed Ivan's eyes.

2           And then I heard people. I could sort of make out faces  
3 at that time because it was getting lighter, and people were  
4 screaming and crying, saying hold on, Greene, hold on,  
5 Greene, and people were saying call 9-1-1, call 9-1-1. So  
6 that's when I ran from their yard back to our house to call  
7 family.

8           So I crawled back into the house because I still  
9 couldn't see anything. I went in the bedroom, picked up my  
10 cell phone, and I called my brother-in-law and I called my  
11 brother and I told them what had happened, to come quick, and  
12 then I looked for clothes to put on, just a sweater and some  
13 shoes, and I was -- when I -- when I grabbed my cell phone,  
14 it was exactly 11:15 p.m.

15 Q:    Okay.

16 A:    And so I crawled to the door and when I got outside, I  
17 could see a police SUV right parked in front of the Gathers'  
18 house and so the police was, you know, looking over the scene  
19 and everything.

20 Q:    Okay.

21 A:    And then shortly after that, maybe about -- maybe less  
22 than 10 minutes, the ambulance was coming down the street,  
23 and I ran to the street and beckoned for them, you know,  
24 where we were. And so when the ambulance came, they worked  
25 really fast to get Ivan on the -- on the stretcher.

## SANDRA GREENE - DIRECT

1 Q: Uh-huh.

2 A: So I ran back to the house to get my purse and to close  
3 the door, and they were just saying, Sandra, you can't drive,  
4 you can't drive. I just said, no, no, no, I'm just going to  
5 get my purse and close the door, and they said, well, we can  
6 do that, we can do that. So I got into the ambulance and I  
7 rode with them to the hospital.

8 Q: Okay.

9 MS. WILLIAMS: Thank you, Ms. Greene. Please answer any  
10 questions from the defense.

11 THE WITNESS: Thank you.

12 MR. SHELTON: I'm sorry for your loss. No questions.

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

14 MS. WILLIAMS: May we approach, Your Honor?

15 THE COURT: Sure.

16 (WHEREUPON, a bench conference was held in the presence  
17 of the jury but out of the hearing of the jury off the  
18 record, after which the proceedings resumed as follows.)

19 THE COURT: Ladies and gentlemen, we're going to go  
20 ahead and stop for the day now at this break. I'm going to  
21 go ahead and release you until tomorrow morning. At 9:30,  
22 we'll start back up.

23 A couple of people I wanted to introduce to you that I  
24 neglected to point out to you earlier. This young lady here  
25 beside me, Krystal Smith, is our court reporter. She, like

1 myself, gets assigned to different places around the state.  
2 She travels around the state. What she's doing is making a  
3 record of everything that everybody says during the course of  
4 the trial. So everything I say, that the attorneys say, that  
5 the witnesses say, she is recording, and she is an employee  
6 of the Judicial Branch.

7 And then also Ms. April over here, who is an employee of  
8 the Clerk of Court's Office here in Charleston. So the Clerk  
9 of Court's Office, they are responsible for the running of  
10 the court, both the civil side and the criminal side. So  
11 she'll be assigned with us for the rest of the week.

12 This is my law clerk, Andy Sipple. So he goes wherever  
13 I go and he assists me. He is a recent law school graduate  
14 and has now passed the South Carolina Bar. We're real proud.

15 And then you've met some of the bailiffs that you  
16 usually see near the doors here, and they'll be assisting  
17 you. Anything that you need, you can bring to their  
18 attention. So they're going to be your helpers and be able  
19 to assist you during the course of the week. If there's  
20 anything that needs to be brought to my attention, you can  
21 ask one of these folks to help you and they'll get that to my  
22 attention.

23 Again, please don't have any discussions about the case  
24 overnight. We will see you tomorrow morning at 9:30.

25 (WHEREUPON, the jury exited the courtroom at 4:05 p.m.)

1 THE COURT: Okay. Anything further before we adjourn  
2 for the evening?

3 MS. WILLIAMS: Not from the State, Your Honor.

4 MR. SHELTON: Nothing, Your Honor.

5 THE COURT: Okay. We'll see you all in the morning.

6 MR. KAISER: Thank you, Your Honor.

7 (WHEREUPON, the proceedings adjourned for the day at  
8 4:06 p.m.)

9 MARCH 10, 2020

10 (WHEREUPON, the proceedings resumed at 9:41 a.m.)

11 THE COURT: Good morning.

12 MS. WILLIAMS: Good morning, Your Honor. Whenever the  
13 Court is ready, we have gone through some of the exhibits,  
14 mostly photographs, and come to an agreement on what's in.

15 THE COURT: Okay.

16 MS. WILLIAMS: Some of them were admitted yesterday, but  
17 just for clarity in the record, I was just going to put that.

18 THE COURT: Sure. Go right ahead.

19 MS. WILLIAMS: So 1 through 40, which are -- these are  
20 all photos and maps, 41 through 45, 47, and 102, 124, 125,  
21 126, 127, 128, and 129.

22 THE COURT: Okay. I'm sorry. If you'd slow down for me  
23 just for a minute. 1 through 40 are in.

24 MS. WILLIAMS: Right.

25 THE COURT: 41 through 45?

1 MS. WILLIAMS: Right.

2 THE COURT: 47 and 102?

3 MS. WILLIAMS: Correct.

4 THE COURT: And then --

5 MS. WILLIAMS: 124 and 125, and 126 through 129, and  
6 then 138. Court's indulgence for just a second.

7 THE COURT: Sure.

8 MS. WILLIAMS: And 130.

9 THE COURT: And I'm showing that was admitted yesterday  
10 during the course of the trial.

11 MS. WILLIAMS: Just trying to get them all.

12 THE COURT: Okay. So those are all admitted by  
13 agreement?

14 MR. SHELTON: Yes, Your Honor.

15 THE COURT: Very good.

16 (WHEREUPON, State's Exhibits No. 1 through 40,  
17 photographs, State's Exhibits No. 41 through 45,  
18 photographs, State's Exhibit No. 47, map photograph,  
19 State's Exhibit No. 102, photograph, State's Exhibits  
20 No. 124 through 129, map photographs, were all admitted  
21 into evidence.)

22 MS. WILLIAMS: Thank you, Your Honor.

23 THE COURT: Are we ready for the jury?

24 MS. WILLIAMS: We are.

25 MR. SHELTON: Your Honor, I have one issue and it just

1 came up, and I've been discussing it with co-counsel this  
2 morning. I was getting prepared for Antoine Gill's  
3 impeachment evidence, and it turns out I don't think I've  
4 ever been provided his -- his DVD proffer, his video proffer.  
5 So I haven't been provided that from the Solicitor's Office.  
6 I looked back through all of my notes and they have a list of  
7 everything that they've provided me, and I don't see it  
8 anywhere in that list that I was provided Antoine Gill's DVD  
9 proffer, video proffer.

10 And so I understand this is pretty much last-minute in  
11 the middle of the trial, but based off of that, I feel that I  
12 need to ask that he not be called as a witness in this case  
13 since I haven't been provided those documents or that video.

14 THE COURT: Ms. Williams?

15 MS. WILLIAMS: Well, first of all, there is no video of  
16 Antoine Gill's proffer. There's an audiotape and then it was  
17 transcribed, and I believe that Mr. Shelton has a transcript  
18 of it. We had several discovery meetings and so I would have  
19 to look back at that, but certainly, I was under the  
20 impression that he had everything. Everything is Bates-  
21 stamped and I had not heard until right now that he doesn't  
22 have that.

23 We can over the lunch hour go back over it and make sure  
24 he has it. I can make another copy. I can help him find the  
25 transcript. All of those DVDs or actually audiotapes were

1 transcribed and provided by -- I think that both counsel had  
2 it because Mr. Epicello [ph] actually made transcripts of  
3 them.

4 But whatever we can do to rectify it, I don't think the  
5 remedy should be that the witness be excluded. I can't speak  
6 to whether or not he has it. I know that we had a discovery  
7 meeting in our office and I just handed Mr. Shelton my book  
8 and said compare it to what you have to make sure you have  
9 everything. At that point, he told me he did have  
10 everything. We had another meeting where he's on the phone  
11 where he said he didn't -- he couldn't find the firearms  
12 report. I provided that immediately.

13 So we're happy to work with him to try to get him up to  
14 speed, if he needs to take a day to look at it, but it seems  
15 to me like the transcript of Mr. Gill's testimony at trial  
16 and the transcript of the proffer and if he needs another  
17 copy of the audio, you know, that we should be able to get  
18 him to where he needs to be.

19 THE COURT: What's the -- when do you anticipate calling  
20 Mr. Gill?

21 MS. WILLIAMS: Well, it was going to be this afternoon.

22 THE COURT: Mr. Shelton, do you think that you have the  
23 transcript of his statement?

24 MR. SHELTON: Well, it was provided to me by the other  
25 defense attorney. So -- but I -- just going back through and

1 trying to verify a lot of what the transcript -- it doesn't  
2 even have a date on it that it was -- that it was taken. So  
3 -- so I was just trying to get prepared for some of the  
4 impeachment and found out that I don't have that audio.

5 THE COURT: Well, let's do this. I'll let y'all look at  
6 it at lunchtime. If you need additional time, if there's  
7 something -- I mean if it's -- if it's the material that you  
8 already have, then I think we'll just press forward. If  
9 there's something additional that you feel like you need  
10 additional time to look at it, then, you know, I can say that  
11 we will not have his testimony this afternoon. We'll put him  
12 off until Wednesday.

13 MR. SHELTON: Okay.

14 THE COURT: But I'll give you a chance to look at it at  
15 lunchtime and see what y'all can determine.

16 MR. SHELTON: I appreciate it.

17 MS. WILLIAMS: Thank you, Judge.

18 THE COURT: Okay. We're ready for the jury.

19 (WHEREUPON, the jury entered the courtroom at 9:50 a.m.)

20 THE BAILIFF: All jurors are present, Your Honor.

21 THE COURT: Thank you.

22 Good morning, ladies and gentlemen. Thank you again for  
23 being here promptly. We appreciate it very much. We are  
24 going to move right into the next witness.

25 MS. WILLIAMS: Thank you, Your Honor. The State would

## O.C. GATHERS - DIRECT

1 call O.C. Gathers.

2 (WHEREUPON, there was a pause until the witness entered  
3 the courtroom.)

4 THE CLERK: Good morning. Step around and place your  
5 left hand on the Bible and raise your right hand for me.  
6 Thank you. Do you swear or affirm the testimony you shall  
7 give the Court and the jury shall be the truth, the whole  
8 truth, and nothing but the truth, so help you God?

9 THE WITNESS: I do.

10 THE CLERK: I'm sorry?

11 THE WITNESS: I do.

12 THE CLERK: Please have a seat. Speak loud and clear  
13 into the mic, and you're going to state your full name and  
14 spell your last name for the record.

15 THE WITNESS: My name is O.C. Gathers. That's G-a-t-h-  
16 e-r-s.

17 O.C. GATHERS, being first duly  
18 sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. WILLIAMS:

21 Q: Thank you for being here, Ms. Gathers. Where do you  
22 live?

23 A: I live at [REDACTED] Hassell Street, North Charleston.

24 Q: And how long have you lived there?

25 A: Sixty-one years.

## O.C. GATHERS - DIRECT

1 Q: And do you know Ivan Greene and Sandra Greene?

2 A: I sure do.

3 Q: How long have you known them?

4 A: Well, they were little children when I came to the area,  
5 but I've known them as long as I have been there.

6 Q: What kind of neighborhood is that?

7 A: Our neighborhood is basically a good neighborhood. If  
8 we had any problems, it's for people who come on from the  
9 outside, but it's -- it's a good neighborhood.

10 Q: Do you know most of the neighbors?

11 A: Pretty much. You've got to understand that there are  
12 older people who have passed on and their children -- perhaps  
13 I don't know some of their children, but basically.

14 Q: And what do you -- do you work?

15 A: Yes, I do.

16 Q: Where do you work?

17 A: Right now, I'm employed at the North Charleston Coliseum  
18 Performing Arts Center.

19 Q: Okay. I understand you love to garden. Do you love to  
20 garden?

21 A: I do.

22 Q: Is your house known as the house with the pretty  
23 flowers?

24 A: Yes. I remember Ivan saying to me once when he came by,  
25 he said our neighborhood should have a yard of the month. He

## O.C. GATHERS - DIRECT

1 said, but I'm sorry, you can't participate.

2 Q: So I'm going to bring your attention back to September  
3 23rd, 2016, when Ivan passed. Were you at home that night?

4 A: Yes, I was.

5 Q: And what do you remember about that evening with regard  
6 to this incident?

7 A: Well, that evening we heard some gunshots and then we  
8 heard a car that came around the corner and hit the light  
9 pole. The transformer blew, the lights went out, and then  
10 somebody ran through the yard.

11 Q: So you said the lights went out. Did the lights also go  
12 out at your house?

13 A: Yeah. That's what I said.

14 Q: And so then somebody -- do you know how many people ran  
15 through your yard?

16 A: I don't know how many, but there was more than one.

17 Q: Okay. And did you hear anything they were saying?

18 A: Not really.

19 Q: Okay. Fair enough.

20 MS. WILLIAMS: Thank you, Ms. Gathers. Please answer  
21 any questions from defense counsel.

22 MR. SHELTON: No questions.

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

24 MS. WILLIAMS: The State calls Jeliesa Jenkins.

25 (WHEREUPON, there was a pause until the witness entered

## JELIESA JENKINS - DIRECT

1 the courtroom.)

2 THE CLERK: Ms. Jenkins, if you'll walk around this way.  
3 Place your left hand on the Bible and raise your right hand  
4 for me. Do you swear or affirm the testimony you shall give  
5 the Court and the jury shall be the truth, the whole truth,  
6 and nothing but the truth, so help you God?

7 THE WITNESS: Yes, ma'am.

8 THE CLERK: Please take a seat. Please speak loud and  
9 clear into the mic. You're going to state your full name and  
10 spell your last name for the record.

11 THE WITNESS: My name is Jeliesa Jenkins. Last name is  
12 spelled J-e-n-k-i-n-s.

13 MR. SHELTON: Your Honor, can we approach?

14 THE COURT: Uh-huh.

15 (WHEREUPON, a bench conference was held in the presence  
16 of the jury but out of the hearing of the jury off the  
17 record, after which the proceedings resumed as follows.)

18 JELIESA JENKINS, being first  
19 duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. WILLIAMS:

22 Q: Ms. Jenkins, how old are you?

23 A: Twenty-five.

24 Q: And do you know Marquise Bryant?

25 A: Yes.

## JELIESA JENKINS - DIRECT

1 Q: Do you know Brandon Grayer?

2 A: No.

3 Q: You don't know Randall Myers?

4 A: No.

5 Q: Antoine Gill?

6 A: No.

7 Q: Maurice Washington?

8 A: No.

9 Q: Nathan Burnett?

10 A: No.

11 Q: Vinny Robinson?

12 A: No.

13 Q: But you know Marquise Bryant?

14 A: Yes.

15 Q: And how do you know him?

16 A: That's the father of my child.

17 Q: And how old is your child?

18 A: She's one.

19 Q: And how is she doing?

20 A: She's good.

21 Q: You're not too proud of her, are you?

22 A: Yeah. Bosom buddy.

23 Q: And so how long have you known Mr. Bryant?

24 A: I have known him a couple of years, a couple of months

25 before that situation happened. I would say about two or

## JELIESA JENKINS - DIRECT

1 three months.

2 Q: Okay. So when you say before the situation happened,  
3 you're talking about the September 23rd, 2016, for which  
4 we're here?

5 A: Yes, ma'am.

6 Q: And did you see Mr. Bryant that day?

7 A: That morning.

8 Q: Okay. And what time about did y'all separate?

9 A: I had to be to work about nine.

10 Q: Okay.

11 A: So about 8:30 or nine.

12 Q: Okay. And then did you talk to him? What was the plan  
13 for that day, if there was one?

14 A: We were supposed to go out to eat.

15 Q: Okay. For lunch? Dinner?

16 A: Dinner.

17 Q: Okay. And did you communicate with him at all during  
18 the day?

19 A: Probably at work, like throughout work through a text  
20 message.

21 Q: Okay. And did you talk to him at all after you all were  
22 together that morning?

23 A: No.

24 Q: Okay. Did you at some point have a conversation with  
25 him later in the evening?

## JELIESA JENKINS - DIRECT

- 1 A: Uh-huh, after I got off.
- 2 Q: Okay. And what was that conversation about?
- 3 A: We were going out to eat.
- 4 Q: So were you just finalizing the plan?
- 5 A: Uh-huh.
- 6 Q: Do you know about what time that was?
- 7 A: It was nighttime.
- 8 Q: Okay.
- 9 A: It was about nighttime.
- 10 Q: You don't remember what time?
- 11 A: No.
- 12 Q: Okay. And then did you have any idea where he was when
- 13 he called you?
- 14 A: No. He just was in North Charleston, other than that.
- 15 Q: Okay. Did he tell you what he was doing or who he was
- 16 with?
- 17 A: No.
- 18 Q: Okay. And while you were on the phone with him, did
- 19 that phone -- how did that phone call end?
- 20 A: I gotta go.
- 21 Q: Okay. Was it abrupt?
- 22 A: No. It was just an, all right, I gotta go.
- 23 Q: Okay. And when did you see him next?
- 24 A: That -- later that night.
- 25 Q: Okay. How much later?

## JELIESA JENKINS - DIRECT

1 A: It was late. It was about 11:30, 12, that he came in.

2 Q: Okay. And describe his demeanor when he came in?

3 A: He was scared.

4 Q: Okay.

5 A: Like shook.

6 Q: Shook up?

7 A: Yeah.

8 MS. WILLIAMS: Thank you. No further questions.

9 MR. SHELTON: No questions.

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

11 MS. WILLIAMS: The State would call David -- Carlton  
12 David Weiters.

13 (WHEREUPON, there was a pause until the witness entered  
14 the courtroom.)

15 THE CLERK: Good morning. Please step around and place  
16 your left hand on the Bible and raise your right hand for me.  
17 Do you swear or affirm the testimony you shall give the Court  
18 and the jury shall be the truth, the whole truth, and nothing  
19 but the truth, so help you God?

20 THE WITNESS: Yes, ma'am.

21 THE CLERK: Please take a seat. Please speak loud and  
22 clear into the mic, stating your full name and spelling your  
23 last name for the record.

24 THE WITNESS: Yes, ma'am. My first name David, last  
25 name Weiters.

## DAVID CARLTON WEITERS - DIRECT

1 DAVID CARLTON WEITERS, being  
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MS. WILLIAMS:

5 Q: Can you spell your last name, Mr. Weiters?

6 A: M-u-b-e-r-t-e-r-s [sic].

7 Q: Mr. Weiters, where do you presently live?

8 A: In North Charleston, South Carolina.

9 Q: Okay. And where? What street do you live on?

10 A: Nesbitt.

11 Q: And is that near Hassell Street at all?

12 A: Yes, ma'am. It's a five-minute walk.

13 Q: Okay. Is it on the side of -- do you know Ivan Greene?

14 Did you know Ivan Greene?

15 A: Yes, ma'am.

16 Q: Was it on the side of the street that Ivan lived on or  
17 was it on the other side of Montague?

18 A: It was from the other side.

19 Q: Okay. How long had you known Ivan?

20 A: About -- about 40-some years.

21 Q: Okay. And were y'all friends?

22 A: Yes, ma'am.

23 Q: What did y'all do together?

24 A: We worked together, eat together, drink together.

25 Q: Okay. And did you see Ivan the evening of September

## DAVID CARLTON WEITERS - DIRECT

1 23rd, 2016?

2 A: Yes, ma'am.

3 Q: And tell us about that evening. What were y'all doing?

4 A: We had a fish fry and a crab -- crab bake.

5 Q: And where was that?

6 A: It was on Hassell.

7 Q: Where on Hassell?

8 A: It was on -- we at the end of Hassell, a dead-end  
9 street.

10 Q: Okay. Who lived over there where y'all were?

11 A: Ivan, my uncle, a couple of my cousins, my grandmother.

12 Q: Do you remember about what time that y'all were eating  
13 and hanging out over there?

14 A: About six something in the -- in the evening, about six.  
15 We always set out there at night.

16 Q: Okay. And then after that, did y'all go anywhere else?

17 A: No, ma'am.

18 Q: Were you ever at Ivan's house that night?

19 A: Yes, ma'am.

20 Q: Okay. So tell us about that. Did you leave Hassell and  
21 go over to Ivan's?

22 A: He lives on Hassell on the end.

23 Q: Okay.

24 A: We -- you can just walk across, you know, just like a  
25 minute walk across the street --

1 Q: Okay.

2 A: -- to come over there.

3 Q: I'll show you some pictures. Maybe that'll help us  
4 navigate through this.

5 MS. WILLIAMS: Can you put up State's 1 for me?

6 BY MS. WILLIAMS:

7 Q: There's going to be a map that appears in front of you.  
8 First I want to show that map and if you could show us where  
9 -- can you orient yourself? Do you recognize that map?

10 A: Yes, ma'am.

11 Q: So where was Ivan's house? You can draw on it with your  
12 finger.

13 A: It was right next to the church.

14 Q: Okay. And where were you all hanging out?

15 A: Right across the street.

16 Q: Okay. And is your house on that map or is it off the  
17 map?

18 A: My grandmother lives right here at the first house.

19 Q: Can you show us where that's at?

20 A: The first house is right here on Hassell when you get  
21 right here.

22 Q: Okay.

23 A: Right here.

24 Q: Okay.

25 MS. WILLIAMS: And would you put up State's 128, please?

## DAVID CARLTON WEITERS - DIRECT

1 BY MS. WILLIAMS:

2 Q: There's going to be another picture. Do you recognize  
3 what's in this picture?

4 A: Yes, ma'am.

5 Q: Okay. Show us whose -- whose homes are in that picture?  
6 Do you see Ivan's house or the place where you were at?

7 A: This is Ivan's house right here.

8 Q: Okay.

9 A: But --

10 Q: And then --

11 A: This is the Gathers' right across the street.

12 Q: Okay. Is that where you say you were barbecuing?

13 A: That's where we sit at.

14 Q: Okay. So that evening at some point did you all walk  
15 from Ivan's to the Gathers'?

16 A: Yes, ma'am.

17 Q: Okay. And was that around the time that Ivan passed?

18 A: No. It was a little darker. We walked through. When  
19 we had a few beers, we had some crab at his house and then as  
20 we were walking across the street, it was dark at that time.  
21 It had to have been a little after eight that we started. We  
22 had a little get together for the kids and our friends, and  
23 then after they had left, the crowd had left, it was just us  
24 sitting out there. So we had a few more beers and had some  
25 crab and that was it.

## DAVID CARLTON WEITERS - DIRECT

- 1 Q: Okay. And when did the kids leave?
- 2 A: They left a little earlier before it was dark.
- 3 Q: A little bit before dark?
- 4 A: Yes, ma'am.
- 5 Q: Okay. And at some point did you hear gunshots?
- 6 A: Yes, ma'am. We got it by the tree.
- 7 Q: Okay.
- 8 A: It had already been dark then.
- 9 Q: Okay. And show me the tree you're talking about.
- 10 A: The tree right here.
- 11 Q: Okay. And did you see any vehicles that night drive up?
- 12 A: There was a good little -- there was one truck that
- 13 drove up.
- 14 Q: Okay. What did it look like?
- 15 A: It was a big dark truck.
- 16 Q: Okay. Do you remember -- if you don't remember, it's
- 17 okay, but do you remember if it was an SUV or a pickup truck
- 18 or what kind of truck?
- 19 A: It was, like, a Lincoln Navigator.
- 20 Q: Okay. And when it pulled up, tell us what happened
- 21 next.
- 22 A: Just like gunfire, that's all.
- 23 Q: Okay. And what was going on with you and Ivan at that
- 24 time?
- 25 A: Trying to get out of the way.

## DAVID CARLTON WEITERS - DIRECT

1 Q: Okay. And then what happened?

2 A: I guess he got hit and we fell, like, on the tree  
3 because I guess he pulled -- he was -- he had a hold of my  
4 shirt and both of us fall down right there.

5 Q: Okay.

6 A: And that's where we stayed at.

7 Q: So when the Navigator pulled up, there were shots and  
8 then he fell?

9 A: Yes, ma'am.

10 Q: And what happened after that?

11 A: Tried to get him some help.

12 Q: Okay. Were there more shots after that?

13 A: It was like a -- just like a bunch of -- bunch of  
14 gunshots and we were on the ground. So I don't know.

15 Q: Okay. Were you ever able to talk to him after that  
16 again or was --

17 A: Yeah. When I was holding him, he was trying to talk,  
18 but I was trying to -- he couldn't.

19 Q: Okay. Who came out after Ivan went down, if you  
20 remember?

21 A: I think it was Michael because he went and got the  
22 phone. My phone -- I guess when we fall my phone was busted;  
23 so I couldn't call on my phone. So he ran back in the house  
24 to get the phone.

25 Q: Okay. And who is Michael?

## DAVID CARLTON WEITERS - DIRECT

1 A: That's the one who lives there.

2 Q: Okay. How old is he about?

3 A: About 50.

4 Q: Okay. And did you all call any of Ivan's family or did  
5 anyone else come out?

6 A: After a while, his sister came out and she was there  
7 when me and him was still on the ground.

8 Q: Okay. Now, this area where you guys were having a  
9 barbecue and drinking some beers, is that an area where  
10 people your age usually go and hang out?

11 A: We're exactly a family. We just -- you know, we sit  
12 there and sometimes we play checkers. We have a little  
13 cookout. There was a bunch -- there used to be a bunch of  
14 kids and my kids actually. Their grandfather live down the  
15 street. We just have stuff for them sometimes. We have a  
16 little fish fry, a little crab, stuff like that. It's a  
17 dead-end street.

18 Q: Okay. All right. Now, did you have to leave this area  
19 and go anywhere else recently?

20 A: Well, I went up North for a little while.

21 Q: And why is that?

22 A: Because I breathe better because I have lung disease,  
23 you know, COPD. I got it and sometimes it's hard for me to  
24 breathe.

25 Q: Okay. All right.

## JAMES GREENAWALT, JR. - DIRECT

1 MS. WILLIAMS: Thank you very much, Mr. Weiteers. No  
2 further questions.

3 MR. SHELTON: No questions.

4 THE COURT: Thank you, Mr. Weiteers. You can step down,  
5 sir.

6 MS. SMITH: The State calls James Greenawalt.

7 (WHEREUPON, there was a pause until the witness entered  
8 the courtroom.)

9 THE CLERK: Good morning. Please step around for me.  
10 Place your left hand on the Bible and raise your right hand.  
11 Do you swear or affirm the testimony you shall give the Court  
12 and the jury shall be the truth, the whole truth, and nothing  
13 but the truth, so help you God?

14 THE WITNESS: Yes, ma'am.

15 THE CLERK: Please take a seat. Please state your full  
16 name, spelling your last name for the record.

17 THE WITNESS: James Greenawalt, Jr. Last name is  
18 spelled G-r-e-e-n-a-w-a-l-t.

19 JAMES GREENAWALT, JR., being  
20 first duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MS. SMITH:

23 Q: Thank you, Officer Greenawalt. Where are you currently  
24 employed?

25 A: I'm with the Summerville Police Department at this time.

## JAMES GREENAWALT, JR. - DIRECT

1 Q: And in what capacity do you work for Summerville PD?

2 A: I'm one of their narcotics vice detectives, along with  
3 my K-9 partner, Stealth.

4 Q: How long have you been working at Summerville?

5 A: Two years.

6 Q: Prior to working at Summerville, were you employed in  
7 another law enforcement agency?

8 A: Yes. I was with the North Charleston Police Department  
9 for ten years.

10 Q: And when you worked with North Charleston, were you also  
11 a K-9 detective?

12 A: Yes.

13 Q: And what K-9 partner did you work with at North  
14 Charleston?

15 A: At that time, I had K-9 Felon.

16 Q: And when you say at that time, you mean during the time  
17 period of September 23rd through 24th, 2016?

18 A: Correct.

19 Q: Did you have the occasion to respond to a shooting that  
20 had occurred on Hassell Street on September 23rd, 2015 --  
21 '16?

22 A: I did.

23 Q: And was that at [REDACTED] Hassell?

24 A: It was.

25 Q: Do you remember what time you made it to the scene that

## JAMES GREENAWALT, JR. - DIRECT

1 night?

2 A: It was around 11:25, 2325 hrs., I believe.

3 Q: And have you had an opportunity -- okay. And is -- the  
4 address on Hassell Street, is that located in Charleston  
5 County?

6 A: It is.

7 Q: And once you arrived, what -- what -- how -- what did  
8 you do first?

9 A: Once I got on the scene, I was advised by Lt. Humphries  
10 that there was -- actually, this was while I was en route --  
11 that a black SUV, a Lincoln Navigator I believe, had crashed  
12 into a telephone pole just down from the address I was  
13 supposed to be responding to for the shooting.

14 Inside the vehicle, it was empty and there was no  
15 occupants, but you could see in plain view two handguns  
16 inside the vehicle. So once on scene, I was the first K-9 on  
17 scene. Lt. Humphries advised me to deploy my dog and began  
18 my track for the suspects starting there. As I was getting  
19 --

20 Q: Starting at the Navigator?

21 A: Starting at the Navigator.

22 Q: Okay.

23 A: Once I got K-9 Felon ready with his equipment on and  
24 everything, a call came over the radio from dispatch that a  
25 concerned citizen stated she saw three black males running

## JAMES GREENAWALT, JR. - DIRECT

1 past her house from the direction of the Navigator. Lt.  
2 Humphries at that time advised me to not deploy from the  
3 Navigator, but to go to the last known location seeing them  
4 fleeing. So I went up to that location.

5 Q: And do you remember what address where you moved the  
6 track to? Do you remember what street that was?

7 A: I'd have to see my report for that.

8 Q: Okay.

9 (WHEREUPON, the report was marked for identification  
10 only as State's Exhibits No. 145 and 146.)

11 MS. SMITH: Your Honor, may I approach the witness?

12 THE COURT: Yes.

13 BY MS. SMITH:

14 Q: Officer Greenawalt, I'm showing you what's been marked  
15 for ID only 145 and 146. If you will take a look at this and  
16 tell me if it refreshes your memory.

17 A: Yes. This is a copy of my incident report from that  
18 night. The next street that we went to deploy K-9 Felon on  
19 was Wright Street, which is the next adjacent street down  
20 from Hassell.

21 Q: And is Wright Street where you began the K-9 track?

22 A: Correct.

23 Q: Where you deployed --

24 A: Yes.

25 Q: -- Officer Felon? And once you made it to Wright

## JAMES GREENAWALT, JR. - DIRECT

1 Street, can you describe the process of the track?

2 A: Well, we had to wait for a Spanish-speaking officer to  
3 come on scene because the concerned citizen only spoke  
4 Spanish. I don't speak Spanish; so I couldn't get a -- I  
5 wanted an exact location she saw the suspects running to  
6 start the track so I had the freshest sent available for my  
7 dog.

8 Once we were able to determine that location and then  
9 the location she showed us, we were able to locate some  
10 footprints in the dirt between the houses where they were  
11 running. I gave K-9 Felon his command to begin tracking. We  
12 tracked from Wright Street. It comes up to a barbed wire  
13 fence between Wright Street and Ezekiel Drive. On top of the  
14 -- the fence, we could see where the barbed wire had been  
15 pushed down and there was actually a footprint.

16 Q: I'm going to publish an exhibit that's already been  
17 admitted into evidence by consent, State's Exhibit 47. If  
18 you will, draw where you tracked on that map. You can use  
19 the touchscreen in front of you.

20 A: All right. So at first we started here. That's where I  
21 originally started with Lt. Humphries before the call came  
22 out. Then the call came out for us to go to Wright Avenue  
23 and we started over here, right about there.

24 Q: And once you began the track at Wright Avenue, can you  
25 mark the path that you followed?

## JAMES GREENAWALT, JR. - DIRECT

1 A: Between these houses up to Ezekiel.

2 Q: And did you -- in preparing your report, did you locate  
3 a map showing the fence that your dog tracked to on Ezekiel?

4 A: Yes.

5 Q: And also by consent, State's Exhibit 21 has been  
6 admitted into evidence. I'd like to publish that. Is this  
7 the location that your dog tracked to?

8 A: Yes, it is.

9 Q: And what address is that?

10 A: That's going to be [REDACTED] Ezekiel Drive.

11 Q: And once you arrived over -- did you go over the fence  
12 with your dog or did you come around?

13 A: I actually got him over the fence. We got over to the  
14 other side of the fence and restarted the track. He picked  
15 it up right away. We kept tracking along the fence line. I  
16 observed that there was a perimeter officer, as you can see  
17 where it's drawn on the line, right there next to -- he was  
18 actually standing a little bit closer to the doorway of that  
19 trailer.

20 At that time, I didn't think anything of it. K-9 Felon  
21 kept trying to pull me to the direction of that perimeter  
22 officer, and you have to understand my dog is a dual-purpose  
23 dog, which means he actually bites and apprehends people that  
24 are in the tracks. So in order for me to avoid having my  
25 officer or fellow officer get bit by my dog, I tried to

## JAMES GREENAWALT, JR. - DIRECT

1 recast him in the other direction.

2 As we got to Ezekiel Street, the edge of the street, and  
3 I attempted to cast him to the left, I attempted to recast  
4 him to the right -- and when I say cast is when I'm trying to  
5 give him a direction in which way to go. He didn't pick up  
6 any scent. He kept wanting to go back to that trailer. He  
7 had already had a couple of incidents where he's bit an  
8 officer; so I didn't let him go towards that trailer,  
9 hindsight being now I probably should have.

10 Q: And so you did not go into that trailer?

11 A: No, we didn't. Like I said, the officer had broke  
12 perimeter and was inside that, next to that trailer, and I  
13 just -- my thinking was is that Felon just wanted to bite the  
14 guy he saw in front of him.

15 Q: Is that a cross-contamination issue?

16 A: It is a cross-contamination issue.

17 Q: Were you later advised that this was the correct track?

18 A: Yes. I was notified by Sgt. Niemiec. I want to say it  
19 was probably the next morning. He called me up and asked if  
20 I had --

21 MR. SHELTON: Objection, Your Honor, hearsay.

22 THE COURT: Do you want to respond?

23 MS. SMITH: I'll rephrase the question.

24 THE COURT: Okay.

25 BY MS. SMITH:

## JAMES GREENAWALT, JR. - DIRECT

1 Q: Were you later informed that this was the correct track?

2 A: I was.

3 Q: Okay.

4 MS. SMITH: I beg the Court's indulgence.

5 Officer Greenawalt, I don't have any further questions  
6 for you at this time. Please answer any --

7 THE WITNESS: Thank you.

8 MS. SMITH: -- that the defense has.

9 MR. SHELTON: Just briefly.

10 CROSS-EXAMINATION

11 BY MR. SHELTON:

12 Q: The -- that barbed wire fence, how tall was it?

13 A: It was, like, six foot.

14 Q: Okay. So I'm a little bit under six foot. So you had  
15 to hoist the dog up, I guess?

16 A: My dog can clear an eight-foot fence.

17 Q: Okay. Awesome. So -- but it had barbed wire. Was it  
18 completely barbed wire or barbed wire on the top?

19 A: Just at the top. It had been matted down.

20 Q: Okay. And so you didn't notice any -- obviously, if you  
21 had noticed any clothing or anything that got caught up on  
22 that barbed wire, you would've noted that?

23 A: There was no clothing. There was a footprint on the  
24 fence.

25 Q: Okay. But there was no blood or anything like that?

## JAMES GREENAWALT, JR. - CROSS

1 A: No.

2 Q: Okay. And were you able to clear that -- that fence  
3 also?

4 A: We were.

5 Q: Okay.

6 MR. SHELTON: No further questions.

7 MS. SMITH: No redirect, Judge.

8 THE COURT: Thank you. You can step down.

9 MS. SMITH: Thank you. The State calls Officer Cameron  
10 Lowry.

11 (WHEREUPON, there was a pause until the witness entered  
12 the courtroom.)

13 THE CLERK: Good morning. Please place your left hand  
14 on the Bible and raise your right hand for me. Do you swear  
15 or affirm the testimony you shall give the Court and the jury  
16 shall be the truth, the whole truth, and nothing but the  
17 truth, so help you God?

18 THE WITNESS: I do.

19 THE CLERK: Thank you. You may be seated. Please state  
20 your full name and spell your last name for the record.

21 THE WITNESS: Cameron Alexander Lowry. Last name is  
22 L-o-w-r-y.

23 CAMERON LOWRY, being first  
24 duly sworn, testified as follows:

25 DIRECT EXAMINATION

## CAMERON LOWRY - DIRECT

1 BY MS. SMITH:

2 Q: Good morning, Officer Lowry.

3 A: Good morning.

4 Q: Where are you currently employed?

5 A: City of North Charleston.

6 Q: And in what capacity, if it does seem obvious?

7 A: Okay.

8 Q: Sorry about that. In what capacity do you work with  
9 North Charleston Police Department?

10 A: I'm a police officer and currently an SRO at Stall High  
11 School.

12 Q: How long have you been employed with the police  
13 department?

14 A: A little over four years.

15 Q: And prior to becoming an SRO, a school resource officer,  
16 did you hold any other job title at North Charleston?

17 A: Yes. I was a patrol officer. I've worked down south,  
18 and I've also worked the north end.

19 Q: And back in September of 2016, specifically September  
20 27th, 2016, what position did you hold?

21 A: That would have been a patrol officer down south.

22 Q: And when you say down south?

23 A: The south end --

24 Q: Okay.

25 A: -- of North Charleston.

## CAMERON LOWRY - DIRECT

1 Q: Okay. And can you just explain some of your duties and  
2 the responsibilities that you had as a patrol officer?

3 A: Primary duty is just to answer any calls that dispatch  
4 gives us from the citizens.

5 Q: And then on the morning -- early morning hours of  
6 September 24th, 2016, were you dispatched to [REDACTED] Ezekiel  
7 Avenue in reference to a possible burglary?

8 A: Yes. Yes, I was.

9 Q: And I'm going to publish State's 33, which has  
10 previously been admitted into evidence, and it will show up  
11 in front of you. Is this the address that you had the  
12 occasion to respond to that morning?

13 A: Yes, it was.

14 Q: And around what time did you arrive on scene that  
15 morning?

16 A: Approximately 1 o'clock in the morning.

17 Q: And who did you speak with or meet with once you  
18 arrived?

19 A: I spoke with the victim.

20 Q: And did you have your body camera activated?

21 A: I did.

22 Q: After you spoke with the victim, did you learn anything  
23 of evidentiary value or did you locate any evidence in this  
24 case?

25 A: Roughly two -- I believe around two hours earlier, three

## CAMERON LOWRY - DIRECT

1 men entered his residence, held him hostage, and then left  
2 probably about 15 or 20 minutes before I arrived and left  
3 some clothing items on the stairs to the left on the picture.

4 Q: And why were those items significant to you?

5 A: Because the victim himself said they were not his and,  
6 to the best of his knowledge, they belonged to the suspects.

7 Q: And did you believe that they were -- at that time, did  
8 you believe that this had any connection to anything  
9 happening earlier in the evening at █████ Hassell?

10 A: Yes, I did. Due to the description of the three  
11 individuals that the victim gave me and just radio traffic  
12 that was going on at the same time.

13 Q: I am going to publish State's Exhibit 44, also  
14 previously admitted. Are these -- do you recognize this  
15 picture?

16 A: Yes. Those are the shoes and the hat in question.

17 Q: And is that the -- are those items the items that you  
18 collected?

19 A: Yes. Yes, I did.

20 Q: And I am going to --

21 MS. SMITH: May I approach the witness, Judge?

22 THE COURT: Yes.

23 BY MS. SMITH:

24 Q: Did you -- you took those items into your custody?

25 A: Yes. Yes, I did.

## CAMERON LOWRY - DIRECT

1 Q: I'm going to approach and show you what's been marked  
2 for ID only as 144. Will you take a look at that?

3 A: This is a chain of custody sheet in which it says that I  
4 took into custody these items and handed them over to the  
5 forensics expert on scene over on Hassell.

6 Q: And so you carried these items over to this --

7 A: Yes. Yes, I did.

8 Q: -- crime scene investigator. And who is that  
9 investigator?

10 A: Ms. Adams, I believe, is the name on here. I don't  
11 honestly remember her name at the time.

12 Q: But Ms. Adams is the name that you signed over --

13 A: Yes.

14 Q: -- the custody form to?

15 A: Absolutely.

16 Q: And if you had given it to anyone else, would that name  
17 be different?

18 A: No. She signed it in front of my person. Yes,  
19 absolutely.

20 Q: Perfect. I am going to show you, Officer Lowry, first  
21 what's been marked as State's Exhibit 48. Will you take a  
22 look at this item and tell me if you recognize this? I'll  
23 take that from you.

24 A: Yes, I do. These are the shoes in question that I  
25 collected that evening or morning.

## CAMERON LOWRY - DIRECT

1 Q: And they are substantially in the same condition that  
2 you collected them in?

3 A: Yes. Yes, ma'am.

4 Q: Once you collected them, you gave them directly to the  
5 crime scene investigator?

6 A: Yes.

7 MS. SMITH: At this time, Judge, the State would move to  
8 admit 48 into evidence.

9 MR. SHELTON: No objection.

10 THE COURT: 48 is admitted.

11 (WHEREUPON, State's Exhibit No. 48, shoes, was admitted  
12 into evidence.)

13 BY MS. SMITH:

14 Q: I'm going to now hand you what has been marked as  
15 State's Exhibit 50. Will you please do the same thing and  
16 tell me if you recognize this item?

17 A: Yes. These are the blue jeans that I collected that  
18 evening.

19 Q: And you specifically collected those and handed them  
20 over to the crime scene investigator on scene for security?

21 A: Absolutely. Yes.

22 MS. SMITH: Judge, at this time, the State moves Exhibit  
23 50 into evidence.

24 MR. SHELTON: No objection.

25 THE COURT: 15 is admitted.

## CAMERON LOWRY - DIRECT

1 (WHEREUPON, State's Exhibit No. 50, blue jeans, was  
2 admitted into evidence.)

3 THE WITNESS: There we go.

4 BY MS. SMITH:

5 Q: And last time I will trade you, will you please -- I'm  
6 handing you what's been marked as State's Exhibit 52. Will  
7 you please take a look at this and tell me if you recognize  
8 it?

9 A: I do, ma'am. This is the hat that I picked up.

10 Q: That you specifically collected and turned over --

11 A: Absolutely.

12 Q: -- to the crime scene investigator?

13 A: I picked it up and placed it in a bag and handed it over  
14 to the forensics.

15 MS. SMITH: Judge, at this time, the State would move  
16 Exhibit 52 into evidence.

17 MR. SHELTON: No objection.

18 THE COURT: 52 is admitted.

19 (WHEREUPON, State's Exhibit No. 52, hat, was admitted  
20 into evidence.)

21 MS. SMITH: Thank you, Officer Lowry. I appreciate it.

22 BY MS. SMITH:

23 Q: And after you collected these items and met with the  
24 victim, Mr. Gambrell, did you learn anything else that you --  
25 that would assist you in your investigation?

## CAMERON LOWRY - DIRECT

1 A: Just that there were the three individuals in question  
2 who entered and that they left roughly an hour to two after  
3 they entered in a -- in a vehicle.

4 Q: Did you have any other involvement in this case after,  
5 other than being the initial responding officer?

6 A: No, I had no other involvement.

7 MS. SMITH: I don't have any further questions for you,  
8 Officer Lowry. Please answer anything that the defense may  
9 ask.

10 THE WITNESS: Thank you.

11 MS. SMITH: Thank you.

12 MR. SHELTON: No questions.

13 THE COURT: You can step down, sir.

14 THE WITNESS: All right. Thank you.

15 MS. WILLIAMS: Your Honor, may we approach, please?

16 (WHEREUPON, a bench conference was held in the presence  
17 of the jury but out of the hearing of the jury off the  
18 record, after which the proceedings resumed as follows.)

19 THE COURT: Okay. Ladies and gentlemen, we've had you  
20 in here for about an hour. We're going to take about a 10-  
21 minute break, let you stretch your legs. Please don't begin  
22 discussing the case.

23 (WHEREUPON, the jury exited the courtroom at 10:27 a.m.)

24 THE COURT: Okay. We'll be at recess for about 10  
25 minutes.

1 MS. WILLIAMS: Thank you, Your Honor.

2 MR. KAISER: Thank you, Your Honor.

3 (WHEREUPON, there was a break in the proceedings from  
4 10:28 a.m. until 10:47 a.m., after which the proceedings  
5 resumed as follows.)

6 THE COURT: Okay. The next witness has made her way  
7 into the building?

8 MS. WILLIAMS: Yes. She is here. Thank you, Your  
9 Honor.

10 THE COURT: Okay. So let's go ahead and bring the jury  
11 in.

12 (WHEREUPON, the jury entered the courtroom at 10:50  
13 a.m.)

14 THE BAILIFF: All jurors are present.

15 THE COURT: Thank you.

16 MS. SMITH: Thank you, Judge. The State calls Tiffany  
17 Adams.

18 (WHEREUPON, there was a pause in the proceedings.)

19 MS. WILLIAMS: Tiffany Adams?

20 (WHEREUPON, there was a pause in the proceedings until  
21 the witness entered the courtroom.)

22 THE CLERK: Good morning.

23 THE WITNESS: Good morning.

24 THE CLERK: Step around. Place your left hand on the  
25 Bible and raise your right hand for me. Do you swear or

## TIFFANY ADAMS - DIRECT

1 affirm the testimony you shall give the Court and the jury  
2 shall be the truth, the whole truth, and nothing but the  
3 truth, so help you God?

4 THE WITNESS: I do.

5 THE CLERK: Please take a seat. Please state your full  
6 name and spell your last name for the record.

7 THE WITNESS: Okay. Tiffany Renee Adams, A-d-a-m-s.

8 TIFFANY ADAMS, being first  
9 duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. SMITH:

12 Q: Good morning, Ms. Adams. Where are you currently  
13 employed?

14 A: Excuse me?

15 Q: Where are you currently employed?

16 A: It's with organ donation, and it's called We Are Sharing  
17 Hope.

18 Q: And prior to working for Sharing Hope, where were you  
19 working?

20 A: A crime scene investigator with North Charleston Police  
21 Department.

22 Q: And how long did you work as a crime scene investigator  
23 with the NCPD?

24 A: Five years.

25 Q: Can you just explain for the jury some of the duties and

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1 responsibilities that you had when you were working as a  
2 crime scene investigator?

3 A: Uh-huh. As a crime scene investigator, we go out on  
4 scenes, anything that's deemed a crime, break-ins, sexual  
5 assaults, homicides, any assaults. We photograph, collect  
6 evidence, and process the scene.

7 Q: And did you receive any sort of training or were you  
8 able to complete any certifications in your work as a crime  
9 scene investigator?

10 A: Yes. We're always sent out to academic classes at  
11 different locations, FLETC being one of them, the Federal Law  
12 Enforcement Training Center, and for basic photography  
13 events, photography, evidence collection. So there's always  
14 classes to sign up for.

15 Q: And were you working in this capacity as a crime scene  
16 investigator between the months of September and October of  
17 2016?

18 A: Yes.

19 Q: And with regard to the case that we're here in court  
20 for, you specifically worked on two different cases, meaning  
21 the way that North Charleston and the police department  
22 logged these two incidents were under different case numbers;  
23 is that accurate?

24 A: That's correct.

25 Q: And were those two cases ending in -- the OCA number and

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1 the case number, did they end in 9198 and 9194?

2 A: That's correct.

3 Q: Okay. We're going to first talk about the 9198. Did  
4 you have the occasion to respond to Hassell Avenue in North  
5 Charleston on September 23rd, 2016?

6 A: Yes.

7 Q: And what were you -- what were you responding to? Did  
8 you know?

9 A: Okay. Tones came out that there was a shooting on  
10 Hassell. Went ahead and they responded crime scene to come  
11 out. I arrived on the scene. I met with the responding  
12 officer.

13 Q: And what did you do first?

14 A: I got a rundown from the responding officer of the  
15 events that took place. Usually before we get there,  
16 evidence are pre-marked with either business cards or, you  
17 know, something to mark where the evidence are located. I  
18 observed that the scene was marked with yellow crime scene  
19 caution tape and, once we get the rundown, grab my camera,  
20 gloves, and photograph from various angles.

21 Q: And what was the first location that you responded to on  
22 Hassell Avenue?

23 A: Can I refer to my notes?

24 Q: Yes.

25 A: 4755 Hassell.

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1 Q: And what was there?

2 A: It was a black-in-color Lincoln Navigator. It crashed  
3 into the South Carolina Electric & Gas pole.

4 Q: And in regards to this vehicle, did -- what observations  
5 did you make?

6 A: That the left rear window was not intact, with pieces of  
7 the glass in the truck. There was a bullet hole located on  
8 the front passenger window and the driver's window. And just  
9 from looking on the inside, there were various miscellaneous  
10 items of pictures that were being taken -- photos were taken  
11 of, and there were firearms located on the front passenger  
12 floorboard and the second firearm was located in the left  
13 rear back.

14 Q: And with -- and did you begin processing the vehicle at  
15 this time or were you just making observations?

16 A: At that time, just making observations before  
17 photographing because it was going to -- we had to get a  
18 search warrant. So it would be towed to the warehouse.

19 Q: And is that just the process?

20 A: That's protocol, uh-huh.

21 Q: Perfect. So on scene you documented the evidence with  
22 photographs and then, ultimately, you're going to process the  
23 vehicle, but that did not happen on scene?

24 A: That did not happen on scene.

25 Q: Okay. And so I am going to publish a few pictures that

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1 have already been admitted. Will you tell me --

2 MS. SMITH: State's 14, please.

3 BY MS. SMITH:

4 Q: Will you tell me if you recognize this picture?

5 A: Yes. That's one of the firearms.

6 Q: And did you take this picture?

7 A: Yes.

8 Q: Okay.

9 MS. SMITH: And State's 24.

10 BY MS. SMITH:

11 Q: Do you recognize this picture?

12 A: Yes. So we take from various angles and we do close-up,  
13 mid-range, and far away.

14 Q: Can you tell which particular location this firearm was  
15 found or observed?

16 A: It looks like the -- the rear.

17 Q: Okay. And we are going to show you State's 15.

18 A: Yes.

19 Q: So is this one of the pictures that you took?

20 A: Yes.

21 MS. SMITH: And State's 16.

22 BY MS. SMITH:

23 Q: And so after documenting the Navigator on the scene and  
24 taking these photographs, what did you do next?

25 A: So after leaving the Navigator, I just went around

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1 Hassell and photographed several spent shell casings,  
2 projectiles, any damages that were done, and just went all  
3 the way to the end of Hassell where the victim was --

4 Q: Okay.

5 A: -- located.

6 Q: Along the way, did you simply document or did you begin  
7 collecting any evidence?

8 A: Photographing and marking evidence. Photographing with  
9 and without scale. What scale is, is placing a yellow-in-  
10 color marker at the evidence with numbers and a scale.

11 Q: And did you begin collecting any of the shell casings?

12 A: Yes.

13 Q: And can you tell me what calibers of shell casings or  
14 projectiles you were able to locate on Hassell Avenue that  
15 night?

16 A: There were .45s and 9-millimeters.

17 Q: And once you marked those items and documented them,  
18 what did you do with them?

19 A: So after marking and documenting by photography,  
20 collecting them and securing evidence in my vehicle, my  
21 issued vehicle trunk.

22 Q: And can you just describe the process of the collection  
23 and securing them for the jury?

24 A: Okay. So once -- like I said, we photograph with and  
25 without scale. Once we place the yellow markers by the

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1 evidence, we photograph to show the number and the item that  
2 we're photographing, still wearing gloves. There is a little  
3 white box that we place the shell casings in and we put the  
4 number that corresponds with the yellow-in-color marker on  
5 the box. So that's how we know that evidence goes with that  
6 marker and place it in the brown bag and secure it and lock  
7 it in the trunk of the car.

8 Q: And what is the purpose, Tiffany, of securing the  
9 evidence that you collect in this manner?

10 A: Just to make sure that I have all pieces of evidence. I  
11 know that I collected it. I know that I placed it in the  
12 trunk and the car is locked and the keys are with me. Just  
13 make sure that no evidence is missing or anything like that.

14 Q: At this time, I'm going to publish State's 18 that has  
15 previously been admitted into evidence. Is this an example  
16 of the markers that you put out before collecting the  
17 evidence?

18 A: Yes.

19 Q: And was this done by you on the night of September 23rd,  
20 2016?

21 A: Yes.

22 MS. SMITH: May I approach the witness, Judge?

23 THE COURT: Sure.

24 BY MS. SMITH:

25 Q: All right. Tiffany, I'm going to show you several

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1 items. If you will take a look at these and tell me -- I'm  
2 going to do them just for you and tell me if you recognize  
3 these items. I'm handing you now State's 66, 67, 68, 69, 70,  
4 71, 72, 73, and 74. Do you recognize these items?

5 A: Yes.

6 Q: How do you recognize those items?

7 A: Okay. So when we package the envelopes, we put a  
8 sticker on the back, evidence sticker, and it has the case  
9 number, the location, who collected it, Tiffany Renee Adams,  
10 the recovery date, and a description, a spent shell casing,  
11 .45.

12 Q: And on those -- for each of those exhibits, State's 66  
13 through 74, are those items that you collected and you  
14 followed that procedure that you've just explained for  
15 processing and collecting and securing them?

16 A: Yes. Because my initial and the date is on the back of  
17 the evidence tape.

18 MS. SMITH: At this time, Judge, the State moves 66  
19 through 74 into evidence.

20 MR. SHELTON: I'm sorry. Can I see those?

21 MS. SMITH: Yes. I'm sorry.

22 MR. SHELTON: No objection.

23 THE COURT: 66 through 74 admitted.

24 (WHEREUPON, State's Exhibits No. 66 through 74, shell  
25 casings, were admitted into evidence.)

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1 BY MS. SMITH:

2 Q: And could you, Tiffany, look through these items and  
3 explain what each of them are for me?

4 A: Okay. State Exhibit 66 is a spent shell casing, .45  
5 auto. The headstamp is a .45 auto R-P, and this was marked  
6 Number 5, yellow-in-color marker.

7 State Exhibit 67 is a spent shell casing, .45 auto  
8 Winchester, marked Number 6, yellow-in-color marker.

9 State Exhibit 68 is a spent shell casing, .45 auto  
10 Winchester, marked Number 7, yellow-in-color marker.

11 State Exhibit 69 is a spent shell casing, .45 auto  
12 Winchester, marked Number 8, the yellow-in-color marker.

13 State Exhibit 70 is a spent projectile, marked Number 9,  
14 yellow-in-color marker.

15 State Exhibit 71 is a spent shell casing, .45 auto  
16 Winchester, marked Number 7 -- sorry -- marked Number 10,  
17 yellow-in-color marker.

18 State Exhibit 72 is a spent shell casing, .45 auto  
19 Winchester, marked Number 11, which is the yellow-in-color  
20 marker.

21 State's Exhibit 73 is a spent shell casing, .45 auto  
22 Winchester, marked Number 12, yellow-in-color marker.

23 State Exhibit 74 is a spent shell casing, .45 auto R-P,  
24 marked Number 13, yellow-in-color marker.

25 Q: And all of these .45 caliber casings and the projectile

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1 that you recovered, can you tell me where they -- you located  
2 them?

3 A: Okay. I have to refer to my notes again. On the street  
4 of Hassell Avenue near the lot of the church.

5 Q: And are any of the exhibits that you just referred to  
6 illustrated on State's 18, which is still published on the  
7 screen in front of you?

8 A: Oh, yes, yes. You can see marker Number 5, 6, 7, and  
9 then the church in the background.

10 Q: Okay. Thank you, Tiffany. I am going to show you now  
11 State's 75, and these have been shown to defense counsel, 75,  
12 76, 78, 79, 80, 81, and 82. If you'll take a look at these  
13 and tell me if you recognize these items.

14 A: Yes.

15 Q: How do you recognize those items?

16 A: The same with the label, case number, location, Officer  
17 Tiffany Renee Adams, recovery date, and the description, and  
18 my initials are on the back of each evidence tape.

19 Q: And each of these items were collected by you?

20 A: Yes.

21 Q: And in the manner and by the process that you explained  
22 earlier?

23 A: Yes.

24 MS. SMITH: At this time, the State moves 75, 76, 78  
25 through 82 into evidence.

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1 MR. SHELTON: No objection.

2 THE COURT: They are admitted.

3 (WHEREUPON, State's Exhibits No. 75, 76, and 78 through  
4 82, projectiles, were admitted into evidence.)

5 BY MS. SMITH:

6 Q: And, Tiffany, when you're looking at those items, can  
7 you tell me if all of the items are the same caliber?

8 A: 9s, 9s, 9s, 9s, 9s, yes.

9 Q: What caliber is that?

10 A: 9-millimeter Luger.

11 Q: Okay. And can you tell me where these particular  
12 casings were located?

13 A: All right. Excuse me. I have to refer to my notes. In  
14 front of [REDACTED] Hassell Avenue.

15 Q: And I'm going to publish at this time State's 19, which  
16 was previously admitted, and it's going to pop up in front of  
17 you. Can you -- I'm going to go to 20. I'm going to go back  
18 to 19. Can you tell me if this is the general area where you  
19 located these casings?

20 A: Yes.

21 Q: And what was the address again?

22 A: [REDACTED]

23 Q: Hassell Avenue?

24 A: Yes. Hassell.

25 Q: Thank you, Tiffany. And I'm going to hand you another

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1 packet, a bunch of packets, Tiffany, if you'll take a look at  
2 these and tell me if you recognize these. It's -- I'm  
3 handing you State's 83, 84, 85, 86, 87, 88, 89, 90, 91, 92,  
4 93, 94, 95, 96, and 97. Will you tell me if you recognize  
5 these?

6 A: Yes.

7 Q: What are those items? How do you recognize them?

8 Excuse me.

9 A: Okay. The same labeling system as previously with my  
10 name and the initials on the back of the evidence.

11 Q: And those are items that you specifically collected?

12 A: Yes.

13 Q: And followed the exact same collection process and  
14 procedures that you explained earlier?

15 A: Yes.

16 MS. SMITH: Judge, at this time, the State moves 83  
17 through 97 into evidence.

18 MR. SHELTON: No objection.

19 THE COURT: They are admitted.

20 (WHEREUPON, State's Exhibits No. 83 through 97, shell  
21 casings/projectiles, were admitted into evidence.)

22 BY MS. SMITH:

23 Q: And can you tell me, Tiffany, where you located these  
24 particular casings?

25 A: Okay. I have to refer to my notes again.

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1 Q: It may be helpful to break them into State's 83 through  
2 93.

3 A: Okay. State's Exhibit 83.

4 Q: State's 83 through 93 would be marked by you as North  
5 Charleston --

6 A: Uh-huh.

7 Q: -- 31 through 39.

8 A: Yes. So these were on the inside of the fence of [REDACTED]  
9 Hassell Avenue.

10 Q: And what type of caliber were these casings?

11 A: These are the 9-millimeter Lugers.

12 Q: And to State's 94 through 97, which would be your 49,  
13 50, 51, and 53, where were those items located?

14 A: Okay. Still on Hassell.

15 Q: Were they inside --

16 A: The middle of Hassell.

17 Q: Excuse me. Were they inside of the yard or were they  
18 into the street?

19 A: I have in the middle of Hassell.

20 Q: Thank you, Tiffany. After you collected all of these  
21 shell casings from Hassell and processed that scene -- I'll  
22 grab those from you.

23 A: I'm sorry.

24 Q: After you processed the scene at Hassell, did you have  
25 the opportunity to respond to any other location on the night

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1 of September 23rd into the morning hours of September 24th,  
2 2016?

