

Volume II of II

STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM YORK COUNTY APR 23 2013

John C. Hayes, III, Circuit Court Judge **SC Court of Appeals**

THE STATE,

RESPONDENT,

V.

DAVONTAY HENSON,

APPELLANT

Appellate Case No. 2011-204008

RECORD ON APPEAL

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DETECTIVE LESLIE HERRING: DIRECT BY MR. THOMPSON

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1 on January 12th of 2010?

2 A. We interviewed her along with the US Marshall's, Mike  
3 Etheridge, and some other US Marshall's interviewed the  
4 mother there on Spring Street.

5 Q. Did ya'll do any searches at that time?

6 A. Yes, sir, we did. Based on the information she  
7 provided, we went to an address on Chestnut Street in Rock  
8 Hill and searched that residence.

9 Q. Did you inform her of the warrants that were out for  
10 her son?

11 A. Yes, sir. We made her aware, and she was already  
12 aware that there were warrants outstanding for him. But we  
13 reiterated how important it was for us to contact him  
14 because we didn't want him getting hurt because of the  
15 severity of the crime, some young officer might arrest him.  
16 And we didn't want him the officer or Mr. Henson hurt in  
17 the process.

18 Q. And in the process of doing this in this time period  
19 as well, were you able to talk to and contact other members  
20 of his family?

21 A. We made contact with the grandmother -- grandfather in  
22 Baltimore. Someone from -- I don't know if it was his  
23 mom's, I think it was his dad's -- his dad's parents or  
24 grandmother, I believe, in Baltimore.

25 Q. And were they also told about the warrants against

DETECTIVE LESLIE HERRING: DIRECT BY MR. THOMPSON

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1 him?

2 A. Yes, sir.

3 Q. And when you -- When the contact is -- I won't go  
4 there. Let me -- Were there any searches conducted? Let's  
5 go back closer to the date of the incident. Were there any  
6 searches still in October done in Rock Hill for Davontay  
7 Henson at that time?

8 A. Several different locations were looked at. His last  
9 known residence on Flint Street was gone to. Several other  
10 residences in Rock Hill was checked, but we never were able  
11 to locate him.

12 Q. And, I guess -- Was there ever a time that the SWAT  
13 Team was called out to look for him?

14 MR. CHIARENZA: Objection, leading, Your Honor.

15 THE COURT: Yeah, I sustain the objection.

16 BY MR. THOMPSON:

17 Q. What if any other searches do you recall in the Rock  
18 Hill area?

19 A. We searched a location on Carolina and State Street,  
20 and actually chased an individual, never confirmed it was  
21 Mr. Henson. We recovered items from that chase but, like I  
22 said, we never could confirm if that was actually him or  
23 not.

24 Q. And in doing that, how many offices were involved?

25 A. During the period of the entire investigation?

DETECTIVE LESLIE HERRING: DIRECT BY MR. THOMPSON

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1 Q. No, just for that particular incident?

2 A. We had SWAT Team members, street crime officers,  
3 detectives, patrol officers. We had numerous officers  
4 involved, probably twenty-five or so officers at that time.

5 Q. Do you remember during that time, in that particular  
6 search, was any -- as far as the scrutiny -- And, I guess,  
7 with that many officers involved, what if anything did you  
8 have to do then to affect that type of search?

9 A. As far as coordinating the search or -- Looking in a  
10 certain area, we had to set a perimeter up to try to keep  
11 contained the individuals within the -- within the  
12 perimeter.

13 Q. And stop people from coming in and out of that  
14 perimeter?

15 A. That's correct. We had to close streets down because  
16 of what we had located during the chase. There were  
17 evidence of --

18 Q. How many blocks in Rock Hill were closed down?

19 A. I would say probably at least four to five blocks in  
20 Rock Hill were closed down at the time during the search.

21 Q. And where was that area again?

22 A. It's State Street and Carolina Avenue.

23 Q. Do you remember about when that was that, that  
24 occurred?

25 A. That was, I believe, October the 8th, right after it

DETECTIVE LESLIE HERRING: DIRECT BY MR. THOMPSON

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1 happened.

2 Q. And were you able to determine areas where the  
3 Defendant was living at this time here in Rock Hill where  
4 his addresses were?

5 A. Well, we knew that their address on Flint Street was  
6 the last known address we had of him, but also that he had  
7 stayed on Spring Street where we actually talked to his  
8 mother in January of 2009.

9 Q. All right.

10 A. So apparently, he had lived on Spring Street at some  
11 point in time.

12 Q. Are these areas close to the area that had been shut  
13 down?

14 MR. CHIARENZA: Objection, leading.

15 THE COURT: I overrule the objection.

16 Go ahead.

17 A. The Flint Street address is close to the area where he  
18 was spotted. You know, we had to close those areas down.  
19 But the Spring Street was not that close to those areas.

20 Q. And where is that in relation to Keels Street, the  
21 area that was shut down, Keels Avenue?

22 A. It's all basically on the same side of town, south  
23 side of town, yes, sir.

24 Q. If you would, tell me what other actions as well that  
25 you had taken that you recall. And still, we'll go back to

DETECTIVE LESLIE HERRING: DIRECT BY MR. THOMPSON

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1 after the search of the -- they talk about with the mother  
2 on January 12th of 2010. What other avenues did you  
3 continue to pursue at that time?

4 A. . We continued -- We from talking to the mother, like I  
5 said, we searched the residence there on Chestnut Street.  
6 Also attempted to, once we got a new cell phone number for  
7 her, to track her back and forth on her travels from South  
8 Carolina back to the Baltimore area.

9 Q. And ultimately, where was Davontay Henson apprehended?

10 A. He was arrested in Baltimore, Maryland.

11 Q. Do you remember around what time that was?

12 A. I believe he was arrested in Baltimore in September of  
13 2010.

14 Q. And when was he actually brought to South Carolina?

15 A. He was brought to South Carolina October 19th of 2010.

16 Q. Now, Detective, just a few more questions. Going back  
17 to the robbery itself and in your investigation, were y'all  
18 able to recover any of the stolen items that were stolen  
19 from Mr. Jackson, and Mr. King, and Mr. Cunningham?

20 A. I think the only items that we were able to recover  
21 was like the Ten dollar bill that was left on the steps  
22 that was taken from their person. But the cell phones and  
23 those other items, the money, the wallets, ID's and stuff  
24 like that, none of that was ever recovered.

25 Q. Were y'all ever able to find a gun in this case?

DETECTIVE LESLIE HERRING: CROSS BY MS. INZERILLO

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1 A. No, sir. We never located the weapon.

2 Q. And how about Samantha Ervin's cell phone? Were you  
3 ever able to recover it?

4 A. No, sir. We were not able to locate it either.

5 Q. And going back to the cell phone just briefly. What  
6 type of cell phone were these that they were using?

7 A. They were like track phones where you buy time/minutes  
8 for. It's not something that --

9 Q. And as far as in your line of work when you're trying  
10 to obtain records for these types of phones, are you able  
11 to obtain records of texting and things like that on track  
12 phones?

13 A. We're only able to track -- On those type things,  
14 we're not able to get the text messages in those type  
15 things, just the basic services, basically.

16 Q. And can you tell me, does it have any identifying  
17 information with the phone number? In other words, does it  
18 give names and dates, addresses, and things like that?

19 A. No, sir. It's just phone numbers, basically.

20 Q. Thank you. No further questions.

21 THE COURT: Ms. Inzerillo?

22 MS. INZERILLO: If it please the Court, Your Honor.

23 CROSS EXAMINATION

24 LESLIE HERRING BY MS. INZERILLO:

25 Q. Detective Herring, along with Detective Ayers, you

DETECTIVE LESLIE HERRING: CROSS BY MS. INZERILLO

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1 were sort of the case agent for this case. Right?

2 A. Yes, ma'am.

3 Q. And sort of in laymen's terms, the case agent is the  
4 person who sort of manages the case. Right?

5 A. Yes, ma'am.

6 Q. So your job would be to assess any of the leads that  
7 are developed by any officer in the case. Right?

8 A. Try to run down as much information as possible. Yes,  
9 ma'am.

10 Q. And review any reports generated by any responding  
11 officers, anything like that?

12 A. As best we can under time constraints. Yes, ma'am.

13 Q. Because essentially in a case like a murder case, you  
14 have a lot of people involved. Right?

15 A. Sometimes they'll have a lot of people. That is  
16 correct.

17 Q. Right. I mean, I think you testified there are other  
18 detectives involved in the case. Obviously it starts with  
19 the responding officer going to the scene. Right? You  
20 have EMS personnel that may report, Forensics that may  
21 report. Right?

22 A. That is correct, yes, ma'am.

23 Q. So in terms of having a lot of cooks in the kitchen,  
24 on a murder case, you have to deal with a lot of that.  
25 Right?



DETECTIVE LESLIE HERRING: CROSS BY MS. INZERILLO

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1 A. Some are more involved than others, but the majority  
2 we have, you know, as many officers as, you know, it takes  
3 to -- to get the ball rolling and get the, you know -- find  
4 out exactly what happened.

5 Q. Right. And so as case agent, you're sort of top of  
6 the heap. Right? You review --

7 A. I seem like I'm at that bottom of the heap, probably.

8 Q. How about, I put it this way. You sort of review all  
9 of the information that comes in. Right?

10 A. As best we can at the time. Yes, ma'am.

11 Q. And essentially, as case agent, you have a very good  
12 overview of the entire case. Right?

13 A. After everything's gathered and, you know, we have  
14 time to digest it and all, we pretty much can get an  
15 overview. But as it's going on, it's not really an  
16 overview to be obtained at that point.

17 Q. Now during the investigative phase of this case, you  
18 met with Samantha Ervin. Right?

19 A. Yes, ma'am.

20 Q. And you took her statement. Right?

21 A. Yes, ma'am.

22 Q. And she was there with her mom. Right?

23 A. It's her mom or her sister that she calls her mom, I'm  
24 not sure. It was a relative, an older lady. It might have  
25 been her mom. I don't think it was her mom, I think it was

DETECTIVE LESLIE HERRING: CROSS BY MS. INZERILLO

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1 her sister.

2 Q. And you have gone into great detail about how you  
3 interview people and how you take statements. And did you  
4 follow essentially that same protocol when you interviewed  
5 Samantha Ervin?

6 A. Yes, ma'am.

7 Q. So you read "Miranda", you did the interview, and then  
8 you typed in what she said. Right?

9 A. Yes, ma'am.

10 Q. And in talking to her, you indicated to her you wanted  
11 her to tell the truth. Right?

12 A. Yes, ma'am.

13 Q. And you in typing the statement, you didn't add  
14 anything into that statement she didn't say?

15 A. No, I did not.

16 Q. And you didn't delete anything that she did say.  
17 Right?

18 A. No, ma'am.

19 Q. So essentially when you type these statements, you're  
20 not exercising any sort of editorial control. You're  
21 merely the conduit of how the statement gets into the  
22 computer?

23 A. That's pretty much how it happens. Yes, ma'am.

24 Q. And that's essentially the same practice you used when  
25 you took Donta's statements. Right?

DETECTIVE LESLIE HERRING: CROSS BY MS. INZERILLO

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1 A. Yes, ma'am.

2 Q. And just to be clear, in all four statements, you were  
3 present for each one of them. Right?

4 A. Yes, ma'am.

5 Q. So when you interviewed him and you started -- You  
6 know, you did the "Miranda", and did the interview, you  
7 also took personal information from him. Right?

8 A. His personal information, yes, ma'am, his date of  
9 birth, his home address, stuff like that. Yes, ma'am.

10 Q. And his date of birth is May 1992. Right?

11 A. That's -- I'm pretty sure that's it. I'll just  
12 double-check it.

13 Q. Sure.

14 A. May the 12th, 1992. Yes, ma'am.

15 Q. So in 2009, that would have made him 17-years-old.  
16 Right?

17 A. Yes, ma'am.

18 Q. And generally when you interviewed Donta, it was you  
19 and perhaps another detective in the room for some amount  
20 of time, and then him. Right?

21 A. Yes, ma'am.

22 Q. And initially you received information about Donta and  
23 left a card at his mom and step-dad's house. Right?

24 A. That is correct, yes, ma'am.

25 Q. And he contacted Rock Hill P.D. indicating he wanted

DETECTIVE LESLIE HERRING: CROSS BY MS. INZERILLO

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1 to talk with you guys. Right?

2 A. Yes, ma'am.

3 Q. So when he -- after you placed him under arrest, and  
4 you go and you talk to him about the statement, that  
5 statement was given about 12 hours, 13 hours or so after  
6 the shooting on the porch. Right?

7 A. Approximately, yes, ma'am.

8 Q. And in that first statement, sort of, if you want to  
9 pull it. I think you have a stack of statements there  
10 you've been questioned about today. And sort of for ease  
11 chronology, Detective, I'm going to call them first,  
12 second, second statement, third statement, since you were  
13 present for all of them; is that right?

14 A. Yes, ma'am.

15 Q. Okay. And on this first statement, essentially you're  
16 asking him to tell you what happened. Right?

17 A. Yes, ma'am.

18 Q. And as case agent, from at the time that you talked to  
19 him, you know that there are certain facts in this case.  
20 Right? You know that he went to Maurice Jackson's house  
21 that night.

22 A. Yes, ma'am.

23 Q. Right?

24 A. Uh-huh.

25 Q. That he talked to Maurice. Right?

DETECTIVE LESLIE HERRING: CROSS BY MS. INZERILLO

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1 A. Yes, ma'am.

2 Q. That he used Maurice's cell phone?

3 A. Yes, ma'am.

4 Q. And that he left the yard.

5 A. Yes, ma'am.

6 Q. Right?

7 A. Uh-huh.

8 Q. And then sometime after that, two other people came  
9 into the yard. There was a robbery and a shooting. Right?

10 A. Yes, ma'am.

11 Q. Okay. So in this first statement, he essentially  
12 tells you these general facts. Right? And I'll start  
13 with, probably about, 7 lines down. He's talking about  
14 Duke at this point.

15 He says, "He asked me if I knew who had any money or  
16 weed, and I told him Maurice had some weed." Right?

17 A. Yes, ma'am.

18 Q. And then he goes on further to say in talking to Duke,  
19 "I told him there were two people at Maurice's house."  
20 Right? Sort of the next line down.

21 (PAUSE.)

22 A. He would have said -- After he said he knew Duke from  
23 Northwestern High School, and he wanted to make a lick and  
24 get some money?

25 Q. Right. Go about four lines down from that ---

DETECTIVE LESLIE HERRING: CROSS BY MS. INZERILLO

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1 A. All right.

2 Q. --- where it says, "Duke's cell phone number -- cell  
3 number is ---

4 A. Right.

5 Q. --- 230."

6 A. Right.

7 Q. And then after that it says, "I told him there were  
8 two people at Maurice's house."

9 A. Right. I see that.

10 Q. And then later on he -- Well, let me back up. Then  
11 you guys had information that the victims had overheard  
12 sort of a snippet of a conversation indicating two people?

13 A. Yes, ma'am.

14 Q. Okay. About two lines or the next line down, he said  
15 -- he told you "Maurice wouldn't walk down to Midtown with  
16 me," so he left. Right?

17 A. Yes, ma'am. Uh-huh.

18 Q. Now again, you guys had information in your  
19 investigation that, that's -- that seem to corroborate  
20 that; is that fair?

21 A. Yes, ma'am.

22 Q. Okay. He indicated he left the yard and walked up  
23 toward Scoggins and Maple Street. Right?

24 A. Yes, ma'am.

25 Q. And that's when he indicated he told Duke that there

1 were three people on the porch. Right?

2 A. Yes, ma'am.

3 Q. He indicated it was a .22-caliber rifle. Right?

4 A. Yes, ma'am.

5 Q. And from your investigation, you were aware .22-  
6 caliber bullets were taken from the scene?

7 A. No, coming in a 8:00 o'clock that morning, I'm not  
8 sure if I was aware of the .22-caliber or not.

9 Q. Okay.

10 A. I might not have been given that information, but he  
11 provided that information.

12 Q. Okay. He indicated, the next line, "I told him,"  
13 meaning Duke, "he shouldn't do it, but he," meaning Duke,  
14 said, "Fuck that, I'm going to get the money." Right?

15 A. Yes, ma'am.

16 Q. And then he essentially walks away from Duke?

17 A. Yes, ma'am.

18 Q. And he indicates there were about 10 to 12 shots that  
19 he heard. Right?

20 A. Yes, ma'am.

21 Q. Now, I understand you weren't sure about the caliber,  
22 but were you aware about 10 to 12 casings?

23 A. I don't remember being aware of that when I was  
24 interviewing him. That's information he provided. I knew  
25 there were numerous shots, but I didn't know how many at

DETECTIVE LESLIE HERRING: CROSS BY MS. INZERILLO

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1 that point.

2 Q. So he gives you that statement at about 1:45 in the  
3 afternoon. Right?

4 A. Yes, ma'am.

5 Q. And he's essentially been in your presence for some  
6 time before then. Right?

7 A. A little while, yes, ma'am.

8 Q. Okay. And so essentially with what you knew in your  
9 investigation, those facts were consistent with what you  
10 had gleaned during your investigation?

11 A. Knowing there were two people involved in the robbery,  
12 everything kind of matched what he was saying except that  
13 he's only putting one person at the robbery in this  
14 statement.

15 Q. Okay. When -- After that statement, you decide what  
16 -- You indicated you received word he wanted to speak with  
17 you again; is that right?

18 A. Yes, ma'am.

19 Q. And essentially, when you're interviewing witnesses,  
20 it's you and him in the ring. Right?

21 A. Yes, ma'am.

22 Q. So, you already heard the story once. Right?

23 A. Right, uh-huh.

24 Q. And so this second statement is just essentially  
25 providing more detail about what happened in the yard on



1 the porch; is that fair?

2 A. A few more details, yes, ma'am.

3 Q. Okay. And the -- You indicated on direct that you  
4 don't give any details, anything like that. You want to  
5 sort of test to see if he gives you the right details if he  
6 knows what he's talking about?

7 A. Right, if he hadn't been at the scene, he wouldn't  
8 have been able to give those details. That's why we ask  
9 questions like that so they can provide that information.

10 Q. Okay. Many of the details he gives in the second  
11 statement, he would know from talking to someone involved  
12 in the robbery. Right?

13 A. That's possible. Or being involved in it himself. At  
14 that point, we didn't know.

15 Q. Right. And at this point -- Well, let's differentiate  
16 that. He gives general things. He tells you general  
17 things like what Kenny said when he stood up, what Tyrone  
18 said when he stood up. Right?

19 A. Right, yes, ma'am.

20 Q. He doesn't give you any specific details like where on  
21 the porch Maurice was sitting, Tyrone was sitting, and  
22 Kenny was sitting.

23 A. I don't think he did in that second statement.

24 Q. And he doesn't give you any specific details like what  
25 they were wearing?

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1 A. I don't think so.

2 Q. And in fact, the one specific detail he gives you is  
3 that Duke was not wearing any kind of mask at all. Right?

4 A. Is that in the second statement?

5 Q. In the second statement. And it's about four lines  
6 down into the fifth on the first page.

7 A. That is correct, yes, ma'am.

8 Q. And actually that fact is wrong. Right?

9 A. Yes --

10 Q. Because from your investigation conversations, it was  
11 your understanding the shooter was wearing a mask?

12 A. Right, and at that point, I didn't know if he had  
13 something around his neck, and he just pulled it up after  
14 he got closer to the house, or if he just -- he just didn't  
15 see him with the mask.

16 Q. Right, but you -- I mean, this is what he told you.  
17 Right?

18 A. Right, yes, ma'am.

19 Q. And you knew from your investigation that the shooter  
20 had some sort of face covering. Right?

21 A. Right, yes, ma'am.

22 Q. Okay. Now, so in this statement, he sort of -- It's  
23 more of a specific statement. Initially he told you sort  
24 of an overview. And in the second statement, he  
25 essentially tells you more specifically what he knew about

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1 what happened in the yard. Right?

2 A. Yes, ma'am.

3 Q. All right, Detective Herring, I'm going to turn your  
4 attention to the third statement. Now the *Third Statement*  
5 was given around midnight that night, second into the  
6 third. Right?

7 A. Yes, ma'am.

8 Q. And in this statement, you actually requested to talk  
9 to Mr. Reid. Right?

10 A. Yes, ma'am.

11 Q. Because you had received information you essentially  
12 wanted to question him about, get some more information.  
13 Right?

14 A. That is correct. Yes, ma'am.

15 Q. So even though he's giving you all of this  
16 information, you're still going back to him for more  
17 information?

18 A. Because at that point, we had already talked to Darius  
19 Jeter, and he gave information of Sam -- Samantha Ervin  
20 being involved, and we had a little bit more information  
21 that we wanted to talk with him about.

22 Q. Right. And by this point, Darius Jeter had told you  
23 he wasn't involved. Right?

24 A. That is correct.

25 Q. And even with that information with Donta telling you

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1 he was, Darius telling you he wasn't, you still went back  
2 and talked to Donta?

3 A. That is correct, we did.

4 Q. Now, again sort of along the same vein as the first  
5 two, you are again in the room when he's giving this  
6 statement. Right?

7 A. Yes, ma'am.

8 Q. And at this point, the picture shifts a little bit  
9 because you have actual information you're bringing to the  
10 table. Right?

11 A. Yes, ma'am, uh-huh.

12 Q. And so this statement actually is a little more of a  
13 recap because you're looking for specific responses to the  
14 information that you have?

15 A. And basically the information that we have would be  
16 Samantha Ervin's information about what her involvement  
17 possibly was.

18 Q. Right, okay. So, in this statement, he goes back to  
19 giving you more of a broader picture?

20 A. Including Samantha Ervin's involvement.

21 Q. Involvement. Okay. I'm going to kind of walk you  
22 through this statement as well, okay, Detective?

23 A. All right.

24 Q. Now on this statement again during the interview,  
25 which by your testimony is what we're looking at

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1 essentially, the contents of your interview, he tells you  
2 "I did not tell everything because I was scared." Right?

3 A. Yes, ma'am.

4 Q. And I'm going to sort of have you jump to the end of  
5 the statement where he specifies a little bit more that  
6 after he got a call from his family, "that was when Duke  
7 threatened me and Samantha that if had talked about it to  
8 anyone, he would shoot us and our house up. Once he  
9 threatened me was when I got scared to tell you all of the  
10 story." Right?

11 A. Yes, ma'am.

12 Q. So he's essentially explaining to you why this  
13 statement's a little bit different than the other ones.  
14 Right? The additional information he's given. Right?

15 A. That is what it is intended to do. Yes, ma'am.

16 Q. Now, going back to the first page, and again, I'm not  
17 going to have you read all of this again because I know  
18 you've done a lot of reading this afternoon. About midway  
19 down the first page of that statement, he told you he  
20 really -- when he's asked about doing a lick, he said, "I  
21 really didn't want to do it." Right? Essentially what he  
22 tells Duke.

23 A. Right, that is correct.

24 Q. And then kind of jumping forward to the second page,  
25 he told you, "I told you -- told them to drop me off that

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1 Sam told me to call Maurice first to see if he had some  
2 weed." Right?

3 A. Yes, ma'am.

4 Q. So he's conveying to you that essentially everything  
5 that happened came from Sam. It was Sam's idea to do this.

6 A. And that's normally how defendants -- They want to  
7 minimize upon themselves and kind of put the blame a little  
8 bit on other people, and try to make it look better for  
9 them and worse on someone else. That's, you know, you see  
10 that quite a bit when you talk --

11 Q. But in this case, he's not taking himself completely  
12 out of the picture?

13 A. Not completely, no, ma'am.

14 Q. So he is telling you about his involvement. Right?

15 A. To some -- To some extent, yes.

16 Q. To some extent, okay. But he does tell you that Sam  
17 told him to call Maurice. Right?

18 A. Yes.

19 Q. That he called Maurice from Sam's phone. Right?

20 A. Yes.

21 Q. And I know you went through a little bit of a  
22 extensive direct on the phone records, but the long and the  
23 short of it is, that was verified through the phone  
24 records. Right? That there was some phone calls between  
25 Maurice's phone and Sam's phone. Right?

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1 A. That is correct, yes, ma'am.

2 Q. And he continues to say, "I had Sam drop me off at my  
3 house." Right?

4 A. Yes, ma'am.

5 Q. That he picked -- called Maurice from his house phone,  
6 that Maurice didn't pick up, so I walked down to his house.

7 A. Yes, ma'am.

8 Q. Now at this point, he again goes through that he went  
9 to Maurice's house and saw Banks and Kenny Boo on the  
10 porch. Right?

11 A. That is correct, with Maurice.

12 Q. With Maurice?

13 A. Right.

14 Q. And you know Banks is Tyrone King. Right?

15 A. Yes, ma'am.

16 Q. And Kenny Boo is Kenny Cunningham. Right?

17 A. Yes, ma'am.

18 Q. He then indicated that he asked Maurice if he could  
19 use his phone, and that he used Maurice's phone to call  
20 Sam's phone. Right?

21 A. Yes.

22 Q. And again these are facts that through your  
23 investigation, you were aware of?

24 A. Yes, ma'am.

25 Q. Or at least that a phone call was made perhaps. Who

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1 he called, you weren't sure, but that a phone call was  
2 made.

3 A. At that point we, like I said, we didn't have the  
4 phone records, but we knew there had been a -- he had used  
5 the phone.

6 Q. And then the next thing he tells you is essentially  
7 while on the phone with her he says, "I said two."

8 A. Yes, ma'am.

9 Q. And that he asked Maurice to walk to Midtown with him,  
10 but he said he didn't want to go. Right?

11 A. Yes, ma'am.

12 Q. And again, you knew from your investigation those were  
13 facts that were -- that were corroborated through the  
14 course of your investigation?

15 A. By the victim, yes ma'am.

16 Q. Okay. Now again in this statement, as he did in the  
17 first statement, when initially he's giving you the  
18 overview, he again says that he walked toward Scoggins  
19 Street, and that he met up with Duke. Right?

20 A. Yes, ma'am.

21 Q. And that he tells Duke that there were three people.  
22 Right?

23 A. Yes, ma'am.

24 Q. That Duke asked him what he was doing and he -- all he  
25 said was that they were smoking. Right?



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1 A. Yes, ma'am.

2 Q. Again he tells you, he said, meaning Duke, "Man, I'm  
3 about to go up on the porch and rob all three of them."  
4 Right?

5 A. Yes, ma'am.

6 Q. And again just like in the first statement he says to  
7 you, "I told him," meaning Duke, "not to do it, and he just  
8 started walking off towards Maurice's house." Right?

9 A. Yes, ma'am.

10 Q. And that after that he says that the female that at  
11 the time he called Sam, walked with him. He told her to  
12 come back, and she wouldn't come back. Right?

13 A. Yes, ma'am.

14 Q. So at this point, you have, sort of, three statements  
15 under your belt with Donta. Okay?

16 A. Yes, ma'am.

17 Q. And at this point, you're still continuing your  
18 investigation. Right?

19 A. Yes, ma'am.

20 Q. And as part of the investigation, Donta actually  
21 consented to having his DNA drawn. Right?

22 A. Yes, ma'am.

23 Q. And essentially, how that works is it's a blood draw.  
24 Right?

25 A. I --

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1 Q. Or a swab?

2 A. A mouth swab.

3 Q. Mouth swab.

4 A. Yes, ma'am.

5 Q. So he consented to that. Right?

6 A. Yes, ma'am.

7 Q. And he consented to that on the 2nd?

8 A. Yes, ma'am.

9 Q. Which was essentially the same day you were talking to  
10 him?

11 A. That is correct, yes, ma'am.

12 Q. And as case agent, you know that DNA can be fairly  
13 powerful. It can exclude people, include people, and can  
14 really assist in your investigation.

15 A. Yes, ma'am.

16 Q. Now, nowhere in the first three statements does he  
17 ever say that he was the shooter. Right?

18 A. No, ma'am.

19 Q. Okay. And now where in his first three statements  
20 does he say that he padded the victims down or went through  
21 their pockets?

22 A. No, ma'am.

23 Q. Now, I'm going to go ahead and go forward to the  
24 *Fourth Statement* that you have. Now again, you took this  
25 statement as well. Right?

1 A. Yes, ma'am.

2 Q. And this statement was taken about four days later?

3 A. That is correct. Yes, ma'am.

4 Q. And you indicated on direct that you took this  
5 statement after you'd spoken to Samantha Ervin. Right?

6 A. That is correct, yes, ma'am.

7 Q. So going into this statement, you have a little bit  
8 more information based on what Samantha Ervin's telling  
9 you?

10 A. That is correct, yes, ma'am.

11 Q. And again even though Samantha Ervin had given you  
12 different information about not being the person who went  
13 in the yard, not walking with B'more, you still went back  
14 to Donta?

15 A. Yes, ma'am.

16 Q. And again, I'm not going to have you read this entire  
17 statement, but I do want to point out a couple of things.  
18 Okay? I'm going to turn your attention to the second page  
19 about five or six lines down. Again he says that the guy  
20 asked him if he wanted to walk with him because he had said  
21 something about robbing somebody. Right?

22 A. Yes, ma'am.

23 Q. And Donta told you, I didn't want to go because I  
24 didn't know what he was going to put the gun. Right?

25 A. Yes, ma'am.

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1 Q. And that again, he, the guy said that he was going to  
2 put it in his pants. Right?

3 A. Yes, ma'am.

4 Q. And again Donta told you, "I told him I didn't want to  
5 go." Right?

6 A. That is correct, yes, ma'am.

7 Q. Okay. And so that person turns around and asks Sam if  
8 she wants to go. Right?

9 A. Yes, ma'am, uh-huh.

10 Q. And a little bit further down as they're riding in the  
11 truck, they see Duke. He tells you again, "I called  
12 Maurice" -- Well, "I asked Sam to take me home so I could  
13 use the bathroom. I called Maurice on Sam's phone on the  
14 way to my house. I was going to smoke with him, and when I  
15 asked if he wanted to, he said yes." Right?

16 A. Yes, ma'am.

17 Q. And again he tells you in the next line, "Sam asked me  
18 if Maurice had any money or did he sell weed." Right?

19 A. Yes, ma'am.

20 Q. "She" -- And then he continues, "Sam asked me if I  
21 would set Maurice up. I told her I really don't want to,  
22 but I can." Right?

23 A. Yes, ma'am.

24 Q. Now in this conversation with him, you're keenly aware  
25 you're talking to a 17-year-old kid. Right?

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1 A. Yes, ma'am.

2 Q. I'm going to turn your attention about three-quarters  
3 of the statement down where it says, "I told Lee Lee that  
4 there were three people since Maurice wouldn't walk with  
5 me." Right?

6 A. That is correct, yes.

7 Q. And essentially, Lee Lee's name comes up because you  
8 have informed him that you know that, that's essentially  
9 the name of the other girl?

10 A. Yes, ma'am.

11 Q. Okay.

12 A. We indicated we knew who the other person was at that  
13 point.

14 Q. And so essentially the change in fact on that is  
15 initially in the last statement, he had said that, that  
16 person was Sam, and now he's correcting it to say, okay,  
17 it's Lee Lee.

18 A. That is correct, yes, ma'am.

19 Q. And he then continues, "The guy then said, 'Fuck it.  
20 I might as well run up on the porch and rob all three of  
21 them.'" Right?

22 A. Yes, ma'am.

23 Q. Which is the same thing he's told you in previous  
24 statements. Right?

25 A. Yes, ma'am.

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1 Q. Now going a little bit further down. He told you --  
2 It's about maybe eight lines from the bottom. He says,  
3 "The guy started saying he didn't want anyone to snitch on  
4 him, and that if anybody did snitch, he would come back and  
5 get them." Right?

6 A. Yes, ma'am.

7 Q. So he is again relaying to you this threat that was  
8 made to him. Right?

9 A. Right, just change it from Darius Jeter to the other  
10 individual.

11 Q. To the guy.

12 But the substance of the threat is the same. Right?

13 A. Yes, ma'am, uh-huh.

14 Q. That if he talks to anybody, that he's been threatened  
15 if he does that?

16 A. Yes, ma'am.

17 Q. Now, and again, the facts that he relays in this about  
18 having Maurice -- Going to Maurice's house, asking him to  
19 leave the porch, use the phone, all that stuff you know  
20 through your investigation. Right?

21 A. That is correct, yes, ma'am.

22 Q. Okay. Now after taking statements initially from  
23 Donta, warrants were drawn up for his arrest. Right?

24 A. Yes, ma'am.

25 Q. And I know you indicated that sometimes there can be

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1 several detectives involved. It kind of depends on maybe  
2 who's also serving warrants at the time, the same time,  
3 drafting warrants, anything like that. Right?

4 A. Yes, ma'am.

5 Q. And essentially when you get a warrant, on the warrant  
6 you are essentially explaining why you want someone  
7 arrested. Right?

8 A. Yes, ma'am.

9 Q. So the warrant is clear as to the charge they're being  
10 charged with. Right?

11 A. That's correct, uh-huh.

12 Q. There's a narrative section on the warrant that  
13 indicates that the reasons why they are connected to the  
14 crime. Right?

15 A. That is correct, yes, ma'am.

16 Q. And then underneath that, you list essentially,  
17 supporting evidence. Right?

18 A. Yes, ma'am.

19 Q. Okay. Now on the warrants, even though you didn't  
20 sign them, you're listed as the prosecuting officer on the  
21 warrants. Right?

22 A. The person that filled the warrants out, put my name  
23 on there.

24 Q. Okay.

25 A. I probably directed them to do the warrants.

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1 Q. And that's why, essentially, as case agent, again  
2 perhaps, I see you as top of the heap. I don't know if you  
3 would disagree but, essentially, you're listed as the  
4 prosecuting agent. Right?

5 A. Yes, ma'am.

6 Q. And in this case, you filled out a warrant for Donta  
7 Reid for murder. Right?

8 A. I don't think I typed it up, but I was probably the  
9 prosecuting officer, like you indicated, right.

10 Q. And in this warrant, it says that Donta Reid's being  
11 charged with murder because by shooting the victim, one  
12 Tyrone King with the rifle, and the victim did die from the  
13 gunshot wound. Right?

14 A. Yes, ma'am.

15 Q. And to support that you list a sworn statement from  
16 the Defendant. Right?

17 A. Yes, ma'am.

18 Q. But in none of the statements that you have on October  
19 2nd, did he ever admit to being the shooter?

20 A. That is correct. He never admitted to being the  
21 shooter.

22 Q. And you also indicated recovery of evidence. Right?

23 A. Yes, ma'am.

24 Q. And there is no physical evidence indicating that  
25 Donta was actually the shooter in the case. Right?



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1 A. When I indicated "evidence recovered," I indicated as  
2 far as shell casings, bullet fragments, ---

3 Q. Right.

4 A. --- information that, you know, that type evidence.

5 Q. And just to be clear, at this time, the gun hadn't  
6 been recovered?

7 A. The gun has still not been recovered. No, ma'am.

8 Q. So there was nothing on that linking him as the  
9 shooter. Right?

10 A. No, ma'am, no ma'am.

11 Q. Okay. On the armed robbery warrants, one for each  
12 person, Tyrone, Maurice, and Kenny, it states, "He is being  
13 charged with armed robbery by robbing the victim," of  
14 whichever one, "of an item, and did shoot the victim with  
15 the rifle." Is that right?

16 A. Yes, ma'am. I'm not looking at the warrant, but I --  
17 That's probably how it's worded.

18 Q. Okay. I could -- If it would refresh your memory, I  
19 could --

20 A. That's, that's fine.

21 Q. Okay. And again, on each of these armed robbery  
22 warrants, you list a sworn statement from the Defendant.  
23 Right?

24 A. Yes, ma'am.

25 Q. And again, in none of the sworn statements by the

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1 Defendant did he ever say that he robbed them, was on the  
2 porch and robbed them?

3 A. Not physically present when the robbery was taking  
4 place, but present in the staging, planning, and the  
5 carrying out of it as being, you know, in the area when it  
6 happened.

7 Q. Okay.

8 A. So we didn't put him at the scene of the robbery  
9 itself, robbery/murder, but he was involved in everything  
10 else leading up to that and after that.

11 Q. But you don't put that language in the armed robbery  
12 warrant. Right?

13 A. No, no, we don't put that in the murder warrant, armed  
14 robbery warrant. It's all pretty much just like the two  
15 females. They were charged with the same thing. It was  
16 worded the exact same as Mr. Reid's information.

17 Q. Even though you're portraying to a judge that with the  
18 language in this, that Mr. Reid had the rifle, shot the  
19 person, and had the rifle and robbed the person. Right?

20 MR. THOMPSON: Your Honor, I object. Obviously, the  
21 law is the hand of one is the hand of all, and she's making  
22 it sound as if he's somehow being dishonest in this when  
23 that is how --

24 THE COURT: Well it's cross examination. I'll allow  
25 her to ask questions as she chooses on this issue.

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1 Go ahead.

2 MS. INZERILLO: Thank you, Your Honor.

3 Q. So that's how the warrant is listed. Right?

4 A. On Mr. Reid and, like I said, the two females,  
5 warrants were read the same as his. So we all pretty much  
6 indicated the same thing on all four defendants.

7 Q. And just to be clear, there is a separate warrant for  
8 criminal conspiracy. Right?

9 A. On all four of them. Yes, ma'am.

10 Q. I'm talking only to Mr. Reid.

11 A. Oh, yes, ma'am. He was charged with criminal  
12 conspiracy also.

13 Q. Okay. But in none -- not the murder warrant or the  
14 three armed robberies do you indicate in the narrative  
15 supporting the warrant, that it was through a conspiracy.  
16 It was -- It is -- The language is that he robbed the  
17 victim with a rifle. Right? Is that --

18 A. Yes, ma'am.

19 Q. Okay.

20 A. And again, I'm -- I wasn't the one typing up the  
21 warrant. It was just another detective that was typing it  
22 up for me. So that --

23 Q. But again, you are listed as the prosecuting officer.  
24 Right?

25 A. Yes, ma'am.

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1 Q. Okay.

2 A. She put my name on the warrant probably.

3 Q. Okay. And just to be clear, when you go in to get a  
4 warrant, essentially, and I'm talking in general terms,  
5 okay. You have to essentially swear to a judge the  
6 information that's in the warrant. Right?

7 A. That is correct, yes, ma'am.

8 Q. Because in fairness, the judge doesn't know anything  
9 about your case. Right?

10 A. You have to provide that information to the judge.

11 Q. Right. And you swear under oath to do that. Right?

12 A. Yes, ma'am.

13 Q. And again, on each one's -- And I'll just, you know,  
14 stick with the armed robbery -- you also list recovery of  
15 evidence. Right?

16 A. Yes, ma'am.

17 Q. And you indicated that no -- none of the evidence was  
18 recovered except for the Ten dollar bill at the scene?

19 A. That is correct. That's part of the robbery that they  
20 didn't make off with.

21 Q. Okay.

22 MS. INZERILLO: No further questions, Your Honor.

23 MR. CHIARENZA: May it please the Court.

24 CROSS EXAMINATION

25 DETECTIVE LESLIE HERRING BY MR. CHIARENZA:

1 Q. Detective, you were -- you're one of the co-case  
2 agents in this case. Correct?

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

4 Q. And you've been in the courtroom the whole time, like,  
5 since we all got started with this on Monday. Correct?

6 A. Yes, sir.

7 Q. And even before the jury even got involved in the  
8 case. Right?

9 A. That is correct, yes, sir.

10 Q. You heard my questioning of Detective Ayers in regard  
11 to the search warrant that was issued at Mr. Jeter's  
12 residence. Correct?

13 A. Yes, sir.

14 Q. And I know that they may have you doing some other  
15 things while you're here, so I wouldn't -- I don't want to  
16 imply that you weren't paying attention, but I -- If I  
17 didn't hear a particular thing, just let me know. You  
18 could have been doing something else, but did you -- Do you  
19 recall me asking him, and I'll ask you, about the affidavit  
20 that's given in the search warrant?

21 A. I remember a little bit of the conversation. Yes,  
22 sir.

23 Q. Well, and one of the things I asked him about in that  
24 search warrant, there was some information provided to the  
25 issuing magistrate that as the investigation had been

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1 developed, that Lee Lee Newman or the female, maybe it just  
2 said, was believed to have been carrying a handgun during  
3 the commission of the robbery. Remember that?

4 A. I remember that discussion. Yes, sir.

5 Q. And would you not agree that, in fact, that same  
6 information is in all three of the search warrants that are  
7 in this case file, that Le-Le Newman was carrying a  
8 handgun?

9 A. It very well could be. I don't remember it being in  
10 three of them.

11 Q. Okay.

12 A. I remember seeing a couple of them, but I don't  
13 remember in three of them.

14 Q. It -- I'll be happy to show you the affidavit.

15 A. That's okay.

16 Q. But you're certain -- You wouldn't have any argument  
17 with the fact that it's certainly at least in one of those?

18 A. No, sir, I would not.

19 Q. And Detective Ayers was unable to recall, despite  
20 being the one who did the affidavit, where that information  
21 had come from. Do you have any idea where that information  
22 came from?

23 A. Like I said, the other detectives that went to the  
24 scene that night, Detective Dugan was one of them. I think  
25 he drew up another one of the search warrants. And at that

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1 point, I didn't know if that was some information that he  
2 had obtained from somewhere. And he indicated he had it in  
3 his warrant, and that's how it got into -- in the warrant  
4 that I looked at that had his name on it. I'm not sure  
5 where he came up with that information.

6 Q. Well you, like I say, you've been here all day, and  
7 you're the case agent on this case.

8 A. Yes, sir.

9 Q. You were here all day yesterday?

10 A. Yes, sir.

11 Q. To your knowledge, did Maurice Jackson, one of the  
12 victims at the residence, did he -- we heard anything about  
13 him providing information regarding the female having a  
14 gun?

15 A. No, sir.

16 Q. Did Mr. Cunningham provide any information, to your  
17 knowledge, about the female having a gun?

18 A. Not to my knowledge, no, sir.

19 Q. Mr. Stowers who was the individual peddling by on his  
20 bike, did he provide information about seeing a female  
21 waving a pistol or carrying a gun in this case?

22 A. No, sir.

23 Q. Ms. Ervin, who's testified previously, and in fact, in  
24 all of the statements that have been gone over quite  
25 extensively of Mr. Reid's, do any of those -- either Ms.

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1 Ervin's testimony or Mr. Reid's statements indicate that  
2 Ms. Newman had a gun?

3 A. No, sir, there was no indication of it.

4 Q. And I suppose we could do this on and on, but are you  
5 aware of anything that's been testified to, to this point,  
6 or can you point us to anything in your file where you're  
7 the case agent, that some note, or some investigative  
8 report, or some witness statement, or anything that says  
9 Aileen Newman had a gun or a female shooter had a -- a  
10 female participant in the robbery had a gun?

11 A. There's none to my knowledge. And at the time the  
12 warrant was drawn up, it could have been something that was  
13 passed along to Detective Dugan that did one of the search  
14 warrants. If it was, it was done without my knowledge. I  
15 didn't know anything about a handgun being involved.

16 Q. All right. And see the concern here is just that  
17 there's an affidavit of information being presented to the  
18 judge asking to get a search warrant which contains some  
19 information that nobody can seem to say where it came - you  
20 know, where this information came from.

21 A. Exactly, yes, sir, I understand.

22 Q. And we certainly don't want any fabricating things to  
23 get a search warrant.

24 A. No, sir.

25 Q. It should be based in reality.



1 A. That is correct, yes, sir.

2 Q. Prior to -- I hate to admit that Mr. Henson at anytime  
3 got developed as a suspect in this case, but I can't avoid  
4 the fact he did. But that essentially occurred when you  
5 started talking to Ms. Ervin. Is that a fair statement?

6 A. That is correct, yes, sir.

7 Q. Now prior to talking to Ms. Ervin, would it be fair to  
8 say based on eyewitness accounts that you had from Mr.  
9 Cunningham and Mr. Jackson that you would be looking for  
10 somebody who's 5'9" or 5'10" because they both gave you  
11 that description?

12 A. From the victims that had been involved in armed  
13 robbery, you kind of -- and especially in a shooting and  
14 homicide, you know of weigh the information they're  
15 providing to you as far as height and weight. You have to  
16 look at everything because people that are involved in  
17 traumatic situations like that can be off weight, height,  
18 stuff like that. So you have to take what they're telling  
19 you, but you have to just base that, you know, in  
20 considering what they had just been through.

21 Q. But as a starting point --

22 A. You had to got started somewhere.

23 Q. You can start with 5'9," 5'10," as opposed to 5'2"?

24 A. Yes, sir.

25 Q. And, but you're saying that they could be off, they

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1 could be wrong about that?

2 A. As far as height, weight, we see that, you know --  
3 being able to be off an inch or two or 10 -- 5 or 10 pounds  
4 here or there, especially when you're wearing baggy  
5 clothing.

6 Q. All right. Did that cause you any concern when  
7 Davontay Henson was made -- apprehended, and he's basically  
8 5'5"?

9 A. No, sir.

10 Q. Because your testimony is that these eyewitnesses, and  
11 this sort of traumatic situation might not get it. Right?

12 A. It might be off an inch or 5 pounds or so.

13 Q. We're talking about a 5 inch difference here.

14 A. Like I said, depending on the clothing that you're  
15 wearing, height, where you're at versus where the person's  
16 at that you're talking to or being robbed by, all that  
17 plays a part into the, you know, their guess of height and  
18 weight of an individual.

19 Q. So then there are a lot of situations or circumstances  
20 that go into being able to make a good identification then  
21 of somebody -- or you have to take into consideration the  
22 lighting, for instance, when a person's making an  
23 identification?

24 A. All that plays a part, yes, sir.

25 Q. And so -- And I want to be fair here. So it's because

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1 maybe the lighting and the trauma of the situation and  
2 things happening quickly, that instead of a guy who's 5'10"  
3 or 5'9," we ended up with 5'5," 5'6"?

4 A. Again, they're up on a porch that's a good bit taller  
5 than, you know -- And I don't think he ever made it to the  
6 porch. I think he was on the steps. So I don't think  
7 anybody had an eye-to-eye visual of him. I think it was  
8 pretty much at an angle. So they're basing that from, you  
9 know, where they was on the porch.

10 Q. So you're saying they didn't have all that good an  
11 opportunity to get the detailed description?

12 A. Well, I'm just saying that the angle that they were at  
13 probably prevented them from being, you know -- and the  
14 circumstances, you know, being robbed and being shot  
15 probably prevented a completely accurate description.

16 Q. Okay. Now, there's an old saying about the 600 pound  
17 elephant in the room, gorilla I guess, elephant. That's  
18 small for an elephant, big for an ape.

19 We've got an individual here who I represent who it's  
20 been testified to that his name, his nickname is B'mo --  
21 B'more. Right?

22 A. Yes, sir.

23 Q. And you testified that he had -- through your  
24 investigation, you developed information he had some family  
25 ties in Baltimore. Correct?

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1 A. That is correct, yes, sir.

2 Q. And that some of these witnesses even told you they  
3 thought that he was from Baltimore, or they heard he was  
4 from Baltimore.

5 A. That is correct.

6 Q. And sure enough, he was ultimately found in Baltimore  
7 a year after this event occurred. Right?

8 A. That is correct, yes, sir.

9 Q. So you've got -- My client's nickname is B'more, he's  
10 found in Baltimore, and Mr. Jackson seems to remember  
11 him -- distinctly remembering he had a Baltimore accent.  
12 Right?

13 A. That is correct, yes, sir.

14 Q. I mean, that's got to be the equivalent of the  
15 detective winning the lottery situation. Isn't it?

16 A. No, I wouldn't say that, but it's, you know --

17 Q. Pretty darn good, though. Right?

18 A. It's -- It's, you know -- That happened to be where  
19 he's from. He's got that accent.

20 Q. This is good stuff here, I mean you got your  
21 eyewitness, the guy who gets robbed tells you that "He  
22 wasn't from around here. Not, wait, no, he was from  
23 someplace up north. Actually, it was from Baltimore. He  
24 sounded like he was from Baltimore." And then these other  
25 people tell you, well, his nickname is B'more. And then

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1 you actually -- He gets arrested in Baltimore. Right?

2 Okay. So this, I mean, come on you had to like all of that  
3 coming together like that.

4 A. You asked me if I liked it? If this is just a matter  
5 of the facts of the case?

6 Q. Is it -- I mean --

7 A. It doesn't matter if I like it or not like it.

8 Q. You guys are talking shop, drinking coffee, having  
9 lunch, and you're like, you know, this is -- You had to  
10 believe that, that was going to help your case. Didn't  
11 you?

12 A. We had a murder earlier in June, the guy was from  
13 Baltimore that committed the murder that was related to  
14 him.

15 Q. Was his nickname Baltimore? Did your witness testify  
16 that he sounded like he was from Baltimore in that case?

17 A. I don't remember all the details of that case, but he  
18 just -- In June of the same year, we had another individual  
19 from Baltimore that came down and killed a person from Rock  
20 Hill.

21 Q. Detective, that's not my question. My question is --

22 A. I'm trying to answer your question.

23 Q. No, I don't think you are, actually.

24 A. Oh.

25 Q. My question is, as opposed to a situation where your

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1 witness said, "He sounded like he was from Liberia, Africa  
2 or London, England, but his nickname was Baltimore, and we  
3 found him, I mean -- His nickname was B'more, and we found  
4 him in Baltimore. Doesn't it -- Isn't it a better puzzle  
5 piece that your witness said, "He sounded like he was from  
6 Baltimore, and his nickname is B'more, and we found him in  
7 Baltimore." I mean that fits into the case better than,  
8 "This guy had an English accent, a British accent."

9 A. To be told that the day after it happened and then,  
10 you know, developing this information, you know, days after  
11 that --

12 Q. I'm just asking is it good? Does it fit into the -- I  
13 mean, you're a detective.

14 A. Right.

15 Q. Is this a good clue?

16 A. I don't know if it's a good clue. It's, you know, the  
17 facts of the case.

18 Q. All right, well, I guess it means nothing then?

19 A. It does -- It's not --

20 MR. THOMPSON: Objection, Your Honor. He's commenting  
21 over and over on this.

22 THE COURT: Yeah, disregard his thoughts about the  
23 response. Just ask questions.

24 BY MR. CHIARENZA:

25 Q. Well, regardless of whether or not this is an

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1 important nugget or not, did you memorialize it anywhere in  
2 any writing, the fact that Maurice Jackson told you the  
3 shooter sounded like he was from Baltimore?

4 A. He told us that morning right after the thing  
5 happened. The night before, he told us.

6 Q. Does that answer my question, Detective? Did you  
7 memorialize it in any writing? Did you put it down  
8 anywhere in writing?

9 A. I might have put it into summary of my case file. I'm  
10 not sure if I did or not.

11 Q. Let's see it, shall we?

12 A. Okay.

13 Q. I've got a copy of it.

14 A. Okay.

15 Q. I apologize. If you've got it readily handy,  
16 otherwise feel free to look them up.

17 (ATTORNEY CHIARENZA LAID NOTEBOOK ON WITNESS BOX.)

18 A. From looking at the Court Case Summary, I didn't list  
19 anybody's nickname, Lee Lee, Crud, B'more, Sam's. I just  
20 called them by their -- their proper names.

21 Q. This isn't a question as to whether or not he has a  
22 nickname. I'm asking you if you put in your summary  
23 whether Maurice Jackson gave you a vital piece of  
24 identifying information by telling you that the shooter  
25 sounded like he was from Baltimore?

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1 A. No, sir, I did not indicate that.

2 Q. That's not in there?

3 A. No, sir.

4 Q. And is it important to you when you write something  
5 like this, to be accurate?

6 A. Absolutely.

7 Q. And complete?

8 A. Yes, sir.

9 Q. And thorough?

10 A. Yes, sir.

11 Q. And truthful?

12 A. Absolutely.

13 Q. Okay. And you're not aware, because if you are, I'm  
14 concerned as much as you are with getting to the truth. Is  
15 there another writing maybe that I'm not aware of where you  
16 said, you know, interview notes, "Maurice Jackson says,  
17 'Shooter sounded like he was from Baltimore.'"

18 A. We did not take another statement from him that  
19 morning. No, sir. And I don't know of it being listed on  
20 anything in any file, but that was what was told to us that  
21 morning.

22 Q. Did you just not think it was important, or I mean --

23 A. The guy might not have been from Baltimore, you know.  
24 We didn't know it at the time. And we took that bit of  
25 information and filed it away and --



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1 Q. If he told you he had one leg or two -- or only two  
2 fingers on one hand, I mean something that was distinct ---

3 A. Right.

4 Q. --- would it not be part of your training to  
5 memorial -- make a note of that statement or just add this  
6 to -- Or at this point, you don't know who the guy is.

7 A. Exactly.

8 Q. You're looking for somebody.

9 A. Exactly, yes, sir.

10 Q. Mr. Jackson, according to your testimony, on the day  
11 after, gives you a specific piece of identifying  
12 information, "This guy didn't even sound like he was from  
13 around here." So that -- It's like, which one of these  
14 things doesn't belong? And you've got to find this guy.  
15 But you didn't make a note of this uniquely identifying  
16 characteristic of this individual anywhere in your case  
17 file?

18 A. No, sir. I did not indicate it, write it down, or  
19 list it anywhere because, like I said, I didn't know at the  
20 time if he was being accurate.

21 Q. Okay. But you did kind of make a note of other things  
22 he told you. Did you have any more reason to believe that  
23 he was being accurate when he said, "The guy was kind of in  
24 a short rifle"?

25 A. I mean, a short rifle -- looking at a short rifle and

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1 listening to someone's accent is two different -- you're  
2 comparing apples to oranges. You're not --

3 Q. But, no, but you said the reason you didn't make a  
4 note of it is because you didn't know if he was being  
5 accurate at the time. So you decided, Mr. Jackson, he  
6 can't be accurate about voices, but he can be accurate  
7 about rifles.

8 A. Well I didn't say he wasn't accurate about the voices.  
9 I just said I didn't know if he was being accurate. And  
10 someone may have been using a voice that, you know, that  
11 wasn't actually from Baltimore, and he tried to make it  
12 sound like he was from Baltimore.

13 So, you know, that's just something that you file  
14 back. You don't have to document that information, but  
15 it's something that, you know, it comes into play later on  
16 in the investigation, and it just comes into play. But  
17 that's not anything that's -- You're not going to go up and  
18 arrest somebody from Baltimore just because they got an  
19 accent.

20 Q. But if he told you he only had two fingers on his  
21 right hand, would you have made a note of that?

22 A. Probably so, yes, sir.

23 Q. Prior to developing my client as a suspect in this  
24 case, was Mr. Henson on your radar screen for criminal  
25 activity of any kind?

1. A. I wasn't familiar with it.

2. Q. You had not received any prior indication about him  
3. brandishing this, sort of, this sawed-off rifle, or  
4. shotgun, or whatever, however it's been described?

5. A. I had not received that information. No, sir.

6. Q. And subsequent to him being developed as a suspect,  
7. independent of this case, have you received any information  
8. about him being seen with that rifle that's been described  
9. in this case?

10. A. I have not developed information pertaining to that.  
11. No, sir. Other than when he left that night.

12. Q. Okay. Now you searched, I think it was four different  
13. places, but I could be mistaken, in connection with him of  
14. where he might be. Or at least three -- I think it was  
15. Flint Street, Spring Street, and State and Carolina area.

16. A. Chestnut Street, yes, sir.

17. Q. Were those searches done pursuant to warrant, search  
18. warrant, or were they just kind of knock "Hey, mind if we  
19. look around" type?

20. A. I don't think -- I indicated earlier, all of those  
21. were with search warrants, no, sir. They just pretty  
22. much investigative type searches.

23. Q. And at none of those locations did you find any items  
24. that connect Mr. Henson to the shooting. Did you?

25. A. No, sir, we did not.

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1 Q. And in fact, at the State and Carolina, I mean that  
2 was the place where you did say was that -- I don't know if  
3 this is the point where you had the SWAT Team out or  
4 something like that -- but you set up a perimeter and saw  
5 some individuals running, and it might have been him, might  
6 not have been him. Was that your testimony on direct?

7 A. Yes, sir. There was an individual that had dread  
8 locks that fled from the scene. And we had indication that  
9 it possibly could have been him.

10 Q. Do you recall doing, like a supplemental report on  
11 that particular event?

12 A. I believe there was a supplemental report done because  
13 there was a piece of -- an item that was located there in  
14 that area.

15 Q. Is this your report?

16 A. Yes it is. This is the supplemental report that I  
17 did.

18 Q. Could you just review it? Just read it to yourself.

19 (PAUSE/WITNESS READING REPORT.)

20 Q. That's a report regarding the event we've just been  
21 discussing. Right?

22 A. Yes, sir.

23 Q. And there's a lot in this case, Detective, I  
24 understand. Having now reviewed that report, is it fair to  
25 say that neither one of the individuals you saw running

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1 that day were Mr. Henson?

2 A. I don't think either one of them were. Well, one of  
3 them was located, and the other one was not.

4 Q. One guy you actually spoke to. And then that report  
5 says the other one was determined not to be Mr. Henson.

6 A. Not to be Mr. Henson. That is correct, yes, sir.

7 Q. Okay. So I just want to clarify that conclusion. So  
8 if we eliminate that particular incident, there is no other  
9 time after the shooting that you're aware of anyway, that  
10 you saw my client running away from y'all, like y'all are  
11 circling around him and "There he goes." We never had a  
12 moment like that?

13 A. No, sir, not to my knowledge.

14 Q. You did develop some information with the family. You  
15 had some connection in Orangeburg, that they may have been  
16 coming from there or going to there or both; is that  
17 correct?

18 A. That is correct, yes, sir.

19 Q. Okay. And some of the areas you looked for Mr. Henson  
20 in, there was a Flint Street address and a Spring Street  
21 address, both of those are in downtown Rock Hill. Correct?

22 A. They're inside the city limits. Yes, sir.

23 Q. And the indication was that he was staying at either  
24 one or both of those from time to time or had stayed at  
25 those places?

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1 A. Yes, sir.

2 Q. And at the time you were looking for Mr. Henson, he  
3 was 17-years-old. Is that -- Do you recall that?

4 A. Yes, sir.

5 Q. Now let's talk about Ms. Ervin for a second here.  
6 She -- When she came to the Law Center, y'all had pending  
7 warrants for her at the time. Right?

8 A. Yes, sir.

9 Q. And she didn't come to you. Y'all were going to go  
10 arrest her?

11 A. That is correct, yes, sir.

12 Q. And you had been to her home and told, I think it was  
13 her mother, grandmother, someone?

14 A. It was an elderly gentleman there at the house.

15 Q. Oh, okay. You told a relative of hers, "We need to  
16 talk to her. Tell her we're looking for her."

17 A. That is correct, yes, sir.

18 Q. And is it your belief that it was in response to y'all  
19 saying, "We need to talk to Samantha" that Samantha came to  
20 see y'all?

21 A. It's possible that the word was passed on to her, the  
22 reason she came up. I can't say for certain. It's  
23 possible.

24 Q. You are aware that she did have an occasion to come  
25 into contact with law enforcement on the day after this

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REDIRECT BY MR. THOMPSON

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1 murder. She did not take an opportunity then to your  
2 knowledge to discuss this case with y'all?

3 A. No, sir, she did not.

4 MR. CHIARENZA: Court's indulgence.

5 THE COURT: Yes, sir.

6 MR. CHIARENZA: Just another couple of seconds, Your  
7 Honor.

8 (PAUSE AT 04:40 PM.)

9 MR. CHIARENZA: That's all I've got. Thank you very  
10 much, Detective.

11 THE COURT: Redirect?

12 MR. THOMPSON: Yes, Your Honor.

13 REDIRECT EXAMINATION

14 LESLIE HERRING BY MR. THOMPSON:

15 Q. Detective, you had mentioned that Mr. Henson was 17 at  
16 the time this happened, when was his date of birth?

17 A. I believe it's April the 23rd, 1992.

18 Q. And when you were putting out a bulletin on him at  
19 that time, did you also list his height and weight at that  
20 point?

21 A. Yes, sir, I did.

22 Q. And what was the height and weight you had for him at  
23 that time?

24 A. I'd have to pull that bulletin out and look at it.  
25 That bulletin listed him as 5 foot 7, 130 pounds, with

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1 shoulder-length dread locks.

2 Q. All right. Now, Detective, as far as these defendants  
3 being 17-year-olds, in South Carolina, are 17-year-olds  
4 treated as adults in criminal court?

5 A. Yes, sir, they are.

6 Q. And I believe Ms. Inzerillo at some point was talking  
7 about Donta Reid telling you he had felt threatened about  
8 telling about what occurred. In any of the statements, did  
9 he ever say that he felt threatened that he had to do the  
10 acts that he did?

11 A. No, sir.

12 Q. Going through the process of obtaining warrants, if  
13 you could tell me again -- or straighten this out for me.  
14 When you actually -- When someone actually goes to the  
15 magistrate or to the judge to obtain the warrant, the  
16 warrants are typed up. Are these typed up necessarily by  
17 the detective or does the judge actually have forms that  
18 are typed up?

19 A. The warrants are typed up by the detective. It was at  
20 that time. I'm not sure exactly how it's done now, but  
21 that's how it was at that time.

22 Q. And when these warrants are typed up, is there -- And  
23 I guess what I'm trying to say -- multiple defendant cases  
24 like this where you have more than one person that is  
25 charged with the same thing, do you ever go through and



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1 delineate which each person did individually?

2 A. No, sir. Each person is listed as the same on every  
3 warrant. It didn't matter what role they played in the --  
4 in the crime. If it's a felony, a murder and robbery, we  
5 look at it, the hand of one is the hand of all. And  
6 they're all worded exactly the same.

7 Q. So they're charged because the law tells you the hand  
8 of one is the hand of all?

9 A. That is correct, yes, sir.

10 Q. And so that's commonly how charges occur in any  
11 warrant, in any multiple-defendant situation?

12 A. That is correct, yes, sir.

13 Q. And are the magistrates also familiar with that?

14 A. Yes, sir, they understand.

15 Q. As well, if you have it, if you have a copy of one of  
16 the warrants for Mr. Reid, can you tell me as well --  
17 You've already told us what his date of birth is, can you  
18 tell us what his height and weight was at this time when  
19 this occurred?

20 A. Well the warrant, it listed Donta Reid as being 5 foot  
21 10, 150 pounds.

22 Q. Okay. All right, thank you. No further questions.

23 THE COURT: Ms. Inzerillo?

24 MS. INZERILLO: No.

25 THE COURT: Mr. Chiarenza?

SERGEANT THOMAS MISTYSYN: DIRECT BY MR. THOMPSON

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1 for this area and that's why we moved you out of the room  
2 with the class in it. We didn't know where it was going at  
3 that time. We had checked the Emergency Preparedness, and  
4 they tell us we are not in a danger zone, but they have our  
5 number. And if things change, they will call us. And the  
6 safest place in York County to be in a tornado is in the  
7 basement of this building. So if we get word that we need  
8 to go to the basement, we're going to the basement. But  
9 we're on top of it. We've been in contact. We should be  
10 through with this witness, not too long from now. But I  
11 don't want to alarm you, but we're on top of it.

