VOLUME II OF III

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Lancaster County

Honorable Brooks P. Goldsmith, Circuit Court Judge

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S.C. SUPREME COURT

AL MARTINEZ GREEN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2019-000191

APPENDIX

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Q And feet?

A Feet were again saturated in blood.

Q I will ask you to make a guess. Do you think that's where footprints came from?

A That's what I assumed when I saw that. Probably that youngest one is what it looked like to me.

Q Okay. Overall just very bloody?

A Yes.

Q Not from him?

A It didn't appear. To my knowledge none of the children had any injuries.

Q Okay. The middle child---

A Yes.

Q Did you observe that child's clothing?

A Yes.

Q And condition of that clothing?

A Her clothing as well had blood. Not as much the youngest child, she had blood drops and drips on her socks, bottom of her socks I believe had blood as well and blood on her pants.

Q Okay.

Q The oldest child?

A Oldest child, if I recall he had blood on him as well, but I don't think he had nearly as much as the other two.

Q Did you ever have any conversation with any of these

children?

A Yes.

Q Which one?

A Oldest child.

Q Okay. Where did you have this conversation?

A In the EMS truck.

Q Do you recall about when you had this conversation? How long you have been on the scene?

A I had probably been there about maybe 20 minutes, 30 minutes. So it was probably shortly before midnight, maybe.

Q Do you recall the demeanor of this child?

A He seemed -- he didn't really seem too upset to a great extent. Kind of being entertained by EMS folks. They were trying to keep him and his sister and I guess the younger brother occupied to keep there mind off maybe their thoughts or whatever.

Q Okay. Did you take a statement from any of these children?

A No, I did not take a statement.

Q Was anything told to you?

MR. BARFIELD: Objection.

MR. FRICK: I didn't ask what.

THE COURT: I will sustain the objection. You may ask your next question.

MR. FRICK: Thank you, Your Honor.

Q When did you go to the ambulance. Had you finished up in the house?

A This was before -- before we ever enter the house before the search warrants was executed.

Q What is blood spatter?

A Blood spatter, spatter is just a term used to describe when blood drops land or flung out or whatever and end up in usually kind of random pattern on the floor, or on an item, on a counter top or something.

Q Okay. Do you have to be kind of be close to the source of the blood to get spatter. I understand it will travel different depending on what causes the blood to come forth but ---

A Right. It depends on what caused the splatter. How much blood is bled at the time.

Q Okay. All right. The clothing that you got from the children, did it have -- any of them -- did it have what you determined could have been blood spatter?

A Yes.

Q Which one?

A The youngest girl -- excuse me the middle child, the girl. Hers did have some spatter on the feet, but again it looked like it could have been spatter that had dropped on to her feet.

Q Kay. Let's go to what I called the scene. All right.

Right there on the couch.

A Yes.

Q Did you look for or find any blood spatter in that area?

A Yes.

Q What did you find and where did you find it?

A Lots of pooling blood right there on the couch underneath the victim's body and where blood had ran down into the floor. As blood is dripping into the pool of blood it often causes what is referred to satellite spatter. Basically the liquid is falling into the liquid and if it's heavy enough, deep enough, to where it causes other smaller blood droplets to fall out and kind of scatter around.

Q I will stop you there for a second. Satellite spatter that you are talking about there, is that the pool that is in front of the couch?

A It would be the ring or the perimeter of smaller spatter that hits the floor as a result of the heavier blood falling into that pool or possibly in this case what I believe was the children's feet, the child's feet maybe going through that.

Q Okay. I got you. Okay. Now we did have two pools in this case, correct, or I am calling it two pools. There was something in front of the couch and it look like something behind the couch?

A The pooling blood behind the couch looked to me just to be a runoff from the where the blood had left the victim, soaked the couch and ran down onto the floor. Some of it pooled in front of the couch and some of it liked it had pooled and ran behind the couch.

Q Okay. Did you look on the couch for any spatter?

A There was blood all over the couch.

Q Okay. But did you specifically look for spatter?

A We didn't have to.

Q Okay.

A Honestly, it was just so obvious.

Q Okay.

A We looked. Yeah, we looked. We examined the couch.

Q Right.

A But there was blood everywhere.

Q Okay. I am specifically asking about spatter, not just large amounts of blood.

A It is kind of all encompassed within the whole stain pattern I guess you say. Some of it is smaller spatter. Some of it is just larger pools.

Q Okay. Upright portion of the couch, back behind where the body is --

A Right.

Q -- did you look at that part of the couch?

A We did. Later after I believe we had moved the body.

Q Okay. Did you use anything on that couch?

A Yes, we did. We used a product that we talked about earlier called blue star forensic.

Q Did you find anything on that upright part?

A We found a couple of places that did luminesce as a result of the blue star, but again just looking at how much blood was there on the couch particularly on the seat cushions where her body was found it wouldn't surprise me that it would be anywhere around there.

Q Okay. But the stuff that you found, the spots that you found you could term at spatter, correct?

A Well, again this is a presumptive type test, the blue star forensic, as well a luminol and some other products like that, there is opportunity that they could give what is called a false/positive. Sometimes they have been known to react with certain cleaning compounds. Things like that.

Q All right? Did you swab anything?

A No, we didn't. Again one of our biggest concerns there was to just determine that the incident -- let's just use an example. The incident didn't occur in another room and then she moved or was moved there. We wanted to show that everything happened right there, so we were looking for any potential spatter that may have been on there. Again we did get a reaction there but we didn't do any further testing to try and determine whether it was or not blood on the back upright.

Q When you got there the couch is close to a wall, correct?

A Yes.

Q Did you look on that wall immediately behind the body?

A Yes.

Q Okay. Did you observe any spots or stains on it?

A Not that I recall on the wall.

Q Okay. Have you got your incident report?

A Yes.

Q Let's see if we are looking at the same page. This is what I am looking at here. (Indicating)

A Okay. On the wall immediately, correct, immediately behind the couch.

Q Okay.

A Just above the upright where we saw the other -- where we saw those stains.

Q But I believe you indicat you find stains as far away as about four feet from the body?

A Correct. Above.

Q On the wall?

A On the wall, correct.

Q So, that means we got spatter that is kind of flying around?

A No, it didn't appear that way. What it was just a couple of spots that were luminescing.

Q How did it get there?

A Don't know. Again, we didn't test to see if it was indeed blood, again these products can give a false/positive --

Q Okay.

A -- on other material. But we did not test those. There were just two or three spots on the back of the couch and up on the wall and we didn't do any further testing on it.

Q All right.

A Had there been an assaulting -- blood letting assault then I would have expected to see radiating spatter from that point and we didn't.

Q No radiating splatter?

A Correct.

Q So this indicates that it occurs right there on the couch?

A That is our belief, yes.

Q It was a single gunshot wound?

A Yes, from what I recall.

Q Okay. And all the blood is concentrated in one area?

A Yes.

Q If, and I probably don't need to ask this question because you will not answer it the way I want you to. If a person were standing right there when it occurred would you expect that that person would have blood on them?

THE COURT: Right where?

MR. FRITZ: Right where the incident occurred. Right where the shooting occurred.

THE COURT: Right where within the room, the position of the victim's body?

MR. FRICK: Right at the body.

A Not necessarily. There may not have been any. There wasn't any blood on there to splatter unless the person was already covered with blood. The shot itself if it caused any back spatter coming back out that hole. There was no exit wound. There was nothing to splatter on beyond the body or beside. Which ever direction. See we don't know which direction necessarily that victim may have been turned, facing at the time, but unless some back splatter came back out that entry whole I wouldn't have expected to see anything behind the person because there was know exit wounds and there was no blood presumably on the surface to splatter from the impact of that bullet.

Q Okay. But all in all the blood is concentrated in one area, correct?

A In a general area several feet diameter, yes.

Q The shell casing, item number six, I think it is State's number 41.

A I think it was marked as item number nine on the pictures. I think.

Q You know what I am talking about. There was only one

shell casing?

A Yes, sir.

Q Didn't find any other bullet shell casing?

A No, sir.

Q In the house?

A No, sir.

Q Okay. It was not located in a pool of blood was it?

A No, it wasn't.

Q Okay. It was on the other side of the couch away from the body, correct?

A Correct.

Q Didn't see any other liquids or fluids around it, did you?

A No, sir.

Q Okay. Did you look at it?

A Other than to just collect it and put it in a container no, sir, I didn't thoroughly examine it.

Q But it you was not covered in blood?

A No, sir. It was not.

Q All right. Let's get to the car. You see this car twice, right?

A Yes, sir.

Q First time you see it's on January 23rd I think?

A I believe that is correct.

Q And is it fair to say when you are looking at on the

23rd the main thing that you all concentrated on was fingerprints and DNA?

A Fingerprints, DNA or any other physical evidence that might present itself as I am going through it.

Q Do you recall what all you collected from that car?

A Yes, sir. I collected several cigarette butts from the ashtray in the back seats and photographs and I believe we did some touch DNA, touch DNA swabs, yes.

Q Okay. Do you recall where you took those swabs from?

A Yes. Give me just a second.

A Yes, sir. I swabbed the steering wheel and the gear shifter. I collected touch DNA swabs from those.

Q Was there any other swabbing that you did of that vehicle on that day?

A No, sir.

Q Okay. What did you do with those swabs and those cigarettes?

A The swabs were dried and packaged and submitted as evidence and the cigarettes were packaged and submitted as evidence?

Q And it was put in evidence?

A Yes, sir.

Q You also -- you didn't see any blood that day or you all weren't looking for blood. I'm a little confused why you all come back in March and are looking for blood then but you

are not looking for it on the 23rd of January?

A I just didn't see anything that caught my attention at the time, when I looked at it the first time. There were numerous stains and I didn't swab any of those particular stains. Again, just swabbed the areas where I was trying to focus on possibly identifying the driver of the vehicle.

Q All right. Attempted lifts for fingerprints --

A Yes.

Q -- you did that as well on that day, right?

A Correct.

Q And the locations that you attempted again were?

A That was also the steering wheel, mirrors, gear shifter, the driver door and the driver outside door around the door handle.

Q Okay. Did you get any lifts?

A No, sir.

Q Any other items of evidence taken from that car?

A On that particular day, no.

Q Okay. Are you aware of a jumpsuit that came out of that vehicle?

A I didn't see it on that day. I am aware that one was collected some time, but I was not involved in that.

Q Okay. Do you know when it got collected? Do you have any idea?

A No, sir, I don't.

Q But you didn't take it that day?

A No.

Q Then of course in March you all get the car again?

A Yes.

Q How do you all come back in contact with the car?

A I don't know the total history of how the sheriff's office acquired the car, but at some point it was submitted as being stored in the impound lot.

Q All right. And then you go back out there and then you looked specifically for blood is that right?

A Yes.

Q And you swab a few spots?

A Investigator Steel swabbed a few spots and I took a couple of cuttings from the seats.

Q All right. And those were collected and what happened to them?

A Submitted as evidence.

Q They went on to SLED, correct? Or do you know?

A I believe they did. As far as I recall those were all sent to SLED.

Q Give me one second I maybe done.

A Yes, sir.

MR. FRITZ: Thank you, sir. That is all I have. Please answer anything Miss Raney has.

THE COURT: Thank you. Thank you Mr. Frick. Miss

Raney.

MS. RANEY: Thank you, Your Honor.

CROSS EXAMINATION

BY MS. RANEY:

Q Investigator Taylor, I want to go back to the beginning of what happened that night. You think you arrived on scene around 11, 11:15?

Q It was probably some time after 11. I got the call to respond at 10:35 and it probably took me 20 minutes or so to get ready and drive out there was another 20, 30 minutes.

Q Okay, and when you arrived on scene can you describe what you saw? Were there other police cars there, EMS, just kind of set the stage of what you saw outside?

A There were other officers there. The scene had been secured by the first arriving officers. EMS workers were there. I think there may have been some fire department personnel that responded in emergency responders. Again several deputies and investigators had already begun to arrive.

Q I don't expect you to be able to give me and exact number, but can you give me a rough idea of how many officers were on scene when you showed up?

A I would say minimum eight or ten. Maybe more. Maybe more.

Q And were there any marked parole vehicles meaning one with the blue light bars on top?

A Yes. Yes.

Q And you said was there was also an ambulance?

A Yes, there were EMS ambulance vehicles there.

Q Vehicles? More than one EMS?

A I don't recall if it was an EMS or an ambulance or it if maybe it was the rescue squad. I don't know.

Q Okay, and when you say the scene was secured when you got there, how can you tell from looking the scene is secure?

A Deputies are posted on somewhat of perimeter of keeping anybody going in and out.

Q So they are set up very visibly around [redacted]?

A Yes.

Q Do they also put up other kind of tape to keep people out of the crime scene?

A That is often the practice. I don't recall if at this time at that particular scene when I got there if crime scene tape had already been set up or not. I think it had, but I can't remember for certain, but that is a typical practice that we do.

Q Do you recall if any of the vehicles, whether EMS, fire or police had any lights on?

A I don't recall. I think one or more of the responding deputies had blue lights displayed. I don't recall if any of the EMS or fire or any ever of them was displaying lights or not. I don't recall.

Q Well, as anyone ever sat in traffic knows police cars tend to attract attention. Did you notice any random bystanders seeming to collect in the neighborhood when you pulled up?

A I saw some people. I don't know if it was residents. It was in a residential area and I would assume some of the neighbors were wondering what was going on. I don't know.

Q Okay. And so when you arrived there did you notice if DSS personnel was on scene at all?

A I don't know. I am not familiar with that.

Q And when I say DSS, you understand I am referring to child protective services?

A Right. I don't know.

Q Were you made aware if any of Miss Jones's adult family members were present on scene when you got there?

A I don't know if they were present. I think it was the children's grandparents I believe brought a change of clothing for when I collected their clothes that they had on because of the blood evidence. They brought some clothing. I think I was told it was their grandparents. Now whether it was Miss Jones's mother or father or the father's mother I don't know.

Q Okay. I believe you told solicitor Barfield did you first see the children when they were actually inside one of ambulances?

A Yes.

Q Who else was inside the ambulance with the children if

you recall?

A I think it was two EMS workers. I don't know who they are. I don't know their names right off hand.

Q Okay. Did you see any -- someone that could have been like say a civilian, an adult family member in the ambulance with the children?

A I don't recall. I don't recall.

Q And when you arrived there did you actually photograph the children in the clothing that you described inside is the ambulance or out?

A Inside. I photographed them inside.

Q So when you showed up the children all three of them still had blood on their clothes?

A Yes, they did.

Q And then after you took pictures of this blood on there clothes, correct?

A Yes, correct.

Q At that point is that when the children then were changed by their grandparents into new clothes?

A I think it was one of the grandparents that came and assisted. I think the EMS personnel inside the EMS truck I believe change the clothes and bagged up the soiled clothes for me to take.

Q Do you remember about how long you were in the ambulance with the kids?

A Probably about ten minutes.

Q And do you recall what their general demeanor was when you were in the ambulance?

A The younger one, the infant of course didn't say anything or respond to me hardly at all. The middle child, the daughter, she didn't speak to me. She didn't talk to anybody. She seemed pretty withdrawn and the older boy, again, he was somewhat being entertain by the EMS workers so he seemed kind of happy go lucky, if you will.

Q Okay. How was he being entertained?

A They had begin him and the other two some pairs of gloves to put on, some nitro gloves and I think they had a pack of crackers and cookies to eat and things like that.

Q Okay, and I believed you mentioned when speaking with Mr. Frick through the course of your investigation did you learn that it was actually the actions of the four-year old that alerted police to come out to the scene that night?

A I was told that it was one of the children that had ran next door, but I don't know that I was told which one it was.

Q Which one of the children it was?

A Yes.

Q Okay. Given the fact that you had a chance to see the children wearing these clothes with blood on them and the majority of the blood that was found was in the couch area of the house, right?

A Yes.

Q So from seeing where the blood was on the children's clothes and how much of it, is it fair to say in your opinion that they would have been in close proximity to Miss Jones?

MR. BARFIELD: Objection. I don't believe he can answer that. Maybe I will let her let her finish the question.

MS. RANEY: That was the end.

MR. BARFIELD: I think the question has to be directed to at what point in time.

Q Well, clearly after she was shot. I assume she wasn't bleeding before it happened.

MR. BARFIELD: If the question is, were the children close to their mother after she was shot I withdraw my objection.

MS. RANEY: It is after.

THE COURT: All right. Restate the question.

Q From having the chance to observe the blood on the children's clothes, the amount of blood on the clothes and the placement of where the blood was on the clothes, in your opinion would any of the children been close to Miss Jones after she had been shot?

A It appeared to me they would have been, yes.

Q And in your interactions with the four-year old did it appear he understood that there was some type of injury to his

mother?

MR. BARFIELD: Your Honor, I object to that. I don't think there is any way he can answer that question.

THE COURT: You can ask him to describe the four-year-old's demeanor. His observations of the four-year-old or the other two children also. I shouldn't limit that. I am not limiting it to just the four-year-old.

Q Whenever you were in the ambulance was the four-year-old in a position where he also would have been able to see that there was blood on his siblings's clothes?

A Yes.

Q Because an ambulance is how big of an area that you were in?

A Six by eight feet or so.

Q So fairly close?

A Yes.

Q So, it is your testimony today the entire time you spent with the four-year-old in the ambulance he was happy-go-lucky?

A He appeared that way to me, yes.

Q The entire time you were in there with him?

A Yes.

Q Even though you don't know this four-year-old, correct?

A Correct. I never seen him before.

Q You never met him before in your life?

A Right.

Q You don't know I'm assuming whether the EMS person knew this four-year-old?

A Don't know.

Q So this four year old is inside an ambulance with adults that he does not know?

A I would assume. Again, I don't know if any of them were familiar with him or his family or not.

Q And this ambulance is surrounded by a big crime scene with about ten police officers at lease on scene, correct?

A Correct.

Q Flashing lights?

A Yes.

Q EMS personnel around?

A Yes.

Q Fire personnel around?

A Possibly. I think fire was there.

Q His family, meaning the four-year-old family, isn't present with him in the back of the ambulance?

A At that time, correct.

Q But he's happy-go-lucky?

A Appeared that way to me.

Q Okay. And you said before you actually began your

investigation inside the home that you checked around the outside of the house for evidence?

A Immediately around the yard area of the house, correct.

Q Could you explain to the jury what type of evidence you would be looking for?

A Just whatever happened to present itself that I thought might be evidentiary.

Q Okay. Well, is one of the things you may possibly be looking for in accordance with your training and experience the presence of tire tracks or tire marks?

A Sure.

Q Did you see any tire marks around the area of the trailer of [redacted] where Miss Jones was killed?

A It's a gravel drive. There was lots of tracks. Nothing that really stood out to me. Again, I didn't notice anything up in the yard and again that's where I checked right there in the yard immediately around the trailer. I didn't check the road leading to the trailer.

Q Right, but the gravel around the trailer is that what you are referring to when you say you saw tire marks?

A What I mean by that, again it is gravel driveway. There's lots of cars in and out through there. I checked the area right around the trailer, the yard itself, and I didn't see anything there. I didn't see any tracks or anything up in there.

Q Do you recall because I know it has been some time, the gravel area and the grassy around area the trailer, was it wet? Had been raining that night or was it dry?

A I don't recall. I don't recall if it had been raining before that or not on that evening. I don't recall.

Q Do you recall -- are you saying you don't recall whether or not the ground was wet or dry?

A I don't remember.

Q Okay. But you don't recall looking around and noticing any footprints around the trailer either?

A No.

Q And footprints is something you would generally be looking for in your line of work, correct?

A Again, if it presents itself, yes.

Q Yes. Because footprints can establish how large or what size shoes someone wears, correct?

A I would think so.

Q And the bottom of shoes can some times have identifying information on the bottom of them in terms of who made the shoe?

A Sure.

Q And if someone has worn a shoe for some period of time it starts to wear on the bottom, correct?

A I would think so.

Q So these wear patterns to the shoe could help you if you were able to have a shoe to go with the shoe pattern that

was taken at the scene you could match them up to see if the wear matches?

A But we didn't find anything like that.

Q I know you didn't. I am just talking about things you would be looking for.

A Again, every situation is different but yeah, that is something we would typically capitalize on if we saw it.

Q Okay. So then at that point after checking the vicinity of the outside of the house that is when your investigation begins inside, correct?

A Correct, after Lieutenant Rogers arrived with the search warrant issued by the judge we then executed and moved inside.

Q And that would have been around 12:30 at night?

A Yes, I think it was 12:38 am.

Q And do you recall what time you cleared on out of that residence?

A We left at 5:29 is when we walked out.

Q In the morning?

A In the morning.

Q On January 20th?

A Yes.

Q And once you got inside the house it sounds like you started your investigation first with the door?

A Yes.

Q And then moved over to the couch area?

A Yes, everything that was pretty obvious.

Q And as Mr. Frick indicated you wrote a very thorough report about your investigation inside the house, correct?

A I think I did.

Q And I notice in your report there is a remark in there about blood being seen on the wall above the couch up to about four feet away from Miss Jones's head. Do you recall seeing that, or note go that in your report?

A Let's see --

Q If not I have a copy.

THE COURT: How about directing him to that particular --

A I see it. We didn't find blood. We found some luminescing stains on the back of the wall just above the top of the couch.

Q Okay. I just want to make sure we are talking about the same thing. Are you referring to the -- it's basically sixth paragraph in the report and then the 5th paragraph, that last sentence. Is that what you are looking at. I just want to make sure we are looking at the same thing.

A Where it says the stains were located as close as immediately behind Jones's body?

Q Yes.

A Again, those were stains that responded to blue star

forensic.

Q Okay.

Q Okay. Could you read just that sentence you started reading. Could you read that full sentence to the jury, please?

A Okay, but can I qualify that by reading to you what we saw those stains to be.

Q Can you read --

THE COURT: Wait. Wait just a minute. Under 611 I control the mode and the presentation of the testimony. Answer Miss Raney's question.

THE WITNESS: Yes, sir.

THE COURT: Then you can explain the answer. So you can read whatever she wants you to read and then you can explain it.

THE WITNESS: Yes, sir. I am sorry.

A That last sentence there in the paragraph?

Q Yes.

A It says the stains were located as close as immediately behind Jones's body and up the wall as far as about four feet away from her head.

Q Please go ahead with explanation that goes along with that?

A Yes. Once we applied the bluestar solution to that area and we were looking for it to luminesce, the sentence prior to that says after turning the lights off in the residence the

investigators were able to see several small stains luminescing on the upright back portion of the couch and several small spots and stains on the wall above it. The stains were located as close as immediately behind Jones's body and up the wall as far as about four feet from her head.

One thing, I never said it was blood. It was a stain. It responded to the blue star forensic.

Q It was a stain that responded to blue star forensic?

A Correct.

Q And blood is one type of stain that would respond to the blue star, correct?

A Along with other false/positives, correct.

Q Okay. Did you see anything else in the immediate area of this blood -- or this stain that we are speaking of on the wall that would suggest it was something other than blood?

A I didn't see anything that would suggest it was something other than blood, no.

Q Okay. And then when you are still in the area of collecting evidence around the couch I believe a cell phone is located and taken into evidence?

A I believe so, yes.

Q Are you aware or did you or another officer on scene in your presence actually look through the cell phone?

A Not that I recall.

Q So you personally did not look through the call log

like missed --

A No.

Q Received calls?

A No.

Q Any text messages she may have received?

A No, I didn't do that.

Q Okay. But as far as you know no other officer on scene did that either?

A I don't know. I don't know of any that did or didn't.

Q But that cell phone was placed into evidence with the sheriff's office?

A I believe it was, correct.

Q Okay. And then at that point in your investigation is that when you moved down the hall to the master bedroom?

A I am not sure. We would have went to the bedroom and once we finished up there we would have went back to the main area and just checked again. So somewhere between there, yes.

Q And that's whenever you dusted the bedroom for fingerprints, correct?

A Yes.

Q And then after you finished up with the bedroom is that when you actually left the scene that day?

A Well, after we finished up there inside the residence, again at 5:29 we cleared and left the scene.

Q And then you said it you wasn't until January 23rd, I

believe, that you did any more forensic evidence collection in this case, is that right?

A Yes, ma'am.

Q And that would have been on Mr. Blackmon's car?

A Correct.

Q And when you first looked at Mr. Blackmon's car on January 23rd, there was no blue star testing done, right?

A Correct.

Q But I believe you told Mr. Frick you noticed numerous stains inside of the vehicle on that date?

A Yeah, they would be stains from any just -- you know, things inside the car. Yeah.

MS. RANEY: I would have these marked as defendant's one through six for ID.

(Defendant's Exhibit 1-6, cigarette butts, marked for identification as of this date.)

Q I am handing you what has been marked Defendant's 1-6 for ID only. Do those look familiar to you?

A Yes, ma'am.

Q And would those be the envelopes rather that contain the cigarette butts you collected from the car back on January 23rd?

A Yes, ma'am.

Q Of 2012?

A Yes, it is.

Q But you were not the one that actually collected the jumpsuit you said?

A Correct.

Q Were you the one that collected the Tyson's work ID from that vehicle that day?

A No, ma'am, I didn't.

Q That wasn't you?

A No, ma'am.

Q And one last question. You mentioned there was a buccal swab taken of my client, Mr. Al Green?

A Yes.

Q And the buccal -- could you explain what the buccal swab is?

A Buccal swab -- again, buccal refers to cheek and the purpose for that is to collect skin cells and from any training that we had the good source of that skin cells is on the inside of the check in that moist area. So cotton swabs, sterile cotton swabs are used with a little bit of pressure to collect those cells and then they are air dried and packaged.

Q And it is your job just to collect these buccal swabs, correct?

A Correct.

Q You don't perform any type of DNA testing on the buccal swabs, correct?

A No, we don't.

Q What is the purpose in even obtaining a buccal swab from an individual?

A It is used referred to as a standard to rule someone either in or out. Something to compare to a source to a suspect, suspect sample, to see if that person matches up with the sample that was taken.

Q So after a buccal swab is taken from Mr. Green that would have been placed in evidence, correct?

A Yes, correct.

Q Along with all the other samples that we have talked about here today that were placed in evidence, correct?

A Yes, ma'am, correct.

Q And although you don't personally perform DNA testing, correct?

A Right.

Q It is possibly to get DNA off of that buccal swab that Mr. Green gave, correct?

A Yes.

Q And then it is possibly to compare the DNA obtained from Mr. Green's buccal swab to the touch DNA swabs obtained from other parts of the crime scene?

A Yes.

Q To see if those two things match?

A Correct.

Q And than would be done by SLED?

A Yes.

MS. RANEY: Thank you. I don't have any further questions.

THE COURT: Solicitor, redirect?

MR. BARFIELD: Just one second.

THE COURT: Yes, sir.

REDIRECT EXAMINATION

MR. BARFIELD:

Q Investigator Taylor, let me ask you just a couple general things. We got piles of stuff here. Did everything that the sheriff's office took possession of in its investigation of this case get sent to SLED for analysis?

A No.

Q Is there some stuff that didn't?

A Yes.

A For example the cigarette butts that Miss Raney marked Defendant's exhibit one through five for you identification, did they go to SLED.

A No, sir.

Q The swabs off the steering wheel and the shifter from the Cadillac from January 23rd, did they go to SLED?

A To my knowledge they did not.

Q Is there some way that you can explain why everything doesn't go to SLED?

A We are typically limited on the amount of items we can

send on investigation. We are limited by SLED on what they say we can send typically on the outset.

MR. BARFIELD: That is all. Thank you.

THE COURT: Recross Mr. Frick?

MR. FRICK: Just one quick question.

RECROSS EXAMINATION

BY MR. FRICK:

Q I think you said the reason why you all took the things, the swab from the steering wheel is to see if you can determine who the driver was?

A That would have been my thinking at the time for the possibility of doing that.

MR. FRICK: That is all the questions I have.

THE COURT: Miss Raney.

MS. RANEY: Yes, briefly Your Honor.

RECROSS EXAMINATION

BY MS. RANEY:

Q Do you know how many items the Lancaster County Sheriff's Department actually sent to SLED for testing in this case?

A Right off hand I don't know how many.

Q And did you ever make any inquiry to anyone at SLED to ask them to test any of the cigarette butts?

A I didn't, no.

Q Are you aware of any officers with the Lancaster County

Sheriff's Department making an inquiry of SLED asking them to test the cigarette butts?

A I don't know.

Q What about the touch DNA swabs Mr. Frick just asked you about. You said those weren't sent to SLED, right

A It is my understanding they were not sent to SLED.

Q Did you ever personally ask someone at SLED to test those touch DNA swabs from the car?

A No.

Q Are you aware of anyone at the Lancaster County Sheriff's Department that asked SLED to test this touch DNA swab?

A I don't know. I am not the person that arranges that. I don't know.

MS. RANEY: Thank you. No further questions.

THE COURT: Thank you, very much detective.

THE WITNESS: Thank you.

THE COURT: You may step down.

(Witness excused.)

MR. BARFIELD: Detective Thompson.

THE COURT: All right, Detective Thompson if you come around and be sworn.

FREDERICK THOMPSON, called as a witness, having been duly sworn by The Clerk, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BARFIELD:

Q Tell us your name, please?

A Frederick Thomspon.

Q Mr. Thomspon while I am looking I will ask you a couple of questions. Are you employed by the sheriff's office right now?

A No, sir.

Q Have you been employed by the Lancaster county sheriff's office?

A Yes, sir, I was.

Q When was that from when to when?

A December of 1999 until January the 5th of 2013.

Q Were you in investigator for the Lancaster County Sheriff's Office when Jenika Jones was shot and killed?

A Yes, sir, I was.

Q Did you participate in various ways in the investigation of this case?

A Yes, sir, I did.

Q Do you know Pomp Blackmon?

A Yes, sir I do.

Q Did you talk to Pomp Blackmon concerning this case at one point or another?

A I did.

Q Specifically concerning this case when did you first

have dealings with Pomp Blackmon?

A On January the 23rd, 2012.

Q And I am not asking you to quote anybody, but generally speaking what lead you to Pomp Blackmon?

A I had a conversation with someone by phone.

Q That is fine. As a result of that conversation where did you go?

A To his residence.

Q Did you find you him there?

A I did.

Q Was his car there?

A It was.

Q I am not even going to put -- well, let me put one picture up to make sure we are talking about the same car. It is not one I wanted to find but I will put up State's exhibit 17. Do you recognize what is shown in that picture?

A I do.

Q And what is in that picture?

A That is the vehicle that Pomp Blackmon owned.

Q And where was that picture taken?

A At his residence.

Q When was take picture taken?

A On January the 23rd, 2012.

Q Did you go there first yourself before other law enforcement people got there?

A I did.

Q Okay. Did you have -- don't quote him, but did you converse with Pomp Blackmon about his car?

A I did.

Q Did you look at his car?

A I did.

Q Had you gone out the night of January 19th of 2012 to [redacted] when this case occurred?

A I did not.

Q Okay. Had you been to [redacted] at any time from the incident date -- between the incident occurrence and you being at Pomp Blackmon on January 23rd?

A I had not.

Q Okay. Did you have occasion to take a gander at Pomp Blackmon's car when you were out there on the 23rd?

A Yes, I did.

Q Did you notice anything unusual about the car, about the exterior of the car?

Q When I saw it that day you I didn't notice anything out of the ordinary?

Q Did you -- again, don't quote Pomp Blackmon, but did you and he talk about the condition of the car?

A Yes, we did.

Q I will put a picture up. Do you recognize what is shown in that picture?

A Yes, I do.

Q What is that picture of?

A That the right side of his vehicle, the little green piece here is a part of the fender mold. It actually holds the trim in to the car.

Q All right. Don't quote conversation, but did you and Pomp Blackmon talk about what is shown in this picture or maybe what ain't shown in that picture.

A Yes.

Q As a result of seeing the car and talking to Pomp Blackmon did you at some point leave his house that afternoon?

A Yes, I did.

Q Where did you go?

A Out to you [redacted].

Q Why did you go to [redacted]?

A To see if I could locate the part that is missing off of his vehicle.

Q And I will hand you an envelope which is -- take a look at that envelope and what is it and then I will ask you some questions about it.

A Okay.

Q Do you recognize what is in that envelope?

A Yes, I do.

Q And what is in that envelope? Generally describe it. You can pull it out.

THE COURT: Let me ask you, is that 36?

Q Mr. Thomspon, marked for identification purposes earlier this week, State's exhibit number 36. Do you recognize what is in the bag marked State's 36 ID?

A Yes, I do.

Q And when did you first have your hands on that piece that is in your hand?

A On January 23, 2012.

Q Okay. Now, where did you first put your hands, generally speaking, where did you first your put your hands on that item that is in your hands now?

A In the area of [redacted].

Q When you got to your hands on it what did you do I with it?

A Initially we photographed it.

Q Where it was found?

A Yes, sir.

Q Then what did you do with it?

A We collected the item and put it in this bag.

Q And did you take it somewhere?

A Yes. We actually went back out to Pomp Blackmon's vehicle to verify that it is the piece that is missing off of it.

Q And I will step back because you are starting to talke quite.

A I am sorry.

Q That's fine. How did you verify that piece came off of Pomp Blackmon's car?

A I actually placed it up to the side of the vehicle just to make sure that this piece would fit inside of the little green hole hold as well as the length, I guess the length and width of this matched up to the other molding that was already on the vehicle.

Q Did you look at the other side where a similar piece of molding would have been?

A Yes, I did.

Q Let me show you another picture?

Q I show you State's exhibit 22. Can you tell me what that is picture of?

A That is the other side, the matching side of this piece.

Q Okay. I will show you State's exhibit number 23. Can you tell me what that is?

A That's this piece on [redacted].

Q Where you first saw it?

A Yes.

Q Nobody had moved it, messed with it?

A We had not.

Q And generally speaking -- I will get you to look on the picture in a minute -- but generally speaking where was it? Was

it on the roof? Was it in a ditch? Was it in a driveway? On somebody's porch? Generally speaking, where was it?

A I guess, if you are leaving [redacted] going out to Highway 200 it was on the right side of the road in the ditch area.

Q I will show you some more pictures. Did you take these pictures?

A I think that I did, yes.

Q I will show you State's 23. Let me get the glare off of. What is that a picture of?

A That's where we actually located this piece.

Q Now, can you see the piece in the picture?

A I can not.

Q All right. What is it in the picture that you can see?

A Actually use this bag as marker, I believe.

Q All right. I will hand you the picture itself. I will hand you two pictures and then I will put them back up on the thing in a minute. I will show you State's 24. What is that a picture of?

You just take a minute to orient yourself and I will put it back on the reader. Tell me what that is a picture of.

A This is at picture of the location again where we found this piece and the bag because there were so many leaves in the area you really couldn't see it. We actually used that bag just to give us an indication, basically a point to where the piece

is located.

Q And you are saying it's the bag that you actually got in front of you there?

A I am pretty certain that it is.

Q In that picture can you actually see the piece of molding or chrome or whatever it is?

A No.

Q That's fine?

Q I will show and than picture is taken from the vantage -- was this piece found near somebody else's house?

A Yes.

Q And was that picture taken from the vantage point of looking towards that person's house from the road?

A Yes.

Q I will show you State's exhibit number 25. What is that a picture of?

A We are actually in the driveway standing in front of that mobile home photographing the road back out towards the road where this piece is locate.

Q Same picture, different angle?

A Yes.

Q What all is shown? Can you tell us is in that picture?

A We actually have one of the yellow markers out with number 1 actually right above this piece.

Q Now, is there any extraneous objects shown in that

picture?

A There appears to be a can of some sort.

Q Does it got anything to do with this case as far as you know?

A As far as I know it does not.

Q And I will put these pictures back up and let's talk about them real quick.

State's number 24, you just had in your hand. Tell us again briefly what that is a picture of?

A There is a glare. I can't. Okay. That picture is where the bag -- I am actually using the bag as marker because --

Q Circle it.

A The bag is here. This bag is used as marker. You can not see the chrome piece because of the leaves.

Q All right. And is the beer can in that picture also within the circle that you just put on?

A Yes, sir it is.

Q State's number 25. Can you tell us what that picture of?

A That is from the opposite view. We are actually standing in the driveway of the mobile home. We are actually -- the marker, the yellow marker here with the number one is right above where we were able to locate the chrome piece.

Q The bag is not in the picture now?

A The bag is not there and the same beer can is there that has nothing to do as far as we knew with the case.

Q I will circle something. Can you tell us what that is? Do you know what that is?

A Yes, that is is the speed bump.

Q Are there speed bumps on that road?

A Yes, sir there is.

Q Just that one or bunches of them or just that one?

A About three I think.

Q And on this picture with you your finger trace the path with a arrow or make a arrow showing which way Highway 200 is?

(Witness complies.)

MR. BARFIELD: Permission for the witness to step down?

THE COURT: Yes, sir, you may step down.

Q Do you recognize what is shown in State's exhibit number 54?

A Yes, sir, I do.

Q What is State's exhibit number 54?

A This is aerial photo of the area of Great Falls Highway, [redacted] and Colton Way.

Q Are you oriented on it to be able to know where the scene was in this case and where 200 is and all that kind of good stuff?

A Yes.

Q And where was the -- using its pointer show us the house where this event occurred at?

A Here.

Q And where along which road did you find the piece of molind on?

A On [redacted].

Q And where on [redacted] did you find the piece of molding?

A Right between this mobile home and this mobile home there is a speed bump about in this area and the piece -- the little chrome trim was within a few feet of that.

Q Okay. And just stick the pointer on it again and hold it still for a second?

A If I can.

Q So in that general area?

A Yes, sir.

Q You may take your seat. Thanks. Did you come in possession of anything else on January 23rd when you were talking with Pomp Blackmon and messing around with his car?

A Yes, sir, I did.

Q What?

A A blue jumpsuit.

Q Okay.

A And a work ID.

Q I will show you what has been marked for identification

State's exhibit number 37. Well, let me back up. Time out.

MR. BARFIELD: Your Honor, at this time I offer State's exhibit number 36 as exhibit?

THE COURT: Any objection?

MR. FRICK: No objection.

MS. RANEY: No, Your Honor.

THE COURT: State's 36 is in evidence.

(State's Exhibit 36, car molding, received in evidence as of this date.)

Q Now, Mr. Thomspon, I am showing you State's exhibit number 37 for identification purposes. Do you want gloves?

A Please.

Q I will set this box up there. What has been marked for for identification as State's exhibit 37. You stand up and do whatever you want. I will let you examine it and let I ask you questions about it.

Do you recognize what that is?

A Yes, I do.

Q And you can stuff it back in the bag. Just stuff it down in the box. Don't worry about it and hand it back to me.

What is the contents of State's exhibit 37 for identification?

A That is a blue one-piece jumpsuit type clothing.

Q And where did you first see that and get your hands on it?

A At the residence of Pomp Blackmon.

Q And don't tell me what Pomp Blackmon said, but describe the transfer of that blue jumpsuit from him to you. Where did you see and where did it go from where you saw it to where you got it?

A From his residence. I think his address is [redacted]. I got it from there, voluntarily turned over and placed into evidence.

Q And do you remember where it actually came from to go from him to you? Do you know where it was?

A From the trunk of his vehicle.

Q Okay.

MR. BARFIELD: Your Honor, at this time I offer States 37 as an exhibit?

MR. FRICK: No objection.

MS. RANEY: No objection.

THE COURT: State's 37 is in evidence.

(State's Exhibit 37, jumpsuit, received in evidence as of this date.)

Q Thank you, sir.

MR. BARFIELD: Your Honor, I reserve the right to recall Mr. Thomspon. I just need to get this done for the flow of the case. Reserve the right to recall him about other matters later.

THE COURT: All right. Mr. Frick.

MR. FRICK: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FRICK:

Q You had conversations with Mr. Blackmon a few times, did you not?

A Yes, sir, I did.

Q Okay. First time was I guess on the 23rd of January when you were over there looking at the car?

A That's correct.

Q And he retrieved the jumpsuit. Did he give you ID too?

A Yes, sir.

Q So you took that in custody?

A Yes, I did.

Q Did you do any processing on the car?

A I did not. I was there with Mr. Taylor, Investigator Taylor.

Q You didn't go to the scene at [redacted] that night of the 19th?

A I did not.

Q Other than picking up this piece here in State's number 36, did you process anything else on the scene?

A On the scene?

Q Yes, sir.

A No, sir, I never went to the scene.

Q You just literally stuck this on the side of car and it

stuck?

A No, I didn't push it you all the way in. Kind of put it up the side. It matched the other side.

Q It matched?

A Yes.

Q But there is no unique identifying feature on this thing, right? No serial number on it?

A No. No, serial number.

Q All right. So, this is a piece of chrome off of a white Cadillac, right?

A Yes.

Q And it fit on a white Cadillac?

A Yes.

Q Folks are looking at Mr. Blackmon's car on January 23rd. He gives consent for it to be looked at, correct?

A That's correct.

Q Was there any chief case agent on this case or was everybody just working on it?

A My understanding Investigator Crump was called out. He was the lead, but often times with with situations like this we all jump in to help out. That is what we typically do on most cases.

Q All right. I know you are not then the chief investigator on this case but you certainly were involved with it. Mr. Blackmon's car was not taken as a piece of evidence

itself, correct?

A That's correct.

Q It was left in his custody and control?

A Yes.

Q Later did you get some information about where this car was located?

A I did not.

Q Okay. Let me ask you, did you prepare an incident report?

A Yes. Several supplements.

Q I will show you a brief one. Do you recognize that?

A I read it just in preparation.

Q Is it part of your report?

A No, it is not.

Q Its not. Okay. Your right, it's not. Thank you. I think I picked up the wrong one. That is what happened. Is that one of your reports or is that somebody else's? (Handed)

A That is my report, yes, sir.

Q All right. There we go. In this report it looks like you gained some information about a potential person that the car was loaned to; is that correct?

A Yes.

MR. BARFIELD: Could I ask what they are looking at.

MR. FRICK: I am sorry. (Shown to Mr. Barfield)

Q You were given a name, correct?

A Yes.

Q As someone that the car might have been loaned to. Do you know what that name was? Do you know who that name was?

A Yes.

Q Who was that?

A Antoine Barnett.

Q Do you know when you got that information?

Q A date? I just don't see it on the report.

A I didn't put it in the report. My assumption is it was after the initial conversation.

Q That was going to be my question. Okay.

MR. FRICK: I believe that is all I got for you right now.

THE COURT: Miss Raney.

CROSS EXAMINATION

BY MS. RANEY:

Q Investigator Thompson, when you were at Pomp Blackmon's house on January the 23rd of 2012, did you learn that a key was missing to that vehicle?

A I do believe that I was told that.

Q Do you know if the missing key to the Cadillac was ever recovered by you or another officer?

A I know I did not. I don't know about another officer.

Q Did you personally take any steps to try and locate who

may have possession of the missing key?

A We worked in conjunction with this case, but I never went and asked someone do you have the key for this vehicle.

Q So you personally never did any search to try and locate the key?

A He filed a report with city police department about his vehicle being missing.

Q Right. Are you aware of any other officers with the Lancaster County Sheriff's Office making an attempt to find out who had this missing key?

A I don't know.

Q Okay.

MS. RANEY: If the Court will just bare with me while I find the photo.

Q This is State's number 25. Can you see that on your screen up there?

A Yes, I can.

Q That yellow marker we're looking at, is that showing where the piece of trim from a vehicle was found?

A Yes, ma'am, that is correct.

Q Could you give me an idea of the how far away from the road this piece of trim was when you found it?

A Maybe two feet.

Q Maybe two feet. Because that area it looks like it's paved, that long strip in front of the tree there?

A Yes.

Q Is that the road there?

A Yes, sir.

Q And that's a paved road?

A Yes, ma'am.

Q That is a not a road that is just made out of gravel?

A No, ma'am.

Q Not loose gravel?

A No. It is pretty bad shape but it is not loose gravel.

Q And when you arrived out there on [redacted] to look for this piece of trim missing from the car, you didn't know whether you were going to find a piece of trim or not?

A We did not, no.

Q You weren't given any clue as to where specifically to look along [redacted]?

A No, ma'am I was not.

Q So do you remember how long you spent out there on [redacted] before you were able to find this piece of trim?

A My best guess maybe thirty minutes, but that's just my best guess. I really don't no.

Q About a half hour or so?

A Yes.

Q And during that time you were out on [redacted] looking to see if you could find this piece of trim were you walking up and down [redacted]?

A Yes, we were.

Q Okay. How many other officers were with you?

A Two other.

Q Two other, and do you recall who they were?

A Lieutenant Howell and Investigator Joe Catalano.

Q Did you say Catalano?

A Yes, Catalano.

Q And are you aware whether or not on January 19th the night that Miss Jones was killed whether or not any officers from the Lancaster County Sheriff's Office actually searched that same area where you found the trim piece later on?

A I can't answer that. I don't know. I didn't read anything in the report.

Q Did you read all the reports that were prepared by the police in preparation for your trial testimony?

A Not every one. Just what I would be testifying too is what I spent the bulk of my time reading.

Q Okay, but did you read reports that you were not actually the author of?

A Not all of them.

Q But some of them?

A Some of them I did.

Q Don't say out loud what this says.

A Okay.

Q I just want you to go ahead and take a look at that and

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tell me if it is familiar to you or not?

A This is not.

Q Okay.

A Sorry, I did for the read that one.

Q Okay.

MS. RANEY: Thank you. I have no further questions?

THE COURT: Redirect solicitor.

MR. BARFIELD: None.

THE COURT: All right. Thank you. Thank you, Mr. Thomspon you may step down.

(Witness excused.)

THE COURT: All right. You all ready for lunch break, is that a yes.

MR. BARFIELD: Yes, they are I am sure.

THE COURT: They are.

MR. BARFIELD: You need to ask them. I am sure they are.

THE COURT: Mr. Foreman, ladies and gentlemen of the jury panel, perhaps now would be a good time to take our luncheon recess. Please remember during this lunch do not discuss the case with anyone that includes your fellow jurors or anyone else. Do not do any research, independent or by way of the internet or any other manner. Keep an open mind. Do not begin

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your deliberations until you heard all the evidence, testimony, closing arguments by the attorneys and instruction on the law by the Court. It is my understanding that the clerk has reported that your lunch is here so we will take let's say about an hour. Let's say 2:15. Until 2:15.

All right. Thank you, very much you may not go to the back.

(WHEREUON, the jury leaves the courtroom).

THE COURT: All right. Anything further from the State before we take our recess?

MR. BARFIELD: Nothing from the State.

THE COURT: Defense?

MR. FRICK: Nothing from the defense.

THE COURT: Ms. Raney?

MS. RANEY: Nothing from me, Your Honor.

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

(WHEREUPON, court was in recess.)

THE COURT: Anything we need to take up before we bring the jury in?

MR. BARFIELD: Nothing from the State.

THE COURT: From Clinton, Mr. Frick?

MR. FRICK: No, Your Honor.

THE COURT: Mr. Green, Miss Raney?

MS. RANEY: No, Your Honor.

(Jury enters the courtroom.)

THE COURT: Welcome back ladies and gentleman of the jury panel. I hope you all had a pleasant lunch. We will continue with the trial of the case by the presentation of the evidence by the State in their case in chief. Please continue to give the parties your complete and undivided attention as you have done throughout the trial of this case.

Solicitor you may call your next witness.

MR. BARFIELD: The State calls Ann Hornton.

THE COURT: All right. If you come around for us please and be sworn.

ANN HORTON, called as a witness, having been duly sworn by the clerk, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BARFIELD:

Q Tell us your name please, ma'am.

A Ann Horton.

Q Miss Horton, by whom are you employed?

A Lancaster County Sheriff's Office.

Q How long have you been employed by the sheriff's office?

A About four and a half years.

Q And what is your job at the sheriff's office?

A I am the evidence custodian.

Q And as evidence -- what does evidence custodian mean? What does that mean for you in your day to day you duties at sheriff's office generally speaking?

A That means any piece of evidence that is brought in and is put in our lockers or some times delivered straight to me, I take that evidence I give it a specific item number so that piece of evidence can be tracked and a chain of custody can be formed where ever that piece of evidence goes and then I have keys to the room.

Q Okay. Is the evidence room in the Lancaster Sheriff's Office the former facility and the current facility is it a secured room?

A Yes, it is.

Q Thank you. What is your requirement concerning the integrity of a piece of evidence that somebody either puts in a drop box or hand delivers to you to be logged into the evidence at the sheriff's office?

A Any one that brings me a piece of evidence must fill out an evidence submission form and that will include a case number, the time they collected it, the time they dropped it in my drop box or handed it to me and then it must be sealed properly. Some items we collect in paper. Some are okay to be collected in plastic depending on what it is and it must be

sealed by the officer so that when I collect it that seal is intact.

Q And we you get your hands on something if it is not sealed what do you do?

A The officer will get an e-mail from me to come pick up this piece of evidence because it is not evidence, and we have to start a process from there.

Q You don't take it ain't sealed up?

A I do not. I do not.

Q Are you responsible for transporting evidence from the sheriff's office to other locations as the need might arise?

A Yes, I am.

Q And most principally where will you carry evidence from the sheriff's office to?

A I take evidence to the South Carolina Law Enforcement Division which is SLED and I check it in there and then they send it in that chain of custody on to be analyzed.

Q Okay. When you go to SLED to log in something what do you do?

A I take it to one particular person. There is four ladies that work there and they check each individual piece of evidence in create a chain of custody from me to them and then they document where it is going next.

Q Do they actually check the piece of evidence that you are handing to them for its integrity when goes from you to

them?

A Yes, sir. They do not accept any evidence from me that it is not sealed in advance.

Q Does SLED forever keep stuff that you take down there to them?

A They do not. Once they finish the analysis process then it will be stored ready for me to pick up and when I go on my next trip down they check that evidence out by they scan their own tag that they have on that they had that piece of evidence and then they change it over in the computer to me and I bring it home and then restore it in our room.

Q Okay. Now I will hand you item which has been marked I think for identification State's exhibit number 38. Can you identify what is in that plastic bag?

A These are buccal swabs that were taken from Devatee Clinton.

Q Okay. Are those -- have you seen them before I handed them to you today?

A I have. They were brought to me in swab boxes that were in this envelope. I then gave them a number and documented on here what they are. I took them to SLED. SLED gave them a number, a lab number, that is on every item that is in this particular case. Anything that is analyzed under this case number has that identical item and then they give it an individual item number so that when it is returned I know what

that is.

Q Okay. And did you at some point receive State's exhibit number 38 for identification from -- I can't remember who you said you got it from. Did you receive this from some investigator in this case?

A I did and it is documented when I put it in the computer and give it that you individualized number who gave it to so I can always refer back.

Q And was this item properly sealed when you received it?

A Yes, it was.

Q Did you at some point do something with it or transport it to some other location from your evidence room at the sheriff's office?

A Yes, sir. I gave it an individual number. I have a box called a SLED lab box that it goes in there and that is the box that I transport to Columbia with my evidence.

Q And did you take this particular item, State's number 38 for identification to SLED yourself?

A Yes, sir, I did. My initials are on the top and the date that I took.

Q And that is AH for Ann Horton?

A Yes, Ann Horton.

Q Generally speaking Miss Hornton, let me ask you this first. You have been here pretty much all afternoon yesterday and all day today so far?

A Yes.

Q And I think you have been here when all of these other item have been introduced into evidence in this case is that correct?

A That is correct.

Q As to all of this is items generally, were they received by you as evidence custodian for the Lancaster County Sheriff's Office from various officers working this case?

A Yes, every piece of evidence that has been submitted came through me.

Q And as to all of these items that have been introduced in this case so far was there any problem with the integrity of the packaging or sealing of these items when they were received by you?

A No, sir.

Q And as to all of these items that ended up going to the State Law Enforcement Division Lab who transported them?

A I did.

Q And as to all these items which were returned to the sheriff's office from the State Law Enforcement Division Lab who brought them back to the sheriff's office?

A I did.

MR. BARFIELD: Thank you, ma'am. Answer anything Mr. Frick or Miss Raney has.

THE COURT: Thank you, solicitor. Mr. Frick.

MR. FRICK: No questions, Your Honor.

THE COURT: Miss Raney.

MS. RANEY: Just briefly Your Honor.

CROSS EXAMINATION

BY MS. RANEY:

Q Miss Horton, as the evidence technician it is not your job to decide which items of evidence gets sent to SLED for testing, is it?

A No, ma'am.

Q Would that be the individual officer or investigator on the case that makes the decision on what to send to SLED for testing?

A That's correct.

Q Okay. I am just going to randomly pick up this is State's exhibit number 51. You mentioned that after SLED does testing on an item it is returned back by you picking it up, returned back to sheriff's office, correct.

A That's correct.

Q So after SLED has done an analysis on a piece of evidence one way to tell that is its in a clear plastic bag that says SLED on it, correct?

A That's correct.

Q Just like item number 51 that you have there in front of you?

A That's correct.

MS. RANEY: Okay. Thank you. I don't have any further questions.

THE COURT: Anything on redirect, solicitor?

MR. BARFIELD: No, sir.

THE COURT: Thank you. Thank you very much, Miss Horton, you may step down.

(Witness excused.)

THE COURT: All right, you may call your next witness.

MR. BARFIELD: The State calls Stephanie Stanley.

THE COURT: All right, if you would come around to be sworn for us please.

STEPHANIE STANLEY, called as a witness, having been duly sworn by the clerk, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BARFIELD:

Q State your name please ma'am.

A My name is Stephanie Stanley.

Q Miss Stanley by whom are you employed?

A I am employed b the South Carolina Law Enforcement which is more commonly referred to as SLED.

Q What is your job at SLED?

A I am a forensic scientist assigned to the DNA case work department and I am also the acting team leader of our evidence

processing serology sections within our DNA case work department.

Q How long have you been employed at SLED?

A A little offer nine years.

Q Do you, yourself, do DNA analysis on various cases?

A Yes, sir, I do.

Q And you said your also the -- tell us what you said your role is with the evidence processing department team?

A Team leader over the evidence processing and serology section. So I monitor day-to-day functions of those sections.

Q And do you sign reports from the evidence processing department of SLED?

A Yes, sir, I have.

Q Now, did you -- let me jump way ahead. Did you do any DNA analysis on this case?

A No, sir, I did not.

Q I am going to ask you are you an expert in DNA analysis?

A Yes, I have been qualified in the courts of South Carolina before.

Q Okay. And I am not going to ask you those questions in this case because you didn't do DNA, but I do want to talk to you about some evidence processing that you participated in. Before I do that I am going to do this. When I say a verified SLED chain of custody, do you know what I am talking about?

A Yes, sir.

Q What is a verified SLED chain of custody?

A A verified SLED chain of custody is a custody means that is has going out to the individuals that are actually listed as part of the chain. They are asked to confirm or verify their portion of the chain. That it looks correct. There is nothing wrong with that chain of custody. Everything is written on the chain of custody. That shows the actual and true flow of evidence throughout the laboratory.

Q And is that what the chain of custody does, it shows everybody who handled the piece of evidence that comes in to the SLED lab.

A The chain of custody will show everybody who has handled a piece of evidence. It will monitor dates and times of those transfers. If I had given a piece of evidence to somebody else. It also monitors secure locations where we can leave evidence within a specific department.

Q Can you explain just briefly to the jury the login process at SLED and whether its manual or automated computerized?

