Vol. I of II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Saluda County

Honorable R. Keith Kelly, Circuit Court Judge

MICHAEL DURAN WATSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2018-000486

APPENDIX

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STATE OF SOUTH CAROLINA
COURT OF GENERAL SESSIONS
COUNTY OF SALUDA

STATE	
V.	TRANSCRIPT OF RECORD
MICHAEL DURAN WATSON	07-GS-41-551
DEFENDANT.	07-GS-41-552
	07-GS-41-553

JULY 26 - 29, 2010
SALUDA, SOUTH CAROLINA

B E F O R E:

THE HONORABLE WILLIAM P. KEESLEY, JUDGE; AND A JURY.

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

H. FRANKLIN YOUNG, III, ASSIST. SOLICITOR
ATTORNEY FOR THE STATE

PAUL ANDREW ANDERSON, ESQUIRE
ATTORNEY FOR THE DEFENDANT

STACY L. SHEPPARD
CIRCUIT COURT REPORTER

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(The following proceedings were held on July 26, 2010.)

THE COURT: All right. Ladies and gentlemen, what we're going to do now is we're going to turn from the general to the more specific and we're going to qualify a jury for the first case.

Remember that you're still under oath. What will be happening is that I'll be asking you questions and the purpose of these questions is to obtain from you any information about any connection you might have to anybody in the case or the type of case, whether you know anything about this matter, if you've got people close to you who have ever been through anything similar or if you, yourself, have ever been through a similar situation.

Basically, what we're trying to do is we're trying to get a jury that is fair and impartial. If you keep that goal in mind, I think the questions will make more sense to you.

The procedure is going to be very similar to what we've done already, that is if a question applies to you or you have doubt about whether it applies to you, you need to stand. When I call on you, we have to identify who is speaking.

Now, in this stage and from now on, it's even

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more critical that we have an accurate record, so it's really important that Ms. Sheppard take down what you say accurately and it's my job to make sure she can hear you and know who's talking. So the first thing we have to do is to get you identified by your name and juror number, then listen carefully to the question I ask of you and answer that question.

Remember that if you prefer to come down front to discuss anything, just let me know that and we'll talk about it over here on the side.

All right. Solicitor, call your first case.

MR. YOUNG: Thank you, Your Honor.

Your Honor, the State now calls for trial the charges against Michael Duran Watson as exhibited under grand jury indictment numbers 2007-GS-41-551, 552 and 553. These indictments are for murder, possession of a weapon during the commission of a violent crime and pointing and presenting a firearm.

THE COURT: Mr. Anderson, I assume your client's been arraigned or waives arraignment; is that correct?

MR. ANDERSON: Yes, sir, Your Honor.

THE COURT: All right. Ladies and gentlemen of the jury panel, please give me your attention.

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We're about to qualify a jury that's going to hear three separate and distinct cases, each of which will maintain its position of being separate and distinct throughout the trial. These cases are being tried together purely for purposes of convenience. Each case has to stand or fall on its own merit or lack of merit. Each is captioned the State versus Michael Duran Watson.

In one indictment, Mr. Watson is charged with pointing and presenting a firearm. That indictment alleges that Michael Duran Watson did in Saluda County on or about August 5, 2007, willfully and maliciously point and present a firearm, specifically a shotgun, at Andrew Chandler, which is alleged to be in violation of a code section cited in the indictment. Upon his arraignment on that charge of pointing and presenting a firearm, Mr. Watson has entered a plea of not guilty.

Another indictment charges murder. That indictment alleges that Michael Duran Watson did in Saluda County on or about August 5, 2007, feloniously, willfully and with malice aforethought kill one Andrew Chandler by shooting him in the face with a shotgun and that the said Andrew Chandler died in Saluda County as a proximate result thereof.

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Upon his arraignment on that charge of murder, Mr. Watson has entered a plea of not guilty.

And, finally, I have an indictment charging possession of a firearm during the commission of a violent crime. That indictment alleges that Michael Duran Watson did in Saluda County on or about August 5, 2007, unlawfully have in his possession a firearm, specifically a loaded shotgun, during the commission of a violent crime, which is alleged to be murder. Upon his arraignment on this charge of possession of a firearm during the commission of a violent crime, Mr. Watson has entered a plea of not guilty.

Now, ladies and gentlemen, these indictments are not evidence of anything. An indictment has no evidentiary value. It is a charging paper. It is merely the formal means by which someone is charged and brought to trial.

Mr. Watson is presumed to be innocent. It is incumbent upon the State of South Carolina having brought these charges against him that the State prove the guilt of the defendant and every material element of the offenses charged beyond a reasonable doubt.

I'll be asking you a series of questions. If

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any of them apply to you or you have doubt about whether they apply to you, please stand and follow the procedure that I discussed earlier.

Is Michael Duran Watson in the courtroom?

MR. ANDERSON: Yes, sir.

THE COURT: Mr. Watson, I need you to face the jury. Can you stand and face that way?

Thank you, sir. You may be seated.

Is there any member of the jury panel who is related by blood or marriage or connected by employment with the defendant in this case, Michael Duran Watson; if so, please stand?

(Juror stands.)

THE COURT: Your name, sir?

JUROR: Johnny C. Hopkins, Jr., number 81.

THE COURT: All right. Mr. Hopkins, and what's your connection?

JUROR: His aunt is my aunt.

THE COURT: So you all are cousins?

JUROR: Distant cousins.

THE COURT: All right. Which aunt connects you? What's her name?

JUROR: Ms. Rosa Lee Anderson. She's married to my uncle.

THE COURT: I think I've got to set him aside.

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Do y'all want to be heard?

MR. ANDERSON: I'm sorry, Judge?

THE COURT: I said I think I have to set him aside. He's related to the defendant. Do y'all want to be heard?

MR. ANDERSON: No.

THE COURT: Mr. Hopkins, I have to set you aside on this trial. I need for you to get that telephone number and call tonight after 6:00 for possible service on other juries, all right?

JUROR: Yes, sir.

THE COURT: Thank you. You're free to go.

Juror number 81 is excused on the first trial.

Mr. Watson will be represented by Mr. P. Andrew Anderson. He's with the firm of Anderson and Anderson in Aiken.

The following persons have been identified as potential witnesses for the State. If any of these people happen to be present at this time, I need for the person to stand as his or her name is called and face the jury. And, ladies and gentlemen of the jury, if somebody stands and they're behind you, I'll tell you that somebody's standing and you all can turn and face that way.

Octavious Thomas; Jeremy Jarrod Butler; Warren

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Chandler; Raymond Kirkland; Jarrod Coleman; Tobias Daniels; Keith Turner; Dr. Janet Ross who is with Newberry Pathology; Chief David Farmer; Cody Cockrell with Saluda Police Department, would you face the jury please, thank you, sir; Marcus Robertson of Saluda Police Department; Special Agent Robin Newton with SLED, thank you; Special Agent Vickie Hallman of SLED; Special Agent Kim Denh, D-e-n-h, of SLED; Special Agent Brandon Landrum of SLED; Special Agent Kenneth Whitler of SLED; Special Agent Ali, A-l-i, Simmons of SLED; Lisa McReynolds with SLED; Brett Long of Saluda Police Department; Corddaryl Ouzts.

MR. YOUNG: Your Honor, I believe you skipped Commander Charles Holloway.

THE COURT: I did. I'm sorry. Commander Charles Holloway, thank you, sir.

Are any of you related by blood or marriage or connected by employment with any of the potential witnesses for the State; if so, please stand?

(Jurors stand.)

THE COURT: Your name please on the front row?

JUROR: Mary Kirkland.

THE COURT: Kirkland?

JUROR: Yes, sir.

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THE COURT: Mary Kirkland?

JUROR: Yes, sir.

THE COURT: 92. What's your situation?

JUROR: That is my brother-in-law's grandson.

THE COURT: Who is your brother-in-law's grandson?

JUROR: Raymond.

THE COURT: Raymond Kirkland?

JUROR: Yes, sir, that's my brother-in-law and the witness is Raymond Dale Kirkland.

THE COURT: Who is your brother-in-law?

JUROR: Raymond Kirkland.

THE COURT: Is that a different person than this Raymond Kirkland?

JUROR: Yes, sir.

THE COURT: How are they related?

JUROR: My brother-in-law is Raymond Kirkland. Okay, he is named after his granddaddy.

THE COURT: This man here is your brother-in-law's grandson?

JUROR: Yes, sir.

THE COURT: Okay. I'll set you aside on this trial, ma'am. Get that number as you go, please, and call tonight after 6:00.

92 is set aside on this trial. She's related

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to a witness.

In the grey sweater.

JUROR: 204, Meredith Hipp.

THE COURT: All right. Ms. Hipp, what's your situation?

JUROR: I'm a former SLED agent. And I'm not certain, I may have worked with several of those people. It's been in years past and I'm not exactly sure.

THE COURT: You were formerly a SLED agent?

JUROR: Yes, sir, 2001 to 2003.

THE COURT: Let's assume you did work with some of them, is there anything at all about your relationship or experience with SLED or any of those individuals that might affect your ability to be a fair and impartial juror in the case?

JUROR: I'd like to think not, but I've never been on a jury since then. I don't really --

THE COURT: I'll set you aside. If you'll get that number as you leave, please, the telephone number, and call tonight after 6:00.

204 is set aside, Ms. Hipp, on this case.

In the pink.

JUROR: Juror 192, Carolyn Chapman. I'm related --

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THE COURT: Hold on a second I've got to find you.

All right. Ms. Chapman is 192. Go ahead.

JUROR: I'm related to Officer Cody Cockrell by marriage.

THE COURT: All right. I'm going to set you aside on this case. If you'd get that telephone number for me, please, as you leave. Call tonight after 6:00.

192 is set aside.

Yes, ma'am, your name?

JUROR: My name is Lana Lawrence.

THE CLERK: Number 95.

THE COURT: Ms. Lawrence is juror number 95. What's your situation?

JUROR: I am related to Warren and Andrew Chandler.

THE COURT: All right. You said you're related to Warren Chandler?

JUROR: Warren and Andrew Chandler, yes, sir.

THE COURT: I have to set you aside. If you'd get that telephone number, please.

Number 95 is set aside on the trial of this case.

Your name, sir?

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JUROR: James Kneece, number 93.

THE COURT: Mr. Kneece is juror number 93. And what's your situation?

JUROR: I'm related to Cody Cockrell.

THE COURT: All right. I have to let you go on this case. Get that telephone number for me, please. Call tonight after 6:00.

Your name, sir?

JUROR: My name is Teisie Etheredge, juror 48. I'm related to Octavious --

THE COURT: Wait a second. I've got to find you on my list.

You're Mr. Etheredge?

JUROR: Yes, sir.

THE COURT: Go ahead, please.

JUROR: I'm related to Octavious Thomas.

THE COURT: I'm going to set you aside on this trial. Get that phone number for me, please, and call tonight after 6:00.

The State will be represented by the Eleventh Judicial Circuit Solicitor's Office, Assistant Solicitor H. Franklin Young.

Thank you, sir. You may be seated.

Do any of you know anything at all about this matter? Do you have any knowledge whatsoever about

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the situation that's alleged here? Have you talked to anyone about any of it? Have you read anything through any media outlets, seen or heard anything through the media outlets? Anybody had any discussions that you overheard that relate to this matter? Do you have any knowledge whatsoever about these cases other than what you heard me read in the courtroom as the allegations in the indictments? If so, please stand.

(There was no response.)

THE COURT: Now, ladies and gentlemen, to the best of my knowledge, I've introduced to you Mr. Watson, his attorney. I've introduced by reading the names and having you see the people who are potential witnesses for the State who are here today, I had you see them, and I read out all the names of the potential witnesses for the State. I've introduced you to Mr. Young for the Eleventh Judicial Circuit Solicitor's Office. I've told you that the Saluda Police Department's involved in the case, that SLED's involved in the case and that the Pathology Department of Newberry is involved in the case.

What I need for you to do now is if you've got any connection of any kind with any of these people

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or any of these entities, you need to disclose that to us, that would include if you are a neighbor, a friend; if you attend the same church or civic clubs; if you're current or former clients of any of these attorneys or anyone with whom they're affiliated; to the best of your knowledge, if you've ever been on the opposite side of a case that was represented by one of these attorneys or anyone with whom they're affiliated; if you've got any connection with SLED, the Saluda Police Department or Newberry Pathology or any entity involved in the case, the Eleventh Judicial Circuit Solicitor's Office, the Anderson and Anderson Law Firm. If you've got any connection of any kind with any of these people or any of these entities, you need to disclose that to us, please stand.

(Jurors stand.)

THE COURT: Yes, ma'am, your name?

JUROR: Michele Perry-Shealy, 123.

THE COURT: All right. Ms. Perry-Shealy, what's your situation?

JUROR: Actually, my parents have a neighbor in their neighborhood that is part of SLED.

THE COURT: Your parents' neighbor works for SLED?

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JUROR: Yes.

THE COURT: Is there anything at all about that relationship or your experiences with SLED or those people that would affect your ability to be a fair and impartial juror in this case?

JUROR: I'm not really sure.

THE COURT: You have some doubt?

JUROR: Yes.

THE COURT: I'll set you aside on this case. 123 is set aside. Get that number, please, as you go and call tonight after 6:00.

Your name, please.

JUROR: Tonia Hudson, 220.

THE COURT: Ms. Hudson is 220. What's your situation?

JUROR: I have a cousin who works for the Saluda Police Department, but he wasn't named in the case.

THE COURT: What does he do at the Saluda Police Department?

JUROR: I think he's an officer, I'm not sure. He may have already resigned. He talked about it one time. Donovan Shealy.

OFFICER: Just for the record, Your Honor, that would be with the sheriff's office.

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THE COURT: Mr. Shealy still works. He was in the trial last week that we had, but he works for the sheriff's department. Would anything about his employment or your relationship with him affect your ability to be fair and impartial as a juror in the case?

JUROR: No, sir.

THE COURT: Any doubt in your mind?

JUROR: No, sir.

THE COURT: Thank you.

Ms. Hudson is juror number 220. She's eligible to serve.

Now, the decedent in this case is Andrew Chandler. Were any of you related by blood or marriage or connected by employment or did you have any connection of any kind, friend, acquaintance, same church, civic club, anything at all of a -- any kind of relationship at all with Andrew Chandler; if so, please stand?

(There was no response.)

THE COURT: Have any of you ever worked in the field of law enforcement in any agency, federal, state, local, military, any type of law enforcement experience; if so, please stand?

(Juror stands.)

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THE COURT: Your name, sir.

JUROR: John Hartline, juror 72.

THE COURT: All right. Mr. Hartline, what's your situation?

JUROR: Back in '74, Ware Shoals Police Department.

THE COURT: You worked at the Ware Shoals Police Department in 1974?

JUROR: Yes, sir.

THE COURT: Just that one year?

JUROR: Yes, sir.

THE COURT: Is there anything at all about that experience that affects your ability to be a fair and impartial juror in the case?

JUROR: No, sir.

THE COURT: Any doubt?

JUROR: No, sir.

THE COURT: Thank you.

Mr. Hartline is eligible to serve.

Do any of you have any immediate family members who are employed in any capacity in the field of law enforcement; if so, please stand?

(Jurors stand.)

JUROR: First cousin is a highway patrolman.

THE COURT: What's your name, sir?

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JUROR: Ollie F. Salter, Jr., juror number 149.

THE COURT: Mr. Salter is 149.

JUROR: Also, I have a family member that retired a magistrate court judge.

THE COURT: All right. Hold on a second. Your first cousin is a highway patrolman?

JUROR: Yes, sir.

THE COURT: In Saluda?

JUROR: No, sir, Lexington County.

THE COURT: And who was a magistrate?

JUROR: Mildred Long retired from Batesburg.

THE COURT: Is there anything at all about your relationship with either of those individuals or the agencies with which they work that affect your ability to be a fair and impartial juror in the case?

JUROR: No, sir.

THE COURT: Any doubt in your mind?

JUROR: No, sir.

THE COURT: Thanks very much.

Mr. Salter is 149, eligible to serve.

Okay. Ms. Hudson, have you already told me everything?

JUROR: Yes, sir.

THE COURT: Do you need to add anything?

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JUROR: No, sir.

THE COURT: 220, Ms. Hudson, her cousin is a Saluda County Sheriff's Department employee.

In the black shirt.

JUROR: Danny Miller, 110.

THE COURT: Mr. Miller, 110. What's your situation?

JUROR: I have a niece that has a husband that works for Richland County.

THE COURT: Anything at all about that relationship or his experiences that affects your ability to be a fair and impartial juror in the case?

JUROR: No, sir.

THE COURT: Any doubt in your mind?

JUROR: No, sir.

THE COURT: Thank you.

110, Mr. Miller, is eligible to serve.

Yes, sir.

JUROR: Scott Miller.

THE CLERK: 113.

THE COURT: Mr. Miller is 113.

What's your situation?

JUROR: My cousin works narcotics at Greenwood.

THE COURT: Your cousin works narcotics in

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Greenwood County?

JUROR: Yes, sir.

THE COURT: Anything at all about that relationship or your experiences with him that affects your ability to be a fair and impartial juror in the case?

JUROR: No, sir.

THE COURT: Any doubt in your mind?

JUROR: No, sir.

THE COURT: Thank you.

113, Mr. Miller, is eligible.

In the black, your name, ma'am.

JUROR: Wendy Hydrick, juror 221.

THE COURT: Okay. Ms. Hydrick, what's your situation?

JUROR: My first cousin used to work for Saluda County Police Department. I'm not sure if he still does.

THE COURT: What was his name?

JUROR: Calvin Ricard.

THE COURT: Was that the police or sheriff?

OFFICER: He formerly was with the sheriff's office, now he's a state trooper.

THE COURT: Okay. Ms. Hydrick, they say he worked with the sheriff's department and he's now

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with the highway patrol. Is there anything at all about your relationship or experiences with him that affect your ability to be a fair and impartial juror in the case?

JUROR: No, sir.

THE COURT: Any doubt in your mind?

JUROR: No, sir.

THE COURT: Thanks very much.

221 is eligible.

Yes, sir your name.

JUROR: Rory Byrd.

THE COURT: Juror number 20. What's your situation?

JUROR: I have a cousin that's a police officer in Texas.

THE COURT: Your cousin is a police officer --

JUROR: Brother.

THE COURT: Brother, I'm sorry. Your brother is a police officer in Texas. Is there anything at all about your relationship with him or his experiences that affects your ability to be a fair and impartial juror in the case?

JUROR: No.

THE COURT: Any doubt in your mind?

JUROR: No.

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THE COURT: Thank you.

Mr. Byrd's eligible to serve.

Do any of you live in Saluda Terrace Apartments or have you ever lived there; if so, please stand?

(There was no response.)

THE COURT: Do any of you have any immediate family members who live in Saluda Terrace Apartments; if so, please stand?

(Jurors stand.)

THE COURT: Your name, sir?

JUROR: Elgin Coleman, number 28.

THE COURT: Mr. Coleman is juror number 28. Is that where this is alleged to have occurred?

MR. YOUNG: Yes, sir.

THE COURT: All right. Mr. Coleman, if this is alleged to have occurred in the Saluda Terrace Apartment area, would that in any way affect your ability to be a fair and impartial juror in the case?

JUROR: No, it would not.

THE COURT: Any doubt in your mind?

JUROR: No, sir.

THE COURT: And what relationship is the person who lives there?

JUROR: Sister-in-law.

THE COURT: You understand if you're on this trial, you're going to be under instructions you cannot discuss this matter in any way with your sister-in-law?

JUROR: Yes, sir.

THE COURT: You'll be able to follow that?

JUROR: Yes, sir.

THE COURT: She hasn't said anything to you about this as far as you know?

JUROR: No, sir.

THE COURT: All right. Thank you.

Juror number 28, Mr. Coleman, is eligible to serve.

Yes, ma'am, your name.

JUROR: Gloria Miller, 112.

THE COURT: Okay. Ms. Miller, what's your situation?

JUROR: My mother-in-law lived there, but it was a while back.

THE COURT: Earlier than August of 2007 you think?

JUROR: Yes, earlier than that.

THE COURT: Okay. If this incident is alleged to have occurred at the Saluda Terrace Apartments or in that area, would that affect your ability in any

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way to be a fair and impartial juror in this case?

JUROR: No.

THE COURT: Any doubt in your mind?

JUROR: No.

THE COURT: Thank you.

Ms. Miller is eligible to serve.

Are any of you members of or financial contributors to any organization which has as one of its primary purposes, the enforcement or support of law enforcement or the protection of victims and victims' rights, that would include any organizations such as Mothers Against Drunk Driving, Students Against Drunk Driving, Citizens Against Violent Crime, any type of shelter for abused persons, any relationship of any kind either as a contributor or a volunteer or any other relationship, please disclose that to us by standing?

(Juror stands.)

THE COURT: Ms. Hudson is 220. What's your situation?

JUROR: My husband's aunt is Laura Hudson. She works for victims' rights.

THE COURT: Is there anything at all about your relationship with Laura Hudson or any discussions

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you may have ever had with her or conversations or positions she may have taken that would -- or her ongoing role in that field that would affect your ability to be a fair and impartial juror in the case?

JUROR: No, sir.

THE COURT: Any doubt in your mind?

JUROR: No, sir.

THE COURT: Thank you.

Ms. Hudson is eligible to serve.

All right. Ladies and gentlemen, I am informed that this trial may raise issues of self-defense. If an issue of self-defense rises in the case, then the State will have to prove beyond a reasonable doubt that Mr. Watson, the defendant, was not acting in self-defense. A person who is acting in self-defense is protected by an absolute defense. In other words, self-defense is a lawful act and a person is not guilty of any crime if he is acting in self-defense.

Is there any member of the jury panel who would be unable to follow the instructions of the Court related to issues of self-defense should they arise; if so, please stand?

(There was no response.)

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THE COURT: Have any of you ever been an eyewitness to a crime; if so, please stand?

(There was no response.)

THE COURT: If you're a member of the National Rifle Association, will you please stand?

(Jurors stand.)

THE COURT: Your name, sir.

JUROR: Jacob Bodie, 201.

THE COURT: Okay. Mr. Bodie is juror number 201. I'm not going to ask the follow-up questions that are asked.

JUROR: John Hartline, I'm 72.

THE COURT: Thank you, Mr. Hartline.

All right. Ladies and gentlemen, I've got a question that's a fairly standard question. I never know from trial to trial how many responses I will get, so I know what time it is and I always try to -- in gauging how to proceed, I always try to put myself in the position of me sitting out there where you are. So here's what I'm going to do. I'm going to pose the question and then I'm going to see how many of you stand and then I'll tell you where we're going from there.

This question is a multiple part question so listen to all the parts. Have any of you, any of

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your immediate family members, any of your very close, personal friends ever been the victim of any crime of violence, any crime of violence, or have any of you, any of your immediate family members, any of your close -- very close, personal friends ever been accused of committing an act or a crime of violence, whether the -- on either side, whether there was actual criminal charges brought or not?

So if any of you have ever been accused of committing a crime of violence or any immediate family member or very close, personal friend has or any of you ever been the victim of a crime of violence or any immediate family member or very close, personal friend has, please stand.

(Jurors stand.)

THE COURT: Would you four folks form a line over here to my left?

The lawyers may join me on the side, please.

(The following bench conferences were held on the record.)

THE COURT: What's your name, please?

JUROR: Edward B. Johnson.

THE CLERK: 84.

THE COURT: What's your situation?

JUROR: I don't remember how many years ago,

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four or five years ago, I was accused of CDV against my daughter, teenage daughter. I whipped her and took her back to my ex-wife. She called DSS. They brought charges. I went through anger management. They dropped all charges and put the child back in the home with me instead of her mother.

THE COURT: Anything at all about that experience that affects your ability to be a fair and impartial juror in the case?

JUROR: No, sir.

THE COURT: Any doubt in your mind?

JUROR: No, sir.

THE COURT: Thanks very much.

Mr. Johnson is juror number 84. He's eligible to serve.

Yes, sir, tell me your name again.

JUROR: Ollie Salter, Jr., juror 149.

THE COURT: Okay. Mr. Salter.

JUROR: It was my sister. I guess you would call it a victim, I don't know. There weren't any charges brought. It was my ex-wife, like an altercation. My sister brought charges against her. It settled, that's all I can say. I don't know what you call it.

THE COURT: So you don't know if they ever

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contacted law enforcement?

JUROR: Contacted law enforcement, a small court trial, it was across the street.

THE COURT: Okay. Simple assault?

JUROR: Yes, sir, must have been what it was, something similar to that.

THE COURT: Anything about that experience that affects your ability to be fair and impartial?

JUROR: No, sir.

THE COURT: Any doubt in your mind?

JUROR: No, sir. I just wanted to be honest about it, that's all.

THE COURT: Mr. Salter is 149. He's eligible to serve.

Yes, sir, Mr. Byrd.

JUROR: Yeah, number 20.

THE COURT: Okay. Mr. Byrd, what's your situation?

JUROR: I'm a victim of a mugging back in Philadelphia.

THE COURT: Victim of a mugging?

JUROR: Yeah.

THE COURT: Did they catch anybody?

JUROR: No.

THE COURT: Anything about that experience that

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affects your ability to be a fair and impartial juror in the case?

JUROR: No.

THE COURT: Any doubt in your mind?

JUROR: No.

THE COURT: Thank you.

Mr. Byrd is juror number 20. He's eligible to serve.

Yes, sir.

JUROR: Scott Miller.

THE CLERK: 113.

THE COURT: Number 113. Go ahead, Mr. Miller.

JUROR: I was accused, arraigned and charged in this court of CDVHAN in 2007 and took a plea bargain and worked with the DEA Diversion Group, worked with SLED narcotics, it all got dropped.

THE COURT: And they dropped all the charges?

JUROR: Yes, sir.

THE COURT: Is there anything at all about that experience that affects your ability to be a fair and impartial juror in this case?

JUROR: I don't think so, sir.

THE COURT: Do you have any doubt?

JUROR: No, sir.

THE COURT: What about your work with SLED? If

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SLED is involved in this case, would that have any affect on your ability to be fair and impartial?

JUROR: I didn't hear Coby Bryant's name.

THE COURT: Coby Perry or Coby Bryant?

JUROR: Bryant.

THE COURT: So you would not have any problem with SLED being involved in this case?

JUROR: No, sir.

THE COURT: All right. Thank you, sir.

113, Mr. Miller, is eligible to serve.

Yes, ma'am.

JUROR: 112, Gloria Miller.

THE COURT: Go ahead.

JUROR: I have two. My daughter when she was 11 years old, she was raped by someone that used to be on the police force and the trial was here and he was convicted. And then last year my nephew was a victim of a drive-by shooting. He lived, but they haven't caught the perpetrator.

THE COURT: Is that Saluda County?

JUROR: No, that was in Lexington.

THE COURT: All right. Was that Ridge Spring --

JUROR: Yes.

THE COURT: Is he still in prison?

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JUROR: No. He didn't serve but like a year and a half, Jimmy Brunson.

THE COURT: It must be a different case I'm thinking about. The one I was thinking about I gave him 20 something years.

JUROR: He got a lot of years, but he didn't serve it. He got out on good behavior or something.

THE COURT: He wouldn't have had that much good behavior to get out in a year on a 20 year sentence. It must be somebody else.

Is there anything about any of those experiences that affects your ability to be a fair and impartial juror in this case?

JUROR: I don't know.

THE COURT: You have some doubt?

JUROR: They'd probably be guilty.

THE COURT: Okay. I'll set you aside. That's perfectly understandable. If I was in your position, I'd probably feel the same way, so I'm going to set you aside. You just need to get that number as you leave, okay. Thank you, ma'am.

112, Ms. Miller, is set aside on this trial.

(The bench conferences were concluded.)

THE COURT: Have any of you formed or expressed any opinions about these cases; if so, please stand?

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(There was no response.)

THE COURT: Are any of you aware of any interest, bias or prejudice that you might have for or against the State, for or against the defendant, Mr. Watson, for or against anyone or any entity in the case; if so, please stand?

(There was no response.)

THE COURT: Can each of you give both the State of South Carolina and the defendant, Michael Duran Watson, a fair and impartial trial? If you know of any reason why you cannot, please stand now.

(There was no response.)

THE COURT: Further questions from the State?

MR. YOUNG: None from the State, Your Honor.

THE COURT: Further questions from the defense?

MR. ANDERSON: No thank you.

THE COURT: Do you want me to make this a court's exhibit to preserve anything I didn't question?

MR. ANDERSON: Yes, sir.

THE COURT: So you want to object to anything I didn't ask in here?

MR. ANDERSON: I really don't other than just asking you to do it.

THE COURT: Okay.

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(Court's Exhibit Number 1, voir dire request, marked for identification purposes.)

THE COURT: All right. Do y'all want to draw again or do y'all want to use the list in the order we had it? Last week we drew again, is that all right?

MR. YOUNG: Yes, sir.

THE COURT: We're going to take who's left and draw again.

All right. Ladies and gentlemen, give us just a couple of seconds to get everything organized. And what we're going to do, if I were sitting where you're sitting, I'd want to keep going, we're going to draw the 14 jurors and then we will have them come back, after some more instructions, tomorrow and the rest of you will be on that telephone call-in system. Don't discuss the case. We're going to take a short break, just a couple of minutes, and then we'll draw the jury, all right. Thank you.

(Brief Recess.)

THE COURT: All right. The way we draw juries in criminal court is that the Clerk will draw a name. If it's your name, you need to gather up your personal belongings, come down front, the bailiff's

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going to show you where to stand, just come and stand right there and the Clerk will ask questions of the State's attorney and the defense attorney. Based on their responses, you'll be told whether to have a seat in the jury box or return to your seat in the courtroom, so you need to bring your personal belongings because your next stop may be over here in the jury box.

Madame Clerk, the strikes are five for the State, ten for the defense, give us a jury, please.

THE CLERK: Stacie M. Goff, 57.

(Whereupon, Stacie M. Goff, a white female, was called forward.)

THE CLERK: What say you for the State?

MR. YOUNG: Please present Ms. Goff.

THE CLERK: What say you for the defense?

MR. ANDERSON: Please excuse Ms. Goff.

THE CLERK: Please return to your seat.

206, Sylvia A. Holsenback.

(Whereupon, Sylvia A. Holsenback, a white female, was called forward.)

THE CLERK: What say you for the State?

MR. YOUNG: Please present Ms. Holsenback.

THE CLERK: What say you for the defense?

MR. ANDERSON: Please swear this juror.

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THE CLERK: Please have a seat in the jury box.
Number 204 was set aside for the trial of this case. 108, William F. Mercardo.

(Whereupon, William F. Mercardo, a white male, was called forward.)

THE CLERK: What say you for the State?

MR. YOUNG: Please present Mr. Mercardo.

THE CLERK: What say you for the defense?

MR. ANDERSON: Please swear this juror.

THE CLERK: Please take a seat in the jury box.
58, Diane J. Graham.

(Whereupon, Diane J. Graham, a black female, was called forward.)

THE CLERK: What say you for the State?

MR. YOUNG: Please excuse Ms. Graham from the trial of this case.

THE CLERK: Please return to your seat.
194, John L. Williams.

(Whereupon, John L. Williams, a black male, was called forward.)

THE CLERK: What say you for the State?

MR. YOUNG: Please excuse Mr. Williams from the trial of this case.

THE CLERK: Please return to your seat.
73, Geneva Highley.

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(Whereupon, Geneva Highley, a black female, was called forward.)

THE CLERK: What say you for the State?

MR. YOUNG: Please excuse Ms. Highley from the trial of this case.

THE CLERK: Please return to your seat.

71, Lisa B. Hartley.

(Whereupon, Lisa B. Hartley, a white female, was called forward.)

THE CLERK: What say you for the State?

MR. YOUNG: Please present Ms. Hartley.

THE CLERK: What say you for the defense?

MR. ANDERSON: Please swear this juror.

THE CLERK: Have a seat in the jury box.

45, Billie B. Ellis.

(Whereupon, Billie B. Ellis, a white female, was called forward.)

THE CLERK: What say you for the State?

MR. YOUNG: Please present Ms. Ellis.

THE CLERK: What say you for the defense?

MR. ANDERSON: Please excuse this juror.

THE CLERK: Please return to your seat.

220, Tonia M. Hudson.

(Whereupon, Tonia M. Hudson, a white female, was called forward.)

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THE CLERK: What say you for the State?

MR. YOUNG: Which juror number? I'm sorry.

THE CLERK: 220.

MR. YOUNG: Thank you. Please present Ms. Hudson.

THE CLERK: What say you for the defense?

MR. ANDERSON: Please swear this juror.

THE CLERK: Please have a seat in the jury box.

84, Edward B. Johnson.

(Whereupon, Edward B. Johnson, a white male, was called forward.)

THE CLERK: What say you for the State?

MR. YOUNG: Please excuse Mr. Johnson from the trial of this case.

THE CLERK: Please return to your seat.

54, Cassandra C. Gantt.

(Whereupon, Cassandra C. Gantt, a black female, was called forward.)

THE CLERK: What say you for the State?

MR. YOUNG: Please present Ms. Gantt.

THE CLERK: What say you for the defense?

MR. ANDERSON: Please swear this juror.

THE CLERK: Please have a seat in the jury box.

192 has been set aside for the trial of this case. 95 has been set aside for the trial of this

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case. 221, Wendy A. Hydrick.

(Whereupon, Wendy A. Hydrick, a white female, was called forward.)

THE CLERK: What say you for the State?

MR. YOUNG: Please present Ms. Hydrick.

THE CLERK: What say you for the defense?

MR. ANDERSON: Please excuse this juror.

THE CLERK: Please return to your seat.

205, Jonathan L. Holmes.

(Whereupon, Jonathan L. Holmes, a white male, was called forward.)

THE CLERK: What say you for the State?

MR. YOUNG: Please present Mr. Holmes.

THE CLERK: What say you for the defense?

MR. ANDERSON: Please swear this juror.

THE CLERK: Please have a seat in the jury box.

113, Scott C. Miller.

(Whereupon, Scott C. Miller, a white male, was called forward.)

THE CLERK: What say you for the State?

MR. YOUNG: Please excuse Mr. Miller from the trial of this case.

THE CLERK: Please return to your seat.

100, Garrett Mason.

(Whereupon, Garrett Mason, a black male, was

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called forward.)

THE CLERK: What say you for the State?

MR. YOUNG: Please present Mr. Mason.

THE CLERK: What say you for the defense?

MR. ANDERSON: Please swear this juror.

THE CLERK: Please have a seat in the jury box.

149, Ollie F. Salter, Jr.

(Whereupon, Ollie F. Salter, Jr., a white male, was called forward.)

THE CLERK: What say you for the State?

MR. YOUNG: Please present Mr. Salter.

THE CLERK: What say you for the defense?

MR. ANDERSON: Please excuse this juror.

THE CLERK: Please return to your seat.

150, Jessie M. Salters.

(Whereupon, Jessie M. Salters, a white male, was called forward.)

THE CLERK: What say you for the State?

MR. YOUNG: Please present Mr. Salters.

THE CLERK: What say you for the defense?

MR. ANDERSON: Please swear this juror.

THE CLERK: Please have a seat in the jury box.

21, Curtis L. Cameron.

(Whereupon, Curtis L. Cameron, a white male, was called forward.)

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THE CLERK: What say you for the State?

MR. YOUNG: Please present Mr. Cameron.

THE CLERK: What say you for the defense?

MR. ANDERSON: Please strike this juror.

THE CLERK: Return to your seat.

Number 81 was set aside for the trial of this case. 201, Jacob S. Bodie.

(Whereupon, Jacob S. Bodie, a white male, was called forward.)

THE CLERK: What say you for the State?

MR. YOUNG: Please present Mr. Bodie.

THE CLERK: What say you for the defense?

MR. ANDERSON: Please swear this juror.

THE CLERK: Please have a seat in the jury box.

218, Paul W. Corley, Jr.

(Whereupon, Paul W. Corley, Jr., a white male, was called forward.)

THE CLERK: What say you for the State?

MR. YOUNG: Please present Mr. Corley.

THE CLERK: What say you for the defense?

MR. ANDERSON: Please excuse this juror.

THE CLERK: Please return to your seat.

109, Caleb W. Miller.

(Whereupon, Caleb W. Miller, a white male, was called forward.)

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THE CLERK: What say you for the State?

MR. YOUNG: Please present Mr. Miller.

THE CLERK: What say you for the defense?

MR. ANDERSON: Please swear this juror.

THE CLERK: Please have a seat in the jury box.

158, Donald J. Shealy.

(Whereupon, Donald J. Shealy, a white male, was called forward.)

THE CLERK: What say you for the State?

MR. YOUNG: Please present Mr. Shealy.

THE CLERK: What say you for the defense?

MR. ANDERSON: Please swear this juror.

THE CLERK: Please have a seat in the jury box.

82, Steven D. Howard.

(Whereupon, Steven D. Howard, a white male, was called forward.)

THE CLERK: What say you for the State?

MR. YOUNG: Please present Mr. Howard.

THE CLERK: What say you for the defense?

MR. ANDERSON: Please strike this juror.

THE CLERK: Please return to your seat.

28, Elgin Coleman.

(Whereupon, Elgin Coleman, a black male, was called forward.)

THE CLERK: What say you for the State?

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MR. YOUNG: Please present Mr. Coleman.

THE CLERK: What say you for the defense?

MR. ANDERSON: Please swear this jury.

THE CLERK: Please have a seat in the jury box.

THE COURT: We'll draw an alternate, one for the State, two for defense strikes.

THE CLERK: 110, Daniel R. Miller.

(Whereupon, Daniel R. Miller, a white male, was called forward.)

THE CLERK: What say you for the State?

MR. YOUNG: Please present Mr. Miller.

THE CLERK: What say you for the defense?

MR. ANDERSON: Please swear this juror.

THE CLERK: Please have a seat in the jury box.

THE COURT: Draw another alternate, strikes are one for the State, two for the defense.

THE CLERK: Number 48 was set aside from the trial of this case. 190, John L. Wertz.

(Whereupon, John L. Wertz, a white male, was called forward.)

THE CLERK: What say you for the State?

MR. YOUNG: Please excuse Mr. Wertz from the trial of this case.

THE CLERK: Please return to your seat.

Number 20, Rory L. Byrd.

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(Whereupon, Rory L. Byrd, a black male, was called forward.)

THE CLERK: What say you for the State?

MR. YOUNG: Please present Mr. Byrd.

THE CLERK: What say you for the defense?

MR. ANDERSON: Please swear him.

THE CLERK: Please have a seat in the jury box.

THE COURT: Are there any matters to take up including composition of the jury prior to the jury being sworn from the State?

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

THE COURT: Defense?

MR. ANDERSON: Could I just have one second with my client, Judge?

THE COURT: Yes, sir.

(Pause.)

MR. ANDERSON: We're good, Judge. Thank you.

THE COURT: All right. Ladies and gentlemen, I know we're way past the time I told you for your lunch break and some of you might be accustomed to eating much sooner than this in the day, but I have to get some bearings from the attorneys before I can tell you what we're going to do.

Mr. Coleman, where are you?

JUROR: Right here.

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THE COURT: You're going to be the foreman of the jury. Whenever y'all come back in, I want you to be the last person to come in. You take the seat in the front row directly in front of you, that's your seat throughout the trial.

JUROR: Yes, sir.

THE COURT: The two alternates, you folks -- you gentlemen will sit back there, either one of those seats is fine.

The rest of you, ladies and gentlemen, please file all the way down. If you develop a favorite seat during the trial, I prefer that you space yourselves out here so that you get your favorite seat and that you not make people walk across you. We did have an incident in Lexington where a lady broke her ankle and I don't want that happening to any of you.

Also, just to tell you about -- each courtroom has its own unique characteristics. And I am thrilled with what Saluda did with this courtroom. Ms. Doris basically sat up here the entire time, every free moment she had to watch and make sure that everything was done like it should have been done and she did a fantastic job. And for a relatively minor expenditure, it's a gorgeous

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courtroom. But every courtroom has its quirks.

Saluda has these chairs and I like them very much. In Edgefield, we have teal chairs. I do not like those very much, nor does the Clerk of Court, but the person who was there at the time decided to order teal chairs to go with burgundy carpet, so it's just a beautiful site in there.

Those chairs have been here long before I came and they'll be here long before I'm gone. There's one thing about them. If you lean back in them, they will make you think you are going to be ejected from an aircraft. They won't flip over, but they will make you think you are going head over heals, so don't lean back too far in them, all right.

Now, don't discuss the case, don't talk about the people involved, don't talk about the type of cases that are alleged to be involved in this case, don't talk about the cases at all and I'll get you back out here in just a couple minutes. If you'll follow the bailiff into the jury room, please.

(The jury retires to the jury room.)

THE COURT: Ladies and gentlemen, if you were not selected on this case, then you need to call the number tonight after 6:00 and follow the instructions. If any of you are third shift workers

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and you need to talk to me, stay and talk to me, all right.

If I don't see you again, thank you very much for your service. You're free to go if you're here for jury duty.

(The remaining jury panel was excused.)

THE COURT: All right. As I understand the plan, we're going to do pretrial motions the rest of the day, bring them back tomorrow.

MR. YOUNG: Yes, sir, I think that's my understanding.

THE COURT: Depending on the outcome of the motions.

MR. YOUNG: Yes, sir, that's my understanding.

THE COURT: All right. Bring the jury back in, please.

(The jury returns to the courtroom.)

THE COURT: All right. Ladies and gentlemen, in about seven minutes, I'm going to let you go home for the day or wherever you want to go and I'm going to ask you to be back in the jury room in the morning at ten o'clock. We're going to stay here after lunch and work on all of the pretrial issues. There are pretrial issues in every trial that cannot be addressed until the jury's impanelled. So that's

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what we're going to do. Hopefully, we'll get through with everything that we have and we'll get started with you folks at 10:00 in the morning.

Now, before I let you go I have to give you some instructions -- I'm sorry. I had forgotten about something. 10:30 in the morning.

Now, when you take your oath tomorrow, you're going to be promising us as the trial jury that you're going to decide the cases based on the evidence and the law and so there's some instructions I have to give you that are really important because the evidence and the law is going to come to you here in this courtroom. So, you are not to discuss these cases with anybody; don't talk about them among yourselves until the very end of the trial when I tell you that you can begin your deliberations; don't discuss these cases with anybody else; don't talk about them with family members or friends or anybody at all.

When I say don't talk about the cases, I mean don't mention the type of case it's alleged to be, who's in it, when it's alleged to have happened, don't talk about the case. Now, you can tell a friend or a spouse or an employer I got drawn on a jury, but you can't tell them anything about the

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cases.

If anybody attempts to contact you and discuss the cases with you, report that to me so I can deal with it. I don't expect media coverage of the trial, but if there is any, get away from it and report to me at the first opportunity what you may have seen, heard or read through the media.

I always give an instruction related to independent investigation and that has gotten to be such an issue that the Chief Justice has actually come out with something that I'm going to read to you in a minute, but before I read to you what the Chief has told us to read to all the juries now, I'm going to give you Billy's version of what I mean.

By independent research, I mean that you're not to go out and start investigating the case on your own or anything about the law. So to give you an exam -- some examples of what I mean, don't go on the Internet and try to look up law. It's my job to tell you what the law is that applies to the case at the end of the trial so don't go looking up legal definitions or anything like that. Don't go on the Internet and try to find any kind of archived articles about this matter, don't do that.

Once you find out where this is specifically

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alleged to be, don't go out there and look around. There are provisions for us to allow that to be done if it needs to be done, but don't go out there and look around. Don't do any independent investigation. You are perfectly equipped to do the job you're going to be asked to do. And as I told you earlier, the information is going to come to you here in the courtroom.

Now, we're going to ask you to use your common sense so bring your common sense with you, but the evidence and the law and those things are going to come to you here in the courtroom. Don't do any independent investigation.

Now, a lot of this came to be a problem with the advent of the Internet and with, particularly, these cell phones that are capable of going on the Internet. And I've got one, I'm not casting aspersions on anybody, but I'm just telling you that that's why the Chief had to get involved because it started getting to be a problem. So I'm going to read to you the directives the Supreme Court has handed down and hopefully they're basically the same things I just told you.

During the trial of the case and until your jury service is completely concluded, you are not to

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discuss the case with others including other jurors except as directed by the Court. You're not to listen or read any news reports about the case.

You're not to use a computer, cell phone or other electronic device with communication capability while attending a trial or during deliberations. Those devices may be used during lunch breaks, but you cannot use them to obtain or disclose information prohibited by the Court.

You're not to use a cell phone, a computer or any other electronic device with communication capabilities, nor may you use any other method to obtain or disclose information about the case when you're not in court. Information about the case includes but is not limited to information about a party, a witness, an attorney or a court officer, news accounts of a case, information collected through juror research on any topics raised or testimony offered by any witness, information collected through juror research on any topic that the jury might think would be helpful in deciding a case.

And obviously, folks, there were situations you probably read about in other states where jurors were tweeting during a trial or they were sending

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out information during a trial. I don't know that anything like that has happened in South Carolina, some of that's overkill, but basically you get the point.

You just need to remain neutral and detached throughout the trial. You need to depend on the system to work and for the information to be put before you and you're not to be communicating any of your ideas, your thoughts to other people about this case during the trial. When the trial is completely over, you can talk to anybody you want to about anything, but during the trial, you're not to do that. And then it gets back to the point that I was telling you about independent research. Don't do independent research on the case.

Okay, I think I covered everything. I'm a little bit muddleheaded today so forgive me. I've gotten -- since I've done this so many years, I've gotten to where I depend on my memory almost completely and I just want to double check with my law clerk.

All right. Folks, if you have some true emergency that arises that prevents you from being here, please have somebody call up here because until you 14 are here, I can't do anything so I have

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to know what's going on. If you're not here, I have to start sending people out to find out what's going on so please let us know.

10:30 in the morning, all right. I hope you have a very pleasant evening. I'll look to see you at 10:30 in the morning. And I'll tell you as the trial goes on, how long I think it's going to take so you can plan accordingly, all right. Thank you.

When you come back, don't come in the courtroom, come through that door that she's going to show you when you go out, all right. Thank you.

(The jury was excused for the day.)

THE COURT: All right. Ladies and gentlemen, this is an instruction I try to give in every case so please don't think I'm singling anyone out, I have no reason to do so. During this week, you need to be really careful that you don't have any contact with the jurors and that you don't have conversations that in any way relate to the case that might be overheard by a juror.

Now, the safest thing to do is not talk about the case at all until you're clear of the courthouse property. And then when you do clear the courthouse property if you go somewhere like a restaurant, make sure you look around because there are not that many

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places to eat and there's a good chance that the juror may -- there may be some jurors eating at the same place you are. Just be really careful.

Also, you may think that you've given jurors plenty of time to clear out. Jurors don't operate like we necessarily think they will. Last week we had a lady who had to wait on a ride. She was out there a long time after each session.

Last week we had a couple of incidents and if I have those kind of incidents again, I don't know what might happen, but we had some incidents where people could not control their emotions and they had outbursts that were overheard by jurors or had to have been overheard by the jurors. Thankfully, it was nothing that affected the trial, but just be really careful as you leave that you check around to make sure that you're not talking about the case or anybody in it or what just happened in the courtroom or anything like that in a fashion that may be overheard by a juror.

Court's in recess until 2:45. Thank you.

(Whereupon, there was a luncheon recess.)

(State's Exhibit Numbers 1 through 22 were marked for identification purposes.)

THE COURT: What pretrial motions do you have?

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MR. ANDERSON: Judge, first, I would move that the witnesses be sequestered in this matter and I know that would include my witnesses as well.

MR. YOUNG: I believe I actually must join in that, so I would join in that, Your Honor.

THE COURT: All right. A representative of the victim's family can stay in the courtroom and the chief investigating officer can stay in the courtroom. Obviously, the defendant's in the courtroom.

All right. What else?

MR. ANDERSON: I was going to ask if my client could not be shackled during the trial part. Obviously, if there's any breaks, we would agree for him to be -- they're not extremely noticeable, but my client informs me they're extremely uncomfortable. I've never worn them. Apparently, if he starts running, they lock up on him.

THE COURT: These are things around knees under his pants?

MR. ANDERSON: I don't have any (inaudible) -- but, yes, sir, that's what he says. He says those are extremely uncomfortable.

THE COURT: What's the situation with him?

MR. YOUNG: Your Honor, he's got those as a

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restraint that will basically give him the ability to wear clothing, ordinary street clothing and not be otherwise apparent to the jury that he's in any form of restraint. So other than possibly draping the front of these tables, and I guess the State's table would have to be equally draped, I don't know of any other means by which to secure him in this courtroom. Given the severity of the charges, Your Honor, we believe it's appropriate for him to remain in that kind of custody status.

THE COURT: How was he arrested?

MR. YOUNG: He was arrested, I believe his family was calling saying there were some kind of threats against them out there at their house. Law enforcement had basically by that time singled upon him being a person that was a suspect in the shooting. Law enforcement arrived out there and he walked outside of the house with his hands over his head and sat down, kneeled down and turned himself in. I think his father said he's turning himself in.

