

STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM CALHOUN COUNTY
Court of General Sessions
The Honorable Maite Murphy

Case No.: 2019-000926

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Sep 21 2020

SC Court of Appeals

State of South Carolina,

Respondent,

vs.

Derrick Tyler Mills,

Appellant.

RECORD ON APPEAL

ALAN WILSON
Attorney General

DAVID M. PASCOE, JR.
Solicitor, First Judicial Circuit
140 N. Main St., Suite 102
Summerville, SC 29483

MARK FARTHING
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211-1549

ATTORNEY FOR RESPONDENT

TOMMY A. THOMAS
Bar No.: 005536
Post Office Box 88
Irmo, SC 29063
(803) 732-5507

ATTORNEY FOR APPELLANT

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(On the record at 11:12 a.m.)

(Pre-marked Defendant's Exhibit No. 1, El Cheapo Video.)

(Pre-marked Defendant's Exhibits 2 through 5, photos.)

(Pre-marked Defendant's Exhibit 6, video
interview of Kendrell Thomas.)

THE CLERK OF COURT: All right. Ladies and
Gentlemen, going to get you sworn in. I need everybody to
stand up and raise your right hand, please.

(The jury panel complies and is sworn.)

THE COURT: Good morning, ladies and gentlemen of the
jury panel. My name is Maite Murphy, and I'm a circuit
judge from Dorchester County, and it's a pleasure to be
here with you this week here in Calhoun County for a term
of General Sessions Court, or what we normally refer to as
"criminal court."

Your jury service will conclude this Friday. So it's
your lucky week that you're called this week because you
already have one day behind you. So it'll be a short week
for us.

Before we begin the jury questioning regarding your
qualifications to serve, I must tell you that it's very
important that we have complete and accurate information
in the jury qualification process.

You've met some of the fine folks here in the
courtroom. You've got your Clerk of Court, Mr. Ken Hasty,

1 who keeps us all straight and does a fabulous job to keep
2 us organized. You've got members of his staff and of
3 course, you have members of the bar, and bailiff's and the
4 court security, things of that nature, people that may
5 have matters before the Court this week.

6 If you need anything during the week or for some
7 reason you have a concern that you need to speak to me,
8 please contact one of these fine folks and they will be
9 happy to assist you.

10 Ladies and gentlemen, the purpose of this morning's
11 questioning is to determine your general eligibility to
12 serve as jurors in this court. And again, it's important
13 that we have full and complete information.

14 I understand that some of the questions may be a
15 little bit personal, and you may not want to stand in
16 front of the entire panel and disclose that information;
17 however, again, it's important that you do so. I'm going
18 to give you an opportunity to come up individually and
19 speak with me individually if the questions applies to
20 you; or at the very end, I'll ask a very broad question,
21 and if you need to speak to me at that time, I'll ask you
22 to come forward at that time.

23 So please make a mental note that the question does
24 apply to you, there -- either stand and come forward when
25 I ask the question; or at the end of the questioning

1 period, when I give you that broad question, if there's
2 any concerns for -- to come forward at that time.

3 Ladies and gentlemen, here are the questions
4 regarding your qualifications to serve as jurors. Is
5 there any member of the jury panel who is not a citizen of
6 the United States? If so, please stand.

7 (No response.)

8 THE COURT: I find that there is noone standing.

9 Is there any member of the jury panel who is not a
10 resident and citizen of Calhoun County? If so, please
11 stand.

12 (No response.)

13 THE COURT: I find that there is noone standing.

14 Is there any member of the jury panel unable to read,
15 write, speak, or understand the English language? If so,
16 please stand.

17 (No response.)

18 THE COURT: I find that there is noone standing.

19 Does any member of the jury panel have less than a
20 sixth grade education or its equivalent? If so, please
21 stand.

22 (No response.)

23 THE COURT: I find that there is noone standing.

24 Is there any member of the jury panel unable --
25 because of mental or physical infirmities unable to render

1 efficient jury service? For example, does any member of
2 the jury panel have a medical condition which would
3 prevent you from serving on a jury this week? If so,
4 please stand.

5 (No response.)

6 THE COURT: I find that there is noone standing.

7 Has any member of the jury panel been convicted of,
8 by guilty plea or a trial, in a State or Federal court of
9 record, of a crime punishable by imprisonment for more
10 than one year and your civil rights have not been restored
11 by pardon or amnesty?

12 Punishable by more than one year means that your
13 civil -- that your sentence could have been more than one
14 year regardless of what sentence you may have received.

15 (A juror stands.)

16 THE COURT: Sir, would you like to come forward?

17 (The juror complies.)

18 THE COURT: Stand on this side so the court reporter
19 can hear you.

20 (The juror complies.)

21 WHEREUPON the Court, attorneys,
22 and juror confer as follows:

23 THE COURT: Can you tell me your juror number?

24 THE JUROR: My name is Stanley Farman. I don't know
25 my number.

1 THE COURT: Okay. Sir, just confirming, tell me what
2 you have?

3 THE JUROR: I was locked up for breaking and
4 entering, but supposedly the rules --

5 THE COURT: Okay.

6 THE JUROR: -- at 9 years.

7 THE COURT: All right, sir. So that would excuse you
8 from today. Thank you so much.

9 THE JUROR: You're welcome.

10 THE COURT: Thank you.

11 (The juror exits the courtroom.)

12 THE COURT: Is any member of the jury panel a clerk,
13 a deputy clerk of court; a constable, sheriff, or other
14 commissioned law enforcement officer; probate judge,
15 county commissioner, magistrate or other county officer;
16 or is employed within the walls of any courthouse? If so,
17 please stand.

18 (No response.)

19 THE COURT: I find that there is noone standing.

20 Is there any member of the jury panel who has
21 previously served on jury duty in circuit court, not in
22 municipal court, magistrates court, or in Federal court
23 during this calendar year? If so, please stand.

24 (No response.)

25 THE COURT: I find that there is noone standing.

1 Has any member of the jury panel served as a member
2 of the Calhoun County Grand Jury during the past several
3 years? If so, please stand.

4 (No response.)

5 THE COURT: I find that there is noone standing.

6 Ladies and gentlemen, we now move to jury exemptions.
7 State law provides for several exemptions to jury service.
8 An exemption does not mean that you're not qualified to
9 serve, it simply means that you have the right to say, "I
10 choose not to serve."

11 For those of you who are over the age of 65, we would
12 certainly encourage you to please stay with us as you have
13 a tremendous pool of talent. We would encourage you to --
14 to be with us and serve if you're over the age of 65;
15 however, if you're over the age of 6 -- 65 and you wish to
16 be exempt on this basis, please stand.

17 (No response.)

18 THE COURT: I find that there is noone standing.

19 Another exemption concerns prior jury service. No
20 person is required to serve as a juror more often than
21 once every three calendar years; therefore, if any member
22 of the jury panel has served on jury duty during the last
23 two calendar years, you may be exempt from service to this
24 week if you choose to be exempted.

25 Again, this exemption does not apply if your jury

1 service was a municipal court, magistrates court or in
2 Federal court. If this exemption applies to you and you
3 wish to exercise it, please stand.

4 (No response.)

5 THE COURT: I find that there is noone standing.

6 Persons who have served as grand jurors in the last
7 five calendar years may also be exempt from jury service
8 this week. If any member of the jury panel has served on
9 a grand jury during the last five calendar years, if you
10 wish to be exempt on this basis, please stand.

11 (No response.)

12 THE COURT: I find that there is noone standing.

13 The next exemption deals with those of you who have
14 small children. Please listen very carefully to this
15 exemption as it has several parts, all of which must apply
16 for you to be exempt on this basis.

17 If you have a small child or small children under the
18 age of seven years, you have legal custody of your child
19 or children, you have the principle care, custody and
20 control of your child or children, and you're unable to
21 make adequate arrangements for the care of your child or
22 children while performing jury duty this week, if you wish
23 to be exempt on this basis, please stand.

24 (A juror stands.)

25 THE COURT: Yes, ma'am. Would you come forward?

1 THE JUROR: Yes.

2 (The juror complies.)

3 THE COURT: Good Morning.

4 THE JUROR: Good Morning. How are you?

5 THE COURT: Good and your juror number, please.

6 THE JUROR: Syreeta Powell.

7 THE COURT REPORTER: Can't hear her Judge.

8 THE COURT: Ms. Powell come on this way so she can
9 actually hear you.

10 THE JUROR: Syreeta Powell.

11 THE COURT: All right. Ms. Powell, how old is your
12 child?

13 THE JUROR: She's three.

14 THE COURT: She's three?

15 THE JUROR: Yes.

16 THE COURT: And does she go to daycare?

17 THE JUROR: She does go to daycare ...

18 THE COURT: Okay.

19 THE JUROR: ... however, since Thursday, she's been
20 out of school. She has an infection -- at the doctor
21 yesterday.

22 THE COURT: Okay. Oh, my goodness.

23 THE JUROR: And I left her with a neighbor today.

24 THE COURT: Okay.

25 THE JUROR: Besides that -- because my daughter --

1 I'm -- I'm the only primary person to keep her.

2 THE COURT: Okay. Well, let me ask you this then --
3 let me get the sheet.

4 THE JUROR: Okay.

5 THE COURT: We're in a bit of a bind. We need -- we
6 need jurors this week as much as we can. So if you have
7 been selected that you -- you know, if you think your
8 neighbor can help you watch her and you'd be comfortable
9 with that, you'd be okay with that?

10 THE JUROR: I'm staying with her for the moment. I
11 know her enough, a little bit, when my kid gets out of
12 school, I walk -- I pick her son up and take him to her
13 house. But I didn't have anyone to watch my child because
14 I didn't want to get in any trouble.

15 THE COURT: No, I appreciate that.

16 THE JUROR: Yeah, but she's just not eating.

17 THE COURT: She's not eating?

18 THE JUROR: No.

19 THE COURT: Does she have a doctor she goes to?

20 THE JUROR: And she has -- yeah. Hold on, I can show
21 you.

22 THE COURT: That's okay.

23 THE JUROR: It's in my purse, but -- but -- I don't
24 have nothing, but in the car -- basically stating that
25 she's been there since Friday, but she's not eating.
26 She's lost some weight.

1 THE COURT: Okay.

2 THE JUROR: She has not eaten since Thursday.

3 THE COURT: Okay.

4 THE JUROR: But she is drinking, so she's hydrated.

5 THE COURT: Okay.

6 THE JUROR: I just need her to get better.

7 THE COURT: I understand. Is there a week that you
8 think of -- I could transfer you to that would be better?

9 THE JUROR: Sure, that's perfect.

10 THE COURT: One moment.

11 THE JUROR: That's fine.

12 (Brief pause.)

13 THE JUROR: That's fine.

14 THE COURT: All right. We'll send you a notice, All
15 right.

16 THE JUROR: Okay.

17 THE COURT: I hope she gets better.

18 (Brief pause.)

19 THE COURT: All right.

20 THE JUROR: Thank you.

21 THE COURT: Okay. Have a good day.

22 (Brief pause.)

23 THE COURT: The next exemption involves those of you
24 who may be attending school at this time or working in
25 some capacity with a school. If this exemption applies to
26 you and you wish to be exempted, I can transfer your

1 service to another term of court which will not conflict
2 with your school responsibilities.

3 Is there any member of the jury panel who is a full-
4 time student, school teacher, school crossing guard,
5 school bus driver, or who serves in any other school-
6 related function who is unable to serve on jury duty this
7 week as a result of that school involvement? If so,
8 please stand.

9 (No response.)

10 THE COURT: I find that there is no one standing.

11 Is there any member of the jury panel who is employed
12 with the Department of Corrections or the penitentiary?
13 If so, if you wish to be exempt on this basis, please
14 stand.

15 (No response.)

16 THE COURT: I find that there is no one standing.

17 Is there any juror who performs services for a
18 business, commercial or agricultural enterprise, which are
19 so essential to the operation of the enterprise that if
20 you were required to perform jury duty, the enterprise
21 would have to close or stop functioning? If so, please
22 stand.

23 (A juror stands.)

24 THE COURT: Yes, sir. Would you come forward?

25 (The juror complies.)

1 THE JUROR: Brian Walker.

2 THE COURT: Good Morning, sir.

3 THE JUROR: Good Morning.

4 THE COURT: What's your ---

5 THE JUROR: Walker.

6 THE COURT: Mr. Walker.

7 THE JUROR: Yes, ma'am.

8 THE COURT: Brian Walker?

9 THE JUROR: Correct.

10 THE COURT: All right. So what's your circumstance?

11 THE JUROR: Wagners, with medical contractor, serve
12 South Carolina. We do 24-hour shifts.

13 THE COURT: Okay.

14 THE JUROR: And we don't always have coverage if
15 somebody calls out. So could get called in if we don't
16 have any, but we may get one. I'm not sure.

17 THE COURT: All right. How about this. We'll --
18 we'll keep you on our list if there's an emergency, then
19 you can go to an alternate for some reason. We'll cross
20 that bridge when we get to it -- I just think that's it.

21 THE JUROR: Okay, that's fine.

22 THE COURT: All right. Thank you.

23 (Juror returns to the panel.)

24 THE COURT: Is there any juror who is a primary
25 caretaker of a severely disabled person who is unable to

1 care for himself or herself and cannot be left unattended?
2 If so, if you wish to be exempt on this basis, please
3 stand.

4 (No response.)

5 THE COURT: I find that there is no one standing.

6 Finally, is there any juror who's a primary caretaker
7 of a person age 65 or over? If you wish to be exempt on
8 this basis, please stand.

9 (No response.)

10 THE COURT: I find that there is no one standing.

11 Ladies and gentlemen, that concludes the statutory
12 list of qualifications and exemptions for jury service.
13 It may be that you are qualified and no exemption applies
14 to you, but jury service this week would constitute an
15 extreme hardship on you for a particular reason.

16 I cannot permanently excuse a qualified juror from
17 jury service, but under extreme and compelling
18 circumstances, I may excuse a juror from this term of
19 court and transfer that juror to a different term of
20 court, particularly those jurors who have not been
21 previously transferred. Please understand that general
22 inconvenience is not a sufficient reason to transfer your
23 service to another term of court.

24 To justify a transfer to another term of court, jury
25 service this week must again constitute an extreme

1 hardship on you for a particular reason.

2 Ladies and gentlemen, this is now the chance for
3 those of you who did not respond earlier to any questions
4 that I asked and those of you who have a compelling reason
5 to request a transfer of your jury service to another week
6 to come forward. If you believe that you are disqualified
7 or exempt from jury service or if you have any questions
8 as to whether you're disqualified or exempt from jury
9 service or if you need to be transferred to another term
10 of court, please come forward at this time.

11 (Several jurors come forward.)

12 WHEREUPON the Court and attorneys
13 speak with jurors outside the hearing of the panel as
14 follows:

15 THE COURT: Good morning, ma'am. Your juror number,
16 please, or your name?

17 THE JUROR: Stephanie Burnette.

18 THE COURT: Ms. Burnette.

19 THE JUROR: Yes.

20 THE COURT: Oh, yes, ma'am, Juror No. 14. What's
21 your situation?

22 THE JUROR: I have a six-week-old grandson --

23 THE COURT: Uh huh.

24 THE JUROR: -- and my daughter-in-law was going to,
25 like, keep out -- to pay -- postpartum. See, she needs to

1 be held -- on the sight hold and I'm supposed to be taking
2 care of the baby.

3 THE COURT: Okay. Who's got the baby now?

4 THE JUROR: My son. He's having to take off of work
5 without pay.

6 THE COURT: Okay. Let me ask you this. We got a
7 couple different circumstances. This technically doesn't
8 apply for -- as far as the child under seven
9 circumstances.

10 THE JUROR: Uh huh.

11 THE COURT: Do you -- do you think you would --
12 obviously, if you got to take off of work, you can --
13 maybe -- if difficult, we -- or if even -- do you think
14 that you could stay with us in case you're selected? We
15 should be finished by Thursday and then we can finish and
16 you can get your jury serve out of the way.

17 THE JUROR: I mean, if I have to, I have to.

18 THE COURT: Could you make those arrangements? If --
19 if you're selected?

20 THE JUROR: They're out of town. So they're waiting
21 on me to get there, but ...

22 THE COURT: So if you find out this morning if you're
23 selected, you can call them and let them know.

24 THE JUROR: Okay.

25 THE COURT: You okay with that?

1 THE JUROR: Yes.

2 THE COURT: Okay.

3 THE JUROR: There's nobody else to take the baby, but
4 ...

5 THE COURT: Well, hopefully, if your son can take off
6 work, it would be, you know, he ---

7 THE JUROR: He took off today.

8 THE COURT: Right.

9 THE JUROR: And he had to take off yesterday, but
10 they don't get paid to take off.

11 THE COURT: I understand and unfortunately jury
12 service is an inconvenience to all of us and I certainly
13 get that, but the baby's in good hands with him.

14 I think you could -- if you can call him and say if
15 you're selected or not, if you're not selected, then of
16 course you're free to go and you've fulfilled your jury
17 service.

18 THE JUROR: Okay. And I just wanted to check

19 THE COURT: But you'll know this morning, okay.
20 We're going to pick the jury this morning.

21 THE JUROR: Okay.

22 THE COURT: So you'll know this morning, all right?

23 THE JUROR: Okay.

24 THE COURT: All right. Thank you ma'am.

25 (Briefly off the record.)

1 THE COURT: Will Juror No. 24 -- would they please
2 step forward?

3 (A juror comes forward.)

4 COURT REPORTER: You said 21, Your Honor?

5 THE COURT: 24.

6 WHEREUPON the Court and attorneys
7 speak with juror outside the hearing of the panel as
8 follows:

9 THE COURT: Good morning, sir.

10 THE JUROR: Hey, Your Honor.

11 THE COURT: How are you today?

12 THE JUROR: (No response.)

13 THE COURT: Let's review -- not wrong information
14 here. I want you to verify this. (Indicates) Is this
15 you?

16 THE JUROR: It is.

17 THE COURT: Is that your date of birth and would this
18 be ---

19 THE JUROR: That's not my date of birth, but ...

20 THE COURT: That's not your date of birth? Was this
21 -- did you have this charge on your record?

22 THE JUROR: I pled guilty, yes.

23 THE COURT: You pled guilty for that. Okay. All
24 right. So that would actually disqualify you from
25 serving.

1 THE JUROR: I followed up on this a long time ago, to
2 where this lead.

3 THE COURT: Oh, okay.

4 THE JUROR: I wanted to have specific duty.

5 THE COURT: Well, hold on that -- all right. I
6 appreciate that. Thank you for these -- I know it's been
7 a long time ago and I certainly understand that, but that
8 would actually disqualify you from being here today.

9 THE JUROR: Thank you.

10 (Brief pause.)

11 THE COURT: Thank you, ladies and gentlemen. The
12 jury panel is now qualified.

13 (To Mr. Lupton) Solicitor, you may call your first
14 case.

15 MR. LUPTON: Your Honor, State calls the joint trial
16 of *State v Derrick and Quintin Mills*, indictments for
17 murder and armed robbery.

18 THE COURT: Do you have the indictments, Solicitor?

19 MR. LUPTON: I have copies, the Clerk of Court has
20 the originals.

21 (Brief pause.)

22 THE COURT: Mr. Clerk, may I see that original?

23 MR. LUPTON: I can pass up the copies while we get
24 you the originals, Your Honor.

25 THE COURT: Thank you sir.

1 THE COURT: Ladies and gentlemen of the jury panel,
2 we're about to begin the trial of the case of the *State of*
3 *South Carolina v Quintin Deasean Mills* and also the -- the
4 *State of South Carolina v Derrick Tyler Mills*. I'm going
5 to read to you the indictments in this case, and that is
6 solely for the purpose to see if you know anything about
7 this case, have heard anything about this case, or have
8 any information about this case or any concerns about the
9 allegations the indictments contain.

10 The indictments are not evidence in this case.
11 They're merely the formal charging documents which bring
12 the case into the court, and they're not evidence of
13 anything. They are the allegations that are contained in
14 the indictments.

15 The first indictment is 2017-GS-09-112, *The State of*
16 *South v Quintin Deasean Mills*. It's an indictment for
17 armed robbery and it states that on or about December 13,
18 2014, in Calhoun County, the Defendant, Quintin Deasean
19 Mills did, by use of force, threats, or intimid --
20 intimidation, and while armed with a deadly weapon or
21 while alleging, either by words or action, that he was
22 armed by using a representation of a deadly weapon or any
23 object which a person present during the commission of the
24 robbery reasonably believed to be a deadly weapon, take
25 and carry away goods and/or monies from the person or

1 presence of the victim, Charles Brown, with the intent to
2 permanently deprive the victim of possession of goods or
3 monies. This offense being in violation of the South
4 Carolina Code of Laws as amended.

5 The next indictment is 2017-GS-09-0111, *The State v*
6 *Quintin Deasean Mills*, indictment for murder; and it
7 states that in Calhoun County, on or about December 13,
8 2014, with malice aforethought, the Defendant, Quintin
9 Deasean Mills, did kill one Charles Brown by means of
10 multiple gunshots. The victim did die as a proximate
11 result thereof, this offense being in violation of the
12 common law and South Carolina Code of Laws as amended.

13 The next indictment is 2017-GS-09-0109, *The State v*
14 *Derrick Tyler Mills*. This indictment is for murder and it
15 states that in Calhoun County, on or about December 13,
16 2014, with malice aforethought, the Defendant, Derrick
17 Tyler Mills, did kill one Charles Brown by means of
18 multiple gunshots. The victim did die as a proximate
19 result thereof, this offense being in violation of the
20 common law in the South Carolina Code of Laws as amended.

21 The next indictment is indictment No. 2017-GS-09-0110,
22 *The State v Derrick Tyler Mills*, indictment for armed
23 robbery. And it states that on or about December 13, 2014,
24 in Calhoun County, the Defendant, Derrick Tyler Mills, did,
25 by use of force, threats or intimidation, and while armed

1 with a deadly weapon or while alleging, either by words or
2 action, that he was armed with a deadly weapon or
3 representation of a deadly weapon or any object which a
4 person present during the commission of the robbery
5 reasonably believed to be a deadly weapon, take and carry
6 away the goods and/or monies from the person or presence of
7 the victim, Charles Brown, with the intent to deprive the
8 victim of possession of the goods or monies, this offense
9 being in violation of the South Carolina Code of Laws as
10 amended.

11 Before we begin the selection process, I'm going to
12 ask the Solicitor to please stand and introduce himself and
13 all the members of his office, please.

14 MR. LUPTON: Thank you, Your Honor. My name is Ted
15 Lupton. I'm Assistant Solicitor here at the First Circuit.
16 I cover Calhoun County. The Solicitor -- the elected
17 Solicitor is David Pasco who is here from -- from Saint
18 Matthews.

19 Here with me today we've got Investigator Greg
20 Whetstone who's with our office and our SLED agent and our
21 victim's advocate Tammy Craven. And that's the only
22 members of the staff we have. The rest of the staff
23 members aren't here.

24 THE COURT: Ladies and gentlemen of the jury panel,
25 anyone related by blood or marriage or has a close,

1 personal, or social relationship with any members of the
2 Solicitors Office or has ever been represented in any
3 capacity by their office or had a case against them? If
4 so, please stand.

5 (No response.)

6 THE COURT: I find that there is noone standing.

7 And Mr. Leiendecker, I'll allow you to please do the
8 same.

9 MR. LEIENDECKER: Thank you, Your Honor. My name is
10 Mark Leiendecker and I am the First Circuit Public Defender
11 for the entire First Circuit, including Calhoun County.

12 With me today trying the case is attorney Breen
13 Stevens, who is the attorney in charge of Calhoun County.
14 My investigator, Mr. John Tisdale is all -- also here, as
15 well as Elizabeth Comen, a law clerk in the First Circuit
16 Public Defenders Office.

17 THE COURT: Thank you, sir. Same question, ladies and
18 gentlemen: Anyone related by blood or marriage or has a
19 close personal or social relationship with any members of
20 their office or has ever been represented by them in any
21 capacity or had a case against them? If so, please stand.

22 (No response.)

23 THE COURT: I find that there is noone standing.

24 Mr. Farley, if you'd please do the same.

25 MR. FARLEY: Thank you. Ladies and gentlemen, my

1 name's Andrew B. Farley. I'm a private attorney and I
2 represent lots of defendants in Calhoun and Orangeburg
3 County. And here I am today representing Quintin Deasean
4 Mills.

5 THE COURT: Ladies and gentlemen, is anyone related by
6 blood or marriage or has a close personal or social
7 relationship with Mr. Farley or his office or has ever been
8 represented by him in any capacity or had a case against
9 him? If so, please stand.

10 (No response.)

11 THE COURT: I find that there is noone standing.

12 Ladies and gentlemen, I'm going to read to you a list
13 of potential witnesses in this case and I'll ask you the
14 same question afterwards, if you have any relationship --
15 if you're related or have any social connection to the list
16 of potential witnesses.

17 If the witnesses are in the courtroom, if you'd please
18 stand so that the jury can see you.

19 THE COURT: (As read) Jarvis Mack, Vincent Kendrell
20 Thompson, Ralph Crapse, Stanley Graham.

21 (Person stands.)

22 THE COURT: Richard Herron, Jimmy Orso.

23 THE COURT: Pat Regalis.

24 (Person stands.)

25 THE COURT: Matt Trenthan, Kendra Williams, Thomas

1 Darnell, Tiffany Hezel Edwards, Michele Eichenmiller,
2 Catherine Leisy, Amy Stephens, James Tallon, Chris Golden,
3 Graham Williams, Melinda Whorley, C. Whiznot.

4 THE COURT: Diedra Dozier.

5 (Person stands.)

6 THE COURT: Dr. Janice Ross, Rebecca Franklin, Charlie
7 Brown.

8 THE COURT: We have Quintin Mills.

9 (One defendant stands.)

10 THE COURT: Modesty Jackson.

11 (Person stands.)

12 THE COURT: John Sutton.

13 (Person stands.)

14 THE COURT: Shameika Eglan.

15 (Person stands.)

16 THE COURT: Jonathan Richardson.

17 (Person stands.)

18 THE COURT: John Tisdale, Janika Mills, Derrick Mills.

19 (One defendant stands.)

20 THE COURT: Johnny Mae Mills and Colton Mills.

21 Ladies and gentlemen, those are the list of
22 potential witnesses in this case. Anyone related by blood
23 or marriage or has a close, personal or social relationship
24 with any of the potential witnesses? If so, please stand.

25 (No response.)

1 THE COURT: I find that there is noone standing.

2 Ladies and gentlemen, I'm going to introduce you to
3 Derrick Tyler Mills and Quintin Desean Mills. These are
4 the gentlemen sitted -- seated at the counsel table here on
5 the left (indicates.) Anyone related by blood or marriage
6 or have a close personal or social relationship with either
7 of these gentlemen? If so, please stand.

8 (No response.)

9 THE COURT: I find that there is noone standing.

10 Is there any member of the jury panel who is a member
11 of or a contributor to any group which has its primary
12 concern the promotion of law enforcement or victim's
13 rights? These groups would include, but are not limited
14 to, M.A.D.D., S.A.D.D., Citizens Against Violent Crime, and
15 the NRA. If so, please stand.

16 (No response.)

17 THE COURT: I find that there is noone standing.

18 Does any member of the jury panel or any close friend
19 or relative live in or frequent the Sugar Hill area of
20 Sandy Run in Calhoun County? If so, please stand.

21 (No response.)

22 THE COURT: I find that there is noone standing.

23 Ladies and gentlemen of the jury panel, has any member
24 of the jury panel read anything about this case, heard
25 anything about this case, or know anything about this case

1 whatsoever, whether it's before today, whether anything in
2 the newspapers or any media or talking to anybody, whether
3 before today or even during your time here in the
4 courthouse this morning? If so, please stand.

5 (No response.)

6 THE COURT: I find that there is noone standing.

7 Ladies and gentlemen of the jury panel, you've heard
8 what the allegations are in this case. There's a charge
9 for armed robbery and a charge for murder for each of the
10 defendants. I've read the indictments to you. Based upon
11 your personal experience, that of your family, your
12 friends, based on your experience, whether it's at work or
13 anything whatsoever; whether it's you, your relatives,
14 friends, anything whatsoever, based on the type of case
15 that this is that would cause you in any way to hesitate in
16 your ability to be fully fair and impartial to both the
17 State and to the Defense. If so, please stand.

18 (A juror stands.)

19 THE COURT: Yes, ma'am. Would you please come
20 forward?

21 (The juror complies.)

22 WHEREUPON the Court and attorneys
23 speak with juror outside the hearing of the panel as
24 follows:

25 THE COURT: Good morning, ma'am.

1 THE JUROR: Good Morning.

2 THE COURT: Would you tell me your juror number,
3 please?

4 THE JUROR: Sergeant --

5 THE COURT: Or your name?

6 THE JUROR: Sergeant McGee.

7 THE COURT: Ms. McGee?

8 THE JUROR: Number 86.

9 THE COURT: Yes. 80 --

10 THE JUROR: 89.

11 THE COURT: 89. Yes, ma'am. Can you tell me what
12 your concern is?

13 THE JUROR: My husband spent 11 years in prison.

14 THE COURT: Okay. Anything you tell me -- is -- is he
15 out now or is ---

16 THE JUROR: Yeah. He's out now.

17 THE COURT: --- has it been awhile? And can you tell
18 me what for?

19 THE JUROR: Felony DUI.

20 THE COURT: Okay. As long as it's a different type of
21 circumstance.

22 THE JUROR: Whenever he went to court --

23 THE COURT: Yes, ma'am.

24 THE JUROR: -- they had somebody else's name in his
25 paperwork and the judge wouldn't even look at it.

1 THE COURT: Okay.

2 THE JUROR: So I mean, I -- I couldn't --

3 THE COURT: Well, you obviously -- you have some
4 concerns obviously involved with the system. I get that.

5 THE JUROR: Uh-huh.

6 THE COURT: And obviously that -- it's been a little
7 while. As far as --

8 THE JUROR: Yeah. But he did 13 -- I mean, 11-and-a-
9 half years, and it shoulda been thrown [sic] out.

10 THE COURT: Okay. So based upon your experience with
11 your husband, you don't think you could be fair and
12 impartial in this case and listen to evidence?

13 THE JUROR: I don't think I could send nobody [sic] to
14 prison. No.

15 THE COURT: But you understand that wouldn't be your
16 job?

17 (The Court and juror speak simultaneously.)

18 THE JUROR: Yeah, I know. But I just ---

19 THE COURT: And you would ---

20 THE JUROR: --- I don't feel that ---

21 THE COURT: --- listen to facts ---

22 THE JUROR: Uh-huh.

23 THE COURT: --- from the witness stand and make a
24 determination as to whether -- you're -- you'd be the judge
25 of facts.

1 THE JUROR: Uh-huh.

2 THE COURT: And you'd listen to the testimony and
3 listen to the testimony and make your determination as to
4 what you think the facts are. Do you think you could do
5 that?