12 All right. You may.

13 MR. THOMPSON: Thank you, Your Honor. If it please  
14 the Court.

15 DIRECT EXAMINATION

16 THOMAS MISTYSYN, JUNIOR BY MR. THOMPSON:

17 Q. Detective, Sergeant Mistysyn, if you would, please,  
18 tell you name to the court, and spell your last name.

19 A. Detective Sergeant Thomas Mistysyn, Junior. with the  
20 Baltimore Police Department. My last name is spelled  
21 M-i-s-t-y-s-y-n.

22 Q. Detective Mistysyn, can you tell me -- You obviously  
23 said from the Baltimore Police Department. How long have  
24 you been with Baltimore?

25 A. Twenty-one-and-a-half years.

SERGEANT THOMAS MISTYSYN: DIRECT BY MR. THOMPSON

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1 Q. And what are your duties there?

2 A. I am a detective sergeant in charge of a Robbery  
3 Division. I am in charge of one-ninth of Baltimore City.  
4 The city is cut into 9 slices. I have the southeastern  
5 quadrant currently.

6 Prior to that, I was in narcotics as a flex-sergeant,  
7 which is a plain clothes street crime sergeant. Plain  
8 clothes, plain car, just detecting on-view crimes on the  
9 streets of Baltimore. Sometimes, they lead to search  
10 warrants afterwards.

11 Q. And can you tell me, on September 8th of 2010, did you  
12 have the opportunity in the course of your duties as an  
13 officer to come into contact with Davontay Henson?

14 A. Yes, I did.

15 Q. And do you recognize Mr. Henson from that contact?

16 A. Yes, I do. He's seated to the right of counsel, white  
17 shirt.

18 MR. THOMPSON: Your Honor, I ask that the record  
19 reflect that he's now identified Davontay Henson.

20 THE COURT: The record will so reflect.

21 (WHEREUPON: THE WITNESS IDENTIFIES THE DEFENDANT  
22 DAVONTAY HENSON.)

23 Q. Detective, if you could, during the time that you had  
24 that contact with him, did you have the opportunity to ask  
25 him his name?

SERGEANT THOMAS MISTYSYN: DIRECT BY MR. THOMPSON

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1 A. Yes, I did.

2 Q. And what name did he give you?

3 A. He told me he was Tavon Darrell, with two "r"'s, two  
4 "l"'s, Jones.

5 Q. And did he also tell you -- Did you have occasion to  
6 ask him his date of birth as well?

7 A. Yes.

8 Q. And what date of birth did he give you?

9 A. At that time, he gave me the date of birth of 4/23/93,  
10 April 23rd, 1993.

11 Q. 1993, all right. In the course of dealing with him  
12 after that, did you end up discovering if he had given them  
13 another date of birth while he was with you there?

14 A. Yes, he did.

15 Q. And what was the other date of birth that he gave?

16 A. The other date of birth was November 1st, 1989.

17 Q. And ultimately, Mr. Henson was the one who was sent  
18 back here to South Carolina on these warrants. Correct?

19 A. Yes, he was.

20 Q. And if you could, from your experience in Baltimore,  
21 are you familiar -- Is Overly High School in the Baltimore  
22 area?

23 A. It is. It's not Baltimore City, it's Baltimore  
24 County.

25 Q. Thank you, no further questions.

1 THE COURT: Ms. Inzerillo?

2 MS. INZERILLO: No questions, Your Honor.

3 THE COURT: Mr. Chiarenza?

4 MR. CHIARENZA: No, I'm just trying to get this  
5 detective home, Your Honor. No questions.

6 THE COURT: We appreciate your time. You can feel  
7 free to leave.

8 THE WITNESS: Thank you, sir.

9 THE COURT: I believe this is a good time to stop for  
10 the day.

11 MR. BRACKETT: Yes, sir, Your Honor.

12 THE COURT: We're going to stop for today and start  
13 back at 9:30 in the morning. Before you leave, I will ask  
14 Security to check and see what's going on with the weather.  
15 And so if you'll just, I guess, go back over to the other  
16 courtroom for right now.

17 If you will take them back over there. I don't want  
18 put you on the road if there's some problem. I'm not  
19 getting on the road if there's some problem. But we'll  
20 check before we release you for the day.

21 (JURY EXITS COURTROOM AT 05:39 PM.)

22 THE COURT: We'll be at ease until 9:30, and we'll  
23 check on the weather for everybody, and particularly for  
24 the jury members.

25 MR. BRACKETT: Thank you, Your Honor.

VINCENT KEITH WILKS: DIRECT BY MR. THOMPSON

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1 MR. THOMPSON: If it please the Court, Your Honor.  
2 The State would call Keith Wilkes to the stand.

3 Mr. Wilks, would you come forward and be sworn,  
4 please.

5 MADAME CLERK: Please raise your right hand, place  
6 your left hand on the Bible.

7 (WHEREUPON: VINCENT KEITH WILKS,  
8 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

9 DIRECT EXAMINATION

10 VINCENT KEITH WILKS BY MR. THOMPSON:

11 Q. Mr. Wilks, would you state your full name for the  
12 Court, please?

13 A. Vincent Keith Wilks.

14 Q. And how do you spell your last name?

15 A. W-i-l-k-s.

16 Q. Thank you, Mr. Wilks.

17 Mr. Wilks, where do you work?

18 A. With Rock Hill School District.

19 Q. And what are your duties there?

20 A. I'm the Executive Director for Student Services, which  
21 includes student records, attendance, and many other  
22 things.

23 Q. And does the school -- Are you in charge basically of  
24 making sure that those records are properly collected?

25 A. Yes, sir.

VINCENT KEITH WILKS: DIRECT BY MR. THOMPSON

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1 Q. And are those records done in the normal course of the  
2 school's business activity?

3 A. Yes.

4 Q. And you keep records on all of the students that come  
5 through the Rock Hill School District?

6 A. Yes, sir.

7 Q. And as you said, it would include attendance?

8 A. Yes.

9 Q. It would also include enrollment?

10 A. Yes.

11 Q. Would it include withdrawals and transfers?

12 A. Yes.

13 Q. How about any personal information? Would it include  
14 dates of birth, things of that nature? Home addresses?

15 A. Yes.

16 Q. Would it also include the guardian or parent of the  
17 child?

18 A. Yes.

19 Q. Now these records that the school district creates, do  
20 you regularly rely on these records during the normal  
21 course of your business with the school district?

22 A. Yes, sir.

23 Q. And would you consider yourself the custodian of those  
24 records?

25 A. Yes, sir.

VINCENT KEITH WILKS: DIRECT BY MR. THOMPSON

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1 Q. Can you tell me, does the school district keep  
2 records? Does it have records on Davontay Henson?

3 A. Yes, sir.

4 Q. And did you bring those records with you today?

5 A. I do have copies of the records.

6 Q. I'll show you what I have marked as State's Exhibit  
7 Forty-six. If you'll look at that. Is that an accurate  
8 copy of the records you have on Davontay Henson?

9 A. Yes, sir.

10 Q. And can you tell me, from your records, are those the  
11 type -- are those the records you keep in the normal course  
12 of the business in the Rock Hill School District?

13 A. Yes, sir.

14 Q. And you rely on those, as you said, to conduct your  
15 business and to provide information to others?

16 A. Yes.

17 MR. THOMPSON: Your Honor, I ask to enter State's  
18 Exhibit Forty-six into evidence at this time.

19 MS. INZERILLO: No objection.

20 MR. CHIARENZA: Your Honor, if the Court is satisfied  
21 that the proper foundation's been laid, then I would have  
22 no objection.

23 THE COURT: Enter without objection.

24 (WHEREUPON: STATE'S EXHIBIT NUMBER FORTY-SIX  
25 IDENTIFIED AND MARKED, ENTERED INTO EVIDENCE.)



VINCENT KEITH WILKS: DIRECT BY MR. THOMPSON

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1 Q. If you would, tell me what do you have as far as the  
2 personal information of Davontay Henson. What is his date  
3 of birth that you have listed?

4 A. 4-23-1992.

5 Q. And who -- Where do you have him as his home address?

6 A. That is listed as [REDACTED] Rock Hill, South  
7 Carolina.

8 Q. And who do you have as his mother listed on his  
9 information?

10 A. Shelita White.

11 Q. And do you also have the information that shows where  
12 he attended school going to 2008/2009. I'm sorry,  
13 2009/2010 school year I guess it would be.

14 A. Yes, sir.

15 Q. And did he attend school here in Rock Hill?

16 A. Yes.

17 Q. And where did he attend?

18 A. The records show Northwestern High School.

19 Q. Does it also keep in your records the actual days that  
20 he attended?

21 A. For, yes.

22 Q. So was he properly enrolled at the beginning of the  
23 school year, 2009?

24 A. 2009? For the 2009/2010 school year?

25 Q. Yes.

VINCENT KEITH WILKS: DIRECT BY MR. THOMPSON

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1 A. Okay. It shows his entered date as being 9-1-2009.

2 Q. Okay. And so he was enrolled at that time?

3 A. That's the -- the enter date that we -- we have on  
4 record. Yes.

5 Q. Does it show as him attending school that day?

6 A. Yes.

7 Q. And when -- Does is have -- If you would, just tell us  
8 the days that you have of attendance from that day forward  
9 until there's no more attendance from him.

10 A. September 9th, I mean, sorry. September 1st,  
11 September 2nd, September 3rd, September 4th, the 7th was a  
12 holiday, September 8th, and on September 9th the "U" stands  
13 for absence all day. And from that period up through the  
14 11th, those were all absences. So the 9th, the 10th, the  
15 11th. On the 14th of September, that was a day of  
16 attendance. And then on the 15th, it was absence and that  
17 ran through the 29th of September.

18 Q. And what happened on the 29th of September?

19 A. After a student runs 10 consecutive absences, then  
20 they are withdrawn due to 10 consecutive absences.

21 Q. So he was automatically withdrawn from the school at  
22 that point?

23 A. Yes.

24 Q. Did he ever come back to the school at that point?

25 A. The -- This record does not show that, no.

VINCENT KEITH WILKS: DIRECT BY MR. THOMPSON

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1 Q. And so, would he remain then from the 29th, after the  
2 29th on, for the rest of that school year to be not  
3 enrolled within Northwestern High School?

4 A. No, he's not enrolled.

5 Q. Now from your attendance records, can you tell me how  
6 long had he attended altogether? How many years had he  
7 attended? Or I guess from the first year till now, or till  
8 this, how long had he attended Rock Hill schools?

9 A. On the sheet saying, "Transfer Information," it shows  
10 that his initial enrollment was September the 22nd, 2004,  
11 and that was in grade 5.

12 And then Sept -- August 8th. I mean, August 10th,  
13 2005, grade 6.

14 Grade 7, the entry date was August 9th, 2006.

15 August 22nd, 2007 --

16 Q. Well we can -- I can speak to this a little bit for  
17 you, if you would.

18 So, he attended regularly from 2004 until the time  
19 that he dropped out here. Is that correct?

20 A. Those were the enter dates each year. Yes.

21 Q. Now what is the normal process if someone is to leave  
22 the school. What is the paperwork that they should come in  
23 and do at that point in time?

24 A. If a student is withdrawing, we have a withdrawal form  
25 that student's parents will come in and fill out. So that

VINCENT KEITH WILKS: DIRECT BY MR. THOMPSON

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1 gives us a record of withdrawal if they were withdrawing to  
2 transfer.

3 Q. And is there any withdrawal to transfer by him?

4 A. There were no records at the school.

5 Q. So no withdrawal to transfer, then. Is that correct?

6 A. No.

7 Q. So did the school ever hear from Davontay Henson after  
8 that dropout date?

9 A. There were no records at the school.

10 Q. Now also in the records that you have before you. If  
11 you could tell me, are you able to search those records  
12 based on who the guardian is and the home address?

13 A. Yes. And the database search can be done by the  
14 guardian's name.

15 Q. And were you able to find siblings for Davontay Henson  
16 by doing that?

17 A. There were two other students who were enrolled by the  
18 same person, Ms. White.

19 Q. By Ms. White?

20 A. Yes.

21 Q. As their parent or guardian?

22 A. Yes.

23 Q. And was one of them Sheante.

24 MR. CHIARENZA: Your Honor, I'm going to object to the  
25 relevance.

VINCENT KEITH WILKS: DIRECT BY MR. THOMPSON

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1 THE COURT: I sustain the objection.

2 MR. CHIARENZA: Thank you.

3 MR. THOMPSON: Your Honor, if I may be heard on it?

4 THE COURT: I'm going to let the jury go to the jury  
5 room just for a few minutes.

6 (JURY EXITS COURTROOM AT 09:53 AM.)

7 THE COURT: Yes, sir, Mr. Thompson.

8 MR. THOMPSON: Your Honor, as to the other information  
9 that I intend to elicit, would basically be that Shante  
10 Henson who is listed with the same mother as the defendant  
11 Davontay Henson and as having the same address at [REDACTED]  
12 [REDACTED]. Her records indicate that she attended school  
13 basically during the same time as he did; that she was  
14 enrolled in Northwestern High School as well; that she  
15 attended class until the last day in which she attended  
16 which would have been October the 8th which is a week after  
17 this incident. That then all her absences after that  
18 became unexplained, that she as well was dropped from the  
19 roll and that there was no withdrawal paperwork for her  
20 either but that then ultimately they did receive transfer  
21 paperwork at a later date that is I believe --

22 Actually you might be able to help me just...

23 Mr. Wilks, the transfer paperwork for her from the  
24 Overly High School in Maryland, that you received.

25 MR. WILKS: What we have is October 28th and then it

VINCENT KEITH WILKS: DIRECT BY MR. THOMPSON

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1 DIRECT EXAMINATION - CONTINUED

2 KEITH WILKS BY MR. THOMPSON:

3 Q. Mr. Wilks, just a few more things.

4 You were talking just briefly when you were mentioning  
5 the "U"'s. And I guess when we go look at the attendance  
6 record, on the second page, is there a key to that to tell  
7 us what these symbols all mean, the "U"'s?

8 A. Yes. On the second page, the "U" stands for an  
9 unexcused absence.

10 Q. And what symbol is used for the times they are  
11 present?

12 A. There's simply a dash there.

13 Q. Now, will there be multiple dashes in a day?

14 A. Yes, each -- Attendance is taken in each period,  
15 individually. And so a dash -- Each period means that it  
16 was presence during that period.

17 Q. And is it the same with the U? A U in each period  
18 would indicate --

19 A. Yes.

20 Q. -- the same thing for each period as an unexplained  
21 absence or unexcused absence?

22 A. Yes.

23 Q. And when it says, "N/E," what does that mean?

24 A. Not entered. N/E, it's not actually on the ledger,  
25 but that's meaning that they're not entered in the database.

VINCENT KEITH WILKS: DIRECT BY MR. BRACKETT  
CROSS BY MR. CHIARENZA

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1 at that time for attendance.

2 Q. I believe I also see a "Z" in there. What does the Z  
3 stand for?

4 A. It's an unexcused tardy.

5 Q. So these records can be read then by the key that's on  
6 the second page. Correct?

7 A. Yes.

8 Q. Thank you, no further questions.

9 THE COURT: Ms. Inzerillo?

10 MS. INZERILLO: No questions, Your Honor.

11 THE COURT: Mr. Chiarenza?

12 MR. CHIARENZA: Briefly, Your Honor.

13 CROSS EXAMINATION

14 KEITH WILKS BY MR. CHIARENZA:

15 Q. Mr. Wilks, you said that my client had started with  
16 ya'll in 2004. Is that correct?

17 A. That's where the database goes back to. Yes, sir.

18 Q. Do you have -- So, is it possible that he was with you  
19 prior to that?

20 A. There is a possibility.

21 Q. Well at the very least, 5th grade. We're talking  
22 based on his birthday that he's -- from the time he was 12  
23 years old up until the time that he left your school, he  
24 was with ya'll, 12 to 17?

25 A. Yes, sir.

VINCENT KEITH WILKS: CROSS BY MR. CHIARENZA

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1 Q. And I just want to confirm my understanding of your  
2 testimony. The last time it appears that anyone -- that he  
3 made an appearance at Northwestern High School was on  
4 September 14th. Correct? Of 2009?

5 A. Yes, sir.

6 Q. And then you testified that he didn't do any sort of  
7 official -- He didn't follow an official protocol and  
8 submit any documentation to ya'll to withdraw from school,  
9 but that ya'll have an automatic procedure which is, "If we  
10 don't see a student for 10 days, we're crossing him off our  
11 list. He's no longer a student in our school.

12 A. There's an automatic withdrawal after 10 days. Yes,  
13 sir.

14 Q. And ya'll did - actually did that on September 29th.  
15 He would not have been welcomed to come back and  
16 matriculate at Northwestern High School at that point. Is  
17 that correct?

18 A. He's withdrawn due to absences at that point.

19 Q. So he's officially not -- He is no longer considered  
20 to be an attending student at that school?

21 A. Yes, sir.

22 Q. And then did -- If you take that sort of an action,  
23 would I be correct in assuming that you send some sort of  
24 notification to the family that says something along the  
25 lines, "By virtue of the fact of your 10 consecutive



VINCENT KEITH WILKS: CROSS BY MR. CHIARENZA

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1 unexcused absences, you have been withdrawn, you know,  
2 administratively withdrawn as a student from Northwestern  
3 High School." Something along those lines?

4 A. There have been computer-generated letters that have  
5 gone out, different systems over the years, but yes.

6 Q. But that's sort of a way to put one closing document  
7 in that student's file, and now he's gone.

8 A. Yes.

9 Q. And you would send that to the address that you have  
10 on file for that student?

11 A. That should have gone out, yes.

12 Q. And in your -- As far as you're aware of, Mr. Henson  
13 wouldn't have been the only student who's ever fallen into  
14 this category. That is to say, somebody who ya'll just  
15 didn't see for 10 days and had to administer this procedure  
16 with.

17 A. The only student?

18 Q. He wouldn't have been the only one that's ever -- that  
19 you've ever said -- Now he wasn't the first one or the only  
20 one --

21 A. No.

22 Q. -- where you've said, "Ten days have gone, we've got  
23 to remove this student from our rolls"?

24 A. No, no.

25 Q. In fact, clearly it's common enough that you have a

VINCENT KEITH WILKS: CROSS BY MR. CHIARENZA  
AILEEN NEWMAN: DIRECT BY MR. BRACKETT

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1 set procedure, what to do in that sort of situation?

2 A. Yes.

3 Q. I appreciate you coming here, Mr. Wilks. Thank you.

4 THE COURT: Redirect?

5 MR. THOMPSON: No, Your Honor.

6 THE COURT: All right. Thank you for your time. You  
7 can step down and be excused.

8 MR. BRACKETT: The State calls Aileen Newman.

9 MADAME COURT REPORTER: Mr. Brackett, would you get  
10 that exhibit? Thank you, sir.

11 MR. BRACKETT: Ma'am, would you please step forward  
12 and stand right in front of this lady, and she's going to  
13 swear you in.

14 MADAME CLERK: Please raise your right hand, place  
15 your left hand on the Bible.

16 (WHEREUPON: AILEEN NEWMAN, BEING  
17 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

18 DIRECT EXAMINATION

19 AILEEN NEWMAN BY MR. BRACKETT:

20 Q. All right, ma'am, speaking loud and clear so everybody  
21 can hear you, would you please state your full name, and  
22 spell you last for the court reporter?

23 A. Aileen Newman, N-E-W-M-A-N.

24 Q. How old are you, Aileen?

25 A. Twenty-one.

AILEEN NEWMAN: DIRECT BY MR. BRACKETT

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1 Q. And are you married?

2 A. No, sir.

3 Q. Have any kids?

4 A. No, sir.

5 Q. Where do you live?

6 A. Right now I'm at the Leaf Correctional Institution in  
7 Greenwood, South Carolina.

8 Q. And where did you live prior to that?

9 A. In Charlotte, North Carolina.

10 Q. Is that where you're from?

11 A. Yes, sir.

12 Q. Do you have a nickname, Aileen, that you go by, or  
13 that you went by back in 2009?

14 A. Yes, sir, I went by Lee Lee.

15 Q. Lee Lee?

16 A. Yes, sir.

17 Q. L-E-E L-E-E?

18 A. Yes, sir.

19 Q. Do you know Samantha Ervin?

20 A. Yes, sir.

21 Q. How do you know her?

22 A. That was my girlfriend at the time.

23 Q. Back in 2009?

24 A. Yes, sir.

25 Q. When did you first meet her?

AILEEN NEWMAN: DIRECT BY MR. BRACKETT

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1 A. August 2009.

2 Q. And how did you meet her?

3 A. From her Auntie Shandra Leach.

4 Q. From her Auntie Sandra?

5 A. Yes, sir.

6 Q. And how did you know Sandra?

7 A. We was in jail together.

8 Q. Here at the Moss Justice Center?

9 A. Yes, sir.

10 Q. I think you were in jail if I'm not mistaken for  
11 breaking and entering into a car?

12 A. Yes, sir.

13 Q. And you pled guilty to that?

14 A. Yes, sir.

15 Q. Prior to that, had you been convicted in Charlotte,  
16 North Carolina of three counts of financial transaction  
17 card theft as well as one count of larceny of a vehicle?

18 A. Yes, sir.

19 Q. Back in April of '09?

20 A. Yes, sir.

21 Q. When did you get out of jail on the York County charge  
22 back in '09?

23 A. September 5th.

24 Q. And where did you -- Had you met Samantha Ervin prior  
25 to then, or did you meet her after that?

AILEEN NEWMAN: DIRECT BY MR. BRACKETT

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1 A. Prior.

2 Q. And so you met her while you were actually in jail  
3 with Sandra?

4 A. Yes, sir.

5 Q. When you got out of jail, did you continue your  
6 relationship with Ms. Ervin?

7 A. Yes, sir.

8 Q. Where was Ms. Ervin living at that time?

9 A. On [REDACTED]

10 Q. And through the month of September, did you see her  
11 frequently?

12 A. Yes, I was staying there off and on.

13 Q. Where -- When you say, "stay there," you mean you  
14 would actually spend the night at that house?

15 A. Yes, sir.

16 Q. And this -- Where did you say it was? What was the  
17 address again?

18 A. [REDACTED]

19 Q. And what city is that in?

20 A. Rock Hill, South Carolina.

21 Q. Now whose house was that?

22 A. This older guy Alphonso Leach.

23 Q. And who is he to Samantha?

24 A. Grandfather or -- I -- I'm not honestly sure.

25 Q. But some relation, some family relation?

AILEEN NEWMAN: DIRECT BY MR. BRACKETT

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1 A. Right.

2 Q. Did anybody else live in the house?

3 A. Yes.

4 Q. Who?

5 A. Her cousin Alijah and his sister Shaleika and her  
6 uncle, all I know him by is Poo-Poo.

7 Q. Now were Alijah -- Is that Alijah James?

8 A. Yes, sir.

9 Q. And Shaleika, is that Shaleika Black?

10 A. Yes, sir.

11 Q. Did they live in the house every day and sleep there?

12 A. Yes, sir.

13 Q. Do you know a fellow named Davontay Henson?

14 A. Yes, sir.

15 Q. How do you know him?

16 A. A friend.

17 Q. Who?

18 A. Who stayed there sometimes.

19 Q. And how did you meet him?

20 A. Through Alijah and Samantha.

21 Q. And did Mr. Henson have a nickname?

22 A. Yes.

23 Q. What was that?

24 A. B'more.

25 Q. B'more. Why was he called, "B'more"?

AILEEN NEWMAN: DIRECT BY MR. BRACKETT

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1 A. Because he was from Baltimore.

2 Q. And when did you meet him?

3 A. Sometime in September.

4 Q. Through Alijah?

5 A. Right.

6 Q. Was he at the house very often over on Keels Avenue?

7 A. Yes, sir.

8 Q. How often would you see him there?

9 A. Like almost every day.

10 Q. How often would you hang out with him yourself, or was  
11 he there to see Alijah?

12 A. We just all be in the living room, chillin' together.

13 Q. Was he there usually for an hour, half an hour, half  
14 the day, all day? How long would he typically spend at the  
15 house?

16 A. About half the day.

17 Q. Do you see him in the courtroom?

18 A. Yes.

19 Q. Can you point him out to us?

20 A. Over there.

21 Q. I need a little bit more description than that. Can  
22 you tell me what he's wearing?

23 A. A white shirt. I think.

24 Q. Well there's two fellows, three fellows over there  
25 with white shirts.

AILEEN NEWMAN: DIRECT BY MR. BRACKETT

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1 A. With a brown tie on.

2 Q. With a brown tie on. Okay, I think that narrows it  
3 down.

4 MR. BRACKETT: Your Honor, I'd ask the record to  
5 reflect that she's identified the Defendant Davontay  
6 Henson.

7 THE COURT: The record so reflects.

8 (WHEREUPON: THE WITNESS IDENTIFIES THE DEFENDANT  
9 DAVONTAY HENSON.)

10 Q. Is that how he looked back in 2009?

11 A. No, sir.

12 Q. Did he used to wear glasses back then?

13 MR. CHIARENZA: Objection, leading, Your Honor.

14 THE COURT: Yeah, rephrase the question.

15 BY MR. THOMPSON:

16 Q. Is that how you remember him from back in 2009?

17 A. No, sir.

18 Q. Would he wear glasses?

19 MR. CHIARENZA: Objection, Your Honor.

20 THE COURT: Rephrase.

21 MR. BRACKETT: How do you...

22 THE COURT: I don't know.

23 MR. CHIARENZA: He can ask, "What did he look like?"

24 MR. BRACKETT: All right.

25 Q. Can you describe his face?



AILEEN NEWMAN: DIRECT BY MR. BRACKETT

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1 A. Dark skin.

2 Q. Was there ever anything on his face that God didn't  
3 put there?

4 A. No.

5 Q. How was his vision? Would you have ever known that  
6 his vision was impaired in any way?

7 A. I'm not sure.

8 Q. What's he wearing now on his face?

9 A. Glasses.

10 Q. Was that customary in 2009? Did you see him with  
11 glasses on back then?

12 A. No, sir.

13 MR. BRACKETT: I ask that this be marked as a State's  
14 Exhibit.

15 (WHEREUPON: STATE'S EXHIBIT NUMBER FORTY-NINE  
16 PREMARKED FOR IDENTIFICATION.)

17 Q. I'm showing you what's been marked as State's Exhibit  
18 Forty-nine. And I'll ask you if you recognize the  
19 individual in that photograph?

20 A. Yes, sir.

21 Q. Who is that?

22 A. Davontay.

23 Q. Do you remember him back in 2009?

24 A. Yes, sir.

25 Q. Is that how he looked back in 2009?

AILEEN NEWMAN: DIRECT BY MR. BRACKETT

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1 A. Yes, sir.

2 MR. BRACKETT: Your Honor, I seek to introduce --

3 Q. Specifically in October of 2009, is that how he  
4 looked?

5 A. Yes, sir.

6 MR. BRACKETT: I seek to introduce State's Exhibit  
7 Forty-nine into evidence at this point.

8 THE COURT: Any objection?

9 MS. INZERILLO: No, Your Honor.

10 MR. CHIARENZA: Your Honor, I would object. She can  
11 describe how he looked, but this photograph, she can't  
12 testify as to when it was taken, who took it. I object to  
13 this photograph going into evidence.

14 THE COURT: I overrule the objection. She said that's  
15 what he looked like at that time. Enter it into evidence.

16 MR. BRACKETT: Your Honor, I seek to publish State's  
17 Exhibit Forty-nine to the jury at this time.

18 (WHEREUPON: STATE'S EXHIBIT NUMBER FORTY-NINE  
19 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE, AND  
20 PUBLISHED TO THE JURY.)

21 Q. How about Donta Reid? Do you know Donta Reid?

22 A. Yes, sir.

23 Q. How do you know him?

24 A. Through Samantha and Alijah.

25 Q. And do you recall when you met him?

AILEEN NEWMAN: DIRECT BY MR. BRACKETT

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1 A. Sometime in September.

2 THE COURT: Give the year.

3 A. 2009.

4 Q. Did he have a nickname?

5 A. Yes.

6 Q. What was that?

7 A. Crud.

8 Q. Crud?

9 A. Yes, sir.

10 Q. And where was he living back in September/October of  
11 2009?

12 A. I think with his grandparents.

13 Q. Did you ever see him at Keels Avenue?

14 A. Yes, sir.

15 Q. How often?

16 A. About almost every day.

17 Q. And how long during the day did he spend there with  
18 you?

19 A. Like a few hours.

20 Q. Do you see Mr. Reid in the courtroom?

21 A. Yes.

22 Q. Will you point him out to the jury and describe what  
23 he's wearing.

24 A. A gray suit with a yellow tie.

25 MR. BRACKETT: Your Honor, I ask that the record

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1 reflect that the witness has identified the Defendant Donta  
2 Reid.

3 THE COURT: Let the record reflect.

4 (WHEREUPON: THE WITNESS IDENTIFIES THE DEFENDANT  
5 DONTA REID.)

6 Q. All right, Ms. Newman. Do you remember the day of  
7 October 1st, 2009?

8 A. Yes, sir.

9 Q. Why does that day stand out in your mind?

10 A. That's the time the crime was committed, the day.

11 Q. Which crime is that?

12 A. The crime we're on trial for.

13 Q. Where did you spend the night the night before?

14 A. On Keels Avenue.

15 Q. So when you woke up on October 1st of 2009, you were  
16 where?

17 A. On Keels Avenue.

18 Q. What did you do during the day. Do you recall?

19 A. Yes. I just hung out outside and in the living room.

20 Q. Did you see - Who was in the house during the day when  
21 you were there. Who all was present at Keels Avenue?

22 A. Just me, Samantha, and Alijah, and Shaleika.

23 Q. You, Samantha, Alijah, and Shaleika?

24 A. Yes, sir.

25 Q. At any point during the day, did Donta Reid show up?

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1 A. No, not during the day.

2 Q. How about towards the evening?

3 A. Yes.

4 Q. Do you wear a watch, or did you wear a watch back in  
5 2009?

6 A. No, sir.

7 Q. Do you have a firm grasp of times on that day, when  
8 things happened?

9 A. It's a little shaky, but I know the events.

10 Q. When Donta Reid showed up was he alone, or was he with  
11 other people?

12 A. I'm not sure. I was upstairs.

13 Q. How about Mr. Henson. Did you see him at any point  
14 during the day?

15 A. No, sir.

16 Q. How about towards the evening?

17 A. Yes, sir.

18 Q. And when he showed up, was he with somebody or by  
19 himself?

20 A. I was upstairs.

21 Q. When did you first notice that they were in the house?

22 A. When they -- When they came upstairs.

23 Q. Do you remember, or do you have any idea what time  
24 that was?

25 A. About 6:00 to 7:00.

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1 Q. And when they came upstairs, did you talk with them?

2 A. Yes.

3 Q. And what did you talk about?

4 A. Nothing really. They -- When they -- It was -- It was  
5 really stupid about Samantha had gotten into it with this  
6 older guy who stayed across the street. And that's really  
7 what the conversation was about.

8 Q. Tell the jury, just walk them through what happened,  
9 the events of that night leading up to the time when you  
10 left the house.

11 A. Well I was upstairs with Shaleika, and Samantha,  
12 Donta, and Davontay came upstairs with a gun.

13 Q. With what?

14 A. A gun.

15 Q. Who had the gun?

16 A. Davontay.

17 Q. Can you describe the gun?

18 A. It was about 2 feet long with a pistol grip.

19 Q. What color was it?

20 A. Black.

21 Q. Was there anything unusual or distinctive about the  
22 gun?

23 A. It had white taping around it.

24 Q. When you first saw the gun, whose hands was it in?

25 A. Davontay.

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1 Q. Go on. Tell us what happened after that.

2 A. And then we all went down -- I went downstairs, and  
3 then I think they came downstairs. And Alijah was in the  
4 house with his girlfriend. And so we had left and got in  
5 the truck to leave.

6 Q. Who's we?

7 A. Me, Samantha, Davontay, and Donta.

8 Q. And at this point in time, could you see the gun?

9 A. Yes.

10 Q. Where was it?

11 A. In the front seat.

12 Q. Who had it?

13 A. Davontay.

14 Q. Go on. Where did you go?

15 A. We went to the store to get gas. And then we came  
16 back to the house to give Alijah his change for the gas,  
17 and then we got back in the truck.

18 Q. What were you talking about doing? Did you have any  
19 plans for the evening?

20 A. No, there was no plans at the time.

21 Q. Well, what -- Tell us what happened next.

22 A. And then we went to some, Samantha friends girl house  
23 for like 5 minutes, if even that. And then went to her  
24 sister house, she call, "Mother." And then Donta wanted to  
25 get dropped off with his home boys to smoke. And then

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1 that's when the whole robbery thing came apart.

2 Q. Tell us how that unfolded. Whose idea was it to  
3 commit the robbery?

4 A. Davontay.

5 Q. How did he bring it up?

6 A. Just ah, can we go rob somebody.

7 Q. He asked -- He wanted to rob -- Tell me what he said.

8 A. In general, just "Who can we rob?"

9 Q. And who suggested Mr. Reid's friend?

10 A. No, he did.

11 Q. Davontay did?

12 A. No, Donta did.

13 Q. Donta, okay. So when you're -- Careful when you say,  
14 "He did" because we don't know necessarily who you're  
15 talking about. Try to use names when you can.

16 So when you say, "He did," you're saying Donta Reid  
17 suggested robbing then?

18 A. Right.

19 Q. And where were you when this suggestion was made?

20 A. In the backseat of the truck.

21 Q. Who all was in the truck?

22 A. Me, Samantha, and Davontay was in the truck, and Donta  
23 was in the bed.

24 Q. In the bed of the truck?

25 A. Like as in the back where you hold stuff at.



1 Q. How could he talk to you in the truck?

2 A. Through the glass. It was broke, busted.

3 Q. Could you talk to him from inside the truck?

4 A. Yes, sir.

5 Q. And he to you in?

6 A. Yes, sir.

7 Q. So when he suggested his friends as targets for the  
8 robbery, what exactly did he say?

9 A. That we can set his home boys up.

10 Q. And how is that going to work, and who made the plan?

11 A. That we was -- That I was going to act like I was  
12 selling them some drugs, and he was going to lead them to  
13 me at the corner. And then Davontay -

14 Q. Who's he? Who's he going to -

15 A. Donta was going to lead them to the corner, and  
16 Davontay was going to hop out and rob all of us.

17 Q. "All of us," including you?

18 A. Right. So it don't look like it was set up.

19 Q. And whose idea was this plan?

20 A. I can't remember if it was Davontay or Donta's.

21 Q. Where -- Who was involved in the conversation where  
22 the plan was formulated. Was everybody talking?

23 A. Yes, all of us.

24 Q. How long did this conversation take place?

25 A. About -- about 30 minutes maybe, give or take some.

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1 Q. Now what -- What was the next thing that ya'll did?

2 A. Donta was texting them, and then went to his house,  
3 and he called on their -- his house phone.

4 Q. He was texting - Donta was texting who?

5 A. One of the victims.

6 Q. The people on the porch?

7 A. Right.

8 Q. And whose phone was he using to do that?

9 A. Samantha Ervin's.

10 Q. Did you have a phone?

11 A. No, sir.

12 Q. Did Donta have a phone?

13 A. No, sir.

14 Q. To your knowledge, did Mr. Henson have a phone?

15 A. No, sir.

16 Q. And to your knowledge, in your presence, did Mr. Reid  
17 indicate that he had gotten a response from his friend?

18 A. Yes, sir.

19 Q. And what did he suggest that you do next as a result  
20 of the communications he had on the text.

21 A. He said he was going to walk up there and see how many  
22 it was.

23 Q. And so where did you go?

24 A. Like, I don't know the street, but it's a bridge.

25 Q. Do you know Rock Hill very well?

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1 A. No, sir.

2 Q. How long have you been in Rock Hill at this point?

3 A. A month.

4 Q. So you say it was a bridge near a street?

5 A. Yes, sir. If I seen it, I would know.

6 Q. You went to the bridge near the street. What happened  
7 there?

8 A. Donta walked up to the Byars Street to the victim's  
9 house and called the phone and told Samantha that -

10 Q. Donta walked up to the Byars Street -

11 MR. CHIARENZA: Objection, Your Honor. Let her answer  
12 the question.

13 THE COURT: Yes.

14 MR. BRACKETT: I was trying to get through the  
15 pronouns. I wanted to make sure what happened.

16 Q. But, go ahead. Answer the question, I'll come back.

17 A. Donta called Samantha's phone, and talked to her, and  
18 told her that it was three of them, and that was it. And  
19 that we will meet you at the corner.

20 Q. When did Donta left you?

21 A. Can you --

22 Q. Well, Donta called to the car, you said.

23 A. Right.

24 Q. But when did he leave you? He was with you a few  
25 minutes ago.

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1 A. Right. He was with us, but when we went to park at  
2 the bridge, he got out.

3 Q. And how long was he gone before he called back?

4 A. About 5 to 10 minutes.

5 Q. And what did he tell you again?

6 A. That it was three of them.

7 Q. Did he indicate any other information about them?

8 A. That we would walk -- that they would walk to the  
9 corner where I was at.

10 Q. When you say, "they," who is they?

11 A. Him and the three boys.

12 Q. And where were you supposed to go?

13 A. I was supposed to stand on the corner and wait for  
14 them.

15 Q. And what -- So after the call came through, what did  
16 you do?

17 A. I got out the truck and stood on the corner, and  
18 Davontay and Samantha left.

19 Q. Did you see where they went?

20 A. No, sir.

21 Q. Did they leave on foot?

22 A. No, in the truck.

23 Q. So at this point, were you alone?

24 A. Yes, sir.

25 Q. How long did you stand out there on the corner?

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1 A. About maybe 10 minutes.

2 Q. And tell us what happened next.

3 A. And then Donta came walking down by his self. And I  
4 asked him, "Where they at?" And he said, "They didn't feel  
5 like walking." And then that's when Davontay hopped out  
6 the bushes.

7 Q. Davontay the Defendant, Mr. Henson over here?

8 A. Yes, sir.

9 Q. When he hopped out of the bushes, where were you --  
10 how far was that from where you were standing?

11 A. Right there.

12 Q. Did he -- Describe what he had with him or how he  
13 appeared at that time.

14 A. Dressed in all black with a gun.

15 Q. And did he have anything on his head or anything  
16 covering his face?

17 A. A hood and a bandanna.

18 Q. So what exactly did Donta tell you at that point in  
19 time about the people on the porch?

20 A. That they didn't feel like walking. And then that's  
21 when Samantha pulled up and a new plan was formulated.

22 Q. What was the new plan?

23 A. That ah, Donta said they was not armed and so they --

24 Q. Donta said who was not armed?

25 A. The three victims. The three boys.

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1 Q. When you say "armed," you mean?

2 A. They didn't have any weapons.

3 Q. And go on. What was the plan?

4 A. So then, me and Davontay decided, we're just going to  
5 walk up there since they was not armed.

6 Q. And why didn't Donta go?

7 A. Because they knew him.

8 Q. How long did it take you after Donta returned with the  
9 information about them not wanting to walk down there. How  
10 long did it take you to come up with this plan?

11 A. About 5 minutes.

12 Q. So how were you dressed at the time?

13 A. I had on a gray hoodie and some pajama pants.

14 Q. What color were they?

15 A. I don't even remember. I -- They were Samantha's.

16 Q. What -- After you came up with the second plan, what  
17 did ya'll do?

18 A. Donta got in the truck with Samantha, and she said she  
19 was going to wait right there because she was the driver.  
20 And me and Davontay walked up the street.

21 Q. And how long did it take you to walk from the corner  
22 where you were up to where the victims were?

23 A. About 5 minutes. Not even -- if not even that.

24 Q. Now tell us -- Describe what happened as you're  
25 walking up to the house.

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1 A. When we walked up there, I asked them did they have  
2 any weed, and they said, no. And then Davontay started  
3 walking up to them, and when he pulled out the gun, and  
4 said, "Give it up." And then, that's when I walked on the  
5 porch -- I mean, walked up to the porch and started  
6 gathering everything.

7 Q. When you say "gathering everything," tell us exactly  
8 what you did on the porch.

9 A. I started patting them down and grabbing whatever they  
10 had.

11 Q. What was Mr. Henson, over here, what was he doing at  
12 that time?

13 A. Nothing, just pointing the gun at them.

14 Q. And how was he -- Did he have his mask on?

15 A. Yes, sir.

16 Q. Describe what happened. Tell us - Walk us through  
17 what happened while you were on the porch.

18 A. Then I walked on the porch. And there was a boy  
19 sitting on the porch, and I grabbed his wallet and phone.  
20 And I got off the porch. And we was turning to leave, and  
21 then I told him, don't turn his back on them.

22 Q. How many people were there on the porch again?

23 A. Three.

24 Q. So from the guy sitting on the porch, what did you get  
25 from him?

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1 A. Which guy? Oh, the guy sitting on the porch?

2 Q. Yeah, up on the porch.

3 A. A wallet and a phone was sitting beside him.

4 Q. And where were the other two individuals?

5 A. On the bottom of the porch.

6 Q. On the porch itself or on the stairs?

7 A. The steps.

8 Q. Now where -- What did you get from them?

9 A. Some -- a pack of Newports, and that's it.

10 Q. So how long did this whole event take place from the  
11 time you walked up asking for a cigarette to the time you  
12 finished collecting the items from these individuals?

13 A. About 5 minutes.

14 Q. And what happened after that?

15 A. Then we was turning to walk, and I told him don't turn  
16 his back on them, and he turned around. And we kept  
17 walking, then he open-fired.

18 Q. Why did he open-fire?

19 A. I don't know. I guess it was just -- I don't honestly  
20 know. I guess it was just adrenaline. It was never part  
21 of the plan.

22 Q. What did you say to him? Did you say anything that  
23 suggested he should?

24 A. No.

25 Q. What exactly did you say to him?



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1 A. Don't turn your back on them.

2 Q. What happened when he open-fired? Can you describe  
3 the sound?

4 A. It was like ta-ta-ta-ta-ta-ta-ta. It was an  
5 automatic.

6 Q. What did you see?

7 A. I knew the one on the left was dead because he wasn't  
8 moving. And the one on the right was trying to get up the  
9 stairs. And the one on the porch was running in the house.

10 Q. What did you do?

11 A. I just stood there. I was shocked.

12 Q. Tell us what happened next.

13 A. And then he was like run, so I started running. And  
14 we hopped in the truck that was parked by the bridge.

15 Q. How long did it take you to get back to the truck?

16 A. Like a couple of minutes.

17 Q. And who was in the truck when you got back to it?

18 A. Samantha was driving, and Donta was in the back seat.

19 Q. And what part of the truck did you get into?

20 A. The bed, the very back.

21 Q. Where Donta had been before?

22 A. Yes, sir.

23 Q. And where did Mr. Henson -- What part of the truck did  
24 he get in?

25 A. In the front seat.

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1 Q. Did he still have the gun with him?

2 A. Yes, sir.

3 Q. Well, what happened next? Where did you go?

4 A. We went back to Keels Avenue.

5 Q. Tell us what happened when you got back there. Who  
6 was at Keels Avenue?

7 A. Alijah was in the -- opened the door for us. And then  
8 we was all in the living room. Then I went upstairs, and  
9 Samantha came upstairs. We got in the bed. And then  
10 Alijah -- I went -- No -- Alijah came upstairs, said  
11 something, went back down. Then I was like, "I'm going to  
12 the store to get me a beer."

13 And Davontay wanted to go with me, so me and him went  
14 to the store.

15 Q. When -- How long did you spend downstairs before you  
16 went upstairs?

17 A. Probably about 5 minutes.

18 Q. Did you see any of the items that were taken in the  
19 robbery?

20 A. Yes, because I -- I took them out of my pocket and put  
21 them on the table.

22 Q. And what happened to those items?

23 A. Samantha said she was going to pawn the phone. And it  
24 was some weed in the Newport box, and it was a wallet with  
25 about \$20 dollars in there.

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1 Q. Do you know what happened to the wallet?

2 A. I think it got thrown in the trash can.

3 Q. How about the money?

4 A. I guess it got spent.

5 Q. Did you look through the wallet or did anybody while  
6 you were?

7 A. No, Davontay did.

8 Q. Anything -- Did he have anything to say about it?

9 A. Yeah, he said --

10 MR. CHIARENZA: Objection, leading, Your Honor.

11 THE COURT: Yeah, just rephrase your question.

12 Q. Tell us what if -- What -- Tell us what happened after  
13 he looked through the wallet.

14 A. He said he knew the boy.

15 Q. Which boy?

16 A. I think his name was Maurice.

17 Q. Did you get anything from the robbery?

18 A. No.

19 Q. Did you see the gun again after you got back to the --

20 A. No, we came back in the house. He never brought it  
21 back in with us.

22 Q. After you went back up to bed, did you stay there for  
23 the rest of the night?

24 A. After we went to the store, I came back and got drunk,  
25 and I went to bed because I was feeling bad.

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1 Q. And did you stay in bed?

2 A. For like 15 minutes. And Alijah came and said -- told  
3 Samantha to drop Davontay off at home. But she didn't feel  
4 like driving, and so I just took him myself.

5 Q. How long were you gone?

6 A. I -- I'm going to be honest. I was drunk. I don't  
7 even remember how I got home.

8 Q. Do you know what time you woke up the next day?

9 A. Yes. Samantha woke me up at about 9:00 o'clock that  
10 morning saying that the boy had passed away. And I started  
11 crying, and then we all went downstairs. And she left and  
12 took Donta home because his grandparents was calling.

13 Q. Did you see Donta again that day?

14 A. No. I never saw him again since that morning.

15 Q. How about Davontay Henson?

16 A. Yes. We was together all morning and afternoon.

17 Q. Did you talk anymore about what had happened the night  
18 before?

19 A. No. He just said that he didn't know he was going to  
20 do that.

21 Q. Didn't know he was going to do what?

22 A. Shoot.

23 Q. Did he say anything more about shooting? Why he shot?

24 A. No. Just that it was just adrenaline. He did -- It  
25 was never planned.

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1 MR. BRACKETT: I ask that this be marked as State's  
2 Exhibit Fifty.

3 Q. I'm showing you what's been marked as State's Exhibit  
4 Fifty for identification. And ask, can you identify the  
5 person in that photograph?

6 A. That's me.

7 Q. And when was that picture taken?

8 A. In October 14th, 2009.

9 Q. And why were you -- Where was it taken?

10 A. In the Moss Justice Center.

11 Q. And what happened that made you be here getting your  
12 picture taken?

13 A. For my accessory to the armed robbery.

14 Q. You were arrested on that?

15 A. Yes.

16 Q. On the charges related to this?

17 A. Yes.

18 Q. Does this -- Is this how you looked in October of  
19 2009?

20 A. I had a weave in my hair, so my hair was longer..

21 Q. No, I mean, is this how you looked?

22 A. Oh, yes.

23 Q. Not how you look now.

24 A. Oh, yes, this is.

25 Q. Is this how you looked?

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1 A. Right.

2 MR. BRACKETT: Your Honor, I'd ask that State's  
3 Exhibit Fifty for identification be entered into evidence  
4 at this time.

5 MS. INZERILLO: No objection.

6 MR. CHIARENZA: No objection.

7 THE COURT: Enter it without objection.

8 (WHEREUPON: STATE'S EXHIBIT NUMBER FIFTY IDENTIFIED  
9 AND MARKED, ENTERED INTO EVIDENCE.)

10 Q. Later that afternoon, where did you go?

11 A. Home. I had called my mom around 12:00, 12:30, 'cause  
12 she work in Rock Hill. And she said she'll pick me up when  
13 she get off work.

14 Q. What time did she come for you?

15 A. About 4:00 o'clock that afternoon.

16 Q. And where did she take you?

17 A. Home.

18 Q. Where was home?

19 A. In Charlotte, North Carolina at her house -- at our  
20 house.

21 Q. Did you ever return to Rock Hill, South Carolina to go  
22 to Keels Avenue after you returned home?

23 A. No, sir.

24 Q. When was the next time you heard anything about this  
25 case?

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1 A. I had talked to Samantha that night and she was  
2 telling me.

3 Q. Well, don't tell me what Samantha was saying. Don't  
4 get into that, that's hearsay.

5 Did there come a time the police came looking for you?

6 A. They had arrested me at a friend -- one of my home  
7 boy's house.

8 Q. Where at? In what city?

9 A. Charlotte, North Carolina.

10 Q. Do you remember how what day that was?

11 A. That was on the -- the 12th -- the 11th. It was the  
12 11th at about 9:00, 10:00 o'clock that morning.

13 Q. And what were you arrested for?

14 A. Armed -- Three accounts of armed robbery, murder,  
15 assault and battery with intent to kill, gun charge, and  
16 conspiracy.

17 Q. And eventually did they return you back down to South  
18 Carolina?

19 A. Yes, I signed extradition.

20 Q. You waived extradition to South Carolina?

21 A. Right.

22 MR. BRACKETT: The Court's indulgence, Your Honor.

23 (PAUSE.)

24 THE WITNESS: Your Honor, do you think I can talk to  
25 my lawyer real quick? He's in the courtroom. I just want

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1 to ask him a question.

2 THE COURT: Why don't I let the jury go to the jury  
3 room just for a minute. We'll take a short -- We'll go  
4 ahead and take our morning break.

5 THE WITNESS: Thank you, Your Honor.

6 (JURY EXITS COURTROOM AT 10:39 AM.)

7 THE COURT: Mr. Brackett, I don't know if you or  
8 anybody else heard, the witness ask while you were  
9 discussing what next to do, anything regarding the  
10 questioning of this witness; she ask, the witness ask me if  
11 she could talk to her lawyer. Now, this case continues to  
12 have unusual events. Mr. Schusterman I assume is her  
13 attorney.

14 MR. SCHUSTERMAN: Yes I am.

15 THE COURT: I know of no reason I can prevent that,  
16 she is on the stand but if I allow that I want to hear what  
17 the State's position is.

18 MR. BRACKETT: We take no position.

19 THE COURT: Ms. Inzerillo?

20 MS. INZERILLO: Neither do we, Your Honor.

21 THE COURT: Mr. Chiarenza?

22 MR. CHIARENZA: Your Honor, I just feel compelled that  
23 I will object to it just to be protected on the record. I  
24 have no idea what she's gonna say. Obviously it's  
25 potentially privileged communication but still, I mean



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1 she's been prepped, talked to, I would imagine has had  
2 adequate time over the course of the last two years to  
3 consult with Mr. Schusterman and just now that she's in the  
4 middle of her testimony, I've just got some problems with  
5 it such that I'm gonna object to it.

6 THE COURT: Well, I admit I'm stymy because I'm not  
7 sure exactly how to handle this.

8 Mr. Schusterman, you chime in. You represent her, you  
9 have any thoughts on protocol?

10 MR. SCHUSTERMAN: I really don't. I will be more than  
11 glad to talk to her and then as a result of the  
12 conversation we have an in camera conversation as to the  
13 substance whether it's -- I don't know the subject matter,  
14 that's why I don't...

15 MR. BRACKETT: I would say in light of Mr. Chiarenza's  
16 objection I would be concerned about the issue given the  
17 fact that she is on the stand and she has entered a plea  
18 agreement and in her pleas of guilt and as part of it she's  
19 supposed to cooperate so I'm just concerned about -

20 THE COURT: We're gonna take a break and I'll let them  
21 put you back in there just for a few minutes so you can use  
22 the restroom if you need to and have some water.

23 And, I'm gonna ask counsel to do some research and we  
24 will too as to that particular issue.

25 We're on break so...

AILEEN NEWMAN: DIRECT BY MR. BRACKETT

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1 (WITNESS RETURNED TO HOLDING CELL ADJACENT TO  
2 COURTROOM.)

3 (COURT IN RECESS AT 10:42 AM.)

4 (COURT BACK IN SESSION AT 11:08 AM.)

5 THE COURT: Thank you. Take your seats.

6 (WITNESS RETURNS TO WITNESS STAND.)

7 THE COURT: I've not been able to find anything  
8 directly on point. The case I mentioned when I came in  
9 earlier actually had to deal with a testifying defendant as  
10 opposed to a witness. I have not found a case in point but  
11 I -- I'm not going to allow you while you're testifying to  
12 talk to your attorney.

13 THE WITNESS: That's fine.

14 THE COURT: Okay. After it's over, Mr. Schusterman,  
15 I'll allow you to talk to her after court what her concern  
16 was.

17 MR. SCHUSTERMAN: I certainly will.

18 THE COURT: All right. Bring in the jury.

19 Yes, ma'am.

20 THE WITNESS: That's okay. That's fine.

21 THE COURT: Ms. Nelson, did you get down what she  
22 said?

23 MADAME COURT REPORTER: I did.

24 THE COURT: She said that's fine.

25 MADAME COURT REPORTER: That's fine. Yes, sir, I did.

AILEEN NEWMAN: DIRECT BY MR. BRACKETT

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1 Yes, sir.

2 (JURY REENTERS COURTROOM AT 11:09 AM.)

3 MR. BRACKETT: If it please the Court?

4 THE COURT: Yes.

5 DIRECT EXAMINATION - CONTINUED

6 AILEEN NEWMAN BY MR. BRACKETT:

7 Q. Just a few more questions, Ms. Newman. Do you need a  
8 drink of water?

9 A. No, sir, I'm fine.

10 Q. Do you know Darius "Duke" Jeter?

11 A. Yes, sir.

12 Q. Can you tell the jury, was he involved in any way,  
13 shape, or form?

14 A. No, sir.

15 Q. Did he have anything to do with the planning?

16 A. No, sir.

17 Q. Or the carrying out of the robbery and the shooting?

18 A. No, sir.

19 Q. To your knowledge, was he aware that there was even a  
20 robbery that was going to be --

21 MR. CHIARENZA: Objection.

22 THE COURT: I sustain the objection.

23 Q. Did you see him that day?

24 A. Yes, sir.

25 Q. Where did you see him?

AILEEN NEWMAN: DIRECT BY MR. BRACKETT

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1 A. Walking to Keels Avenue.

2 Q. And did you have occasion to talk to him?

3 A. Yes, sir.

4 Q. And what -- Where was that?

5 A. While we was -- While we was in the truck, he was  
6 walking and we had stopped.

7 Q. What did you -- What did anybody say to him? How long  
8 did you stop and talk to him?

9 A. Probably like a minute.

10 Q. Did he get in the truck with you?

11 A. No, sir.

12 Q. Did you tell him where you were going?

13 A. No, sir.

14 Q. What you were going to go do?

15 A. No, sir.

16 Q. Who were the people that went with you to rob these  
17 three men on Byars Avenue?

18 A. Sir?

19 Q. Who were the people that went with you to rob these  
20 three men on Byars Avenue that night?

21 A. It was me, Samantha, Davontay, and Donta.

22 Q. And question in your mind about that?

23 A. No, sir.

24 Q. Did you know what was going to happen?

25 A. As far as?

AILEEN NEWMAN: DIRECT BY MR. BRACKETT  
CROSS BY MS. INZERILLO

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1 Q. A robbery taking place.

2 A. Yes.

3 Q. Did you participate in it willingly?

4 A. Yes, I did.

5 Q. How about Mr. Reid?

6 A. Yes.

7 Q. How about Mr. Henson?

8 A. Yes.

9 Q. How about Ms. Ervin?

10 A. Yes.

11 Q. Please answer any questions that counsel for Mr. Reid  
12 or Mr. Henson may have for you, Aileen.

13 MS. INZERILLO: May it please the Court, Your Honor.

14 CROSS EXAMINATION

15 AILEEN NEWMAN BY MS. INZERILLO:

16 Q. Ms. Newman, your testimony here today was that  
17 essentially the plan was to essentially take, I believe  
18 your testimony was, three people off the porch, have them  
19 meet up with you on the street. Right?

20 A. Yes, ma'am.

21 Q. And then --

22 THE COURT: Talk into the microphones over here.

23 A. Yes, ma'am.

24 Q. And your testimony is that it was going to be all  
25 three of them. Right?

AILEEN NEWMAN: CROSS BY MS. INZERILLO

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1 A. Yes, ma'am.

2 THE COURT: Could you move it a little bit over that  
3 way so she can -

4 MS. INZERILLO: Sure.

5 THE COURT: --- she is kind of trying to face you and  
6 -

7 THE WITNESS: Thank you, Your Honor.

8 Q. All right. Is this better? Can you see me better  
9 now?

10 A. Yes.

11 Q. So just to make sure we're clear. Your testimony  
12 today is that essentially the plan was Donta was going to  
13 go to his friend Maurice's house. Right?

14 And your recollection was the plan was to rob all  
15 three, to lure all three of them off the porch. Is that  
16 right?

17 A. Yes, ma'am.

18 Q. Is it possible that the plan was only to lure Maurice  
19 off the porch?

20 A. No, ma'am.

21 Q. No. You're sure about that. Right?

22 A. Yes, ma'am.

23 Q. But then you testified that later on he called you,  
24 and I believe told Sam there were three people on the  
25 porch. Right?

AILEEN NEWMAN: CROSS BY MS. INZERILLO

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1 A. Yes, ma'am.

2 Q. Now just to be clear, Ms. Newman, this was not the  
3 version that you told the police when you got arrested. Is  
4 that right?

5 A. Yes, ma'am.

6 Q. And essentially when you got arrested, and you were  
7 brought back down to -- or when you met with the detective,  
8 I believe the one in the yellow shirt here, you gave them a  
9 statement. Right?

10 A. Yes, ma'am.

11 Q. And when you talked to the detective, he told you to  
12 tell them everything that you knew. Right?

13 A. Yes.

14 Q. And he told you to be honest. Right?

15 A. Yes.

16 Q. And that he was going to type down everything that you  
17 said?

18 A. Yes.

19 Q. And that you had a chance to review what he typed in.  
20 Right?

21 A. Right.

22 Q. And make any changes. Is that right?

23 A. Yes, ma'am.

24 Q. And in that first statement that you gave back in  
25 October of 2009, you indicated that essentially you dropped

AILEEN NEWMAN: CROSS BY MS. INZERILLO

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1 off -- Or, you say, "we." Everybody in the car dropped off  
2 Crud off near his house. Right?

3 A. Yes.

4 Q. And just to be clear, Crud is Donta Reid. Right?

5 A. Yes.

6 Q. And you call him that because that's his nickname?

7 A. Yes.

8 Q. And then about 10 minutes later, he called Sam's cell  
9 phone and told either you or Sam to pick him up. Right?

10 A. Yes.

11 Q. And in the statement that you initially, you said that  
12 someone else was asking Crud about, how many of them was  
13 it, and did they have guns on them. Is that right?

14 A. I don't remember.

15 Q. If I show you your statement; would that refresh your  
16 memory?

17 A. Yes.

18 MS. INZERILLO: May I approach the witness, Your  
19 Honor?

20 THE COURT: Yes, ma'am.

21 A. Thank you.

22 Q. No problem.

23 Just take a look at that. Okay?

24 A. Uh-huh.

25 Q. I want you to feel confident that's the statement that



1 you gave. Okay?

2 Is that your statement?

3 A. Yes.

4 Q. Do you remember now?

5 A. Yes, I remember what I told -- I lied.

6 Q. Essentially cutting to the chase. Right?

7 A. Yes.

8 Q. But essentially you told them that it was someone else  
9 that was asking Crud about how many people were on the  
10 porch. Right?

11 A. Yes.

12 Q. And in this first statement, as you indicated, you  
13 lied to the police. Right?

14 A. Yes, I did.

15 Q. And essentially, the big lie that you told in your  
16 first statement was that you were forced to do the robbery.  
17 Right?

18 A. Yes.

19 Q. And you didn't want to do it. Right?

20 A. Right.

21 Q. And that was a lie?

22 A. Yes, it was a lie.

23 Q. But what you're admitting today is that Donta came  
24 back and met with you on the street. Right? He had a  
25 conversation with you. Right?

AILEEN NEWMAN: CROSS BY MS. INZERILLO

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1 A. Yes.

2 Q. That B'more or someone jumped out of the bushes.  
3 Right?

4 A. Yes.

5 Q. And that essentially Donta said, it's not going to  
6 work, they're not walking with me. Is that right?

7 A. Yes.

8 Q. And then from that point, you and B'more walk up the  
9 street to go to the house yourself. Is that right?

10 A. Yes.

11 Q. And you're not forced to do that?

12 A. No, I was not forced.

13 Q. And you went on into the yard. Right?

14 A. Yes.

15 Q. And you asked the guys there if they had any weed?

16 A. Oh no, I didn't go in the yard when I asked. I was  
17 still in the street.

18 Q. Okay. So you asked him from the street ---

19 A. Right.

20 Q. --- if he had any weed. Right?

21 A. Yes.

22 Q. And then after that, you went into the yard. Right?

23 A. Right.

24 Q. And then when you go into the yard, B'more pulls out  
25 the gun. Right?

AILEEN NEWMAN: CROSS BY MS. INZERILLO

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1 A. Right.

2 Q. And essentially points it at the people on the porch.  
3 Right?

4 A. Yes.

5 Q. And you, after seeing that, go and start going through  
6 their pockets. Right?

7 A. Yes, ma'am.

8 Q. So essentially, you are physically touching these  
9 people on the porch to take stuff out of their pockets?

10 A. No, they took the stuff out they pockets they self.

11 Q. So they gave you the stuff?

12 A. Yes.

13 Q. So, and they didn't fight you. Right?

14 A. No.

15 Q. They didn't argue with you. Right?

16 A. No.

17 Q. They didn't give you any indication that they were  
18 going to hurt you?

19 A. Correct.

20 Q. So then you take the stuff from them. Right?

21 A. Yes.

22 Q. And you and B'more are walking out of the yard.  
23 Right?

24 A. Yes.

25 Q. And at that point, you tell him to shoot because they

AILEEN NEWMAN: CROSS BY MS. INZERILLO

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1 see your face. Right?

2 A. No.

3 Q. That's not what you said?

4 A. No, that's not correct.

5 Q. Tell us again what you remember saying.

6 A. We was walking with our backs turned, and so I told  
7 him, don't turn your back on them. Those are my exact  
8 words.

9 Q. And you remember that distinctly?

10 A. Yes.

11 Q. That the only thing you said was don't turn your back  
12 on them. Right?

13 A. Yes.

14 Q. And then after that, he turned around and started  
15 shooting?

16 A. No.

17 Q. What happened when you said that?

18 A. He turned around, and he was walking backwards and I  
19 was still walking forward, and then he started shooting.

20 Q. But you didn't say anything else to him between that  
21 statement and when he started shooting?

22 A. No.

23 Q. And I believe you said a couple of times on direct,  
24 really you didn't know he was going to do that?

25 A. No -- I don't -- It wasn't planned at all.

AILEEN NEWMAN: CROSS BY MS. INZERILLO

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1 Q. So for him to turn around and start shooting, that was  
2 not part of the plan?

