

Handout 1

1st Burgess Deposition
Transcript with Digest
and Exhibits

Sealed by Order of the
Court.

Handout 2

2nd Burgess Deposition
Transcript with Exhibits

Sealed by Order of the
Court.

Handout 3

John Allen Deposition
Transcript with Digest
and Exhibits

March 16, 2023

Deposition of John Allen by Mackenzie Myers

Page #	Description of Allen's Testimony	Exhibit
3-17	<ul style="list-style-type: none">Commission Staff Attorney Mackenzie Myers (MCM) deposes John Allen (Allen) on 3/16/23. MCM explains Commission process, deposition process, and goes through preliminary matters.	
18-19	<ul style="list-style-type: none">MCM asks Allen if he is still close with Joshua Council's (the Victim) family. Allen says yes, they still talk and that he might tear up during the deposition. Allen says that the Victim always looked up to him and Allen felt like a protector. Allen says that night he heard someone say, "I got hit" but he didn't know it was the Victim. Allen says the Victim's truck was still there, so he didn't know if he kept running. Allen says Micheal Burgess (Burgess) was there and Allen asked Burgess if he was hit and Burgess said no. Allen says he started calling around to find where all the guys were at and that's when someone said, "I think it was Josh that got hit."	
20-21	<ul style="list-style-type: none">Allen says he looked behind the house and didn't see the Victim. Allen and Burgess got into the Victim's truck and found the Victim laying in the driveway beside the house. Allen does not know how the Victim ended up inside the fence – if he climbed it or ran around it. Allen says to this day he rides by the site and tries to figure out what happened. Allen says he and the Victim were beside each other when the shooting started, and they started running. MCM asks if anyone has told Allen to withhold information. He says no.	
22-24	<ul style="list-style-type: none">MCM asks Allen to confirm his date of birth and address and how long he has lived there, as well as his telephone number and asks Allen to keep her updated on the best way to reach him.	
25-27	<ul style="list-style-type: none">MCM tells Allen that Victim Services Manager Emma Paul will be there throughout the entire process for him and for Cyrstal Allen (Cyrstal), his sister. MCM asks biographical questions about marital status, children, and Allen's job.	
28-30	<ul style="list-style-type: none">MCM asks Allen how old he was at the time of the crime. Allen says 31. MCM asks Allen where he lived at the time. He answers on Magnolia Court, walking distance to Hayswood Hut. MCM asks if he lived with anyone at the time. Allen says a guy named Chris who everyone called "Smitty". MCM asks if the Victim was Allen's second cousin and asks Allen to explain the family relationship. Allen says his mother's sister married the Victim's uncle and that uncle and the Victim's father are brothers.	
31	<ul style="list-style-type: none">MCM asks if the Victim was familiar with Lumberton. Allen says yes.	
32	<ul style="list-style-type: none">MCM asks Allen to tell her about the Hut. Allen says it was a basketball court and people would post on Facebook about	

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	meeting there to shoot basketball. MCM asks if it had a reputation. Allen says one time he heard about someone getting cut and sometimes people fighting over basketball games. Allen had never heard about "a whole full shooting".	
33-35	<ul style="list-style-type: none">MCM asks if it was gang territory. Allen says once you touch Lumberton it is just about figuring out what gang territory you are probably in. MCM asks if the Hut was gang territory. Allen says it was more neutral. MCM asks if the blue building was actually the Hut. Allen says kind of. He says it's for kids to come hang out if there are problems at home or if they are looking to get out of a gang, to keep kids away from the streets.	
36-38	<ul style="list-style-type: none">MCM asks Allen what his earliest memory from the day of the crime is. Allen says he recalls the Victim asking to wear a jersey of Allen's, but Allen had said no to that. Then he recalled it was someone's birthday and the Victim suggested he was going to get a "little bottle of Crown" for everyone to drink. Allen says the Victim said he was going to go check on Cyrstal and then be back through. Allen said then he and the guys walked to the park. MCM asked who all the guys were. Allen named Mike (Burgess) and DeShane. MCM asked if it was DeShane's birthday, but Allen could not recall. Allen then says Cyrstal and Moosie Cat, who is Cyrstal's little girl.	
39	<ul style="list-style-type: none">MCM shows Allen Exhibit 8 and asks Allen to identify the person in the photograph. Allen says it is Micheal, who he had referred to as Mike and his nickname is "Savage". Allen confirms that he was one of the guys who walked to the park. MCM shows Allen Exhibit 15 and asks Allen to identify the person in the photograph. Allen says the person is Brandon LeSane (LeSane). Allen says he was not there.	Exhibit 8 – Photograph of Micheal Burgess Exhibit 15 – Photograph of Brandon LeSane
40-42	<ul style="list-style-type: none">MCM asks Allen if LeSane planned on being there. Allen said LeSane was usually at work or at home and didn't play basketball. MCM shows Allen Exhibit 16 and asks him to identify the person in the photograph. Allen says that he Webbie and he was not there. MCM asks Allen if Webbie is Deavon Maultsby and he says yes. MCM shows Allen Exhibit 17 and asks him to identify the person in the photograph. Allen says he does not know his government name. MCM asks if his street name was "Dizzy" and Allen says "Dizzy". MCM asks if his government name is Ricky Stephens and Allen says yes.	Exhibit 16 – Photograph of Deavon Maultsby Exhibit 17 – Photograph of Ricky Stephens
43	<ul style="list-style-type: none">MCM asks Allen if Ricky Stephens (Ricky) walked with the other guys to the Hut. Allen is not sure. MCM asks if Stephens was there during the shooting. Allen says during the time of the shooting, he was talking to Cyrstal, holding Moosie Cat and had walked over to the side of the Victim's truck so he could not tell her who was still there during the shooting.	

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44	<ul style="list-style-type: none">MCM shows Allen Exhibit 18 and asks him to identify the person in the photograph. Allen says Dante. MCM asks, Carlos? Allen says, "yeah that's Carlos". MCM shows Allen Exhibit 19 and asks him to identify the person in the photograph. Allen says "he wasn't there". Allen then says "Nazhir" and MCM asks if he also goes by Shaquan. Allen says yes.	Exhibit 18 – Photograph of Carlos Borca FB Photograph Exhibit 19 – Photograph of Shaquan Blount DPS Photographs
45	<ul style="list-style-type: none">MCM shows Allen Exhibit 33 and asks him to identify the person in the photograph. Allen says DeShane was there and MCM confirms that Exhibit 33 is a photo of him. MCM shows Allen Exhibit 30 and asks if he recognizes the person. Allen says "he wasn't there though". MCM asks if she said the name Eric Monroe or "Little E", would that be familiar to Allen. Allen says he has heard of Little E but does not recall seeing him that night.	Exhibit 33 – Photograph of DeShane Leach DAC Photographs Exhibit 30 – Eric Monroe DAC Photographs
46	<ul style="list-style-type: none">MCM shows Allen Exhibit 31 and asks him to identify the person in the photograph. Allen says Dexter. MCM asks if he was there that night. Allen says he doesn't think so. MCM asks if he and the Victim knew each other. Allen says, "Ok but I don't think he was there." MCM confirms that the photograph is of Dexter Grant and Allen says yes.	Exhibit 31 – Dexter Grant DAC Photographs
47-49	<ul style="list-style-type: none">MCM shows Allen Exhibit 36 and asks him to identify the person in the photograph. Allen says he pulled up at one point in time but left and that he and DeShane are brothers. MCM asks if he knows the name Marcus Leach and Allen says yes. MCM shows Allen Exhibit 37 and asks him to identify the person in the photograph. Allen asks if it is an old picture. MCM says she does not know and Allen says he does not know that person. MCM shows Allen Exhibit 41 and asks him to identify the person in the photograph. Allen says he does not know him. MCM shows Allen Exhibit 42 and asks him to identify the person in the photograph. Allen says that is Brandon LeSane's little brother, Kato.	Exhibit 36 – Marcus Leach DAC Photographs Exhibit 37 – Joseph McKoy DCIN Photograph Exhibit 41 – Craven Hemingway DCIN Photograph Exhibit 42 – Katovias LeSane FB Photo
50-53	<ul style="list-style-type: none">MCM shows Allen Exhibit 13 and asks him to identify the people in the photograph. Allen says there were way more people at the Hut that night than who is in the photo. Allen identified Antonio Alford in the photo and notes that he has passed away. MCM asks if someone named Little Rorie is in the group photo. Allen says yes, he is in the blue shirt. MCM asks his real name, but Allen does not know.	Exhibit 13 – Group Photo from FB

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54-56	<ul style="list-style-type: none">MCM shows Allen Exhibit 38 and asks him if anyone in that photo looks more familiar to him. Allen asks, "as far as being there?" and MCM says yes. Allen says No. MCM asks if Allen would have access to the photograph that is Exhibit 38. Allen says he could look to see if it is on his Facebook.	Exhibit 38 – Group Photo from FB - 2
57-59	<ul style="list-style-type: none">MCM asks Allen if he knows who Craven Hemingway is. Allen says no. MCM asks if they got to the Hut around 5:30pm. Allen thinks between 5:30pm and whenever it got dark. Allen says they were there maybe an hour and a half. MCM asks if anyone left from Allen's apartment with Allen. Allen says, "DeShane and I think Dizzy". MCM asks if Burgess was there. Allen corrects that DeShane did not leave with him. Allen believes Burgess and Dizzy met at Allen's house and they all walked on the railroad tracks and they would have passed DeShane's house on the way. MCM asked if the Victim walked with the group and offers a copy of Allen's trial testimony to assist in his recollection. MCM says at trial Allen testified the Victim had gone to the liquor store.	
60-64	<ul style="list-style-type: none">MCM says when the group was walking, they stopped at 9th or 10th (Streets). Allen says that is where DeShane stayed and that is when the Victim came up on them and said he needed to borrow money from Cyrstal. MCM asks if anyone was in the truck with the Victim. Allen says maybe his nephew that he would have needed to drop off. MCM asks if anyone in the truck might have been arguing with the Victim. Allen says no. Allen says the Victim was 3 inches taller and 100lbs bigger than Allen. Allen stated the only thing you had to worry about with the Victim "was him eating your food". Allen stated he did not have one enemy and he did not fight at school.	
65-66	<ul style="list-style-type: none">MCM asks Allen what happened after the Victim drove up to him on the street. Allen says the group continued on to the basketball court. MCM asked if the Victim was there when the group got to the Hut. Allen says the Victim did pull up after he went to see Cyrstal and wherever he went after there.	
67-70	<ul style="list-style-type: none">MCM asks Allen to draw the basketball court and where the cars were. MCM asks for Allen to show on the drawing where Elizabethtown Road is and where Peachtree Road is. Allen describes those areas. MCM asks Allen where Wren Street would be and Allen marks it. MCM asks where the playground would be and Allen marks it. MCM asks where the fence would be and Allen marks it. MCM asks if Allen is with DeShane, Dizzy and Burgess when he walks up to the Hut. He says yes.	
71-77	<ul style="list-style-type: none">MCM asks Allen if other people were already playing basketball when Allen arrived. Allen says some other guys were there but he didn't know them. MCM asked where the	

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	Victim drove up from. Allen says he parked at an angle and Allen describes that the butt of the truck was more toward Peachtree and the front was more towards the basketball court. MCM asks if Cyrstal got there before or after the Victim. Allen explains Cyrstal parked her car "in straight" and draws it on the diagram. MCM asks if there was someone else with Cyrstal besides Moosie Cat. Allen cannot remember.	
78-82	<ul style="list-style-type: none">MCM asks what happens after the Victim pulls in. MCM asks where Allen was and where the Victim was. Allen marks the diagram. MCM asks where Cyrstal was at that time. Allen says she was still sitting in her car. MCM asks if she had a Chevy. Allen says a little white Cobalt. MCM asks if there was anything wrong with the door handle of the car. Allen says maybe the passenger door or the back door handle. MCM asks if Cyrstal was inside the car. Allen says Cyrstal never got out of the car. MCM asks what time it was at that point and Allen thinks it was between 7:30-8:00pm.	
83-85	<ul style="list-style-type: none">MCM asks Allen if he remembers anyone else rolling up during this time. Allen says he doesn't recall but says maybe some people stopped and spoke and it might have been Marcus who spoke with his brother, DeShane.	
86-91	<ul style="list-style-type: none">MCM asks Allen to tell her about the other white car that drove up. Allen says he and the Victim were "standing here" and it was dark, but he could see because of the streetlight. MCM asks Allen if the white car comes from this end and Allen says it did not come from E-town (Elizabethtown Road). MCM asks if Allen noticed it when it first turned up. Allen says he didn't think anything of it. Allen says it had a little speed to it and people do that on a dirt road. Allen said the car hit the brakes. MCM asks at what point and Allen says "a little before the little house that used to sit there". MCM asks Allen if the car hitting the brakes is what got his attention. Allen says yes and that dust came up and then the car backs up. MCM if it backs up fast or slow. Allen says they weren't thinking anything, just wondering "who's that?".	
92-97	<ul style="list-style-type: none">MCM asks if when Allen ran, he jumped through a fence or over a fence. Allen he jumped over the fence to find who was back there and who it was that got shot. MCM asks Allen if it seems like the white car is looking for someone. Allen says no. MCM asks if the white car was parallel to the court. Allen says "kinda-sorta". Allen says that's when he heard someone say, "Y'all say y'all was gonna kill me?" MCM asked if the person who said that sounded like they had been drinking. Allen says it had a slur to it. Allen says that is when he heard a gunshot and everyone started running.	

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98-100	<ul style="list-style-type: none">MCM asks Allen at what point Allen saw the person. Allen says, "The head out of the car". MCM asks is that when he yelled out the car. Allen says no. Allen says he did not get a good look at the persons face. Allen says he could tell they wore glasses and had a bald head or a real close cut. MCM asks if anyone else was in the vehicle. Allen says no. MCM asks what the vehicle looks like. Allen says it's like a Ford Taurus. Allen says he is familiar with it because his family had one when he was younger and his step-dad works on cars. MCM asks Allen to show him a picture. Allen says he "could not recognize them from when they showed them to me". MCM says she will try to find a better picture. MCM shows Allen Exhibit 44 and asks if it is similar to the vehicle Allen saw. Allen says it looks like it.	Exhibit 44 – Roberts' Vehicle – Right Side
101-104	<ul style="list-style-type: none">MCM asks if there was anything distinguishing about the vehicle that would've helped Allen identify it later on. Allen says just the white and the shape of it. MCM asks if there were any dents or marks or paint that stood out. Allen says not that he can think of. MCM asks what the person who yells out the window says. Allen says, "You said you were going to kill me?" Allen says, "and I'm like, 'what in the world is going on?'" MCM asks Allen what happened after the car parked and the person yelled out the window. Allen says he looks at the Victim and said, "Who the hell is that, Josh?" and that's when Allen heard the gunshot. MCM asks when the gunshot happened, where was the driver of the Taurus. Allen again says he asked the Victim who it was and the Victim replied that he did not know. MCM asks where the first shot came from. Allen says from the direction of the car. MCM asks if the person was getting out of the vehicle when he takes the shot. Allen says the drivers head was out of the car.	
105-107	<ul style="list-style-type: none">MCM asks Allen if he ever saw the gun that the driver shot with. Allen says no. MCM asks if he saw what angle the shooter shot at. Allen says no, that the driver was just shooting towards the crowd. MCM asks if Cyrstal was still in the car at that time. Allen says yes. MCM asks where Moosie Cat was at that time. Allen says the Victim had just put her back in the car. MCM asks Allen if it is fair to say that he did not see a whole lot of what happened at the trial. Allen says that he "didn't see none of the trial". MCM tells Allen that Burgess testified at trial and stated that the first shot came from someone on the courts and it did not come from the person in the vehicle. Allen says the gunshot he heard was in front of he and the Victim.	
108-113	<ul style="list-style-type: none">MCM asks where Burgess is at that point. Allen says he is "either over here or on the court right here". Allen says "it's a lot with Micheal Burgess. I don't know what he is going through right now. He texts a lot of people, he talks a lot of	

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	<p>junk. I have a message I was gonna show y'all that he had sent me." MCM says OK. MCM asks if it has to do with this case. Allen says kinda-sorta. Allen says Burgess talks junk behind this situation. Allen says even though he didn't have anyone to name, Allen went in and testified about the situation and gained a lot of heat behind it. People said, "He's a rat. He's a snitch." MCM asked why people would say that. Allen says it is because he went and testified "about what I seen this car". Allen says he described what he saw because Lumberton has a lot of unsolved murders because no one wants to talk about what they see happen at that moment. Allen says Burgess has been messaging him. MCM asks if it was on Facebook. Allen says yes. Allen says he questions a lot of what he hears from Burgess. Allen says he ran into Burgess's mother and she told Allen that Burgess was "trying" and Allen responded that "as long as he keeps on trying, I believe he will make it."</p>	
114-117	<ul style="list-style-type: none">• MCM asks, "Why is he calling you "a dove bitch big here". Allen says, "Big Hercules is him." MCM asks Allen what "dove bitch" means. Allen says, "the rat ass n****r dove bitch" means "you a dove, you ain't shit in these streets". MCM asks what "dove" means. Allen says it means "you ain't nothing to nobody". MCM asks what is "GKB"? Allen says he will have to ask a couple people and it might be gang stuff. MCM asks why Burgess would call Allen a "rat ass N-word" and Allen says it is because he is talking about the car and because Allen spoke to the police and wrote a statement about what he saw. MCM says Burgess testified at trial that someone shot at the vehicle first. MCM asks if she can take a picture of the message Burgess sent to Allen. Allen says yes.	
118-122	<ul style="list-style-type: none">• Allen says Burgess started hanging with other guys from other parts of town. Allen says Burgess is walking up to people at the store asking for dollars and stuff. MCM asks if Burgess got out of prison in March or the beginning of April. Allen says yes. MCM asks if Burgess contacted Allen soon after. Allen says yes. MCM asks if Allen ever got a better view of the shooter's face or clothes. Allen says no. Allen says there were multiple rapid shots and he was running at full stride. MCM asked if Allen ever saw what the shooter was wearing. Allen says no. MCM says if there was something distinguishing on the guys shirt would he remember that and MCM asks if that makes sense. Allen says "No, you asked – like it could be, like, a photo – photo memory I might recall." MCM says if the shooter was wearing a Garfield shirt, even though he was in fight or flight mode, he might still remember a Garfield shirt. Allen says he can't remember the shirt or the pants. Allen says he wore glasses and he hated that he didn't have them on that night.	

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123-125	<ul style="list-style-type: none">MCM asks if there was anything else that stood out about the shooter, besides the bald or close cut. Allen says his skin tone was not dark. Allen cannot remember if he had facial hair or if he was wearing glasses. MCM asks if the shooter had jewelry on. Allen says he does not remember jewelry. MCM asks Allen if he saw tattoos. Allen says no.	
126-130	<ul style="list-style-type: none">MCM asks if Allen was at the front corner of the "house back there". Allen says, "No. The front – you talking about like by the road?" MCM asks Allen to draw the road. Allen marks the drawing with J.A. for where he was located when he heard someone say, "I got hit". Allen says it was dark behind the house and he couldn't see anyone. He came back out and the Victim's truck was still there and the keys were in it. MCM asks if anyone else was around him except for Burgess. Allen says no. Allen says he got in the Victim's truck and called some of the people whose phone numbers he had. MCM asked who they called. Allen says he may have called Dizzy. Allen says it may have been Antonio. Antonio told him "everybody's here, I just don't see Josh."	
131-133	<ul style="list-style-type: none">Allen says when he came back he pulled in and shined his lights and the Victim was laying there. MCM asked if the Victim was laying facedown. Allen says yes. MCM asks where his head was facing. Allen says "out". MCM asks if it was toward Peachtree Road. Allen says yes. Allen says he goes back to this day to look at it and try to figure out how he ended up over there.	
134-136	<ul style="list-style-type: none">MCM asks Allen when he and Burgess drove back up the road, if Allen was driving. He says yes. MCM asks what happened next after he found the Victim. Allen says he ran over and pushed him and said, "Josh, Josh, get up boy. Get up." Allen says his nose was busted, his lips, his mouth was bleeding and his eyes were rolling back in his head. Allen says he tried to sit the Victim up on the side of the building and called 911. MCM asked if the Victim responded to him. Allen says no. Allen says the Victim was gone then and that "finding him facedown there was the wrong way to die." Allen says the police came and he tried to describe the car to them. Allen says, "People started calling my name like I ain't supposed to be saying shit. I didn't care." MCM asks Allen if he'd like to take a minute to collect himself. Allen says no. MCM asks if the other people did not want Allen talking to the cops. Allen says he guesses it is like a street rule.	
137-141	<ul style="list-style-type: none">MCM says the first officer on-scene was a guy named Officer Williford and then a female officer came up on the scene. Allen says he remembers the cop. MCM says the lead Detective on the case was Al Collins. Allen says he remembers him. MCM shows Allen Exhibit 45, Detective Collins report. MCM hands	Exhibit 45 – Det. Al Collins' Report

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	Allen the entire report. Allen says Clarence Roberts (Roberts) "showed them this in the jailhouse, and that's what started this whole situation. He went in there, he showed them this, that – so I can people trying to talk junk to me and come at me about this. This is that one. Because there's names that was said into it. And even the people who names I said that didn't have nothing to do with it, they came at me and was like, 'Well, why my name in it?' and I was like, 'Well, they just asked me about you.'" Allen says he was yelling that it was a white car and wanted the cops to go find the car and not let the car get away. Allen says he wanted the cops to look at cameras from to see what stores it went by.	
142	<ul style="list-style-type: none">MCM asks Allen to let her know if he finds anything later that would be helpful to the investigation to send it over and Allen agrees.	
142	<ul style="list-style-type: none">Allen continues to describe how Roberts was giving people the papers in their cells and that was why people started calling him a rat.	
143	<ul style="list-style-type: none">MCM asks Allen who told him that Roberts was passing around these papers and Allen responds with the name Devonte, but goes on to describe that Devonte had been hearing people talk about it too.MCM shows Allen Exhibit 46 and asks Allen if that picture is Devonte and Allen states that it is. MCM then asks if that is the same Devonte he just mentioned and again Allen affirms that it is.	Exhibit 46 – Devonte McGirt DAC Photographs
144	<ul style="list-style-type: none">MCM asks Allen if Devonte was at the scene that night and Allen says no. MCM asks if Deonte is his brother and Allen says yes, if he is not mistaken but he believes he is in prison.Allen then states that he "hears it" when he walks by people and that it all originated from the police report (seemingly referring back to Exhibit 45).	
145-147	<ul style="list-style-type: none">MCM directs Allen to look at page 2 of Exhibit 45 where it says, "At 10:22PM, I spoke the witness who was also the victim's cousin, John Allen. Mr. Allen stated that a white Ford Taurus with the rounded shape, he stated egg-shaped, he stated that the car came from 11th Street and drove on the grass fast, then pulled off, went past the courts, then stopped and backed up and pulled where the victim/witness couldn't see him." Allen then states that that is at the back part of the truck and that himself and the Victim were standing on the side by the passenger side door near the hood of Victim's Blazer. Allen goes on to say they could not see anything but the front of the car and the front windshield.MCM directs Allen back to Exhibit 45 where it says, "Then started shotting. He states that everyone started running in all	

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	directions. The suspect then sped off toward Elizabethtown Road. They went looking for the victim only to find him shot beside the vacant house." Allen affirms that to be correct.	
147-148	<ul style="list-style-type: none">MCM directs Allen to page 3 of Exhibit 45 where it states "At 8:30AM, I spoke with witness/cousin of the victim, John Allen. He will call me back later this afternoon with more information one the other subjects that was on the court during the shooting." MCM asks Allen if he remembers that call and Allen states that he does and that Collins was trying to get up with Dizzy, DeShane and them to come in and talk to him. Allen then clarifies that Collins never said any exact names, but wanted to talk to anyone who Allen knew was on the court that night. Allen then cannot remember if Collins specifically asked to speak to DeShane or if Allen mentioned DeShane's name to Collins.	
149	<ul style="list-style-type: none">MCM states that even if Collins already knew names that Allen was able to confirm for him that Dizzy, DeShane and Burgess were out there and Allen agrees. MCM asks Allen if he can remember anyone else and Allen says no. Allen then continues by saying Collins just asked that he tell anyone who has anything on this case to get in contact with Collins.MCM asks if Allen called Collins or vice versa and Allen states that Allen called Collins because Collins had left his card at Allen's mama's house or Victim's mama gave Allen the phone number.	
150-151	<ul style="list-style-type: none">MCM asks Allen if he remembers talking to Collins at the scene the night of the crime and Allen said, "Yea, I was."MCM asks everyone about needing a break, but everyone was good to keep going.MCM clarifies Allen's answer about whether he talked to Collins that night by saying, "you could've talked to him the night of, you have no idea -" and Allen affirms.	
151	<ul style="list-style-type: none">MCM directs Allen to page 6 of Exhibit 45 to the second line at 17:30PM. "John Allen, the cousin and witness of the crime, came to headquarters to be interviewed. He was interviewed by SBI Agent Bill Brady." MCM then asks Allen if he remembers going in the Monday after the shooting and speaking with Agent Brady and Allen states that he remembers going in to see the DA Johnson Britt, but eventually states he does remember talking to "two different ones – he might have been there – I can remember seeing, like, some photos or something."	
152-154	<ul style="list-style-type: none">MCM asks Allen to tell her more about seeing photos and Allen states they were just photos of different people. MCM then asks how many officers were in the room when he was being shown photos and Allen states he thought he was in there by himself, but seemingly could not remember. He then states	

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	they were showing him the "...wrong faces." Allen felt like if they had shown him the right photo he would have known him or his voice (referring to the suspect). MCM then asks Allen if he would have been able to tell if it was the suspect in the photos and Allen states, for example, if this short buff guy got out and said "Hey" and was from out of town he would have known.	
154-156	<ul style="list-style-type: none">MCM hands Allen Agent Brady's report which was marked as Exhibit 47. Allen asks MCM if that is a report with lots of peoples names and notes on it and MCM tells Allen that she does not have a report with a lot of names on it. Allen then states "they said" it was something where it was naming a couple of people inside that was locked up on one of the reports. MCM asks if he is talking about Brim and Allen states Brim and someone else, but that was some of the people he was passing it to. MCM states she wanted to talk more about Brim and that they would get there.	Exhibit 47 – J. Allen SBI Interview
156-157	<ul style="list-style-type: none">MCM directs Allen back to Exhibit 47 and states that the interview took place on June 17th, which was the Monday after the shooting, and that Allen had gone into the Lumberton Police Department at 5:37pm to speak with Agent Brady. MCM asks Allen if that rings a bell and Allen states yeah that's over by the light bill place.	
157-158	<ul style="list-style-type: none">MCM directs Allen to page two of Exhibit 47 and Allen immediately states he sees an error. Then states, "He was – he went over there and at his girlfriend's whole bucket of ice cream – she had a whole bucket of ice cream and he ate that thing. That boy was tough." MCM then asks if he remembers the argument and Allen states he does.	
158-159	<ul style="list-style-type: none">MCM then directs Allen back to page two of Exhibit 47 where it states, "Allen said several people were located at the basketball court. Allen estimates that approximately 10 people were at the basketball court." MCM then asks if 12 people seems accurate and Allen stated he really could not tell because there was a little crowd and people kept trickling in.	
159-160	<ul style="list-style-type: none">MCM asks Allen if he ever played basketball that night and Allen states that he did not because himself and the victim were just talking, laughing and chilling.	
160-161	<ul style="list-style-type: none">MCM asks if the other people they hung out with that night were Dizzy, Gucci, and Burgess and Allen affirms. Met DeShane walking to the court. MCM asks if there is anyone else and Allen names Cyrstal, Moosie Cat, and Bre'ill and states maybe four or five other people.	
161	<ul style="list-style-type: none">MCM asks who is Bre'ill and Allen states she is the one Cyrstal babysits and she stayed in the car. Allen then confirms	

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	it was his sister Cyrstal, her daughter Moosie Cat and a girl she babysits which was Bre'ill that were in Cyrstal's car.	
162	<ul style="list-style-type: none">MCM asks if Bre'ill stayed with Cyrstel the whole time and Allen states Bre'ill never left the car.MCM then directs Allen further down on page 2 of Exhibit 47 where it says, "Allen said several people at the court wanted soda, drinks and cigarettes. Him and Mike went to the store." MCM asked if he remembered that and Allen says he did now that she said it.	
163-164	<ul style="list-style-type: none">MCM asks Allen if he remembers them leaving and Allen responds he said he was going to go get some money from Cyrstal. MCM tells Allen that Cyrstal testified that she owed the Victim money for picking up her boyfriend. Then MCM continues on that Cyrstal was meeting Victim at basketball court. Allen seems to agree and state that Cyrstal never saw Victim because he went to the store.	
164	<ul style="list-style-type: none">MCM then asks Allen if Burgess and Victim went to the store around 9:00 or 9:20 and Allen states it was something like that.	
165-166	<ul style="list-style-type: none">MCM describes to Allen that Victim and Cyrstal may have spoken around 9:17pm and Victim was pulling back into the basketball court. Allen states he thought that was correct. MCM then asks who the drinks were for and Allen states they were for him and Cyrstal wanted a drink. He then states that Mike smoke cigarettes. The drink was supposed to be a Coke for the Crown Royal. Allen then states that they never made it to the liquor store.	
166-167	<ul style="list-style-type: none">MCM asks about guys having a friendly boxing match out there and Allen responds that they were.	
167	<ul style="list-style-type: none">MCM states that at 9:25pm to 9:30pm is when Allen told Agent Brady that he started hearing tires spinning. Allen affirms. MCM states that Allen had described the driver as a male with brown skin and bald head. Allen affirms.	
168-169	<ul style="list-style-type: none">MCM directs Allen to page three of Exhibit 47 in the third paragraph where Allen described the suspect as looking in his 30's or 40's. Allen states that the suspect's bald head is why he thought he was between 30 and 40.	
169	<ul style="list-style-type: none">MCM asks if he remembers how the suspect was built because in Exhibit 47 he described him as heavy-set and muscular. Allen then describes the suspect as "no real slouchy guy; he was as solid guy. He wasn't too short. He stood over that car enough to". MCM follows up by asking if suspect was bigger than Allen is now and Allen says he is unsure because he has dropped 30 pounds.	
170	<ul style="list-style-type: none">Allen describes that he was probably 235 pounds at the time of the shooting and the suspect was smaller than him. MCM asks if that means the suspect would have been closer to Allen's	

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	current size and Allen responds that the main thing that pops up is "that head shining." MCM asks if the suspect was skinny and Allen states No.	
171	<ul style="list-style-type: none">MCM asks Allen if the suspect was smoking and Allen states that when the suspect rolled by in his car he may have been smoking. MCM asks if Allen saw the suspect drinking and Allen said no. MCM asks if Allen ever saw anything fall out of the suspects car and Allen stated no.	
172	<ul style="list-style-type: none">MCM directs Allen to page 3 of Exhibit 47 in the 3rd paragraph and reads most of it. Allen asks if Peachy pulled up and then says he thought she was coming down the dirt road.MCM marks Exhibit 48 and Allen states that "they was driving like a bat out of hell because I think she said that car almost hit her or something." MCM asks if Peachy was in a vehicle during this conversation and Allen states that he thought she stepped out for the moment.	Exhibit 48 – Lena McNatt DAC Photographs
173	<ul style="list-style-type: none">MCM directs Allen to Exhibit 48 and ask if that is Peachy. Allen responds that it is Peachy. MCM asks if he knows Peachy as Lena McNatt and Allen states he does not. MCM then asks Allen what else did Peachy tell you about the vehicle and Allen states the way it was turning and that it almost hit her because it came out of there real fast. Peachy was wondering why they were traveling so fast. MCM asks if Peachy told him where she was when she saw the vehicle and Allen said no.	
174	<ul style="list-style-type: none">MCM asks when Allen and Peachy had this conversation and Allen states it was the same night. MCM asks if Peachy came up to him or if he saw her out after and Allen states she must have pulled up, but never got out of the car. MCM asks if Peachy ever heard gunshots and Allen states that he thought she told him she heard something but she did not know where it was coming from.	
175-176	<ul style="list-style-type: none">MCM asks if Peachy got a good look at the driver of the vehicle and Allen said no and that all she could remember was that the car turning almost hit her.MCM directs Allen to page 4 of Exhibit 47 and to Exhibit 35. MCM asks who is in Exhibit 35 and Allen states that it is Brim. MCM then directs Allen to page 4 of Exhibit 47 where it states, "Allen said he heard some rumors about who the shooter was but was not sure if the information was accurate. Allen heard the nickname Brim or Bandana." Allen states that he was incarcerated. MCM then ask Allen to tell her about the rumors and Allen stated that he had described the car and people were trying to compare the car to how Allen had described it and Allen thinks that his girlfriend might have had a car like that if he was not mistaken. Allen then further states that Brim was one of the photos they showed him. MCM asks if the photos	Exhibit 35 – Melvin Hicks DAC Photographs

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	were shown as soon as he sat down or later and Allen states that it was that day.	
177-178	<ul style="list-style-type: none">MCM asks Allen if he remembers signing anything and Allen states it seemed like he had to sign something stating that he saw the photos. He knows he signed off on something for Collins. MCM asks if Allen wrote a statement for police and Allen states they wrote stuff down and may have typed it up, but he did not write a whole statement himself. Collins did take notes, type them up and then had Allen read over them.	
179-181	<ul style="list-style-type: none">MCM asks if he talked to Collins and Brady on the same day and Allen said it was two different days. Allen continued that the mugshots were two different days. MCM asks if Collins had anything to do with showing the mugshots and Allen said not right off hand, but he may have introduced Allen to Agent Brady. MCM tells Allen that she does not have anything that confirms that Allen was ever shown a formal lineup. Allen states they just showed him three or four guys pictures all together and he told them he couldn't recognize the face. He knew Brim's photo, but not that he was the suspect from the shooting. Allen then said all the photos he was shown were of guys who had been in prison for a while.	
181-182	<ul style="list-style-type: none">MCM asks if the mugshots were shown individually in folders and Allen states they did not just bring one pictures out and it seemed like it might have had a couple pictures on one paper. MCM clarifies that they showed Allen a photo of Brim and he told them it was not Brim and Allen says "Yeah, I knew who he was."	
182-184	<ul style="list-style-type: none">MCM explains that she knows that this area is a lot of gang territory and she has heard about a lot of different gangs in the area including the E Rickets. MCM further explains that she knows that Allen had involvement with the E Rickets at the time of the shooting and states that during the deposition if any questions make him feel uncomfortable or in danger she wants him to tell her that. Allen agrees.	
184-186	<ul style="list-style-type: none">MCM explains that there was a rumor or theory that Brim's name got thrown around because he was a member of the Brims who were a sect of Bloods and it was common practice when shootings happened to blame rival gang members. Allen states that was not the case and it had nothing to do with gangs. Allen continues that his name was solely mentioned about the car and that the cars description could have been anybody in Lumberton that had a car and they were trying to figure out who they were.MCM asks if Allen told Brady or Collins that the car was why Brim was brought into this and Allen states he believes he would have told them that and he thinks he told them he was	

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	incarcerated. Because he was incarcerated Allen further states that he knew Brim was not involved.	
187-188	<ul style="list-style-type: none">MCM directs Allen back to Exhibit 47 in the next paragraph where it says that Allen got info about Victim being in an argument earlier that day. MCM asks if Allen recalls that and Allen states he does but it was about the ice cream. MCM asks if Allen heard the argument firsthand and Allen states that when Victim was at his house someone called Victim back and he heard Victim say, "I'm going to be over there in a little bit, you better have me something to eat." The other person on the phone stated, "You ate all my ice cream. I ain't getting you nothing to eat. I told you stay out my face. You ain't getting nothing to eat. You better not come back over here." The Victim then said, "All right. I'll see you in a little bit" and hung up. Allen described this as normal and never anything physical.	
188	<ul style="list-style-type: none">MCM asks if Allen heard Victim get into any other arguments that day and Allen said, "Not no major – no. No."MCM asks if Allen thought the argument about ice cream was an actual argument and Allen stated no.	
189-191	<ul style="list-style-type: none">MCM directs Allen back to Exhibit 47 in the next paragraph and asks if Allen remembers talking to an older female who heard there was a guy in a white Ford Taurus driving erratically around Rozier apartments. Allen states that he does remember that but could not remember her name.MCM asks if the nickname Bookeye helps him and Allen responded Bullkye and described that was Linda if he was not mistaken. MCM asks if that is Linda Sinclair and Allen affirms. MCM asks Allen to spell the nickname and he states he has never thought about spelling it and is unsure if its Bullcow or Bullkye, but describes her as an older lady in her 70's. Allen continues that she said there was a car driving erratically through the apartments just wide open. He then says, "As I told you before, they say he was from near the – what's – Clarence. They say we was from the same – but I can't remember him because he was a older guy. I just can't remember him like that. But somebody said they had seen him earlier driving fast down one of the roads." MCM asks if Allen remembers who told him and Allen states he will make sure he gets it to MCM.	
192-193	<ul style="list-style-type: none">MCM then directs Allen back to Exhibit 47 to the next paragraph that talks about how Allen had heard about Dexter Stephens. MCM then shows Allen Exhibit 3 and asks if Allen knows who that is. Allen responds that it is Dexter. MCM then asks Allen to tell her about the rumor that it was Dexter. Allen responds that Dexter had the same kind of car so someone said his name. Allen states he still firmly does not feel like Dexter had anything to do with it. Dexter aint that type to just shoot,	Exhibit 3 – Photo of Dexter Stephens

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	he would have talked to you and then if you had to fight, fight. If your pulled a gun, then guns. Allen further states "it wasn't him. I know for a fact."	
194	<ul style="list-style-type: none">MCM asks Allen if it had been Dextor driving the vehicle would he have known him and Allen states he would have known if it was Dextor. MCM asks if Allen is 100% certain that it was not Dextor and Allen affirms. MCM asks if Allen thinks Dextor was out of town and the time and Allen says yeah, I think he was staying somewhere else with his girlfriend or baby-mama or something.	
195-196	<ul style="list-style-type: none">Allen continues to state that he would have known Dextor and he would have known how he talks. He states Dextor is not that type. MCM asks Allen if it was Dextor is there any reason you would not tell me and Allen states "Hell No". He further tells MCM that he is not scared of anyone around here and if he was he would move.	
196-197	<ul style="list-style-type: none">MCM shows Allen Exhibit 27 and asks him to identify the person. Allen states that Exhibit 27 is Amber. MCM asks if she ever dated Dextor and Allen says no. MCM asks if the white car that Dextor drives was his and Allen states it was someone elses. MCM asks if the car has anything to do with Amber Lowery and Allen states not to his knowledge.	Exhibit 27 – Amber Lowery FB Photo
197	<ul style="list-style-type: none">MCM asks if Allen ever talked to Dizzy about his experiences at the scene. Allen responds that the only thing Dizzy said was "Man" because he was in the group of people on the court. Then Allen continues but it is not clear what he was trying to say.	
198-199	<ul style="list-style-type: none">MCM takes a break from 12:27PM to 12:34PM.	
199-201	<ul style="list-style-type: none">MCM marks a copy of Cyrstal's SBI interview as Exhibit 49 and gives it to Allen. MCM then directs Allen's attention to where it states that Cyrstal had recalled receiving a third call from Victim around 9:17PM. Cyrstal answered the call and they began talking as she was pulling up to the Hut. MCM then directs Allen to go to page 3 of this report and in the middle paragraph where it says, "she stated once the shots stopped..." Allen then explains that where Cyrstal is talking about how the shooter drove off the same way he came in she is referencing how he backed up.	Exhibit 49 – C. Allen SBI Interview
201-202	<ul style="list-style-type: none">MCM asks if Cyrstal ever talked about this to Allen and he stated she told him the shotter walked up to her car and she said she could not see his face because he was shooting and she was trying to grab Moosie Cat. She did describe someone right there, but only person Allen could think of was DeShane and he described that DeShane walked around with his shirt off a lot which is how Cyrstal described the guy to the SBI. Then	

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	Allen stated that Dizzy walks with his shirt off a lot too. MCM explains that she was under the impression that it was Ricky Stephens or Dizzy.	
203	<ul style="list-style-type: none">MCM asks if Allen ever talked to Ricky Stephens about making eye contact with the shooter and saying, "It wasn't me." Allen said no. MCM asked why Ricky would say, "It wasn't me" and Allen stated he assumed its because the shooter said, "Oh, yall motherfuckers say y'all gonna kill me."	
203-204	<ul style="list-style-type: none">MCM asks if there was anyone else who would have shot from the basketball court toward the white Ford Taurus and Allen states not that he can think of. MCM states that Burgess testified that someone on the court shot first and Allen states that Burgess was with him after the shooting and never said any of that to him. MCM asks if Burgess had a gun that night and Allen said it was hard to tell. MCM asks if Burgess was known to carry a gun and Allen states every once in a while.	
205-206	<ul style="list-style-type: none">Allen continues talking about Burgess and states that Burgess had been in an argument with a man over a year or two before over a gun and he felt they still had animosity. MCM asks if that other guy was at the park and Allen states no.MCM asks if Allen felt like the shooter was targeting someone and Allen says no and continues on before eventually saying he did not see Burgess shoot and does not remember Burgess having a gun that night. MCM asks if it would surprise Allen if Burgess did shoot at the vehicle first and Allen responds that it would.	
207	<ul style="list-style-type: none">MCM asks if Burgess had any issues with Dextor Stephens and Allen states not that he knows of.MCM asks if DeShane Leach had a gun that night and Allen states no and then states that he may be the one that left that night to go to a girl's house.	
208	<ul style="list-style-type: none">MCM states that it sounds like it probably was DeShane that left if Allen thinks it was DeShane or Dizzy and then Allen adds because it was Dizzy beside Cyrstal's car which means he was there during the shooting.MCM asks if Gucci would have had any reason to have a gun on him and Allen states no.	
209	<ul style="list-style-type: none">MCM tries to clarify that Eric Monroe did not hang out with Allen and his group and Allen states that he did not and if Eric was out there that night it would not have been long and he would have kept moving because he was a loner. MCM asks if Monroe has a reputation for being truthful and Allen stated he did not know him well enough.	
209-211	<ul style="list-style-type: none">MCM asks Allen if he ever heard of the shooter chasing people around in his vehicle or anything like that and Allen stated he had just heard the car was driving wide open through	

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	neighborhoods. MCM asks again if he heard of anyone being chased and Allen states no.	
211-212	<ul style="list-style-type: none">MCM asks if Gucci had been chased would he have told you and Allen states, "Heck yeah."MCM asks if Eric is related to Gucci and Allen says he may be but never saw Eric at Gucci's house.	
212-214	<ul style="list-style-type: none">MCM asks Allen what his relationship with Webbie was like and Allen states they are cousins. Allen states they were close but they did argue, so you did not see Allen and Webbie together a lot, but there was still love. MCM asks if Allen is 100% sure that Webbie was not there the night of the shooting and Allen states that he does not recall Webbie being there. If he was there Allen thinks he would have remembered. Allen continues to describe that if Webbie was there he would have just drove through, hollered at somebody and kept going.	
215	<ul style="list-style-type: none">MCM asks if Allen knows Webbie's mom and Allen states yes. MCM asks if her name is Shonda Lyons and Allen affirms. MCM asks if she ever dated Dextor Stephens and Allen states that he did not think so. MCM asks if he would have know if she actually dated Dextor Stephens and Allen stated yes, because of the group of people they all hung around with.	
216	<ul style="list-style-type: none">MCM asks if Allen knows that Shonda Lyons dated Clarence Roberts and Allen states that he did not know that. Allen goes on to describe that he would not have known everyone she dated but it would have been talked about if she was dating someone her son's age.	
217	<ul style="list-style-type: none">MCM asks about Dextor Stephens' reputation and Allen describes him as "cool", "laid back", "chill", but then clarifies that if you are not cool with him then you do not mess with him. You just leave him alone.	
218	<ul style="list-style-type: none">MCM asks if Dextor Stephens has a violent reputation and Allen states that he had some shooting charges back in the day.MCM asks if Allen was the target of a shooting at the Hut back in January of 2013 and Allen states that he was never the target of a shootout at the Hut. He then states he has never been in a shootout at the Hut.	
219-220	<ul style="list-style-type: none">Allen continues on and tells a story of how he and his brother got into a fight with someone else at the Hut and that guy came back later and shot Allen, but that was when he was 24 or 25. He sees that guy who shot him sometimes at the store and they just nod to each other and keep going.	
221-222	<ul style="list-style-type: none">MCM asks if Allen met with the DA and Allen states that he did when he returned from Vermont right before the trial. The DA's office had been trying to get in touch with him for like six months. Allen admits that he was avoiding them because he	

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	was mad because the Victim got killed. Allen continues to describe how close his relationship to the Victim was.	
223	<ul style="list-style-type: none">Allen describes how he left after Victim's death for probably five years and would rarely come back because he wanted to avoid going to Victim's grave. He would come home for some holidays.	
224-228	<ul style="list-style-type: none">Commission Staff Attorney Mackenzie Myers (MCM) deposed John Allen (Allen) on 3/16/23. MCM asks Allen why Crystal Allen didn't testify at trial. Allen responds that he wasn't sure if she was subpoenaed. MCM asks whether there were other reasons. Allen says she was mad at herself and had feelings of guilt about being next to the victim when it occurred and being unable to identify the shooter.	
228-230	<ul style="list-style-type: none">MCM explains that trauma responses are different for everyone and asks Emma Paul (ERP) to expand on that. ERP briefly explains trauma responses in traumatic situations. MCM asks Allen if he knows any reason the shooter would state something like, "Ya'll said ya'll wanted to kill me?" Allen responds unclearly.	
230-231	<ul style="list-style-type: none">MCM shows Allen a photograph of Clarence Roberts and asks if Allen recognizes him. Allen says he did not recognize him prior to the trial. Allen says he cannot say that Roberts was the shooter. Allen states that he only remembers the shooter having a bald head and that he does not think the shooter had a "grill".	
232-234	<ul style="list-style-type: none">MCM shows Allen additional photographs including Exhibit 21 which Allen identifies as a photo of a pole. Allen identifies a drink and a towel in the photo as belonging to the Victim. Allen identifies other snacks and drinks in the photo but does not know who they belonged to.	Exhibit 21 – White Shirt on Beam and Trash
235	<ul style="list-style-type: none">MCM shows Allen Exhibit 24. Allen does not recognize the red shirt pictured.	Exhibit 24 – Red Shirt on Beam
236-237	<ul style="list-style-type: none">MCM shows Allen Exhibit 25. Allen does not recognize the tank top.MCM shows Allen Exhibit 26. Allen does not recognize the Milwaukee Ice beer as belonging to anyone he knows.	Exhibit 25 – White Shirt on Ground Exhibit 26 – Milwaukee Ice Can
238-241	<ul style="list-style-type: none">MCM shows Allen Exhibit 50. Allen describes the photograph as showing tire tracks that may have been his from when he went to look for V and "spun off". Allen describes where Crystal Allen would've been parked in relation to the tracks and trash can in the photo. Allen describes certain areas as very dark.	Exhibit 50 – Tire Tracks
242-244	<ul style="list-style-type: none">MCM asks Allen to tell her how much time passed between the shooting and when he found V. Allen does not recall. Allen	

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	then describes the people in the group that were present when the shooting happened.	
245-246	<ul style="list-style-type: none">MCM asks if Allen has any idea who the shooter was. Allen says he does not and has not heard any additional rumors about it since the trial. Allen states he testified truthfully at trial and would have done so no matter who the suspect was.	
247-248	<ul style="list-style-type: none">MCM asks Allen if he believes the shooting was related to the prior shooting of WeDo. Allen says no, but that some people had different beefs with each other that he (Allen) was not involved with. Allen then says there is no way WeDo's death has anything to do with the Victim's death.	
249-250	<ul style="list-style-type: none">MCM asks Allen if he ever heard talk of anyone wanting revenge for Victim's death. Allen states Victim's mother very early on told everyone that would not be tolerated. MCM asks Allen whether he ever heard Michael Burgess wanting to go after Dextor Stephens. Allen says he did not hear anything like that. Allen says he used to try to talk to Burgess and Burgess had some issues like not keeping a job. Allen says he would have heard if Burgess had gone after Dextor Stephens. Allen says he is sure the shooting of Victim did not have any connection to WeDo's death.	
251-252	<ul style="list-style-type: none">MCM asks Allen if WeDo was in the E Rickets gang. Allen says he was not. MCM asks Allen if he had heard people saying that he (Allen) was "high-up" in the E Rickets gang. Allen says he had heard that, but the rumor started from a probation officer because Allen frequently took members to their probation meetings and the probation officer made that assumption.	
253	<ul style="list-style-type: none">MCM asks Allen if he was in the Bloods. Allen explains that Lumberton has groups that wear red, groups that wear black, and that he (Allen) was "more on the red side." MCM asks Allen if he was in the Bloods. Allen says that he is affiliated with the Bloods, the Folks, and the Crips. Allen says he could talk to all of them.	
254	<ul style="list-style-type: none">MCM shows Allen Exhibit 51 and asks him if he recognizes the photo of Sheena Britt. Allen says he does not recognize the photo or the name.	Exhibit 51 – Sheena Britt FB Photo
256-258	<ul style="list-style-type: none">MCM takes a short break and steps outside to confer with Kristie Parker (KP) and Emma Paul (EP). Allen stays in the room.MCM, KP, and EP return to the room. MCM asks Allen what the nature of his relationship with Michael Burgess was at the time of the shooting. Allen describes Burgess as being a "strong case" and a person who suffered bouts of depression. Allen describes mentoring Burgess. Allen describes Burgess as falling into bouts of depression if he was turned down for a job	

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	for example. Allen describes Burgess as having gotten into a situation or fight with someone at one point and becoming very upset that Allen and the group did not back him up. Allen describes Burgess as having gone to a party and flashing his gun and having it taken away from him. Allen says Burgess was upset that they did not expand the situation and so Burgess stopped hanging out with Allen and the group.	
259	<ul style="list-style-type: none">MCM asks Allen if that is when the relationship changed with Burgess. Allen says that from that point on Burgess just stayed removed from the group. Allen says Burgess was then with the black and Allen was with the reds.	
260-262	<ul style="list-style-type: none">MCM asks Allen if Burgess had been in prison for awhile. Allen says that Burgess has been in prison for awhile and has been upset that people don't send him money in prison. Allen says that is not how it works and Burgess could not understand that. Allen says Burgess was angry about this. Allen says he has not spoken to Burgess since the trial. Allen says Burgess is volatile and when he (Burgess) is stressed he can say or do anything. Allen gives an example of Burgess texting him when he got out of prison, and because Allen did not immediately reply Burgess sent texts that became angrier and angrier.	
263	<ul style="list-style-type: none">Allen continues to describe Burgess's volatility. Allen describes an incident at the skating rink where Burgess got into a fight and got a black eye. Allen had asked Burgess about it and Burgess had said he was high on pills when it happened. Allen describes Burgess as always being ready to fight.	
264-266	<ul style="list-style-type: none">MCM asks Allen if he recalls seeing any other cars pull up after the shooting. Allen says he doesn't remember any other cars pull up and he does not remember seeing any other cars on the road while he was driving around looking for the Victim. MCM asks if Allen remembers the shooter's car being dark-colored and with a loud muffler. Allen denies that and says he is positive there was not another car like that and that the shooter's vehicle was not dark in color. MCM asks Allen if the shooter was Dextor Stephens. Allen says he is positive it was not Stephens. Allen says that if Stephens had told Dizzy it was him, that Dizzy would have said so.	
267-268	<ul style="list-style-type: none">MCM asks if Allen is in contact with Dizzy. Allen replies no and says that when he left the area he was done. MCM asks Allen if he recalls hearing Dizzy say it was a Dodge Stratus. Allen suggests that a Stratus has a flatter shape at the back than the shooter's car did. Allen says he does not remember ever seeing the license plate. And wishes he had tried to take more notice of details.	
269-271	<ul style="list-style-type: none">MCM says she wants to talk to Cyrstal Allen and would like to depose her. Allen describes her as being snappy but nice. Allen	

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	says she was not happy with the way the Robeson County Sheriff's Office delivered the subpoena late at night. Allen says he will try to let her know that maybe she will agree.	
272-277	<ul style="list-style-type: none">MCM asks Allen if he recalls any other details that have not been covered. Allen says he does not. MCM asks if Allen thinks she should talk to DeShane. Allen says he is more of a street person and that he tried to get him to talk to the police but he wouldn't. Allen says Dizzy would be good to talk to but that he moved away. MCM asks if Allen dated someone named "Precious". Allen says he has a child with Precious. MCM asks about someone named Precious or Peaches but Allen denies knowing them. Allen says Precious was not at the courts that night.	
278	<ul style="list-style-type: none">MCM asks Allen if there is anything he wishes to discuss that was not covered. Allen says he cannot think of anything. MCM concludes the deposition at 1:39pm.	
279	<ul style="list-style-type: none">MCM goes back on the record. MCM states the time is 1:50pm. MCM shows Allen the drawing he made at the beginning of the deposition. MCM asks Allen to sign the drawing with his name and the date. MCM marks the drawing as Exhibit 52. MCM concludes the deposition at 2:52pm.	Exhibit 52 – J. Allen Drawing of Scene

IN THE NORTH CAROLINA GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

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State of North Carolina,)
) FROM ROBESON COUNTY
v) 13 CRS 3511
Clarence Roberts,) 13 CRS 54359
Defendant.)

DEPOSITION of JOHN ALLEN

Taken at The Angel Exchange Building (Conference Room)
Pembroke, North Carolina
Thursday, March 16, 2023

* * * * *

APPEARANCES

For the North Carolina Innocence Inquiry Commission:

Mackenzie Myers, Staff Attorney,

Post Office Box 2448

Raleigh, North Carolina 27602

Also Present: Kristie Parker, Paralegal
(Administered the oath)
Emma Paul, Victim Services Manager

Transcribed by: Victoria L. Pittman, BA, NCJT

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24 ** Transcriber's note: This transcript may contain quoted
 25 material. If so, such material is reproduced as read or spoken.**

1 (Transcriber's Note: This transcript will
2 have multiple interrupted questions/answers
3 as the speakers were overlapping continuously
4 and made for a difficult transcription
5 process.)

6 * * * * *

7 (Discussion about the audio, et cetera,
8 recorded but not transcribed.)

9 MS. MYERS: Okay. This is the deposition of
10 John Allen by the North Carolina Innocence Inquiry
11 Commission. Today's date is Thursday, March the 16th of
12 2023. The time is --

13 THE WITNESS: 9:58.

14 MS. MYERS: -- 9:58?

15 THE WITNESS: Yes, ma'am.

16 MS. MYERS: Thank you so much.

17 It's 9:58 a.m.

18 Present are myself, Mackenzie Myers; Kristie
19 Parker; and Emma Paul, with the North Carolina Innocence
20 Inquiry Commission; and the witness, John Allen.

21 I am going to turn it over to Kristie. She
22 is going to ask you if you want to be placed under oath or
23 affirmation.

24 MS. PARKER: Yes.

25 Mr. Allen, would you prefer the affirmation
or the oath?

THE WITNESS: Let's go with the oath.

1 MS. PARKER: Okay.

2 MS. MYERS: It's whatever you feel most
3 comfortable with.

4 THE WITNESS: That's with the video and the
5 court; right?

6 MS. MYERS: So the oath would be you swear on
7 the Bible --

8 THE WITNESS: Okay.

9 MS. MYERS: -- sorry, and then the
10 affirmation is the same, it's just you're affirming, you're
11 not swearing on anything.

12 THE WITNESS: Oh, come here.

13 MS. PARKER: All right. Can do it.

14 MS. MYERS: You don't even need to stand.

15 THE WITNESS: I'm with you.

16 Thereupon, JOHN ALLEN, a witness having been called by the
17 Commission, was sworn and testified as follows:

18 EXAMINATION BY MS. MYERS:

19 Q. Okay. Great.

20 All right, Mr. Allen. Will you please state your
21 full name for the record and spell that out for me.

22 A. The whole name?

23 Q. Yeah. The whole name.

24 A. John William Anthony Allen Jr. J-o-h-n, John;
25 W-i-l-l-i-a-m, William; Anthony, A-n-t-h-o-n-y; Allen,

1 A-l-l-e-n; Jr., J-R.

2 Q. When you testified at trial, do you have another
3 middle name that's "Reel"? Like R-e-e-l? I think in the
4 transcript it says that.

5 A. No.

6 Q. I could be wrong.

7 A. No. Just John -- John William Anthony Allen Jr.

8 Q. Okay.

9 A. Yeah.

10 Q. Perhaps that is a mistype in the transcript.

11 How would you like for me to address you today?

12 A. John. Or most of my friends call me "JB."

13 Q. "JB"?

14 A. You know, people I were -- everybody call me JB;
15 so, you know, that's my good term.

16 Q. Okay.

17 A. Yeah.

18 Q. Do you feel comfortable with me calling you JB
19 today?

20 A. Oh, yes, ma'am. Yeah. Sure.

21 Q. Okay. All right.

22 Feel free to -- Mackenzie.

23 A. Okay.

24 Q. That's -- just Mackenzie.

25 So my name is Mackenzie Myers, and I'm going to be

1 taking your deposition today. I am an attorney with the
2 North Carolina Innocence Inquiry Commission which is a
3 neutral state agency that investigates postconviction claims
4 of innocence.

5 A. Yes, ma'am.

6 Q. You have not been subpoenaed here today because we
7 were not able to do that, but you have agreed to be deposed
8 today.

9 A. Yes, ma'am.

10 Q. And so that's what we're here doing. That is in
11 the matter of State versus Clarence Roberts.

12 Mr. Roberts was convicted of second-degree murder
13 and one count of assault with a deadly weapon for crimes
14 that took place in Lumberton, North Carolina, on June 14 of
15 2013.

16 The victims in this case were Joshua Council in
17 addition to you, Cyrstal Allen, and Micheal Burgess.

18 A jury convicted Mr. Roberts after trial on May
19 the 5th of 2017, and he was sentenced to serve 300 to
20 372 months or 25 to 31 years in prison and he is still
21 incarcerated to this day.

22 And I want to apologize because I meant to say
23 this to you before we started that we appreciate you
24 allowing the deposition to happen today. I also recognize
25 that this is -- I'm going to be asking you questions --

1 A. Yes, ma'am.

2 Q. -- about a night in your life that was -- was
3 awful.

4 A. Mm-hmm.

5 Q. And that is not -- I know I am going to be asking
6 you something that might stress you out, might give you
7 anxiety. It might make you sad or angry.

8 A. Yes, ma'am.

9 Q. That is not personal. I do not want to cause
10 that.

11 A. Yes, ma'am. I fully -- I fully understand you
12 didn't have nothing to do with this --

13 Q. Okay.

14 A. -- situation, that you're doing your job. I fully
15 understand that.

16 Q. Okay.

17 A. Yes.

18 Q. So I want to reiterate that at any time -- and
19 we'll talk about taking breaks, but at any time if you just
20 need -- if you need a moment --

21 A. Mm-hmm.

22 Q. -- if you want to step outside by yourself, if you
23 want to take a break and talk to Emma, whatever you need --

24 A. Yes, ma'am.

25 Q. -- that's okay.

1 A. Okay.

2 Q. And I just want you to let me know, okay?

3 A. Thank you.

4 Q. So just know I am sorry in advance --

5 A. I appreciate that.

6 Q. -- for any --

7 A. Oh yes, ma'am. No problem. I appreciate that.

8 Q. Anything that would cause you -- yeah. You're
9 welcome.

10 And I'm sorry that you're in this situation and
11 that we're having to --

12 A. Mm-hmm.

13 Q. -- we're meeting under the circumstances.

14 A. Right.

15 Q. So the Commission is a truth-seeking agency. We
16 are not prosecutors. We're not defense attorneys. We're
17 not law enforcement. We do not represent any of the
18 defendants who make innocence claims with our agency.

19 So if we find verifiable and credible new evidence
20 of factual innocence during an investigation of a person's
21 claim of innocence, then there is a process by which that
22 individual could have their case heard before our
23 eight-member commission. It is at that hearing that the
24 commissioners would need to find that there is sufficient
25 evidence of innocence to merit judicial review in order for

1 the case to be moved to what's referred to as a three-judge
2 panel hearing, okay?

3 It would be at that hearing that the person who is
4 claiming innocence would have to prove to those three judges
5 that they are in fact innocent and then they would be
6 exonerated.

7 A. Yes, ma'am.

8 Q. At that point, we are out of the case; so
9 unless -- like, for instance, in this case, Clarence Roberts
10 wanted to call me as a witness --

11 A. Mm-hmm.

12 Q. -- that would be my role but I would not have
13 anything to do with it other than that.

14 A. Okay.

15 Q. So, again, in this instance, Mr. Roberts has
16 applied to our agency. He's claiming innocence. I am one
17 of two investigators who is really investigating his claim.
18 The other one, Danielle, is not here today.

19 A. Okay.

20 Q. So even though I'm an attorney on this case, I do
21 not represent Mr. Roberts.

22 A. Okay.

23 Q. Mr. Roberts actually has an attorney that
24 represents him through our process currently and that
25 attorney has absolutely nothing to do with our agency.

1 A. Okay.

2 Q. So part of our investigation into anyone's claim
3 is that we try to talk to as many people as possible that
4 might know something about the case, and that's why we're
5 talking to you today.

6 A. Mm-hmm

7 Q. That is a lot of information that I have said to
8 you.

9 Do you have any questions about anything I've said
10 at this point?

11 A. Oh, no, ma'am. I cleaned my ears out for you this
12 morning.

13 Q. Okay.

14 A. Yes, ma'am, to make sure I could hear you.

15 Q. Okay.

16 A. Yes, ma'am.

17 Q. If at -- if at any point you do have a question,
18 just let me know, okay?

19 A. Yes, ma'am, I definitely will.

20 Q. All right.

21 Have you ever been deposed before, like what we're
22 doing here today?

23 A. No, ma'am.

24 Q. Okay.

25 So the -- and we talked about this a little bit,

1 but the -- you -- the oath that you took this morning would
2 be the same -- before we just started this is the same that
3 you would be taking if you were testifying in court, okay?

4 A. Uh-huh.

5 Q. Do you understand that?

6 A. Yes, ma'am.

7 Q. Okay.

8 So I am expecting that any answer you're giving me
9 is going to be complete and accurate.

10 A. Mm-hmm.

11 Q. Okay.

12 We've got this video camera. We've got audio
13 recorders, and that's because later on someone is going to
14 transcribe what we are all saying --

15 A. Mm-hmm.

16 Q. -- here today?

17 And so it is really important that even though the
18 camera can pick up a head nod or even on my part if I'm like
19 "mm-hmm" --

20 A. That we answer? That we answer --

21 Q. -- right?

22 A. -- "yes," "no," clear answers?

23 Q. Exactly.

24 A. Gotcha. I gotcha.

25 Q. It's not -- that's not always easy to remember; so

1 if I say, "Hey, could you just speak that verbally" --

2 A. Okay.

3 Q. -- it's not an attack on you --

4 A. Mm-hmm --

5 Q. -- it's just to make sure that the record is as
6 clear as possible. That also goes for me too; so I -- it's
7 a note for myself.

8 A. I'll be watching you then.

9 Q. Yeah. Please do.

10 So once this deposition is over -- Kristie is
11 going to talk to you more about this -- but you are going to
12 have the chance to review the transcript.

13 A. Mm-hmm.

14 Q. So once we send all of this off and we get it
15 back, you'll have a chance to kind of look over it and make
16 any changes to the form or the substance of the testimony as
17 it's been transcribed, okay?

18 A. Okay.

19 Q. She'll tell you more about that, and we can talk a
20 little bit more about that later. But just know that you
21 will have an opportunity to read over what you've
22 testified --

23 A. Okay.

24 Q. -- to today.

25 This process could be tiring so I -- we will take

1 a break at some point for sure. I don't know how long this
2 is going to go and I don't -- I don't know.

3 A. Okay.

4 Q. I'm not going to rush through anything,
5 obviously --

6 A. Mm-hmm.

7 Q. -- but if at any point if you feel like you need a
8 break and I haven't brought that up yet, just let me know.

9 A. Okay.

10 Q. That's not a problem at all, okay?

11 All right. So the next set of questions I'm going
12 to ask you, it's -- it might feel like I'm prying a little
13 bit too much into your personal life, and so I apologize
14 about that. I do just want to make sure that I'm asking
15 these questions to make sure that you're -- you're good to
16 go on testifying today.

17 A. Okay.

18 Q. So these would be questions I'd be asking anybody
19 in this --

20 A. Okay.

21 Q. -- in this situation.

22 A. Build character.

23 Q. What did you say?

24 A. You have to build the character.

25 Q. I need -- I don't have to build anything.

1 A. Right, not build it, but you know ...

2 Q. I just want to make sure you're good to go.

3 A. You're the person -- yeah, exactly.

4 Q. Yeah.

5 So are you feeling okay today?

6 A. Yeah.

7 Q. Okay.

8 Is there any reason that you cannot give full and
9 complete responses today?

10 A. No, ma'am.

11 Q. Are you taking any kind of medications or drugs?

12 You don't have to tell me necessarily what they are, but
13 if -- they could be prescription, nonprescription -- that
14 could affect your ability to recall past events accurately
15 or testify about them --

16 A. No, ma'am.

17 Q. -- fully and completely today.

18 No?

19 A. No, ma'am.

20 Q. Okay.

21 Do you have any condition that might interfere
22 with your ability to recall past events accurately or
23 testify about them fully and completely today?

24 A. Normal.

25 Q. Okay.

1 Are there any other circumstances or issues that
2 are preventing you in any way from giving accurate and
3 complete answers today?

4 A. No, ma'am.

5 Q. Okay.

6 So you did not know that we were going to be doing
7 a deposition today; so -- but my question is still kind of
8 the same, is: Have you talked to anybody to prepare for
9 what you would be telling us today?

10 A. No, ma'am.

11 Q. Okay.

12 A. Honestly, I was -- like I said, it was -- I was
13 hearing that y'all was popping up at different places so I
14 was just like, I said -- and then I -- you know, speaking to
15 Josh mom --

16 Q. Okay.

17 A. -- and I told her, I said, "There are some people
18 trying to get up with me, do I need speak to them?"

19 And she said, "If they're trying to get up with
20 you to speak with you about Josh," she said, "just get with
21 them and tell them the truth."

22 Q. Okay.

23 A. So that -- just so, you what I'm saying, they
24 don't push the issue of me coming -- whenever you text me
25 Tuesday, that pushed the issue of me going on and also get

1 in touch with you.

2 But as far as us speaking about -- she didn't tell
3 me nothing that we would have to say or nothing if y'all
4 spoke to her.

5 Q. Okay.

6 A. She didn't tell me she spoke to y'all or anything.
7 She was just like, "Well, if it's somebody trying to get in
8 touch with you, get with them and just tell the truth."

9 Q. Okay.

10 Did you talk to Cyrstal or anybody else that might
11 have been, like -- that -- or had a conversation with
12 anybody else that might know something about this case
13 before today?

14 A. Cyrstal -- the only thing me and Cyrstal had a
15 conversation about was when the sheriff popped over really.

16 Q. Okay.

17 A. And we was trying to figure out what was going on
18 with that.

19 Q. Sure.

20 A. My mom, she said she seen y'all --

21 Q. Yeah.

22 A. -- come around her house. But other than that,
23 no, ma'am.

24 Q. Okay. Okay.

25 And I just -- like, it's fine if you have, I just

1 want to say that as well.

2 A. Yeah.

3 Q. I just want to know what that conversation was.

4 A. Oh, yes, ma'am. Understandable. Very
5 understandable.

6 Q. Okay.

7 Have you looked at any kind of documents or
8 anything before today, looked at pictures or anything to
9 refresh your memory about this case?

10 A. Oh, I haven't seen nothing since the court -- the
11 last court date.

12 Q. Okay.

13 A. I -- it's 10 years went by --

14 Q. Sure. Sure.

15 A. -- you know, since I --

16 Q. Yeah.

17 A. Yeah, I've -- I kept working. I started traveling
18 a lot, doing my work and stuff so -- just to keep my mind
19 out.

20 Q. Sure.

21 A. And then I popped back around, started trying to
22 do my own businesses and stuff like that --

23 Q. Nice.

24 A. -- couple kids -- lot of kids but ...

25 Yeah. But yeah, other than that, yeah, I haven't

1 had no -- other than me going to the gravesite to see
2 Josh --

3 Q. Yeah.

4 A. -- you know what I'm saying? -- I haven't seen no
5 other kind of papers. I haven't seen no transcripts or no
6 pictures or nothing like that again.

7 Q. Sure.

8 Are you -- are you close to Josh's family to this
9 day?

10 A. Yeah, we -- we still talk a lot and stuff, but I
11 just -- I think kind of feel regret because he -- you know
12 what I'm saying? -- we was all just out there. I'm not --
13 you might see me tear up.

14 Q. That's all right.

15 A. I'll let you know if -- but I'm okay.

16 Q. We have -- I think we have some tissues too.

17 That's okay.

18 A. But I kind of feel -- all of us grew up around
19 each other, we --

20 Q. Yeah.

21 A. -- since we were little, and Josh always looked up
22 to me; so --

23 Q. Yeah.

24 A. -- I always felt like a protector.

25 Q. Sure.

1 (Indiscernible comments off microphone.)

2 A. Whenever it happened that night, and -- Josh was
3 beside me. And I heard somebody say, "I got hit." That's
4 what made me start running, but I didn't know it was Josh.
5 And everybody else spread out with running, and the cars
6 left.

7 The only thing that was there was Josh truck. So
8 I didn't know if he kept running or what. So I went behind
9 a -- it was a little house that used to sit there, and I
10 just kept -- I said, "Is there anybody back here? Anybody
11 back here?" I jumped over the fence. "is anybody back
12 here? Anybody back here?" Nobody never answered me.

13 And that's -- Mike stayed there. I didn't -- he
14 walked up on me while we was there. I said, "Is you hit?"

15 He was like, "No, no."

16 I said, "Somebody said they're hit, man, somebody
17 said they're hit." And I didn't never hear nothing.

18 So we came out and I seen Josh truck sitting
19 there. We got inside Josh truck and the keys was in it and
20 I started calling around, trying to find where all the guys
21 that was out there, where all them was at. They was a
22 couple of blocks over.

23 And that's when I found out that somebody said, "I
24 think it was Josh that got hit."

25 And I said, "Well, where is he then? Why did

1 y'all leave him? Where is he?" I said, "I stayed there, I
2 looked behind the house, I didn't see him. Where is he?"

3 And I hopped back in his truck, me and Mike, and
4 we fly back up there, and I'm looking, and I pull -- get
5 ready to pull behind the house, and he's laying right there
6 in the driveway beside the house. So I'm taking it that
7 whenever it happened, he -- I don't -- I still to this day
8 don't know exactly how Josh ended up inside the fence. I
9 don't know if he climbed the fence or if he ran on the
10 out -- you know what I'm saying?

11 Q. Right.

12 A. I'm still trying to figure, because there was a
13 fence there. And -- but he laid beside that house and
14 that's where -- that's where we found him at --

15 Q. Yeah.

16 A. -- laying there beside the house.

17 And that -- the way the fence was, it went around
18 the house and the back side. So I don't know if he --
19 instead of running straight like everybody else did, I don't
20 know if he couldn't and then --

21 Q. Sure.

22 A. I don't know whether he was -- I don't -- you know
23 what I'm saying? -- to this day, we -- I rides by there --
24 you know what I'm saying? -- and look, and I just try to
25 figure out, well, how the heck -- you know what I mean?

1 Q. Right.

2 A. Because the fence was there. But I -- if he had
3 enough strength to climb over that fence then -- you know
4 what I'm saying? -- I just -- I just don't know. I don't
5 know.

6 Q. Yeah.

7 A. But we was beside each other when the shooting
8 started and started running.

9 Q. Yeah.

10 A. But I heard somebody say, "I got hit," but I just
11 didn't know it was his voice.

12 Q. Sure. Sure.

13 Okay. I'm going to -- I'm going to ask you a
14 little bit more about, like -- kind of break down some of
15 that stuff in just a minute. So let me go back just a
16 little bit and just ask you: Has anyone -- has anybody told
17 you to withhold any kind of information from us today --

18 A. Oh, no, ma'am.

19 Q. -- or anything like that?

20 A. No, ma'am. No, ma'am.

21 Q. Okay.

22 A. No, ma'am.

23 Q. There is always a chance I'm going to ask you a
24 question that just doesn't make a whole lot of sense, okay?

25 A. Okay.

1 Q. So tell me it doesn't make sense --

2 A. Yes, ma'am.

3 Q. -- and I will reword it.

4 And if it still doesn't make sense, let me know.

5 A. I'm with you.

6 Q. Okay?

7 A. Yes, ma'am.

8 Q. Okay.

9 If you think that I'm asking you a question and
10 you're not sure of the answer but you think I might have --
11 I do have some documents.

12 A. Okay.

13 Q. If you think I might have something that
14 potentially could refresh your memory, just ask me if I have
15 it.

16 A. Yes, ma'am.

17 Q. If I do, I'm -- I will absolutely show it to you,
18 okay?

19 A. Yes, ma'am.

20 Q. I want to get some just kind of basic information
21 from you so I have that.

22 What is your date of birth?

23 A. 4/29/82.

24 Q. Okay.

25 And your current address, what is that?

1 A. [REDACTED].

2 Q. Okay.

3 That's your mom's house?

4 A. Yeah. I be -- honestly, I be back and forth.

5 Q. That's fine.

6 A. Yeah. I'm -- you know what I'm saying? Baby

7 mama -- you know how that goes.

8 Q. Okay.

9 A. But a good percentage of the time --

10 Q. So between Hedgepath and Beth Drive?

11 A. Yeah, I be back and forth.

12 Q. Okay.

13 A. But 90 -- 80 percent of the time you're probably

14 better at Beth Drive.

15 Q. Okay.

16 A. Yeah.

17 Q. Okay.

18 And so if we needed to mail you something --

19 A. Beth Drive.

20 Q. Do it to that address?

21 A. Mm-hmm.

22 Q. Okay.

23 A. Yes, ma'am.

24 Q. Have you lived at that location for a while? I

25 mean, you used that address for quite a while?

1 A. I'm 40. What -- 30 years.

2 Q. Okay. Okay.

3 What is the best phone number for you?

4 A. The one that y'all have on file there.

5 [REDACTED].

6 Q. Okay.

7 So what I will tell you -- and Emma will probably
8 tell you this too -- but kind of going forward, because we
9 right now have this hearing set, please keep us updated on
10 the best way to get in contact with you --

11 A. Mm-hmm.

12 Q. -- because like I said, at the end, I am going to
13 subpoena you to a Commission hearing and if we do not need
14 you for some reason, or if we need you for a very specific
15 amount of time, I want you to know that ahead of time so
16 you're not --

17 A. Okay.

18 Q. -- you know, there for three days or however long.
19 That's just totally not necessary. So just keep in touch
20 with us so that we can make sure you get all of that
21 information.

22 A. Mm-hmm.

23 Q. Okay.

24 And Emma will talk to you a little bit more about
25 the commission process too as a victim of this crime.

1 MS. MYERS: Is that fair to say, Emma?

2 MS. PAUL: Yeah.

3 Q. So we'll make sure that you've got everything
4 answered before you leave today. And, of course, Emma will
5 be here throughout the entire process for you, okay?

6 A. Yes, ma'am.

7 Q. And Cyrstal.

8 A. Yes, ma'am.

9 Q. So -- okay.

10 Are you currently married?

11 A. No.

12 Q. Have you ever been married?

13 A. Yes.

14 Q. Okay.

15 How many children do you have?

16 A. Ten.

17 Q. Okay.

18 What is your highest level of education?

19 A. Twelfth.

20 Q. Okay.

21 And you are currently employed; correct?

22 A. Mm-hmm.

23 Q. Okay.

24 And you work out of town but you're also
25 starting --

1 A. Well, my main thing is my own business; so --
2 okay, so as far as employment, like, I do solar panels and I
3 do the roadwork.

4 Q. Nice.

5 A. The solar panels, we do large solar sites like the
6 big -- so the last one I was just at was with Moss Solar in
7 Texas.

8 Q. Okay.

9 A. So we were just in Texas. We was on a 3,000-acre
10 farm building. So I was the machine operator and the
11 supervisor.

12 Q. Is that the same company you were working for when
13 you were testifying --

14 A. I was working -- oh, when I testified, I was with
15 TerraSmart --

16 Q. Okay.

17 A. -- based out of Florida, Fort Myers. I was with
18 them.

19 Q. Nice.

20 A. Yeah. So I was doing a lot of work in New York,
21 Boston, upstate -- like that right there.

22 Q. So you get to travel a lot with that.

23 A. Yes, ma'am. When I -- when I decided to go out of
24 town and do it -- it depends on if I have an off-season
25 around here, like when it gets cold and everything, I go do

1 that for a little bit.

2 Q. Yeah.

3 A. But my -- I'm trying to make my primary income my
4 landscaping and my hauling.

5 Q. Oh, nice.

6 Your what?

7 A. Landscaping and hauling, hauling cars and stuff
8 like that.

9 Q. Oh, "hauling."

10 A. Moving furniture.

11 Q. Okay.

12 A. You want a building moved, I'll move it.

13 Q. Oh, nice.

14 A. Yes, ma'am.

15 Q. Okay. Good for you.

16 All right. Thank you for bearing with me through
17 all of those questions. I'm going to start asking you some
18 questions about the case now, okay?

19 A. Okay.

20 Q. All right.

21 So this case happened in June of 2013. It
22 happened on a Friday, June the 14th of 2013.

23 How old were you then?

24 A. 2013?

25 Q. Uh-huh.

1 A. 30.

2 Q. You were 30? Okay.

3 A. No, 31.

4 Q. You were 31?

5 A. My birthday had just passed.

6 Q. Okay.

7 How -- where -- where were you living at that
8 time?

9 A. On Magnolia Court.

10 Q. Okay.

11 How far away was that from the Hayeswood Hut or
12 the Hut?

13 A. Oh, man.

14 Q. It was walking distance; is that right?

15 A. Yeah, maybe -- it was walking distance, we just --
16 we went out there -- we could walk up the railroad track.

17 Q. Okay.

18 A. Maybe a half mile, maybe. Mile.

19 Q. Okay.

20 A. It was some blocks over.

21 Q. Okay. Okay.

22 Who were you living with at that time?

23 A. With Chris, it was a guy named Chris -- what's
24 Chris last name? We all called him "Smitty."

25 Q. I can tell you that you testified at trial that

1 his last name was Smith.

2 A. Smith.

3 Q. Okay.

4 A. That's why we called him Smitty.

5 Q. Smitty. Okay. Got it.

6 A. There you go.

7 Q. That makes sense.

8 A. Mm-hmm.

9 And I want to tell you what's messed up, we done
10 call him Smitty so much, we went to church together and
11 everything coming up; so I --

12 Q. That's --

13 A. -- that last name was just off.

14 Q. That's fine.

15 A. I'm sorry.

16 Q. No, don't be sorry. That's okay.

17 Josh is your second cousin; is that right?

18 A. Right.

19 Q. Okay.

20 Tell me how you are -- he's your second cousin.

21 Explain to me that familial relationship.

22 A. Okay. When you say "familial relationship" --

23 Q. Sorry. I mean how is he -- is he related to you
24 on your mom's side, your dad's side?

25 A. Oh, it's -- it's -- okay. So it's -- all of it is

1 through marriages on my mom's side.

2 Q. Okay.

3 A. My mom and -- my mom and her sister, you know,
4 they're sisters, her sister married his uncle.

5 Q. Okay.

6 A. So from there, that's where we all became --

7 Q. Gotcha.

8 A. It were just -- yeah. They were, like, yeah, they
9 threw us all in together.

10 Q. Yeah.

11 A. And so we all basically just right -- it was
12 together from the time up.

13 Q. Okay.

14 A. Yes, ma'am.

15 So it was always -- everybody always knew us as,
16 they says, yeah, they cousins, they second cousins because
17 my aunt married his uncle.

18 Q. Gotcha. Okay.

19 A. And his uncle and Josh daddy is brothers.

20 Q. Gotcha.

21 A. So that's how we all end up --

22 Q. Okay.

23 A. Yeah.

24 Q. Thanks.

25 A. Like, we all stayed there on the weekends. We

1 played basketball together, we played baseball, we practiced
2 golf even though we never -- none of us never took it up.
3 We rode four-wheelers and we used to run through the woods
4 and stuff.

5 Q. Gotcha.

6 Was he -- so did you -- he grew up in White Oak;
7 is that right?

8 A. White Oak, yeah.

9 Q. So did you guys spend most of your time out in
10 White Oak or would you say it was more than --

11 A. Growing up, it was more in White Oak.

12 Q. Okay.

13 A. As we got older, we stayed in Lumberton more
14 because we all got our own places and stuff.

15 Q. Okay.

16 A. Well, me, I always -- I had my own place; so we
17 would all come and hang up -- or they would come to my mama
18 house at first, and then when I got my own place, they would
19 all come to my house.

20 Q. Gotcha. So --

21 A. That's when I was saying on -- what was it? -- I
22 moved to Moore's Lane.

23 Q. Okay.

24 So was Josh pretty familiar with Lumberton then?

25 A. Mm-hmm.

1 Q. Okay.

2 A. Mm-mm.

3 Q. Tell me about the Hut. Just what was it known
4 for? Why did people go there?

5 A. The Hut?

6 Q. Mm-hmm.

7 A. The Hut was always the basketball court. That
8 used to be the blue building there, so back in the day they
9 used to say -- everybody used to come out there and just
10 shoot basketball, just from Friday, Saturday, Sunday. You
11 might see somebody on Facebook posting about to, "Let's meet
12 at the Hut, let's go play." A bunch of cars pulled up,
13 everybody just pull up and everybody just start shooting
14 basketball.

15 Q. Okay.

16 Did it have a reputation?

17 A. As time went by -- as time went by, I can't -- I
18 can't personally recall. I think I might've heard about
19 like somebody getting cut or something out there, a stabbing
20 or something like that. But other than -- as far as
21 somebody, they fighting over a basketball game, yeah, I
22 might have heard that. But --

23 Q. Yeah.

24 A. -- I never heard about -- yeah, as far as the
25 extensity [sic] of a whole full shooting.

1 Q. Okay.

2 A. Yeah.

3 Q. Was it can gang territory, though?

4 A. I'm going to be honest with you, when you come to
5 Lumberton, about --

6 Q. Okay.

7 A. If you -- once you touch Lumberton, depending on
8 where you're at in Lumberton --

9 Q. It's gang territory?

10 A. Yeah. It's just figuring out what gang territory
11 you're probably in.

12 Q. Okay. All right.

13 So then it's -- so then the Hut was certainly gang
14 territory?

15 A. Yeah, well, areas -- you know what I'm saying?
16 That -- but it was more neutral. The reason I say it was
17 neutral, because you could see people from this side of
18 town --

19 Q. Right.

20 A. -- and people from this side of town and they all
21 meet up, like, "Let's play some basketball."

22 Q. Okay.

23 A. But outside of that, you might see them fussing
24 somewhere.

25 Q. Gotcha.

1 A. You get what I'm saying?

2 Q. I do.

3 A. And then -- but the thing was, we had the -- it's
4 a blue building over here.

5 Q. Mm-hmm.

6 A. And you've got Mr. Thompson's garage and
7 Mr. Doug's barbershop.

8 Q. Mm-hmm.

9 A. So it was -- it was really a respect thing for the
10 older heads that's always been there. So they always make
11 sure they respected them guys.

12 Q. Okay.

13 A. So if Mr. Thompson and them come by and said
14 something or Mr. Doug come out and said something, you had
15 to --

16 Q. Yeah.

17 A. You had to respect it.

18 Q. Got it.

19 A. Yeah. And then the blue building, I think --

20 Q. And the blue building was actually the Hut; is
21 that right? Like --

22 A. Kinda-sorta. But they -- you know, making it a --
23 like for kids and stuff to come in, whoever is having
24 problems at home and if you're in a gang and you want to get
25 out of it and stuff like that --

1 Q. Okay.

2 A. -- that's what they made that building for now.

3 Q. Gotcha.

4 Are you talking about the Boys and Girls Club or
5 no?

6 A. Yeah. I think that's what it is.

7 Q. It is the Boys and Girls Club?

8 A. No. That's around the corner.

9 Q. Right.

10 A. It's a big brown building.

11 Q. Okay.

12 A. The little blue building --

13 Q. Yeah.

14 A. -- is where they bring in the kids. They do
15 coloring and they're trying to just keep them away from the
16 streets --

17 Q. Okay.

18 A. -- and they have people come in and speak to them.

19 Q. And so that's like if I -- so if I'm down on Wren
20 Street --

21 A. Okay.

22 Q. -- I got Thompson --

23 A. Okay. That's Wren Street. Okay. Go.

24 Q. Right?

25 A. Okay. Yeah.

1 Q. Yeah.

2 A. No, I'm just making -- I don't know the name of
3 that street.

4 Q. That's okay.

5 A. I just -- when I say -- I say Thompson's Garage.

6 Q. Yeah. So -- yeah.

7 So Thompson's Garage. Then you've got the
8 barbershop next to Thompson's Garage --

9 A. Yeah. It's this side of Thompson's Garage.

10 Q. -- is that right?

11 A. Yeah.

12 Q. Okay.

13 And then so the blue building you're talking about
14 is like --

15 A. It's across the street.

16 Q. Got it. Okay.

17 A. Yeah.

18 Q. Got it. Okay.

19 So the day -- so the day that all of this
20 happened, tell me -- what is your earliest memory from that
21 day?

22 It could be, like, before you got to the Hut,
23 like, what you did that morning ...

24 A. Honestly, the last thing I can remember is I was
25 in my room and I was getting dressed and stuff, and Josh

1 came in and he said -- he always stole my clothes.

2 I had a jersey I had just got hanging up on the
3 wall and he said, "I'm gonna wear that jersey. I'm gonna
4 wear that jersey."

5 I said, "You ain't getting my jersey tonight.
6 You're not getting my jersey tonight."

7 He said, "All right, then," he said, "well" -- it
8 was somebody's birthday. I'm trying to remember who
9 birthday it was. He was -- it was a particular person's
10 birthday. But all for it being their birthday, Josh was
11 like, "Well, we're just going to get a little bottle of
12 Crown, we're gonna drink some little Crown. We're gonna
13 drink a little bit."

14 I said, "Okay."

15 He said, "Well, I'm about to go over to Cyrstal
16 house, I'm going to go check Cyrstal and (indiscernible)
17 right quick. Then I'll be back through."

18 So we started walking, all -- me and all the guys
19 started walking, we walked to the park, went up the railroad
20 track. And -- and we made it to the park.