6 THE JUROR: (No audible response.)

7 THE COURT: All right, ma'am. So I'm just going to
8 ask you -- I'm going to pull you from the actual panel, but
9 I'm going to ask you to sit until I excuse the entire jury,
10 all right?

11 THE JUROR: Okay.

12 (The juror returns to the panel.)

13 WHEREUPON the Court and attorneys
14 speak with a second juror outside the hearing of the panel
15 as follows:

16 THE COURT: Yes, ma'am? Good morning.

17 THE JUROR: Good Morning.

18 THE COURT: How are you today?

19 THE JUROR: I'm fine.

20 THE COURT: And your juror number, please?

21 THE JUROR: I think it's 54.

22 THE COURT: 54. You're Ms. Gilyard?

23 THE JUROR: Yes.

24 THE COURT: Yes, ma'am. Can you tell me what your
25 situation is?

1 THE JUROR: I --

2 THE COURT: You gotta speak up just a little bit.
3 She's gotta hear what you're saying.

4 THE JUROR: Yes, ma'am. It's not really a situation.
5 It's the fact that I do not feel comfortable this week. I
6 actually am scared. Reason why, I went to school with one
7 of the family members sitting back there and it's connected
8 to the trial and I don't feel comfortable.

9 THE COURT: Okay. Well, let me ask you -- let me ask
10 you a couple of different questions --

11 THE JUROR: Okay.

12 THE COURT: -- as far as that's concerned because
13 obviously you're -- you're qualified to serve; but when you
14 say you went to school with -- with one of the family
15 members, can you tell me who?

16 THE JUROR: Derrick Mill in the back, the defendant in
17 the trial. I went to school with both of them and I don't
18 feel comfortable doing this.

19 THE COURT: Okay. You went to high school with them?

20 THE JUROR: Yes.

21 THE COURT: Okay. And when you went to --

22 THE JUROR: With the defendant on trial. Yeah.

23 UNKNOWN MALE: Derrick, Sr.

24 THE COURT: And then one of the potential witnesses;
25 is that correct?

1 THE JUROR: Yes.

2 THE COURT: All right. And how long ago was that?

3 THE JUROR: We were all together at Weaver ---

4 THE COURT REPORTER: Can't hear.

5 THE COURT: You want to come around this way?

6 THE JUROR: --- and he graduated in '08.

7 THE COURT: You're kinda soft spoken, so --

8 THE JUROR: I'm sorry.

9 THE COURT: That's okay.

10 THE JUROR: In 2012, I graduated by the same class,
11 that I can think or a year behind me.

12 THE COURT: Okay. Now, obviously in a small
13 community people, know each other and you know, I
14 understand that. Did you visit each other's home or were
15 you friends where you call each other ---

16 THE JUROR: No.

17 THE COURT: --- anything of that nature?

18 THE JUROR: No. But like associates, and you know,
19 like whatever, like I see him in the hall kinda 'cause he
20 was living in one place and I was living in ---

21 THE COURT: Okay.

22 THE JUROR: --- another place. So ...

23 THE COURT: Well -- and that's -- that's normal in a
24 small community for you to -- for you to know someone.

25 Have you heard anything about this particular case?

1 THE JUROR: No ma'am.

2 THE COURT: Okay. So you know nothing about this
3 particular case?

4 THE JUROR: No, ma'am.

5 THE COURT: The fact that you knew him in high
6 school, can you set that aside in this case and be fair
7 and impartial and just listen to the testimony and make
8 your determination of the facts based upon what you hear
9 from the witness stand? Can you do that?

10 THE JUROR: (No audible response.)

11 THE COURT: Now, let me ask -- ask you this way
12 'cause I know it's -- it's hard. These circumstances are
13 difficult --

14 THE JUROR: Uh-huh.

15 THE COURT: -- and I get that. And it's difficult
16 for everyone, and it -- it sounds like you're
17 acquaintances with him, but you don't know him personally.

18 THE JUROR: Uh-huh. That's one of the things. We
19 were social at the ---

20 THE COURT: Okay.

21 THE JUROR: I wasn't close with the one on the trial,
22 but I was with one of the witness.

23 THE COURT: Can you tell me which witness again?

24 THE JUROR: Derrick.

25 THE COURT: And he's related to one of the

1 Defendants?

2 THE JUROR: Yeah.

3 THE COURT: Okay. And as far as close, can you
4 describe how close y'all were?

5 THE JUROR: Like, we would get together. I would --
6 he would, you know, have it -- you know, have a
7 conversation or whatever -- was like -- not like best
8 friends type like relationship, but we had a, you know ---

9 THE COURT: Mutual friends --

10 THE JUROR: Yeah.

11 THE COURT: --- in common. You'd say "Hello" when
12 you saw each other?

13 THE JUROR: Yeah.

14 THE COURT: Okay. And I don't know what his -- his
15 role is. But again, could you set that aside in this case
16 and listen to the testimony, just -- just based on your
17 determination of the facts, be fair and impartial to both
18 sides and listen; can you do that?

19 THE JUROR: (No audible response.)

20 THE COURT: Okay. Is that a "yes"?

21 THE JUROR: Yes, ma'am.

22 THE COURT: Okay. Just want to make sure that --
23 obviously -- again, it's a small community. You may know
24 people that we're asking to be fair and impartial to both
25 sides, listen to the testimony as it comes from the

1 witness stand. Can you do that and apply the facts to the
2 law as I give them to you and you make a determination as
3 to what you think the facts are? Can you be fully fair
4 and impartial to both sides and listen to the testimony?

5 (No audible response.)

6 THE COURT: Is that a "yes"?

7 THE JUROR: Yes.

8 THE COURT: Okay. All right. And will you follow
9 the law as I give it to you?

10 THE JUROR: Yes.

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

12 THE JUROR: Okay.

13 (The juror returns to the panel.)

14 WHEREUPON the Court and attorneys
15 speak with another juror outside the hearing of the panel
16 as follows:

17 THE COURT: Yes, ma'am? Good morning.

18 THE JUROR: Good morning.

19 THE COURT: Your juror number, please, or your name?

20 THE JUROR: Avalda Morris.

21 THE COURT: Ms. Morris?

22 THE JUROR: Yes.

23 THE COURT: Yes, ma'am. Who do you know?

24 THE JUROR: I don't know anybody here.

25 THE COURT: Okay.

1 THE JUROR: I have a person who was murdered. He
2 never was found and ever since then, I -- I have --

3 THE COURT: It's a difficult situation.

4 THE JUROR: Yes. And right now, I'm thinking -- I'm
5 nervous. I'm nervous at this trial --

6 THE COURT: Okay.

7 THE JUROR: And I never forget. They've never been
8 found. So I don't think I could do this. I'm still
9 angry.

10 THE COURT: Well, I -- I understand. Let me ask you
11 a couple -- verify how -- okay. Let me ask you a couple
12 of questions, okay? How long ago did this happen?

13 THE JUROR: Ten years.

14 THE COURT: Ten years ago?

15 THE JUROR: Uh-huh.

16 THE COURT: And obviously a difficult circumstance
17 for your family.

18 THE JUROR: Yes.

19 THE COURT: And the fact that noone was ever
20 apprehended or brought to justice. So there's a lot of
21 unanswered questions in your circumstance.

22 THE JUROR: Yes.

23 THE COURT: And you understand that every case is
24 different?

25 THE JUROR: I just couldn't.

1 THE COURT: Well, I -- you don't know that yet. Just
2 -- so as a juror you would be called to listen to the
3 testimony --

4 THE JUROR: Uh-huh.

5 THE COURT: -- and listen to the facts as they come
6 from the witness stand.

7 THE JUROR: Okay.

8 THE COURT: Be fair and impartial to both sides, to
9 the State and to the Defense.

10 They're entitled to -- to presumption of innocence,
11 and it's up to the State to present evidence to satisfy a
12 juror of -- of guilt beyond a reasonable doubt.

13 So you just make a determination of the facts in this
14 particular case based on the evidence as it comes from the
15 witness stand. Do you think you can set what happened to
16 your family aside?

17 THE JUROR: No.

18 THE COURT: Okay. All right. I'll go ahead and
19 excuse you then, Ms. Morris.

20 Just for the record, she does seem like she's
21 obviously distraught.

22 And it would be a difficult situation for you, so
23 you're free to go.

24 THE JUROR: Okay.

25 (The juror exits the courtroom.)

1 WHEREUPON the Court and attorneys
2 speak with another juror outside the hearing of the panel
3 as follows:

4 THE COURT: Good morning, ma'am. How are you today?

5 THE JUROR: I'm okay.

6 THE COURT: And your juror number, please, or your
7 name?

8 THE JUROR: 68.

9 THE COURT: 68? Ms. Huggins?

10 THE JUROR: Yeah. Yes.

11 THE COURT: Yes, ma'am?

12 THE JUROR: I just want to make sure that I need to
13 let you know this. Where -- none of my -- but I was in
14 the area when this happened.

15 THE COURT: Okay.

16 THE JUROR: I have taught -- I taught -- I was in the
17 school where he was going and shouldn't have -- and it may
18 be difficult not --

19 THE COURT: Okay.

20 THE JUROR: Not adults.

21 THE COURT: I understand.

22 THE JUROR: So I mean, you know, I just --

23 THE COURT: So you basically had some information
24 about that case? You knew -- you -- you'd heard that
25 something had happened, and that --

1 THE JUROR: Right.

2 THE COURT: Okay.

3 THE JUROR: Right -- to it. Just that I -- you know,
4 like I said, it's connected to them --

5 THE COURT: Sure.

6 THE JUROR: -- weird situation.

7 THE COURT: And that happens in a small community all
8 the time.

9 THE JUROR: Exactly. I just --

10 THE COURT: No. I appreciate you letting me know.

11 I guess my next question is: Do you think you can
12 set that aside and listen to the evidence solely as it
13 comes from the witness stand and make a determination of
14 the facts solely from what you hear in this courtroom?

15 THE JUROR: I think so, yes.

16 THE COURT: Well, can you?

17 THE JUROR: Yes.

18 THE COURT: Okay. Will you be fully fair and
19 impartial to both sides?

20 THE JUROR: Yes.

21 THE COURT: And will you follow the law as I give it
22 to you?

23 THE JUROR: Yes.

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

25 THE JUROR: (Indicates the court reporter) I know

1 her. I -- I don't know that it matters if our sons went
2 to school together.

3 THE COURT: Can you set your personal -- your
4 relationship aside with our court reporter? She's
5 obviously not a witness, but takes down the testimony.
6 Can you set that aside?

7 THE JUROR: Yes.

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

9 (The juror returns to the panel.)

10 THE COURT: Has any member of the jury panel formed
11 or expressed in any -- any opinion about any potential
12 issue or matter in this case? If so, please stand.

13 (No response.)

14 THE COURT: I find that there is noone standing.

15 Is there any member of the jury panel that was a
16 member of the grand jury which issued the indictments in
17 this case? If so, please stand.

18 (No response.)

19 THE COURT: I find that there is noone standing.

20 Is there any member of the jury panel aware of any
21 bias or prejudice towards either the State or to the
22 Defense in this case? If so, please stand.

23 (No response.)

24 THE COURT: I find that there is noone standing.

25 Does any member of the jury panel know of any reason

1 whatsoever why he or she should not serve as a juror in
2 this case, with a particular emphasis being placed on your
3 ability to be fully fair and impartial to both the State
4 and to the Defense? If so, please stand.

5 (No response.)

6 THE COURT: I find that there is noone standing.

7 Ladies and gentlemen, that would conclude the list of
8 questions before we begin the jury selection in this case.

9 Mr. Clerk, do you need a few minutes?

10 THE CLERK OF COURT: Yes, ma'am.

11 THE COURT: Okay. Bear with us just one minutes,
12 ladies and gentlemen of the jury.

13 (Briefly off the record.)

14 THE COURT: Counsel, ready to proceed?

15 MR. LUPTON: The State's ready, Your Honor.

16 MR. FARLEY: Yes, Your Honor.

17 MR. LEIENDECKER: Yes.

18 THE COURT: All right. Mr. Clerk?

19 THE CLERK: State strikes ---

20 THE COURT: Ladies and gentlemen, before -- when --
21 if your name is called, if you'd please come forward and
22 then face the back and bring your personal belongings with
23 you in case you're selected on the jury. Then we'll go
24 ahead and seat you in the jury box.

25 So when the clerk calls your name, again, if you'd

1 please come forward and face the back of the courtroom to
2 see whether or not you're seated on the jury or excused
3 from the jury.

4 And again, please don't take any offense whether
5 you're seated or not. There's many methods to the -- to
6 the madness.

7 So you may proceed, Madam Clerk.

8 THE CLERK: State strikes ---

9 MR. STEVENS: Gotta call -- you gotta call their
10 names.

11 THE CLERK: Oh.

12 MR. STEVENS: Then bring them forward.

13 THE CLERK: Shane McCarson.

14 (A white male steps forward.)

15 MR. STEVENS: Turn around.

16 THE COURT: Face the back.

17 (The juror complies.)

18 THE COURT: Thank you.

19 MR. STEVENS: Please present the juror.

20 THE CLERK: What says the Defense?

21 THE COURT: Mr. Leiendecker, we'll make you Defendant
22 One, and Mr. Farley, we will do Defense Two.

23 MR. LEIENDECKER: Okay. I would say seat the juror.

24 THE COURT: All right.

25 THE CLERK: Defense Two?

1 MR. FARLEY: Please seat the juror.

2 THE COURT: Please have a seat, Mr. McCarson.

3 (The juror complies.)

4 THE CLERK: Connie Bonnette.

5 (A white female steps forward.)

6 MR. LUPTON: Please present the juror.

7 THE CLERK: Defense?

8 MR. LEIENDECKER: Please excuse the juror. Thank
9 you.

10 (The juror returns to the panel.)

11 THE CLERK: Michael Vandalen.

12 (A white male steps forward.)

13 MR. LUPTON: What says the State?

14 THE COURT: Hold on one second.

15 (Brief pause.)

16 MR. LUPTON: Please present the juror.

17 THE CLERK: What says Defense One?

18 MR. LEIENDECKER: Seat the juror.

19 (To the juror) But I'm sorry, I'm only one of three.
20 So you gotta wait for one more. Come on -- come on back.

21 THE COURT: Hold on, sir.

22 MR. LEIENDECKER: Come back, I'm one person. I'm
23 sorry.

24 THE CLERK: What says Defense Two?

25 MR. FARLEY: Please present the juror.

1 Now, you may be seated, sir.

2 (The juror complies.)

3 THE CLERK: Austin Hill.

4 (A white male steps forward.)

5 THE CLERK: What says the State?

6 MR. LUPTON: Please present the juror.

7 THE CLERK: What says Defense One?

8 MR. LEIENDECKER: Please excuse the juror.

9 THE BAILIFF: You can have a seat back outside, sir.

10 (The juror returns to the panel.)

11 THE CLERK: Norman Andrews.

12 (A white male steps forward.)

13 THE CLERK: What says the State?

14 MR. LUPTON: Please present the juror.

15 THE CLERK: What says Defense One?

16 MR. LEIENDECKER: Present the juror.

17 THE CLERK: What says Defense Two?

18 MR. FARLEY: Please excuse this juror.

19 (The juror returns to the panel.)

20 THE CLERK: Stephanie Burnette.

21 (A white female steps forward.)

22 THE CLERK: What says the State?

23 MR. LUPTON: Please present the juror.

24 THE CLERK: What says Defense One?

25 MR. LEIENDECKER: Please excuse the juror.

1 (The juror returns to the panel.)

2 THE CLERK: Lakenya Gleaton.

3 (A black female steps forward.)

4 THE CLERK: What says the State?

5 MR. LUPTON: Please present the juror.

6 THE CLERK: What says the Defense One?

7 MR. LEIENDECKER: Present the juror, please.

8 THE CLERK: What says Defense Two?

9 MR. FARLEY: Please present the juror.

10 THE BAILIFF: Have a seat in the jury box, ma'am.

11 (The juror complies.)

12 THE CLERK: Ervin Stanley Wright.

13 (A black male steps forward.)

14 THE CLERK: What says the State?

15 MR. LUPTON: Please excuse the juror.

16 THE BAILIFF: You can have a seat. Go back and have
17 a seat, Stanley.

18 (The juror complies.)

19 THE CLERK: Ta'rique Frederick.

20 (A black male steps forward.)

21 THE CLERK: What says the State?

22 MR. LUPTON: Please present the juror.

23 THE CLERK: What says Defense One?

24 MR. LEIENDECKER: Please present the juror.

25 THE CLERK: What says Defense Two?

1 MR. FARLEY: Please present the juror.

2 THE BAILIFF: Have a seat in the jury box, sir.

3 (The juror complies.)

4 THE CLERK: Tydamekia Guinyard.

5 (A black female steps forward.)

6 THE CLERK: What says the State?

7 MR. LUPTON: Please present the juror.

8 THE CLERK: What says Defense One?

9 MR. LEIENDECKER: Please excuse the juror, thank you.

10 (The juror returns to the panel.)

11 THE CLERK: Justin Crider.

12 (A white male steps forward.)

13 THE CLERK: What says the State?

14 MR. LUPTON: Please present the Juror.

15 THE CLERK: What says Defense One?

16 MR. LEIENDECKER: Present the juror, please.

17 THE CLERK: What says Defense Two?

18 MR. FARLEY: Please excuse this juror.

19 (The juror returns to the panel.)

20 THE CLERK: Marquette Seawright.

21 (A black female steps forward.)

22 THE CLERK: What says the State?

23 MR. LUPTON: Please present the juror.

24 THE CLERK: What says Defense One?

25 MR. LEIENDECKER: Present the juror.

1 THE CLERK: What says Defense Two?

2 MR. FARLEY: Please present the juror.

3 THE BAILIFF: Have a seat in the jury box, ma'am.

4 (The juror complies.)

5 THE CLERK: Sherry Rucker.

6 (A white female steps forward.)

7 THE CLERK: What says the State?

8 MR. LUPTON: Please present the juror.

9 THE CLERK: What says Defense One?

10 MR. LEIENDECKER: Present the juror.

11 THE CLERK: What says Defense Two?

12 MR. FARLEY: Present the juror.

13 THE BAILIFF: Have a seat in the jury box, ma'am.

14 (The juror complies.)

15 THE CLERK: Vincent Joyner.

16 (A black male steps forward.)

17 THE CLERK: What says the State?

18 MR. LUPTON: Please present the juror.

19 THE CLERK: What says Defense One?

20 MR. LEIENDECKER: Present the juror.

21 THE CLERK: What says Defense Two?

22 MR. FARLEY: Please excuse this juror.

23 (The juror returns to the panel.)

24 THE CLERK: Chairman Colter -- Charmain, excuse me.

25 (A black female steps forward.)

1 THE CLERK: What says the State?

2 MR. LUPTON: Please present the juror.

3 THE CLERK: What says Defense One?

4 MR. LEIENDECKER: Present the juror, please.

5 THE CLERK: What says Defense Two?

6 MR. FARLEY: Please present the juror.

7 THE BAILIFF: Have a seat in the jury box, ma'am.

8 (The juror complies.)

9 THE CLERK: Nathan Buckman.

10 (A black male steps forward.)

11 THE CLERK: What says the State?

12 MR. LUPTON: Please present the juror.

13 THE CLERK: What says Defense One?

14 MR. LEIENDECKER: Excuse the juror, please.

15 (The juror returns to the panel.)

16 THE CLERK: Sonja McGee.

17 (A black female steps forward.)

18 MR. LUPTON: Please excuse the juror. That's her --

19 I'm sorry, what name did you call?

20 THE CLERKS: Sonja McGee.

21 MR. LUPTON: Thank you.

22 THE COURT: Ms. McGee, you -- you can just have a
23 seat.

24 (The juror complies.)

25 THE CLERK: Amyaha Bennett.

1 (A black male steps forward.)

2 THE CLERK: What says the State?

3 MR. LUPTON: Please excuse the juror.

4 THE BAILIFF: Have a seat back in the audience, sir.

5 (The juror returns to the panel.)

6 THE CLERK: Ronald Bailey.

7 (A white male steps forward.)

8 THE CLERK: What says the State?

9 MR. LUPTON: Please present the juror.

10 THE CLERK: What says Defense One?

11 MR. LEIENDECKER: Please excuse the juror.

12 (The juror returns to the panel.)

13 THE CLERK: Colton Poole.

14 (A white male steps forward.)

15 THE CLERK: What says the State?

16 MR. LUPTON: Please present the juror.

17 THE CLERK: What says Defense One?

18 MR. LEIENDECKER: Please excuse the juror.

19 (The juror returns to the panel.)

20 THE CLERK: Marion Curry.

21 (A black male steps forward.)

22 THE CLERK: What says the State?

23 MR. LUPTON: Please present the juror.

24 THE CLERK: What says Defense One?

25 MR. LEIENDECKER: Present the juror.

1 THE CLERK: What says Defense Two?

2 MR. FARLEY: Please excuse this juror.

3 (The juror returns to the panel.)

4 THE CLERK: Jonathan Sikes -- Johnathan Sikes.

5 (A white male steps forward.)

6 THE CLERK: What says the State?

7 MR. LUPTON: Please present the juror.

8 THE CLERK: What says Defense One?

9 MS. EARLE: Present the juror.

10 THE CLERK: What says Defense Two?

11 MR. FARLEY: Please excuse this juror.

12 THE CLERK: You may be seated.

13 (The juror returns to the panel.)

14 THE CLERK: Brian Walker.

15 (A white male steps forward.)

16 THE CLERK: What says the State?

17 MR. LUPTON: Please present the juror.

18 THE CLERK: What says Defense One?

19 MR. LEIENDECKER: Please excuse the juror.

20 (The juror returns to the panel.)

21 THE CLERK: Tammy Huggins, Tammy Huggins.

22 (A white female steps forward.)

23 THE CLERK: What says the State?

24 MR. LUPTON: Please present the juror.

25 THE CLERK: What says Defense One?

1 MR. LEIENDECKER: Present the juror.

2 THE CLERK: What says Defense Two?

3 MR. FARLEY: Please excuse this juror.

4 (The juror returns to the panel.)

5 THE CLERK: Marqui Davis.

6 (A black male steps forward.)

7 THE CLERK: What says the State?

8 MR. LUPTON: Please present the juror.

9 THE CLERK: What says Defense One?

10 MR. LEIENDECKER: Present the juror.

11 THE CLERK: What says Defense Two?

12 MR. FARLEY: Please excuse this juror.

13 (The juror returns to the panel.)

14 THE CLERK: Christine Collins.

15 (A white female steps forward.)

16 THE CLERK: What says the State?

17 MR. LUPTON: Please present the juror.

18 THE CLERK: What says Defense One?

19 MR. LEIENDECKER: Present the juror.

20 THE CLERK: What says Defense Two?

21 MR. FARLEY: Please excuse the juror.

22 (The juror returns to the panel.)

23 THE CLERK: Joshua Colter -- Joshua Colter.

24 (A black male steps forward.)

25 THE CLERK: What says the State?

1 MR. LUPTON: Please present the juror.

2 THE CLERK: What says Defense One?

3 MR. LEIENDECKER: Present the juror.

4 THE CLERK: What says Defense Two?

5 MR. FARLEY: Please present the juror.

6 THE BAILIFF: Have a seat in the jury box, sir.

7 (The juror complies.)

8 THE CLERK: Charlene Slaughter.

9 (A black female steps forward.)

10 THE CLERK: What says the State?

11 MR. LUPTON: Please present the juror.

12 THE CLERK: What says Defense One?

13 MR. LEIENDECKER: Excuse the juror, please.

14 (The juror returns to the panel.)

15 THE CLERK: Ashley Jeffcoat.

16 (A black female steps forward.)

17 THE CLERK: What says the State?

18 MR. LUPTON: Please present the juror.

19 THE CLERK: What says Defense One?

20 MR. LEIENDECKER: Present the juror.

21 THE CLERK: What says Defense Two?

22 MR. FARLEY: Please present the juror.

23 THE BAILIFF: You can sit in the jury box, ma'am.

24 (The juror complies.)

25 THE CLERK: Allen Shuler.

1 (A white male steps forward.)

2 THE CLERK: What says the State?

3 MR. LUPTON: Please present the juror.

4 THE CLERK: What says Defense One?

5 MR. LEIENDECKER: Excuse the juror, please.

6 (The juror returns to the panel.)

7 THE CLERK: Anthony Snider.

8 (A black male steps forward.)

9 THE CLERK: What says the State?

10 MR. LUPTON: Please excuse the juror.

11 (The juror returns to the panel.)

12 THE CLERK: William Etheridge.

13 (A white male steps forward.)

14 THE CLERK: What says the State?

15 MR. LUPTON: Please present the juror.

16 THE CLERK: What says Defense One?

17 MR. LEIENDECKER: Present the juror.

18 THE CLERK: What says Defense Two?

19 MR. FARLEY: Please excuse the juror.

20 (The juror returns to the panel.)

21 THE CLERK: Mark Oglesby

22 (A white male steps forward.)

23 THE CLERK: What says the State?

24 MR. LUPTON: Please present the juror.

25 THE CLERK: What says Defense One?

1 MR. LEIENDECKER: Present the juror.

2 THE CLERK: What says Defense Two?

3 MR. FARLEY: Please present the juror.

4 THE BAILIFF: You can go to the jury box, sir.

5 (The juror complies.)

6 THE CLERK: Melissa Kaiser.

7 (A white female steps forward.)

8 THE CLERK: What says the State?

9 MR. LUPTON: Please present the juror.

10 THE CLERK: What says Defense One?

11 MR. LEIENDECKER: Please present the juror.

12 THE CLERK: What says Defense Two?

13 MR. FARLEY: Please excuse the juror.

14 (The juror returns to the panel.)

15 THE CLERK: Lashele Simpson.

16 (A black female steps forward.)

17 THE CLERK: What says the State?

18 MR. LUPTON: Please present the juror.

19 THE CLERK: What says Defense One?

20 MR. LEIENDECKER: Please present the juror.

21 THE CLERK: What says Defense Two?

22 MR. FARLEY: Please present the juror.

23 THE BAILIFF: Have a seat in the jury box, ma'am.

24 (The juror complies.)

25 THE CLERK: Tracey Woodrow.

1 (A white female steps forward.)

2 THE CLERK: What says the State?

3 MR. LUPTON: Please present the juror.

4 THE CLERK: What says Defense One?

5 MR. LEIENDECKER: Please present the juror.

6 THE CLERK: What says Defense Two?

7 MR. FARLEY: Please present the juror.

8 THE BAILIFF: Have a seat in the jury box, ma'am.

9 (The juror complies.)

10 THE CLERK: Mark Mizzelle.

11 (A white male steps forward.)

12 MR. LEIENDECKER: Is that 12, Your Honor?

13 THE COURT: Alternate.

14 THE CLERK: Oh. That's 12. You good alternate?

15 THE COURT: Yes, ma'am.

16 MR. LEIENDECKER: What are the strikes?

17 THE COURT: One and two.

18 MR. LEIENDECKER: Total?

19 THE COURT: Each.

20 MR. LEIENDECKER: May we approach?

21 THE COURT: Yes, sir.

22 (Bench conference.)

23 MR. LUPTON: Please present.

24 THE CLERK: What says Defense One?

25 MR. LEIENDECKER: Madam Clerk, what was this

1 gentleman's name?

2 THE CLERK: Mark Mizzelle.

3 MR. LEIENDECKER: Present.

4 THE CLERK: What says Defense Two?

5 MR. FARLEY: Please present the juror.

6 THE BAILIFF: Have a seat in the jury box.

7 (The juror complies.)

8 THE CLERK: Sarah Ellisor.

9 (A white female steps forward.)

10 THE CLERK: What says the State?

11 MR. LUPTON: Please present.

12 THE CLERK: What says Defense One?

13 MR. LEIENDECKER: Please excuse the juror.

14 (The juror returns to the panel.)

15 THE CLERK: Rebecca Chilcutt.

16 (A white female steps forward.)

17 THE CLERK: What says the State?

18 MR. LUPTON: Please present the juror.

19 THE CLERK: What says Defense One?

20 MR. LEIENDECKER: Please excuse the juror.

21 (The juror returns to the panel.)

22 THE COURT: Counsel, approach.

23 (Bench conference.)

24 THE COURT: Any exceptions or objections for the
25 selection of this jury from either the State or the

1 Defense?

2 MR. LUPTON: None from the State, Your Honor.

3 MR. LEIENDECKER: None, Your Honor.

4 MR. FARLEY: No, Your Honor

5 THE COURT: Thank you, gentlemen.

6 Ladies and gentlemen of the jury panel that was not
7 selected for the trial of this case, you have fulfilled
8 your jury duty and you are free to go. If you need an
9 excuse for work or anything, the Clerk's office will be
10 happy to help you that. You may exit the courtroom.

11 (The remaining panel exits the courtroom.)

12 THE COURT: Good afternoon, ladies and gentlemen of
13 the jury that has been selected for the trial of this case.
14 I certainly appreciate your patience with us this morning.
15 I know it's about 12:40, so you're probably starving and
16 it's a good time for us to take a brief -- or lunch break.

17 I'm going to advise you that while you're on your
18 break and during this entire trial process, please do not
19 talk to anyone about this case, including amongst
20 yourselves.

21 (Addresses courtroom persons) Excuse me. Everybody
22 needs to be quiet in the courtroom until everybody's
23 excused. Have a seat.

24 Ladies and gentlemen of the jury panel, please, it's
25 very important that you not discuss this case with anyone.

1 That includes amongst yourselves or with anyone else.

2 If you see anybody coming in and out of the
3 courthouse, if they don't speak to you, they're not being
4 rude. They're following the Court's instructions as you're
5 not to make any determination from anything you hear
6 outside of this courtroom, but solely from what you hear
7 from the witness stand and what you hear in this courtroom
8 and -- after these instructions on the law.

9 I'm going to ask you to return to your jury room at
10 two o'clock. That should give you sufficient time to go
11 grab some lunch, figure out where your jury room is, and
12 our kind bailiff here will show you where you are to go.
13 If you need recommendations as to where to go, I'm sure
14 they'll help you out in that regard as well. Have a nice
15 lunch. We'll see you at 2 o'clock.

16 (Jury exits at 12:38 p.m.)

17 THE COURT: And for those of you in the gallery,
18 we're certainly happy that all of you are present with us
19 today and certainly appreciate you being here; however,
20 it's very important not to disrupt the proceeding. So if
21 the Court is talking or engaging with the jury or if any of
22 the attorneys are doing anything, it's very important that
23 you maintain your seat and not move about the courtroom
24 until I have excused everyone from the courtroom.

25 All right. Counsel, at this juncture are you ready

1 to proceed with the pre-trial motions or do you want to
2 wait 'til right before lunch -- after the lunch break?