THE COURT: And how are they uncomfortable?

DEFENDANT: It's, like, I can't, like, bend my knees certain ways and it's like (inaudible) -- because they got straps around.

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THE COURT: Say that -- can't bend your knees certain ways and what?

DEFENDANT: And, like, due to the straps, they bite, like they pinch.

THE COURT: What's his prior record?

You can have a seat.

MR. YOUNG: I don't believe he has any, Your Honor.

MR. ANDERSON: Judge, I haven't heard anybody give any complaint about him. He's been in three different jails while we've been building up to this point.

THE COURT: The motion is denied.

What's your next motion?

MR. ANDERSON: Judge, I just received some evidence. This is a three-year-old case and we have just received some evidence from the State and we would move to exclude that evidence. That evidence would include a gunshot residue finding. And what we had received, there was no positive GSR. We were just informed that that was a typo and there was GSR found on the passenger door. And we just got that within the last, I don't know, couple -- three weeks. We also just got --

THE COURT: How is that significant?

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MR. ANDERSON: Well, they said there was no GSR and now they say there was GSR.

THE COURT: Is it going to be a self-defense case or what is it?

MR. ANDERSON: Well, it is now, Judge, because we've got -- I mean, I didn't know what we were going to be -- how we were going to play the case out. And as you know, the defendant doesn't have to testify, but they've just now given us this additional information on a three-year-old case, so I -- I mean, I don't know how we would have tried the case if they didn't have that, but now they do have it so I'm just trying to deal with it, Judge. It just seems like it's a three-year-old case and I just got the stuff and it seems a little unreasonable.

THE COURT: Well, I understand that argument. The question is does it make any difference in the trial of the case? What's the significance of it?

I mean, if he's -- I don't know anything about this case that I can recall. I mean, if he's admitted shooting a gun, how is -- and I don't know if he has or he hasn't --

MR. ANDERSON: There are three law enforcement officers that say he did, but that's not in writing

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and there's no tape of that, so you don't -- you don't know how things are going to play out, Judge, as you know. But it's relevant to -- I mean, if I had known two years ago, if I had known nine months ago, it was about six months ago we had the meeting with Your Honor in Lexington, I didn't know this then and that could have impacted how we proceeded at that time. It just doesn't seem right that they can give me evidence three years old right -- a month before the trial.

THE COURT: It's not right, but it's not an absolute, yes, you've got a deadline and if you pass that deadline, that's it. I think it's a balancing act and it goes to how significant it is whatever it is that they help.

What is it that y'all just gave him?

MR. YOUNG: Your Honor, I went to SLED the end of last month. And when I went to SLED, I met with all of the SLED people about their reports. I met in a single room with them and I said, Do we have everything and do I, you know, what else do I need? And it pretty much was a yes answer to all of that. And I left that room thinking indeed I had everything there was.

But there was one lady who was not present.

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Her name is Ila Simmons. Ms. Simmons is the person who did the GSR examinations. Ms. Simmons called me, she'd just had a death in her family, and she called me to tell me that indeed there was a page, apparently when things printed out, that was missing. And she referred to, I think, item number 12 on that list of items that were examined. And she said that on item number 12, they found GSR and this was on the exterior portion of the car on the passenger side that the defendant was allegedly driving.

The GSR results, which I then heard about, I picked up the phone and I actually called Andy's office I think either that afternoon or whatever time of day it was. It was in, like, 10 minutes, 15 minutes as soon as I knew that. And I told him I would try to get a copy of that and get it to him.

I know I faxed it once and I don't guess it went through. I know I had -- I thought I had somebody drop by a copy once, I don't know if I gave you that one or not, it wasn't in that, but I finally sent him everything I had by e-mail. And this was everything I had that was received by SLED in some PDF format. And it confirmed basically what I had verbally told him, that item number 12 did

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have gunshot residue on it, that being the exterior portion of the passenger side of the vehicle allegedly driven by the defendant.

THE COURT: Now, what's the significance of that?

MR. YOUNG: Well, the State's case is going to be that he presented a shotgun through that window on the passenger side and shot the decedent at very close range and killed him. The statements, which I believe he's referring to which are going to be the subject of a motion here in a moment, have to do with statements he made to Commander Holloway and I believe Agent Newton was present in which he was asked what happened and he said self-defense and that's pretty much all he said.

He said I -- and he says, What do you mean self-defense? He was asked to explain it. And he said, Self-defense, that's all I got to say about it, something to that effect. I don't think it was that word, but it was something else he said. I'm paraphrasing, Your Honor. I don't have the precise words. And he said, Just take me to my cell.

The second statement was -- also, these both were mirandized. The second statement occurred when he was asked where the shotgun was. There was an

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effort to locate the shotgun and they were unable to do so. That effort was preceded, I believe, by -- either preceded or followed by an effort to talk to him about where the shotgun was and he basically said, I can't tell you where it is. I can't tell you, something to that effect.

And there was a third statement made when he was being transported to Greenwood into custody status at that jail. Officer Cockrell was transporting him up there and noticed that he was having some discomfort in the back, essentially asked him something to the effect, you know, how you doing back there or, you know, what's going on? And he said something to the effect of, Where did I hit him at? And then he gave an explanation about how these boys allegedly had crowded around his car or come up to his car and he shot him, he shot one of them, words to that effect, that's why he had to do it.

So, Your Honor, within the context of those statements, that's what essentially the State would present on those statements. And I think the evidence we have, we don't have the shotgun, but the GSR we do have it outside the car and we have shotgun shells in the yard which are consistent with

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the gauge of the wadding found on the ground next to the body, the 20-gauge wadding found on the ground about six to eight feet away from the decedent. And there was, again, there were pellets removed from the head which are consistent with a shotgun. So all of that tends to corroborate the shooting and the sequence of events in terms of the shooting followed by a departure.

He immediately left the area and a car matching that description was found at his house and his driver's license was found inside it.

THE COURT: Were there any witnesses?

MR. YOUNG: I'm sorry, sir?

THE COURT: Were there any witnesses?

MR. YOUNG: Yes, sir. There were approximately five witnesses to it standing around.

THE COURT: Are they going to testify?

MR. YOUNG: Yes, sir.

THE COURT: What are they going to say?

MR. YOUNG: A shotgun came out the window and shot him. They were shocked, dismayed, surprised. One person saw a -- saw him actually in the car driving the car, based upon his angle, saw him extend his forearm, saw a shotgun come up, boom.

And there's another matter of the shotgun that

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I'll take up at a different time. He was also seen with a shotgun earlier in the week.

THE COURT: Did the witnesses know the defendant before this?

MR. YOUNG: Yes, sir.

THE COURT: Did they know the car?

MR. YOUNG: Yes, sir. They actually announced as he was driving through this area that there's Rand. They call him Rand. I think his middle name is Duran. They call him Rand I believe. And they were walking up to where he was, where his car was traversing the area.

And I'll also mention for the Court they were there smoking marijuana. And the decedent's found on the ground with a lighter in one hand and a -- in his right hand and he has a marijuana cigarette laying on the ground immediately next to him. There was another marijuana cigarette, I believe, also found, rolled, but not smoked.

THE COURT: You said it was a missing page or it was a typo?

MR. YOUNG: Your Honor, as far as I -- it's on the last page of the document which was printed out by -- or given to us by SLED. And it said, you know, this item had -- they found GSR on it. It,

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apparently, did not print out when they gave us the report.

THE COURT: All right. Do you have anything else on this, Mr. Anderson?

MR. ANDERSON: No, sir, Your Honor.

THE COURT: Rule 5 of the South Carolina Rules of Criminal Procedure deals with disclosure in criminal cases. It states there's a continuing duty to disclose. What it requires is that the State has to promptly notify the defense or his attorney or the Court of the existence of additional evidence or material.

Again, I think all of this has to be done in the context of sort of a balancing act. The request to suppress is not the only option to the Court. The Court can consider other things such as continuances. And I have granted continuances before whenever there was last minute production of information by the State, but in order to make those determinations, the Court has to evaluate how significant the failure to disclose that is, as well as anything that's related to intent.

It doesn't appear that any of this was intentionally withheld from the defense. It appears to be some oversight of some type. It was disclosed

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to the defense and I really haven't heard anything that would allow the Court to determine that the State has been -- I mean, the defense has been in any way unduly prejudiced by the failure to disclose it, so the motion to suppress the gunshot residue evidence is denied.

What else do you have?

MR. ANDERSON: Within that same context, I'd just gotten the C.D. with all of those photographs in it in the same --

THE COURT: Just got what?

MR. ANDERSON: The C.D. with the photographs. When did we get that? About a month ago.

MR. YOUNG: Yeah.

THE COURT: Photographs of what?

MR. ANDERSON: The crime scene, Judge. But, I mean, I -- there are photographs in there that are interesting that I don't object to, but it's just, it's just frustrating, Judge. And I can't say how it impacted the defense, but you've ruled, so I'll, you know, do what I have to do.

Judge, number two in my motion is the State has put Jarrod Coleman and Tobias Daniels on the witness list. They're numbers five and six. Those are two juveniles who alleged about a week before this

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incident that my client pointed a gun at them. One of the boys in his statement, which was taken after this charge not at the time of the alleged incident, but after this murder charge arose, one of the boys said it was a sawed-off shotgun, the other boy just said shotgun.

I assume they're going to call those witnesses to try to bolster the fact that my client had a shotgun whether or not it'd be sawed off or regular. And our position on that is that that would be unduly prejudicial and not probative of anything, so we'd ask that that be excluded, not allowed.

MR. YOUNG: Your Honor, I hand up the case of State v. Holland which deals with a very similar issue.

Your Honor, indeed these two individuals are juveniles. Both of them will testify that a shotgun was in the possession of this man on a weekday just prior to the shooting. It was within about Tuesday, I think -- I'm trying to remember -- July 30th of 2007. They were walking down the street together and a gentleman pulled up in this car. They recognized that car as being the same one in this case. They saw him present a shotgun at that time. And indeed, Your Honor, it came out the passenger --

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to the passenger side window.

The State probably -- the State believes that we can offer this evidence to identify him as being in the possession of a shotgun, a short shotgun, on the 30th of July prior to this. I have talked with these young men and I don't believe I can present evidence of a sawed-off shotgun because I believe that would be likely prejudicial as the possession of that is a crime. Indeed that same shotgun, however, was used in this case. He has not been indicted on that charge nor charged with it.

These two young men will be able to say he was in possession of a shotgun on that day as they saw him with it and he was driving a car when he was in possession of that firearm and that car is the same car as was in this case. Beyond that, the State does not intend to offer their testimony for any purpose just simply to demonstrate that he was, in fact, in possession of a shotgun on July the 30th of 2007 just a few days prior to this unfortunate death.

The State believes that Holland is dispositive.

Your Honor, in further support of that, I do need to mention the fact that we're unable to match shotguns usually by ballistic evidence. However,

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there is ballistic evidence of a 20-gauge shotgun shell, two of them in fact, being found at the residence of this young man. And I believe there's a box of -- an empty box of shells which are consistent with a 20-gauge shotgun, which is consistent with the wadding found at the scene adjacent to the body. I just mention that as well.

THE COURT: Do you intend to have these two juveniles testify that the defendant pointed the gun at them?

MR. YOUNG: No, sir. I'm not going to offer that evidence. He is, in fact, indicted on that separately, but we are not here today to contest or bring in additional evidence that might be more prejudicial than to say he is in possession or was in possession of a shotgun and in a car that matches the same description of the car he was in on the night this happened.

THE COURT: Was the weapon ever found?

MR. YOUNG: No, sir, no weapon has ever been recovered.

THE COURT: Do you have any other evidence about him having possession of the weapon other than on that night of the killing?

MR. YOUNG: The only other evidence there is

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are empty cartridges found at the scene of his -- at his home and out in the yard. There were two 20-gauge shotgun shells in the yard and there were shotgun shells found in a box, an empty box, in his room.

THE COURT: And the forensic pathologist is going to testify that it was a gunshot wound that caused the death of the decedent?

MR. YOUNG: Yes, sir, penetrated to the base of the spine.

THE COURT: All right. Mr. Anderson, what else?

MR. ANDERSON: Well, Judge, you heard all of this stuff that Mr. Young said they have to prove that my client is the one that did it. I don't know why they would need this and it's obviously prejudicial if the jury were to think he's riding around, you know, with a shotgun. And on top of that, I'd -- admonishing juvenile witnesses on what they can and can't say seems like that would be an awful risky prospect. I just think it's more prejudicial than probative with all of the other evidence they have.

THE COURT: Well, if there's any evidence of a prior bad act such as pointing a firearm at the

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juvenile, I agree it should be excluded under Rule 403, but it is relevant based -- this is an in limine ruling which means it's a preliminary ruling.

I don't pretend to know the case as well as you all know it. You all apparently have met with me and talked with me about this case before, I don't even remember that. It'll start coming to me in dribs and drabs as things are developed, but because of the volume of cases we do, I just don't recall anything much about the case.

I do remember now that y'all are talking about the vehicle and the alleged incident and all of that, some of it's coming back to me, but a preliminary ruling is just that, it's a preliminary ruling. It's based on what I understand at this particular point in time and it may change during the course of the trial, but it seems to me it's relevant to put in evidence that two people can tie this man to a shotgun and it's relevant that it was in a vehicle.

The question then becomes even if it's relevant, is it excluded under Rule 403? Those two parts I don't believe are. Anything beyond that, I believe is particularly pointing the weapon at somebody else. So the motion to exclude the

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evidence about pointing the weapon at those juveniles is granted. The other is denied. And, again, it may come out differently in the trial. I may have a different understanding. It may result in another motion. It may be a mistrial. I don't know.

MR. ANDERSON: Well, Judge, if -- based upon your ruling, assuming nothing changes, then I'll probably renew this objection at the time, but if the State will just put each kid up and say did you see him with a shotgun in his car, yes, I wouldn't ask any questions and that would be it, you know, that would be a good compromise. I'd still object to it.

THE COURT: I understand.

MR. ANDERSON: But the more questions they ask, the greater the chance of something coming out.

THE COURT: I understand that, too, but there's nothing I can do about that.

What other motions do y'all have?

MR. ANDERSON: Well, based on how you've just ruled on the other stuff, I'd just received Investigator Robin Newton's report. Now, granted 95 percent of her report is cumulative stuff, but I just now received it. So I don't see any use -- I

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mean, I would ask that her testimony be excluded based on the fact that she never gave me her report. They never gave me her report.

THE COURT: Solicitor.

MR. YOUNG: Your Honor, Investigator Newton informed me I think it was probably two -- three weeks ago, two weeks ago that she is -- she is the child fatality CID agent for this area. And she had done a child fatality report which essentially has described this to accident or whatever is the reason behind the death. She gave me a copy of that report which I gave to Mr. Anderson. And the report -- and, again, I think he's going to probably indicate is completely cumulative.

I do not intend to ask Agent Newton any questions about that report. She was, however, present at the rights advisement and present during the statements made, the first two statements made by the defendant and she is here primarily for that reason today.

I really don't -- unless she's going to be absolutely necessary, I think Commander Holloway is going to be able to cover the statements and everything else. I don't intend on calling her unless an issue comes up regarding a challenge to

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what was said and how it was said at the statements, that would be the only possible way that I might have to call her to corroborate information Investigator Holloway has related. And it does sound like there might be some challenge to that so it might be necessary for her to remain.

THE COURT: Well, I've got to know specifically what it is -- as far as the motion to suppress the entirety of her testimony, that's too broad. If you all have specifics that you want me to consider, I'd be happy to consider them.

MR. ANDERSON: I mean, Judge, I don't know what she's going to say. I know that she was with Commander Holloway at the jail when they talked to my client so it would be nice to exclude that.

THE COURT: Well, what's in the report that you didn't know before?

MR. ANDERSON: Nothing really, Judge. Most of it is stuff -- there may be a couple notes here and there, but not much. It's just frustrating to just now get it after all this time again.

THE COURT: Yes, sir. The motion to suppress her testimony or exclude her testimony is denied. Anything else?

MR. ANDERSON: Yes, sir, Your Honor. There was

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-- this really is a horrible case. This young man was shot in the face. And the pictures are not very pleasant at all. And, obviously, we don't want the jury to be inflamed because they're horrible pictures. And there's some color ones. I've made some black and white copies off my computer, but I would move that all of the inflammatory pictures be excluded, maybe put in black and white. And he's not offering it, even from what he's told me, he's not proposing very many, but two of them are pretty bad. I'd just ask that they both be black and white.

MR. YOUNG: Your Honor, in addition to these photographs, I have yet to make copies, so I'm going to pass up State's Exhibits 1 through I think it's 22 -- I apologize -- the photos are Exhibits 3 through 22.

And, Your Honor, we do have three additional photographs which I have to reproduce. They are x-rays of the head of the decedent. They display the distribution of the shot in his head. And there's also just a facial picture after his face has been cleaned up showing where the shotgun blast struck him and the pattern of the shot that went into his face. I have that on disk. I can show

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that to the Court off my computer. I do not have it reproduced here.

MR. ANDERSON: I actually have those. I went to the pathologist myself, so I can get that stuff, Judge, and she showed me those pictures.

THE COURT: Why do you need Exhibit 22 with him laying in the road?

MR. YOUNG: Your Honor, can I see Exhibit 22, please?

Your Honor, this shows a relationship between the position of his body at the scene, the position of his hands in relation to his body. It shows a -- what amounts to the position of a marijuana cigarette which is to the left of his body and I think that's marked as marker -- by a marker. It then shows the position of the shotgun wadding that is to his right. And it also shows the position of shoes and clothing which were left by one of the eyewitnesses. It places him in relation to the body at the scene.

The testimony I anticipate will be that given the severity of the wound, he was unable to move at all from the point in time he was struck, so that will be the position of his body, you know, immediately after the shooting unless there's -- I

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don't have any other evidence that he was moved at all.

There's obviously the relationship of the shot wadding in proximity to his hands. There's a further picture in there of his right hand which contains a lighter it's not as visible and I have a blowup of that. The left hand obviously is apparently not -- doesn't have anything in it, however on the left side is that marijuana cigarette. And, of course, the proximity of the body to this other person who was a witness at the scene, that is the best photograph I have to place him in proximity to those items.

It also shows the slope unfortunately. Blood is the means by which that's obviously showing us there was a slopery (sic) ground here. This would have been an uphill walk when people moving in the direction -- well, if he was standing upright in the same direction.

THE COURT: Do you have a black and white of this?

MR. YOUNG: I do not.

MR. ANDERSON: Yes, sir.

THE COURT: May I see it?

MR. ANDERSON: Yes, sir.

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(Pause.)

THE COURT: All right. Well, with regard to what's been handed up to the Court, State's Exhibit 3, 4, 6, 7, 5, 8, 9, 10, 11, 12, 13, 14, none of those have the defendant in them. Exhibit 15 is a long distance shot of what appears to be a body covered in a sheet. You cannot tell anything other than that. You can see the shoe that is shown in State's Exhibit 22. You can see some police vehicles in the background. There's nothing in that that's unduly prejudicial or violates Rule 403.

Number 16 appears to be a photograph of an automobile in a parking lot. I don't see anything in that that's violative of 403. Exhibit 17 is a photograph from a different angle which shows the location of a body covered by a sheet. It's at night and that's really all you can tell. It doesn't violate Rule 403.

State's 18 is a photograph from a different angle of a body covered by a sheet. I don't know what that red material is that's coming out from underneath the sheet. I don't know if that's...

MR. YOUNG: It's blood, Your Honor.

THE COURT: That one does not appear to violate Rule 403. 19 is of some item in the road. 20 is of

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some clothing and 21 is a picture of what appears to be the decedent's right hand holding a cigarette lighter. None of those violate Rule 403. Exhibit 22 however does in color. If that exhibit is to be utilized, it needs to be black and white.

MR. YOUNG: Which one is that, Your Honor?

THE COURT: That's the picture of him in the road with all of the blood coming out of his head. The black and white shows all of the same things you told me you needed the exhibit for. Actually, Mr. Anderson's photograph shows more. It shows more of the decedent's legs and just a little bit more of his left hand. So the 403 objection on 22 is granted at this stage.

What else?

MR. ANDERSON: Judge, it was back in October of last year that we had our meeting and Ervin was there instead of Frank, but back at that time, we had a discussion about manslaughter and that is gone. And it is frustrating because we didn't have all this stuff at the time that we weren't able to work the case out and I just think it would only be fair for that offer to exist now that we have all the evidence. And it's just -- I can't say what would have happened back then had we had all this

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and that's what's so frustrating about this process.

This is a horrible case. It's horrible for everybody. And it's one that I think should be worked out, but it's hard to work them out when you don't have all the stuff. And I don't know -- actually, I've had motions to enforce plea agreements before, but this is a little unusual. I don't think I've ever made this motion before, but I would ask that the State put that plea out there.

THE COURT: All right. Well, that's, in my view, is a separation of powers. I don't have -- if there's a plea agreement that the Court's asked to enforce, that's one thing. What you all are telling me is there was no plea agreement and you say that the reason there could not be a plea agreement is because the State had not provided you with the evidence in toto.

I understand your argument. I've never heard that one either, Mr. Anderson, but I admire you for making it. I think it'd be violative of the separation of powers if I get involved in that. I can't tell them what they have to offer your client.

MR. ANDERSON: I can't say that we would have been able to resolve it, but it just is frustrating if you get a plea offer before you have all this

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stuff.

THE COURT: Mr. Anderson, believe me I understand your frustration and I've had conversations and -- all the things I don't understand as well, but I have to rule on specific cases and what's brought before me and I've made that ruling or those rulings using my best judgment. I may be wrong, but I've done what I think was appropriate.

All right. We've got Denno.

MR. ANDERSON: That's it, Judge.

THE COURT: Just Denno?

MR. ANDERSON: Yes, sir.

THE COURT: All right. Let's take a five minute break. You got your witnesses here for the Jackson versus Denno hearing?

MR. YOUNG: I do, Your Honor.

THE COURT: All right. We're at ease.

(Brief Recess.)

THE COURT: Call your witness.

MR. YOUNG: Commander Charles Holloway.

CHARLES HOLLOWAY,

having been duly sworn, testified as follows:

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DIRECT EXAMINATION

BY MR. YOUNG:

Q Commander Holloway, give us your full and complete name, where you work and for how long.

A My name is Charles Holloway. I'm employed at the Saluda Police Department. I've been with Saluda Police Department since 1996.

Q Okay, sir. Now, Michael Watson was arrested on the night of August 6th, correct?

A Yes, sir, he was.

Q All right. And during that timeframe when he was arrested, the day he was arrested, the time he was arrested, you had an opportunity to interview him, did you not?

A Yes, sir.

Q Okay. And how did you conduct that interview, who was with you, what circumstances were there, where was it conducted?

A Myself and SLED Agent Robin Newton went to the Saluda County Detention Center to interview Michael Watson. He was a suspect in a murder case that we were working.

Q When I say the night of August 6th, I actually probably ought to refer to that as the morning. When I say August the 5th, the night of August 5th

into the morning of August 6th, that's the timeframe you were conducting that investigation; is that correct?

A Yes, sir, it was.

Q Now, did you advise him of his rights prior to talking to him?

A Yes. He was advised of his Miranda warning. His Miranda warning was read to him by me, Agent Newton witnessed and he initialled each block that he understood the Miranda warnings.

Q How many times that night did you interview him?

A He was interviewed twice that night.

Q Okay. And did you do this -- did you use anything to assist you in conducting this interview in terms of completing the Miranda forms?

A Yes, sir. We have documentation from the police department that we put it in writing and we have the suspect to sign it.

Q Would you be able to recognize those forms again if you saw them?

A Yes, sir.

Q I'm going to hand up what's been marked as State's Exhibits Number 1 and Number 2 and ask you if you can recognize them.

A (Witness reviewing documents.)
Q Do you recognize them?
A Yes, sir.
Q How do you recognize them?
A Well, it's my writing, the date and Agent Newton's handwriting and Michael Watson's handwriting that he initialled at the rights as they were read to him by me.
Q All right. And so the form you're holding is -- describe it just for the record very briefly.
A It's a waiver of rights. It gives you your basic Miranda warning.
Q And does it enumerate each of the warnings that you gave him on both those occasions?
A Yes, sir.
Q All right. And did he place his initial next to each one of those rights as you read them to him?
A Yes, sir.
Q Did he have a copy to go along with when you were reading those rights?
A Yes, sir.
Q Now -- and then at the conclusion of the rights warning, did anyone sign it or initial it?
A He signed it. I signed it and Agent Newton, she signed it.

Q Did you enter a time and date for the interview?

A Yes, sir.

Q What times were displayed on those two exhibits?

A The first one was August 6, 2007, approximately 2:33 a.m. The second one was August 6, 2007, 3:39 a.m.

Q And are those the forms that you completed and you witnessed him sign?

A Yes, sir.

Q And you gave him those rights as they appear on that form?

A Yes, sir, read it verbatim.

Q Okay. Did you make any changes whatsoever?

A No, sir.

Q But you, however, did complete the portion of the form which indicates what he's being suspected of, correct?

A Yes, sir.

Q And then you indicated what?

A Murder.

Q Okay. At the time that you gave him these rights, where did you conduct this again?

A This was -- this interview was conducted at the

Saluda County Detention Center.

Q So he was in custody at the detention center?

A Yes, sir.

Q How was he dressed and how was he attired?

A He was dressed in their orange jump out gear.

Q Was he in cuffs?

A He had on leg irons.

Q And what time of night did this first interview take place?

A The first interview took place at 2:33 a.m.

Q And the second one took place at what time?

A 3:39 a.m.

Q And, essentially, can you just tell the Court from start to finish how long reading of the rights until completion of the interview took?

A It probably took about ten minutes.

Q And was anyone else other than you and Ms. Newton present?

A No, sir.

Q All right. Who asked questions of the defendant at that time?

A The first interview that was conducted at 2:33 a.m. I asked questions of Michael Watson.

Q So you asked questions on the first interview?

A Yes, sir.

Q Now, when you were reading him these rights, did you look for acknowledgment from him that he understood what you were saying?

A Yes, sir. Our waiver of rights form, it comes in six different parts. It's six questions. It has blanks out beside it. I read him the first one, ask him if he understands it, if he understands it, he puts his initial in it. I move to number two. If he understands number two, we proceed on down.

Q Did he appear to have any difficulty in understanding what you were saying?

A No, sir.

Q Did you have any outward signs from him that he may have been under the influence of anything, either drugs, alcohol or anything like that?

A No, sir.

Q Did he have any response to your questions verbally or by actions? When you said, do you understand your rights, how did he act?

A He initialled the block.

Q So he didn't say yes or no, he just initialled?

A Yes, sir.

Q At any time did he indicate that he did not want to talk to you after you concluded the rights or even during the performance of the rights

advisement?

A No, sir.

Q Did he ever ask for an attorney?

A No, sir.

Q Prior to him answering any questions that you asked, what efforts did you make to try to cajole him, threaten him, influence him, promise him something in return for what he would tell you?

A I made no such efforts.

Q So you never made a statement like if you'll just cooperate with us, things will go easier on you?

A No, sir.

Q Never said that either?

A No, sir.

Q At any time did he ever just simply say -- let me rephrase the question. Just essentially to the best of what you can tell us based upon how you observed him and his actions, did he appear to you to understand what he was doing before he answered those questions?

A Yes, sir.

Q Did it appear to you to be freely and voluntarily given?

A Yes, sir.

Q And I'm speaking now about both instances because you read rights in both those cases, correct?

A Yes, sir.

Q Does any of your answers change to any of the questions I've asked you about what you've told me about either the first or second interview, was there any difference?

A No, sir.

Q Other than the timeframe?

A Right, that's the only difference was the timeframe, same questions.

Q What questions, if any, did you ask him?

A The interview that was conducted at 2:33 a.m., after reading him his rights, I asked him, What happened? Mr. Watson replied, Self-defense. I asked him, How was it self-defense? He replied, Because it was self-defense. Then he asked me what was he being charged with. I advised him he was being charged with murder. He just stated, Place me back in my cell so I can lay down.

Q Okay. Now, you already told him he was -- you already advised him he was being charged with murder?

A Yes, sir.

Q So he just repeated the question?
A Yes, sir.
Q Was there any doubt in your mind, at that point in time, he didn't understand what he was being charged with?
A No, sir.
Q And he just asked to go back to his cell?
A Yes, sir.
Q All right. The second interview you didn't actually ask the questions, did you?
A No, sir.
Q Okay. But you were present for the answers?
A Yes, sir.
Q Okay. But you're not the one who actually asked the questions. You did hear the response however?
A Yes, sir.
Q Do you recall what Agent Newton asked him at that time?
A Agent Newton asked him would he tell us where the weapon was. Mr. Watson replied, I can't tell you.
Q And that's it?
A That's it.
Q And this was conducted how long after the first

interview?

A About an hour.

Q And how long did that interview take?

A About ten minutes.

Q At any time after he said, Just let me go back to my cell, you know, did you stop him from doing that or try to prevent him from doing that?

A No, sir.

Q Did you deny him any sustenance, food, drink, a Coke? Did you deny him an opportunity to go lay down in his bunk?

A No, sir.

Q So as soon as he said, Just let me go back to my bunk, that's just what he did?

A Yes, sir.

Q You let him go back. So when you went to get him the second time, was he asleep or not; do you know?

A I don't know if he was asleep or not. Jail personnel went to the back and brought him up to where we were at.

Q And how long did it take to get him up there?

A Five minutes at the most.

Q And then after he gave the answers to Agent Newton, he was returned to his cell?

A Yes, sir.

Q Was there any attempt to ask any other questions in your presence?

A No, sir.

Q Did you ask him anymore questions?

A No, sir.

MR. YOUNG: Please answer any questions the defense may have for you.

THE COURT: Cross.

CROSS-EXAMINATION

BY MR. ANDERSON:

Q Charles, what are the notes to which you were referring when you were testifying?

A It's a timeline.

Q When was that prepared?

A This was prepared the next -- on the 8th.

Q Who prepared that?

A Myself and Chief David Farmer.

Q Did you take any actual handwritten notes about your conversations with Michael?

A No, sir.

Q Okay. Now, why didn't you tape your conversations with Michael?

A At the time we didn't have the tape recorders in the jail, was not equipped with devices to record

interviews.

Q Well, did you not have any other way to record it, some independent way like your own recording device, cell phone, your radio?

A Well, you can't record with a radio. I have a cell phone. I don't think that the -- it would have had enough gigabytes in it to record.

Q Were you present when Michael was arrested?

A No, sir.

Q But there's no question that he was cooperative from what you've learned?

A As far as the arrest?

Q Yes.

A To my understanding, he was cooperative, yes, sir.

Q But there's no allegation that he made any statements during his arrest, he just cooperated?

A Yes, sir.

Q Okay. Did he ever give you any indication that he wanted to talk to you?

A No, sir.

Q Did he ever tell you he didn't want to talk to you?

A No, sir. I advised him of his rights, he --

Q Okay. When he wouldn't talk to you the first

time, what made you think he'd talk to you the second time?

A We went back the second time to see if he would tell us where the murder weapon was at because we was preparing a search warrant to execute at his residence.

Q Okay. And have you told us everything that you told Michael that night, maybe not verbatim, but in general?

A Yes, sir.

MR. ANDERSON: Okay. Thank you.

THE COURT: Redirect.

REDIRECT EXAMINATION

BY MR. YOUNG:

Q What time was he arrested? Do you know what time he was arrested?

A It was around midnight, 2359, by the Saluda County Dispatch CAD.

MR. YOUNG: No further questions.

THE COURT: Recross.

MR. ANDERSON: No thank you.

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

MR. YOUNG: Your Honor, since he's the primary investigating officer, I'm going to allow him to remain in the room and proceed with the next

witnesses that are sequestered.

THE COURT: Yes, sir.

ROBIN NEWTON,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. YOUNG:

Q Agent Newton, you were present during the rights advisement delivered by Detective Holloway to this defendant on the 6th of August 2007 that night -- well, it was early morning?

A That's correct.

Q And you acted as a witness in both those cases?

A Yes, sir, I did.

Q Okay. Would you be able to recognize the form that you signed at that time?

A Yes, sir.

Q Let me hand you what's State's Exhibit 1 and 2. Can you tell me if you recognize either one of those?

A I do.

Q How do you recognize them?

A These are the forms that we presented to Mr. Watson that he signed at the time that we spoke to him.

Q Did your signature appear anywhere on there?

A Yes, sir, I signed as a witness on both.

Q Okay. And you were present during the actual rights advisement itself and during the answers to questions, correct?

A That's correct.

Q All right. Now, since you did not perform the actual rights advisement, did you observe anything in which Detective Holloway or either yourself would have done at the time to prevent this gentleman from understanding what he was doing when he was signing that waiver form?

A No, sir.

Q And you observed him to sign it?

A Yes, sir.

Q Did you observe him to also initial it?

A Yes, sir.

Q All right. Was there any reluctance on his part to initial or to act as he went down the list to initial his rights?

A No, sir.

Q Was there any attitude or difficulty he was expressing about I don't understand what I'm doing or we should stop right now, ever hear anything like that because he just didn't understand what was going on?

A No, sir.

Q Okay. About how long did it take from your perspective on both these interviews, the dates -- the times are on there, but what -- how long did the interview actually take itself?

A Each interview was probably less than five to eight minutes.

Q Okay. And you didn't ask any questions at the first interview, did you?

A That's correct.

Q You just listened to the answers?

A That's correct.

Q And did you hear the answer he gave?

A I did.

Q All right. Do you recall what that answer was?

A He --

Q Do you recall what the question was? What was the question asked?

A The question was is that...

Q I'm talking about the interview that Commander Holloway was conducting the first one?

A Okay. He asked him what had happened. Mr. Watson's reply simply was, It was in self-defense.

Q Okay. Did he say anything more really?

A No. Oh, he asked him what he was going to be charged with and Sergeant Holloway replied he was going to be charged with murder.

Q But that's already appeared on the form, correct?

A Correct.

Q Did he ask anything be done for him at that time after he said --

A No, sir.

Q Where was he taken after that?

A He was asked to be taken back to his cell.

Q Now, in terms of the second interview, you actually asked a question in that case, did you not?

A I did.

Q And what was the question you asked?

A The question was I asked him if he would ask us where he had disposed of the weapon -- if he would tell us the location of the weapon.

Q Okay. And what was his response?

A He told us that he couldn't tell me that.

THE COURT: Say that again.

THE WITNESS: He told me he couldn't tell me that. He wasn't going to tell me that.

BY MR. YOUNG:

Q You don't recall the exact words he used?

A He said he couldn't tell me that.
Q So, in other words, if I was the person, I can't tell you that or I couldn't tell you that?
A My understanding was is that he wasn't going to divulge that information to me, that he knew, but he was not going to divulge --
Q Well, that's how you interpret it, but what did he say?
A He said he was not going -- he said, I can't tell you that.
Q Did you observe anything in either one of these interviews that would have been in essence a promise to get him better treatment, a better opportunity if he just simply cooperated?
A No, sir.
Q Did anyone threaten him?
A No, sir.
Q Did anyone try to essentially deny him a chance to use a restroom or get a drink or take a smoke break, anything he asked to do in order to get him to say what you wanted to hear?
A No, sir.
Q Did you ask him any other questions?
A No, sir.
Q And at any time did he ask, I want a lawyer, or

did he say, I want to invoke my right to remain silent, I don't want to talk anymore? Did he say anything to that effect?

A At the conclusion of the first interview, he asked to be returned to his cell so he could lay down. He did not invoke his right to counsel.

MR. YOUNG: Your witness, sir.

THE COURT: Cross.

CROSS-EXAMINATION

BY MR. ANDERSON:

Q Did you have a way of recording this conversation? Did you have any way of recording these conversations?

A I do, but it was not recorded, no.

Q Why not?

A At the time I was just there just to assist Sergeant Holloway. I was not the lead investigator at the time. SLED had a protocol at that time that required that if a crime scene agent is dispatched to a scene, that a field agent has to be on scene as well.

Q Did he ever indicate that he wanted to talk to you guys?

A When we went to the detention center to speak to him, we were asked that he be brought up. At

that time we asked him to sign the form. At no time did he acknowledge to us that he didn't want to speak to us.

Q Then you went and talked to him again after he already said he didn't want to talk to you?

THE WITNESS: I can't hear him.

THE COURT: He said --

BY MR. ANDERSON:

Q You went and spoke to him again after he already said he didn't want to talk to you, you went back a second time?

A Correct.

Q But he already said he didn't want to talk to you?

A That's correct, but he didn't ask for -- he didn't invoke his right to counsel.

Q Okay. Did you write down specifically exactly what was said?

A No, I don't believe I did.

MR. ANDERSON: Okay. Thank you. No further questions?

THE COURT: Redirect.

REDIRECT EXAMINATION

BY MR. YOUNG:

Q Agent Newton, did he say, I don't want to talk

to you, or did he just say, Take me back to my cell?

A He just said take me back -- he said, Just take me back to my cell.

Q So are you interpreting he said I just don't want to talk to you anymore, I want to go back to my cell?

A Correct.

Q Which did he say? What did he actually say? What were his words, not how you interpreted it, what were his words?

A He asked what he was being charged with. Sergeant Holloway advised him he was being charged with murder. At that point, he said he didn't want to talk anymore, he wanted to go back to his cell and lay down, I believe.

Q He said he did not want to talk anymore?

A Correct.

MR. YOUNG: No further questions.

THE COURT: Recross.

MR. ANDERSON: No thank you.

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

Any other witnesses on the Denno from the State?

MR. YOUNG: Yes, sir, I have one more witness.

CODY WESLEY COCKRELL,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. YOUNG:

Q Sir, give us your full and complete name, where you work and for how long.

A My name's Cody Wesley Cockrell. I work for Saluda Police Department. I've been working for them a little over three years.

Q Okay. Did you have the responsibility to transport Michael Watson to Greenwood County Jail at some time?

A I did.

Q Do you know when that was?

A August the 7th, 2007.

Q Okay. So this is August 7th and this would have been, what, a couple days after the incident?

A I believe so.

Q All right. And your sole job was just to take him up there?

A Right.

Q During the course of that trip, did you have occasion to look in the back seat and observe his behavior?

A I did.

Q Okay. What did you see when you looked in the back seat?

A He was moving around as if he were uncomfortable trying to maybe get his wrists loosened or handcuffs or shackles bothering him.

Q And so did that prompt you to do anything?

A I asked him what was on his mind. I thought maybe he was hot, wanted me to turn some air on or needed me to loosen up some shackles.

Q And what happened?

A Well, once I asked Mr. Watson what was on his mind, he then asked me, Where did I hit him?

Q Did you -- were you surprised by that answer?

A Yes, sir.

Q He said exactly what?

A Where did I hit him?

Q Okay. And what happened then as a result of that statement?

A I asked him what was he talking about because I didn't know anything about the case. I wasn't even working when the incident happened. I just knew I was transporting him. And he asked me -- he began to ask me where did he hit him, Mr. Chandler, when he shot.

Q Where did he hit him --

A Uh...

Q And then what else did he say?

A Well, I wasn't sure if I was supposed to say anything, so I just told him all I knew was upper body. He then began to say how -- he began -- he went into telling me what happened that evening of the incident. He said he went to drop his child off, I believe it was a little girl, I believe that's what he said, and then he went to cut a lap through the Terrace like most young people do to see who's out.

He said he got to the back of the Terrace Apartments and made the turnaround and was coming out when someone tried to wave for him to stop, I don't think he knew who it was, he said, but he stopped and at that time, four or five guys started coming towards his vehicle. And at that time, he told me he didn't know what was going on so he just threw up the gun and shot.

Q So -- I'm sorry. Is that your statement, you're finished?

A (Witness nodded head.)

Q Okay. Was there -- was this a conversation in which you're asking him questions and he's giving answers or he's just talking?

A He's just talking.

Q So how many questions did you ask him and what did you ask him?

A I think I asked him two questions. What's on his mind and what are you talking about were the two questions I asked him before he went into telling me what happened that evening.

Q Okay. So when what's on his mind, you said was the time, he said, Where did I hit him?

A Right.

Q And you gave a response upper body?

A Right.

Q And then when did you ask the next question?

A Well, I asked him what was on his mind. He asked, Where did I hit him? And then I asked, What are you talking about, because like I said, I wasn't trying to ask any direct questions. I didn't -- honestly didn't want to have anything to do with it because I was unsure of the incident.

Q Okay. Now, you didn't stop the car and give him Miranda rights or warnings of any kind, did you?

A No, sir.

Q The only questions you asked him and the response -- before he gave these responses was two questions?

A Right. What's on your mind and what are you talking about.

MR. YOUNG: Your witness.

THE COURT: Cross.

CROSS-EXAMINATION

BY MR. ANDERSON:

Q Officer Cockrell, your testimony is that you were able to get more out of this defendant than two highly trained, high ranking investigators?

A That's the way it seems.

Q You were driving a brand new vehicle, were you not?

A No, I wasn't. I was in an older Crown Vic.

Q Was that your -- are you a patrol officer?

A Yes, sir.

Q Is that your patrol vehicle?

A At that time it was.

Q And did it not have video taping equipment?

A I believe so.

Q Why didn't you video tape your conversation with the defendant?

A It's not our policy to video tape a transport.

Q Is it your policy to give people their Miranda warnings before you interview them?

A It is if I question them in reference to a

certain incident.

Q Okay. I mean, he'd just been arrested for murder, what do you think is on his mind?

A Like I said, I asked him what was on his mind because he looked uncomfortable and I ask everyone that because I don't know whether they're hot or cold and I try to accommodate them the best I can.

Q So it never entered your mind that he'd say anything that could be useful down the road?

A No, sir.

Q How hard would it have been once he started talking to turn the equipment on so we could hear exactly what was said?

A I would have had to turn on my video camera, then turn it around which would have required me to pull off to the side of the road and stop and that's not something I want to do during a transport not unless I have a serious problem.

Q Well, it would still pick up everything he said. You might not see him, but the inside mic would pick up everything that was said, correct?

A Possibly.

Q Well, how could it not?

A I've had interference on my microphone before.

Q But all you had to do was hit one button and

you could have done that mid-sentence and you could have gotten whatever he said on tape, correct?

A Right, but like I said, I wasn't questioning him in reference to the incident.

Q I understand, but you could have done it?

A Right.

Q And then how long after he started talking about the incident, did the conversation go on talking about the incident?

A Fifteen or so minutes.

Q So why didn't you hit the record button?

A It's not my policy.

Q So the only reason you didn't do it is because it's not your policy, that's the only reason you didn't do it?

A Right. He was just talking. I wasn't questioning him.

Q And you didn't think you were going to wind up in court?

A Honestly, I did not have any clue. I'd only been with our department for a few months.

Q Had you ever been involved in a case this serious before?

A No, sir.

Q Have you since?

A I've been in a couple cases, yes, sir.
Q Did the defendant seem remorseful?
A By saying remorseful, you mean upset?
Q Like he felt bad about what happened?
A Yeah.
Q Did you feel bad for him?
A He's an adult. He makes his own decisions.
Q So you weren't talking to him trying to make him feel better, you were just talking to him?
A I was trying -- I asked him one question to see if I can make the ride any better for him.
Q At any time during this 10 to 15 minute conversation, did you tell him that you're a law enforcement officer and that everything he's saying you're going to, to the best of your knowledge later, try to remember and use it against him in court?
A I figured that was a given. I'm in full uniform, driving a fully marked police car.
Q You figured it was a given, is that no?
A No.
Q Is that your policy?
A What? Is what my policy?
Q To not tell people that?
A I didn't place him under arrest, so I don't --

I was just doing as I was told.

Q Did anybody tell you to try to get him to talk?

A No, sir.

MR. ANDERSON: Could I have a moment, Judge?

THE COURT: Sure.

(Pause.)

BY MR. ANDERSON:

Q Did you ask Michael if he had any witnesses that could help him?

A I tell everybody, I say, if you've got witnesses, you need to -- I said, that's your case. Like I tell everybody, they have their day in court. I'm not the judge.

Q You understand this is now shifting from you just asking one question to having a full bore conversation with this guy who's charged with murder about his case. What are you doing?

A I didn't have any idea about his charges at the time.

Q You didn't know he was charged with murder?

A I sure didn't.

Q Well, then --

A I was called in on my day off to transport.

Q You just said that he asked you, Where did I hit him, and you told him, The upper part of the

body. So you didn't know that the young man was dead?

A I knew he was dead, but I didn't know what happened. I didn't know his charges.

Q Since this incident, have they told you not to do that?

A To do what?

Q What you did in this case.

A Ask him if he's all right, what's on his mind --

Q Talking about his case, tell him to get his witnesses rounded up.

A I just told him he needed to get his -- whatever he needed for court.

Q Well, exactly what did you say?

A If you've got witnesses, that's going to be a plus for you.

Q Okay. The statement that I got from the State is signed by you, but it's typed. Are you familiar with this statement?

A Yes, sir.

Q Is that your statement?

A Yes, sir.

Q When did you sign that?

A The day I typed it, which was right after I got

back from the transport.

Q Well, you didn't put in here anything about the witness discussion, correct?

A Correct.

Q Okay. Is there anything else that you left out?

A No, sir.

Q So the only thing that's not in here is the discussion about the witnesses, that he should get his witnesses lined up and you're not the judge?

A He asked me about witnesses and I told him that's him.

MR. ANDERSON: All right. Thank you. No further questions.

THE COURT: Redirect.

REDIRECT EXAMINATION

BY MR. YOUNG:

Q The time you asked him the first question, was it your intent to try to figure out what he was going to tell you about a case or was it your intent to try to figure out are you comfortable or not?

A My intent was to find out if he needed me to loosen his shackle, if it was cutting off circulation, if he wanted me to turn on any air, heat. I had no intent of having anything to do with

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this case.

MR. YOUNG: No further questions.

THE COURT: Recross.

MR. ANDERSON: No thank you.

THE COURT: Thank you, sir. You may step down. Any further witnesses from the State?

MR. YOUNG: No, sir.

THE COURT: Any witnesses from the defense?

MR. ANDERSON: No, sir, Your Honor.

THE COURT: Any argument?

MR. YOUNG: Yes, sir.

MR. ANDERSON: Do you want me to go first?

THE COURT: Sure.

MR. ANDERSON: Judge, this last young man obviously is a nice young man, but I mean they had a 15 minute conversation about the case in a car that has recording equipment in it, none of it was recorded, he wasn't read his rights and we would move that all of that be excluded.

As for the other two interviews, I would ask that the second one be excluded because he'd already said he didn't want to talk to them. With that being said, neither officer recorded it, neither officer took any notes about the conversation. I would say that both of them should be excluded just

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because they can't be sure exactly what was said, no notes were taken and it could have been recorded very easily. All three of these alleged statements could have been recorded very easily. My client doesn't have any control over that stuff. So that will be my motion, Judge, for all three of them to be excluded for those reasons. Thank you.

THE COURT: What's the State's position?

MR. YOUNG: Your Honor, I don't think there's any issue about the first statement. The first statement he was clearly given Miranda warnings without any question whatsoever. He just makes an allegation of self-defense without any support. He's just asked what -- he was asked, What do you mean about it?

At the conclusion of that, he says, Take me back to my cell, I want to get some sleep. Agent Newton says, I don't have anything more to say, take me back to my room, take me back to my cell, take me back to my bunk. I don't think that's an unequivocal indication of the right to remain silent and that is the current standard of law, Your Honor.

There are at least two or three different cases of recent date, primarily Berghuis versus Thompkins, which is a Supreme Court opinion issued this year,

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that follows a situation where a person just essentially first says nothing for a period of three hours during the interview. To cut to the chase on that, the officers involved -- there are two officers interviewing the person for three straight hours and he just sits there during the whole period of time and, finally, the officer just asks the question about invoking almost a moral type situation onto the scene and asks him, you know, what would you do -- if were you going to essentially ask, you know, I pray to God today to forgive me about this, what would you do and have you prayed to forgive you for shooting this person, and he just says yes. And I think the -- that that just stands clearly for that proposition.

The State of South Carolina has since issued several opinions, one is Aleksey and the other is Reed. Aleksey is instructive because the person says, That's all I've got to say, and that was the issue in that case as to whether or not rights were involved -- the implication of his right to remain silent was revoked by that particular statement, That's all I've got to say, that is not an unequivocal invocation of the right to remain silent.

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There's also a case on Reed. Reed is instructive because in its particular situation, Justice Finney wrote -- beg the Court's indulgence -- it was -- if I recall this case, Your Honor, and I may be completely off base, I do believe this is one in which Justice Finney did not find invocation of the right to remain silent.

And the person -- they'd gone through a rather extensive discussion with him about cooperating finding the murder weapon. There had been a 20 to 30 minute discussion with him about a murder -- murders. He never, at that time, invoked his right to remain silent and he just essentially said, you know, when -- who would be my attorney. The Court did not conclude that that type of situation would result in an invocation of the right to counsel or invocation of the right to remain silent.