21 Q. When you say "all the guys," tell me who "all the
22 guys" were.

23 A. That's how I'm trying to -- so I think it was --
24 it was me, it was Mike. What's your name? I think DeShane?

25 Q. Was it DeShane's birthday?

1 A. It could have been. It was either him or --
2 I'm -- it's another guy that was -- I'm trying to remember
3 this other guy.

4 Q. It's okay.

5 A. And it's -- it was either between DeShane and this
6 other guy's, it was their birthday. I haven't -- it's been
7 so long since I --

8 Q. It's okay.

9 A. -- chilled with these guys ...

10 Q. What if I -- I'm going to show you some pictures.

11 A. Okay.

12 Q. And they might -- that might kind of like --

13 A. Who was there.

14 Q. Mm-hmm. Well -- and that's kind of what I want to
15 know from you, too, is I don't -- I don't know everybody
16 that was there.

17 A. Mm-hmm.

18 Q. I think I've got a good handle on a decent amount
19 of people.

20 A. Okay. Cyrstal. Moosie Cat -- that's Cyrstal's
21 little girl. She was only like 1 or 2 at the time.

22 Q. Okay.

23 A. Somebody else.

24 Q. All right.

25 So I'm going to show you what I previously marked

1 as Exhibit 8.

2 A. Okay.

3 Q. And you -- who is that person?

4 A. That's Micheal.

5 Q. Okay.

6 What did -- and that's who you're referring to as
7 "Mike"; is that right?

8 A. Yeah.

9 Q. Okay.

10 And did he also go by a nickname?

11 A. "Savage."

12 Q. Okay.

13 And so was -- he was one of the guys that was
14 walking with you?

15 A. Mm-hmm.

16 Q. Okay. Okay.

17 I'm going to show you what is marked as Commission
18 Exhibit 15.

19 Do you know who this person is?

20 A. That's Brandon LeSane.

21 Q. Okay.

22 Was he there?

23 A. No, ma'am.

24 Q. Okay. All right.

25 Do you know if he was walking up and was planning

1 on being there?

2 A. Brandon?

3 Q. Mm-hmm.

4 A. No. He was -- Brandon, nine times out of ten, if
5 Brandon weren't at work, he probably at home.

6 Q. Okay.

7 A. Yeah, because -- yeah. He probably was at home
8 because he didn't play basketball and stuff like that.

9 Q. Okay.

10 A. Brandon was always a -- he's been always working
11 on hisself. He's been working on hisself since he was
12 younger.

13 Q. Okay.

14 A. So yeah, so Brandon wasn't -- yeah.

15 Q. He wasn't there?

16 A. Yeah.

17 Q. Okay. All right.

18 I'm showing you what's been marked as Commission
19 Exhibit 16.

20 A. Oh, Webby.

21 Q. Yeah.

22 A. Yeah. He wasn't there.

23 Q. He was not there?

24 A. (No verbal response.)

25 Q. Okay.

1 Do you know? What is his --

2 A. No.

3 Q. Not there?

4 A. Hm-mmm.

5 Q. Was he there at any point that day?

6 A. No.

7 Q. No?

8 A. Hm-mmm.

9 Q. Okay. Okay.

10 A. Did he drive through or anything? Oh, let me just
11 think, now. I want to think.

12 Q. That's okay.

13 A. I just want to make sure because he -- because
14 people drove through. He could have been -- cars drove
15 through, but I -- I don't remember him being there that day.

16 Q. Okay. Okay.

17 A. I don't remember him being there.

18 Q. Webby goes by what other name?

19 A. What is this bad boy's real name? The only one I
20 know is his real name.

21 Q. Does it start with a D?

22 A. It's a D.

23 Q. Yeah. If I told --

24 A. D-e --

25 Q. Is it Deavon?

1 A. Deavon. Deavon.

2 Q. Is it "Deavon."

3 A. No, we say it's "Deavon." It's not "Deavon."

4 It's "Deavon."

5 Q. Deavon --

6 A. Yeah.

7 Q. -- Maultsby?

8 A. Yeah.

9 Q. Okay. Okay.

10 All right. I'm going to show you what has been
11 previously marked as Exhibit 17.

12 Do you know who this person is?

13 A. Yeah. I can't tell you his government name --

14 Q. That's fine.

15 A. -- though, I can't think of it. I can't even
16 remember what we used to call him as a street name, but he
17 was there.

18 Q. Okay.

19 A. He was there for a while.

20 Q. Was his street name maybe "Dizzy"?

21 A. Dizzy.

22 Q. Okay.

23 His government name, does Ricky Stephens sound
24 familiar to you? And it's okay if it does not.

25 A. Yeah. Yeah.

1 Q. Okay. Okay.

2 So he was out there --

3 A. Yeah.

4 Q. Or was he -- did he walk with you guys up to the
5 Hut?

6 A. That's what I'm -- could it have been his
7 birthday?

8 Q. But he was there during the time of the shooting;
9 is that right?

10 A. Okay. So during the time of the shooting, a bunch
11 of the -- some of the people was on the basketball court.

12 Q. Mm-hmm.

13 A. Me and Josh had done made ourselves outside of the
14 basketball court.

15 Q. Okay.

16 A. We was all standing -- I was talking to Cyrstal,
17 and then we walked over to the side of Josh truck.

18 Q. Right.

19 A. And we were holding Moosie Cat.

20 So we had -- basically everybody had done
21 scattered out from -- I can't tell you exactly who was all
22 there still during the shooting.

23 Q. Sure. That's okay.

24 A. I remember him coming up but I can't remember him
25 being there during the shooting.

1 Q. Okay. That's okay.

2 And we'll talk about that a little bit later
3 because I might have -- yeah, we'll get back to that one a
4 little bit later.

5 Exhibit -- I'm showing you what's been marked as
6 Exhibit --

7 A. Did he walk with us? I --

8 Q. -- 18.

9 Was he there?

10 A. No.

11 Q. Okay.

12 A. Dante his name.

13 Q. Carlos?

14 A. Yeah. That's Carlos.

15 Q. All right.

16 I'm going to show you what's been marked as
17 Exhibit 19.

18 A. He wasn't there.

19 Q. Okay.

20 A. "Nazhir." (phonetic)

21 Q. Does he also go by Shaquan?

22 A. Yeah.

23 Q. Okay. Okay. Sorry. Bear with me. Sometimes
24 I've got to flip through a bunch of pages.

25 Okay. I'm going to show you what has been

1 previously marked as Exhibit 33.

2 A. DeShane was there.

3 Q. Okay. Okay.

4 And that is him?

5 A. Mm-hmm.

6 Q. That's a picture of him?

7 Okay. All right.

8 I'm going to show you what has been previously
9 marked as Exhibit 30.

10 Do you recognize this person?

11 A. I -- he wasn't there, though. I don't -- we -- he
12 didn't hang with us like that.

13 Q. Okay.

14 A. I know who he is. He used to pop up sometime, but
15 he wasn't there.

16 Q. Okay.

17 Do you -- if I said the name Eric Monroe, would
18 that be familiar to you? Or "Little E"?

19 A. Maybe the Little E.

20 Q. Okay.

21 A. I mean, I heard of Little E before.

22 Q. Okay.

23 Do you recall seeing him at all that night during
24 the shooting?

25 A. I don't recall seeing him.

1 Q. At all?

2 A. I don't.

3 Q. Okay.

4 A. I don't. Yeah.

5 Q. Okay.

6 A. Little E. Yeah, I do not -- dang, did -- no, I
7 don't, not right offhand, no.

8 Q. Okay.

9 All right. I'm going to show you what was
10 previously marked as Exhibit 31.

11 A. Dexter.

12 Q. Okay.

13 Do you know if he was there at all?

14 A. I don't think he was there.

15 Q. Okay.

16 A. Him and -- him and Josh know each other.

17 Q. Okay.

18 A. But I don't think he was there. Dexter's a --
19 if -- he walks through the hog pens and stuff barefoot.
20 He's a true country boy.

21 Q. Oh, he's -- okay.

22 And this is Dexter Grant --

23 A. Grant, yeah.

24 Q. -- is that --

25 Okay. Okay. All right. So not sure if he was

1 there or not?

2 A. He wasn't there.

3 Q. Oh, he was not there?

4 A. No, ma'am.

5 Q. Okay. Okay. All right.

6 A. Unless he riding over there on the side or
7 something.

8 Q. Okay.

9 A. Yeah, he wasn't there.

10 Q. All right.

11 I'm going to show you what's been marked as
12 Exhibit 36.

13 A. I think he pulled up at one point in time, but he
14 left.

15 Q. Okay.

16 A. Because him and DeShane is brothers.

17 Q. Okay.

18 A. But he left.

19 Q. Okay.

20 Do you know his name?

21 If I told you it -- does the name Marcus Leach
22 sound --

23 A. Marcus Leach.

24 Q. Okay.

25 A. Marcus Leach.

1 Q. All right.

2 I'm going to show you what has been previously
3 marked as Exhibit 37.

4 Do you recognize this person?

5 A. Is -- is that a old picture?

6 Q. I don't remember if it's an old picture, to be
7 honest.

8 A. Hmm. I -- I don't know that person.

9 Q. Okay.

10 A. I honestly don't know him.

11 Q. Okay. That's really okay. All right.

12 A. Maybe if they -- I don't --

13 Q. It's not the best quality picture. It's kind --

14 A. No, I'm talking about it's just like --

15 Q. -- of hard to see.

16 A. -- like with that -- you know what I'm saying? --
17 did they just grow they dreads, did they have a haircut
18 before?

19 Q. Yeah. Let me show you some other pictures and he
20 might come up in a different one.

21 A. Okay.

22 Q. Maybe.

23 A. You know what I'm saying?

24 Q. I do.

25 A. Because the hair is --

1 Q. Yeah. Yeah.

2 A. That's just like me. My hair's down to here.

3 Q. Yeah. Right. So --

4 A. All the way down.

5 Q. So -- okay. Do you -- I'm going to show you
6 what's been marked as Exhibit 41.

7 Do you remember or do you know who this person is?

8 A. I don't know him.

9 Q. Okay.

10 A. I don't know him.

11 Q. Does he look familiar to you at all? It's okay if
12 he does not.

13 A. No, ma'am.

14 Q. Okay.

15 I am going to show you what was previously marked
16 as Exhibit 42.

17 Does this person look familiar to you?

18 A. That's Brandon LeSane little brother.

19 Q. Yeah.

20 Do you remember him being out there at all?

21 A. No, ma'am.

22 Q. Okay. Okay.

23 Do you remember his name?

24 A. Kato?

25 Q. Yeah. Okay.

1 All right. I do not have a picture of him, but --
2 well, actually, he's in a picture. Give me just one second.

3 All right. I am going to show you what was
4 previously marked as Exhibit 13.

5 A. Mm-hmm.

6 Q. Have you seen this photograph before?

7 Here. I'm going to just, like, hand it to you --

8 A. Yeah.

9 Q. -- and then you --

10 A. This is -- this is the day after the --

11 Q. It's the day after?

12 A. Maybe a day or two.

13 Q. Okay.

14 A. Day -- day or two after Josh got killed.

15 Q. All right.

16 The -- so some of the -- some of the people that
17 we've just gone over, I know that they're also in that
18 photograph.

19 A. Mm-hmm. It was more than this.

20 Q. There -- okay.

21 A. Oh, we had every bit of 150 people that walked and
22 we all end up meeting out there. It was more than this.

23 Q. The -- after -- you mean after the crime or the
24 night of the crime?

25 A. After the -- after the crime.

1 Q. Okay.

2 So are any of those people in that photograph that
3 were definitely there the night that this happened?

4 A. Yeah. He's -- he's -- the only other person that
5 was there that I can think -- that I know for sure was there
6 with us was -- was Bro right here.

7 Q. Yeah.

8 A. Yeah.

9 Q. Is that Antonio --

10 A. Antonio.

11 Q. -- Alford?

12 A. He's --

13 Q. Okay.

14 A. He's passed away.

15 Q. Yeah.

16 So out of that photograph --

17 A. Who we got -- it was right there. Me. Got Dizzy.

18 Now, it's this little dude right here, but
19 sometimes he popped up, sometime he didn't. Sometime you
20 would see him, sometime --

21 Q. In the back?

22 A. -- you won't.

23 Q. Right there?

24 A. Right here in the back.

25 Q. Okay.

1 A. But I -- I can't really tell you his name right
2 off gate. But he used to just pop up sometime but I can't
3 remember if he was out there that night.

4 Q. Okay.

5 A. He just was a younger dude and he used to always
6 be around us.

7 Q. Okay.

8 And I think that he -- let's see.

9 Do you -- do you know if he was there that night?

10 A. That's -- that's what I'm saying, he --

11 Q. Okay.

12 A. Well, so, when some of the cars pulled up, me and
13 Josh ended up walking out there where Cyrstal and them was
14 at. Cyrstal pulled up in front of Josh truck and we end up
15 walking out there and stuff. So it was still like a little
16 crowd --

17 Q. Mm-hmm.

18 A. -- moving behind us too -- you know what I'm
19 saying? -- some extra people.

20 Q. Right.

21 A. So I can't tell you for sure if he was out there,
22 but I know he used to pop up --

23 Q. Okay --

24 A. -- a lot. So ...

25 Q. Is someone named Little Rorie in that photograph?

1 A. Little Rorie. That's right here in the blue
2 shirt --

3 Q. Can I see?

4 A. -- if I ain't mistaken.

5 Q. Okay. Okay.

6 Do you -- is his -- do you know his government
7 name or anything like that?

8 A. I don't know his government.

9 Q. Okay.

10 A. I don't know his government. They always just
11 call him Little Rorie.

12 Q. Okay.

13 A. Little Rorie.

14 Q. Do you know if he was out there that night?

15 A. I hate them little dudes, some of them little
16 dudes, I can't -- they popped in and out so much.

17 Q. And it is totally -- it's okay if you don't -- if
18 you just don't know.

19 A. Was he out there? I don't think he was --

20 Q. All right.

21 A. If he did, he might have left.

22 Q. Okay.

23 A. Because I think when we got there it was right
24 before dark.

25 Q. Okay.

1 A. It was just getting ready to go to dark.

2 Q. And just to kind of orient you to that timing that
3 night, I know the sun set at 8:30 that night.

4 A. Mm-hmm.

5 Q. I can tell you that.

6 A. Mm-hmm.

7 Q. So it was probably a little bit before that you --
8 that you rolled up there?

9 A. Mm-hmm.

10 Q. Okay.

11 A. I think we set out about -- it might have been
12 around -- if I'm not mistaken, around between -- from
13 anywhere from between 5:30 and up till --

14 Q. Okay.

15 A. -- till -- till before it got dark.

16 Q. Okay.

17 A. It was between them times.

18 Q. Okay.

19 I'm going to -- I'm going to show you -- this is a
20 different variation, but it's Exhibit 38.

21 A. Mm-hmm.

22 Q. And so it looks like it's that same day as well.

23 A. Mm-hmm.

24 Q. Is there anybody in that photograph that maybe
25 looks more familiar to you?

1 A. As far as being there?

2 Q. Yeah.

3 A. No, ma'am.

4 Q. No?

5 A. No, ma'am.

6 Q. Okay. Okay.

7 A. No, ma'am. Because like I said, everybody just --
8 it was a lot. I was surprised it's just this picture. It
9 was -- it's a big group picture. It was a lot.

10 Q. Okay.

11 A. A lot of people.

12 Q. Do you have that photograph at all? Like, would
13 you have access to that and could get that to me?

14 A. I could -- yeah, I could try to look and see if
15 it's on my Facebook or anything like that --

16 Q. Sure.

17 A. -- and get that.

18 Q. That would be great.

19 A. Yeah.

20 Q. Thank you.

21 A. But it's a -- it's a big picture from that -- the
22 next day --

23 Q. Okay.

24 A. -- when we --

25 Q. And would there be a lot of people in that

1 photograph that were there the night that all of this
2 happened that you might be able -- that would be able to
3 help us kind of figure out more of who might have seen
4 something --

5 A. Right.

6 Q. -- or --

7 A. As far as, like, the ones that I pointed out,
8 pointed out --

9 Q. Mm-hmm.

10 A. -- I can't even tell who that is. It's a head
11 back here.

12 Q. I think, and I'm not sure, but I think that that
13 might be this guy in Exhibit 41, and I think you said that
14 you didn't know who that was.

15 A. Yeah.

16 Q. I believe his last name is McKoy, if that helps at
17 all.

18 A. I promise you, I don't.

19 Q. Okay.

20 A. I -- I can't place him.

21 Q. Yeah. That's okay. That's totally okay.

22 A. But like I said, the -- after the -- the day Josh
23 passed, it was -- it was a lot of people.

24 Q. Sure, sure.

25 A. It was a lot of people. Yeah, I mean, just people

1 that's -- because everybody knew Josh.

2 Q. Yeah. Yeah.

3 Let -- let me ask you some more questions, and it
4 might be that some more -- oh, you know who that person is?
5 I'm sorry. Craven Hemingway.

6 Does that name sound familiar to you at all?

7 A. No, ma'am.

8 Q. Okay. That's okay.

9 All right. So when you -- all right. So you --
10 you get up to the -- to the Hut we think like maybe around,
11 you said, 5:30?

12 A. Between -- from -- from 5:30 up to whenever it got
13 dark.

14 Q. Sure.

15 A. I want to say we were probably there maybe a hour
16 and a half.

17 Q. Okay.

18 A. You know what I'm saying? I want -- I want -- you
19 know, I want to try to get it -- because it's so long ago,
20 but --

21 Q. That's okay.

22 A. -- I think I was at the house, he came in there,
23 he left back out. It -- between 5:30 and 6:30, maybe 7:00
24 we left out -- we struck out walking.

25 Q. Okay.

1 So when you leave your apartment at that time,
2 does anybody leave with you?

3 A. The guys -- who was with me? DeShane. I think
4 Dizzy.

5 Q. Okay.

6 Was Micheal Burgess there?

7 A. Matter of fact, DeShane didn't leave with me from
8 my house.

9 Q. Okay.

10 A. I think while we was walking -- I think Mike
11 Burgess and Dizzy -- that's how Dizzy end up in the picture.
12 I think -- not this picture, but that night, I think Mike
13 Burgess and Dizzy end up meeting me at my house.

14 Q. Okay.

15 A. And we all -- we struck out walking. I think we
16 end up meeting DeShane when we was walking on the railroad
17 tracks.

18 Q. Okay.

19 A. Because where DeShane stay at, when we coming
20 through the railroad track --

21 Q. Okay.

22 A. -- his house was there.

23 Q. Okay.

24 Was DeShane with anybody else when you saw him?

25 A. Not that I can recall.

1 Q. That's okay.

2 A. Not that I can recall. I -- because I remember
3 him -- I think it was DeShane's birthday because it seems
4 like I remember him coming up, saying, "Y'all know it's my
5 birthday" or something like that.

6 Q. Okay.

7 So at that point --

8 A. Did Josh walk with us at first?

9 Q. So I can tell -- so -- and I can show you your
10 testimony. I've got a copy of your trial transcript --

11 A. Okay.

12 Q. -- if that -- and --

13 A. Josh may have walked --

14 Q. -- the might help you.

15 A. -- with us originally.

16 Q. Okay.

17 A. I'm not for sure.

18 Q. And --

19 A. I'm trying to remember that.

20 Q. At trial you had testified that he had gone to a
21 liquor store --

22 A. Yep.

23 Q. -- and then he had --

24 A. That's what I'm talking about, Crown, Crown.

25 Let's get --

1 Q. Okay.

2 A. -- get a bottle of Crown.

3 Q. And that when you guys were walking, you saw him
4 on -- or he kind of stopped when he saw you at, like, 9th or
5 10th?

6 A. That's where DeShane stayed.

7 Q. Okay.

8 A. That's where we was at, that's where DeShane
9 stays.

10 Q. Okay.

11 A. And he pulled up on us.

12 Q. Okay.

13 A. And that's when he was talking about -- I think he
14 needed to borrow some money from Cyrstal.

15 Q. Okay.

16 A. I think he went to borrow some money.

17 Q. Or did Cyrstal need to give him money? Do you
18 remember?

19 A. It was one or the other.

20 Q. Okay. Okay.

21 A. But I know he was, like, he wanted to get a little
22 bottle of liquor and he wanted to get a few dollars from --
23 it was either -- one of them was given the other one some
24 money to get the bottle.

25 Q. Okay. Okay.

1 So at that point when you saw Josh, was anybody in
2 his car -- or his truck?

3 A. Did he have his nephew? He had -- he -- it seemed
4 like it was somebody in there, he said he had to drop them
5 off or something.

6 Q. Okay.

7 A. At trial you testified that he had somebody in his
8 truck but you didn't know who it was.

9 A. Who was that? I'm trying to remember -- he said
10 he had to drop him off.

11 Q. Okay.

12 A. Was there anything about that encounter, though,
13 where it made you -- like you felt like whoever was in
14 Josh's truck might have been -- he might have been arguing
15 with him or anything like that, like --

16 A. Oh, who -- oh, with Josh?

17 Q. Yeah.

18 A. Oh, heck no.

19 Q. Okay. Okay. Okay.

20 A. Man, let me tell you about Josh. Josh -- that bad
21 boy, I don't care what you -- you could look at him, Josh
22 walked in here now -- okay, you see how tall I am --

23 Q. Mm-hmm.

24 A. -- so imagine somebody that's 3 inches taller than
25 me and probably every bit of a hundred pounds bigger. A

1 gentle giant. Only thing you had to worry about with Josh
2 was eating your food.

3 Q. Mm-hmm.

4 A. And when I say "eating" it, that boy could eat a
5 whole pack of hot dogs. I went, I said, "Josh, you ate all
6 the kids' hot dogs?"

7 "Man, I were hungry. I didn't think y'all wanted
8 them."

9 You know? So Josh -- whoever was in the car with
10 Josh, I'm going to tell you right -- I can't tell you a
11 enemy that Josh ever could have picked up in his lifetime.

12 Q. Okay.

13 A. That's how -- you know what I'm saying? He hung
14 out with us, but Josh, he -- I can't tell you not one enemy.
15 No fighting at school. Everybody knew, you -- Josh.

16 Q. Yep.

17 A. So I can't tell you -- I can't -- yeah. And even
18 with that night when he pulled up with somebody, you don't
19 feel uncomfortable because, hey, Josh got him with him,
20 Josh, he comfortable.

21 Q. Right. Okay.

22 A. Yep.

23 Q. So you just assume that that guy -- like, because
24 he was with Josh, that --

25 A. Just regular people. It's just regular --

1 Q. Gotcha. Okay.

2 A. Yeah. Yep.

3 Q. Okay.

4 A. Because that's how you -- when you see Josh,
5 you -- nobody -- you didn't have no reason to hate Josh, no
6 negative come out of his mouth. I -- you barely would hear
7 him say a cuss word.

8 Q. Okay.

9 A. Yep. So -- yeah.

10 Q. You said he didn't get in any -- like, he was
11 never, like, in any fights or anything like that, but he
12 still hung out with you guys.

13 What do -- what do you mean by that?

14 A. Like some of the guys -- okay. So basically we
15 all started hanging together as a group. And I started
16 preaching to the guys. A lot of these guys was -- is -- was
17 in -- in and out, jail --

18 Q. Yeah.

19 A. -- getting in trouble.

20 So I started preaching to them and -- you know
21 what I'm saying? -- they started looking at me as like a
22 higher-up to them.

23 Q. Okay.

24 A. So I would preach to them, like, "Hey, let's go to
25 school today."

1 Q. Okay.

2 A. "Why you fighting at the skating rink? There's
3 other kids out there." Or, "All right. I'm going to take
4 y'all out today, I'm going to go to take y'all to go find
5 this job." So I took a couple of them out to get
6 applications and stuff so they didn't get in -- they were
7 chillin' -- you know what I'm saying? They were just
8 relaxing and stuff.

9 And see, but Josh won't that type -- what I want
10 to say? -- I don't want to call him "case" -- "cases," but
11 Josh won't that type case. Josh was already stable. He
12 was -- he won't -- it won't no troublemaker aura around him,
13 you had to come over there and be like, "Josh, come on, no,
14 don't do that. Come on, let's go to school."

15 Q. Right.

16 A. "Come on, let's go -- let's get out and find a job
17 instead of trying to get out here and do this. Come on,
18 stop taking pills."

19 Q. Got it.

20 A. "Why are you looking like this?" You know what
21 I'm saying? I didn't have to never come at Josh like that,
22 you know, it was a lot of the guys that I hung -- you know
23 what I'm saying, I spoke with them on that (indiscernible).

24 Q. Sure. I understand.

25 A. Yeah. But Josh, he was like -- you know what I'm

1 saying? -- but he was always there. He was just -- he was
2 just cool Josh.

3 Q. Yeah.

4 A. He was just cool Josh.

5 Q. So after you see Josh on the street -- like when
6 he kind of drives up on you guys, what -- do you -- what do
7 you remember happening after that?

8 A. After that, he pulls off. And I think we
9 continued on to the basketball court.

10 Q. Okay.

11 A. The Hut.

12 Q. Okay.

13 A. We get to the Hut, we stand all out there, we all
14 talking and stuff.

15 Q. Was Josh there when you got back to the Hut, do
16 you know?

17 A. I'm trying to -- see, I'm trying to remember the
18 time frame of him leaving to go to Crystal's.

19 Q. Sure.

20 A. It seem like he might have left from where we was
21 at, drove around to the Hut, and then left back out again.

22 Q. Okay.

23 And, again, I can show you your trial testimony --

24 A. Mm-hmm.

25 Q. -- too in case that helps a little bit.

1 But does it sound familiar that when you got back,
2 he -- he had -- maybe Cyrstal had gotten to the Hut?

3 A. Cyrstal pulled up in her car and then Josh -- I'm
4 trying to remember because I remember we were parked like
5 this. Cyrstal was facing the park and me and Josh were
6 sitting at like a little crooked -- catty-corner.

7 Q. Okay.

8 A. Passenger door by the fence --

9 Q. Okay.

10 A. -- by the court.

11 Cyrstal pulled up. Because she said, "I just seen
12 Josh. He ain't been too long left the house."

13 Q. Okay.

14 A. So I think Josh did pull up after Cyrstal had --

15 Q. Okay.

16 A. -- after Cyrstal did. But he had went and seen
17 Cyrstal, and so from wherever he went from there, and then
18 he came back to us.

19 Q. Okay.

20 A. Yeah.

21 Q. So let me -- I -- if you don't mind, and you do
22 not need to be a good artist; so this is not to judge you on
23 any kind of drawing skill by any means -- but it would help
24 me to get a better understanding of when you guys got back
25 to the Hut, where Josh pulled in --

1 A. Yeah. See, I never left the --

2 Q. Let me give this to you.

3 (Overlapping speakers.)

4 A. When Josh left, I never left the Hut.

5 Q. Okay.

6 A. I was still there the whole time.

7 Q. Let me give you this blue pen.

8 A. Okay.

9 Q. So -- and I can tell you that, like, you -- you
10 did draw this for -- during one of your interviews with the
11 SBI, but I want to -- I had some kind of questions about
12 that so I'm just going to ask you to draw --

13 A. You want me to draw the court, where the cars we
14 sitting?

15 Q. Yeah.

16 So -- yeah. So go ahead -- yeah. Draw the
17 basketball court.

18 A. (Indiscernible.)

19 Q. Now, show me on this where Elizabethtown Road
20 would be.

21 A. Okay. So --

22 Q. Or -- let's do this. Sorry.

23 Show me where Peachtree is on this road.

24 A. Peachtree? Is that the street -- that's the
25 street beside the court?

1 Q. Yeah.

2 A. That's the -- that's the main road.

3 Q. Yeah. And that --

4 A. That's this road, the dirt road.

5 Q. Yeah.

6 A. That's this dirt road.

7 Q. Mm-hmm.

8 A. This dirt road.

9 Q. Okay.

10 So then will you put --

11 A. And then the railroad tracks, right here beside
12 it.

13 Q. Perfect. Okay.

14 A. Do the railroad track. Give you some lines.

15 Q. So tell me on here what you remember, like, where
16 Elizabethtown Road would have been or -- sorry -- or like
17 where it would have been on this map.

18 A. Okay. So if you go back this way --

19 Q. Mm-hmm.

20 A. -- it should be taking you towards the 9th and
21 10th Street --

22 Q. Okay.

23 A. -- if I'm not mistaken.

24 Q. Mm-hmm.

25 A. And when you come back out this way -- so you're

1 coming out the dirt road --

2 Q. Mm-hmm.

3 A. -- the railroad tracks' there, you come back out
4 the dirt road, when you get to the end of the dirt road,
5 there's a shop right here to your right, hair salons and
6 stuff like that.

7 Q. Okay.

8 A. And that's Elizabethtown Road.

9 Q. Okay. Okay.

10 So --

11 A. You want me to draw that on here, Elizabethtown
12 Road?

13 Q. You can just put, like, "E-town" --

14 A. Okay. Okay. Okay. I'll put it.

15 Q. -- where you think it is.

16 A. Right here.

17 Q. So Wren Street would be --

18 A. That's right here.

19 Q. Okay.

20 A. Okay. There was a little house here. Then Wren
21 Street comes up beside it.

22 Q. Okay.

23 A. Then the shop and the barber shop is here.

24 Q. Okay.

25 And then that blue -- I know we kind of talked

1 about this earlier, but that blue --

2 A. The blue house is right --

3 Q. Right there?

4 A. Right there.

5 Q. Okay.

6 A. This is where --

7 Q. Show me on there, too, like, where the playground
8 would have been. Do you remember the playground?

9 A. Does it -- if I'm not mistaken, that playground
10 sits over here.

11 Q. Okay.

12 A. Right here. I'll just make a triangle.

13 Q. That's okay. Yeah.

14 A. Playground.

15 Q. Okay.

16 The fence that you were talking about that was
17 around the house --

18 A. It goes -- it went like that.

19 Q. Got it. Okay.

20 So when Josh -- so you -- you walk up to the Hut.
21 You're with DeShane, Dizzy, Burgess that we know of for
22 sure.

23 A. Mm-hmm.

24 Q. Okay.

25 A. Them is -- them -- in my mind, I can still picture

1 all of us --

2 Q. Okay.

3 A. -- up to the wall.

4 Q. Okay.

5 When you get to the Hut, are there other people
6 playing basketball? Like, are there other people there when
7 you get there?

8 A. I think it was some other guys there but I didn't
9 know them.

10 Q. Okay. Okay.

11 A. Yeah, I didn't know them. But they didn't -- I
12 don't think they stayed too long. They only stayed a little
13 bit.

14 Q. Okay.

15 A. About another hour or so.

16 Q. Okay.

17 So you guys get up there, and then -- and you
18 think what time is this by the time you actually get to the
19 Hut?

20 A. It's got to be around -- it's -- it's got to be
21 around -- I want to say around 6:30.

22 Q. Okay.

23 A. You know what I'm saying? Depending on what time
24 exactly we left, I'd say we got there before it turned dark.

25 Q. Gotcha. Okay.

1 Now, at -- when Josh drives up, where does Josh
2 drive up from to get to the Hut?

3 A. Okay. Did he come down Wren? Because he always
4 drove fast. That was -- that was his issue.

5 Q. So he ate everybody's food and he drove fast.

6 A. And he drove fast. He.

7 Q. Okay.

8 A. Had a heavy foot. He had a heavy foot.

9 He came flying up there. He came up -- no. He
10 might have come up this dirt road because when he came up,
11 he parked at a -- like the truck -- that's the front of the
12 truck.

13 Q. Okay.

14 A. That's the back of the truck.

15 Q. Okay.

16 So did he come in at an angle? Did he park --

17 A. He parked at an angle.

18 Q. He parked at an angle?

19 A. Yeah. His truck was parked at an angle.

20 Q. So was the angle -- sorry -- going --

21 A. Yeah. Here you go.

22 Q. Okay.

23 So is this an angle -- and it looks like an
24 angle --

25 A. Mm-hmm.

1 Q. -- I just want to make sure.

2 A. Yes, ma'am. This the angle --

3 Q. Okay.

4 So he comes in and parks kind of --

5 A. Parks, yeah, and it butts more towards the --

6 Q. Okay.

7 Like --

8 A. -- road.

9 Q. Okay. Gotcha.

10 A. Peachtree --

11 Q. Okay.

12 A. The truck -- the butt of the truck is more towards
13 Peachtree. The front of the truck is a little bit more
14 towards the basketball court.

15 Q. Okay.

16 A. And if I'm not mistaken, it's -- it might have
17 been a fence, a short fence beside the basketball court at
18 that time.

19 Q. Okay.

20 I'll show you some pictures of that too --

21 A. Okay.

22 Q. -- to help refresh your memory a little bit.

23 Okay. So he parks in like that.

24 A. Mm-hmm.

25 Q. He gets there. Does Cyrstal get there before or

1 after he pulls in like that?

2 A. See, I'm thinking Cyrstal was there before --

3 Q. Okay.

4 A. -- because of the way he parked.

5 Q. Okay.

6 A. But -- so Cyrstal had her car here.

7 Q. Okay.

8 A. She parked in straight

9 Q. Okay.

10 A. That's the front of her car.

11 Q. Okay.

12 A. That's the back of her car.

13 Q. So the front -- will you put "F" and then -- like
14 up here somewhere --

15 A. Okay.

16 Q. -- that's, like, "front"?

17 A. Mm-hmm.

18 Q. So she parked -- okay.

19 So she's -- when she pulls in, she is facing the
20 basketball court?

21 A. Mm-hmm.

22 Q. Who was -- so I know Moosie Cat was with her.

23 Did she -- did Cyrstal have somebody else in her
24 vehicle with her too? Or do you know if anybody else was
25 with Cyrstal?

1 A. I'm trying to remember. It might have been a
2 girl.

3 Q. Okay.

4 Is it somebody Cyrstal would normally hang out
5 with?

6 A. Probably so.

7 Q. Okay.

8 A. Moosie Cat. She pulled up with Moosie Cat. We
9 were talking, and I said, "Come here, Moosie Cat."

10 Q. And you're saying "Lucy"?

11 A. "Moosie."

12 Q. "Moosie"?

13 A. Mm-hmm. M-o-o-s-i-e.

14 Q. Okay. That's cute.

15 And it is okay if you do not remember --

16 A. Yeah, I didn't -- that's -- I just can't remember
17 that one.

18 Q. That's okay.

19 A. They got me on that one.

20 Q. That's okay.

21 A. I'm -- okay. Now you got me wanting to -- I'm
22 trying to play back.

23 Q. Well, and we'll talk about this, like, when this
24 is over --

25 A. Okay.

1 Q. -- and stuff, but there's a good -- I mean, you
2 might, like, a week from now --

3 A. Remember something and hit you up, "Hey, hey,
4 hey."

5 Q. Just give me a call. Yeah.

6 A. Okay.

7 Q. And you can call Emma for -- like, Emma will give
8 you -- we don't want to bombard you with business cards
9 after this.

10 A. Mm-hmm.

11 Q. Because a lot of places like to do that, but we
12 don't. So Emma will give you her business card.

13 A. Okay.

14 Q. We -- she can very easily get in contact with me
15 so -- and we have the same, like, main line.

16 A. Okay.

17 Q. But anyway, like, we're just going to give you one
18 business card, but you can get in touch with any of us --

19 A. Okay. I'm with you.

20 Q. -- just so you know.

21 So if -- I don't want you to -- obviously, I want
22 you to tell me everything that you --

23 A. Mm-hmm.

24 Q. -- can.

25 A. Yep.

1 Q. And I -- but I do not want you to feel like I need
2 you to give me an answer because I'm asking it, okay?

3 A. Oh, yeah. Yeah. Yeah. But I still -- I be
4 like --

5 Q. Okay.

6 A. -- dawg, I want to remember it because that way --

7 Q. Sure.

8 A. -- you already have your answer to it.

9 Q. Yeah.

10 A. And we can --

11 Q. But if you --

12 A. Yeah.

13 Q. But if something jogs your memory later on --

14 A. Okay.

15 Q. -- that's totally cool.

16 A. Okay.

17 Q. Just give us a call.

18 A. I gotcha.

19 Q. That's not a problem at all.

20 A. I gotcha. Somebody ...

21 Okay. I'm ready. I'm with you. Come on. I want
22 to remember it.

23 Q. It would drive me crazy too if I couldn't think of
24 it. So I get it. I see your pain with that, but don't
25 worry about it for now.

1 We -- all right. So you think that because of --
2 that Cyrstal got there first and then because of the way
3 that Josh had kind of pulled in kind of diagonally, that he
4 came in a little bit after Cyrstal.

5 A. Mm-hmm.

6 Q. Okay.

7 A. From the -- Peachtree.

8 Q. Okay.

9 And so how long -- so after Josh pulls in, what --
10 tell me what happens. Like, what are -- where are you?
11 Where is Josh?

12 A. Right here. He pulls in. I -- I walks up to him,
13 you know, we're standing beside a -- beside his truck on the
14 passenger side near the court.

15 Q. Okay.

16 A. So it's me, him -- I'm right here. I'm sorry.

17 Q. Nope, don't be sorry.

18 A. I'm going to put a "1" for me.

19 Q. Okay.

20 A. And a "2" for him.

21 Q. Okay.

22 A. And then a "3" for Moosie Cat.

23 Q. Okay.

24 A. Because we had walked over to the car and got
25 Moosie Cat.

1 Q. Where was Cyrstal at this time? Do you --

2 A. Sitting in her car.

3 Q. Okay.

4 A. She was still sitting in her car.

5 Q. Did she have a Chevy? Was she driving --

6 A. A little white -- if I'm not mistaken, a little
7 white Cobalt or something.

8 Q. Okay.

9 A. See, it was some kind of little -- it was a
10 little -- a little white car.

11 Q. Okay.

12 Was there something wrong with the car? Like,
13 something with the door handle or anything like that that
14 you remember?

15 A. The door handle was broke, if I ain't mistaken.

16 Q. Which door handle?

17 A. On the outside of it maybe.

18 Q. Okay. I don't know.

19 A. I think it was the one --

20 Q. That's why I'm asking.

21 A. -- on the outside, might have been.

22 Q. Okay.

23 Do you know which one -- which door that would
24 have been?

25 A. Maybe the passenger.

1 Q. Okay.

2 A. Or the back door.

3 Q. Okay.

4 A. It was one of them on the -- it was either the
5 passenger front or the back door, seemed like that -- one of
6 them --

7 Q. Okay.

8 A. -- was messed up.

9 Q. On the back too? Like on the passenger side,
10 either the front or back?

11 A. It was one of the two.

12 Q. Okay. Okay. Okay.

13 So you guys -- so -- and I'm sorry. You might
14 have answered this and I don't remember now --

15 A. Oh, you're good.

16 Q. -- but Cyrstal was where, when you guys --

17 A. In her --

18 Q. -- you, Josh, and Moosie Cat are over here --

19 A. Yeah. Cyrstal still sitting in her car.

20 Q. Okay.

21 And she may or may not have had a friend with her
22 at that time.

23 Would that friend have been -- if -- if she ----
24 did have a friend, would the friend have also been in the
25 car with Cyrstal? Or would that friend have been kind of

1 like out, maybe socializing?

2 A. No, I doubt it was out --

3 Q. Okay.

4 A. I think it was in -- if -- I think it was --
5 that's why I'm trying to put a face to it, but if they
6 was -- they probably pulled up, they would have been in the
7 car.

8 Q. Okay.

9 A. Because Cyrstal never got out of the car.

10 Q. Okay.

11 Is this a place that, like, Cyrstal would've gone
12 to hang out at anyway?

13 A. Yeah, because all us -- you know what I'm
14 saying? -- we always used to --

15 Q. Okay. Okay.

16 A. We always pulled up -- even growing up, I stayed
17 right around the corner on Gulf Street.

18 Q. Okay.

19 A. And Mr. Doug was my first barber.

20 Q. Okay.

21 A. So we always knew the car

22 Q. Oh, okay. Yeah.

23 A. Yeah.

24 Q. Nice.

25 A. Yeah. So we see -- just even if everybody wasn't

1 with us, we probably pulled out there and she probably let
2 the kids play, something, once or twice or something.

3 Q. Okay. Gotcha.

4 A. Or we just went out there and just watched them
5 shoot basketball for a little bit.

6 Q. Okay.

7 So at this point, what did it look like outside?
8 Like, in terms of it, like, going -- transitioning into,
9 like, kind of early evening to later --

10 A. Oh, it was -- it was getting dark.

11 Q. Okay.

12 A. It was getting dark.

13 Q. So --

14 A. Because the streetlights, if I'm not -- the street
15 lights was on while we was standing there talking to Moosie
16 Cat.

17 Q. Okay.

18 And do you know about what time that -- that
19 streetlight would've come on? And it's totally okay if you
20 don't know that.

21 A. From what I always understood, the streetlight
22 come on at time to go home; so I want to say around between
23 7:30 to 8:00 o'clock.

24 Q. Okay. Okay. All right.

25 And so how long are you guys kind out here just

1 hanging out and talking?

2 A. Right there in this area?

3 Q. Mm-hmm.

4 A. Oh, I don't -- I don't -- we probably was there, I
5 want to say -- dawg, it -- stuff went crazy. I lost track
6 of a lot of time. But I want to say --

7 Q. Sure.

8 A. -- 20, 30 minutes --

9 Q. Okay.

10 A. -- maybe.

11 Q. Okay.

12 So tell me -- I want to start --

13 A. Could have been ... yeah, around that -- I just --
14 it's just my time.

15 Q. That's -- that is okay.

16 A. Mm-hmm.

17 Q. It's been a long time. This was also -- there was
18 a lot happening that night.

19 A. Mm-hmm.

20 Q. And so it is -- that's okay to not remember --

21 A. Mm-hmm.

22 Q. -- very specific details about that.

23 A. Yeah.

24 Q. At this point, though, do -- who else do -- is
25 there at the court, at the Hut?

1 A. Well, like I said, at this point, me and Josh have
2 made our way out here.

3 Q. Mm-hmm.

4 A. So, like -- I think that basically the guys that I
5 was -- told you that was there in the picture, I think some
6 of them might have been on the court.

7 Q. Okay.

8 Do you remember anybody else rolling up during
9 this time?

10 A. Like, cars was just driving by. I just can't --

11 Q. Okay.

12 A. I don't -- can't recall the people who was in the
13 cars, but I know they were driving by. They were coming
14 through.

15 Q. Did they, like, stop and speak to you guys?

16 A. Some of them stopped -- I think, like, maybe one
17 car might have stopped and spoke to somebody --

18 Q. Okay.

19 A. -- just speaking to them. And then they kept
20 going.

21 Q. Okay.

22 A. I think that's how -- matter of fact, I think
23 there was a -- might have been Marcus.

24 Q. Okay.

25 A. He had came through in his car -- if I'm not

1 mistaken, he had come back through in his car and he spoke,
2 and that's -- he spoke with his brother, DeShane.

3 Q. Okay.

4 A. And then he left back out. He didn't stay long.

5 Q. Okay.

6 Did you see him again that night, Marcus?

7 A. He might have come to the hospital.

8 Q. Okay.

9 A. He might have been at the hospital.

10 Q. Okay.

11 A. A lot of people showed up after the shooting too.

12 When the police and everything come --

13 Q. Yeah.

14 A. -- it was a lot of people out there.

15 Q. Okay.

16 A. Yeah.

17 Q. And I'm going to ask you about that too.

18 So -- all right. So you guys are out there. It's
19 not -- so people -- there have been a few cars at least that
20 have driven by, maybe they spoke to people, but like -- so
21 that's, like, a common thing.

22 A. Mm-hmm.

23 Q. That's not --

24 (Overlapping speakers.)

25 A. Yeah, if me and you --

1 Q. -- alarming?

2 A. If all of us was standing out there right now --

3 Q. It would happen?

4 A. -- it probably would happen, you'll see a bunch of
5 cars, there's probably somebody wave and honk the horn.

6 Q. Gotcha. Okay.

7 A. Smiling at me because I got three pretty women.

8 Q. You're too kind.

9 A. I'm just talking junk.

10 Q. Okay. Thanks.

11 A. You're welcome.

12 Q. All right.

13 So you guys are out there, the -- those cars are
14 kind of going by. At some point, there is this other
15 vehicle that drives up. So tell me -- tell me about that.

16 A. Oh, the white car?

17 Q. Yeah, you tell me. So --

18 A. Okay. The white car -- so me and Josh are
19 standing here.

20 Q. What does it look like outside at this point?

21 A. It's -- it's right at dark.

22 Q. Okay.

23 A. You can see because of the streetlight.

24 Q. Okay.

25 A. So it's -- it's a pretty good dark, but you could

1 see.

2 Me and Josh are standing here.

3 Q. Okay.

4 A. And --

5 Q. On this side?

6 A. On the same side where I got "1" and "2" and "3."

7 Q. Okay.

8 A. That's me, him, and Moosie Cat.

9 Q. Okay.

10 A. And -- how did I get Moosie Cat back in the car?

11 I think somebody grabbed Moosie Cat -- that started
12 shooting.

13 Okay. So the white car comes in.

14 Q. Okay.

15 And does -- the white car, does it definitely come
16 from this -- this end? So this would have been 11th Street.
17 So, like, 11th, 10th, 9th -- kind of like going down this
18 way?

19 A. So -- okay. That street right there should be the
20 street that Bill Sapp's on.

21 Q. Okay.

22 A. The recreation center.

23 Q. Okay.

24 A. And when you get to the -- from the Hut, it should
25 be Bill Sapp; so ...

1 Q. Okay.

2 A. I think that's 11th Street. And then the next
3 street over is 10th Street.

4 Q. Right. Mm-hmm.

5 A. Okay.

6 Q. Yep.

7 A. Yeah. So that car came up this dirt road.

8 Q. Okay.

9 A. I don't know which way it turned from.

10 Q. Sure.

11 But it was -- but it definitely came from here and
12 not E-town; is that right?

13 A. No, it did not come from E-town.

14 Q. Okay. Gotcha.

15 A. It came from here.

16 Q. Okay.

17 A. And --

18 Q. Did you notice it when it first turned up?

19 A. I --

20 Q. Yeah.

21 A. We're just out, we didn't --

22 Q. Yeah.

23 A. I'm not thinking nothing of it.

24 Q. Yeah.

25 A. It rolled by. It came -- it had a little speed to

1 it, dust -- people do that on a dirt road.

2 Q. Sure.

3 A. It came by. And when it came by, he were like,
4 hit the brakes. He said (sound).

5 Q. At what point does he hit the brakes?

6 A. Right about -- I want to -- right before he get
7 into this -- the little house that used to sit there.

8 Q. Mm-hmm.

9 A. They tore it down now, but it was a little house
10 that sit there. He hits the brakes right there, time he
11 gets to the little house.

12 Q. So was that -- did that get your attention, when
13 he hit the brakes?

14 A. The -- yeah.

15 Q. Okay.

16 A. I was like, I said, "Who in the world is that?"

17 Q. Yeah.

18 A. Dust came up, you know what I'm saying? So we
19 ain't thinking about nothing and then car backs up.

20 Q. How does it back up? Is it going pretty fast or,
21 like, slow?

22 A. It had a pretty good -- good speed. But like I
23 was saying to you, Josh, with his heavy foot --

24 Q. Mm-hmm.

25 A. -- that is some -- I seen, you know what I'm

1 saying?

2 Q. Right.

3 A. You're just used to a dirt road --

4 Q. Okay.

5 A. -- you're on a dirt road, you just (sound).

6 Q. So you didn't really think necessarily --

7 A. No.

8 Q. -- anything --

9 A. We're not --

10 Q. Okay.

11 A. We're not thinking nothing. We're all still,
12 "Who's that?"

13 Q. Yeah.

14 A. There ain't nobody panicking or nothing. We all
15 just still regular.

16 Q. Okay.

17 A. And the car backs up and it slams on brakes right
18 here with, like -- I want to say more towards the end of
19 Josh truck, but it was still, like, beside the truck.

20 Q. Okay.

21 A. So I -- me, Josh, Moosie Cat standing there.
22 Cyrstal in her car. It was a couple of guys in the car, I
23 just can't remember exactly --

24 Q. Sure.

25 A. I know Mike -- I'm trying to remember where Mike

1 was standing.

2 Q. Okay.

3 A. He won't far. He had to be close to me and Josh
4 because -- I don't know how, you know, he -- when the
5 shooting started, that's -- the house that's here, we went
6 across there. I stopped right here when I heard somebody
7 say they were shot.

8 Q. Oh, okay. Okay. Gotcha.

9 So where does -- okay. So this --

10 A. Like this court? I drew the court over here, but
11 the court might need to sit over a little bit --

12 Q. No, that's okay.

13 But it was not this house -- so I think that's
14 what I was confused about. So I wanted to clear that up
15 too.

16 So the house that you ran to was not this house;
17 right?

18 A. Originally -- no. Because --

19 Q. Okay. Got it.

20 A. -- whenever we took off running, there's a fence
21 there.

22 Q. Right.

23 A. I ran straight up.

24 Q. Okay.

25 A. And that's when I heard somebody saying, "I'm

1 hit."

2 Q. Okay.

3 A. And I stopped --

4 Q. Gotcha.

5 A. -- right there by that blue house.

6 Q. Gotcha.

7 A. Yeah.

8 Q. Okay. So it was about here --

9 A. This is where I found Josh, here.

10 Q. Right. Okay.

11 So when you -- okay. So when you run here, at
12 some point, though, did you jump a fence? Did you have to
13 jump over a fence at all?

14 A. Only -- I think the only time I jumped back over a
15 fence was when I was coming back to --

16 Q. Okay.

17 To try to find people?

18 A. Who was back there who said they got shot.

19 Q. Okay. Okay.

20 So this white car that comes up, when it -- when
21 it -- so it drives up here. Is it -- how is it driving when
22 it's coming up, though? Is it -- like, are they looking for
23 some -- like, do you think that they're looking for
24 somebody? Or you were not thinking anything of this
25 vehicle?

1 A. No. We --

2 Q. Okay.

3 A. Like I said, we were still standing there because
4 I -- like I said, we had kids -- the kids was there, Moosie
5 Cat. I'm trying to say Phat might have been there, Little
6 Phat (phonetic) right there?

7 Q. Okay.

8 A. I'm trying to think if she was in the car with
9 Cyrstal. Because they -- them too always was together.

10 Q. Is -- okay.

11 A. So Cyrstal -- Cyrstal used to babysit Phat.

12 Q. Is that your daughter?

13 A. No. No. This is Cyrstal's friend daughter.

14 Q. Okay. Okay.

15 A. But Cyrstal always babysit her because her friend
16 work all the time.

17 Q. Gotcha.

18 A. So when they was that young, Cyrstal would
19 babysit.

20 Q. So is this Moosie Cat right here?

21 A. That's Moosie Cat right there.

22 Q. Okay.

23 A. Mm-hmm.

24 Q. Okay.

25 What is Moosie Cat's real name?

1 A. Shidae.

2 Q. Chardae?

3 A. Shidae, yeah.

4 Q. Spell that for me.

5 A. S-h-i-d-a-e.

6 Q. Okay.

7 So a lot of times in a lot of, like, our files
8 that we've gone back through, everybody's names are spelled
9 pretty much incorrectly --

10 A. Okay.

11 Q. -- I'm just going to be honest.

12 A. Got you.

13 Q. So I -- it's really important to us, too, to make
14 sure that we're spelling people's names --

15 A. Okay.

16 Q. -- correctly; so that's why I wanted to know.

17 Just a little time-out. Cyrstal's name is spelled
18 C-y-r-s-t-a-l --

19 A. Mm-hmm.

20 Q. -- is that right?

21 A. Yes.

22 Q. Okay. That's what I thought.

23 Give me just a second. I want to --

24 MS. MYERS: Can you tell me what the time --
25 how long we've been going?

1 MS. PARKER: It is 11:07. [CK SPEAKER]

2 Q. How are you -- are you cool to keep going right
3 now? Would you -- do you need to take a break?

4 A. We fine.

5 Q. Okay.

6 MS. MYERS: Is everybody else okay?

7 MS. PARKER: Mm-hmm.

8 MS. MYERS: Okay. All right. Cool.

9 Q. So -- all right.

10 So this car drives up here, backs up, got a
11 little, like, heavy on the pedal, but not --

12 A. When it came down the dirt road -- I mean, it
13 wasn't the first car we seen that day come down the dirt
14 road kicking up dust.

15 Q. Okay. Gotcha.

16 A. So you know what I'm saying? It was just --

17 Q. Sure.

18 A. But this particular one, he just stopped. He
19 stopped. He got right here, he stopped.

20 Q. Okay.

21 And so when he -- when he backs up, he stops --
22 show me -- can you -- do you -- can you please drive -- I'm
23 sorry, draw, don't drive on there -- but draw on there where
24 that vehicle -- how that -- like, what that vehicle would've
25 looked like when it pulled, like, stopped the -- like

1 actually stopped. Sorry.

2 A. Right. Okay. So he came back. When he backed
3 up, he was going a little speed.

4 Q. Okay.

5 A. Mashed his brakes again. I want to say it was
6 like right up in this area right here.

7 Q. Okay.

8 A. Like the front of the car was right there near the
9 end, and then he was out just a little bit right there. But
10 he backed straight up.

11 Q. Okay.

12 He backed straight up. So was he kind of like
13 halfway on the grass and also on the gravel?

14 A. Yeah. Half and half.

15 Q. Okay.

16 A. Yeah.

17 Q. And so is he -- so is he basically parallel to the
18 court?

19 A. I'm thinking he's parallel, kinda-sorta.

20 Q. Okay.

21 A. Because he like (sound), he came back, he just --
22 he just lit up. I'm going to -- may I stand?

23 Q. So he kind of like --

24 A. It straight -- went straight back.

25 Q. Okay.

1 A. Straight back. And he came -- he were like
2 (sound) and then (indiscernible) into a little stops, he was
3 just like -- that's when I heard somebody say -- he was
4 like, "Y'all say y'all was gonna kill me?"

5 Q. You heard him say that?

6 A. I could hear that. I --

7 Q. Okay.

8 A. I could hear that. And the person who said it
9 sound -- sound like he had been -- you know, you could tell
10 they're maybe drinking.

11 Q. Okay.

12 A. It had, like, a slur to it.

13 Q. Okay.

14 A. So I can't really enact how they said it, but when
15 they said it or something, I was like -- so that's when I'm
16 like -- and I heard gunshot.

17 Q. Okay.

18 A. So once that -- the gunshot went off, that's when
19 the -- everybody just -- it was basically start running and
20 stuff.

21 Q. Sure.

22 A. But I can still -- I remember him saying -- it was
23 slurred, though, I did -- and that's why I talk and say the
24 person who -- they sound like they were drinking to me.

25 Q. All right.

1 A. They sound like they were drunk.

2 Q. So when did you -- at what point did you see this
3 person? Like --

4 A. The head out of the car.

5 Q. Okay.

6 A. That --

7 Q. Is that when he yelled out the car?

8 A. No, that -- he -- I think -- I can't tell if he
9 was coming out the car or if he was just yelling out the
10 driver's window or the passenger window.

11 Q. Okay.

12 A. But -- yeah. I -- I never seen the person --
13 well, I didn't get a good look at the face-face.

14 Q. Mm-hmm.

15 A. I could just tell that they're -- because I wear
16 glasses. So I could just tell that they had, like, a -- you
17 know, a bald head or a real close cut.

18 Q. Okay.

19 So when he -- was there anybody else in this
20 vehicle?

21 A. No.

22 Q. Okay.

23 And this vehicle -- tell me about this vehicle.
24 Like, what does it look like?

25 A. It's like a Ford Taurus.

1 Q. Okay.

2 When you say it's "like a Ford Taurus," is it --

3 A. It's a Ford Taurus.

4 Q. It is a Ford Taurus?

5 A. It -- if I'm -- yeah. Because I think when I was
6 younger, me and my mom -- my mom had one.

7 Q. Okay.

8 A. My mom and my stepdad had had one. I think we had
9 a silver one.

10 Q. Okay.

11 A. So that's how -- how -- and my stepdad works on
12 cars and stuff.

13 Q. Okay.

14 A. So that's how I was --

15 Q. So you were familiar with --

16 A. With the shape --

17 Q. -- what a Ford Taurus looked like?

18 A. -- of a Ford Taurus.

19 Q. Okay.

20 So let me show you a picture.

21 A. Now, even the guy that -- that's in there, he was
22 supposedly from the same neighborhood that we was from and
23 everything. I never -- but I -- I couldn't recognize him
24 from when we -- they showed them to me. I said, I --
25 well --

1 Q. Let me see if I have a better picture here.

2 You didn't recognize -- you knew he was from the
3 same area but you didn't recognize --

4 A. Yeah. But from what everybody were telling, they
5 were like, "He's from over -- he's such and such people."

6 I was like -- you know what I'm saying? That's
7 somebody -- he's the age of my uncles and them.

8 Q. Mm-hmm.

9 Okay. I'm going to show you what I am marking
10 as -- I think I actually need to mark it as Exhibit 44. I
11 do. Exhibit 44.

12 (Exhibit 44 marked.)

13 Q. This is a photograph, and I want to know if you
14 recognize this at all, if that looks similar to the vehicle
15 that you saw that night drive by.

16 A. It's the oval shape, the Taurus shape.

17 Q. Mm-hmm.

18 A. It looks like it.

19 Q. Okay.

20 A. Because it's the -- as I said, that's -- as I was
21 saying before, it's the Taurus -- it was the Taurus shape.

22 Q. Sure.

23 So would it have been -- but that looks like the
24 vehicle that you saw?

25 A. Yeah.

1 Q. At least, like, the same -- the same type of --

2 A. The same shape --

3 Q. -- model --

4 A. -- model --

5 Q. -- and all of that?

6 A. Yeah, round like a --

7 Q. Okay.

8 A. -- like a -- if I'm not mistaken, I was telling --
9 I can't remember the year my mama, and I think it was like a
10 '99 or 2000.

11 Q. Mm-hmm.

12 A. And then I know they make Mercurys like that also.
13 But I just couldn't remember.

14 Q. Okay.

15 A. But I knew the best way I could describe that car
16 was the shape from that Ford Taurus.

17 Q. Okay.

18 A. Because it's the Ford Taurus shape.

19 Q. Okay.

20 And when you saw this vehicle and you knew it was
21 a white Ford Taurus with that type of shape, was there
22 anything, like, distinguishing about this vehicle when you
23 saw it that would've helped you identify it later on --

24 A. Just the white and the shape of it, that it --

25 Q. Okay.

1 A. -- it looked like a Ford Taurus to me.

2 Q. Okay.

3 Was there -- but was there any kind of, like, I
4 don't know, like dents or marks or paint or anything like
5 that on the vehicle that would've been, like -- you know,
6 stood out?

7 And, again, it is totally okay if there's nothing.

8 A. Yeah, I was just trying a quick -- not that I can
9 think of right off.

10 Q. Okay.

11 So when this person yells out the window and he's
12 telling -- what does he say?

13 A. "You said you were going to kill me? Y'all said
14 y'all were gone -- you said you were going to kill me?
15 Y'all said y'all going to kill me?"

16 Q. Okay.

17 A. And I'm like -- I said, "What in the world is
18 going on?"

19 Q. Yeah.

20 A. Because like I said, when the car went up and it
21 stopped and it came back, you -- you didn't think that --
22 you thought it was just somebody pulling back up to talk --

23 Q. Sure.

24 A. -- junk or something or they just showing off.

25 Q. So he pulls up -- he says that. Then does he back

1 up?

2 A. No, he -- he backed up first.

3 Q. Okay.

4 He backed up first.

5 A. Mm-hmm.

6 Q. Then did he park and then yell out the window?

7 A. Yep.

8 Q. Okay.

9 After he yells this out the window and he's
10 parked, what happens next?

11 A. The next -- I look at Josh and said -- I said,
12 "Who the hell is that, Josh? You hear me?"

13 And he were like, "Shoot, I don't know."

14 And then that's when we heard the gunshot. Boom.

15 Q. Okay.

16 When the gunshot happened, where was the driver of
17 the Taurus?

18 A. His head was coming out that -- that's how I
19 spotted that -- the bald head and the -

20 Q. Okay.

21 A. -- or the close cut, whichever one that -- I seen
22 that head.

23 Q. Okay.

24 A. And I was like -- so basically I was like -- I
25 said, "Who the hell is that, Josh?"

1 Josh is like, "I don't know."

2 And when I turned back around, I could see that
3 head out the car.

4 Q. Okay.

5 So the shot -- the first shot that was fired,
6 where is that coming from?

7 A. Oh, I heard from the direction of the car because
8 me and Josh be like this.

9 Q. Okay.

10 So he -- from what you could kind of gather at
11 that time, as he was kind of getting out of this vehicle, he
12 takes a shot?

13 A. He was going on -- or he made it -- you know what
14 I'm saying? -- because like I said, whenever he -- whenever
15 he said what he said about to kill him, I said, "Josh, who
16 the hell is that?"

17 And Josh was like -- Josh said, "I don't know who
18 the hell it is."

19 And when I turned around, you could see -- you
20 know what I'm saying? -- like I said, his head was out the
21 car.

22 Q. Yeah.

23 A. So -- you know what I'm saying? -- once that head
24 was out the car and I looked back at Josh, I could -- heard
25 something say "boom," and --

1 Q. Okay.

2 A. You know what I'm saying? It was --

3 Q. Do you know how -- did you ever see the gun that
4 he shot with?

5 A. No.

6 Q. Okay.

7 A. No. Naw, because I don't even know how, I just
8 know I was -- it was stop, drop, and roll --

9 Q. Sure.

10 A. -- like I was on fire.

11 Q. Absolutely.

12 A. Yes, ma'am.

13 Q. Did you see how he was shooting? Like, if you
14 didn't see the gun, like, do you know, like, what -- how he
15 was angled when he was shooting or anything like that?

16 A. No, ma'am. Because like I said, me and Josh, from
17 where I was showing you me and Josh was sitting, and -- and
18 from where we ran on -- ran to the fence, the -- the only
19 thing I could think that he was doing was shooting --

20 Q. Mm-hmm.

21 A. -- towards the crowd because, like, me and Josh
22 was the only two that was more or less over this way.

23 Q. Okay.

24 A. And then the crowd was more out here.

25 Q. Okay.

1 A. The -- the couple of people that probably was
2 still there and Cyrstal car was there.

3 Q. Okay.

4 Was Cyrstal still in her car at this time that --

5 A. Mm-hmm.

6 Q. Okay.

7 Where is Moosie Cat at this point when the shot
8 gets fired?

9 A. See, that's what I was trying to figure out.

10 Q. Okay.

11 A. I'm trying to think if we had priorly just took
12 Moosie Cat -- Josh had just walked Moosie Cat back to the
13 car.

14 Q. Okay. Gotcha. Okay.

15 A. And put her back in the car. So that's why Moosie
16 Cat -- that's why when the shooting started, Moosie Cat
17 wasn't in his hands.

18 Q. Gotcha. Okay.

19 So Moosie Cat's already in the vehicle when this
20 happened.

21 A. Yeah. We had just -- because me and just
22 standing, we were talking, "Hey, Moosie Cat," (sound), and
23 then he -- we walked -- he walked over there and put her
24 back in the car with Cyrstal.

25 Q. Okay. Gotcha.

1 So then the first shot gets fired. And here's
2 what all --

3 THE WITNESS: Bless you.

4 MS. PARKER: Thank you.

5 Q. Here's what I'll tell you, is that -- and I know
6 you testified at trial. I -- I gather from the transcript,
7 though, that you had come in from Vermont --

8 A. Mm-hmm.

9 Q. -- and so you probably didn't see a whole lot of
10 what happened at trial.

11 Is that fair to say?

12 A. Oh, no. I didn't see none of the trial.

13 Q. Okay. Okay.

14 So Micheal Burgess did testify at trial. I don't
15 know if you knew that he testified, but he did testify --

16 A. Mm-hmm.

17 Q. -- at trial.

18 And he stated that the first shot came from
19 somebody, like, on the courts; it did not come from the
20 person in that vehicle.

21 Is that, to your knowledge -- I mean, is that
22 accurate?

23 A. See, like I were telling you, as soon as I heard
24 that, the gunshot was in front of me and Josh.

25 Q. Okay.

1 A. So for it -- if not -- coming from behind me and
2 Josh, I feel like me and Josh would've went a whole opposite
3 way than what we was --

4 Q. Okay.

5 A. You know what I'm saying?

6 Q. Okay.

7 A. And, yeah, because we -- like I said, me and Josh
8 was the ones that was standing out here.

9 Q. Mm-hmm. Okay. I see what you're saying.

10 So you're saying if somebody would've shot --

11 (Overlapping speakers.)

12 A. Shot for heard about --

13 Q. -- from the basketball court --

14 A. -- I'm --

15 Q. -- you would not have run that way?

16 A. I -- why I'm gonna run to that? As soon as I
17 heard the gunshot, that was -- it was --

18 Q. Okay.

19 So where is Micheal Burgess at this point?

20 A. He's either over here or he's on the court right
21 here.

22 Q. Okay.

23 A. Yep.

24 Q. Okay.

25 Did you -- and here's what else I'm going to --

1 A. And, see, my thing -- I ain't trying to cut you
2 off --

3 Q. No.

4 A. My thing is that --

5 Q. You're fine.

6 A. It's -- it's a lot with Micheal Burgess.

7 Q. Okay.

8 And I want to know that.

9 A. Yeah, it's a lot. He's -- he's -- I don't know
10 what he's going through right now. He -- he texts a lot of
11 people, he talks junk to a lot of people, and, like -- he
12 talks a lot of junk. I even got a -- a message I was gonna
13 show y'all that he had sent me.

14 Q. Okay.

15 A. Because I was like --

16 Q. Does it have to do with this case?

17 A. I -- kinda-sorta.

18 Q. Yeah.

19 A. The reason I say that is because it probably can
20 let you -- I feel like he's -- I'm trying to figure out what
21 Micheal feel like he's got going on or what he's gaining out
22 of the situation. But -- and he feels like if you don't --
23 okay. So him coming out of prison, Micheal already know
24 (indiscernible), he want to go right back out there to the
25 streets, he want to -- he want to do his thing. I can't put

1 myself in there. I'm trying to -- you know what I'm saying?

2 So from me not replying to him or us not saying
3 something to him, he starts talking junk. So behind this
4 situation, even though I -- you know what I'm saying? -- I
5 never went in there, I didn't really have nobody name to
6 say, I went in there and testified about the situation --

7 Q. Sure.

8 A. -- I -- I gained a lot of heat behind it.

9 Q. Right.

10 A. Nobody -- nobody -- before that, I never had
11 people who be like, "Oh, John this, John that." Behind
12 this, I gained a lot of heat behind it because people are
13 like, "Ah, he's a rat. He's a snitch."

14 Q. They said you were a rat?

15 A. Yeah. I can show you.

16 Q. Why would they say that you're a rat?

17 A. Because I went up there and testified about what I
18 seen this car.

19 Q. Right.

20 But you never -- in your trial testimony, you
21 didn't testify that anybody -- like, that you knew --

22 A. Particular.

23 Q. -- who did it.

24 A. Particular. I never did.

25 Q. But you were still called a rat?

1 A. But because -- because I went in there and I sat
2 in front of the courthouse and I told what I seen, I
3 described what I seen, I did not care about what none of
4 y'all feel about it, I'm describing what I seen because
5 Lumberton got a lot of unsolved murders. A lot of these
6 murders, I feel like, go unsolved because nobody want to
7 talk about what they seen happen at that moment.

8 You're not going to hurt my family, you're not
9 going to hurt my kids, you're not going to hurt me. If I
10 feel like that's what I need to do is get the police into
11 the situation, that's what I did. And I -- when I went
12 there, I went -- I walked up there, I told them exactly what
13 I had to say and went from there.

14 So off of that, I carry a lot of heat behind it.

15 Q. Hmm.

16 A. You know what I'm saying? Nobody don't never come
17 up to me and say nothing, but I could be somewhere and
18 somebody could be like, "Oh, that's a rat, right there."

19 Q. And you can hear them, like, talking as you're --

20 A. Oh, they can say it.

21 Q. -- walking places or --

22 A. They can say it.

23 Q. Okay.

24 A. But me being me -- you know what I'm saying? -- I
25 got a -- I got a cool demeanor. Like, I'm cool. Just like

1 y'all meet me this morning, that's my demeanor every day.
2 Any person that meet me should know that's how I'm going to
3 carry myself --

4 Q. Okay.

5 A. -- when they meet me. I was raised to be like
6 that.

7 But they -- that don't never touch me or do
8 nothing like that and stuff; so I just -- I go on about my
9 day --

10 Q. Gotcha.

11 A. -- and I continue on.

12 And even with the -- off of me telling you that,
13 he -- he's been messaging me. So I --

14 Q. Like on Facebook?

15 A. Mm-hmm.

16 Q. Okay.

17 A. So I knew he was kind of still out there doing his
18 thing and stuff. And then -- so he was -- this was when he
19 came home, and then he even called me a rat. He like,
20 "You're a dove." And this is coming out of Micheal so --
21 you know what I'm saying? -- a lot of this stuff that I hear
22 out of Micheal, I kind of question -- you know what I'm
23 saying? -- because I feel like he's got a -- okay. For
24 instance, let me tell you. He sent me this -- I went to the
25 hardware store yesterday. Guess who I see?

1 Q. Hmm.

2 A. His mama. His mama walked up, she said, "Hey,
3 John," because I always showed his mama love, I always gave
4 her hugs every time I'd seen her.

5 She said, "Hey, John."

6 I said, "Hey, how you doing?"

7 She said, "Good," she said, "well" -- I didn't
8 never ask her about Micheal though. I tried not to bring
9 that --

10 Q. Sure.

11 A. -- conversation up.

12 So she brung it up. She said, "Yeah, Micheal's
13 home and he's doing -- he was working and he's -- he's
14 trying, John," she said, "he's trying." That's just how she
15 said it to me.

16 I said, "Well, long as he keep trying, Mama," I
17 say, "I believe he'll make it."

18 She said, "Well, I'm gonna tell him I seen you."

19 I said -- I didn't tell her not to, I just said,
20 "Well, okay then," I said, "well, it's good seeing you."

21 But she were like, "Yeah, sometimes just be at the
22 house and he be spazzing out, he talking crazy."

23 And I was like, "What you mean?"

24 She were like -- she were like -- she just say.

25 "Weird stuff. If he's not working or if he can't something

1 his way, he just start talking crazy."

2 And in my mind, I was thinking about the messages
3 he sent, but I just --

4 Q. Hmm.

5 A. Like I said, I never brung that up. That's your
6 mama -- you know what I'm saying?

7 Q. Sure.

8 A. So I never brung it up to her.

9 Q. So let me ask you this -- I'm sorry, can I touch
10 your phone?

11 A. Yes, ma'am.

12 Q. Why is he calling you "a dove bitch big Herc-" --
13 like, just break this --

14 A. He's -- "Big Hercules" is him.

15 Q. Okay.

16 A. Yeah.

17 Q. And then --

18 A. The rat ass --

19 Q. What does "dove bitch" mean?

20 A. The rat ass -- the "rat ass nigger dove bitch"
21 mean you a dove, you ain't shit in these streets.

22 Q. What does dove -- what is that supposed to mean,
23 "dove"?

24 A. That's what it mean, you a dove. You ain't
25 nothing to nobody.

1 Q. Okay.

2 What is "GKB"?

3 A. See, I ain't even gone lie to you, I asked a
4 couple -- I got to ask a couple people. I don't know if
5 that's some kind of gang shit that he came up with recently
6 or whatever --

7 Q. Okay.

8 A. -- since he's been out, but I don't know for sure.

9 Q. "GKB oh so sunny" is what it looks like.

10 A. Yeah.

11 Q. Okay.

12 And you don't know what that means?

13 A. Yeah, see, I got to --

14 Q. Okay.

15 A. I be trying to find out myself because I were
16 like, okay, is he -- is he sending me a extra threat --

17 Q. Okay.

18 A. -- or what?

19 Q. But him calling you a "rat ass N-word" --

20 A. And that's because of --

21 Q. -- is -- this?

22 A. -- this.

23 Because I'm talking about this car, because I
24 described the car, because I told the police I seen the car
25 come up, stop, back up -- because I went over there and

1 spoke to the police and wrote a statement about what I saw.

2 Q. Okay.

3 A. So now I'm a rat.

4 Q. Okay. Okay.

5 So he did actually testify at trial. And that's
6 public -- I mean, like, so --

7 (Overlapping speakers)

8 A. That's public information.

9 Q. -- I'll just tell you like --

10 A. Yes, ma'am.

11 Q. -- that's public information.

12 A. Yes, ma'am.

13 Q. And he did testify that somebody shot at that
14 vehicle first. So -- okay.

15 Do you mind -- I don't know that I would need
16 this, but at some point, like, before we leave here, can I
17 take a -- like a picture of that, just of what he sent to
18 you?

19 A. Yes.

20 Q. Is that okay?

21 A. Yes, yes, yes.

22 Q. Okay.

23 A. Yes. Because -- you know what I'm saying? -- I
24 wanted to make -- I was hoping they wouldn't erase, like I
25 was looking for it --

1 Q. Yeah.

2 A. -- and I found that bad boy. I said, "Yeah," I
3 said, "I got to make sure to show them this" --

4 Q. Yeah.

5 A. -- "in case" -- you know what I'm saying? --
6 because --

7 Q. Okay.

8 Well, I appreciate you being really candid about
9 that.

10 A. Yeah.

11 Q. Because it -- that is -- that is something that we
12 would -- we would want to know just based on kind of, like,
13 your experience with him and this relation --

14 A. Mm-hmm.

15 Q. -- or with this experience. Your relationship to
16 him because of this experience.

17 A. Yeah.

18 Q. Sorry.

19 A. And so my thing with Micheal, I feel like he had a
20 problem. It was somebody he had a problem with before he
21 went to prison --

22 Q. Mm-hmm.

23 A. -- I don't know who it was exactly, but it was
24 something they had a problem about. But whatever the
25 situation was it about, he felt like nobody didn't step in

1 to help him with the situation. And, like, he wanted to be
2 reckless, though -- you still tell me "naw" -- you know what
3 I'm saying? -- he just wanted to be reckless and he just
4 felt like that, and he took it a certain way and he stopped
5 hanging with us.

6 Q. Okay.

7 A. And so he stopped -- when I say he stopped
8 hanging, like, he just went and started hanging with the
9 other -- other guys that was, like, from other town -- parts
10 of town.

11 Q. Mm-hmm.

12 A. And that was just his thing. And he just
13 started -- like you can hear about him a lot on the streets
14 talking junk about people, or he's just walking up to people
15 at the store asking for dollars and stuff.

16 But I don't know what he's going -- like, I
17 really -- you know what I'm saying? -- he just went to
18 prison and he got out, but -- yeah.

19 Q. And it looks like, based on -- I believe that he
20 got out of prison in March or maybe the beginning of
21 April --

22 A. Mm-hmm.

23 Q. -- so it looks like based on that he contacted you
24 pretty soon afterwards.

25 A. Yeah. But like I said, I was --

1 Q. Sure.

2 A. I -- "Yeah, I can't do that with y'all. I
3 can't -- yeah, I'm not running with y'all. Y'all -- y'all
4 hard-headed."

5 Q. Sure.

6 A. It was a hard-headed situation. That hardhead
7 situation didn't do nothing to make it look like I was on a
8 hard-headed situation when I'm not on the hard-headed
9 situation, I can actually go hang around everybody.

10 Q. Sure.

11 So -- okay. All right. So I appreciate that
12 information, or you telling me that.

13 When you are out here, is there anything -- when
14 this guy -- so the first shot goes off, you kind of see his
15 head popping out. That's -- you said that's when you were
16 really able to see that he was either bald or had a really
17 close cut.

18 A. Mm-hmm.

19 Q. Did -- were -- at any point did you get a better
20 view of anything, like, regarding his face, his clothes --
21 anything like that?

22 A. No. Only -- I did -- only thing that stopped me,
23 I looked back at that car. When I hit that fence right
24 there --

25 Q. Mm-hmm.

1 A. -- and I went to run up here, I looked back across
2 the court --

3 Q. Okay.

4 A. -- at that car and I -- I seen him -- I seen -- I
5 could just see his head again, getting back into the car.

6 Q. Mm-hmm.

7 A. And he pulled off.

8 Q. Okay.

9 So the first shot goes off. So if I -- so --
10 sorry. Let me go back.

11 A. And if I'm not mistaken, it might've been -- I'm
12 trying to say how many shots because it was rapid. I want
13 to say maybe three shots -- two, three shots --

14 Q. Okay.

15 A. -- if I'm not mistaken.

16 Q. Okay.

17 A. I can't get a good way -- I know it was rapid, it
18 was shots behind us, I could hear them. Boom. Boom. Boom.

19 Q. Shots coming from behind you?

20 A. Yeah. I could hear them behind me.

21 Q. Okay.

22 A. That's why -- that's why I was -- we was full
23 stride.

24 Q. Gotcha.

25 A. Full stride.

1 Q. So at any point, though, did you ever get a look
2 at what -- and I know some of these questions I'm asking
3 you --

4 A. It sounded like the same --

5 Q. -- are probably --

6 A. -- the same question but it's -- I understand. --

7 Q. That, and they're probably --

8 A. I gotcha.

9 Q. -- also sounding insane because what I'm hearing
10 you saying is you're really just trying to, like, survive --

11 A. Yeah.

12 Q. -- during the --

13 A. Yeah, I was. Yes, ma'am.

14 Q. -- situation; so forgive --

15 A. Oh, no, yeah.

16 Q. -- me for some of the questions I'm asking you.

17 But did you ever see, like, his -- like, what he
18 was wearing, like what his shirt looked like, what his pants
19 looked like?

20 A. No, ma'am.

21 Q. Nothing like that?

22 A. No, ma'am.

23 Q. Okay. Okay.

24 And if there was something, like, distinguishing,
25 though, on this guy's shirt, is that something that you

1 would remember about this? Or is that something that, based
2 on your experience that night, who knows?

3 Does that make sense, what I'm asking?

4 A. No, you asked -- like it could be, like, a
5 photo -- photo memory I might recall.

6 Q. Yeah. Or like maybe this guy's wearing, like, I
7 don't know, a Garfield shirt and it's just something that,
8 like, you see it, you remember it, and so even though you've
9 got all these other things that are going on that are
10 really, you know, causing you to, like, immediately go into,
11 like, flight mode --

12 A. Mm-hmm.

13 Q. -- you still remember that he had on this Garfield
14 shirt even if you can't -- that's what I -- I guess I mean.

15 A. I hear what you're saying. I hear what you're
16 saying.

17 Q. And it's fine if you don't.

18 A. I honestly, I'm -- honestly, I can't remember the
19 shirt.

20 Q. That's all right.

21 A. Or the pants.

22 Q. That's okay.

23 A. I hated myself for not having glasses on that
24 night because -- you know what I'm saying? -- I wear
25 glasses, I just hated I didn't have them on that night, I

1 could've seen -- or my contacts.

2 Q. Yeah.

3 A. I didn't have them on that night. I've only --
4 the main time I really, really got to see him was when --
5 the closeness, when we was all right there by Josh truck.

6 Q. Okay.

7 A. Mm-hmm.

8 Q. And so tell me more about that. Like, when you
9 were close to him because of where he kind of pulled up to
10 Josh's truck --

11 A. Mm-hmm.

12 Q. -- is there anything else about him that stands
13 out to you besides, like, the bald or close cut?

14 A. Just the bald and close cut.

15 Q. Okay.

16 A. I'm -- I'm sitting here trying to -- it was it --
17 his skin tone wasn't no dark, dark skin tone.

18 Q. Okay.

19 Did he have facial hair?

20 A. I can't remember.

21 Q. That's all right.

22 Was he wearing glasses?

23 A. I can't remember the glasses.

24 Q. That's all right.

25 Did he have on any jewelry or anything?

1 A. I definitely -- I don't remember no jewelry or
2 anything like that.

3 Q. Okay.

4 Did you see any tattoos or anything?

5 A. No. I still couldn't see, it was --

6 Q. Okay.

7 A. Like I say, it was the dark time.

8 Q. Sure. Sure. Okay.

9 So -- all right. So you hear this one shot. You
10 and Josh take off running.

11 And you are running towards --

12 A. We hear that -- I don't know where we thought we
13 were going, but we came running across till that bad boy had
14 a fence right there.

15 Q. Okay.

16 A. When we hit that fence -- I could show you, but we
17 were like this, where I promise you, when we hit that fence,
18 people were like -- because that fence just messed us up.
19 We were trying to run -- we weren't trying to go over that
20 big -- we were trying to get down that bad boy --

21 Q. Okay.

22 A. -- because the shots was still --

23 Q. Going on?

24 A. Yeah.

25 Q. Okay.

1 So do you jump the fence at that point?

2 A. No, I kept -- like I say, I've got the basketball

3 --

4 Q. Okay.

5 A. -- court kind of -- it need to be over a little
6 bit.

7 Q. That's okay.

8 A. I heard -- I kept running.

9 Q. Okay.

10 A. The other guys kept running.

11 Q. Okay.

12 Where did those --

13 A. I heard some --

14 Q. -- other guys run to? Do you know?

15 A. See, that's where --

16 Q. Sure.

17 A. -- I didn't know. They had all --

18 Q. Scattered?

19 A. Yeah. They was scattered. That's why I didn't
20 know who had got shot. I heard somebody say they got hit.

21 Q. Okay.

22 A. And I stopped right here. I heard somebody say
23 they got hit and I stood right there on the corner of the
24 house.

25 Q. Okay.

1 So you're on the corner of the house back here.

2 A. Mm-hmm.

3 Q. Are you on, like -- kind of like the front corner?

4 A. The front corner.

5 Q. Okay.

6 But if you're facing -- if you are facing that
7 house, are you on, like, the right side front corner of the
8 house if you're facing the house?

9 A. No. The front -- you talking about like by the
10 road?

11 Q. Can you draw the house? How about that?

12 A. Okay.

13 Q. Do you mind? Sorry.

14 A. You good.

15 Okay. So this is the blue building, right? The
16 basketball court needs --

17 Q. Show me where the blue building is.

18 A. This is the blue building.

19 Q. That's the blue building?

20 A. Yeah.

21 Q. Okay.

22 A. That -- right across the street from Thompson's.

23 Q. Yep. Okay. Gotcha.

24 A. Okay. Then, so once I -- like I said, the
25 basketball court needs to be over.

1 Q. That's okay.

2 A. But once we hit this fence right here --

3 Q. Mm-hmm.

4 A. -- the blue building -- well, maybe I could bring
5 the blue building over -- the blue building should've been
6 sitting out here a little bit more.

7 Q. Okay.

8 A. So once I hit that court, I got around right in
9 this area, I could hear somebody say -- that were me right
10 there -- I could hear somebody say, "I got hit."

11 Q. Okay.

12 Will you put a "J.A." right there?

13 A. Yes, ma'am.

14 Q. And that's where you -- where you marked right
15 there, that's where you heard someone say "I got hit."

16 A. Said, "I'm hit."

17 Q. Okay.

18 A. So I makes it to the corner of this house right
19 here, right.

20 Q. Okay.

21 A. That's the blue house.

22 Q. Okay.

23 A. I'm on the back -- the back front corner.

24 Q. Okay.

25 A. And I think Micheal comes running up -- I don't

1 know exactly where he came running up, but he came running
2 up. He was -- he said the same thing, he said, "I think I
3 heard somebody say they got hit."

4 Q. Okay.

5 So you guys kind of like meet right over here by
6 this blue house back here?

7 A. Yeah.

8 Q. Okay.

9 A. And I said, "Come on, let's go look."

10 Q. And I see what you're saying about the back
11 corner, because this is the front of the house --

12 A. Mm-hmm.

13 Q. -- is that right?

14 Gotcha. Sorry. Totally get it.

15 Okay. So then you guys go --

16 A. Yeah.

17 Q. Tell me what you guys do now.

18 A. Front. Back.

19 Q. Thank you.

20 A. That's where I -- we came over here.

21 Q. Mm-hmm.

22 A. I climbed the fence.

23 Q. Okay.

24 A. Boom.

25 Q. To the backyard of the house?

1 A. To the backyard of the house. And I'm call --
2 it's dark, like, you can't see nothing.

3 Q. Sure.

4 A. It's black behind this house. You can't see
5 nothing, no light. "Anybody down here? Yo, I can't see
6 you. I can't see nobody. Anybody in here? I can't see
7 nobody."

8 And they took and --

9 Q. If you need to step out --

10 A. Oh, no, they're fine. That's -- can get this.
11 And so we didn't see nobody. So I came back
12 out --

13 Q. And you went around -- which way --

14 A. No, we jumped back -- we jumped back across the
15 fence.

16 Q. Okay.

17 A. And came back out. And Josh truck was still
18 sitting there.

19 Q. Gotcha.

20 A. And the keys was in it.

21 Q. Let me stop you right there.

22 Do you see anybody else around you --

23 A. No.

24 Q. -- except for Micheal Burgess?

25 A. Just Micheal.

1 Q. Okay. All right.

2 A. Just Micheal.

3 Q. Okay.

4 A. So we hop in Josh truck and started calling some
5 of the people who phone number I had. And I think we went
6 up -- we came up --

7 Q. Who did you call?

8 A. Did I call -- I may have called Dizzy. Because I
9 knew they used to be over there on -- what's the name of
10 that street? -- 9th Street, if I'm not mistaken. 8th or 9th
11 Street, they used to hang over there.

12 Q. Okay.

13 A. And -- was it Dizzy? It might have been Antonio.

14 Q. Okay.

15 A. I think I called Antonio and I said, "Antonio," I
16 say, "who was all over there with you? Who got shot? I
17 heard somebody got shot."

18 He said, "Man, it look like it's -- everybody's
19 here," he said, "I just don't see Josh."

20 Q. Okay. Okay.

21 A. And I think that's when we went on over there
22 where they was at and we pulled up.

23 Q. Okay.

24 A. And I said, "Ain't nobody seen Josh? I don't know
25 where Josh went." I said, "Ain't -- anybody else missing

1 besides Josh, y'all? Anybody else missing besides Josh?"

2 And they was like, "No," he was like, "I think
3 that were Josh got shot, yo." That's what Antonio said.

4 Q. Okay.

5 A. So I left them where they was at and came back
6 around. So we came back in this way.

7 Q. Okay.

8 A. Came back in this way. And when I came back in
9 this way, I got ready to pull in, I was gonna shine the
10 lights into the --

11 Q. Sure.

12 A. Like I told him, I couldn't see; it was dark. It
13 was black back there. Yeah, it was dark. I could not --
14 I -- because me walking across the backyard, I even walked
15 to the little opening right here and I just -- you couldn't
16 see through there. So when I came back in, I pulled in and
17 I shined my lights, and Josh was laying there --

18 Q. Okay.

19 A. -- beside the house.

20 Q. When you saw him --

21 A. He was laying facedown.

22 Q. -- he was laying facedown.

23 Where was his head facing?

24 A. Out.

25 Q. Towards?

1 A. The road.

2 Q. Peachtree, would you say?

3 A. Mm-hmm. What -- that's this road right here?

4 Q. Mm-hmm.

5 A. Peachtree. Let me write that so I remember that's
6 (indiscernible) -- Peachtree.

7 Q. Do you think -- because at some point, like, you
8 know you were running in the same direction, do you think
9 it's possible, then, that maybe he gets shot somewhere over
10 here and then tries to -- I don't know, maybe goes around
11 the house?