3 MR. LUPTON: I think I am, Your Honor. I don't think
4 it will take too terribly long.

5 THE COURT: Okay.

6 MR. FARLEY: Did you say pre-trial motions, Your
7 Honor?

8 THE COURT: Yes, sir.

9 MR. FARLEY: Okay. I just want to --

10 MR. LUPTON: I think you may want to --

11 MR. FARLEY: You want me to start with the severs
12 first, Your Honor?

13 THE COURT: Sure.

14 MR. FARLEY: And Your Honor, we had filed a motion
15 to sever on behalf of Quintin Mills in this matter.

16 MR. LEIENDECKER: I'm sorry, Your Honor.

17 MR. FARLEY: Oh, I'm sorry.

18 MR. LEIENDECKER: Be -- before we get started I need
19 to make something -- the Court aware of something on the
20 record. We've already let Scan Graham -- Captain Graham
21 know my client was being held or detained to pre-trial in
22 the jury room. He left all of his paperwork in the jury
23 room when he came out for selection.

24 THE COURT: Did they -- did they grab it? Okay.

25 MR. VANICEK: Yeah. I had already moved it. Your

1 Honor, I had already moved it from the jury room to another
2 room.

3 MR. LEIENDECKER: All right.

4 THE COURT: All right. So there was no interaction
5 with --

6 MR. VANICEK: No, ma'am.

7 THE COURT: -- paperwork in the --

8 MR. VANICEK: They'd left it in that room, so I --

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

10 MR. VANICEK: -- when you brought them out here, I
11 went in and moved it.

12 THE COURT: And just for the record, so the record's
13 clear, can you please state your full name for the record?

14 ~~MR. VANICEK: Yes, ma'am. Larry Vanicek.~~

15 THE COURT: All right, sir. And so you removed those
16 items from the jury room before the jury was in that room;
17 is that correct?

18 MR. VANICEK: Yes, ma'am.

19 THE COURT: All right, sir. Anything further on that
20 Mr. Leiendecker?

21 MR. LEIENDECKER: No, I don't think so. Thanks.

22 THE COURT: All right. Mr. Farley?

23 MR. FARLEY: Thank you, Your Honor. Again, Your
24 Honor, we had filed a motion to sever the trials of Derrick
25 and Quintin Mills on behalf of Mr. Quintin Mills, and we

1 certainly feel that this motion is justified and that we
2 think it would be very prejudicial to Mr. Quintin's --
3 Quintin Mills' case if he had not been able to hear his
4 case alone and a jury that could decide his own case.

5 We feel like the presence of Mr. Derrick Mills in
6 this case could potential color any jury towards an
7 unfairly prejudiced jury toward Mr. Quintin Mills.
8 Certainly we also think 'cause of the reasons of the jury
9 pool, it would be easier if we could try the Defendants
10 separately and let -- just let them select the jury in this
11 matter.

12 Again, those are the reasons why we filed this
13 motion. We would ask that the Court grant this motion to
14 sever the two trials. And we -- we don't think that this
15 would be such a disadvantage to you to do judicial
16 accommodate, Your Honor. We serve -- we think it would
17 actually be easier to have these in two separate in
18 different trials.

19 THE COURT: Thank you, Mr. Farley. Mr. Leiendecker,
20 do you have a position on that?

21 MR. LEIENDECKER: Your Honor, although I didn't make
22 the motion, and certainly I'm not arguing Mr. Farley's
23 case, but there ultimately will come a decision regarding
24 testimony of the Defendants, and I do know that my
25 Defendant selects to testify. Not only will his testimony

1 come in, but his record will come in, which Mr. Mills will
2 also have to deal with the fact that my client has some
3 most serious convictions. And in fact, the State has
4 served him with life without parole notice and Mr. Mills
5 -- Mr. Quintin would then be painted with that record as
6 well of my client.

7 He has convictions for a -- entering a bank for
8 robbery -- robbed armory in that bank and for kidnap --
9 kidnaping, for which he's served time in the state
10 penitentiary.

11 THE COURT: All right. Thank you, Mr. Leiendecker.
12 Mr. Lupton?

13 MR. LUPTON: Yeah. Your Honor, with regards to the
14 record issue, I -- I don't think that the jury's going to
15 hold one person's record against another and certainly the
16 Court will tell them that they can't do that.

17 As far as the motion to sever, generally *State v*
18 *Dennis*, 337 SC 275; *State v Halcomb*, H-a-l-c-o-m-b --
19 section -- it's 382 SC 432 -- *State v Spears*, 393 SC 466,
20 and various other cases all talk about that motion to
21 sever's the discretion of the Court. Generally, just --
22 generally not given unless there is a specific trial right
23 to which the Defendant can point to will be prejudiced.

24 There's no specific trial right that anybody can
25 point to in this case that would be prejudiced, antagonistic.

1 Defenses are not sufficient to justify a motion to sever.
2 There's no root issue as one of the specifics that was
3 cited in the case law is -- would be part of -- would
4 require a motion to sever.

5 There is going to be no root issues in this case and
6 that the State -- while each Defendant did give statements
7 to police, the State does not intend to try and produce at
8 trial these statements. It's not going to, rather,
9 introduce those statements at trial as they are -- both of
10 those statements are basically self-serving and hearsay
11 without them testifying.

12 Of course, if they do testify -- either or both of
13 them do testify, then there would be no prejudice because
14 they would be subject to cross-examination.

15 THE COURT: All right. Gentlemen, based upon my
16 understanding of the allegations contained in the
17 indictments, I understand that the indictments arise out
18 of a single chain of circumstances and are proved by the
19 same evidence or the same general nature and I don't find
20 that any real right of the Defendants would be prejudiced.
21 They're of, again, the same general nature and the crimes
22 arise out of the same circumstances.

23 Regarding the painting of your client's record, Mr.
24 Leiendecker, to the co-defendant, certainly I believe the
25 jury instruction would clear that and the jury will be

1 certainly instructed that they're not to use a record of
2 one Defendant versus another Defendant if they were to
3 testify and it was used against them. So your motion is
4 respectfully denied.

5 Any other motions we can handle at this time?

6 MR. STEVENS: Yes, Judge. At this time Defendant,
7 Derrick Mills, likewise at the pre-trial motions, I
8 believe we have approximately seven motions. Five are
9 relatively simple, the other two I think are relatively
10 simple as well, but we just want to touch upon them all.

11 THE COURT: Yes, sir?

12 MR. STEVENS: And -- may I approach, Your Honor?

13 THE COURT: Absolutely.

14 (Mr. Stevens approaches the bench.)

15 MR. STEVENS: Thank you. And just so the record
16 reflect, I did give a copy to opposing counsel as well.

17 First and foremost, Judge, the Defense respectfully
18 requests that the Government go ahead and confirm on the
19 record that its fully complied with it's discovery
20 obligations pursuant to both *Brady v Maryland* and rule 5
21 of the rules of South Carolina --

22 THE COURT: Rule 5 and *Brady*.

23 MR. STEVENS: I apologize.

24 The Defense respectfully requests and moves that the
25 Government confirm on the record that it is in full

1 compliance with its *Brady* and rule 5 obligations.

2 MR. LUPTON: I certainly believe I am. And if
3 there's anything that does come up, I would hand it over.

4 THE COURT: So it's the State's position that you
5 have complied with all the --

6 MR. LUPTON: Yes.

7 THE COURT: -- *Brady* and rule 5 materials --

8 MR. LUPTON: Yes.

9 MR. STEVENS: Thank you, Judge. Next, the Defense
10 respectfully moves to -- just basically prohibit the
11 admission of opinion testimony, unless or until the
12 witness is properly qualified pursuant to *Rules of*
13 *Evidence* under 701/702, as well as allowing the Court to
14 keep it's gate keeping functions as explained by the
15 Supreme Court in *Watson v Ford* and other cases as well,
16 Judge.

17 THE COURT: Any objection to that, Solicitor?

18 MR. LUPTON: Obviously, for somebody to testify as a
19 expert they'd have to be qualified first. So --

20 THE COURT: Yes, sir.

21 MR. LUPTON: -- we intend to comply with that.

22 MR. STEVENS: And if there is any *voir dire*, we
23 respectfully request that that occur outside the presence
24 of the jury so that they would not be tainted during the
25 course.

1 THE COURT: Certainly. We'll handle that as -- as
2 the matters come up regarding each witness and potential
3 expert testimony.

4 MR. STEVENS: Yes, ma'am. Thank you. And along that
5 similar vein, Judge, we'd also respectfully request to
6 basically prohibit any 404(b) or any bad character
7 evidence unless and until, obviously, foundation is
8 properly met. And again, anytime that there is an attempt
9 to admit that type of evidence by the Government, we'd ask
10 that it actually be heard outside the presence of the jury
11 beforehand.

12 THE COURT: Any objections, Solicitor?

13 MR. LUPTON: Not per se; although, obviously we may
14 differ on what's considered 404(b) evidence. I -- I don't
15 intend to go into any of his past record or anything like
16 that if that's what they're asking about. I don't intend
17 to try and talk about his prior crimes and I --

18 (The Court and Mr. Lupton interrupt each other.)

19 THE COURT: So obviously, unless the door is opened
20 and then ---

21 MR. LUPTON: Unless ---

22 THE COURT: --- and then you can cross that bridge
23 when we get to it.

24 MR. LUPTON: Obviously, if the door is open or you
25 know, impeachment, which would be not 404(b). It would be

1 under impeachment and we'd ---

2 THE COURT: And if ---

3 MR. LUPTON: --- follow all the rules for that.

4 MR. STEVENS: Yes, ma'am. I understand.

5 THE COURT: And prior to that happening, too, we'll
6 have the matter heard regarding any 609 issues as far as
7 what comes in and what doesn't so everyone's well aware of
8 what -- what con -- convictions come in if the Defendants
9 testify.

10 MR. LUPTON: Yes, ma'am. I appreciate it. My
11 understanding is if -- if one the Defendants did wish to
12 testify, especially Mr. Mills, we'd just ask that he be
13 allowed to, again, have the 609 hearing and ask the Court
14 to walk through -- for factors.

15 THE COURT: Sure.

16 MR. LUPTON: Right.

17 THE COURT: And if y'all would -- during the break if
18 y'all could get together and just see if you can at least
19 -- if you can agree as to -- to what convictions you think
20 are appropriate to come in if he should decide to testify
21 or not, That might save us a little bit of time on the
22 record.

23 MR. STEVENS: Yes, ma'am. Thank you. Next, Judge,
24 we respectfully request to place the State's prior plea
25 offer again, the Defendant's rejection on the record,

1 pursuant to *Frye* with The United States Supreme Court
2 decision, that's *Missouri v Fry*, 132 US 1399, from 2012.

3 THE COURT: All right.

4 MR. STEVENS: My understanding is that the offer from
5 the Government was for Mr. Mills to plead guilty to
6 voluntary manslaughter pursuant to *Alford v North Carolina*
7 for a negotiated sentence of twelve-and-a-half years
8 incarceration.

9 MR. LUPTON: The armed robbery was included, Your
10 Honor. But ---

11 MR. STEVENS: Yeah.

12 MR. LUPTON: --- essentially --

13 THE COURT: Right. So Mr. Mills, if you'd please
14 stand. Would you please --

15 (The Defendant complies.)

16 MR. LUPTON: And that offer's already been withdrawn.
17 There were some issues --

18 THE COURT: Yes, sir. I think he's ---

19 MR. LUPTON: --- there with the ---

20 THE COURT: --- just asking that we put that on the
21 record that it was withdrawn and I just want to question
22 the Defendant and make sure that he -- he understands that
23 it was withdrawn and it was placed on the record.

24 MR. STEVENS: Thank you, Your Honor.

25 THE COURT: So would you please swear in Mr. Mills?

1 Mr. Clerk.

2 THE CLERK: Yes, ma'am.

3 QUINTIN DESEAN MILLS, after
4 having first been duly sworn, testifies as follows:

5 MR. MILLS: Quintin D. Mills.

6 THE CLERK: Thank you, sir.

7 DIRECT EXAMINATION

8 BY THE COURT:

9 Q Mr. Mills, your attorney has asked me to place on the
10 record the fact that you were previously offered a plea
11 offer in this deal which you -- in this case actually,
12 which you have declined; is that correct?

13 A Yes, ma'am.

14 Q And you were made aware of the plea offer which had
15 now been revoked; you understand that?

16 A (No audible response.)

17 Q Now, of course, at this juncture, the State does not
18 make any plea offers and they don't have to; you
19 understand that?

20 A Yes, ma'am.

21 Q All right, sir. And you've talked to your attorney
22 about that plea offer and had had sufficient time to
23 discuss it with him?

24 A Yes, ma'am.

25 Q Do you need anymore time to talk to him about that?

1 Obviously, it's been revoked, but if you needed anymore
2 time I'd be happy to give it to you.

3 A No, ma'am.

4 THE COURT: All right. Anything further on that?

5 MR. STEVENS: No, ma'am. I believe that's
6 sufficient.

7 THE COURT: You can have a seat.

8 MR. STEVENS: Thank you, Judge.

9 (The Defendant complies.)

10 MR. STEVENS: Yes, ma'am. Next, we do have a motion
11 to dismiss pursuant to violation of due process pursuant
12 to *Youngblood* and *Cheeseboro*. While it is a --

13 THE COURT REPORTER: *Youngblood* and?

14 MR. STEVENS: I *apologize*, ma'am.

15 THE COURT REPORTER: *Youngblood* and?

16 MR. STEVENS: *Cheeseborough*, C-h-e-e-s-e-b-o-r-o.

17 While the standard is therein our -- especially when
18 it comes to the standard required for showing the bad
19 faith prong; nevertheless, Judge, our position is that
20 there is evidence of an exculpatory nature that was in the
21 possession of the Sheriff's Office, namely video footage
22 from an El Cheapo gas station.

23 We understand, after speaking with the Government's
24 prosecutor, that obviously there's a disagreement
25 regarding the -- the date/time stamp on there and what

1 time period it covers.

2 If taken at face value, Judge, it does show multiple
3 parties at the El Cheapo gas station, Your Honor. First
4 it shows the Jeep driven by Mr. Charlie Brown, who is the
5 decedent in the case. And it shows them arriving at about
6 two minutes after 6 p.m. according to the timestamp on the
7 video. They stay for approximately 20 minutes and then
8 the vehicle leaves.

9 And then within that minute itself, you see a blue
10 sedan, a blue Buick, I believe, arriving. And that's
11 allegedly the vehicle driven that day, allegedly, by
12 Derrick Mills.

13 Within a minute after that even, you see Mr. Derrick
14 Mills as well as Quintin Mills walking up to other people
15 there. Mr. Derrick Mills goes inside the El Cheapo
16 convenience store, he comes on out, smoking and talking.
17 And the video abruptly ends at 8:30 or 18:30 hours, on the
18 video time stamp.

19 It doesn't show or continue to show or have any other
20 video footage of whenever Mr. Mills actually leaves the El
21 Cheapo gas station, and I'd argue that missing evidence is
22 absolutely critical to the defense, Judge, because this
23 incident allegedly occurred before 6:41 p.m. That's the
24 time when they leave and then the 911 call was made.

25 Now, again, I totally understand the Government's

1 position where the time/date stamp is off. Nonetheless,
2 that evidence itself and that question would be for a jury
3 to decide; and it's critical to the defense, especially
4 regarding alibi, which is what Mr. Mills is claiming: He
5 wasn't there.

6 Our position, Judge, is that police did -- from the
7 Sheriff's Office did go -- they did collect the evidence.
8 They did collect the information. We were informed after,
9 we actually had to file the specific *Brady* motion
10 demanding that. It was eventually turned over to us with
11 an explanation from the Government about some, I believe,
12 unexplained computer issue --

13 MR. LUPTON: And the loss of it.

14 MR. STEVENS: -- and the loss of it.

15 Our position, Judge, is that it's exculpatory on it's
16 face. Anyone known -- or should have known what it was
17 and should've taken the care necessary and proper to
18 actually keep that evidence and turn it over immediately
19 to the Defense. Nonetheless, that was not done.

20 Accordingly, Judge, when we look at the factors of
21 law for *Cheeseboro*, for *Youngblood* -- and again, I
22 understand it's the bad faith requirement -- our position,
23 Judge, is that this should meet that standard.

24 And as such, Judge, we do request for the --
25 respectfully request for the Court to dismiss the charges

1 against Mr. Derrick Mills, especially since we have done
2 our due diligence. We have sent out our private
3 investigator, Your Honor. He has attempted to reach out
4 and try and speak with the people who saw him there who
5 were on that video. Nonetheless, for the very, very few
6 people that our private investigator, Mr. John Tisdale,
7 was able to meet with, they don't recall.

8 And again, that just shows the frailty of human
9 memory when compared to the absolute certainty of a video
10 recording. And therefore, again, under the test for
11 *Youngblood* and *Cheeseboro*, we have no legitimate means,
12 even after exercising due diligence, to find acceptable
13 substitute.

14 THE COURT: Okay.

15 MR. STEVENS: So based on those reasons, Judge, we
16 would respectfully request the case to be dismissed.

17 THE COURT: Mr. Lupton?

18 MR. LUPTON: Your Honor, I -- I think that, one, we
19 turned over all the video we have. There was initially a
20 computer issue where the videos were saved on one computer
21 that was retired; but fortunately, prior to it being
22 retired, as this is a 2014 case, and as the Court I'm sure
23 is aware, frequently computers don't last that long. They
24 don't last but four or five years. So the computer was
25 retired.

1 But fortunately the videos from this case were saved
2 on another drive. We were able to recover those; we were
3 able to turn them over.

4 Now, with regards to the time stamp, the videos
5 -- half-hour block of video that was done was obtained
6 prior to interviewing witnesses. That half-hour video
7 that was obtained, without knowing the full context of the
8 case, was when Defendant was at the gas station.

9 The victims were there at the beginning, the
10 Defendant was there at the end. The time stamp on the
11 video the State would maintain is not correct. We will
12 obviously have to present evidence of that.

13 I would note that the Defendant's initial alibi was
14 that he was in Eastover when this happened. Now he's
15 changed that alibi to he was at the gas station, and it is
16 certainly something that we will have to deal with with
17 the testimony.

18 But there is no *Youngblood* violation. We gave them
19 what we had. The rest of the video wasn't taken from the
20 gas station for any reason to suppress evidence. It was
21 taken prior to having talked to any of the Defendants in
22 this case. There wasn't a reason to take more than what
23 they took and the remaining video was never in police
24 custody or control.

25 So it wasn't, obviously, exculpatory or inculpatory

1 at the time it was obtained and the State did not destroy
2 or lose -- albeit, the State did temporarily have trouble
3 get -- getting their hands on the video in it's
4 possession, it didn't lose or destroy it. So *Youngblood*
5 wouldn't apply. There was no exculpatory value. It's not
6 destroyed, there was no exculpatory value.

7 The rest of it is -- was ever -- was never in the
8 State's possession, so it wouldn't apply. And the rest of
9 the argument is going to go to, obviously, jury arguments.
10 Whether or not the jury believes that the time stamp was
11 correct, and we have an explanation for the time stamp
12 being incorrect. And --

13 THE COURT: Anything further, Mr. Stevens?

14 MR. STEVENS: Just simply, Judge, that we also rest
15 upon the written argument that we have in our motion that
16 we respectfully request to make it a Court's exhibit at
17 this time.

18 THE COURT: Certainly. We will make it a Court's
19 Exhibit.

20 Based up on what's been presented to the Court at
21 this juncture, it certainly does not meet the element of
22 the bad faith as far as establishing bad faith on the part
23 of the Government to suppress or to destroy that type of
24 evidence. Certainly it sounds as if they didn't have it
25 in their possession initially which would go to the

1 weight, not the admissibility of it, as -- as does the
2 time stamp. Most certainly that -- I think he can argue
3 as to the weight of the evidence not the admissibility of
4 it. So your motion is respectfully denied.

5 MR. STEVENS: Thank you, ma'am. And again, I
6 respectfully request that it is Court's Exhibit No. 1.

7 THE COURT: Yes, sir.

8 (Marked Court's Exhibit No. 1, motion to dismiss.)

9 MS. STEVENS: Finally, Judge, I believe -- this one's
10 already been partially resolved. It's just respectfully
11 requesting that the Government be prohibited from any
12 statements of the co-defendant either directly or
13 indirectly referencing Mr. Derrick Mills. And again,
14 that's pursuant -- not only to *Bruton*, but also to the
15 rules of hearsay.

16 Again, that's a -- a much more accurately and -- and
17 filled out and articulated in our written motion that we
18 do have, Judge. We would not want to belabor the Court's
19 time regarding every aspect of that.

20 Nonetheless, Judge, what I would like to point out --
21 I understand the Government had indicated they're not
22 going to admit -- or seek admission of his written or --
23 or his other statements, the video recorded statements.

24 Nonetheless, my understanding in reading *Burton* law
25 and all of it's progeny is that even when it comes to

1 statements by police on their direct examination, if they
2 actually make a reference, directly or indirectly, to
3 another person who, being present at that incident
4 location -- and obviously there's only one other person
5 sitting at the Defense table -- that in and of itself
6 would likewise violate *Bruton* and be causal grounds for
7 mistrial.

8 We would respectfully -- if -- if we are going
9 forward here in the joint trial, we would respectfully
10 request not only that the Government be prohibited from
11 soliciting anything like that whatsoever, but also an
12 admonition be given to especially law enforcement
13 personnel who are privy to those interrogations of Mr.
14 Quintin Mills, that he not -- did not make any answers
15 that would even indicate another person was a party to
16 this incident.

17 THE COURT: Mr. Lupton, it's my understanding that
18 you do not intend on putting any of those statements in or
19 as calling such testimony. I would just ask that during
20 the lunch break, prior to the witnesses testifying, please
21 go over those ground rule with them so that we don't have
22 any mishaps.

23 MR. LUFTON: Certainly.

24 MR. STEVENS: Thank you, Judge. And I would like to
25 make this written motion - it's about seven pages -- as

1 Court's Exhibit No. 2 if I may?

2 THE COURT: Yes, sir.

3 (Marked Court's Exhibit No. 2, prohibition motion.)

4 MR. STEVENS: Thank you, Judge. I -- I believe
5 that's all of the motions for Mr. Derrick Mills at this
6 time, Judge.

7 THE COURT: Okay, I saw one in there to
8 sequester the witnesses, which of course we would grant.
9 Other than the case officer and any immediate victim --

10 MR. STEVENS: Yes, ma'am.

11 THE COURT: -- the family.

12 Anything else from any party?

13 MR. FARLEY: No, Your Honor.

14 MR. LUPTON: Your Honor, just would ask that the
15 Court to take judicial notice, and I can --

16 (Brief pause.)

17 MR. LUPTON: Your Honor, we'd just ask the Court to
18 take judicial notice that the -- that sunset on December
19 13, 2014, was 5:16 p.m.

20 THE COURT: Okay.

21 MR. LUPTON: And I've shown both the opposing counsel
22 documentation from the Astronomical Applications
23 Department of the United States Naval Observatory in
24 Washington D.C., showing that that was the official sunset
25 for both Columbia and Orangeburg, which shows --

1 bracketing this area since St. Matthews isn't one of the
2 ones they posted.

3 THE COURT: Any objections from either party?

4 MR. FARLEY: No objection, Your Honor.

5 MR. LEIENDECKER: No objection to that information,
6 Your Honor.

7 THE COURT: All right. The Court will take judicial
8 notice of that fact.

9 MR. LUPTON: I'm sorry, Your Honor?

10 THE COURT: I said, I'll take judicial notice of that
11 fact.

12 MR. LUPTON: Thank you, Your Honor.

13 THE COURT: Anything further before we break for
14 lunch?

15 MR. FARLEY: No, Your Honor.

16 THE COURT: All right. Everyone have a nice lunch.
17 We'll see everyone at two o'clock.

18 (Off the record at 1:01 p.m.)

19 (On the record at 2:07 p.m.)

20 THE COURT: Thank you. Everyone please have a seat.

21 (The courtroom complies.)

22 (Brief pause.)

23 MR. LUPTON: Your Honor, may it please the Court?

24 THE COURT: Yes, sir.

25 MR. LUPTON: Your Honor, while the jury is out, we

1 just discussed -- Counsel and I discussed the fact that
2 the -- the *Bruton* motion would apply equally to the
3 Defense as well. I believe each attorney can open the
4 doors and the statements made against their client, but
5 could not ask what the co-Defendant said or what their
6 client said against the co-Defendant.

7 THE COURT: Counsel?

8 MR. LUPTON: Which everybody's in agreement about
9 that.

10 MR. LEIENDECKER: Under -- understood, Your Honor.

11 THE COURT: Mr. Farley?

12 MR. FARLEY: Yes, I understood, Your Honor.

13 MR. LUPTON: I don't -- I don't think there's going
14 to be an issue there.

15 THE COURT: All right. Any -- anything further
16 before I bring the jury out?

17 MR. LUPTON: No, Your Honor. I think we're both
18 ready for the opening arguments.

19 THE COURT: All right. Let's have our jury, please.

20 (Brief pause.)

21 (Jury enters at 2:09 p.m.)

22 THE COURT: Okay. Welcome back ladies and gentlemen
23 of the jury. We're now ready to proceed. Mr. Clerk, if
24 you'd please swear in the jury.

25 THE CLERK: Thank you, ma'am. Please the Court.

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(The jury is sworn.)

THE COURT: Again, welcome ladies and gentlemen of the jury. Thank you for accepting the important responsibility of jury service and for your contribution today to our system of justice.

What I will now say to you is intended to serve as an introduction to the trial of this case. These remarks are not a charge on the law in this case. I will instruct you on the law applicable to this case at the end of the trial, before you retire to consider your verdict. This is merely an explanation of the procedure that we will follow so you may better have a better understanding of what is going on during the trial of this case.

You may not take notes during the trial of this case.

The Defendants are each charged by indictments filed in this Court with -- each with a count of murder and a count of armed robbery. The elements of the -- each of those offense will be explained to you later. The indictments are simply the charge by which the case is brought into court and it is not in any sense evidence of any of the allegations that they contain.

The Defendants have pled not guilty to these indictments. The State, therefore, has the burden of proving each of the elements of each of the indictments beyond a reasonable doubt. It will be your duty, ladies

1 and gentlemen, to decide whether the State has met that
2 burden.

3 Your purpose as jurors is to find and determine the
4 facts. You are the sole judges of the facts. If at any
5 time I make any comment regarding the facts, you must
6 disregard that. You are to determine the facts from the
7 testimony that you hear and other evidence that is
8 introduced into court. It is up to you to determine the
9 inferences which you feel may be properly drawn from the
10 evidence.

11 It is especially important that you perform your duty
12 of determining the facts diligently and conscientiously
13 because ordinarily there's no way to correct an erroneous
14 determination of the facts by a jury.

15 On the other hand, and with equal emphasis, the same
16 law that makes you the judges of the facts makes me the
17 judge of the law. The law as given by the Court is the
18 only law that you may consider. You must accept it and
19 follow it even though you may disagree with it. I cannot
20 tell you what the facts are, and you cannot disagree with
21 me about what the law is or what the law should be. Your
22 job is to take the law as I give it to you and apply it to
23 the facts as you find them from the testimony of the
24 witnesses and any other evidence that is introduced.
25 After doing that, you will render your verdict under the

1 solemn oath that you just took as jurors.

2 Until I advise you to begin your deliberations, you
3 must not discuss this case with anyone. This includes
4 your fellow jurors, your friends, your family members, and
5 anyone involved in this case. This includes anything
6 that's face-to-face, anything by telephone, email, text,
7 blogs, or any other method of communication.

8 You may not use a computer, a cell phone, or any
9 other electronic device with communication capabilities at
10 any time while you're in the courtroom or during your
11 deliberations. During your breaks for meals or for
12 overnight, if necessary, of course you may use these
13 devices; however, you may not at any time use these
14 devices to get or send information about this case. This
15 includes any information about a party, a witness, any
16 attorney, any court officers, any potential news accounts
17 about the case or any research on any topics that may be
18 raised or any topics that you think might be helpful in
19 deciding the case, or any testimony that's presented by
20 any of the witnesses.

21 During the trial, please do not read, listen to, or
22 watch any potential news reports about this case. This
23 would include anything that's in the newspaper, TV,
24 internet, radio, or anywhere else that you could possibly
25 see anything about this case. You must not consider

1 anything you may have read or heard about the case outside
2 of this courtroom, whether before or during the trial of
3 this case.

4 After the case is submitted to you, you must discuss
5 it only in your jury room with your fellow jurors.

6 The attorneys and the parties in this case have been
7 advised not to talk to you. So again, if you see them
8 coming in and out of the courthouse and they don't speak,
9 again, they're not being unfriendly, they're just
10 following the Court's instructions.

11 It is important that you keep an open mind and not
12 decide any issue in the case until all of the evidence has
13 been presented, the parties have -- have made their
14 closing arguments, and I have instructed you on the laws
15 of this case. It is your solemn responsibility to
16 determine the guilt or the innocence of the Defendants and
17 your verdict must be based solely on the evidence as it is
18 presented to you in the trial and the law as I instruct
19 you during and at the close of the trial.

20 In just a moment, the Solicitor will make what is
21 called an "opening statement," in which the Solicitor will
22 explain to you what the issues in the case are -- what the
23 Solicitor thinks the issues in this case are. The
24 attorneys for the Defense may also make opening
25 statements, although they are not required to do so.

1 What the attorneys tell you during their opening
2 statements is not evidence in this case -- case. It is
3 only their contention as to what the issues are.

4 The evidence in this case will be presented to you by
5 the testimony of the sworn witnesses from the witness
6 stand and any exhibits that are properly introduced during
7 the trial of this case.

8 From time to time during the trial you may hear one
9 of the lawyers say something like, "Your Honor, I have a
10 matter of law," or "May we approach the bench?" Or
11 sometimes myself -- I might find it necessary to excuse
12 you from the courtroom for a short while so that the
13 attorneys and I can discuss a matter of law. The reason
14 for this is because you are the judges of the facts in the
15 case, and sometimes when I'm discussing matters of law
16 with the attorneys, it may be necessary for me to make
17 some comment as to the facts in connection with ruling
18 whether or not a particular law applies.

19 I'm not supposed to tell you what I think the facts
20 are. So I will excuse you from the courtroom for a short
21 while, while these discussions take place so that you in
22 no way will be influenced by anything I might say or do in
23 connection with the facts of this case.

24 In determining what the true facts are in this case,
25 you must decide whether or not the testimony of witnesses

1 is believable. It will be my responsibility to rule as a
2 matter of law whether or not certain testimony is
3 admissible at all or not, but once the testimony is
4 admitted, whether you -- whether or not you believe it is
5 entirely up to you.

6 In deciding whether or not to believe a witness, you
7 have the right to consider the interest of any witness,
8 the bias of any witness, the prejudice of any witness, the
9 opportunity for the witness to have seen the matters and
10 the things about which the witness may testify, and the
11 way that the witness acts on the witness stand.