3 A: Yes. Ezekiel.

4 Q: And what was the address there?

5 A: [REDACTED]

6 Q: Had you already met with another officer from North  
7 Charleston regarding this incident that had occurred on  
8 Ezekiel?

9 A: Yes. I was advised that Officer Lowry had collected  
10 some evidence that I received via chain of custody.

11 Q: And did you receive that while you were still on Hassell  
12 Avenue?

13 A: Yeah. In route to Ezekiel.

14 Q: Okay. And once you got to Ezekiel Avenue, what did you  
15 -- excuse me. The items that Officer Lowry provided to you,  
16 what were those?

17 A: Okay. The items that I received via chain of custody  
18 was a pair of gold and white in color Nike tennis shoes, a  
19 black and white in color brimmed hat, a pair of blue jeans, a  
20 white in color lighter, a pack of Newport cigarettes. Also,  
21 I received via chain of custody \$30, broken down with one 20  
22 and two 5s.

23 Q: I am going to show you, Tiffany, what's been previously  
24 admitted into evidence as State's Exhibit 48. Will you take  
25 a look at this item and tell me if this is one of the items

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1 that you received from Officer Lowry?

2 A: Yes. These are the gold in color Nikes.

3 Q: And you received --

4 A: That I received via chain of custody.

5 Q: From the Ezekiel chain of custody?

6 A: Yes.

7 Q: And that was the items that Officer Lowry turned over to  
8 you?

9 A: Yes.

10 Q: And did you have the opportunity to swab any of these  
11 items?

12 A: Let's see. Yes.

13 Q: Did you swab these shoes?

14 A: Let's see. On the blue jeans, an observation was made  
15 of a possible blood spot; so I swabbed the area of the jeans  
16 and conducted what's called a presumptive blood test.

17 Q: But not on the shoes?

18 A: Not on the shoes.

19 Q: I'll grab the shoes from you. I'm going to show you  
20 what's been marked as State's 50. Will you tell me if you  
21 recognize this item?

22 A: Yes. Those are the blue jeans.

23 Q: And those are the jeans that you just told us you  
24 processed? And the --

25 MS. SMITH: I beg the Court's indulgence.

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1 THE COURT: Uh-huh.

2 BY MS. SMITH:

3 Q: And why -- what was the purpose of you swabbing those  
4 jeans? Tiffany, I think you just said it, but --

5 A: Okay.

6 Q: -- please say it again.

7 A: There was an observation of a possible blood spot. We  
8 just can't go off of that; so we do what's called a  
9 presumptive blood test. And if the reagent turns pink, then  
10 it's positive for blood and we package it and we send it out  
11 to SLED for further examination.

12 Q: And SLED is the one that completes that analysis?

13 A: Yes.

14 Q: Okay. And also, after you collected those clothes, what  
15 else did you do at Ezekiel Avenue?

16 A: So I photographed the scene and I processed the scene  
17 for any latent fingerprints by using black fingerprint  
18 powder, and there were latent prints that were obtained and  
19 forwarded to the latent print examiner for examination.

20 Q: Did you document the scene in any other way other than  
21 the latent prints and the collection of the clothes and the  
22 swabs?

23 A: Just photographs.

24 Q: You did collect photographs? I'm going to publish  
25 State's 34. Is this the address that you responded to,

1 Tiffany?

2 A: Yes.

3 Q: And 35, which has previously been admitted into  
4 evidence, did you document -- this is the scene that you  
5 documented?

6 A: Yes.

7 Q: 36, did you also take this picture?

8 A: Yes.

9 Q: 37, and this is obviously not the outside of the  
10 trailer. Can you explain sort of your photographing process?

11 A: Okay. So when we come out, we photograph and we capture  
12 all areas on the outside and then before just showing that  
13 I'm about to enter into the trailer.

14 Q: Okay. And so you did actually enter the trailer on that  
15 night?

16 A: Yes.

17 Q: Okay. And 37?

18 A: And this is just showing what I first see right at the  
19 door, which is, like, tracks to a train that's in there.

20 Q: 38?

21 A: Just photographing. We go from wall to wall. So I'm  
22 standing at the door shooting from different areas.

23 Q: 39?

24 A: Once again, just shooting from a different area.

25 Q: 40? And are you moving into the trailer at this point

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1

--

2

A: Yes.

3

Q: -- to document the rest of the residence?

4

A: Uh-huh.

5

Q: 41? And 42? 43? And these are the items that you

6

received?

7

A: Received from Officer Lowry.

8

Q: And 44? And can you show me, if you can orient yourself

9

on this map, where you initially responded and then where you

10

secondarily responded on the night of September 23rd into the

11

morning?

12

A: Okay. So starting coming from East Montague turning

13

onto Hassell and starting at the South Carolina Electric pole

14

and then heading to the back of Hassell Avenue, to the end of

15

Hassell where the victim was located and then transported to

16

the hospital.

17

Q: You can draw a line on the touchscreen in front of you

18

--

19

A: Okay.

20

Q: -- just to show that.

21

A: All right. So stated East Montague, Hassell, came all

22

the way to the back.

23

Q: And then the other location that you responded to on

24

Ezekiel?

25

A: That's Ezekiel?

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1 Q: If you'll look past the Felix Pinckney Community Center  
2 over towards Mint, do you see Ezekiel past Mint?

3 A: Okay. Yeah. I was still over here on Ezekiel. And  
4 this is Ezekiel right here.

5 Q: And those are the two locations you responded? Those  
6 are the two locations you responded?

7 A: Yes, yes.

8 Q: All right. And that night into the morning hours, those  
9 are the only two locations that you responded?

10 A: Uh-huh.

11 Q: Following that night, you still had further, I guess,  
12 evidence to process. Is that accurate to say?

13 A: Yes. Because we still had to do the search warrant on  
14 the Lincoln Navigator.

15 Q: And you participated in executing the search warrant on  
16 the Lincoln Navigator?

17 A: Yes, once it was signed.

18 Q: And do you remember what day that was done? That was  
19 not done on the 23rd or the 24th.

20 A: October 5th.

21 Q: Okay. And can you just describe the process of how you  
22 execute a search warrant?

23 A: Okay. Once the detectives get the search warrant  
24 signed, we now come and the Lincoln Navigator was towed to  
25 our warehouse that's located on 2556 Fifth Street. Once

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1 again, we photograph everything. We do far, mid-range, close  
2 range and, before touching anything, still photographing  
3 inside of the vehicle. So anything that's pointed out by the  
4 detective that he wants a photograph of or process is what we  
5 do, and we collect and I package and secure it and lock it in  
6 the vehicle's trunk.

7 Q: And were you able to recover items during your execution  
8 of the search warrant?

9 A: Yes.

10 Q: And what were those items that you recovered from the  
11 Lincoln Navigator?

12 A: Okay. A spent shell casing was recovered from the  
13 damaged front end of the Lincoln Navigator.

14 Q: What caliber was that?

15 A: Excuse me. It had a headstamp of FC 9-millimeter Luger.

16 A gray in color LG cell phone that was located in the  
17 middle console.

18 Located on the right rear passenger seat was a black-in-  
19 color hat.

20 Located on the left rear passenger seat was a gray-in-  
21 color Bluetooth.

22 An O'Reilly Auto Parts receipt was located on the right  
23 rear passenger floorboard.

24 Three miscellaneous receipts that was collected and  
25 secured from the left rear passenger side of the vehicle.

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1 I obtained swabs and the two firearms, one from the  
2 right front passenger floorboard and the left rear passenger  
3 floorboard.

4 A Verizon Samsung flip phone, another flip phone.

5 Q: Were you able to recover any latent prints?

6 A: Yes.

7 Q: And were you able to -- you mentioned that you swabbed  
8 two areas. What is -- what are those swabs for?

9 A: Okay. The swabs is to obtain possible DNA. So after  
10 drying out the swabs when we get back to headquarters, we  
11 package, log it into the evidence locker secured, and then  
12 those swabs are sent off to SLED for further examination.

13 Q: And where did you locate those or where did you take  
14 those DNA swabs --

15 A: Okay.

16 Q: -- from?

17 A: I obtained a swab from the interior driver's window and  
18 the exterior driver's window. And we use a cotton-tipped  
19 applicator that's moistened with distilled water, and we swab  
20 the area. It has to dry and then packaged and sent off to  
21 SLED.

22 Q: Did you also swab the interior and exterior of the door  
23 handles of the vehicle?

24 A: Yes.

25 Q: Okay. And with regard to the firearms, how did you

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1 process those? Did you do -- did you process those any  
2 differently than --

3 A: So with the firearms, we also take possible DNA swabs by  
4 using the same -- when I say same, but a sterile cotton-  
5 tipped applicator swab moistened with distilled water, and we  
6 swab the grip and trigger area, and then we use the black  
7 fingerprint powder to try to obtain fingerprints off the  
8 firearm.

9 Q: And so when you collect these latent print -- this  
10 latent print evidence and the swabs for possible DNA, how do  
11 you secure these or how do you package them?

12 A: There is a swab box that we place the swabs in wearing  
13 gloves. We take them and, just like all of the evidence, we  
14 put a label on it and we put our initials and our date on it,  
15 write the description of where it was taken from, and we drop  
16 it in our evidence locker where only we have access to it and  
17 then the evidence technicians have access to it.

18 Q: And the evidence technicians can access it and send it  
19 off for further analysis?

20 A: Yes, to SLED.

21 Q: Okay. And did you do that in these -- in this case when  
22 you collected these items?

23 A: Yes.

24 MS. SMITH: May I approach the witness, Judge?

25 THE COURT: Yes.

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1 BY MS. SMITH:

2 Q: I'm going to show you, Tiffany, what's been marked as  
3 State's 61, 62, and 63. Will you take a look at these  
4 packages and tell me if you recognize them?

5 A: Okay. Yes, with the same labeling process, case number,  
6 the officer, myself, Tiffany Renee Adams, the date, the  
7 description, swab from grip and trigger, and then we use the  
8 serial number of which firearm, and then it has my initials  
9 on the evidence tape.

10 Q: And these are the swabs that you collected on October  
11 5th when you were executing the search warrant?

12 A: Yes.

13 Q: And you maintained the continuous custody and control of  
14 them until you logged them into the evidence locker?

15 A: Correct.

16 MS. SMITH: Judge, at this time, the State moves 61, 62,  
17 and 63 into evidence.

18 MR. SHELTON: No objection.

19 THE COURT: They are admitted.

20 (WHEREUPON, State's Exhibits No. 61, 62, and 63, swabs,  
21 were admitted into evidence.)

22 BY MS. SMITH:

23 Q: And after you processed the firearms, did you ultimately  
24 collect those as well?

25 A: Yes. We place -- while they remain in a gun box and we

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1 zip tie it down so it doesn't, you know, move about for  
2 transport. It's already been made cleared and tape it and  
3 initial it and date it.

4 Q: Tiffany, I am going to show you what has been marked as  
5 State's Exhibit 58 and 59. Will you take a look at these two  
6 items and tell me if you recognize them?

7 A: Yes. This is a gun box and we write all of the  
8 descriptions on here. We still put a label on it and the red  
9 evidence tape is what we tape it with, and it has my initials  
10 on it.

11 Q: Okay. And that's what you collected during your  
12 execution of the search warrant --

13 A: Yes.

14 Q: -- on October 5th?

15 A: Yes. And the same here, the description of the firearm,  
16 the label, the red tape with my initials and date on it.

17 Q: And those are what you collected?

18 A: Yes.

19 Q: And you secured it into your custody and control and  
20 then secured them into the gun box?

21 A: Into the evidence. We package it and then secure in the  
22 evidence lockers.

23 MS. SMITH: The State moves to admit 58 and 59 into  
24 evidence.

25 MR. SHELTON: No objection.

## TIFFANY ADAMS - DIRECT

1 THE COURT: 58 and 59 are admitted.

2 (WHEREUPON, State's Exhibit No. 58, ATI Fatboy pistol,  
3 and State's Exhibit No. 59, Springfield pistol, were  
4 admitted into evidence.)

5 BY MS. SMITH:

6 Q: Looking at Number 58, Tiffany, would you mind opening  
7 that box?

8 THE COURT: And let me --

9 MS. SMITH: Yes.

10 THE COURT: Let me interrupt you just a minute, if I  
11 could get both of you to approach just a moment.

12 (WHEREUPON, a bench conference was held in the presence  
13 of the jury but out of the hearing of the jury off the  
14 record, after which the proceedings resumed as follows.)

15 BY MS. SMITH:

16 Q: And looking at that item, Tiffany, is it secured with a  
17 safety lock? Before you hold it up, is it secured with a  
18 safety lock?

19 A: Yes, it is.

20 Q: Okay.

21 A: Sorry.

22 Q: And can you show me that it's -- and it's secured with  
23 zip ties so that it's not moving about, as you've --

24 A: Uh-huh.

25 Q: -- already testified to?

## TIFFANY ADAMS - DIRECT

1 A: Yes.

2 Q: Okay. And what kind of firearm is that?

3 A: Okay. Let's see. Let me refer to my notes. Okay.

4 This is the 9-millimeter.

5 Q: And what is the model?

6 A: Okay. It's a -- the description says American Tactical  
7 Fatboy.

8 MS. SMITH: I beg the Court's indulgence.

9 BY MS. SMITH:

10 A: I'm sorry. This one is the .45.

11 Q: That one?

12 A: I'm sorry. This is the .45.

13 Q: That's the --

14 A: The Tactical is the .45.

15 Q: Thank you.

16 MS. SMITH: And the State would like to publish 27 -- 26  
17 into evidence.

18 BY MS. SMITH:

19 Q: Is this the firearm that you're looking at?

20 A: Yes.

21 Q: And 27, is this serial number the same as the firearm  
22 that you're holding as State's 58?

23 A: Would you like for me to read it to you?

24 Q: Yes.

25 A: Okay. Serial number FB100697.

## TIFFANY ADAMS - DIRECT

1 Q: Okay. And this ATI, American Tactical Institute Fatboy  
2 firearm, where did you locate this inside of the Navigator?

3 A: Let's see. I think it was documented in a picture.

4 Q: I'm sorry. What were you asking?

5 A: It's documented on the picture. I just have --

6 MS. SMITH: Can I go to State's 24 -- State's 14?

7 Excuse me.

8 BY MS. SMITH:

9 Q: Is this the firearm that you located?

10 A: Yes.

11 Q: And does it appear --

12 A: And that's in the rear. Uh-huh.

13 Q: Does it appear to be the front passenger seat?

14 A: Yes. That's it.

15 Q: Okay. Because you said --

16 MS. SMITH: Can I go to the next one?

17 BY MS. SMITH:

18 Q: That's the rear and it does not have the same items that  
19 are in the --

20 A: No. So that's the front.

21 Q: Okay.

22 MS. SMITH: So back to 14.

23 BY MS. SMITH:

24 Q: This is the front passenger seat --

25 A: Uh-huh.

## TIFFANY ADAMS - DIRECT

1 Q: -- where you recovered the ATI Fatboy?

2 A: Yes.

3 Q: Okay. And can you -- looking at the Number 58, State's  
4 Exhibit 58, when you took the DNA swabs, will you please show  
5 us what part of the firearm you swabbed?

6 A: Okay. And it's zip tied and secured. So when we swab,  
7 we swab the grip area and the trigger area. So we swab the  
8 grip area and we swab the trigger area.

9 Q: Thank you, Tiffany. Moving to State's 59, what is the  
10 make and power of that firearm?

11 A: Okay. This is a Springfield Armory, and it's a .45.

12 Q: And was that firearm -- where was that firearm recovered  
13 from in the vehicle?

14 A: This would be the rear.

15 Q: That was the rear?

16 MS. SMITH: Can I please move to State's 15?

17 BY MS. SMITH:

18 Q: And this is where you located that?

19 A: Yes.

20 Q: That firearm?

21 A: Yes.

22 MS. SMITH: And can we please go to State's 30? And  
23 State's 29? And State's 31?

24 BY MS. SMITH:

25 Q: Can you please read the serial number on the firearm in

1 front of you?

2 A: S3165048.

3 Q: And did you also swab this firearm?

4 A: Yes.

5 Q: And can you show me where you swabbed this firearm?

6 A: Uh-huh. The clip is not under the zip tie.

7 Q: Okay.

8 A: So I'll be careful of it.

9 Q: It's not under the zip tie?

10 A: Huh-uh.

11 Q: Okay. Well, then you don't have to hold it up and  
12 demonstrate. If you'll just explain where you swabbed on  
13 this firearm.

14 A: Okay. Or is there another picture I can circle it?

15 Q: Yes.

16 MS. SMITH: Can we please go back to State's 29?

17 BY MS. SMITH:

18 A: All right. So the grip area and the trigger area.

19 Q: Okay. And after you processed this Lincoln Navigator  
20 under the search warrant, did you have any other opportunity  
21 to collect any other evidence in this case?

22 A: There were, like, other miscellaneous receipts.

23 Q: But this was the last day that you --

24 A: Yeah.

25 Q: -- were involved in that evidence collection?

## TIFFANY ADAMS - DIRECT

1 A: Yes.

2 MS. SMITH: I beg the Court's indulgence.

3 THE COURT: Uh-huh.

4 BY MS. SMITH:

5 Q: I am going to show you State's 63, again, that has been  
6 moved into evidence. Was this swab collected from one of the  
7 firearms or was this swab collected from another location?

8 A: The description that's on the label, blood spot, right  
9 front passenger interior door.

10 Q: So it was not collected from a firearm?

11 A: No.

12 Q: And you wouldn't have put a label on it where it was  
13 collected from somewhere other than where you collected it?

14 A: Other than where -- we only label where we collect it  
15 from.

16 Q: Okay. And then I also want to backtrack to when you  
17 mentioned that you collected latent prints from inside the  
18 Lincoln Navigator. Can you -- and you may need to refer to  
19 your report. Can you tell me where you collected the latent  
20 prints from in this case?

21 A: Okay. It just says I processed it, but I don't have  
22 specifically where. But it's written on the back of the  
23 latent print --

24 Q: Okay.

25 A: -- cards that we usually write the descriptions on.

## TIFFANY ADAMS - CROSS

1 MS. SMITH: Thank you, Tiffany. I appreciate you  
2 bearing with me. I don't have any further questions for you  
3 right now.

4 THE WITNESS: Here goes the evidence.

5 CROSS-EXAMINATION

6 BY MR. SHELTON:

7 Q: And I don't have -- I don't have it pulled up. I'm  
8 trying to find it here. Number 29 is the picture of the --  
9 of the gun. Here. Did you -- you took this picture?

10 A: Yes.

11 Q: Is this gun on the hood of the Lincoln Navigator?

12 A: Yes.

13 Q: Okay. And so if your swabs of the -- of the handle and  
14 the trigger, that's all one swab; correct?

15 A: No. So we -- we -- there's a swab of, yeah, the grip  
16 and the trigger area.

17 Q: So you're not -- you're not switching swabs? It's all  
18 one swab for that whole area?

19 A: Yes. The grip and then the trigger.

20 Q: And that's to try to get as much DNA as possible?

21 A: As possible.

22 Q: Okay. And so there's no distinguishing on the one swab  
23 where DNA may or may not be found?

24 A: Well, we don't do the examination. We send it off to  
25 SLED. I swab the grip and trigger area.

## TIFFANY ADAMS - CROSS

1 Q: Right. So -- but if you only swab -- if you only use  
2 one swab for the grip and for the trigger, there would be no  
3 way to --

4 A: On my end, there's no distinguishing.

5 Q: No distinguishing it. And you didn't see any blood or  
6 anything like that on the -- on the guns?

7 A: No.

8 Q: Okay. There was blood found in the Lincoln Navigator;  
9 correct?

10 A: Yes.

11 Q: Okay. So that was swabbed?

12 A: And sent off to SLED.

13 Q: Okay. And -- and you did swab -- I think -- I think you  
14 mentioned that you swabbed the jeans and the hat?

15 A: I swabbed the jeans for a possible blood spot.

16 Q: Did you swab the hat also?

17 A: Can I refer to my notes?

18 Q: Yes, please.

19 A: I swabbed the jeans for the possible -- on the spot for  
20 the possible blood spot.

21 Q: Possible blood spot. So you didn't swab the hat or the  
22 shoes?

23 A: We would have sent the whole items to SLED.

24 Q: So SLED could have swabbed if they wanted to?

25 A: Whatever tests -- however they test for DNA of those

1 items.

2 Q: Were there other, I guess, crime scene technicians on  
3 the scene?

4 A: No. I was the only crime scene tech.

5 Q: Okay. So all of the shell casings that were found, I  
6 guess, that night would be the ones that you collected?

7 A: Yes.

8 Q: Do you know the total amount of shell casings that --  
9 that you collected that night?

10 A: I would have to count from my report.

11 Q: So I think it's -- if you have your -- do you have your  
12 chain of custody --

13 A: I don't.

14 Q: -- with you? Would it help to refresh your memory if  
15 you saw the chain of custody?

16 A: Yes.

17 MR. SHELTON: I'll mark this as Defendant's 1 for  
18 identification.

19 (WHEREUPON, a chain of custody form was marked as  
20 Defendant's Exhibit No. 1 for identification only.)

21 BY MR. SHELTON:

22 A: To include the spent projectiles, a total of 70 items  
23 were turned in.

24 Q: And those were shell casings and projectiles?

25 A: Yes.

## TIFFANY ADAMS - CROSS

1 Q: All right. So you testified earlier to Numbers 66  
2 through 74. That would be nine. 75, 76, 78 through 82,  
3 that's seven. And 83 through 97 is fifteen, but there were  
4 other casings that were found that night; correct?

5 A: Yes.

6 Q: And you did the same process, you photographed and would  
7 have marked all of those shell casings?

8 A: Uh-huh.

9 Q: Correct?

10 A: Wearing gloves and photographing with and without  
11 scales, collecting it, and writing on the envelope the  
12 descriptions.

13 Q: And you would have photographed and -- and collected all  
14 of the projectiles; correct?

15 A: The same.

16 Q: The same way?

17 A: Yes.

18 Q: When you went to Ezekiel Street, did -- were there any  
19 shell casings or projectiles found on scene there?

20 A: Let's see. No. Just photographed and collected the  
21 items from Officer Lowry.

22 Q: And you did take -- you said -- you testified that you  
23 took some fingerprints from Ezekiel Drive; correct?

24 A: Yes.

25 Q: I think you took some from the toilet tank; correct?

## TIFFANY ADAMS - CROSS

1 A: I don't have it listed here in the report.

2 Q: Who is Lisa Kubisco [ph]?

3 A: She's another crime scene investigator, but also the  
4 latent print examiner.

5 Q: Okay. Would it help to see her report to refresh your  
6 memory?

7 A: If it's listed, but I don't have it in mine.

8 Q: Okay. If you'd take a look at it and see if it helps  
9 refresh your memory?

10 A: Okay.

11 MS. WILLIAMS: Objection, Your Honor. May we approach?  
12 (WHEREUPON, a bench conference was held in the presence  
13 of the jury but out of the hearing of the jury off the  
14 record, after which the proceedings resumed as follows.)

15 BY MR. SHELTON:

16 Q: Were you the only analyst for the -- that took  
17 fingerprints from the Navigator?

18 A: Excuse me? You said analyst?

19 Q: Were you the only one that took fingerprints from the  
20 Navigator?

21 A: The night of the search warrant, I was the only one that  
22 was there for the search warrant to process the vehicle.

23 Q: Did you -- did you document where you took all the  
24 fingerprints?

25 A: It would have been on the back of the latent print

## TIFFANY ADAMS - CROSS

1 examiner -- the card for the latent print examiner.

2 Q: So you wouldn't have created a report on where you took  
3 every fingerprint?

4 A: No. Because I turned it over to the latent print  
5 examiner from the placard.

6 Q: Did you -- do you remember how many fingerprints you  
7 found in the Navigator?

8 A: Just in my report, I have I processed the vehicle by  
9 using black fingerprint powder to obtain latent fingerprints.  
10 Two latent prints were lifted, and then I have the two latent  
11 lifts were forwarded to the latent print examiner for  
12 examination.

13 Q: And that was from the Navigator?

14 A: That's what I have. I processed the vehicle. But once  
15 again, the detailed description is on the back of the latent  
16 print card and it's not listed in my report.

17 Q: So here today, you can't testify where you took  
18 fingerprints from the Navigator?

19 A: Huh-uh.

20 Q: Okay.

21 A: Because it's on the back of the latent print card.

22 Q: And here today you can't say where you took fingerprints  
23 on Ezekiel Drive?

24 A: No. Because it's the same thing. It's on the back of  
25 the latent print card.

## TIFFANY ADAMS - CROSS

1 Q: Did you take part in the processing of the Nissan  
2 Altima?

3 A: No.

4 Q: No? Okay.

5 MR. SHELTON: No further questions.

6 THE COURT: Any redirect?

7 MS. SMITH: Briefly on redirect.

8 REDIRECT EXAMINATION

9 BY MS. SMITH:

10 Q: Tiffany, you only know what you did and what you  
11 processed; is that correct?

12 A: Yes.

13 Q: And you -- were you aware that other officers went back  
14 out to Hassell Street after -- days after the incident and  
15 collected shell casings and projectiles?

16 A: If it didn't happen when I was there, no. If it  
17 happened the next day, I may not have been on shift or  
18 anything, but I wouldn't have had any knowledge or any  
19 dealings with it.

20 MS. SMITH: Thank you, Tiffany.

21 RECROSS-EXAMINATION

22 BY MR. SHELTON:

23 Q: But you collected 70 casings and projectiles that night;  
24 correct?

25 A: That night.

## JOSEPH NIEMIEC - DIRECT

1 MR. SHELTON: Thank you.

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

3 THE WITNESS: Here's his Exhibit No. 1. Do you want me  
4 to leave it?

5 THE COURT: If you'll just put it on this table.

6 THE WITNESS: Okay.

7 MS. SMITH: The State calls Sgt. Joe Niemiec.

8 (WHEREUPON, there was a pause in the proceedings until  
9 the witness entered the courtroom.)

10 THE CLERK: Place your left hand on the Bible and raise  
11 your right hand. Do you swear or affirm the testimony you  
12 shall give the Court and the jury shall be the truth, the  
13 whole truth, and nothing but the truth, so help you God?

14 THE WITNESS: I do.

15 THE CLERK: Please take a seat. Please state your full  
16 name and spell your last name for the record.

17 THE WITNESS: Sure. Lt. Joseph Paul Niemiec. Last name  
18 is spelled N-i-e-m-i-e-c.

19 JOSEPH NIEMIEC, being first  
20 duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MS. SMITH:

23 Q: Good morning, Lt. -- Lt. Niemiec. How are you this  
24 morning?

25 A: I'm well. How are you?

## JOSEPH NIEMIEC - DIRECT

1 Q: I'm good. Where are you currently employed?

2 A: North Charleston Police Department.

3 Q: And in what capacity?

4 A: Currently, I'm the street crimes bureau supervisor.

5 Q: And how long have you worked for North Charleston?

6 A: Going on 16 years.

7 Q: Back in September of 2016, were you also the lieutenant  
8 over street crimes or did you hold a different position?

9 A: I held a different position.

10 Q: What were you then?

11 A: I was the sergeant in detectives. Actually, I was in  
12 property crime at the time.

13 Q: Okay. And were you working as a detective sergeant on  
14 September 26th of 2016?

15 A: I was.

16 Q: Can you explain what some of your duties and  
17 responsibilities were as the sergeant over the property  
18 crimes?

19 A: We responded to callouts and any major callout. We  
20 assigned cases, conducting case management, read over cases,  
21 and tried to help out the detectives when they needed, making  
22 decisions and so forth. Basically, supervisory and doing a  
23 little bit of investigate -- investigation as well.

24 Q: Did you have the opportunity to canvass and return to a  
25 crime scene that happened at 56 -- [REDACTED] Hassell Avenue?

## JOSEPH NIEMIEC - DIRECT

1 A: I did.

2 Q: And you returned to that scene after the initial  
3 incident?

4 A: Yes, I did.

5 Q: And did you respond to the initial incident at all?

6 A: I did. I was the responding supervisor that night.

7 Q: Okay. And so your supervisory role continued to follow-  
8 up investigation?

9 A: Yes.

10 Q: And that night what was -- or excuse me. On the 26th,  
11 what was your primary objective in returning to the scene?

12 A: Our purpose is that that during the daylight to go back  
13 and recanvass the area for any type of evidence that we could  
14 have missed that night, also looking at the walls and  
15 everything else around to see if we could find any --  
16 anything, tires, any type of evidence that could've been left  
17 over. It was a really large crime scene that day.

18 Q: And if I showed you a demonstrative aid to explain and  
19 show the jury how you sort of began your canvass and  
20 continued your canvass that day, would it help you?

21 A: Yes.

22 Q: And it's going to appear on the screen in front of you.

23 A: Okay.

24 (WHEREUPON, a diagram was marked as State's Exhibit No.  
25 147 for identification only.)

## JOSEPH NIEMIEC - DIRECT

1 BY MS. SMITH:

2 Q: I'm also going to hand you this so you can have a copy.  
3 Can you just explain where you began your canvass and how you  
4 proceeded on September 26<sup>th</sup> of '16?

5 A: We actually started way up here and we kind of went  
6 down, and what we did was we wanted to look at all the -- all  
7 the houses and everything all around to make sure if we  
8 missed any -- any place the -- any evidence could be.

9 So we walked on down. I recall around -- and it's  
10 around here is where the -- where we had a bunch of shell  
11 casings, like a lot. So we believe this was the point of --  
12 the point where a lot of the shooting happened. The shell --

13 Q: Those shell casings were not there on the 26th?

14 A: No, they were not there. This was on our initial crime  
15 scene. So we knew that. So what we kind of did was we kind  
16 of went this way because we knew the victim was over this way  
17 and started to really do a concentrated search in that area  
18 over here all the way up into the house over here at [REDACTED]  
19 Hassell.

20 Q: And who was with you when you were canvassing that day?

21 A: I brought a crime scene tech with me to help collect any  
22 evidence, and I believe I had -- yes, I did. I had Detective  
23 Alice Gray at the time.

24 Q: And are those two employees still with North Charleston?

25 A: No, they're not.

## JOSEPH NIEMIEC - DIRECT

1 Q: Okay. But you assisted them -- you were with them as  
2 you canvassed the area?

3 A: Yeah. It was just us. We just wanted to go back and  
4 kind of just double check everything to make sure we had  
5 everything we needed.

6 Q: And were you able to locate anything of evidentiary  
7 value on the 26th?

8 A: Actually, yes. There was a little shed, like, right  
9 here, right next to the gazebo, and -- and it was right in  
10 the field of fire, and we looked and we saw a hole in the  
11 side of it. We believed -- when we looked at the hole, we  
12 were like, oh, it looks like a projectile mark. So we went  
13 ahead and opened up the shed and during that time we found  
14 and recovered a projectile inside.

15 Q: And did you collect that projectile?

16 A: Yes, we did have it collected.

17 Q: And what did you do -- what was done with the projectile  
18 once it was collected?

19 A: It was submitted into evidence and then submitted to  
20 SLED for review.

21 Q: I am --

22 MS. SMITH: May I approach the witness, Judge?

23 BY MS. SMITH:

24 Q: I am showing you what has been marked as 101. Will you  
25 take a look at this and tell me if you can recognize that

1 item?

2 A: Yes. This would be the item that we recovered from the  
3 shed.

4 Q: And you were with the crime scene tech and y'all  
5 packaged it and sealed it all together?

6 A: Yeah. When we were there, we got it. She bagged it.  
7 She bagged it. We brought it back to the station.

8 Q: Okay. Perfect.

9 MS. SMITH: At this time, the State would move to admit  
10 101 into evidence.

11 MR. SHELTON: No objection.

12 THE COURT: 101 is admitted.

13 (WHEREUPON, State's Exhibit No. 101, projectile, was  
14 admitted into evidence.)

15 BY MS. SMITH:

16 Q: And after y'all collected it, did you find anything else  
17 that day?

18 A: I don't recall finding anything else, anything else that  
19 day.

20 Q: Okay.

21 MS. SMITH: Thank you, Lt. Niemiec. I don't have any  
22 further questions for you right now. Please answer anything  
23 the defense attorney may have for you.

24 THE WITNESS: Yes, ma'am. Do you want this back?

25 MS. SMITH: Okay.

## JOSEPH NIEMIEC - CROSS

CROSS-EXAMINATION

1

2 BY MR. SHELTON:

3 Q: Is there -- there was a .22 rifle found in the shed?

4 A: Yes.

5 Q: Okay. But that wasn't taken into evidence?

6 A: I don't think it was taken into evidence. I'm not  
7 trying to be silly. I just don't think we took it. It was a  
8 .22. It was old and rusty. I don't even think it  
9 functioned.

10 Q: Okay. And so what day was that that you went and found  
11 the projectile from the shed?

12 A: I believe it was the 26th. Is that the right date?

13 Sorry about that, guys. I'm bad with dates with all these  
14 things.

15 Q: So that's about two-and-a-half or three days later from  
16 the shooting?

17 A: Yes.

18 Q: Okay. And so did you -- you looked for other shell  
19 casings, that sort of thing?

20 A: Yes. So we -- we actually went out several times. The  
21 crime scene was really big. So we went out several times  
22 trying to piece this all together. That was, like, one of  
23 the last times that I -- that I recall going back out there  
24 just to kind of look again to see if there was anything else  
25 we could have missed because it was a huge crime scene.

## JOSEPH NIEMIEC - CROSS

1 Q: Okay. And so I think your testimony was up on the -- up  
2 on this --

3 A: Okay.

4 Q: I guess it's in front of you where you found some --  
5 yeah, exactly, right there.

6 A: Uh-huh.

7 Q: Near the tree, there were a lot more shell casings;  
8 isn't that correct?

9 A: There were. There were shell casings down here, yes.

10 Q: Okay. There were significant more shell casings down by  
11 the tree than up near -- I guess near where the church is?

12 A: If that's what the crime scene tech put out, then yes.  
13 I don't recall exactly how many. I don't even recall how  
14 many there were over there, but there were two sets of shell  
15 casings, yes.

16 Q: Okay.

17 MR. SHELTON: No further questions.

18 MS. SMITH: No redirect, Judge.

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

20 THE WITNESS: Thank you, Your Honor. I appreciate it.  
21 Thank you, guys.

22 MS. WILLIAMS: May we approach, Your Honor?

23 (WHEREUPON, a bench conference was held in the presence  
24 of the jury but out of the hearing of the jury off the  
25 record, after which the proceedings resumed as follows.)

1 THE COURT: Okay. Ladies and gentlemen, we're going to  
2 go ahead and break for lunch.

3 We will have a little bit of work that we're going to be  
4 doing over the break; so, you know, if I was in your shoes,  
5 I'd wonder why are we having such a long break. The  
6 attorneys have additional matters that they've got to tend to  
7 during the break so that we'll be ready when we get back to  
8 go straight into the trial.

9 And of course, we've got to give them a chance to eat as  
10 well. So I don't want you to think that we're just having  
11 this long lunch where we're all just kind of kicking back and  
12 enjoying a long lunch. There will be a lot of -- not so much  
13 for me, but these folks will be working and scrambling during  
14 this break.

15 So if you'll please be back at 2 o'clock. Again, don't  
16 have any discussions about the case during the break. We'll  
17 see you then.

18 (WHEREUPON, the jury exited the courtroom at 12:06 p.m.)

19 THE COURT: Okay. Anything else before we break for  
20 lunch?

21 MS. WILLIAMS: Just a small correction, Your Honor. I  
22 just told Your Honor at the bench that Antoine Gill is our  
23 next witness. We actually have one very short witness from  
24 the jail regarding a jail tape. I just didn't want to  
25 mislead the Court. You know, that's probably, like, a 10-

1 minute witness and then Mr. Gill, but we might try to fit in  
2 another short witness just to -- just to try and keep things  
3 going smoothly, but he is pretty much the next substantial  
4 witness.

5 THE COURT: Okay. Well, let's be at recess and when we  
6 get back, we'll discuss where we stand with Mr. Gill.

7 MS. WILLIAMS: Thank you, Your Honor.

8 THE COURT: Okay. Thank you.

9 (WHEREUPON, there was a break in the proceedings from  
10 12:07 p.m. until 1:58 p.m., after which the proceedings  
11 resumed as follows.)

12 THE COURT: Okay. Where do we stand on Mr. Gill's  
13 testimony?

14 MR. SHELTON: Your Honor, I've listened to the video.  
15 It's about an hour and a half. So I haven't listened to but  
16 the first half hour or 45 minutes, and it does follow the  
17 transcript that I have.

18 So I guess I really don't have any objection as far as  
19 that's concerned except for any time I might try to impeach,  
20 and I haven't gone through and wrote down all times that  
21 things are through these -- through the transcripts, but so  
22 as far as that's concerned, you know, I did just get this  
23 disk. It is -- but it does seem to follow the transcripts.

24 THE COURT: And let me just make clear you had the  
25 transcript previously?

1 MR. SHELTON: I had the transcript that was provided to  
2 me by another defense counsel; so not by the State. It was  
3 not provided by the State, but I do have those transcripts.

4 THE COURT: And I mean you had that well in advance of  
5 today?

6 MR. SHELTON: Yes, Your Honor.

7 THE COURT: Okay.

8 MR. SHELTON: There is -- there is one other issue that  
9 the transcripts mention and the tape mentions that -- that  
10 Mr. Gill signed a proffer agreement. I have not had a copy  
11 of that actual proffer agreement and so I've asked the State  
12 to provide that to me.

13 MS. WILLIAMS: Yeah. I -- he just told me that he  
14 doesn't have it. I couldn't even remember if Mr. Gill had  
15 signed one, but in the transcript it says he did, because I  
16 wasn't the solicitor then, but we're just getting it from  
17 discovery.

18 Again, we had the discovery meeting. I gave him my  
19 whole file. I thought he had everything. So, you know, I'm  
20 not really sure why we're hearing about this just now, but we  
21 will provide a copy of that.

22 He has a copy of Maurice Washington's proffer and it's  
23 identical. So I apologize to counsel for -- you know, for  
24 any glitches with that, but there's no new information. It's  
25 just one is signed by Maurice Washington and one is signed by

1 Antoine Gill. We will get him another copy of Mr. Gill's.

2 Thank you.

3 MR. SHELTON: And my issue is I just want to be able to  
4 use it for cross-examination if -- and so if the State is  
5 okay with me using Maurice Washington's, then I'm fine with  
6 that. That's -- I just wanted to --

7 THE COURT: I understand we have a couple of short  
8 witnesses before Mr. Gill.

9 MS. WILLIAMS: Yeah. We'll get it to him and, if not,  
10 he can use Washington's, but I'm sure that they can get it  
11 down here. I just sent an investigator up to talk to my  
12 legal assistant to grab it.

13 THE COURT: Okay. Very good. Let's go ahead and bring  
14 the jury in.

15 (WHEREUPON, the jury entered the courtroom at 2:04 p.m.)

16 THE BAILIFF: All jurors are present.

17 THE COURT: Thank you.

18 Okay. We're ready to move forward. The State can call  
19 its next witness.

20 MS. SMITH: Thank you, Judge. The State calls Lt. Cathy  
21 Stanley.

22 (WHEREUPON, there was a pause in the proceedings until  
23 the witness entered the courtroom.)

24 THE CLERK: Good morning. Place your left hand on the  
25 Bible and raise your right hand. Do you swear or affirm the

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1 testimony you shall give the Court and the jury shall be the  
2 truth, the whole truth, and nothing but the truth, so help  
3 you God?

4 THE WITNESS: I do.

5 THE CLERK: Please take a seat. Please state your full  
6 name and spell your last name for the record.

7 THE WITNESS: Cathy Stanley, S-t-a-n-l-e-y.

8 CATHY STANLEY, being first duly  
9 sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. SMITH:

12 Q: Thank you, Lt. Stanley. Where are you currently  
13 employed?

14 A: City of North Charleston Police Department.

15 Q: And what do you do at North Charleston?

16 A: I'm currently the lieutenant over the administrative  
17 services division, and I also assist the other latent print  
18 examiners with latent print examinations.

19 Q: Can you describe the nature of your work as a latent  
20 print examiner?

21 A: Sure. So since 1999, I've been doing latent print  
22 examinations. However, in the past few years, I mainly do  
23 peer-reviews, and what that is, is a latent print examiner  
24 will do their initial examination and then I will verify that  
25 their findings are correct.

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1 Q: In this particular case, did you do a peer-review, as  
2 well as a re-examination?

3 A: Yes, I did.

4 Q: And can you explain your educational background to the  
5 jury briefly?

6 A: So I possess a bachelor's in science degree of criminal  
7 justice, also a master's degree in criminal justice.

8 Professional training, I have been trained in latent print  
9 examination, crime scene investigation, and palm print  
10 investigation, palm print comparison. I've been trained by  
11 the South Carolina Criminal Justice Academy, also private  
12 vendors. I am also a graduate of the American Institute of  
13 Applied Science and specifically for their fingerprint  
14 examination section.

15 Q: Have you -- are you currently or have you previously  
16 been a member of any professional organizations in the nature  
17 of your work as a latent print examiner?

18 A: Throughout the -- the time as a latent print examiner, I  
19 was a member of the International Association of  
20 Identification.

21 Q: And do you stay current in your field and, if so, how do  
22 you do that?

23 A: Yes. So I read the journals that come through the  
24 International Association for Identification, and also  
25 articles and training -- training manuals.

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1 Q: Have you ever testified in court as a latent print  
2 examiner?

3 A: Yes.

4 Q: And how many times and in what courts?

5 A: I've testified at least twice, once in state court and  
6 once in federal court.

7 Q: Have you ever been qualified as an expert during your  
8 testimony in court?

9 A: Yes.

10 Q: And how many times?

11 A: Twice.

12 MS. SMITH: Judge, at this time, the State seeks to  
13 qualify Lt. Cathy Stanley as an expert in fingerprint latent  
14 print analysis.

15 MR. SHELTON: No objection.

16 THE COURT: Okay. I do find that she is so qualified.

17 Ladies and gentlemen, normally, a witness can only  
18 testify to matters that they have direct knowledge of through  
19 observation or personal knowledge. One exception for that is  
20 an expert who by either education, training, experience or  
21 some combination of those three things has a specific area of  
22 expertise, and they are qualified then to give opinion  
23 testimony in that area.

24 I find that she is qualified to give opinion testimony  
25 in that area. You are entitled to give it whatever weight

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1 you think it's entitled to, just like any other witness.

2 Thank you.

3 MS. SMITH: Thank you, Judge.

4 BY MS. SMITH:

5 Q: First, Lt. Stanley, if you could start with the basics  
6 of the procedure for this latent print analysis. Do you also  
7 refer to fingerprint analysis or latent print analysis as a  
8 friction ridge analysis?

9 A: Yes.

10 Q: And does that carry any other meaning or any other  
11 significance?

12 A: Well, the friction ridge analysis is basically with the  
13 friction ridges on your hands, and so that is what actually  
14 makes your latent impressions and that is what we would  
15 compare to a known exemplar.

16 Q: And speaking of a known exemplar, can you explain to the  
17 jury what is a known standard or a known exemplar?

18 A: So a known exemplar would be when somebody is  
19 fingerprinted for whatever purpose, upon arrest or upon  
20 employment, they are -- their fingerprints are stored in a --  
21 well, it's called a 10-print card. So it's either by ink or  
22 computerized. It's captured onto a card and it is related  
23 back to a known individual.

24 Q: And what is a latent print specifically?

25 A: So a latent print is the impression that is left on a

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1 surface that's touched or handled by your hands, and what  
2 happens is -- I'm sorry. At the -- you have friction ridges  
3 on the tops of your -- from the tops of your fingers to the  
4 bottoms of your palms. They are also on your soles of your  
5 feet, and these friction ridges help you grip things and they  
6 all contain specific patterns and characteristics that allow  
7 us to make identifications particular to one person.

8       So when you touch an object, there are oils or some type  
9 of contaminant will transfer from the friction ridges to the  
10 surface that you're touching, and you can kind of relate it  
11 to like an ink -- a rubberstamp. You take a rubberstamp, you  
12 put it in ink, and you put it on a piece of paper and it  
13 transfers that image, the ink being the contaminant. So you  
14 will transfer the contaminant to the surface, which can then  
15 be processed with powder, chemical, or some other type of  
16 process to enhance it or make it more visible for a  
17 comparison.

18 Q:   And have you had the occasion over the course of your  
19 career to compare latent prints to known exemplars?

20 A:   Yes.

21 Q:   And how many would you estimate that you have -- how  
22 many comparisons would you estimate you've done?

23 A:   I would say between -- since -- I've been doing this  
24 since 1999. I would say between training and actual  
25 casework, it's in the thousands of prints.

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1 Q: And in the area of friction ridge analysis, how are  
2 fingerprints compared?

3 A: So fingerprints are compared. It's a process that we  
4 use. We -- we have to make sure that the prints are actually  
5 suitable for a comparison. Do they contain specific  
6 characteristics and details that could be unique and  
7 attributed to one person?

8 And from that point, we compare a latent fingerprint to  
9 a known exemplar, and we do a side-by-side comparison through  
10 a magnifying glass. And if we can find sufficient detail and  
11 characteristics to conclusively say that that belongs to that  
12 individual, then we move on to a verification and have a  
13 second latent print examiner verify our results.

14 Q: And do you use a particular method when you're doing  
15 these analyses?

16 A: So the standard that we use is called an ACE-V method,  
17 and that's just an analysis comparison evaluation and  
18 verification, and we do that on every print that we -- we  
19 examine.

20 Q: And you briefly touched on it, but what sort of  
21 equipment do you use when you are making these comparisons or  
22 attempting to?

23 A: So the equipment I use is called a Regula magnifying  
24 glass with a light, and it's just basically a small compact  
25 magnifying glass that just magnifies the print so it's a

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1 little bit more visible to the eye.

2 Q: And with regard to the case that we are here today, the  
3 -- your North Charleston case number ending in 9194, did you  
4 personally have the opportunity to examine any latent print  
5 lifts from a black Lincoln Navigator?

6 A: Yes.

7 Q: And you -- did you peer-review --

8 MR. SHELTON: Your Honor, can we approach one second?

9 THE COURT: Sure.

10 (WHEREUPON, a bench conference was held in the presence  
11 of the jury but out of the hearing of the jury off the  
12 record, after which the proceedings resumed as follows.)

13 THE COURT: We're going to take about a 10-minute break.  
14 Ladies and gentlemen, I'm going to excuse you just so you can  
15 -- we've got a technical issue we need to attend to. So I'm  
16 going to go ahead and excuse you if you want to stretch your  
17 legs, but we need about a 10-minute break before we resume  
18 the testimony. Again, please don't begin any discussions.

19 (WHEREUPON, the jury exited the courtroom at 2:13 p.m.)

20 (WHEREUPON, there was a break in the proceedings from  
21 2:13 p.m. until 2:21 p.m., after which the proceedings  
22 resumed as follows.)

23 THE COURT: Okay. You can bring the jury in.

24 MS. SMITH: Judge?

25 THE COURT: Oh, I'm sorry.

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1 MS. SMITH: Ms. Williams just stepped out. I'm sorry.  
2 (WHEREUPON, there was a pause in the proceedings, after  
3 which the proceedings resumed as follows.)  
4 THE COURT: Okay. Yes. Go ahead. Thank you.  
5 MS. WILLIAMS: Sorry, Your Honor.  
6 THE COURT: That's all right. We're good.  
7 (WHEREUPON, the jury entered the courtroom at 2:23 p.m.)  
8 THE BAILIFF: All jurors are present.  
9 THE COURT: Thank you.  
10 Go right ahead.  
11 MS. SMITH: Thank you, Judge.  
12 BY MS. SMITH:  
13 Q: Lt. Stanley, you were, again, tasked with examining --  
14 first peer-reviewing and then exam -- re-examining prints  
15 with regard to the case we're here in court for?  
16 A: Yes.  
17 Q: And can you sort of talk about the peer-review process  
18 with the original report?  
19 A: So the original report was actually done by a latent  
20 print examiner who is no longer in this state. That initial  
21 finding was peer-reviewed by a second latent print examiner.  
22 Upon -- it was Crime Scene Tech Kubisco [ph] who left the  
23 state. Crime Scene Tech Anita Moore did a re-examination  
24 where I did the peer reviews for her findings, and that was  
25 back in August. So on March 4th of this year, I went ahead

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1 and did a re-examination and came to the same conclusions.

2 Q: Perfect. And can you tell me if you -- did you review  
3 specific latent prints for findings in your preparation for  
4 court?

5 A: Yes.

6 Q: Or in this re-examination. Which prints were those?

7 A: The prints I examined were labeled L-1, L-2, L-3, L-4,  
8 L-5, L-6, L-12, and L-13.

9 Q: So eight total lifts, L-1 through 6 and then 12 and 13?

10 A: Correct.

11 Q: Okay. And were these -- these were the lifts from the  
12 black Lincoln Navigator?

13 A: The prints L-12 and L-13 indicate they were from the  
14 Lincoln Navigator.

15 Q: And -- okay. And were these prints compared to the  
16 known exemplars that you explained earlier?

17 A: Yes. I was provided a total of four known exemplars,  
18 and the prints on cards L-12 and L-13, as well as L-1 through  
19 6, were compared to those known exemplars.

20 Q: And who were the known exemplars?

21 A: So the known exemplars were a Randall Myers, a Maurice  
22 Dionne Washington, a Brandon Christopher Grayer, and a  
23 Christopher Eugene Smith.

24 Q: And moving to the findings or the results, in regards to  
25 L-1, can you first tell me where -- where was that print

1 recovered from?

2 A: So the latent print on L-1, on the back of the card they  
3 record the location, and it states it was recovered from the  
4 right rear exterior passenger door.

5 Q: And were any positive identifications able to be made?

6 A: On L-1, there were two latent prints that were examined,  
7 L-1.1 and L-1.2. L-1.1 was a positive identification to the  
8 right index finger, which is the number two finger, of  
9 Randall Myers.

10 Q: Okay. And was 1.2 able to have a positive  
11 identification?

12 A: Yes. 1.2 was also identified to the right index finger,  
13 the number two finger, of the known exemplar bearing the name  
14 of Randall Myers.

15 Q: Okay. And then moving to the second latent lift that  
16 you examined, L-2, where was that print recovered from?

17 A: So L-2 was recovered from -- on the back of the card, it  
18 says the driver's door.

19 Q: Okay. And were any positive identifications able to be  
20 made?

21 A: So Latent 2.1, there was a positive identification to  
22 the left index or number seven finger to the known exemplar  
23 bearing the name of Maurice Dionne Washington, and latents  
24 L-2.2 to 2.7, they lacked sufficient quality and quantity of  
25 friction ridge characteristics for a comparison or an

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1 identification.

2 Q: So there was no identification able to be made from the  
3 rest of those?

4 A: Correct.

5 Q: Okay. And moving to L-3, where was this print recovered  
6 from?

7 A: L-3, it states the back -- on the back of the card it  
8 was recovered from the right rear passenger exterior window.

9 Q: And were any positive identifications able to be made  
10 from this lift?

11 A: Yes. So L-3.1 was positively identified to the right  
12 ring finger or number four finger to the known exemplar  
13 bearing the name Randall Myers.

14 L-3.2 was inconclusive because it is a joint, which is  
15 basically in between your -- in between your fingers and in  
16 between those parts on your finger, and we were -- it was  
17 inconclusive to the exemplars bearing the name Randall Myers.  
18 And the other exemplars bearing Maurice Washington, Brandon  
19 Grayer, and Christopher Eugene Smith, it came back  
20 inconclusive because of the quality of the known exemplars  
21 that were provided.

22 L-3.3 was a positive identification to the right  
23 hypothenar palm of the -- the known exemplar bearing the name  
24 of Randall Myers, and the hypothenar palm is basically this  
25 part of your palm. Now, it is noted that latents 3.1 to 3.3

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1 are the result of a simultaneous impression, meaning that the  
2 -- all the fingers were in line. It's -- and that's how we  
3 say it was a simultaneous impression.

4 Q: Meaning that it was essentially a handprint?

5 A: Correct.

6 Q: Okay. Moving to L-4, where was this print recovered  
7 from?

8 A: So L-4, the card says it was recovered from the right  
9 rear exterior door panel.

10 Q: And were any positive identifications able to be made?

11 A: No. The latent on that card lacks sufficient quality  
12 and quantity of friction ridge characteristics for a  
13 comparison or identification on this.

14 Q: Okay. Moving to L-5, where was that print lifted from?

15 A: L-5 was recovered from the right front exterior  
16 passenger door panel.

17 Q: Were any positive identifications able to be made to  
18 L-5?

19 A: Yes. Latent 5.1 was positively identified to the left  
20 middle finger, the number eight finger, to the known exemplar  
21 bearing the name Maurice Dionne Washington.

22 Latent 5.2 was inconclusive for the known exemplars for  
23 Maurice Dionne Washington and -- and also for the known  
24 exemplar bearing the name of Randall Myers. The examinations  
25 to the other known exemplars bearing the name of Brandon

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1 Christopher Grayer and Christopher Eugene Smith were  
2 inconclusive due to the quality of the known exemplars  
3 provided.

4 Latent five point -- latent 5.3 lacks sufficient quality  
5 and quantity of friction ridge characteristics for an  
6 identification. And also 5.1 and 5.3 are also the result of  
7 a simultaneous impression.

8 Q: So similarly to L-3, a simultaneous impression  
9 essentially means a handprint?

10 A: Correct.

11 Q: Moving to L-6, can you tell me where this print was  
12 lifted from?

13 A: L-6 was recovered from the left rear passenger exterior  
14 door.

15 Q: And were any positive identifications able to be made?

16 A: Yes. Latent 6.1 was positively identified to the right  
17 index finger or number two finger of the known exemplar  
18 bearing the name Maurice Dionne Washington.

19 L-6.2 was a positive -- positive identification to the  
20 right ring finger or the number four of the known exemplar  
21 bearing the name Maurice Dionne Washington.

22 L-6.3 was positively identified to the right middle  
23 finger or the number three of the known exemplar bearing the  
24 name Maurice Dionne Washington.

25 And number -- Latent 6.4 was positively identified to

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1 the right middle finger, the number three finger, of the  
2 known exemplar bearing the name Maurice Dionne Washington.

3 The remaining latents on that, Latent 6.5 to 6.6, lacked  
4 sufficient quality and quantity of friction ridge  
5 characteristics for comparison and identification.

6 Q: Okay. Moving to L-12, where was this print recovered  
7 from?

8 A: L-12 was recovered from the left rear exterior passenger  
9 window of the Lincoln Navigator. It's labeled exactly left  
10 rear exterior passenger window, Lincoln Navigator, search  
11 warrant follow-up.

12 Q: And was a positive identification able to be made on  
13 L-12?

14 A: Yes. L-12.1 was positively identified to the left  
15 middle finger or the number eight finger of the known  
16 exemplar bearing the name Brandon Christopher Grayer.

17 L-12.2 lacks sufficient quality and quantity of friction  
18 ridge characteristics for comparison and identification.

19 Q: And L-13, was that -- where was that print lifted from?

20 A: L-13 was labeled as being recovered from the right rear  
21 passenger window interior, Lincoln Navigator, search warrant  
22 follow-up.

23 Q: And were there any positive identifications on this?

24 A: Yes. Latent L-13.1 was positively identified to the  
25 right -- right ring finger, the number four finger, of the

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1 known exemplar bearing the name Christopher Eugene Smith.

2 L-13.2 lacks sufficient quality and quantity of friction  
3 ridge characteristics for comparison and identification.

4 L-13.3 was positively identified to the right little  
5 finger or the number five finger of the known exemplar  
6 bearing the name Christopher Eugene Smith.

7 And L-13.4 lacks sufficient quality and quantity of  
8 friction ridge characteristics for comparison and  
9 identification.

10 And L-13.1 through 13.3 are also the result of a  
11 simultaneous impression.

12 Q: Okay. And after you completed comparison with latent  
13 prints or analyzed lifts or reviewed and a confirmation or a  
14 positive identification is able to be made, what's the next  
15 step in the process?

16 A: So the next step would be to turn the case over to  
17 another latent print examiner so that they can verify and  
18 confirm or basically do a peer review for our results.

19 Q: Which is a role that you also held in this case?

20 A: Yes.

21 Q: Other than peer -- the peer review that you completed  
22 and the latent examination that you completed, did you have  
23 any other role or do anything else in this case?

24 A: No.

25 Q: Okay.

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1 MS. SMITH: I beg the Court's indulgence.

2 THE COURT: Uh-huh.

3 BY MS. SMITH:

4 Q: As part of your peer review initially, which was your  
5 initial role in this case, did you review the findings of  
6 either Crime Scene Tech Kubisco or Moore regarding lift L-15?

7 A: Hold on a second. Lift L-15 was peer-reviewed by Anita  
8 Moore.

9 Q: And did you -- in your exposure to this case, did you  
10 review print L-15 in any way?

11 A: No.

12 Q: And you did not review Crime Scene Tech Moore's peer  
13 review or Kubisco's report on that?

14 A: No.

15 MS. SMITH: Thank you, Lt. Stanley. I don't have any  
16 other questions at this time.

17 CROSS-EXAMINATION

18 BY MR. SHELTON:

19 Q: So, Lt. Stanley, you didn't actually get the lifts. You  
20 didn't lift the fingerprints from the object; correct?

21 A: Correct.

22 Q: So when -- when you were asked how many did you get from  
23 the Lincoln Navigator, you could only testify that two  
24 because of how it was labeled; correct?

25 A: Correct. Those are the prints I received to do the

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1 examination.

2 Q: And so when -- when looking at Lift 1, right rear  
3 exterior passenger door, you can't tell us other than it  
4 being a right rear passenger -- exterior passenger door,  
5 where that came from?

6 A: Correct.

7 Q: So you don't know if that came from a Lincoln Navigator  
8 or it came from something else?

9 A: That's correct.

10 Q: Okay. And you're not aware of anything else in this --  
11 in this case as far as other vehicles or anything like that?

12 A: No.

13 Q: Okay. But in your testimony, look at Lift 3. We'll go  
14 to Lift 3; specifically, Lift 3.2. And you indicated that --  
15 in your direct testimony that this was a joint of the finger?

16 A: Correct.

17 Q: And it's inconclusive; correct?

18 A: Correct.

19 Q: But it actually does exclude certain people; correct?

20 A: So the 3.2, it excluded the known exemplar of the --  
21 bearing the name Maurice Dionne Washington and also the known  
22 exemplar of Brandon Christopher Grayer and also the known  
23 exemplar of Christopher Eugene Smith. They were excluded  
24 based on the prints provided.

25 Q: Okay. And you didn't testify to that on direct. You

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1 didn't say that they were excluded, did you?

2 A: I believe I did. I said it was inconclusive with the  
3 known exemplar of Randall Myers and then excluded with the  
4 other three.

5 Q: Okay. And so -- so I didn't hear it. So let's make  
6 sure.

7 A: Uh-huh.

8 Q: On Lift 6.2, Brandon Christopher Grayer and Christopher  
9 Eugene Smith are also excluded; correct?

10 A: On Lift 6.2, the print was found to have -- the source  
11 of the print was found to have come from a Maurice Dionne  
12 Washington.

13 Q: Okay. And I believe your -- your testimony just --  
14 well, you just had -- you just testified that you didn't look  
15 at any other lifts other than what -- 1 through 6 and 12 and  
16 13.

17 A: For this particular --

18 Q: Case.

19 A: -- case, I was asked to look at L-1.6 -- Latent 1  
20 through Latent 6 and then Latent 12 through 13. Now  
21 previously, back initially, I did a peer review on some other  
22 prints for Officer -- or for CST Kubisco.