12 A. And, see, that's -- like I was telling you,
13 whenever he say he got shot, the way that -- they said he
14 got hit in the heart.

15 Q. Mm-hmm.

16 A. You know, so I don't know if he would've still
17 had -- like I say, he was a good, solid guy -- sized guy. I
18 don't know if he still had strength to go across that
19 fence --

20 Q. Okay. Sure.

21 A. -- or, like -- when they said they got hit, I -- I
22 didn't see Josh no more.

23 Q. Sure.

24 A. But I knew it was somebody on me, behind me, but I
25 just didn't see Josh. I heard them say "got hit." We were

1 just in "go" mode. So I -- when we got to this fence right
2 here, I don't know if he could've went over it. I'm
3 still -- I still think --

4 Q. Sure.

5 A. -- to this day -- I even went back there and used
6 to look at it and just try to figure out how he ended up
7 over here --

8 Q. Yeah.

9 A. -- but I don't know if he went over the fence as
10 far as his adrenaline or when he hit the fence also he tried
11 to come around it --

12 Q. Gotcha.

13 A. -- to come in this way. Because like I'm gonna
14 say, I can't remember if it was a piece of fence on this
15 side of this house.

16 Q. Okay.

17 A. Because they tore it down.

18 Q. Sure.

19 A. But I'm trying to remember -- I couldn't remember
20 if it was a piece on this side.

21 Q. Okay.

22 A. But -- unless he went across that fence or come
23 across that front --

24 Q. Okay.

25 When you guys drive -- when you and Burgess come

1 back up this road and -- are you driving?

2 A. I drove.

3 Q. Okay.

4 And so he's in the passenger seat --

5 A. Mm-hmm.

6 Q. -- I'm assuming in Josh's truck?

7 Okay. So you get back out, you see Josh. Tell me
8 what you do next.

9 A. Josh laying facedown. I ran over there and pushed
10 him. I said, "Josh, Josh. Get up, boy. Get up."

11 And I rolls him over, and his nose busted, his
12 lips, mouth bleeding, and his eyes just rolling back in his
13 head.

14 And I -- I said, "Dammit, Josh, don't you --
15 dammit." I said, "Boy, don't you do me like that." I said,
16 "Get up. Come on," I said, "just get in the truck, I got
17 you."

18 I were hitting him. Mike was standing back there
19 at the truck and I tried to sit him up on the side of the
20 building. I called the 9-1-1.

21 Q. Yeah.

22 A. And --

23 Q. Did he respond to you at all?

24 A. And -- no. No. He was -- he was gone then. It's
25 just feel -- I -- worst part was, I found him facedown.

1 Q. Yeah.

2 A. That was the -- that there was the wrong way to
3 die.

4 Q. Yeah.

5 A. Just facedown.

6 Q. I'm really sorry.

7 A. I'm trying to describe to the police and
8 ambulances it what -- hmm.

9 Q. Yeah. That would be really hard to do.

10 A. Yeah.

11 So they pulled up. They blocked this side of the
12 road. They blocked that side of the road. I come out,
13 telling them that I seen a car go down, come out on E-town
14 Road, and go -- I'm describing it. Bunch of people standing
15 around. I hear people keep calling my name like I ain't
16 supposed to be saying shit. I didn't care.

17 Q. Like they're -- like --

18 A. Like, "John, John, chill. John, John." I could
19 hear people -- I was like -- I said, "Man, fuck all y'all."
20 I said, "None of y'all gone find out who did this to my
21 cousin."

22 Yeah. So -- yeah. I described to them, I was
23 like, "Yeah, I seen that car pull off and went back down
24 E-town."

25 Q. You want to take a minute?

1 A. No.

2 Q. Okay.

3 A. No.

4 Q. All right.

5 When these other guys are saying, "John, John,"
6 why --

7 A. They behind the police bar -- lines or whatever,
8 they behind the police lines. I guess they -- because
9 people, elder people around, and like I were telling you
10 earlier, I'm supposed to be considered a so-called rat
11 because of the situation. I didn't care.

12 Q. Did they just not want you talking to the cops,
13 period?

14 A. It's like -- I guess it's supposed to be like a
15 street rule.

16 Q. Okay. Okay. Okay.

17 So you tell them it's a white Ford Taurus. It
18 went down E-town. Do you -- tell me about, like, at that
19 point -- I know there were a couple different -- and I've
20 got the police reports here. I don't think that there's
21 anything in them that I need to necessarily go over with you
22 or -- I'm happy to show them to you --

23 A. No, you --

24 Q. -- if you'd like to see them?

25 A. You're fine.

1 Q. But I -- it looks to me that you had -- there --
2 the first officer on-scene was a guy named Officer
3 Williford. It looks like he got there about, like, 9:50.
4 And then another female officer came up on the scene.

5 Do you remember any of that?

6 A. I remember the -- the cop -- I think it was a
7 light-skinned guy, black guy --

8 Q. Okay.

9 A. -- if I'm not mistaken.

10 Q. Okay.

11 There was -- the lead detective on this case, his
12 name is Detective Collins. He goes by "Al Collins."

13 A. Mm-hmm.

14 Q. Do you remember him?

15 A. Yes, ma'am. I went and spoke to him.

16 Q. Okay. Okay.

17 Let me -- I have a copy of this. So I'm going to
18 just like kind of hand you his entire report, but there's
19 one particular -- and I'm going to label this as Exhibit 45,
20 I believe.

21 (Exhibit 45 marked.)

22 Q. Here. I'm going to mark this one for us.

23 So this entire --

24 MS. MYERS: It's okay, Kristie, I think
25 that's what it is.

1 MS. PARKER: It is. It is 45.

2 MS. MYERS: Thank you.

3 Q. This is Detective Collins' investigative report
4 for this case. It's eight pages long. And I'm going to
5 just hand you the whole thing. You're more than welcome to
6 take a moment and read through all of it, if you would like.

7 The part that --

8 A. Yeah. This the -- this the -- the guy, Charles --

9 Q. Mm-hmm.

10 A. -- whenever he went to the jailhouse, he had a
11 copy of this and he showed it, and this where the snitch/rat
12 stuff started coming from.

13 Q. Say that again.

14 A. Whenever the guy, Charles --

15 Q. Charles?

16 A. Is that his name?

17 Q. Collins?

18 A. What's the guy that's arrested?

19 Q. Clarence?

20 A. Clarence, I mean. I'm sorry.

21 Q. No, no, no. That's okay.

22 A. I -- I really tried to disassociate myself with
23 him once they all found out everything. I didn't want to
24 know exactly where he -- what house he stayed in or nothing.
25 I didn't want to know nothing about you.

1 Well, he showed them this in the jailhouse, and
2 that's what started the whole situation. He went in there,
3 he showed them this, that -- so I had people trying to talk
4 junk to me and come at me about this. This is that one.
5 Because there's names that was said into it. And even the
6 people who names I said that didn't have nothing to do with
7 it, they came at me and was like, "Well, why my name in it?"

8 I was like, "Well, they just asked me about you."

9 Q. Okay.

10 A. But yeah, he showed -- he showed them this.
11 That's -- this is the big reason because of the -- about the
12 rat/snitch stuff I'm showing you.

13 Q. His comment -- okay.

14 So a lot -- so some of that, though, is coming
15 from people that saw you talking to the cops the night that
16 you were trying to get Josh help.

17 A. Okay. So that night, right there, I heard
18 people -- I heard people saying -- they were just like,
19 "John, John, chill. Chill. Chill. Relax" -- you know what
20 I'm saying? "Chill. We -- talk about it later. Talk about
21 it later."

22 "We need to talk about this later. Chill, chill,
23 chill."

24 I don't need y'all be trying -- out here trying to
25 figure out like y'all investigators or something. Y'all

1 ain't got no connects to find no cars or no nothing --

2 Q. Right.

3 A. -- or nothing going on.

4 Q. Was -- were you saying anything that --

5 A. I was like, "Yo, it's" -- I'm yelling --

6 Q. Right.

7 A. -- "it's a white car."

8 Q. Okay.

9 A. "It went down -- y'all can go find the lights, go
10 find this car now. I do not want y'all to let this car get
11 away."

12 Q. But that's all you were saying, and you've got
13 people in the back that are --

14 A. Yeah. Just people that's --

15 Q. -- telling you to just chill out.

16 A. -- they want you to chill out. Chill out. Chill
17 out.

18 Q. Okay.

19 And these are not cops that are saying this to
20 you; these are people that were on the court, people that
21 you know --

22 A. Just people probably just -- I mean, some of them
23 I ain't -- I really can't tell you who they was because
24 I'm -- I'm crying, I'm --

25 Q. Sure.

1 A. -- I'm distraught. I'm mad.

2 Q. Yeah.

3 A. And I just -- I just want them to go down this
4 road. And I said, "Look at the cameras, see who the -- went
5 by, what stores it went by. I'm telling y'all right now
6 while it's fresh, let me tell y'all now," and I was going in
7 about that and I was -- I was -- I meant that.

8 Q. Yeah.

9 A. So it was -- yeah. But I really didn't never hear
10 nothing about the snitch situation until I went out to eat
11 one day, and -- I was coming out, a guy walked up to me and
12 told me about -- asked me about his name being in this and
13 said that --

14 Q. Do you remember who it is?

15 A. He said that Charles gave him -- had given a
16 couple of people the paper while he was in there.

17 Q. Clarence had given --

18 A. Clarence.

19 Q. That's okay. Yeah.

20 A. You see? That's --

21 Q. That's okay. Hey, that's okay.

22 A. He had gave a couple of people the thing and let
23 them read it and stuff. So that's where a lot of people
24 started coming at me about, like, what -- basically you a
25 dove and you a rat, and it was off of the -- because of this

1 right here. They had the proof -- I was surprised -- I
2 think it might have been on Facebook one time.

3 Q. If you find anything like that, would you please
4 send that to me?

5 A. Yes, ma'am.

6 Q. If you find -- and I don't -- I'm not saying that
7 to make you uncomfortable or anything, but that would be
8 helpful to me in our investigation, that like -- anything
9 that you might find regarding, like, people saying that
10 you're a rat or other --

11 A. Mm-hmm.

12 Q. -- I don't know.

13 A. Yeah.

14 Q. That's just helpful.

15 A. But yeah, he went in there, he gave him the paper
16 and stuff. He was in the cell and gave --

17 Q. Okay.

18 So he's in a cell and he's giving it to people
19 that are in the cell --

20 A. People -- to let them read it, and they passed --

21 Q. -- with him.

22 A. -- it through and it went through --

23 Q. Okay.

24 A. -- so ...

25 Yeah, I heard -- I hear -- I heard a lot about

1 this.

2 Q. All right.

3 Who are those people that you hear -- heard this
4 from?

5 A. Oh, shoot. Hear -- whatever -- me and my homeboy
6 Devonte, he were like, "Man," -- he be hearing people talk
7 about it too. He don't -- he ain't never give me no
8 for-sure name. He were like, "Man, look," he said, "you
9 stood beside what you felt belief in," he said, "so I'm not
10 judging you." He's saying, "However anybody else feel about
11 it, you know, it's whatever with them."

12 Q. All right.

13 I'm going to show you what I'm marking as
14 Exhibit 46.

15 MS. PARKER: Correct.

16 (Exhibit 46 marked.)

17 Q. Is this Devonte?

18 I need to mark that. Sorry.

19 MS. PARKER: It's right on there.

20 MS. MYERS: Thank you, ma'am.

21 Q. This is an older picture, but is this Devonte?

22 A. Mm-hmm.

23 Q. Okay.

24 And this is the Devonte that you're talking about?

25 A. Mm-hmm.

1 Q. Was he out there at the scene that night?

2 A. No.

3 Q. Okay.

4 His brother is Deonte; is that correct?

5 A. Yeah.

6 Q. Okay.

7 Is -- was Deonte around that night?

8 A. I think Deonte was in prison.

9 Q. Okay. Okay.

10 A. If I'm not mistaken.

11 Q. That's my understanding too --

12 A. Thought he was in prison.

13 Q. -- but I wanted to kind of see what you kind of
14 remembered.

15 Okay. All right. So -- okay.

16 A. Like I said, I done had -- now, you just see --
17 you can hear it, you just walk by, people just -- I guess
18 it's just, like you said, street law, and I really don't
19 care about it.

20 Q. Sure. Understand.

21 A. But I -- where it all originated from, it was
22 just -- it was off that --

23 Q. Okay.

24 A. -- that police report.

25 Q. Okay. All right.

1 So I'm going to tell you that if you turn to
2 number -- page number 2 of this report -- I'm trying to see
3 if -- so he does -- yeah, right there.

4 A. Okay.

5 Q. Yep. So if you go down to -- it says: "At
6 10:22 p.m., I spoke the witness who was also the victim's
7 cousin, John Allen."

8 Do you see that? It's kind of like middle of the
9 page. Yeah.

10 So he does talk a little bit about: "Mr. Allen
11 stated that a white Ford Taurus with the rounded shape, he
12 stated egg-shaped, he stated that the car came from
13 11th Street and drove on the grass fast, then pulled off,
14 went past the courts, then stopped and backed up and pulled
15 where the victim/witness couldn't see him."

16 A. Yeah. That's -- at the back part of the truck
17 right here.

18 Q. Gotcha.

19 A. And me and Josh were standing right here on the
20 side.

21 Q. Okay.

22 A. Passenger side door, but near the hood.

23 Q. Gotcha.

24 A. So he was -- we were -- he had a Blazer.

25 Q. Josh did --

1 A. So -- yeah.

2 Q. -- right?

3 Okay.

4 A. He had a Blazer. So we couldn't really see
5 nothing but the front of the car.

6 Q. Okay.

7 A. And, like, the front windshield right there.

8 Q. Gotcha. Okay.

9 The front windshield of the guy's car?

10 A. The -- this guy's car.

11 Q. Okay.

12 A. Right there, because where he had pulled at, you
13 could just -- so say if this was Josh truck --

14 Q. Mm-hmm.

15 A. -- I'm standing there, I could just -- I happen
16 could just get a good -- at the front of that car.

17 Q. Gotcha. Okay.

18 A. Yeah.

19 Q. Right under that, where he says that he pulled in
20 where you guys couldn't see him, Collins writes: "Then
21 started shooting. He states that" -- meaning you -- "states
22 that everyone started running in all directions. The
23 suspect then sped off toward Elizabethtown Road. They went
24 looking for the victim only to find him shot beside the
25 vacant house."

1 Does that sound -- that sounds to me like
2 everything that you've --

3 A. Mm-hmm. Yes, ma'am.

4 Q. -- already said.

5 Okay. All right.

6 Okay. So go to the third page. This part, if you
7 go to the middle of the page, it says: "At 8:30 a.m." -- do
8 you see that?

9 A. Mm-hmm.

10 Q. -- "I spoke with witness/cousin of the victim,
11 John Allen. He will call me back later this afternoon with
12 more information on the other subjects that was on the court
13 during this shooting."

14 Do you remember having that phone call with him
15 that morning, Collins?

16 A. Okay. Yep. That was -- he was trying to get up
17 with Dizzy --

18 Q. Okay.

19 A. -- and DeShane and them --

20 Q. Okay.

21 A. -- to have them come in to talk to him also.

22 Q. He wanted -- he def- -- and he told you DeShane
23 and Dizzy?

24 A. He -- well, he didn't say they names like that.

25 Q. Okay.

1 A. But he basically was like -- he was like anybody I
2 knew on the courts.

3 Q. Okay.

4 A. And I told him -- he say he -- if I'm not
5 mistaken, I think he might have knew they -- somebody knew
6 DeShane was out there for sure. So I know he wanted to talk
7 to DeShane.

8 Q. And you know for a fact that Collins had said, "I
9 do want to talk to DeShane Leach"?

10 A. Yeah. I believe when -- yeah. Because DeShane
11 was out there, he wanted to know what DeShane knew.

12 Q. Gotcha.

13 A. Yeah. Or I might have named DeShane out to him
14 that day.

15 Q. Okay.

16 A. Like I were telling him --

17 Q. Okay.

18 A. -- who was there immediately?

19 Q. Sure.

20 A. So that could've been how he got the name, but I
21 might have named him out to him.

22 Q. But you definitely gave him names.

23 A. The -- who was basically with --

24 Q. Collins, sorry. Yes.

25 A. Yeah.

1 Q. You definitely, like -- and even if he -- if
2 Collins already knew it, you were able to at least confirm
3 that Dizzy was out there, DeShane was out there, they knew
4 Burgess was out there because he was --

5 A. Mm-hmm.

6 Q. -- still with you.

7 A. Mm-hmm.

8 Q. Anybody else that you can think of?

9 A. Not -- that's -- that's --

10 Q. That's okay.

11 A. Yeah. Well, he wanted to -- he was like --
12 basically he say, "Anybody you know that has anything on
13 this is that's hear anything" --

14 Q. Okay.

15 A. -- he was like, "Please have them to get in
16 contact" --

17 Q. Okay.

18 A. -- "in contact with me."

19 Q. Did he call you or did you call him that morning?
20 Do you know?

21 A. I think he called -- I think I called him.

22 Q. Okay.

23 A. I think he left his card at my mama house, maybe.

24 Q. Okay.

25 A. Or Josh mama had gave me his phone number.

1 Q. Okay.

2 Do you remember speaking to him out at the scene
3 the night before?

4 A. I was --

5 Q. Maybe that's --

6 A. I was --

7 Q. Sure.

8 A. Yeah, I was --

9 Q. Let me pause just for a second and check in with
10 these guys.

11 MS. MYERS: Do you need a break?

12 MS. PARKER: I'm all right.

13 MS. MYERS: Are you sure?

14 MS. PARKER: Yeah.

15 MS. MYERS: Do you need a break?

16 THE WITNESS: I'm fine.

17 MS. MYERS: Are you sure?

18 THE WITNESS: Mm-hmm.

19 MS. MYERS: Okay. I want you to feel
20 comfortable being, like, "I need a minute."

21 THE WITNESS: Oh, I'm good.

22 MS. MYERS: Cool. Okay. Bathroom break?
23 We're good?

24 MS. PARKER: We're good.

25 MS. MYERS: All right. I'm just going to

1 keep trucking.

2 MS. PARKER: 11:50, just FYI.

3 MS. MYERS: Okay. If anybody does, I want to
4 be, like, cognizant of that for all of you. But if I'm not
5 catching that --

6 THE WITNESS: Mm-hmm

7 MS. MYERS: -- just be like --

8 THE WITNESS: Gotcha.

9 MS. MYERS: -- give us a break. Okay?

10 Q. All right. Okay. Okay.

11 So I hear what you're saying. You could've talked
12 to him the night of; you have no idea --

13 A. Mm-hmm.

14 Q. Totally get that. Okay. All right.

15 So -- let's see, I think that was all I wanted to
16 ask you about in terms of -- okay. All right. I'm so
17 sorry.

18 So go back to that report. Go to page 6.

19 On page 6, it's the second line at 1730 p.m.

20 A. Mm-hmm.

21 Q. Do you see that part?

22 "John Allen, the cousin and witness of the crime,
23 came to headquarters to be interviewed. He was interviewed
24 by SBI Agent Bill Brady."

25 Do you remember going in? This would have been on

1 the Monday after all of this happened. And Bill Brady
2 would've been a white guy.

3 A. (Indiscernible) Bill Brady. I'm trying to
4 remember because, I mean (indiscernible) become the DA.

5 Q. He did not become a DA.

6 A. No, I -- I said I had to come in to see the DA.
7 I'm sorry. Didn't word that right.

8 Q. I gotcha. No. You're okay. You're okay.

9 A. Before that --

10 Q. So the DA was Johnson Britt in this case.

11 A. Yeah. I remember that.

12 Q. Okay.

13 So Brady -- I don't know a distinguishing feature
14 to give you other than he's a white dude, to be honest.
15 There's nothing -- I haven't -- I have seen him in, like,
16 videos. I have not seen him up close. I just don't know
17 enough to just kind of describe him.

18 A. Mm-hmm.

19 Q. Either way, that's okay.

20 Do you -- well, let me go to this because Brady
21 wrote a report himself.

22 A. Seem like I thought talked with two different ones
23 because -- he might have been there -- I can remember
24 seeing, like, some photos or something.

25 Q. Yeah. Yeah.

1 Tell me more about that.

2 A. It -- some of the photos, it were just different
3 people.

4 Q. Okay.

5 So when you're shown these photos, though, do --
6 how many different officers are in there showing these to
7 you?

8 A. I think he might have just been in there by
9 himself at that moment. Maybe -- somebody might have come
10 in there but they didn't -- I know what I came -- I can't
11 remember how exactly. Only thing I can remember is a lot of
12 the pictures that -- when they came in there and started
13 showing me pictures, it was -- I knew some of the faces, but
14 I knew it -- I knew the people won't -- you get what I'm
15 saying?

16 Q. I do.

17 A. They was showing me the wrong faces.

18 Q. Okay.

19 A. They was -- I knew for a fact -- I feel like if I
20 would've seen them, I would've knew them or they knew they
21 voices.

22 Q. Okay.

23 You would've been able -- if -- those would have
24 been the people that were driving that vehicle based on
25 that, like, the shooter yelling out --

1 A. Yeah, like --

2 Q. -- the vehicle, you would've been able to tell?

3 A. -- it was one guy, I can't remember exactly his
4 name, but if he got out, he's kind of a buff guy, you know
5 what I'm saying? -- he's short. So if he'd got out of that
6 car and be like, "Hey" --

7 Q. You would've known?

8 A. Yeah, because he's from out of town, he got a
9 little -- his voice ain't had a accent to it. He got a
10 little accent so he be like, "Hey."

11 I'd be like, "Dammit, that was him."

12 Q. Gotcha. Okay.

13 A. That was him. You know what I mean?

14 Q. I do.

15 All right. So I'm gonna -- we're done with that
16 report.

17 A. Okay. I can put this back together.

18 Q. You don't have to put it back together. Just let
19 me grab that from you and get it out of your way, though.

20 A. Should still be in order though.

21 Q. No. You're fine. No stress about that. Thank
22 you so much.

23 All right. I am going to hand you a copy of
24 Special Agent Brady's report. This is a copy of the
25 interview that he did with you. He also took handwritten

1 notes, and I have a copy of those as well.

2 MS. PARKER: 47.

3 MS. MYERS: 47? Thank you so much, Kristie.

4 (Exhibit 47 marked.)

5 A. Is that like the notes with, like, the names and
6 stuff on it -- a lot of people names on it?

7 Q. So I don't have a report with a lot of people's
8 names on it.

9 A. Okay. Because they said it was something, you
10 know, a -- it might have been this, I didn't see it, but it
11 was something where it was naming out a couple of people
12 names --

13 Q. Okay.

14 A. -- inside that was locked up on one of the
15 reports.

16 Q. Yeah. Yeah.

17 A. So that was --

18 Q. Are you talking about Brim?

19 A. Brim -- and it was somebody else name that was on
20 there.

21 Q. Okay.

22 A. I can't remember. But, yeah, that was some of the
23 people he were passing it to.

24 Q. Okay.

25 A. And even though I said Brim, I knew Brim was --

1 from what I had heard, Brim was locked up --

2 Q. Right.

3 A. -- at the time.

4 Q. Right.

5 A. So -- you know what I'm saying? That's why I was
6 able -- that's what I told the officer.

7 Q. Okay. I gotcha.

8 So that I'm handing you is -- and I do want to ask
9 you more about Brim. Give me just, like, a second about
10 that, though, because I want to -- we'll get into that
11 through here.

12 A. Mm-hmm.

13 Q. So what I have handed you is what I marked as
14 Commission Exhibit 47. So this is Agent Brady's typed-up --

15 A. Mm-hmm.

16 Q. -- report regarding his interview with you.

17 So this interview with you took place on June
18 the 17th. That was the Monday after the -- like after the
19 crime had happened. So in here, it says that you had gone
20 in to I guess Lumberton Police Department headquarters at
21 5:37 and that you were interviewed by this guy Brady.

22 A. Mm-hmm.

23 Q. Does that kind of ring a bell?

24 A. Yeah. I'll -- that's over there near the -- I
25 think the -- I went over there and did it -- the light bill

1 place?

2 Q. Okay. Yeah.

3 And I think now their headquarters is in a
4 different place --

5 (Overlapping speakers.)

6 A. Mm-hmm.

7 Q. -- is that right --

8 A. They moved that little --

9 Q. -- to Godwin --

10 A. -- it was just a little small --

11 Q. -- or something?

12 A. -- building. Yeah.

13 Q. Okay. Gotcha.

14 So let's see. He kind of goes through, like, an
15 account of kind of what you -- you had done earlier that
16 day --

17 A. Mm-hmm.

18 Q. -- and what you had told him about.

19 I also -- like, if you need a minute to read
20 through anything, I -- you're welcome to do that --

21 A. Mm-hmm.

22 Q. -- I'm gonna just kind of direct you to the places
23 that I'm most curious about.

24 A. Okay.

25 Q. But if at any time you're like, "Just give me a

1 minute," just tell me. Okay?

2 A. Mm-hmm.

3 Q. I know -- like, you talk about -- okay. So I'm
4 sorry.

5 On the second page of the report --

6 A. Yeah, I see an error. He was -- he went over
7 there and at his girlfriend's whole bucket of ice cream --

8 Q. Yeah.

9 A. She had a whole thing of ice cream --

10 Q. So I saw that.

11 A. -- and he ate that thing. That boy was tough.

12 Q. Do you remember that argument? Do you remember
13 hearing that argument --

14 A. Yeah.

15 Q. -- or having that argument?

16 Okay.

17 A. Yeah. It were -- it won't bad. She was just
18 like, "You gonna stop -- you talking about ice cream" and
19 stuff, she were getting on him.

20 Q. Yeah. That's funny.

21 If you go to the second page of this report, in
22 that second full paragraph, it says: "Allen said several
23 people were located at the basketball court. Allen
24 estimated that approximately 10 people were at the
25 basketball court."

1 You remembered one guy who said it was his
2 birthday. We talked about that. That guy had left to see a
3 female and then returned to the basketball court.

4 A. Mm-hmm.

5 Q. Okay.

6 The 12 people, though, can you think of what --
7 like, does that seem accurate to you now?

8 A. That's what I was saying, like, we had like a
9 little crowd, it was out --

10 Q. There first?

11 A. -- there adjacent -- you know what I'm saying? I
12 can't say -- I can't say -- I think they just trickled in
13 one at a time.

14 Q. Okay.

15 A. Just over there in the cut, but it was dark. I
16 really --

17 Q. Okay.

18 A. Like I said, I was over there by Josh, so I didn't
19 really acknowledge them.

20 Q. Gotcha. Okay.

21 A. Yeah.

22 Q. And when you were out there, did you ever play
23 basketball or anything? Or were you --

24 A. That night, I didn't --

25 Q. -- pretty much just like --

1 A. That night, I didn't never play. We -- we were
2 just sitting there, chilling. Me and Josh and them were
3 just talking, laughing it up.

4 Q. Okay.

5 And so --

6 A. I think I shot the baseball maybe twice --

7 Q. Okay.

8 A. -- and I didn't never continue.

9 Q. And the other people that you were kind of like
10 hanging out with, would that have been Dizzy, Gucci, and --

11 A. Mm-hmm.

12 Q. -- Burgess?

13 A. Yep.

14 Q. Okay.

15 A. Yeah. And I know for sure --

16 Q. And then DeShane, I guess.

17 A. Well, yeah, like I said, we met him --

18 Q. Gotcha.

19 A. We ran into DeShane when we was walking to the
20 court.

21 Q. Okay.

22 Anybody else at this --

23 A. Just --

24 Q. -- point, that you can think of?

25 A. Name Cyrstal, Moosie Cat, and Bre'll. And then,

1 like I said, it was -- it was a couple more people over
2 here.

3 Q. Okay.

4 A. Maybe four to five people.

5 Q. Who is Bre'ill?

6 A. The little girl.

7 Q. She was there too?

8 A. The little girl Bre'ill?

9 Q. Mm-hmm.

10 A. Yeah. I think she was still in the car.

11 Q. Okay.

12 A. That's the one Cyrstal babysit.

13 Q. Okay.

14 A. The one I'm saying, you know, my sister babysit?

15 Q. Okay.

16 So maybe what I had -- was under the impression of
17 was that Cyrstal had a -- an adult female with her.

18 A. And, see, that's what I was trying to remember a
19 while ago, but as we were talking a while ago and I was
20 talking about Cyrstal be babysitting, she had Bre'ill.

21 Q. Okay.

22 So you think it was Bre'ill --

23 A. Bre'ill.

24 Q. -- and Moosie Cat?

25 A. Yeah.

1 Q. And so Bre'ill pretty much stayed with Cyrstal the
2 whole time?

3 A. Yeah. She never -- we never took Bre'ill out the
4 car.

5 Q. Gotcha. Okay.

6 A. Because it was -- we -- we all know Bre'ill. She
7 raised up the same way. But Moosie Cat was just
8 (indiscernible) (indiscernible). "Come on, Moosie Cat."

9 Q. Yeah. Gotcha. Gotcha.
10 Okay. So it looks like -- okay. If you go down,
11 it says --

12 A. Okay.

13 Q. -- "Allen said several people at the court wanted
14 soda, drinks, and cigarettes."

15 Do you see that part? It's like the third
16 paragraph.

17 A. "Him and Mike went to the store."

18 Q. Yeah.

19 Do you remember that?

20 A. Now that you said it.

21 Q. Okay. That's okay.

22 A. They went to the store. They went to the store to
23 get sodas and cigarettes and stuff.

24 Q. Okay.

25 And do you remember them leaving?

1 A. But do that -- see, that's why I'm trying to
2 remember the time around -- remember I tell you he said he
3 was going to go get some money from Cyrstal?

4 Q. Mm-hmm.

5 A. And I think that might have been in that time --
6 I'm trying to remember if that was in that same time frame.

7 Q. So what I can --

8 A. Did Mike go with him --

9 Q. Okay.

10 A. -- to get the money?

11 Q. So what I can tell you is that in Cyrstal's
12 testimony -- like from some of the other investigative
13 things --

14 A. Mm-hmm.

15 Q. -- it looks like she owed him or wanted to give
16 Josh some money for picking up her maybe boyfriend or
17 child's father or something --

18 A. Okay.

19 Q. -- like that.

20 A. Okay. Okay.

21 Q. Does that sound --

22 A. Roger.

23 Q. -- familiar?

24 A. Roger. That -- she -- yeah.

25 Q. Okay.

1 A. She could have -- yeah.

2 Q. And so she was meeting him at the court, like that
3 was one of the things that they were --

4 A. Okay.

5 Q. -- like why she was there --

6 A. So she didn't never get to fully meet him while he
7 was gone.

8 Q. What do you mean? I'm sorry.

9 A. So she -- oh, she was meeting him at the court?

10 Q. Now, maybe they were supposed to meet up in a -- I
11 just don't know --

12 A. Yeah, they was supposed to meet --

13 Q. -- about it. Gotcha.

14 A. It was supposed to have been before that, but,
15 like you said, I remember them going to the stores.

16 Q. Gotcha. Okay.

17 And so -- okay.

18 So then Burgess and Josh go to the store. At that
19 time, you had said that the had done that about 9:00 or
20 9:20.

21 Does that sound --

22 A. Something about like that.

23 Q. -- accurate?

24 Okay. I believe that Cyrstal -- and I don't -- I
25 probably have this somewhere and I can show you if -- if you

1 would like me to, and I'm happy to do that -- that maybe
2 Josh called Cyrstal or Cyrstal called Josh at like 9:17 and
3 Josh was, like, pulling back up and Cyrstal was already
4 there is kind of my understanding from what I think Cyrstal
5 had said to --

6 A. I think so.

7 Q. Okay.

8 And I'm telling you that more of just to see if
9 it, like, triggers --

10 A. Trigger, I'm not --

11 Q. -- kind of like --

12 A. Yeah, because I'm seeing Cyrstal there and then
13 Josh and --

14 Q. Yeah.

15 A. -- Mike pulled back up.

16 Q. Okay. Okay.

17 So did you -- do you know whose, like -- like,
18 they got drinks for other people there. Do you remember,
19 like, who --

20 A. Really, the drink was for me. Cyrstal wanted a
21 drink.

22 Q. Okay.

23 A. I think Mike smoked --

24 Q. Okay.

25 A. -- cigarettes.

1 Q. Okay.

2 A. None of us didn't smoke. Because I -- did I call
3 him on the phone and tell him to bring me a drink? Or did
4 he -- when he left he was already on it?

5 The drink was supposed to be for the liquor.

6 Q. Okay. Yeah.

7 A. The drink was for the liquor.

8 Q. Okay.

9 A. He was supposed to got a Coca-Cola for us to drink
10 the Crown because we -- Crown and Coke.

11 Q. Right. Right.

12 A. That was what it was supposed to be for. We never
13 made it to the liquor store, I don't think.

14 Q. Okay.

15 A. We never made it to the liquor store.

16 Q. Okay.

17 A. But it was supposed to be for the liquor.

18 Q. Okay.

19 A. The drinks was for the liquor. That's what the
20 drink were for.

21 Q. Okay.

22 So do you remember -- so in here it says that you
23 had told him that there were some guys that were, like, kind
24 of going through -- like they were having a friendly boxing
25 match or something, just kind of like --

1 A. Yeah. They -- you know what I'm saying? -- they
2 getting out --

3 Q. Yeah.

4 A. -- there, tapping and stuff --

5 Q. Right.

6 A. -- like that over there.

7 Q. Do you remember anybody else other than who we've
8 talked to so far that was also there doing that or
9 participating in that?

10 A. Oh, no. No.

11 Q. Okay.

12 A. No.

13 Q. Okay.

14 About 9:25 to 9:30, that's when you had told Brady
15 that you started to hear these tires, like the vehicle drive
16 up Peachtree spinning tires and stuff like that.

17 A. Mm-hmm.

18 Q. Okay.

19 You had said that the -- the driver was a male
20 with brown skin and a bald head.

21 Does that sound, like --

22 A. Mm-hmm.

23 Q. -- accurate and everything?

24 Okay. Let me see where I want to -- do you -- at
25 the time you had said -- and so, I'm sorry, I'm looking at

1 page 3. And in that third paragraph, you had said that when
2 he got out, he looked like he was in his 30s or 40s.

3 A. Mm-hmm

4 Q. Does that seem accurate to you now when you're
5 thinking about it?

6 A. The only -- what made me -- was the bald head
7 part.

8 Q. Okay.

9 A. The reason I say that is -- all right. If y'all
10 had seen me when I first got my hair cut --

11 Q. Yeah.

12 A. -- the guy puts, like, a shine -- shiny stuff.

13 Q. Okay --

14 A. -- on it. So whenever he got out and that light
15 hit that head, I couldn't tell if it was bald completely or
16 if it was a close cut, but you could just tell -- you know
17 what I'm saying? I -- particularly his (indiscernible) I
18 were like, hell, he got a bald head, he's probably going
19 bald, he's 30 -- between -

20 Q. Gotcha.

21 A. -- 30s and 40s.

22 Q. Okay.

23 A. They were trying to get me with an accurate
24 description of him.

25 Q. But it was more -- okay.

1 So your description of that was literally based on
2 thinking --

3 (Overlapping speakers.)

4 A. Yeah, that bald head.

5 Q. -- he was -- gotcha.

6 A. That was (indiscernible) -- yeah.

7 Q. Okay.

8 Do you remember thinking that -- or, like, how he
9 was built? In here it says that you said he was heavy-set
10 but he was a muscular build.

11 Do you --

12 A. Yeah. He was like -- so I'm not heavy-set. I'm a
13 slim guy, but I'm -- I'm a solid guy also.

14 Q. Sure. Right.

15 A. You know what I'm saying?

16 So I took it as the -- the frame I'm looking at
17 while I'm trying to -- like that? -- is he's not no -- no
18 real slouchy guy; he's a -- he was a solid guy. He wasn't
19 too short. He stood over that car enough to --

20 Q. Okay.

21 Would you say he's a bigger build than what you
22 are now?

23 A. I don't know about right now because I drop about
24 30 pounds.

25 Q. Okay. Okay.

1 A. At the time, I was probably 235.

2 Q. Okay.

3 So at that time, was he --

4 A. I was bigger.

5 Q. You were bigger? Was he bigger than you were at
6 that time? Or smaller?

7 A. I think he was smaller than me.

8 Q. Okay.

9 A. I don't think he was bigger.

10 Q. So then would you say he's probably about -- like,
11 he would look more of, like, your build at this point?

12 And that is okay.

13 A. I'm trying to get that figure.

14 Q. Yeah.

15 A. I'm trying to get that figure because, like I say,
16 I can see that -- the main thing that pops up is that head
17 shining.

18 Q. Okay.

19 He was -- was he a real skinny dude?

20 A. He won't no -- he won't no -- no. He won't
21 skinny-skinny.

22 Q. Okay.

23 A. He probably could have played -- he probably could
24 have been probably about my size right now, a little bit --

25 Q. Okay.

1 A. -- slimmer maybe.

2 Q. Okay.

3 A. Because sitting in a car -- like I said, when he
4 drove through the first time --

5 Q. Yeah.

6 A. -- he was spinning and then backed up --

7 Q. Mm-hmm.

8 A. -- just sitting in a car, you could tell -- you
9 know, a person would be able to tell by the steering wheel.

10 Q. Gotcha.

11 Did you ever see him, like, smoking a cigarette or
12 anything in the car?

13 A. Seem like when he rolled by -- when he was sitting
14 in the car and he rode by?

15 Q. Mm-hmm.

16 A. He might have been smoking. I'm not for sure.

17 Q. That's okay.

18 Did you ever see him drinking anything or --

19 A. No, I never seen him drinking.

20 Q. Did you see anything fall out of the vehicle --

21 A. No.

22 Q. -- at any point?

23 A. No, ma'am.

24 Q. Okay.

25 When -- all right. So I want to direct your

1 attention back to page 3, and it's the third paragraph from
2 the bottom where it says -- the first part is that you're
3 continuing to run, you saw the white Ford Taurus leave at a
4 high rate of speed, spinning tires. The Taurus drove toward
5 Elizabethtown Road. You spoke to a female known as "Peachy"
6 after the incident. Peachy told you that she saw the white
7 car turn right at the stop sign on Highway 41 going towards
8 Elizabethtown.

9 A. Did Peachy pull up? It seem like she was coming
10 down the dirt -- if I'm -- if I'm not mistaken.

11 Q. Okay.

12 And let me -- I'm going to show you what I'm going
13 to mark as Exhibit 48.

14 MS. PARKER: Yes.

15 MS. MYERS: Thank you.

16 (Exhibit 48 marked.)

17 Q. And --

18 A. She said they was driving like a bat out of hell
19 because I think she said that car almost hit her or
20 something.

21 Q. Mm-hmm. Okay.

22 So when you had this conversation with Peachy, was
23 she -- she was in a vehicle then?

24 A. I think she stepped out for the moment.

25 Q. Okay.

1 I'm going to show you what I just marked as
2 Exhibit 48. Is that Peachy?

3 A. Mm-hmm.

4 Q. Okay.

5 Do you know her also as Lena McNatt?

6 A. I don't.

7 Q. You don't. But you know her as Peachy?

8 A. Peachy. Yeah.

9 Q. Okay.

10 Peachy -- did she tell you -- what else did she
11 tell you about, like, when she saw this vehicle?

12 A. The -- just that she -- the way it was turning.

13 Q. Mm-hmm.

14 A. And that it almost hit her car.

15 Q. Okay.

16 A. She said it came out of there real fast.

17 Q. Do you know --

18 A. She was like -- she was wondering why they was
19 going so fast.

20 Q. Do you know where -- did she tell you where she
21 was, like, sitting at in her car or anything like that?

22 A. Oh, no. No, ma'am.

23 Q. Okay.

24 A. Not that I can think of.

25 Q. When did you have that conversation with her? How

1 close in time to this -- this happening did you talk to her?

2 And did --

3 A. It was after she pulled -- after -- or was it that
4 same night?

5 Q. And it's okay if you don't remember.

6 A. It had to be that same night because that's how --
7 it had to be that same night.

8 Q. Let me ask you this: Did she come up to you at
9 some point and tell you this information or did you happen
10 to see her, like, maybe out after -- like at some point and
11 you were -- you spoke to her then?

12 I don't know if that question is very clear.

13 A. I get -- I get what you're saying. And that --
14 that's what I'm trying to remember. I'm trying to remember
15 if she pulled up, because like I say, she had just got --
16 she said the car almost hit her car.

17 Q. Okay.

18 A. So she pulled up -- so she had to pull up, but she
19 never got out the car.

20 Q. Did she tell you anything -- did she ever hear
21 gunshots?

22 A. She didn't -- did she say she heard gunshots?
23 Seems like she might have said she might have heard some
24 noise but she didn't know where it was coming from.

25 Q. Did she ever -- did she get a good look at the

1 driver of the vehicle?

2 A. No, she didn't tell me nobody --

3 Q. Okay.

4 A. She didn't say that.

5 Q. Gotcha.

6 A. Only thing she could remember was that car

7 turning --

8 Q. Gotcha.

9 A. -- almost hitting her.

10 Q. Okay. Okay. All right. Let's see.

11 Okay. I'm going to -- turn to page 4. And let me
12 grab -- I am going to show you what I previously marked as
13 Exhibit 35.

14 Do you know who this person is?

15 A. That's Brim.

16 Q. Okay.

17 So Brim -- let me -- let me kind of get a better
18 understanding of this. I -- my understanding is that -- I
19 believe it was -- tell me -- tell me about the rumors that
20 you heard.

21 Like, I'm basing this off of, like -- so if you
22 look at page 4, it says: "Allen said he heard some rumors
23 about who the shooter was but was not sure if the
24 information was accurate. Allen heard the nickname Brim or
25 Bandana."

1 You had said that --

2 A. He was incarcerated.

3 Q. Yeah.

4 Tell me about those rumors, though, that you
5 heard. Like, who was that coming from?

6 A. Well, basically, it was -- I said what the car
7 looked like.

8 Q. Okay.

9 A. So it was just -- people were trying to compare
10 the car to how I described the car.

11 Q. Okay.

12 A. So I think his girlfriend might have had a car
13 like that, if I ain't mistaken.

14 Q. Okay.

15 A. And he was one of the pictures they showed me --

16 Q. Okay.

17 A. -- when I went in there that day.

18 Q. Okay.

19 When you were shown these photographs to -- was
20 that shown to -- were they shown to you, like, pretty
21 immediately when you sat down? Was it later on? Do you
22 know?

23 A. They came in that day, let me know they were going
24 to show me some photos --

25 Q. Okay.

1 A. -- of -- mug shot stuff. And then they brung them
2 in there and showed them to me.

3 Q. Do you remember ever being asked to sign anything
4 or anything like that when they showed you the photographs?

5 A. Seemed like you had to sign something saying that
6 you -- I had seen the photos.

7 Q. Okay.

8 A. If I'm not -- I knew I signed -- I -- when I did
9 the -- for Collins, I remember I had to sign something.

10 Q. Okay.

11 A. Like, I -- it was signing off on the statement --

12 Q. Okay.

13 A. -- if I'm not mistaken.

14 Q. Do you remember -- did you write a statement to
15 the police?

16 (Overlapping speakers.)

17 A. As I spoke it to him, he was --

18 Q. He wrote it --

19 A. -- taking --

20 Q. -- down?

21 A. He did his notes and stuff.

22 Q. Okay.

23 A. I think he had me to write -- I wrote some stuff
24 down for him. Then he -- he might have typed it up.

25 Q. Okay.

1 A. But it wasn't nothing -- no whole -- I was just
2 basically telling them.

3 Q. Okay.

4 But you're not a hundred percent sure, though, if
5 you actually wrote something down for Collins?

6 A. I think I was just -- for Collins, I think I more
7 or less was writing down just basically some of the stuff
8 that happened.

9 Q. Okay.

10 A. A quick -- so I can remember.

11 Q. But then you gave that to him?

12 A. Mm-hmm.

13 Q. And then he put it into --

14 A. The file.

15 Q. -- his own writing or whatever?

16 Okay.

17 A. Yeah.

18 Q. Okay.

19 A. But also, you know what? When I was speaking to
20 Collins, he was jotting down notes.

21 Q. Mm-hmm.

22 A. And then as he jot down notes, he -- he -- after
23 he jotted down the notes, he did a -- he printed it up.
24 He -- after he printed it up, he gave it to me for me to
25 read over.

1 Q. When he did that, like, were -- was -- when did
2 that -- I guess when did that -- would that have happened,
3 that interview with Collins?

4 Would that have happened the same day that you
5 talked to Brady?

6 A. I think I talked to him two different days.

7 Q. Okay.

8 A. The mug shot was two different days.

9 Q. Okay.

10 When you were shown the mug shot, did Collins have
11 anything to do with that?

12 A. Not right offhand.

13 Q. Okay.

14 When --

15 A. Did he tell me about -- he might have introduced
16 me to the SBI agent.

17 Q. Okay.

18 A. Because I went to their office.

19 Q. Okay.

20 A. I think it was at the same office.

21 Q. Okay.

22 When you were shown these mug shots -- so I mean,
23 I guess -- so I don't have anything that indicates that you
24 were ever shown a formal lineup.

25 A. Mm-hmm.

1 Q. And so that's what -- I'm trying to figure out --

2 A. He brung a bunch of -- he brung -- it was just
3 basically like -- they showed me Brim.

4 Q. And were they just like, "Was it this guy?"

5 A. Because they were like, these are the names that's
6 popping. I guess they were --

7 Q. Okay.

8 A. -- hearing about the kind of cars and stuff.

9 Q. Gotcha.

10 A. And so they showed me Brim and they showed me a
11 couple other guys, yeah. Like maybe three guys
12 altogether -- three, four.

13 Q. Okay.

14 A. Five at the most.

15 Q. What -- and I'm so sorry.

16 A. No, you good.

17 But I -- I couldn't -- like I were telling him, I
18 said I couldn't recognize face. I just actually knew --

19 Q. You knew the guys -- okay. You knew Brim.

20 A. Yeah.

21 Q. And you knew it wasn't Brim.

22 A. Yeah. I just knew Brim.

23 Q. Gotcha.

24 A. I didn't -- he -- everybody had known that he had
25 been locked up for a while.

1 Q. Okay.

2 A. Because I think his girlfriend died or something
3 while he was locked up.

4 Q. Oh, no.

5 A. So that was -- that was a big story everybody were
6 talking about.

7 Q. Oh, wow.

8 So -- okay. So when you were shown these mug
9 shots, did they ever say to you, like, "Okay. I'm going to
10 take this photo and I'm putting it in this folder and I'm
11 going to show you this, look at that folder, don't say
12 anything"?

13 Like, did they ever do that to you and then, like,
14 show you a second picture and say, "Okay. Now look at this
15 one and hand it back to me"?

16 Do you remember anything like that? Or was it
17 more of, like, "Okay, was it this guy that you saw out?"

18 A. Hmm.

19 Q. Am I making sense?

20 A. Yeah. Yeah.

21 Q. Okay.

22 A. They didn't just bring me the one picture out.
23 They -- it seemed like it might have had a couple pictures
24 on one paper.

25 Q. Okay. Okay.

1 I'm just -- and, honestly, this is more for me to
2 kind of see, like, were you actually shown a formal
3 lineup --

4 A. Mm-hmm.

5 Q. -- or not.

6 Okay. So they showed you Brim. You tell them,
7 like, "It's not Brim."

8 A. Yeah. I knew who he was.

9 Q. Okay.

10 So let me -- I'm also going to -- my understanding
11 of kind of this area -- I'm going to ask you a little bit in
12 a little bit too.

13 And I'm just going to say this to you: Like, I
14 know that this is a lot of gang territory.

15 A. Mm-hmm.

16 Q. I've heard a lot about, like, different gangs in
17 the area.

18 A. Mm-hmm.

19 Q. I've heard about E Rickets, I've heard about,
20 like, all kinds of different stuff. And that's -- like,
21 that's fine.

22 A. Mm-hmm.

23 Q. If I ask you something and -- like, so I've read
24 that you had involvement at least at that time --

25 A. Mm-hmm.

1 Q. -- with E Ricketts. That's -- that's totally cool.

2 A. Mm-hmm.

3 Q. If I'm ever asking you something and it is getting
4 into kind of like an area where you're feeling uncomfortable
5 or you -- you're feeling like you're putting yourself in
6 danger --

7 A. Mm-hmm.

8 Q. -- or you could be, I want you to tell me that,
9 okay?

10 A. Okay.

11 Q. Because I -- there are questions I need to ask to
12 get a better understanding of, like --

13 A. Okay.

14 Q. -- what's actually going on, but I also, like, do
15 not want to put you in any kind of danger. And Emma will
16 talk to you a little bit about this too, but everything that
17 we're doing right now is confidential --

18 A. Mm-hmm.

19 Q. -- okay, so nobody would ever see this. However,
20 when we go to a hearing --

21 A. Mm-hmm.

22 Q. -- assuming this goes to a hearing --

23 A. Mm-hmm.

24 Q. -- this is going to become public, and so somebody
25 could hear, like, "Oh, well, John Allen said that" -- I

1 don't know, okay?

2 A. Mm-hmm.

3 Q. So I just want to be transparent about what that
4 looks like. So if I ask you something and you're like, "I'm
5 not comfortable answering that because that's -- puts me in
6 some danger" --

7 A. Mm-hmm.

8 Q. -- please tell me, okay?

9 A. Okay.

10 Q. And maybe it doesn't, I don't know, but I just
11 want to say that.

12 A. Okay.

13 Q. Okay?

14 My understanding is that it was not uncommon that
15 when, like, a shooting was going on or, like, the cops were
16 asking questions about who might have done something, to
17 throw out the name of somebody who was in, like, a rival
18 gang.

19 And so my understanding is that -- and it could be
20 the wrong understanding -- but my understanding is that Brim
21 was a member of the Brims, which was a section of Bloods,
22 and that's why his name kind of got thrown out, because it
23 was, like -- that's why --

24 A. Because he was --

25 Q. -- his name was -- because he was a Brim.

1 A. Because he was Brim; so that mean that's why his
2 name got thrown out?

3 Q. That's my understanding.

4 A. But when you say --

5 Q. Or it could have been a theory that --

6 A. Oh.

7 Q. -- that's why his name -- there was a rumor that
8 got started that he potentially --

9 A. Oh, no. No. It was nothing about -- no.

10 Q. Okay.

11 A. It was nothing about the gangs.

12 Q. Gotcha.

13 A. It was -- when they came -- when that came out, it
14 was nothing about his gang. It was solely about the car.

15 Q. Okay. Gotcha.

16 A. The whole description of the car --

17 Q. Yeah.

18 A. -- anybody in Lumberton that had that car --

19 Q. Okay.

20 A. -- yeah, we was -- we was trying to find out who
21 they was.

22 Q. Okay.

23 A. Yeah. It was the whole description of the car.

24 Q. Do you remember telling either Brady or Collins
25 that's why Brim would have been brought -- that's why there

1 would've been this rumor that Brim might have done this?

2 A. Because of the car.

3 Q. Yeah.

4 A. Because of the car.

5 Q. And is that something you would've told them?

6 A. I believe I would've, but like I told -- I believe
7 I would have, but I think I automatically told him that he's
8 incarcerated.

9 Q. Gotcha.

10 A. I knew he was incarcerated so I -- I knew for sure
11 he didn't have nothing to do with it.

12 Q. Okay. I gotcha.

13 A. Yeah. They -- that's who name came up, though.
14 They didn't just throw it out there because of that, though.
15 It was -- it -- the main thing that came up was because of
16 the car.

17 Q. What was -- was there anything else that came up
18 about Brim for any other reason --

19 A. Oh, no.

20 Q. -- that you know of?

21 Okay.

22 A. No. Once I said that right there, he -- he --

23 Q. He was good to go?

24 A. He was good to go, yeah.

25 Q. Right. Okay.

1 So -- all right. In the paragraph underneath
2 where you're asked about Brim, it says that you also got
3 information from someone that said that Josh had gotten into
4 an argument with someone earlier that day and that whoever
5 Josh had gotten into an argument with, that person had
6 called Josh out by his name during the argument.

7 Do you recall anything about that?

8 A. Yeah, but that -- that's the ice cream.

9 Q. That's the ice cream?

10 A. That's what the argument ended up being about.

11 Q. Was the ice cream?

12 A. Was the ice cream.

13 Q. Okay. Okay.

14 So you had received information from an unknown
15 person that -- what is that -- do you know -- can you make
16 sense of that, why Brady would've written that down?

17 Did you hear the argument that Josh had about the
18 ice cream, like, firsthand?

19 A. Well, when he -- okay. So when he got to my
20 house, he -- I guess she called him back because --

21 Q. Okay.

22 A. -- they were staying together. So she called him
23 back and she said -- she said -- he called her. He said,
24 "I'm going to be over there in a little bit, you better have
25 me something to eat."

1 She said, "You ate all my ice cream. I ain't
2 getting you nothing to eat," she said, "I told you stay out
3 my face. You ain't getting nothing that -- nothing no eat.
4 You better not come back over here."

5 He said, "All right. I'll see you in a little
6 bit," and he hung up.

7 Q. Okay.

8 A. And -- but I expected that out of them two -- you
9 know what I'm saying? -- won't never know, they just end up
10 be giggling --

11 Q. Okay.

12 A. -- won't no physical or nothing, it was just her
13 getting on him about the food.

14 Q. And you do not recall Josh getting into an
15 argument with anybody else that day -- or hearing that he
16 had gotten into an argument?

17 A. Not no major -- no. No. That's --

18 Q. Okay.

19 A. I just couldn't see it. It surprised me -- well,
20 it didn't surprise me because she said what it was about.

21 Q. Gotcha. Okay.

22 Did it sound like an actual argument?

23 A. No. More or less just, "You better stop. You
24 better stop."

25 Q. Right.

1 A. Like me going in there and he ate the whole
2 12-pack of hot dogs.

3 Q. Yeah. I'd be upset if somebody --

4 A. Yeah.

5 Q. -- ate all my ice cream.

6 A. "What is you doing?"

7 Q. So, I mean, I get it. Yeah.

8 A. Yeah.

9 Q. Okay. I gotcha.

10 So let me -- okay. So under that -- that
11 paragraph, it says that you also heard from an older female
12 that there was a guy in a white Ford Taurus that was driving
13 erratically around -- do you say it Rozier or --

14 A. Mm-hmm.

15 Q. -- apartments.

16 Do you remember that, having that conversation?

17 A. Yeah. I remember -- I remember that. I'm trying
18 to remember who I talked to.

19 Q. If I tell you a nickname for her, would that maybe
20 help? Bookeye (phonetic)?

21 A. Bullkye -- "bull," "kye."

22 Q. What?

23 A. Bullkye.

24 Q. Bull?

25 A. With that Linda -- Linda, if I'm not mistaken, I

1 think her real name is Linda, but --

2 Q. Linda Sinclair?

3 A. Yeah, she -- yeah. They --

4 Q. Can you spell what -- her nickname for me?

5 Because I -- I think they have --

6 A. I ain't even gonna lie to you. We always say
7 "Bullkye," but I never thought about how to spell that.

8 Well -- and I don't know if they're saying "bull"
9 "cow" or "Bullkye."

10 Q. Mm-hmm. "Bull cow" or "bull"--

11 A. "Kye."

12 Q. Kye?

13 A. Yeah. I don't know which --

14 Q. Bullkye --

15 A. -- one they're saying.

16 Q. -- or Bull -- okay.

17 So in the --

18 A. She's a older lady, though. She's like in her
19 70s.

20 MS. PARKER: I'll try to write it down.

21 THE WITNESS: Okay.

22 Q. They -- yeah, she's referred to as "Bookeye" --
23 like, "book," "eye."

24 A. Okay. Okay.

25 Q. I don't know. And --

1 A. Yeah, I --

2 Q. -- like I said, there's a lot of names that are
3 misspelled in there; so --

4 A. Mm-hmm. But, yeah, they said there was a car that
5 was driving erratically through the apartments.

6 Q. Okay.

7 A. They said there was one that was driving through
8 neighborhoods just wide open.

9 Q. Okay.

10 A. And I'm trying to think, but as -- as I told you
11 before, they say he was from near the -- what's -- Clarence?

12 Q. Mm-hmm.

13 A. They say we was from the same -- but I can't
14 remember him because he was a older guy.

15 Q. Mm-hmm.

16 A. I just can't remember him like that.

17 But somebody said they had seen him earlier
18 driving fast down one of the roads, I just can't remember
19 exactly what road it was.

20 Q. Do you remember who said that?

21 And it's okay if you don't. If you think about
22 it, though, and you remember --

23 A. I'm going to -- I'll make sure I get it to you.

24 Q. Yeah. Please do.

25 A. I definitely will.

1 But they had seen him driving erratically earlier.

2 Q. Okay.

3 A. And they could recognize him.

4 Q. Okay. Okay.

5 So in the paragraph underneath that one, it talks
6 about how you had also heard about a guy named Dextor
7 Stephens.

8 A. Yeah.

9 Q. Okay.

10 So I'm going to show you what I'm marking as
11 Exhibit -- or what was previously marked as Exhibit 3.

12 Do you know who this person is?

13 A. Yeah. Dextor.

14 Q. Okay.

15 So tell me -- tell me about this rumor where
16 people had said that is was Dextor.

17 A. So Dextor had the same kind of car.

18 Q. He did have the same kind of car?

19 A. He had a car too. He -- it was a car he used to
20 ride in sometimes, a white car. And somebody had seen him
21 riding in a white car before so they just said his name.

22 I still to this -- I still firmly -- I didn't feel
23 like Dextor had nothing to do with that.

24 Q. Okay.

25 A. Yeah, because -- Dextor getting out saying -- he

1 would've got out and said, "Oh, y'all say y'all gone kill
2 me?" -- Dextor ain't that type. It ain't no -- yeah, he's
3 not that type.

4 Q. What --

5 A. Dextor ready to come up to you and talk to you
6 about it.

7 Q. Oh, like he would confront --

8 A. Yeah. It's not no "I'm going to drive by and
9 shoot you. No, we're gonna talk about this and if we gotta
10 fight, we gotta fight. You pull your gun, gun."

11 Q. Okay.

12 A. You know what I'm saying?

13 Q. All right.

14 A. He got -- it's just -- he's not -- that's -- naw,
15 you just don't -- yeah. It wasn't him. I know for a fact.

16 Q. You know for a fact it was not Dextor?

17 A. Dextor. Yeah, I feel --

18 Q. Okay.

19 A. -- yeah, because in -- he was staying out of town
20 and stuff at the time, if I ain't mistaken. But yeah, him
21 getting out, he would've said something, you know his
22 demeanor, how he carry hisself.

23 Q. Okay.

24 A. And he probably, nine times out of ten, probably
25 would've walked all the way up to you.

1 Q. Okay. Okay.

2 A. "Yeah, let's talk about this thing."

3 Q. So he -- if it had been Dextor driving this
4 vehicle, would you have known it was Dextor?

5 A. I've known Dextor.

6 Q. Okay.

7 A. I'd have known Dextor.

8 Q. Okay.

9 A. I'd have known Dextor.

10 Q. So you are a hundred percent certain that it was
11 not Dextor Stephens?

12 A. I'm a hundred percent certain.

13 Q. Okay.

14 A. I'd have known Dextor.

15 Q. Okay.

16 And you think that Dextor was out of town at that
17 time --

18 A. Yeah.

19 Q. -- anyway?

20 A. Yeah.

21 Q. Okay.

22 A. If I ain't mistaken, I think he was staying
23 somewhere else with a -- with his girlfriend or his
24 baby-mama or something.

25 Q. Okay.

1 A. But, yeah, I know for a fact -- trust me, if he
2 would've stepped out of that car and said what he said, I
3 would've known because I've been around Dextor. So I've
4 always heard how he talk and how he go.

5 Q. Okay.

6 A. And he's just not that -- that's just not that
7 type.

8 Q. Okay.

9 A. Even he -- even he -- for him to have a attitude,
10 he even used to even -- if he seen Josh, he'd show him
11 love -- you know what I'm saying? -- shake his hand and
12 everything.

13 Q. Okay.

14 And I just want to -- I want to ask you this too.
15 Like, if it was Dextor, is there any reason why you wouldn't
16 tell me it was Dextor?

17 A. Hell, no. Hell, no.

18 Q. Okay.

19 A. I'm going to tell you, that's one thing about me I
20 learned from when Josh died, there's no love in these
21 streets and it's a lot -- like I -- I could show you a lot
22 of posts where a lot of people around here is just missing.
23 And if they felt some type of way about me finding out or
24 describing who murdered my cousin --

25 Q. Mm-hmm.

1 A. -- I'm not scared of not one soul around here.
2 And if I was scared, I could move.

3 Q. Okay. Okay.

4 Gosh. Okay. Sorry.

5 I'm going to show you what was previously marked
6 as Exhibit 27.

7 A. Mm-hmm.

8 Q. Do you know who this person is?

9 A. Amber.

10 Q. Okay.

11 Do you -- did she ever date Dextor that you know
12 of?

13 A. No.

14 Q. Okay.

15 That's --

16 A. I don't think her and Dextor dated, no.

17 Q. Okay. And that's fine.

18 So the car that he would've maybe been driving
19 around, whether or not -- do you know if it was his car that
20 looked similar to this car?

21 A. I think it was somebody else's.

22 Q. You think it was somebody else's car?

23 A. Yeah.

24 Q. It has nothing to do with Amber Lowery to your
25 knowledge?

1 A. Not -- not to my knowledge.

2 Q. Gotcha. Okay.

3 A. Mm-hmm. Now, I can tell you right now, I don't --

4 I don't -- I definitely don't see that.

5 Q. Okay.

6 A. Her and Dextor dating?

7 Q. Yeah.

8 A. Yeah, I kind of see that one off.

9 Q. Okay.

10 So -- okay. Yeah.

11 And when -- all right. When -- let's talk a
12 little bit about -- about Dizzy and him being out at the
13 scene.

14 Do you -- did you ever talk to him about, like,
15 what his experience was out at the scene or anything like
16 that?

17 A. Only thing he -- only thing he said, he said,
18 "Man" -- because he was -- I think he was one of the ones
19 standing on the court amongst the people, if I'm not
20 mistaken, but he basically said -- did he leave? Was he the
21 one -- somebody -- somebody -- all right. It's the
22 birthday. They go to the girl. Was it DeShane or Dizzy? It
23 might have been Dizzy.

24 Q. Okay.

25 A. He could've left.

1 Q. Okay.

2 Let me do this. I'm going to -- let me grab a
3 report that I've got --

4 A. Okay.

5 Q. -- back here.

6 MS. MYERS: Are you guys still good without a
7 break right now?

8 THE WITNESS: I just want to pee.

9 MS. MYERS: Please. Yeah go ahead.

10 THE WITNESS: Sorry.

11 MS. MYERS: Let's do this. Let -- I'm going
12 to formally -- why don't we take, like, a -- how long would
13 you like?

14 THE WITNESS: Five minutes?

15 MS. PARKER: It's 12:27. Whatever.

16 MS. MYERS: You want to do a five-minute
17 break? Is that cool with you guys?

18 MS. PARKER: Yeah.

19 THE WITNESS: Restroom and back?

20 MS. MYERS: Okay. So let's do a five-minute
21 break.

22 Kristie, tell me what time it is so we can --

23 MS. PARKER: It's 12:27.

24 MS. MYERS: It is 12:27. I am going to stop
25 this video camera right now. And then we'll get back on the

1 record.

2 (Recess taken, 12:27 to 12:34 p.m.)

3 MS. MYERS: Okay. Sorry.

4 All right. We are back on the record, and it
5 is 12:34 p.m.

6 Q. All right.

7 So I -- so this is actually -- I'm going to show
8 you a copy that I have of the SBI interview that Cyrstal
9 did.

10 A. Mm-hmm.

11 Q. And I'm just -- I'm showing it to you just because
12 I think she might have -- here, I'm going to hand that to
13 you.

14 And this is going to be -- I'm sorry -- our
15 Exhibit 48, I think.

16 MS. PARKER: 49.

17 MS. MYERS: 49. Thank you. All right.

18 (Exhibit 49 marked.)

19 Q. So this is -- I'm going to -- let's see -- direct
20 your attention down to -- well, let me point this out really
21 fast, that we had -- I had said earlier -- and this was just
22 to kind of like orient you to the time and stuff. But on
23 the bottom of what's -- it's actually Bates-stamped, but
24 it's the first page, Cyrstal had recalled receiving a third
25 call from Council around 9:17 p.m., and then that's when

1 she -- I guess she was pulling up to the Hut at that time.

2 "Allen stated she answered the call and they began
3 talking as she was pulling up to the Hut."

4 Okay. So it sounds like they -- that Josh was
5 already there and then Cyrstal pulled up --

6 A. Pulled up.

7 Q. -- is what it sounds like from what her memory was
8 at that time.

9 So I want to -- if you go to page 3 of this,
10 Cyrstal -- in the -- it's kind of like the middle paragraph.
11 It says that -- and she's referred to as "Allen" in this --
12 "stated that once the shots stopped" -- do you see that
13 paragraph? It's kind of in the middle of the page there on
14 page 3?

15 -- "she looked up and noticed the shooter was
16 standing beside another male described as a young black male
17 with no shirt on whose name is unknown. The black male was
18 ducked down, attempting to get in -- inside Allen's vehicle"
19 and, according to her, he had held up his hands and told the
20 shooter, "It wasn't me," and then the shooter then looked at
21 this guy, crossed his hands, began walking away, and that's
22 when the shooter got back in his car and then drove off in
23 the same direction he came in.

24 So --

25 A. She -- where she's telling you he drove off in the

1 same direction he came in, that's when she's saying -- she's
2 talking about the backing up. He backed up past her car --

3 Q. Mm-hmm.

4 A. -- because she's sitting there and the car went
5 past her. Whenever he did his back-up, he backed up.

6 Q. Okay.

7 A. He backed back up --

8 (Overlapping speakers.)

9 Q. And that's what she --

10 A. -- and then went back out.

11 Q. -- means, that he went back --

12 A. Mm-hmm.

13 Q. -- the way that he came.

14 And then he drove back out --

15 A. Back out.

16 Q. -- towards E-town Road?

17 A. Mm-hmm.

18 Q. Okay.

19 Do you -- did Crystal ever talk to you about,
20 like, seeing this part of --

21 A. I can remember her -- she -- she told me that
22 whoever the shooter that was shooting, she said they walked
23 up by her car and she said she just couldn't see their
24 face --

25 Q. Okay.

1 A. -- she said because they were shooting.

2 And she said she was trying to grab Moosie Cat
3 and -- Moosie Cat -- I remember her saying Moosie Cat,
4 because I remember Moosie Cat being there.

5 Q. Yeah.

6 A. And she said she was trying to grab Moosie Cat but
7 she it was somebody right there.

8 Q. Okay.

9 A. The only person I knew that was out there with --
10 trying to think -- DeShane walked with his shirt off a lot.

11 Q. Okay.

12 A. And Dizzy walks with their shirt off a lot.

13 Q. Right.

14 A. Them two used to always have their shirts off.

15 Q. Okay.

16 So I think it -- so my understanding is that it is
17 definitely Ricky Stephens, that he was the one that was --
18 or Dizzy was by Cyrstal's car.

19 A. Okay.

20 Q. I don't think that that is -- like, I think that's
21 established.

22 A. Mm-hmm.

23 Q. Did he ever talk to you or did you ever talk to
24 him about, like, making eye contact with the shooter and
25 saying, like, "It wasn't me"?

1 A. Hmm-mm.

2 Q. Okay.

3 A. Hmm-mm. It seemed like he -- it seemed like he --
4 did he? I can't recall. Because I remember we was asking
5 everybody -- I remember asking him did anybody see who or
6 know who it was. I just didn't remember anybody saying they
7 did.

8 Q. Okay.

9 A. They didn't know who it was.

10 Q. And did he -- did you know why -- or do you know
11 why he would've said to the shooter "It wasn't me"?

12 A. I'll -- off of hearing you just saying it, only
13 thing I can think of is when he said, "Oh, y'all
14 motherfuckers say y'all gonna kill me" --

15 Q. Okay.

16 A. -- that's the only thing I can think of. That was
17 the -- that was the loudest, clearest thing I heard that
18 night besides the sound -- like I say, sound like they was
19 drinking.

20 Q. Gotcha. Okay.

21 Would there have been anybody else on that court
22 that would have shot at this person in the vehicle?

23 A. Everybody keep telling me they don't know the
24 vehicle. That's why I'm trying to -- I heard that gunshot -

25 Q. Anybody else, like, not -- so not the person in

1 the vehicle. Anybody else that would've been hanging out on
2 that basketball court, anywhere near you guys, anybody
3 there -- would anybody have shot back at this person that
4 drove up in the white Ford Taurus?

5 A. Not that I can think of.

6 Q. Okay.

7 A. So -- so and once all that shooting, it was a shot
8 back?

9 Q. That's what I'm trying to -- that's what I'm
10 trying to understand.

11 So Burgess testifies at trial that there --
12 someone shot at that vehicle first. And then the person in
13 the white Ford Taurus --

14 A. See, and he never --

15 Q. -- shot.

16 A. -- even -- even back again to Burgess, I spoke to
17 him that night, he was in the truck with me, I kept asking
18 what the hell happened, what the hell was that, what the
19 hell happened. He never said any of that to me.

20 Q. Did he have a gun that night that you know of?

21 A. I don't even know. It was hard to tell with Mike.

22 Q. So did you know him to sometimes have a gun?

23 A. Every once in a while you see him pop up with
24 something.

25 Q. Okay.

1 A. And see -- okay. And see, that's why I think his
2 problem was, him and another guy had got into an argument
3 over a gun, but it had been probably some -- over a year or
4 two before that.

5 Q. Okay.

6 A. And I just felt like them two might have still
7 carried animosity amongst each other.

8 Q. Was that guy still out at -- like was --

9 A. He wasn't at --

10 (Overlapping speakers.)

11 Q. -- that other guy?

12 A. He was not there. He was not there at the park or
13 nothing.

14 Q. Did you feel like this person that drove up was
15 targeting anybody out there?

16 A. Whenever he said the -- the line?

17 Q. Yeah.

18 A. I was confused -- no. No. I was like -- you know
19 what I mean? No, I -- I seriously didn't feel like -- I
20 didn't feel like -- because like I said, if we would've knew
21 that, I could -- I could've reacted quicker.

22 Q. Mm-hmm.

23 A. "Josh, lay on the ground." John, you --

24 Q. Right.

25 A. "Cyrstal" -- you know what I'm saying?

1 Q. Yeah.

2 A. We could have -- no. We -- it was in -- yeah, we
3 fall -- nobody -- really, me and Josh falling on each other
4 like -- we were fumbling over each other trying to get
5 there, get out of the way.

6 So, yeah, I don't -- I don't -- no, I don't see
7 Mike shoot -- I didn't remember seeing Mike toting a gun
8 that night.

9 Q. Would it surprise you if he had shot at this
10 vehicle first?

11 A. Who, Mike?

12 Q. Yeah.

13 A. Yeah.

14 Q. It would surprise you?

15 A. Yeah, kinda -- it would kinda surprise me that
16 he -- back then, because he was with us a little bit more --

17 Q. Okay.

18 A. -- he was more -- he was kinda -- I would have
19 been surprised if he started shooting at a vehicle first.

20 Q. Okay.

21 A. You know what I'm saying?

22 Q. Yeah.

23 A. Unless somebody was trying to run him over or
24 something like that.

25 Q. Okay.

1 A. But the car didn't never get over there to run us
2 over or nothing like that. It just sped back.

3 Q. Did he ever have any issues with Dextor Stephens
4 that you know of?

5 A. Not that I know of.

6 Q. Okay.

7 A. Not that I know of.

8 Q. Okay.

9 Did DeShane Leach, was there any reason to think
10 that he would have had a gun that night?

11 A. No, just -- see, that's what I'm trying to figure.
12 I'm trying to remember. It was either him or the D- -- one
13 of them had a girl.

14 Q. Okay.

15 A. And DeShane a little ladies' man.

16 Q. Okay.

17 A. So I'm thinking he's the one that went to the
18 girl.

19 Q. Okay.

20 So he -- are you saying that he wasn't -- wouldn't
21 have been out there at the time of the shooting?

22 A. That's what I'm trying to remember, if he was
23 still there --

24 Q. Gotcha. Okay.

25 A. Whoever left to go see the girl.

1 Q. Was not there --

2 A. There.

3 Q. -- at the time of the shooting?

4 A. Yeah, I think they left at the time of the
5 shooting.

6 Q. Okay. Okay. I understand. Okay.

7 So then if you -- okay.

8 So it sounds like that probably was DeShane, if
9 you think it's between DeShane and Dizzy --

10 A. And Dizzy.

11 Q. -- then.

12 A. Because if that was Dizzy beside Cyrstal car, that
13 was during the shooting because they said they -- like you
14 said, they seen a -- the shooter --

15 Q. Okay.

16 A. -- walk up.

17 Q. Okay.

18 A. But, yeah, they didn't never --

19 Q. Okay.

20 A. He didn't even know him. They -- from what I was
21 hearing, they were saying they didn't know who it was.

22 Q. Okay.

23 Would Gucci have had any reason to have a gun on
24 him?

25 A. Hmm-mm.

1 Q. Okay.

2 A. Hmm-mm. Gucci is a Gucci.

3 Q. Okay.

4 A. Yeah.

5 Q. Okay.

6 And you had said earlier that Eric Monroe really
7 didn't, like, hang around with y'all or anything like that?

8 A. Hmm-mm. Hmm-mm. He probably -- and even if he
9 did come out to the court that night, he probably was not
10 there no time and just -- and kept moving.

11 Q. Okay.

12 A. He was just -- he's like a loner.

13 Q. Okay.

14 A. Yeah.

15 Q. Is he -- like, what is his reputation, though? Is
16 he somebody that you would consider as truthful? Do you
17 know him well enough to know if he's truthful or not?

18 A. I don't know him well enough.

19 Q. Okay. That's fair.

20 A. I don't know him well enough.

21 Q. Okay. That's fair.

22 A. Yeah.

23 Q. Did you ever hear that after the shooting happened
24 and people took off running that the person that was in that
25 vehicle was chasing people around or anything like that?

1 A. I just heard that the car, when I -- from the
2 description of the car I gave --

3 Q. Yeah.

4 A. -- I just heard that the car had been driving
5 through some of the neighborhoods. Besides the Rozier
6 homes, they said they had -- he had came through, like, over
7 there near 10th Street --

8 Q. Okay.

9 A. -- wide open, if I'm not mistaken, if that's -- it
10 may have been 9th or 10th Street. But anyway, he was
11 driving wide open that day.

12 Q. When you're saying "wide open," just like --

13 A. Like -- you -- like it's a -- this is a -- like a
14 residential neighborhood --

15 Q. Sure.

16 A. It's a neighborhood.

17 Q. Right.

18 A. So for you to come through there going more than
19 15 --

20 Q. Okay.

21 A. -- is a (indiscernible). So he -- they saying he
22 was really driving through there every bit of 45, 55, flying
23 through these little roads.

24 Q. Okay.

25 So you heard that but you never heard that anybody

1 was being chased?

2 A. No. Not -- not --

3 Q. And was trying to escape from being chased --

4 A. Oh, no. No, ma'am.

5 Q. -- from this person?

6 A. No, ma'am.

7 Q. Okay.

8 If -- at that time, if Gucci had been one of the
9 people that was chased, is that something that he would have
10 told you about?

11 A. Heck, yeah. Heck, yeah.

12 Q. Okay.

13 A. Heck, yeah. If any of them would've been chased,
14 it would have -- automatically they would have come out and
15 told it because they know we all always all be around each
16 other.

17 Q. Okay.

18 What was -- like, was Eric related to Gucci at all
19 that you knew of?

20 A. He may be.

21 Q. Okay.

22 A. He -- just talking about the little young guy?

23 Q. Yeah, yeah.

24 A. He may be. I -- I'm thinking it might be how I
25 end up seeing Eric --

1 Q. Okay.

2 A. -- through Gucci one time.

3 Q. Okay.

4 A. But he -- but even when we used to go out to Gucci
5 house and just hang out a little bit, cook out or
6 whatever --

7 Q. Mm-hmm.

8 A. -- you didn't see Eric.

9 Q. Okay.

10 Eric wasn't hanging out there?

11 A. No. Naw, he wasn't -- like I say, he was always a
12 loner.

13 Q. Gotcha.

14 A. So Eric -- Eric was kind of, you don't call him
15 that -- like, he just got his extra trouble; so he won't
16 know really too much -- you try to talk to him but --

17 Q. Okay.

18 A. -- they just wanted to go to --

19 Q. Okay. I gotcha.

20 So I want to go back to Webby.

21 A. Mm-hmm.

22 Q. What is your relationship with him? Like, are you
23 close to him?

24 A. We're cousins --

25 Q. Okay.

1 A. -- actually.

2 Q. Okay.

3 A. We -- me and him argue. We them tight cousins,
4 but we -- we love each other, but we just argue.

5 Q. Okay.

6 A. So you rarely see us around each other and stuff,
7 but when we around each other, there's still love. I done
8 put him on a couple of jobs doing solar panels and stuff
9 like that.

10 Q. Okay.

11 A. But yeah, he's -- we're cousins, it's just -- he
12 probably like my third or fourth cousin, like it's just --
13 it's a distant cousin.

14 Q. Okay.

15 And are you a hundred percent certain that he was
16 not there that night?

17 A. Yeah, I don't -- I can't recall Webby -- I'm
18 just --

19 Q. Okay.

20 A. When you brung him up earlier, I was like --

21 Q. Okay.

22 A. I can't recall Webby being there.

23 Q. Is that -- if he was there, is that something that
24 you would've remembered?

25 A. I believe I would remember Webby being there.

1 Q. Okay.

2 Do you -- and so you're -- I'm assuming you're
3 familiar with his --

4 A. Mm-hmm. Because you remember I said what cars
5 coming through, I'm just trying to make sure he wasn't one
6 of them.

7 Q. Okay.

8 So he could've been someone who was, like, driving
9 through --

10 A. They -- they just --

11 Q. -- the area?

12 A. -- came through, probably hollered at somebody,
13 kept going -- you know what I'm saying?

14 Q. Okay.

15 A. It was one of them

16 Q. I gotcha.

17 A. Like, we -- like, me and him might see each other
18 over there, I might wave to him or might not wave, "I'll see
19 you next time."

20 Q. Okay.

21 A. Yeah.

22 Q. You're that type.

23 A. But we cousins, yeah.

24 Q. Okay. I gotcha. Okay.

25 Did he -- so you know his mom, I'm assuming?

1 A. Mm-hmm.

2 Q. Shonda Lyons?

3 A. Mm-hmm.

4 Q. Okay.

5 Did you know -- do you know if she ever dated
6 Dextor Stephens?

7 A. I don't think she did.

8 Q. Okay.

9 A. I don't think she did. I don't think she did.
10 No.

11 Q. Do you think that's something you would know, if
12 she definitely --

13 A. If she def- -- yeah, because that would've been
14 brung up because of -- because of all the people that hung
15 around each other.

16 Q. Okay.

17 A. And people be like, well, that's a (indiscernible)
18 Webby (indiscernible) --

19 Q. Okay.

20 A. -- type stuff.

21 Q. Okay.

22 A. It would've been like -- that's how deep that
23 would've been.

24 Q. Okay.

25 Did you know that she dated Clarence Roberts, the

1 guy who's claiming innocence in this case?

2 A. I didn't know that.

3 Q. Okay. Okay.

4 A. Yeah, I didn't know that.

5 Q. Do you have an opinion on that, like whether or
6 not that was -- that's something that you would've known or
7 anything like that?

8 A. No.

9 Q. Okay.

10 A. Mm-hmm, no.

11 Q. Okay.

12 A. No. See, I couldn't probably tell you all the
13 people that she dated with except for like when you said
14 Dextor and -- you know what I'm saying? For that, unless he
15 snuck and snuck and done it and they were just real low
16 key --

17 Q. Okay.

18 A. Yeah. Because that -- that situation would have
19 been a --

20 Q. People would've known about that? They would've
21 been talking?

22 A. Talking?

23 Q. Okay.

24 A. That boy would've had a fit about his mama
25 sleeping with somebody about his age.

1 Q. Gotcha. Okay.

2 A. Yeah. Webby would've had a fit.

3 Q. Okay. Okay. Okay. Okay.

4 Let me see.

5 A. Hoo. May I have one? You made my -- made me
6 thirsty.

7 MS. PARKER: (Indiscernible).

8 MS. MYERS: That's funny.

9 Q. What is -- what is Dextor's reputation? Like, are
10 people scared of him? Like -- sorry.

11 A. I'm sorry. No, that's -- I'm sorry for holding my
12 finger up like that.

13 Q. Oh, my God. Don't be.

14 A. That was all on me.

15 Q. That's not a thing to me.

16 A. I know, but it is to me. I got to respect you.

17 Q. Okay. I think you are.

18 A. Dextor's cool. He's laid back. He's chill. But
19 at the same time, if you ain't cool with him, don't mess
20 with him.

21 Q. Okay.

22 A. Just leave him alone.

23 Q. Okay.

24 A. Leave him be.

25 Q. Okay.

1 A. Yeah. If you can't -- if you don't feel -- if you
2 feel like you can't ride around with him or something like
3 that, you don't need to hang around Dextor.

4 Q. Okay. Okay.

5 A. Yeah.

6 Q. Is he -- like, does he have a violent reputation?
7 Or can -- like, is that a --

8 A. I think he had some shooting charges back in the
9 day.

10 Q. Okay.

11 A. Yeah.

12 Maybe. I ain't for sure. But I think he might
13 have some shooting charges back in the day. I ain't for
14 sure.

15 Q. Okay.

16 So going -- okay. So going back to E Rickets, is
17 there any -- any reason that this would've -- well, let me
18 ask you this: In January of 2013 --

19 A. Mm-hmm.

20 Q. -- were you ever targeted in a shooting at the
21 Hut?

22 A. No. I've never been in a shootout at the Hut.

23 Q. Okay.

24 A. Never, not one time have I ever been in a shootout
25 at the Hut.

1 Q. Okay.

2 A. Now, when I was younger -- how old was I? Maybe
3 26, 27 --

4 Q. Okay.

5 A. -- me and -- it's my brother, call his name
6 Curtis, me and him were hanging out, he got into a fight
7 with a guy.

8 Q. Okay.

9 A. Shoot, I might have been younger than that. I
10 might have been 24, 25.

11 Q. Okay.

12 A. He got into a fight with a guy. We went back out
13 there walking around in the neighborhood.

14 Q. Okay.

15 A. That bad boy hid in them bushes and shot my tail
16 in the back. So off of that right there --

17 Q. Oh, wow.

18 A. Yes, ma'am.

19 So off of that right there -- and that was the
20 first time I had ever been into a whole situation like that.
21 I've never been -- I hadn't been shot at, I hadn't been
22 shot. So it -- that confused me. So bot of us ended up
23 getting shot, but it was behind they got into a fight
24 earlier that day, we think we're getting ready to go back in
25 there and fight it out again. He said, "No, I done fought

1 y'all earlier."

2 Q. Okay.

3 And then you got shot?

4 A. And got shot behind that.

5 But as far as like -- I mean, I ain't even gonna
6 lie to you, that same guy that shot me, I think he ended up
7 going to court, they took him to court, he might have did a
8 little bit of time, not much. But I sees him now, I've
9 passed him in the store -- you know what I'm saying? --

10 Q. Mm-hmm.

11 A. And it's -- I'm not, oh, I see him in the store
12 I'm going to walk out.

13 Q. Right. Right.

14 A. You know what I'm saying?

15 Q. Okay.

16 A. So I passes him in the store, I've seen him,
17 and -- and he nods, I nod --

18 Q. Gotcha.

19 A. -- and we just keep on going. You know what I'm
20 saying?

21 Q. Okay. Yeah.

22 A. Now, I can carry a grudge, but, I mean, me
23 carrying a grudge, shit, I'm going to be locked up.

24 Q. Gotcha.

25 A. So I just be like I nod, he nod, we just keep

1 going, we just stay our distances.

2 Q. Okay.

3 A. It was so long ago; so --

4 Q. Okay.

5 I am -- all right. Let's -- just -- let's talk a
6 little bit about the -- the trial.

7 You said that you had in -- you had met with the
8 DA before?

9 A. Well, I didn't meet with them until I got back
10 from Vermont.

11 Q. Okay.

12 And so you met with him, like, right before trial,
13 then?

14 A. Right -- right before. We got started that day,
15 and they just let me know that they were -- they had been
16 trying to get in touch with me. I think they had been
17 trying to get in touch with me for, like, six months.

18 Q. Okay.

19 A. And --

20 Q. Were you avoiding them at all?

21 A. Yeah. I just -- I was mad.

22 Q. Yeah.

23 A. When I left town, I didn't come back.

24 Q. You were mad because Josh was killed?

25 A. Yeah. He was -- he was dead, and -- you know what

1 I'm saying? -- I just -- I -- Josh was somebody, he came
2 around me every day -- you know what I'm saying? -- and even
3 if -- he'd go home but (indiscernible) sometimes he might
4 come stay at the house three or four nights just because he
5 felt like it, you know what I'm saying? -- not because he
6 didn't have nowhere to go, he just -- that's what he did. I
7 look out there, he on my couch.

8 Q. So he was -- he was, like, a regular --

9 A. Yeah.

10 Q. -- part of your life, like --

11 A. Yeah, that's -- that was -- that's my best friend.
12 That was my best friend. I lost my -- I got certain people,
13 I got cousins that I trust, but they're -- they -- they're
14 my cousins; he was my cousin and my best friend.

15 Q. Okay. Yeah.

16 A. Yeah. So -- yeah.

17 Q. Yeah.

18 A. So I left out -- I'm not even gonna lie to you. I
19 think after Josh passed, I got -- when he first got shot, I
20 was still down here working at Shoney's. I got the job
21 doing solar work so I left town. I don't think I came back
22 home for about five years, just staying on the road --

23 Q. Yeah.

24 A. -- just so I wouldn't have to be down here.

25 Q. Yeah.

1 A. And it wasn't avoiding nobody; it was me avoiding
2 having to go to Josh grave --

3 Q. Yeah.

4 A. -- and -- you know what I'm saying? -- his mama
5 and stuff, me and them still talk and everything. But,
6 yeah, it were just -- that just -- it wasn't but it just --
7 it brings it back up.

8 Q. Yeah. For sure.

9 A. Yeah. Everybody were like, "Why you stay gone so
10 much? Why you stay gone so much?" I'll pop up in town, see
11 everybody, leave right back out.