A We have a computer system, a laboratory information management system where evidence items are brought by local agencies. They are submitted to SLED for analysis. At the login or intake portion the analysis request is documented in the computer system. Evidence can be transferred to different

departments within SLED and we need to know what analysis requests is on each item of evidence. Each item of evidence is given a unique identifier, an item number, and those item numbers are associated with a case number that begins with L and it is usually the year, like one four dash and it will have four or five different numbers, just depending on the case sequence of when that case came in throughout the lab.

The ladies in evidence control accept everything on a said to contain basis, so they believe if a box comes in it is said to contain a pair of jeans. They are not going to take out the jeans in the evidence login section. They are just going to log it into the computer as a set of jeans and it is transferred to the appropriate person. We do that to preserve evidence. We don't want to open evidence in public areas of the laboratory. But everything is tracked from that point. So any transfers that are made of those items are then tracked on that chain of custody and the chain of custody will end when the evidence is returned to the actual submitting agency and we capture that with a signature pad.

Q I am going to hand you -- well, let me back up.

You said if the Lancaster Count Sheriff's Office starts bringing you evidence concerning a particular event in Lancaster does it get a lab number from SLED?

A Yes, it does.

Q And is that L-14 number you are talking about?

A Yes, it is.

Q And does that lab number get maintained for every piece of evidence that comes in for that particular incident?

A Yes, any additional evidence that is submitted on that same incident will be associated with that same lab number.

Q Are there from time to time sub item numbers -- well, lets go back.

Each thing that comes in to SLED gets an item number, a SLED item number like one, two, three, four, five, correct

A Yes, sir.

Q Are there sometimes sub item numbers that get developed from evidence once it gets to SLED and broken out in some fashion?

A Yes, for example in the DNA department we may give an item number a sub item number. For example if we take a portion of a t-shirt we will sub item that into a let's say one point one, or one point two, based on how many cuttings or swabs we actually take from an item. So for swabbing a hard item, it may if this counter (indicating) is item one, the swab could be one point one to reflect that it came from this counter; item one, and all of that is tracked in the chain of custody. So all sub items are present and accounted for.

Q Now you mentioned swabs. Does SLED sometimes create sub items by swabbing a piece of evidence?

A Yes, we can.

Q And you mentioned cutting. What do you mean by cuttings and give us a for example?

A A larger item of evidence, let's say a t-shirt may be submitted for say blood analysis. Well, the t-shirt may be your item one. Any cutting I take from that where I think I may see blood could be one point one. The entire t-shirt isn't submitted further on in to the DNA department. What we are receiving are actual cuttings of the actual piece of cloth. So larger items of evidence are transferred to our evidence processing section and they are responsible for taking those large items and making them smaller and identifying those stains.

Q I will hand you a document that purports to be 33 pages long and ask if you can identify that?

A Yes, I can.

Q And generally speaking what is that document?

A This document is a chain of custody that has been verified for this lab number L-12-1205.

Q Okay. Is that the verified chain of custody document for this case?

A Yes, sir, it is.

Q And is this case a case that you worked on yourself?

A No, sir, it is not.

Q Is it a case that SLED, the SLED lab worked on is what I am asking?

A Yes, sir, it is.

Q And does it identify, the document itself, does it identify any suspects or defendants or victims the chain of custody document?

A No, sir, it is just for tracking the evidence.

Q Okay.

MR. BARFIELD: Now, Your Honor, at this time I offer the chain of custody as the next State's exhibit.

MR. FRICK: No objection, Your Honor.

MS. RANEY: No objection.

THE COURT: All right.

THE COURT: State's 55 is in evidence without objection.

(State's Exhibit 55, chain of custody, received in evidence as of this date.)

Q Miss Stanley, I am going to hand you the chain of custody back. I got it open up to page nine. Did this case involve an item which SLED gave item number six to?

A Yes, item six was one sealed box containing clothing described as one piece jumpsuit, blue in color.

Q And did that end up in the evidence processing department?

A Yes, it did.

Q And did SLED also receive an item that was as signed

item number 12?

A Yes, sir, it did.

Q And what was that item described as?

A Item 12 was described as one heat sealed pouch containing automobile parts described as stained seat belt from the passenger seat.

Q And did the evidence processing department process those two items of evidence, first of all the blue jumpsuit?

A Yes, sir.

Q And what was involved from the processing of the jumpsuit?

A The request for analysis on the jumpsuit I believe was ownership and blood.

Q Okay. And was it processed to determine if there was anything of evidentiary value on it?

A Yes, it was.

Q And was it processed by swabbing or by cuttings or by just chemical testing or how was it processed?

A There were swabs taken. There was also cuttings taken and a chemical test was performed.

Q Okay. How many cuttings were taken from the jumpsuit?

A There were 14 cuttings taken from the jumpsuit.

Q Okay. And I will hand you a couple of envelopes which have not been opened yet and can you tell me -- I will open the envelopes.

I will hand you both of these envelopes and just ask if you can tell me what the contents of those envelopes are?

A The contents of the first one, L-12-1205 container C, this contains the cuttings; our items 6.1, 6.2, 6.3. Those were cuttings from the jumpsuit, 6.4 was a swab and 6.5 was possible hair that was collected.

Q Okay. So this is 6.1 through 6.5?

A Yes, sir.

Q Okay. Let me -- before you move on let me check a couple of things real quick.

MR. BARFIELD: Your Honor, at this time I offer SLED items number 6.1 to 6.5 as a State exhibit.

MR. FRICK: No objection.

MS. RANEY: No objection.

THE COURT: All right, they have not previously been marked?

MR. BARFIELD: They have not.

THE COURT: State's exhibit 56 in evidence without objection.

(States Exhibit 56, cutting from jumpsuit, received in evidence as of this date.)

Q All right, what else have you got there?

A This heat sealed pouch is L-12-1205, is container D, and it contains cuttings from the jumpsuit, 6.6, 6.7, 6.8, 6.9, 6.10, 6.11, 6.12, 6.13 and 6.14. All were cuttings.

MR. BARFIELD: Your Honor at this time I offer 6.6 through 14 as the next State's exhibit.

MR. FRICK: No objection.

MS. RANEY: No objection.

THE COURT: All right, States 57 is in evidence, cuttings.

(States Exhibit 57, cuttings, received in evidence as of this date.)

Q Miss Stanley, as to what is now State's exhibit 56 and 57, the cuttings and one swab I think, and one potential hair from the jumpsuit, was any analysis done of this in the evidence processing department.

A The cuttings were checked for presumptive test for blood.

Q And do you know whether any of the cuttings tested positively presumptively for blood?

A Yes, all of the cuttings presumptively tested positive for blood. We reported as blood was indicated.

Q Okay. Now, I am talking to you as a DNA analyst now. Does blood mean human blood necessarily?

A This type of test just gives an indication that blood maybe present and that further testing could be performed. That further testing could be to help identify whether it is blood or that further test could be DNA analysis. So this is a test that is sensitive to the detect whether it is blood, but it is not

specific to tell us that it is absolutely blood.

Q But could it be blood but not human blood?

A It also could be blood but not human blood. This test isn't going to tell us species.

Q I will hand you one more envelope which I don't think I need to open up at this point, but can you tell me what is in that pouch by SLED item and description?

A Yes, this is L-12-1205 item 12, which is is described as heat sealed pouch containing automobile part described as stain seat belt from front passenger seat.

Q And one more item, one more bag, which again I am not going to open unless you need me to, but can you tell me what is in that bag?

A L-12-1205 container F, these are going to be the cuttings that were taken from the actual seat belt.

Q Which is --

A Items 12.1 and it should be 12.2.

Q And let me go back. The item I handed you a minute ago that you described as seat belt, for the record is State's exhibit number 49, which I think is in evidence.

Are these cuttings from the seat belt referring to the seat belt that I just showed you that you identified, which I identified as State's exhibit 49?

A Yes, these are cuttings that were taken from the actual item 12, so 12.1 and 12.2 are contained in there.

Q Okay. Do you know if any presumptive testing was done in the evidence processing department concerning the cuttings from the seat belt?

A Yes, it was.

Q And what presumptive testing was done?

A A presumptive test for blood and blood was indicated on both of those cuttings.

MR. BARFIELD: Your Honor, at this time I offer the cuttings from the seat belt as the next State's exhibit.

MR. FRICK: No objection, Your Honor.

MS. RANEY: No objection.

THE COURT: State's 58 in evidence without objection.

(State's Exhibit 58, seat belt, received in evidence for as of this date.)

Q Let me go back and ask you another question about SLED item number six, which is State's exhibit number 37 in evidence, the blue coveralls. Once the processing of those coveralls was done, the cuttings and swabs and the potential hair collected, were the coverall themselves passed on up the chain for any testing themselves?

A The coveralls themselves, item six were not.

Q Okay. As to the State's exhibit 56 -- well, let me back up.

State's exhibit 49, the seat belt which was SLED item number 12 and State's exhibits 56, 57 and 58 the result of the processing of the items we have been talking about, where did they go from evidence processing within the SLED lab? Generally speaking, what department of SLED do these items get moved on up to?

A The cuttings would have been transferred eventually to DNA analyst. In this case it was Maryann Boehm. I believe she picked up some of the items directly and others she picked up from our evidence login department.

MR. BARFIELD: Thank you, ma'am. That is all the questions I have at this point.

THE COURT: Thank you, solicitor. Mr. Frick.

MR. FRICK: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FRICK:

Q The jumpsuit, I think SLED number six, is that correct?

A Yes, the jumpsuit was described as SLED number six.

Q It came to SLED as one item?

A Yes, it would have been in a sealed box.

Q And it is broken down into 6.1 through 6.14, right?

A The cuttings were taken from that jumpsuit, yes, sir.

Q That is what I am getting at. You all weren't given the cuttings?

A No, sir.

Q The cuttings were done at SLED?

A Yes, sir.

Q Now, I know generally you all don't say oh, hey, I need this piece of evidence or this piece of evidence. SLED takes what is sent, correct?

A Yes, sir.

Q Okay. But in this case you all look at the jumpsuit and is it you that makes the determination these are things that we need to cut or whom?

A No, sir, it was not me.

Q Is it someone at SLED though that did that?

A Sometimes like the DNA analyst may need standards from different individuals, but it is not me for this case..

Q Okay. Let me clarify. You got a whole jumpsuit, right?

A Yes, sir.

Q That's what it came in number six, right?

A Yes, sir.

Q Okay. Its not premarked, hey look here, look here, look here, right? Someone analyzes at SLED and determines we need to cut here, we need to cut here?

A The jumpsuit was analyzed at SLED. I have not seen the jumpsuit. Some times items come in with areas marked from the agencies, so I can't tell you if that happened in this case in particularly, but evidence is screened in its entirety at SLED

so the evidence processing section is responsible for finding biological stains and testing those and sending those on.

Q Did the jumpsuit come to you?

A No, sir.

Q Okay. All right. But when it got to SLED, and maybe I am not asking the right person and I apologize if I not. When it gets to SLED it becomes 14 items instead of one item, correct?

A It becomes 14 cuttings from that item, yes, sir.

Q But that is 14 individual pieces, correct?

A Yes, sir.

Q The -- and I know you didn't see every piece of evidence that came in on this case, did you?

A I haven't seen any of the evidence that came in on this case.

Q But as far as you know this 33-page item includes everything that was submitted to SLED from Lancaster County, correct?

A A verified chain will contain all of the items that were submitted to SLED and where they traveled with while they were at SLED.

MR. FRICK: Okay. Thank you, ma'am. That's all the questions I have.

THE COURT: Miss Raney.

MS. RANEY: Thank you, Your Honor.

CROSS EXAMINATION

BY MS. RANEY:

Q So Miss Stanley, is it a decision made by SLED personnel or the Lancaster County Sheriff's Office which items are sent to SLED for testing and processing?

A Which items are sent is not a decision of SLED.

Q Okay. That would be a decision made by the local law enforcement agency?

A It's not made by SLED.

Q Not made by SLED. Okay. All right. I am handing you State's 56, 57, 58 and 49 that you discussed with Mr. Barfield just a little bit ago. Are those the items, items number 49, 56, 57, 58 and 59, those are the items that presumptive testing was done on? I want to make sure I understand you.

A Presumptive tests were performed on items six, item 7 and items 12. The cuttings were taken from those parent items and these are the cuttings from those items.

Q Okay. So item six is the number SLED assigned to it but the exhibit numbers, item six, is in those bags that I handed you up there?

A Yes, ma'am.

Q And when you say presumptive testing, just making sure I understand, the results of those presumptive tests were these items may contain blood?

A Blood was indicated on those items.

Q Okay. But there is further testing that can be done beyond that to actually confirm whether in fact it is blood?

A If a sample is large enough there is testing that can be performed to help confirm that. We are never going to be able to say that it's human blood but we can say that it is blood.

Q Do you know if any further testing was done on each of those items?

A That would be a question for the DNA analyst.

Q But you did not perform any further testing on those items, correct?

A No, ma'am.

Q Okay. If I could steal those back so have you some room here. And then I am handing you what is State's exhibit number 55. I am assuming you have seen a lot verified chains over your nine years at SLED?

A Yes, ma'am.

Q Is there a way to tell from looking over the verified chain that I handed you what items were actually received by SLED in this case?

A Every item that was listed in here was received by SLED unless it is sub item that was created at SLED.

Q Okay. So is it fair to say in looking through them basically as you combed through the 33 pages the items received by SLED are denoted in these grey bars?

A Yes, they are.

Q So, if I am reading this correctly, item number 1 that was received by SLED was one sealed envelope containing a cartridge case described as a 380 casing?

A Yes, that is what it is described as here.

Q Okay. And then if you follow along with me to page two, that indicates that SLED received one heat sealed pouch containing swabs described as two touch swabs from the underside of a storm door handle, correct?

A Yes, ma'am.

Q And then on page three it indicates SLED received a sealed pouch with swabs containing two touch swabs from the door knob on the main door exterior, correct?

A Yes, ma'am.

Q And item four received by SLED would be a fired bullet recovered from the victim's head, correct?

A Yes, ma'am.

Q SLED also received a fifth item which would be a GSR kit described as GSR from Rashad Johnson?

A Yes, ma'am.

Q And what does GSR stand for?

A I am a DNA analyst. GSR is not in my area of expertise.

Q Okay. So that is not related to DNA?

A No, ma'am.

Q So that means you would also not be familiar from any of the breakdown items under number five with respect to the GSR kit, right, 5.1 not familiar?

A No, ma'am, those would have been the trace department.

Q 5.2 not familiar right?

A No, ma'am.

Q And so on with 5.3 and 5.4, correct, not familiar?

A Yes, ma'am.

Q Can you also tell from the verified chain you have in front of you that SLED received item number six which would be the jumpsuit that Mr. Frick spoke with you about?

A Yes, ma'am.

Q And then that was broken down into I believe about 14 different subsections, correct?

A Yes, it was.

Q Trying to move ahead here. So we could skip on to page number 19 of 33. So item number seven would have been received by SLED, was an item described as a Tyson name tag; is that correct?

A Yes, ma'am, it was described as a Tyson name tag.

Q And then the eight item received from SLED would be buccal swabs from Pomp Blackmon?

A Yes, ma'am.

Q SLED received a ninth item of a sealed pouch containing blood standard described as vial of blood collected at the

autopsy?

A Yes, ma'am.

Q And then that blood sample collected at the autopsy is then further broke down, correct?

A Correct.

Q As 9.1. You also received at SLED a tenth item which is blood toxicology from victim Jenika Jones, right?

A Yes, ma'am.

Q SLED also received item 11, buccal swabs from Wayne Blakeney.

A Yes, ma'am.

Q Item 12, automobile parts described as a stained seat belt?

A Yes, ma'am.

Q And then that item is then further broke down by SLED correct, item 12?

A Yes.

Q Into 12.1 and 12.2. You also received at SLED item number 13. A pouch containing cuttings described as stained fabric from front passenger seat?

A Correct.

Q Also received item 14, pouch containing cuttings described as stained fabric from front driver's seat?

A Yes, ma'am.

Q Item 15, item containing swabs of red brown stains from

rear seat?

A Yes, ma'am.

Q And then that is further broken down into 15.1, 15.2, 15.3?

A Yes.

Q And we are in the home stretch here. SLED also received a 16th item which would be buccal swabs from a Mr. Delrico McDow?

A Correct.

Q Item number 17, buccal from my client, Al Martinez Green?

A Correct.

Q And lastly the 18th and final item that is SLED received according to this chain would be buccal swabs of Mr. Clinton?

A Yes, ma'am.

Q So according to this verified chain that we just went over SLED never received for testing six cigarette butts, correct?

A No, not according to this chain.

Q And also according to chain SLED never received any DNA swabs from a steering wheel or gear shift of a steering wheel, correct?

A I don't believe that is one of the items you mentioned.

MS. RANEY; thank you. I don't have any further

questions.

THE COURT: No, Your Honor, but I don't and ask that she be excused.

THE COURT: All right. Any objection to this witness being excused.

MR. FRICK: No, Your Honor.

THE COURT: Miss Raney.

MS. RANEY: No, Your Honor.

THE COURT: Thank you for being with us this afternoon. You may step down and you maybe excused.

(Witness excused.)

MR. BARFIELD: Call Maryann Boehm.

THE COURT: All right, if you would come around and be sworn.

MARYANN BOEHM, called as a witness, having been duly sworn by the clerk, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BARFIELD:

Q Tell us your name please ma'am.

A My name is Maryann Boehm.

Q Miss Boehm by whom are you employed?

A South Carolina Law Enforcement commonly known as SLED.

Q How long have you been employed at SLED?

A Approximately eight years.

Q What department of SLED do you work in?

A DNA case work department.

Q Have you been in the DNA case work department the entire eight years you have been at SLED?

A Yes, sir.

Q Are you expert in DNA analysis?

A Yes, sir, I have been qualified approximately forty times in South Carolina courts.

Q How did you become qualified to analyze DNA? Have you got an undergrade degree?

A Yes, sir. I have bachelor of science degree in integrated science and technology from James Madison University. That's in Harrison, Virginia.

Q Undergraduate degree at this point?

A Yes, sir.

Q Where is that from? What is it and where it is from?

A That was my undergraduate degree.

Q Is there a graduate degree in anything?

A No, sir.

Q How did you learn how to analyze substances for DNA?

A Upon employment with SLED I was trained by court qualified analyst for approximately a year in specific procedures and instruments used in our laboratory.

Q Did you have to do practical things at SLED as part of your training in addition to course work or study?

A Yes, sir. We take -- we had to do training and we had to a competency tests and also written and oral exams.

Q How long have you been deemed certified or qualified by SLED as a DNA analyst of the eight years you have been there?

A Approximately seven years.

Q And have you been -- you answered this a minute ago, but have you been called upon to testify as an expert witness in DNA analysis in the Courts of this state before?

A Yes, sir, I have.

Q And I think you said forty times?

A Approximately forty times.

Q Have you ever been refused as an expert in DNA analysis when offered as an expert in the courts of this state?

A No, sir.

MR. BARFIELD: Your Honor, at this time I offer Miss Boehm as an expert in DNA analysis.

MR. FRICK: No objection.

MS. RANEY: No objection.

THE COURT: All right. Again ladies and gentleman you heard me say this before. Normally a witness can not testify to opinion testimony. Normally when a witness testify they must testify as to either what they saw or heard or sensed by smell or something of that nature. However, there is exception when someone is qualified and because of education, training,

experience or otherwise they are permitted to give their opinion in certain areas if the Court qualifies them that way. This witness, Agent Maryann Boehm will be qualified in the area of forensic DNA analysis to give opinion testimony in that area. That does not mean you must accept the opinion, but you give it the wight and value that you the jury deem appropriate. Thank you, solicitor, you may continue.

DIRECT EXAMINATION

CONT'D:

Q Miss Boehm, tell us in ways that I can understand what DNA is?

A Sure. DNA stands for deoxyribonucleic acid. T is a chemical found in all of our cells accept for our red blood sells. We get our physical features from DNA, such as hair color and eye color. It is also important for passing along traits from generation to generation. We get half of our DNA from our mother and half from our father. With the exception of identical twins no two individuals have the same DNA.

In forensic science we are interested in the portions of DNA that differ between individuals. We test 15 of these locations and the combination of these tests results make up a DNA profile.

Q And the locations are what within the body biologically?

A On the DNA strand.

Q And a the strand is contained within what biologically in the body?

A In the cells of our body.

Q What is a DNA profile?

A DNA file is the tests results of the 15 different locations that vary between individuals that we are interested in. The combination of those results make up a DNA profile.

Q How does SLED -- how do you at SLED test a substance or an item to determine if there is a DNA profile on it that can be developed? Is it microscopic? Is it computer? Is it visual? How do you test something?

A Well, first depending on the request if it's a blood request we will do some biological screening to see if biological fluids of interest is there. If it's a touch or ownership request where there is no biological fluid involved we will form just a DNA extraction. What that involves is taking a portion of the sample, opening up those cells to release that DNA and then testing the 15 locations that we are interested in, through a series of chemicals and instruments and then the results of that make up a DNA profile.

Q And does the profile actual appear as a series of numbers and symbols on a computer generated document?

A On a computer it looks like peaks with numbers corresponding go to each peaks. We put those peaks in a table.

Q Okay. Now you hit on this a minute ago, you talked about blood or fluids. What other ways can DNA be left somewhere?

A It can be left by biological fluids such as semen, blood, saliva. It can also be left by touching an object or wearing an object leaving skin cells behind. It can also be found on hair. So leaving hair with a root we can find DNA on that. If the hair does not have a root we will not be able to get DNA from it.

Q What do you call the DNA that might be left from skin cells? What do we generally call that?

A Touch DNA.

Q Did you do some work on this case which is identified as SLED lab number L-12-1205? Did you do work on this case?

A Yes, sir, I did.

Q A little bit of work? A lot of work?

A I think it was a lot of work.

Q Did some of your work involve testing items that were submitted from unknown sources?

A Yes, sir.

Q Did some of your work in this case involve testing some items that were submitted from known sources?

A Yes, sir.

Q Now, what was the buccal swabs?

A Buccal swabs are one of the sources known. When we do

DNA analysis we are comparing evidence which is unknown sources of DNA to known sources of DNA which is a from an individual. Either we can have blood standard, a buccal swab, which is a swab from inside of our mouth; oral swabs, or we can have hair.

In this case I analyzed buccal swabs as well as blood standard.

Q Okay. Are you given some information with the case to indicate perhaps who a subject is or a suspect might otherwise be called and who a victim is?

A Yes. They are listed on our evidence submission paper work.

Q Okay. And as to this case is there a victim associated with this case by name in your file and in your paper work?

A Yes, sir, there is.

Q And the victim's name is what?

A Jenika Jones.

Q I will hand you an item which has been introduced into evidence as State's exhibit number 35. Can you identify what that is and if we need to open it I will be happy to?

A This is our lab number item 9 and 9.1, which was the blood standard from Jenika Jones as well as the sub item, item 9.1, which is a dry standard from Jenika Jones.

Q And do you know the source of that blood standard from Jenika Jones from your paper work, or from the evidence packaging, do you know other than Jenika Jones, do you know how

it was obtained from Jenika Jones?

A No, sir.

MR. BARFIELD: Your Honor, at this time -- well, it is already in evidence. Excuse me.

Q Did you work with State's exhibit number 35, which you identified at SLED item number nine, to develop a DNA profile for Jenika Jones?

A Yes, I did.

Q Were you able to do that?

A Yes, sir. I will also hand you an envelope which contains some things. Can you identify what that is, from SLED item number and description.

A This is lab number L-12-1205, item 18, which is buccal swabs from Devatee Tymar Clinton.

Q Is that an item that you worked on?

A Yes, sir.

Q Okay. Were you able to develop a DNA profile from that item?

A Yes, sir.

MR. BARFIELD: Your Honor, at this time I would offer State's exhibit 38 for identification as State's number 38.

MR. FRICK: No objection.

MS. RANEY: No objection, Your Honor.

THE COURT: States exhibit 38 in evidence without

objection.

(State's Exhibit 38, buccal swabs, received in evidence as of this date.)

Q I think you said you this, and some times I don't listen. Did you say this was in the form of buccal swabs that were submitted?

A Yes, sir they were buccal swabs.

Q Did you receive in this case buccal swabs from other known people?

A I did.

Q I am handing you State's exhibit number 50, ask you if you can identify what is in that envelope.

A This is our lab item number eight it is buccal swabbs from Pomp Blackmon.

Q Is that item that you worked on?

A Yes, sir.

Q Were you able to develop a DNA profile for Pomp Blackmon?

A Yes, I did.

Q Okay. I will swap with you and I will give you item -- State's exhibit nimber 52. Two can you tell us what that is?

A This is our lab item 16 and it is buccal swabs from Delrico Meadow.

Q McDow, M-c-D-o-w maybe.

A Yes, I a sorry.

Q That's fine. Is that an item that you received?
A Yes, sir.
Q Did you work on that item and were you able to develop a DNA profile on that item?
A I did.
Q And finally I will hand you State's exhibit number 53. Can you identify what that is?
A This is our lab number 17, which is buccal swabs from Al Green.
Q Is that an item you worked on?
A Yes, sir.
Q Were you able to determine a DNA profile from those buccal swabs?
A Yes, I did.
A I will show you State's exhibit number 41 and ask if you can identify what that is?
A This is our lab item number 1, which is a 380 casing.
Q Did you receive that item and do some work on it?
A Yes, I did.
Q Did you determine whether there was any evidence that could lead to DNA profile on that item?
A Yes, I swabbed this casing and developed a DNA profile from that item.
Q Can you tell us -- well, let me back up just a minute. Some of your reports which we will talk about in a little bit

say no blood indicated but you still got some DNA?

A That's correct.

Q Does DNA always have to come from that blood?

A No, sir.

Q Okay. Can you tell us whether the DNA developed from this item was from blood or from some other source?

A No, I did not test it for blood.

Q Did you reach any conclusion based on the profiles you developed from the victim's blood standard and the buccal swabs from the other four folks that we talked about a minute ago, whose DNA was on the cartridge casing?

A I did.

Q And what did you conclude about that?

A The DNA profile that we collected from item one matches the DNA profile of Jenika Jones.

Q Okay.

A The probability of randomly selecting an unrelated individual having a DNA profile matching this item is approximately one and 8.9 quadrillion.

Q Quadrillion?

A Yes, sir.

Q Is that pretty positive results as far DNA testing and the probability goes?

A I believe so.

Q Okay. You actually -- I will jump ahead. You actually

did three different reports in this case is that correct?

A Yes, sir, I did.

Q Did items -- were all of the items that the SLED DNA department was asked to examine submitted by the sheriff's office at the same time or were there additional submissions?

A There were additional submissions.

Q Do this for me. If you will just tell us the first submission and the first items you worked with. Just generally describe what it was that you were working with with the first submission, not any results or anything, but what did we send down there first?

A Sure. I received a 380 casing, swabs from the underside of a storm door handle; the exterior, swabs from a doorknob on main door; the exterior, 12 cuttings from a jumpsuit, a swab from a jumpsuit and debris from a jumpsuit, buccal swabs from Pomp Blackmon, a blood standard from Jenika Jones. The dry standard from Jenika Jones that was created in house.

Q Now, what came in next that you worked with in the DNA lab? Additional items I guess is what I am asking for.

A Additional items were then submitted, they were buccal swabs from Wayne Anthony Blakeney, Jr, I received cuttings from a portion of the seat belt, cutting from a stained fabric from the passenger -- front passenger seat, a cutting from stained fabric from front driver's seat, swabs of red brown stains from

rear seat which I then sub itemized into swab of red brown stains from rear seat; seat section, swabs from red brown stains from rear seat; the back rest, swabs from brown stain from rear seat; the back rest and a received buccal swabs Delrico McDow.

Q And did you yet again receive additional items to do some DNA testing on?

A I did. I later received two standard buccal swabs from Al Martinez Green and buccal swabs from Devatee Tymar Clinton.

Q I am going to start at the back and maybe move to the front and see if we can make this work.

I am going to go show you what has been introduced into evidence as two envelopes one formerly sealed pouch identified as State's exhibits 42 and 43. I will take them out. We had them out earlier. Can you tell me what that is?

A Yes. These are lab item two and three. Item two is swabs from underside of storm door handle, the exterior, and item three was swabs from the doorknob on main door, the exterior.

Q Now, did you develop DBA profiles or maybe partial profiles from those two items?

A I did.

Q And those are SLED items number what?

A Two and three.

Q This is probably way to simple to ask the question, but did you get a match on anything with the DNA profiles SLED items

two and three, State's exhibit numbers 42 and 43, the swabs from the storm door and the doorknob?

A No, sir, I did not.

Q Was anybody eliminated from your testing of those items?

A Yes, sir.

Q Just give us the -- read out the names of the people that were excluded as possible contributors? Is that the terminology that you use, excluded as a possible contributor to the DNA profile?

A Yes, sir.

Q And what does that mean in layman's terms?

A That their DNA profile was not found in the evidence.

Q Who was excluded?

A From item two, Al Martinez Green and Devatee Clinton, can be excluded as contributors to this mixture and item three, Pomp Blackmon, Wayne Blakeney Jr, Delrico McDow, and Al Martinez Green can be excluded.

Q All right, and look back at item two, was Pomp Blackmon also among those that was excluded from your testing?

A Yes, I am sorry, Pomp Blackmon and Wayne Blakeney Jr..

Q Okay. Did it shed any light on whether Jenika Jones or anybody else's DNA could or could not be on those two samples items -- SLED items two and three?

A For item two Jenika Jones and Delrico McDow could not

be excluded from that item and for item three no conclusive statement could be made regarding inclusion or exclusion of Jenika Jones or Devatee Clinton as contributor to the mixture.

Q Okay. Let's talk about the cuttings from the coveralls or blue jumpsuit I think it was described. Of those cuttings just describe -- well, let me back up.

I think you said there were 12 cuttings and one swab and one potential hair from the blue jumpsuit; is that correct?

A That's correct.

Q Tell us about the hair first of all?

A Like I said earlier the only portion of hair that we can get DNA from is the root. So when I received this debris which we are looking for hair. We are looking for hair with a root and in this case I did not find a hair with a root suitable for testing.

Q How about the swab?

A The swab I performed DNA analysis because we were looking for touch or ownership DNA.

Q Did you develop anything from the swab itself?

A I did.

Q We will come back to that in a minute. And then otherwise there are 12 cuttings from the blue jumpsuit, correct?

A Yes, sir.

Q Did you do any from the cuttings did you do any additional testing to determine what, if any, the substance

might be on the coverall on the cuttings?

A Yes, I did. On the first four cuttings that were made I first performed DNA analysis and then I went back and did more specific blood testing to see if it was human or not and I also did those same testing for the remaining items, 6.6 through 6.14 and no human blood was identified on those items.

Q Are you telling us it wasn't blood or just wasn't human blood or you can't say one way or the other?

A I can say it wasn't human blood.

Q Okay. All right. Now, of the I guess of the 12 cuttings and the one swab from the blue coveralls, how many did you actually test to develop DNA profile to compare to the known DNA profile?

A I tested four of those items.

Q And is there a some reason four in instead of all 13 of those things?

A Yes, sir. Typically when we get items from evidence processing they are already screened for blood. We perform DNA analysis on it. We don't do further testing on blood. However, when I did the first three cuttings the results that I received weren't characteristic of coming from or originating from blood, so I went back and did more specific testing for blood to see if it was from a human or not.

Q Okay. And so you tested four of the cuttings -- well, actually three cuttings and one swab from the coveralls, is that

correct?

A Yes.

Q And lets talk about them and use your SLED item numbers if you will, 6.1. What was 6.1 a one a cutting or swab?

A A cutting.

Q And did you reach any conclusions about whose DNA might or might not be in 6.1?

A I did.

Q And just tell us what your findings were?

A The DNA profile developed from item 6.1 is a mixture of at least three individuals. Jenika Jones, Pomp Blackmon, Wayne Blakeney Jr., Delrico McDow, Al Martinez Green, Devatee Clinton can be excluded as possible contributors to this mixture.

Q Okay, so we don't know whose that was, is that an adequate way to describe that?

A Yes.

Q What was 6.2, a cutting or swab?

A It was a cutting.

Q And were you able to determine anything about the DNA in that cutting?

A The DNA profile developed from item 6.2 is from an unidentified male individual.

Q And when it says "unidentified male individual" are you able to say that it is not one of the people that you have the known standards for?

A That is correct.

Q Is that what you mean by that?

A Yes, sir.

Q Six three was also a cutting?

A Yes, sir.

Q Did you reach any conclusions about 6.3?

A The DNA profile developed from 6.3 is mixture of at least two individuals. Devantee Tymar Clinton could not be excluded as a possible contributor to this mixture. The probability of randomly selecting an unrelated individual who could have contributed to this mixture is approximately one in 580.

Q Let me stop you there. Let's go ahead and talk about that. What does that mean for us?

A Any time we issue a report having a match or it can not be excluded we give a statistic to show how rare that match can not be excluded result is. In this case I would expect if I tested 580 people I would expect one person who their profile could be found in that mixture.

Q And that ratio that you gave applies to Devantee Clinton in this case?

A That's correct.

Q All right, what else did you conclude about the sample from 6.3?

A No conclusive statement can be made regarding the

inclusion or exclusion of Jenika Jones as possible contributor to this mixture. Pomp Blackmon, Wayne Blakeney Jr, Delrico McDow, and Al Martinez Green can be excluded as possible contributors to this mixture.

Q And was 6.4 the swab?

A That is correct. That was the ownership swab.

Q And also from the blue coveralls?

A Yes, I did not do any blood testing on the item because the request was for ownership or skin cells.

Q And did you reach any conclusions about the DNA on item 6.4?

A I did. The DNA profile developed from item 6.4 was a mixture of at least four individuals; Devantee Tymar Clinton can not be excluded as a possible contributor to this mixture. The probability of randomly selecting an unrelated individual who could have contributed to this mixture is approximately one in 12.

Q 12?

A Yes, sir.

Q Okay, and would the answer be the same if I asked you what the significance of the ratio was, one in 12 people could have contributed, is that the bottom line?

A That is correct.

Q No conclusive statement can be made regarding the inclusion or exclusion of Jenika Jones, Delrico McDow, or Al

Martinez Green as possible contributors to this mixture. Pomp Blackmon and Wayne Blakeney Jr. can be excluded as possible contributors to this mixture.

Q Now, is that all of the testing that was done, the DNA testing that was done concerning the blue coveralls a sub items taken from the blue coveralls?

A Yes, sir.

Q All right. I will hand you back State's exhibit number 58 and ask you generally to tell me what that is again?

A This is our lab items 12.1 and 12.2. These are the cuttings that Miss Butler made from the portion of the seat belt and then sent to me for analysis.

Q Now, were you able to do anything with either one of those two items?

A Yes, sir, I did.

Q One or both?

A I performed more specific blood testing on one of the items. The other item the stain was too small so I went straight to DNA analysis on that cutting. That was item 12.2.

Q And on the -- did you determine there was blood on either one of those two items?

A No, the only blood I tested was on item 12.1 and no human blood was identified.

Q Now were you able to develop a DNA profile from 12.2, one of the cuttings from the seat belt?

A Yes, sir, I did.

Q And did it match any of known profiles from the known contributors -- from the known submitters?

A No, sir.

MR. BARFIELD: Beg the Court's indulgence one moment.

THE COURT: Yes, sir.

Q Is it possibly to handle something and not leave DNA on it?

A Yes, it is possible.

Q Explain the process by which DNA might get left on items. Education us a little bit about how DNA might be deposited on things or factors that would cause it not to get deposited under certain environmental circumstances?

A Okay. You could leave DNA behind by leaving a biological fluid behind such as semen, salvia or blood. You could also leave hair with a root behind on an item and then you can also leave DNA behind by touching an object. However some times when you touch an item you may not leave behind DNA. It really depends on how long you touch it. How often you touch it. If your sweating. How many cells you shed off on a day-to-day basis. Also if you are wearing some kind of material in between you and the object like if I had a gloves on while touching this counter I wouldn't leave my DNA behind.

Q Is there anything you tested that we haven't gone over?

I apologize for asking that question, but is there any testing that you did that we have not yet gone over?

A Yes, sir.

Q Tell me what that is?

A Items 13, 14 and 15. Item 13 was a cutting from the stained fabric from the front passenger seat.

Q Okay.

Q Item 14 was cutting from the stained fabric from the front driver's seat. Item 15 was swabs from brown stains from rear seat and I broke those down into items 15.1, which was swabs from a red brown stains from rear seat, the seat section. 15.2 was swabs from the red brown stains from rear seat, the back rest. Item 15.3 was swabs from red brown stains from rear seat back rest.

Q Let me see if I can lay my hands on those items. Give me just a second.

MR. BARFIELD: Give me just a minute, Your Honor, I apologize. Miss Horton can you come up here and help me with this. My apologies.

Q Can you identify the contents of this formerly heat-sealed envelope which I am going to tell you are State's exhibits 48, 46, and 47?

A Yes, these are our lab items 13, 14, 15.1, 15.2 and 15.3.

Q And generally they are described as what in the SLED

chain of custody?

A Item 13 was a cutting from the stained fabric from front passenger's seat. Item 14 was a cutting from a stained fabric from front driver's seat and item 15 was a swabs from reds brown stains from rear seat.

Q Did you determine what if any substance was on those three items?

A I tested those for blood and no human blood was identified.

Q Did you do any DNA testing on those items to determine if you could develop any profiles?

A No, sir.

Q Okay. Anything else you tested that I haven't covered with you?

A That is all.

MR. BARFIELD: That is all the questions I have. Please answer anything Mr. Frick or Miss Raney has.

THE COURT: Thank you, solicitor. Mr. Frick.

MR. FRICK: Thank you, Your Honor.

MR. BARFIELD: Excuse me.

CONT'D DIRECT

BY MR. BARFIELD:

Q Did you prepare reports concerning your analysis in this case?

A I did.

Q I am going to hand you three documents and ask if you can identify those documents?

A These are the three reports I had issued on this case?

Q Are those identical copies of your original reports?

A Yes, sir, they are.

Q And what are the three dates of the reports that you produced in these cases?

A They are --

Q In this case?

A The first one was February the 15, 2012, then July 19, 2012, and then January 10, 2014.

MR. BARFIELD: Thank you, ma'am. Your Honor, at this time I offer the three reports as State's exhibits.

THE COURT: Mr. Frick?

MR. FRICK: I don't have any objection.

THE COURT: Miss Raney?

MS. RANEY: I don't believe I do, but I can just look at them real quick, Your Honor.

No objection, Your Honor.

THE COURT: All right, State's 60 in evidence without objection.

All right. All coming in as one exhibit?

MR. BARFIELD: That is fine with me.

THE COURT: In as one exhibit, State's sixty is in

evidence without objection.

(States Exhibit 60, reports, received in evidence as of this date.)

THE COURT: All right Mr. Frick.

MR. FRICK: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FRICK:

Q The profile that you developed, item number 1, you said it wasn't blood, correct?

A I did not test it for blood.

Q Okay. Can you tell where the DNA may have come from, or is there any particular type of DNA? Is there anything you can tell us about it accept there was some DNA on it?

A No, sir.

Q But the profile you developed was from Jenika Jones?

A Yes, sir.

Q And only Jenika Jones?

A Yes, sir.

Q There is no mixture at all on that one?

A No, sir.

Q And that is the one that I would say you got the highest probability on? I may have phrased that incorrectly.

A That is correct.

Q I am going ask you about item 6.6 through 14. It says no human blood. You found something on there?

A Right. Miss Butler processed the the jumpsuit and did a presumptive test for blood and there is indication on those items, those cuttings, that there was presence of blood. However, I did further testing, more specific testing for blood, for human blood. And the results were negative meaning there was no human blood identified.

Q Not human blood, but it could have been some other type of species's blood?

A That is possible.

Q Chicken?

A That's possible.

Q Dog, whatever?

A We don't do other testing.

Q I understand. Okay. Have you got your reports in front of you?

A I have copies of them.

Q Okay. Take a look at your report from February 15th, 2012 and January 10th, 2014. I am looking at where you are talking about items 6.3. Have you you got them there?

A Uh-huh.

Q What I am seeing is in February you said 6.3 has a mixture of three individuals and in January of this year 6.3 is a mixture of two individuals. What caused that change?

A I believe on the report dated January 10, 2014 that is a typo. Looking at the results it is a mixture of at least

three individuals.

Q So on January it should be three people?

A Yes, sir.

Q Okay. Okay.

A At least three individuals.

Q At least three. So that is a typo?

A Yes, sir.

Q I don't see anything else but do you see any other typos on here?

A No, sir, I do not.

Q Okay. All I am going to look at from now is the one from January of this year.

A Okay.

Q Because it has got everything on there, right? Is that the one the final report essentially that has got all the standards that you have been given?

A It has all of the comparisons. It doesn't have all of the serology testing I did on previously reports, but results, yes.

Q Okay. All right. I am curious, it looks like on 6.1 you excluded everybody that you had a standard for. Am I reading that correctly?

A That is correct.

Q On 6.2 you got it as an unidentified male?

A That is correct.

Q What is the difference between those two lines? Would that not be an unidentified person in 6.1

A Item 6.1 is a mixture of at least three individuals versus item 6.2 is a single source profile from one individual and that individual is unidentified.

A Okay.

Q It did not match any of the standards submitted?

Q So 6.1 is a mixture but the mixture doesn't match to any of standards that you have?

A Right. They all could be excluded from that mixture.

Q 6.2 is just somebody whose DNA you didn't have to compare with?

A That's correct.

Q Same thing on 12.2?

A Yes, 12.2 also is a single source profile only from one person and that is another, a second unidentified male individual.

Q And just so I am clear on your numbers, 6.3 -- well, you put a number on there when you can include or exclude somebody, is that right, or probability rather?

A If you mean statistic?

Q Yes, ma'am.

A Yes. We state a statistic whenever we say match or can not exclude someone from a mixture.

Q Okay. And cannot include or -- well, that wouldn't be

correct. Can not exclude, does that mean it is that person's profile or does it mean it looks like that person's profile? It has characteristics of that person's profile?

A It has characteristics. That person's profile could be found in that mixture.

Q Okay. That is in fact why you put the statistic on there, right?

A That is correct. To give weight of that inclusion or non-exclusion.

Q Because there is only like -- I am trying to remember this from AP biology, there is only like 20 something things that match up, right? Alials (phonetics) or what I am trying to get to?

A I don't think I understand your question.

Q DNA -- DNA, there are proteins that match up to make the chain, right?

A That is correct, I believe. I believe I am following you.

Q There are a finite number of proteins that can mix up, right? Isn't there just a certain number of them?

A I believe what you are talking about is the basis of a general structure of DNA, and yes, there are four different basis of DNA.

Q Okay. All right. But we only have a certain number in our profile, is that correct?

A Right. What we are testing is the sequence of DNA. How many repeats of a specific region of DNA that we are interested in looking at. This is what varies from individuals. The amount of repeats.

Q Okay. And what you are saying in 6.3 is you got some DNA that has the profile characteristics that may include Mr. Clinton, but you could also look at 580 other people and probably, likely, maybe find someone else with that same profile?

A I would expect that that person's profile, the one out the 580 people that I would test would be able to be included or not excluded from that mixture.

Q So, I guess what I am trying to get at 580 people you would expect to see that same profile again?

A I would expect to see a profile that can be included in that mixture not the same profile as Mr. Clinton. If that makes sense.

Q Okay. So that profile could be included within this mixture?

A That's correct.

Q Okay. All right. Now that as opposed to one in 800.9 or 8.9 quadrillion is a lot lower, right? There is higher probability you will find somebody else with that same ---

A With the one in 580?

Q Uh-huh.

A Yes, sir.

Q And then of course one in 12 that could be any number of people in this room?

A That's correct.

Q And just so I can finish my stupid questions with you and I apologize and I appreciate your patience with me. When you say excluded that means it's just not there? They can not be a contributor to that, right?

A That is correct.

MR. FRICK: Thank you, Miss Boehm. That is all I have.

THE COURT: Thank you, Mr. Frick. Miss Raney.

CROSS EXAMINATION

BY MS. RANEY:

Q I will be quick on my science questions. You earned your money today.

Whenever you say no conclusive statement can be made regarding including or excluding someone, what does that mean?

A There is not an enough information to either include them or exclude them from that mixture. The results happen in mixtures where there are mixtures of multiple people. Lot's of times there are low level mixtures, where it looks like that person could be there, but I definitively say that they there or they are not because of the low level results that I am getting from the profile.

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Q So would be it fair to say in layman's terms I don't have enough information to tell you whether it is a match or not is that really what you are saying you can't exclude or include someone?

A Right. There is not information there for me to definitively yes they are there, no they are not there.

Q Okay, perfect. And out of all these DNA analsis you performed in this case my client, Mr. Al Green, is not a match to any of those items that were submitted, correct?

A That is correct. He is excluded.

MS. RANEY: Thank you.

THE COURT: Redirect solicitor?

MR. BARFIELD: No, sir.

THE COURT: Thank you. Thank you, very much for being with us this afternoon. You may step down.

MR. BARFIELD: Ask that she be excused.

THE COURT: Any objections.

MS. RANEY: No objection.

MR. FRICK: No objection.

THE COURT: You maybe excused.

(Witness excused.)

THE COURT: All right. Perhaps now would be a good time to take our afternoon recess. Ladies and gentleman do not discuss the case during this brief recess. We will take about 15 minutes. Thank you.

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Thank you very much.

(Jury leaves the courtroom.)

THE COURT: All right. We will be in recess 15 minutes.)

(WHEREUPON, court was in recess.)

THE BAILIFF: All rise.

THE COURT: Mr. Barfield, ready to proceed?

MR. BARFIELD: Let me tell you what the plan is. I obviously am not going to finish today. I got two witnesses which aren't going to be particularly long witnesses, lay witnesses, and frankly that might be a stopping point for the day. I don't know if that is objectionable to anybody.

THE COURT: All right. Well, we will press on then and you want to stop after your next two witnesses?

MR. BARFIELD: I think the after the next two witnesses that will be a logical stopping point for me.

THE COURT: Do you have any objection, Mr. Frick?

MR. FRICK: I do not.

THE COURT: All right. Anything Mr. Frick before we bring the jury in.

MR. FRICK: No, sir.

THE COURT: Miss Raney.

MS. RANEY: No, Your Honor.

(WHEREUPON, the jury enters the courtroom.)

THE COURT: All right, the jury is back in the courtroom. Solicitor you may call your next witness.

MR. BARFIELD: The State calls Y'eisha Tinsley.

THE COURT: All right, Miss Tinsley if you would come around and be sworn.

Y'EISHA TINSLEY, called as a witness, having been duly sworn by The Clerk, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BARFIELD:

Q Tell us your name please, ma'am, and spell your first name for court reporter?

A Y'eisha Tinsley, Y-e-i-s-h-a.

Q Miss Tinsley, do you live here in Lancaster?

A Yes.

Q I don't need an address, but have you been in Lancaster pretty much all your life?

A Yes.

Q Do you know Al Martinez Green?

A Yes.

Q Do you see Mr. Green in the courtroom?

A Yes.

Q And you got to talk loud please, ma'am.

A Yes.

Q Where is Mr. Green sitting and what is he swearing? Raise your hand Mr. Green.

A He had a black shirt on.

Q Is that the Mr. Green who raised his hand?

A Yes.

Q Keep your voice up. How long have you known Al Green?

A All my life basically.

Q Do you and Al Green currently have any relationship?

A No, he is just my daughter's daddy. My daughter's father.

Q Back in January of 2012, did you and Mr. Green have a relationship?

A Yes.

Q What was that relationship then?

A He was my boyfriend.

Q And back in January of 2012 had you had the daughter that you have with him now?

A No.

Q Were you expecting the daughter that you had with him?

A Correct.

Q You were pregnant then?

A Uh-huh.

Q And you go to say yes or no.

A Yes.

Q That is fine. Did you know Devatee Clinton?
A Yes.
Q Do you know him by a name other than Devatee?
A Tate.
Q Tate. Do you see Tate Clinton in the courtroom today?
A Yes.
Q Where is he sitting and what is he wearing?
A He have on a green colored shirt, I think.
Q With two pieces of paper in his hand?
A Yes.
Q Raise your hand Mr. Clinton. Is that who you are talking about?
A Yes.
Q How long have you known Tate Clinton?
A For a long time.
Q Do you know -- well, have you got a brother?
A Uh-huh.
Q You got to say yes or no.
A Yes.
Q How many brothers have you got?
A One.
Q What is his name?
A Madrey Tinsley.
Q Back in specifically on Wednesday, January 18th, of 2012 where did you live?

A In Carolina Court. I don't exactly remember the number but it was Carolina Court.

Q Are you living there now?

A No.

Q Who lived there with you then?

A Al.

Q Al Green?

A Yeah, yes.

Q Did you know a Dominique Davis?

A Yes.

Q Where was she living then?

A Across the hall from me.

Q In the same building?

A Yes.

Q Do you know Jamal Twitty?

A Yes.

Q Do you know where he was living then?

A Right beside Dominique?

Q In the same complex?

A Same complex.

Q Okay. Were you at your house some time during the day, probably morning on Wednesday, January 18th of 2012?

A Yes.

Q Was Al there?

A Yes.

Q Was Tate Clinton there at some point?

A Yes.

Q Was Dominique Davis there at some point?

A Yes.

Q Was Jamal Twitty there at some point?

A Yes.

Q Do you know what time of day it was when those various folks were at your apartment?

A I would say like 12.

Q Day time?

A It was day time.

Q Did you know Jenika Jones?

A Yes.

Q How long had you known her before her death?

A Not long. Maybe like seven or eight months.

Q Okay. Do you know where she lived at the time of her death?

A Yes.

Q Okay. Did you become aware of her death?

A Yes.

Q Now, I don't want you to tell me what anybody said, but first of all, when did you find out that something had happened to Jenika Jones? When meaning, what day and about what time of day?

A That same night around I think 11 something.

Q Okay. And again I am not asking you to tell me what anybody said, but how did you find out? Did you find out through social media, through somebody knocking on your door, through a phone call? How did you find out?

A A friend.

Q Okay. Where were you the night that Jenika was killed?

A We had been at the Parkview apartments at Erica's house.

Q We meaning you and who?

A Me and Toya.

Q Toya being who?

A Latoya Green.

Q And her relationship if you know to Al Green?

A His sister.

Q Okay. Was Al Green with you all Parview?

A No.

Q When did you next see Al Green?

A The next day.

Q Okay. Did you and he have any conversation about where he had been the night before?

A Yes.

Q What did he tell you?

A He was at his momma's house all day and night and then later on he got dropped off at the Hole in the Wall.

Q Stop right there. What is the Hole in the Wall?

A I think a club.

Q Okay. Did you know where the Hole in the Wall club was?

A I don't know the name of that road, but it's past -- I think it's -- you know where the market store is?

Q You can't ask me question. You can, but I can't answer them.

A It is down the street from the market. I don't know exactly.

Q Is it in town?

A Yes.

Q And did Al Green tell you who he was with at the Hole in the Wall club that night?

A He said him and Tate met up there.

MR. BARFIELD: Thank you, ma'am, please answer any questions Mr. Frick or Miss Raney has.

THE COURT: Thank you, solicitor. Mr. Frick.

MR. FRICK: No questions for this witness, Your Honor.

THE COURT: Miss Raney.

MS. RANEY: I don't have any questions for this witness.

THE COURT: Thank you. Thank you very much Miss Tinsley. You may step down.

MR. BARFIELD: May she be excused, Your Honor?

THE COURT: Any objections?

MR. FRICK: No.

MS. RANEY: No.

THE COURT: She may be excused. Solicitor, you may call your next witness.

(Witness excused.)

MR. BARFIELD: I call Vivian Stradford.

VIVIAN STRADFORD, called as a witness, having been duly sworn by the clerk, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BARFIELD:

Q Tell us your full name please, ma'am.

A Vivian Stradford.

Q And Miss Stradford, I don't want an address, but do you live in Lancaster?

A I do.

Q How long have you been a resident of Lancaster?

A Thirty years.

Q Were you living in Lancaster on Thursday, January 19th of 2012?

A Yes, sir.

Q What part of town did you live in? Again I am not asking for a address or anything?

A On [redacted].

Q I you will ask you about some people. Whether you know some people. Did know Jenika Jones?

A Yes, sir.

Q How long had you known Jenika Jones?

A About three or four years.

Q Did you know where Jenika Jones lived in January of 2012?

A Yes, sir.

Q Had you ever been to her house before?

A No, sir.

Q When you say know her, were you all friends or acquaintances or go to church together?

A We was in a social club.

Q All right. Did you know -- I don't think I ask you this before. Did you know anybody named Al Green back in January of 2012?

A Yes, sir.

Q Okay. How long had you known Al? Not anything else about him. How long?

A Well, I just know of him. I don't know him like that.

Q Do you know see the person that you know as Al Green in the courtroom today?

A Uh-huh.

Q Where is he sitting and what is he wearing?

A He is wearing a black cotton shirt, long sleeved.

Q Closest to the wall on the row of tables across the front?

A Yes, sir.

Q Okay. Did know a fellow named Devatee Clinton back in January of 2012?

A Yes, sir.

Q All right. Did you know him by that name or nickname?

A By Tate.

Q Did you see Tate Clinton in the courtroom today?

A Yes, sir.

Q And what is he wearing? Where is he sitting and what he is wearing?

A He is sitting right there beside Mr. Frick and he is on a green collared shirt.

Q Okay. Did you at some point become aware that something had happened to Jenika Jones?

A Yes, sir.

Q And again I am not asking you to tell me what anybody said. How did you -- first of all, when did you find out something had happened to Jenika Jones?

A That night around say about 10:30, 10:40. I got a phone call.

Q That's fine. Now, did you -- were you at your house when you got a phone call?

A Yes, sir. I was at home. Yes, sir.

Q Did you leave your house at any time that night after you got that phone call?

A Yes, sir.

Q And where did you go and for what purpose?

A I went to my cousin's and aunt's house to figure out what was going on with Jenika.

Q And did you go somewhere else other than your cousin and aunt's house?

A Yes, sir.

Q Where?

A Store, after I left the house.

Q What store?

A Crenco on Main street.

Q What is Crenco, a convenience store?

A It's a convenience store.

Q Do you know -- when I say the Hole in the Wall club, do you know what I am talking about?

A Yes, sir.

Q I am not asking if you ever been a patron there, but do you know where it was or is?

A Yes, sir.

Q Where is the Hole in the Wall club?

A The Hole in the Wall is across the street from -- I don't know the name. The trucking company up from the old water mill place, the old county mill place

Q Linberger?

A That's it, right across the street from Linberger.

Q What street is the Hole in the Wall club on?

A It might be Market Street.

Q Where is the Hole in the Wall club in relation -- what street is Crenco on?

A Crenco is on Main street.

Q North Main Street or South Main Street?

A The middle. North main.

Q The middle? Well, let me ask you this. You know where you the courthouse is?

A Yes, sir.

Q I can't do it, but you point that way or that way, which way Crenco is?

A Up the street. (Indicating)

Q Okay? Or down the street, but that way?

A Yeah, that way.

Q That's fine. How far -- I am not asking you in miles -- the Hole in the Wall and Crenco anywhere close to each other?

A It's about the same distance as the courthouse is to the Crenco.

Q Okay. Did you see Tate Clinton any time the night of January 19th of 2012?

A Yes, sir, I did.

Q Where did you see Tate Clinton?

A At Crenco.

Q How did you get to Crenco?

A I drove.