I don't believe that case is as direct on point as I thought it was when I first read it. I'll hand it up. I'm not sure it's instructive.

Your Honor, I just don't believe this particular situation was an invocation of a right to remain silent after or at the conclusion of the first statement in which he says, Just take me back to my bunk, I don't have anything more to say.

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In terms of the third statement, the officer has not made any effort to actually inquire or ask a question likely to elicit an incriminating response by asking this first question. His first question essentially is to try to find out if he's comfortable in the back seat.

Even objectively, it doesn't -- it is not likely to begin a response to a question that would result in him incriminating himself. The response is almost a surprise of, Where did I hit him, is almost a surprise in relation to the question. And then when he essentially asks a second question, you know, what do you mean, what are you talking about, to clarify, you know, what are you referring to, at that point, the defendant essentially just begins to explain everything and gives his explanation of the event in his terms.

The officer may, in fact, encourage him to get his witnesses together or bring his efforts to bear and defend his own case, but that in and of itself is not anything that's likely to invoke an incriminating response either. He'd already said everything there was to say about what had happened at that point that was asked anyway.

Your Honor, the State believes all of these

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statements come into evidence. These were all freely and voluntarily given, but was intelligently waived his rights to counsel. I don't think there's a basis to suppress any of them.

THE COURT: Mr. Anderson, do you have anything else?

MR. ANDERSON: I mean, Judge, my client has already said he's not comfortable today with these shackles, but it didn't make any difference. I mean, the officer's not -- I think that's just silly. I mean, I don't want to question the officer's integrity, but, man, all he had to do was just hit record. It's just frustrating, Judge.

(Pause.)

THE COURT: All right. We're going to be at ease for a few minutes. Let me read this stuff some more.

(Brief recess.)

THE COURT: All right. I have reviewed the cases that were handed up, Berghuis, B-e-r-g-h-u-i-s, versus Thompkins, which is an opinion from the United States Supreme Court which was decided June the 1st, 2010, it's 130 S. Ct. 2250; State versus Holland, a decision of the South Carolina Court of Appeals, 2009, 385 S.C. 159 --

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that may have been handed up previously, I don't know if that's on the issue of Denno or not -- State versus Reed, 332 S.C. 35, it's an opinion of the Supreme Court of South Carolina from 1998; State versus Aleksey, A-l-e-k-s-e-y, a 2000 case of the Supreme Court of South Carolina, 343 S.C. 20.

All right. Based on what's been presented, the Court finds that with regard to the initial statements about self-defense that were made to Commander Holloway, the Court finds that on August the 6th, 2007 at 2:33 a.m., the defendant was under arrest and in custody at the detention facility. He was properly advised under his rights that he had the right to remain silent -- or under Miranda, that he had the right to remain silent, that anything that he did say could be used against him in court, that he had the right to talk to a lawyer, have a lawyer with him to advise him and help him before and during questioning.

He was advised that if he wanted to have a lawyer with him before and during questioning but could not afford to pay for a lawyer, that one would be provided for him at no cost. He was advised that if he should decide to answer questions now without a lawyer, he still had the right to stop answering

questions whenever he wanted to. And the defendant was advised that he had the right to stop answering questions until after he had talked to a lawyer.

He indicated an understanding of his rights. He stated that he -- a statement that he did not wish -- did not wish to invoke his right to silence and that he did wish to answer questions and that he did not want to have an attorney with him. He acknowledged all of those rights in writing. They were provided to him.

And he made the two statements that were -- the State has established by the requisite degree of proof, meaning at least a preponderance of the evidence and beyond that, clear and convincing evidence, that the statements about acting in self-defense that those were made after Miranda warnings were properly given. They were not the product of any promises, threats, any type of undue influence.

The defendant was not under the influence of any substance or suffering from any condition that would adversely affect his thinking, that his decision to enter those statements was made freely, voluntarily, intelligently, knowingly and with a full under -- or an appropriate understanding of his

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rights under Miranda versus Arizona, as well as the United States Constitution and the Constitution of South Carolina concerning his right to remain silent, his right to an attorney and other rights.

At 2:33 a.m., that Miranda waiver was obtained. Later, at 3:39 a.m., there was a waiver obtained, which is identical except that it does not check whether he is able to read or write. And in this one, the witnesses' names are reversed so that the SLED agent's name is first, the police commander's name is second, but they're just listed as witnesses. And the time, of course, is different, it's 3:39 a.m.

Those Miranda warnings were also properly given and the same analysis would apply to what I just went through on the 2:33 a.m. ones. I don't know that they were necessary.

The defendant would have to have made a clear statement of his desire to end the interrogation. In the Aleksey case, our Supreme Court stated that when a suspect invokes his right to remain silent, law enforcement officers must scrupulously honor it. However, before law enforcement officers are required to discontinue questioning, the suspect must clearly articulate his desire to end the

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interrogation. Moreover, law enforcement officers may certainly speak with a suspect who reinitiates communication subject to an invocation of rights.

And then it cites Edwards versus Arizona for the proposition that once an accused requests counsel, police interrogation must cease unless the accused himself initiates further communication, exchanges or conversations with the police.

Now, with regard to the statements that were made to SLED Agent Newton, they were free and voluntary. They were made -- in the Court's view, the State has met its burden of proof in establishing they were voluntary.

But the concern and why I'm taking so long in reading through all of this is because the testimony of Agent Newton was somewhat difficult to follow. She said at one point that the defendant said that he did not want to talk to them and that they took him back to his cell. I think at another point she said that he indicated he did not want to talk to anyone. They brought him back out of the cell. They gave him his Miranda rights again and his statement was that he could not tell her where the weapon was.

Now, there was inconsistencies there because

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she was testifying that he would not divulge where the weapon was. So this is a difficult issue to deal with because in the first instance, you've got the question of whether he had given a clear indication that he wanted to stop talking to law enforcement officers and then they reinitiated the discussions with him. They did give him his Miranda rights again.

In my view, however, the evidence supports the proposition that he never unequivocally stated or clearly stated that he wanted to cease talking to them because it was this, I want to just be taken back to my cell. However, his statement that he gave to Agent Newton appears to the Court to be a comment upon his exercise of the right to remain silent, that he's not going to tell them where the weapon is. Therefore, that statement is inadmissible.

That gets me over to Officer Cockrell. Now, Officer Cockrell testified that he did ask a question. And as I read to you all earlier from that Aleksey case, our Supreme Court states that law enforcement officers may speak with a suspect who reinitiates communication subsequent to an invocation of rights.

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Even if he had, even if the defendant had clearly initiated or invoked his right to remain silent, he's being transported on August the 7th, 2007 to Greenwood County, to another jail. The officer testified credibly that the defendant was moving around as if he were uncomfortable. He asked the defendant what was on his mind.

Now, interrogation can take the form of specific questions related to a case. They can also come in the form of the substantial equivalent of questioning, but the statement, What's on your mind -- or the question, What's on your mind, seems to the Court to be an appropriate question to ask and not impermissible.

The defendant had twice been advised of his rights under Miranda. He had clearly understood them because he told them he didn't want to talk to anyone or go back to his cell. Even though there's some level of uncertainty there, the burden is on the State and the State has to prove by the preponderance of the evidence that the rights were given, they were understood and they were not unequivocally invoked.

Then a discussion took place which the Court interprets, finds that the State has established

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that this was initiated by the defendant. The defendant asked, Where did I hit him? The officer stated that he was not involved in the case and he asked the defendant what he was talking about. That does not appear to be the functional equivalent of questioning that would be barred.

The defendant, again, knew his Miranda rights. He wanted to know where he had hit Chandler. Then a statement was made by the officer that it was in his upper body, the victim's upper body. From then on, there is no indication that the officer initiated any of the conversation or continued the conversation or questioned the defendant.

These appear to be spontaneous statements being made by the defendant to the law enforcement officer not in response to police interrogation or the substantial equivalent of police interrogation. The defendant clearly was in custody. He clearly was in a marked patrol car. He clearly was in that car with a uniformed police officer after having twice been read his Miranda rights.

When he said he cut a lap through the Terrace, that someone tried to get him to stop, four or five people approached the car, he threw up the gun and shot, the officer basically asked the two questions,

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What's on your mind or what are you talking about earlier, none of those things would have been designed to elicit the responses or be the substantial equivalent of police interrogation that would be barred.

Now, the statement about the witnesses, apparently the defendant asked the officer about producing witnesses and the officer made a statement to him that does not appear to be a question, does not appear to be a substantial equivalent of incustodial interrogation. The defendant asked about witnesses and he was told by the officer that if he had witnesses, that would be a plus for him.

The arguments about the conversation not being recorded even though it could be, the arguments about things could have been done better or differently, the argument about that they could have stopped and given the Miranda warnings again, those are all good arguments, but they don't change the fundamental situation that the defendant was brought in, he was properly advised of his Miranda warnings, he understood them. He gave two statements to the police about the actions were in self-defense.

He then said he wanted to go back to his bunk and didn't want to talk with them anymore. He was

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brought back out because the police did not understand that to be any sort of unequivocal assertion of his right to remain silent. He once again was mirandized. He once again signed a form saying that he would talk with the police, but what he said to the police was that he was not going to tell them where the murder weapon was or the weapon was. And I am excluding that because it is, in my view, too close to a comment on the exercise of the right to silence. I know that's arguable, but that's my ruling.

Then on the seventh one, these other conversations took -- other discussions took place, the defendant had properly been advised of his Miranda warnings, he understood them. He brought up -- the only thing that was said that might have prompted the defendant to say anything was, What's on your mind?

The argument can be made by the defense to the jury that that was something other than what I have found the State has proven by the greater weight of the evidence, but, in my view, everything that was stated by Officer Cockrell was logical. He was asking the defendant about his comfort level, basically about moving around and if he was having a

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problem.

You know, I would have chosen different words probably, but I can't find any fault in the words that he chose, does not appear to be incustodial interrogation or the functional equivalent of it. The defendant knew he had a right not to talk, he knew he had a right to ask for a lawyer, he knew he had a right to stop talking at any time and he proceeded to talk.

The statement, the intervening statement about the witnesses does not change any of the Court's rulings. The fact that it was not video taped does not change the Court's rulings.

The U.S. Supreme Court case that was cited to me, I've read it. It seems to acknowledge some relaxation of some of the language of Miranda over the course of precedent that followed Miranda. It was an uncoerced statement by this defendant and a waiver of his right to remain silent what took place in that patrol car going to Greenwood.

All right. Court's in recess until 10:30 in the morning. Thank you.

(The proceedings were concluded for July 26, 2010.)

(The following proceedings were held on July

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27, 2010.)

(State's Exhibit Numbers 23 through 26, photographs, marked for identification.)

THE COURT: State ready for the jury?

MR. YOUNG: Yes, Your Honor.

THE COURT: Defense?

MR. ANDERSON: Yes, sir.

THE COURT: Bring in the jury.

(The jury enters the courtroom at 10:48 a.m.)

THE COURT: Ladies and gentlemen, the first thing I have to do this morning is to get you placed under the oath of a trial jury. So I need you to stand, raise your right hand, the Clerk will administer your oath.

(The jury was duly sworn by the Clerk of Court at 10:49 a.m.)

THE COURT: All right. I'm going to tell you how the case will begin. I won't go through the whole process, but I'll tell you how the case will get started and then I'm going to give you some instructions you'll have to follow throughout the trial.

The way the case will begin is that the attorneys will first make their opening statements

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to you. In opening statements, the attorneys are not permitted to engage in what we call argument. An opening statement can be an introduction, an outline, an overview. It cannot extend into what we call argument.

Once the opening statements are finished, then I will call upon the Solicitor to present the State's case. The State brought these charges and the State has the entire burden of proof. The State has to prove every essential element of each offense charged beyond a reasonable doubt, so I'll recognize the State to present evidence in an attempt to meet that burden.

Now, this concept of beyond a reasonable doubt is one that has some different definitions, but the definition that I typically use and I'll explain to you at the end of the trial is based on being firmly convinced. You have to be firmly convinced of the defendant's guilt. And the State has the entire burden of proving to you beyond a reasonable doubt that the defendant is guilty. As I've explained to you, the defendant is presumed to be innocent.

Once the State has presented its case in chief, the Solicitor will advise me that the State rests. At that point whether you've been in the courtroom

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for one minute or one hour, I have to send you out of the courtroom and discuss some legal matters with the attorneys. When the attorney -- when that is done and I bring you back in, I'll tell you where we go from there, but that's how we're going to get started, you'll hear the opening statements, then you'll hear the State's case.

Now, it's very important that you understand some things. First, that oath that you took was one in which you've promised us that you're going to decide these cases based on the evidence and the law, so you need to know where those things come from.

As I mentioned to you yesterday, I -- it's my job to tell you the law. I'm supposed to decide what law applies to the case and tell it to you at the end of the trial, that's where the law comes from.

The evidence comes from the sworn testimony of witnesses. Evidence can also come in the form of exhibits. An exhibit can be anything tangible that's marked in the record. It can be a photograph, a map, a chart, anything tangible.

If something is an exhibit, you will have it with you in the jury room when you decide the cases.

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And the reason I'm telling you that is because it's not at all unusual for the attorneys to have something like a photograph and show it to you from a distance or actually hand that photograph into the jury box and ask you to circulate it around so that you're trying to look at the photograph at the same time you're trying to pay attention to what's going on up here, so just understand that all of the exhibits will be back with you in the jury room for you to look at as much as you need to when you decide the cases.

What the lawyers say is not evidence. I want you to pay close attention to what they say, but understand that what comes out of their mouths is not evidence. The evidence comes from the witnesses and the exhibits. There's one exception to that rule about what the lawyers saying not being evidence, if we come upon it, I'll tell you about it, otherwise I won't burden you with it.

It's also very important that you understand that there are two judges in the courtroom. I'm the judge of the law. I've explained to you now that at the end of the trial, I'm going to tell you the law. It's also my job to preside over the trial, maintain order and to rule on legal issues as they arise.

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You're the other judge. You must understand that you're the only judge of the facts. Only you are going to get to decide such things as whether evidence is believable or not. Only you get to evaluate what weight any evidence should have, if any weight. That's entirely your prerogative and I will not invade your province.

To explain that in a little bit more detail about the difference in our roles, you may notice from time to time throughout this trial that one side or the other feels like the other side is trying to put something before you that's not proper for the jury to consider. And if that's the case, these attorneys have taken on oath, just like you and I have taken an oath, and the attorney has an obligation to stand up and raise an objection and ask for me to rule on it.

Now, if I overrule the objection, then I let it come before you and you decide what to do with it. If I sustain the objection, then it does not come before you and anything you may have heard about what was sustained you disregard because it's not proper for the jury to evaluate or consider it.

But I want you to understand that when I make those rulings, it will not be crossing my mind to

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evaluate whether that thing is believable or not because that's not my job. It won't cross my mind to decide whether that thing should have any weight and if so, how much, that's not my job, that's your job.

So if I overrule an objection and I let something come before you, please don't think I'm passing upon the facts of the case. All I have done is looked with tunnel vision to see does that thing fit within the rules for the jury to consider. And if I believe it does, I let it come before you and then you decide whether it's believable or not and you decide what weight, if any, to attach to it.

So that kind of explains our different roles. I'm looking at legal issues. You're the only judges of the facts.

Now, while we have placed you under an oath and you've promised us that you're going to decide these cases based on the evidence and the law and you must do that, as I mentioned to you yesterday, we want you to use your common sense, use your sense of logic and reason and your good judgment. It makes good common sense that you keep an open mind about these cases and you don't make up your mind until you've heard all the evidence and you know what law

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applies.

So we insist upon a rule that's very hard to follow, but you have to follow it and I've mentioned it to you before. That rule is you are not to discuss these cases in any way at all until I tell you that you may begin your deliberations and only then discuss it among yourselves. You cannot discuss the cases with anybody else until the week is completely over and you've been seated on any jury you might possibly be seated on. If anybody attempts to contact you and discuss the cases with you, report that to me so I can deal with it.

Now, folks, that's a hard rule to follow because you 14 people may feel that you have little in common except you all live in Saluda County and you all got picked on this trial, so the logical thing you're going to want to talk about during any break is what just happened in the courtroom or how somebody looked or what somebody said. You have to resist all of those temptations and not discuss the cases until I tell you to begin your deliberations and then we wait on you.

I don't expect media coverage of the trial, but if there is any, get away from it, report to me at the first opportunity what you saw, heard or read

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through the media.

I've already read to you the Supreme Court's explanation about independent investigation and I've given you my explanation of that. Do not do any independent investigation on this case.

And finally, folks, as I mentioned to you yesterday briefly, I want to thank you. I promise you that I will never forget that you have other places to be and other things to do. I know that. I know it's an imposition upon you to be here. I also know how important this is and I appreciate your being here.

I cannot promise you that you won't have to wait on us. You've already had to wait on us this morning. The only thing that I can promise you is this, it drives me crazy if I know a jury is sitting back there waiting on us, so if you're waiting, we're working. There's not going to be a situation where we're sitting around out here goofing around, telling jokes, drinking coffee while you're waiting on us, that's not going to happen. If you're waiting, we're working.

If I see that the breaks are going to run much longer than I anticipated, I'll try to send word to you periodically. If possible, I'll let you leave

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the jury room and at least get out of that room for a while, but all I can tell you is I'll do what I can.

Now, to honor my commitment to you not to waste your time, I'll be quiet now. I invite your close attention and ask that you please give both attorneys your undivided attention.

All right, Solicitor, you're recognized for your opening statement.

MR. YOUNG: Thank you, Your Honor. May it please the Court.

THE COURT: Yes, sir.

OPENING STATEMENT

MR. YOUNG: On August 5, 2007 about 10:30 at night at the Saluda Terrace Apartments, that man shot and killed Andrew Chandler. He shot him in the face with a shotgun.

I could stop my opening statement right there. There's more to every case and you're going to hear more. You're going to hear evidence today that there were five young men at the Terrace Apartments, drove there in two cars. Andrew was among them. His brother was among them. And you're going to hear from four of them today about where they were, what they were doing. And you're probably going to

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hear words like went down there to chill, hang out. They were smoking marijuana.

One of them left a light on in his car. They were walking back up towards the car to turn the light off. There's a situation where they hear music coming down, this is a hilly area, coming down the hill toward them. They look up, they see the car. They recognize the car as being one that the defendant drives, at least one of them actually recognized the man in the car, turns around at a loop there where the playground is or somehow turns around, drives back and in a drive-by fashion, points a shotgun out a window and kills him.

It doesn't end there. The case goes on. The case goes on because law enforcement responds very quickly. They cordon off the crime scene. They find evidence on the ground, shotgun wadding. They find shoes, a shoe. They find a shirt. One of those young men or maybe two of them actually left the shirt there, the shoes.

The brother and one of the other men that were with him, I think the brother is Warren Chandler, the young man that was with him is Corddaryl Ouzts, they actually drove off in a car to go look for him, look for the defendant. I think Corddaryl actually

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comes back to the scene later.

The bottom line is while all of this is going on, law enforcement is responding very quickly. They cordon off the scene. They found the wadding. They find the shoes. And, of course, they find Andrew. He's laying on the ground dead. The coroner comes, certificate of death. Autopsy is performed. They find evidence of shot taken from his head. Shots analyzed by SLED comes out to be a certain size shot. They find a wadding, turns out to be what they believe to be consistent with a 20-gauge shotgun.

They go to the house. He turns himself in. They go to the house where he lives, Mr. Watson lives, and they find some shotgun shells out on the ground. They're 20-gauge. They're expended casings. I think they find a box inside the house that's empty that had shotgun shells in it. And they find, you know, basically that there's a car there and they take that car back and they analyze the car. And the car is analyzed and they find gunshot residue on the outside of the passenger side of the car.

The young man's interviewed. He makes a couple statements. He actually is going to say

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self-defense in one of those statements without really explaining it, claims it.

You're going to have the chance to hear from the eyewitnesses who watched this happen, who saw it happen. And, of course, five people in a room might see something differently same thing happens in front of all of them, watch that, pay attention to it.

Ladies and gentlemen, you're here today to be the judges of the evidence just as the Judge told you. And it's an extremely important burden on the State to tell you all of the facts within our knowledge we can present to you that are relevant and material. We're going to present that to you and give you the determination to make as to what's the truth. We don't have dominion over the answer in this case, the Judge doesn't, the lawyers don't, you do in terms of the truth.

And actually, at the very conclusion of all the evidence when the case goes to you and you go into that room and deliberate on what happened, you will be asked to return something called a verdict. It's an old term from Latin. It simply means veredicto, to speak the truth. And that is what we are here today to do to find the truth and determine the

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truth as to what happened.

It is the State's entire burden to prove him guilty beyond a reasonable doubt. We accept that burden and we welcome it. You will get to hear the evidence. You will get to make the determination. And at the conclusion of all the evidence, you'll get to deliberate, not until we're finished.

My words up here, just as the Judge said, are just, they're vacuous in many ways. I appreciate your attention to them. I'm simply trying to give you an outline of what's going to happen, that's what I anticipate.

It may take until tomorrow until we hear from the SLED people, it may take a while to get through all of the evidence, but at the conclusion of it, the State, in our opinion, even now will have met completely that burden of proof and not just remove reasonable doubt, but remove any doubt that Andrew Chandler died at the hand of that man over there (indicating) by means of a shotgun blast to his head that killed him premeditated and with malice aforethought. Thank you.

THE COURT: Thank you, Mr. Young.

Mr. Anderson, you're recognized for your opening statement.

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MR. ANDERSON: Thank you. May it please the Court.

THE COURT: Yes, sir.

MR. ANDERSON: Mr. Young.

All right. This really is a tragedy that brings us here. And I've got ADD, my brain scrambles and a lot of times I joke around to handle stress because I don't do stress well. So if I make a joke, it's not because I think this is funny, it's really just me trying to handle the stress.

But this is a horrible case. And we're in this beautiful courtroom that they have fixed up extremely nice. This is the nicest courtroom that I get to go in. And everybody involved in the case is nice. I don't always agree with Mr. Young, but he's got a good heart, he means well. Everybody's nice.

And I'm going to tell you this, these are my client's family members over here. And the witnesses are sequestered so the people who are going to testify, that means they can't stay in the courtroom so all of our people aren't here. We don't know if we're going to put up a defense, but in case we're going to call somebody as a witness, they can't be in here. And it's the same with Andrew's family and all the police witnesses so

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that's why you don't see -- if all of the witnesses were in the courtroom, the courtroom would be a lot more full.

But this is my client's family and they're nice people and they love their son. He's a nice person. And this is Andrew's family. It's been very awkward for me, but I'm sure they're nice people and I know for a fact that they love their son. Their other son's involved in this case, he's going to be a witness. And it's just, it's horrible to be all of these nice people stuck here in this nice place doing this horrible thing. This is horrible.

We've got a young man who's dead. We've got another young man who's spent three years in jail waiting on his day in court. We've got two families trying to deal with this. It's horrible. It really is horrible. And you know what, nobody's going to win this case. There's no winner. Everybody's a loser, but here we are.

Now, what the State wants is the State's asking for a conviction on murder and they're going to call all of these witnesses. And the Judge has already told you guys that the defendant is presumed innocent and I think it's very hard to grasp what a presumption of innocence is. I do this and it's

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hard to express what a presumption of innocence is. And what we've got in this case is we've got that presumption and then we've got a lot of assumptions. And you're going to hear a lot of testimony from the State about these assumptions. The assumptions are that he's guilty of murder.

Well, you're going to hear evidence from the State that he immediately said it was self-defense from the time they got him, that he cooperated with law enforcement, he didn't fight them when they came to get him. He went to his house. They got him at his house. He cooperated.

Charles Holloway, who is now Commander Holloway, interviewed him and he said it was self-defense in the jail right after it happened, but the State assumed -- and Charles Holloway is a nice guy, but the State assumed that that's just -- I guess they assumed that's B.S., so they assume it's murder.

And what's interesting is in this whole case in all of their investigations, they're going on the assumption that it's murder. They're not even looking into the self-defense stuff, which is frustrating. And I'll say this, Michael Watson is a young man, he's not in law enforcement and he's not

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trained in legal stuff and what he says is self-defense, at the end of this trial, the Judge is going to charge you on the law, but he doesn't elaborate on it.

But you're going to hear testimony that I think will explain how this horrible thing happened. And we've got kids and guns and just dumb kids and I don't mean dumb in a bad way, but it is a bad way. And these kids don't understand how serious the things that they do are and one thing leads to another, leads to another, leads to another and things get carried away and it's just horrible.

But you've got to look at the State's assumptions because he's presumed innocent. And the State has all of these resources. And there is not -- I don't know how many witnesses they talked to, but they talked to numerous witnesses and they've got all this technology and every word that they got in their investigation is important. How many of these witnesses did they interview on tape? Zero. When they interviewed Michael, did they tape it? Nope.

And here we are three years later and they're going by their memories as to what they say people said. Every word is critical and there is no way in

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the world you can remember every word three years later. And if we had it on tape, all we've got to do is play it. Michael could have said one word that might have made a huge difference in how they perceived things, but they didn't take it down. They're going on their memory.

And they don't even take notes on a lot of this stuff. And, again, it's not because they're bad, it's because they made the assumption as to what this was and they went to that assumption instead of thinking about this presumption of innocence.

And on top of that, as law enforcement officers, when the defendant says immediately in the most serious case that there is that it's self-defense, wouldn't you make some effort to look into that to give the guy a fair shake? And I guess everybody's just caught up in the tragedy of it. I mean, this young man is dead and it's horrible.

And you're going to see a picture that's disturbing. I mean, it's disturbing. It's disturbing to my client's mom. I had to show it to her. It's not nice, but it's reality. And this young man is dead and it is horrible and there's no winner. It's all losers.

But when the State's going through their case,

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just think, wow, it would be nice to have that on tape. It would be nice to have that on tape. And they're going to call these witnesses who are eyewitnesses to what happened, but they're friends of the boy who got killed, one of them is the brother of the boy who got killed. And I don't think the State ever thought about the credibility of their own witnesses because I don't believe they got the whole truth out and it's just unfortunate.

But the best way I can, and I'm not trying to be funny, but the best way I can express a presumption of innocence is every time I have an argument with my wife, she's right, that's the presumption of innocence. The presumption of innocence is, in my case, my wife is right. I could actually be right, but she's presumed right and she's going to win the argument and I guess that's the best common sense way I can express it.

I mean, he's presumed innocent. He's sitting there innocent right now. And the only way he can be convicted of murder is if you strip away that presumption of innocence, but you've got to be cognizant of it that he is innocent, he's presumed innocent and that's only if they can prove him guilty of murder beyond a reasonable doubt.

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And, you know, by the end of this case, I don't know what the Judge is going to charge you. I wish I knew right now what he was going to charge you. And a charge is basically at the end of everything, the Judge is going to tell you your options. He's going to tell you the law and your options on what you can do in your verdict. And it could be any number of things and we won't know that until the very end of the case, but one thing he'll tell you no matter what your options are is that Michael Watson's presumed innocent.

And, you know, I might be a little mean with some of these witnesses, but it's not -- I'm not trying to attack them personally, it's just, man, this is so serious, I can't believe you didn't put more effort into it. I mean, how hard is it to hit record? Every police car has a camera. Every camera has a recording. Every officer has a microphone on their lapel. And we don't have any, so that's just frustrating.

A lot of these witnesses I'm not going to ask them any questions because a lot of it is just uncontroverted. And, again, it is a tragedy. I wish we weren't here or if we were, we were doing something fun. This isn't fun. But just please

remember what Judge Keesley told you that Michael is presumed innocent. He's presumed innocent, that means he sits there innocent right now. Thank you.

THE COURT: Thank you, Mr. Anderson.

Call your first witness, Solicitor.

MR. YOUNG: Corddaryl Ouzts.

CORDDARYL OUZTS,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. YOUNG:

Q Mr. Ouzts, could you just go ahead and spell your full and complete name so the court reporter will have it correctly on the record?

A C-o-r-d-d-a-r-y-l.

Q And your last name.

A O-u-z-t-s.

Q Mr. Ouzts, I'm going to direct your attention to the night of August 5th, 2007 about 10:30 in the evening and ask you where you were?

A Saluda Terrace Apartments.

Q Where is that located?

A Off of Bouknight Ferry Road.

Q Okay. And is that in Saluda County?

A Yes.

Q Now, Mr. Ouzts, who was with you, if anyone?

A Octavious Thomas, Raymond Kirkland, Andrew Chandler, Warren Chandler, Jeremy Butler and that's all.

Q All right. And if I use the timeframe of 10:30, about how long do you suppose you'd been there at that time?

A Probably 30 minutes.

Q What were y'all doing?

A Smoking.

Q Smoking what?

A Marijuana.

Q Can you just tell the Court what happened around 10:30 that evening?

A Well, we was out there smoking and everything and chilling. And, you know, we hear some music and we see Rand riding down the road and turn around and fires a gun out the window, that's about it.

Q When he fired the gun out of the window, what happened?

A My friend got shot.

Q What friend?

A Andrew.

Q And what did Andrew do, anything?

A He just fell.

Q Did he say anything else or do anything else?

A (Witness shook head.)
Q All right. Let me ask you a question about this particular location. If I showed you a diagram, would that help you explain where you were in relation to certain things on the ground?
A Yes.
(State's Exhibit Number 27, diagram, marked for identification.)
Q Now, prior to coming in the courtroom, I showed you this exhibit, correct?
A That's right.
Q Okay. And this is marked as Exhibit Number 27 and I want to ask you to take a look at this. Now, take a look at that diagram there for a moment. Can you see it accurately? Can you see it entirely?
A I see it.
Q Now, does this diagram fairly and accurately describe the location of items on the ground at the time of the shooting there at Saluda Terrace Apartments?
A Yes.
Q Okay. Now, there's some small circles here and what do you -- do you recognize those small circles?
A Light pole, I guess.
Q And what is this square?

A The dumpster.
Q Okay. And there are two other rectangles, what are they?
A That's me and my friend's car.
Q Which car would be yours?
A The first one closer to the curb.
Q This one?
A Yes.
Q And whose car is this one?
A Raymond.

MR. YOUNG: Your Honor, I'm going to offer this as State's Exhibit Number 27.

THE COURT: Any objection?

MR. ANDERSON: No, sir.

THE COURT: Mark it in evidence.

(State's Exhibit Number 27, diagram, admitted into evidence.)

BY MR. YOUNG:

Q Now, if you don't mind, how about step down here and show the Court what you were referring to when you said that's my car and the car beside it.
A (Witness leaves the witness stand.)
Q Let me give you something to point with.
A This is my car. That's my friend's car. That's the dumpster. These are the light poles.

THE COURT: He's blocking some of the jurors.

BY MR. YOUNG:

Q Okay. How about step a little bit to the back. I'll tell you what, let's put -- you indicated one is your car, this one?

A Yes.

Q Two is whose car?

A Raymond.

Q Raymond who?

A Kirkland.

Q And what's this?

A The dumpster.

Q I'll put three on that. And these other little circles are light poles?

A Yes, sir.

Q Now, where was Andrew when he got shot?

A Right by the curb (indicating).

Q Right by the curb. I'm going to put an X right there. And where were you when that shooting occurred?

A Right in front of my car.

Q Right in front of your car?

A (Witness nodded head.)

Q So you were over here?

A Yes.

Q And you described someone driving through in a car, did you not?

A (Witness nodded head.)

Q Can you just use this pen, don't write on it, but just show the general route as far as you recall of that car coming in?

A (Witness complies.)

Q Okay. And you made kind of a loop circle that went to the right over toward this far right pole and then went back out. Now, where was the car when the shooting occurred?

A (Indicating.)

Q Somewhere in the middle there, okay. And this is an area where you guys had been for a while, right?

A Yes, sir.

Q And you said -- what brought you back up -- were you down somewhere else in the evening anywhere?

A We was at the field.

Q How about when you first got here, did you hang out right around your car or did you go back?

A We was like down in the woods.

Q Down in the woods, okay. And why did you come out of the woods?

A He left his light on in his car.
Q Who did?
A Raymond.
Q So y'all just kind of walked up there to check on his light. About what time did you first notice the car that you say was driven by Mr. Watson?
A I really don't know, but I (inaudible)...
Q Okay. That's --
COURT REPORTER: I couldn't hear the last part.
THE COURT: Keep your voice up, please.
THE WITNESS: I don't really know what time it was, but --
BY MR. YOUNG:
Q Okay. But how long had you been up by your car when you saw him come through?
A Not long.
Q So you're still up by your car when you saw him come through?
A Yes.
Q Okay. And when Andrew was over here, were there any other people with Andrew?
A His brother.
Q You're sure his brother was there with him, okay. So you had an angle then at the rear of your car to look at this other car that came through that

you described driven by Mr. Watson?
A Yes, sir.
Q Would you put a -- let's just put a four by where you were standing or where -- leaning or standing or whatever you were doing.
A (Witness complies.)
Q Right about there, okay. Now, as this car came through, have you ever seen that car before?
A I seen it afterwards at my dad's shop.
Q But you've seen that same car later?
A (Witness nodded head.)
Q Okay. Did you -- did you recognize that car being driven by him before by Mr. Watson?
A Yes, sir.
Q You've seen him driving that same car before?
A Yes, sir.
Q Do you think you'll be able to recognize a picture of that car again if you saw it?
A (Witness nodded head.)
Q Let me show you what's been marked as State's Exhibits 3, 4 and 5. Take a look -- have a seat back in your chair.
A (Witness resumes the witness stand.)
Q Take a look at State's Exhibit Number 3 and tell me if you can recognize that.

A That's the car.

Q How about this one?

A Same vehicle.

Q And that one?

THE COURT: I'm sorry. I can't understand you.

THE WITNESS: They're the same vehicle.

THE COURT: Try to speak into that microphone.

BY MR. YOUNG:

Q Do these pictures fairly and accurately represent the car that you saw the shot come from that night?

A Yes, sir.

Q Now, when the car came by, which side of the car did you see the shotgun from?

A The passenger side.

Q Okay. And did you see anything inside of the car happen before it passed by or during the event, during the time of the shooting, did you see anything happen?

A No, sir.

Q Well, did you see him -- for example, did you see the driver turn the car --

MR. ANDERSON: Objection. He's already asked the question.

MR. YOUNG: I'll rephrase.

THE COURT: Sustained -- well, it was going to be leading I think. Go ahead.

BY MR. YOUNG:

Q Well, as he came through the parking lot, okay, did you observe this car drive through the parking lot?

A Yes, sir.

Q Okay. What did you see happen inside his car as he was driving through if anything?

A The turning of the wheel and raising a gun and shooting out the window.

Q Did you see a gun?

A A sawed-off shotgun.

Q You saw a shotgun?

A Yes, sir.

Q And you saw it come up?

A Yes, sir.

Q And where was this car -- can you lean over and show us on this diagram where you saw the shotgun come up?

A (Witness complies.)

Q Right in this area?

A At that light --

Q Was this as he was coming by?

A As he was going back.

Q As he was coming back. And it was in this area where you saw the shotgun come up?

A Yes, sir.

Q Did you see him do anything else inside the car prior to that time?

A No, sir.

Q Were you expecting something like this to happen?

A No, sir.

Q Okay. Now, what did you observe the other people that were with you doing at that time? What did you see them do?

A We all was just walking.

Q Just walking?

A Yeah. At that time after the shot went off, we're just standing around, like, making sure we weren't hit or nothing like that.

Q Anybody try to go over and check on Drew?

A Me and his brother.

Q What did it look like to you?

A It wasn't nice.

THE COURT: What was your answer?

THE WITNESS: It wasn't nice.

BY MR. YOUNG:

Q How many people were in the car that you saw

coming?

A One.

Q Did you get a clear view of how many people were in the car?

A From what I seen?

Q Yeah. Did you get a clear view of how many people were in that car?

A Yes, sir.

Q How many shots did you hear?

A One.

Q And when the shot went off, what did you do?

A Dropped.

Q You dropped to the ground?

A (Witness nodded head.)

Q You were afraid you were being hit?

A I mean, a bullet ain't got no name on it.

Q All right. As this car came through, how long do you think it took for that car to come through and turn around and go back out?

A Two minutes.

Q Two whole minutes, going slow?

A Two minutes. It's not far just to drive and turn around and go back out.

Q So just however long it took him to turn around?

A (Witness nodded head.)
Q Did he ever stop as far as you could tell?
A No, sir.
Q Was he going fast or slow when he came through?
A Like probably ten, ten miles an hour.
Q After the gunshot, did he speed up or slow down?
A Just went on, just rode on off.
Q Rode on off. All right. I'm going to show you some pictures and ask you if you can recognize any of these pictures, okay. Did you come back to the scene later?
A Yes, sir.
Q Okay. When you came back to the scene, was Drew still there?
A Yes, sir.
Q Were the police there?
A Yes, sir.
Q Let me show you Exhibit Number 15 and ask you if you can recognize that. Do you recognize that picture?
A Yes, sir.
Q What is that picture of?
A That's where my car was parked at.
THE COURT: I'm sorry. I can't hear you.

THE WITNESS: That's where my car was.

BY MR. YOUNG:

Q So picture number 15 is the location of your car, which is number one?

A (Witness nodded head.)

Q Okay. And you said you were leaning against or in the area of your car at the time of the shooting?

A (Witness nodded head.)

Q So is that fairly representative of the kind of angle you would have had?

A Yes, sir.

Q Number 16, see if you can recognize that. What's that?

A Same spot.

Q There's another car visible there. Do you recognize that car?

A That's my friend car.

Q Whose friend?

A Raymond Kirkland.

Q Is that car number two up here?

A Number two.

Q Exhibit Number 18 and ask if you recognize that?

A Yeah.

Q What is that?

A The curb right up in this, pointing back (indicating).

Q I'm sorry. I couldn't hear what you were saying.

A Like, behind the bush pointing back looking towards my car.

Q Okay. So that's sort of the reverse angle from where your car was located?

A Yeah.

Q Do all these pictures fairly and accurately represent that scene as you came back to it?

A That's right.

Q And do these pictures fairly and accurately represent the car that you saw that night?

A Yeah, that's the car.

Q So Exhibits 3, 4 and 5 are the car and 15, 16 and 18 are what relate to where you were standing or what you could see from that area?

A (Witness nodded head.)

MR. YOUNG: We offer these into evidence, Your Honor.

THE COURT: Any objection?

MR. ANDERSON: No, sir.

THE COURT: Mark those in evidence please, ma'am.

(State's Exhibit Numbers 3, 4, 5, 15, 16 and 18, photographs, admitted into evidence.)

BY MR. YOUNG:

Q Do you carry a gun?

A No, sir.

Q Other than the gun that you saw come out of that window on the passenger side of the car that night, other than that gun, did you see anybody else with a gun that night?

A No, sir.

Q Do you know what Drew had in his hand when he got shot?

A Yes, sir.

Q What did he have?

A A lighter.

Q He had a lighter?

A A lighter.

Q And what was he doing with it?

A I told you we were smoking.

Q Is there any doubt in your mind that Michael Watson was driving that car that night?

A No, sir.

Q Is there any doubt in your mind that Michael Watson pointed a shotgun out the window?

A No, sir.

Q Is there any doubt in your mind that he fired that shotgun?

A No, sir.

MR. YOUNG: Your Honor, I ask to publish these photographs for the jury.

THE COURT: Yes, sir.

(Pause.)

BY MR. YOUNG:

Q Right after this happened -- your car's not there I see when these pictures were taken. Right after this happened, did you leave in your car?

A Yes, sir.

Q Did anyone try to call 9-1-1?

A I couldn't tell you.

Q Okay. What did you do?

A Went looking for him.

Q Who was with you, if anyone?

A His brother.

Q His brother's name is what?

A Warren Chandler.

Q Did you find him?

A No, sir.

Q So what did you do afterwards?

A Go to my grandmama's.

MR. YOUNG: All right, sir. Thank you very

much. Would you please answer any questions that Mr. Anderson may have for you?

THE COURT: Cross-examination.

MR. ANDERSON: Judge, could I wait until the jury's done looking at the pictures?

THE COURT: Sure.

(Pause.)

CROSS-EXAMINATION

BY MR. ANDERSON:

Q Mr. Ouzts, this isn't any fun being here is it?

A No.

Q Would it be safe to say that this was one of the worst events of your life?

A Yes, sir.

Q Did you know Michael before all this happened?

A Yeah, I knew him.

Q How did it get to the point that --

A I couldn't tell you.

Q Because y'all had had some problems in the past, had you not?

A I never had no problem with him.

Q Maybe not you individually, but your group of friends that you were with and his group of friends and family had had some things back and forth, had they not?

A I don't know.
Q Well, didn't Warren and he have something at the park a couple of weeks earlier?
A Who?
Q Warren.
A I don't know. I was in Columbia.
Q Okay. All right. Well, Andrew was your friend?
A Yes, sir.
Q And Warren is still your friend, correct?
A Yes, sir.
Q You've never seen Warren with a gun?
A No, sir.
Q Had you ever heard about him having a gun?
A No, sir.
Q You never heard about an incident at the park?
A No, sir. I was closer to Andrew than Warren.
Q All right. Have you -- there were five eyewitnesses to what happened, correct?
A Yes, sir.
Q Have the five of you ever gotten together?
A Like after this?
Q Yeah, to talk about the case.
A No, sir.
Q Have any number of you ever gotten together in

one group to talk about the case?
A Three of us.
Q Three of you?
A We still hang together, the three that really do.
Q Who is that?
A Me, Duke and Raymond, Octavious and Raymond Kirkland.
Q Octavious is Duke?
A Yes, sir.
Q Did y'all ever meet with the prosecutor together?
A No, sir.
Q Did you ever go back to the scene?
A Oh, yes. Yes.
Q And who all was there at that meeting?
A Me and Octavious.
Q And the prosecutor?
A And the prosecutor.
Q Okay. Now, isn't it true that all five of you guys ended up giving statements to law enforcement after this incident?
A Yes, sir.
Q And isn't it true that your statement was actually written by a SLED officer? You didn't

write your statement, you just signed it; is that correct?

A That's true.

Q Okay. Now, you did leave the scene and then you came back?

A Yes, sir.

Q By the time you came back, was it just covered with police officers and police cars?

A Yes, sir.

Q All right. Did any police officer question you with either on camera or on tape?

A They questioned me, but I don't know if it was recorded or not.

Q Okay. How many different officers did you talk to?

A I can't remember.

Q Did you talk to, at the time, I think he was Sergeant Holloway; the gentleman in the courtroom?

A I couldn't remember.

Q You know you met with the white female SLED agent?

A Some lady.

Q And she's the one that actually wrote your statement out?

A Okay.

Q Correct?
A Yes.
Q And then did you talk to other uniformed officers at the scene?
A I couldn't remember.
Q Okay. Well, it was three years ago. It's hard to remember stuff from three years ago, correct?
A Yes.
Q Now, on top of that in talking to your other friends about this that also gave statements to the police, isn't it true that each of your statement says things a little differently?
A I haven't read their statement.
Q Well, you've talked to them about it.
A We all say the same.
Q Exactly the same?
A Yeah.
Q So some of you don't say that the car stopped? Does anybody say the car stopped?
A No. (Inaudible) looking at it, we just talk about what happened. We don't worry about how the car stopped --

COURT REPORTER: Can you repeat that?

THE WITNESS: Which part?

COURT REPORTER: The whole thing.

THE WITNESS: I said we don't worry about how the car stopped or nothing. We just know what happened.

BY MR. ANDERSON:

Q Sure. Okay. Did anybody approach the car before a shot was fired?

A No, sir.

Q Okay. Well, if one of your other eyewitnesses were to say that, would you have an explanation for that?

A No, sir.

Q Okay. Did you hear anybody say anything before the incident?

A No, sir.

Q If one of your other eyewitnesses were to say that words were exchanged, would you have any explanation for that?

A No, sir.

Q Okay. Now, in your statement, you say you were talking to some girls. Did you give law enforcement those girls' names?

A No, because I ain't -- I ain't even know who they was. I mean...

Q Do you know if they were interviewed?

A No, they was gone. They was gone after this.

Q Did any of you young men live in those apartments?

A I didn't, no, sir.

Q Okay. Y'all are just hanging out there?

A Yes, sir.

Q Now, in your statement, you mentioned that y'all went to look for Rand, but you couldn't find him. Why did y'all go look for him?

A Because he shot my friend.

Q Well, what were y'all going to do?

A Probably shoot him back.

MR. ANDERSON: All right. No further questions. Thank you.

THE COURT: Redirect.

MR. YOUNG: Yes, sir, just one moment.

(Pause.)

REDIRECT EXAMINATION

BY MR. YOUNG:

Q You didn't have a gun on you, how were you going to shoot him back?

A We could have got one.

Q Could have got one?

A (Witness nodded head.)

Q You didn't have one?

A Didn't have one.

Q Did y'all go get a gun?
A No, sir. We couldn't find one.
Q You were asked a question about did anybody approach the car. Let me just ask this to clarify an area. You were over there by your car, correct?
A Yes, sir.
Q Okay. And y'all had been down in the woods?
A Yes, sir.
Q And I believe you testified that you had seen or actually were going up to the car of Raymond because the light was on?
A The light was on.
Q So at that point. So you continue on up towards your car at some point, correct, because your car is past his, right?
A It's like right beside it..
Q You go a little bit further up?
A Yeah.
Q So everybody else -- at what point in that sequence did y'all notice the car coming through?
A When we heard the music.
Q At what point, though? Where were y'all standing when you heard it come through?
MR. ANDERSON: Your Honor, I'm going to object. This is beyond the scope of the cross.

MR. YOUNG: Your Honor, he asked the question at one point, Did anybody approach the car.

THE COURT: The objection's overruled. You may continue.

BY MR. YOUNG:

Q Going back to what you were talking about, at some point in this sequence of coming up from the hill and coming to Raymond's car, during that timeframe, did y'all then hear the car coming over the hill or hear music from the car?

A No. We was walking up, you know, then we seen and heard the car when we got, like, by the door.

MR. YOUNG: Your Honor, I can't even hear his answer because of this air conditioner.

THE COURT: Try to speak out a little bit louder for me, please.

BY MR. YOUNG:

Q I need you to speak up so that the people all the way over here -- I'm going to stand over here and ask the question, talk all the way over here, okay.

Let me repeat it. Somewhere in this sequence of you walking up the hill and getting to your car, or actually you going to your car and Raymond going to his car I guess, the group, did it fragment and

separate out a little bit?

A Yes, sir.

Q Okay. Were you fragmented out not all in the same little cluster when y'all --

A No, we weren't all together.

Q Wait a minute. Let me finish the question. When you heard the car coming over the hill or where were you on the ground when you heard it?

A I was walking, like, close by my car and Raymond car, you know. We all just, we ain't going to walk, you know, in a white line, you know. We just going to be walking because we just walking.

Q Right. I understand, but I'm just trying to put you on the ground when you hear the car come over into your area when you first noticed it, where was the other group of people?

A To my left.

Q Okay. So if -- remembering the picture of where Andrew was laying, were they in that area when the car came through or walking toward that area?

A Yes, sir, they was already there.

Q Pretty much already there?

A Yes, sir.

Q Okay. And they just stood there?

A Just stood there.

Q So when the car comes around and the shot's fired, they're just standing there?
A No, we all drop then.
Q No, wait a minute. You didn't hear my question. My question was when the car came around and shot, the people who were up by closest to the car, including Andrew I assume, are just standing there?
A Yes, sir.
Q Were they trying to block the car?
A No, sir.
Q Were they trying to stop the car?
A No, sir.
Q Were they talking to anybody?
A No, sir.
Q Just watching?
A Just watching.
Q And so pretty much everybody had -- would you describe your group as angry?
A I don't feel no frustration about it. I don't know --
Q At the time, at that time. At the moment in time on August 5th, 2007 when that car came around, was anybody expressing anger?
A No, sir.

Q You didn't see or hear anybody do that?
A No, sir.
Q But after the shooting, what happened?
A Andrew fell and I went to look at him and got in my car.

MR. YOUNG: No further questions.

THE COURT: Recross.

MR. ANDERSON: Nothing, Judge. Thank you.

THE COURT: Thank you, sir. You may step down. Call your next witness.

MR. YOUNG: Warren Chandler.

WILLIE WARREN CHANDLER,

having been duly sworn, testified as follows:

THE COURT: Try to speak into that microphone for me. What's your name?

THE WITNESS: Warren Chandler.

DIRECT EXAMINATION

BY MR. YOUNG:

Q Mr. Chandler, would you give us your full and complete name?
A Willie Warren Chandler.
Q And, sir, how are you related to Andrew Chandler?
A He's my twin brother.

THE COURT: He's what?

THE WITNESS: My twin.

BY MR. YOUNG:

Q Now, let me ask a simple question, sir. Where were you on August 5th, 2007 about 10:30 in the evening?

A At the Saluda Terrace with my brother.

Q Who else was with you?

A Corddaryl Ouzts, Duke Thompson, Jeremy, I think, Butler.

Q What were y'all doing?