12 You have the right to consider anything that is in
13 the record that will help you evaluate the testimony of
14 the witnesses. That means it is your duty to pay close
15 attention to the witnesses, to observe the witnesses, to
16 listen to the witnesses, and to pay close attention to the
17 attorneys and to the Court.

18 Please don't let your thoughts wander, and give
19 strict attention to the testimony in this case so that at
20 the end of the testimony, after the arguments of Counsel,
21 and I have instructed you on the law of this case, you
22 will then be in a position to determine the facts and
23 apply the law to those facts and thus render a verdict
24 under the solemn oath that you just took.

25 Ladies and gentlemen, before we begin, is there any

1 objections or exceptions to the opening remarks from me
2 from the State or the Defense?

3 MR. LUPTON: None from the State, Your Honor.

4 MR. LEINENDECKER: None from the Defense.

5 MR. FARLEY: No, Your Honor.

6 THE COURT: You need to approach?

7 (Bench conference.)

8 THE COURT: And ladies and gentlemen in the gallery,
9 I'm not sure which are -- if any are listed as potential
10 witnesses. If you're listed as a potential witness in
11 this case, you must exit the courtroom at this time.

12 MR. LEINENDECKER: Your Honor, with the exception of
13 Mr. Tisdale, our investigator, right?

14 THE COURT: Yes, sir. And the -- the main case
15 officer for the State and --

16 MR. LEINENDECKER: Yes.

17 MR. LUPTON: Thank you, Your Honor.

18 THE COURT: All right. Solicitor?

19 MR. LUPTON: Thank you, Your Honor. May it please
20 the Court.

21 THE COURT: Yes, sir.

22 MR. LUPTON: Ladies and gentlemen of the jury, in the
23 course of this trial, I'll prove to you by any reasonable
24 doubt, that the Defendants, Derrick Mills and Quintin
25 Mills, are guilty. Guilty of murder, guilty of armed

1 robbery.

2 Now, murder and armed robbery is basically exactly
3 what you would expect it to be. Murder is killing with
4 malice aforethought expressly implied.

5 The judge is going to go over the law at the end of
6 the case, but just briefly, killing a person with malice
7 aforethought, that just means malice aforethought was used
8 and you had ill will, you intended to kill them.

9 Aforethought doesn't require any long length of time.
10 It doesn't require a premeditated planning be formed as
11 you pull the trigger, just that at that time you were
12 acting to kill them, with such reckless disregard for
13 whether they lived or died, that it would be reasonable
14 for them to die; abandoned and malignant heart.

15 Armed robbery is just taking something of value from
16 somebody else while armed with a deadly weapon. Basically
17 just what you'd expect. Now, with that, it also counts as
18 armed robbery if somebody is murdered and then that
19 stuff's stolen from them immediately thereafter. You --
20 you take it -- it's all a part of the same problem, kill
21 them and then take it from them as they're dying or as
22 they lay dead.

23 Now, one thing that I want you to understand in the
24 law, we've got two Defendant's in this case. Obviously,
25 when you hear the testimony, you -- you'll find out what

1 happened, but we're not going to try and tell you that
2 they both pulled the trigger. One gun, one person with a
3 hand on the gun pulling the trigger.

4 But in South Carolina, we have something called "the
5 hand of one is the hand of all." It's called co-
6 conspirator liability. It says if two or more people act
7 together to commit a crime, then each is responsible for
8 the acts of the other in furtherance of that crime. So
9 even if one person has the gun, one person pulls the
10 trigger, if the two were acting together to commit that
11 robbery, then both are guilty of robbery and murder.

12 And that's going to be important in this case 'cause
13 what you're going to see, through the evidence from the
14 witnesses, is that that's exactly what happened here.
15 You're going to hear that here in Calhoun County, on
16 Saturday, December 13, 2014, that the Defendant, Quintin
17 Mills, set up to sell a motorcycle. He claimed to have an
18 R-1000 motorcycle that he was willing to sell for \$500 to
19 the victim in this case, Charles Brown. So he was going
20 to sell this motorcycle for \$500, and they set up to do
21 that.

22 You're going to hear how Charles Brown went to -- to
23 go get that. He brought his son with him and he brought a
24 -- a person, Vincent Kendrell Thompson -- goes by
25 "Kendrell" -- brought him there 'cause he has a motorcycle

1 license, and he was going to drive the motorcycle home
2 after he had bought it. Charles is driving the Jeep;
3 Kendrell's going to drive the motorcycle home.

4 You're going to hear about how Quintin kept putting
5 him off. It was supposed to take place in the afternoon,
6 during daylight, at a public location. They talked about
7 doing this over at Rolling Meadows, a neighborhood.

8 If you go out I-26, past Zeus, past I -- at the I-26
9 overpass, that bridge there, and keep going, that's right
10 there on the right. They were going to do it there. Kept
11 stalling, kept delaying.

12 Eventually, they end up -- you're going to hear
13 testimony about them ending up at that El Cheapo's there
14 at the 119 exit there at I-76, right over the other side
15 of I-26. And you're going to hear testimony about that,
16 how after they waited a little while, the victims, they
17 decided to go into that convenience store gas station and
18 get some food.

19 They go in there, they get some food, they're there
20 for a little bit, and as they're leaving to go back to
21 Rolling Meadows -- and then they see Defendant -- the two
22 Defendants pulling into the store in a car.

23 And they'll explain to you they saw them and they
24 figured they're going to get the motorcycle. So they --
25 they went back to Rolling Meadows, and after that they end

1 up getting more stalled or delayed -- and eventually they
2 ask to move it to Sugar Hill, a secluded park -- after
3 dark, a secluded park here in Calhoun County, secluded
4 area in Calhoun County.

5 Now, there's going to be talk about the videos at the
6 convenience store. So I'm going to explain to you up
7 front what you're going to be hearing. You're going to
8 see videos, you're going to hear testimony about videos.
9 You're going to see in the videos that there's videos from
10 the store that have a time stamp on them. What you're
11 going to see from the videos is it's clearly light out,
12 clearly light out.

13 Now, the Court's already taken judicial notice that
14 sunset here on that day was at 5:16 p.m., 5:16 p.m. You
15 will hear evidence that the crime occurred right around
16 6:30, a little bit after 6:30.

17 So you're going to have some potential evidence
18 coming in trying to say that the Defendant -- because he's
19 on video at this convenience store and there's video
20 showing the time stamp of 6:30, roughly the time the crime
21 happened, that he couldn't have been there.

22 But you're going to hear testimony that it was dark
23 when the crime happened, and you're going to see from that
24 video that it was clearly not dark in the video.

25 And ladies and gentlemen, I'll remind you that in

1 December, we have something called "daylight savings time"
2 in this country. You move the clocks back an hour. So
3 you're going to have to decide how you're going to deal
4 with that.

5 Now, getting back to the actual crime, you're going
6 to hear that after delay after delay, finally Quintin
7 wanted to do this on a secluded dirt road in the Sugar
8 Hill area, after dark.

9 You're going to hear that the Defendant -- that the
10 victims go into this location and you're going to hear
11 about how there's an argument over the motorcycle. It's
12 not -- the -- the motorcycle that's brought isn't the
13 motorcycle that was promised. You're going to hear that
14 the victim, Charles Brown, chose to buy one -- the money
15 was going there to buy the motorcycle and he says, "Do you
16 have the motorcycle you promised for the price you
17 promised? Call me and I'll buy it."

18 And at that point, rather than letting those people
19 leave with that money, you're going to hear Derrick pulled
20 out a gun, robbed the Defendant -- excuse me, robbed the
21 victim, Charles Brown, and shot him; and hear witnesses
22 explain to you saw him shoot him in the face.

23 And you're going to hear he kept shooting as he fell
24 down, kept shooting him while he was on the ground; that
25 Quintin, during all this, was grabbing one of the other

1 people, Kendrell. Dragged him out of the car, taking
2 stuff from his pockets.

3 You're going to hear how Jarvis Mack, the victim's
4 stepson -- when those two were doing that, he took off
5 running. He ran, he was scared. He got away and he
6 called for help, called 9-1-1, told them what happened,
7 called for help.

8 The police came. You're going to hear how, once the
9 police get there, they find the victim dead.

10 Ladies and gentlemen, you're going to hear how
11 Quintin turned himself in the next day, how Derrick wasn't
12 caught until April, 2017, and that brings us here to this
13 courtroom today.

14 In the course of this trial this week, you're going
15 to hear all the evidence in this case. And once you've
16 heard the evidence in this case and after you've heard the
17 arguments of counsel, after you've heard the judge tell
18 you what the law is, explain to you the law, you're going
19 to go back to that jury room that you were just in and
20 you're going to be asked to deliberate; and you're going
21 to ask -- be asked to return a verdict.

22 Ladies and gentlemen, all I ask -- all I ask of you
23 this week is that after you've heard the evidence, that
24 you return a just verdict. Thank you.

25 THE COURT: Counsel?

1 MR. STEVENS: Judge, may it please the Court?

2 THE COURT: Yes, sir.

3 MR. STEVENS: Mr. Prosecutor.

4 The discrepancies are reasonable doubts. He made a
5 note to say about it. There are discrepancies in the
6 Government's case.

7 I want you to listen to the testimony and the
8 physical evidence from the date of the incident 'cause
9 when you do, you'll agree there are discrepancies:
10 Discrepancies in the stories you're going to hear told by
11 Jarvis Mack and by Kendrell Thompson and the physical
12 evidence in the case, and discrepancies in the
13 Government's case are the reasonable doubts.

14 That's because Derrick Mills -- Derrick Mills is not
15 guilty. He is not guilty of murder, he is not guilty of
16 armed robbery. He stands before you an innocent man, and
17 he carries that presumption of innocence with -- he
18 carries that presumption today. He carries that
19 presumption of innocence with him throughout this whole
20 trial, and he even carries that presumption of innocence
21 at the end of this trial when you deliberate his fate in
22 that jury room.

23 He bears no burden of proving it at all. In fact,
24 there's only one party -- the one group of folks that have
25 any burden and that's the Government. And as this nation

1 was founded, that's as it should be, that the Government
2 be the sole bearer of the burden of proof.

3 And in this case, as in every felony case, it's the
4 highest burden of proof in our system of justice. It's
5 proof beyond a reasonable doubt. It is what is demanded
6 by the law. Not some "maybe" standard; not a
7 preponderance of the evidence standard where it's like
8 50/50, maybe a little bit more; not probably he did it.
9 No, that's a civil standard. That is not proof beyond a
10 reasonable doubt, the highest standard to meet, and the
11 heaviest burden to lift.

12 It's not even an intermediate standard of clear and
13 convincing evidence. That is not the burden of proof that
14 the Government bears. They bear the heaviest burden of
15 proof, the highest standard we have, proof beyond a
16 reasonable doubt; and the discrepancies in their evidence
17 are reasonable doubts.

18 So what is a reasonable doubt? Simply stated, it's a
19 doubt that should be reasonable like discrepancies in
20 their evidence. If something causes you to hesitate to
21 act, that is a reasonable doubt. The discrepancies in the
22 Government's evidence in their case are reasonable doubts.

23 I want you to pay attention to the testimony and the
24 physical evidence. When you do, you'll see that this
25 investigation into this homicide, off the jump, was

1 founded on the story they first heard; and there are
2 discrepancies in the stories, and the physical evidence
3 and discrepancies are reasonable doubts.

4 Ahead of this case -- remember -- come back up here
5 to this conversation, and we're going to ask you that you
6 apply your oath, that you hold the Government to its
7 burden of proof to prove beyond a reasonable doubt because
8 if you do, I'm confident you'll agree Derrick Mills is not
9 guilty; not guilty of murder, not guilty of armed robbery.
10 He is not guilty. Thank you.

11 THE COURT: Counsel?

12 MR. FARLEY: May I please the Court, Your Honor.

13 THE COURT: Yes, sir.

14 MR. FARLEY: Ladies and gentlemen of the jury, thank
15 you for being here today. I wanted to remind you -- my
16 name's Andrew Farley and I'm not a Public Defender. I'm a
17 private attorney and I only represent Mr. Quintin Mills,
18 and I just wanted to make that distinction between Quintin
19 and Derrick Mills. Okay?

20 They're equally charged with the murder and armed
21 robbery, and -- and I'm here to speak on his behalf, Mr.
22 Quintin Mills.

23 And they have -- really, the essential issues, if I
24 can just break that down for you, is whether Mr. Mills is
25 guilty of murder and armed robbery. In a nutshell, that's

1 what you have to decide here today.

2 Now, as we proceed with this trial, you're about to
3 see all the evidence and hear all the testimony of the
4 witnesses. And we believe that the evidence is going to
5 show that Mr. Quintin Mills did not have a firearm, Mr.
6 Quintin Mills did not rob anyone; and most importantly,
7 Mr. Mills is not a conspirator or co-conspirator with Mr.
8 Derrick Mills.

9 We believe that the evidence is going to show he did
10 certainly try to make a transaction of a motorcycle with
11 some of the victims, mostly Jarvis Mack, in this matter;
12 but whatever anyone else did in this has no relation to
13 Mr. Quintin Mills.

14 And we believe that after you hear the evidence,
15 after you hear the testimony of the witnesses, that this
16 is the same conclusion that you must come to.

17 So I would ask you and Mr. Mills would ask you to
18 please listen closely to the evidence, please listen
19 closely to these witnesses. And when you go back to that
20 jury room to deliberate, we believe that you can only
21 reach a just verdict here; and that verdict will be what
22 the evidence we'll show in here today, that Mr. Quintin
23 Mills is not guilty of these charges that the State has
24 brought against him.

25 The standard that Mr. Stevens pointed out earlier --

1 and I'll go over it just briefly 'cause I think he did a
2 great job.

3 The standard in any criminal case is reasonable
4 doubt, and as he pointed out, it's a very, very high
5 standard. It is an extremely high standard and that --
6 and -- that standard of reasonable doubt and it's -- the
7 -- the factors in it would make a reasonable person pause
8 and question what's going on. That's the standard that
9 you must apply, and the judge is going to rely on you to
10 do this part.

11 And we believe that, again, when you go back to that
12 jury room and you take all the evidence with you, you'll
13 reach the appropriate verdict of not guilty for Mr.
14 Quintin Mills. Thank you, ladies and gentlemen.

15 THE COURT: Solicitor, you may call your first
16 witness.

17 MR. LUPTON: Thank you, Your Honor. We call Dr.
18 Ross.

19 **DR. JANICE EDWARDS ROSS,**
20 after having first been duly sworn testifies as follows:

21 THE COURT: Your witness.

22 MR. LUPTON: Thank you, Your Honor.

23 DIRECT EXAMINATION

24 BY MR. LUPTON:

25 Q Dr. Ross, could you tell the jury who you are,

1 please?

2 A Yes. I'm Janice Ross. I am a forensic pathologist,
3 which means I've been through four years of college, four
4 years of medical school, and five years of training in the
5 field of pathology.

6 Pathology is a discipline in medicine where we learn
7 how to do -- identify and diagnose diseases and cancers
8 using a micro -- microscope and laboratory work. We also
9 learn how to do an autopsy to find the cause of death.

10 A forensic pathologist is further trained to identify
11 patterns of injury, to document those injuries for the
12 court -- court of law, to cause -- draw fluids for
13 toxicology, and to form a cause and manner of death.

14 Q And how long have you been a doctor?

15 A Since 1972.

16 Q And ---

17 A 42 years.

18 Q And how much of that has been as a pathologist?

19 A 42 years.

20 Q And as part of your training, does it also include
21 removing foreign objects from a body during autopsy?

22 A Yes.

23 Q Does it include preserving that as evidence for use
24 in court cases?

25 A Yes.

1 Q All right. And have you been qualified in other
2 courts as an expert in forensic pathology?

3 A Yes, I have, over 200 times.

4 Q Over 200 times?

5 MR. LUPTON: Your Honor, at this point we'd move to
6 qualify her as an expert in forensic pathology.

7 THE COURT: Any *voir dire*?

8 MR. STEVENS: If I may, Judge, briefly?

9 THE COURT: Sure.

10 MR. STEVENS: Thank you, ma'am.

11 VOIR DIRE

12 BY MR. STEVENS:

13 Q Good afternoon, Dr. Ross. How you doing?

14 A Doing fine.

15 Q All right. Breen Stevens, from the Public Defenders
16 Office. Obviously, this is not the first time we've had
17 the privilege of having a conversation together. I just
18 want to ask you just a few questions about your field of
19 pathology.

20 A Yes.

21 Q Okay. Now, in your field of pathology, you indicated
22 that for forensic pathology, not just regular pathology,
23 you do look at patterns of injury, correct?

24 A Correct.

25 Q Okay. And sometimes part of those patterns of injury

1 include basically stippling, tattooing, etcetera, from
2 gunshots?

3 A Correct.

4 Q Okay. So that is within your field of expertise?

5 A Yes.

6 Q Okay. I understand.

7 But it does not include, like, crime scene
8 reconstruction itself; would that be accurate to say?

9 A No.

10 Q Okay. Thank you, ma'am.

11 MR. STEVENS: No further questions, Judge.

12 THE COURT: Any voir dire?

13 MR. FARLEY: No, Your Honor.

14 THE COURT: Any objection to her qualification as an
15 expert?

16 MR. STEVENS: None from the Defense, Judge.

17 THE COURT: Okay. The Court finds ---

18 MR. FARLEY: None from the Defendant Quintin Mills.

19 THE COURT: --- finds that she's qualified as a
20 forensic pathologist.

21 Ladies and gentlemen of the jury -- jury, normally
22 when -- a person cannot give opinion testimony. Normally
23 when a person testifies, they must testify as to what they
24 either saw, heard, or sensed by smell or something of that
25 nature; however, there's an exception when someone is

1 qualified because of education and experience. They're
2 permitted to give their opinion in certain areas if the
3 Court qualifies them that way.

4 Dr. Ross is qualified in the area of forensic
5 pathology to give an opinion that -- testimony in that
6 area. That does not mean that you must accept the
7 opinion, but it is evidence for you to use in any way that
8 you see fit and give it the weight and credibility that
9 you believe is appropriate.

10 (To Mr. Lupton) You may proceed.

11 MR. LUPTON: Thank you, Your Honor.

12 DIRECT EXAMINATION

13 BY MR. LUPTON:

14 Q Doctor, did you perform an autopsy on the victim in
15 this case, Mr. Charles Brown?

16 A Yes.

17 Q When did you do that?

18 A That was on December 15, 2014.

19 Q And would that have been a Monday?

20 A I'm not sure.

21 Q Okay. December 15th.

22 And I'll show you what's been marked as State's
23 Exhibit 1.

24 (Mr. Lupton hands a document to the witness.)

25 Q Doctor, do you recognize this?

1 A Yes. This is my report on the autopsy from Charles
2 Brown.

3 Q And was it prepared contemporaneous -- or rather
4 shortly after the autopsy?

5 A Yes.

6 Q And is it correct and accurate?

7 A Yes.

8 MR. LUPTON: Your Honor, I'd move State's Exhibit 1.

9 THE COURT: Any objection?

10 MR. STEVENS: If I could just take a look at that
11 real quick first?

12 THE COURT: Certainly.

13 MR. STEVENS: I appreciate it.

14 (Brief pause.)

15 MR. STEVENS: Okay.

16 THE COURT: Without objection?

17 MR. STEVENS: Without objection, Judge.

18 MR. FARLEY: Without objection from Quintin Mills.

19 THE COURT: State's 1 is in.

20 (State's Exhibit No. 1, autopsy report, in evidence.)

21 Q And I'd like to go over your findings in that report
22 if ---

23 A Yes.

24 Q --- we could, please. What were your findings?

25 A I found that there were -- this patient was shot six

1 times.

2 Q And going over those -- you've got them labeled. And
3 I understand that you don't know what order the bullets
4 were fired; is that correct?

5 A That's correct. We organized the gunshot wounds from
6 the top to bottom, but that does not mean that's the
7 sequence that he received them in.

8 Q You just have to have some way to -- to talk about
9 ---

10 A Correct.

11 Q --- them; is that correct?

12 All right. So the first one that you list, what was
13 the first gunshot wound you ---

14 A The first one went in the -- basically the upper
15 neck, just below the -- just below the left ear; and it
16 went from left to right and it ended up in the maxillary
17 sinus over here in the -- the cheek.

18 Q So would that be consistent with somebody holding a
19 firearm in their right hand, firing it from -- or either
20 hand, but firing it from the left side of the -- the
21 person's head ---

22 MR. STEVENS: Judge, Judge --

23 Q --- towards the right?

24 MR. STEVENS: Calls for speculation of the crime
25 scene reconstruction essentially.

1 THE COURT: Sustained.

2 Q It went from -- the entry wound was in the left side
3 of the neck -- left side of the neck and went towards the
4 right?

5 A That is correct.

6 Q All right.

7 A Bullets go straight. So it's going left to right.
8 It's going slightly upward.

9 Q And was that wound fatal?

10 A It was potentially fatal. It -- it hit the --
11 several blood vessels in the upper neck. It went just
12 above the voice box, the larynx.

13 Q So had something else not -- had he not died of
14 something else, he would've potentially died of that part
15 eventually?

16 A Potentially, yes.

17 Q All right. And then what was the second entry wound?

18 A The second wound we described went in the right
19 forearm on the --

20 Q What entry --

21 A -- what we call the "anterior surface."

22 Q What direction was the path that it's traveling?

23 A It was going slightly upward, but the bullet was not
24 too far inside.

25 Q And when you say "slightly upward", you're talking

1 about -- it was the right arm?

2 A Yes. It would be towards the head wound.

3 Q All right. Does that mean necessarily that it was
4 shot at an upward angle or just ---

5 A It just means -- there are two moving parts, the gun
6 and the arm. So all I can say is it went in the front of
7 the arm.

8 Q So the arm could've been raised and the bullet going
9 down?

10 A Correct.

11 Q What about the third?

12 A The third one went in the left arm, and again, it
13 went into the -- the back of the left forearm and
14 underneath the skin; but it also -- it went up --
15 continued underneath the skin, and then ended up near the
16 shoulder.

17 Q All right.

18 A So the gun would have to be toward -- well, in front
19 of the arm if the arm was outstretched.

20 Q All right. So for two and three, would that be
21 consistent with -- well, let me rephrase it. It -- it --
22 firing from this direction (indicates), going from this
23 direction from the left -- back of the left forearm
24 towards the shoulder?

25 A Correct.

1 Q All right. So in that -- that general direction?

2 A Correct.

3 Q All right. And then what was the next one?

4 A The -- there were two in the back. The next one was
5 in the back in the right mid-back that went into the back
6 towards the front of the body slightly upward and then
7 went into the upper lobe of the right lung.

8 Q All right. And was that fatal?

9 A Yes.

10 Q And so basically somebody was shot in the back?

11 A Yes.

12 Q At slight upward angle?

13 A Yes.

14 Q And then No. 5?

15 A That was -- also went into the back and left, a
16 little lower than the -- the first one -- the previous one
17 in the left back. And it went into the spinal cord at
18 that point.

19 Q And was that fatal?

20 A Potentially.

21 Q Had he not died of the injury to his lung, he
22 could've died from that one, too?

23 A Right. He could've at least been paralyzed and
24 possibly died from laceration of the blood vessels.

25 Q And then the -- the -- the final gunshot wound?

1 A That was just a graze wound. It just went across the
2 skin of the left knee.

3 Q All right. And so what was the cause of death?

4 A It was what we call "exsanguination," which means to
5 bleed out due to the gunshot wound to the back.

6 Q And in the process of doing your autopsy, did you
7 recover bullets and bullet fragments?

8 A Yes.

9 Q I'll show you what's marked as State's Exhibit 2.

10 (Mr. Lupton hands exhibit to the witness.)

11 Q Do you recognize those?

12 A Yes. I can't see all of them. These -- this is the
13 way we seal them and label them at the time of autopsy.
14 We label them according to where they were found.

15 Q And those are your labels?

16 A Yes.

17 Q Those are the bullets you recovered during this
18 autopsy?

19 A Yes.

20 MR. LUPTON: Your Honor, we move to admit this as
21 State's Exhibit 2.

22 THE COURT: Any objection?

23 MR. STEVENS: No objection, Judge, from Derrick
24 Mills.

25 MR. FARLEY: No objection from Quintin Mills.

1 THE COURT: All right. They're in.

2 (State's Exhibit No. 2, bullets and fragments,
3 in evidence.)

4 Q All right. And when you recovered each of those
5 bullets -- and I think in your report is it -- is it
6 correct that you note in your report each bullet that you
7 recover?

8 A Yes.

9 Q All right. And the location from which you recovered
10 it?

11 A Yes.

12 Q All right. And what did you do once you recovered
13 those bullets or bullet fragments?

14 A We seal them and label them and I initial them, and
15 we submitted them to the SLED agent that was at the
16 autopsy, Tiffany Hazel, or something like that, who then
17 submitted them to SLED.

18 Q All right. And so the inner -- smaller inner sealed
19 envelopes are the ones that you sealed and handed over to
20 them?

21 A Yes. And then we subsequently seal them in a large
22 bag together.

23 Q All right.

24 A And did you tamper with them or alter them in any
25 way?

1 Q Just rinsed them off, that's all.

2 A All right.

3 Q So you didn't change the structure or anything of
4 that nature?

5 A No, sir.

6 Q And -- thank you. I have no further questions.

7 THE COURT: Cross-examination?

8 CROSS-EXAMINATION

9 BY MR. STEVENS:

10 Q Okay, Dr. Ross, just briefly. I want to first ask
11 you some questions about December 13, 2014, all right?
12 Now, quite obviously, you were not on the hill at 116
13 Falcon Lane that night, right?

14 A Correct.

15 Q Okay. And that means you didn't see what happened
16 there?

17 A That's correct.

18 Q And you didn't see who was present there, right?

19 A Correct.

20 Q Okay. We got that out of the way. Thank you.

21 Let's talk about what you did do in this case again,
22 okay? Part of what you do is examine remains to determine
23 cause of death; would that be accurate?

24 A Yes.

25 Q Okay. And so you thoroughly -- when you actually

1 examine things, you -- you thoroughly examine the head,
2 correct?

3 A Yes.

4 Q Okay. And you examine the arms?

5 A Yes.

6 Q You examine the legs?

7 A Yes.

8 Q You examine the skin?

9 A Yes.

10 Q Okay. And you also wash up blood, too, because you
11 kind of need to do a thorough examination; would that be
12 accurate?

13 A To get a good view of the -- in the wounds, yes.

14 Q Okay. But then it's -- so then it's necessary for
15 you to properly perform your job?

16 A Correct.

17 Q Okay. I got you. And you write your findings in
18 your report, correct?

19 A That's right.

20 Q Okay. I got you. And here, obviously, you examined
21 the remains of Mr. Brown, right?

22 A Yes.

23 Q Okay. And that was on December 15, 2014?

24 A Yes.

25 Q And it's approximately two days after the incident

1 itself?

2 A Correct.

3 Q Okay. And when you did, you said you noticed there
4 were several holes in his body for that incident, right?

5 A Correct.

6 Q Okay. Essentially, like you told the prosecution,
7 five gunshot wounds and one graze wound?

8 A Yes.

9 Q Okay. Now, I'm a much more visual guy, and as of
10 today, we're provided a little bit more from your report,
11 which -- specifically, a diagram. If we actually showed
12 you those, would that be accurate?

13 A Yes.

14 Q Okay.

15 MR. STEVENS: Judge, may I approach?

16 THE COURT: Yes, sir.

17 Q Let's just go ahead and do me a favor and take a look
18 at that, please (indicating). Is that -- is that an
19 accurate picture? Is that the diagram that you produced
20 as part of your autopsy report?

21 A Yes. The only thing is, in the back of the -- I have
22 the one gunshot wound in the back of the left arm, which
23 should be in the back right arm.

24 Q Okay. I understand. Thank you, ma'am.

25 But with that correction to the diagram, I understand

1 that.

2 MR. STEVENS: The Defense would respectfully move to
3 -- move this into evidence. Any objection from the
4 Government?

5 MR. LUPTON: No objection, Your Honor.

6 THE COURT: Any objection?

7 MR. FARLEY: No objection from Quintin Mills, Your
8 Honor.

9 MR. STEVENS: I'd like to enter it as a Defense
10 Exhibit 7.

11 THE COURT: All right it's -- that's Defense 1?

12 MR. STEVENS: Actually, it's Defense No. 7. We had
13 others pre-marked, Your Honor. I apologize.

14 THE COURT: Okay.

15 MR. STEVENS: Thank you, ma'am.

16 (Defense Exhibit No. 7, Autopsy diagram, in evidence.)

17 Q Okay. So let's talk about some of those wounds,
18 okay? And you -- again, you indicated that one was
19 actually located in the head area?

20 A Yes.

21 Q Okay. Specifically, it was in the left side, right?

22 A Yes.

23 Q Okay.

24 A Below the left ear.

25 Q Just below the left ear, you said? I'm sorry.

- 1 A Yes.
- 2 Q Okay. And you said that wound was left to right?
- 3 A Correct.
- 4 Q Okay. It wasn't to the face, right?
- 5 A No.
- 6 Q It wasn't to the eye?
- 7 A No.
- 8 Q It wasn't to the nose?
- 9 A No.
- 10 Q Forehead?
- 11 A No.
- 12 Q Mouth?
- 13 A No.
- 14 Q The left side, correct?
- 15 A Correct.
- 16 Q Okay. And another was to the forearm? You said the
- 17 right forearm?
- 18 A Yes.
- 19 Q Okay. And that's right around the arm that had the
- 20 tattoo "Mob"?
- 21 A I believe so, yes.
- 22 MR. STEVENS: I apologize, Judge.
- 23 Q If it helps refresh -- refresh your recollection.
- 24 A I have.
- 25 Q Okay.

1 A Yes.

2 Q Okay. You said the third was in the left forearm?

3 A Yes.

4 Q Okay. And you said there was one in the lower back?

5 A One in the right mid-back --

6 Q Okay --

7 A -- that came in the left forearm.

8 Q But right in the mid-back? That's right below the
9 tattoo that says "100 percent player"?

10 A Yes.

11 Q Okay. I got you. And I know there's nothing in the
12 front of his chest.

13 A Correct.

14 Q Just like there's nothing in his face, right?

15 A Correct.

16 Q So that means there's nothing on his tattoo
17 that said "player for life"?

18 A Correct.

19 MR. LUPTON: Your Honor, objection to the -- all the
20 stuff about the tattoos. His tattoos are not on trial.

21 MR. STEVENS: Judge, respectfully, it's actually part
22 of the -- the exhibit in evidence.

23 THE COURT: I'll allow it.

24 MR. STEVENS: Thank you, Judge.

25 Q And like you told the Prosecution, you cannot say

1 exactly which one was created first, correct?

2 A I -- I'm sorry.

3 Q You cannot say with 100 percent certainty which wound
4 was created first?

5 A That's correct.

6 Q Okay. And your conclusion was that the cause of Mr.
7 Brown's death was exsanguination due to laceration of
8 lung, due to the gunshot wound to the back?