12 Q. Yeah.

13 A. I would come for Christmas Day and leave the next
14 day.

15 Q. Yeah.

16 A. Yeah. And that was just because I was used to
17 Josh being at -- he was at all our gatherings and now he's
18 not.

19 Q. I'm really sorry.

20 A. And I know me and him about to leave together, you
21 know what I mean? So, you know, now we're not leaving
22 together --

23 Q. Yeah.

24 A. -- so I didn't want to go.

25 Q. Yeah. For sure.

1 Do you know why Cyrstal didn't testify at trial?

2 A. I think they -- they said -- I don't know if they
3 subpoenaed her or --

4 Q. Do you know anything about the -- like, being told
5 that Cyrstal had moved to Maryland or anything and then --

6 A. She was gone for a little while.

7 Q. Okay.

8 A. She -- my grandma and my dad stay there.

9 Q. Okay. Gotcha.

10 A. Yeah.

11 Q. Gotcha.

12 A. Yeah.

13 Q. Okay.

14 Was there any reason, though, like why she didn't
15 want to -- like, you testified but she did not, and so is
16 there any reason why, like, she just wasn't -- wasn't there?
17 I mean -- and let me say --

18 A. Yeah.

19 Q. -- like, no one wants to testify at trial.

20 Like --

21 A. Yeah. Yeah. I think it more or less, I don't --
22 I don't know. I think she was just like -- she really
23 didn't -- I don't know. I think she just felt some type of
24 way because -- I guess because the guy beside of her, she --
25 and she really couldn't tell nothing. And she was hating

1 that. She were mad at herself about that for a minute.

2 Q. That she couldn't --

3 A. Like, describe the guy better.

4 Q. Gotcha.

5 A. Saying that it was beside her car, that he made it
6 up that far. And when I heard that part of the story, I was
7 like, "Wow, so this man was actually -- I don't know if he
8 was running or walking, but he was walking behind us,
9 shooting at us."

10 Q. Mm-hmm.

11 A. And I didn't realize -- I -- in my head, my -- I'm
12 thinking I'm still getting shot at. Oh, no. He actually
13 took his process and came from around that car and started
14 shooting. And I say, "Yep." I said, "That's tough, right
15 there."

16 Q. Because she had two little girls in the car.

17 A. Two little girls.

18 Q. Yeah.

19 A. Two little girls. So I -- I'm thinking that she
20 was ducking or whatever, but her -- her main thing is she
21 said she really couldn't tell, she really couldn't see
22 nothing.

23 Q. So she --

24 A. Except for the guys that -- you know what I'm
25 saying?

1 Q. Yeah.

2 So do you think she feels, like -- she feels a lot
3 of guilt about --

4 A. Because she can't describe it better or something?

5 Q. Yeah.

6 A. I think -- I think both of us went through that.

7 Q. Yeah.

8 A. I think both of us went through that.

9 Q. Yeah.

10 A. Yeah.

11 Q. I'm so sorry.

12 A. I was like, "But why you didn't stare at that bad
13 boy for 5 more seconds, 10 more seconds?" -- you know what
14 I'm saying? -- just longer, knowing (indiscernible) -- when
15 everything was going on.

16 I wish we could've got a license plate.

17 I hated -- I hated that I took off running. I
18 hated that I ran. I hated that I ran because as I sit back
19 and look, we was behind the truck -- beside the truck. I
20 could've ducked, anything, and probably still seen license
21 plates driving off and all that. But we ran. I hate that I
22 ran that night.

23 Q. But you know -- and I think Emma can explain this
24 to you better -- that, like, none of this is your fault,
25 that you are not responsible for whether or not Clarence

1 Roberts did this, you know, you --

2 A. Yeah, yeah.

3 Q. -- did not cause any of this --

4 A. Yeah.

5 Q. -- and, you know, you running is a trauma response
6 to something that is -- like, your brain is being told,
7 like, "You've gotta do something because you're gonna" --

8 A. I think that's what it did because --

9 Q. -- "be killed."

10 A. -- like I say, I still was -- I was just like, I
11 said, "Why did you run? What made y'all run? Y'all was
12 behind the truck. Why did y'all run?"

13 So yeah, I'm still -- I don't know.

14 Q. But there's a part -- and Emma, again, I'm going
15 to give her a lot of credit for this, but there's, like, a
16 part of your brain that's like this innate part that just --
17 you don't have -- you don't even have to really -- you're
18 not even really conscious of it, it's just something that
19 automatically is just -- you go into survival mode.

20 And so even if now you can apply, like, certain
21 types of, like, what you would -- might think of as, like,
22 logic or whatever, of, like, "Oh, I should've done this" or
23 whatever --

24 A. Mm-hmm.

25 Q. -- like, you don't have control over that when

1 your brain is telling you, "You're about to be killed."

2 A. Right.

3 MS. MYERS: Is that a fair assessment, Emma?

4 MS. PAUL: That's true, yeah.

5 THE WITNESS: Gotcha.

6 Q. So I -- you know, that's easier for me to say,
7 but, like -- like, to tell you, like, please don't carry
8 this guilt with you but -- please don't carry this guilt
9 with you.

10 A. Appreciate it.

11 Q. You did what anybody would've done. Like, that's
12 what -- that's what we would -- you hear flight, fight, and
13 free -- you know what I mean?

14 A. Right.

15 Q. Like, that is a thing. And that's --

16 A. Yeah.

17 Q. -- what you did; right?

18 A. Right.

19 Q. And that's what Josh did.

20 A. Yeah.

21 Q. And that's what everybody else out there did. You
22 know, the only person whose fault this is is that person
23 who --

24 A. -- did it.

25 Q. -- decided to open fire.

1 A. Mm-hmm.

2 Q. So, yeah. You -- you did what you needed to do to
3 survive. Okay?

4 A. Yes, ma'am.

5 Q. Yeah. And that's -- that's -- that's hard,
6 but ...

7 Let's see. Is there anything that you can think
8 of that maybe we haven't talked about that you feel like I
9 should be asking you and I haven't said anything?

10 A. No, ma'am.

11 Q. Okay.

12 A. Not right off the gate.

13 Q. That's okay.

14 A. I just -- I -- my main question was, I was like --
15 whenever you said the part about the killing, "y'all said
16 y'all wanted to kill me" part? I just wanted to know the
17 motive behind that, was it -- who was he really -- if he was
18 looking for somebody else or they favored Josh or somebody
19 like that, who was they?

20 Q. Yeah.

21 A. You know what I'm saying?

22 Q. Mm-hmm. Yeah.

23 A. And I ain't -- and I'm not sure, but I think
24 that's how we ended up finding out about that other car too,
25 was maybe his niece might have said -- told about the car

1 getting in a wreck that same night or something, he got into
2 a drunk driving or something.

3 Q. Mmm. Okay.

4 You're talking about Clarence Roberts?

5 A. Yeah.

6 Q. Okay.

7 So let me -- I'm going to show you what was
8 previously marked as Exhibit 1.

9 Do you recognize this person? Do you recognize
10 the person in this picture?

11 A. I didn't prior.

12 Q. Okay.

13 A. But from the court case, I --

14 Q. From the trial --

15 A. Yeah.

16 Q. -- you recognize him?

17 A. Yeah. Mm-hmm.

18 Q. Okay.

19 Yeah. So this is Clarence Roberts.

20 Do you know -- like, when you're looking at this,
21 can you say for certain that this was the person that was
22 out there and shooting that night?

23 A. No, ma'am. I just -- like, even in court that
24 day, he had, like, a close cut --

25 Q. Yeah.

1 A. -- and bald head, that's -- that's all I could --

2 Q. Okay.

3 A. -- remember about it.

4 Q. Okay.

5 Do you remember if the driver had a grill or
6 anything like that? Do you think that's something you would
7 notice -- you would've noticed?

8 A. I don't know. Probably -- probably the kind of
9 grill they had, with -- the streetlight probably would've
10 hit it with him talking or something.

11 Q. Okay.

12 A. Maybe.

13 Q. So you think you would've known if he had --

14 A. A grill?

15 Q. -- a grill?

16 Yeah.

17 A. The grill would've been -- I believe that light
18 would've hit it.

19 Q. Okay.

20 So you feel like that's something you would've
21 known?

22 A. I think I would've seen a grill.

23 Q. Okay. All right. Let me see.

24 I'm going to show you some photographs. These are
25 not anything that -- hopefully, it is -- this is just stuff

1 that was taken at the scene that the officers had taken.

2 A. (Indiscernible).

3 Q. You're fine.

4 I'm going to show you what's been marked as

5 Exhibit 21.

6 Do you recognize anything in this --

7 A. That's --

8 Q. -- photo?

9 A. That's what was there, the pole.

10 Q. Like a --

11 A. It wasn't a fence.

12 Q. Like a beam?

13 A. Yeah.

14 Q. Okay.

15 A. Yeah.

16 Q. You mean around the basketball court?

17 A. Court, yeah.

18 Q. Okay.

19 Do you recognize, like, any -- anything out here?

20 Like, who was drinking any of the items or eating any of the

21 items that were in this photograph?

22 A. I believe that was Josh's.

23 Q. The --

24 A. This. And the towel. I think that's a towel.

25 Q. Mm-hmm.

1 A. I think Josh had a white towel that night.

2 Q. Okay.

3 A. I remember we had some chips.

4 Q. Okay.

5 So you think those were --

6 A. Could -- I'm going to tell you the chips was me
7 and -- it was me and Josh favorite chips, the chili -- the
8 chili Fritos.

9 Q. Mm-hmm.

10 A. We'd tear them up.

11 Q. Delicious.

12 A. Yep.

13 Q. Mm-hmm. Okay.

14 A. The drinks, I can't remember.

15 Q. That's okay.

16 A. That's a 40.

17 Q. Mm-hmm.

18 A. They were -- they were grown. I drank them but I
19 wasn't over there.

20 Q. Okay. Okay.

21 So here's another photograph. It's a little
22 bit -- it's a different angle. So this is Exhibit 22.

23 So it looks like a Fuze bottle.

24 A. That may -- it could've been Josh's.

25 Q. Okay.

1 A. Initially it could've been Josh's. He might have
2 set it down.

3 Q. Okay.

4 A. Because like I say, we didn't -- we -- he drank --
5 except when we -- he got some Crown and Coke, he was a juice
6 person.

7 Q. Okay. Okay.

8 What about -- so this is a Fanta bottle. Do you
9 remember anybody drinking Fanta that night?

10 A. Yeah, okay. So that -- yeah, that's not mine.
11 I'm thinking that's one of them lemon sweat teas.

12 Q. Hmm. Yeah, no.

13 A. That's what I drink.

14 Q. Okay. Yeah. That's a Fanta right there.

15 A. Yeah. I can't remember nobody drinking a Fanta.

16 And that 40 -- I'm trying to think who drinks a
17 40. That might have been Micheal's.

18 Q. Okay. Okay. Okay.

19 So -- all right. So now I'm going to show you
20 what is labeled as Exhibit 23.

21 Does anything in this exhibit look familiar to
22 you? Like, did you eat those fries? Like, if I was told --
23 like, if -- were those fries yours? Do you know?

24 A. I don't think it was.

25 Q. Okay.

1 A. I don't think it was.

2 Q. Okay.

3 Anything else in there look familiar? I'm sorry

4 I'm showing you a photograph of trash, but --

5 A. No, it's fine. It's fine. It was -- nope.

6 Q. Okay.

7 A. I'm trying to think where them fries could've came

8 from. They're chili-cheese fries.

9 Q. Mmm. Okay.

10 A. The only other place I --

11 Q. I didn't realize that. Yeah.

12 Did you -- so if you had eaten those, would you

13 remember that?

14 A. I believe I would remember my chili-cheese fries,
15 because I get them from the Traders Station in Lumberton.

16 Q. Okay. All right.

17 I'm going to show you what's marked as Exhibit 24.

18 Do you -- like, who -- was -- do you remember anybody

19 wearing a red shirt that took it off, put it on the beam?

20 I -- and let me also say it appears to be a shirt

21 to me. I don't know.

22 A. That's -- it's -- it looks like a shirt to me

23 also.

24 Q. Okay.

25 A. Not right off.

1 Q. Okay.

2 A. Not right off.

3 Q. I'm going to show you what's been marked as
4 Exhibit 25. This kind of looks like -- well, you tell me
5 what it looks like to you.

6 A. And if you --

7 A. Tank top.

8 Q. Okay.

9 A. Balled-up tank top somebody had around their head
10 or something.

11 Q. Okay.

12 A. Do you have any idea whose that --

13 A. No. Because --

14 Q. -- might have been?

15 A. I ain't even gone lie to you, back then, a lot of
16 us just -- like even with me with my hair --

17 Q. Yeah.

18 A. -- before I started wearing bonnets --

19 Q. Yeah.

20 A. -- I used to tie it up with a --

21 Q. With one of these?

22 A. -- tank top also.

23 Q. Gotcha. Okay.

24 A. All right. I'm going to show you Exhibit 26. And
25 this is a -- what is this? It's a beer. I can't think of

1 what it's called now.

2 A. Mm-hmm. Milwaukee?

3 Q. I'm -- yes. Milwaukee Ice.

4 A. Is that what it is?

5 Q. Yes.

6 Do you remember anybody that would drink Milwaukee
7 Ice?

8 A. That's got to be -- that -- I don't think --
9 that's a old-person beer.

10 Q. Okay.

11 Do you remember seeing anybody -- it could have
12 been -- maybe it was out there before --

13 (Overlapping speakers.)

14 A. Prior. Yeah --

15 Q. I don't know.

16 A. -- I don't -- I can't recall nobody --

17 Q. Okay.

18 A. Yeah. I don't recall nobody --

19 Q. Gotcha.

20 A. -- drinking that.

21 Q. Drinking that?

22 A. Yeah.

23 Q. Okay. Okay.

24 Let me --

25 A. Shoot, really, a lot of them didn't like to drink.

1 They smoked. They, like, smoked a little bit.

2 Q. Like pot?

3 A. Yeah.

4 Q. Not just -- okay. Okay.

5 All right. I'm going to show you what I'm marking
6 as Exhibit 50.

7 MS. PARKER: Mm-hmm.

8 (Exhibit 50 marked.)

9 Q. And --

10 A. Did you forget to mark 49?

11 Q. I did but I'm going to do it. Thank you so much.
12 You're clearly doing a better job than I am.

13 A. No, I'm just keeping up with you.

14 Q. All right.

15 So this is a photograph that was taken the night
16 before. And I -- we have gone over this, but I do want to
17 show this to you.

18 Does that -- tell me, like, kind of what you see
19 in this photograph, if it's kind of how -- what you remember
20 that night or anything.

21 A. I think this is the -- this is me and Josh --

22 Q. Okay.

23 A. -- pulled in.

24 Q. Mm-hmm.

25 A. If I ain't mistaken, I think I might have backed

1 up and spun off.

2 Q. When you were looking for him?

3 A. When I left to go out to find him.

4 Q. Mm-hmm.

5 A. I think that's that car tracks that's on the
6 car --

7 Q. You think that's the shooter's vehicle?

8 A. -- where he --

9 Q. Okay.

10 A. -- got to ours.

11 Q. Okay.

12 So --

13 A. So he -- he stopped -- he slid good, he got a
14 little distance, and came back.

15 Q. Okay.

16 So then Josh would've been pulled up like --

17 A. That's -- he'd have pulled -- because he hang --
18 riding in like he usually do.

19 Q. Mm-hmm.

20 A. And he'd have pulled up in here --

21 Q. Okay.

22 A. -- and stay parked.

23 And Cyrstal would have pulled up in front of this
24 one, if I'm -- I think Cyrstal were more closer to the trash
25 can --

1 Q. Okay.

2 A. -- in the dark right there --

3 Q. Okay.

4 A. -- to that pole.

5 Q. Mm-hmm.

6 A. And I think it was a space between us, just a
7 little space.

8 Q. Were there any other cars parked out there?

9 A. And off of you saying that, as we were talking
10 earlier when we first started the conversation --

11 Q. Mm-hmm.

12 A. -- that's what I was trying to remember, was there
13 a car --

14 Q. Mm-hmm.

15 A. -- between me and Cyrstal car.

16 Q. Yeah.

17 A. But I can -- I just steady recall us when we could
18 walk there, Cyrstal car and put Moosie Cat in there.

19 Q. Gotcha.

20 A. Or got out --

21 Q. Okay. Yeah.

22 Do you -- and that's -- thank you.

23 So this is like -- so this is -- light up here
24 is -- I think that's the -- that's a streetlight?

25 A. Mm-hmm.

1 Q. And this light, it looks more illuminated over
2 here because at this point, the police had brought a light
3 tower --

4 A. Lights out there, yeah.

5 It's dark -- it's dark -- it's dark over here.
6 It's a little bit darker over here --

7 Q. Okay. Gotcha.

8 A. -- at nighttime.

9 Q. Okay.

10 So that would -- like, aside from this, I mean,
11 it's pretty dark out.

12 A. Mm-hmm. Like, you see this -- the court?

13 Q. Yeah.

14 A. How dark all that is?

15 Q. Yeah.

16 A. Yep.

17 Q. You can barely see it.

18 A. Mm-hmm.

19 Q. And this is not the best copy of the photograph,
20 so part of it is that. But -- but, yeah, so that would be
21 hard to see out there as well.

22 A. Mm-hmm.

23 Q. Because by the time -- like, you called 9-1-1, I
24 believe it is was 9:47.

25 A. Okay.

1 Q. Okay?

2 So it would've been dark out. I mean, it would've
3 been pitch black.

4 A. Mm-hmm.

5 Q. So it also would've been, you know, very difficult
6 to kind of see.

7 When you -- let me ask you this too: From the
8 time that this shooting happened to the time that you find
9 Josh, can you -- are you able to estimate how long of a time
10 period would have gone by?

11 A. I left the shooting. I took -- maybe -- okay. So
12 for me to drive around from Hayswood Hut, I had to go up
13 past Thompson's Garage.

14 Q. Mm-hmm.

15 A. I made a right.

16 Q. Mm-hmm.

17 A. I made a quick left to come out beside the police
18 station and made a right.

19 Q. Right.

20 A. That brung me up past -- on that main road in
21 front of the police station to 11th, 10th, and 9th Street.

22 Q. Okay.

23 A. I think it's 9th Street I might have went down. A
24 lot of the guys said they was grouped up at -- I'm not for
25 sure.

1 Q. And who -- in that group of guys, who else do you
2 remember in that group? That -- we've got Gucci.

3 A. Mm-hmm.

4 Q. You've got Dizzy.

5 A. Yeah. Well, okay, so the person -- there was
6 another person there, but he -- he wasn't at the park.

7 Q. Okay.

8 A. He was never part -- his name Alan. He wasn't
9 never at the park.

10 Q. Alan?

11 A. Yeah. Dang, I forgot his last name.

12 Q. Smith?

13 A. Maybe -- yeah.

14 Q. Okay.

15 A. Yeah. That's it.

16 He wasn't at the park though. Everybody just went
17 to his -- I think that's where everybody ran. All of them
18 knew to go to his -- they just ran. That's where they met
19 up at.

20 Q. Okay.

21 A. Yeah.

22 Q. Okay.

23 Eric Monroe -- and I don't mean to keep going over
24 this but --

25 A. Oh, no.

1 Q. -- and it's not to make you change your answers --

2 A. Mm-hmm.

3 Q. -- by any means.

4 Eric Monroe was never out there?

5 A. I'm -- and I'm sitting here trying to bring that
6 bad boy up but -- because like I said, we didn't hang with
7 him like that. He never -- he won't --

8 Q. Okay.

9 A. -- one of the --

10 Q. So there was no reason for -- like, that's not --
11 that would've been --

12 A. If he pulled up --

13 Q. -- out of the ordinary --

14 A. If he pulled up, he pulled up and spoke to, like I
15 said, maybe Gucci for a second or somebody.

16 Q. And then he would've been --

17 A. And his --

18 Q. -- gone.

19 A. It was a gone situation.

20 Q. Okay.

21 A. He never -- yeah, he never -- yeah, he never hung
22 up on us.

23 Q. Okay. Okay.

24 Trying to think if there's anything -- so to this
25 day, do you have any idea who did this shooting?

1 If it was not -- or -- I mean, yeah.

2 Do you know? Like, do you have any kind of --
3 like, have you heard a rumor that might be true?

4 A. Well, I --

5 Q. It could be Clarence, I don't know. But --

6 A. Yeah. Well, the only thing I've heard since then
7 that I could honestly tell you after the trial and
8 Clarence -- when they charged Clarence, I haven't really
9 ever heard nobody else say nothing about the case as far as,
10 like, "Well, it's still floating around that such-and-such
11 did it," or, "It's still floating around that such-and-such
12 did it."

13 I haven't heard them saying nothing like that, and
14 I -- I -- I just haven't heard nobody saying nothing like
15 that because I would've been, like, "Well, look, we need to
16 look into this."

17 Q. Okay.

18 A. And to be honest with you, I'm going to be honest
19 with you, my main reason for coming back to testify from
20 Vermont was I would've -- I personally would've preferred to
21 find out who did that myself. Josh mama told me -- she said
22 she didn't want nothing like that going on. She didn't want
23 no extra going on. She said she just wanted me to come down
24 here and tell the truth. So that's what I came down here
25 and did.

1 Q. Yeah.

2 A. Yeah. Because I was always taught, you know,
3 there's a lot of bad people in the world, but there's
4 somebody "badder," and I won't never taught to back down.

5 So, yeah, if somebody -- if -- with her saying
6 that and telling me that, if -- I didn't care who it was, I
7 didn't care if it were Dextor, didn't care if it were
8 Brim -- I really didn't care who it was.

9 Q. Yeah.

10 A. I would've still did the same thing. And I
11 wouldn't second-guess it, and I still walk around -- if I
12 felt like it was some danger and I had to move my family, I
13 could -- that wouldn't be a problem to do that. I -- like I
14 say, I go out -- I had an apartment in Texas I was just
15 renting -- you know what I'm saying? -- so it's nothing to
16 move and do what you gotta do.

17 But, yeah, I could see Dextor right now and me and
18 him walk up to the store and speak to each other.

19 But, you know, if I felt something -- that he had
20 something to do with Josh, we -- we wouldn't walk up and
21 speak to each other because that's how -- that was -- that
22 was Josh. That was how tight me and Josh was.

23 Q. And would he -- would Dextor have any reason to go
24 after you?

25 A. Hmm-mm. Huh-uh.

1 Q. Okay.

2 A. They -- I think they had their own little thing.
3 Because I had went to prison before, so I think they had,
4 like, little -- they own little back-and-forth beefs and
5 stuff like that. But there were things -- it was one group
6 and another group. Even though all of them say they Bloods,
7 you know, they be different stuff and stuff. But they --
8 they were having their own little thing. We were just
9 staying over here, like, "Yeah, y'all tripping."

10 Q. Okay.

11 A. And so -- that was their thing.

12 Q. Does that have to do with WeDo's murder --

13 A. Yeah.

14 Q. -- or anything?

15 A. Yeah.

16 Q. Okay.

17 A. So all of us was tight with WeDo. They were --
18 the boys -- you know what I'm saying? But they just was --
19 they was more deep into the stuff than what we was at that
20 time. So --

21 Q. Okay.

22 And when you're saying when you were, like -- what
23 does that mean?

24 A. When I was in prison?

25 Q. Or like when you're -- when you were out and --

1 maybe I'm misunderstanding, and I'm sorry.

2 A. Oh, go ahead. Go ahead.

3 Q. I guess I'm -- so one of -- does this case have
4 anything to do -- like any connection -- to WeDo's murder at
5 all? Like --

6 A. At all.

7 Q. No?

8 A. At all. Nothing.

9 Q. Okay.

10 A. Far from it. The last -- that would be the last
11 thing you'll hear in the world, that WeDo's death had
12 anything to do with Josh's.

13 Q. Gotcha. Okay.

14 A. It didn't have nothing to do with it.

15 Q. There is -- so there is nothing about, like,
16 revenge or anything like that?

17 A. Oh, no. No, ma'am. No, ma'am.

18 Q. Okay.

19 Was anybody trying to seek -- like, did you hear
20 talk of people seeking revenge for Josh's death?

21 A. No. No.

22 Q. You never --

23 A. I'm going to be honest with you, his mama -- him
24 mama put that out there quick.

25 Q. Did Micheal Burgess ever talk about going after

1 Dextor Stephens or anything like that?

2 A. Not that I can recall of.

3 Q. Okay.

4 Is that something you would've remembered?

5 A. See, that's -- that's -- see, that's the thing.

6 That's -- it's Mike -- you know what I'm saying? -- so he --

7 that's something he could've probably been talking with

8 somebody else. I mean, "I don't like this person" -- he

9 would go through his --

10 Q. Okay.

11 A. -- his moments and it would just -- he hard to

12 understand to me. I -- I used to go -- like I said, I'd --

13 his mama see me, she called my by my first name. That's

14 how -- you know what I'm saying? That's how much I used to

15 go to his house and try to talk to him. I'd take him out

16 and look for jobs and stuff. But Mike, he would not.

17 Q. Okay.

18 A. I don't -- I don't -- so that's why I didn't

19 acknowledge him when he got out.

20 Q. I gotcha.

21 A. I was, like, I didn't want him putting me all in

22 that.

23 Q. Okay.

24 A. And now you saying some GK, oh so sunny stuff?

25 Okay, now I don't know what you're talking about

1 so now I got to just -- yeah, now let me keep you extra
2 distance.

3 Q. Okay. Okay.

4 A. Yeah. I don't think -- I don't see any -- you --
5 I would've heard about that.

6 Q. Okay.

7 A. If Mike went after Dextor or somebody else, I
8 would've heard about that.

9 Q. Okay.

10 A. That would've been -- it would have been a word on
11 the streets.

12 Q. Okay.

13 Let me --

14 A. But as far as it being anything to do with the
15 WeDo situation, far from it.

16 Q. Okay.

17 A. Yeah, they're -- that -- that was two wholly big
18 different situations.

19 Q. Okay.

20 Do you know information about the WeDo situation?

21 A. Just from what -- just about the -- to be honest
22 with you, I heard -- only thing I heard about was it
23 happened in Fayetteville behind somebody house. I -- they
24 didn't give me full information on it, but yeah. I was
25 like -- I was just glad I was gone at the time --

1 Q. Okay.

2 A. -- you know? I had got locked up at the moment.

3 Q. Gotcha.

4 A. Because I stayed in there three months. So I did
5 my three months. I was like, well, I ain't out there, I
6 don't know what's going on and I'm comfortable.

7 Q. Gotcha.

8 A. I won't comfortable, but you know what I mean.

9 Q. Yeah, yeah.

10 A. I ain't got nothing to do with that situation.

11 Q. Yeah.

12 A. Yeah. That -- WeDo, that was a -- that was a big
13 thing, though.

14 Q. Was --

15 A. That was -- that was a big thing.

16 Q. Was that -- WeDo, was WeDo in E Rickets? Is that
17 right?

18 A. If I'm not mistaken.

19 Q. Okay.

20 A. I knew he --

21 Q. Were you in E Rickets?

22 A. -- was doing Bloods --

23 No. We was different.

24 Q. Okay.

25 So why -- have you -- are you familiar with, like,

1 people saying that you're high up in E Rickets or you were
2 high up in E Rickets?

3 A. Oh, yeah, I heard -- I've heard it. Like I told
4 you, I used to take some of the guys to their probation
5 office meetings. The gang probation officer would ask them
6 who I was. And he started talking to me. He said, well,
7 he's -- "He's bringing y'all up here, he's taking y'all
8 places because he's the head of the gang," and that's where
9 it started at, from a probation gang officer. Because I
10 would take the guys -- the guys -- they were scared of
11 probation things, they get a locked up.

12 Q. Okay.

13 A. "I'm taking y'all to y'all's things and stuff."

14 Q. Just to help them?

15 A. I -- yeah. I did a lot of helping and stuff, and
16 they still look at me as like, "Yo, yeah, you're the
17 higher-up, you're our leader."

18 Q. Were you in a different gang?

19 A. Pretty -- yeah, you may as well say a different
20 group than what they're doing with the WeDo stuff.

21 Q. Okay.

22 A. Yeah. But it was -- all of us still -- if you
23 break down Lumberton, you got the side that wear a bunch of
24 red, you got the side that wear a bunch of black.

25 Q. Okay.

1 A. I was more on the red side.

2 Q. Which is Bloods?

3 A. Yeah.

4 Q. Okay.

5 A. Yeah. So all us, we -- even if you won't really
6 Blood, you just wore your red.

7 Q. Okay.

8 A. They -- really, they call it false claiming and
9 stuff, but if you were just cool with everybody, you were
10 just cool with everybody so everybody knew you was -- you
11 affiliated with them more than you're affiliated with this
12 crew.

13 Q. And is that how you would describe yourself, as
14 being affiliated with --

15 A. Yeah, we -- I'm -- yeah. Well, I can't even lie
16 to you now because I'm affiliated with the Bloods. I'm
17 affiliate with the Folks.

18 Q. Okay.

19 A. I'm affiliated with the Crips.

20 Q. Okay.

21 A. Yeah, I'm on -- like, I could all around go with
22 all of them.

23 Q. Gotcha.

24 A. Talk to them and stuff like that, yeah.

25 Q. Okay.

1 A. Yeah.

2 Q. So -- okay. Let me -- let me show you a new
3 exhibit. I'm going to show you Exhibit 51.

4 (Exhibit 51 marked.)

5 Q. I just want to know if you recognize this person.
6 And the quality of the picture's not super great, but do you
7 recognize who this person is?

8 A. Hmm-mm.

9 Q. Okay.

10 Does the name Sheena Britt sound familiar to you
11 at all?

12 A. Sheena Britt?

13 Q. Yeah.

14 A. No.

15 Q. Okay.

16 A. And that's a black person --

17 Q. It is.

18 A. -- with that last name?

19 Q. Mm-hmm.

20 A. From around here?

21 Q. She -- she might be mixed. I'm not sure.

22 A. Okay. Because usually you hear "Britt," you're
23 thinking like a white person and stuff like that.

24 Q. Oh, okay.

25 A. Especially around here. I don't --

1 Q. Oh, okay. Okay.

2 Yeah, I'm not -- you know, it's --

3 A. Britt.

4 Q. -- complicated American history. But yes.

5 Yeah. No? Doesn't look --

6 A. Mm-hmm.

7 Q. Okay. All right.

8 Okay.

9 MS. MYERS: Let me -- let me take a few
10 minutes. I'm just going to step outside. I'm going to talk
11 to Kristie here.

12 Emma, it's up to you if you want to step out.

13 MS. PAUL: Okay.

14 MS. MYERS: Let me just see if Kristie thinks
15 there's anything else I should be asking.

16 THE WITNESS: Y'all are fine, more than fine.
17 I can step out and let y'all do this right quick. That way,
18 this many people don't have to move.

19 MS. MYERS: It's all good.

20 THE WITNESS: You better give me that.

21 MS. MYERS: No, you stay here.

22 THE WITNESS: No, you better take it. I'll
23 be two, three minutes. Just --

24 MS. MYERS: You want to go off the record
25 then?

1 THE WITNESS: Oh, you need me to stay here?

2 MS. MYERS: Let's -- we --

3 THE WITNESS: Y'all don't need to say it
4 front of the camera.

5 MS. MYERS: What would you prefer -- yeah.

6 THE WITNESS: It's up to y'all. I just want
7 y'all comfortable.

8 MS. MYERS: I would like you comfortable
9 so --

10 THE WITNESS: I'm okay to go.

11 MS. MYERS: You sit. We'll be right back.

12 THE WITNESS: Yes, ma'am.

13 (Ms. Myers leaves deposition room.

14 Miscellaneous off-record comments. Recording
15 left running.)

16 MS. PAUL: I know it's been a long morning.

17 THE WITNESS: Oh, it's fine.

18 MS. MYERS: Yeah, thank you.

19 Q. All right. Just a couple questions and I think
20 we're about to wrap up.

21 Your relationship to Micheal Burgess at the time
22 of this crime, tell me more about that. Like, were you
23 close? Were you kind of mentoring him too?

24 A. Yeah. It was -- it was kind of -- Micheal was a
25 strong case. He -- he was strong. He was -- he went

1 through, like, depression spurts.

2 Q. Okay.

3 A. So you could tell -- he -- he would try -- he felt
4 like he couldn't help his mama enough or he was trying to
5 find jobs and stuff. If a job didn't go through for him, it
6 was -- he didn't care. You might get a he felt like killing
7 himself type stuff -- you know what I'm saying?

8 So --

9 Q. Okay.

10 A. -- if some -- you just talk to him -- you know
11 what I mean? -- you don't want to look over people who say
12 that -- you know what I'm saying? So I used to -- he used
13 to be with me and I'll go over there, I'll pull up, and then
14 I -- I kind of -- I think I met his mom before I met him,
15 but she was always older than us, I just knew who his
16 mama -- I talk, I said, "Boy, I know your mama." So it just
17 made me do a little bit more walking with him and stuff like
18 that.

19 Q. Gotcha.

20 A. And like I said, he got into a situation with a
21 guy and -- won't none of us around or nobody but I think he
22 just felt like the situation was supposed to expand out more
23 than what it -- what had happened, like we were supposed to
24 all go crazy about it.

25 Q. Okay.

1 A. And I was telling him, I said -- I said, "No," I
2 said -- I told him, I said, "We ain't about to go crazy,"
3 but I said, "I don't even know what happened with the
4 situation." I said, "It's you putting yourself in these
5 situations. Why would you go over to a place" -- you know,
6 it's -- I be against parties and a lot of that stuff. So
7 "Why would you go to a place where you're not really
8 comfortable, you don't really know nobody and you flashing
9 your stuff?"

10 Q. "Flashing" meaning what?

11 A. You know, just showing off that you got a gun on
12 your hip or something.

13 Q. Okay.

14 A. People these days do not care about that gun.
15 They gonna walk up, take it off, and you're going to have to
16 think about trying to get it back, and that's basically the
17 kind of situation that happened back then with him.

18 So whoever the guy was he had it with, everybody
19 else not about to go out here and go down with you.

20 Q. Gotcha.

21 A. And he carried -- I'm sorry.

22 Q. No, no. You're fine.

23 A. And so everybody else -- and he carried a gift
24 behind that and he stopped hanging with us.

25 Q. Okay. All right.

1 Did he -- so -- and is that kind of like what --
2 how your relationship went from, like, you being around him
3 more often to him just not hanging around so then you didn't
4 see him?

5 A. Yeah, he was like -- he was like -- I would see
6 him some days, he'd be like -- I might see him at the store
7 or something and we'd speak and just keep it moving, keep on
8 doing that, say, "You doing good? All right. Yeah, it's
9 good to see you."

10 And by this time, he won't -- like I tell you, it
11 was just two different sides, the one over here with reds
12 and he was over here with the black.

13 Q. Okay.

14 A. So he switched up on that tip so -- you know what
15 I'm saying? -- everybody was just like, well, you know, he
16 chose what he wanted to do or whatever. So then he ended up
17 going to prison.

18 Q. Right.

19 A. So he's been to prison for a while. So from what
20 I was hearing, he was mad because people won't sending him
21 no money and stuff like this and stuff, and like I told him,
22 I said, "I only did three months. It was a lot," I said,
23 and it was behind some weed.

24 Q. Yeah. Right.

25 A. You know what I mean?

1 So I did the three months and that was a lot to
2 me. But like I told him, I said, "In the whole time I was
3 in there, it was all" -- I've always heard that nobody want
4 to talk to you on the phone, nobody won't send you no money,
5 nobody won't this and that. So I already had it in my head,
6 but at the same time, I knew a lot of these people on the
7 streets, they didn't have it when I was out. So why would I
8 expect it while you in?

9 And, you know, you can't talk that to them. "Naw,
10 naw, y'all can put something together." No, no.

11 And I feel like he felt some type of way about
12 that because nobody won't looking out for him while he was
13 in prison the whole time.

14 Q. Okay.

15 A. But we was all out here trying to -- everybody
16 still trying to build up and get theyselves together. When
17 we could send you something, you -- I -- feel grateful for
18 that.

19 Q. Yeah.

20 A. Yeah, but it won't gone be no -- nobody don't have
21 it, where we have to -- every week. I can't send you money
22 every week.

23 Q. Right.

24 A. Yeah. And that's what it was.

25 Q. Okay.

1 Did you ever talk to Burgess, like, after the
2 trial or anything like that?

3 A. I haven't -- I haven't spoke to him after the
4 trial.

5 Q. Okay.

6 A. I haven't spoke to him not one time.

7 Q. Okay.

8 Would you, like charac- -- like, you've known him
9 for several years. I mean, I know you haven't been around
10 him in a while, right --

11 A. Mm-hmm.

12 Q. -- but, like, is he somebody that you can, like,
13 kind of trust, like you can take his word? Or does it just
14 kind of depend on the situation?

15 A. I think it's a situation. I feel like when he
16 gets stressed out, anything can come out. I -- I really
17 feel like that. I feel like -- just -- like the message
18 just from me not replying for you, he -- his anger -- you
19 see how it went from "What's up" to "Yo" to "Well, fuck
20 (indiscernible)" --

21 Q. Right.

22 A. -- and it can do that quick --

23 Q. Okay.

24 A. -- without you even feeding into it. And he's --
25 he's -- that's how he's always been, that's how we look at

1 him.

2 Q. Okay.

3 A. So, yeah, I'd have to question stuff that he said
4 to me -- you know what I'm saying?

5 Q. Gotcha.

6 A. I'd have to check, verif- -- you know what I'm
7 saying?

8 Q. Yeah.

9 A. I'd have to -- yeah.

10 Q. I gotcha.

11 A. He'd be like, "Yeah, John, I went to school
12 today." I could check. He didn't go to school.

13 Q. So he was lying to you about --

14 A. Yeah, a --

15 Q. -- that --

16 A. -- little minor --

17 Q. Okay.

18 A. Come on, man. Come on.

19 Q. Okay.

20 A. "Micheal, what's wrong with you? Are you" -- I
21 think he got in a fight with (indiscernible) at the skating
22 rink one time, him and another guy, and Micheal -- now, I
23 know Micheal was the -- the stronger guy in the situation as
24 far as them fighting, and Micheal got beat up.

25 Micheal came there with a -- a good little black

1 eye and thing, and I said, "Well, Micheal, what was you
2 doing?" He was high on pills. I said -- so I got on him
3 about that. I said, "That's what I told y'all," I said,
4 "leave that mess alone. Stay off the pills, don't mess with
5 no pills. Y'all out here getting beat up because you're
6 high on pills by people who shouldn't have beat you up, but
7 you're high on pills."

8 Q. Yeah.

9 A. And I'm talking about like there's even been
10 situations where I pulled up to the high school store after
11 school --

12 Q. Yeah.

13 A. -- to stop a fight because they had to listen to
14 what I'm telling them, get somebody to sit down, do -- no,
15 stop the fight, let's not do it at the school. So I was
16 getting a lot of respect from, like, a lot of teachers and
17 the people at the stores and stuff because, yeah, it won't
18 going down. "No, we don't do this no more."

19 Q. Okay.

20 A. "Y'all messing up. Come on, man."

21 But he was always one -- he'd be ready to fight,
22 now. I'll give him that. Now, you can -- he'd be ready.
23 He'd get mad, like, "I don't care, yo, I don't care."

24 Q. Mm-hmm.

25 A. But, yeah. But, you know.

1 Q. Going back -- I just thought of this that I wanted
2 to ask you. Did you ever see somebody -- like after --
3 after the shooting occurred and everybody was, like, running
4 off, do you remember another car pulling up at all and
5 somebody getting out?

6 A. And -- and that's okay if you don't remember that.

7 Q. Another car -- after the shooting?

8 A. Mm-hmm.

9 A. Oh. After the -- like I say, I was right there at
10 the house --

11 Q. Yeah.

12 A. -- and I came back, I didn't never see another
13 car.

14 Q. Okay.

15 A. When you were driving around, did you see anybody
16 else -- like, did you ever see anybody else on the road that
17 was also driving maybe a similar vehicle?

18 A. Oh. No, ma'am.

19 Q. No?

20 A. No, ma'am. Because -- I'm -- I'm gonna be honest
21 with you, if I'd have probably passed a car that looked like
22 that, I probably would've rammed them right then and there
23 with Josh truck because -- yeah, because y'all -- your head
24 is messed up -- you know what I'm saying? -- "I couldn't get
25 y'all while I was out there" -- I didn't know Josh was shot

1 at that time, though, but --

2 Q. Sure.

3 A. -- I still would've hit that car just to -- yeah,
4 because, "Y'all just shot at us and we don't know what in
5 the world y'all got going on."

6 Q. Okay.

7 Do you remember seeing a dark-colored vehicle ever
8 out there, not -- and I know that Josh had a red --

9 A. Yeah, burgundy.

10 Q. Yeah -- or burgundy, thank you.

11 A. Yeah.

12 Q. -- TrailBlazer, but did you ever see, like, a
13 smaller, like -- like dark-colored car or anything like that
14 that had, like, a loud muffler?

15 A. Cars move through.

16 Q. Well, let me say this: If somebody thought that
17 the vehicle that had shot was a dark-colored vehicle that
18 had, like, a muffler -- and the car was very loud --

19 A. Oh, at the time of the shooting?

20 Q. Yeah.

21 A. Huh-uh.

22 Q. Would that have been accurate?

23 A. No. They -- it wasn't another car.

24 Q. And are you positive it was not a dark-colored
25 vehicle?

1 A. I'm positive.

2 Q. Okay.

3 And you are positive it was not Dextor Stephens?

4 A. I'm positive.

5 Q. And you are --

6 A. I'm so positive to the point that -- that Dizzy --

7 Q. Mm-hmm.

8 A. If -- if Dextor, regardless of if he said it to
9 the police or not --

10 Q. Mm-hmm.

11 A. -- if Dextor walked up on Dizzy and told him
12 and -- and Dizzy said, "I didn't" -- how did you say he said
13 it? "I didn't do it" or something?

14 Q. Yeah. "It wasn't me."

15 A. "It wasn't me."

16 If -- and Dextor walked off from him, Dizzy
17 would've told us.

18 Q. Okay.

19 A. Dizzy would've told us it was Dextor.

20 Q. Okay.

21 Did Dizzy ever tell you that the person had a
22 tattoo on their neck?

23 A. Seem like I recall hearing that.

24 Q. Are you in contact with Dizzy now?

25 A. No.

1 Q. Okay. All right.

2 A. No. No.

3 I'm trying to recall. I'm not gonna lie, when I
4 tell you I literally left, I left.

5 Q. I gotcha.

6 A. It was -- yeah.

7 Q. Yeah.

8 A. I can't remember the --

9 Q. And that's okay. That's okay.

10 Do you remember Dizzy ever saying it was a Dodge
11 Stratus?

12 A. Hmm-mm.

13 Q. Okay. Okay.

14 A. You know what a Dodge -- them Dodge Stratuses,
15 they shaped different. They -- I think the back of them is
16 a little bit flatter --

17 Q. Yeah.

18 A. -- if I ain't mistaken.

19 Q. Let me ask you this: Is it any chance that you
20 saw -- even if you didn't read the license place, that you
21 would have known -- seen it -- that the tag was a temporary
22 tag versus, like, a permanent plate? Do you know what I
23 mean?

24 A. And, see, that's -- remember a while ago I said I
25 got mad at myself because I ran?

1 Q. Yeah.

2 A. I feel like I would've peeked my little head over
3 the thing and looked.

4 Q. Yeah. I don't want you to be mad about that at
5 all.

6 A. But you -- that's why I was saying --

7 Q. I understand.

8 A. -- you know, you told me what you said a while ago
9 and I took that in the heart.

10 Q. Good.

11 A. So it's not going to -- it's not going to eat at
12 me, right, but that's the only thing I hate, that I ran.
13 Because I feel like when that car, I would've been like -- I
14 could have said "It's a paper tag" --

15 Q. I don't think that our brains work like that --

16 A. They don't.

17 Q. -- unless you're just --

18 A. They don't.

19 Q. -- constantly in --

20 A. Yeah.

21 Q. -- a state of trauma where --

22 A. And see, that's just me -- that's just me beating
23 on myself like, yeah, you should've --

24 Q. Right. No, I get it. I want you to not do that
25 anymore.

1 A. Yeah. I understand.

2 Q. Do your best.

3 A. This is like --

4 Q. I get it.

5 A. -- I smashed my finger the other day, I said,
6 "Dawg, I should've had gloves on," you know. It's just -- I
7 get you.

8 Q. Right. We're human.

9 A. Mm-hmm.

10 Q. It's like what we do kind of; right?

11 A. Yeah.

12 Q. I understand that.

13 I want to talk to Cyrstal.

14 A. Okay.

15 Q. I don't want -- like, so it would be -- it would
16 be probably like this. We would do a deposition if she was
17 willing to do it. I -- it probably wouldn't last as long,
18 to be honest, because I know, like, she didn't testify at
19 trial and stuff like that.

20 A. Mm-hmm.

21 Q. We don't want this to be painful for her at all.
22 We want to work around her work schedule.

23 A. Yeah. She's -- now, I ain't gonna lie to you,
24 Cyrstal's nice, but she's snappy.

25 Q. Okay. Yeah.

1 A. And she's that tall.

2 Q. Yeah. That's what --

3 A. I'm being serious. She's 38 now, you know, she's
4 that tall and she's real snappy.

5 Q. Okay.

6 A. But you'll enjoy her, though. She -- she'll
7 answer everything to the fullest. She -- she's good people,
8 though. But she's just snappy.

9 Q. And I -- no, and that's -- and that is totally
10 fine.

11 A. Yeah. But I think y'all will get along with her
12 when she comes in. Her main thing was she was mad with that
13 police the other night.

14 Q. And I'm going to -- and I want to reiterate this.
15 Like, please tell her too -- and I'll tell her this, like,
16 hopefully --

17 A. Yeah.

18 Q. -- we're able to make contact with her and talk to
19 her, but we're not okay with that. That is not okay to us.

20 A. Right. I under- -- that's -- I think it was you I
21 was speaking to yesterday, and Emma -- the way Emma broke it
22 down to me, I fully understand it wasn't nothing on y'all,
23 and I fully understand that was Robeson County. That's just
24 how they move.

25 Q. Yeah.

1 A. Yeah.

2 MS. PAUL: And now we know.

3 Q. Yeah. To be honest --

4 A. Because they be like, they say be like, "All
5 right. We ain't going to bump into them until the daytime,
6 we going to go at 12:00 o'clock at night."

7 Q. I just -- I -- that is wild to me.

8 A. Yeah. I got like four phone calls.

9 Q. Yeah. And just so you know, I mean, we've been
10 trying to follow up with them to --

11 A. Mm-hmm.

12 Q. -- understand and to be, like, this is not -- you
13 know.

14 A. Yeah. But did -- you're fine.

15 Q. So --

16 A. You don't even have to beef with them. We -- we
17 understand. We know it wasn't y'all.

18 Q. Okay.

19 I just -- well, and that's -- that's upsetting.
20 I'd be upset about that too.

21 A. Mm-hmm.

22 Q. And I might have had -- probably would've reacted
23 like Cyrstal as well.

24 But we do want to talk to her. We will probably
25 reach out again and just kind of touch bases and stuff. But

1 please -- you know, until we're able to talk to her, please
2 let her know that we are sorry and that we're more than
3 happy to work around --

4 A. Off of her conversation yesterday, I'll let -- let
5 all them know.

6 Q. Okay.

7 A. I spoke to them. I'll let them know that y'all
8 didn't have nothing to do with it fully.

9 Q. Okay.

10 A. Yeah.

11 Q. All right.

12 A. Yeah. That's why I made sure I went on and
13 contacted y'all and everything.

14 Q. Yeah. We appreciate that.

15 A. Mm-hmm.

16 Q. We do.

17 Okay. So anything else? Is there something I
18 haven't asked you that you think I should have asked you?

19 A. No, ma'am. Not off gate.

20 Q. Okay.

21 A. No, ma'am.

22 Q. Okay.

23 Who -- if you were me, who would you go talk to
24 next? You can't say Cyrstal. Say somebody else.

25 A. Right, because she's there.

1 Can't say Gucci. Gucci would be the best person
2 for you to talk to, Gucci.

3 Q. What about DeShane?

4 A. You can try. He more -- he more of a street
5 person.

6 Q. Okay.

7 A. You can try. You probably could -- I couldn't get
8 him to go up there when they initially wanted to talk.

9 Q. Mm-hmm.

10 A. Okay.

11 Q. And he knew Collins; is that right? Like -- or
12 did Collins know of DeShane?

13 A. Collins? Collins?

14 Q. The main detective. I'm sorry. Detective
15 Collins.

16 A. I think he heard about DeShane.

17 Q. DeShane?

18 A. Yeah.

19 Q. Okay.

20 A. Yeah.

21 Q. Okay.

22 Dizzy would be --

23 A. See, now, Dizzy -- Dizzy -- I think Dizzy stays
24 out of town. He be doing construction work and stuff now.

25 Q. Okay.

1 A. See, he was one of the ones he actually took off.

2 Q. Right.

3 A. He kept going.

4 Q. Right.

5 A. When I left and started doing work, he started
6 doing the same thing.

7 Q. Okay.

8 A. But with another kind of job --

9 Q. Gotcha.

10 A. -- but he was doing it.

11 Q. Who is Craig? Do you know somebody named Craig
12 that would have -- is some -- he was -- there were some
13 names that were thrown to the police that they were out
14 there, I believe this is what Burgess had said, but Craig?

15 A. He got a last name?

16 Q. I don't know his last name, yeah.

17 A. It's -- I'd probably have to hear a last name or a
18 like a --

19 Q. A street name?

20 A. -- street name.

21 Q. Trey?

22 A. What, that's Craig?

23 Q. No. Different guy, I'm sorry for not making that
24 clear.

25 A. Trey?

1 Q. Yeah. Do you know a guy named Trey?

2 I feel like that's a pretty common name so I don't
3 know anything else --

4 A. Yeah, I had a cousin named Trey but he got in a
5 wreck --

6 Q. Okay.

7 A. -- and died, but --

8 Q. Oh, God. I'm so sorry.

9 A. -- he didn't -- he didn't hang out -- he didn't
10 hang out there in the streets, though. He --

11 Q. Okay.

12 A. He was a country boy.

13 Q. Okay.

14 A. Most of us -- that's just like most of us from the
15 country.

16 Q. Yeah.

17 A. Yeah.

18 Q. Yeah.

19 Rorie we talked about a little bit before.

20 A. Mm-hmm.

21 Q. Did you eve date somebody named Princess?

22 A. Precious.

23 Q. Precious?

24 A. Precious.

25 Q. I don't know.

1 A. Precious -- oh, I got a kid from a girl named
2 Precious.

3 Q. Okay.

4 A. But Princess is -- I think Princess is -- is
5 that -- that's not the same person as --

6 Q. Peaches?

7 A. Yeah.

8 Q. I don't know, to be honest with you. It could be.

9 A. I'm thinking -- it's either they're the same
10 person or it's her and another girl that hang together --

11 Q. Okay.

12 A. -- if I'm not mistaken.

13 Q. Okay.

14 But you never dated somebody named Princess?

15 A. Oh, no.

16 Q. Was Precious out there at the time of the
17 shooting?

18 A. Oh, heck, no.

19 Q. Okay. Okay.

20 A. No, she -- no.

21 Q. Okay.

22 A. Precious won't out there.

23 Q. Okay. Okay. All right.

24 A. Princess. I can't even remember that name.
25 That's why when I asked you --

1 Q. That could also not be --

2 A. -- was it Peaches.

3 Q. Maybe that's not -- that could be information
4 that's maybe incorrect.

5 A. Okay.

6 Q. Somebody's remembering it incorrectly. So --

7 A. He might have been talking about Peach -- Peaches.

8 Q. Peaches? Okay.

9 A. Yeah. Yeah.

10 Q. Did you call her Peachy?

11 A. Peaches.

12 Q. Peaches. Okay.

13 A. I took Peachy from what you said to me earlier.
14 That's why -- I think that's how you had it wrote on the
15 paper, Peachy.

16 Q. Oh. Okay.

17 A. But it's Peaches.

18 Q. Peaches.

19 A. Yeah.

20 Q. Okay. Gotcha.

21 Okay. So one of the purposes of this deposition
22 was to determine the extent of your knowledge of the facts
23 involved in this case.

24 A. Mm-hmm.

25 Q. So with that in mind and so I'm not going to be

1 surprised later on when we continue to investigate this
2 case --

3 A. Mm-hmm.

4 Q. -- is there anything else that you think is
5 significant that we have not talked about?

6 A. No, ma'am.

7 Q. Okay.

8 A. No, ma'am.

9 Q. Is there any other topic we have not explored that
10 you think would be important to my understanding of this
11 case?

12 A. No, ma'am. Just -- just the message I showed you.
13 Other than that, I don't have anything else.

14 Q. Yeah. Okay.

15 And I do -- I want to get -- I want to take a
16 picture of that, if that's okay with you.

17 A. Mm-hmm.

18 Q. And -- okay. And I asked you about if there were
19 any other questions that you think I should have asked you
20 that I haven't.

21 Can you think of any now?

22 A. No, ma'am.

23 Q. Okay.

24 Are there any questions I previously asked you
25 that you would like to change your answer to?

1 A. No, ma'am.

2 Q. Okay.

3 Do you have any additional information to provide
4 to the Commission related to this case that you have not
5 mentioned?

6 A. No, ma'am.

7 Q. Okay.

8 MS. MYERS: All right. I'm going to now
9 conclude and end the deposition. And the time is 1:39 p.m.
10 and I'm going to ahead and turn this off right here.

11 (Deposition concluded, 1:39 p.m.)

12 (Deposition reopened, 1:50 p.m., transcribed
13 from audio backup recording #6.)

14 MS. MYERS: Okay. I am going back on the
15 record. It is 1:50 p.m. I am very sorry.

16 I've got Mr. Allen here with us and I am
17 going to have you -- I'm going to -- this drawing that we
18 did at the very beginning that you made of, like, the scene
19 and where the vehicles were, will you please go ahead and
20 take this pen right here and sign your name.

21 THE WITNESS: Yes, ma'am.

22 MS. MYERS: And then if you would date it,
23 please. And the date is March the 16th.

24 And then I am going to mark that as our
25 State's Exhibit 52.

1 (Exhibit 52 marked.)

2 MS. MYERS: Thank you so much.

3 All right. I'll mark this on here and I'll
4 put a sticker on it later, but I'll know that's Exhibit 52.

5 Perfect.

6 THE WITNESS: Do I need to draw y'all a map
7 to the restaurant?

8 MS. MYERS: No. Thank you.

9 THE WITNESS: All right.

10 MS. MYERS: All right. And the time now --
11 I'm going to go off the record and conclude the deposition.
12 The time is 1:52 and I'm going to turn this off.

13 (Deposition concluded, 1:52 p.m.)

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WITNESS'S SIGNATURE PAGE

I have read the foregoing pages, which contain a correct transcription of answers made by me to the questions therein recorded, with the exception(s) and/or addition(s) reflected on the correction sheet attached hereto, if any.

Signed, this the ____ day of _____, 2023.

* * * * *

STATE OF: _____

COUNTY OF: _____

Subscribed and sworn to me this, the ___ day of _____, 2023.

Notary Public

My Commission expires: _____
(seal)


1 STATE OF NORTH CAROLINA)
2 COUNTY OF WILKES)

3 CERTIFICATE

4 I, Victoria L. Pittman, BA, AOC-Approved Transcriber (NCJT),
5 the officer by whom the foregoing proceeding was requested to be
6 transcribed, do hereby certify that said hearing, pages 1 through
7 282 inclusive, is a true, correct, and verbatim transcript of
8 said proceeding, as transcribed from an electronic recording, to
9 the best of my ability.

10 I further certify that I am neither counsel for,
11 related to, nor employed by any of the parties to the action in
12 which this proceeding was heard; and, further, that I am not a
13 relative or employee of any attorney or counsel employed by the
14 parties thereto, and am not financially or otherwise interested in
15 the outcome of the action.

16 Dated at Elkin, North Carolina, the 2nd day of August, 2023.

17
18
19
20 
21 _____
Victoria L. Pittman, BA,
22 AOC-Approved Transcriber (NCJT)
23
24
25



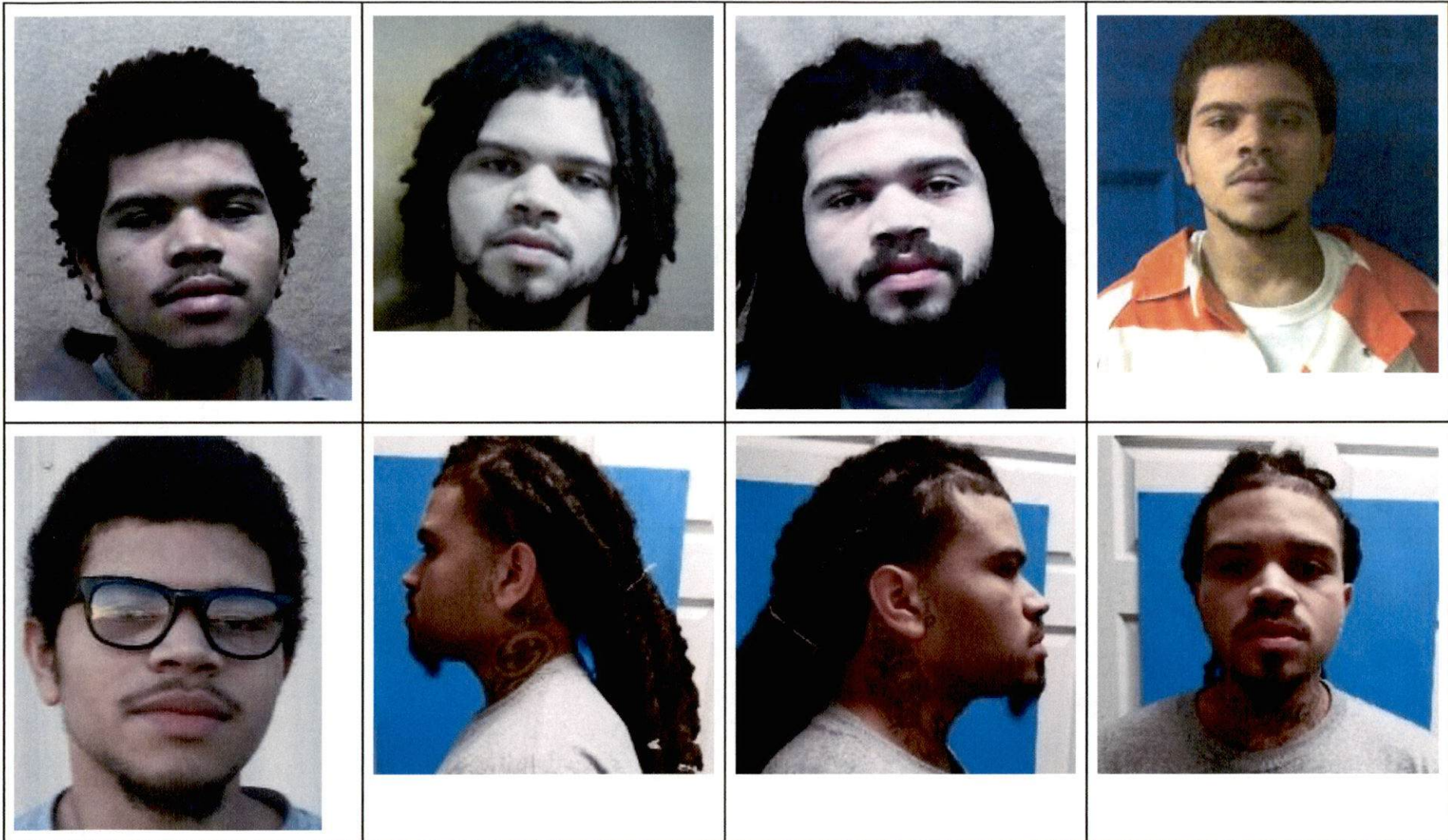
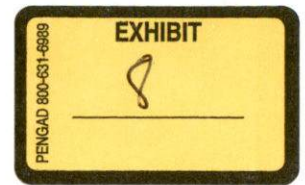
Known Name(s):

CLARENCE ROBERTS
CLARENCE WENDELL ROBERTS
MICHAEL JAMES BROWN
ANTONIO JEROME ROBERTS
MICHAEL WENDELL ROBERTS



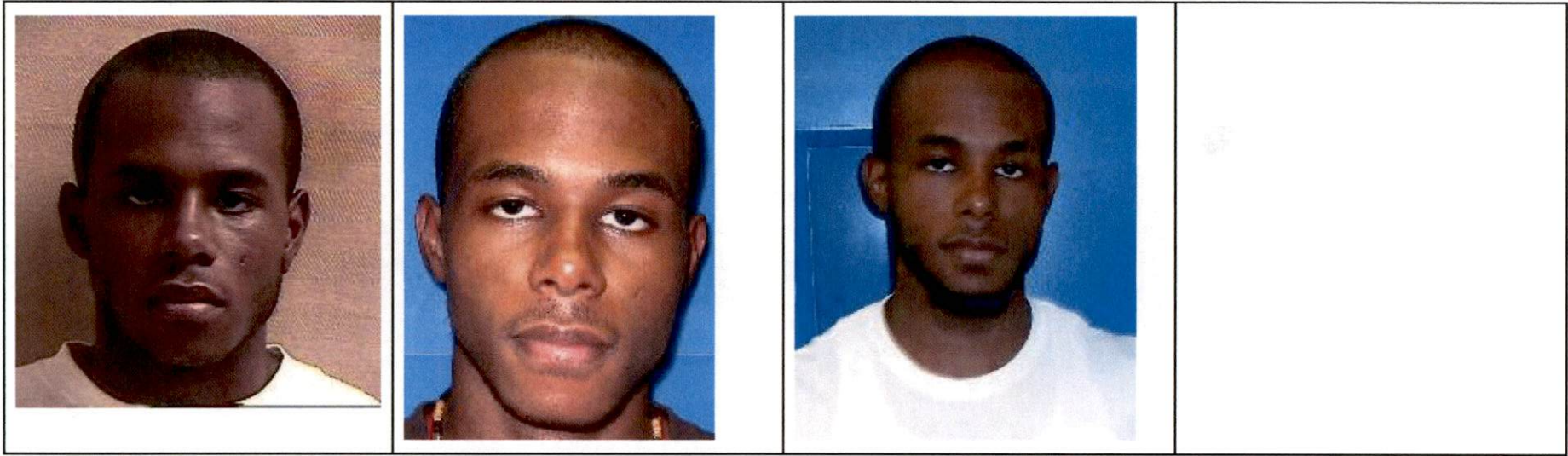


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EXHIBIT
13



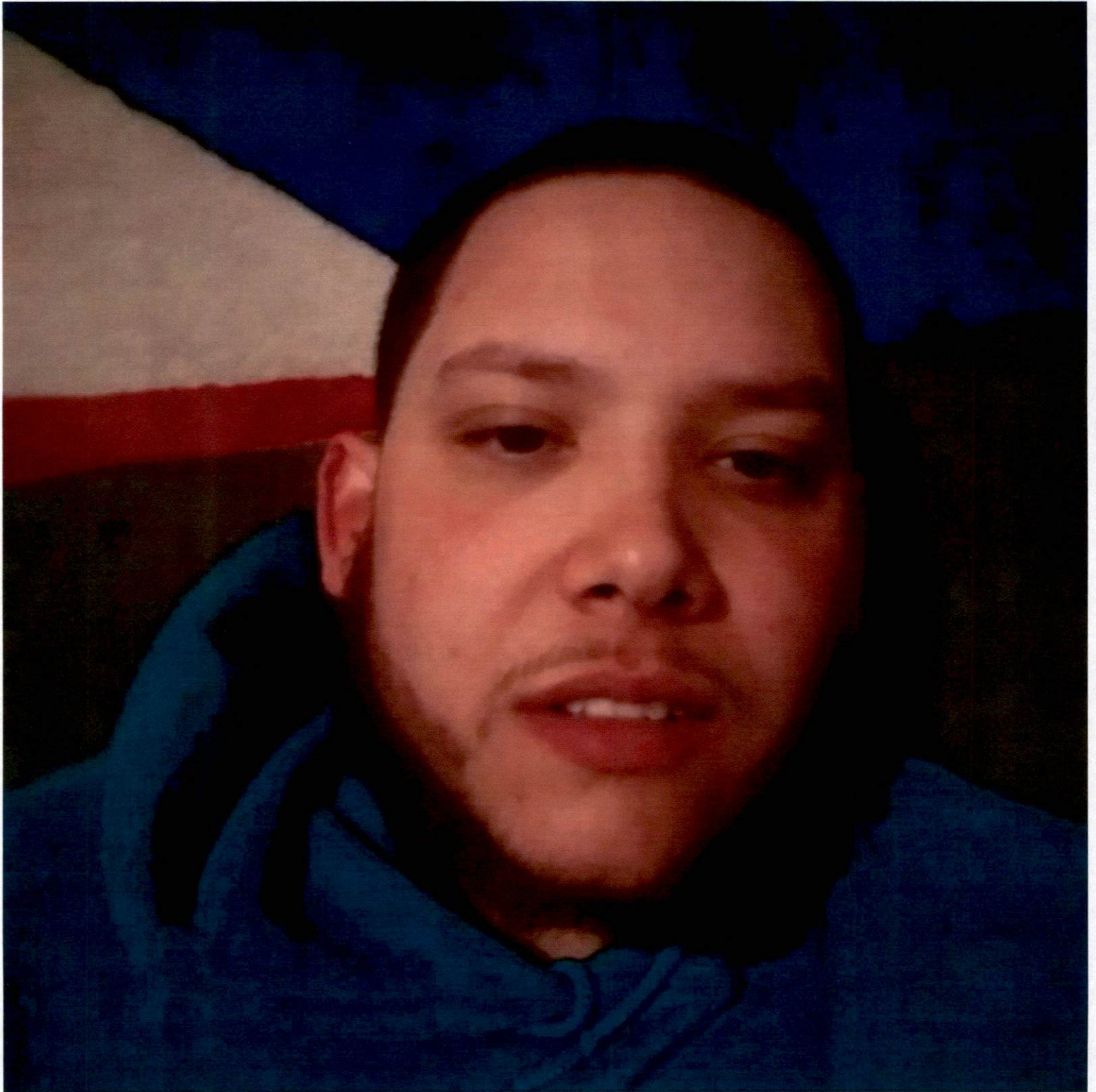
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EXHIBIT
15



PENGAD 800-631-6889
EXHIBIT
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PENGAD 800-631-6989
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PENGAD 800-631-6989
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19



PENGAD 800-631-6683
EXHIBIT
21



PEMGAD 800-631-0889

EXHIBIT

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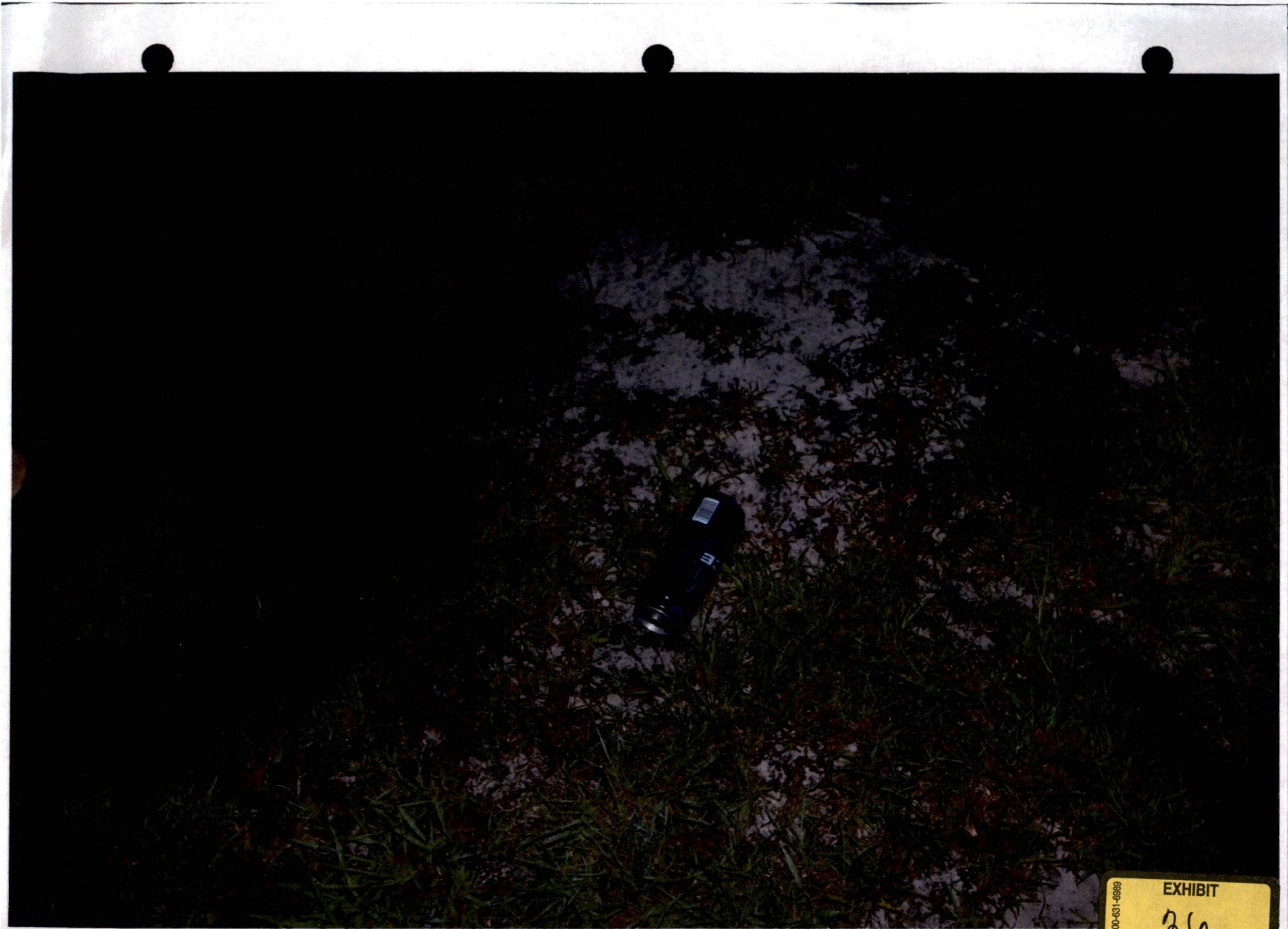
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EXHIBIT

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EXHIBIT
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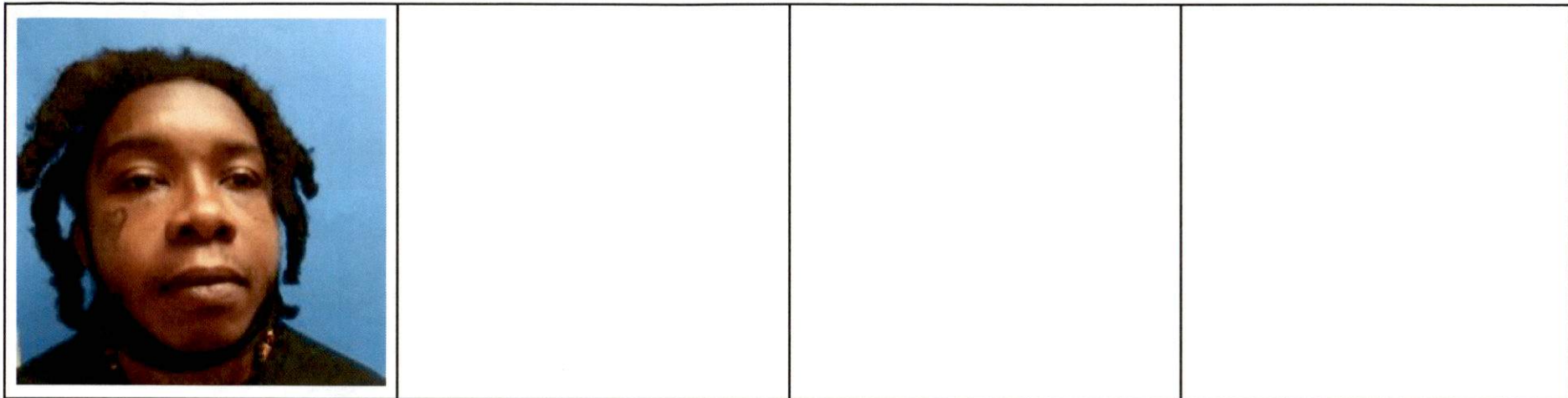




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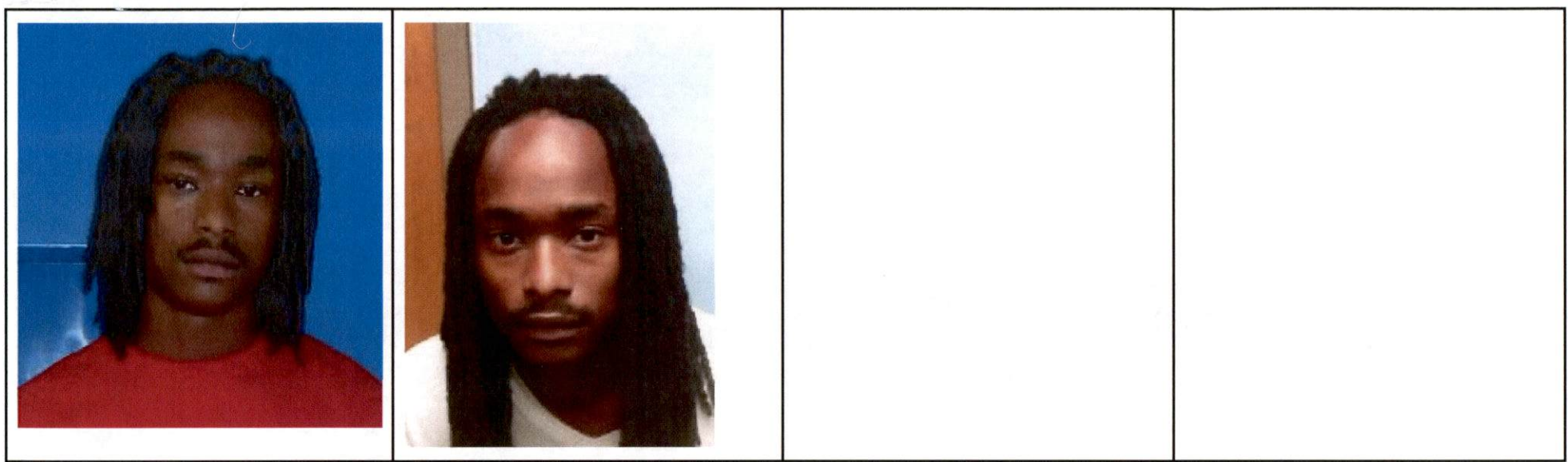


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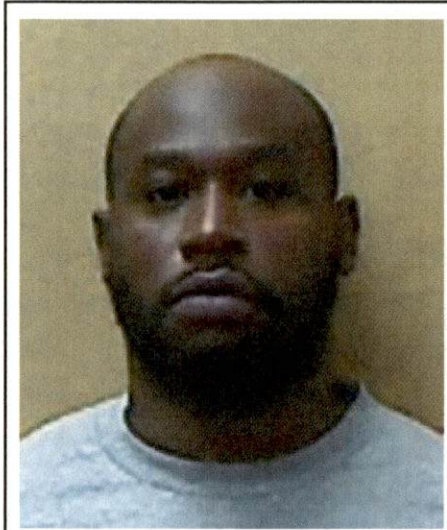


EXHIBIT
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EXHIBIT
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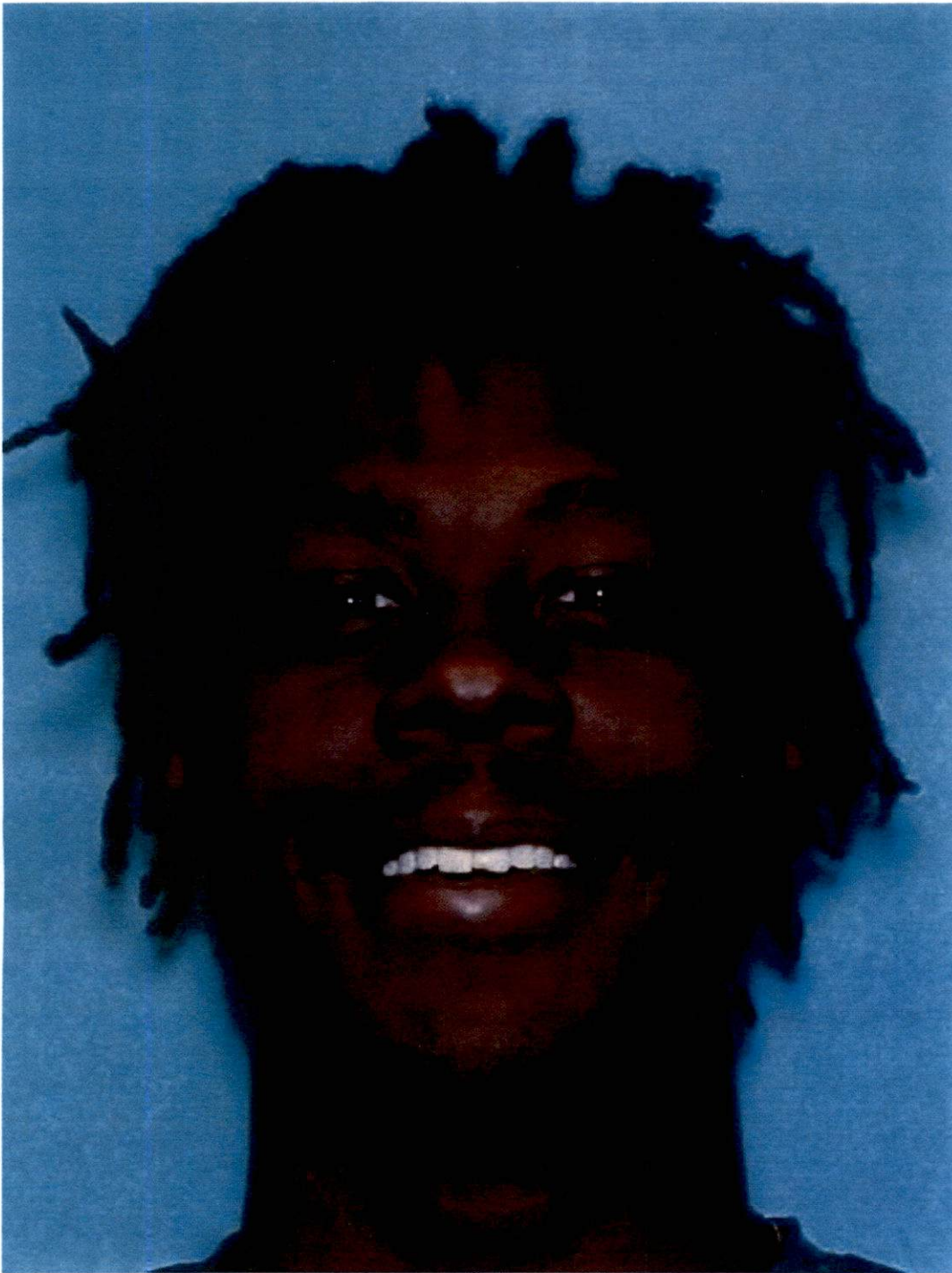


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EXHIBIT
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IMAGE CAPTURE TIME: 11.35.27
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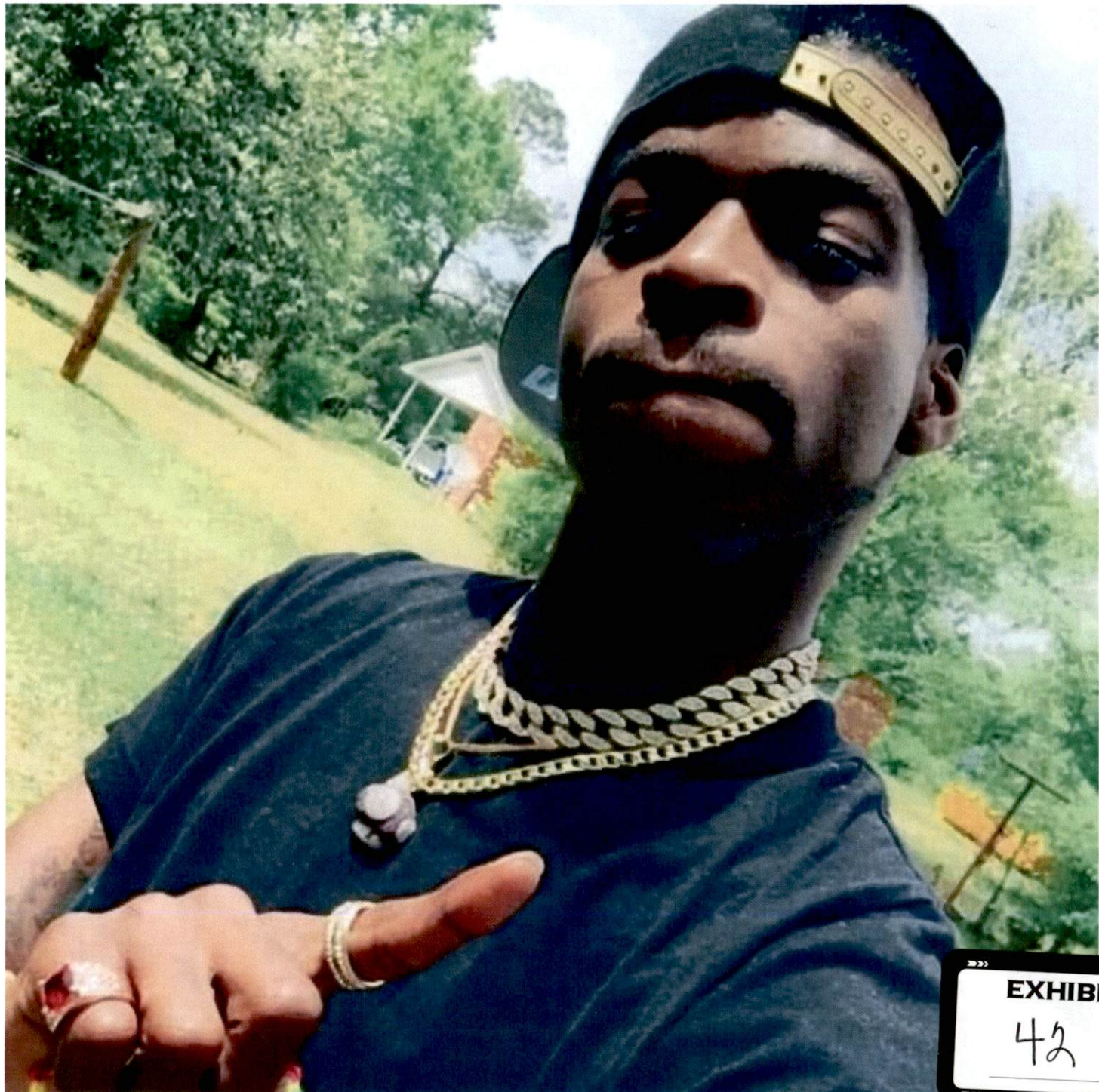


EXHIBIT
42

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This is an official file of the North Carolina State Bureau of Investigation. To make public or reveal the contents thereof to any unauthorized person is a violation of the General Statutes of North Carolina.

SBI CASE: 2013-01165 (1078)
ACTIVITY: June 18, 2013
VICTIM(S): Joshua Floyd Council
COPIES: (1) Case Records Management Section
(2) SA A. M. Cruz-Velez
(3) SAC J. P. Sutton
(4) SA W. T. Brady
(5) District Attorney L. J. Britt III

Michael Treanes Burgess, I/M/DOB: 12/19/1996 (Witness)

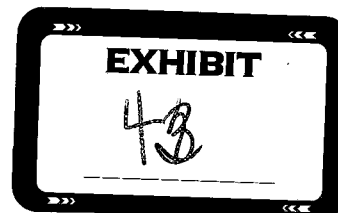
Residence: 406 Sinclair Street, Apartment 11D,
Lumberton, North Carolina 28358
Telephone: 910-416-3654
Business: Lumberton Senior High School,
3901 Fayetteville Road, Lumberton, North
Carolina 28358, Telephone: 910-671-6050

On Tuesday, June 18, 2013, at approximately 10:20 a.m., Special Agent (SA) A. M. Cruz-Velez of the North Carolina State Bureau of Investigation (NCSBI) conducted an interview of Michael Treanes Burgess. The interview took place inside Burgess's residence. Detective Jerry Kinlaw with the Lumberton Police Department (LPD) was also present during the interview.

Burgess was interviewed as a witness to an investigation involving the homicide of Joshua Floyd Council. Burgess was present during the shooting and is believed to have pertinent information to the case.

Burgess provided the following statements to investigators:

Burgess stated that on Friday, June 14, 2013, around 6:00 p.m., Council picked him up from his residence. According to Burgess, they drove to the "Hut." Burgess stated the "Hut" was the name used to refer to the basketball court on Peachtree. Burgess stated when he and Council arrived at the basketball court, they got out and started talking to everyone there.



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NCIIC-SBI

Burgess stated the following individuals were present: "Gucci," "Trey," "Little Erik," "Craig," "Shane" and John Allen (AKA "J").

Burgess stated he only knew the individuals by their nicknames and not their real names.

According to Burgess, while chilling at the "Hut," meaning hanging out and playing basketball at the court, he noticed a white Ford Taurus with black spots near the right side front bumper suddenly pull up in front of the court and slam on their brakes. Burgess stated the vehicle spun backwards in reverse and then drove forward again. The driver then yelled out the passenger side window, "So you going to kill me? So you going to kill me?" Burgess described the driver of the vehicle as a black male with a bald or a short/low haircut. Burgess could not recall what the driver was wearing or any other distinguishing features about the driver or vehicle.

Burgess stated immediately after the driver yelled, he shot one time towards the court and then got out of the car and kept shooting. Burgess stated he then began running and noticed everyone else was running. Burgess stated as he was running, he heard someone say, "I'm hit." Burgess did not know who said it.

According to Burgess, there were at least ten shots fired. The shots appeared to be continuous, and Burgess believed the shots came from either a 9mm or .40 caliber handgun. Burgess did not recall seeing the handgun.

Once the shots stopped, Burgess went back with Allen to check on Council because no one had seen him. Burgess stated he and Allen went to Council's truck but Council wasn't there. Burgess stated he then tried to call Council several times but got no answer. Burgess and Allen walked around several houses nearby when suddenly they found Council lying face down. Burgess stated he turned Council over and checked for a pulse but he knew he was already dead. Burgess then called 911.

Shortly afterward, he arrived at the hospital. Burgess stated while at the hospital he was talking with Brandon Lesane, who was not present during the shooting. Lesane told Burgess "Brim" matched the description of the shooter

and he was the only one who could have done it. Burgess stated he and Lesane did not know "Brim's" real name.