23 Q: Okay. Would that be this case number of 9194?

24 A: Yes.

25 Q: Okay. Did you look at Lift 7 -- Lift 7?

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1 A: No. The lifts that I looked at for peer-review for CST  
2 Kubisco were the same, the L-1 through the L-6, and that was  
3 all I looked at back in September of 2016.

4 Q: Okay. And then in October of 2016, you did not look at  
5 L-7?

6 A: No.

7 Q: But you did look at -- you did not look at L-8?

8 A: I did not. That was done by CST Kubisco and CST Anita  
9 Moore.

10 Q: And you did not look at L-9?

11 A: No.

12 Q: You did not look at L-10?

13 A: No.

14 Q: You did not look at L-11?

15 A: No.

16 Q: But you did look at L-12?

17 A: I looked at L-12 on -- in August of 2019 and also March  
18 of this year.

19 Q: And you looked at L-13?

20 A: Correct.

21 Q: You did not look at L-14?

22 A: No, I did not.

23 Q: You did not look at L-15?

24 A: No, I did not.

25 Q: You did not look at L-16?

- 1 A: No.
- 2 Q: You did not look at L-17?
- 3 A: No.
- 4 Q: You did not look at L-18?
- 5 A: No.
- 6 Q: You did not look at L-19?
- 7 A: No.
- 8 Q: You did not look at L-20?
- 9 A: No.
- 10 Q: And you did not look at L-21?
- 11 A: No.
- 12 Q: All right.
- 13 A: No.
- 14 Q: Did you review fingerprints taken from a case number  
15 ending in 9198?
- 16 A: No. I don't have any record of that.
- 17 Q: And then for L-12, it was labeled as the exterior  
18 passenger window; correct?
- 19 A: L-12 was listed as the exterior left rear passenger  
20 window.
- 21 Q: Okay. And it's a positive identification for the left  
22 middle finger of Brandon Grayer; correct?
- 23 A: It is positive for the left middle finger, correct, of  
24 Brandon Grayer.
- 25 Q: And you have positive identification for Randall Myers;

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- 1 correct? On L-1.1 and L-1.2?
- 2 A: Correct.
- 3 Q: L-3.1 is also Randall Myers; correct?
- 4 A: Correct.
- 5 Q: L-3.3 is also Randall Myers; correct?
- 6 A: That's correct.
- 7 Q: And then you have positive for Maurice Washington of
- 8 2.1; correct?
- 9 A: Correct.
- 10 Q: Maurice Washington for 5.1; correct?
- 11 A: That is correct.
- 12 Q: Maurice Washington for 6.1; correct?
- 13 A: Correct.
- 14 Q: 6.2; correct?
- 15 A: That's correct.
- 16 Q: 6.3; correct?
- 17 A: Yes.
- 18 Q: And 6.4; correct?
- 19 A: Yes.
- 20 Q: And then a positive for Christopher Smith on 13.1;
- 21 correct?
- 22 A: That is correct.
- 23 Q: And 13.3; correct?
- 24 A: Correct.
- 25 MR. SHELTON: No further questions.

## CATHY STANLEY - REDIRECT

1 THE COURT: Any redirect?

2 MS. SMITH: Just one question, Judge.

3 REDIRECT EXAMINATION

4 BY MS. SMITH:

5 Q: Lt. Stanley, just to clarify one point on cross, L-12,  
6 the lift that you testified to earlier, where was that print  
7 lifted from?

8 A: The print card indicated it was lifted from the left  
9 rear exterior passenger window, Lincoln Navigator, search  
10 warrant follow-up.

11 Q: So we know that that was on the Lincoln Navigator?

12 A: Yes.

13 MS. SMITH: Thank you.

14 MR. SHELTON: No, Judge.

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

16 THE WITNESS: Thank you, Your Honor.

17 MS. WILLIAMS: The State calls Loretta Mitchum.

18 (WHEREUPON, there was a pause in the proceedings until  
19 the witness entered the courtroom.)

20 THE CLERK: Good afternoon.

21 THE WITNESS: Good afternoon.

22 THE CLERK: Thank you. Place your left hand on the  
23 Bible and raise your right hand. Do you swear or affirm the  
24 testimony you shall give the Court and the jury shall be the  
25 truth, the whole truth, and nothing but the truth, so help

## LORETTA MITCHUM - DIRECT

1 you God?

2 THE WITNESS: Yes.

3 THE CLERK: Please take a seat. Please state your full  
4 name and spell your last name for the record.

5 THE WITNESS: Loretta Mitchum, M-i-t-c-h-u-m.

6 LORETTA MITCHUM, being  
7 first duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. WILLIAMS:

10 Q: Good afternoon, Ms. Mitchum. Where do you work?

11 A: I work for Charleston County Sheriff's Office at the Al  
12 Cannon Detention Center.

13 Q: And how long have you worked there?

14 A: Two-and-a-half years.

15 Q: What are your duties?

16 A: I'm administrative assistant for the security threat  
17 group. I handle the subpoena and warrant requests for inmate  
18 records.

19 Q: Okay. And is part of that to fulfill requests for jail  
20 calls?

21 A: Yes.

22 Q: And describe what you do when you get a request for a  
23 jail call.

24 A: I go into the inmate's booking information, pull out the  
25 dates he was there, and then go into another program called

## LORETTA MITCHUM - DIRECT

1 GTL that records all the phone conversations and put in the  
2 inmate's number, date range, and search for calls that way,  
3 and then record them on a disk.

4 Q: So explain to us how that works. How do you know which  
5 inmate is which number?

6 A: When they come in, they are given a PIN number and they  
7 keep that number. If they return back, that number stays  
8 with them at all times and they use that to make a call.

9 Q: And in your experience, do people always use their own  
10 PIN number?

11 A: No.

12 Q: And when that happens, do you get requests for something  
13 called a target number?

14 A: Yes.

15 Q: And explain what that is?

16 A: It's a certain number that we're looking in our system  
17 for any inmate that's called that number during that period  
18 of time requested.

19 Q: And are inmates advised that their phone calls are being  
20 recorded?

21 A: Yes.

22 Q: And how are they advised?

23 A: When you make the call, on the recording it states that  
24 it's being recorded. Also in the booth in the units, there's  
25 a sign above it saying it's being recorded. And when they

## LORETTA MITCHUM - DIRECT

1 come into the jail, they're given the inmate handbook and it  
2 states in there.

3 Q: And did you get a request for a target number (843) 324-  
4 8554?

5 A: Yes.

6 Q: I'm going to show you what has been previously marked as  
7 State's 132 and 133.

8 MS. WILLIAMS: Your Honor, I'm showing defense counsel  
9 pre-marked Exhibits 132 and 133. May I approach?

10 THE COURT: Yes.

11 BY MS. WILLIAMS:

12 Q: Do you recognize these?

13 A: Yes.

14 Q: And how do you recognize those?

15 A: My initials on it and my writing.

16 Q: And are those calls in fulfillment of the subpoena for  
17 that target number?

18 A: Yes.

19 Q: And have they been altered, changed, deleted --

20 A: Only --

21 Q: -- in any way?

22 A: Only a clip.

23 Q: Okay. So explain that to us. You had the first call.

24 A: You take a bit of the conversation out, not the whole  
25 call, just the part that needs to be heard.

## LORETTA MITCHUM - DIRECT

1 Q: So for State's 132, is that the whole call?

2 A: Yes.

3 Q: And did you listen to that call from beginning to end?

4 A: Yes.

5 Q: And is that the entire call? Has it been changed,  
6 edited, added, deleted, anything --

7 A: No.

8 Q: -- done to it? And then did you listen to 133?

9 A: Yes.

10 Q: And is that an accurate depiction of a clip of that  
11 call?

12 A: Yes.

13 Q: Has anything been changed on it?

14 A: No.

15 Q: Is that even possible with that system?

16 A: No.

17 MS. WILLIAMS: Your Honor, at this time, we would just  
18 keep these marked, State's 132 and 133, for admission through  
19 another witness.

20 THE COURT: Okay.

21 MS. WILLIAMS: Thank you, Ms. Mitchum. No further  
22 questions.

23 MR. SHELTON: No questions.

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

25 MS. WILLIAMS: The State calls Antoine Gill.

## ANTOINE GILL - DIRECT

1 (WHEREUPON, there was a pause in the proceedings until  
2 the witness entered the courtroom.)

3 THE CLERK: Step around. Place your left hand on the  
4 Bible and raise your right hand for me. Do you swear or  
5 affirm the testimony you shall give the Court and the jury  
6 shall be the truth, the whole truth, and nothing but the  
7 truth, so help you God?

8 THE WITNESS: Yes.

9 THE CLERK: Please take a seat. Please speak loud and  
10 clear into the microphone and state your full name and spell  
11 your last name for the record.

12 ANTOINE GILL, being first duly  
13 sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. WILLIAMS:

16 Q: Say your first and last name and spell your last name.

17 A: Antoine Gill, G-i-l-l.

18 Q: Okay. Mr. Gill, can you scoot a little closer to the  
19 microphone? Thank you.

20 Mr. Gill, do you know Brandon Grayer?

21 A: Yes.

22 Q: How long have you known him?

23 A: About almost 15 years or something.

24 Q: Fifteen? How old were you when y'all met?

25 A: Like, 20. I was, like, 20, 19.

1 Q: You were 19?

2 A: Like, 19 or 20.

3 Q: And how old are you now?

4 A: Thirty-five.

5 Q: Okay. And do you see him here in the courtroom?

6 A: Yes.

7 Q: And could you please point him out? What's he wearing?

8 A: The white shirt.

9 Q: And what color tie?

10 A: Huh?

11 Q: What color tie?

12 A: I can't see the tie.

13 Q: Okay.

14 A: It's lavender or something.

15 Q: Does he have some facial hair?

16 A: Yeah.

17 Q: Okay.

18 MS. WILLIAMS: Your Honor, please let the record reflect  
19 that the witness has identified the defendant, Brandon  
20 Grayer.

21 THE COURT: So noted.

22 BY MS. WILLIAMS:

23 Q: Now, Mr. Gill, you have a prior record; right?

24 A: Yes.

25 Q: You have a 2003 possession of a stolen vehicle. You

## ANTOINE GILL - DIRECT

1 have a 2008 burglary; correct?

2 A: Yes.

3 Q: A 2011 burglary?

4 A: I don't --

5 Q: A 2012 cocaine base distribution, 2013 cocaine base  
6 distribution; is that correct?

7 A: I ain't got no 2011 burglary.

8 Q: You don't have a 2011 burglary? Okay. I stand  
9 corrected.

10 And what kinds of things did you and Mr. Grayer do  
11 together? Just hang out?

12 A: Just hang out.

13 Q: Did you do drugs together?

14 A: Yeah.

15 Q: And did you ever do drugs at a trailer belonging to  
16 Nathan Burnett?

17 A: Yes.

18 Q: And what's his nickname?

19 A: Drama.

20 Q: Drama?

21 A: Uh-huh.

22 Q: And you do not want to be here today, do you?

23 A: No.

24 Q: And you are snitching on your friend; right?

25 A: You could say that.

1 Q: I could say that? And what happens to people that  
2 testify against their friends? What are some of the things  
3 that has happened to you?

4 A: That happened to me?

5 Q: Uh-huh.

6 A: I just get a letter -- a letter.

7 Q: You get threatening letters?

8 A: Not really a threatening letter, but just -- just saying  
9 a couple of things.

10 Q: Could you please speak up?

11 A: It's not really a threatening letter.

12 Q: Okay. But is it a letter that made you feel  
13 uncomfortable about testifying?

14 A: Yeah.

15 Q: And what about Facebook? Has anything happened on  
16 social media?

17 A: Yeah. They put it up on Facebook.

18 Q: What did they put up on Facebook?

19 A: The statements.

20 Q: So statements that you made against Brandon Grayer and  
21 the other defendants?

22 A: Yeah.

23 Q: And you are here because your attorney encouraged you to  
24 cooperate; right?

25 A: Yes.

## ANTOINE GILL - DIRECT

1 Q: And you're hoping that by cooperating that a judge at a  
2 later date will give you a break?

3 A: Yes.

4 Q: That's what -- that's why you're doing this. You're  
5 doing this to help yourself?

6 A: Yes.

7 Q: You're not doing this for justice, you're not doing this  
8 for the greater --

9 MR. SHELTON: Objection, Your Honor. Leading.

10 BY MS. WILLIAMS:

11 Q: Why are you doing this?

12 THE COURT: That's sustained.

13 BY MS. WILLIAMS:

14 Q: Why are you doing this?

15 A: To help myself.

16 Q: Okay. And I am going to draw your attention back to the  
17 date of September 23rd, 2016, which is the issue that we're  
18 here about today. And on that date, did you see Brandon  
19 Grayer?

20 A: Yes.

21 Q: Did you see Maurice Washington?

22 A: Yes.

23 Q: Randall Myers?

24 A: Yes.

25 Q: Vinson Burnett?

1 A: Uh-huh.

2 Q: So tell us the first time you saw any of those  
3 individuals during that day.

4 A: Like, in the daytime or, like, earlier in the day, like,  
5 probably, like, one or two or something.

6 Q: One or 2 o'clock?

7 A: Uh-huh.

8 Q: And tell us about that. What happened?

9 A: I just gone and get some coke from over there and left.

10 Q: Some coke?

11 A: Yeah.

12 Q: Okay. I need you to speak up and enunciate your words,  
13 if possible. Okay?

14 A: Uh-huh.

15 Q: Just so we can understand you. Talk into the  
16 microphone.

17 And just backtracking a little -- and I apologize. You  
18 have not told the truth about this incident from the  
19 beginning, have you?

20 A: No.

21 Q: You have tried to minimize your involvement and not get  
22 in trouble?

23 A: Yes.

24 Q: And at first, you said you weren't even there; correct?

25 MR. SHELTON: Objection, Your Honor. Leading.

## ANTOINE GILL - DIRECT

1 THE COURT: That's sustained.

2 BY MS. WILLIAMS:

3 Q: Tell us what you said at first.

4 A: I told them -- I said I wasn't even there.

5 Q: And then what did you say?

6 A: I just tell the truth after that.

7 Q: Well, didn't you tell another story about whether or not

8 --

9 MR. SHELTON: Objection. Leading.

10 THE COURT: That's sustained.

11 BY MS. WILLIAMS:

12 Q: Did you tell another story after that before you started

13 telling the truth? How many --

14 A: Right.

15 Q: How long did it take you to tell the truth?

16 A: A while.

17 Q: So you lied for a while?

18 A: Yes.

19 Q: And is it fair to say you told different versions of the

20 truth?

21 MR. SHELTON: Objection. Leading.

22 A: At the beginning?

23 THE COURT: That's sustained.

24 BY MS. WILLIAMS:

25 Q: Do you remember how many times you talked to your

## ANTOINE GILL - DIRECT

1 attorney in the presence of either a police officer or a  
2 solicitor?

3 A: Like, three times.

4 Q: Okay. And did you tell -- how many different stories  
5 did you tell each time?

6 A: I told the same story after that.

7 Q: After? After what?

8 A: After the first time. Like, after we got through the  
9 whole thing the first time.

10 Q: Okay. How long did that take?

11 A: A while. Like, a couple -- like, an hour. Like,  
12 something like that.

13 Q: Okay. And when you say you told the whole -- you told  
14 the truth after the first time, not in the beginning?

15 A: No, not in the beginning. Not when we first started.

16 Q: And who was the person encouraging you to finally come  
17 clean?

18 A: My lawyer.

19 Q: And why was that?

20 A: He said it would help me in the long run.

21 Q: Okay. All right. So I'm going to direct your attention  
22 back to September 23rd. You said the first time you saw the  
23 individuals I named was around what time?

24 A: Probably 1 or 2 o'clock or something.

25 Q: Okay. And you just testified that you were going over

## ANTOINE GILL - DIRECT

1 there to get some coke.

2 A: Yeah.

3 Q: Is that cocaine?

4 A: Yeah.

5 Q: Who do you get that from?

6 A: Any one of them.

7 Q: Pardon?

8 A: Like, any one of them.

9 Q: Any one of them? And who was selling cocaine at that

10 time out of that friend group?

11 A: I get it from -- I think I get it from Vinny.

12 Q: Who?

13 A: I think I got it from Vinny. I got it from Vinny that

14 night.

15 Q: Okay. Who is Vinny? What's his name?

16 A: Vinson.

17 Q: Vinson?

18 A: Vinson Robinson.

19 Q: Robinson? Okay. Is there anyone else in that group

20 that sells cocaine?

21 A: Yeah.

22 Q: Who?

23 A: Nathan Burnett.

24 Q: Nathan?

25 A: Drama.

## ANTOINE GILL - DIRECT

- 1 Q: Okay. Drama. And who else?
- 2 A: Really everybody have -- like, everybody can get their  
3 hands on it and selling it, like everybody in the house,  
4 whoever in there.
- 5 Q: And when you went there at 1 o'clock, you got your coke,  
6 and then what happened?
- 7 A: I left.
- 8 Q: Where did you go?
- 9 A: In -- in Forest Hills.
- 10 Q: Where?
- 11 A: I think in Forest Hills.
- 12 Q: Forest Hills?
- 13 A: Uh-huh.
- 14 Q: Okay. What did you do there?
- 15 A: Get high with my homeboy, KB.
- 16 Q: I'm sorry?
- 17 A: I was getting high with KB, my homeboy.
- 18 Q: You hung out with someone who is your homeboy?
- 19 A: Uh-huh.
- 20 Q: Okay. And then when is the next time that you saw Mr.  
21 Grayer or Maurice Washington or Randall Myers or Nathan  
22 Burnett?
- 23 A: Like, three something.
- 24 Q: Okay. And how did that come about?
- 25 A: He had get shot. And then --

## ANTOINE GILL - DIRECT

1 Q: Who had just got shot?

2 A: G Baby.

3 Q: Okay. When you say G Baby, who are we talking about?

4 A: Brandon Grayer.

5 Q: Brandon Grayer?

6 A: Uh-huh.

7 Q: Is that his nickname?

8 A: Yeah.

9 Q: Okay. What is Maurice Washington's nickname?

10 A: Crumb.

11 Q: And what is your nickname?

12 A: Fat Boi.

13 Q: Okay. And so how did you now that Brandon Grayer had  
14 just been shot?

15 A: I forget who had called me and tell me he got shot.

16 Q: One of them?

17 A: Yeah.

18 Q: Okay. And so then what did you do next?

19 A: I ain't really did nothing. I was just chilling. I  
20 still been just chilling. I still -- I was going back over  
21 there. I was going. When he got out the hospital, I went  
22 over there.

23 Q: Okay. What -- what time was it when he got out of the  
24 hospital about?

25 A: Probably, like, four or five or something like that.

1 Q: Okay.

2 A: He ain't been in there long.

3 Q: And did you see him?

4 A: Yeah, I seen him.

5 Q: Okay. And how -- how did he seem?

6 A: He had his arm in a sling.

7 Q: Okay.

8 A: He got shot in the chest.

9 Q: Okay.

10 A: And on the side of the head.

11 Q: And did he get shot anywhere else?

12 A: In the side of the head, like a graze or something.

13 Q: A graze wound?

14 A: Yeah.

15 Q: Okay. And was he able to function?

16 A: Yeah. He was functioning.

17 Q: And what was he saying about the shooting?

18 A: He just said the burgundy Altima with Tennessee plates.

19 Q: A burgundy Altima with Tennessee plates?

20 A: Uh-huh.

21 Q: And did he know who was driving that or who did he think

22 shot him?

23 A: Quise.

24 Q: Who is Quise?

25 A: Marquise, Marquise Bryant.

## ANTOINE GILL - DIRECT

1 Q: Marquise Bryant?

2 A: Yeah.

3 Q: And so Mr. Grayer was telling y'all that Marquise Bryant  
4 shot him?

5 A: They figured it out when they was looking on Facebook or  
6 something and he was, like -- he had the picture on Facebook  
7 with the -- with the car and everything.

8 Q: Okay. So let me just make sure I understand what you're  
9 saying. He came back to the trailer and said that somebody  
10 in a burgundy Altima with Tennessee plates shot him?

11 A: Uh-huh.

12 Q: Okay. I'm going to show you a picture.

13 MS. WILLIAMS: And could you please put up State's 32?

14 BY MS. WILLIAMS:

15 Q: Can you see that picture before you?

16 A: Uh-huh.

17 Q: Is that the car that you're talking about?

18 A: Yeah.

19 Q: And you -- did you see that car at some point in the  
20 night?

21 A: Yes.

22 Q: Okay.

23 MS. WILLIAMS: You can take that down.

24 BY MS. WILLIAMS:

25 Q: And when you say that you all saw a picture of Bryant

## ANTOINE GILL - DIRECT

- 1 with this car, did you see the picture on Facebook as well?
- 2 A: Yes.
- 3 Q: And is that how he figured out who shot him or who he  
4 thought shot him?
- 5 A: Yeah. He knew before that though, like.
- 6 Q: How did he know?
- 7 A: But that just confirmed it. The people we called -- the  
8 people we called and, like, people were, like, he ain't  
9 hiding it or nothing.
- 10 Q: Okay. So I'm not sure I understand what you're saying.  
11 So far you've told us that Mr. Grayer saw a burgundy Altima  
12 with Tennessee plates?
- 13 A: Uh-huh.
- 14 Q: And that he thought Marquise Bryant shot him?
- 15 A: Yeah.
- 16 Q: And tell us about how the Facebook picture plays in.
- 17 A: Because he see it on Facebook. Like, they started  
18 looking through Facebook. I don't know exactly how they get  
19 on it, but it just came about, like, they was looking at the  
20 Facebook page with the car.
- 21 Q: Okay. And so you're saying he saw the car?
- 22 A: Yeah.
- 23 Q: With Marquise Bryant?
- 24 A: Yeah.
- 25 Q: And did those two like each other?

## ANTOINE GILL - DIRECT

1 A: No.

2 Q: Was there some bad blood between him and Marquise  
3 Bryant?

4 A: Yes.

5 Q: I'm going to show you what's been previously marked as  
6 131.

7 MS. WILLIAMS: May I approach, Your Honor?

8 THE COURT: Yes.

9 BY MS. WILLIAMS:

10 Q: Can you tell us what that is?

11 A: That's Quise.

12 Q: Okay. Is that the picture you saw on Facebook?

13 A: Yeah, that's the picture.

14 MS. WILLIAMS: Your Honor, at this time, we would offer  
15 State's 131.

16 THE COURT: Mr. Shelton?

17 MR. SHELTON: No objection.

18 MS. WILLIAMS: Can you please publish 131?

19 THE COURT: 131 is admitted.

20 (WHEREUPON, State's Exhibit No. 131, photograph, was  
21 admitted into evidence.)

22 BY MS. WILLIAMS:

23 Q: Now, that's the picture that you just said that you saw  
24 on Facebook of Marquise Bryant. It's kind of hard to tell  
25 from this screen, but is that the burgundy Altima?

1 A: Yes.

2 Q: And where is that?

3 A: On Liberty Hill.

4 Q: Okay. And exactly where in Liberty Hill?

5 A: On Hassell Street.

6 Q: Did you wind up on Hassell Street later that night?

7 A: Yes.

8 Q: And is that how you knew where to go?

9 A: No.

10 Q: How did you know to go there and find Marquise?

11 A: That's where he hang out at.

12 Q: Pardon me?

13 A: That's where he hang out at.

14 Q: That's where he hangs out?

15 A: Uh-huh.

16 Q: Okay.

17 MS. WILLIAMS: You can take that down.

18 BY MS. WILLIAMS:

19 Q: Okay. So getting back to the sequence of events, at 5

20 o'clock you were with -- who was there with G Baby?

21 A: Uh-huh.

22 Q: Okay. Who was there with him?

23 A: It was Maurice. I think Drama been there.

24 Q: Drama?

25 A: No. Maurice ain't been there. He ain't been there. He

## ANTOINE GILL - DIRECT

1 ain't been there.

2 Q: He wasn't there yet?

3 A: No. It was Drama, me, Vinny, and I can't remember  
4 everybody that been there.

5 Q: Okay. I need you to repeat the names you just said  
6 because I can't understand you.

7 A: It been me, Vinny, Drama, G Baby. Somebody else been  
8 there. I can't remember everybody who been in there.

9 Q: Okay.

10 A: But I know Maurice ain't been there yet.

11 Q: How about Omar?

12 A: Yeah. Omar been there.

13 Q: Tell us who that is.

14 A: No. Omar ain't been there. He ain't been there at that  
15 time.

16 Q: He wasn't there?

17 A: No. He ain't been there.

18 Q: Okay. And at that point in time -- so when you say  
19 Drama, you're talking about Nathan Burnett?

20 A: Uh-huh.

21 Q: And who is Vinny?

22 A: Uh-huh.

23 Q: Who is that?

24 A: That's Vinson Robinson.

25 Q: And Brandon Grayer and you?

1 A: Uh-huh.

2 Q: And that's all you can remember?

3 A: Yeah.

4 Q: And then what happens?

5 A: They just -- we just been sitting. We just been sitting  
6 there, talking about it and stuff. I had leave again though.  
7 I ain't stayed long. I left out back again.

8 Q: When you say he was talking about it and stuff, was he  
9 talking about what? The Marquise Bryant thing?

10 A: Yeah, the Marquise Bryant.

11 Q: Okay. And what is he saying about it?

12 A: He's, like, he know he did it. Like, they started --  
13 the picture -- they had a picture on Facebook and all that  
14 stuff.

15 Q: And what is he going to -- what is he saying he's going  
16 to do?

17 A: They ain't really talking about nothing, like no  
18 retaliation right then yet.

19 Q: Okay. So you leave?

20 A: Uh-huh.

21 Q: Where do you go now?

22 A: Back to, like, Forest Hills.

23 Q: Forest Hills to hang out with your --

24 A: Uh-huh.

25 Q: -- homies? And then what happens next? When is the

## ANTOINE GILL - DIRECT

- 1 next time you see this group of people?
- 2 A: Probably, like, eight or nine or something.
- 3 Q: Okay. And how does that occur?
- 4 A: Because I think Vinny -- Vinny had called me and told me
- 5 to come over there.
- 6 Q: Vinny did?
- 7 A: Uh-huh. I think Vinny or Thugga.
- 8 Q: Up until this point, was the Lincoln Navigator at the
- 9 trailer, if you remember?
- 10 A: No. I ain't never seen no -- seen it there. No.
- 11 Q: Okay. So the previous times when you were there, it
- 12 wasn't there?
- 13 A: No.
- 14 Q: So when you go back, who's there?
- 15 A: Everybody there now.
- 16 Q: Could you name them, please, their real names?
- 17 A: Vinson Robinson, Randall Myers, Brandon Grayer, Maurice
- 18 Washington. Just every -- like --
- 19 Q: Was Nathan Burnett there?
- 20 A: Yeah, Nathan Burnett.
- 21 Q: Was Omar there?
- 22 A: He came in after I came in.
- 23 Q: Who is Omar?
- 24 A: Omar. Omar Rivers.
- 25 Q: Okay. And does he have a vehicle?

## ANTOINE GILL - DIRECT

1 A: No. He don't own no vehicle.

2 Q: He doesn't own a Lincoln Navigator?

3 A: No. He don't own a Lincoln Navigator.

4 Q: Okay. Do you know where that vehicle came from?

5 A: Huh-uh.

6 Q: Okay. And so do you stay there then for the long-haul  
7 when you go back at nine?

8 A: No. Me and Omar get into it as soon as he comes through  
9 the door.

10 Q: Okay.

11 A: He came in through the other door.

12 Q: Okay.

13 A: And we get into it and then we -- then they was like --  
14 they was asking us if we want to fight or something. You  
15 know what I'm saying? And then we had leave. They was like,  
16 man, come on. Come outside. We go on and then I see the  
17 truck then. It was parked in the front.

18 Q: What truck?

19 A: The Lincoln Navigator.

20 Q: Okay. And what time was this?

21 A: This was, like, nine something or something like that.

22 Q: Okay. And so after you and Omar do whatever you do,  
23 what happens next?

24 A: We get in the truck and then we start. We was driving  
25 and then they start talking about whatever and going and

## ANTOINE GILL - DIRECT

1 looking for Quise.

2 Q: Okay. Who is in the Lincoln Navigator?

3 A: Me, G Baby, Drama, and Thugga.

4 Q: Okay.

5 A: Me, Randall Myers. What his name is? Nathan Burnett  
6 and Brandon Grayer.

7 Q: Okay.

8 MS. WILLIAMS: I'm going to show the defense attorney  
9 what has been previously marked as 111.

10 MR. SHELTON: As a demonstrative.

11 BY MS. WILLIAMS:

12 Q: Is there anybody in another vehicle?

13 A: Yes.

14 Q: Okay. And who is in that vehicle?

15 A: Vinson Robinson and -- and Crumb.

16 Q: Okay. What is Crumb's real name?

17 A: Maurice Washington.

18 MS. WILLIAMS: Your Honor, I'm going to show Mr. Gill a  
19 demonstrative aid, State's 111. We're not asking to admit  
20 this.

21 BY MS. WILLIAMS:

22 Q: Do you see that before you?

23 A: Uh-huh.

24 Q: And is that pretty much the seating order of everybody  
25 in the two vehicles?

1 A: Yes.

2 Q: Could you just please point to where you are in the  
3 vehicle on that thing? You can put a little red dot with  
4 your finger on your screen.

5 A: (Indicating.)

6 Q: Okay. And what does that say? Antoine Gill?

7 A: Uh-huh.

8 Q: And what's your nickname?

9 A: Fat Boi.

10 Q: And are you driving?

11 A: Yes.

12 Q: Okay. And who is in the passenger side?

13 A: Randall Myers.

14 Q: Okay. Can you put a little dot by him?

15 A: (Indicating.)

16 Q: And what's his nickname?

17 A: Thugga.

18 Q: Thugga?

19 A: Thugga.

20 Q: Okay. And where is Brandon Grayer?

21 A: Behind me.

22 Q: Okay. Just put a little dot.

23 A: (Indicating.)

24 Q: And where is Nathan Burnett?

25 A: Behind Randall Myers.

## ANTOINE GILL - DIRECT

1 Q: Okay. Go ahead and mark it.

2 A: (Indicating.)

3 Q: And that's in the Lincoln Navigator?

4 A: Uh-huh.

5 Q: What kind of truck is following you? Do you remember

6 what kind of truck Maurice Washington and --

7 A: It was a pickup truck. I don't, like, know --

8 Q: A pickup truck?

9 A: Uh-huh.

10 Q: Who was driving it?

11 A: Vinny.

12 Q: Vinny?

13 A: Uh-huh.

14 Q: Okay. And does anybody have any weapons in these

15 vehicles?

16 A: Yes.

17 Q: Who?

18 A: Everybody had a gun except for me.

19 Q: Everybody except for you?

20 A: Uh-huh.

21 Q: Why is that?

22 A: I just ain't had no gun. Like, I wasn't expecting

23 everything to go like how it went.

24 Q: But you don't have -- you've had guns before?

25 A: Yeah.

## ANTOINE GILL - DIRECT

1 Q: It's not like you're against guns?

2 A: No.

3 Q: You just didn't happen to have a gun that night?

4 A: I ain't had no gun that night.

5 Q: Okay. And do you remember what kind of gun Randall  
6 Myers had?

7 A: Yeah. A .45.

8 Q: Okay. Did he have a favorite gun?

9 A: Huh?

10 Q: Did he have a gun that you recognize as one that he  
11 brings a lot?

12 A: Yeah.

13 Q: And what does it look like? Do you remember?

14 A: Yeah. I remember how it looked.

15 MS. WILLIAMS: I am going to ask that we put up State's  
16 -- Court's indulgence for just a second -- 26.

17 BY MS. WILLIAMS:

18 Q: Tell us what that is.

19 A: That's the .45.

20 Q: And is that -- who had that .45?

21 A: Randall Myers.

22 Q: Okay. What about that gun is distinctive that you  
23 remember?

24 A: It had a handle on the back.

25 Q: Okay.

## ANTOINE GILL - DIRECT

1 MS. WILLIAMS: Can you put up 25, please?

2 BY MS. WILLIAMS:

3 Q: Show us what you're talking about.

4 A: That handle right here on the back.

5 Q: Okay. And --

6 MS. WILLIAMS: You can take that down now.

7 BY MS. WILLIAMS:

8 A: I just remember how it looked.

9 Q: You just remember how it looked? Okay. And do you  
10 remember what kind of gun Brandon Grayer had?

11 A: No.

12 Q: Okay. Do you remember if it was a handgun or --

13 A: Yeah, it was a handgun.

14 Q: Okay. And what about in the other car? Did they have  
15 weapons?

16 A: Yeah.

17 Q: And what kind of weapons?

18 A: They had an assault rifle, and I think Crumb had a  
19 handgun too.

20 Q: Okay. So a handgun and an assault rifle in the -- in  
21 the car that's following you?

22 A: Uh-huh.

23 Q: And then we have a handgun with Randall Myers, a handgun  
24 with Brandon Grayer. What about Nathan Burnett?

25 A: Yeah, he had a gun.

## ANTOINE GILL - DIRECT

1 Q: Okay. And what's the purpose? What are y'all -- where  
2 are y'all going?

3 A: We were looking for Quise.

4 Q: Looking for Quise?

5 A: Uh-huh.

6 Q: And why is that?

7 A: Because he had shoot -- he shot G Baby.

8 Q: Okay. And what are you going to do when you find Quise?

9 A: Shoot him.

10 Q: Okay. And where do you go first looking for him?

11 A: Some apartments on Rivers.

12 Q: On Rivers?

13 A: Uh-huh.

14 Q: Okay. Why is that?

15 A: Because they thought he was right -- he was over there.

16 Q: Okay. Who? Who thought he was over there? Like, how  
17 do you get information about that?

18 A: I guess Vinny because that's who we were following at  
19 first. Like, I was following him with the truck.

20 Q: I'm sorry. Can you please repeat?

21 A: I was following the truck. So I guess Vinny thought he  
22 was over there or something.

23 Q: Oh, okay. Okay. So the pickup truck was leading at  
24 first?

25 A: Yeah.

## ANTOINE GILL - DIRECT

1 Q: To Rivers. Okay. And was Maurice in that vehicle?

2 A: Uh-huh.

3 Q: Maurice was in that vehicle?

4 A: Yes.

5 Q: Crumb?

6 A: Uh-huh.

7 Q: And then do you find him there?

8 A: No.

9 Q: And then where do you look next?

10 A: On Liberty Hill.

11 Q: Liberty Hill?

12 A: Uh-huh.

13 Q: Okay. And is that because of the Facebook picture or  
14 some other reason?

15 A: He -- that's where he be at. It's not --

16 Q: That's where he be at?

17 A: Uh-huh. It's not really the Facebook picture. He be  
18 there. That's where he be hanging out at.

19 Q: So what you're saying is that's where he's known to hang  
20 out?

21 A: Yeah.

22 Q: Does he have friends over there?

23 A: Yeah.

24 Q: About what time is it when you make it to Liberty Hill?

25 A: I can't remember exactly what time, like exactly. It

## ANTOINE GILL - DIRECT

1 was probably like 10 something or something like that.

2 Q: Okay.

3 A: Yeah.

4 Q: And do any of y'all live over there?

5 A: No.

6 Q: Do you have any other business over there except looking  
7 for Marquise Bryant?

8 A: No.

9 Q: Okay. And are you familiar with Hassell Street?

10 A: I done been over there before, but I'm not really --  
11 like, I'm not -- I don't know, like, the area, like the back  
12 --

13 Q: Okay.

14 A: -- of my hand. I done been down that street before.

15 Q: Okay. And do you know who lives over there?

16 A: Yeah. They said a dude named Bunk, Big Bunk or  
17 something.

18 Q: Tell me that again.

19 A: Big Bunk live over there.

20 Q: Okay. Tell me that name. Bunk?

21 A: Uh-huh.

22 Q: Okay. So you know a lot of people by their nicknames?

23 A: Yeah.

24 Q: Okay. Do you know his real name?

25 A: No.

## ANTOINE GILL - DIRECT

1 Q: What about Dante Brown?

2 A: I don't know who that is.

3 Q: You don't know Dante Brown? What about a guy named  
4 Relmo [ph]?

5 A: Yeah, I know who he is.

6 Q: Does he hang out over there?

7 A: Yeah, he hang out over there.

8 Q: Okay. So you guys go down Hassell Street and is there  
9 any discussion about a plan?

10 A: No. Like, we stopped. They was just, like, just drive  
11 down the street. So we just drove down the street. It  
12 wasn't really, like, a plan. They was saying something about  
13 driving down the street or something.

14 Q: You've described doing drugs all day; right?

15 A: Uh-huh.

16 Q: So are you still intoxicated from whatever drugs you've  
17 ingested?

18 A: Yeah.

19 Q: How about everybody else?

20 A: Yeah. Somewhat.

21 Q: Okay. And I'm going to show you State's 130, which is  
22 going to be a map that goes before you. Do you recognize  
23 what that is?

24 A: Uh-huh.

25 Q: Okay. So where do y'all wind up finding Marquise

1 Bryant? If you could show us on the map? Can you orient  
2 yourself?

3 A: I'm trying to see how the map is.

4 Q: If it's not helpful to you, let me know.

5 A: I think he was -- he was down here.

6 Q: Okay. Do you see where the dead-end is?

7 A: It's a dead-end right here.

8 Q: Okay. Did you know that night how far down the dead-end  
9 was, like, how far away you were?

10 A: How far away I was?

11 Q: You were from the dead-end?

12 A: Not exactly, but I know I ain't go all the way down  
13 there --

14 Q: You didn't?

15 A: -- by the dead-end.

16 Q: Okay. So y'all drive down. Who is leading?

17 A: Me.

18 Q: You are? In the Navigator?

19 A: Uh-huh.

20 Q: And who is behind you?

21 A: Vinny and Crumb.

22 Q: Okay. Vinny and Crumb?

23 A: Uh-huh.

24 Q: And so tell us what happens next.

25 A: When we come down the street, Thugga just started --

## ANTOINE GILL - DIRECT

1 like, he -- I guess he had seen his car and he just started  
2 shooting. Like, I was about to turn around, but he just  
3 started shooting. So I tried to back up.

4 Q: Okay. Hold on. So as soon as you go down the street,  
5 do you see any cars?

6 A: Yeah, I see cars, but I couldn't really make because it  
7 was, like, kind of dark too.

8 Q: What cars do you see?

9 A: I see the burgundy Altima.

10 Q: Okay. So is it fair to say that's your target?

11 A: Yeah.

12 Q: And who starts shooting first?

13 A: Thugga.

14 Q: Thugga? And then do other people in your car start  
15 shooting?

16 A: Yes.

17 Q: Who?

18 A: Nathan and -- and G Baby.

19 Q: Okay. So you drive down and you're saying everyone in  
20 your car starts shooting first?

21 A: Uh-huh.

22 Q: And then did you get a little more than you bargained  
23 for down that street?

24 A: Yes.

25 Q: Tell us what happened next.

## ANTOINE GILL - DIRECT

- 1 A: They started shooting back.
- 2 Q: Who started shooting back?
- 3 A: I don't know.
- 4 Q: The people that are in that house that y'all are
- 5 shooting at?
- 6 A: That was outside.
- 7 Q: Okay.
- 8 A: People that been outside.
- 9 Q: So you drive down a residential neighborhood and unload
- 10 on some people at their house and they start shooting back?
- 11 A: Yes.
- 12 Q: Did that surprise you?
- 13 A: No.
- 14 Q: What happens next?
- 15 A: We tried to back out, but I --
- 16 Q: Okay. And why did you have to back out?
- 17 A: Because they're shooting from the house, from straight.
- 18 So I'm going backwards.
- 19 Q: And it's a dead-end; right?
- 20 A: Uh-huh.
- 21 Q: Nowhere to go?
- 22 A: No.
- 23 Q: All right. So what happens when you start backing up?
- 24 A: I hit the car behind me.
- 25 Q: And who was that?

## ANTOINE GILL - DIRECT

1 A: Vinny.

2 Q: And then what happens?

3 A: Then I came back forward so they could get around, and I  
4 started backing back up and they were just still shooting.

5 Everybody was like -- not nobody in the car was still

6 shooting. Everybody was shooting at us now.

7 Q: And then what happens?

8 A: I back all the way out and I get to the -- to the light  
9 pole. To me, I tried to back out and go straight and then  
10 the car just die.

11 Q: Okay. So you're backing up Hassell?

12 A: Uh-huh.

13 Q: And you somehow get turned around?

14 A: Uh-huh. Yes.

15 Q: And then you hit a light pole?

16 A: Yes.

17 Q: And then what happens in the street?

18 A: I get out the car.

19 Q: Did you notice if anything happened to the neighborhood  
20 after you hit the light pole?

21 A: The gate. We went across the gate. I hit the light  
22 pole and I ain't really turned around. Like, I was -- I was  
23 out the car.

24 Q: Okay. So you leave the car. Where do you go?

25 A: On the next street.

## ANTOINE GILL - DIRECT

- 1 Q: And where do the other three go? You don't know?
- 2 A: I don't know.
- 3 Q: Okay.
- 4 A: They went another way and I went my one way.
- 5 Q: Now, during the time that the people in your car are
- 6 shooting, does anyone in your car get hurt?
- 7 A: Yes.
- 8 Q: Who?
- 9 A: Thugga.
- 10 Q: So does --
- 11 A: Randall Myers.
- 12 Q: Randall Myers?
- 13 A: Uh-huh.
- 14 Q: And who shoots him?
- 15 A: Nathan.
- 16 Q: So Nathan Burnett in the backseat --
- 17 A: Uh-huh.
- 18 Q: -- accidentally shoots Randall Myers?
- 19 A: Uh-huh.
- 20 Q: Okay. And where is he shot?
- 21 A: In the back of the head.
- 22 Q: Okay. And so how injured is he? Is it -- how bad is
- 23 that wound?
- 24 A: It just grazed across his -- his head, like, shoo [ph].
- 25 Q: Okay. And is there blood in the car?

## ANTOINE GILL - DIRECT

1 A: I guess. Like, I was out. Like, I didn't see no blood,  
2 but you know what I'm saying? I guess if he got shot,  
3 there's going to be blood in the car.

4 Q: Okay. But at the time you didn't notice? There was a  
5 lot going on?

6 A: Yeah.

7 Q: That's okay. Fair enough.

8 All right. After that happens, when is the next time  
9 that you all see each other again?

10 A: When they called me.

11 Q: Pardon?

12 A: Thugga -- Thugga had called me.

13 Q: Okay.

14 A: To come pick him up from the trailer.

15 Q: And do you?

16 A: Yes.

17 Q: And what are you driving at this point?

18 A: My car.

19 Q: Your car?

20 A: Uh-huh.

21 Q: What kind of car is that?

22 A: A Grand Marquis.

23 Q: So does that mean you go home at some point after you  
24 leave this shooting scene?

25 A: I think I went to -- I went back to Forest Hills.

1 Q: Forest Hills?

2 A: Uh-huh.

3 Q: Okay. And you get your car?

4 A: No. My car been at the trailer.

5 Q: Oh, I see. Okay. And so how do you get back to the

6 trailer from Forest Hills?

7 A: I had somebody come pick me up.

8 Q: Okay. Who was it?

9 A: My girl.

10 Q: Okay. Do you remember which girl?

11 A: No.

12 Q: Okay. And when you get back to the trailer, tell us

13 what happens next.

14 A: I go on in there. Are you talking about when I get back

15 when I get dropped off?

16 Q: When you get back to Nathan Burnett's trailer at some

17 point. Do you see any of these people again that night?

18 Maybe that's a better question.

19 A: Yeah. I seen them. I seen them again that night, but

20 I'm talking about when I first got there, they wasn't there.

21 Q: Oh, okay.

22 A: That's why I left.

23 Q: Well, tell us about that.

24 A: I left.

25 Q: You left?

## ANTOINE GILL - DIRECT

- 1 A: Yeah. In my car.
- 2 Q: In your Grand Marquis?
- 3 A: Uh-huh.
- 4 Q: Okay.
- 5 A: And then he called me. Thugga had called me to come and  
6 pick him up to take him to his girl's house.
- 7 Q: Okay.
- 8 A: And then I go back to the trailer.
- 9 Q: Okay. And describe to us what Thugga looks like at this  
10 point.
- 11 A: He got a towel wrapped around his neck.
- 12 Q: Okay. Is there --
- 13 A: And there's a bunch of blood on the towel.
- 14 Q: Blood on the towel?
- 15 A: Uh-huh.
- 16 Q: Is he wearing the same clothes he was wearing before?
- 17 A: No.
- 18 Q: Okay. Do you have any idea why?
- 19 A: Huh-uh.
- 20 Q: Okay. And where do you take him?
- 21 A: On Dorchester Road.
- 22 Q: At that point in time, do you all even know if you've  
23 killed Marquise Bryant?
- 24 A: No.
- 25 Q: Do you know that you've shot an innocent person that's

1 dying by a tree by his house?

2 A: No.

3 Q: No idea? So you just went down the street, unloaded  
4 your weapons, and you have no idea what the consequences are?

5 MR. SHELTON: Objection. Leading.

6 THE COURT: That's sustained.

7 BY MS. WILLIAMS:

8 Q: You don't know what happened to the people on that  
9 street?

10 A: No.

11 Q: I mean at this -- at the time that we're talking about,  
12 that same night, you didn't know?

13 A: No.

14 Q: Now, I want to ask you a few different questions. Do  
15 you know how jail calls work from your own personal  
16 experience?

17 A: Yes.

18 Q: And what's a PIN number?

19 A: Huh?

20 Q: What is a PIN number?

21 A: That's what you use to call out.

22 Q: Okay.

23 A: That's your PIN number that you use to call out.

24 Q: And do people always use their own PIN numbers?

25 A: Not all the time.

## ANTOINE GILL - DIRECT

1 Q: Why?

2 A: Because they be trying to use somebody else PIN number  
3 to talk on the phone.

4 Q: Why are they using someone else's PIN number?

5 A: So you think it's them instead of -- instead of you.

6 Q: Who thinks it's them instead of you?

7 A: Whoever listens to the call. They think it's, like,  
8 whoever's PIN that is. But it be, like, you use somebody  
9 else's PIN, like, because you probably don't want to talk.  
10 Like, you want to talk about something else, but you want to  
11 use another person's PIN. You ain't going to use your own  
12 PIN to talk about stuff.

13 Q: Who -- who are you trying to hide the call from?

14 MR. KAISER: Objection, Your Honor.

15 A: Whoever is listening.

16 MR. KAISER: Speculation.

17 THE COURT: That -- that's sustained.

18 MS. WILLIAMS: Okay. Let's backtrack.

19 BY MS. WILLIAMS:

20 Q: So tell us again why somebody -- why you use someone  
21 else's PIN?

22 MR. KAISER: Objection. Speculation.

23 THE COURT: That's sustained.

24 BY MS. WILLIAMS:

25 Q: Why do you use someone else's PIN?

1 A: Me?

2 Q: Yeah. Like, what's your own personal experience with  
3 why you or other people you know from your personal  
4 experience would use someone else's PIN?

5 A: Well, I don't use nobody's PIN. But I done seen people  
6 use a PIN, like, if somebody who have, like --

7 MR. SHELTON: Objection.

8 THE COURT: That's sustained and I think he's already  
9 answered that.

10 MS. WILLIAMS: All right. That's fine.

11 BY MS. WILLIAMS:

12 Q: I'm going to show you what's been previously marked as  
13 State's 133. What is this?

14 A: A call.

15 Q: And whose initials are on that call?

16 A: Mine.

17 Q: And did you listen to this call?

18 A: Yes.

19 Q: From beginning to end?

20 A: Yes.

21 Q: And whose voices are on this call?

22 A: Randall Myers and Nathan Burnett. I mean Brandon  
23 Grayer.

24 Q: Are you nervous?

25 A: A little bit.

## ANTOINE GILL - DIRECT

1 Q: Okay.

2 THE COURT: Mr. Gill, let me ask you to -- you're  
3 covering your mouth when you respond. Don't put your hand on  
4 your mouth because we can't hear you when you do that. Okay?

5 THE WITNESS: All right.

6 MS. WILLIAMS: And just talk into the microphone.

7 THE WITNESS: All right.

8 BY MS. WILLIAMS:

9 Q: All right. So let's go back. Who is on this call?

10 A: Brandon Grayer and Randall Myers.

11 Q: Okay. And have you been around them enough to recognize  
12 their voices?

13 A: Yes.

14 Q: Okay. And I think you testified that you've known  
15 Brandon Grayer for 20 years?

16 A: Like, 15 years.

17 Q: Fifteen years? Okay. And how long had you known  
18 Randall Myers?

19 A: Since 2010.

20 Q: So you'd recognize their voices?

21 A: Uh-huh.

22 Q: Okay. And what are they discussing just generally?

23 A: They're talking about something about --

24 MR. SHELTON: Objection, Your Honor.

25 THE COURT: What's the basis of that?

## ANTOINE GILL - DIRECT

1 MR. SHELTON: Hearsay, Your Honor.

2 MS. WILLIAMS: I'm just trying to establish relevance.

3 BY MS. WILLIAMS:

4 Q: Are they talking about this case?

5 A: Yes.

6 THE COURT: All right.

7 A: They could be, yeah.

8 Q: Okay.

9 MS. WILLIAMS: At this time, Your Honor, we would offer  
10 State's 133 into evidence.

11 MR. SHELTON: No objection, Your Honor.

12 (WHEREUPON, State's Exhibit No. 133, jail call on disk,  
13 was admitted into evidence.)

14 BY MS. WILLIAMS:

15 Q: And at the beginning of the call, is it Brandon Grayer  
16 and Randall Myers at the very beginning?

17 A: No.

18 Q: Okay. What's a three-way call?

19 A: Like, if you call somebody in a three-way, like a third-  
20 party call.

21 Q: So does that happen a lot in jail too? Like, you get  
22 somebody in?

23 A: Yes.

24 Q: Okay. I don't know how to describe that.

25 MS. WILLIAMS: Your Honor, may I approach for just a

## ANTOINE GILL - DIRECT

1 second?

2 THE COURT: Uh-huh.

3 (WHEREUPON, a bench conference was held in the presence  
4 of the jury but out of the hearing of the jury off the  
5 record, after which the proceedings resumed as follows.)

6 THE COURT: Okay. Ladies and gentlemen, we are going to  
7 take a short break. The clerk's office apparently has some  
8 headphones that will allow you to hear this recording better.  
9 So while we're doing that, I'm going to have you all take  
10 about a 10-minute break. Please don't begin discussing the  
11 case.

12 (WHEREUPON, the jury exited the courtroom at 3:29 p.m.)

13 (WHEREUPON, there was a break in the proceedings from  
14 3:29 p.m. until 3:49 p.m., after which the proceedings  
15 resumed as follows.)

16 THE COURT: Okay. So we're ready for the jury now?

17 THE CLERK: Yes, ma'am.

18 MS. WILLIAMS: Your Honor, for scheduling?

19 (WHEREUPON, a bench conference was held off the record,  
20 after which the proceedings resumed as follows.)

21 (WHEREUPON, the jury entered the courtroom at 3:51 p.m.)

22 THE BAILIFF: All jurors are present.

23 MS. WILLIAMS: Your Honor, at this time, we would ask to  
24 publish State's 134 -- 133, and if we could instruct the jury  
25 about the headphones.

## ANTOINE GILL - DIRECT

1 THE COURT: If you'll go -- if you will, the headphones  
2 will help you. The theory is that they're going to help you  
3 be able to hear the -- the audiotape better.

4 (WHEREUPON, State's Exhibit No. 133, jail call, was  
5 played. Not transcribed herein.)

6 BY MS. WILLIAMS:

7 Q: And those two voices we hear last are who?

8 A: Brandon Grayer and Randall Myers.

9 Q: Okay. And just to go back to a couple of brief points,  
10 Mr. Gill, when you said that you went back to the trailer to  
11 pick up Randall Myers, whose trailer are you talking about?

12 A: Nathan's trailer, Nathan Burnett.

13 Q: Okay. Did you ever go to the trailer that they went to  
14 after Hassell Street before they went back to Nathan  
15 Burnett's?

16 A: Huh?

17 Q: Did you ever go with them after Hassell Street? Did you  
18 all go to the same place?

19 A: No.

20 Q: And wherever they went, did you ever pick him up from  
21 that place?

22 A: No.

23 Q: Okay. You picked him up from the place where you  
24 started?

25 A: Yes.

## ANTOINE GILL - DIRECT

1 Q: Okay. And with regard to the Navigator, had you ever  
2 ridden in that Navigator before?

3 A: Before that night?

4 Q: Uh-huh.

5 A: I never seen that Navigator before that night.

6 Q: Okay. Had you ever seen G Baby in that Navigator  
7 before?

8 A: Huh-uh.

9 Q: Okay. And you don't know who it belonged to?

10 A: No.

11 Q: Okay.

12 MS. WILLIAMS: Court's indulgence.

13 THE COURT: Yes, ma'am.

14 MS. WILLIAMS: Thank you, Mr. Gill. Please answer any  
15 questions from defense counsel.

16 THE WITNESS: Uh-huh.

17 CROSS-EXAMINATION

18 BY MR. SHELTON:

19 Q: All right. Antoine, let's go through some things here.  
20 So you admit you lied; correct?

21 A: Yes.

22 Q: You actually lied about your record; correct?

23 A: Lied about my record?

24 Q: Yeah. Just -- just earlier with the -- with the State.  
25 You lied about your record; correct?

1 A: No.

2 Q: You had two burglaries; correct?

3 A: No.

4 Q: One in 2008; correct?

5 A: One in 2008.

6 Q: And then you had one in 2013; correct?

7 A: Huh?

8 Q: In 2013, you had another burglary; correct?

9 A: No, I didn't. No, I ain't never had no second one. It  
10 was just one.

11 Q: And you had a -- you had a drug charge; correct?

12 A: Huh?

13 Q: A drug charge; correct?

14 A: Yes.

15 Q: And a possession of stolen motor vehicle charge;  
16 correct?

17 A: Yes.

18 Q: And you just -- you admitted to the -- to the jury here  
19 that you do cocaine; correct?

20 A: Yes.

21 Q: And on September 23rd, you did a lot of cocaine;  
22 correct? September 23rd, 2016?

23 A: Not a lot, but I used.

24 Q: So that's not a lot of cocaine for you?

25 A: No.

## ANTOINE GILL - CROSS

1 Q: You usually do a lot more cocaine?

2 A: Yeah.

3 Q: You did cocaine about 1 o'clock that day?

4 A: One or 2 o'clock or something like -- something like  
5 that. It was, like, in the afternoon time. I know that.

6 Q: And then you left and you came back and got some more  
7 cocaine?

8 A: Yeah.

9 Q: And you left and you got some more cocaine?

10 A: Yeah.

11 Q: You did cocaine about three times that day?

12 A: Something like that.

13 Q: Maybe more?

14 A: Maybe more.

15 Q: That's not a lot for you?

16 A: It wasn't.

17 Q: Okay. You weren't arrested for the first year; correct?

18 A: Correct.

19 Q: You weren't arrested until 2017; correct?

20 A: 2018.

21 Q: Until in '18 you were arrested?

22 A: Yeah.

23 Q: And you've talked with the Solicitor's Office; correct?

24 A: Uh-huh.

25 Q: And you've talked with the Solicitor's Office with your

1 lawyer there; correct?

2 A: Yes.

3 Q: And at that time you were in jail?

4 A: Yes.

5 Q: And you wanted a bond; correct?

6 A: Yes.

7 Q: You actually thought you were going to a bond hearing;  
8 correct?

9 A: Yes.

10 Q: And they brought you there?

11 A: Yes.

12 Q: And the solicitor mentions at the beginning of that --  
13 of that -- statements with you, but you've signed a proffer  
14 agreement; correct?

15 A: Yes.

16 Q: Do you remember signing that proffer agreement?

17 A: I remember signing it.

18 Q: Do you remember what's in that agreement?

19 A: I ain't read it or nothing.

20 Q: You didn't read it? So you signed the agreement, but  
21 you didn't read it? You didn't know what you were agreeing  
22 to?

23 A: He just tell me that -- my lawyer just tell me it'll  
24 help me in the long run, like, to sign it and tell them what  
25 they want to know and he do the rest.

## ANTOINE GILL - CROSS

1 Q: Did you know that you were signing to agree to take a  
2 polygraph examination?

3 A: No.

4 Q: Have you taken a polygraph examination?

5 A: No.

6 Q: But you agreed to tell the truth?

7 A: Yes.

8 Q: Right after you signed that agreement, you agreed to  
9 tell the truth; correct?

10 A: Yes.

11 Q: But you didn't, did you?

12 A: No.

13 Q: And the solicitor even explained it to you if you didn't  
14 tell the truth, they could use whatever you say against you;  
15 correct?

16 A: Yes.

17 Q: So you -- the first thing you said to them was you were  
18 not there?

19 A: Yeah.

20 Q: The only reason that you were brought up in this is  
21 because of Maurice; correct?

22 A: Yes.

23 Q: Because Maurice threw your name out there?

24 A: Yes.

25 Q: And you told them you weren't there. You don't know

1 what Maurice was doing; correct?

2 A: Right.

3 Q: But you knew they wanted Brandon's name; correct?

4 A: Would you say that again?

5 Q: You knew that the State wanted to hear you say that  
6 Brandon was there; correct?

7 A: They didn't say that.

8 Q: When you were talking with your attorney, you knew that  
9 that's what they wanted; correct?

10 A: No.

11 Q: That they wanted Brandon's name?

12 A: No, they didn't say that.

13 Q: Well, you remember -- do you remember the solicitor  
14 telling you right at the very beginning of that meeting that  
15 they wanted to go to trial against Brandon and Randall Myers?  
16 Do you remember that?

17 A: I can't recall. Like, he probably did.

18 Q: Okay.

19 A: I didn't -- I can't recall about that.

20 Q: Do you remember him then saying that he wanted you and  
21 Maurice to sit on this side of the courtroom with him? Do  
22 you remember him saying that?

23 A: Yeah.

24 Q: Yeah. That's what he wanted; right? He wanted you to  
25 help him out. He wanted Brandon and Randall to sit on that

## ANTOINE GILL - CROSS

1 side of the courtroom; correct?

2 A: Correct.

3 Q: Any he wanted you on this side. That's what he wanted?

4 A: Right.

5 Q: And he said that at the very beginning of that -- of

6 that proffer; correct?

7 A: Right.

8 Q: Of your conversations, the first thing he said to you;

9 correct?

10 A: I'm saying he probably did. Like, I can't remember

11 everything he was saying to me. Like, not everything.

12 Q: Do you remember that solicitor's name? Culver Kidd

13 sound familiar?

14 A: Yeah.

15 Q: Okay. And your attorney is there. He's going right

16 along with it; correct?

17 A: Yeah.

18 Q: By that time, have you -- have you had a chance to look

19 at your discovery?

20 A: No.

21 Q: So you didn't know what evidence they had against you?

22 A: No.

23 Q: You didn't know that they didn't have any fingerprints

24 on you?

25 A: I knew that.

## ANTOINE GILL - CROSS

1 Q: You knew that at the time giving this agreement?

2 A: Yes.

3 Q: You knew that they didn't have any DNA against you?

4 A: Yes.

5 Q: But Maurice -- he talked to you about why he gave your  
6 name; correct?

7 A: I just told them that. No, he didn't.

8 Q: Maurice didn't tell you?

9 A: No.

10 Q: No? So --

11 A: Like, I never -- I never -- when I see him in there, I  
12 never talked to him about none of it. I never -- because I  
13 just thought they put him in here so I could talk to him,  
14 like he -- like, I didn't know what he had going on. I just  
15 didn't talk to him about none of this stuff. I just told  
16 you.