A Out there just talking like we normally talk, me and my brother just talking, you know, what we going to do when we turn 18, just random stuff what we going to do.

Q Did y'all smoke anything?

A They were, you know, about to. I don't smoke.

Q So some people were smoking, some people weren't?

A I wasn't smoking.

Q But there were some people smoking marijuana?

A Yes, sir.

Q Was your brother?

A Yes, sir, they were about to.

Q Now, when you first got there that evening, who drove and how did you get there?

A Well, first, you know, we was, like, walking, like, on the ballpark, you know, on, like, the little road Bouknight Ferry before that day, you know, just walking down there, like, you know, people do and just a random, just a random day, you know. I barely came out, so that day...

COURT REPORTER: I didn't hear the --

BY MR. YOUNG:

Q Okay. I'm talking about when you're at the Saluda Terrace Apartments. What did y'all do when --

THE COURT: She didn't know what he said. What did you say?

THE WITNESS: I said it's just a random day. You know, I barely come out, so it just that day, I just went out (inaudible) --

COURT REPORTER: I still can't understand.

THE COURT: I don't know what to tell you. I can't understand him either.

BY MR. YOUNG:

Q Did you say you barely came out that day?

A You know, I barely come out the house, so it's just that, you know, I just go out there once in a while. I'm like a home person.

Q So you went out that day with your brother?

A Yes, sir.

Q Okay. And what I'm going to ask you back about is on the Saluda Terrace Apartments, okay, when you got to the Saluda Terrace Apartments that night around 10:30, what did y'all first do when you got there and who drove?

A It was me, I rode with Ouzts, Corddaryl Ouzts. And they -- in my friend's car rode with Raymond Kirkland out there. So, we went out there and parked, went to, like, the light at the back by the trash can in the woods, they got, like, a long log we just sit out there just talking.

Q Okay. So y'all went out there to a log?

A Yes, sir.

Q Is that outside the parking area?

A It's, like, in the woods. We was out there just talking, like, what we going to do before we get 18. And Raymond Kirkland, like, left the lights on, so we're going back up walking towards his car to turn the lights off, heard some music, car came down, seen somebody reach under the seat.

I mean, I know the car, you know, so I'm like okay. I had seen it early on that day. I wasn't thinking nothing of it, you know. Me and my brother just went up there by the light pole just talking,

you know, just staying still. And then the car came around, backed in, came back out, like, blocked us in really and then stood there. So me, the way things looking, I couldn't hardly see in the car so I don't know what was what and it just got quiet, you know. And Duke told somebody, If you're going to shoot me, then shoot me. And it got quiet again, bing, the car drove off.

Q Bing, what's bing?

A A shot went off.

Q Let's back it up and start at the beginning. I'm going to show you a diagram of the area. And before you came in the courtroom, I asked you to look at this diagram, correct?

A Yes, sir.

Q Would you just come up here and -- if you don't mind.

A (Witness leaves the witness stand.)

Q You mentioned something about going in the woods.

A Yes, sir.

Q And going to a log. You mentioned something about cars. You mentioned something about a dumpster.

A Yes, sir.

Q Now, would you tell us where the dumpster is? And I'll give you something to point with, use this to point with. Where is the dumpster and where are the cars?

A Right here is the cars. This is the dumpster. Right there is the log in the woods area (indicating).

THE COURT: He's got jurors blocked and I can't hear him.

MR. YOUNG: Step right back here and talk so the Judge can hear you.

THE COURT: You need to talk so the jury can hear you.

BY MR. YOUNG:

Q I'm going to step over here and ask you these questions. All right, take a look at the diagram, where is the log in the woods?

A Like right back here (indicating).

Q Behind that dumpster?

A Yes, sir, in the woods area.

Q Is this flat or hilly or what is --

A It's, like, kind of like hilly because you got to go down a little bit, so it's, like, just back up in here.

Q So if you left the log and were coming back

towards the cars, would it be uphill or downhill?
A Going back uphill a little bit. And the cars are, like, right here (indicating). So we're going up to the car to turn off the lights. And so about that time, this is the entrance area (indicating), the car came in, you know, like, the speed bump, like, wasn't there. He came in, went around like this and there's, like, little parking areas at the back, backed in and then came back out, went like this right here (indicating) and stopped, blocked us in.

Like, there's the light pole. That's my brother. I'm right beside him and Raymond's right here. I couldn't see him in the car. So about that time, it just got quiet. And Duke was right here, the rest of the fellows, like, back here towards the car. And by that time, If you're going to shoot me, then shoot me. And a shot went off, the car drove off. I'm checking myself and everything, you know. My brother's, you know, hit and I just seen blood is coming out of his face and whatever. And by that time, I lost it. It had happened so fast, you know.
Q All right. I understand. Now, if you don't mind, take your seat again.
A (Witness resumes the witness stand.)

Q Just to make sure it's clear, you indicated that you saw the driver of the car reach under?
A Yes, sir, like sliding, like, kind of like sliding up the seat really, to me, what I seen.
Q Was that when he was coming in or --
A Coming in.
Q Okay. And so when you saw that happen, you were just -- where were you then at that point?
A Beside my brother.
Q So y'all are standing up there by that light pole you described?
A Yes, sir.
Q Was anybody angry about anything?
A No, sir. We just was out there having a normal regular day just out there talking. We didn't want to be down there at the field so we left.
Q Now, the week before on Sunday, something happened where you had to go to court and plead guilty -- not plead guilty, excuse me -- you were found guilty of having discharged a firearm in city limits; is that right?
A Yes, sir.
Q That was the week before. Did you have a gun on you that night?
A No, sir.

Q Did anybody in your group have a gun on them?
A No, sir.
Q Did anyone make a move toward that car as it drove past?
A No, sir.
Q Were you trying to block that car?
A No, sir.
Q I want to ask you a question. This diagram is -- is this a real wide area or a real narrow area? How long a walk is it from position four to where that X is, is that a very long walk?
A Yes, sir, kind of, kind of, like, short distance. It really -- well, it really, like, short distance really.
Q Well, let's just put it this way --
A You have to walk --
Q Is it further from me to you here or about the same?
A Further.
Q Tell me when to stop.
A Right there.
Q Okay. So from position four to where that X mark is is about this far?
A Yes, sir.
Q I'm going to ask you a question about your

brother. Is your brother right handed or left handed?

A Right handed.

Q I'm going to show you some pictures about the area. Do you know what was in your brother's hand that night when the shooting happened?

A Yes, sir.

Q What?

A A cigarette lighter and a cigar rolled up in marijuana.

Q In both hands or in one hand?

A In one hand. He had a lighter in one hand and a dooby in the other.

Q A what in the other?

A The marijuana.

Q Would you be able to recognize a picture of your brother's hand again if you saw it?

A Yes, sir.

Q With that lighter?

A (Witness nodded head.)

Q Let me show you what's marked as State's Exhibit 21 and ask you if you can recognize it?

A Yes, that's my brother's hand, lighter in his hand.

Q Does that fairly and accurately represent what

your brother's hand looked like right after the shooting?

A Yes, sir.

Q If you need to take a break just say so. Are you okay?

A Yeah.

Q All right. I have some more pictures, but I'm going to ask you these simple questions as much as I can. Could you recognize the car that you saw that night if you saw a picture of it again?

A Yes, sir.

Q Let me show you what's State's Exhibit 3, 4 and 5. Can you recognize those pictures?

A Yes, sir.

Q What are they?

A The same car I seen that night.

Q Had you seen that car earlier that day?

A Yes, sir.

Q Who was driving it?

A Rand was.

Q What did you just call him?

A I call him Rand. I don't call him Michael. I call him Rand, that's what we used to call him.

Q Is he the gentleman sitting next to Mr. Andrew Anderson?

A Yes, sir.
Q And you know him as Rand?
A Yes, sir.
Q Do you know what his full name is?
A I think Michael Watson.
Q And he was the person driving that car?
A Yes, sir.
Q Did you see anymore than -- any other persons in the car who was driving that night?
A No, sir.
Q Right after this happened, what did you do?
A Blanked out.
Q What do you mean blanked out?
A I don't know what they call that. I just ain't never seen nothing like that. I mean, I just went to go try to go find him.
Q Did you stay right there or did you go somewhere?
A I stayed right there for a minute, holding my brother head up. After that, I left.
Q Where did you go?
A Try to find him.
Q Find who?
A Rand, Michael Watson.
Q Who did you go with, if anyone?

A Corddaryl Ouzts.

Q Did you find him?

A No, sir, because I went down to the ballpark.

Q Did you see a shotgun or any kind of gun of any kind in that car before the blast?

A No, sir. It was so dark, I couldn't -- I couldn't see out of, like, I was kind of blind, but couldn't see anything whatsoever.

Q Did you see any kind of report, explosion?

A I seen a flash.

Q And a bang?

A (Witness nodded head.)

Q When the car left, how did it go, quickly or slowly?

A Fast.

Q Did anyone in your group try to stop that car from leaving, try to approach that car in an aggressive manner at any time prior to the shooting?

A No, sir.

Q Did anyone display a gun or have a gun?

A No, sir.

MR. YOUNG: Please answer any questions that Mr. Anderson would have.

THE COURT: Cross.

****

CROSS-EXAMINATION

BY MR. ANDERSON:

Q Mr. Chandler, I'm sorry for you and your family's loss, okay. And I know this isn't pleasant.

A (Witness nodded head.)

Q Had y'all been smoking weed, and I know you said you didn't smoke, but your friends had been smoking weed earlier that night?

A Well, I just -- basically earlier that night, no, sir.

Q Okay. Before this happened, had y'all been down here hanging out?

A Yeah. We had just not too long had just got down there.

Q And was anybody down there smoking?

A No, sir, not when we got down there. We was down there -- we got down there, was down there by ourselves just sitting down just talking, having a nice conversation.

Q How long were y'all down there before you realized that Mr. Ouzts had left his car light on?

A Not long, I'd say maybe five minutes. It wasn't even long.

Q Did any of you guys live there?

A No, sir.
Q Why did y'all choose that spot to go hang out?
A It was just a normal spot we just go hang out at. It was quiet. Nobody wasn't around. We just wanting to get away from all the activity that was going on down at the ballpark.
Q Well, the ballpark, a lot of bad stuff happens there. That's where you had your incident with the gun, correct?
A Yes, sir.
Q And, basically, you had discharged a gun down at the ballpark?
A Yes, sir.
Q And that was in the direction of Michael Watson and his friends and family, correct?
A I mean, at the time of the ballpark, sir, I was found guilty, but I didn't do anything.
Q Did you have a gun?
A No, sir.
Q At the ballpark, you didn't have a gun?
A I didn't have no gun, but I was found guilty.
Q You testified a minute ago that you had seen Michael Watson earlier in the day. Where did you see him?
A Riding down on Bouknight Ferry.

Q Did anything happen?
A No, sir.
Q Would it be safe to say that you and your friends and Michael and his people had had some issues in the past?
A Yeah, they had some issues, but it ain't nothing I had nothing to do with.
Q Well, in your -- you gave a written statement to law enforcement, correct?
A Yes, sir.
Q And in your written statement, you mentioned that you were with your brother and his friends?
A Yes, sir.
Q Were these other guys more Andrew's friends than your friends?
A Yes, sir.
Q Okay. And as you said, it was extremely dark?
A Yes, sir.
Q When you gave your statement to law enforcement, was that taped do you know? Did anybody tape it?
A It'd been a long time. I can't hardly remember anything really like back then but what happened that night.
Q Well, in the statement that you gave, you state

that Michael's car actually came to a stop?

A Yes, sir.

Q And then what was said?

A If you're going to shoot me, then shoot me.

Q And who said that?

A Duke Thomas.

Q Andrew didn't say anything?

A No, sir.

Q How close -- how close -- strike that -- were Duke and your brother standing close together?

A No, sir.

Q Can you show us where Duke was and where Andrew was?

A (Witness leaves the witness stand.)

Duke was back here, like right here in the middle where the dumpster was. And me and my brother right here towards the light pole.

Q And where was Octavious?

A Back here by himself at the middle dumpster.

(Witness resumes the witness stand.)

Q Then you state that you ran after the car after it happened?

A Yes, sir. I got me and Ouzts, Corddaryl Ouzts, got in the car, try to go find him, but they were no where in sight.

THE COURT: I'm sorry. What did you say?

THE WITNESS: We tried to go find him, but the car was nowhere in sight when we got up to the stop sign up there by Saluda Terrace. So we just went straight down across the road and down to the ballpark.

BY MR. ANDERSON:

Q Isn't it true that you eventually ended up across the street from Michael's sister's house, Trisha?

A Across the street?

Q Or at her house?

A No, sir.

Q Okay. What was your intention to chase after him, to find him?

A Find out why it happened. I'm still clueless now to today why it happened. I don't know anything.

MR. ANDERSON: Thank you.

THE COURT: Redirect.

REDIRECT EXAMINATION

BY MR. YOUNG:

Q Do you know where Michael's sister's house is?

A No, sir.

Q Okay. You said you were there about five

minutes before the shooting?

A Yes, sir.

Q And you weren't smoking marijuana that night?

A No, sir. I don't smoke, period.

Q Okay. With regard to that matter of discharging a firearm in the city limits, okay, you're accused of shooting a firearm in the air, weren't you?

A Yes, sir.

Q And that's what they found you guilty of?

A Yes, sir.

MR. YOUNG: Okay. Nothing further.

THE COURT: Recross.

MR. ANDERSON: No thank you.

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

All right. Ladies and gentlemen, we'll take a ten minute break and then we'll get you back out here. Don't discuss the case. Follow the bailiff, please.

(The jury retires to the jury room.)

THE COURT: Court's in recess for ten minutes.

(Brief recess.)

THE COURT: All right. Is the State ready?

MR. YOUNG: The State's ready.

THE COURT: Defense?

MR. ANDERSON: Yes, sir.

THE COURT: Bring in the jury.

(The jury returns to the courtroom.)

THE COURT: All right. Call your next witness.

MR. YOUNG: The State calls Octavious Thomas.

OCTAVIOUS THOMAS,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. YOUNG:

Q You hear that coming on?

(Court Reporter's Note: Air conditioner turned on.)

A Yes, sir.

Q It's going to be hard to hear you unless you talk up, so I'm going to get all the way over here. Would you go ahead and tell the Court where you were on the night of August 5th, 2007 about 10:30 p.m.?

A In Saluda Terrace.

Q Were you with people or by yourself?

A I was with people.

Q Who?

A I was with Raymond Kirkland. I was with Drew Chandler, Warren Chandler, Corddaryl Ouzts and Jeremy Butler.

Q Now, what were you there and what -- why were

you there and what were you doing?

A We had all went over to smoke, get away from what was going on down the street.

Q When you say smoke, what do you mean?

A Smoke marijuana.

Q Okay. Right after you got there, where did you go?

A We went to the back of the Terrace around by the dumpster down on a little a log down there.

Q Okay. Is that log behind the dumpster down in a hill?

A Yes, sir.

Q Okay. And then, at some point, did y'all's attention become directed toward a car coming into the Terrace?

A After we was going -- well, Raymond light was left on in his car. After we walked up the hill, a car was coming in the Terrace as we was walking up.

Q And as you walk up there, do you see a car?

A Yes, sir.

Q Do you know what kind of car that was?

A It was a black, I want to say, Toyota Camry or something like that.

Q Would you be able to recognize a picture of that car if you saw it again?

A Yes, sir.
Q Do you know who drives the car?
A Do I know who drives the car?
Q Yes.
A Yes, sir.
Q Who?
A Who drives it now or --
Q Who drove that car on that night?
A Michael.
Q Did you see Michael that night?
A Yes, sir.
Q Was he driving that car?
A Yes, sir.
Q Let me show you what's State's Exhibit 3, 4 and 5 and ask you if you can look at them real quickly and tell me if you recognize that?
A That's the car, sir.
Q That's the car?
A Yes, sir.
Q And who was driving it?
A Michael.
Q Is Michael in the courtroom?
A Yes, sir.
Q Where?
A Over there.

Q That's Mr. Anderson seated to my left.
A In the white, sir.
Q In the white suit, okay.
A Yes, sir.
Q With regard to your attire that night, how were you dressed?
A My dress?
Q Yes, sir.
A I had on a blue shirt and I had some short jean pants and some blue, yellow and green Jordans.
Q Okay. Would you tell us what you observe happen after that car came into the area?
A As the car came in, I was -- we had made it to about Raymond car. The car came in, came down the hill, went around onto the side. And as it was coming back out, the gun was fired, well, by the driver, shot Andrew.
Q Okay. Just tell us what you observed happen when the driver came by Andrew?
A As he was leaving out?
Q No. He was coming by you first -- he came in, then drove around and he came by Andrew and you said he shot?
A Yes, sir.
Q What did you observe as he was coming by and

the shot occurred, what did you observe?

A I observed Michael in the car and a gun, like, the fire from the gun barrel come out as he was speeding out.

Q Okay. Was he going fast or slow?

A After the shot, he sped up. Before, he wasn't as fast.

Q Would you be able to recognize a picture of the part of the clothing you were wearing that night if you saw it again?

A Yes, sir, I would.

Q Let me ask you if you can identify State's Exhibit Number 20. Take a look at that and tell me if you recognize that.

A It's my shoe and my shirt.

Q Okay. How did the shoe and the shirt come off?

A Afterwards I kind of had a lot on my mind and stuff and I was laying on the ground. And my cousin, as he was picking me up, I came out my shirt and I guess my shoe just came on off, too.

Q What did you do after the shooting when you got out of your shirt and your shoes -- shoe?

A The girl I was going with at the time, I went to her house.

Q Where does she live?

A She stays in a trailer, like, right there beside the Terrace.

Q Okay. Would you just -- outside of the courtroom I showed you this diagram which has been offered as State's Exhibit Number 27. Would you step down here and point out where you were roughly when you lost your shoes and your shirt?

A (Witness leaves the witness stand.)

I was around here. This is the dumpster.

Q Okay. Now, if this is -- first off, let's identify what you're talking about. Number three is what?

A It's the dumpster.

Q Speak up so the jury can hear you.

A Oh, I'm sorry. This is the dumpster and this is the car and that's another car.

Q Okay. And whose cars are those; do you know?

A Those are Raymond car and Corddaryl car.

Q Okay. And where were you in -- and if the X -- what does the X represent to you, if anything?

A Where Drew was at.

Q Okay. And where were you in relation to Drew?

A I was, like, a little behind right there.

Q Behind him?

A Yes, sir.

Q Okay. Were you more toward the cars?
A No, sir -- what time, like, exactly when?
Q I don't know, you tell me. What are you referring to at what time were you behind him?
A Oh, before, like, right before the shooting occurred, I was behind him, but afterwards when I lost my shoe and my shirt, I was over here towards the car.
Q More toward the cars?
A Yes, sir.
Q Okay. Return to your seat. Thank you.
A (Witness resumes the witness stand.)
Q Did you have a gun in your possession that night?
A No, sir.
Q Did anyone in your group, people that was with you, have a gun in their possession?
A No, sir.
Q Did you see them display a gun?
A No, sir.
Q When the shooting occurred, was Drew or Raymond or anybody acting in a threatening manner?
A No, sir. I mean, everybody was shocked not knowing really what was going on.
Q Everybody was shocked afterwards, but during

the time just prior to the shooting?
A Oh, no, sir.
Q Did anybody try to block his car in?
A No, sir.
Q Did anybody try to threaten him?
A No, sir.
Q So what were y'all doing?
A We was just out there smoking just having a good time, well trying to.
Q Y'all were angry?
A No, sir.
Q Loud?
A No, sir.
Q When you saw the car coming down the hill toward where y'all were located, did you see the driver do anything inside of his car?
A Not like when he -- not as he passed by us, no, sir. When he was going around to turn around, I couldn't really see all the way down there, but, like, it might have been on the floor somewhere as he was coming back towards us like he had picked something off the floor.
Q What was, Like he picked something off of, what do you mean by that?
A Like he had reached down on the passenger side

to pick something up or something.

Q So he reached down and you saw him make that motion --

A Yes, sir.

Q -- as if reaching down?

A Yes, sir.

Q You couldn't see what he was doing, though?

A I couldn't see exactly -- I couldn't see past the window level, if you know what I'm saying.

Q Okay. And so where was he roughly when you saw that reaching down on this diagram, where was he? Was he more toward this direction or more toward this direction?

A More towards this.

Q Step down and point out on the diagram.

A He was right there (indicating).

Q In that area?

A Yes, sir.

Q Okay. Did anyone around you try to call 9-1-1?

A After?

Q Yes, sir.

A Yes, sir.

Q How soon after the shooting?

A It might have been maybe five or ten minutes after when people start coming out because I guess

they heard the gunshot.

Q Just prior to the shooting, was the car going fast or slow or was it stopping or what?

A It was at, like, a medium speed, not necessarily going fast, but it was going a little -- it was, I'd say, slow. It was going slow.

Q Well, could a person walking keep up with it?

A They'd have to walk mighty fast to keep up with it?

Q Okay. Does the car make any attempt to speed up or slow down just prior to the shooting?

A No, sir.

Q Does it go about the same speed as the shooting occurs?

A Yes, sir.

Q As the car came through this driving area -- this parking area, excuse me, were people walking toward the car or were they pretty much stationary?

A Everybody was pretty much stationary about the time the car got in front --

Q They weren't walking either toward the car or away from it, they were just milling around?

A Yes, sir. Like, about the time the car had made it in front of us, they was just -- it was stationary, like, we was stationary. We was already

like -- we wasn't walking toward -- in front of the car.

Q So as the car got closer, people just stopped?

A Yes, sir.

Q At least in your group?

A Yes, sir.

MR. YOUNG: I have no further questions. Would you please answer any questions Mr. Anderson may have for you.

THE COURT: Cross.

CROSS-EXAMINATION

BY MR. ANDERSON:

Q You go by the nickname of Duke?

A Yes, sir.

Q Have you had an opportunity to speak to the other young men that have testified this morning?

A Have I had the opportunity to speak to them?

Q Yes, after they testified.

A Yes, sir.

Q Safe to say this is an upsetting thing?

A Yes, sir.

Q Have you and Michael had some problems in the past?

A Have we had some problems in the past, yes, but can I explain?

Q Sure.
A I mean, it was like -- it was like a childhood thing, but it was nothing prior to the accident. It was -- I mean, we didn't have no -- there was no beef. There was no me disliking him, but as a young child, like maybe eight or nine, we had a little scuffle. It was nothing to hold a grudge against.
Q Did you get together with the other witnesses before court to talk about this?
A No, sir.
Q Did you get together with the prosecutor before this?
A The prosecutor? Who's --
Q Mr. Young.
A Yes, sir.
Q And y'all actually went out there to the apartments?
A Yes, sir.
Q Okay. How many different police officers did you talk to after the incident?
A I only talked to -- I only talked to Charles, if that's -- like, that's about the only person I talked to. And I don't know the other dude name, but I don't think I talked to one policeman.
Q But you did talk to Commander Holloway who is

in the courtroom?

A Yes, sir.

Q Was your interview audio or video taped; do you know?

A Not to my understanding. I don't know when I was talking whether I was recorded or not.

Q Okay. Do you know your other friend Butler, Jeremy Butler?

A Yes, sir.

Q Do you know where he is?

A No, sir, I haven't seen him.

Q He didn't meet with y'all?

A No, sir.

Q When is the last time you saw him?

A Like maybe two weeks ago.

Q Okay. Do you know what he was doing?

A No, sir.

Q Does he have a job?

A I have no idea.

Q Where did you see him?

A Where did I see him?

Q Yes, sir.

A Down on Bouknight just passing by.

Q Do you think he's moved away or you have no idea?

A I have no idea.

Q Okay. Can you point please to about where you were when the shooting happened? If this X is Andrew, about where were you standing when the gun went off?

A Right in here (indicating).

Q Would it be safe to say -- there were five of you eyewitnesses and obviously y'all talked about the case and y'all met with the prosecutor. Would it be safe to say that lots of details might be different from each of your perspectives?

A Yes, sir.

Q Talking about the same incident, little details can be a little off?

A Yes, sir.

Q Okay. But if somebody were to say that at the time that the gun went off you were down here, would that be wrong?

A It depends on -- can I get down right quick?

Q Sure.

A (Witness leaves the witness stand.)

Like, it's actually kind of closer. This right here is actually kind of closer. So, I mean, if I'm right here, the dumpster would be a little closer.

Q Would it be safe to say when the gun was fired,

you were pretty close to Andrew?

A Yes, sir.

Q Now, you and Mr. Young didn't talk about any words being exchanged, but did you say anything before the shot was fired?

A No, sir, I did not.

Q Okay. So if one of the people, one of the eyewitnesses, were to say that you said shoot, that would not be true?

A I did not say shoot.

Q Do you have any explanation why somebody would say that you said shoot?

A No, sir.

Q Okay. Did some of your friends go after the car after the shooting?

A I believe Corddaryl, him and Warren might have (inaudible) --

COURT REPORTER: I didn't hear you, I'm sorry.

THE WITNESS: Corddaryl and Warren, they -- I believe they went after him after the shooting.

BY MR. ANDERSON:

Q Do you know why they went after him?

A I guess they was angry, sir.

Q Okay. I mean, it's pretty upsetting. Do you know if the police ever talked to your girlfriend,

Ashley?

A No, sir.

Q That's a bad question, but is that, no, they didn't talk to her or, no, you don't know?

A Oh, no, sir, I have no idea if they've talked to them or not.

MR. ANDERSON: Your Honor, could I have a second?

THE COURT: Sure.

(Pause.)

BY MR. ANDERSON:

Q Do you remember having a little incident with Michael a little earlier than this at Jarvis' house?

A No, sir.

Q His uncle -- or brother-in-law I should say?

A No, sir.

Q Where y'all, there was words exchanged and stuff?

A No. Like, it was no words or so.

Q What was that?

A What was that?

Q Yes, sir.

A It was -- it was something about he had pulled a sawed-off on my little cousin the week before or not and my little cousin was discussing about --

MR. ANDERSON: Your Honor.

THE COURT: Hold on just a minute.

Sir?

MR. ANDERSON: Never mind. That's fine.

BY MR. ANDERSON:

Q Did you have words with Michael Watson?

A Did I have words, confrontation words?

Q Yes.

A No, sir.

Q Okay. Will you acknowledge that it was extremely dark there that night, the night of the shooting?

A It was dark.

Q Okay. Do you know -- do you know how far Michael would have to reach down to shift gears in his car?

A No, sir.

Q Did anybody -- did he have to back up at any time or was it --

A It was a turnaround.

Q But there was no back up?

A I didn't see him back up.

Q Okay. Would you have any explanation as to why some of the eyewitnesses said that the car was stopped and some of the eyewitnesses said the car

didn't stop?

A No, maybe they was confused if it slowed down or did it come to a complete stop.

MR. ANDERSON: No further questions. Thank you.

THE COURT: Redirect.

REDIRECT EXAMINATION

BY MR. YOUNG:

Q Is there any doubt in your mind that Michael Watson was the person driving that car?

A No, sir, there's no doubt in my mind.

Q Is there any doubt in your mind that a blast came from that car?

A No, sir, there's no doubt.

Q Is there any doubt in your mind that your friend, Andrew Chandler, fell on the ground after that blast?

A There's no doubt.

Q Referring back to the diagram.

A Yes, sir.

Q When you saw the car turn around --

A Yes, sir.

Q -- it was at the end of that street?

A Yes, sir.

Q Or close to the end. Are you familiar with --

were there light poles in that area?

A Yes, sir.

Q Okay. Would you be able to recognize pictures of the light poles again if you saw them?

A Yes, sir.

Q Let me show you what's been marked as State's Exhibit Number 14 and ask you if you can recognize anything in that picture associated with a light pole. Do you recognize anything in there?

A I recognize a light pole.

Q Do you recognize a light in there?

A Yes, sir.

Q Okay. Does anything in that picture relate to that diagram over there in terms of where that light pole was?

A The light --

Q Step down.

A (Witness leaves the witness stand.)

This light pole right here (indicating).

Q Were there any lights --

THE COURT: I don't know what he said.

THE WITNESS: There's a light pole right here.

MR. YOUNG: And he's pointing to an area near the X on the diagram.

THE COURT: I can't see the diagram. Go ahead.

BY MR. YOUNG:

Q Are there any other light poles in the area?

A Yes, sir. There's one down here and there's one up here (indicating).

Q So there's one basically on the corners and at the end of the driveway, so to speak, a dumpster across the street from the X and at the end of the street where he turned around?

A Yes, sir.

(Witness resumes the witness stand.)

Q Okay. Thank you.

MR. YOUNG: The State offers Exhibit 20 into evidence.

THE COURT: Any objection to this?

MR. ANDERSON: No, sir.

THE COURT: Mark it into evidence please, ma'am.

(State's Exhibit Number 20, photograph, admitted into evidence.)

MR. YOUNG: No further questions.

THE COURT: Recross.

RECROSS-EXAMINATION

BY MR. ANDERSON:

Q Wasn't one of those lights out; do you recall?

A No, sir. I don't recall any lights being out.

Q Whether or not one of them was out, it's dark in there, is it not?

A Yes, sir, it's dark, but you can see where the lights at -- where the lights are, you can see around those areas.

MR. ANDERSON: Okay. Thank you.

THE COURT: Anything further of the witness?

MR. YOUNG: Nothing further, Your Honor.

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

All right. Ladies and gentlemen, we're going to break for lunch now. You're on your own for lunch. I need you back in the jury room at 2:15. I hope you have a pleasant lunch. Remember all of those admonitions. 2:15. Thank you.

(The jury was excused for lunch.)

THE COURT: All right. I realize we have some people who are here today who were not here yesterday when I gave this instruction. Those of you who already heard it, it's not going to hurt you to hear it again.

You need to be very careful that you not have any contact with a juror, that you not say anything about this case or anybody in it that might be overheard by a juror. As you're leaving, you very likely may be right behind a juror or near a juror,

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they don't always clear out and leave the courthouse like you think they would. If you go to a local restaurant to eat lunch, there's a high likelihood that there's going to be a juror somewhere near you so you need to be very careful that you don't say anything about the case that might be overheard by a juror and that you don't have any contact with any jurors.

Court's in recess until 2:15. Thank you.

MR. ANDERSON: Your Honor, they've been accommodating with me and my client, but could we use one of the rooms and maybe let his family get some food so we can meet there during the lunch break or does he need to go back to the jail?

THE COURT: It's up to security, but, I mean, they're not going to let him sit in there with a group of people and no security officer in there it doesn't matter who it is. I just have to leave that up to security. If y'all can work something out, that's fine with me, but they're not going to put y'all in a room by yourselves I can tell you that, not you and a group of people. They might put you and your client in a room by yourself. Thank you.

(Whereupon, there was a luncheon recess.)

THE COURT: Is the State ready?

MR. YOUNG: State's ready.

THE COURT: Defense?

MR. ANDERSON: Yes, sir.

THE COURT: Bring in the jury.

(The jury returns to the courtroom.)

THE COURT: Call your next witness.

MR. YOUNG: Raymond Kirkland.

RAYMOND DALE KIRKLAND,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. YOUNG:

Q Mr. Kirkland, can you give us your full and complete name?

A Raymond Dale Kirkland.

Q Okay, sir. Can I direct your attention to the night of August 5th, 2007 about 10:30 in the evening?

A Yes, sir.

Q Can you tell me where you were?

A Terrace Apartments in Saluda.

Q Was anyone else with you?

A Yes, sir.

Q Who?

A Andrew Chandler, Corddaryl Ouzts, Duke Thomas, Warren Chandler and Jeremy Butler.

Q Do you know where you were in the Saluda Terrace Apartments, what area?

A Yes, sir, at the back by the dumpsters.

Q How did you get there?

A Drove.

Q Who drove?

A I drove and Corddaryl drove.

Q Did you park your cars anywhere?

A Yes, sir, in the parking lot.

Q Okay. Prior to coming in the courtroom, I showed you a diagram.

A Yes, sir.

Q And it's been over here, marked as State's Exhibit Number 27. And there are numbers and blocks and marks on that. Do you see anything on that diagram you can recognize as the location of where your car was?

A Yes, sir, number two.

Q Okay. What would number three be?

A The dumpster.

Q Okay. And the X mark, what's that?

A That's where Andrew was killed at.

Q You observed that happen?

A Yes, sir.

Q Tell the Court what you saw.

A I saw a man -- I saw Michael Watson in a black Toyota pull out a sawed-off shotgun out the window and shot and Drew fell.

Q Where were you when that happened?

A Right beside him.

Q Right beside him meaning where?

A On his right side.

Q Okay. So you're up right to him how far away you suppose?

A No more than three feet.

Q Okay. When you looked forward and saw this blast, how far away were you from the car?

A Maybe 15 feet, 20 feet at the most, if that far.

Q That's where you were?

A Yes, sir.

Q And you're further away from the car than Andrew is?

A Yes, sir.

Q When this happened, you say you observed the car and the car was being driven by Andrew -- excuse me -- by Michael Watson?

A Yes, sir.

Q Would you be able to recognize that car again if you saw it?

A Yes, sir.
Q Can I show you State's Exhibits Number 3, 4 and 5 and ask you if you can recognize what that is?
A That's the car.
Q Those pictures would represent the car?
A Yes, sir.
Q Would you be able to recognize a picture of your car?
A Yes, sir.
Q Let me show you State's Exhibit 16 and ask you if you can recognize that picture?
A That's my car.
Q Is that where it was parked that night?
A Yes, sir.
Q All right. Let me go back to that night in a little bit of detail. Can you tell me how long you'd been there at the point in time the shooting happened?
A Maybe ten minutes, if that -- maybe like ten minutes.
Q Okay. And when you were there at the scene, when you first arrived at that location and you drove your car in there, did you move your car after you drove in there?
A No, sir.

Q Where did you go after you parked your car?
A Behind the dumpster to a fallen tree.
Q Behind the dumpster. And how long were you down there you suppose?
A I was there probably like ten minutes before the shooting happened.
Q So y'all were -- what brought you back up to your car?
A I noticed an interior light was on inside of my car.
Q Did everybody pretty much come up with you?
A Yes, sir.
Q Where were you when you first saw that black Toyota? Where were you on the map, if you want to call it the diagram, roughly? Do you remember where you were?
A Not exactly, but I wasn't maybe -- can I stand up?
Q Sure. Point us out on the diagram.
A Like right up here when I was walking up and I noticed the car was coming through.
Q Had you already gone to your car at that point?
A Yes, sir. We was going toward my car at the time.
Q That's what I mean. When you saw the car which

you say was driven by Mr. Watson's black Toyota --

A Yes, sir.

Q -- when you saw that car, had you already gone to your car and turned the lights off?

A Yes, sir.

Q So you'd already done that?

A Yes, sir.

Q So you're pretty much up there already?

A Yes, sir.

Q Now, when you saw Mr. Watson's car come in, what did you do?

A Nothing.

Q You had to get up closer --

A Yes, sir. We walk -- kept on walking forward where the car was.

Q Any purpose in going that direction?

A No, sir, just walking up.

Q Just walking, okay. Was anybody -- the time y'all were walking up to where -- the area where Michael -- excuse me -- where Andrew was shot, did anybody start acting angry or upset?

A Duke said, Shoot now.

Q When did he say that?

A When we was walking up toward the car.

Q Where was the car at that time?

A Turning around.

Q Wait a minute. The car was turning around when Duke said, Shoot now?

A He was coming back.

Q Show us what you mean.

A We was walking up from the dumpster, from the tree, we was walking up to cut my light off. All right, we heard the car come through with loud music. We kept walking up to see where the car was, then we noticed it was Rand. Then Rand came through and turned around. Then Duke said, Shoot now, something like that. I don't know his exact words, I can't remember.

Q Where was the car when Duke said that?

A Somewhere up in here (indicating). It's kind of hard to remember.

Q Had it already turned around at that point coming back?

A Yes, sir.

Q So when the car turned around and was coming back, was it moving slow, fast?

A Slow.

Q Was it fast in terms of slow, in terms of so fast in terms of slow that you had to run to keep up with it or was it walking speed?

A Walking speed like creeping.
Q Okay. And you heard Duke say that?
A Yes, sir.
Q Was anybody acting aggressive?
A No, sir.
Q Why would he say, Shoot now -- well, I withdraw that question. I'm not sure you can tell me why somebody else said something.

Let's put it this way. What is it that would have prompted such a statement that you saw coming from the car of this black Toyota driven by Mr. Watson? Did you see something that would prompt it?

A Sir, I seen him when he reached down. Sir, I don't know why Duke said that to be honest with you. I don't know --
Q I'm not asking you why because I withdrew that, but -- I'm not sure anybody can answer that, but what I'm asking you is what is it that would have -- if you saw any actions by this driver, by Mr. Watson, that could have prompted such -- was he doing something at that moment that prompted him to -- could have prompted him? Did you see something at that same time?
A No, sir, not when Duke says that.

Q So he might have seen something you didn't see?
A Yes, sir.
Q As this car is moving through, about where is it when you see the shotgun blast?
A Not far from the light pole at the circle.
Q Near the light pole?
A Yes, sir. I could see inside of the car and seen when he reached over and I seen clearly who the driver was.
Q Did you see -- okay. At the point in time that you saw the shotgun blast, can you tell us roughly how far the shotgun would have been from the victim in this case, Mr. Chandler, about how far from him? You said you were, what, 10 or 15 feet away?
A Yes, sir.
Q So how far was he roughly?
A It's kind of hard to tell, sir, because I can't recall back to the exact day, like, I tried to exclude some stuff from my memory.
Q Well, how about this. Was Andrew or anyone close enough to reach out and touch that car?
A No, sir.
Q Okay. So it's further than that?
A Yes, sir.
Q All right. What happens after you heard the

shotgun blast?

A When I heard the blast, I ducked down, looked around, felt myself make sure I wasn't hit, looked down, seen Drew, Andrew, laying on the ground, seen that he was bleeding everywhere, he was shot in the face, gathered myself. That was about it, sir, that I did.

Q Would you be able to recognize positions -- pictures of positions on the ground where Andrew Chandler was laying after the shot?

A Yes, sir.

Q Let me show you State's Exhibit 15 and State's Exhibit 18. Take a look at those and tell me if you can recognize them.

A Yes, sir.

Q All right. Put them back down for a second. What's in that picture? Is there a sheet on that body in that picture?

A Yes, sir.

Q Okay. When you first saw him, there wasn't a sheet on him, right?

A No, sir.

Q But were his feet, his hands and arm basically all in the same spot?

A Yes, sir.

Q He didn't get up and move --

A He didn't move, sir. Once he was shot, he fell.

Q So those pictures fairly and accurately depict the location where he was on the ground in relation to that telephone pole he was near, right?

A Yes, sir.

MR. YOUNG: The State offers into evidence State's Exhibit Numbers 15 and 18 -- they're already in, Your Honor, I apologize.

Q There's also a picture I'd like you to take a look at. When you were walking back up from the dumpster area, you said you came through the woods past the dumpster?

A Yes, sir.

Q Okay. Would you be able to recognize a picture basically from that angle toward the telephone pole and where Drew's body was?

A Yes, sir.

Q This is State's Exhibit 17, take a look at that and tell me if you recognize it.

A Yes, sir.

Q Does that picture fairly and accurately represent a shot from the angle near the dumpster toward where the light was?

A Yes, sir.

Q And where Drew's body was located?

A Yes, sir.

Q Thank you.

MR. YOUNG: State offers into evidence State's Exhibit Number 17.

THE COURT: Any objection?

MR. ANDERSON: No, sir.

(State's Exhibit Number 17, photograph, admitted into evidence.)

BY MR. YOUNG:

Q On the night this happened, you guys had been there you said ten minutes or so when the incident occurred?

A Yes, sir.

Q While you're standing there after you walk up to where the -- near where the shooting occurred, did you observe the car leave the area?

A Yes, sir.

Q How fast did it leave?

A It was driving pretty fast, sir.

Q And did you stay at the scene or leave?

A I stayed at the scene.

Q Did anyone leave?

A Yes, sir.

Q Who?
A Corddaryl and Warren.
Q When they left the scene and you stayed there, did anyone try to call 9-1-1 or try to contact the police?
A Yes, sir.
Q How soon after the shooting did someone try to make that effort?
A Right after.
Q Mr. Kirkland, I'm going to ask you a question about things that have happened since this time. You have been convicted in the past, is it not true, of possession with intent to distribute marijuana?
A Yes, sir.
Q Okay. And you were convicted on January 13th of 2009 of that offense?
A Yes, sir.
Q And you're currently on probation?
A Yes, sir.
Q Sir, for purposes of this case, I'm just going to ask you did you have a gun on you that night?
A No, sir.
Q Did you see anybody with a gun on them other than --
A No one else had a gun or any type of weapon.

Q Other than Mr. Watson?
A Yes, sir, besides Mr. Watson.
Q Did you hear anybody actually threaten to do anything or block his car or act in any way to try to stop him from leaving or acting in a threatening manner toward him at all?
A No, sir.
MR. YOUNG: Answer any questions Mr. Anderson may have for you.
THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. ANDERSON:
Q Mr. Kirkland, this is pretty upsetting, was it not?
A Yes, sir.
Q And it's pretty upsetting being in court talking about all of this, I assume?
A Yes, sir.
Q There were five of you guys that were witnesses to this, right?
A Yes, sir.
Q Who's the one that's not here today?
A Jeremy Butler.
Q When is the last time you saw him?
A I haven't seen him in seven or eight months. I

don't live in Saluda.

Q Pardon me?

A I don't live in Saluda.

Q Where do you live now?

A Batesburg.

Q Okay. You lived in Saluda --

A Prior, yes, sir.

Q Okay. All right. Where had y'all been before you walked up the hill? Were you actually behind the dumpster in the woods back there?

A Yes, sir. We was in the woods sitting on a log smoking marijuana.

Q Okay. And then the purpose of you guys coming out of there you say was to turn the light off in your car and the other guys just followed you?

A Yes, sir.

Q Did you guys have plans for the evening? Do you know what you were going to go do?

A No, sir. We was just going to enjoy the night. It was a Sunday night. We usually go to the field. There were too many people there, so we went to our usually spot where we usually go and just sit on a log, talk and chill and smoke.

Q How many times have you given your statement to the police?

A Sir, I honestly don't know.
Q More than once?
A I can say, I guess.
Q Was it ever video taped or audio taped?
A Not to my knowledge.
Q And would it be safe to say that you've talked to your friends about this case and about coming to court, haven't you, about testifying?
A What do you mean as in talk to them?
Q Well, discuss the fact that it's a trial and we're going to have to testify and stuff like that.
A Yes, sir. We talked about when we all got served subpoenas.
Q Okay. Would it be safe to say that there were five of you there and you have five different recollections of some of the details of this?
A Yes, sir, but we know the facts.
Q And Mr. Watson was there, that would be six?
A Yes, sir.
Q Would it be safe to say there's probably six versions of the same incident?
A Not version, maybe a little minor detail that's different.
Q Okay. Well, like, for instance, some people say the car was stopped, some people say it was

moving slow. Have you discussed that with your friends?

A No, sir.

Q Okay. Did anybody approach the car?

A No, sir.

Q Can you show us again where everybody was? We know where Andrew was and you were over here by your car?

A When the shooting took place?

Q Yes, sir.

A No, sir, I was beside Andrew.

Q So you were here and then wasn't Duke over here, too?

A Duke was on (indicating), it was Drew, me, Warren and everybody else was over here to this side.

MR. ANDERSON: Judge, could I have a second, please?

THE COURT: Yes, sir.

(Pause.)

BY MR. ANDERSON:

Q There's absolutely no question, though, that you heard Duke say, Shoot now?

A Sir?

Q There's no question that you heard Duke say,

Shoot now?

A He said something -- he might have said something in that order. It might not have been the exact words.

MR. ANDERSON: Okay. Thank you.

THE COURT: Redirect.

MR. YOUNG: No, sir.

THE COURT: You may step down. Thank you, sir. Call your next witness.

MR. YOUNG: Officer Brett Long.

WILLIAM BRETT LONG,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. YOUNG:

Q Sir, will you give us your full and complete name?

A William Brett Long.

Q Where do you work?

A Saluda Police Department.

Q How long?

A Nine years.

Q How long have you been a certified police officer?

A Nine years.

Q Officer Long, on -- you were on duty at the

Saluda Police Department on August 5th of 2007?

A Yes.

Q About 10:30 that night, did you get a call to respond to Saluda Terrace Apartments?

A Yes, I did.

Q Do you know the precise time that you got the call?

A I'm not exactly sure of the exact time. It was --

Q Would it be on your report?

A Yes, it would be on the report.

Q Would that refresh your recollection?

A Yes, if I can see the report.

(State's Exhibit Number 28, incident report, marked for identification.)

Q I've had marked for identification State's Exhibit Number 28. I hand it up and ask you to take a look at it. Do you know what that is?

A Yes, that's the incident report.

Q Is that the one you completed on this call?

A Yes.

Q Having looked at that report, is your recollection refreshed as the time you were dispatched and the time you arrived?

A Approximately 10:25 p.m. in the evening.

Q Thank you. In regard to your response to that location when you arrived, can you just generally describe what you saw?

A When I pulled up in the -- is the back parking lot of the Saluda Terrace Apartments. When I first came into the apartments, there was a good many people outside just running around in a hysterical state. I went on down to the very back of the apartments at a back parking lot and noticed a guy laying on the ground and a lot of blood coming from his head area. And there was a guy standing off to the side and I asked him -- it was Bernard Hill. I asked him, I said, What's going on? And he told me he was inside. He heard a gunshot. He looked out and seen --

Q Okay. Stop right there. You got out there and you're basically canvassing the area?

A Yes.

Q Okay. Were you the first officer on the scene?

A Yes, I was.

Q All right. As the first officer on the scene, how long was it until you had other officers arrive behind you?

A A minute or two shortly after.

Q Okay. So it wasn't very long until you had

officers on the scene?

A Right.

Q Noting that there was a person laying on the ground and bleeding, did you take any actions to determine his condition?

A I looked over. I looked at him. I never touched the body or anything, I just looked at him. And from the conditions of the way he looked and the amount of blood, I knew then that he was dead.

Q So, at that point, did you take any actions to secure this crime scene, if any?

A Yes.

Q What did you do?

A I got crime scene tape and secured the whole back parking lot area where no one could come inside the area there.

Q Okay. So from the time you got the call until you got there, just roughly how long had elapsed from the time you got the call until you arrived at the scene?

A Maybe a minute or two at the most.

Q Almost immediately, okay. So when you got there and you cordoned off that area, would you be able to recognize pictures of that area again if you saw it?

A Sure.
Q Let me show you State's Exhibits Number 13 and 14 and ask you if you can recognize that?
A 13 is leading down to the back parking lot where the guy was at. And 14 is the back parking lot where my patrol car and the second officer arrived, the patrol car is and where the body's laying.
Q Do both of those pictures accurately reflect the location of crime scene tape and your vehicles when you arrived?
A Yes.
Q Okay. I'm going to ask you to basically do the same thing with these other photographs. I'm going to pass up to you 16, 17, 18 and 15. Take a look at those and I'll ask you again if those fairly and accurately represent the location of items or your -- actually the person on the ground, telephone poles, where your crime scene tape was at the time that you arrived at the scene?
A Yes.
Q So you're the one that actually put all that crime scene tape around in all those pictures?
A Yes.
Q And if you would please, sir, I want to ask

specific questions about locations of lights and things like that.

A Okay.

Q There are pictures, for example, in item -- in Exhibit Number 14, there's a picture of one light, appears to be a picture of two lights in 13, a light pole in 18 and in 17. And there's also a light of some kind right there, 15. Is there a way you can take these pictures and relate it to a diagram that I'll talk to you about? First off, let me talk to you about the diagram.

The diagram that is to the right, does this represent the locations of any significant items as you might have seen at the time?

A Yes.

Q What does it represent?

A X would be where the body was. 3 is a trash can. I know there was a car parked where 1 is. 4 was some clothing on the ground.

Q Roughly what you recall, there's some circles drawn around there, too, which are at corners and behind trash cans, does that represent anything?

A Light poles.

Q Okay. Do some of those light poles appear in these pictures?

A Can I look at them?

Q Absolutely.

A Yes.

Q All right. What I would like for you to do is if you can take a picture and stand up in front of this diagram and relate that picture to something in the picture on the diagram. Is there a way to do that?

A Sure.

Q All right. For example, let's start with, this is picture number 13, okay. If you would, describe on the diagram first where picture 13 is in relation to where the diagram is.

A (Witness leaves the witness stand.)

Picture 13 was actually taken from this area here (indicating).

Q Okay. And it's looking down toward the dumpster?

A Down toward the parking lot area and that's -- in this area right here is where the patrol cars are parked in that picture and you can see the light there.

Q What light?

A That one there.

Q The light above this car is --

A Is that pole there.

MR. YOUNG: Your Honor, permission to publish to the jury.

THE COURT: Is it in evidence?

MR. YOUNG: The State moves to offer into evidence Exhibit Number 13.