Q Do you know how Tate Clinton got to Crenco?

A Well, when I seen him he was walking.

Q All right, and from where was where was he walking when you saw him?

A The Hole in the Wall direction from that way coming to Crenco.

Q Did you and he talk?

A Yes, we did.

Q What did he say to you?

A What's up cousin, have you got a cigarette?

Q Hold up, just tell us the conversation.

A Okay. What's up cousin, you got a cigarette

A Why does he call you cousin?

A Oh, gosh, that's a long story.

Q Are you all cousins?

A No.

Q Okay. That's fine. Then skip that.

A Okay. He asked for a cigarette and I was like I don't have any. I going now to the store to get me some. Somebody just killed my home girl.

Q Stop right there. Where was this conversation taking place?

A In front of the door at Crenco.

Q And were you out of your car?

A I was out of my car.

Q Okay. All right. The next thing you just said, somebody killed my home girl. Who are you talking about?

A Jenika.

Q Continue the conversation.

A And then I go in the store and I get the cigarettes and I gave him two and one fell on the floor and I said, I am not going to pick it up because I got a headache so if you want it you can have it and he just did.

Q So he got two cigarettes from you.

A Appreciate it, and he just walked out the door and when I got in the car I looked and it is like he disappeared in the air. He was gone.

Q Did you see him any more that night?

A No.

Q What was Tate Clinton wearing when you saw him at Crenco that Thursday night?

A He had on a blue monkeysuit. Blue jumpsuit. I call it a monkey suit, but that blue jumpsuit.

Q I am showing you State's exhibit number 37. Do you recognize that?

A Uh-huh.

THE COURT: Is that a yes.

THE WITNESS: Yes, sir. I am sorry. I do recognize it.

Q What is that?

A That's the monkey suit.

Q The one Tate Clinton was wearing?

A Yes, sir.

MR. BARFIELD; thank you, ma'am. Please answer anything Mr. Frick or Miss Raney has.

THE COURT: Mr. Frick.

CROSS EXAMINATION

BY MR. FRICK:

Q Miss Stradford, you said you have known Tate for a while?

A Yes, sir.

Q What was his normal clothing attire? What did he wear normally?

A Clothes.

Q Okay. Any particular type clothes?

A I don't be around him all the time, but when I see majority of time he either have that blue monkey suit or he have on camouflage monkey suit.

Q He usually wore some kind of jumpsuit, right?

A Yes, sir, he did.

Q All right and you saw him that night after all this stuff took place?

A Yes, sir, I did.

Q Okay. You said you got a phone call about 10:30?

A After ten. I am not going to put no specific time on it because I don't want to whatever you all trying to do. I don't want to put any specific time, but it was after ten.

Q Well, you testified to Mr. Barfield it was 10:30?

A Yes, 10:30 "ish". After ten.

Q So, after that you went over to your aunt's house?

A I did.

Q Do you recall about how long you stayed there?

A We probably -- I stayed at my aunt's house probably 10, 15 minutes and then I went to my cousin's house and we probably stayed there about the same amount of time.

Q Okay. So you were over at the Crenco midnight?

A I was.

Q Okay. And you were there just a few minutes to run in and grab a pack of cigarettes and ran into Tate?

A I did.

Q And you saw him walking from the direction of the Hole in the Wall?

A I did.

Q Okay. And you all's conversation was just basically about cigarettes?

A Yeah, cause he wasn't interested in what I was talking about.

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Q Okay.

A Yeah, he wasn't interested.

MR. FRICK: Thank you ma'am.

THE WITNESS: Your very welcome.

MS. RANEY: No questions, Your Honor.

THE COURT: Redirect solicitor?

MR. BARFIELD: None.

THE COURT: Thank you. You may step down.

MR. BARFIELD: Give me just one schedule.

THE COURT: Any objection to this young lady be excused

MR. FRICK: No objection.

MS. RANEY: None, Your Honor.

THE COURT: Thank you for being with us.

THE WITNESS: Thank you, my pleasure.

(Witness excused.)

MR. BARFIELD: Your Honor, I think that the stopping point for me if that acceptable to the Court.

THE COURT: All right. Yes, sir.

All right, Mr. Foreman, ladies and gentleman of the jury, perhaps now would be a good time to take our evening recess. You can probably repeat these instructions back to me by now.

Please remember do not discuss this case with anyone, fellow jurors, family friends or anyone else.

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Do not read, watch, listen to any news accounts about the case should there be any. Do not use your computer, cellular phone or other electronic device with communication capabilities or any other method to obtain or disclose information about the case which is prohibited. Information prohibited includes but is not limited to the following; information about a party, or witness, an attorney or court officer, news accounts of the case, should there be any, information collected through juror research of any topic raised or testimony offered by any witness, or information collected through juror research on any other topic of juror might think might be helpful in deciding the case.

Don't do any independent investigation. Don't do any investigation on the internet. Remember to keep an open mind and do not begin your deliberations until you are directed to do so by the Court.

With that being said you are excused for the evening. I hope you all have a pleasant evening and please be back promptly.

MR. BARFIELD: Could we approach before you finish the promptly part.

THE COURT: Yes, sir.

(WHEREUPON, there was an off the record

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discussion.)

THE COURT: All right. I have some motions I need to take up so I ask you to be back promptly again in the morning at ten o'clock, in the morning. We will be here at nine o'clock, correct.

MR. BARFIELD: Yes, sir.

THE COURT: If you all please be back promptly at ten o'clock in the morning. Thank you again for your hard work, focus, perseverance. I hope you all have a pleasant evening. See you tomorrow morning.

(WHEREUPON, the jury leaves the courtroom.)

THE COURT: All right, solicitor, as understand you have how many more witnesses?

MR. BARFIELD: I've got a firearms examiner, co-defendant, two or three witnesses concerning statements and probably an investigator just to tie up some loss ends, so I feel pretty comfortable sayin I will rest by lunchtime tomorrow.

THE COURT: All right. Mr. Frick, Miss Raney do you want me to advise your clients this evening of their right to testify or not to testify. I realize the State has not yet rested, but that will give them the opportunity to think about it over the evening hours.

MR. FRICK: That will be fine as long as you give

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us the opportunity to discuss it which sounds like that is what you are going to do.

THE COURT: All right. All right. Step around here please Mr. Clinton, Mr. Green. Place then under oath.

DEVATEE TYMAR CLINTON AND AL MARTINEZ GREEN having been duly sworn by The Clerk, was examined and testified as follows:

THE COURT: All right. Tell me your name, please.

DEFENDANT CLINTON: Devatee Clinton.

THE COURT: How old are you Mr. Clinton?

DEFENDANT CLINTON: Twenty-six.

THE COURT: And how much education do you have?

DEFENDANT CLINTON: 10th grade.

THE COURT: And tell me your name, sir.

DEFENDANT Green: Al Green.

THE COURT: And how old are you Mr. Green.

DEFENDANT GREEN: Twenty-one.

THE COURT: And how much education do you have?

DEFENDANT GREEN: Ninth grade.

THE COURT: You heard the solicitor say that he is probably going to rest his case some time tomorrow, if not by lunch time probably some time tomorrow. Of course at that point in time I will have certain motions to take up with your attorneys and depending

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on my rulings the case may go forward. You would then have an opportunity through your attorneys, each of you, to call witnesses on your behalf.

Do you understand that Mr. Green -- excuse me, Mr. Clinton?

DEFENDANT CLINTON: Yes, sir.

THE COURT: Do you understand that Mr. Green?

DEFENDANT GREEN: Yes, sir.

THE COURT: And further in that regard not only could your attorneys call witnesses on your behalf you could testify if you wanted to testify. You have the right to testify. Do you understand that Mr. Clinton.

DEFENDANT CLINTON: Yes, sir.

THE COURT: Do you understand that Mr. Green?

DEFENDANT GREEN: Yes, sir.

THE COURT: No one can force you, Mr. Clinton, or you, Mr. Green, to testify. Each of you has the absolute right to remain silent. And if you choose not to testify and this case goes to the jury I would advise the jury that they can not hold your silence against you in any way. I would tell them that they are not to discuss that in the jury room.

Do you understand Mr. Clinton.

DEFENDANT CLINTON: Yes, sir.

THE COURT: Do you understand Mr. Green?

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DEFENDANT GREEN: Yes, sir.

THE COURT: If neither side offers any evidence, in other words if neither you, Mr. Clinton, or you, Mr. Green, offer no evidence on your own behalf in your case in chief then your attorneys will get to make the last arguments to the jury, otherwise if you offer evidence the prosecutor, the solicitor, gets to make the last argument to the jury. Do you understand?

DEFENDANT CLINTON: Yes, sir.

DEFENDANT GREEN: Yes, sir.

THE COURT: Does Mr. Clinton have a prior record that would subject him to impeachment under rule 609, solicitor?

MR. BARFIELD: Yes, sir.

THE COURT: And what is that record?

MR. BARFIELD: Bare with my Your Honor.

THE COURT: Do you know it Mr. Frick?

MR. FRICK: I don't know it entirely, but I know he is currently incarcerated in the South Carolina Department of Corrections. I would anticipate that would be what the State would intend to use.

All I am aware of is what he is currently incarcerated on, but I do know obviously it carries more than a year and it is within the last ten years

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so ---

MR. BARFIELD: Well, he's got '05 assault and battery of high and aggravated nature.

THE COURT: All right.

MR. BARFIELD: And I probably need to run his rap sheet again tonight. I will do that. I believe his current conviction is a burglary 2nd degree, non-violent.

THE COURT: And that is in regard to Mr. Roseborough?

MR. BARFIELD: Yes.

MR. FRICK: That's correct.

MR. BARFIELD: I will get his rap sheet run tonight. I am sure those two things I told you exist on his record, but I will get it run again.

THE COURT: All right. Well, I am advising you now, Mr. Clinton, and if there is anything further tomorrow I will advise you because we will have another opportunity to talk about it.

If were you to take the witness stand the solicitor could ask you if you have a conviction for assault and battery of a high and aggravated nature in 2005. He could also ask you if you have a conviction for burglary, second, non-violent. I'm not sure if that's is 2000 -- I guess that is 2013, or something like

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that. And I would tell the jury that they could use that against you, if they use it at all against you only as it went to your credibility, your believability. Do you understand?

MR. CLINTON: Yes, sir.

THE COURT: And does Mr. Green have a criminal history that would subject him to impeachment under 609, solicitor?

MR. BARFIELD: Your Honor, I am sorry.

THE COURT: Does Mr. Green have a criminal history?

MR. BARFIELD: He has -- I read the rule the other day and I think this would be useable against him. He apparently has a juvenile -- was adjudicated for assault on a correctional facility employee and I think the rule says if it is a juvenile adjudication it could be used to impeach if it were for an adult conviction. That is all I have on him and again we are going to run a rap sheet on him again tonight.

THE COURT: Do you agree or disagree with that Miss Raney?

MS. RANEY: I believe that is the only thing on there, yes, Your Honor.

THE COURT: And what year was that?

MR. BARFIELD: 2011.

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THE COURT: All right.

So Mr. Green, the solicitor could ask you if you had a conviction for assault on a correctional officer -- is that the phrase?

MR. BARFIELD: Yes, sir. If I recall correctly I think it was in a DJJ facility.

THE COURT: I again would tell the jury that they could only use that as it went to the issue of your credibility or your believability. Do you understand.

MR. GREEN: Yes, sir.

THE COURT: Run criminal history sheets on both Mr. Clinton and Mr. Green tonight, solicitor --

MR. BARFIELD: Yes.

THE COURT: -- to make sure that is accurate as to Mr. Clinton and Mr. Green.

The decision about whether you testify or not Mr. Clinton, Mr. Green, is your decision to make and yours alone. I expect that each of you have conferred with your individual attorneys and also with others whose opinions you value on important decisions, but the decision about whether you testify or not Mr. Clinton and whether you testify or not Mr. Green is your decision, Mr. Clinton as to you? And it is your decision, Mr. Green, as to you. Do you understand.

MR. GREEN: Yes, sir.

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THE COURT: Do you understand Mr. Clinton.

MR. CLINTON: Yes, sir.

THE COURT: Mr. Clinton, has anyone exercised any undo influence over you to get you to choose to testify or not to testify.

MR. CLINTON: No, sir.

THE COURT: Mr. Green has anyone used or exercised any undo influence over you to get you to choose to testify or not to testify.

MR. GREEN: No, sir.

THE COURT: Mr. Green, today are you under the influence of any drugs or alcohol or medication or anything that negatively affects your thinking ability?

MR. GREEN: No, sir.

THE COURT: Mr. Clinton, today are you under the influence of any drugs, alcohol, medication or anything that affects your thinking ability?

DEFENDANT CLINTON: No, sir.

THE COURT: Mr. Clinton, do you suffer from any physical or mental problems that affect your thinking today?

DEFENDANT CLINTON: No, sir.

THE COURT: Mr. Green do you suffer from any physical or mental problems that affect your thinking

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today?

MR. GREEN: No, sir.

THE COURT: Mr. Clinton, do you have any questions you would like to ask me about your right to testify or not testify.

DEFENDANT CLINTON: No, sir.

THE COURT: Mr. Green, do you have any quest you would like to ask me about your right to testify or not to testify.

DEFENDANT GREEN: No, sir.

THE COURT: All right. I will certainly give them over the evening hours and you all would have the opportunity to certainly speak with them again and if it gets to that point I will certainly question them further.

Thank you. Thank you Mr. Clinton, Mr. Frick. Thank you Mr. Green, Miss Raney.

MS. RANEY: That you, Your Honor.

MR. FRICK: Thank you.

THE COURT: All right. Any other matters we need to take up this afternoon, solicitor?

MR. BARFIELD: No, sir.

THE COURT: Mr. Frick?

MR. FRICK: No, sir.

THE COURT: Miss Raney?

MS. RANEY: No, sir, Your Honor.

THE COURT: All right. Thank you. Thank you very much. Court will be in recess until nine in the morning.

(WHEREUPON, court was in recess)

(Continuation of the trial March 13, 2014)

THE BAILIFF: All rise.

THE COURT: All right. Thank you, very much. Be seated.

Jackson versus Denno motion, is that the first matter we will take up.

MS. RANEY: Yes, Your Honor.

THE COURT: All right, solicitor you may call your first witness.

MR. BARFIELD: Call Fred Thomspon.

THE COURT: Mr. Thomspon, come around and be sworn.

FREDERICK THOMPSON, called as a witness, having been duly sworn by The Clerk, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BARFIELD:

Q Tell us your name, please?

A Frederick Thomspon.

Q Well, You testified yesterday, we don't need to go through all this again.

Were you an investigator for the Lancaster Sheriff's Office back in January 2012?

A Yes, sir, I was.

Q As part of your role in this investigation did you have occasion to talk with Devatee Clinton on January 27th of 2012?

A Yes, sir, I did.

Q For the purposes of this hearing factually was Devatee Clinton in custody on January 27th of 2012?

A Yes, sir, he was.

Q What was he in custody for on that date?

A We just served an arrest warrant on him for an armed robbery.

Q Is that the matter involving Nard Roseborough?

A Yes, sir.

Q Okay. Had he been charged with anything in the murder of Jenika Jones on January 27th of 2012?

A He had not. THE COURT: Okay and where was Mr. Clinton when you saw him on the 27th of of January?

A At the Lancaster County Detention Center.

Q And how did you come to be in his presence on that day?

A I had actually gone back to serve the arrest warrant on him and Mr. Barfield I actually spoke wrong. We actually served a CDV warrant on him. It wasn't armed robbery.

Q Did the CDV have anything to do with the Jenika Jones case?

A It did not.

Q So you served a warrant on him in the detention center?

A Yes.

Q Did he -- did you and he have conversation about the Jenika Jones case the day you served the warrant on him at the detention center for CDV?

A Just briefly.

Q And how did that conversation come up?

A He initiated the conversation with me, asking me if I could explain to him the nature of, I guess the charges, I guess concerning another case with Roseborough.

Q Okay.

Q And I think the CDV and some other things that were going on and I told him at that time that I couldn't speak with him about any of his pending charges or anything that we was working on because he told other investigators that he wanted his attorney?

Q Had he been talked to about the Jenika Jones case prior to January 27th of 2012 by other investigators, do you know?

A By other investigators, but I don't know who.

Q But you know that he had been talked to about the Jenika Jones's case?

A Yes.

Q Did he appear to understand that you all were looking at him on the Jenika Jones's case?

A Yes, he was well aware of that.

Q Okay. So he wanted to talk to you and you said what to him?

A I told him that I couldn't because I was told -- I had already been advised that he wanted to have his attorney present.

Q And do you know if he actually had an attorney concerning the Jenika Jones's matter on January 27th of 2012?

A He did not.

Q Okay. What was his response when you said you couldn't talk to him because he had told people he wanted to talk to a lawyer?

A Before leaving I told him that I would make contact with the person that he thought would be his attorney.

Q Which was whom?

A Mr. Frick.

Q Okay.

A And I told him that, you know, he would need to speak with Mr. Frick about where he was on that particular evening and that's when he told me that he had gone --

Q All right. Hold on just a minute. At that point in the conversation were you asking him any questions?

A I did not. I told him to provide that information to Mr. Frick.

Q And when you told him to provide the information to Mr. Frick what was Mr. Clinton's next response to you?

A That's when he began to tell me that he had gone to the Hole in the Wall night club the night before.

Q All right. We will get into what he said in a minute. At that time was he in custody?

A Yes, he was.

Q Did you read him his Miranda warnings?

A I did not.

Q Was he under arrest for the murder of Jenika Jones?

A No, sir, he was not.

Q Did you question him about any of the questions that he was under arrest for?

A No, I did not.

Q Where in the detention center was this conversation going on?

A He was in the cell at that time.

Q By himself or was it a multi-immate cell, do you remember?

I guess my question is were you and he having a private conversation as much as that possibly or were there other people

standing around?

A He was in the cell by himself at that time I believe.

Q And were you in the cell with him?

A I think I was talking through the door. If my memory is correct there is a small flap at the bottom of the door and I believe that we were having this conversation through the door.

Q When you say the bottom of the door, you weren't on the floor?

A No, I was just kind of down on one knee, but the flap is less than halfway.

Q I got you.

A It was below waist level, so I had to kneel down to speak with him.

Q All right. Now, did you before having this conversation with Devatee Clinton that day did you know who he was?

A I just knew him, but I didn't ---

Q Had you ever been in his presence before, I guess is the question?

A Yes.

Q Had you ever had conversations with him before?

A Yes.

Q Okay. Now, let's get to some specifics. Did you know about old he was?

A I knew early twenties.

Q Okay. Did you have any idea what his educational background was?

A No, sir.

Q Did you know anything about -- well, let me just ask you this. Did you have any difficulty understanding the words he was using to converse with you?

A I did not.

Q Did he appear to have any difficulty understanding the words and phrases you were using to converse with him?

A No, sir.

Q Was there anything unusually about the communication process?

A No.

Q How long did this conversation between the two of you all last?

A Approximately five minutes.

Q Did you at any time put you hands on him?

A No, sir.

Q Could you have put your hands on him from where were you and from where he was?

A Yes, sir.

Q How?

A I could have reached through the flap or I could have asked an officer to open the door.

Q Was there a closed door, a locked closed door between

you all?

A Yes.

A Did you have your side arm on in jail.

A No, sir.

Q Do any officers carry side arms in the jail?

A No, sir.

Q He was restrained because he was in a cell. Do you know if he was restrained ankles or wrists?

A He was not. That is not the normal practice.

Q Was any other officer present with you when that occurred?

A At that time, no.

Q At any time while you all were talking did he ask you for any creature comforts like go to the bathroom, have something to drink, have something to eat; anything like that?

A No, sir.

Q At any time during the conversation did he say I don't want to talk to you?

A No, sir.

Q At any time during the conversation did he say I want a lawyer before I talk to you?

A No, sir.

Q Did you promise anything to get him to tell you anything about the Jenika Jones's case?

A Did not.

Q Did you make any threats towards him to get him to tell you anything about the Jenika Jones's case?

A No, sir, I did not.

Q Did you try to coerce him in any way?

A No, sir, I did not.

Q Was it your intention to question him about the Jenika Jones's case at all?

A No, sir.

Q And what did he tell you during that conversation relevant to the Jenika Jones's -- well, let me just ask you specific question or two.

Did he discuss with you his activities the night of January 19th of 2012, the night testimony shows Jenika Jones was killed?

A Yes, sir, he did.

Q Did he tell you anything about ever being at the Hole in the Wall club?

A Yes, sir, he did.

Q What did he tell you about being in the whole?

A He told me that he did go to the Hole in the Wall night club and that he was taken there by his cousin.

Q And did he give the name of his cousin?

A Yes, sir, Tony Cunningham.

Q Excuse me, did Tate Clinton tell you anything about what he was wearing the night of Jenika Jones's murder?

A I am reading through.

Q I think it is down towards the end of your supplemental.

A Okay. Okay. Yes, he said he was wearing a camouflage jumpsuit that night.

MR. BARFIELD: Your Honor, Investigator Thompson actually is involved in an all three brief statements given by Mr. Clinton, so I am through with my questions on the first one. I can go on to the second one or they can can cross on the first one.

THE COURT: Keep going.

MR. BARFIELD: Okay.

Q Were you also in the presence of Devatee Clinton on January -- excuse me, February 23rd of 2012?

A Yes, sir I was.

Q Where were you in his presence on that day?

A At the sheriff's office.

Q What was Mr. Clinton in custody?

A Yes, sir, he was.

Q Had he been charged by that time with the burglary of the Nard Roseborough case; burglary and robbery?

A Yes, sir, he had.

Q Had he been charged by that time with any offense related to the killing of Jenika Jones?

A No, sir, I was not. He had not.

Q All right. Did anybody participate in this interview

from a law enforcement stand point other than you?

A Yes.

Q Who?

A Captain Craig Bailey.

Q Now you say you saw Tate Clinton in the Lancaster County Sheriff's Office?

A Yes, sir.

Q How did the interview with Tate Clinton arise on January -- on February 23rd of 2012?

A After the initial conversation that I had with him I reached out to Mr. Frick. Made him aware that Mr. Clinton wanted to speak with us in his presence. Mr. Frick provided us with a time and date that he could met so we set up that interview.

Q So whose idea was it for you all to talk to Tate Clinton on February 23rd of 12?

A It was Mr. Children's idea.

Q Okay. Did Mr. Frick appear and participate, observe at least the interview?

A Yes, he did.

Q Where did the interview cure?

A In Captain Bailey's office.

Q And who was present?

A Captain Bailey, myself as well as Mr. Frick and Mr. Clinton.

Q Was Mr. Clinton in custody?

A Yes, sir, he was.

Q Was he in custody for the murder of Jenika Jones?

A No, sir, he was not.

Q Was he in jail clothing?

A Yes, sir, he was.

Q And was this office that the interview was done in?

A Yes, sir.

Q Did it have any bars or anything on the doors?

A No, sir, just the door that separated -- that close the office off.

Q Was Clinton restrained in any fashion during the actual interview do you recall?

A I don't recall, but kind of the normal practice is that at least leg irons are on, belly chains are on, bit it is possible that his hands were probably free.

Q Was Mr. Frick present for the entire interview?

A Yes, sir, he was.

Q Do you recall if Mr. Frick participated in the interview? Did he have any impute, verbal impute? Of course we didn't take a statement from Mr. Frick, but did he and Clinton talk during the interview?

A My assumption is that they spoke before this interview with us, but he did, you know, if my memory is correct I do believe they had periodic conversations.

Q That's fine.

A But I can't remember all of the details.

Q Now, on 2-23 of 12 was Mr. Clinton given his Miranda warnings?

A Yes, sir, he was.

Q I will show you a piece of paper and this is a copy of the Miranda warning from 2-23 of'12. It is not the original. Can you identify what that is?

A Yes, sir. This is the Miranda form that Mr. Clinton signed in the presence of Captain Bailey, myself, as well as Mr. Frick.

A How many signatures appear on that form.

A Four.

Q And is that a standard Miranda warning and waiver form?

A Yes, sir, it is.

Q Did that get read to Mr. Clinton?

A Yes, sir, it did.

Q And in its entirety?

A Yes, sir.

Q By whom?

A Myself, I actually read it to him.

Q All right. Did Mr. Clinton do something as to each of the warnings to acknowledge that he had received it and understood it,

A Yes, sir. He actually put his initials beside each of

the warnings.

Q And at the bottom did he indicate that he wanted to waive his rights under the constitution and talk to you all about this case, Jenika Jones's case?

A No, sir. He did not waive his rights because he wanted his attorney to be present.

Q Well, did he exercise the right to have an attorney present but agree to talk to you I guess is what I am asking?

A Yes.

Q And did he sign the bottom of the waiver form?

A Yes, sir, he did.

Q Let me jump ahead just a minute. You are going to tell us about talking to Tate Clinton three different times. Did he ever give a written statement?

A No, sir, he did not.

Q Why is there no written statement from Tate Clinton about these matters? Whose decision was that, I guess is my question?

A It was his decision.

Q Okay. All right. As to each of this is rights did you ask Mr. Clinton if understood each of them?

A Yes, I did.

Q Did you determine -- well, let me back up. Did you determine how old he was or did you know how old he was from investigation in the file?

A Yes, we knew in accordance to the incident report.

Q Did you determine how much education he had?

A Yes, sir, I did.

Q And how much education did he have?

A He indicated that the last grade he actually completed was the 9th.

Q Did you ask him as to each one of his rights whether he understood each of them?

A Yes, I did.

Q Did he indicate that he did or did not as to each of them?

A He indicated that he did understand each of them.

Q Did he ask you any questions about any of his rights?

A No, sir, he did not.

Q Did he say or do anything to make you think that he did not understand any of his rights?

A No, sir, he did not.

Q Again, did you have any difficulty communicating with him; understanding him or him understanding you as far as you could tell?

A No difficulties at all.

Q And did Mr. Frick also witness the waiver of the Miranda warnings?

A Yes, he did.

Q Waiver of his constitutional rights?

A Yes, sir, he did.

MR. BARFIELD: Your Honor, I am not going to -- unless the court wants me to, I will ask that this be marked as a Court's exhibit and dispense with the reading of all the rights.

THE COURT: All right. Yes, sir.

MR. BARFIELD: I am satisfied they are all contained on the form.

I would offer the Miranda warning of 2-23-12 as a court exhibit.)

(Court's Exhibit 5, Miranda warning, marked for identification as of this date.)

Q Other than the right to have his lawyer present while he was being talked to, did Mr. Clinton waive all his other rights, the right to remain silent and agree to talk to you all?

A Yes, he did.

Q And did he give an oral statement?

A Yes, he did.

Q And did you memorialize that statement in a supplement?

A Yes, sir, I did.

Q About how long did that interview last?

A Well over an hour.

Q Okay. How were you and Craig Bailey dressed?

A According to department policy we have to wear shirt and tie. Court appearance we have to wear a jacket, but that

particular day just regular shirt and tie and slacks.

Q Have a badge on?

A Yes.

Q Did you have guns on?

A Yes, we did.

Q Any other officers ever in and out during this interview?

A No, sir.

Q Did Mr. Clinton have access to the telephone if he had said I wanted to call somebody before I talk to you? If he had asked to make a phone call was that a possible?

A It's possible that could have happened.

Q Was there every any time during that interview that Mr. Frick was not in Mr. Clinton's presence?

A No, sir.

Q Did Mr. Clinton ask for anything during the interview to make him comfortable?

A No, sir, not that I remember.

Q Did he appear to be in any physical distress or have I any physical injuries or maladies?

A No, sir.

Q Did you promise him anything?

A No, we did not.

Q Did you all threaten him to get him to talk?

A No, sir, we did not.

Q Coerce him in any way to get him to talk?

A No, sir.

Q And did he talk?

A Yes, he did.

Q Did he make some statements to you about matters relevant to the Jenika Jones's matter?

A Yes, sir, he did.

Q I am not going to go through it all now -- well, I will go through it right now.

Did he tell you whether or not he had been in the Hole in the Wall the night of Jenika Jones's murder?

A Yes, he did.

Q And did he tell who he went there with?

A Yes, sir he did.

Q And who did he say he went there with?

A Tony Cunningham.

Q Did you tell you what he was wearing that night?

A Yes, sir, he indicated earlier that was wearing a camouflage jumpsuit.

Q Did you all have any conversation during that interview about the blue jumpsuit or the blue monkey suit as it has been variously called?

A Yes, sir, we did have that conversation.

Q Who brought up the blue monkey suit?

A He did. Mr. Clinton did.

Q And in what context did Mr. Clinton talk about the blue monkey suit?

A He began talking about how he would loaned it out to other people to wear.

Q Did he acknowledge to you that he had ownership or possession at some time of a blue jumpsuit?

A Yes. He indicated he actually owns it and he typically moved it from place to place and he would loan it out to others.

Q Did he give you the names of anybody that he loaned it out to?

A Yes, he did.

Q And who did he say?

A Excuse me, he loaned it to Reggie Stover.

Q Did he tell you who Reggie Stover was or where he lived?

A Yes, Reggie Stover actually lives with him.

Q And did Clinton tell you where Clinton lived?

A Yes, he said he lives at [redacted].

Q Okay. Did Clinton indicate whether or not he had ever worn the blue jumpsuit?

A He stated that he never wore it.

Q Did Clinton say anything to you about knowing the victim or where she lived? Was there any conversation about the victim or where she lived?

A We did ask and he told us a few times that he had know

idea that she lived next door to him.

Q Was there any conversation with Clinton about whether he knew Pomp Blackmon?

A Yes, we asked.

Q What was his initial response?

A His initial response was that he did not know Mr. Blackmon.

Q Did that response change at some point during the interview?

A Yes, sir, it did.

Q How did it change?

A Later in the interview he reported that he did know Mr. Blackmon. That he did know the vehicle that he owned.

Q Did he indicate whether he knew where Mr. Blackmon lived?

A Somewhere in the New Town area.

Q And are you familiar with Lancaster County?

A Yes, sir, I am.

Q Is [redacted] in the New Town area?

A Yes, sir, it is.

Q Was there any conversation about whether Clinton was familiar with the white Cadillac with the rag top?

A Yes, sir, we did have that conversation.

Q Initially what was his response?

A Initially he indicated he was not familiar with the

vehicle.

Q Did that response change?

A Yes, sir, it did.

Q How did it change?

A Later in the interview he indicated that he had seen the vehicle on a few occasions.

Q Did you ask him whether he had ever driven it or ridden in it?

A Yes, sir, I did.

Q What was his response?

A His response was he never driven the vehicle nor had he been a passenger in the vehicle.

Q Was there any discussion about DNA perhaps being on the jumpsuit or on the Cadillac?

A Yes, sir, there was a conversation.

Q Did he give any responses to your queries about whether his DNA might be on the jumpsuit or Cadillac?

Q He indicated again he touched the jumpsuit on several occasions moving it from place to place and loaning it out. So, he said his DNA should be on that and also when asked about the vehicle he indicated that he lean on the vehicle?

Q When and where?

A At the Hole in the Wall.

Q When?

A On the night of Miss Jones's murder.

Q All right. Did you have occasion to see Mr. Clinton on 3-9 of 12?

A Yes, sir, I did.

Q On 3-9 of 12 was he charged with murder in the death of Jenika Jones?

A Yes, sir, he was.

Q And where did you see Mr. Clinton on 3-9 of 12?

A At the Lancaster County Detention Center.

Q And how did you come to he see him at the detention tension center there?

A I actually served the arrest warrant on him at that time.

Q Did you attempt to interrogate him or question him or interview him about the Jenika Jones's murder when you served the warrant on him?

A I did not.

Q Was there some conversation between the two you all about the Jenika Jones's case?

A Yes, sir, there was.

Q How did that conversation arise?

A Mr. Clinton again initiated the conversation.

Q How?

A As I read the arrest warrant to him he began to ask me about the probable cause for the arrest warrant.

Q And you are talking about the murder warrant?

A Yes, sir.

Q And he started asking you and what did you say?

A I reminded him that we knew that he had an attorney. That we could continue this conversation in the presence of his attorney.

Q Just carry on with the conversation between the two of you all.

A He told me that he didn't want to wait for an attorney to be present. That he wanted to have this conversation right now.

I was not alone at that time. I had Investigator Catalano with me as well as a narcotic investigator Jaillette. They were both present to hear that conversation.

Q Okay. After Clinton said that what was your next action? What did you do after he said I want to talk to you?

A The three of us actually, you know, asked our detention center staff to place belly chains, leg irons on Mr. Clinton. We escorted him up to Captain Bailey's office and Captain Bailey and myself, we actually read him his Miranda warning and began our third interview.

Q And was that in the same office that you all had interviewed him on 2-23?

A Yes, sir.

Q So, who was present during that interview?

A Just captain Bailey and myself.

Q Was Mr. Frick present?

A No, sir, he was not.

Q Did you read him his Miranda rights off the standard Miranda warning and waiver form?

A Yes, sir we did.

Q I will show you document this again is a copy of 3-9-12 waiver form, can you tell me what that is?

A Yes, sir. This is the Miranda form, a copy of the Miranda form that Captain Bailey and I read to Mr. Clinton on March the 9th, 2012.

Q Did you read the form in it's entirety?

A Yes, sir.

Q All the rights that are listed on it?

A Yes, sir.

Q An as to each one did you ask Mr. Clinton if he understood those rights?

A Yes, sir, I did.

Q Did he indicate in some fashion that he did verbally or in writing?

A In writing he did.

Q By doing what?

A He placed his initials beside each of his Miranda rights.

Q At the bottom did you ask him if he wanted to waive his rights to an attorney and to remain silent and talk to you all?

A Yes, sir, I did.

Q Did he knowingly and intelligently and voluntarily in your opinion waive those rights?

A Yes, sir, he did.

Q Did he sign the form?

A Yes, sir, he did.

Q Okay. Had anything changed other than a few days about his age?

A No, sir. Nothing else changed.

Q Or his education as far as you know?

A Nothing changed.

Q Was there any difference in his demeanor on 3-9 of 12 from 2-23 of 12?

A Yes, sir.

Q Let me ask a point blank question. Again, on 3-9 of 12 did you have any difficult understanding the word or phrases he was using?

A Oh, no, sir.

Q Did he have any difficulty -- appear to have any difficulty understanding you?

A No, sir.

Q Did he appear to be in any kind of distress?

A No, sir.

Q Did he have any injuries or appear to be sick?

A No, sir.

Q Did he ask you any questions about the process, the rights or the process of you having a conversation with him again?

A No, sir. We actual underlined one portion just to make sure he understood it.

Q And what portion was that?

A If you can not afford to hire a lawyer one will be appointed to represent you before any questioning if you wish. We made sure he understood that before we started.

Q Okay. And did he talk to you at some point?

A Yes, sir, he did.

Q How long was that interview?

A That interview was probably less than an hour. It wasn't quite as long as the first interview.

Q Other than you and Captain Bailey was anybody else present?

A No, sir.

Q Were you all dressed essentially the same way you had been on 2-23?

A Yes, sir.

Q Anybody come in and out, any law enforcement come in and out during the interview?

A No, sir.

Q Anybody ever -- did he make any requests during that interview like I want to make a call?

A No, sir.

Q I want to stop talking?

A Yes, eventually he did say he did want to stop talking.

Q We will get to that in a minute. Did he ask to call Mr. Frick or anybody else?

A No, sir.

Q Did he ask for anything to make comfortable something to eat, drink, smoke, bathroom break?

A No, sir, he didn't ask.

Q Anybody promise him anything to get him to talk to you?

A No, sir.

Q Anybody make any threat to get him to talk to you?

A No, sir.

Q Do anything to coerce him at all?

A No, sir.

Q He heated elements of the conversation?

A No, sir, not that I remember.

Q Now at some point did he say he wanted to quit talking?

A Yes, sir.

Q And at what point -- I am not going to get you to go into all the details of the conversation, but at what point did -- what was the topic being discussed when he said I am through talking?

A When we began to talk about DNA.

Q And what about DNA specific?

A I think when we began to ask him about if his DNA would be found inside of Mrs. Jones's residence and being inside of the vehicle.

Q Was there ever any conversation on 3-9 about trying to collect buccal swabs from him?

A Yes, sir, we did ask.

Q At some point during that point of the conversation is that when he said I don't want to talk any more?

A Yes, sir.

Q Did he in that conversation say anything about Wayne Blakeney?

A Yes, sir, he did.

Q And in relation did he -- were his comments about Wayne Blakeney -- what date and place were his comments in relation to Wayne Blakeney connected with? What did he say about Mr. Blakeney?

A He saw Mr. Blakeney at the Hole in the Wall on the night of Mrs. Jones's murder driving a white color Cadillac.

Q All right.

MR. BARFIELD: Your Honor, I will offer the Miranda warning from 3-9, a copy of it, as another court's exhibit.

THE COURT: All right.

(Court's Exhibit 6, Miranda warning, marked for identification as of this date.)

MR. BARFIELD: That is all the questions I have of Mr. Thompson.

THE COURT: Thank you, solicitor. Mr. Frick?

MR. FRICK: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FRICK:

Q Mr. Thomspon, who can serve an arrest warrant?

A Any officer.

Q Any officer?

A Yes, sir.

Q So anybody with the sheriff's department could serve any one of these warrants they got served on Mr. Clinton?

A Yes.

Q All right. And refresh my memory, if you remember. You may not remember either. The first warrant that you served on Mr. Clinton what was that charge?

A I think it was a CDV, if my memory is correct.

Q Okay. It had nothing to do with this case?

A No, sir.

Q Okay. At the time it is served, I think the 27th of January somewhere around there, had Mr. Clinton been developed as person of interest?

A Yes, sir.

Q He had in the Jenika Jones's case?

A Yes, sir.

Q Why did you serve an unrelated CDV warrant on him /-FRPL?

A It is not uncommon. I really can't remember who brought him in that day or whenever he came in. It is possible that maybe one of the other investigators served it. Often times we have been instructed not to call patrol division in off of the road to served an arrest warrant when we have the same ability as they do.

Q Okay. All right. Had nothing to do with the fact that you are an investigator on the Jenika Jones's case and you were going to go serve a warrant on a person of interest?

A Anyone one from investigations would have probably served that warrant if an investigator would have brought him in.

Q Okay. And clearly he was in custody?

A Yes, sir.

Q He was not at all free to go anywhere?

A No, sir.

Q He was in fact in a cell by himself, wasn't he?

A Yes, sir.

Q And your conversation takes place through that little flap that is down -- you got to kneel down a little bit so you can actually talk through it, right?

A Yes, sir.

Q All right. On that day you all had a conversation

about him having an attorney on other cases, right?

A Yes, sir.

Q He hasn't been appointed to the public defender's office on this new charge obviously because it is just being served on him. But he discussed he did have an attorney?

A On the 27th?

Q Yes.

A He just made mention that he had you as his attorney in the past, so his assumption was that you would be representing him on any future charges.

Q Okay. Okay. When he says that what do you do?

A That's when reached out to you, your office, to see if you will come out to speak with him.

Q Okay, but you all continued to speak on that particular occasion. Why didn't you just -- I mean, you had already served the warrant, right?

A Yes.

Q You executed the purpose that you went over to the jail to do, right?

A Yes.

Q You could have closed the flap and walked off. Why didn't you do that?

A He still was talking. I didn't treat him any different then I would treat anyone else.

Q Okay. He didn't specifically say I have a lawyer. I

don't want to talk to you, but he indicated he expected that he would have an attorney?

A Yes, he did indicate that he thought that he would.

Q In fact in the incident report it says you told Mr. Clinton to speak with me about where he was the night of the murder, is that correct?

A It is. When he said what do you guys want to talk about I said you need to speak to Mr. Frick about where you were that particular night.

Q All right. You didn't terminate the conversation and say that's it. I know you are going to talk to a lawyer and walk off. He speaks and you stand there and listen?

A That's true.

Q And he didn't -- he volunteered what he did at the Hole in the Wall and who was there and what he was wearing?

A Yes, sir.

Q You asked --

A I didn't ask any questions at all about where he was.

Q He just started talking and went through all this without you making any statement or making any questions?

A I told him that he needed to speak with you about where he was and what he was doing.

Q All right. At one point in here it says Thomspon informed Clinton that information had been gathered by other investigators -- something about vehicle?

A Which line are you at?

Q I am looking at -- kind of down here at the bottom. Do you see where I am talking about right there. You all did have a little bit of back and forth, right?

A Yes, sir.

Q All right. So he was talking. You would -- it was kin kind of a conversation, right?

A Yes.

Q Okay. I am not saying it was questioning. I understand, but you were making statements to him essentially trying to get more information, weren't you?

A Well, if he asked a question I would answer it. If it didn't compromise the investigation I would answer any question he may have.

Q Okay. But you did make statements to elicit responses. And according to your testimony providing an answer to his question, right?

A Yes, sir.

Q So look down that line right there (indicating) about the third or forth from the bottom. Tompson told Clinton that he, meaning you, have been told by Clinton was wearing a camouflage jumpsuit.

That was in a response to a question that Mr. Clinton had asked you or do you recall?

A I can't recall, but more than likely in response to a

question. You know, if I would have gone there with intentions of getting information I probably would have taken a recorder or something. I didn't go there looking to have a conversation with him.

Q I understand.

A So I just can't remember exactly what he said that would cause me to tell him what I had been told and what other investigators had been told.

Q Okay. All right. You had no further conversation with him until we all met over at the sheriff's department?

A That is the next time I had a conversation with him when you were present.

Q Did you receive word from him? I know folks write letters all the time and send them to you. Not specifically to you, but to the investigators. I don't know, they may write you all the time. They write me.

Had you received any correspondence or word from the jail that Mr. Clinton wanted to talk to you.

A Mr. Frick, I thought that I spoke with you about setting up the interview.

Q No, that is not what I am getting at. We will get to that in a second. I am talking about between the date that you served that one warrant on Mr. Clinton and the date that we all met in the sheriff's department did Mr. Clinton inquire any more of you?

A No, sir.

Q Okay. All right. And we did have a conversation, didn't we?

A Yes.

Q And set up a date for us all to met over there?

A Yes.

Q And that's what became the interview on the 23rd, February 23rd, right?

A Yes.

Q And the part I am just going to ask you on Miranda form on that one. I don't know which court exhibit it is. Court's exhibit number five.

There's couple of X's on the first one. It is going through the waiver of rights. First, who wrote those X's?

A I did.

Q Okay. What was the purpose of writing those X's?

A The waiver of rights basically indicates that he does not want an attorney to be present, so because you were present that didn't apply to him.

Q All right. And the second X that is down here through the witness line. What is that? Do you recall?

A I don't recall. I know that typically I will sign on one witness line and Captain Bailey will sign on one witness line and if there were any other witnesses they would sign below us. You and Captain Bailey signed on same line and I just

signed underneath Captain Bailey.

Q All right. And this took place is it a break room, a snack room?

A Yes, break room area.

Q Mr. Clinton had come directly over from the jail, correct?

A Yes.

Q And he was dressed in an orange jumpsuit of some kind with restraints?

A Belly chains, leg irons, yes.

Q And his hands may have been restrained, do you recall?

A In order for him to have signed the waiver, it would have been kind of difficult for him to do it with the belly chains on, but that's been two years ago so I can't ---

Q But there were some restraints on him?

A Yes, to be transported over definitely.

Q Oh, I remember what I wanted to ask you. Now, there is not a -- this isn't one of the situations were we got a video recorded statement, right?

A No.

Q Not that I am aware.

A No. There is not.

Q It wasn't a typed up statement. We all didn't sit over at you office and it was contemporaneously typed up and he signed it, correct?

A Correct.

Q So what we got is a summation of his oral statement during that day, right?

A That's correct.

Q All right. I you want to ask you one thing and maybe it is nitpicking, but at this point we are talking about loaning out the jumpsuit, I believe, and there was some question about loaning it out to Wayne and to Stover. It said Mr. Clinton didn't answer but he became irate and started talking. When you say irate, do you recall what his demeanor was?

A I think that is when he became frustrated because he knew that what he was telling us it just didn't make any sense. So I am thinking he became frustrated and agitated because he knew we weren't believing what he was telling us.

Q Okay, but I guess when I think irate, I'm thinking banging his hands, yelling?

A No.

Q Well, did he raise his voice?

A Not that I recall. I don't remember him ever screaming or yelling.

Q So that's just -- and I understand it is more semantics then anything else. But it was more frustration then being angry you would say?

A I think he was still pretty angry. When I guess I indicated he was irate, it wasn't to the point where he was in a

fit of range, but he was a little more than angry. It was higher degree of just being angry, but it wasn't to the point of rage.

Q Okay. All right. It just depends on what your definition irate is?

A Yes, sir.

Q All the way down at the bottom. This is where we are talking about DNA stuff?

A Yes, sir.

Q You all had questioned him about some DNA and I advised him of three methods of which DNA can be obtained?

A Yes.

Q Is it correct that Mr. Clinton told you which option he choose at that point in time?

A Yes, sir.

Q And what options did he choose?

A He indicated that he would rather have it taken by Court Order.

Q And that was one of the three options that was explained to him?

A Yes.

Q Now, he made it fairly clear didn't he, that that's how he wanted his DNA taken, right?

A Yes.

Q Yet you all did ask him again about his DNA, didn't

you?

A Yes.

Q The question was in fact, well, if you weren't there why would you not want your DNA taken, correct? I think you summarized it. I summarized your summary. What was the question?

A When we were with you?

Q Yes, sir?

A Investigators asked Clinton to tell him why he would not submit to a DNA test if he was not involved in the murder of Jones and had not been in his house or Blackmon's car, and I should have wrote her house or Blackmon's car.

Q That is fine. I am not worried about that. My issue is he had said with his attorney present I want you all to go get have a Schermer hearing and get a Court Order?

A Yes.

Q And then you all continued to ask him about the DNA?

A Not at that time. That was another conversation.

Q Are you you sure?

A That's when we ended the interview.

Q Right. But after he said I want you to get a Court Order you all then inquired as to why he wouldn't want to give his DNA, right?

A Yes, I am with you now. Yes.

Q Okay. All I am saying you all continued to ask him a

question after he had said go get a Court Order?

A That is not the only time. We asked him several times about Mr. Blackmon and finally we got around to getting the truth of the matter concerning that. We asked him several times about the jumpsuit and he denied it, and denied it and then he finally got around to telling us the truth about that. That's not the only question we asked him one time.

Q I understand, but his intent was pretty clear on that one, wasn't it?

A Well, if we didn't ask about the jumpsuit or the car or where he was he would have been content with not being truthful about that also.

Q But after that that's when he wanted the interview concluded, correct?

A Yes.

Q And it was concluded?

A Yes.

Q Lets see. One more statement.

A Yes, one more.

Q Okay, March 9th, a warrant for the murder case had been procured, correct?

A Yes.

Q And you were the one who went offer to go serve the warrant?

A Yes.

Q Again just from a perception standpoint, why is it you that goes over to serve a warrant on a case that you are involved with? Why?

A That's not uncommon. That is not completely uncommon.

Q Okay. Well, I mean you already had a couple conversations with Mr. Clinton. You know he is likely to start talking. You know he has got an attorney. You know at one point he has exercised his right to have an attorney. Meaning he was present in the interview. Yet you, an agent in the case, go over to serve the warrant.

A Yes.

Q Okay. You didn't feel it would be better to have a some other deputy --

THE COURT: Feelings aren't relevant. Feelings aren't facts. Ask your next question.

Q When you served the warrant did he say anything about wanting to have his attorney present?

A No, sir. Well, he began talking again and I told him that he has an attorney.

Q Okay. He continued to talk?

A Yes, and he continued to talk.

Q Okay. All right. And again you did not close the flap -- I'm guessing this was still a conversation through the flap. I don't know where you had the conversation. Where did you have the conversation?

A We were in his cell. I don't think -- I don't believe and again please forgive me if I am incorrect on this. I believe the door was actually opened and I actually came inside to read the arrest warrant to him and to give him his copy. I am pretty certain that wasn't done through the flap.

Q Just so I have it straight in my head. I know no one else knows what I am talking about. Is this that first hallway as you are going down the jail or is he further down?

A No, sir, the first row of cells if you are going down the hallway I don't know which sell he was in, but one of the cells to the right.

The normal practice for me is to have a CO, correction officer, open the door. I would actually go in and read the arrest warrant to whomever, sign it and give him a copy.

Q All right, so it is a solid door. There is a little window and then a flap, but on March 9th you have a face to face door open talk with -- well, I say talk. You did have a talk with him?

A Yes.

Q Served the warrant. He indicates he wanted to speak, right?

A Yes.

Q You advised him that he did have an attorney yet a conversation continued, correct?

A Yes.

Q We then again get back to DNA stuff. Does he tell you he wants to consent or not consent at this time?

A That's when he tells us again that he did not want to consent.

Q Okay. And clearly again he is in custody. He is at the detention center?

A Yes.

Q All right. With this conversation?

A Yes.

Q All right. Were any other deputies with you other than jail staff on that one particular interview?

A Yes, Investigator Catalano and narcotic's investigator Gilette.

Q All right. So all three of you went over to serve this warrant?

A I don't know if they were in the jail already or not. I really can't remember.

Q Okay.

A But I do not that Investigator Catalano actually got the arrest warrant. He could have served it.

Q What I am trying to get at, were all three of you all standing at the door when the warrant is served on Mr. Clinton?

A I don't believe so, but -- I don't know.

MR. FRICK: Thank you, sir. That is all the questions I have.

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THE COURT: Miss Raney?

MS. RANEY: Your Honor, I don't have any questions but, may I be excused for one quick minute, please?

THE COURT: Yes, ma'am.

MS RANEY: Thank you.

THE COURT: All right. Redirect?

MR. BARFIELD: No redirect.

THE COURT: All right. Thank you. Thank you very much.

MR. BARFIELD: Your Honor, I am going to try and streamline this a little bit if I can. As to the 2-23 of 12 statement Captain Bailey with the sheriff's office participated in that, as he did on the 3-9 of 12 statement. I talked to Captain Bailey. I do not believe Captain Bailey's testimony would be inconsistent or different from Fred Thomspon's and I think it would be duplicatus. I do not propose to call him. I reserve the right to if there is some deficiency with the Court as to what has been presented so far. Absent calling Captain Bailey that is all I have to present concerning the three discussions Tate Clinton had with law enforcement.

THE COURT: So you are not going to call Captain Bailey?

MR. BARFIELD: No, sir.

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THE COURT: All right. Thank you. Thank you very much.

Mr. Frick, does the defendant Clinton intend to offer any evidence or testimony?

MR. FRICK: No, sir.

MR. BARFIELD: Let me make one qualification. I don't intend to call Captain Bailey in Jackson v Denno. Very possibly will in the presence of the jury.

THE COURT: And I take it your position Miss Raney is the same. You not going to present any evidence or testimony?

MS. RANEY: No, I am not, Your Honor.

THE COURT: All right. This is your motion then Mr. Frick?

MR. FRICK: Thank you. Your Honor.

Your Honor, in regards to the statement on 1-27 obviously we got an investigator, investigator on the case, where my client has become a person of interest on a murder case who he was serving unrelated warrant. His testimony is any number of officers could have served that warrant. I think that causes pause as to what the motivation behind him going over there. I think the intent was to see if information could be elicited from Mr. Clinton and of course that is what

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occurred on this case.

Your Honor, the defendant, Mr. Clinton, did indicate that he had an attorney on previous case and indicted he believed he would have that same attorney, me, on whatever case might be coming up. This was a conversation that occurred through the door at the jail through the flap. Mr. Tompson could have simply said I don't want to talk to you any more and walked away. So I think -- and obviously he is in custody. He is behind that door. So I think under those circumstances clearly he is in custodial interrogation. I believe it does qualify as an interrogation. Doesn't necessary mean that you have to be asked questions. If you say or do anything to elicit a response and I quite frankly suggest that his presence in serving this unrelated warrant was to elicit a response on the Jenika Jones's case. So I would ask for that statement to be suppressed.

I can go through all three if you want me to just to expedite it.

THE COURT: Yes, sir.

MR. FRICK: On February 23rd, obviously that is a different situation because I was present at that interview, so he certainly did exercise his right to have an attorney. Law enforcement was present. The

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only issue that I got on that case is once he indicated that he had made a decision on the DNA I believe it was quite clear that he was done talking to him about that and they continued to elicit a response. So I ask you to take that into consideration when considering the February 23rd statement.

On the March -- and he was in custody at that time. He was still at the detention center and came over I think he was shackled, belly chained and whatever other items they had him restrained with -- but he was in restraints. And of course on on the March 9th, again, we got Investigator Thompson who is an investigator and I understand almost every investigator in the sheriff's department was involved in some way in this case. He is the one that goes over and serves this. I believe again his presence is there to see if a response can be elicited from Mr. Clinton. I think that falls within the issues that are covered by my motion. He is dealing with someone that he has dealt with before who has exercised his right to an attorney. I certainly understand the present case law requires that you must continue to exercise that right, but out of abundance of caution I would think that an officer who had dealt with a

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person before who had given statements who exercised that right to an attorney would not want to put themselves in a situation of potentially eliciting a statement and that statement being question by his presence there. I think that is what we got here. He did -- he did have a minimal conversation. There were other law enforcement present in the area, so I think anything in that March 9th statement should be suppressed and excluded from the trial of this case.

THE COURT: All right, solicitor.

MR. BARFIELD: Your Honor, the 2-27 statement I would suggest to you was not initiated by law enforcement. I think the mere presence of an officer in the presence of a defendant doesn't necessarily mean that they are there -- that their presence elicits information. Mr. -- Investigator Thomspon told Mr. Clinton talk to your lawyer and Mr. Clinton said I want to tell you and there was a brief conversation about his presence at the Hole in the Wall club and about what he was wearing. It was initiated by Mr. Clinton. Mr. Clinton was in custody. There is no question about it. He was in custody for a matter unrelated to the death of Jenika Jones. He was not questioned about the unrelated matters and frankly he wasn't questioned about the Jenika Jones's

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case until after he told Fred Thompson, I don't want to tell my lawyer I will tell you where I was and other matters. I don't think that -- I think it is a good statement.

The same thing essentially applies for the 3-9 of 12 statement. Again I don't think Investigator Thompson could have been any clearer with Mr. Clinton and Thomspon told Clinton that his attorney would have to be present before Thompson could discuss the case with him. Clinton then said in the presence of Thompson and Catalano and Jaillette, I want to talk to you about it now, and they took him to the office. They went through the Miranda warning process from start to finish. Clearly informed him that he had the right to have a lawyer and did not talk and he waived all those rights and told him just a couple of bits of information that I am interested in. Again it was initiated by him. Not something initiated by law enforcement. Somebody has got to arrest him and serving the warrants on him is part of the arrest process and I don't think there is anything defective about Fred Thompson being the one serving the warrants.

As to the -- I misspoke a minute ago. I was talking about the -- I first talked about the 1-27 of

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12 statement. I got the dates wrong. As to the 2-23 of 12 statement, that Your Honor I think couldn't be clearer. That was an interview that was arranged at the request of the defendant and his lawyer, or at the mutual request and consent of Fred Thompson, Clinton and Mr. Frick. It was done in the presence of Mr. Frick. Again Miranda was given. Miranda was waived except the right to have a lawyer present and it ended up in a conversation which produced some information that I intend to use in the trial of this case. There is nothing during that process to suggest that Mr. Clinton at any point said I don't want to -- during the point that it lasted anyway, Mr. Clinton said I want to stop and they continued. Said he wanted to do anything other than tell him what he could tell him about this case. And I think that statement also is admissible.