17 Q: They put you in the same room?

18 A: Yeah. They put us in the same dorm.

19 Q: So when you got booked into the jail, you just happened  
20 to be booked in the --

21 A: No. Not --

22 Q: -- same room as Maurice Washington?

23 A: No. He came to the dorm I been in. I've been in the  
24 dorm because I got stabbed up before I go in the jail.

25 Q: Okay. So you --

## ANTOINE GILL - CROSS

1 A: And then that's how I go to jail. And then they put him  
2 in the medical dorm where I been at.

3 Q: Right. You were stabbed up. That's when you got  
4 arrested in the hospital; correct?

5 A: Yeah.

6 Q: And that was your girl -- correct? -- that stabbed you?

7 MS. WILLIAMS: Objection. Relevance.

8 THE COURT: That's sustained.

9 BY MR. SHELTON:

10 Q: So you were in a dorm at the jail and all of a sudden  
11 Maurice just comes -- just happens to be going in the same  
12 dorm as you; correct?

13 A: I been there for months already. He just come one day  
14 because that's a dorm that you -- the medical dorm is a dorm  
15 that they send people from the old jail and they come over  
16 there and they got to come through the 90-day program to go  
17 to get permanent on the new side of the jail. It's like a  
18 program, but it's a medical dorm too.

19 Q: And that was before you gave your proffer agreement with  
20 the State?

21 A: Yeah.

22 Q: So they -- they tell you and you sign this agreement and  
23 you sign I'm going to be honest, I'm going to tell you the  
24 truth; correct?

25 A: Uh-huh.

## ANTOINE GILL - CROSS

1 Q: Because if you don't, then they can use anything you say  
2 against you?

3 A: Yes.

4 Q: Correct?

5 A: Yes.

6 Q: And you still tell them a lie; correct?

7 A: Yes.

8 Q: In fact, you tell them you had nothing to do with it,  
9 you don't know anything, you weren't even there; correct?

10 A: Right.

11 Q: And Maurice is just throwing your name out; correct?

12 A: Correct.

13 Q: But they weren't buying that?

14 A: No.

15 Q: They wanted more from you; so you give them everybody's  
16 name that's in this -- in this case. That's the first --  
17 that's the next thing you tell them, that you saw Omar,  
18 Vinny, Drama, and a couple of junkies were at that trailer;  
19 correct? And then you just happened to remember, oh, G Baby  
20 was there too; correct? Do you remember that?

21 THE COURT: Mr. Gill, I need you to answer out loud --

22 THE WITNESS: Yes.

23 THE COURT: -- for us, please.

24 BY MR. SHELTON:

25 A: Yes.

## ANTOINE GILL - CROSS

1 Q: And you're saying that that statement that you gave to  
2 the Solicitor's Office was after G Baby was shot?

3 A: Yes.

4 Q: That's the first time you saw him?

5 A: You say that was the first time I saw them after G Baby  
6 got shot?

7 Q: Yes.

8 A: No. I've been there before G Baby got shot.

9 Q: Well, that's not the next thing you told the Solicitor's  
10 Office though in your proffer agreement. The next thing you  
11 told the Solicitor's Office was that the first time you saw  
12 them was after G Baby got shot; isn't that correct?

13 A: I probably did. I'm not sure.

14 Q: Because it was a lie; correct?

15 A: No.

16 Q: You didn't lie?

17 A: At the beginning, yeah.

18 Q: Okay. Because you said that the first time you saw them  
19 was at the trailer after G Baby got shot. So that was a lie.

20 A: I'm saying, like, I knew he been shot. I've been over  
21 there. I've been to the trailer.

22 Q: I'm talking about what you told the State, what you told  
23 the Solicitor's Office in your proffer agreement. When you  
24 told them that, that was a lie; correct?

25 A: If that's what you want to call it.

## ANTOINE GILL - CROSS

1 Q: Well, it's not the truth. Is that the truth?

2 A: What?

3 Q: That the first time you saw them was after G Baby was

4 shot. Was that the truth?

5 A: No.

6 Q: Okay. So that's a lie; correct?

7 A: Correct.

8 Q: It's either the truth or a lie, one of the two?

9 A: Right.

10 Q: It's not multiple-choice answers right here; right?

11 A: No.

12 Q: So that was a lie. And then you tell the State you

13 actually went to go see Quise, Marquise?

14 A: Uh-huh.

15 Q: That's because you were neighbors with Marquise;

16 correct?

17 A: Yeah.

18 Q: You knew Marquise?

19 A: Uh-huh.

20 Q: So you told the State, oh, I went and saw Marquise.

21 After G Baby got shot, you went and saw Marquise; is that

22 true?

23 A: No.

24 Q: Okay. But you told the State that?

25 A: Yeah, I did tell them that at first.

## ANTOINE GILL - CROSS

1 Q: Okay. And then you told the State that you told G Baby  
2 and them or they, whoever you said, you told them that you --  
3 that Marquise wasn't the one that did it. Isn't that what  
4 you told the State?

5 A: Yes.

6 Q: And that's a lie?

7 A: Uh-huh.

8 Q: Because you never went to go see Marquise?

9 A: No, I ain't never go see him.

10 Q: And then when you talked to the State, the very first  
11 thing you told the State was they didn't know who shot G  
12 Baby. Do you remember that? Do you remember telling the  
13 State that?

14 A: I probably did. Like, I can't remember.

15 Q: You can't remember all your lies?

16 A: I ain't been lying after that.

17 Q: This whole proffer statement was about an hour and a  
18 half; correct?

19 A: Something like that.

20 Q: Okay. Do you buy drugs from Marquise?

21 A: I have.

22 Q: Do you use drugs with Marquise?

23 A: No.

24 Q: G Baby was shot. Brandon -- he was shot; correct?

25 A: Uh-huh.

## ANTOINE GILL - CROSS

- 1 Q: Brandon was shot in the chest?
- 2 A: Yeah.
- 3 Q: I think your testimony earlier was he was in a sling?
- 4 A: He did have his arm in a sling.
- 5 Q: Okay. And he was shot?
- 6 A: Yeah.
- 7 Q: He was hit in the head too; correct?
- 8 A: Yeah.
- 9 Q: He had some bandages on his head?
- 10 A: He had something on his head.
- 11 Q: Okay. Do you remember what arm that was he was shot?
- 12 What arm was in a sling? Was it his left arm?
- 13 A: It was one of them. I know he had an arm in a sling.
- 14 Q: The left arm in a sling?
- 15 A: It could have been. It was one of them.
- 16 Q: The Fatboy gun just happens to have the same nickname
- 17 you do; correct? AT Fatboy?
- 18 A: What that mean?
- 19 Q: Do you see that?
- 20 A: What?
- 21 Q: Do you see that gun?
- 22 A: Yeah.
- 23 Q: You know about the discovery.
- 24 A: What discovery?
- 25 Q: You know what's in this case.

## ANTOINE GILL - CROSS

1 A: I still didn't see no discovery.

2 Q: You have an attorney and you haven't seen any discovery?

3 A: No.

4 Q: You don't know what the State has against you?

5 A: I been trying to get it. He won't give it to me yet.

6 Q: You're charged with murder; correct?

7 A: Right.

8 Q: You're facing life without parole; correct?

9 A: Right.

10 Q: Minimum 30 --

11 MS. WILLIAMS: Objection.

12 Q: -- years?

13 THE COURT: That's sustained.

14 BY MR. SHELTON:

15 Q: You haven't seen discovery in your case?

16 A: No.

17 MS. WILLIAMS: Objection. Asked and answered.

18 THE COURT: Sustained.

19 BY MR. SHELTON:

20 Q: You just -- you just told the solicitor in direct that  
21 you've never -- you've never ridden in that Navigator before.

22 A: You said I told her I'd never ridden in the Navigator?

23 Q: Right.

24 A: Are you talking about when I was driving?

25 Q: Yeah. Was that the first -- was that the first time

## ANTOINE GILL - CROSS

1 you'd ridden in that Navigator?

2 A: Yeah. That's the first time I seen it.

3 Q: But you know Crumb to have ridden in that Navigator  
4 before?

5 A: They say he had it earlier that day or something.

6 Q: Okay. So you know Crumb to have ridden in that  
7 Navigator?

8 A: I never seen it until that night. I never seen the  
9 Navigator.

10 Q: And Crumb is Nathan Burnett?

11 A: No.

12 Q: No?

13 A: Maurice Washington.

14 Q: Maurice? I'm sorry. So yeah, Crumb is Maurice  
15 Washington; right?

16 A: Uh-huh.

17 Q: And Thugga is Randall Myers. And you've seen Randall  
18 Myers with that -- that gun that's labeled Fatboy; correct?

19 A: Yes.

20 Q: That's Randall Myers' gun?

21 A: Yes.

22 Q: Vinny had a gun that night?

23 A: Yeah. I ain't -- I ain't had see it. They just said it  
24 was in the truck.

25 Q: Maurice had a gun that night?

## ANTOINE GILL - CROSS

1 A: Yeah.

2 Q: Randall had a gun that night?

3 A: Yeah.

4 Q: Nathan had a gun that night?

5 A: Yeah.

6 Q: And Brandon had a gun that night?

7 A: Yeah.

8 Q: You didn't have a gun?

9 A: No.

10 Q: Everybody out there, you didn't have a gun?

11 A: No.

12 Q: You know Marquise to have a gun?

13 A: Yeah.

14 Q: Your testimony is you don't know why they're out there.  
15 You didn't know what you guys were about to do?

16 A: Not at first.

17 Q: That's why you didn't bring a gun?

18 A: Yeah.

19 Q: Because you didn't know what they were going to do?

20 MS. WILLIAMS: Objection. It's a misstatement. It's  
21 the record.

22 THE COURT: I'm going to allow it.

23 BY MR. SHELTON:

24 Q: Correct?

25 A: Not at first.

## ANTOINE GILL - CROSS

1 Q: Isn't that what you said?

2 A: Yeah.

3 Q: You saw Maurice at that trailer earlier in the night or  
4 earlier in the day?

5 A: No. He ain't been there at first. Like, I think it was  
6 just the first time, but not the second time.

7 Q: Okay. And the first time was 1 or 2 o'clock?

8 A: Something like that.

9 Q: And that's when you saw everybody there?

10 A: I'm saying people been there. Like, I don't remember,  
11 like, everybody. Like, this is four years ago. I can't --  
12 you know what I'm saying? I'm just going about my day.

13 Q: Right. You've thought about that day though?

14 A: Yeah, I did thought about it.

15 Q: You don't remember --

16 A: Huh?

17 Q: -- who was there from 1 to 2 o'clock?

18 A: I'm saying, like, normal people that -- that always be  
19 there. It wasn't, like, nobody, like, out the way there.  
20 You know what I'm saying?

21 Q: So you're saying Brandon was there at 1 or 2 o'clock?

22 A: No. He ain't been there.

23 Q: Brandon wasn't there?

24 A: No.

25 Q: Okay. You started talking with the State in your

## ANTOINE GILL - CROSS

1 proffer agreement about Thugga needing a ride home.

2 A: Uh-huh.

3 Q: And then that's when they said that you are in trouble  
4 for murder.

5 A: Repeat that?

6 Q: They told you you were in trouble for murder.

7 A: Who?

8 Q: The State. The solicitor in your proffer agreement.  
9 They started talking about how you're in trouble for murder.

10 A: Uh-huh.

11 Q: And they need you to tell the truth. That's the only  
12 way that you're going to get protection. Tell us what we  
13 need to hear. That's what they needed; right?

14 A: Yeah.

15 Q: What they needed to hear because they weren't buying the  
16 fact that you went -- were at your mama's house?

17 A: No.

18 Q: You said there are cameras around. Go to my mama's  
19 house. Get those cameras. Isn't that what you told them?

20 A: Uh-huh. Yeah.

21 Q: But that wasn't true?

22 A: There's just cameras around there, but I just wasn't  
23 there.

24 Q: Okay. You're telling the State during your proffer  
25 agreement that you weren't there, you were at your mama's

## ANTOINE GILL - CROSS

1 house, and they started asking you about your car, your Grand  
2 Marquis?

3 A: Uh-huh.

4 Q: Correct?

5 A: Yeah.

6 Q: And then that's when they said they're going to start  
7 pulling these records and getting some records about your  
8 Grand Marquis?

9 A: Uh-huh. Yeah.

10 Q: Before the end of that proffer agreement, you wanted to  
11 know about getting out of jail?

12 A: Uh-huh.

13 Q: Correct?

14 A: Are you talking about the bond?

15 Q: Yeah.

16 A: Yeah, because that's what I was supposed to be going to,  
17 a bond hearing.

18 Q: You're hoping you don't have to go back to jail. That's  
19 what you're hoping?

20 A: Yeah.

21 Q: You don't remember your girlfriend in 2016 in September?

22 A: You said do I remember her?

23 MS. WILLIAMS: Objection. Relevance.

24 BY MR. SHELTON:

25 Q: The one that came and picked you up?

## ANTOINE GILL - CROSS

1 MR. SHELTON: I'm sorry.

2 THE COURT: I'm going to allow it.

3 BY MR. SHELTON:

4 Q: The one that came and picked you up?

5 A: What about her?

6 Q: You don't remember that girl, what her name is?

7 A: What her name is?

8 Q: Yeah.

9 A: I know.

10 Q: But in direct with the State, you said you don't  
11 remember, but now you know?

12 A: You're trying to ask me do I know her name?

13 Q: Yes.

14 A: I can't remember exactly who picked me up. I just been  
15 calling people to come pick me up.

16 Q: You just told your -- the State that it was your  
17 girlfriend that picked you up?

18 A: No, a girl. Not my girl.

19 Q: You just told us on direct with the State with Ms.  
20 Williams questioning you that you went to the apartments on  
21 Rivers first?

22 A: Uh-huh.

23 Q: You never told that to the State in their proffer  
24 agreement, did you?

25 A: I think I did.

1 Q: You think you did?

2 A: I know we went past. We went through some apartments  
3 and then we left back out.

4 Q: Okay.

5 A: It wasn't, like --

6 Q: So during that time, you were following Vinny?

7 A: Yeah.

8 Q: But then at some point in time, you took the lead?

9 A: Yeah, after we pulled over on Montague or somewhere, on  
10 Montague, like, right by the -- by Hassell Street.

11 Q: So at that point in time, you knew where to go?

12 A: Everybody know he's down there. Everybody know. They  
13 done been down there. Like, they know the street.

14 Q: You know where to go?

15 A: You said I know where to go?

16 Q: Yeah.

17 A: Yeah, I know where to go.

18 Q: Okay.

19 Q: You had to hit that telephone pole pretty hard.

20 A: Yeah, it hit pretty hard.

21 Q: No?

22 A: The car done shut off. I mean it ain't shut off, but it  
23 was dead. So --

24 Q: So did you --

25 A: -- it was rolling.

## ANTOINE GILL - CROSS

1 Q: So it didn't hit the telephone pole?

2 A: It was just rolling. When it was rolling, I was already  
3 out the car.

4 Q: So you arrived at Hassell Street and your testimony was  
5 Thugga just started shooting?

6 A: Uh-huh.

7 Q: And they shoot back a lot?

8 A: Yeah.

9 Q: That other side just unloads?

10 A: Yeah.

11 Q: Were you ducking down?

12 A: Yeah.

13 Q: Do you remember telling the State in your proffer  
14 agreement that, other than Thugga, you didn't know who else  
15 was shooting? Do you remember saying that?

16 A: No.

17 Q: But you lied to the State; correct?

18 A: No. If -- if Thugga got shot in the back of the head by  
19 the person behind me, why would I say Thugga was the only one  
20 shooting?

21 Q: So Nathan Burnett had to shoot; correct?

22 A: Yeah. But you just said I said only one person was  
23 shooting.

24 Q: But overall, you lied to the State?

25 A: Yeah.

1 Q: Huh?

2 A: I did.

3 Q: You lied to the State multiple times?

4 A: Yeah.

5 Q: And you want us to believe you today?

6 A: I don't know.

7 MR. SHELTON: I beg the Court's indulgence.

8 BY MR. SHELTON:

9 Q: Were you also drinking that day?

10 A: Uh-huh.

11 Q: Yes?

12 A: Yeah.

13 Q: Drinking Crown? Is that what you said?

14 A: Yeah.

15 Q: Okay. How much were you drinking that day?

16 A: I had, like, a bottle.

17 Q: You had a bottle of Crown?

18 A: Uh-huh.

19 Q: Three things of coke at least?

20 A: Uh-huh.

21 MR. SHELTON: No further questions.

22 MS. WILLIAMS: Just briefly, Your Honor.

23 REDIRECT EXAMINATION

24 BY MS. WILLIAMS:

25 Q: Mr. Gill, you are facing murder and you still have

## ANTOINE GILL - REDIRECT

1 murder charges pending, don't you?

2 A: Yes.

3 Q: And after that proffer that Mr. Shelton asked you about,  
4 you didn't get out of jail right away?

5 A: No.

6 Q: You stayed in jail for some time?

7 A: Yeah.

8 Q: And then your attorney asked for a bond hearing?

9 A: Yes.

10 Q: And you went before a judge?

11 A: Yes.

12 Q: And you testified that you had not seen Crumb when you  
13 first got back to the trailer. He was there in the  
14 beginning, but not the middle time; is that correct?

15 A: Yes.

16 Q: Okay. And you test -- you told the prosecutor before me  
17 in that proffer that Brandon Grayer had a gun, didn't you?

18 A: Yes.

19 Q: And you also testified before, didn't you?

20 A: Yes.

21 Q: And you told the same story?

22 A: Yes.

23 Q: You said that Thugga started shooting and the other  
24 people in the car started shooting?

25 A: Yes.

## ANTOINE GILL - REDIRECT

1 Q: And there's a transcript of that so we know that's true;  
2 right?

3 A: I ain't seen it.

4 Q: You don't know?

5 A: I didn't.

6 Q: Okay. Fair enough.

7 Mr. Shelton asked you a question something like you  
8 didn't even know -- you said you didn't even know what you  
9 were out there for; right?

10 A: Uh-huh.

11 Q: You knew what you were out there for?

12 A: Yes.

13 Q: What were you out there for?

14 A: Looking for Marquise.

15 Q: To do what to Marquise?

16 A: Shoot him.

17 Q: And when y'all pulled up, how is everybody getting the  
18 shots out? Like, how is everybody shooting? Could you  
19 explain that?

20 A: Everybody just out the window.

21 Q: Okay. What does that mean?

22 A: Thugga out --

23 Q: Like, are they sitting in there and shooting or --

24 A: Thugga out the window. I know he came out the window,  
25 like, and then --

## ANTOINE GILL - REDIRECT

1 Q: Who?

2 A: Thugga. He just was out the window.

3 Q: Okay.

4 A: Like, he had his body out the window.

5 Q: His whole body was out the window?

6 A: Uh-huh.

7 Q: And -- pardon me. And Brandon Grayer was behind you?

8 A: Uh-huh.

9 Q: And how was he shooting?

10 A: I just heard the shots.

11 Q: From behind you?

12 A: Yeah.

13 Q: Okay. On that call, do you hear someone say, "Hey, G  
14 Baby?"

15 A: Yes.

16 Q: On that jail call?

17 A: (No verbal response.)

18 MS. WILLIAMS: Nothing further.

19 RE-CROSS-EXAMINATION

20 BY MR. SHELTON:

21 Q: Obviously, you got out of jail; correct?

22 A: Yes.

23 Q: And the State just asked you if you testified before.

24 You have to be the same right now; correct?

25 A: I have to do what?

## ANTOINE GILL - RECROSS

1 Q: You have to give the same story right now; correct?

2 A: Yeah.

3 MR. SHELTON: No further questions.

4 THE COURT: You can step down.

5 MS. WILLIAMS: Your Honor, the State would call Pinero  
6 Gambrell.

7 (WHEREUPON, there was a pause in the proceedings until  
8 the witness entered the courtroom.)

9 THE CLERK: Good afternoon. Please step around and  
10 place your left hand on the Bible and raise your right hand  
11 for me.

12 THE WITNESS: Like this?

13 THE CLERK: Uh-huh. Correct. Do you swear or affirm  
14 the testimony you shall give the Court and the jury shall be  
15 the truth, the whole truth, and nothing but the truth, so  
16 help you God?

17 THE WITNESS: Yes.

18 THE CLERK: Please take a seat. Please speak loud and  
19 clear into the microphone and state your full name and spell  
20 your last name for the record.

21 THE WITNESS: Pinero Gambrell, G-a-m-b-r-e-l-l.

22 PINERO GAMBRELL, being first  
23 duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MS. WILLIAMS:

## PINERO GAMBRELL - DIRECT

1 Q: Thank you for being here, Mr. Gambrell. How old are  
2 you?

3 A: Thirty-eight.

4 Q: And where do you live?

5 A: 47 -- oh, excuse me. Do you want the mailing address or  
6 the --

7 Q: Maybe the physical address.

8 A: The physical address is [REDACTED] Ezekiel Avenue.

9 Q: Okay. And how long have you lived there?

10 A: More than 10 years.

11 Q: And where do you work?

12 A: Wendy's.

13 Q: How long have you worked there?

14 A: Over 19 years.

15 Q: Okay. And, Mr. Gambrell, were you home September 23rd,  
16 2016?

17 A: Yes.

18 Q: And what happened that night? Can you tell us just what  
19 happened that night to you?

20 A: I was going -- I was actually going to bed. It was a  
21 little late at night. I was going to bed. Somebody knocked  
22 on the door, like -- like somebody was in distress or  
23 whatnot. I answered. I tried to get an answer and nobody  
24 answered. I opened the door and they just came in. I opened  
25 the door to see who it was and they just came in.

## PINERO GAMBRELL - DIRECT

1 Q: Okay. Do you remember telling the police they burst in?

2 A: Yes.

3 Q: Okay.

4 A: Yes.

5 Q: Did you want them to come in?

6 A: No.

7 Q: How many of them were there?

8 A: Three, ma'am.

9 Q: Okay. And what did they do when they got inside?

10 A: They -- they hid. They talked.

11 Q: Did they make you do anything?

12 A: Just -- just stay quiet and all.

13 Q: Okay. And you didn't fight back or anything, did you?

14 A: No. No, ma'am.

15 Q: Okay. And where the lights on or off when they got

16 there?

17 A: Most of the lights were already off because I was

18 getting ready to go to bed that night.

19 Q: Okay. Did they say anything about the lights?

20 A: Just turn off every -- turn off all the lights.

21 Q: Okay. So they wanted you to turn off all the lights and

22 be quiet?

23 A: Yes.

24 Q: And did you ever hear the police in the neighborhood

25 that night?

## PINERO GAMBRELL - DIRECT

1 A: I did, but they told -- they told me to stay quiet.

2 Q: Stay quiet?

3 A: Yes.

4 Q: Were they hiding from the police?

5 A: I guess they were.

6 MR. SHELTON: Objection.

7 MR. KAISER: Speculation.

8 THE COURT: Sustained.

9 BY MS. WILLIAMS:

10 Q: Did they finally leave?

11 A: They finally -- yes, they left.

12 Q: Was that after the police left?

13 A: Yes, ma'am.

14 Q: And while they were in there, did they take anything of  
15 yours?

16 A: No.

17 Q: What about your phone?

18 A: They -- they had my phone, but I -- well, they couldn't  
19 -- well, they didn't really take it, but I couldn't do -- I  
20 couldn't do anything with the phone because it was basically  
21 off.

22 Q: Okay. What happened to the battery on the phone? Did  
23 they take the battery out?

24 A: Somehow, they took the battery out, but it didn't left  
25 -- it didn't leave because the police -- it was the police

1 that found my battery.

2 Q: Okay. So they removed the battery, but then gave you  
3 the phone back?

4 A: Well, yes. They left it. They couldn't --

5 Q: Okay. If you need to take a break at any time, you just  
6 let me know. Okay?

7 A: Yes, ma'am.

8 Q: So while they were in there, how were you feeling?

9 A: Scared.

10 Q: Did you feel like you could leave?

11 A: No.

12 Q: Okay. Was it made clear that you couldn't leave?

13 A: Well, it was clear enough really.

14 Q: Okay. And how long were they there?

15 A: It's been -- it was a while.

16 Q: Okay. And when they finally did leave, how did they get  
17 out of there?

18 A: The front door.

19 Q: A friend picked them up? Is that what you said?

20 A: I'm guessing, yes.

21 Q: Okay. I'm sorry. I just didn't hear your answer. Can  
22 you repeat that?

23 A: Yes. A friend picked them up, I guess.

24 Q: Okay.

25 A: I didn't see whose car it was because I was still

## PINERO GAMBRELL - DIRECT

1 cooperating.

2 THE COURT: I believe he said the front door --

3 MS. WILLIAMS: Oh, I'm sorry.

4 THE COURT: -- was his first response.

5 MS. WILLIAMS: Okay.

6 BY MS. WILLIAMS:

7 A: Yeah. They -- they went out the front door because  
8 that's the only way they can get out of that trailer.

9 Q: Okay. And do you remember if anyone besides you used  
10 your phone that night?

11 A: They couldn't use the phone because it was not working.  
12 It was not picking up a signal at the time. So . . .

13 Q: Okay. Do you know if anyone tried to use your phone?

14 A: One person. One person tried to use the phone, but the  
15 phone wasn't -- I don't know if it was off or whatnot, but I  
16 couldn't get a signal at the time.

17 Q: Okay. So let me just make sure I understand what you're  
18 saying.

19 A: They had their own phone as well.

20 Q: Okay. So when they got there, at some point you did  
21 hear the police outside?

22 A: Yes.

23 Q: And then when the police were gone, they left?

24 A: Yes. They called. They called somebody. A person had  
25 their own cell phone as well.

## PINERO GAMBRELL - DIRECT

1 Q: Okay. What -- do you have any hobbies?

2 A: I -- I love model trains.

3 Q: Okay. And do you have any of those in your home?

4 A: I do.

5 Q: And did anything happen to your trains that night?

6 A: Some did. Some that got damaged, but I was able to put  
7 it back together.

8 Q: Okay. So you fixed them?

9 A: Yes, ma'am.

10 Q: Okay. I am going to show you some pictures, Mr.  
11 Gambrell, and they're going to appear right in front of you.

12 A: Yes, ma'am.

13 Q: And I'm going to ask you some questions about them.

14 MS. WILLIAMS: If you could put State's 33 on the  
15 screen.

16 BY MS. WILLIAMS:

17 Q: What is that a picture of?

18 A: My trailer, the trailer I live in.

19 Q: Okay. And you still live there?

20 A: I do.

21 Q: And is that the door that they came in?

22 A: Yes.

23 MS. WILLIAMS: And if you could put up State's 35.

24 BY MS. WILLIAMS:

25 Q: And is that just the -- tell us what that is.

## PINERO GAMBRELL - DIRECT

1 A: That is my -- that is the door, yes.

2 Q: Okay.

3 MS. WILLIAMS: State's 37.

4 BY MS. WILLIAMS:

5 Q: What is that a view into?

6 A: That is my -- that's -- that's basically the living  
7 room, yes.

8 Q: Okay. Does anyone live in there with you?

9 A: No. It's just me.

10 Q: Okay.

11 MS. WILLIAMS: State's 38.

12 BY MS. WILLIAMS:

13 A: Yeah. That's the -- that's the damage, yes.

14 Q: Okay. So that's your train tracks that were damaged?

15 A: Yes, ma'am.

16 MS. WILLIAMS: And State's 39.

17 BY MS. WILLIAMS:

18 Q: And is that your trains too?

19 A: Yes, ma'am.

20 Q: Tell us about those trains. Do they go throughout the  
21 house?

22 A: Yes, it does.

23 Q: Okay.

24 MS. WILLIAMS: State's 40.

25 BY MS. WILLIAMS:

1 A: Yeah.

2 Q: Okay.

3 MS. WILLIAMS: And State's 41.

4 BY MS. WILLIAMS:

5 A: Yes, ma'am.

6 Q: Okay. Thank you.

7 A: I do recognize -- I recognize everything.

8 Q: Okay. And that's your house?

9 A: Yes.

10 Q: Does it look pretty much the same now?

11 A: Not the same.

12 Q: Okay.

13 A: Some thing's been changed. Some things were changed

14 around.

15 Q: Okay.

16 A: The stove you see in the picture --

17 Q: Uh-huh.

18 A: -- has been replaced by an electric stove.

19 Q: Oh, okay.

20 A: And that little mini oven that's taped up --

21 Q: Uh-huh.

22 A: -- thrown out for an air fryer. So --

23 Q: Okay.

24 A: So things -- some things were changed.

25 Q: All right. And when they left, what did you do right

## PINERO GAMBRELL - DIRECT

1 away?

2 A: I went to a neighbor's house and called 9-1-1.

3 Q: Okay. And did you do that immediately?

4 A: Yes.

5 MS. WILLIAMS: Court's indulgence for just a moment.

6 Please answer any questions from the defense, Mr.

7 Gambrell.

8 THE WITNESS: Yes, ma'am.

9 CROSS-EXAMINATION

10 BY MR. SHELTON:

11 Q: Mr. Gambrell?

12 A: I'm sorry.

13 Q: Those trains -- I'm sorry. Those trains -- the train  
14 tracks, is it an electric train?

15 A: Yes. It's electric, yes.

16 Q: So -- so they have to -- they kind of have to connect.  
17 You have to connect, like, the --

18 A: Yes.

19 Q: -- the metal part; right?

20 A: Yes.

21 Q: If you don't connect the metal part --

22 A: Yeah.

23 Q: -- the train won't go?

24 A: Uh-huh.

25 Q: Okay. Is there, like, a little plastic thing you put

## PINERO GAMBRELL - CROSS

1 underneath the track to hold the two tracks together?

2 A: Metal -- metal joiners.

3 Q: Metal joiners?

4 A: Yes.

5 Q: Okay.

6 A: It's connected to -- to -- to a controller, wires to a  
7 controller.

8 Q: Okay. Awesome, awesome. So just when the three people  
9 that entered your home, did they offer you anything before  
10 they left?

11 A: Yes.

12 Q: They offered you some money?

13 A: They did, but I didn't take it.

14 Q: Okay. And -- and you said that they didn't take  
15 anything from your home?

16 A: Right.

17 Q: The -- the police came to your house and they took,  
18 like, some fingerprints?

19 A: Yes.

20 Q: Did they take something from the toilet seat?

21 A: Yes.

22 Q: Some fingerprints?

23 A: Yes.

24 Q: Do you remember if somebody used -- somebody must have  
25 used the toilet at some point in time?

## PINERO GAMBRELL - CROSS

1 A: They were -- the police did fingerprint the -- the  
2 bathroom area and stuff.

3 Q: Okay.

4 A: Because --

5 Q: You had to clean that up after?

6 A: Basically.

7 Q: Okay.

8 A: But I also -- like, when the police came, I also found a  
9 couple of pieces of clothing that were not mine.

10 Q: Yeah. So there was some clothing outside; right?

11 A: I put them outside for the police to see. They were not  
12 mine.

13 Q: Okay. So some were left inside the -- inside your  
14 house?

15 A: Yes. Somebody was hiding in my room.

16 Q: Okay. And you left that out for the police to get?

17 A: Yes.

18 Q: Okay.

19 MR. SHELTON: No further questions.

20 REDIRECT EXAMINATION

21 BY MS. WILLIAMS:

22 Q: Just for clarity, Mr. Gambrell, so one of them left  
23 their clothes there?

24 A: One of them, yes.

25 Q: Okay. And you gave it to the police?

## PINERO GAMBRELL - REDIRECT

1 A: Yes.

2 Q: Do you remember telling the police you felt panicked?

3 A: I did.

4 MR. SHELTON: Objection.

5 THE WITNESS: Huh?

6 MR. SHELTON: Leading and cross.

7 THE COURT: That's sustained.

8 MS. WILLIAMS: Okay. Nothing further.

9 THE COURT: Anything further, Mr. Shelton?

10 MR. SHELTON: No, Your Honor. I'm sorry.

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

12 THE WITNESS: That's it?

13 THE COURT: That's it.

14 THE WITNESS: I'm sorry. I'm just a little nervous  
15 here.

16 THE COURT: You're fine.

17 THE WITNESS: I'm a little nervous. That's all.

18 THE COURT: These gentleman over here will -- if you'll  
19 just follow them.

20 THE WITNESS: Yes, ma'am. Yes, I mean, Your Honor.

21 THE COURT: Thank you, Mr. Gambrell.

22 MS. WILLIAMS: Your Honor, may we approach?

23 (WHEREUPON, a bench conference was held in the presence  
24 of the jury but out of the hearing of the jury off the  
25 record, after which the proceedings resumed as follows.)

## MAURICE WASHINGTON - DIRECT

1 THE CLERK: If you can spit out your gum.

2 THE COURT: -- so we can hear him. Okay?

3 THE CLERK: Thank you. State your full name and spell  
4 your last name for the record.

5 THE WITNESS: Maurice Washington.

6 MAURICE WASHINGTON, being first  
7 duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. WILLIAMS:

10 Q: Can you spell your last name, Mr. Washington?

11 A: W-a-s-h-i-n-g-t-o-n.

12 Q: Thank you. If you can just scoot a little closer to the  
13 microphone, that'd be great. Thank you so much.

14 Mr. Washington, do you know Brandon Grayer?

15 A: Yes, ma'am.

16 Q: What do you know him as? His nickname?

17 A: G Baby.

18 Q: I'm sorry?

19 A: G Baby.

20 Q: Okay. And do you see him here in the courtroom?

21 A: Yes, ma'am.

22 Q: Okay. What's he wearing?

23 A: A white shirt.

24 Q: Okay. Is he sitting at the table over there?

25 A: Yes, ma'am.

## MAURICE WASHINGTON - DIRECT

1 MS. WILLIAMS: Please, Your Honor, let the record  
2 reflect that the witness has identified the defendant,  
3 Brandon Grayer.

4 BY MS. WILLIAMS:

5 Q: You don't want to be here, do you?

6 A: Not really.

7 Q: And it's not pleasant to be the person that tells on  
8 your friends, is it?

9 A: No.

10 Q: And that has come at some cost to you, has it not?

11 MR. SHELTON: Objection, Your Honor. Leading.

12 THE COURT: I'm going to allow that question.

13 BY MS. WILLIAMS:

14 A: I guess.

15 Q: Okay. Tell us about that. What's happened to you?

16 MR. SHELTON: Objection, Your Honor. May we approach?

17 THE COURT: Sure.

18 (WHEREUPON, a bench conference was held in the presence  
19 of the jury but out of the hearing of the jury off the  
20 record, after which the proceedings resumed as follows.)

21 BY MS. WILLIAMS:

22 Q: Mr. Washington, how long have you known Brandon Grayer?

23 A: About 10 or 12 years.

24 Q: Okay. And did you hang out with him?

25 A: (No verbal response.)

## MAURICE WASHINGTON - DIRECT

1 Q: How often did you hang out with him?

2 A: All the time.

3 Q: Okay. And did you know him around September 23rd of  
4 2016?

5 A: Yeah.

6 Q: And did you get arrested for the events that occurred  
7 that night?

8 A: Yes, ma'am.

9 Q: Tell us about where that day began for you. Where were  
10 you?

11 A: On Star Road.

12 Q: Okay. And so what were you doing in the beginning of  
13 your day when you woke up?

14 A: I had roll call at the -- I'd been late to roll call.  
15 So I had to -- I had to find a ride to roll call and we had  
16 cameras or whatever and I saw the -- a truck outside and it  
17 was one of my -- one of my sales trucks. So I went and asked  
18 him to hold the truck so I could have went to court.

19 Q: Okay. So when you say Star Road, who lives there?  
20 Whose -- were you at your own house or someone else's house?

21 A: No. The little hangout spot.

22 Q: Okay. Whose -- whose place is that?

23 A: Drama.

24 Q: When you say Drama, who are we talking about? Do you  
25 know his real name?

## MAURICE WASHINGTON - DIRECT

1 A: Yeah. Nathan Burnett.

2 Q: Okay. So you were at Nathan Burnett's trailer. And  
3 when you say one of your sales truck, what kind of business  
4 are we talking about?

5 A: Crack.

6 Q: So you were selling crack?

7 A: Yeah.

8 Q: And who did this truck belong to?

9 A: My sale.

10 Q: Okay. Do you remember that guy's name?

11 A: Omar something. He's a Mexican.

12 Q: Okay. But his first name is Omar?

13 A: Yeah.

14 Q: And so what is the arrangement with you being able to  
15 use his truck?

16 A: Well, he had owed me some money. So I just asked him to  
17 hold the truck and he had want some drugs to hold it  
18 throughout the day; so I been breaking him off little pieces.

19 Q: Okay. So in exchange for the money he owed you for the  
20 drugs, he let you use the truck?

21 A: Right.

22 Q: And what kind of vehicle was that? What kind of truck?

23 A: A Lincoln Navigator.

24 Q: Okay. So what time -- explain to the jury what roll  
25 call is.

## MAURICE WASHINGTON - DIRECT

1 A: I had appearance because I was out on bond on a charge.

2 Q: Okay.

3 A: And they wanted to make sure I was around.

4 Q: That's a different charge than what we're here for  
5 today?

6 A: Yes, ma'am.

7 Q: Okay. And in fact, you do have a criminal record. You  
8 have a 2011 possession of cocaine and a 2014 distribution of  
9 cocaine base; is that correct?

10 A: No. I had a possession of cocaine base and a possession  
11 with intent to distribute.

12 Q: Right. That is -- that's what I meant. Possession with  
13 intent to distribute cocaine base in 2014. Thank you for  
14 clarifying that.

15 So you had to go to roll call, and do you remember what  
16 time roll call was?

17 A: In the morning time, like 9 o'clock or something like  
18 that.

19 Q: Okay. And so who were you with when you got in the  
20 Navigator and went out to roll call?

21 A: My little brother, and we picked my cousin up on the  
22 way.

23 Q: Okay. And did you come up to roll call?

24 A: Yeah.

25 Q: Where is that at?

## MAURICE WASHINGTON - DIRECT

1 A: Here.

2 Q: In the courthouse?

3 A: Yeah.

4 Q: Okay. And then what did you do after that?

5 A: I went to Hannibal's, I think, to get something to eat.

6 Q: Okay. How long did you have the Navigator that day?

7 A: The whole day until that night.

8 Q: Okay. So you did various things with that Navigator all  
9 day?

10 A: Right.

11 Q: Were you doing your business?

12 A: Yes, ma'am.

13 Q: Okay. And at any point in time did you do anything to  
14 fix the Navigator?

15 A: Yes, ma'am.

16 Q: Okay. Tell us about that.

17 A: When I went to go pick my little brother up from work, I  
18 stopped. After I picked him up, I went to O'Reilly's and  
19 fixed the third brake light.

20 Q: Okay. Why was that?

21 A: Because it was out.

22 Q: Okay. So did you do that just because you wanted to  
23 help Omar out or did you do that for other reasons?

24 A: Because I've been catching sales inside the truck.

25 Q: Tell me that again. Explain what that means to me.

## MAURICE WASHINGTON - DIRECT

1 A: I was making drug transactions out the truck. So the  
2 third brake light was out.

3 Q: You didn't want to get pulled over?

4 A: Right.

5 Q: Okay. So you went to O'Reilly's to get -- to fix the  
6 brake light?

7 A: Yes, ma'am.

8 Q: Okay. So at some point during the day, did you see the  
9 defendant, Brandon Grayer?

10 A: Yes, ma'am.

11 Q: Before the evening? What time was that?

12 A: Later on that night, probably 9 something, 10 o'clock,  
13 after I got back.

14 Q: Okay. And who -- where did you see him?

15 A: At the trailer on Star Road.

16 Q: Okay. That same trailer you were telling us about?

17 A: Yes, ma'am.

18 Q: Okay. So who was there at that point?

19 A: I got back with me, my little brother, and my cousin,  
20 and Drama was over there and G Baby and Toine and Thugga.

21 Q: Okay. Who is Toine?

22 A: Fat Boi.

23 Q: Fat Boi? And who -- do you know his real name?

24 A: Antoine Gill.

25 Q: Okay. And who is Thugga?

## MAURICE WASHINGTON - DIRECT

1 A: Randall Myers.

2 Q: Okay. And what's going on at the trailer? Is Brandon  
3 Grayer saying anything?

4 A: They're trying to put together -- see was -- he got shot  
5 earlier that day. They're trying to figure out where the guy  
6 is who shot him.

7 Q: Okay. And what's Brandon Grayer telling you about who  
8 he thinks the guy is that shot him?

9 A: A dude named Quise.

10 Q: Okay. And who is Quise? Like, what's his -- do you  
11 know his full name?

12 A: Marquise Bryant.

13 Q: Okay. And what is the condition of G Baby? Like, is he  
14 -- you said he had gotten shot. Can you describe, like, what  
15 his injuries were? Was he okay? Was he walking around? Was  
16 he laying down? Can you just kind of describe what you saw  
17 in terms of his appearance?

18 A: His arm was in a sling.

19 Q: Okay.

20 A: He got shot in the chest area.

21 Q: Okay. And did he get shot anywhere else?

22 A: He got grazed in the head.

23 Q: Okay. Was he able to walk around and talk?

24 A: Yeah.

25 Q: Did he seem like he couldn't move or anything like that?

## MAURICE WASHINGTON - DIRECT

1 MR. SHELTON: Objection, Your Honor. Leading.

2 THE COURT: I'm going to allow it.

3 BY MS. WILLIAMS:

4 A: I mean he wasn't really moving his sling arm, but the  
5 other arm, yeah.

6 Q: Okay. And so at some point is Omar -- well, is Omar  
7 there at the -- when you all are there, is Omar there?

8 A: Yeah.

9 Q: Is his vehicle there?

10 A: Yeah.

11 Q: So you brought the Lincoln Navigator back?

12 A: Right.

13 Q: And does someone else take possession of that vehicle at  
14 some point after this discussion about Marquise?

15 A: Yes, ma'am.

16 Q: Who?

17 A: I can't remember who exactly. I want to say Thugga or  
18 Drama, one of them two.

19 Q: Okay. Took the Navigator keys?

20 A: Yeah.

21 Q: Okay. What about Omar's phone? Do you remember if  
22 someone had his phone?

23 A: Yeah. Thug.

24 Q: When you say Thug, you're talking about Randall Myers?

25 A: Yes, ma'am.

## MAURICE WASHINGTON - DIRECT

1 Q: Okay. And so does Omar want to give y'all his -- or  
2 them the Navigator or, you know, what's the -- what's the  
3 deal there? What's the transaction?

4 A: He just had want some drugs.

5 Q: Okay. So they get the Navigator. And are you in a  
6 different vehicle at this point or no vehicle?

7 A: Yes, ma'am.

8 Q: What's the vehicle you're in?

9 A: A black -- a black truck, a black pickup truck.

10 Q: Okay. And so do y'all go somewhere in these two  
11 vehicles?

12 A: Yes, ma'am.

13 Q: What's the plan? Where are you going?

14 A: To -- to find out the spot where Quise at.

15 Q: Okay. And what are you going to do when you find Quise?

16 A: Shoot him.

17 Q: Okay. And that's in retaliation for your buddy getting  
18 shot?

19 A: Right.

20 Q: And did G Baby want to go shoot him?

21 A: Yeah.

22 Q: Who is in the Navigator? Do you remember where people  
23 were in that vehicle, if you remember?

24 Q: Yeah.

25 Q: Who's driving?

## MAURICE WASHINGTON - DIRECT

1 A: Toine.

2 Q: And do you remember who is in the front seat?

3 A: Thug.

4 Q: Randall Myers?

5 A: Yeah.

6 Q: And who is in the back?

7 A: Drama and G Baby.

8 Q: Okay. And how about in your vehicle? Who is in your  
9 vehicle?

10 A: Me and Vinny.

11 Q: Vinny? And what's Vinny's last name?

12 A: Robinson.

13 Q: Okay. Do you have a gun?

14 A: No, ma'am.

15 Q: Does Vinny have a gun?

16 A: I mean it's -- it's in the -- it's just in the middle  
17 here.

18 Q: Okay. Do you remember what kind of gun that was?

19 A: An assault rifle.

20 Q: All right. And who -- do you know if there were guns in  
21 the Navigator?

22 A: Yes, ma'am.

23 Q: Okay. Who had guns over there?

24 A: Everybody except Toine.

25 Q: Okay. Why didn't Toine have a gun? Do you know?

## MAURICE WASHINGTON - DIRECT

1 A: Because he ain't got no gun.

2 Q: Okay. All right. Fair enough.

3 And so you all were getting in -- just to reiterate or  
4 just so I make sure I understand, you both -- y'all get in  
5 these two vehicles, the six of you, and you are going to go  
6 find Marquise Bryant?

7 A: Yes, ma'am.

8 Q: So where do y'all go first?

9 A: Some apartments off of Rivers Ave.

10 Q: Why is that?

11 Q: Because he had posted a picture on Facebook in the car  
12 he was in. We thought that he would maybe be at the girl's  
13 house the car was for.

14 Q: Okay. So who knew about the girl at the apartments on  
15 Rivers?

16 A: Me.

17 Q: Okay. Tell us about that. What did you -- what did you  
18 know and tell the group about that location?

19 A: That that's where she live at and the chick the day  
20 before was going to the same location.

21 Q: Okay. So is that girl connected to Marquise Bryant or  
22 connected to the car?

23 A: The car.

24 Q: Okay. Tell us about the car. How did y'all find out  
25 what kind of car Marquise Bryant was driving?

## MAURICE WASHINGTON - DIRECT

1 A: He posted a picture on Facebook.

2 Q: Okay. And you saw that picture?

3 A: Yes, ma'am.

4 Q: And so -- so what's the connection between the girl and  
5 that car? Like, why do you think that that car or that girl  
6 is going to be on Rivers?

7 A: Because that's the kind of car she had, and she messed  
8 with those group of people.

9 Q: Okay. And so where on Rivers was this, if you remember?

10 A: By Hawthorne City.

11 Q: Near Hawthorne City?

12 A: Yes, ma'am.

13 Q: What's that near? Is there any kind of business or  
14 anything that we can use as a benchmark as far as where that  
15 is?

16 A: The post office is kind of up the street.

17 Q: Okay. And so what happens when you get to the location  
18 on Rivers?

19 A: He's not there.

20 Q: Okay. So what do you do? Just drive around?

21 A: No.

22 Q: Looking?

23 A: And then we go to the second location.

24 Q: And what's the second location?

25 A: Hassell. Hassell Avenue on Montague.

1 Q: Okay.

2 MS. WILLIAMS: Court's indulgence for just a minute.

3 BY MS. WILLIAMS:

4 Q: I'm going to show you what's been marked as State's 31.

5 It's going to appear before you. Do you recognize that

6 picture?

7 A: Yes, ma'am.

8 Q: Okay. What is that a picture of?

9 A: Marquise in the -- in the car --

10 Q: Okay.

11 A: -- that he was driving.

12 Q: Okay. Is that the picture that y'all saw on Facebook?

13 A: I can't remember.

14 Q: You can't remember?

15 A: It might've been the one.

16 Q: Okay. Well, that's fine. If you don't remember, I want  
17 you to tell me you don't remember something.

18 But in any case, you see a picture on Facebook of him  
19 and then y'all -- that's another clue as to where he might  
20 be?

21 A: Yes, ma'am.

22 Q: Okay. So where do you then go?

23 A: On Hassell Avenue off on Montague.

24 Q: Okay. And how far is that from where y'all were hanging  
25 out at Star Road about?

## MAURICE WASHINGTON - DIRECT

- 1 A: Fifteen -- 15 miles.
- 2 Q: Okay. So is there any other reason for y'all to be at  
3 Hassell Road other than looking for Marquise?
- 4 A: No, ma'am.
- 5 Q: Okay. And so what happens when you approach the area of  
6 Hassell Road?
- 7 A: Before we go in there, I -- I turn off on where -- I  
8 made the directions to turn off on the side street because  
9 the plan was to jump the fence and go on Hassell Street -- on  
10 Hassell Avenue.
- 11 Q: Okay. Whose plan was it to jump the fence?
- 12 A: My plan.
- 13 Q: Okay. So that was your idea?
- 14 A: Yeah.
- 15 Q: And why was that?
- 16 A: Because that's a one-way street and it's, like, narrow.
- 17 Q: Okay. So why would that be a bad place for y'all to go  
18 shoot Marquise if it's a one-way street and it's narrow?
- 19 A: Because we're in vehicles on a small street.
- 20 Q: So it wouldn't be -- you would have no way out?
- 21 A: Right.
- 22 Q: And so when y'all pull over, you suggest a different  
23 plan?
- 24 A: Right.
- 25 Q: Which is to jump the fence?

1 A: Right.

2 Q: And where were you going to leave the vehicles?

3 A: Right there on the side street.

4 Q: Okay. And what happens to that plan?

5 A: While I was talking, Toine hit the gas and just took  
6 off.

7 Q: Okay. And so he just goes?

8 A: Yes, ma'am.

9 Q: During the day, was -- do you know the condition of  
10 everybody? Like, are they all sober or have they been using  
11 drugs? Do you -- from your personal knowledge, like, what's  
12 everybody's frame of mind?

13 A: I mean we smoke weed and stuff every day.

14 Q: Okay. So when Antoine makes this decision to just race  
15 over to Hassell, is that a decision that you agreed with?

16 A: No.

17 Q: Okay. What do you do?

18 A: Me and Vinny looked at each other like what he doing.

19 Q: And then what?

20 A: And then we pull off after them.

21 Q: Pull off after them?

22 A: Yeah.

23 Q: So you follow them down?

24 A: Right.

25 Q: Okay. And then what happens next?

## MAURICE WASHINGTON - DIRECT

1 A: And by the time we turn on Hassell Street or Hassell  
2 Avenue, gunshots. We just hear, like, a hundred gunshots.

3 Q: Okay. And do you see people shooting from the  
4 Navigator?

5 A: I see people -- I see gun flashes all over. I just --  
6 you know.

7 Q: Do you have any knowledge of who was shooting from the  
8 Navigator?

9 A: Yeah.

10 Q: Who?

11 A: Thugga and G Baby.

12 Q: Okay. And obviously, what you feared happened. Like,  
13 they were stuck down there?

14 A: Right.

15 Q: And people that live down there were firing back at them  
16 after they fired at their house?

17 A: Right.

18 Q: And that was not a shock to you that that would happen?

19 A: No.

20 Q: Because when you shoot at people's houses, sometimes  
21 they defend themselves; right?

22 A: Right.

23 Q: And what does Antoine Gill do next with the car?

24 A: Crash.

25 Q: Okay. Tell us, like, does it go forward? Back?

## MAURICE WASHINGTON - DIRECT

1 Around? Like, what direction is he -- is he driving?

2 A: He's in reverse.

3 Q: In reverse? Why?

4 A: Because he couldn't turn around.

5 Q: Okay. Is that because of what you said, it's too  
6 narrow?

7 A: Right.

8 Q: Okay. And so then what happens, like, in relation to  
9 where you are?

10 A: He, like, swiped by the vehicle that we in.

11 Q: Okay.

12 A: Like, sideswiped it.

13 Q: Okay.

14 MS. WILLIAMS: I'm going to -- Court's indulgence for  
15 just a moment, please.

16 I'm going to have her put up 147 for demonstrative  
17 purposes only.

18 Before you project that, let me just show defense  
19 counsel.

20 BY MS. WILLIAMS:

21 Q: Okay. So does this help you orient as to Hassell Street  
22 and where the dead-end was and everything? It should be  
23 right in front of you. Do you see that?

24 A: Yeah, I see it, but I don't -- it don't look the -- it  
25 just look -- it don't look right.

## MAURICE WASHINGTON - DIRECT

1 Q: It doesn't look -- you don't recognize it?

2 A: I mean I see the name on the -- on the street, but it  
3 don't look right though.

4 Q: What doesn't look right?

5 A: The whole thing.

6 Q: Okay. Well, tell me. It just doesn't look like --  
7 that's not a dead-end where you go down there?

8 A: Yeah.

9 Q: Okay. What -- what doesn't represent what you saw that  
10 night? It's just a blank.

11 A: Because, well, this street is right here.

12 Q: Okay. That street? Is it too close or too far away?

13 A: No. Just I don't -- I don't know what that street is.  
14 That's --

15 Q: Okay. Well, that looks like that's Lilac Street, but if  
16 that's the dead-end at Hassell, can you show us where Antoine  
17 had pulled the Navigator?

18 A: I guess up in here, but this -- this little thing just  
19 don't look -- it just looks funny.

20 Q: Okay. Well, it's a drawing, not a map.

21 A: Yeah.

22 Q: Where was your truck? How far -- how far down did you  
23 get down the street?

24 A: See, this -- that's what I'm saying. Ain't none of  
25 that's on here, none of that part on -- on this right here.

## MAURICE WASHINGTON - DIRECT

1 Q: What -- what's the part that's not on there?

2 A: None of the -- the little -- the sneaky curve and all  
3 that. None of that is on -- I don't know where this is right  
4 here.

5 Q: Okay. Well, that's fine. If that does -- if that does  
6 not assist you, we will take it down.

7 MS. WILLIAMS: Can you put up State's 130?

8 BY MS. WILLIAMS:

9 Q: Does that help you orient a little better?

10 A: Yeah.

11 Q: That map?

12 A: Yeah. This right here, yeah.

13 Q: Okay. Okay. So show us about where Antoine was down  
14 that street. Do you see where the dead-end is?

15 A: That's the dead-end right here?

16 Q: It's a little further down.

17 A: Right here? This -- this towards the dead-end?

18 Q: Yes.

19 A: Right here. So --

20 MR. SHELTON: Objection. The State is testifying for  
21 him.

22 THE COURT: I'm going to allow it.

23 BY MS. WILLIAMS:

24 Q: Okay. Can you show us? Is that -- show us where  
25 Antoine's car was.

## MAURICE WASHINGTON - DIRECT

- 1 A: Somewhere down here.
- 2 Q: Okay. And then where did he back up into you -- into  
3 your car?
- 4 A: Back here.
- 5 Q: Oh, okay. And did you -- after you all finally get off  
6 that road, where do you go?
- 7 A: Forest Hills.
- 8 Q: Okay. How do you get out of the neighborhood?
- 9 A: We -- so we had already been all the way on the -- on  
10 the narrow street. So it would be easier for us just to back  
11 -- back out to where we already been at.
- 12 Q: Okay. And what happens to the Navigator, if you know?
- 13 A: It crashed into a pole.
- 14 Q: Okay. And so when is the next time that you hear from  
15 anybody in the Navigator?
- 16 A: Like, an hour later.
- 17 Q: Okay. And so tell me about that.
- 18 A: Later my phone rang with a strange number and I answered  
19 it, like, yo, who this, and there's whispering on the end.
- 20 Q: Okay.
- 21 A: And then --
- 22 Q: Who was it that called you?
- 23 A: G Baby.
- 24 Q: And so how many calls do you get, if you remember?
- 25 A: Like, three or four. Three.

## MAURICE WASHINGTON - DIRECT

1 Q: Okay. And do you recognize every number that calls you?

2 A: The first it was -- it was that strange number and then  
3 I think one of them been from -- I want to say my cell phone,  
4 like, Omar's phone.

5 Q: Okay.

6 A: I think that called me one time.

7 Q: Okay. So you get several calls from G Baby. The first  
8 one you don't recognize the number, a strange number?

9 A: Yeah.

10 Q: And then you get a call from Omar's phone?

11 A: Uh-huh.

12 Q: And what is G Baby whispering to you?

13 A: He like, hold on, hold on, hold on. The police outside.  
14 Hold on. So I, like, yeah, who this, who this, and then when  
15 he come back he like, man, this is G, and I'm like where  
16 y'all at, and he like, hold on again, the police outside. So  
17 --

18 Q: Okay.

19 A: And then, like, five minutes later, he get back on the  
20 phone and he tell me they be getting chased and they had to  
21 find somewhere to hide at.

22 Q: Okay. And with the police outside, why wouldn't they  
23 want to go outside and just tell the police, like, to go to  
24 safety?

25 MR. KAISER: Objection, Your Honor. That's speculation.

## MAURICE WASHINGTON - DIRECT

1 THE COURT: That's sustained.

2 BY MS. WILLIAMS:

3 Q: But when he called you the first time, he was saying,  
4 hold on, hold on, the police -- the police are outside?

5 A: Right.

6 Q: And so at some point, do you go back to the trailer to  
7 get them?

8 A: Yes, ma'am.

9 Q: Do you remember what street that was on?

10 A: Ezekiel.

11 Q: Okay. Do you remember what the trailer looked like?

12 A: Yes, ma'am.

13 Q: Okay.

14 MS. WILLIAMS: Can you put up State's 33?

15 BY MS. WILLIAMS:

16 Q: What is that a picture of?

17 A: The trailer where I picked them up from.

18 Q: Okay. And who gets out of the trailer into your car  
19 when you go pick them up?

20 A: G Baby, Drama, and Thug.

21 Q: Okay. So Brandon Grayer, G Baby, Drama is Nathan  
22 Burnett, and Thug is Randall Myers?

23 A: Yes, ma'am.

24 Q: Okay. Anything unusual that you notice about anyone  
25 coming out of that trailer?

## MAURICE WASHINGTON - DIRECT

1 A: Thug ain't got no clothes on.

2 Q: Who didn't have any clothes on?

3 A: Myers. He ain't have no clothes on.

4 Q: Okay. Was he naked or did --

5 A: He had on -- he had on nothing except his underwear.

6 Q: Just his underwear?

7 A: Yes, ma'am.

8 Q: Okay. And so then where do y'all go call after you pick

9 them up? Do you even know what time it is at this point? Do

10 you have any idea?

11 A: After 12.

12 Q: Okay. Where did you go next?

13 A: Thug supposed to have a room, a hotel room, at -- at

14 Quality, but when we get there, he ain't had no room. So we

15 left.

16 Q: Okay. And did you notice anything about Randall besides

17 the fact that he has no clothes on?

18 A: Yeah. He bleeding.

19 Q: Okay. Did you find out who shot him?

20 A: He think G Baby shoot him, but they don't know that.

21 Q: Okay. So somebody from inside the car shot him you

22 think -- they thought?

23 A: Yeah.

24 Q: Okay. And so the hotel room doesn't work out. Then

25 where do you all go?

## MAURICE WASHINGTON - DIRECT

1 A: Back to the trailer on Star Road.

2 Q: Okay. That Navigator, did you drive that Navigator a  
3 lot, like, before that day?

4 A: No. Before that day, like, one time.

5 Q: Okay. Was that a vehicle that G Baby drove a lot?

6 A: No.

7 Q: Okay. Did you ever see him in that vehicle?

8 A: Before that night?

9 Q: Uh-huh.

10 A: No.

11 Q: And how badly was Randall injured?

12 A: He had get grazed in the neck area.

13 Q: Okay. But he was able to function and get around?

14 A: Yes, ma'am.

15 Q: Did anybody discuss the people that were being shot at  
16 at Hassell Street?

17 A: How you mean?

18 Q: Like, anybody care about the guy that got shot at  
19 Hassell Street and lost his life that night?

20 A: Ain't nobody had know that right then.

21 Q: Okay. But you guys just went and shot up the  
22 neighborhood or they did and nobody wondered, like, if  
23 anybody got hit?

24 MR. KAISER: Objection, Your Honor. Speculation.

25 BY MS. WILLIAMS:

## MAURICE WASHINGTON - DIRECT

1 Q: Did anybody discuss that?

2 A: No.

3 Q: Did G Baby discuss that?

4 A: Well, when we -- when we got back inside, everybody be  
5 like, yeah, yeah. I can't remember. I can't remember.

6 Q: It just wasn't part of that?

7 A: No, I can't remember.

8 Q: Okay. That's fine. Whose number is this, [REDACTED]-5854?

9 A: Mine.

10 Q: Okay. And that's the number that you had that night?

11 A: Yes, ma'am.

12 Q: Now, G Baby and Marquise Bryant, were they friends?

13 A: No.

14 Q: Did they have a bad -- bad blood between them?

15 A: Yes, ma'am.

16 Q: Before the shooting, they didn't like each other?

17 A: Right.

18 MR. SHELTON: Objection. Speculation.

19 THE COURT: I'm going to allow it.

20 BY MS. WILLIAMS:

21 Q: So they had a history?

22 A: Yeah.

23 Q: Based on your personal knowledge?

24 A: Yes, ma'am.

25 Q: Now, Maurice, you talked to the police how many times,

## MAURICE WASHINGTON - DIRECT

1 if you remember?