3 A. Not at all because they was not armed.

4 Q. Now I'm going to have you sort of fast-forward, Ms.  
5 Newman to 2010. Okay? In 2010, you entered into a plea  
6 agreement with the Solicitor's Office. Right?

7 A. Yes.

8 Q. And you, as part of this plea agreement, agreed to  
9 testify. Right?

10 A. Yes.

11 Q. And as you indicated initially in 2009, you were  
12 charged with a number of charges. Right?

13 A. Yes.

14 Q. You were charged with murder. Right?

15 A. Yes.

16 Q. What you know here is up to life. Right?

17 A. Yes.

18 Q. You were charged with assault and battery with intent  
19 to kill. Right?

20 A. Yes.

21 Q. What you know here is up to 20 years. Right?

22 A. Yes.

23 Q. And you were charged with three counts of armed  
24 robbery. Right?

25 A. Yes.

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1 Q. Which carries a range from 10 to 30 years. Right?

2 A. Right.

3 Q. Now at the time that you entered into this agreement,  
4 you were also on probation in York County. Right?

5 A. Yes.

6 Q. For breaking and entering into a motor vehicle.

7 And just to make sure we're clear here, this happened  
8 in October, what happened at Byars Street?

9 A. Right.

10 Q. In 2009. Right?

11 A. Yes.

12 Q. You were placed on probation 1 month prior in York  
13 County for breaking into a car?

14 A. For an incident that had been in December 2008.

15 Q. But you were placed on probation 1 month prior?

16 A. Right.

17 Q. And actually you pled to some charges just 5 months  
18 before that in Charlotte, Mecklenburg. Right?

19 A. Right, for some charges that happened also in December  
20 of 2008.

21 Q. And you pled in Charlotte, Mecklenburg. Right?

22 A. Yes.

23 Q. There were financial transaction card charges?

24 A. Yes, just some thefts.

25 Q. Okay thefts, so for stealing?

1 A. Stealing, yes.

2 Q. And you were also placed on probation in Mecklenburg  
3 County. Right?

4 A. Yes, ma'am.

5 Q. So by the time we hit 2010, you not only have the  
6 pending charges, but you still have at least probation in  
7 York County. Is that right?

8 A. Yes.

9 Q. Now, in exchange for your testimony here today --

10 A. Uh-huh, the truth.

11 Q. Okay. The State agreed to dismiss your murder charge.  
12 Right?

13 A. Yes.

14 Q. So you're not looking at life in prison anymore?

15 A. No, I'm not.

16 Q. You had to plead to armed robbery. Right? Three  
17 counts of armed robbery. Right?

18 A. Yes.

19 Q. One count of conspiracy. Right?

20 A. Yes.

21 Q. And one count of assault and battery with intent to  
22 kill?

23 A. Yes.

24 Q. And your sentence right now is 15 years. Is that  
25 right?

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1 A. No.

2 Q. Have you not started serving a sentence now?

3 A. I started serving the 15, but I still have to come  
4 back to court to finish it. My plea is 15 and 35.

5 Q. But right now, you're on that 15. You've started your  
6 15-year sentence?

7 A. Yes, ma'am.

8 Q. And as you indicated, the range is 15 to 35. Right?

9 A. Yes, ma'am.

10 Q. And you indicated you're 21 now?

11 A. Yes, ma'am.

12 Q. You don't really want to spend 35 years in prison. Do  
13 you?

14 A. No, ma'am.

15 Q. You would rather just serve that 15 years and be done.  
16 Right?

17 A. Fifteen is a long time.

18 Q. It is a long time.

19 A. Very long time.

20 Q. And that's all you want to serve. Right?

21 A. Yes, ma'am.

22 Q. And as part of your agreement, depending on how you  
23 testify, your lawyer and the Solicitor's Office can ask the  
24 judge for a sentence somewhere between that 15 years and  
25 that 35 years. Right?



1 A. Yes, ma'am.

2 Q. Now, as part of your plea agreement, you indicated  
3 that the initial statement that we went over that you gave  
4 to the detective in 2010 that, that was true except for two  
5 things. Right?

6 A. Yes.

7 Q. And one of the things, which you admitted, was the  
8 lie, was that you were not forced to commit these acts.  
9 Right?

10 A. No, I was not coerced.

11 Q. And you also at that point indicated that you,  
12 Davontay, Samantha, Donta all conspired. That was the  
13 second change that you put in your plea agreement. Is that  
14 right?

15 A. Yes, ma'am.

16 Q. Now, when you signed that first statement with the  
17 detective here, you signed at the end of the statement that  
18 it was the truth, the whole truth, and nothing but the  
19 truth. Right?

20 A. Yes, I did.

21 Q. And that's just like the oath that you had to take  
22 when you came into court today. Right?

23 A. Right.

24 Q. And when you entered into the plea agreement, you went  
25 in front of the judge and entered your pleas to these

AILEEN NEWMAN: CROSS BY MS. INZERILLO  
CROSS BY MR. CHIARENZA

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1 charges. Right?

2 A. Right.

3 Q. And when you went in front of the judge, you again had  
4 to put your hand on the Bible and swear that what you were  
5 saying was the truth. Right?

6 A. Right.

7 Q. Just like you did today?

8 A. Correct.

9 MS. INZERILLO: No further questions, Your Honor.

10 THE COURT: Mr. Chiarenza?

11 MR. CHIARENZA: Thank you, Your Honor.

12 CROSS EXAMINATION

13 AILEEN NEWMAN BY MR. CHIARENZA:

14 Q. I'm assuming so you're currently -- Your understanding  
15 is you're currently serving a 15-year sentence. Correct?

16 A. Yes, sir, a long time.

17 Q. Not as long as 35, is it?

18 A. It's still long.

19 Q. It's not as long as 35, is it?

20 A. To me, it is.

21 Q. Oh really?

22 A. Yes.

23 Q. So it doesn't matter to you if you get 35 years?

24 A. Oh, it matters.

25 Q. You don't want 35, do you?

AILEEN NEWMAN: CROSS BY MR. CHIARENZA

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1 A. No, sir, I don't.

2 Q. Because I'm sure if there's no difference, the judge  
3 would be happy to give you 35.

4 A. Yes, sir.

5 Q. But you don't want that, do you?

6 A. No, sir.

7 Q. Okay. So to you, it really isn't as long as 35, is  
8 it?

9 A. I mean, it depends how you look at it. It's still a  
10 long time of your life.

11 Q. I'm not questioning that. But if I had -- If you had  
12 to choose between 15 and 35, which one would you take?

13 A. I'd choose 15.

14 Q. And your understanding is that you have some control  
15 over whether you get 15 or 35. Isn't that correct?

16 A. It's really up to the judge.

17 Q. But haven't you been advised, depending on how the  
18 Solicitor perceives your testimony --

19 MR. BRACKETT: Objection, calls for hearsay.

20 THE COURT: I overrule the objection.

21 Q. Isn't it your understanding, Ms. Newman, that  
22 depending on how the Solicitor perceives your testimony, if  
23 they feel that you helped them, cooperated with them today,  
24 as your lawyer advised that they can ask to keep you on the  
25 lower end of that 15?

AILEEN NEWMAN: CROSS BY MR. CHIARENZA

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1 A. No, sir.

2 Q. You don't understand that as part of your plea  
3 agreement?

4 A. No, sir. That was not said.

5 Q. So you don't think you have anything to gain by being  
6 here today and testifying?

7 A. I got the murder dropped off me that I did not commit.

8 Q. But you're -- Are you telling this jury that it really  
9 doesn't matter today whether you tell the truth or tell a  
10 bunch of lies? It's not going to make any difference in  
11 what happens to you?

12 A. Yes, it do make a difference.

13 Q. And part of that difference is going to be how the  
14 Solicitor feels that you did. Or are you saying you don't  
15 understand that?

16 A. No, I feel like I took the plea because I was  
17 responsible for what I did. And I'm taking responsible for  
18 the action I took in participating in the crime that we  
19 committed.

20 Q. Well I'm not -- I'm not saying that you didn't take  
21 responsibility, Ms. Newman, but you entered into something  
22 that's called a plea agreement. Do I need to show it to  
23 you?

24 A. No, I understand.

25 Q. That's like -- That was written down, right, like a

AILEEN NEWMAN: CROSS BY MR. CHIARENZA

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1 contract?

2 A. Yes, sir.

3 Q. You signed it. Right?

4 A. Yes, sir.

5 Q. Your attorney signed it. Right?

6 A. Yes, sir.

7 Q. And the Solicitor's Office signed it. Right?

8 A. Yes, sir.

9 Q. And it has left your sentence open-ended. Right?

10 A. Yes, sir.

11 Q. You still might end -- When all this is done with, you  
12 might end up with 15, or 16, 17, 18, all the way possibly  
13 up to 35. Right?

14 A. Yes, sir.

15 Q. And do you think it's just going to be the luck of  
16 what happens that day or -- What is your understanding of  
17 how that sentence will ultimately be determined?

18 A. So the question. I guess I just give it to God.

19 Q. Now you testified -- Well, let me just ask you  
20 'cause -- Who did you say was in the house when you came  
21 downstairs on the day of October 1st for the first time.

22 A. After they came upstairs or before they came upstairs?

23 Q. When you woke up that day, you woke up at Byars  
24 Street. Right?

25 A. Right.

AILEEN NEWMAN: CROSS BY MR. CHIARENZA

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1 Q. Just who were the first people you saw during the  
2 course of that day at that house?

3 A. Samantha Ervin woke me up. Shaleika was sitting on  
4 her bed. When I went downstairs, it was Alijah and Poo  
5 Poo.

6 Q. And that Poo Poo is Alijah's girlfriend?

7 A. No. Poo Poo is Alijah's uncle.

8 Q. So that's a man?

9 A. Right. I don't know his name.

10 Q. So Alijah -- There was no girlfriend at the house?

11 A. Not first thing in the morning, no.

12 Q. Was she there at sometime during the day?

13 A. About the evening.

14 Q. When everybody else was there?

15 A. Right.

16 Q. Now by that time, Shaleika, that's Alijah's sister,  
17 she had left by that time?

18 A. No, she was at the house the whole day.

19 Q. So she was there also the whole day?

20 A. Yes.

21 Q. Now your testimony -- Well let's go back to the  
22 statement. You gave a written statement on October 13th,  
23 2009 almost two weeks after the event occurred. Do you  
24 recall giving that statement to law enforcement?

25 A. Yes, sir.

AILEEN NEWMAN: CROSS BY MR. CHIARENZA

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1 Q. And that day, that's the first day -- Well, you were  
2 under arrest at that point. Is that correct? Or at least  
3 down at the Law Center?

4 A. Yes, sir.

5 Q. And you didn't show up there voluntarily. They  
6 arrested -- There were warrants for you. Charlotte,  
7 Mecklenburg arrested you?

8 A. Yes, sir.

9 Q. On these warrants. Right? As a fugitive. Correct?

10 A. Yes, sir.

11 Q. And then you had to come -- Ultimately somebody --  
12 Either Rock Hill came and got you or Charlotte Meck brought  
13 you down, but law enforcement brought you to the Law Center  
14 in Rock Hill. Correct?

15 A. Well, I waived my extradition.

16 Q. So you were transported there by law enforcement.  
17 Correct?

18 A. Correct.

19 Q. However, up until that point, you made no effort to  
20 voluntarily speak to any law enforcement about what you  
21 knew about this case. Right?

22 A. No, I didn't even know there was a warrant out for my  
23 arrest.

24 Q. After the event occurred, you were out doing whatever  
25 it was you were doing for 13 days. You were free to come

AILEEN NEWMAN: CROSS BY MR. CHIARENZA

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1 and go, and shop, and sleep, and eat, and drink, and do --  
2 carry on with your life after this event occurred. Right?

3 A. If you want to -- Yes.

4 Q. You weren't in jail is what I'm getting at.

5 A. Yes.

6 Q. And you also -- It's your understanding, right, that  
7 Samantha, your at-the-time girlfriend, she was also out for  
8 at least 4 or 5 days after this occurred. Correct?

9 A. Correct.

10 Q. And the two of you communicated during that time.  
11 Correct?

12 A. No.

13 Q. On your direct examination, we can play it back. You  
14 indicated that you spoke to Samantha.

15 A. I spoke to her that day that I left, and then after  
16 that, I never heard from her again.

17 Q. You spoke -- But you did speak to her, the day after  
18 the robbery. Correct?

19 A. Right.

20 Q. And you're telling this jury now that you only spoke  
21 to her that one time, and never again?

22 A. Never again.

23 Q. And that's not a lie like some of the lies you put in  
24 the statement?

25 A. The statement never changed -- the events -- The only



AILEEN NEWMAN: CROSS BY MR. CHIARENZA

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1 thing that changed is how it led up to. Other than that,  
2 my statement never changed.

3 Q. Well, let's just see about that, Ms. Newman. In your  
4 statement -- and if you need to read it back so you can  
5 remember, just let me know and I'll hand it to you. But  
6 would you agree with me that in your statement, you  
7 indicated that you, Sam, B'more were still sitting in the  
8 truck when B'more pulled out the automatic rifle. And  
9 that's when you saw it for the first time, in the truck?

10 A. No, that's not. That was a lie.

11 Q. That was a lie?

12 A. Yes.

13 Q. So that part has changed?

14 A. Yes, I was covering myself. But now I'm being honest.

15 Q. Okay, good, good. That's all we want.

16 A. All right.

17 Q. Because in your statement today in court, you said  
18 that you saw the gun up in the bedroom?

19 A. Correct.

20 Q. And in your statement back there in October of 2009,  
21 you indicated, as far as the pattern of events, were that  
22 ya'll were in the car. And you said, "I got out of the car  
23 and walked with him." That's supposed to be B'more.

24 Right? In your statement?

25 A. Yes.

AILEEN NEWMAN: CROSS BY MR. CHIARENZA

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1 Q. You've got to speak up.

2 THE COURT: ----

3 A. Yes.

4 Q. "I got out of the car and walked with him because I  
5 was scared. Sam and Crud," who's Mr. Reid. Right?

6 A. Yes.

7 Q. "stayed behind in the truck. I remember walking over  
8 the bridge with B'more. And as we walked, B'more told me  
9 to ask the guys for some weed." That's how you say it went  
10 down back in October of 2009. Right?

11 A. Right.

12 Q. Today you have kind of gone off that script a little  
13 bit. Wouldn't you agree?

14 A. Right. I said I was coerced, but now I'm saying I was  
15 a willing participant.

16 Q. And today, you also said that there was a period of  
17 time where you were just by yourself standing out on the  
18 side of the road, I believe you said for some 10 minutes.  
19 Right?

20 A. About 5 to 10 minutes.

21 Q. And then, was it Mr. Reid who came up to you at that  
22 point while you were just standing out there on the side of  
23 the road?

24 A. Right. He had walked back from the house.

25 Q. And then I think your testimony also was then "Shortly

AILEEN NEWMAN: CROSS BY MR. CHIARENZA

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1       thereafter, my client jumped out of the bushes"?

2       A.     Correct.

3       Q.     And that is -- There's nothing in here about any of  
4       that. Is there?

5       A.     Right, because I was covering myself.

6       Q.     So you have a personal interest in covering yourself?

7       A.     At the time, yes.

8       Q.     You don't care about that anymore?

9       A.     I'm just taking responsibility for what I did.

10      Q.     You also testified that after all of this occurred,  
11      you came home, got drunk, and then got back in the car and  
12      drove somewhere. Correct?

13      A.     Yes.

14      Q.     Driving while intoxicated?

15      A.     Yes, I did.

16      Q.     And then at that -- from that point forward, you  
17      really don't have much of a memory of anything that  
18      occurred that night. Did you testify to that as well?

19      A.     I said I don't remember how I got back to the house.  
20      That was like midnight.

21      Q.     Do you remember anything after that?

22      A.     I went to sleep.

23      Q.     Now I believe on previous testimony you've given here  
24      today, you testified that on numerous occasions that the  
25      victims were not armed. Right?

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1 A. They were not.

2 Q. And not only did you have -- I mean, that was your  
3 personal observation that they weren't armed. Right?

4 A. Yes.

5 Q. Well for some reason, your testimony is that while  
6 ya'll were walking off, you told the shooter, "Don't turn  
7 your back." And what were you afraid of if they weren't  
8 armed?

9 A. I mean, anything could happen. They could - Somebody  
10 could run in the house and get something while we're  
11 walking down the street. Anything could happen.

12 Q. The reality is, you told the shooter, "They now  
13 recognize me, you need to shoot them. Shoot them."

14 A. No, that's a lie.

15 Q. "Spray at them."

16 A. No, I'm sorry, I don't use that type of lingo.

17 Q. It would look worse if you were the one who told the  
18 shooter to shoot at the people on the porch. Wouldn't it?

19 A. If I did. If I did say that, I would have said, "Yes,  
20 I told him."

21 Q. And we should believe that because you don't ever lie.  
22 Right?

23 A. No, because I'm telling the truth now as I stay on  
24 this stand.

25 Q. Right. Same way you were on October 9th -- I'm sorry

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1 -- October 13th, 2009 when you put your signature on this  
2 statement under this sentence that says, "All of the above  
3 is the truth, the whole truth, and nothing but the truth,  
4 so help me God."

5 Are you telling the same truth today as you were  
6 telling back then?

7 A. And I asked God to forgive me for lying.

8 Q. Your testimony was also that the shooter in this case,  
9 who you've said is my client, never brought the gun back  
10 into the house. You never saw the gun again after ya'll  
11 jumped into the truck after the shooting. Right?

12 A. I did not say that.

13 Q. Well, what did you say?

14 A. I said, he didn't have it when he came back in the  
15 house, but when I took him home, I dropped him and the gun  
16 off.

17 Q. And your testimony was that the next morning you found  
18 out one of these young men had died, and you started  
19 crying?

20 A. Yes, I was in shock. The reality.

21 Q. That's quite a reality, wasn't it?

22 A. Yeah, that was reality.

23 Q. Reality didn't hit you hard enough for you to want and  
24 go talk to any law enforcement about this. Did it?

25 A. No.

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1 Q. And you were on probation at the time that this all  
2 occurred. Correct?

3 A. Yes. For stealing. That's a little farfetched from  
4 robbery.

5 Q. And part of your probation required that you be on  
6 good behavior. Is that correct?

7 A. That's all probation.

8 Q. And would you classify as what you were involved in  
9 that night as good behavior?

10 A. No, it was not. It was a bad decision.

11 Q. And I don't believe we heard you testify that you were  
12 wearing a wig on the night that this all occurred.

13 A. I wasn't wearing a wig. I was wearing weave. You  
14 glue it in.

15 Q. Okay, it's fake hair, though. Is that correct?

16 A. Well it's human hair, but --

17 Q. It's not your hair?

18 A. It's not my hair.

19 Q. And you testified that the shooter was wearing a black  
20 hoodie and a black --

21 A. Bandanna.

22 Q. Bandanna around their head?

23 A. Yes.

24 Q. And were you wearing those glasses earlier when you  
25 first came out to testify?

AILEEN NEWMAN: CROSS BY MR. CHIARENZA  
REDIRECT BY MR. BRACKETT

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1 A. Oh no see, I can't see far away. I'm nearsighted. So  
2 I put them on so I could see you clearly.

3 Q. But we took a little break here in between. And when  
4 you first came out, you weren't wearing them. Right?

5 A. Yeah, I don't wear them all the time, just when I need  
6 to really see.

7 Q. So it's not unusual for a person to sometimes wear  
8 their glasses and sometimes not wear their glasses.

9 A. Of course not.

10 Q. Thanks, Ms. Newman.

11 A. You're welcome.

12 THE COURT: Redirect?

13 MR. BRACKETT: Yes, sir.

14 Court Reporter, if I could get these two documents  
15 marked. Thank you.

16 REDIRECT EXAMINATION

17 AILEEN NEWMAN BY MR. BRACKETT:

18 Q. Ms. Newman, you were questioned by counsel for both  
19 defendants regarding a statement that you gave to law  
20 enforcement, I believe on October 13th of 2009? I'm  
21 showing you what's been marked as State's Exhibit Forty-  
22 seven for identification. Can you identify that document?

23 A. Yes.

24 Q. Is that the statement that they were referring to?

25 A. Yes.

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1 Q. Is this the statement you gave?

2 A. Yes.

3 MR. BRACKETT: Your Honor, at the time, subject to Mr.  
4 Chiarenza's concerns, which we'll address at a later time,  
5 I seek to introduce State's Forty-seven into evidence at  
6 this time.

7 MS. INZERILLO: No objection.

8 MR. CHIARENZA: Your Honor, yes. It's my  
9 understanding that we're going to address one small matter  
10 regarding the statement. Other than that, just to be  
11 protected on the record, I would just make an objection as  
12 far as I think the saying is cumulative. And that's got  
13 nothing to do with the other issue.

14 THE COURT: Subject to the addressing the other issue,  
15 I'll allow the matter.

16 MR. BRACKETT: Thank you, Your Honor.

17 THE COURT: Allow it into evidence over objections.

18 (WHEREUPON: STATE'S EXHIBIT NUMBER FORTY-SEVEN  
19 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

20 Q. Well I'm showing you what's been marked now and in  
21 evidence as State's Exhibit Forty-seven. And I'm just  
22 going to ask you a couple of questions about that.

23 Did you have a lawyer with you when you made that  
24 statement?

25 A. No.



1 Q. Were you read your rights?

2 A. Yes.

3 Q. And did you waive them?

4 A. Yes.

5 Q. Agree to talk to the police?

6 A. Yes.

7 Q. Now, in that statement, how did you describe your  
8 involvement in this crime?

9 A. That I didn't have nothing to do with it.

10 Q. Did you say you were there?

11 A. Yes.

12 Q. And did you say you participated willingly?

13 A. I didn't know. I didn't say I participated willingly.

14 Q. Why did you participate according to that statement?

15 A. Because I was coerced.

16 Q. Coerced how?

17 A. By a gun.

18 Q. And who held that gun in that statement? Who --

19 A. I said Davontay did.

20 Q. Davontay.

21 But is that true?

22 A. No, I was not coerced.

23 Q. In that statement, did you say who held the gun during  
24 the robbery?

25 A. Yes.

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1 Q. Who? Who did you say?

2 A. Davontay.

3 Q. Did you say who fired the gun striking Mr. Tyrone King  
4 and killing him?

5 A. Yes.

6 Q. Who did you say did that?

7 A. Davontay.

8 Q. Did you say who was with you who went up on the porch  
9 prior to the robbery? Who was that person?

10 A. Donta.

11 Q. Did you say who planned this with you?

12 A. Yes.

13 Q. Who was -- Who were the people involved in planning  
14 it?

15 A. Samantha, Donta, Davontay, and myself.

16 Q. Did you have any kind of a deal when you did that?

17 A. No.

18 Q. Did anybody promise you anything?

19 A. No.

20 Q. Did anybody tell you what would happen to your  
21 charges?

22 A. No.

23 Q. Did anyone say what your sentence might be?

24 A. No.

25 Q. And who have you been told is going to decide what

1 your sentence is?

2 A. The judge.

3 Q. Now you were questioned about your plea agreement.

4 I'm showing you what's been marked as State's Exhibit

5 Forty-eight. Do you recognize that?

6 A. Yes.

7 Q. What is that document?

8 A. My plea agreement.

9 Q. And who signed that document?

10 A. I did.

11 Q. And who else?

12 A. My lawyer.

13 Q. And anybody else?

14 A. I don't know who "W.J." is.

15 Q. Okay. Let me see that. Maybe on the back, that will  
16 help you, that.

17 A. The Solicitor.

18 Q. What's the name?

19 A. Willie Thompson.

20 Q. This gentleman over here?

21 A. Yes.

22 Q. And does lay out with what your understanding of the  
23 terms of the plea agreement are?

24 A. Yes.

25 Q. Is that the complete plea agreement?

AILEEN NEWMAN: REDIRECT BY MR. BRACKETT  
RECROSS BY MS. INZERILLO

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1 A. Yes.

2 MR. BRACKETT: Your Honor, I'd seek to introduce  
3 State's Exhibit Forty-eight into evidence at this time.

4 MS. INZERILLO: No objection.

5 MR. CHIARENZA: No objection.

6 THE COURT: In without objection.

7 (WHEREUPON: STATE'S EXHIBIT NUMBER FORTY-EIGHT  
8 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

9 Q. Ms. Newman, have you ever said that anybody else other  
10 than these two gentlemen here, and Samantha Ervin, were  
11 involved in this robbery?

12 A. No.

13 Q. Thank you.

14 MS. INZERILLO: May it please the Court, Your Honor?

15 RECROSS EXAMINATION

16 AILEEN NEWMAN BY MS. INZERILLO:

17 Q. Ms. Newman, in that first statement that you gave, do  
18 you still have it in your hand?

19 A. No, he got it.

20 MS. INZERILLO: May I approach the witness, Your  
21 Honor?

22 THE COURT: Yes.

23 Q. Ms. Newman, I'm going to hand you State's Forty-seven  
24 and Forty-eight. Okay?

25 A. Okay.

1 Q. Now Mr. Brackett just asked you if in your first  
2 statement, you said that everybody essentially came up with  
3 this plan; is that right?

4 A. In my first statement?

5 Q. Right.

6 A. No.

7 Q. Okay, that's not right?

8 A. I said I was coerced in my statement, but I wasn't.

9 Q. But also in your statement, you don't say that  
10 everybody came up with this plan. Right?

11 A. No, I didn't.

12 Q. You didn't say that. It was only until the plea  
13 agreement that you specified at that point, a year later,  
14 that there was a conspiracy; is that right?

15 A. Correct.

16 MS. INZERILLO: No further questions, Your Honor.

17 MR. CHIARENZA: Nothing further, Your Honor.

18 THE COURT: All right. You can step down and return  
19 to the holding cell. Thank you.

20 THE WITNESS: Thank you, Your Honor.

21 (WITNESS LEAVES WITNESS STAND.)

22 THE COURT: Call your next witness.

23 MR. BRACKETT: The State would call Alijah James.

24 Mr. James, come on in the courtroom, if you would sir.  
25 Step right up to where that lady's sitting, and she's going

ALIJAH JAMES: DIRECT BY MR. BRACKETT

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1 to swear you in.

2 MADAME CLERK: Please raise your right hand, place  
3 your left hand on the Bible.

4 (WHEREUPON: ALIJAH JAMES, BEING  
5 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

6 MADAME CLERK: Thank you. You may have a seat in that  
7 chair.

8 DIRECT EXAMINATION

9 ALIJAH JAMES BY MR. BRACKETT:

10 Q. Sir, would you please state your full name for us?

11 A. Alijah Keshawn James.

12 Q. You have a soft voice, Mr. James. You're going to  
13 have to speak up.

14 Maybe we can get this thing to work.

15 MADAME COURT REPORTER: Power up. It's on the side.

16 MR. BRACKETT: Okay.

17 MADAME COURT REPORTER: Don't hold it too close or  
18 you'll get feed back. Okay?

19 MR. BRACKETT: All right.

20 Q. Can you state your full name for us?

21 A. Alijah Keshawn James.

22 Q. You need to hold it a little closer than that. We're  
23 gonna do a mic check.

24 A. Alijah Keshawn James.

25 Q. Very nice. Okay. And how do you spell "Alijah"?

ALIJAH JAMES: DIRECT BY MR. BRACKETT

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1 A. A-l-i-j-a-h.

2 Q. Where do you live, Mr. James?

3 A. On [REDACTED]

4 Q. How long have you lived there?

5 A. About 3 years.

6 Q. And how old are you now?

7 A. Twenty-one.

8 Q. Who do live at Keels Avenue with?

9 A. Well it was my granddaddy, but he passed on October  
10 the 16th. So I live with my aunt.

11 MR. BRACKETT: Move that microphone over a little bit.  
12 If I can't hear you so good then they probably can't  
13 either. So you need to speak up so everybody can hear you.  
14 Okay.

15 Q. When did your granddaddy pass?

16 A. On October the 16th, 2010.

17 Q. He was living there prior to that with you there?

18 A. Yes, sir.

19 Q. And who else was living there?

20 A. Me, my aunt, my daddy, my -- Are you talking about  
21 then?

22 Q. Let's go back and say who was living there in October  
23 of 2009?

24 A. Me, my granddaddy, my sister, my -- Lee Lee, and  
25 Samantha.

ALIJAH JAMES: DIRECT BY MR. BRACKETT

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1 Q. Samantha who?

2 A. Ervin.

3 Q. And who is Lee Lee?

4 A. That's Samantha's friend.

5 Q. Do you -- Did you know Tyrone King?

6 A. Yes.

7 Q. Who is he?

8 A. He was a friend.

9 Q. Do you remember when he died?

10 A. Yes, sir.

11 Q. Do remember the day you heard he died?

12 A. Yes, sir.

13 Q. When was that?

14 A. It was on the 2nd when I heard he died, I believe.

15 Q. The 2nd of October?

16 A. Yes, sir.

17 Q. In 2009?

18 A. Yes, sir.

19 Q. Do you remember that day and the day before that?

20 A. Yes, sir.

21 Q. And you were living at Keels Avenue then?

22 A. Yes, sir.

23 Q. I want to turn your attention to the evening before

24 the 2nd, the night of the 1st of October, the Thursday

25 night. Do you remember who was at the house that night?



ALIJAH JAMES: DIRECT BY MR. BRACKETT

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1 A. Me, Samantha, my sister, Lee Lee, Donta, and B'mo, and  
2 my daddy.

3 Q. Who is B'mo?

4 A. I don't know his real name to be exact. But he was  
5 one of my friends.

6 Q. Can you tell us what he looked like?

7 A. Yes, he

8 THE COURT: You need -- I'm still having trouble  
9 hearing you. Hold that up. Try to speak a little bit  
10 louder.

11 A. He -- He's like about 5'6," dark skin, and he had  
12 dreads.

13 Q. And where was he staying in those days?

14 A. I think on Flint Street if ain't mistaken.

15 Q. And how did you know him?

16 A. Through friends that be around.

17 Q. Did he come over to Keels Avenue often?

18 A. Yes, sir.

19 Q. How often would he come there?

20 A. Probably like every other day.

21 Q. And what kind of things -- So how long of a period of  
22 time did you know him for?

23 A. About 2 weeks, maybe a little more.

24 Q. Do you know why they called him B'mo?

25 A. Because he was from Baltimore.

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1 Q. Speak up again.

2 A. Because he was from Baltimore.

3 Q. Baltimore. Now who else did you say was there?

4 A. Lee Lee, and Sam, me, and my daddy, Donta -

5 Q. Donta?

6 A. -- and my sister.

7 Q. Donta who?

8 A. Donta Reid.

9 Q. Donta Reid? Did he have a nickname?

10 A. We called him Crud.

11 Q. Do you see Crud in the courtroom?

12 A. Yeah.

13 Q. Can you tell me what he's wearing?

14 A. He's wearing a suit with a yellow tie and a white  
15 shirt.

16 Q. Do you see B'more in the courtroom?

17 A. Yeah.

18 Q. Tell me what he's wearing.

19 A. Glasses, a white shirt, and brown tie.

20 MR. BRACKETT: Your Honor, I ask the record reflect  
21 the witness has identified two defendants Mr. Henson and  
22 Mr. Reid.

23 THE COURT: The record will reflect.

24 (WHEREUPON: THE WITNESS IDENTIFIED TWO DEFENDANTS  
25 DAVONTAY HENSON AND DONTA REID.)

1 Q. Now those -- When you say B'mo and Donta were at the  
2 house that night, those are the two gentlemen you are  
3 referring to?

4 A. Yes, sir.

5 Q. What were they doing at the house that night?

6 A. We was all chillin' at first, but just coolin' around,  
7 you know, talking really.

8 Q. How long did they stay there?

9 A. Donta spent the night with me that night.

10 Q. And how about B'more?

11 A. He had left.

12 Q. What time did he leave?

13 A. I mean, I can't say exactly what time, but it had to  
14 be like around 11:30, something like that.

15 Q. Backing up prior to that. Do you remember when they  
16 first got there?

17 A. I think Crud had came like early that morning, and  
18 B'more came probably about around about 3:00 or 4:00  
19 o'clock.

20 Q. Are you certain about the times?

21 A. Not really.

22 Q. Between the time when they all were there and the time  
23 that B'mo left, what, what -- tell us what happened. What  
24 did you see?

25 A. Say what?

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1 Q. Tell us what happened. What did you see them doing?

2 A. When?

3 Q. During the time -- From the time they all got there.  
4 When B'mo, Donta, Samantha, and Lee Lee are all at the  
5 house together, to the time B'mo left?

6 A. Well --

7 Q. Were they at the house the whole night?

8 A. Yeah well -- Not -- Well I wouldn't say the whole  
9 night. B'more wasn't in the house the whole night. But  
10 like I say Donta, he spent the night with me. But they had  
11 left.

12 Q. Who's they?

13 A. All four of them, Donta, Samantha, B'more, and Lee  
14 Lee.

15 Q. And when did they leave? Do you know?

16 A. Around like 10:00 or something.

17 Q. Was is light or dark outside?

18 A. Dark.

19 Q. When they left, did you know where they were going?  
20 Did they tell you?

21 A. No, sir.

22 Q. How long were they gone?

23 A. About 45 minutes.

24 Q. When they left, what were you doing?

25 A. I was in the front room with my baby mama.

1 Q. And did you see them leave?

2 A. No. I heard them leave out the back door, but I  
3 didn't ever see them actually leave.

4 Q. Do you know how they left? Did they drive away or  
5 leave on foot? Do you know?

6 A. They drove away in my granddaddy's car.

7 Q. How do you know that?

8 A. Because when I went to the front door to let open the  
9 door for my girl, I had looked up the street, and I seen  
10 the car up the street. And I had gave them the key to the  
11 car. Well, I gave it to Samantha.

12 Q. And did you see anybody else outside at that time?

13 A. Darius.

14 Q. Darius who?

15 A. Jeter.

16 Q. What's his nickname?

17 A. Duke.

18 Q. What was he doing in the street?

19 A. He was walking down toward my house, and he stopped  
20 the car, and they was talking on over in the carport all  
21 them. And then he turned around and went back to his house.

22 Q. So how long did you say they were gone after they  
23 left?

24 A. Probably about 45 minutes.

25 Q. And tell us what happened and what you saw when they

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1 came back.

2 A. Well when they came back, everybody was like -- They  
3 was -- It wasn't like -- They were just silent, like, they  
4 was just quiet. And they walked in front of the room and  
5 they was in their own little group talking to each other.

6 Q. How were they acting?

7 A. Not normal. Not like they, themself.

8 Q. How was Donta acting?

9 A. I mean, it was instead of Donta is like regularly  
10 talking, I don't know, he was just quiet. And it was like  
11 he was just sitting there like -- like he -- he didn't  
12 really want to talk.

13 Q. How about B'more?

14 A. B'more, he was quiet too. But B'more, he was just  
15 like -- He had a little energy with him, but he -- he  
16 wasn't like the rest of them. B'more had like more energy  
17 with him, like, he was "All right, what ever?"

18 Q. How could you tell he had more energy. Tell me what  
19 told you that? What was he doing that made you think that?

20 A. Oh well when they was talking in the corner amongst  
21 themselves, B'more he act like, did something like this.  
22 But I don't know, like I say, I don't know what it was for  
23 or what they was talking about and that. But he was  
24 sitting in the corner. He was going like this, whatever.  
25 So that's why I say, he probably was in a happy mood.

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1 Q. How long did they stay at the house? How long after  
2 they got back was it before B'more left?

3 A. I can't say exactly how long B'more had stayed there  
4 'cause, like I say, I was on the couch. I was laying down  
5 on the couch. And he went outside, Sam went outside, and  
6 Lee Lee went outside, and Crud stayed in the house with me.  
7 He asked could he spend the night, so I gave Crud a sheet.  
8 And then, I think, Sam or Lee Lee, one of them, had wanted  
9 the key again. I gave them the key. And I think Lee Lee  
10 was the one who took them home.

11 Q. Could you -- Were you involved in that conversation?

12 A. No.

13 Q. Could you hear what they were saying?

14 A. No, sir. I was watching TV.

15 Q. Did they share with you anything about what they had  
16 done while they were gone from the house?

17 A. No, sir.

18 Q. Where was Shaleika, your sister? Where was she during  
19 this time?

20 A. Upstairs and -- The upstairs bedroom.

21 Q. Was she at the house the whole evening?

22 A. Yes, sir.

23 (PAUSE.)

24 Q. How long have you lived in Rock Hill, Mr. James?

25 A. About 12 years.

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1 Q. Are you familiar with the area around Byars Street and  
2 Scoggins Street?

3 A. So-so.

4 Q. Do you know where midtown is?

5 A. Yes, sir.

6 MR. BRACKETT: Look at State's Exhibit Thirty-five.

7 Madame Clerk.

8 Q. I'm showing you what's been marked as State's Exhibit  
9 Thirty-five. And I don't know if you can see the map.  
10 You've got it in front of you, but if you can see how it's  
11 oriented.

12 A. Uh-huh.

13 Q. This is Byars Street here. The writing's kind of  
14 small. Here is Maple and Scoggins, and here is Reynolds  
15 Street. Are you familiar with that area?

16 A. Uh-huh.

17 Q. Have you been to that area before?

18 THE COURT: You've got to answer "Yes" or "No."

19 A. Yes, sir.

20 Q. Have you been to that area before?

21 A. Yes, sir.

22 Q. So if I was here at this house right there, which way  
23 would I go to go to midtown?

24 A. Me, I would go down on Scotty Street. And then it's a  
25 left. You go down Scotty Street, and you make a left off



ALIJAH JAMES: DIRECT BY MR. BRACKETT

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1 toward midtown.

2 Q. This way? Can you get there going this way too?

3 A. Oh yeah, you can get there going that way. But you  
4 have to go around, and go up over a bridge.

5 Q. Where's the bridge?

6 A. There's a bridge -- Well, let me see. There's a  
7 bridge on, I think Reynolds Street right here.

8 Q. Can you use this pointer, and point where the bridge  
9 is exactly at on the map over here. You see where  
10 everything is?

11 A. I think it's a bridge like right around here. Right  
12 around in here somewhere. There's a bridge. You can go up  
13 the bridge, and then you can get to the store, and you make  
14 a right. If I'm not mistaken, I think this is it.

15 Q. But if this way is north, you would have to head east  
16 this way --

17 A. Yeah, yeah.

18 Q. -- to get to midtown --

19 A. Yes.

20 Q. -- from Byars? All right.

21 Thank you very much, Mr. James. Answer any questions  
22 counsel for Mr. Reid or Mr. Henson may have for you.

23 MS. ANDERSON: May it please the Court?

24 THE COURT: Yes, ma'am.

25 CROSS EXAMINATION

ALIJAH JAMES: CROSS BY MS. ANDERSON

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1 ALIJAH JAMES BY MS. ANDERSON:

2 Q. You just testified to the Solicitor that when the four  
3 people left the house, that being Donta; the person you  
4 said, B'mo; Samantha; and Lee Lee left, you didn't know  
5 where they were going. Right?

6 A. Yes, ma'am.

7 Q. And you didn't hear them talking about anything before  
8 they left about where they were going?

9 A. No, ma'am.

10 Q. And you didn't hear Donta discussing any, sort of,  
11 plans of where they were going?

12 A. No, ma'am.

13 Q. And you said that after they got back later that  
14 night, you said Donta asked to stay the night there.  
15 Right?

16 A. Yes, ma'am.

17 Q. And you let him stay the night there?

18 A. Yes, ma'am.

19 Q. And after he came back and asked to stay the night,  
20 Donta didn't go anywhere that night. Right?

21 A. No, ma'am.

22 Q. He didn't leave from the inside of the house?

23 A. No, ma'am.

24 Q. And you told the Solicitor that when they came back,  
25 your observation was everybody was pretty quiet?

1 A. Right.

2 Q. And in fact you said, "You know, kind of how Donta  
3 normally acts." Right?

4 A. Right.

5 Q. And you described, he's normally a pretty talkative  
6 guy.

7 A. Yeah.

8 Q. And that night when he came back, he wasn't talkative  
9 at all?

10 A. No, ma'am.

11 Q. And so from you know about him as being a friend, and  
12 what you've seen about him, that to you would seem like he  
13 wasn't acting like himself?

14 A. Right.

15 Q. And that would be unusual for Donta to act that way to  
16 you?

17 A. Right.

18 MS. ANDERSON: I beg the Court's indulgence.

19 Q. I think you testified on direct that at some point  
20 after the four people got back that the three of them, Sam,  
21 and Lee Lee, and B'more went outside. Is that correct?

22 A. Right.

23 Q. And Donta did not go outside with them?

24 A. No, ma'am.

25 Q. And that was when he asked if he could stay the night

ALIJAH JAMES: CROSS BY MR. CHIARENZA

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1 there. Right?

2 A. Yes, ma'am.

3 MS. ANDERSON: Nothing further, Your Honor.

4 THE COURT: Mr. Chiarenza?

5 MR. CHIARENZA: If it please the Court, Your Honor.

6 CROSS EXAMINATION

7 ALIJAH JAMES BY MR. CHIARENZA:

8 Q. Mr. James, you've been interviewed by the law  
9 enforcement on a couple of occasions regarding this  
10 incident. Correct?

11 A. Yes, sir.

12 Q. And in fact, you've given two sworn signed statements  
13 to law enforcement regarding this incident. Correct?

14 A. Yes, sir.

15 Q. Now have you had an opportunity to review these  
16 statements? You met with the Solicitor's Office about this  
17 case. Haven't you?

18 A. Yes, sir.

19 Q. And when's -- How recently have you met with some  
20 folks from the Solicitor's Office?

21 A. Probably like last week.

22 Q. Last week, all right. In your first statement, is it  
23 fair to say -- And if you need to look at it, just let me  
24 know. Is it fair to say you told police in your first  
25 statement when they asked you who was in the house, that it

1 was Lee Lee, Donta Reid, and Samantha, and that you told  
2 them, you don't remember if anybody else was there?

3 A. Right.

4 Q. That's what you told them. Right?

5 A. Right.

6 Q. And you did tell them that your dad, and your  
7 granddad, and your sister were there, but as far as like  
8 other people, not residents of the house, you told them,  
9 "Samantha left with her friends, Lee Lee, Donta Reid, and I  
10 don't remember if anybody else was there." Right?

11 A. Right.

12 Q. Now that statement was given to law enforcement on  
13 October 6th. Is that your recollection?

14 A. Yes, sir.

15 Q. 2009.

16 All right now, on October 13th, 2009, you gave another  
17 statement to law enforcement. Right?

18 A. Yes, sir.

19 Q. Now that's not because you just decided to walk up  
20 there and say, "I want to give ya'll another statement."  
21 They contacted you about getting some more information.  
22 Right?

23 A. Yes, sir.

24 Q. And it's at that time they told you that you needed to  
25 tell them that there were four people there who left.

ALIJAH JAMES: CROSS BY MR. CHIARENZA

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1 Right?

2 A. Yes, sir.

3 Q. Right. And they wanted you to include Donta Reid, I'm  
4 sorry, Davontay Henson as being with those ones. In that  
5 statement, you went from being, "I don't remember if  
6 anybody else was with them," to telling them, "I remember  
7 that when they all four left." Right?

8 A. Right.

9 Q. And that was important to them to get you to say all  
10 four of them were together. Right?

11 A. Right.

12 Q. And again, you were brought -- You didn't just walk up  
13 there. They reached out to you to get that information  
14 from you. Right?

15 A. Right.

16 Q. You do recall telling law enforcement that you've  
17 never seen any of these people with any kind of gun.  
18 Right?

19 A. Right.

20 Q. And you never saw a gun that night. Right?

21 A. No, sir.

22 Q. At no time?

23 A. No, sir.

24 Q. When, either was the -- some people and people who you  
25 couldn't exactly remember, whether it was all four of these

1 people, your girlfriend was at the house when they all left  
2 at around 10:00 o'clock. Right?

3 A. No. She was just -- She was coming across the street  
4 when they were leaving.

5 Q. I thought I heard you testify in your direct  
6 examination that at the time they left, it was you and your  
7 girlfriend. You remember?

8 A. No, that's how I seen Darius. I went to the door,  
9 opened the door for the girl. That's how I seen Darius up  
10 the street because she was coming across the street.

11 Q. So, I thought I heard you say that at one point, you  
12 were on the couch with her -- The girl -- We're talking  
13 about the girl friend, the same person that you refer to as  
14 the mother of your child. Right?

15 A. Right.

16 Q. And if I didn't hear this right, so be it, but I  
17 thought I heard you say that you were on the couch with her  
18 when these other individuals were in the house. Is that  
19 not the case?

20 A. No, she wasn't there yet.

21 Q. Now as far as these people. You've testified a lot of  
22 people coming to the house almost every other day, coming  
23 back and forth. They're coming to smoke pot. Right?

24 A. Right.

25 Q. With you. Right?

ALIJAH JAMES: CROSS BY MR. CHIARENZA

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1 A. Uh-huh.

2 Q. Speak up.

3 A. Yes, sir.

4 Q. And part of the reason, You really weren't paying much  
5 attention to what all they were doing or talking about  
6 because you're on the couch chillin', stoned when they were  
7 there?

8 A. Right.

9 Q. And "stoned" means you were under the influence of  
10 marijuana. Correct?

11 A. Yes, sir.

12 Q. Any other drugs at the time?

13 A. Drinking.

14 Q. So marijuana and alcohol? Speak up.

15 A. Yes, sir.

16 Q. Now the room itself that we're talking about here, the  
17 house is not a big, giant mansion or anything. Right?

18 A. No, sir.

19 Q. It's kind of like, you would call it, sort of, your  
20 average, Rock Hill house that's in that part of Rock Hill  
21 there?

22 A. Yes, sir.

23 Q. So if -- Do you stay on the couch? Is that where you  
24 sleep at that house?

25 A. Most of the times, yes. I don't sleep on my own like



1 that.

2 Q. So and that night you slept on the couch?

3 A. Yes, sir.

4 Q. So more or less, most of that day was spent by you in  
5 that same general area of the living room chillin at the  
6 house?

7 A. Yes, sir.

8 Q. And if you're on the couch in that living room, do you  
9 have pretty much a good view of what all is around you in  
10 that immediate area of the living room?

11 A. Yes, sir.

12 Q. And that's where your testimony was that the other  
13 individuals who had come and gone that day were. Right?

14 A. Yes, sir.

15 Q. In that area? Okay. And --

16 MR. CHIARENZA: Court's indulgence. Just a moment,  
17 Your Honor.

18 Q. Now your testimony was that during this time, these  
19 individuals here, your sister was also at the house.  
20 Correct?

21 A. Yes, sir.

22 Q. But she was upstairs?

23 A. Yes, sir.

24 Q. She wasn't hanging out on the couch with ya'll?

25 A. No, sir.

ALIJAH JAMES: CROSS BY MR. CHIARENZA  
REDIRECT BY MR. BRACKETT

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1 Q. So she wasn't part of this situation where they were  
2 all doing whatever it was they were doing. Right?

3 A. No, sir.

4 Q. Your sister wasn't involved with any of that?

5 A. No, sir.

6 Q. And it is your testimony that you were there when  
7 these individuals left the house?

8 A. Yes, sir.

9 Q. And you were there when the individuals came back to  
10 the house?

11 A. Yes, sir.

12 Q. Either the three and others you can remember, or in  
13 fact possibly, all four of them, the two men on trial  
14 today, and Samantha, and Lee Lee. Right?

15 A. Yes, sir.

16 Q. Thank you very much.

17 THE COURT: Redirect?

18 MR. BRACKETT: Just briefly, Your Honor.

19 REDIRECT EXAMINATION

20 ALIJAH JAMES BY MR. BRACKETT:

21 Q. Mr. Chiarenza asked you if you were under the  
22 influence of marijuana at the time, and you had been  
23 smoking?

24 A. Yes, sir.

25 Q. Were you blind?

- ( 1 A. No, sir.
- 2 Q. Were you capable of recognizing people?
- 3 A. Yes, sir.
- 4 Q. Did you know who was around you?
- 5 A. Yes, sir.
- 6 Q. Did you know where you were?
- 7 A. Yes, sir.
- 8 Q. Did you know who the people that were with you were?
- 9 A. Yes, sir.
- 10 Q. Was B'more with you?
- 11 A. Yes, sir.
- 12 Q. Was Donta Reid there?
- ( 13 A. Yes, sir.
- 14 Q. Was Lee Lee there?
- 15 A. Yes, sir.
- 16 Q. Was Samantha Ervin there?
- 17 A. Yes, sir.
- 18 Q. Any question about that in your mind?
- 19 A. No.
- 20 Q. Did they all leave together?
- 21 A. Yes, sir.
- 22 Q. And when they came back, were they still together?
- 23 A. Yes, sir.
- ( 24 Q. Any doubt about that?
- 25 A. No.

SHALEIKA BLACK: DIRECT BY MR. BRACKETT

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1 MR. BRACKETT: Nothing further.

2 MS. ANDERSON: Nothing.

3 MR. CHIARENZA: Nothing further, Your Honor.

4 THE COURT: Thank you. You can step down and be  
5 excused. We appreciate your time.

6 Call your next witness.

7 MR. BRACKETT: The State would call Shaleika Black.

8 MR. BRACKETT: Ms. Black, if you would come in,  
9 please, and see where the lady is sitting over here? Right  
10 up there is a bible; swear you in with the clerk.

11 MADAME CLERK: Please raise your right hand, place  
12 your left hand on the Bible.

13 (WHEREUPON: SHALEIKA BLACK, BEING  
14 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

15 DIRECT EXAMINATION

16 SHALEIKA BLACK BY MR. BRACKETT:

17 Q. Good afternoon. Would you please state your full  
18 name, and spell your first name for the court reporter.

19 A. My name is Shaleika LeShawn Black.

20 Q. She's handing you that microphone to help out so  
21 everybody can hear you.

22 A. Sorry.

23 Q. That's all right.

24 A. It's spelled S-h-a-l-e-I-k-a.

25 Q. And how old are you, Shaleika?

SHALEIKA BLACK: DIRECT BY MR. BRACKETT

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1 A. Twenty-two.

2 Q. And where do you live?

3 A. On -- Right now, I'm staying inside the Y.

4 Q. Where were you living until recently?

5 A. In New Jersey.

6 Q. Whereabouts in New Jersey?

7 A. Piscataway.

8 Q. And how long have you lived in Piscataway, New Jersey?

9 A. Almost a year.

10 Q. Before that, where did you live?

11 A. In New Jersey.

12 Q. Before you lived in New Jersey, where did you live?

13 A. I stayed down here in South Carolina.

14 Q. Whereabouts in South Carolina?

15 A. In -- At my granddad's house. I stayed there for a  
16 little bit on Keels.

17 Q. On Keels Avenue?

18 A. Yes, sir.

19 Q. And now is that -- in what city?

20 A. Rock Hill.

21 Q. Who else lived with you at Keels Avenue?

22 A. It was me, my dad, my brother Alijah, Sam Ervin, and  
23 my granddad, and that's it.

24 Q. Was this where you were living back in September and  
25 October of 2009?

SHALEIKA BLACK: DIRECT BY MR. BRACKETT

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1 A. Yes.

2 Q. And where physically in the house did you stay?

3 A. I slept upstairs sometimes. Sometimes I slept  
4 downstairs in the living room.

5 Q. Are you working right now?

6 A. No, sir.

7 Q. Where did you used to work before you left New Jersey?

8 A. Before I left Jersey?

9 Q. Yes.

10 A. I worked at a company called DSM.

11 Q. And now where are you headed? What's your plan? To  
12 come back down to South Carolina?

13 A. No, sir, I'm going to move to Georgia.

14 Q. Now in 2009, turning your attention back to 2009 when  
15 you were living on Keels Avenue, did you know an individual  
16 by the name of B'more?

17 A. Yes.

18 Q. Who was he?

19 A. That was my brother's friend.

20 Q. Did you know him very well?

21 A. Not very well. I didn't -- I met him through my  
22 brother, so I didn't know him that well, but I knew of him.

23 Q. Was he like a friend you would go and hang out with  
24 and go to movies with?

25 A. I mean, no, not really. He was just somebody that I

SHALEIKA BLACK: DIRECT BY MR. BRACKETT

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1 hung around with at my granddad's house because he was  
2 friends with my brother.

3 Q. So when he came to visit, was he coming to visit you  
4 or your brother?

5 A. My brother.

6 Q. How about Donte Reid?

7 A. The same thing. He's my brother's friend.

8 Q. And how about Aileen Newman, and Lee Lee?

9 A. That was Sam's -- That was Sam's friend.

10 Q. And Samantha Ervin?

11 A. That's my cousin.

12 Q. Now you know her, and you've known her for how long?

13 A. I had only known her for about a year, less than a  
14 year.

15 Q. Do you recall, Turning your attention back to October  
16 1st of 2009, a Thursday night. Do you recall the time  
17 period around then when Tyrone King was killed?

18 A. You mean like, around what time, like the date?

19 Q. No, no, no. Do you just remember that time period in  
20 general?

21 A. Yes.

22 Q. You do? Okay. The night that Tyrone King was killed,  
23 where were you living that night, October 1st, 2009?

24 A. I was on -- staying on Keels Avenue at my granddad's  
25 house.

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1 Q. Now I want -- I'm going to question you, and I'm just  
2 questioning you about that night October 1st when Tyrone  
3 King was killed. Who was at the house that night?

4 A. That night, it was me, my brother, Sam, Aileen, Crud,  
5 and B'more.

6 Q. And now who is Crud?

7 A. Donte, I think is name is.

8 Q. And B'more, did you know his real name?

9 A. No.

10 Q. Do you know why they called him B'more?

11 A. Because he was from Baltimore, I think.

12 Q. Now how long had you known him as of that time?

13 A. Maybe -- Maybe about a month, a little bit over a  
14 month.

15 Q. Could you recognize him again if you saw him?

16 A. Uh-huh.

17 Q. Do you see him in the courtroom?

18 A. Yeah.

19 Q. Tell me what he's wearing.

20 A. A white shirt with a tie.

21 (WHEREUPON: THE WITNESS IDENTIFIES THE DEFENDANT  
22 DAVONTAY HENSON.)

23 Q. And do you recognize Donte Reid?

24 A. Uh...No, Reid. No, I don't see him.

25 Q. How long had you known Donte Reid, Crud?



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1 A. Crud, I had just met Crud for like, it had been like a  
2 couple of weeks.

3 Q. So the night of October 1st, 2009, who was at the  
4 house?

5 A. It was me, Crud, Lee Lee, Aileen, B'more, my brother,  
6 and Sam.

7 Q. Where did you first -- Where did you see Sam, Aileen,  
8 Crud, and B'more?

9 A. I was upstairs, so they came upstairs. And they were  
10 like -- Everybody was like, like chilling out, talking.  
11 And I was -- I was on the cell phone.

12 Q. And were they -- Were you involved in their  
13 conversation?

14 A. No, because I was -- I was on the phone call with my  
15 girlfriend at the time.

16 Q. And did they ever involve you in their conversation?

17 A. No, sir.

18 Q. Do you know what they were talking about?

19 A. No, sir.

20 Q. How long were they upstairs?

21 A. I don't know. They weren't up there that long, maybe  
22 about 10, 15 minutes, if that. Then they went back  
23 downstairs.

24 Q. What time was this?

25 A. I don't remember the exact -- I don't remember the

SHALEIKA BLACK: DIRECT BY MR. BRACKETT

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1 exact time. It was -- It was at night, though. It was  
2 dark outside. But it wasn't -- I don't think it was too  
3 late. Maybe around 8:00, or 9:00, or something.

4 Q. Do you know what they did when they went downstairs?

5 A. No, because I stayed upstairs. I was still on the  
6 phone. I just stayed upstairs on the phone.

7 Q. When did you see them next?

8 A. Maybe about an hour, maybe less than an hour, a little  
9 less than an hour later. Everybody came back upstairs.

10 Q. And what were they doing when they came back upstairs?

11 A. Talking.

12 Q. How were they acting?

13 A. I mean, like everybody was like a little excited. I  
14 don't know -- Like, they were, like, excited or something,  
15 like, like they just saw something. I don't know. Like,  
16 everybody was a little jumpy and talking, like, amongst  
17 their -- They was talking amongst theirselves, kind of  
18 like, excitedly. I don't know how to explain it.

19 Q. Did you -- Did they involve you in that conversation?

20 A. No, sir.

21 Q. Did you see anything unusual?

22 A. No, sir.

23 Q. On what they were doing. Were they holding anything  
24 that caught your eye?

25 A. No, sir.

SHALEIKA BLACK: DIRECT BY MR. BRACKETT

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1 Q. How long were they upstairs that second time?

2 A. They were probably up -- They -- They were probably  
3 upstairs for about 10, 15 minutes. They didn't stay up  
4 there that long. Everybody went back downstairs. After  
5 they came up, they were just talking, and then they left,  
6 went back downstairs.

7 Q. Did they ever come back upstairs again?

8 A. I think Sam -- I think Sam might have come back  
9 upstairs for a little bit. I don't think everybody came.  
10 Everybody all together didn't come back up again after  
11 that.

12 Q. Where was Sam and -- Where was Sam sleeping?

13 A. Sam slept -- She slept upstairs. She slept upstairs  
14 in the room where I slept at.

15 Q. And when Lee Lee spent the night, where did she stay?

16 A. She was sleeping in the same room, this little back  
17 room. It's like two -- two separate rooms, but they're  
18 kind of together. And they were asleep in the back room.

19 Q. Did you go downstairs at any point in the night?

20 A. I probably went downstairs, like, to use the bathroom  
21 or something like that, but because I was in a conversation  
22 on the phone, I just stayed upstairs watching TV and  
23 talking on the phone most of the time.

24 Q. When you went downstairs, did you see anything  
25 unusual?

SHALEIKA BLACK: CROSS BY MR. CHIARENZA

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1 A. No.

2 Q. Thank you very much, Ms. Black. Please answer any  
3 questions the counsel for Mr. Reid and Mr. Henson have for  
4 you.

5 MS. ANDERSON: No questions, Your Honor.

6 MR. CHIARENZA: If it please the Court, Your Honor.

7 CROSS EXAMINATION

8 SHALEIKA BLACK BY MR. CHIARENZA:

9 Q. Ms. Black, where are you currently living?

10 A. Keels Avenue.

11 Q. You're back there now, again?

12 A. Yeah, for now.

13 Q. Well there's some period of time between the events  
14 we're talking about here and now. You were back in Jersey?

15 A. Uh-huh?

16 Q. When did you leave the Keel Street house after this  
17 all happened, and you go to Jersey.

18 A. I think it was maybe a month after that, a few weeks  
19 -- a few weeks to a month, maybe three to four weeks after  
20 that.

21 Q. Like sometime in November? December?

22 A. Yeah, it was -- I left -- Yeah, it was -- Matter of  
23 fact, it was in November when I left.

24 Q. Back then between the time of the events we're  
25 speaking of and when you left to Jersey, you had never been

1 interviewed by police or anything. Have you? Back in that  
2 period of time?

3 A. No, not that I can remember, not that I talked to  
4 anybody.

5 Q. And then so you're up in Jersey, and how is it that  
6 you came to be here today with us?

7 A. I got -- I received a call from one, I guess, the  
8 detectives. And he was asking me if I remember anything  
9 about the night, and I told him what I remembered.

10 Q. And when was that call?

11 A. It was -- About a week, sometime last week, early last  
12 week.

13 Q. And that's the first contact you had with anybody  
14 wanting to talk to you about this case, and what you  
15 remembered?

16 A. Yes, sir.

17 Q. So sometime last week. So, it's been 2 years since  
18 this all occurred, and you got -- the first contact you got  
19 from anybody saying, "We might need you to be a witness,"  
20 was sometime last week?

21 A. Uh-huh.

22 Q. Can you tell me who was at the house on September  
23 29th, 2009?

24 A. September 29th?

25 Q. Yeah.

SHALEIKA BLACK: CROSS BY MR. CHIARENZA

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1 A. I don't remember the exact -- Like, I don't remember  
2 the exact dates.

3 Q. Can you tell me who was at the house on October 5th,  
4 2009?

5 A. Like I said, I don't know -- I can't tell you the  
6 exact dates of what happened, like, what happened, like --

7 Q. Why not, because it was 2 years ago?

8 A. Yeah, 'cause I don't know the exact -- I don't  
9 remember the exact day. I just remember the circumstances  
10 of what was going on.

11 Q. You remember the circumstances you're saying of this  
12 particular day at October 1st. Right?

13 A. Yeah, when --

14 Q. I'm not asking you about the circumstance of -----

15 MR. BRACKETT: Judge, I think she was trying to  
16 explain her answer.

17 MR. CHIARENZA: I apologize.

18 Q. Go on.

19 A. I'm just saying, like, I don't know the, like, the  
20 dates -- I can't say -- I can't pinpoint the -- and tell  
21 you what the date was. I can just tell you what happened  
22 that, you know what I'm saying, the night that the stuff  
23 happened or whatever, when I saw it on the news and  
24 everything and when everybody was there. That's the last  
25 time I seen everybody was the next day after that. I can't

1 tell you the day it was. I just remember it was, like, in  
2 October.

3 Q. So you didn't even know what date this was. Right?  
4 It was suggested to you that this occurred on October 1st?

5 A. I just remember it was in -- I know it was, it had to  
6 be, like -- All of that happened like a week before Sam's  
7 birthday.

8 Q. But you did not know that exact date either. Right?

9 A. No, I can't. -- I can't tell you and pinpoint the exact  
10 date. It was 2 years ago.

11 Q. Alright. But you do recall, in addition to the other  
12 people that you mentioned, that you dad and your granddad  
13 were both at the house during this time?

14 A. Yeah, my -- I believe -- I believe my grand -- my  
15 daddy and my granddad was there. I know my granddad, he  
16 was in the room, I think. He was in the room asleep.

17 Q. Any other relatives, an uncle, maybe?

18 A. No.

19 Q. Do you see your brother's girlfriend at your house at  
20 any time during the time we're talking about?

21 A. I think when I went down to the bathroom, he was in  
22 the living room waiting on her to come over. He said  
23 something about her coming over.

24 Q. And you told the Solicitor, other than these people  
25 talking among themselves, you didn't see them doing

SHALEIKA BLACK: CROSS BY MR. CHIARENZA

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1 anything unusual?

2 A. No, they -- I didn't see anything like that.

3 Q. You didn't see anybody with any weapons?

4 A. No.

5 Q. And you never -- The only time you saw any of them was  
6 upstairs? You weren't downstairs?

7 A. Yeah, the only time I saw them talking was when they  
8 came upstairs, they left, and then when they came back,  
9 they left again.