The first, 1-27, the third one 3-9 I argue were initiated by Mr. Clinton. The 2-23 was by consent. As to the latter two proper Miranda warnings were given and waived.

Thank you.

THE COURT: All right. Thank you. Thank you solicitor.

May see I see Court's exhibit five and six. That

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was the only two introduced during this hearing?

MR. BARFIELD: Yes. There was no Miranda warnings on the 1-27.

THE COURT: As to the 1-27-12 statement the facts appear to be that Detective Thompson goes to the Lancaster County Detention Center to serve or execute an arrest warrant on Mr. Clinton for criminal domestic violence. The Court takes judicial notice that an arrest warrant is a Court Order that must be served by law enforcement on a defendant and a defendant provided a copy of it. Any officer with jurisdiction may serve that warrant except the affiant is my understanding of it.

The officer testified in the initial conversation the defendant asked to explain the nature of the charges and the officer said he couldn't speak about the pending cases. He said in the past he, the defendant, had been represented by Mr. Frick and thought he would be represented by Mr. Frick on this night. As understand the officer then said well, you know, you need to contact Mr. Frick and tell him where you were that night of the murder. There was some conversation. He continued to talk. He, Clinton, continued to talk. This was through a locked cell door. No threats. No coercion. No promisees. Able

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to converse. As I understand it the officer says he speaks, he the defendant, the officer listens and the defendant asks some questions that the officer responses to. As I understand it he says his activity of 1-19-12 was, he was at the Hole in the Wall club taken there by Tony Cunningham and he wears a camouflage jumpsuit. Although he may have been in custody -- not may have -- although he clearly was in custody there was no custodial interrogation. There is no question. The presence of the officer in and of itself I am not aware of a case that indicates that would affect the admissibility of a statement that appears to be spontaneous, voluntary, the defendant initiated. I take into account all those factors even when there is questioning; his age, his education, mental ability, his background, place and length of the detention. There is no nature of questioning. There's need for Miranda warnings when there is no custodial interrogation. So the statements of 1-29-12 that were not the result of questioning by the officer are admissible.

In looking at 2-23-12, in looking at the totality of the circumstances, the standard under State versus Parker, State versus Washington and looking at Court's -- Court's 5, it appears that this meeting was set up

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by consent of all the parties. Arranged by all the parties, Detective Thompson, Mr. Clinton, Mr. Frick. He was advised of his Miranda rights. He had an attorney present at that time. It appears that Captain Bailey, Mr. Frick and Mr. Thompson signed the waiver of rights form. So given that it appears under the totality of the circumstances that we are dealing with a person who had a 9th grade education, he was not under the influence of alcohol or drugs, he could read and write, had been advised of all his rights and he was actually exercising his right to have an attorney present I think that is admissible. The fact that he may have been challenged on questions does not make it inadmissible. Many times custodial interrogation they are challenged. They can't be challenged physically or undo influence or promised or anything of that nature, but they can be challenged. And I think the fact that he is challenged several times before he admits about Pomp Blackmon or the DNA and such as that, that does not make it involuntary. That is not an indication that he wants to stop questioning. That is admissible.

On the exercise of the 3-9-12 charge with murder, Detective Thomson executes a search warrant which an officer is required to do. He does not go for the

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purpose of custodial interrogation. His intent is to read the search warrant. The defendant then initiates asking about probable cause. The officer indicates he knew he had an attorney, Mr. Frick. He had met with Mr. Frick less than three weeks earlier. Said you need to talk to your attorney and the indication is Mr. Clinton said he didn't want to wait. He had been advised of his rights under Court's exhibit number six. Further it says if you can not afford to hire an attorney one will be appointed to represent you before questioning. That part, appointed to represent you before any questioning if you wished, is underlined. He initialed beside each of those rights. Under the totality of the circumstances, the standard of Parker, the standard of Washington, by the preponderance of the evidence I find that the statements, at least the second and third statements comply with the Miranda and are voluntarily. The defendant initiated or agreed too and the defendant consented to. And the first statement is a spontaneous statement by the defendant, it would not require Miranda warnings.

So, the statements; the first statement 1-27-12 is admissible, second statement of 2-23-12 is admissible, the third statement of 3-9-12 is admissible.

MR. FRICK: Your Honor, just one issue and I

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understand the ruling on that. This is a separate matter.

THE COURT: About how do you handle the charges that he is under arrest for CDV?

MR. FRICK: Well, that as well. I don't that that should be mentioned. I think they can say they had a paper to serve on him or they had an appropriate reason to be there.

MR. BARFIELD: I will not get into all that.

THE COURT: I didn't mean second guess you.

MR. FRICK: That's fine. That is one of the points I meant to make, but my initial point was --

THE COURT: Like I heard a lawyer tell a judge one time, Mr. Frick, Judge says you got any more motions to make. He says, Judge, I can't think any more, but if there anymore you think you will grant I will leave it up to you.

MR. FRICK: That is excellent motion in and of itself, Your Honor.

Your Honor, in regards to the 2-23 statement, the second statement I will call it.

THE COURT: The one you were present at?

MR. FRICK: The one I was present at. When we are talking about taking his DNA and I explained to him three methods which it can be obtained he chooses to

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have a Schmerber Hearing. My question is I don't want them to go -- I don't want the solicitor to get to the next statement that says, well, if your DNA is not there why don't you just give us a sample. I think that is a comment on him exercising his 5th Amendment Right and I don't think that's appropriate for them to get in to and he may not intend to but I just want to clarify that for the record.

MR. BARFIELD: I don't intend to ask Fred Thompson about challenging him to give a DNA sample. I do intend to go into was there a discussion about DNA. Did he make any comments about whether he thought his DNA might be out there or not by leaning on the car and handling the jumpsuit. I will leave it at that.

THE COURT: I think that would be prudent. That may be skirting if not actually stepping over the line of allowing him to exercise his constitution right, although that's non-testimonial evidence obviously, but he has a right to a Schmerber hearing. He does not have to consent. So I would agree. I would exclude that testimony. All right.

MR. FRICK: Thank you, Your Honor.

MR. BARFIELD: And Your Honor, I don't know how you want to handle it. Mr. Green made one statement. I'll probably just call one witness about him. If you

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are concerned about the jury sitting there we can take Miss Raney's motion up later. It doesn't matter to me.

I got a firearm's expert and a co-defendant and I am assuming at some point there will be a breaks in this thing. The co-defendant will take a while and I will get into these fellows, about the statement.

THE COURT: All right. Why don't we take about a ten-minute recess and then bring the jury in and press on. We will take that up after the break. We will take up Mr. Greens.

All right, thank you very much. Court will be in recess ten minutes.

(WHEREUPON, there was a recess._

THE BAILIFF: All rise.

THE COURT: Thank you very much. Be seated.

MR. BARFIELD: We do have one matter we need to put on the record and this just came to my attention. It's a juror issue. I don't think there is going to be any problem. I want to put everything on the record about it.

I believe Your Honor, what is the name again --

MR. FRICK: Shurley.

THE COURT: Jury number 126, Taylor Shurley?

MR. BARFIELD: Yes, sir, I think that is correct.

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She is on the jury. She works in the law firm of Trimnal and Myers. That law firm use to be a part of of Blackwell, Trimnal, Myers which later became Blackwell, Myers Trimnal and Reeves. I believe, Paul Reaves represents co-defendant Wayne Blakeney in this case. Mr. Reeves pointed out to me this morning that that young lady was employed by the firm he had an association with for some period of time with his representation of Mr. Blakeney. Mr. Reeves tells me that he maintains a Columbia office and lives in Columbia and that's where he does most of his work, but Mr. Reeves told me he maintained this file in Columbia and to his knowledge Miss Shurley had no participation in this case. Didn't have any dealings with the file and I disclosed that to Mr. Frick and Miss Raney. We are all available for whatever questions you want to ask.

I don't think they have any problem with this juror continuing to serve. We do have two alternates if there is a problem.

THE COURT: Mr. Frick?

MR. FRICK: Your Honor, I don't know that she ever worked specifically for Mr. Reeves. I don't know that she has any knowledge of this case in conversing with Mr. Reeves about it. I think he states that that file

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was maintained in his Columbia office. She certainly was voir dire about all the witnesses. Mr. Blakeney's name was on that witness list. She made no indication she had any knowledge whatsoever, so I do not foresee any problems with continuing on. In fact I am not even I guess it depends on how the questions goes, but I doubt that it will even come up that Mr. Blakeney is even represented by Mr. Reeves at least in front of the jury.

THE COURT: All right. Miss Raney?

MS. RANEY: I would just echo everything Mr. Frick has said and that's how we feel as well.

THE COURT: I will be glad to ask her some questions. The problem is I may educate her if I do. If you want me to voir dire and ask her some questions Mr. Frick or Miss Raney I certainly will, but then I am really giving her information that she probably we're saying we don't think she has anyway. Mr. Blakeney's name was announced during the jury selection process. She did stand up of course and said she had some legal training, studying to be a paralegal and was assistant paralegal now.

You don't want me to ask any additional voir dire.

MR. FRICK: I am not asking for any additional voir dire, no, sir.

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MS. RANEY: Neither am I.

THE COURT: And neither are you Mr. Solicitor?

MR. BARFIELD: No, sir.

THE COURT: All right. That is fine. Thank you very much. Thank you, also Mr. Reeves.

THE COURT: All right anything else before we bring in our jury?

MR. BARFIELD: Nothing from the State.

(WHEREUPON, the jury enters the courtroom.)

THE COURT: Mr. Foreman, and ladies and gentlemen of the jury, welcome back. As always I apologize for the delay. I know I have no credibility with you all. I tell people some times you will find two qualities of many of the circuit judges in South Carolina. Many of them have no personality, number 1, and number two none of them can tell time. None of them. And that's kind of what happens, but you never know how long these pretrial matters are going to take. Attorneys were here well before nine o'clock and we were out here until about 10:25 and took a quick break. We will try and press on. Appreciate your patience with the Court and your focus and attention on the trial.

We are continuing the trial of the case by the presentation and the evidence and the testimony by the State in its case in chief. Solicitor, you may you

call your next witness.

MR. BARFIELD: Call Suzann Cromer.

THE COURT: If you come around please Miss Cromer and be sworn.

SUZANN CROMER, called as a witness, having been duly sworn by The Clerk, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BARFIELD:

Q Tell us your name please, ma'am.

A My name is Suzann Cromer.

Q Miss Cromer, by whom are you employed?

A I am employed by the South Carolina Law Enforcement Division commonly referred to as SLED.

Q What do you do for SLED?

A I am a Firearms and Toolmark Examiner in the forensic services laboratory.

Q How long have you been employed by SLED?

A I have been employed a little over 15 years.

Q How long have you been employed in the Firearms and Toolmark Examination Department?

A I have been in the Firearms and Toolmark Division. I have been in my current position over 14 years.

Q Okay. Generally speaking what do you all do, and I am going to talk about firearms, not toolmarks today. We will go

ahead and get that off the table.

Generally what do you all do in the firearms examination department?

A What we call firearms identification. We look at ammunition components, bullets, cartridges cases, unfired cartridges, shotgun shells, wadding to determine whether they were fired by or loaded into and extracted out of a specific firearm.

Q How did you learn to be a firearms examiner?

A I have a bachelors degree from Clemson University. I did some graduate work at the University of South Carolina and then I was hired on at SLED. I have completed SLED'S inhouse training program which is a three to five year intense study program. More of an apprenticeship, if you will, where we study under court qualified firearm's examiners. We take written tests, oral tests, practical exercises. We work cases for other examiners and then upon completion of the course of study we are given a comprehensive final exam that is graded by our training officer and then our lieutenant.

I've also taken classed with the association of firearms and toolmark examiners which is an international organization for our profession. It meets once a year for a week-long seminar. I have been privileged enough to attend several of those seminars. I also taken extra classes at those seminars including high point firearm familiarization, barrel making,

ethics. I have taken classes with the South Carolina Chapter of the International Association of Identification. Most pertinent being a three day shooting scene reconstruction workshop.

I have taken classes with the Bureau of Alcohol Tobacco and Firearms on serial number restoration and the integrated ballistics identification system which is digital data base for bullet and cartridges cases. I have also attended several conferences with the ATF to represent North and South Carolina.

Q Have you been called upon to testify in the courts of this State and offered up as expert witness in firearms identification before?

A Yes, sir, I have.

Q About how many times?

A Over 70 times.

MR. BARFIELD: Your Honor at this time I offer Miss Cromer as an expert in firearms identification.

MR. FRICK: No objection.

MS. RANEY: No objection.

THE COURT: All right and again ladies and gentlemen you heard me say several times, normally a witness can not testify to opinion testimony. Normally when a witness testifies they must testify as to either what they saw, heard, sense by smell or something of that nature. However, if an individual by training or experience, education is a specialist

in some particular art, science or craft, they may testify in that area if the Court qualifies them that way. This witness, Agent Cromer with SLED will be qualified as an expert in forensic firearm examination and identification to give opinion testimony in that area. That does not mean that you must accept the opinions but it is you, the jury, to give the opinions the weight you deem appropriate.

Solicitor.

Q Miss Cromor, I will ask you some general questions, did you do work for SLED in a case with SLED lab number L12-01205?

A Yes, sir, I did.

Q And is that lab number associated with victim by the name of Jenika Jones?

A Yes, sir, it is.

Q Did you receive items from the Lancaster County Sheriff's office to examine and attempt to identify?

A Yes, sir, I did.

Q Generally speaking how many -- how many items did you get?

A I received two.

Q And general speaking what were those two items?

A I received a fired 380 auto caliber cartridge and one fired bullet.

Q Did you ever receive a firearm in this case?

A No, sir, I did not.

Q With that said, is there anything for you to compare the items that you received to determine if can you say a gun fired either of the two items you have?

A No. I can not compare it to a firearm.

Q Let's assume briefly for a minute that you had a firearm. If you had a fired cartridge case and fired bullet and firearm tell these people what you would do down at SLED to figure out if you can say that gun fired either one of those two things?

A Well, first off I look at the individual pieces of evidence and see whether on not they have markings on it that I can use for identification. Then I would look at the firearm itself. A bullet is marked by the rifling that is inside the gun barrel. That rifling is put there by the manufacturer to put the bullet in a rotary motion. Similar to a quarterback throwing a football. He wants it to go into a tight spiral. That is what premise of the rifling is in the firearm. It puts that bullet into a spiral so it will spin more accurately to the target.

Different manufacturers do different types of rifling. There is two types of rifling. There is conventional, polygonal ones rounded, one is more boxy square edges and then in that rifling there is different numbers of lands and grooves; raised and depressed areas that make up the rifling. I look at the

firearm. See what type of rifling it has and then I look at my bullet and see what type of rifling it has and if they have a same rifling it's possible that I will test fire my firearm and microscopically compare those tests fires to my evidence.

Q When you test fire the firearm do you actually compare the gun yourself to the stuff that you got from the local agency or do you compare the stuff you got from the local agency to something that you fire through the gun?

A Well, first off I look it gun and see whether or not I need to fire it. See if it has the same type of rifling. If it doesn't then I know I don't have to. If I does I will test fire that firearm into a bullet recovery tank. It is a two story steel tank that contains water because the water will slow the bullet down without adding to or taking from the markings that are left by the rifling. And then I will compare those test fires that I knowingly fired from that firearm on my microscope and that gives me a feel as to how that gun marks. What I am looking at is called striations in those rifling impressions. And bunch of scratches is what it looks microscopically, and I am trying to match up those scratches.

Q Are you talking about scratches on the fired bullet?

A Yes, sir.

Q Go ahead.

A I look at those striations on that fired bullet, see what I am looking for and then I will compare my evidence bullet

to my test fired bullet.

Q Are you also -- are you able to tell anything about a firearm that fired a particular fired cartridge case?

A Yes.

Q How does that happen?

A Cartridge case is marked in five different areas from a firearm, semi-automatic firearm usually. You have the breechface which marks the cartridge case head area and the head area is the part of the cartridge case that has the head stamp, it has the primer and that cartridge case during firing it is pushed back into that breechface of the firearm so any imperfections that are on the breechface during the manufacturing process can be imprinted on the head of that cartridge case.

Also you have the firing pin itself. It can have defects in it that can be marked in the primer of the cartridge case. There is an extractor and an injector. The extractor is like a little claw that clamps over the edge of the cartridge that holds that cartridge in place during firing, and then the injector. When after firing usually you have on semi-automatic firearm you have a slide and the slide will move forward and back. You pull the trigger the slide will come back because of the gas pressure build up it is pushing that slide in, that cartridge backwards. So it will hit an ejector that makes it turn and fly out of the ejection port. So that can also mark

it.

Then lastly is the chamber itself. The part of the barrel that holds that cartridge during the firing process. If there is any defects in it they can be imprinted on the body of the cartridge case.

Q All right. Now, I will hand you a couple of items. First of all State's exhibit number 41, and you got to look in the envelope to be able to see it. Tell us if you can identify what that is?

A State's exhibit 41 is my item one and it is the 380 fired cartridge case that I received in this case and it is still in a sealed container with my initials and seal date.

Q Okay. Do you actually mark the cartridge case?

A Yes, sir, I do and that's is what I was looking for. I scribe on it with electric pencil my lab number, my item number and my initials.

Q Now, did you receive that in the lab at SLED?

A Yes, sir, I did.

Q What did you do with it?

A I pull it out. I documented it. Each cartridge case gets one sheet of information. I documented what it was made of, the head stamp, what the primer is made of, what type of firing pin impression it has. What type of breechface marks and then I do a microscopic examine to see if it has the markings that I need for identification.

Q Now, again, did you not have a firearm in this case is that correct?

A That's correct.

Q Did you see any markings on that cartridge case that might have been helpful if we had had a firearm?

A Yes, sir. I did and I said this cartridge case was able to be identified if I had a suspect firearm.

Q What caliber cartridge case is that?

A This is a 380 auto caliber cartridge case.

Q And I don't know that you put it in your report, but the head stamp -- does the head stamp indicate a manufacturer?

A Yes, its CBC or Magtech ammunition.

Q Now, I will show you State's Exhibit Number 34 and ask you if you can identify it?

A Again, I am looking for where I actually marked the bullet.

A This is what I received as my item four. It is a fired bullet and again it is still sealed with my initials and seal date.

Q Does your file indicate the source of that fired bullet?

A It was labeled taken from victim's head at autopsy.

Q Okay. Did you do any examination of that fired bullet?

A Yes, sir, I did a microscopic examination.

Q Did it have markings that would have made it suitable

for an identification if you had a firearm?

A Yes, sir, it did.

Q Did you make any determinations about the caliber of that bullet or any other things about that bullet?

A Yes, sir. I determined that this was consistent with a 380 auto caliber bullet and it had what we called nine left rifling. Meaning nine lanes and grooves and it was going to go spin to the left coming out of the bullet, out of the barrel of the gun. At this time there is only one known manufacturer that uses nine left rifling and that is High Point firearms.

Q Is there any -- were you able to reach any conclusions between the fired cartridge case, State's exhibit number 41 and the fired bullets State's Exhibit Number 34. Are you able to tell us anything about those two items together?

A The only thing I can tell you is that they are both 380 auto caliber. At this time there is no way to determine if a particular bullet came from a particular fired cartridge case.

Q Science doesn't let us do that at this point, is that what you are saying?

A No, sir. That's correct.

Q 380 caliber, generally speaking handguns -- how many different types of handguns are there from the mechanical aspect of how they work? Did that question make any sense to you at all? What's a revolver?

A Revolver is a specific type of hand gun.

Q And how does a revolver work generally speaking?

A A revolver is different from a semi-automatic. A revolver is kind of what you would see in a cowboy movie; a John Wayne movie, a Clint Eastwood movie, where you have what is called a cylinder. It's is a round block that holds different chambers in it to hold different cartridges and you either cock the hammer if it's a single action and then pull the trigger or if it's double action you pull the trigger, the hammer will cock and it will fire and that cylinder will rotate. And you can only fire as many chambers you have loaded.

Q Generally speaking in a revolver what happens to the fired cartridge case after the cartridge is fired?

A It stays in that cylinder until it is opened and dumped out.

Q Explain generally the workings of a semi-automatic? You kind of covered that a minute ago, but tell us about a semi-automatic pistol.

A A semi-automatic pistol is usually loaded by magazine and it is loaded into the magazine well and from that magazine well usually you have to chamber a cartridge into it. So you pull the slide back and let it fly forward. Doing that action it will push the top cartridge from the magazine into the chamber of the firearm and it is ready to be fired. Semi automatic means one pull of the trigger, one fired the gun. So by pulling the trigger of that firearm and firing that device it

is going to fire the bullet down the barrel, push the cartridge case back into the breechface of the gun which is going to push the slide backwards which is going to use that extractor and ejector like I talked about earlier. It's going to hit the ejector, it is going to kick the cartridge case out and as the slide is coming back forward because it is under spring tension it is going to push another cartridge into the chamber.

Q All right. Now 380 ammunition generally is associated with which of those two types of firearms?

A Semi-automatic.

Q The 380 part of 380 refers to what dimension of the bullet?

A The diameter of the bullet.

Q Tell us about -- compare nine millimeter to 380 for the jury in relation to the diameter of the bullet?

A The diameter of the bullet is actually the same for 380 auto a nine millimeter luger caliber bullet. It is just the cartridge case length, the length of the bullet itself and the weight of the bullet.

Q So, which is longer and heavier, nine or 380?

A Nine millimeter lugar.

Q Can 380 ammunition be fired through a nine millimeter firearm?

A Yes, it can.

Q Did you prepare a report that shows your findings in

this case?

A Yes, I did.

Q I will hand you a two-page document and ask if you can identify what that is?

A This is the report that I prepared in this case.

Q Does that appear to be a correct copy of your report?

Q Yes, sir, it does.

MR. BARFIELD: Your Honor, at this time I would offer Miss Cromer's report as a State's exhibit.

MR. FRICK: No objection, Your Honor.

MS. RANEY: No objection.

THE COURT: All right. State's 59 is in evidence without objection.

(State's Exhibit 59, report, received in evidence as of this date.)

MR. BARFIELD: Thank you, ma'am. Answer anything Mr. Frick and Miss Raney has.

THE COURT: All right, Mr. Frick.

MR. FRICK: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FRICK:

Q Miss Cromer, you said that you can't tell whether that bullet came out of that cartridge casing?

A That's correct.

Q But they are both 380's?

A That's correct.

Q Can you put another size bullet in a 380 cartridge casing?

A As long as it is the same diameter.

Q Okay. All right. But I mean you can't put a 45 or 44 in a 380?

A No, sir, you can't, the diameter is too large.

Q You were able to look at the bullet and determine that it had to have been fired by a High Point, correct?

A That's correct. Most likely it was fired by High Point because that is the only known manufacturer to use that type of rifling.

Q In fact it sounded like you had some extra training specifically in High Point firearms; is that correct?

A That's correct.

Q There is actually a specific class on High Point?

A It was actually taught buy the owner ever High Point firearms.

Q Okay. Good. And of course every firearm has its own manufacturing process so they have their own lands and grooves and all that good stuff, right.

A Well, some use the same type of lands and grooves. You can have any number of them.

We have what is called a GRC program. General rifling characteristic program that is administered by FBI that we can

plug in the dimensions of those lands and grooves, the number of them, the twist, the left or the right, and it will tell us what type of firearms use that rifling.

Q Okay. Thank you. And by what you saw even though this bullet is deformed. Significantly deformed I would say, would you agree?

A Yes, it is deformed.

Q You with were able to look at striations and see that it would have come out of a High Point?

A Yes, that is the correct.

Q Okay. Can you tell whether -- do the different calibers of High Point have different striations?

A The nine millimeter lugar and the 380 auto all have -- well, not all of them but most of them use nine left.

Q All right. So same -- you were looking for same markings then, is that correct? It would have the same markings is what you are saying then?

A They have the same type of rifling.

Q That's what you are looking for. That's what leaves the striations, right?

A That's correct.

Q Now you are not able to be as definitive on the shell casing itself, correct?

A What do you mean by definitive?

Q Well, you said the bullet had to be fired by a High

Point. You do not make that statement about the shell casing itself?

A No, I do not.

Q Why not?

A Well, because there are many firearms that have parallel breechface markings so without the firearm I can not tell you definitively that it was fired by that.

Q How about as far as the hammer. Is there anything specific about hammers and firearms that would leave any particular markings?

A Hammers are usually used in revolvers. In the semi-automatic it would have been a firing pin and they also have hemispherical or circular firing pin, meaning the tip is rounded.

Q Okay. So no, it wouldn't have left any different markings?

A No. It is common for cartridge cases to have parallel breechface and hemispherical firing pins.

Q Okay. Other than looking at it for any other, any identifying features as far the tool marking and any striations that may be on it, did you do any additional testing on that shell casing?

A On the cartridge I placed it into at integrated ballistics identification system.

Q That is the next question I had. Tell me what that is?

A We call it as IBIS. It is an ATF owned digital database for bullets and cartridge cases. We can put them in from scenes all over the State and what it will do is it gives it an algorithm and it will look at any other crimes that have occurred in the State where that caliber cartridge case with that type of of breechface markings and of fire pin impression and it will give me a correlation score and I look at the correlations to see if there is potential match to any other crimes that are open.

Q And matches in this case?

A No, sir, there was not.

Q In fact the bullet is put in IBIS as well?

A No, sir.

Q Okay. It wasn't?

A It was too damaged to be entered into IBIS. It did not matter the criteria.

Q The report says you put in IBIS?

A No, it says that item did not met the SLED criteria for entry.

Q Let me make sure I'm reading the right thing here.

A Item one was entered. This item did not meet.

Q Very good, thank you. I was reading the wrong line. I am sorry. Make sure that's all I got, but I think it is.

Just briefly something the solicitor talked about. He asked you whether a 380 -- I will call it a bullet I know that

is not correct term -- 380 bullet can be fired by a nine millimeter gun and your answer is, that is correct.

A That's correct, it could be.

Q It could be?

A It could be.

Q Does that increase the chances of a misfire or any issues with the firearm?

A Because it is same diameter as long as it is seated in the chamber it can be fired. There might be problems with the ejection and the extraction of the fired cartridge case.

Q Okay. So my question is, could that -- does that increase the chances of misfire; yes or no?

A Yes, it could.

MR. FRICK: Thank you, ma'am. That's all the questions I have.

THE COURT: Miss Raney.

MS. RANEY: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. RANEY:

Q Miss Cromer, you indicated you have been doing forensic work with firearms for about 15 years now?

A I have been in this position for 14 years.

Q And that during the course of your duties that some times you have to actually discharge or fire firearms, correct?

A That's correct.

Q Have you fired both revolvers and semi-automatic weapons in the course of your forensic analysis?

A Yes, ma'am, I have.

Q I am not asking for exact number here, but could you give me a ball park idea over the course of your career how many firearms you have fired while doing your forensic analysis?

A I never really thought about that. Probably about two a week in 14 years, sometimes more.

Q So a lot?

A Yes.

Q A lot would be fair to say?

A Yes.

Q You are very familiar with or comfortable with handling a firearm?

A That is correct.

Q Have fired a firearm many times in the past?

A That's correct.

Q And are very familiar with what happens when a firearm is fired?

A That's correct.

Q Okay. Is one of the things that can happen when a firearm is fired is that gunshot residue is left behind?

A That can happen, but I am not a gunshot residue expert.

Q Okay. Have you ever noticed in firing a firearm throughout the course of your testing any gunshot residue left

behind on your hand?

A Not visibly I have not.

Q Would that be something you would need to look at under a microscope?

A Again, I am not a gunshot residue expert. I would not know.

MR. RANEY: Thank you.

THE COURT: Redirect solicitor?

MR. BARFIELD: None.

THE COURT: Thank you. Thank you very much. You may step down. Any objection to this officer being excused?

MR. FRICK: No, sir.

MS. RANEY: No, Your Honor.

THE COURT: You may be excused.

THE WITNESS: Thank you.

(Witness excused.)

MR. BARFIELD: States call Wayne Blakeney.

THE COURT: Come around to my left and be sworn please.

WAYNE BLAKENEY, called as a witness, having been duly sworn by the clerk, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BARFIELD:

Q Tell us your full name please sir.

A My name is not Wayne Anthony Blakeney Jr.

Q Mr. Blakeney how old are you?

A I am 22 years old sir.

Q Where do you live?

A I live in Lancaster area.

Q With whom do you live?

A I live with my father Wayne Blakeney Sr.

Q How long have you lived in Lancaster?

A Pretty much all my life.

Q I will jump straight to something and we will come back and talk more about it in a little bit.

Are you charged with a crime relating to the death of Jenika Jones?

A Yes, sir, I am.

Q What are you charged with?

A I am charged with murder, sir.

Q What do you face being charged with murder?

A Thirty years to life, sir.

Q All right. Are you currently incarcerated?

A No, sir.

Q Do you recall when you got arrested in this case?

A Yes, sir. I was arrested on March the 8, 2012.

Q Were you in jail for some period of time after your arrest?

A Yes, sir, I was.

Q How is it that you are out of jail right now?

A I am out of jail. I was released on house arrest. I was suspected to be able to go to church, work, attend school and meet with my lawyer.

Q Did the State consent for you to be out on bond? Did we agree to set a bond for you?

A Yes, sir.

Q In connection with your charge, the charge of murder have you been promised anything by the State, by me, my anybody in my office, by the sheriff's office, anybody connected with the investigation and prosecution of this case? Have you been promised anything in exchange for you being on the witness stand today to tell us about this matter?

A No, sir, I haven't.

Q Has anybody told you will get a lesser charge?

A No, sir.

Q Has anybody told to you you will get a lesser sentence?

A No, sir.

Q Has anyone promised you anything in exchange for your testimony in this case?

A No, sir. I was promised nothing.

Q Were you involved in the events surrounding the death of Jenika Jones?

A Yes, sir.

Q Now, what you do you do for a living? What are you doing right now? What are you doing with your life right now? Do you work, go to school or both or what?

A Yes, sir, I work for Special Occasion Rentals. I am sophomore at the University of South Carolina, Lancaster. I am hoping one day to be a guidance counselor. Next semester I expect to finish with an associates degree. My main focus is English. I want to counsel in the school system.

Q And you live with your dad?

A Yes, sir.

Q Do you have other people living in your home?

A Yes, my dad, my stepmom and my stepbrother.

Q Is your stepbrother older or younger?

A He is younger then me.

Q Now, I am going to ask you about some people. Do you know a person named Devatee Clinton?

A Yes, sir.

Q Do you know him by that name or nickname or both?

A I know him by both. He goes by Tate.

Q Tate. Do you see the person you know as Tate Clinton in the courtroom today?

A Yes, I do sir.

Q Tell us where he is sitting and what he is wearing.

A He is sitting right there (indicating. He has on blue.

Q Raise your hand Mr. Clinton. Is that who you are

referring to the fellow with his hand raised.

A Yes, sir.

Q Do you know a fellow named Al Martinez Green?

A Yes, sir I do.

Q Do you see him in the courtroom here today?

A Yes, sir, I do.

Q Describe where he sitting and what he is wearing?

A He is sitting right there and he has on what seems to be a plaid shirt.

Q Fellow closest to the wall along the table?

A Yes, sir.

Q Mr. Green raise your hand. Is that who you are referring to?

A Yes, sir.

Q How do you know Tate Clinton?

A He's a relative of mine.

Q How is he is relative of yours?

A On my mother's side. He is kin to my mother's side.

Q Do you know exactly how you are kin to him on his mother's side?

A No, but I am pretty sure we are close kin. I think my mom said.

Q Short of being kin, how close are or were you and Tate Clinton?

A We were friends.

Q How often would you see Tate Clinton?

A I would see him probably every other weekend. I'd go to my mom's house and I would be in the Newtown area and I see him.

Q Did you all hang together?

A Yes, some times.

Q You said the Newtown area. What is the Newtown area? Newtown town area of where?

A Lancaster.

Q Where is it?

A It's where if you go down number nine come all the way into town there is some apartments on the right and then you approach it's a store called Quickstop and right behind that store I think the street name is Gregory Street and that whole area is Newtown.

Q And is it neighborhood where people live?

A Yes, sir.

Q Okay. Let me go ahead and ask you about some other locations before we get to far into this. When I say the Hole do you know what I am talking about? The Hole?

A Yes, sir.

Q What is the Hole?

A It's a hangout spot in the Newtown area.

Q And when you say a hangout spot is it a store, a gas station, a clump of trees with a barrel and chairs sitting

around? What is the hole?

A A Hole is the place where, you know, people hang out, and chill.

Q Is it outside?

A Yes, sir.

Q It is like a street corner sort of?

A It's an area in the neighborhood.

Q If I say the Hole in the Wall club, do you know what I am talking about?

A Yes, sir.

Q Do the Hole and the Hole in the Wall club have anything to do with each other?

A No, they are two different places.

Q What is and where -- first of all do you know if the Hole in the Wall club is open now? Do you know if it is or not?

A No, sir I am not sure.

Q What and where is the Hole in the Wall club or was it?

A Basically it is a club where, you know, people go and hang out, they party, they drink, et cetera.

Q Music?

A Yes, sir.

Q Pool tables?

A Yes, sir.

Q And generally -- well, do you know the address for the Hole in the Wall club?

A No, sir.

Q Can you tell the jury where it is in relation to some other landmarks here around Lancaster? What is it near?

A I would say it is near the south side area. Like the back of south side.

Q On the south part of town? Do you know where Crenco is on Main Street?

A Yes, it is on the road next to it. It's on that road.

Q And farther down south then Crenco a little bit?

A Yes, sir.

Q I will point black ask you this and we will get into detail later. Were you with Devatee Clinton or Tate Clinton and other people on Thursday night, January 19th, of 2012.

A Yes, I was.

Q All right. During -- at that time, not specifically that night, but in that timeframe did you know whether Tate Clinton had not a driver's license or not?

A I don't think he did.

Q Did he have a car?

A No, sir.

Q Had you and Tate Clinton ever traveled together in automobiles?

A Well, I took him places a few times.

Q In what automobile have you taken him places in or automobiles have you taken him places in?

A Its been different cars, you know. Different cars.

Q Who supplied cars when you took him places in the past is my question? Did you supply cars when you took him places in the past?

A No, sir.

Q Where did the cars come from do you know?

A No, sir.

Q Now, how do you no Al Green?

A I know him through Devantee Clinton.

Q How much time did you spend -- well, what do you know about Al Green and/or Tate Clinton's relationship? What do you know about the two them?

A I have understanding that there --

Q Hold on. Forget that. Let me he ask you another question.

How much time did you spend with with Al Green before January 19th of 2012?

A Not much time. Me and him we weren't that close.

Q When did you -- you told a minute ago, but give us the date again. When did you get arrested and charged with murder for the death of Jenika Jones?

A March the 8th, 2012.

Q Did you talk to police after you got arrested?

A Yes, sir.

Q Do you know was it that day or some day after that?

A What do you mean?

Q Let me ask the question a different way. Did you ever talk to the police about this case after you got arrested?

A Yes, I talked to them.

Q Did you give a statement?

A Yes, sir.

Q When did you give a statement to the police?

A I gave the statement when I was arrested.

Q I will ask you about another person, Delrico McDow. Do you know somebody that you now know to be Delrico McDow?

A Yes, sir.

Q When you got arrested did you know somebody -- leading up to the time you got arrested did you know somebody -- let me back up.

At the time you got arrested did you know the name Delrico McDow?

A No, sir, I didn't. I knew him by another name. I didn't know his real name.

Q Okay. Did you know a person by another name that you now know to be Delrico McDow?

A Yes, sir.

Q How do you know that person, McDow?

A I know him through Devantee as well.

Q How much time did you spend with the person you now know to be McDow before you got arrested for this murder?

A I use to see him when I was in the area, but as far as actually being close, we never were close.

Q Where were you on the night of Thursday, January 19th, of 2012? After dark, where were you that night?

A I was with with Devatee Clinton, Mr. McDow and Mr. Green.

Q And where were you with all four of you all together?

A Well, we was --

Q Where were you first is what I am asking?

A We was in the Newtown area.

Q Where in the Newtown area, somebody's house, in the hole, where?

A Well, we were in the hole at first and then we went to a guy's house.

Q All right. We will talk about that in a minute.

A Okay, I am sorry.

Q How were the four of your traveling initially that night?

A In a white Cadillac.

Q No. Okay. Was there ever a time that night when you didn't have the white Cadillac, that's my question?

A Yes, yes, we were on foot.

Q On foot. I will show you a picture, or two or three. I will show State's exhibit number 16. Do you see that screen beside you there. Look at the monitor right there by your

shoulder. Is that working?

A No, it is off.

Q All right, it will working in a minute. Do you recognize what is shown in that picture?

A Yes, sir I do.

Q Don't tell me anything about it yet, but what is in that picture?

A It's a white Cadillac.

Q Show you another exhibit, State's Exhibit Number 17. Do you recognize what is shown in that picture?

A Yes, sir, it is the same car.

Q And one more picture, State's number 18. Can you tell us what is shown in that picture?

A The same vehicle, sir.

Q Have you seen this car before?

A Yes, sir.

Q Have you been in this car before?

A Yes, sir.

Q Have you driven this car before?

A Yes, sir.

Q When did you see this car, get in this car and drive this car?

A The same night that you mentioned.

Q Okay. How did you come to be in possession of the car? This car is shown in States 16, 17 and 18, these pictures, how

did you get your hands on that car?

A Well, basically they borrowed the car and I drove it.

Q All right. Stop. When you say they, you can say they, but you got to give names after a while.

A I'm sorry.

Q Where did the car come from first of all?

A A light skinned guy. I can't recall his real name, but I remember he was light skinned.

Q That is fine. Light skinned black man or light skinned white man?

A Light skinned black man.

Q And where on the ground in town or wherever was this man?

A I don't remember the street name but in Newtown.

Q At a house, in a parking lot at a club? Where was this man?

A At a house.

Q Let me ask you this. I will show you -- I will put up number 18 again. What you identified a minute ago as the white Cadillac we are talking about. Do you recognize any stuff in the picture other than the Cadillac?

A No, sir.

Q Where was the Cadillac when you first saw it that night, that's my question?

A It was right there sir.

Q Speak loud use the microphone.
A It was right there, sir.
Q Just like it is shown in this picture you got?
A Yes, sir.
Q Was it at a house?
A Yes, sir, it was at house.
Q Was it at the house that was shown in the background of that picture?
A Yes, sir, it was.
Q Who went to that house? Names.
A Myself, Devantee Clinton, Al Green and Mr. McDow.
Q Did you go to the door and talk to the man?
A No, sir.
Q Did anybody go to the door and talk to the man?
A The man, he was outside.
Q Did somebody go up to the man and talk to the man?
A Yes, sir.
Q Who went up to the man and talked to man?
A Devatee.
Q What happened after Devatee talked to the man?
A I drove the car.
Q Okay. Did anybody else in your presence that night drive the car?
A No, sir.
Q When you drove the car where did you drive it? Where

did you first get behind the wheel at? Where were you when you got behind the wheel?

A At the light-skinned black man's house.

Q Who else got in car at that time if anybody?

A Devatee Clinton, Al Green and Mr. McDow.

Q Where did you all go after you drove off in the car?

A We went to the Hole in the Wall.

Q The club, not the hole, but the Hole in the Wall club?

A The Hole in the Wall club.

Q Was it day light or dark when that happened?

A It was dark, sir.

Q Let me go ahead and ask you this, did you drink anything that night?

A Yes, I had a few drinks.

Q Where did you have drinks?

A At the Hole in the Wall.

Q And when you say drinks, what are you talking about, mixed drinks in a tumbler glass or beers?

A As in beers.

Q Do you know whether Tate Clinton drank that night?

A I don't think he drank that night.

Q Do you know whether Al Green drank that night?

A No, sir.

Q Do you know whether Delrico McDow drank that night?

A No, sir.

Q You don't know or they didn't?

A I don't know if they did. I wasn't watching them as we were inside in the place.

Q That's fine. Did you ever leave the Hole in the Wall club?

A Yes, sir.

Q Why did you leave the Hole in the Wall club?

A Because Devatee wanted me to -- asked me did I want -- he said he need me to take him to get some money.

Q Stop. Who said that?

A Devatee Clinton.

Q And he said exactly what to you?

A He needed me to take him to get some money.

Q Did he say anything else?

A He needed me to drive him to get some money.

Q That's fine. Did he say anything else about the money? Namely, who had it or where it was or anything like that?

A No, sir.

Q Did he say why somebody -- did he say why there was money out there for him?

A No, sir.

Q Did you take him to get money?

A Yes, sir.

Q What did you take him to get money in?

A The white Cadillac, sir.

Q Did anybody else go with you all to get money?
A Yes, sir.
Q Who?
A Mr. McDow and Mr. Green.
Q How where -- first of all, where did you go to get money?
A We went to [redacted]. A place off 200.
Q Were you familiar with [redacted]?
A No, sir I wasn't.
Q Okay. Did you know where Tate lived back then?
A No, sir.
Q Did you know where any of his people lived back then?
A Yes, sir, I later found out his grandmother lived in that area.
Q What area?
A [redacted].
Q Was is at [redacted]?
A It's a trailer park.
Q How did you know to go to [redacted]?
A He showed me where to go.
Q You got to say names. You are talking about three different people.
A I'm sorry, Devatee. Devatee Clinton showed me where to go.
Q Within the trailer park at [redacted] how did you

know where to go?

A He showed me.

Q He who?

A Devatee.

Q Up to this point your going out to [redacted], up to this point that night among the four of you; you, Clinton Green and McDow, were there any guns that you had seen up to the point that you are headed out to [redacted]?

A Yes, sir.

Q When and where did you see it? First of all, who had a gun that you saw?

A Devatee Clinton.

Q And where was he when you saw him with a gun that night?

A He was in the car. He was on the passenger side.

Q And at what point during what you described so far did you see him with a gun? You all in the car several times before this is all over with.

What part of being in the car did you first see him with a gun?

A I'd seen him with the gun on the way to [redacted].

Q Okay, and where on him did you see a gun?

A It was like near his side area.

Q What did you -- were you able to see the gun enough to describe it at all for this jury?

A I can remember it being a grey and black gun. I am not sure it could it could have been a 380 or nine millimeter.

Q Big gun or little gun?

A It was a little gun.

Q All right. When you got to [redacted] where did you go? Well, how did you know where to go in the trailer park on [redacted]?

A Devatee showed me.

Q And did he tell you -- and did you stop the car?

A Yes, sir.

Q Was it daylight or dark?

A I was dark, sir.

Q What did you do after you stopped the car?

A I remained in the car and they got out.

Q Did you move to any other position in the car yourself?

A No, sir, I didn't.

Q And you say they got out who got out?

A Devatee, Al and Mr. McDow.

Q What did do they do when they got out?

A They disappeared.

Q What do you mean they disappeared?

A As in -- as in they went off to my left. They went behind a trailer.

Q Were they together or separate when they went off to your left?

A They were together.

Q Did you see them again in the trailer park at [redacted] that night?

A Yes, sir.

Q How long later was it before you saw them again?

A It was approximately I would say ten minutes.

Q Now, you said you saw the gun in Tate Clinton's pants or somewhere?

A Yes, sir.

Q Did you -- was the gun to your knowledge was the gun in the car after Tate Clinton got out of the car?

A No, sir.

Q After ten minutes you saw them again. Where did you see these three guys; Clinton, Green and McDow when you saw them again where were they?

A They were coming from the area which they had went.

Q And how were they coming?

A They were in -- they in a bit of hurry.

Q Where did they come to?

A They came to the car.

Q When they got to the car what did they do?

A They got in.

Q Did Tate say anything? Tate Clinton say anything when he got in the car?

A Yes, sir.

Q What did Tate say?

A I can remember him telling me to just chill. Just chill and the other guys they were like go. Telling me to go.

Q Telling you go how?

A As in as in go. Leave. Get out of this area.

Q Did you go?

A Yes, sir, I did.

Q Who drove out of where you had parked the car? Who drove from leaving [redacted]?

A Me sir. I did.

Q How did you drive?

A I drove -- I drove out pretty quick sir.

Q Where did you drive to? Where were you headed when you left the trailer park on [redacted]? Where were you going?

A Drove back to the Hole in the Wall.

Q Was there any talk by Clinton and Green that you can recall from [redacted] back to the Hole in the Wall? Were they talking?

A The radio was on. I can remember -- I can remember Devatee telling me to just chill and they may have been talking.

Q Can you -- do you recall any words that they were exchanging with each other?

A No, I can't tell you what they said sir.

Q That's fine. Let me back up a minute. Was anything in this for you, for driving Tate to go get some money? Was there

anything suppose to be in it for you?

A Yes, sir.

Q What were you suppose to get out of providing this transportation?

A I was suppose to get some money, sir.

Q All right. Let me ask you this. When Tate Clinton said to you -- asked you to take him to go get you some money what did you think he meant?

A Um -- I really wasn't -- I really wasn't concerned. I was just, he told me to take him get some money. He agreed he would pay me. I was not concerned about, you know, about really what he meant?

Q Did you know -- did you suspect he was taking you on a robbery?

A No, him knowing who I am as person, I wouldn't -- I didn't expect that.

Q On the way back to the Hole in the Wall club, who is in the car?

A Myself, Devatee Clinton, Al and Mr. McDow.

Q Did you all get back to the Hole in the Wall club?

A Yes, sir.

Q What did you do when you got to the Hole in the Wall club?

A Just we were there for 30, 35, 40 minutes and just hung out.

Q Stop. I you will interrupt you there for a minute. I probably shouldn't but, when you got there did you stay in the car? Did you get out the car?

A Got out of the car.

Q You or everybody?

A Everybody.

Q Stay outside of the club or go inside the club?

A Both.

Q Okay. Did you stay at the Hole in the Wall the whole night?

A Not all night. We were there for a little bit.

Q Did you go from the Hole in the Wall to anywhere else after getting back there from being at [redacted]?

A Yes, sir. Drove back to the Newtown area.

Q All right. Drove what?

A Drove the white Cadillac back to the Newtown area.

Q Who drove?

A I did.

Q Were you by yourself?

A No, sir.

Q Who was in the car that you know?

A I was accompanied by Al, Mr. Clinton and Mr. McDow and there were maybe one or two more guys that I don't remember.

Q You don't remember. What do you mean you don't remember?

A As I didn't know them.

Q You didn't know them?

A Yes, sir.

Q All right. Where did you go in the Newtown area after you left the Hole in the Wall club after having been on [redacted]?

A I can't recall the street that I was on, but I was in the Newtown area near the Hole.

Q Why did you drive to the Newtown area? That is probably the best question.

A To let the guys out that were with me.

Q Did you let people out in Newtown?

A Yes, sir.

Q Who did you let out of the Cadillac in Newtown?

A I left out Al Green. I let out Mr. McDow and the other guys. The the guys that I didn't know.

Q That's fine. After those guys were out of the car in Newtown where were you?

A I was in the car.

Q And who was driving?

A I was driving.

Q Where was Tate Clinton?

A He was on the passenger's side.

Q And in what car?

A In the Cadillac.

Q What did you all do after you let these other four people out, three or four people out, or four or five people out in Newtown, what did you all do?

A I took him home.

Q Now, up to that point had you other than Tate Clinton saying I think you said chill, he said chill, is that what you said?

A Yes.

Q Other than you to chill, between the time you left [redacted] and were at the Hole in the Wall and then back in to Newtown and you and Tate are back in the car, had he told you anything about what happened on [redacted] up to that point? Up to that point?

A Up to that point?

Q Yes.

A No, he hadn't told me yet. He hadn't told me anything.

Q Now, how late was it? About what time was it when you and Tate are in the car by yourselves and you said you were taking -- where did you say you were going to take Tate?

A Home.

Q And about was time was it by the time you are going to take Tate home?

A It was late. It was pretty late. It was well in the a.m.

Q Okay. Was there any conversation between you and Tate

when it was just the two of you all in the car between Newtown -- well, let me ask you this first. Is there any conversation between you and Tate in the car between Newtown and you taking him home?

A Yes, sir.

Q Tell the jury about it? Was anybody else in the car?

A No, sir, it was just me and Devatee Clinton.

Q Tell the jury about the conversation.

A As we were talking --

Q Use the microphone?

A As we were talking he shared some things with me. He asked me if I could keep a secret. I told him yes I could and he said to me that I killed that "B".

Q Say it, he said what?

A He said that he killed that "B".

Q Use the words that he used?

A I killed that bitch. Those were his words.

Q Did you up to that point have any idea what he was talking about?

A I kind of I got a bad feeling. Bad feeling running through my mind but it wasn't -- I didn't believe him at first.

Q Did you know who I was talking about?

A No, sir. No, sir, I didn't.

Q Let me ask you this. Did you know a person by the name of Jenika Jones?

A No, sir.

Q He said that to you and you said what to him?

A I was just -- I sat there fore a minute. Kind of shocked a little bit. Didn't really believe him. I just -- I just sat there. I was quite for a minute.

Q Then what?

A I took him home.

Q When you got to his house where you were going to let him out --

A Yes, sir.

Q -- well, let me ask you this. When you got to his house -- let me back up.

Between Newtown and taking him home, did you know where the gun was?

A Yes. Yes, sir, I did.

Q Where was it?

A Yes, sir, I did. He told me he left it in the glove compartment and he told my to hold it for him.

Q When did he tell you that left it in the glove compartment?

A As he was getting out of the car.

Q Did he get out of the car?

A Yes, sir.

Q When he got out of the car what did you do?

A I left.

Q Where did you go?

A I left out of where I dropped him off at which was the same place, [redacted]. I got to the light and it was it wasn't much fuel left in the vehicle so I parked at Piggly Wiggly and I got out and I walked home.

Q What did you do when you you got out of the car? Was there anything wrong with the car?

A Yeah, I think I noticed the tire was flat. Something like that.

Q Did you do anything to secure the car?

A What do you mean?

Q Well, did you have a key to be driving this car?

A Yes, sir.

Q And do you what happened to the key?

A I left it in the car.

Q You don't know where it went?

A I don't know where it went.

Q Did you leave the car unlocked?

A I think I did sir.

Q And you went where after you left the car, which Piggly Wiggly are you talking about? Give us a reference point, some roads or some landmarks?

A The Piggly Wiggly now that I believe is shut down. Went out of business. Off of south 200.

Q And where did you go after you left the car at Piggly

Wiggly?

A I went home. I went home. I walked home sir.

Q Tell me about the gun? Where was the gun?

A I took the gun sir.

Q From where?

A From out of the glove compartment. I took it. I sold it to a relative, which was probably one of the dumbest things ever I could have did. I should have just turned it in and done the right thing, but I was scared man. I never -- I never seen anything like this happen to me.

Q Other than being arrested for this murder case have you ever been arrested before?

A No, sir, I never been locked up. Never.

Q How did you get the gun from the glove box to your house you walking home. Where was the gun when you walked home?

A I took it out in and put it in my coat pocket sir.

Q And how long were you in possession of that gun from that morning until you got rid of it?

A Approximately a few weeks sir.

Q You said you sold it?

A Yes, sir.

Q Who did you sell it to?

A I sold it to my cousin Marcus Barnes.

Q When you got arrested I think you said March 8, 2012?

A Yes, sir.

Q A couple months later. About six weeks later, right?
A Yeah.
Q Did you tell the police what you just told the jury about the gun?
A Yes, sir.
Q Did you tell them about Marcus Barnes?
A Yes, sir.
Q Did you do anything yourself to try and get the gun back?
A (No answer)
Q Because you are in jail. Long did you stay in jail?
A I think four or five months maybe.
Q Did you do anything yourself from in jail or after you got out of jail to try and find that gun?
A Yes, sir, I did.
Q What?
A I went -- my sisters stayed right across from him and his mom and I went to her.
Q Don't tell me what people said. Just tell me what effort you made. You can't tell me what people said.
A Okay. I am sorry sir.
Q That's fine.
A But I tried my best to get in contact with him. He was scared. He didn't want any involvement with this. He didn't want to corroborate because he didn't want to come near this.

Q Did you tell the police everything you knew about where they could find Marcus Barnes?

A Yes, sir.

Q When you talked to the police on March 8th of 2012 I think you said you gave a written statement, is that right?

A Yes, sir. It was verbal. Question asked.

Q Well, did they type it up and let you read it and sign it?

A Yes, sir.

Q How many people did you tell them on March 8th? How many people did you tell them were involved in this thing?

A I initially told them two.

Q And who were the two other than you?

A Devatee Clinton and Al Green.

Q Why didn't you tell them about Mike McDow when you gave a written statement on March 8th of 2012?

A I couldn't remember his name and it was just -- I mean the whole thing man, kind of shook me up man. I was scared. I didn't want to be a part of it.

Q Scared of what -- well, don't answer that. Didn't want to be a part of it. What do you mean by that? You're already a part of it weren't you?

A Yeah, I was a part of it, but I mean I just wanted nothing to do with it at all.

Q How come -- how come you didn't -- this thing happened

on January 19th, of 2012. Did you go see the police or report this to anybody between January 19th 2012 and March 8th of 2012?

A No, sir I didn't.

Q Why not?

A I just -- I mean, I didn't want to be a rat. I didn't want to put my family in danger. I mean I was scared. I was frustrated. I was angry. I panicked. I panicked.

Q You said earlier that when Tate said that he killed the bitch you didn't believe him?

A Correct sir.

Q When did you begin to believe that something had happened?

A It was the next day or few days later when I found out that this girl was dead.

Q How did the police -- do you know how the police ended up coming to talk to you about this? How did you get found out, do you know?

A How did I get found out? Um --

Q How did the police get the name Wayne Blakeney and come looking for you? If you don't that's fine, I am just asking if you know.

A At the time I didn't know.

Q Do you now?

A Yeah, I know now.

Q How did you get found out? I don't need names but

generally how did you get found out?

A I told someone about it because I couldn't keep it to myself.

Q And do you know what that person did, the person that you told about, what did he do or she do?

A He -- he went and told the authorities.

MR. BARFIELD: All right. Give me just a minute Your Honor.

THE COURT: Sure.

Q Lets go back and talk about Mike McDow for a minute. You didn't tell the police about McDow. Did you at some point tell the police about McDow?

A Yes, sir, I did.

Q I am not looking for a date, but when did you tell the police about McDow? After giving a written statement on March the 8th, when did you tell the police about McDow, and let me break it down into question A and question B, were you still in jail or had you been bonded out when you told the police about McDow?

A I was still in jail sir.

Q When you told the police about McDow did you know the name McDow? Did you know the name?

A No, sir, I didn't. I couldn't remember his name.

Q So what did you tell the police about this other person that you now say is McDow?

A Well, basically I remembered the nickname. A nickname came to my mind and he pulled him up. Detective Crump put him up on the screen and it was him.

Q Just a single picture on a computer screen?

A Yes, sir.

MR. BARFIELD: I am sorry, give me just one second.

Q Tate Clinton ever address with why he shot the girl?

A No, sir.

MR. BARFIELD: Thank you. Answer anything Mr. Frick and Miss Raney has.

THE COURT: Mr. Frick.

MR. FRICK: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FRICK:

Q Mr. Blakeney, you said you are currently enrolled in USC Lancaster?

A Yes, sir.

Q Okay. And you are planning to become a guidance counselor?

A Yes, sir.

Q So you certainly don't plan on spending next 30 years in the Department of Corrections?

A Correct, sir.