Burgess stated Allen told him they were aiming for Council because he had overheard Council fussing with someone earlier that day over the phone. Allen did not know who the person was or what they were fussing about. Burgess stated he also recalled Council fussing with his baby's mother the day of the shooting. Burgess could not recall Council's baby's mother's name.

Burgess stated he also spoke with Ricky Stephens that day. Stephens was present during the shooting and he told Burgess that he tried to get inside of Crystal's (LNU) car but couldn't. According to Burgess, Crystal is Council's cousin. Burgess stated Stephens told him he was ducked down by the car with no shirt on when he looked up and saw the shooter standing right beside him. According to Burgess, Stephens put his hands up and said, "It wasn't me." The shooter then pulled his shirt up and reached for his gun and walked away. Stephens told Burgess the shooter looked like he had a tattoo on the right side of his neck. Stephens did not get a good look at the gun and did not recall what type it was.

Burgess stated Stephens lives down by Snake Road in Lumberton.

Burgess had no further information and the interview concluded at approximately 11:00 a.m. inside his residence.

AMC:vmg



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ON FRIDAY JUNE 14TH 21:49PM, I RESPONDED TO A SUBJECT SHOT CALL IN THE AREA OF THE HAYWOOD HUT LOCATED OFF PEACHTREE ST. I ARRIVED ON THE SCENE AT 21:54PM THE VICTIM WAS LYING BESIDE A VACCANT HOUSE WITH THE ADDRESS OF 1204 PEACHTREE ST.

AS I PULLED UP I OBSERVED OFFICER JENNIFER WHITE PERFORMING CHEST COMPRESSIONS ON THE VICTIM. IT APPEARED THAT THE VICTIM HAD A GUNSHOT TO THE UPPER BODY.

AT 21:54PM, I CONTACTED MY SUPERVISOR CAPTAIN PARKER BY PHONE AND ADVISED HIM OF THE SITUATION. HE ADVISED ME TO GO AHEAD AND CONTACT DETECTIVE HARRELL WHO IS ONE OF OUR CRIME SCENE INVESTIGATORS.

AT 21:55P, I CONTACTED HEADQUARTERS AND HAD HER TO CONTACT DETECTIVE HARRELL.

AT 22:00PM, I SPOKE WITH THE WITNESS WHO WAS ALSO THE VICTIM'S COUSIN JOHN ALLEN 910-740-9143

MR. ALLEN STATED THAT A WHITE FORD TARUS WITH THE ROUNDED SHAPE. HE STATED EGG SHAPED. HE STATED THAT THE CAR CAME FROM 11TH STREET AND DROVE ON THE GRASS FAST THEN PULLED OF WENT PASS THE COURTS. THEN STOPPED AND BACKED UP AND PULLED WERE THE VICTIM/ WITNESS COULDN'T SEE HIM.

THEN STARTED SHOOTING, HE STATES THAT EVERYONE STARTED RUNNING IN ALL DIRECTIONS. THE SUSPECT THEN SPREAD OFF TOWARD ELIZABETHTOWN ROAD. THEY WENT LOOKING FOR THE VICTIM ONLY TO FIND HIM SHOT BESIDE THE VACCANT HOUSE.

VICTIM: JOSHUA FLOYD COUNCIL
 DOB 4/31/1991
 77 LAIR BROWN RD.
 WHITE OAK, NC 28388

AT 22:30PM, I WENT TO SERMG TO FIND OUT THE CONDITION OF MY VICTIM AND TO TALK WITH THE FAMILY ABOUT THE CASE.

AT 22:34PM, I MET THE VICTIM'S FATHER DAILY COUNCIL AT THE ENTRANCE OF THE ER. I ADVISED HIM THAT I WOULD KEEP HIM UPDATED ON THE STATUS OF HIS SON AND I ALSO GAVE HIM MY CARD WITH MY CONTACT INFORMATION.

AT 22:36PM, I MET CAPTAIN MORTON IN FRONT OF TRAMA ROOM 3. THEY WERE STILL WORKING TO SAVE THE VICTIM'S LIFE.

AT 22:47PM, THE ER DOCTOR CALLED IT AND GAVE TIME OF DEATH AT 22:47PM.

AT 22:59PM, I WENT WITH THE ER DOCTOR AND CAPTAIN MORTON TO NOTIFY THE FAMILY OF THE VICTIM'S PASSING.

ON SATURDAY JUNE 15TH 2013 AT 00:01AM, I ARRIVED BACK AT THE SCENE AND MET WITH CAPTAIN PARKER AND SBI AGENTS.

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SBI AGENT BILL BRADY
919-218-5663

SBI AGENT ANNA CRUZ
919-303-4812

I THEN BRIEFED EVERYONE ON WHERE WE STOOD AT THIS POINT IN THE CASE AND GAVE THE FACTS AS WE KNEW IT AT THAT TIME.

00:45AM, I RECEIVED THE VICTIM'S CELL PHONE FROM DETECTIVE HARRELL. HIS NUMBER IS 910-916-6737 WITH VERIZON.

AT 01:00AM, I WENT BACK TO THE SERMC TO ASSIST DETECTIVE HARRELL WITH THE PROCESSING OF THE BODY. DETECTIVE HARRELL THEN SEALED THE BODY BAG. I WENT AND MET WITH THE FAMILY ONE LAST TIME AND ASKED IF THEY HAD ANY QUESTIONS AT THAT TIME.

AT 01:30AM, I LET THE VICTIM'S FATHER, UNCLE, PASTOR AND FAMILY FRIEND VIEW THE BODY.

AT 02:30AM, I WENT BACK TO THE HEADQUARTERS AND MET WITH THE REST OF THE INVESTIGATORS AND TALKED ABOUT THE AREA CANVESS THAT THEY DONE.

AT 07:44AM, I SPOKE WITH DOCTOR WALEK THE DOCTOR WHO WILL BE PERFORMING THE AUTOPSY. HE WANTED TO SEE IF THERE WAS ANY NEW INFORMATION TO ADD TO THIS CASE. HE THEN ADVISED ME THAT HE WILL CALL ME LATER TO LET ME KNOW WHEN THE AUTOPSY WILL BE DONE.

AT 08:30AM, I SPOKE WITH THE WITNESS/ COUSIN OF THE VICTIM JOHN ALLEN. HE WILL CALL ME BACK LATER THIS AFTERNOON WITH MORE INFORMATION ON THE OTHER SUBJECTS THAT WAS ON THE COURT DURNING THE SHOOTING.

AT 15:43PM, I SPOKE WITH THE VICTIM'S FATHER DAILY COUNCIL ABOUT THIS CASE. HE FEELS LIKE THE GIRLFRIEND BREA KNOW'S SOMETHING ABOUT HIS SON'S DEATH. SHE WORKS AT PIER 1 SEAFOOD HERE IN LUMBERTON.

ON SUNDAY JUNE 16TH 2013 AT 07:21AM, I WAS CONTACTED Y DOCTOR WALEK STATING THAT HE WAS GETTING READY TO START THE AUTOPSY ON THE VICTIM AT SERMC. I GOT UP AND MAKE CONTACT WITH DETECTIVE HARRELL AND ADVISED HIM TO MEET ME AT THE HOSPITAL.

DOCTOR WALEK ADVISED THAT THE BULLET TRAVELED THROUGH BOTH LUNGS AND MY HAVE NICKED A ARTERY ON THE LEFT SIDE OF THE CHEST.

AT 16:30PM, I RECEIVED A CALL IN REFERENCE TO A CHRIS MCGIRT WHO LIVES AT 1402 E 14TH STREET. HE STATES AT BETWEEN 23:20PM AND 23:30PM, A GUY IN A WHITE TRAUSS OR SEBEL WAS DRIVING STRANGE STARTING AND STOPPING IN NEAR HIS HOME AND IN FRONT OF HIS HOME. HE WOULD PULL UP AND STOP JUST ACTING STRANGE.

THE DRIVER WAS A BLACK MALE MEDIUM BUILD LOW HAIRCUT OR BALD. HE STATES THAT THE MALE PULLED UP INTO HIS DRIVEWAY AND ASKED HIM IF HE KNEW WHO HE WAS. HE ALSO ASKED HIM IF HE KNEW WHO FLOSS WAS. THE VICTIM'S ANSWER TO BOTH QUESTIONS WAS NO. HE STATED THAT THE GUY ALSO HAD GOLD TEETH IN THE FRONT OF HIS MOUTH.

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CHRIS MCGIRT (POSSIBLE WITNESS)
 1402 EAST 14TH STREET
 LUMBERTON, NC 28358
 910-416-2101

ON MONDAY JUNE 16TH 2013 AT 08:30AM, I WENT THOUGH THE VICTIM'S CELL PHONE AND WROTE DOWN THE NUMBERS THAT CALLED HIM THE DAY OF HIS DEATH. STARTING WITH THE LAST CALLS FIRST.

TIMIYA 910-733-0973
 910-638-3022
 267-648-3934
 910-587-9877
 910-416-4543

BREA 910-618-7325 (GIRLFRIEND)
CRY 910-674-6613 (VICTIM'S COUSIN CRYSTAL ALLEN)
J MONEY 910-534-0148
JR 910-740-9143
DG 910-374-1756

AT 10:20AM, I SPOKE WITH THE VICTIM'S GIRLFRIEND SHABREA LOWERY, SHE WILL BE IN ASAP.

SHABREA LOWERY
 DOB 2/7/1992
 3381 ELIZABETHTOWN RD. LOT 23 LAIKEN ESTATES
 LUMBERTON, NC 28358
 910-618-7325

AT 11:00AM, I SPOKE WITH SHABREA HERE IN MY OFFICE. SHE DIDN'T HAVE ANY INFORMATION TO ADD TO THE CASE. SHE STATED THAT SHE TALKED TO THE VICTIM EARLIER IN THE DAY. DIDN'T REALLY GET A CHANCE TO TALK BECAUSE SHE WAS ON HER BREAK.

I THEN EXPLAINED TO HER WHAT WE WAS LOOKING FOR IN THE SUSPECT'S CASE, DESCRIPTIONS OF VEHICLE AND SUSPECT. SHE THEN STATED THAT SHE WOULD CONTACT ME IF SHE FINDS OUT ANYTHING. I WALKED HER TO THE DOOR AS SHE EXITED THE BUILDING SHE WALKED HALF WAY TO HER CAR AND STOPPED AND TURNED AROUND AND CAME BACK TO THE DOOR.

SHE STATED TO ME THAT SHE JUST REALIZED THAT HER BROTHER'S FATHER MATCHES THE DESCRIPTION AND THAT HE DRIVES A WHITE FORD TARUS. WE THEN WENT BACK INSIDE TO MY OFFICE AND TALKED ABOUT THE SUBJECT.

SHE STATED THAT HE IN FACT CAME TO HER HOME THE NIGHT OF THE MURDER AROUND 22:00PM, HE WAS DRUNK AND HER MOTHER WOULDN'T LET HIM IN THE HOUSE. I ASKED HER WHAT THEY TALKED ABOUT AND SHE STATED SHE DIDN'T REALLY KNOW. SHE STATED LET ME CALL MY MOTHER.

HER MOTHER NAME IS KIMBERLY LOWERY, SHE HAD HER MOTHER ON THE PHONE AND SHE STATED THAT HE TOLD HER THAT HE WANTED TO SEE HIS SON AND THAT HE JUST A RUN IN WITH SOULSKI. SHE STATED HE WAS ACTING STRANGE.

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**HIS NAME IS CLARENCE ROBERTS
 623 RIVERFRONT LN.
 FAYETTEVILLE, NC 28311**

SHABREA STATED THAT HE GOT LOCKED UP FOR DRUNK DRIVING THAT MORNING. I THEN RAN HIS NAME IN P2P AND FOUND THAT IN FACT HE WAS IN JAIL FOR DUI. HE ALSO HAD A HOLD ON HIM FOR TWO DOMESTIC WARRANTS TAKEN OUT FROM CUMBERLAND COUNTY.

AT 14:00PM, SBI AGENT BILL BRADY AND MYSELF WENT TO THOMAS GARAGE LOCATED IN FAIRMONT TO LOOK AT THE SUSPECT'S VEHICLE THAT WAS IMPOUNDED. I TOOK PHOTOS OF THE VEHICLE AND WITHOUT TOUCHING THE VEHICLE LOOKED INSIDE.

AT 14:30PM, WE WENT TO LOT 23 LAIKEN ESTATES AND TALKED WITH KIMBERLY LOWERY (MOTHER OF GIRLFRIEND TO THE VICTIM). SHE STATED THAT SHE WOULDN'T LET THE SUSPECT USE THE RESTROOM IN HER HOUSE.

HE WENT AROUND THE BACK OF THE HOUSE AND STAYED GONE ABOUT 10 MINUTES OR MORE. SHE GAVE CONSENT FOR INVESTIGATORS TO SEARCH AROUND THE HOUSE.

MS. LOWERY STATED THAT THE SUSPECT STATED TO HER THAT HE HAD A RUN IN WITH SOULSKI AND SOME GUYS. SHE STATED THAT HE DIDN'T SAY WHERE THIS HAPPENED OR WHAT HAPPENED.

MADE CONTACT WITH OFFICER TRAVIS RANSOM AND SGT. JOE CAIN TO BRING THEIR K-9'S TO DO AN ARTICIAL SEARCH AROUND THE HOUSE AND FENCH LINE BEHIND THE HOME.

AT 16:30PM, CHECKED P2P ON SOULSKI STEPHENS AND FOUND OUT THAT HE ALSO HAS A BROTHER NAME ALEX STEPHENS WHO IS ABOUT THE SAME BUILD OF THE VICTIM.

ALSO THE TAG NUMBER THAT WAS ON THE VEHICLE CAME BACK TO A 1994 FORD TARUS BELONGING TO

**HEATHER RAE GONN
 1082 TOWER DR.
 HOPE MILLS, NC 28358**

SUSPECT GIRLFRIEND WHO OWNS THE VEHICLE THAT HE WAS DRIVING.

**VANESSA LOTT (GIRLFRIEND)
 623 RIVERFRONT LANE
 FAYETTEVILLE, NC 28358
 910-624-9860**

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ON MONDAY JUNE 17TH 2013 AT 15:30PM, I STARTED WORKING ON LINEUPS TO SHOW THE WITNESSES WHEN THEY CAME IN LATER TODAY.

AT 17:30PM, JOHN ALLEN THE COUSIN AND WITNESS OF THE CRIME CAME TO HEADQUARTERS TO BE INTERVIEWED. HE WAS INTERVIEWED BY SBI AGENT BILL BRADY.

AT 19:00PM, CRYSTAL ALLEN WHO WAS ALSO AT THE SCENE CAME IN FOR AN INTERVIEW AND TO BE SHOWN A LINEUP OF THE POSSIBLE SUSECT. THE LINEUP WAS SHOWN BY DETECTIVE DERRICK EVANS. SHE WAS INTERVIEWED BY SBI AGENT ANNA CRUZ.

AT 19:25PM, CHRIS MCGIRT CAME IN FOR AN INTERVIEW AND SHOWN A LINEUP OF THE POSSIBLE SUSECT. THE LINEUP WAS SHOWN BY DETECTIVE DERRICK EVANS. HE WAS THEN INTERVIEWED BY SBI AGENT BILL BRADY.

ON TUESDAY JUNE 18TH 2013 AT 09:20AM, I MET WITH SBI AGENTS BRADY & CRUZ AT HEADQUARTERS.

AT 10:30AM, SBI AGENT BRADY AND MYSELF WENT OUT TO THE SHERIFF OFFICE TO TALK WITH CLARENCE ROBERTS WHO WAS IN JAIL FOR DUI. HE CLAIMED TO BE SO WASTED THAT HE COULDN'T REMEMBER MUCH OF ANYTHING THAT HAPPENED THAT NIGHT. HE GAVE US CONSENT TO SEARCH HIS VEHICLE.

AT 10:35AM, I RECIEVED INFORMATION THAT SOULSKI DID NOT HAVE ANY BEEF WITH WOO (CLARENCE ROBERTS)

AT 13:50PM, WENT BACK TO THOMAS GARAGE LOCATED IN FAIRMONT, NC WITH AGENT BRADY AND DETECTIVE HARRELL GRIMES SCENE INVESTIGATOR AND PROCESSED THE SUSPECT'S VEHICLE.

ON WEDNESDAY JUNE 19TH 2013 AT 10:00AM, WE TOOK A TEAM OF INVESTIGATORS AND CHECKED THE WOODLINE AND A SMALL CREEK THAT RAN BEHIND MS. LOWERY'S HOME. WHICH IS LOCATED AT 3135 ELIZABETHTOWN RD. LOT 23 LAIKEN ESTATES. THERE IS A HOLE CUT IN THE FENCH BEHIND NEAR THIS HOME.

WAS NOT ABLE TO LOGATE A WEAPON OR ANY OTHER ITEM THAT COULD BE TIED TO THE SUSPECT.

AT 14:00PM, AGENT BRADY AND MYSELF WENT AND TALKED WITH JENNIFER GURLEY AT LOT 149 TURNER PARK WHO IS COUSIN'S WITH THE SUSPECT. SHE STATED THAT HE DID COME TO HER HOME TO PICK HER UP BUT SHE COULDN'T GO BECAUSE OF THE SURGERY ON HER STOMACH.

AT 14:35PM, WE THEN WENT TO 232 BOOKER ST. AND TALKED WITH GARY INGRAMS'S (HEAD) MOTHER. THE SUSPECT STATED THAT HE WAS AT HIS HOUSE MOST OF THE NIGHT. GARY WAS AT WORK AND HIS MOTHER STATED THAT HE WILL GIVE HIM THE MESSAGE TO CALL ME TONIGHT WHEN HE GET IN.

AT 15:40PM, WE WENT OUT TO THE SHERIFF OFFICE TO GET COPIES OF THE PHONE CONVERSATIONS BY THE SUSPECT WHILE HE WAS IN JAIL.

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AT 19:57PM, I SPOKE WITH GARY INGRAM BY PHONE ABOUT THIS CASE. HE STATES THAT HE GOT HOME ABOUT 18:50PM ON FRIDAY AND WHEN HE GOT HOME WOO (AKA CLARENCE ROBERTS) WAS ALREADY AT HIS HOUSE DRANKING WITH HIS COUSIN E WHO IS ERIC MCQUEEN.

HE STATED THAT WOO LEFT WITH E AND WENT TO 6TH STREET AND DID SOME DRINKING OVER THERE. HE STATED THAT HE DIDN'T RIDE WITH THEM , HE RODE HIS SCOOTER TO 6TH STREET TO HOUSE NEAR THE TRACKS.

HE STATES THAT WOO WAS STILL AROUND THEM WHEN THEY HEARD ABOUT THE SHOOTING. HE STATED HE DON'T KNOW WHAT TIME IT WAS BUT THEN HE SAID IT HAD TO BE AFTER 22:30 WHEN HE LEFT.

GARY STATED THAT HE WOULD HAVE ERIC MCQUEEN (E) TO GIVE ME A CALL ASAP.

AT 20:43PM, I SPOKE WITH ERIC MAQUEEN (AKA E) 910-785-7142. HE STATED THAT HE GOT OFF WORK AND WENT TO HIS COUSIN (HEADS) HOUSE ON BOOKER ST. HE STATES THAT THEY WERE DRINKING IN THE YARD. HE STATES HE IS NOT SURE ON THE EXACT TIME BUT IT WAS AROUND 15:30PM TO 20:30PM.

THEY WENT TO 6TH STREET AND THE RAILROAD TRACKS. THEY WERE DRINKING OVER THEIR AND THERE WA A LOT OF PEOPLE THERE. HE STATED WOO WAS FUCKED UP. HE SAID HE WENT AND GOT IN HIS CAR AND BECAUSE HE WAS SO DRUNK HE THOUGHT HE WAS JUST GOING TO LLISTEN TO SOME MUSIC AND SLEEP IT OFF. BUT HE DROVE OFF. IT WAS AROUND 22:00 TO 22:30PM.

ON THURSDAY JUNE 20TH 2013 AT 08:50AM, DETECTIVE HINSON AND MYSELF WENT TO HOUSE ON THE CORNER OF PEACHTREE AND 11TH STREET TO FOLLOW UP WITH ONE OF THE WITNESSES THAT GAVE INFORMATION ABOUT A COUPLE WHO MAY HAVE GOT A BETTER LOOK AT THE SUSPECT RIGHT BEFORE THE SHOOTING.

AT 09:00AM, WE WENT TO WITNESS HOUSE AND THERE WAS A MALE SUBJECT SITTING ON THE PORCH. HE STATED THAT THE WITNESS HAD LEFT PRIOR TO OUR ARRIVED. HE STATED THAT SHE SHOULD BE BACK IN 15 TO 20 MINUTES. I LEFT MY CARD WITH HIM AND ASKED HIM TO HAVE HER CALL ME.

AT 09:20AM, WE WENT BACK TO THE WITNESS HOME, THE MALE SUBJECT WAS GONE, THERE WAS ANOTHER FEMALE PARKED IN THE YARD WAITING ON THE WITNESS TO COME BACK HOME. I GAVE HER MY CARD AND ASKED HER TO HAVE HER CALL ME.

AT 09:45AM, WE WENT TO LOT 13 HEDGPETH MHP ON SNAKE RD. AND SPOKE WITH RICKY STEPHENS ABOUT THE SHOOTING. HE WAS AT THE SCENE WHEN THE VICTIM WAS SHOT. HE STATED THAT HE DIDN'T SEE THE GUYS FACE. HE SAYS THAT THE SUSPECT CAR WAS A WHITE DODGE STRATUS.

AT 10:40AM, I WAS CONTACTED BY THE WITNESS ON 9TH STREET. SHE STATED THAT SHE WAS HOME AND THAT WE COULD COME BACK BY NOW. GOT TO HER HOME AND SHE WAS OUTSIDE WAITING ON US TO ARRIVE. I ASKED HER IF SHE COULD COME TO HEADQUARTERS AND GIVE A STATEMENT ABOUT WHAT SHE WITNESSED AND TO SEE IF SHE COULD PICK THE SUSPECT OUT OF A LINEUP WHICH SHE AGREED TO DO.

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THE WITNESS GAVE A FULL STATEMENT TO WHAT SHE WITNESSED AND THEN SHE ALSO PICKED THE SUSPECT OUT OF A PHOTO LINEUP.

BASED ON THE STATMENTS AND EVIDENCE GATHERED IN THIS CASE. WARRANTS WERE TAKEN OUT ON THE SUSPECT CLARENCE ROBERTS.

AT 14:15PM, WENT OUT TO THE SHERIFF OFFICE WITH AGENT BRADY TO TALK WITH CLARENCE ROBERTS ABOUT THE CASE. I ADVISED HIM OF HIS RIGHTS. IT HAD BEEN A COUPLE OF DAYS SINCE WE LAST TALKED ABOUT THIS CASE. I THEN ADVISED HIM BASED ON HE EVIDENCE THAT WE HAD THAT HE WAS GOING TO CHARGED.

AT 15:16PM, WE TOOK THE DEFENDANT TO THE FINGERPRINT ROOM TO PROCESS HIM AND OUT OF THE BLUE WHEN I ASKED HIM TO SIT DOWN OUTSIDE THE ROOM THE DEFENDANT STATED TELL THE FAMILY IM SORRY. I LOOKED BACK AT AGENT BRADY TO MAKE SURE I HEARD WHAT I HEARD HIM SAY.

WHILE WE WERE IN THE MAGISTRATES OFFICE THE DEFENDANT ASKED ME HOW OLD THE VICTIM WAS AND I GAVE HIM HIS AGE AND THAT IS WHEN HE BROKE DOWN WHILE SITTING IN THE CHAIR. HE SAID SOMETHING THAT I COULDN'T MAKE OUT.

THE DEFENDANT WAS PLACE IN JAIL WITHOUT BOND ON 1ST DEGREE MURDER AND 25,000.00 EACH ON THREE COUNTS OF ATTEMPTED 1ST DEGREE MURDER.

WHILE I WAS TAKING HIM BACK TO THE JAIL HE STATED IN A LOW VOICE THAT THIS HAPPENED ALL BECAUSE I WAS DRINKING. I KNEW I SHOULD HAVE WENT HOME. HE THEN LOOKED AT ME AND SAID I WILL CALL YOU NEXT WEEK MR. COLLINS. HE SAID IT AGAIN AS I STARTED TO LEAVE OUT. I ASKED HIM IF HE WANTED TO GO AHEAD AND TALK NOW AND HE SAID NO.

AT 17:40PM, I DROVE OUT TO THE VICTIM'S HOME AND TALKED WITH HIS PARENTS ABOUT THIS CASE.

ON FRIDAY JUNE 21ST 2013 AT 15:00PM, I SPOKE WITH VANESSA LOTT THE DEFENDENT'S GIRLFRIEND WHO HE LIVES WITH IN FAYETTEVILLE. SHE HAS ALSO TAKEN WARRANTS OUT ON HIM FOR DOMESTIC ASSAULT. THOSE WARRANTS ARE PENDING FOR CUMBERLAND CO.

MS. LOTT STATES THAT SHE HAS NEVER KNOWN HER BOYFRIEND TO CARRY OR EVEN OWN A GUN OR A KNIFE. SHE STATED THAT THE LAST TIME SHE SHOW HIM WAS THAT FRIDAY MORNING AROUND 04:30AM WHEN HE LEFT TO BRING HIS SON HOME AND THEN GO TO WORK.

SHE STATED THAT WHEN HE GETS TO DRINKING THAT IS WHEN HE ACTS OUT OR ACTS A FOOL.

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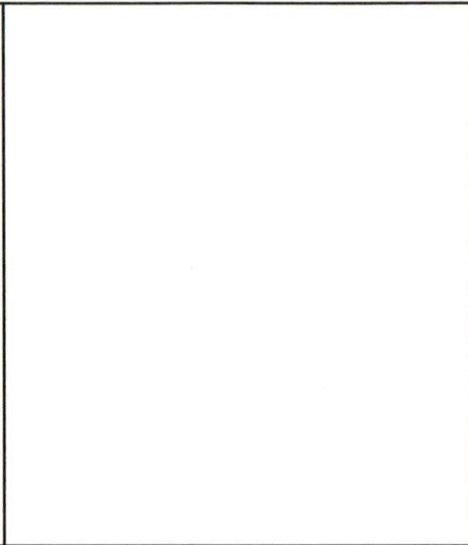
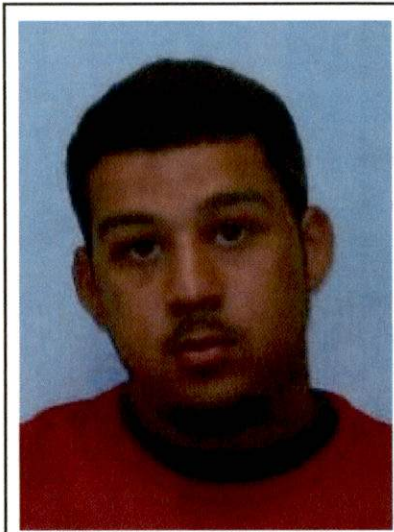


EXHIBIT
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SBI CASE: 2013-01165 (1078)
ACTIVITY: June 17, 2013
VICTIM(S): Joshua Floyd Council
COPIES: (1) Case Records Management Section
(2) SA W. T. Brady
(3) SAC J. P. Sutton
(4) District Attorney L. J. Britt III

John William Allen, B/M/DOB: 04/29/1982 (Witness)

Residence: 93 Beth Drive, Lumberton, North Carolina
28358, Telephone: 910-740-9143

Business: Shoney's Restaurant, 3400 North Elm Avenue,
Lumberton, North Carolina 28358,
Telephone: 910-739-0274

John William Allen was interviewed on June 17, 2013, at approximately 5:37 p.m. at the Lumberton Police Department (LPD). The interview was conducted by Special Agent (SA) W. T. Brady with the North Carolina State Bureau of Investigation (NCSBI).

Allen was Joshua Council's second cousin. Allen was interviewed because he was present during the shooting at the park on Peachtree Street in Lumberton, North Carolina.

Allen said on June 14, 2013, he, Michael Burgess, and several other people were located at Magnolia Square Apartments in Lumberton, North Carolina. They decided to walk to the basketball court on Peachtree Street located near the railroad tracks.

Allen said Council and Council's girlfriend Shebre (LNU) had been arguing over ice cream. Shebre and Council had a child together. Council pulled up at the apartments driving a burgundy Chevrolet Blazer at approximately 6:30 p.m. Council drove from their location to the liquor store. Council had an unknown male with him when he drove to the store.

Allen said he was walking toward the basketball court when he saw Council on 9th Street. Allen told Council to meet them at the basketball court. Allen said as he approached



the basketball court, Council was already there. Council's Blazer was parked at an angle next to some wooden boards at the basketball court. The wooden boards were used to sit on.

Allen said several people were located at the basketball court. Allen estimated that approximately 12 people were at the basketball court. Allen said he remembered one guy (UN) who said it was his birthday. The male who had the birthday left to see a female and then returned to the basketball court.

Allen added that Council did not drink alcohol or smoke.

Allen said several people at the court wanted soda drinks and cigarettes. Council and Burgess drove to a store close to the basketball court; however, Allen did not know which store they went to. Allen said Council and Burgess went to the store at approximately 9-9:20 p.m.

Allen said his sister Crystal Allen called Allen's cell phone. Crystal wanted to meet Allen so she could get some money. Crystal drove to the basketball court in an older white Chevrolet car. Allen described the car as "ugly." Allen said the car door could not open from the outside. A few minutes after Crystal arrived, Council pulled back up to the basketball court.

Allen said he walked over to where some guys were participating in a friendly boxing match. Allen said the court lights were dimmed but the street lights were on. Crystal got out of her car and gave her daughter Shandaye (LNU) to Council. Council walked to Allen's location so Allen could hold the child.

Allen said he talked and played with the child. Allen gave the child back to Council as they walked back to the basketball court. Allen said he and Council were located in between Council and Crystal's vehicles. Allen said there were people in front and behind both cars.

Allen said at approximately 9:25-9:30 p.m., he heard a vehicle spinning tires loud on Peachtree Street near 11th Street. Allen said Peachtree Street was a dirt road. The vehicle was a white Ford Taurus. The driver was a black male with brown skin and bald head.

Allen said the white Ford Taurus approached fast, then slowed down. The driver looked toward the crowd and drove forward quickly, spinning tires. The Taurus traveled approximately 8' and stopped near the concrete.

Allen said everyone at the basketball court stopped and wondered what was going on. The Ford Taurus then traveled backwards spinning tires. The Taurus passed by, slammed on the brakes, then pulled forward onto the grass near Council's vehicle.

Allen said he and Council were standing near each other at Council's vehicle. Allen said the driver got out of the Taurus. The driver was the only person in the Taurus. The driver was in his 30s or 40s. Allen said the driver sounded like he was "drunk." The driver was approximately 5'08" - 5'09", not heavy-set but muscular-build.

Allen said before the driver got out of the vehicle, Allen heard him say, "Ya'll motherfuckers try to kill me." Allen heard this as he drove by. The windows were down in the vehicle.

Allen said he heard five gunshots. After the first gunshot, Allen took off running. Allen said Council left running as well. They both ran toward an abandoned house. Allen jumped over a fence behind the abandoned house. Allen heard someone say, "I've been shot." Allen said at the time he did not know who made the statement.

Allen continued to run. Allen saw the white Ford Taurus leave at a high rate of speed spinning tires. The Taurus drove toward Elizabethtown Road. Allen spoke to a female known as "Peachy" after the incident. "Peachy" told Allen she saw the white car turn right at the stop sign on Highway 41, going toward Elizabethtown.

Allen said he walked back to the basketball court through the back yard at the abandoned house. Allen saw Burgess. Allen was looking for anyone who might have been shot. Allen and Burgess got into Council's vehicle; to look for Council.

Allen and Burgess located Council on the left side of the abandoned house lying face-down. Allen shook Council and called his name. Allen called 911. Allen said he turned

Council over on his back. Council's nose and mouth was "busted" and covered with dirt.

Allen said Crystal advised him that she talked to Council on the phone for a few seconds right after the shooting.

Allen said he was not sure but believed the shooter discharged the firearm from outside of the Ford Taurus.

Allen said he heard some rumors about who the shooter was but was not sure if the information was accurate. Allen heard the nickname "Brim" or "Bandana." Allen said both nicknames were the same person. However, Allen believed that person was incarcerated.

Allen also received information from an unknown person that Council was engaged in an argument with someone earlier that day. The unknown male alleged to have heard the person arguing with Council and called out Council's name during the argument.

Allen said he heard from an older female (UN) that a male in a white Ford Taurus was driving erratically at Rozier Apartments. The driver of the car at the apartments was spinning tires and screamed out the window, "I don't give a fuck whether I die or not." This occurred either on Wednesday or Thursday night.

Allen said he also heard a guy named Dexter Stevens was involved. However, Allen said Crystal knew Stevens. Crystal did not know the driver of the Ford Taurus; therefore, Allen did not put much faith in that information.

Allen said Council had approximately three to four girls he dated. Allen confirmed that phone number 910-674-6613 was Crystal's phone number. **(Agent's Note: That phone number was listed in Council's phone as contact name "Cry.")**

Allen prepared a hand-drawn sketch of his and Council's location when the shooting occurred; see Attachment #1078-04.

Allen did not have anything else to add or provide. SA Brady read back the interview notes to Allen. Allen

advised the notes were correct and accurate. The interview ended at approximately 6:37 p.m.

WTB:js

(Attachment #1078-04)

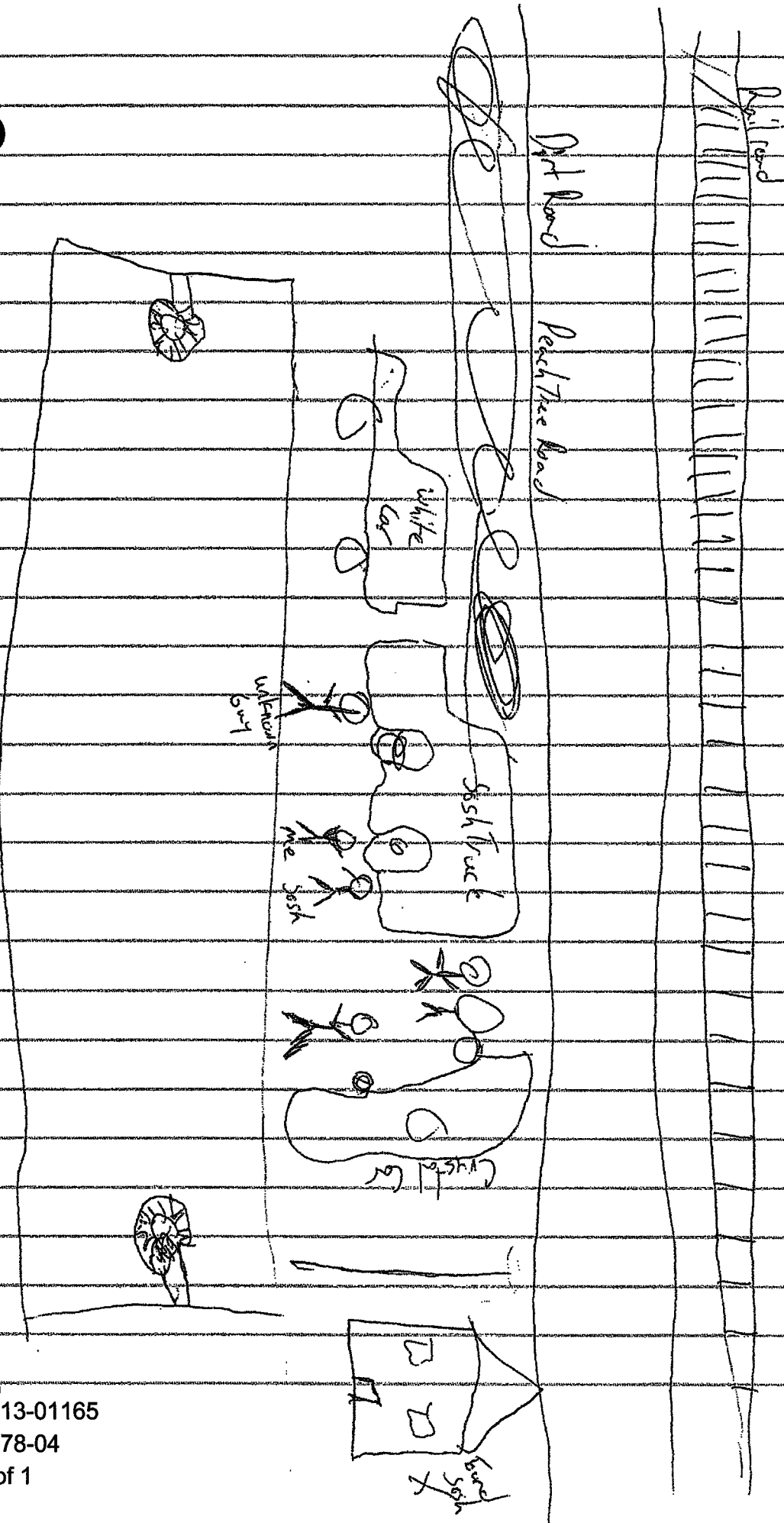




EXHIBIT
48



CONFIDENTIAL

This is an official file of the North Carolina State Bureau of Investigation. To make public or reveal the contents thereof to any unauthorized person is a violation of the General Statutes of North Carolina.

SBI CASE: 2013-01165 (1078)
ACTIVITY: June 17, 2013
VICTIM(S): Joshua Floyd Council
COPIES: (1) Case Records Management Section
(2) SA A. M. Cruz-Velez
(3) SAC J. P. Sutton
(4) SA W. T. Brady
(5) District Attorney L. J. Britt III

Crystal Darlene Allen, B/F/DOB: 10/09/1985 (Witness)

Residence: 93 Beth Drive, Lumberton, North Carolina 28358
Telephone: 910-674-6613

Business: Unemployed

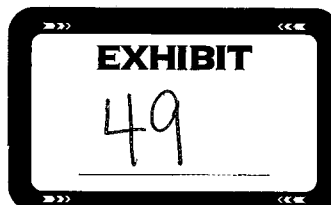
On Monday, June 17, 2013, at approximately 6:35 p.m., Special Agent (SA) A. M. Cruz-Velez of the North Carolina State Bureau of Investigation (NCSBI) conducted an interview of Crystal Darlene Allen. The interview took place at the Lumberton Police Department. No one else was present during the interview.

Allen was interviewed as a witness to an investigation involving the homicide of Joshua Floyd Council. Allen is Council's cousin and was present during the shooting. Allen is believed to have pertinent information to the case.

Allen provided the following statements to investigators:

Allen stated on Friday, June 14, 2013, around 9:00 p.m., she spoke with Council over the phone. Council asked Allen to meet him at the "Hut." According to Allen, the "Hut" was the name used to refer to the basketball court located on Peachtree. Allen stated she was meeting Council at the "Hut" to give him \$20.00. Allen said she was giving council \$20.00 for picking up her baby's father from work.

Allen stated around 9:07 p.m., she noticed she had a missed call from Council. Allen stated she figured Council was calling back to find out where she was. Allen recalled receiving a third call from Council around 9:17 p.m. Allen



000022
NCTIC-SBI

stated she answered the call and they began talking as she was pulling up to the "Hut."

Allen stated when she arrived, she got out of her car and spoke with Council. Allen asked Council "What ya doing over here?" According to Allen, Council was at the "Hut" with her brother, John Allen, and a few other guys she did not know. Allen could not recall any names. Allen stated Council told her he was just "chilling," meaning he was just hanging out with his friends. Allen stated she remembered Council grabbing her baby out of the car and walking towards the basketball court area. Allen stated she remembered seeing everyone at the court just talking to each other and playing basketball.

Allen stated she stayed near the court area for about 20 to 30 minutes, talking to Council and her brother John before she started walking back towards her car. According to Allen, she was parked a few feet from the front of the basketball court area.

Allen stated as she began walking back towards her vehicle, she noticed Council and John were also walking behind her with her baby. Allen then remembered Council giving her baby to John and then John turned around and gave her baby back to Allen. Allen stated she put her daughter in the car and just stood in front of her car talking and laughing with Council and John. During the conversation, Allen gave Council the \$20.00 for picking up her baby's father. Allen then recalled John walked away from the car and started walking back to the basketball court, when suddenly a white Ford Taurus, 2000 or older model, slowly drove up. Allen stated she did not notice anything unusual about the vehicle other than the way the driver was driving.

According to Allen, the vehicle slowly drove up as though he was "creeping," meaning he was looking for someone without being noticed. Allen stated the vehicle then stopped as though he had found what he was looking for. The driver of the vehicle then backed up and pulled up again and stopped in front of Allen's vehicle. According to Allen, the vehicle's passenger window was rolled down. Allen stated the driver then suddenly started yelling, "You going to kill me?, you going to kill me?" and then backed his vehicle beside a yellow house. Allen stated the driver then got out of the vehicle and began shooting.

Allen described the driver of the white Ford Taurus as a dark-skinned black male about 5'9" to 6' feet tall with a thin, muscular body type. Allen stated the male was more muscular than SA W. T. Brady. Allen did not recall the male having any facial hair but he appeared to be somewhere between 35 to 45 years old. Allen stated she had never seen the driver there before.

Allen recalled hearing about eight rounds, but she wasn't able to see the shooter clearly because she immediately ducked down, put her baby in the floorboard of the vehicle and jumped into the driver's seat when she heard the shots being fired. Allen did not recall seeing the gun.

Allen stated once the shots stopped, she looked up and noticed the shooter was standing beside another male described as a young black male with no shirt on, whose name is unknown. The black male was ducked down, attempting to get inside Allen's vehicle. According to Allen, the male held his hands up and told the shooter, "It wasn't me." The shooter then looked at the boy and crossed his hands and began walking away. Allen stated the shooter got back in his car and drove off in the same direction he came in.

Allen stated she then turned her car on and started making phone calls. Allen called Council around 10:26 p.m. and he picked up the phone and said, "I'll call you back, "I'll call you back," but Council never called her back. Allen stated the next phone call she got they told her Council got shot.

(Agent's Note: Allen was very emotional and began crying throughout the interview.)

Allen stated after the shooting, a girl named Bianca Greg (910-474-1944) told her that her baby's father, "Trell" (LNU), heard Council fussing with someone over the phone. According to "Trell," there was a black male arguing with Council earlier that day around the corner from the basketball court by 10th Street.

Allen stated on the day of the shooting, Council had been fussing with his baby's mother over the phone. Allen did not recall what they were fussing about.

Allen stated Linda "Bookeye" Sinclair told her she saw someone who fit the description of the shooter driving around her house in Rozier Homes the day after the shooting.

At the conclusion of the interview, SA W. T. Brady asked Allen if Dexter Stephens had done it. Allen stated "No."

Allen had no further information and the interview concluded at approximately 7:21 p.m. at the Lumberton Police Department.

AMC:vmg



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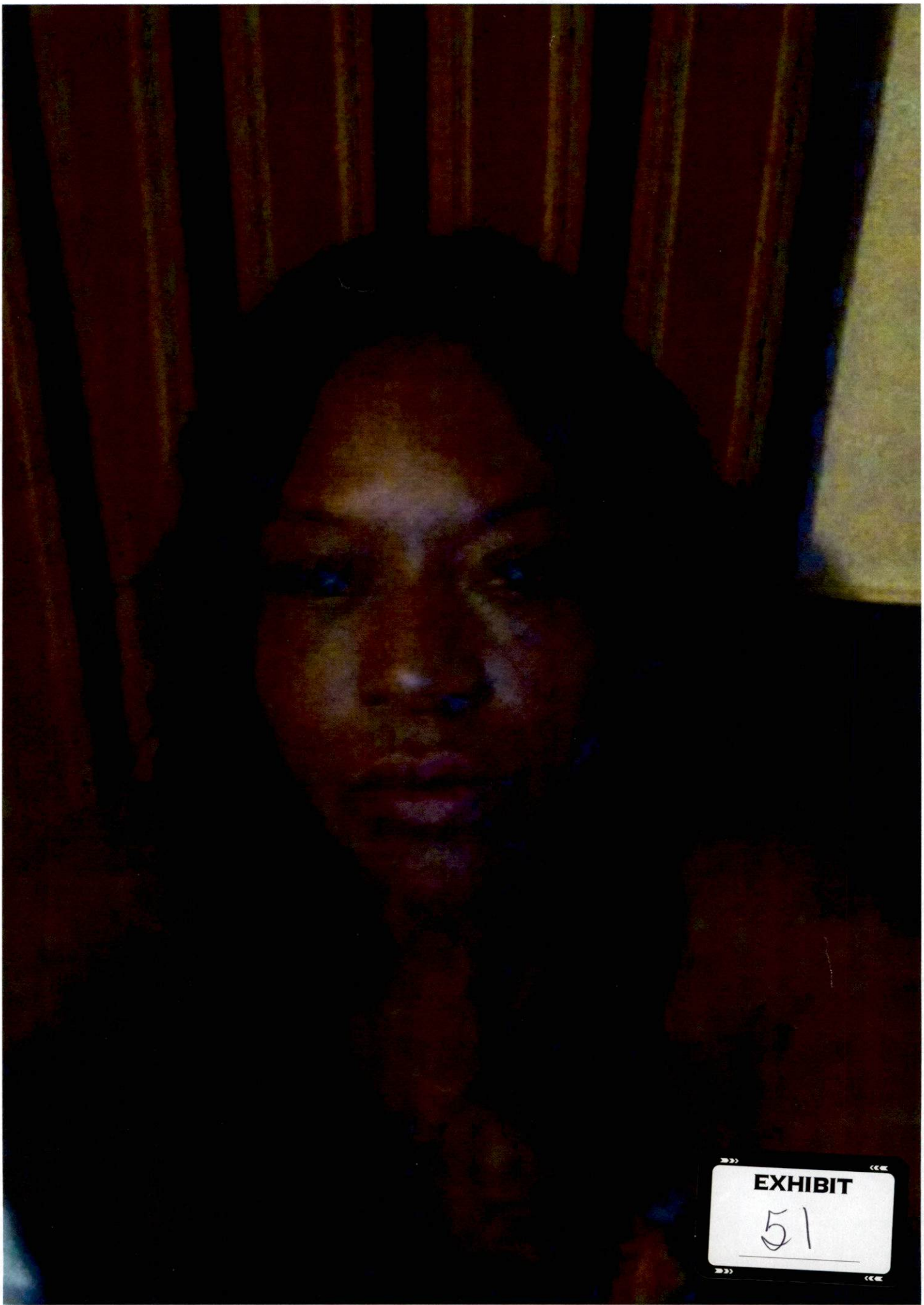


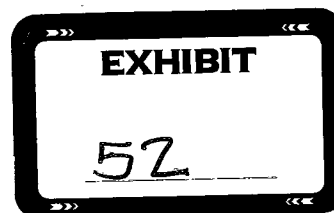
EXHIBIT
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LUMBERTON POLICE DEPARTMENT

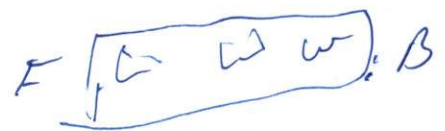
OCA Number 13-22696	ORI NC0780100	CRIME SCENE LOG	Date 06/14/2013	Day FRIDAY
Victim (Last Name) COUNCIL	(First) JOSHUA	(Middle) FLOYD	Incident DEATH INVESTIGATION	
Recording Officer's Name & ID JENNIFER WHITE/10245		Incident Location PEACHTREE ST BETWEEN 11TH ST & WREN ST		

NOTE: ALL VISITORS TO THIS CRIME SCENE ARE SUBJECT TO SUBPOENA!

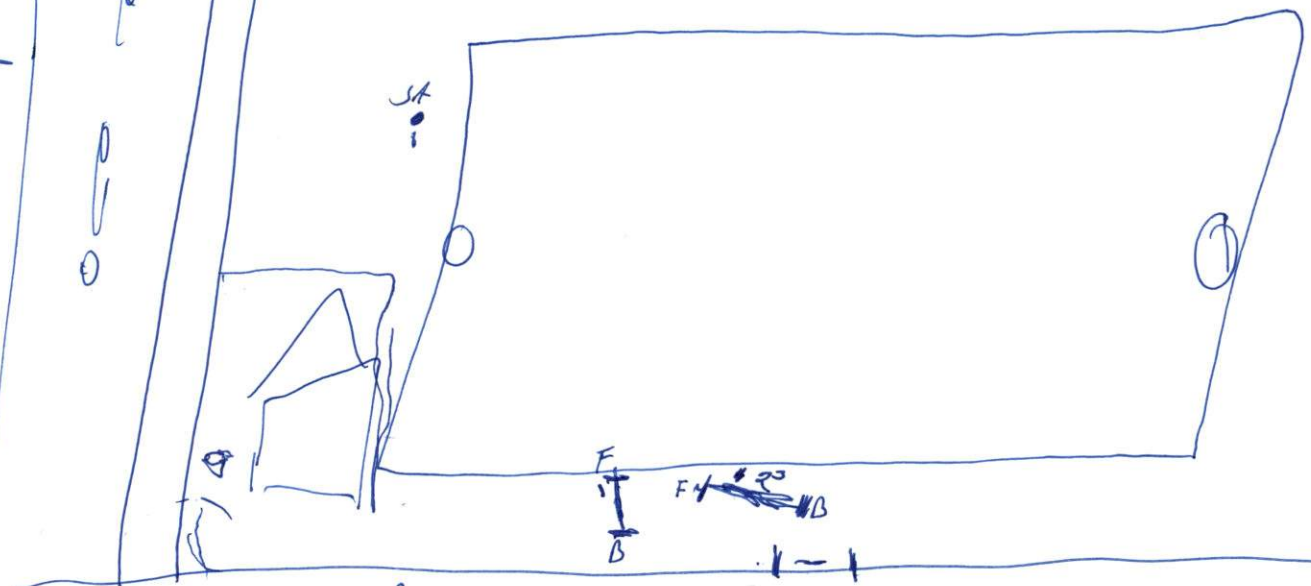
#	NAME	ARRIVE TIME	DEPART TIME	PHONE #	REASON FOR BEING ON SCENE
1	DAVID WILLIFORD	2150	2254	(910)671-3845	LPD - RESPONDING OFC
2	CHRIS SINGLETARY	2151	0045	✓	✓
3	JENNIFER WHITE	2152	0045	✓	✓
4	CHAD COVINGTON	2153	2254	✓	✓
5	TIMMY WILKINS	2154	0045	✓	LT/WATCH COMMANDER
6	JASMINE BRUNSON	2155	2157	(910)738-7588	NOSY BYSTANDER
7	FRANK DICKERSON	2155	2232	(910)671-3860	LUMBERTON FD ENGINEER
8	GARRETT ROBINSON	2155	2232	✓	✓
9	AUSTIN HUNT	2155	2232	✓	✓
10	WADDUS WILLIAMS	2155	2232	(910)734-7111	RC EMS SUPERVISOR MEDIC 2
11	HAL BYRD	2155	2232	(910)671-3250	RC EMS MEDIC 16
12	NATASHA RICE	2155	2232	✓	✓
13	RICO RIVIERA	2155	2232	✓	✓
14	AL COLLINS	2155	0045	(910)671-3845	LEAD DETECTIVE - LPD
15	WAYNE M. CLAYTON	2212	2214	(910)740-0725	RETRIEVING BICYCLE
16	JASMINE BRUNSON	2212	2214	(910)738-7588	WITH BRUNSON
17	EDDIE REID	2212	2214	(910)785-0547	WITH CLAYTON & BRUNSON
18	LEE HINSON	2224	0045	(910)671-3845	LPD - DETECTIVE
19	CHUCK LEAVITT	2233	0045	✓	✓
20	BLAKE HARRELL	2240	0045	✓	LPD/PROCESS CRIME SCENE
21	CRIME SCENE EXTENDED	2300	0045	TO ENCOMPASS 1204 PEACHTREE ST	
22	TERRY PARKER	2300	0045	(910)671-3845	CAPT DETECTIVES DIV
23	TOMMY BARNES	0000	0045	✓	LPD - MAJOR
24	ANA CRUZ-VEVEZ	0027	0045	(919)248-5663	SB 1
25	WILLIAM BRADY	0031	0045	(910)303-4812	SB 1



Playground



town



Peach tree



John Allen
March 16, 2023

Handout 4

Al Collins Deposition
Transcript with Digest
and Exhibits

April 18, 2023

Deposition of Lt. Al Collins by Mackenzie Myers

Page #	Description of Burgess's Testimony	Exhibit
3-16	<ul style="list-style-type: none">Commission Staff Attorney Mackenzie Myers (MCM) deposed Lumberton Police Department (LPD) Lt. Al Collins (Collins) on 4/18/2023. MCM explains Commission process, deposition process, and goes through preliminary matters.	
16-19	<ul style="list-style-type: none">MCM goes over Collins' demographic information and career history. He started with LPD in 2006. He was with the Robeson County Sheriff's Office for his first eight years. He was a detective at the time of this case. He was assigned to the South Side of Lumberton. This case was on the East Side but he was assigned because he was the investigator on night shift that evening, so the case was assigned to him.	
19-20	<ul style="list-style-type: none">MCM asks what the duties of the lead detective on a case. Collins describes it as being like a note-taker. You gather all of the information. You send out people with tasks and they bring back the information they found. You prioritize what steps to take next. Before this case, they had a homicide investigator that handled all homicides. LPD was transitioning to where everyone works homicides. MCM asks if it was a learning experience to investigate homicides at that time. Collins says yes. He was fairly new. He worked maybe one other homicide where he was the lead before this case.	
20	<ul style="list-style-type: none">MCM asks who Collins' supervisor was at this time. It was Captain Park. Harold Jackson was the Lieutenant. MCM asks if Collins supervised anyone at that time. Collins did not. MCM asks if it is fair to say that he would supervise the duties of the others investigating the case and Collins says yes.	
21-22	<ul style="list-style-type: none">MCM asks if Collins helped put together the file when the Commission requested it in 2020. Collins says no. Captain Parker handled that. He pulled his case file to refresh and be prepared. MCM says that it seems the Commission doesn't have the full file for this case so she will be asking some questions about that today. MCM gives the example of Collins preparing a felony report. The Commission has obtained that through the SBI file, not the LPD file. She asks Collins why that may be. Collins says that a copy of that report is made to be put in records so it should have been in there. MCM also says there are no crime scene photos in LPD's file but we do have some from the SBI file. Collins doesn't know why that is.	
22-23	<ul style="list-style-type: none">MCM asks if Collins has anything in his records outside of what he brought to the deposition today and Collins says no. MCM asks if he has notes in his home and Collins says no. MCM asks if he has any recordings and Collins says no. MCM asks if there's anything else not provided to the Commission as part of LPD's file. Collins says no.	

April 18, 2023

Deposition of Lt. Al Collins by Mackenzie Myers

Page #	Description of Burgess's Testimony	Exhibit
23-25	<ul style="list-style-type: none">MCM shows Collins Exhibit 56. This is in the SBI file but not the LPD file. MCM asks why it was not in the LPD file. Collins says he does not know. MCM asks when this certificate would be signed. Collins says right before you turn in the felony report. There's a binder and you check with the officers to make sure they have one on file. It became such a problem to get the form from officers so they had to come in at some point and fill out the form and note they completed it. MCM asks if this signifies that anything they had was turned over to the lead investigator. Collins says that they usually made copies and turned things into records. They're saying they turned in everything they have pertaining to that case into the records department. MCM asks if the records department maintains a complete record of all LPD investigative files. Collins says yes.	Ex. 56 – Collins Certificate of Delivery
26-27	<ul style="list-style-type: none">MCM shows Collins Exhibit 57. MCM asks if the notes belong to Collins. Collins says they do. MCM says those notes weren't provided in the LPD file given to the Commission and asks if he knows why. Collins says he was going to bring that up when he saw the document. He doesn't have a copy of them. Those should've been turned in. He pulled everything in the case file and they didn't have handwritten notes. MCM asks what the checkmarks indicate. Collins says that they're to ensure he's done a supplement and printed version to turn into records. He doesn't turn his handwritten notes in until the end.	Ex. 57 – Collins Case Management Report
27-28	<ul style="list-style-type: none">MCM asks him to walk through the process of doing a supplement at that time. Collins says the process hasn't changed. When he's in the field, he takes notes on a piece of paper. Then he does a supplement. He makes the check when he prints the supplement off and gives it to records.	
28-29	<ul style="list-style-type: none">MCM asks about the difference between the supplement or a regular report. Collins says a supplement is just a printed version of notes of what you've done that day to submit to the file. MCM asks if everyone uses notes and Collins says everyone has different forms of doing it. That's his way of doing it.	
29-30	<ul style="list-style-type: none">MCM asks about training and interview techniques. Collins says basic interviews and interrogations course by the Justice Academy. He thinks he took the initial class in 1999 and a refresher later on. MCM asks if he has any additional interview trainings and Collins says he thinks he just redid the original class.	
30-31	<ul style="list-style-type: none">MCM asks Collins about his approach for interviews. He says tries to build a connection and make them feel comfortable. He may start with basic questions like demographics. MCM asks if that's a different approach than he would take with a suspect and Collins says no. MCM asks if he had any kind of training	

April 18, 2023

Deposition of Lt. Al Collins by Mackenzie Myers

Page #	Description of Burgess's Testimony	Exhibit
	specific to interviewing juveniles. Collins remembers taking a juvenile class in PLI (Police Law Institute). It was a conference on how to talk to kids. It was a condensed two-week class. He says it was one of the hardest classes he's taken.	
31-32	<ul style="list-style-type: none">MCM asks if there is any difference in interviewing a juvenile versus an adult. Collins says other than having a parent or guardian there, he tries to make it as simple as possible and doesn't use big words. He tries to be up front and get them to understand why they're in that situation. He's not that hard on adults. He has also used the softer side. Everyone says he doesn't even know how to cuss. MCM says so he is not the bad cop and Collins says correct.	
32-33	<ul style="list-style-type: none">MCM asks about parents and guardians with juveniles. Collins says that 15 and under they must have one and they can waive at 16. There's a new law he's not familiar with. MCM asks if the under 15 rule applied at the time of this case and Collins says it did.	
33-34	<ul style="list-style-type: none">MCM says it sounded like there were a lot of reluctant witnesses in this case. Collins agrees. MCM asks him about his approach. Collins gives Gary Ingram as an example. They grew up together in the housing projects in South Lumberton. He knew most of the individuals involved in this case, including Jennifer Gurley. He used the approach of getting up with them through family. He wouldn't go himself because if they saw his car they would shut down. He would send messages through family and friends and that usually works.	
34-35	<ul style="list-style-type: none">MCM asks what kinds of things Collins would not write down in a report. Collins says some things may not hit him as important enough to write down. For example, Ingram always worked at night so he knew he would need to get up with him in the day. He would do it through his mother. He doesn't know if he put that he sent a message through Ingram's mother in the report. Or he wouldn't mention that he would talk to sister so-and-so at church to get a message. He doesn't put the go-betweens in his reports.	
35	<ul style="list-style-type: none">MCM clarifies that Collins said his report and documentation process is the same now as it was then. Collins agrees.	
35-36	<ul style="list-style-type: none">MCM asks when the SBI would be called in to assist in an investigation. Collins says they like to be contacted as soon as possible. LPD's practice was that as soon as they felt it was going to need more personnel than they had available they would call them in. It was usually at the onset of the investigation. The SBI didn't like to be called in the middle. MCM asks if it was Captain Parker who made the decision to call them in in this case and Collins says yes. MCM asks if a	

April 18, 2023

Deposition of Lt. Al Collins by Mackenzie Myers

Page #	Description of Burgess's Testimony	Exhibit
	Captain or Lieutenant made that decision and Collins says they would.	
36-38	<ul style="list-style-type: none">MCM asks how closely he would work with the SBI. Collins says Brady was good to work with. He does have an issue with the SBI because they couldn't share the files or what they discussed. If he remembers something different from an interview than the agent did, he's had a problem with making sure they heard the right thing. He remembers a specific issue where he doesn't know if the agent heard what he heard. MCM asks if the agent wasn't responsive, and Collins says they said, "I'll get back with you", and Collins told them he wanted to get a copy of the report to make sure its documented. That is when LPD stopped letting the SBI solely do interviews. He stressed to his investigators that you take your own notes and document everything because they won't have access to the SBI files. Before that, you decided who took notes and if the agent took the notes, you wouldn't have any record of what was going on. That came up in this case.	
38-40	<ul style="list-style-type: none">MCM notes that the SBI file has LPD documents in it. Collins says the SBI will not give you a copy of any of their information. Before the trial, he asked to review interviews the SBI had done and was told he couldn't. And he was the lead investigator. MCM asked how he knew what a witness would say. Collins says he had to refer to the agent. The mindset has always bothered him. Collins mentions getting together with an agent to be told what was said. MCM asks if the only time he would know is if they all got together and had a meeting and the SBI provided the information. Collins said yes and that that didn't happen often.	
40-41	<ul style="list-style-type: none">MCM asks a hypothetical question. If the SBI was to interview someone with critical information and did not provide that to Collins, what would happen. Collins says they would give you the gist, but you would never get their notes or transcripts. He doesn't know what happened to the audio. MCM asks about getting an arrest warrant based on that information and Collins says the SBI would have to do their side of it and swear to the information.	
41	<ul style="list-style-type: none">MCM asks about Agent Brady. Collins says he was knowledgeable and had a lot of experience. He didn't have a problem telling you what he felt or what was said to him. But you never got the audio or transcripts.	
42	<ul style="list-style-type: none">MCM asks if they could get the information if the DA wanted to give it to them. Collins says you could take a look at it the day or two before the trial.	

April 18, 2023

Deposition of Lt. Al Collins by Mackenzie Myers

Page #	Description of Burgess's Testimony	Exhibit
42	<ul style="list-style-type: none">MCM asks about Agent Cruz being willing to share information. She was fairly new and excited to be part of the process. She was good to work with and trying to learn.	
43	<ul style="list-style-type: none">MCM asks if Brady took the lead for the SBI and Collins said yes. He was the senior investigator. MCM asks if he felt Brady was transparent. Collins said he does but not as transparent as he felt Brady should've been. If you asked him if he heard the same thing you heard, he would tell you, but when it was time to understand what they heard he wouldn't elaborate. MCM asks what would have made Collins feel like they were more transparent and Collins says sitting down before you put the felony report together and lay it all out. They didn't do that.	
44	<ul style="list-style-type: none">MCM asks if Collins remembers what he was doing before he was dispatched to Hayswood Hut (the Hut). He had just left the office and was going to get something to eat. He got there when the officers were doing CPR.	
44	<ul style="list-style-type: none">MCM asks if he was familiar with the area. Collins says yes. MCM asks about the reputation. Collins says it was known to be an area where drug dealers hung out. People would play basketball after sundown and officers would have to make people leave. Collins says that was a typical night where they were playing basketball late and the sun went down.	
45-46	<ul style="list-style-type: none">MCM asks how long between a call going to 911 and hearing about it over the radio. Collins says 2-3 minutes. It depends on the dispatcher and the information coming in. Some are better about giving information as they go and some wait until they finish talking with the caller. MCM asks how they put information out. Collins says basically a subject shot at this location and the suspect not on scene. Or a description of the vehicle or anything to help on route. MCM asks if they put that information into a computer system. Collins says they key it in and put it out. Some try to get them to the scene first and key in the information later.	
46-47	<ul style="list-style-type: none">MCM says she is asking because Ronnie Roberson called around 9:34pm about arguing in the park, then called back a few minutes later about a shooting. He called at 9:42pm and said that officers still weren't there. Collins says the initial call was for a disturbance or altercation and that can change the response of officers to the scene. What can vary is if the beat officer or backup officer is on a call. That can change the dynamics. Collins thinks the second call was shots fired and that changes the response. He thinks he got there within 45-50 seconds of the "subject shot" coming out on CAD.	
47	<ul style="list-style-type: none">MCM says two different dispatchers were answering calls that night. One of them was Kristie Holmes. MCM asks if Collins is	

April 18, 2023

Deposition of Lt. Al Collins by Mackenzie Myers

Page #	Description of Burgess's Testimony	Exhibit
	familiar. Collins says he is not. He doesn't know any of the dispatchers.	
48	<ul style="list-style-type: none">MCM says the calls for service were not part of LPD's file. Collins says they weren't back then. They now have the capability to see the calls and print them for the file. MCM asks why the SBI would have it and Collins says they can request the call sheet. MCM asks if it wouldn't be a part of the LPD file unless they requested it and Collins says yes.	
49-51	<ul style="list-style-type: none">MCM shows Collins Exhibit 58. MCM asks if he recognizes page 23 of the exhibit as his report. The report says he responded at 9:49pm. MCM asks if that's when he got the call on the radio. Collins says no, that's the time he responded and said he was on route. MCM clarifies he would have received the call before that and Collins agrees. MCM asks about the time of 9:54pm and Collins says that's the time stamp keyed in when they respond they're on route. When Collins saw that time, he said he knew he was there within a minute of the time it called. MCM asks if all officers get the call at the same time and Collins says yes.	Ex. 58 – LPD file.
52	<ul style="list-style-type: none">MCM asks Collins what he remembers when he first got on the scene. Collins knew the area and layout. He grew up playing ball there. He saw an officer doing CPR. He put his headlights toward the house where the Victim was laying. He could hear sirens. He noticed people coming out of the woodline/bushes and coming back towards the scene. The house where the Victim was was vacant. The location of the Victim was surprising. He expected him to be at the basketball court or the parking lot next to the court.	
52-53	<ul style="list-style-type: none">MCM asks if it was strange because the house was vacant and Collins says it was the fence. There was a fence on the side of the house and then the basketball court. To get around the fence, the Victim didn't just run straight to the side and collapse. It looked strange and he couldn't figure out how he got there.	
53	<ul style="list-style-type: none">MCM asks if that means he ran around the front of the house or jumped the fence. Collins says he may have. It looked strange. MCM says it wasn't a direct route and Collins agreed. Because of where the suspect was and traveled, Collins would have been running away from gunfire. It seemed odd that he was at the front right corner of the house.	
54-55	<ul style="list-style-type: none">MCM asks about the people coming out of the woodline. Collins says there's a field behind the court. The court runs parallel the long way to the road. There's a field behind the parking lot. People were coming back. Collins was trying to provide security for the officers performing CPR. MCM asks if he remembers anything specific. Collins says they were male	

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	and female. Once they saw the police were there, some left in their cars. The police were focused on helping the Victim and people were leaving. MCM asks if he remembers their ages and Collins says 20s or late teens. MCM asks if he had the impression they had been there before the shooting and Collins says he felt that way. MCM asked if he recognized anyone and Collins said not right off. MCM asks about later on. Collins says not until he talked to John Allen. He recognized him from being around.	
55	<ul style="list-style-type: none">Collins didn't recognize the Victim right off. He found out after that his (Collins') half-brother is dating the Victim's sister.	
55-56	<ul style="list-style-type: none">MCM asks where the cars were parked. Collins says parallel to the basketball court. A few were parked at an angle. MCM asks how many vehicles and Collins says he knew of at least two leaving. MCM asks if he remembers what color or types of vehicles and Collins doesn't.	
56-57	<ul style="list-style-type: none">MCM asks about what people were saying. Collins says that John Allen (John) was cussing and emotional. The Victim's Blazer was still there with people standing around. They were trying to get John to calm down to talk to them. He knew John would be one of his main witnesses.	
57	<ul style="list-style-type: none">MCM asks if anything else at the initial scene stood out to him. Collins says not really.	
57-58	<ul style="list-style-type: none">MCM asks about Collins speaking to John that night. John was emotional and upset but still had an attitude of not talking to the police. John knew Collins a bit. You could tell John didn't want to talk to Collins. Trying to get information was hard and John wasn't forthright. He was trying to balance telling Collins things and being a snitch. He did give a description of the car and suspect.	
58	<ul style="list-style-type: none">MCM asks if Collins thought John knew more than he was telling. Collins did think that initially. He didn't tell Collins anything else.	
58-59	<ul style="list-style-type: none">MCM asks if other people were watching John speak to him. Collins says he pulled him off to the side next to the Blazer. People could have been watching. They weren't exactly by themselves. He thought the vehicle separating might have been enough cover.	
59	<ul style="list-style-type: none">MCM asks where the Blazer was. It was in line with the basketball court. It was about 50-60 feet from the Victim.	
59	<ul style="list-style-type: none">MCM asks if Collins remembers Micheal Burgess (Burgess) being around while he talked to John. Collins knows someone else was there but doesn't remember their name. He doesn't know if they were close.	

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59-60	<ul style="list-style-type: none">MCM asks if Collins knew John to wear glasses. Collins doesn't think he's ever seen John wear glasses. MCM asks if John mentioned not wearing his glasses that night and Collins doesn't remember that. MCM asks if Collins would have documented that. Collins said he would have. MCM asks if, in Collins' experience, he thinks that someone would've told him if they couldn't see a suspect because they weren't wearing their glasses. Collins thinks they would have.	
60-61	<ul style="list-style-type: none">MCM asks if Collins spoke to any other witness at the scene. Collins thinks he went to the hospital and doesn't know if he talked to anyone else. MCM says there isn't anything in his report. MCM asks if anything else about the scene stands out to him. Collins says no.	
61	<ul style="list-style-type: none">MCM asks about the hospital. Collins says Captain Morton was at the hospital. Morton said the family was there and briefed him about what was going on.	
62	<ul style="list-style-type: none">MCM asks if anything stands out about speaking to the Victim's family. Collins recognized the Victim's dad. The Victim's dad wanted to know what was going on with his son. He gave the dad his card and went in.	
62-63	<ul style="list-style-type: none">MCM asks if John was at the hospital. Collins can't recall. Some people from the family were there but he didn't interact with them. MCM asks if he recognized anyone from the scene at the hospital and Collins says he couldn't. He didn't interact and was focused on getting inside for an update. MCM asks if Burgess was there and Collins doesn't know if he saw him. He thinks John was in the quiet room when he notified the family. He can't recall if he saw Burgess.	
63-64	<ul style="list-style-type: none">MCM describes what John said about the suspect stopping, backing up, and going where they couldn't see him on pg. 23 of Exhibit 58 and asks Collins his initial thoughts. Collins says he thought it was strange. He was trying to gather information.	
64-65	<ul style="list-style-type: none">MCM asked if John gave a description of the suspect. Collins says he had a close-cut haircut and something about gold teeth. MCM says that is not in his report. Collins says he's thinking about someone else getting that information. Collins said John gave information about the headlights being egg shaped. MCM asks if Collins would have put in a description of the suspect if John gave one to him and Collins says that would have been in there. If there's no description, John didn't give him one. MCM asks if he would've asked for a description of the suspect. Collins says yes.	
65-66	<ul style="list-style-type: none">Pg. 9 of Exhibit 58 is the crime scene log. MCM asks if Collins ever looked at the log. Collins did not. He's seen it but didn't pay attention to it. MCM asks about Wayne Clayton retrieving a bicycle. During the canvass, it came up that the	

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	bicycle was shot. MCM asks if Collins recalls that. Collins does not. MCM asks if Collins would have followed up on that and Collins said yes. He would have spoken to him.	
67	<ul style="list-style-type: none">MCM asks if anything else stands out about the hospital to him. Collins says not right off.	
67-68	<ul style="list-style-type: none">MCM asks about John saying the car was a Ford Taurus and asks if officers were out looking for a vehicle. Collins thinks it was broadcasted over the radio.	
68	<ul style="list-style-type: none">MCM asks if Collins talked to Ronnie Roberson. Collins thinks other investigators talked to him. He doesn't think he ever directly spoke to him.	
68-70	<ul style="list-style-type: none">MCM shows Collins' Exhibit 59. MCM points to the third paragraph which says Collins gave a description of the car and suspect. Collins doesn't recall saying that.	Ex. 59 – Agent Brady's SBI Report
70	<ul style="list-style-type: none">MCM asks if Collins participated in the neighborhood canvass. Collins did not.	
70-71	<ul style="list-style-type: none">MCM goes back to pg. 24 of Exhibit 58. MCM directs him to where it says he spoke with John and John would call back that afternoon with more information. MCM asks if Collins spoke to John again that day. Collins says no. MCM asks if he knows why and Collins thinks he was waiting for John to reach back out. John would always initiate contact. MCM asks if he would've spoken to John and not have documented it. Collins says no. He doesn't think he spoke to John again. He tried reaching out to people to get John to call him. John never gave Collins his actual number because Collins would have documented it.	
71-72	<ul style="list-style-type: none">MCM asks about Daily Council, the Victim's father, saying he thought the Victim's girlfriend might have had something to do with this. Collins says it was more that the girlfriend might know something, so they reached out to her. MCM asks why Daily Council felt that way. Collins had the impression the relationship wasn't good. He was going to talk to him more about that but never did.	
72	<ul style="list-style-type: none">MCM asks if Collins was aware of domestic incidents between the Victim and Sha'Brea Lowery. Collins was. Collins said he heard there were some domestic type problems, but can't remember who said that.	
72	<ul style="list-style-type: none">MCM asks about the call from Christopher McGirt. MCM asks if the way the report is written means he didn't speak to McGirt directly. Collins says he didn't initially speak to him.	
73-75	<ul style="list-style-type: none">MCM goes to pg. 25 of Exhibit 58 which lists numbers from the Victim's cell phone. Collins says the reason it wasn't initially placed into evidence was because the crime scene tech gave it to him. He wanted to see what the last phone calls were and reach out to those people. He documented the numbers.	

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	MCM asked if he looked at text messages. Collins says it was a flip phone. He was curious to look at the numbers and see if it was a type of situation where someone set him up. MCM asks if there was a reason Collins thought the Victim may have been set up. Collins says that's something he always tries to do with Victim's cell phones. MCM clarifies that it is numbers the Victim calls and numbers that called him.	
75-77	<ul style="list-style-type: none">MCM asks about the numbers that don't have names by them. Collins says those are someone that wasn't in the call log or didn't have their number listed. MCM asks if there were any voicemails and Collins says he didn't check. MCM asked if Collins followed up on the numbers and Collins says he didn't. Everything else started developing and he didn't go back to them. MCM asks if anyone would have documented it if they had called those numbers and Collins says yes.	
77	<ul style="list-style-type: none">MCM asks when the cell phone was turned into an item of evidence. Collins can't recall when he gave it to someone. MCM asks why it would have been considered an item of evidence at that point but not initially. Collins says it was the Victim's property and to cover it being in their possession. It was on his person.	
77-78	<ul style="list-style-type: none">MCM goes back to pg. 25 of Exhibit 58 where Collins speaks to Sha'Brea Lowery. MCM asks if Collins asked Sha'Brea why Daily Council thought she knew something about the crime. Collins says he did not. Collins felt that Daily Council didn't know much about what his son was doing and had a girlfriend he had problems with.	
78-79	<ul style="list-style-type: none">MCM asks about Sha'Brea Lowery thinking the description matches Clarence Roberts (Roberts) and calling her mother, Kimberly Lowery. Collins says it happened in a unique way and describes Sha'Brea stopping midway to her car like a thought just hit her. She came back in and gave them the "lay of the land" about Roberts. Then they called Kimberly. Collins first thought was what a coincidence. Kimberly gave the impression she did not want to be involved. MCM asks if Collins was familiar with Kimberly before this and Collins says no.	
80	<ul style="list-style-type: none">MCM asks about his impression of Kimberly not wanting to give information. He says typically either they don't like the law or don't want to be a snitch or just didn't want to help. Kimberly did consent to a search around the property. MCM asks if it was like she had loyalty to Roberts and Collins says yes.	
80-82	<ul style="list-style-type: none">MCM asks if Collins remembers her bringing up Soulski Stephens. Collins knew him as Kenny Ray Floyd. He also went by the nickname Floss. MCM says she understands Kenny Ray	Ex. 9 – Photograph of Soulski Stephens

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	Floyd/Floss and Soulski Stephen to be separate people. MCM shows him Exhibit 9 . Collins says Kenny Ray/Floss is not the same person in Exhibit 9 . MCM asks if Kenny Ray is deceased and Collins says yes.	
82-83	<ul style="list-style-type: none">MCM clarifies that at the time, Collins thought Soulski was Floss. Collins agrees. MCM asks if he was surprised Roberts would have a run in with Kenny Ray and Collins said he didn't think anything of it. He knew Kenny Ray to be a drug dealer and nothing but trouble. He doesn't know why he related Soulski to Kenny Ray. MCM clarifies that he is sure that Kimberly said Soulski and not Kenny Ray. Collins agrees.	
83	<ul style="list-style-type: none">MCM asks if Collins was familiar with Roberts at all before this case. Collins was not. Collins doesn't know what Kimberly meant by saying Roberts was acting strange. She would not elaborate. MCM asks how the conversation ended. Collins said it was quick. She didn't elaborate.	
84	<ul style="list-style-type: none">MCM asks if anything about Sha'Brea stood out after the phone call with Kimberly. Collins says no. CLM asks if Sha'Brea talked about any issues she had with the Victim. Collins says she said they were fine.	
85-86	<ul style="list-style-type: none">MCM goes to pg. 26 of Exhibit 58 to discuss Brady and Collins going to interview Kimberly. Collins said Kimberly made it a point to say she did not let him in the house. She made him use the bathroom around the back of the house.	
86	<ul style="list-style-type: none">Collins did not recall her saying who else was in the house and did not recall speaking to Jarod Lowery. He thinks there was a young man there when he interviewed Kimberly.	
86-88	<ul style="list-style-type: none">MCM goes to Det. Hinson's report on pg. 53 of Exhibit 58. The report says Collins advised him to go to Laiken Estates. MCM asks why Collins advised Hinson to go there that day as well. Collins says he wouldn't have if he had already gone. He doesn't recall telling Hinson to go out. Speculating, Collins says he may have wanted Hinson to clarify something Kimberly told him. He doesn't recall doing that.	
88-90	<ul style="list-style-type: none">MCM points out a note on pg. 60 of Exhibit 58 that says "as soon as our son said the police were riding around, Roberts asked to use the bathroom." Collins says he remembers Kimberly tried to make a point that she didn't let Roberts in the house. He thinks she didn't want them to have a reason to come in her house.	
90-91	<ul style="list-style-type: none">MCM asks about the K9 searches around the house. Collins thought he may have disposed of the gun behind the house. There was a hole in the fence and a water area. They got guys and dug into the pond. They didn't find anything. MCM asks how deep the water was and Collins says 3-4 feet. MCM asks why they thought Roberts disposed of the gun. Collins says	

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	they thought he initially wanted to leave the gun with Kimberly, but when she didn't let him leave it in the house, he had to come up with something else. Kimberly said he went around back and stayed gone for a while.	
91-92	<ul style="list-style-type: none">MCM asks if Collins ever felt like Kimberly was lying. Collins says he felt like she didn't want to help and it wasn't that she wasn't truthful, but that she didn't want to give them anything.	
92	<ul style="list-style-type: none">MCM asks if Kimberly indicated any feelings about the Victim and Collins says no.	
92-93	<ul style="list-style-type: none">MCM asks if there was a fence around Kimberly's home. Collins says the fence went around the mobile home park. MCM clarifies that if you're driving down Elizabethtown Road, Laiken Estates is on your left if you're going out of town. Collins describes where Kimberly's mobile home was located.	
93-94	<ul style="list-style-type: none">MCM asks about the hole in the fence. Collins says it looked like someone went out there and cut from the bottom of the fence up three feet. It was a traditional six-foot metal fence.	
94	<ul style="list-style-type: none">MCM clarifies that two K9 units came out.	
94-97	<ul style="list-style-type: none">MCM shows Collins Exhibit 60. These are on pg. 243 of the SBI file. These are not Collins' notes. MCM points out where it says one of the dogs tracked something and lost the scent. Collins was not aware of this. He thinks he just asked if they found anything and was told no. MCM asks if the lost scent should have been in Officer Ransom's report and Collins says yes. Both look at Ransom's report and agree it is not in there.	Ex. 60 – Notes from SBI File.
97-98	<ul style="list-style-type: none">MCM asks what kind of scent they were trying to pick up. Collins thinks it's article searches and explains how those work. MCM asks if the dog should have been able to pick up on a gun in the area and Collins says yes. Anything that wasn't supposed to be in the area.	
98	<ul style="list-style-type: none">MCM asks about the two dog searches and Collins says Sgt. Cain had a more experienced dog and was asked to come and assist.	
99	<ul style="list-style-type: none">Lunch break.	
99-100	<ul style="list-style-type: none">MCM goes back to pg. 26 of Exhibit 58 and asks what P2P means. Collins says it stands for Police to Police. It's a database from each jail for who gets taken into custody.	
101	<ul style="list-style-type: none">MCM asks about the notation that Soulski had a brother named Alex Stephens who was about the same build of the Victim. Collins says that at the time they thought Roberts thought he was back at a party where he had words with Soulski. They thought maybe he thought he saw the person he was dealing with at the party playing basketball. MCM clarifies that at the time Collins thought Soulski was Kenny Ray Floyd and Collins says right.	

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101-102	<ul style="list-style-type: none">MCM asks if Kenny Ray Floyd/Floss was thin and Collins says yes. Collins says the Victim was smaller and stockier than Kenny Ray. At the time, they were looking at why Roberts had beef with the boys on the basketball court. MCM asks if he put the name Kenny Ray Floyd into P2P. He thinks he put in the name Soulski Stephens.	
102-103	<ul style="list-style-type: none">MCM shows Collins Exhibit 61. MCM asks if Collins saw Cyrstal Allen (Cyrstal) at the scene. He doesn't remember documenting her name so he doesn't think he saw her. MCM asks if he interviewed her and Collins did not. He thinks they divided up interviews with the SBI. MCM asks if Collins has ever read this interview and he has not.	Ex. 61 – SBI Interview of Cyrstal Allen
104	<ul style="list-style-type: none">MCM asks if Collins was aware that Cyrstal talked to Bianca Gregg, who told her that her child's father had overheard the Victim arguing with somebody in person earlier that day. Collins was not. He would have followed up on that if he had been aware.	
104-105	<ul style="list-style-type: none">MCM shows Collins Exhibit 62, pg. 227 of the SBI file. Collins has not seen this before. It may have been prepared by the SBI, but he wouldn't know.	Ex. 62 –Lead Sheet
105-106	<ul style="list-style-type: none">MCM asks about Cyrstal saying she saw someone who met the description of the shooter the next day driving at Rozier Homes. Collins was not familiar with that. He doesn't know who Linda Sinclair is.	
106-107	<ul style="list-style-type: none">MCM asks about Agent Brady asking Cyrstal about Dexter Stephens and whether he committed the crime. Collins doesn't recall Dexter's name being brought up in this investigation. Collins doesn't know where Brady got that information to ask Cyrstal. MCM asks if Dexter's name was ever brought up in the investigation to Collins' knowledge and Collins says no. He does not know who Dexter is.	
108	<ul style="list-style-type: none">MCM shows Collins Exhibit 3 and Collins does not recognize that person. Collins doesn't have Dexter's name in any of his notes.	Ex. 3 – Photograph of Dexter Stephens
108	<ul style="list-style-type: none">MCM asks if there were any alternate suspects in LPD's investigation and Collins says no. MCM asks if there had been a name brought up would they have tried to follow up on it and Collins says yes.	
109	<ul style="list-style-type: none">MCM asks why John Allen was not shown a lineup. Collins says John never said that he saw enough of the suspect to make an identification. MCM asks if Collins was part of John's interview and Collins says no. MCM asks why. He held off on re-interviewing John because he wasn't being as cooperative. MCM asks if Collins knows if John was ever shown any kind of photograph by Agent Brady and Collins says he doesn't know.	

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110-112	<ul style="list-style-type: none">MCM asks if the autopsy report would normally be in the LPD file. Collins says yes. He doesn't know why it isn't in the LPD file given to the Commission. MCM provides Collins with Exhibit 63. MCM asks about determine the type of bullet. Collins explains that the projectile is what's left of the bullet when it leaves the barrel. MCM clarifies that having a projectile is not necessarily an indicator of what type of bullet the person was shot with. MCM also clarifies that if you don't know the type of bullet that a person was shot with, then you don't necessarily know the type of gun that was used to shoot that bullet. Collins didn't have any indication of what kind of gun was used in this case.	Ex. 63 – Autopsy Report
112-113	<ul style="list-style-type: none">MCM asks if Roberts had gold teeth when they interviewed him. Collins doesn't recall. MCM asks if that's something he would have documented and Collins says he probably would have written that down. MCM asks if jails will make people take out gold teeth and Collins says not necessarily.	
113	<ul style="list-style-type: none">MCM asks if Collins asked Roberts if he was wearing a grill that night. Collins did not.	
113-115	<ul style="list-style-type: none">MCM goes to pg. 27 of Exhibit 58 where it says Collins received information that Soulski didn't have any beef with Roberts and asks where he got that information. Collins says they just hadn't found anyone to say they actually had beef. MCM asks if Collins spoke to Kenny Ray/Floss and Collins says he wouldn't speak to him. He tried to go through his (Kenny Ray) family and others to get a message to call him (Collins). That's not documented because those people didn't have anything to do with the case. MCM asked if the information came from Roberts himself based on the timing and Collins says it may have.	
115-117	<ul style="list-style-type: none">MCM shows Collins his testimony in Exhibit 64. She describes pg. 2850, lines 12-18 where it says an associate called to say they didn't have beef. Collins can't recall who the associate could be. MCM asks if it wasn't documented does that mean it was a CI and Collins says no. It may have come from a go-between.	Ex. 64 – Collins' Trial Testimony (Re-Direct)
117	<ul style="list-style-type: none">MCM asks if anything about the first Roberts interview stands out. Collins says it stood out that Roberts didn't remember anything because he was so drunk. He didn't say much other than giving consent to search the vehicle.	
118-119	<ul style="list-style-type: none">MCM goes back to pg. 63 of Exhibit 58 to Det. Hinson's notes about Linder Sammons. Collins doesn't remember her but does after MCM mentions where she lived. MCM asks about the 20-30 day tag. Collins says that is new to him. MCM asks if he would have followed up if he had known and Collins says he would have.	