10 Q. So two times, upstairs before they left, and then  
11 upstairs after they left?

12 A. Uh-huh.

13 Q. That's all I have.

14 MR. BRACKETT: Mr. Chiarenza, One quick clarification.

15 (SIDE BAR BETWEEN SOLICITOR BRACKETT AND MR.

16 CHIARENZA.)

17 MR. CHIARENZA: Nothing further.

18 THE COURT: You can step down and be excused. We  
19 appreciate your time.

20 (WITNESS LEAVING WITNESS STAND.)

21 THE COURT: Can I see counsel up here just a minute?

22 MR. BRACKETT: I ask that this witness be excused.

23 THE COURT: She can be excused.

24 (WITNESS LEAVING WITNESS STAND.)

25 (BENCH CONFERENCE AT 12:30 PM.)



AGENT KENNETH WHITLER: DIRECT BY MR. BRACKETT

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1 AGENT KENNETH WHITLER BY MR. BRACKETT:

2 Q. Good afternoon, Agent Whitler, how are you?

3 A. Pretty good.

4 Q. Would you please give the court reporter and the jury  
5 your full name and spell your last.

6 A. Kenneth H. Whitler. The last name is spelled  
7 W-h-i-t-l-e-r.

8 Q. And where are you employed, Agent Whitler?

9 A. I'm employed by the South Carolina Law Enforcement  
10 Division that's also known as SLED.

11 Q. What do you do for SLED?

12 A. I'm a firearms toolmark examiner in the Firearms  
13 Department at the Lab.

14 Q. And how long have you been doing this?

15 A. I've been a qualified firearms examiner since 1991.  
16 I've worked at SLED since 1997.

17 Q. And where did you work prior to working for SLED?

18 A. In the FBI Laboratory.

19 Q. In?

20 A. No, in Washington.

21 Q. Did -- What do you have to do to become  
22 qualified/certified as a firearms examiner?

23 A. The -- There is no course in firearms identification,  
24 which is actually what you do. You have to learn it from  
25 other qualified examiners.

AGENT KENNETH WHITLER: DIRECT BY MR. BRACKETT

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1           When I was in the FBI Laboratory, I underwent their  
2           training period, which was approximately 2 ½ years where  
3           you sit down with trained examiners and work with them on a  
4           daily basis. During this time period, in addition to  
5           working with trained examiners, you also are given  
6           assignments, individual study if you will, where you read,  
7           do research, you test-fire guns on your own. And during  
8           this time period, you literally look at thousands of fired  
9           bullets from cartridge cases, and test-fire hundreds of  
10          firearms.

11          When you start working with the examiners, you do more  
12          of the looking, and they do the most of the work. But as  
13          you progress, you end up doing more of the work, and they  
14          do more of the observing.

15          When you've worked with all of the examiners, and all  
16          of them agree that you have reached the level of competence  
17          that is needed, then they give you a series of three tests,  
18          and if you successfully complete those three tests, then  
19          you are qualified to do firearms identification for the FBI  
20          laboratory.

21          I successfully completed those tests and in 1991 was  
22          certified by the FBI Lab to do firearms identification.

23          In 1997, in order to come back home, the -- I retired  
24          from the FBI Laboratory and came to work in the SLED Lab  
25          doing basically the same job, firearms identification.

AGENT KENNETH WHITLER: DIRECT BY MR. BRACKETT

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1 Q. Have you ever been certified as an expert in the area  
2 of firearms identification?

3 A. Yes I have, approximately 250 times in various state,  
4 federal, and territorial courts.

5 Q. Were you called upon to conduct some analyses in  
6 regards to your SLED Lab Number L10-2387 with an incident  
7 date of 10-1-2009, and a victim listed as Tyrone King?

8 A. Yes, I was.

9 Q. And what were you asked to do?

10 A. There were 10 fired 22-rimfire cartridge cases  
11 submitted, and I examined those cartridge cases to  
12 determine if they were all fired by the same gun.

13 Q. Is that something that falls within your area of  
14 expertise?

15 A. Yes, it is.

16 MR. BRACKETT: Your Honor, I at this time would ask  
17 that Agent Whitler be certified as an expert in the area of  
18 firearms analysis.

19 THE COURT: Certified or qualified?

20 MR. BRACKETT: Qualified.

21 MS. ANDERSON: No objection.

22 MR. CHIARENZA: No objection.

23 THE COURT: I find he is qualified.

24 BY MR. BRACKETT:

25 Q. All right, sir, I'm showing you several items wrapped

AGENT KENNETH WHITLER: DIRECT BY MR. BRACKETT

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1 in plastic bags that are contained within the box marked as  
2 State's Exhibit Thirty-six. I would ask you, sir, if you  
3 would please take a look at those items and tell me if you  
4 recognize them.

5 A. Yes, I do.

6 Q. What are those?

7 A. These are 10 -- a total of 10 fired 22-rimfire  
8 cartridge cases.

9 Q. And when did you see those before?

10 A. When they were submitted. They're still in the  
11 containers that I put them in when I finished my  
12 examination, and then re-sealed the pouches, and put my  
13 initials and the lab number on it.

14 Q. Are your initials on each of those packages?

15 A. Yes, they are.

16 Q. Do they still appear to be in the same condition they  
17 were in when you sent them back from the SLED Labs?

18 A. Yes, sir.

19 Q. Did you have an occasion to examine each of those  
20 shell casings and make a determination as to whether or not  
21 they were fired by the same weapon?

22 A. Yes, I did.

23 Q. And what was your conclusion?

24 A. Conclusion were that all 10 cartridge cases were fired  
25 by the same firearm.

1 Q. And how do you know that? How would you go about  
2 making that determination?

3 A. What you do is, we have a comparison microscope which  
4 is a microscope that allows you to look at two objects at  
5 the same time. And what I'm doing is taking one cartridge  
6 case, comparing it to the marks on it to the marks on the  
7 other cartridge case. And just go through all of them.  
8 And the marks on all of the cartridge cases agreed.

9 Q. And when you said, "marks," what --

10 A. In the firing-pin impression -- In this case, when the  
11 firing pin strikes the cartridge case, it leaves marks in  
12 the firing-pin impression, and those are the marks we can  
13 use to identify that, that cartridge case was fired by a  
14 particular gun. Or if no gun is submitted, that they were  
15 fired by the same gun.

16 Q. What kind of marks are they? What do you see when you  
17 look under the microscope?

18 A. They're just firing pin marks.

19 Q. And what leaves them?

20 A. The firing pin.

21 Q. And does each firing pen have their own unique  
22 characteristics?

23 A. They can. Some leave very good marks, some don't.  
24 But they generally are very unique, particularly once  
25 they've been used awhile, they'll wear and leave more

AGENT KENNETH WHITLER: DIRECT BY MR. BRACKETT

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1 unique marks. Although in some cases they, when they wear,  
2 they don't leave very many marks at all.

3 Q. So in this particular case, were you able to establish  
4 with certainty that each of these cartridge casings were  
5 fired by the same firearm?

6 A. Yes.

7 Q. And they are what caliber again?

8 A. They're 22-long, long-rifle caliber.

9 Q. Did you issue a report in this case?

10 A. Yes, I did.

11 Q. Let's get this marked if I can. I'm showing you  
12 what's been marked as State's Exhibit Four. And I ask if  
13 you can identify that -- Fifty-four.

14 A. Yes, I can.

15 Q. And what is that?

16 A. It's a copy of the report I issued.

17 Q. Does that fairly summarize your findings in this case?

18 A. Yes, it does.

19 MR. BRACKETT: Your Honor, at this time, I'd seek to  
20 introduce State's Exhibit Fifty-four into evidence.

21 MS. ANDERSON: No objection.

22 MR. CHIARENZA: No objection.

23 THE COURT: In without objection.

24 (WHEREUPON: STATE'S EXHIBIT NUMBER FIFTY-FOUR  
25 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

AGENT KENNETH WHITLER: DIRECT BY MR. BRACKETT  
CROSS BY MS. ANDERSON

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1 Q. Now just a couple of more quick questions, Agent  
2 Whitler. Is it possible when you -- to conduct a similar  
3 examination on the bullet that comes out of the firearm?

4 A. Yes, it is.

5 Q. And is it possible to make a determination whether a  
6 particular gun fired a particular bullet?

7 A. Yes.

8 Q. In order to conduct that analysis, what two things do  
9 you have to have?

10 A. Well you have to have the bullet, and you would have  
11 to have the gun.

12 Q. So if we just had a bullet and no gun, you couldn't?

13 A. All I can say is that -- what caliber it was, if it  
14 was in good enough shape. And if the rifle impressions  
15 were in good enough shape, I might be able to tell you a  
16 list of possible firearms that could have fired it.

17 Q. Is that generally more likely the larger caliber  
18 bullet?

19 A. Well as far as a list, I could probably give you on  
20 22's do pretty well.

21 Q. Thank you very much, Agent Whitler. Please answer any  
22 questions the counsel for Mr. Reid or Mr. Henson may have.

23 CROSS EXAMINATION

24 AGENT KENNETH WHITLER BY MS. ANDERSON:

25 Q. This may seem like an obvious question, Agent Whitler,

AGENT KENNETH WHITLER: CROSS BY MS. ANDERSON

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1 but you are not involved in any of the investigation of the  
2 case when an incident eventually -- originally occurs.

3 Correct?

4 A. That's correct.

5 Q. And you don't participate in any collection of  
6 evidence on scene or anything like that?

7 A. No.

8 Q. Essentially, SLED is situated in Columbia?

9 A. Yes, ma'am.

10 Q. And local law enforcement agencies submit items for  
11 testing to the SLED facility?

12 A. That's correct.

13 Q. And you don't have any input about what is submitted  
14 to you?

15 A. No.

16 Q. You just receive certain items, and you test those  
17 items based on what's requested?

18 A. Yes, ma'am.

19 MS. ANDERSON: Your Honor, may I approach the witness?

20 THE COURT: Yes, you may.

21 Q. And Agent, I'm handing you what has been removed from  
22 State's Exhibit Number Thirty-six that you indicate was the  
23 box of spent casings that you tested?

24 A. Yes, ma'am.

25 Q. And that indicates that you received, or -- Those



AGENT KENNETH WHITLER: CROSS BY MS. ANDERSON  
CROSS BY MR. CHIARENZA

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1 items were received with SLED on March 4th, 2010. Correct?

2 A. I don't know. From the box, I don't --

3 Q. Let me ask you, the chain of possession of evidence on  
4 the item there?

5 A. You mean what they used? On one of the envelopes, it  
6 says it went to, it says something, some initials, SLED on  
7 3-4-10 at 1100.

8 Q. And your report -- And you did indicate there would be  
9 additional tests you could run if you had a gun submitted  
10 for testing?

11 A. Yes, ma'am. If there was a gun submitted, I would  
12 test-fire the gun and compare the test-fire cartridge cases  
13 to these.

14 Q. Nothing further.

15 MR. CHIARENZA: If it please the Court?

16 THE COURT: Yes.

17 CROSS EXAMINATION

18 AGENT KENNETH WHITLER BY MR. CHIARENZA:

19 Q. Agent Whitler, just a couple of questions. You  
20 testified that even without the gun though, if you were to  
21 test a bullet depending on the condition of that bullet, it  
22 might be possible to tell -- to develop a list of  
23 potential, specific firearms from the rifling marks left on  
24 that bullet. Is that correct?

25 A. That's correct.

AGENT KENNETH WHITLER: CROSS BY MR. CHIARENZA

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1 Q. And so we'd be talking about if you had a good bullet,  
2 in good shape, you could look at it under your microscope,  
3 and based on the marks that were left on it, you might be  
4 able to narrow it down. Pick a number, maybe 5, 6, 10, I  
5 don't know. But you could come up with a list that this  
6 bullet appears to share characteristics with bullets that  
7 may have either been fired by, say a Remington Model A, a  
8 Winchester Model B, and I'm making up these names, a Ruger  
9 Arms Model C, and what not. So it would be consistent  
10 with, I'm guessing, it probably came from one of these.  
11 You don't want to guess, but you would generate a report  
12 along those lines. Is that correct?

13 A. That's correct. We'd give you a list that's -- We  
14 don't break it down by model, we just stick with the  
15 manufacturers.

16 Q. Okay. And so at that point, that would at least  
17 narrow it down from any possible gun in the whole world to,  
18 it appears likely that it came from one of these  
19 manufacturers?

20 A. That's correct.

21 Q. You weren't directed to do any sort of testing like  
22 that in this case. Were you?

23 A. Since no bullet was submitted, no, we couldn't.

24 Q. They didn't even send the bullet for that kind of a  
25 test. All right.

1           And just a question that's not related to the items  
2           you tested, but you are an expert in this field. If I had  
3           a revolver and shot it off right here, one, two, three  
4           shots. And then put it back in my pocket, walked out of  
5           this room, would I leave any bullet casings here?

6           A. Not if you didn't eject them from the revolver.

7           Q. But the gun in its normal functioning, would not of  
8           its own eject those bullets?

9           A. Not if it's in good, working condition.

10          Q. And you wouldn't expect a revolver to eject its shell  
11          casings, shooting it. Right?

12          A. Well, like I said, if it's in normal, working  
13          condition, it's not supposed to.

14          Q. Have you had opportunity to shoot revolvers?

15          A. I've shot a lot, yes.

16          Q. Have you ever had a revolver eject its shell casing  
17          after you shot it?

18          A. Actually, I have. I've seen it done. It was a  
19          malfunctioning gun that when you shot it, the cylinder  
20          would pop open, and then whatever was in it, fired or the  
21          unfired cartridge cases would come out. But that's not the  
22          way it should work.

23          Q. You wouldn't want to keep shooting that gun though,  
24          would you?

25          A. No, it was taken into the repair shop.

AGENT KENNETH WHITLER: CROSS BY MR. CHIARENZA  
REDIRECT BY MR. BRACKETT

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1 Q. About what percentage -- So that's the exception, not  
2 the rule. But of all the shots you've ever taken with a  
3 revolver, what percentage of the time does that --

4 A. Most -- Most of mine have always stayed in. It's just  
5 an abnormality if a revolver does that. If it's in poor  
6 working order or has a defect, that could happen. And  
7 sometimes we get them in, and they won't -- They've been  
8 damaged and they won't stay closed. So theoretically if  
9 you shot it, and the cylinder popped open, and you had it  
10 elevated, it could throw the cartridge case out.

11 Q. But a normal, functioning revolver, we would expect to  
12 be able to fire it, and the shell casing would remain with  
13 the gun.

14 A. It is designed that until you open the cylinder, the  
15 cartridge cases are supposed to stay in the revolver.

16 Q. Thank you.

17 MR. BRACKETT: Just briefly, Your Honor.

18 REDIRECT EXAMINATION

19 AGENT KENNETH WHITLER BY MR. BRACKETT:

20 Q. Agent Whitler, Mr. Chiarenza asked you if you could  
21 have generated a list, and he threw out the hypothetical  
22 that you could have possibly said a Ruger, or a Winchester,  
23 or a Remington, hypothetically. So that would have  
24 narrowed down the potential list of suspect guns to 4 or 5  
25 million 22's that those three manufacturers maybe have

1 made?

2 A. Well, you're looking for that brand, and how ever many  
3 there in your area, that's possible. The purpose of the  
4 list is, as was mentioned, it's to try to -- instead of  
5 saying, you're looking for a gun, which is fairly obvious,  
6 you're looking for most likely this particular model or  
7 models. I mean brands. So if this comes up in your  
8 investigation, you should give more attention to it. If we  
9 tell you you're looking for a Colt and your suspect gun is  
10 a Smith & Wesson, that's not very likely to have happened,  
11 unless somebody has done something very strange to the gun.  
12 It's merely an effort to try to narrow down the scope of  
13 the inquiry as into the particular firearm.

14 Now we don't -- It doesn't -- That list doesn't claim  
15 to have every gun in the world. Manufacturers, being what  
16 they are, they come up with new things every -- it seems  
17 like every day. So what you may have is a new firearm  
18 that's got something new on it that's not in the list yet.  
19 So it is a possibility. It doesn't guarantee that these  
20 are the only guns that could have fired that particular  
21 bullet, but this is a likely -- This is your most likely  
22 candidates for it.

23 Q. So it's trying to help remove it from the world of all  
24 possible 22's down to a narrower category?

25 A. Yeah, it's for all calibers. I mean, it's not just

AGENT KENNETH WHITLER: REDIRECT BY MR. BRACKETT

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1 22's, but it's --

2 Q. Yeah, but in our particular case.

3 A. But that's -- Yes. In this case, it may have narrowed  
4 it down to a couple of guns or it may have given you 20 or  
5 30. It just depends on the rifling characteristic.

6 Q. And if your gun already, you know, has a unique  
7 characteristic, then it's an investigative tool. And  
8 that's where it's focused. Is that correct?

9 A. Yes.

10 Q. Thank you.

11 MS. ANDERSON: Nothing, Your Honor.

12 MR. CHIARENZA: Nothing further.

13 THE COURT: You can step down and be excused. Thank  
14 you. We appreciate your time.

15 (WITNESS LEAVING WITNESS STAND.)

16 THE COURT: Members of the jury panel, we'll break for  
17 lunch till 2:30. See you at 2:30.

18 (JURY OUT AT 01:23 PM.)

19 THE COURT: Just for housekeeping, how many more -- We  
20 have one more witness. Is that correct?

21 MR. THOMPSON: Yes, Your Honor.

22 THE COURT: Do you anticipate that witness being about  
23 -- How long do you need?

24 MR. THOMPSON: Twenty minutes.

25 THE COURT: All right. Well we'll have that witness,

DOCTOR ROBERT THOMAS: DIRECT BY MR. THOMPSON

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1 and then that motion to talk to the defendants and see what  
2 they want to do about presenting a defense, and go from  
3 there. Have a pleasant lunch.

4 (COURT IN LUNCH RECESS AT 01:25 PM.)

5 (COURT BACK IN SESSION AT 02:36 PM.)

6 THE BAILIFF: Order in the Court.

7 THE COURT: Thank you, take your seats.

8 Let's get the Defendants in.

9 (DEFENDANTS ENTER COURTROOM AT 02:37 PM.)

10 THE COURT: Bring in the jury.

11 (JURY REENTERS COURTROOM AT 02:39 PM.)

12 THE COURT: Call your next witness.

13 MR. THOMPSON: May it please the Court, Your Honor.

14 The State would call Dr. Rob Thomas to the stand, please.

15 MADAME CLERK: Please raise your right hand, place  
16 your left hand on the Bible.

17 (WHEREUPON: DR. ROBERT THOMAS,  
18 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

19 DIRECT EXAMINATION

20 DR. ROBERT THOMAS BY MR. THOMPSON:

21 Q. Dr. Thomas, could you give us your full name, please?

22 A. Robert Earl Thomas, Jr.

23 Q. And Dr. Thomas, what is it that you do for a living?

24 A. I'm a pathologist.

25 Q. And can you tell me, you have a speciality in

DOCTOR ROBERT THOMAS: DIRECT BY MR. THOMPSON

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1 pathology?

2 A. I'm a medical doctor, and my specialty is anatomic and  
3 clinical pathology.

4 Q. You also do work in Forensic Pathology?

5 A. I do.

6 Q. And can you tell me, as part of your duties, how long  
7 have you been in the area of pathology?

8 A. Medical school training was a 4-year program. My  
9 residency was a 5-year program, which I finished in 2000.  
10 And I've been in my current position for 11 years here in  
11 Rock Hill since 2000.

12 Q. And can you tell me, what type of training did you go  
13 through again to -- as far as the specifics with autopsies.  
14 What is the training that you received in that?

15 A. Sure. As -- Once we have finished our medical degree  
16 in medicine, again, which is a 4-year program, we enter our  
17 residency program in anatomic and clinical pathology. In  
18 that 5-year training period, part of that training is in  
19 Forensic Pathology.

20 Q. And do you perform autopsies on a regular basis?

21 A. I do.

22 Q. And do you do that usually in York County?

23 A. Yes.

24 Q. And how many autopsies have you performed here in York  
25 County?



DOCTOR ROBERT THOMAS: DIRECT BY MR. THOMPSON

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1 A. Somewhere between 4- and 500.

2 Q. And how many years now have you been performing  
3 autopsies?

4 A. Here in York County, 11 years.

5 Q. 11 years.

6 And in the course of doing an autopsy, what is the  
7 purpose generally of an autopsy?

8 A. The basic purpose is to establish a cause and manner  
9 of death.

10 Q. And have you performed an autopsy in this case?

11 A. I did.

12 MR. THOMPSON: Your Honor, I'd ask to enter Dr. Thomas  
13 in as an expert in pathology at this point.

14 THE COURT: Any voir dire?

15 MS. ANDERSON: No, Your Honor.

16 MR. CHIARENZA: No, Your Honor.

17 THE COURT: I find he's qualified.

18 BY MR. THOMPSON:

19 Q. Dr. Thomas, when was it that you performed an autopsy  
20 in this particular case?

21 A. This autopsy was performed October the 3rd, 2009.

22 Q. And who was the person that you performed the autopsy  
23 on?

24 A. Tyrone King.

25 Q. And what was his age at that time?

DOCTOR ROBERT THOMAS: DIRECT BY MR. THOMPSON

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1 A. Eighteen years.

2 Q. And do you have a height and weight for him as well?

3 A. I do. His weight was 162 pounds. His height was 5  
4 foot 10 ½.

5 Q. When he came to you for autopsy or when his body was  
6 presented to you, what's kind of the first step you do in  
7 an autopsy when you receive a body?

8 A. The first step would be to start what we call the  
9 external examination. That would be comprised of  
10 identifying the body as the stated decedent; and then  
11 describing and documenting any external injuries; getting a  
12 height, a weight; drawing blood for toxicology; all the  
13 external descriptors that would identify the body as that  
14 of the decedent.

15 Q. And do you do that for him at that time?

16 A. I did.

17 Q. And what if anything did you notice as far as your  
18 external examination?

19 A. It stated his weight and height were documented. The  
20 main injury that was seen was in the right forehead region.  
21 Mr. King had an entrance gunshot wound just above the left-  
22 lateral brow.

23 Q. And other than that, did you see any other visible  
24 injuries on his body?

25 A. No.

DOCTOR ROBERT THOMAS: DIRECT BY MR. THOMPSON

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1 Q. As I result of that what if anything do you do to then  
2 look to where that injury is to examine it further?

3 A. Well before we would conduct the internal examination,  
4 we would do X-rays to help us identify any bullet  
5 fragments.

6 Q. And did you do that in this case?

7 A. We did.

8 Q. I'll show you State's Exhibit Number Fifty-five. I  
9 believe I've already showed the defendants. Does that  
10 picture reflect one of the X-rays that was taken at that  
11 time?

12 A. It does.

13 Q. Would it assist you to have that picture in order to  
14 tell the jury about the fragments that you found inside of  
15 the decedent's head?

16 A. It would.

17 MR. THOMPSON: Your Honor, I ask to enter this into  
18 evidence at this time.

19 THE COURT: Yes, sir.

20 MS. ANDERSON: No objection.

21 MR. CHIARENZA: No objection, Your Honor.

22 THE COURT: Yes, sir. Enter it in.

23 (WHEREUPON: STATE'S EXHIBIT NUMBER FIFTY-FIVE  
24 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

25 Q. All right, Doctor, we're going to put it up on the

DOCTOR ROBERT THOMAS: DIRECT BY MR. THOMPSON

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1 screen in just a minute as that warms up. But as -- Before  
2 we get into that, let me ask you this. Is there -- What is  
3 a defensive wound?

4 A. A defensive wound would be any wound on the decedent  
5 that might be there as a result of the decedent fighting  
6 off a -- an attacker.

7 Q. And what type of wounds do you generally see that you  
8 would consider defensive wounds?

9 A. You might see fingernails broken. You might see  
10 scratches on the forearms, or on the palms of the hand, or  
11 on the -- other side of the hand. You might see those  
12 types of injuries usually around the hands or maybe on the  
13 face.

14 Q. Did you see any of those types of injuries on Mr. King  
15 at that time -- this time.

16 A. I did not.

17 Q. Going back to the X-ray that was taken. I believe we  
18 have it up now. Can you see it from where you are?

19 A. I can.

20 Q. Can you tell us a little bit about it, and tell us  
21 what you discovered as you looked at the X-ray?

22 A. Sure. Basically, there are three main fragments of  
23 metallic objects.

24 One is right here. This is the largest one. There's  
25 a little fragment right here. And there's a third fragment

1 right here.

2 Q. And about where would the entrance wound have been in  
3 this?

4 A. The entrance wound would have been right up in this  
5 area right here.

6 Q. Was there an exit wound at all?

7 A. There was not.

8 Q. So the bullet entered the head at the, I guess, the  
9 left forehead?

10 A. Correct.

11 Q. And then did not exit out anywhere else?

12 A. That's correct.

13 Q. So what steps are you taking? And I can see something  
14 else in the picture if you can explain that for me, the  
15 thing that looks like a zipper, just so we can get that out  
16 of the way.

17 A. Yeah, this -- This is a zipper that I -- When these X-  
18 rays were taken you see, it was still in the body bag. So  
19 this is the zipper of the body bag.

20 Q. So that's not actually something within the skull?

21 A. Correct.

22 Q. If you would, tell us then the procedure that you took  
23 to retrieve these.

24 A. Progressing from the internal examination on to the,  
25 I'm sorry -- From the external examination to the internal

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1 examination, we would remove the organs in the thorax and  
2 also the abdomen. And also then, we would move -- remove  
3 the brain from the skull. In this case, we would reflect  
4 the scalp, and then make a cut in the calvarium, in the  
5 brain, I'm sorry -- in the bone covering the brain till I  
6 was to remove the brain to retrieve these metallic  
7 fragments and then to document the trajectory of the bullet  
8 path.

9 Q. And can you tell me where you documented the  
10 trajectory of the bullet path through the brain?

11 A. Sure. As I stated, the entrance wound is about in  
12 this area right here. And as we remove the brain and could  
13 see the trajectory, the trajectory was from front to back,  
14 from left to right, slightly, and slightly upward.

15 Q. And can you tell me, what type of damage did this  
16 cause within the brain?

17 A. As the bullet traveled through this part of the skull,  
18 it caused a perforation in the frontal bone, which is this  
19 bone right here. Then it perforated the left cerebral  
20 cortex, which is this part of the brain right here. And it  
21 traveled in a -- towards the right side and towards the  
22 back. It injured some of the midbrain areas in this area.  
23 And then it perforated the right asifa lobe, which is the  
24 back lobe of the brain on the other side over here. And  
25 that's where this part of the bullet was recovered.

1 Q. And this type of injury, how would you describe it as  
2 far as its severity?

3 A. The resulting hemorrhage that occurs from this bullet  
4 path causes bleeding in the brain, and it causes a tissue  
5 reaction. It causes edema to form in the brain which  
6 eventually causes your respiratory centers down in this  
7 part of the brain to shut down.

8 Q. And is that what happened with Mr. King?

9 A. That is why he died, yes.

10 MR. THOMPSON: You can turn the lights back on,  
11 please.

12 Q. You mentioned as well that during the preliminary  
13 stage, that you take some sort of blood draw as well. What  
14 is the purpose of drawing blood at that time?

15 A. In this case, it would be to do toxicology studies.

16 Q. And did you receive toxicology reports on this?

17 A. I did.

18 Q. Do you use those to factor those into your opinions?

19 A. We do.

20 Q. And what if any result did you find in the toxicology  
21 screen?

22 A. Mr. King was positive for Delta 9 Carboxy THC, which  
23 is a metabolite of marijuana.

24 Q. Did he have any other drugs or alcohol in his system?

25 A. He did not have alcohol. He did have two drugs that

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1 are used for resuscitation.

2 Q. And is the reason that you -- And I guess, tell me the  
3 reason you look at the toxicology.

4 A. It's part of the standard, I guess, part of the  
5 standard autopsy procedure, depending upon the particular  
6 case. In a homicide, we always want to just document what  
7 drugs might have been in the decedent at the time or about  
8 the time of death.

9 Q. At times, do some drugs -- Are they also contributing  
10 or causing the cause of death in some of these -- in some  
11 cases that you know?

12 A. Yes.

13 Q. In this case, does the marijuana in the system in any  
14 way contribute to his death?

15 A. It did not directly cause his death, no.

16 Q. Doctor, when you look at the entrance wound on Mr.  
17 King's forehead, is there any way that you can tell  
18 anything regarding how close the wound was or how far away  
19 it was?

20 A. Yes. Gunshot wounds can be gaged in a general sense  
21 as far as the distance that the gun would have been  
22 discharged from the decedent.

23 These are characterized as either a contact, which  
24 would be right up against the skin. In this case, this was  
25 not a contact. It may be a close range, and we would tell



1 that if we saw a stippling gunpowder soot, the breakdown of  
2 the gunpowder. The gun is fairly close to the decedent  
3 when it discharges. And that's very dependent upon the  
4 particular characteristics of the gun that was used. It's  
5 also dependent upon whether or not the decedent had any  
6 clothing because that would filter out any of these  
7 byproducts. So that would be a close range.

8 And then a distant range for an indeterminate would be  
9 beyond that, say several feet.

10 Q. So were you able to determine whether this was a  
11 close-range injury from what you could see?

12 A. There's no evidence that it was close range.

13 Q. And so in your opinion, how far away would it at least  
14 have to have been before this occurred?

15 A. Again that would depend on the particular  
16 characteristics of the gun, but generally speaking, at  
17 least 3 feet.

18 Q. So it had to be 3 feet or more away when it was fired?

19 A. Assuming that he didn't have anything over his head at  
20 the time of the shooting. Yes.

21 Q. I'll show you State's Exhibit Number Fifty-six. I've  
22 already showed it to both defense. Can you tell me what  
23 that is?

24 A. These are the bullet fragments that were removed at  
25 autopsy.

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1 Q. And did you remove those fragments?

2 A. I did.

3 Q. And have you had a chance to see those again before  
4 you entered the courtroom today?

5 A. I did.

6 Q. And are they substantially in the same condition that  
7 they were when you removed them?

8 A. They are:

9 MR. THOMPSON: Your Honor, I ask to enter this into  
10 evidence at this time.

11 MS. ANDERSON: No objection.

12 MR. CHIARENZA: No objection.

13 THE COURT: Enter without objection.

14 (WHEREUPON: STATE'S EXHIBIT NUMBER FIFTY-SIX  
15 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

16 Q. Doctor, if you would remove those and show them to the  
17 jury for me, please.

18 A. There are two -- The two smaller fragments that were  
19 on the front part of that X-ray are here in the middle.

20 Here's one --

21 Q. Doctor, if it will please the Court to step down.

22 THE COURT: Yes, you may.

23 Q. I ask that you step down to show them.

24 A. Sure.

25 I'm giving you two small pieces. These were the two

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1 small pieces that were treated from the front of the brain.

2 This is the large one treated from the back of the brain.

3 Q. And, Doctor, since there was no exit wound, would that  
4 be the whole of the bullet, all of the bullet that we would  
5 have?

6 A. Yes.

7 Q. And can you tell me from your experience in examining  
8 people who have died from gunshot wounds and your  
9 recovering bullets from their bodies, is there any way to  
10 tell if that is a large or small caliber bullet?

11 A. I would say it's -- I'm not an ammunitions expert, I  
12 would say it's in the small to medium caliber range, would  
13 be my guess.

14 Q. As far as completing your examination on Mr. King,  
15 were you able to determine in your expert opinion to a  
16 reasonable degree of medical certainty what the cause of  
17 death was?

18 A. I was.

19 Q. And what was that?

20 A. Gunshot wound to the head.

21 Q. And were you able to also determine the manner of  
22 death?

23 A. I was.

24 Q. And what was that?

25 A. Homicide.

DOCTOR ROBERT THOMAS: CROSS BY MS. INZERILLO

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1 Q. Thank you.

2 No further questions.

3 CROSS EXAMINATION

4 DOCTOR ROBERT THOMAS BY MS. INZERILLO:

5 Q. Just briefly, Dr. Thomas. You indicated on direct  
6 that you noted a slight upward path on the bullet?

7 A. Yes, ma'am.

8 Q. And would that be consistent with the result of Mr.  
9 King being perhaps seated higher than the shooter?

10 A. It would be dependent upon the direction of his head  
11 when the bullet entered. In other words, if I'm  
12 perpendicular to the ground, that would suggest that the  
13 line of fire was slightly below where it entered. If I  
14 tilt my head just a little bit, it's going to bring it  
15 down. If I bring my head up a little bit, it's going to  
16 make that trajectory based on the normal autopsy tends to  
17 go up a little bit.

18 Q. And you indicate that your toxicology result did  
19 indicate recent use of marijuana?

20 A. Yes, ma'am, it did.

21 Q. And then also, your testimony was that your opinion  
22 based on the entrance wound was that your opinion would be  
23 that the shooter was located at least 3 feet away?

24 A. That would be my opinion. Yes, ma'am.

25 Q. Nothing further.

DOCTOR ROBERT THOMAS: CROSS BY MR. CHIARENZA

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1 MR. CHIARENZA: If it please the Court, Your Honor.

2 THE COURT: Yes, sir.

3 CROSS EXAMINATION

4 DOCTOR ROBERT THOMAS BY MR. CHIARENZA:

5 Q. Doctor, your autopsy -- The autopsy forms, the  
6 examination that you did, it allows you to draw certain  
7 conclusions as to what occurred. Correct?

8 A. Yes, sir.

9 Q. And in fact I believe, the last couple of questions  
10 the Solicitor asked you was if you could conclude, what was  
11 the cause of death?

12 A. Yes.

13 Q. But your examination does not allow you or -- does not  
14 enable you to come to a conclusion as to who performed the  
15 act that caused Mr. King's death. Does it?

16 A. No, it does not.

17 Q. And you don't have any opinion here today, expert of  
18 just general based on your examination as to who caused Mr.  
19 King's death. Do you?

20 A. No, I do not.

21 Q. Thank you, Doctor.

22 THE COURT: Redirect?

23 REDIRECT EXAMINATION

24 DR. ROBERT THOMAS BY MR. THOMPSON:

25 Q. Just to clear one thing up. When you mentioned that

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1 the gunshot, being distant at least 3 feet away, that also  
2 includes 5 feet, 10 feet, 20 feet, things like that?

3 A. Yes, it does.

4 Q. So anything past 3 feet?

5 A. Correct.

6 Q. Thank you. Nothing further.

7 MS. INZERILLO: No.

8 MR. CHIARENZA: Nothing further.

9 THE COURT: You can step down and be excused. We  
10 appreciate your time. Thank you.

11 THE WITNESS: Yes, sir.

12 (WITNESS LEAVES WITNESS STAND.)

13 MR. BRACKETT: If it please the Court.

14 Subject to our review with Counsel of the exhibits to  
15 make sure everything that we believe has been entered into  
16 is in fact marked as entered into evidence, that would be  
17 the State's case, and we would rest.

18 (THE STATE RESTS AT 02:58 PM.)

19 THE COURT: Members of the jury panel, the State is  
20 resting, telling us that they have presented their case.  
21 At this point, we have to take up some matters outside your  
22 presence, so I'm going to let you go to the jury room, and  
23 we'll send for you as prompt as we can.

24 (JURY EXITS COURTROOM AT 03:10 PM.)

25 THE COURT: Ms. Inzerillo or Ms. Anderson, anything on

1       behalf of Mr. Reid at this time?

2               MS. INZERILLO: Yes, Your Honor. Initially we would  
3       start by renewing all previous motions and objections.

4               Second to that, Your Honor, we make a general directed  
5       verdict motion but we would also make a specific directed  
6       verdict motion on the possession of a weapon during the  
7       commission of a violent crime charge. The evidence that  
8       has been presented essentially is that Mr. Henson arguably  
9       the shooter was the one who possessed the weapon;  
10       essentially the entire duration of this evening up  
11       including the time during the commission of the violent  
12       crimes of robbery and murder; that Mr. Reid never had  
13       possession of that gun. And for that reason while we don't  
14       believe the hand of one is the hand of all would extend  
15       that far since all the evidence goes to this sole  
16       possession of that gun we move for a directed verdict on  
17       those charges.

18              THE COURT: All right. Let me hear from the State. I  
19       deny the general motion but before I do that let me hear  
20       from the State on the possession of a firearm during the  
21       commission of a violent crime.

22              MR. BRACKETT: Your Honor, just as the hand of one is  
23       the hand of all when it comes to the issue of whether or  
24       not Mr. Reid could be held criminally liable for the death  
25       of Tyrone King, the same hand that held the gun is the

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1 your Constitutional right to remain silent. They cannot  
2 use that against you in any way whatsoever.

3 Mr. Reid, do you understand that?

4 MR. REID: Yes, sir.

5 THE COURT: Do you have any questions about it?

6 MR. REID: No, sir.

7 THE COURT: Mr. Henson, do you understand that?

8 MR. HENSON: Yes, sir.

9 THE COURT: Do you have any questions about it?

10 MR. HENSON: No, sir.

11 THE COURT: I advise each of you that this is your  
12 independent right. It is not your attorney's; it is not  
13 your family or friends, but you have a right to discuss  
14 with your attorney and your family or friends who may be  
15 present whether or not you wish to exercise your right.

16 Do you understand that, Mr. Reid?

17 MR. REID: Yes, sir.

18 THE COURT: Do you, Mr. Henson?

19 MR. HENSON: Yes, sir.

20 THE COURT: Mr. Reid, do you intend to testify or  
21 exercise your Constitutional right to remain silent or do  
22 you want some time to talk to your family?

23 MR. REID: I choose not to testify, Your Honor.

24 THE COURT: Mr. Henson, do you wish to testify or  
25 exercise your right to remain silent or do you want time to



1 talk to your attorney?

2 MR. HENSON: I exercise my right to remain silent.

3 THE COURT: To remain silent. All right. Each has  
4 indicated they are going to exercise their Constitutional  
5 right to remain silent. All right, you may be seated.

6 Now, Ms. Inzerillo, Ms. Anderson, any witnesses on  
7 behalf of Mr. Reid?

8 MS. INZERILLO: No, Your Honor.

9 THE COURT: Mr. Chiarenza, any witnesses on behalf of  
10 Mr. Henson?

11 MR. CHIARENZA: No, Your Honor.

12 THE COURT: All right. In just a moment after I take  
13 a look at the Jennings case I will get the jury in and tell  
14 them that we will do arguing and charge in the morning  
15 because it will be well after Four before we can get it to  
16 the jury, and we need to go over the charge and the verdict  
17 forms. So why don't we go ahead and get them in and excuse  
18 them. I still have the possession of a firearm motion for  
19 a directed verdict as to Mr. Reid under consideration.

20 All right, bring in the jury.

21 (JURY REENTERS COURTROOM AT 03:08 PM.)

22 THE COURT: Members of the jury panel, as I told you  
23 the State has rested. The Defense as it has a right to do  
24 has no witnesses to call so we completed the presentation  
25 of evidence at this time. At this point we have certain

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1 (DEFENDANT'S ENTERING COURTROOM.)

2 (SOLICITOR THOMPSON ENTERS COURTROOM.)

3 THE COURT: Let's come to order.

4 State ready?

5 MR. THOMPSON: The State's ready, Your Honor.

6 THE COURT: The Defense ready?

7 THE COURT: Mr. Chiarenza?

8 MR. CHIARENZA: Yes, Your Honor.

9 THE COURT: The State opens with the Defense in the  
10 order that we had earlier or utilized during the trial will  
11 have the right for final argument.

12 Is there anything before we get the jury in from the  
13 State?

14 MR. BRACKETT: Yes, sir. There was just one issue  
15 that we -- when we were putting Ms. Newman's statement in  
16 yesterday that was a one sentence redaction that was  
17 requested by Mr. Chiarenza. We've made that redaction, and  
18 I just wanted to share that.

19 MR. CHIARENZA: Okay.

20 MR. BRACKETT: Okay, good. I'm going to move this  
21 stuff. That's the only thing we need to do. They're  
22 obviously not showing things prior to the evidence going  
23 back. But I wanted to make sure we've got this correct.

24 MR. CHIARENZA: The one with the street, the margin on  
25 the right is redacted.

1 MR. BRACKETT: Has it been changed?

2 MS. ANDERSON: Not yet.

3 MADAME COURT REPORTER: You want it marked the same as  
4 this? Or you want to move in this one with a different  
5 number?

6 MR. BRACKETT: No, we want to replace this page in  
7 here with this one.

8 MADAME COURT REPORTER: Thank you. Yes, sir.

9 MR. BRACKETT: There we go.

10 MADAME COURT REPORTER: Thank you, Mr. Brackett.

11 MR. BRACKETT: Thank you, Wanda. There we go.

12 MADAME COURT REPORTER: Yes, sir.

13 THE COURT: State ready?

14 MR. THOMPSON: Yes, sir.

15 THE COURT: Ms. Inzerillo and Ms. Anderson?

16 MS. INZERILLO: Yes, Your Honor.

17 THE COURT: Mr. Chiarenza?

18 MR. CHIARENZA: Yes, Your Honor.

19 THE COURT: Bring in the jury.

20 (JURY REENTERS COURTROOM AT 09:40 AM.)

21 THE COURT: Good morning. We are now in the position  
22 to have the closing arguments with the attorneys. You will  
23 hear first from the State, then Mr. Reid's attorney, then  
24 Mr. Henson's attorney, and I'll charge on the law. We will  
25 probably take some breaks. And we are going to go --

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1 extend the trial further than we have to. But since it's a  
2 4-day trial case, so I imagine it will take a while for the  
3 lawyers to explain to you their position. And I call on  
4 the counsel at this time.

5 MR. THOMPSON: If it please the Court, Your Honor?

6 THE COURT: Yes, sir.

7 MR. THOMPSON: The hand of one is the hand of all. We  
8 heard Solicitor Brackett at the beginning of the case tell  
9 you the hand of one is the hand of all. And that is true.  
10 In South Carolina, the law is when one person commits a  
11 crime with a group of other people, and they act in concert  
12 together, whatever one person does is attributable to  
13 everybody else in that group. Now the judge will charge  
14 you a little bit more, and he will tell you things like, if  
15 the crime is committed by two or more people who are acting  
16 together in committing a crime, the act of one is the act  
17 of all. A person who joins with another to accomplish an  
18 illegal purpose is criminally responsible for everything  
19 done by the other person which occurs as a natural  
20 consequence of the acts done in carrying out the common  
21 plan or purpose.

22 Murder and assault and battery with attempt to kill  
23 are natural and perceivable consequences of armed robbery.  
24 What do I mean by that? What the evidence has shown you  
25 going into this, they weren't talking about "Oh, let's go

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1 kill Maurice. Let's go kill the other two guys who were  
2 there." That's not what they were saying. They were  
3 talking to each other about doing a "lick," creating armed  
4 robbery. They knew that Davontay Henson had the gun. They  
5 knew they were going to go -- they were going to rob these  
6 folks down there with a gun. Think about it, use your  
7 common sense. What do we hear all the time when we hear  
8 the news all over the nation, and from right around here,  
9 from Charlotte, from the Rock Hill area, from down to  
10 Lancaster, Columbia, any of the big places around us. What  
11 do we hear? We hear about an armed robbery that's gone  
12 bad. Someone who broke into the house and tried to rob  
13 someone, or someone who went to the convenience store with  
14 a gun. And what happens? Something unexpected happens and  
15 someone gets killed. And oftentimes that happens in many  
16 different ways. It might be that someone, for instance in  
17 this case, had Maurice or Kenny or Tyrone had a pistol of  
18 their own. They could have pulled that pistol, and they  
19 would be in self-defense. This is Maurice's house. They  
20 shouldn't be robbed. They had a right to defend  
21 themselves.

22 If they had pulled a gun, and this guy shot them, it  
23 would still be murder because you can't just shoot someone  
24 if you're going to rob, and they pull a gun on you. You  
25 don't have that right. The robber doesn't have a right to

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1 self-defense. He has to stop at that point. The same  
2 thing happens when one of them decides to go rove or do  
3 something outside of the plan when it just becomes the  
4 adrenaline rush of things, and you just start shooting.  
5 The same thing happens.

6 The malice that, that person has in killing these  
7 people or shooting at these people is attributed to  
8 everybody else because it's a natural consequence of armed  
9 robbery that happens all the time. You know that when you  
10 go into that type of situation, there is a good possibility  
11 someone may be hurt, someone may be killed, whether that's  
12 part of the plan or not because what's your thought in  
13 armed robbery anyway?

14 To steal it by force. If you're stealing it by force,  
15 it's natural that someone may buck that force, or that  
16 something might happen that someone gets kills because  
17 you're willing -- you're already saying you're willing to  
18 use that weapon when you take it into the robbery. You're  
19 using it to rob, and what are you going to -- and it's  
20 there for -- they're thinking for their safety too.  
21 They're taking it there because not just because it's  
22 intimidating, but I might need to use it. So you know when  
23 you take a weapon into an armed robbery, it's going to be  
24 used in some form or fashion. And it was used here, and it  
25 was used to threaten and to scare them. They gave

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1 everything up and maliciously, he still fired on them. And  
2 what he did, he went to go put Samantha Ervin in the same  
3 spot as Davontay Henson. And what he did, he might as well  
4 put Donta Reid holding that gun just like Davontay Henson.  
5 And what he did, he might as well put Aileen holding that  
6 gun just like Davontay Henson.

7 There was a lot of names in this case, a lot of  
8 nicknames in this case. And they are kind of hard to  
9 remember. If we go through, I think, every witness just  
10 about had a nickname because even the victim Henry Maurice  
11 Jackson goes by "Maurice." Kenny Cunningham, you've heard  
12 him called "Kenny Boo" in some of the statements. Tyrone  
13 -- and I draw blanks, but Tyrone, he -- one of his  
14 nicknames is "Banks." So if you're Banks, that's how it  
15 kind of goes with the defendants. Of course, Donta Henson  
16 or Donta Reid - see I'm starting to confuse names anyway  
17 -- which is what I want to apologize for at the beginning.  
18 And if you have children, will know it's like me. I  
19 remember when I was a kid, and it was four boys, my dad  
20 would call me by everybody else's name before he called me  
21 by mine, and I used to laugh at it when it was funny. He  
22 even called me by his brothers' names, especially when we  
23 went to visit his relatives. And I thought it was funny  
24 because I never did that, but now that I'm a father, I do  
25 the exact same thing. I look at my children, and I call

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1       them by the exact wrong name. Even my daughter, I call by  
2       one of my son's. It's just -- it's bad. So if I do that  
3       in this talk, please excuse the Court. But at the same  
4       time if I do that, and I accidentally put a defendant's  
5       name in the place of another defendant that did that rather  
6       than the right person, in a way it's okay because the hand  
7       of one is the hand of all. You can interchange those  
8       names, and it's still true under the law. But dealing with  
9       these names, of course, you had "Crud" was Donta Reid, was  
10      one of his nicknames. The nickname for the Defendant Mr.  
11      Henson was "B'mo" or "B'more" because he was from  
12      Baltimore.

13             And of course you had Darius Jeter, and Darius Jeter  
14      was "Duke." The Defense had -- Aileen Newman, "Lee Lee."  
15      So you had everybody having some sort of nickname. So just  
16      remember that as you go along, some of these, you know,  
17      look back, help each other with that because it gets a  
18      little confusing.

19             The unlawful killing of another with malice or  
20      forethought. That is murder. That's what we're here for  
21      today along with the other charges. That's basically the  
22      definition of murder. Now I'm going to simplify this. The  
23      judge will give you much more in-depth instructions. But  
24      the killing of another -- the unlawful killing of another  
25      with malice or forethought. What is malice or forethought?



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1 What is malice? Well the judge will charge you, and  
2 oftentimes in his instructions, you'll hear things like,  
3 "It's a wicked and depraved heart, fatally bent on  
4 mischief." I really don't know what that is. So I'll try  
5 to simplify it for you.

6 Malice is mean, malice is mean. And how do you  
7 determine malice? Well you look by the actions of the  
8 person committing the crime. You look at what they're  
9 doing, and in this case, the crime itself, the armed  
10 robbery here. Well an element of armed robbery is not  
11 malice. That's not an element of armed robbery. It does  
12 not include armed robbery. But if you look at this armed  
13 robbery, the armed robbery itself is malicious. Donta Reid  
14 sat with his own friends, his friend's house, on his front  
15 porch. That's pretty malicious. Sending someone with a  
16 gun, that's an automatic weapon down there to rob him. For  
17 what? For weed? For a little bit of money? A couple of  
18 cell phones? A couple of wallets? What's the sense of  
19 that? That's malicious. There's no need for that.  
20 There's no call for it. So that alone is malicious.

21 But then what else could we look at with malice? Well  
22 the fact that there are people with a deadly weapon. That  
23 can infer malice. You can determine from that, that they  
24 are being malicious by the use of a deadly weapon. And  
25 they use that deadly weapon. We have the shots fired, the

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1 casings, and we've got malice, and we've got one piece of  
2 malice. We've got two pieces, three pieces, four pieces of  
3 malice, five pieces of malice. And it doesn't stop. There  
4 are six pieces of malice, seven pieces, eight pieces of  
5 malice, nine pieces of malice, ten pieces of malice. And  
6 it doesn't stop there either. Remember the unfired shot  
7 casings? Well they are out there because they tried to  
8 fire them. That's more pieces of malice. You can infer by  
9 the actions of the people involved in this that they had  
10 been malicious. And when it's over, these other people who  
11 are going to say, "Oh we didn't intend this to happen. We  
12 didn't want this to happen." Did they help out in any way?  
13 Did they turn around and say "Oh we'll call the police and  
14 tell them" or "We'll call an ambulance." And did they make  
15 a call to 911 and say "Go to this house, there's people who  
16 might be shot"? No, they were malicious. They went back  
17 home with everybody and divided the stuff up. That's what  
18 they did. They were malicious.

19 What is assault and battery with intent to kill? Now  
20 this is asked to Kenny Cunningham because he was a victim  
21 who they shot, twice. An assault and battery with malice  
22 or forethought. So it's kind of like murder, but no one  
23 dies. So once again, we're talking about the same thing  
24 with malice.

25 The lessor-included offense of assault and battery

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1 with intent to kill, the judge would tell you is assault  
2 and battery of a high and aggravated nature. What's the  
3 difference between assault and battery of a high and  
4 aggravated nature and assault and battery with intent to  
5 kill? Well it's pretty simple. An assault and battery of  
6 a high and aggravated nature does not have malice. It is  
7 assault and battery with an aggravated circumstance. And  
8 there's a list of aggravated circumstances. But two of  
9 them that are relevant here are serious bodily injury and  
10 the use of a deadly weapon.

11 So if you don't determine that there's malice with  
12 assault and battery with intent to kill, but you do  
13 determine that the assault and battery was with an  
14 aggravated circumstance, and we convict of that. But  
15 ladies and gentlemen, I submit to you, there is more malice  
16 than needed to go around and prove assault and battery with  
17 intent to kill.

18 Armed robbery is the other front of it. Using force,  
19 threat, or intimidation while armed with a deadly weapon.  
20 Well we certainly have a deadly weapon and they proved it  
21 could kill somebody. They obviously robbed him. They took  
22 something from everybody: cell phone, cell phone from  
23 Tyrone and from Maurice; the wallets from Tyrone and  
24 Maurice as they went back, and they were looking at the  
25 ID's; and even Kenny, the \$10 dollars that fell, that they

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1 dropped off of him and dropped onto the steps. The intent  
2 there was to steal that too. When they got it out of his  
3 pocket, they just didn't realize it was dropped there, or  
4 that would have been gone as well. So all three are armed  
5 robberies to each one of those.

6 Possession of firearms with commission of a violent  
7 crime. Well that's just like it sounds. You commit a  
8 violent crime, and you possess a firearm while you're doing  
9 it. That was pretty simple except for the fact -- and I'll  
10 let you know what the violent crimes are. They are murder,  
11 assault and battery with intent to kill, and armed robbery.  
12 Any of those three are violent crimes. So if you find that  
13 they've committed any of those which I think the evidence  
14 shows you will find. Then you have to convict them with  
15 possession of firearm and commission of a violent crime.  
16 Now the question then becomes, well who is possessing it?  
17 Davontay Henson was the one possessing the gun the whole  
18 time from beginning to end. He's the one who had it in  
19 physical possession.

20 But there's also what's called "constructive  
21 possession." And don't forget during this, the hand of one  
22 is the hand of all. But in constructive possession, it is  
23 more than one person can possess one item. And it's  
24 another legal theory that the thing you have to consider is  
25 considering possession of a firearm in the commission of a

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1 violent crime. You have this group get together in the  
2 planning of robbery. They know when they create this lick,  
3 that there's other people with them, mainly Davontay  
4 Henson, who has a gun. And they know they're going to use  
5 the gun to commit the armed robbery. And they each plan  
6 what part they're going to play. And they're each playing  
7 that part. And in doing so, they're constructively  
8 possessing that firearm because they're making the claims  
9 of how that firearm is going to be used in each of these  
10 violent crimes. So once again, with the hand of one and  
11 the hand of all, and the fact that they constructively  
12 possess it in the planning and the carrying through of the  
13 plan, they possess it.

14 And then finally, conspiracy. To unite, combine,  
15 conspire, confederate, agree, or have a passive  
16 understanding with another person or with others for the  
17 purpose of committing a crime. Obviously, we had a giant  
18 conspiracy here. But I want to point something out to you  
19 about the conspiracy here. Once again, counselor says,  
20 "These aren't the brightest bulbs in the bunch. These  
21 young men and women who maliciously did this act that  
22 night, they're not the people that you see on TV for  
23 Ocean's Eleven or something like that, that make some  
24 elaborate bank heist or elaborate heist of a casino. They  
25 get together, and the first thing is, they want to do a

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1 lick. They want to rob somebody. "We've got a gun. What  
2 else do we need to do? Well who should we rob? Well Donta  
3 knows somebody we can rob." "Yeah Donta, what about  
4 Maurice?" "Yeah he's got money, and he's got drugs, so we  
5 can get some marijuana and some money from him." And then,  
6 "What do we do next? Well how do we do it?" Do you think  
7 that the first plan was to go down to the porch? And "Sam,  
8 you drive." And "Donta you go by and you tell them -- You  
9 find out how many are there and what guns are there." And  
10 then "Lee Lee, you and Davontay, you go down with the gun.  
11 And you and B'more, you go ahead and you commit the robbery  
12 there, and then come back to us at this spot." Doubt it.  
13 Because they all have different ideas of how it should be  
14 done, and what should be done. So as you've heard from the  
15 girls who testified, from Lee Lee, from Samantha, they had  
16 varied versions. And I'm sure, as in any conspiracy, you  
17 have people chiming in, "Well why don't we try this?" "Why  
18 don't we do this?" "Well no, you can't do that." "Why  
19 don't we try this." "Why don't"... And I'm sure at some  
20 point in time, it had to come along that "Well you know  
21 what, when you really think about it, we can't let Donta be  
22 the one with the gun because they know him. They know  
23 Donta. We can't let it be him. So we have to have someone  
24 else with the gun. Well we'll keep the gun with B'more.  
25 Who else wouldn't they know? Well they wouldn't know Lee

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1 Lee because Lee Lee's not from around there. She's from  
2 Charlotte. She's only been in that area for the last  
3 month." She testified when she got out of jail in  
4 September 2009, that's when she went there. So all of a  
5 little less than a month, because this happened on October  
6 1st, she was there. She was someone who they might not  
7 know. So we can send her too. And send her, they're so  
8 confident they don't know her, she doesn't even put  
9 anything on her face to cover it up. She just goes down  
10 and commits it. Once again, not the brightest balls in the  
11 bunch, but certainly, there had to be some conversations as  
12 to what was happening, how do we do this?

13 Once again, the hand of one is the hand of all. A  
14 principal in a crime is one who either actually commits the  
15 crime, or is present, aiding, abetting, or assisting in the  
16 committing of the crime. Present at the commission of a  
17 crime needs to be sufficiently near to aid, abet, or assist  
18 in the commission of the crime. Now that begs then the  
19 question of where did the crime occur? Where is the scene  
20 of the crime? You might easily say, "Well that's [REDACTED]  
21 [REDACTED]. That's pretty easy. That's what all the testimony  
22 was. That's the scene of the crime." Was that the only  
23 scene of the crime? Well to answer that question, we have  
24 to figure out another one. When does the crime begin?  
25 When does the crime end? So now we have to expand it out

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1 and think a little bit more than just [REDACTED].

2 When does this crime begin? It begins the moment

3 Davontay, Donta, Samantha, and Aileen start to conspire on

4 Keels Avenue. That's part of the scene of the crime.

5 That's where it starts. That's where they start talking

6 about doing a lick. That's when they have a gun. That's

7 when they start doing all the planning. The crime

8 continues as they go into the pickup truck armed with the

9 rifle and conspire further. It continues as Samantha

10 drives them down the road because they're driving around

11 for a little while. This isn't just like drive straight

12 over there and do it. If you recall, they ultimately have

13 to drop Donta off there, and we'll get to that now, but

14 they have to do several things before they actually commit

15 the crime. As Donta calls Maurice Jackson with Samantha's

16 cell phone at 9:55 p.m., it continues through that. He

17 gets on Sam's cell phone. He calls Maurice, and tells

18 Maurice -- he starts asking Maurice about "Hey can I come

19 over and smoke? And what y'all doing?" And Maurice tells

20 him "Well I don't have any weed right now, but come on by

21 when you get back." Donta goes over to his own home on

22 Byars Street. The crime is still continuing at that point

23 because it's part of it that he's going to now go to that

24 house, and he's going to talk to them, and try to set them

25 up.



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1           Here we are. This is Byars Street right here. Let me  
2           use the other pointer that's not so bright. Here we are on  
3           Byars Street right across there. When you get this actual  
4           photo back there with you, you'll be able to see, their  
5           house is the one with the fence, right there, kind of the  
6           last real one that you see. There's another one there, but  
7           the white one that has the fence going around the yard. As  
8           the testimony was, Donta lives over here, just a little bit  
9           away. They parked ultimately up here off of Reynolds  
10          Street as they talked about the bridge right around here,  
11          and as Samantha told you about that, and Aileen in her  
12          statement tells you about that. This is Scoggins Street.  
13          So they say, going towards Scoggins Street, you have to go  
14          this way. So whether you're going here or there, it's that  
15          way. And as well, midtown is this way, as we heard the  
16          testimony. So one of the things that you have to think  
17          about is, why did they drop Donta off? Was it just for him  
18          to go to the bathroom as it says in his statement that you  
19          have before you? I don't think so. Wouldn't it seem a  
20          little odd to Maurice if Donta came this way, away from his  
21          house, and then talked to him, and went back that way?  
22          Because you're not on your way from something -- you're not  
23          on your way to something. You're not coming back home. So  
24          you're going to his house from a place you don't normally  
25          come from, and then leaving back in that same direction.

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1 So they drop him off here, so he can come as if he's coming  
2 from his house because he was. And then he leaves going  
3 that way. So he can look like, well he's just going  
4 somewhere else. And they're parked up here waiting for  
5 him.

6 But then the crime continues as Donta goes over to  
7 Maurice Jackson's house at [REDACTED]. Now he's  
8 there. Now he's standing there with Maurice, and he's  
9 starting to talk to him. Donta uses Maurice Jackson's cell  
10 phone to call Samantha's cell phone at 10:44 p.m. to tell  
11 them how many people are there. He wants to tell them now  
12 as the testimony was, there's two. There's two more  
13 because they want to make sure. And what else did he do?  
14 What else did Aileen testify that he did? He checked to  
15 see if they had weapons. He looked around. He made sure  
16 they weren't having anything worth packing than he did.  
17 Make it a little safer for themselves when they came to rob  
18 them as Donta meets up with everyone at the truck and tells  
19 them how many are there, where the house is located, and  
20 that they're unarmed.

21 The crime continues to there. So the crime now has  
22 spread to Keels Avenue. And as they drive around to  
23 Donta's house and then to Maurice's house, now it goes up  
24 Byars Street to where he meets up with everybody. To where  
25 he tells them, "Look, there's three of them." In Donta's

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1 own statement, he tells them -- he goes up and he tells  
2 them "There's three of them." And then in his own  
3 statement, he tells them, "And this is where they are on  
4 the street" because the other guys don't necessarily know  
5 exactly where they are. B'mo wasn't normally going to that  
6 house, and Aileen wasn't normally going to that house. So  
7 they had to get a good idea of where it was. You don't  
8 want to go to the wrong place. So he's telling them,  
9 "They're all on the porch, down here on the right, one with  
10 the fence." And that's where they go, and then he tells  
11 them they're unarmed. He's done his part. At this point,  
12 he's completing his part of the conspiracy or most of his  
13 part. The crime continues as Davontay hides the rifle in  
14 his pants because that's important too. As Donta -- hiding  
15 the rifle is another important part because you can't just  
16 walk up with a rifle as you walk to someone's house.  
17 They're going to think something's up. I'd get a little  
18 worried if someone's walking up to my front door with a  
19 rifle in their hand. If they come up and don't have one,  
20 not so worried. So that's another part of the crime. As  
21 Donta goes down the street with Aileen, the crime continues  
22 coming down Byars Street. And it continues as Aileen walks  
23 on the front porch at [REDACTED] and asks for a  
24 smoke. How do they throw them off? Send a girl up there  
25 first. Make it seem like everything is okay. "This isn't

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1 a confrontation of any sort. Got some smoke? Got some  
2 weed? What's up?" As Davontay pulls his automatic rifle,  
3 and they tell Maurice, Kenny, and Tyrone, "Give it up."  
4 And you heard them in their own testimony from Kenny and  
5 Maurice, you heard them tell "They were cussing at us."  
6 You heard the words they used. They were scared. It was a  
7 scary, scary situation. You have a man with a gun pointing  
8 at you, scaring the crap out of you.

9 As Davontay and Aileen pat down and rob them, imagine  
10 that. They're on their own front porch. They're chilling,  
11 smoking some weed. They don't think anything's up. And  
12 now here on my front porch as I sit in this chair, as my  
13 buddies sit down there on the top of the step, there's  
14 people up here literally. You've handed them stuff.  
15 You've already -- they already said they took it out. They  
16 had it. They're not trying to say "No, you can't do it,"  
17 or "I'm going to stop you," or "F-U," nothing like that.  
18 They're saying, "Here take it. Just go. You can go ahead  
19 and go. You've got it. You've got it." But that's not  
20 enough. Pat them down. Even with Davontay taking the gun  
21 up and patting the two down on the step real quick making  
22 sure they're not fooling with them because at this point,  
23 you know they've got to be thinking, "Why isn't there  
24 more?" They'd be a little upset. "Why isn't there more?"  
25 as Donta and Samantha wait for Davontay and Aileen to come

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1 back to the truck. So while it's occurring on Byars  
2 Street, it's still occurring over on Reynolds Street where  
3 they're waiting in the truck. That's part of the crime.  
4 Because where does Donta go when it's all said and done?  
5 In some of his statements he says, "Oh well, I told them  
6 that I -- that's it, I'm you know" -- after he tells them  
7 everything about it and does his part, in some of his  
8 statements he says, "Well then I told them I didn't want  
9 any part of that" or "I didn't want to do that." But what  
10 does he do? He goes back and waits at the getaway car.  
11 He's the getaway guy with Sam. Samantha and him are the  
12 getaway folks, and they wait there. He doesn't leave. He  
13 doesn't go somewhere else. And that's where they come  
14 back. As Davontay Henson maliciously opens fire on  
15 everyone on the porch, he fires at Tyrone King. He fires  
16 at Kenny Cunningham. He fires at Maurice Jackson. That is  
17 malice. Once again, each one of these pieces of evidence  
18 up here, that is evidence of malice, and it's not the only  
19 evidence of malice. The fact that these people are on the  
20 porch doing nothing but giving everything up as they were  
21 asked to do. It made it to be a surprise to the people in  
22 front of them. Then he just opens fire. Why? Well I  
23 don't know. Maybe not enough money, adrenaline pumping.  
24 He just thinks he's bad. It's malicious. Whatever reason,  
25 it's malicious.