BY MR. YOUNG:

Q I'll ask does this fairly and accurately represent the scene depicting that area descending down toward the dumpster at the time?

A Yes.

THE COURT: Any objection?

MR. ANDERSON: No, sir.

THE COURT: Mark it in evidence, please.

(State's Exhibit Number 13, photograph, admitted into evidence.)

MR. YOUNG: I'll just wait a minute, let the jury have a chance to absorb that.

(Pause.)

BY MR. YOUNG:

Q While they're looking at that, let me ask you to look at Exhibit Number 14. Does that fairly and accurately depict the scene in terms of the location down more toward the -- closer to the dumpster and depicting the light pole? Does that fairly and

accurately reflect that --

A Yes.

Q -- in relation to the body at the scene?

A Yes.

Q That's a fair and accurate representation?

A Yes.

MR. YOUNG: The State moves to admit item number 14, a photograph.

THE COURT: Any objection?

MR. ANDERSON: No.

THE COURT: Mark it in evidence, please.

(State's Exhibit Number 14, photograph, admitted into evidence.)

MR. YOUNG: Publish it to the jury, Your Honor.

BY MR. YOUNG:

Q And, again, item 14 shows what telephone pole in the diagram?

A That one there (indicating).

Q And that would be closest to the X. And then I think we can take the next three and put them together. 15, 17 and 18, do they depict more than one or just one telephone pole, different angles?

A You can only see the one telephone pole, but you can see the street light back up the hill in the middle picture, but that one, the pole that you

visibly see is that pole there.

Q Nearest the X?

A Yeah, near the X.

Q So these three photographs, 15, 17 and 18 --

A Near the X.

Q But you said there's light visible from one other pole?

A The middle one back up the hill.

Q This would be -- Exhibit Number 17 would be -- is it shown on the map here?

A It would be that one (indicating).

Q That one?

A Yes, sir.

Q So that portion?

A Yes. Right there would be the light that I'm talking about, that pole.

Q All right. I'll publish these to the jury. Thank you. Could you retake your seat?

A (Witness resumes the witness stand.)

Q All right. I don't want to distract the jury from what they're doing. Can you just briefly tell us did you walk up to the body and look for signs of evidence of any kind around the body when you first walked up to it?

A Yes.

Q And when you first got there, was there a sheet on the body?

A No. There was nothing over the body.

Q It was apparent to you?

A Yes.

Q Did you see items around the body that could be evidence?

A Yes. It was a plastic wadding out of a shotgun shell laying within a few feet of the body. And then there was a shoe and a shirt laying off in the parking lot off to -- from the body.

Q Okay. Did you notice anything on the ground immediately next to the body?

A He had a blunt in his hand and a lighter, cigarette lighter.

Q Let me show you a picture, and I'll ask you this question first. Take a look at Exhibit Number 26, tell me if you can recognize that.

A Yes. That's the body as the way it was when I arrived.

Q Okay. If you'll take a look, there's actually -- there were no markers on the ground were there?

A No, there was no markers.

Q Take a look at this marker number three and is

there anything in there that you actually observed when you first walked up?

A That is the blunt marijuana cigarette laying by the body.

Q So it was near his left hand?

A Yes.

Q And then you saw these other items that had markers on them as well. Which marker represents where you saw the shotgun wadding?

A Marker number one.

Q Okay. And what is the other marker?

A Marker two is the clothing, the shoe and the shirt that I was talking about.

Q Aside from the markers which are present on the ground, does that picture fairly and accurately represent the scene and the location of those items of evidence when you first arrived?

A Yes.

Q Does it also represent a fair and accurate representation of the position of the body when you first got there?

A Yes.

MR. YOUNG: The State will move into evidence photograph number 26, which is in black and white.

THE COURT: Any objection?

MR. ANDERSON: No, sir.

THE COURT: Mark it in evidence, please.

(State's Exhibit Number 26, photograph, admitted into evidence.)

MR. YOUNG: Publish to the jury, Your Honor.

BY MR. YOUNG:

Q Did you happen to look at his right hand, see in his right hand?

A I'm sure I did, but off the top of my head, I don't remember.

Q Would you be able to recognize a picture of his right hand?

A Sure.

Q Let me show you what's been marked State's Exhibit Number 21. Do you recognize that?

A Yes, that's the picture -- that's the lighter that was in his hand.

Q Okay. Does that fairly and accurately represent the position of his hand and the lighter that was in his hand at the time you first arrived?

A Yes.

MR. YOUNG: State moves into evidence Exhibit Number 21.

MR. ANDERSON: No objection.

THE COURT: Mark it in evidence.

(State's Exhibit Number 21, photograph, admitted into evidence.)

BY MR. YOUNG:

Q And as well Exhibit Number 19, do you recognize that?

MR. ANDERSON: There's no objection.

THE WITNESS: That would be the shotgun wadding that I was -- the plastic wadding from the shotgun shell that I mentioned.

BY MR. YOUNG:

Q And that fairly and accurately represents what you saw at the scene there as well?

A Yes.

MR. YOUNG: The State moves into evidence 19 as well.

THE COURT: Without objection, mark it in evidence.

(State's Exhibit Number 19, photograph, admitted into evidence.)

MR. YOUNG: The State will publish 19 and 21 to the jury, Your Honor.

BY MR. YOUNG:

Q Officer Long, you remained at the scene or did you leave?

A I remained on the scene until everything was

cleared up.

Q Okay. After you arrived at the scene, a variety of people showed up no doubt?

A Sure.

Q Who showed up?

A The next officer, Robertson, came up behind me, then Lieutenant Holloway, Commander Holloway, EMS, SLED. Fire department was the last people to show up on scene.

Q Did you ever see the coroner there?

A Yes, the coroner was there.

Q Okay. And, at some point, markers were put down on the ground. You saw that happen?

A Yeah, SLED put the markers down.

MR. YOUNG: Would you please answer any questions that Mr. Anderson may have for you?

THE COURT: Cross.

CROSS-EXAMINATION

BY MR. ANDERSON:

Q You spent a lot of time talking about the lighting?

A Yes.

Q A lot of the light in the pictures comes from lights that y'all put up, correct?

A No. We didn't put any lights up at the scene.

Q Car lights on the patrol cars?

A No. The only light there was from the street lights in the parking lot.

Q I'm showing you Number 14.

A Yes, sir.

Q Are you saying that the light sideways, that sideways light is coming from up above?

A That would probably be from the flash from a camera.

Q And reflecting on the side of the patrol cars?

A That's reflective tape on the side of the patrol cars.

Q From the flash of the camera?

A Sure.

Q Okay. Wasn't one of these -- was this one the one that was out? Wasn't one of these out? Was it that one (indicating)? I honestly don't remember, but was one of the --

A A light out?

Q Yes.

A I don't remember a light being out.

Q Well, let me ask you this because I might be wasting time on it. With or without the lights, was it dark down there?

A With the lights on, no. I mean --

Q So you could see just like you can see in here today?

A I mean, it wouldn't be as bright as it is in here, but it was lit.

Q Let me show you -- I'm going to show you 13. Right up here is one of the lights we're talking about, correct?

A Yes, that's up the hill, yes.

Q I mean, does that look like a bright light?

A In the photograph, no.

Q Now, you testified a minute ago that this lighter was in the right hand of the young man, but it was actually in his left hand, wasn't it?

A The picture (sic) would be in his right hand.

Q I'm going to show you 21 and 26.

A Okay.

Q Let me show you my picture, see if that helps you any.

A Okay. It's in his left hand.

Q Okay. And where was the marijuana cigarette?

A Right there by his body in the picture.

Q To his left?

A Yeah. It would be on his left side.

Q And this black and white picture, does this fairly and accurately show the scene just like -- is

this basically the same as 26, but without his left hand being cut off?

A Yes.

MR. ANDERSON: Your Honor, I'd like to offer this into evidence as Defense Number 1.

MR. YOUNG: No objection.

THE COURT: Mark it into evidence, please.

(Defendant's Exhibit Number 1, photograph, marked and admitted into evidence.)

MR. ANDERSON: Judge, could I publish it real quick?

THE COURT: Sure.

(Pause.)

BY MR. ANDERSON:

Q So all your headlights were off?

A I don't remember if I cut my headlights off, but my car was not pointed toward the body.

Q Well, how many police cars would you say were there at the time these pictures were taken?

A Honestly, I couldn't -- I'd say I know it was my car, the officer that followed me, Commander Holloway's car, SLED vehicles. I mean, there was a good many vehicles around.

Q A bunch of cars?

A Yes.

Q So is it your testimony that they all turned their headlights off or you don't remember or maybe --

A I don't know if they turned -- all of them turned their headlights off at the time or not.

MR. ANDERSON: Okay. We're going to wait on that to go around.

THE WITNESS: Okay.

(Pause.)

Q All right. So the young man had a lighter in his left hand and there was a blunt next to his left side?

A Yes.

Q Now, do you notice anything unusual about the way that lighter is being held in his left hand?

A I mean, I couldn't say how anybody being shot would hold a lighter in their hand, so.

Q I mean, clearly, he -- I mean, it's a horrible thing, but he didn't pick up the lighter after he got shot?

A No.

Q Does it look unusual to you the way it's in his hand?

A Not really.

Q Where is the thumb? Where is the thumb, and

I'm showing you Number 21, where is the young man's thumb?

A You can't see it.

Q So, I mean, basically, it would be in his hand. It's not --

A Maybe he was holding it that way or something (indicating).

Q Okay. Do you notice anything unusual about the young man's left pocket?

A It's pulled partially way out, partially pulled out.

Q Let me show you a close-up. Is this a close-up of the pocket?

A It appears to be.

MR. ANDERSON: Your Honor, I'd like to offer that into evidence as Number 2.

THE COURT: Any objection?

MR. YOUNG: No.

(Defendant's Exhibit Number 2, photograph marked and admitted into evidence.)

MR. ANDERSON: And, Judge, this one's big enough, could I just publish it myself?

THE COURT: Yes, sir.

BY MR. ANDERSON:

Q Is it clear that something had come out of that

pocket at some point in time?

A I guess. I don't -- I can't say why his pocket would be inside out or partially way out.

Q Most people don't walk around with their pocket like this (indicating)?

A No.

Q Okay. Do you know what came out of his pocket?

A I have no idea.

Q Do you know when it came out of his pocket?

A I have no idea.

Q Okay. Now, you know we've had four young men testify this morning?

A Yes.

Q That were witnesses.

A Okay.

Q And all the witnesses are sequestered, so you saw them out there?

A Okay.

Q Is that correct?

A Yes.

Q Did you talk to any of those four young men on the night of this incident?

A Oh, on the night of the incident?

Q Yes.

A No, I did not speak directly to them. I

remember Mr. Kirkland being out there and he was just kind of running around in a hysterical state crying and screaming. Other than that, I don't remember seeing any of the other ones.

Q Isn't it true about the time that you were getting to the scene, there were also calls about threats against Mr. Watson?

A That was --

MR. YOUNG: Your Honor, I'm going to object to that. I don't believe that's within the scope of this witness' knowledge. I think he's trying to get in hearsay through a back door.

THE COURT: Your objection is hearsay?

MR. YOUNG: I object on a hearsay ground.

THE COURT: Do you want to be heard?

MR. ANDERSON: No, sir. I mean, I think -- I defer to you, Your Honor.

THE COURT: I have no way of -- it's calling for a hearsay response unless this witness was present at the time. Whether it falls within one of the exceptions to the hearsay rule, I don't know unless I have a hearing outside the presence of the jury. So it's hearsay. If you want me to consider one of the exceptions, I'd be happy to send the jury out.

MR. ANDERSON: I can wait on that issue, Judge. I'll just withdraw the question, that's fine.

THE COURT: All right.

BY MR. ANDERSON:

Q So the only one you remember specifically seeing was Mr. Kirkland?

A Yes.

Q Okay. And did you stay at the scene the whole time for the rest of the night or until this case --

A Until the body was removed and the fire department came and washed the blood and stuff off from the parking lot.

Q Does your car -- does your patrol car have a camera and -- camera system, video system?

A I'm pretty sure at the time it did have a video system from -- an in-car video system.

Q Did you video tape any of this?

A No.

Q And it's easy to criticize, so, I mean, but why didn't you?

A In-car camera is mainly used for traffic stops. It's not anything you could take out of the car and move around and video anything. It's mainly forward facing.

Q But you can swivel the camera, right?

A Yeah, you could.
Q And you were parked in this area?
A Yes.
Q So you really could have video taped it?
A Yeah, I guess I could have.
Q And then I don't -- are you wearing -- you're not wearing your microphone today?
A No.
Q But your microphone would come up in here?
A Not the one I normally wear.
Q The one you have where is it?
A It would be on a belt or either I kept it in my pocket. It was just a small box.
Q And even if the video camera is facing a wall, that mic still picks stuff up. And we could now hear today any of the conversations you had at the scene, couldn't we, if you had just left that running?
A It depends on what camera system I had in my car because the one I had before was -- the audio recording on it wasn't any good. I don't remember which one was in my car at the time.
Q All right. Did you talk to any other people at the scene?
A Yeah.

Q Can you just tell me the names of who else you talked to?

A I know I talked to Carolyn Hill, Frederick Gartrell and the rest were officers already, you know, on the scene.

Q And Mr. Gartrell?

A Yes, Frederick Gartrell.

MR. ANDERSON: That's all of the questions I have. Thank you.

THE COURT: Redirect.

(Pause.)

MR. YOUNG: No further questions, Your Honor.

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

Ladies and gentlemen of the jury, we'll take a 15 minute break. Don't discuss the case.

Everybody else remain seated, please.

(The jury retires to the jury room.)

THE COURT: Court's in recess for 15 minutes. Thank you.

(Brief Recess.)

THE COURT: Is the State ready for the jury?

MR. YOUNG: Yes, sir.

THE COURT: Defense?

MR. ANDERSON: Yes.

THE COURT: Bring in the jury.

(The jury returns to the courtroom.)

THE COURT: Call your next witness.

MR. YOUNG: The State calls Keith Turner.

KEITH TURNER,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. YOUNG:

Q Mr. Turner, would you tell the Court what you do for a living?

A I'm the Saluda County Coroner and have been since January the 1st, 1993.

Q Yes, sir. And in your duties as a coroner, were you called to a location of Juniper Drive on the night of August 5th, 2007?

A Yes, sir.

Q And what did you observe when you arrived there?

A When I arrived there, it was -- well, I was called to a shooting. And when I arrived, a body was lying on its back next to a curb there and he was dead at the scene.

Q And did you issue a certificate of death in this case, sir?

A Yes, sir, I did.

Q Okay. What time did you fix the cause of death

to be approximately?

A Called the death approximately 10:39 p.m.

Q Was there signs of injury to the person of -- this person that you declared dead?

A Yes, sir. He had a wound to his face.

Q Okay. What was the name of this person?

A His name was Willie Andrew Chandler.

Q Were there law enforcement personnel present at that scene?

A They were, yes, sir.

Q Now, this body was -- this body was ultimately moved at some point, was it not?

A Yes, sir.

Q All right. Prior to moving it, was any protective covering placed around it?

A Yes, sir. We -- when we bag the body, yes, sir. We always bag the body with a sheet and then put it in the bag and that was done by myself and SLED.

Q When this body was placed in the bag, SLED was present then?

A Yes, sir.

Q Okay. Did they -- did law enforcement perform tests on the body of any kind?

A They fingerprinted him after we put him in the

bag?

Q And they may have done other tests as well?

A Yes, they did. Well, that I recall, yes, sir. They did residue and stuff.

Q Based upon the shot that you observed to the face, did you make a decision to require an autopsy be performed?

A Yes, sir, we did do an autopsy. An autopsy was performed the next morning.

Q Were you present for the autopsy?

A I was present, yes, sir.

Q At the conclusion of the autopsy, did you receive items of evidence, samples from the body that were retrieved by the person performing the autopsy?

A Yes, sir, Dr. Ross. And she retrieved the samples and I transported everything directly from the autopsy to SLED myself.

MR. YOUNG: Please answer any questions that the defense may have for you, sir.

THE COURT: Cross.

MR. ANDERSON: No questions. Thank you.

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

MR. YOUNG: State calls Dr. Janice Ross.

****

JANICE EDWARDS ROSS,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. YOUNG:

Q Dr. Ross, would you tell the jury where you work and what you do for a living?

A It's Janice Edwards Ross. I'm a forensic pathologist at Newberry Pathology Associates in Newberry, South Carolina.

Q And, ma'am, as a part of your job and duties, do you perform autopsies on bodies that were submitted to you by coroners and law enforcement?

A Yes.

Q And, ma'am, what qualifies you to do that job?

A I have a board certification in forensic pathology after receiving an undergraduate degree from the University of South Carolina and my M.D. from Upstate Medical Center in Syracuse, New York and doing further training in the study of pathology.

Q And how long have you been board certified as a forensic pathologist?

A As a general pathologist since 1976 and a forensic pathologist since 1985.

Q And how many prosections have you performed in

the past years approximately?

A At least 5,000.

Q And how many times have you testified in general sessions court regarding your conclusions and findings?

A In the State of South Carolina over 60.

MR. YOUNG: Your Honor, the State will offer Dr. Janice Ross as an expert in forensic pathology subject to any questions the defense might have.

THE COURT: Any voir dire?

MR. ANDERSON: No thank you, Judge.

THE COURT: She is so recognized. You may continue.

BY MR. YOUNG:

Q Dr. Ross, did you perform a prosection or autopsy upon the body of one Andrew Chandler in August of 2007?

A Yes.

Q Specifically, on what day did you perform that autopsy?

A August 6th, 2007.

Q What time of day?

A At 8:30 in the morning.

Q And did the coroner accompany the body?

A Yes.

Q Ma'am, during the course of your examination of the body of Andrew Chandler, did you take photographs and/or make x-rays of any portions of his body?

A Yes.

Q Would you be able to recognize copies of those pictures taken of the head area and x-rays of the head area?

A Yes.

Q I'll hand up three exhibits marked as State's Exhibit Number 23, 24 and 25 and ask you to take a look at them, ma'am, preserving them to yourself, and tell me if you recognize them.

A (Witness reviewing documents.)

Q Do you recognize them, ma'am?

A Yes, I do.

Q What are they?

A These are photographs of the face of Andrew Chandler and x-rays of his head from the autopsy.

Q All right. Now, there are two x-rays of the head?

A Yes.

Q And there is one photograph of the face?

A Yes.

Q All right. Do those x-rays and the face --

pictures of the face fairly and accurately represent items found as a result of the x-rays and the appearance of the face in terms of the injury to the face during the prosection?

A Yes.

Q Is there any question in your mind as to which one of those photographs are, are you straight as to which one's left, right, up, down, so to speak, in terms of the x-rays?

A There's no question.

MR. YOUNG: I offer these exhibits into evidence, Your Honor.

THE COURT: Any objection?

MR. ANDERSON: Your Honor, I don't object to the x-rays, but I object to the photograph as we discussed earlier.

THE COURT: Rule 403?

MR. ANDERSON: Yes, sir.

THE COURT: Why do you need the photographs, Solicitor?

MR. YOUNG: Your Honor, the State is going to offer these photographs to depict the direction and travel of the shot as it would have related to the -- any weapon that may have been fired in the direction of travel. And, essentially, it will also

demonstrate the possible spread of shot in relation to the distance between the person and the firearm.

THE COURT: The objections are overruled. Mark the exhibits in evidence, please.

(State's Exhibit Numbers 23 through 25, photographs, admitted into evidence.)

BY MR. YOUNG:

Q Dr. Ross, I'd like to refer to the x-rays first, please. With regard to these x-rays, can you explain to the jury what these x-rays depicted in terms of the direction of travel of shot as might have been found in the head and your findings and conclusions as to the direction of travel in relation to the firearm?

A Yes. The x-rays showed bird shot from the shotgun wound traveling -- trailing from, slightly from left to right and from front to back slightly upward.

Q All right. Slightly upward?

A Yes.

Q Okay. And that would demonstrate -- do you have an opinion as to what that would demonstrate as to the relationship of the weapon to the person being struck by the shot?

A Well, generally, the bird shot or any kind of

bullets or bird shot goes straight, so it indicates that the barrel of the gun was in front of the person -- in front of the victim with an angle slightly left to right -- to the victim's left to right and it was slightly going upward.

Q So would it been -- then be a safe conclusion to reach that the shotgun was lower than the person being struck?

A Slightly, yes.

Q Slightly lower?

A Uh-huh.

Q And it was at somewhat of an angle to the person in terms of their face at the time the shot struck the face?

A Yes.

Q And the travel of this would then have been consistent with that same direction, the travel of the shot through the head?

A Yes.

Q All right. Ma'am, in terms of your recognition of the injuries in this case, the picture to the injuries to the face do they depict a spread or a pattern of shot that is consistent with what you saw on those x-rays?

A Yes.

Q All right. In terms of the shot to the face, where did the shot enter the face?

A Below the nose and just to the left of midline (indicating).

Q Midline being the center of the person's face?

A Yes.

Q Okay. In other words, a line drawn from the top of the head down through the middle of the nose, that would be midline?

A Correct.

Q And then slightly to the right?

A Slightly to the left.

Q To the left, I'm sorry. Okay. Now, in terms of distribution of shot in relation to the facial injuries, is there a continuing spreading pattern demonstrated by the travel of the shot through the head once it strikes the face, a larger pattern in the rear of the head as opposed to the entry wound?

A The shot from a shotgun will stay together for a certain length of time and then after which time, the shot will start spreading out. And this photograph depicts some spread of these bird shot indicating that the -- a certain distance -- an intermediate distance of the shot.

Q So then is it fair to say that fewer shot would

be present in a long distance shot as opposed to a close shot in terms of striking the body and being present in the body?

A Well, they'll spread out, so it depends on how far away it is.

Q Let me rephrase the question. Would you expect to find pure shot in a person that was shot at a distance as opposed to a person who was shot very close?

A Yes.

Q Okay. And you would expect to see a tighter pattern as it were or less spread from a person that was shot close as opposed to a person who was shot further away?

A When they're closer, yes.

Q So it's a smaller hole?

A Yes.

Q In a person -- or a series of holes when a person is shot up close with a shotgun?

A Correct.

Q Okay. Now, in terms of -- in terms of the nose of the person, were there spots on the nose that didn't actually show penetration all the way through the nose, but just scrapes across the nose?

A There were a couple of wounds where the bird

shot just went across the skin and it showed the direction, which would be, again, left to right and upward.

Q Okay. For the jury's edification, the first picture that I'll publish is 24. And, again, what does this depict?

A That's an x-ray of the -- through the side of the head of the skull showing the direction of bird shot.

Q Okay. And that is from the side of the head?

A Yes.

Q The camera would be here looking in this direction (indicating)?

A Correct.

Q With regard to State's Exhibit Number 25, this particular photograph.

A It's a photograph of the x-ray that's going front to back, front of the face.

Q So, in essence, the x-ray would be what's behind the skin in this photograph, which is Exhibit Number 23?

A Correct.

Q And Exhibit 23 is the photograph of the face itself?

A Yes.

Q Showing the injury and the location of injury. Doctor, did you make a conclusion as to the manner of death in this case?

A Yes.

Q What was the manner of death?

A Homicide.

Q And the cause of death?

A Is a closed head injury due to the shotgun wound of the head.

Q Ma'am, how long between the onset of injury until death?

A Because of the -- the injuries went to the base of the skull and interfered in the -- around the basal ganglia, the bottom of the brain where there is centers for breathing and heart rate, he would have been unconscious immediately and dead within seconds.

Q Okay. Fair to say it was lights out?

A Yes.

Q Would you expect any movement of a person from the time they receive such an injury until they fell or after they fell?

A Not in -- except maybe some reflex, but generally, no.

Q Is this wound consistent, therefore, with a

shotgun injury to the face that caused almost immediate death?

A Yes.

MR. YOUNG: Would you answer any questions that Mr. Anderson may have for you?

CROSS-EXAMINATION

BY MR. ANDERSON:

Q Hello. Do you remember meeting me and my wife about three years ago when we came to talk to you?

A Yes.

Q What is powder stippling, tattooing or powder residue?

A In any gun, shotgun or regular gun when the bullet comes out, along with it comes soot and some powder stippling. The powder is from the burning, explosive material that pushes the bullet out, but the soot and the powder only go a certain distance, so if you see that on the skin, you can identify that the -- a little bit more about the distance of the injury.

Q And we did have that in this case, correct?

A We did not. There was --

Q Can you look at page three in your report?

A Yes. We -- in reviewing this before this -- a couple months ago before the trial, we noted that

that was an error and there was no soot or tattooing. In the original report, the word no was left out.

Q Did you send the corrected report?

A We amended it on -- I don't have the date on that. It was recently.

Q Okay. But you acknowledge the first one did say there was?

A Yes.

Q Would it be safe to say you guys can't say exactly the distance between the gun and the young man, can you?

A No. To get an exact figure, you need to practice shoot with the same gun, the same ammunition, but in general with this much spread, it's between -- it's at least three or four feet.

Q Okay. It was certainly not a very far distance?

A No. I don't know what you'd call far.

Q But probably no further than you to me or at least in this ball park?

A The barrel of the gun would have to be probably at least three to four feet and maybe no more than --

Q So I could have been as close as this or maybe

about as far as this (indicating)?

A Correct.

Q Okay. Could you tell the jury what was found in the young man's pocket, please?

A Yes. We had -- there was a packaged condom and a black lighter.

Q So there was an actual cigarette lighter in his pocket?

A Yes.

Q Okay. And he also had marijuana in his system, did he not?

A Correct.

Q And you guys can't tell -- you can't tell whether or not the young man was moving or the gun was moving at the time of the shooting?

A No.

Q I never could find which pocket, but do you know which pocket the lighter was in?

A I don't know that we noted it. Let me see. We don't denote which pocket, no.

MR. ANDERSON: Thank you, ma'am.

THE COURT: Redirect.

MR. YOUNG: No, sir.

THE COURT: Thank you, Doctor. You may step down.

MR. YOUNG: Your Honor, may I step in the hallway to see if my witness is out there right now?

(Pause.)

THE COURT: Call your next witness.

MR. YOUNG: The State calls Tobias Daniels -- I'm sorry, Jarrod Coleman. I apologize.

JARROD COLEMAN,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. YOUNG:

Q Sir, give us your name.

A Jarrod Coleman.

Q Sir, where do you live?

A [redacted] Dry Dock Circle.

Q Mr. Coleman, I'm going to ask you if back on the 30th of July 2007, you were in an area on or around East End Drive here in Saluda County, in Saluda, South Carolina, East End Drive?

A Pringle Street.

Q Okay. In that area?

A Yes, sir.

Q On that day, did you see Michael Watson?

A Yes, sir.

Q Okay. Did you see him in a car?

A Yes, sir.

Q Would you be able to recognize that car again?
A Yes.
Q Let me show you pictures that are State's Exhibits 3, 4 and 5 take a look at that. Do you recognize that?
A Yes sir.
Q What is that?
A A Toyota.
Q Is this the car you saw him in?
A Yes, sir.
Q Did you see him that day in possession of a shotgun?
A Yes, sir.
Q Was it short?
A Yes, sir.

MR. YOUNG: No further questions.

THE COURT: Cross.

CROSS-EXAMINATION

BY MR. ANDERSON:

Q Have you been through the DJJ system?

MR. YOUNG: Your Honor, I object to that question. May we approach on that?

THE COURT: Yes.

(Whereupon, a bench conference was held off the record, in the presence of the jury, but out of

the hearing of the jury.)

THE COURT: Ladies and gentlemen, please step in the jury room. Don't discuss the case.

(The jury retires to the jury room.)

MR. YOUNG: Your Honor, we retain our right to object, but I think we're at a point where the jury is out, so therefore he can ask his question now without prejudicing the jury.

THE COURT: Yes, sir. Go ahead.

MR. ANDERSON: Thank you, Judge.

EXAMINATION

BY MR. ANDERSON:

Q Have you been in trouble before?

A Yes, I have.

Q What did you get in trouble for?

A Second degree lynching.

Q Sir?

A Second degree lynching.

Q I'm sorry?

A Second degree lynching.

Q Okay. And when was that?

A 2006.

Q And what ended up happening with that?

A I got locked up basically.

Q Did you go through family court?

A Yeah, I think so.

Q You think so?

A Yeah, I went through family court.

Q Did you go maybe in front of that judge (indicating), Judge Sawyer?

A No. I went through Judge Chewning.

Q And so did they -- you were convicted. Did you plead guilty?

A I had to. I mean, it is what it is.

Q I understand. But it's just a juvenile, that'll be sealed.

MR. ANDERSON: Judge, I think I ought to be able to cross him on that.

THE COURT: You got anything else on this, Solicitor?

MR. YOUNG: Your Honor, the State believes that unless a juvenile conviction bears upon credibility, the type of crime itself is a falsehood or bears upon falsehood, that it's not a matter for cross-examination for the jury.

THE COURT: When was it?

EXAMINATION

BY MR. YOUNG:

Q How old were you, sir? When did it happen?

A It happened in 2006. I don't remember

everything --

Q How old were you at the time?

A Like, 14 or 15 maybe -- well, 13.

THE COURT: How old are you now?

THE WITNESS: Seventeen.

THE COURT: Rule 609 states that evidence of a witness other than an accused that's been convicted of a crime shall be admitted, subject to Rule 403, if the crime was punishable by death or imprisonment in excess of one year under the law under which the witness was convicted. It doesn't have to involve dishonesty or false statement, that's subsection (2). The time limitation is a ten year period.

It states under subsection (d) that evidence of a juvenile adjudication is admissible under this rule if conviction of the crime would be admissible to attack the credibility of an adult.

What else do y'all want to put on the record?

MR. YOUNG: I don't have anything else, sir. He can ask the question apparently then.

THE COURT: The objection's overruled.

Bring the jury back in.

(The jury returns to the courtroom.)

THE COURT: The objection's overruled. You may continue.

BY MR. ANDERSON:

Q All right. So, Jarrod, you have been in trouble before, right?

A Yes, sir.

Q You've been convicted of second degree lynching?

A Yes, sir, and assault and battery.

Q Okay. And you're only 17?

A Yes, sir.

Q And you get out of this mess, you understand?

A Yes, sir.

MR. ANDERSON: No further questions.

THE COURT: Redirect.

REDIRECT EXAMINATION

BY MR. YOUNG:

Q How old were you when you got convicted?

A Like 13, 14, 15.

MR. YOUNG: No further questions, Your Honor.

THE COURT: Recross.

MR. ANDERSON: No thank you, Judge.

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

Call your next witness.

MR. YOUNG: The State calls Commander Charles Holloway.

CHARLES HOLLOWAY,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. YOUNG:

Q Sir, give us your full and complete name.

A Charles Alan Holloway.

Q Where do you work and for how long?

A Saluda Police Department, been employed with Saluda Police Department since 1997.

Q And how long have you been a certified police officer?

A Since 1996.

Q Were you dispatched to the Saluda Terrace Apartments on the night of August 5th, 2007 in relation to a shooting?

A Yes. Sergeant Brett Long contacted me via telephone and advised me that there was a shooting incident at the apartment complex.

Q Okay, sir. When you arrived at the scene, what actions did you take?

A When I arrived at the scene, I made sure that Sergeant Long had the scene secured. I went and checked the victim, felt for a pulse. There was no pulse. EMS arrived, I advised them. They checked for a pulse. We took a white sheet and covered the

body up.

Q That's why there's a white sheet in all those photographs?

A Yes, sir.

Q In terms of what happened after that, how long did you stay at the scene?

A Until the body was removed and the fire department cleaned the blood up.

Q All right. And later that evening, did Mr. Michael Duran Watson turn himself in?

A Yes.

Q Surrender to police?

A Yes, sir.

Q Out at his house?

A Yes, sir.

Q And then, subsequently, did you have an opportunity to talk to him and where?

A Yes, sir. On August 6th, 2007 at approximately 2:33 a.m., I interviewed Michael Watson at the Saluda County Detention Center with --

Q Okay. Before you go into the actual interview itself, I need to talk to you about some matters that you took up with him. At some point before you interviewed him at the Saluda County Detention Center, did you advise him of his rights?

A Yes, sir.
Q How did you do that?
A In writing.
Q In writing, what kind of writing?
A On a waiver of rights form.
Q Would you be able to recognize that again?
A Yes.
Q Let me show you what's been marked as State's Exhibit 1. Do you recognize that?
A Yes, sir.
Q Okay. What is that?
A This is the Saluda Police Department Waiver of Rights Form that whenever we interview suspects, we fill it out, we read them their rights. And if they understand it, we get them to put their initials in the block and we move on down to each line item.
Q Did you use that form to conduct the rights advisement of Michael Watson?
A Yes, sir, I did.
Q Did you inform him as you completed that form as to what he was being charged with?
A Yes, sir, I did.
Q What charge did you inform him he was being charged with?
A Murder.

Q And how did you go about advising him of his rights specifically? How did you -- did you employ this form in that regard?

A Yes, sir.

Q How did you use it?

A What I basically do is I take two forms, I give him -- I fill out the top part of this form. And as I read him his rights, as he understands them, he initials them.

Q Okay. And you ask him if he understands each one of those rights?

A Yes, sir.

Q As it appears on the form?

A Yes, sir.

Q And when you give him these rights, do you change anything in the wording on the form as you read it to him?

A No, sir.

Q So you read it verbatim right off that form?

A Yes, sir.

Q And then he initialed it?

A Yes, sir.

Q And you asked him after you read him each one of the rights, Do you understand it or not?

A Yes, sir.

Q Did he appear to be at the time you talked to him clearheaded?

A Yes, sir.

Q Knew what he was doing?

A Yes, sir.

Q Did he appear to be under the influence of any kind of alcohol or any other thing that might impair him?

A No, sir.

Q Did he have -- acknowledge your statements to him by either looking at you or signing the form?

A Yes, he signed the form that he understood.

Q So he had to sign it each time as he went down?

A Yes, sir.

Q And when he got through signing the form, at any time did he indicate he did not understand what you were saying?

A No, sir, he didn't indicate it.

Q Did he ever ask you for an attorney?

A No, sir.

Q Did he ever say I don't want to answer any questions?

A No, sir.

Q And you put in the date and time on the form? You put the date and time on the form?

A No, sir. He puts the date and time on the form when he completes it.

Q So he completed that portion of the form at what time?

A 2:33 a.m.

Q At the Saluda County Detention Center?

A Yes, sir.

Q Who else was present at that time?

A SLED Agent Robin Newton.

Q And what is she doing there?

A She was assisting with the murder.

Q She just acted as a witness in this case then?

A Yes, sir.

Q In that regard at the conclusion of the rights warning, did you start to ask him questions?

A Yes, sir.

Q And what did you ask him?

A I asked Mr. Watson what happened.

Q And what did he answer?

A He replied, Self-defense. I asked him, How was it self-defense? He just replied, Because it was self-defense.

In return, he asked me what was he being charged with. I advised him he was being charged with murder.

THE COURT: That's far enough.

BY MR. YOUNG:

Q Stop right there. All right, sir. That concluded his statement?

A Yes, sir.

Q Okay. You also advised him again of his rights later that evening?

A Yes, sir.

Q Using the same form --

MR. ANDERSON: Your Honor, I'm going to object to that.

THE COURT: Yes, sir.

MR. ANDERSON: I hate to do it, but could I be heard outside the presence of the jury?

THE COURT: Ladies and gentlemen, please step in the jury room. Don't discuss the case.

(The jury retires to the jury room.)

THE COURT: Yes, sir.

MR. ANDERSON: Your Honor, you ruled yesterday that the second statement is inadmissible, so I don't know where they're going with this.

THE COURT: What do you want to ask the witness?

MR. YOUNG: I was just going to ask him if he advised him of his rights a second time. I'm not

going to go into any questions. The State has the burden of proving voluntariness in this situation, Your Honor.

THE COURT: And then what are you going to ask him?

MR. YOUNG: Just that he advised him again and he signed the form again at 3:39 indicating he understood his rights again, short and sweet.

THE COURT: Do you still intend to call the witness who drove him to Greenwood?

MR. YOUNG: Yes, sir.

THE COURT: Do you have anything else, Mr. Anderson?

MR. ANDERSON: I just don't want the jury to speculate as to what we're hiding if he read him his rights a second time. I mean, I just don't know what they would think about that. I think that could be prejudicial, Your Honor.

THE COURT: It goes to the issue about what happened in the car and I'd prefer to stay away from it, but I can't say it doesn't go to that issue. The objection's overruled.

Bring the jury in.

(The jury returns to the courtroom.)

THE COURT: All right. The objection's

overruled. You may continue.

BY MR. YOUNG:

Q Commander Holloway, you advised him of his rights a second time in the same fashion about 3:39 that night just to be sure, right?

A Yes.

MR. YOUNG: Answer any questions that the defense may have for you.

CROSS-EXAMINATION

BY MR. ANDERSON:

Q Charles, do you mind if I call you Charles instead of Commander Holloway?

A No, sir, that's fine. I'll just call you Andy.

Q Please. And let me ask you an unpleasant question to just get it out of the way. You are kin to Andrew's family?

A Distant.

Q Distantly?

A Yes, sir.

Q That hasn't impacted you in any way?

A No, sir.

Q And they haven't put any undue pressure on you and we haven't given you a hard time about it?

A No, sir.

Q Okay. You agree with me this is a horrible

situation?

A Yes, sir.

Q None of it's been pleasant?

A No, sir.

Q You're the chief investigating officer of this case?

A Yes, sir.

Q So you've pretty much overseen just about every single thing?

A Yes, sir.

Q You were involved in the interview of the five eyewitnesses?

A Yes, sir.

Q You took statements from four of them and then you actually witnessed the fifth one which Robin Newton from SLED actually wrote out for Corddaryl Ouzts, but you witnessed that -- I think you witnessed that one too, didn't you?

A Just let me look at my notes, unless you've got a copy of it.

Q Sometimes I can't read your handwriting.

A Yeah, that's Corddaryl Ouzts' statement was written by Robin Newton and I witnessed it.

Q Do you know why Robin wrote out his?

A If my memory serves me correctly, I think he

asked her to write the statement for him.

Q Okay. Now, did you guys go out and talk to -- do you remember when we got the 9-1-1 tape, there were a bunch of calls?

A Yes, sir.

Q Did you guys go out and talk to all of the people who called?

A No, sir, it was -- I mean, it was just a flux of individuals that called in that night.

Q There was a bunch of calls?

A Right.

Q You heard Officer Long testify that Carolyn Hill came up there, but she didn't see anything, correct?

A No, sir. She brought her son -- she came back to the scene and advised us that her son was present during the shooting. She went back and got him and brought him back to us and he provided a statement.

Q Which boy was hers?

A Corddaryl Ouzts.

Q I wasn't trying to trick Officer Long, but even with lights, it's pretty dark down there, is it not, down in that corner?

A That area, I mean it's -- it's well lit.

Q Well, when you got there, were police car

lights on as well as the overhead lights?

A I mean, I can't -- I can't recall.

Q Can you, in case any member of the jury is not familiar with that neighborhood, can you describe that neighborhood, please?

A You're talking about the apartments?

Q Yeah.

A It's just basically a general apartment complex. It has about four, I like to call them, dormitories that are broken out into one bedroom, you got two bedrooms and you got three bedrooms.

Q Would you characterize it as a high crime area?

A Yes, sir.

Q And none of the boys that were the eyewitnesses lived there, correct?

A No, sir, not to my knowledge.

Q And do you know firsthand whether or not there were any other guns there that night?

A No, sir.

Q Now, I'm going to give you a hard time about the audio tape. There were no audio tapes of any of the witness statements or interviews --

A No, sir.

Q -- or the defendant's interview?

A No, sir.

Q And -- I mean, you'll acknowledge that there's any number of ways they could have been -- they all could have been recorded?

A Well, some of the cars were equipped with in-car cameras, but we normally use those for traffic stops and stuff like that.

Q But then you got actual old-fashion tape recorder?

A We didn't actually have any actual old-fashion tape recorders then, so.

Q No Dictaphones?

A Everybody had cell phones.

Q All right, a cell phone. You know, I used to be a prosecutor and I don't know why, but police don't like making tapes, they never have, and I guess that stands true here. But, I mean, one thing I had come up with is you could call 9-1-1 on your cell phone and what happens when you call 9-1-1?

A It's recorded.

Q And then you could interview the person on your cell phone and then we'd hear it?

A That's correct, but that would tie up a dispatcher. And it just -- it just was time consuming.

Q And then another thing is that channel --

what's the channel that y'all go to just to trash talk, it's not the official channel on your radio?

A We have several different channels that we go to --

Q What happens on that channel?

A It's not recorded.

Q So you couldn't have recorded it?

A No. I mean, the main frequency is recorded, but you've got the police department use it, the sheriff's department, EMS, fire, highway patrol. So you've got five people talking on one channel, so then we'd shut down the radio system in Saluda. And they were very busy that night because we had a lot of calls going in and out.

Q Definitely that night. Well, I'm probably beating a dead horse, but would you acknowledge that probably this stuff should have been recorded? I mean, we've heard four of the young men testify today.

A Right.

Q There were differences in each what they said.

A Right. Well, I mean, something like that happens, everybody's not going to have the same story because they saw it from a different view.

Q Sure. And that it was three years ago?

A True.

Q Well, as part of your investigation, you talked to this Jeremy Butler kid?

A Yes, sir.

Q And his version of what happened is slightly --

MR. YOUNG: Your Honor, he's going to get into hearsay. I'm going to object.

THE COURT: All right. Do you want to be heard?

MR. ANDERSON: Judge, I hate to do it, but if we could --

THE COURT: Ladies and gentlemen, please step in the jury room. Don't discuss the case.

(The jury retires to the jury room.)

THE COURT: All right. What's the issue?

MR. ANDERSON: Judge, what we've got is this boy named Jeremy Butler was actually the first one of these kids, if I'm not mistaken, to be interviewed by Charles. And what he says is basically that Duke and Andrew went towards the car and said, Shoot now.

Now, the State's in possession of his statement, I actually got it from them, so they're intentionally not calling this kid. And so I don't believe it's hearsay for a number of reasons. I

believe the -- especially the "Shoot now" part would be an excited utterance exception to hearsay.

I also think they're all -- there are numerous other hearsay exceptions because it goes to my client's state of mind. It's not to the truth of the matter asserted. It's -- my client hears, Shoot now. He doesn't know the context of it, but it was said. And, again, Charles took the statement. It was the first kid he talked to. So I don't believe it's hearsay. I believe it's admissible, Judge.

THE COURT: Ask him what it is you want to ask him so I can hear what he's going to say.

EXAMINATION

BY MR. ANDERSON:

Q When you interviewed Jeremy Butler, did he tell you that Duke and Andrew walked towards the car and said, Shoot now?

A That's what he provided in the statement.

(Pause.)

MR. ANDERSON: Judge, I've got my trustee South Carolina Evidence. Would it assist you if I made copies of the pages that I --

THE COURT: No, just tell me what you're relying on.

MR. ANDERSON: I'm relying on what's not

offered for the truth of the matter asserted. It's for the -- one, I think is probably the weakest argument, it could be a criminal conspiracy with all of those boys, one of them saying, Shoot now.

I think the stronger arguments probably goes to the defendant's state of mind, which is the actual cause for this whole thing. It could also go to the effect on the hearer of it. And it's also a threat as evidence of ill will. I think also easily you can say it's an excited utterance that was made right after this traumatic event. Again, this is the first person interviewed.

THE COURT: I hadn't heard all of that. I don't know when it was said, I don't believe.

MR. ANDERSON: Could I ask him, Your Honor?

THE COURT: Sure.

BY MR. ANDERSON:

Q Charles, your interview sheet or the statement sheet indicates that you talked to him right at midnight after the incident?

A What statement sheet are you referring to?

Q On the very top right, his written statement.

A That's 1720. It would be 5:20.

Q Okay. So that's 1700 not 1200?

A No, sir, that's a seven. So he would probably

be one of the last that was talked to.

Q So then I'm wrong about when, but you talked to him the next day?

A Right.

MR. ANDERSON: But, Judge, his -- the boy's statement of, Shoot now, is what he heard which we would argue that is an excited utterance. In addition to that, it's just hearing, Shoot now, the affect it would have on my client. So it goes not to the truth of the matter asserted, but just to his state of mind.

(Pause.)

MR. YOUNG: Your Honor, may I ask a question of the witness at this point to verify something?

THE COURT: Yes, sir.

EXAMINATION

BY MR. YOUNG:

Q Commander Holloway, with regard to the statement recorded as I have it in a statement that you were just shown, Jeremy Jarrod Butler, dated August 6th, 2007 at approximately 1720 or 1700 on that day, if I understand the statement, the way it's worded, quoting from the statement, So he stopped when he got towards us and Duke and Andrew walks toward the car -- walked toward the car and

said, Shoot now. He let off a shot and spin wheels and I called 9-1-1. At the time that you heard him make this statement or talked to you or give you this statement, did he indicate to you that the words, Shoot now, were uttered before or after the shot?

A I can't remember.

Q Well --

A By the statement, it was, you know -- it was before he shot, then he drove off.

Q The words were, Shoot now, then he shot, is that what you're saying?

A Right.

Q Okay. And it appears from the written form I'm looking at, is that the same as you're reading?

A Yes, sir.

Q The words I gave and read just to you are the same words you have in your statement, correct?

A Yes, sir.

Q So in terms of sequence, Shoot now, is a statement that ends a sentence, then a new sentence, he let off a shot and spin wheels and I called 9-1-1. So from the standpoint of an excitement, "Shoot now" preceded the shot, correct?

A Correct.

Q Did he indicate to you any other kind of condition or moment that would excite him or give him a sense of excitement at that moment?

A No, sir.

MR. YOUNG: Your Honor, the State's position is this is not what the defendant -- excuse me -- this is not what the witness said. It is what he heard somebody else say. And now he's asking the Court to offer -- allow into evidence a statement repeated to Mr. Holloway, Commander Holloway, which is now double hearsay. So it's what he's telling -- he's asking Commander Holloway to offer into evidence words that were uttered by a person who's not present in the courtroom that he heard someone else say, that's double hearsay.

(Pause.)

MR. YOUNG: If I could, Your Honor, there's also a question of availability of a witness at this point. And I'd like to get that into the record at this time with regard to Commander Holloway's service of subpoena in efforts to obtain the presence of Mr. Butler.

THE COURT: Yes, sir.

BY MR. YOUNG:

Q Commander Holloway, were you provided a

subpoena to have served on Jeremy Jarrod Butler?

A Yes, sir.

Q Was it served upon him?

A Yes, sir.

Q Was he contacted last night or yesterday in the effort to have him appear in court?

A Yes, sir.

Q Okay. Who did you contact?

A I spoke with his grandmother. She advised that she would get him the message. He wasn't here this morning. I called her again and she advised that he did not come home last night and she would try to look for him.

Q And, at this point, you don't have any idea where he is?

A No, sir.

Q Did you participate in any effort to try and prevent him from coming to court?

A No, sir.

Q In defiance of that subpoena?

A No, sir.

Q How long ago was he served with that subpoena?

A A week.

Q And was there any doubt in his mind as to what he knew where he should be and how he'd get here?

A No, no doubt in my mind.

Q And you've also talked to him since that time several times, haven't you?

A Yes, sir.

Q And all of a sudden last night you can't reach him or he doesn't show up?

A Correct.

MR. YOUNG: Nothing further.

Your Honor, the witness at this point may become available. The State is making a continuous effort to locate him. And if he becomes available, we'll deliver him to the Court for purposes of testimony, but at this point we have been unable to bring him into the courtroom. And rather than prevent this proceeding from just basically stopping in place, the State believed it could go ahead without his testimony and present its case as we had on the facts.

THE COURT: Who did Jeremy Jarrod Butler say made the statement, Shoot now?

MR. ANDERSON: He says Duke and Andrew, Your Honor. Could I make a copy of this and make it a court's exhibit, Your Honor?

THE COURT: Yes, sir.

(Pause.)

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(Court's Exhibit Number 2, statement of Jeremy Jarrod Butler, marked for identification purposes.)

THE COURT: Was the 9-1-1 tape available?

MR. ANDERSON: Yes, sir. I got the 9-1-1.

THE COURT: And this person, Mr. Butler, is the one who made the 9-1-1 call?

MR. ANDERSON: I think it was Raymond Kirkland who made 9-1-1, Judge, although he didn't say that, but I don't know that it was him.

THE COURT: This statement indicates Mr. Butler claims he called 9-1-1. Is there a 9-1-1 call from Mr. Butler?

MR. ANDERSON: I couldn't identify him, Judge. And as Charles testified, there were a bunch of calls. There's a young man who calls and says, We need an ambulance at Saluda Terrace Apartments, there's -- a shot just happened, he's bleeding. And he won't give his name.

Judge, Raymond Kirkland also says he calls 9-1-1 in his statement.

(Pause.)

THE COURT: Well, is the first time that he talked to this witness was five o'clock the next morning or seven o'clock the next morning?