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119-120	<ul style="list-style-type: none">MCM asks if Collins spoke to Burgess. Collins does not recall. He wasn't familiar with Burgess prior to this investigation. MCM shows Collins Exhibit 8 and Collins says he has seen him before.	Ex. 8 – Photograph of Micheal Burgess.
120-121	<ul style="list-style-type: none">MCM shows Collins Exhibit 65. This is the first time Collins has heard the information that John said they were aiming for the Victim.	Ex. 65 – SBI Interview of Burgess
121-123	<ul style="list-style-type: none">MCM goes to pg. 28 of Exhibit 58 where Collins interviewed Ricky Stephens. The difference in car stood out to Collins. Ricky Stephens said a Dodge Stratus. MCM asks if Collins had the information that Ricky Stephens spoke to the shooter. He did not. He would have asked him. MCM asks if he would have shown Ricky a lineup and Collins says most likely, yes. Ricky did not want to talk. He wasn't cooperating. Regarding the different car, he thought that in these situations if they don't want to give you anything they'll send you down a rabbit hole.	
124	<ul style="list-style-type: none">MCM asks if Collins had any other thoughts about Brady's interview of Burgess. Collins remembers hearing about some things in the report. He never saw this statement though.	
125	<ul style="list-style-type: none">MCM asks about the Roberts jail calls. Collins didn't listen to them but thinks he gave them to someone. MCM asks if the jail call discs would have been put in with the records. Collins said they should be in evidence.	
125-128	<ul style="list-style-type: none">MCM asks about Roberts' second interview and the conversation in the fingerprint room. Collins says Roberts was more clear-minded but didn't say much more than before. MCM asks what he means by clear-headed and Collins says Roberts hadn't had any alcohol and seemed more like his normal self. Collins describes the setup of the fingerprint room. Collins says Roberts asked how old the Victim was and made the comment about being sorry. Collins didn't want to draw attention to it. He looked at the SBI agent to make sure he heard it. The agent said to make sure you document it. Collins didn't want to stop Roberts from talking. When they got to where the magistrate was, Roberts was asking about the Victim. When they were walking back to the jail, Roberts said he was going to call Collins and they were going to talk. Collins said they could talk about it now. Roberts said he would get up with Collins later in the week.	
128-129	<ul style="list-style-type: none">MCM asks how Roberts said he was sorry. Collins said it was like a whisper and then Roberts said something he couldn't make out. MCM asked if Roberts knew who the Victim was and Collins said he gave the impression he didn't know.	
129	<ul style="list-style-type: none">MCM asks about Roberts asking how old the Victim was. Collins says that was the second part. MCM asks if Roberts	

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	made another comment and Collins says he did, but Collins couldn't make it out.	
129-130	<ul style="list-style-type: none">MCM shows Collins Exhibit 65. MCM asks if the part Collins didn't hear was what Brady documented as "I didn't kill anyone." Collins said he doesn't now. He didn't hear it.	Ex. 65 – 6/20/2013 Brady SBI Report
130-132	<ul style="list-style-type: none">MCM asks what Collins thought about what Roberts was saying. Collins says he was saying little things that didn't make sense but he seemed really remorseful and different from the person they dealt with the first time. MCM asks if he took that as a confession. Collins said he did. They didn't solicit it. They didn't ask him if he had anything to say. It was just out of the blue. MCM clarifies that he didn't hear Roberts say "I didn't kill anyone" and Collins agrees. MCM asks about the little things and Collins says Brady was closer and he was focusing on what he needed to tell the magistrate. Collins heard the part about apologizing to the family more than anything else.	
132	<ul style="list-style-type: none">MCM asks if it is common for the SBI agent to be there while they're swearing warrants and Collins says yes.	
132-134	<ul style="list-style-type: none">MCM goes back to pg. 28 of Exhibit 58. She points out the interview of Sheena Britt. Collins confirms this is his handwriting. MCM asks if Sheena Britt read over the statement and said it was correct and Collins says yes. MCM says the SBI file says that Sheena Britt said she was walking with someone and heard someone yell that their bike was shot. Collins doesn't recall that. MCM shows him Exhibit 67 and Collins points out she talks about the car being shot up, not the bike. Collins doesn't recall this but it is his handwriting.	Ex. 67 – Sheena Britt Statement
134-135	<ul style="list-style-type: none">MCM asks if Collins got information about cars being shot from anyone other than Sheena Britt. Collins says no. Someone may have said something about cars being shot at the park, but he didn't see any or document that. If he didn't document it, he either didn't physically see it or it was secondhand information. He doesn't document what other officers say they saw.	
135	<ul style="list-style-type: none">MCM goes back to Det. Hinson's notes on pg. 65 of Exhibit 58 where he wrote down "saw earlier in day" and asks what this means. Collins has no clue.	
135-136	<ul style="list-style-type: none">MCM asks if anything stood out about the trial. He remembers Agent Brady testifying. MCM asks if he was present for the whole trial and Collins thinks he was.	
136	<ul style="list-style-type: none">MCM asks if Collins recalls this originally being a capital case and Collins remembers a discussion about it, trying to decide. They met with the DA several times. MCM asks if that was common and Collins says that was the first one for me.	
136-137	<ul style="list-style-type: none">MCM asks if Collins knows about plea deals offered to Roberts. Collins does not.	

April 18, 2023

Deposition of Lt. Al Collins by Mackenzie Myers

Page #	Description of Burgess's Testimony	Exhibit
138-140	<ul style="list-style-type: none">MCM goes back to Exhibit 64 on pg. 2861. Collins says him testifying that he only read the interview related to him (Collins) goes back to that issue with the SBI. He didn't have the videos and recordings of their interviews. Unless they brought it to him, he didn't read the SBI interviews. They would get together and discuss the case and decide whether they needed to re-interview anyone.	
140	<ul style="list-style-type: none">MCM asks about the case meetings. He said they would meet every morning and discuss. They had a whiteboard. They would assign out tasks. They would meet again at 2-3 in the afternoon to see what they learned that morning. The meetings were specific to that homicide.	
140-141	<ul style="list-style-type: none">MCM asks if Collins knows why Cyrstal didn't testify and wasn't at the trial. Collin says no they didn't tell him.	
141	<ul style="list-style-type: none">MCM asks if Collins remembers arresting Burgess later on. Collins thinks he remembers seeing his name on reports.	
141	<ul style="list-style-type: none">MCM asks about rumors about John being the target of a previous shooting. Collins did hear that but doesn't know where. MCM asks if Sha'Brea gave any information on John and Collins says no.	
142	<ul style="list-style-type: none">MCM asks if Collins is aware of John being involved in the E-Ricket Hunter Bloods. Collins says no, that's the first he's heard of it. MCM asks if Collins is familiar with EHB and he is not. It sounds a little familiar.	
142-143	<ul style="list-style-type: none">MCM asks about Collins not hearing Dextor's name before. Collins says as far as this case. He thinks he heard of him afterwards, but it may be another Stephens. There's a guy named Dexter they had an issue with. His brother is a professional football player. MCM says Dextor is from Fayetteville but his grandma lives in Lumberton.	
143	<ul style="list-style-type: none">Prior to this case, Collins was not familiar with Roberts. MCM asks about Roberts mentioning being falsely accused of rape years ago during his interviews. Collins is not familiar with that and didn't know Roberts.	
143-144	<ul style="list-style-type: none">MCM asks if Collins remembers Kimberly being a foster parent. Collins does not. He thinks he would have jotted it down/made note of it. MCM asks if he has heard about any officer threatening that if she didn't speak to them they would take away her license. Collins says no. MCM asks if that would surprise him and Collins says yes.	
144	<ul style="list-style-type: none">MCM asks if Collins has heard that the shooter chased people after in his car. Collins says he only heard about the Chris McGirt situation.	
145	<ul style="list-style-type: none">MCM asks if Collins knows about the WeDo case out of Fayetteville. Collins does not. To his knowledge, the cases aren't connected.	

April 18, 2023

Deposition of Lt. Al Collins by Mackenzie Myers

Page #	Description of Burgess's Testimony	Exhibit
145-146	<ul style="list-style-type: none">MCM asks if they ever thought the case was gang related. Collins says it is always in the back of your mind. MCM asks if the Hut is gang territory. Collins says no. MCM asks what made him think it wasn't gang related. Collis says he never ruled it out. They followed the leads where they went.	
146-147	<ul style="list-style-type: none">MCM asks about a female 911 caller earlier in the night who called about the big white house. MCM asks if this sounds familiar. Collins says that's the area where Roberts was for the get-together. MCM clarifies that this is across from Floyd Mortuary. MCM asks if Collins knows anything about this call and Collins does not.	
147-148	<ul style="list-style-type: none">MCM asks if there as an officer dedicated to gang-type crimes that would have consulted on this case. Collins said they would go to the drug task force for intel. It is a four-man team. He can't remember if he talked to them. MCM asks if they would have brought him intel without him asking. Collins says yes if they believed it was tied to the incident.	
148	<ul style="list-style-type: none">MCM asks if there is anything else Collins thinks would be helpful for the Commission's investigation. Collins says he is processing some things and checking himself. He needs to do a better job of cross-referencing the information he's getting. He doesn't know if there's anything he can say to help with this case.	
148-149	<ul style="list-style-type: none">MCM wants to look at the documents Collins brought and asks if he has any others. Collins does not. No one has talked to him about his testimony today or told him what to say. No one has made any promises or threats. He has been truthful.	
150	<ul style="list-style-type: none">MCM asks if Collins is familiar with Ricky Stephens and Collins says he wouldn't know he walked in. MCM shows him Exhibit 17 and Collins says he doesn't know that person.	Ex. 17 – Photograph of Ricky Stephens
150-151	<ul style="list-style-type: none">MCM shows Exhibit 13 and says it is her understanding that this was a gathering for the Victim. MCM asks if Collins recognizes anyone. Collins does not.	Ex. 13 – Photograph of Boys
151-153	<ul style="list-style-type: none">MCM asks if there's anything else significant Collins hasn't told her today. Collins says no. Collins goes over his concerns with the SBI again. MCM asks if the SBI had been transparent about their investigation and reports, would that have changed his investigation. Collins says no. It would have allowed him to check off more boxes. He doesn't like leaving something unturned. Collins says he thinks everyone in this case did what they should have done, but communication could have been better.	
153-156	<ul style="list-style-type: none">Deposition closes. MCM explains upcoming hearing.	
157-160	<ul style="list-style-type: none">Commission Grant Staff Attorney Danielle Smith (ADS) asks if the SBI process is still the same. Collins says it is. He thinks	

April 18, 2023

Deposition of Lt. Al Collins by Mackenzie Myers

Page #	Description of Burgess's Testimony	Exhibit
	it is a result of the SBI investigation officer involved shootings and not changing the policy for when they are assisting. Collins has changed his approach for when he calls in the SBI	
161-168	<ul style="list-style-type: none">• Collins and MCM go over what he has in their file. Collins talks about documents he couldn't find. Collins does not know what happened. MCM asks why Capt. Johnson's name is on the photo cards and Collins says he thinks he processed one of the scenes. MCM says she doesn't have any notes of that. Files are either stored up front or are moved out to the evidence building after 10 years. This file should still be in the front.	

STATE OF NORTH CAROLINA
COUNTY OF ROBESON

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

STATE OF NORTH CAROLINA,

-vs-

CLARENCE ROBERTS,

Defendant.

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File No. 13 CRS 3511

File No. 13 CRS 54359

VIDEOTAPED DEPOSITION

OF

LIEUTENANT ALFORD L. COLLINS

April 18, 2023

This is the transcript of the videotaped deposition of **LIEUTENANT ALFORD L. COLLINS**. The deposition was conducted by Mackenzie C. Myers, Staff Attorney for the North Carolina Innocence Inquiry Commission. The witness was affirmed by Danielle Smith, Grant Staff Attorney for the North Carolina Innocence Inquiry Commission. The deposition took place at the Lumberton Police Department, 1305 Godwin Avenue Lumberton, North Carolina 28358, on Tuesday, April 18, 2023, beginning at 10:01 a.m.

A P P E A R A N C E S

Ms. Mackenzie C. Myers
Staff Attorney
North Carolina Innocence Inquiry Commission

Ms. Danielle Smith
Grant Staff Attorney
North Carolina Innocence Inquiry Commission

Lieutenant Alford L. Collins
Lumberton Police Department

* * * * *

I N D E X

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P R O C E E D I N G S

beginning at 10:01 a.m. on Tuesday, April 18, 2023:

MS. MYERS: So this is the deposition of Lieutenant Al Collins by the North Carolina Innocence Inquiry Commission. Today's date is April the 18th of 2023. The time is 10:01 a.m.

Present are myself, Mackenzie Myers, and Danielle Smith of the Innocence Inquiry Commission, and the witness. Is it Al Collins or A.L. Collins or both?

LIEUTENANT COLLINS: Al Collins.

MS. MYERS: Al Collins. Okay. Danielle, if you would go ahead and either swear or affirm, please.

LIEUTENANT COLLINS: Affirm.

MS. SMITH: Affirm. Okay. Do you affirm that the testimony that you are about to give today is the truth, the whole truth, and nothing but the truth, and is this your solemn affirmation?

LIEUTENANT COLLINS: I do.

The following proceedings were had, to wit:

* * * * *

LIEUTENANT ALFORD L. COLLINS

HAVING first been duly affirmed, was examined and testified as follows:

EXAMINATION BY MS. MYERS:

Q. Please go ahead and state your full name for

1 the record.

2 A. For the record, Alford Lavern Collins.

3 Q. And how would you prefer I call you today?

4 A. Al.

5 Q. Al?

6 A. Uh-huh. (Affirmative)

7 Q. Okay. All right. Al, my name is Mackenzie
8 Myers, and I'm going to be taking your deposition today.
9 I'm an attorney for the North Carolina Innocence Inquiry
10 Commission, which is a neutral state agency that
11 investigates post-conviction claims of innocence.

12 A. Okay.

13 Q. You've been subpoenaed here today in the
14 matter of State versus Clarence Roberts. Mr. Roberts was
15 convicted of second degree murder and one count of
16 assault with a deadly weapon for crimes that took place
17 in Lumberton, North Carolina, on June the 14th of 2013.

18 The victims in this case were Joshua
19 Council, who was killed, in addition to the surviving
20 victims, John Allen, Crystal Allen, and Micheal Burgess.
21 A jury convicted Mr. Roberts after trial on May 5th of
22 2017, and he was sentenced to serve 300 to 372 months in
23 prison. And he's currently incarcerated now.

24 The North Carolina Innocence Inquiry
25 Commission is a truth-seeking commission. We are not

1 prosecutors or law enforcement. We do not represent the
2 defendants who make innocence claims with our agency, so
3 we do not represent Mr. Roberts. If we find verifiable
4 and credible new evidence of factual innocence, there is
5 a process by which the defendants who make the innocence
6 claims can have their cases heard before our eight-member
7 commission.

8 It's at this commission hearing for cases
9 that resulted in a guilty verdict following a trial, such
10 as in this case, that if the majority of those
11 commissioners find sufficient evidence to merit judicial
12 review, then that case would move on to what's referred
13 to as a three-judge panel hearing in North Carolina.

14 At this three-judge panel hearing, the
15 defendants -- or in this case, it would be Mr. Roberts
16 -- he would make his -- his innocence claim would be
17 presented in front of those three judges. He'd be
18 represented by an attorney. The State would be
19 represented by the district attorney's office.

20 This case would happen here in Robeson
21 County. And at that point, if Mr. Roberts were to prove
22 his case to those three judges, then he would be
23 exonerated.

24 At that point, the Commission is completely
25 out of the case. The only time we would ever have

1 anything to do with it at a three-judge panel is if we
2 were actually called as witnesses. And so that's kind
3 of -- that's how this process looks.

4 Do you have any questions about any of that?
5 That's a lot of information. So if you do --

6 A. No, ma'am.

7 Q. Okay. So in this case, we're only looking
8 for the truth. Okay?

9 A. Uh-huh. (Affirmative)

10 Q. So with that said, I do want to just say,
11 that it's common for us to depose or interview law
12 enforcement officers or other people that had something
13 to do with a case. I might be asking you questions that
14 it might seem like I'm trying to question what you did.
15 I am, but not to make you feel any type of way about it.

16 A. Right.

17 Q. I'm just trying to get an understanding of
18 why you did things or why you didn't do things. I'm not
19 a law enforcement officer, so I just don't know. And so
20 that's kind of what I'm here for today. Okay?

21 You do not have an attorney here with you,
22 which is fine. Have you spoken to an attorney about
23 talking to us today?

24 A. No, ma'am.

25 Q. Have you ever been deposed before?

1 A. No, ma'am.

2 Q. Okay. So the kind of beauty about us being
3 able to do depositions is that we are not adversarial.
4 And so we're really just information gathering. So if
5 you are ever deposed in the future, it might not be
6 this conversational. But I like for it to be as
7 conversational as possible.

8 So today, you have sworn an affirmation to
9 tell the truth. This is going to be the same affirmation
10 you would take as if you were sitting in a courtroom
11 giving testimony. Do you understand that today?

12 A. Yes, I do.

13 Q. So we have a video camera going, an audio
14 recorder is going. And that's because we're going to
15 have a court transcriptionist transcribe everything
16 that's being said here today. It's super important for
17 both you and I to speak as clearly as we possibly can.
18 Obviously, the court transcriptionist will have the video
19 to go back over if she has any questions or if there is a
20 head nod or whatever. But do your best to give me verbal
21 responses to things. That also goes for me, as well.
22 Will you agree to give me verbal responses today?

23 A. Yes. Yes.

24 Q. Thank you. The purpose of this deposition
25 is to find out everything that you know about the facts

1 and events in this case. And we do want your answers to
2 be as full, accurate, and complete as possible. Okay?

3 A. Yes.

4 Q. If you do not understand a question, that is
5 okay. It is most likely going to happen when I ask you
6 something that makes sense in my head, but it does not
7 make sense as I'm saying it out loud. So if that
8 happens, just let me know, and I'll reword the question.
9 Okay?

10 A. Okay.

11 Q. After you have given an answer, you may
12 remember more information later on in the deposition that
13 responds to an earlier question. If this is the case,
14 please stop me and tell me you remember more information
15 that is responsive to an earlier question, and provide
16 that information to me. Okay?

17 A. Okay.

18 Q. If I believe that I have a document that
19 will help you respond to a question, I will label it as
20 an exhibit, and ask you to review that document. If you
21 believe that I have a document that will refresh your
22 memory and help you respond to a question, please just
23 ask to see it. And if I do have it, I'll provide it to
24 you. Okay?

25 A. Okay.

1 Q. Let's talk about breaks. Okay? If you feel
2 at any time that you need to take a break or step out,
3 that's fine. Just let me know. I might ask you to just
4 complete the answer of the question that I just proposed
5 to you. But I'm more than happy -- we're more than happy
6 to take a break.

7 I do not know how long this is going to go
8 today, to be honest. I also understand that you probably
9 have other things going on. So if something happens, and
10 you need to stop this or pause this, continue it on
11 another date, that's fine.

12 We will talk, when it gets a little bit
13 closer to lunch, about taking a lunch break. We
14 definitely will need a lunch break, I can tell you that.
15 So we will definitely check back in around that. But I
16 will check in with you about breaks. But if I don't
17 mention a break, and you need one, just let me know.

18 A. Okay.

19 Q. Okay?

20 A. Okay.

21 Q. Let's see. Is there -- so the next set of
22 questions, it will probably feel like I'm prying a little
23 bit too much, and I apologize for that. So just know
24 that that's not my intention, but I do have to kind of
25 check in with you on some of these things. Is there any

1 reason that you can't give full and complete answers
2 today?

3 A. No, ma'am.

4 Q. Are you taking any medication or drugs of
5 any kind that might interfere with your ability either to
6 recall past events accurately or testify about them fully
7 and completely today?

8 A. No, ma'am.

9 Q. Is there any reason why your ability to
10 recall past events accurately and testify about them
11 fully and completely is not as good today as it normally
12 is?

13 A. No, ma'am.

14 Q. Are you feeling okay today?

15 A. Yes, ma'am. Feeling good.

16 Q. Are you currently under the influence of
17 alcohol?

18 A. No, ma'am.

19 Q. Are you currently under the influence of any
20 drugs, either illegal or prescription?

21 A. No.

22 Q. Okay. Do you have -- or currently have a
23 medical condition that requires ongoing treatment by a
24 physician?

25 A. No, ma'am.

1 Q. Are there any other circumstances or issues
2 preventing you in any way from giving truthful, accurate,
3 and complete testimony today?

4 A. No, ma'am.

5 Q. Okay. Have you done anything to prepare for
6 this deposition today?

7 A. I wrote some notes just to refresh my memory
8 on the names of everyone in my case.

9 Q. Okay. And what did you look at in order to
10 prepare those notes?

11 A. This is the same booklet I had during trial.

12 Q. Okay.

13 A. I just -- I'll do this for all my cases.
14 And all I did was highlight -- well, it's already
15 highlighted. But I went back and just jotted down the
16 names of the individuals that were key people in the
17 case.

18 Q. Key people in the case. Are those
19 witnesses, law enforcement officers?

20 A. Witnesses, the victim, the victim's
21 girlfriend, the suspect's girlfriend. The name that kept
22 coming up in the case, Soulski, and two witnesses that we
23 got information from.

24 Q. And who are those two witnesses?

25 A. Gary Ingram and Eric McQueen.

1 Q. Okay. And then the rest of your notebook
2 there, you said that's the same one that you used for
3 trial?

4 A. Uh-huh. (Affirmative)

5 Q. Okay. Tell me about what's in that
6 notebook.

7 A. It's just -- I took and printed off the case
8 file, the actual incident report. And then I just put
9 them into a plastic binder to protect them.

10 Q. Okay. And when you're saying like the
11 actual incident report, is that just what you did to
12 compile a case file, or is it the entire LPD case file?

13 A. No. No. Back during this time, it wasn't
14 computerized, it was just a handwritten report. And then
15 all the little notes and supplements that we put in.

16 Q. Okay. At some point when we're going
17 through this, I will probably ask to just look through
18 that to make sure that we have everything that you have.
19 I think that we should, because we have asked for it. So
20 I expect that that's probably what you guys sent to us as
21 well. But just to go over that and make sure.

22 So aside from those things that we just kind
23 of went over, is there anything else that you did to
24 review or prepare for today?

25 A. No, ma'am. That's it.

1 Q. And have you -- did you talk to any
2 coworkers about your deposition today?

3 A. No. I talked -- the only person I talked to
4 was the Captain, when he briefed me and told me this was
5 going to take place. I asked what do I need to have with
6 me. And he said, I don't know.

7 Q. Okay. And is that Captain Vernon Johnson?

8 A. Yes, ma'am.

9 Q. Okay. All right.

10 A. Yes, ma'am.

11 Q. Did you communicate with anybody else
12 outside of your coworkers about today's deposition?

13 A. No.

14 Q. Did you look over anything on the internet
15 about this case to prepare?

16 A. No, ma'am.

17 Q. Okay.

18 A. Well, I mentioned to my sergeant that I was
19 going to be in here this week. So I did mention to him
20 that I was going to be tied up today.

21 Q. Yeah. That's okay. Okay.

22 A. I just thought about it.

23 Q. No, that's okay. And that's totally fine.
24 We just ask that because we need to know. But it's
25 not -- that's not concerning or a problem by any means.

1 A. Okay.

2 Q. Let's see. Have you been asked by anyone to
3 withhold information or misrepresent any facts during the
4 deposition today?

5 A. No, ma'am.

6 Q. Okay. When did you first learn that the
7 North Carolina Innocence Inquiry Commission was
8 investigating this case?

9 A. I think 2020 is when we got a letter. Or I
10 remember seeing about it in 2020.

11 Q. Okay. And so that is most likely, probably
12 when we requested the law enforcement file. Does that
13 sound familiar to you?

14 A. That's what it was, yeah.

15 Q. Okay. All right. Do you remember at that
16 time when we requested that if there was anything that
17 was discussed about this case on LPD's end when we
18 requested the file?

19 A. No. I think that it was just -- the letter
20 went to the Chief. The Chief sent it to the Captain, the
21 Captain gave it to me, and I was like, okay. And at that
22 point, I was just going back. I pulled my case file and
23 laid it out just in case, waiting to see when I needed to
24 do to this, go through this process.

25 Q. Got you. Okay. Let's see. When did you

1 first learn that we wanted to take your deposition in
2 this case?

3 A. Last month.

4 Q. Okay.

5 A. I think it was last month.

6 Q. Okay.

7 A. They told us we was going to do a
8 deposition.

9 Q. Okay. All right, Al, you told me your full
10 name for the record. We're going to start kind of
11 getting into a little bit more facts about like the case,
12 and kind of your background, and stuff like that. Do you
13 have any questions for me so far?

14 A. No, ma'am.

15 Q. All right. When is your date of birth?

16 A. 3/19/1972.

17 Q. So when we get to the end, Danielle is going
18 to go over this with you. But you are going to have a
19 chance to review the transcript. A lot of times we
20 will -- if you do want it, we can e-mail it to you.
21 That's probably the best way to do that. Do you have an
22 e-mail address that we could communicate with you?

23 A. Yes.

24 Q. Okay. And what is that e-mail address?

25 A. It's al.collins@ci.lumberton.nc.us.

1 Q. Okay. If we needed to call you, what would
2 be the best number for us to reach you at?

3 A. Area code 910-734-5651.

4 Q. And you currently work here at the Lumberton
5 Police Department. How long have you worked here?

6 A. Seventeen years.

7 Q. Seventeen years. All right. And did you
8 begin your law enforcement career here?

9 A. No, ma'am. My first eight years was with
10 the Robeson County Sheriff's Office.

11 Q. And so what year did you start at LPD?

12 A. 2006.

13 Q. 2006. Okay. When this case happened in
14 June of 2013, you were a detective. Correct?

15 A. Yes.

16 Q. And at that point, when you started working
17 on this case, how long had you been a detective for, do
18 you recall?

19 A. Let's see. Close to 10 years.

20 Q. Close to 10 years. When you were at the
21 Robeson County Sheriff's Office --

22 A. I was an investigator for six years.

23 Q. For six years there. Okay. When you got
24 hired on to LPD, were you an investigator?

25 A. I spent six months on patrol. I had to

1 learn their process.

2 Q. Got you.

3 A. And then I went to investigations.

4 Q. Investigations.

5 A. Uh-huh. (Affirmative)

6 Q. Okay. As a detective, what types of duties
7 do you have?

8 A. Well, we were assigned to a certain area. I
9 was assigned to South Lumberton. And you handled every
10 case that occurred in that area. It didn't matter if it
11 was property crime or white-collar crime, even homicides.
12 At a certain point, you had to work them all.

13 Q. Okay. And is that still the same -- like
14 generally, kind of the same type of duty that a detective
15 now would have at Lumberton?

16 A. Yes, ma'am.

17 Q. Okay. And so the area that this case
18 occurred was East Lumberton. Is that correct?

19 A. Uh-huh. (Affirmative)

20 Q. At like the Hayswood Hut, Peachtree area?

21 A. Yes, ma'am.

22 Q. Okay. But you said that you were originally
23 assigned to the South Lumberton?

24 A. Uh-huh. (Affirmative)

25 Q. So how did you get assigned to this case?

1 A. Throughout that eight -- well, nine-week
2 period, you're on rotation for night shift. And you are
3 the night-shift investigator from, I think 3:00 to 11:00,
4 or 3:00 to 12:00.

5 Q. Okay.

6 A. And anything that happened during that time,
7 you were responsible for as well. And it just happened
8 to be my rotation to be on night shift, and I caught the
9 case.

10 Q. Got you. Okay. So how -- okay. And that's
11 how it was assigned to you, because you were on the night
12 rotation. Otherwise --

13 A. It would have went to that investigator that
14 works that area.

15 Q. Got you. Okay. Generally speaking, what
16 are the duties of a lead detective on a case versus like
17 some of the other investigating officers?

18 A. Basically, it's like being a note-taker.
19 You gather all the information. Everyone that you send
20 out, you give them responsibilities, you give them tasks.
21 And they bring that task back to you with information on
22 what they found. And you prioritize what steps we need
23 to take next.

24 During this time, it was a new concept for
25 us. Because before that, a year -- I think a year or two

1 before that, we had a homicide investigator that had been
2 here 30 years, and he handled all the homicides. So I
3 think that was during the time when it was transitioning
4 over where we have this process now where everyone works
5 homicides.

6 Q. Okay. So would you say that at that time,
7 in June of 2013, it was kind of like a new learning
8 process on how to investigate homicides?

9 A. Yes. Yes. I would say it was fairly new.
10 I think at that point I may have worked one other
11 homicide before that where I was the lead.

12 Q. Okay. Got you.

13 A. Up until that point.

14 Q. Okay. All right. At the time of this
15 investigation who was your supervisor?

16 A. That would be -- that would have been
17 Captain Parker. And Harold Jackson was the Lieutenant at
18 the time.

19 Q. And did you supervise anybody at that time?

20 A. No, ma'am.

21 Q. Okay. But if you were the lead detective,
22 would you -- like if you were -- if people were coming to
23 you as investigators on the case, you would kind of
24 supervise their duties. Is that fair to say?

25 A. Yes, ma'am. That's correct. Uh-huh.

1 Q. Okay. When I had asked you about when you
2 had first learned that we were investigating this case,
3 you said that you were kind of asked to put together the
4 file for this. Is that right?

5 A. Well, not for this. This is the process I
6 go through when I review.

7 Q. Right. But to hand -- so when we requested
8 LPD's file back in 2020, did you help put together that
9 file to send to us?

10 A. No, ma'am.

11 Q. Okay. Okay.

12 A. No, ma'am. Captain Parker handled all that.

13 Q. Okay.

14 A. I never saw it. I just went on my own and
15 pulled my case file, just to refresh and to be prepared
16 for it.

17 Q. Okay. Got you. So it seems to us that we
18 probably do not have the full LPD file for this case.
19 And so there are going to be some questions kind of
20 throughout today's deposition where I ask you questions
21 about that, if you know why maybe we don't have it, or
22 where that would have been. It could be a matter of you
23 all don't have those files anymore. I'm not sure. So
24 that's not to make you feel bad. Just we'll have to ask
25 you some of those questions. Okay?

1 A. Yes, ma'am.

2 Q. So for instance -- and I do have some
3 exhibits, and I'm going to show those to you. I know
4 that you put together a felony report.

5 A. Yes, ma'am.

6 Q. And we have that because of the SBI file.
7 But we don't have that as part of the LPD file. Is that
8 something -- do you know why that would be, for instance?

9 A. That's a good question. We made copies
10 of -- the initial filed felony report, a copy is made to
11 be put in the records. So it should have been --

12 Q. It should have been in there?

13 A. It should have been in there. Uh-huh.

14 Q. Okay. There is also -- we don't have any of
15 the crime scene photos from LPD's file. We do have some
16 of the crime scene photos from the SBI file. Do you know
17 why those wouldn't have been part of the file that was
18 given to the Commission?

19 A. Yeah. That's a good question. I don't
20 know. I don't know why that would be.

21 Q. Okay. Do you have -- I know you have this
22 file for this case. Do you have any records outside of
23 what you brought in here today that is pertinent to this
24 investigation?

25 A. No, ma'am.

1 Q. Okay. Do you have notes in your home, for
2 instance?

3 A. No, ma'am.

4 Q. And anything outside of this notebook for
5 this case at all?

6 A. No, ma'am.

7 Q. Okay. What about recordings or anything?

8 A. No, ma'am.

9 Q. Okay. Outside of the things that I just
10 brought up, is there anything that you can think of that
11 you know was not provided to the Commission as part of
12 LPD's file?

13 A. No, ma'am.

14 Q. Okay.

15 MS. MYERS: All right. Let me show you --
16 there is a page in -- and I'm going to hand this to you,
17 as well, so let me find it on my end. I kind of made you
18 a separate notebook with these things in here to make it
19 a little bit easier. So, Danielle, can you tell me what
20 our next exhibit number is, please, ma'am? Fifty-five?

21 MS. SMITH: Fifty-six.

22 MS. MYERS: Okay. So I'm going to mark this
23 as Exhibit 56. This is on -- so we Bates stamped this
24 file. And part of our investigation is, we will gather
25 as many files from the investigating agencies that still

1 have their files. You said 50 --

2 MS. SMITH: Six.

3 MS. MYERS: Fifty-six. Thank you, ma'am.

4 So this is from the SBI file, so I'm going to label this
5 as Commission Exhibit 56. So I'm going to hand that to
6 you right there.

7 (Commission Exhibit 56 marked and
8 handed to the witness.)

9 Q. Do you recognize that?

10 A. Yes, ma'am.

11 Q. Okay. So that was not part of the LPD file.

12 I do have that as part of the LPD file for some other
13 officers, but just not for you. Do you know why that
14 wasn't included in the LPD file?

15 A. No, ma'am.

16 Q. Okay. Do you know, just kind of generally
17 speaking, when you guys would sign this certificate?

18 A. Right before you go to turn in the felony
19 report. We have an actual book -- binder, and you go and
20 check for the officers to make sure that they have one on
21 file.

22 Q. Got you.

23 A. It became such a problem getting in touch
24 with officers to get their evidentiary form, so they had
25 to come in at some point and fill out a form, and note

1 that they completed that.

2 Q. Okay. And then, that just signified that
3 anything that they had for that investigation was given
4 to the lead investigator?

5 A. That was turned in. They usually make
6 copies, and it has to be turned in to records.

7 Q. Got you.

8 A. They don't necessarily bring it to the
9 investigator, but they're saying when they fill this
10 document out that they've turned in everything they have
11 pertaining to that case.

12 Q. Okay. And when you say -- just so I
13 understand. When you say they turned in everything for
14 that case, where do they turn it in to?

15 A. The records department.

16 Q. The records department.

17 A. Uh-huh. (Affirmative)

18 Q. Okay. The records department, then, do they
19 maintain a complete record of all the investigative files
20 for LPD?

21 A. Yes.

22 Q. Got you. Okay. I can take that back from
23 you, please. Thank you so much.

24 (Ms. Myers retrieves Exhibit 56.)

25 MS. MYERS: I'm going to put that over

1 there, Danielle. All right. So I'm also going to hand
2 you what I'm going to mark as Exhibit 57.

3 (Commission Exhibit 57 marked and
4 handed to the witness.)

5 MS. MYERS: So I printed this SBI file out
6 on double-sided pages because it was about 300 pages. So
7 it's a little bit wonky in terms of how it's looking
8 because of that. So forgive me for that.

9 Q. So my question to you about these notes,
10 this is what I've marked as Commission Exhibit 57. I'll
11 give you a moment just to familiarize yourself with
12 those.

13 A. (Witness reviews document.) Yes, ma'am.

14 Q. Are those your notes?

15 A. Yes.

16 Q. Okay. So those were also not included in
17 with the LPD file given to the Commission. Do you know
18 why those notes wouldn't have been provided?

19 A. And that's the point I was going to bring
20 up, also, when I saw you turn your page. I don't even
21 have a copy of them.

22 Q. Okay.

23 A. I don't know why they were -- they should
24 have been turned in.

25 Q. Okay.

1 A. But I don't know why. Now, I don't even
2 have them. When I went back to pull the case file, this
3 is all I got out of the case file.

4 Q. Yeah. Got you.

5 A. They didn't have my handwritten notes.

6 Q. Okay. Do you know why -- I can take those
7 back if you don't need them anymore.

8 (Ms. Myers retrieves document.)

9 Q. What was my question for you about this?
10 Talk to me just kind of generally -- or what do these
11 checkmarks indicate?

12 A. That made sure that I've done a supplement
13 or a printed version to turn in to records.

14 Q. Okay. Got you.

15 A. I take the notes. I make sure that if I
16 hadn't printed it off -- because I don't turn in my
17 handwritten notes till the end.

18 Q. Okay.

19 A. So that check lets me know that I did do a
20 supplement on it and turn it in.

21 Q. Okay. And so when you're talking about
22 doing a supplement, kind of walk me through your process.
23 And I get that it's been almost 10 years, so I'm sure --
24 I would imagine that your process might have changed a
25 little bit. But at that time --

1 A. (Inaudible response.)

2 Q. No? And that's okay.

3 A. It hasn't changed.

4 Q. And that's okay too. So talk to me about
5 just kind of what your process looks like just so that I
6 know what that is.

7 A. Like when I'm in the field, I take that
8 piece of paper. Whatever I'm doing, I note the time I
9 arrived at whatever location. And then I just jot down
10 what happened, just my little notes of what happened.

11 The next day or that evening when I come in
12 from doing that, I go ahead and do a supplement -- or try
13 to that same day. It may a day or two later. But I
14 won't check that until I print that supplement off to
15 turn into records.

16 Q. Got you. Explain to me what a supplement is
17 versus just like a regular report.

18 A. A supplement basically is just a printed
19 version of your notes or what you've done that day that
20 has to be submitted to the case file.

21 Q. Got you. Okay. I got you. So would
22 everybody be using these notes if they were out in the
23 field and recording what they were doing?

24 A. They have different forms for how they do
25 it. I don't pressure them to do that format. That

1 was -- my OCD is real bad. That's just my way of
2 doing it.

3 Q. I got you.

4 A. I don't do sticky notes. Some investigators
5 do the little sticky notes on their reports.

6 Q. Got you. Okay. So this was your method.
7 Everybody has got their own way of doing it.

8 A. Uh-huh. (Affirmative)

9 Q. But basically, so I'm understanding
10 correctly, they would make their notes from being out in
11 the field, and then they would come back to the office at
12 some point and type it up into a supplement, and then
13 turn that supplement in to records?

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

15 Q. Okay. Got you. All right. Thank you.

16 I want to talk to you a little bit about
17 just kind of interviewing, both your training, and then
18 also your interviewing techniques. So talk to me a
19 little bit about -- and if you don't remember all the
20 trainings you've received on interviewing, that's okay.
21 But talk to me about what the types of training you would
22 have gone through.

23 A. The basic interviews and interrogations
24 course done by the Justice Academy. I went through the
25 initial class back in, I think, '99. And I think I took

1 a refresher later on, it might have been 2008, 2009.

2 Q. Okay. Any other interviewing trainings that
3 you can think of?

4 A. Not right off. I think I just redone the
5 original class.

6 Q. Okay. Talk to me about like what your
7 approach looks like when you're interviewing a witness to
8 a case.

9 A. Well initially, I try to build a connection
10 with the individual. I try to make them feel as
11 comfortable as possible. I try to start off just asking
12 basic questions that they may not take offense to outside
13 of the demographic type of information. You know, where
14 you from, you know, how did you end up here in Lumberton.
15 What was going on that week. Who do you know here.
16 Stuff like that.

17 Q. Okay. Is that any different from how you
18 would approach interviewing a suspect to a case, for
19 instance?

20 A. No, ma'am.

21 Q. No?

22 A. Huh-uh. (Negative)

23 Q. Okay. Have you received any kind of
24 training for interviewing juveniles that would be
25 different from the interrogations -- or interviews and

1 interrogations training, for instance?

2 A. Well, just the training that we received in
3 PLI. And I remember taking a juvenile type class -- I
4 think it was a conference that dealt with how to talk to
5 kids. How not to stand over them, and try to get down on
6 their level. I just can't remember what the class was.

7 Q. That's okay. I think you said PLI?

8 A. Well, PLI, yeah.

9 Q. What is PLI?

10 A. The Police Law Institute.

11 Q. Okay.

12 A. That condensed two-week class on how to --
13 basically a miniature law, criminal law type class.

14 Q. Got you.

15 A. It was one of the hardest classes I've ever
16 taken. But --

17 Q. Yeah. That's sound pretty intense.

18 A. Uh-huh. (Affirmative)

19 Q. Yeah. Are there any differences when you
20 interview a juvenile versus an adult witness, for
21 instance?

22 A. Well, along -- along -- not along. But
23 other than the difference of having the parent or
24 guardian there. And I try to make it as simple as
25 possible on their level, I don't try to use big words. I

1 don't -- I try to be as up front with them as I can, and
2 get them to understand why we're in that situation.

3 Q. Got you.

4 A. But I'm just not as -- which I'm not -- even
5 with adults, I'm not that hard. I just try to -- I've
6 always used the softer side.

7 Q. Yeah.

8 A. Everybody says I don't even know how to
9 cuss. So you're not going to get that hard side of
10 interrogation from me.

11 Q. Got you. Not the bad cop. Right?

12 A. Yes. Correct.

13 Q. Okay. You talked a little bit about with
14 juveniles having the parent or guardian. Talk to me a
15 little bit about that. Like what does that look like?
16 At what point do you need a parent or guardian's
17 permission to speak to like a juvenile?

18 A. Well, any time the child is 15 and under --

19 Q. Fifteen and under?

20 A. -- they must have a guardian, a parent or
21 guardian. They can waive at 16. But with the new law,
22 with the new law here in the state -- and I haven't read
23 up on it yet. But I know there's some differences that
24 I've heard some of my investigators talking about to
25 having some issues with it. But that was the only big

1 thing I noticed. I hadn't done it often dealing with a
2 juvenile.

3 Q. Got you. But at the time of this case, so
4 June of 2013, it would have been the 15 and under you had
5 to have parent or guardian?

6 A. Right.

7 Q. Got you. Okay.

8 A. Right.

9 Q. When you had to -- and reading through some
10 of, you know, your file and things like that, it sounds
11 like you did have some reluctant witnesses in this case.

12 A. Uh-huh. (Affirmative)

13 Q. Talk to me about what your approach is to
14 trying to speak to people that don't want to talk to you.

15 A. Well, just for an example, Mr. Gary Ingram.
16 We grew up together. I grew up here, and I grew up in
17 South Lumberton in the housing projects. And I knew most
18 of the individuals. There's a Jennifer Gurley in there,
19 which I forgot to put down as one of the individuals I
20 spoke with. We all grew up real close.

21 So I knew through my experience, especially
22 that following day, there were certain people I could go
23 to. I knew some of the names, I recognized some of the
24 people that were mentioned. And I felt like if -- I
25 always used the approach of getting up with them through

1 family.

2 Q. Got you.

3 A. I would never go myself, because they see my
4 car, and they'll shut down on me. So a lot of times I
5 will send messages through family and friends, hey, have
6 them reach out to me, I need to talk to them. And that
7 usually works for me.

8 Q. Okay.

9 A. That's the approach I use.

10 Q. Okay. And I think we kind of went over your
11 investigative steps in terms of report writing and things
12 like that. What types of things did you not write down
13 in a report?

14 A. Anything I did not write down. I don't know
15 if there was something I wouldn't write down. I think
16 some things may not hit me to be important enough.

17 Like with Gary, he works at night, or at the
18 time, he worked at night. I think I always had a problem
19 with getting up with him. So I knew I needed to get up
20 with him during the day. And I would always do it
21 through his mother. He would never be home when I go to
22 reach out to him. So I didn't put in that -- I don't
23 know if I put in whether or not I talked -- sent a
24 message through his mother.

25 Q. Okay. Got you.

1 A. Or I wouldn't mention that I talked to
2 sister so-and-so at the church to get the message to
3 John.

4 Q. Got you.

5 A. I don't put those people in reports.

6 Q. Okay.

7 A. When I use people, go-betweens, I don't -- I
8 don't think I put those people in there.

9 Q. Okay. Got you. And I think you said that
10 your process for writing reports and documenting
11 everything is the same that you use now.

12 A. Uh-huh. (Affirmative)

13 Q. Right?

14 A. Yes, ma'am.

15 Q. All right. I want to talk to you a little
16 bit about just the SBI and what that relationship looked
17 like at that point. Maybe it's changed now, I don't
18 know. But in June of 2013, when would the SBI be called
19 to assist in an investigation with LPD?

20 A. Well, they like to be contacted as soon as
21 possible. At that time our practice was as soon as we
22 felt it was going to be a wide -- more personnel than
23 what we had available, we would reach out for additional
24 investigators or crime scene technicians.

25 Q. Okay.

1 A. But usually, initially, right at the onset
2 of the investigation. They don't like to come in at the
3 middle. They don't want you to wait two or three days
4 and then call them.

5 Q. Got you.

6 A. So if you're going to use them, you had to
7 call them up front.

8 Q. Right away?

9 A. Uh-huh. (Affirmative)

10 Q. Okay. And who would typically -- I believe
11 it was in this case, it was Captain Parker that made that
12 decision.

13 A. Yes, ma'am.

14 Q. Does that sound right?

15 A. Yes, ma'am.

16 Q. Okay. So would it -- it would always be,
17 I'm assuming, a captain or somebody?

18 A. Captain or lieutenant would make that
19 decision.

20 Q. Got you. Okay. And so how closely, when
21 the SBI was called in -- and I can, you know, see your
22 reports and all of those things. But how closely did you
23 actually work with the SBI when they were called in to
24 assist on a case?

25 A. Well, Bill Bradley, who was the investigator

1 from the SBI that helped me with this case, he was good
2 to work with.

3 But I've always had an issue with the SBI
4 because we couldn't share files or what we discussed.
5 And if I remembered something from a field interview
6 differently than that agent did, and his -- I've always
7 had a problem with not being able -- us to talk about or
8 share, making sure that we heard the right thing.
9 There's even an instance when I actually mentioned it,
10 when something was said, did you hear what I heard. And
11 we never talked about it.

12 Q. Interesting.

13 A. And to this day, I don't know if he heard
14 what I heard.

15 Q. And I think I know what you're talking
16 about, and I'll get to it a little bit later on, too.

17 A. Yes, ma'am.

18 Q. Because I did have a question about that.

19 A. Uh-huh. (Affirmative)

20 Q. So what you're saying is that when you tried
21 to like just kind of sit down and say like, hey, what did
22 you think about that or what did you hear --

23 A. Right.

24 Q. -- they were just not responsive?

25 A. Well, it was more of a I'll get back with

1 you. And I said, well, if you don't mind, I would like
2 to get a copy of your report or your statement to make
3 sure I get it documented on my end.

4 And that's when we kind of stopped letting
5 them solely do the interviews. I'll be honest with you,
6 from the point I took over in 2020, that's something I
7 stress to my investigators now. If the SBI agent or
8 someone go out with you, you take your own notes, and you
9 document everything that's going on. Because you're not
10 going to have access to theirs, and they're not going to
11 share that information. So it's mandated now to where
12 they do their own notes.

13 Q. Okay.

14 A. Because used to, back then, you decided
15 which one took the notes. The agent took it, and you
16 didn't do anything but stand there.

17 Q. Got you.

18 A. And then you don't have no record of what
19 you heard. And I felt bad about that. And it came up in
20 this case also, I think.

21 Q. Yeah. Okay. So that clears up a lot, too.
22 Because a lot of my questions are kind of about that,
23 honestly. And I noticed that, that from -- when we got
24 the SBI file, we have Lumberton documents in there, so I
25 can see all of that. But we don't have that in the file

1 that you guys gave us. We don't have -- I mean, we know
2 that the SBI was contacted, for sure.

3 A. They will not give you a copy of any of
4 their information.

5 Q. Okay. So then, if you -- so if the SBI
6 is -- because I know they did some of the interviews, and
7 you guys weren't there for those interviews with the SBI.
8 So then, what would --

9 A. I asked to review -- before we went to
10 trial, I wanted to review some of the interviews that
11 they done. Because some was recorded on audio. I was
12 told I couldn't. And I'm the lead investigator, and I
13 couldn't actually listen in on their interviews or look
14 at their transcripts.

15 Q. So how would you know what a witness would
16 say?

17 A. Actually, I have to refer to that agent.
18 And that's what I -- to be honest with you, that's the
19 mindset that -- it's always bothered me. I don't know.
20 If I didn't sit in on that interview, I wouldn't know.

21 Q. You wouldn't know.

22 A. And then when we would come back together to
23 discuss the case, if that agent wasn't there to tell me
24 what was said, which nine times of ten, they wouldn't.

25 Q. So the only time -- okay. And so the only

1 time you would know is if you all got together and had a
2 meeting. And then they would provide the information
3 from their investigation.

4 A. Yes.

5 Q. Okay. So unless --

6 A. And that didn't happen often. To come back
7 together and have a round robin, and tell you, well, this
8 is what this witness told me, and read it off, it never
9 happened. Never.

10 Q. And I guess this is more of a hypothetical.
11 So if they did an interview with somebody, and they got
12 some information that was really critical to your
13 investigation, and did not share that information with
14 you, what would happen to that information?

15 I mean, let's say they had probable cause
16 for somebody, then what would happen after that?

17 A. They would give you the gist of it, and say,
18 well, this person said this. But actually looking at
19 their notes or getting copy of the transcripts, you just
20 never did.

21 You had to base -- you had to what you --
22 what he's telling you on their word at the time. Because
23 a lot of the interviews that they done back then was
24 audio. And they would not -- I don't know what happened
25 to the audio.

1 Q. So how would you go get like an arrest
2 warrant for somebody based on an investigation or like
3 something the SBI did?

4 A. Well, that's the thing. They would have to
5 do their side of it.

6 Q. Okay. Because they have to swear --

7 A. They have to swear the -- they would take
8 care of that side of it. My interviews and the
9 interviews with the suspect, if you wasn't in on the
10 interview, you didn't -- you didn't know. I didn't like
11 it. I was just told that's how it's always been done.

12 Q. Right.

13 A. That's how you -- yes, sir. That's it.

14 Q. Okay. Okay. That's really helpful to know.
15 Okay. So you said that Agent Brady was pretty good to
16 work with for the most part?

17 A. Yes, he was. He was real knowledgeable. He
18 had a lot experience under his belt, and he didn't have a
19 problem talking about the case and telling you, you know,
20 what he felt or what was said to him. But again, you
21 never got the transcripts, you never got the audio or
22 however they took the notes.

23 Q. Right.

24 A. And it was always -- their go-to thing was,
25 we're not allowed to give you copies of what we do. We

1 give it to the DA. And then --

2 Q. If the DA wanted to give it to you, then you
3 could get it?

4 A. You could take a look at it. But the only
5 time you got that was like a day or two before the trial.
6 And you might be able to read over what was said.

7 Q. Okay. So the other agent that was working
8 this case was Cruz -- agent --

9 A. Agent Cruz, uh-huh.

10 Q. How was she in comparison to -- and this is
11 like professionally speaking. So I don't want you to
12 feel weird about like speaking on it.

13 A. Uh-huh.

14 Q. But it does help us to have a better
15 understanding of kind of what happened in the
16 investigation. Was she willing to share information?

17 A. She was fairly new. She was fairly new.
18 And she was more excited just to be a part of the
19 process.

20 Q. Okay.

21 A. She was -- she was good to work with. I
22 mean, she was trying to learn as much. And she wasn't
23 afraid to tell you that she didn't know something or she
24 didn't have the experience. But again, they kind of kept
25 her -- you could tell that she didn't say too much.

1 Q. Okay. So would you say that out of the two
2 of them it was Agent Brady that kind of took more of a
3 lead in terms of the SBI?

4 A. Yes. Yes. He was the senior investigator.
5 We worked close together.

6 Q. Okay. But even -- and even though you
7 worked close together, did you feel like he was really
8 transparent about the investigation that they were doing
9 on their end?

10 A. He was transparent, but not as transparent
11 as I felt he should have been.

12 Q. Okay.

13 A. But again, when you ask for the notes, or
14 can I see what you -- did you hear what I heard. He was
15 more like, yeah, I heard that. But then, when it was
16 time to actually put it -- to make sure we understood
17 what we heard, he didn't really elaborate on it.

18 Q. Okay. What would have made you feel like he
19 was more -- like as transparent as he could have been.
20 What would have made you feel --

21 A. Before we put the felony report together, I
22 felt like they should have been able to come and sit down
23 and say, hey, this is what was told to me with this
24 individual, and just lay it all out. We didn't do that.

25 Q. Okay. All right. Let's talk a little bit

1 about when you first got word of this case happening, it
2 was a Friday night, June the 14th of 2013. Do you have
3 any idea what you were doing prior to being dispatched
4 out to Hayswood Hut?

5 A. I had just left the office. I had been here
6 since 2 o'clock. And I think I had just left the office.
7 I said I was going to get me a bite to eat. And I was on
8 Roberts Avenue when they gave the call out. And I made a
9 U-turn on Roberts Avenue, and come right back to this
10 location. The Hayswood Hut is one block over. So, yeah,
11 I came back and found the officers doing CPR.

12 Q. Okay. I know that you had said that you
13 worked -- you were on call. So I know that this was not
14 normally like your regular area. But were you familiar
15 with Hayswood Hut and Peachtree Street?

16 A. Oh yes. Yes.

17 Q. Okay. Was there a reputation for that area?

18 A. Well, yeah. Yeah. It was known to be a
19 area that drug dealers hung out. And they played
20 basketball over there late, past sundown. And we used to
21 have to have officers go round and make people leave.

22 Q. Okay.

23 A. But that particular night, it was just
24 another typical night, they were out playing basketball
25 late, and the sun had went down.

1 Q. Do you know how long of a time there would
2 have been between a call going into 911, and then you
3 being dispatched or hearing about it over the radio?

4 A. On average, I would say two to three
5 minutes.

6 Q. Okay.

7 A. Depending on the dispatcher, depending on
8 what the information is that's coming in, sometimes
9 it -- sometimes it can be a little bit longer. But by
10 the -- it just depends on -- to me, it depends on the
11 dispatcher.

12 Q. Okay.

13 A. I mean, some are better at just going ahead
14 and issuing the information out, and giving you the
15 information as you're going. Some wait until they finish
16 talking with that caller, and then they'll put everything
17 out.

18 Q. Okay. And when you say they put everything
19 out, what do they -- how do they do that?

20 A. Basically, you have a subject shot at this
21 location, suspect not on scene. Or they give you a
22 description of suspect vehicle or anything that could
23 help us while en route. A good dispatcher, they'll have
24 all that out within that first two minutes.

25 Q. Okay. And are they putting that into like a

1 computer system and then --

2 A. Yes. Yes. They are keying it in. And
3 then, like I said, some key it in and then put it out.
4 And some will put it out --

5 Q. As they're --

6 A. -- they're trying to get you there first.
7 And then they'll key in after. Excuse me.

8 Q. No, you're okay. So the reason why I'm
9 asking that is, it appears -- are you familiar or do you
10 remember Ronnie Roberson? He was a neighbor that had
11 called the police initially.

12 A. Yes.

13 Q. Okay. So it's our understanding -- and I
14 don't have a record of this. But I believe that he had
15 called out originally probably around 9:34 or so that
16 night about just arguing in the park. And then he had
17 called back a couple minutes later about a shooting at
18 the park.

19 And then I believe he called back -- and I
20 do have the dispatch call for this. He called again at
21 9:42, and said that officers still weren't out there.

22 A. Well now, I think that initial call, that
23 being a disturbance or some type of altercation, that
24 changes the response of officers to that scene.

25 Q. Okay.

1 A. And things that vary is if that beat officer
2 is on a call or if the backup officer is on a call.

3 Q. Got you.

4 A. It just changes the dynamics.

5 Q. Right.

6 A. And I think that initial call -- and I can't
7 recall exactly how it was worded, but I think that
8 initial call was something that we used to disturbance,
9 subjects arguing. And I think once he called -- I can't
10 remember if it was a subject, shots fired maybe, was the
11 second time he called.

12 Q. Uh-huh.

13 A. That changes the response. And I think
14 that's why -- because I think from the time that subject
15 shot came out, I think I got there in 45, 50 seconds
16 after it was given out, I think is what they had on the
17 CAD.

18 Q. Okay. I think there were two different
19 dispatchers who were answering calls that night. And so
20 one of them was Kristi Holmes. Does that name sound
21 familiar to you?

22 A. No, ma'am.

23 Q. That's okay.

24 A. I don't know any -- it's bad to say, but I
25 don't know any of the dispatchers.

1 Q. And that's okay. That's okay. And I don't
2 necessarily, because I don't work --

3 A. I know two that's been there 20-plus years.
4 But the younger ones, I'm --

5 Q. Not sure. Okay. Not a problem. That's
6 okay. All right. So the call for service, the calls for
7 service records were not part of LPD's file?

8 A. Right. It wasn't back then.

9 Q. Okay. Got you.

10 A. Now we have the capability, with the new
11 computer system that we have, we can see the calls now.

12 Q. Okay.

13 A. And print them off and add them to the case
14 file now, you have everything.

15 Q. Got you. Do you know why the SBI would have
16 had that? Because that was part of their record.

17 A. I mean, they can request -- you can request
18 the call sheet, or the run sheet is what they call them.

19 Q. But that wasn't something that was
20 automatically a part of LPD's file --

21 A. Right.

22 Q. -- unless you requested it?

23 A. Unless you requested it.

24 Q. Got you. Okay. All right. So I think I'm
25 going to -- because there is a little bit of a difference

1 in the records between what you guys provided us, which
2 again is fine. That's not anything towards you at all.

3 I'm going to introduce that as an entire
4 exhibit. Plus, that way, I'm going to ask you questions
5 about it. You might already have some of that. But I
6 think this will make it a little bit easier to kind of go
7 through, just generally speaking as we're doing this
8 today.

9 A. Okay.

10 MS. MYERS: Fifty-eight. So I'm
11 going to introduce the entire LPD file as Commission
12 Exhibit 58. If you see something through this as I'm
13 kind of directing your attention that you're not familiar
14 with or you don't think it's part of yours, just let me
15 know. All right. I'm going to hand this to you. I just
16 marked that as Commission 58.

17 (Commission Exhibit 58 marked and
18 handed to the witness.)

19 Q. All right. So on page -- so we Bates
20 stamped this file, so I'm going to go -- like when I
21 direct your attention to page numbers, it's based on our
22 Bates stamping of it.

23 A. Okay.

24 Q. So on page 23, this is the second page of
25 your report that we have. Do you recognize that kind of

1 so far in terms of being your report?

2 A. Yes.

3 Q. So at the top of page 23, you stated that
4 you -- that at 9:49 p.m. you responded to the subject of
5 a shot -- a subject shot call. Does that mean that's
6 when you would have gotten it on the radio?

7 A. No. That's the time that -- when I went
8 back, and I responded and told them I was en route. I
9 think that's the time I put down. That's my reference
10 point to when I responded to the call.

11 Q. Responded to the call. Okay. Got you. So
12 you would have received the call at some point before
13 that?

14 A. Right.

15 Q. And then when you called back in to say I'm
16 headed there now, that's 9:49?

17 A. Right.

18 Q. Got you. And then when you arrived then, it
19 would have been at 9:54 p.m.?

20 A. That's the time they give us back when they
21 documented that they --

22 Q. Got you.

23 A. -- that they -- when I say I'm Lumberton,
24 I'm en route, or Lumberton, I'm 10-23. And then,
25 depending on what that dispatcher is doing, the way I

1 understood it is, then whenever they key it in, that's
2 the time stamp for when they keyed it in.

3 Q. Got you.

4 A. When I saw that a while back, and I said,
5 nah, I know I was there within a minute of the time it
6 was called.

7 Q. Got you. Okay. So when you first received
8 this call of a subject shot, does that mean that
9 regardless of when the dispatcher actually puts that out.

10 A. Right.

11 Q. Do all officers get that call at the same
12 time? Does that make sense?

13 A. Yes.

14 Q. Like is it going out on the radio at the
15 same time to everybody?

16 A. Yes.

17 Q. Okay. Got you. So that might not -- some
18 people might be busy, so they might not be able to
19 respond, and that's fine?

20 A. Right.

21 Q. But everybody would receive it at the same
22 time?

23 A. Yes.

24 Q. Okay. When you -- just kind of generally
25 speaking, what do you remember when you first got out

1 there on the scene? Is there anything that stands out to
2 you at all?

3 A. I knew the layout. I knew -- I knew the
4 area. I grew up playing ball there. To me what stood
5 out was, I saw the officer doing CPR. I pull up. I had
6 my headlights pointed to where the subject was laying,
7 and I could still hear sirens of people coming.

8 I think I noticed people coming out of the
9 woodline or coming out the bushes or coming back towards
10 the scene. But just to where he was positioned at, this
11 house was vacant, and it had grown up a little bit, and
12 it had stuff around it. I was surprised to see him
13 there. I guess for me, it was just the location of where
14 this victim was was surprising. In my mind, I was
15 expecting to see him on the basketball court or right at
16 the parking lot next to the court.

17 Q. Okay.

18 A. To see him there, I'm like -- but it was
19 like a split second, just thinking. I thought that was
20 strange.

21 Q. Got you. Strange because it was a vacant --

22 A. It was a fence. That was a fence down there
23 on the side of the house, and then you had the basketball
24 court. So to go around the fence and to get where he
25 was, he didn't just run straight to this side and

1 collapse. It just looked --

2 Q. Oh, okay.

3 A. It just look strange. And I couldn't figure
4 out how he got there initially.

5 Q. Okay. Just so I'm understanding it. In
6 your mind, did that mean that he either ran around the
7 front of the house or he ran from -- I think there was
8 witness testimony that he was standing in the parking lot
9 in front of the vehicles. So did that mean that perhaps
10 he ran to the side of the house and then jumped the fence
11 to get over there?

12 A. And it may have. It just -- it just looked
13 strange to me. I couldn't --

14 Q. It wasn't a direct route?

15 A. Right.

16 Q. Okay.

17 A. If I'm running -- I think, because of where
18 the shooting -- the suspect supposedly was, and the
19 direction he was traveling, it would have been -- I'm
20 going away from gunfire. I'm trying to get away from
21 you. It just seemed odd that he was at the front, left
22 side, or right side or corner of the house. I thought
23 that was strange. It just didn't register with me at
24 first. I was like, that's strange.

25 Q. Okay. Yeah. You also said that you

1 remember kind of seeing people coming out of like the
2 woodline or out of the woods?

3 A. There's a field behind the basketball court.
4 The court is the long way, parallel to the road.

5 Q. Right.

6 A. So you're running up and down the court this
7 way, parallel to the road. There's a parking lot here,
8 and there's a big gaping field behind it where you can go
9 out there and play softball or whatever. And there were
10 people coming back.

11 I remember seeing people coming out of the
12 woodline. And as I'm watching, and I'm trying to provide
13 security for the officers doing CPR, because there's
14 still people coming up, I was just kind of looking
15 around. I just thought I saw people coming out the
16 woodline.

17 Q. Is there anything specific about any of
18 those people that you remember seeing or anything?

19 A. They were male and female. There was some
20 females out there. But most of them wouldn't talk to us.
21 I mean, basically, once they realized the police was
22 there, some of them came out and got in their cars,
23 and -- there was just people. We were focused on trying
24 to help the victim, and people were leaving.

25 Q. Do you remember the age of these people?

1 A. I would say in their 20s. I'm guessing 20s
2 or late teens.

3 Q. Was it your impression that maybe they had
4 been there before the shooting?

5 A. I felt like they were out there before the
6 shooting took place.

7 Q. Okay. Was there anybody that you happened
8 to recognize?

9 A. Not right off.

10 Q. What about later on?

11 A. Not until I spoke to John Allen, which was
12 one of the witnesses. I recognized him. I didn't know
13 him personally, but I recognized him from being around.

14 Q. Okay.

15 A. But the victim -- the victim, I didn't
16 recognize him right off. But then I find out later that
17 my half brother is dating his sister. Something I found
18 out later, after dealing with the situation. But I
19 didn't recognize him initially.

20 Q. Okay. Okay. When you say that you saw some
21 of these people, and they got in their cars and left, do
22 you -- where were those cars parked?

23 A. Back towards the basketball -- parallel to
24 the basketball court.

25 Q. Okay.

1 A. There was a few parked at an angle. They
2 wasn't parked straight in like you would think they
3 should have been. But they were all just parked
4 different ways, like they might have stopped just for a
5 few minutes. But there were people out there.

6 Q. Okay. Got you. Do you have any idea how
7 many vehicles were out there that then left once they saw
8 the police there?

9 A. I know of at least two leaving.

10 Q. You know of at least two leaving. Okay.

11 A. At least two.

12 Q. Do you remember what color those vehicles
13 were or what types of vehicles they were?

14 A. No.

15 Q. That's okay. Do recall hearing anybody say
16 anything as they got back to their vehicles or came out
17 of the woods or anything like that?

18 A. John Allen was kind of verbal. He was upset
19 and he was cussing. And I think he was a little
20 emotional. But I remember the victim's Blazer -- I think
21 it was a Blazer -- still being there, and some people
22 standing by it.

23 But we was trying to get him calmed down
24 enough so we can talk to him. I kind of knew right off
25 he was going to be one of my main witnesses. So I kind

1 of tried to get him to calm down. And he's wanting to
2 get to his friend and his cousin. And he was just real
3 emotional.

4 Q. Yeah. Okay. Anything else that stands out
5 to you initially about the scene or anything?

6 A. No, not really.

7 Q. Okay. Tell me about when you initially
8 spoke to John Allen that night.

9 A. Well, he -- it wasn't where he was really
10 trying to really talk to me. And it's that -- it's that
11 sense of, you know, he was emotional, and he was upset.
12 But at the same time, it was like he still had the
13 attitude, you know, they don't talk to the police. F the
14 police kind of. He didn't say it to me because he knew
15 me a little bit. He seen me around. He somewhat didn't
16 direct it at me as anger. But you could tell he really
17 didn't want to talk to me.

18 So trying to get information out of him was
19 kind of hard. Hey, just tell me, hey, what did you know,
20 what did you see. He really wasn't forthright. He -- it
21 was like he was trying to balance between telling me
22 something and being a snitch, and he was trying not
23 to -- I don't know what -- it's that feeling you get
24 sometime when they're trying not -- they're trying to
25 play both sides type.

1 Q. Okay.

2 A. But he would give a little bit. And I think
3 the little bit that he did give was a description of the
4 car.

5 Q. Right.

6 A. And a little bit of a description on the
7 suspect. And that was it.

8 Q. Did you feel like he knew more than what he
9 was telling you initially?

10 A. I did initially. I felt like he -- you
11 know, he could have done -- he could have told me more
12 than this. But he didn't give anything else. He didn't
13 tell me anything else.

14 Q. When he was speaking to you -- and I
15 understand he wasn't -- like how you described, he wasn't
16 super forthright about it. And you could tell he was
17 kind of balancing all that. Were there other people
18 that -- and if this stands out in your mind. Were there
19 other people around that might have been watching him
20 talk to you?

21 A. I pulled him off to the side. I think we
22 were next to the Blazer. Because again, I was trying to
23 watch what was going on, and at the same time, I was
24 trying to get him off to himself to try to get some
25 information from him.

1 But it could have been some people watching
2 that -- I mean, we wasn't exactly by ourselves. But it
3 could have been back behind us. Because I really
4 wasn't -- because we had the vehicle separating us. And
5 I thought that was enough cover, hey, for people not to
6 see what we were talking about.

7 Q. Okay. Where was the Blazer parked in
8 relation to the home, the vacant home? Do you recall
9 where the Blazer was?

10 A. It was kind of in line with the basketball
11 court. I can't remember if it was parked straight on or
12 at a angle. But it was near the basketball courts. And
13 then at the end of the basketball court, there's a fence,
14 and then that vacant house. So I would say maybe 50, 60
15 feet from where the victim was.

16 Q. Okay. When you were speaking to John -- and
17 I'm sorry. This is also I think on page 23. So if you
18 need to refresh your memory, you're welcome to do that.
19 Do you remember Micheal Burgess being around when you
20 were talking to John?

21 A. I know there was someone else there, but I
22 don't remember their name. Micheal Burgess, I don't -- I
23 don't know if he was there or close to us.

24 Q. Okay. I know you had said that you were --
25 you knew who John Allen was. You weren't super familiar

1 with him, I think is what you had said.

2 A. Uh-huh. (Affirmative)

3 Q. Is that right?

4 A. Yes.

5 Q. Okay. Did you know him to wear glasses?

6 A. No. I don't think I've ever seen him wear
7 glasses.

8 Q. Okay. Did he ever mention to you that he
9 wasn't wearing his glasses that night, and couldn't see
10 anything?

11 A. No. No. I don't recall that.

12 Q. Okay. Is that something if he would have
13 told you that, that you would have documented?

14 A. Yes. Because for him to bring that up,
15 yeah, I would have wrote that somewhere.

16 Q. Okay. Do you think in your experience of
17 interviewing people that if somebody was not able to see
18 a suspect or somebody who just shot another person, and
19 they weren't able to see them because they weren't
20 wearing their glasses, that they would have told you?

21 A. I think they would have. That would have
22 been -- yeah.

23 Q. Okay. Did you speak to any other witness
24 that night while you were out there at the scene?

25 A. I think I left to go to the hospital. I

1 don't know if I spoke to anyone else.

2 Q. There is nothing else in your report --

3 A. Yeah.

4 Q. -- that you spoke to anybody else out there.

5 Is there anything else about like just being out at the
6 scene that night at that time that stands out to you?

7 A. Huh-uh. No, nothing else.

8 Q. Okay. So you had brought up when you had
9 gone to the hospital. Tell me about when you got there,
10 who did you -- who did you initially see or talk to about
11 this case or the shooting?

12 A. Captain Martin, who was over patrol, the
13 captain over patrol was at the hospital. I can't
14 remember why he was there. I really -- but I met with
15 him. And he kind of talked to me and said some of the
16 family is here, kind of briefed me on what was going on
17 up there, and we walked around to the trauma room where
18 the victim was.

19 And I think he -- I think he may have
20 introduced me to the doctor or pointed me to who the
21 doctor was. But he kind of just gave me the lay of the
22 land of where the family was, and how they were acting,
23 and that was it.

24 Q. Okay. Is there anything that stands out to
25 you about when you spoke to the family?

1 A. The dad -- the dad was outside. As I was
2 walking up to meet with Captain Martin, I recognized him.
3 For some reason, I knew who he was. Either I heard as I
4 was walking up that that's his dad or something. For
5 some reason, I knew he was the dad.

6 And he came over, he says are you the guy,
7 the investigator. I said yes, sir. And he wanting to
8 know what was going on with his son. I said, well, sir,
9 I've got to get in and see what's going on, but I'll keep
10 you informed. I gave him my card, and I told him I'd be
11 back out to talk to him. And I went on in.

12 Q. Okay. Was there any -- did you see John
13 Allen at the hospital?

14 A. I can't recall if -- there was a lot of
15 people there. When I went in, it was the dad -- the dad.
16 And he did mention at that time he felt like the
17 girlfriend knew something. He did mention that to me.
18 And I went in. I remember him saying that.

19 But I don't recall. There was some people
20 there, I know, from the family, or from people that was
21 friends with the victim. But I didn't interact with any
22 of them. I kind of just went around people and went on
23 in.

24 Q. Okay. Was there anyone that had been out at
25 the scene that, even if you didn't know who they were,

1 that you recognized them from being out there and then
2 being at the hospital?

3 A. I really couldn't -- I didn't interact. So
4 there may have been some people there from there, but I
5 didn't -- I was so focused on trying to get inside to get
6 an update, I didn't pay any attention to them. I really
7 didn't.

8 Q. Did you see Micheal Burgess there?

9 A. I didn't -- I don't know if I saw him, but I
10 think when I come back out to notify the family, all
11 those people were there. Because they had them in the
12 quiet room by then, I think. John, I think -- and John
13 Allen was in the quiet room, I think. But Micheal
14 Burgess, I just can't recall when I saw him next right
15 off.

16 Q. Okay. So staying on page 23, I just want to
17 go back to John Allen really quickly. You had written in
18 your report that he said that the person driving the
19 vehicle kind of parked it in a way so that he couldn't be
20 seen. Or I'm sorry, he stopped and backed up, and pulled
21 where the victim/witness couldn't see him.

22 A. Uh-huh. (Affirmative)

23 Q. When he told you that, did it sound like
24 he -- well, what was your reaction to him telling you
25 that? Or what were your initial thoughts about that?

1 A. I thought it was strange, but again, at that
2 time, I was just trying to gather as much information. I
3 thought it was strange that he would pull up and then
4 back up. I think is what he told me. And then it was at
5 an angle, it wasn't -- he didn't turn in, it was just
6 like at a -- continuing the way he was going, away from
7 the court.

8 But I thought it was strange, but I just was
9 trying to gather as much information that I didn't pay
10 any attention to it right then.

11 Q. Did he give you any information about what
12 the suspect actually looked like?

13 A. Other than he -- I think he said he was like
14 close-cut haircut, something about gold teeth. Now, that
15 might have been -- that might have been -- wait a minute.

16 Q. That's not -- you don't have that in your
17 report here.

18 A. Yeah, I'm thinking that's someone else that
19 gave me that information.

20 Q. Okay.

21 A. But yeah, he gave the information about the
22 headlights being egg shaped.

23 Q. If he had given you a description about the
24 suspect, is that something you would have written in
25 these --

1 A. Yeah. That would have been in there, yeah.

2 Q. Okay. So then, if it's not in there, do you
3 think that's because he just didn't tell you any
4 description?

5 A. Yeah. He didn't -- if it's not in there, he
6 didn't tell me that.

7 Q. Okay. Is that question you would have asked
8 him, what is the description of the suspect?

9 A. Yes.

10 Q. There are -- on the crime scene log, I'm
11 going to -- let me get you a copy -- or, I'm sorry.
12 That's in there. So let me tell you what page it's on.
13 I don't have that written down. I'm sorry. Give me just
14 one moment.

15 A. Uh-huh. (Affirmative)

16 Q. Okay. So go ahead and turn to -- it's page
17 8 and 9 of the LPD file. And I know that this was --
18 sorry. I'll let you get a chance to get there and look
19 at it.

20 A. (Witness reviews document.) Yes, ma'am.

21 Q. I know that Officer White had -- wrote down
22 the people that were on this log. Did you ever take a
23 look at this log to see who was there or who had been
24 within the crime scene tape?

25 A. No, ma'am. I did not.

1 Q. I know this is part of LPD's file. But is
2 this something that you -- have you ever seen this or
3 looked at this prior to today?

4 A. I know I've seen it. But I didn't pay any
5 attention to it. It's just something that we make sure
6 it's added to the report. I'll be honest, I don't think
7 I looked at it that much.

8 Q. That's okay. So there is a person that is
9 listed on here. I think Officer White wrote down nosy
10 bystander. I think it was Wayne Clayton. It's number
11 15, person number 15, underneath your name.

12 A. Uh-huh. (Affirmative)

13 Q. It says -- yeah, Wayne Clayton -- that he
14 was retrieving a bicycle. At some point during the
15 neighborhood canvas, it had come up that his bike was
16 shot. Do you recall any information about that?

17 A. No, ma'am.

18 Q. No. Okay. Is that something that had you
19 known that information, you would have tried to follow up
20 with him about that?

21 A. Yeah. We would have to document it. If I
22 would have known, I would have made sure we spoke with
23 him. But I didn't.

24 Q. Okay. If another officer with LPD -- and
25 let me just find this instead of just kind of talking

1 about it. That would be more helpful to you.

2 MS. MYERS: Give me just one moment, please.
3 I might have to come back to that when I find it. I can
4 find it on a break, and then ask you more about it.

5 THE WITNESS: Okay.

6 MS. MYERS: I'm going to just really quickly
7 try to find it. Are you doing okay? Do you need a break
8 or anything right now?

9 THE WITNESS: Oh, no, I'm fine.

10 MS. MYERS: Okay. All right. I will come
11 back to that and find it and ask you more about that.

12 THE WITNESS: Okay.

13 Q. Let's see. Anything else about -- just to
14 jump back to being at the hospital. Is there anything
15 else that kind of stands out to you, things that you
16 heard or saw, anything like that?

17 A. Not right off that I can recall.

18 Q. Okay. Are you aware of once you got a
19 description of the suspect vehicle, you had said that
20 John Allen initially told you about the egg-shaped
21 vehicle. I believe he told you it was a Ford Taurus.

22 A. Yes.

23 Q. Is that fair?

24 A. Yes.

25 Q. Okay. Were there officers that were out

1 looking for this vehicle to your knowledge?

2 A. I think they broadcasted it over the radio,
3 the description of suspect vehicle. I think they did.

4 Q. Okay. I know there was a BOLO put out.

5 A. Yeah.

6 Q. Is that -- okay.

7 A. Yeah, that's right.

8 Q. Okay. Did you ever go and speak to Ronnie
9 Roberson, the neighbor? Do you recall anything about him
10 kind of right offhand, other than he was the first person
11 to kind of call 911?

12 A. I think other investigators talked with him
13 during the canvas. Because I think I left at that point
14 and went to the hospital. I think someone spoke with
15 him.

16 Q. Did you ever speak to him directly about
17 anything?

18 A. No. I don't think I did.

19 Q. Okay. So I want to jump to the SBI file.
20 And I'm going to -- let's see how I want to do this. All
21 right. Let me give you the -- I'll just do this as one
22 exhibit instead of doing the whole SBI file.

23 MS. SMITH: Fifty-nine.

24 MS. MYERS: What did you say?

25 MS. SMITH: Fifty-nine.

1 MS. MYERS: Thank you, ma'am. So I'm going
2 to hand you what I will be marking as Exhibit 59. This
3 is Agent Brady's report, or one of them. I'm going to
4 hand that to you, Commission 59.

5 (Commission Exhibit 59 marked and
6 handed to the witness.)

7 A. Okay. (Witness reviews document.)

8 Q. Let me find where it is right in here. So
9 if you go down to -- just kind of looking at it, have you
10 ever seen this report?

11 A. Huh-uh. (Negative)

12 Q. Okay. So this would be one of those reports
13 that they would not have handed over to you all?

14 A. Yes, that's correct.

15 Q. At that time, at least. Okay. If you go
16 down to -- it's the third paragraph in there. It says
17 Detective Collins advised that a white car pulled up. Do
18 you see that paragraph right there?

19 A. Yes, ma'am.

20 Q. And it says that a stocky or muscular Black
21 male with short hair or a bald head fired gunshots at
22 people located at the basketball court.

23 Do you know where the description of the
24 shooter being stocky or muscular build would have come
25 from in particular?

1 A. No. I don't recall saying that.

2 Q. Okay. Let's see. Let me jump to -- I've
3 kind of debated on the best way to kind of go through the
4 SBI file a little bit. You did not -- or did you at all
5 take part in the neighborhood canvas at any point that
6 night that you recall?

7 A. I did not.

8 Q. You did not. And you are sure of that?

9 A. Yes, ma'am.

10 Q. Okay. So Agent Cruz had written that -- no,
11 I read that wrong. Forget that. Okay. You did not take
12 part in the canvas. All right.

13 You can put that one aside. I'm going to go
14 back to your file. Go ahead and turn to page 24. And
15 this is still part of your report. This would be the
16 third page of your report.

17 And so this would have been on the next
18 morning. So Saturday, June the 15th. Kind of in the
19 middle, it says at 8:30 a.m. I spoke with the witness,
20 cousin of the victim. Do you see that part?

21 A. Yes.

22 Q. And he stated that -- John Allen stated that
23 he would call you back that afternoon with more
24 information. Did you ever talk to him again that day?

25 A. No, huh-uh.

1 Q. Do you know why you didn't talk to him again
2 that day?

3 A. I think -- I think it was waiting on him to
4 reach back out. Because I don't know if I had. Because
5 I don't recall. I think he always initiated the contact,
6 to try to contact me. Or whenever I spoke to him, I
7 think he called me.

8 Q. Okay. Would there be a time that you spoke
9 to him on the phone and then just didn't document it for
10 whatever reason?

11 A. No.

12 Q. No. Okay. So did you ever talk to him at
13 some point about who else was there at the scene? Did he
14 ever give you any other information about who was there?

15 A. I don't think I spoke to him again.

16 Q. After that?

17 A. I think I would try to reach out to
18 different people to get him to call me, and I think he
19 always -- if he did call me, he would never give me a
20 number outright. Because even that night, whenever I did
21 talk to him, I think he never gave me an actual number.
22 Because I would have it documented, and I don't remember
23 having it.

24 Q. Okay. And you had talked about this a
25 little bit, too, when we were discussing like the

1 hospital. And Josh's father, Daily Council, had told you
2 that he thought that the girlfriend might have had
3 something to do with this. Tell me more about how that
4 got -- how he said that to you. Was that kind of like a
5 spontaneous thing?

6 A. It was. It was more of -- he was more of
7 like, hey, I think -- he said my son's girlfriend may
8 have -- know more -- know something about it. It was
9 more of know something. He didn't say involved, he said
10 it was more of I think she knows something about it. So
11 we reached out to her.

12 Q. Do you know why he felt like that though?

13 A. And I -- it just -- just what was said in
14 that few minutes, I think it was because of that their
15 relationship wasn't a good relationship is the impression
16 it gave me. And I was going to come back around and talk
17 to him more about it, but then I just never did. I don't
18 know why I did, but I never talked to him again about it.

19 Q. Okay. Were you aware of any --like, were
20 there any domestic incidents that you know of between
21 Josh and -- the girlfriend's name was Shabrea Lowery.

22 A. Uh-huh. (Affirmative)

23 Q. Are you familiar with anything like that
24 happening that would make you -- that you think might
25 make him think that?

1 A. I heard -- and again, I think this was just
2 when we would get together and put the information from
3 the other investigators, and we was sitting down to talk
4 about the case, I remember someone else saying they had
5 some issues, domestic type problems. But I can't
6 remember who was saying it. And so I just remember
7 hearing something about them not having a good
8 relationship.

9 Q. Okay. Got you. All right. I think you
10 testified to this at trial. But still on page 24, you
11 had said -- this is a little bit lower, and it looks like
12 this was the next day, that you had received a call about
13 Christopher McGirt calling in about a strange incident
14 that he had.

15 A. Yeah.

16 Q. Did you speak -- so the way that you have it
17 documented, it says that you got a call in reference to
18 him. Does that mean that you did not speak to him
19 directly?

20 A. Initially -- initially, I did not speak to
21 him.

22 Q. Okay. Got you. So that was just a call
23 coming in to you to be like, hey, this guy called in?

24 A. Right.

25 Q. Okay. Got you. And go ahead to page 25. I

1 think that -- so where it says on Monday, June 16th. I
2 believe that it means to say June 17th.

3 A. Yes.

4 Q. Okay. I just want to make it very clear.

5 A. Yeah. That should have been.

6 Q. That's okay. So you had listed some numbers
7 from the victim's cell phone. So talk to me about -- you
8 got that cell phone, and it wasn't initially placed into
9 evidence. So talk to me kind of about like why that was,
10 and what you were trying to get out of the phone.

11 A. Well, that was the victim's phone. And I
12 think initially, that the reason it wasn't placed into
13 evidence is, when I come back to the scene -- when we
14 came back to the scene, the crime scene technician gave
15 me the phone. And he was like, this is the victim's
16 phone.

17 And I think initially what I was thinking
18 was just go and see what the last phone calls were, and
19 reach out to those people, see what was said. And I
20 think I just documented what the numbers were, and then I
21 was going to reach out to these individuals.

22 Q. Okay. Did you ever look at text messages or
23 anything like that on the phone? And I don't know that
24 his phone had that capability, to be honest.

25 A. I think initially, for some reason, it was

1 a -- I think it -- I mean -- I think it was a flip phone.
2 And I just think I was just curious about wanting to get
3 the numbers of everybody he called to see if it was some
4 type of situation where someone set him up. I think I
5 was just curious to get the numbers. I think that's all
6 I focused on was getting the numbers.

7 Q. Did you ever -- you said you were trying to
8 figure out if he had been set up.

9 A. Uh-huh. (Affirmative)

10 Q. Okay. Is there a reason why you thought he
11 might have been set up?

12 A. No. That's just something I always try to
13 do when it deals with victim's cell phones. It's just
14 gathering all the numbers out of it, the last numbers he
15 called, whatever was listed.

16 Q. Okay. And these were the numbers that he
17 called?

18 A. Or called him.

19 Q. Or called -- okay.

20 A. I think. Yeah.

21 Q. Numbers that called him?

22 A. Uh-huh. (Affirmative)

23 Q. Okay. So the numbers that are on here that
24 don't have a name next to them, what does that indicate?

25 A. That it was just someone that wasn't in his

1 call log or he didn't have their number listed.

2 Q. Did he have any voice mails on his phone?

3 A. I didn't check.

4 Q. Okay. After you got these phone numbers,
5 what did you do with this information?

6 A. I just documented it. At the time, I just
7 documented it, wrote the numbers down, and I went on to
8 something else, to be honest.

9 Q. Got you. Okay. Did you ever follow up with
10 any of these numbers?

11 A. No. I think -- I think once I got them
12 documented, and I went on to -- everything else started
13 developing to the point where I didn't go back. For
14 whatever reason I didn't go back to them.

15 Q. Okay.

16 A. I don't even think -- I didn't even call
17 them. I just documented it, and I just listed that I
18 documented them.

19 Q. If you did call them, and somebody answered,
20 is that something you would have documented then?

21 A. Yes. If I called them, yes.

22 Q. Whether or not they answered or just if you
23 called them and they answered?

24 A. Well, I know I didn't call them. But if I
25 had called them and they answered, I would try to get

1 some information from them, and I would have documented
2 it.

3 Q. Got you. Okay. At what point was the cell
4 phone considered an item of evidence?

5 A. I know at some point I think I even -- I
6 can't recall it, but I know I gave it back to someone,
7 because I didn't keep it. But I just can't recall right
8 off when it happened.

9 Q. Why would it have been considered an item of
10 evidence at that point if it wasn't initially?

11 A. Well, just as the victim's property, I think
12 I would have went ahead and just did a -- just to cover
13 us having the phone in our possession, I would put it
14 into evidence as his property.

15 Q. Got you. Okay.

16 A. It wouldn't have been -- and it wasn't that
17 I considered it a piece of evidence, it's just that it
18 was on his person. So I think I would have at some point
19 just documented it and turned it in.

20 Q. Got you. Okay. All right. So a little bit
21 further down on page 25, you ended up talking to Shabrea
22 Lowery. And I know, you know, at first she kind of -- it
23 seems like you interviewed her because she was his
24 girlfriend, or at least the on-again, off-again
25 girlfriend. Did you ever find out or ask her why Josh's

1 dad would have thought she knew something about this?

2 A. No, I did not.

3 Q. Is there a reason why you didn't ask her
4 that?

5 A. No. Because I think initially, I just felt
6 like that was him not knowing much about what his son was
7 doing, and that was a girlfriend that he's had problems
8 with.

9 Q. Got you.

10 A. And I think that's where it stuck with me
11 with him.

12 Q. Okay. Yeah. When you were interviewing
13 Shabrea, I know it comes out that she realizes that her
14 brother's dad --

15 A. Half brother. Yeah.

16 Q. Yeah, half brother's dad fits the
17 description. Do you remember when she had called her mom
18 on the phone, Kimberly Lowery?

19 A. Uh-huh. (Affirmative)

20 Q. And Kimberly tells you that Clarence Roberts
21 had been at her house, and he tells her he had a run-in
22 with Soulski.

23 A. Uh-huh. (Affirmative)

24 Q. Talk to me about -- kind of about that.

25 A. Well, it was all pretty strange -- well, it

1 was unique how it happened. Because we had already
2 finished the interview, and she really didn't have much
3 to add to who she may have thought.

4 And we were -- I walked her out the front
5 door, and she was walking to her car. She stops midway,
6 and like a thought just hit her. She comes back, and she
7 was real adamant, her whole demeanor changed, and that's
8 when she told us about her brother's dad matching the
9 description.

10 So we come back inside. We sat back down.
11 She kind of gave us the lay of the land of who he was.
12 And she said, well, I'll let you talk to my mom. And
13 that's what happened, we called her mom.

14 But I thought at first, my first thought
15 was, wow, what a coincidence. But we went out and tried
16 to talk to her mom. And the mom was more like she didn't
17 really want to be involved. She kind of let us know
18 right off, I don't got nothing -- I'm not going to give
19 you anything or say anything. That's the impression she
20 gave.