9 A Correct.

10 Q Correct? Okay. And as he indicated, exsanguination
11 is bleeding out to death, could've occurred within
12 minutes, right?

13 A Yes.

14 Q Okay. Now, you indicated during *voir dire* that part
15 of what you do as a forensic pathologist does include
16 knowledge and testimony and look for, really, stippling --

17 A Yes.

18 Q -- and tattooing?

19 A Yes.

20 Q We're not tacking -- talking about tattooing in ink,
21 right?

22 A That's a different type of --

23 Q We're talking about tattooing or stippling caused by
24 gunshot wounds, correct?

25 A Correct.

1 Q Specifically, if the gun is fired within a close
2 relative range to the skin; is that accurate?

3 A Yes.

4 Q Okay. Could you please describe to the jury how that
5 occurs?

6 A Sure. When a bullet comes out of a gun, also comes
7 out soot -- which only goes a certain distance -- and
8 particles of gun powder. Gun powder particles will go a
9 little further than the soot, but not as far as the bullet
10 obviously. So if you see -- if you see soot on the skin,
11 you can say that the -- the gun was fairly close to the
12 skin.

13 If you see tattooing, which is where the particles of
14 -- of burning powder hit the skin and make little marks,
15 then you would say that the gun was what we call
16 "intermediate range," within a couple of feet of the skin.
17 But if you don't see any of that, we call it the "distant
18 range wound," which is at least two feet or beyond.

19 Q Thank you. And I -- to be clear and fair, something
20 like a 12-gauge shotgun shell would have a far greater
21 range compared to something like a .22 or a .9 millimeter,
22 correct?

23 A Correct.

24 Q Okay. And like you said, you examined Mr. Brown's
25 remains?

1 A Yes.

2 Q Including his skin, right?

3 A Yes.

4 Q And that also includes the skin around the wound
5 below his left ear?

6 A Yes.

7 Q Okay. And also the face kind of around that area
8 too, right?

9 A Yes.

10 Q Okay. And you did not find or see any stippling or
11 powder burns around the wound to the left side of the
12 head, correct?

13 A Correct.

14 Q Okay. Nor did you see any stippling or powder burns
15 found on the left side of his face --

16 A Correct.

17 Q -- correct? Okay.

18 MR. STEVENS: Court's indulgence.

19 (Brief pause.)

20 Q Now, when you spoke with the prosecution, you
21 indicated that you did find some bullet fragments in the
22 body, correct?

23 A Yes.

24 Q Okay. And I know you're not a ballistics expert, and
25 I'm not asking you to testify as such. But in your

1 experience, would you classify those as a smaller caliber?

2 A They appeared to be, but I -- I -- I leave that up to
3 the experts.

4 Q Okay. Yes, ma'am. When it comes to the wound sites
5 created by those holes -- or the holes in there, about
6 what size would you say those were? Was it approximately
7 .2?

8 A I believe so.

9 Q Take your time if you need to look at your report.

10 A Yes, .2.

11 Q Okay. And that's not like .2 meters, right?

12 A No. It's .2 centimeters.

13 Q Thank you. I appreciate it. Thank you.

14 A Any time. .2 centimeters --

15 Q That's all right.

16 A -- of an inch.

17 Q Yes, ma'am. Absolutely. And to be sure, that's not
18 consistent with, like, a 12-gauge shotgun or anything,
19 right?

20 A Correct.

21 Q It's more consistent with a smaller caliber --

22 A Right.

23 Q -- instrument?

24 A Correct.

25 Q Okay. Thank you, ma'am. No further questions.

1 THE COURT: Cross-examination?

2 MR. FARLEY: Thank you. I'll be very brief with the
3 witness, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. FARLEY:

6 Q And Dr. Ross, I know this was covered by my
7 colleague, Mr. Stevens, but it is correct you're not a
8 ballistics expert -- expert; isn't that correct?

9 A Correct.

10 Q Okay. You don't match bullets with guns or -- or any
11 bullet fragments with other weapons or anything like that
12 --

13 A No, I do not.

14 Q --- do you? All right.

15 And you're only here to testify to the condition of
16 the victim; isn't that correct?

17 A Correct.

18 Q All right. And you certainly, in your -- even though
19 your knowledge is very extensive, you're not here to
20 testify to how -- potentially wielded the weapon or any of
21 that nature; isn't that correct?

22 A Correct.

23 Q All right. Thank you, Dr. Ross. I have no further
24 questions.

25 THE COURT: Any redirect?

1 MR. LUPTON: Thank you, Your Honor.

2 REDIRECT EXAMINATION

3 BY MR. LUPTON:

4 Q Doctor, if a person has clothing covering a -- some
5 type of a gunshot wound, would that stop the stippling and
6 tattooing?

7 A It could, yes.

8 Q So especially heavier clothing would be more likely;
9 is that correct?

10 A Correct.

11 Q All right. Now, a .22 caliber firearm fired from a
12 foot or two, would that necessarily leave stippling and
13 tattooing?

14 A I would leave that to the ballistics expert.

15 Q All right.

16 A We sent the clothing to SLED. We -- so I don't know
17 what they did as far as analyzing them.

18 Q As far as your training, you testified about the
19 stippling and tattooing. As far as your training, if --
20 if -- if the barrel was a foot or two away, it is possible
21 that there wouldn't be stippling or tattooing?

22 A Correct.

23 Q All right. And then with regards to the order of
24 shots, is there anything inconsistent with the face or the
25 arms being shot prior to the back?

1 MR. STEVENS: Judge, he's beyond the scope of the
2 cross.

3 Q Medically?

4 THE COURT: She can testify to a reasonable degree of
5 medical certainty.

6 A There's no inconsistency to that.

7 Q No way to tell if the -- the -- the -- the head shot
8 could've been first, the shots to the arms could've been
9 first; is that correct?

10 A Correct.

11 Q But as far as the amount of blood that was present,
12 it could've been any one of them first?

13 A Yes.

14 MR. LUPTON: Nothing further.

15 THE COURT: You may step down, Doctor, thank you.

16 Any objection to her being released from her
17 subpoena?

18 MR. STEVENS: None from the Defense --

19 MR. LUPTON: Thank you, Your Honor.

20 MR. STEVENS: -- Judge.

21 MR. FARLEY: None from Derrick Mills, Your Honor.

22 THE COURT: You're free to go, Doctor.

23 MR. FARLEY: I mean, Quintin Mills.

24 THE COURT: Thank you.

25 MR. FARLEY: Sorry.

1 (The witness exits the stand.)

2 THE COURT: You may call your next witness.

3 (Brief pause.)

4 MR. LUPTON: Call Kendrell Thompson.

5 THE COURT: Come on up to the witness stand, sir.

6 (The witness complies.)

7 **VINCENT KENDRELL DAVON THOMPSON,**

8 after having first been duly sworn, testifies as follows:

9 (Brief pause.)

10 THE COURT REPORTER: Can you spell your middle name?

11 THE WITNESS: Which one?

12 THE COURT REPORTER: Kendrell.

13 THE WITNESS: Kendrell, K-e-n-d-r-e-l-l.

14 THE COURT REPORTER: And is there another name other
15 than Vincent?

16 THE WITNESS: Davon.

17 THE COURT REPORTER: How is that spelled?

18 THE WITNESS: D-a-v-o-n.

19 THE COURT: Your witness.

20 MR. LUPTON: Thank you, Your Honor.

21 DIRECT EXAMINATION

22 BY MR. LUPTON:

23 Q So you go by "Kendrell"?

24 A Yes, sir.

25 Q All right. Tell the jury who you are please.

1 A I'm somewhat family to Quintin Mills and Derrick
2 Mills, and I basically grew up around them in the same
3 neighborhood for a long time.

4 Q All right. So how do you know them?

5 A We basically grew up around each other.

6 Q All right. And you say somewhat family.

7 A I mean, we call -- everybody in that area call [sic]
8 each other family.

9 Q All right. So you've known them all your life,
10 family. So is there any question as to who they are, any
11 -- any ---

12 A No, sir.

13 Q --- difficulty recognizing who they are?

14 A No, sir.

15 Q And then when you say "the area," what area is that?

16 A Sugar Hill Lane.

17 Q Sugar Hill Lane and the Sugar Hill area?

18 A Yes, sir.

19 Q All right. And -- and is that here in Calhoun
20 County?

21 A Yes, sir.

22 Q All right. Let me see if I can --

23 MR. LUPTON: Beg the Court's indulgence just a
24 minute.

25 (Brief pause.)

1 Q I'd like to show you these (hands maps to the
2 witness.) See if you recognize this area. Do you
3 recognize the maps? Sugar Hill Road and 176?

4 A Uh-huh.

5 Q And then a little bit closer.

6 A That's the hill.

7 Q And so on State's 6, 7, and 8, you recognize that
8 area?

9 A My grandma stays in that area.

10 Q That -- that's what you're talking about, Sugar Hill?

11 A Yes, sir.

12 MR. LUPTON: Your Honor, if I can move 6, 7, and 8
13 into evidence.

14 THE COURT: Any objection?

15 MR. LEINENDECKER: No objection, Your Honor.

16 MR. FARLEY: No objection from Quintin Mills, Your
17 Honor.

18 THE COURT: All right. They're in.

19 (Marked State's Exhibit Nos. 6, 7, and 8, maps of
20 Sugar Hill area, in evidence.)

21 DIRECT EXAMINATION

22 BY MR. LUPTON:

23 Q All right. And then you say you grew up around that
24 area, you know the area, you're from that area. What
25 about Charles Brown?

1 A Charles Brown? I really came in contact with Charles
2 Brown through Jarvis and his brother. So that's how I got
3 closer to Charles Brown, and then as me and them was
4 hanging out more and more, I got more in contact with
5 Charles Brown. So we just got cool and we just basically
6 became best friends. I mean, after me and him met, from
7 the first time, me and him was just -- we just clicked.
8 We bond [sic].

9 Q "You and him" being you and Jarvis or you and
10 Charles?

11 A Me, Jarvis, and CB. All us together just basically
12 hanged [sic] out.

13 Q Okay. And you said who?

14 A Jarvis --

15 Q Oh, CB.

16 A CB.

17 Q Charles Brown.

18 A Charlie Brown.

19 Q Okay. And who is Charles Brown? How is he related
20 to Jarvis?

21 A That's his step-dad.

22 Q Okay. And then you talked about hanging around with
23 them. Did you spend time with them on Saturday, December
24 13, 2014?

25 A Yes, sir.

1 Q Okay. What were you doing hanging out with them that
2 day?

3 A That day ---

4 Q What was going on?

5 A --- they called me to ride a motorcycle back for them
6 home. And I was cool with it 'cause, I mean, that's what
7 I love to do. So ---

8 Q And -- and ---

9 A --- it wasn't no problem.

10 Q --- did you have a motorcycle license?

11 A Yes, sir.

12 Q And did they?

13 A No.

14 Q All right. So they needed you to ride the motorcycle
15 'cause you have a license.

16 A Yes, sir.

17 Q All right. And so you're supposed to be going to buy
18 a motorcycle.

19 A Yes, sir.

20 Q Well, I said "you." Who was supposed to buy the
21 motorcycle?

22 A Technically, in my eyes, I thought Charles Brown was
23 buying the motorcycle.

24 Q All right. And then who did you see dealing with --
25 trying to set up the transaction?

1 A Jarvis was trying to set up the transaction.

2 Q And then who all went to -- to do this?

3 A It was me, Charles Brown, and Jarvis.

4 Q And then about what time did you start this process?
5 About what time of day did you start -- did you go over to
6 do this?

7 A I say it was probably around -- maybe, like, going on
8 five 'cause you're getting ready to -- it was right before
9 dark.

10 Q And at -- at the very start, when you first got up
11 with Jarvis and Charles.

12 A 'Bout like -- like 5/5:30. Somewhere in there.

13 Q All right. Well, was [sic] there delays in trying to
14 get to this?

15 A There was [sic] delays.

16 Q All right. So let's -- let's talk about that. When
17 you first started this whole process of trying to buy this
18 motorcycle, where did you go?

19 A We went to the El Cheapos.

20 Q Did you start off somewhere before El Cheapos, in the
21 neighborhood?

22 A Rolling Meadows.

23 Q Okay. Rolling Meadows. Where is Rolling Meadows?

24 A That's Charleston Highway.

25 Q All right.

1 A On the other side of the interstate by the Exxon and
2 -- what is that?

3 Q Just on the other side of the interstate on 176?

4 A Yeah.

5 Q And then -- so you start out Rolling Meadows, and did
6 you at some point end up at El Cheapos?

7 A We went to El Cheapos and then we went back to
8 Rolling Meadows.

9 Q All right. And what did you go to El Cheapos for?

10 A We went there just for something to drink.
11 Cigarettes, Charles had needed cigarettes. We was
12 drinking, so we went and get [sic] some cigarettes and
13 then we went back and waited on them to call us.

14 Q All right. So you went and got -- you said Charles
15 was drinking. Was anybody drunk?

16 A That day Jarvis and him was drinking.

17 Q All right.

18 A Charles Brown was drinking. They was both drinking.

19 Q But were they --

20 A That was -- that was the main reason why I was
21 supposed to ride the motorcycle back because they was
22 totally drunk. They didn't want to drive it, wasn't going
23 to take a chance. I had the license, so I said, "Come get
24 me."

25 Q Now, you end up at El Cheapos. About what time of

1 day was that?

2 A I would say at least 5:45, going on 6 'cause it was
3 getting ready to be dark.

4 Q It was still light out?

5 A It was still light, but then it was getting ready to
6 be dark.

7 Q All right. And then in relation to the time that you
8 left El Cheapos until the time that you ended up on Sugar
9 Hill, about how long -- but first of all, where did you go
10 after you left El Cheapos?

11 A We met at Roll -- Rolling Meadows and we waited some
12 more while they was drinking and then we went from there
13 straight to Sugar Hill Lane.

14 Q All right. So you waited there for awhile. So about
15 how long from -- from the time you left until the time you
16 ended up at Sugar Hill?

17 A At least 45 minutes to a hour.

18 Q At least 45 minutes to an hour?

19 A At least.

20 Q All right. And when you left El Cheapos it was still
21 light out?

22 A It was still light.

23 Q All right. And you've already talked about there
24 were multiple delays. Where did you -- where were you --
25 what was your understanding where you were supposed to

1 meet ---

2 A To ---

3 Q --- to go?

4 A --- be honest, it -- it really wasn't no
5 understanding, when I got in the car, where they was going
6 to meet until after dark fall.

7 Q All right. So after dark, where did you end up
8 getting told where to meet Quintin?

9 A Sugar Hill.

10 Q And is that a -- the area where you were arrested, is
11 that an area that is public, populated?

12 A I mean, for us it was.

13 Q Well, let me rephrase it. It -- I'm assuming, open
14 to the public, but was there a lot of people around?

15 A Wasn't nobody out.

16 Q All right. And were there lights, was it well lit,
17 dark?

18 A It was dark.

19 Q All right. Was it at a house that somebody was
20 living at?

21 A No.

22 Q Was it an abandoned house?

23 A It was an abandoned house.

24 Q All right. And the location where you met, where
25 everything happened, you said that's in -- here in Calhoun

1 County, correct?

2 A Yes, sir.

3 Q And down a dirt road?

4 A Yes, sir.

5 Q Now, I showed you -- I showed you State's Exhibit 8.

6 (Indicates) Is this the road that it was on?

7 A Uh-huh.

8 Q And what's the name of that road?

9 A Falcon Lane.

10 Q All right. And the house that's pictured --

11 A (Indicates) Right here.

12 Q Is that where it happened?

13 A Yes, sir.

14 Q All right. And then, on State's Exhibit 7, that just
15 the same area pulled back a little?

16 A Yes, sir.

17 Q There's a -- and then going to 6, is that the same
18 area pulled back even further?

19 A Yes, sir.

20 Q All right. And then you said you had a grandma that
21 lived on there?

22 A Yes, sir.

23 Q Where exactly does she live?

24 A My grandma stay right here (indicates), the first
25 house.

1 Q All right. So the first house on Sugar Hill Lane.

2 THE COURT: Solicitor, I don't think the jury can see
3 where he's pointing.

4 MR. LUPTON: I'm sorry.

5 Q And this is a secluded area at night, correct?

6 A Yes, sir.

7 Q Now, what happened as you pulled up? Did -- did you
8 have any reaction to the location?

9 A As we pulled up, I told them off the jump, I told
10 them I was like, "Man, y'all be careful. Y'all be on
11 point. I know this area and I know where this house is.
12 I know what goes on right here."

13 From that point on, I thought they understood what I
14 was saying, to watch they [sic] back.

15 Q All right. And you were concerned about something
16 there?

17 A I was concerned from the pull up, from the time we
18 pull in the yard.

19 Q What ---

20 A I told them.

21 Q --- were you concerned about?

22 A I mean, just me knowing the area. I don't -- I
23 couldn't say I knew something was going to happen. I just
24 had a feeling that something wasn't right.

25 Q All right. And then who was there when you pulled

1 up?

2 A When we pull up, Quintin was there.

3 Q And who else?

4 A After we got out and -- then that's when Derrick
5 stepped up. He came from the side of the house.

6 Q All right. So were you expecting Derrick?

7 A Nobody was expecting Derrick.

8 Q And then what happened once Derrick stepped out?

9 A I mean, he didn't say nothing from the beginning. He
10 was just watching.

11 And then I walked up to the motorcycle and then when
12 I noticed it wasn't a 1000, I let Charles Brown know that
13 it wasn't a 1000, it was a 600. And they kept asking me
14 how I knew, and I showed them.

15 So it went from that to a diversion of that we
16 already had -- they -- they discussed it already that it
17 wasn't going to be a 1000, but Charles Brown didn't know
18 that. He always thought it was going to be a 1000.

19 Q All right.

20 A So we get into a argument of which bike was what and
21 how we was going to get this arranged. Quintin was
22 compliance [sic] to it and he was ready to give him the
23 bike that he wanted.

24 After that, Charles -- Charles Brown was -- was like,
25 "Okay. Can we get this done tonight, tomorrow?"

1 And Derrick just stepped in and was, like, "Nah.
2 Something going to go down today. I need my money today."

3 Q All right. Was Charles willing to buy the R-600 ---

4 A He was ---

5 Q --- for the price ---

6 A He didn't ---

7 Q --- of the 1000?

8 A --- want a 600.

9 Q All right. So did he -- you say he refused to buy
10 it?

11 A He refused.

12 Q All right. What did everybody do? Did -- did ---

13 A We got ready to leave.

14 Q All right.

15 A Everybody was getting in the car.

16 Q All right. Everybody's getting in the car.

17 Did anybody do anything in response to y'all trying
18 to get in the car -- to y'all getting in the car?

19 A No. It was just -- it was just arguments of when we
20 was going to get the right bike, when was -- when we was
21 going to get this right bike ---

22 Q All right.

23 A --- that he was told.

24 Q Did -- as -- as part of that, did Charles ever show
25 anything?

1 A He showed the money 'cause they didn't think there
2 was money involved.

3 Q All right. And once he showed the money, what
4 happened?

5 A Then that's when Derrick revealed the gun.

6 Q Derrick ---

7 Q He put it -- he put it in Charles Brown face. He
8 revealed the gun and put it in Charles Brown face.

9 A All right. Derrick -- and just so we're clear, are
10 you talking about somebody at this table over here?

11 Q (Indicates) Yeah.

12 MR. LUPTON: Your Honor, I ask that the record
13 reflect that he has identified the Defendant.

14 THE COURT: Can you just be more specific as to which
15 Defendant he pointed out?

16 THE WITNESS: Right of the table.

17 MR. FARLEY: He identified the specific Defendant.

18 MR. LUPTON: I -- let me rephrase.

19 Q What color shirt?

20 A He got [sic] a white shirt on.

21 THE COURT: And so the record will reflect that he
22 identified Derrick Mills.

23 Q And that's the person who pulled the gun?

24 A Yes.

25 Q All right. And once Derrick pulled the gun -- first

1 of all, did you see what kind of gun it was?

2 A It was a revolver.

3 Q All right. Do you know what caliber?

4 A It was a .32 or under it. Anything under a .38.

5 Q Smaller than a .38?

6 Q Do you know for certain what caliber?

7 A If I had to guess, I would say a .32, maybe a .36.

8 Q But you just know it was a smaller than a .38?

9 A Yeah. I know it was smaller than a .38.

10 Q All right. Now -- and it was a revolver?

11 A (No audible response.)

12 Q Now the -- what happened once he pulled that gun?

13 A Once he pulled the gun -- at that time I was already
14 out the car. Quintin grabbed me out the car and he
15 started pulling me to the side with the front of the jeep,
16 closest to the side of the house.

17 Q All right. So he pulled you out of the car?

18 A As I got pulled out, Jarvis ran.

19 Q All right. Then when you say, "Quintin," what color
20 shirt?

21 A I can't see his shirt.

22 (Brief pause.)

23 A He got a gray shirt on.

24 Q All right.

25 MR. LUPTON: Your Honor, I'd ask that the record

1 reflect the witness identified Quintin Mills.

2 THE COURT: Yes, sir. Quintin Mills.

3 Q All right. So Quintin Mills, as Derrick pulls you --
4 as Derrick pulls a gun, Quintin Mills then grabbed you in
5 what way?

6 A He just put his arm around my chest and had, like,
7 his hand on my side.

8 Q All right. And did he take anything from you?

9 A Well, to me it looked like Derrick gave him a eye --
10 gave him a head nod to check my pockets 'cause, like, they
11 know at -- at that time, I kept a -- I kept a gun on me
12 'cause I always had -- always somebody trying to do
13 something to me or try me in any kinda way. So they knew
14 I had a gun on me. That's why they grabbed me first.

15 Q All right. And the -- so you saw Derrick indicate
16 for Quintin to check you?

17 A Yeah.

18 Q And did he?

19 A Yeah.

20 Q Did ---

21 A He checked me.

22 Q Did he take stuff from you?

23 A He took the gun out my pocket and dropped it on the
24 ground.

25 Q All right. And do you know what happened ---

1 A After that ---

2 Q --- after that?

3 A After that it was just -- me and him walked -- he
4 basically pulled me to the side of the -- like, away from
5 whatever they -- that -- that was going to happen. He
6 pulled me away from it.

7 Q And did he take any other -- did he take any money
8 from you, Quintin Mills?

9 A He took -- he took everything out my pocket to make
10 sure I didn't have nothing in my pockets.

11 Q All right. So he took your stuff from you.

12 Did you see what Derrick and Charles were doing?

13 A He walked Charles to the back of the Jeep, and then
14 he shot him.

15 Q Who?

16 A Derrick shot him.

17 Q Derrick shot him. Any question about whether or not
18 Derrick shot him?

19 A No question at all.

20 Q All right. Did you see him shoot him?

21 A Yes.

22 Q All right. Did you see where he shot him?

23 A He shot him in the face at first.

24 Q And what happened after he was shot in the face?

25 A He started -- Charles Brown started to fall back and

1 he continues to shot him ---

2 Q Did Charles ---

3 A --- just continues to shoot.

4 Q --- fall ---

5 A As he fall back, he continued to shoot.

6 Q Derrick continued to shoot.

7 Did Derrick continue to shoot him after he was on the
8 ground?

9 A Yes.

10 Q All right. And then you talked about Jarvis. What
11 did he do when the gun came -- when Derrick pulled the
12 gun?

13 A He ran.

14 Q He ran?

15 A He ran. That's all I know.

16 Q All right.

17 A I ain't see [sic] Jarvis no more.

18 Q And then you said there was gunshots. Do you know if
19 anybody else shot anything?

20 A There wasn't nobody else shooting anything.

21 Q All right. And -- and did Charles Brown ever pull a
22 gun out?

23 A Charles Brown never fought, Charles Brown never -- he
24 never gave no [sic] restraint either to make him shoot
25 him. The man asked could he go home. He like [sic], "You

1 got the money, can I go home?"

2 Q He told that to -- to who [sic]?

3 A Derrick.

4 Q And how far away were you when the -- when Derrick
5 shot ---

6 A From me to you. Where he shot Charles?

7 Q Yes.

8 A Probably from here to that door.

9 Q What door?

10 A To the court doors.

11 Q So you were in the same yard, but you weren't real
12 close?

13 A Yes, sir.

14 Q All right. And did you see what Derrick did after he
15 shot Charles?

16 A He pulled his pants down and he went through his
17 stuff.

18 Q All right. And did -- what did he do after he took
19 off ---

20 A He ---

21 Q --- his pants?

22 A --- ran back towards me and Quintin, clicking the gun
23 at us.

24 Q Then what happened?

25 A I pushed Quintin and I ran.

1 Q Where'd you go?

2 A To my grandma [sic] house.

3 Q Did you hear anything as you were running to your
4 grandmother's house?

5 A No.

6 Q Did you hear a motorcycle?

7 A I heard the motorcycle, but that was it.

8 Q All right. That was while you were running back.
9 Where was the motorcycle?

10 A The motorcycle was still in the same spot the whole
11 time, it never moved.

12 Q Well, then as you were running, did you hear the
13 motorcycle go ---

14 A I heard it leaving away.

15 Q All right. Where did you hear it leave towards?

16 A To be honest, I really don't know.

17 Q Did it sound like it was going towards the road?

18 MR. LEINENDECKER: Objection, Your Honor.

19 Speculation. He said he doesn't know what direction the
20 motorcycle was going.

21 THE COURT: Only if you know that -- what you
22 personally know. You can't guess, okay?

23 A I -- I don't know.

24 Q It sound like it was getting further away or closer
25 towards you?

1 A Oh, it was going further away.

2 Q All right. Did you go to the police that night?

3 A No, sir.

4 Q Why not?

5 A To be honest, I don't know. I was scared, to be
6 honest. It was just too much for me to -- to actually
7 bring in that I seen all that in my face in a split
8 second.

9 Q Did you eventually come in?

10 A Yes, sir. I came in.

11 MR. LUPTON: Beg the Court's indulgence.

12 (Brief pause.)

13 Q Did you see Derrick take some money from Charles?

14 A The money out of the car that he had in his hand when
15 he was in the car still, yeah.

16 Q Okay.

17 MR. LUPTON: Nothing further, Your Honor.

18 THE COURT: Cross-examination?

19 MR. LEINENDECKER: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. LEINENDECKER:

22 Q Charles, I'm Mark Leinendecker, attorney for Mr.
23 Derrick Mills. I have a few questions for you today,
24 based on your testimony here today, okay? If I ask you
25 something you don't understand or it's not clear, please

1 ask me to make it clear to you. All right?

2 A Yes, sir.

3 Q And I need you to speak up so that she can record it,
4 All right?

5 A Yes, sir.

6 Q All right. Today, for the first time in over two
7 years of looking at the statements and evidence in this
8 case, I heard that you had a gun that day.

9 A Yeah.

10 Q You didn't tell the police ---

11 A I didn't.

12 Q --- that, right?

13 A No, sir.

14 Q And you never revealed that you came armed to this
15 event, right?

16 A No, sir.

17 Q And today is the first time you've made that
18 revelation, correct?

19 A Yes, sir.

20 Q And you also told us that when this event happened,
21 you ran to your grandmother's on the night of December 13,
22 correct?

23 A Yeah.

24 Q And in point of fact, you didn't call the police,
25 you didn't call the Sheriff, you didn't call anyone in law

1 enforcement and tell them that there had been a shooting
2 on Falcon Lane, correct?

3 A No, sir.

4 Q Okay. You didn't go to the police until they got in
5 touch with you and arranged for you to come in two days
6 later on the 15th, correct?

7 A Yes, sir.

8 Q But in between that time, you were in constant
9 contact with Jarvis Mack, right?

10 A Yes, sir.

11 Q You and Jarvis were talking from the time of the
12 incident until two days later when you went and met with
13 the police, correct?

14 A Yes, sir.

15 Q You and Jarvis were talking about what happened,
16 correct?

17 A I'm not going to say we was talking about it, but we
18 was keeping in contact.

19 Q Sure. Jarvis told you what he had told the police.

20 A He didn't tell me what he told the police. He told
21 me he had went [sic] and talked to them.

22 Q Told you he went and talked to the police?

23 A Yes.

24 Q Okay. And did you and Jarvis discuss not mentioning
25 that you had a gun?

1 A Jarvis -- Jarvis never knew I had the gun. Charles
2 Brown never knew I had the gun.

3 Q Well, I'm -- I'm just ---

4 A I mean ---

5 Q I'm not ---

6 A --- other than what -- of knowledge of them knowing
7 me, yes, they knew I had the gun. But they -- you know,
8 me telling them or them seeing me that night with a gun,
9 they didn't know I had a gun.

10 Q Oh, I -- I misunderstood because you said everybody
11 knew you had a ---

12 A Yeah.

13 Q --- gun.

14 A Yeah. They knew I had a -- everybody know [sic] I
15 keep a gun.

16 Q So ---

17 A Because I'm a little person. I mean, I'm not -- I'm
18 not big at all. I'm not going to let nobody do me know
19 kinda way.

20 Q Okay. Isn't it true you told the Calhoun County
21 Sheriff's Office when you met with them that y'all went to
22 buy a motorcycle, and you went along because you got a
23 call from Jarvis?

24 A No.

25 Q Then why did you go along?

1 A I went ---

2 Q 'Cause -- 'cause we've got the video. When -- we'll

3 -- we'll tee it up if you don't remember ---

4 A I went along ---

5 Q --- that, too.

6 A --- when?

7 Q That you went along with Charles Brown and Jarvis

8 Mack ---

9 A Yeah.

10 Q --- to get a motorcycle ---

11 A Yeah.

12 Q --- and you told them that you did that because

13 Jarvis called you and said he wanted you to ride the

14 motorcycle.

15 A 'Cause they was [sic] drunk, they was drinking.

16 Q That's what Jarvis told you?

17 A Yeah. They was drinking.

18 Q I -- I'm not ---

19 A That they needed me to ride the motorcycle back.

20 Q I'm not asking you for the facts, I'm asking if

21 that's what they told you, "We need you to ride the

22 motorcycle 'cause we're drunk."

23 A Yes, sir.

24 Q So okay. You didn't tell the police that.

25 A Tell them what? That they was ---

- 1 Q That ---
- 2 A --- drunk?
- 3 Q You -- you didn't say they were drunk, but you didn't
- 4 say they asked you to come along 'cause ---
- 5 A I did ---
- 6 Q --- they were drunk?
- 7 A I did tell them that.
- 8 Q Okay. And you told the police that you didn't know
- 9 where you were going, that noone knew where you ---
- 10 A At first.
- 11 Q --- were going to meet regarding the motorcycle at
- 12 first, correct?
- 13 A Yes, sir.
- 14 Q And that the first communication was, "Meet us in
- 15 Rolling Meadows."
- 16 A From what -- from my understanding, yes, sir.
- 17 Q Okay. And who would've had that communication? Who
- 18 -- who was talking, texting, or phoning?
- 19 A Jarvis was talking and texting at the time.
- 20 Q With whom?
- 21 A With Quintin.
- 22 Q Okay. Quintin and Jarvis. This is a deal between
- 23 Jarvis and Quintin, correct?
- 24 A Yes, sir.
- 25 Q And so y'all are out looking to buy the motorcycle

1 and you get information from Quintin to go to Rolling
2 Meadows, correct?