2 A: When?

3 Q: About this incident.

4 A: You're talking about altogether right now?

5 Q: Yeah. Like, when you first -- when this first happened,  
6 you went and talked to the police; right? At some point?

7 A: When they -- when they finally catch me.

8 Q: Okay. And you -- and you talked to them and gave them a  
9 statement?

10 A: Yes, ma'am.

11 Q: And did you tell them the whole truth?

12 A: No.

13 Q: Okay. And did you try to minimize your involvement?

14 A: Yes, ma'am.

15 Q: So you just told them a little bit?

16 A: Yes, ma'am.

17 Q: And then did you talk to them again and tell them the  
18 little bit more?

19 MR. SHELTON: Objection. Leading.

20 THE COURT: That's sustained.

21 BY MS. WILLIAMS:

22 Q: What did you tell them the next time?

23 A: I told them that I was -- that I didn't know who was in  
24 the truck or whatever and who called my phone and who came  
25 from out the trailer.

## MAURICE WASHINGTON - DIRECT

1 Q: Okay. And you eventually went and talked to some people  
2 at the Solicitor's Office; right?

3 A: Yes, ma'am.

4 Q: Did you tell him the whole truth the first time?

5 A: No, ma'am.

6 Q: Okay. And so you lied? You just didn't tell the whole  
7 truth?

8 A: Yes, ma'am.

9 Q: You lied several times?

10 A: I ain't lied. I just ain't add everything into what was  
11 supposed to be said.

12 Q: Have you ever heard the term lie by omission? You just  
13 -- you lie because you don't tell the whole thing?

14 A: Yes, ma'am.

15 Q: Okay. And you are here today because you want to help  
16 yourself?

17 A: Yeah.

18 Q: But you're not here because of Ivan Greene or to help  
19 society or some greater cause. If we're honest, you're here  
20 to help yourself?

21 A: Yes, ma'am.

22 Q: And so you are hoping that whenever you go before a  
23 judge that your lawyer can say you cooperated and that you  
24 will get some benefit for this testimony?

25 A: Yes, ma'am.

## MAURICE WASHINGTON - DIRECT

1 Q: You're facing a murder charge?

2 A: Yes, ma'am.

3 Q: And at some point, you were arrested for the burglary  
4 and kidnapping at that trailer; is that correct?

5 A: Yes, ma'am.

6 Q: And what did you tell the police about that?

7 A: I never been inside that trailer.

8 Q: Okay. And you told them that every time, didn't you?

9 A: Yes, ma'am.

10 Q: And to your knowledge, did they finally confirm that you  
11 were not inside that trailer?

12 A: Yes.

13 MR. SHELTON: Objection. Speculation.

14 MS. WILLIAMS: To his knowledge.

15 THE COURT: That's sustained.

16 BY MS. WILLIAMS:

17 Q: At some point, were those charges dropped?

18 A: Yes, ma'am.

19 Q: Do you know why?

20 A: Because they found out I really wasn't in there.

21 Q: Okay. Do you know what they -- what you gave them and  
22 what they looked at to determine that?

23 A: My cell phone.

24 Q: Okay. And the cell phone records showed them what?

25 MR. SHELTON: Objection. Speculation.

## MAURICE WASHINGTON - DIRECT

1 THE COURT: I'm going to allow him to tell about the  
2 cell phone information.

3 BY MS. WILLIAMS:

4 A: My cell phone that showed me being on the other side of  
5 town.

6 Q: At the time of the burglary and kidnapping?

7 A: Yes, ma'am.

8 Q: But you went back and picked up your buddies?

9 A: Yes, ma'am.

10 MS. WILLIAMS: Court's indulgence for just a moment.

11 Nothing further.

12 Thank you, Maurice.

13 CROSS-EXAMINATION

14 BY MR. SHELTON:

15 Q: All right. Maurice, you're facing a murder charge;  
16 correct?

17 A: Yes, sir.

18 Q: You're trying to help yourself; correct?

19 A: Yes, sir.

20 Q: Do you know what the penalty is for murder?

21 MS. WILLIAMS: Objection.

22 THE COURT: That's sustained.

23 BY MR. SHELTON:

24 Q: You were picked out of a lineup?

25 A: Yes, sir.

## MAURICE WASHINGTON - CROSS

1 Q: Correct?

2 A: Yes, sir.

3 Q: Mr. Gambrell picked you out?

4 A: Yes, sir.

5 Q: That's why you were charged with that burglary; correct?

6 A: Yes, sir.

7 Q: Randall Myers, Thugga. I'm not trying to be funny here,  
8 but he kind of has a big head; correct?

9 A: Yes, sir.

10 Q: Okay. He wasn't picked out of a lineup, was he?

11 A: No, sir.

12 Q: Brandon, he has that long beard; correct?

13 A: Yes, sir.

14 Q: He has a little muddy tattoo on his eye; correct?

15 A: Yes, sir.

16 Q: He wasn't picked out of a lineup, was he?

17 A: No, sir.

18 Q: Just you?

19 A: Yes, sir.

20 Q: You signed a proffer agreement with the State. Do you  
21 remember that?

22 A: Yes, sir.

23 Q: That was after you were arrested; correct?

24 A: Yes, sir.

25 Q: That proffer agreement -- did you read that proffer

1 agreement?

2 A: Bits and pieces, yeah.

3 Q: Okay. You agreed to tell the truth?

4 A: Yes, sir.

5 Q: All right. Because if you don't tell the truth, then  
6 the State can use things that you talk to them about against  
7 you?

8 A: Yes, sir.

9 Q: Correct? You agreed to take a polygraph examination?

10 A: Yes, sir.

11 Q: Have you taken a polygraph examination?

12 A: No, sir.

13 Q: But you agreed to be truthful?

14 A: Yes, sir.

15 Q: And that proffer -- and when it's a proffer, that's when  
16 you're talking with a solicitor?

17 A: Yes, sir.

18 Q: And that solicitor -- this wasn't Ms. Williams that you  
19 were talking with, was it?

20 A: No, sir.

21 Q: It was Culver Kidd. Do you remember him?

22 A: Yes, sir.

23 Q: He asked you a lot of questions. It was about a two-  
24 and-a-half hour interview. Does that sound about right?

25 A: (No verbal response.)

## MAURICE WASHINGTON - CROSS

1 Q: He pretty much dominated that conversation; correct?

2 A: Yeah.

3 Q: And that was on November 2nd of 2017?

4 A: Yes, sir.

5 Q: Does that sound right? But you lied in that; correct?

6 A: Yeah.

7 Q: You agreed not to have facts of omission. That's what  
8 you agreed to in this proffer agreement, but you had facts of  
9 omission; correct?

10 A: (No verbal response.)

11 Q: Is that yes?

12 A: Yeah.

13 Q: At the very end of that, you said -- you still did not  
14 say that you were in that black truck; isn't that correct?  
15 You said you were in a white car.

16 A: Right.

17 Q: So leaving the day on November of 2017, you said you  
18 were in a white car?

19 A: Right.

20 Q: And that was Vez?

21 A: Yeah.

22 Q: And Omar was in that truck with Vinny. Is that what you  
23 said?

24 A: No.

25 Q: No? Vinny was by himself; is that right?

## MAURICE WASHINGTON - CROSS

1 A: (No verbal response.)

2 THE COURT: Was that a yes or a no, Mr. Washington?

3 THE WITNESS: Yes. Yes, ma'am.

4 THE COURT: We need you to answer out loud so the court  
5 reporter can get your response.

6 THE WITNESS: All right.

7 BY MR. SHELTON:

8 Q: So who was with you in your white car?

9 A: I said Vez.

10 Q: Vez was with you in your white car?

11 A: Yeah.

12 Q: But that was a lie?

13 A: Yeah.

14 Q: Correct?

15 A: It was, but it wasn't.

16 Q: Were you in a white car?

17 A: Yeah.

18 Q: At during that time?

19 A: During which time?

20 Q: When this shooting happened, were you in a white car?

21 A: No.

22 Q: So that was a lie?

23 A: Right.

24 Q: Okay. So it was a lie; right?

25 A: But I did -- I did got in a white car.

## MAURICE WASHINGTON - CROSS

1 Q: Okay. But you don't -- during the time of this  
2 shooting, now your testimony is you were not in the white  
3 car?

4 A: Right. Correct.

5 Q: Okay. You talked about this Lincoln Navigator when you  
6 woke up that morning --

7 A: Yeah.

8 Q: -- and saw it?

9 A: Yes.

10 Q: And your testimony was that was your sales truck;  
11 correct?

12 A: Correct.

13 Q: So you used that truck?

14 A: Yeah.

15 Q: Okay. And that's what you did all day. You just went  
16 around selling crack?

17 A: Yeah.

18 Q: And you came to court that morning, a roll call?

19 A: Yeah.

20 Q: Because you were in trouble. And that didn't stop you  
21 from selling crack all day, the fact that you were in  
22 trouble?

23 A: No.

24 Q: Did you see the SUV hit the light pole?

25 A: Yeah and no.

1 Q: Okay.

2 A: I saw flashes from the -- I guess the -- the transformer  
3 box.

4 Q: Okay. So I'll show you State's 1. Do you see that in  
5 front of you?

6 A: Uh-huh.

7 Q: Do you see that bumper?

8 A: Uh-huh.

9 Q: So was that bumper out like that all day?

10 A: No.

11 Q: So that bumper is that way because it hit the utility  
12 pole?

13 A: Right. Correct.

14 Q: So it hit that utility pole pretty fast?

15 A: Correct.

16 Q: So it just didn't die and just roll into a utility pole.  
17 It didn't do that.

18 MS. WILLIAMS: Objection. Speculation. He's already  
19 testified he didn't see it hit the light pole.

20 THE COURT: That's sustained.

21 BY MR. SHELTON:

22 Q: At 9:00 p.m., you had the Lincoln Navigator; correct?

23 A: Correct.

24 Q: Because that's when you went to O'Reillys?

25 A: I think that's when I picked my little brother up from

## MAURICE WASHINGTON - CROSS

1 work and then I get to O'Reilly's, like, a little bit --  
2 like, a couple minutes after that.

3 Q: Would it be helpful to see the receipt?

4 A: Yeah.

5 Q: Would that refresh your memory?

6 MR. SHELTON: Would you put up 17, State's 17?

7 BY MR. SHELTON:

8 Q: You might be able to see it better on the picture.

9 State's 17. If you can look closer, you can see the time,  
10 the date and time stamped on that. Is that 9:10?

11 A: Right.

12 Q: 2110? 9:10? Is that correct?

13 A: (No verbal response.)

14 Q: So at 9 p.m., you guys weren't out looking for Marquise?

15 A: At 9 p.m., I was at Kangaroo picking my little brother  
16 up from work.

17 Q: With the -- with the Lincoln Navigator?

18 A: Correct.

19 Q: Okay. And your little brother, Kelsey, did he go --  
20 your little brother is Kelsey?

21 A: Right.

22 Q: Is that his name?

23 A: Yeah.

24 Q: He was with you during the day when he wasn't working?

25 A: Uh-huh.

## MAURICE WASHINGTON - CROSS

1 Q: And did he go back to the trailer?

2 A: Yeah.

3 Q: And Omar went back to the trailer?

4 A: Uh-huh.

5 Q: And there's a similar name here. That Omar that went  
6 back to the trailer, that was your cousin Omar?

7 A: Yeah.

8 Q: Okay. So not Omar that owned the Lincoln Navigator?

9 A: He been at the trailer all day.

10 Q: Okay. But your cousin Omar came to the trailer with  
11 you?

12 A: Uh-huh.

13 Q: And so --

14 THE COURT: Let me stop you.

15 Mr. Washington, if you'll say yes or no. When you say  
16 uh-huh, it's hard for the court reporter --

17 THE WITNESS: Oh, all right. All right. All right.

18 THE COURT: -- to record what your correct response is.

19 BY MR. SHELTON:

20 Q: So not -- sorry to confuse that. Now there's two Omars  
21 at the trailer?

22 A: Yes.

23 Q: Okay. And your cousin Omar and Fat Boi don't get along?

24 A: No.

25 Q: Did you fix that third brake light?

## MAURICE WASHINGTON - CROSS

1 A: Yes.

2 Q: Did you personally fix it?

3 A: No. I had another -- another drug user fix it for me.

4 Q: Okay. And that was in exchange for you giving him some  
5 drugs?

6 A: Yeah.

7 Q: And he fixed your Lincoln Navigator?

8 A: He fixed the Lincoln Navigator, yeah.

9 Q: Sorry. He fixed the Lincoln Navigator?

10 A: Yeah.

11 Q: That was before you went back to the trailer?

12 A: Correct.

13 Q: Okay. So you had this -- this truck all night? All  
14 day?

15 A: Correct.

16 Q: And you just give it up?

17 A: Every time I pulled back up at the trailer, he keep  
18 meeting me at the door asking for more drugs.

19 Q: That's Omar?

20 A: Yeah.

21 Q: Not your cousin Omar?

22 A: No. The owner of the truck.

23 Q: Okay. Did you just tell him you just fixed the brake  
24 light?

25 A: No.

## MAURICE WASHINGTON - CROSS

- 1 Q: Okay. Well, you just fixed the brake light and you're  
2 just going to give it up?
- 3 A: The truck?
- 4 Q: Yeah.
- 5 A: I mean why not? I'm going to get it later on.
- 6 Q: Okay. And you know your fingerprints are all throughout  
7 that truck?
- 8 A: Correct.
- 9 Q: You knew that when you went and talked to the solicitor  
10 on November of 2017; correct?
- 11 A: What? That my fingerprints was in the truck?
- 12 Q: Yes, sir.
- 13 A: Well, I knew that before that whole night.
- 14 Q: You knew the State had your fingerprints in the truck as  
15 evidence against you; correct?
- 16 A: Yeah. I knew that before that though. It's common  
17 sense that my fingerprints are going to be in the truck if  
18 I'm driving it all day.
- 19 Q: So your cousin Omar and your brother, they stayed back  
20 at the trailer?
- 21 A: When?
- 22 Q: When y'all went to go look for Quise.
- 23 A: Oh, yeah.
- 24 Q: So Omar, your cousin, and your brother stayed back?
- 25 A: Correct.

## MAURICE WASHINGTON - CROSS

1 Q: That's your testimony?

2 A: Yeah.

3 Q: When -- you first got arrested in December of 2016 for  
4 the burglary and the murder; correct?

5 A: No.

6 Q: You weren't charged with the murder?

7 A: No. When I first get locked up, I only had the murder  
8 charge and the weapons charge.

9 Q: Okay. But you talked to the police?

10 A: Uh-huh.

11 Q: In December of 2016?

12 A: Yeah. Correct.

13 Q: Okay. And you told them that you weren't there?

14 A: Correct.

15 Q: That you were going out doing drug deals?

16 A: Correct.

17 Q: During that time; is that right?

18 A: Right.

19 Q: A year later, you write a letter; correct?

20 A: Correct.

21 Q: Saying that you wanted to talk?

22 A: Correct.

23 Q: And that's when you first give up Antoine being a part  
24 of this; correct?

25 A: Correct.

## MAURICE WASHINGTON - CROSS

- 1 Q: And Brandon Grayer; correct?
- 2 A: Correct. Well, I -- no. Drama. Burnett too.
- 3 Q: And Nathan Burnett?
- 4 A: Right.
- 5 Q: Right. They had you and Randall Myers; correct?
- 6 A: Correct.
- 7 Q: And you were picked out of a lineup?
- 8 A: Correct.
- 9 Q: And you were worried about that, being picked out of a  
10 lineup?
- 11 A: Yeah.
- 12 Q: That bothered you?
- 13 A: Yeah.
- 14 Q: You knew about the fingerprints?
- 15 A: Correct.
- 16 Q: When you wrote that letter?
- 17 A: Correct.
- 18 Q: You knew what you needed to say; correct?
- 19 A: I don't understand what you're saying.
- 20 Q: You had an attorney; correct?
- 21 A: Yeah.
- 22 Q: And in fact, you were trying to get a street attorney?
- 23 A: Yeah.
- 24 Q: What does that mean?
- 25 A: A paid attorney.

## MAURICE WASHINGTON - CROSS

1 Q: And you tried to get Brandon to hire you a private  
2 attorney, did you not?

3 A: I tried to get him to -- to put some money with the rest  
4 of everybody else, yeah.

5 Q: And he didn't do it; correct?

6 A: No.

7 Q: He refused?

8 A: Yeah.

9 Q: That first statement you gave on November of 2017 that  
10 you were at the trailer all day or all night while this  
11 shooting was happening, they didn't believe that, did they?

12 A: No.

13 Q: And they wanted more information; isn't that correct?

14 A: Yeah.

15 Q: Then you continued to deny that you were in Vinny's  
16 truck?

17 A: Right.

18 Q: You continued to deny that you were even out there that  
19 night; correct?

20 A: Correct.

21 Q: They needed more information; correct?

22 A: Correct.

23 Q: And you're in jail at this time; correct?

24 A: Correct.

25 Q: And you testified once before; correct?

1 A: Correct.

2 Q: Back in September?

3 A: Right.

4 Q: You were in jail during that time; correct?

5 A: Correct.

6 Q: You're not now?

7 A: No.

8 Q: You're hoping you're not going to have to go back to  
9 jail? That's what you're hoping?

10 A: I mean I guess.

11 Q: So your testimony today --

12 MR. SHELTON: Can you put 130 up?

13 BY MR. SHELTON:

14 Q: Tell me where your truck was the night of that shooting.

15 A: My truck was coming around the curve.

16 Q: All right. So where did you stop?

17 A: We stopped wherever they swiped us at. That was  
18 probably somewhere right here.

19 Q: All right. So it's down there now. Before it was up a  
20 little bit higher. But it's closer now? Now it's closer to  
21 that next street?

22 A: No. Their truck been up here from the first one. The  
23 truck I been in always been down here.

24 Q: I'm sorry. I said that the wrong way. Earlier with the  
25 State, you were further up on the street towards that --

## MAURICE WASHINGTON - CROSS

1 towards that curve, but now you're further down on the  
2 street.

3 A: I mean I just put that up there. I don't even know. We  
4 been closer to where the curve start at and all that because  
5 that's where -- that's where we almost get swiped at.

6 Q: This is a big night.

7 A: Yeah.

8 Q: Correct?

9 A: Correct.

10 Q: You're hoping you don't have to go back to jail;  
11 correct?

12 A: You just say that.

13 Q: Is that correct?

14 A: I just answered that.

15 Q: So help us out. Tell us where you were.

16 THE COURT: What's the question, Mr. Shelton?

17 THE WITNESS: I don't even understand.

18 BY MR. SHELTON:

19 Q: Were you closer to -- were you right there at that mark  
20 or were you closer to the -- to the curve?

21 A: Which mark? This mark or this mark?

22 Q: Which mark were you closer to?

23 A: We closer down here. I'm closer down this way.

24 Q: Okay. From that distance, you could tell gunshots  
25 coming down -- down the street? You could tell who's

1 shooting?

2 A: No.

3 Q: Well, your testimony was you know G Baby was shooting.

4 You saw it. That was your testimony. You saw shots.

5 A: I saw flashes.

6 Q: And you know G Baby is shooting?

7 A: I mean, yeah.

8 Q: And you know Thugga was shooting?

9 A: Correct.

10 Q: From there? From that distance?

11 A: From what they said.

12 Q: From that distance, you couldn't see anything.

13 A: I mean --

14 Q: Is that now your testimony?

15 A: I guess.

16 Q: Brandon was in that Lincoln Navigator behind Randall

17 Myers, behind Thugga?

18 A: Correct.

19 Q: So he wasn't behind Fat Baby [sic], behind Antoine? He

20 was behind Thugga?

21 A: Right.

22 Q: And Thugga got hit?

23 A: Right.

24 Q: So you're saying that it was G Baby that hit him?

25 A: I say that's what we thought, what Thugga thought.

## MAURICE WASHINGTON - CROSS

1 Q: So there wasn't talk that they thought it was Nathan  
2 Burnett that was shoot -- that shot Thugga?

3 A: No.

4 Q: Drama shot Thugga?

5 A: No.

6 Q: Do you remember in your proffer when you talked with the  
7 -- with the State where you said -- where you believed that  
8 Marquise was waiting on them, waiting to ambush them?

9 A: Right.

10 Q: Your testimony with the -- with the State was that you  
11 saw Brandon in a sling that night?

12 A: Right.

13 Q: He was not moving that left arm?

14 A: Right.

15 Q: He got shot right here in the left side of the chest?

16 A: I guess. I don't know. He get shoot in the chest. I  
17 don't know which side. I just know he get shoot in the  
18 chest.

19 Q: Okay. So whatever side it was, he had that sling?

20 A: Yeah.

21 Q: He had a grazed head. He had bandages across his head?

22 A: Correct.

23 Q: And you came up with a plan to go to the apartments?

24 A: Correct.

25 Q: Then your testimony was that you had the plan to go down

1 that street?

2 A: My plan ain't never been to drive down that street.

3 Q: Right. Your plan was to turn off before it.

4 A: My plan was to jump the fence and -- and go on the  
5 street like that.

6 Q: And you're going to -- you tried to turn off. You tried  
7 to tell them not to turn off; correct?

8 A: Correct.

9 Q: Were you leading the way to the apartments? Were you  
10 showing them how to get there?

11 A: Yeah.

12 Q: So they were following you because they went to the  
13 apartments because of you?

14 A: Right.

15 Q: You didn't have a gun?

16 A: I had access to an assault rifle, yeah.

17 Q: You gave a statement December of 2016; correct?

18 A: Right.

19 Q: You gave a statement in November of 2017; correct?

20 A: Correct.

21 Q: You gave -- you testified in September of 2019; correct?

22 A: Correct.

23 Q: And you just testified with the State today; correct?

24 A: Correct.

25 Q: All those times you said you didn't have a gun; correct?

## MAURICE WASHINGTON - CROSS

- 1 A: It's in the middle.
- 2 Q: So now you have a gun?
- 3 A: I have access to a gun.
- 4 Q: Did Vinny have a gun?
- 5 A: Vinny got access to the gun.
- 6 Q: Just that one gun?
- 7 A: Correct.
- 8 Q: Fat Boi does not have a gun?
- 9 A: Fat Boi ain't got no gun.
- 10 Q: No gun. He's just driving?
- 11 A: Correct.
- 12 Q: Fat Boi knows Marquise; correct?
- 13 A: Probably, yeah.
- 14 Q: Did Fat Boi go and talk to Marquise that day?
- 15 A: Yeah. Marquise robbed Fat Boi's brother earlier that
- 16 day.
- 17 Q: So Marquise talked to Fat -- or to -- Fat Boi talked to
- 18 Marquise?
- 19 A: Right.
- 20 Q: I think your testimony was you guys smoked weed every
- 21 day?
- 22 A: Yeah.
- 23 Q: And I mean Fat Boi does more than weed; correct?
- 24 A: We all do more than weed.
- 25 Q: Okay. Do you sell drugs to Fat Boi?

- 1 A: Yeah.
- 2 Q: Does Fat Boi do things for you for drugs?
- 3 A: No. I mean ride to the store and stuff like that, but  
4 are you talking about, like, junkie stuff? Like --
- 5 Q: No. Sorry. Not that. I'm sorry.
- 6 A: No.
- 7 Q: I didn't mean to imply that.
- 8 A: All right.
- 9 Q: So he -- but he gives you things, cars maybe, rides?
- 10 A: He ain't given -- he ain't given me no car, but he might  
11 give me a ride to the store or something.
- 12 Q: Let you borrow a car?
- 13 A: No.
- 14 Q: Okay. In exchange for drugs?
- 15 A: No.
- 16 Q: No?
- 17 A: Fat Boi?
- 18 Q: Yeah.
- 19 A: No.
- 20 Q: You sell Fat Boi drugs?
- 21 A: Yeah, but he ain't about to give me his car.
- 22 Q: Okay. In exchange for drugs?
- 23 A: Fat Boi is not giving me his car. Quit saying that.  
24 He's not going to give me his car.
- 25 Q: Okay. In exchange for drugs?

## MAURICE WASHINGTON - REDIRECT

1 MS. WILLIAMS: Objection. Asked and answered.

2 THE COURT: That's sustained. Please move on.

3 THE WITNESS: I mean he ain't giving me his car. I say  
4 that.

5 MR. SHELTON: I beg the Court's indulgence.

6 No further questions.

7 MS. WILLIAMS: Just very briefly, Your Honor.

8 THE COURT: Uh-huh.

9 REDIRECT EXAMINATION

10 BY MS. WILLIAMS:

11 Q: Mr. Washington, defense counsel asked you if you saw who  
12 was shooting, and you testified that you knew G Baby shot and  
13 you knew Randall shot. Were they talking about that they  
14 shot the guns? Were they talking about this afterwards?

15 A: Yeah.

16 Q: Is that how you knew?

17 A: Yeah.

18 Q: And he also asked you about an ambush and everybody  
19 shooting back. Your plan initially was to not go down that  
20 street; right?

21 A: Correct.

22 Q: What's the best way to avoid getting shot at at a dead-  
23 end street? Not going down the street maybe?

24 A: Exactly.

25 Q: Isn't that a way to avoid that danger?

## MAURICE WASHINGTON - REDIRECT

1 A: Yes, ma'am.

2 MS. WILLIAMS: No further questions.

3 MR. SHELTON: Nothing further.

4 THE COURT: You can step down, sir.

5 Ladies and gentlemen, we're going to take about a 10-  
6 minute break, let y'all stretch your legs. Please don't  
7 begin discussing the case.

8 (WHEREUPON, the jury exited the courtroom at 11:14 a.m.)

9 THE COURT: Can I have you guys approach just a minute?

10 (WHEREUPON, a bench conference was held off the record,  
11 after which the proceedings resumed as follows.)

12 THE COURT: We'll be at recess.

13 (WHEREUPON, there was a break in the proceedings from  
14 11:15 a.m. until 11:28 a.m., after which the proceedings  
15 resumed as follows.)

16 THE COURT: Thank you. Y'all please have a seat.

17 MS. WILLIAMS: Thank you, Judge, may I just have three  
18 seconds to tell my witnesses which order?

19 THE COURT: Sure. And, Ms. Williams, I know our jurors'  
20 lunch will be here right at 12.

21 MS. WILLIAMS: Right at 12.

22 THE COURT: So --

23 MS. WILLIAMS: We just told them that -- they're from  
24 Columbia and they're, like, we don't mind having lunch in  
25 Charleston. So if we have to split it up, it's whatever Your

1 Honor wants. And so I think we're good.

2 THE COURT: Okay. Thanks.

3 (WHEREUPON, there was a pause in the proceedings, after  
4 which the proceedings resumed as follows.)

5 THE COURT: Okay. Are we ready for the jury?

6 MS. WILLIAMS: Yes, Your Honor.

7 (WHEREUPON, the jury entered the courtroom at 11:34  
8 a.m.)

9 THE BAILIFF: All jurors are present, Your Honor.

10 THE COURT: Thank you.

11 Ladies and gentlemen, I see some of you taking notes,  
12 and that's perfectly fine. I've discussed this with the  
13 attorneys. We do just ask -- first of all, if there's  
14 anybody else who needs paper and pen, we're glad to give that  
15 to you and provide that for you. We can get that for you  
16 right now.

17 But secondly, the important thing with notes is that you  
18 understand that you should rely on your own recollection of  
19 the testimony and don't rely on anybody else's notes. So  
20 that's the concern that we have is that during deliberations  
21 that jurors might defer to a juror who has taken notes as  
22 opposed to their own recollection. So that's my only caveat  
23 with the note taking is please don't let that take the place  
24 of listening carefully to the testimony and don't rely on  
25 somebody else's notes over your own recollection.

## COURTNEY THOMPSON - DIRECT

1 And is there anybody that we need to get you paper, pen,  
2 anything? Is everybody okay?

3 Okay. Then the State can call your next witness.

4 MS. WILLIAMS: Thank you, Your Honor. The State calls  
5 Courtney Thompson.

6 (WHEREUPON, there was a pause in the proceedings until  
7 the witness entered the courtroom.)

8 THE CLERK: Come around and place your left hand on the  
9 Bible and raise your right hand for me. Do you swear or  
10 affirm the testimony you shall give the Court and the jury  
11 shall be the truth, the whole truth, and nothing but the  
12 truth, so help you God?

13 THE WITNESS: Yes, I do.

14 THE CLERK: Please take a seat. Please state your full  
15 name and spell your last name for the record.

16 THE WITNESS: Okay. My name is Courtney Thompson. Last  
17 name T-h-o-m-p-s-o-n.

18 COURTNEY THOMPSON, being first  
19 duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. WILLIAMS:

22 Q: Ms. Thompson, where do you work?

23 A: I am employed with the South Carolina Law Enforcement  
24 Division, also referred to as SLED.

25 Q: And how long have you worked there?

## COURTNEY THOMPSON - DIRECT

1 A: I'd been there for about seven-and-a-half years.

2 Q: What do you do there?

3 A: I am a forensic serologist in the DNA casework  
4 department.

5 Q: And what is that? What do you do?

6 A: Forensic serology is the identification of various types  
7 of body fluids, specifically usually blood, semen or saliva.  
8 The reason why we look for those body fluids is because they  
9 are very good potential sources of DNA.

10 Q: And did you process items in this case?

11 A: Yes, I did process items in this case.

12 Q: And was that limited to taking swabs and basically just  
13 packaging things or did you have reports where you came to  
14 conclusions about the evidence?

15 A: For this particular case, I only processed the clothing  
16 for potential DNA that may have been left behind by someone  
17 who may have, well, like, worn or held an item, and so I  
18 didn't really offer any scientific conclusions. I pretty  
19 much just collected swabs and then prepared it for DNA  
20 analysis.

21 Q: And explain to the jury how you take swabs from items  
22 and then what's done with them afterwards.

23 A: Sure. So depending on what the type of item is, for  
24 instance, if it's an item of clothing, if we -- if I'm trying  
25 to help the DNA analyst know who wore the item of clothing, I

## COURTNEY THOMPSON - DIRECT

1 will process that item in areas that have, like, high skin  
2 traction usually, and then I do that by taking -- it's called  
3 a sterile scraper. It's a plastic -- almost like a spatula.  
4 It's never been used on another item, and I scrape that  
5 evidence -- that area of interest very thoroughly, and it  
6 just loosens up any potential DNA that may be present.

7       Then I take a sterile swab and I moisten it with some  
8 sterilized water, and then I just swab the areas very  
9 vigorously to try and remove any potential DNA that may be  
10 there. Then they're allowed to dry and then packaged into a  
11 paper envelope, and then all of those swabs are placed into a  
12 pouch that I seal up and initial and date it and properly  
13 return it back to our evidence storage location until a DNA  
14 analyst can work on it.

15 Q: And did you process items of evidence from this case,  
16 North Charleston PD case ending in 029198?

17 A: Yes, I did.

18 Q: And how is that case logged in? Like, what is the crime  
19 that they have it logged in as?

20 A: Let me refer quickly to what it was logged in as. As a  
21 kidnapping is what I have.

22 Q: Okay. And what items of evidence did you process?

23 A: I processed a hat, a pair of jeans, a pair of tennis  
24 shoes, and a lighter.

25 Q: Okay. And what did you do with those items

## COURTNEY THOMPSON - DIRECT

1 specifically?

2 A: So specifically, each of those items of clothing, the  
3 request for them was ownership. So ownership implies who was  
4 wearing the item. We're trying to look for that particular  
5 individual.

6 With each of those items of evidence, again, like I said  
7 before, I was -- I scraped the areas of higher, like, skin  
8 friction and then swabbed them. With the tennis shoes,  
9 because it's hard to put a scraper down in there, I just kind  
10 of -- I forced my hand down into the inside of the tennis  
11 shoe and then just swabbed vigorously of the interiors of  
12 both of them.

13 And then for the lighter, that's called touch DNA, and  
14 that's DNA that may be left behind by someone who has handled  
15 an object. And so for that, because it's a harder surface, I  
16 use a wet swab, moistened with sterile water, and then I  
17 follow it with a dry swab. And this is just the most  
18 effective method for collection off of harder-surfaced items.

19 Q: And when you get these items of evidence in to swab  
20 them, what condition do they come in?

21 A: They are generally packaged in a paper bag or paper box,  
22 something like that that the agency has sealed up and then  
23 submitted in accordance with our packaging standards for the  
24 lab.

25 Q: And if an item comes in that is not in accordance with

## COURTNEY THOMPSON - DIRECT

1 your packaging standards and looks compromised or opened or  
2 somehow messed with, for lack of a better word, would you  
3 process it?

4 A: No. Per our protocols for the lab, if an item is not in  
5 -- like, the seals are not intact or it appears to be  
6 compromised in any way, we would stop. I would stop analysis  
7 immediately on that item.

8 MS. WILLIAMS: Your Honor, I am going to show defense  
9 counsel what's been previously marked as State's 49, 51, and  
10 53.

11 May I approach the witness?

12 THE COURT: Yes.

13 BY MS. WILLIAMS:

14 Q: Do you recognize these items?

15 A: Yes. These are the swabs that I collected from the hat,  
16 the jeans, and the tennis shoes.

17 Q: And after you collect the swabs, what do you do with  
18 them?

19 A: They were securely packaged up into a pouch that I have  
20 sealed up, and then I returned it to -- let me make sure.  
21 Yes, I returned it to evidence control where it awaited  
22 pickup by a DNA analyst, and that's a secure location that  
23 all of our evidence is housed in while it's at SLED and it's  
24 not in the custody of an examiner.

25 Q: And how do you know that those are the items that you

## COURTNEY THOMPSON - DIRECT

1 swabbed and then put in the envelope and sealed?

2 A: They have the lab number that's assigned to this  
3 specific case whenever it was assigned. It has the correct  
4 item number. And then when I sealed them up, I placed my  
5 initials and the date that I did the processing on the tape  
6 on the back.

7 Q: And that's what's on these envelopes?

8 A: That is correct.

9 MS. WILLIAMS: Your Honor, at this time, the State  
10 offers 49, 51, and 53 into evidence.

11 MR. SHELTON: No objection.

12 THE COURT: They are admitted.

13 (WHEREUPON, State's Exhibit No. 49, swabs from tennis  
14 shoes, State's Exhibit No. 51, swabs from blue jeans,  
15 and State's Exhibit No. 53, swabs from hat, were  
16 admitted into evidence.)

17 MS. WILLIAMS: No further questions.

18 CROSS-EXAMINATION

19 BY MR. SHELTON:

20 Q: Ms. Thompson, when you're talking about DNA, it's not  
21 something that you can see. You can't see DNA; correct?

22 A: That's correct. Sometimes we can see something like  
23 blood, but no, DNA is microscopic.

24 Q: And when you're talking about, I guess, touch DNA, that  
25 is definitely something you cannot see. You're kind of

## COURTNEY THOMPSON - CROSS

1 taking a guess when you do the swabs; correct?

2 A: That is correct. The -- the DNA is not seen and so with  
3 something like touch DNA and in reference to the lighter  
4 specifically, I just swabbed the entire exterior of the item  
5 just trying to collect anything that may be present.

6 Q: And -- and you don't know when DNA gets on an item;  
7 correct?

8 A: That's correct. We cannot age the time the DNA was  
9 placed there.

10 MR. SHELTON: No further questions.

11 MS. WILLIAMS: Just one.

12 REDIRECT EXAMINATION

13 BY MS. WILLIAMS:

14 Q: When you're talking about guessing, you're talking about  
15 swabbing -- like, you're guessing where the -- where someone  
16 had touched it so you're just going to swab the whole thing?  
17 You're not guessing at the science?

18 A: That's correct, yes. I'm not guessing at what may be  
19 present, just the right area that I need to process.

20 MS. WILLIAMS: Thank you. No further questions.

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

22 MS. WILLIAMS: The State calls Sara Zapata.

23 (WHEREUPON, there was a pause in the proceedings until  
24 the witness entered the courtroom.)

25 MR. SHELTON: Your Honor, can we approach?

## SARA ZAPATA - DIRECT

1 THE COURT: Sure.

2 (WHEREUPON, a bench conference was held in the presence  
3 of the jury but out of the hearing of the jury off the  
4 record, after which the proceedings resumed as follows.)

5 THE COURT: Go ahead.

6 THE CLERK: Do you swear or affirm the testimony you  
7 shall give the Court and the jury shall be the truth, the  
8 whole truth, and nothing but the truth, so help you God?

9 THE WITNESS: I do.

10 THE CLERK: Please take a seat. Please state your full  
11 name, spelling your last name for the record.

12 THE WITNESS: Sara Zapata, Z-a-p-a-t-a.

13 SARA ZAPATA, being first duly  
14 sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MS. WILLIAMS:

17 Q: Ms. Zapata, where do you work?

18 A: At the South Carolina Law Enforcement Division.

19 Q: And what do you do there?

20 A: I am a DNA analyst in the casework department, the DNA  
21 casework department.

22 Q: Tell us a little bit about your educational and your  
23 training background.

24 A: I have a Bachelor of Science in forensic science from  
25 the Pennsylvania State University, and upon employment at

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1 SLED I went through a training process under a court-  
2 qualified analyst for approximately a year and a half.

3 And in that process, we learn all the different  
4 laboratory procedures that we'll have to perform as analysts,  
5 as well as report writing and calculating statistics. And  
6 then to complete our training, we have to do several training  
7 samples that are graded, followed by several mock cases, a  
8 written exam, an oral exam, and a mock trial, and then a  
9 competency exam before we're able to perform any work on real  
10 casework.

11 And then we are proficiency tested twice a year. That  
12 is an outside agency that tests us to make sure that we are  
13 performing all of our analysis correctly. And we also are  
14 required to have eight hours of continuing education a year.

15 Q: Okay. And have you testified as an expert before in the  
16 field of forensic science DNA?

17 A: I have.

18 Q: And how many times?

19 A: About ten times.

20 Q: Okay.

21 MS. WILLIAMS: Your Honor, at this point, we would offer  
22 Ms. Zapata as an expert in the field of forensic science,  
23 specifically DNA analysis.

24 MR. SHELTON: No objection.

25 THE COURT: Okay. I do find that she is so qualified

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1 and can give opinion testimony in that area.

2 BY MS. WILLIAMS:

3 Q: Now, Ms. Zapata, did you analyze items of evidence in  
4 Case Number 2016-029194? That would be the North Charleston  
5 Police Department number, and your SLED -- your lab number  
6 L-17-02058.

7 A: I did.

8 Q: And what items of evidence did you analyze?

9 A: At first, I analyzed evidence Item Number 87, which is a  
10 swab from the trigger and grip area of a pistol with the  
11 serial number FB100697; and our Item 91, which is a swab from  
12 the trigger and grip area from a .45 caliber, serial number  
13 S3165048; as well as Item 92, which were swabs from the  
14 interior driver's door handle; Item 93, which was swabs from  
15 the left rear passenger interior door; and Item 94, which  
16 were swabs from the right front passenger interior door; and  
17 then I also had comparison standards, which were Item 88,  
18 buccal swabs from Maurice Washington, and Item 90, buccal  
19 swabs from Randall Myers.

20 Q: Okay. Did you have a buccal swab from someone named  
21 Brandon Grayer?

22 A: I received those later. That would be our Item 97.

23 Q: And with regard to SLED Item Number 91, which is the  
24 swab from the trigger of a .45 caliber weapon, that was you  
25 said S3165048?

1 A: Correct.

2 MS. WILLIAMS: Court's indulgence for just a moment.

3 These are safety locked, and they are safety locked so  
4 well that it's hard to see the serial number, but I'm going  
5 to show defense counsel what's been previously marked as  
6 State's 59.

7 May I approach the witness?

8 THE COURT: Yes.

9 BY MS. WILLIAMS:

10 Q: Can you see if State's 59 -- what the serial number is  
11 for that?

12 A: S3165048.

13 Q: And is that the same serial number of the gun that you  
14 analyzed as well?

15 A: Yes, that is the same serial number.

16 Q: You're not a firearms expert. You don't know what kind  
17 of gun that is?

18 A: No.

19 Q: All right. With regard to the swab from that gun, did  
20 you look at -- did you develop any profiles from that swab?

21 A: Yes. Initially, the results from that item were the DNA  
22 profile is a mixture of at least three individuals and, due  
23 to the inability to calculate a statistic, no further  
24 interpretation will be offered.

25 Q: Okay. And then at some point, did you analyze it with

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1 -- did you analyze it again?

2 A: Yes. So --

3 Q: And let me just ask you this question. Who was -- who  
4 were the contributors to the profile for that DNA profile?  
5 Like, who contributed? What people's DNA were on that swab?

6 A: Okay. The second -- when I received additional  
7 standards, we were using a new --

8 Q: I'm asking you a specific question --

9 A: Okay.

10 Q: -- because we're going to go into that.

11 A: Okay.

12 Q: There's just so much information in this case. I'm just  
13 trying to keep it --

14 A: Right.

15 Q: Whose --

16 A: The result, ultimately, was that Randall Myers and  
17 Brandon Grayer were included as possible contributors to that  
18 mixture.

19 Q: So Brandon Grayer's DNA is on that gun, the swabs from  
20 that gun? His DNA contributed to the mixture, and Randall  
21 Myers? And what is the number assigned to that?

22 THE COURT: Hold on just a minute. I don't think she  
23 gave an answer yet.

24 BY MS. WILLIAMS:

25 A: Can I read the results from the report?

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1 Q: You can answer the question. Whose DNA contributed to  
2 that profile? I think you just testified that the profile --  
3 Brandon Grayer and Randall Myers. Is that true?

4 A: Brandon Grayer and Randall Myers were included as  
5 possible contributors, yes.

6 Q: Okay. And was there a number attributed to that  
7 particular statistic?

8 A: Yes.

9 Q: And what was that number?

10 A: The DNA profile is approximately 11 nonillion times more  
11 -- well, I'm sorry. Can I backtrack a bit?

12 Q: You can answer the question.

13 A: The best way to convey the results is we compare each  
14 person individually to the mixture and then if they are  
15 included individually, we calculate a statistic to see if  
16 they are included together.

17 And so for Randall Myers individually, the DNA profile  
18 is approximately 1.9 billion times more likely if Randall  
19 Myers and two unidentified, unrelated individuals contributed  
20 to the mixture than if three unidentified, unrelated  
21 individuals contributed to the mixture.

22 And then we compare Brandon Grayer and the result for  
23 Brandon Grayer individually is the DNA profile is  
24 approximately 1.2 quintillion times more likely if Brandon  
25 Grayer and two unidentified, unrelated individuals

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1 contributed to the mixture than if three unidentified,  
2 unrelated individuals contributed to the mixture.

3           And so now we have both of these people included as  
4 possible contributors and we want to make sure that together  
5 they can still be included in the mixture. And so the result  
6 for that is the DNA profile is approximately 11 nonillion  
7 times more likely if Randall Myers, Brandon Grayer, and an  
8 unidentified, unrelated individual contributed to the mixture  
9 than if three unidentified, unrelated individuals contributed  
10 to the mixture.

11           MS. WILLIAMS: I'm going to ask you to put State's 123  
12 up.

13 BY MS. WILLIAMS:

14 Q:    So I'm just trying to make sure I understand. I'm not  
15 that smart when it comes to science. So what you're saying  
16 is first you calculate whether it's just Randall Myers or the  
17 probability?

18 A:    That he's contributing.

19 Q:    Right. And then two people we don't know?

20 A:    Uh-huh.

21 Q:    Then you calculate whether it's just Brandon Grayer and  
22 two people we don't know?

23 A:    If that is a possibility, yes.

24 Q:    And then the last is you calculate whether it's the both  
25 of them involved in the mixture and one other -- the one

1 person we don't know?

2 A: Correct.

3 Q: Because we know there's three people on it?

4 A: Right.

5 Q: Is it unusual to have mixtures on swabs for -- for DNA?

6 Is it unusual to have a mixture?

7 A: It depends on the item that we're swabbing and what kind  
8 of item -- what kind of item could be contributing the DNA.

9 So if it is saliva, you would probably expect one person or  
10 maybe two people if they're sharing a drink. If it's touch  
11 DNA, such as the swabs from a weapon or even from this  
12 counter, you would expect to have multiple people show up  
13 because multiple people are touching that item.

14 Q: So it's not unusual?

15 A: No.

16 Q: I want you to look at this. Is it appearing before you?

17 A: Yes.

18 Q: Okay. And you just threw out some numbers there that I  
19 am not familiar with.

20 A: Uh-huh.

21 Q: So can you reference those numbers on here and just tell  
22 us, you know, how big those numbers are. The one I recognize  
23 is the -- there's thousand, million, billion, trillion, and  
24 then, you know.

25 A: Right.

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1 Q: So just tell us in terms of your results where we fall  
2 on here.

3 A: Okay. For Randall Myers being compared by himself to  
4 the mixture, it's billion. Does this -- if I touch it, does  
5 it --

6 Q: Yeah.

7 A: -- write?

8 Q: It will make a little mark.

9 A: Okay.

10 Q: Uh-huh.

11 A: Then comparing Brandon Grayer by himself to the mixture,  
12 Brandon Grayer and two unidentified versus three unidentified  
13 in the mixture, we are at quintillion.

14 Q: Okay. And then for Brandon Grayer and Randall Myers,  
15 both of them being on that gun, what is the number?

16 A: So Randall Myers, Brandon Grayer, an unidentified versus  
17 three unidentified, we are at nonillion.

18 Q: Okay. How many zeros is that?

19 A: Thirty.

20 Q: So that's a pretty large number in terms of probability?

21 A: Correct.

22 Q: And you started to talk about -- and I cut you off and I  
23 apologize -- a little bit more about the science.

24 A: Uh-huh.

25 Q: And explain to us that SLED has gone through a change in

1 the way they calculate probabilities.

2 A: Uh-huh.

3 Q: Has the science and the way that you analyze items of  
4 evidence changed?

5 A: No. So none of the lab work changed. In this case, the  
6 only additional lab work that I did was on the standards that  
7 were received the second time. I just took the data from the  
8 evidence that was originally generated and was able to use  
9 this new method of calculating a statistic.

10 So in order to make any comparisons to an item of  
11 evidence, we have to be able to calculate a statistic to give  
12 a weight to that comparison. And the way that we were  
13 calculating statistics before, these mixtures did not meet  
14 those guidelines to calculate a statistic and so we couldn't  
15 make any comparisons.

16 Q: So let me just go through this to make sure I  
17 understand.

18 A: Uh-huh.

19 Q: So what you're saying is you guys were finding DNA on  
20 items, but you didn't have the ability to calculate the  
21 statistics?

22 A: Correct.

23 Q: Okay.

24 A: Yes. So the DNA was there. No additional DNA analysis  
25 was performed in the lab on the item --

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1 Q: Okay.

2 A: -- for the second report.

3 Q: And what changed?

4 A: So we began using a new software, and this software is  
5 able to calculate much more complex equations than we can as  
6 humans and it analyzes a lot more of the data; and so it  
7 takes all the things that we were seeing before and just  
8 didn't -- that information didn't meet the guidelines. The  
9 guidelines for using this are different because it's  
10 calculating a different kind of statistic and so it's able to  
11 use more of a complete picture of the DNA profile that's  
12 developed on the item of evidence.

13 Q: And what's it called? What's that program called?

14 A: It's called STRmix.

15 Q: And tell us a little bit about STRmix. Are you guys  
16 renegades? Are you the ones -- are you the only ones using  
17 it?

18 A: No. There are about 54 labs in the U.S. that are using  
19 it now. It's also been used internationally. It was  
20 actually developed by a laboratory in New Zealand.

21 Q: And is the Federal Bureau of Investigations using it?

22 A: I think that they are. I know that USACIL, which is the  
23 Army DNA lab, was the first lab in the U.S. to use it. I  
24 think that was back in 2014.

25 Q: Okay. So it's commonly used?

1 A: Yes.

2 Q: And tell us a little bit about some of the checks and  
3 balances with this program. Is it -- do you just take it for  
4 granted that the software is correct or is there some kind of  
5 checks on that?

6 A: So the software is a tool for us to use. We are still  
7 the analysts who have to interpret the data; and so what we  
8 do is we look at the data generated from the evidence  
9 profile, evaluate it, see if it meets the guidelines for use  
10 in STRmix, and then we tell STRmix this looks like a mixture  
11 of three people.

12 And then we will run it in STRmix and, after STRmix is  
13 done with its analysis, we have to look at all of the  
14 diagnostics. It has to all pass a certain range to be  
15 accepted by us. And then after we have completed all of our  
16 interpretation, our cases still have to be reviewed  
17 technically by another analyst, and they will go through and  
18 look at all the STRmix data as well and then administratively  
19 reviewed by someone else.

20 Q: And were there some checks where, like, you got results  
21 from STRmix and then people did it a different way and saw if  
22 it matched up? Like where they checked to see if STRmix  
23 results were consistent with results by an independent  
24 method?

25 A: I think, if I understand your question, during the

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1 validation --

2 Q: Yes.

3 A: -- we make sure that STRmix gives us the results that we  
4 expect to receive. So in order to make sure that STRmix is  
5 working correctly, a team of DNA analysts from our department  
6 spent almost a year and a half generating data. So they  
7 would make mixtures from people that we know and sort of make  
8 mock evidence samples to see, like, what would this look like  
9 if this was a real case item, and then run it and check it  
10 against what they knew the correct answer would be because  
11 they had generated the mixtures themselves to verify that it  
12 was working correctly.

13 Q: Okay. So you've already told us that your number is 11  
14 nonillion -- non -- tell me that number again?

15 A: Nonillion.

16 Q: Nonillion. That it would be the mixture would have  
17 Brandon Grayer and Randall Myers and someone else whose  
18 standard we don't know.

19 Tell us about the science. Like, how do you test DNA?  
20 What happens when you figure out someone's unique DNA profile  
21 and how do you compare it to an item of evidence?

22 A: So we, as DNA analysts, receive our evidence and we --  
23 usually, it's on the swab and we will take it through our  
24 standard laboratory procedures to isolate the DNA from the  
25 swab. And then we -- ultimately, our result is a series of

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1 numbers that is unique to each person, with the exception of  
2 identical twins because they would have the same DNA. And so  
3 you receive half of your DNA from your mom and half from your  
4 dad, and that combination of their DNA is unique to you.

5 Q: Okay. So we all have a unique DNA profile except if we  
6 have an identical twin?

7 A: Correct.

8 Q: And then when you get an item of evidence in, how do you  
9 compare that to the item to figure out if somebody's DNA is  
10 on it in terms of the science portion of it?

11 A: Okay. So we analyze our evidence first to determine if  
12 it is suitable for comparison and then when we receive  
13 standards, we'll take it through that same laboratory  
14 procedure in order to generate the DNA profile from that  
15 known individual, and then we will look at that DNA evidence  
16 profile and compare that to the standards.

17 Q: Okay. And that's been the process for collecting and  
18 comparing DNA for how long?

19 A: As long as DNA has been a science that has been used  
20 forensically.

21 Q: And the South Carolina Law Enforcement Division lab is  
22 accredited?

23 A: Yes.

24 Q: And audited?

25 A: Yes.

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1 Q: I'm going to bring your attention now to an item of  
2 evidence, which is your item of evidence 89, and tell us what  
3 that is.

4 A: 89 is a swab from the trigger and grip area of a pistol  
5 with the serial number FB100697.

6 MS. WILLIAMS: Your Honor, I'm showing defense counsel  
7 what's been previously marked as State's 58.

8 May I approach?

9 THE COURT: Uh-huh.

10 BY MS. WILLIAMS:

11 Q: If you could tell us what serial number is on that  
12 weapon?

13 A: FB100697.

14 Q: Okay. So is that the weapon that the swab came from  
15 based on the serial numbers?

16 A: That is the same serial number.

17 Q: All right. I know you want to give us the long answer,  
18 but the bottom line is tell us whose DNA profile contributed  
19 to the mixture that's on that weapon.

20 A: So for this item, the only comparison that gave a  
21 statistic supporting inclusion of a person on the item was  
22 for Randall Myers, and that result is the DNA profile is  
23 approximately 300 octillion times more likely if Randall  
24 Myers and two unidentified, unrelated individuals contributed  
25 to the mixture than if three unidentified, unrelated

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1 individuals contributed to the mixture.

2 Q: Octillion is 27 zeros? Do you know?

3 A: Twenty-nine.

4 Q: Okay.

5 A: Twenty-nine zeros.

6 Q: All right. So Randall Myers is the contributor to the  
7 DNA on that gun?

8 A: He's included as a possible contributor.

9 Q: Okay. And let's look at some other items of evidence  
10 and the results for those. Did you analyze swabs from some  
11 jeans?

12 A: Swabs from 17-020 -- I'm sorry -- 2535?

13 Q: Yes. Or your number 058. I'm sorry.

14 A: Sorry.

15 Q: I'm sorry.

16 A: The jeans I believe were 2535.

17 Q: Okay. I'm going to defer to you.

18 A: Okay. Are we looking at Item 1?

19 Q: Uh-huh.

20 A: Or 3.1? There were several swabs from the jeans.

21 Q: Okay. Did you receive -- did you develop results from  
22 all of those swabs or --

23 A: Not from all of them.

24 Q: Okay. Well, let's talk about the ones that you did  
25 develop a result from.

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1 A: Okay. 3.1 is a swab from scraping the interior  
2 waistband of the jeans.

3 Q: Okay. And what were the results from that?

4 A: For Item 3.1, the DNA profile is approximately 80  
5 quadrillion times more likely if Randall Myers and three  
6 unidentified, unrelated individuals contributed to the  
7 mixture than if four unidentified, unrelated individuals  
8 contributed to the mixture.

9 Q: Okay. And what about Item 2.1? Is that the scraping  
10 from a hat?

11 A: Okay. For the hat, it's similar to the other item where  
12 there were multiple people included individually and so we  
13 calculate also if they were -- if they were contributing  
14 together.

15 Q: Uh-huh.

16 A: And so for the comparison of Randall Myers for 2.1, the  
17 DNA profile is approximately 34 quintillion times more likely  
18 if Randall Myers and two unidentified, unrelated individuals  
19 contributed to the mixture than if three unidentified,  
20 unrelated individuals contributed to the mixture.

21 And then for Maurice Washington, the DNA profile is  
22 approximately 710 billion times more likely if Maurice  
23 Washington and two unidentified, unrelated individuals  
24 contributed to the mixture than if three unidentified,  
25 unrelated individuals contributed to the mixture.

1 So we have --

2 Q: What about both of them?

3 A: Both of them together, the DNA profile is approximately  
4 80 duodecillion times more likely if Randall Myers, Maurice  
5 Washington, and an unidentified, unrelated individual  
6 contributed to the mixture than if three unidentified,  
7 unrelated individuals contributed to the mixture.

8 Q: So the strongest is Randall Myers and Maurice  
9 Washington?

10 A: They are both included as being possible contributors  
11 together.

12 Q: So if Maurice Washington has a hat and wears it and then  
13 lends it to Randall Myers, is that likely to be a reason why  
14 both their DNA would be on it?

15 A: It's possible.

16 Q: If they sweat on the hat?

17 A: Yes.

18 Q: Or shed skin cells?

19 A: Correct.

20 Q: Okay. Are there other ways that DNA gets on an item?

21 A: Someone could bleed on an item, spit on an item, be  
22 touching the item.

23 Q: Okay. Sweat?

24 A: Sweat, yes.

25 Q: Let's talk about Item 4.1, which is a swab from the

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1 interior and tongue of shoes.

2 A: Okay.

3 Q: What are the results for that?

4 A: So this was an item where we were able to calculate  
5 statistics using the old -- the original method, and so the  
6 DNA profile is a mixture of at least three individuals. The  
7 DNA profile of the major contributor matches the DNA profile  
8 of Randall Myers. The probability of randomly selecting an  
9 unrelated individual having the DNA profile matching this  
10 major contributor is approximately one in 1.7 decillion.

11 Q: So when you say that was using the original method, that  
12 was before you had the ability to calculate more complicated  
13 statistics?

14 A: Correct.

15 Q: So is it fair to say that that's a pretty strong --  
16 there must've been a lot of DNA there for -- was it a  
17 mixture?

18 A: So in this case, there is a major contributor to this  
19 mixture, and a major contributor just means the DNA that is  
20 contributing the most to that mixture.

21 Q: And on a pair of shoes, would you not expect there to be  
22 a lot of sweat from one person if that's the only person  
23 wearing the shoes?

24 A: Probably.

25 Q: Okay.

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1 MS. WILLIAMS: I am going to show this witness, Your  
2 Honor, what's been previously marked as 61, 62, and 63. May  
3 I approach?

4 THE COURT: Yes.

5 BY MS. WILLIAMS:

6 Q: Let's see if you recognize these.

7 A: Yes.

8 Q: And how do you recognize them?

9 A: On the bottom here are -- is our case number and item  
10 number and my initials from when I first received the item  
11 and began my analysis, and then after I'm done with the item,  
12 cutting the item, I seal the envelope and date it and initial  
13 it.

14 Q: Okay.

15 A: And all of the items have that on them.

16 Q: And those are the swabs from the weapons?

17 A: One is 89, which is a swab from the grip and trigger of  
18 a weapon. One is 91, which is also a swab from the grip and  
19 trigger of the weapon. And then 94 is from the right front  
20 passenger interior door.

21 Q: Okay. Let's talk about that one.

22 A: Okay.

23 Q: What did Item 94 yield in terms of results?

24 A: For Item 94, presumptive testing for blood was positive.  
25 The DNA profile matches the DNA profile of Randall Myers and

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1 the probability of randomly selecting an unrelated,  
2 individual having a DNA profile matching this item is  
3 approximately one in 1.7 decillion. So like the other one,  
4 this was one where I was able to calculate statistics  
5 initially.

6 Q: Okay. That's a pretty strong result?

7 A: 1.7 decillion.

8 Q: And tell us where that's from again?

9 A: That is swabs from right front passenger interior door.

10 Q: Okay. And then the last item I think that you analyzed  
11 was swabs from a lighter, and what item of evidence is that?  
12 5.1, I believe?

13 A: From 2535?

14 Q: Yes.

15 A: Okay. For Item 5.1, the only comparison that gave a  
16 support of inclusion for an individual was for Randall Myers,  
17 and the result for that is the DNA profile is approximately  
18 380 million times more likely if Randall Myers and two  
19 unidentified, unrelated individuals contributed to the  
20 mixture than if three unidentified, unrelated individuals  
21 contributed to the mixture.

22 Q: Okay. And when you get these items, you just get the  
23 swabs; right?

24 A: Correct.

25 Q: Okay. So sometimes law enforcement does the swabs and

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1 sometimes SLED does the swabs?

2 A: Correct.

3 Q: Okay.

4 MS. WILLIAMS: Your Honor, at this time, we would offer  
5 into evidence State's 61, 62, and 63.

6 MR. SHELTON: No objection.

7 THE COURT REPORTER: They're already in.

8 THE COURT: They are admitted.

9 (WHEREUPON, State's Exhibits No. 61, 62, and 63, swabs,  
10 were admitted into evidence again.)

11 THE COURT: You say they're already in evidence?

12 THE COURT REPORTER: Yes.

13 BY MS. WILLIAMS:

14 Q: So just to sum up, from the weapon, the original  
15 question from the weapon SN3165048, that is the item of  
16 evidence that you explained to the jury had a mixture of  
17 three people, and the inclusion with the number -- I can't  
18 remember how high that number was. If you could tell us  
19 again, that was Randall Myers and Brandon Grayer; correct?