Q So the solicitor hasn't made you any promisees, but you

expect to get a lesser charge out of this, don't you?

A I expect to be treated fair sir.

Q To be treated fair. Okay. In fact, do you know what consent bond is? Do you know how that works?

A As far as what I can do and what I can't do?

Q No, sir. How you got your bond, did you have to come in front of a Circuit Court judge or did you have any bond hearing at all?

A I didn't have to -- I met with a judge in jail.

Q Okay, but you didn't come in to this courtroom, did you?

A No, sir.

Q Okay. That was an agreement, wasn't it?

A An agreement?

Q Yes, sir, your bond?

A I don't know anything about an agreement, but I didn't come in to a courtroom.

Q Okay. I am going to skip all the way towards the end and then we will go back through some other things. Okay. That's where I am starting at right now. Okay.

At the end of the night, after all these events have occurred you have gone through Newtown. You are taking Mr. Clinton home. You call him Tate or you call him Devatee?

A Tate. He goes by Tate.

Q Okay. All right. You are taking Tate home.

A The same [redacted].

Q I think that is where his grandma lives?

A Yes, sir.

Q [redacted]. Do you see any police when you get to the [redacted] the second time?

A No, sir, I didn't.

Q You didn't. You do recall the statement that you gave the law enforcement right, back on the 8th?

A Yes, sir.

Q Solicitor went over the fact that you said it was two people. Today you are saying it is three people?

A Yes, sir.

Q Okay. Are there other things that are inaccurate in that statement?

A Nothing other than me not being fully truthful throughout the beginning.

Q Okay. All right. So at which point are you being truthful, in that statement or today's statement?

A I am been truthful now sir.

Q Now?

A And in that statement, sir, towards the end.

Q Towards the end of the statement. At some point law enforcement said they weren't buying your story, didn't they?

A I mean, I was scared and nervous man. I wasn't being fully truthful honestly.

Q I will show you briefly. Three pieces of paper there. Do you recognize that?

A Yes, sir, I recognize it.

Q What is that?

A This is my statement sir.

Q That is the one from March 8th?

A Uh-huh.

Q Now, when the solicitor was asking you about after you dropped folks off in Newtown after everything happened after the club, dropping folks off at Newtown, you were going towards Tate's house when he tells you this stuff, right?

A Yes, sir.

Q You said you were driving the car?

A Yes, sir.

Q Okay. Do you recall what you told them on the 8th of March? Look at --

THE COURT: Let him answer that question.

MR. FRICK: I am sorry. Yes, sir.

THE COURT: Do you recall what you told them on the 8th of March about what?

MR. FRICK: Who was the driving the car.

A Yes, sir.

Q Okay. What did you tell them?

A I told them -- at the beginning of the statement I wasn't being fully truthful.

MR. FRICK: Okay. Answer the question I am asking right now.

THE COURT: Don't interrupt him. Go right ahead answer the question.

A I told him that Devatee had drove the car some.

Q Okay. Why? Why do you lie about that?

A Because as I stated earlier sir I was scared, I didn't want to be in there. I didn't want to rat, tell them about it. I just I wanted nothing to do with this at all man.

Q I understand. The man is in your car, says he want to go somewhere, right?

A Correct, sir.

Q At the very beginning of the night, after you all leave Hole the Wall for the first time he says take me go get some money, right?

A Correct, sir.

Q Okay. You said that you see him with a gun at that point, right?

A Yes, sir.

Q You did, right?

A I did.

Q Okay. He didn't say take me to ATM over there at Airport Plaza did he?

A No, sir, he didn't.

Q Okay. You all went past there didn't you?

A Yes, sir.

Q He said turn into this trailer park, right?

A Yes, sir.

Q Man with a gun says turn into a trailer park and you didn't ask any questions?

A I mean, knowing who he is, he normally carry a gun man. You know, he had problems with the people in the streets. He always carried a gun. I known him to carry a gun.

Q Okay. So you don't have any problem taking him over there? All the stuff you are saying you know about him, you don't have any problem taking him over there?

A It didn't -- it didn't hit me that something of this nature would occur sir.

Q Okay. He gets out of the car with the gun?

A Yes, sir.

Q At that point you don't expect any trouble?

A No, sir.

Q So you sit there and wait while a man with a gun in a trailer park goes off you don't no where?

A Correct, sir.

Q You sat there and waited?

A Yes, sir.

Q Not an issue in your mind?

A Like I said, I took him places before man and nothing -- nothing near this severe took place. Nothing no

where.

Q All right. They come back. Tate tells you to chill?

A Yes, sir.

Q Why does he need to tell you to chill?

A I don't know sir.

Q Were you acting differently when he came back?

A No, sir, I was -- there were question marks. I had some things on my mind, but -- you know, no, sir.

Q Okay. At no point did you ask any questions? I mean they come running back is what you say, right?

A Yes.

Q Or come back quickly. You didn't say running, but they were coming back quickly, right?

A Uh-huh.

Q He still got the gun, right.

A Uh-huh.

Q You don't at any point decide to go, Tate what did you do?

A I mean, just as I said I never -- I didn't think he would put me in a situation like this man. You know, I mean I never -- I never fathom anything like this happening man.

Q Okay. Here's the issue. You say time and time again I didn't want to be in this situation. Yet you are going to testify that the man gets out with a gun goes to a place comes back still has a gun. Tells you to chill and another person in

the car says go, go, go, and you don't have one single question in your head?

A Some things ran through my mind, yeah. I am a human being man, but something like this, no, man. No.

Q And you were so concerned about it you drove back to the club, right?

A Yes, sir, I drove back to the club.

Q Hung out with him?

A Yes, sir.

Q Did you talk to anybody at the club about what you thought happened?

A No, sir.

Q In fact you all left together then didn't you?

A Yes, sir.

Q Took him back home right?

A Yes, sir.

Q Take him to the very same spot that you suspect something has happened at, didn't you?

A Yes, sir.

Q Still nothing. You don't -- you don't suspect anything? You don't say anything? You don't ask anybody anything?

A Like I said sir, of course I had thoughts sir. But as I stated before something -- something of this nature, no, I never -- I never seen anything like this. Never thought about

anything like this taking place man.

Q I understand. I understand. Okay. The time that you are all in the club -- well, let me start with something else. Do you ever see any money? Are you paid the money that you were owed for this trip?

A No, just some beers were bought and that was it.

Q Okay. Did you see anybody come back with any money?

A No, sir.

Q Did you see anybody come back with anything whatsoever?

A No, sir.

Q After everybody is dropped off in Newtown -- well, let me ask you this. You got the car from over in Newtown, right?

A Yes, sir.

Q Okay. You are saying you got issues in your head now. You are kind of rolling this around thinking about it, right?

A Yes, sir.

Q You don't think it is a good idea to take the car back to the guy you borrowed it from?

A Sir, there was no way I could get the car back. As I stated earlier when Mr. Barfield was questioning me the car was low on fuel and I parked it at the Piggly Wiggly.

Q No, sir, you said that was after you dropped Mr. Clinton off at [redacted] it was out of fuel. I am asking when you were in Newtown dropping the other folks off before you went back to [redacted]. You clearly had enough gas to go back over to

[redacted] Why didn't you take the car back over to the house it came from?

A Because I had to take Mr. Clinton home.

Q You think he just did something bad why are you worried about taking him home?

A Sir, at that time I didn't know what had happened sir. I didn't know what happened, until a day or few days later sir. That's when I knew what happened.

Q You didn't think anything had happened when he said I killed that bitch?

A I just didn't -- I didn't believe him man. I mean -- I mean bluffing and stuff like that. I mean I didn't believe him, cause knowing who I am as a person and telling me, and sharing something like that, by him nothing who I am it is just doesn't make sense for it to be true.

Q How long have you all known him?

A He's my relative. I've known him pretty much all my life.

Q And had is how he jokes -- he jokes about killing people?

A I mean, I didn't believe him man. That's the truth.

Q I believe you said today and on March 8th that you were shocked when he said that. If you didn't believe him why are you shocked?

A Because if somebody told you that they killed somebody

what would go through your mind at that time. Wouldn't you have some thoughts about it for a second.

Q It's the very same question I am asking you.

A Yes, I had thoughts but by him nothing who I am I didn't believe him.

Q Okay. How did the gun end up in your possession? Initially does he leave it in the car, what does he tell you anything about it how do you end up with it?

A He left it in the glove compartment and told me to hold it for him.

Q Okay. You didn't think about it then you weren't worried about it?

A No, I wasn't.

Q So you drop him off. Do you all -- is there any more conversation after he says I killed that bitch. Is there any more conversation?

A No.

Q Is this just before you get into the trailer park you all going down 200 or do you have any idea where you are?

A I want to say we are riding.

Q Understand that. Can you tell me where?

A We were getting close to [redacted].

Q Were you on 200?

A Yes.

Q Okay. All right. And you have no verbal response,

when he says this to you?

A No, sir.

Q Okay. Running out of gas most convenient place to park it is as Piggly Wiggly just up the road a little bit?

A Yes, sir, I was at the light.

Q Got any idea about what time it is at that point?

A It was --

Q Guesstimate, your best guess.

A It was real late, a.m.. It was in the morning, five, six, it was late. It was very late.

Q Okay. And when you all had initially gone over to the trailer park it was about what time?

A It was late as well.

Q But was it a.m. or p.m.?

A It was p.m.

Q You had a couple of hours kicking this around in your head, right? He just told you I killed that bitch. Says hold on to this gun. You park the car at the Piggly Wiggly parking lot and take the gun?

A Yes, sir.

Q You suspect that something bad has happened, right?

A Nothing like this sir.

Q You suspect something bad has happened and this gun is involved, right?

A No, sir. Nothing like this sir. I didn't. As I told

you before I didn't believe him when he told me sir and because if I would have believed him then do you think I would have took the gun.

Q That's what I am asking you why did you take the gun?

A Because, I -- I mean I didn't -- I mean, I just thought about selling it and you know, getting some money for it because I didn't have a job at the time.

Q A man just told you he killed somebody, it could be with that gun and your first thought is selling it for some money?

A Yes, sir.

Q And you kept it for a couple of weeks, right?

A Yes, sir.

Q And you sold it to a relative is that what you told us? You sold it to relative?

A Yes, sir, I did.

Q A gun that you had reason to believe had some issues and you pass it on to a relative?

A Yes, sir, just stupid man. I was.

Q All right. Now, going back briefly about Mr. McDow. You tell law enforcement -- you got arrested on March 8th, correct?

A Correct.

Q They locked you up, served a warrant and you are sitting in the jail on March 8th, you give this statement on

March 8th, correct?

A Correct.

Q Okay. So as soon as you had opportunity you told law enforcement your side of the story?

A Yes, sir, I spoke with them.

Q Okay. And at that time on that day you tell them two other people were in the car?

A Yes, sir.

Q Not three and I don't know that dude's name. Two.

A Yes, sir.

Q And what you tell the solicitor the reason why you didn't tell name is because you couldn't remember Mr. McDow's name?

A I couldn't.

Q That's the reason why you said it was two instead of three?

A And I mean I was -- I was scared too, sir. Just playing it back in my mind I was scared. I didn't want any involvement in this period, man.

Q All right. You carried this gun around for two weeks. What kind of gun was it?

A It was an either a 380 or nine millimeter.

Q Which is it? You had it for two weeks?

THE COURT: He's answered the question.

Q Do you recall what you told law enforcement on March

8th what you thought it was?

A Yes, sir.

Q What did you tell them?

A I told them that it was -- I said a nine millimeter.

Q Okay. And now you are not sure?

A It could have been either.

MR. FRICK: Thank you, Mr. Blakeney. I believe that is all the questions I have.

THE WITNESS: Your welcome sir.

THE COURT: Miss Raney.

CROSS EXAMINATION

BY MS. RANEY:

Q Mr. Blakeney, I have here in my hand what has been marked as State's Exhibit Number 54. I will bring it up to you first. This is an aerial photo of [redacted] neighborhood. Does that look familiar to you?

A Yes.

Q It does. Okay.

MS. RANEY: Could I ask him to step down off the witness stand to point out a few things to the jury Your Honor?

THE COURT: Keep your voice up. You may step down.

THE WITNESS: Okay.

THE COURT: Change places Miss Raney so your voice

travels back to the court reporter.

MS. RANEY: Do you want me over here, Your Honor?

THE COURT: Yes, ma'am.

Q Mr. Blakeney, do you recognize this as 200, this route here?

A Yes, sir -- I mean yes, ma'am.

Q You might want to keep your voice up.

MR. BARFIELD: Your Honor, may I move to that end?

THE COURT: Yes, sir.

Q Do you recognize this road here as 200?

A Yes, ma'am, I do.

Q Perfect. And then this area, this trailer here do you recognize whose trailer that would be?

A No, ma'am, I don't.

Q Do you remember where you parked the white Cadillac that night?

A From this view I can't. I can't really tell. I have a downward view. I can only see the top of the trailers.

Q Well, do you remember -- did you stop the white Cadillac in the roadway or in the grass? If you can't tell from here that is fine I will go ahead and sit back down?

A I pulled into a driveway.

Q You pulled into a driveway, and the driveway belonging to a trailer on [redacted]?

A Yes, ma'am.

Q Yes?

A Yes, ma'am.

Q But you not able to tell from looking at State's 54 which driveway that would have been?

A No, ma'am. It's just a bad view. Bad angle.

Q Okay. You can go ahead and take a seat back down. Is it fair to you say when you pulled into that driveway on [redacted] that it was dark out?

A Yes, ma'am.

Q Are there any, or do you recall there being any street lights in the area where you parked the white Cadillac that night?

A I think I remember one street light.

Q There may have been one street light?

A Yes, ma'am.

Q Did you leave the lights on, like the headlights on in the car when you left it parked there at [redacted] that night?

A I can't remember, ma'am.

Q If you don't remember I just want you to tell me the truth. Okay.

A I can't remember, ma'am.

Q And you said after the three gentlemen got out of the car they disappeared?

A Yes, ma'am.

Q Did you see which way they went?
A They went to the left side of me.
Q To the left side where the white Cadillac was parked?
A Correct ma'am.
Q Did you see Miss Jones front door from where you were situated?
A No, ma'am.
Q You could not?
A No, ma'am.
Q What would have been blocking your view to be able to see Miss Jones's front door, another trailer?
A As I said they were behind the trailer so I wasn't -- I wasn't sure which trailer they went in to ma'am.
Q Okay. So basically they get out of the car, correct, they run behind a trailer and then that's when you loose site of all three of them?
A Yes, ma'am.
Q Okay. And then you don't see them again until about ten minutes later when all three of them get back in the white Cadillac?
A Yes, ma'am.
Q So for that ten minutes that they are outside of the car you can't see who went inside of Miss Jones's trailer can you?
A Correct ma'am.

Q And you said that whenever Mr. Clinton said to you, I shot that woman, using different words that you were surprised, right?

A I was. I was speechless at first, I was.

Q So is it fair to assume then that you never heard a gunshot when you were parked there at [redacted] earlier that night?

A I never heard a gunshot ma'am.

Q Did you ever hear any type of loud or unusual noises when you had the car parked?

A No, ma'am, I didn't.

Q And you mentioned that you confined in a friend about what had occurred that night on [redacted]?

A Yes, ma'am.

Q Do you recall telling that friend that you actually buried the gun?

A Yes, ma'am I did.

Q Did you ever bury the gun?

A No, ma'am.

Q How much time did you have on the evening of the 19th in to the early morning hours of January 20th to actually see Mr. McDow? How much time did you spend with him?

A Can you repeat the question ma'am?

Q How much time from January 19, 2012 to January 20, 2012, did you spend with Mr. McDow?

A Not much time.

Q Not much time. Did you notice whether or not he was wearing a GPS ankle bracelet?

A Yes, I seen him with an ankle bracelets on in the Newtown area.

Q Do you remember seeing him with that ankle bracelet on that night?

A No, ma'am.

Q So are you saying you didn't see the bracelet or that you don't recall whether you saw him with bracelet?

A I didn't see him wearing a bracelet ma'am.

Q That night?

A Yes, ma'am.

Q Thank you.

MS. RANEY: I don't have any further questions.

THE COURT: Redirect solicitor?

MR. BARFIELD: No, sir.

THE COURT: Thank you. Thank you very much Mr. Blakeney. You may step down.

THE WITNESS: Yes, sir.

THE COURT: Who is your next witness?

MR. BARFIELD: Your Honor, this might be an opportune time to conclude the the non-jury matter that we almost finished this morning and we can just roll right through the rest of it after lunch if that

is okay.

THE COURT: That will be fine.

All right, Mr. Foreman, ladies and gentleman of jury perhaps now will be a good time for the jury to take a luncheon recess. Do not discuss the case during this recess. Remember to keep an open mind. Do not do any independent investigation or any investigation on the internet.

Please be back promptly at -- how long is our motion going to take.

MR. BARFIELD: I probably will just have one witness on this and just use concerning one brief matter, so it won't be like earlier.

THE COURT: Let's say two o'clock. If you be back promptly at two o'clock. Thank you all. I hope you have a pleasant lunch.

(Jury leaves the courtroom.)

THE COURT: All right, solicitor.

MR. BARFIELD: Your Honor, I will call Lieutenant Michael Green from SLED.

THE COURT: All right, if you come around and be sworn.

MICHAEL GREEN, called as a witness, having been duly sworn by the Court, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BARFIELD:

Q Tell us your name, please?

A Michael C. Green.

Q And you are the a lieutenant with the South Carolina Law Enforcement Division?

A Captain with the South Carolina Law Enforcement Division.

Q I denoted you, I'm sorry. Of all people I should know.

Were you working for SLED in January 2011/12?

A Yes, sir I was.

Q Were you a field agent assigned to I think the midlands region is what it is called?

A Yes.

Q Do you live here in Lancaster?

A Yes, sir.

Q Did you back then and did you on this particular case did you frequently get called out to assist local agencies with investigation?

A Yes, sir.

Q Did you on January 25th of 2012 have occasion to meet a person by the name of Al Martinez Green?

A Yes, sir.

Q Where did you meet Mr. Green?

A At the Lancaster County Sheriff's Office.

Q Was anybody else with you when you met with Mr. Green?

A Captain Craig Bailey.

Q Of the Lancaster County Sheriff's Office?

A Yes, sir.

Q And was Mr. Green in custody of law enforcement when you met?

A Yes, sir he was.

Q Had he been charged with an offense unrelated to the homicide investigation of Jenika Jones?

A Yes, sir.

Q I probably asked you this. Where was he when you saw him?

A We were in Captain Bailey's office at the sheriffs office.

Q Mr. Green been booked in and processed and dressed out, do you remember?

A I think at this point he had very recently been arrested and was not in jumpsuit or anything. In street clothes.

Q Okay. Was he restrained in any way that you recall?

A Not that I recall.

Q What was your purpose in being in Mr. Green's presence?

A We wanted to talk to him about the murder of Jenika Jones.

Q Was there any intention to question him about the matter he had been arrested on?

A No, sir.

Q To your knowledge was he questioned about the matter that he had been arrested on?

A I don't know. He may have. I don't know.

Q I am going to kind of jump ahead. Did you all get a written statement from Al Green when you talked to him on January 25th of 2012?

A Yes, sir, we did.

Q And did that written statement have anything to do with anything other than the death of Jenika Jones?

A It did not.

Q Okay. I will show you a document and ask you if you can identify and for the other lawyers, Miranda waiver 1-25-2012. Can you tell me what that is?

A Yes, sir. This is a waiver of rights by the Lancaster County Sheriff's Office.

Q Who actually did most of the writing on that form?

A Well, I filled out the form and Al Green initialed beside each line and also signed his name at the bottom.

Q What is that form generally speaking?

A It is Miranda warning.

Q Does it contain a list of all the Miranda warnings itemized from top to bottom?

A Yes, sir.

Q Does it also contain a paragraph at the bottom which I would call a waiver of those Miranda rights, those constitutional rights?

A Yes, sir.

Q Did you read that entire form for Mr. Green?

A Yes, sir, I did.

Q Did you ask him one by one concerning each of those rights whether he understood them?

A Yes, sir.

Q Did he indicate verbally or otherwise or both that he did understood them?

A Both verbally and I asked him to put his initials by each line and also sign at the bottom if understood.

Q And did he waive those rights and give you a statement?

A Yes, sir, he did.

Q And did he sign at the bottom of the statement?

A Yes, sir.

Q Let me ask you a few questions about the circumstances. Did you determine how old Mr. Green was?

A Yes, sir, I am sure I did. He was 19.

Q Did you determine what education he had?

A Yes, sir, he had a ninth grade education.

Q Did he ask you any questions about the rights that you had read to him?

A No, sir, I don't recall him asking any questions.

Q Did you have any difficulty communicating with him understanding words and phrases he was using to you?

A No, sir.

Q Did he appear to have any difficulty understanding words and phrases you were using to him?

A No, sir.

Q Did he say or do anything to make you think he did not understand what his constitutional rights were?

A No, sir, he did not.

Q How long was Mr. Green in your presence for the purpose of this statement?

A Probably about one hour.

Q Does the statement indicate what time the rights were read, or does the Miranda form indicate what time the rights were read?

A 2:12.

Q P.M.?

A Yes, I sure it would be have been p.m. It was daylight.

Q Is there any other time on the statement, at the end of the statement or during the statement itself that indicates when the statement was taken or completed?

A Yeah, the statement was completed 3:40.

Q That is is fine. That wasn't a trick question. So he

was with you about how long?

A I am sorry.

Q From the time Miranda was given until the time the statement was given was about about how long?

A About three hours. A little over three hours.

Q During that time again was he restrained in any fashion that you recall?

A I don't recall him being restrained at all.

Q Was anybody there for the statement other than you and captain Bailey with the sheriff's office?

A Just the two of us.

Q Did you and Captain Bailey have some indicia of being police officers, markings or badges or something on your persons?

A Yes, we would have badge and gun on.

Q Anybody pull out a gun and use a gun during the taking of this statement?

A I would of course not. And I was trying to think of one other thing. There may have you been an officer in or out of the room, but Captain Bailey and I are the only two primary people that I recall being in there.

Q Did Mr. Green at any point in time during the process ask for anything, creature comfort type things, like a drink of water, smoke, something to eat, something to drink, go to the bathroom?

A I don't specifically recall that he did, but had he asked for that I would have certainly done that.

Q Did he ever ask to make a phone call, call mom, daddy, cousin, anybody like that?

A No, sir.

Q Did he at any time during the taking of this statement evoke any of those rights; number 1, the right to shut up and say I don't want to talk any more?

A No.

Q Did he ever say I want to talk to a lawyer before I continue to talk to you?

A No, sir.

Q Did he ever evoke either of those rights; the right to remain silent or the right to have a lawyer?

A He did not.

Q Did you all promise him anything to get him to talk to you about this Jenika Jones's death?

A No, sir.

Q Anybody threaten him to get him to talk to you about Jenika Jones's death?

A No, sir.

Q Use any kind of coercion or trick him into talking to you about Jenika Jones's death?

A No, sir.

Q Do you recall the conversation, his tenor, your tenor?

A Yeah, I recall that it was fairly cordial. I don't remember anything -- I mean, we challenged him. I remember telling him I don't believe this story, but as far as being heated or anything like that I don't remember it being like that at.

Q No yelling and screaming?

A No, sir.

Q Did he give a statement?

A He did.

Q About how many pages is the statement?

A It is two pages. Really about a page and a half.

Q Is that statement sort of a summary of the culmination of the interview?

A Yes, sir.

Q Is the statement actually written in your hand?

A It is written in my handwriting.

Q After the statement was given was it presented to Mr. Green?

A Yes, sir.

Q Did he read it?

A He did.

Q Did he appear to be reading it in your presence?

A Yes, sir, in fact I think I read it to him to make sure he was reading and everything was correct.

Q Did he tell you needed to change anything or you got

anything wrong?

A No, sir.

Q Did he sign the written statement when it was all over with?

A He did.

Q Did he confess to killing Jenika Jones or robbing Jenika Jones or doing anything illegal with respect to the victim Jenika Jones?

A No, sir.

Q Did he talk to you about where he had been that night?

A Yes, sir.

Q And the specifically was there any conversation with Al Green about the Hole in the Wall club?

A Yes, sir.

Q What did he tell you about the Hole in the Wall club the night that Jenika Jones was killed?

A He told me that guy name Gary in a gold vehicle I believe it says, took him to Hole in the Wall and that they gotten there about 11:30, 11:45.

Q All right.

MR. BARFIELD: Your Honor, at this time I would offer the Miranda form as a Court's exhibit.

(Court's Exhibit 7, Miranda Form, marked for identification as of this date.)

MR. BARFIELD: Thank you, sir. Answer anything

Mr. Frick or Miss Raney has.

THE COUTT: Mr. Frick?

MR. FRICK: No questions.

THE COURT: Miss Raney?

CROSS EXAMINATION

MS. RANEY:

Q Mr. Green -- when you were interacting with Mr. Al Green did he seem to be under the influence of any drugs or alcohol or substances?

A No, ma'am.

Q Were his questions that he may have asked you and answers that he may have answered did they seem appropriate, like he understood what was going on?

A They did seem that he understood what was going on. I didn't think they were truthful and we talked to him about that, but yeah, he did not seem impaired or being able to have any problem understanding.

Q So you didn't see any signs of him suffering from any type of mental or physical disability?

A Not at all.

Q Did he ever ask for anything to drink?

A If he did I don't recall and certainly we would have done that if he had asked.

Q Bathroom break?

A I am sorry.

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Q Did he ask for bathroom break?

A If we did I would have done that as well.

Q Nobody pulled a weapon on him or threaten him?

A No. No, ma'am.

MS. RANEY: I don't have any further questions Your Honor.

THE COURT: Okay. Redirect solicitor?

MR. BARFIELD: None, Your Honor.

THE COURT: Thank you. Thank you very much. You may step down.

MR. BARFIELD: Your Honor, I have an additional witness that I anticipate would say basically the same thing that he did and elect not to call him.

THE COURT: Can I see the Court's exhibit.

Any evidence -- any other evidence or testimony you would like to present Miss Raney?

MS. RANEY: No, I don't have any evidence or testimony but would like to be heard on something briefly.

THE COURT: All right. Yes, ma'am, I will be glad to hear from you.

MS. RANEY: While no testimony was elicited about it here today at the Denno hearing on page two of my client's actual written statement it says the officer testified there wasn't any discussion during this

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interview about the armed robbery incident of Nard Jeffrey Roseborough. There is actually about two sentences on page two of my client's statement saying I had no involvement with the armed robbery of Jeffrey Nard Roseborough about one month ago.

We would ask consistent with prior rulings in this case that when the officers are testifying about the statement given by my client there is absolutely no mention of the Roseborough incident or that portion of his statements unless of course the defense opens the door to that.

THE COURT: All right. Solicitor?

MR. BARFIELD: First of all I apologize to the Court for not remember that little statement was in there when I asked Captain Green that question. I don't intend to get into anything essentially other than what I asked Captain Green about the statement in this here.

THE COURT: Can I see the statement?

MR. BARFIELD: Yes, sir.

THE COURT: Do you object if I see the statement?

MS. RANEY: Not at all Your Honor.

MR. BARFIELD: And if the Court wants a copy I will be happy to make you a copy of it.

THE COURT: All right. That will be redacted.

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MS. RANEY: And the only other matter I had Your Honor, during the course of testimony the officer mentioned Mr. Green had been arrested on an unrelated offense. I don't think that's admissible in this case as well either, Your Honor?

MR. BARFIELD: Again, in front of the jury my intention would be simply to ask Captain Green if he was in custody and leave it at that.

MS. RANEY: Just leave it ---

MR. BARFIELD: Well, you know, I think the record has to show that it was custodial interrogation.

MS. RANEY: I am fine with that but we are not going to mention he was arrest on --

MR. BARFIELD: Absolutely not. I understand Your Honor. I don't want to do this thing again.

MS. RANEY: That works for me, Your Honor.

THE COURT: All right. Thank you very much. After reviewing the testimony of the officer and the Court's exhibit number 7, I find the totality of the circumstances that I must look at and the standard of the preponderance of the evidence the statement with the redaction as indicated is admissible under State versus Parker and State versus Washington. And further that the line "I had no involvement with the armed robbery of Jeffrey Nard Roseborough about a

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month ago" is redacted.

The nickname Capone is also on the top of the voluntary statement. It hasn't been used at all at this point in the trial, if you want to redact that solicitor.

MR. BARFIELD: I don't want -- I intend to banter that name around.

THE COURT: It hasn't been heard by the jury at all.

MR. BARFIELD: I don't intend to put the statement in. I just intend to ask the officer to quote from it.

THE COURT: All right.

MR. BARFIELD: But I have no objection to you redacting that it in case there is some need to put the written statement in.

THE COURT: All right. It is admissible. Thank you. Thank you, very much. Anything further solicitor?

MR. BARFIELD: No, sir.

THE COURT: Are you going to finish today? Are you going to rest today?

MR. BARFIELD: I think I am.

THE COURT: By when?

MR. BARFIELD: I will tell you what I got. I got

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maybe just two officers concerning statements and then some wrap-up stuff, an investigator or two. Not long testimony from the State's part of it. It could be some lengthy cross. I don't know.

THE COURT: All right. We will be in recess until two o'clock. Thank you.

MS. RANEY: Thank you, Your Honor.

(Recess was taken and the trial continued at two o'clock.)

THE COURT: All right, anything from the State.

MR. BARFIELD: No, sir.

THE COURT: Mr. Frick?

MR. FRICK: Yes, sir, ready to go.

THE COURT: Miss Raney?

MS. RANEY: Nothing from me, Your Honor.

THE COURT: All right. Bring the jury in.

(Jury enters the courtroom.)

THE COURT: All right. Welcome back ladies and gentlemen. I hope you all had a pleasant lunch. We are continuing the trial of the case, the presentation of evidence and testimony by the State, in its case in chief. If you would please continue to give the parties your complete and undivided attention. Solicitor, you may call your next witness.

MR. BARFIELD: The State recalls Fred Thompson.

THE COURT: Please come around, Mr. Thompson, you are still under oath.

DIRECT EXAMINATION

BY MR. BARFIELD:

Q Mr. Thompson, a couple of miscellaneous things first. Do you know whether or not Tate Clinton had any relatives in the trailer park on [redacted] when this event was going on?

A Yes, I do.

Q Who?

A His grandmother lived on [redacted].

Q Do you know where in relation to Jenika Jones's trailer [redacted]?

A Jenika's back door was Tate's grandmother's front door.

Q Side by side?

A Side by side. Her address is [redacted].

Q Did the sheriff's office, you investigators, become aware of Delrico McDow's potential involvement in this case?

A Yes, later on.

Q Did the sheriff's office become aware of information concerning a gun that might have been used in this case?

A Yes, sir, we did.

Q What did the sheriff's -- what did you do to try to track down this handgun?

A The name that Mr. Blakeney gave us, provided to us as being the relative that he sold the gun to he also provided a

location that this person lived, an apartment put, so I went --

Q Don't quote anybody, but just tell us what you did?

A I actually went out to the apartment complex, spoke with the person's mother. She put us in contact with him and he denied.

Q Was the gun recovered?

A No, it wasn't.

Q Any efforts left unturned to find that gun?

A We exhausted all efforts trying to locate it.

Q Are you familiar with the Hole in the Wall club?

A Yes, sir, I am.

Q Do you know whether it is open now or not?

A I don't think that it is.

Q What is the Hole in the Wall? What is or was the Hole in the Wall club? Did it have another name?

A Sometimes it goes by Self Controlled Brothers. There is a sign out front that says Self Controlled Brothers, but most people know it as the Hole in the Wall.

Q And where is this location?

A South Market Street. It use to be the feeding farm little store. On the right if you are going down market as if you are going out towards Old Cannon Highway the feeding farm is on the right. Self Controlled Brothers was just a little further down through the light on the left.

Q Do you know where Portabell Lumber Company is?

A Yes, I do.

Q It is anywhere near Portabell Lumber Company?

A It is. It is right across the street from there. Maybe 2/10's of a mile north.

Q Now, in connection with your investigation of this case did you have occasion to met Tate Clinton on January 27th of 2012?

A Yes, sir, I did.

Q Was he arrested and in custody?

A Yes, he was.

Q Where did you meet Tate Clinton on that day?

A In our detention center.

Q Was he in a cell?

A Yes, sir he was.

Q Were you in the cell with him?

A No, sir, I was not.

Q On that date did you read him any Miranda warnings and tell him what his constitutional rights were?

A No, sir, I did not.

Q Did you have some conversation with him?

A Yes, sir, I did.

Q Who initiated the conversation?

A He did.

Q At the time you were talking with Mr. Clinton that day -- first of all did you know approximately how old he was?

A Approximately. I knew early twenties.

Q Did you have any definitive knowledge of his educational level?

A I had no idea.

Q Did you have occasion to observe him that day?

A Yes, sir, I did.

Q Did he appear to have any physical injuries or physical discomfort or illnesses or anything going on with him?

A No, sir, I didn't see anything like that.

Q Did you have any difficulty understanding words and phrases he was using with you?

A Not at all.

Q Did he appear to have any difficulty understanding words and phrases you were using with him?

A No, sir, he did not.

Q At any time during your conversation with Tate Clinton on January 27th did you make him any promisees about anything?

A No, sir.

Q Did you make any threats -- first, let me back up. Did you make any promisees in exchange for information he might provide you?

A No, sir I did not.

Q Did you make any threats against him to attempt to make him give you information?

A No, sir.

Q Did you do anything to coerce him to tell you anything?

A No, sir.

Q Did he give you any information about his whereabouts the night of Thursday January 19th of 2012?

A Yes, sir, he did.

Q Where did he tell you he had been?

A He told me that went to the Hole in the Wall nightclub on Market Street.

Q Did he tell you how he got there?

A Yes, sir. He told me he was taken there by his cousin Tony Cunningham.

Q All right. Did you have occasion to see Mr. Clinton again on February 23rd of 2012?

A Yes, sir, I did.

Q Was he still arrested and in custody?

A Yes, sir he was.

Q Where did you see him that day?

A At the sheriff's office.

Q Where at the sheriff's office -- was the sheriff's office out, further out on Pageland Highway in the old location?

A Yes, 1941 Pageland Highway.

Q And where within the sheriff's office did you see Mr. Clinton that day?

A Its like a break room type area. Often times there is vending machine -- well, there were vending machines in there at

the time.

Q Who else was present when you were with Mr. Clinton on 2-23 of '12?

A From the sheriff's office Captain Craig Bailey was with me and Mr. William Frick was there with Mr. Tate.

Q And did you understand what capacity Mr. Frick was there with Tate Clinton that day?

A Yes, sir, I did.

Q And what was your understanding of Mr. Frick's capacity with regard to Tate Clinton that day?

A He was there to insure that Mr. Tate's rights were not violated.

Q Was he his lawyer?

A Yes.

Q Okay. Did you read Mr. Clinton his Miranda warnings that day?

A Yes, sir, I did.

Q I will show you a document and ask you if you can identify what this is?

A This is a copy of the Miranda warning that we read to Mr. Clinton.

Q Let me back up just a minute. On 1-27 of '12 was there any written statement produced as a result of your conversation? Any written statement about Tate Clinton as a result of of your conversation that day? Did he give a written statement?

A No, sir, he did not.
Q Now, what is the purpose of that document in its general sense?
A The Miranda warning?
Q Yes.
A I could read it if you need me to.
Q Well, let's do it one time.
A Okay.
Q Let me ask you some questions and then once we will get to you read the whole thing. Is that document specific to your conversation with Mr. Clinton on 2-23 of '12?
A Yes, sir.
Q Did you read that document in its entirety to Mr. Clinton?
A Yes, sir, I did.
Q Generally speaking what is the top part of that form? Not specific, but generally what is the top part of that form?
A As it relates to the top portion?
Q Well, the top two thirds of the form, I guess. What is all that about?
A Basically the first part of this form gives you just a little bit of information about the person, there name, their educational level, are they under the influence of any type of drugs or alcohol.
Q Well, let's just go ahead and answer the questions

about Mr. Clinton concerning that. Did you determine on that date what you his age was?

A Yes, sir, we did.

Q And is it written on that document anywhere?

A Not on this form. It is actually on the report, the actual report.

Q And what is the next thing you did with that form?

A Last grade completed in school.

Q What did he say?

A Ninth grade.

Q Okay. What is next?

A Are you under the influence of any type of drugs or alcohol and he indicated that he was not.

Q Okay?

A Can you read and write the English language and he -- we actually checked no on that one.

Q Do you know whether he could read and write?

A Yes, sir.

Q Did you make a mistake?

A Yes, sir, I did.

Q That's fine. What's next?

A The place of the interview. I put LCSO for Lancaster County Sheriff's Office. The date at that time was February 23, 2012, and the time was 1:45 p.m.

Q And 1:45 p.m. would be the time when you are going over

that form with Mr. Clinton?

A Yes, sir, that's when we began this process.

Q What is after the recording of the time? What starts after that?

A This is when we begin to read and explain his Miranda warning.

Q And are they printed on that form?

A Yes, sir.

Q If you let me ask about the procedure first. How do you go through those warnings with a person that you are interviewing, specifically Mr. Clinton?

A We read each one. What we typically do is read out one of the warnings and ask them do you understand your rights and what we typically do if they indicate yes they do we ask them to just give us a summary of what they think it means. If they are completely wrong we will explain to them. But even if they are right we make sure that they understand fully as best we can explain to them what their rights on.

Q And once you convinced yourself that the person understands is there some way that you record that understanding on that document?

A Yes, sir. We ask them to initial it that they do understand their rights.

Q And what is the first right you read to Mr. Clinton that day?

A We make sure he had the right to remain silent.
Q Did he understand?
A Yes, sir he did.
Q Did he initial it?
A Yes.
Q Next.
A Anything you say can and will be used against you in a court of law.
Q Did he he understand?
A Yes, sir, he did.
Q Did I initial it?
A Yes, sir, he did.
Q Next.
A You have a right to talk to your lawyer and have him present with you while you are being questioned.
Q Did did he understand?
A Yes, sir.
Q Did he initial it?
A Yes, sir.
Q Was his lawyer present with him?
A Yes, sir, his lawyer was present with him.
Q Next.
A If can you not afford to hire a lawyer one would be appointed to represent you before any questioning if you wish.
Q Did he understand?

A Yes, sir.
Q Did he initial it?
A He did.
Q Next.
A You can decide at any time to exercise these rights and not answer any questions or make any statements.
Q Did he understand?
A Yes, sir, he did.
Q Did he initial it?
A Yes.
Q Next.
A Do you understand each of these rights as I have explained them to you and he indicated he did understand and he initialed it.
Q All right. Then what?
A Having these rights in mind are you willing to talk to us at this time.
Q How did he respond?
A He indicated that he would by initialing it.
Q Next.
A Under that is the waiver of right.
Q Okay.
A And the waiver of rights indicates I have read my statement of my rights and understand what my rights are. I am willing to make a statement and answer questions. I do not

wants a lawyer at this time. I understand and know what I am doing. No promisees or threats have been made to me and no pressure or coercion of any kind has been used against me.

Q Did he somehow acknowledge the information in that paragraph?

A He did.

Q How did he do that?

A We actually X'd that out because it did not apply.

Q Okay. And it didn't apply because why?

A Because his attorney was with him.

Q All right. What is the below that?

A He was asked to sign it and he actually applied his signature to the form.

Q Who else signed it if anybody?

A Captain Bailey with the sheriff's office signed it, I signed it and Mr. Frick also witnessed him.

Q Any other writing on that document that we haven't covered?

A There is an X for some other reason on here. Some other X.

MR. BARFIELD: Your Honor, at this time I would offer the Miranda warnings from 2-23 of '12 as the next State's exhibit.

MR. FRICK: No objection.

MS. RANEY: No objection.

THE COURT: State's 61, entered without objection.

(state's Exhibit 61, Miranda warnings, received in evidence as of this date.)

Q Again, on 2-23 of '12 was there any apparent communication difficulties between you and Mr. Clinton?

A None at all.

Q Did Mr. Clinton ask any questions about his constitutional rights?

A He didn't ask us any. We can only assume that he spoke with his attorney if he had any.

Q Well, in your presence --

A No.

Q -- ask you any questions --

A No, he did not.

Q -- about his rights?

A No, sir.

Q Did he say or do anything to indicate that he did not understand what his rights were?

A He did not.

Q Did he talk to you and make a statement?

A Yes, sir, he did.

Q And again was there a -- did he provide a written statement or just orally discuss things with you?

A Orally discussed things with us.

Q Approximately how long -- first of all. Do you recall

whether Mr. Children was restrained in any fashion in the room, in the break room at the sheriff's office while this conversation was going on?

A I can't remember for certain, but I do know escorting him from out detention center over to the break room area according to department policy he would have to have on leg irons. He would have to have on belly chains, but often times while we are doing an interview most of the time the person's hands would be unrestrained so they can sign the waiver of rights, and other paperwork.

Q Do you have any specific recollection of any undo restraint I guess of Mr. Clinton during this interview?

A I don't.

Q About how long was Mr. Clinton in your presence during this interview?

A I know for certain it was well over an hour.

Q Okay. During that time to your recollection did anybody else with the sheriff's office or law enforcement other than the people you already mentioned step in, participate, have any involvement in the interview?

A No, sir.

Q And at any time do you recall whether or not Mr. Clinton made any requests for what I call comfort items like a bathroom break, something to drink, something to eat, cigarette, anything like that?

A I don't remember anything particular right off.

Q And again during this interview did you notice any physical injuries or any signs of physical discomfort on the part of Mr. Clinton?

A No, sir.

Q Did anybody from law enforcement make any promisees to Mr. Clinton on 2-23 of 12 to get him to give you information?

A No, we did not.

Q Same question with relating to threats. Did anybody make any threats to Mr. Clinton to get him to give you information?

A No, sir, we did not.

Q Did anybody in any fashion by law enforcement coerce Mr. Clinton in talking to you?

A No, sir.

Q Did he waive all his rights and talk to you?

A He did.

Q I will ask you a few specific questions. Generally speaking the subject of the conversation between you and Mr. Clinton was what?

A Basically trying to find out where he was on the night that Jenika was killed.

Q And were your questions and was the conversation focused on that night?

A Yes, sir.

Q Again did he tell you where he had been the night of Thursday, January 19th of 2012?

A He did.

Q Where did he say he had been?

A At the Self Controlled Brothers or at the Hole in the Wall.

Q Did he indicate anything to you about what he had been wearing?

A Yes. He indicated that he had been wearing a camouflage jumpsuit.

Q Was there ever any discussion with Mr. Clinton about a blue jumpsuit?

A Yes, sir, there was.

Q Who started off that part of the conversation?

A He actually brought up the conversation about the blue jumpsuit.

Q Did you question him about his ownership or possession of a blue jumpsuit?

A I did.

Q What was his response?

A He indicated that he actually owned the blue jumpsuit but he loaned it out to two other people on a couple of different occasions.

Q Did he give you the names of those other people?

A He did.

Q What names did he give you?

A He told us that one person was Reggie Stover.

Q Stop right there. Did he discuss who Reggie Stover was or where Reggie Stover lived?

A Yes, he indicated that Reggie actually lived with him at [redacted].

Q Okay. While we are talking about that, did you all have any discussion -- while we are talking about [redacted] did you and Clinton have any discussion about his knowledge of the victim, Jenika Jones, or where she lived? Was there any discussion about that at all?

A We did.

Q What did he say about that?

A He didn't know that she lived in the mobile home right beside his.

Q You said Mr. Clinton talked about two people that he said he had loaned the jumpsuit to?

A Yes.

Q Who else did he say that he had loaned the jumpsuit to?

A A person by the name of Wayne, but he did not know Wayne's last name.

Q Okay. Did you and Mr. Clinton have any conversation about the fellow by the name of Pomp Blackmon?

A We did.

Q What was the initial part of that conversation?

A Initially he didn't know Pomp Blackmon.

Q Did that change somewhere during the conversation?

A It did.

Q How did it change and tell the jury what Clinton told you by way of a change to that response?

A Well, later he indicated that he did know Pomp Blackmon. He had seen him around in various places throughout the county and he that knew what type of vehicle Mr. Blackmon own.

Q Did he indicate anything about whether he knew where Mr. Blackmon lived, generally.

A In the Newtown area. He knew he lived in the Newtown area.

Q Are you familiar with Pomp Blackmon's address?

A Yes, sir, I am.

Q And what area of Lancaster is that in?

A It is in the Newtown area.

Q Was there ever specific discussion with Mr. Clinton that day about white Cadillac with a rag top?

A Yes, sir, there was.

Q What was the initial discussion about a white Cadillac with a rag top?

A Initially he indicated that he didn't -- he had not seen a vehicle matching that description. Didn't know of anyone that owned one.

Q Did his response to that line of discussion change?
A Yes, sir, it did.
Q How did it change?
A Later he came to realize that he knew that Pomp Blackmon owed a white Cadillac matching that description.
Q Did you at some point ask Mr. Clinton whether he had ever been in or driven that Cadillac?
A I did.
Q What was his response?
A Initially he indicated that he never been in the vehicle. He had never driven the vehicle.
Q Was there some discussion during this interview about DNA connected with perhaps a blue jumpsuit or a white Cadillac?
A Yes, sir, there was.
Q Did Clinton have any response to any inquires you made concerning his DNA maybe being on either each one of those two items?
A Say it one more time.
Q Let me just ask you this point blank. Did you ever ask Clinton whether there was any possibility his DNA would be on the blue jumpsuit or the white Cadillac.
A Yes, sir I did.
Q Did he have some response as to questions first as to the blue jumpsuit?
A Yes, sir.

Q What was his response to that?

Q He told me that he touched the jumpsuit several times as he moved it throughout the house, or as well as when he loaned it out to other people. So he indicated that his DNA should be on the jumpsuit.

Q How about the Cadillac? Did he have any response to your query about whether he might have some DNA on that Cadillac?

A He did.

Q What was his response to that?

A That he leaned on the car to talk to a female that we can only assume was in the car.

Q And did he say when and where that occurred?

A It happened at the Hole in the Wall on the night that Jenika was killed.

Q Did you have occasion to met with Tate Clinton a third time on 3-9 of '12?

A Yes, sir, I did.

Q Where did that meeting occur?

A In our detention center.

Q Was Mr. Clinton still arrested and in custody?

A Yes, sir, he was.

Q On that date did you again go over Mr. Children's Miranda warnings and the waiver with him?

A No, sir, I did not. At that time I did not.

Q Okay. At any time that day did you?
A Yes, sir, I did later that day.
Q Can you identify that piece of paper?
A Yes, sir, I can.
Q And what is that piece of paper generally?
A This is an another copy of Miranda warning.
Q Related to what person?
A Devantee Clinton.
Q And what date?
A March 9, 2012.
Q Is the form the identical form for State's Exhibit Number 61 which you identified as 2-23 Miranda warnings?
A Yes, this is identical.
Q Same piece of paper?
A Yes.
Q Did you follow the same process on 3-9 of '12?
A Yes, sir, we did.
Q Anything different about the process meaning how you went through the form and how you asked him the questions and how he responded?
A The only thing we probably spent more time on was just, you know, the forth warning indicating again that if he can not afford to hire a lawyer one would be appointed to represent him. That was the only thing we spent more time on then before.
Q Did he still have a lawyer, Mr. Frick, on 3-19 of '12?

A He did.

Q And did you know that?

A Yes, I did.

Q Nothing had changed about that as far as you know?

A No, sir.

Q Generally, you hold on to the form. Did you read him all his rights that day?

A I did.

Q Did he indicate whether or not he understood each one of them?

A He indicated he did understand.

Q How did he indicate that to you?

A By putting his initial on each line next to the warning or the right.

Q Did he sign the form?

A He did.

Q Did he provide some information to you that day?

A He did.

MR. BARFIELD: Your Honor, at this time I offer this Miranda warning associated with the 3-9 of '12 interview as State's 62.

MR. FRICK: No objection.

MS. RANEY: No objection.

THE COURT: State's 62 is in evidence without objection.

(state's Exhibit 62, Miranda warning, received in evidence as of this date.)

Q Mr. Thompson, generally speaking, who initiated -- as between you and Devatee Clinton on 3-9 of '12 who initiated discussion about anything?

A Mr. Clinton initiated the conversation.

Q And was there some discussion again about the Jenika Jones investigation?

A Yes, sir.

Q As far as you know had anything changed about -- stupid question -- his age or education between 2-23 and 3-9?

A As far as I know nothing had changed.

Q On that date did he say or do anything to make you think that he did not understand what his rights were?

A He did not.

Q Did he appear to be under any physical or emotional distress that day?

A No, sir.

Q Did you have any problems communicating with him that day?

A No, sir.

Q Did he say or do anything to make you think that he didn't understand what his rights were?

A He did not.

Q How long were you all together that day?

A That interview was probably less than an hour.

Q And where did that interview occur?

A In the sheriff's office. We actually brought him up to the sheriff's office.

Q Who else was present that day, if anybody?

A Captain Craig Bailey was actually in on that interview.

Q Were the circumstances of the location any different that day?

A No, sir.

Q Was Mr. Clinton's restraint circumstances any different that you remember that day?

A No, sir.

Q At any time that day did he make any requests that were denied; creature comfort type things?

A No, sir, not that I remember.

Q On that day did anybody promise him, make him any promises to get him to provide information?

A We did not.

Q Make any threats to him to get him to talk?

A No, sir.

Q Try to coerce him in any way?

A No, sir.

Q Did he give you a little bit of information?

A He did.

Q Specifically was there any discussion between you and

he -- you and him concerning Wayne Blakeney?

A We did.

Q What did he say about Wayne Blakeney?

A That he saw Blakeney.

Q Where?

A At the Hole in the Wall.

Q And traveling how?

A In the white Cadillac.

MR. BARFIELD: Thank you. Answer anything Mr. Frick or Miss Raney has.

THE COURT: Thank you, solicitor. Mr. Frick.

MR. FRICK: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FRICK:

Q Mr. Tompson, when you spoke to Mr. Clinton the first time, January 27th, was he brought over to you or did you go over to him?

A I went over to him.

Q And you spoke to him in a holding cell at the detention center?

A Yes, sir.

Q Was he behind a door or was a door open?

A He was behind a door. We actually spoke through a flap.

Q Okay. Now, you and I have both have idea about this

door did, but this is a solid door?

A Yes.

Q Metal door?

A Yes.

Q It has got a small window in it?

A Yes.

Q Can't really see in that window, and then there is a flap that items go in and out of?

Q Yes, sir.

Q About knee level?

A Higher than knee level about two or three --

Q You got to bend over to talk?

A Yes.

Q You were bending over to talk through?

A Yes, sir.

Q Were you making eye contact with Mr. Clinton?

A Yes, sir.

Q As far as a law enforcement person, not jail personnel, were you the only police officer that was standing there at the time or do you recall?

A I believe that I was the only one, but -- I believe I was the only one. If someone were with me I probably would have documented it.

Q That's fine. Do you watch cop shows?

A Now, no, sir.

Q I don't watch Law and Order. On TV shows and on movies and stuff you always see some police officer say read him his rights. The Miranda that you and solicitor went over is that what common referred to as the rights we are talking about?

A Yes. Yes.

Q You didn't read him his rights that day, did you?

A No, sir.

Q He spoke to you?

A Yes.

Q All right. And he told you that he had been over to the Hole in the Wall?

A He did.

Q And he told you that he was brought over there by his cousin?

A Yes, sir.

Q He also told what he was wearing, didn't he?

A Yes, sir, he did.

Q What did he say?

A He said he was wearing a camouflage jumpsuit.

Q All right. Let's skip ahead to the 23rd. The 23rd there was an arranged meeting. This was not a happenstance meeting, correct?

A That's correct.

Q You and I communicated on that didn't we?

A Yes, we did.

Q Mr. Clinton had made you aware you had an attorney and you contacted me so we could set up a meeting on this day, correct?

A Yes.

Q And that's the meeting that occurred, right?

A Yes, sir.

Q Okay. He was Mirandized at that time, obviously we see the form, right?

A Yes, sir.

Q And that time he said that he was wearing what? In that statement what does he say he is wearing?

A Again, he indicated he was wearing a camouflage jumpsuit.

Q Okay. He is wearing the camouflage and I started at the middle of it. He was at the Hole in the Wall?

A He was.

Q He talked about this blue jumpsuit but said it had been lent out?

A Yes, sir, he did.

Q So, I am guessing Mr. Stover is like a roommate. Were you able to determine who that is?

A I really don't know. I hate to assume, but this person he indicated lived with him.

Q Okay. And then some guy name Wayne?

A Yes.

Q Don't know anything --

A He didn't give us a last name.

Q Okay. Any indication where Wayne stayed at or anything like that?

A He didn't provide any additional information about the identity of who Wayne is.

Q Okay. All right. Then we get to Mr. Pomp Blackmon?

A Yes, sir.

Q Now, is it common when you are talking to somebody in the case that they are not necessarily forthright with everything at the very beginning?

A Yes, that is common.

Q So initially he tells you I don't know who Pomp Blackmon is, right?

A Yes.

Q But he does as the conversation goes on tell you, yeah, I know who Pomp Blackmon is?

A Yes.

Q I know what kind of car he has?

A Yes.

Q And it is the white Cadillac?

A Yes.

Q Do you recall about how long it took him for him to change his tune?

A I really can't. I don't know if it was 15 or 20

minutes or half an hour. I can't remember how long it took us to get to the point where he began acknowledge knowing him.

Q Do you recall how long this whole interview was?

A I am pretty certain it was well over an hour. It was a rather lengthy interview.

Q All right. But at some point in there he goes from saying, yeah, I do know who he is, right?

A Yes. Yes, he does.

Q All right. Talk about March 9th. Well, let me ask you this before we get to talk to him on March 9th. Had Mr. Clinton made any contact or attempted contact with you wanting to speak any further?

A No, sir.

Q Okay. Between January 27th and February the 23rd had he made any contact or attempted contact to talk with you further?

A No, sir.

Q Other than you and I communicating about setting up that meeting?

A That's correct.

Q So between February 23rd and March 9th he doesn't write you letter, you don't get word?

A No. No contact at all.

Q Only from me?

A No, sir.

Q He is still over at the detention center. Do you go see him or does he come see you?

A I actually go over to see him.

Q Later he gets brought over, right? I think that is what you said.

A Well, while we were there is when I bring him back over to our facility.

Q Okay. All chat a little bit. What makes you decide you need to bring him over to sheriff's department?

A He indicated that he wanted to see me without you.

Q Okay. All right. Now, you all had a conversation about that, didn't you?

A Yes.

Q You had me present on another interview. You knew he had an attorney. We had communication prior to that other conversation. You didn't make any contact on this one, correct?

A That's correct.

Q You took him on over then and then had a conversation with him?

A Yes.

Q Okay. And I think he was Mirandized on that one as well. He was read his rights?

A Yes, he was.

Q And on that one does he indicate he -- you were obviously asking him about the night in question, right?

A Yes. Yes, sir.

Q And he indicates that he was still consistent saying he was at the Hole in the Wall?

A Yes, that is correct.

Q And he did see this white Cadillac?

A Yes, that is correct.

Q He did not say he was in the white Cadillac?

A He did not say that.

Q And he says that he sees Mr. Blakeney in the Cadillac?

A Yes.

Q Were you present this morning?

A I was.

Q You saw Mr. Blakeney testify?

A Yes.