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1           Let's look at some more evidence that would lead you  
2           to believe that this is malicious. Here's the front porch.  
3           Here's where they had to come in. You can see 1 through  
4           10, the shell casings as they go through here as they get  
5           fired off. That's these shell casings right in front of  
6           you here. Remember he was sitting in the rocking chair  
7           right there. And that's important. Remember the rocking  
8           chair was facing forward as he told you initially because  
9           he was facing forward. It turned sideways because he goes  
10          down in front of the door. The other two are sitting right  
11          on top of that step, those top steps right there, side by  
12          side. These gunshots as he sits there, as Tyrone sits  
13          right here, one hits him in the left side of the head, and  
14          as you saw yesterday that shattered into pieces, destroyed  
15          his brain, and killed him. Kenny who is right over here,  
16          it goes through the front of one leg and out the back of  
17          the other. And his right foot gets shot in. And you can  
18          see how that would happen. We're standing down, and the  
19          porch is up, and most likely people are trying to dive  
20          back. But as we continue to go, you can see the bullet  
21          holes as they pointed them out, here, here. Remember  
22          there's a photograph of one up on the shutter here. This  
23          again is the door right there, and the bottom glass broken  
24          out. And this is pretty low. That's the arm of that  
25          rocking chair, not the back. That's the arm of it. Look

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1 how close that is to the arm. Now turn it around and face  
2 it forward towards the street. Where is that bullet  
3 heading? Right at the guy sitting in the rocking chair.  
4 Where is that bullet heading? Right at the guy who is  
5 trying to dive out of the rocking chair. The bullet that  
6 broke this glass, where was that heading? At the guy who  
7 dove down in front of the glass. This wasn't just ---

8 (SOLICITOR DEMONSTRATES SOUND.)

9 MR. THOMPSON: --- spray and run. He was really  
10 shooting at them. It wasn't just spray and whatever hits,  
11 hits. It was "I'm really shooting at them. Look where  
12 these bunches of bullets hit." The glass shattered there.  
13 The blood left from where Tyrone and Kenny had been shot on  
14 the porch. Of course Tyrone, he never got up, and that's  
15 where EMS had to pick him up. The bullet going through  
16 that bottom glass of the door hitting the door, and you  
17 could see the little card from the officer. Remember he  
18 put the cards anywhere he found something. And you'll see  
19 from the diagram, that's where he found one of the spent  
20 bullets, one of the bullets that actually went through,  
21 likely the bullet that broke that glass, hit that door, and  
22 dropped right there.

23 Once again, laying in front of that door, picture it.  
24 He's laying, right? He's dived down right there. These  
25 other guys are right here, laying down now too because

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1 they're shot. And somehow those bullets are coming just  
2 above the arm of that rocking chair. And in this angle,  
3 it's higher up. That bullet's actually down here below the  
4 shutter. One over there, one into the shutter, one into  
5 the bottom of the door. It's probably a miracle that  
6 Maurice was never hit. There's not much room to lie down  
7 in front of that and have those bullets spray across you as  
8 you dive and not get hit, but it happened. But  
9 unfortunately the two men right here took those bullets,  
10 some of those other bullets that were fired.

11 But now let's think of something else. As you look at  
12 that diagram, you see 11 and 12 here at the steps. That's  
13 what these are. The two diagrams, that's what these are.  
14 Once again, let's look back at -- they made a big thing of,  
15 I think, of everyone. If you recall every State's witness  
16 that got up, whether it was Maurice, or Kenny, or there was  
17 Aileen or Samantha, it was a big attack on them being  
18 liars; or not knowing what they really saw; or not telling  
19 the truth or telling us at the beginning; or not really  
20 seeing that, and now they're just saying that. It's a big  
21 thing on that. Well what is something that wasn't in the  
22 statement either, and the officers never said they heard  
23 them say? The part about the gun seeming like it somewhat  
24 jammed at the beginning. Anyone who is familiar with the  
25 gun, once again, use your common sense, use your life



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1 experiences. Anyone who is familiar with the gun, when it  
2 jams, in order to fire again, you have to remove what is  
3 jammed. Well what jammed? In this case, it was the live  
4 rounds. The live rounds jammed. That's why when they fall  
5 out and someone messes with the gun, that's why they end up  
6 here and here. That's where he's standing. Those aren't  
7 ejected and shot at. Those are falling out right there.  
8 He's standing right there when he's trying to open fire.  
9 Then as you see, the other 10 go along this side.  
10 Obviously when he gets it moving, he's going back. And he  
11 keeps shooting as he goes back because at that trail of  
12 bullets that comes out of that gun, the shell cases in  
13 front of you laying just across, leaving out that opening,  
14 or leaving out that opening in the fence. But these are  
15 the live rounds. Well you know, the Defense would have you  
16 believe since the officers didn't write that down or didn't  
17 hear it, it didn't really happen because Maurice didn't  
18 tell them that up front. And Maurice didn't tell them that  
19 in a subsequent statement. He made it up. No, he didn't  
20 make it up. There it is right there. And that's the same  
21 with a lot of things, remember?

22 The first night, you heard the 911 tape. These guys  
23 are panicked. Maurice -- if you listen to it carefully, he  
24 almost forgets that Tyrone's been shot. He's talking about  
25 the robbery. He's talking about shots. He ends up saying

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1 Tyrone -- or ends up saying Kenny Cunningham is shot. And  
2 it's almost like, suddenly it hits him, you hear him go,  
3 "Oh and Tyrone." He's having a hard time at that point  
4 even remembering that Tyrone was shot because it's such an  
5 active thing. He's under such an impression from what has  
6 just happened. So then when he has some time to reflect as  
7 the night goes on because he's rushed to the station after  
8 that. He talks to the officer first on the scene, Officer  
9 Harrelson. He talks to other officers on the scene. He's  
10 rushed to the station. This is a situation he's not used  
11 to. He hasn't been involved in a bunch of trouble. If he  
12 had, you would have heard about it. The Defense would have  
13 told you all about it, having been convicted of this, that,  
14 and the other because he did it with Aileen. He didn't do  
15 it with them because there isn't a record. He's not used  
16 to this. He's used to going down to the station after  
17 being shot at, and their friends killed, and their other  
18 friends shot. And they don't know really if he's going to  
19 live or die, because you just don't know. So the fact that  
20 he forgot to tell them that. Does it mean it didn't  
21 happen?

22 But what does he remember of the night? A vital piece  
23 of the case. "You know what? Donta came by. Donta came  
24 by and used my cell phone. And I caught him saying  
25 something that now that I think about it, it seems kind of

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1 funny. Two of them or two others. You know what? I need  
2 to tell the police that." And he calls them. The police  
3 come over. He starts telling them "Donta set me up." He  
4 starts telling them about the cell phone call. Of course  
5 this cell phone's gone. He tells them the number, he tell  
6 them "He set me up." But then he tells them, as he  
7 testified, "It wasn't Donta that did it. He's not the  
8 robber. He's not the guy with the gun. He set me up, but  
9 he's not the guy with the gun. That wasn't him. I don't  
10 know who that was. But he's not from around here. He's  
11 from somewhere up north, like Baltimore, like B'more." And  
12 the Defense would say, "Well it wasn't written down. You  
13 didn't say that the first time. We can't believe you."  
14 Two officers talked to him. They testified, "No, he told  
15 us that." Would it have been nice if they wrote it down?  
16 Yes. But you know what? People are humans. We don't  
17 always get everything done that we like to have done. We  
18 don't always write everything down. But they distinctly  
19 remember that being told to them that day, both officers.  
20 It's not made up. It's not like as you are saying "Well  
21 just because he told him later it didn't happen and then  
22 well then, Donta didn't happen because he told them that  
23 later." But we all know Donta did happen. Donta admitted  
24 himself Donta happened. The crime continues as Davontay  
25 and Aileen were in back of Byars Street to meet up with

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1 their co-conspirators Donta and Samantha. As Davontay and  
2 Aileen jump in and get into the getaway car -- getaway  
3 truck, it continues there. Then they speed off as Samantha  
4 drives and gets to the getaway truck and gets back to Keels  
5 Avenue. And they're back where they started. And then  
6 they start trying to hide as Davontay tries to hide the  
7 weapon. As you heard in his testimony was he tried to put  
8 it in the truck or something like that, and out back, and  
9 he gets rid ultimately of that weapon because it's not  
10 found. So they hide the weapon of the murder.

11 Then the crime ends as Donta -- Davontay, Donta,  
12 Samantha, and Aileen sit around on Keels Avenue going  
13 through the spoils of their crime. They sit there looking  
14 at what they've got: the ID's, they've mentioned that; the  
15 wallets, the little bit of money, the \$20 or \$25 bucks,  
16 however much it was; the two cell phones. Woo hoo. All  
17 this for that. Malicious. There's no reason for this.  
18 It's uncalled for. It's unconscionable. And what else?  
19 Davontay does a little dance. And Samantha said that he  
20 kind of did a little, actual little dance. Even Alijah  
21 said that he saw him kind of acting excited. Everyone else  
22 seemed a little calm. He was acting excited, even motioned  
23 his hands before he had to have his hands up. So whatever  
24 you want to call it, a little bit of show of excitement and  
25 the dance, however you call it. He was still a little

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1 jacked up from this whole thing. That's where the crime  
2 ends. So now we know where it begins, and we know where it  
3 ends. It began at Keels Street, it went through Rock Hill  
4 all the way over to Byars Street, back out to Reynolds  
5 Street, back to Keels Avenue again.

6 Now back to the original question: Where was the  
7 crime scene? All of those places. Everywhere they went  
8 that they conspired everywhere they went, up to the point  
9 that they went back to divide, to divide up the spoils and  
10 look and see what they had. The crime scene is all over.  
11 So when we think back to someone present, aiding, and  
12 abetting, think of the entire crime scene because they were  
13 all present, aiding, and abetting throughout that crime  
14 scene. Samantha never went to the Byars Street address  
15 where Maurice was. She never was at that house at [REDACTED]  
16 [REDACTED]. But was Samantha just as guilty? Yes,  
17 because she was with them in all of the other parts of the  
18 crime scene, present, aiding, and abetting. The same thing  
19 goes with Donta. Was he there when fatal shots fired? No,  
20 he's back up with Samantha. Although if you look at his  
21 statements, he even says in one of his statements, he  
22 wasn't back up there. He says he watched as it happened.  
23 Of course at that point he's saying, "Duke did it, Darius  
24 Jeter." But he says he watched. But either way, he's  
25 still a major part of this crime. Without Donta? This

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1 doesn't happen. There's no one to rob. Those guys would  
2 have had to pick someone else. Tyrone would still be  
3 alive. Kenny would never be shot. Maurice would never  
4 have to experience any of this. It was Donta who  
5 maliciously set up his friend. For what? Weed and little  
6 money, and a couple of cell phones.

7 Remember the old Clover case Mr. Brackett mentioned at  
8 the beginning? Burning the barn in the bank robbery, barn  
9 burned on one side of town. This is an old, old case. It  
10 happened many, many years ago. When the barn burned,  
11 everyone went to it. Everyone went to help. And the bank  
12 gets robbed over here on this side of town. Where was that  
13 crime scene? Well it was both places. And the man who set  
14 the barn on fire and made the diversion over here is just  
15 as guilty as the man who did the robbery over here. And  
16 you have the same type of thing here, but it's even more  
17 orchestrated. And each person had an even bigger part than  
18 just creating a diversion because they weren't. They each  
19 had a step: the driver, the guy who sets it up, the people  
20 who do the robbery. It went in order.

21 Now let's look specifically at what Donta says about  
22 Donta, his statements. Now he gave as you saw four  
23 statements. But I think if you really look at it, you can  
24 kind of narrow it down to three because the first two are  
25 really one. He talks to the officers at first. He gives

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1       them a statement. Then he calls -- he has an officer from  
2       the jail reach back to Lieutenant Herring and say, "When he  
3       wants to talk to you again." When he goes back and says,  
4       "I want to add more to what I told you. There's some more  
5       stuff that I didn't tell you." So those first two, you can  
6       consider as one. The second one then would be later that  
7       night, the one that was right before midnight, and one a  
8       little after midnight when they interviewed him. And then  
9       the third one is not no longer on October 2nd. It's on  
10      October 6th when they have a little bit more information  
11      and a few more people are captured. That one is a much  
12      more detailed statement. And that one is the one where he  
13      tells you, "No, it's wasn't Darius Jeter." And that's the  
14      one where now Samantha no longer is the one who actually  
15      did the robbery. Samantha is the one who is the driver.  
16      But let's look at what is common in all of these  
17      statements. In all of these statements, you will find  
18      this. He talks with someone about making a lick or robbing  
19      someone. In each statement, each one of the ones he gave,  
20      one, two, or three, or whether you want to say one, two,  
21      three, or four, but from one, two, or three, he tells that  
22      each one, that's he's talking to someone about making a  
23      lick. He's telling you and admitting that he's conspiring  
24      to commit a robbery. He talks about who to rob, and they  
25      decide on Maurice. Now it's a little different on how they

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1 get Maurice. Some people are saying, "Well what about  
2 Maurice?" and "I don't know," and then he goes, "Okay  
3 and..." But they talk about Maurice in each statement.  
4 That's the subject of where the robbery is going to be, and  
5 that is Donta's frame. He says he went over to Maurice's  
6 house. In each of these three things he tells, he goes  
7 over to Maurice's house. And we know he went over to  
8 Maurice's house. He went there without a doubt. He says  
9 Maurice, Tyrone, and Kenny who are there. In each  
10 statement, he tells you everybody that's there on the front  
11 porch. And that's exactly who was there. In each  
12 statement he says, he uses Maurice's phone to call someone.  
13 Now on the first time he says it's Duke, but as he goes  
14 along, finally the truth comes out, and he called back to  
15 Samantha's phone. So we know he's done that, and he says  
16 it in each one of these three statements. He tells the  
17 person he calls, "There are two" or "Two more." He admits  
18 that in each of the statements that when he calls on the  
19 phone, that's the kind of thing that he's telling them.  
20 Once again, he's setting up the robbery. He's making sure  
21 he's doing the part of the robbery that's up to him. He  
22 asks Maurice to walk to midtown. And that's kind of  
23 interesting because you can take that in two ways, Maurice  
24 walking to midtown. Either well, I'm more of a buddy with  
25 Maurice and the other two, so I'm going to see if Maurice



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1 will go with me, and that way, he won't be robbed. Or  
2 remember, which way is midtown? Midtown is up Byars Street  
3 where everyone is sitting. Remember how Samantha and  
4 Aileen were talking there was some other plan, a little bit  
5 different, before the original, the way the plan went down?  
6 Trying to walk Maurice up to midtown or in that direction  
7 where everyone's waiting for him. But either way, he still  
8 has committed the crime, and he still did what he did, and  
9 he's still guilty of all of them.

10 He walks up Byars Street and meets with his co-  
11 conspirators. He tells you that in each statement. He  
12 tells about seeing the rifle in each statement. And in a  
13 couple of them, he even tells you it's a 22. He tells his  
14 co-defendants that there's a total of three people on the  
15 front porch. When he meets up with them, in each one of  
16 these statements, he says he tells them there is a total of  
17 three of them on the porch. He's doing his part, and he's  
18 doing what he's supposed to do. And then he tells you in  
19 each statement that he hears gunshots. That's what's  
20 common in all the statements. And we know he didn't tell  
21 the truth all the way in the first statement. I mean,  
22 that's obvious. That's obvious because you have other  
23 people who are coming in saying, "No, I was the one who did  
24 this, and I was the one who did this with Aileen and  
25 Samantha." And think about that too. What -- in your

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1 experience, what happens when you confront somebody about  
2 something, you want them to tell you the truth if something  
3 bad has happened? Think about it again. Go back to your  
4 own experience. And I can't help from getting away from  
5 experience with my children, with my brother's children, or  
6 other relatives, but the funniest things happen with kids.  
7 You can have a situation where your kids -- you're  
8 upstairs, your kids are down, everything's fine and  
9 playing, but then all of the sudden, it gets a little  
10 quiet, always something to worry about, it gets a little  
11 quiet. And then crash, you hear something break. You know  
12 it's not good. It was glass. You're going, "Oh jeez, what  
13 was it?" So you come downstairs, and you get into the  
14 kitchen. Say your kids are about five and eight or  
15 whatever. The 8 year old is standing there going "I didn't  
16 have anything to do with this. That was Joey." And Joey's  
17 over there, and he's climbing off the counter. He's  
18 hanging off, kind of, dangling feet, and then dropping and  
19 going, and just not want to say anything. And then of  
20 course, the little kid comes off the counter, looks at you,  
21 and they might tear up, they might -- but they're like "I  
22 didn't mean to, I didn't mean to." And you find out  
23 ultimately what happened. They were trying to get the  
24 cookies, but you put them up high because you told them,  
25 "No, we're going to eat dinner in about half an hour.

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1 You're not having any cookies right now." And you put them  
2 up high. So they talk to each other about how to get the  
3 cookies. Well the youngest one really can't get -- move  
4 the chair, you know how big chairs are whatever. They  
5 can't really move the chair. So you know the older one  
6 probably had to help with that. And the older one got the  
7 chair, and they were going over. They were holding the  
8 chair. The young one got up on it, reached to the top of  
9 the cabinet, and as they were doing that, knocked something  
10 out. Bang, it broke. Here we are. But the story you  
11 might get from them initially, as I said first, "He did  
12 it." They put themselves as to the least culpable. The  
13 first experience with anybody when they're being talked to  
14 about something that was bad that happened was to try and  
15 make it a little lighter on themselves. "Well no, he did  
16 it. And I really didn't have anything to do with it." And  
17 then it would be, "Well he did it, but, and I told him not  
18 to do it, but I thought he was going to hurt himself so I  
19 pushed the chair over there, and so he wouldn't fall. And  
20 those types of things go on all the time. They mitigate  
21 what they say, "Well look at that." As you look, and  
22 you'll have this -- the original statements of Donta,  
23 Aileen, and Samantha. Each one of them tries to eliminate  
24 themselves a little bit as to what they've done. Because  
25 as you see, Aileen in her initial statement says, "I was

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1 threatened to do this. That's the only reason I did it."  
2 And Samantha's like, "I didn't know what was going on. I  
3 was driving around and then all of the sudden I realized I  
4 forgot my cell, Aileen had my cell phone. And when I went  
5 back to find her, ooh, they all showed up and just awwhhh."  
6 Obviously that was a lie. Obviously that's not what  
7 happened. But it doesn't mean they had to come around to  
8 tell the truth now. Because now everything intertwines so  
9 nicely and so correctly that, yea, there certainly can be  
10 inconsistencies when you put any four people telling about  
11 a story together. There certainly are because any four  
12 people, I don't care who they are, if they watch an event,  
13 they're going to describe something a little different.  
14 There's going to be things that are important to them that  
15 aren't important to the other person, and the other  
16 person's going to mention. And they're not because they  
17 don't think it's important. And you can remember that in  
18 big events. If you see a big event or describe a football  
19 game to someone and you watch what all is said about it,  
20 you describe the parts you were excited about. What does  
21 the person with the other team describe? Not the part  
22 you're excited about, the parts that they're excited about.  
23 Is it the same game? Yeah. And look at these statements  
24 too and think, well, how long are these statements? A  
25 page? Maybe a page and a half of actual writing? Can you

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1 really describe an event like this in a page or a page and  
2 a half? Entire books are written about robberies. Can you  
3 really describe everything in a page or a page and a half?  
4 No, you can't. There's going to be some things that are  
5 left out. There's going to be some things that don't match  
6 up with other people say. And yes, sometimes they even lie  
7 in a statement and say, "I really didn't want to do this,  
8 but they kept asking" or "I didn't know what was going to  
9 happen, it just happened and I was there. You know, it  
10 just merely happened." That's not the case here. We know  
11 everyone was actively involved. This was a plan.

12 Donta tells more every time he talks. He tells the  
13 officers he was too afraid to tell them the whole truth.  
14 That's why things changed. "I was too afraid to tell you  
15 the whole truth, so now I'm telling you more and more."  
16 And then the fourth time, finally, or the third time as we  
17 divide the statements into three now, he tells them the  
18 most. Read that statement. Look at that statement. Look  
19 at what Donta did, and you'll find that he's guilty of  
20 everything that he's charged with. He never tells the  
21 officers that he was afraid to commit the crimes. He tells  
22 them that he was afraid to tell them about what they had  
23 done. In any of his statements did he say, "Oh I was  
24 forced into doing this. It was where? It was bad. Oh, it  
25 was bad." No, he doesn't say that.

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1           As a matter of fact, in what was the second statement  
2       -- I put third behind there because he complied with the  
3       fourth from the third. But in the second statement he  
4       says, "I was tired of being broke." Why is he doing it?  
5       According to that, he was tired of being broke. He thought  
6       he could get a little bit more money. And it's always nice  
7       to have a little bit more weed. That's what's his mind is  
8       running through. Now of course if you look right before  
9       this, he says something like, "I didn't want to do it."  
10      And right after, he says something similar to it as well.  
11      So make sure you read the statements in its totality. Look  
12      at this evidence in the totality. Don't look at that --  
13      "Oh this piece, and that's the pivotal piece" because when  
14      it comes down to it, in any case, you have to look at  
15      everything to see what is really important. So as the  
16      Defense comes to you, because I won't get a chance to speak  
17      to you again, the Defense will talk to you. You're going  
18      to hear from one of the defense attorneys, then another,  
19      and they're going to pick apart everything I just said, but  
20      that's why it's important. Because what I say really, you  
21      can throw it away. What they say, you can throw it away  
22      because it's a really important to know what you heard and  
23      what you decide, that's what's important. I try to present  
24      things that I think what are important but ultimately, it  
25      doesn't matter what I think. What you think is what is

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1 important. And so as they bring inconsistencies out to  
2 you, or as I bring things out to you, go back, look at  
3 everything, look at all the statements, read them in their  
4 totality. Look at all the evidence, all the testimony in  
5 its totality. And look to see what are the common things.  
6 What are the things that you convene are the truth. And  
7 you will find every one of these people was involved just  
8 as it's been presented. Samantha drove, Donta set it up,  
9 and Aileen and Davontay Henson went down and actually did  
10 it. And altogether were guilty of it all.

11       Withdrawing, withdrawing, what is that? Well the  
12 judge is going to charge you: If a person completely  
13 withdraws from the comments, design, or plan and  
14 communicates his withdrawal who his associates under  
15 circumstances that permit the associates to withdraw, then  
16 the person escapes criminal responsibility for the act of  
17 the associates. Whooo. That's a little long, but the  
18 charge is going to be a little long. So you're going to  
19 hear that, that's why I'm only giving a little bit of it  
20 because it's going to be a lot longer than this, and I  
21 don't want to have to give it to you more than you need.  
22 But what is that theory? It's a legal theory that if  
23 someone's in the process of committing a crime, but they  
24 withdraw from it. They just say, "Okay that's it," and  
25 they leave. Then they're not necessarily responsible for

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1 the rest that the other people did after that.

2 But did that happen in this case? No way. No way.  
3 Donta was in with them all the way. This stuff in the  
4 statements about "Oh well after" -- like when he's blaming  
5 it on Duke -- "After Duke took the gun out of the ditch,  
6 and I said well" -- Of course at that point, he had said  
7 everything else. He said, "Well you know, I'm not having  
8 any part of that," and he walks away. But it is when he  
9 can't do that, call it withdrawal. But when you really  
10 look at the real evidence and go again into the whole thing  
11 and look at all the evidence provided, that's not all that  
12 Donta did. Donta was with it from the beginning. He  
13 planned it, he did it. He did his part. You can't do your  
14 part, and then say "Well Oh, I'm withdrawing now that I've  
15 set it all up, and it's all in motion, and I can't stop  
16 it." Did he have an opportunity to stop it? Sure. If he  
17 wanted to withdraw, when he went to Maurice's house he  
18 says, "Look dude, I'm ashamed to say it, but we're about to  
19 rob you. We need to get out of here. Let's call the  
20 police. Let's do this. Let's do something else." That  
21 would be a withdrawal. That would be stopping the crime.  
22 That's not what he did. He set it up. He set his friend  
23 up. It was malicious. And then he went back, and he  
24 called him on his cell phone and told him to, and went back  
25 and said, "Okay now, there's three of them down there,



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1 here's where the house is. They're not armed." And then  
2 where did he go? Back to the getaway truck. That's not  
3 withdrawal because then he went back to the house. Didn't  
4 even leave that night, then he spent the night at the  
5 house. He admitted himself. You can't believe withdrawal  
6 in this case. It didn't happen. No one withdrew.  
7 Everyone was in it all the way.

8 Forensic Evidence: Well guess what? Again I'm going  
9 to ask you to use your common senses. This is not TV, this  
10 is not CSI. It's not some magical or some magic potion  
11 that can help us out here. All 10 casings match. They  
12 were fired from the same gun, about the only piece of  
13 forensic evidence that we really have that would help us  
14 out. All these 10 right here, all fired. From here down,  
15 fired from the same gun. We know that. Does that say that  
16 any one of these people did it just on that by itself? No.  
17 Well that matter doesn't rule me out from doing it. No,  
18 it's simply a piece of evidence in a large group of  
19 evidence. There is no forensic evidence that says,  
20 "Davontay did this," "Donte did this," "Samantha did this,"  
21 "Aileen did this." There is nothing that says that. But  
22 do we know they did it? Yes, because there's other direct  
23 evidence from the testimony of people and from the other  
24 evidence that was collected. And from what other people  
25 saw, you've heard direct evidence as to what went on.

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1 Constantly testing the projectiles. Stepping back, the  
2 only thing -- I can see this just a little bit. These  
3 being fired from one gun. Once again, that was confirmed  
4 through Maurice's statement, through Kenny's statement, and  
5 even through Aileen. It was one gun that fired at them.  
6 Now once again, we heard about -- although it was an  
7 affidavit and search warrant, detectives did say something  
8 about maybe the person had a revolver, the girl had a  
9 revolver. And the detectives didn't know where it came  
10 from. And being honest with you, they don't know. It  
11 would have come from another officer. It most likely would  
12 have come from someone from around the scene, one of the  
13 victims at one point in time. But they didn't know. Is  
14 that a mistake? Yes, it is a mistake. But once again,  
15 they're human. Look at all the things that they did right  
16 in this case from the collection of the things there, to  
17 finding each one of these people and conducting interviews  
18 and getting statements and confessions, tracking them down  
19 in Charlotte, tracking them down in Baltimore. The  
20 detectives did a lot of work because at the beginning of  
21 this, it wasn't anyone but it's not anymore.

22 What about blood evidence? Yeah we -- the swabs of  
23 blood, the blood that was on the porch, they could be  
24 tested. What would it tell us? That Kenny's blood was  
25 there maybe. It certainly would tell us that Tyrone's

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1 blood was there. There's no evidence anyone else was  
2 bleeding. Why would you test that? You saw these people  
3 from SLED talking about, they take stuff from all over the  
4 state. Every crime that happens in the state that needs  
5 this type of forensic testing gets sent to SLED. And it's  
6 these people who have this giant mound of caseload that sit  
7 there and do it. Would you want to waste their time when  
8 it doesn't need to be wasted? There wasn't anything that  
9 could be gained from testing the blood. We knew who the  
10 blood came from. It came from the victims. That would not  
11 link any defendant to the crime.

12 No DNA profile on the two live rounds. Well they did  
13 test that, the two live rounds. You heard from Agent  
14 Gallman yesterday. She said, "Well there was a little bit  
15 of DNA there. It's not enough to have a profile." Which  
16 means, that's a really small amount of DNA. And it's about  
17 the only thing we really had that someone might have  
18 touched for a period of time long enough that it might have  
19 gained something because you've heard from both Mr. Bagwell  
20 who was the forensic guy on the scene who collected things,  
21 and you heard from SLED. With all the experience they  
22 have, you think they're going to waste their time with  
23 things they don't think will get any results? Or you think  
24 they'll go to the things that actually will yield some  
25 results.

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1           Could we have tested all of these other casings? What  
2           about those fired shells? Could we have tested those for  
3           DNA possibly? Well you remember what Agent Gallman said,  
4           heat is the number one culprit in destroying DNA. Heat is  
5           the number one culprit in destroying DNA. So why weren't  
6           these tested? Well think about it. Once again, your  
7           experience, your common sense. You ever been around when  
8           someone's been shooting a firearm? Practice shooting,  
9           hunting, anything like that? I remember as a kid, my dad  
10          was showing me how to shoot a gun, and he shot it, and the  
11          shell casing popped out, and I went oowww, they're hot,  
12          they're really hot. Why? Because there's an explosion  
13          inside that shell casing that sends that projectile out the  
14          barrel of the gun. Heat is the number one culprit in  
15          destroying DNA. Would it help us to test those? Highly  
16          unlikely. No evidence either robber touched anything on  
17          the front porch, but the EMPs worked on Tyrone King on the  
18          front porch. What can you -- are they expecting somehow  
19          that they can get samples off of the front porch? Really?  
20          Mr. Chiarenza talked about hair and things like that. You  
21          -- really? You think some of that is going to be -- you  
22          come in the room all the time, and you're dropping hair all  
23          over the place? All that happened on that front porch is  
24          they stepped up, it was a quick pat down. And remember  
25          what are some of the keys with being able to get forensic

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1 evidence, especially DNA, the length that you're able to  
2 touch them whether your -- how much skin cells come off  
3 because something has to come off of you in order for it to  
4 be actually tested. And where do they say they tests the  
5 shirts? Well in the collars. And why do they test them in  
6 the collars? The collars are what are around your neck all  
7 day. If someone wears a collar all day, yeah, you might  
8 get some skin cells off that collar. If someone just comes  
9 up and goes --

10 (SOLICITOR DEMONSTRATES.)

11 MR. THOMPSON: No forensic evidence links anyone to  
12 the crime. Does that mean it didn't happen? Obviously  
13 not. Does that mean Davontay, Donta, Samantha, and Aileen  
14 didn't do it? No, obviously not, of course not.

15 Deals. You heard a lot about deals by Aileen Newman  
16 and Samantha. And they want you to believe that with  
17 Samantha Ervin getting the sentence of somewhere between 10  
18 and 25 years by the judge and Aileen Newman getting 15 to  
19 35, they want you to believe that somehow now they're just  
20 lying now, and it's based on these deals, just because  
21 they've got deals and they're lying.

22 Let's talk about that a little bit now. They both  
23 gave statements. Well for one thing, that's a lot of time  
24 to face. And it's not me who sentences them that time.  
25 Sure, things can be said on their behalf, but there's

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1 someone else who's judging whether they're being truthful  
2 outside of me, because I won't make the decision on the  
3 final sentence that they receive. So before we go back to  
4 that, let me stick with the deals one moment.

5 Aileen and Samantha -- you have the original  
6 statements in evidence of the original statements: State's  
7 Exhibit Forty-One, Samantha's; Forty-seven is Aileen's.  
8 These two statements were statements that were given at the  
9 beginning. Samantha Ervin signs her statement October 5th,  
10 2009; was taken between the hours of 6:30 p.m. and 8:00  
11 p.m. Aileen signs her statement October 10th, 2009 between  
12 3:45 and 4:30 p.m. But remember, Aileen as well was  
13 captured in Charlotte, what on the 8th, I believe, and  
14 interviewed by Detective Herring then too. It wasn't a  
15 formal statement taken, but there was an interview done.  
16 So they memorialize it when they bring her back. Remember  
17 that as to when the statements are done. I'm going to get  
18 to that in just a minute. I think it's very important.

19 Davontay Henson, his attorney will likely use words such  
20 as unreliable, contradictory, inconsistent, or just a flat-  
21 out lie. And are there things that are inconsistent in  
22 there? Of course there are. Anytime you have four people  
23 give an event, there's going to be inconsistencies. Not to  
24 mention, anytime they're giving stories about an event in  
25 which they're in trouble for, once again your first

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1 reaction is a little bit of self-preservation. Well you  
2 know, they were doing this, but I was not knowing  
3 everything that was going on. Or I was being forced into  
4 it. And that's what you have originally with their first  
5 statements.

6 Now let's look at them. The statements that they gave  
7 that would help convict this defendant, both of these  
8 defendants. These statements were made October 5th and  
9 October 13th, before deals. There was no deal when they  
10 made this statement. It was just like when they  
11 interviewed Donta. They can't promise him anything when  
12 they give him this -- when they were trying to take the  
13 statement. The judge will charge you on that. You have to  
14 find that the statements that Donta gave were freely and  
15 voluntarily given, and they were. He was given the rights.  
16 He was told what was going on. At any moment, he could  
17 have stopped, and he didn't. He talked, and he told more  
18 before lawyers were involved. None of them had lawyers at  
19 this point. They didn't have someone to guide them, "Well  
20 you need to do this so you can get a deal." They were  
21 there on their own. Once again, we're not dealing with the  
22 smartest people in the world, and they're fairly young men  
23 and women, 17, 18, 19, 20. Those are the type of age  
24 ranges we're looking at in here. I think Aileen was the  
25 oldest. She might have been 21 or 22 if I'm right. It's

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1 young people, but young people who are just committing some  
2 of the most heinous crimes you can have. And the  
3 Solicitor's Office wasn't involved. No one's down there  
4 saying, "Get them to do this. If you do this, you're going  
5 to get a deal. And quite honestly, let me ask you this.  
6 If the officers at the beginning of the statements were  
7 telling Samantha Ervin and Aileen Newman, "Look, if you  
8 give a statement and tell truthfully everything that  
9 happens, you're going to get between 10 and 25 years. If  
10 you -- You're going to get between 15 and 35. How's that  
11 sound to you? You think they're going to give a statement?  
12 No, because there's no carpet deals at that point. But you  
13 need to be honest with us. You need to tell us what  
14 happened. We know you're involved. And they tell without  
15 promises or benefits. You look at both of these statements  
16 and as we do right now, they prove that Davontay is the  
17 shooter. From the beginning, both Samantha and Aileen tell  
18 you Davontay Henson committed the crimes. From the very  
19 beginning in their first statements, before lawyers, before  
20 deals, before anyone else is involved, when it's just them  
21 and the detectives, they tell the detectives Davontay  
22 Henson did this. He fired the shots. Both tell you  
23 Davontay Henson was the shooter. Both tell you Samantha is  
24 the driver. Both tell you Aileen went with Davontay to  
25 Maurice's house and participated in the crime. They both



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1 tell you details of the crime that are confirmed by the  
2 victims, things like the use of the rifle; the patting down  
3 of the victims; stealing cell phones, wallets, and the  
4 Newport cigarettes, that specifically is from Aileen; the  
5 cell phone calls using Samantha's phone. These are  
6 something they both tell you about at the beginning. I  
7 believe now the cell phone calls, Samantha may have left  
8 that out in her first statement. But we know those  
9 happened. We know those happened. We have the evidence of  
10 it. Maurice Jackson says it happened. Donta says it  
11 happened. The directions from where they came and from  
12 where they left, same way. And it comes out from both of  
13 them in their first statements. Maurice Jackson and Kenny  
14 Cunningham are certain the shooter was a black male and it  
15 was not Donta Reid or Darius Jeter. Another piece of  
16 evidence that by itself -- put it together with everything  
17 else in the big picture. Well we know who's involved. And  
18 if it wasn't Donta that was the shooter because they know  
19 Donta. They would recognize him. As a matter of fact, he  
20 had just been there. You know when you come back with the  
21 same clothes on you had when you left, people are going to  
22 figure out who you are even if you put something over your  
23 face because remember, he's talking to him, he's yelling at  
24 him. When you're in that situation, you can't disguise  
25 what your voice sounds like. There's no voice modulator

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1 thing making these people sound crazy. They would have  
2 recognize him. That wasn't a part of the plan. And it  
3 wasn't Darius Jeter. They both knew Darius Jeter, and it  
4 wasn't him either. You saw Darius Jeter yourself. He's  
5 not the nicest guy in the group, but he's not out  
6 committing armed robberies. He's breaking in some stuff,  
7 but he's not robbing people at gunpoint.

8 Both Alijah James and Shaleika Black put Donta --  
9 Davontay Henson with the group when they leave and when  
10 they come back. He also puts -- they also put Donta in  
11 there as well. And now you heard that Alijah James -- on  
12 your first statement, you didn't mention Davontay. You  
13 mention him now. And you heard how Mr. Chiarenza  
14 questioned him. And I always find it humorous because it's  
15 one of those questions that there's no good answer for when  
16 you say, "And that's what the police" -- "the police" --  
17 "You said that because the police wanted you to say that."  
18 And you're like, "Well I said it. I guess the police  
19 wanted me to say it." The police is going to say, "What's  
20 a good answer for that question from young people?" Once  
21 again, Alijah not -- he likes to smoke pot like everyone  
22 that committed the crime likes to do. That doesn't mean  
23 they don't know who was there and who was involved. He's  
24 there and he's telling you who was together at the  
25 beginning, when they left, and when they came back.

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1 Shaleika Black does the same thing, and he couldn't touch  
2 Shaleika Black. What reason does she have to come in here  
3 and say something -- okay. They were there. And oh, "How  
4 do you remember?" "Oh I don't remember dates." But  
5 remember the first thing that Solicitor Brackett asked her  
6 or talked to her about when she was talking about how she  
7 remembered that date. They remembered that date because  
8 that's the date Tyrone King was killed. They remember that  
9 because she tells you they find out in the morning Tyrone  
10 King's killed, and it was the night before that she's  
11 talking about. That's how she remembers the day. That's  
12 how anyone remembers important events. Think about it.  
13 Yeah, I think I'd remember. I remember where I was when  
14 Elvis died. I liked Elvis. I was just a kid, but I liked  
15 Elvis. And I remember thinking, "Oh this is awful" when  
16 Elvis died. And was it where I lived when I -- no, I was  
17 out on a family vacation. We were in Watcher Creek,  
18 Virginia, which they call the flounder catching capitol of  
19 the world, which I can't tell you if I'm sure, but they did  
20 catch -- we did catch a lot of flounder there. But I was a  
21 kid. My parents and I were staying in a little trailer. I  
22 had a little, tiny radio. This is before all the Internet  
23 and stuff, of course in the 70's. And I had it on because  
24 we had just gone fishing, and I was back, and we had taken  
25 a shower, and I was thinking I'm done helping clean the

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1 fish, Mom's cooking it up, this is going to be good. I  
2 went outside, I was playing, and I turned on the little  
3 radio to get some music and what happened? I found out  
4 Elvis died. I remember that. Do I necessarily remember  
5 the date? No. Do I remember what happened the day before  
6 or the day after? No. I don't know if that was or I don't  
7 remember if that was the last day of my trip or near the  
8 beginning. I don't remember any of that. But I remember  
9 what happened that day. When I heard it, I remember what I  
10 was doing. When your own relative is involved. When  
11 Samantha is involved in the actual murder and gets charged  
12 with it, you don't think that Shaleika is going to  
13 remember? When they all were talking about the day Tyrone  
14 was killed, you don't think she's going to remember "Oh  
15 yeah, the night before, that group, that group that was  
16 there. They all get charged. Yeah, I remember that." And  
17 you can't take that away.

18 Davontay was there. He left with them and came back  
19 with them. Another piece of evidence, but in the big  
20 scheme of things show you he is the shooter.

21 Maurice Jackson told the police the next morning that  
22 the shooter was not from around here. He's from up north,  
23 like in Baltimore. And we covered that, so I won't belabor  
24 that point. But once again, it doesn't mean that he didn't  
25 say it just because it's not written down by the police.

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1 Maurice Jackson told you that the shooter had dreads. And  
2 he was questioned heavy about that. Remember the officer  
3 that came in, Officer Harrelson that said, "No he told that  
4 because I called it out. It's on the call report. The  
5 actual words that I call out and give as descriptions when  
6 we're first looking for somebody, it's on that report." So  
7 obviously, he did have dregs. Maurice did tell him that.  
8 And Davontay had dreads. The picture, remember that they  
9 testified this is what he looked like at that time? He  
10 certainly does have dreads. But let's look at Davontay  
11 today. Davontay shaved off his dreads. He no longer has  
12 dreads.

13 When Officer Mistysyn and the Baltimore Police  
14 Department came in contact with Davontay Henson in  
15 Baltimore in September 9th, 2010, Henson told him his name  
16 was Davone Darrell Jones. Hmm, I wonder why he did that?  
17 Why would you say you had a different name than what your  
18 real name was to the police? Then he told his date of  
19 birth was April 23rd, 1993. Now that's close, but it's a  
20 year off. As we've heard from the testimony, his real  
21 birth date is April 23rd, 1992. A little bit later, he  
22 told the officer that his date of birth was November 1st,  
23 1989. Now, I'm assuming this caused some suspicion as  
24 names and dates of births start changing when you're  
25 talking to a police officer. But as we know, thank

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1 goodness, the folks in Baltimore, the police department,  
2 didn't accept this as the final answer because that's where  
3 he's arrested and brought here to South Carolina to face  
4 these charges. Because his real name is Davontay Darrell  
5 Henson. And his real date of birth is April 23rd, 1992.

6 Davontay was trying to allude detection and get away  
7 with murder. He figured at that time, it's been about 11  
8 months. It's almost a full year. He alluded for almost a  
9 full year. B'more went back to Baltimore where he was  
10 from. Right after the crime, he subtly and promptly  
11 dropped out of Northwestern High School. Remember, a  
12 common practice when you leave a high school is to fill out  
13 the withdrawal forms. And generally, you transfer  
14 somewhere else, and you get that place to contact, and  
15 everything works out and you transfer. Well B'more  
16 couldn't go back to school. And it's not because he was  
17 just a dropout, it's because he had to get away. Because  
18 he left town -- Think about, what did Aileen do when she  
19 was -- when right after it happened? Where did she go?  
20 Well she went back to Charlotte. She hadn't been staying  
21 in Charlotte the last time since she got out of jail, but  
22 she went back to Charlotte. Why? She knows what she just  
23 did down here. Davontay knew what he'd done here, and so  
24 he left. He left. He took off.

25 Detective Herring checked Davontay's home in Rock

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1 Hill. You heard they made a big effort to try and find  
2 him. Couldn't find him at his home. They put out fliers  
3 and sent them to the Harold and CN2 and the Charlotte  
4 media. So now he's trying to have it broadcast everywhere,  
5 "We're looking for this guy." He enlisted the help of the  
6 Baltimore Police Department. Remember he told you that he  
7 asked them to contact the family members in Baltimore.  
8 Still no luck, not getting anything. And he enlisted the  
9 help of the US Marshall Service. And what did they do?  
10 They followed his mother's phone. You remember they talked  
11 about how they pinged the phone? They found out the  
12 location of it to find out where someone is? They followed  
13 her phone to try and follow her to see if they could find  
14 where Davontay was going even to the point that Detective  
15 Herring went with them to Shalitha White's house, who is  
16 Davontay's mother, and personally told her Davontay was  
17 wanted. They searched the place and told her -- remember  
18 what he said, "She already knew." Of course she did. It  
19 had been broadcast everywhere.

20 Providing false information and alluding arrest is  
21 your knowledge of guilt. You're allowed to infer that. As  
22 I said, I don't get to talk to you again. Defense may say,  
23 "That's ridiculous, he just went back to Baltimore. Kids  
24 drop out all the time." Put in context of the whole thing.  
25 It's your determination. Once again, hat we say ultimately

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1 isn't going to matter. It's what you know the evidence is,  
2 and what you decide.

3 Fairness. I want to touch on this briefly because I  
4 believe in openings, Ms. Anderson for Donte Reid mentioned  
5 something about fairness as to Mr. Reid. I want to turn it  
6 around a little bit more. So I want you to remember, one  
7 of the real reasons that we're here today. Is it fair that  
8 Maurice, Kenny, and Tyrone were robbed that night? No,  
9 obviously not. It's not fair. It's not right. It is a  
10 crime. Is it fair that Maurice was shot at, and Kenny was  
11 shot, and Tyrone was killed? No, that is not fair. That  
12 is not right. It's a crime.

13 Maurice, Kenny, and especially Tyrone, deserve some  
14 fairness today. They deserve some justice. They deserve  
15 to see Davontay Henson and Donte Reid convicted of the  
16 crimes. That's what's fair today, convicted of the crimes  
17 as they are charged.

18 Madame Clerk, if you will turn the lights down please.

19 I am going to collect up some of the evidence of  
20 malice that we have here. You'll have it back in the jury  
21 room with you. But while I can remove these pieces of  
22 evidence of malice from the bar in front of you, no one can  
23 remove the malice that these defendants had when they  
24 committed this crime. That's unmistakable. Going to  
25 Maurice's own house, Donta setting up a guy who's supposed



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1 to be your buddy, a guy who you hang out with on the porch,  
2 the guy you chill with and smoke pot with. You set him up  
3 at his own house while his grandmother sleeps in her  
4 bedroom. You saw the little child's toy on the porch, the  
5 little car. There could have been a child there too  
6 because obviously there's children there at some points in  
7 time. He set him up. And he set up the two other buddies  
8 that also knew you, that occasionally you just hung out  
9 with them too. And it's not just, "Oh well let's go with  
10 no weapon to steal from them." No, it came down, "Let's  
11 send a guy with a gun down there to rob them." Let's set  
12 up a whole plan and go through everything that we can to  
13 make sure that everyone does their part. And Donte did his  
14 part from beginning to end. Davontay did his part from  
15 beginning to end, and more.

16 Don't let their age fool you. They were 17 when these  
17 crimes were committed, but they're not like -- once again,  
18 this is common sense -- they're not like the 17 year olds  
19 that the average person knows, that a 17 year old that  
20 you'll meet on the average day if you go down to even  
21 Northwestern High School, or South Point, or Rock Hill  
22 High. They were bent on malicious mischief. They were  
23 bent on robbing someone. It really didn't matter who  
24 because remember it started out, "Let's rob someone." That  
25 in itself can be malicious and in this case was. Then they

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1 pick who they robbed. Then they pick how they do it. And  
2 they all followed through ultimately with whatever the  
3 final plan came to. It came to this. And that's what you  
4 have in front of you. And now a young man who is 18 is  
5 dead, murdered on the front porch of his buddy's house.

6 Kenny will suffer with the gunshot wounds he had all  
7 his life. Anyone who's had a problem with their foot will  
8 say those things are hard to heal: a bullet through your  
9 foot through your toes requiring operations. It's going to  
10 be like a sports figure who gets injured badly. When he  
11 gets older, that's going to hurt a lot. When you consider  
12 the devastation and the destruction that night, the safety  
13 that a person feels at their own house, you know, when  
14 you're out just enjoying being at your own house? There's  
15 a feeling you can't describe. It's kind of like, that's  
16 where I'm comfortable. That's where I can be me. That's  
17 where I don't have to put on to be especially nice, to be  
18 especially mean, or be especially anything. I can relax.  
19 I can do what I want at my own house. They robbed more  
20 than just those small items that night, those ultimately  
21 insignificant things. They took away a lot more.

22 Maurice will probably never feel safe around his house  
23 anymore. I imagine Kenny and Maurice now when they see  
24 people approach, if they're sitting outside or really  
25 anywhere, it puts a scare in their mind. But I'm not going

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1 to tell you convict because of things like that. What I'm  
2 asking you to do is convict on the evidence that was  
3 presented. Take it as a whole, look at everything. Once  
4 again, what we say ultimately, it doesn't matter. But the  
5 hand of one is the hand of all. And each hand in this did  
6 their part. You can switch the names around anyway you  
7 want, but they're all guilty of the same thing. And I ask  
8 that you look at that. Consider what the other attorneys  
9 have to say just as you've been kind enough to consider  
10 what I've had to say. But then go back and look at the  
11 evidence as a whole. You have it back there with you. You  
12 remember what people said on the stand and what they truly  
13 said. What makes sense, what doesn't, what are the real  
14 issues? And I trust that you'll come back with a just  
15 verdict. And the evidence will show you that, that verdict  
16 is guilty. Guilty of conspiracy, guilty of murder, guilty  
17 of assault and battery with intent to kill, and guilty of  
18 three counts of armed robbery as well as the possessions of  
19 the firearm charges. You can't commit an armed robbery  
20 without a firearm. And that's your deadly weapon.

21 Thank you.

22 THE COURT: Members of the jury panel, we'll take a  
23 short break before we hear the next argument. Everyone  
24 else remain seated.

25 (JURY EXITS COURTROOM AT 11:07 AM.)

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1 THE COURT: I've got a civil matter that I'm going to  
2 allow each side five minutes, so we'll take about a ten  
3 minute break. We'll need a short break. If we can round  
4 up people in the civil matter.

5 You can move around, but do so -- even get on out or  
6 stay in.

7 And, but we can take care of this other matter real  
8 quick.

9 (COURT IN RECESS @ 11:10 AM.)

10 (DEFENDANT'S REENTER COURTROOM @ 11:25 AM.)

11 (COURT BACK IN SESSION @ 11:27 AM.)

12 THE BAILIFF: All rise. Order in the Court.

13 THE COURT: Thank you. Take your seat.

14 Ms. Inzerillo, Ms. Anderson.

15 MS. INZERILLO: Sir, yes, sir.

16 THE COURT: You ready?

17 MS. INZERILLO: Yes, sir.

18 THE COURT: Bring in the jury.

19 (JURY REENTERS COURTROOM @ 11:28 AM.)

20 THE COURT: Keep in mind that even though we heard one  
21 part of the closings, we have not heard all, and you have  
22 not heard my charge on the law. So you are yet not in a  
23 position to start deliberating or making up your mind.  
24 I'll just remind you. I meant to remind you when you were  
25 going out. I had something else I had to work out between

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1 the time y'all went out and now. So I've got a busy mind.  
2 I apologize for not reminding you at that time.

3 Call -- proceed.

4 MS. INZERILLO: Thank you, Your Honor. May it please  
5 the Court.

6 The State both in its opening and just now in its  
7 closing has gone to great lengths to explain to you the  
8 hand of one is the hand of all. And they've gone to great  
9 lengths to explain to you what that entails. And they've  
10 gone to great lengths to explain to you how that web  
11 ensnares Mr. Reid. Because ladies and gentlemen, that's  
12 their only theory in this case as to why Donta Reid is  
13 guilty of any of the crimes he's been charged with. And  
14 there's been a lot of focus on the hand of one. One, being  
15 of course, Donta Reid.

16 But I want to start this morning by looking at the  
17 hands of all. All being the players, especially the  
18 players that we've heard from. Start with Samantha Ervin.  
19 Samantha took the stand, I believe a couple of days ago,  
20 and she admitted to you very vociferously that she lied in  
21 her first statement. She took the stand, under oath, and  
22 admitted that she lied. Now what did she put in her first  
23 statement? In her first statement she said, "I didn't  
24 really know what was going on." I didn't know. I dropped  
25 him off. My girlfriend had my cell phone. I'm going to go

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1 out and get it. Right at the exact moment, pointed to the  
2 exact spot where two people were running towards her and  
3 hopped in the truck and drove away. That's what she said.  
4 "I didn't know what was going on. I didn't hear any  
5 conspiracy. I didn't know." And the State has gone to  
6 great lengths to try to explain that. "Well she was  
7 arrested. There was nobody in the room. She was talking  
8 to an officer."

9 And they tried to explain it away by using human  
10 nature. Is it human nature to not admit what you did?  
11 Because that's essentially what she did. When she was in  
12 that room with Detective Herring, she didn't admit that she  
13 knew there was something going on. She completely took  
14 herself out of it. She was a mere observer, which was  
15 convenient, very convenient for a while. But ultimately  
16 she got charged with several crimes, one which was murder.

17 Then what happened? A year later, charged with these  
18 crimes, armed with an attorney, she decides she's going to  
19 tell the truth. But she doesn't tell the truth  
20 voluntarily. And that year between October 2009 and  
21 November 2010, you heard no testimony she ever called  
22 Detective Herring and said, "You know what? I lied."  
23 During that time, charged with a crime, she didn't call the  
24 Solicitor's Office saying, "I lied." No. She only decided  
25 it was in her best interest to tell the truth when she

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1 wanted a deal.

2 Now I know sometimes from watching TV and sort of  
3 whatever your life experiences is, it may not be all that  
4 unusual to you that someone cuts a deal. We see it on TV a  
5 lot. But when people cut deals, keep in mind this, two  
6 questions are answered at the time you cut a deal: What am  
7 I going to be pleading to? And what is my sentence going  
8 to be? Because in October 2009, as the State's argued, she  
9 didn't know any of that. But in November 2010, those  
10 answers became clear. She got a murder charge dropped. A  
11 murder charge. The same charge that bound her to every  
12 other player in this case that charge was dropped.

13 Assault and battery with intent to kill. The same  
14 charge that binds everybody, that charge was dropped. And  
15 what else does she know? She knows that an exchange for  
16 her cooperation, perhaps testimony, she's only looking at  
17 10 to 25 years. She took the stand when she was explaining  
18 her plea deal, and she told you that she has a daughter;  
19 that she doesn't want to be away from that daughter for 25  
20 years. She wants a 10-year sentence. She wants a 10-year  
21 sentence. She's human. She's human. She's looking out  
22 for herself. As much as she may have not wanted to admit  
23 it on the stand, she's human. And our first instinct is to  
24 protect ourselves. She has a daughter. She doesn't want  
25 to spend the rest of her life away from her, so she entered

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1 into an agreement.

2 Now what else does this circumstance tell you? It  
3 tells you motivation. It tells you motivation because part  
4 of her plea agreement was that she had to come into this  
5 courtroom this week, and she had to testify. She had to  
6 answer questions by the State. She had to answer questions  
7 by me. She had to answer questions by Mr. Chiarenza. So  
8 she comes into the courtroom this week. And what does she  
9 testify to? She was all quick to tell you, "I lied in my  
10 first statement. I lied in my first statement." In fact,  
11 at first blush, her story actually sounded pretty good. "I  
12 remember what time I got up that morning. I remembered who  
13 was at my house. I remember who I went to pick up. I  
14 remember who when I brought them back. I remembered this  
15 discussion that we had. I remember going to this spot, and  
16 this spot, and then I went to bed. And then the next  
17 morning, I woke up, and I woke up at 8:00 o'clock." She  
18 remembered the time. "I talked to this person and this  
19 person. I drove this person's" -- very almost militaristic  
20 in how she remembered specific details of that arguably 48-  
21 hour period.

22 Here's the problem, ladies and gentlemen. She put her  
23 hand on the Bible again this week, and she came in, and she  
24 swore to tell the truth. And when she was listing all of  
25 those events, and that time that she remembered dropping



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1 someone off here, dropping someone off there, she fails to  
2 mention in that litany of a day planner that she actually  
3 interacted with the police that day, that the police talked  
4 to her in Confederate Park. And I believe there was some  
5 testimony after that, she was possibly brought down to the  
6 station. That crucial part, she leaves out. Why? Because  
7 as much as she wants you to believe that there is no  
8 motivation for her to take this stand, there is. Why not  
9 take the stand and tell you, "You know what? I did  
10 interact with the police that day, and I didn't tell them  
11 one wit about this case. I didn't pull that officer aside  
12 and say, 'I feel really guilty, but I have information on  
13 that murder last night.'" She didn't pull the officer  
14 aside and say, "I am so remorseful over the death of Tyrone  
15 King, and my part in that. I have got to clear my  
16 conscience." She doesn't say that at all. She keeps her  
17 mouth shut. So her cooperation in her first statement is  
18 not the first time she could have talked. But again, she  
19 doesn't tell you that. And why not? She knows the charges  
20 she's pled to. She knows the range that she's going to  
21 get. She knows arguably these guys have a say and can  
22 speak to the judge about her sentence. Why not be honest  
23 about that? Why not admit that?

24 What's the other thing, crucial thing she said from  
25 the stand this week? She said, for the first time ever,

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1 that Donta Reid took a cell phone, and she drove him to  
2 Crickett, and he tried to put it in his name. Wow. That  
3 is an amazing piece of evidence. That is an amazing piece  
4 of evidence. That arguably puts a proceed from the robbery  
5 in this kid's hands. It puts him trying to keep a piece of  
6 the robbery. And yet for two years and one month, she kept  
7 that to herself? And why, ladies and gentlemen? Why?  
8 Because it's a lie. Directly contradicted by three of the  
9 State's witnesses. Samantha Ervin was clear. "I don't  
10 remember what time between 1:00 and 2:00 o'clock the next  
11 day, but it was sometime between that time." What do we  
12 know was going on between 1:00 and Two o'clock the next  
13 day? Donta Reid's in police custody giving a statement.  
14 Both detectives came in and told you that. It's written on  
15 the statement at 1:45. It starts at 2:15 and ends.

16 Aileen Newman came in the next day. And what was her  
17 testimony? Her testimony was "No, Sam took the phone and  
18 tried to pawn it." So even from the stand, after she swore  
19 arguably for the third time to tell the truth, the first  
20 time being in her statement, the second time when she went  
21 in front of the judge and entered the plea, and the third  
22 time in front of you all this week, she still is not  
23 telling the truth.

24 Now I know the Solicitor's pretty much told you  
25 outright we were going to comment on things like that. Why

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1 is that important? The judge is going to charge you at the  
2 end of this case, that you are to consider the credibility  
3 of the witnesses. This is a girl with motivation. She  
4 wants the 10 years, but swear on the Bible for the third  
5 time, she can't tell you the truth.

6 Today the State's arguing that there was some  
7 consistencies that Donta Reid's name was always in this  
8 case, that somehow Donta Reid always conspired, always put  
9 Maurice's name out there. While Samantha is talking to the  
10 police, giving the statement, when we heard testimony  
11 probably at nauseam about exactly how Detective Herring  
12 takes the stand. And I'm sure everyone from this room can  
13 recite from heart how that man takes a stand. She says,  
14 "They were all talking about getting some weed. Crud was  
15 telling them he knew where he could get some weed. A girl  
16 that I was dating, named Aileen Newman, who had been  
17 upstairs with me came down into the living room. She said,  
18 'Why are y'all looking for weed? I've got some weed.'"  
19 She showed everybody about Twenty dollars worth of weed.  
20 Crud said he was going to text his friend and tell them "I  
21 got some weed." That's her version of the events. This  
22 didn't start from discussion of robbing someone over weed.  
23 This started because Donta Reid wanted some marijuana.  
24 Aileen happened to have some. He's texting his friends, "I  
25 got it. No worries." And then she moves on to getting

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1 into the truck. That is her version of how this grand  
2 conspiracy, how all these discussions at Keels Avenue, how  
3 that started, way back in October of 2009. More  
4 specifically, way back on October 5th, 2009. And it's  
5 important to keep these dates in mind, ladies and  
6 gentlemen, because this happened on October 1st. Four days  
7 later when her memory is the freshest, when she recalls  
8 perhaps who was in the house and who wasn't, who said what  
9 and who didn't, when it's the freshest this is what she  
10 says. It was a year later she gives a second statement in  
11 conjunction to the plea deal that all of the sudden Donta  
12 Reid conspired to do this. A year later. How many  
13 experiences did she live through in that year? How many  
14 memories fade in that year? And then she took the stand  
15 this week, two years and one month later, again further  
16 removed from the events of October 1st.

17 Let's move on to Aileen Newman. Aw, we heard a lot  
18 about Aileen Newman before she ever took the stand. Well  
19 let's start with her first statement. She also was very  
20 vociferous. "I lied in that first statement. I lied."  
21 Again just really to get that out there, just wanted to lay  
22 that out there. "I lied, I lied." And what does she lie  
23 about? "I was forced to do this robbery. I was forced.  
24 Somebody put a gun to me. I didn't want to do it, but I  
25 was forced to do it anyway." That's what she says. Then

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1 -- and again, the State tries to kind of whitewash that a  
2 little bit. "Well she's talking to the police, and it's  
3 human nature to cover for yourself." But what does she  
4 know? She knows she was involved in a robbery and they  
5 could identify her. She didn't have anything covering her  
6 face. She's got to explain that. She's got to explain why  
7 she's in the front yard at [REDACTED] So what does  
8 she say? "I was forced to do it." And in the same vein as  
9 Samantha Ervin a year later, armed with a lawyer, she  
10 enters into a plea agreement.

11 Now things got pretty interesting when Aileen Newman  
12 starts talking about her plea agreement. She did plead  
13 assault and battery with intent to kill. And of course her  
14 and Samantha both pled to armed robberies. But when I  
15 questioned her about the murder charge, the murder charge,  
16 the murder charge that we had just heard, three witnesses  
17 say that she ordered -- Maurice and Kenny both and they  
18 were clear there was a guy and a girl. The robbery was  
19 done. They were walking away when the girl says, "Shoot  
20 'em, they've seen my face." I think I quit taking on my  
21 notes how many times we heard that phrase. "Shoot 'em,  
22 they've seen my face." Both of them, both of them say  
23 that. But it wasn't just them. It was the guy riding his  
24 bike. He's peddling along the road, he wasn't a dog in  
25 this fight. All he's doing is riding his bike. And what

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1 does he hear? A female say, "Shoot 'em, they've seen my  
2 face." All three witnesses, State's witnesses.

3 Aileen Newman takes the stand, tells you that she's  
4 the girl who went into the yard, and unequivocally tells  
5 you, "I did not say that." Now again, ladies and  
6 gentlemen, she's got a deal, she's got a deal. She's no  
7 longer looking at murder. She's got a range between 15 and  
8 35 years. She doesn't want to do 35 years in prison.  
9 Under Mr. Chiarenza's questioning, she kind of tried to say  
10 "Well 15 is the same as 35." He sort of got to the crux of  
11 that pretty quickly. She doesn't want to do 35 years in  
12 prison, she wants to do 15. She's got her plea. Why not  
13 take the stand under oath and say, "Yeah, I said that." In  
14 fact, not only does she vehemently deny saying that, she  
15 went so far as to say, "I'm not responsible for that. That  
16 guy turned around and started shooting. I'm not  
17 responsible for that murder." She was vehement. "I'm not  
18 responsible for that murder."