3 A That's what Jarvis was told.

4 Q No. That --

5 A Yes, sir.

6 Q That's what you understood, that's all I'm asking.

7 A Yes, sir.

8 Q And your testimony is you go to Rolling Meadows and
9 you wait?

10 A Yes, sir.

11 Q For those of us who haven't been to Rolling Meadows,
12 describe it.

13 A I mean, it's a big trailer park.

14 Q Okay. It's -- it's such a big trailer park could you
15 be there and not find somebody ---

16 A Yeah, it ---

17 Q --- or could you find them?

18 A You can get lost.

19 Q Okay. So is it possible you thought Quintin was
20 there somewhere and you just couldn't find him?

21 A Technically, I didn't know where he was 'cause I
22 wasn't contacting him. So I didn't know nothing other
23 than who was meeting, and this is what was supposed to
24 have been going on, the motorcycle sale. That's it.

25 Q Okay. And your testimony was you were there awhile

1 and then you left, correct?

2 A Yeah. We left Rolling Meadows.

3 Q And how long do you think you were there while you
4 waited for Quintin and he never showed up?

5 A The least -- all together when we left, went to the
6 store and came back in --

7 Q No, no. The first -- I just talking about --

8 A The first --

9 Q -- that first time. You went --

10 A The first time when we went there it was probably,
11 like, 20 minutes.

12 Q Twenty minutes? And you left to go to the El Cheapo
13 gas station, right?

14 A Yes, sir.

15 Q And you told the police you left to go there to get
16 something to eat and something to drink.

17 A Get something to drink, some cigarettes, and
18 something to eat.

19 Q Some chicken?

20 A Yeah.

21 Q Okay. And y'all were at El Cheapos about how long?

22 A Probably, like, 10 minutes.

23 Q Okay. You told the police about 40 minutes.

24 A That we was at the store ---

25 Q Yeah.

1 A --- for 40 minutes?

2 Q That's what you told them.

3 A Well, to be honest, you have to think about it, sir.
4 It's been five years since this happened.

5 Q I -- I am completely with you. I'm just asking if
6 you were more accurate five years ago or more accurate
7 right now?

8 A Probably more accurate five years ago than now.

9 Q Okay. So you -- then you thought you were there
10 about 40 minutes?

11 A We'd been there -- we'd been sitting there for a
12 little minute.

13 Q Okay. And you left from there to go back to Rolling
14 Meadows, right?

15 A (No audible response.)

16 Q Why?

17 A I don't know. We was waiting.

18 Q You -- you don't know?

19 A All I know we was waiting.

20 Q But who -- who said, "Let's go back to Rolling
21 Meadows"? Jarvis did, right?

22 A Yes, sir.

23 Q And Jarvis was the one who communicated with Quintin,
24 right?

25 A Yes, sir.

1 Q And so you left out you went back to Rolling Meadows
2 a second time.

3 A Yes, sir.

4 Q To meet him to buy the bike, right?

5 A Yes, sir.

6 Q He didn't show up, did he?

7 A Nope.

8 Q He gave some reasons the first time you were at
9 Rolling Meadows why he hadn't gotten there, correct?

10 A From my understanding, he did.

11 Q And that reason was he had a flat tire and he needed
12 to -- to get it fixed. His girlfriend was following him,
13 right?

14 A I didn't know about that. I didn't -- I didn't hear
15 none of that.

16 Q Okay. Well, we're -- we're going to play your --
17 your -- your interview with the police, okay?

18 A You can play it. I don't remember that, though.

19 Q Okay. And then when you went back to Rolling
20 Meadows, Jarvis is still communicating with Quintin,
21 correct?

22 A Yes, sir.

23 Q And that's why you go to Sugar Hill, correct?

24 A Yes, sir.

25 Q And at Sugar Hill, which is in the Sandy Run section

1 ---

2 A Uh-huh.

3 Q --- of Calhoun County ---

4 A Yes, sir.

5 Q --- you meet to do this deal, correct?

6 A Yes, sir.

7 Q And you told the police that when this deal went bad,
8 it went bad when everybody was getting back in and
9 actually was back in the car, right?

10 A Yes, sir.

11 Q So you told them that Charles Brown was in the car,
12 not outside the car?

13 A He was in the car. Everybody was in the car.

14 Q Okay. And you told them that Derrick Mills, my
15 client, had appeared and he forced Charles Brown out of
16 the car, grabbed him and pulled him out of the car, right?

17 A He didn't have to grab him. He put the gun in his
18 face.

19 Q But he put the gun in and -- and forced him out of
20 the car?

21 A Yes.

22 Q Okay. And then you told the police that at that
23 time, when he did that, you were standing by the back ---

24 A Yes, sir.

25 Q --- driver's side door?

1 A When he forced him out of the car --

2 (Ringing sound is heard.)

3 Q Back again -- let -- let's start again. You were in
4 the Jeep behind Charles on the passenger's side in the
5 backseat?

6 A Yes, sir.

7 Q And when Charles got out of the car, you were outside
8 the car by the back door, correct?

9 A I was out by the front of the hood.

10 Q Okay. Where were you when you say Derrick Mills
11 fired the first shot into Charles Brown's face?

12 A Yeah.

13 Q Where -- where were you?

14 A We was in front of the Jeep.

15 Q How close?

16 A Directly in front of the Jeep. The jeep ---

17 Q No. Not how close ---

18 A --- was parked ---

19 Q --- to the Jeep, how close to Charles Brown?

20 A How close to Charles Brown? I told you, Charles
21 Brown -- they was at least from here to that door
22 (indicates).

23 Q So Charles Brown wasn't beside the Jeep anymore?

24 A No, he was behind the Jeep.

25 Q Way behind the Jeep?

1 A Yes.

2 Q That's not what you told the police that night, is
3 it?

4 A He was behind the Jeep when he got shot.

5 Q That's not what you told them, is it?

6 A What [sic] I tell them?

7 Q Well, we'll watch -- you told them that he pushed him
8 on the hood of the Jeep, and ---

9 A No.

10 Q --- you told them that he shot him in the face
11 multiple times.

12 A He shot him in the face multiple times.

13 Q And that he stood over him and kept shooting him in
14 the face.

15 A As he fall [sic] back, he was shooting.

16 Q So your story was that y'all went to the Hill that
17 night, in the dark, at a time that you testify you were
18 worried or nervous that something might happen that was
19 wrong or dangerous, correct?

20 A Yes. Everybody ---

21 Q You -- and you verbalized that.

22 A Everybody could feel it, though. I mean ---

23 Q Sure. Absolutely. But you went out there anyway,
24 correct?

25 A Yeah.

1 Q And your story was that Derrick came out and shot him

2 ---

3 A Yes.

4 Q Right?

5 A Yes, sir.

6 Q Did you see Jarvis that evening after the incident?

7 A What [sic] you mean after the incident?

8 Q After the shooting?

9 A Yes. Him and his brother came and got me from my
10 grandma house.

11 Q Okay. What -- describe Jarvis to me when he came,
12 physically.

13 A He was crying. He was hysterical. He was -- he
14 didn't -- he couldn't believe it.

15 Q How -- how did his clothing look?

16 A I can't remember how his clothing looked.

17 Q Covered in blood?

18 A I can't remember.

19 Q Oh. And how'd he get with his brother?

20 A I really don't know to be honest.

21 Q Had his brother been waiting somewhere for when this

22 ---

23 A No.

24 Q --- was over?

25 A I know that they had called his brother -- or he

1 called his brother and they -- they was [sic] all trying
2 to get in contact with me 'cause I didn't have a phone.

3 Q Why didn't you have a phone?

4 A I ain't had nothing. I didn't have nothing in my
5 pocket.

6 Q So how did they find you at your grandmother's?

7 A To be honest, I don't know. I guess they figured
8 that was the first place I'd went [sic].

9 Q And you didn't share that information with the
10 police, did you, when you talked to them?

11 A Share with them what?

12 Q That Jarvis came and got you from your grandma's,
13 that Jarvis and his brother met up.

14 A His brother came and got him from wherever he was at
15 on the Hill.

16 Q How do you know that?

17 A That's where he ran.

18 Q No. How do you know his brother came and got him?

19 A His brother came and got me after he got him.

20 Q So that's how you know that they were together.

21 A Yeah. They was together.

22 Q He had called his brother or had ---

23 A I don't ---

24 Q --- his brother been waiting for him?

25 A He called his brother. How could he ---

1 Q How do you know he called him?

2 A How could his brother be waiting if his brother
3 didn't even know what was going on? Everybody thought me
4 and his brother got shot ---

5 Q Oh.

6 A --- instead of CB and his brother.

7 Q It was ---

8 A Nobody knew the story.

9 Q Excellent point. How could his brother have known
10 unless ---

11 A He called.

12 Q --- he knew something was going on?

13 A He called him. Everybody was calling him trying to
14 get in contact with his brother because they thought he
15 had got shot.

16 MR. LEINENDECKER: Your Honor, if it would please the
17 Court, to continue my cross-examination and to try to
18 clarify some of the discrepancies, I'd like to -- at this
19 time, would like to show the tape recorded interview of
20 Kendrell Thompson on December 15, 2014.

21 THE COURT: Any Objection?

22 MR. LUPTON: No objection.

23 THE COURT: All right. Any objection?

24 MR. FARLEY: No objection, Your Honor.

25 THE COURT: You may do so. Mr. Leinendecker, you

1 going to mark that as an exhibit and introduce it first?

2 MR. LEINENDECKER: Yes.

3 THE COURT: It's marked "No. 6."

4 MR. LEINENDECKER: I think it's already marked as an
5 exhibit.

6 THE COURT: And are you moving it in ---

7 MR. LEINENDECKER: Yes.

8 THE COURT: --- before publishing? Thank you, sir.
9 It's in.

10 (Defense Exhibit No. 6, police interview with
11 Kendrell Thompson, in evidence.)

12 Q Can you see the TV from where you are, Kendrell?

13 A Yes, sir.

14 THE COURT: Can everyone on the jury see okay?

15 THE JURY: (No audible response.)

16 THE COURT: Mr. Lupton?

17 MR. LUPTON: (No audible response.)

18 THE COURT: Would y'all just approach briefly? Just
19 briefly. If ya'll would just break, briefly.

20 MR. LEINENDECKER: Oh, I'm sorry, Your Honor. I saw
21 you talking.

22 (Bench conference.)

23 (Brief pause.)

24 THE COURT: Do y'all need a brief recess to figure it
25 out?

1 MR. LEINENDECKER: Yes.

2 THE COURT: And maybe we can take a brief restroom --
3 recess ---

4 MR. STEVENS: Yeah. I don't want to ---

5 THE COURT: --- this afternoon,

6 MR. STEVENS: --- hold everybody.

7 THE COURT: Ladies and gentlemen of the jury, we're
8 going to just take a brief recess while we get everything
9 organized for you. It might be a good time to take an
10 afternoon break anyway. If you'd please to go your jury
11 room. Remember, don't discuss this case amongst yourself.
12 We'll be right back with you.

13 (The jury exits at 3:44 p.m.)

14 (Off the record at 3:45 p.m.)

15 (On the record at 4:02 p.m.)

16 THE COURT: Thank you. Everyone please have a seat.

17 (The courtroom complies.)

18 THE COURT: All right. Counsel, we ready to proceed?

19 MR. LEINENDECKER: Yes.

20 (Brief pause.)

21 THE COURT: All right. Let's have our jury, please.

22 (The jury enters at 4:03 p.m.)

23 (Brief pause.)

24 THE COURT: All right. Counsel, you may proceed.

25 MR. LEINENDECKER: Okay.

CROSS-EXAMINATION

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BY MR. LEINENDECKER:

Q Mr. Thompson, before we get started, you've seen the picture, you recognize this video. This is the ---

A Yes, sir.

Q --- interview from the 15 of December, 2014, correct?

A Yes, sir.

Q At the Calhoun County Sheriff's Office?

A Yes, sir.

Q All right.

MR. LEINENDECKER: (To the jury) Y'all can hear?

(No audible response.)

(Video plays.)

MR. LEINENDECKER: Your Honor, if it would please the Court, I'm going to try and jump just a little bit because for some reason -- I don't understand this -- he asks him his Social Security number.

THE COURT: Oh, yes, sir.

MR. LEINENDECKER: So I -- I want to try to skip beyond that scene. Thank you.

(Brief pause.)

(Video plays.)

MR. LEINENDECKER: Unless the State wants to finish, I'm -- I've gotten what I need for -- to refresh him and finish the cross. But I'm happy to finish it. Whichever

1 y'all want to do.

2 THE COURT: Solicitor?

3 MR. LUPTON: No objection to stopping there.

4 THE COURT: Anything from the --

5 MR. LEINENDECKER: It's just that at this point if it
6 stops ---

7 MR. FARLEY: No objection to stopping there, Your
8 Honor.

9 THE COURT: All right. You may proceed, Mr.
10 Leinendecker.

11 MR. LEINENDECKER: Thank you.

12 CROSS-EXAMINATION

13 BY MR. LEINENDECKER:

14 Q So on that date in question, December 15, when you
15 finally went and talked to the Charleston -- Charleston --
16 the Calhoun County Sheriff's Office --

17 A Yes, sir?

18 Q -- you told them that you'd been out over three
19 hours, right?

20 A Yes, sir.

21 Q That you'd been to Rolling Meadows and waited and not
22 gotten anybody to arrive?

23 A Yes, sir.

24 Q You told them that you had gotten a message, either
25 through Jarvis or Jarvis telling you, that there'd been a

1 flat tire and it was going to be at least 30 minutes?

2 A Yes, sir.

3 Q You told him that then you went to the El Cheapo to
4 have some chicken and wait.

5 A Yes, sir.

6 Q You told them that then you got a text or a message
7 there that, "Where y'all at? Meet me at Rolling Meadows,"
8 right?

9 A Yes, sir.

10 Q You told them that you then -- after being there 40
11 minutes, you said -- you told him you went back to Rolling
12 Meadows and waited another 20 minutes or more?

13 A Yes, sir.

14 Q You told him then that the message came, "I'm on my
15 way. I'm just getting off the interstate. Meet me in
16 Sandy Run"?

17 A Yes, sir.

18 Q You told them that going to Sandy Run was a little
19 suspicious because it's much quieter and more private than
20 the public place that you thought you were going to meet?

21 A Yes, sir.

22 Q You told them a whole bunch of that, but you never
23 mentioned that you had a gun or that you'd been robbed of
24 a gun?

25 A No, sir.

1 Q You never mentioned that Jarvis and his, now, brother
2 came and got you at Grandma's house. You just ---

3 A No.

4 Q --- told them you got a ride?

5 A I just told them I had got a ride.

6 Q Yeah.

7 A They never asked specifically who came and gave me a
8 ride.

9 Q Okay. Because they didn't ask, you didn't -- you
10 didn't tell him that Jarvis ---

11 A No.

12 Q --- the other person involved in this case had come
13 and got you there?

14 A I mean, he -- we was both stuck.

15 Q I -- I'm just asking. You never told him that,
16 right?

17 A No.

18 Q Okay. And it wasn't until two days later and -- and
19 later on in that video you told him that nobody could get
20 a hold of -- or in the video you told him nobody could get
21 a hold of you 'cause you didn't have a phone?

22 A Yeah.

23 Q Your carry -- you -- you carried three cell phones?

24 A At that time I was.

25 Q Okay. You carried \$200 in cash?

1 A That's nothing.

2 Q Okay.

3 A What's \$200?

4 Q You sound like my child, always giving me that.

5 I'm just asking, that -- that's -- that was it?

6 A (No audible response.)

7 Q So really you had three cell phones, at least \$200 in
8 cash, and a gun?

9 A Yeah.

10 Q What else did you have?

11 A Keys.

12 Q Anything else you haven't told us about?

13 A Just keys.

14 Q That's it, nothing else in your pockets?

15 A No.

16 Q Okay. But you did tell them, when they said they
17 were able to get a hold of you because they're good
18 trackers, that you had been communicating with Jarvis and
19 you knew that Jarvis had spoke to them and Jarvis wanted
20 you to speak to them -- to the police?

21 A Yeah.

22 Q Correct?

23 A But at the time I wasn't -- I was so just bobulated
24 [sic] from what I'd just seen, I wasn't wanting to -- I
25 didn't want to talk to nobody.

1 Q I understand discombobulation ---

2 A I mean ---

3 Q --- as you describe it. I'm just saying this is two
4 days later, two days later you go and talk to them, right?

5 A Yeah. I didn't want to, but I did.

6 Q You went because Jarvis encouraged you to go?

7 A I'm not going to say Jarvis encouraged me to go, but
8 my family encouraged me to go.

9 Q Jarvis didn't ask you to go?

10 A He -- he told me to go, but I mean, that ---

11 Q Okay.

12 A --- that wasn't why I went.

13 Q That's exactly what I asked you to do. Don't let me
14 put words in your mouth. Jarvis told you to go ---

15 A Yeah.

16 Q --- and then you went?

17 A Yeah.

18 Q Okay.

19 MR. LEINENDECKER: One minute.

20 (Brief pause.)

21 MR. LEINENDECKER: Thank you, Mr. Thompson. That --
22 that's all I have.

23 THE COURT: Mr. Farley?

24 CROSS-EXAMINATION

25 BY MR. FARLEY:

1 Q Mr. Thompson, I want to ask you several things that
2 you previously testified to and that were also in the
3 video.

4 A Yes, sir.

5 Q Okay. First, I wanted to roll back the time line a
6 little bit to the beginning when you stated that Jarvis
7 contacted you about going to pick up the motorcycle; is
8 that correct?

9 A Yes, sir.

10 Q Okay. And at that time what -- did he call you on
11 your cell phone?

12 A Yes, sir.

13 Q Did you know Charles Brown was coming?

14 A Did I know he was coming with him?

15 Q Yeah.

16 A Yes, sir.

17 Q So he said, "My step-dad and I are going to pick you
18 up"?

19 A Yep.

20 Q Okay. And so you went with them -- and I know you
21 testified pretty distinctly earlier about you went to
22 Rolling Hills, you went back and forth to El Cheapo, and
23 back and waited and ---

24 A Yes, sir.

25 Q --- waited. And they were drinking the entire time?

1 A We didn't -- I'm not going to say they was [sic]
2 drinking the entire time. From what I know, they didn't
3 start drinking until we got to Rolling Meadows.

4 Q Well, you testified earlier they were drunk.

5 A Yeah. They was drunk when we got to Rolling Meadows.
6 I didn't know they was drinking the whole time before they
7 came and got me until we got to Rolling Meadows and we
8 started ---

9 Q Uh-huh.

10 A --- chilling and waiting, and then they was like,
11 "Hey, you want a drink?" And we was like, "Cool, okay."

12 I drank ---

13 Q Were you drinking, Mr. Thompson?

14 A When?

15 Q Were you drinking?

16 A Yeah. I took a sip.

17 Q You just had a sip or did you have more than that?

18 A I took -- I took a little sip. I wasn't drunk. I
19 wasn't intoxicated like I didn't know what was going on.

20 Q You just had one sip or did you have a drink?

21 A I had a sip.

22 Q Okay. And you didn't have anymore than that?

23 A No.

24 Q So your testimony today is that you were sober, not
25 intoxicated.

1 A Yeah, I was functional.

2 Q Well, functional is a little bit different than
3 sober.

4 A I could drive a car or -- or move or do anything I
5 wanted to do without having anything happen to me.

6 Q Fair to say you were buzzed then?

7 A That's it.

8 Q So you had a buzz?

9 A That it.

10 Q But that's not sober, right? You -- you'd agree with
11 that?

12 A Yeah, I understand what you saying.

13 Q All right. So you had a little buzz, they were
14 drunk, and around 6:30 or so that's when Quintin wanted to
15 meet up?

16 A I'm guessing so, yes, sir.

17 Q You testified to that earlier, but you said that
18 you only had information because you were in the car and
19 he was communicating with Jarvis?

20 A That's it.

21 Q At any point did Quintin and Charles Brown
22 communicate?

23 A No.

24 Q So there was no communication between Mr. Brown and
25 Quintin Mills?

1 A No.

2 Q All right. And so at the last location that you went
3 to -- and that was that a -- abandoned house ...

4 A On Falcon Lane.

5 Q Right. Exactly. Right there. Did you have any
6 reason to suspect why they wanted to go there? You said
7 you had a funny feeling about it.

8 A I didn't have -- I didn't know why, but I did have a
9 funny feeling.

10 Q But earlier in the video testimony, you said if "Q"
11 was there, there won't be anything ---

12 A There won't be any funny business. I told them that.

13 Q I -- I know. Thank you Mr. -- Mr. Thompson, let me
14 just complete my sentence, though, okay? Before you
15 answer.

16 A Yes, sir.

17 Q All right. So on the video, even though you were
18 meeting in this secluded location, you said, "If Q's going
19 to be there, meaning Mr. Quintin Mills ---

20 A Yeah.

21 Q --- there would be no funny business?

22 A Yeah.

23 Q Okay. Then why did you have some kind of funny
24 feeling?

25 A I mean, it just -- I just get that vibe from that

1 area, period. When I'm going to an abandoned house where
2 I know has been plenty bad stuff going on around that
3 area, well, of course I'm going to get a bad feeling. I'm
4 not going to feel like ---

5 Q What was your understanding of why Mr. Mills wanted
6 to meet there?

7 A I don't know.

8 Q Did it ---

9 A But ---

10 Q --- have to do with the motorcycle?

11 A I don't know why he wanted to meet there.

12 Q Okay.

13 A I can't say.

14 Q Did you know if the motorcycle was legitimately
15 Quintin's or ---

16 A I don't ---

17 Q --- was it stolen or anything?

18 A I don't know who bike ---

19 Q You didn't know anything about the condition of the
20 ---

21 A I didn't.

22 Q Okay. That's fair enough.

23 So when you arrived, you said that Quintin Mills was
24 there; is that correct, and that's who you saw first?

25 A Yeah, I saw Quintin first.

1 Q Okay. And then Mr. Brown got out of the vehicle and
2 you got out of the vehicle --

3 A Yeah.

4 Q -- is that correct?

5 A We all got out.

6 Q Right. And Mr. Brown and Quintin Mills had a
7 discussion?

8 A Yeah.

9 Q And there was a misunderstanding?

10 A About which bike it was.

11 Q But earlier you said they had no communication with
12 each other.

13 A No, they didn't because Jarvis was communicating
14 everything.

15 Q So that -- is that why there was a miscommunication?

16 A Yes.

17 Q So nobody really had a clear understanding ---

18 A No, sir.

19 Q --- of what kind of transaction was going down?

20 A But Jarvis and Quintin.

21 Q Except Jarvis is drunk?

22 A Jarvis and Quintin.

23 Q So -- but I mean, Jarvis, as you testified earlier,
24 is drunk. So he's probably not relaying ---

25 A He probably wasn't ---

1 Q --- the best information ---

2 A No, he wasn't.

3 Q --- is that fair to say?

4 A He probably wasn't.

5 Q Well, I'm asking. You were there, so you tell me.

6 A I mean, to me he was just giving out -- the only
7 thing he was relating (sic) where we was going to meet.

8 Q Okay.

9 A From my understanding, from the time I got in, it was
10 a 1000.

11 Q But who'd you understand that from?

12 A From Jarvis.

13 Q Okay.

14 A I mean, that's what he was telling me, that's what he
15 was telling me and Charles Brown. It was a 1000 that he
16 wanted to sell for 500.

17 Q Okay. But Charles -- he had it -- he had only an
18 understanding through Jarvis ---

19 A That it was a 1000.

20 Q --- through Quintin? All right.

21 And then -- so is -- is that why there was confusion

22 ---

23 A Yes, sir.

24 Q --- as to what was going on?

25 A Yes, sir.

1 Q Okay. And both Mr. Brown and Jarvis were both drunk
2 at the time of this -- sort of this going down. Is that
3 still -- they're still inebriated; is that correct?

4 A Yes, sir.

5 Q All right. And then is that when Derrick Mills
6 appeared?

7 A He appeared -- as we was getting out of the car, he
8 appeared.

9 Q And you said that was kind of by that abandoned
10 house; is that right?

11 A Yes, sir.

12 Q All right. And -- but you said earlier -- you said
13 earlier that Mr. Quintin Mills said that it was getting
14 dark, he wanted just -- he wanted to just do it tomorrow?

15 A No.

16 Q And y'all -- please ---

17 A No.

18 Q --- hold on. Let me finish and make sure I have this
19 correctly from your previous ceremony -- testimony.

20 That Jarvis said, "No. We needed the bike tonight"?

21 A Him and Charles wanted the bike tonight. I told them
22 it was getting dark, we can just do it tomorrow, call him
23 and tell him we'll do it tomorrow. They wasn't going for
24 it. They wanted to ---

25 Q Okay. Okay. All right. I'm -- and so they were

1 insistent on meeting?

2 A Yeah.

3 Q Okay. And let me ask when -- a little bit of what
4 happened after that kind of disagreement about the
5 transaction. So that's when Mr. Charles Brown showed the
6 money; is that correct?

7 A Yes, sir.

8 Q Okay. And you had returned to the vehicle, the Jeep?

9 A Yes, sir.

10 Q Okay. Now, it seems like at that point that's when
11 Mr. Derrick Mills kind of came forward; is that correct?

12 A Yes, sir.

13 Q And I'm still a little confused about what happened
14 after that because it seems like your previous testimony
15 you said Quintin got you out of the vehicle?

16 A He did.

17 Q But in the video, you said it was kinda like he was
18 choking you, so which one?

19 A I mean, he had his hand around my throat, around my
20 chest area. But I'm just saying it's ---

21 Q And I -- I -- and ---

22 A --- like this (indicates.)

23 Q And again, I'm just trying to make sure that we get
24 that a little more precise because earlier, your live
25 testimony ---

1 A No. I said that he was choking me where I couldn't
2 breathe. He just had his hand around my chest.

3 Q Well -- and -- and Mr. Thompson, hold on one second
4 and just let me make sure we're clear, okay? So let me
5 finish my question first before you start.

6 So earlier in your testimony, you said that he pulled
7 you from the vehicle; is that correct?

8 A Yes, sir.

9 Q All right. But in the video you said he was choking
10 you.

11 A Yes, sir. ~~it~~

12 Q So now, please explain the discrepancy between those
13 two statements here, live and on that video, what did you
14 mean?

15 A He had his hand around my chest area.

16 Q In what kind of manner.

17 A Like this (indicates.)

18 Q Did you feel like -- I mean, now, as you test --

19 A He wasn't taking my breath, like, choking me as in
20 that (indicates). But if you look at it just strength
21 wise, he was choking me. He was pulling me back and ---

22 Q And how did you interpret that?

23 A I'm short, he's tall. So you got to understand, his
24 arms ---

25 Q Uh-huh.

1 A --- they're pulling up on me. So I'm already feeling
2 like ---

3 Q Well, how did you interpret that action?

4 A What you mean?

5 Q How -- what -- what did you think was happening?

6 A I didn't know what was going to happen.

7 Q What I'm saying is why do you think he pulled you out
8 of the car? What -- what ---

9 A I mean, to be honest, after I done [sic] look at it
10 after all these years and thought about it, I felt like he
11 saved me because if I was in that car and if he felt like
12 he wanted to shoot in that car, he could've killed all of
13 us in that truck.

14 Q Okay. So what happened after he got you out of the
15 vehicle, he was still holding you?

16 A He was holding me and we walked to the front.

17 Q Well, and how was -- was he still restraining you or
18 was he just ---

19 A He was ---

20 Q --- holding you?

21 A He was still restraining me the same way.

22 Q Okay.

23 A He walked to the front of the Jeep, close to the side
24 of the house ---

25 Q But your ---

1 A --- and the next thing ---

2 Q But your testimony is that he just had his arm around
3 you?

4 A Yes.

5 Q But not now that he's choking you; is that correct?

6 A When I said "choked" then, I wasn't saying that he
7 was trying to take my breath.

8 Q Okay.

9 A I was just saying he was restraining me.

10 Q Well, and that's the clarity that we need on that
11 'cause I -- I think that can be misunderstood. So okay.

12 So you got around in the beginning -- the front of
13 the vehicle; is that correct?

14 A Yes, sir.

15 Q All right. So at the front of the vehicle, you
16 testified earlier that he went through your pockets and
17 pulled out a pistol; is that correct?

18 A Yes, sir.

19 Q All right. And was that 'cause he was patting you
20 down or ...

21 A I guess so.

22 Q All right. And -- but you testified that he took the
23 pistol and he threw it on the ground.

24 A Yeah, he dropped it.

25 Q You mean he dropped it on the ground?

1 A I mean, he just -- when he seen what all I had, he
2 dropped the pistol and then he kept walking.

3 Q Okay. And then he went through your pockets?

4 A Yeah.

5 Q Okay. And -- and you testified earlier he removed
6 \$200 and three cell phones; is that correct?

7 A Yes, sir.

8 Q All right. And did he make any statements while he
9 was doing that?

10 A No, sir.

11 Q And what was your interpretation of that action?

12 A I was like, "Cuz, let me go."

13 Q No. I -- I'm not asking what you said ---

14 A Once he was in my pocket, I was like, "Man, why you
15 taking my stuff out my pocket?"

16 Q And what was your impression? What did you think was
17 happening? Did you think you were getting robbed or what?

18 A That's what it felt like.

19 Q But is that what you thought?

20 A It -- everything happened so fast, I didn't -- I
21 couldn't think fast enough to even ---

22 Q Mr. Thompson, let me ask you though, there -- there's
23 two -- two things here I'm trying to ---

24 A You asked me did I felt [sic] like I was getting
25 robbed.

1 Q Mr. Thompson, let me -- let me finish my sentence
2 because I'm trying to make sure I understand.

3 And in one moment you said you pulled him out -- he
4 pulled you out of the vehicle and he saved you; and then
5 in another minute, you said you felt like you may have
6 been getting robbed or something. So is ---

7 A I mean ---

8 Q --- he saving you ---

9 A If somebody go in ---

10 Q --- or ---

11 A --- how you going to feel?

12 Q I'm asking how you felt, sir. I'm asking your
13 impression.

14 A That just how I felt at the time.

15 Q How do you feel now?

16 A I don't -- like I say, I -- the way everything went
17 down that night and he had that gun ...

18 Q Who had the gun?

19 A The way Derrick had that gun and we were so close to
20 Derrick and he looked at me and Quintin --

21 Q Did Mr. -- did Mr. Quintin Mills hold your pistol --

22 A No.

23 Q -- to your head?

24 A No. I never said that.

25 Q But he said, "I'm taking your stuff to deprive you of

1 it"?