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MR. YOUNG: Your Honor, 1720 on the military clock will be 5:20 in the afternoon.

THE COURT: So he didn't talk to him until five o'clock in the afternoon the day after the incident -- or the following day, is that the only evidence?

MR. YOUNG: Sir, are you directing the question to me?

THE COURT: I'm just asking a question. I don't know.

MR. YOUNG: Sir, the evidence will be, I believe, that since the incident occurred at 10:30 at night, that it would be almost 20 hours later. The conditions for excited utterance at the time he gave that expression to Charles would be well past.

He didn't make the statement. It wasn't an excited utterance he said, it was someone else saying it. Jeremy Jarrod Butler heard someone else and I believe he actually identified two people saying that in his statement.

THE COURT: All right. The way I'm reading the rules, this is hearsay. The definition of Rule 801 that has been cited to the Court about the requirement that in order to be hearsay, the statement has to be offered for the truth of the matter asserted, I don't know what else it could be

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offered for. I know you said it goes towards the state of mind of the defendant, but the only way to jump to that conclusion is to show that the statement was made and it's true.

Now, the way this written statement, which is Court's Exhibit Number 2, is worded, it is not possible to tell whether Mr. Butler is claiming that Duke or the decedent is the one who made the statement or if both of them did, the statement being, Shoot now. There's not enough evidence about a conspiracy for me to admit it in that fashion under 801(d)(2). There's not enough evidence for me to make a determination that it fits within 801(d)(2) as not being hearsay because it's a statement of a party opponent.

With regard to the exceptions to the hearsay rule, the rules are different when a declarant is unavailable. The declarant is a person who makes a statement. So the declarant in this instance is Mr. Butler who -- I'm sorry -- the declarant in this instance is Andrew and/or Duke and/or Mr. Butler because you've got a hearsay within hearsay situation.

So as it regards the statement that Mr. Butler made to the officer, he's the declarant, I've read

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the rules related to the unavailability of the declarant. Those are in Rule 804. Those exceptions deal with situations where a declarant is unavailable. There's former testimony which does not apply; a statement under a belief of impending death, there's not enough evidence for me to make that determination; a statement against interest, it's not against the interest of Mr. Butler; and the fourth exception is for personal or family history.

Then the rules that apply regardless of whether the witness is available or unavailable, the exceptions are found in Rule 803. Rule 803 contains the exceptions you've been talking about related to an excited utterance, a present sense impression, then existing mental emotional or physical condition.

There's not evidence enough for me to make a determination that these things fall within a present sense impression because the rule states that it has to be made while the declarant was perceiving the event or condition or immediately thereafter.

The excited utterance, I have to have evidence that the declarant was under the stress or excitement caused by the event or condition.

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The third subsection really doesn't apply. It's the declarant's state of mind, emotion, sensation or physical condition, but does not include a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification or terms of a declarant's will.

Now, either side can apply, if this witness is dodging a subpoena, to have the witness arrested and held until he testifies, but, at this point, I sustain the objection.

MR. ANDERSON: Your Honor, if you're willing to do that, I mean our position again is it's really not hearsay. We're not offering it for the truth of the matter asserted that somebody was going to shoot now, but more for the effect it had on my client when he heard that. And the whole thing about hearsay is that, you know, we're concerned about the reliability of that evidence. And Raymond Kirkland testified this afternoon to "Shoot now", he heard that as well. So it's not like this is coming out of left field.

THE COURT: I understand as far as the reliability issue, which is -- I didn't get into that, it's contained in sections of the rule. I

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understand.

Now, I don't know what exactly was said. I don't know if what is being claimed is that the statement was in line with one of the people outside of the car saying, if you're going to shoot, shoot now, which is what I heard before the trial, or if it's one of the people outside the car saying, Shoot now, which would be shoot the defendant. I don't know, I wasn't there.

MR. ANDERSON: And our position, Judge, it's the latter. And it -- in fact, in his state of mind --

THE COURT: It has to be the declarant. I'll look at 801 again, but I don't think we've got the right person.

Subsection (c) of Rule 801, Hearsay is a statement other than one made by the declarant while testifying at the trial or hearing offered in evidence to prove the truth of the matter asserted.

What you're saying is that it's not offered to prove the truth of the matter asserted. It's offered to prove the state of mind of another person.

MR. ANDERSON: Who heard it.

THE COURT: I don't think it works that way.

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If your client had said something that was indicative of his state of mind, then I think it falls within this. If somebody else whose state of mind was relevant made a statement, then I think it's indicative of that, but you've got two different people here at a minimum. You've got the declarant is the person who makes the statement. The statement, Shoot now, is attributed to the decedent and/or Duke.

In order to allow hearsay within hearsay, both statements, the statement made by Mr. Butler to this officer and the statement that Mr. Butler overheard, have to fit within an exception to the hearsay rule or not be hearsay. I may be wrong, but that's my ruling.

Anything you need to proffer outside the presence of the jury before I bring them back?

MR. ANDERSON: Judge, you've ruled. And I think this witness is going to be on the stand a while. Could I submit something in the morning and we can continue at least for this?

THE COURT: You can do whatever you like. You can make your proffer any time you like.

MR. ANDERSON: Can I do that later? It's getting late and my brain's not working great

anyway. If I can finish up.

THE COURT: All right. Bring the jury in.

(The jury returns to the courtroom.)

THE COURT: All right. The objection's sustained. You may continue.

MR. ANDERSON: Thank you, Judge.

BY MR. ANDERSON:

Q When you talked to the defendant that night at the jail before he -- he didn't have an attorney, he told you then it was self-defense?

A Yes, sir.

Q What efforts did you do to kind of research the issue of self-defense after he told you that?

A We talked to the witnesses and, you know, I mean, it's still the question, why did it happen.

Q Yeah. That picture that I put into evidence with the pocket, do you know who took what out of the young man's pocket?

A No, sir.

Q You know the picture I'm talking about? It will be Defense Exhibit Number 2.

A Okay.

Q Do you have any idea what came out of there?

A No, sir.

Q Okay. And then I'll show you -- strike that --

so the witnesses you talked to are the ones who testified today who were the brother and then the friends of Andrew?

A Yes, all with the exception of Mr. Butler.

Q Okay. You heard one of those young men today said something about a sawed-off shotgun?

A Yes, sir.

Q Isn't it true that when you interviewed those five witnesses, none of them said anything about a sawed-off shotgun; isn't that correct?

A No, sir, none of them mentioned a sawed-off shotgun.

Q What's the last you heard of that fifth witness, that Jeremy Butler?

A I contacted his grandmother yesterday, advised her to have him up here today. He wasn't present. I called her back. She said he did not return home. She would do her best to locate him and get him up here.

Q Do you know if any law enforcement went to go get him?

A No, sir.

Q Okay. So of the five people you interviewed, he did give a statement and he's the only one that didn't testify today of the five eyewitnesses?

A Yes, sir.
Q And there's no other written statements from any other witnesses?
A No, sir, no other written statements.
Q Did you do -- you've heard some testimony today about people going after Michael Watson. You heard that first young man say that he was going after Michael Watson to shoot him back.
A Yes, sir.
Q Did y'all do any investigation following that up, any kind of retaliation?
A That's how he turned himself in. I think it was his brother Derrick Harlan called the sheriff's office and advised that someone threatened his 18-year-old brother Michael Watson. At that time, the Chief then, David Farmer, advised the sheriff's office that Michael Watson was the shooter and that's when they went out there and arrested him.
Q On the radio, he actually said, there's our shooter or that's the shooter or something like that?
A Yes, sir.
Q So there were threats after this incident to Mr. Watson?
A Yes, sir.

Q And isn't it true that he actually had to be removed from the Saluda Jail?

A Yes, sir.

Q Taken to Greenwood Jail?

A Yes, sir, then to Aiken.

Q He's been in Aiken since?

A Yeah.

MR. ANDERSON: That's all the questions I have.

THE COURT: Redirect.

REDIRECT EXAMINATION

BY MR. YOUNG:

Q Was a shotgun ever recovered?

A No, sir.

Q His house was searched, his car was searched?

A Yes, sir.

Q No gun?

A No gun.

MR. YOUNG: Nothing further.

THE COURT: Recross.

MR. ANDERSON: No thank you.

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

All right. How many more witnesses can you hear today, if any?

MR. YOUNG: Your Honor, we have one witness, but he would probably take the better part of 45

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minutes to an hour and I would propose to start with him tomorrow morning and the remaining SLED witnesses.

THE COURT: All right. Ladies and gentlemen, I want you to be here tomorrow at 10:00. I would have you here sooner, but I've got something I need to work on I need to talk to the lawyers about and I don't want you waiting back there on us unnecessarily. So if you'll just be here at ten o'clock, I'm pretty confident we can get to you by then. Don't discuss the case. Please be in the jury room at ten o'clock. Thank you.

(The jury was excused for the day.)

THE COURT: All right. Do y'all have access to the procedure to have somebody locked up who's not appearing for a subpoena?

MR. ANDERSON: I do not, Judge, but I would make that request. I've actually, when they told me they weren't going to call him, I got a private investigator with a subpoena. We were going to try to get him too, but he can't obviously pick the guy up.

THE COURT: Did they serve it on him?

MR. ANDERSON: I don't know.

MR. YOUNG: Your Honor, I think it's simply an

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application for a bench warrant, I believe that's what it is, to have the person held until such time as they're made available to testify. I do not -- I believe Mr. Maye has actually completed an application for that report. I am not personally familiar with it, but I believe that's what it is.

THE COURT: I'm going ask the lawyers to stay here. If you want your client to stay here, that's fine. Let me look at some things on the computer.

But now I do need to make an announcement. It was reported to me that, and I have no idea who did it, might be able to find out, but it was reported to me that at some point today, some person or persons who are not authorized to do so was or were holding the door open on the side to allow people to come in that entrance without going through security.

Now, I don't care if that's on the defendant's side or the victim's side. It doesn't matter to me. I better not see that done or hear of that being done again because if I do, I plan to either have that person arrested or cite them for contempt of court or both. You have no right to bypass the security measures. Some of the worst incidents that have ever occurred in courtrooms that I've seen were

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caused by people in very emotional cases where you have a situation similar to this and that's not going to happen on my watch if I can help it.

The other thing is, I'm not trying to meddle, here, but I'll tell y'all quite honestly I've been very lax about allowing folks to come up to the defendant. I leave it in the hands of security. They've been right there. They've been watching everything.

But I'll tell you, honestly, I've never seen that done before. Generally, in trials, they don't let family and friends and everybody just come up and shake hands and hug and carry on like y'all have been doing. Now, I understand why you're wanting to do it, but that man's in custody and I don't ever recall seeing that done during a trial at a courthouse. We're at ease.

(The proceedings were concluded for July 27, 2010.)

(The following proceedings were held on July 28, 2010.)

(State's Exhibit Numbers 28 through 33 were marked for identification purposes.)

THE COURT: All right. I understand that overnight we were able to contact Mr. Butler. Is he

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here?

MR. YOUNG: He is, sir.

THE COURT: Where is he?

MR. YOUNG: Your Honor, I believe he's downstairs at this very moment.

THE COURT: Does he know he can't leave the courthouse?

MR. YOUNG: I told him to stay in the courthouse. I told him to stay in my office actually, but I think he stepped out.

THE COURT: I mean, he may be a witness and he may need to be sequestered. I just want to make sure he knows not to leave the courthouse.

MR. YOUNG: Yes, sir. I told him not to leave the courthouse.

Can I ask if you can go down and make sure he's present and have him come sit out in the hallway?

THE COURT: State ready for the jury?

MR. YOUNG: Yes, sir.

THE COURT: Defense?

MR. ANDERSON: Yes, sir.

THE COURT: Bring in the jury.

(The jury enters the courtroom at 10:15 a.m.)

THE COURT: Call your next witness.

MR. YOUNG: Thank you, Your Honor. The State calls Special Agent Vickie Hallman.

VICKIE HALLMAN,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. YOUNG:

Q Would you tell the Court your full and complete name?

A My name is Vickie Hallman and I work for the South Carolina Law Enforcement Division.

Q Ma'am, how long have you been doing that?

A I've been at SLED for approximately six years.

Q What's your job?

A I work in the latent prints crime scene unit.

Q What does that mean you do really?

A My unit is specifically set up to assist local agencies in the processing of crime scenes. As part of that duty, we respond statewide to assist with the processing of crime scenes. And I also process items for latent fingerprints. I do latent fingerprint comparisons. I do foot wear, tire tread comparisons, blood stain pattern analysis and crime scene reconstruction.

Q Yes, ma'am. And were you -- in the performance of your particular duties, were you contacted by law

enforcement in Saluda County to go to an address, to Juniper Drive on August 5th, 2007?

A Yes, sir, I was.

Q Do you know about what time you got there?

A I think we received the call about 11 o'clock at night. So I would say I was there right around 12 o'clock, midnight.

Q You started doing what when you arrived?

A We made contact with the initial officer who was Lieutenant Holloway with the police department so we could find out basically what had occurred. And from that, we would have documented the scene with photographs, general photographs, before anything is moved or touched. We would have gone back in with evidence markers, which are those little yellow little triangles that you see with the numbers on them, and we would have put those down on pieces of evidence that we felt were relevant. We would have rephotographed the scene and then collected those items of evidence.

Q Did you go to more than one location in connection with this case?

A Yes, sir, we did.

Q How many different locations?

A We responded to the initial location at the

apartment complex. We went back to the sheriff's office to process a vehicle and also an address on Hill Drive.

Q Okay. In what order did you do those things?

A The order I just told you, the apartment complex, the sheriff's office and then Hill Drive.

Q So on that particular night, it was a busy night, a lot to do?

A Yes, sir.

Q A lot of places to go. All right, do you have a pattern you usually follow when you do this kind of work in terms of how you start processing the scene?

A Basically the pattern that I've already described where we go in, we get the general information, we do photographs, we mark evidence and then rephotograph before anything's collected.

Q So that is the method?

A Yes, sir.

Q And so that's what you did at this scene?

A Yes, sir.

Q In all three places?

A Yes, sir.

Q All right. Now, I have a diagram up there that may have some bearing on this. Does that diagram

bear any semblance to anything you did in the area?

A It's very similar to the crime scene sketch that we did that night at the scene.

Q Okay. The photographs that you took, would you be able to recognize them again if you saw them?

A Yes, sir.

Q I'm going to hand up a large quantity of photographs, but I'm going do it in somewhat an order. I'm going to start with Exhibit 13, 14, 15, 16, 17, 18, 19, 20 and 21. Those photographs, I'm going to show them to you now and ask you if you can recognize them?

A Yes, sir, I do.

Q What are those?

A These would be some of the crime scene photos that we took the night at the apartment complex.

Q Okay. So that's step one?

A Yes, sir.

Q That's part of step one in essence of what you did. And then if I can just start at that location then where you initially did things. There are obviously a lot of things displayed in those photographs and so can you tell me did you mark any particular items of evidence as you went through the process of taking these photographs?

A Well, we would have taken a set of photographs first before we did anything and then we would have gone back and we would have added the markers in and basically rephotographed.

Q And where you placed markers, did you collect evidence?

A Yes, sir.

Q All right. Now, I note that there's a marker one, two and three -- this is Exhibit Number 26. Let me show you this picture.

Now, with regard to that picture, do you have anything that you can refer to to say I know exactly what that was or what I collected and why I collected it? In other words, do you keep a track of what your -- do you mark it down in some way?

A Yes, sir, I do.

Q What do you do?

A I actually do crime scene notes and then when I get back to the office, they're usually typed in. And when I log my evidence into the laboratory, if it's something that I collected on a crime scene, I will usually log it in as whatever the item description is from marker one or from marker two so at a later date I can always go back and match everything up.

Q And how many markers are in that photograph?
A There are three markers in this photograph.
Q Okay. I'm going to show you what has been previously marked as State's Exhibit Number 30 and ask you if that bears reference to anything you recognize in connection with the photograph that you were describing having markers in it?
A Yes, sir, it does.
Q What is that?
A It is part of a shotgun wadding.
Q Okay. And was that collected at the scene?
A Yes, sir.
Q And what marker would that bear reference to?
A Marker one and I know because of the photograph and I also know because on my container that I used, I put marker one, wadding.
Q Okay. And you -- it looks to be some kind of metal box in here.
A It's just a metal tin that we use to collect some of our smaller evidence so we don't lose it.
Q So you placed it in that box?
A Yes, sir.
Q Okay. And upon placing it in that box, you sealed the envelope -- excuse me -- sealed it into that particular container?

A It would have been put in this container and it would have been put in my box of evidence. And then the next day when I logged it in at the SLED laboratory, it would have been put in a sealed container to go -- in this case, it would be going to firearms because they would have done an examination on it.

Q All right. Thank you. And at that particular scene, did you collect any other evidence?

A Yes, sir, we did.

Q Okay. Now, I note that -- just so we can count the things that were at the scene, take a look at this and tell me what that is. It has not been marked. I'm just going to refer to it. But does that bear any resemblance to anything that's in the pictures?

A It is a blue shirt and a blue shoe that was also at the scene that night.

Q This was turned over -- left with the police department?

A Yes, sir.

Q And then there was perhaps something else found at the scene?

A There were two hand-rolled cigarettes that we collected, also.

Q Okay. And those hand-rolled cigarettes were taken into custody as well?

A Correct.

Q Okay. And that pretty much completed what you did there unless you did something else. Do you do anything in collection of -- before a body is removed, anything in connection with a body?

A With permission from the coroner, we usually try to collect major case prints, which is a collection of the finger and the palm prints. And if the incident that is involved is a shooting, we also collect a gunshot residue kit.

Q Okay. And did you do such a thing as collect gunshot residue and latent prints from this particular situation?

A Yes, sir, we did.

Q And how did you go about that?

A Usually we collect the GSR kit first because the gunshot residue is much more delicate. We would have -- there's two different tests that is included in a GSR kit, one we use swabs for and nitric acid and then the other one, which we do first, is one, and I call it sticky tabs because it's a little container and when you open it up, it has a little dot. It's basically like a little piece of tape and

you dot that around on the -- in the inside of the container, they're marked as left front -- or, excuse me, left palm, left back and you just follow the instructions as to which one goes where and you just kind of do the little tabs and then you go back with the swabs and swab it, also.

Q And that's how all these collection kits are done, right?

A Yes, sir.

Q Okay. And did you do that on the body of one Andrew Chandler?

A Yes.

Q Okay. And you collected that and did what with that sample?

A It would have been taken back to the laboratory and it would have been logged in for our trace department to do an analysis.

Q Okay. Do you have that with you just by chance?

A Yes, sir.

Q And is it in that bag you're holding there?

A Yes. This would be the one from Mr. Chandler.

Q And that's what you submitted?

A Yes.

Q Okay. You can put it back in there. And was

there any other kind of trace evidence or any other kind of evidence collected at the scene, this scene number one I'll call it?

A No, sir.

Q Nothing else. From there, what happened?

A From there, we went to the sheriff's office because we were advised that a suspect had been taken into custody and they were working on getting us a search warrant to process his vehicle.

Q Okay. And once that was accomplished, did you go to where the car was located?

A Yes, sir.

Q And where was that?

A It was in the impound lot at the sheriff's office.

Q And there at the impound lot, what did you do?

A We would have documented it first with photographs. And I would have taken notes just notating the tag number of the vehicle, a general description of the vehicle and the VIN number and then we would have processed it for whatever type of evidence was necessary.

Q Okay. I'm going to show you what's been marked as State's Exhibits 3, 4, 5, 6 and 7. Number 6 and Number 7 are marked for identification at this

point. I'll hand them up to you and ask you if you can recognize them?

A Yes, sir, I do.

Q What are they?

A Photographs 3 through 6 are of the vehicle that we completed the search warrant on. And photograph 7 is a copy of a driver's license that was found inside the vehicle.

Q Okay. Do any of those -- actually, can you see the driver's license where it was located in the car when it was searched?

A Yes, I can.

Q Okay. And which photograph does that appear on?

A That would be in photograph number 6.

Q So the picture where the license was located is in 6 and then you have a separate picture of the actual license, correct?

A Correct.

Q What does the license appear to be of?

A It's a South Carolina driver's license issued to a Michael Duran Watson.

Q Okay. And do all of those photographs are they fair and accurate representations of what you saw at that time?

A Yes, sir.

MR. YOUNG: The State would offer I believe the two matters which are for identification still 6 and 7 as evidence. We'd offer these into evidence at this time, Your Honor.

THE COURT: Any objection?

MR. ANDERSON: No, sir.

THE COURT: Mark those in evidence please, ma'am.

(State's Exhibit Numbers 6 and 7, photographs, admitted into evidence.)

MR. YOUNG: I'll publish this to the jury, Your Honor.

BY MR. YOUNG:

Q Ms. Hallman, when you're there at the scene two at the sheriff's office, do you do any further analysis of the car itself?

A We also collected a gunshot residue kit from the vehicle itself because the information that we were given at the scene was that the suspect never exited the vehicle, that he had just stuck the shotgun out of the --

MR. ANDERSON: Excuse me.

MR. YOUNG: Don't go into that information, just tell me --

MR. ANDERSON: Judge, I just have to --

THE COURT: Hold on a second.

MR. ANDERSON: I just have to renew my objection. I know you've already ruled on it, but I think I need to do that for the record on the GSR.

THE COURT: All right. The objection is noted and it's overruled.

BY MR. YOUNG:

Q You were testing the outside of the car based upon an allegation that there had been a firing of the shotgun somehow?

A We tested the inside of the vehicle.

Q Inside, okay. And did you test the outside of the vehicle as well?

A No.

Q Do you have reference to what items specifically -- let's just say do you keep a track of the item numbers in connection with this as well or some way of logging where you checked on the car?

A With the GSR kit, like I said, when you do it on a person, it specifies whether or not you do left back, left front when it comes to the hand. Because it was a vehicle, we actually used those same, the little sticky tabs, and I don't know the official name, we use those because those are the only things

that we've been told by our trace department that they will analyze from a vehicle. And we actually marked out the left back, left front. And we actually marked on the containers themselves where they specifically came from in the vehicle.

Q Okay. And so what you did then with regard to this particular item or this particular test you did, would you have some way of pulling out anything out of the bag that you're holding now, and tell me is that the bag that you used?

A Yes, sir.

Q Is there anything in that bag?

A The actual containers are still in the bag.

Q Okay. And so would you be able to refer to those and tell me where you checked on which ones?

A Yes, sir.

Q Would you check and tell me?

A Sure.

MR. ANDERSON: Judge, while she's doing that, can you just note my continued objection to the GSR?

THE COURT: Yes, sir.

THE WITNESS: We collected one from the passenger door frame above the window. We collected one from the passenger dash, above the passenger seat on the ceiling and the passenger door below the

window.

BY MR. YOUNG:

Q Okay. And so all of those were put in that bag?

A Yes.

Q Were they in that kind of container at the time that you saw it?

A Yes.

Q In that little thing?

A Yes.

Q All right. And so each one of those little tubes is where you had some of these tests, each one had each one of those tests separate tube?

A Yes.

Q Okay. And just as a simple question, I want to make sure I understand it, you marked on each one of them where you collected it?

A Correct. Because, as I said, standardly, they're actually marked right palm, right back, left back and left palm, but because it wasn't done on a person, so when trace got it to do the analysis, they would know specifically where it came from, we marked it out and we just wrote on the containers ourselves what location we collected the sample from.

Q Okay. So it's your handwriting that you have on there that you can tell where it was taken from?
A Yes.
Q Okay. And then that's it, you collected it, put it in a bag and then what?
A It was sealed closed and it was logged into the forensic lab and forwarded to the trace department.
Q I just want you to explain to the jury what that means and I'm going to ask you to explain that in terms of all the evidence that would have been collected here because I'm just going to jump to that now because it may make more sense. Would you go ahead and tell the jury what this really means, if something -- is there a numbering system or how does SLED keep track of all this stuff?
A Each case is assigned a lab number and those are done numerically by the -- the first case of the year is -- for this year, it would have been L10 00001 and it goes sequentially from there depending on what day somebody brings things into the laboratory. As part of the system, it gives us the agency that submitted the evidence or the agency that the case belongs to. It gives us a cross reference of their case number and the victim's name, the suspect's name if there's a suspect, the

incident type. And then each item is actually given a SLED laboratory item number.

Q Okay. But is there one big lab number that everything goes into or each one gets a separate lab number?

A It's given one big specific lab number, like, in this case, this one is case number L0711377. And then as the items are logged in, they're given numerical order. Like, usually if it's something that I log in, I log in the CD with my crime scene photos as my first item, so that's always considered item one. And then you go sequentially there depending on how they're listed basically on the log-in sheet.

Q So what item number is this bag here that you held up that held the GSR kit from the outside of the car; do you know?

A And actually because I did three GSR kits, each GSR kit is given a specific item number, but because all three are going to the same department, I put it in a container. So there's also container numbers that are related to the items of evidence.

Q Okay.

A I don't mean to get confusing.

Q So all the GSR kits are in what container?

A They went in container C. And actually on the back of each kit, we actually put the item number label, so the --

Q Okay. So what item number do you have for that kit on the outside of the car?

A The GSR kit from the vehicle is SLED item number 12.

Q Okay. Item 12. Now, how about the GSR kit from Andrew Chandler, what was that item number?

A That was item 11.

Q Is there another GSR kit in there?

A Yes.

Q What is its number?

A It is item 10.

Q And how is it marked on the outside as to what it bears?

A You mean whose name is on it?

Q Yes, whose name?

A It's listed that the suspect -- excuse me -- the subject's name is Michael D. Watson.

Q Okay. So there's another one there with his name on it?

A Yes.

Q All right. So did you complete now -- is that everything you did at scene two?

A Yes, sir.

Q All done at scene two?

A Yes, sir.

Q So you've completed actions on the outside of the car and photographs of the car, tested for GSR on the car and that's it?

A Correct.

Q All right. You bagged up the evidence from scene one, you put it in a separate bag for whatever it was, right? And it was, I believe, a shotgun wadding.

A It would have been -- I basically make one big box for my crime scene and usually all of the evidence goes in that one box, but they're usually individually containerized, like the wadding would have been put in this tin and the tin would have gone in my box.

Q Do you mark the outside with your name or something?

A It's marked with my initial and the initials of the other SLED agent who responded with me.

Q So, at this point, you've got everything logged and tabulated or whatever, you're ready to go to the next scene?

A Correct.

Q All right. And so how long until you got to the next scene?

A Right offhand I don't know, probably about -- I think it was about a 20 or 30 minute drive from the sheriff's office.

Q Okay. So you go out to this location. Do you remember where it was?

A Hill Drive.

Q And what address was that? Is it significant in some regard to this case?

A The specific address is [redacted] Hill Drive, Saluda. And we actually arrived on that scene on the morning of the 6th at approximately 4:25 in the morning.

Q Been a long night?

A Fairly, yes, sir.

Q All right. Now, did you also go through the process of photography?

A Yes, sir.

Q All right. Now, I'd like to restrict most of your testimony to simply the outside, but you did -- because we're going to deal with the issue of what was found outside primarily. You did go inside the house?

A Yes, sir.

Q You took photographs?

A Yes, sir.

Q And while you were inside the house, you collected several items of evidence, but one of these is perhaps something you can recognize if I show it to you in the picture?

A Yes.

Q Did you take a picture of something like this? Do you recognize that picture?

A Yes, sir.

Q What is that?

A It is an empty box. It's a Winchester Super X and it noted that it had 25 shot shells in it.

Q Okay. It was a box of shot shells?

A Yes.

Q And where did you take that picture?

A It was actually in one of the bedrooms in the residence.

Q Do you know whose bedroom it was?

A I don't recall right offhand.

Q Do you have any notes to that effect?

A I can double check.

I just notated in my notes that it was a back bedroom.

Q All right. And did you collect that box of shells?

A Yes, sir.
Q Or the shell box. Did it have any shells in it or not?
A No, sir, it was empty.
Q Okay. Would you be able to recognize that again if you saw it?
A Yes, sir.
Q Let me show you what's been marked as State's Exhibit Number 29 and ask if you can recognize that?
A Yes, sir.
Q Would it assist you if we opened that up so you can take a full and complete look at it because I'm going to ask a question about what you may have been able to see on the box?
A Sure.
Q And for the record, you're holding a sealed envelope?
A Yes, sir. It's a heat-sealed pouch.
Q And is that the box that you collected at the scene?
A Yes, it is.
Q Was it in the pouch when you collected it?
A No, sir. I put it in this paper bag and I notated on the paper bag that it was a back bedroom, shoe box in corner. And it's notated, One empty

Winchester 20-gauge, is all I can see, but it was put in the paper bag. And then once I processed it, I put it in the heat-sealed pouch.

Q Okay. So you're the one that did that?

A Yes, sir.

Q Could you open that up and I'd like you to take a look at the box itself.

A (Witness complies.)

Q I'm going to ask you to refer to any writing that may appear on the exterior of the box as to the size of shot that may appear on the box if it's anywhere.

A On the lid of the box, it notates that it's a Winchester Super X heavy game load 20-gauge, two and three quarter inches, two and a half. It's a one ounce and it's a six led shot.

Q So a number six size shot?

A Yes, sir.

Q Okay. Would you return that to the envelope?

A Sure.

Q Now, it's got all that stuff over it, which is -- what is that kind of black stuff on it, what's that for?

A That's fingerprint powder.

Q You didn't get any prints off that, did you?

A No, sir.

MR. YOUNG: The State would offer into evidence Exhibit Number 29.

MR. ANDERSON: No objection.

THE COURT: Mark it into evidence, please.

(State's Exhibit Number 29, Winchester Super X box, admitted into evidence.)

BY MR. YOUNG:

Q Now, if we could, I would like to proceed to the exterior of the house. Did you go around the exterior of the house and take any photographs in that area?

A Yes, sir, we did.

Q Okay. Would you be able to recognize those photographs again if you saw them?

A Yes.

Q Let me hand up to you what's been marked as State's Exhibit 9, 10, 11 and 12 for identification. Would you take a look at those please and tell me if you recognize them?

A Yes, sir, I do.

Q What are they?

A These are photographs that were taken from the yard at [redacted] Hill Drive. And in basically all of the photographs, it is spent shot shells or fired shot

shells.

Q Okay. And that's what you saw on the grounds outside the home?

A Yes, sir.

Q Now, in connection with that location in finding those particular items, did you do anything to collect them or take them into custody?

A We actually did what I told you that we would do at earlier scenes. We actually notated them. They were marked with evidence markers and, yes, they were collected for processing.

Q Okay. And did -- how many total shot shells did you collect; do you recall?

A I think there was three from outside.

Q Okay. And in those pictures are what color shells?

A Yellow.

Q Okay. Let me hand up what's been marked as State's Exhibit Number 31 and 32 and ask you to take a look at those, please. Do you recognize that?

A Yes, sir.

Q What is it?

A State's Exhibit 31 is the shot shell that we collected from marker two. And State's Exhibit Number 32 is the shot shell we collected from marker

one.

Q Okay. Now, at the time you did the collection, did you -- is there such a thing on a shell as a way of telling what kind of gauge it is or anything just on the outside of it?

A Usually there is, but these are kind of deteriorated and the actual -- the marking is actually faded off of the sides. And I'm trying to see if it's headstamped. But they're actually marked on the headstamp as 20-gauge.

Q So those are 20-gauge shells?

A Yes, sir.

Q And do you know whether or not you can actually visualize the size of shot that might appear, if at all, on any of those shells?

A I'm not sure what you --

Q In other words, does the shell itself bear a number that would indicate the size of shot on it?

A Usually, yes, sir.

Q Are you able to see that on these shells?

A Not to the point that I would have written it down because they're very faded.

Q I understand. Thank you.

MR. YOUNG: Your Honor, at this time, the State will offer into evidence State's Exhibits 31, 32,

30, 30 being the wadding collected at the initial crime scene, 31 and 32 are the yellow shot shells, and the photographs, Your Honor, Numbers 9, 10, 11 and 12 -- excuse me -- 8, 9, 10, 11 and 12.

THE COURT: Subject to previous objections?

MR. ANDERSON: That's all, yes, sir.

THE COURT: Mark those in evidence, please.

(State's Exhibit Numbers 8 through 12 and 30 through 32 admitted into evidence.)

BY MR. YOUNG:

Q Now, this is scene number three, and I'm using that term, scene number three. And you did collect another shotgun shell at that scene?

A Yes, sir.

Q Okay. Would you be able to identify that again if you saw it?

A Yes, sir.

Q Let me hand up what's marked as State's Exhibit Number 33. Do you recognize that?

A Yes, sir, I do.

Q And what is that?

A It is one Super X shot shell also from Hill Drive.

Q Okay. Was that in the yard area or found somewhere else?

A It's also in the yard area.
Q And is that a different gauge?
A Yes, sir. This one's a 12-gauge.
Q In connection with all of this then, after you collected all this evidence, you took photographs of that too as well?
A Yes, sir.
Q And where it was. That had its own marker?
A Yes.
Q At the conclusion of collection of all this evidence then, was that pretty much the end of your efforts to collect evidence at the scene?
A Yes, sir.
Q All right. Do these shells, shotgun shells, have they received the same treatment in terms of being brought into -- did these shells receive the same treatment in terms of how they were handled and brought into custody and processed as evidence at SLED?
A Yes, sir.
Q So they had separate item numbers?
A Yes, sir.
Q But they were all in the same big lab number?
A Yes, sir.
Q Okay. And just for the record, can you tell us

the item numbers on the -- item number 31 and 32 -- excuse me -- on the two shotgun shells marked as State's Exhibits 31 and 32?

A The shot shell for marker one, which is a 20-gauge, which is State's 32, is SLED item number 16.

Q Does that appear on the bag?

A No, sir -- actually, it does in the handwriting of the firearms examiner.

Q Okay.

A And then the shot shell that's marked as State's Exhibit 31 is SLED item number 17.

Q And does that also appear on the bag?

A Yes, sir.

Q All right. Thank you. At any time in your handling of these items of evidence, and I'm going to refer specifically to the GSR kits, did you make any change in the quality, condition or contents of those little tabs you described after you placed them in that bottle?

A No, sir.

Q Did you allow anyone else to have custody of them until they were turned over into evidence?

A No, sir.

Q And as far as you know, was there anything that

would change the quality or condition from the time you brought them into your custody until you turned them into evidence?

A No, sir.

MR. YOUNG: Your Honor, I'm going to publish to the jury the items that were just introduced. I pass to the jury item number -- State's Exhibit Number 30 and photographs 6 through 12, three shotgun shells and the Winchester box, empty box of shotgun shells, pass those to the jury now for their review.

And for their reference, Your Honor, I'm going to pass back State's Exhibit Number 26, black and white photograph of Andrew Chandler at the crime scene where the markers are displayed, so they'll have that for reference.

MR. ANDERSON: Judge, for whatever it's worth, that photograph has already been through one time (inaudible) --

COURT REPORTER: I can't hear you.

MR. ANDERSON: The photo of the crime scene has already been through the jury once and I don't see why it needs to go be published again.

THE COURT: I don't know of any prohibition.

MR. ANDERSON: Okay. Thank you.

THE COURT: The objection's overruled.

(Pause.)

BY MR. YOUNG:

Q All right, one final question. In your visits to three separate crime scenes or incidents where you were collecting evidence, first, at Saluda Terrace Apartments, secondly, at the sheriff's office at the car and, third, in the search of the house and photograph of the house and its surrounding areas, did you recover or come into contact with a shotgun?

A No, sir, we did not.

MR. YOUNG: I have no further questions, Your Honor.

Please answer any questions that the defense may have.

THE COURT: Cross.

MR. ANDERSON: Judge, could I wait until they're done looking at the evidence?

THE COURT: Yes, sir.

(Pause.)

CROSS-EXAMINATION

BY MR. ANDERSON:

Q How are you doing today?

A I'm fine.

Q I saw you referring to some of your own documents when you were testifying earlier. Do you actually have a list of your -- on one sheet of the evidence you collected?

A I have a copy of the log-in sheet.

Q Can I see that, please?

A Sure.

Q And what's on that sheet is everything you collected. There's nothing that you collected that's not on the sheet?

A It would be what I logged in, so it would have been what I collected, yes, sir.

Q Did anybody else from SLED collect any other evidence?

A I don't think there was anybody from SLED, but I'm sure somebody brought items in from the autopsy.

Q Okay. I notice that the two, the hand-rolled cigarettes were on there. Did y'all test those to confirm they were marijuana?

A Our drug I.D. department would have done that if it had been completed.

Q Do you know if that was done?

A I honestly don't know.

Q Okay. One of the things you collected was a palm print from the rear passenger door, I think

that's number -- is that 21? And you actually got a print. And then your report indicates that it was negative for Andrew Chandler; is that accurate?

A Let me double check on my report.

That is correct.

Q So that means you found a palm print and you ran it against Andrew Chandler and then did you run it against anybody else?

A It means that we found a partial palm print on the vehicle. I had Andrew Chandler's -- or, excuse me, Willie Andrew Chandler, I had his palm prints, so I compared them against him. And because I did not have anybody else's palm prints, it was run through the South Carolina AFIS system, which is the Automated Fingerprint Information System, which is the big database of finger and palm prints, and there was nobody that it matched that was on the system.

Q Okay. So, like, if somebody had been convicted since then, it wouldn't have been in your check and if somebody hadn't been convicted of anything serious at all, they wouldn't be involved in your check, correct?

A Well, even, in this case, a lot of agencies don't submit palm prints and the system is dependent

on local agencies when they make arrests submitting the palm prints or the fingerprints into the system. So if the agency didn't submit the palm prints, then they wouldn't be in the system.

Q Okay. I wasn't even going there. I was just wondering if you ran that palm print against any of the other people involved in this case because there were five young men at the scene?

A I did not have palm prints from anybody besides Mr. Chandler to compare it to.

Q Okay. So we don't know whose palm print that is?

A I know that it's not Mr. Chandler's.

Q Okay. You took a whole bunch of photographs. There was one photograph in the defendant's house of an Air Jordan box that was in the corner.

A Yes, sir.

Q Do you remember that?

A Yes, sir.

Q I was just wondering when I saw that picture, if you thought that the Air Jordan found at the scene might have been the defendant's Air Jordan and that's why you took a picture of the box?

A No, sir.

Q That's just a coincidence?

A Yes, sir.

Q Okay. In your notes, there's something you note, the blue shirt and one shoe were in the parking lot with a blunt, which, and your quote is, Which supposedly belongs to a person who is standing near the victim when he was shot. Does that sound right?

A Yes, sir.

Q Who told you that because we -- that wasn't in any paperwork whatsoever and it didn't come out until testimony yesterday who that shoe belonged to?

A That was the information I was given by one of the officers from the police department when I was on the scene.

Q Do you know why that wouldn't have been in a report anywhere or --

A I don't have any control over their reports.

Q Okay. Do you know how that officer found that out?

A I don't have any idea. That was information that I was given and I didn't ask specifically where it came from.

Q Okay. Do you remember which officer told you that?

A It's been almost three years since I worked the

scene, no, sir, I don't.

Q Well, I wouldn't remember. I'm not fussing at you.

A No, sir, I don't.

Q Let me show you Defendant's 1 and 2, okay?

A Okay.

Q And I'm just showing you 1 for the context. So there's 1. And is 2 a blow-up of kind of a pocket area of 1?

A 2 is actually a totally different photograph, but it shows more the left-hand pocket of the victim.

Q What's up with that left-hand pocket?

A It just appeared to us that maybe he had been pulling something out of his pocket. Most people don't walk around with the white part of their pocket showing and it was kind of unusual, so we just documented it with photographs.

Q Could that also have happened after he had passed away?

A I don't know.

Q Okay.

A It was there when we got there, so, like I said, we just documented it with photographs because it was unusual.

Q Okay. And then while we were waiting around, I showed you one of the photographs and then we were concentrating on the hand?

A Yes, sir.

Q Okay. Let me ask you this, and I couldn't print it out --

MR. YOUNG: Let me see what you're referring to first.

(Pause.)

BY MR. ANDERSON:

Q And I told you I was pretty bad with computers and it took me a while to blow this up, but you and I kind of -- you watched me blow it up from one of your own photographs?

A Yes, sir.

Q And I was -- we were talking and that's right when the Judge called the jury in so we never really finished. Doesn't that hand look kind of weird the way it's holding the lighter?

A If he was alive, then I would say, yes, it does, but because of the way the muscles in the body change after death, it's not uncommon to find something like that.

Q Would it also be consistent with maybe somebody putting that lighter in his hand after this

incident?

A I wouldn't have any knowledge of that.

Q Well, I know that, but it looks unusual, doesn't it?

A Somewhat, yes, sir.

Q Okay.

MR. ANDERSON: Judge, I couldn't print this out, but could I publish this enlarged photograph just to show the jury?

THE COURT: Does she have the photograph?

MR. ANDERSON: Not this big, Judge. I took her photograph and just kind of zoomed in on the hand.

THE COURT: You're going to hand your computer around through the jury box?

MR. ANDERSON: Well, Judge, I think it's big enough, if I just kind of stood here with it, they can see it.

THE COURT: Is it in evidence?

MR. ANDERSON: Yes, sir.

MR. YOUNG: Your Honor, I think it would be just as effective if Mr. -- do you have your other two photographs?

MR. ANDERSON: Frank, it took me 20 minutes to pull that up.

THE COURT: Y'all answer my question. Is it in

evidence?

MR. ANDERSON: I think there's a picture --

THE COURT: Give me a number.

MR. YOUNG: I can't answer because I don't have the photograph.

MR. ANDERSON: Actually, Your Honor, State's 21 is a picture of the hand, but it's at a different angle.

THE COURT: All right. Do you have that other picture?

MR. ANDERSON: It's not in evidence, Judge.

THE COURT: Well, do you want to put it in evidence?

MR. ANDERSON: I can't print it out, Your Honor.

THE COURT: She doesn't have it?

THE WITNESS: All my photographs are digital and the copies that I have are on C.D.

MR. ANDERSON: I went to my office this morning and tried to print it out and I couldn't print it out in an enlarged way, Judge.

THE COURT: I understand that. I'm trying to understand what y'all are trying to do exactly.

Does the State have any objection?

MR. YOUNG: Your Honor, let me take a look and

see if I can figure out which one of these it is.

THE COURT: He just said it's not in that stack.

(Pause.)

THE COURT: Is it in evidence?

MR. ANDERSON: No, sir.

MR. YOUNG: No, sir, it's not.

THE COURT: All right. Is there any objection?

MR. YOUNG: Your Honor, I object at this point of showing something that we can't later hand to the jury. If we can't reproduce it at this point -- well, she may be able to establish that it's a fair and accurate representation. I'll help Mr. Anderson out on that.

THE COURT: She may be able to do what?

MR. YOUNG: She may be able to testify that it's a fair and accurate representation of a picture she took, a blow-up of it, but she hadn't done that yet.

THE COURT: All right. If something is in evidence, then you can use any mechanism you want to, you can use anything to blow it up electronically, you can do anything you want to. If it's not in evidence, then I need to know if -- I apologize if I'm not clear, I need to know if

there's an objection.

MR. YOUNG: Yes, sir, I object. It is not in evidence and I don't want it going to the jury in that fashion.

THE COURT: All right. Ladies and gentlemen of the jury, please step in the jury room.

Print it out. We're at ease.

(The jury retires to the jury room.)

(Brief recess.)

(Defendant's Exhibit Number 3, photograph, marked for identification purposes.)

THE COURT: All right. Are you ready, Mr. Anderson?

MR. ANDERSON: Yes, sir.

THE COURT: You got what you need?

MR. ANDERSON: Yes, sir.

THE COURT: Is there going to be any objection to this being in evidence?

MR. YOUNG: No, sir. We'll put it on the record, Your Honor. There's no objection to this. It's of poor quality, but I'm not going to object to it.

THE COURT: Mark it in evidence.

(Defendant's Exhibit Number 3, photograph, admitted into evidence.)

THE COURT: Bring in the jury.

(The jury returns to the courtroom.)

THE COURT: All right. Defendant's Exhibit 3 is in evidence, ladies and gentlemen. It's a printout of the photograph that was on the screen while ago.

All right. Go ahead, Mr. Anderson.

MR. ANDERSON: Thank you, Judge, sorry about that.

THE COURT: No, that's all right.

BY MR. ANDERSON:

Q As we were saying, I'm showing you what's been marked as 3, which is a poor quality picture, but it's the one we were looking at on my computer and that's from the picture you took that you watched me blow up, correct?

A Yes, sir.

Q And that picture, this fairly and accurately represents the young man's hand at the time at the scene?

A Yes, sir.

Q When you took the photograph?

A Yes, sir.

MR. ANDERSON: Your Honor, I'd like to offer this into evidence, please.

MR. YOUNG: Without objection.

THE COURT: It's in.

MR. ANDERSON: Could I publish it, Judge?

THE COURT: Yes, sir.

MR. ANDERSON: Thank you.

BY MR. ANDERSON:

Q And then what I was asking you, this looks weird, it's strange, but it's -- I mean, it's horrible. It's in a young man's hand who's passed away.

A And like I -- it's not necessarily strange to me because I work crime scene and I see a lot of it because I know the body does different things. It didn't -- it wasn't anything that totally caught my attention when we processed the scene.

Q But you'll acknowledge it is odd looking?

A Yes, sir.

Q Okay. Kind of like the pocket?

A Yes, sir.

Q Now, the lighter that's in his hand, did you fingerprint that?

A No, sir, we did not.

Q Okay. You testified that you printed the shell box that was found at the house. Did you ever -- did you print any of the shells?

A Yes, sir, they were processed also.
Q Were there any fingerprints on them?
A No, sir.
Q Okay. And then which -- you had three, I think you mentioned three GSR samples or whatever you say. What would you call it, GSR what?
A We call them GSR kits.
Q Three GSR kits from the passenger door.
A Well, actually, in that case, there was actually -- in that case, there were four samples in a GSR kit.
Q Okay. From the door area?
A Specific areas that I named out, yes, sir.
Q And the one that I'm assuming is going to testify about, which one is it?
A I have no idea. I just collect the kit and then it goes to a different department for analysis, so I don't have any idea. I didn't even know until this morning that supposedly one of them was positive.
Q Okay. Now, did you photograph where the GSRs were taken from?
A No, sir. We took general photographs of the vehicle and we marked on the containers where the kits came -- or where the samples came from.

MR. ANDERSON: All right. Thank you.

THE COURT: Redirect.

MR. YOUNG: No questions.

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

MR. YOUNG: Your Honor, may I ask this witness to be released. She has an appointment in Pickens.

THE COURT: You're free to go. Make sure you don't have anything with a sticker on it.

THE WITNESS: Yes, sir.

MR. YOUNG: The State calls SLED agent Ila Simmons.

ILA SIMMONS,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. YOUNG:

Q Ms. Simmons, would you give us your full and complete name?

A My full name is Ila Simmons.

COURT REPORTER: Can you spell your first name?

THE WITNESS: It's I-l-a.

BY MR. YOUNG:

Q Where do you work?

A At the South Carolina Law Enforcement Division forensics laboratory's trace evidence department.

Q What do you do?

A I'm a trace evidence forensic chemist.

Q What does that mean?

A We analyze gunshot residue. We perform fiber comparisons, glass comparisons, paint comparisons. We analyze arson residues, as well as explosive residue.

Q Now, you received evidence in a case with a SLED lab number connected with this particular case and I'll refer to the lab number as L0711377.

A Yes, sir.

Q You received evidence in that case for examination?

A Yes, sir, I did.

Q Okay. And what did you receive, in general form, what was it that you were looking for?

A Gunshot residue kits.

MR. ANDERSON: Judge, I'm sorry, I just renew that objection, please.

THE COURT: Subject to the previous objections?

MR. ANDERSON: Yes, sir.

THE COURT: It's so noted.

MR. ANDERSON: Thank you.

THE COURT: You may continue. It's overruled.

MR. YOUNG: Thank you.

BY MR. YOUNG:

Q At the point in time I was asking you a question -- I'm sorry, I just had a complete blank, so let me go back. At the point in time you received this evidence, where was it?

A I received it from our evidence technician who brings up our evidence and processes our gunshot residue kits.

Q And by chain of custody, you keep chain of custody?

A Yes, sir.

Q And so from the initial intake, it would have come from Ms. Hallman?

A Yes, sir, it would have.

Q And went to you and then to someone else, correct?

A Yes, sir. It would have come from Vickie Hallman, then to myself and then to our GSR technician that processes the samples for us.

Q And the GSR tech is who?

A Lisa McReynolds.

MR. YOUNG: I understand there is no objection to going ahead at this point? You're awaiting the presence of Ms. McReynolds as I understand it; is that correct, Mr. Anderson?

MR. ANDERSON: Your Honor, can I talk to Mr. Young?

THE COURT: Sure.

(Pause.)

BY MR. YOUNG:

Q Ms. McReynolds is available, is she not, to come and testify today?

A Yes, sir.

MR. ANDERSON: No objection just to that part, the chain part.

THE WITNESS: She's in the courtroom at the moment, sir.