Q Is that the guy we are talking about?

A I never interviewed Mr. Blakeney.

Q Okay. All right. Well, do you know the Blakeney that he was talking about when he saw Blakeney. Did he say Wayne Blakeney?

A Yes, in my report it has Wayne Blakeney.

MR. FRICK: Okay. Thank you, sir, that is all the questions I have.

THE COURT: Miss Raney.

CROSS EXAMINATION

BY MS. RANEY:

Q Investigator Thomas -- Thompson. I am sorry. When were you speaking with Solicitor Barfield earlier this afternoon you mentioned that you were unable to locate this alleged gun at March Barnes. Was it at his residence?

A Yes, I believe it was his residence.

Q Does Marcus Barnes live with his mama?

A That is my understanding he lived with her.

Q Okay. Did you actually perform a search of the residence?

A We did not have enough to actually get a search warrant for the residence. If my memory serves me correctly there was so much time had elapsed between the incident and the time we received the information we just don't believe we could have gotten enough for a search warrant.

Q Okay, so when we are talking about the time that elapsed are you speaking of the time period when Miss Jones was killed up until the time period that you learned Mr. Barnes may have the gun?

A Yes.

Q I wanted to be sure we were talking about the same thing. And can you explain to the jury just the general process -- not specific to this case about what a search warrant is and how police go about getting them?

A Well, a search warrant to me is almost like writing any type of anything. You have to answer five questions; who, what,

when, where and how.

First of all the location. How you know that what you are looking for is in this location. Often times when we are doing things we have to determine the credibility of the person that we receive the information from. If we've had a long working relationship with someone it would be pretty easy to write a search warrant based off of what someone has provided to us. But if you just met someone today and they tell you they sold something forever ago, I just don't think a judge would give you a warrant.

You have you to make sure you have the location. Where you are going to search within our jurisdiction. When. I guess how you now it is there, when was it brought there. How do you know it's not gone. It is not as easy as just going to a judge -- I guess as Mr. Frick said watching television, I will call get a warrant. It is not that easy. It is a long detailed narrative of who you interviewed and how you know for certain that this information is there.

Q Right. So in this particular case you said you yourself did not apply to get a search warrant, correct?

A That's correct.

Q And you are not aware of any other police officer employed with the sheriff's office that may have tried to get a search warrant for Mr. Barnes's residence, are you?

A No, ma'am.

Q And going by the general description you gave of the search warrant process, if an officer had gone to a judge trying to get a search warrant in this case is one of the things that would have been included in that request the information you all received from Mr. Wayne Blakeney?

A Yes, we would have to to provide that information.

MS. RANEY: Thank you. I don't have any further questions.

THE COURT: Solicitor.

MR. BARFIELD: Nothing further.

THE COURT: Thank you. That you Mr. Johnson. All right, you may call your next witnees.

MR. BARFIELD: Call Captain Michael Green.

MICHAEL GREENE, called as a witness, having been duly sworn by the clerk, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BARFIELD:

Q Tell us your name, please sir.

A Michael C. Greene.

Q And Captain Greene by whom are you employed?

A South Carolina Law Enforcement Division.

Q How long have you been employed by SLED?

A 14 years.

Q Did you work in law enforcement before going to work

for SLED?

A Yes, sir, I worked at Lancaster Police Department prior to that for about ten years.

Q And what is your current job at SLED?

A I am captain over the special victims unit at SLED.

Q What was your rank and job description at SLED in January of 2012?

A I was an agent. I worked in the Midlines Investigative Regions and I assist local law enforcement with investing crime such as the one we are here for today.

Q And are you a Lancaster residence?

A Yes, sir.

Q Been for how long?

A About thirty five years.

Q Most of your adult life?

A Most of my life, yes.

Q Did you participate and assist is the Lancaster County Sheriff's office in the Jenika Jones homicide investigation?

A Yes, sir, I did.

Q And specifically on January 25th of 2012 did you meet somebody known as Al Martinez Green?

A Yes, sir.

Q Where did you meet Mr. Green?

A At the Lancaster County Sheriff's Office.

Q Was Mr. Green arrested and in custody when you met him?

A Yes, sir.

Q And did you meet him actually in the sheriff's office or out in the jail?

A Inside the sheriff's office in Captain Bailey's office.

Q I will show you a document and ask you if you can identify it for me please sir.

A Yes, this is a Miranda warning rights form.

Q Is it a SLED form or is the Lancaster County Sheriff's form?

A Lancaster County Sheriff's Office form.

Q Did you get that from somebody at the sheriff's office that day?

A Yes, sir.

Q Do you know -- tell me is it identical form except for the writing on it that Fred Thompson just described for us concerning Tate Clinton?

A Yes, same form.

Q Did you on that date read Mr. Green his Miranda warnings?

A Yes, sir, I did.

Q Verbatim from that form?

A Yes, sir.

Q I am not going to ask you to read the entire warnings but let me just ask you some general questions about what you did first.

Did you determine how old Mr. Green was or date of birth?

A Yes, he was 19 at the time.

Q Did he -- I will jump way a head. Did he give a written statement that day?

A He did.

Q And did you record his birthday on the written statement itself?

A Yes, sir, I did.

Q Did you determine how much education Mr. Green had?

A Yes, sir, I did.

Q And how far had he gone in school?

A He had completed the 9th grade.

Q Did you determine whether he had been drinking or doing drugs that caused him not to understand what was going on?

A He said he had not. Did not not appear to have been also.

Q Did you determine whether he could read and write the English language?

A Yes, he could.

Q What time was it that you were reviewing the Miranda warnings with Mr. Green?

A About 12 minutes after 12 noon.

Q I am not going to get you to read them all, but did you read every one of the warnings on that form that you have in your hand to Mr. Green that day?

A What I would have done is read it to him and then hand it over to him. Tell him to read it to himself. Make sure he understood each and every one of those rights and then initial beside each.

Q And did you do that with Mr. Green?

A I did.

Q And did he -- first of all, did he indicate that he understood each of those rights?

A He did.

Q Did he initial to indicate that he understood?

A Yes, sir, he did.

Q Did you go over the waiver portion of the Miranda process with Mr. Green?

A Yes, sir, I did that all at one time and he reviewed the entire form himself and then he signed at the bottom.

Q Okay. Did he waive his rights and discuss with you matters related to the death of Jenika Jones?

A Yes, sir, he did.

MR. BARFIELD: Your Honor, at this time I offer the Miranda warning waiver form from 1-25 of '12 as State's Exhibit Number 63, I believe.

MR. FRICK: No objection.

MS. RANEY: No objection.

THE COURT: States 63 in evidence without objection.

(State's Exhibit 63, Miranda form, received in evidence as of this date.)

Q Did you have any trouble communicating with Mr. Green?

A No, sir.

Q Did he appear to have any trouble communicating with you?

A No, sir.

Q Did he say or do anything to make you think he didn't understand what his rights were and what you all were engaged in at the time?

A He did not.

Q Did anybody participate with you?

A Captain Bailey with the sheriff's office.

Q And where in the sheriff's office was this going on?

A In Captain Bailey's office.

Q Was Mr. Green dressed out in the attire of the Lancaster County Detention Center do you recall?

A I believe he had street clothes at the time.

Q All right. Do you recall whether he was restrained in any you fashion?

A I don't recall him being restrained at all.

Q About how long did this interview process last with Mr. Green?

A It was a little over three hours from the time when I read him his rights until we completed the written statement.

Q All right. Other than you and Captain Bailey, did any other officers directly participate?

A No, sir.

Q At any time during this process do you recall whether Mr. Green asked for anything like a pee break, a smoke break, something to drink, something to eat, call mama, or anything like that?

A I don't think that he did. Certainly if he would have I would have obliged.

Q Anything or within reason?

A If he wanted a hamburger from Burger King we probably wouldn't have supplied that, but a cup of water, a drink, go to bathroom of course we would have.

Q Anybody promise Mr. Green anything to get him to talk to you all that day?

A No, sir.

Q Anybody in law enforcement promise him anything to get him to talk to you?

A No, sir.

Q Anybody in law enforcement threaten in any way to get him to talk?

A No.

Q Anybody in law enforcement do anything of a coercive nature to get him to talk?

A No, sir.

Q Do you recall the demeanor of the conversation on both sides?

A Yeah, I recall it being calm. You know, we challenged him on some things that we didn't agree with.

Q Okay.

A But it went well.

Q Anybody slamming on the tables or turning over chairs or slamming doors or anything?

A No, sir.

Q Okay. And did Mr. Green waive his rights and talk to you and give you a written statement?

A He did.

Q I will ask you just a couple real specific questions. At some point did you discuss with Mr. Green his whereabouts about the night of Thursday, January 19th 2012?

A Yes, sir, we did.

Q And did he indicate where he had been?

A He did.

Q What did he say?

A He said he had been at the Hole in the Wall somewhere around between 11:30 and 11:45 is when he got there.

Q Okay. Thank you sir. Answer anything Mr. Frick or Miss Raney has?

THE COURT: Mr. Frick.

MR. FRICK: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. FRICK:

Q Agent Greene you as SLED agent you come in to assist law enforcement when they call you, in correct?

A Yes, sir.

Q And that's what your role was in this case?

A Correct.

Q You assisted on many different things in this case didn't you?

A Several different things, yes.

Q Okay. Do you recall participating in an interview with with an Apipany Kirk?

A You know, if I saw her I might, but not right off the top of my head.

A I will show you what I think is part of an incident report. Glance through there and see if that refreshes your memory.

A I see my name on the report. I am sure it is correct, but I can't say today I have independent memory of that to be honest with you.

Q That's fine. I think it indicates you were present. It doesn't say that participation.

A We conducted quite a few interviews in this case as we do a lot of cases.

MR. FRICK: Okay. Thank you, sir. That is all the

questions I have.

THE COURT: Ms Raney.

CROSS EXAMINATION

BY MS. RANEY:

Q Special Agent Greene, when you met with my client Al Green was I there with you at all that day?

A No, ma'am.

Q Because Mr. Green did not ask to have his attorney present before he answered your questions?

A That is correct.

Q Okay.

Q Do you remember what day you first got involved in the investigation of this case?

A If I am not mistaken we would gotten a call the night it actually happened.

Q The night it actually happened.

A If it wasn't then it was the next morning. One of the two.

Q Do you recall actually being on scene at all either on the late hours of January 19th or wee morning hours of January 20th at [redacted]?

A I don't recall if I was there the night that it happened or the next morning maybe we went back to look at something. It was one of the two, but I don't recall which.

Q So fairly soon after the incident happened?

A Yes, ma'am.

Q And you mentioned when speaking with Mr. Frick you talked to a couple of people throughout the investigation of this case?

A Yes.

Q Do you remember talking to the father of Miss Jones children Antonio Truesdale?

A I do not. If you got a document it might refresh my memory but right off the top of my head I do not.

Q I sure do.

MS. RANEY: May I approach the witness, Your Honor?

THE COURT: Yes, ma'am.

Q If you just want to take your time and read over that and let me know if that helps at all.

A Ma'am, I can honestly say I do not have an independent memory of this, but certainly I see the report. And let me explain briefly why that may be the case.

Investigator Crump typed this statement. I hand wrote Mr. Green's statement which obviously I had at lot more time and involvement in this statement then would I have something that maybe me and Investigator Crump did for ten minutes and then on to something else.

Q And over two years ago?

A Yeah, and then again if I saw this gentleman that might

help and you know, things like that, but just right off the top of my head I don't recall this statement.

Q That is completely all right. If you don't remember that is the answer I want to hear.

Just one last question for you then, I will hand you up another report to see if you remember speaking with a Rashad Johnson at all on January 23rd of 2012?

A I do remember dealing with Mr. Johnson because I vaguely know his mother, so I do remember dealing with him and his mother with Investigator Crump.

Q Okay. Do you recall speaking with his mother as part of the investigation as well?

A We did talk to her at some point, but it was in relation to her son.

Q To her son Rashad Johnson?

A Right. Right.

Q Were you speaking with Rasha Johnson in this case because he was a person of interest at this time?

MR. BARFIELD: Objection.

THE COURT: That is hearsay. Let me see that statement.

(WHEREUPON, document handed to the Court.)

THE COURT: What is your objection, solicitor?

MR. BARFIELD: Technically I probably don't have a proper objection to the current question, but I think

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my objection was more anticipatory as being hearsay.

THE COURT: Step out Mr. Foreman, ladies and gentleman of the jury. Step out. Do not discuss the case during the recess.

(WHEREUPON, the jury leaves the courtroom.)

THE COURT: I take it this is evidence of third-party guilt?

MS. RANEY: No.

THE COURT: All right. Then what is the purpose of it?

MS. RANEY: I was not going to get into any of the statements made about what Rashad Johnson said to Special Agent Greene. I am not trying to point that Mr. Johnson did this. What I was trying to distinguish for later in an argument to the jury, Your Honor, is that they went out to speak to Mr. Johnson because he was a person of interest. Then I was going to ask Special Agent Green if he investigated any alibi after speaking with Mr. Johnson and followed up with his alibi that was given so that I could argue to the jury in closing, you know, they followed up with certain people's alibis that were given but never followed up with others. Not to say that Rashad Johnson did this. It was simply to get at something to critique of the police investigation.

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THE COURT: Goes to show the quality or the lack of quality of the investigation?

MS. RANEY: Of the police investigation.

THE COURT: Right. Solicitor.

MR. BARFIELD: Your Honor, I think -- I don't think that Captain Greene can answer those questions without it being based upon hearsay. Investigation of an alibi involves him talking to people; Rashad Johnson, maybe his mom, maybe other people that potentially were alibi witnesses and I don't think he can say he had alibi or he didn't have an alibi without relying on hearsay.

THE COURT: Well, I certainly think Miss Raney can ask about the quality of the investigation. I think she can ask that. I mean I think that is furt ground for any cross examination.

MR. BARFIELD: And I don't disagree with that. I think certainly she can ask.

THE COURT: And if the point is they investigated his alibi but they didn't investigate Mr. Green's alibi.

Have you been put on notice of alibi?

MR. BARFIELD: No, sir.

THE COURT: Does Mr. Green have an alibi? Doesn't there have to be notice under the rules?

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MS. RANEY: We -- I with respect to Mr. Green am certainly not entering an alibi, but it is not even with respect to Mr. Green. Mr. Clinton gave other information saying about where he was. It was going to be a general theme throughout my closing in this case, Your Honor, of all the things the police didn't do. Like not getting search warrants to go through the house and not following up on certain leads they may have received.

It was truly meant just as a commentary on the quality of the investigation and holes in the evidence leading to reasonable doubt, but ---

MR. BARFIELD: Your Honor, I don't disagree she can say did you investigate this person's alibi, that person's alibi, that person's alibi. Maybe they investigated some and maybe they didn't investigate others. But I think if she starts asking Captain Greene or any other law enforcement officer did the alibi pan out, did the alibi not pan out, that is dependant upon hearsay testimony or hearsay evidence.

THE COURT: What requirement would law enforcement have to investigate an alibi if a defendant is required under Rule 5-E notice of alibi to -- I don't know now, maybe you all don't do written motions.

Did you do a written motion requesting Discovery on

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notice of alibi, solicitor.

MR. BARFIELD: I did Your Honor and I told -- I was not provided any and was told that there was not going to be an alibi defense on the part of either defendants.

MS. RANEY: I don't intends on offering one.

THE COURT: Ma'am?

MS. RANEY: I don't intend on offering one.

THE COURT: Well, why would they have to investigate anything in that regard then?

MS. RANEY: My argument generally would be there were some things the police looked into like they should have in this case and some things they didn't. This was a very serious charge. This was a murder investigation. At this point in the status of the investigation they were kind of following up on things but at some point they started to turn a blind eye meaning they stopped sending stuff, the evidence they collected, the cigarette butts and the DNA swabs. It is all just part of a general theme of what they didn't do that is in my opinion establishing reasonable doubt in this case. But if Your Honor is not comfortable with it I still feel I have plenty more to argue.

THE COURT: That's quite all right, bring the jury

in.

All right, we will press on. She can ask about his knowledge.

MR. BARFIELD: Can she ask about result of the investigations?

THE COURT: Sir?

MR. BARFIELD: Can she ask about whether an alibi checked out or not.

THE COURT: You can. If you had any reason to suspect Rashad Johnson thereafter or any reason to suspect whoever. There is at lot the people of interest. To start from the body and you move out. We all know that.

MR. BARFIELD: Yes, sir.

THE COURT: You know that.

(WHEREUPON, jury enters the courtroom.)

THE COURT: All right. Miss Raney you may continue.

MS. RANEY: May Special Agent Greene answer my last question, Your Honor?

THE COURT: To be honest with you, you have to repeat it. I don't know if you have to for him or not but you have to repeat it for me.

CONTINUED CROSS EXAMINATION

BY MS. RANEY:

Q Would you like me to repeat the question?

A Absolutely, yes, sir.

Q Special Agent Green you had a chance to look over a document that I handed you an about an investigation you participate on January 23rd of 2012, correct?

A Correct.

Q And reviewing that document help refresh your memory about the investigation you participated in on that date?

A I remember talking to Mr. Johnson and his mother briefly in the investigation, you know, as far as details or what they said I don't recall that.

Q Do you recall if one of the reasons you were talking to Mr. Johnson was that he was a person of interest at that time in the course of the investigation?

A He was one of a number of people that we looked at during that time, yes, ma'am.

Q Okay. And since that time do you recall whether or not he had been ruled out as person of interest?

A Has he been ruled out as a person of interest as of today?

Q Well since any time since January 23rd of 2012?

A He was not charged with a crime in this case.

Q Okay.

MS. RANEY: Thank you. I no further questions.

THE COURT: Anything in redirect solicitor?

MR. BARFIELD: No, sir.

THE COURT: Mr. Frick?

MR. FRICK: No, sir.

THE COURT: All right. Thank you. Thank you, very very Captain, you may stand down.

All right, solicitor you may call your next witness.

MR. BARFIELD: Your Honor at the risk of in and out, I think I am a point where I need to kind of do a quick inventory.

THE COURT: All right.

MR. BARFIELD: We may be done, if that is okay.

THE COURT: All right. Mr. Foreman and ladies and gentleman of the jury, we will take a 15 minute recess. Do not discuss the case during this brief recess.

Thank you very much.

(WHEREUPON, there was a brief recess.)

THE COURT: All right. You had enough time solicitor?

MR. BARFIELD: Yes, the State intends to rest when the jury comes back out.

THE COURT: All right. So the State is going to rest. All right. Then the defense have a motion as far as the defendant Green, Mr. Frick?

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MR. FRICK: Do you want Clinton or Green?

THE COURT: I am sorry, defendant Clinton, Mr. Frick.

MR. FRICK: Your Honor, at this time the defense would make a motion for a directed verdict. Taking the evidence in the light most favorable to the State I do not believe there is enough evidence for the jury to consider it. It can be decided as matter of law by you. I think you heard, seen, there is obviously a lot of stuff in evidence. However, I think what the State has got against Mr. Clinton is a circumstantial case and merely a circumstantial case, not even a substantial circumstantial.

You got to have more than merely circumstantial for it to be decided by the jury and therefore I would ask you to direct a verdict in his favor.

THE COURT: Thank you. Thank you, very much Mr. Frick. Miss Raney.

MS. RANEY: Thank you, Your Honor.

With respect to Mr. Green based on all the evidence that the State has presented I have heard no evidence whatsoever pointing to him as the triggerman in this case. Therefore I am assuming the State is proceeding against him under an accomplice liability or hand of one hand, hand of all theory. Bearing that

in mind, Your Honor, from all of the evidence we've heard from the State over the last couple of days I have heard no direct evidence whatsoever against my client. The closest we have come to it would be the testimony of Mr. Blakeney who can not even state whether or not my client actually ever went inside of Miss Jones's trailer that night. He was unable to see him. He was out of his sight line.

Mr. Blakeney testifies -- I mean, he never sees my client with a gun. Never hears him have any discussion with either this co-defendant or any of the other could co-defendants in this case about going to do a robbery, intending to aid and assist in any way in hurting Miss Jones or performing any type of lick. In fact all of Mr. Blakeney's discussions appear to have been with Mr. Tate, Mr. Tate Clinton and Mr. Clinton is just saying hey I need to go pick up some money. There is no suggestion made that Mr. Clinton had a different conversation with my client at any time during the night of January 19th, 2012 indicating they had some other plan. Whenever all four of them, according to Mr. Blakeney's testimony, get back inside the vehicle its just Mr. Clinton that is saying things like chill, chill and my client allegedly along with Mr. McDow allegedly are just saying go, go. Get out

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of there. There is nothing put forth either at that point that my client came out of the house with the gun, with any spoils of any robbery from the Jenika Jones's house, much less that he even knew what happened inside the house that night or was doing anything to further aid and abet any crime that Mr. Clinton may or may not have committed.

The other evidence pointing that the State is using against my client would be all the circumstantial evidence whirling around what happened the day before, on January 18th.

We heard testimony from Jamal Twitty and Dominique Davis and both of there testimony was that it was Tate that was speaking of doing a lick. They never heard my client initiate any conversation about doing any type of lick. But from my notes from Miss Davis's testimony she is saying Mr. Green was present when Mr. Tate Clinton was suggesting doing a lick and she never heard my client agree to it. She never heard any details given about who we were speaking about. Just that simply my client was there and did nothing more than at best ask for clarification as to who Mr. Clinton was even talking about. Someone with a black car and the evidence that the State has put forth is that Miss Jones doesn't even have a quote, unquote

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car, she has a jeep.

Mr. Twitty's testimony also very circumstantial. And again it is Mr. Clinton that is is initiating conversation about doing a crime and he throws out there first with my client not even there. Hey, I want to do a lick Mr. Twitty. Can you get a ride. Do you want to come along and Mr. Twitt's response is, yeah, whatever. Mr. Twitty then says Al rolls up on their conversation and gives the exact same response that Mr. Twitty did; yeah, whatever. Kind of a brush-off. In fact when Mr. Twitty says Mr. Clinton is saying, yeah, let's go do this tonight my client refuses.

My client's own sister was called as a State's witness, Your Honor, in this case. By her testimony she is saying that my client actually lived with Jenika Jones. Miss Latoya Green is friends with Jenika Jones. Has known her since childhood. Has been with her for quite some time. She had a close enough relationship with her that she was named actually the godmother of Jenika Jones three children. Now, I would suggest to the Court that certainly if these children lived with my client, you know, they should be able to recognize him, at least the four-year-old.

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There is has been no testimony put forth that any one that was present or could have been present inside the home ever saw my client inside of the home. There was no testimony by Latoya Green there was any bad blood between Miss Jones and my client.

So Your Honor, coupled with all I had mentioned on top of the fact there is not one piece of DNA or forensic evidence linking my client either to the car or to the home we would put forward that the murder charge should be -- a directed verdict should be granted for my client on that charge.

THE COURT: All right. Thank you. Thank you, very much. Solicitor.

MR. BARFIELD: Your Honor, I submit as to both defendants there is sufficient evidence, both direct and circumstantial for the case to go to the jury. I specifically asked Mr. Clinton, I think if you look at only -- and I am not suggesting that the jury should, but if you look at the statement of Mr. Blakeney and the activities of Mr. Clinton which are verified by other witnesses, he is clearly in the middle of this. He is the initiator of this. There were -- let me just address it as to both of them.

The day before there were two conversations reported and testified to by witnesses saying that

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Clinton and Green were discussing doing a lick or a robbery. The very day before, the very night before Miss Jenika Jones was killed we got Jamal Twitty who got in to much more detail concerning the conversation that occurred in Carolina Court the night before the night of Jenika Jones's murder. He indicates that Tate Clinton says do you want to go do a whatever. He says that Al Green walks up, Tate Clinton asks Al Green if he wants to do it. Al Green says he is up for it, yeah, whatever. There is discussion about not doing it that night. The difference between Jamal Twitty and Al Green is Jamal Twitty there's no evidence in this case that Jamal Twitty followed through with any request that he provide assistance and participate in this robbery. Whereas there is ample evidence in this case that Al Green was in fact present in the white Cadillac along within Clinton, along with McDow, along with Blakeney. It is clear that they -- of course the jury has got to believe all this evidence -- it is clear that they went to [redacted]. It's clear that three people got out of the car, ran back to the car a few minutes later. It is clear that there was a gun present in the car before and after. It is clear that Clinton said take me out there to get some money. The jury can decide

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whatever they want to about what "gets some money" means. The gun is in the car after the robbery. The car is recovered. It is clear that's the car that was used in the robbery. The molding I submit is clearly the molding that came off that car found just up the creek from where Miss Jones lived.

There is some forensic evidence. Not a whole bunch. The DNA is not real good. There is evidence that the jury can consider. It is admitted evidence and they can take it for what it is worth and it is does to some degree tie Mr. Clinton to again to some degree to items recovered in this case, specifically the blue coveralls.

I just submit there is enough evidence as to both defendants for the case to go forward at this point and the jury can do what they think they should do with the evidence that has been presented

THE COURT: Thank you, thank you solicitor.

All right. Well, as I review the evidence and the standard that I must apply at this stage it appears there have been 22 witnesses presented, or actually 21. One of those twice. That being Mr. Thompson.

If you start with the analysis of the testimony of Dominique Davis hearing the conversation on 1-18-12 that Green and Clinton were talking about doing a

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lick. That Clinton said he still had Taz's gun and was not going to give it back. That was on the a.m. of the 18th. And then on the p.m. of the 18th there's multiple individuals outside of these same apartments; Mr. Twitty, Mr. Clinton, having a conversation. There is others around also -- about Clinton recruiting someone to do a lick. He asked Twitty. He did responds, yeah whatever, and then when Al Green came up he asked Al Green and Twitty's indication was he said yeah, whatever. That he was down for it.

There's a multiple witnesses that talk about the relationship between Clinton and Green. So within 24 hours, 36 hours of the homicide you have two separate and distinct individuals. One hearing a conversation between Green and Clinton about doing the lick. Another having that conversation with Clinton about doing a lick and then hearing Clinton ask Green and Green being down for it in that regard.

Now, you also have then I guess as you progress in time, you have different testimony from the -- one of the -- one of the individuals about the neighborhood of Newtown and that two individuals, black males go to Newtown and borrow a vehicle from Pomp Blackmon; a white ragtop Caddy that they are going to bring back within an hour and a half, two hours.

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Now, you have witnesses circumstantially, not only circumstantially and by more direct witnesses placing that Cadillac on [redacted]. That would be the testimony of Shakela Montgomery and her cousin Tameca Nelson that was coming home from Applebees and saw the vehicle coming out being driven in a fast, reckless manner, a white ragtop caddy. Both of them describe it as a white caddy and then Tameca Nelson further goes to say she saw that same car the next day over at the Piggly Wiggly. They further state that when they drive in there that night and they see that car coming out that they don't see police. They don't see EMS. They don't see a crowd. They don't see parties in there where something had potentially already occurred. When that car is both reported to Lancaster police and then recovered by Mr. Pomp Blackmon he testified he kept his car clean. Its got some red clay mud-type on it, it's kind of messy inside and further it was missing a piece of molding. I think that's by the 23rd when Detective Thomspon is out there at his house -- out there at Pomp Blackmon's house, and on that same day on the 23rd, Detective Thomspon goes out and locates the what appears to be molding off of the Cadillac on [redacted]. So, you got witnesses identifying it out there at particular

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time saying they saw it the next day -- one of them saying they saw it the next day at Piggly Wiggly. Then you have a piece of a car I would say, or at least just it's jury issue as to whether it is a piece of the car or not found on [redacted].

Going all the way back to Pomp Blackmon too, he did not identify anyone in this case however he does say four black males; one in the driver, one passenger and two in the back. That is the same indication that Mr. Blakeney testifies to that he is driving. Mr. Clinton is in the front. He is saying what he done earlier that day. Mr. Green and a person that he does not know at that time who is later identified as being identified as Mr. McDow is in the back seat. So, they got mode of transportation. They got the planning in mind to do a lick. They got tools in which to do a lick and I submit not only are the tools to do a lick but also the fact that they wear -- or at least one of them is wearing a jumpsuit. When the car is recovered by Mr. Blackmon and the police go out there and they find the -- he has already found the jumpsuit and you think there is the ID also from Tyson. Now, when you get to that jumpsuit and you get to the DNA analysis perhaps some of the numbers aren't very great, but there is some corroboration of Mr. Blakeney in the DNA

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analysis. DNA profile developed from item two is mixture of at least three individuals; Jenika Jones and Delrico McDow can not be excluded as a possible contributor to the mixture. That is swabs from the under side of the storm door handle exterior. That corroborates -- regardless of what the numbers are that corroborates Blakeney.

Item three profile -- item three swab from doorknob, DNA profile developed from item three is a mixture of at least two individuals. No conclusive statement can be made regarding the inclusion or exclusion of Jenika Jones and Devatee Clinton as possible contributors. Exclude Pomp Blackmon, Wayne Blakeney, Delrico McDow and Al Martinez Green can be excluded.

Item 6.1 which is a cutting from the jumpsuit excludes all parties. Item 6.2 is an unidentified male individual. Item 6.3 -- and I will note 6.2 is an unidentified individual. I do not see that Reggie the roommate that they got buccal swabs from him, unless I am incorrect in that regard. Item 6.3 Clinton can't be excused as a contributor. All this is coming from the jump suit. Item 6.4 is mixture of four individuals. Clinton can't be excluded. No statements can be made about inclusion or exclusion of

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Jones, McDow -- I should say Miss Jones, McDow, and Green in that mixture. That is a corroborating testimony as to Mr. Blakeney, where you have this mixture of individuals, again I say regardless of the numbers. Further from the statements given Green, Clinton and Blakeney were at the Hole in the Wall on the 19th.

Testimony of Miss Stradford that she was at -- I keep wanting to call her Chinos. Whatever the name of it is. I don't know how to spell it.

MR. BARFIELD: Crenshaw Oil Company, Crenco.

THE COURT: Crenco. And she was approach by Clinton wanting cigarettes and he was wearing that blue jumpsuit. The blue jumpsuit in evidence. Her testimony is he was wearing that blue jumpsuit is the testimony given. She told him oh, this friend of mine did you hear what happened to Jenika and he is not -- he is not interested. Well, he is not interested in this Court's opinion because he already knows what has had to Jenika or that can be an inference that could be drawn from the -- from the evidence.

Y'eisha Tinsley also testifed concerning the Hole in the Wall on the 19th. Again Mr. Clinton gives conflicting statements. Mr. Frick wants out on the cross examination of Mr. Thomspon, but it is not usual

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for someone not to tell the truth, the whole truth and nothing but the truth on there first statement to the police. The cross examination of Mr. Blakeney well, why didn't you tell him the truth on the first statement. So you have all this corroborating circumstantial evidence, and I would further add whether there is blood, whether there is fingerprints, whether there is hair, whether there is fiber, whether there is someone's driver's license at the scene, the absence of evidence is not evidence of absence. You have the testimony of Mr. Blakeney that says he was driving. Two individuals that he knew he identified. Three of them got out of the car, went in down there on the [redacted], came back in a hurry within ten minutes. The one with the gun appeared to be cool, calm and collected. He says chill. The other ones, lets go, lets go, lets go. I think that shows his manner in which he is driving that I don't know if he skimmed something, hit a rut or what, and that molding comes off. But I think there is both direct and substantial circumstantial evidence as to both Mr. Clinton and Mr. Green and I would be remiss if I didn't point out also the direct statement by Mr. Clinton to Mr. Blakeney that I killed that individual. Not by name but by expletive.

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All right. Anything further before we bring in our jury from the State?

MR. BARFIELD: No, sir.

THE COURT: All right, Mr. Clinton and Mr. Green and your attorney will you come around please.

MR. BARFIELD: I know what you are fixing to do. We did update the rap sheets and there is additional matters with the rap sheets that I shared with the lawyers.

THE COURT: All right. Mr. Clinton, Mr. Green I am going to back over not entirely, but what we started talking about yesterday concerning your right to testify or not testify. All right, solicitor what is the criminal history that would be subjected to cross examine of Mr. Clinton.

MR. BARFIELD: I believe as to Mr. Clinton is a 2005 assault and battery of high aggravated nature. That is the year of the conviction. Then in 2012 he was convicted of four offenses, three of which I think are useable for impeachment. You have assault and battery of high and aggravated nature, possession of pistol by a person convicted of a crime of violence, pointing and presenting a firearm and burglary 2nd degree, violent. He also had at the same time carrying a pistol which I concede would not be

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useable.

That's it for him.

THE COURT: All right. Do you agree with that Mr. Frick?

MR. FRICK: Your Honor, I agree that is his record. We might spar a little bit over whether they will be admissible. I would contend that the assault of offenses might be too close in nature to what we are in trial here for and would argue that would be not be admissible.

Regarding the burglary -- and I don't have the case in front of me, but I have argued before in other cases that the burglary is not probative for truthfulness in and of itself, of course that is the reason why we have the record.

Now, in all candor to the Court, I do not believe I would win those arguments, but would I put them on the record to preserve my client's transcript.

However, in discussing it with my client I think that is going to be a moot issue.

THE COURT: All right. All right. Well, of course I would think the burglary would be admissible under 609(A), punishable by imprisonment in excess of one year, that evidence accused has been convicted of such crime shall be admitted. If the Court determines

that the probative value admitting this evidence outweighs prejudicial effect to the accused -- and I will define the burglary second here. You know, that's a thin line on the assault and battery of high and aggravated nature. Is it a misdemeanor?

MR. BARFIELD: Both of those were under the old misdemeanor statute, the ten-year statute.

THE COURT: But you say that is going to be moot?

MR. FRICK: I believe it is going to be Your Honor. If that changes I will be glad to argue further.

THE COURT: Let me ask you this then Mr. Clinton, did you have opportunity to think about your right to testify or not testify?

DEFENDANT CLINTON: Yes, sir.

THE COURT: Have you made a decision about whether you are going to testify or not testify?

DEFENDANT CLINTON: Yes, sir.

THE COURT: And what is your decision?

DEFENDANT CLINTON: I ain't going to testify.

THE COURT: You are not?

DEFENDANT CLINTON: No, sir.

THE COURT: All right. You understand if you were to testify whatever charges you had that carry more than a year I would allow the prosecutor to ask you

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about those charges only as it went to the credibility, believability of your testimony. Do you understand that?

DEFENDANT CLINTON: Yes, sir.

THE COURT: Do you have any questions you would like to ask me about your right to testify or not testify?

DEFENDANT CLINTON: No, sir.

THE COURT: And that is your decision?

DEFENDANT CLINTON: Yes, sir.

THE COURT: Made of your own free will and accord.

DEFENDANT CLINTON: No, sir.

THE COURT: Do you need any more time to talk to your lawyer about that?

DEFENDANT CLINTON: No, sir.

THE COURT: Thank you. Thank you, very much.

Now what about Mr. Green, solicitor?

MR. BARFIELD: He has no convictions as an adult. He has two adjudications as a juvenile which I think under the rule would be useable for impeachment purposes. I think the rule says they would be usable for adult convictions juvenile adjudications come in. They are 2004 caring a weapon on school property, which I believe was a five year offense. And 2011 assault on a correctional facility employee.

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I think both of those relate -- I think the later relates to while he was incarcerated at DJJ. I think.

THE COURT: All right. I will be glad to hear from you on those Miss Raney.

MS. RANEY: Your Honor, I think we would have similar argument to Mr. Frick given the nature of the prior assault and weapons charge being to closely related to the allegations in this case, however also like Mr. Frick mentioned in speaking about his client I believe that will be also be a moot issue here.

THE COURT: Well, of course I would allow them to come in to evidence. I would tell the jury if he were to testify and he was be cross-examined I would give them the instruction that they can be used, if at all, only as it goes to the issue of his credibility.

All right, Mr. Green, have you made your decision about whether or not you are going to testify.

DEFENDANT GREEN: Yes, sir.

THE COURT: What is your decision.

DEFENDANT GREEN: I ain't going to testify.

THE COURT: That is your decision?

DEFENDANT GREEN: Yes, sir.

THE COURT: Made of your own free will and accord?

DEFENDANT GREEN: Yes, sir.

THE COURT: Did you have time to talk with your

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attorney further about it.

DEFENDANT GREEN: Yes, sir.

THE COURT: Do you need any more time to talk with her?

DEFENDANT GREEN: No, sir.

THE COURT: Do you have any questions you would like to ask me about your decision?

DEFENDANT GREEN: No, sir.

THE COURT: All right. Thank you. Thank you, very much.

I find both Mr. Clinton and Mr. Green understand their right to testify or not to testify and they have voluntarily freely and knowingly waive their right to testify and I will certainly charge the jury that shall not be held against them and can not even be discussed in the jury room.

Thank you very much Mr. Clinton. Thank you, Mr. Green.

Let me ask you this, Mr. Frick, does the defendant Clinton intend to present any evidence or testimony?

MR. FRICK: No, Your Honor, the defense would rest.

THE COURT: Miss Raney, does Green intend to present any evidence or testimony?

MS. RANEY: No, Your Honor, we intend to rest as

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well.

THE COURT: All right. Well, why don't we do this. Why don't you all step up here.

(WHEREUPON, there was an off the record discussion.)

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

(Jury enters the courtroom.)

THE COURT: All right. Welcome back, ladies and gentleman.

You may call your next witness.

MR. BARFIELD: Your Honor, that is the case for the State of South Carolina and the State rests.

THE COURT: Thank you. Thank you, very much, solicitor.

Mr. Foreman, ladies and gentleman of the jury, you have heard all the evidence and all the testimony you are going to hear from the State in its case in chief. The defendant's motion were noted for the record, Mr. Frick, Miss Raney.

The defendants, Mr. Clinton and Mr. Green may present evidence and testimony if either or both chooses to do so. Neither or both have to do so. As you recall as I told you in the opening, my opening remark, the State has the burden of proving its case

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beyond a reasonable doubt. A criminal defendant in South Carolina regardless of the seriousness of these charges is always presumed to be innocent and has no burden of proving himself or herself innocent of the crime charged.

However, we will now turn out attention to first Mr. Frick and ask Mr. Frick, does the defendant Clinton intend to present any evidence or testimony?

MR. FRICK: Thank you, Your Honor. On behalf of Mr. Devantee Clinton the defense rests.

THE COURT: Thank you. Thank you, very much Mr. Frick.

Miss Raney, does the defendant Green intend to present any evidence or testimony.

MS. RANEY: On behalf of defendant Al Green, Your Honor, we rest.

THE COURT: Thank you. Thank you, very much, Miss Raney.

You have now heard ladies and gentleman all the evidence and all the testimony you are going to hear in the trial of this case. Our courts -- I don't want you to think I timed it this way -- but our courts frown upon us beginning closing arguments and charges in front of a jury after four o'clock in the afternoon. It would probably take -- I haven't really

asked the attorneys how long they are going to need to argue, but I can tell you this good trial attorneys can't tell time any better than trial judges, whether you consider a judge good or not. It would be a several hour long process probably before I even got the case to you this evening. So I will release you for the remainder of the day.

I would ask you again follow my instructions. Do not talk with anyone about the case. Do not watch, listen to, read any news accounts of the case, do not do any independent investigation or any investigation on the internet.

The procedure we follow tomorrow is the solicitor will close first on behalf of the State, followed then by Mr. Frick, followed then by Miss Raney. After the three closing arguments by the attorneys I will then instruct you on the law that you are to apply to the facts of the case as you find them to be and then after I have instructed you on the law the case will be submitted to you for your deliberations and for your verdict.

With that being said I realize it has already been a long week for you and it is not over yet, but I do appreciate your continued focus and attention and patience that you have shown all the parties and the

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Court throughout the trial of this case.

If you please be back promptly at ten o'clock in the morning. Thank you, very much. I hope you all have a pleasant evening.

(Jury leaves the courtroom.)

THE COURT: Anything further, Mr. Frick?

MR. FRICK: Nothing at this time, Your Honor.

THE COURT: Renew motions?

MR. FRICK: Yes, at this time the defendant would renew its motion for a directed verdict on the same grounds as previously noted regarding the circumstantial notice.

THE COURT: Thank you. Thank you, Mr. Frick. Miss Raney.

MS. RANEY: At this time Your Honor on behalf of defendant Green I would renew all previously motions made on his behalf in this case.

THE COURT: Thank you and I will renew all my trial rulings and rulings on the directed verdict. You all have any specific requests to charge?

MR. BARFIELD: The State does not.

MR. FRICK: I will let Miss Raney go ahead.

MS. RANEY: May I approach, Your Honor.

THE COURT: Certainly.

MS. RANEY: And some of these certainly maybe

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duplicative of the language that is already in some of your instructions.

Your Honor, could I give a copy to the court reporter to mark as a Court's exhibit to reflect that these were the ones requested on behalf of defendant Green.

(Court's Exhibit 8, charge request, marked for identification as of this date.)

THE COURT: I was looking for that case earlier, I know Judge Young's case out of Charleston. I didn't quite make it back to it. This is the one that the defense requested. This is a request you want to go along with the circumstantial evidence charge?

MS. RANEY: Yes, please, Your Honor.

THE COURT: All right, and if I charge aiding and abetting I do also charge mere presence. I don't not charge that. This looks like my charges. I need to study over the first one a little bit. I usually kind of blend I think it is Madison and another case I can't remember, but I probably got a copy of hand of one, hand of all charge.

MS. RANEY: I have an extra copy of Madison if Your Honor would like one.

THE COURT: Yes, please.

MS. RANEY: I have one that I can give to the

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solicitor also.

Honestly, Your Honor, Madison was part of where I pulled the language from as well I believe it was June of 2013 when they posted proposed jury instructions on the South Carolina Judicial Website. It was a combination.

THE COURT: Can you make a copy of that madame clerk?

THE CLERK: Yes, sir.

THE COURT: That's my standard charge of hand of one, hand of all.

So, I will look at that. Did you find Madison to be confusing Miss Raney?

MS. RANEY: I certainly would never criticize someone that has been at this way longer than me.

THE COURT: I didn't mean it like that. Anybody can look and tell I have been at it way longer than you Miss Raney.

MS. RANEY: I felt like this was a kind of trick question. Like when a woman asks do I look fat in this dress. Which way do I go?

THE COURT: I know which way I'm going. That is the only request and circumstantial evidence charge as I understand it if it's requested I charge it.

MR. BARFIELD: Yes.

THE COURT: I will read Logan tonight, but I think I will charge this also, circumstantial evidence charge.

MR. BARFIELD: Yes, sir.

THE COURT: All right. Do you have any objections?

MR. BARFIELD: I don't think I do. I will read over them tonight and let you know if there is anything about it.

THE COURT: Make a copy for him.

Okay. We will be in recess until ten o'clock tomorrow morning.

MS: RANEY: Thank you, Your Honor.

(WHEREUPON, we recessed for the day.)

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(WHEREUPON, the trial continued on 3-14-14).

THE BAILIFF: All rise, court is now in session.

THE COURT: Thank you. Please remain seated.

I will you charge the language of Logan, Miss Raney. It appears in reading Logan, the last paragraph of Chief Justice's opinion it says our Grippon, G-r-i-p-p-o-n and Cherry decision commendably sought to remove confusion from the jury's consideration regarding the weight and value afforded to circumstantial evidence. However, at times, a separate framework is necessary to the jury's analysis of circumstantial evidence. Thus, we modify Grippon and Cherry to allow the additional language provided above if requested by a defendant.

So I take that to mean I still charge Grippon and add this language also. Is that what you requesting?

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MS. RANEY: Yes, Your Honor, that would be fine with me.

THE COURT: All right. I wanted to make sure I was reading that correctly. I think my hand of one hand of of all charge -- did you get the opportunity to review that.

MS. RANEY: I did, Your Honor.

THE COURT: I have mere presence in there. Also your request on aiding and abetting and accomplice liability specific to Mr. Green, I think that becomes a comment on the facts. Not only to Mr. Green, but more specifically to Mr. Clinton. In other words, you know, a gun can be a moving object obviously, and although the testimony is that he, Mr. Clinton, was seen within a gun and Mr. Green wasn't. When Mr. Clinton and Mr. Green and Mr. McDow get out of the vehicle and Mr. Clinton has the gun, that is not conclusive that Mr. Clinton had the gun when the fatal round was fired in Miss Jones. So, I think that is kind of comment on the facts both ways.

MR. FRICK: I agree with with that, Your Honor, and obviously it was late when I was typing that.

THE COURT: All right.

MS. RANEY: I would certainly be all right with general -- just generally not referring to specific

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defendant, accomplice liability charge.

THE COURT: And that's what I give, the hand of one, hand of all, accomplice liability. And I usually give an example and obviously when I give an example it is not fact specific.

In a murder case I usually give an example of like a burglary. Although only one person goes in the house two can be guilty of the burglary. If the one that goes in the house is handing the stolen items out the window or if there is a lookout driver or something like that. I always give it, but not specific to the facts of the case that are before the jury.

MS. RANEY: That is fine.

THE COURT: In other words I don't say two people can be guilty of a murder when only one fired the shot in a murder case. I may say that in burglary case. All right.

All right, solicitor, anything further?

MR. BARFIELD: No, sir. That would have been my only objection to what Miss Raney was requesting, just delete references to Green specifically.

THE COURT: All right.

MS. RANEY: And I apologize for that Your Honor.

THE COURT: No. No, that is quite all right.

MS. RANEY: I did forget to submit in your standard jury charge I sure it will be fine, obviously since we have co-defendants here I am assuming you would instruct the jury as part of the charge to consider each one separately.

THE COURT: I think I did that in my opening to them.

MS. RANEY: You did.

THE COURT: That you consider the evidence separately and distinctly as to each -- as to each defendant. Yes, ma'am.

MS. RANEY: So I just ask that be included in the end.

THE COURT: Yes, ma'am.

MS. RANEY: Thank you.

THE COURT: Yes, ma'am.

MR. BARFIELD: Your Honor, one additional thing from me. Miss Raney I think during her presentation marked several envelopes which are the cigarette butts as court's exhibits for identification, I think, and I am not sure what the rule is, but it would be my argument that she should not now be allowed to pick those up and banter them around in the presence of the jury.

THE COURT: I think she can argue it.

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MS. RANEY: I have no attention of touching those envelopes or showing them to the jury.

THE COURT: I think she can argue it. It is in the testimony, but they can't be shown to the jury.

All right. Just give me a general idea how long you think you need only because I am not a clock watcher, but if we need to take a break we will take a break.

MR. BARFIELD: I am guessing 30 to 45 minutes. I never know.

MR. FRICK: I didn't time myself and some times I get excited when I get up there, but I would imagine about the same thing.

THE COURT: Miss Raney.

MS. RANEY: I will try and be as short as possible, Your Honor. The more Mr. Frick covers that I was planning to say obviously the more I can cut. I say thirty minutes max.

THE COURT: I use to say anything after 27 minutes might not be the truth.

MR. BARFIELD: Will you tell me when I get to 27 minutes?

THE COURT: All right. Anything before we bring in our jury.

MR. BARFIELD: Nothing from the State.

MR. FRICK: No, sir. I just want to look at one thing first.

MR. FRICK: Nothing from us Your Honor.

THE COURT: All bring the jury in.

(WHEREUPON, the jury enters the courtroom.)

THE COURT: Mr. Foreman, ladies and gentleman of the jury, good morning. I hope you all had a pleasant evening. As I told you yesterday the point where in the trial of the case is closing arguments by the attorneys. The procedure we follow in a case such as this is the solicitor closes first on behalf of the State being the party bearing the burden of proof beyond a reasonable doubt, followed by Mr. Frick on behalf of his client, Mr. Clinton, followed by Miss Raney on behalf of her client, Mr. Green.

I don't hold attorneys to particular time restraints, timeframes 30 minutes, 45 minutes. I don't hold them to timeframes. I allow the parties to make a full and complete closing arguments on behalf of their clients. If after a certain time I feel like you or I or both need a break we will take a break after one or two closing arguments perhaps, or after three before I instruct the jury. My instruction will probably take 30, 35 minutes to you and again, if any time any of you need a break I will prefer it be done

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between the argument but if any time anyone needs a breaks please raise your hand and I will certainly take one at time.

I advice those in the courtroom, the spectators I do not allow movement in or out of the courtroom during the time in which an attorney is addressing the jury, you may certainly leave between arguments, you may certainly leave after the argument before I instruct the jury, but I don't allow movement in and out during the time an attorney is addressing the jury panel. I think it is distracting to the jury. It is distracting to me. That admonishment does not apply to the staff, the attorneys. If someone needs to leave for a particular purpose in that regard. Please keep that in mind.

Ladies and gentleman, I told you before what the attorneys tell you is not evidence, but these are closing arguments. These are true arguments. Not like opening statements. They can comments on the law. They can comment on the facts. They can comment on the inferences that you may properly draw from the facts and they can comment on how the facts apply to the law in the case that I will charge you. But you are the fact finder. You ladies and gentleman of the jury will find the facts and judge the facts in this

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case and compare them to the law as I will tell you the law is and reach a true and just verdicts.

Please remember that although there are two individuals being tried that you consider the evidence separately and distinct as to Mr. Clinton and as to Mr. Green in this trial.

With that being said if you please give the parties your complete and undivided attention. Solicitor you may address the jury.

MR. BARFIELD: If the Court please, Mr. Frick, Miss Raney.

A year or two ago before I started doing this when I sit in church on Sunday morning I just could not imagine how the preacher could talk for a thirty minutes and I was trying a case down there in Winnsboro a few years ago and sat down after making my closing argument and my investigator that was sitting beside me tapped me on the shoulder and said, do you realize you have been up therefore an hour and forty minutes. I ain't going to do that this morning. But I guess you understand from hearing the judge kind of give you an idea of what is going to happen this morning day that you probably feel like you are going to sit through four sermons this morning. It's has been a long week for you all. Don worry about us, but

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it's been a long week for you all and it is not quite over for you yet, but it is getting closer to being over. So what I ask you to do right now is just kind of hang with us for a little bit. What we are going to do now is we are going to summarize what we think this case is about. My perceptive on behalf of the State and Mr. Frick and Miss Raney on behalf of their clients. And we are going to argue to you. We are going to try to convince you of things based on what you heard in this courtroom this week. And although what we do not say is -- what we are going to say is not evidence, we want you to pay attention and we want you to follow as we discussed things tie things together. As I told you when I got up here Tuesday morning you, didn't know anything about this case when you came in here and I told you I got a whole bucket full of stuff on this case over there. I kind of boiled it down to a few pages here, but you all are still sitting there kind of empty handed. What you got is only what you have seen and heard in this courtroom. So we are going to try and review some of that with you this morning.

Let me tell you first, Tate Clinton sitting right here and Al Green sitting right there murdered Jenika Jones. That is what this is all about. Keep that

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foremost in your mind as we conclude this trial.

What this case is not about, what your role has nothing to do with from this point forward and never has during this trial is to decide anything about Wayne Blakeney or Delrico McDow. This is not the day that any decision is made about the responsibility of Wayne Blakeney and Delrico McDow concerning the murder of Jenika Jones. Remember that too.

I go first and when I sit down that is it for me, and then you will hear from Mr. Frick and Miss Raney and it is kind of up to me to sort of anticipate what they might talk about and I am not going to talk much about what I think they are going to talk about, but I am going to give you a hint about what they are going to talk about. They are going to get up here and talk about all kinds of things that they say the State did not do in this case. They are going to talk about stuff that didn't get collected or didn't get sent to SLED or telephones that maybe didn't get examined or guns that didn't get found. Things like that. They are going to talk about stuff like that and I tell you now, listen to what they have to say because it is important. Everything about this case is important. So listen to it. But don't let them get up here and convince you to just disregard everything that has

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been proven in this case. And there is a lot of stuff that has been proven in this case that tells you that Tate Clinton and Al Green murdered Jenika Jones. So listen to what they have to say. Listen to their criticism of the investigation. Listen to their criticism of the presentation of the State's case. Whatever they got to say. But don't let them dupe you into disregarding what has been proven in this case beyond a reasonable doubt. Which I submit to you is that these two fellows murdered Jenika Jones.

They are going to talk to you a lot about forensics and they are going to say there is the absence of forensics in this case. I will talk about forensics after a while. Lets talk a little bit about forensics right now. First of all this ain't TV. If you watch CSI and stuff like that on TV it is entertainment. But you cut the TV on at nine o'clock and you start watching one of those shoes between nine o'clock and ten o'clock with a whole butt load of commercials in a middle, you see a crime. You know a crime is committed. You see them investigate. You see them arrest somebody and in some of the shows it includes the court part. You see somebody go to trial and the case get over with in an hour. It doesn't happen that way here. Some times you even see a video of the

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crime being committed. It doesn't happen that way hear. Forensics is science, but forensics is complicated and difficult and it gets more complicated and difficult when many people are involved in an event; when many people are in a house, when many people are in a car, when many people are perhaps handling the same item it gets real complicated and you heard that from Miss Boehm when she testified from SLED the other day when she talked about DNA samples being a mixture of at least three people or at least four people. That's what happens in forensic science cases. They would have you believe that the Lancaster County Sheriff's Office should have put wheels under Jenika Jones's mobile home and towed the whole dang on thing down to SLED and swab ever square inch of the hard surfaces and make cuttings from every square inch of the soft surfaces and loaded up Pomp Blackmon's Cadillac on to a rollback and taken it down there to SLED and done the same thing with it to cover everything that might have been covered in this case and that is just not realistic and it is just not practical.

They would also have you believe that Ken Taylor could walk in this courtroom this morning with sterile swabs and swab all of our cheeks and swab all their

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cheeks and swab all the tabletops and send all that to SLED and then in a little while SLED would send us back a seating chart for this courtroom saying who everybody was in here and where everybody was in here at a particular time and that is just not realistic either. Forensic science has its place and forensic science has a place in this case. But witnesses have a place in this case too and witnesses prove to you in this case that Clinton and Green killed Jenika Jones. Keep that in mind as we go through this.

The judge is going to tell you in a little bit what murder is and he is going to define it with some legal terms and I am going to tell you from the outset that if ever there is a case of murder this is a case of murder based on the way this thing happened. This is murder. It is nothing but murder. The judge is going to tell you that murder is the unlawful killing of another person with malice aforethought, either expressed or implied or inferred. Killing, we all know what killing is. What is malice? He will give you some legal terms that define malice, but basically it means the intent to kill somebody or the intent to inflict grievous bodily injury on somebody or extreme indifference to the value of human life or a heart regardless of social duty and fatally bent on

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mischief. What does all that mean? It just means badness basically. Malice has to occur before the death occurs, but it doesn't have to be two weeks before the death occurs. It doesn't have to be two hours before the death occurs. It can be two minutes before the death occurs, or two seconds before the death. But there has to be that malice formed before the actual act is committed and in this case I submit to you that the malice started getting formed at least the morning of January 18th of 2012 when Clinton and Green are in Y'eisha Tinsley's apartment talking about doing a lick, which I submit to you is what happened at Jenika Jones's house on the 19th. We got malice and we got it occurring before Jenika Jones was killed. We also got malice by inference in this case because the law says if you commit a murder using a deadly weapon that malice can be inferred from the use of that deadly weapon and it is very clear in this case, I say without any doubt that Jenika Jones was shot and killed with a 380 caliber bullet fired from a pistol. And that's malice.