2 A No. When Derrick looked at him and he look -- when
3 Derrick looked at both of us while he's holding that gun
4 at Charles's face and doing this here (indicates), he knew
5 go in my pocket 'cause they already know if I had a gun, I
6 was going to shoot. They know that.

7 Q Okay. So what you're saying is your impression is -
8 --

9 A He looked at him like, "Yeah, check him."

10 Q Okay. And after he took everything out of the
11 pockets -- your pockets, I mean, you said, you -- you
12 testified earlier, not in the video, but live here, you
13 testified earlier that then Mr. Mills pointed the weapon
14 at you and Quintin ---

15 A He did. He did.

16 Q Okay. And what happened after that?

17 A We all split up. We all ran. Everybody went their
18 own way.

19 Q He just pointed a weapon at you?

20 A He pointed and clicked like he was trying to shoot
21 us.

22 Q He went -- he pointed the weapon at you ---

23 A And he ---

24 Q --- and he pulled the ---

25 A --- pulled the trigger and act like he was trying to

1 shoot us ---

2 Q I'm ---

3 A --- but it kept click, click, click.

4 Q I was going to say -- let me finish my sentence, Mr.
5 Thompson.

6 He pointed the weapon at you and he pulled the
7 trigger and you heard the hammer click; is that correct?

8 A Yes, sir.

9 Q Okay. And then the -- I was also a little confused
10 about what happened after that 'cause it seemed like at
11 one point you said you pushed Quintin and ran, and at
12 another point it sounded like you said ---

13 A He ---

14 Q --- Quintin ---

15 A --- pushed me or I pushed him. I don't know how it
16 went. We just -- all I know ---

17 THE COURT: Mr. Thompson, you gotta let him finish
18 and -- asking the question, then you can answer the
19 question.

20 Q I know you're eager to respond to my questions and I
21 understand that, Mr. Thompson. But just let me -- let me
22 finish my complete sentence before you answer, okay?

23 So what I'm asking is do you recall what happened
24 after that? Did Quintin push you or did you push Quintin
25 to get away; which was it?

1 A To be honest, I can't remember exactly, but I just
2 know I got away. I don't know if I push him, he push me.
3 I just know I got away.

4 Q Okay. And did you see Quintin later on that evening
5 or have any communication with him?

6 A Nope.

7 Q Then you -- did you try to, you know ---

8 A No.

9 Q --- contact anyone and ask where's my phone or
10 where's my money or anything?

11 A No. I didn't contact nobody until after he had got
12 lock up and I was asking where is my stuff.

13 Q Did you find your stuff?

14 A Nope.

15 Q Okay. But you -- you did testify earlier that you
16 felt like Quintin Mills saved your life when he pulled you
17 out of the car?

18 A If -- if I look at it over the years, yeah. Yes,
19 sir. After the years, I -- I -- after I look at it, yeah.
20 I feel like he saved me 'cause if I'd have got stuck in
21 that truck, I coulda got shot, too.

22 Q Okay. All right. Thank you, Mr. Thompson. No
23 further questions.

24 THE COURT: Any redirect?

25 MR. LUPTON: Thank you, Your Honor.

REDIRECT EXAMINATION

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BY MR. LUPTON:

Q Did -- you said that Quintin was the first one you saw when you got to the -- to the abandoned house?

A Yes, sir.

Q And then Derrick stepped out from behind the house?

A Yes, sir.

Q So he wasn't visible as you had first drove up?

A Not that I can remember.

Q All right. But when he did step out, did Quintin act surprised to see you?

A I can't say.

Q Well, he didn't go, "What are you doing here," or anything like that?

A I can't say.

Q Okay. At no point did he tell him to leave, did he?

A No.

Q All right. Now, there -- there was some questions about times and how long you were at Rolling Meadows, how long you were at the El Cheapos, how long after El Cheapos you were still waiting at Rolling Meadows. Do -- do -- do you -- were you maybe ---

A I wasn't watching.

Q You weren't checking your watch and ---

A No, sir.

1 Q --- making notes of how much?

2 A No, sir.

3 Q You just know that from the time they picked you up -
4 - the time that Charles and Jarvis picked you up until the
5 time that you ended up at Sandy Run ---

6 A No, sir.

7 Q --- you said there was a few hours.

8 MR. LEINENDECKER: Objection, Your Honor. Leading.

9 THE COURT: Sustained.

10 Q Well, in the video you talked about a few hours.

11 A Yes, sir.

12 Q What is that "few hours" in reference to?

13 A I mean, we waited. We was waiting.

14 Q Okay. Was it from the time you first got picked up?

15 A From the time I got pick [sic] up and we went to
16 Rolling Meadows.

17 Q All right. So starting at the time you got picked up

18 --

19 A Yes, sir.

20 Q -- until the time this was all over was a few hours?

21 A Yes, sir.

22 Q All right. And would it surprise you if -- if maybe
23 some idea of the amount of time you think -- whether you
24 think something's 40 minutes it might be less?

25 A It could have.

1 Q All right. So -- but you do know that at the time
2 you were at El Cheapos -- was it light or dark?

3 A It was light.

4 Q It was light out?

5 A Yeah.

6 Q It was still daytime?

7 A It was still daytime.

8 Q It was before sunset?

9 A Yep.

10 Q All right. And you said it was starting to get dark
11 when you were directed to go to ---

12 A Sandy Run.

13 Q --- Sandy Run. So it was -- you know, was it just at
14 sunset?

15 A (No audible response.)

16 Q Let me ask you this: Do you understand how, you
17 know, after sunset, there's a little bit of time where
18 it's still -- it's sort of twilight and you can still see
19 some?

20 A It was -- it was getting dark.

21 Q All right. It was getting dark. So it was in that
22 twilight time?

23 THE WITNESS: I can't hold it.

24 THE COURT: You need to go to the restroom?

25 MR. LUPTON: I'm almost done.

1 THE WITNESS: I can't.

2 THE COURT: All right. He's almost -- he's almost
3 done. How many more questions do you have?

4 MR. LUPTON: Just --

5 THE WITNESS: I got to go.

6 THE COURT: He's got to go to the restroom. Take a
7 brief recess.

8 (To the bailiff) Will you escort him and come right
9 back?

10 MR. LUPTON: Thank you, Your Honor.

11 (Briefly off the record.)

12 THE COURT: All right. Solicitor, you may continue.

13 MR. LUPTON: Thank you, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. LUPTON:

16 Q And I apologize. I know you didn't get to step down
17 for a bathroom break when the rest of us did, but just let
18 me finish up here real quick.

19 So at the point where you -- you -- it's getting dark
20 when you're told to go to ---

21 A Sandy Run.

22 Q --- Sandy Run, all right, or Sugar Hill?

23 A Yes, sir.

24 Q Now, this event, from the time the guns started
25 coming out to the time it's all over, was it half an

1 hour/45 minutes?

2 A It wasn't even that long.

3 Q Was it really quick?

4 A It was really quick.

5 Q Would you say it was just over in seconds?

6 A A minute maybe.

7 Q From the time the first gun came out until the time
8 you're running ---

9 A Maybe ---

10 Q --- off into the woods...

11 A Maybe a minute, if two.

12 Q So real short?

13 A Real short.

14 Q All right. And was it kind of -- was there some
15 confusion when you ---

16 A When?

17 Q Well, let me back up. Were you scared when -- when
18 guns are coming out ---

19 A Yeah, I was ---

20 Q --- and bullets are being fired?

21 A Yeah.

22 Q All right. Was -- was -- is there a possibility of,
23 you know, some of the details being a little bit confused?

24 A At the time, yeah.

25 Q Is there any question in your mind, though, who shot

1 Charles Brown?

2 A No.

3 Q Who was that?

4 A That was Derrick Mills.

5 Q And it has been -- it's been five years almost since
6 this happened until now?

7 A Yes, sir.

8 MR. LUPTON: Nothing futher, Your Honor.

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

10 (The witness complies.)

11 MR. LUPTON: Your Honor, may we approach?

12 THE COURT: Yes, sir.

13 (Bench conference.)

14 THE COURT: Ladies and gentlemen of the jury, it's
15 almost five. I know you've had a long day and you
16 obviously have things to do at -- after five o'clock. I'm
17 sure you need to get home and take care of you normal
18 family activities. So it's a good time for us to break
19 for the evening.

20 If you would please report to your jury room at 9:30
21 in the morning, then we'll resume with the trial of the
22 case.

23 Ladies and gentlemen, again, please remember my
24 previous instruction not to discuss this case with anyone
25 including amongst yourselves or anyone else. Have a nice

1 evening. We'll see you in the morning.

2 (The jury exits at 4:52 p.m.)

3 THE COURT: All right. If everybody would please
4 remain quiet until the jury's completely out of the -- out
5 of the courtroom.

6 All right. We're adjourned until 9:30 in the
7 morning.

8 MR. LUTON: Thank you, Your Honor.

9 (Off the record at 4:53 p.m.)

10 **DAY 2**

11 (On the record at 9:44 a.m.)

12 THE COURT: Before we get started this morning, I do
13 want to make a note. We're certainly happy that everyone
14 in the gallery is present and here to support their loved
15 ones; however, we don't want any distractions obviously,
16 as it is an important case for both sides. So during the
17 testimony, you're not allowed to get up and leave the
18 courtroom.

19 Also nobody's to come in, in between testimony. If
20 you want to leave, please wait 'til the witnesses come in
21 and out of the -- the courtroom so that the jurors are not
22 distracted. And then again also if the jury's coming out
23 of the courtroom or into the courtroom, please keep your
24 seats and don't leave the courtroom until the door is
25 completely shut and the -- and the jury has left the

1 courtroom, otherwise I'm going to have to ask you to
2 leave.

3 But again, everybody's welcome. I just want everyone
4 to please follow the rules.

5 The parties ready to proceed this morning?

6 MR. LUPTON: State's ready, Your Honor.

7 MR. LEINENDECKER: We are, Your Honor.

8 MR. FARLEY: Yes, Your Honor.

9 THE COURT: All right. Let's have our jury, please.

10 (The jury enters at 9:46 a.m.)

11 THE COURT: Welcome back ladies and gentlemen of the
12 jury. I hope that you had a nice evening. We're ready to
13 proceed with the trial of this case.

14 Solicitor, you may call your next witness.

15 MR. LUPTON: Thank you, Your Honor. The State calls
16 Jarvis Mack.

17 **JARVIS MACK**, having been first duly
18 sworn, testifies as follows:

19 THE CLERK: Please state your full name for the
20 record.

21 THE WITNESS: Jarvis Mack.

22 THE CLERK: Thank you, sir. You may be seated.

23 THE COURT: Your witness.

24 MR. LUPTON: Thank you, Your Honor. May it please
25 the Court?

DIRECT EXAMINATION

BY MR. LUPTON:

Q Jarvis, can you tell the jury who you are please?

A Jarvis Mack.

Q And where are you from?

A I guess you could say Gaston, South Carolina.

Q All right. And how do you know Charles Brown?

A That's my father.

Q Is he your biological father?

A No, he not, but he been [sic] there since I was born.

Q So he's your step-dad, but he's raised you?

A Yes, sir.

Q So as far as you know, he's --

A That's my father.

Q He's your only father you've ever known?

A Yes, sir.

Q And how do you know -- first of all, do you know
Quintin Mills?

A I know him from around the way, not personally.

Q All right. And do you see him in the courtroom here?

A Yes, sir.

Q Which one is he?

A Dreads and glasses, far end, left.

Q All right. And do you know Derrick Mills?

A Yes, sir.

1 Q Which one is he?

2 A Lavender shirt, dark skin, short haircut.

3 Q The one without the jacket that's --

4 A One without the jacket.

5 Q Okay.

6 MR. LUPTON: Your Honor, I ask the Court record
7 reflect he's identified the two Defendants.

8 THE COURT: Yes, sir. It shall do so.

9 Q And you said you know Quintin from around?

10 A Yes, sir.

11 Q All right. So you hang out with him?

12 A No, sir.

13 Q But you know who he is?

14 A Yes, sir.

15 Q Okay. And how do you know his -- Derrick Mills?

16 A I don't know Derrick.

17 Q But do -- do you know who he is?

18 A I know who he is.

19 Q And how do --

20 A From his mother.

21 Q Derrick's ---

22 A I'm ---

23 Q --- is Quintin's father.

24 And do you know him from around as well?

25 A No.

- 1 Q All right. Have you -- do you know -- at that time,
2 did you know who he was by sight?
- 3 A Yes, by sight.
- 4 Q So you'd seen him enough to know who he was by sight?
- 5 A Yes, sir.
- 6 Q All right. And any question about your ability to
7 tell who he was?
- 8 A No. He was ---
- 9 Q You'd seen him enough --
- 10 A --- it was easy to identify him.
- 11 Q You'd seen him enough to know who he was?
- 12 A Yes, sir.
- 13 Q All right. And did you have dealings with those two
14 on Saturday December 13, 2014?
- 15 A With Quintin.
- 16 Q All right.
- 17 A Derrick was never to -- Derrick was never supposed to
18 be nowhere in the -- in the story. I ---
- 19 Q He wasn't supposed to be involved? You were trying
20 to deal with ---
- 21 A When we ---
- 22 Q --- him?
- 23 A --- pulled up, that's when we saw him.
- 24 Q All right.
- 25 A So it surprise -- to me, too.

1 Q Well, backing up to when you started dealing with
2 Quintin that day ...

3 A Uh-huh.

4 Q ... can you tell the jury how that happened?

5 A A couple days before, Quintin was riding a
6 motorcycle, a blue motorcycle. And I stopped him and I
7 asked him was it for sale. He said no, but he could get
8 another one. He -- well, he had another one for sale. So
9 I told him I would hit him up, you know?

10 So a couple days pass and I text him, and he was
11 like, "Yeah, I can get you the motorcycle. I got the
12 motorcycle. I'm across town right now," or something like
13 that. "I'm working," or something, "but I'll be down
14 there." He didn't, like, say a time, but it ended up
15 being about that time.

16 So it was -- I seen him at a store riding a
17 motorcycle and I wanted to buy the motorcycle. My step-
18 father actually was looking for a motorcycle at the time.

19 Q All right. So ---

20 A But I didn't call him the next day for the
21 motorcycle. It was probably a couple of days when I
22 remembered.

23 Q Okay. So it was -- you -- you see him a couple of
24 days before that Saturday riding the motorcycle?

25 A Yes, sir.

1 Q All right. Then on Saturday is when you called him
2 up asking if he still had the motorcycle for sale?

3 A Yes, sir.

4 Q All right. Did you -- what kind of motorcycle was it
5 supposed to be?

6 A A 1000.

7 Q An R-1000?

8 A An R-1000.

9 Q And was there a price that it was supposed to be sold
10 for?

11 A A thousand dollars.

12 Q Was it a thousand or was it something different?

13 MR. LEINENDECKER: Objection, Your Honor. Question
14 asked and answered. He's now leading the witness.

15 THE COURT: If you can just rephrase your question,
16 please.

17 Q Are you sure about the price?

18 A I'm not sure about the price. But it was somewhere
19 around 500 to, like, 1,000.

20 Q Okay.

21 A Yeah.

22 Q So it could've been for 500?

23 A Could've been.

24 Q All right. It has been five years; is that correct?

25 A Yes, sir. Long time.

1 Q All right. But there was a price agreed upon between
2 -- and -- and first of all, were you buying this or was
3 your father buying this?

4 A My father was buying it.

5 Q And you were -- were you involved in the transaction?

6 A As far as the cash transaction?

7 Q No. As far as setting anything up.

8 A Yes. I contact Quintin for the motorcycle.

9 Q All right. So you -- acting as the middle man?

10 A Yes, sir.

11 Q All right. So you're setting up buying it and you
12 called him. Do you remember about what time Saturday?

13 A It's five years ago. It's hard to say.

14 Q All right.

15 A It had to have been earlier in the day.

16 Q Earlier in the -- earlier in the day?

17 A It had to have been earlier in the day 'cause he
18 waited so long to meet up with me. It was, like, that
19 night.

20 Q All right. And then did y'all go to -- to -- to try
21 and buy this motorcycle?

22 A Yes.

23 Q All right. Who went?

24 A Me, Charles Brown, and Kendrell Thompson.

25 Q All right. And then where was the meeting -- was

1 there a location for where the meeting was supposed to be
2 set initially?

3 A Yes, sir. It was supposed to have been at a store,
4 then it turned into Rolling Meadows, then they [sic]
5 location. They were going to come to our location which
6 was in public, but they stalled so long 'til we had to
7 meet them in their location.

8 Q And then, Rolling Meadows, I think we've already
9 established that's a trailer park up past 26 on 177 --

10 A Yes, sir.

11 Q -- 176? Now, at some point, did y'all end up going
12 to El Cheapos?

13 A Yes, sir.

14 Q And what was the reason for that?

15 A Just to get something to drink.

16 Q All right. And when you got there -- well, first
17 off, let me -- let me back up. You say you were -- you
18 say you were calling, and were you just calling or did you
19 do texts too?

20 A Yeah, did text too.

21 Q All right. And -- excuse me one second. (Hands
22 exhibits to the witness) Show you what's marked as State's
23 Exhibits 3, 4 and 5. Do you recognize these?

24 A Yes, sir.

25 Q And what are these?

1 A Text messages from my phone.

2 Q Pictures of your phone with the text messages pulled
3 up?

4 A Yes, sir, that they took that night.

5 Q All right. And if you look at it, is there some
6 overlap that you can see where ---

7 A Yeah.

8 Q --- like, where --

9 A Charles Brown.

10 Q Yeah. The ---

11 A Yes, sir.

12 Q Where there's a little bit of overlap between the --
13 the texts?

14 A Yes, sir.

15 Q So that you have to just put it together sort of like
16 that to be able to see the ---

17 A Yes, sir.

18 Q All right.

19 MR. LUPTON: Your Honor, at this point, I'd like to
20 ask to admit the State's 3, 4, and 5.

21 THE COURT: Any objection?

22 MR. LEINENDECKER: No objection.

23 MR. FARLEY: No objection, Your Honor.

24 THE COURT: All right. They're in.

25 MR. LUPTON: All right.

1 (State's Exhibit Nos. 3, 4, and 5, photos, in evidence.)

2 Q And so they have to be overlapped like that to -- to
3 see the progression, correct?

4 A Yes, sir.

5 Q And these are -- these are the texts between y'all?

6 A Yes, sir.

7 Q And there were additional phone calls; is that
8 correct?

9 A Yes, sir.

10 Q Then you ended up -- this was going on throughout the
11 day?

12 A Yes, sir.

13 Q You ended up at the gas station?

14 A Yes, sir.

15 Q Now, I want to talk about that. At the gas station,
16 was it light or dark out?

17 A It had to have been light.

18 Q Had to have been? You -- you remember or ...

19 A It was probably -- I really don't remember, but it --
20 it had to be kinda light. It had to have been some type
21 of light, but it wasn't dark, dark. I know that.

22 Q All right. But was it still daytime?

23 A I would like to say it was daytime. Maybe the sun
24 was setting. Probably daytime.

25 MR. LEINENDECKER: Objection, Your Honor. Obviously

1 we're speculating at this point, and the Solicitor's
2 assisting that. He said he doesn't remember.

3 THE COURT: If you don't remember, that's fine. But
4 just do the best you can.

5 (To Mr. Lupton) And please don't lead the witness.

6 Q All right. After you left the gas station --

7 A Yes, sir.

8 Q -- where'd you go?

9 A Rolling Meadows.

10 Q And did -- how long were you there?

11 A I'd say a hour-and-a-half, maybe two.

12 Q All right.

13 A Still waiting -- still waiting for a response. Still
14 waiting.

15 Q All right. And are you certain -- were you looking
16 at your watch during all these times?

17 A Yes. Because when you're trying to buy -- when
18 you're trying to buy something, you know, you're trying to
19 buy something; and the later it gets, you know, you -- you
20 know what I'm saying?

21 Q You start getting anxious?

22 A Exactly.

23 Q So ---

24 A So --

25 Q --- were you noting the times? Do you have any notes

1 where you say what time you -- you did what?

2 A I don't. And I don't have that phone anymore. But I
3 was texting him.

4 Q All right.

5 A Like, "I'm in Rolling Meadows. Where you at? Where
6 you at? Where you at?"

7 Q And so that -- the texts show when you were doing it,
8 but you don't recall how much. You just know it was some
9 amount of time?

10 A Yes, sir.

11 Q All right. And then did you eventually get a
12 location change?

13 A Yes, sir.

14 Q To where?

15 A Sandy Run, Sugar Hill.

16 Q All right. And by the time you get to Sugar Hill --

17 A Yes, sir.

18 Q -- was it light out or dark out?

19 A It was dark.

20 Q All right. And did you have a little bit of trouble
21 finding where you -- they were --

22 A Yes, sir.

23 Q -- where Quintin was directing you to meet?

24 A Yes, sir.

25 Q And did you ultimately find the location?

1 A Yes, sir. Falcon Drive, Falcon Lane, whatever.

2 Q Falcon Lane? And that was in the Sugar Hill area in
3 -- up there in Sandy Run?

4 A Yes, sir.

5 Q In Calhoun County?

6 A Yes, sir.

7 Q All right. And I'll show you what's already been
8 marked -- already in evidence, State's Exhibit 7. (Hands
9 exhibit to the witness) Is this -- is that a picture of
10 the Sugar Hill area where you were meeting?

11 A Yes, sir.

12 Q All right. And where exactly did you meet?

13 A It's an abandoned house. Some type of house on
14 Falcon Lane. (Indicates) I think ---

15 Q Right where you're pointing?

16 A --- right here. Right there.

17 Q All right. So right there, that house on Falcon
18 Lane?

19 A Yeah.

20 Q Now, what was it like there when you showed up?

21 A What was it like?

22 Q Yeah. What was -- what was the area -- can you
23 describe the area?

24 A Dark. He had told me that was someone's house, but
25 you know, when you pull up and look, you can tell a

1 abandoned house from abandoned house.

2 Q It was an abandoned house is what ---

3 A It was an abandoned house.

4 Q --- you're --

5 A So it was still pretty much dark out. It's dark out.

6 Soon as I pull up, them two standing by a motorcycle.

7 Q All right. And was this a populated area?

8 A No. No.

9 Q No? You sound real insistent.

10 A No. They was off in the cut. Like, away from the
11 road, away from houses.

12 Q Secluded?

13 A Secluded. Very, very secluded.

14 Q All right. And so you get there. Who were you
15 expecting to be there?

16 A Just Quintin.

17 Q All right. Did you ever talk about him bringing
18 anybody with him?

19 A No.

20 Q Who showed up?

21 A Nobody showed up. He was there. Derrick was there
22 with Quintin.

23 Q All right. So Quintin and Derrick were --

24 A Were --

25 Q -- out there?

1 A -- standing there.

2 Q Oh, okay. Now, let me back up a second. Well, no,
3 let -- let's go ahead. Once you got there, you see who's
4 there?

5 A Yes, sir.

6 Q What happened?

7 A We got out the car, my step-father, Charles, was
8 talking. So from -- from the view from the image, that's
9 the 600, that's not a 1000. That's not what we come to
10 buy. He's the only one doing all the talking.

11 Q Who?

12 A My step-father, Charles.

13 Q Okay.

14 A So actually, Quintin was -- Quintin was pretty
15 lenient about it. Quintin was like, "Well, you know what?
16 I will go get the bike. I'll go get the bike." You know,
17 "I'll get the bike for you."

18 Derrick said, "Naw. Somebody's buying something,"
19 but we kinda, like, threw it off, got in the car. When we
20 got in the car, Quintin and Charles were just talking.
21 They was just talking.

22 Q All right.

23 A I'm guessing Derrick didn't like the way the
24 conversation went.

25 MR. LEINENDECKER: Objection, Your Honor.

1 Speculation.

2 A Let me back up. When we got in the car, Charles told
3 me to give him the money.

4 Q All right.

5 A Now, at this point in time, when he grabbed the money
6 from me, Quintin was talking to him ---

7 Q Who grabbed the money from you?

8 A Charles.

9 Q All right. So you give the money to your dad?

10 A My step-dad.

11 Q And then what does he do with that money?

12 A He's telling them, like, you know, "I didn't come to
13 play games. I got the money and that's not the
14 motorcycle." Like I said, Quintin was pretty lenient
15 about it. Quintin didn't argue, it was nothing like that.

16 Before you knew it, a long barrel comes in the car.
17 Derrick Mills put the gun in the car, first on me, then on
18 Charles. Told me, "Don't move."

19 Q All right. It -- it -- long barrel. Did you see
20 what kind of ---

21 A It was a revolver.

22 Q All right.

23 A I know that. Black.

24 Q Okay. And do you know what caliber it was?

25 A I can't say which caliber.

1 Q All right. You just know it was a long barrel, black

2 ---

3 A Revolver.

4 Q --- revolver. And then -- so Derrick sticks that in
5 the car and is pointing it at the two of y'all --

6 A "Nobody move."

7 Q And he tells you, "Nobody move." What happens then?

8 A I seen a chance to get away. He was, like,
9 demanding, and you know, "Don't move. Don't move. Don't
10 move."

11 I'd like to say he tried to open Charles door, and
12 that's when I seen a chance to break ---

13 Q All right.

14 A --- so I broke. When I broke, I glimpsed back. I
15 can't confirm whether Quintin had a gun or not. I
16 honestly can't confirm he had a gun 'cause Quintin was
17 standing at Kendrell's window. Derrick had a gun. He put
18 the gun in the car.

19 Q All right. Did ---

20 A I seen it.

21 Q --- did Kendrell point something?

22 A Did Kendrell point something?

23 Q Not Kendrell, I'm sorry, Quintin.

24 A I -- I can't -- I don't -- I can't confirm he pointed
25 something. I don't -- I can't ---

1 Q Did he -- did he act as if he had a gun?

2 MR. FARLEY: Objection. Leading, Your Honor.

3 A He didn't ---

4 THE COURT: Can you state whether or not ---

5 THE WITNESS: I mean, he ---

6 THE COURT: Hold -- hold on a second.

7 THE WITNESS: I'm sorry.

8 THE COURT: Please rephrase your question.

9 Q Can you tell whether or not -- do you recall whether
10 or not he acted as if he had a gun ---

11 A He --

12 Q --- in some way?

13 A He didn't act towards me ---

14 MR. FARLEY: Your Honor, objection. I'm ---

15 THE COURT: Don't say what he witnessed. Just act --
16 just ask who, what, when, where.

17 A He didn't act like he was pointing at me. I couldn't
18 confirm a gun from Quintin. All I can -- all I know is
19 Quintin was standing at Kendrell's door and that Derrick
20 was at the driver's door.

21 Q Okay.

22 A By the time I broke and glimpsed -- and glimpsed back
23 to rewind, he was still at the door.

24 You know, they were at the truck. I -- I'm on the
25 passenger's side of the truck. So when I jump out, only

1 thing I still can see through the window is Derrick, mad.
2 So I can't confirm whether Quintin had a gun. I can't
3 confirm that.

4 Q All right.

5 A I can't confirm he pointed a gun at me. And I jumped
6 out the car and I heard, "He's running."

7 Q From who?

8 A Quintin.

9 Q Quintin said, "He's running. He's running."

10 A (No audible response.)

11 THE COURT REPORTER: Is that a "yes"?

12 Q All right.

13 THE WITNESS: Yes, ma'am.

14 Q So as Derrick's pulling Charles, your father, out of
15 the car, you saw a chance; you take off, and you hear
16 Quintin say, "He's running. He's running."

17 MR. LEINENDECKER: Objection, Your Honor. Leading.

18 A Yes, sir.

19 MR. LEINENDECKER: That's --

20 THE WITNESS: That's what I did.

21 MR. LEINENDECKER: That's -- I'm sorry. That's a
22 leading question and you can't answer it.

23 THE COURT: Don't lead the witness, solicitor.

24 MR. LUPTON: All right.

25 Q What did Derrick do with Charles?

1 A I mean, evidently, he killed him. But ---

2 Q Well, like --

3 A --- I just --

4 MR. LEINENDECKER: Objection, Your Honor. Calls for
5 speculation.

6 A At the time I ---

7 THE COURT: Hold ---

8 THE WITNESS: At the time ---

9 THE COURT: Hold on.

10 THE WITNESS: I'm sorry.

11 THE COURT: When there's an objection, I've got to
12 listen ---

13 THE WITNESS: Okay.

14 THE COURT: --- to his objection ---

15 THE WITNESS: Yes, ma'am.

16 THE COURT: --- and rule on it ---

17 THE WITNESS: Yes, ma'am.

18 THE COURT: --- before you answer, okay? So hold on
19 --

20 MR. LEINENDECKER: It's just that he's already
21 reveled that he ran. So he's now speculating.

22 THE COURT: What -- you can ---

23 MR. LUPTON: Let me rephrase --

24 THE COURT: --- ask him what he knows and what he saw
25 or what he served -- or what he perceived.

1 MR. LUPTON: Well, let me clarify it.

2 THE COURT: But he can't speculate.

3 MR. LUPTON: Yes, Your Honor. Let me clarify it.

4 DIRECT EXAMINATION

5 BY MR. LUPTON:

6 Q At the point you talked to -- you testified earlier
7 --

8 A Uh-huh.

9 Q -- about opening a door. What happened at that
10 point?

11 A I jumped out and ran and take a chance.

12 Q All right. What happened between Derrick and your
13 father?

14 A At the time he was -- by the time I was running, he
15 was pulling him out the car.

16 Q All right. So Derrick's pulling your father out of
17 the car?

18 A That's what gave me a chance to run.

19 Q All right. And that's ---

20 A And then he ---

21 Q --- that's where you saw your chance to run?

22 A Yes, sir.

23 Q Now, as you run what do you hear?

24 A I'd say I ran about -- about a 100 -- about a 100
25 yards -- about a 100 feet somewhere in the woods, but all

1 I can hear is, I'd say, six/seven shots.

2 Q All right. So you heard Quintin say something, is
3 that ---

4 A Uh-huh.

5 Q --- you testified to that.

6 A Uh-huh.

7 Q And then ---

8 THE COURT: Is that a "yes"?

9 THE WITNESS: Yes, sir. Yes, ma'am. Yes.

10 Q And then you heard gunshots?

11 A Yes.

12 Q And what did you do as a response to all of that?

13 A Just kept running.

14 Q Where did you run to?

15 A I ran up that -- I ran up Sugar Hill, not to the
16 nearest house 'cause I was still afraid somebody would
17 come behind me. So I ran just up to a friend house -- a
18 friend of the family's basically.

19 Q So it was somebody you knew?

20 A Uh-huh.

21 Q You ran to their house?

22 A Yes, sir.

23 Q Did you know anybody else on Sugar Hill?

24 A No, sir.

25 Q All right. So you ran to the one house you knew?

1 A Yes, sir.

2 Q And what did you do there?

3 A Called 911.

4 Q All right.

5 MR. LUPTON: Your Honor ---

6 Q And you called 911?

7 A Yes, sir.

8 Q And you know it was recorded?

9 A Yes, sir.

10 MR. LUPTON: Your Honor, at this time I'd move to
11 admit the 911 call.

12 THE COURT: Any objection?

13 MR. LEINENDECKER: No objection.

14 THE COURT: What's the exhibit number, Solicitor?

15 MR. LUPTON: State's Exhibit 9, Your Honor.

16 THE COURT: It's in.

17 (Marked State's Exhibit No. 9, 911 recording,
18 in evidence.)