19 Now what's the other sort of interesting thing about  
20 her testimony from this week? Mr. Thompson stood up and he  
21 said, essentially expressed a little bit incredulity at the  
22 fact that this plan was that Donta was going to try to lure  
23 Maurice off the porch, have him walk to Midtown, and we've  
24 had extensive geographical lessons as to where Midtown is.  
25 And then Maurice wouldn't go. Now what did Newman say?

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1 Newman said, "Donta went to Maurice's house, and I was  
2 standing in the street." She was standing on Byars Street  
3 or something like that for 10 minutes. Why in the world  
4 would she be standing in Byars Street or whichever street  
5 she was on if it wasn't part of the plan to meet up with  
6 them? Why in the world would the shooter, the guy with the  
7 gun, be hiding behind the bushes? Why not? Those facts  
8 fit that, that was the plan. And my recollection of her  
9 testimony is that she essentially says, "Yeah, that's the  
10 plan. That's what was supposed to happen." So as much as  
11 their -- and I'm going to try to say the word again --  
12 incredulity at that, two years and one month later, she  
13 essentially came in and told you the exact same plan Donta  
14 Reid told the police the day after this happened. The  
15 exact same plan. And again, it's worth repeating, the  
16 other thing she said was that Sam tried to take the phone.  
17 She was pretty specific about that the wallet got thrown  
18 away, Sam tried to pawn the phone, but you noticed, at no  
19 point did she ever say Donta Reid took anything from this  
20 robbery. She didn't say that.

21 So let's turn our attention to Donta for a second. My  
22 co-counsel Ms. Anderson stood up in front of you Monday.  
23 She told you in opening, Donta Reid gave four statements.  
24 He gave four statements. We have never denied that. In  
25 fact, again, probably ad nauseam, I questioned the officers

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1 about details in each one of those four statements. We're  
2 not hiding that fact. We're putting it out there for your  
3 consideration. He gave four statements. And what does he  
4 say in the four statements?

5 Well let's back up. What do we know about Donta? We  
6 know he's not the shooter. We know he's not the robber.  
7 We know he wasn't on the scene when the robbery took place.  
8 We know that. We know that. That again, multiple  
9 witnesses have been questioned about that. The extent of  
10 Mr. Reid's involvement in this case is this plan. And I'm  
11 going to stop here and say, it may not sit well with people  
12 that he might be willing to set up this plan. Not a very  
13 good friend if you ask me. If you have friends like that,  
14 why do you need friends. Right? But in this room, it's  
15 not a popularity contest. We -- the facts represented to  
16 you, the State presents the law -- I mean the judge  
17 presents the law because that's what's before you for your  
18 consideration. You might not like that Donta will discuss  
19 setting up his friend, but he did. And we're not hiding  
20 that either. What else do we know about Donta? We know  
21 the police went to his house. They left a card. He got  
22 home the next day and called the police. He turned himself  
23 in. He turned himself in. He didn't run. They found  
24 Aileen in Charlotte and bring her back down. Samantha  
25 Ervin talks to the police the very next day, doesn't



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1 mention anything about it. Not Donta. Donta goes to the  
2 police station, and he gives these statements.

3 Now, he gave four statements. And what is he clear to  
4 the detectives about, probably come about the third  
5 statement. He says, "I lied because I'm afraid of the  
6 shooter. I was threatened by the shooter that if I talked,  
7 he was going to shoot me or my house up. Now in the  
8 duration of this case, ladies and gentlemen, it is  
9 important to remember that dressed up in this suit today is  
10 a 19-year-old guy, but two years ago was a 17-year-old kid.  
11 He was a kid. And in this room, 17 years old, he may be  
12 criminally liable for any charges -- crimes he's charged  
13 with, but outside of this room in our society, in 2009,  
14 this kid couldn't buy beer. He can't fight for our  
15 country, and he couldn't vote. And why is that? Because  
16 as a society we recognize that a 17-year-old kid is not as  
17 mature as adults. This kid in his own way is telling the  
18 police the story. He's telling them the story. You heard  
19 Detective Ayers say as I cross examined him, "Yeah, they  
20 pretty much were the same basic facts in his statement."  
21 He's telling them what happened. The problem is he's been  
22 threatened. His life's been threatened. He tells the  
23 police that. "My life has been threatened if I tell you  
24 the truth." So this 17-year-old kid tries to get the story  
25 out.

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1 And what's the key difference between his statements  
2 and Aileen and Sam's statements. This kid came in that day  
3 and gave them facts they could prove against them. "I went  
4 to the porch. I used a cell phone. I asked Maurice to  
5 walk with me" in the context of that was the plan. He  
6 didn't take himself out of the circumstances. It would  
7 have been just as easy for him to come in just like Aileen  
8 and Sam and say, "Well I was hanging out with some friends  
9 later, and this is what they said, but I didn't know  
10 anything about that." Or I didn't want to do it, but they  
11 forced me to do it. He didn't do that. He gets in there,  
12 and he implicates himself. Plain and simple. He's not  
13 covering himself. He's not removing himself from all of  
14 this which would have been easy to do. And as the  
15 witnesses for the State testified, you use a cell phone and  
16 they can track the records. Bam, they knew he used a cell  
17 phone. He admits he goes to Maurice's house. What do they  
18 do? Ask Maurice. "Was Donta at your house?" "Yes, he  
19 was." These are facts they can investigate to prove.

20 Now it's also interesting in his statements, it's the  
21 second statement. The first statement, he's giving sort of  
22 a broad overview of what happened, a broad overview. This  
23 is what happened. This is what we're talking about.  
24 That's it. The second one he says, "This is what happened  
25 on the porch." So it's more specific details that fit in

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1 to the first statement. But he got a detail wrong. The  
2 State wants to come in and put detectives on the stand and  
3 say, "These are details he would know because he was  
4 involved, and he was there." He didn't give them any of  
5 those details. He didn't tell them where Maurice was  
6 sitting, where Tyrone was sitting, or where Kenny was  
7 sitting. He didn't tell them what they were wearing. The  
8 statements that he puts in this statement about who stood  
9 up and who didn't are easily learned from somebody else.  
10 But what is the one fact he gets critically wrong? That  
11 Duke was wearing -- not wearing a mask. Now the police by  
12 this point have investigated, they've talk to the victims,  
13 they know, we're next. That is a fact you know if you were  
14 in that yard, you participated in this.

15 So then what happens? Initially warrants go out.  
16 Davontay Reid is the shooter. He's the shooter. Why do we  
17 know this? Because we have his own statements telling us  
18 that, which they don't say, by the way. But if he's the  
19 shooter, why doesn't he know that fact? That's a pretty  
20 blatant thing. That's not something that hidden. That's  
21 not something you find out later. That's something you  
22 know while you're at the scene.

23 Now fast-forward to this week. I keep saying today,  
24 but we'll say this week. What does the State want you to  
25 believe is Donta's role now, two years and one month later?

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1 Now they're saying, "Oh he came up with the plan, it was  
2 all his idea, which is not anywhere corroborated by the  
3 statements that were given initially. And maybe I'm  
4 parsing a little bit. He didn't come up with the plan. In  
5 fact, he's clear in his own statements that the other  
6 people there are saying, "Can you set this guy up? Can you  
7 set this guy up?" And he says, "I really don't want to do  
8 it." In fact he says it multiple times, "I really don't  
9 want to do this, but I did." A 17-year-old kid, "I really  
10 don't want to do this, but I did." He's not master-minding  
11 anything. He's not Oz behind a curtain directing people  
12 where to go. He's not planning it. But this week, they  
13 want you to believe he did.

14 What's the other thing they want you to believe? Now  
15 he told Aileen Newman and the shooter after he left the  
16 porch when he met them on the street "Oh by the way,  
17 they're unarmed" Now, wow. This also is a big, big fact,  
18 huge fact. It's a critical piece of evidence. Why?  
19 Because it let's them know they're not taking a gun to a  
20 gunfight, they're taking a gun to a fist fight. That is  
21 huge. So why is it not come up before? Why not? And I  
22 would submit to you, ladies and gentlemen, this is not true  
23 either because if they knew this, why in the world would  
24 Aileen have concerns about having her back towards the  
25 people on the porch? If you know going into the situation

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1 that you have a gun and they don't, you have the upper  
2 hand. Why in the world are you concerned about that? Then  
3 why are you concerned that they are a threat?

4 Both Kenny and Maurice were very specific the entire  
5 time. We didn't move a muscle. They didn't move. These  
6 people are touching them. They are physically touching  
7 them, putting their hands on them, invading their personal  
8 space. And Kenny, and Maurice, and Tyrone, they don't  
9 move. They don't so much as curse at the people who are  
10 touching them. They don't so much as push their hand away.  
11 They don't do anything. And not even Aileen Newman came in  
12 and said, "Well I saw one of them twitch or move. That's  
13 why I got worried." Now she tried to say, "I don't know  
14 what they're going to do," but the overwhelming evidence is  
15 that they did nothing. What they did was cooperate. They  
16 acquiesced. They put their hands in the air. They did  
17 everything to show these two people, we are not going to  
18 threaten you, we are not going to hurt you. So it doesn't  
19 make sense that all of the sudden this week, Donta's told  
20 them this critical piece of information because at the  
21 time, their actions at the time belie that statement.

22 I know I've gone over taking the cell phone to the  
23 Crickett store, but it bears repeating. That is a critical  
24 piece of evidence because it shows after he went back to  
25 the house, he took something from the robbery. A fact

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1 that's not been presented before this week. A fact, again,  
2 ladies and gentlemen, that is directly refuted by other  
3 evidence in this case.

4 Now the judge is going to charge you a lot of law.  
5 It's been a long case, there's a lot of issues. And so I'm  
6 only going to hit two of them, okay? The first is  
7 withdrawal. Donta in several of his statements told the  
8 detectives, I left the -- I asked Maurice to walk with me,  
9 he said, "no". I left the porch. I walked back to Aileen  
10 and the shooter, and I told them, "This is not going to  
11 work. This is not going to work." The plan was lure  
12 Maurice off the porch, he ain't walking to Midtown. The  
13 plan's not going to work. He says that. Now interestingly  
14 when Newman took the stand, I said, "When Donta left the  
15 yard, he came up to you and said, 'Maurice won't walk with  
16 me, the plan is not going to work.'" And she said yes.  
17 "Yes," she said that. Two people in this conversation, and  
18 they agree. He said that. And I'm going to show you the  
19 same law Mr. Thompson showed you. When a person completely  
20 withdraws from the common design or plan and communicates  
21 his withdrawal to his associates, under the circumstances  
22 that permit them to do the same thing, then that person  
23 escapes criminal liability for the acts of his associates.

24 Common design or plan. Robbery. He planned to rob  
25 Maurice Jackson. That's a common design or plan. The plan

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1 was lure him off the porch, get him to walk to Midtown, rob  
2 him. That was a common design or plan. This 17-year-old  
3 kid walks up to two people and says it's not going to work.  
4 And I keep saying 17-year-old kid because that fact is  
5 important when you're considering withdrawal. A 17-year-  
6 old kid doesn't approach the situation like a 35-year-old  
7 person does. A 35-year-old person may sit down and say,  
8 "All right, this plan is not going to work for the  
9 following reasons. And we need to discuss what we're going  
10 to do, and I really feel very strongly that you guys need  
11 to also withdraw. Let's go back to the house. Let's not  
12 do this anymore." Right? Doesn't it sound more like a 17-  
13 year-old kid to say, "This is not going to work. This is  
14 not going to work." Now, Mr. Thompson said "Well he could  
15 have told the victims that." It says here, "He's got to  
16 communicate this withdrawal to his associates." Why?  
17 Because if it takes more than one or two people to  
18 conspire, it takes more than one or two people to  
19 unconspire. He has to tell his associates, "This is not  
20 going to work." And he did that. Why? Because then his  
21 associates have a choice. His associates can choose to  
22 continue with the plan, move forward. Or his associates  
23 can say, "No, it's not going to work. Let's go back to the  
24 house." It gives them a chance to correct their actions.  
25 That's what this means. That's why if he does that, he

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1 escapes criminal responsibility. And that's exactly what  
2 he did.

3 Donta Reid told the police he was using Maurice's  
4 phone, and he told them there were two people on the porch.  
5 Why is that significant? Because he's going to Maurice's  
6 house to get Maurice to walk with him. Isn't the  
7 implication is that they only thought Maurice would be  
8 there? Then he gets there, there's three people on the  
9 porch. Whoa, this is not the plan. Now I know there is  
10 lots of discussion. I think Aileen Newman said, "No, they  
11 were going to lure them all off the porch. And maybe Sam  
12 said that at some point. But if that was the plan, why in  
13 the world would he have to call them and report back,  
14 "There's two people"? Maurice and Kenny both testified as  
15 well that when he made that statement, he's on the phone  
16 either at the base of the steps or walking past them. If  
17 he's conspired, "Hey y'all, guess what? There's two people  
18 on the porch." Yeah, he's on the phone. He's walking up  
19 there. Yeah whatever part of the conversation is, two  
20 people. He's not hiding his actions. And I questioned --  
21 I can't remember if it's Maurice or Kenny. Forgive me.  
22 And both of them said, "Well we were looking at the cell  
23 phone, and there was music going." And, you know,  
24 essentially, they're just hanging out. They're doing their  
25 thing. And so they're really paying attention to what



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1 Donta is saying, but they do hear this snippet. And this  
2 strikes with them because "Ah-ha, he must have -- that must  
3 have been when he was planning to rob, these two people,  
4 this phrase." But then I asked one of them, "You assumed  
5 that?" "Right." "Yes, but isn't it just as likely since  
6 you didn't hear the rest of the conversation that maybe he  
7 was telling them not to do it? And that's a possibility.  
8 Because there's no context for this.

9 But we can put it in context because what does he do  
10 next? He leaves the porch. He leaves the yard. He goes  
11 and tells the people, there are two people on the porch,  
12 two more people, three people now. This is not going to  
13 work." What's the next thing that happens? The shooter,  
14 and pardon my language, says "Fuck that, I might as well  
15 have robbed them all myself." That's a complete right turn  
16 from whatever was going on before. "I might as well go rob  
17 them myself." And then what happens? The shooter and  
18 Aileen, they walk towards the porch. They walk towards the  
19 porch, gun in hand to do the robbery. What does Donta do?  
20 He walks away. He physically by his own actions, walks in  
21 the opposite direction of what they're planning to do. He  
22 gets in the truck. At some point, Sam in her statement or  
23 the testimony says, "I asked him what was going on. He  
24 said, 'I don't know.'" "Where are they?" "I don't know."  
25 He walked away.

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1           Now he goes back to Keels Avenue with them. We didn't  
2           hide that either. But what does he do when he gets to  
3           Keels Avenue? He doesn't take anything from the robbery.  
4           Again going back to Sam as the only person who said he did.  
5           Alijah James came in and said, "The other three were  
6           hanging out outside. Donta comes in and says, 'Man, can I  
7           spend the night?'" Even at the house, he's not around  
8           them. The next day he gets taken home, and he goes to the  
9           police station. When there was testimony from Alijah, I  
10          believe his sister, they didn't say it was Donta who was  
11          dancing around excited. In fact Alijah was very specific.  
12          He said usually Donta is a chatterbox. That dude talks.  
13          And this night, he was quiet. And it must have been so  
14          marked that he remembered it two years and one month later.

15                There's also been no testimony that Donta ever tried  
16                to cover up anything. He didn't try to hide the gun,  
17                didn't throw any article of clothing anywhere. There's  
18                been no testimony of anything taken from the robbery or  
19                anything associated with the robbery was found on his  
20                person connected to him. So yeah, he goes back to the  
21                house, he's a 17-year-old kid. What does he do when he's  
22                at the house? Friends don't associate with him. He spends  
23                the night. The next day he gets a rifle.

24                Now again, as I said, the State's made a huge  
25                argument, "the hand of one," that there's the common design

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1 and scheme and there's natural consequence. That the  
2 charge -- that the judge is also going to charge you  
3 another part of that. He's going to charge this: But if  
4 the act has no connection with a common purpose and did not  
5 ensue as a probable result of an attempt to execute it,  
6 then the actor alone is responsible for the act.

7 Now to sort of illustrate this, I'm going to point to  
8 a couple of specific facts in this case. And all of those  
9 facts happened in the front yard of [REDACTED] [REDACTED].  
10 Kenny, Tyrone, and Maurice were sitting on their porch.  
11 There was a gun put in their face. The shooter and Aileen  
12 Newman's going through their pockets, physically touching  
13 them. They acquiesce. They don't fight. They don't do  
14 anything. In fact there's been some testimony, they maybe  
15 even handed stuff over. Aileen and the shooter walk away.  
16 And why is that significant? The robbery is done. They've  
17 gotten all the stuff. The robbery is done. And then  
18 whether you believe the victims and the guy on the bike  
19 that she ordered the shooting, or, you believe Newman that  
20 the shooter just turned around and started shooting, for  
21 some reason, shots were fired. And not just shots were  
22 fired, ladies and gentlemen, but that front porch was  
23 sprayed with bullets. I think we saw pictures at nauseam  
24 showing that. Sprayed with bullets.

25 That's where the murder, assault and battery with

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1 intent to kill comes from. And to further punctuate and  
2 put an exclamation on this point, Aileen Newman took the  
3 stand and said, "Aw, that was not part of the plan. He  
4 turned around and started -- that was not part of the  
5 plan." I think she said it three times. "I'm not  
6 responsible for murder. That guy started shooting. That  
7 was not part of the plan." So what exactly does this mean?  
8 This means if whatever you're planning to do is over and  
9 done with, and let's say something like shooting happens  
10 after that, then only the person that did the shooting is  
11 responsible for that act. That's what that says. Someone  
12 essentially goes off the range, does their own thing.

13 Now let me contrast that for you for a second. We  
14 hear about some robberies. We see them a lot on TV, maybe  
15 convenience stores where someone puts a gun to a clerk's  
16 face says, "Give me all your money." And the clerk tussles  
17 with the gun trying to get it out the guy's hand and is  
18 shot. And then reaches into the till and takes the money.  
19 The common purpose arguably is the robbery. They're trying  
20 to take the money. Because of the struggle arguably, the  
21 shooting helped effectuate that robbery. It helped it  
22 happen. That's not the case in this case. It is  
23 undisputed by everyone who testified that was at the scene  
24 that they were walking away. They had the stuff in their  
25 pockets. The robbery was complete before the shooting

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1 happened. Again, Newman says emphatically, "It was not  
2 part of the plan." One of the victims, and I apologize,  
3 I'm not sure if it was Maurice or Kenny, even said in their  
4 statement, they didn't have any reason to shoot. I think  
5 you saw me do this about, I don't know, five or six times  
6 when I was questioning them. You've seen me do it in the  
7 course of this argument.

8 (ATTORNEY INZERILLO HOLDS HANDS UP IN THE AIR.)

9 MS. INZERILLO: This is what they were doing. This is  
10 the universal sign for "I am not going to hurt you. I am  
11 going to do what you want me to do." That's what this  
12 means. And I believe one of the victims, either Kenny or  
13 Maurice said, "Maybe they shot us because we saw their  
14 face." The face that Aileen Newman didn't bother to cover.  
15 And then according to three State's witnesses, then used as  
16 an impotence to order the killing.

17 Now there's been a lot of testimony taken in this  
18 case, a lot. And there's a lot of stuff to go over and  
19 kind of filter through. And I'm a big fan of pictures, so  
20 I made a picture. Let's start off with Donta at Keels  
21 Avenue. He goes and he smokes with some friends. He  
22 agrees at some point to lure Maurice off the porch. But  
23 Maurice won't leave the porch. So he leaves, and he goes  
24 back to the meeting spot. And he tells them the plan won't  
25 work. So then what happens? There's a new plan. The

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1 shooter decides to go rob the guys on the porch. The  
2 shooter and Newman go to the porch. The shooter pulls out  
3 the gun, Newman robs the victims, the shooter shoots the  
4 victims. That's the new plan, ladies and gentlemen. And  
5 again, in all candor to you and respect for your position,  
6 Donta puts in his statement, he did conspire to try to rob  
7 his friend Maurice. He is charged with a charge of  
8 criminal conspiracy. Do you find him guilty of that? But  
9 he is not guilty of everything else. He withdrew, ladies  
10 and gentlemen. At the time that he told him that this was  
11 not going to work, he withdrew. And he is not responsible  
12 for anything that happened after that.

13 You know when I think through the hand of one is the  
14 hand of all, I think of the hands. And the State in  
15 telling you that theory wants you to believe that the hands  
16 of Donta Reid are the hands of Aileen Newman that went  
17 through their pockets. They want you to believe that the  
18 hands of Donta Reid are the hands of Aileen Newman that  
19 patted them down. The hands of the same person who after  
20 getting everything they had to offer, turn to the guy and  
21 told him to shoot. They want you to believe that Donta's  
22 hands are the hands of the shooter who pulled out a gun and  
23 held them at gunpoint. They want you to believe Donta's  
24 hands are the hands of the shooter who patted them down,  
25 and after getting everything squeezed the trigger. And in

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1 squeezing that trigger, sprayed that front porch. That's  
2 what that means, ladies and gentlemen. It's not as simple  
3 as interchanging names. That is what that means. The hand  
4 of Donta were those hands as well. That is not the case,  
5 ladies and gentlemen.

6 Thank you.

7 THE COURT: Mr. Chiarenza?

8 MR. CHIARENZA: Thank you, Your Honor.

9 The good news is, I'm the last lawyer you've got to  
10 hear from today. The bad news is I'll probably be  
11 somewhere in between as long as Ms. Inzerillo and Mr.  
12 Thompson. So if you need to shake it out a minute, I've  
13 got to arrange some things before I really get going. So  
14 make yourselves comfortable. I have yet to learn how to  
15 work one of those like my -- both of my co-counsel do, and  
16 I still do it old-school with notes, and paper, and pen,  
17 and I hope you don't mind that. And I'm going to have to  
18 refer to this from time to time because there's a lot of  
19 important stuff, and I don't want to forget anything.

20 I'm going last, and you may ask yourself why, I mean,  
21 what goes into the order of how things happen in this case.  
22 It's a -- I've always thought it was sort of a peculiar  
23 little rule of criminal procedure but essentially as you  
24 heard, the State gave their argument first, and then Ms.  
25 Inzerillo went, and now I'm going. And what the Rules say

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1 is that if a defendant chooses to not put up any evidence  
2 either the defendant testifying or any other witnesses on  
3 behalf of the defendant, then the defendant gets to speak  
4 to you last. And you'll note in this case that neither Ms.  
5 Inzerillo nor myself put up any evidence on behalf of our  
6 respective clients.

7 And that's the thing that quite frankly, the defense  
8 attorney has to balance when going into a case is "Should I  
9 put something up, and if I do, I'm going to lose the last  
10 argument?" Well I've been doing this for 18 years on both  
11 sides of the fence, and I've come to believe that the last  
12 argument is vitally important. If I didn't have the last  
13 argument in this case, if I had gone first, if we'd have  
14 put something up, then Mr. Thompson would go last, and by  
15 the time he was all finished, you might have forgotten  
16 everything I told you. And I don't want that to happen.  
17 This is my opportunity to tell you what I believe the  
18 evidence shows in this case, and it's important to me that  
19 you recall that. So I want to be the last one to speak to  
20 you as far as the attorneys go. And now the judge will be  
21 the last one to speak to you.

22 Part of the reason that I can feel comfortable in not  
23 putting up a defense, not having my client testify is  
24 because he doesn't have to prove a thing to you. He has no  
25 burden whatsoever. Okay.



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1           The reason we're all here is because the State of  
2           South Carolina through the Solicitor's Office and through  
3           law enforcement has made certain allegations against Mr.  
4           Henson, and I'm going to try and remember all through this  
5           that he is indeed Mr. Henson. I think we've all messed up  
6           Davontay and Donta at times, and it's important that you  
7           don't. Okay? So try and keep that straight. My client is  
8           Davontay Henson, and I apologize to him in front of y'all,  
9           and I apologize to y'all for getting that mixed up in my  
10          opening. I discussed it with him, and we had a little bit  
11          of a laugh about it. So I'm going to try not to mess that  
12          up again.

13          Like I said, he's got no obligation to prove anything  
14          to y'all. He comes into this court presumed innocent. As  
15          he sits there right now, he is an innocent man. No one has  
16          rendered a verdict otherwise in this case. Ultimately it  
17          will be your job to decide if something changes in his  
18          status as an innocent man or a guilty man. Right now he's  
19          an innocent man. That status remains with him all  
20          throughout the trial and all throughout your deliberations  
21          until you finally fill out the verdict forms and make a  
22          decision as to whether or not you're convinced there's a  
23          reason to change that status. He has no obligation to  
24          prove anything to y'all. The State has to prove their  
25          allegations. And when I'm done with all of this, I'm going

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1 to submit to you that the State quite simply has not proven  
2 their allegations against him.

3 What are the allegations? Well it's what he's charged  
4 with. Okay? It's that he was -- let's not dance around  
5 it. They're saying he was that guy who did the shooting.  
6 And by virtue of that, that would make him guilty of the  
7 murder, of the conspiracy, the three counts of armed  
8 robbery, possession of a firearm during a violent crime,  
9 all the things that he's charged with.

10 I told you in the opening that there's evidence in  
11 this case. There's a lot of it. There's a lot of evidence  
12 of what, but I'm going to come back and tell you like I did  
13 in opening, that there's just no evidence of who. We're  
14 going to go through all the evidence.

15 Another reason he doesn't have to prove anything to  
16 you because it's very difficult to prove that you didn't do  
17 something. That's why the State has to prove that you did  
18 do something. Could you prove to me that you didn't drink  
19 a glass of orange juice yesterday? How do you prove that  
20 you didn't do something? I'm not saying that it's  
21 impossible, but when somebody encounters you in Baltimore a  
22 year after something you have alleged to have done, it's  
23 just not fair, and it's not the way our system works to  
24 say, "You need to come down to York County now and answer  
25 for this, and prove that you didn't do it." Not the way it

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1 works. They've got to prove that he did.

2 I want to thank you for being here. I want to thank  
3 you for the service that you've given us. And I'm just  
4 going to ask you to bear with me for however long it takes  
5 for me to go through all of this. He's not guilty just  
6 because he's here on trial. Remember that. Okay? He is  
7 innocent until something changes.

8 We talk about evidence. I would like to characterize  
9 this evidence as I've told you, that there's evidence of  
10 what, but there's not evidence of who. Likewise, there is  
11 evidence, but I would submit to you, there's no good  
12 evidence. Good evidence would tell you who was the  
13 shooter. That would be good evidence in this case. If I  
14 could illustrate clothes. Okay? Clothing. Let's say  
15 there's clothing, and there's good clothing for a  
16 particular purpose. I get invited to a wedding. I show up  
17 at the church, and my dad is there, and he says, "Don't you  
18 have any clothes?" And I say, "I'm wearing clothes," but  
19 I'm wearing jeans, and a t-shirt, and sneakers. Those are  
20 clothes, but those are not good clothes for a wedding, all  
21 right? We've got evidence, but this is not good evidence  
22 for a conviction of Donta Henson. Well I did it. Davontay  
23 Henson. So bear that in mind.

24 Now we're going to go through the evidence, and we can  
25 see how much good evidence we have as opposed to how much

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1 reasonable doubt we have. And I want to illustrate this in  
2 a way that it becomes sort of tangible. And I'm going to  
3 give you two buckets. In one, we're going to put it in  
4 reasonable doubt, and in the other, we're going to put in  
5 the good evidence. I'm illustrating the reasonable doubt  
6 with Reeses, okay, because they kind of sound like  
7 reasonable doubt. And we'll see which one of these buckets  
8 we can fill up.

9 Where did the evidence come from in this case? It  
10 came from the witnesses that were on the stand either  
11 through their testimony or through actual items that were  
12 introduced into evidence that you'll all have there that  
13 you can take back to the witness room with you. And so  
14 this is a little bit like trick or treating, but instead of  
15 trick or treating, we're looking for reasonable doubt, or  
16 we're looking for good evidence. And let's see what we get  
17 from these witnesses.

18 Let's start with Mr. Jackson. Maurice Jackson, what  
19 did he tell us? Does he provide us with reasonable doubt,  
20 or does he provide us with any good evidence? Well, we  
21 want to consider his ability to identify things and what he  
22 told people immediately after this event occurred. You've  
23 got the 911 recording. You're going to have it in the jury  
24 room. I urge you to listen to it. You tell me if at any  
25 time in that 911 recording, Mr. Jackson describes an

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1 individual with an accent or someone who didn't sound like  
2 he was from around here. Or even better yet is they'd have  
3 you believe, someone who sounded like he was from  
4 Baltimore. And tell me if it's on that 911 recording when  
5 he is relaying his immediate, fresh impressions about what  
6 just occurred. Tell me if anywhere on that recording, he  
7 says that he was robbed by a guy with dread locks because  
8 they wanted to make a big deal about Mr. Henson at the time  
9 had dread locks to about here.

10 (ATTORNEY CHIARENZA INDICATED TO SHOULDER.)

11 MR. CHIARENZA: I believe they put a photograph of him  
12 into evidence. You can look at that photograph. Okay?  
13 They put that in there to say, "Oh wow look, this guy had  
14 dread locks." Well did Maurice Jackson say anything about  
15 that in the 911 call? I don't believe he did. You'll get  
16 to listen to it. Did he say anything about it in his  
17 statement to law enforcement, which was taken about an hour  
18 later? Anything about dread locks or anything about this  
19 guy having an accident? With the time he's trying to  
20 describe what occurred, and law enforcement is trying to  
21 gather evidence to go find this guy, they need some  
22 identifying characteristics. I submit to you, basically  
23 all Mr. Jackson told them was "He was wearing a flag, some  
24 kind of" -- and you take that to mean whatever you believe  
25 it means based on the testimony you've heard. I would

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1 submit to you, I think that's supposed to mean a bandana or  
2 something along those lines, a large piece of cloth that  
3 was tied around his head and a black hoodie, which really  
4 almost kind of brings up the question of -- and if you will  
5 excuse me, if he's got a hoodie on, right? I know this is  
6 a stretch, but imagine I've got dread locks. He's got a  
7 hoodie on. Okay? And then there's been some testimony  
8 that he had a ski mask, which is a hat covering his face.  
9 And then there was a lot of testimony about the flag  
10 wrapped around his face. But he's got the hoodie, the  
11 flag, and the ski mask, and was it even possible to see  
12 whether or not this guy had dread locks? The ones like in  
13 the photograph of Mr. Henson that are only really to about  
14 here.

15 (ATTORNEY CHIARENZA INDICATES TO HEAD.)

16 MR. CHIARENZA: I'd say that's our first little piece  
17 of reasonable doubt.

18 (DROPS REESE'S PIECE IN REASONABLE DOUBT BUCKET.)

19 MR. CHIARENZA: And remember, whenever we're  
20 discussing any of these witnesses, you want to weigh their  
21 credibility, okay, based on a couple of different factors.  
22 One is, were they really able to tell you, to observe  
23 sufficiently, to tell you what it is they're coming into  
24 court and trying to tell you today. And/or is this person  
25 even believable as a person? And you know who I'm talking

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1 about, and we'll get to that in a little bit.

2 Now I don't want you to think that I'm trying to have  
3 my cake and eat it too when I say that Mr. Jackson would  
4 have some difficulties in observing some things. I think  
5 it would have been very difficult to see the dread locks  
6 because of what the shooter was allegedly disguised in. I  
7 don't think it would have been all that difficult to make a  
8 guesstimate as to his height, particularly since this  
9 individual supposedly came -- now again, you recall the  
10 testimonies you recall. But my recollection is that either  
11 Mr. Jackson or Mr. Cunningham testified that the shooter  
12 came right up on the porch and was right in their face  
13 going through their pockets. You're going to get a pretty  
14 good idea of what -- how tall that person is relative to  
15 you. I know if somebody is as tall as me then I know  
16 they're about 5'7." I know if somebody is taller than me,  
17 and I know if somebody is shorter than me. And I can sort  
18 of give the guesstimate there if they're right in front of  
19 my face. Mr. Jackson testified that the shooter was about  
20 5'9." In fact that information was reiterated in Officer  
21 Harrelson's incident report, that the shooter was 5'9." An  
22 incident report that by the way says nothing about the  
23 shooter having dread locks or the shooter sounding like he  
24 had an accident from Baltimore.

25 Mr. Jackson also in his statement said the shooter

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1       sounded like he was 22 or 23 years old. And I'll remind  
2       you that Mr. Henson was 17 at the time of this.

3       While we're on the subject of the dread locks, when  
4       you go through the evidence -- I may have missed something.  
5       But I submit to you, you're not going to have anything in  
6       writing back there from any witness or any law enforcement  
7       officer who memorialized things at any time either through  
8       a witness statement, or through an officer's summary, or  
9       incident report, or detective notes, or anything like that,  
10      that are going to say anything about dread locks, or a  
11      Baltimore accent. And we're going to get back to that  
12      again because both of those officers testified that "Well  
13      that's something Mr. Jackson told us that night, we didn't  
14      write it down."

15      There were some testimony about some baggies that were  
16      found there that appeared to be consistent with the type of  
17      packaging used in drug activity because that just made you  
18      think, "Maybe we're not getting the whole story about  
19      what's going on at Byars Street. And maybe some of this  
20      testimony that we're getting from the people there are  
21      unreliable." Does that give us another one? I submit that  
22      it does.

23      (DROPS REESE'S PIECE IN REASONABLE DOUBT BUCKET.)

24      MR. CHIARENZA: I forgot the ones about no mention of  
25      any dread locks anywhere.



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1 (DROPS TWO REESE'S PIECE IN REASONABLE DOUBT BUCKET.)

2 MR. CHIARENZA: No mention of any Baltimore accent  
3 anywhere in any writing that you're going to have back  
4 there in the jury room. On that 911 tape, I'm pretty sure  
5 that the law enforcement officer on the other end of the  
6 tape asks Mr. Jackson at least three times, "What did you  
7 see about the robbers? Tell me about the robbers.  
8 Describe the robbers." Something along those lines. And  
9 all he consistently says is "He was wearing a black flag, a  
10 black flag. He had a black flag." Okay. I don't want to  
11 insult your intelligence and suggest that this was not a  
12 traumatic experience and that there's no doubt Mr. Jackson  
13 was excited, worked up, nervous. So we wouldn't expect him  
14 to be able to relay in full detail everything he possibly  
15 could that night off the top of his head while he's trying  
16 to get an ambulance there to his house. I mean, I agree.  
17 It would be disingenuous of me to tell you otherwise. But  
18 I will suggest that he's being asked questions, and he is  
19 responding to those questions. And his responses do not  
20 indicate anything that would seem to identify Mr. Henson.  
21 His responses merely paint a picture of a hooded individual  
22 dressed all up in black with a flag, a flag, a flag. And  
23 again, I characterize that as a bandana, but you do what  
24 you will with it.

25 Let's go to Mr. Cunningham. Mr. Cunningham, now he

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1 was shot, all right. So there's -- I think there's only so  
2 much we can reasonably expect Mr. Cunningham to be able to  
3 tell us on the night of the shooting. He's being  
4 interviewed in the hospital by Detective Ayers. But he was  
5 interviewed, and he was able to give some information. And  
6 let's take a look at what that information was. Mr.  
7 Cunningham told the detective that the shooter was 5 foot  
8 10.

9 (DROPS TWO REESE'S PIECES IN REASONABLE DOUBT BUCKET.)

10 MR. CHIARENZA: Because Mr. Henson is not 5 foot 10.  
11 He's not even close. What else does Mr. Cunningham tell  
12 us? Well he said, "I'm pretty sure" -- well he may have  
13 been more in fact than that. It was definitely not Donta  
14 Reid. But he also said, "But the only thing I was really  
15 looking at was that gun." Donta Reid is 5 foot 10 by the  
16 way. I believe there's testimony to that effect. Mr.  
17 Cunningham's testimony, it proves a "what," but it does not  
18 prove a "who." Were these guys robbed? Were they shot at?  
19 Was Mr. Cunningham shot at? Absolutely. That happened.  
20 We wouldn't be here if it didn't. But does anything Mr.  
21 Cunningham tell you, anything, indicate the who, who was  
22 the shooter? It doesn't. It doesn't.

23 Mr. Cunningham was asked in his statement, "What if  
24 anything did you notice about his hair." Oh no I'm sorry.  
25 The Solicitor asked him that. That's the note I took. I'm

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1 missing here where it says, "Solicitor." Solicitor asked  
2 him on direct examination boy because they want some  
3 testimony about these dread locks. What if anything did  
4 you notice about his hair? Mr. Cunningham's answer -- and  
5 you can get any of this stuff played back. It's one of the  
6 reasons we have a court reporter here. If you're saying  
7 that Chiarenza told us that he said something about it. I  
8 don't think that's really what they said. Don't take my  
9 word for it, all right? You can come in here, you can give  
10 a note to the bailiff, the bailiff will give it to the  
11 judge. Come right back in here and they'll replay the  
12 recorded testimony for you. The way I have got -- made my  
13 note is that when the Solicitor asked Mr. Cunningham, "What  
14 if anything did you notice about his hair?" Mr. Cunningham  
15 said nothing.

16 (DROPS REESE'S PIECE IN BUCKET.)

17 MR. CHIARENZA: I sure hope I'm putting these in the  
18 right bucket.

19 All right, the next guy is Mr. Stowers who is by some  
20 coincidence happens to be riding by at the moment this  
21 robbery is going on. And I struggled with whether or not  
22 to even discuss Mr. Stowers because I think there are some  
23 real credibility issues with his testimony in general, but  
24 that's for you to decide whether you want to believe him or  
25 you don't want to believe him. He didn't remember his own

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1 cousin's last name. He said that he wears glasses, and he  
2 wasn't wearing them that night. He can't see very well,  
3 and it was dark. But Mr. Stowers, if you take him for what  
4 he is, and you want to give some credence to his testimony,  
5 he told you that the girl told the guy to shoot.

6 Now certainly that doesn't tell us a who about  
7 anything, but it tells us a little bit about Lee Lee and  
8 that she was adamant about it. She didn't do that. She  
9 just said, "We need to watch our backs." So that goes to  
10 Lee Lee's credibility. And if Lee Lee doesn't have any  
11 credibility, then that's reasonable doubt.

12 (DROPS REESE'S PIECE IN BUCKET.)

13 MR. CHIARENZA: Mr. Stowers also told you that there  
14 were other people hanging around, and maybe even another  
15 girl. So again, I don't know how much credibility you can  
16 give to his testimony, but if you choose to give it some,  
17 then this adds a completely different element to the mix,  
18 and it calls into question everybody else's testimony  
19 because nobody else mentioned anything about -- and then  
20 there were two or three other people just hanging out, and  
21 one of them might have been another girl. So if you want  
22 to do something with that, and that calls everything that  
23 everybody else said into question because nobody else said  
24 that.

25 (DROPS REESE'S PIECE INTO BUCKET.)

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1 MR. CHIARENZA: So there's a little more doubt:

2 Mr. Harrelson -- I'm sorry, Officer Harrelson, he  
3 interviewed -- he was the first officer on the scene, I  
4 believe? Or maybe second. He was right there at the time  
5 everything was sort of being immediately dealt with. I  
6 think EMS was there at the time that officer showed up or  
7 maybe got there shortly thereafter. His interviewing  
8 resulted in an incident report that said, "The shooter was  
9 5 foot 9." He testified to putting out a call that the  
10 shooter possibly had dread locks. But again, I'm going to  
11 ask you to go back there and see if that was memorialized  
12 in any sort of a writing.

13 I think we heard about some kind of a call log. I  
14 don't know if it's in evidence in this case. I don't  
15 believe it is. So again, this is testimony that two years  
16 later, people are telling you dread locks because that was  
17 an important fact that they wanted to use to tie something  
18 to my client. But you'd think that it would have shown up  
19 somewhere in the investigation in this case, in a writing  
20 memorialized somehow. Or if it was anywhere where they  
21 could have proven it to you beyond people coming in two  
22 years later and saying, "Well they told us that, and I just  
23 -- it wasn't important enough to write it down." Then  
24 you'd have it in the jury room, and you don't. More...

25 (DROPS REESE'S PIECE INTO BUCKET.)

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1 MR. CHIARENZA: Officer, or he may be Agent Bagwell,  
2 or I believe he's an officer. He was the Forensic Service  
3 Unit Officer. He testified, and that's where we're going  
4 to get to some physical evidence. And he testified about  
5 going out there and collecting spent shell casings. He  
6 also the one who took all those photographs. So I just  
7 want to get to my page of notes on him. And you know what,  
8 I'm not going to go through putting it all out here for  
9 you, but I'm going to speak to it, and I'm going to let you  
10 do that because I'm pretty sure I'm not going to put any of  
11 that stuff in the good evidence bucket. But let's talk  
12 about it.

13 Remember I said good evidence is evidence that would  
14 tend to link my client with the crime. Officer Bagwell  
15 took a bunch of photographs, and you'll get -- they'll be  
16 in the jury room with it, so you'll get to look at all of  
17 them. Do they prove a what? I think some of them do prove  
18 that something happened. Others are just sort of general  
19 pictures of the scene. Do they prove a who? Are these  
20 good enough to go in here? I don't think so. I submit to  
21 you that they're not because they're not good evidence,  
22 because they don't prove who committed the crime. You know  
23 a crime was committed. My client's on trial because they  
24 say he did it. They need to put something in this bucket  
25 to prove that, and this doesn't do it.

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1 The shell cases. Let's combine two witnesses on  
2 those.

3 (DROPS REESE'S PIECE INTO BUCKET.)

4 MR. CHIARENZA: And the photographs don't prove  
5 anything about the crime. The shell casings, we heard  
6 testimony, they all came from the same weapon. So whoever  
7 the shooter was, shot a gun which shot those 10 empty  
8 casings and 2 unfired rounds that were of the same caliber.  
9 So there's the testimony there that the who that we can't  
10 put a name on shot a weapon that shot all the same caliber,  
11 all the same shell casings. So that's why I'm not putting  
12 those in the good evidence bucket because they're not good  
13 evidence. They're evidence that a gun was fired. They are  
14 not evidence of who fired the gun.

15 (DROPS REESE'S PIECE INTO BUCKET.)

16 MR. CHIARENZA: I asked Officer Bagwell if at the  
17 direction of either Detective Herring or Detective Ayers,  
18 he could have gone anywhere in York County and done a  
19 forensic examination of anything that may have had  
20 something to do with this case, and he said yes. If they  
21 had asked him to go somewhere, he'd have gone and done it.  
22 They didn't send him to Keels Street where all these  
23 individuals supposedly were before and after the crime. He  
24 didn't ask them to go there and look at anything. Now, can  
25 I tell you for sure he would have found anything there? I

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1 don't know. But they didn't even ask him to go. What  
2 might he have discovered there? Well they never recovered  
3 any of these stolen cell phones. That's at least my  
4 recollection of the testimony. They never recovered the  
5 ID's of the individuals. I don't believe they recovered  
6 the wallets. Keels Avenue might have been a good place for  
7 a Forensic Services Unit investigator to go and see if he  
8 could have found some sort of evidence that those items  
9 were there. But they never sent him there.

10 Did they ever send him out to that part of the road  
11 where the vehicle was supposedly parked laying in wait?  
12 Could he have gone there maybe and seen if there were tire  
13 tracks that they could have matched up to this specific  
14 vehicle? This was supposed to be Ms. Irvin's uncle's or  
15 grandfather's -- some individual lived at Keels Avenue. It  
16 was his truck. So clearly if they could have seen the  
17 truck -- it's probably still at Keels Avenue -- and matched  
18 that up to these tire tracks, that would have been some way  
19 that they could have given a little more credibility to  
20 this whole varying version of how things occurred. Then  
21 maybe if they could have narrowed down exactly where this  
22 truck was parked because they found the tire tracks, they  
23 could have looked for that sweatshirt that my client  
24 supposedly tossed in the bushes after this occurred.  
25 Forget who testified to that. But I am positive there is



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1 testimony in the record, and it was probably one of the  
2 girls.

3 I mean, why wouldn't you do that? Because then you  
4 could take that sweatshirt, show it to Mr. Cunningham and  
5 Mr. Jackson and say, "Does this look like the black hoodie  
6 that the shooter was wearing?" Maybe up to that point,  
7 that might still only prove a what, but then they could  
8 have sent that thing down to SLED. And Agent Gallman could  
9 have looked through it for hair. And if they found one of  
10 my client's hairs in that black hoodie, well then maybe  
11 we'd have a whole different situation here. And I submit  
12 to you that might be some "Who" evidence. But they didn't  
13 do it. And again in the interest of not insulting your  
14 intelligence, they can't do everything and maybe that  
15 sweatshirt was long gone.

16 The point is, why convict my client of murder  
17 basically on the word of Samantha Ervin and Lee Lee Newman  
18 and to a lesser extent, Alijah James who was laying on the  
19 couch all day smoking weed and drinking, and his sister who  
20 two years after this event gets contacted and says, "Well I  
21 remember seeing the four of them at the house that night."  
22 All right.

23 I want you all to say, "Listen, it really would have  
24 been nice if you'd have brought us something else that  
25 actually tied this individual to the crime other than the

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1 words of these people who with the girls are both admitted  
2 liars." There's something to gain by conforming their  
3 testimony to with the State's theory of the case because if  
4 they don't, they don't get their deal.

5 I can't explain to you why my guy is the lucky one  
6 they picked to put this on. But remember at one point this  
7 was originally put on someone else, Mr. Jeter. And Mr.  
8 Jeter's warrants said, "We're issuing these warrants based  
9 on police investigation, recovery of evidence, statement of  
10 defendants." All right. What evidence pointed to Mr.  
11 Jeter in this case? What police investigation pointed to  
12 Mr. Jeter in this case? Really it was just that somebody  
13 said that Jeter did it, so let's go arrest Jeter. Well  
14 then later on when somebody said, "No, Jeter didn't do it,  
15 Henson did it." So now let's go arrest Henson. The  
16 evidence didn't change. As we know, the physical evidence  
17 in this case doesn't tell you about who. The physical  
18 evidence never said Jeter did it. The physical evidence  
19 doesn't say that Henson did it. The police investigation  
20 consists of really, I would submit, not a whole lot more  
21 than the statements of Samantha Ervin and Lee Lee Newman.

22 You know if I had the resources of the State, if I had  
23 the 30-some-odd Rock Hill police officers that they put on  
24 their witness list that was read to you at the beginning of  
25 this case to see if you knew any of those people. Now they

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1 didn't call 30 police officers, but they were on the list  
2 as potential witnesses in this case. And if I had the  
3 resources of SLED, and they had four or five SLED agents on  
4 their potential witness list; and if I had the resources of  
5 the United States Marshall Service, which Detective Herring  
6 said that they employed in their system to assist them in  
7 this case; and if I had the resources of officers who had  
8 snitches and informants out there on the street; and if I  
9 could get all of those people to help me in investigating  
10 the situation, maybe I could have come up with a reason as  
11 to why Lee Lee and Samantha when they finally got around to  
12 talking, put this on Mr. Henson. Well one, I don't have to  
13 do that, like I already told you. But two, it's just  
14 beyond the scope of my ability to do that. I would submit  
15 that the people that did have all those resources also  
16 weren't able. With all of that, DNA; we can ping cell  
17 phones; and we can do microscopic analysis of stuff; and we  
18 can look at bullets, and fingerprints, and blood, and hair;  
19 and all that stuff they have, they come into court and say,  
20 "Well Lee Lee say he did it, and Samantha said he did it.  
21 We'll convict him of murder."

22 Why do we even have a trial? Would it have been just  
23 been enough to come in here and say, "Lee Lee and Samantha  
24 said this guy is guilty so that's all we need to know.  
25 Convict him of murder." Because when you get past all of

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1 the boxes of stuff and all the evidence that doesn't show  
2 anything particularly related to my client, and the  
3 pathologist's testimony about Mr. King, and the DNA agent's  
4 testimony, none of that points to Mr. Henson. People point  
5 to Mr. Henson or Lee Lee and Samantha, and I submit to you,  
6 that is not enough to convict my client of murder. They  
7 both got on the stand and admitted to lying. They both  
8 told you that they have cut a deal and their ultimate  
9 sentence relies on them giving testimony that conforms with  
10 the State's version of the facts in this case. Let's give  
11 one each for Samantha and Lee Lee.

12 (DROPS REESE'S PIECES INTO BUCKET.)

13 MR. CHIARENZA: All right, Detective Ayers, they  
14 questioned him about his sworn affidavit that at one point  
15 indicated that the female involved in this robbery had a  
16 pistol. And I asked him where did that come from? I think  
17 his exact testimony, "I have no idea." Yes, I swore, and I  
18 signed my name to this affidavit that I presented to a  
19 judge so I could get a search warrant and put information  
20 in there that is supposed to convince the judge that I am  
21 entitled to this search warrant, but I have no idea where  
22 that information came from. And I'm not trying to suggest  
23 to you that Lee Lee is the shooter. The reason I bring  
24 this up is because you ought to be concerned if law  
25 enforcement is kind of playing it fast and loose with the

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1 information they are giving the judges to get search  
2 warrants in this case. Because if they're not concerned  
3 enough to be one hundred percent accurate and truthful in  
4 what they're putting in those affidavits, they were both on  
5 the witness stand. Another thing I'll point out about  
6 their presence is that they were both here the whole time  
7 Mr. Jackson was testifying. They were in the courtroom.  
8 They heard what he said. So when questioned about it, they  
9 had already known how he testified. I'm talking about this  
10 accident again.

11 Ultimately they get a suspect in this case, and it's  
12 Mr. Henson. Did you hear anything about them ever putting  
13 Mr. Henson in a lineup and letting Mr. Jackson or Mr.  
14 Cunningham look at him. Again they both said they didn't  
15 really get a great look at his face, but would there have  
16 been any harm in that? Could they have said, "Well this  
17 guy's -- that guy's too short." Or would they have picked  
18 him out if they put him in a lineup of guys that were 5'5,"  
19 5'6," 5'7," 5'8," 5'9," 5'10,"? Could they have then said,  
20 "Well the guy who did it was about that tall. They never  
21 did that because Lee Lee's testimony and Samantha's  
22 testimony are apparently enough for them. Could they have  
23 had him give a voice identification lineup? We'll never  
24 know. It wasn't done. So they never brought him back.  
25 Now that we've got this guy, let's follow up with some of

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1 these witnesses and see if they think this is the guy. Did  
2 we get the right guy? They never bothered to do that. I  
3 don't know. Should they do everything? It's human nature.  
4 People make mistakes. People get convicted of murder all  
5 the time on the word of Lee Lee and Samantha.

6 You've been sitting here a long time. So I don't want  
7 to belabor certain points, but obviously... I'm going to  
8 go through all their testimony and the difference between  
9 their original statements, and their secondary statements,  
10 and their testimony later. But I submit to you Samantha  
11 Ervin and Lee Lee Newman are just not credible witnesses.  
12 Would you buy a used car from Samantha Ervin? Would you  
13 let Lee Lee Newman feed your cat if you were out of town  
14 for the weekend and water your plants? If you're not  
15 comfortable with those transactions, you ought not be  
16 comfortable with convicting my client of murder based on  
17 the words of Lee Lee and Samantha. So if you take them out  
18 of the equation, what else do you have? You got any of  
19 this?

20 (DROPS REESE'S PIECE INTO BUCKET.)

21 MR. CHIARENZA: The good evidence that points to my  
22 client to the exclusion of anyone else? I submit that you  
23 don't.

24 You've got Alijah James who in whatever altered state  
25 he was in wants to tell you that he saw them around the

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1 house, doesn't know what they were doing, where they were  
2 going, what they did. He didn't see anybody with a gun,  
3 but who knows what he saw really. But the important thing  
4 about Alijah James is he gives two statements to law  
5 enforcement. And I questioned him extensively about that.  
6 Those aren't in evidence because if I'd have put them in  
7 evidence, I would have lost the last argument, and the  
8 State chose not to put those statements in evidence. But I  
9 questioned him about it, and I hope you remember. In his  
10 first statement, he told law enforcement that his sister  
11 Sam was there with some friends and that her, Sam, and  
12 Crud, and I think he said Lee Lee left. And I don't  
13 remember if anybody else was there. Okay. He doesn't name  
14 my client as being there. He doesn't say anything about  
15 Mr. Henson being there, leaving. Now I think later on he  
16 says that they came back. But then law enforcement calls  
17 him back because they realize, I would submit to you, that  
18 this isn't good because Alijah, he's not -- he's going off  
19 the script here. Well they get him back in, and his next  
20 statement, and he admitted that that's what they got him to  
21 say. His next statement said, "When all four of them  
22 left." So that was important to them. Okay. Now this  
23 isn't so much about Alijah James being able to remember or  
24 not being able to remember things. It's about the facts  
25 and statements that he manipulated by the people

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1 investigating his case. Should that concern you? I would  
2 be terribly concerned. I'm going to -- I'm so concerned  
3 I'm putting two in there.

4 (DROPS REESE'S PIECES INTO BUCKET.)

5 MR. CHIARENZA: Duke Jeter, I mean he's either the  
6 unluckiest guy in the world, or he's just a victim of  
7 incredible coincidence, or there's more to that whole  
8 situation than meets the eye. I don't know. I don't have  
9 the resources to tell you what all his involvement was or  
10 wasn't in this case. I will tell you this though. The  
11 testimonies show that the day after, he's hanging with  
12 Samantha Ervin at the park. The day before, he's seen at  
13 the Byars Street, right out in front of the Byars Street  
14 house. When they search his house, they find five cell  
15 phones. I don't know if there was any testimony as to  
16 whether or not they tried to match those cell phones up to  
17 the ones that were taken. And you know that's -- if there  
18 was, then I missed it. Half the time I was taking some  
19 notes and doing some other things. So if you heard that,  
20 then fine. If law enforcement went to that trouble, I just  
21 didn't catch it. But, I didn't hear it. They took some  
22 bullets out of his house. They took some marijuana out of  
23 his house. So is it possible that there's a little more to  
24 this than meets the eye with Mr. Jeter? It's possible. I  
25 think we don't know everything we need to know about Mr.



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1 Jeter.

2 (DROPS REESE'S PIECES INTO BUCKET.)

3 MR. CHIARENZA: And what involvement he may have had  
4 in this case, even potentially being the shooter. Now the  
5 victims both testified they know him, and they know it  
6 couldn't have been him. They also both testified Mr.  
7 Cunningham -- "really the only thing I was focused on was  
8 that gun." The State wants to paint a picture of these  
9 guys as being nervous, and not being able to really recall  
10 anything. "And don't rely on certain things they say, but  
11 rely on other things they say." And Mr. Jackson basically  
12 told you he was wearing a flag. "He was 5 foot 9. He was  
13 wearing a flag, wearing a flag, wearing a flag." I don't  
14 know how that goes from that to saying, "But I know Darius  
15 Jeter, and I know absolutely it wasn't him."

16 All right, this is a really important one because I  
17 believe, and again, he may have just innocently mis-spoke,  
18 but Mr. Thompson told you in his closing that my client  
19 mysteriously dropped out of school after the murder  
20 occurred. That is not the testimony that's in evidence.  
21 And if you have any doubt about that, please ask that, that  
22 testimony be replayed. That is the Rock Hill School  
23 District officer Mr. Wilks. The testimony there was, and  
24 I'm certain of this, but you can have it replayed, was that  
25 "The last time they saw my client at Northwestern High

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1 School was on September 14th, 2009." This murder occurred  
2 on October 1st, 2009. Now they signed him out permanently,  
3 took him off the roles on September 29th, 2009, two days  
4 before the murder. But it had been a whole two weeks of  
5 school that he had been gone. They hadn't seen him since  
6 the 14th. I don't know if Mr. Thompson, again, just  
7 honestly mis-spoke or if he wants you to believe that Mr.  
8 Henson was planning on committing a murder on October 1st  
9 so on September 14th, he dropped out of school. I don't  
10 know what possible connection there could be between the  
11 two of those things. And that's important because surely  
12 it would look a lot worse for Mr. Henson if he was making  
13 all his classes, going to school, and being a good student  
14 right up until October 1st, and then they never saw him  
15 again. That's not the case. And that's what the Solicitor  
16 told you happened, but that's not what happened. And  
17 again, that may be an honest mistake. I don't think Mr.  
18 Thompson would intentionally mislead you, but if you need  
19 that testimony replayed, please have it replayed.

20 Let's talk about mistakes. Let's just talk about  
21 margins of error. Yeah, it is natural for people to have  
22 mistakes, but you've got to have a higher standard and a  
23 lower tolerance for error when you're deciding a young  
24 man's future and whether you're deciding to convict him of  
25 murder or not. If y'all were sitting in a plane right now

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1 on a runway, and the pilot said, "Ladies and gentlemen,  
2 welcome, thanks for flying ABC Airlines. I just want to  
3 let you know the weather looks good between here and San  
4 Francisco and our mechanical flight crew has informed us  
5 that they've done an inspection of the airplane, and they  
6 believe there's a ninety-nine percent chance that we'll get  
7 there safely." How many of you would stay on the plane?  
8 There's sometimes in life where your tolerance for mistakes  
9 have to be infinitesimally tiny or just you can't have any  
10 at all. And I'm asking to hold you to that high level here  
11 today, and to hold everybody who is involved in this case  
12 to that level if you're going to pass judgment on whether  
13 or not Mr. Henson is guilty or not guilty of murder.

14 Shaleika Black seemed like a fine young woman. I  
15 would just point out that it wasn't until two years later  
16 that she discussed this case with the Solicitor's Office  
17 and hadn't discussed it with anyone in the intervening time  
18 period. So you take her testimony and do with it what you  
19 will. If you choose to accept it, that she was able to  
20 recall everything that occurred two years earlier because  
21 it was a traumatic event, and it stuck in her mind. And  
22 basically her testimony is that I saw these people at the  
23 house at some point. Didn't really pay attention to what  
24 they were doing. Don't know where they went. Don't know  
25 what they did. Didn't see anybody with a gun anytime

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1 during that day. I was talking on the phone watching  
2 television most of the time. Okay, I would hope you  
3 wouldn't convict Davontay on that.

4 So that's what you've got. You've got Shaleika Black.  
5 You've got Alijah James. Those two saw these four together  
6 not really doing anything in particular. And then you've  
7 got Lee Lee. And you've got Samantha.

8 The judge will charge you that confession by a co-  
9 defendant -- you've got some statements by Mr. Reid in this  
10 case -- can only be considered by you as against that  
11 person who gives the statement. And you'll get that  
12 charge. I don't want to misquote the law, but pay  
13 attention because when you're going through those, you can  
14 only take that statement and use it in deciding your case  
15 against Mr. Reid, not in deciding your case against Mr.  
16 Henson.

17 And remember, the State's got tremendous resources,  
18 Forensic Services Unit, they could do lineups. They could  
19 do voice comparisons. They could check footprints, tire  
20 tracks. They had access to SWAT. I think they told you  
21 they called them out at some point. The US Marshall  
22 Service. All those people that were on their witness list  
23 that they read those names to you. They've got snitches  
24 and informants out there on the street. They can test for  
25 DNA, blood, hair. They can do ballistic testing. You

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1 should ask yourself, did they do enough of that? Did they  
2 try to do enough of that in this case? If they didn't,  
3 you're going to have to say, "I really wish you would have  
4 brought us something more." You can have suspicion.

5 You can think that maybe Mr. Henson did do this.  
6 Okay? After all, he is here on trial, and a number of  
7 witnesses said that he was involved. You're allowed to  
8 have those suspicions. But you've got to weigh those  
9 against the reasonable doubt in this case. And you have to  
10 defer to the doubt if indeed you have a reasonable doubt as  
11 to his guilt. You should not, I submit to you, convict on  
12 suspicion alone. But you should convict if you believe  
13 that after you, say, go back there into the jury room --  
14 and I don't want to get into your methods of deliberation,  
15 but if there are some concerns you have about this case and  
16 what's here and what's not here, you need to speak among  
17 yourselves, maybe make a list of those concerns. And if  
18 you can't eliminate all of them, I would submit to you --  
19 if there are still some lingering things there that give  
20 you a bad feeling in your stomach or cause you to just  
21 hesitate to mark the guilty box, then that's a reasonable  
22 doubt. It doesn't mean that I've proven that he's  
23 innocent. That's not what supposed to happen here. It  
24 means that the State didn't prove that he was guilty.

25 You may not like that, but you have taken an oath, and

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1 the Court is going to charge you that, that is the standard  
2 that you have to apply.

3 I got a lot of other stuff that I wanted to tell you,  
4 but you've all been just so patient, and I want to wrap it  
5 up. Let me just end with sort of a little scenario here.  
6 It's been five days, you haven't been allowed to talk to  
7 anybody about this thing, your friends, your family, and  
8 even each other. It will be over today or it should be.  
9 Or you can deliberate on into the weekend. But at some  
10 point, you will render a verdict in this case. It will be  
11 done. You'll go home. You'll get to talk to your friends,  
12 your husbands, your wives, your children, your boyfriends,  
13 your girlfriends, your family, your neighbors. And you  
14 will tell them about the week you spent trying the murder  
15 case at the Moss Justice Center. And they will say, "Tell  
16 me about it. How was it? What was it like?" Well what  
17 are you going to tell them? You'll tell them "We found the  
18 guy guilty. There were two guys on trial. And there was  
19 this one guy who was the shooter, and his name they alleged  
20 was Davontay Henson. And we found him guilty. And your  
21 friends will say, "Oh yeah, there must have been some  
22 eyewitnesses." What are you going to tell them? "Well  
23 there were two guys on the porch who got robbed, and they  
24 both said the shooter was 5'9" or 5'10." The guy who  
25 testified later in the trial said that he was actually

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1 friends with Henson, and Henson was 5'6." But we  
2 overlooked that. And the two guys on the porch who got  
3 robbed, they didn't really give much more of a description  
4 at all about him. There was some question as to whether  
5 one of the guys thought he heard him use a Baltimore  
6 accent, but for some reason that wasn't in any part of the  
7 investigative file, and his lawyer wanted to suggest that  
8 maybe he came up with that later. But we weren't awfully  
9 concerned with that either. And oh, there were two other  
10 people that said he did it. They were these two girls who  
11 showed up in orange jump suits because they're felons.  
12 They're criminals. They were involved in the case, and one  
13 of them even had a number of other crimes she had been  
14 convicted of. Well they came and testified, but their  
15 testimony was a little different than some previous sworn  
16 statements they had given. Both of them had admitted lying  
17 in the past, but we weren't too terribly concerned with  
18 that. And then there was this other guy who was -- spent  
19 most of the day on the couch and said he had seen Mr.  
20 Henson and some of these people at some point during the  
21 day. And he didn't know anything about what they may have  
22 done or not done that day. And then that guy had a sister  
23 who was upstairs in the house and said she remembered  
24 seeing them together too." Maybe your friends will say,  
25 "Oh well, surely there was some fingerprint evidence now.