BY MR. YOUNG:

Q So in essence, ma'am --

THE COURT: Y'all are just agreeing to leave a chain witness out; is that right?

MR. YOUNG: Yes, sir, we're stipulating to the chain witness.

THE COURT: Okay. Somebody got it and somebody gave it to somebody else, that's what y'all are agreeing. All right, go ahead.

MR. YOUNG: Yes, sir.

BY MR. YOUNG:

Q And when you received this evidence, how was it received?

A It was packaged. It was sealed with evidence tape, which is tape that helps us -- helps to be indicated whether or not something has been tampered with, it's been opened or just messed with in any way.

Q And you received, I believe, three different bags of GSR evidence?

A Yes, sir.

Q Okay. Would you be able to recognize those bags again if you saw them?

A Yes, sir.

Q Let me hand up, what's not been marked, but would you take a look at those bags. Are those the bags that you examined?

A Yes, sir. These are the evidence that we had.

Q And if I can just cut right through that, you got GSR kits on -- with a label on it, Michael Watson?

A Yes, sir.

Q You got one on it with Andrew Chandler?

A Yes, sir.

Q And you got one on it from a car?

A Yes, sir.

Q Is that right? And you analyzed all of it?

A Yes, sir, we did.

Q And you didn't get any GSR off of Mr. Chandler?
A No, sir.
Q You didn't get any GSR off the Watson submission?
A No, sir, I did not.
Q But you got something off the car?
A Yes, sir.
Q One item, correct?
A Yes, sir.
Q All right. Now, is there a way for you to look inside the particular bag and know which one you got a positive result from?
A Yes, sir.
Q Can you look inside the bag and tell me which one of those you have?
A It was this kit here.
Q Okay. Now, do you know which one of those in the kit you got a positive result off of?
A I would have to open it up and look at the samples inside.
Q Would you go ahead and do that?
A It would be this particular sample here.
Q Okay. You're holding up a sample.
A Yes, sir.
Q Will you hand that to me, please?

A Yes, sir.
Q On the outside, it reads, Right back, and that's all crossed through and it's a big -- that's how they're normally labeled, though, isn't it?
A Yes, sir, it is.
Q So someone crossed through that and then wrote on there some other words. It says, Passenger door front and above window.
A Yes, sir.
Q Is that correct?
A Yes, sir.
Q Now, you got -- that's the one that you got a positive result off of?
A Yes, sir.
Q All right. And what was the positive for?
A We found one round led particle on this sample.
Q Led particle?
A Yes, sir.
Q And that's consistent then with the presence of some form of gunshot evidence?
A Yes, sir, gunshot residue. Led is one component of gunshot residue.
Q And, ma'am, there was no gunshot residue found on either Mr. Chandler or Mr. Watson's samples, were there?

A No, there was not.

Q How do you account for that? If there had been a gun present in somebody's hands, what does that mean?

A If someone fires a weapon, they generally do get gunshot residue on their hands because gunshot residue is a mixture of microscopic chemicals that come out of a gun when it's fired. However, gunshot residue can be easily removed. It has the consistency of salt. If someone were to start sweating, if they would put their hands in and out of their pockets, if they would wash their hands, all of these things can remove gunshot residue.

And then there's always the chance that someone had not fired a weapon. If you do not fire a weapon, you would not have gunshot residue on your hands or if you weren't in the vicinity of a weapon when it was fired, you couldn't get gunshot residue on you.

Q Okay. So it comes off by washing your hands?

A Yes, sir.

Q All right. The other side of the question is do different types of firearms have a greater or lesser tendency to deposit this kind of residue?

A Yes, sir. The larger the caliber of gun, the

more gunshot residue is produced. Something like a large caliber handgun, a 45, or a long gun will produce more gunshot residue going forward out of the muzzle of the gun.

However, if someone is shooting a gun with a long barrel like a shotgun or a rifle, the barrel is farther away from the hands of the person shooting the gun than a small handgun so the gunshot residue does not have the same effect as to coming back and getting on the hands of the person shooting the gun. So generally we find less gunshot residue on someone who shoots a long gun like a rifle or a shotgun than a smaller handgun.

Q And, ma'am, does in fact the breech mechanism of the firearm have some affect on the kind of -- or amount that might be deposited?

A Yes, sir. On a semiautomatic, that is a weapon where the shell that is spent is extracted from the gun, gunshot residue -- a small amount of gunshot residue can come out of that area too, so that can get on the hands of someone that is firing the gun.

However, in a mechanism like a revolver or a break breech gun where someone would have to actually open the gun to take the spent shells out, you're not going to get the gunshot residue on the

hands from that sort of mechanism.

Q Normally?

A Normally.

Q So it could be the type of weapon has some impact on it?

A Yes, sir.

Q And, also, the distance of the hand from the end of the muzzle?

A Yes, sir.

Q Of the weapon. So both of those are factors and then, of course, those other matters you mentioned.

Would also there be a greater tendency to deposit more if it was a shorter weapon than a longer weapon in terms of the muzzle itself just because if the weapon had been short in some fashion? In other words, if I had a regular barrel weapon and it's -- let's say I had a 30-inch barrel on a shotgun reduced to a, let's say, a 26-inch barrel from a shotgun, would the 26-inch barrel have a greater tendency to be closer to my hand and therefore be more likely to deposit?

A Yes, sir, if you were the shooter of the weapon, yes.

Q It might be also lessened by the fact that it

was, you called it a breech weapon. That's actually less of an ability --

A Yes, unless someone physically opened it and opened the breech.

MR. YOUNG: I have no further questions. Would you answer any question Mr. Anderson has.

THE COURT: Cross.

MR. ANDERSON: Thank you.

CROSS-EXAMINATION

BY MR. ANDERSON:

Q Hello.

A Hello.

Q You remember we talked recently.

A Yes, sir.

Q And you kindly spoke with me. What was my frustration with you?

A Where the muzzle of the gun was when it was fired.

Q No, but that's next. What was my frustration?

A I don't recall.

Q About the report.

A Where exactly the sample came from?

Q No, that's next, too. The thing that your original report had no gunshot residue anywhere, correct?

A Yes, sir, it did. It was a corrected report that we had to send out, yes, sir.

Q And you just sent it to us, like, recently?

A Yes, sir. I sent it to the Solicitor's office in, I believe, in March.

Q And this was a three-year-old case?

A Yes, sir.

Q And I expressed a little frustration at just now getting it because I didn't even have it when we talked.

A Oh, okay. No, sir, I didn't realize that.

Q Okay. Can you explain how that happened?

A Yes, sir. When we printed out the original report, the final result from the vehicle where I found the one round led particle was left off because of a computer error and it was sent out. And then it was found later and then a corrected report was sent out showing that there was one round led particle found.

Q And everything else was negative?

A Yes, sir.

Q Okay. Where exactly on the door was that?

A It was labeled as coming from passenger door frame above window.

Q Do you know if that was on the inside of the

car or the outside of the car?

A I never found that out. Ms. Hallman probably could have testified to that.

Q So on the high part of the passenger window, okay. And then you explained to me that if a barrel of the gun had been inside the car, you would have expected a lot of GSR inside the car?

A Yes, sir.

Q And then the other thing you'd said was it's possible that the particle, the gunshot residue could have been actually bounced back from the young man that was shot. You called it blowback?

A Well, when a gun is shot, the blowback can come back from the muzzle of the weapon, yes, sir.

Q Okay. Okay. And then the other thing you were telling me, that if the car -- if it was shot from a car, that if the car were moving, you wouldn't expect to find gunshot residue?

A You wouldn't expect to find as much gunshot residue, yes. If a car's moving down the road and there's wind or if there's any sort of dew or rain, it can remove the gunshot residue from the exterior of the car, that is a possibility.

MR. ANDERSON: All right. Thanks.

THE COURT: Redirect.

REDIRECT EXAMINATION

BY MR. YOUNG:

Q So if a car drives away, the outside of the car would basically, just anything that was on the outside of the car would probably disappear pretty quickly?

A Yes, sir.

MR. YOUNG: No further questions.

THE COURT: Recross.

MR. ANDERSON: No thank you.

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

Do you have any another witness?

MR. YOUNG: The State calls Ken Whitler.

I ask that Ms. Simmons be excused, Your Honor. She has another appointment.

THE COURT: You're free to go. Thank you, ma'am.

KENNETH H. WHITLER,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. YOUNG:

Q Sir, would you give us your full name?

A My name is Kenneth H. Whitler.

Q Sir, where do you work?

A I work for the South Carolina Law Enforcement Division, that's also known as SLED. I'm in the forensic services laboratory in the firearms department.

Q How long have you been doing that?

A I have been a qualified firearms examiner since 1991. I've been employed by SLED since 1997.

Q What qualifies you to do that job?

A There's no college to go to to get a degree in firearms identification. You have to learn it from other qualified examiners.

When I was employed by the FBI, I was in the FBI laboratory, that's where I became qualified as a firearms examiner. Their training period takes approximately two years where you work on a number of real cases with qualified examiners. You also work a number of test cases. And then you do what would, I guess, be considered independent study where you do a lot of shooting of guns and examination of bullets and cartridge cases.

But anyway, during that period, you're working with examiners and when they feel that you have reached the level of competence, then they give you a series of three tests. If you successfully complete those three tests, then you are qualified

to be a firearms examiner. I successfully completed the period and was certified by the FBI in 1991 to conduct examinations for them.

In 1997, I retired from the FBI lab and came to SLED in their firearms department doing basically the same job.

Q Sir, have you testified before as an expert in ballistics and firearms identification?

A Yes, I have.

Q How many occasions?

A Over 225 in various state, federal and territorial courts.

MR. YOUNG: We offer him as an expert, Your Honor, in firearms and ballistics identification.

THE COURT: Any voir dire?

MR. ANDERSON: No thank you, Judge.

THE COURT: He is so recognized. You may continue.

MR. YOUNG: Thank you, Your Honor.

BY MR. YOUNG:

Q With regard to lab -- SLED lab number L0711377, did you receive any evidence for examination?

A Yes, I did.

Q Okay. Would you be able to recognize that evidence again if you saw it?

A Yes, I would.

Q I'd like to hand up to you what's been admitted as State's Exhibits Number 30 through 33 and ask you if you can take a look at each one of those and tell me if you can identify them.

A Yes, I have seen all of this.

Q Sir, in your examination of those items, did you also receive led and pellets and pellet fragments?

A Yes, I did.

Q Did you take photographs of those items? And in terms of how they were received, were they in a bottle?

A Yes, they were.

Q Would you be able to recognize that again if you saw it?

A Yes, sir.

Q Is that the bottle?

A Yes, sir.

Q Was it received in that bottle?

A It came in this plastic heat-sealed bag. The bottle was inside and the pellets were inside a smaller bag, plastic bag, that was folded up inside the bottle.

When I took the pellets out, normally when

things come -- this appears to have come from an autopsy, we sanitize the items and we don't put them back in the same item because that would just recontaminate them. So the second heat-sealed zip bag which has my initials on it are the actual pellets that were contained in the small plastic bag that was inside the bottle.

Q And you examined those pellets for the purpose of determining what?

A Pardon?

Q What did you -- why did you examine those pellets? What would they be able to tell you and did you come to any conclusions about the pellets?

A The pellets were examined to determine if I could determine the size of them. Pellets come in different sizes. They're assigned a number like one, two, three, four, five, six and so on. It's the number of the size of the shot depends on the weight and the diameter of the pellets. And you take the pellets and you determine the weight and the approximate diameter and you can get a rough idea or an idea of what size shot it was originally.

Q And what size were they?

A These were most consistent with being number six shot.

Q Now, in terms of the other items, you had an item number marked on your report as 15; is that correct?

A Yes, sir. Item 15, which is State's Exhibit 30.

Q All right. And that is what, sir?

A That is a one piece plastic wad, shot shell wad, that's consistent with the kind of wad used in some Winchester brand shot shells, 20-gauge.

Q And, sir, for those who are firearms illiterate, and maybe folks over here in a rural county probably know, could you just tell us what a wadding is?

A Well, the wadding in a shot shell holds -- does -- in this particular case, it's a one piece wad and it has two purposes. This is the shot shell case or body and this wad fits inside of it. What will go in first is you'll have powder, then the wad will go over the powder and then the shot will be put in this cup area and then the end of the shot shell is folded over. When they're fired, they expand. But this would actually be a little shorter because it would fold over and that would hold the shot in. So this wad has two purposes, to keep the powder down at the bottom of the shot shell and have a place for

the pellets to rest.

Q Sir, are you familiar with the flak, characteristics of shot and wadding in terms of how they function?

A Generally, yes, sir.

Q Generally, what happens to the wadding after it leaves the barrel or the muzzle of a shotgun?

A Within a few feet or a few yards depending on the style of the wad, they'll generally fall away. The pellets will have more velocity than the -- because they have more weight than the wad does and the wad will fall off, basically fall down behind it because of the air friction. It catches the wad and it stops it. So they may -- some wads may go a few feet, some may go a few yards where the pellets may go 50 yards or however depending on how far you're shooting. The wad will never go as far as the shot could.

Q Okay. With regard to this particular wadding, it has the appearance of having separate little petals from the top of it. What do those petals represent?

A The pellets -- the petals are just merely to let the -- some of these wads are solid all the way around, some are like this that are separate and

that just makes the -- in this case, it would make it fall away faster. It wouldn't hold the shot as it -- as like in a container. Some of the ones that are solid all the way around, the shot would stay in those longer, where this the petal will catch the wind as it's flying through the air and separate a little bit and it lets the pellets get away from the cup.

Q So it's safe to say that the petals are closed until it leaves the barrel and they open up as it --

A Yes. It's all held together. And if you look at a new one, you'll see it's very solid, but it doesn't take much of the air resistance to catch them and flip them over. And it's a design however they're trying to do. Some places -- some shells are designed to open up faster, some they want the shot to be contained longer so that you get a tighter pattern at farther distances.

Q Okay. You have a shot shell wad. Is there any way to determine that that wad came from a certain caliber gauge of weapon?

A We can measure it and determine that it's consistent with what is used in a 20-gauge shot shell. There's the base area can be measured and that's consistent with the diameter that would be

used in a 20-gauge shot shell.

Q And with regard to the shot shells that were expended in casings or hulls, items 16 through 18, were you able to determine anything from those shell casings?

A Okay. You had three shot shells that were submitted and those are Exhibits 31, 32 and 33. And I determined that Exhibits 31 and 32 are 20-gauge fired shot shells. Exhibit 33 is a fired 12-gauge shot shell. Doing some microscopic examination, I was also able to determine that Exhibits 31 and 32, the two 20-gauge shot shells, were fired by the same firearm.

Q Okay. And you're able to make that determination about the two 20-gauge shot shells being fired by the same firearm, you're being able to make that determination how, how do you do that?

A When the shot shell is fired in the shotgun or firearm that fired them, the area of the shot shell, the case head, picks up marks from the breech face of the firearm and those are the marks we're looking for. And if there's sufficient agreement, we're able to say they were fired by it.

Q And I'm trying not to be too technical, but a breech face, can you tell the jury what you mean by

a breech face?

A The breech face is merely a part or a bolt -- actually the bolt in a case of a shotgun that holds the shot shell into the chamber area of the barrel. And when the shot shell is fired, the shot shell is pressed back against the bolt and it picks up whatever marks are on it. This also has the firing pen encased in it so that it picks up any firing pin marks as well, but that's the back end -- it's the back end of the shotgun that holds the shell into the chamber basically.

Q Okay. And different types of breech mechanisms hold the shot shell differently?

A They generally do about the same job. There's something -- your barrel and your chamber are one item. The shot shell is put in it. When the shot shell goes off, pressure is generated and something has to hold the shot shell in there until all the gas is dissipated or you won't get as much velocity out of your shells. So this is just a mechanism that's built into the gun and there's a variety of ways of doing it, but it's basically a part of the shotgun or firearm that holds the shell or a cartridge in the gun while it's being fired.

Q So in the case of a single shot breech action

type shotgun or double barrel breech action type shotgun, there wouldn't be a bolt, there would be just a sliding mechanism that would (indicating), the chamber would be closed against the back of that breech face?

A Yes. In a single barrel shotgun, there's no bolt, but you've got the breech face is basically where the firing pin comes through the frame. In a shotgun that does have a bolt, then the bolt actually has the firing pin built into it and it also supports the back end of the cartridge or shot shell.

Q But in any case like this, you're able to look microscopically at the back or the base of these shells to determine the 20-guage shells were fired out of the same shotgun?

A That's correct.

Q Are there markings on the exterior of the shot shell casings that you examined that would indicate gauge, size of shot, drams of powder or anything of that nature?

A There's markings on these. They're hard to read. The 20-gauges were -- 20-gauge it looks like they were loaded with one ounce of six shot. The 12-gauge is an ounce and an eighth of also six shot.

Q Did you have any firearm to compare any of these shot shells with?

A No, sir.

Q So you're unable to make any specific comparisons either by a breech mechanism or any other method?

A No firearms were submitted. This is all.

MR. YOUNG: Would you answer any questions Mr. Anderson has?

THE COURT: Cross.

MR. ANDERSON: No questions.

THE COURT: Thank you, sir. You may step down. Do you have any other witnesses?

MR. YOUNG: Yes, sir.

THE COURT: Call your next witness. You're free to go. Thank you, sir.

MR. YOUNG: Jeremy Butler.

JEREMY JARROD BUTLER,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. YOUNG:

Q Can you give us your full name?

A Jeremy Jarrod Butler.

Q Now, that mic is going to be funny to deal with, so if you need to lean forward, that's fine,

but make sure everybody can hear you, okay?

A Yes, sir.

Q Mr. Butler, I'm going to direct your attention to the night of August 5th, 2007 about 10:30 in the evening, where were you?

A The Terrace Apartments in Saluda.

Q That's here in Saluda?

A Yes, sir.

Q In Saluda County?

A Yes, sir.

Q And while you were there, were you with anyone?

A Yes, sir.

Q Who?

A Raymond Kirkland, Andrew Chandler, Warren Chandler, Corddaryl Ouzts and Duke Thomas.

Q What were y'all doing?

A Smoking.

Q Would that be marijuana?

A Yes, sir.

Q All right. When you got there, how did you get there?

A We rode in Raymond car and Corddaryl car.

Q All of you rode in two separate cars?

A Yes, sir.

Q All right. And where did you go in the

Terrace?

A To the back by the dumpsters.

Q Okay. Let me direct your attention over here to State's Exhibit Number 27. And does that diagram represent anything close to what you might have seen in the area of Saluda Terrace Apartments?

A Yes, sir.

Q All right. Can you point out anything particularly with regard to like, and I'll use the numbers there, one and two, what are they?

A Raymond and Corddaryl car.

Q And number three?

A The dumpster.

Q And I've got an X on the ground, but I'll talk about that in a minute. Do you know where you were when you first got there and what did you do?

A Yes, sir.

Q What did you do?

A We were sitting on a tree that had fell, smoking.

Q Okay. And is that in the parking area?

A No, sir. It's like down in the woods.

Q Where is it in relation to that dumpster?

A Do you want me to show you?

Q Sure, show us.

A About right here (indicating).
Q The area over to the left and behind the dumpster?
A Yes, sir.
Q Is it wooded back in there?
A Yes, sir.
Q Okay. And I'm just going to ask you, when you walk from that area up toward the cars, is that a uphill, downhill or is it level?
A It's like uphill.
Q Okay. And if I would go from the cars toward -- by the way, where is the entrance to that area of Saluda Terrace Apartments? How do you get into that area? Is there something on the -- what direction would you come, if I use that diagram, what direction would I come from if I was driving into the Saluda Terrace, what area?
A Right there (indicating).
Q If I walked in that direction from the cars, would I be still going uphill or downhill?
A You said if you was coming the direction of the cars?
Q If I'm walking from the cars toward the entrance way, which you pointed out, would I be coming uphill, downhill or is it --

A Oh, uphill.

Q Okay. So it still goes uphill. Now, on that evening, where were you -- did you hear a car coming in the area and drew your attention to a car? Was your attention drawn to a car as it came into the area?

A Yes, sir.

Q Okay. What direction did it come from?

A Like, it came into the Terrace, like, coming down the hill.

Q From the entrance that you just pointed out?

A Yes, sir.

Q Okay. And where were you when you first heard the car?

A Probably like right here (indicating).

Q Over by the cars is that what you were pointing to?

A About right here on the edge.

Q Y'all were coming into the parking area?

A Yes, sir.

Q Where you were?

A Yes, sir.

Q And as that car came in, what were y'all doing, walking up the hill or down the hill?

A No, we're standing by the cars.

Q Okay. Y'all were pretty much standing by the cars?

A Yes, sir.

Q And as the car came into the area, what did it do? Did you observe it?

A Sir?

Q Did you observe that car that was coming in there or what did it do?

A Like, it just went around. It was, like, making a circle to turn around.

Q Okay. Going fast or slow?

A Probably just regular speed for a parking lot.

Q Okay. Did you recognize that car?

A Yes, sir.

Q How did you recognize that car? How did you know it?

A I seen it around.

Q Do you know who drives that car?

A Yes, sir.

Q Who?

A Michael Watson.

Q Okay. Did you get a good enough look at it? Do you think you'll be able to recognize it again if you saw it?

A What, the car?

Q Yeah.
A Yes, sir.
Q I'm going to show you State's Exhibits 3, 4 and 5. Do you recognize those pictures? Do you recognize those pictures?
A Yes, sir.
Q What are they?
A A picture of the car.
Q I'm sorry?
A A picture of the car he was driving.
Q That's the car?
A Yes, sir.
Q Okay. And I'm going to ask you to generally describe the mood of your group as you see this car coming through. What was the mood of your group to people -- what were y'all -- were y'all excited, upset, mad?
A I don't know how nobody else was feeling, I wasn't.
Q Okay. Did anybody around you look like they were mad, upset?
A No, sir.
Q Well, I mean, how were they acting? Were y'all still smoking?
A I was.

Q Okay. Were the other people smoking, too?
A Yes, sir.
Q Okay. So, at this point, you just kind of, what, hang out right there or you keep walking forward or what do you do?
A Stop right there.
Q Did the other people kind of keep walking forward a little bit? Where do they wind up, other people, where do they go?
A I think Raymond and Duke -- I mean, Raymond and Corddaryl and Warren was by Corddaryl car. I think, like, Duke and Andrew was up a little further than us.
Q Were you particularly paying attention to what they were doing?
A Not really.
Q Let me ask you a simple question. How were you feeling at that point? Were you feeling pretty good?
A Yes, sir.
Q Were you kind of -- let's just ask the question, I'm not sure it's the right word. Did you feel like you had a buzz on or high?
A Yes, sir.
Q Okay. And, at that point, you're standing

there by the car, what did you see -- excuse me -- which car did you say you were standing by?

A By Raymond's car.

Q Okay. And Raymond's car is which one of those, one or two?

A Two.

Q So you're by car number two, closer to that. Let me just ask this, if I use my finger and I point to this side of two or this side of two or this area around two, which direction were you from two, more toward the telephone pole over here to the right or what?

A No, sir.

Q Where were you, just point out?

A Like, right here (indicating).

Q Was it parked with the front end or which --

A He was backed in.

Q He's backed in, so you're toward the front of his car backed in?

A Yes, sir.

Q Okay. Now, what did you observe this other car that you say driven by Michael Watson do? What did you see happen?

A He came in and he made a loop. And I guess he seen us and he, like, stopped on brakes.

Q Where did he stop?

A Like, right in here somewhere (indicating).

Q All right. Then what happened?

A Sir?

Q Then what happened?

A Then, I mean, he came on around.

Q And what did you see happen?

A Sir?

Q What did you see happen, if anything?

A I heard somebody say, Shoot some now, then that's when I seen the gunshot.

Q Shoot some what?

A Shoot some now.

Q Shoot some now?

A Shoot something now.

Q Shoot something now?

A Yes, sir.

Q And do you know who said that?

A No, sir.

Q Who was standing -- did it come from a certain area?

A Sir?

Q Did it come from an area or a direction?

A Yes, sir.

Q From what direction? Were there people

standing in that direction?

A Yes, sir.

Q Who was standing in that direction?

A Andrew and Duke.

Q In that direction?

A Yes, sir.

Q Okay. You don't know who said it?

A No, sir.

Q Did your attention get directed at that point toward what was going on? Did you start looking over there at them or did you stay -- where were you looking?

A I still was just -- just looking around.

Q You weren't looking at Duke or Andrew then?

A No, not then. I was just looking around see what everybody going to do.

Q Okay. Well, did you think something was going to happen?

A No, sir.

Q When somebody says, Shoot now, how did you react?

A I mean, I didn't think nothing was going to happen.

Q Okay. Did something happen?

A Yes, sir.

Q What?
A Somebody got shot.
Q Who got shot?
A Andrew.
Q Where did the shot come from?
A Out of the car.
Q Did you see who was in the car?
A Yes, sir.
Q Who?
A Michael Watson.
Q Was anybody else in that car?
A I don't know.
Q You don't know?
A No, sir.
Q You didn't look that carefully?
A I mean, the passenger seat was laid all the way down.
Q I'm sorry?
A I said the passenger seat was laid all the way down so I couldn't see the passenger seat.
Q What side of the car did you see this happen from?
A Passenger side.
Q What exactly did you see?
A I just remember seeing fire come off the gun.

Q And a bang?
A Yes, sir.
Q What did you do then?
A I ran.
Q Where?
A Like behind Raymond car.
Q What were the other people doing that were standing there?
A I remember Raymond, I remember Raymond he was ducking too, but I don't know what they was doing.
Q You just ran for cover?
A Yes, sir.
Q So did you see the car leave?
A Yes, sir.
Q When it left, how fast did it go or slow did it go?
A He took off fast.
Q What direction did he take?
A Like he was leaving out of the Terrace.
Q Did he go out the same way he came in?
A Yes, sir.
Q In a hurry?
A Yes, sir.
Q Can you tell me where Andrew was?
A He was laying, like, right where the X at.

Q Laying there?
A Yes, sir.
Q Did you go over to him?
A Yes, sir.
Q What did you see?
A A lot of blood.
Q Did you touch him?
A No, sir.
Q Did you see anybody touch him?
A No, sir.
Q Did anybody in your group have a gun?
A No, sir.
Q Did anybody in your group say they had a gun?
A No, sir.
Q Did anybody threaten anybody that was in the car?
A No, sir, not that I know of.
Q When you heard the words, Shoot something now, or whatever you said, was that being directed -- well, let me ask you this. How did you take that? What do you think they meant by that? How did it react to you? What did you think?

MR. ANDERSON: Your Honor, I'm going to object to the relevance of that question, Judge.

MR. YOUNG: I'll rephrase it.

THE COURT: I thought he said he didn't even know who said it.

MR. YOUNG: That's right.

BY MR. YOUNG:

Q Well, how did you react to it?

A I mean, I didn't -- I didn't think nothing was going to happen.

Q Did you think somebody in your group was going to shoot somebody?

A No, sir.

Q Did you think somebody in your group was taunting somebody or challenging somebody?

A Probably like a taunt.

Q But you don't know who said it?

A No, sir.

Q Okay. Now, Raymond (sic), you gave the police a statement, did you not?

A Yes, sir.

Q And, in fact, you were actually in custody when you gave that statement, didn't you?

A Yes, sir.

Q And that statement you gave to police you gave at a point in time when you committed a probation violation; isn't that right?

A Yes, sir.

Q And so you got taken down to the police station and they asked you to give a statement about what you observed?

A Yes, sir.

Q But you weren't in custody for anything you did at the scene, were you?

A No, sir.

Q You were a witness?

A Yes, sir.

Q You're on probation for contributing to the delinquency of a minor, correct?

A Yes, sir.

Q And you were convicted of that several years ago?

A Yes, sir.

Q And when you gave that statement -- you read your statement, haven't you?

A Yes, sir.

Q All right. And didn't you say in your statement that Duke and Andrew said, Shoot now? Didn't you say something to that effect? I showed you your statement today.

A (No response.)

Q Do you want to see it again?

A Yes, sir. (Witness reviewing document.)

Q What does that say?
A Sir?
Q What does it say? What did you write?
A That Duke and Andrew walked towards the car and said, Shoot -- Shoot now.
Q Duke and Andrew walk toward the car and said, Shoot now?
A Yes, sir.
Q Are you sure -- you're not sure whether it was Duke or Andrew or both?
A It was one person, but I'm not sure which one it was, that's why I put both names.
Q Okay. You're not sure which one, you just put both names?
A Yes, sir.
Q That was your attempt to try to explain it came from over there?
A Yes, sir.
Q All right. It also says, He let off a shot and spin wheels. Didn't you say that, also?
A Yes, sir.
Q And, He let off a shot, was who?
A Michael Watson.
Q Okay. When -- were you pretty upset and nervous when you made that statement?

A Yes, sir.

Q Okay. And do you think your ability to recall -- let's just put it this way, your ability to perceive what happened at the time was somewhat influenced by the marijuana you'd been smoking, perception changed a little bit?

A Yes, sir.

Q Okay. You're sure about Michael Watson, though?

A Sure about what?

Q Michael Watson being driving that car?

A Yes, sir.

Q You sure he's the one who shot?

A No, sir.

Q You're not sure about that, why?

A I'm just sure he was driving.

Q All right. And you saw a blast come out of that car?

A Yes, sir.

Q And you didn't see anybody else in the car?

A Yes, sir.

Q Okay. Fair enough. Specifically, did you see Andrew just prior to the shot happen? Were you looking at him at all or were you looking at the car?

A Looking at the car.

Q Do you know about how close that car was to Andrew when he was shot? This close, closer (indicating)?

A No, not that close.

Q Not that close. Tell me how far from me to you.

A About some more. A little further. Probably about, I guess, like that right there.

Q You're standing over by the -- by this car looking back in that direction?

A Yes, sir.

MR. YOUNG: Okay. Answer any questions Mr. Anderson may have for you.

THE COURT: Cross.

CROSS-EXAMINATION

BY MR. ANDERSON:

Q Mr. Butler, thanks for coming today. I know this isn't pleasant, but what happened to you yesterday?

A Sir?

Q What happened to you yesterday?

A Oh, nobody got in contact with me.

Q Okay. You know you caused a stir yesterday?

A Sir?

Q You weren't trying to avoid coming?
A Oh, no, sir.
Q Okay. In the written statement you gave -- strike that -- do you think your memory of this event would be better today, three years later, or the next day when you met with Sergeant Holloway?
A The next day.
Q Okay. And the next day when you met with him, you told him that he stopped when he got towards us and Duke and Andrew walked towards the car and said, Shoot now. That's what you wrote then three years ago; is that correct?
A Yes, sir.

MR. ANDERSON: All right. That's all the questions I have. Thank you.

THE COURT: Redirect.

REDIRECT EXAMINATION

BY MR. YOUNG:

Q Are you sure you know who shot who?
A No, sir.
Q Okay. But you saw one person driving a car?
A Yes, sir.
Q And you saw a blast from that car?
A Yes, sir.

MR. YOUNG: Thank you. Nothing further.

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THE COURT: Recross.

MR. ANDERSON: No thank you.

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

MR. YOUNG: Your Honor, the hour is 12:30. I have one remaining witness. I'd like an opportunity to take a break at this time.

THE COURT: You're saying you think we should take a break is that what you said?

MR. YOUNG: Yes, sir.

THE COURT: A lunch break?

MR. YOUNG: If the Court so elects. I think he'll probably take a little bit longer than the average witness.

THE COURT: All right. Ladies and gentlemen, we'll recess for lunch and I need you back in an hour and 15 minutes, so 1:45.

Everybody else stay seated, please.

Need you back at 1:45. Don't discuss the case.

(The jury was excused for lunch.)

THE COURT: All right. Once again, folks, be very careful as you leave that you don't have any contact with a juror, that you not say anything that in any way relates to the case or anybody in it that might be overheard by a juror, be really careful. Court's at ease until 1:45.

MR. YOUNG: Thank you, Your Honor.

(Whereupon, there was a luncheon recess.)

THE COURT: Is the State ready for the jury?

MR. YOUNG: Yes, sir.

THE COURT: Defense?

MR. ANDERSON: Yes, sir.

THE COURT: Bring in the jury, please.

(The jury returns to the courtroom.)

THE COURT: Call your next witness.

MR. YOUNG: The State calls Officer Cody Cockrell.

CODY WESLEY COCKRELL,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. YOUNG:

Q Officer Cockrell, give us your full name, please, for the record.

A Cody Wesley Cockrell.

Q Okay, sir. Where do you work?

A Saluda Police Department.

Q How long?

A A little over three years.

Q Were you working for them on August 7th of 2007?

A Yes, sir, I was.

Q On that day, were you given duties to transport Michael Duran Watson to Greenwood County Jail?
A Yes.
Q Is he present in the courtroom?
A Yes, he is.
Q Where is he?
A Right there (indicating), blue shirt.
Q Sitting there next to Mr. Anderson?
A Right.
Q Officer Cockrell, on that afternoon, did you observe Mr. Watson in the back seat of your vehicle as you were transporting him?
A I did.
Q Okay. And during that period of time, did you become concerned about how he was acting or doing?
A Yes, sir.
Q What was your concern?
A I thought either his handcuffs or shackles were too tight or he just may have been uncomfortable as far as the temperature in my car.
Q And what was he doing?
A Moving around a lot like he was trying to get comfortable.
Q Okay. Did you ask him a question?
A I did.

Q What did you ask him?
A What was on his mind.
Q What happened?
A When I asked him that, he asked me, Where did I hit him?
Q I'm sorry, sir, repeat that. We have a large, loud background noise here.
A Okay. When I asked him what was on his mind, he then asked me in return, Where did I hit him?
Q Okay. Did you say anything after that?
A I did. I asked him what was he talking about.
Q And what did he say?
A He told me -- asked me again where did he hit Mr. Chandler when he shot.
Q And what happened after that statement?
A I answered his question as best I knew I could.
Q What did you say?
A I told him he hit him in the upper body.
Q At that point, what happened?
A He then went on to say how he felt bad about -- something about he was kin to the victim somehow.
Q Do you recall the words he used?
A Not exactly, no, sir.
Q You said -- how did he say it or what did he say?

A He said something to the extreme of, That's messed up, he's my cousin.
Q Something like that?
A Yes, sir, something -- not exact words.
Q Did you make anymore statements?
A Mr. Watson then went on to say something about he had witnesses. I told him like I tell everyone else that his day will come in court and he could have his witnesses just like everybody else.
Q Did he say anything else about what happened that day?
A He went in to tell me about the events of that evening.
Q How did he describe that?
A He said he was dropping his young child off, I believe it was his little girl, and he was circling through the Terrace Apartments like most young kids do. He got to the back, made the turn to come back out. He said he'd then seen someone trying -- looked like they were trying to flag him down to stop. He said he then stopped. And when he stopped, he seen four or five guys coming towards his car and that's when he threw up the gun and shot.
Q Did he say anything else beyond that?

A Sir?

Q Anything else? Did he say anything else?

A No, sir.

MR. YOUNG: Please answer any questions Mr. Anderson may have for you.

THE COURT: Cross.

MR. ANDERSON: Thank you.

CROSS-EXAMINATION

BY MR. ANDERSON:

Q What kind of recording device do you have in that car that you were driving?

A I'm unsure what kind of recording device is in it.

Q Did you have a recording device of some sort, a video camera?

A I believe so.

Q And that video camera also has a microphone attached to it on you and in your car as well, correct?

A Not to me at all times, but as far as my knowledge goes, yes, it does.

Q So you're driving down the road, can you show the jury, pretend like you're in the driver's seat, could you show the jury what you would have had to do to start recording this conversation you had?

A I would have had to reach up to my -- above my rearview mirror and press a button and then turn my camera around.

Q Well, let's just say you're going to record what was said not even video tape it.

A The audio in our car isn't that great, so.

Q So what would you have had to do just to record it?

A Hit a button.

Q Did you ever hit that button?

A No, sir.

Q And some time after this, you typed up a statement about what happened?

A Yes, sir.

Q You never mention anything in that statement about cousins, do you?

A I have to check over it, if that's all right with you.

No, I didn't.

Q And what about the fact that he has a son and not a daughter?

A Like I said, I wasn't sure. I said I believed it was a daughter.

Q Okay. In your statement that you typed up, you put her?

A Okay. Like I said, I wasn't sure.

Q Well...

A He just said he dropped his child.

Q Well, let me ask you this. Would it be safe to say that your memory of the exact conversation would have been better three years ago than it is today?

A I guess you can say so.

Q And would it be safe to say that -- you said before y'all talked for like 15 minutes?

A It was not very long, no.

Q Well, 15 minutes could be a really long time to some and a really short time to others.

A Right.

Q But would it be safe to say that it's possible, especially considering that you put her instead of he, that maybe you didn't get every precise detail of what he told you, maybe you got the general idea, but not every precise detail?

A I got every detail that was said about the crime that had been committed.

Q You got all that just right, but you messed up whether it was a boy or a girl?

A That was not important.

MR. ANDERSON: Thank you.

THE COURT: Redirect.

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MR. YOUNG: I have no questions, Your Honor.

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

MR. YOUNG: Your Honor, the State will move to admit State's Exhibits 1 and 2, which are the rights, waiver forms.

MR. ANDERSON: That's fine.

THE COURT: Without objection, mark those in evidence.

(State's Exhibit Numbers 1 and 2, waiver of rights forms, admitted into evidence.)

MR. YOUNG: The State rests, Your Honor.

THE COURT: All right. Ladies and gentlemen, I told you that whenever the State rests, I have to discuss legal matters with the attorneys. I told you that it didn't matter whether you've been in here a minute or an hour whenever this came up. So, at this point, I have to send you out of the courtroom while I do this. This generally takes about 20 minutes. If I see it's going to be substantially longer than that, I'll send word to you. We'll see where we go from there.

Don't discuss the case yet. I'll get back to you as quickly as I can. Follow the bailiff, please.

(The jury retires to the jury room.)

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THE COURT: Motions.

MR. ANDERSON: Judge, I believe before we get to that, can I inquire as to scheduling because I've got a witness who's about two hours away and I need to know if I need to go ahead and summon him or if we're going to wait until tomorrow morning.

THE COURT: Y'all have to tell me. I don't know anything about what you may plan to put up.

MR. ANDERSON: Well, we're going to put up a few witnesses and it shouldn't take that long what we're going to put up. We're flexible. We don't care if we do that this afternoon or do that in the morning, but if we're going to do it this afternoon, I need to send for that one fellow.

THE COURT: Do you have witnesses here that we could do and then have that other witness in the morning? Would that mess up your order?

MR. ANDERSON: I have one witness here and then I have the defendant, obviously, is here. And then I've got -- subpoenaed one individual to come at 3:00, which I'm actually shocked at how close that was, and then that other fellow and that's it.

THE COURT: Well, would it affect the presentation of your case if we do the witnesses you have available today and then break for the day and

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do your other witness tomorrow, the one that's two hours away?

MR. ANDERSON: He kind of needs to go before my client, that's the only problem, but we can do he and my client in the morning or we can send for him.

THE COURT: Well, if he's two hours away and you get in touch with him at 2:30, that means 4:30 before he even gets here, that doesn't make a whole lot of sense right now. My preference would be to take whoever you can take today, take that other witness in the morning and then if you want your client, if he wants to testify after that, sure, that's fine with me.

MR. ANDERSON: Well, let's do that then, Judge.

THE COURT: Do you want to go ahead and call him and tell him to be here in the morning?

MR. ANDERSON: I think if somebody could do that, please.

What time would that be, Your Honor?

THE COURT: Just say 10:00. I mean, y'all might want him here sooner than that so you can talk to him or something, but -- why don't we do this. I'll just take a break, you talk to them, decide what you want to do and then I'll hear your motions and then I've got to confer with your client about

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his rights concerning whether he testifies or not, all right.

MR. ANDERSON: Okay. Thank you.

THE COURT: We're at ease for a few minutes.

(Brief recess.)

THE COURT: Motions.

MR. ANDERSON: Yes, sir, please the Court.

THE COURT: Yes, sir.

MR. ANDERSON: My first motion, I would move for a directed verdict of not guilty based upon self-defense. There's certainly a lot of contradictory evidence, but it appears that somebody -- my client had stopped the car, somebody said, Shoot now, and then a gunshot was fired. People were approaching the vehicle. And it's -- while it's extremely unfortunate, we believe the evidence is sufficient for that, Your Honor.

THE COURT: All right. It's a jury issue and respectfully denied. The motion is respectfully denied.

What else do you have?

MR. ANDERSON: Judge, taking all of the evidence in the light most favorable to the State, again with all the contradictory evidence -- with the lack of any other credible evidence other than

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the shot was fired from the car, with the very vague GSR evidence, with the no fingerprints, with the no audio tapes, no video tapes, again with the contradictory eyewitnesses, we would move for a directed verdict of not guilty.

THE COURT: All right. Again, there's sufficient evidence to present to the jury on the issue of the defendant's guilt on the charges which he has been indicted.

MR. ANDERSON: Thank you, Your Honor. That would be the extent of our motions. And I've got two witnesses that I can call relatively quickly and then the other two could be in the morning.

THE COURT: All right. I've got to cover some things with your client.

Mr. Watson, I have to cover some things with you now. I have to do this in every case whether a person's on trial for murder or whether they're on trial for a traffic violation. I need your responses under oath, raise your right hand, please.

MICHAEL DURAN WATSON,

having been duly sworn, testified as follows:

THE COURT: You can have a seat. Just speak loudly, this lady takes down everything we say.

We've reached the stage of the trial now where

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the State has rested. And the next thing that will happen is that I will give your side the opportunity to present evidence for the jury to consider. You understand where we are in the trial?

DEFENDANT: Yes, sir.

THE COURT: Now, in that regard, you may call witnesses to testify. And if you wish, you, yourself, may testify, but you have an absolute right to remain silent and no one can force you to testify. You understand that?

DEFENDANT: Yes, sir.

THE COURT: If you choose not to testify, I'm going to tell that jury that they cannot hold your silence against you, they can't discuss it in the jury room, they're not to let it enter their minds in making their decision on whether you're guilty or not guilty. You understand that?

DEFENDANT: Yes, sir.

THE COURT: This decision about whether you testify or not, it's your decision to make and your decision alone; you understand that?

DEFENDANT: Yes, sir.

THE COURT: Now, I expect that you might confer with your attorney, with family members, friends, people whose opinion you value on important

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decisions, but, ultimately, it's your call to make. You're the one who decides whether you testify or not; you understand?

DEFENDANT: Yes, sir.

THE COURT: Now, does he have a criminal record that would subject him to impeachment?

MR. YOUNG: No, sir.

THE COURT: If you take the witness stand, obviously you would be subject to cross-examination; you understand that?

DEFENDANT: Yes, sir.

THE COURT: The State will get to ask you questions; you understand?

DEFENDANT: Yes, sir, I understand.

THE COURT: Now, up until this point, has anybody done anything improper to get you to testify or not testify? In other words, has anybody attempted to force you or improperly influence you to get you to testify or not testify?

DEFENDANT: No, sir.

THE COURT: So whatever decision you make on this, it's yours and yours alone?

DEFENDANT: Yes, sir, it's mine alone.

THE COURT: Are you under the influence of any kind of medicine or any substance that affects your

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thinking?

DEFENDANT: No, sir.

THE COURT: Do you suffer from any physical or mental problems that affect your thinking?

DEFENDANT: None at all, sir.

THE COURT: All right. Mr. Watson, I don't know what your decision is. Your attorney had told me earlier in open court that you intend to testify and that's fine if you wish to. If you change your mind, that's fine as well.

I don't know -- and I'm not trying to influence you either way, but whatever decision you make, I'm making this finding now that your decision is free, knowing, voluntary and intelligent; you understand that you have a right to testify, you have a right not to testify; you understand that if you choose not to testify, I'm going to tell that jury they cannot hold your silence against you in any way at all; you understand that the decision about whether you testify or not is your decision to make and yours alone.

And I'm going to maintain those findings, so if anybody does attempt to improperly influence you, you let me know right away, okay?

DEFENDANT: Yes, sir.

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THE COURT: Thank you.

Are you ready to put your witnesses up, Mr. Anderson?

MR. ANDERSON: Yes, sir.

THE COURT: Solicitor, are you ready for the jury, too?

MR. YOUNG: We are, Your Honor.

THE COURT: Bring in the jury, please.

(The jury returns to the courtroom.)

MR. YOUNG: Your Honor, may Mr. Anderson and I approach?

THE COURT: Yes, sir.

(Whereupon, a bench conference was held off the record, in the presence of the jury, but out of the hearing of the jury.)

THE COURT: All right. Ladies and gentlemen, the next stage of the trial is that the defense is given the opportunity to present evidence for you to consider.

Now, this does not change the burden of proof in any way. The burden of proof remains entirely upon the State to prove the guilt of the defendant beyond a reasonable doubt. An accused has no obligation to prove anything at all, but the defense is entitled to present evidence for you to evaluate

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in deciding whether the State has met its burden of proof or has failed to meet its burden of proof.

Now, I've been provided the names of three potential witnesses. You were not asked about these earlier, so I need to ask you now.

And if any of these persons are present, I need for them to stand.

MR. ANDERSON: Two of them are out there.

THE COURT: Because they're sequestered. Would you bring them in?

MR. ANDERSON: Judge, you're going to be extremely mad at me and the jury is too, but could I take one other matter up? I'm sorry. I promise it will be very fast.

THE COURT: Sure. That's fine.

Folks, step back in the jury room. I'll get right back to you. Don't discuss the case.

(The jury retires to the jury room.)

MR. ANDERSON: Judge, I was just -- in my motions, I need to make one other motion.

THE COURT: Go ahead.

MR. ANDERSON: That since the defense of self-defense has been raised and the State has the burden of disproving that, they have failed to disprove that defense. So I would add that to my

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motions for a directed verdict.

THE COURT: Okay. Again, I think they're jury issues and I respectfully deny your motion.

MR. ANDERSON: And I'm sorry.

THE COURT: That's okay.

MR. ANDERSON: Thank you. And here are my two witnesses, Judge.

THE COURT: Who do I have?

MR. ANDERSON: Obie Combs and Trish Watson.

THE COURT: All right. Folks, what's going to happen is when the jury comes in, I'm going to ask you to stand, come a little bit toward me so they can see you. I have to ask them some questions about whether they know you, all right.

Bring the jury back in.

(The jury returns to the courtroom.)

THE COURT: All right. Ladies and gentlemen, as I was saying, these names were not read to you at the first qualification process, so I'm going to introduce these potential witnesses to you now and ask you the same basic questions about them that I asked you about the other folks that you were introduced to.

Obie Combs. Mr. Combs, would you come over this way so they can see you a little better, just

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face them. Thank you, sir. And Trish Watson. Would do likewise please, ma'am? Thank you. And there's another witness, Jarvis Stevens, who is not here today. He'll be here in the morning from my understanding if the defense chooses to call him.

Are any of you related by blood or marriage or connected by employment with Jarvis Stevens, Trish Watson or Obie Combs; if so, raise your hand?

(There was no response.)

THE COURT: Do any of you have any connection whatsoever with any of those three individuals; if so, please stand?

(There was no response.)

THE COURT: Is the fact that these three individuals may be witnesses in the case, would that in any way affect your ability to be a fair and impartial juror in the case; if so, raise your hand?

(There was no response.)

THE COURT: All right. Which person are you going to call first?

MR. ANDERSON: Mr. Combs.

THE COURT: Mr. Combs, if you'll come up here to the Clerk.

And, Ms. Watson, if you'll step back out in the hallway for me, please.

OBIE COMBS,

having been duly sworn, testified as follows:

THE COURT: All right. Ladies and gentlemen, as I was saying, the defense gets the opportunity to present evidence for you to consider. It doesn't change the burden of proof. The burden's entirely on the State.

All right, Mr. Anderson.

MR. ANDERSON: Thank you, Judge.

COURT REPORTER: Can you state your full name, please?

THE WITNESS: Obie Combs.

COURT REPORTER: How do you spell your first name?

THE WITNESS: O-b-i-e.

DIRECT EXAMINATION

BY MR. ANDERSON:

Q All right. Have we ever met before today?

A Shortly.

Q Just now?

A Yes.

Q Okay. And you have no idea really why you're here other than you've been subpoenaed?

A I don't have no idea why I'm here.

Q And you don't know what kind of case this is?

A I have no idea.

Q Okay. That's a good thing, okay. Your name is Obie Combs and you live in Saluda?

A (Witness nodded head.)

Q Yes?

A Yes.

Q Okay. Think back three years ago, July of 2007, okay. Do you know who Warren Chandler is?

A Yes.

Q Did you see him with a gun?

A On that date.

Q Yes, in 2007, July of 2007.

A At a location.

Q At the park?

A At the park.

Q Did you see him with a gun?

A Yes.

MR. ANDERSON: Okay. That's all the questions I have.

THE COURT: Cross.

MR. YOUNG: I have no further questions.

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

Is he free to go?

MR. ANDERSON: Yes.