I said to you also Tuesday morning that between the two of them it doesn't matter who pulled the trigger and I stand by that today just as I did Tuesday morning. The law -- the judge is going to charge you

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on the law which says the hand of one is the hand of all. The act of one is the act of all. And he might give you example or two. I am going to give you an example. Let me tell you what the law says first. The law says first of all for this principal to apply there has to be two or more people, obviously. They have to be acting together. They have to be acting upon a common screen or plan or design or intent. They have to be aiding abetting and assisting each other in the carrying out of this act. And of course there has to be prior knowledge by all of them that this act is going to occur in one form or another and there has to be prior arrangements. Again not necessarily two months or two weeks before but there has to be some prior arrangements made to set in motion the events that lead to this death. And if those things occur then the law says that the hand of one is the hand of all and in a case like this when you have one gun, one bullet, one shot, one gunshot wound, one death, then they are not both holding the gun. There is no question about that, but they are both responsible for it if they are both present together acting together with this common scheme and plan and design and intent to commit this criminal act. Each one is responsible for the acts of the

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other that are the natural and probable consequences of what is going on. If you go do a robbery and it ends up in a killing then if you are in for the robbery you are in for the killing whether you pulled the trigger or not. And it applies in any case, not just a murder case. If two guys are going to go to a convenience store and only one has got the gun and he is going to go in and take the money from the clerk and the other one is going to stand there at the door and keep the door open so the guy with the gun can run out real quick and they can get gone, the guy with the door handle in his hand is just as guilty of the robbery as the guy with the pistol in his hand who took the money from the clerk. And if things go bad and the guy with the pistol shoots and kills the clerk the guy with the door handle in his hand is just as responsible for the murder as the guy with the pistol who shot and killed the clerk.

You have to put -- and I am going to tell you in this case we contend that Tate Clinton shot and killed Jenika Jones. That clearly is what I am telling you this morning. But I am also telling you that Al Green is there when this event is going on and when this house gets ransacked and then whatever they are looking for gets found or doesn't get found Al Green

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is right there in the middle of it and he is just responsible. You have to put Al Green in Tate Clinton's shoes. You have to put Al Green in Tate Clinton's clothes. You have to put Al Green in Tate Clinton's skin because they essentially become one and the same when they are out there at Jenika Jones's house to do whatever it is they are going to do, which we contend is a robbery and whatever happens happens to make it end up being a murder. Al Green in for a penny in for a pound. He is there and he is just as responsible for Jenika Jones's death as Tate Clinton is.

Let's start talking about what we have proved and what we know. This was to be a robbery. Maybe it was maybe it wasn't. We didn't prove to you what, if anything, was taken, but I submit to you there is a tons of evidence in this case to tell you that this was to be a robbery. What do we know about it that tells us it was a robbery. Clinton and Green are at Y'eisha Tinsley's house talking about a lick and what is a lick? You heard it over an over and over again in this trial, a robbery. You are going to do a lick you are going to rob somebody. They are telling that at Y'eisha Tinsley's house on morning of Wednesday, January 18th. They are telling that again the night

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of January 18th out in the complex to Jamal Twitty. Again talking about a lick. A robbery. Planning it the day before. They see Wayne Blakeney some time the night of January 19th when it happens. The night this happens, and they tell Blakeney we are going to pick up some money. They didn't say a lick to Blakeney. But they said going to get some money. That supports the State's contention that this was a planned robbery. And then you also have the pictures and I'm probably not going to show you pictures now. You will have them in the jury room. You'll also have pictures of Jenika Jones's mobile home and you'll have pictures of that back bedroom. Which I submit to you these guys thought must have contained some money or valuables or something they wanted because they tore that bedroom up. Flipped the mattress, pulled the drawers out, had a chest leaned over. I believe the pictures show stuff thrown all about in that room. They weren't in there cleaning the room. They were in there looking for something in that room to take out of there with them. This was a robbery, or a planned robbery which got kicked off at least the day before. There were three sessions to plan this robbery. Three different times these guys started planning this robbery. The first was Wednesday, January 18th in the

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morning at Y'eisha Tinsley and Dominiqie Davis heard Clinton talking about a lick. She heard Clinton talking about the girl works and she is not home too much. She heard Green talking about wherever this location was that they were going to go to and talking about whether the girl owed the black car, planning session number one. Planning session number two, Wednesday night January 18th with Jamal Twitty outside the apartments at Carolina Court, Tate Clinton walks up and says to Twitty you want to go do a lick and Twitty says whereabouts and Clinton says not far. And then Al Green walks up and Tate Clinton starts to talk up again about doing a lick and asks Al Green if he wants to do a lick and Al Green says, yeah, whatever. I am down for it. And Clinton wants to go do it that night and I think Twitty testified that he was talking to him about not doing it that night, putting it off. That is planning session number two.

Planning session number three is at the Hole in the Wall or somewhere in Newtown, or at the it Hole in the Wall, one of the other, when Wayne Blakeney got involved in this thing and they talked to Wayne Blakeney and the talk is take us to go get some money. Of course Tate Clinton ain't got driver's license. Tate Clinton ain't got a car and Wayne Blakeney is

somebody that can drive them somewhere and they talk Wayne Blakeney into taking them somewhere to pick up money. That is planning session number three.

All right. If you are going to do a robbery what is next. Well, you have to be able to get there. We are talking about being in the Hole in Wall down there at South Market Street and you got to get out 200. Way out 200 below Piggly Wiggly. Well, you ain't going to walk out there. You got to get there somehow. You got to get transportation. Two different times tried to get transportation. The first time is with Jamal Twitty on the night before January 18th down at Carolina Court. Talked to Jamal Twitty. Go do a lick with us. Go get your girlfriend's Honda. Take us out there in your girlfriend's Honda. And Twitty to his credit has got sense enough to try and get them off this with him. He says the Honda is up for the night. Can't get the Honda and Twitty doesn't participate in this. But that is effort number one to get a car to get out there. Effort number two to get a car, Thursday -- Thursday night about seven o'clock, Newtown, Pomp Blackmon Cadillac. They talk Pomp Blackmon into -- Clinton talks to Pomp Blackmon into loaning him the Cadillac, '91 Cadillac Seville with a rag top, white.

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Effort number two is successful. They now got a car. They got a plan. They got a car. How do you do a robbery. Well, if it's an armed robbery you got to be armed. You got to have a gun. What do we know about a gun? Wednesday January 18th, the day before, at Y'eisha Tinsley lease house Dominique Davis hears Tate Clinton said I got Taz's gun and I ain't giving it back. He's armed. Thursday, January 19th, Blakeney, Wayne Blakeney, sees that in fact Tate Clinton is armed. He sees a pistol in Tate Clinton's waistband in the Cadillac on the way to [redacted] and he describes it either as 9 millimeter or 380. Blakeney also tells you that he knew Clinton carried a gun around. So now we got a plan. We got a car. We got a driver with a driver's license apparently and we got a gun and we got a destination and a victim, and we are on our way and we know that a pistol was used. It kind of goes without saying that we got a fired cartridge case which Maryann Boehm of SLED said had Jenika Jones's blood on it. Had Jenika Jones DNA on it and we have a fired bullet from Jones's brain which Suzanne Cromer said was a 380 bullet which could have been fired from a 380 or could have also been fired from a nine millimeter pistol. She described the bullet and the diameter of a 380 and nine millimeter

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as being the same. Link is different bullet, but you can shoot a 380 through a nine millimeter.

What else has the State proved to you. The State has proved to you that these two; Clinton and Green and Blakeney and McDow rafted up together. Had connections, had associationes and were together at various times and specifically on the night of January 19th of 2012. What do we know about that. Well again, we got Dominique Davis and on Wednesday the 18th put Clinton and Green together talking about doing a like. We got Jamal Twitty January 18th, Wednesday night, putting Clinton and Green together talking about doing a lick. We got Pomp Blackmon on Thursday night, January 19th, at about seven o'clock, putting four people coming to his house to borrow his car. Four people. Two got in the car at his house. The car pulled off to the corner, two more got in at the stop sign and the person that borrowed the car, that talked to him about the car, did bit have a driver's license. Pomp Blackmon has got four people in it; Latoya Green, Al Green's sister, she told you that Al Green, her brother, and Tate Clinton ran together. Hung out together. Latoya Green also -- Al Green also lived with his sister, Latoya Green. Who else lived with Latoya Green in Azalea Apartments

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before she moved out to [redacted], Jenika Jones. So Al Green knows who Jenika Jones is. We got that connection. Y'eisha Tinsley who was Green's girlfriend at the time and the mother of his child said she saw Green the day after the killing. And what did she tell you Green said, that he had been at the Hole in the Wall with Tate Clinton the night of the murder. We got them together at the Hole in the Wall, those two. What do we have from Tate Clinton himself, he told Fred Tompson on January 27th when he was interviewed that he had been at the Hole in the Wall the night of the murder. He told Fred Thompson on the February 23rd when he was interviewed again that he had been in the Hole in the Wall the night on the murder. He told Fred Thompson on March 9th when he interviewed that he saw Wayne Blakeney at the Hole in the Wall in Pomp Blackmon's Cadillac the night of the murder. We now got the three of them there. Al Green told Captain Michael Green with SLED on January 25th that he had been at the Hole in the wall on the night of the murder. Wayne Blakeney obviously in his testimony puts all four of them together; him, and McDow and Tate Clinton and Al Green together at the Hole in the Wall in Newtown going out to [redacted]. At [redacted], he has got them all four together. What did

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David Belk testify about on cross examination. David Belk told you that the call was and the information on the scene was three males were seen running from Jenika Jones's house when this incident occurred and I tell you that that is consistent with Wayne Blakeney sitting in the car when this is going on and Tate Clinton and Al Green and Delrico McDow being the guys in the car who got out, disappeared into the darkness, went to Jenika Jones and came running back to the car before they took off out of there after the killing. It matches up. It is consistent and it puts them together when all of this is going on.

How do we know that State's Exhibit Number 16, that car, is the car that was used to transport these four folks out to [redacted] to kill Jenika Jones. Lets talk about that for a minute. Pomp Blackmon told you that on Thursday, January 19th, the night this happened at about seven o'clock he loaned his car out for a couple of hours for some beer and cigarettes to a guy who had no driver's license. We know that Clinton had not no driver's license and we no from Wayne Blakeney also that he had no car and loaned his car out to a guy who was wearing a blue jumpsuit. That was Devantee Clinton. Tate Clinton was wearing that blue jumpsuit. He reported his Cadillac missing

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to the police department when it didn't get returned after a couple of hours and it didn't get returned overnight. He reported to the police department that he had loaned his car out to somebody whose name he didn't no and it was missing. Shakela Montgomery Thursday night between 9:30 and 10:30, the night of the murder, is coming back from Applebees with her friend, Tenika Nelson and driving to the trailer park on [redacted] and turns off 200 into -- onto [redacted] into the trailer park and sees -- almost gets run over by an older white car which she describes as a Buick or Oldsmobile. She is off a little bit, but she ain't far off. It's a Cadillac. It had it was coming out of [redacted]. It had no lights on. It was flying and that all occurred I submit to you just after the murder she observed the flight of these four guys from the scene of this murder before it had gotten reported, before police or EMS got there. The dispatch time on this case was 10:06 p.m.. The sheriff's office got the call at 10:06. She pulled in there right before the sheriff's office was notified and right after the killing happened and she saw Pomp Blackmon's Cadillac. Tameca Nelson, white Cadillac with a rag top. She saw it coming out. No lights, driving fast and what is also

significant about Tameca Nelson, she saw it the next day at the Piggly Wiggly with the flat tire which is exactly where Pomp Blackmon found it. No lights, coming out fast what does that tell you. They were fleeing the scene of this murder that had occurred in [redacted]. Blakeney told you when these guys came running back to the car he said Tate said chill or something but he said they were saying go, go, go. That means, get the heck out of here. That means something good has not gone on in here and we don't need to be here any more. Lets get out of here. And I submit to you Wayne Blakeney was hauling butt when he drove out of [redacted] trying to get away from that scene although he didn't know at that point exactly what had happened in there.

Pomp Blackmon found this Cadillac the next day, Friday, in the Piggly Wiggly parking lot with a flat tire, missing a piece of molding. I don't know if they are going to argue this or not, maybe they will. I submit State's exhibit number 21, which was identified as Pomp Blackmon's car shows where a piece of molding is missing from that car. Here is the other side of the car, State's Exhibit Number 22 which shows what the or side looks like and what the piece of molding is suppose to look like. His car was also

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muddy. What is the significance of that? I don't know, but there is mud on his car which wasn't on the car when it got loaned out because he kept his car clean.

How else do we know this is the Cadillac that Pomp Blackmon's Cadillac was used in this crime. Wayne Blakeney told you Thursday night the four of them, the four of them, borrowed the Cadillac from a light skinned guy in Newtown. Who is that, that is Pomp Blackmon. You saw him. You know where he lives. Pomp Blackmon is who they borrowed that car from. He also identified a photograph that I put on the reader of the car as the car that they borrowed and that he drove because he is the one that had a driver's license. When he got done with that car after he was the only one left in it Wayne Blakeney said I left it at the Piggly Wiggly parking lot out there on Airport Road, near Airport Crossroads and he also told you it had a flat tire. There is no doubt in this case that that's the car. Tate Clinton talking to Fred Thomspon on February 23rd, what did he say? He talked to about this case several times and is confronted with things that law enforcement knows and is sitting there, you can see the wheels turning. He's saying, how am I going to explain all this. Fred Thompson talks to him

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and he denies nothing Pomp Blackmon first. He denies knowing Pomp Blackmon and then he admits knowing Pomp Blackmon and knowing that Pomp Blackmon lives in Newtown. He denied to Fred Thomspon in that same interview knowing anything about a white Cadillac with a rag top and later in the discussion admits that he knows Pomp Blackmon drove the white Cadillac with the rag top. He is trying to hide information and then he is confronted with with information and then he is admitting information which connects him to this case, to that car, to Pomp Blackmon. He denied ever driving or riding in Pomp Blackmon car to Fred Thomspon on February 23rd. Then on February -- excuse me, March 9th when Clinton is talking to Fred Thomspon they start talking about the Cadillac again and Clinton admits to Fred Thomspon then that he saw Wayne Blakeney in the Cadillac at the Hole in the Wall club the night of Jenika Jones's murder. He is getting himself tied closer and closer to that Cadillac. And then Fred Thomspon starts talking to Tate Clinton about DNA and Tate Clinton has got to find some way again to explain why his DNA might be on that car. Of course the sheriff's office didn't know whose DNA was on the car at that point, but Fred Thomspon starts talking Tate Clinton about DNA and well, he has got to

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come up with some explanation just in case they find his DNA on that car and what's his explanation. I leaned on the car talking to some girl at the Hole in the Wall club the night of Jenika Jones's murder. It is pretty weak, but that's what he has given as his explanation in case DNA gets found on that car. So he is tying himself to that car, but not really. But he is hooking himself up to that car in a sense.

How about this blue jumpsuit, monkey suit, coveralls, it has been called a whole bunch of different things. It is in that box. (Indicating) You can see it. When we pulled it out the other day it's got holes cut out of it where SLED cut stuff out to test it. What do we know about that blue monkey suit? Whose blue monkey suit is that? That's Tate Clinton's blue monkey suit. And Tate Clinton was wearing that blue monkey suit the night Jenika Jones was killed. How do we know that? Pomp Blackmon told you he loaned his car to a guy wearing blue coveralls. Pomp Blackmon also told you he found his car at the Piggly Wiggly parking lot Friday morning after the killing. He couldn't get it then because it had a flat tire and he had to go get a key for it so he got it Saturday. When he got it home Saturday or some time after he recovered it he finds this unknown pair of blue

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coveralls in his car which are not his. He doesn't have any explanation for them being there. But he is finding blue overalls in his car which are consistent with the guy who borrowed the car the night -- two nights before wearing blue overalls and that's Tate Clinton. Tate Clinton told Fred Thomspon both on January 23rd and on February 23rd that he was wearing overalls. He said camo overalls, but he said he was wearing overalls the night of the murder.

Tate Clinton told Fred Thompson on February 23rd -- talked to Fred Thomspon February 23rd despite the fact of having said that he was wearing camo overalls the night that Jenika Jones got murdered. Tate Clinton brings up the topic of blue overalls with Fred Thomspon on February 23rd and he then admitted, yeah, I own some blue overalls. He denied he ever wore them, which doesn't make any sense. He conveniently says I loaned them out to people, one of the people he said he loaned them out too I think was a guy name Reggie Stover and then Fred Thomspon and Tate Clinton start talking about DNA what about your DNA. Is it going be on those overalls and just like the Cadillac Tate Clinton has got to come up with some explanation as to why his DNA might later be found to be on those over overalls and he says, well, they are mine, but I

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didn't wear them. But I did move them around from time to time at my grandmama's house is what he say. He said he handled them which is his way of explaining maybe why his DNA could be found on those overalls. Vivian Stradford, Vivian Stradford knows Jenika Jones and finds out Thursday night that Jenika Jones has been killed and goes to one relative's house and moves there to another relative's house and by about 11 o'clock based on her description of how long it took her to go to one place or another she ends up at Crenco which is the convenience store on South Main Street, not too far from the Hole in the Wall and lo and behold who does she see at Crenco, Tate Clinton. After the murder, Tate Clinton, and what does she say Tate Clinton is wearing; she didn't say he was wearing coveralls, she didn't say he was wearing blue coveralls, she said he was wearing these blue coveralls (indicating). I showed them to her. He was wearing them that night. DNA, Maryann Boehm got the coveralls. Got cuttings -- or got the cuttings from the coveralls and did DNA testing on coveralls and DNA standards from Clinton, from Green, from Blakeney, from McDow, from Pomp Blackmon. I think maybe that is all -- and Jenika Jones blood standard, so she can determine if she could tell us anything about those

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cover always and who might have had contact with those coveralls. And the numbers are the numbers. She didn't say one in a gazillion Tate Clinton is all over these coveralls, but she told us some information that you should consider and can consider in determining whether those coveralls are tied to Tate Clinton. What did she tell you about the coveralls. First of all what Clinton say about the coveralls. Let's back and talk about forensic and about DNA in particular. Miss Boehm told you this. She said the mere fact that you touch something or handle something doesn't mean that you are necessary going to leave DNA on it and I think you can gleam from the testimony concerning DNA that if something is handled by a whole bunch of people things can get complicated. And DNA profiles that get developed by Miss Boehm will end up being mixtures of a whole bunch of people. Mixture of at least two people. Mixture of at least three people, and that gets complicated, but she did tell us some things that are instructional concerning Tate Clinton and his connection to those blue coveralls. SLED item 6.3 was a cutting from the blue coveralls and it was a mixture of at least three people and Clinton was not excluded from that DNA profile, from that cutting from those blue coveralls, and the probability was one in

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580. Well, again that is not a terribly high number but it's a number and it's a connection of Tate Clinton to those coveralls. The other three people that were in that Cadillac that night; Green, and Blakeney and McDow on that sample were excluded as contributors to that DNA profile. Item 6.4 from SLED was a cutting from the blue coveralls and it was a mixture of four people, a mixture of at least four people, and on that cutting again Tate Clinton was not excluded and the probability was one in 12 which again is not terribly high but it's a connection of Tate Clinton to those coveralls.

What have we proved to you to show a connection between any of these four guys to Jenika Jones and to Jenika Jones's house out there on [redacted]. Tate Clinton's grandmother lived in the trailer park on [redacted] and in fact Tate Clinton's grandmother lived in that trailer park next door to Jenika Jones. Jenika Jones is [redacted]. I am showing you State's exhibit 54, and the next trailer down here is [redacted] which is Tate Clinton's grandmother next door. Tate Clinton has a connection and lives himself at least part of the time from the testimony you have heard lived himself next door to Jenika Jones. We know that from several sources but we know it from Clinton

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because when Clinton was talking to Fred Thomspon on February 23rd, Reggie Stover is one of the guys he says he loaned the coveralls to and he said Reggie Stover lived with him at [redacted] and when confront apparently with the information that the victim lived next door to his grandmother he said I didn't even know she lived next door to me. So he is tying himself to that victim, to that victim's home, to that trailer park on [redacted].

Blakeney is the driver when this event occurred. He has got no idea about anything other than we are going to get some money and I am going to drive because I got the driver's license and Tate Clinton borrowed a car for me to drive. He has got no clue in the world where he is going until they are on the way and how does he get to [redacted]. He is directed to [redacted] by Tate Clinton. Tate is the one who tells him to go to [redacted] trailer park and once they get in to the trailer letter park on [redacted] Blakeney has got know idea where he is going, but Tate tells him where to go and where to park to get that Cadillac close enough to Jenika Jones's house for them to get there in and out quick, but not right there in front of it so maybe they won't be seen and Tate Clinton tells Wayne Blakeney where to park that

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Cadillac for them to get in and get out and get this robbery gone bad to a murder done.

What about DNA from the scene. Again Maryann Boehm tells you some information that is instructional and helpful. Two swabs from -- SLED item number two were swabs from the storm door handle at Jenika Jones house. It was a mixture of at least three people. It doesn't have anything about Tate on it. It doesn't have anything about Green on it, but it does say that Delrico McDow could not be excluded and the probability was one in 27. That is a connection of one of these four people to Jenika Jones's house.

Item number three from SLED was swabs from the door lock -- doorknob, excuse me, and it was mixture picture of at least two people and her conclusion about that among other things was that Tate Clinton no conclusion could be reached about Tate Clinton's inclusion or exclusion from the DNA in that profile. Credibility is something that you have to consider when you determine whether you believe somebody and you heard I think from two dozen witnesses in this case. As to each one of them they testified and they told you information, and you got to decide do I believe it or do I not believe it and you can decide do you believe some answers a witness gave and don't

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believe some other answers a witness gave. That is entirely up to you. But you do a lot of things to determine the credibility of a witness. What was the witness's opportunity to observe the things he or she told you about. What is the witness's connection to the case or any people involved in the case. What is the witness -- how does the witness appear on the witness stand. Does he look to you like he or she is telling you the truth. Is he squirming around and appearing to be evasive or is he straight up honest, sincere sounding, believable. You got to determine that as to each of these witnesses and you certainly got to determine that as to Wayne Blakeney. And we are going to talk now a little bit about Wayne Blakeney.

Wayne Anthony Blakeney Jr. came in here and got on this witness stand and told you what happened that night. It took us way into Wednesday, Wednesday or yesterday to get Wayne Blakeney on the witness stand and you finally find out what happened to Jenika Jones in a lot more detail then you knew at any point prior to Wayne Blakeney getting on the witness stand. What about Wayne Blakeney? Do you believe Wayne Blakeney? I submit to you you should certainly believe Wayne Blakeney. A couple of things about Wayne Blakeney.

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What did Wayne Blakeney get out of this. Well, first of all he got some beer for being the driver that night. He expected to be paid to drive them out there. He knew they were going to pick up money. That's all he said he knew. He expected to be paid. He got some beer out of it. What else did he get out of it. Well, he got arrested and charged with the murder of Jenika Jones, just like these two fellows over here. He did get a bonds. No doubt about it. We agreed to bond him out. He got arrested on March 8th of 2012. He gave a statement to the police and at some point after that the State agreed to bond him out. Beyond that what did he get, absolutely nothing. He got on the witness stand charged with murder just like Tate Clinton and Al Green are charged with and incriminated himself by telling you what happened and what his part of it was without any deal. Does he expect some favorable consideration? Absolutely. Absolutely, I am sure he expects favorable consideration for giving a statement back on March 8th and coming in here in this courtroom this week and testifying about what he told the police when they investigated this case. But does he have a deal, he does not. Has he been promised some lesser charge, he has not. Has he been promised some lesser sentence,

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he has not. He put himself in great jeopardy getting on the witness stand without a deal and told you what happened the night of January 19th of 2012 and he told you the truth. He didn't tell the police the truth initially and he admitted that. He admitted he didn't tell them everything at first and he admitted even after the written statement was complete that he had not told them about Delrico McDow, he also told you that later on after he had given that written statement he did tell them about Delrico McDow. He told you that he was scared. That he didn't tell everything at first because he was scared because he is kin to Tate Clinton, because he didn't want to be a rat and I submit to you from watching him on that witness stand you see how messed up he got himself in this situation and how it affected him and how he would be reluctant initially not to be completely forthcoming about everything that happened that night. But you think about him and when he was on this witness stand the other date, you think about what he said, you think about how he said it, you think about how he appeared and I submit to you you will conclude that is truthful testimony, sincere testimony, testimony about matters that he absolutely regrets, but it's the truth and you decide whether you believe

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him or not and I submit that you should. And what did he tell you. He told you that he gets up with these; Tate Clinton and Al Green and Delrico McDiw in the Newtown area and they borrow a car from Pomp Blackmon. And he tells you that Tate Clinton went to Pomp himself and made arrangements to borrow the car and Tate Clinton didn't have a driver's license and Wayne Blakeney did and Wayne Blakeney would be the driver for the crew for the night. He told you that he borrowed it again from the light skinned fellow who lived in Newtown who was Pomp Blackmon. He told they ended up at the Hole in the Wall and that the discussion was we need to go pick up some money and they wanted Wayne Blakeney to drive him. So he agreed to drive. He told you that they went out [redacted] -- went out 200 towards [redacted] and that he drove at the direction to that area by Tate Clinton and that on the way out there he sees that Tate Clinton has a pistol and he knows that Tate Clinton normally often times is carrying go a gun. He told you that he didn't anticipate anything at all like what really happened would have happened. And certainly in retrospec he probably wishes he had stopped that car and got out and let somebody else dealt with it at that time, but he didn't.

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He told you they pulled in and Tate Clinton showed him where to park the car and he stopped and stayed in the car. And he told you that Tate Clinton and Al Green and Delrico McDow got out of the car and disappeared off to his left out of his sight and were gone for about ten minutes. And after about ten minutes he told you that the three of them hurried back to the car. I can't recall how he described them motivating back to the car, but they get back to the car and they hopped in the car and Clinton is telling Blakeney to chill. Why is he telling him to chill? I submit to you that Clinton is telling Blakeney to chill because maybe everybody is kind of excited over what has just happened and he doesn't want Blakeney to freak out. But somebody in that car tells Blakeney go, go, go and Blakeney takes off in that car headed out [redacted] back toward 200 and about runs over Miss Montgomery and Miss Nelson getting out of there and takes off back to the Hole in the Wall. And obviously Wayne Blakeney has got it figured by that point something has gone on out there that wasn't too good, but he still doesn't know. He doesn't know until much later in the night, almost morning time, what really happened. Go back to the Hole in the Wall at some point ends up back in the car with one or two other

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people that he doesn't know and Blakeney is still behind the wheel of that car and he starts letting people out. He goes back to Newtown and everybody gets out of the car but him and Tate Clinton. Tate Clinton is suppose to be back out at [redacted] where he lives and that's the plan. Is for Tate Clinton to get taken back out to [redacted] And at some point while they are riding back out to [redacted] Tate Clinton says to Wayne Blakeney, can you keep a secret? And Blakeney says yes, and Tate Clinton says I killed the bitch. And you saw when Wayne Blakeney was on the witness stand as he described those events what effect that had on him when it happened and when he told you about it. Tate Clinton told Wayne Blakeney I killed the bitch. Blakeney says I didn't know what to think. I was in shock. I didn't really believe him. He takes Blakeney -- Clinton back out the [redacted]

Now, you are probably going to hear this so I will address it now. You will probably hear it when these two get up in a minute. Why in the world would the Cadillac go back out to [redacted] and return to the scene of the crime because it was after everything had cleared up on [redacted]. Lieutenant Christi Rogers of the sheriff's office said we cleared from Jenika Jones's house at 5:29 in the morning on January 20th

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of 2012. Wayne Blakeney said I am taking Tate Clinton back out there between five and six and obviously when he wheels in out there there aren't any police, EMS, anybody out there anymore. That is completely consistent time wise based on what Christi Rogers said the time was when law enforcement cleared up out there.

Tate Clinton gets dropped off. Wayne Blakeney -- Wayne Blakeney, you know, he's a mess. Tate Clinton gets dropped off and Clinton says hold this pistol for me and that was stupid of Wayne Blakeney but Tate Clinton puts the pistol in the glove box and Wayne Blakeney assumes possession and control of the pistol at that time. And Wayne Blakeney is in a heck of a mess at this point because number 1, he's participated in what he has been told is a killing. He is in possession of the car that was used in the killing and I forgot something. State's Exhibit Number 23. Fred Thomspon found that I think on January 23rd about four days after the killing and this arrow is not intended to be put there because that is where he found it, but he found it right here coming out [redacted] and it came off that Cadillac and it came off that Cadillac because if you see in the picture the Cadillac going fast and flying that piece of molding fell off it and

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that piece of molding fell off it because this is where it was found, State's Exhibit Number 25, and just before where it was found is a speed bump. The car is flying out of there. A piece of crappy molding barely holding on Pomp Blackmon's car pops off when Wayne Blakeney hits that speed bump. Get back to my point. Wayne Blakeney is a mess. He has got the Cadillac that was used in the crime. He has now got the gun that was used in the crime. He ditches the Cadillac at the Piggly Wiggly and its got a flat tire. He takes the gun and he starts walking and he gets rid of the gun with his cousin and the sheriff did what they could do to find the gun and they didn't find the gun. That's the story. That's the best story you got about the events which is supported by other witnesses, other evidence and other testimony.

Some time about ten o'clock, three people rushed into Jenika Jones's house. One of them had a gun. Tate Clinton is the last person that had the gun when they got out of the car before this murder occurred. But somebody has got a gun and we don't know exactly what happened inside that house, but my argument to you is this, probably Tate Clinton based on what he told Wayne Blakeney. Pulls that gun up and marches Jenika Jones on to that couch somehow. We don't know

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know if she was shot standing, sitting, lying down or what. We do know is Tate Clinton put that gun muzzle against the side of her head and pulled the trigger and shot a bullet up in to her brain and lacerated her brain and killed her and that's murder. That is murder against Tate Clinton and it's murder against Al Green because they are all there together to get what they can get and the result of all that is Jenika Jones got shot and killed in her own house.

Thank you for your time. Thank you for your attention. Give them the same attention you gave me. We all got one thing, which is probably the most important thing any of us and any of you can possess in this case and it is common sense. You consider it all. You consider what I said. You consider what all the evidence that was presented. You consider what they are going to say and when you start boiling it down back there in a little bit later on today use your common sense and your common sense and the law and the facts in this case will tell you that Tate Clinton and Al Green are guilty of the murder of Jenika Jones and I ask you to return a verdict of guilty as to both of them,.

Thank you.

THE COURT: Thank you. Thank you very much

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solicitor.

All right, Mr. Frick.

MR. FRICK: Thank you, Your Honor.

I got to start off talking about something that probably at some seminar I went to a long time ago they said never talk about. I have got to talk about the victim in this case.

Ladies and gentleman, there is no escaping a tragedy occurred on January 19th, 2012 on [redacted]. You and I heard not one single reason why Jenika Jones put herself at fault in this situation. She's not associating with people, you have not heard any reason. She was a mother and this incident occurred in her home with her children there. It is a clear tragedy.

Now, this is not about retribution for that terrible tragedy and I will be the first to tell you it is a tragedy. This is not about that, this is about determining whether or not the State has proven who caused that tragedy.

So as I told you on Monday when we began you come in this room you got to put personnel feelings aside. You got to put all that away. You got to even forget about the fact of who is the victim of this. It is not to be considered once you get in that jury room.

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And that's a difficult thing for a person to do. It is a difficult thing. Probably one of the most difficult things you will face, but it is your job as you sit in that box right there. I will briefly tell you a story about that.

I am from Fairfield. That is my home. My home Court, Fairfield. Hanging above the wall in that Courthouse is a planning to a sheriff who in 1915 was escorting a prisoner. Even more that be that it was a black prisoner. Now I am not saying that to bring race into anything. It is an important part of the story. This sheriff was escorting this prisoner who was accused of assaulting the wife of a prominent person in Fairfield. His duty was to make sure that that person, that prisoner, made it to court for his day in court. That's his job. That is what he swore to do.

The morning that he is taking the prisoner to the courthouse -- Fairfield we still got our old Robert Mills Courthouse with the flying staircase. So it has got two staircases, iron staircases that come from the ground and go to a portico that go into the courtroom. The Court is room is up on the second floor. As the sheriff and his deputies are walking up there is a crowd of folks on the portico. This is the family of

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the victim. They are armed. The sheriff who is an elected official standing there with an unpopular person could have gone with what anybody I believe gut reaction would have been, you know what, you are on your own. He did not. He and his deputies walked up the staircase through the gun fire. He was wounded, the prisoner was wounded, his deputies were wounded. He got to the courtroom. He suffered. He succumbed to his injuries. The deputy succumbed to his injuries. One of the deputies survived. But ladies and gentleman he upheld his oath to do his duty regardless of his personnel feelings and no doubt, no doubt his personnel feelings were not to walk up that staircase.

Now no one is certainly asking you and no one is saying that you have to put your life on the line in this case, but you swore a duty to listen to the case. To weigh the facts. To put personnel feelings aside. That is why I tell you that story. Remember your oath because it is difficult to get past what happened. But you have too and I know you will. You took the oath and you will up hold it. That being said, you know I am here on behalf of Mr. Clinton and I am going to speak to him right now about his situation in this case.

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We know that the phone call or something came in. Law enforcement gets a call that there has been some event. I think his phrase it was a home invasion on [redacted] here in Lancaster just out south 200. Four lane goes to a two Lane. A little road that goes back off right there. We get to the scene. The door is open. It doesn't appear to have been kicked in and on the couch is a body. Nobody is on the scene. All we know is that three folks, three, three, ladies and gentleman have run from this place. That is the information that they got. There is no information about a Cadillac. At this time there is no information about anything else. Just three people running from the scene.

Let's talk a little bit about the scene and what is at the scene and what is not at the scene. All right. You heard talk about the Cadillac having mud and all this stuff. All right. You got photos of the scene. Look for some read mud. Now, I submit to you that would make a whole lot more difference if we were a little bit east of here were they don't have red clay, but on this side that car could have been driven around Lancaster, Chester or Fairfield easily picked up some mud. But look at your pictures. State's number 25 gives you a pretty good view of the road and

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what we are looking at here. See where this red mud is. In fact, I think it was Ken Taylor who told you it was a gravel driveway. It wasn't a dirt driveway. It was gravel driveway. That being said we got no tire tracks, we got no footprints. We attempted some fingerprints. I will give them that. They did attempt. They were trying to get what they could get. Obviously somebody is going to touch door handles, a storm door. It's January. You heard testimony it was cold, so this is not one of the nights where you got the storm door open and the front door open taking in the evening breeze. It was cold, so both doors are probably shut. Stands to reason somebody is going to touch that door handle, storm door handle, generally you got to depress it so you can open it up. They looked there. They don't have any fingerprints. We do some touch DNA. Look at the door itself. Somebody must have touched it. Got to open up the door. We look, can't find any fingerprints but we do have some DNA. Go in to the house. It is clear that everything occurred in one location on the couch. All the evidence seems to be that everything occurred right at the couch. All of the blood, all of the bullets, shell casings, what not, are right there. Then we look around. Nothing else is really out of place in

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the house accept for the master bedroom or what has been call the master bedroom and there are several pictures of it, but I will hold up State's number 10. Clearly, clearly someone has rifled through this room. I doubt very seriously that Miss Jones left the drawers hanging out like this with stuff all over the floor. In fact there is one drawer just laying in the middle of the floor and a chest of drawers right here tipped over. Now someone had to touch these things, had to open the door, the drawer to the chest. We didn't even attempt to get DNA there. That's what you heard. We didn't swab anything in there. We tried to get some fingerprints, but were unable to get any lifts off of that. But no attempt to try to find something in the bedroom where it is clear whoever went in that house went looking for something. There is no indication anything is missing. So kind of makes you wonder the State doesn't have to prove motive.

Judge may charge you on that. But wouldn't it be nice to know a reason. You have no idea. It appears it is attempted robbery, but other than a room that is out of whack you got nothing to indicates. No one says anything is missing. Well then on the scene this is a neighborhood. You can see from this picture

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right here in State's 25. They are not right on top of each other but these mobile homes are fairly close together. Short of somebody getting a knock on the door, no one hears or sees anything. You got cars flying out of there. You got gunshots. No one hears or sees anything. It is about 10 o'clock at night. I am sure some people had gone to bed but somebody is probably awake. So you got no witnesses on the scene. You know no more right now about what happened in that trailer then you did Monday morning when the case was called. You have no more information. No more information. Even with everything Mr. Blakeney has got to say. He couldn't tell you what happened in the trailer because in his story he just sitting in the car.

Now, getting to the car. What do we have what don't we have from the car. Solicitor is right, you will hear about these cigarette butts because they are in the car. You got six of them. Never sent to be tested. Now the explanation is, the explanation you here from sheriff's department is SLED's policy is we can only submit five items. Okay, that's fine. Look at the reports you got. You got three DNA reports from SLED and it shows what got sent. All right, 380 shell casing, jumpsuit, swabs from the storm door,

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swabs from the front door, seat belt, fabric from the passenger seat, fabric from the driver's seat, swabs from the rear seat, another swab. One, two, three, four, five, six, seven, eight. That didn't include the swabs that they took from the people to compare it to. There were eight items sent to SLED on this case. So right now you already know if it is five, that is not a hard and fast rule. And what does SLED do? What does SLED do? Item number six is the jumpsuit. We will talk about it in more detail in the second. The jumpsuit, what does SLED do? They make it 14 different items. They cut tell 14 different pieces off of it. So clearly SLED is not too worried about this five item policy. That is not the only one they do it with. Seat belt they make it two different items. So don't stand up here and say oh, we can only send five things. We don't need to worry about the cigarette butts. And no one makes a phone call and says, hey, you know this ain't a stolen law mower. I got a murder. I am trying to figure out who was in this car because the car was at the scene and somebody was smoking cigarettes. Don't send it. This is stuff that is collected a few days after the event. The cigarette butts, the swabs from the steering wheel, from the gear shifter, I mean, as SLED tells you when

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you touch things it doesn't necessarily leave DNA on it but if you are driving the car probably going to find something on the steering wheel. If you got the gear shifter wouldn't you think you would find something on it. Well, somebody thought enough to swab these things. Somebody thought enough to pick them out of that ashtray. But they never make it there. So you don't have that evidence to tell you what was going on. Maybe it can, maybe it can't, but right now you don't know. We're never going to know, but that could have told you something. The mud on the car, I don't know.

Mr. Barfield showed Mr. Blackmon this picture (indicating) he says he didn't remember that. After a while he realizes oh, yeah, yeah, yeah. That's right. That's right, that molding was missing. So, whether he kept his car clean, whether there was mud on it or not, I tell you that is really not of very much consequence, particularly given the fact that no one can tell you there's muddy tracks leaving [redacted] or any other place that they can tie back to this car. So the fact that the car has mud on it and by the way other than testimony you got nothing to substantiate that.

How about this, we got a murder. We are trying to

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figure out who does it. We come to Mr. Blackmon's house. We look all through his car. We are at this time looking through the ashtray, we are taking swabs of the steering wheel, we are dusting for prints, we are trying to get fingerprints, DNA, whatever it is we can get. We believe this car was used in this murder and the people who went there and did this thing went to the scene and left with this vehicle. And then they leave the car with Pomp Blackmon who then sells it. Once we get wind of this being sold we get it back. No one knows how we get it back but we get it back and then in March -- March, all right, March we decide maybe we need to go check for blood and that's when we get the seat belt and that's when we get the car seat. And that stuff gets sent on to SLED; cigarette butts, steering wheel swabs still sitting in Lancaster.

Now, let's suppose that there is some game of chance where you can go to some convenience store and wager two dollars for a chance to win several million dollars, and your odds on that -- I don't know, one in couple hundred million of winning. You might take that bet. How does that relate to this DNA? Well, you do have DNA and it does tell you something. It tells you a whole lot and the first thing I want you

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to look at is item number 1. This is the one and only shell casing. The bullet is from a 380 gun. There is one 380 casing in this house. It is in fact right here on the couch over here. That is where it is found behind the couch. Not in blood. Right here. (Indicating). The only DNA on that shell casing is Jenika Jones and not by a little bit. One in 8.9 quadrillion. Quadrillion. That is like 15 zeroes past the nine. One in eight quadrillion. If you trying to bet that you will find somebody else to match that you ain't going to put two bucks on that. One in eight quadrillion, that is Jenika Jones's DNA. Not blood. SLED said they didn't find any blood on the shell casing. Her DNA. How is her DNA the only DNA on this bullet. Not the shooter. Not the man who comes in here with the gun who presumably would have loaded the gun, bullet by bullet and fired it. His DNA is not on it at all, nor is Mr. Green's. Nor is anybody else associated with the case. It is only Miss Jones. Why? I don't have the first clue ladies and gentleman, but that is the first part of looking at reasonable doubt in this case. Why? If we think this is the man who did it why is her DNA the only DNA and by a lot. About as certain as you can get that's her DNA.

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Item number three, this is a storm door handle. Remember it's January. Store door is closed, the front door is probably closed. Somebody has got to open the door. You know what the SLED report tells you on that, it can not be Devatee Clinton. Can not. Excluded. No way. Could be some of these other people maybe, maybe not. I don't know. But it is not Devatee Clinton.

Next item you got there, number three, the front door, front door handle, and what it says on that is well, I can't say whether it is or isn't Devatee Clinton. Can't say. Not going to rule him in, not going to rule him out. Just can not tell and because we can not tell there are no odds on that. You certainly not going to put two dollars down on a bet like that.

All right, 6.1, remember now this jumpsuit -- I am not going to drag it out quite yet. I will do that in a minute. This jump suit which was SLED's 6.1, is a cutting from this jump suit. This a jumpsuit that we know is Devantee Clinton. We have no question that this is it. We had somebody get up there and testify that's the jumpsuit. This is his jumpsuit, right? Well, maybe. All right, 6.1, that is not his DNA. Can be excluded. Not his on his own jumpsuit. It's

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somebody's because they say it is somebody's. You got this report. You will be able to read it back there. Six point two another cutting from this jumpsuit. Profile developed from 6.2 was an identified male individual. It ain't anybody's in this case that you heard about. It's somebody entirely different. On that blue jumpsuit that we are so sure is Devantee Clinton's. Six point three, maybe, maybe not. It is a mixture. Could be his DNA, but the odds of finding somebody that matches that DNA profile well, it is one in 580. All right, let's assume there is at the time of this event about 76,000 people in Lancaster County alone. That is 130 other people could be any of them, that is bet you put money on it as to find someone who matched that. Six point four, ain't it ironic one in 12. One in 12 chance. That could be any number of people in this courtroom whose profile potentially matches what they find on six point four. And then they got other stuff. Remember it is 14 cuttings. They find what they determine to be human blood on a few of these. On other ones they find stuff that is probably blood but it is not human blood.

Now, if you recall I asked and you probably thought it was an odd question, could it chicken blood. SLED agent said, yeah, it could be chicken blood. Do you

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remember what else Pomp Blackmon gave them, an ID from Tyson. It is up the road in Monroe. The chicken plant in Monroe. This (indicating) just happens to be with this. That's not important. The forensics aren't important. The physical evidence is not important in this case. You look at the witnesses is what the solicitor says. We will get to them in just a second. Twelve point two I believe is the seat belt and what it tells you is it ain't anybody that you heard about here. Got no idea who that person is. So, somebody else is here. Somebody else is here whose DNA has not been submit. The DNA tells you a lot and what it tells you is that State can not tell you that it was Devatee Clinton. Can not. That is what that DNA tells you.

Witnesses, oh yeah, we got this great conversation. We are over at Miss Tinsley's house. Apparently folks are over there a couple different times. We're hanging out eating breakfast, which is fine. Miss Tinsley tells you she hears no conversation about a robbery. Nothing. Miss Davis tells you, oh yeah, oh they were sitting there, and Tate was sitting there talking to Al and he said hey, let's go do this lick. Can't tell you where. Can't tell you when. Can't tell you who they talked about. They're just sitting

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around before breakfast talking about doing a robbery. Except she says that people are there that say -- they get up later and say they weren't even there. So, I don't know. You get to determine whether you are going to believe it or not. But you take a look at what they said and what they didn't say and who they said wasn't there and that's how you weigh whether they are telling you the truth or not.

Jamal Twitty says, I wasn't there. I was there for a couple of minutes. I wasn't there for no conversation about breakfast time, but we were hanging out between the two apartments about ten o'clock that night. Apparently Mr. Clinton is interviewing folks for this robbery because everybody who walks up he is asking do you want to hit a lick. That's what Miss Twitty says. He is standing there and Mr. Clinton is there and he wants to go hit a lick. He is telling everybody he has got a gun and so when Mr. Twitty walks up he said hey man, do you want to go with me and Mr. Twitty in fact is the one that talked him out of doing it that evening. That was his testimony.

Mr. Green walks up and he decides he needs to talk to Mr. Green about it. Hey, let's interview him. That's the conversation. Now even if you want to believe that this conversation occurred, you find that

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credible, you still have no idea what the heck they are talking about because no one can say oh, this is where they were talking about going. This is who they were talking about robbing. When? No idea, except Mr. Twitty is saying I talked him out of doing it that night.

All right, now back to the car. We got Mr. Blackmon. He is loaning his car out. He says he has got two folks, two black guys come up and he loans the car and he gives the keys to the one he thought had a driver's license. As the car drive's off two more guys get in the car. Now we got four people in the car. All right. Then you got Miss Montgomery and Miss Nelson all they were trying to do was get down [redacted] to go visit someone and a car comes flying out. A car with its lights off. Kind of boxy-looking car. Not entirely sure it was Cadillac or Oldsmobile. That was her testimony and it is flying out. Can't see who is in it. No idea. Couldn't tell you whether it black people, white people, purple people or orange people. Couldn't tell you anything except about this car. There are no street lights up and down [redacted]. You will see that in the picture. All we know is that a car was there. Okay. But we don't know who is in there. But here's

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the issue and why I am bringing this up lady and gentleman, I can't recall which one, but one of them gets up there and says I saw that car the next day in front of Piggly Wiggly and I ask how do you know it's that car because that's the car I saw. How are you sure? Because its was white Cadillac. And her testimony was that is only white Cadillac she'd ever see. Okay, ladies and gentleman that is for you to decide whether you want to believe it or not, but I submit it is not credible evidence.

Let's talk now about this jumpsuit. All right, we talked about the DNA, we have talked about the several different cuttings and how they can not if this is the jumpsuit that he is wearing they can't put his DNA on it. Can't find it on it. All you got is, well, it might be his. One in 580 it could be somebody else's. One in 12 it could be somebody else's. So what the State has to rely on is Miss Stradford. Now, Miss Stradford told you that Miss Jones was a friend of hers. In fact she said at one point was a home girl. That is a friend. That's a close friend. That is a good friend. Maybe you don't hang out every day but you see each other regularly and she just heard that her home girl had been killed. She is understandably upset about that situation. And then she says she

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sees Mr. Clinton over at the Crenco on South Main and she tells him about this and he is not upset at all. He just wants a cigarette. But what the State puts her up to do is to go Miss Stradford have you ever seen this jumpsuit and I swear as soon as Mr. Barfield got about right here (indicating), yeah, that is the one Tate was wearing that night. Now she said she seen him. She knows him. He wears a blue jumpsuit or camo a jumpsuit regularly. That's his normal clothing. Folks one, she is going in the store after her good friend had been murdered. I's sure she wasn't paying a whole lot of attention necessarily as to what Devatee Clinton was wearing that night. But she didn't even look at it. She makes no observation. As soon as it's pulled out of the box, two years removed from the incident from the night not a doubt in her mind, that is his jumpsuit. Ladies and gentleman that is not at all credible. That is not at all credible. It could have been any jumpsuit. It just happens to be one in the courtroom right now. That's why she says it is his.

Now, lets talk about Mr. Blakeney. Mr. Blakeney is important and the solicitor just stood up here and told you that is the best evidence they got in this case. And I agree that is probably the best evidence

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they got in this case. Let's talk about that evidence because what they don't have the forensics, but what they got to do is build this case and they are trying to build in this situation is like an arch. Mr. Blakeney is going to be there keystone to whole this arch together. Well, lets talk about their keystone. Here is Mr. Blakeney, gives absolutely inconsistent statements. Tells law enforcement the day he gets arrested, talks as soon as he gets arrested, and says it was two people. Two people were in the car. In his statement the cops catch him in a lie and he starts correcting it by the end of the statement before he leaves that day. He has already correcting errors. What didn't he correct? Well, he said it was two people at the time. It's later. Later once we heard a little bit more about it and once we had a little bit of time to think about it there were three people in that car. I just sat in the car. No, there was other people, Delrico. Delrico was there. That's right. Why didn't you say -- why didn't you say that before? Well, I couldn't remember his name. That's a reason not to put a person there. You can not remember there name so you just leave them out. Well, I was scared. Okay. I mean, why is it any better now then it was then, if you were scared then why aren't

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you scared now. This is where you get to look at his credibility, ladies and gentleman. When you lie about things there is no reason to lie about. That's how you determine credibility. He gets up on this stand, sits up here and swears that after all this stuff happened, as he is driving Devatee Clinton back home over to [redacted], that Clinton was not driving the car, that he was driving the car. That Blakeney was driving the car. Yet, when confronted because it clearly said in his statement, Clinton was driving the car at that point. Why do you lie about that? Because you are lying about everything else that's why.

Mr. Blakeney would also have you believe -- and by the way, as I talk about his statement I am not saying that you should find him at all credible. What I am trying to explain to you is why you should not find his statement credible at all. These are the issues. He said Devantee Clinton didn't tell him anything. Devantee Clinton who stands around interviewing potential co-workers for this robbery doesn't tell the dude who is driving them around a thing, except I need to go get some money. So they hop in the car and they drive down 200, pass the ATM over there in front of the Food Lion at Airport Crossroads and says oh, no,

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no, no, go down to this trailer park. And he says I saw Devantee had a gun. I knew he had a gun. Man with a gun gets in your car and says I want to go to get some money. It's about ten something at night. Says turn into this trailer park, go to this trailer and you don't ask one question. Not a thought crosses your mind. Man hops out of your car and other people hop out of your car with a gun go to a trailer and you sit there and wait for him. Okay. Doesn't question anything on the scene. When they come back and get into the car still doesn't have any questions and then we got inconsistencies of what is even said inside of the car. He said Devatee gets in the car and says chill. Chill.

Now, I don't know maybe it is because I'm not from Lancaster, but in Winnsboro chill means stay calm. How are you suppose to chill and go, go, go at the same time? But that's what he says these folks say when he gets in the car and he takes off. Again, this is something that you don't need to lie about. Just tell what happened. Why do you lie about things you don't have to lie about because everything you say is a lie. That is why.

So, they head back over to the Hole in the Wall. Now you saw Mr. Blakeney up here yesterday. He gets

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up on the stand, he tells how terrible this whole incident was. He even cries on the stand in demonstration of how shook up this whole thing made him. He was devastated, horrified. He was so upset by this situation on that night that he drove back to the bar and hung out with them for a couple more hours. And after they hang out there, everybody is ready to go home so he starts driving around, dropping people off. They go to Newtown dropping people off. Drop Mr. Green off. Maybe some other people off. Mr. Clinton is still in the car with him.

Let's talk about this for a second. Okay. He says he is hanging out at the Hole in the Wall with Devantee Clinton until late in the night. All right. They don't get back over to [redacted] until between five and six in the morning. So they had to have been there for a long time. Had to be hanging out together for a long time. Well, Vivian Stradford said she saw Devatee Clinton over at Crenco somewhere around 11 o'clock to midnight. Well, I mean, is he in two places at once. See this is why I say she was in no position to be observing. She doesn't remember what she saw. She was not observing that. She was worried about what had happened to her friend. So it is either Mr. Blakeney is correct or Miss Stradford is

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correct or none of them are correct, because you can't believe all of that together. It doesn't make sense. Who is he hanging out with, or is he even there.

All right. So this terrible thing has occurred. I am sitting outside while these people run in. They come running back out. One of them tells me to chill. One says go. I take out driving. They end up at a bar. And apparently nobody talks about anything at the bar. I mean, they are hanging out for a couple hours and no one says anything. Word is getting around town because people are making phone calls. You hear Miss Stradford say she heard about it. She's down at the gas staying. No one is saying a thing while they're hanging out at the Hole in the Wall and let's all drive home. We will drive home. All right. Mr. Blakeney drives off. Drops everybody off. Clinton just sitting in the car with him. One story driving. One story not driving. But he's in the car with him. At some point he says, hey, can you keep a secret? Mr. Clinton who up to this point hadn't been worried about keeping anything secret according to any of the State's witnesses, all of a sudden wants to keep a secret. And his secret is, I killed that bitch. Mr. Blakeney, who is so upset that he got up on that stand and cried for you yesterday, continued

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driving. Didn't ask any questions. Now, certainly that would be shocking. Someone just told you that, that would be shocking. He still doesn't ask any questions.

Now, how much concern does he really have. Well, one, he is driving Mr. Clinton right back to the very place where he has reason to believe he sat up there and told you he had this funny feeling. He thought something wasn't going right. Something was bad. Tate got out with a gun. Went in there. Came out. They are driving back to the same place and he doesn't have one bit of hesitation. Just pulled right in drops Tate off. No problem. Then he says, Clinton looks at him and says hold this gun. Still Mr. Blakeney tells you he doesn't do anything. Well, so what does he do? What does he do then? He drives home. Cars is about out of gas, is what he said. The car is about out of gas. Parks over at the Piggly Wiggly just up the road from [redacted] and then kind of reminds me of a no old move I remember. When they get out the car the guy looks at one fella and says take the cannoli leave the gun, except this time it's take the gun, leave the car. This guy has now been told that his suspicions are correct. He drives Clinton over there and these other people over there and

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something bad did happen because he said he did something bad. He's now got the gun in his possession. He's now worried about this situation so what does he do? He puts the gun in his pocket and goes walking down the road. Couple days later, he says, within a day or two he gets information about what happened. He now knows who got killed. He now believes Devatee Clinton is the one who killed Jenika Jones because he has got all these factors in his head. And it has been pieced together and now knows what happened over at [redacted] and he is upset. He is concerned. He is worried. Someone he knew got killed. He comes up here two years later on the stand visibly upset about it and when he is in the moment, he is so upset, so distraught, that he sells the gun for some money to his cousin, or some relative. Nothing about his story makes sense except for one thing. One thing. He sits up there with the same exact charge and he tells you I want to be a guidance counselor. I'm going to school. I want to be a guidance counselor. He tells you the punishment for murder and I ask him, so you don't expect to spend the next thirty years in prison, do you? Nope, he doesn't. You know why? Because he expects to get a deal. He's in trouble. He is up to it further then

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he wants to admit. The best thing he can do is throw Devatee Clinton under the bus and help himself out. So, does he have deal, does he not have a deal? Well, that is part of your consideration when you want to think about, whether you want to believe a single word that came out of that man's mouth. Did he get some consideration? Yeah, he did not have to stand in this courtroom in front of a judge and beg for a bond. The State gave him one. Gave him one. And then they stand up here and say oh, we didn't promise him anything. We are not going to say that we are or aren't going to help him. He then goes on and says I expect to be treated fairly. There's a motivations, ladies and gentleman. There's your motivation. Blakeney is in trouble and he needs to sacrifice somebody. Good old Tate sitting there. Throw him under the bus.

He is the keystone, ladies and gentleman. Without Mr. Blakeney the State has nothing else. It all crumbles. They have no case. Mr. Blakeney is not at credible. Can not believe anything he told you except for the fact that he expects to be treated fairly. That's what you can expect from him.