21 Q. Were you familiar with this before -- or
22 familiar with her before any of this?

23 A. No.

24 Q. No?

25 A. No.

1 Q. What was your impression of her not wanting
2 to kind of give you guys information?

3 A. Just initially, I just thought it was a
4 typical ex-girlfriend that don't like -- and I always
5 equate it to either they don't like the law or they don't
6 want to be a snitch or she just didn't want to help us in
7 any way prove that he was -- or because we're looking at
8 him as a suspect.

9 But she did let us -- she consented to
10 search around the house, around the property. But it's
11 like she wasn't going to give us anything. She wasn't
12 going to say anything against him.

13 Q. Okay. Almost like she had some sort of like
14 loyalty towards him?

15 A. To -- yes.

16 Q. Okay. When she told you about Soulski
17 Stephens, do you recall her bringing that up?

18 A. Yes. Yes.

19 Q. Okay. Were you familiar with Soulski before
20 this?

21 A. Yes. Yeah.

22 Q. Like talk to me about Soulski Stephens. Did
23 that have any significance to you when she brought him up
24 or anything?

25 A. Well, I knew him as Kenny Ray Floyd. He's a

1 local drug dealer.

2 Q. You knew Soulski Stephens as Kenny Ray
3 Floyd?

4 A. Soulski is -- street name is Soulski. His
5 name -- the guy I know to be Soulski was a Kenny Ray
6 Floyd.

7 Q. Did he go by Flossie?

8 A. Floss. Yeah, Floss.

9 Q. Okay. So I understand those two people
10 as -- I understand Kenny Ray Floyd to be Floss.

11 A. Floss. Uh-huh. (Affirmative)

12 Q. And I understand Soulski Stephens to be a
13 totally separate person. Let me show you an exhibit.

14 A. Okay.

15 Q. And I could be wrong. I'm going to show you
16 what was previously marked as Commission Exhibit 9. Do
17 you recognize that person?

18 (Hands Exhibit 9 to witness.)

19 A. (Witness reviews document.) I know Kenny
20 Ray, which is Floss. I've seen him before, but -- and
21 I'm saying it's the one on the right -- that's not the
22 same person I'm thinking about.

23 Q. Okay. So this is Soulski Stephens.

24 A. Okay.

25 Q. I don't have a picture of Kenny Ray Floyd.

1 But I know these two individuals to be different. I know
2 Kenny Ray Floyd is also deceased at this point. Is that
3 to your knowledge, as well?

4 A. Yes.

5 Q. Okay. So when Kimberly Lowery, though, had
6 told you this, brought this up about Soulski, it was your
7 understanding that Soulski was Floss?

8 A. Right.

9 Q. Okay. And so what did that kind of -- I
10 guess, what were your thoughts about -- were you
11 surprised that Clarence would have had a run-in with
12 Floss, or kind of -- did you think anything at all?

13 A. I really didn't think anything of it.
14 That's just informational. But when I heard Floss
15 and -- I don't know why I put those two together. But I
16 know Floss, Kenny Ray, because we all grew up together.
17 I just know he's a drug dealer, and he's nothing but
18 trouble.

19 Q. Okay.

20 A. But Soulski, I don't know why automatically
21 in my mind I related him with Kenny Ray.

22 Q. Okay. So any time Soulski is written in a
23 report, it is -- you're thinking was that it was Kenny
24 Ray Floyd. But you were sure that Kimberly Lowery did
25 say Soulski --

1 A. Right.

2 Q. -- Soulski, and not Kenny Ray Floyd?

3 A. Right.

4 Q. All right. I just want to make that clear.

5 Okay. So at some point -- all right. Let's see if I
6 want to skip to that.

7 She had also told you that -- well, let me
8 rewind a little bit. Prior to this case, were you
9 familiar with Clarence Roberts at all?

10 A. No.

11 Q. So when she told you that he was acting
12 strange that night when he was at her house, do you know
13 what she meant by that?

14 A. No.

15 Q. Would she elaborate on that?

16 A. No.

17 Q. When you were -- so how did that
18 conversation end with Kimberly Lowery on the phone at
19 that point. Do you recall?

20 A. It was -- it was quick. She didn't want to
21 -- like I said, she didn't really want to elaborate too
22 much on anything. But she did mention what she said,
23 what I wrote down. But she didn't elaborate, she didn't
24 stay on long.

25 Q. Okay. All right. After you got off the

1 phone with her, Shabrea was still in you office, or you
2 guys were still talking at least. Is that correct?

3 A. Right.

4 Q. Was there anything else that Shabrea said
5 during that interview that kind of stands out to you at
6 this point?

7 A. No, ma'am.

8 Q. Did Shabrea talk about any of the issues she
9 had with the victim while she was speaking with you?

10 A. I think at one point I -- I think I did ask
11 her did they still get along. I may have asked her
12 something to that effect. She said we're fine. What
13 that mean, I don't know. But she wasn't like they were
14 in any -- wasn't nothing going on right then.

15 MS. MYERS: Okay. Let me pause really fast.
16 How are you doing? Are you good?

17 MS. SMITH: Uh-huh. (Affirmative)

18 MS. MYERS: Do you need a break right now?

19 THE WITNESS: I'm fine.

20 MS. MYERS: Okay. We are getting close to
21 lunch. So it's 11:42 right now. So we do want a lunch
22 break, I'll just tell you. I'm assuming you're going to
23 want one too.

24 THE WITNESS: Yes, ma'am.

25 MS. MYERS: What time would you like to

1 break for lunch? Any time is literally good for us,
2 because we just like to eat.

3 THE WITNESS: Any time is fine. Yeah. Any
4 time.

5 MS. MYERS: Why don't we end at noon. Is
6 that okay? We'll take a break. And then we'll go from
7 there. Does that sound fair?

8 THE WITNESS: That's fine.

9 MS. MYERS: All right.

10 Q. So let's go to page 26 of your report now,
11 which is page 5 of your report, 26 of the file. And you
12 write that Kimberly Lowery, you spoke to her at her home
13 on the 16th. I believe that's probably supposed to be
14 the 17th. Does that --

15 A. I think all my dates was -- yeah.

16 Q. Honestly, I think that's it. I think it's
17 just that one day, the 16th. I think that Monday was the
18 17th. And so I think that's kind of where that's at.

19 When you say -- let me see where I'm at
20 right here. Where it says at 2:30 p.m., we went to 23
21 Laiken Estates.

22 A. Yes, ma'am.

23 Q. When you're talking about we, is that you
24 and Agent Brady?

25 A. Yes.

1 Q. Would there have been anybody else with you
2 at that point, do you know?

3 A. No.

4 Q. Okay. When you interviewed her, did she
5 ever indicate to you that Roberts came inside her home?

6 A. I don't think so. I can't recall. If I
7 didn't -- no. She made it a point to say that I didn't
8 let him in the house. He had to go around the house to
9 use the bathroom. He made a comment that he needed to
10 use the bathroom. I think she said something about him
11 going around the back of the house.

12 Q. Okay. Do you recall her ever indicating
13 that there -- who else was in the house with her aside
14 from like her kids?

15 A. No, she did not.

16 Q. Do you recall ever speaking to their son,
17 Jarod?

18 A. No.

19 Q. Do you remember him being there when you
20 spoke to Kimberly? And he would have been about --

21 A. I think there was a young man there. I
22 think there was a young man there. I think he answered
23 the door, and then she come out.

24 Q. Okay. So if you turn to page 53 of this
25 file, of the LPD file, this is Detective Hinson's report.

1 In his report, he talks about -- let me find exactly
2 where it's at now. It says I was advised by Detective
3 Collins to go to Laiken Estates. It is like the third
4 full paragraph on that page. Do you see that?

5 A. (Witness reviews document.)

6 Q. The kind of fifth -- well, it's the fifth
7 grouping of words on that page, if you see what I'm
8 talking about.

9 A. Where is says I assisted Detective Collins
10 in speaking with more witnesses from the shooting?

11 Q. No. Go up a couple. I was advised by --

12 A. Okay. I got it. I got it.

13 Q. Okay. So it looks like he went out and
14 spoke with Kimberly Lowery that day with Agent Cruz. And
15 that was also on the 17th. Do you know why you would
16 have advised him to go out there that day as well?

17 A. I wouldn't have if I've already went.

18 Q. Okay. Is it possible that he went out on a
19 different date and it's just not documented the date
20 correct?

21 A. I have --

22 Q. And I know I'm asking you to kind of surmise
23 what somebody else would have done, and that's not really
24 a fair question to you. Are you reading it the same way
25 I am?

1 A. Yeah.

2 Q. Maybe I'm reading it incorrectly. Is it
3 possible that he was out there at the same time you were?

4 A. I just don't recall. I really don't recall
5 telling him to go out.

6 Q. That's okay.

7 A. But it seems like to me, and I'm just
8 speculating. It just seems like we may have discussed it
9 to clarify. There may have been something I wanted him
10 to clarify because of what she told me.

11 Q. Got you.

12 A. Because he wouldn't do something and then
13 document and say it -- I'm not saying it's not true. But
14 if I advised him to go back out, it would have to be to
15 clarify whether or not she allowed him in the house. But
16 I just don't recall that.

17 Q. Okay. That's okay. On page 60, again,
18 still in Detective -- or part of Detective Hinson's
19 report. And this is in his handwriting. This is not
20 your handwriting. Is that correct?

21 A. No.

22 Q. Okay. I just sort of thought that. At the
23 very bottom, he writes, as soon as our son said the
24 police were riding around, Roberts asked to use the
25 bathroom. Do you see that at the bottom?

1 A. Uh-huh, yes.

2 Q. Okay. Tell me about that. You made a face,
3 so that made me think that you knew something more.

4 A. No.

5 Q. No? Okay.

6 A. I ain't going to ask to use someone's
7 bathroom. Who is -- I don't understand that, as soon as.

8 Q. Our son said police were ride -- so my
9 understanding -- so this is what Kimberly would have told
10 Detective Hinson about Roberts that night.

11 A. Oh, okay.

12 Q. So the way I read it is that she's saying
13 like as soon as our son was saying like, oh, the cops are
14 riding around, then Roberts asked to use the bathroom.

15 A. Asked to use the bathroom.

16 Q. And then, as soon as he saw the police leave
17 the area, he went around the side of the house. Do you
18 know what she meant about that or anything? Was there
19 anything significant about that to you?

20 A. I just kind of remember that she tried to
21 make a point that she didn't let him in the house. I
22 don't think she wanted us to go in the house or have a
23 reason to go in the house. But it sounded -- she said
24 that he went around the back, because that's why we asked
25 for consent to go around and search the property, the

1 outside of her property, was because she made a point of
2 saying she didn't let him in the house. So we figured he
3 went around the house. She said he stayed gone for a
4 while.

5 Q. Okay. Stayed gone for a while. Okay. Talk
6 to me about what you remember about like the K9 searches
7 and the -- just the searches that were done around her
8 property.

9 A. Well, we asked two K9 units to come out and
10 do a property search. Which was basically -- my thought
11 was he may have got rid of the gun back there behind the
12 house. And there was a hole cut in the fence. So we
13 walked around and checked the area, and we saw this pond.
14 It had a pond back there. Well, not even a pond. It was
15 just maybe the size of this room, a watered area.

16 Q. So almost like a retention pond?

17 A. Similar to that. But it had grown up, and
18 it was wooded. And so we got a bunch of guys together,
19 put on waders, and got out there and started digging in
20 that pond.

21 Q. When you're saying waders, what are you --

22 A. The little -- the water --

23 Q. Okay. They're like rubber pants?

24 A. I don't wear them. The things you put on
25 and keep from getting wet.

1 Q. Okay. Okay.

2 A. We all had them on, and got out there and
3 was shoveling and trying to find this gun. And wasn't
4 able to locate anything.

5 Q. Okay. How deep was this water?

6 A. About three to four feet.

7 Q. And what made you think that he would have
8 gotten rid of a gun if he had one back there?

9 A. Well, initially, it was -- well, we knew a
10 gun was used. And for him not to be allowed in her house
11 after -- and it was during the time frame after the
12 shooting. We felt that he went there with the purpose of
13 trying to get rid of the gun, and was going to maybe
14 leave it with her.

15 And then when she didn't allow him in the
16 house, he had to come up with something else. And out of
17 her own words, she said he went around the back and
18 stayed gone a while. So we just felt like he went, and
19 tried to find a place to put it.

20 Q. Did you ever feel like Kimberly Lowery was
21 lying to you at all to make you --- to make you think
22 that there was no reason for you to go into her house to
23 search for anything?

24 A. Well, I just felt like -- like I said
25 earlier, she just didn't want to give us anything to help

1 prove that he was the suspect. And that whole thing
2 where, I guess, to be loyal to him. It was just a
3 combination of I don't like the police, I'm going to be
4 loyal to him, I ain't going to help you get him. I don't
5 know if I would say she wasn't being truthful. I just
6 felt like she just wasn't going to give us anything.

7 Q. Okay. Did she indicate any kind of feelings
8 towards Joshua Council or anything?

9 A. No.

10 Q. No. Okay. When you're talking about -- so
11 at that time -- Laiken Estates is a trailer park or a
12 mobile home neighborhood?

13 A. Yes, ma'am.

14 Q. Okay. Is there -- around Kimberly Lowery's
15 home, was there a fence around her actual home?

16 A. No.

17 Q. Okay. So when you're talking about the
18 fence, was it a fence that went around --

19 A. The mobile home park. It was kind of
20 certain -- the back side of the mobile home park had a
21 fence, kind of separate it from people's property that
22 had homes behind.

23 Q. So I know this is off E-town. So if I'm
24 driving down E-town, and Laiken Estates is on my --

25 A. It would be on your left.

1 Q. -- on my left.

2 A. Going out of town.

3 Q. Going out of town. Do you recall where her
4 home -- and I'll be honest, I've not driven through
5 there, so I don't actually know what the inside of the
6 park looks like. So when you're talking about the fence
7 -- or is Laiken Estates just like one road?

8 A. Oh no. It's a large park.

9 Q. It's pretty big?

10 A. It's a large park. But turning in off
11 E-town Road, it took you straight -- there are several
12 roads that branch off, going to cul-de-sacs, and they
13 come out. But where her house was located, you took that
14 left into the park, you went all the way to the end, and
15 as it crossed over, you had to make a left or a right.
16 But as you crossed over, there was a dead-end cul-de-sac
17 at the end. As you crossed over, her mobile home was on
18 the left.

19 Q. Okay.

20 A. And behind her mobile home is the woodline
21 that separated the park from the field.

22 Q. Okay. Got you. And so the hole that you
23 all found was in that fence?

24 A. In the fence, yes.

25 Q. Talk to me about what that hole looked like.

1 A. It looked like someone just had went out
2 there and cut from the bottom of the fence up maybe three
3 feet.

4 Q. Okay. Okay.

5 A. And just spread it open. You could walk
6 through.

7 Q. Got you. Okay. So what type of fence was
8 this?

9 A. It's one of the traditional six-foot fences.

10 Q. Like a metal fence?

11 A. Metal fence. Uh-huh. (Affirmative)

12 Q. Okay. So you had the K9s out. I know there
13 were two separate K9 units that at least went around
14 there.

15 A. Yes.

16 Q. Is that your memory, two?

17 A. Two.

18 MS. MYERS: So I'm going to -- on page 243
19 of the SBI file, which you don't have in front of you,
20 and I'm going to mark this as a new exhibit and show this
21 to you. And I also understand that this is part of what
22 you most likely have never seen before. And that's
23 totally okay.

24 Give me just one moment and let me get this
25 out of here. So this is -- I believe these to be Agent

1 Brady's notes. I'm not totally sure to be honest.

2 MS. SMITH: Sixty.

3 MS. MYERS: Sixty. Thank you, ma'am. So
4 I'm going to label this as Commission Exhibit 60. If you
5 can't read this, I understand. And I'm going to try to
6 help you. But I have a specific question on there.

7 (Commission Exhibit 60 marked and
8 handed to the witness.)

9 Q. First off, just to make sure, are these your
10 notes?

11 A. These are not my notes.

12 Q. I did not think so, but I wanted to just
13 double-check. And so on page 243 -- I'm sorry. Give me
14 just one moment. Okay.

15 At the very bottom of these notes it says K9
16 Officer Travis Ransom used K9 Nero, conducted an article
17 search. Do you see that?

18 A. Yes.

19 Q. Okay. It looks like he says with negative
20 results around trailer, or what I believe is supposed to
21 be shorthand for trailer. The last sentence then says
22 but inside of fence line, he tracked something, but lost
23 scent.

24 A. Hmm.

25 Q. Are you aware of anything regarding a scent

1 that was initially picked up and then lost?

2 A. No, ma'am. All I asked, I think, was it
3 successful, did we find anything. And I think they just
4 told me no.

5 Q. Okay. Have you ever been a K9 officer?

6 A. No, ma'am.

7 Q. And I have no idea what the different
8 trainings are, to be honest. I think we've established
9 that I'm not a law enforcement officer.

10 A. Uh-huh. (Affirmative)

11 Q. If a dog had picked up a scent and then lost
12 the scent, is that something that should have been
13 documented in Officer Ransom's report?

14 A. It should have, yes.

15 Q. Okay. I did not see that in Officer
16 Ransom's report, and I know his report is included in
17 this file, and I don't know the page offhand that it is.
18 But is that the first time you have ever been aware of a
19 scent being picked up?

20 A. Yes, ma'am.

21 Q. Okay. So it actually looks like --

22 A. I've got his --

23 Q. Seventeen. I believe that's the same one
24 that I have too.

25 A. Yeah.

1 Q. At the bottom, does it say page 3 of 3?

2 A. Yes.

3 Q. The time being 4:45 at the top, 6/17/2013?

4 A. Yes. Uh-huh. (Affirmative)

5 Q. Okay. That's the same thing that I have
6 too. And I don't --

7 A. I don't see it in there.

8 Q. Yeah. There's nothing in there that
9 indicates that. Okay. So in your opinion, though,
10 that's something that if the dog picked up a scent, it
11 should have been in there, even if the dog lost the
12 scent?

13 A. Yes.

14 Q. Okay. Do you know -- and this might be a
15 question for Officer Ransom. But I know that the dogs
16 were deployed to pick up -- or was there a specific scent
17 that they were trying to pick up?

18 A. I think on the article search, it's just
19 designed where they'll search for articles. They don't
20 have -- it doesn't have a particular scent, I don't
21 think.

22 Q. Okay.

23 A. The way it was explained to me, because I
24 was curious about how you can just take a dog out there
25 and sniff up. And I think that's the way that it was

1 explained. It's just that they do a area. And any
2 article, anything that's not -- should be in that area,
3 it's going to hit on it. So anything that's, I guess,
4 that don't belong there, it's going to hit on it. If
5 it's a rag or if it's a stick or a pole. I think it'll
6 just hit on anything that doesn't belong in that area.

7 Q. Okay. So the dog should have been able to
8 pick up on a gun if a gun was in the area?

9 A. Right. Anything that's not meant to be in
10 that area. And I will say, I didn't see it, but that was
11 two different times.

12 Q. Yes.

13 A. Two different dog searches. They wasn't
14 there at the same time.

15 Q. Right. Yes. I also saw that, and I was
16 going to ask you about that too. Because it looks like
17 Officer Ransom had asked -- is it Sergeant Cain?

18 A. Sergeant Cain.

19 Q. Cain to come in.

20 A. He has a more experienced dog, I think it
21 was at the time.

22 Q. Okay.

23 A. Asked him to come and maybe assist and do a
24 search.

25 Q. Got you. Okay.

1 MS. MYERS: It is 12:00, and I think we are
2 at a good stopping point to go ahead and take a lunch
3 break. Are you comfortable with doing that right now?

4 THE WITNESS: Yeah.

5 MS. MYERS: Okay. To be honest, I mean, I
6 do have a few other things to go over with you. I mean,
7 this is not going to take all afternoon. I'll just be
8 honest with you. Are you still good to continue after
9 lunch?

10 THE WITNESS: Oh yeah. Oh yeah.

11 MS. MYERS: I think what we'll do is go
12 ahead and we'll pause. And the time is 12:01 p.m.

13 (Recess 12:01 p.m. to 12:57 p.m.)

14 MS. MYERS: All right. We are back on the
15 record, and it is 12:57 p.m.

16 Q. All right. Any questions before we get
17 started?

18 A. No, ma'am.

19 Q. No? Okay. All right. So where we kind of
20 last left off was talking about the K9 search, and
21 talking about like the articles and what the K9s were
22 kind of sniffing for. So that's where we ended off.

23 I did want to kind of transition into asking
24 you a little bit about Soulski Stephens again, who I know
25 we had thought of what Floss. So go ahead, and if you

1 would, turn to page 26 of the LPD file there. And this
2 is page 5 of your supplement.

3 And the one thing I wanted to ask you about
4 was a little bit further down on the report. It says at
5 4:30 p.m., checked P2P. Do you see that part?

6 A. Yes.

7 Q. Okay. One, can you talk to me a little
8 about what P2P is?

9 A. It stands for Police2Police. It's a
10 database that they put information in from each jail as
11 the individual is taken into custody. It's for their
12 demographics.

13 Q. Okay. Got you. So it has nothing to do
14 with -- it's just the jails?

15 A. Right.

16 Q. Like when someone is booked in, that
17 information that they gather is then put into P2P?

18 A. Yes.

19 Q. Okay. So you had written in your report
20 that you had found out that Soulski Stephens had a
21 brother named Alex Stephens who was about the same build
22 of the victim. Talk to me about that and why you wrote
23 that.

24 A. I think at the time we were under the
25 mindset that he thought -- the defendant thought he was

1 back at that party he supposedly had words with Soulski
2 at. There was a party or get-together down the street
3 from where the park was. And I think we had a discussion
4 about the victim favoring the Soulski.

5 Q. Okay.

6 A. And we're thinking maybe he thought that's
7 who that was playing at the basketball court, and that's
8 why he felt like he was having -- dealing with the same
9 person he was at the party.

10 Q. Okay. So Soulski, when we're talking about
11 Soulski right now, at that time you thought Soulski was
12 Kenny Ray Floyd. Right?

13 A. Right. I thought, uh-huh.

14 Q. That's what you thought. I do not have a
15 photograph of him, but I have seen his photograph. My
16 understanding is that he was -- and just to make the
17 record really clear, Kenny Ray Floyd being Floss.

18 A. Right.

19 Q. He was thin. Is that right?

20 A. Yes.

21 Q. Okay. My understanding is that the victim
22 was heftier. So what about the victim made you think
23 that he resembled who you thought was Soulski at the
24 time?

25 A. The only difference between the two is

1 there's a -- Floss is taller, and he's about six two.

2 Q. Okay.

3 A. The victim was a little smaller and
4 stockier.

5 Q. Okay.

6 A. But at the time, we were looking at any
7 avenue of why he would think he had beef with those boys
8 on the basketball court. And that was just something we
9 reached at or grasped at was the fact that he had
10 altercations or words with someone at the party.

11 Q. Okay. And so when you looked up -- so when
12 you would have searched for Soulski Stephens in P2P,
13 would you have put in Kenny Ray Floyd's name or Soulski
14 Stephens?

15 A. At the time, I probably would have put the
16 name that he had, which was Soulski Stephens. Because
17 Kenny Ray, I knew. So I would have known his picture
18 when I saw it. For me to search P2P, I must have put the
19 name --

20 Q. Soulski.

21 A. -- Soulski Stephens.

22 MS. MYERS: Okay. All right. I am going to
23 hand you what I'm going to be marking as Exhibit 61. And
24 this is -- okay. So this is Agent Cruz, her interview
25 that she did with Crystal Allen. And I'm going to mark

1 this as Exhibit 61, and hand this to you. There you go.

2 (Commission Exhibit 61 marked and
3 handed to the witness.)

4 Q. And let me jump to this here. Did you ever
5 see Crystal Allen at the scene when you arrived there
6 that night?

7 A. I don't recall documenting her name, so I
8 don't think I saw her at the scene.

9 Q. Okay. Did you ever interview her for this
10 investigation?

11 A. No.

12 Q. Do you know why you didn't interview her at
13 all, or why you would not have been part of the interview
14 that Agent Cruz did with her?

15 A. I think this is just one of those situations
16 where the SBI had -- we divided up, you know, who we're
17 going to interview. And I think at that time, I just
18 don't think she was on my -- my priority list.

19 Q. Did you ever read over this interview?

20 A. No, ma'am.

21 Q. No? Okay. But were you aware that Crystal
22 Allen had been at the scene?

23 A. I think through discussion, I think it come
24 out that she may have been there. I just can't recall.

25 Q. That's okay. Were you aware that Crystal

1 Allen had told Agent Cruz that she had a conversation
2 with someone named Bianca Gregg who told her that her
3 child's father had overheard the victim arguing with
4 somebody in person earlier that day?

5 A. No, ma'am.

6 Q. No? Okay. If you had been aware of that
7 information, is that something you would have tried to
8 follow up on?

9 A. Yes.

10 MS. MYERS: Okay. On page -- let's see.
11 This is going to be on page 227 of the SBI file. So I'm
12 going to give this to you to. All right. I'm going to
13 mark this as Exhibit 62. This is -- well, let me hand
14 this to you first. Here is this, Exhibit 62.

15 (Commission Exhibit 62 marked and
16 handed to the witness.)

17 Q. Have you ever seen that before?

18 A. No, ma'am.

19 Q. No? Is that lead sheet, is that something
20 that would have been prepared by LPD or by the SBI?

21 A. I've never seen this sheet before, so I
22 don't -- it may have been the SBI.

23 Q. Okay. So Bianca Gregg's name is on there,
24 and it's not checked off. So if you've never seen that
25 before then, that kind of answers the question I had,

1 which was, what was just the significance of her name
2 being on there. And it looks like she's the only person
3 that's never been talked to in that.

4 A. Uh-huh. (Affirmative)

5 Q. Okay. If that's not something that -- if
6 that lead sheet is not something you're familiar with,
7 then is it -- would you imagine that that's something
8 that the SBI puts together or uses?

9 A. I just have never seen it before. I don't
10 know. It doesn't show any documentation that it's from
11 the SBI, so I wouldn't -- I wouldn't know.

12 Q. Okay. And I did get that from the SBI file.
13 That is not in the LPD file. So it could just be
14 something that is SBI related. But that's not something
15 that they shared with you?

16 A. Right.

17 Q. Okay. So going back to Exhibit 61, the
18 Crystal Allen interview with the SBI. On page 25 of
19 that, Crystal tells Agent Cruz that she saw a woman named
20 Linda Bukai Sinclair. Do you see that part on there?

21 A. Uh-huh. (Affirmative)

22 Q. Okay. And that she had said that she saw
23 somebody who met the description of the shooter the next
24 day driving Rozier Homes. Were you ever familiar with
25 any of that information at all?

1 A. No, ma'am.

2 Q. Do you know who Linda Sinclair is?

3 A. No, ma'am.

4 Q. Okay. Is that something that had you known
5 about, you would have followed up with Linda Sinclair?

6 A. Yes, ma'am.

7 Q. Okay. Were you aware that Agent Cruz in her
8 report indicates that she's interviewing Crystal Allen,
9 and it's just her an Crystal Allen, but it turns out that
10 Agent Brady is also in that interview?

11 A. (Witness reviews document.) I don't see it.

12 Q. I think that might be a different one. I'm
13 sorry. It's the way that I printed these out, which was
14 not very smart on my part.

15 A. I don't see it documented who was in the
16 interview.

17 Q. Okay. Let me see what page that is. Keep
18 that one just for a second. Also on page 25 of that, it
19 says that Agent Brady asked Crystal about Dexter
20 Stephens, and asked if he had done it. And Crystal Allen
21 says no. Do you see that down there at the bottom?

22 A. Of 25?

23 Q. Yes.

24 A. (Witness reviews document.) Yes.

25 Q. Do you know how -- did you hear of Dexter

1 Stephens' name being brought up in this investigation?

2 A. No. I don't recall.

3 Q. Okay. I'm sorry, it's not that page. If
4 you go back to the SBI file, or that report, which was, I
5 think, Exhibit 61. On -- let's see, turn that one over.

6 A. Twenty-six, 22, 23.

7 Q. Sorry, that's my fault for printing it the
8 way that I did.

9 A. No, it's fine. Bianca Gregg.

10 Q. Yeah. I think it's on the bottom of there,
11 at the conclusion, that middle paragraph right there.

12 A. Okay.

13 Q. It says Brady asked Allen if Dexter Stephens
14 had done it, and Allen stated no.

15 A. Okay.

16 Q. Do you know where Agent Brady would have
17 gotten that information to ask Crystal about Dexter?

18 A. I have no clue.

19 Q. No clue.

20 A. Huh-uh. (Negative)

21 Q. Was Dexter Stephens' name ever brought up in
22 this investigation to your knowledge?

23 A. To my knowledge, no.

24 Q. Do you know who Dexter Stephens is?

25 A. No.

1 Q. Okay. I am going to show you what was
2 previously marked as Commission Exhibit 3. Do you know
3 who this person is?

4 (Hands Exhibit 3 to witness.)

5 A. Huh-uh. (Negative)

6 Q. No? Okay. You've never seen that person to
7 your knowledge?

8 A. No.

9 Q. Okay. So is this the first time you're
10 hearing Dexter Stephens' name at all?

11 A. Yeah. Dexter. I don't have him in any of
12 my notes, so I know I hadn't -- the first time I've heard
13 of him.

14 Q. Okay. Were there any alternate suspects in
15 this case in terms of LPD's investigation other than
16 Clarence Roberts?

17 A. No.

18 Q. No? Okay. If there was an alternate
19 suspect or someone else's name that had been brought up,
20 would there have been some investigative stuff that you
21 would have likely have taken to try to follow up on that?

22 A. Yes.

23 Q. Okay. And you have never heard of Dexter
24 Stephens' name before?

25 A. No, ma'am.

1 Q. Okay. All right. You can put that one
2 down, or I could take it from you. You've got enough in
3 front of you at this point.

4 (Ms. Myers retrieves document.)

5 Q. All right. So Crystal Allen was shown a
6 lineup. John Allen was not shown a lineup. Do you know
7 why he wasn't show a lineup?

8 A. John never said that he saw enough of the
9 suspect to make an identification. That's what he said,
10 he never saw him.

11 Q. Okay. So were you -- and you were not a
12 part of John Allen's interview?

13 A. No.

14 Q. Do you know, again, why you weren't part of
15 his interview?

16 A. Again, I know during that time everyone was
17 tasked with speaking with certain ones. And I -- off the
18 top of my head, I think John Allen, because he wasn't
19 being as cooperative -- for some reason, I think I held
20 off wanting to re-interview him. But I didn't know -- it
21 may have came up, but I did not -- I was not a part of
22 his interview.

23 Q. Okay. Do you know whether or not he was
24 ever shown any kind of photograph by Agent Brady?

25 A. I do not know.

1 Q. Okay. The autopsy report, is that something
2 that would normally be a part of LPD's file?

3 A. Yes.

4 Q. Do you know why it wouldn't -- okay. So we
5 don't have that, the autopsy report as part of the LPD
6 file. Do you know why that wouldn't be part of the LPD
7 file that was given to the Commission?

8 A. I do not.

9 Q. Okay. In the autopsy report --

10 MS. MYERS: And let me give you a copy of
11 that so that you can look at it. My question is more
12 about the projectile that was taken from the victim's
13 body. Well, here. Sorry. I'm talking ahead of myself.
14 Let me get this for you, and then I'll ask my question.
15 So this is the entire autopsy report that we have. And
16 I'm going to label this as Exhibit 63.

17 (Commission Exhibit 63 marked and
18 handed to the witness.)

19 Q. And you are more than welcome to read over
20 this. My question specifically is about the projectile
21 that was taken from his body. And let me tell you
22 specifically where it is that I wanted to ask you. There
23 is a note that a gold projectile was removed.

24 When a projectile is taken from -- or when
25 you find a projectile, does the projectile -- or can that

1 be an indicator of the type of bullet that was used?

2 That might also be a really stupid question. But I know
3 nothing about ammunition for the most part.

4 So my question is, if you have the
5 projectile, did that make any indication as to what type
6 of bullet?

7 A. If it was enough of it, it could give you an
8 idea. Yeah.

9 Q. Okay. So is a projectile -- typically, when
10 you're finding that, that's -- you explain it to me.

11 A. The projectile is what's left of the bullet
12 when it leaves the barrel. And depending on how much is
13 left when it goes through whatever it goes through or
14 passes through, whatever is left after it comes out, I
15 think that's the projectile.

16 Q. Got you. Okay. So having a projectile is
17 not necessarily an indicator of what type of bullet the
18 person was shot with. Is that right?

19 A. Correct.

20 Q. And if you don't know the type of bullet
21 that a person was shot with, then you don't necessarily
22 know the type of gun that was used to shoot that bullet.
23 Is that fair to say?

24 A. That's correct.

25 Q. Okay. In this case, did you have any

1 indication of what type of gun was used?

2 A. No.

3 Q. Okay. And the autopsy report only indicates
4 a projectile. I didn't see any notes about like the
5 caliber or anything like that.

6 A. Right.

7 Q. So I just wanted to double-check that there
8 wasn't something that I was perhaps missing.

9 A. No.

10 Q. Okay. I want to kind of switch and talk to
11 a little bit about the interview that you and Agent Brady
12 did with Mr. Roberts. So there were two of them. Do you
13 remember the first one, it was on June the 18th of 2013?

14 A. I kind of remember.

15 Q. Okay. Do you recall whether or not when you
16 interviewed Roberts at that time, whether he had gold
17 teeth in his mouth?

18 A. I really can't recall. But I -- I just
19 can't recall.

20 Q. That's okay. If he did have gold teeth in
21 his mouth, is that something that you would have written
22 down? Like a grill?

23 A. I probably would have wrote it down at some
24 point.

25 Q. Okay. If a person comes into the jail, they

1 are arrested, they are booked, they've got like a grill
2 in their mouth, is that something that the jail would
3 make them take out?

4 A. Not necessarily.

5 Q. Okay. Not necessarily. Do you know when
6 they would make them do something like that?

7 A. Unless -- truthfully, unless it's something
8 that they bring up to the -- I have never seen them ask
9 them to take their teeth out, their false teeth or the
10 grills.

11 Q. Okay. And I just want to be really clear
12 that like, not necessarily like, you know, dentures. But
13 like an actual grill. So something that's more for like
14 an aesthetic --

15 A. Yeah. That they -- can be removed.

16 Q. Right. Okay. So to your knowledge, that's
17 not necessarily something they would make somebody take
18 out?

19 A. Right.

20 Q. Okay. Did you ever ask Roberts directly
21 whether he was ever wearing a grill that night?

22 A. No, I did not.

23 Q. Okay. I want you to go back to the LPD
24 file. So this is going to be on page 27 of the LPD file.
25 And this is page 6 of your actual report. And it says --

1 okay. Kind of in the middle of the page, it says at
2 10:35 a.m. Do you see that?

3 A. Uh-huh. (Affirmative)

4 Q. Okay. You had received information that
5 Soulski didn't have any beef with Woo, which was Clarence
6 Roberts' nickname. Tell me about when you received that
7 information, where that information came from.

8 A. I think that was just through the discussion
9 that we just come to that, that we hadn't found no one
10 that said that, yes, he actually had any beef with Woo.

11 Q. Okay. So meaning that you --

12 A. That Soulski didn't have. We just never
13 found out concrete that anyone had -- that they had a
14 beef with one another. No one come to us and actually
15 said no, they didn't have a beef.

16 Q. Got you. Okay. But did you ever -- did you
17 ever speak to Floss about anything regarding this case?

18 A. He wouldn't talk to me.

19 Q. Okay. Did you try to make contact with him?

20 A. Through his family and different people I
21 knew, I tried to get a message to him for him to call me.

22 Q. Okay. And that is something that I have not
23 seen documented. So is that because you did not -- you
24 were not successful in getting him to call you back. Is
25 that why that's not documented?

1 A. It's not documented again because I used
2 people that didn't have anything to do with the case.
3 Just to get a message to him.

4 Q. Got you.

5 A. And I didn't document it because he never --
6 he never returned or reached out to me.

7 Q. Okay. And so to your knowledge, at this
8 time, at 10:35, which I can tell you that you were in
9 the interview with Roberts at that time, where you said
10 that you had received this information. Do you think
11 that is coming from Clarence Roberts himself, that he
12 didn't have -- that there was no beef between the two of
13 them?

14 A. It may have. He may have said something to
15 that.

16 Q. Okay.

17 MS. MYERS: So on page -- and I'm going to --
18 - I'm only jumping ahead because this is where this
19 information pops up again. So at trial, you testified --
20 or you were up on the stand, at least, like three
21 separate times. And so the second time that you were
22 called up to the stand, it was on redirect by the State.
23 And I am going to hand you your trial testimony from the
24 second time that you testified. But I'm going to direct
25 your attention to a specific place. And I'm going to

1 label this as Exhibit 64. It looks like -- here. I'm
2 handing you what I just marked as Commission Exhibit 64.

3 (Commission Exhibit 64 marked and
4 handed to the witness.

5 Q. On page 2850, at the bottom of that page,
6 you are asked about that.

7 MS. MYERS: Sorry. Give me just a second.

8 Q. On page 2850, kind of in the middle of the
9 page, yeah, between lines 12 and 18 on that page.

10 A. Okay.

11 Q. It says, as in my investigations, there's
12 still tips coming in, leads that we ought to check into.
13 And just going down the order of my notes, it shows here
14 that I received information that associate, someone
15 called and said that they didn't have -- associate didn't
16 have a beef with the defendant.

17 Do you recall anything about that?

18 A. (Witness reviews document.) Just can't
19 recall who the associate would be. Received information
20 that associate, someone. I don't know who that is. I
21 don't recall that.

22 Q. Okay. If the person is not documented, does
23 that mean it was like a CI?

24 A. No. It may have been someone I reached out
25 to, may have said something while we were talking. But

1 if I didn't document their name, to me, it may have come
2 from whoever I was trying to reach out to to get him --
3 or get their --

4 Q. Okay.

5 A. It may be that go-between person that I may
6 have been trying to reach out to to get information or
7 get information to someone to call me.

8 Q. Okay. All right.

9 A. But I just don't recall who gave me the
10 information.

11 Q. Okay. All right. Do you recall anything
12 about that -- I just asked you this, so I apologize. But
13 did you -- do you recall anything else now about that
14 first interview that you and Agent Brady did with
15 Clarence Roberts?

16 A. I remember -- the only thing I do remember
17 that stood out was, he didn't remember anything. He said
18 he as so drunk, he didn't recall anything. And I think
19 that's why we actually had to go back. Because he really
20 didn't say anything other than giving us consent to
21 search the vehicle. And he might have -- he may have
22 mentioned during the first interview about not having a
23 beef with anybody.

24 But I -- I just can't recall exactly. I
25 don't think it was productive at all. And I knew we were

1 going to have to go back. But we was more interested on
2 that first time just reaching out, touching bases with
3 him, and trying to get consent to search -- to process
4 the vehicle.

5 Q. Okay. Got you. So if you go ahead and turn
6 to page 63 of that LPD file. We can go back to that one,
7 which I think that's Exhibit 61, I believe that's what I
8 originally gave you.

9 And I will say, I do not mean for my
10 questions to be so back and forth and back and forth. I
11 think the way that I was trying to organize all this was
12 by date. So just so you know, there is a method to this
13 madness, even if it's not very clear.

14 On page 63, these are Detective Hinson's
15 notes again. And he had -- do you remember, there was a
16 witness named Linder Sammons. And she lived on the
17 corner.

18 A. I don't recall. I don't recall her right
19 off.

20 Q. Okay. Her granddaughter had been sitting --
21 she had a granddaughter, and the granddaughter lived with
22 her. She was down on the corner of Peachtree and 11th
23 Street in like a white house.

24 A. I think I do remember her. I remember her
25 name being mentioned.

1 Q. Do you remember there ever being a mention
2 of the suspect's vehicle having like a 20- to 30-day tag
3 on it?

4 A. Now, that's new to me. I don't -- I don't
5 recall hearing that.

6 Q. Okay. So on the bottom of page 63,
7 Detective Hinson had written, and Ms. Sammons had also
8 signed this too. But it says Whitney told -- Whitney
9 being Ms. Sammons' granddaughter who had an encounter
10 earlier that night with the suspect, or right before the
11 shooting at least -- that the vehicle had a 20- to 30-day
12 tag on it. But you were unaware of any of that
13 information?

14 A. (Inaudible response.)

15 Q. Okay. Had you know that information, that
16 the suspect's vehicle possibly would have had this tag,
17 is that something that you think you would have followed
18 up on?

19 A. Yeah.

20 Q. Okay. So this is going back to the SBI
21 file. And quite frankly, we know that they didn't share
22 anything with you. But on page 26 of that SBI file, they
23 had -- Agent Brady had interviewed Micheal Burgess. Do
24 you recall ever speaking to Micheal Burgess at all?

25 A. I do not.

1 Q. Were you familiar with Micheal Burgess at
2 all prior to this investigation?

3 A. Not that I know if.

4 Q. Okay. Do you remember what he looks like?

5 A. No.

6 Q. I'm going to show you what has been marked
7 as Commission Exhibit 8. Do you recognize this person?

8 (Hands Exhibit 8 to witness.)

9 A. I've seen him before, but --

10 Q. Okay. So that's Micheal Burgess. But to
11 your knowledge, before this case, you didn't know
12 anything about him or you weren't familiar with him. Is
13 that fair?

14 A. Correct.

15 Q. Okay. At the time he was 16 years old, do
16 you recall hearing about Agent Brady having a
17 conversation with him or anything?

18 A. Again, I just can't recall it now. But
19 I -- I just don't recall it.

20 Q. That's okay.

21 A. I just don't recall it.

22 Q. Yeah. That's okay.

23 MS. MYERS: I think it's on the back.

24 Sorry. Okay. So Agent Brady did an interview with
25 Micheal Burgess, and I'm going to mark this as Commission

1 Exhibit 65

2 (Commission Exhibit 65 marked and
3 handed to the witness.)

4 Q. You're welcome to take a moment and read
5 over that.

6 A. (Witness reviews document.) Okay.

7 Q. So my questions are about had you been aware
8 that Burgess gave this information to Agent Brady that
9 John Allen had said that they were aiming for Council,
10 the victim?

11 A. First time I've heard this. Very first
12 time.

13 Q. What about when he's talking about Ricky
14 Stephens? I know that you went, and you -- you did
15 interview Ricky Stephens at one point. Do you remember
16 anything about that interview or talking to him?

17 And I can -- in the LPD file, it's on -- in
18 the Lumberton file, it's on page 28, which is page 7 of
19 your actual report in there. And it's the second to last
20 paragraph on that page down there, where it says at 9:45
21 a.m., we went out to 13 Hedgepeth Mobile Home Park. So
22 you talked to Ricky?

23 A. I see that, uh-huh.

24 Q. What can you tell me about when you went and
25 spoke to Ricky that day? Is there anything that kind of

1 stands out to you about that conversation?

2 A. The one thing that stood out, and the only
3 thing he mentioned was the difference in the car. Said
4 it was a Dodge Stratus.

5 Q. Okay. When you went and you spoke to Ricky
6 Stephens, and that looks like it was on June the 20th,
7 that would have been -- let's see. That would have been
8 after the interview that Agent Brady did, I believe. Did
9 you have that information that Ricky Stephens had a
10 conversation with the shooter?

11 A. No, I did not.

12 Q. Okay. If you had been told that information
13 that he had looked at the shooter, what would you have
14 done with that information?

15 A. I would have asked him about it.

16 Q. Okay. Do you think that you would have
17 showed him a lineup then?

18 A. Most likely, yes. If I had information that
19 he claim he saw him, yeah, I would have put a lineup
20 together.

21 Q. Okay. Do you remember anything about
22 interviewing Ricky Stephens at that time?

23 A. It was not a real -- I mean, he didn't
24 really want to talk. That's why that -- that section is
25 short like it is.

1 Q. Short. Okay.

2 A. He wasn't cooperating, and the little bit he
3 did give was he didn't see the guys, and they were
4 driving a Dodge Stratus. My opinion of that was -- well,
5 most of these type situations, if they don't want to give
6 you anything, they'll send you down another rabbit hole
7 and give you a false description of -- they'll say
8 something way out left.

9 Q. Okay.

10 A. And that's how I took that whole
11 conversation. He was not cooperative. And I do remember
12 that. He was like, hey, I didn't see nothing. And then
13 when I kind of pushed him about whether he saw the
14 vehicle, what type of vehicle was it. Come on, give us
15 something, I think. And that's all he said was maybe a
16 Dodge Stratus.

17 Q. Okay. So did you feel like he was saying it
18 was a Dodge Stratus to kind of take you guys down on a
19 different path then?

20 A. Yes. Yes. That's what it felt like.

21 Q. Got you. Okay. Anything else from reading
22 that SBI report that Agent Brady did with Micheal Burgess
23 that stands out to you, or anything that -- I don't know.
24 Any thoughts about it?

25 A. The only thing is, I remember now that there

1 was another person that they talked to in depth, which it
2 may be this Micheal Burgess. But I never talked to him
3 or never had any dealings with him.

4 Just reading the report, I remember some of
5 the things that was said in there that I do remember
6 hearing. Like him saying that in his statement about --
7 kind of came back to me what he said about the vehicle.
8 Some of the stuff sounds familiar, like I've heard it
9 before. So I may have read it somewhere. But I never
10 saw his statement, his paperwork.

11 Q. Okay. You definitely had never read -- just
12 so I'm understanding, the part about John Allen saying
13 that they thought that the person shooting was aiming for
14 Council.

15 A. Right.

16 Q. Is that right?

17 A. Yeah. I never heard that.

18 Q. Okay. And then, you had never heard about
19 the more kind of in depth details about Ricky Stephens?

20 A. Right.

21 Q. Okay. Just out of -- I don't have
22 documentation on this. But in terms of like, I know that
23 you and Agent Brady went and picked up some phone calls
24 that Roberts had made from the Robeson County jail. Do
25 you remember -- I mean, one, do you remember anything

1 about that? Also, you know, I realize I'm asking you
2 about a small detail that happened like 10 years ago.
3 But do you --

4 A. I think they were on discs. I think the
5 sheriff department had downloaded the conversations on
6 discs. But I never -- I don't even think we ever got to
7 listen to them. Or I think I gave it to someone, tasked
8 someone with listening to the audios. But I never
9 listened to them.

10 Q. Is that something that -- like the discs
11 themselves, is that something that should have been put
12 with the records?

13 A. Yes. Well, they actually should be in
14 evidence.

15 Q. It should be in evidence?

16 A. It should be in evidence. That wouldn't go
17 up front to records. That would be in evidence.

18 Q. In evidence. Okay. And you never listened
19 to them to your knowledge at least?

20 A. I don't think I did. No, ma'am.

21 Q. Okay. All right. So on page -- so this is
22 going to be in the LPD file, just a page later, on page
23 29. You had written a little bit about when you all had
24 gone to interview Clarence Roberts a second time. And
25 let's see.

1 This is kind of -- well, it's like the
2 fourth paragraph. At 3:15 p.m. we took the defendant to
3 the fingerprint room. Do you see that part?

4 A. Uh-huh. (Affirmative)

5 Q. Okay. Talk to me about like what you
6 remember, like kind of walking into that area, and the
7 conversation he had with you.

8 A. It was -- we was finishing up. He was a
9 little bit more clear-minded, even though he really
10 didn't say much to add to what -- or to -- he didn't say
11 anything much more than what he said before. He was a
12 little bit more somber when -- just more clear-headed, I
13 think is the way I will put it.

14 Q. What did you make of that? Like what did
15 that mean to you that he was more clear-headed?

16 A. He just hadn't had any alcohol. He hadn't
17 been -- he just seemed to be his normal self, maybe. Or
18 as close to normal as could be. And he just seemed --
19 he's like a better guy to talk to. Like we could
20 probably get along if we met out on the street. He
21 seemed like a everyday, ordinary guy.

22 And then he -- we went into the room, and we
23 explained to him, you know, we've got to fingerprint you,
24 and you've got to go before the magistrate.

25 And as we got into the -- I don't know if we

1 were into the actual magistrate's. We was in the
2 magistrate's section, the hallway, the desk, they got
3 stuff where you can sit.

4 Q. Is this the same magistrate's office that is
5 like by the jail today?

6 A. Uh-huh. (Affirmative)

7 Q. Okay.

8 A. But the setup was different than it is now.
9 So it was a little different. And we was just finishing
10 up. Asked him to sit down, they going to take a minute.
11 The magistrate had someone in his office already. And he
12 just -- and he said it real low at first. He asked how
13 old the young man was. And he made a comment.

14 But I think when he made the comment about
15 being sorry, we were still in the fingerprint room
16 portion. And he just came out and said it.

17 And I kind of -- I didn't want to draw his
18 attention from what he was saying. But I looked back at
19 the SBI agent, said did you hear what he said? And he
20 said yeah. He said make sure you document that. And
21 since I didn't want to stop him from talking, so he kept
22 talking. And then he just got quiet.

23 And then when we got to where the magistrate
24 was, that's when he asked about the guy's family, and
25 asked about how old was he, and who he was. And he says

1 -- and we went before the magistrate. And the magistrate
2 did what he needed to do.

3 And then when we was walking into the jail
4 side of it, he just out of the blue, he says, hey,
5 Collins, I'm going to give you a call, and we're going to
6 talk about this. And then I was like, well, hey, we can
7 talk about this -- we can go ahead and talk about it now
8 if you want to, if you want -- if it's something you want
9 to talk about. He said, no, I'll get up with you later
10 on in the week. And that was the end of it.

11 Q. So he never got back up with you?

12 A. No. But I will say the second part of it
13 was when he said to tell -- he was kind of like sorry.
14 He seemed real remorseful.

15 Q. Okay. So the way that you -- do you
16 remember how he said it? Do you remember how -- sorry.
17 Yeah. Do you remember how he said it?

18 A. Well, it was kind of like -- at first, I
19 didn't think I heard what I heard. But he says, hey,
20 just tell the family I'm sorry. Like a whisper. But he
21 said something before that I couldn't make out. But I
22 heard that part. And then that's when I looked back and
23 asked him did he hear it. But then, the second time, he
24 asked about how -- you know, who the guy was or who the
25 victim was.

1 Q. Okay. Did he know who the victim was?

2 A. Gave me the impression he didn't know.

3 Q. Okay. So when he said -- so he says -- so
4 he's asking you about how old the victim is. Is that
5 right?

6 A. That's the second part, the second time.

7 Q. The second time. All right. At what point
8 does he say tell the family I'm sorry, but I didn't --
9 did he ever make another comment?

10 A. He made a comment, but I couldn't make out
11 what he said.

12 Q. Okay. I think I understand what you're
13 saying. All right.

14 MS. MYERS: So I'm going to hand you what I
15 am marking as Commission Exhibit 66. And this is Agent
16 Brady's notes about the interview that you all did with
17 Mr. Roberts. Here, I'll give that to you if you want to
18 read over that.

19 (Commission Exhibit 66 marked and
20 handed to the witness.)

21 A. (Witness reviews document.) Okay.

22 Q. So the part that you didn't hear him say, is
23 that the part that Brady has documented as I didn't kill
24 anyone?

25 A. I don't know. I just didn't hear it, but I

1 think that may be. But I just didn't --

2 Q. Okay. But you did not hear him say that
3 part?

4 A. I didn't hear him say that.

5 Q. Okay. Got you.

6 A. I just didn't hear him say it.

7 Q. So because you didn't hear him say that, you
8 thought that this -- what did you think about what he was
9 saying to you?

10 A. Overall?

11 Q. Yeah.

12 A. I just felt like -- you know, him being
13 clear-minded, and -- because he said so much stuff
14 that -- little stuff that didn't make sense. So I just
15 dismissed. But he was like real remorseful. He was just
16 a different person than what we dealt with the first
17 time.

18 Q. Yeah.

19 A. And he just seemed real remorseful. And he
20 said -- he would talk in a low tone, and then sometimes
21 he would say something where you could understand him.
22 Then he would talk low again.

23 Q. Got you. So did you take that, then, as
24 almost being a confession?

25 A. Yes, I did. I mean, because we didn't

1 solicit it, and we didn't ask him if he had anything he
2 want to tell us. He just out the blue.

3 Q. Okay. And you did not hear him say but I
4 didn't kill anyone?

5 A. Right.

6 Q. Got you. Okay. When you said that he had
7 said a bunch of little things that did -- I don't want to
8 put words in your mouth -- but that didn't really make
9 sense, I think is what you just said. Did you just mean
10 like throughout the interview there were things that he
11 mentioned that just --

12 A. Well, I mean just in that few minutes.

13 Q. Got you.

14 A. While we went from fingerprint room to the
15 magistrate's office, he said just little stuff. And to
16 be honest with you, at that point, I was -- I was -- I
17 was focusing on making sure I got my facts right to talk
18 with the magistrate.

19 Q. Got you.

20 A. I was kind of like -- wasn't really paying
21 too much attention, because there was -- Agent Brady was
22 kind of closer to him, dealing with him. I kind of laid,
23 and then I was focused on opening the door in the
24 magistrate, going with the magistrate. And he said the
25 stuff. That's why I looked back at him and asked him,

1 did you -- so.

2 Q. Okay. So he was saying like a bunch of
3 different things. But that's what you heard him say was
4 that I'm sorry. Or tell the family I'm sorry.

5 A. Yeah. He kind of -- I just heard that a
6 little bit clearer than everything else.

7 Q. Okay. Is it common for an SBI agent to go
8 with you while you're swearing out warrants for someone's
9 arrest like that?

10 A. I have done it before, yes.

11 Q. Okay. So if they happen to be there at the
12 time you're doing it, then so be it, basically?

13 A. Yeah, they'll -- yeah.

14 Q. Okay. Do you remember -- so if you go to
15 page 28 of the LPD file. You had interviewed Sheena
16 Britt. I think it was the same day that you interviewed
17 Roberts that second time. It's at the bottom of that
18 page. At 10:40 a.m. I was contacted by the witness on
19 9th Street.

20 A. Yes.

21 Q. Okay. And then I think it's on page 38. If
22 you flip to that same, the LPD file. And these are -- is
23 that your handwriting?

24 A. Yes.

25 Q. Okay. So my understanding, and correct me

1 if I'm wrong, is that you took down her statement. You
2 wrote down her statement in your handwriting. But did
3 she look over it, and say all of it was correct and all
4 that?

5 A. Yes.

6 Q. Okay. So in her statement -- and we don't
7 have the second page of that. I think that is probably
8 just a -- I don't know why.

9 A. Yeah. There should be a signature page.

10 Q. So in the SBI file, there is. It's in the
11 SBI file. And I can give that to you too so you can read
12 over it.

13 But do you recall her ever talking about
14 how they -- her and -- she was walking with someone, and
15 she -- they overheard somebody yell that their bike was
16 shot. Do you recall anything about that?

17 A. No, I just don't recall that.

18 MS. MYERS: Okay. So let me -- just so you
19 can read. Just so you have a complete report for that.
20 I'm going to introduce this as a separate one because
21 it's not the full one. And so I'm going to label the
22 handwritten statement that you did of Sheena Britt's
23 statement as Commission Exhibit 67. And on the back of
24 this is the statement I want you to look over and just
25 see if it jogs your memory.

1 (Commission Exhibit 67 marked and
2 handed to the witness.)

3 Q. You're welcome to read over the full
4 statement if you would like. But it's the second to last
5 statement on that last page.

6 A. (Witness reviews document.) Okay, I see it.

7 Q. Do you remember her saying anything about
8 that?

9 A. I've got here where it says she says a car
10 was shot up. But not -- I didn't hear anything about a
11 bike.

12 Q. I'm sorry. Not a bike. I'm sorry.

13 A. Oh, okay.

14 Q. A car shot up. That's my mistake.

15 A. Yeah. I -- I don't recall it. But I'm just
16 going off of what I -- I know I wrote that. That's my
17 handwriting.

18 Q. But you didn't have -- did you ever receive
19 any information about someone's car being shot at all,
20 other than where Sheena Britt is telling you?

21 A. Huh-uh. (Negative)

22 Q. No?

23 A. There may -- someone might have said
24 something about vehicles being shot at the park. But I
25 didn't see any. I didn't document any that were hit.

1 Q. Got you. Okay. And in your practice, if
2 you didn't document that any were hit, then what does
3 that indicate to you?

4 A. I didn't see it. If I didn't document it,
5 either I didn't physically see it or it was secondhand.
6 And I don't document what other officers say they saw.

7 Q. And why don't you do that?

8 A. Because they have to testify and speak on
9 what they saw. I didn't physically see.

10 Q. Okay. Turn to page 65 of the Lumberton
11 Police Department file. And these are Detective Hinson's
12 notes again. But my question is about, it looks like he
13 was -- do you recall him being with you when you spoke to
14 Sheena Britt? And if you don't, that's fine.

15 My question for you though is that at the
16 bottom, he wrote down saw earlier in day. Where? Who
17 doing what? Do you know why he would have written that?

18 A. I have no clue.

19 Q. Okay. All right. I want to ask you just a
20 few questions about just what you remember about the
21 trial.

22 A. Whew.

23 Q. Just off the bat. And you've probably been
24 to several trials, I would imagine, in your career. Is
25 there anything that you kind of recall from this trial

1 that just stands out to you or anything?

2 A. Hmm. That stood out. I didn't -- yeah.
3 The SBI. I mean, I -- which they may not have done as
4 much. But I don't recall -- Agent Brady was the only one
5 I know that had to testify. But I mean, other than that,
6 he was -- you know, I didn't -- anything that stood out.

7 Q. When you're saying that he testified, are
8 you just saying you remember him testifying?

9 A. He's the only one I remember.

10 Q. Okay. You mean out of anybody else?

11 A. Yeah. I just -- his --

12 Q. Okay. I got you. I got you.

13 A. As far as standing out. I remember one of
14 the witnesses testifying. It's hard to -- I remember it
15 happened, but --

16 Q. Yeah. That's okay.

17 A. I can't remember details.

18 Q. Yeah. That is totally okay. Do you know if
19 you were present for the whole trial?

20 A. Yes, I think so.

21 Q. Okay. What was -- so this case was
22 originally tried as a capital case. Do you remember that
23 at all?

24 A. Yeah, I remember it. Yeah. Because we had
25 a discussion about it.

1 Q. Okay. Do you remember anything about that
2 discussion in particular?

3 A. We just went through that process of trying
4 to decide if he was going to try it as capital or not.
5 And we met with the DA. And we met several times. But I
6 didn't have to -- you know, it wasn't long or drawn out.
7 It was just a discussion about it.

8 Q. Yeah. Was that common? Like did the DA's
9 office have a policy about capital cases or what was
10 tried as a capital case at that time?

11 A. Well, that was the first one for me. And so
12 I wouldn't have anything to pull from.

13 Q. Okay. Sure, sure.

14 A. But I just noticed that I think the decision
15 was made, and we just -- we just rolled with it.

16 Q. Got you. Okay. Did you know about any of
17 the plea deals that were offered to Clarence Roberts at
18 all?

19 A. None.

20 MS. MYERS: Okay. I think I gave you an
21 exhibit. That's 2848. Sometimes I mess myself up by
22 trying to print out something that is listed as a page
23 number, as a PDF versus what it actually is on the page.
24 That's one of my weaknesses. Let's see.

25 Well, let me go back to this one. Sorry.

1 Let me grab this one from you really fast. Okay.

2 (Ms. Myers retrieves document.)

3 Q. So this is Commission Exhibit 64. If you go
4 down to page 2861, right here, and you start at line 21.
5 My question for you, and I think we've talked a little
6 bit about this. But I just kind of want to make sure
7 that I'm understanding correctly. I think you're asked
8 about reading over some interviews.

9 A. You said number 24?

10 Q. I think it's line 21.

11 A. Twenty-one.

12 Q. And down.

13 A. (Witness reviews document.) Okay.

14 Q. So how were you able to kind of identify --
15 I'm sorry. Read over a little bit onto page 2862, the
16 next page. At the top it says, So you only read over the
17 interviews that were related to you. And then you had
18 testified that were related to key information that we
19 need to go further into.

20 A. That was another -- that's that example I
21 was telling you earlier where -- I mean, as far as
22 dealing with the SBI.

23 Q. Yeah.

24 A. If they did the interview, we didn't have
25 access to their notes or their actual interview. Same

1 with our -- with our investigation, we prioritize -- if
2 there was something that the investigator felt that was
3 something we need to go back over. If he interviewed one
4 individual, and he brings it to us and say, hey, this guy
5 said this, this, and this, we need to re-interview this.
6 Then we will go back and look at this person.

7 Q. Got you.

8 A. But me physically going over and reading
9 their interview or watching -- because remember, most of
10 these -- during that time, I think we were still writing.
11 We didn't have --

12 Q. Right. A computer system. Right?

13 A. Yeah. We didn't have the video and
14 recording every interview.

15 Q. Right.

16 A. So I think unless they brought something to
17 me or wanted to make me aware of something, I didn't read
18 over every interview. And it just depended on if it was
19 something pertinent to another direction we needed to go
20 in. But we all sat there and agreed on it.

21 We had our supervisors there, we had
22 everybody there. If they thought that was pertinent, if
23 someone chimed in on it and said, hey, I think you might
24 need to go and re-interview this person, we would.

25 Q. Okay.

1 A. I just didn't read every one of them.

2 Q. Okay. And when you all would sit down and
3 kind of figure out what was -- where an investigation
4 needed to go, did you all have like regular case
5 meetings?

6 What did this look like? Like how would
7 those decisions be made about where the avenue of an
8 investigation would go into or go to?

9 A. We met every morning and discussed. We had
10 everything on the whiteboard, things to do. We had
11 different categories of things that you want to check,
12 rechecked, or things that fell through that we didn't get
13 done. And you just assigned people to those tasks. But
14 we met every morning. An then, like the middle of the
15 afternoon, maybe 2 or 3 o'clock, we would meet again that
16 afternoon to see what we had found out that morning.

17 Q. Okay. Would these be meetings that were
18 only -- that were specific to like this investigation,
19 for instance?

20 A. Yeah. It was only that homicide. Uh-huh.

21 Q. Okay. Got you.

22 A. Yes, ma'am.

23 Q. All right. Do you know why Crystal Allen
24 didn't testify? Were you ever made aware of anything
25 about why she wasn't at trial?

1 A. No. They didn't tell me.

2 Q. Okay. I think I had asked you before. You
3 were not familiar with Micheal Burgess prior to this
4 investigation to your knowledge. Is that --

5 A. To my knowledge, I didn't know him.

6 Q. Okay.

7 A. After the fact, remember seeing his name on
8 reports. I remember seeing --

9 Q. I think you arrested him at some point later
10 on.

11 A. I remember something about it. And I -- the
12 name -- after the fact, I think I knew something about
13 him. But I just couldn't recall it.

14 Q. That's okay. John Allen, you had mentioned
15 that you had recognize him, but you didn't know him
16 directly necessarily.

17 A. Right.

18 Q. Okay. Had you ever heard any rumors about
19 him being the target of a shooting previous to this one?
20 John Allen being a target?

21 A. I heard that from somewhere. I don't know
22 where. But that sounds familiar to me. So yeah.

23 Q. Okay. When you interviewed Shabrea Lowery,
24 did she give you any information about John Allen at all?

25 A. No.

1 Q. Okay. John Allen, were you familiar with
2 him being involved in E-Ricket Hunter Bloods?

3 A. Huh-uh. (Negative) No, that's the first
4 time I've heard that.

5 Q. Okay. Are you familiar with E-Ricket Hunter
6 Bloods?

7 A. No, ma'am.

8 Q. Or EHB? Or E-Rickets?

9 A. That sounds -- that sounds familiar a little
10 bit, but -- like I may have read something. But just
11 can't recall.

12 Q. That's okay. And Dexter Stephens, I had
13 asked you about him, and you said that this was the first
14 time you've ever heard his name.

15 A. As far as the case, yes. That was the first
16 time I heard his name.

17 Q. Have you heard his name in other contexts?

18 A. I think afterwards. I've heard -- and
19 there's another Stephens guy. Now, I may be drawing a --

20 Q. There's a lot of Stephens.

21 A. But there's a guy we have problems with,
22 and I thought his name was Dexter. But I don't think
23 he -- his brother was a football player, professional
24 football player that used to live here. But I don't
25 think that's him.

1 Q. Okay. Dexter is from Fayetteville is our
2 understanding, if that helps at all. I think his
3 grandmother might have lived here in Lumberton.

4 A. Oh, okay.

5 Q. And I'm not positive about any of that. And
6 prior to this case with Clarence Roberts, you were not
7 familiar with Clarence. Right?

8 A. No. Clarence, no.

9 Q. Okay. Clarence had mentioned this in the
10 interviews with you and Agent Brady about being falsely
11 accused years before in Lumberton of -- I believe he
12 characterized it as a rape charge. Do you recall
13 anything about that? Are you familiar with him being
14 arrested for --

15 A. No.

16 Q. -- anything like that?

17 A. No. I didn't know him.

18 Q. With Kimberly Lowery -- and I believe you
19 said that you also had not been -- you were not familiar
20 with Kimberly Lowery prior to this case.

21 A. Right.

22 Q. Am I remembering correctly? Okay. Do you
23 recall her being a foster parent? Is that something you
24 would have been aware of anyway?

25 A. I don't recall it. Seem like that would be

1 something I would have jotted down. But no, I don't -- I
2 didn't know that.

3 Q. You do thing that's something that you would
4 have jotted down if you knew that?

5 A. If she told me that, I probably would have
6 made note of it. Yeah.

7 Q. Sure. Have you ever heard of any officer
8 threatening her that if she didn't speak to you all that
9 her license would be taken away?

10 A. No. I've never heard that.

11 Q. Okay. Would that surprise you if that
12 happened?

13 A. Yes. Yes. Yes. Wow.

14 Q. Have you ever heard any information that the
15 shooter had chased people after this?

16 A. Chased people?

17 Q. In his vehicle.

18 A. The only -- only thing we heard about him
19 and the vehicle was when he went to the house on 10th
20 Street or 11th Street, the Chris McGirt situation.
21 That's all I had heard was that he did something that was
22 strange.

23 Q. Okay. Have you ever heard of -- there was
24 another case that was out of Cumberland County. They
25 guy's name, he went by WeDo. And his name was Garrett

1 Somorick Alford. Have you ever -- is that familiar to
2 you at all? I believe he grew up in this area, but was
3 killed in Fayetteville.

4 A. I don't know of anyone.

5 Q. So my question was whether you had any
6 information about whether these two were connected in any
7 way?

8 A. No.

9 Q. So not to your knowledge?

10 A. Huh-uh. (Negative)

11 MS. MYERS: Okay. I am going to take a
12 couple of minutes. Do you need a break right now?

13 THE WITNESS: No, I'm fine. I can take one.

14 MS. MYERS: I'm just going to step outside
15 with Danielle really fast, and just talk to her so she
16 can tell me what I'm missing. And then we'll be right
17 back. Is that okay?

18 THE WITNESS: Yes, ma'am. Yep.

19 MS. MYERS: And the time is 2:13 p.m. And
20 we'll be back in just a moment.

21 (Recess 2:13 p.m. to 2:14 p.m.)

22 Q. Thank you for being patient with us. Did
23 you ever at any point think that this case might be gang
24 related?

25 A. Initially, it's always in the back of your

1 mind, that, okay, this could be some type of turf war,
2 gang-related type situation. It did pop in my mind.

3 Q. Is that gang territory, the Hut?

4 A. No.

5 Q. No?

6 A. Huh-uh. (Negative)

7 Q. Okay. What made you think that it wasn't
8 gang related? And I'm not saying that like it --

9 A. Well, I mean, it's always in your mind that
10 it could be. I never ruled it out. I just -- it's just
11 that we just follow where the leads took us, and what
12 people were saying. But I never -- I never said no, it's
13 not gang related.

14 Q. Sure. Okay.

15 A. I just never come to that conclusion. I
16 just like -- I'm just going to follow wherever the
17 evidence takes me.

18 Q. Yeah. Okay. Got you. Just double-check
19 that I am -- there was a 911 call earlier in the night.
20 It was actually around the same time period that the
21 calls for this shooting came in. And it was -- there was
22 a female caller who called about the big white house
23 that's on Peachtree. And let me see if I can recall what
24 street it was.

25 It seemed to me like it was the home that

1 Roberts might have told you he was at earlier that night
2 or at some point that night. Do you know what I'm
3 talking about or does any of that sound remotely familiar
4 at all?

5 A. That sounds like the area that he was at for
6 the get-together, where they were drinking and out in the
7 yard. Seems like --

8 Q. Yeah. Across from Floyd Mortuary?

9 A. Yeah. Yeah.

10 Q. Okay. Do you know anything about that call
11 coming in?

12 A. No.

13 Q. Okay. Cool. Okay. At the time that you
14 were investigating this case, was there an officer that
15 was specifically dedicated to gang type crimes or
16 incidents that you would have consulted with on this
17 case?

18 A. The Drug Task Force is who we would -- if we
19 wanted to get some intel, we would reach out to the Drug
20 Task Force. And that's a four-man team. And I can't
21 recall if they were out that night. They should have
22 been, because it's the weekend. But I can't recall if I
23 ever talked to anyone.

24 Q. Okay. If they had intel about something
25 that they knew of, is that information that they would

1 have brought to you without you reaching out to them?

2 A. Yes. I mean, especially because of the
3 incident, they would have come to me if it was something
4 they believed was tied to that incident. Yes.

5 Q. Is there anything else that you think that
6 we should know about this case that would be helpful to
7 us as we investigate it?

8 A. I just think -- and I'm sitting here
9 processing some things, and I'm checking myself on some
10 things. I think what I've learned and quick processing
11 information, I've got to do a better job of going back
12 and cross referencing the information that I'm getting
13 in. Even when the investigator is sitting there telling
14 you. I've just noticed some things that I probably want
15 to do a little better on.

16 But as far as this case, I don't know if
17 there's -- I don't know if there's anything I could say
18 that would help.

19 Q. Okay. Other than what you have brought
20 today -- and before you leave, I do want to take a look
21 at that, just to make sure that I've gotten everything.

22 A. Trust me, you're going to be surprised.

23 Q. Do you have any -- I know I asked you this
24 before. But do you have any documents anywhere else
25 related to this case that you know of?

1 A. No, ma'am.

2 Q. Okay. Have you ever written anything down
3 about this case, like in a journal or a diary or
4 anything? No?

5 A. No, ma'am.

6 Q. Okay. Has anyone talked to you about what
7 you have testified today?

8 A. No.

9 Q. Has anyone told you what to say today?

10 A. No.

11 Q. Has anyone made you any promises about your
12 testimony today?

13 A. No.

14 Q. Has anyone threatened you regarding your
15 testimony today?

16 A. No, ma'am.

17 Q. Has anyone put any pressure on you regarding
18 your testimony today?

19 A. No, ma'am.

20 Q. Were you completely truthful when answering
21 my questions today?

22 A. Yes.

23 Q. Do you remember any additional information
24 about the questions I have asked you?

25 A. No, ma'am.

1 Q. And before I forget, Ricky Stephens. Are
2 you familiar with who he is to this day?

3 A. I wouldn't know if he walked in.

4 Q. Okay. So even if I showed you a picture of
5 him, you wouldn't know?

6 A. Maybe if you showed me a picture. Show me a
7 picture.

8 Q. All right. Let me show you a picture just
9 in case.

10 A. But the name, I just --

11 Q. Dizzy, he went by Dizzy.

12 A. I would have remembered that. Dizzy.
13 Jermaine -- Jermaine Stephens is who I was thinking
14 about.

15 Q. Jermaine Stephens. Okay.

16 A. He's the guy I was thinking about the whole
17 time.

18 Q. This is Commission Exhibit 17. Does he look
19 familiar to you?

20 (Hands Exhibit 17 to witness.)

21 A. Oh no.

22 Q. Okay. And let me -- sorry. Let me do this
23 really fast. Let me go back to -- I'm going to show you
24 what was previously marked as Commission Exhibit 13.

25 (Hands Exhibit 13 to witness.)

1 A. Okay.

2 Q. First off, have you ever seen this
3 photograph?

4 A. No.

5 Q. Okay. So just to give you a little bit of
6 context, this paragraph is from a Facebook post that was
7 put up. I don't know the date of when this was taken,
8 but it was sometime in relation to when Joshua Council
9 was killed in this case. And so it's my understanding
10 that people -- those guys had gathered almost as a
11 memorial. Is there anybody in that photograph that you
12 recognize at all?

13 A. Huh-uh. (Negative) No, ma'am.

14 Q. Okay. All right. That answers those
15 questions. Thank you.

16 A. Wow.

17 Q. So one of the purposes of this deposition
18 was just to determine the extent of your knowledge of the
19 facts involved in this case. So with that in mind, and
20 so I won't be surprised later on when I investigate this
21 case, is there anything that you believe is significant
22 in this case that you've not told us about today?

23 A. No.

24 Q. Is there any other topic we have not
25 explored that you think would be important to our

1 understanding of this case?

2 A. Well, I think the main thing we talked about
3 initially was how the relationship was with the SBI, and
4 not the documentation. I think that was the main thing
5 that bothered me.

6 Q. Sure. It bothered you at that time?

7 A. Yeah. Because I had dealings with the SBI
8 before. So yeah, that always concerned me. Again, they
9 were more cooperative and easy to work with during this
10 case. But I've always been kind of leery -- even now,
11 I'm real leery about calling them to work with.

12 Q. Do you think that had they been really
13 transparent about their investigation and their reports,
14 do you think that would have changed the way you
15 investigated this case?

16 A. No. It would have just -- for me, it would
17 have been just checking off more boxes. I don't like
18 leaving something unturned or made to look like as if I
19 forgot or left out.

20 Q. Got you.

21 A. I don't like that feeling. And that's what
22 I'm feeling right now.

23 Q. And I'm sorry. Because that's not our
24 intention to make you feel like that.

25 A. No. I completely understand. It's just

1 that, you know, sitting back, I'm processing so much
2 stuff that I really -- you just brought to light that --
3 and in a situation like this, you don't want to feel like
4 you didn't do everything you could have done. Or get
5 tunnel vision when your mind is set on something. It
6 just -- it makes me feel that way right now. But I know,
7 and I think everyone in this case knows, they did
8 everything within what they should have done.

9 Q. Okay. Yeah.

10 A. But the communication could have been
11 better. So that's what I believe.

12 Q. Sure. Okay. Do you have any additional
13 information to provide to us related to this case that
14 you haven't mentioned?

15 A. No.

16 MS. MYERS: All right. I am now going to
17 conclude and end the deposition. And the time is now
18 2:24 p.m., and I'm going to hand it over to Danielle.

19 (WHEREUPON, the foregoing videotaped
20 deposition was concluded at 2:24 p.m. on Tuesday,
21 April 18, 2023, and the following statements were
22 continued on the record.)

23 MS. SMITH: I'm just going to let you know
24 that pursuant to statute, you do have a right to receive
25 a copy of the sound and visual of this deposition. And

1 if you want to receive a copy, you'll have 30 days from
2 the date the deposition is submitted to you to review it
3 and make any corrections if you want to make any
4 corrections in form or substance, just to make sure that
5 the transcript is complete. Did you want to receive a
6 copy or did you want to waive this right?

7 LIEUTENANT COLLINS: Yes, I'd like to
8 receive a copy.

9 MS. MYERS: We'll e-mail it to you.

10 MS. SMITH: Yes.

11 MS. MYERS: Is that good?

12 LIEUTENANT COLLINS: That's fine.

13 MS. SMITH: I want to make sure I wrote your
14 e-mail down correct. It's al.collins@ci.lumberton.nc.us?

15 LIEUTENANT COLLINS: Yes, ma'am.

16 MS. SMITH: And I also want to make sure I
17 had your phone number correct. It's 910-734-5651?

18 LIEUTENANT COLLINS: Yes, ma'am.

19 MS. SMITH: Okay.

20 MS. MYERS: Awesome. Thank you.

21 LIEUTENANT COLLINS: Thank you.

22 MS. MYERS: So last thing is -- so this case
23 right now is supposed to go to a Commission hearing. Our
24 dates are going to be in August. It is common for us to
25 subpoena especially the lead investigator to that

1 Commission hearing. What I will tell you is that we are
2 going to put you on -- I'm going to hand you the subpoena
3 for the hearing. You're on telephone standby. Okay?

4 LIEUTENANT COLLINS: Okay.

5 MS. MYERS: There is always a chance that
6 something happens and it ends up not going to a hearing.
7 If it does, we'll be in contact with you beforehand so
8 that you know specifically when we anticipate the time
9 where you might need to answer your phone because we have
10 some questions for you.

11 Typically, when we're deposing somebody,
12 it's less likely that our Commissioners will have any
13 follow-up questions for that witness. But we do want
14 to just cover our bases and make sure that you're aware
15 of it. That is for, you know, a few days. You're not
16 going to be on telephone standby for that long, so I
17 don't want you to worry about that.

18 When we get closer, we'll have a much better
19 idea of what to expect. If we know ahead of time that we
20 do not need you, as soon as we know that, somebody will
21 contact you. Okay?

22 Our Commission hearings are -- it's not in a
23 courtroom setting, it's like a board room, like this. We
24 have a judge presiding, but it is not as -- it's still
25 formal, but it's not as court-like, if you will.

1 LIEUTENANT COLLINS: Right.

2 MS. MYERS: So if there were questions, they
3 would, you know, be able to ask you on the phone.
4 Hopefully, I did a decent enough job today where they do
5 not have any follow-up questions for you. Okay?

6 LIEUTENANT COLLINS: Right.

7 MS. MYERS: But if they do, then that's kind
8 of what that will look like. And it shouldn't take up
9 too much of your time. Typically, it never does when we
10 do have someone on telephone standby that is actually
11 needed. Yeah. Okay? Do you have any questions? I feel
12 like I messed up your day.

13 LIEUTENANT COLLINS: No, you did an awesome
14 job.

15 MS. MYERS: You're very kind.

16 LIEUTENANT COLLINS: I think it plays -- I
17 don't know. It just made me -- I thank you though. I
18 will seriously thank you. Twenty-seven years of doing
19 this, I will say, it's an eye-opener when you see the
20 other side of how people may perceive what you do.

21 And I appreciate -- I wish this was
22 something you could actually teach or maybe have
23 experienced before you got to this point where you had
24 to work an investigation. It's an eye-opener. So --

25 MS. MYERS: Well, you know, we are at an

1 advantage because we're 10 years later, and we're able to
2 gather all these files. Right?

3 MS. SMITH: Hindsight is 20/20. Right?

4 LIEUTENANT COLLINS: Yeah.

5 MS. MYERS: Exactly. So that's why I wanted
6 to say to you ahead of time that this is not to make you
7 feel bad or like we're judging you or anything like that.
8 It's just when we get a case, there are things that we
9 don't know because we weren't --

10 LIEUTENANT COLLINS: I see a few -- and it's
11 just --

12 MS. MYERS: No. I mean, but it's -- you
13 know, we just -- we don't know. So the more that we
14 know, the easier it makes kind of our job, because, you
15 know, we're not here with you when you're making
16 decisions. And so the more we can learn about what your
17 process looks like, and why things were done or not done,
18 you know, that really matters.

19 I mean, obviously -- I mean, I'll just be
20 honest with you that a lot of my questions were how come
21 you didn't have this document. But you didn't have any
22 of those documents because they weren't given to you, and
23 that's not how the SBI worked.

24 MS. SMITH: Do you know if they still have
25 that process where they don't share?

1 LIEUTENANT COLLINS: Uh-huh. (Affirmative)

2 MS. SMITH: Really. And do you know -- have
3 they ever shared why?

4 LIEUTENANT COLLINS: They haven't -- it's
5 hard to get an answer. It's just their policy is that
6 they don't share their documents with the agency.

7 And I think it's because they are used to
8 doing that side of policing us when we're, you know,
9 involved shooting -- officer-involved shooting. They are
10 the ones that come in and take over the investigation. I
11 think they haven't separated when they are called in to
12 assist.

13 MS. SMITH: Right.

14 LIEUTENANT COLLINS: They don't separate it.
15 And then they -- well, we just can't give you that. We
16 can't talk to -- I said, well at least, let's have a
17 discussion, and you can at least talk to us and tell us
18 what you heard.

19 MS. SMITH: Wow.

20 MS. MYERS: Yeah. That's got to be
21 frustrating to have that. Because if you're calling them
22 in to assist you --

23 LIEUTENANT COLLINS: Yeah. You should have
24 access to what they have. At least let's sit down and
25 discuss it.

1 And I've been around and around with the
2 leadership here. They're kind of set in their ways, and
3 they want to call them in on the front end of
4 investigations they shouldn't be called in on.

5 And I've got 10 guys right now that feels
6 like we don't trust them to do the job because we're
7 always calling the SBI. And then when they come, they
8 don't want to share. And these guys are not learning.
9 These people are learning from them, and these guys have
10 got their experience.

11 MS. MYERS: Right. Yeah, that's tough.
12 Well, hopefully, that will change at some point.

13 LIEUTENANT COLLINS: Well, it's changed.
14 Because I won't let them do it. I just -- I had to bite
15 the bullet, and say -- I'll smile and call them. But I
16 tell my guys, this is how we're going to work it.

17 MS. MYERS: Right. And so now, you make
18 sure that you've got --

19 LIEUTENANT COLLINS: Because they go out on
20 their own. The SBI agent comes into the city, works the
21 investigation. They'll go and interview someone and not
22 tell you.

23 MS. MYERS: And you'll have no --

24 LIEUTENANT COLLINS: I don't have an
25 investigator with that investigator. Luckily, a couple

1 times here, the lead investigator decided, hey, I'm just
2 going to stick by your side, and we're going to work
3 together. That's the only thing that saved us with this
4 situation here. But most of the time, they'll go out and
5 work their own, and come back and tell you, oh, just
6 check that off, we talked to them, there was nothing to
7 it. Okay. What did they say. So you smile, and you
8 just take it. But I've got three years. Whew.

9 MS. MYERS: What are you going to do? Do
10 you know what you're going to do after?

11 LIEUTENANT COLLINS: Play golf. I'm going
12 to play a lot of golf. I own a construction company, so
13 my wife is like -- well, I'm going to let that take care
14 of itself.

15 MS. SMITH: That's good.

16 LIEUTENANT COLLINS: But three more years.
17 But I do appreciate this. You know, I love being
18 critiqued and beat up.

19 MS. MYERS: No. No. No.

20 MS. SMITH: First your wife got on you
21 today. Then we came in today. I'm sorry.

22 LIEUTENANT COLLINS: She sent a text, are
23 you okay? Now you're asking if I'm okay. Okay. Yeah.
24 Not getting no peanut butter ice cream -- butter pecan
25 tonight. This is amazing. Thank you.

1 MS. MYERS: We appreciate you so much.
2 Yeah. And this is -- again, I just want to emphasize,
3 this is not, you know -- you helped us a lot by -- and so
4 we just appreciate you talking to us about this. It's
5 really helpful.

6 LIEUTENANT COLLINS: I'm going to always
7 tell the truth. I ain't going to jail for nobody. It's
8 bad enough to go for somebody else, I ain't going because
9 I -- uh-huh, I'm going to tell you the truth.

10 MS. MYERS: No. We got you. Do you have
11 any questions for us about anything?

12 LIEUTENANT COLLINS: No. You did an awesome
13 job. And you took care of it. I feel a little bit
14 better.

15 MS. MYERS: You're again being very kind to
16 me.

17 LIEUTENANT COLLINS: A little bit better.

18 MS. MYERS: No, you should. No, absolutely.

19 LIEUTENANT COLLINS: Here, you didn't --
20 you're supposed to --

21 MS. MYERS: Oh, I didn't. Thank you.

22 LIEUTENANT COLLINS: But listen, I went to
23 pull the file, and that's all they had in the file.
24 That's nothing of what should be in the file.

25 MS. MYERS: What else do you think should --

1 LIEUTENANT COLLINS: This is the letter that
2 I got from you guys.

3 MS. SMITH: Right.

4 MS. MYERS: Right. And this is the one --

5 LIEUTENANT COLLINS: Then that's where I
6 made the notes.

7 MS. MYERS: That's the notes.

8 LIEUTENANT COLLINS: But this here, all
9 this, that's all that's in the case file up front.
10 You've got more stuff in there than --

11 MS. MYERS: Well, my notebook, right, that I
12 made for myself was stuff that I -- I did want to be able
13 to kind of show you the entire Lumberton file. I also
14 have like the SBI file in there. Can I take a picture of
15 your notes that you took right there?

16 LIEUTENANT COLLINS: Yeah, uh-huh. Yeah. I
17 just put the names, and I didn't want to forget -- mess
18 up their names.

19 MS. MYERS: No. I don't blame you.

20 LIEUTENANT COLLINS: Let me jot down the
21 names so I at least know their name of some of the
22 people.

23 MS. MYERS: It is helpful to know about the
24 Soulski being the Kenny Ray Floyd. That's helpful to us.

25 LIEUTENANT COLLINS: I don't know why it

1 stuck in my mind that that was him. But that's all I
2 done. I made that, and then I just tried to remember the
3 names and the key stuff. But some of the back pages are
4 missing from the file, I couldn't find.

5 MS. MYERS: Like what in particular? Do you
6 remember?

7 LIEUTENANT COLLINS: Like the statement.

8 MS. MYERS: The Sheena Britt statement?

9 LIEUTENANT COLLINS: I couldn't find my back
10 page to it. I knew there had to be a signature page.
11 But they only got the front side. So it looked like they
12 made copies, and they didn't copy the back of it.

13 MS. MYERS: Do both sides?

14 LIEUTENANT COLLINS: Uh-huh. (Affirmative)

15 MS. MYERS: So then, where would the rest of
16 that be? Still in records?

17 LIEUTENANT COLLINS: No. I got this from
18 records.

19 MS. MYERS: Got you.

20 LIEUTENANT COLLINS: But I'm thinking, when
21 you first sent that letter out, the Commission sent the
22 letter out, they went and pulled the whole file. And
23 then they didn't put the whole file back is what I'm
24 thinking. Because the whole file should have been in
25 records. If nothing else, the whole file should have

1 been there. And so I asked them to pull the file again,
2 and let me make copies. And that's what they gave me
3 with the copies. And it looks like a lot of the stuff is
4 missing. Because my original notes is not in there. My
5 handwritten notes are not in there.

6 MS. MYERS: So what would have happened at
7 this point? Do you have any idea?

8 LIEUTENANT COLLINS: I have no clue. I
9 think they pulled the file to make copies.

10 MS. MYERS: Where would they have stored the
11 file?

12 LIEUTENANT COLLINS: Up front. They're all
13 stored up front. Big file cabinet in there.

14 MS. MYERS: Do you know why Captain
15 Johnson --

16 LIEUTENANT COLLINS: He was a detective
17 then. He was over the evidence then.

18 MS. MYERS: Do you know why his name is on
19 the photo cards though?

20 LIEUTENANT COLLINS: He actually processed
21 one of the scenes, I think. I think.

22 MS. MYERS: We don't have any notes about
23 that.

24 LIEUTENANT COLLINS: Hmm. That's a good --

25 MS. MYERS: Let me ask you about this, too,

1 because I -- and I know the deposition is ended, and I'm
2 very sorry. This one -- I don't think this is supposed
3 to be in here. But I don't know.