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1 Well how about any DNA evidence?" "No." "Any footprint  
2 evidence?" "No." "Did they find the murder weapon?"  
3 "No." "But we convicted him anyway." Is that what you're  
4 going to tell them?

5 Or are you going to tell them, "I tell you, it was  
6 tough. We sat there for five days, and the State showed us  
7 a lot of stuff that there was no question, something  
8 terrible happened. And a woman lost a son. Another guy  
9 got shot. And some people who were responsible have  
10 already pled guilty. They cut some sort of deal with the  
11 State, and they came in and testified. And then there were  
12 two other people who said they saw this group together, but  
13 they didn't have any idea about what they may or may not  
14 have done that day. And I tell you what. There wasn't any  
15 other evidence. And we got back there in that jury room,  
16 and we all shared our thoughts on this, and we just felt  
17 like the State didn't improve their case. And I don't know  
18 how I feel about that because that guy might have done it.  
19 But might of just wasn't good enough for me. And we found  
20 him not guilty." That's what I hope you tell them. And if  
21 you find any reasonable doubt -

22 (DROPPED BAG OF REESE'S PIECES INTO BUCKET.)

23 MR. CHIARENZA: --- that's what you ought to tell  
24 them.. Thank you.

25 THE COURT: Members of the jury panel, we'll take



CHARGE TO THE JURY

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1 about a real short, refresher break before I do the charge  
2 on the law. But don't start discussing the case and try to  
3 make up your mind yet until you hear my charge. We'll take  
4 a short break.

5 (JURY EXITS COURTROOM AT 01:21 PM.)

6 THE COURT: We'll take about a 10 minute break and  
7 have Ms. Rutledge order the pizza for the jury.

8 If they can have it here about 2:00. 2:00 will be  
9 fine.

10 (COURT IN RECESS AT 01:22 PM.)

11 (COURT BACK IN SESSION AT 01:33 PM.)

12 THE BAILIFF: All rise. Come to order.

13 THE COURT: Everybody come to order. Thank you, take  
14 your seats, and bring in the defendants.

15 (DEFENDANTS REENTER THE COURTROOM.)

16 THE COURT: Is the State ready?

17 MR. BRACKETT: The State is ready, Your Honor.

18 MS. INZERILLO: Yes, Your Honor.

19 THE COURT: Mr. Chiarenza?

20 MR. CHIARENZA: Yes, Your Honor.

21 THE COURT: All right, bring in the jury.

22 (JURY REENTERS COURTROOM AT 01:35 PM.)

23 THE COURT: Members of the jury panel, I appreciate  
24 the attention and patience you've shown us this week. I'm  
25 now going to charge you the law that you are to apply to

## CHARGE TO THE JURY

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1 the facts as you determine them to be in this case.

2 You'll have with you in the jury room these  
3 indictments. There are six indictments. One set of six  
4 indictments as to each defendant. They contain eleven  
5 charges because on several there are two charges, a felony  
6 charge, a violent crime -- it was a felony and a violent  
7 crime charge along with the possession of the firearm in  
8 the commission of a violent crime charge. I will go over  
9 this in a little more when I talk to you about the verdict  
10 forms when I reach the end. But I want to remind you that  
11 there are eleven different charges set forth in six  
12 indictments to Mr. Henson and to Mr. Reid each. There are  
13 two for murder that has to do with the victim Mr. Tyrone  
14 King. That is one each for Mr. Reid and one for Mr.  
15 Henson. There is an assault and battery with intent to  
16 kill against Mr. Cunningham. And there are three armed  
17 robberies and one conspiracy.

18 These indictments are not evidence. They are the  
19 paperwork by way of which this case is processed through  
20 our court system and contain the charges, the allegations  
21 against Mr. Reid and Mr. Henson. But they are not  
22 evidence. You will have them in the jury room with you,  
23 but do not consider them as evidence. They are also the  
24 paperwork by way of which this case is handled and  
25 processed, and a record will be made of this case.

## CHARGE TO THE JURY

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1           The fact that Mr. Reid and Mr. Henson have been  
2           arrested, the fact that they have been charged, the fact  
3           that they have been indicted, the fact that they are on  
4           trial is not evidence either. That is just the way our  
5           system works. If the State believes that someone has  
6           committed an offense, they are arrested, charged, indicted,  
7           and brought to trial. Then it is up to the trial jury to  
8           determine whether or not the State has proven that person's  
9           guilt as to a particular charge beyond a reasonable doubt.

10           But the fact that they have been charged is not any  
11           indication of their culpability or their guilt in these --  
12           any of these charges.

13           Each indictment charge is a separate and distinct  
14           offense. You must decide each indictment separately on the  
15           evidence and the law applicable to it uninfluenced by your  
16           decision as to the other indictments. A defendant may be  
17           convicted or acquitted on all of the offenses charged or  
18           none of the offenses charged. You will be asked to write a  
19           separate verdict of guilt or not guilty as to each  
20           indictment. There is one little difference in that, that I  
21           will talk to you about when I charge you and go over the  
22           verdict forms with you, and that is that of course you can  
23           not find a defendant guilty of possessing a firearm during  
24           a violent crime unless you find them guilty of the  
25           commission of a violent crime. And I will define all of

## CHARGE TO THE JURY

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1 those for you and talk to you a little bit more about that  
2 and make it clearer when I go over the verdict forms.

3 You must consider separately and render your  
4 determination separately as to each defendant. Just like  
5 you look at each indictment separately, you look at the  
6 evidence and the law, and apply it to each defendant  
7 separately. You must consider each charge separately. You  
8 must also decide separately whether each individual  
9 defendant is guilty or not guilty of the charges alleged  
10 against that person. It is your duty to give such  
11 consideration as to each individual defendant on the  
12 separate charges and the separate indictments. You must  
13 consider therefore separately the evidence and law for each  
14 and return your verdict accordingly. Please keep that in  
15 mind as you deliberate.

16 As to each of these charges, Mr. Reid and Mr. Henson  
17 has entered pleas of not guilty. Their pleas of not guilty  
18 place on the State the burden of proving their guilt beyond  
19 a reasonable doubt. Any person charged with committing any  
20 offense in our state is presumed innocent of that charge.  
21 Now this presumption of innocence is a substantial right.  
22 It is not a mere legal theory or merely -- it is not just a  
23 mere legal theory, it is a substantial right. The  
24 presumption of innocence adheres to the benefit of anyone  
25 charged with any offense in our system. The presumption of

## CHARGE TO THE JURY

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1 innocence attaches to an individual at the time they are  
2 arrested, continues with them as their case is processed  
3 through our court system, remains with them throughout the  
4 trial. In fact, the presumption of innocence as to Mr.  
5 Reid and Mr. Henson exists at this very moment and  
6 continues to exist as you deliberate. The presumption of  
7 innocence in their favor is removed if and when and only if  
8 and when you determine the State has proven as to a  
9 defendant and as to a charge that defendant's guilt beyond  
10 a reasonable doubt.

11 Now the State is not required to prove one's guilt  
12 beyond all or beyond every doubt, but beyond a reasonable  
13 doubt. Our law, our courts, have defined a reasonable  
14 doubt as a kind of doubt that would cause a reasonable  
15 person to hesitate and to act. Proof beyond a reasonable  
16 doubt is proof that leaves you firmly convinced of an  
17 individual's guilt. There are very few things in our world  
18 that we can know with absolute certainty, and the law does  
19 not require in cases like this, absolute certainty. If  
20 based on your consideration of the evidence, you are firmly  
21 convinced that a defendant is guilty of one or more of the  
22 charges, you would find that defendant guilty. On the  
23 other hand, if you think there is a real possibility that a  
24 defendant is not guilty as to a particular charge, then you  
25 would give that defendant the benefit of the doubt and find

## CHARGE TO THE JURY

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1 him not guilty. Each defendant is entitled to any benefit  
2 of the doubt -- is entitled to any reasonable doubt you  
3 have as to any issue and as to any element of any of the  
4 charges against them.

5 I'll remind you that I am the sole judge of the law in  
6 this case, and you must take, accept, and apply the law as  
7 I charge it. This is true as I told you earlier, even if  
8 you think I charge the law in error, or even if you think  
9 the law should be different. Your oath requires you to  
10 take, accept, and apply the law as I charge it.

11 You're not to infer from anything that I have said or  
12 done during this trial, or anything I say or do during my  
13 charge, or at anytime in this trial as indicating an  
14 opinion of mine on the facts. Our law does not allow a  
15 trial judge to formulate or express to a jury any opinion  
16 on the facts. That is solely your job. It is solely up to  
17 you to examine the evidence, to give to the evidence the  
18 effect, the value, the weight, and the truth you believe it  
19 should have.

20 In doing this, you may believe one witness as opposed  
21 to several, several witnesses as opposed to one. You may  
22 believe all, part, or none of a witnesses' testimony. Use  
23 your common sense, your sense of reason. Use your  
24 experiences in life as you analyze the evidence. As judges  
25 of the facts, you must necessarily judge the credibility,

## CHARGE TO THE JURY

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1 that is the believability, of the witnesses who have  
2 testified. In assessing credibility, use the things I have  
3 just been talking about. Use the things that you in your  
4 day to day life find as being indicative of truthfulness.  
5 And you can use certain sort of yard sticks or measures, a  
6 witness's demeanor, you can look at that. How a witness  
7 acted on the stand, were they hesitant or straightforward  
8 in answering questions. You can look at consistencies and  
9 inconsistencies in the witnesses' testimony and the  
10 testimony as they give it or compare it to testimony that  
11 they've given at an earlier time. You can consider any  
12 bias or prejudice a witness may have, that is whether a  
13 witness would wish to help or hurt one side or the other.  
14 You can consider the opportunity the witness had to know  
15 those things to which the witness testified. And also, you  
16 can consider whether or not a witness had any criminal  
17 record in determining whether or not to believe any part or  
18 all of that witnesses' testimony. Determine the true  
19 facts, apply the law, and you will be in a position to  
20 return a verdict that speaks the truth.

21 In this case, we've had testimony of individuals who  
22 have been qualified by the Court as what are called expert  
23 witnesses. Generally an individual can only testify as to  
24 something they've observed with one of their five senses.  
25 Usually it's something they've heard or seen, but it could

## CHARGE TO THE JURY

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1 be taste, touch, or smell. However, where an individual  
2 has certain training, education, skill, knowledge, and  
3 experience in a certain area, the law allows them to render  
4 opinions based on facts. And the opinions of experts are  
5 given to assist you. They're not binding on you. You're  
6 to look at the expert's opinion just as you look at the  
7 testimony of any other witness. In addition when  
8 determining what value, if any, to give an expert's  
9 testimony, you look at their credentials so to speak. You  
10 look at their background and determine whether or not they  
11 in fact have those skills, knowledge, experience, training  
12 to reach the opinion they reached. And also you can look  
13 at the reason the opinion reached -- the expert reached the  
14 opinion the expert reached. Expert opinions are allowed  
15 into evidence to assist you. They're not binding on you.  
16 You may accept them or reject them in whole or in part.

17 I instruct you and emphasize to you the fact that Mr.  
18 Reid and Mr. Henson have exercised their Constitutional  
19 rights to remain silent cannot be used against them in any  
20 way whatsoever. You cannot discuss it in the jury room.  
21 You cannot factor it into your own deliberations. An  
22 individual in our judicial system has an absolute  
23 Constitutional right of the United States and State  
24 Constitution to remain silent. The fact that they have  
25 exercised that right cannot be used against them in any way



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1       whatsoever. It cannot be discussed as I have said, and it  
2       cannot be factored into your own deliberation.

3               I remind you that each of these individuals Mr. Reid  
4       and Mr. Henson are presumed innocent. They do not have to  
5       prove their innocence. The State must prove their guilt  
6       beyond a reasonable doubt and their exercise of their right  
7       to remain silent cannot be used against them in any way  
8       whatsoever.

9               In these type trials, generally there are two types of  
10       evidence presented: Direct and circumstantial evidence.  
11       Direct evidence is the testimony of someone who claims to  
12       have actually -- have actual knowledge of a fact such as an  
13       eyewitness. It is evidence which immediately establishes  
14       the main facts sought to be proved. Circumstantial  
15       evidence is proof of a chain of facts and circumstances  
16       which indicate the existence of a fact. Circumstantial  
17       evidence, which is evidence which immediately establishes  
18       collateral facts in which the main facts sought to be  
19       proven may be inferred. Circumstantial evidence is based  
20       on inference and not on personal knowledge or personal  
21       observation. Our law makes absolutely no distinction  
22       between the two. That is, there's no difference between  
23       the weight or value to be given either direct or  
24       circumstantial evidence. Our law does not require a  
25       greater degree of certainty for circumstantial evidence as

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1       opposed to direct evidence. What you should do is weigh  
2       all the evidence in this case. After weighing all the  
3       evidence, if you're not convinced of the guilt of a  
4       defendant as to a charge, you will give him the benefit of  
5       that doubt and find him not guilty.

6               Now in this case, as to Mr. Reid, statements allegedly  
7       made by him have been admitted into evidence. I made an  
8       initial determination outside your presence that the  
9       statements were admissible. However the ultimate decision  
10      of whether or not to determine -- whether or not to --  
11      whether or not Mr. Reid in fact made these statement, and  
12      if he did, if he did them freely and voluntarily, knowingly  
13      and intelligently is up to you. You must determine whether  
14      he in fact made these statements. I have just simply  
15      allowed them into evidence. And you must do that beyond a  
16      reasonable doubt. If you find that Mr. Reid made one or  
17      more of these statements, you must determine whether or not  
18      they were given voluntarily and under his own free will.  
19      This means that any statement before it could be considered  
20      by you, must not have been caused by pressure, force, fear,  
21      threats, coercion, intimidation, hope of reward, or  
22      leniency of any kind. In determining whether a statement  
23      was voluntarily given by Mr. Reid, you should consider both  
24      the characteristics of Mr. Reid and the details of the  
25      question. Some factors you may consider are his age at the

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1 time, his education or lack thereof, his mental ability or  
2 capacity, his background and environment, the place and  
3 length of detention, the nature of any questioning, and the  
4 advice or lack thereof to him of his Constitutional rights  
5 including, but not limited to, his right to remain silent  
6 that any statement could be used against him in a court of  
7 law, the right to have a lawyer present while he was being  
8 questioned, and if he could not -- I'm sorry, the right to  
9 have an attorney present, and if he could not afford one,  
10 that he would at no cost to him be appointed an attorney by  
11 the State to represent him; that he could stop making a  
12 statement at any time; and again, that he had a right to  
13 have an attorney present if he wished. You must carefully  
14 consider all of the surrounding circumstances before you  
15 give any weight to an alleged statement. The State has the  
16 burden of proving beyond a reasonable doubt that he made  
17 the statement, and that it was made freely and voluntarily,  
18 knowingly and intelligently. You can determine that Mr.  
19 Reid did give these statements, and that he did so  
20 voluntarily, knowingly and intelligently, then you would  
21 consider what consideration is proper to give them. If you  
22 determine that he did not make them or they were made in  
23 circumstances other than being free and voluntarily, you  
24 should not consider them at all. Any statement or  
25 confession by Mr. Reid can only be considered by you as it

## CHARGE TO THE JURY

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1       pertains to him and not as to his co-defendant Mr. Henson.  
2       As to any statements made by Mr. Reid, you can only  
3       consider them as to him, as I say, and not as to Mr. Reid  
4       -- I'm sorry, not as to Mr. Henson. This applies only, as  
5       I said, if you find that Mr. Reid gave the statement  
6       freely, voluntarily, and knowingly.

7       We have a legal concept in this state that's been  
8       referred to called basically "the hand of one is the hand  
9       of all." Sometimes it's referred to as accomplice  
10      liability. If a crime -- Our law states that if a crime is  
11      committed by two or more people who are acting together, in  
12      committing the crime, the act of one is the act of all. A  
13      person who joins with another to commit an unlawful act is  
14      criminally responsible for everything done by the other  
15      person, which happens as a probable or natural consequence  
16      of the acts done in carrying out or in furtherance of the  
17      common plan and scheme. However if a person completely  
18      withdraws from a common design or plan and communicates his  
19      withdrawal to his associates under circumstances that  
20      permit the associates to withdraw and the person escapes  
21      criminal responsibility for the acts of his associates. If  
22      an act has no connection with the common purpose and did  
23      not ensue as a probable result of an attempt to execute the  
24      common purpose, then the actor alone is responsible for any  
25      acts done during the event. The test is whether the act

## CHARGE TO THE JURY

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1 was committed in furtherance of the plan and was a probable  
2 result of the plan's execution.

3 A principal in a crime is one who either actually  
4 commits the crime or who is someone who is present aiding,  
5 abetting, or assisting in the crime. When a person does  
6 the acts -- an act in the presence of and with the  
7 assistance of another, the act is done by both. Where two  
8 or more acting with a common plan or intent are present at  
9 the commission of a crime, it does not matter who actually  
10 commits the crime. All are guilty. The hand of one is the  
11 hand of all. Present at the commission of a crime means to  
12 be sufficiently near to aid, and abet, and assist in the  
13 commission of the crime. However a mere presence at the  
14 scene of a crime is not sufficient to convict one as a  
15 principal on the theory of aiding and abetting.

16 Intent is also a necessary element. But there must  
17 have been a common design or intent to commit the crime,  
18 and the crime must have been committed pursuant to the  
19 design or intent with the person aiding and abetting by  
20 some overt act. Intent means intending the result which  
21 actually occurs. It is not accidental or involuntary.  
22 Intent: You may consider as to intent whether a witness  
23 had an adequate opportunity -- I'm sorry, I've got the  
24 wrong sheet in there. Let me go back and just restate that  
25 intent is also a necessary element in regard to a common

## CHARGE TO THE JURY

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1 design or intent to commit a crime and the crime for which  
2 one is to be held responsible if at all as aiding and  
3 abetting under the theory of the hand of one or the hand of  
4 all must have been committed pursuant to the common plan,  
5 design, or scheme.

6 I told you mere presence by one at the scene of a  
7 crime is not alone sufficient to convict that individual.  
8 A defendant's mere presence where a crime is committed or  
9 merely associating with a person who commits a crime does  
10 not make that defendant an accomplice or an aider or  
11 abetter of the person committing the crime. The burden is  
12 on the State to prove each element of each crime charged.  
13 If you find after reviewing that the State has only proven  
14 that the defendant was present at the scene and not  
15 involved and not a participant and did not participate,  
16 then you would find the defendant not guilty as to that  
17 particular offense.

18 Both defendants are charged with murder. The State  
19 must prove beyond a reasonable doubt that the defendant or  
20 the defendants killed another person with malice of  
21 forethought. I am now going to define for you the term  
22 "malice" of forethought" as it applies to murder. I'll  
23 tell you now and will not redefine it, but the same  
24 definition applies when I talk about malice of forethought  
25 in regard to the offense of assault and battery with intent

## CHARGE TO THE JURY

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1 to kill. Malice is hatred, ill-will, or hostility towards  
2 another person. Malice is the intentional doing of a  
3 wrongful act without just cause or excuse and with an  
4 intent to inflict injury or under circumstances from which  
5 the law would infer and even intent. Malice of forethought  
6 does not require that malice exists for any particular time  
7 before the act is committed. But malice must exist in the  
8 mind of the defendant just before and at the time the act  
9 is committed. Therefore, there must be a combination of  
10 previous evil intent and the act itself. Malice of  
11 forethought may be expressed or inferred. These terms  
12 expressed or inferred do not mean different kinds of  
13 malice, but merely the manner in which malice may be shown  
14 to exist. That is either by direct evidence or by  
15 inference from the facts and circumstances which have been  
16 proven. Expressed malice is shown when a person speaks  
17 words which express hatred or ill-will for another or when  
18 a person prepares beforehand to do the act which was later  
19 accomplished. For example, lying in wait or any other acts  
20 or preparation going to show that the deed and issue within  
21 the defendant's mind would be expressed malice. Malice may  
22 be inferred from conduct showing a total disregard for  
23 human life. Inferred malice may also arise when the deed  
24 is done with a deadly weapon. A deadly weapon is any  
25 article, instrument, or substance which is likely to cause

## CHARGE TO THE JURY

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1 death or great bodily harm such as a rifle. If one  
2 intentionally kills another while that person is committing  
3 a felony, the inference of malice may arise. If facts are  
4 proven beyond a reasonable doubt sufficient to raise an  
5 inference of malice to your satisfaction, this inference  
6 would simply be an evidentiary fact to be taken into  
7 consideration by you along with the other evidence in the  
8 case. You may give it the weight, if any, you should  
9 decide it should receive.

10 Armed robbery, assault and battery with intent to  
11 kill, and assault and battery of a high and aggravated  
12 nature are each felonies under the laws of our state.

13 The defendants are also charged with assault and  
14 battery with intent to kill. In order to prove assault and  
15 battery with intent to kill, the State must prove beyond a  
16 reasonable doubt, that as to that victim, the defendant  
17 committed an unlawful act of a violent nature to that  
18 person with malice of forethought. And as I said, I have  
19 already defined malice of forethought for you when I  
20 defined murder.

21 An assault occurs when a person unlawfully attempts or  
22 offers to commit a violent injury upon another person and  
23 has a present ability to complete the injury. An assault  
24 is the intentional creation of a reasonable fear of  
25 immediate bodily injury. It is not necessary that the



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1 attempted injury or harm actually take place. The example  
2 I always use is that I'm close enough to you, and I grab  
3 back my fist like I'm going to strike you, and I'm close  
4 enough to strike you, and I put you in fear that I may,  
5 that is an assault.

6 A battery is the unlawful touching of another person  
7 by a person who has committed an assault. An unlawful  
8 touching can be caused by a part of the accused body or by  
9 any object the accused puts in motion. A battery is the  
10 completion of the assault by using or applying force to  
11 another person, however slight, in a rude, angry, or  
12 resentful manner without legal justification for so doing.  
13 Using my earlier example, if I rear back, and I follow  
14 through and actually hit you, then I have committed the  
15 assault, and then when I touch you or hit you, I have  
16 committed a battery.

17 And to constitute assault and battery with intent to  
18 kill, the assault and battery must be done with malice of  
19 forethought as I have already charged you.

20 Now by law, there is something called a lessor-  
21 included offense of assault and battery with intent to  
22 kill. That is, if you determine the State has not proven  
23 assault and battery with intent to kill as charged as to  
24 one or more of the defendants, then you may consider  
25 whether or not the State has proven that, that defendant

## CHARGE TO THE JURY

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1 has by beyond a reasonable doubt -- has proven beyond a  
2 reasonable doubt that, that person committed what is called  
3 a lessor, that is not a higher-degree offense of assault  
4 and battery of a high and aggravated nature.

5 Assault and battery of a high and aggravated nature  
6 contains all of the elements of assault and battery with  
7 intent to kill with the exception that it does not require  
8 malice of forethought. In addition, the State must prove  
9 beyond a reasonable doubt, not only the assault and  
10 battery, but that it was done with the circumstances of  
11 aggravation. Circumstances of aggravation include the use  
12 of a deadly weapon, the intent to commit a felony, the  
13 infliction of serious bodily injury, and such other things  
14 as you may consider as aggravating circumstances. The ones  
15 I gave are simply examples.

16 The defendants are charged with three counts each of  
17 armed robbery. In order to prove armed robbery, the State  
18 must prove beyond a reasonable doubt that the defendants  
19 took personal property from the person or presence of  
20 another person. Property is in the presence of a person,  
21 if it is within that person's reach, inspection,  
22 observation, or control, so that the person could not  
23 overcome the violence or prevented it by fear, retain and  
24 keep possession of their property. The State must prove  
25 beyond a reasonable doubt that a defendant carried the

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1 property away intending to permanently deprive the owner of  
2 the property and to keep the property for their own use.  
3 The slightest removal of the property or the complete  
4 possession of the property even for an instant by a  
5 defendant is sufficient to show a taking and carrying away  
6 of the property. Taking and carrying away of the property  
7 must have been done with violence or by putting the owner  
8 of the property in fear of violence.

9 Finally, the State must prove beyond a reasonable  
10 doubt that a defendant was armed with a deadly weapon  
11 during the robbery. A deadly weapon as I told you earlier  
12 is any article, instrument, or substance, which is likely  
13 to cause death or great bodily harm such as a rifle.

14 The defendants are also charged with conspiracy. The  
15 State must prove as to this charge that a defendant  
16 combined with other individuals, one or more, with the  
17 purpose of committing an unlawful act. There must be a  
18 mutual understanding, agreement, or common intention and  
19 plan. Mere passive knowledge of or consent to the criminal  
20 conduct of another is not enough to make a person a  
21 conspirator. There must be guilt, knowledge and  
22 participation. Similarly the mere fact that the defendant  
23 or a defendant may have associated with another person or  
24 met with another person and discussed common aims and  
25 interests does not necessarily establish proof of the

## CHARGE TO THE JURY

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1 existence of a conspiracy or that a defendant was involved  
2 in a conspiracy. On the other hand, it is not necessary  
3 that any agreement be formal. There's no requirement that  
4 any agreement be in writing or that people hold a meeting  
5 and expressly state the terms of the common plan, or that  
6 the agreement be stated in words between them. The  
7 agreement of a criminal conspiracy may come into being  
8 through an implied, mutual understanding, and willful  
9 intention and knowing adoption by two or more purposes of a  
10 common plan or scheme is sufficient to constitute a  
11 conspiracy. No overt act needs to be shown to establish a  
12 conspiracy. A conspiracy may be shown by circumstantial  
13 evidence and the conduct of the parties. In order to  
14 convict a defendant of conspiracy, the State must prove  
15 beyond a reasonable doubt not only that the defendant knew  
16 of the unlawful conduct, but that, that defendant agreed to  
17 combine with the other persons for the purpose of  
18 accomplishing the unlawful conduct.

19 Now as to the assault and murder, assault and battery  
20 with intent to kill, and armed robbery, each of those is by  
21 law described as a -- or designated as a violent crime. As  
22 to these, the defendants are charged with possessing a  
23 weapon during the commission of or the attempt to commit a  
24 violent crime. That is a law that has been passed by our  
25 legislature. Here the statements prove beyond a reasonable

## CHARGE TO THE JURY

-1026-

1 doubt that a defendant was in possession of a firearm  
2 during the commission of a violent crime. An automatic  
3 rifle is a firearm. In order to find a defendant guilty of  
4 possession of a weapon during the commission of a violent  
5 crime, you must first find the defendant guilty of either  
6 committing a violent crime as I just said or attempting to  
7 commit a violent crime. Murder, assault and battery with  
8 intent to kill, and armed robbery are violent crimes under  
9 the law of our state.

10 You of course could not find a defendant guilty of  
11 possessing a firearm during a violent crime -- the  
12 commission of a violent crime, unless you find them guilty  
13 of that violent crime.

14 As to Mr. Reid, you must prove beyond a reasonable  
15 doubt, that he had both the power and intent to control the  
16 disposition or use of the weapon, that is, a form of  
17 possession. Possession may be either actual or  
18 constructive. Actual possession means that the weapon was  
19 in the actual, physical custody of Mr. Reid. Constructive  
20 possession means that Mr. Reid had dominion and control or  
21 the right to exercise dominion or control over the firearm.  
22 Constructive possession may be established through either  
23 direct or circumstantial evidence and possession of a  
24 firearm may be a shared -- may be shared possession.

25 Now as to each of these charges, I have prepared

## CHARGE TO THE JURY

-1027-

1 verdict forms that go along with them, and I'll go over  
2 those with you in just a moment. Your verdicts as to each  
3 charge, as to each defendant must be unanimous. All twelve  
4 jurors must agree on a verdict before you authorize the  
5 foreman, who will preside over the deliberation, to write  
6 the jury verdict. Your verdict cannot be based on  
7 sympathy, passion, prejudice, public opinion, or matters  
8 outside the record.

9 In South Carolina, we do not send in with the jury a  
10 written copy of the charge on the law. If you wish me to  
11 go over any part or all of my charge, let me know. I will  
12 bring you back out, and here in open court, recharge you  
13 any part or all of the law..

14 We can have testimony replayed if you wish. If you  
15 wish, just let us know.

16 If while you're deliberating, you have any questions,  
17 please write them down, Mr. Foreman, knock on the door,  
18 give them to the Bailiff. We're not starting any other  
19 work, so we should be able to send for you promptly. After  
20 I receive a note from you, I will discuss it with the  
21 attorneys. It may be that I can respond by simply writing  
22 an answer on the note. And if I do that, keep the note and  
23 return it with the evidence because it has to be part of  
24 the record. It may be that I'll have to bring you back,  
25 and here in open court, answer any questions you may have.

## CHARGE TO THE JURY

-1028-

1 Don't hesitate if you need any further part of the charge,  
2 or to hear testimony, or you have a question to let me know  
3 that.

4 We do have lunch coming. You can work through lunch,  
5 or you can take a break. However when you're deliberating,  
6 all twelve of you since the verdict has to be unanimous,  
7 you should deliberate. So either all twelve ought to be on  
8 break or all twelve working.

9 Ms. Rebh, you will stay in here in just a moment when  
10 the jury exits because we will not need you to participate  
11 further.

12 When you have reached a verdict, please knock on the  
13 door, tell the Bailiff. Again we're not starting any other  
14 work this afternoon, so we should be able to send for you  
15 very promptly.

16 When you first go into the jury room in just a moment,  
17 don't get too comfortable. Don't start eating lunch, and  
18 don't start deliberating. I have to go over my charge with  
19 the attorneys. If I have made an error, I'll have to bring  
20 you back in and correct it because I already told you, you  
21 have to take, accept, and apply the law as I charge it. So  
22 if I have left something out, including something that was  
23 wrong or stated something incorrectly, I'll have to bring  
24 you back in and correct it.

25 Now as to each defendant, I have prepared verdict

## CHARGE TO THE JURY

-1029-

1 forms as to each of the offenses. I'm not going to go over  
2 both of them, and I'm not going to go over them repeatedly,  
3 but I will go over them as to each charge.

4 As to the verdict form for murder, at the top, it just  
5 says, "We find the defendant guilty of murder." Or the  
6 other option is, "We find the defendant not guilty of the  
7 charge of murder." The order these are in is of no  
8 significance. I have to put them in some order, and this  
9 is the order I always use. The fact that one is first and  
10 the other is second is not to be taken as any indication of  
11 any thoughts by me that one should be your preference.  
12 There's a sentence under that, that says, "If you have  
13 found the defendant not guilty of murder, stop." That  
14 means you will not consider the possession of a firearm  
15 because you would have found him not guilty of murder.  
16 Then it says, "If you have found the defendant guilty of  
17 murder, make a finding as to the charge of possession of a  
18 firearm during the commission of a violent crime." And  
19 under that, you will then have two options, "Finding the  
20 defendant guilty of possession of a firearm during the  
21 commission of a violent crime." Or the second says,  
22 "Finding him not guilty." On each of these is a place for  
23 you to sign and to date. The date is the 18th.

24 As to the assault and battery with intent to kill  
25 indictments, they are very, very similar to the murder



## CHARGE TO THE JURY

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1 because they have at the top, "The assault and battery with  
2 intent to kill," and then the language about determining  
3 whether or not to go further regarding possession of  
4 firearm during the commission of a violent crime. The main  
5 difference in this is that as you hopefully recall, I told  
6 you that as to assault and battery with intent to kill,  
7 there was the lessor-included option if you wanted to  
8 consider it, it's up to you, of assault and battery of a  
9 high and aggravated nature. So there are three options as  
10 to assault and battery with intent to kill. Mark the one  
11 that the jury unanimously determines. The first says, "We  
12 find the defendant guilty of assault and battery with  
13 intent to kill." The second says, "We find the defendant  
14 guilty of the lessor-included offense of assault and  
15 battery of a high and aggravated nature." The third is "We  
16 find the defendant not guilty." Then there's the sentence  
17 that says if you find him not guilty, then you would stop.  
18 However if you have found him -- the defendant guilty as to  
19 either, you will proceed to the possession of a firearm  
20 charge to determine whether or not you find the defendant  
21 as guilty or not guilty. And there's a line stating each  
22 of those and a place for your to sign. The verdict form is  
23 similar. Again we have the two options here, "We find the  
24 defendant guilty of armed robbery." Or "We find the  
25 defendant not guilty of armed robbery." If you find him

## CHARGE TO THE JURY

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1 not guilty, then you would stop again. If you had found  
2 the defendant guilty of armed robbery, then you would  
3 proceed to the possession of a firearm during the  
4 commission of a violent crime. Just like you would on the  
5 others. And there the two options are guilty of possession  
6 of a firearm during commission of a violent crime and not  
7 guilty of that charge. Of course there are three armed  
8 robberies. The verdict form on the criminal conspiracy is  
9 simply, "We find the defendant guilty of criminal  
10 conspiracy," or "We find the defendant not guilty of  
11 criminal conspiracy." There are only two choices on that.  
12 And you mark whichever one the defendant -- the jury  
13 unanimously determines has been proven beyond a reasonable  
14 doubt by the State.

15 Now I'm going to let you go to the jury room, everyone  
16 but Ms. Rebh, and don't start deliberating yet.

17 (JURY EXITS COURTROOM AT 2:12 PM)

18 THE COURT: Just have a seat. I'll be with you in  
19 just a minute.

20 Anything from the State?

21 MR. BRACKETT: Two issues, Your Honor. When you were  
22 charging the felony murder doctrine, you indicated that  
23 ABHAN is a felony under - under in this state, and it is  
24 now, but under the ABHAN we're using, it was a common law  
25 misdemeanor.

CHARGE TO THE JURY

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1 THE COURT: All right.

2 MR. BRACKETT: And likewise, on the verdict form --  
3 and I apologize, you showed them to us, and I just didn't  
4 notice it, but the ABWIK in order to move on to the  
5 possession of a firearm, they have to find him guilty of  
6 that because the ABHAN, that is not a violent crime. So if  
7 they find him guilty of ABHAN or not guilty, then they  
8 would not consider possession of a firearm commission of a  
9 violent crime.

10 THE COURT: Okay. Well they've got the verdict form  
11 right.

12 MR. BRACKETT: Oh okay, I misheard you. I thought you  
13 said if you find him guilty of one of the first two, then  
14 you move on, but if it's ---

15 THE COURT: If you have found him not guilty or guilty  
16 of the lesser-included, stop here.

17 MR. BRACKETT: Okay.

18 THE COURT: But well let me say, anything from ---

19 MS. INZERILLO: No, Your Honor. I join into that. I  
20 believe it was probably a slip of the tongue.

21 THE COURT: It was, and I'll correct that.

22 Anything else?

23 MR. BRACKETT: No, Your Honor.

24 THE COURT: Look at the verdict forms and make sure  
25 they're right before you go back and before I get the jury

CHARGE TO THE JURY

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1 back in.

2 Ms. Rebh, just stay with us just a minute. I need to  
3 bring them in and correct it.

4 Let me make sure of, I had written that down before we  
5 -- what happened, Ms. Rebh, just quite frankly, is they  
6 changed the law in South Carolina concerning some of these  
7 offenses from the time these occurred and now. And so the  
8 old law applies, and I just charged something that the new  
9 law provided and the old law didn't.

10 MR. BRACKETT: Yeah, I dropped it on violent crime,  
11 Your Honor, I didn't drop it on time. I got it marked out.

12 (BENCH CONFERENCE OFF THE RECORD AT 02:16 PM.)

13 THE COURT: Anything else?

14 MR. BRACKETT: No, sir.

15 THE COURT: Bring the jury back in just a moment.

16 THE BAILIFF: Bring them back in.

17 (JURY REENTERS COURTROOM AT 2:17 PM)

18 THE COURT: I did make one misstatement that I have to  
19 bring you back in and correct. You recall I told you about  
20 what's called the felony murder inference and told you that  
21 one intentionally kills another during the commission of a  
22 felony the inference may arise and in fact to prove it  
23 beyond a reasonable doubt or sufficient to raise an  
24 inference of malice of your satisfaction, this inference  
25 would simply be an evidentiary fact to be taken into

CHARGE TO THE JURY

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1 consideration by you along with the other evidence in the  
2 case and be given such weight as you may decide.

3 Then I said -- told you what were felonies, and I told  
4 you one that was not. I told you assault and battery of a  
5 high and aggravated nature is a felony, and it is not.  
6 That was my mistake. The armed robbery and assault and  
7 battery with intent to kill are felonies. Assault and  
8 battery with a high and aggravated nature even though I  
9 told you it was it is not.

10 So I'm going to let you go back to the jury room at  
11 this time, but don't start deliberating until you hear from  
12 me.

13 (JURY EXITS COURTROOM AT 2:18 PM)

14 THE COURT: Anything further?

15 MR. BRACKETT: No sir, Your Honor.

16 MS. INZERILLO: No, Your Honor.

17 MR. CHIARENZA: No, Your Honor.

18 THE COURT: All right, y'all check everything and make  
19 sure it is right, and we'll send it back. And then you can  
20 tell them to start deliberating.

21 Ms. Rebh, your check is available downstairs. You can  
22 certainly stick around and enjoy pizza with us if you like.  
23 We'll make arrangements for you to have some privacy if you  
24 do that. But you feel free to leave if you wish and stop  
25 by and get the check. It won't be for a whole lot, but

## CHARGE TO THE JURY

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1 hopefully it's a little token of our appreciation. So  
2 thank you so much for your help.

3 All right, we'll be at ease.

4 (COURT IN RECESS AT 02:20 PM.)

5 (NOTE FROM THE JURY AT 03:00 PM.)

6 (BACK ON THE RECORD AT 04:15 PM.)

7 THE COURT: Thank you. Keep your seats.

8 We need to get the Defendant's in I guess.

9 (DEFENDANT'S REENTER COURTROOM.)

10 THE COURT: We've got a note from the jury that says,  
11 "We would like to have read here or have read the  
12 definition of withdrawal, a very short definition."

13 Any comment from the State?

14 MR. BRACKETT: No, sir.

15 MS. INZERILLO: No, Your Honor.

16 THE COURT: Mr. Chiarenza?

17 MR. CHIARENZA: I'm sorry, Your Honor.

18 THE COURT: Any comments?

19 MR. CHIARENZA: No. If you want to recharge them then  
20 however you want to handle it is fine.

21 THE COURT: All right. Bring in the jury.

22 (JURY REENTERS COURTROOM AT 04:18 PM.)

23 THE COURT: Thank you. I got your note about wanting  
24 to know about what constitutes withdrawal and I charge you  
25 that in connection with the charge of the hand of one being

1 the hand of all, sometimes being called accomplice  
2 liability. So I'm going to recharge you so it will be in  
3 context of that principle of law.

4 A crime is committed by two or more people who are  
5 acting together in committing a crime, the act of one is  
6 the act of all. A person who joins with another to commit  
7 an unlawful act is criminally responsible for everything  
8 done by the other person which happens as a probable or  
9 natural consequence of the acts done in carrying out or in  
10 furtherance of the common plan or scheme or design.  
11 However, if a person completely withdraws from the common  
12 design or plan and communicates his withdrawal to his  
13 associates under circumstances that permit the associates  
14 to withdraw then the person escapes criminal responsibility  
15 for the acts of the associates.

16 An act that is done that has no connection to the  
17 common purpose and does not ensue as a probable result of  
18 an attempt to execute it, if that occurs then the actor  
19 alone is responsible for the act. The test is whether the  
20 act is committed in furtherance of the plan and was a  
21 probable result of it's execution.

22 I told you when two or more people are together,  
23 acting together, assisting each other in committing an  
24 offense, the act of one is the act of all, the hand of one  
25 is the hand of all. I charged you further that prior

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1 knowledge that a crime is going to be committed, without  
2 more, is not sufficient to make a person guilty of that  
3 crime. Mere knowledge that another person is going to  
4 commit a crime, even if the defendant is present when the  
5 crime is committed, is not sufficient to convict the  
6 defendant as a principal. Guilt as a principal is shown by  
7 actual or constructive presence at the scene as a result of  
8 prior arrangement. Therefore, a finding of a prior  
9 arranged plan or common scheme is necessary for a finding  
10 one guilty as a principal. The State must prove beyond a  
11 reasonable doubt by competent evidence the theory of the  
12 hand of one is the hand of all.

13 A principal in a crime is one who either actually  
14 commits the crime or who is present aiding, abetting, or  
15 assisting in committing the crime. When a person does an  
16 act in the presence of and with the assistance of another,  
17 the act is done by both. Where two or more, acting with  
18 the common plan or intent, are present at the commission of  
19 a crime, it does not matter who actually commits the crime.  
20 All are guilty. The hand of one is the hand of all.  
21 Present at the commission of a crime means to be  
22 sufficiently near to aid and abet and assist in the  
23 commission of the crime. However, mere presence at the  
24 scene of a crime alone is not sufficient to convict one as  
25 a principal on the theory of aiding and abetting.



1 Intent is also a necessary element, for there must  
2 have been a common design or intent to commit the crime and  
3 the crime must have been committed pursuant thereto with  
4 the person aiding and abetting by some overt act.

5 Now that's the recharge on that concept, the legal  
6 principal and principal of law. Thank you.

7 (JURY EXITS COURTROOM AT 04:22 PM.)

8 THE COURT: Anything from the State?

9 MR. BRACKETT: No, Your Honor.

10 THE COURT: Ms. Inzerillo?

11 MS. INZERILLO: No, Your Honor.

12 THE COURT: Mr. Chiarenza?

13 MR. CHIARENZA: No, Your Honor.

14 THE COURT: All right. We'll remain at ease.

15 (COURT AT RECESS AT 04:23 PM.)

16 (COURT BACK IN SESSION AT 05:47 PM.)

17 THE COURT: Thank you. Take your seats.

18 I got a note from the jury that we have a verdict and  
19 this has been a long trial, an emotional trial. I'll tell  
20 those who are present, I of course do not know what the  
21 verdict is, whatever it is, please, we will not tolerate  
22 any outburst. If anybody here thinks they cannot control  
23 their emotions regardless of what the verdict will be, I  
24 suggest they leave now because if anyone does anything  
25 disruptive I'll have to put them in jail for a while. So

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1 if you can't be civil when the jury returns you don't need  
2 to be in here.

3 So with that said, bring in the jury.

4 (JURY REENTERS THE COURTROOM AT 05:51 PM.)

5 THE COURT: Mr. Foreman, I understand the jury has  
6 reached verdicts.

7 MR. FOREMAN: Yes, sir.

8 THE COURT: If you will hand them to the bailiff he'll  
9 hand them up to me.

10 (VERDICTS RECEIVED UP BY THE COURT.)

11 THE COURT: Madame Clerk.

12 MADAME CLERK: On Indictment 2010-GS-46-992 the State  
13 versus Donta Reid indictment for criminal conspiracy, we  
14 find the defendant guilty of criminal conspiracy signed by  
15 the Foreperson, dated today's date.

16 Indictment 2010-GS-46-989 the State versus Donta Reid,  
17 indictment for armed robbery and possession of a weapon  
18 during the commission of a violent crime, we the jury find  
19 the defendant guilty of armed robbery, signed by the  
20 foreperson, dated today's date.

21 Indictment 2010-GS-46-991 the State versus Donta Reid  
22 indictment for armed robbery we the jury find the defendant  
23 guilty of armed robbery.

24 Indictment 2010-GS-46-990 the State versus Donta Reid  
25 indictment for armed robbery we find the defendant guilty

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1 of armed robbery, signed by the foreperson, dated today's  
2 date.

3 Indictment 2010-GS-46-993 the State versus Donta Reid  
4 indictment for assault and battery with intent to kill, we  
5 the jury find the defendant guilty of the lesser included  
6 offense of assault and battery of a high and aggravated  
7 nature, signed by the foreperson, dated today's date.

8 Indictment 2010-GS-46-988 the State versus Donta Reid  
9 indictment for murder we find the defendant not guilty on  
10 the charge of murder signed by the foreperson dated today's  
11 date.

12 THE COURT: Will you hand those up to me while you're  
13 reading the ones on Mr. Henson?

14 (MR. REID'S INDICTMENTS RECEIVED UP BY THE COURT.)

15 MADAME CLERK: Indictment 2010-GS-46-4462 the State  
16 versus Davontay Henson indictment for criminal conspiracy  
17 we find the defendant guilty of criminal conspiracy, signed  
18 by the foreperson, dated today's date.

19 Indictment 2010-GS-46-4461 the State versus Davontay  
20 Henson indictment for armed robbery we find the defendant  
21 guilty of armed robbery, signed by the foreperson, dated  
22 today's date.

23 Indictment 2010-GS-4604459 the State versus Davontay  
24 Henson indictment for armed robbery we find the defendant  
25 guilty of armed robbery, signed the foreperson, dated

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1 today's date.

2 Indictment 2010-GS-46-4460 the State versus Davontay  
3 Henson we find the defendant guilty of armed robbery,  
4 signed by the foreperson, dated today's date.

5 Indictment 2010-GS-46-4458 the State versus Davontay  
6 Henson indictment for assault and battery with intent to  
7 kill we find the defendant guilty of assault and battery  
8 with intent to kill, signed by the foreperson, dated  
9 today's date.

10 Indictment 2010-GS-46-4457 the State versus Davontay  
11 Henson indictment for murder we find the defendant guilty  
12 of murder, signed by the foreperson dated today's date.

13 Ladies and gentlemen of the jury, if that be your  
14 verdict please say so you all by raising your right hand?

15 THE COURT: Let's start over. On these murder and  
16 assault and battery with intent to kill and armed robbery  
17 you did not indicate anything on the possession of a  
18 firearm which is the second part. Having found an  
19 individual, or wherever you have found someone guilty of  
20 either murder or armed robbery or assault and battery you  
21 need to make a finding on that second part. So I'm gonna  
22 let you go back as to each of those and continue  
23 deliberations or you've already reached a decision of  
24 course, just make sure the -- on those where there is a  
25 finding about possession of a firearm those need to be

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1 marked. Send it back and we'll be at ease. Go back in the  
2 jury room.

3 (JURY EXITS THE COURTROOM AT 05:57 PM.)

4 THE COURT: We'll stay at ease for a few minutes. I  
5 do not anticipate they will be long.

6 Madame Clerk.

7 (COURT AT EASE.)

8 (JURY REENTERS COURTROOM AT 06:04 PM.)

9 THE COURT: Mr Foreman, you can hand them up by way of  
10 the Bailiff. I apologize that I did not catch that  
11 earlier.

12 (VERDICTS RECEIVED UP BY THE COURT.)

13 MADAME CLERK: Indictment 2010-GS-46-989 (A) the State  
14 versus Donta Reid we find the Defendant guilty of  
15 possession of a firearm during the commission of a violent  
16 crime, signed by the Foreperson dated today's date.

17 Indictment 2010-GS-46-990 (A) the State versus Donta  
18 Reid we find the Defendant guilty of possession of a  
19 firearm during the commission of a violent crime, signed by  
20 the Foreperson dated today's date.

21 Indictment 2010-GS-46-991 (A) the State versus Donta  
22 Reid indictment for possession of a weapon during the  
23 commission of a violent crime we find the Defendant guilty  
24 of possession of a firearm during the commission of a  
25 violent crime.

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1 Indictment 2010-GS-46-4457 (A) the State versus  
2 Davontay Henson we find the Defendant guilty of possession  
3 of a firearm during the commission of a violent crime  
4 signed by the Foreperson dated today's date.

5 Indictment 2010-GS\_46-4458 (A) the State versus  
6 Davontay Henson we find the Defendant guilty of possession  
7 of a firearm during the commission of a violent crime,  
8 signed by the Foreperson dated today's date.

9 Indictment 2010-GS-46-4459 (A) the State versus  
10 Davontay Henson we find the Defendant guilty of possession  
11 of a firearm during the commission of a violent crime,  
12 signed by the Foreperson, dated today's date.

13 Indictment 2010-GS-46-4460 (A) the State versus  
14 Davontay Henson we find the Defendant guilty of possession  
15 of a firearm during the commission of a violent crime,  
16 signed by the Foreperson dated today's date.

17 Indictment 2010-GS\_46-4461 (A) the State versus  
18 Davontay Henson we find the Defendant guilty of possession  
19 of a firearm during the commission of a violent crime,  
20 signed by the Foreperson dated today's date.

21 Ladies and gentlemen of the jury, is this be your  
22 verdict so say you all by raising your right hand.

23 Let the record show all jurors affirmed this verdict  
24 (ALL TWELVE JURORS RESPONDED AFFIRMATIVELY.)

25 THE COURT: Anything from the State before the jury is

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1 dismissed?

2 MR. BRACKETT: Nothing from the State, Your Honor.

3 THE COURT: Anything from the -

4 MS. INZERILLO: No, Your Honor.

5 THE COURT: Mr. Chiarenza?

6 MR. CHIARENZA: Ask that the jury be polled, Your  
7 Honor.

8 THE COURT: Members of the jury panel, as to the  
9 verdicts on Mr. Henson, the Clerk is going to ask you a  
10 specific question about confirming your verdict so she'll  
11 tell you how to do it.

12 MADAME CLERK: Would you all please stand.

13 (JURORS STOOD.)

14 MADAME CLERK: Scott Maxwell, is this your verdict?

15 A. Yes, ma'am.

16 MADAME CLERK: Is this still your verdict?

17 A. Yes.

18 MADAME CLERK: You may have a seat.

19 Emily Schell, is this your verdict?

20 A. Yes, ma'am.

21 MADAME CLERK: Is this still your verdict?

22 A. Yes, ma'am.

23 MADAME CLERK: You may have a seat.

24 Jill Alosi, is this your verdict?

25 A. Yes, ma'am.

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1 MADAME CLERK: Is it still your verdict?

2 A. Yes, ma'am.

3 MADAME CLERK: You may have a seat.

4 Raymond Hasenfus, is this your verdict?

5 A. Yes, ma'am.

6 MADAME CLERK: Is it still your verdict?

7 A. Yes, ma'am.

8 MADAME CLERK: You may have a seat.

9 Israel Ashley, is this your verdict?

10 A. Yes.

11 MADAME CLERK: Is it still your verdict?

12 A. Yes, ma'am.

13 MADAME CLERK: You may have a seat.

14 John Bisser, is this your verdict?

15 A. Yes, ma'am.

16 MADAME CLERK: Is it still your verdict?

17 A. Yes, ma'am.

18 MADAME CLERK: You may have a seat.

19 Wanda Helms, is this your verdict?

20 A. Yes, ma'am.

21 MADAME CLERK: Is it still your verdict?

22 A. Yes, ma'am.

23 MADAME CLERK: You may have a seat.

24 Lorie Lower.

25 A. Yes.



## VERDICTS

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1 MADAME CLERK: Is this your verdict?  
2 A. Yes, ma'am.  
3 MADAME CLERK: Is it still your verdict?  
4 A. Yes, ma'am.  
5 MADAME CLERK: You may have a seat.  
6 Robin Corn, is this your verdict?  
7 A. Yes, ma'am.  
8 MADAME CLERK: Is it still your verdict?  
9 A. Yes.  
10 MADAME CLERK: You may have a seat.  
11 Teresa Spencer, is this your verdict?  
12 A. Yes.  
13 MADAME CLERK: Is it still your verdict?  
14 A. Yes, ma'am.  
15 MADAME CLERK: You may have a seat.  
16 Alfred Worthmann.  
17 A. Yes.  
18 MADAME CLERK: Is this your verdict?  
19 A. Yes.  
20 MADAME CLERK: Is it still your verdict?  
21 A. Yes, ma'am.  
22 MADAME CLERK: You may have a seat.  
23 George Marvin.  
24 A. Yes.  
25 MADAME CLERK: Is this your verdict?

## VERDICTS

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1 A. Yes.

2 MADAME CLERK: Is it still your verdict?

3 A. Yes.

4 MADAME CLERK: You may have a seat.

5 THE COURT: Anything else from the State?

6 MR. BRACKETT: Nothing, Your Honor.

7 THE COURT: Ms. Inzerillo?

8 MS. INZERILLO: Nothing, Your Honor.

9 THE COURT: Mr. Chiarenza?

10 MR. CHIARENZA: No, Your Honor.

11 THE COURT: Members of the jury panel, I appreciate  
12 your kind help, it's been a long week but you have been  
13 very patient with me. I thank you for that. I'm going to  
14 let you go to the jury room and the bailiff's will escort  
15 you out. And I'll ask the Foreman to step just a moment  
16 into the library, law library, with the Clerk because I  
17 actually have to get you to enroll the verdicts on this  
18 indictments. You've already got them on the verdict form,  
19 but we have to have them on the indictments. You will be  
20 mailed a small check, no, the checks are ready.

21 Mr. Dunlap will give you a check on the way out. We  
22 genuinely appreciate your help. Thank you so much. You  
23 can be dismissed.

24 (JURY DISMISSED AT 06:10 PM.)

25 THE COURT: The jury's been dismissed. Anything from

1 the State?

2 MR. BRACKETT: No, Your Honor.

3 THE COURT: Ms. Inzerillo?

4 MS. INZERILLO: Your Honor, we renew all previous  
5 motions and objections and move for a new trial.

6 THE COURT: Well, motions are denied. The verdicts  
7 are amply supported by the evidence, just as I said when I  
8 denied any motions for a directed verdict, it was direct  
9 and substantial circumstantial evidence in which the jury  
10 could reach the verdicts they reached on Mr. Reid.

11 All right, Mr. Chiarenza.

12 MR. CHIARENZA: Your Honor, I would just renew all  
13 previous motions and objections, and also move for - the  
14 Court set aside the verdict and move for a new trial.

15 THE COURT: As to Mr. Reid the same is true as to Mr.  
16 Henson. I find that there is ample evidence, direct and  
17 substantial circumstantial evidence in which the jury could  
18 reach the decisions and verdicts they did as to Mr. Henson,  
19 so I deny those motions on behalf of Mr. Henson.

20 Now, the State has the verdicts forms, I mean the  
21 sentencing sheets.

22 Stephanie, have these go with the exhibits.

23 And if you'll bring Mr. Reid and Mr. Henson around.

24 (DEFENDANT'S REID AND HENSON AND THEIR ATTORNEYS AND  
25 SOLICITOR'S APPROACH THE BENCH.)

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1 THE COURT: Ms. Inzerillo, I'll allow you to go first  
2 on behalf of Mr. Reid. Be glad to hear anything you have  
3 to say.

4 MS. INZERILLO: Thank you, Your Honor, may it please  
5 the Court. Your Honor, I just remind the Court that Mr.  
6 Reid is now nineteen years old, he was seventeen at the  
7 time this was committed. On my sort of rudimentary math it  
8 appears that Mr. Reid has spent One Thousand and Seventy-  
9 seven days in jail which would be the time from October  
10 2nd, 2009 that he was arrested for this case. Mr. Reid is  
11 here with his mother and his step-father; as the Court can  
12 probably surmise this has taken a very hard toll on them as  
13 well and they do not wish to address the Court but I did  
14 want to point out to the Court that they have been here in  
15 support of him for this trial. And I can tell you how they  
16 kept contact with our office during our preparation of this  
17 case. Your Honor, we are asking the Court to consider  
18 concurrent sentencing on these charges, taking into account  
19 Mr. Reid's age and perhaps give him something less than the  
20 thirty years he is facing on the armed robbery charges.

21 It's my understanding, Your Honor, that Mr. Reid does  
22 wish to address the Court.

23 THE COURT: Mr. Reid, I'll be glad now to hear from  
24 you.

25 MR. REID: I just want to apologize to the King

1 family, Maurice King, and all this happened. I made  
2 mistakes, I guess I have learned from it. That's it.

3 THE COURT: Thank you. Now, Mr. Chiarenza, I'll be  
4 glad to hear from you and then from Mr. Henson. It'll take  
5 me a few minutes to fill these out but I'll go ahead and  
6 hear what you and Mr. Henson have to say.

7 MR. CHIARENZA: Thank you, Your Honor. Your Honor,  
8 like Mr. Reid my client was seventeen at the time. He's  
9 nineteen now, he's been in the York County Detention Center  
10 for I believe a little over a year. Your Honor, I've  
11 advised him despite any desires he may have to address the  
12 Court that he potentially has some post-trial avenues of  
13 relief, and just advised him to remain silent at this stage  
14 in the proceedings. However, on his behalf we would  
15 express our condolences to the King family and also Mr.  
16 Cunningham who was injured and to Mr. Jackson who was  
17 violated and robbed. But for reasons obviously that would  
18 be aware to the Court because we have to look at the  
19 potential for other avenues of relief I've advised Mr.  
20 Henson. This would not be the time to address any issues,  
21 Your Honor. Your Honor, we respect the fact the Jury has  
22 rendered a verdict. The murder case carries a mandatory  
23 sentence minimum of thirty years; that's a day for day  
24 sentence, so with his roughly give or take a year if he  
25 were to receive credit for his year I would ask the Court

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1 that he get that credit. He's got another twenty-nine  
2 years and have some -

3 THE COURT: How long's he been in jail?

4 MR. CHIARENZA: I believe it's been a year, Your  
5 Honor. I don't recall the day.

6 I think it was October 9th, Your Honor. I have to  
7 renew my notes in my file. I don't know exactly when he  
8 was brought down here from up north. I think for some  
9 reason October 9th. It may be October 19th, Your Honor,  
10 2010.

11 Clearly it's been a tragedy suffered by the victims in  
12 this family and a tragedy suffered by the families -- I'm  
13 sorry, by the victims and their families and an equal  
14 tragedy by the families of these two young men who will by  
15 no fault of their own have to suffer the consequences of  
16 having family members incarcerated for a long period of  
17 time. Your Honor, I just ask the Court to consider  
18 consecutive sentences and to consider the fact that the  
19 young age of Mr. Henson at the time this occurred and the  
20 potential for him over the course of the next twenty-nine;  
21 thirty years if he doesn't get any sort of post-trial  
22 relief, to mature and to learn some things and hopefully be  
23 able to have an ability to contribute to society in his  
24 40's, 50's and after that, Your Honor. That's all we have.

25 THE COURT: Mr. Henson, you certainly don't have to

1 say anything but you have the absolute right to address the  
2 Court and tell me anything you would like to. I'll be glad  
3 to hear from you if you would like to say anything.

4 MR. HENSON: I'm just sorry this whole situation  
5 happened for these families.

6 THE COURT: Thank you.

7 MR. CHIARENZA: Your Honor, I may have ask for  
8 consecutive sentences.

9 THE COURT: You did. I understand you -

10 MR. CHIARENZA: I certainly wanted to say concurrent.

11 THE COURT: I took it as that.

12 MR. CHIARENZA: Thank you, Your Honor.

13 MR. BRACKETT: May it please the Court.

14 THE COURT: Yes, sir. Just one minute then I want to  
15 hear from, if the victims have anything or if anyone wants  
16 to speak on their behalf.

17 MR. BRACKETT: Yes, sir.

18 THE COURT: I looked up some things earlier and I need  
19 to look up a couple of things now.

20 All right, go ahead, Mr. Solicitor.

21 MR. BRACKETT: Yes, sir, Your Honor. Of course Your  
22 Honor sat through this long trial and you've been with us  
23 all week, you know the facts and circumstances in this  
24 case, and I don't know that my eloquence is going to add  
25 anything to the tragedy or add to your understanding of the

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1 tragedy. It's a senseless loss of life for a trivial sum  
2 of money and some two cell phones and a pack of cigarettes.  
3 And now the King family will spend the rest of their life  
4 grieving for the loss of Tyrone. And on their behalf I ask  
5 them if they wish to address the Court and they told me  
6 that they would like for me to speak on their behalf.

7 They're devastated by this event and they will never  
8 get over it. This is something that they will carry with  
9 them the rest of their days and they feel that these  
10 defendant's should too. They feel that Mr. Henson shot and  
11 killed Tyrone King and shot Kenny Cunningham in the leg  
12 after they had complied with everything they were ask to  
13 do. They did nothing threatening, did nothing to justify  
14 this; nothing to provoke it and yet despite their complete  
15 cooperation and total lack of any threatening behavior or  
16 any aggressive behavior towards the defendant's whatsoever  
17 he turned and opened fire with an automatic weapon on three  
18 people without regard for any of their lives. All three of  
19 them could have been killed that night.

20 As to Mr. Donta Reid, they wouldn't have been there at  
21 all but for Donta Reid. These, Mr. Henson didn't know who  
22 these people were. He didn't know where they lived. It  
23 was Donta Reid who led Mr. Henson with his automatic weapon  
24 to their home. And it was Mr. Reid who is just as much the  
25 architect of their misfortune as Mr. Henson in their mind.



1 So on their behalf they're asking the Court, on their  
2 behalf, I'm asking the Court to sentence these two  
3 individuals to the maximum amount of time that you can  
4 possibly give them for what they've done.

5 As far as a record, Mr. Henson has only a juvenile  
6 record. Possession of marijuana, simple assault,  
7 disturbing schools and malicious injury to property, One  
8 Thousand Dollars or less, and those are all from Family  
9 Court.

10 And Mr. Reid has no record, Your Honor.

11 THE COURT: Mr. Solicitor, how do you read as to the  
12 murder indictment charge on Mr. Henson, the mandatory five  
13 years? It's not an LWOP or aggravated circumstance.

14 MR. BRACKETT: I'm sorry, as far as the possession of  
15 a firearm?

16 THE COURT: Yeah. The possession of a firearm  
17 mandatory five years.

18 MR. BRACKETT: Yes, sir. I think that's -

19 THE COURT: Does it have to be concurrent? Does it  
20 have to be concurrent or does it have to be consecutive?

21 MR. BRACKETT: I've seen judges do it both ways. I  
22 don't know what Your Honor's take on it is. I don't know.  
23 I'd have to pull the statute out and refresh my -

24 THE COURT: I've already looked at it.

25 MR. BRACKETT: I certainly think a range from thirty

SENTENCING

-1055-

1 to life. Whatever Your Honor feels is appropriate to be  
2 crafted from the murder charge alone. I would certainly  
3 think that the manner in which the firearm was used in this  
4 case would justify a consecutive sentence. A fully  
5 automatic .22 indiscriminately shot, fired in the direction  
6 of the porch where three people are standing.

7 (PAUSE.)

8 MR. BRACKETT: If it please the Court, I've looked at  
9 16-23-490 under Section A; discussing the five year  
10 sentence for the firearm violation it says "this five year  
11 sentence does not apply in cases where the death penalty or  
12 a life sentence without parole is imposed for the violent  
13 crime". So that's the only guidance that --

14 THE COURT: Right.

15 MR. BRACKETT: The statute goes on to say that the  
16 Court may impose this mandatory five year sentence to run  
17 consecutively or concurrently.

18 THE COURT: Thank you. That's what I wanted to know.  
19 Thank you.

20 MS. INZERILLO: Your Honor, I'm sorry to interrupt.

21 THE COURT: That's fine.

22 MS. INZERILLO: I believe my math was wrong. It  
23 appears, I believe seven hundred and seventy-seven days  
24 credit from October 2nd 2009.