So, to sum up -- I am almost done, I promise -- the State has got to prove to you beyond a reasonable

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doubt that the Devantee Clinton committed murder. That he went over to Jenika Jones's house and killed her and they got to do that with competent evidence. What is competent evidence? Well, my estimation of competent evidence is credible evidence. Believable evidence. Not, could be his DNA; maybe, probably, I don't know. Well, it could be one of 130 other people in Lancaster County, or every 12th person in Lancaster County or wherever.

Competent evidence is not a man who gets up on the stand and throws someone under bus to save his own hide. That is not competent evidence. They have to have competent evidence before you can find Mr. Clinton guilty.

Reasonable doubt. Reasonable doubt, I mean, I will tell you what I think it's not. It is not I've been sitting here all week. I have been looking at Mr. Clinton. I don't know, he kind of looks like he might carry around a gun and go shoot people. It's not maybe he did it. It's not I think. It has got to be there is no other reasonable explanation and there is plenty other reasonable explanation in this case as to what happened besides it being Devatee Clinton. They have got to show you by the high burden of beyond a reasonable doubt. Not more likely. Not I think. Not

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possibly.

If you go back there and you looked at everything that you got and you believe that there is a real possibility that Devatee Clinton didn't do it, a real possibility that he didn't do it, then your job is to find him not guilty.

Now the State I told you Monday, that they stand up here and say, we don't really know who did it, but it doesn't really matter and that's what they continue to tell you. The solicitor is going to tell you oh yeah, it is Devatee Clinton. Not one shred of evidence can support that conclusion. The only evidence they got is well, we think it is one of them two and if you think one of them did it then both of them did it. So they are relying on a principal called accomplice liability. Okay. So, if you that point, if you reach the point that you think these two gentleman were involved then you are going to have have look at accomplice liability. That means the State is telling you we don't know who did it. It doesn't matter who did it, but they both participated. Well, you got to participate. You got to be there. You got to do something with it. What it is not -- what accomplice liability is not, is simply being there. If you believe -- if you believe Devatee Clinton is standing

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around in conversations about a robbery, if you believe he's in a car where somebody commits a robbery, just because he's in that car -- and by the way, I am not in any way suggesting that you should even reach that point because I don't think there is one shred of evidence that supports that. But I got to argue what you might go to and this is a possibility that you might go to giving the evidence that has been presented to you. So if you reach that point -- which I don't think you will -- they got to prove to you that he was more than merely there or mere knowledge. They got to prove of participation.

Ladies and gentleman, once you go back there and look at it, you are going to find that Devatee Clinton was not there. Did not participate in any conversations. Was thrown under the bus by Wayne Blakeney because he was an easy target and Devantee Clinton is not guilty. I want to thank you for your time and your attention and your service.

THE COURT: Thank you. Thank you very much Mr. Frick.

Miss Raney.

MS. RANEY: Thank you, Your Honor.

I know this has been a long week and a long day. Hang in with me a little bit longer because this case

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is important to Jenika Jones's family who have been here all week and lost a daughter way too soon. But it is also important to the young, Mr. Green, my client, who is on trial for murder. What I think, where I think the evidence really begins in this case is with my client's sister, Latoya Green, who was called to testify in this case by the State. The government. And she gets on that stand and what did she tell you? She has been friends with Jenika Jones since they were kids. She was so close with Jenika Jones that she is the God momma to her three babies. She tells you that in 2011 she, Latoya Green, her brother; my client, Al Green, lived with Jenika Jones and not just with Jenika Jones, but her three small children. And I asked her, were those kids there all the time and she said, yes. They were there every day. Fast forward, not that far down the road. Miss Jones is murdered January of 2012. January 19th of 2012,and I believe it was Investigator Thompson or it might have been SLED Agent Green yesterday when we were talking to the police about how they conduct their investigations. I believe it was one of them that said yesterday when a crime is first committed we cast a big wide net out there first and as we work through our investigation we narrow it down. What did

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SLED agent Green tell you yesterday. He talked to my client, Al Green, just days after Miss Jenika Jones's murder. I am not going to pull all this evidence out. You will all have it back with you in the jury room to go through and look at for yourself. But the State put in evidence that Miranda or waiver of rights form with a date on it that shows they were talking t- my client within days of Miss Jones being murdered. And my client tells them I was at the Hole in the Wall. Not a crime to be at the Hole in the Wall. His girlfriend gets up there Miss Tinsley and they ask her, where did Al Green tell you he was at on January 19, 2012? Well, he said he was at his mommas house and then he went to the Hole in the Wall and he met up with Tate there. Consistent with the same thing that my client told the police. But if you also remember what we talked about with Investigator Thomspon yesterday when I was asking him about going to Marcus Barnes the gentleman than Wayne Blakeney said had given the gun to, I was asking Investigator Thomspon, well, did you go to Mr. Barnes's house? Did you look for the gun at Marcus Barnes's house? Did you ask for consent to go look for the gun, and he said he didn't really get anywhere with Mr. Barnes when he went looking for the gun. If you remember at that point I

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asked Investigator Thomspon, what about a search warrant? I had him explain to you all the process of getting a search warrant. Where they, the police officers can go to the judge and ask the judge to sign off a search warrant so they can go in that house and look for evidence and remember what he said. Well, you know, that was in March and a couple of months had passed by that time. So, I didn't really think the judge would go for it. So I didn't even bother asking the judge. Well, that wasn't the case was it. On January 25th, just days, less than a week after Miss Jones was murdered when the police were talking to Al Green, did you hear any officer say, hey, you know we are talking to Al Green. Obviously they consider him a person of interest in this case, it is within days of this woman being murdered. Maybe we should ask Al Green if he will let us go take a look around his house. SLED Agency Green didn't tell you that, did he? Did you hear one officer say after the police talked with Al Green within days, hey -- hey judge, can we have a search warrant? This horrible crime happened just a few days ago. We think this guy might be involved in it so we want to go in his house and look for evidence. And what kind of things could they tell the judge they were looking for. Well, just a

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few days after this we have a missing car key from Pomp Blackmon's car. We have a missing murder weapon. They haven't found that. I would think the police would be interested since they think Mr. Green is the person of interest in this case and what he was wearing that night. Collecting that. Putting that in evidence. Seeing if there is any type of forensics they can find off that. Maybe interested in Mr. Green's cell phone. Mr. Green was right there in the police station meeting with the police. Did you ever hear SLED Agent Green tell you he asked my client if he could look through his phone? Everyone I know, well, accept for the 14 of you because I know you can't bring the phone in the courtroom -- everybody when they are not stuck on jury duty carries their phone around with them and certainly if it is not with them you leave it at your house. Obviously the police think phones are important evidence. They collected a phone. Bothered to put it in for evidence from Miss Jones's house. Never even asked, never even looked for my client's to see if there is anything incriminating on there. Any kind of text messages. Nothing. Don't even look.

Then we heard from the first responding officers at the scene. We heard from Officer Weiss and David

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Belk. They tell you they get there really shortly after all this happens. I believe it was around 10:15 and I ask them what's it like when you pull up. You know, what do you he see when you pull up to Miss Jones's house, and I honestly don't remember which one of them say it, but I remember an officer telling me in response to those questions, well, I remember there was at least eight or ten other police officers there. There is patrol cars there. There are blue lights. We know CSI team is out there. We have three people from the Lancaster County CSI team alone that testified that they were out there that night. We know that SLED was involved. I asked Officer Green when did you first get involved and he said it was real early on in that case. So we got SLED out there. We got the CSI team out there. We got EMS out there. We got Officer Weiss out there. We got Officer Belk and ten -- eight to ten more. So there is a lot of people out there. And what did they tell you they did those first responding officers? Well, one thing they told us is that they spent from about 10:15 at night until 5:30 in the morning they are investing this case. They also told us this happened on January 19th, 2012. Over two years ago. Over two years now to collect evidence and prepare the case against my

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client, Al Green. And do you remember me asking Officer Weiss, well, what did you do when you got there? And said he was tending to those children. Jenika Jones's three small children; a four-year-old a two-year old and then her youngest boy. And that all three of those children had blood on there clothes. There mom's blood. Did you ever hear him tell you or any of the other officers that the State put forward on the stand that they talked to the oldest child about what happened? Did they ever ask this four-year-old, this four-year-old that lived with my client in 2011 and this incident happens in January of 2012? They don't ask him, hey, do you know Al? Hey, here is a line-up, here is a photo of him, do you know this guy? Was he in your house on January 19th of 2012? We don't know the answer to that because we don't have any evidence in this case that the police even bothered to ask him that, Mr. Blakeney.

Mr. Frick commented on the fact and the judge is also going to tell you when witnesses are up on the stand testifying you are suppose to look at their demeanor and that is a factor just like it is in your every day life when you are talking to people and deciding whether or not you are believing what they are telling you. And Mr. Blakeney was clearly upset.

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He was tearful, emotionally torn, absolutely, but when you were watching him and listening to him testify and seeing him shed those tears and repeat over and over again, I repeatedly heard him say, I am scared. I am scared. I am so scared. I bet he is scared. He is charged with murder. You think those tears he was shedding were for Jenika Jones's family. You think those tears he was shedding was for those three children of who has been robbed of momma to early in life, or were those tears he was shedding for himself because he is in a heck of of mess isn't he. He feels so bad about this situation, so shook up about this situation, that he lets months, months pass and never goes to the police. In fact the only time he talks to the police is after one of his own friends rats him out. That's what he told you. He gets arrested for murder. Well, then he decides I better start talking. And even then when he is trying to safe his own behind he's not honest at first and he did admit to that. But look at his actions. Another way we judge whether people are telling us the truth or not in real live is we not only look at what they say but also what they do. If somebody comes up to you and says, hey Suzy, she's a heck of a great girl. She's really nice. Are you just going to judge suzy on people saying she's

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nice or are you going to look at what Suzy does to make that determination for yourself if she's a nice person. You know how the saying is actions speak louder then words.

The guy that feels so bad about all this, so scared, so shook up, spends all of that time he said with Mr. Clinton in the car that night after all the others are dropped off. He says Mr. Clinton tells him here you go. I killed that bitch and here's the gun. Does he take it to the police, no. He ditches the car because it ran out of gas. He holds on to that gun he says for a couple of weeks and then he sells it to make a couple of bucks. Sounds real broken up about Miss Jones and her family. He's ditching what he has allegedly told us is the murder weapon to make a couple of buck. Sounds like someone is out to themselves to me.

When SLED was up on the stand testifying they told you they took a look at the shell cases and the bullet that was recovered from Miss Jones's head and when they are looking at those items they are looking for markings to see if there is enough markings on the shell casings on the bullet to determine whether or not that if they even had a gun they would be able to match it up. And the SLED firearms's expert told you

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yeah, there was marking on both of these items and if I had a weapon I could have test fired it to see if it matched up with these marking and then we would have known whether or not it was the murder weapon. But Mr. Blakeney he got rid of it for a couple of bucks so we don't know, do we.

When Mr. Barfield was talking about the conversation I heard his say repeatedly to you in closing argument; they, they, they, they. Is that what the witness's stood up here and told you because that is not what I remember hearing and I know you all heard a lot and nobody can remember everything. So I will tell you if when you get back there and you are discussing this and you can't remember, because nobody can remember everything exactly what somebody said you do have the opportunity to rehear testimony.

What I remember Mr. Blakeney saying is there was no they involved. He says when they get to the club he don't know what Mr. McDow and Mr. Green are doing. He couldn't even tell me if they were drinking. He says Mr. Clinton came up to him and said I need to go get some money, pick up money. Something to that effect. He doesn't say that my client was there when Mr. Clinton made this statement. He doesn't say Mr. McDow was there when my client made the statement. He

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wasn't even hanging out with my client then. Simply we got to the club I don't know what they were doing. I don't what they were drinking, but hey, Mr. Clinton asked me to go ride him over to get me some money. Where is the conspiracy, the aiding, the planning of this crime by Mr. Green.

Mr. Blakeney says the four on of them get in the car and what is discussed, what is even mentioned on the way over to [redacted]. Well, there is not one word about Mr. Green saying anything. Not one word about Mr. Green having a weapon. Not one world about a robbery, a killing, a shooting. No one is pulling out a gun on the way there and cocking it, checking to make sure it is loaded. No one is putting on masks. No one is putting on gloves to prevent leaving DNA behind when they are touching things. No one is doing anything suspicious like that. Wayne Blakeney says it's just Mr. Clinton giving him directions on where to go, not Al Green giving him directions. And he says they roll up in at [redacted] the four of them in this car and three of them get out. How convenient he is not one of those three. He says that he sits in that car about ten minutes. He doesn't remember, I asked him can you show me exactly where you parked when he out there that night and he is not sure. But

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he sure was sure when I asked him did you hear a gunshot because you are telling us when Mr. Clinton tells you, I shot her, that you didn't believe it. So did you hear a gunshot that night? Nope, didn't hear a gunshot. Well, did you see which way they went? Nope. Could you see the door to Miss Jones's trailer that all the State's evidence point to someone went into the front door of her trailer? Nope. They disappeared was the word I heard him say. So he can't say whether the three of them stayed together. He can't say which one of them, two of them, three of them, any of them if they actually went inside of Miss Jenika Jones's trailer. He could not see it. He says ten minutes later they come back and I believe my notes when he was testifying said they were in a little bit of a hurry. They get in the car and Mr. Clinton says chill. Well, at this point Mr. Blakeney tells you he don't know anything that is going on at all. He has no idea. He just thinks they are going over there to pick up some money. Doesn't hear a a gunshot. I asked did you hear any loud or unusual noise? What did he say, he said no. So why would Mr. Clinton get in the car and tell him to chill. According to him he is not freaking out. He don't even know anything is going on. And what does he say

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he hears from the back seat where allegedly my client, Mr. Green is and Delrico McDow, go, go. You notice there was no explanation about that. We don't know whether go, go means hurry up because I got to get to back the club because I'm hitting on this girl and I don't want her to leave because she was hot. We don't know if it means hey, we got around the back side of the the trailer, headed towards Jenika Jones's trailer and Tate pulls out a gun and Mr. Green is like, whoa, I did not the sign up for this and he's just wanting to get the heck out of there. Cause what happens when they leave [redacted]? Well, for one, Mr. Blakeney says he drives fast, but did you notice what he didn't say? He never said he was driving with no lights on. He never said that he almost ran another car off the road. Like Miss Nelson and Miss Montgomery told you. He didn't say any of those things. He says they go back to the club, back to the Hole in the Wall, that he is still at this point has never seen my client with a weapon. Never heard him talking about a robbery. Doesn't see him come back with anything in his hands that could have been taken out of that bedroom that you all have pictures of that are ransacked. Nothing. And they hang out for a little bit at the club and then he takes my client home.

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Who does he spend all this quality time with that evening, not Al Green.

He says as they are riding back to the club that night he doesn't say anything about my client acting freaked out, nervous, amped-up. Adrenaline pumping. I think if you were there when all this goes down someone that you use to live that has has know your sister for ages you would be a little fired up about that. He doesn't say anything unusual at all about Mr. Green's demeanor. Nothing. Didn't hear him say anything on the way back. Hang out for a little while at the club. He takes all these people home, other guys we don't even know who they are in addition to Mr. McDow and Mr. Green. And spend all of this time until six in the morning with Mr. Clinton the next day and he says not when my client is in the car. Not when Mr. McDow or anybody else is in the car. That suddenly Mr. Clinton feels like talking and says I killed her and he is in such a confessing mood apparently, Mr. Clinton, I can't think of a more incriminating statement to come out of someone's mouth other than I killed her. Pretty damning. Really putting yourself in a lot of trouble saying something like that. But you know what he doesn't say? He is willing to go that far and throw himself out there

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under the bus, but he never says, oh, and Mr. McDow and Mr. Green helped me do it. Oh, and they were in on it the whole time. Oh, they were inside that trailer with me. He is going to hold that back, but confess to murder. Does that make be sense?

Motivation. People's reasons for saying what they say. Mr. Barfield aruges that it makes Mr. Blakeney a more credible witness that he doesn't have a deal. Really? Think about that using your common sense as several of us have asked you to do. If I am hired to cut someone's lawn and they say right up front here you go. I'm going to pay $100 to do my yard today and they gave me the money at seven o'clock that morning. I got the money in my hand. Don't matter how good or how bad a job I do cause I already got the money. I got my deal. But if they say, hey, go cut my lawn and I will pay you for your work when the job is done, doesn't that give me a little extra motivation to do a good job. Maybe spend a little more time on what I am doing. Pay more attention to detail; edging and blowing away all the grass clippings when I am done. Making it look real nice and pretty if I haven't got my money yet and I am earning it.

Mr. Barfield also told you, oh, the defense is

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going to talk about forensics. That is just fancy TV stuff and you know, it is all real confusing. SLED told you that. There is mixtures of people. What I say to you ladies and gentleman you are going to have all the SLED reports back there with you. Take a look at them. I don't there is any confusion in SLED's testimony or their reports. You will get to see what they say, nothing they got is a match to Al Green. I don't see any confusion there. And why is forensics and DNA important, the same reason that I said at the beginning of this trial. Yes, witness's testimony is important. I want you to pay attention and consider what all of the witnesses told you, but forensic evidence, physical evidence, not even just forensic, things like pictures and the trim off the car and all this stuff that is going to come back to the jury room is important because it can back up what someone says or it can contradict it. To help you all do your job to determine what the facts are in this case. So Mr. Barfield wants you to pay attention to the physical evidence in DNA when it helps you. When it helps your case, but not when his case ain't so good. Then it's just fancy T.V. stuff. Forensics and collecting physical evidence isn't important, really. Our Lancaster County County Sheriff's office, they had

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three CSI people out there that night just on this case. Why they spending all this money to pay those people? We had at least three people from SLED testify. Why are we putting all this money in those people and in SLED in general if that stuff is just fancy TV stuff. Just not that important. Does that make sense.

I am not going to take at this out of this box and I am sure there are pictures in this pile here too. It certainly does appear that a piece of trim from this car was on [redacted]. Mr. Clinton lives on [redacted]. I don't how many times if it was this car or not and how times it went in and out of that [redacted] neighborhood that night. No idea. I can tell you that Miss Montgomery and Miss Nelson say they think they see that car there that night and Blakeney drives it -- says he drove it through there twice. And if a piece of trim is found at [redacted] that does match the car, well great, the car is not on trial here. We need more than that. The inquiry doesn't stop with whether or not the car was there that night. That's not the issue here. Was Mr. Green in that car. Again, it doesn't stop there. Did Mr. Green plan with Mr. Clinton or whoever else to commit a robbery, plan a lick. Did he do something other

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than merely be present? You are going to hear those words, mere presence from the judge when he gives you the law. Just being there is not enough to be a criminal act. You have to do something to aid, assist, some overt act to help further along what is going on. I didn't hear testimony from a single witness that he helped do that and the State says oh, but wait a minute. We got it all figured out from the day before. Remember Dominique Davis came up here and told you up he has been planning this for at least a day. And that's when Mr. Barfield started to use that "they" language there again. They were planning this. They were talking about this, but what I remember Dominique Davis saying is Mr. Clinton asked Mr. Green, or was telling Mr. Green about doing a lick. Not that the two of them came up with this idea at the same time. That it was a question or brought up by Mr. Clinton. That's what I remember her saying. She says that when she hears this conversation between Mr. Green and Mr. Clinton that she's talking to Miss Tinsley. So Miss Tinsley is close enough to all this, to be having a conversation with Miss Davis. She can't be that far away and Miss Davis can focus on that conversation with Miss Tinsley and this conversation going on over here between Mr. Green and

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Mr. Clinton. Miss Tinsley, called by the State, tells you I did not hear any such conversation. And Mr. Twitty who tells you he stopped by there that morning said when I got to the house I didn't even see Mr. Clinton there and did not hear any discussion about a robbery or a lick. And even if Miss Davis is -- if we believe that what Miss Davis is telling you the truth what does she say my client said about that. She said my client said, are you talking about the girl that works all the time with the black car. It's kind of like what are you talking about. She didn't say I heard him say yeah, let's go do it, or yeah, how are we going to get this done. Yeah, I got a gun I can bring to this, or yeah, I'm going to get some money off that girl. None of that. She never says she heard Mr. Green agree to go along with this.

I never heard any testimony that Miss Jones has a black car. I heard mention of a Jeep somewhere. Not sure from who. You are going to have the pictures at her residence. There is no black car there. That's all there in evidence. No talk at all that day about who they are talking about. That a huge assumption there. Miss Davis said I didn't hear names, who, what, what they were going to steal, who they were going to go after, or where they were going to do

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this. None of that. So then the State says, oh, wait but we got Mr. Twitty too and he can show Mr. Green was more than just a sweet innocent babe in the woods. He helped plan all this at least a day in advance. And what does Mr. Twitty tell you. There's a lot of "they" talk again when the solicitor talked about it.

Mr. Twitty tells you it is Mr. Clinton. That my client is not even there and Mr. Twitty tells you Clinton comes up to him and it's like, hey man, want to do a lick? And what does Mr. Twitty tell you his response was to that question posed by Mr. Clinton, yeah whatever. Then Mr. Twitty says my client comes up. Comes out of Miss Tinsley's house or whatever he was in the neighborhood. Again, my client is not even there hanging out with Mr. Clinton when this conversation first starts. He just strolls up on Mr. Clinton and Mr. Twitty's conversation and then when Mr. Green rolls up on the conversation Mr. Twitty says he hears Mr. Clinton hey man, do you want to do a lick? What does he say my client said, yeah, whatever. The same response that Mr. Twitty gave. If Mr. Clinton and Mr. Green had already planned to do a robbery that morning why later on that night is Mr. Clinton asking my client again about the very same thing if they already have this big agreement. That

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don't make any you sense. And then who keeps pushing up. Did you hear any testimony from Mr. Twitty that my client is like, yeah, well how are we going to get there? I will try to get a car and I'm going to get a gun and this is how we are going to do it. No, he didn't hear my client say anything like that. He says it is Mr. Clinton pushing him, Mr. Twitty, to go get a car and Mr. Twitty is like, no, man, my car is parked for the night. Well, you don't hear my client jump in say oh, let me see if I can get a car. Pushing that along.

I asked Mr. Twitty, well, you said yeah, whatever. Whenever Mr. Clinton asked you to do the lick did you ever go do you a lick, robbery or any crime with Mr. Clinton and he is like no.

Beyond a reasonable doubt. It is the State's job. It is their burden to give you evidence beyond a reasonable doubt in this case. I submit to you they don't have it against Mr. Green. If after you heard all of the evidence in this case, the judge is going to describe for you reasonable doubt and give you the charge on the law of what that means and I ask you pay close attention when he does that. I believe he at the beginning of this case did give you instruction on reasonable doubt and said, you know, if they proved

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their case beyond a reasonable doubt you will be firmly convinced of Mr. Green's guilt. Are you? The judge has also reminded you that just because these two individuals; Mr. Clinton and Mr. Green are both charged with murder and are both being tried at the same time that you have to evaluate all the evidence, the case against Mr. Clinton and then the case against Mr. Green.

The judge is not going to tell you, because that is not the law, that you have to come up with the same result or same verdict on both of them. You can. They can be different or they can be the same. That is for you all. You guys are fact finders in this case. It is your job to hold the State to their burden. They have not met it. The evidence is not there and for that reason I ask you to find my client not guilty..

THE COURT: Thank you. Thank you, very much Miss Raney.

Mr. Foreman, ladies and gentleman of the jury, I believe we will take about a 15 minute recess. During this recess do not discuss this case with your fellow jurors or anyone else. You may now go with the bailiff.

THE COURT: All right. Court will be in recess 15

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minutes. Short break.

(WHEREUPON, there was a short break.)

All right. Welcome back, Mr. Foreman, ladies and gentlemen of the jury panel, it is now the portion of the trial where I will charge or instruct you the law that you are to apply to the facts of the case as you find them to be. The manner in which I charge the law in a criminal matter, in a criminal case, is I charge the general law that applies to all criminal cases in South Carolina first. After I charge the general criminal law I will then charge the law of the crime charged in the indictment of murder. I will then charge hand of one, hand of all or accomplice liability.

Finally, I will then charge or instruct you on the form of the verdict and the verdict form itself that you will have in the jury room with you, Mr. Foreman, ladies and gentleman of the jury. Typically, I will give you the caption of the section that I am fixing to cover when I change from one topic or subject to another, I will then give you that next caption to follow along.

Charge, arrest, indictment not evidence. As you know the indictments in this case of the defendants charge each defendant with the crime of murder. I

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remind you that the fact that the defendant were arrested, charged and indicted in this case is not evidence in this case and can not be considered as evidence of guilt in this case, nor do the indictments create any presumption or inference of guilt. These documents again are simply the formal written instruments which contain the charge made against each of the defendants. It is the formal written document by which the case is brought in to this court. Multiple defendants, I charge you that there are two defendants in this case. Each of them is charged with the crime of murder. The case of each defendant and the evidence and the law concerning that defendant should be considered separately and individually. Your verdict does not have to be the same for both defendants. The fact that you may find one defendant guilty or not guilty, should not control your verdict as to the other of defendant.

Where more than one person is charged with a crime, if the evidence warrants it, you may convict one and acquit the other, or you may acquit both or you may convict both. It will depend upon your view of the testimony and the evidence and the facts in this case. You must take each defendant and consider the evidence as to that defendant and my instructions to you on the

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law. You will then right a separate verdict of guilty or not guilty as to each defendant.

Presumption of innocence, each defendant has plead not guilty to the indictment and that plea puts the burden on the State to prove the defendants's guilt. A person charged with committing a criminal offense in South Carolina, is never required to prove himself innocent.

I instruct you that it is an important rule of the law that a defendant in a criminal trial, no matter what the seriousness of the charge may be, will always be presumed to be innocent of the crime for which the indictment was issued unless guilt had been proven by evidence satisfying you of that guilt beyond a reason doubt. This presumption of innocence does not end when you begin your deliberations, but it accompanies each defendant throughout the trial until you reach a verdict of guilt based on evidence satisfying you of that guilt beyond a reasonable doubt.

The presumption of innocence has been said to be like a robe of righteousness placed about the shoulders of the defendant which remains with the defendant until it has been stripped from the defendant by evidence satisfying you of the defendants's guilt beyond a reasonable doubt.

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The presumption of innocence is not a mere legal theory. It is not just a legal phrase. It is a substantial right to which ever defendant is entitled unless you, the jury, are satisfied from the evidence of the defendants's guilt beyond a reasonable doubt. What is a reasonable doubt in the law? A reasonable doubt is the kind of doubt that would cause a reasonable person to hesitate to act.

The State has the burden of proving the defendant's guilt beyond a reasonable doubt. Some of you may have served as jurors in the past, in civil cases where you were told that it is only necessary to prove that a fact is more likely true then not true, such as by the greater weight or the preponderance of the evidence. In criminal cases, the State's proof must be more powerful then that. It must be beyond a reasonable doubt.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendants's guilt. There are very few things that we know in this world with absolute certainty, and in criminal cases the law does not require proof that overcomes every possible doubt. If, based on your consideration of the evidence, your firmly convinced that the defendant or defendants is guilty of the crime charged you must

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find the defendant or defendants guilty. If on the other hand, you think there is a real possibility that the defendant or defendants is not guilty, you must give the defendant the benefit of the doubt and find him not guilty.

Duties of trial jury and trial judge: I remind you that during this trial you and I have certain duties to perform. As to the trial judge, it is my responsibility to preside over the trial of this case, and I also have the duty to rule on the admissibility of the evidence offered during the trial. You are to consider only the competent evidence before you. You are to consider only the testimony which has been presented from the witness stand, and any exhibits which have been made part of the record in this case which you will have with you in your jury room during your deliberations.

I have the additional duty to charge you the law applicable to this case. As the presiding judge, I am the soul judge of the law of this case, and it is your duty as jurors to accept the law and to apply the law as you now state it to you. If you already have any idea as to what the law is, or what the law ought to be and it does not agree with what I tell you the law is, you must abandon, you must set aside your idea

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because you are sworn. You have taken an oath to accept the law and to apply the law exactly as I state it to you.

In every case tried in this court before a trial jury, the jury becomes the soul and exclusive judge of the facts in a case. A trial judge cannot intimate, state, comment on, or make any statement to a trial jury about the facts in the case. Since you, the jury, are the soul judges of the facts in this case, you are not to infer from what I have said during the progress of this trial in ruling upon the admissibility of evidence, or otherwise, or anything that I say now during the course of my instructions to you, that I have any opinion about the facts in this case. The law does not allow me to have an opinion about the facts in this case. That is a matter solely for you, the jury, to determine. As jurors, it is your duty to determine the effect, the value, the weight, and the truth of the evidence that has been presented during this trial.

Direct and circumstantial evidence. There are two types of evidence which are generally presented during a trial, direct evidence and circumstantial evidence.

Direct evidence is the testimony of a person who claims to have actual knowledge of a fact, such as an

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eyewitness or a earwitness. It is evidence which immediately establishes the main facts to be proved.

Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact. It is evidence which immediately establishes a collateral facts from which the main fact may be inferred. Circumstantial evidence is based on inference and not on personal knowledge or personal observation.

The law makes absolutely no distinction between the weight or the value to be given to either direct or circumstantial evidence. Nor is there a greater degree of certainty required of circumstantial evidence then of direct evidence. You should weigh all of the evidence in the case. After weighing all all of the evidence, if you are not convinced of the guilt of the defendant beyond a reasonable doubt, you must find the defendant not guilty. If on the other hand you are convinced of the guilt of the defendants beyond a reasonable doubt, you must find the defendant guilty. Again, ladies and gentleman, there are two types of evidence which are generally presented during a trial, direct evidence and circumstance evidence. Direct evidence directly proves the existence of a fact and does not require deduction. Circumstantial

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evidence is proof of a chain of facts and circumstances indicating the existence of a fact. Crimes may be proven by circumstantial evidence. The law makes no distinction between the weight or value to be given to either direct or circumstantial evidence. However, to the extent the State relies on circumstantial evidence all the circumstances must be consistent with each other and when taken together point conclusively to the guilt of the accused beyond a reasonable doubt. If these circumstances merely portray the defendants behavior at suspicious the proof has failed.

The State has the burden of proving the defendant guilty beyond a reasonable doubt. This burden rests with the State regardless of whether the State relies on direct evidence circumstantial evidence or some combination of both.

Credibility of witnesses. Necessarily, you must determine the credibility of witnesses who have testified in this case. Credibility as you all know simply means believability. It becomes your duty as jurors to analyze and to evaluate the evidence and determine which evidence convinces you of its truth. Against the backdrop of your individual and collective good judgement, and common sense, in determining the

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believability of witnesses who have testified in this case, you may believe one over several or several offer one. You may believe a part of the testimony of a witness and reject the remaining part of the testimony of that same witness. You may believe the testimony of a witness in its entirety or reject the testimony of a witness in it's entirety. You may consider whether any witness has exhibited to you any interest, bias, prejudice or other motive in this case. You may consider whether or not the witness's testimony has been corroborated by other witness's testimony or has been contradicted or impeached by other witness's testimony. Whether or not a witness testimony is consistent within itself or there are inconsistencies within the testimony. You may also consider whether any witness has exhibited to you any interest, any bias, any prejudice, or any other motive in this case. You may also consider the demeanor of the witness while testifying before you on the witness stand. In other words, the appearance of the witness. The manner of the witness while testifying before you that was exhibited to you while the witness was on the witness stand. You may consider anything that is in the record that will help you to determine the credibility, believability of the witnesses who have

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testified before you from this witness stand.

Expert witnesses, and you heard me say this several times throughout the trial. This is a little bit longer than the ones I use in the trial, but not much. Not much. The rules of evidence ordinarily do not permit witnesses to testify to opinions or conclusions. There is an exception to this rule for witnesses that we call "expert witnesses". A witness who, by education and experience has become an expert in some art, science, profession, or calling may state an opinion as to relevant and material matters, in which the witness claims to be expert, and may also state the reasons, or the basis for the opinion or opinions.

You should consider any expert opinion -- you should consider any expert opinion received in evidence in this case and, like any other evidence give it the weight you think it deserves. If you decide that the opinion of an expert witness is not based on sufficient education and experience, or if you conclude that the reasons given in support of the opinion are not sound or that the opinion is outweighed by other evidence, you may disregard the opinion entirely.

An expert witness's testimony is to be given no

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greater weight then that of any witness simply because the witness is an expert. Further, you are not required to accept an expert's opinion, even though it is not contradicted.

Statement of defendants. A statement alleged to have been made by and I used defendant, defendants, singular or plurally, has been admitted into evidence in this case. While the Court has determined that the statement is admissible, I instruct you that you make the ultimate decision as to whether or not the defendant made the statement. If the defendant did make a statement, you must determine whether the statement was made by the defendant voluntarily and of his own free will. This means that the statement was not caused by pressure, force, fear, threats, coercion, or intimidation, or by hope or a promise of leniency or a reward of any kind. In determining whether the statement was voluntarily, you should consider both the characteristics of the defendant and the details of the questioning. Some of the factors that you must consider are: The age of the defendant; the defendant's education or lack of education; the defendant's mental ability or capacity; the defendants I.Q. or intelligence; the defendant's background and environment; the place and length of the detention;

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the nature of the questioning; and the advice, or lack thereof to the defendant of his constitutional rights including, but not limited to, the right to remain silent; that any statement could be used against him in a court of law; the right to have a lawyer present; that if he could not afford a lawyer a lawyer would be appointed to represent him without any cost; and that he could stop making a statement at any time. You must carefully consider all of the surrounding circumstances before you give any weight to an alleged statement.

The State has the burden of proving beyond a reasonable doubt that the alleged statement was voluntary. If you determine that it was voluntary you may give the statement any further consideration that you deem proper. You must decide what weight, if any, should be given to the alleged statement. If you determine an alleged statement was not the free and voluntary statement of the defendant you should not consider the statement at all.

I instruct you and emphasize that the fact the defendants did not testify is not a factor to be considered by you in any way in your deliberation and in your consideration on the question of the guilt or the innocence of the defendant. It must not be

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considered by you in any manner whatsoever. A defendant has the constitutional right to remain silent, and the assertion of this right must not be considered by you in your deliberations. I will repeat, under your oath, you are to draw no conclusion whatsoever from the fact that the defendants in this case did not testify. The fact that these defendants did not testify should not even be discussed in the jury room. The burden of proof as I have stated to you is on the State, the defendant are not required to prove themselves innocent. The burden of proof remains on the State to prove guilt beyond a reasonable doubt.

Intent. In order to establish criminal liability, criminal intent is required. For example, the mental State required to be proven by the State for a particular crime might be purpose, intent, knowledge, recklessness, or criminal negligence. Criminal intent must be proven by the State beyond a reasonable doubt. Criminal intent is always a matter that must be determined by the jury from the circumstances surrounding the situation. There is no way to prove intent to a mathematical certainty. There is no way medical science can dissect a person's brain and determine what the person had in mind, so the law says

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that criminal intent may be inferred from the circumstances shown to have existed. This is how you make your determination of whether or not the element requiring in at any time was present. It is not necessary to establish intent by direct and positive evidence, but intent may be established by inference in the same way as any other fact by taking into consideration the acts of the parties and all the facts and circumstances of the case.

Criminal intent, ladies and gentleman, is a mental state. A conscious wrongdoing. It is up to you to determine what the defendant or defendants intended to do based on the circumstances shown to have existed.

Criminal intent can arise from action or a failure to act. It may arise from negligence, recklessness, or an indifference to duty or to consequences that is considered by the law to be the equivalent of criminal intent.

Ladies and gentleman, that is the general criminal law that applies to all criminal cases in South Carolina. Just to recap, the charge, arrest, indictment not evidence; I charged you on multiple defendants; the presumption of innocence; the burden of proof being on the State beyond a reasonable doubt; duties -- your duties as the trial jury, my duties as

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the trial judge; direct and circumstantial evidence; the credibility of the witnesses; expert witnesses; statement of the defendant; not holding the fact that neither of the defendants did not testify in this case, nor even discuss it in the jury room, and the issue of criminal intent.

I now go going to charge you specifically on the elements of murder and accomplice liability, or as some time called the hand of one is the hand of all.

Each defendant is charged with murder. The State must prove beyond a reasonable doubt that the defendant killed another person with malice aforethought.

Malice is hatred, ill-will or hostility towards another person. It is the intentional doing of a wrongful act without just cause or excuse and with an intent to inflict an injury or under circumstances that the law will infer an evil intent.

Malice aforethought does not require that the malice exist for any particular time before the act is committed, but malice must exist in the mind of the defendant just before and at the time the act is committed. Therefore, there must be a combination of the previous evil intent and the act.

Malice aforethought may be express or inferred.

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Now these terms, ladies and gentleman, "expressed" and "inferred" do not mean different kinds of malice but merely the manner in which malice maybe shown to exist. That is either direct evidence or by inference from the facts and circumstances which are proven. Expressed malice is shown when a persons speaks words which express hatred or ill-will for another or when the person prepared beforehand to do the act which was later accomplished. For example, lying in wait for a person or any other acts of preparation going to show that the deed was within the defendant's mind would be express malice.

Malice may be inferred from conduct showing a total disregard for human life. Inferred malice may also arise when the deed is done with a deadly weapon. A deadly weapon is any article, instrument, or substance which is likely to cause death or great bodily injury. Whether a instrument has been used as a deadly weapon depends on on the facts and circumstances of each case.

The following are examples of instruments which may be deadly weapons: A pistol, shotgun, rifle, dirk, dagger, knife, sling shot, metal knuckles, razor, gasoline. A gun may be a deadly weapon even if it is not operating.

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If facts are proven beyond a reasonable doubt sufficient to raise inference of malice to your satisfaction, this inference would be simply an evidentiary fact to be considered by you, the jury, along with the other evidence in the case and you may give it the weight that you decide it should receive.

Under our law there is what is known as accomplice liability, or as some time called the hand of one is the hand of all. If a crime is committed by two or more people who are acting together in committing a crime, the act of one is the act of all. A person who joins with another to commit an unlawfully act is criminally responsible for everything done by the other person which happens as a probably or natural consequence of the acts done in carrying out the common plan and purpose. For example, two people can be guilty of of a burglary when only one entered the residence. One could remain outside and items could be stolen and handed out the window to one outside. Both could be guilty of the burglary although one entered the residence. A lookout could be guilty of the burglary although he or she did not go in the residence while another individual went in the residence, stole items from the residence and came back out. Two or more people are

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together, acting together, assisting each other in committing the offense the act of one is the act of all or as it is some time said the hand of one is the hand of all. Prior knowledge that a crime is going to be committed without more is not sufficient to make a person guilty of that crime. Mere knowledge that another person is going to commit a crime, even if the defendant is present when the crime is committed, is not sufficient to convict the defendant as a principal. Guilt as a principal is shown by actual or constructive presence at the scene as a result of prior arrangement.

Therefore, a finding of prior arranged plan or common scheme is necessary for a finding of guilt as a principal.

The State must prove beyond a reasonable doubt by competent evidence the theory of the hand of one is the hand of all. A principal in a crime is one, one who either actually commits the crime, or two, one who is present aiding, abetting, or assisting in the committing of the crime. When a person does an act in the presence of and with the assistance of another, the act is done by both. Where two or more people acting in a common plan or scheme are present at the commission of a crime, it does not matter who actually

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commits the crime. All are guilty. The hand of one is the hand of all. Present at the commission of a crime means to be sufficiently near to aid, and abet and substance, in the commission of the crime. However, mere presence at the scene of a crime is not sufficient to convict one as a principal on the theory of aiding and abetting.

Intent is also a necessary element. For there must have been a common design or intent to commit the crime and the crime must have been committed pursuant thereto with the person present aiding and abetting by some overt act. Intent means intending the result which actually occurs not accidently or involuntary. Intent may be shown by acts and conduct of the defendant and other circumstances from which you may naturally and reasonably infer intent. The State must prove these elements beyond a reasonable doubt. That is the charge of murder and its accompanying charge of accomplice liability, or the hand of one is the hand of all.

Finally, ladies and gentleman, jury verdict. There are two possible verdicts you may find in this case as to each defendant; guilty or not guilty. There is absolutely no significance whatsoever in the order in which I state those possible verdicts. It is simply

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one must be stated first.

You will have Mr. Foreman, ladies and gentleman, a verdict form in the jury room with you, one as to Mr. Clinton, one as to Mr. Green. They are self-explanatory. It has the caption, the indictment number, it says as to the murder we the jury unanimously find the defendant, whichever name is at the top, guilty or not guilty. After your deliberation and your determination of the facts in the case you take those facts and you apply them to the law as I told you the law is, based on that you find that the State hats met its burden of proof, beyond a reasonable doubt as to the guilt of the defendant, Clinton, I would ask you, Mr. Foreman, if you check to the left of the word guilt and circle both the check mark and the world guilty, date and sign it. If after your determination of the facts of the case as to the defendant Clinton, you find the State has failed to met its burden of proof beyond a reasonable doubt I will ask you to check to the left of the two words, not guilty, circle the check. circle the two words, date and sign.

As to Mr. Green, if you find the State has met its burden of proof beyond a reasonable doubt your verdict guilty, check to the left of the word guilty, circle

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both, not guilty, check to the left, circle both, date and sign it.

Ladies and gentleman, your verdict must be unanimous. All 12 of you must agree as to the verdict as to each defendant. Again, you can find both guilty, you can can find both not guilty, you can find one guilt and the other one not guilty. That is entirely your decision, but the verdict as to each defendant must be the unanimous verdict of the jury; guilty or not guilty. Unanimous. Your verdict can not be based on passion, prejudice, emotion or any other factor not in evidence on this case.

Mr. Foreman, once the jury has reached a unanimous verdict if you would then knock on the jury room door, we will then receive you back in to the courtroom for the presentation of the verdicts of the jury. I am going to have to ask you one final time to go to the jury room. Do not begin your deliberations at this time. The law requires I meet with the attorneys one final time in case I misspoken or have to additionally instruct you on the law. If I do not have to bring you back out, I will then bring the alternates out. The evidence -- make sure all the evidence, I think it's 1 through 63. The items of evidence would be presented to you along with the verdict form. You

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will then be informed by the clerk to begin your deliberations with your fellow jurors. I believe they brought lunch --

MR. BARFIELD: Yes.

THE COURT: And you can eat and deliberate or however you want to do it. If you have any questions during the course of your deliberations if you would write me out a note, knock on the jury room door, Mr. Knight will certainly give it to my attention. Again, do not begin your deliberations until you are instructed to do so by the clerk. You may now go with your bailiff to the jury room.

(WHEREUPON, the jury leaves the courtroom.)

THE COURT: Any exceptions from the State?

MR. BARFIELD: No, sir.

THE COURT: From the defense, Mr. Frick?

MR. FRICK: None on behalf of Mr. Clinton.

THE COURT: Miss Raney?

MS. RANEY: None on behalf of Mr. Green.

THE COURT: All right. If you all will check one through 63 and I do have the verdicts up here if you like to look at it.

(WHEREUPON, the attorneys went through the exhibits.)

THE COURT: All right, any objections?

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MS. RANEY: No objection for Green.

MR. FRICK: No objection for Clinton.

MR. BARFIELD: No objection.

THE COURT: All right. We will be at waiting our jury's verdict.

(Jury started deliberations at 1:38).

THE COURT: All right. I understand that we have a verdict in this matter. I would remind the spectators in the courtroom that I do not allow any show of emotion whatsoever. I have found that this stage, the taking of the verdict can be very emotional for obviously the victim's family and also for the family of the Mr. Clinton and Mr. Green. It can be emotional for both sides. If you do not feel like you can contain your emotions I would ask you to please leave at this time. If you choice not to leave I will take that as an indication that you can control your emotions and if you stay and do not control them I will ask the sheriff to take you into custody. I consider that to be a contempt of court and will have a contempt hearing after the taking of the jury's verdict. So if anyone want to leave, leave now.

Thank you. Thank you, very much. All right. If you bring us our jury panel please.

(Jury returns with verdict at 3:47)

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THE COURT: All right, madame clerk.

All right, the jury verdict appears to be in proper form, signed and date by presiding juror. Madame clerk would you publish our verdict, please.

COURT CLERK: Yes, sir. Case number 2012-GS-29-616, State versus Devatee Tymar Clinton, we the jury unanimously find the defendant guilty. Indictment number 2012-GS-29-636, State of South Carolina versus Al Martinez Green, we the jury unanimous lie find the defendant guilty.

Ladies and gentlemen, is this your verdict so say you all by the raising of your right hand.

(Jurors raise their hands.)

THE CLERK: Let there record reflect all jurors rasied their hands.

THE COURT: All right, thank you. Thank you very much. Anything for the jury from the State solicitor?

MR. BARFIELD: No, sir.

THE COURT: From the defendant Clinton?

MR. FRICK: Request polling, Your Honor.

THE COURT: From the defendant Green?

MS. RANEY: Requesting polling, Your Honor.

THE COURT: All right, madame clerk will you explain that procedure to the jury?

THE CLERK: I am going to ask each one of you a

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question and ask you if this is your verdict and is it still your verdict and you need to respond.

Foreman, James M. Spicer, were these your verdicts?

JUROR: Yes, ma'am,

THE CLERK: Are they still your verdicts?

JUROR: Yes, ma'am.

THE CLERK: Taylor Shurley, are these your verdicts?

JUROR: Yes, ma'am.

THE CLERK: Are they still your verdicts.

JUROR: Yes, ma'am.

THE CLERK: Robert Whitaker, are these your verdicts?

JUROR: Yes, ma'am.

THE CLERK: Are they still your verdicts?

JUROR: Yes, ma'am.

THE CLERK: Brooke Parker, are these your verdicts?

JUROR: Yes, ma'am.

THE CLERK: Are they still your verdicts?

JUROR: Yes, ma'am.

THE CLERK: Shahn Syfert, are these your verdicts?

JUROR: Yes, ma'am.

THE CLERK: Are they still your verdicts?

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JUROR: Yes, ma'am.

THE CLERK: Michael Walker, are these your verdicts?

JUROR: Yes.

THE CLERK: Are they still your verdicts?

JUROR: Yes.

THE CLERK: Alicia Flannigan, are these your verdicts?

JUROR: Yes, ma'am.

THE CLERK: Are they `still your verdicts?

JUROR: Yes, ma'am.

THE CLERK: Christopher Koutroumpis, are these your verdicts?

JUROR: Yes.

THE CLERK: Are they still your verdicts?

JUROR: Yes, ma'am.

THE CLERK: Judy Max, are these your verdicts?

JUROR: Yes.

THE CLERK: Are they still your verdicts?

JUROR: Yes.

THE CLERK: David Cauthen, are these your verdicts?

JUROR: Yes.

THE CLERK: Are they still your verdicts?

JUROR: Yes.

THE CLERK: Joida Burtis, are these your verdicts?

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JUROR: Yes.

THE CLERK: Are they still your verdicts?

JUROR: Yes.

THE CLERK: Carol Roger, are these your verdicts?

JUROR: Yes.

THE CLERK: Are they still your verdicts?

JUROR: Yes.

THE COURT: All right. It appears all jurors have been polled as to the verdicts. They have answered each question in the affirmative; are these your verdicts and are they still your verdicts, as to Mr. Clinton and as to Mr. Green.

Anything further for the jury from the defendant Clinton, Mr. Frick?

MR. FRICK: No, sir.

THE COURT: The defendant Green, Miss Raney?

MS. RANEY: No, Your Honor.

THE COURT: Thank you. Thank you, very much. Mr. Foreman, ladies and gentleman of the jury panel, momentarily I will release you from your jury service for the remainder of the week. I know it has been a long week for you. I think all the attorneys, who were excellent trial lawyers, have told you it was going to be a long, tedious and somewhat repetitive week. I am sure when you got that notice in the mail,

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however many weeks ago you got it about jury duty you perhaps never imagined yourself being selected on the case such as this lasting this length of time. Quite frankly I never criticize nor commend a jury for its verdict or verdicts, but I will say this, I have not worked with a more hard working, focused attentive jury then you have been and that is very important to our system of justice. Our jury trial system is the greatest judicial system ever created by man and many people attack it from many points of views. Well may be judges should decide. May be this, may be that. It's like people don't trust the American people. But if you watch the news, which I know many of us do, and we tragedies that occur in our country like the Boston marathon, like 911, like the violence that we see in schools. Each and every time we see Americans running towards the fire, running to help their fellow Americans, going upstairs way of buildings that are on fire, protecting students, teachers don't run they protect their students. They save their lives and many times give up their own lives. I don't know of a better group to decide these cases between the State and the defendants or between citizens and citizens or citizens and business then the American people.

It's my pleasure and privilege and I sincerely mean

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that to work with you you all. Besides being a daddy it's probably the greatest honor of my life to work with the citizens of South Carolina week end and week out in either in our criminal or civil case and I salute you for that.

You are now excused. Of course if you want to remain I will take up some motions and probably also sentence Mr. Green and Mr. Clinton today. You can certainly as you go come back around and remain in the courtroom if you like, but you are now excused. Thank you. Thank you, very much.

(WHEREUPON, the jurors leave the courtroom.)

THE COURT: All right, any motions on behalf the Mr. Clinton, Mr. Frick?

MR. FRICK: Yes, sir. At this time on behalf of Mr. Clinton we would ask for a new trial based on our objections and pretrial motions and probably motions in trial that were denied regarding pretrial motions and I think there was a bit of evidence that Your Honor let in that I objected to understands 403 analysis; the statement of the conspiring, for lack ever a better.

THE COURT: Of Miss Davis and --

MR. FRICK: That's correct.

THE COURT: Mr. Twitty?

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MR. FRICK: Correct, and other pretrial motions that we made.

THE COURT: Thank you. Thank you, Mr. Frick. I would respectfully deny the motion for a new trial. I reaffirm all my previous of rulings, both pretrial, most of which were -- most of which were rulings against the State of South Carolina as far as 404(B), Neil versus Biggers, although res gestae I think also, but clearly your 403 and State's 11.

MR. FRICK: Yes.

THE COURT: All of that is clearly preserved and I will renew all my previous rulings in that regard.

MR. FRICK: One additional motion, I y always make after trial and I'm not entirely sure whether it applies or not because I can't find adequate case law to inform me, but I think it does apply in criminal cases as well. I would ask the Court acting as 13th juror to set aside the verdict having seen the evidence that the State presented is not adequate for them to have reached the verdict they did and in your capacity as 13th juror you can set aside the verdict and I you ask you to do so.

THE COURT: All right. Thank you. Thank you, Mr. Frick, I would respectfully deny than motion.

Miss Raney.

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MS. RANEY: Thank you, Your Honor. On behalf of defendant Al Green I would also renew all previous objections and motions made throughout the course of trial on his behalf and ask that a new trial be granted and I don't know always term the 13th juror motion as the judgement, notwithstanding the verdict asking you to step in as Mr. Frick did and find that there was not enough evidence and set aside the jury's verdict, Your Honor.

THE COURT: Again, I would respectfully deny those motions and I would reaffirm all my previous trial rulings as to Mr. Green.

THE COURT: Any reason Mr. Frick sentencing could not be imposed at this time?

MR. FRICK: I am not aware of any reason, no, sir.

THE COURT: Miss Raney?

MS. RANEY: I am not aware of any reason either.

THE COURT: All right. If they will come around please. Solicitor

All right, anything further from the State solicitor?

MR. BARFIELD: Your Honor, I will give records on these young men and also the victim's mom and stepdad are here along with victim's dad and and stepmom, I think. Are they here today? They are gone. There

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some folks who I am sure will want to speak, but I will give you the records first. I will tell you about Mr. Green first. Your Honor his record is just juvenile record. He has got adjudications in 2004 for carrying a weapon on school property and in 2011 for assault on a correctional facility employee. That again is Mr. Green.

Your Honor, Mr. Clinton's record is 2005, assault and battery of a high and aggravated nature and then in 2012 he was convicted again of assault and battery of high and aggravated nature. That conviction was for a pre 2010 ABHAN, the old common law ABHAN. He also had a possession of a pistol of a person convicted of a violent crime, carrying a pistol, pointing and presenting a firearm and burglary second degree, violent.

THE COURT: And tell me about, were those all one event?

MR. BARFIELD: No, sir. I think I can break it down this way and I sure Mr. Frick and Mr. Clinton will correct me if I am wrong. The first ABHAN was a separate event. I believe that the second ADHAN and the firearm, the possession of pistol by a person convicted of a crime of violence and carrying the pistol and pointing the pistol were a separate event

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and then the burglary conviction was the result of the the Nard Roseborough armed robbery that we talked about in camera in this case. So there were three separate events, I believe, that led to those convictions.

THE COURT: So the 2012 conviction is one assault battery of high and aggravated nature?

MR. BARFIELD: Yes, sir.

THE COURT: And there is a second, that is possession of a pistol by an individual convicted of a crime of violence, carrying a pistol, pointing and presenting a pistol.

MR. BARFIELD: Those four I think were one event.

THE COURT: All right.

MR. BARFIELD: And then there was 2005 ADHAN and then the 2012 burglary.

THE COURT: Tell me about the 2012 burglary?

MR. BARFIELD: Your Honor, let me give you a little bit of background. When this murder -- first of all, the government did not know about the burglary, armed robbery involving Jeffrey Lanard Roseborough until they began investigating this homicide.

THE COURT: What was the relationship, if any, between Jeffrey Lanard Roseborough and Jenika Jones,

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victim in this case?

MR. BARFIELD: They were boyfriend and girlfriend and lived together some if not all of the time and Jeffrey Lanard Roseborough was said to have lived at [redacted] and if anybody screams, they will scream, but there is some speculation in this case that Jeffrey Lanard Roseborough was the target of the planned robbery the night Miss Jones was killed. And in November of 2011 approximately two months before Miss Jones's death Jeffrey Lanard Roseborough was at a different apartment in Azalea apartments with some other folks and it was alleged that Mr. Green -- Mr. Clinton, Mr. Green, a fella name Shabrey Truesdale and may be one other, I can't recall -- came in to that apartment all armed and robbed Mr. Roseborough of money and drugs again back in November of 2011. That event was brought to the attention of law enforcement as they started talking to folks during the investigation of Jenika Jones's murder. Mr. Roseborough gave a statement concerning that event. Another female who was in the apartment at that time talked to the police and both Clinton and Green and the others that I mentioned were both charged, I believe with burglary first and armed robbery as a result of that incident. Mr. Clinton plead to several

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charges after that incident occurred including burglary 2nd degree violent as a result of that incident. I think we dismissed the armed robbery.

MR. FRICK: That's correct.

THE COURT: And was Mr. Clinton alleged to have been armed at the time of the armed robbery of Roseborough?

MR. BARFIELD: He was most definitely.

THE COURT: Was there any description of the weapon that he was armed with?

MR. BARFIELD: Your Honor, I left that file up in my office. Can you go up to my spare office and there is a manila file jacket with that file in it. We will tell you that in a minute. Well hang on --

I got a copy of Mr. Roseborough' statement concerning that case in this file. Let look at it real quick. Bare with me just a minute sir.

THE COURT: Yes, sir.

MR. BARFIELD: Yes, sir, Mr. Roseborough gave a statement which indicated -- I will tell you about the pistol in a minute. I will tell you what happened first. Tate, meaning Clinton came out first and put a pistol to my chest and Mr. Roseborough was asked later during the taking of the statement, what kind of gun did each of them have. He said Tate had a new looking