20 A: For Item 91?

21 Q: Yes. I think that's the one.

22 A: Comparing Randall Myers and Brandon Grayer together in  
23 the mixture, the DNA profile is approximately 11 nonillion  
24 times more likely if Randall Myers, Brandon Grayer, and an  
25 unidentified, unrelated individual contributed to the mixture

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1 than if three unidentified, unrelated individuals contributed  
2 to the mixture.

3 Q: So the unidentified, unrelated individual just means we  
4 don't have a standard for the third person that touched the  
5 gun; right? We don't have anything to compare it to?

6 A: Correct.

7 Q: Okay.

8 A: When we do the calculation, we want to compare different  
9 scenarios to obtain the statistics. So the alternate  
10 scenario is usually that these are people that we don't know  
11 who they are and they are unrelated and then compare --  
12 contrast -- compare and contrast that with the standards that  
13 we do have.

14 Q: For the other weapon, which is FB100697, what was the  
15 strongest probability for the DNA contributor to that?

16 A: For Item 89, it supported inclusion for an individual in  
17 the mixture. It was for Randall Myers, and the DNA profile  
18 is approximately 300 octillion times more likely if Randall  
19 Myers and two unidentified, unrelated individuals contributed  
20 to the mixture than if three unidentified, unrelated  
21 individuals contributed to the mixture.

22 MS. WILLIAMS: Court's indulgence for just a moment.

23 Please answer any questions from defense counsel. Thank  
24 you so much.

25 THE WITNESS: Thank you.

## SARA ZAPATA - CROSS

CROSS-EXAMINATION

1

2 BY MR. SHELTON:

3 Q: Ms. Zapata, the solicitor kept trying to get you to --  
4 to say certain things, but -- but you couldn't say it. You  
5 can't say -- when there's a mixture of three or more people,  
6 you can't say whose DNA is on that as part of that mixture;  
7 correct?

8 A: Like, as a definitive it is a person?

9 Q: Correct.

10 A: No. The statistic that we calculate just gives the  
11 weight to an inclusion of a person in the mixture.

12 Q: And it's a probability; correct?

13 A: Correct.

14 Q: Okay. And so granted it's a high probability, but it's  
15 a probability; correct?

16 A: Uh-huh.

17 Q: You cannot sit there and say that this mixture has this  
18 DNA because this is a complex mixture; correct?

19 A: Correct. We don't definitively ever say it is only --  
20 it is a specific person. We say this is the comparison of  
21 these scenarios and the statistic supports that they could be  
22 included in this mixture given what we are seeing in the DNA  
23 evidence.

24 Q: And that's why, I guess, the first time you ran your  
25 report, you didn't have access to this -- this computer

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1 system, STRmix?

2 A: Correct. We were not using it at the time.

3 Q: But you are using the same GlobalFiler. So that's to  
4 enhance the DNA, so to speak?

5 A: That is what we use to ultimately give us the DNA  
6 profile that we look at to make comparisons. It's a kit  
7 called GlobalFiler, yes.

8 Q: So -- and STRmix uses GlobalFiler?

9 A: Right. We -- because we use STRmix -- sorry. Because  
10 we use GlobalFiler, we in our validation tell STRmix this is  
11 what we are using, this is the data we're going to be  
12 generating, and it will look at our GlobalFiler data that we  
13 generate.

14 Q: And how long have you worked for SLED?

15 A: Almost five years.

16 Q: So prior there were some other things that you used that  
17 did not correlate with STRmix; isn't that correct?

18 A: I'm not sure what you're asking.

19 Q: STRPCR or Star -- there was a different type of -- not  
20 GlobalFiler, but there was a different type of thing that you  
21 used at SLED. GlobalFiler is fairly new.

22 A: GlobalFiler -- I believe we've been online with  
23 GlobalFiler since about 2016, and it is just -- it is  
24 essentially the same as the system we used to before. It  
25 just gives us more data. It looks at more locations than the

1 old system.

2       So over the years, labs have been moving to systems that  
3 give us more information, and so STRmix -- I don't -- if I  
4 understand your question, it's not that STRmix wouldn't work  
5 with a different kit. It will work with whatever it is the  
6 lab is using. So different labs can use different kits to  
7 generate that data and it will be the same data. It's just a  
8 preference for which kit to use. And so because we are using  
9 STRmix in that specific lab, the lab who is using it will  
10 tell it this is the data that we're generating, and it'll  
11 look at it using that information.

12 Q:   And -- and all that is to say that you didn't have to  
13 redo using another kit or redo any -- any of the analysis.  
14 You just used the numbers that were provided?

15 A:   Correct. Yes. No additional lab work was done on the  
16 evidence.

17 Q:   And when you submit this to STRmix, it's merely seconds  
18 to minutes for the results to be shown; correct?

19 A:   It depends on how complicated the mixture is or how much  
20 information you have. If you're just looking at one person,  
21 that's going to be much faster than four people may take an  
22 hour. It depends.

23 Q:   Correct. And so give us an example of one person. What  
24 would that take?

25 A:   Maybe a minute.

## SARA ZAPATA - CROSS

1 Q: Okay. And in -- in this case, Number 92, and I guess  
2 that's your 2058 lab. So Number 92.

3 A: Uh-huh.

4 Q: Mixture of at least three individuals to the interior  
5 door -- driver door handle?

6 A: Uh-huh.

7 Q: That was not put back through STRmix?

8 A: No. So what we are doing with cases that have been  
9 worked before and then we're getting new additional  
10 standards, depending on what's requested to be run through  
11 STRmix, we will go back and redo that. It's impossible for  
12 us to go back and STRmix every single item that we've ever  
13 done in a case up until now, but if it's requested for us to  
14 run it through STRmix, we can do so. It just wasn't  
15 requested in this case.

16 Q: Okay. But there was a DNA profile that was developed?

17 A: Yes.

18 Q: The DNA -- so when you compare the DNA, you have to have  
19 samples provided to you to compare it; correct?

20 A: For the standards do you mean?

21 Q: Standards.

22 A: Yes.

23 Q: Correct?

24 A: Yes.

25 Q: And so you were not provided a standard of anybody named

1 Omar?

2 A: I don't believe so. Let me double check. No.

3 Q: Or you weren't provided anyone of the name of Kelsey  
4 Washington? You weren't provided that standard?

5 A: No.

6 Q: Okay. Did you bring your materials today with you,  
7 like, so the deconvolution report?

8 A: Yes, I have that.

9 Q: You have your deconvolution report?

10 A: Yes.

11 Q: Okay. Great. So let's talk. Let's do -- I just want  
12 to focus on Number 91. Okay?

13 A: Okay.

14 Q: So that's a mixture of three individuals?

15 A: Yes.

16 Q: And so I guess your -- you put in the amount of  
17 contributors into STRmix; correct?

18 A: Correct. I have to interpret the data first and look at  
19 it and make sure that it meets our qualifications to be run  
20 in STRmix, and then I tell STRmix I'm going to interpret this  
21 as a mixture of X number of people.

22 Q: And so let's go to the profile that was developed in  
23 Number 91. Okay?

24 A: Okay.

25 Q: And you look at the electropherograms or do you look at

## SARA ZAPATA - CROSS

1 the numbers that are provided?

2 A: Yes. The number that we get at the end of our analysis,  
3 the profile is called an electropherogram.

4 Q: And you look at -- specifically, to determine how many  
5 contributors, you look at the amount of alleles on specific  
6 loci?

7 A: Yes. So your DNA profile is made up of results at  
8 different locations on your DNA called loci, and the results  
9 at that location are called alleles. And so, like I said  
10 earlier, you get half of your DNA from your mom and half of  
11 your DNA from your dad. If at one location your mom has a 12  
12 and your dad has a 10 at that location, you will probably  
13 have a 10/12.

14 Q: Right. So we focus specifically on D-8 with Item 91,  
15 Number 91, loci D-8.

16 A: Okay.

17 Q: And loci D-8 has six alleles; correct?

18 A: Yes.

19 Q: Okay. So because just looking at that sample has six  
20 alleles, you would expect there to be at least three  
21 contributors?

22 A: It depends on -- that is one of the things that we look  
23 at when we're trying to determine how many people. It  
24 depends also on the strength of the alleles. So the  
25 proportions in the mixture to determine if it's more than one

## SARA ZAPATA - CROSS

1 person or more than two people, we consider all of those  
2 things together.

3 Q: Okay. And you looked at -- later on, you compared  
4 Brandon and Randall to Number 91; correct?

5 A: Correct.

6 Q: Do you have their -- their numbers in front of you?

7 A: I can look to them, if you give me a moment. Okay.  
8 Okay.

9 Q: And they both have a 15 in their D-8 loci?

10 A: Brandon Grayer?

11 Q: They share a -- they share a -- an allele on the D-8?

12 A: For D-8, they do not both have a 15.

13 Q: What is Brandon Grayer's?

14 A: Brandon Grayer is Item 97. D-8, he has a 14/18.

15 Q: And Randall Myers?

16 A: 14/15.

17 Q: So they share a 14. I'm sorry.

18 A: Okay.

19 Q: Okay.

20 A: I was looking for the 15.

21 Q: Let's go back. All right. So they share a 14.

22 A: Uh-huh.

23 Q: Right?

24 A: Uh-huh.

25 Q: Okay. So essentially, you have two alleles?

## SARA ZAPATA - CROSS

1 A: Uh-huh.

2 Q: Okay. And you have two alleles that they're sharing?

3 A: Uh-huh.

4 Q: So that would now be five or two -- three.

5 A: Three. Correct.

6 Q: And so then you have a third individual?

7 A: Uh-huh.

8 Q: So that would make five.

9 A: Okay.

10 Q: And so there's going to be another allele?

11 A: Uh-huh.

12 Q: So that could be another contributor; correct?

13 A: So that -- this analysis essentially is what we do in  
14 order to determine how many people are there. The way that  
15 STRmix looks at all of the data is that it also -- it looks  
16 at it without something called a stutter filter.

17 And so biologically the way that your DNA is copied just  
18 in your cells, if you have a 14 allele at a location,  
19 sometimes your DNA -- the mechanism of copying DNA inside of  
20 your body will sometimes make a 13 at a much smaller  
21 proportion than the 14 just because it can't do it fast  
22 enough, it slips, and so that is what we call stutter. And  
23 so if you look at D-8, the 14 allele has a height of 899 and  
24 the 13 allele has a height of 103, and so that 13 allele  
25 could be stutter or it could be an additional individual.

## SARA ZAPATA - CROSS

1           And so when we're looking at mixtures to try to  
2 determine how many people are in them, we have to consider  
3 could this be stutter or could this be an additional person,  
4 and we have specific guidelines to determine the proportion  
5 of that with what is acceptable to consider that as stutter  
6 and, therefore, saying, no, this is in support of it being  
7 three people. And if it is higher than that cut off, then we  
8 would say, oh, it may be an additional person. We will go  
9 through that for every single location on the DNA before we  
10 tell STRmix I think this is a three-person mixture.

11 Q:    And so you did that here?

12 A:    Yes. I do that for every item.

13 Q:    And you would did not feel that that -- the difference  
14 between them was enough to consider a stutter?

15 A:    I did not. And I also -- when we run STRmix, one of the  
16 diagnostics that STRmix gives us is it evaluates those  
17 alleles that are in what we call stutter positions. And so  
18 if several of them are out of range, it would indicate that  
19 in the diagnostics, which are things that we look at, and so  
20 if it was out of range, the stutter diagnostics would be off  
21 and then we would -- it would prompt us to say, oh, maybe you  
22 need to take a longer look at this. It may be another  
23 person.

24           And so in this case, I did not see any indication that  
25 that would be another person. The stutter diagnostics I said

## SARA ZAPATA - CROSS

1 were acceptable, and my tech reviewer and administrator  
2 reviewer also said that they were acceptable.

3 Q: Right. So your stutter was 9.8 and if this would have  
4 been a stutter, it would have been a lot, I guess, lower?

5 A: No.

6 Q: The height of an allele in D-8 would have been lower.  
7 So 14 was a stutter?

8 A: If 13 was not a stutter of the 14, I would expect it to  
9 be much higher than what it is.

10 Q: Right.

11 A: And so because it is not high and because our stutter  
12 diagnostics support that it is stutter, I would treat that as  
13 stutter and move on with it being a mixture of three people.

14 Q: So you -- so -- but if 9.8 percent is the max, then  
15 that's what you put in as stutter; correct?

16 A: I don't remember the exact percentage.

17 Q: Okay. Well, it will be on your deconvolution report.

18 A: Where -- where are you looking?

19 Q: At the post burn-in summary. Mode of --

20 A: For Item 91? Okay. For Item 91, it gives a mode. So  
21 just like the most common percentage of stutter. I don't  
22 have a calculator to calculate what it is, but the way that  
23 STRmix looks at it, it compares each location individually to  
24 the stutter. But ultimately, STRmix and I and my reviewers  
25 all agreed that it -- the stutter was acceptable.

## SARA ZAPATA - CROSS

1 Q: The Gelman -- the post burn-in summary also gives you a  
2 Gelman-Rubin convergence diagnostic?

3 A: Uh-huh.

4 Q: And that says 1.3?

5 A: Correct.

6 Q: There's no specific policy regarding the Gelman-Rubin  
7 convergence diagnostic and what's too large of a number or  
8 too low of a number; correct?

9 A: We don't have a set policy towards that, no.

10 Q: Right. But it is common that anything -- a 1.2 is high?

11 A: 1.2 is what we -- is kind of in our upper range, but it  
12 is just one of the tools that we use to diagnose how  
13 effective the run was, and also that can be affected by how  
14 complicated the mixture is. So if it's a lot of people, that  
15 may be a higher number. It doesn't necessarily mean that the  
16 mixture interpretation was not valid. It's just saying this  
17 is slightly more complicated than what we would see if that  
18 number was lower.

19 Q: And on that post burn-in summary --

20 A: Uh-huh.

21 Q: -- the computer ran 4,789,440 -- 404 -- I'm going to use  
22 guesses or estimates. Isn't that correct?

23 A: Right. It runs that many possibilities and then  
24 compares them all.

25 Q: Right. And so that's why you need this computer system

## SARA ZAPATA - CROSS

1 because no human is going to be able to run 4 million  
2 possibilities; correct?

3 A: It would take a very long time.

4 Q: So in your -- it's your opinion that the 4,789,404  
5 estimates, possibilities, the 1.3 Gelman-Rubin convergence  
6 diagnostic, the potential stutter on D-8, none of that was  
7 enough of a warning sign to just run it with four  
8 contributors?

9 A: It was not. It was all within our acceptable range.

10 Q: So say there was four contributors.

11 A: Uh-huh.

12 Q: And you ran it with three.

13 A: Uh-huh.

14 Q: In reality, all that does is there's a possible person  
15 that you've excluded that now could be contributing to this  
16 mixture. That's a lot to --

17 A: Right. I'm trying to think about that.

18 So yes, if it was run as a lower number of contributors,  
19 it's more likely to just exclude someone who is just  
20 contributing so, so, so lowly that it's very hard to -- we do  
21 not have a lot of their information to compare it to in the  
22 first place, which is why you would run it as three. If  
23 you're looking at it, you would not be able to really tell if  
24 there's another person there.

25 Q: And so in this report for Number 91, Maurice Washington,

## SARA ZAPATA - CROSS

1 Nathan Burnett, and Antoine Gill are excluded?

2 A: Item 91? That's correct, yes.

3 Q: But if there were four and there was this small sample,  
4 they could -- could have been included. It's possible?

5 A: If it was four, they could possibly. If it were four,  
6 it could possibly include them, but very lowly I would expect  
7 because if they are so low that you can't really see them,  
8 there is not a lot of DNA there to make the comparison to.  
9 So the statistic would not be very strong because there's not  
10 a lot of information to compare them to.

11 Q: So the -- I was going to ask a question from what you  
12 said, but I'll ask another question. So that's okay. So you  
13 say you do have the deconvolution report; right? Correct?

14 A: Yes.

15 Q: And within that report is a degradation -- I keep saying  
16 that wrong -- degradation -- a degradation percentage, I  
17 guess. It doesn't really give you a percentage though;  
18 correct?

19 A: It gives you -- yeah, on page 1. Is that what you're  
20 asking about?

21 Q: Yes.

22 A: Yes. So yeah, they're saying -- it lists degradation on  
23 page 1, yes.

24 Q: And that is essentially telling you how fast the DNA is  
25 being degraded over time?

## SARA ZAPATA - CROSS

1 A: It looks at the whole profile and tries to see  
2 comparatively how much DNA. It looks at the proportions of  
3 the different contributors in the profile and tries to show  
4 you how they are degrading comparatively to each other, is  
5 what I understand.

6 Q: Right. And so have you -- it gives you -- there's a  
7 percentage of DNA for each contributor?

8 A: Correct.

9 Q: And then there's a percentage of how much it's getting  
10 degraded for each contributor, how fast it's being --

11 A: It looks at the DNA at a certain size and then where --  
12 like, how it is sloping across the profile. So if it's,  
13 like, a smaller -- it's a lower contributor where there's not  
14 that much DNA, it can contribute some of that to degradation  
15 is what -- what I understand of how it works.

16 Q: And DNA does degrade over time; correct?

17 A: Correct.

18 Q: There's also other environmental factors that can come  
19 into play for DNA to degrade, heat, just a bunch of  
20 environmental factors; correct?

21 A: Weather can affect it, yes.

22 Q: Weather. So when DNA is put in the mixture, if it's put  
23 in at the same time, you would expect it to degrade at the  
24 same rate?

25 A: I think it would depend, I guess, on how much DNA is

## SARA ZAPATA - CROSS

1 there and what kind of DNA we're talking about. Like, if  
2 it's blood on something, I would still -- and someone touched  
3 something, I would still expect there to be a lot of DNA from  
4 the blood, even if they were deposited at the same time, if  
5 that makes sense.

6 Q: That makes sense, but in this mixture it was essentially  
7 touch DNA?

8 A: Correct.

9 Q: So you would expect that to degrade at the same rate if  
10 it was put on at the same time?

11 A: I don't really know. I haven't, like, looked at studies  
12 that talk about that. I don't really know how touch degrades  
13 relative to each other. I don't really know.

14 Q: Okay. Something that -- maybe you don't know, but  
15 something that's been on an item for a longer period of time  
16 would degrade faster?

17 A: I don't --

18 Q: Is that fair?

19 A: I don't know if it would degrade faster. I may just  
20 expect there to be less of it. Like, if -- like, if it's  
21 been there for a longer period of time and then something  
22 else gets on it that deposits DNA, then there's more of that  
23 DNA, you would expect that to be on there more persistently  
24 than something that's been on there longer and may be rubbed  
25 off by the depositing of something else.

## SARA ZAPATA - CROSS

1 Q: Right. Did you -- did you happen to run any -- do you  
2 run any of those scenarios or any of those to see how fast  
3 the DNA is degrading compared to other contributors? Do you  
4 run that? Have you run that?

5 A: I don't really do studies like that. We can tell from  
6 our laboratory analysis whether an item is degraded or not.  
7 Like, we have -- we can tell that during our analysis, but as  
8 far as one particular person degrading more than another  
9 person on an item, I don't know.

10 Q: Okay. So you've never run something like that or looked  
11 at that?

12 A: To compare them to get -- like, against each other like  
13 that, no.

14 Q: Okay. You're not taking these numbers that are provided  
15 from the deconvolution report and try to figure that out?

16 A: No.

17 Q: Okay. The -- the -- do you have your report on the  
18 definitions section?

19 A: Yes. It should be the last -- the last page.

20 Q: Yeah.

21 A: Okay.

22 Q: The likelihood ratio, it says the comparison of  
23 probabilities of HP and HD?

24 A: Uh-huh.

25 Q: Is that correct? Is that what the likelihood ratio is?

## SARA ZAPATA - CROSS

1 A: Yes. So when we calculate the likelihood ratio, like I  
2 said earlier, we are comparing two different scenarios. And  
3 so the first scenario is HP and the second scenario is HD.  
4 And so it will calculate those probabilities and then compare  
5 them to each other, and then that final number is the number  
6 that is on the report that says it's in support of situation  
7 A versus situation B.

8 Q: So you compare -- you don't compare -- I'm going to --  
9 I'm going to move on. Sorry.

10 So tell me about transfer DNA.

11 A: Transfer DNA?

12 Q: Yes.

13 A: It's just the idea of, say, I touch this Bible and my  
14 hands are sweaty and I leave DNA on it and then someone else  
15 touches the Bible after me and then touches the doorknob, and  
16 then I have not touched the doorknob, but my DNA may be on  
17 the doorknob in some low amounts because someone touched  
18 something that I left DNA on.

19 Q: And -- and they've had studies on this; correct?

20 A: Yes.

21 Q: And so you're aware of some studies on this?

22 A: Some of them, yes.

23 Q: Are you aware of the -- a study done -- and I'm going to  
24 show it to you.

25 MR. SHELTON: It's being marked as Defendant's 3 for

## SARA ZAPATA - CROSS

1 identification.

2 THE COURT: Okay.

3 MS. WILLIAMS: May we approach, Your Honor?

4 (WHEREUPON, a bench conference was held in the presence  
5 of the jury but out of the hearing of the jury off the  
6 record, after which the proceedings resumed as follows.)

7 BY MR. SHELTON:

8 Q: Are you aware of a study in 2016 that says could  
9 secondary DNA transfer falsely place someone at the scene of  
10 a crime? Are you aware of this study?

11 A: It sounds vaguely familiar. I don't remember any  
12 details about it.

13 Q: Okay. But you -- would it be helpful to see this study?  
14 Would it help refresh your memory?

15 A: I don't know that I could read all of those pages very  
16 quickly, but I --

17 Q: If you want to flip through it and see if --

18 MS. WILLIAMS: Objection. The same as I articulated.

19 THE COURT: I mean you can ask her if she's familiar  
20 with the subject matter, but I don't think -- if she's not  
21 familiar with that, I don't think it's appropriate to then  
22 give it to her and let her study it and then ask questions  
23 about it.

24 MR. SHELTON: Okay.

25 THE COURT: So that -- that would be sustained.

1 BY MR. SHELTON:

2 Q: Are you familiar with studies on the shaking of hands  
3 and transfers DNA?

4 A: Yes, I'm aware of some of those.

5 Q: Okay. And there's been results, you're aware, that the  
6 major contributor was someone that never actually touched an  
7 object?

8 A: I don't remember the exact details of these studies. I  
9 do know that it has been studied whether shaking hands can  
10 deposit DNA from one person onto an item that they haven't  
11 touched, like I explained with the Bible and the door, yes.

12 Q: Right. And so -- and it's shown in the lab that that is  
13 possible; correct?

14 A: It's possible, yes.

15 Q: There's literature on shedders?

16 A: Yes.

17 Q: And a lot of that depends on somebody's -- how much DNA  
18 they shed?

19 A: Correct. So we call shedders people who just naturally  
20 seem to deposit more DNA on something than other people, yes.

21 Q: And a lot of the literature recommends finding out how  
22 much of a shedder somebody is that's being compared?

23 A: I don't really know about that.

24 Q: Okay. You -- none of these samples -- you never looked  
25 at anybody and how much DNA they shed?

## SARA ZAPATA - CROSS

1 A: That is not something that we typically do. We just  
2 look at the DNA evidence, see who could be included as a  
3 possible contributor. We don't individually test each person  
4 to find out that kind of information, no.

5 Q: And you can't take into consideration any of that when  
6 -- in forming your opinions?

7 A: No. The only thing that we consider when we are  
8 interpreting a DNA profile is what is in the DNA profile,  
9 what are the proportions of the people in the profile, and  
10 that is all that we determine before we make any kind of  
11 comparison.

12 Q: And to be fair, SLED is the South Carolina Law  
13 Enforcement Division; correct?

14 A: Correct.

15 Q: And you have agencies throughout South Carolina that's  
16 submitting DNA?

17 A: Correct.

18 Q: And you can't -- it would be impossible for you to get  
19 through everything if you take into consideration every  
20 single factor, environmental factors, just everything, it  
21 would be too much to even be considered?

22 A: I think if I'm understanding your question correctly,  
23 yes. All we consider is what does the DNA profile look like.

24 Q: Right. And then you -- and you only evaluate what is  
25 being asked of you from those agencies?

## SARA ZAPATA - CROSS

1 A: Right. Whatever is submitted to us as evidence, we'll  
2 evaluate that.

3 MR. SHELTON: Thank you. No further questions.

4 MS. WILLIAMS: Very briefly, Your Honor.

5 THE COURT: Sure.

6 REDIRECT EXAMINATION

7 BY MS. WILLIAMS:

8 Q: So, Ms. Zapata, SLED analyzes evidence from agencies all  
9 over the state?

10 A: Correct.

11 Q: That is what they do?

12 A: Yes.

13 Q: They are experts in that?

14 A: Yes.

15 Q: And how many cases have you analyzed yourself?

16 A: About 300 I think I'm at now.

17 Q: And this whole notion of transfer DNA, would you expect  
18 the DNA to become more and more diluted as it's transferred  
19 from one item to another?

20 A: It's possible.

21 Q: You concluded that on that Springfield gun that you gave  
22 us the serial number for that the probability that it was  
23 Randall Myers and Brandon Grayer was 1 in 11 nonillion. Can  
24 you write on the screen what that number is? Write 11  
25 nonillion on that screen. If you just do it with your

## SARA ZAPATA - REDIRECT

1 finger, it'll show up.

2 A: For Item 91 --

3 MR. SHELTON: Your Honor, beyond cross.

4 THE COURT: I don't think that it is. I'm going to  
5 allow it.

6 BY MS. WILLIAMS:

7 A: Just the word nonillion or write out the whole --

8 Q: No. The numbers.

9 A: The whole number?

10 Q: Because this is the probability that his DNA is on this  
11 gun.

12 A: So --

13 Q: Just write it on there.

14 A: Randall Myers and Brandon Grayer included as possible  
15 contributors got 11 -- and then I'm going to have to count.

16 (WHEREUPON, the witness was writing on the screen.)

17 A: One, two, three, four, five, six, seven, eight, nine,  
18 ten, eleven, twelve, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22,  
19 23, 24, 25, 26, 27, 28, 29, 30.

20 MS. WILLIAMS: Thank you.

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

22 THE WITNESS: Thank you.

23 THE COURT: Can I get the attorneys to approach just a  
24 minute?

25 (WHEREUPON, a bench conference was held in the presence

1 of the jury but out of the hearing of the jury off the  
2 record, after which the proceedings resumed as follows.)

3 THE COURT: Okay. Ladies and gentlemen, we're going to  
4 break for lunch. I know your lunch has arrived. You are  
5 welcome to leave the building if you would like to leave the  
6 building, walk around, stretch your legs.

7 If you'll please be back at 2:15. We do have the few  
8 legal matters we're going to be taking up with the attorneys  
9 during the break. Again, please don't begin discussing the  
10 case.

11 (WHEREUPON, the jury exited the courtroom at 12:57 p.m.)

12 THE COURT: All right. See you at two.

13 (WHEREUPON, there was a break in the proceedings from  
14 12:57 p.m. until 2:13 p.m., after which the proceedings  
15 resumed as follows.)

16 THE COURT: Okay. I have emailed a copy, just a draft  
17 copy of proposed charges. I guess April -- she's going to  
18 print them out here in just a minute so you can actually have  
19 a hard copy.

20 MS. WILLIAMS: Thank you.

21 THE COURT: We've got, of course, all the standard  
22 stuff: presumption of innocence, reasonable doubt, direct  
23 and circumstantial evidence, credibility of witnesses. I've  
24 got a charge in there now that failure of the defendant to  
25 testify should not be used against him. Just depending on

1 what his decision is, we can take it out.

2       There is a section on -- section on here regarding the  
3 statement of the defendant, which I'd like for y'all to look  
4 at. Generally, that's going to be when he's made a statement  
5 to law enforcement. So it goes into the jury's got to  
6 determine whether or not he made the statement, whether it  
7 was voluntary, made of his own free will, not caused by  
8 pressure, force, fear, threats, coercion or intimidation, and  
9 then goes into the factors that they should consider when  
10 determining whether or not it's voluntary. I don't know that  
11 that really applies to this particular case, but I'll let you  
12 all take a look at that and tell me what you think.

13       I've got a section on expert witnesses, prior  
14 inconsistent statements by a witness, prior record of a  
15 witness, one of hand of one/hand of all, and then, of course,  
16 murder, attempted murder. I think we need to look carefully  
17 at the attempted murder charge. Transferred intent, I've  
18 included. And then, of course, first-degree burglary,  
19 kidnapping, and possession of a weapon during the commission  
20 of a violent crime.

21       So what I would say is let me get those in your hands so  
22 y'all can take a few minutes to look at it, and we'll just  
23 stand down while you have a chance to go through the charges.  
24 I'm just trying to think of our timing, if we should go ahead  
25 and bring the jury in and continue on with the testimony and

1 give that to you and look at it at the conclusion of the  
2 testimony.

3 MS. WILLIAMS: I believe so. Your Honor, could we -- my  
4 investigator is asking me if -- I think we'll get to all four  
5 witnesses, but if it goes a little past five, I wouldn't  
6 expect it to, would you want -- you want us to press on?  
7 Because we're trying to figure out. The pathologist is the  
8 last witness and we want to tell her to come if you think  
9 we're going to get to her.

10 THE COURT: I would say yes.

11 MS. WILLIAMS: Okay.

12 THE COURT: We need to do everything we can to get  
13 through --

14 MS. WILLIAMS: Good.

15 THE COURT: -- the testimony today.

16 MS. WILLIAMS: Thank you, Your Honor.

17 THE COURT: All right. Well, then let's press on and  
18 we'll go ahead and bring the jury in. I'll get you the hard  
19 copy and give y'all time to look at the proposed charges and  
20 then, of course, to hand me anything additional that you want  
21 to include or any objections you've got to them -- to this  
22 draft version.

23 All right.

24 (WHEREUPON, the jury entered the courtroom at 2:20 p.m.)

25 THE BAILIFF: All jurors are present, Your Honor.

## MICHELLE EICHENMILLER - DIRECT

1 THE COURT: Thank you.

2 Okay. Ms. Williams, if you'll call your next witness.

3 MS. WILLIAMS: Thank you, Your Honor. The State would  
4 call Michelle Eichenmiller.

5 (WHEREUPON, there was a pause in the proceedings until  
6 the witness entered the courtroom.)

7 THE CLERK: Place your left hand on the Bible and raise  
8 your right hand. Thank you. Do you swear or affirm the  
9 testimony you shall give the Court and the jury shall be the  
10 truth, the whole truth, and nothing but the truth, so help  
11 you God?

12 THE WITNESS: I do.

13 THE CLERK: Please take a seat. Please state your full  
14 name and spell your last name for the record.

15 THE WITNESS: My name is Michelle Eichenmiller, E-i-c-h-  
16 e-n-m-i-l-l-e-r.

17 MICHELLE EICHENMILLER, being  
18 first duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. WILLIAMS:

21 Q: Good afternoon, Ms. Eichenmiller. Where do you work?

22 A: I work for the South Carolina Law Enforcement Division,  
23 also known as SLED. I work in the forensic lab in the  
24 firearms department.

25 Q: And how long have you worked in that department?

## MICHELLE EICHENMILLER - DIRECT

1 A: It will be 14 years next month.

2 Q: And tell us a little bit about some of your educational  
3 and training background in that field.

4 A: I have a bachelor's degree in biology and I also have a  
5 Master of Science in forensic science. In order to be a  
6 firearms examiner though, you must pass an in-house training  
7 program, which is a three-year program at SLED. That teaches  
8 you how to be a firearms examiner by watching the trained  
9 examiners and learning from them and then doing a lot of  
10 reading and testing on my own.

11 Q: And -- and what types of things do you do as part of  
12 your duties and responsibilities in that position?

13 A: My branch of forensic science deals with anything that  
14 comes from a firearm: a bullet, a projectile, the firearm  
15 itself. We also do serial number restoration or a little bit  
16 of tool mark examination as well.

17 Q: And did you -- have you testified before as an expert in  
18 your field?

19 A: I have.

20 Q: About how many times?

21 A: Approximately 90 times.

22 MS. WILLIAMS: Your Honor, at this time, we would offer  
23 Ms. Eichenmiller as an expert in the field of firearms  
24 identification.

25 MR. SHELTON: No objection.

## MICHELLE EICHENMILLER - DIRECT

1 THE COURT: Okay. I do find that she is so qualified to  
2 give opinion testimony in this area.

3 MS. WILLIAMS: Thank you, Your Honor.

4 BY MS. WILLIAMS:

5 A: So, Ms. Eichenmiller, did you examine any weapons in  
6 this case?

7 A: I did.

8 Q: Which weapons did you examine?

9 A: If I can refer to my notes?

10 Q: Yes. If it will refresh your memory.

11 A: I examined two .45 auto caliber pistols. One was the  
12 brand American Tactical and the other one was a Springfield  
13 Armory.

14 Q: Okay.

15 MS. WILLIAMS: Your Honor, I'm showing defense counsel  
16 what's been previously marked as 58 and 59.

17 BY MS. WILLIAMS:

18 Q: I'm going to hand you --

19 MS. WILLIAMS: May I approach, Your Honor?

20 THE COURT: Sure.

21 BY MS. WILLIAMS:

22 Q: -- 58 first. If you can look at this and see if you  
23 recognize it?

24 A: Yes. This is one of the firearms I examined in this  
25 case.

## MICHELLE EICHENMILLER - DIRECT

1 Q: Okay. And you recognize these weapons by what  
2 characteristics?

3 A: The serial number corresponds with what I have in my  
4 notes, but I also engrave on the evidence with my initials,  
5 the item number, and the case number. So they're all on  
6 there.

7 Q: And is there markings on the packaging that show that  
8 you were the one that examined the weapon?

9 A: Yes.

10 Q: And what kind of weapon is that?

11 A: This is an American Tactical, also known as ATI, Model  
12 FX45 Fatboy. It's a .45 auto caliber.

13 Q: Okay. And I'll put that one back and I'll give you  
14 State's 59. If you could please look at that as well?

15 A: This is the other firearm I examined in this -- in this  
16 case.

17 Q: And tell us a little bit about that weapon.

18 A: This one --

19 Q: How do you identify it?

20 A: This one is a Springfield Armory Model XDS, .45 auto  
21 caliber, and the serial number matches my notes.

22 Q: Okay. And what did you do with these weapons in terms  
23 of examining them and testing them?

24 A: Whenever we receive a firearm in the lab, we'll document  
25 it with photographs. I'll also do a worksheet on it,

## MICHELLE EICHENMILLER - DIRECT

1 documenting the safety, any kind of condition I got it in,  
2 the general characteristics, like the color, the caliber,  
3 what kind of magazine came with it on a worksheet.

4 After I'm done with that, I'll go test fire it in our  
5 bullet recovery tank, which is a two-story water tank that we  
6 shoot into so that we know we get specimens that are from  
7 that firearm, and they're in good condition so I can compare  
8 them to any evidence I find.

9 Q: And in this case, did you receive any kind of  
10 ammunition, shell casings or projectiles to compare to those  
11 weapons?

12 A: I did.

13 Q: And how many did you receive?

14 A: A good bit. I believe it was 57 cartridge cases.

15 Q: Okay. And of all of those cartridge cases, if we focus  
16 our attention initially to the -- to Item 96, which you  
17 identified as the Springfield semiautomatic .45 pistol, how  
18 many shell casings were you able to identify as being fired  
19 from that weapon?

20 A: Item 96, which was the Springfield, there were two  
21 cartridge cases that I received that were fired by that  
22 firearm.

23 Q: Okay. And what SLED item numbers would those be?

24 A: Items 4 and 12.

25 Q: Okay.

## MICHELLE EICHENMILLER - DIRECT

1 MS. WILLIAMS: Court's indulgence for just a moment.

2 I'm showing defense counsel what's been previously  
3 marked as State's 66 and State's 74. May I approach?

4 THE COURT: Yes.

5 BY MS. WILLIAMS:

6 Q: If you could look at these items and tell us what they  
7 are?

8 A: These are SLED Items 4 and 12, which I also engraved  
9 with the case number, my initials, and the item number, and  
10 it's also still sealed with my initials and the date that I  
11 sealed it on there.

12 Q: Okay. And those are the shell casings that were fired  
13 from the Springfield semiautomatic weapon?

14 A: Yes.

15 Q: And do you have indicated in your report where those  
16 were located or what's the description that they gave you on  
17 these?

18 A: According to the paperwork we received on Item 4, my  
19 Item 4 was marked Number 5 and Item 12 was marked Number 13.

20 Q: So it doesn't say where those cases came from?

21 A: No.

22 Q: Okay. And were there any projectiles that were located  
23 or that were submitted to you that you identified as being  
24 shot from that weapon?

25 A: In firearms we have a couple of different answers that

## MICHELLE EICHENMILLER - DIRECT

1 we can give. They were fired by a firearm, they weren't  
2 fired by a firearm, or we couldn't tell, or they were  
3 unsuitable. In this case, the bullets that I examined and  
4 compared to the Springfield, the answer was inconclusive.  
5 They were either too damaged or not marked well enough for me  
6 to say it was that particular firearm.

7 Q: Were there any bullets that were consistent with the  
8 riflings for the -- for that particular weapon?

9 A: Yes.

10 Q: Okay. Tell us what that means. What is the rifling  
11 characteristics?

12 A: The Springfield pistol has six right conventional  
13 rifling. That means it has six cuts in the barrel. It kind  
14 of gives spin to the bullet as it exits the barrel. They  
15 were right-hand twists, and then it was conventional rifling  
16 as supposed to polygonal rifling.

17 Q: So when you look at a piece of ammunition and you're  
18 comparing the rifling, the markings on it, what about that  
19 helps you figure out which gun it came from? Do certain guns  
20 have certain very unique characteristics?

21 A: Yes. As I receive fired evidence in a case, I'll  
22 evaluate it on its general characteristics. Once I document  
23 those, then I compare them to the general characteristics of  
24 any firearms I received; and if the characteristics are  
25 similar, then I can compare them to each other. If they're

## MICHELLE EICHENMILLER - DIRECT

1 completely different, then I negate the firearm at the  
2 beginning.

3 Q: And so when you say that there were certain similar  
4 rifling characteristics, but you couldn't go as far as to say  
5 it's an identification, that's an indication that it's  
6 possible, but you just can't -- you can't say for sure?  
7 Would that be accurate?

8 A: Correct. A firearm will mark fired evidence based on  
9 the manufacturing process of that firearm. So it has little  
10 unique -- sometimes we'll call it a fingerprint to a firearm.  
11 This just didn't have those little marks that I needed. It  
12 had the big overall characteristics, but not the little items  
13 that would say that particular firearm.

14 Q: Okay. So you testified that Items 4 and 12, two shell  
15 casings, were fired from the Springfield?

16 A: Correct.

17 Q: And I wanted to bring your attention to projectiles, and  
18 they're numbered 52, 53, 54, and 61. Do those have rifling  
19 traits of the Springfield?

20 A: Yes, they did.

21 Q: So you can't conclude it was fired from the Springfield,  
22 but it's possible?

23 A: Yes.

24 Q: If it wasn't fired from the Springfield, it would have  
25 to be another gun that had similar rifling characteristics?

## MICHELLE EICHENMILLER - DIRECT

1 A: Correct. It would have to be another firearm that was  
2 six right conventional with the same width land and grooves  
3 on it.

4 Q: Knowing that the Springfield was found at the same scene  
5 as the projectiles, does that --

6 MR. SHELTON: Objection, Your Honor. It's speculation.

7 THE COURT: Well, let me --

8 MR. SHELTON: It's weight and effect.

9 THE COURT: Let me hear the question first.

10 MS. WILLIAMS: I'm proposing a hypothetical to the  
11 expert.

12 BY MS. WILLIAMS:

13 Q: So do you ever consider where things are found or do you  
14 just look at straight the characteristics?

15 A: We just look at the characteristics.

16 Q: Okay. Fair enough.

17 I wanted to bring your attention to the other gun that  
18 you just examined, the ATI Fatboy. Did you compare any shell  
19 casings to that particular weapon?

20 A: Yes, I did.

21 Q: Okay. And what were your conclusions with regard to  
22 that? Were any shell casings a match?

23 A: They were. I received six cartridge cases that matched  
24 the ATI firearm.

25 Q: What numbers were those?

## MICHELLE EICHENMILLER - DIRECT

1 A: It's SLED Item Numbers 5 through 7 and 9 through 11.

2 Q: Okay.

3 MS. WILLIAMS: Court's indulgence. I'm sorry.

4 THE COURT: Uh-huh.

5 MS. WILLIAMS: May I approach the witness?

6 THE COURT: Sure.

7 BY MS. WILLIAMS:

8 Q: If you could just tell us if those look familiar?

9 THE COURT: And can you tell us what numbers those are?

10 MS. WILLIAMS: Oh, yes, Your Honor. I'm sorry. Those  
11 are -- I'm showing the witness Numbers 67, 68, 69, and 72,  
12 and 73.

13 BY MS. WILLIAMS:

14 A: These are the cartridge cases I examined.

15 Q: Okay. And were those the ones that matched the ATI  
16 Fatboy?

17 A: They are.

18 Q: And were any projectiles there a match for the ATI  
19 Fatboy?

20 A: It was SLED Item 8 and test bullets fired by the -- the  
21 ATI matched each other.

22 Q: And were there any bullets or projectiles that didn't  
23 match but, again, had that similar rifling characteristics  
24 where it would be possible that they would've been shot by  
25 the ATI Fatboy?

## MICHELLE EICHENMILLER - DIRECT

1 A: Yes. It's SLED Item 17 and 86 also had the same rifling  
2 as the ATI.

3 Q: And with Item 86, is there a description of where that  
4 item is found?

5 A: On the paperwork it said from shed.

6 Q: And there are some other calibers of weapons out there;  
7 is that correct?

8 A: Correct.

9 Q: And I want to bring your attention to SLED Items 56, 57,  
10 58, 59, and 60. What caliber of shell casings are those?

11 A: They were 9 millimeter.

12 Q: And what, if any, conclusions did you draw about those  
13 with regard to any 9 millimeters that were found in the  
14 Lincoln Navigator?

15 A: I compared them to SLED Items 71 and 72, which according  
16 to the paperwork was the Lincoln Navigator search warrant.

17 Q: Okay. And what was the conclusion there?

18 A: Item -- SLED Items 56 through 60 and 71 and 72 were  
19 fired by the same firearm.

20 Q: And so 71 and 72 were from the Lincoln Navigator search  
21 warrant?

22 A: According to the paperwork, yes.

23 Q: Okay. And that was a 9 millimeter; so clearly a  
24 separate weapon than the Springfield or that -- or the  
25 Fatboy?

1 A: Yes.

2 Q: And were there other -- were there other weapons  
3 represented by different kinds of shell casings at the scene  
4 that were not fired by any of the weapons that we -- or  
5 calibers that we've talked about so far?

6 A: Yes, there were.

7 Q: Can you tell us about those?

8 A: There was a third and a fourth .45 auto caliber pistol.  
9 There was also two more additional 9 millimeters, and then  
10 there were some .40 caliber cartridge cases that I didn't  
11 examine.

12 Q: Okay. And you don't know when those shell casings were  
13 deposited; you just know that they were submitted?

14 A: Correct.

15 Q: Now, did you compare -- getting back to the Springfield  
16 semiautomatic weapon, did you compare any of the shell  
17 casings that you identified as being fired from the  
18 Springfield with shell casings that were found at any other  
19 scene?

20 A: I did.

21 Q: What -- what shell -- what case number did you compare  
22 those to in terms of a North Charleston case number?

23 A: North Charleston Case Number 2016-029115.

24 MS. WILLIAMS: Your Honor, I'm going to mark these two  
25 things, police reports, as -- what number are we on?

## MICHELLE EICHENMILLER - DIRECT

1 THE COURT REPORTER: 149.

2 MS. WILLIAMS: 149 and 150. I'm showing defense counsel  
3 what we've identified as 149 and 150.

4 BY MS. WILLIAMS:

5 Q: Do you remember just from memory anything about that  
6 case number, like the address of the shooting or anything  
7 like that?

8 A: No.

9 Q: Would it refresh your memory to look at a report to  
10 answer that question?

11 MS. WILLIAMS: May I approach, Your Honor?

12 THE COURT: Sure.

13 BY MS. WILLIAMS:

14 Q: See if that's the case number that you just recited  
15 where you were able to match shell casings that were fired by  
16 the Springfield and the casings that were fired at Hassell  
17 Street by the same gun.

18 A: Yes. This is the same report.

19 Q: And what address is that report from? Is it Bailey  
20 Drive?

21 A: Let me see. I don't know where I look for it on here.

22 MS. WILLIAMS: May I approach?

23 THE COURT: Sure.

24 BY MS. WILLIAMS:

25 A: Oh, here it is. 2245 Bailey Drive, North Charleston.

## MICHELLE EICHENMILLER - DIRECT

1 Q: And what date is that?

2 A: 9/23/2016.

3 Q: Can you see the time on it?

4 A: 1339.

5 Q: Do you know military time?

6 A: 1:39.

7 Q: Thank you. So just for shorthand, basically we're  
8 connecting shell casings to the Springfield firearm from both  
9 scenes, from Bailey and Hassell, and we're connecting shell  
10 casings that you say were fired by that Fatboy ATI firearm at  
11 the Hassell Street, the separate case?

12 A: Yes.

13 Q: And shell casings that were found in the Navigator with  
14 other ones that were submitted from the Hassell Street?

15 A: Yes.

16 Q: And in addition, a whole bunch of other kinds of shell  
17 casings that you don't have weapons to compare to?

18 A: Correct.

19 Q: Okay.

20 MS. WILLIAMS: Court's indulgence for just a moment.

21 Thank you, Ms. Eichenmiller. Please answer any  
22 questions from defense counsel.

23 CROSS-EXAMINATION

24 BY MR. SHELTON:

25 Q: You said there were 57 cartridge cases?

## MICHELLE EICHENMILLER - CROSS

1 A: That I examined.

2 Q: That you examined? How many projectiles did you  
3 examine?

4 A: I believe the number is 15 bullets and fragments.

5 Q: Fifteen bullets and fragments?

6 A: Uh-huh.

7 Q: And out of the 15 bullets and fragments, you were only  
8 able to identify the one projectile?

9 A: Correct.

10 Q: To a gun?

11 A: Correct.

12 Q: And there are possibilities, but you, as a scientist  
13 with your reputation on the line, you can't say that those  
14 projectiles were fired -- any of those other projectiles were  
15 fired from the gun -- guns that were provided to you?

16 A: Correct. When I compared them, they were inconclusive.

17 Q: And with -- there may be some rifling similarities, but  
18 with your reputation on the line, the ones that are  
19 inconclusive you cannot -- you cannot say they were fired by  
20 any of these two firearms; correct?

21 A: Correct.

22 Q: So you were able to match two cartridge casings to the  
23 Springfield, dealing just with the case number 29194?

24 A: Correct.

25 Q: And you were able to -- you were only able to match six

## MICHELLE EICHENMILLER - CROSS

1 cartridge casings from the Fatboy; correct?

2 A: Correct.

3 Q: And if I'm reading your report right, you kind of tried  
4 to group a lot of -- a lot of the shell casings together that  
5 you could?

6 A: Correct. If I examined them and they were all fired by  
7 the same firearm, I put them in the same grouping.

8 Q: Okay. And so your -- it's your testimony that there  
9 were at least seven guns out there?

10 A: Correct.

11 Q: There's a possibility there could be more?

12 A: Yes.

13 MR. SHELTON: No further questions.

14 REDIRECT EXAMINATION

15 BY MS. WILLIAMS:

16 Q: Mr. Shelton asked you about projectiles. Clearly,  
17 there's a lot of projectiles that haven't been found because  
18 there's a lot more shell casings than projectiles?

19 A: Correct.

20 Q: There was also another projectile that you examined that  
21 came from autopsy; is that correct?

22 A: Yes.

23 Q: And were you able to reach any conclusions at all based  
24 on -- on your examination of that item?

25 A: That was SLED Item 100, and it was a fragment. I didn't

## MICHELLE EICHENMILLER - REDIRECT

1 find any marks on it that I could use to identify to a  
2 firearm. It was very small and damaged.

3 Q: Okay.

4 MS. WILLIAMS: May I approach, Your Honor?

5 THE COURT: You may.

6 BY MS. WILLIAMS:

7 Q: Is this something that you can recognize --

8 A: Uh-huh.

9 Q: -- as that item? Is that the item?

10 A: This is the item I examined.

11 Q: So unfortunately, the fragment that came out of the body  
12 of Ivan Greene cannot be -- there's nothing of value there,  
13 it's too small?

14 A: Correct.

15 THE COURT REPORTER: What number is that?

16 MS. WILLIAMS: Pardon?

17 THE COURT REPORTER: What State's number is that?

18 MS. WILLIAMS: Oh, I'm sorry. That's 65.

19 BY MS. WILLIAMS:

20 Q: I'll get that from you.

21 When Mr. Shelton asked you -- so there were seven guns  
22 out there, maybe more, there were seven different kinds of  
23 shell casings. We don't know how many guns were out there;  
24 is that fair to say? Because we don't know when the shell  
25 casings were deposited? You just know that you examined

1 them?

2 A: Based on my examination, there were seven guns  
3 represented, but there was also a small group that I didn't  
4 examine of .40 caliber cartridge cases. So there could be --  
5 there are more guns based that there are more cartridge  
6 cases.

7 Q: Represented by shell casings?

8 A: Right.

9 Q: But we don't know if those shell casings were deposited  
10 that night or earlier?

11 A: Correct.

12 Q: We don't know how many guns were out there because you  
13 didn't get any guns?

14 A: Right.

15 Q: You just got --

16 A: Just the two.

17 Q: I want to ask you a little bit about shell casings and  
18 how they're deposited, just very briefly. So --

19 MR. SHELTON: Your Honor, this is beyond cross.

20 THE COURT: That's sustained.

21 BY MS. WILLIAMS:

22 Q: When he asked you about shell casings and bullets, that  
23 there were how many shell casings and how many bullets, when  
24 does a bullet leave the shell casing?

25 A: When it's fired from the firearm.

## MICHELLE EICHENMILLER - REDIRECT

1 Q: And what direction does the shell casing go?

2 MR. SHELTON: Objection, Your Honor. Beyond cross.

3 THE COURT: I'm going to allow it.

4 MS. WILLIAMS: Thank you.

5 BY MS. WILLIAMS:

6 A: Depending on the firearm, the cartridge case gets  
7 ejected. If it's a semiautomatic pistol, it will get ejected  
8 out of the firearm.

9 Q: And is it always in the same direction?

10 A: Depending on the firearm, it should be in the same  
11 direction, as long as the gun is being held in the correct  
12 orientation.

13 Q: But can that change depending on different factors?

14 A: Yes. It would depend on how you hold the firearm or  
15 what happened after firing, if it got kicked or if it landed  
16 on concrete and bounced. So it would maybe go in the same  
17 direction, but it might not end up where you expect it.

18 Q: If you're holding the gun like that (indicating), it's  
19 not going to go the same as if you were holding it like this  
20 (indicating)?

21 A: Correct.

22 MS. WILLIAMS: Thank you. No further questions.

23 RE CROSS EXAMINATION

24 BY MR. SHELTON:

25 Q: It also depends on the type of gun; correct?

1 A: Correct.

2 Q: Because a revolver is not going to eject the shell  
3 casings?

4 A: Correct. A semiautomatic pistol will eject.

5 Q: So there could be more projectiles or more bullets that  
6 we can't account for because there's no shell casings;  
7 correct?

8 A: That's possible.

9 Q: And as far as how far these -- these will be ejected,  
10 you're not talking -- they're not going to go hundreds of  
11 yards; correct?

12 A: Not usually.

13 Q: Okay. You're talking within a couple feet maybe?

14 A: Depending on -- yeah, a couple of feet would be a good  
15 estimation.

16 Q: Okay.

17 MR. SHELTON: No further questions.

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

19 MS. WILLIAMS: The State calls Detective Jerome  
20 Desheers.

21 THE WITNESS: Good afternoon.

22 THE CLERK: Do you swear or affirm the testimony you  
23 shall give the Court and the jury shall be the truth, the  
24 whole truth, and nothing but the truth, so help you God?

25 THE WITNESS: Yes, ma'am.

## JEROME DESHEERS - DIRECT

1 THE CLERK: Please take a seat. Please state your full  
2 name, spelling your last name for the record.

3 THE WITNESS: Yes, ma'am. My name is Jerome Desheers,  
4 D-e-s-h-e-e-r-s.

5 JEROME DESHEERS, being first  
6 duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MS. WILLIAMS:

9 Q: Detective Desheers, where do you work?

10 A: I'm currently employed with the North Charleston Police  
11 Department.

12 Q: And how long have you been there?

13 A: I've been employed for 12 years.

14 Q: And how long have you been in investigations?

15 A: I've been in investigations for the last eight years.

16 Q: And what are your duties and responsibilities currently?

17 A: So currently, I'm assigned to the FBI Task Force. I'm  
18 on the Lowcountry Violent Crimes Task Force, and this is  
19 where we act as a liaison between the North Charleston Police  
20 Department and the FBI, and we work cases that have a federal  
21 nexus to it. So we work with FBI agents and the U.S.  
22 Attorney's Office, as well with our local prosecutors.

23 Q: And were you working in that capacity on September 23rd,  
24 2016?

25 A: I was. I was on the FBI Task Force in 2016. I was

## JEROME DESHEERS - DIRECT

1 working on the Safe Streets Task Force, which was focused on  
2 gangs and violent crimes.

3 Q: And did you respond to [REDACTED] Hassell Street in North  
4 Charleston on September 23rd, 2016?

5 A: Yes.

6 Q: About what time did you receive the call?

7 A: I got called by my call sergeant -- at the time, he was  
8 Sgt. Niemiec -- at 11:40 p.m.

9 Q: And are you -- what was your role in this particular  
10 investigation?

11 A: So I was initially assigned as the case agent over this  
12 case.

13 Q: And tell us what a case agent does.

14 A: So a case agent is responsible for the activity that  
15 goes on throughout the case. We manage the case file and  
16 manage all the investigative steps that go into solving and  
17 working cases that we get assigned as case agents.

18 Q: And what kind of information do you have access to in  
19 order to sort of put the investigation together as the case  
20 agent that maybe just another person just working a small  
21 part of it wouldn't?

22 A: So everything that comes in from other investigators and  
23 other sources of information gets filtered through the case  
24 agent. So I will have a chance to look at everything versus  
25 where one investigator may do one interview here and another

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1 step of the process a couple of days later. I'm the filter  
2 for all that information that comes in.

3 Q: And tell us what a briefing is.

4 A: A briefing is just a meeting of people that are involved  
5 in any part of the investigation, and usually they're held  
6 after significant events. So if we're out at a scene for  
7 several hours and then we meet back at the detective bureau,  
8 everybody that was at the scene or involved with that  
9 particular part of the case or that phase will come in and  
10 we'll meet and share the information collectively.

11 Q: And how many briefings would you do, like, in a typical  
12 murder case or in this case, if you remember?

13 A: So we would do several a day because we would do --  
14 after the initial investigation takes place, we would meet up  
15 together and go over a case. And then anytime we left and  
16 another shift came on or another team came on to pick up that  
17 -- to pick up the investigation where it was left off, we  
18 would meet with them to update them on the -- on the status  
19 and then vice versa; when we come back in, we would get  
20 another briefing. There may be smaller briefings just  
21 depending on what goes on throughout the day or evening.

22 Q: And for this case, did you review what we call a CAD  
23 report? Tell the jury what a CAD report is.

24 A: So the CAD report is the report that call takers and  
25 dispatch at the 9-1-1 center creates during their calls for

1 service.

2 Q: And so were you able to tell as part of your  
3 investigation what time the 9-1-1 calls came in for this  
4 particular case?

5 A: Yes. So with the shooting, the initial call came in at  
6 11:25 p.m. So it was indicated as 2325, which is 11:25 p.m.,  
7 on September 23rd, 2016. And then we received another call  
8 for the case ending in 9115 from Mr. Pinero Gambrell, and  
9 that was at 12:50. So it's indicated as 0050 on 9/24/2016.

10 Q: And what type of call was this?

11 A: So the initial call on September 23rd on Hassell, when  
12 it was relayed to me, it was a -- it was relayed as a  
13 shooting and our victim was category one and was unlikely to  
14 survive.

15 Q: What does a category one mean?

16 A: So category one is -- so categories are systems that we  
17 use as first responders on triaging patients. So there's  
18 category one, two, and three. Category three is when a  
19 patient is -- they're responsive, they're alert. There's --  
20 they are suffering from an injury, but it's not life-  
21 threatening, and they can usually take care of themselves.

22 And then category two is where there may be a life-  
23 threatening injury, but the person may be alert and conscious  
24 and responsive to first responders.

25 And then category one is usually there's no response and

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1 there is a life-threatening trauma to that patient.

2 Q: In this particular case, what did you know about the  
3 situation going in?

4 A: So I knew initially from the callout and just arriving  
5 on scene that we had a pretty large or multiple crime scenes.  
6 We had an initial shooting at [REDACTED] Hassell Avenue, and then  
7 we had a crash site of a Navigator that was identified as the  
8 suspect vehicle.

9 And then we had another -- it was unknown if it was  
10 involved at the time -- set of shell casings and a bicycle on  
11 Montague and Hassell, or on Montague near Hassell Avenue. So  
12 going into it, it was pretty chaotic. And then when I  
13 arrived on scene, one of the first things I noticed was that  
14 the power was also out.

15 Q: Okay. So you kind of answered some of this, but what  
16 did the scene look like when you arrived?

17 A: So again, we had the separation of scenes where the  
18 crash site occurred, where the initial shooting occurred, and  
19 then this other unknown situation where there were casings at  
20 the end of Montague. And that we had learned that a K-9 was  
21 doing a track by the time I got there. It was doing a track  
22 because of the belief that suspects left that Navigator.

23 Q: I am going to show you --

24 MS. WILLIAMS: If you could put up State's 18?

25 BY MS. WILLIAMS:

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1 Q: -- some pictures and if you could just tell us if this  
2 shows the scene as you saw it.

3 A: So this is going to be across the street from [REDACTED]  
4 Hassell. We see the church that was being referenced here,  
5 and this is what the scene looked like when I arrived  
6 initially. These little markers, the yellow markers on here,  
7 they were placed with -- they actually had business cards  
8 where the initial officers would place business cards where  
9 they found shell casings. And then crime scene will come in  
10 and they'll put these numbered markers there for their crime  
11 scene photos.

12 Q: And are those the yellow markers or numbered markers?

13 A: Yes.

14 Q: Okay.

15 MS. WILLIAMS: And if you could show State's 19, please?

16 BY MS. WILLIAMS:

17 A: So this is a -- we're looking at a view of [REDACTED] Hassell  
18 Avenue, so part of the residence. And this is, again, the  
19 casings, and you can see these little white things here are  
20 the business cards that were placed by law enforcement on  
21 their initial arrival.

22 MS. WILLIAMS: And State's 20, please?

23 BY MS. WILLIAMS:

24 A: So what we're looking at here is where Mr. Greene was  
25 located and where you can see the remnants of EMS where they

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1 attempted to render aid prior to getting him into the  
2 ambulance.

3 Q: And when you arrived, had -- had officers already gotten  
4 there?

5 A: Yes. There were several officers on scene before I  
6 arrived. So I get called out at 11:40 and I come from home,  
7 and I got there at about 12:15 a.m. So officers were already  
8 arrived on scene. The scene was taped off. They had secured  
9 all the locations. So the Navigator was secured with a law  
10 enforcement officer and also the scene at █████ Hassell.  
11 There were also some detectives already on scene that were  
12 discussing or speaking with witnesses.