25 THE COURT: All right. I believe these are about as

## SENTENCING

-1056-

1 heinous and senseless as a crime that you see. There's  
2 always a sadness to it when young people opted to become  
3 criminals at age seventeen but regardless of their age they  
4 became criminals at that age, that was their choice.

5 Mr. Reid, as to your sentences, as to the indictment  
6 and all of these are 2010. 989, which is for armed  
7 robbery, the sentence is thirty years and you're given  
8 credit for seven hundred and seventy-seven days.

9 On 990, that also is for armed robbery, that also is  
10 for thirty years, that will run concurrent; credit for  
11 seven hundred and seventy-seven days.

12 As to the third armed robbery, 991, that also is  
13 thirty years. That is to run concurrent, give you credit  
14 for seven hundred and seventy-seven days.

15 As to assault and battery of a high and aggravated  
16 nature, 993, that's ten years, that's to run concurrent;  
17 credit for those same amount of days.

18 As to the conspiracy, that is for five years, that is  
19 to run concurrent; give you credit for seven hundred and  
20 seventy-seven days.

21 As to the three possessing of a firearm during the  
22 commission of a violent crime, each of those is for five  
23 years and those are to run consecutive to your thirty year  
24 sentences on the armed robbery and the other charges.

25 Do you understand that, Mr. Reid?

## SENTENCING

-1057-

1 MR. REID: Yes, sir.

2 THE COURT: Mr. Henson, as to your indictment, you  
3 murder indictment, all of these are 2010. 457, sentence is  
4 life imprisonment.

5 Commission of a weapon during a violent crime, 457 (A)  
6 five years, I will run that concurrent.

7 As to armed robbery and assault and battery with  
8 intent to kill, 4458 twenty years, to run concurrent.

9 As to 4458 (A) possession of a weapon during the  
10 commission of a violent crime, five years, to run  
11 concurrent.

12 As to armed robbery, 4459 thirty years, that's to run  
13 concurrent.

14 As to 4459 (A) possession of a weapon during the  
15 commission of a violent crime, five years to run  
16 concurrent.

17 As to armed robbery, that's thirty years; 4460, to run  
18 concurrent. —

19 4461, armed robbery, that is for thirty years; that's  
20 to run concurrent.

21 4460 (A) that is for five years; that's to run  
22 concurrent, that's another possession of a weapon.

23 4461 (A) another possession of a weapon during the  
24 commission of a violent crime, five years to run  
25 concurrent.

## SENTENCING

-1058-

1 Do you understand that?

2 MR. HENSON: Yes, sir.

3 THE COURT: Thank you. Now, I'm going to ask before  
4 they are taken back to their regular cells, I want the  
5 staff to make sure that all of these are filled in right,  
6 so in some case they are not right we can bring them back  
7 in.

8 Yes, sir.

9 MR. BRACKETT: Yes, sir, Your Honor. Did you read off  
10 the sentence for the conspiracy charge for Mr. Henson?

11 THE COURT: Five years to run concurrent. I think I  
12 put it -- I think I read it while I read the three armed  
13 robberies. It is five years.

14 I'll give you credit, Mr. Henson, for whatever time it  
15 is on all of these. Everybody is dismissed. They'll be  
16 held for just a few minutes while we make sure the  
17 paperwork is correct.

18 MR. BRACKETT: Thank you, Your Honor.

19 THE COURT: I thank all the lawyers for their courtesy  
20 again. And all the staff for their help.

21 (WHEREUPON: COURT'S EXHIBITS EIGHT THROUGH ELEVEN  
22 RECEIVED INTO EVIDENCE.)

23 (COURT ADJOURNED AT 06:30 PM.)

24

25

STATE OF SOUTH CAROLINA )  
 CITY OF ROCK HILL :  
 ROCK HILL POLICE DEPARTMENT )

Before we ask you any questions, you must understand your rights. You have the right to remain silent. Anything you say can be used against you in court. You have the right to talk to an Attorney for advice before we ask you any questions and to have him with you during questioning. You have this right to the advice and presence of an Attorney even if you can not afford to hire one. We have no way of appointing you an Attorney, but one will be appointed by the Court for you if you wish. If you wish, you may answer questions without the presence of an Attorney and you may stop answering any time you desire until an Attorney is present.

[Signature]  
 (Witness)

\* Donta Reid  
 (Signed)

I have read or had read to me the statement of my rights shown above. I understand what my rights are and I am willing to make a statement. I do not want an Attorney at this time. I understand and know what I am doing. I know that the person(s) talking to me is a Police Officer and I understand what he is talking about.

[Signature]  
 (Witness)

\* Donta Reid  
 (Signed)

Personally appears before me: Donta Kevon Reid, who after being duly sworn deposes and says:

"My name is : Donta Kevon Reid

Date of Birth: 05-12-92 Social Security Number: \_\_\_\_\_

My Address is: [Redacted]

Place of employment: Unemployed

Home Phone Number: 325-8040

I completed 11 years in school and I can ( X ) cannot ( ) read and write English.

Last night, Oct. 1<sup>st</sup>, 2009 I called Maurice Jackson on my cousin's cell phone. His name is Mike Dunham, his number is 803 207-3141. I asked him if he wanted to smoke some weed. He said yes. I went home and I called Maurice from home, his cell number is 342-0215. He didn't answer his cell phone, so I walked over to his house. Before all this I had talked with Duke, a guy that I knew from Northwestern High School. He had told me that he wanted to make a lick and get some money. I was talking with him at the Sunset Park Park. There was just me and him and nobody else heard what was being said. He asked me if I knew who had any money or weed and I told him that Maurice had some weed. When I went over to Maurice's house I called Duke on Maurice's cell phone. Dukes' cell number is 230-5225 and I told him that there was two people at Maurice's house because I was going to get Maurice to walk with me to Mid-Town to keep him out of it since there was two others guys that were there that had weed too. Maurice wouldn't walk to Mid-Town with me and then I left. I walked up the street to where Duke was at. He was standing at Scoggins and Maple St. and that's when I told him that there was three people

there instead of two and I told him that they were on the porch smoking. Duke walked over to the ditch where he had put a .22 cal. Rifle, it was black all over. It looked like the butt had been cut off and there was white tape around the butt. I told him that he shouldn't do it, but he said "fuck dat, I'm going to get the money". As I was walking off Duke was walking towards Maurice's house. I was on Scoggins St. when I heard what sounded like a whole clip being shot, like it was automatic. It must have been at least 10-12 shots. Duke didn't look like he was high or anything. I have not talked with Duke since then. I was shown a photo of him at the police department and his hair is shorter now than it was in the picture.

Signed Donta Reid

STATE OF SOUTH CAROLINA )  
CITY OF ROCK HILL :  
ROCK HILL POLICE DEPARTMENT )

PAGE: 3 of

PERSONALLY appears before me: Donta Kevon Reid\_\_, who disposes and says: "I make this statement of my own free will and accord, without reward or hope of reward. I have not been mistreated or threatened in any way. All of the above is the truth, the whole truth, and nothing but the truth so help me God."

"I have read or had read to me the above statement consisting of 3 pages and have received a copy of the same."

→ Don't Reid

(Signature)

(Signature)

(Witness)

Sworn To and Subscribed To Before Me  
This 2<sup>nd</sup> Day of October, 2009

1 May 1964

D. Fritz

My Commission Expires on 10-5-10

Statement Taken On 10-02-09 At 1:45 AM PM

Statement Signed On 10-02-09 At 2:15 AM PM

Statement From:    Tape (    );    Written Notes (    );    Dictated(    );    Interview ( X ).

Statement Prepared By: L.R. Herring



STATE OF SOUTH CAROLINA )  
CITY OF ROCK HILL :  
ROCK HILL POLICE DEPARTMENT )

Before we ask you any questions, you must understand your rights. You have the right to remain silent. Anything you say can be used against you in court. You have the right to talk to an Attorney for advice before we ask you any questions and to have him with you during questioning. You have this right to the advice and presence of an Attorney even if you can not afford to hire one. We have no way of appointing you an Attorney, but one will be appointed by the Court for you if you wish. If you wish, you may answer questions without the presence of an Attorney and you may stop answering any time you desire until an Attorney is present.

[Signature]  
(Witness)

+ Donta Reid  
(Signed)

I have read or had read to me the statement of my rights shown above. I understand what my rights are and I am willing to make a statement. I do not want an Attorney at this time. I understand and know what I am doing. I know that the person(s) talking to me is a Police Officer and I understand what he is talking about.

[Signature]  
(Witness)

+ Donta Reid  
(Signed)

Personally appears before me: Donta Kevon Reid who after being duly sworn deposes and says:

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Date of Birth: 05-12-92 Social Security Number: \_\_\_\_\_

My Address is: [Redacted]

Place of employment: Unemployed

Home Phone Number: 325-8040

I completed 11 years in school and I can ( X ) cannot ( ) read and write English.

Today, Oct. 2<sup>nd</sup>, 2009 I gave a sworn statement to the detectives about a robbery and shooting from last night. I told the detectives what happened, but I want to give additional information that I know. When I met Duke and he took the rifle out of the ditch he put it inside his pants leg and he was wearing a black hoodie and dark blue jeans. He had the hood up on his head. He wasn't wearing any kind of mask at all. He walked on towards Maurice's house and then after he had got ahead of me I turned around and walked back towards Maurice's house too. I saw Maurice, Tyrone and Kennyboo on the porch and I saw Duke walk up to them. Duke asked them if they had some weed for sell and I heard someone say no. Duke then started acting like he had dropped something and was patting his pants like he was looking for something. Duke then pulled he rifle out of his pants and he told them to give it up. Kennyboo was standing up and he pulled his pants down and he said " I aint got nothing, just don't shoot me" and he sat down. Tyrone said " you can have this, this is all I got" and he handed Duke something. Duke asked Maurice what he had and Maurice gave Duke his wallet. I started walking off and I heard a lot of shots. I ran after I

heard the gun shot to my cousin's house. His name is Diez Jennings. Diesz is 20 years old and he lives with a girl named Shamere and they had a baby. He lives in the Workman St. apartments. I didn't tell him anything about what had happened and I didn't tell anyone else either.

Signed + Donta Reid

STATE OF SOUTH CAROLINA     )  
CITY OF ROCK HILL            :  
ROCK HILL POLICE DEPARTMENT )

PAGE: 3 of

PERSONALLY appears before me: Donta Kevon Reid\_\_, who disposes and says: "I make this statement of my own free will and accord, without reward or hope of reward. I have not been mistreated or threatened in any way. All of the above is the truth, the whole truth, and nothing but the truth so help me God."

"I have read or had read to me the above statement consisting of 3 pages and have received a copy of the same."

+ Donta Reid  
(Signature)

[Signature]  
(Witness)

Sworn To and Subscribed To Before Me  
This 2 Day of Oct, 2009

[Signature]  
My Commission Expires on 2-27-2016

Statement Taken On 10-02-09 At 4:10PM AM PM  
Statement Signed On 10-02-09 At 4:45PM AM PM

Statement From: Tape ( ); Written Notes ( ); Dictated(); Interview ( X ).

Statement Prepared By: L.R. Herring

STATE OF SOUTH CAROLINA )  
CITY OF ROCK HILL :  
ROCK HILL POLICE DEPARTMENT )

Before we ask you any questions, you must understand your rights. You have the right to remain silent. Anything you say can be used against you in court. You have the right to talk to an Attorney for advice before we ask you any questions and to have him with you during questioning. You have this right to the advice and presence of an Attorney even if you can not afford to hire one. We have no way of appointing you an Attorney, but one will be appointed by the Court for you if you wish. If you wish, you may answer questions without the presence of an Attorney and you may stop answering any time you desire until an Attorney is present.

D. J. Smith  
(Witness)

Donta Reid  
(Signed)

I have read or had read to me the statement of my rights shown above. I understand what my rights are and I am willing to make a statement. I do not want an Attorney at this time. I understand and know what I am doing. I know that the person(s) talking to me is a Police Officer and I understand what he is talking about.

D. J. Smith  
(Witness)

Donta Reid  
(Signed)

Personally appears before me: Donta Reid, who after being duly sworn deposes and says: "My name is : Donta Reid

Date of Birth: 5-12-92 Social Security Number: \_\_\_\_\_

My Address is: \_\_\_\_\_

Place of employment: Unemployed

Home Phone Number: 325-8040

I completed 11 years in school and I can (X) cannot ( ) read and write English.

Earlier today on October 2, 2009 I gave additional information to Detective Herring in reference to the shooting and robbery on Byars St. the night before. I did not tell everything because I was scared. What really happened was I was over in Sunset Park, and I was going to walk over to Sam's house. Sam is a girl named Samantha who lives on Keels Ave. I saw "Duke" in the park and we sat down and started talking. He started asking if I was down with doing a lick that night to try and get some money. I really wasn't wanting to do that but I was tired of being broke. I finally said yes I would do it. He asked me if Maurice had any weed and I said he should have some. He asked me to call him up to see if he had any and I said to him "you know I ain't got no phone". He said he was going to call Sam and tell her what was going on with doing a lick on Maurice for any weed. I walked to Sam's house and she asked me if I had talked to Duke to know what was going on tonight. I told her that I had talked to him and I knew the deal. A little bit later we got in a dark colored truck that Sam was driving. I got in the back part of the truck

DKR

and she started to drive off to find Duke. We got to Parks Grocery and we saw Duke and he got in the truck. I told them to drop me off but Sam told me to call Maurice first to see if he had some weed. I called Maurice from Sam's phone and he said he didn't have any weed right then but he said he could get some. He told me to come by when I got home. I had Sam drop me off at my house and she and Duke were going over to Reynolds St. to park the car and wait in the dark. I called Maurice from my house phone and he didn't pick up so I walked down there to his house. I saw "Banks" and "Kenny Boo" on the porch with Maurice. Maurice said the guy he gets his weed from was asleep and wouldn't wake up. I asked him if I could use his phone. I called Sam's phone from Maurice's phone and made it sound like I was calling her to get some weed. She asked me how much I wanted and I said two. I asked Maurice to walk to Mid-Town with me and he said he didn't want to go. I started to walk down Byars St. to Maple St. and Sam and Duke were standing on the corner of Scoggins St. Duke pulled a .22 cal rifle out of the ditch. It was the same way I described it to you in the other statement. Duke asked me how many people were at the house and I told him there were three people. I told him it was Maurice, Banks, and Kenny Boo. He asked what they were doing and I told him they were smoking. He said "man I'm about to go up on the porch and rob all three of them". I told him not to do it and he just started walking off towards Maurice's house. Sam was going with him and I called out to her to come bak and she said it would be alright and she would be right back. I went to the truck where it was parked on Reynolds St. and sat there for about 5 minutes. That was when I heard gun shots. I saw them come running towards the truck and Duke put the gun in the back of the truck and he said he thought he shot one of them. Duke said he got a cell phone. I told them I was going to walk over to Sam's house and they drove off in the truck. I didn't want to ride with them because I had a bad feeling that they were going to get pulled over and I didn't want to get caught up in their mess. I walked to her house and about an hour later I got a call from my stepdad and he said that two of the boys down the road had gotten shot and were in the hospital. He asked me if I was safe and I said I was ok. That was when Duke threatened me and Samantha that if we talked about it to anyone he would shoot us and our house up. Once he threatened me wa when i got scared to tell you all of the story.

*Donta Reid*

Signature

STATE OF SOUTH CAROLINA     )  
 CITY OF ROCK HILL            :  
 ROCK HILL POLICE DEPARTMENT )

PAGE: 3 of 3

PERSONALLY appears before me; Donta Reid, who disposes and says: "I make this statement of my own free will and accord, without reward or hope of reward. I have not been mistreated or threatened in any way. All of the above is the truth, the whole truth, and nothing but the truth so help me God."

"I have read or had read to me the above statement consisting of 2 pages and have received a copy of the same."

x Donta Reid  
 (Signature)  
D. J. J. J. J.  
 (Witness)

Sworn To and Subscribed To Before Me  
 This 02 Day of October, 2009

L. R. Herring

My Commission Expires on 07-28-2018

Statement Taken On 10-02-09 At 11:55 AM PM  
 Statement Signed On 10-03-09 At 00:35 AM PM

Statement From: Tape ( ); Written Notes ( ); Dictated(); Interview (X ).

Statement Prepared By: L.R. Herring / T. Ayers

State of South Carolina )  
 City of Rock Hill :  
 Rock Hill Police Department )

Before we ask you any questions, you must understand your rights. You have the right to remain silent. Anything you say can be used against you in Court. You have the right to talk to a lawyer for advice before we ask you any questions and to have him with you during questioning. You have this right to the advice and presence of a lawyer even if you cannot afford to hire one. We have no way of appointing you a lawyer, but one will be appointed by the Court for you if you wish. If you wish, you may answer questions without the presence of a lawyer and you may stop answering any time you desire until a lawyer is present.

[Signature]  
 (Witness)

\* Donta Reid  
 (Signed)

I have read or had read to me the statement of my rights shown above. I understand what my rights are and I am willing to make a statement. I do not want a lawyer at this time. I understand and know what I am doing. I know that the person(s) talking with me is a police officer and I understand what he is talking about.

[Signature]  
 (Witness)

\* Donta Reid  
 (Signed)

PERSONALLY appears before me: Donta K. Reid \_\_\_\_\_, who after being duly sworn deposes and says: "My name is: Donta K. Reid

Date of Birth: 05-12-92

Social Security Number:

My address is: [REDACTED]

Place of Employment: Unemployed

Home Phone Number: 803 325-8040

I have earlier made statements to the police officers about what happened the night that Tyrone King, who I call Banks was shot. I told parts of the truth because I had been threatened by the guy that done the shooting. The night this happened it was me, the guy that did the shooting and LeLe over at Samantha's house on Keels Ave. Sam and the guy left and when they got back, the guy had a rifle and he was loading it up. The rifle was black and brown in color and was about 3 feet long. It had white tape around the butt of the gun. I assumed that Sam and the guy had went and got the gun because he didn't have it before they left and they said they were going to go get something. It was already dark

and we were all standing around outside and Sam told him to take the gun in the house and he did. He took it to Sam's room. We all went up there too and I wanted to be noisy and see what gun looked like. The guy was holding the gun and he said he was wanting to let it rip. He said that it was automatic. He asked me if I wanted to walk with him because he had said something about robbing somebody. I didn't want to go because I didn't know where he was going to put the gun. He said that he was going to put it in his pants. I told him I didn't want to go. He asked Sam if she wanted to go somewhere. She asked him where and he said anywhere that he could make a lick. Me, Sam, LeLe and the guy got into Sam's grandfather's truck, a small truck. I got in the bed and LeLe and the guy got in the cab with Sam and Sam drove. As we were leaving I saw Duke, who is Darius Jeter, walking near Sam's house. He tried to flag us down but we kept on going. We rode around a little bit and went to Sam's mother's house. I asked Sam to take me home so I could use the bathroom. I called Maurice on Sam's phone on the way to my house. I was going to smoke with him and when I asked if he wanted to, he said yes. I told Maurice I would call him when I got home. Sam asked me if Maurice had any money or did he sell weed. I told her that he did sell weed and he might have some money. Sam asked me if I would set Maurice up. I told her that I really don't want to, but I can. When we got to my house, Sam told me to call Maurice when I got inside and find out who all was with him at his house and then to call her back. I went to the bathroom and I tried to call Maurice from my house phone, but he wouldn't pick up his cell phone, so I walked to his house. He only lived a couple of houses from me on Byers St. When I got there Maurice was there along with Tyrone King and Kenny. I asked Maurice to use his cell phone to call Sam to let her know that there was two other people there with Maurice. I then asked Maurice to walk with me to Midtown, but he wouldn't. While I was on the porch with Maurice, Sam drove by 3-4 times and Maurice said why does this truck keep coming by. I walked off the porch and when I got to the end of Byers St. I made a left on Maple St. and Sam was driving down Byers St. and when she saw me she made a left turn on Maple St. too. The guy and LeLe then got out after Sam stopped. I told LeLe that there was 3 people since Maurice wouldn't walk with me. The guy then said "fuck it, I might as well run up on the porch and robbed all three of them." Sam had drove over to Reynolds St. and parked on the dirt road to the left after the bridge. The guy asked me which house they were at and what did it look like. I told him that they were all on the porch. The guy had the rifle and him and LeLe walked towards Maurice's house. I walked to where Sam was parked. I knew where she was going to be because she told us where she was going to park. I got in the truck with Sam and we sat there for maybe 5 minutes and then heard a bunch of shots. Sam pulled off and picked up that guy and LeLe at the bridge. The guy got inside the truck with me and Sam and LeLe got in the bed. We all went back to Sam's house. We started talking about the situation and LeLe said that she was the one that asked the guys for the weed. The guy started saying he didn't want anyone to snitch on him and that if anybody did snitch he would come back and get them. I got a call on Sam's house phone from my step-dad telling me that Tyrone and Kenny had been shot. That guy and LeLe left in the truck and LeLe drove. I believe that he took the rifle with him and LeLe came back a little while later by herself. I stayed all night at Sam's and when I woke up Sam had gotten a text message saying that Tyrone had died. My step-dad called again and told me that the police had been by the house and wanted to talk with me. I walked home and called the number the officer had left.

\*Jonda Reid



STATE OF SOUTH CAROLINA     )  
CITY OF ROCK HILL            :  
ROCK HILL POLICE DEPARTMENT )

PAGE: 3 of

PERSONALLY appears before me; Donta K. Reid, who disposes and says: "I make this statement of my own free will and accord, without reward or hope of reward. I have not been mistreated or threatened in any way. All of the above is the truth, the whole truth, and nothing but the truth so help me God."

"I have read or had read to me the above statement consisting of 3 pages and have received a copy of the same."

+ Donta Reid  
(Signature)

[Signature]

(Witness)

Sworn To and Subscribed To Before Me  
This 6<sup>th</sup> Day of Oct., 2009

[Signature]

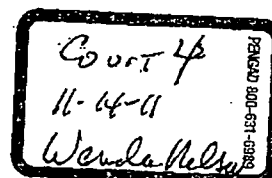
My Commission Expires on 7-24-2010

Statement Taken On 10-06-09 At 9:40 AM PM  
Statement Signed On 10-06-09 At 10:45 AM PM

Statement From: Tape ( ); Written Notes ( ); Dictated(); Interview (X).

Statement Prepared By: L.R. Herring

State of South Carolina )  
 City of Rock Hill :  
 Rock Hill Police Department )



Before we ask you any questions, you must understand your rights. You have the right to remain silent. Anything you say can be used against you in Court. You have the right to talk to a lawyer for advice before we ask you any questions and to have him with you during questioning. You have this right to the advice and presence of a lawyer even if you cannot afford to hire one. We have no way of appointing you a lawyer, but one will be appointed by the Court for you if you wish. If you wish, you may answer questions without the presence of a lawyer and you may stop answering any time you desire until a lawyer is present.

*[Signature]*  
 (Witness)

+ *Donta Reid*  
 (Signed)

I have read or had read to me the statement of my rights shown above. I understand what my rights are and I am willing to make a statement. I do not want a lawyer at this time. I understand and know what I am doing. I know that the person(s) talking with me is a police officer and I understand what he is talking about.

*[Signature]*  
 (Witness)

+ *Donta Reid*  
 (Signed)

PERSONALLY appears before me: Donta K. Reid \_\_\_\_\_, who after being duly sworn deposes and says: "My name is: Donta K. Reid

Date of Birth: 05-12-92

Social Security Number:

My address is: 467 Byers St. RHSC

Place of Employment : Unemployed

Home Phone Number: 803 325-8040

I have earlier made statements to the police officers about what happened the night that Tyrone King, who I call Banks was shot. I told parts of the truth because I had been threatened by the guy that done the shooting. This guy's name is Davonte and I picked him out of a photo line-up today also. The night this happened it was me, Davonte and LeLe over at Samantha's house on Keels Ave. Sam and Davonte left and when they got back, Davonte had a rifle and he was loading it up. The rifle was black and brown in color and was about 3 feet long. It had white tape around the butt of the gun. I assumed that Sam and Davonte had went and got the gun because he didn't have it before they left and they said they were going to go get something. It was already dark and we were all

standing around outside and Sam told him to take the gun in the house and he did. He took it to Sam's room. We all went up there too and I wanted to be noisy and see what the gun looked like. Davonte was holding the gun and he said he was wanting to let it rip. He said that it was automatic. He asked me if I wanted to walk with him because he had said something about robbing somebody. I didn't want to go because I didn't know where he was going to put the gun. He said that he was going to put it in his pants. I told him I didn't want to go. He asked Sam if she wanted to go somewhere. She asked him where and he said anywhere that he could make a lick. Me, Sam, Le Le and Davonte got in Sam's grandfather's truck, a small truck. I got in the bed and Le Le and Davonte got in the cab with Sam and Sam drove. As we were leaving I saw Duke, who is Darius Jeter, walking near Sam's house. He tried to flag us down but we kept on going. We rode around a little bit and went to Sam's mother's house. I asked Sam to take me home so I could use the bathroom. I called Maurice on Sam's phone on the way to my house. I was going to smoke with him and when I asked if he wanted to, he said yes. I told Maurice I would call him when I got home. Sam asked me if Maurice had any money or did he sell weed. I told her that he did sell weed and he might have some money. Sam asked me if I would set Maurice up. I told her that I really don't want to, but I can. When we got to my house, Sam told me to call Maurice when I got inside and find out who all was with him at his house and then to call her back. I went to the bathroom and I tried to call Maurice from my house phone, but he wouldn't pick up his cell phone, so I walked to his house. He only lived a couple of houses from me on Byers St. When I got there Maurice was there along with Tyrone King and Kenny. I asked Maurice to use his cell phone to call Sam to let her know that there were two other people there with Maurice. I then asked Maurice to walk with me to Midtown, but he wouldn't. While I was on the porch with Maurice Sam drove by 3-4 times and Maurice said why does this truck keep coming by. I walked off the porch and when I got to the end of Byers St. I made a left on Maple St. and Sam was driving down Byers St. and when she saw me she made a left turn on Maple St. too. Davonte and LeLe then got out after Sam stopped. I told Le Le that there were 3 people since Maurice wouldn't walk with me. Davonte then said "fuck it, I might as well run up on the porch and robbed all three of them." Sam had drove over to Reynolds St. and parked on the dirt road to the left after the bridge. Davonte asked me which house they were at and what did it look like. I told him that they were all on the porch. Davonte had the rifle and him and LeLee walked towards Maurice's house. I walked to where Sam was parked. I knew where she was going to be because she told us where she was going to park. I got in the truck with Sam and we sat there for maybe 5 minutes and then heard a bunch of shots. Sam pulled off and picked up Davonte and Le Le at the bridge. Davonte got inside the truck with me and Sam and Le Le got in the bed. We all went back to Sam's house. We started talking about the situation and Le Le said that she was the one that asked the guys for the weed. Davonte started saying he didn't want anyone to snitch on him and that if anybody did snitch he would come back and get them. I got a call on Sam's house phone from my step-dad telling me that Tyrone and Kenny had been shot. Davonte and Le Le left in the truck and Le Le drove. I believe that Davonte took the rifle with him and Le Le came back a little while later by herself. I stayed all night at Sam's and when I woke up Sam had gotten a text message saying that Tyrone had died. My step-dad called again and told me that the police had been by the house and wanted to talk with me. I walked home and called the number the officer had left.

*Santa Reid*

STATE OF SOUTH CAROLINA     )  
CITY OF ROCK HILL            :  
ROCK HILL POLICE DEPARTMENT )

PAGE:   3   of

PERSONALLY appears before me: Donta K. Reid, who disposes and says: "I make this statement of my own free will and accord, without reward or hope of reward. I have not been mistreated or threatened in any way. All of the above is the truth, the whole truth, and nothing but the truth so help me God."

"I have read or had read to me the above statement consisting of   3   pages and have received a copy of the same."

+ Donta K. Reid  
(Signature)

[Signature]

(Witness)

Sworn To and Subscribed To Before Me  
This 6<sup>th</sup> Day of Oct., 2009

[Signature]

My Commission Expires on 7-24-2010

Statement Taken On 10-06-09 At 9:40 AM PM  
Statement Signed On 10-06-09 At 10:45 AM PM

Statement From: Tape ( ); Written Notes ( ); Dictated(); Interview (X).

Statement Prepared By: L.R. Herring

896

## STATE OF SOUTH CAROLINA

## IN THE COURT OF GENERAL SESSIONS

COUNTY OF York  
STATE VS.  
Davontay Darrell Henson

AKA: B-Mo or B-More

Race: B Sex: M Age: 19

DOB: 04-23-1992 SS#:

Address:

City, State, Zip: Rock Hill, SC 29730

DL#: SID#: SC 01885444

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was  
TO: Murder / Murder

INDICTMENT/CASE#: 2010-GS46-04457

A/W#: K614309

Date of Offense: 10/1/2009

S.C. Code §: 16-03-0010, 0020

CDR Code #: 0116

## SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Walter Thompson 65118 Defendant John C. Hanger 65326 Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of Life days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

Payment Terms: \_\_\_\_\_

☐ Set by SCDPPPS

Recipient: \_\_\_\_\_

\*Fine:

|                                        |         |        |
|----------------------------------------|---------|--------|
| § 14-1-206 (Assessments 107.5 %)       | \$      |        |
| § 14-1-211(A)(1) (Conv. Surcharge)     | \$100   | \$ 100 |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100   | \$     |
| § 56-5-2995 (DUI Assessment)           | \$12    | \$     |
| § 56-1-286 (DUI Breath Test)           | \$25    | \$     |
| Proviso 47.9 (Public Def/Prob)         | \$500   | \$     |
| § 14-1-212 (Law Enforce. Funding)      | \$25    | \$ 25  |
| § 14-1-213 (Drug Court Surcharge)      | \$150   | \$     |
| § 50-21-114(BUI Breath Test Fee)       | \$50    | \$     |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea | \$     |
| Proviso 90.5 (SCCJA Surcharge)         | \$5     | \$ 5   |
| 3% to County (if paid in installments) | \$      | \$     |
| TOTAL                                  | \$      | \$ 130 |

## PTUP

\_\_\_\_\_ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly  
pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_

\$ \_\_\_\_\_ paid to Public Defender Fund

Other: \_\_\_\_\_

☐ Appointed PD or appointed other counsel,  
§ 47.12 requires \$500 be paid to Clerk  
during probation

Presiding Judge

Judge Code: 7549

Sentence Date: 11-18-11

Clerk of Court/ Deputy Clerk

Court Reporter: Wanda Nelson

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

897

COUNTY OF York  
 STATE VS.  
Davontay Darrell Henson  
 AKA: B-Mo or B-More  
 Race: B Sex: M Age: 19  
 DOB: 04-23-1992 SS#: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City, State, Zip: Rock Hill, SC 29730  
 DL#: \_\_\_\_\_ SID#: SC 01885444

INDICTMENT/CASE#: 2010-GS46-04457A  
 A/W#: 2010GS4604457A  
 Date of Offense: 10/1/2009  
 S.C. Code § : 16-23-0490  
 CDR Code #: 0549

SENTENCE SHEET

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS  
 TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life witho

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549  
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Wally Thompson 65118 DL 65326  
 Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
 for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
 and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
 of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 11/18/11  
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP \_\_\_\_\_  
 Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
 Payment Terms: \_\_\_\_\_  
☐ Set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

\*Fine: \_\_\_\_\_ \$ \_\_\_\_\_  
 § 14-1-206 (Assessments 107.5 %) \_\_\_\_\_ \$ \_\_\_\_\_  
 § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100  
 § 14-1-211(A)(2) (DUI Surcharge) \$100 \$ \_\_\_\_\_  
 § 56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_  
 § 56-1-286 (DUI Breath Test) \$25 \$ \_\_\_\_\_  
 Proviso 47.9 (Public Def/Prob) \$500 \$ \_\_\_\_\_  
 § 14-1-212 (Law Enforce. Funding) \$25 \$ 25  
 § 14-1-213 (Drug Court Surcharge) \$150 \$ \_\_\_\_\_  
 § 50-21-114 (BUI Breath Test Fee) \$50 \$ \_\_\_\_\_  
 § 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ \_\_\_\_\_  
 Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5  
 3% to County (if paid in installments) \$ \_\_\_\_\_  
 TOTAL \$ 130

\_\_\_\_\_ days/hours Public Service Employment  
 Obtain GED ☐  
 Attend Voc. Rehab. or Job Corp. \_\_\_\_\_  
 May serve W/E beginning \_\_\_\_\_  
 Substance Abuse Counseling ☐  
 Random Drug/Alcohol testing ☐  
 Fine may be pd. in equal, consecutive weekly/monthly  
 pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
 \$ \_\_\_\_\_ paid to Public Defender Fund  
 Other: \_\_\_\_\_

☐ Appointed PD or appointed other counsel,  
 § 47.12 requires \$500 be paid to Clerk  
 during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA 017 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

David Hamiltonwanda nelson

Jay Hays  
2049  
11-18-11

WITNESSES

RHPD Herring

mac

ARREST WARRANT NUMBER

COUNT ONE: K614309

COUNT TWO: DIR. IND. In Re: K614309

ACTION OF GRAND JURY

TRUE BILL

Person of Grand Jury

12-9-10

VERDICT

Count 1 Guilty

Count 2 Guilty

Foreperson of Petit Jury  
Date:

10-18-2011

DOCKET NO. 2010-GS-46-04457  
2010-GS46-04457A

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

DECEMBER 9, TERM 2010

THE STATE

vs.

DAVONTAY DARRELL HENSON

Indictment for

COUNT 1 - MURDER

SC Code: § 16-11-0330

CDR Code: 0139

COUNT 2 - POSSESSION OF A  
FIREARM DURING THE COMMISSION  
OF A VIOLENT CRIME

SC Code: 16-23-0490

CDR Code: 0549

After being fully advised as to my  
legal rights, I hereby waive presentment  
to the Grand Jury.

Defendant

I  
hereby appear in my own proper person and plea  
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA    )  
                                          )  
COUNTY OF YORK                )

## INDICTMENT

At a Court of General Sessions, convened on December 9, 2010, the Grand Jurors of York County present upon their oath:

**COUNT ONE - MURDER**

Davontay Darrell Henson did in York County on or about October 1, 2009, feloniously, willfully and with malice aforethought, kill one Tyrone Quantarious King by means of shooting said victim and Tyrone Quantarious King died as a result thereof, all in violation of Section 16-3-10, *Code of Laws of South Carolina* (1976), as amended. The Murder occurred at in Rock Hill, South Carolina.

**COUNT TWO - POSSESSION OF A FIREARM DURING THE  
COMMISSION OF A VIOLENT CRIME**

Davontay Darrell Henson did in York County on or about October 1, 2009, possess a firearm while committing the violent crime of murder in Rock Hill, South Carolina, all in violation of Section 16-23-490, *Code of Laws of South Carolina*, (1976), as amended

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
DEPUTY SOLICITOR



NTY OF  
ATE

York

VS.

Davontay Darrell Henson

AKA: B-Mo or B-More

Race: B Sex: M Age: 19

DOB: SS#

Address:

City, State, Zip: Rock Hill, SC 29730

DL#: SID#: SC 01885444

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was  
TO: Assault / Assault and battery with Intent to Kill (ABWIK)

## IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010-GS46-04458

A/W#: K614307

Date of Offense: 10/1/2009

S.C. Code § : 16-03-0620

CDR Code #: 0014

## SENTENCE SHEET #3

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0620 of the S.C. Code of Laws, bearing CDR Code # 0014

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Thompson, Walter W.

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$ ; provided that upon the service of days/months/years and/or payment

of \$ ; plus costs and assessments as applicable\*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

\*Fine:

|                                        |         |        |
|----------------------------------------|---------|--------|
| § 14-1-206 (Assessments 107.5 %)       |         | \$     |
| § 14-1-211(A)(1) (Conv. Surcharge)     | \$100   | \$ 100 |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100   | \$     |
| § 56-5-2995 (DUI Assessment)           | \$12    | \$     |
| § 56-1-286 (DUI Breath Test)           | \$25    | \$     |
| Proviso 47.9 (Public Def/Prob)         | \$500   | \$     |
| § 14-1-212 (Law Enforce. Funding)      | \$25    | \$ 25  |
| § 14-1-213 (Drug Court Surcharge)      | \$150   | \$     |
| § 50-21-114(BUI Breath Test Fee)       | \$50    | \$     |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea | \$     |
| Proviso 90.5 (SCCJA Surcharge)         | \$5     | \$ 5   |
| 3% to County (if paid in installments) |         | \$     |
| TOTAL                                  |         | \$ 130 |

days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: 7049

Sentence Date: 11-18-11

Clerk of Court/ Deputy Clerk

Court Reporter:

David Hamilton

Wanda Nelson

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

901

COUNTY OF York  
STATE VS.  
Davontay Darrell Henson

AKA: B-Mo or B-More

Race: B Sex: M Age: 19

DOB: 04-23-1992 SS#:

Address:

City, State, Zip: Rock Hill, SC 29730

DL#: SID#: SC 01885444

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS  
TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life with

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ § 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: Willy Thompson 65118 Solicitor SC Bar# 65326 Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
for a determinate term of 6 days/months/years or ☐ under the Youthful Offender Act not to exceed        years  
and/or to pay a fine of \$       ; provided that upon the service of        days/months/years and/or payment  
of \$       ; plus costs and assessments as applicable\*; the balance is suspended with probation for       

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services, standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: 11/15/11☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$        plus 20% fee: \$       Payment Terms:       ☐ Set by SCDPPPS       Recipient:       

\*Fine:

|                                        |         |        |
|----------------------------------------|---------|--------|
| § 14-1-206 (Assessments 107.5 %)       | \$      | \$     |
| § 14-1-211(A)(1) (Conv. Surcharge)     | \$100   | \$ 100 |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100   | \$     |
| § 56-5-2995 (DUI Assessment)           | \$12    | \$     |
| § 56-1-286 (DUI Breath Test)           | \$25    | \$     |
| Proviso 47.9 (Public Def/Prob)         | \$500   | \$     |
| § 14-1-212 (Law Enforce. Funding)      | \$25    | \$ 25  |
| § 14-1-213 (Drug Court Surcharge)      | \$150   | \$     |
| § 50-21-114(BUI Breath Test Fee)       | \$50    | \$     |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea | \$     |
| Proviso 90.5 (SCCJA Surcharge)         | \$5     | \$ 5   |
| 3% to County (if paid in installments) | \$      | \$     |
| TOTAL                                  | \$      | \$ 170 |

## PTUP

       days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp.       May serve W/E beginning       Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly  
pmts. of \$        beginning       \$        paid to Public Defender FundOther:       ☐ Appointed PD or appointed other counsel,  
§ 47.12 requires \$500 be paid to Clerk  
during probation.Presiding Judge       Judge Code: 2049Sentence Date: 11-18-11Clerk of Court/ Deputy Clerk David HamiltonCourt Reporter: Wanda Nelson

WITNESSES

RHPD / Herring

mac

ARREST WARRANT NUMBER

COUNT ONE : K614307

COUNT TWO: In Re: K614307

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury 12.9.10

VERDICT

Count 1 Guilty

Count 2 Guilty

Foreperson of Petit Jury  
Date: 11-18-2011

DOCKET NO. 2010-GS-46-04458  
2010-GS46-04458A

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

DECEMBER 9, 2010 TERM

THE STATE

vs.

DAVONTAY DARRELL HENSON

Indictment for

COUNT ONE: ASSAULT & BATTERY  
WITH INTENT TO KILL  
SC Code: § 16-03-0620  
CDR Code: 0014

COUNT 2 - POSSESSION OF A  
FIREARM DURING THE COMMISSION  
OF A VIOLENT CRIME

SC Code: 16-23-0490  
CDR Code: 0549

After being fully advised as to my  
legal rights, I hereby waive presentment  
to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead  
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

INDICTMENT

At a Court of General Sessions, convened on December 9, 2010, the Grand Jurors of York County present upon their oath:

**COUNT ONE: ASSAULT & BATTERY WITH INTENT TO KILL**

Davontay Darrell Henson did in York County on or about October 1, 2009, willfully and unlawfully with malice aforethought commit an assault and battery upon Kenny O'Brian Cunningham by shooting the victim with a firearm. The crime occurred at \_\_\_\_\_ in the City of Rock Hill, South Carolina. All in violation of 16-3-0620, *Code of Laws of South Carolina*, (1976, as amended).

**COUNT TWO: POSSESSION OF A FIREARM DURING THE  
COMMISSION OF A VIOLENT CRIME**

Davontay Darrell Henson did in York County on or about October 1, 2009, possess a firearm while committing the violent crime of assault and battery with intent to kill against Kenny O'Brian Cunningham in Rock Hill, South Carolina, all in violation of Section 16-23-490, *Code of Laws of South Carolina*, (1976), as amended

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA )  
904 COUNTY OF York )  
STATE VS. )  
Davontay Darrell Henson )  
AKA: B-Mo or B-More )  
Race: B Sex: M Age: 19 )  
DOB: 04-23-1992 SS#: )  
Address: )  
City, State, Zip: Rock Hill, SC 29730 )  
DL#: SID#: SC 01885444 )

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010-GS46-04459  
A/W#: K614297  
Date of Offense: 10/1/2009  
S.C. Code § : 16-11-0330(A)  
CDR Code #: 0139

SENTENCE SHEET #5

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐  
In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS  
TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly we

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139  
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45  
w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)  
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Walter W. Thompson 65118 Defendant  
Thompson, Walter W. SC Bar# Attorney for Defendant SC Bar# 65326

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years  
and/or to pay a fine of \$ ; provided that upon the service of days/months/years and/or payment  
of \$ ; plus costs and assessments as applicable\*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole, and Pardon Services' standard conditions of  
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 12/18/11  
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
by the State Department of Corrections.  
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal  
Domestic Violence ) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP  
Total: \$ plus 20% fee: \$  
Payment Terms:  
☐ Set by SCDPPPS

Recipient:  
\*Fine:

|                                        |         |        |
|----------------------------------------|---------|--------|
| § 14-1-206 (Assessments 107.5 %)       | \$      | \$     |
| § 14-1-211(A)(1) (Conv. Surcharge)     | \$100   | \$ 100 |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100   | \$     |
| § 56-5-2995 (DUI Assessment)           | \$12    | \$     |
| § 56-1-286 (DUI Breath Test)           | \$25    | \$     |
| Proviso 47.9 (Public Def/Prob)         | \$500   | \$     |
| § 14-1-212 (Law Enforce. Funding)      | \$25    | \$ 25  |
| § 14-1-213 (Drug Court Surcharge)      | \$150   | \$     |
| § 50-21-114(BUI Breath Test Fee)       | \$50    | \$     |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea | \$     |
| Proviso 90.5 (SCCJA Surcharge)         | \$5     | \$ 5   |
| 3% to County (if paid in installments) | \$      | \$     |
| TOTAL                                  | \$      | \$ 130 |

days/hours Public Service Employment  
Obtain GED ☐  
Attend Voc. Rehab. or Job Corp. ☐  
May serve W/E beginning  
Substance Abuse Counseling ☐  
Random Drug/Alcohol testing ☐  
Fine may be pd. in equal, consecutive weekly/monthly  
pmts. of \$ beginning  
\$ paid to Public Defender Fund  
Other:

☐ Appointed PD or appointed other counsel,  
§ 47.12 requires \$500 be paid to Clerk  
during probation.

Clerk of Court/ Deputy Clerk David Hamilton  
Court Reporter: Wanda Nelson

Presiding Judge John H. Hance  
Judge Code: 2049  
Sentence Date: 11-18-11

COUNTY OF York

STATE VS.

Davontay Darrell Henson

AKA: B-Mo or B-More

Race: B Sex: M Age: 19

DOB: 04-23-1992 SS#:

Address:

City, State, Zip: Rock Hill, SC 29730

DL#: SID#: SC 01885444

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life witho

in violation of § 16-23-0490

of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS(CSC☐ §17-25-45

w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: *Willy Thompson*

Solicitor

SC Bar# 65118

Defendant

Attorney for Defendant

SC Bar# 6826

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years

and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment

of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services' standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 11/18/11☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

Payment Terms: \_\_\_\_\_

☐ Set by SCDPPPS

Recipient: \_\_\_\_\_

\*Fine:

§ 14-1-206 (Assessments 107.5%) \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114 (BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ca \$

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5

3% to County (if paid in installments) \$

TOTAL \$ 130

INDICTMENT/CASE#: 2010-GS46-04459A

A/W#: 2010GS4604459A

Date of Offense: 10/1/2009

S.C. Code § : 16-23-0490

CDR Code #: 0549

## SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

\_\_\_\_\_ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_

\$ \_\_\_\_\_ paid to Public Defender Fund

Other: \_\_\_\_\_

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: 2049

Clerk of Court/ Deputy Clerk

*David Hamilton*

WITNESSES

RHPD / HERRING

DOCKET NO. 2010-GS-46-  
2010-GS46-

04459  
04459A

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

DECEMBER 9, TERM 2010

THE STATE

vs.

DAVONTAY DARRELL HENSON

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

ARREST WARRANT NUMBER

COUNT ONE - K614297  
COUNT TWO - Dir.Ind. In Re. K614297

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury  
Date: 12-9-10

VERDICT

Count 1 Guilty

Count 2 Guilty

Foreperson of Petit Jury  
Date: 11-18-2011

Indictment for

COUNT 1 - ARMED ROBBERY

SC Code: § 16-11-0330  
CDR Code: 0139

COUNT 2 - POSSESSION OF A  
FIREARM DURING THE COMMISSION  
OF A VIOLENT CRIME

SC Code: 16-23-0490  
CDR Code: 0549

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

## INDICTMENT

At a Court of General Sessions, convened on December 9, 2010, the Grand Jurors of York County present upon their oath:

**COUNT ONE – ARMED ROBBERY**

Davontay Darrell Henson did in York County on or about October 1, 2009, feloniously steal various items of value from the victim, Kenny Cunningham, at \_\_\_\_\_ in Rock Hill, South Carolina. Davontay Darrell Henson stole said items by means of force or intimidation by holding the victim at gunpoint. Davontay Darrell Henson committed this robbery while armed with a deadly weapon in violation of Section 16-11-0330, *Code of Laws of South Carolina* (1976, as amended).

**COUNT TWO – POSSESSION OF A FIREARM DURING THE  
COMMISSION OF A VIOLENT CRIME**

Davontay Darrell Henson did in York County on or about October 1, 2009, possess a firearm while committing the violent crime of armed robbery against Kenny Cunningham in Rock Hill, South Carolina, all in violation of Section 16-23-490, *Code of Laws of South Carolina*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
DEPUTY SOLICITOR



908

COUNTY OF

York

VS.

Davontay Darrell Henson

B-Mo or B-More

Race: B Sex: M Age: 19

DOB: 04-23-1992 SS#:

Address:

City, State, Zip: Rock Hill, SC 29730

DL#: SID#: SC 01885444

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly we

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: Walter W. Thompson 65118 SC Bar# Defendant Walter W. Thompson 65326 SC Bar# Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years

and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment

of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 11/18/11☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

Payment Terms: \_\_\_\_\_

☐ Set by SCDPPPS

Recipient: \_\_\_\_\_

\*Fine:

|                                        |         |        |
|----------------------------------------|---------|--------|
| § 14-1-206 (Assessments 107.5 %)       | \$      |        |
| § 14-1-211(A)(1) (Conv. Surcharge)     | \$100   | \$ 100 |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100   | \$     |
| § 56-5-2995 (DUI Assessment)           | \$12    | \$     |
| § 56-1-286 (DUI Breath Test)           | \$25    | \$     |
| Proviso 47.9 (Public Def/Prob)         | \$500   | \$     |
| § 14-1-212 (Law Enforce. Funding)      | \$25    | \$ 25  |
| § 14-1-213 (Drug Court Surcharge)      | \$150   | \$     |
| § 50-21-114(BUI Breath Test Fee)       | \$50    | \$     |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea | \$     |
| Proviso 90.5 (SCCJA Surcharge)         | \$5     | \$ 5   |
| 3% to County (if paid in installments) | \$      | \$     |
| TOTAL                                  | \$      | \$ 170 |

INDICTMENT/CASE#: 2010-GS46-04460

A/W#: K614299

Date of Offense: 10/1/2009

S.C. Code § 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET #5 #7☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: Walter W. Thompson 65118 SC Bar# Defendant Walter W. Thompson 65326 SC Bar# Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years

and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment

of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 11/18/11☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

Payment Terms: \_\_\_\_\_

☐ Set by SCDPPPS

Recipient: \_\_\_\_\_

\*Fine:

|                                        |         |        |
|----------------------------------------|---------|--------|
| § 14-1-206 (Assessments 107.5 %)       | \$      |        |
| § 14-1-211(A)(1) (Conv. Surcharge)     | \$100   | \$ 100 |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100   | \$     |
| § 56-5-2995 (DUI Assessment)           | \$12    | \$     |
| § 56-1-286 (DUI Breath Test)           | \$25    | \$     |
| Proviso 47.9 (Public Def/Prob)         | \$500   | \$     |
| § 14-1-212 (Law Enforce. Funding)      | \$25    | \$ 25  |
| § 14-1-213 (Drug Court Surcharge)      | \$150   | \$     |
| § 50-21-114(BUI Breath Test Fee)       | \$50    | \$     |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea | \$     |
| Proviso 90.5 (SCCJA Surcharge)         | \$5     | \$ 5   |
| 3% to County (if paid in installments) | \$      | \$     |
| TOTAL                                  | \$      | \$ 170 |

\_\_\_\_\_ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_

\$ \_\_\_\_\_ paid to Public Defender Fund

Other: \_\_\_\_\_

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.Presiding Judge JohnathanJudge Code: 2049Sentence Date: 11-18-11Clerk of Court/ Deputy Clerk David HamiltonCourt Reporter: Wanda Nelson

COUNTY OF York

VS.

Davontay Darrell Henson

AKA: B-Mo or B-More

Race: B Sex: M Age: 19

DOB: 04-23-1992 SS#:

Address:

City, State, Zip: Rock Hill, SC 29730

DL#: SID#: SC 01885444

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life witho

INDICTMENT/CASE#: 2010-GS46-04460A

A/W#: 2010GS4604460A

Date of Offense: 10/1/2009

S.C. Code § 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

#9

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Wally Thompson 65118 SC Bar# 65326 Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

\_\_\_\_\_ days/hours Public Service Employment

Payment Terms: \_\_\_\_\_

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_

\$ \_\_\_\_\_ paid to Public Defender Fund

Other: \_\_\_\_\_

Recipient: \_\_\_\_\_

\*Fine: \$ \_\_\_\_\_

§ 14-1-206 (Assessments 107.5 %) \$ \_\_\_\_\_

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ \_\_\_\_\_

§ 56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_

§ 56-1-286 (DUI Breath Test) \$25 \$ \_\_\_\_\_

Proviso 47.9 (Public Def/Prob) \$500 \$ \_\_\_\_\_

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25

§ 14-1-213 (Drug Court Surcharge) \$150 \$ \_\_\_\_\_

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ \_\_\_\_\_

§ 56-5-2942(I) (Vehicle Assessment) \$40/ea \$ \_\_\_\_\_

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5

3% to County (if paid in installments) \$ \_\_\_\_\_

TOTAL \$ 130

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: 2049

Sentence Date: 11-18-11

Clerk of Court/ Deputy Clerk

Court Reporter:

David Hamilton

Wanda Nelson

WITNESSES

RHPD / HERRING

mr

ARREST WARRANT NUMBER

COUNT ONE - K614299

COUNT TWO - Dir.Ind. In Re. K614299

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

12-9-10

VERDICT

Count 1 Guilty

Count 2 Guilty

Foreperson of Petit Jury

Date:

11-18-2011

DOCKET NO. 2010-GS-46-04460  
2010-GS46-04460A

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

DECEMBER 9, TERM 2010

THE STATE

vs.

DAVONTAY DARRELL HENSON

Indictment for

COUNT 1 - ARMED ROBBERY

SC Code: § 16-11-0330

CDR Code: 0139

COUNT 2 - POSSESSION OF A  
FIREARM DURING THE COMMISSION  
OF A VIOLENT CRIME

SC Code: 16-23-0490

CDR Code: 0549

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

## INDICTMENT

At a Court of General Sessions, convened on December 9, 2010, the Grand Jurors of York County present upon their oath:

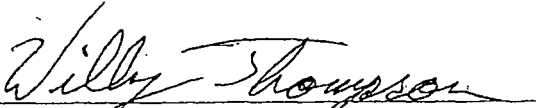
**COUNT ONE – ARMED ROBBERY**

Davontay Darrell Henson did in York County on or about October 1, 2009, feloniously steal a cell phone, a wallet and/or other items of value from the victim, Henry Jackson, at \_\_\_\_\_ in Rock Hill, South Carolina. Davontay Darrell Henson stole said items by means of force or intimidation by holding the victim at gunpoint. Davontay Darrell Henson committed this robbery while armed with a deadly weapon in violation of Section 16-11-0330, *Code of Laws of South Carolina* (1976, as amended).

**COUNT TWO – POSSESSION OF A FIREARM DURING THE  
COMMISSION OF A VIOLENT CRIME**

Davontay Darrell Henson did in York County on or about October 1, 2009, possess a firearm while committing the violent crime of armed robbery against Henry Jackson in Rock Hill, South Carolina, all in violation of Section 16-23-490, *Code of Laws of South Carolina*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
DEPUTY SOLICITOR

912 UNTY OF  
STATE

York, Yor  
VS.

Davontay Darrell Henson

AKA: B-Mo or B-More

Race: B Sex: M Age: 19

DOB: SS#:

Address:

City, State, Zip: Rock Hill, SC 29730

DL#: SID#: SC 01885444

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly we

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As-Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

Thompson, Walter W.

65118  
SC Bar#

Defendant

Attorney for Defendant

65326  
SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$ ; provided that upon the service of days/months/years and/or payment

of \$ ; plus costs and assessments as applicable\*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

#### SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

\*Fine:

|                                        |         |        |
|----------------------------------------|---------|--------|
| § 14-1-206 (Assessments 107.5 %)       |         | \$     |
| § 14-1-211(A)(1) (Conv. Surcharge)     | \$100   | \$ 100 |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100   | \$     |
| § 56-5-2995 (DUI Assessment)           | \$12    | \$     |
| § 56-1-286 (DUI Breath Test)           | \$25    | \$     |
| Proviso 47.9 (Public Def/Prob)         | \$500   | \$     |
| § 14-1-212 (Law Enforce. Funding)      | \$25    | \$ 25  |
| § 14-1-213 (Drug Court Surcharge)      | \$150   | \$     |
| § 50-21-114(BUI Breath Test Fee)       | \$50    | \$     |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea | \$     |
| Proviso 90.5 (SCCJA Surcharge)         | \$5     | \$ 5   |
| 3% to County (if paid in installments) |         | \$     |
| TOTAL                                  |         | \$ 130 |

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010-GS46-04461

A/W#: K614301

Date of Offense: 10/1/2009

S.C. Code § : 16-11-0330(A)

CDR Code #: 0139

#### SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As-Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

Thompson, Walter W.

65118  
SC Bar#

Defendant

Attorney for Defendant

65326  
SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$ ; provided that upon the service of days/months/years and/or payment

of \$ ; plus costs and assessments as applicable\*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

#### SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

\*Fine:

PTUP \_\_\_\_\_  
\_\_\_\_\_ days/hours Public Service Employment  
Obtain GED ☐  
Attend Voc. Rehab. or Job Corp. \_\_\_\_\_  
May serve W/E beginning \_\_\_\_\_  
Substance Abuse Counseling ☐  
Random Drug/Alcohol testing ☐  
Fine may be pd. in equal, consecutive weekly/monthly  
pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
\$ \_\_\_\_\_ paid to Public Defender Fund  
Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
☐ Appointed PD or appointed other counsel,  
§ 47.12 requires \$500 be paid to Clerk  
during probation.

Presiding Judge

Judge Code: 7049

Sentence Date: 11-18-11

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

913

COUNTY OF York  
STATE VS.  
Davontay Darrell Henson  
AKA: B-Mo or B-More  
Race: B Sex: M Age: 19  
DOB: 04-23-1992 SS#:   
Address:   
City, State, Zip: Rock Hill, SC 29730  
DL#: SID#: SC 01885444

INDICTMENT/CASE#: 2010-GS46-04461A  
A/W#: K614303  
Date of Offense: 10/1/2009  
S.C. Code § : 16-23-0490  
CDR Code #: 0549

SENTENCE SHEET

480

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life witho

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45  
w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Walter W. Thompson 65118 SC Bar# Defendant Walter W. Thompson 65326 SC Bar# Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed   years

and/or to pay a fine of \$  ; provided that upon the service of   days/months/years and/or payment

of \$  ; plus costs and assessments as applicable\*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$   plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

\*Fine: \$

§ 14-1-206 (Assessments 107.5 %) \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114 (BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5

3% to County (if paid in installments) \$

TOTAL \$ 130

PTUP   days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly  
pmts. of \$   beginning

\$   paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel,

§ 47.12 requires \$500 be paid to Clerk  
during probation.

Presiding Judge John C. Hays

Judge Code: 2049

Sentence Date: 11-10-11

Clerk of Court/ Deputy Clerk David Hamilton

Court Reporter: Wanda Wilson

WITNESSES

RHPD / HERRING

DOCKET NO. 2010-GS-46-  
2010-GS46-

04461  
04461A

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

The State of South Carolina

County of York

Defendant

COURT OF GENERAL SESSIONS

DECEMBER 9, TERM 2010

I hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

COUNT ONE - K614301  
COUNT TWO - K614303

Defendant

THE STATE

vs.

Witness:

ACTION OF GRAND JURY

C.C.C. PLS. AND G.S.

DAVONTAY DARRELL HENSON

TRUE BILL

Foreperson of Grand Jury  
Date:

12-9-10

Indictment for

COUNT 1 - ARMED ROBBERY

SC Code: § 16-11-0330  
CDR Code: 0139

COUNT 2 - POSSESSION OF A  
FIREARM DURING THE COMMISSION  
OF A VIOLENT CRIME

SC Code: 16-23-0490  
CDR Code: 0549

VERDICT

Count 1 Guilty

Count 2 Guilty

Foreperson of Petit Jury  
Date:

11-18-2011

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF YORK )

At a Court of General Sessions, convened on December 9, 2010, the Grand Jurors of York County present upon their oath:

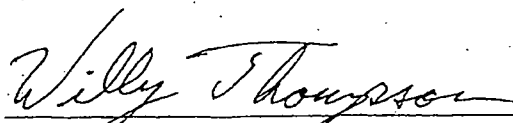
**COUNT ONE – ARMED ROBBERY**

Davontay Darrell Henson did in York County on or about October 1, 2009, feloniously steal a cell phone and/or other items of value from the victim, Tyrone King, at \_\_\_\_\_ in Rock Hill, South Carolina. Davontay Darrell Henson stole said items by means of force or intimidation by holding the victim at gunpoint. Davontay Darrell Henson committed this robbery while armed with a deadly weapon in violation of Section 16-11-0330, *Code of Laws of South Carolina* (1976, as amended).

**COUNT TWO – POSSESSION OF A FIREARM DURING THE  
COMMISSION OF A VIOLENT CRIME**

Davontay Darrell Henson did in York County on or about October 1, 2009, possess a firearm while committing the violent crime of armed robbery against Tyrone King in Rock Hill, South Carolina, all in violation of Section 16-23-490, *Code of Laws of South Carolina*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
DEPUTY SOLICITOR



916

COUNTY OF  
STATEYork  
VS.

Davontay Darrell Henson

AKA: B-Mo or B-More

Race: B Sex: M Age: 19

DOB: 04-23-1992 SS#:

Address:

City, State, Zip: Rock Hill, SC 29730

DL#: SID#:

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was  
TO: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

in violation of § 16-17-0410 of the S.C. Code of Laws, bearing CDR Code # 0049

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST

Thompson, Walter W.

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years  
and/or to pay a fine of \$ ; provided that upon the service of days/months/years and/or payment  
of \$ ; plus costs and assessments as applicable\*; the balance is suspended with probation formonths/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal  
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

\*Fine:

|                                        |         |        |
|----------------------------------------|---------|--------|
| § 14-1-206 (Assessments 107.5 %)       |         | \$     |
| § 14-1-211(A)(1) (Conv. Surcharge)     | \$100   | \$ 100 |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100   | \$     |
| § 56-5-2995 (DUI Assessment)           | \$12    | \$     |
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| Proviso 47.9 (Public Def/Prob)         | \$500   | \$     |
| § 14-1-212 (Law Enforce. Funding)      | \$25    | \$ 25  |
| § 14-1-213 (Drug Court Surcharge)      | \$150   | \$     |
| § 50-21-114(BUI Breath Test Fee)       | \$50    | \$     |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea | \$     |
| Proviso 90.5 (SCCA Surcharge)          | \$5     | \$ 5   |
| 3% to County (if paid in installments) |         | \$     |
| TOTAL                                  |         | \$ 130 |

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

INDICTMENT/CASE#: 2010-GS46-04462

A/W#: K614305

Date of Offense: 10/1/2009

S.C. Code §: 16-17-0410

CDR Code #: 0049

## SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

Presiding Judge

Judge Code:

Sentence Date:

917

WITNESSES

RHPD / Herring

mac

ARREST WARRANT NUMBER

K614305

ACTION OF GRAND JURY

TRUE BILL

person of Grand Jury

12-9-10

VERDICT

Guilty

10/5/11

10-12-2011

Foreperson of Petit Jury

Date:

DOCKET NO. 2010-GS-46-04462

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

DECEMBER 9, TERM 2010

THE STATE

vs.

DAVONTAY DARRELL HENSON

Indictment for

CRIMINAL CONSPIRACY

SC Code: 16-17-410

CDR Code: 0049

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF YORK )

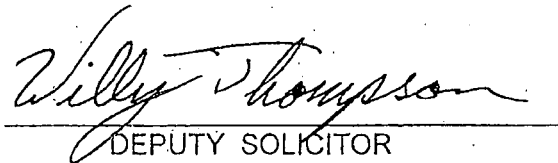
INDICTMENT

At a Court of General Sessions, convened on December 9, 2010, the Grand Jurors of York County present upon their oath:

**CRIMINAL CONSPIRACY**

Davontay Darrell Henson did in York County on or about October 1, 2009, willfully, knowingly, and feloniously unite, combine, conspire, confederate, agree or have a tacit understanding with Donta Reid, Aileen Newman and/or Samantha Ervin for the purpose of committing Murder and/or Armed Robbery. The crimes occurred at or near \_\_\_\_\_ in the City of Rock Hill, South Carolina, all in violation of Section 16-17-410, *Code of Laws of South Carolina, 1976*, as amended.

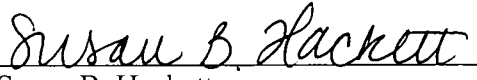
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
DEPUTY SOLICITOR

## CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

April 23, 2013

  
Susan B. Hackett  
Appellate Defender

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

ATTORNEY FOR APPELLANT