THE WITNESS: I can go home?

THE COURT: Yes, sir. You can go home, go wherever you want to. Thank you.

Would y'all have Ms. Watson step in here?

TRISH WATSON,

having been duly sworn, testified as follows:

THE COURT: State your name, ma'am.

THE WITNESS: Trish Watson.

DIRECT EXAMINATION

BY MR. ANDERSON:

Q All right. Trish, you need to be talking to the jury and not to me, okay. All right, you are Michael's sister?

A Yes, sir.

Q And you love your brother?

A Yes, sir.

Q And you have not been in the courtroom during the real trial because of the order that everybody has to be outside, correct?

A Yes, sir.

Q Okay. If you could have been, you would have been in here with him, right?

A Yes, sir.

Q Okay. And we're going to talk about three subjects, okay?

A Yes, sir.

Q First, since Michael's been in jail, what car have you been driving?

A Michael's car.

Q And just -- is it fast?

A No. It actually cuts off on you from time to time. You have to let it roll off to roll and crank back up and start over again.

Q Not every time, just sometimes?

A Just sometimes.

Q And what year is it?

A '94, if I'm not mistaken.

Q Have a bunch of miles on it?

A Yes.

Q A bunch of use?

A Yes.

Q Okay. But you're thankful to have the car to drive?

A Yes, sir.

Q Next -- and this is three years ago.

A Yes, sir.

Q Do you remember three years ago Michael's, in general, state of mind about, I guess, anxiety, fear, safety issues?

A Yes, sir.

Q Tell the jury --

MR. YOUNG: Your Honor, I want to take this matter up outside the jury.

THE COURT: All right. Ladies and gentlemen, please step in the jury room. Don't discuss the case.

(The jury retires to the jury room.)

THE COURT: Yes, sir.

MR. YOUNG: Your Honor, this would appear to be a venture into hearsay based upon three years ago and Michael's state of mind. I do not know what she's going to testify to, but in preservation of any problems that might occur, I would ask that an inquiry be done at this time as to what she would testify and...

THE COURT: What do you want to elicit from this witness?

MR. ANDERSON: Judge, she's not going to name any names just that Michael was having some problems around back then and that he was fearful for his safety, that's all.

MR. YOUNG: How is that relevant, Your Honor? The State would object on relevance, that doesn't even relate to this three years ago and being fearful, that's not relevant, certainly not

material.

THE COURT: Ask her whatever it is you want to ask her about.

EXAMINATION

BY MR. ANDERSON:

Q Do you remember the time leading up to this incident?

A Yes, sir.

Q How -- what was Michael's state of mind as far as his -- how did he feel about his safety?

A He was scared.

Q In general?

A Yes, sir.

Q Okay. And you know this from observations and discussions or what? How do you know?

A From discussions with Michael, discussion with family members, just hearing stuff out in general.

Q Just simply afraid for his safety?

A Yes, sir.

MR. ANDERSON: That would be all that I'd ask her, Judge.

THE COURT: Solicitor?

EXAMINATION

BY MR. YOUNG:

Q Ma'am, I don't want to berate you on this

point, but how do you know this? How do you know that he was fearful?

A Me and my brother have a very close relationship and we talk about any and everything.

Q Okay. And in your discussions with him, you came to some belief that he might be afraid?

A Yes, sir.

Q Of what?

A He was having trouble with a group of guys.

Q A group of guys?

A Yes.

Q He was having trouble with a group of guys?

A Yes.

Q Okay. And did he do anything more than just say a group of guys?

A Excuse me?

Q Did he say anything more than just a group of guys?

A He just said, I'm having some problems with, I can't, you know, people picking at me, bothering me no matter where I'm at, I can be in my cousin's yard or wherever.

Q So just a generalized group of guys problem?

A Yes.

MR. YOUNG: I'm going to object, Your Honor,

that doesn't relate to this case. There's no materiality to it.

THE COURT: Anything else?

MR. ANDERSON: No, sir. I just say it's relevant to what led up to this unfortunate mess we got ourselves into here.

THE COURT: It falls under 803 subsection (3). You can ask, and I can't say every question that was elicited is precisely within that rule, but the gist of it is.

MR. ANDERSON: Thank you, Your Honor.

THE COURT: Bring in the jury.

(The jury returns to the courtroom.)

THE COURT: The objection's overruled. You may continue.

MR. ANDERSON: Thank you, Your Honor.

BY MR. ANDERSON:

Q All right. Trish, we were just talking about three years -- I mean, you haven't had a whole lot of interaction with Michael since three years ago?

A I go see him on visitation.

Q And that's about it?

A Yes, sir.

Q Okay. So, at the period of time leading up to this unfortunate event, what was his state of mind?

A He was scared.
Q Okay. And, in general, what was the problem?
A He had a group of guys that was bothering him.
Q All right.
THE COURT: That were what?
THE WITNESS: Messing with him, bothering, picking on him.
BY MR. ANDERSON:
Q Bothering him?
A Yes, sir.
Q All right. And then, lastly, after what happened happened, where were you?
A I was home.
Q Okay. Phone calls, people talking, so you knew something bad had happened?
A Yes.
Q What happened at your house?
A That night at my house --
Q Let me ask it this way. Timing-wise, how quickly did it happen at your house?
A I would say probably 30 minutes, an hour.
Q And what happened?
A It was a lot of commotion outside around in front of my house. I opened the door to look out, it was a group of guys across the yard -- across the

road from my house on the opposite side of the road saying all sorts of stuff. I then went in the house. I woke my husband up and I told him, I said, You need to get up, you know, it's some guys out in front of the house and they're saying some horrible things and you need to be up with your family because me and my kids we were all scared.

Q Okay. I told you three things, so that's all. Now, you love your brother. Are you telling the truth?

A Yes, sir.

MR. ANDERSON: All right. Thank you. Please answer any questions that the State has.

THE COURT: Any cross?

MR. YOUNG: I don't have any questions, Your Honor.

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

All right. That's all the witnesses we can do today?

MR. ANDERSON: I'm sorry, but, yes, sir.

THE COURT: All right. Ladies and gentlemen, I need you back here tomorrow in the jury room at two o'clock -- excuse me -- ten o'clock. You should get the case tomorrow. We'll probably order your lunch

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in. We'll see how things progress and how things balance out, but you definitely should get the case tomorrow absent some extraordinary circumstance I'm not anticipating. And like I said, we probably will order your lunch in for you, either that or we'll send you somewhere to eat, all right.

Ten o'clock in the morning. Don't discuss the case. Thank you.

(The jury was excused for the day.)

THE COURT: Do y'all anticipate requesting voluntary manslaughter?

MR. ANDERSON: I was anticipating that, Judge. I've got some cases and it is interesting. I mean, there's that, I think the word is opprobrious conduct, must be opprobrious conduct that would justify that heat of passion, and I think that would get to these facts. But I've got a whole bunch of cases.

With that being said, I think the most important one would be the self-defense one.

THE COURT: Well, I mean, I've got to hear the case before I can make a final determination. I was just trying to -- I've got it in the draft that I've done, but the draft's far from finished. I was just planning on taking this home with me and working on

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it overnight. I just wondered if his defense was going to make a request for that if you knew.

Obviously, it's -- again, it's something I can't evaluate until I hear all of the evidence, but I'll just plan to have it in there and then if I decide it doesn't apply, I can take it out. It's easier to take it out than put it in.

MR. ANDERSON: Do you want me to holler out those cases or -- you probably already have it, but...

THE COURT: It doesn't really matter. I know the concept you're talking about, opprobrious conduct can give rise to sudden heat and passion. The thing that's conflicting is the self-defense concept of being in fear for one's safety and then the sudden heat of passion, which generally is associated with lashing out, but I can't say that they're mutually exclusive, I don't know.

MR. ANDERSON: I've read so many cases and it all starts to jumble, but there are some where they charge them both and it is confusing, Judge, so.

THE COURT: Well, if I had to guess right now, I'm probably going to charge them both, but we'll see what happens after I hear all of the evidence.

All right. Have you made arrangements for your

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witness to be here?

MR. ANDERSON: Yes, sir.

THE COURT: Court's in recess until 10:00 a.m.

MR. ANDERSON: Thank you.

THE COURT: Thank you.

(The proceedings were concluded for July 28, 2010.)

(The following proceedings were held on July 29, 2010.)

THE COURT: Defense ready for the jury?

MR. ANDERSON: Yes, sir.

MR. YOUNG: State's ready.

THE COURT: Bring in the jury, please.

(The jury enters the courtroom at 10:20 a.m.)

THE COURT: Call your next witness.

MR. ANDERSON: Jarvis Stevens.

JARVIS STEVENS,

having been duly sworn, testified as follows:

THE COURT: Try to speak into that microphone. What's your name?

THE WITNESS: Jarvis Stevens.

THE COURT: Spell your first name.

THE WITNESS: J-a-r-v-i-s.

THE COURT: Last name spelled with a p-h or a

v?

THE WITNESS: V.

THE COURT: Thank you.

All right. Mr. Anderson.

MR. ANDERSON: Thank you, Your Honor.

DIRECT EXAMINATION

BY MR. ANDERSON:

Q Good morning, Jarvis.

A Good morning.

Q How are you related to Michael Watson?

A First cousin.

Q And you know this case is about three years old?

A Yes.

Q But think back to right before this happened, and I know in talking to you, you don't remember an exact date, but right before this happened, right before Michael got locked up, was there an incident that happened at your house?

A Yes.

Q Could you tell the jury about that, please?

A Well, there was some guys --

Q Was Mike -- let me help you. Was Michael at your house?

A Yes.

Q Okay. What happened?

A There was some guys walking up and down the street antagonizing him, you know, trying to get him to fight or whatever.

Q Were they -- was it kind of scary?

A Somewhat.

Q Did it look intimidating?

A Yes.

Q If you were to put yourself in Michael's shoes, would it make you fearful for your safety?

A Yes.

Q How did Michael handle the situation?

A He was kind of calm. You know, he was a little bit concerned about it.

Q Well, did he go out and engage them?

A No.

Q Now, you don't know exactly who those fellows were?

A No.

Q But were they black or white?

A They were black.

Q And about what age were they?

A They were around the same age as Michael.

Q Okay. And how many of them were there?

A Maybe four or five.

Q Okay. And were they being aggressive and saying aggressive things?

A Yes.

Q Okay. And did you advise Michael to do anything?

A Well, I just told him to stay at my house until things calm down until they leave.

Q And, eventually, did they leave?

A Yes.

Q Now, if you would put yourself -- if you could put yourself in Michael's shoes, wouldn't you have been fearful of those people?

A Yes.

MR. ANDERSON: Okay. That's all the questions I have. Please answer any questions that Mr. Young or the Court might have.

THE COURT: Cross.

MR. YOUNG: Yes, sir, thank you.

CROSS-EXAMINATION

BY MR. YOUNG:

Q Who do you live with?

A With my wife, Debbie Watson.

Q Okay. Is she related at all to Mr. Watson?

A I don't think so.

Q You don't think she's related, okay. Tell me

what these guys were saying.

A They were saying, you know, come on out in the road, I'll -- I'll F you up and I'm going to do all kind of things to you.

Q Okay. Why were they saying that; do you know?

A I don't know.

Q Did you -- where were you in relation to this conversation by the way, where were you?

A As regards to what? What you mean?

Q Where was Michael, where are you and where --

A We were in my yard.

Q You were all in your yard?

A Yes.

Q Where are the people that are walking?

A They're out in the road, in the street.

Q How far were they?

A They're fairly close.

Q How did Michael get to your house?

A He drove.

Q What kind of car?

A I think maybe it was a little Toyota or --

Q Black car?

A Yes.

Q Would you be able to recognize it again if you saw it?

A Yes.
Q Do you recognize that car?
A Yes, that's it.
Q And you're looking at State's Exhibit Number -- which one is --
A Number 3.
Q How about 4?
A The same vehicle.
Q Okay. That's the one he was driving?
A Yes.
Q Drove to your house in it?
A Yes.
Q Okay. Where was his car parked?
A In the driveway.
Q Visible from the road?
A Yes.
Q Did anybody say anything about him being in that car, calling from the road saying, you know, I saw you in that car or anything?
A I don't understand what you mean.
Q In other words, I saw you in that car earlier this week.
A Oh, I didn't hear anything like that.
Q Or you had something in that car earlier this week?

A No, I didn't hear anything like that.
Q Anything about that?
A No.
Q And did you stay outside the whole time?
A Yes.
Q Okay. And these kids just walking by?
A Yeah, walking back and forth.
Q Okay. Any of them live near there?
A I'm not sure.
Q Okay. Well, was it so serious you needed to call the law?
A Well, they hadn't done anything, you know, but threatened him, you know, they -- there's only one that came in the yard really.
Q I'm sorry?
A One of the guys came in the yard.
Q Came in the yard. Who was that?
A I don't know the guy.
Q What do you mean he came in the yard?
A And sat on Michael's car.
Q Sat on his car?
A Yes.
Q And when he sat on his car, what was he doing?
A Just kept antagonizing him, wanting him to do something.

Q And they didn't say anything about why they were there? They didn't make one comment about why they came up there or upset about anything Michael might have done?

A No.

Q Not a word?

A Not a word. I didn't hear anything.

MR. YOUNG: Thank you. No further questions.

THE COURT: Redirect.

MR. ANDERSON: No questions.

THE COURT: Thank you, sir. You may step down. Do you have any further witnesses?

MR. ANDERSON: The defendant.

THE COURT: Ladies and gentlemen, I need to ask you to step in the jury room briefly and then I'll get you back out here in just a moment, all right. Don't discuss the case.

(The jury retires to the jury room.)

THE COURT: All right. Mr. Watson, you've decided to testify?

DEFENDANT: Yes, sir.

THE COURT: That's your own decision, made of your own free will?

DEFENDANT: Yes, sir.

THE COURT: Those things you have on your leg,

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do they affect your ability to walk?

DEFENDANT: Yes, sir. If I step completely, they'll lockup.

THE COURT: Mr. Anderson, do you prefer that he be on the stand when the jury comes in?

MR. ANDERSON: It doesn't matter, Judge, honestly. I don't care.

THE COURT: Walk toward that deputy and let me see what...

(Defendant complies.)

THE COURT: Is it clicking?

DEFENDANT: That's when it locks up.

THE COURT: When it locks up.

MR. ANDERSON: That's part of his appeal, Judge. It's all right.

THE COURT: Well, I'm giving you an opportunity -- you brought it out before that he'd been in jail for three years.

MR. ANDERSON: Yes, sir, so it's no secret.

THE COURT: Right. But I'm giving you an opportunity, if you want to, to have him on the stand so the jury won't be exposed to the fact that he's got some sort of restrictive device on his legs.

MR. ANDERSON: I don't think that matters. I

appreciate it.

THE COURT: All right. Are you ready?

MR. ANDERSON: Can I do this since we're done, can I invite his sister to come in if she wants to?

THE COURT: Sure.

MR. ANDERSON: Because she's been sequestered.

THE COURT: We're at ease.

(Pause.)

MR. ANDERSON: All right. We're good, Judge. They're too nervous to come in.

THE COURT: All right. Bring in the jury.

(The jury returns to the courtroom.)

THE COURT: Call your next witness.

MR. ANDERSON: Michael Watson.

THE COURT: Come around, Mr. Watson.

MICHAEL DURAN WATSON,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. ANDERSON:

Q All right. You're Michael Watson?

A Yes, sir.

Q Are you an expert testifier? Have you ever testified in court?

A First time, sir.

Q All right. You feel kind of nervous up there?

A Yes, sir.
Q Do you feel exposed?
A Yes, kind of.
Q Everybody in the whole courtroom is looking at you, that's kind of awkward, isn't it?
A Yes, sir.
Q Just do your best to try to be yourself, okay?
A Okay.
Q I'm talking to you, but you're talking to the jury, okay?
A Okay. Can I clear up the fact that you don't like to be called yes, sir?
Q Yes. Call me Andy, okay?
A Okay.
Q And if you don't understand the question, it's hard when you're nervous to think sometimes, if you don't understand the question, just say you don't understand the question.
A Okay.
Q We're in no hurry, okay?
A Yes, Andy.
Q And if you don't understand, just say you don't understand. And after I question you, Mr. Young is going to question you.
A Okay.

Q The Judge might even question you. If you don't understand something, just say it, okay?
A Okay.
Q All right. Tell the jury just a little bit about yourself. How old are you now?
A Twenty-one.
Q Okay. What were you doing in your life before this incident?
A I was working at Saluda Farm and Garden.
Q Where is that?
A It's located on Newberry Highway.
Q And what did you do there?
A Pretty much load the trucks and unload trucks and just help people with anything I possibly can when they enter the store.
Q Did you like your job?
A Yes.
Q All right. In addition to that, and I don't like the term "baby mama", but who is Senora?
A My baby's mother.
Q Okay. So you had a child with Senora?
A Yes, sir.
Q And how old is your child?
A He'll be five in August.
Q And he is a son?

A Yes.
Q So it's not a she like Officer Cockrell said?
A No.
Q And have you also rekindled -- you have a relationship with Tiffany. You and Senora aren't together?
A No, sir.
Q But your lady friend is Tiffany?
A Yes, sir.
Q Now, Tiffany has been here, there she is. And you and Tiffany actually have a child together?
A Yes, sir.
Q And that child was born while you were in jail?
A Yes, sir.
Q Okay. How far did you go in school?
A Tenth grade.
Q And have you lived in Saluda your whole life?
A Yes, sir.
Q All right. And over here, who are all these folks?
A Sitting next to Tiffany is my mother and -- the yellow is Tiffany.
Q This is your mama?
A Yes, sir.
Q This is Jarvis' wife?

A Yes.

Q This is Tiffany?

A Yes. Kim.

Q Who is she?

A That's my cousin's fiancé.

Q And who this neat lady right here in the glasses?

A Rochelle, she's my first cousin.

Q And then the other gentlemen is your friends?

A Crews, yes, sir. Quincy, Tyree, Claddy Boy (ph), Teree, Man.

THE COURT: You're going to have to spell some of that.

COURT REPORTER: Quincy, Tyree...

THE WITNESS: We call him Claddy Boy, that's his nickname.

COURT REPORTER: Can you spell that?

THE WITNESS: I have no idea, ma'am.

THE COURT: I don't know what he's saying.

THE WITNESS: Can you spell your nickname?

THE COURT: Wait a minute. Y'all can't just talk to the audience.

THE WITNESS: Okay. I'm sorry.

BY MR. ANDERSON:

Q I think it's Fat Boy.

A Claddy Boy.

Q Laddy Boy?

A Claddy.

THE COURT: Just do it phonetically, do the best you can.

BY MR. ANDERSON:

Q All right. So, now your sister is too nervous to come in here, but she's been here all week, too. Your sister testified yesterday, correct?

A Yes.

Q Okay. All right. So where do you guys -- where do you live?

A Out on Bottom Road. Well, as of right now, I live in Saluda County Detention Center.

Q Well, but your house, where your mom lives, where you were living?

A That's out of on Bottom Road.

Q Okay. On Hill Drive.

A Yes, sir.

THE COURT: All right. Mr. Anderson, the court reporter is having trouble understanding him. I'm assuming that if she is, the jury may be too.

Try to speak closer to that microphone if you can, please. What did you say last?

THE WITNESS: My house is located out on Bottom

Road.

THE COURT: Bottom Road?

THE WITNESS: Yes, sir.

THE COURT: Thank you.

MR. ANDERSON: And if the court reporter will raise your hand and I'll re-ask any question that she doesn't understand, okay.

THE COURT: She can't raise her hand. She's got to keep her hands on those keys.

MR. ANDERSON: She can shake her head or something. I'll try to watch.

I'm just used to you -- the way you talk, so I can understand it. I'm sorry. So, Michael, just try to talk clear, okay.

THE COURT: Y'all have to understand we're not from here so we might not know the names of streets and things like that. So if you say Bottom Road, it may ring a bell with y'all, it may not ring a bell with us, okay. Just be mindful of that. Speak as clearly and distinctly as you can. Answer Mr. Anderson's questions, please.

BY MR. ANDERSON:

Q All right. And then we had talked about the stuff on your legs. You got some stuff on your legs?

A Yes.
Q And that's just a security measure?
A Yes.
Q And that's why you're walking funny?
A Yes.
Q Okay. But you haven't given anybody any trouble since you've been in jail, have you?
A None at all.
Q Okay. And when the police came, you cooperated with them?
A Yes.
Q You heard Commander Holloway talk about that?
A Yes.
Q And you talked to him when he came to the jail to talk to you about the case, didn't you?
A Yes.
Q And when he did, what did you tell him?
A It was self-defense.
Q Okay. Let's talk about the incident at your uncle's house. You know, we didn't get into too much detail, but did that testimony accurately describe what happened that day?
A Yes. And he's not my uncle, that's my first cousin.
Q I'm sorry. But was that pretty accurate?

A Yes.

Q Now, could you identify any of the people that were messing with you that day?

A Octavious Thompson (sic).

Q Okay. And what's his nickname?

A Duke.

Q And is he one of the young men that testified the other day?

A Yes.

Q Okay. Were any of the other boys involved in this case?

A Jarrod Coleman and Tobias James, I think that's his last name.

Q Were there, too?

A Yes, sir.

Q And which is the boy in the white T-shirt that testified the other day, the young man, the 17-year-old that had the lynching --

A Jarrod, that's Jarrod Coleman, sir.

Q They were there at your house, or at your cousin's house?

A Yes.

Q Okay. Did they put you in fear?

A Yes.

Q Had you had another incident that put you in

fear?

A Yes.

Q What incident was that?

A It was Sunday at the ballpark.

Q Let me go back since -- the thing at your cousin's house, how long before this incident was that?

A Four or five days, if that.

Q All right. Then the thing at the park was about two weeks?

A No, it was -- yes, it was about two weeks.

Q All right. So what happened at the park?

A We was --

MR. ANDERSON: And, Judge, I hate to do this, but is there any way I can turn that fan off?

THE COURT: Yes, sir. It was off. I guess, it just caused the thermostat to come back on.

(Pause.)

THE COURT: Okay. Go ahead.

MR. ANDERSON: Thank you.

BY MR. ANDERSON:

Q All right. The park about two weeks before, what happened?

A We was fixing to leave and someone threw a rock.

Q Let me ask you this. Who's we?

THE COURT: I didn't hear what he said.

Say that again, please.

THE WITNESS: We was fixing to leave the ballpark and I was in the car with my cousin, Marvin and Reggie Martin, and we was leaving and someone threw a rock at his car. So when we got out and that's when Warren Chandler pulled a gun.

THE COURT: Who pulled a gun?

THE WITNESS: Warren Chandler.

BY MR. ANDERSON:

Q And that's the young man who testified the other day that he didn't have a gun, correct?

A Yes.

Q And that's the man that Mr. Coleman said he saw had a gun?

A Yes.

Q Okay. Did that incident put you in fear?

A Yes.

Q All right. So based upon your state of mind, what were you riding around with?

A It was a shotgun.

Q And you really were riding around with a shotgun?

A Yes.

Q Did you ever shoot that shotgun at anybody before this incident?
A No.
Q Okay. Why did you have the shotgun?
A Safety.
Q Okay. Now, again, you're talking to me. You need to be talking to the jury, okay?
A Okay.
Q Did you have a handgun that you can tote?
A No. I was underage to have a handgun.
Q Okay. So you were toting around a shotgun in your car?
A Yes.
Q Okay. Can you tell the jury about this incident? Where were you going?
A I was going to Saluda Terrace, but I was going to take a friend of mine some money.
Q And who was that?
A Candace, that's Senora sister.
Q So, obviously, she lived in Saluda Terrace Apartments?
A Yes, sir.
Q So, talk slow and clear.
A Okay.
Q You pull into the apartments. When you went

over to those apartments, did you have any intention of hurting anybody or doing anything bad?

A No, none at all.

Q So what happened?

A Okay. Going through Saluda Terrace, I had to go to the back. So I'm going to the back, turn -- it's a loop thing, so I turned around through the loop and I come back by. I see a group of guys. I don't know who they was. It was dark, so --

Q Slow down. Why did you go back there?

A I didn't -- I went to take Candace the money, but I didn't see her car.

Q Okay. So what did you -- you stopped and go knock on her door?

A No, sir.

Q All right. What did you do?

A Okay. So I just continued to go, then I looped back through. Then I coming back by, I see a group of guys. I decided to ask them had they seen her. So the car is completely stopped. I wind down the window and get ready to ask, but before I can ask, that's when two guys rushed the car. I recognized one of them by his voice because he's the one that said, Shoot now.

Q And who was that?

A That's Octavious Thompson known as Duke.
Q Okay. So what did you do?
A I just picked up the gun and shot out the window.
Q Now, where was the gun?
A It was in the floor at a slope with the butt on the seat.
Q So if you can kind of turned sideways and pretend like you're driving, okay?
A Okay.
Q And that's going to make it hard to talk because you're away from the microphone, but you don't have to talk for a second. But if this is the driver's seat and here's the steering wheel and this will be the passenger seat here, can you show the jury about where the butt of the shotgun was? You might have to just point.
A Okay. It was about in this area right up in here (indicating).
Q Okay. Now, talk about the part where you stopped the car and rolled down the window. How did that happen? Now, you can turn back around so you can get close to the microphone.
A Okay. I was at a complete stop. I wind the window down.

Q Does your car have electric?
A No, sir.
Q So you were leaning over and undoing the window?
A Yes, sir.
Q All right. And so what did you see and what did you hear?
A I seen two guys rush the car and I heard someone say, Shoot now.
Q Okay. And at the time you were slowing down, what was your purpose?
A To ask them had they seen Candace.
Q Okay. And could you tell exactly who they were when you were slowing down and stopping?
A No.
Q Did you slow down and stop with the intention of engaging them in any kind of foul play?
A No.
Q When they came at the car and you heard, Shoot now, how did that make you feel?
A I felt threatened, very scared at the moment. I really felt that's when someone was fixing to shoot.
Q What did you take it to mean?
A Someone that -- the one that yelled, Shoot now,

was telling the other guy to shoot.

Q Now, why didn't you just drive off?

A They was towards the front of the car, so if I would have drove off, that would have put myself in more danger of them getting a shot out.

Q Did you truly feel like you were in danger?

A Yes.

Q So what did you do?

A I shot.

Q And how long did that take?

A It was a split second decision.

Q How long did it take to pick up the gun and fire it?

A Everything is just a split second decision. There's no time to think about nothing.

Q How big is this shotgun?

A It's about three feet.

Q And how heavy (inaudible) --

A It's not very heavy.

COURT REPORTER: I didn't understand the question.

MR. ANDERSON: I'm sorry. I asked him how heavy it was.

THE WITNESS: It's not very heavy.

BY MR. ANDERSON:

Q Not very heavy?
A Huh-huh.
Q You've got to say yes or no.
A Oh, okay. I'm sorry.
Q So say.
A Yes -- I mean, no, it's not heavy.
Q All right. Now, when you fired out the window, did you have a specific target that you were shooting at?
A No.
Q What was your -- what were you shooting at?
A Just get the gun out the window as quick as possible just to get a shot out.
Q When you fired the gun, were you aiming at Andrew Chandler?
A No.
Q What was your target?
A Just to get the gun out the window.
THE COURT: Hold on one second.
Are there people in that hallway having conversations? I'm hearing people talking from somewhere.
(Pause.)
THE COURT: All right. I'm sorry, Mr. Anderson.

MR. ANDERSON: Judge, you threw me off. I've got to start all over.

THE COURT: What?

MR. ANDERSON: I'm kidding.

THE COURT: I'm not in a kidding mood, Mr. Anderson. People have scheduled more stuff than I can do and I'm not happy about it. Go ahead.

MR. ANDERSON: I understand, but it's not my fault, right, Judge?

THE COURT: No, sir, it's not your fault at all.

BY MR. ANDERSON:

Q Michael, I don't know why it is, but young men have a hard time admitting they're afraid. I mean, were you truly afraid?

MR. YOUNG: Your Honor, I'm going to object to characterization. If he wants to ask a question and not lead the witness, that'll be fine.

THE COURT: Don't make statements, ask questions, please.

MR. ANDERSON: Yes, sir.

BY MR. ANDERSON:

Q Were you truly afraid?

A Yes.

Q All right. How do you feel about Andrew having

been shot?

A I truly feel bad because we were friends.

Q Were you trying to shoot Andrew Chandler?

A No.

Q After you fired the gun, did you know what you had hit?

A No. I didn't know anyone was shot until I had got home.

Q What did you do with the gun?

A I took it by a friend house.

Q And who was that friend?

A Lewis Barnes.

Q Lewis, L-e-w-i-s, Barnes, B-a-r-n-e-s; is that correct?

A Yes.

Q And have you witnessed our efforts to get in touch with Mr. Barnes through letters?

A Yes.

Q And Lewis hasn't -- y'all haven't heard from Lewis, have you?

A No.

Q Why did you give Lewis the gun?

A Because I had just shot it and I was afraid at the time.

Q Okay. Where did you go after -- I mean, where

does Lewis live in conjunction to your house?

A He stays, like, right down the road from my house.

Q Okay. So you went to Lewis' house and then where did you go?

A Straight home.

Q Okay. By the time you had gotten home, had word gotten out?

A Yes.

Q So you knew that something terrible had happened?

A Yes.

Q So what did you do?

A Just stayed there until the police came.

Q Okay. So you knew -- you knew they were coming?

A Yes.

Q Because of what people had told you?

A Yes.

Q Okay. And you knew -- you knew that when you shot that gun, that -- what had happened to Andrew?

A Yes, once I had got home.

Q Okay. So, at that point in time, could you have run away?

A If I chose to leave, yes.

Q But you stayed there and waited for the police?
A Yes.
Q What did you do when the police got there?
A They pulled up and they got out their car. Then I just walked off the steps with my hand up. When they told me to get on the ground, I got on the ground and I surrendered.
Q Okay. Did you truly feel that you couldn't drive away before firing that gun?
A There's no way I could have drove off, sir.
Q How fast would that car go?
A It has a fuel injection problem, so it wouldn't take off very fast.
Q How did you -- what do you feel like -- I mean, is it hard to remember exactly every little detail?
A It is three years old.
Q Did -- how long did you have to decide how to handle this situation?
A Everything was a split second decision.
Q Leading up to that event, were you afraid for your safety?
A Yes.
Q Were you afraid of Duke?
A Yes.
Q So why did you shoot that gun out of that

window?

A I shot the gun because I felt threatened. And I just didn't want to harm anyone, so I shot the gun to buy some time so I can just leave.

Q Did you truly feel like you were in danger?

A Yes.

Q And when Charles Holloway came to the jail to talk to you that night, what did you tell him?

A I tell him it was self-defense.

Q At any time during any of this investigation, did you see any evidence that they were trying to check on self-defense?

A None at all, sir.

Q When you heard, Shoot now, what did that put in your mind?

A That someone -- that the one that said, Shoot now, which is Duke, was telling the other guy to shoot, go ahead and shoot him, shoot him now.

Q And him being who?

A Unfortunately, Andrew.

Q But when they said, Shoot now, who did you think they were talking about getting shot?

A Me.

MR. ANDERSON: All right. Michael, please answer any questions that Mr. Young or the Judge

might have for you.

THE WITNESS: Yes, sir.

THE COURT: Cross.

MR. YOUNG: Yes, Your Honor. Thank you.

CROSS-EXAMINATION

BY MR. YOUNG:

Q Tell me about the shotgun you used.

A It was single shot, 20-gauge.

Q Okay. Hold up your hands, how long was it?

A (Witness complies.)

Q How long?

A I couldn't tell you.

Q Okay. How did it work?

A It was -- had a little hammer thing on it that you cock it with I guess.

Q Well, how did you put a shell in it?

A You got to break it open.

Q So you have to break open the shotgun?

A Yes.

Q Snap it open sort of?

A Yes, sir.

Q And it's how long?

A About three feet.

Q So three feet. Three feet's like this (indicating)?

A No, sir. Three feet is not that long.
Q Okay. About three feet. And you put a shell in it?
A No, sir, it was already loaded.
Q Who -- wait a minute. I was asking you how you load it. Let me ask you how you load it. You break it open and you put a shell in it, right?
A Yes.
Q And then you close it?
A Yes, sir.
Q Okay. When you close it, what do you have to do after that to make it work?
A Pull the little hammer thing back.
Q A little what back?
A It's like a little hammer thing, whatever you call it.
Q The hammer thing, it's on top?
A Yes, sir.
Q You use your thumb to do that sometimes?
A Yes, sir.
Q And then when you pull that back, what do you have to do?
A Just pull the trigger.
Q Just pull the trigger. And that's the shotgun you used to shoot and kill Andrew Chandler?

A In self-defense, yes, sir.
Q Did you use it to kill him?
A I didn't have no intentions of killing him.
Q Okay. Let's talk about that. How many times had you fired that shotgun before?
A I couldn't tell you, sir.
Q Did you use it in the backyard?
A Yes.
Q Was the shells yellow?
A Yes.
Q So when the police came up there and they searched the back of your house and recovered all of these shells, shells like this?
A Yes.
Q So did you have a box of shells at your house like this?
A Yes, sir.
Q All right. I'm holding up State's Exhibit 29 and I held up 31 and 32. Did you buy that box of shells?
A Yes, sir.
Q When did you buy them?
A I couldn't tell you.
Q Had them very long?
A Yes.

Q Okay. The box was empty though, right?
A Yes.
Q So you shot a good bit?
A Yeah, you can say that.
Q Okay. You're the one that shot the shotgun?
A Yes.
Q You shot it. When it got shot, you shot it?
A Yes.
Q So you knew how to use it?
A You can say that.
Q Well, I'm asking, did you know how to use it?
A I know how to shoot it, but I'm not no expert at it.
Q How many -- outside of this box says it's got -- it says it's got 25 shells in it.
A Well, for the record, I'm not the only one that shot that gun.
Q Okay. Who else shot it?
A My stepbrother, we used to shoot it together, some friends.
Q Right. So when you had the shotgun in your possession, when you practiced with it out in the backyard?
A Yes.
Q You practiced shooting in the backyard?

A We're just shooting. We really wasn't aiming at nothing.
Q Not aiming, but just shooting?
A Just shooting.
Q Okay. And so when you shot in the backyard, did you cut your grass in your backyard?
A Yes.
Q You do the cutting?
A Yes, I help out.
Q Okay. This is August, right?
A Yes, sir.
Q So how long before the shooting did you cut your grass?
A I couldn't tell you. I really cannot recall, sir.
Q But if you cut the grass and shells were found on the ground outside in the grass, kind of tells you something about how long they'd been there, right?
A I also have dogs.
Q You got dogs?
A Yes, sir.
Q They like shotgun shells?
A Well, they can, you know, dogs like trash so they pretty much ate anything.

Q You kept this box of shells in your room?
A Yes.
Q All right. So let me ask a simple question about your car. Now, your car is this one right here that's been shown before, State's Exhibits 3, 4 and 5, right? That's your car, right?
A Yes.
Q And this Exhibit right here, which is State's Exhibit Number 6, is your car too, right?
A Yes, that's the inside.
Q And that's the car you drove in, that's the car you used to drive around in and you've been driving around in that car for how long?
A It wasn't long because the car had actually been --
Q No. How long had you been driving this car, period?
A I can't recall exactly how long because the car was tore up before that.
Q Okay. Let me ask you a question. Please answer the question as to how long you had been driving this car. Was it assigned to you? It was your car?
A Yes.
Q And how long have you had your car?

A It wasn't long.
Q You just got this car?
A The car was tore up. The car had to be fixed. So, roughly, me being under oath, I can't give you an exact time because then that would be lying. I really can't say.
Q Was it a year, six months? How long had you been driving it?
A Just roughly two or three months.
Q Two or three months?
A Yes.
Q Okay. So you'd been driving this car for two or three months, okay. Now, I want to show you State's Exhibit Number 6. Look at the driver's seat there, would you, for me?
A (Witness complies.)
Q It's tilted back?
A Slightly, yes.
Q Okay. And you're the one that tilted it back, right?
A Yes.
Q Because you were driving it last, right?
A Yes.
Q Nobody drove that car after you got home that night after the shooting, did they?

A From my understanding, I guess not because I got locked up.

Q Okay. Fair enough. But the car was at your house when you got there, right?

A Yes.

Q Or when the police got there, I mean?

A I guess.

Q And in connection with this car, you sat in that seat of that car and somewhere in that car is where you had that shotgun and I'm still not clear where that shotgun was in that car. Where was it?

A It was on the passenger side.

Q On the passenger side in the seat?

A Yes. If you don't mind, can I show the jury? That's a better example.

Q Sure. Where was it? I'll hold it for you.

A As I was telling you earlier from the slope, the butt of the gun would be like in the middle of the seat.

Q In the middle of the seat. Was it between the seats?

A It was at a slope. The barrel was in the floor with the butt of the gun on the seat.

Q Okay. So it was leaning in the floorboard of -- the muzzle was in the floorboard?

A Yes.
Q And the butt of the gun was up on the seat itself?
A Yes.
Q So you kept it right over there where you could just reach over and grab it?
A That's all, sir.
Q Okay. That's where you had it?
A Yes.
Q And that's the way it was in the car when you'd been driving around in it for a while, right?
A Yes.
Q And you kept it right there that whole time?
A The gun wasn't always with me when I rode around.
Q How long had it been in there?
A It was, like, after the incident that happened at the park.
Q Okay. What day was that?
A It was on a Sunday.
Q So Sunday there's an incident at the park and you go in the house and you get yourself a shotgun. It's your shotgun, right?
A Yes.
Q And you load it?

A Yes.
Q And you take that shotgun and you put it in your car?
A Yes.
Q Okay. Now, you're ready.
A That's right (ph).
Q Whatever comes along, you're ready, correct?
A Yes.
Q If an opportunity presents itself, you can use that shotgun?
A Yes, sir.
Q So you were -- Saluda Terrace is people -- when they say they do a lap, they go to the Terrace to do a lap, right? That's kind of a common thing?
A Yes.
Q You just go to the Terrace and do a lap. Where do you go when you do the lap?
A You can either go all the way through and come to the back and loop around or you can go to the middle and loop around.
Q And a lot of people go there, right?
A Yes.
Q And that's a hangout, right?
A For some, yes.
Q Okay. And you'd expect to find some people

back there in the back, wouldn't you?
A At times, yes.
Q That time of night particularly?
A No.
Q People go back there to smoke dope, don't they?
A Not all the time.
Q But they do sometimes?
A Some people.
Q Some people do, okay. So when you do a lap, you can expect to see people in the back part of that parking lot, right?
A Yes, if it's light enough.
Q Okay. Let's talk about lights. State's Exhibit 13, there are two lights in that picture, right? And that's at the Saluda Terrace, isn't it?
A Yes.
Q And there's a light pole right next to a sheet covered body in that spot, right?
A Yes.
Q And there's a light behind that down there at the dumpster, isn't there?
A Yes.
Q And there's another angle here, there's another light right across from where the body is, isn't it?
A Yes.

Q With the light pole next to it on the opposite side. And then here's another angle shot showing two lights, right?

A Yes.

Q And a real close-up of the body and a light pole right next to it?

A Okay.

Q And so on this diagram that I held up here earlier, this one, I'm going to just hold it up like this for now and try to get out of the way as best I can, there are light poles here in the diagram, which is Exhibit Number 27, behind the dumpster and this is down here toward the playground, right? This one here?

A Yes.

Q And this light pole at the corner and this light pole right next to the body and there are actually some more over here not in the diagram, aren't there?

A If you say so, sir.

Q No, I'm asking you.

A I really don't know. I don't live there.

Q Well, you've been down there before, haven't you?

A Yes.

Q You've seen the pictures, haven't you?
A Yes.
Q And the pictures say there's lights there, don't they?
A Yes.
Q Okay. And so when you came in, you came in just like this, you came in from this direction which would be toward the entrance, right?
A Yes.
Q You came down the hill, okay. And when you got to this point in the hill, right then is where you could start seeing people?
A Yes, but Candace also stays on that right side so my attention was on that side.
Q I'm sorry?
A I said Candace stays on the right side, so my attention was directed to that side.
Q But you could see people down there, couldn't you?
A If you're paying attention, that's a possibility.
Q Well, you've got headlights on your car, don't you?
A Yes.
Q And your headlights would have gone down there,

wouldn't it?

A Yes.

Q And it would have been downhill toward that, wouldn't it?

A Yes.

Q And you would have seen people down there, right?

A If you was looking, yes.

Q If you was looking. So you don't look straight ahead when you're driving?

A I told you Candace stays on the right and my attention was directed to the right.

Q All right. So when you got to this point right here at the light pole, the first one that's on your right, to where you turn right to go toward the playground, your attention was still looking right?

A Yes, because I was looking for Candace car.

Q Okay. So up here at the top of the hill when you look down, you're not looking straight forward at all, ever?

A If you is going downhill, most people would if you was -- if you was not looking for something in particular.

Q Isn't there a building right here (indicating)?

A Yes.

Q Okay. So it's kind of hard to see over here, isn't it, to the parking lot area you're talking about to the right?

A Yes.

Q Okay. So you kind of need to look forward until you get past that, don't you?

A But where you pointed at is actually the corner, so that's where the parking lot start at.

Q Okay. So here you come in and you turn to your right and you come down toward here and where do you stop? Show me where you stop on this diagram.

A Somewhere back up in here (indicating).

Q You stop?

A To turn around, yes.

Q You stopped to turn around. You haven't seen her car so you stopped to turn around?

A Yes, that's the end of it.

Q Okay. Now, all of a sudden you decide you see some people, right?

A As I'm coming back up.

Q Where are you when you see the people?

A When I first noticed them, I was up in this area (indicating).

Q Right there, okay. And you're going how fast or slow?

A I really can't recall. I was going slow, though.

Q I'm sorry?

A I can't recall how fast, but I was going slow.

Q Walking speed?

A Yes.

Q Okay. And then you say you stop again?

A Once I got up in this area (indicating).

Q Okay. And the shotgun is in the right seat?

A Yes.

Q Muzzle pointed down, butt pointed up?

A Yes, sir.

Q Hammer back?

A No, it was not cocked.

Q Not cocked, so you had to cock it?

A Yes.

Q When did you cock it?

A I cocked it at the same time when I heard that guy say, Shoot now.

Q You brought that shotgun up, pulled the hammer back and shot, boom?

A Yes. Yes, sir.

Q Finger on the trigger, hammer back, boom?

A Yes, sir.

Q That quick?

A Yes, sir.
Q Three-foot long shotgun?
A Yes, sir.
Q Pointed out the window of your car?
A Yes, sir.
Q Did you point it up?
A No. I just got -- I really can't recall. I just got it out the window as quick as I could.
Q I'm going to walk towards you until I get close enough to be as close as the people were in this particular situation to your car when you pull the shotgun, I want to walk towards you and you tell me when to stop.
A Okay.
Q (Walking.)
A Stop. From the outside of my passenger window, they was about that far.
Q Not from where you were seated, but from the outside of the passenger window?
A Yes.
Q This is as close as I got?
A Yes.
Q Motor running in your car?
A Yes.
Q You didn't turn it off?

A No, sir.
Q In gear?
A Yes, sir.
Q Foot on the brake?
A Yes, sir.
Q And it's easier to just pull up a shotgun and kill somebody?
A At that time for safety reasons, yes, it was easier.
Q So you just can't drive away?
A They was at the front of my car, so if I would have drove off --
Q It was what?
A I said they was towards the front of my car.
Q They who?
A Andrew and Duke.
Q I thought you said you didn't know who these people were?
A I know now.
Q Andrew and Duke were toward the front of your car and you recognized them at the time, no or yes?
A No, I did not recognize Andrew. I recognized Duke after he said to shoot now.
Q Let me ask you a question. What do you see in the hands of the person laying on the ground there?

And I'm showing you Defense Exhibit 1.

A It's a lighter.

Q It's a lighter. And what's in the other hand?

A Nothing that I can see.

Q You're inside your car. Do you have the lights on inside your car?

A No.

Q Okay. But there are lights outside?

A Yes.

Q And you say you can't see people this far away?

A No.

Q No?

A No, sir.

Q How long have you known Duke?

A We went to school together so I pretty much know him all my life.

Q How long have you known Andrew?

A Went to school together.

Q How long have you known Warren?

A Went to school together.

Q You know Ray Kirkland?

A School together.

Q You know all these guys, don't you?

A We all went to school together, sir.

Q But you don't recognize them?

A No. It was dark.
Q And out of all of these people, you hear the word, shoot me or shoot now or shoot or something to the effect that if you're going to shoot, shoot now, something like that?
A For the record, it was, Shoot now.
Q Okay. For the record, for your record. And you're -- I'm this far away from you and you've got your foot on the gas and you can push the button and go, but you cock a shotgun and point it out the window and kill somebody?
A For safety reasons, yes.
Q For safety reasons. A shotgun that you put in that car and you've been carrying around with you for over a week?
A Is that a question?
Q Yes, sir, I'm asking you.
A Yes, sir.
Q Is that the first time you ever showed somebody else that shotgun?
A People have seen me with it, but I haven't shown it to no one.
Q You haven't shown it to them?
A (Witness shook head.)
Q They seen you in that car with that shotgun,

haven't they?

A Yes.

Q Who would those people be?

A From my understanding, Jarrod Coleman, Tobias Daniels.

Q From your understanding. Sir, how about just tell me who they were?

A Jarrod Coleman and Tobias Daniels.

Q And they saw you with that shotgun?

A Yes.

Q In that car?

A Yes, sir.

Q Didn't they?

A Yes, sir.

Q Do you think they might have felt threatened?

MR. ANDERSON: I'm going to object to the relevance of that, Your Honor.

THE COURT: Are you asking him to say what somebody else thought?

MR. YOUNG: I'll redirect that.

BY MR. YOUNG:

Q Is there any -- let's just put it this way, had you been in their shoes, how would you have felt?

MR. ANDERSON: Your Honor, I object. It's totally irrelevant to this.

THE COURT: It's irrelevant.

BY MR. YOUNG:

Q So tell me exactly what you did when you pulled up the shotgun. I want you to demonstrate for the jury exactly what you did. And if you don't mind, I'm going to be standing over in the direction that you would have been in relation to the person, roughly, or you tell me where I should have been when you fired. You saw people out there, right? You saw people out there?

A Once I got close enough, yes.

Q Okay. But when you pulled up that shotgun, you saw them out there?

A I saw a group, yes.

Q You saw a group.

A Yes.

Q You didn't see individuals just people?

A Yes, just people.

Q People you've been around all your life?

A Yes.

Q This far away?

A Yes.

Q With the headlights on?

A Well, excuse me, they wasn't -- as a group, they wasn't standing that close.

Q Okay. Well, just tell me what you did if I'm -- let's just say I'm in roughly the direction you pointed that shotgun, okay, show me how you did that, show me the motion you made and then what you did.

A All I would have had to do is just, gun right here, just pick it up, cock it and I just shot (indicating).

Q You turned your head to the left?

A Yes.

Q So not only do you not look at the people that are in front of you when you come down the street driving into a place, you turn left not to look at somebody you're shooting at?

A The gun got a kick, so, yes, sir.

Q Is that what you always do when you fire a shotgun, turn your head away?

A If you're in a car, yes, sir, I guess. I don't know.

Q I'm sorry?

A I said if you was in a car with a little bit of room, I guess you would turn your head as a reflex.

Q Tobias Daniels -- Tobias Daniels and Jarrod Coleman were outside in the street, weren't they, when you had this little confrontation with Duke,

didn't you?

A Yes.

Q They were standing out there, weren't they?

A Yes.

Q They're the ones that saw you with a shotgun, weren't they?

A Yes, sir.

Q Let me ask you something. That car was sitting right there, wasn't it?

A Yes, sir --

Q The car you were driving. And the shotgun was in there then, wasn't it?

A No, sir.

Q Oh, I thought you said you'd been riding around for a week?

A Yes, I have, but --

Q How long before -- how long then before this incident, did that incident happen with Jarrod Coleman where you were -- you were over at your cousin's house, Jarvis Stevens, when did that happen in relation to the shooting, Monday, Tuesday, Wednesday, Thursday, Friday of that week, what?

A Roughly, I would say around Thursday or Friday.

Q I thought you just said you had the thing in your car for a week?

A Okay. That following day -- well, do I even have to explain myself to you?

Q Sir, you can explain anything you want to try to explain.

A Well -- what was your question again?

Q My question to you was that shotgun in your car parked at Jarvis Stevens' house on the day that Tobias Daniels and Jarrod Coleman were walking by with Duke Thomas and this little confrontation occurred with you?

A Okay. No, it was not in the car with me, but later on that day, I did go back and get it.

Q You went back to your house and put it back in the car?

A Yes, sir.

Q Okay. So it was in the car on the day you showed it to Jarrod and Tobias. And what day was that you showed --

A I didn't show it. They just saw it.

Q Okay. What day was that?

A I can't tell you, sir. It's been three years ago.

Q Same week?

A Yes, I can say that.

Q Earlier in that week then?