13 Q: Did you interview any witnesses there?

14 A: I did. So Mr. Weikers, who we heard from, was  
15 interviewed, and then Robert Michael Gathers, who I was  
16 familiar with, was out there and so I spoke with him. I also  
17 spoke to a person via telephone, who gave me a statement  
18 about a truck that was seen prior to the shooting going down  
19 Hassell. And then after hearing the shots, this truck --

20 MR. SHELTON: Objection, Your Honor, to hearsay.

21 THE COURT: That's sustained.

22 BY MS. WILLIAMS:

23 Q: So did you go to where the Navigator was?

24 A: Yes.

25 Q: Can you see where it crashed into the pole on this map?

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1 A: Yes. So actually when I arrived on scene, I parked  
2 right here in this area because the police tape was up.

3 Q: Are you marking it?

4 A: Yeah. So I parked here where this little red mark here,  
5 and then so there's this house right here is where the  
6 Navigator parked or -- I'm sorry -- where the Navigator  
7 wrecked into that utility pole. So I ended up making my way  
8 on foot down Hassell this way to go to the scene.

9 Q: And where -- I don't know if it shows it on the map, but  
10 show us the direction of where Ezekiel would have been.  
11 Like, how somebody from Hassell or from where that crashed  
12 could have gotten to Ezekiel.

13 A: So Ezekiel is actually going to be this way, and it's  
14 actually a couple streets over. There's some streets in  
15 between.

16 Q: And did you review the -- the track report for the K-9?

17 A: Yes, I did.

18 Q: And how does he show the track going on the Navigator?

19 A: So the track -- it's going to come from the Navigator.  
20 It goes across. This is the community center. There's a  
21 field here. And then it -- I'm sorry. And then it goes  
22 across the field through these streets and then there's a  
23 photo shown that I've also reviewed during my case where they  
24 jumped over -- where the K-9 officer indicated the jumping  
25 over the fence prior to getting to Pinero Gambrell's house.

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1 Q: And how many crime scenes were we dealing with here,  
2 like, at the end when you finally got a grip on the whole  
3 situation?

4 A: So [REDACTED] Hassell being one, and then we had the crash  
5 site with the Navigator, Pinero Gambrell's trailer, and then  
6 we learned about the earlier incident involving Mr. Grayer  
7 where he was shot on Bailey Drive.

8 Q: And were all those scenes processed?

9 A: Yes.

10 Q: And witnesses interviewed at all those scenes?

11 A: Yes.

12 Q: Who did you first realize was involved in this mess?

13 A: So initially, after reviewing the homicide, Randall  
14 Myers and Maurice Washington were identified as suspects in  
15 the first -- the first people that we actually took warrants  
16 out on.

17 Q: And how did you identify those two first?

18 A: So one of the things that we did when we processed the  
19 Navigator was there was fingerprints that were taken from it.  
20 The fingerprints were analyzed, and they came back to  
21 belonging to Randall Myers and Maurice Washington.

22 We also had cell phones that we recovered from the  
23 Lincoln Navigator. One had a phone number. If I can refer  
24 to my notes?

25 Q: Sure.

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1 A: The phone number was [REDACTED] 5690, and we obtained  
2 that search -- we obtained that phone number by doing a  
3 search warrant on the phone and then I ran the phone number  
4 through Facebook, which at the time if you put a phone number  
5 in, it would come back to the page that the phone number was  
6 registered to. And in this case, it came back to that of  
7 Randall Myers.

8 I then obtained lineups that included Randall Myers and  
9 Maurice Washington to show to Pinero Gambrell. And then  
10 during the -- when the lineups were shown, Mr. Gambrell  
11 identified Maurice Washington out of that series of lineups.  
12 And then in the lineups including Randall Myers, he picked  
13 another person other than Randall.

14 Q: And did you see Mr. Gambrell after this burglary and  
15 kidnapping at his home?

16 A: Yes. So after he called 9-1-1 and the officer went out  
17 to the scene, when he came back and provided -- when that  
18 officer provided the clothing to crime scene is when  
19 detectives were notified of that. Once we were notified of  
20 that, myself and another detective responded out to Pinero  
21 Gambrell's house.

22 Q: And did he come to the station at some point later too?

23 A: Yes. We did bring him to City Hall to further interview  
24 him.

25 Q: How would you describe his state of mind after this

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1 event?

2 A: So he was visibly scared. His speech was kind of slow,  
3 and he even expressed his -- the fear for his safety. He  
4 really didn't want to take any part in prosecution, and this  
5 is stuff that we continued to investigate through because we  
6 knew that -- or we had an idea at this point that our  
7 suspects in the Navigator were involved with that burglary.

8 Q: Okay.

9 MS. WILLIAMS: Your Honor, I'm going to mark two  
10 exhibits. Is it State's 150 and 151?

11 THE COURT REPORTER: 151 and 152.

12 MS. WILLIAMS: 151 and 152. I'll show defense counsel  
13 what's just been marked as 151 and 152.

14 May I approach?

15 BY MS. WILLIAMS:

16 Q: Now, Detective Desheers, you just talked about an  
17 identification of Maurice Washington by Pinero Gambrell. Is  
18 that the form that was used to identify him?

19 A: Yes. So these are the --

20 Q: The two that you just discussed?

21 A: The two lineup forms that we go through before showing  
22 the lineups.

23 Q: And do those accurately depict the whole process that  
24 you go through when you have a witness identify someone from  
25 a lineup?

1 A: Yes, they do.

2 Q: And are these records kept in the ordinary course of  
3 business?

4 A: Yes, they are.

5 MS. WILLIAMS: At this time, Your Honor, we would ask to  
6 admit 151 and 152.

7 MR. SHELTON: Your Honor, could we approach?

8 THE COURT: Sure.

9 (WHEREUPON, a bench conference was held in the presence  
10 of the jury but out of the hearing of the jury off the  
11 record, after which the proceedings resumed as follows.)

12 THE COURT: Number 151 and Number 152 are admitted.

13 (WHEREUPON, State's Exhibit No. 151 and State's Exhibit  
14 No. 152, lineup forms, were admitted into evidence.)

15 BY MS. WILLIAMS:

16 Q: And what does -- what does Pinero say about the  
17 pictures? Does he say that's the guy?

18 A: No. So he did not give a hundred percent indication  
19 that either of the people that he picked were the people that  
20 were -- came into his trailer.

21 Q: What does he say?

22 A: So what he says is they look familiar from last night.

23 Q: So when you show him a picture of Maurice Washington, he  
24 just says he looks familiar?

25 A: Correct.

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1 Q: And the other guy looked familiar?

2 A: Correct.

3 Q: And were you aware at this time that Maurice Washington  
4 had picked them up from the trailer?

5 A: No. So at this time, after the lineup has been shown,  
6 we believed that he was one of the people that were in the  
7 trailer and had called someone to come pick them up.

8 Q: And there was some testimony about how distinctive Mr.  
9 Grayer looks and that there was a picture of Mr. Grayer shown  
10 to Pinero Gambrell. Is that true?

11 A: No. No photo was shown of Mr. Grayer to Pinero.

12 Q: Okay. So he couldn't have picked him out because you  
13 didn't show him the picture?

14 A: Correct.

15 Q: And you identified, you just said, Randall Myers and  
16 Maurice Washington, and what did you arrest Maurice  
17 Washington for?

18 A: So Maurice Washington was originally charged with  
19 murder, possession of a firearm during the commission of a  
20 violent crime, burglary first degree, and kidnapping.

21 Q: And were those the same charges for Mr. Myers?

22 A: Yes, they were.

23 Q: And did Mr. Washington give you information about the  
24 burglary and kidnapping from the first time that you  
25 interviewed him?

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1 MR. SHELTON: Objection. Leading.

2 BY MS. WILLIAMS:

3 Q: What did Mr. Washington tell you about that --

4 A: So --

5 Q: -- on the first time?

6 A: So the first time I was involved with an interview with  
7 -- or the first interview that Mr. Washington provided to law  
8 enforcement was actually in the detective bay and he denied  
9 involvement, but no supporting information was given for his  
10 denial.

11 Q: And did you at some point learn that Mr. Washington was  
12 not at the burglary and kidnapping?

13 A: Yes, I did.

14 Q: Okay. And how did you figure that out?

15 A: So I participated in a proffer interview with Mr.  
16 Washington and during that interview he provided details of  
17 where he went --

18 MR. SHELTON: Objection. Hearsay.

19 THE COURT: He responded.

20 MS. WILLIAMS: It's not being offered for the truth,  
21 Your Honor. It's just being offered to show why he changed  
22 his mind about the charge of burglary and kidnapping.

23 THE COURT: Okay. I think you can probably rephrase it.

24 MS. WILLIAMS: Okay. Let me do it this way.

25 BY MS. WILLIAMS:

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1 Q: Did you at some point learn of Maurice Washington's  
2 phone number?

3 A: Yes, I did.

4 Q: And how was that?

5 A: So we identified the number called from -- that Pinero  
6 Gambrell stated was called from his phone by the people  
7 entering his trailer. That phone number --

8 Q: And how did you identify that? Did you look at a phone?  
9 Did you look at phone records? How did you know what number  
10 was called from Pinero Gambrell's phone?

11 A: Okay. So Pinero -- myself and Detective Andrews  
12 responded to his residence. He let us search. After he told  
13 us that the phone may have been taken or damaged, we did  
14 locate the phone and the battery, put the battery back in the  
15 phone, turned it on, and we could see the outgoing calls.

16 There were two outgoing calls to [REDACTED]-5854. One of  
17 those calls was at 11:31; the other one was at 11:32. So  
18 based on that phone number, we ended up getting a search  
19 warrant for it.

20 And then while the results -- while we waited for the  
21 results to come in, we got a phone call from 998 -- or the  
22 [REDACTED]-5854 number, and a voicemail was left. The person  
23 on the voicemail was wanting us to call him, that he was  
24 Maurice Washington and he heard that we were looking for him.

25 Q: Okay. And so at some point did you learn of an area

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1 that Maurice Washington could have been in that wasn't at the  
2 trailer?

3 A: Yes.

4 Q: And did you verify that information?

5 A: Yes.

6 Q: And how did you verify that information?

7 A: So looking at the -- the results from the search warrant  
8 on his phone, the records -- the phone records that came back  
9 to us, we were able to -- or I was able to map the towers  
10 that were used by phone calls or communications he made with  
11 that phone that had the phone leaving the [REDACTED] Hassell, going  
12 to Dorchester Road, up to Forest Hills neighborhood, and then  
13 kind of looped back to Ezekiel or the area of Ezekiel. So it  
14 showed whoever had that phone at that time could not have  
15 been on Ezekiel.

16 Q: Okay. And is that what he told you?

17 A: Yes.

18 Q: So you dropped -- we dropped those charges?

19 A: Yes.

20 Q: Based on proof that Maurice Washington wasn't there?

21 MR. SHELTON: Objection. Speculation.

22 THE COURT: That's sustained.

23 BY MS. WILLIAMS:

24 Q: What did you do after you got that information?

25 A: So I immediately stepped out with Solicitor Kidd and

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1 explained to him, you know, the statement versus the phone  
2 records matched and that it's -- it's difficult for somebody  
3 to explain that pattern of travel without actually being --  
4 you know, being the person that made that pattern of travel  
5 or having a really good memory on the story. And with the  
6 phone -- with the phone being his, I expressed to the  
7 solicitor I don't believe -- I didn't believe that he was  
8 involved with the burglary, that there was a  
9 misidentification on the lineup.

10 Q: Okay. And at some point later, did you learn about Mr.  
11 Washington coming back to that place?

12 A: Yes.

13 Q: And that was consistent with the phone records?

14 A: Correct.

15 Q: And did you learn later that all of them went back to  
16 the trailer that belonged to Nathan Burnett?

17 A: Yes, I did.

18 Q: And that was consistent with the phone records?

19 A: Yes, it was.

20 Q: And did you identify another phone number besides -- you  
21 just told us about Randall Myers' and Maurice Washington's --  
22 another phone number that was with this group of people that  
23 night or another phone?

24 A: Yes, I did.

25 Q: Tell us about that.

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1 A: So the -- the phone number is [REDACTED]-4764. This  
2 phone number belonged to Omar Lozano. Omar Lozano is the  
3 brother of the owner of the Navigator. So Omar was actually  
4 in possession of the Navigator prior to Maurice Washington  
5 getting it and prior to the incident on Hassell.

6 So we ended up locating Omar Lozano, who identified this  
7 phone as being his and also identified the phone as being  
8 taken by Randall Myers, along with the Navigator, prior to  
9 the time frame of the shooting.

10 Q: And did you learn of any phone calls from Omar Lozano's  
11 phone to Maurice Washington?

12 A: Yes, I did. So looking at the -- again, looking at the  
13 phone records, we did a search warrant for the provider to  
14 get the phone records, both on Omar's phone and the [REDACTED]-5854,  
15 and you can see communication between the two phones during  
16 the time they would have been -- or the 678 number would have  
17 been at the Ezekiel, Mr. Pinero Gambrell's residence.

18 Q: So a phone call from Omar's phone to Washington's phone?

19 A: That's correct.

20 Q: And did you learn who made that call?

21 A: Yes.

22 Q: Who?

23 A: Brandon Grayer made the call from the [REDACTED]-4764  
24 number to Maurice Washington's 998 number.

25 Q: And did you learn who made the call from Pinero's phone

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1 to Washington's phone?

2 A: So the call was never completed from the -- from  
3 Pinero's phone because, as he talked about, the phone wasn't  
4 working, which he expressed to us that night that his phone  
5 had no signal. So that's why we were able to see that the  
6 attempted calls were made, but never went through on the  
7 phone records.

8 Q: And did you learn from any of the other defendants that  
9 they got a call from a number they didn't recognize?

10 A: Yes.

11 MR. SHELTON: Objection. Hearsay.

12 THE COURT: That's sustained.

13 BY MS. WILLIAMS:

14 Q: Did you learn anything else about that phone call from  
15 Pinero's phone to Maurice Washington's?

16 A: Well, I mean just that, unfortunately, Maurice was  
17 saying that he got this phone number --

18 MR. SHELTON: Objection.

19 THE WITNESS: Okay.

20 THE COURT: That's sustained.

21 BY MS. WILLIAMS:

22 Q: So just to reiterate, Maurice Washington's phone number  
23 was what?

24 A: Maurice Washington's phone number was [REDACTED]-5854.

25 Q: And Omar's phone number was what?

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- 1 A: Omar's phone number was [REDACTED]-4764.
- 2 Q: And Randall's phone number was what?
- 3 A: Randall's phone number was [REDACTED]-5690.
- 4 Q: And based on your investigation, where were all three of
- 5 these phones at the time of the Hassell Street murder?
- 6 A: So all three phones were in the area of Hassell Avenue.
- 7 So [REDACTED] Hassell Avenue was in the area of the tower and
- 8 sector that was being used.
- 9 Q: And so based on your investigation, Randall's phone and
- 10 Omar's phone were in what car?
- 11 A: They would have been -- they would have been together.
- 12 So with Omar's phone being in either Randall Myers'
- 13 possession during the time that the Navigator was taken and
- 14 the [REDACTED]-5690 number, they would both be in the Navigator.
- 15 Q: And at some point, Omar's phone is used by Brandon
- 16 Grayer at Ezekiel?
- 17 A: Yes.
- 18 MR. KAISER: Objection, Your Honor. That's speculation.
- 19 THE COURT: I'm going to sustain that.
- 20 MS. WILLIAMS: Okay.
- 21 BY MS. WILLIAMS:
- 22 Q: And Maurice Washington's phone would have been in what
- 23 vehicle during this search for Marquise Bryant?
- 24 A: So the [REDACTED]-5854 would have been in the pickup truck.
- 25 Q: Okay. Now, did you learn of where Maurice Washington

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1 was before the time of the murder?

2 A: Yes.

3 Q: And did he tell you or did you learn through the  
4 investigation of any trips to O'Reilly's?

5 A: Yes.

6 Q: And did you verify that?

7 A: Yes.

8 Q: And with how?

9 A: So after seeing the receipt from O'Reilly's in the  
10 Navigator, investigators went to the O'Reilly's location with  
11 a lineup that included Maurice Washington. It was shown to  
12 the salesperson that took care of his sale, and Maurice was  
13 identified by that -- by that salesperson.

14 Q: Okay. And how did you tie the other defendants? After  
15 the arrest of Randall Myers and Maurice Washington, how did  
16 you tie Brandon Grayer and Antoine Gill to this murder, and  
17 Nathan Burnett?

18 A: So once we identified the trailer that Omar was at and  
19 the Navigator was at, it was identified as Nathan Burnett's  
20 trailer. So we believed him to be involved because of the --  
21 the location they were coming from and statements given by  
22 Omar Lozano. And then Brandon Grayer came up because we were  
23 investigating the prior incident under Case Number 9115 on  
24 Bailey Drive and learned that this may have been a  
25 retaliation shooting from Brandon getting shot.

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1 MR. KAISER: Objection, Your Honor. That's speculation.

2 THE COURT: I'm going to allow that.

3 BY MS. WILLIAMS:

4 Q: When you say the prior shooting on Bailey Drive, is that  
5 the one where Brandon Grayer got shot?

6 A: Yes.

7 Q: Okay. Proceed.

8 A: And then we got a fingerprint of Brandon Grayer on the  
9 Navigator, and then looking at the phone records from -- that  
10 I received from the (843) 998-5854 number, at 1:39 a.m., I  
11 believe was the time -- I'm sorry -- 1:34 a.m. on September  
12 24th, there is a text message --

13 MR. SHELTON: Objection, Your Honor. May we approach?

14 THE COURT: Sure.

15 (WHEREUPON, a bench conference was held in the presence  
16 of the jury but out of the hearing of the jury off the  
17 record, after which the proceedings resumed as follows.)

18 BY MS. WILLIAMS:

19 Q: Okay. Moving on. How did you connect -- you were  
20 talking about the prior incident when Brandon Grayer got  
21 shot?

22 A: Yes.

23 Q: And you said -- the last thing you said was that you  
24 thought it started to -- the investigation started to turn  
25 toward is this a retaliation?

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1 A: Right.

2 Q: And tell us what physical evidence connected those two  
3 scenes.

4 A: So during the 9115 on Bailey Drive, there were two .45  
5 caliber shell casings that were recovered that matched .45  
6 caliber casings from Hassell where witnesses told us that the  
7 Navigator was parked at while they were shooting.

8 Q: Okay. And what did you learn about Brandon Grayer at  
9 the first scene? Did you confer with the detectives and  
10 officers that responded to that Bailey Avenue scene?

11 A: Yes. So I did speak with the detectives and officers  
12 and viewed reports that came from Bailey Drive because I did  
13 not respond to the initial -- to that shooting. So one of  
14 the questions that --

15 MR. SHELTON: Objection, Your Honor. Hearsay. Calls  
16 for speculation.

17 THE COURT: Yeah. If he's going to state what somebody  
18 else told him, then that would be hearsay.

19 BY MS. WILLIAMS:

20 Q: Please tell us what you learned from --

21 A: Well, what I asked -- I'm saying what I asked was, was  
22 Brandon capable of -- if he was injured -- because the  
23 information I received was he was shot in the chest. So with  
24 that information, I didn't realize if he was going to be able  
25 to be involved with this crime.

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1           So during the follow-up on this case, I learned that he  
2 was reported to be category three. He had -- he was in and  
3 out of the hospital in a short period of time and that they  
4 were minor wounds. So based on the -- from that briefing  
5 that we had, it was determined that it's likely he could have  
6 been involved with this case.

7           MR. SHELTON: Objection. Speculation.

8           THE COURT: I mean I'm going to allow a little bit a  
9 latitude as to why in his opinion --

10          MR. SHELTON: Yes, Your Honor.

11          MS. WILLIAMS: He's the one that --

12          THE COURT: -- why they suspected these things.

13          THE WITNESS: Okay.

14 BY MS. WILLIAMS:

15 A:       So since the information that was received was that the  
16 wounds were minor and that he was in and out of the hospital  
17 within a matter of hours, most of the chest wounds that I've  
18 been involved with in as far as investigating, patients are  
19 in there a considerable amount of time, especially for  
20 observation, even if it isn't anything major.

21               So we moved on with placing Mr. Grayer as a possible  
22 suspect in this case; so a photo of Mr. Grayer was shown to  
23 Omar Lozano. And when Omar Lozano identified Brandon Grayer,  
24 it was -- the identification was made based on Brandon Grayer  
25 coming back to the trailer Friday night and Saturday morning

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1 with Randall Myers --

2 MR. SHELTON: Objection. That's hearsay.

3 THE COURT: That's sustained as to what Omar Lozano told  
4 you.

5 THE WITNESS: Yes, ma'am.

6 BY MS. WILLIAMS:

7 Q: Don't repeat his words, but you can say what you  
8 learned.

9 A: So I -- so I learned that Brandon Grayer, Randall Myers,  
10 Maurice Washington, and Nathan Burnett all came back to or  
11 went back to that trailer, Nathan Burnett's trailer, after  
12 the shooting. Randall had a laceration to his face or --  
13 face or head area, and they were all talking about a  
14 shooting.

15 Q: And you showed Omar a picture of Brandon Grayer?

16 A: Yes, I did.

17 Q: And he identified him?

18 A: Yes, he did.

19 Q: And when did you learn that Marquise Bryant was the  
20 target of this murder over at Hassell Street?

21 A: So the -- it was September 24th. We got a call. So  
22 information from our narcotics unit was that this was a  
23 retaliation shooting and that Marquise Bryant was a potential  
24 target on Hassell.

25 Q: And did Marquise Bryant come and talk to you

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1 voluntarily? Did you have to go pick him up? How did -- did  
2 you ever talk to him and how did that come about?

3 A: He came in voluntarily, and then myself and Detective --  
4 or Sgt. Niemiec interviewed him. He admitted to being  
5 present on --

6 MR. SHELTON: Objection, Your Honor.

7 THE COURT: Sustained.

8 MS. WILLIAMS: Okay.

9 BY MS. WILLIAMS:

10 Q: Don't tell us what Marquise said.

11 A: Okay.

12 Q: Did -- did you get a buccal swab from Marquise Bryant?

13 A: Yes.

14 Q: And was that done through a search warrant or did he  
15 volunteer it?

16 A: It was consent voluntarily.

17 Q: Did you learn through witness interviews or any other  
18 evidence how long Marquise Bryant had been at the Hassell  
19 Street -- Avenue before he was shot at?

20 A: It was a very short period of time, roughly 5 minutes or  
21 less.

22 Q: And did you talk to anybody else that was connected to  
23 Marquise Bryant regarding him being a victim of this  
24 attempted murder?

25 A: Yes. So I spoke with -- myself and Detective Pritchard

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1 actually spoke with -- I'm sorry -- Larry Gathers, who is a  
2 resident of █████ Hassell, who described --

3 MR. SHELTON: Objection.

4 THE COURT: Sustained.

5 BY MS. WILLIAMS:

6 Q: You can just tell us who you spoke with.

7 A: Larry -- Larry Gathers.

8 Q: Okay. Did you ever speak with Jeliesa Jenkins?

9 A: I did speak with Jeliesa on the phone.

10 Q: Now, with regard to the fact that -- who did you learn  
11 was in the Navigator?

12 A: I learned that Antoine Gill was driving, Randall Myers,  
13 Nathan Burnett, and Brandon Grayer were in the Navigator.

14 Q: And what evidence did you have as an investigator that  
15 confirmed that?

16 A: So we had the physical evidence that included the DNA of  
17 Randall Myers from the blood, the front right -- the front  
18 passenger, front right passenger side of the car, DNA on the  
19 firearms, the phones in the car, fingerprints on the car, and  
20 then Antoine Gill, who didn't have any of that stuff on  
21 there, his name only came up through a tip.

22 Q: Okay. And what information did you have to confirm that  
23 Maurice Washington had the Navigator earlier in the day and  
24 gone -- had gone to O'Reilly's?

25 A: So that information came from Omar and then, ultimately,

## JEROME DESHEERS - DIRECT

1 from Maurice, and then from the -- the lineup that was shown  
2 at O'Reilly's, who identified Maurice and the Navigator. He  
3 saw the vehicle.

4 Q: Okay. And what physical evidence or other information  
5 did you have that confirmed Maurice Washington going back and  
6 picking up Randall Myers and Brandon Grayer and Nathan  
7 Burnett?

8 A: The -- the phone records that was consistent with the  
9 statement.

10 Q: Were any items of clothing found at the Ezekiel trailer?

11 A: Yes. Pinero Gambrell's trailer had a hat, a pair of  
12 jeans, and sneakers that had Randall Myers' DNA on them.

13 Q: And did Maurice Washington tell y'all from the beginning  
14 anything about Randall Myers with relation to those clothes?  
15 Or did you learn anything about whether or not he had clothes  
16 on when he came out of the trailer?

17 A: Yeah. Over the -- during the proffer interviews and  
18 then again Omar --

19 MR. SHELTON: Objection. Calls for hearsay.

20 THE COURT: It's cumulative to what we've already heard  
21 Maurice Washington testify to; so I'm going to allow it.

22 BY MS. WILLIAMS:

23 A: And then what we learned from Omar.

24 Q: That --

25 A: That Randall didn't have clothes on.

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1 THE COURT: I'm going to sustain the objection as to  
2 what Omar --

3 MS. WILLIAMS: Okay.

4 THE COURT: -- told him.

5 MS. WILLIAMS: But overrule it as far as what he can say  
6 as far as what he --

7 THE COURT: Maurice Washington's testimony about Randall  
8 Myers' physical condition when he left the trailer.

9 BY MS. WILLIAMS:

10 Q: Okay. You can answer about the physical condition when  
11 he left the trailer.

12 A: Okay. So no clothes on and then possibly being shot or  
13 grazed.

14 Q: And with regard to Maurice Washington getting several  
15 phone calls, one from a number that he didn't receive and one  
16 from Omar's number, did that information -- was that  
17 confirmed by the phone records and physical evidence?

18 A: Yes.

19 Q: Now, Detective Desheers, did you prepare a crime scene  
20 diagram based on your analysis of the crime scene?

21 A: Yes.

22 Q: And what did you look at, study, analyze in order to  
23 come up with your crime scene photo or diagram?

24 A: So I came up with the diagram based on my initial  
25 observations of the scene, since I was out there that night.

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1 Then I looked at crime scene photos that were taken, and then  
2 I also used witness statements to help kind of figure out  
3 where things were placed.

4 Q: And did you also study the firearms report?

5 A: Yes. So I included casings by numbers, the ID numbers  
6 that we see from crime scene, and married those up with the  
7 ballistics report from SLED.

8 Q: And you are familiar with, through transcript or  
9 otherwise, extensive testimony by the firearms expert, both  
10 by the State and defense in a previous trial?

11 A: Yes.

12 MS. WILLIAMS: Your Honor, at this time, I am showing  
13 defense counsel what's been marked as 135 and 136.

14 MR. SHELTON: Your Honor, may we approach?

15 THE COURT: Uh-huh.

16 (WHEREUPON, a bench conference was held in the presence  
17 of the jury but out of the hearing of the jury off the  
18 record, after which the proceedings resumed as follows.)

19 THE COURT: Okay. Ladies and gentlemen, I normally  
20 don't like to break in the middle of a witness, but I need a  
21 break and feel like if I need one, you guys probably do too.  
22 So we're going to take about 10 minutes. Please don't begin  
23 discussing the case. Thanks.

24 (WHEREUPON, the jury exited the courtroom at 3:37 p.m.)

25 THE COURT: Mr. Shelton, do you want to put on the

## JEROME DESHEERS - DIRECT

1 record your objection to State's proposed 135 and 136?

2 MR. SHELTON: Yes, Your Honor.

3 Your Honor, 135 and 136 shows -- my objection is that it  
4 involves hearsay, one. The officer just testified that the  
5 -- it was based off his -- his observations at the scene, but  
6 also witness statements and observation at the scene. So it  
7 involves -- one, it involves hearsay.

8 Two, Judge, is from my records, because I was -- I  
9 counted them up. There's only 35 shell casings that were put  
10 into evidence, and I know that the SLED agent testified to  
11 more that she examined, but as far as evidence is concerned,  
12 I thought I only counted 35. I might be wrong on that, but I  
13 only counted 35 and this, obviously, shows a lot more than 35  
14 shell casings on this. So it involves items that are -- that  
15 are not placed into evidence.

16 The projectile with -- okay. I see that now. I see  
17 what that is.

18 According to -- according to the testimony of -- I don't  
19 believe that this -- this is accurate. This little box  
20 that's up in the top, projectile matching a .45 ATI,  
21 projectile rifling traits of a .45 ATI, a projectile with  
22 rifling traits of the .45 Springfield is -- is not what was  
23 testified from the -- the SLED examiner as far as this makes  
24 it seem like those projectiles actually match that  
25 Springfield and actually match the ATI as far as how it's

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1 written up and how it's labeled on this -- on this map. It  
2 doesn't have all the projectiles that were found and,  
3 therefore, Judge, I just don't think that it matches the  
4 evidence that's been presented or put into evidence today.

5 THE COURT: I'm going to allow it, provided the State  
6 lays a sufficient foundation for it. I think it is basically  
7 a demonstrative aid for -- in my review of it, it appears to  
8 me to match Ms. Eichenmiller's testimony that's already come  
9 into evidence.

10 So again, I'm going to require you to lay a foundation  
11 for it before we show it to the jury.

12 MS. WILLIAMS: Okay.

13 THE COURT: I'm going to let y'all take a break as well  
14 because I need a break.

15 You're still under -- under oath and on the stand; so  
16 please don't discuss your testimony with anybody during the  
17 break.

18 THE WITNESS: Yes, ma'am.

19 THE COURT: But you're welcome to take a break as well.

20 THE WITNESS: I'm comfortable.

21 (WHEREUPON, there was a break in the proceedings from  
22 3:41 p.m. until 3:51 p.m., after which the proceedings  
23 resumed as follows.)

24 THE COURT: Okay. We're ready for the jury.

25 (WHEREUPON, the jury entered the courtroom at 3:52 p.m.)

## JEROME DESHEERS - DIRECT

1 THE BAILIFF: All jurors are present, Your Honor.

2 THE COURT: Thank you.

3 MS. WILLIAMS: Thank you, Your Honor.

4 BY MS. WILLIAMS:

5 Q: Mr. Desheers -- Detective Desheers, did you prepare a  
6 crime scene diagram involving this case?

7 A: Yes.

8 Q: And what types of things did you do in order to prepare  
9 for creating this, this diagram?

10 A: So when I responded to the scene, I was able to observe  
11 the scene as is. Then I reviewed the photos from the crime  
12 scene that crime scene took and then spoke with witnesses to  
13 develop this diagram.

14 Q: And did you also review the report from the firearms  
15 expert?

16 A: Yes.

17 Q: And listen to her testimony and the other firearms  
18 expert regarding the evidence of this case?

19 A: Yes.

20 Q: And did you also create a three-dimensional replica of  
21 the scene in order to prepare for this diagram?

22 A: Yes.

23 MS. WILLIAMS: Your Honor, I am going to show Detective  
24 Desheers State's 135 and 136.

25 BY MS. WILLIAMS:

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1 Q: Are those the diagrams that you prepared?

2 A: Yes.

3 Q: And do they accurately depict all the work you did, all  
4 of the research, and the culmination of all of the  
5 information onto these diagrams?

6 A: Yes.

7 MS. WILLIAMS: Your Honor, at this time, we would offer  
8 135 and 136.

9 MR. SHELTON: Same objection, Your Honor.

10 THE COURT: Your objection is noted. I am going to  
11 admit the -- Exhibits 135 and 136.

12 (WHEREUPON, State's Exhibits No. 135 and 136, crime  
13 scene diagrams, were admitted into evidence.)

14 MS. WILLIAMS: Can you please put up 135?

15 BY MS. WILLIAMS:

16 Q: Okay. Can you kind of talk us through this diagram and  
17 explain what we're looking at here?

18 A: So we're looking at the scene at [REDACTED] Hassell Avenue.  
19 The yellow and orange or gold looking casings here, they're  
20 .45 caliber casings. And then we have these little star  
21 figures that are the projectiles fired from the guns. Then  
22 the color-coded little tubular-shaped items are 9 millimeter  
23 and .45 caliber casings and were indicated the color and the  
24 shape in the legend at the top.

25 Q: And so if you would --

## JEROME DESHEERS - DIRECT

1 MS. WILLIAMS: Can you erase a line once you put it on  
2 there? I'm not sure how this works. Okay.

3 BY MS. WILLIAMS:

4 Q: Can you point out all the shell casings that were  
5 located -- and this is where they're located in the street at  
6 the scene; right?

7 A: Yes.

8 Q: Okay. And what is that vehicle right there on the left?

9 A: So --

10 Q: What is that supposed to depict?

11 A: My left here?

12 Q: Yes.

13 A: That's what we're looking at?

14 Q: The vehicle that is in the middle of all those --

15 A: Okay.

16 Q: -- shell casings on the left, yes.

17 A: So this depicts the Lincoln Navigator.

18 Q: Okay. And what about the vehicle to the top of the  
19 page?

20 A: So this is going to be the pickup truck.

21 Q: Okay. And could you point out all of the shell casings  
22 that were associated with or that were matched to the Fatboy  
23 ATI?

24 A: So the gold little cylinder things here are those  
25 casings.

## JEROME DESHEERS - DIRECT

1 Q: Okay. And could you point out the -- you might just  
2 have to put a dot on it -- the shell casings that go back to  
3 the Springfield?

4 A: The two casings that we see here at either end.

5 Q: Okay. And are there any projectiles that go back to the  
6 -- the Fatboy ATI?

7 A: So we have one right here in the center of the street.

8 Q: And what about any shell casings that were not matched  
9 to the ATI but that had similar rifling traits?

10 A: So in this little blue building right here -- I just  
11 covered it. This little blue building right here is a little  
12 shed that's on the property of [REDACTED] and this is the  
13 projectile Sgt. Niemiec went out and recovered that he  
14 testified to in that shed.

15 Q: From the shed? Are there any shell casings that are --  
16 that have -- that are not matched to the Springfield but have  
17 similar rifling patterns, traits?

18 A: Yes. So these little black kind of star symbols, shapes  
19 here.

20 Q: Okay. And there's a lot of shell casings on the right  
21 side of the page; right?

22 A: Yes.

23 Q: And tell us about those. What caliber are they and just  
24 kind of point them out by color.

25 A: So the purple cylinders are 9 millimeters, the reddish

## JEROME DESHEERS - DIRECT

1 burgundy colored ones are .45s, and --

2 Q: Show us on the thing because it's kind of hard to see  
3 the colors from here.

4 A: Okay. I'm sorry.

5 Q: It's probably clearer on your screen.

6 A: So these red casings here are the .45 caliber. These  
7 purple ones here in the center, they're 9 millimeters. And  
8 then this is another group, these little blue ones here  
9 underneath this tree, are .45 caliber as well.

10 Q: So assuming those are ejected from guns that are used in  
11 those spots, where would you -- where are those guns being  
12 fired from?

13 A: So the -- the placement of the shooter is going to be to  
14 the left because casings eject towards the right, but again,  
15 they're going to be somewhere in the area of where these  
16 groupings are. But as testified by Michelle Eichenmiller, I  
17 mean they may bounce some. This is a lot of dirt right here  
18 and along this section here on the side of the road, I mean  
19 that's mostly dirt, but they're going to be in the general  
20 area of the shooter.

21 Q: And what is that red car to the right? What is that  
22 supposed to depict?

23 A: So the red car, which is right here, that's going to be  
24 a Nissan Altima that had Tennessee tags being driven by  
25 Marquise Bryant.

## JEROME DESHEERS - DIRECT

1 Q: Okay. And you confirmed that through your investigation  
2 that he was in that car?

3 A: Yes.

4 Q: Did you arrest any of the people that were shooting all  
5 of these shell casings from the yard at the Navigator?

6 A: No.

7 Q: Why?

8 A: Arrests weren't made because stand your ground.  
9 Basically, these people during the investigation were  
10 identified as people that were defending themselves from  
11 being fired upon from the people in the Lincoln Navigator.

12 Q: And is there any indication that Ivan Greene ever had a  
13 weapon?

14 A: None whatsoever.

15 Q: And where is his body in relation to all of this  
16 shooting?

17 A: So we indicated this little body figure here. So past  
18 the tree and then closer to the gazebo is where Ivan was  
19 found and where he fell.

20 Q: Is it fair to say it's behind the shell casings of the  
21 people shooting back?

22 A: Absolutely, yes.

23 Q: And they are shooting in the opposite direction?

24 A: Correct.

25 MR. KAISER: Objection. Speculation.

## JEROME DESHEERS - DIRECT

1 THE COURT: That's sustained.

2 MS. WILLIAMS: Withdrawn. I apologize.

3 BY MS. WILLIAMS:

4 Q: The shell casing that is behind Ivan in the shed is  
5 consistent with rifling from a gun that was in the Navigator;  
6 correct?

7 A: Well, it's a projectile.

8 Q: A projectile.

9 A: In the shed, not a casing, but yes.

10 Q: Okay.

11 MS. WILLIAMS: And if you would now go to State's 136.

12 BY MS. WILLIAMS:

13 Q: And tell us what you're trying to convey with this  
14 diagram.

15 A: So where -- this is the Navigator after it made its  
16 U-turn. There's -- there is another set of 9 millimeter  
17 shell casings that were in a group here; so further away from  
18 [REDACTED] Hassell, but still another cluster of 9 millimeter  
19 casings.

20 Q: And those 9 millimeter casings are consistent with the  
21 casings that are found in the Navigator?

22 A: Yes.

23 Q: So presumably they're being shot as they're leaving?

24 A: The casings -- yes.

25 MR. SHELTON: Objection. Speculation.

## JEROME DESHEERS - DIRECT

1 THE COURT: That's sustained.

2 BY MS. WILLIAMS:

3 Q: So, Detective Desheers, with regard to the original  
4 shooting that started this whole thing over on Bailey Drive  
5 --

6 MR. KAISER: Objection, Your Honor. That's speculation  
7 and testimony.

8 THE COURT: That's sustained.

9 MS. WILLIAMS: I haven't even asked a question yet.

10 THE COURT: Can I get y'all to approach for just a  
11 minute?

12 (WHEREUPON, a bench conference was held in the presence  
13 of the jury but out of the hearing of the jury off the  
14 record, after which the proceedings resumed as follows.)

15 BY MS. WILLIAMS:

16 Q: With regard to the original shooting on Bailey Drive,  
17 that scene of the earlier shooting --

18 A: Yes, ma'am.

19 Q: Did you arrest anyone with regard to that shooting?

20 A: No arrests were made in regard to that shooting.

21 Q: And why didn't you arrest Marquise Bryant?

22 A: We had no evidence to support an arrest or probable  
23 cause to arrest him.

24 Q: Is there any evidence at that scene that connects  
25 Marquise Bryant to that shooting?

## JEROME DESHEERS - DIRECT

1 A: No, ma'am.

2 Q: And is there evidence that connects Brandon Grayer to  
3 shooting his gun at that scene?

4 A: Yes.

5 MS. WILLIAMS: Court's indulgence.

6 No further questions.

7 CROSS-EXAMINATION

8 BY MR. SHELTON:

9 Q: Detective Desheers, you were not present when the  
10 shootings were happening on Bailey Drive; correct?

11 A: Correct.

12 Q: You were not present when the shootings happened on  
13 Hassell Drive -- Hassell Avenue?

14 A: Correct.

15 Q: Okay. So your whole interpretation of the vehicles and  
16 how they got there, this is not your observation; correct?

17 A: The vehicles, correct.

18 Q: You observed the shell casings?

19 A: Yes.

20 Q: And specifically, the one that's at the -- that's in the  
21 shed at the gazebo, a projectile with rifling traits to a  
22 .45?

23 A: The shed and that gazebo are two separate buildings, but  
24 yes, the one in the shed, based on the ballistics report.

25 Q: With rifling traits?

1 A: Correct.

2 Q: And you heard the SLED agent testify that based off her  
3 reputation she's not going to say it came from the ATI?

4 A: Yes.

5 Q: Okay. But you still put it on your -- as coming from  
6 the ATI?

7 A: Yes. Based on my belief.

8 Q: That's your belief?

9 A: My belief, yes.

10 Q: And so the projectiles with the rifling traits of the  
11 .45 Springfield, that's also your belief because of the  
12 traits?

13 A: Yes.

14 Q: When you arrived on scene on September 23rd, 2016,  
15 Marquise Bryant was not there?

16 A: Correct.

17 Q: And I think there was a -- your report notes there's a  
18 trail of fluid that was leaving?

19 A: Yes, there was.

20 Q: But you saw the Lincoln Navigator that had wrecked;  
21 correct?

22 A: Yes. That was still there.

23 Q: And there was a whole bunch of other stuff around it,  
24 like an electrical panel and that sort of thing?

25 A: Yeah. There was quite a few things that appeared to

## JEROME DESHEERS - DIRECT

1 have some damage to it that was struck.

2 Q: It hit it pretty hard?

3 A: The -- are you talking about the utility pole?

4 Q: Yes.

5 A: Yes.

6 Q: The bumper was coming off of the -- of the Lincoln

7 Navigator. It hit that utility pole and the cement blocks.

8 It hit pretty hard?

9 A: Yeah. There was some cement blocks on Hassell before  
10 that bend that was hit and broke, yes.

11 Q: Okay. And so it's your interpretation of the evidence  
12 that the Lincoln Navigator turned around right near the 56 --  
13 or [REDACTED] Hassell Drive?

14 A: No. So the placement of the Navigator is stationary  
15 during the time of the shooting and then we're not showing  
16 movement from the Navigator. This is what we learned from  
17 the investigation. The Navigator backed -- backed away from  
18 that location.

19 Q: But the second picture -- let me get the numbers -- 136  
20 has the Navigator going up the road, facing the other way.

21 A: Yes. And I also testified this was after the Navigator  
22 made the U-turn and, again, the -- what we're looking at is  
23 not to scale. I mean it's not -- it's not the width of  
24 Hassell Avenue or the length.

25 Q: So it could've been way far down the -- down the road?

## JEROME DESHEERS - DIRECT

1 A: As far as backing up?

2 Q: And turning around.

3 A: Or turning around? Yeah. It was actually -- it was  
4 closer to the Lilac intersection.

5 Q: The shooting on Bailey Drive, the red Jeep Cherokee was  
6 taken into evidence?

7 A: Yes. It was towed from the scene. Well, it was  
8 actually towed from 23 -- so it was not towed from where the  
9 shooting took place. Actually, Brandon Grayer drove it down  
10 the street, backed it into a driveway to 2382, and then was  
11 -- that's where the vehicle was taken from.

12 Q: You weren't present on scene; so you don't -- you  
13 weren't there; so you don't know how everything took place?

14 A: Correct. I was not there. Just reviewing. Again,  
15 reviewing with detectives that were there and doing our  
16 briefing.

17 Q: No gun was recovered?

18 A: No.

19 Q: And Mr. Grayer did go to the hospital?

20 A: Yes.

21 Q: He did have a projectile in his left shoulder?

22 A: Yes.

23 Q: You -- there were some shell casings that were recovered  
24 near a bicycle?

25 A: On Montague.

## JEROME DESHEERS - DIRECT

1 Q: On Montague?

2 A: Yes.

3 Q: And Hassell?

4 A: Yes, sir.

5 Q: Okay. It's your opinion that had nothing to do with  
6 this case?

7 A: I did not testify to it was my opinion that it had  
8 nothing to do. We believed it had something to do with this  
9 case, yes.

10 Q: Okay.

11 A: Casings --

12 Q: That's further on down the road?

13 A: Yes. That's on Montague, which is the main road that  
14 Hassell runs off of.

15 Q: Okay. Your testimony about the -- the cell phone map of  
16 Maurice Washington, you mentioned it on direct that based off  
17 your review of the records -- scratch that. Based off the  
18 towers on the calls, you can map what is Maurice Washington's  
19 phone?

20 A: Correct. Based on the sectors of the tower the phone  
21 uses during its communication with the tower; so during a  
22 phone call or a text message.

23 Q: And that just -- that matched the phones; right?

24 A: Yes.

25 MR. SHELTON: I beg the Court's indulgence.

26

## CLAY SIMMONDS - DIRECT

1 I have no further questions.

2 MS. WILLIAMS: No redirect.

3 THE COURT: You can step down, sir.

4 THE WITNESS: Thank you. Thank you.

5 MS. SMITH: The State calls Agent Clay Simmonds.

6 (WHEREUPON, there was a pause in the proceedings until  
7 the witness entered the courtroom.)

8 THE CLERK: Thank you. Do you swear or affirm the  
9 testimony you shall give the Court and the jury shall be the  
10 truth, the whole truth, and nothing but the truth, so help  
11 you God?

12 THE WITNESS: Yes, ma'am.

13 THE CLERK: Please take a seat. Please state your full  
14 name and spell your last name for the record.

15 THE WITNESS: It's Robert Clayton Simmonds, S-i-m-m-o-n-  
16 d as in David-s.

17 MR. SHELTON: Your Honor, can we approach?

18 (WHEREUPON, a bench conference was held in the presence  
19 of the jury but out of the hearing of the jury off the  
20 record, after which the proceedings resumed as follows.)

21 THE COURT: Yes, ma'am.

22 MS. SMITH: Thank you, Judge.

23 CLAY SIMMONDS, being first  
24 duly sworn, testified as follows:

25 DIRECT EXAMINATION

## CLAY SIMMONDS - DIRECT

1 BY MS. SMITH:

2 Q: Agent Simmonds, where are you currently employed?

3 A: I'm the supervisor of special agents with the FBI here  
4 in Charleston, South Carolina.

5 Q: How long have you been employed with the FBI?

6 A: Almost 18 years.

7 Q: Can you explain your educational background for us?

8 A: I have a business and accounting degree from the College  
9 of Charleston. Afterwards, I became a police officer with  
10 the Charleston Police Department for approximately five  
11 years, and then I left and went to graduate school for about  
12 a year at Clemson before I was hired by the FBI.

13 Q: And what particular subdivision of the FBI are you  
14 assigned to?

15 A: Currently, I'm the supervisor over our unit, which is  
16 what we call CAST. It stands for the Cellular Analysis  
17 Survey Team. It's a group of agents who receive specialized  
18 training and go around analyzing historical phone records,  
19 geo-locating those for that general location of where those  
20 phones are located at any particular point in time that we're  
21 requested to ask, and then we go travel around the country  
22 testifying as experts upon our -- about our analysis that we  
23 have provided.

24 Q: And what sort of training have you received to work as a  
25 CAST agent?

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1 A: Other than my background to become a Special Agent  
2 through the process at Quantico, CAST agents are required --  
3 are required to go through training that takes about 18  
4 months to two years.

5 The first stage of the training is basically what we  
6 call a class called Project Pinpoint. It's just a basic  
7 understanding of what cell phone records are, how do we get  
8 them, what legal process is needed for them, how do we use  
9 those cell phone records to glean information from it, and  
10 then we are provided with a tower list from the cell phone  
11 providers and we marry those things together to provide a  
12 visual depiction of what the phone activity was over a  
13 particular date and time that -- that was requested.

14 The second stage of our training is what we call  
15 Advanced Project Pinpoint. There's usually something kind of  
16 wrong with the records, whether the records are in UTC time  
17 or military time that some people may be familiar with. They  
18 may be -- you know, some information that normally is there,  
19 but we just have to go search for it. Just a little bit of  
20 things to kind of throw you off, kind of some tricks and  
21 curveballs to you to see if you can work around it.

22 We then go through a class called a field training  
23 exercise. It is -- and we've updated our curriculum as we've  
24 gone throughout. So I haven't attended everything, but I've  
25 taught or been a part of everything at one point or another.

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1           So now we have a field training exercise where we  
2 basically put prospective CAST agents into a command post  
3 scenario and give them various things to go and analyze, such  
4 as a missing kid, shooting of individuals on the streets,  
5 whatever the situation is. We give them the various records  
6 from various different service providers, give them a limited  
7 time to provide us analysis, and then they have to present  
8 their analysis to us at the end of it.

9           We also go to a school down in Florida for geolocation  
10 of data where we take a two-week course of learning how to  
11 use a cell site simulator. Basically, we use that simulator  
12 to act like a cell tower to find cell phones so we can go  
13 arrest fugitives, find kids that may be missing that are  
14 utilizing cell phones, things of that nature.

15           We then have an instructive development course, which is  
16 a week long. Every CAST agent is required to teach at some  
17 point in their career these techniques to local, state, and  
18 federal law enforcement agencies that require or have a  
19 desire to learn this technique.

20           We then have two two-week certification blocks where the  
21 first week of certification we have a professor down in  
22 Florida who talks about cell phone technology, RF frequency  
23 theory, why cell phones use RF frequency to communicate with  
24 the network, what data or how the phones and the networks are  
25 kind of set up throughout the United States.

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1           We then for the second week have every service provider  
2 in the country come and bring their law enforcement relations  
3 group, their law enforcement personnel, and their engineers  
4 for those various networks into town to tell us how their  
5 networks are set up, what data we can obtain from them, how  
6 best to go about getting that information, how they utilize  
7 that information for optimizing their networks, things of  
8 that nature.

9           We then take a tour of the area of a cell tower, a  
10 switch which processes everything, as your text messages and  
11 phone calls and data sessions that go through. We take a  
12 tour of that. We take a tour of a cell tower, meet engineers  
13 and the personnel that are monitoring the network. If  
14 something goes wrong and they need to go out there and fix  
15 it, they tell us how quickly they go out and fix those things  
16 because their bonuses and their pay depends on the network  
17 working properly.

18           And then after that, we take another two-week block  
19 where we have expert witness training. We have individuals  
20 such as myself and other agents and other experts that come  
21 in and say, hey, this is what you're expected as an expert  
22 witness. This is what you do, this is what you can't do,  
23 things of that nature just to kind of get you in a different  
24 mindset than being a fact witness.

25           And then the last week is we have given you a case and

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1 we ask you to analyze those records. We also give you a  
2 piece of equipment to go out and what we call drive test the  
3 cell towers because when we depict the cell towers, we depict  
4 them at perfect 120-degree angles because there's three  
5 sectors to a tower and we want to cover all three sides of  
6 the tower if needed, but in all actuality, cell phone towers'  
7 footprints are kind of an irregular-shaped polygon and so we  
8 give them a piece of that equipment to go out and use it to  
9 see what the footprint of that tower is actually like and  
10 then put that into their presentation.

11 And then we sit them through moot court where we fly in  
12 attorneys from all over the country to play prosecutor,  
13 defense attorney, judge, and they have to present their case  
14 and then have to defend their case with whoever is playing  
15 the defense role.

16 At each stage of training, especially with the  
17 certification aspect of it, you are evaluated and graded.  
18 And if you make a passing score, then you are certified as an  
19 FBI CAST expert.

20 Q: Quite a bit of training. Do you receive any continuing  
21 education yearly or semiannually or how does your  
22 recertification work?

23 A: Yes, ma'am. So every year we all meet together as a  
24 group. Every CAST certified body meets as a group. We have  
25 each one of the cell phone providers again comes back, the

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1 four major ones, and then US cellular, the smaller markets in  
2 other towns and states.

3       They'll come back together with their engineers to give  
4 us updates on anything that's new that's come out, like new  
5 pieces of optimizing equipment they may have, data they may  
6 get that might be useful to us, any emerging technology such  
7 as 5G, which is on the verge of coming out all across the  
8 country, things of that nature. So they come back and update  
9 us with that. We get recertified with our drive test  
10 equipment of any updates that have come with that, and spend  
11 a week just getting recertified as CAST bodies.

12 Q: I think you briefly touched on it, but what sort of  
13 instruction or teaching responsibilities do you have as part  
14 of your role?

15 A: So like I said, everyone is required to do some sort of  
16 teaching, whether it's just the basic CAST, basic class where  
17 you learn about phone records and how to get them or the  
18 advanced class or the field training exercise or the  
19 certification. I've participated in every one of them at one  
20 stage or another, but I've done the advanced, the basic, and  
21 the field training exercises as an instructor where I'm up  
22 there giving a block of the training and teaching new  
23 students these techniques.

24 Q: About how many times have you taught that?

25 A: Basic, 15. I don't know, 15. I was the training

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1 coordinator at the FBI headquarters when the CAST unit was  
2 started. So I went to almost every training session that we  
3 had and participated in that. I've done a couple of advanced  
4 classes, and I just recently finished a field training  
5 exercise class.

6 Q: If you can briefly break down for us what is the  
7 historical cell site analysis that you do?

8 A: Yes, ma'am. So the phone companies are required by law  
9 to obtain certain data and maintain that data that through  
10 legal process, search warrants, we can obtain that  
11 information.

12 So when you're out there using your phone, whether it's  
13 sending text messages or a phone call or anything like that  
14 and you press the green button to send that text message,  
15 receive -- receive a phone call or anything of that nature,  
16 your phone is constantly out there in the network trying to  
17 figure out what phone tower do I see -- cell phone tower do I  
18 see with a clear strongest signal. And when I get a call or  
19 I get a text message, I want to use that particular tower on  
20 that particular side when that happens.

21 And so when you press that green button, the signal goes  
22 from the phone to the tower and back from the tower to the  
23 phone and says, hey, can I have resources to complete this  
24 transaction, and at that moment is when that information is  
25 populated in what we call the call detail records.

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1           The call detail records -- I hate to say it because I  
2 feel like I'm old. The call detail records are kind of like  
3 your phone bill when you were charged by every minute that  
4 you used to have when you had a phone bill. Now they've got  
5 these unlimited plans and things of that nature, but call  
6 detail records are the same general thing except they give  
7 you one more piece of information. Not only do they give you  
8 the number to and from your phone, the date and time, the  
9 duration of that call, they also give you the switch, the  
10 area that processed it, and then the cell site ID, the tower  
11 that that phone utilized and the sector that it utilized when  
12 that call took place.

13           So when you press that green button and those  
14 connections are made, that is when that information gets  
15 populated. And through legal process, we can obtain that  
16 information, and if we couple that with the cell tower list  
17 that is also provided, we can provide a general location of  
18 where the phone was over that period of time.

19 Q:   And I am assuming do you do this daily in your job at  
20 the FBI?

21 A:   Every single day.

22 Q:   And how many -- have you testified as an expert before  
23 in court?

24 A:   Numerous times.

25 Q:   In state and federal court?

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1 A: State and federal court.

2 MS. SMITH: Judge, the State would offer Agent Simmonds  
3 as an expert in cellular telephone data analysis.

4 MR. SHELTON: No objection.

5 THE COURT: I do find he is so qualified to give opinion  
6 testimony in this area.

7 MS. SMITH: Thank you, Judge.

8 BY MS. SMITH:

9 Q: Agent Simmonds, what sort of information do you rely on  
10 when you are going to prepare a report or a map?

11 A: So I have to -- I have information about the crime. I  
12 have to know when the crime took place, where it took place.  
13 I need the phone records of anybody that they think was  
14 involved in that -- in that crime and a tower list to map  
15 that area because we have to have the call detail records and  
16 the towers to combine it together to give you a visual  
17 depiction of where the phone was. So I need that piece of  
18 information.

19 Sometimes I get other information, such as there's an  
20 alibi that they want to use and the phone corroborates or  
21 disproves their alibi, things of that nature. So whatever  
22 information is important to the detective agent investigating  
23 the case, I would like to have a little bit of that knowledge  
24 because I need to figure out what's going on with the phone.

25 My whole relevance to this is that I just tell you where

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1 the phone is. I'm not there to tell you who has the phone.  
2 That's up to the detectives to do so, but sometimes that  
3 information is provided to me during the course of it and  
4 they're very confident that whoever had the phone or whatever  
5 phone was being analyzed, that is associated with that  
6 individual.

7 Q: So other than the actual documentation of the call  
8 detail records and other than cell tower maps that you  
9 require, you generally regularly conference with the  
10 detective or the case agent?

11 A: Or the prosecutors, depending on what stage we are in  
12 the analysis phase.

13 Q: And were you -- did you prepare a PowerPoint or a report  
14 or a map in this case?

15 A: Yes, ma'am.

16 Q: And did you do that after conferring with Detective  
17 Desheers and receiving those documents that you just  
18 mentioned?

19 A: Yes, ma'am.

20 Q: Can you provide the phone numbers and carriers for which  
21 you were requested to map?

22 A: Not off the top --

23 Q: Okay.

24 A: Not off the top of my head. I know the individuals that  
25 are associated with it. I know what colors they are that I

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1 put on my map, and I know one is a Sprint phone. The 678  
2 number is a Sprint phone, and the other two are Verizon  
3 phones.

4 Q: And did you prepare a PowerPoint presentation of the  
5 data that you analyzed in this case?

6 A: Yes, ma'am.

7 Q: Would it assist you to reference that as you explain  
8 what you did and what you relied on?

9 A: Most definitely.

10 MS. SMITH: I'm showing the defense State's 137, and I'm  
11 passing State's 137 up to Agent Simmonds.

12 THE WITNESS: Thank you.

13 THE COURT: Subject to -- I'll note that defense counsel  
14 objected to this at the bench, but I am going to allow it.

15 BY MS. SMITH:

16 Q: So, Agent Simmonds, what were the phone numbers and the  
17 carriers that you were requested to analyze in this case or  
18 asked to analyze?

19 A: Again, the first number was [REDACTED]-4764. That is a  
20 Sprint cell phone. I was informed that was in relation to a  
21 Brandon Grayer or Gryer. [REDACTED]-5854 is a Verizon cell  
22 phone associated with Maurice Washington, and then [REDACTED]-  
23 5690 is another Verizon cell phone associated with a Randall  
24 Myer -- Myers.

25 Q: And so you received all of this information and began

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1 deriving your report. What's the first thing? What did you  
2 do next? What's the first thing you do?

3 A: So I look at the records to see, one, is there any tower  
4 information there that logically can be used for that time  
5 frame. I look to see if there's any advanced -- advanced  
6 information, such as timing advanced information that is  
7 there, and I'll basically place that into our mapping  
8 software and came up with a visual depiction of what the  
9 place would look like.

10 I then prepared this report basically stating out how I  
11 -- how I did it. I got the information from these numbers --  
12 for these numbers for this particular time frame from  
13 September 23rd through the 24th of 2016. Basically, the same  
14 thing I've been saying, took the cell phone records and the  
15 tower list and put them together and came up with a map. I  
16 have them on the following pages.

17 Q: All right. If you will, walk me through your  
18 presentation. We're going to go to page 2 of your report. I  
19 believe you briefly touched on this.

20 MS. SMITH: The next page.

21 BY MS. SMITH:

22 Q: This is what you were talking about earlier?

23 A: So yes, ma'am. This is -- this is what a typical three-  
24 sector tower would look like. We see them all the time as we  
25 are driving to and from home. Within the tower lists

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1 themselves, every tower, especially here in South Carolina,  
2 are usually divided into three sectors. You get into bigger  
3 markets, LA, New York, places like that, they might have six-  
4 or nine-sector towers to provide more service to them. Most  
5 of them in South Carolina are three-sector towers. They're  
6 generally about 120 degrees to cover 360 around -- degrees  
7 around the tower.

8       But within that tower list when you receive it, they  
9 tell you the orientation of that tower, where is the  
10 strongest portion of that signal coming out from, and they  
11 usually put it in degrees. So, like, if I read the tower  
12 list and it said, hey, sector one is at 60 degrees, we look  
13 at that like a face on a clock and every hour is about 30  
14 degrees. So we'd sit up there and draw the center of that  
15 azimuth, the center of that sector, at 2 o'clock. There's 60  
16 degrees to the right of it and 60 degrees to the left of it  
17 to come up with that 120 degrees sector. And then we would  
18 continue on with sector two and sector three in likewise.

19 Q: And when you are going to reflect this sector on your  
20 map, is there a certain, like, symbol or illustration that  
21 you use?

22 A: Sure. It looks like a little pie wedge. It'll look  
23 like this one here on the next slide. It looks like a little  
24 pie wedge.