19 MR. LUPTON: I beg the Court's indulgence while we
20 set this up.

21 (Brief pause.)

22 (911 recording plays.)

23 DIRECT EXAMINATION

24 BY MR. LUPTON:

25 Q So that was you calling ---

1 A Yes, sir.

2 Q -- 911?

3 A Yes, sir.

4 Q And after you got off the phone with 911, what did
5 you do?

6 A Went back to the scene to check on my father.

7 Q All right. Then what happened when you got there?

8 A I found his body.

9 Q What did you do?

10 A Kiss him and hug him and hold him and just sat with
11 him. My brother came down there.

12 Q Well, before your brother came and got you, we'll --
13 we'll talk about that in a minute. But you -- basically,
14 you -- you said you hugged him, kissed him?

15 A Yes, sir.

16 Q Did you alter the scene?

17 A No, sir.

18 Q Take anything from the scene?

19 A No, sir.

20 Q All right.

21 A My brother loaded up the gun in the car and him, and
22 he wanted to take him away from the scene before they say
23 it's a drug deal issue.

24 Q All right.

25 A And then I had to come back to meet the investigator.

1 Q So the police came and you talked to them?

2 A Yes, sir.

3 Q All right. And you told them what happened --

4 A Yes, sir.

5 Q -- as best you could?

6 A Yes, sir.

7 Q And then where did you go after you finished with the
8 police? Well, first of all ---

9 A Home.

10 Q Did that take awhile?

11 A It took a long time.

12 Q And where did you go afterwards?

13 A Home.

14 Q Did you pick anybody else up?

15 A You mean, did my brother pick anybody else up?

16 Q Well, your brother, I guess he was the one driving.

17 A We picked Kendrell up.

18 Q All right. Now, is it any question in your mind who
19 pulled the gun on your father?

20 A It's no question, Derrick Mills.

21 Q And pulled him out of the car?

22 A Yes and the motion of pulling him out of the car. By
23 the time -- yes -- pulling.

24 Q All right. And as you were running, what did you
25 hear?

1 A Six or seven gunshots.

2 MR. LUPTON: Beg the Court's indulgence.

3 (Brief pause.)

4 MR. LUPTON: Nothing further, Your Honor.

5 THE COURT: Cross-examination?

6 MR. LEINENDECKER: Thank you, Your honor.

7 CROSS-EXAMINATION

8 BY MR. LEINENDECKER:

9 Q Mr. Mack, my name's Mark Leinendecker. I'm
10 representing Mr. Derrick Mills.

11 A Yes, sir.

12 Q I have probably a few questions for you.

13 A Yes, sir.

14 Q Not a lot, all right?

15 A Yes, sir.

16 Q The 911 call we heard, it said at the beginning that
17 that call came at 6:41 p.m. I believe. Did you hear that?

18 A I didn't -- I -- I can't confirm the time.

19 Q Okay. But you didn't hear it when we were listening
20 to the audio?

21 A I don't know.

22 Q Yes or no?

23 A I didn't hear it. No, sir.

24 Q Okay. All right.

25 A About the time.

1 Q You -- you ran to a friend's house who lived on Sugar
2 Hill; is that correct?

3 A Friend of the family.

4 Q But --

5 A Yeah.

6 Q -- is that correct?

7 A Yes, sir. Uh-huh.

8 Q Okay. And that friend of the family's, what's their
9 name?

10 A Ms. Gwen.

11 Q Ms. Gwen? Do you know Ms. Gwen's last name?

12 A No, sir.

13 Q Okay. And as far as in proximity to the abandoned
14 house on Falcon Lane --

15 A Uh-huh.

16 Q -- Ms. Gwen's house was down at the end of Sugar
17 Hill; is that correct?

18 A It was down at the end. Down -- down the hill or up
19 the hill.

20 Q Up the hill.

21 A Yes, sir.

22 Q Okay. And that's where you ran because you knew her?

23 A Yes, sir.

24 Q You -- you met with the police on the evening of the
25 event, December 13, correct?

1 A That same night?

2 Q Yes, sir.

3 A Yes, sir.

4 Q And you met with them again, two days later, on
5 Monday the 15 at the Sheriff's Office, correct?

6 A Yes, sir.

7 Q And at that time -- you gave them written statements
8 both times about what happened, didn't you?

9 A Yes, sir.

10 Q Okay. You said that in the first statement, on the
11 13th, just like on the 911 call, you were there with
12 Charles Brown?

13 A Yes, sir.

14 Q That you were there to buy a motorcycle from Quintin
15 Mills?

16 A Yes, sir.

17 Q That you went to Sugar Hill to do this?

18 A Yes, sir.

19 Q That Charles Brown looked at the motorcycle and told
20 Quintin Mills that he wasn't interested in the motorcycle?

21 A Yes, sir. It's not the right motorcycle.

22 Q Okay.

23 A They he didn't bring the right motorcycle.

24 Q That it wasn't the bike he wanted to buy? I think
25 you --

1 A Yes, sir. Almost like false advertising.

2 Q Okay. That's how you wrote it?

3 A Yeah.

4 Q It wasn't the bike?

5 A Yes, sir.

6 Q Okay. And then you told them that before any
7 gunshots happened, you ran?

8 A Yes, sir.

9 Q And this was your running to Ms. Gwen's house up the
10 hill, correct?

11 A Yes, sir.

12 Q All right.

13 A Actually, I was in the woods running at the time I
14 heard the gunshots.

15 Q Okay.

16 A Not too far.

17 Q A hundred yards or a hundred feet you said?

18 A Yes, sir.

19 Q Okay. But you didn't see, you just heard the
20 gunshots?

21 A Yes, sir.

22 Q And then you told them that this had all started at
23 about 4 p.m. when you began communicating with Quintin
24 about the motorcycle, correct?

25 A It was five years ago. I can't confirm a time

1 exactly. So if it's documented, then, yeah.

2 MR. LEINENDECKER: May -- may I approach the witness?

3 THE COURT: You may.

4 Q (Hands document to the witness) Show you this and
5 just ask you to hold it.

6 A Uh-huh.

7 Q Do you recognize that?

8 A It's my statement.

9 Q Okay. Is that your handwriting?

10 A Yes, sir, and signature.

11 Q Very good. On the second page, you started telling
12 them about when you and Quintin began communicating on the
13 day of the event, correct?

14 A Yes, sir. Like I say, it was five years ago. So I
15 don't remember it exactly word for word.

16 Q Absolutely. And I --

17 A But yes, sir.

18 Q That's why I'm handing it to you.

19 A Yes, sir.

20 Q Okay. So -- but that's what you told them that day,
21 right?

22 A (No audible response.)

23 Q Then on the 15th, two days later, you met with the
24 police -- or the Sheriff?

25 A Yes, sir.

1 Q And you talked with them about what happened,
2 correct?

3 A Yes, sir.

4 Q Did they Mirandize you at that time? Give you --

5 A Clarify "Mirandize."

6 Q Did they give you your Miranda warnings? You have
7 the right to remain silent, anything you say can and will
8 be used against you ...

9 A It was five years ago. I can't confirm.

10 Q You -- you don't remember?

11 A No, sir.

12 Q Did they Mirandize you the -- the night of the
13 incident when they spoke to you?

14 A It was five years ago. I --

15 Q You -- you -- you don't remember?

16 A It was a emotional time. So I just told ---

17 Q Okay.

18 A --- the truth of what happened and that's --

19 Q On -- the statement you gave them on the 15th, you
20 give them a little more detail, don't you, because you've
21 had a couple of days to settle down?

22 A Say that again. You asking --

23 Q I'm asking. You -- you gave them a little more
24 detail, didn't you?

25 A I guess you could say that.

1 Q Okay.

2 A Yeah. Full statement. After -- after I had a longer
3 time to talk to them, yes, sir.

4 Q You told them that you ran to the street and called
5 the police. You ran to the street, meaning up the street,
6 to Ms. Gwen's house I assume, correct?

7 A Yes, sir.

8 Q You also told them that you ran in the house --

9 A Uh-huh.

10 Q -- and grabbed the gun?

11 A That's -- that's -- I wrote that down?

12 MR. LEINENDECKER: May I approach the witness?

13 THE COURT: You may.

14 (Mr. Leinendecker hands document to the witness.)

15 A But I did, I grabbed a shotgun -- I grabbed a shotgun
16 that was in the room. Where is -- where's that at?

17 Q Doesn't say "shotgun." It says (as read:) "Called
18 the police" --

19 A Yes. 'Cause I told them. You're right.

20 Q -- "and grabbed the gun."

21 A Uh-huh.

22 Q Okay. And then you said you went and found Mr. Brown
23 and that he was dead, and you got yourself covered in
24 blood because you -- you hugged him or grabbed him?

25 A No. Not -- I didn't say I covered myself in blood.

1 Q Okay.

2 A But yes, I did sat there and hug and --

3 Q Did you get blood on yourself?

4 A I didn't -- I wasn't covered in blood. I mean, blood
5 on my hands.

6 Q On your -- on your clothes?

7 A Maybe.

8 Q All right.

9 A Not too much on my clothes.

10 Q Okay. You said you told him everything would be
11 okay?

12 A Uh-huh.

13 Q And then you told the police (as read): "I got
14 pulled off him and walked back towards the road. And
15 that's when I went down the street, got my cigarettes, and
16 a beer."

17 A Yeah. That's -- by that time, my brother came and
18 got me.

19 Q That -- you don't mention your brother in this
20 statement.

21 A Nah. I told the investigators that, though.

22 Q You told the investigators that, but you didn't write
23 it in your statement?

24 A No.

25 Q Okay.

1 A My brother came and pick me up after it, at the scene
2 after the incident, after everything. Of course my
3 brother's going to come pick me up. I'm crying, I'm
4 emotional, he picks up the phone asks what's wrong. So
5 yeah. My brother didn't question to come get me, come
6 back and make sure I'm okay. Yes, he picked me up.

7 Q I'm just asking.

8 A Uh-huh. I know.

9 Q You didn't put it in your statement or tell anybody
10 until today, correct?

11 A I mean --

12 Q Correct?

13 A No'. Not correct. I told you I told the
14 investigators. Is any of the investigators -- is --

15 THE COURT: Sir, you can't ask questions. You can
16 answer the question ---

17 THE WITNESS: Oh, sorry.

18 THE COURT: --- what you did, but you can't ask
19 questions.

20 THE WITNESS: That's fine.

21 Q All right. Thank you.

22 A Okay. No problem.

23 MR. LEINENDECKER: One moment, Your Honor.

24 (Brief pause.)

25 Q Mr. Mack, do you remember when you showed up on the

1 15th, you also spoke to a Kendra Williams, who's the
2 victim's advocate?

3 A I can't recall. I can't recall.

4 Q Do you remember telling them that day, when you were
5 there, that you ran to Ms. Gwen's house because you were
6 familiar with her, correct?

7 A I can't confirm that I told them. I -- I -- I can't
8 -- you keep asking did I talk to a Kendra Williams?

9 Q Yeah. Did -- did you tell anybody at the Sheriff's
10 Office you ran to Ms. Gwen's house because you're familiar
11 with her? That -- that's what you told them, correct?

12 A I can't confirm that I told them that. When I told
13 them I ran to a house, I wouldn't say a name 'cause they
14 never asked a name. They just ---

15 Q Okay. Didn't you tell them that you called 911 and
16 then Ms. Gwen and her daughter took you back to the scene?

17 A No.

18 Q You advised them that you hugged your father at the
19 scene?

20 A Uh-huh.

21 Q You also told them, didn't you, that you picked up
22 two cell phones from the ground at the scene?

23 A No. I don't know where that come from.

24 Q Okay. Did you get a receipt that day for the \$172
25 that were in Mr. Brown's pocket?

1 A No, sir. Did I get a receipt?

2 Q Yeah.

3 A No, sir.

4 Q Was it given to your mom?

5 A I -- I can't recall. I --

6 Q Your mom's name is Shannon Mack-Brown; is that
7 correct?

8 A Yes, sir.

9 Q Okay. All right.

10 MR. LEINENDECKER: No further questions.

11 THE COURT: Cross-examination?

12 CROSS-EXAMINATION

13 BY MR. FARLEY:

14 Q Hello, Mr. Mack. How are you doing?

15 A All right.

16 Q So, I wanted to ask you -- I didn't want to go over
17 the testimony that you just did with the -- with Mr.
18 Leinendecker, But I wanted to ask you some different
19 questions.

20 A Uh-huh.

21 Q So the transaction that you were trying to set up
22 with Mr. Mills --

23 A Uh-huh.

24 Q -- that began around 4 p.m. according to your
25 statement, is --

1 A According to my statement, uh-huh.

2 Q So -- so all of this transpired in probably about a
3 two-and-a-half hour window; is that correct?

4 A I would like to say.

5 Q Well, I mean, if -- you been --

6 A In my statement I wrote down "four o'clock," but it's
7 still an emotional state. I would probably think it
8 woulda been longer than that. Probably a little bit
9 earlier in the day I'd been trying to get in touch with
10 him as far as the transaction.

11 Q But it's fair to say, Mr. Mack, closer in time to the
12 incident, when you wrote your statement, you put four
13 o'clock.

14 A That's -- that's the statement.

15 Q And the 911 call came in at 6:40.

16 A If that's what documented.

17 Q So it's about two-and-a-half hours of this entire
18 transaction.

19 A Uh-huh.

20 Q Is that fair to say?

21 A Okay.

22 Q All right.

23 A Uh-huh.

24 Q And while you were waiting for Quintin to show up at
25 the -- with the motorcycle, what were you doing at that

1 time?

2 A Which time? It was plenty of times he was supposed
3 to come.

4 Q That's what I'm saying. The -- the time that it took
5 between --

6 A Uh-huh.

7 Q -- when you began to set the transaction at four
8 o'clock --

9 A Uh-huh.

10 Q -- and the time that you arrived at the location --

11 A Uh-huh.

12 Q What were you doing in all -- in that waiting period?

13 A Riding with my step-dad. Just talking. You know,
14 just riding. Just waiting.

15 Q But you guys were also drinking, too, right?

16 A I can't confirm we were drinking. We both were
17 drinking? No.

18 Q No?

19 A No.

20 Q Okay. I mean, we heard from -- testimony yesterday
21 from Mr. Kendrell --

22 MR. LUPTON: Objection. Pitting.

23 A I don't --

24 THE COURT: I'll allow it on cross-examination.

25 Q We heard from Mr. Thompson. He said that you and --

1 A Uh-huh.

2 Q -- Mr. Brown were both inebriated and that he had
3 also had some drinks.

4 A No.

5 Q Do you recall that?

6 A No, I don't recall that.

7 Q Okay. So you -- your testimony is you were just
8 riding around with your dad?

9 A Uh-huh.

10 Q Okay.

11 THE COURT: Is that a "yes"?

12 THE WITNESS: Yes, ma'am.

13 Q So you finally get with Mr. Mills, and -- but -- but
14 you're texting back and forth this entire time --

15 A Yes, sir.

16 Q Is that correct?

17 A Yes, sir.

18 Q And at no time did your step-dad, Mr. Brown --

19 A Uh-huh.

20 Q -- and Quintin Mills communicate, right?

21 A No.

22 Q Everything was through you?

23 A Uh-huh. Yes, sir.

24 Q Okay. And is it fair to say that's probably how the
25 misunderstood -- misunderstanding about the motorcycle

- 1 could've occurred?
- 2 A No.
- 3 Q Okay. So --
- 4 A 'Cause he told me he had a 1000.
- 5 Q Uh-huh.
- 6 A If I'd have told my step-dad that he had a 600, deal
7 would've been off. No transaction. He kept pushing the
8 issue of a 1000, which is what my step-dad wanted.
- 9 Q And you had 1000 -- or your step-dad had a \$1000?
- 10 A Probably say total, yeah.
- 11 Q All right.
- 12 A I don't remember the exact price or what he was
13 charging, but I'm pretty sure somewhere -- if it was the
14 1000, it would've probably been a 1000.
- 15 Q All right.
- 16 A I'm thinking that's what he said.
- 17 Q When you arrived on Falcon Lane and you arrived there
18 to meet Quintin and his -- and -- isn't that correct?
- 19 A Yes, sir.
- 20 Q And then --
- 21 A Took awhile for him to get to Falcon Lane. But yes,
22 sir. But eventually.
- 23 Q Sometime after six o'clock at least?
- 24 A I'm guessing. I can't be --
- 25 Q Well, if the 911 call --

1 A Right.

2 Q If the 911 call came in at 6:40, then that's fair to
3 say, right?

4 A Fair to say.

5 Q All right.

6 A Can't confirm it, but ...

7 Q And then earlier in your testimony with the State,
8 you said that Quintin was very understanding and was
9 willing to go get the correct motorcycle?

10 A Yes, sir.

11 Q Okay. So you feel like he was there to do a
12 legitimate transaction?

13 A I'd like to think so. I really would. I really
14 would.

15 Q Okay. But that was your impression --

16 A Uh-huh.

17 Q Is that correct?

18 A Yes, sir.

19 Q You -- he was there to do a transaction just like you
20 guys were there to do a transaction?

21 A Yes, sir.

22 Q There was a misunderstanding, he was willing to
23 rectify it by getting the correct motorcycle?

24 A Yes, sir.

25 Q All right. And you also testified that he -- you

1 couldn't confirm he had a weapon. You -- you don't know
2 if he had a weapon or not?

3 A I can't confirm it.

4 Q All right.

5 A Kendrell would be more --

6 Q We heard from --

7 A He was there, but --

8 Q That's all right. We heard from him yesterday.

9 A Okay.

10 Q That's all right. I'm asking what you ---

11 A Yes, sir.

12 Q --- remember.

13 A I can't confirm he had a gun.

14 Q Right. So you don't remember seeing a gun is
15 basically what you're saying?

16 A I remember seeing Derrick [sic] gun.

17 Q Yeah. I under -- I understand.

18 A Okay.

19 Q I -- I'm asking you about Mr. Quintin Mills.

20 A Okay. I'm sorry.

21 Q You know -- I -- I mean, I think you covered the --

22 A Okay.

23 Q -- other testimony --

24 A Yes, sir.

25 Q With them. I'm asking you about Mr. Quintin Mills.

1 A Yes, sir.

2 Q And again, once that -- once that incident occurred
3 with your father -- Mr. Brown and -- and Derrick Mills,
4 you opened the car door and you ran?

5 A Yes, sir.

6 Q Right? And you just heard -- you just heard, "He's
7 running. He's running"?

8 A Yes, sir.

9 Q Could you be sure who that came from?

10 A Quintin.

11 Q And could you be sure he said, "He's running"?

12 A I'm positive.

13 Q Because a lot of other things -- you just said it was
14 a very emotional time and you don't remember.

15 A I can -- that's after my step-dad got killed.

16 Q How do you know that?

17 A The -- all the emotional times he was talking about
18 is after my step-dad got killed.

19 Q But --

20 A As far as statements and testimonies, this is before
21 the fact --

22 Q But Mr. --

23 A So I was aware. I'm -- I know what I heard.

24 Q But Mr. Mack, you -- you testified earlier that you
25 were already 100 yards away by the time you heard shots.

1 A Gunshots.

2 Q Exactly.

3 A I testified earlier also when I jumped out the car, I
4 heard, "He's running. He's running." It's in my
5 statement.

6 Q I -- I -- that's what I'm saying. But you said --

7 A Uh-huh.

8 Q You just said that was after your step-dad got
9 killed.

10 A No. Uh-uh. You're trying to imply that I was
11 emotional. I'm telling you I was -- basically what he was
12 talking about an emotional state, I was telling him --
13 he's talking about these statements at the time of my
14 father being killed and all this. I'm telling you, before
15 -- during the robbery when I jumped out the car, I heard,
16 "He's running. He's running," from Quintin.

17 Q But you said ---

18 A I wasn't even a hundred feet from the car when I
19 heard that. I ---

20 Q But you said ---

21 A --- wasn't but two feet/three feet.

22 Q You said that was after your step-father got killed;
23 isn't that correct?

24 A No.

25 Q Isn't that what you just testified to?

- 1 A No.
- 2 Q All right. So you said you ran a hundred yards --
- 3 A Uh-huh.
- 4 Q -- 'cause -- but then after that hundred yards, you
- 5 heard the shots and that's when you decided --
- 6 A I said I ran about a hundred yards and then --
- 7 Q You heard the shots?
- 8 A Yes, sir.
- 9 Q That's when you went to Ms. Gwen's house --
- 10 A Yes, sir.
- 11 Q Is that correct?
- 12 A Yes, sir.
- 13 Q Okay. And then you didn't see anyone after that; is
- 14 that correct?
- 15 A No, sir.
- 16 Q Not Mr. Thompson?
- 17 A No.
- 18 Q Not Quintin Mills?
- 19 A No. Not Derrick.
- 20 Q Noone except your brother, who came and picked you
- 21 up; is that correct?
- 22 A Yes, sir. Basically.
- 23 Q All right.
- 24 A And my step-father dead body when I had to be there,
- 25 so ...

1 Q That was much later; isn't that correct?

2 A Uh-huh.

3 Q Okay. All right. But you -- did you communicate
4 with Mr. Mills, Mr. Quintin Mills?

5 A Afterwards?

6 Q Yeah.

7 A No.

8 Q Okay. But I mean, you weren't -- in -- in any kind
9 of contact with him?

10 A No.

11 Q All right. I -- and I just want to get a little bit
12 of understanding.

13 A Uh-huh.

14 Q State's evidence, which you've previously looked at,
15 right? Isn't that -- let's see.

16 MR. FARLEY: Give me -- beg the Court's indulgence.

17 Q Just one second.

18 A Uh-huh.

19 (Brief pause.)

20 Q So let me ask you this then: Was there -- before
21 this occurred --

22 A Uh-huh.

23 Q Right? Was there any history between Mr. --

24 A Not that --

25 Q I'm sorry?

1 A Go ahead. I'm sorry.

2 Q I didn't finish my question.

3 A Go ahead.

4 Q Was there any history between your step-father, Mr.
5 Charles Brown, and Mr. Derrick Mills?

6 A Not that I know of.

7 Q I mean, did they know each other?

8 A I don't -- wouldn't know.

9 Q I mean, he -- you grew up with Mr. Brown as your
10 step-father, right?

11 A That's who raised me. Yes, sir.

12 Q But you don't know if -- 'cause they were the same --
13 they were roughly the same -- they're contemporaries,
14 right, Mr. Derrick Mills and your step-father?

15 A What -- what -- clarify that.

16 Q Grew up at the same time, about the same age?

17 A I wouldn't know. They're obviously not the same man.
18 Obviously.

19 Q I'm -- I --

20 A But I don't think they would know each other.

21 Q Okay.

22 A I mean, I -- I don't know.

23 Q All right.

24 A I mean, I don't know his name, so I can't tell you
25 that, "yes." I can't --

1 Q The -- I just wanted to know if you were aware if
2 they were contemporaries or not.

3 A I don't.

4 Q All right. All right. Thank you, Mr. Mack.

5 MR. FARLEY: No further questions.

6 THE COURT: Any redirect?

7 MR. LUPTON: Thank you, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. LUPTON:

10 Q A couple of things, Jarvis. There were some
11 questions about where it is you ran to.

12 A Yes, sir.

13 Q And I -- I'll show you State's Exhibit 7 again, and
14 there's a marker on there, a red marker.

15 A Yes, sir.

16 Q Do you recognize where that -- what that's marking?

17 A The house.

18 Q The house what?

19 A I ran to.

20 Q Okay. So that's the house you ran to?

21 A Yes, sir.

22 Q All right. And you -- you -- you testified you were
23 very emotional the night your father was killed, right
24 after he was killed?

25 A Yes, sir. Yes, sir.

1 Q And that's when you wrote the statement that Mr.
2 Leinendecker showed you --

3 A Yes, sir.

4 Q -- with four o'clock on it?

5 A Yes, sir.

6 Q Did you give a different time on Monday?

7 A I'm trying to say so. Yes, three o'clock.

8 Q All right. So on Monday, after you had time to calm
9 down, you said three o'clock.

10 A Yes, sir.

11 Q And Quintin's attorney asked you about what you said
12 in your statement. At the time, on that Monday --

13 A Yes, sir.

14 Q -- what did you say about whether or not Quintin had
15 a gun?

16 A In my statement I said he pointed the gun in the car.

17 Q All right.

18 MR. LUPTON: Nothing further, Your Honor.

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

20 THE WITNESS: Yes, ma'am.

21 (The witness exits the stand.)

22 MR. LUPTON: And Your Honor, I ask that this witness
23 be excused.

24 THE COURT: Any objection?

25 MR. LEINENDECKER: No.

1 MR. FARLEY: No objection, Your Honor.

2 THE COURT: He's free to go. You may call your next
3 witness.

4 MR. LUPTON: Your Honor, the State calls Richard
5 Herron.

6 THE COURT: Come on up, sir.

7 RICHARD HERRON, having been first duly
8 sworn, testifies as follows:

9 THE CLERK: Please state your full name for the
10 record.

11 THE WITNESS: Richard Boyd Herron.

12 THE CLERK: Thank you, sir. You may be seated.

13 THE COURT: Your witness.

14 MR. LUPTON: Thank you, Your Honor.

15 DIRECT EXAMINATION

16 BY MR. LUPTON:

17 Q Richard, you're a civilian now; is that correct?

18 A Yes, sir.

19 Q At -- finally?

20 A The agency finally ran me off.

21 Q All right. How old are you?

22 A 74, sir.

23 Q 74. Can you tell this jury a little bit about your
24 background? How did you get to be a deputy in -- in your
25 70's?

1 A Well, I had 25 years military experience and after I
2 got out of the military I started a repossession business
3 and then I had to stay healthy for that and fortunately I
4 was born with good genes. And --

5 Q Well, what do -- did you have -- did you have a job
6 that required physical activity prior to joining the
7 military?

8 A I was born and raised in the mountains in East
9 Tennessee. And we --

10 MR. STEVENS: Judge, relevance?

11 THE WITNESS: Sorry.

12 THE COURT: He can get a little background
13 information.

14 A We lived off of -- of what we could farm and catch
15 and kill.

16 Q Did you ever -- ever work in the rodeo?

17 A Yes, sir. Rode rodeo. That's how I left home.
18 That's how I got out of East Tennessee.

19 Q As a professional rodeo rider?

20 A Yes, sir. I had a sponsor in Knoxville.

21 MR. STEVENS: Judge --

22 MR. LUPTON: And I'll move along, Your Honor.

23 MR. STEVENS: He's a bull rider, that's fine. It has
24 nothing to do with the case.

25 THE COURT: Let's move on, Solicitor.

1 Q And so you end up going through these various jobs
2 and you ultimately end up as a law enforcement officer; is
3 that correct?

4 A Yes, sir.

5 Q And when did you start that job?

6 A In 2000, sir.

7 Q All right. And did you get trained for that?

8 A I did. I went to the police academy.

9 Q All right. And were you a -- and who hired you?

10 A Thomas Summers, sir.

11 Q All right.

12 A Served with Thomas Summers.

13 Q All right. And that's what department?

14 A With the Sheriff's Office in Calhoun County

15 Q Calhoun County Sheriff's Department. And were you a
16 Calhoun County Sheriff's Deputy back in -- on December 13,
17 2014?

18 A I was, sir.

19 Q And what were you doing at around 6:40 that night?

20 A I had just finished my shift. I was working on day
21 shift and I'd gone to Exit 19, the Exxon station, to put
22 gas into my patrol vehicle so that it would be ready for
23 the next day's duty.

24 Q And when you say "19," you --

25 A Exit 19 off of 26.

1 Q You talking about 119?

2 A Yes, sir.

3 Q All right. So you were up there. Did something
4 happen? Did -- did you get a --

5 A Right --

6 Q -- any kind of a radio call?

7 A Right after I left and started back home, it came out
8 a shooting on Falcon Lane.

9 Q All right. And did you end up responding to that?

10 A I did. I responded based on -- I knew where Falcon
11 Lane was. I used to be the resident deputy up there
12 before, and I know the -- some of the people up there and
13 I responded to see what was going on.

14 Q All right. So you go to the scene. And that area --
15 is that in Calhoun County?

16 A It is, sir. It is in our jurisdiction.

17 Q All right. And when you got there, were you the
18 first officer on the scene?

19 A I arrived at the scene first. Yes, sir. About 90
20 seconds before other people got there.

21 Q All right. And as the first officer on the scene,
22 can you describe what you saw once you got there?

23 A When I turned off of Falcon onto the driveway into
24 the old road, a partially torn down residence -- pardon
25 me. They was a female waving at -- at me. She recognized

1 the patrol car and she come to the patrol car and told me
2 that the -- there had been a shooting.

3 Q Okay.

4 A So I'm not sure exactly the words she used. So --

5 Q Were there people already out on the -- all right.

6 First of all, the -- the road, Falcon Lane, is that a
7 paved road or a dirt road?

8 A It's a dirt road, sir. It's a one-lane dirt road.

9 Q All right.

10 A Up off Sugar Hill.

11 Q And where were the people?

12 A This lady was up in the yard, the one that came to
13 the patrol car. Now, they [sic] was other people coming
14 down the -- the -- the dirt road, Falcon Lane, walking
15 behind it; but when I got there, I stopped them. I would
16 not let them go into the driveway up in -- into the yard.

17 Q All right. And you said you were familiar with Sugar
18 Hill area?

19 A Yes, sir.

20 Q Would it be fair to say that that's an area where
21 everybody knows everybody, most everybody's related?

22 A A lot of family connections can -- either blood or
23 married kin primarily reside in that area.

24 Q And what did -- is that an area where word travels
25 fast?

1 A Absolutely. With Facebook and -- and cell phones and
2 everybody's talking or -- or they know what's going on
3 really fast.

4 Q So people started showing up.

5 A Yes, sir.

6 Q All right. Once you get to the scene, what did you
7 do?

8 A I had positioned my patrol car with the lights shined
9 on the person on -- laying on the ground, okay? Refer to
10 him as the "victim." And -- and I had the people that was
11 in the yard -- the lady that was in the yard, I had her
12 get near my patrol car. I locked the car and left it
13 running with the lights on and I walked around outside the
14 lights to secure the area with my hand-held light looking
15 for suspects or evidence and I found none.

16 Q All right. And when you say "suspects or evidence
17 and you found none," are you referring to -- I mean,
18 obviously you already testified that there was a body
19 there.

20 A Yes, sir. I'm talking about in -- in a 40/50 feet
21 circle around the body.

22 Q Right.

23 A Now, naturally the body and other things I did not
24 touch, all right? And --

25 Q You were looking for --