25       This area here just is to reflect that is the energy of

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1 where the RF frequency is coming out from that tower on that  
2 particular sector. It does not say that the phone is down  
3 there in that area. It can be anywhere between these arms in  
4 here, but I just have that highlighted just so you know what  
5 side of the tower the phone used at that particular moment.

6 Q: And then when you began your report, you were not only  
7 provided the numbers, but you mentioned that you conferenced  
8 with Detective Desheers?

9 A: Correct.

10 Q: And were you provided areas of interest to, I guess, map  
11 out along your --

12 A: Yes, ma'am. So with that, as I said, I have to have  
13 certain information. I have to know where the crime took  
14 place. If there's other information, residences, alibi  
15 locations, things of that nature that I need to have that  
16 would be relevant to the presentation, I obtain that  
17 information.

18 So through conferencing with Detective Desheers, these  
19 four locations were provided to me, the top one being kind of  
20 an orange flag with a house in the middle of it. That's an  
21 apartment complex on Rolling Fork Road up in North  
22 Charleston. ██████ Ezekiel Avenue in North Charleston I was  
23 told was a burglary location. ██████ Hazel or Hassell Avenue  
24 in North Charleston was the location of the crime scene. In  
25 this case, my understanding it was a homicide. And then a

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1 residence of interest. I think it was a Nathaniel Burnett at  
2 [REDACTED] Carter Road in North Charleston. Those were the  
3 locations of interest that were important to the detectives  
4 in this case.

5 Q: And we see little black and red dots on your map. What  
6 are those?

7 A: So the black dots represent the Sprint towers that are  
8 in that area and the red dots represent the Verizon towers  
9 that are in the area. Sometimes both Verizon and Sprint can  
10 be on the same tower. They are just co-located at different  
11 heights there on the same tower.

12 Q: And those are of note because the three numbers that you  
13 were requested to look at are either Sprint or Verizon?

14 A: Correct. There's no T-Mobile or AT&T on there because  
15 there was no services for those phones.

16 Q: So when you broke down your map, did you do it in time  
17 frame segments?

18 A: Yes, ma'am. So I tried to get everything into a  
19 manageable time frame. In this case, it seemed to be  
20 30-minute time blocks seemed to be most appropriate. So I  
21 started off with the relevant time frame that I was provided  
22 was 11 p.m. on the 23rd of September, 2016, until  
23 approximately 1 a.m. on the 24th of September, 2016. And so  
24 this first map here depicts where those phones were between  
25 11 and 11:30 p.m. on the 23rd.

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1 Q: And can you -- based on the mapping that you have here,  
2 can you show any sort of movement or progression based on the  
3 data that you were able to analyze?

4 A: Yes, ma'am. So these arcs here that are drawn out in  
5 different areas on these towers, this is kind of some  
6 advanced or a little more information that the cell phone  
7 networks have. It's called timing advanced information. I  
8 think Sprint calls it per call measurement distance or data,  
9 and Verizon calls it real-time tool.

10 Basically, all it is, it's a way for the networks to  
11 optimize -- a way for the companies to optimize the network,  
12 make sure they're getting good service to their -- to their  
13 customers because nothing makes you more mad to be on a phone  
14 call and the phone dropped. It makes you want to switch  
15 service providers. So they use these tools, this timing  
16 advanced tool, to optimize their network.

17 Well, that's information that we can obtain through  
18 legal process. So all these arcs here is basically telling  
19 us that the network wanted to know where the phone was at  
20 that particular moment in time and the phone says, hey, I'm  
21 over here, and it shoots a signal back to the tower, and the  
22 tower says, okay, I got you. We estimate that you're on this  
23 side of the tower this far away from it. That's why we have  
24 some of these arcs on there.

25 So if I was going out to look for an individual with

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1 that extra knowledge in hand, the timing advanced knowledge  
2 in hand, I would start off looking in known areas that the  
3 arcs fell over to go look for that individual. They may not  
4 be there because it may be old data, but that phone was  
5 generally in that area beforehand.

6 So to go back to this case, this phone, the 4664, the  
7 phone attributed to Mr. Grayer or Gryer, started off here at  
8 11 o'clock using this tower and sector, which covers the  
9 residence out there on Carter Avenue. Eventually moved down  
10 towards the south towards the apartment complex and last  
11 having a transaction at approximately 11:10 using the tower  
12 and sector that provides service to the apartment complex.

13 MR. SHELTON: Your Honor, I have an objection. I think  
14 that needs to be stricken from the record that this phone  
15 belongs to -- I think that's a misstatement of all the  
16 evidence that's been presented.

17 THE COURT: I'm going to sustain that objection. I  
18 believe the earlier testimony was that was the phone of Omar  
19 --

20 MS. SMITH: Lozano.

21 THE COURT: -- Lozano and that there was some other  
22 testimony as to who was using the phone, but I'm going to  
23 sustain the objection with respect to the characterization of  
24 it being Mr. Grayer's phone.

25 MS. SMITH: Yes, Your Honor.

1 BY MS. SMITH:

2 Q: Agent Simmonds, if you'll --

3 THE COURT: That is sustained.

4 Q: -- refer to it by phone number.

5 A: No problem.

6 Q: Okay.

7 A: No problem.

8 Q: So to start back off at 11 p.m., you can see in the  
9 circled -- your first circle that this 678 area code number,  
10 as well as the phone that you have highlighted in orange  
11 beginning (843) 998 are both -- is it accurate to say both in  
12 the same section that covers the crime?

13 A: Yeah. Both of them are using the same tower. The  
14 orientation of the Sprint phone is a little different than  
15 the orientation of the Verizon phone, but they are both using  
16 the tower and sector that provides service to that residence.

17 Q: And by the 11:10 mark or 11:11 mark, both the 678 area  
18 code number and the phone that you've highlighted in purple  
19 are pinging off towers either -- I think you said the North  
20 Charleston Rolling Fork?

21 A: Yeah. So right through this area you have two towers;  
22 one being a Sprint tower, one being a Verizon tower, the  
23 Verizon tower being in purple. Those towers or those phones  
24 are utilizing a tower and sector that would provide service  
25 to the apartment at Rolling Fork Road.

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1 Q: Okay. And the information that you were given as to the  
2 phone that you have highlighted in purple is that that  
3 belonged to Myers?

4 A: Randall Myers.

5 Q: And moving to 11:20, can you see a further progression  
6 in movement of any of the phone numbers that you were asked  
7 to analyze?

8 A: So yes, ma'am. So the -- the purple phone ending in  
9 5690 that's apparently related to Mr. Myers begins to move  
10 south down towards this tower 316, sector one, which appears  
11 to be able to provide service to the crime scene and the  
12 burglary location, along with the phone ending in 5854  
13 belonging to Mr. Washington. They are both down in this  
14 general area here using towers that could possibly provide  
15 service to the crime scene.

16 Q: Okay. And moving to your next time block, 11:30 to  
17 11:59, where are -- what phones, if any, are located still in  
18 that area at 11:30? Excuse me. Moving away from that area  
19 around 11:30?

20 A: So we have the phone ending in 4764, [REDACTED]-4764,  
21 between 11:40 and almost midnight using these towers with the  
22 timing advanced kind of overlapping in this general area here  
23 close to the crime scene and the burglary location.

24 The phone of 5854 at 11:32 is utilizing this tower down  
25 in this area and -- and eventually goes out this way and

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1 leaves the area and uses this tower beginning at  
2 approximately 11:38 to about 11:44, at that time using this  
3 tower just north of the joint airbase in Charleston.

4 Q: Is that off Dorchester Road?

5 A: Yes, ma'am.

6 Q: And -- but other than that, the 678 number is apparently  
7 stagnating off that same tower?

8 A: Until -- until 11 -- until 11:59, the 678 number is  
9 using these two towers here at that location, while 5854 has  
10 left that general area and has moved up this way, but  
11 eventually starts returning back towards that crime scene.

12 Q: 5854, the orange phone, who was that number attributed  
13 to?

14 A: From my understanding, Maurice Washington.

15 Q: And the purple highlighted number, the (843) 214, what  
16 -- between the time of 11:30 and 11:59, where is -- if that  
17 phone has any tower information, where is that?

18 A: So from 11:49 to 11:53 during this particular time  
19 frame, it's using this tower and this sector here. These are  
20 the timing advanced bands for it. So I would look somewhere  
21 within those bands for it between that time -- on that time  
22 frame.

23 Q: And moving to your 12 a.m. to 12:30, has the 678 -- the  
24 phone that you've highlighted in the black color, has that  
25 moved to any other towers?

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1 A: No, ma'am. It basically has used the same general area  
2 of towers. It appears to have used 531 at approximately  
3 12:04. That is a timing advanced, a data session that took  
4 place. At some point, the phone saw that tower and they  
5 captured that timing advance there. But other than that, it  
6 generally is using the same two towers it was using on the  
7 previous slide, which are these two up here. The orange  
8 phone attributed to 5854, Mr. Washington, starts returning to  
9 the area around 12:08 or 12:09, utilizing these two towers in  
10 this area.

11 Q: And the purple highlighted phone with the (843) 214, is  
12 that in any specific tower?

13 A: Yes, ma'am. It's up here at this tower, which would be  
14 404, sector two. It has a transaction, a timing advanced  
15 transaction at 12:24:56.

16 Q: The timing advanced transaction, can you show us what  
17 band that is in?

18 A: It's generally in this area over these -- the crime  
19 scene and the burglary locations that are marked.

20 Q: And moving to your 12:30 to 1 a.m., the 678 number, is  
21 that -- talk to me about that one.

22 A: Yes, ma'am. So beginning around 12:36, it's still --  
23 12:36 to approximately 12:39, it's still using these two  
24 towers, which are in the general area of the crime scene. It  
25 eventually starts going back in a northerly west area,

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1 returning up here to this tower 535 beginning at around 12:49  
2 in the morning.

3 Q: And the -- do you have any transactions for the orange,  
4 last four, I guess it's 998?

5 A: Yes, ma'am. So a voice call took place at approximately  
6 12:45:24 using this sector. It's on the same tower that it  
7 was on the previous slide, but instead of it using a sector  
8 that's oriented more towards the crime scene, it's using one  
9 that's oriented kind of north and westerly --

10 Q: Is it the --

11 A: -- from the crime scene.

12 Q: Is it in the same sector as the 678 or the same tower?

13 A: At some point, they are using the same tower. This --  
14 this transaction at 12:45, they are using the same tower at  
15 12:41, between 12:41 and 12:45. The [REDACTED]-4764 is  
16 utilizing tower 748 between 12:41 and 12:42 a.m.

17 Q: And this -- the purple phone, the 214, that has remained  
18 on the same 316 tower?

19 A: As the previous slide, yes, ma'am. And again, the  
20 timing advance in this little band here.

21 Q: I'm going to backtrack to your first slide, the 11 to  
22 11:30 time frame. I believe it is your page --

23 A: Five.

24 Q: Yes. This tower 329 activity that includes the house  
25 icon that you've labeled --

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1 A: Yes, ma'am.

2 Q: Is that tower serving the area of Rivers Avenue?

3 A: That particular sector may have some on it, but yes,  
4 that tower would serve Rivers Avenue in sectors two and three  
5 because they would basically kind of be in this area here and  
6 then up here in this area.

7 Q: And I see one of those bands that you explained as a  
8 timing advance band that seems to fall right over your icon.  
9 Can you talk to me about that?

10 A: Yes, ma'am. That's a timing advance that took place at  
11 11:11:50 p.m., and it's just -- that's how far Verizon  
12 estimated the phone was from the tower at the time that that  
13 timing advance data was obtained.

14 Q: And that estimation of how far it was from the tower  
15 includes the icon of that house which is the Rolling Fork  
16 apartment on Rivers?

17 A: Yes, ma'am.

18 MS. SMITH: I don't have anything further, Agent  
19 Simmonds. Please answer anything the defense has.

20 CROSS-EXAMINATION

21 BY MR. SHELTON:

22 Q: Agent Simmonds, you don't work for the cell phone  
23 companies, do you?

24 A: No, sir.

25 Q: And the cell phone companies -- this was Sprint and this

1 was Verizon?

2 A: Yes, sir.

3 Q: They didn't provide you any information regarding the  
4 coverage area of the cell site?

5 A: Not from 3+ years ago, no, sir.

6 Q: Okay. And really, you didn't walk this property, did  
7 you? This is a large area.

8 A: No, I didn't.

9 Q: Okay. And you really need a radio -- is there a radio  
10 propagation machine --

11 A: Where you have --

12 Q: -- map to actually area -- to see what area is actually  
13 covered?

14 A: Again, as I've testified earlier, we have equipment,  
15 drive test equipment, that we can utilize to drive test the  
16 footprint of a particular tower. With this case just coming  
17 to me in the last few weeks and it being 3+ years old, I  
18 didn't think it would be prudent to drive test that area  
19 because I only get it for that particular day. I don't know  
20 what changes would have possibly have taken place with the  
21 networks between 2016 and today.

22 Q: Right. So -- and there's a lot of things that -- that  
23 can affect those -- those vectors, I guess, that you -- that  
24 you drew up there; is that correct?

25 A: I don't --

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1 Q: Like buildings. I mean they -- that could get in the  
2 way.

3 A: Sure. And that's why the engineers sit up there and  
4 place towers to provide you the best possible service.

5 Towers are set up kind of like your sprinkler systems in your  
6 yard or in a farming area. You want one sprinkler head on  
7 one side and one on the other side to overlap a little bit so  
8 you don't have a dead spot in your yard or your farming area.

9 Same thing with cell towers. They want to have that  
10 overlap so when you travel from one tower to the next tower,  
11 you don't drop your phone calls, you don't miss out on a  
12 text, things of that nature, because it makes you mad and  
13 makes you want to change phone companies, and these guys are  
14 in business to make a profit.

15 So no, I don't. I don't know the exact footprint of the  
16 towers. I'm providing the best estimation that I can.

17 Q: And that's the -- that's the -- really the reason of  
18 these towers is not to map location?

19 A: The reason of the towers is to provide the best service  
20 that they can their customers.

21 Q: Right.

22 A: And to make -- for the companies to make money off of  
23 it.

24 Q: And with cell towers, if there's a lot of activity at  
25 one period of time, we could pick up a different cell tower?

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1 A: Not necessarily. I mean that may be true if the  
2 footprint of that tower can see another tower at that time,  
3 but it's kind of like if you go to a football game or a  
4 baseball game, large event where maybe a lot of people are  
5 sitting up there trying to send out a text, phone call,  
6 whatever at the same time.

7 You sit up there and you dial that number and you press  
8 the green button and you look and you're like what in the  
9 heck is taking so long for this to take place. Either it  
10 doesn't go through or it waits until there's resources to  
11 take place or you get that -- kind of that fast busy signal,  
12 like, hey, I got to do it again.

13 It doesn't skip over to another tower unless it can see  
14 that tower within its footprint, but they optimize their  
15 towers to provide the best possible coverage without having  
16 those -- you know, you get too many towers in the same area,  
17 the phone doesn't hear the clearest, strongest signal and you  
18 don't get any service at all.

19 Q: And there could be -- I mean there could be a difference  
20 of 20 miles or so that these -- that these towers cover?

21 A: If -- if networks could put up towers every 20 miles,  
22 they would because it costs them a lot of money to put up  
23 these towers and maintain the towers. In the perfect  
24 environment, yes, you have no one demanding services off of  
25 that tower, it's flat, it can go for range, the phone can see

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1 the tower, sure, it can work 20 miles out, but in our  
2 environment, in North Charleston, downtown Charleston, New  
3 York City, wherever, they are putting towers up where they  
4 need to to provide the best possible service. So we're not  
5 going to have a tower in downtown Charleston reaching up to  
6 Summerville to provide service to a phone.

7 Q: And were you provided -- I guess you were provided the  
8 records from this case?

9 A: Yes, sir.

10 Q: Okay. And so did you I mean look at who the -- who  
11 owned these cell phones?

12 A: Excuse me?

13 Q: Did you look at who owned these cell phones --

14 A: I was --

15 Q: -- as part of your analysis?

16 A: I was provided just with the call detail records. I was  
17 given the information of who were utilizing the phones at the  
18 time through the detectives at the police department.

19 Q: So you didn't -- you didn't look at who the owner of the  
20 phones or who was -- who owned those phones?

21 A: Again, for my analysis, I don't need to know who owns  
22 the phone. I'm just telling you where the phone was at those  
23 particular moments in time.

24 Q: Do you know if you got Pinero Gambrell's phone records?

25 A: I would have to have a phone number to be associated

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1 with it. I don't -- I don't know.

2 Q: Kelsey Washington? You don't know?

3 A: I wouldn't know.

4 Q: And you don't know who's on these phones?

5 A: No. I just -- I can only go based on the information  
6 that was provided by the detectives who investigated the  
7 case, and then my role is just to say where the phones  
8 generally were located at certain moments in time.

9 Q: So if it says Maurice Washington is holding his phone,  
10 it could have been somebody else?

11 A: Well, that's up to the detectives to determine who was  
12 holding the phone at that particular moment.

13 Q: Right. So all -- but your whole PowerPoint about this  
14 is where Maurice Washington's phone was and this is  
15 associated with Maurice Washington, that could be associated  
16 with somebody completely different?

17 A: There's always -- the detectives -- if the information  
18 that was provided by the detectives is correct, that's what  
19 I'm going to go on in. It was my understanding that was  
20 established. So --

21 Q: That's -- that's the big -- the big assumption in this  
22 as far as whose phone was whose.

23 A: Right. Again, for my perspective, it doesn't matter  
24 whose phone is who. I'm just trying to tell you where the  
25 phone was located at those particular moments. It's up to

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1 the investigators to determine who were utilizing those  
2 phones at that time.

3 Q: Right. So if Vinny was holding onto Maurice  
4 Washington's phone, it -- you could've been testifying that  
5 that was Vinny that was going this way and this way?

6 A: The records don't reflect -- the records don't tell me  
7 who was utilizing the phones.

8 Q: Right.

9 MR. SHELTON: No further questions.

10 MS. SMITH: No redirect from the State.

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

12 THE WITNESS: Thank you.

13 THE COURT: Can I have y'all approach just one moment?  
14 Mr. Shelton?

15 (WHEREUPON, a bench conference was held in the presence  
16 of the jury but out of the hearing of the jury off the  
17 record, after which the proceedings resumed as follows.)

18 THE COURT: Ladies and gentlemen, we do have one more  
19 witness that we're going to get in today. We try not to keep  
20 you past five if we can avoid it at all, but we're going to  
21 press on for this one last witness.

22 I know I told you yesterday that we would finish this  
23 case today. That -- I broke my own cardinal rule of never  
24 trying to promise you when we're going to finish a case.  
25 That's entirely my fault. It's not the fault of either of

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1 these parties. That's on me entirely.

2 We are going to go into tomorrow, but this witness has  
3 been called for today. We're going to try to go ahead and  
4 get through her today. It's going to make it a little bit  
5 easier on you tomorrow.

6 Ms. Williams.

7 MS. WILLIAMS: The State would call Dr. Angelina  
8 Phillips.

9 (WHEREUPON, there was a pause in the proceedings until  
10 the witness entered the courtroom.)

11 THE CLERK: Do you swear or affirm the testimony you  
12 shall give the Court and the jury shall be the truth, the  
13 whole truth, and nothing but the truth, so help you God?

14 THE WITNESS: I do.

15 THE CLERK: Please take a seat. Please state your full  
16 name and spell your last name for the record.

17 THE WITNESS: Angelina Phillips, P-h-i-l-l-i-p-s.

18 MS. WILLIAMS: Thank you, Dr. Phillips.

19 DR. ANGELINA PHILLIPS,  
20 being first duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MS. WILLIAMS:

23 Q: Can you state your occupation?

24 A: I'm a forensic pathologist.

25 Q: And are you licensed?

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1 A: Yes.

2 Q: In which states?

3 A: South Carolina.

4 Q: And how long have you been licensed in your profession?

5 A: Going on eight years.

6 Q: And do you specialize in a particular branch or field of  
7 medicine?

8 A: I do. It's pathology, specifically forensic pathology.

9 Q: And where did you receive your training?

10 A: I got my medical training in New York, upstate New York  
11 at the State University of New York. Then I completed my  
12 residency training in Massachusetts before coming to South  
13 Carolina to complete my fellowship training.

14 Q: And what does the study of pathology and specifically  
15 forensic pathology involve?

16 A: So pathology is a field of medicine. It's generally  
17 termed laboratory medicine. We have multiple subsections.

18 So there's anatomic pathology, which deals with tissue  
19 diagnosis, and that also overlies the forensic pathology or  
20 autopsy pathology section. There's also clinical pathology,  
21 which is the more laboratory side. So chemistries, blood  
22 banking, and microbiology, things like that. As for the  
23 forensic pathology, it is the part of pathology that deals  
24 with the performance of autopsy, and that's our primary task.

25 Q: And where are you currently employed?

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1 A: The Medical University of South Carolina.

2 Q: And how long have you been employed there?

3 A: Going on five years.

4 Q: And does your work -- I think you just answered this,  
5 but you do autopsies regularly?

6 A: I do.

7 Q: Are you a member of any specialized medical or  
8 scientific groups or associations?

9 A: Yes, ma'am.

10 Q: What are they?

11 A: The College of American Pathologists, which is a general  
12 pathology group. The American Society of Clinical Pathology,  
13 which is for clinical pathologists. The National Association  
14 of Medical Examiners, specifically for forensic pathologists,  
15 and the American Academy of Forensic Sciences.

16 Q: Are special examinations required in order to be  
17 certified as a pathologist in your specialty?

18 A: Yes.

19 Q: And approximately how many autopsies have you performed?

20 A: Over a thousand.

21 MS. WILLIAMS: Your Honor, at this time, the State would  
22 move to have Dr. Phillips qualified as an expert in the field  
23 of forensic pathology.

24 MR. SHELTON: No objection.

25 THE COURT: I find she is so qualified to give opinion

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1 testimony.

2 MS. WILLIAMS: Thank you, Your Honor.

3 BY MS. WILLIAMS:

4 Q: September 24th of 2016, were you working in your present  
5 capacity?

6 A: Yes.

7 Q: And did you perform an autopsy on that date?

8 A: I did.

9 Q: And who was that on?

10 A: That was on Ivan L. Greene.

11 Q: And where was that performed?

12 A: That was performed in the autopsy Suite at the Medical  
13 University of South Carolina.

14 Q: And based on that particular autopsy to a reasonable  
15 degree of medical certainty, have you formed an expert  
16 opinion concerning the cause of death?

17 A: I did.

18 Q: What is that?

19 A: A gunshot wound to the neck.

20 Q: And what was the manner of death?

21 A: Homicide.

22 Q: And how many gunshot wounds did Mr. Greene suffer?

23 A: Just the one.

24 Q: If you could tell us how that shot went in and went out?  
25 Was it the entrance wound and the exit wound?

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1 A: Okay. So the entrance wound was to the anterior portion  
2 of the neck along the midline. It went in through the skin,  
3 and I'll read from my report what it injured for you.

4 The skin and the midline muscles of the neck that are in  
5 your anterior neck, the thyroid cartilage at the prominence,  
6 which is the Adam's apple. It goes through disrupting the  
7 vocal cords, what we use to speak, the esophagus behind that,  
8 and then the fourth cervical vertebra. So that's one of the  
9 vertebral bodies that's in your neck. And as it goes through  
10 that, it disrupts the spinal cord which runs through the  
11 center, and going through it also hits some of the muscles of  
12 the back before exiting. Along the pathway, it leaves a  
13 small fragment of the projectile.

14 Q: And so for Mr. Greene, was there anything found, any  
15 projectile or any evidence of the -- of the gunshot found in  
16 his body?

17 A: Yes. We did recover that small fragment from the body.  
18 It was recovered from the tissue adjacent to the vertebra.

19 Q: And if you would, explain what happens to the body when  
20 you've got a gunshot wound of this type. Would a diagram  
21 help you explain it?

22 A: Yes, it would.

23 MS. WILLIAMS: Would you please put up State's 122?  
24 Just as a demonstrative aid, would you put up State's 122?

25 BY MS. WILLIAMS:

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1 Q: If you could, explain to the jury with this type of  
2 injury and this particular person what happened with this  
3 gunshot wound.

4 A: So this is a diagram demonstrating a skull and the  
5 cervical vertebra; so the vertebra that are in the neck  
6 portion, and you have seven of those. The fourth one is the  
7 one that is injured in this case, so number 4 here. And in  
8 front of this and tissue-wise, you're thinking the trachea  
9 and then the esophagus; so the trachea airway. The esophagus  
10 is where you swallow food.

11 The projectile goes in anteriorly. It goes through the  
12 fourth cervical vertebra and downward towards the back. It  
13 is disrupting that trachea right at the level of the vocal  
14 cords, which will make it difficult for someone to speak. It  
15 would disrupt the esophagus and would make it difficult for  
16 someone to swallow. And then once it disrupts the vertebra  
17 and the spinal cord, that would disrupt the connection  
18 between the brain and the rest of the body. So you have no  
19 signals to the rest of your body for movement or for your  
20 heart or lungs to work. So you would likely collapse and  
21 have a relatively rapid death.

22 Q: And so when Mr. Greene was shot, is it fair to say he  
23 probably dropped right where he was shot?

24 A: Yes.

25 Q: And is it possible that he lived but was not able to

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1 communicate due to the gunshot wound, like for a few minutes?

2 A: For a few seconds, I would say, is more likely. He  
3 would have been aware of the injury, but not able to do  
4 anything about it.

5 MS. WILLIAMS: No further questions.

6 MR. SHELTON: Nothing, Your Honor.

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

8 THE WITNESS: Thank you.

9 MS. WILLIAMS: Your Honor, at this time, the State would  
10 rest.

11 THE COURT: Okay. Ladies and gentlemen, I'm going to go  
12 ahead and dismiss you for the evening. We will start back in  
13 the morning. I don't want to jinx us, but we will finish the  
14 case tomorrow. Again, have a good evening. Please do not  
15 begin discussing the case overnight.

16 Thank you. If you'll be back at 9:30.

17 (WHEREUPON, the jury exited the courtroom at 5:06 p.m.)

18 THE COURT: Do you want me to hear your motions now or  
19 do you want me to hear them in the morning?

20 MR. SHELTON: I can make the motions now.

21 THE COURT: Sure.

22 MR. SHELTON: I just did want to put the objection to  
23 the expert on the record, Your Honor.

24 THE COURT: Yes, sir.

25 MR. SHELTON: As far as my objection is -- is I just

1 received his CV on Sunday, I just received his report on  
2 Monday, and I have had no opportunity whatsoever to -- to vet  
3 this information, get this information, look at this  
4 information on my own after receiving that information on  
5 Monday essentially. I didn't have any of that opportunity,  
6 and I think we voiced the same objection on Monday. And I  
7 note for the record and I don't know that I voiced this type  
8 of objection, but it was that these records were not  
9 introduced as evidence either that he testified to.

10 So -- but I just wanted to put that on the record.

11 As for a directed verdict, Judge, the --

12 THE COURT: Let me stop you just one minute.

13 Just for the record, Ms. Smith, do you want to address

14 --

15 MS. WILLIAMS: Yes, I do.

16 THE COURT: --- with that -- I couldn't remember who  
17 that was, but I'm happy -- whoever wants to address that and  
18 then we move on to the directed verdict.

19 MS. WILLIAMS: Yeah. If I could.

20 So for that witness, Clay Simmonds, the actual records  
21 that he relied on have been in discovery and Mr. Shelton has  
22 had those for over a year. We discussed some months ago that  
23 we were going to be using an expert or the detective to talk  
24 about the route that the defendants took. That was some  
25 information that we deemed necessary based on the last trial.

1 He asked me if we had a report at that time. We did not have  
2 a report. I told him it would be the cell phone data that  
3 was on the cell phones.

4 We then provided all -- he got all the transcripts from  
5 the first trial where Detective Desheers was actually the  
6 expert on that and testified to basically the same  
7 information. He just doesn't have the same credentials as  
8 Agent Simmonds.

9 We then got a report from -- we provided the CV Sunday  
10 night. We got a report from Agent Simmonds, I guess, Monday  
11 and then we provided that, which was just a demonstrative  
12 aid. So this is not new information. Experts can rely on  
13 any manner of things, and he relied on some of the phone  
14 records that have been in evidence for some time.

15 THE COURT: Okay. Thank you. I just wanted to put that  
16 on the record.

17 And yes, I'm glad to hear from you on your motion for a  
18 directed verdict.

19 MR. SHELTON: Yes, Your Honor.

20 Well, first to attempted murder, Judge, there's no  
21 testimony here. Maurice -- or Marquise Bryant didn't show up  
22 as to being shot at, that he was in fear or anything, Judge,  
23 and so I just ask that -- that attempted murder be a directed  
24 verdict on the attempted murder. I just don't believe that  
25 the State has provided any of the evidence necessary to even

1 meet the burden as to directed verdict on the attempted  
2 murder.

3 As to the murder and -- and possession of a weapon  
4 during a violent crime, burglary -- and for those two, the  
5 murder and the possession of a weapon in a violent crime,  
6 Judge, I don't feel that the State has provided enough  
7 evidence to -- to supply the malice aforethought and the --  
8 that Brandon was there. I don't believe that they've  
9 provided enough evidence of that.

10 As to the burglary and the kidnapping, it was the  
11 testimony that -- of Mr. Gambrell that he -- that there was a  
12 knock on the door, he let them in, and they offered money at  
13 the end.

14 I don't know that there's been any evidence whatsoever  
15 that's been presented that they were in there to commit a  
16 crime therein, which is required. That the testimony from  
17 one of -- one of the witnesses is that they ran there because  
18 they were being chased. The police showed up afterwards.  
19 That's not as you're entering the home. And so I don't  
20 believe that there's any evidence whatsoever of a crime  
21 therein when they entered upon the burglary first.

22 The kidnapping, I just don't believe that there's  
23 evidence of kidnapping. There's nothing saying that Mr.  
24 Gambrell couldn't have left. That they -- they offered money  
25 at the end. They didn't put a gun to his -- to his face.

1 They didn't keep him anywhere. It's his home. And so,  
2 therefore, Judge, I ask that the kidnapping be a directed  
3 verdict also.

4 MS. WILLIAMS: Thank you, Your Honor.

5 With regard to the attempted murder, attempted murder is  
6 a specific intent crime, and we heard several witnesses, two  
7 witnesses in fact, that were a part of this group of people  
8 that were with Brandon Grayer saying that they went out that  
9 night to shoot Marquise Bryant.

10 This is a hand-of-one case. There's evidence that it  
11 was discussed, that there was a motive, that they believed  
12 that Marquise Bryant had shot Brandon Grayer earlier in the  
13 day. That they got in their vehicle to look for him at a  
14 particular place on Rivers Avenue. That's been corroborated  
15 by several witnesses.

16 That they then found on Facebook a picture of him with  
17 the car that they thought he was driving when they thought he  
18 shot Brandon Grayer. They went to that place armed to the  
19 hilt, saw his car, and started shooting at him. So I think  
20 that we've met our burden as far as attempted murder.

21 As the Court is aware --

22 THE COURT: Let me -- let me stop you just a minute. I  
23 just don't recall any testimony from anyone confirming that  
24 Marquise Bryant was ever at the Hassell Avenue address.

25 MS. WILLIAMS: I think they said -- Antoine Gill said

1 that he saw his car and saw him at the car.

2 THE COURT: I don't remember him saying he saw him at  
3 the car. I remember some testimony that they saw his vehicle  
4 there or that they had seen his vehicle in the Facebook post  
5 at that address. That -- I guess that's where I'm getting  
6 hung up on the attempted murder is --

7 MS. WILLIAMS: Well, as far as --

8 THE COURT: -- is there anything --

9 MS. WILLIAMS: As the Court knows, this is an issue of  
10 weight, and so if there's any evidence proving it. And so if  
11 they went there to shoot at Marquise Bryant, thinking that he  
12 was in that car, it's an attempted murder. So they have to  
13 have a specific intent to shoot Marquise Bryant and then they  
14 have to attempt to do so.

15 So I don't think there's any evidence that they were  
16 just going to shoot his car. They were going to shoot at  
17 him. And so when they saw his car, they assumed he was  
18 there. There's evidence that he was there because later he  
19 left -- his car left the scene and he went voluntarily to the  
20 police station.

21 They also said Marquise Bryant was shooting back at  
22 them. So -- and I -- and I think it was Antoine Gill.

23 THE COURT: I just don't remember any testimony that  
24 they -- that Marquise Bryant was shooting back. That people  
25 were shooting back. I just don't recall any testimony that

1 specifically who --

2 MS. WILLIAMS: I'm not sure --

3 THE COURT: -- identified who was shooting back.

4 MS. WILLIAMS: And I'll have to review the testimony,  
5 but if I'm going to go kill somebody and I think they're in  
6 the vehicle because what -- I mean it's circumstantial. What  
7 other reason would they be shooting at the vehicle? They see  
8 it. They know that he's with the vehicle because they see  
9 the Facebook post. Then they go and see his vehicle and then  
10 they go shoot at the vehicle. I think it's a pretty fair  
11 conclusion that they assumed he was in the vehicle. So they  
12 attempted to kill him.

13 THE COURT: So I guess your argument is let's say he was  
14 inside the house. That it would still be attempted murder,  
15 even if they never saw him, if they thought he was inside the  
16 house.

17 MS. WILLIAMS: Right. They went there knowing that he  
18 was at -- either in the vehicle or in that area because they  
19 saw him in front of the vehicle in front of that house. That  
20 Facebook post is not just a picture of him at the vehicle.  
21 It's a picture of him at that place.

22 And they also said -- several times Antoine Gill says  
23 that's where he be at. That is where he hangs out. So they  
24 went there to shoot up that area because they knew that  
25 Marquise Bryant was there. They aimed at the car. Shoot

1 indiscriminately in that yard because they knew that he was  
2 there.

3 I can't remember the time on the Facebook post, but they  
4 saw him at that vehicle at that address, and it's an attempt.  
5 So, you know, I think that just going by any evidence, just  
6 the -- it's just the existence or nonexistence of evidence.  
7 I think that we've met our burden, at least for a directed  
8 verdict, on attempted murder.

9 With regard to the burglary, there is case law and, Your  
10 Honor, I can provide that for the Court that basically says  
11 that you do not have to -- that you can form the intent once  
12 you're inside the house, but I think that they went -- they  
13 burst into the house. That was the testimony of Pinero  
14 Gambrell. And the crime that they were there to commit was  
15 to confine him in his home so that they could hide from the  
16 police.

17 So the crime that they are going to commit when they go  
18 in there is kidnapping. They know -- when they knocked on  
19 the door and they see him open it, they burst in. So they  
20 forced their way in. They know at that point they cannot let  
21 Mr. Gambrell out, as soon as they see him, before they even  
22 go in.

23 So they are going to kidnap him. They are going to  
24 confine him. It doesn't require that they tie him up. It  
25 doesn't require that they hurt him. Kidnapping includes

1 either confining or inveigling him. So they immediately tell  
2 him to be quiet, and I think we can ascertain from the  
3 demeanor of Mr. Gambrell this is not a person that you have  
4 to do a lot to to confine him. I mean I'm pretty sure that  
5 they figured out pretty quickly that he wasn't going to fight  
6 back.

7 So they kept him quiet. They wouldn't let him leave his  
8 house. He was scared to death. And then they tried to offer  
9 him money to be quiet, which I think falls under inveigle.

10 Also, while they're in there, they took his phone,  
11 separated it from the battery. They destroyed his train  
12 tracks. So we would argue that it's kidnapping, fleeing,  
13 criminal mischief, but mostly I think the strongest evidence  
14 is for kidnapping as far as the crime that they are about to  
15 commit therein.

16 Possession of -- did you argue possession of a weapon  
17 during the commission of a violent crime?

18 THE COURT: Uh-huh.

19 MS. WILLIAMS: I think -- well, I'll just argue it.  
20 There's --

21 THE COURT: With the murder and the possession of a  
22 weapon.

23 MS. WILLIAMS: Yeah. There is DNA from the defendant on  
24 one of the weapons. So, you know, I think that that's  
25 evidence that he possessed that weapon.

1           And as far as murder, with transferred intent and hand  
2 of one, I think indiscriminately shooting up that whole area  
3 that there's evidence that the jury could come back with a  
4 verdict of murder.

5           THE COURT: Do you want to reply?

6           MR. SHELTON: Just in response on the -- on the  
7 attempted murder, one, Judge, it -- I don't see how -- I  
8 don't see how you can have an attempted murder if you're --  
9 if you're shooting at a car that somebody's not even in the  
10 area. How can you have attempted murder on that person,  
11 which is the specific intent part of that crime?

12           And so how can you have attempted murder on that person?  
13 That goes to the transferred intent. If there's -- if  
14 there's -- if there's a person that is being shot at and they  
15 are a victim, then they are the ones that they attempted to  
16 murder and the intent can be transferred, but you've got to  
17 have -- that person has to be there.

18           So to be in the attempted murder, there has to be --

19           THE COURT: So I mean under that theory, if I intend to  
20 shoot somebody, a specific person, and I go to their house  
21 because I think that they're in it and I shoot their house  
22 up, I can't be charged with attempted murder if they weren't  
23 actually in there? I mean that doesn't seem to make sense --

24           MR. SHELTON: I --

25           THE COURT: -- to me.

1 MR. SHELTON: I think you could be charged with  
2 attempted murder for the people that are in there, but not  
3 for somebody that's not in there.

4 MS. WILLIAMS: I think it's --

5 THE COURT: So you would say that my intent transfers to  
6 whoever happens to be in the home?

7 MR. SHELTON: Yes. But Marquise Bryant is listed as the  
8 victim in this -- in this indictment and they're charged with  
9 the attempted murder of Marquise Bryant.

10 THE COURT: Okay. How about anything else that you want  
11 to tell me in reply?

12 MR. SHELTON: And confrontation clause as far as being  
13 able to confront those accusers against you and -- and I  
14 think I did argue the possession of a weapon during a violent  
15 crime, but I'll just rest on that as far as the attempted  
16 murder.

17 THE COURT: I do find that there is sufficient evidence  
18 to go forward on the murder, the possession of a weapon  
19 during a violent crime. We have the testimony of both  
20 Antoine Gill and Maurice Washington, who both place him there  
21 with the intent to shoot Marquise Bryant, put him in the  
22 Lincoln Navigator with a gun, and firing shots.

23 So again, I'm not concerned with the weight of the  
24 evidence, just the existence. So I do find that there is  
25 sufficient evidence on both of those charges for it to go

1 forward.

2 With respect to the burglary and the kidnapping, Pinero  
3 Gambrell's testimony was clear that he did not want them to  
4 come in. They certainly were not invited. I mean he was  
5 very clear that he did not want them to come into his home.

6 Certainly, they entered his home with the intent to  
7 evade police, to evade detection, and then held him in the  
8 residence while they were doing that. There is testimony  
9 that places Mr. Grayer at that scene with the testimony,  
10 again, of Antoine Gill and Maurice Washington.

11 So I do find that there's sufficient evidence on both of  
12 those offenses.

13 At this point, I do find that there is sufficient  
14 evidence to go forward on the attempted murder charge. There  
15 was very clear testimony that the purpose of going to the  
16 residence was to shoot Marquise Bryant, that his vehicle was  
17 there, that that was their purpose in going there. If they  
18 were mistaken as to whether or not he was present, I don't  
19 think that that defeats the charge for the attempted murder  
20 of Mr. Bryant.

21 So that's my ruling at this point.

22 MS. WILLIAMS: Thank you, Your Honor.

23 THE COURT: Again, Mr. Grayer, you don't have to give us  
24 your final answer until tomorrow. The State has now rested,  
25 which means it's now your turn to present a case.

1           As we talked about yesterday, it's your decision as to  
2 whether you want to remain silent or whether you would like  
3 to testify. So again, I do urge you to think about that  
4 tonight, talk with your attorneys, friends, family. It's  
5 ultimately your decision.

6           Do you have any questions for me about what that  
7 entails?

8           THE DEFENDANT: No, ma'am.

9           THE COURT: Again, we'll -- we will not ask you to make  
10 the final decision until tomorrow morning.

11          THE DEFENDANT: Yes, ma'am.

12          THE COURT: All right. Thank you.

13          MS. WILLIAMS: Just one other thing, Your Honor, that we  
14 don't have to argue now, but one other instruction that we  
15 would request the Court consider is voluntary intoxication.  
16 I asked, I think, both co-defendants, but I know I asked  
17 Antoine Gill if everybody was high, and he said yes. They  
18 were all smoking weed. Some of them were -- I think  
19 Washington said that they all used crack cocaine, and we just  
20 don't want the jury to think that because they were impaired  
21 that that's a defense.

22          THE COURT: The testimony to me seemed fairly vague as  
23 to -- it was, well, we all do it every day, but not -- I  
24 don't recall any specific testimony about him using -- this  
25 defendant using drugs that day.

1 MS. WILLIAMS: I thought they said they were all smoking  
2 weed, but that may be.

3 THE COURT: I'll look back at the testimony.

4 Do you want to respond, Mr. Shelton?

5 MR. SHELTON: They were very vague on -- on anybody in  
6 particular. I think it was all they, they're talking,  
7 they're talking, they, they, and so I don't think that there  
8 was -- there was anything specifically mentioned about  
9 Brandon being intoxicated or under the influence.

10 THE COURT: I will -- I'll review my notes overnight.

11 MS. WILLIAMS: Thank you, Your Honor.

12 THE COURT: Do y'all want to have some more discussion  
13 about charges at this point?

14 MS. WILLIAMS: Oh, yeah. The only thing -- this looks  
15 fine to the State, Your Honor. The only thing that I think  
16 is really misleading is the one on statements. I understand  
17 why the Court put it in for us to think about, but it talks  
18 so much about whether the statements are voluntary. It is  
19 clearly geared toward law enforcement taking a statement in  
20 Miranda. There's no *Denno* hearing.

21 So, you know, for the jury to then consider all the  
22 statements in terms of those criteria, I think, is a little  
23 misleading because that's really not the criteria for all  
24 statements, you know, because custodial statements have a  
25 much higher, you know, standard as far as what -- what you

1 consider in terms of their admissibility.

2 I think it just presents us with a bigger burden in  
3 terms of how they consider evidence. I think the Court's  
4 instructions regarding how they view witnesses and, you know,  
5 using their own ability to judge credibility covers that, and  
6 we're just concerned that that might add an extra layer of  
7 scrutiny that -- that really we shouldn't have added to our  
8 burden. So I would just ask you to consider that overnight.

9 MR. SHELTON: Well, my response on the statements is  
10 that the State -- the State chose to put statements in; so I  
11 think that this is the law and it should be -- it should be  
12 given to the State -- given to the jury.

13 But as far as -- Your Honor, my co-counsel looked at  
14 this -- at these; so I'd ask that he maybe address Your Honor  
15 on --

16 THE COURT: Sure.

17 MR. SHELTON: -- one of the issues because I was trying  
18 to find it and I couldn't find it.

19 MR. KAISER: Your Honor, from the defense, we would say  
20 it's under a transferred -- transferred intent law. The  
21 example used is a murder with a firearm and several people,  
22 one bullet. Just given the facts that have been presented  
23 and are at issue in this case, we would ask that Your Honor  
24 consider using a different example so not to mislead the jury  
25 inadvertently by giving that example during the charge.

1 MS. WILLIAMS: Well, I think that's in the statute.

2 THE COURT: Okay. I'm looking at the transferred  
3 intent.

4 MR. KAISER: I'm sorry, Your Honor. It's hand of one,  
5 hand of all. I apologize.

6 THE COURT: Yes. You're referring to the part where it  
7 says, for example, two people can be guilty of killing  
8 another person when only one of the two had a gun, there was  
9 only one bullet, and only one of them fired the shot that  
10 caused the death?

11 MR. KAISER: Yes, Your Honor.

12 THE COURT: You're referring to that example. Let me  
13 give some thought as to whether there's an appropriate --  
14 something I can substitute there because I certainly don't  
15 want to blunder into a statement on the facts.

16 MR. KAISER: Thank you, Your Honor.

17 MS. WILLIAMS: And, Your Honor, just getting back to my  
18 earlier argument, there -- there is a section of this -- this  
19 part where we're talking about statements where it says that  
20 they're to consider the advice or lack thereof of the  
21 defendant of his constitutional rights, including but not  
22 limited to the right to remain silent, that any statement  
23 could be used against him, that he has a right to an  
24 attorney, and that would leave the jury to believe that a  
25 statement he made to Maurice Washington that he would have to

1 almost be mirandized. That he had a right to remain silent  
2 when he's just talking to other people, and that's just, you  
3 know, an exception to the hearsay rule. It's not hearsay  
4 when a defendant makes a statement to another individual.

5 So we would just ask you to consider that in light of  
6 the statements that are made, since they're not custodial  
7 statements, and those -- you know, those standards are not  
8 really applicable.

9 THE COURT: Certainly, the beginning part that says a  
10 statement alleged to have been made by the defendant has been  
11 admitted into evidence. While the Court has determined that  
12 the statement is admissible, I instruct you that you make the  
13 ultimate decision whether or not the defendant made the  
14 statement. I think that has to come in.

15 I'm going to look at the next several sentences. I'll  
16 look at that this evening. And then it looks to me like you  
17 must decide what weight, if any, should be given to the  
18 alleged statement, that that's appropriate, but I understand  
19 this was not custodial interrogation; so it is a different  
20 analysis. So I will look at that middle section as well.

21 MS. WILLIAMS: Thank you, Your Honor.

22 MR. SHELTON: Your Honor, I just want to make sure. Is  
23 there anything specifically towards mere presence?

24 THE COURT: There -- I know there's a little bit in the  
25 hand of one, hand of all. Let me go back to that.

1 MR. SHELTON: I know it's typical in the hand of one,  
2 hand of all, but I know that there's another mere -- mere  
3 presence.

4 THE COURT: Under the hand of one, hand of all, it does  
5 say:

6 However, mere presence at the scene of a crime is not  
7 sufficient to convict one as a principal on the theory of  
8 aiding and abetting. Intent is also a necessary element.  
9 There must've been a common design or intent to commit the  
10 crime, and the crime must've been committed pursuant thereto  
11 with the person aiding and abetting by some overt act.

12 MS. WILLIAMS: I think, Your Honor, if you were to put a  
13 whole 'nother section on mere presence, it's going to bring  
14 undue attention to that one issue. It's clearly stated in  
15 the hand of one instruction.

16 THE COURT: The charge from the bench book says:

17 Mere presence at the scene is not sufficient to prove  
18 someone guilty of a crime. A defendant's presence where a  
19 crime is being committed or mere association with the person  
20 who commits a crime does not make a defendant an accomplice  
21 or an aider and abettor to the person committing the crime.  
22 The burden is on the State to prove every element of the  
23 crime charged. If you find after reviewing all of the  
24 evidence that the State has proved that the defendant was  
25 only present at the scene of a crime and that they have not

1 proved beyond a reasonable doubt any other participation in  
2 the crime, then you must find the defendant not guilty. The  
3 law is that proof at the scene of the crime is not sufficient  
4 to find someone guilty.

5 I think it is appropriate to work that in.

6 MR. SHELTON: Thank you, Your Honor.

7 THE COURT: For the attempted murder, I know our Supreme  
8 Court kind of skirted the issue of whether transferred intent  
9 applies to attempted murder. The Court of Appeals said it  
10 does apply, but then the Supreme Court -- was this *Williams*?  
11 The Supreme Court said, well, everybody treated it as a  
12 general intent crime; so we're not going to address the issue  
13 of whether it was appropriate in that particular case.

14 I do -- honestly, I think the Court of Appeals' analysis  
15 is sound about transferred intent and that in a specific  
16 intent crime that it still is applicable. If y'all want to  
17 look at that and -- and then the other -- oh, I'd just like  
18 for you to look at the attempted murder charge as well. Of  
19 course, the Court has said very clearly that you cannot imply  
20 malice.

21 MS. WILLIAMS: For attempted murder?

22 THE COURT: Yes. And so we've changed a little bit from  
23 what you've got there just to make sure. The Court gave this  
24 language that it's got to be expressed malice, malice in  
25 fact.

1           One cannot attempt to kill another with implied malice  
2 because there is no such criminal offense as an attempt to  
3 achieve an unintended result. One cannot be guilty of  
4 attempted murder by implied malice because implied malice  
5 does not encompass the essential specific intent to kill.

6           So what I'm thinking is that we're going to take out any  
7 language that says you can infer malice by X, Y, Z. And I  
8 can -- we can shoot you that. We've made some changes here  
9 that we can give you that specific language that we changed  
10 the attempted murder, just to make sure we're not running  
11 afoul of that case law.

12           MS. WILLIAMS: Okay.

13           THE COURT: And again, I think that's *State v. Williams*.

14           MS. WILLIAMS: You're saying you're going to change the  
15 instruction from what we have here? Okay.

16           THE COURT: Yeah.

17           MS. WILLIAMS: And I think that we did do an analysis of  
18 the -- I have done an analysis of the transferred intent with  
19 attempted murder, and I'm happy to re-brief that for Your  
20 Honor.

21           THE COURT: I mean I'm -- I feel it's sound to say that  
22 transferred intent applies to attempted murder. It's just  
23 the Supreme Court didn't address it in that last case. They  
24 didn't have to. So we're just going to just print the  
25 attempted murder revised charge and let y'all take a look at

1 it, and if we need to discuss it some more in the morning,  
2 that's fine too.

3 Okay. Anything else before we break?

4 MS. WILLIAMS: Not from the State, Your Honor.

5 MR. SHELTON: No, Your Honor.

6 THE COURT: Okay. We'll just email that to you right  
7 now, April.

8 THE CLERK: Okay.

9 THE COURT: All right. Then we'll see you at 9:30  
10 tomorrow morning.

11 MR. KAISER: Thank you, Your Honor.

12 MS. SMITH: Thank you, Judge.

13 (WHEREUPON, the proceedings adjourned for the day at  
14 5:35 p.m.)

15 MARCH 12, 2020

16 (WHEREUPON, the proceedings resumed at 9:43 a.m.)

17 (WHEREUPON, there was a pause in the proceedings to  
18 review the proposed charges.)

19 MR. SHELTON: Your Honor, as far as the jury charges --

20 THE COURT: Uh-huh.

21 MR. SHELTON: -- I think there's a charge in here about  
22 the prior record of the defendant.

23 THE COURT: Yeah. We're going to take that out  
24 depending on whether or not he --

25 MR. SHELTON: He testifies.

1 THE COURT: -- testifies.

2 MR. SHELTON: Okay.

3 (WHEREUPON, there was a pause in the proceedings, after  
4 which the proceedings resumed as follows.)

5 THE COURT: And if I can just tell y'all briefly the  
6 changes that we made between the last version and this  
7 version.

8 MS. WILLIAMS: Yes, Your Honor.

9 THE COURT: The -- I changed the section on the  
10 statement of defendant basically to just say it's up to you  
11 whether you decide that he made the statement or did not make  
12 the statement. I took out the language that would be  
13 appropriate if it was a custodial -- the product of a  
14 custodial interrogation.

15 Under the hand of one, hand of all, I added in the  
16 section on mere presence. So I added -- I put it under that  
17 instead of having a totally separate section, but that  
18 additional language that we discussed yesterday is under the  
19 hand of one, hand of all section.

20 The -- I added a charge on voluntary intoxication.

21 MS. WILLIAMS: Thank you.

22 THE COURT: And then, of course, I'll delete this  
23 section -- depending on whether or not Mr. Grayer determines  
24 he wants to testify as to whether or not we keep in the  
25 portion about the fact that he didn't testify or delete the

1 section on impeaching him with a prior crime.

2 MR. SHELTON: And it does look like you took out the  
3 part, the example of the shooting.

4 THE COURT: I did.

5 MR. SHELTON: All right.

6 THE COURT: I took out the example under hand of one,  
7 hand of all that talks about shooting if only -- if there's  
8 only one bullet but there's two people. I took out that  
9 language.

10 MS. WILLIAMS: So would you like to hear --

11 THE COURT: Sure.

12 MS. WILLIAMS: We would just --

13 THE COURT: I'll give y'all time to look at it, if you  
14 need some additional time. I'm not trying to rush you.

15 MS. WILLIAMS: Oh, no, no, no.

16 Your Honor, the State's position is we appreciate all  
17 the changes the Court has made. The only exception that we  
18 have is the hand of one charge is so central to this case,  
19 and I understand the Court's concern about the example that  
20 the desk book or the standard instructions have, but when you  
21 think about it, all hand of one cases are gun cases, and  
22 that's why that's in there. I mean I can't imagine a case of  
23 a stabbing with the hand of one or a breach of trust or, you  
24 know, I can't really think of any other examples, but because  
25 it's -- the accomplice liability theory is complicated, that

1 is why the standard instructions have that example.

2           And so what we've done now is we've gutted that out of  
3 the hand of one to help them understand it and then we've  
4 beefed up the part about mere presence because there was  
5 already language in there about mere presence. And I  
6 understand the Court's reasoning and I'm not criticizing it.  
7 I'm merely just expressing some concern that we've now sort  
8 of taken the standard hand of one charge out of concern that  
9 it's a lot like the facts and we've tilted it toward them  
10 only hearing about if mere presence, then, you know, then  
11 it's not hand of one.

12           What we would ask is keep the additional mere presence  
13 language in, but the example is in there for a reason. And  
14 as I said before, if the theory is it's too close to the  
15 facts of this case, that's every hand of one case. You know,  
16 I mean I really can't think of a hand of one case that  
17 doesn't involve multiple people going, shooting, and then,  
18 you know, they're all found guilty.

19           So we would just ask the Court respectfully to consider  
20 that.

21           MR. KAISER: Your Honor, I would respectfully disagree  
22 with the State on that. I can't count the number of people  
23 I've talked to in the criminal justice system who were in the  
24 car, drugs were in the car, no one claimed the drugs on the  
25 side of the road; so the police arrested everyone.

1 Parties, underage drinking, there's one -- a couple  
2 beers there. Everyone is written a ticket for minor in  
3 possession of alcohol, all based on the hand of one, hand of  
4 all theory. So I'm just saying --

5 THE COURT: Well, that's really more on a constructive  
6 possession theory than the hand of one, hand of all, is it  
7 not?

8 MR. KAISER: Your Honor, I think breaking and entering a  
9 motor vehicle, I think there's -- any time that there's a  
10 design, you know, an alleged design by criminal defendants to  
11 commit a crime, the hand of one, hand of all would apply. I  
12 just don't think it can only be limited to shooting. To say  
13 it could only be limited to shooting cases I don't think it  
14 is -- can really be done.

15 MS. WILLIAMS: And again, Your Honor, I think there's a  
16 reason why the standard instructions include that example,  
17 and we would just ask the Court not to stray from that. I  
18 mean every single jury trial I've ever had with hand of one  
19 that that's the standard instruction, and I think the  
20 reasoning behind it is it's an example to help the jury  
21 understand. And it is so central to the State's case that we  
22 would again respectfully ask the Court to just put the  
23 standard instruction in and not edit it, especially in light  
24 of the fact that we're beefing up the mere presence part.

25 THE COURT: Well, I mean I think that mere presence is

1 an appropriate charge. I wouldn't say we're beefing it up.  
2 We're just including the standard charge on mere presence.

3 MS. WILLIAMS: But I think there is some language in the  
4 hand of one charge also that has mere presence, and it may be  
5 a negligible point, but now they're hearing that twice and  
6 they're not getting the example.

7 And so I think the safest thing to do would just be to  
8 stick with the standard instruction and if we want to add the  
9 mere presence back in at the end additionally, fine, but at  
10 least let's give the State a fair shake to have the jury  
11 understand what that theory means because it is the core of  
12 this case.

13 THE COURT: Mr. Kaiser?

14 MR. KAISER: Your Honor, we have twelve competent  
15 jurors, two competent alternate jurors. I don't think that  
16 they need an example of an instruction on the law. These  
17 people are able to take the law and apply it to these facts.

18 I don't think that they need an example, and we would  
19 reiterate our point yesterday that by giving an example  
20 relating to a gun and a bullet in a shooting, as the  
21 solicitor said, that's so central to their theory of the  
22 case. We would just worry that maybe the jurors would infer  
23 that it's some kind of comment on the case itself.

24 THE COURT: I'm going to read over the entire charge  
25 real quick.

1 (WHEREUPON, there was a pause in the proceedings, after  
2 which the proceedings resumed as follows.)

3 THE COURT: I'm going to keep the example language out  
4 of my instruction. However, the State is free to argue in  
5 closing argument that that is -- I mean this exact language.  
6 I think it's appropriate for closing argument that you can  
7 make that argument, but not necessarily for the Court's  
8 instruction to the jury.

9 MS. WILLIAMS: Thank you, Your Honor.

10 MR. KAISER: Thank you, Your Honor.

11 THE COURT: Thank you. Anything else with respect to  
12 the charges?

13 MS. WILLIAMS: Not from the State.

14 MR. SHELTON: Not to the charges, Your Honor.

15 THE COURT: Do you have a copy of the verdict forms?

16 MR. SHELTON: I do. Yes, Your Honor.

17 THE COURT: We were kind of looking at -- there are  
18 several ways that we could handle the possession of a weapon  
19 during a violent crime. We could send the jury back with the  
20 four verdict forms on the murder, the attempted murder, the  
21 burglary, and the kidnapping, and see if they come back with  
22 a verdict of guilty on one of those and then send them back  
23 with the possession of a weapon, but what I've done is just  
24 put a note at the top of it and, of course, I'll explain to  
25 them during my instruction that they only reach the

1 possession of a weapon verdict form if they have found him  
2 guilty of one of the previous charges.

3 MS. WILLIAMS: Okay.

4 MR. SHELTON: That's fine.

5 THE COURT: Anything else before we bring them out?

6 MS. WILLIAMS: Not from the State, Your Honor.

7 THE COURT: I guess we'd better talk to your client, Mr.  
8 Shelton.

9 MR. SHELTON: Yes, Your Honor. I do have one thing on  
10 closings prior.

11 THE COURT: Sure.

12 MR. SHELTON: It's however you want -- Your Honor wants  
13 to handle it.

14 So I don't like to object during closings. Based off  
15 the State's opening and based off the last trial, and just  
16 Ms. Williams and I have tried cases for 13 years together, so  
17 I kind of have an idea what she's going to -- some things  
18 that she might be saying.

19 I have -- I'll have an objection to two things that I  
20 believe she'll say. One is that it's the defendant's day in  
21 court. I think that that shifts the burden, that proves that  
22 he has to prove something. And so I think that that would be  
23 impermissible burden shifting. So if that does happen, I'll  
24 object at the appropriate time, but I just ask that that be  
25 considered. I ask that you consider that ahead of time to

1 talk with the State about it.

2 The other would be if she says that the other  
3 co-defendants will have their day in court or will be coming  
4 to court. There's just no evidence of that that was  
5 presented at this trial, that they're going to court in any  
6 way, and so I think that would be a misstatement on the  
7 evidence.

8 THE COURT: Yes, ma'am.

9 MS. WILLIAMS: Your Honor, well, first of all, one of  
10 the themes for defense has been that all they want to do is  
11 get off their charges by testifying against Mr. Grayer. So  
12 it is completely appropriate for us to say they will have  
13 their day in court.

14 What I asked each of the co-defendants was you're hoping  
15 this testimony will help you when you go before a judge and  
16 you have your day in court, and then for us to not be able to  
17 say -- to refocus the jury and say you've heard a lot from  
18 the co-defendants and they're going to have their day in  
19 court, but this is --

20 THE COURT: I don't necessarily have a problem --

21 MS. WILLIAMS: -- the case of Brandon Grayer.

22 THE COURT: I don't have a problem with reference to the  
23 other defendants -- other co-defendants having their day in  
24 court. The testimony was that those charges are still  
25 pending. I think that's a fair comment on the facts.