4 LIEUTENANT COLLINS: I didn't even --

5 MS. MYERS: It looks -- I think this is
6 somebody who might have OD'd, and that it has nothing to
7 do with this case. But do you?

8 LIEUTENANT COLLINS: They filed it in the
9 wrong --

10 MS. MYERS: 1314 Redwood Way. Because
11 that's not -- and then, it looks like it's Betty C.
12 Fairfax.

13 LIEUTENANT COLLINS: Yeah. I don't know.

14 MS. MYERS: All right. I don't think that
15 has anything to do with this case, and it was just like a
16 mistake.

17 LIEUTENANT COLLINS: But you saw it before?

18 MS. MYERS: Yeah. It's in our file too.

19 LIEUTENANT COLLINS: I was going to say, I
20 just -- they made me a copy of everything, and I just --

21 MS. MYERS: That's okay. Maybe it was
22 something that was just kind of accidentally picked up
23 with that.

24 LIEUTENANT COLLINS: Because I can show you,
25 they just got the rolling files in there, and they go --

1 and when we submit supplements, they go and just slide
2 them into the file.

3 MS. MYERS: Yeah. Do you guys have a
4 retention policy on -- like after so long, the rest of
5 them are destroyed?

6 LIEUTENANT COLLINS: They just move them.
7 They just move them out to the evidence building.

8 MS. MYERS: Evidence building?

9 LIEUTENANT COLLINS: They stay up here for X
10 amount of years, and then they just move them out there.

11 MS. MYERS: So it's possible that your notes
12 are still back there -- out there in that evidence
13 building?

14 LIEUTENANT COLLINS: But that's not long
15 enough.

16 MS. MYERS: Okay. How long do you think?

17 LIEUTENANT COLLINS: I think when we moved
18 here -- we moved into this building in 2014. And I think
19 they was saying they was keeping them 10 years or more up
20 here. So it would have been --

21 MS. MYERS: Got you.

22 MS. SMITH: That's around 10.

23 LIEUTENANT COLLINS: It's almost 10.

24 MS. MYERS: But at the time we would have
25 requested this, it would have been like seven years.

1 LIEUTENANT COLLINS: It still should have
2 been -- yeah. It should still should have been in here.

3 MS. MYERS: Okay.

4 MS. SMITH: Do you know if you all have like
5 a police attorney who reviews the files before y'all turn
6 them over to this? Or it just comes --

7 LIEUTENANT COLLINS: The attorney that they
8 would use would be the city attorney, if they used him.

9 MS. SMITH: Okay. Right.

10 LIEUTENANT COLLINS: It would be him up at
11 City Hall. I don't know. I just know when I asked for a
12 copy of it, I told them this is not it, this is not
13 everything.

14 MS. MYERS: So the notes, though, that
15 you're talking about, are those the notes that I showed
16 you that we had as part of the SBI file?

17 LIEUTENANT COLLINS: Yeah. You had my
18 handwritten.

19 MS. MYERS: Okay. But that's what you're
20 talking about?

21 LIEUTENANT COLLINS: Yeah. I don't have --

22 MS. MYERS: There wouldn't be anything else?

23 LIEUTENANT COLLINS: Huh-uh. (Negative)
24 That's just my hand -- I just didn't -- I told her, I
25 said, well, I'm missing my handwritten notes. Well, this

1 is all we have. I said okay.

2 MS. MYERS: Got you.

3 LIEUTENANT COLLINS: So I was going to bring
4 that up, that this is all I have. And I know it's more
5 than that.

6 MS. MYERS: Yeah.

7 LIEUTENANT COLLINS: But I don't know.

8 MS. MYERS: That's all right. Well, thank
9 you.

10 LIEUTENANT COLLINS: Yes, ma'am.

11 MS. MYERS: We really appreciate you so
12 much.

13 LIEUTENANT COLLINS: Thank you for not
14 making me feel too bad.

15 MS. MYERS: No. You're going to make me
16 feel bad now. That's never -- never our intention at
17 all. So we're good.

18 LIEUTENANT COLLINS: Let me get out your
19 way.

20 MS. MYERS: It was really -- thank you so
21 much.

22 MS. SMITH: Take care. Thanks.

23 LIEUTENANT COLLINS: Thank you. You too.

24 (WHEREUPON, the recording ended at
25 2:39 p.m.)

STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE
COUNTY OF ROBESON SUPERIOR COURT DIVISION

STATE OF NORTH CAROLINA,) File No. 13 CRS 3511
)
) File No. 13 CRS 54359
-vs-)
) **VIDEOTAPED DEPOSITION**
)
CLARENCE ROBERTS,) **OF**
)
) **LIEUTENANT A.L. COLLINS**
Defendant.)
-----) **April 18, 2023**

I, June Robinson, having been assigned to transcribe the above-captioned videotaped deposition from June 27, 2023, do hereby certify that said deposition, pages 1 through 168, is a true and correct, and verbatim transcript of said deposition to the best of my ability.

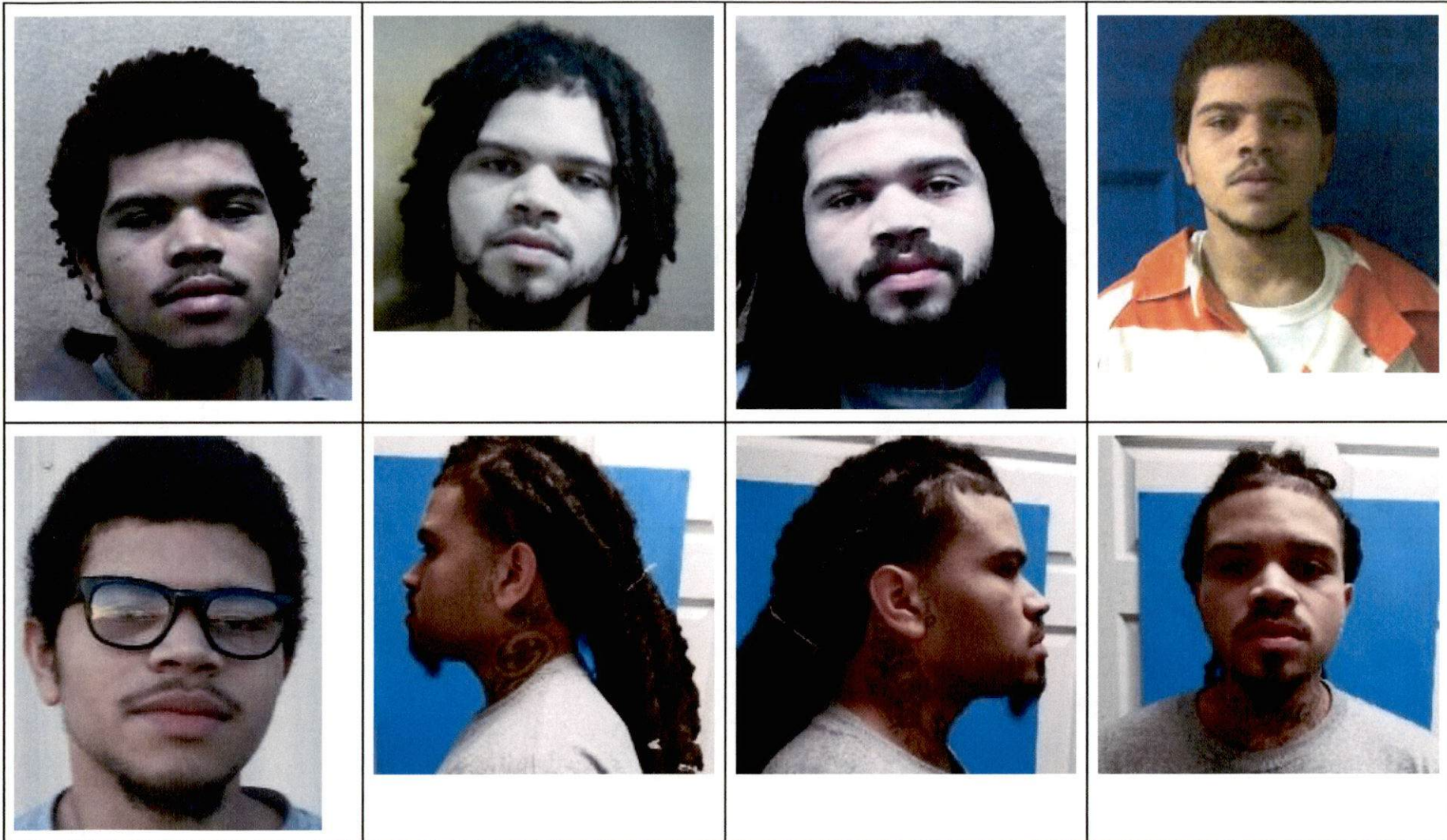
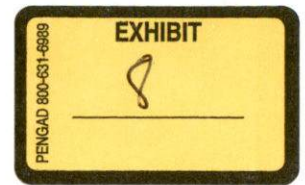
I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was heard; and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, and am not financially or otherwise interested in the outcome of the action.

This the 3rd day of July, 2023.

June E. Robinson
June Robinson, transcriptionist



**
IMAGE CAPTURE DATE: 2020-05-27
IMAGE CAPTURE TIME: 11.28.09
**
* END OF MESSAGE *







PENGAD 800-831-6989

EXHIBIT

13



PENGAD 800-631-6989
EXHIBIT
17

LAW ENFORCEMENT CERTIFICATE OF DELIVERY OF EVIDENTIARY CASE FILE
PURSUANT TO DISTRICT ATTORNEY REQUEST AND N.C.G.S 15A-901 et. seq.

DEFENDANT: Clarence Roberts

CASE FILE#: 13CR054359d60

OCA Number: 13-22696

Attached is the complete departmental file that includes defendant's oral and written statements if any, the co-defendant's oral and written statements if any, witness statements, investigating officer's notes if any, photographs, videotapes, audiotapes and all other matters pertaining to this case file.

Attached is a list of physical evidence that remains in the custody of the investigating law enforcement agency's evidence custodian. This evidence is available for review at a mutually convenient time with the defense attorney and a representative of the District Attorney's office.

I do not have a separate file on this case and everything that I did and observed in the investigation of this case is documented by my written statement of my participation or notes and any statements I may have taken from witnesses or the defendant as well as any photographs, audio, video and any other form of evidence all of which were turned over to the lead or charging officer.

I certify that the checked items above represent the complete information and details of the case file listed and that this information was delivered to the District Attorney's office on the _____ day of _____, _____. I further certify that I do not have any other evidence that I have not previously given to the District Attorney including officer notes, physical evidence, photographs, statements oral or written, videotape, audiotape or any other type of evidence not listed. I do not have any evidence that suggests that this defendant did not commit this offense.

I understand that if additional evidence is discovered and collected, it is my responsibility to immediately notify the District Attorney or the Assistant District Attorney assigned to the case and to provide all documentation relating to the newly discovered evidence.

If I have evidence that suggests that the defendant is not the person who committed this offense, I have included that evidence REGARDLESS of whether I believe the evidence is credible.

I accept that I am solely responsible for the representations made in this certificate and accept that the District Attorney and the Court will hold me accountable for all representations made herein.

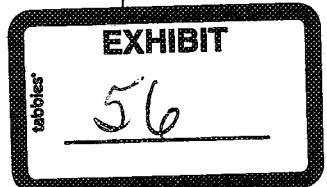
Printed Name

Al Collins

Charging Officer/ Deputy/ Assisting Officer

Signature

[Handwritten Signature]
Charging Officer/ Deputy/ Assisting Officer



WARNING:

000158
NCIC-SBI

CASE MANAGEMENT REPORT

VICTIM: Joshua Council LOCATION: 1204 Peachtree St. OCA #: 13-22691

DATE/TIME	NARRATIVE
6/14 Friday 21:49	I responded to subject shot. I arrived on scene at 21:54. Male subject was lying on the side of vacant house located at 1204 Peachtree. With gunshot appeared to the chest.
21:54	Contacted Capt. Parker and briefed him on what I had.
21:55	Contacted HD to make contact with Crime Scene Detective.
22:00	I spoke with witness John Allen (910) 740-9143.
	He stated that a white Ford Taurus with the rounded shape. He stated egg shaped. He stated that the car come from 11th street and drove in the grass lot then pulled it went pass the car. The stopped and backed up and pulled were the victim's/witness couldn't see him. Then started shooting. He states everyone started running in all directions. The suspect then spread out toward E town rd. They they went looking for the victim only to find him shot beside the vacant house.
	Victim: Joshua Floyd Council DOB 4/3/1991 77 Lake Brown Rd. White Oak NC 28399



INVESTIGATIVE DIVISION
CASE MANAGEMENT REPORT

VICTIM: Joshua Council

LOCATION: 1204 Peachtree St.

OCA # 13-2269

DATE/TIME	NARRATIVE
✓ 20:30	I went to SERMC to talk with the family and check on status of the victim.
✓ 22:34	I met the victim's Father Daily Council at the entrance of the ER. I gave him my card and advised him I will keep him and his family informed.
✓ 22:36	I met with Capt. Morton in front of Trauma room 3. They were working to save the victim's life. At 22:47 PM the doctor call (Time of Death)
✓ 22:47	Time of Death!
✓ 22:59	I went with ER Doctor + Capt. Morton to notify them that their son had passed.
Sat. 6/15 20:01	I arrived back at the scene and met with Capt. Porter + Lead SBI Agent:
	SBI Agent Anna Cruz (919) 218-5663 Lead Agent Bill Bradley (919) 303-4812
	I briefed everyone on where we stood at this point.
✓ 20:45	I received the victim's cell phone from Det. Blake Horrell. Victim's cell phone #
	(919) 916-6737 Verizon

CASE MANAGEMENT REPORT

VICTIM: Joshua Council

LOCATION: 1204 Peachtree St.

OCA #: 13-2269

DATE/TIME	NARRATIVE
6/15 Sat ✓ 11:00	I went back to SEMC to finish process the body & to let the father see his son's body.
✓ 11:30	Victim's Father gets to view the body along with his pastor & brother.
✓ 12:30	I went back to HQ & met with rest of team and SBI Agents about the case.
✓ 12:44	I spoke with the Pathology Doc. about this case. He will call back with a day of the Autopsy.
✓ 12:30	I spoke with my witness, Jason Allen. He will call me back this afternoon.
✓ 10:43	I spoke with the victim's father about this case. He feels like his girlfriend Bree has something to do with his son's death. She works at Pier 1 in L'bon.
6/16 Sun ✓ 07:21	I was contacted by Doctor Walek stating that he was starting the autopsy on victim.
	Bullet went through both lungs before nicking an artery.

CONVENTION SERVICE DEPARTMENT INVESTIGATIVE DIVISION
CASE MANAGEMENT REPORT

VICTIM: Joshua Council LOCATION: 1284 Peachtree St. OCA #: 13-2260x

DATE/TIME	NARRATIVE																				
6/15 Sun ✓ 16:38	I recieved a call in Ref to a Chris McBirt who lives at 1482 E 14th St. He states at between 23:20 - 23:30 a guy in a white Trans or Sepal was driving strange, start + stop in front of his house. He would pull up and stop just acting strange. Black male, medium build, low haircut or bald asked if he knew Hose. Metal teeth and he acted drunk. But couldnt smell any alcohol. Chris McBirt - Pass Witness 1482 E 14th St. (910) 416-2101																				
6/16 Mon ✓	Here is a list of numbers that called the victim after his death or day of his death.																				
	<table border="0"> <tr> <td>Timiya</td> <td>(910) 733-0973</td> </tr> <tr> <td></td> <td>(910) 638-3822</td> </tr> <tr> <td></td> <td>(267) 648-3934</td> </tr> <tr> <td></td> <td>(910) 587-9877</td> </tr> <tr> <td></td> <td>(910) 416-4543</td> </tr> <tr> <td>Brea</td> <td>(910) 618-7325</td> </tr> <tr> <td>Cru</td> <td>(910) 677-6613</td> </tr> <tr> <td>J Mincey</td> <td>(910) 534-0148</td> </tr> <tr> <td>JR</td> <td>(910) 748-9143</td> </tr> <tr> <td>OB</td> <td>(910) 374-1756</td> </tr> </table>	Timiya	(910) 733-0973		(910) 638-3822		(267) 648-3934		(910) 587-9877		(910) 416-4543	Brea	(910) 618-7325	Cru	(910) 677-6613	J Mincey	(910) 534-0148	JR	(910) 748-9143	OB	(910) 374-1756
Timiya	(910) 733-0973																				
	(910) 638-3822																				
	(267) 648-3934																				
	(910) 587-9877																				
	(910) 416-4543																				
Brea	(910) 618-7325																				
Cru	(910) 677-6613																				
J Mincey	(910) 534-0148																				
JR	(910) 748-9143																				
OB	(910) 374-1756																				
✓ 18:28	I spoke with victim's girlfriend. She will be at my office. ASAP! Shabrea Lowery 2/7/1992 3381 E town Rd Lot 23 Larkens Est. (910) 618-7325 Her Mother Kimberly																				

CASE MANAGEMENT REPORT

VICTIM: Joshua Council LOCATION: 1204 Peachtree St

OCA #: 13-22128

DATE/TIME	NARRATIVE
4/17 Mon 11:00	I spoke with Berc about this case.
	Her Brother's Dad Clarence Roberts has a white Ford Taurus!
	Tag # BEN-9378
✓ 14:27	Myself + Agent Bill Brady went to Thomas Savage to look at vehicle that impounded. Took photo's.
✓ 15:15	Number: the suspect called from the jail! (910) 867-5615 F.H. (910) 224-6202
✓ 14:30	Went to lot 23 Larkin Est talked with Kimberly Lowery (Mother of Girlfriend) Search around home + Fence line.
	Suspect stated to Ms. Kimberly that he had a run in with Soulski Roberts & some guys. Soulski's Brother → Alex Stephens JR
✓	Vanessa Lott (Girlfriend) 623 Riverfront LN Fayetteville, NC 283 (910) 624-9860 (910) 243973
	Owner of vehicle suspect was driving?
	Heather Rae Conn 1082 Tower Dr Hope Mills

SHERIFF DEPARTMENT INVESTIGATIVE DIVISION
CASE MANAGEMENT REPORT

CTIM: Joshua Council LOCATION: 1204 Peachtree St. OCA #: 13-22196

DATE/TIME	NARRATIVE
6/18 Tues ✓ 09:20	I met with SBI Agents Brady & Cruz at Headquarters.
✓ 10:00	Put several lineup's together.
✓ 10:30	Went out to Sheriff's office to talk with Clarence Roberts who was in jail. He gave consent to search vehicle.
✓ 11:35	Received 11-14 that Soulski didn't have any beef with Roberts.
✓ 13:50	Went to Fairmont to process vehicle.
6/19 Wed ✓ 10:00	Went to check area behind lot 23 to search for a possible gun in a wooded area & small creek.
✓ 10:00	Talked with Jennifer Gurley at Lot 149 Turner Park. She stated that she suspect Roberts did come to her house. He came to pick her up but she couldn't go because of the surgery on her stomach.
✓ 12:35	Went to Booker St. and talked with Gary Ingram (Head) he wasn't home. Gave his mother my card for him to call me.
✓ 15:40	Went to Sheriff's Office to get copies of phone conversations.

CASE MANAGEMENT REPORT

CTIM: Tosque Council LOCATION: 1204 Peachtree St. OCA #: 13-22696

DATE/TIME	NARRATIVE
6/19 Wed 19:57	<p>I spoke with Gary Ingram about this case. He states he got off at work and when he got home, about 18:58 Clarence Roberts was already at his house drinking with his cousin E who is Eric McCueed. He stated that Woo who is (Clarence Roberts) left with E and went to 6th street and did some drinking over there. He stated that he didn't ride with them he rode his scooter to 6th street + the tracks. He states that Woo was still around them when they heard about the shooting. He stated he don't know what time it was but then he said it had to be after 22:30 when he left. Gary stated he would have Eric McCueed (E) call me ASAP.</p> <p align="center">(90) 785-7142</p>
20:43	<p>I spoke with Eric McCueed (E) He stated that he got off work and went to his cousin Keed's house on Bodden st. He states that they were drinking in the yard. He states he not sure on exact time but around 18:30-20:30 pm they went to 6th street + the railroad tracks. They were drinking over there + there was a lot of people there. He stated Woo was fucked up. He said he want a got in his car and because he was so drunk he thought he was just going to listen to some music. But he drove off. It was around 18:30 - 18:30</p>

POLICE DEPARTMENT INVESTIGATIVE DIVISION
CASE MANAGEMENT REPORT

"CTIM: Joshua Council LOCATION: 12814 Peachtree St. OCA #: 13-22691

DATE/TIME	NARRATIVE
Thurs 6/20/13 08:50	Myself + Det. Hinson went 517 E. 9th St. left message for Shaena Brooks to call me.
✓ 09:26	Went back to Steens Home. Male subject was gone. Left message with another female that had just pulled up of the house.
✓ 09:45	Went to lot 13 Hedgelyth Blvd on snake rd. Spoke with Ricky Stephens about incident. He states he didn't see the guys face. He says the suspect car was a white dodge stratus.
✓ 10:46	Spoke with Shaena Brooks and she came down to HQ to talk about case.
✓ 11:15	Took out warrants on suspect!
	T.M. 085865
	T.M.P. 085866
✓ 14:15	Went out to Sheriff Office got the suspect Clarence Roberts out of his cell took him to Sheriff Office interview room. Talked to him about this case. With SBI Agent Bill Brady.
✓ 15:15	We took suspect to fingerprint room & processed him. He was placed up in bond.
✓ 17:40	Drove out to the victim's parents home in White Oak NC. To talk to them about the case.

CONFIDENTIAL: This is an official file of the North Carolina State Bureau of Investigation. To make public or reveal the contents thereof to any unauthorized person is a violation of the General Statutes of North Carolina.

SBI CASE: 2013-01165 (1078)
ACTIVITY: June 14, 2013
VICTIM(S): Joshua Floyd Council
COPIES: (1) Case Records Management Section
(2) SA W. T. Brady
(3) SAC J. P. Sutton
(4) District Attorney L. J. Britt III

ACTIVITY CONDUCTED BY SA W. T. BRADY ON JUNE 14, 2013, IN REFERENCE TO THE HOMICIDE OF JOSHUA COUNCIL:

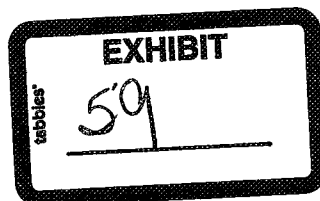
On June 14, 2013, Special Agent (SA) W. T. Brady and SA A. Cruz responded to a homicide located at 1204 Peachtree Street in Lumberton, North Carolina. SA Brady was assigned as the case agent for the North Carolina State Bureau of Investigation (NCSBI).

SA Brady made contact with Lumberton Police Department (LPD) Detective Al Collins. Detective Collins was the case investigator for the LPD.

Detective Collins advised that a white car pulled up to the basketball court area of a park located at 1204 Peachtree. A stocky or muscular black male with short hair or a bald head fired gunshots at people located at the basketball court. One of the people at the basketball court was struck with gunfire. The victim, Joshua Floyd Council, B/M/DOB: 04/03/1991, died from a gunshot.

The crime scene was conducted by LPD Detective Blake Harrell. The victim's cell phone, 910-916-6737, was located by LPD. The last two phone calls on the phone were from 910-674-6613, at 9:16 p.m., and 910-474-9420, at 9:07 p.m. The 674-6613 number is under contact name "Cry".

A neighborhood canvass was conducted by SA W. T. Brady, SA Cruz, and LPD Detectives Chuck Levitte and Lee Hinson. SA Brady and Detective Levitte teamed up to conduct a neighborhood canvass. SA Cruz and Detective Hinson went to another area for the neighborhood canvass.



000002
NCIC-SBI

SA Brady will document the portion conducted by him and Detective Levitte on a separate report. SA Cruz will document the portion she covered in a separate report.

The interviews conducted were as follows: SA Brady interviewed Jack Thompson, Chris Thompson, Harold Jacobs, and Stacie Locklear. Detective Hinson interviewed Ronnie Robinson. Detective Collins conducted field interviews with Reginald McFarland, Christopher Rogers, John Allen and Chris McGirt. All interviews were documented on separate reports.

WTB:lg

2:30pm AFTER receiving info that a man named
GILBERT OSWINE ROBERTS visited ex-wife KIMBERLY LOWERY
BROOK (already documented by Det. Lee Hansen.
A-112 LOWERY SAID ROBERTS WENT BEHIND HER TO THE
A-COLLINS THE BACKYARD, HOWEVER GIVE HER 5 MINUTES.
LAD) LOWERY GAVE WEAPON ACCESS TO Det. A-COLLINS
TO SEARCH AROUND RESIDENCE & UNDER FOL
CHECKED UNDER UNDERLIVING w/ FLASHLIGHTS
DID NOT SEE ANYTHING.

- K-9 OFFICER TRAVIS RAMSAY USED K-9
NEED CONDUCTED AN ARTICLE SEARCH, W/
NEGATIVE RESULTS AROUND FOL. BUT INSIDE A
FENCE LINE HE TRACKED SOMETHING BUT LOST
HEAT.

EXHIBIT
60

000243
NCIC-SBI

6-17-13

~~6-17-13~~

24 TIL LAKE LAIKEN TIL PK

7:56 AM

REM ~~around~~ ~~the~~ ~~lake~~ did not see anything
SUSPICIOUS FOUL-SAT, WAS NOTICED BY ME.

CONFIDENTIAL:

This is an official file of the North Carolina State Bureau of Investigation. To make public or reveal the contents thereof to any unauthorized person is a violation of the General Statutes of North Carolina.

SBI CASE: 2013-01165 (1078)
ACTIVITY: June 17, 2013
VICTIM(S): Joshua Floyd Council
COPIES: (1) Case Records Management Section
(2) SA A. M. Cruz-Velez
(3) SAC J. P. Sutton
(4) SA W. T. Brady
(5) District Attorney L. J. Britt III

Crystal Darlene Allen, B/F/DOB: 10/09/1985 (Witness)

Residence: 93 Beth Drive, Lumberton, North Carolina 28358
Telephone: 910-674-6613
Business: Unemployed

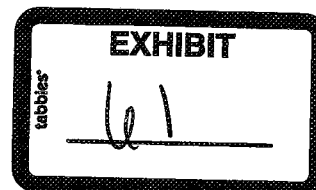
On Monday, June 17, 2013, at approximately 6:35 p.m., Special Agent (SA) A. M. Cruz-Velez of the North Carolina State Bureau of Investigation (NCSBI) conducted an interview of Crystal Darlene Allen. The interview took place at the Lumberton Police Department. No one else was present during the interview.

Allen was interviewed as a witness to an investigation involving the homicide of Joshua Floyd Council. Allen is Council's cousin and was present during the shooting. Allen is believed to have pertinent information to the case.

Allen provided the following statements to investigators:

Allen stated on Friday, June 14, 2013, around 9:00 p.m., she spoke with Council over the phone. Council asked Allen to meet him at the "Hut." According to Allen, the "Hut" was the name used to refer to the basketball court located on Peachtree. Allen stated she was meeting Council at the "Hut" to give him \$20.00. Allen said she was giving council \$20.00 for picking up her baby's father from work.

Allen stated around 9:07 p.m., she noticed she had a missed call from Council. Allen stated she figured Council was calling back to find out where she was. Allen recalled receiving a third call from Council around 9:17 p.m. Allen



000022
NCHC-SBI

stated she answered the call and they began talking as she was pulling up to the "Hut."

Allen stated when she arrived, she got out of her car and spoke with Council. Allen asked Council "What ya doing over here?" According to Allen, Council was at the "Hut" with her brother, John Allen, and a few other guys she did not know. Allen could not recall any names. Allen stated Council told her he was just "chilling," meaning he was just hanging out with his friends. Allen stated she remembered Council grabbing her baby out of the car and walking towards the basketball court area. Allen stated she remembered seeing everyone at the court just talking to each other and playing basketball.

Allen stated she stayed near the court area for about 20 to 30 minutes, talking to Council and her brother John before she started walking back towards her car. According to Allen, she was parked a few feet from the front of the basketball court area.

Allen stated as she began walking back towards her vehicle, she noticed Council and John were also walking behind her with her baby. Allen then remembered Council giving her baby to John and then John turned around and gave her baby back to Allen. Allen stated she put her daughter in the car and just stood in front of her car talking and laughing with Council and John. During the conversation, Allen gave Council the \$20.00 for picking up her baby's father. Allen then recalled John walked away from the car and started walking back to the basketball court, when suddenly a white Ford Taurus, 2000 or older model, slowly drove up. Allen stated she did not notice anything unusual about the vehicle other than the way the driver was driving.

According to Allen, the vehicle slowly drove up as though he was "creeping," meaning he was looking for someone without being noticed. Allen stated the vehicle then stopped as though he had found what he was looking for. The driver of the vehicle then backed up and pulled up again and stopped in front of Allen's vehicle. According to Allen, the vehicle's passenger window was rolled down. Allen stated the driver then suddenly started yelling, "You going to kill me?, you going to kill me?" and then backed his vehicle beside a yellow house. Allen stated the driver then got out of the vehicle and began shooting.

Allen described the driver of the white Ford Taurus as a dark-skinned black male about 5'9" to 6' feet tall with a thin, muscular body type. Allen stated the male was more muscular than SA W. T. Brady. Allen did not recall the male having any facial hair but he appeared to be somewhere between 35 to 45 years old. Allen stated she had never seen the driver there before.

Allen recalled hearing about eight rounds, but she wasn't able to see the shooter clearly because she immediately ducked down, put her baby in the floorboard of the vehicle and jumped into the driver's seat when she heard the shots being fired. Allen did not recall seeing the gun.

Allen stated once the shots stopped, she looked up and noticed the shooter was standing beside another male described as a young black male with no shirt on, whose name is unknown. The black male was ducked down, attempting to get inside Allen's vehicle. According to Allen, the male held his hands up and told the shooter, "It wasn't me." The shooter then looked at the boy and crossed his hands and began walking away. Allen stated the shooter got back in his car and drove off in the same direction he came in.

Allen stated she then turned her car on and started making phone calls. Allen called Council around 10:26 p.m. and he picked up the phone and said, "I'll call you back, "I'll call you back," but Council never called her back. Allen stated the next phone call she got they told her Council got shot.

(Agent's Note: Allen was very emotional and began crying throughout the interview.)

Allen stated after the shooting, a girl named Bianca Greg (910-474-1944) told her that her baby's father, "Trell" (LNU), heard Council fussing with someone over the phone. According to "Trell," there was a black male arguing with Council earlier that day around the corner from the basketball court by 10th Street.

Allen stated on the day of the shooting, Council had been fussing with his baby's mother over the phone. Allen did not recall what they were fussing about.

LEAD SHEET

NAME:

LEAD:

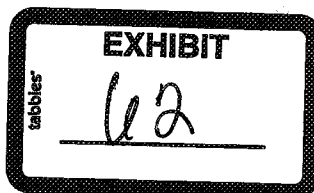
DATE:

COMPLETED BY:

Donnie Robinson	witness, lives in area of shooting	6-14-2013	Det. Lee Hinson SA A. Cruz
Michael Burgess	victim's cousin	6-14-2013 ^{LM}	Det. A. Collins (IAD)
JACK THOMPSON	neighborhood canvass	6-14-2013	SA BRADY
Chris Thompson	" "	6-14-2013	SA BRADY
Harold Jacobs	" "	6-14-2013	SA BRADY
Stacie Lardner	" "	6-14-2013	SA BRADY
Shahira Lowery	victim's girlfriend	6-17-2013	Det. A. Collins
Reynold McFarland	neighborhood canvass	6-14-2013	Det. A. Collins
Christaller Rogers	" "	" "	" "
JACK OXERDINE	" "	" "	" "
Chris McGirt		6-17-2013	SA BRADY
Kim Lowry	Clarence Roberts ex-wife victim's cousin	6-17-2013	Det. Lee Hinson
John Allen	Area of shooting victim's sister AT	6-17-13	SA BRADY
Crystal Allen	shooting witness who saw	6-17-13	SA A. Cruz
Heath Christopher McGirt	Area of residence.	6-17-13	SA BRADY
Michael Burgess	AT shooting scene	6-18-13	SA A. Cruz
Bianca Greg	overhead person Area of victim	6-20-13	
Whitney Carter	witness near scene	6-20-13	Det. Collins
Ricket Steffens	witness AT scene suspect's girlfriend	6-20-13	Det. Collins
Vanessa Luke		6-21-2013	Det. Collins
Heather Lowry	white female live Area of her name suspect's cousin		
Jessie Per Gilen		6-19-2013	Det. Collins
GARY INGRAM	suspect's friend cousin	6-19-2013	Det. Collins

pin at

0-474-1944



Department of Human Resources
Division of Health Services
OFFICE OF THE CHIEF MEDICAL EXAMINER
Chapel Hill, NC 27514

OCT 02 2013

A2013-05414

5674

REPORT OF AUTOPSY

SRA-13-00029

PATIENT INFORMATION

Deceased: COUNCIL, JOSHUA F
Sex: M Race: B
Age: 22 DOB: 4/3/1991

AUTOPSY INFORMATION

Expired: 06/14/13
Autopsied: 06/16/13

Pathologist: Walter B. Walek, M.D.
Autopsy Assistant: Sheila Grainger
Medical Examiner: D.E. Ward Jr, M.D.

FINAL AUTOPSY DIAGNOSIS:

- I. Gunshot Wound to Thorax
 - A. Perforation of skin, 15 cm. inferior to right axilla
 - B. Through and through injury to right lower lobe of lung
 1. Collapse of right lung (right lung weight: 270 grams)
 - C. Through pulmonary hilum
 - D. Through and through injury to left upper lobe of lung
 1. Collapse of left lung (right lung weight: 310 grams)
 - E. Hematoma, left pectoralis muscle, with retrieval of metallic projectile
- II. Massive bilateral hemothorax
- III. Marked hemorrhage, pulmonary hilum, surrounding pulmonary vascular trunk
- IV. Bilateral lung collapse, diffuse and complete
- V. Steatosis, moderate, predominantly macrovesicular
- VI. Acute renal tubular necrosis
- VII. Radiographic evidence suggestive of right tension pneumothorax

W 10/4/13
OCME DATE

OPINION/FINAL COMMENT:


The cause of death in this 22 year old man, Joshua Council, was a gunshot wound to the thorax leading to cardiovascular arrest. Traumatic injury involved the right lower lung lobe, the pulmonary hilum, and the left upper lung lobe. The projectile caused bilateral lung collapse. The projectile path through the pulmonary hilum suggests injury to a large pulmonary vessel. There was massive hemorrhage into the pulmonary hilum surrounding the great vessels, as well as massive bilateral hemothorax.

According to the medical examiner, the decedent pulled up to Hayswood Hut Park to pick up his cousin who had been playing basketball with friends. The decedent was standing outside of his vehicle talking to the group of boys when another vehicle approached slowly, then sped past. The vehicle then braked, backed up and the driver began shouting at the group, then opened fire. The group ran and a witness called 911. The decedent was rushed to the hospital however emergent rescue efforts were to no avail.

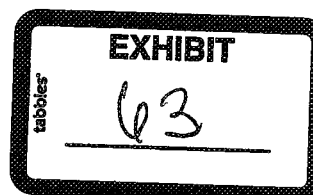
The decedent had not been consuming alcoholic beverages immediately prior to his death.

The facts stated herein are correct and to the best of my knowledge and belief.

Preliminary Report: 06/17/13
Final Report: 09/26/13


W.B. Walek, M. D.
Pathologist

2013-01165
1078-20
1 of 10



000305
NCIC-SBI

ADULT PROTOCOL:

An autopsy is performed on the body of Joshua Council, at the Southeastern Regional Medical Center, State of North Carolina, on the 16 day of June 2013. The postmortem examination is begun at 7:45 am and completed at 11:15 am.

EXTERNAL EXAMINATION:

The body is that of a well-developed, well-nourished adult male, who weighs approximately 275 pounds, is 77 ½ inches in height and appears compatible with the stated age of 22 years.

Body identification includes left toe tag and left wrist ID band.
The body is clad in blue jean shorts (COOGI), gray athletic shorts, gray underpants, and a gray t-shirt which has nearly been cut off (presumably due to rescue efforts), and white high-top sneakers.

The body is cool to touch.
Rigor is fully fixed in all extremities and jaw.
Diffuse, fixed, purple livor extends over the posterior surfaces of the body, except in areas exposed to pressure.

The scalp hair is black and measures 3 to 4 cm in length over the crown.
The irides are dark brown; the pupils are bilaterally equal at 0.5 cm.
The corneae are transparent.
The sclerae and conjunctivae are unremarkable.
The nose and ears are not unusual.
The lips and gums are pale.
The teeth are in good repair.
The decedent has a goatee which measures approximately 2-3 cm in length.
The neck is without masses, and the larynx is in the midline.
The thorax is symmetrical with an anteroposterior/lateral ratio of about 1:2.
The abdomen is flat.
The penis is circumcised; the testes are bilaterally descended within the scrotum.
The anus and back are unremarkable.
The upper and lower extremities are well developed and symmetrical, without absence of digits.
Identifying marks and scars are not identified.
Evidence of emergency resuscitation and/or medical therapy includes IV in left antecubital, IV in right antecubital, endotracheal tube in trachea, pad on right chest and pad on left mid abdomen, right anterior chest line, and chest tube in the right lateral thorax (the chest drain contains 2705 cc of serosanguinous fluid). There is also a large (approximately 12 cm) incision in the left lateral thoracic flank.

EVIDENCE OF INJURY:

15 cm inferior to the right axilla in the posterior most lateral right flank is a 0.85 cm entrance wound. The path of the projectile is as follows: entrance wound as described above, through 8th intercostal space through right lower lobe of lung, through pulmonary hilum, through left upper lobe of lung, through 4th left intercostal space. The projectile was retrieved from the left lateral anterior pectoralis muscle. The projectile was gold in color and measured approximately 1.2 cm in length x 0.9 cm in diameter.

INTERNAL EXAMINATION:

Massive bilateral hemothorax, left greater than right, and two collapsed lungs.

BODY CAVITIES:

No adhesions or abnormal collections of fluid are in any of the body cavities, however massive bilateral hemothorax is present, left greater than right.
All body organs are present in normal and anatomical position.

HEAD (CENTRAL NERVOUS SYSTEM):

The brain weighs 1290 grams.
The dura mater and flax cerebri are intact.
The leptomeninges are thin and delicate.

The cerebral hemispheres are symmetrical.
The structures at the base of the brain, including cranial nerves and blood vessels, are intact and free of abnormality.

Sections through the cerebral hemispheres reveal no lesions within the cortex, subcortical white matter, or deep parenchyma of either hemisphere.

The basal ganglia, thalami, and Ammon's horn are unremarkable.

The cerebral ventricles are normal caliber.

Sections through the brain stem and cerebellum are unremarkable.

The spinal cord is unremarkable.

NECK:

Examination of the soft tissues of the neck, including strap muscles, thyroid gland, and large vessels, reveal no abnormalities.

The hyoid bone and larynx are intact.

The lingual mucosa is intact; the underlying firm red-brown musculature is devoid of hemorrhage.

CARDIOVASCULAR SYSTEM:

The heart weighs 475 grams.

The pericardial surfaces are smooth, glistening and unremarkable; the pericardial sac is free of significant fluid or adhesions.

The coronary arteries arise normally follow the usual distribution and are widely patent, without evidence of significant atherosclerosis or thrombosis.

The chambers and valves bear the usual size-position relationships and are unremarkable.

The myocardium is dark red-brown, firm, and unremarkable; the atrial and ventricular septa are intact.

The aorta and its major branches arise normally, follow the usual course and are widely patent, free of significant atherosclerosis and other abnormality.

The vena cava and its major tributaries return to the heart in the usual distribution and are free of thrombi.

RESPIRATORY SYSTEM:

The right and left lungs weigh 270 and 310 grams, respectively.

The upper airway demonstrates mucus, and the mucosal surface is erythematous.

The pleural surfaces have been disrupted by the projectile (see above).

The pulmonary parenchyma is dark red-purple, however the right lower and left upper lungs shows massive hemorrhage secondary to injury from projectile.

The pulmonary arteries are normally developed, patent, however there is abundant hemorrhage surrounding the vessels in the pulmonary hilum, and questionable disruption of the left pulmonary artery.

LIVER AND BILIARY SYSTEM:

The liver weighs 2630 grams.

The hepatic capsule is smooth, glistening and intact, covering red-brown parenchyma, with no focal lesions noted.

The gallbladder contains 20ml. of yellow-green-brown, slightly mucoid bile; the mucosa is velvety and unremarkable.

The extrahepatic biliary tree is patent, without evidence of calculi.

The portal vein and its tributaries are unremarkable.

ALIMENTARY TRACT:

The esophagus is lined by gray-white, smooth mucosa.

The gastric mucosa is arranged in the usual rugal folds, and the lumen contains some gray-tan fluid matter.

The small and large bowel are unremarkable.

The appendix is present.

The pancreas has a normal gray-white, lobulated appearance, and the ducts are clear.

GENITOURINARY TRACT:

The right and left kidneys weigh 180 and 170 grams, respectively.

The renal capsules are smooth and thin, semitransparent, and strip with ease from the underlying smooth, red-brown, firm, cortical surface.

The cortex is sharply delineated from the medullary pyramids, which are red-purple to tan and unremarkable.

The calyces, pelvis, and ureters are unremarkable. The relationships at the trigone are unremarkable.

The testes, prostate and seminal vesicles are unremarkable.

RETICULOENDOTHELIAL SYSTEM:

The spleen weighs 165 grams and has a smooth, intact capsule covering red-purple, moderately firm parenchyma; the lymphoid follicles are unremarkable.

The regional lymph nodes appear normal.

The bone marrow is red-purple and homogeneous, without evidence of focal abnormality.

ENDOCRINE SYSTEM:

The pituitary, thyroid, and adrenal glands are unremarkable.

MUSCULOSKELETAL SYSTEM:

The bony framework, supporting musculature, and soft tissues are not unusual, with the exception of hemorrhage in the left anterior lateral pectoralis muscle, where the projectile was retrieved.

CASSETTE SUMMARY:

Block 1 - appendix, aorta
Block 2 - stomach
Block 3 - left kidney
Block 4 - right kidney
Block 5 - spleen
Block 6 - liver
Block 7 - liver
Block 8 - pulmonary artery or vein
Block 9 - pituitary
Block 10 - right ventricle of heart
Block 11 - left ventricle of heart
Block 12 - hemorrhage, clot, pulmonary hilum
Block 13 - right upper lobe of lung
Block 14 - right middle lobe of lung
Block 15 - right lower lobe of lung
Block 16 - right lower lobe of lung
Block 17 - left upper lobe of lung
Block 18 - left lower lobe of lung
Block 19 - mid brain
Block 20 - cerebellum
Block 21 - cortex

MICROSCOPIC DESCRIPTION:

Slides 13, 14 and 18 show marked atelectasis/congestion of lung tissue; slides 15, 16 and 17 show marked atelectasis/congestion and hemorrhage.

Slide 8 shows organizing hemorrhage surrounding a large pulmonary vessel.

Slide 12 shows organizing hemorrhage around tissue of the pulmonary hilum.

Slides 3 and 4 show ischemic renal epithelial cells in the renal tubules.

Slides 6 and 7 show moderate, primarily macrovesicular steatosis.

Other than autolysis and hyperemia, the remaining sections show no other histopathologic abnormalities.

FINAL AUTOPSY DIAGNOSIS:

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- v. Steatosis, moderate, predominantly macrovesicular
- vi. Acute renal tubular necrosis
- vii. Radiographic evidence suggestive of right tension pneumothorax

SRA-13-00029

AUTOPSY REPORT

COUNCIL, JOSHUA F

Walter B. Walek MD
Pathologist
Electronically signed 6/17/2013 11:01:04AM

Walter B. Walek MD
Pathologist
Electronically signed 9/26/2013 10:26:35AM

000310
NCIC-SBI



NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF THE CHIEF MEDICAL EXAMINER
Chapel Hill, North Carolina 27599-7580

REPORT OF INVESTIGATION BY MEDICAL EXAMINER

OCME USE ONLY
13-51074
Case number
JUN 18 2013
Date received
 Res NR

DECEDENT: JOSHUA F. COOPER
First Middle Last Suffix
RESIDENCE: Rt 1 Box 241 White Oak, N.C. Bladen?
Number and Street City, State County
AGE: 22 SEX: Male Female Unknown
RACE: Black Native American Oriental White Unknown
HISPANIC ORIGIN: Yes No Unknown

INFORMATION ABOUT OCCURRENCE

	DATE	TIME	ADDRESS OR FACILITY	COUNTY
ONSET OF INJURY OR ILLNESS	6-14-13	2142	Haywood Park - Lumberton	Robeson
DEATH	"	2242	SRMC - E.D.	"
VIEW OF BODY			<input type="checkbox"/> Scene of death <input type="checkbox"/> Hospital <input type="checkbox"/> Funeral home <input type="checkbox"/> Other <input checked="" type="checkbox"/> Not viewed In Box Sealed	
M.E. NOTIFIED	6-15-13	0730	LAW ENFORCEMENT AGENCY: <u>Lt. P.D.</u>	
LAST KNOWN TO BE ALIVE	"	2146	OFFICER: <u>Det. A. Lottick</u> TELEPHONE: <u>910-785-3386</u> Death occurred while in custody: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown	

AUTOPSY: None M.E. Authorized Non-M.E. Autopsy facility: SRMC - Lumberton
BLOOD SAMPLE: Mailed Obtained by pathologist Reason not obtained:
IF CLINICAL ALCOHOL DONE, RESULT: _____ By whom: _____

PROBABLE CAUSE OF DEATH: Pending

- Autopsy
- _____
- _____
- _____

OCME REVIEW		SDC
1. <u>Gunshot wound of the chest</u>	DUE TO	<input type="checkbox"/> None
2. _____	DUE TO	<input checked="" type="checkbox"/> AL
3. _____	DUE TO	<input type="checkbox"/> Dictated
4. _____	DUE TO	<input type="checkbox"/> COG
CONTRIBUTING CONDITIONS		
<input type="checkbox"/> Natural <input type="checkbox"/> Accident <input checked="" type="checkbox"/> Homicide <input type="checkbox"/> Suicide <input type="checkbox"/> Undetermined		
Reviewer: <u>on</u>	Date: <u>10/4/13</u>	
Information in this block supersedes that contained in space at left.		

MANNER OF DEATH:
 Natural Accident Homicide Suicide Pending

I hereby certify that after receiving notice of the death described herein I took charge of the body and made inquiries regarding the cause of death in accordance with Article 16 of Chapter 130A of the N.C. General Statutes and the information contained herein regarding such death is true and correct to the best of my knowledge and belief.

DHHS 1114 (Revised 10/00) Medical Examiner (Review 10/02)
Signature of Medical Examiner: [Signature] Date: 6-15-13 County of Appointment: _____ M.E. Number: 000311
NCIIC-SBI

MEDICAL HISTORY

Alcoholism, Diabetes, IV drug abuse, Ischemic heart disease, Smoking, Seizure disorder, Cancer, Hypertension, Depression, HIV/AIDS, Other, Attending Physician, City

MEANS OF DEATH

VEHICLE: Type of vehicle associated with this decedent: Passenger car, Pickup truck, Truck--more than 2 axles, Motorcycle, Bicycle, Farm vehicle, ATV, Moped, Other, Position: Driver, Passenger, Pedestrian, Unknown, Devices: Seat restraints, Air bag, Helmet, Child restraint, None, Unknown, Number of vehicles involved, GUN: Rifle--Caliber, Handgun--Caliber, Shotgun--Gauge, Unknown, INSTRUMENT: Blunt, Sharp, Description, TOXIC AGENT(S) SUSPECTED: Alcohol, Others, DROWNING: Pond, Lake or river, Ocean, Pool, Bathtub, Other, Life preserver, Able to swim, FIRE: Suspected cause, Smoke detector, FALL: From, to, Approximate distance

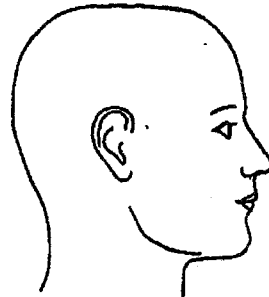
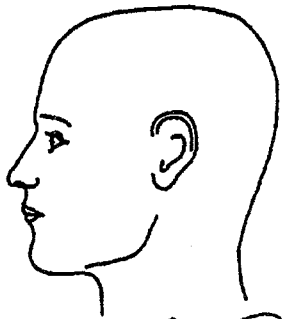
ACTIVITY OF DECEDENT AND PREMISES

FATAL INJURY OR ILLNESS: Activity, Type of place, Specific location, Fatal injury or illness occurred on a job: Yes, No, Unknown, If yes, was employment: Primary job, Secondary, Volunteer work, Unknown, Name of this employing firm or agency, Type of business or industry, Decedent's occupation, DEATH: Type of place, Specific location

DESCRIPTION OF BODY

CONDITION: Intact, Decomposition, Skeletonized, Embalmed, Charred, Prolonged immersion, Exhumed, RIGOR: None, 1+, 2+, 3+, LIVOR: None, Anterior, Posterior, Lateral, HEIGHT: inches, Estimate, WEIGHT: pounds, Estimate, BODY TEMPERATURE: Warm, Cool, Cold, HAIR: Color, Beard, Mustache, EYES: Color, Abnormalities, TEETH: Upper, Lower, Natural, Dentures, Abnormalities, CLOTHING: Not clothed, VALUABLES: No valuables

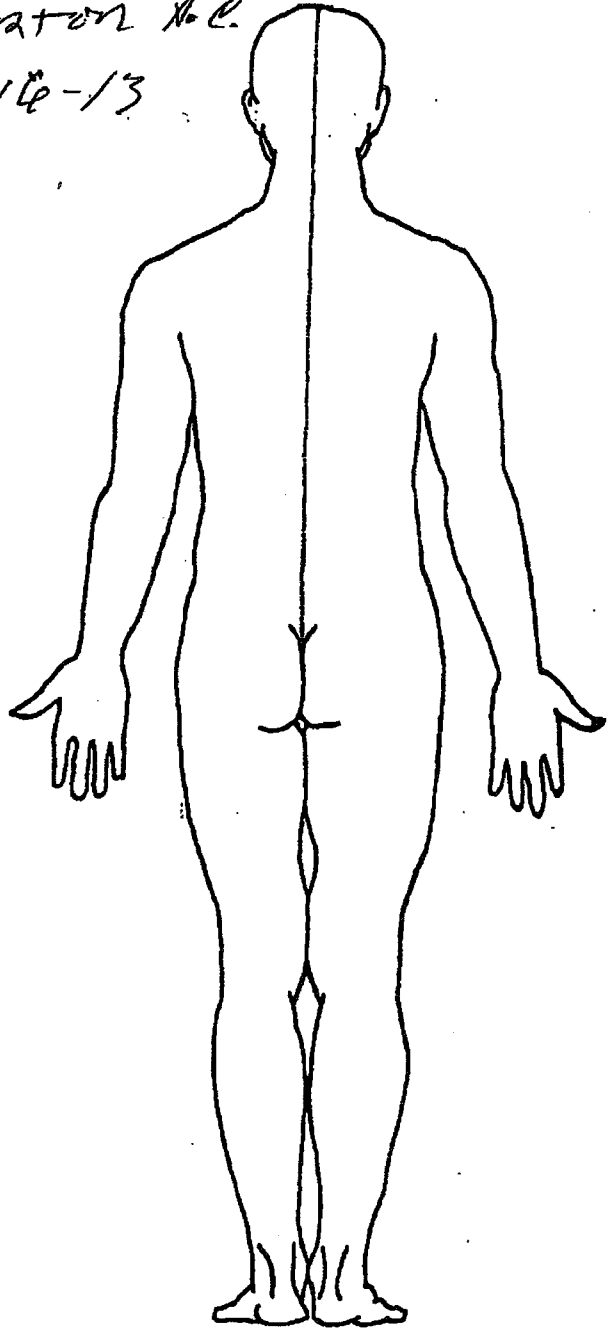
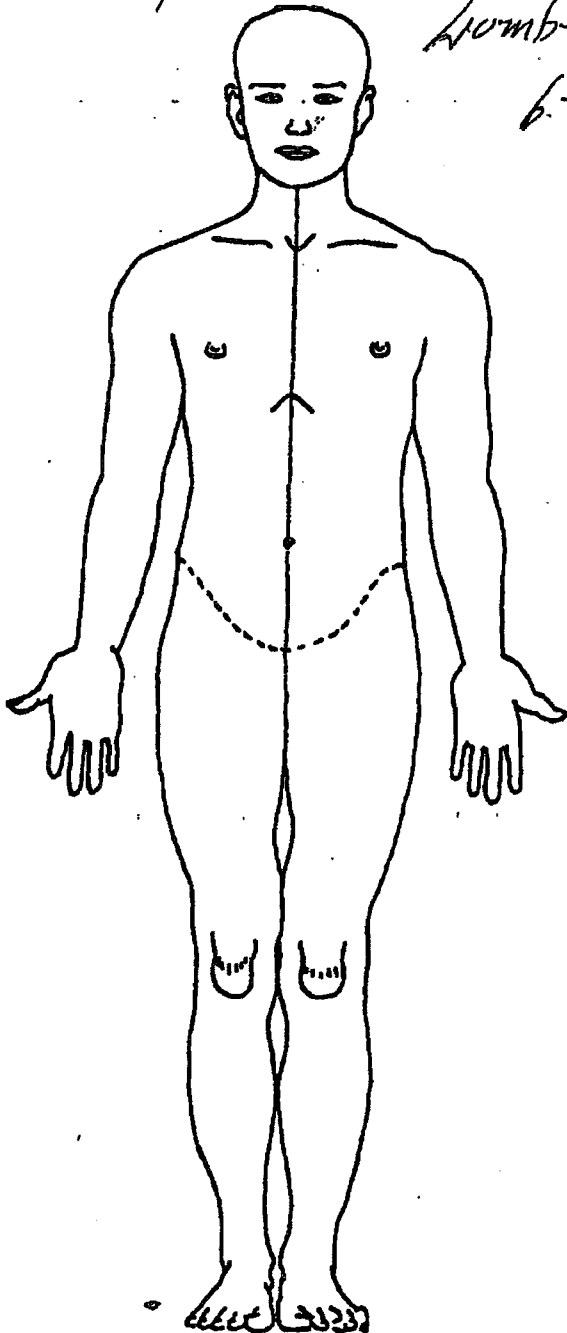
BODY DIAGRAMS



Autopsy by Dr. Walter Walek. SRAe

Lomberton No. 2

6-18-13



Indicate nature and location of wounds and other lesions (scars, tattoos, medical therapy, etc.) on these diagrams.

000313
NCIC-SBI

NARRATIVE SUMMARY OF CIRCUMSTANCES SURROUNDING DEATH

Standing in Park w/ friends,
Another vehicle drove up &
driven shot at group with
BSW hit firm.

To ED. SAME & Died in 1 hour
Med. Hist. & Meds ?

No family yet to Hosp -
Autopsy SAME 6-16-13

[Signature]

21

PURPOSE: To document the findings of a medical examiner investigation. When completed, this form constitutes a report to the Chief Medical Examiner as required by G.S. 130A-385(a).

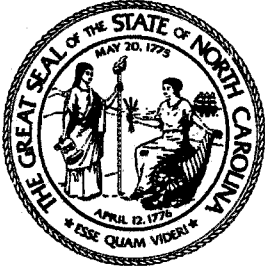
PREPARATION: The investigating medical examiner completes all appropriate information, and signs the certification statement on the front of the form.

DISTRIBUTION: Mail original copy to the Office of the Chief Medical Examiner, Chapel Hill, NC 27599-7580.

DISPOSITION: This form is maintained by the Chief Medical Examiner in accordance with the current records disposition schedule published by the N.C. Division of Archives and History.

COPIES: Additional copies may be ordered from the Office of the Chief Medical Examiner, Chapel Hill, NC 27599-7580.

000314
NCIC-SBI



ROY COOPER
ATTORNEY GENERAL

NORTH CAROLINA
STATE BUREAU OF INVESTIGATION
DEPARTMENT OF JUSTICE

3320 GARNER ROAD
PO BOX 29500
RALEIGH, NC 27626-0500



GREGORY S. MCLEOD
DIRECTOR

CONFIDENTIAL: This is an official file of the North Carolina State Bureau of Investigation. To make public or reveal the contents thereof to any unauthorized person is a violation of the General Statutes of North Carolina.

SBI CASE NUMBER: 2013-01165 (1078)

DATE: February 11, 2014

VICTIM(S):

- (1) Joshua Floyd Council
B/M/DOB: April 3, 1991
- (2) Michael Treanes Burges
B/M/DOB: December 19, 1996
- (3) Crystal Darlene Allen
B/F/DOB: October 9, 1985
- (4) John William Allen
B/M/DOB: April 29, 1982

TYPE OF CASE: Homicide

CITY/COUNTY: Lumberton/Robeson

DATE INITIATED: June 14, 2013

REQUEST FROM: Captain T. Parker
Lumberton Police Department

SUSPECT(S): Clarence Wendell Roberts
B/M/DOB: July 20, 1975

STATUS: Pending

000315
NCIIC-SBI

1 MR. IVARRSON: No, Your Honor, we don't have no
2 questions.

3 THE COURT: All right. You may step down. Next
4 witness.

5 MR. BRITT: May he be released?

6 THE COURT: Any objections?

7 MS. POWERS: No, sir.

8 THE COURT: Allowed. You're free to go about your
9 business, Detective Obershea.

10 MR. BRITT: Your Honor, the State would recall
11 Detective Al Collins--Sergeant Al Collins.

12 THE COURT: Sergeant Collins, I will remind you you're
13 still under oath, and please come forward and resume your seat
14 on the witness stand.

15 SERGEANT AL COLLINS

16 RE-REDIRECT EXAMINATION BY MR. BRITT:

17 Q. Detective Collins, you testified that, yesterday,
18 that you and Agent Brady went to the Robeson County Detention
19 Center on June the 18th for purposes of interviewing the
20 defendant.

21 A. Yes, sir.

22 Q. After interviewing the defendant on June the 18th,
23 what, if any, steps did you take in the investigation between
24 the 18th and then the 20th of June?

25 A. After talking with him, we went back, processed the



1 vehicle. And in processing the vehicle, took photographs and
2 looked inside the vehicle. And then after that--let me look
3 at my notes to make sure--on the 18th is when we went back to
4 the PD and put the lineups together to show two lineups.

5 Q. And the lineup that you're referring to--are the
6 lineups that you're referring to the lineups that you utilized
7 with William McGirt and Sheena Britt?

8 A. Yes, sir.

9 (Brief pause on the record.)

10 MR. BRITT: May I approach the witness?

11 THE COURT: Allowed.

12 Q. (BY MR. BRITT:) Those lineups would respectively be
13 State's Exhibit 83 and 83-A, 83 1-6, which are the actual
14 photographs. Is that correct?

15 A. Yes, sir.

16 Q. State's Exhibits 83, 83-A, and 83 1-6 are actually
17 copies of the original documents that were utilized in that
18 photo lineup?

19 A. Yes, sir.

20 Q. And, likewise, State's Exhibit 84 is the Eyewitness
21 Identification Reform Act Sheet, the Eyewitness Identification
22 Case Management Form, 84-A, and then 84 1-6 are the
23 photographs?

24 A. Yes, sir.

25 Q. And on June the 20th is when Sheena Britt was

1 actually asked to view the lineup.

2 A. Yes, sir.

3 Q. And it was on June the 20th when Ms. Britt identified
4 Mr. Roberts' photograph as the individual she saw driving the
5 white Ford Taurus on Peachtree Street prior to the shooting?

6 A. Yes, sir.

7 MS. POWERS: Objection as to leading.

8 THE COURT: Overruled.

9 Q. (BY MR. BRITT:) And after Ms. Britt made that
10 identification, Sergeant Collins, what steps were then taken
11 in the investigation?

12 A. As in any investigations, there are still tips coming
13 in, leads that we ought to check in to. And just going down
14 the order of my notes, it shows here that I received
15 information that associate--someone called and said that they
16 didn't have--associate didn't have a beef with the defendant.
17 And then it shows where I went to Fairmont to process the
18 vehicle.

19 And then on the 19th, which was that Wednesday, at
20 10:00 a.m., that is when we went back and searched a wooded
21 area behind his baby's mother's house in Laiken Estates. We
22 went back that morning and got into a lake and drug a lake,
23 and checked the wooded area to try to locate the weapon.

24 And then it says at 14:00 hours, I talked with
25 Jennifer Girlie (phonetic) at lot 149, Turner Park. She

1 stated that the suspect Roberts did come to her home. He came
2 to pick her up, but she couldn't go because of the surgery on
3 her stomach.

4 And then at 14:35 went over to Booker Street and
5 talked with Gary Ingram, who is known as "Head." He wasn't
6 home. Gave his mother my card for him to give me a call.

7 That's when--that's when we went back to the
8 Sheriff's Office to request copies of phone conversations by
9 Detective Obershea.

10 Q. Were those the phone conversations that were played
11 here in court a moment ago?

12 A. Yes, sir.

13 MR. BRITT: May I approach?

14 THE COURT: Allowed.

15 Q. (BY MR. BRITT:) Detective Collins, you testified that
16 you'd received some information regarding that the defendant
17 may have had a run-in with an individual by the name of
18 Soulski Stevens?

19 A. Yes, sir.

20 Q. I'll hand you what has been marked as State's Exhibit
21 96 and ask you if you recognize that individual?

22 (State's Exhibit Number 96 was marked for
23 identification.)

24 MS. POWERS: Your Honor, we'd object.

25 THE COURT: Overruled. You may answer it, if you

1 know.

2 A. I recall him to be Soulski, referred to as Soulski
3 Stevens.

4 Q. (BY MR. BRITT:) And I hand you what has been marked
5 as State's Exhibit 97 for purposes of identification. Can you
6 recognize that individual?

7 (State's Exhibit Number 97 was marked for
8 identification.)

9 A. Right off I don't. I can't recall his name.

10 Q. Do you know an individual by the name of--or know of
11 an individual--know an individual by the name of Alex?

12 MS. POWERS: Objection, Your Honor.

13 THE COURT: Overruled.

14 A. I've heard the name. I don't know him.

15 Q. (BY MR. BRITT:) And as this investigation continued,
16 each of the officers were sharing information---

17 A. Yes, sir.

18 Q. ---with one another. Is that correct?

19 A. Yes, sir.

20 Q. So, for instance, information you gathered you shared
21 with Detective Hinson?

22 A. Yes, sir.

23 Q. You shared with Special Agent Brady?

24 A. Yes, sir.

25 Q. And likewise they shared information with you?

1 A. Yes, sir.

2 Q. And on June the 20th of 2013, did you and Agent--
3 Special Agent Brady go back to the Robeson County Detention
4 Center?

5 A. Yes, sir, we did.

6 Q. And why did you go back to the Robeson County
7 Detention Center?

8 A. At this time we want to have a second interview with
9 the defendant. Some of the things we talked about didn't add
10 up and didn't balance out. So we wanted to have a second
11 interview.

12 MR. IVARRSON: Objection to the characterization of
13 him.

14 THE COURT: Sustained.

15 Q. (BY MR. BRITT:) And so when you went back to the
16 Robeson County Sheriff's Department, did you meet with the
17 defendant?

18 A. Yes, sir, we did.

19 Q. And did you again advise the defendant of his rights?

20 A. Yes, sir, I did.

21 Q. And that's when--because he was in custody on a DWI
22 charge?

23 A. Yes, sir.

24 Q. And did the defendant waive his rights?

25 A. Yes, sir, he did.

1 Q. And did he agree to answer your questions and
2 participate in another recorded interview?

3 A. Yes, sir, he did.

4 Q. And was that interview reported and did you also
5 receive a copy of the interview?

6 A. Yes, sir, I did.

7 Q. After that interview, what, if anything, did you tell
8 the defendant with respect to the next step you were going to
9 be taking in your investigations?

10 A. At that time, I advised him that based on evidence
11 that we had gathered that we were going to charge him with
12 first degree murder.

13 Q. And did you, in fact, do that?

14 A. Yes, sir, I did.

15 Q. Explain to the jury the process by which someone is
16 charged, arrested, and then taken before a magistrate.

17 MS. POWERS: Objection as to relevance, Your Honor.

18 MR. BRITT: I will rephrase the question.

19 Q. (BY MR. BRITT:) When you advised the defendant that
20 you were going to arrest him and charge him with first degree
21 murder, what did then do?

22 A. We left the interview room, walked down the hall
23 maybe 20 feet to where--a fingerprint room, took him inside,
24 had him have a seat right outside the fingerprint room. It's
25 a small area.

1 MS. POWERS: Objection as to relevance, Your Honor.

2 THE COURT: Overruled. Go ahead.

3 A. Went inside, put his information into the system, and
4 then fingerprinted him.

5 Q. (BY MR. BRITT:) And did anything occur, anything
6 said?

7 A. Yes, sir, at this point, he was--he was having small
8 talk. He was kinda just talking and we--we would talk back to
9 him. He asked me how old was the young man. And the way he
10 asked it was strange, wanting to know---

11 MS. POWERS: Objection, Your Honor.

12 THE COURT: Sustained.

13 Q. (BY MR. BRITT:) And did you respond to that
14 question?

15 A. Yes, sir, I did.

16 Q. What did you tell him?

17 A. I told him his age at the time.

18 Q. And did the defendant say or ask you anything else?

19 A. As we walked around to the magistrate's office, we
20 went inside the magistrate's office, started to process
21 getting the paperwork to the magistrate. The defendant was
22 sitting down at this point. Magistrate was finishing up the
23 paperwork. He asked him to stand. And we explained to him
24 what was going on, what he was being charged with.

25 MS. POWERS: Objection, Your Honor.

1 THE COURT: Overruled.

2 A. And as we went to turn to walk out, he come almost
3 right in my--side of my face and says, tell the family I'm
4 sorry.

5 Q. (BY MR. BRITT:) Who was with you?

6 A. Agent Brady.

7 Q. And when you heard the defendant say to you, tell the
8 family I'm sorry, what did you do?

9 A. Well, I was shocked that would have even said--I
10 looked back to see if Agent Brady heard what I just heard.

11 Q. And did you say anything to the defendant?

12 A. I told him I would tell them.

13 Q. Did you say anything else?

14 A. No, sir, he started sobbing at that point.

15 Q. And did he say anything else?

16 A. No, sir.

17 MR. BRITT: May I approach?

18 THE COURT: Allowed.

19 Q. (BY MR. BRITT:) Mr. Collins, let me show you what was
20 marked yesterday, State's Exhibit 92, admitted into evidence,
21 the DVD-CDR containing the two interviews of Clarence Roberts.

22 MR. BRITT: Your Honor, at this time, the State would
23 request permission to play the second interview.

24 THE COURT: How long does that last?

25 MR. BRITT: That interview is approximately an hour

1 and ten to 15 minutes.

2 THE COURT: Members of the jury, at this time I will
3 allow you to take your lunch recess. You are to return back
4 at 1:45, 1:45. Follow all the Court's previous cautionary
5 instructions. Jurors and jurors only are free to take a lunch
6 recess. Report back at 1:45 to courtroom 2B.

7 (All jurors left the courtroom at 12:23 p.m. The
8 following proceedings were held in open court, in
9 the absence of the jurors.)

10 THE COURT: And, Sheriff, let me know when the jury
11 has exited the courthouse.

12 (Brief pause on the record.)

13 THE COURT: All right, Sheriff, recess us until 1:45
14 p.m.

15 (A recess was taken at 12:26 p.m.)

16 (Proceedings resumed at 1:45 p.m., in the
17 absence of the jurors. Present at the bar were
18 Mr. Luther J. Britt, District Attorney; Mr.
19 Carl G. Ivarrison, Attorney for the defendant;
20 Ms. Tiffany Peguise-Powers, Attorney for the
21 defendant; and Mr. Clarence W. Roberts,
22 defendant.)

23 THE COURT: The court is back in session. Are you
24 ready to play the exhibit?

25 MR. BRITT: Yes, sir.

1 THE COURT: Get the jurors. Bring out what you got.

2 (The jurors returned to the courtroom at 1:46 p.m.

3 The following proceedings were held in open court,

4 in the presence of the jurors. Juror number 7

5 and Juror number 11 not present.)

6 (Juror number 7 and Juror number 11 arrived at

7 1:49 p.m.)

8 THE COURT: You may proceed.

9 MR. BRITT: May it please the Court, and if the record

10 will reflect, I'm placing State's Exhibit 92, a CD-R

11 containing interviews of Clarence Roberts by Detective Collins

12 and Special Agent Brady, into the CDR-DVD drive of the

13 computer.

14 (At 1:50 p.m. State's Exhibit Number 92, a video

15 CD, began playing for the jury. The video played from 1:50

16 p.m. until 2:47 p.m.)

17 MR. BRITT: Your Honor, if the record will reflect,

18 I've removed the CD-R, placed it back in the envelope marked

19 as State's Exhibit 92.

20 THE COURT: Let the record so reflect.

21 Q. (BY MR. BRITT:) And Sergeant Collins, was it there

22 when you left the interview room that you then began to

23 process the defendant and formally charge him with the murder-

24 --

25 A. Yes, sir.

1 Q. ---of Joshua Council?

2 A. Yes, sir.

3 Q. And then was it at that time that he spoke those
4 words to you?

5 A. Yes, sir.

6 MR. BRITT: I don't have any other questions.

7 THE COURT: Cross examination?

8 RE-CROSS EXAMINATION BY MS. POWERS:

9 Q. And when Mr. Roberts spoke those words to you, he
10 said something after that that you couldn't understand. Isn't
11 that correct?

12 A. Yes, ma'am.

13 Q. And you've read Sergeant Brady's notes with regard to
14 that incident that you just relayed to the Court, have you
15 not?

16 A. No, ma'am, I have not.

17 Q. You didn't discuss that?

18 A. No, ma'am.

19 Q. But thereafter Mr. Roberts asked you to process his
20 clothing, didn't he?

21 A. Yes, ma'am.

22 Q. And you took his clothing and turned that in to
23 evidence. Isn't that correct?

24 A. Yes, ma'am.

25 Q. And his clothing as well as the swabs from the

1 vehicle were sent to the SBI lab by Detective Evans and
2 Detective Harrell. Isn't that correct?

3 A. Yes, ma'am.

4 Q. And have you seen those results?

5 A. Yes, ma'am.

6 Q. And there was no gunshot residue---

7 MR. BRITT: Objection.

8 THE COURT: Sustained.

9 Q. (BY MS. POWERS:) Now, as to--you said that you
10 processed the vehicle and took photographs after Mr. Roberts
11 voluntarily consented to let you interview--take him to the
12 car. Isn't that correct?

13 A. Yes, ma'am.

14 Q. And you put the two lineups together, didn't you?

15 A. Yes, ma'am.

16 Q. And you chose the officers to administer lineups,
17 didn't you?

18 A. Yes, ma'am.

19 Q. And both of those officers participated in the
20 neighborhood canvas of this investigation. Isn't that
21 correct?

22 A. No, ma'am.

23 Q. Are you saying that neither one of them did?

24 A. I would--from what I can recall, they wasn't a part
25 of the investigation at that time.

1 Q. Okay. Let's go first to Mr. Chuck Levitt. He
2 administered the lineup to Ms. Sheena Britt. Isn't that
3 correct?

4 A. Yes, ma'am, that's correct.

5 Q. And didn't he on June 15th, along with Agent Brady
6 who is sitting right here, do a neighborhood canvas on
7 Peachtree, at 1102 Peachtree Street, 1105 Peachtree Street,
8 1103 Peachtree Street, 707 Wren Street and 720 Wren Street.

9 A. I don't have that in my notes on that--that part of
10 the canvas.

11 Q. Did you read any interviews with regard to Chris
12 Thompson?

13 A. No, ma'am, I did not.

14 Q. Well, you testified that you and the agents were
15 giving each other the information and informing each other of
16 interviews?

17 A. Yes, ma'am, that's correct.

18 Q. But on June the 15th, Agent Brady didn't tell you
19 about the interview that he had with Chris Thompson at 1106
20 Peachtree Street?

21 A. The way we do this stuff, each investigator takes his
22 notes and they're compiled. And then because they did that
23 interview, they testified to that interview. I did not read
24 over every interview. The ones that they brought to me that
25 were--that had a meeting were the ones that I read over.

1 Q. So you only read over the interviews that were
2 related to you?

3 A. That were related to key information that we need to
4 go further into, yes.

5 Q. Well, pursuant to the Eyewitness Identification
6 Reform Act, the administrator of the lineup is not supposed to
7 be a person who has participated in the investigation of the
8 criminal offense. Isn't that correct?

9 A. That's does not having knowledge of the suspect or
10 any--complete part of the investigation, yes.

11 Q. 15A 284.52 Independent Administrator.

12 A. Yes, ma'am.

13 Q. A liable administrator was not participating in the
14 investigation of the criminal offense and is unaware of which
15 person in the lineup is the suspect. Isn't that a correct
16 statement of the law?

17 A. Yes, it is.

18 Q. And isn't that your duty as the detective who is
19 setting up the lineup to select an administrator who has not
20 participated in the investigation?

21 A. At that time when I chose Mr. Levitt, I did not know
22 he was--had been involved in that part of the canvas. I just
23 didn't know.

24 Q. Did you ask him?

25 A. No, I did not. I just chose him.

1 Q. Did you ask Detective Evans whether or not he had
2 been involved in the canvas as well?

3 A. He---if memory serves me correct, he was in school,
4 so I thought--I knew he hadn't been involved.

5 Q. Do you know he testified that he helped with the
6 neighborhood canvas as well?

7 A. I did not.

8 Q. But you do know that he testified earlier in this
9 case?

10 A. Yes, I do.

11 Q. So because he had been in school, you just assumed
12 that he had not participated in the canvas?

13 A. At the time, that was my assumption and that's why I
14 selected him.

15 Q. But now you realize that those events were part of
16 the neighborhood canvas?

17 A. Yes, ma'am.

18 Q. Now, when you went by to the home at--of Ms. Kimberly
19 Lowery the second time, not only did you search the woods, but
20 you also drug a lake. Isn't that correct?

21 A. It was a small creek, yes, ma'am.

22 Q. A small creek?

23 A. Yes, ma'am.

24 Q. A body of water.

25 A. Yes, ma'am.

1 Q. And you found no ammunition. Isn't that correct?

2 A. That's correct.

3 Q. And you found no gun. Isn't that correct?

4 A. Yes, ma'am, that's correct.

5 Q. And during your interview, Mr. Roberts told you
6 repeatedly that he didn't kill anybody. Isn't that correct?

7 A. That is correct.

8 Q. And he told you repeatedly that he didn't have a gun.
9 Isn't that correct?

10 A. That is correct.

11 Q. And during that interview, after you asked him
12 questions, a lot of his answers began with "I probably" or "I
13 might have" or "We may have." Isn't that correct?

14 A. That's correct.

15 Q. And to this day, you still have no idea why Mr.
16 Roberts would be on Peachtree Street shooting at anybody.
17 Isn't that correct?

18 A. That's correct.

19 Q. And there is not a witness that puts a gun in Mr.
20 Roberts' hand shooting at anyone. Isn't that correct?

21 A. That is correct.

22 Q. Now, are you familiar with the big, white house that
23 Mr. Roberts was referring to?

24 A. At this time, yes, I am.

25 Q. And do you know the address of that big, white house?

1 A. I do not.

2 Q. Is it 801 East 6th Street?

3 A. I have no idea.

4 Q. Well, now, when I asked if you were familiar with it,
5 is it a place that you've visited?

6 A. I did not visit that house.

7 Q. Well, tell me how you are familiar with it.

8 A. Seeing--I think I've seen that house at the corner,
9 but I don't know the address.

10 Q. But we're not talking about Ms. Linder Sammons house.
11 Isn't that correct?

12 A. Right.

13 Q. We're talking about a house that's closer to Floyd's
14 Mortuary, right?

15 A. Yes, ma'am.

16 Q. And it's a great big, white house with several
17 porches. Isn't that correct?

18 A. Yes, ma'am.

19 Q. And it's several blocks away from the Hayeswood Hut.
20 Isn't that correct?

21 A. Yes, it is.

22 Q. And it's going south on Peachtree Street.

23 A. Yes.

24 Q. And it's at a portion of Peachtree Street that the
25 railroad track runs directly in front of that house.

1 A. That is correct.

2 Q. And that's what Mr. Roberts was telling you when he
3 said he was at that big house with the railroad tracks.

4 A. That's what he said, uh-huh.

5 Q. Okay. And he named out a number of people that were
6 at the big, white house, did he not?

7 A. Yes, ma'am.

8 Q. Now, are you familiar with Michael Shaw?

9 A. Not personally, but I've---

10 Q. So you know---

11 A. ---head that name.

12 Q. But you've heard his name?

13 A. Yes, ma'am.

14 Q. Are you familiar with Eric McQueen?

15 A. Again, I've heard the name but before this incident I
16 hadn't. I can't recall.

17 Q. But you did interview Eric McQueen, didn't you?

18 A. I did not interview him.

19 Q. He was interviewed pursuant to this investigation?

20 A. Yes, yes.

21 Q. And was Gary Ingram interviewed pursuant to this
22 investigation?

23 A. Yes, ma'am.

24 Q. Now, do you know who Sugar Daddy is?

25 A. Yes, ma'am. I went to school with him.

1 Q. Brian McArn?

2 A. Yes, ma'am.

3 Q. You didn't interview him, did you?

4 A. No, could never find him.

5 Q. Did you look in the Department of Corrections?

6 A. During that time, no, ma'am.

7 Q. Okay. So there were a number of people that Mr.

8 Roberts named that you were familiar with that he had dealings

9 with on June 14th of 2013. Isn't that correct?

10 A. Yes, ma'am.

11 Q. Did you interview Dee Simpson?

12 A. I did not.

13 Q. But you know who Dee Simpson is?

14 A. Not right off.

15 Q. Demetrius Simpson, you're not familiar with him?

16 A. I heard the name.

17 Q. Okay. Stan McLauren?

18 A. I heard the name.

19 Q. Okay. But you didn't try to interview either of

20 these two people?

21 A. When I say I heard the names, that's through my law

22 enforcement career. That's not dealing with this

23 investigation. I didn't hear those names during the

24 investigation.

25 Q. Well, when he told you those names during the

1 investigation, that was something that could have been
2 followed up on. Isn't that correct?

3 A. That's correct.

4 Q. But you didn't attempt to interview Mr. Simpson, did
5 you?

6 A. Once again, these names that you're naming, they do
7 not have any dealings with the law. I know we have sent
8 fillers out and try to get people to come in, but as far as
9 latching hope to them and talking to them, we did not.

10 Q. And now when you say you sent fillers out, does that
11 mean that you, like, went by their house, sent a Facebook
12 message?

13 A. I have different people I can contact to try to reach
14 out to these individuals in the streets and try to get them to
15 at least maybe give me a call. A lot of these individuals
16 will not talk to law enforcement, even if they're the victim.
17 So sometimes you have to use other people to try to reach out
18 to them and just let them know this is not anything that we're
19 looking for them for. And I've used all--even family members
20 to try to reach out to some people.

21 Q. Did you try to speak with Brian Cain (phonetic)?

22 A. No, ma'am.

23 Q. Were you able to determine who "Cheese" is?

24 A. No, ma'am.

25 MS. POWERS: Nothing further, Your Honor.

1 THE COURT: Redirect?

2 RE-REDIRECT EXAMINATION BY MR. BRITT:

3 Q. Sergeant Collins, during the course of the
4 investigation, did you ever locate anyone, including the
5 defendant, who could account for Mr. Roberts' whereabouts the
6 entire night of June the 14th, 2013?

7 A. No, sir.

8 MS. POWERS: Objection, Your Honor.

9 THE COURT: Overruled. You may answer if you know.

10 A. No, sir.

11 Q. (BY MR. BRITT:) Thank you.

12 MR. BRITT: I don't have any other questions.

13 THE COURT: Recross?

14 MS. POWERS: Nothing, Your Honor.

15 THE COURT: All right, Sergeant Collins, you may step
16 down. Next witness.

17 MR. BRITT: Your Honor, the State calls Special Agent
18 Bill Brady.

19 SPECIAL AGENT BILL BRADY

20 having been called as a witness, was sworn and testified as
21 follows:

22 DIRECT EXAMINATION BY MR. BRITT:

23 Q. Agent Brady, for the record, please state your name
24 and occupation.

25 A. My full name is William Thomas Brady. I work with

SBI CASE: 2013-01165 (1078)
ACTIVITY: June 18, 2013
VICTIM(S): Joshua Floyd Council
COPIES: (1) Case Records Management Section
(2) SA A. M. Cruz-Velez
(3) SAC J. P. Sutton
(4) SA W. T. Brady
(5) District Attorney L. J. Britt III

Michael Treanes Burgess, I/M/DOB: 12/19/1996 (Witness)

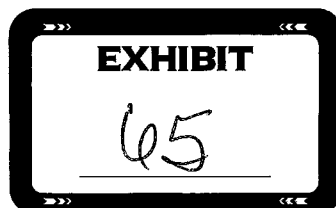
Residence: 406 Sinclair Street, Apartment 11D,
Lumberton, North Carolina 28358
Telephone: 910-416-3654
Business: Lumberton Senior High School,
3901 Fayetteville Road, Lumberton, North
Carolina 28358, Telephone: 910-671-6050

On Tuesday, June 18, 2013, at approximately 10:20 a.m., Special Agent (SA) A. M. Cruz-Velez of the North Carolina State Bureau of Investigation (NCSBI) conducted an interview of Michael Treanes Burgess. The interview took place inside Burgess's residence. Detective Jerry Kinlaw with the Lumberton Police Department (LPD) was also present during the interview.

Burgess was interviewed as a witness to an investigation involving the homicide of Joshua Floyd Council. Burgess was present during the shooting and is believed to have pertinent information to the case.

Burgess provided the following statements to investigators:

Burgess stated that on Friday, June 14, 2013, around 6:00 p.m., Council picked him up from his residence. According to Burgess, they drove to the "Hut." Burgess stated the "Hut" was the name used to refer to the basketball court on Peachtree. Burgess stated when he and Council arrived at the basketball court, they got out and started talking to everyone there.



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NCIC-SBI

Burgess stated the following individuals were present: "Gucci," "Trey," "Little Erik," "Craig," "Shane" and John Allen (AKA "J").

Burgess stated he only knew the individuals by their nicknames and not their real names.

According to Burgess, while chilling at the "Hut," meaning hanging out and playing basketball at the court, he noticed a white Ford Taurus with black spots near the right side front bumper suddenly pull up in front of the court and slam on their brakes. Burgess stated the vehicle spun backwards in reverse and then drove forward again. The driver then yelled out the passenger side window, "So you going to kill me? So you going to kill me?" Burgess described the driver of the vehicle as a black male with a bald or a short/low haircut. Burgess could not recall what the driver was wearing or any other distinguishing features about the driver or vehicle.

Burgess stated immediately after the driver yelled, he shot one time towards the court and then got out of the car and kept shooting. Burgess stated he then began running and noticed everyone else was running. Burgess stated as he was running, he heard someone say, "I'm hit." Burgess did not know who said it.

According to Burgess, there were at least ten shots fired. The shots appeared to be continuous, and Burgess believed the shots came from either a 9mm or .40 caliber handgun. Burgess did not recall seeing the handgun.

Once the shots stopped, Burgess went back with Allen to check on Council because no one had seen him. Burgess stated he and Allen went to Council's truck but Council wasn't there. Burgess stated he then tried to call Council several times but got no answer. Burgess and Allen walked around several houses nearby when suddenly they found Council lying face down. Burgess stated he turned Council over and checked for a pulse but he knew he was already dead. Burgess then called 911.

Shortly afterward, he arrived at the hospital. Burgess stated while at the hospital he was talking with Brandon Lesane, who was not present during the shooting. Lesane told Burgess "Brim" matched the description of the shooter

and he was the only one who could have done it. Burgess stated he and Lesane did not know "Brim's" real name.

Burgess stated Allen told him they were aiming for Council because he had overheard Council fussing with someone earlier that day over the phone. Allen did not know who the person was or what they were fussing about. Burgess stated he also recalled Council fussing with his baby's mother the day of the shooting. Burgess could not recall Council's baby's mother's name.

Burgess stated he also spoke with Ricky Stephens that day. Stephens was present during the shooting and he told Burgess that he tried to get inside of Crystal's (LNU) car but couldn't. According to Burgess, Crystal is Council's cousin. Burgess stated Stephens told him he was ducked down by the car with no shirt on when he looked up and saw the shooter standing right beside him. According to Burgess, Stephens put his hands up and said, "It wasn't me." The shooter then pulled his shirt up and reached for his gun and walked away. Stephens told Burgess the shooter looked like he had a tattoo on the right side of his neck. Stephens did not get a good look at the gun and did not recall what type it was.

Burgess stated Stephens lives down by Snake Road in Lumberton.

Burgess had no further information and the interview concluded at approximately 11:00 a.m. inside his residence.

AMC:vmg

13-22696

6/29/201

Sheena Britt

7/26/1977 ^{SIN#} 248-27-1887

517 E 9th St. Lumberton, NC 28358

(910) 674-4861

I was walking with a guy name John. We stopped at the little house behind the house on the corner. John asked a Indian or it could chave got the light from Archie. He was asking for a light for a cigarette. We was already leaving when this white car pulls up and stops and said "Aint nobody going to mess with me or back with me." I said that guy going to hurt somebody or kill himself. I could tell that he was drunk. He was a brown skin with gold teeth in his mouth. All I can remember is that he was wearing a white T-shirt. When he pulled off he drove off fast like spending tires. He then stopped at the park he pulled off the dirt part but kept the car pointing toward the way he was driving. I didn't see him get out of anything. We then turned and started walking toward 11th St. SB

2013-01165

1078-08

1 of 2

EXHIBIT

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NCIC-SBI

When we got to the corner is when I heard the shots. It was quite a few shots. John went back to the corner to see what happened but I only went half way. I didn't go far enough to see anything. Then we heard someone say my car got shot up. We then kept on going to my house. SB.

*Sheena Beita

6-20-13 11:15 AM

Handout 5

Evidence Destruction Packet

EVIDENCE DESTRUCTION

CASE NUMBER SEE ATTACHED COURT ORDERS

REASON FOR DESTRUCTION COURT ORDER

TYPE OF EVIDENCE SEE ATTACHED

HOW EVIDENCE WAS DESTROYED INCINERATOR

WHERE EVIDENCE WAS DESTROYED ROBESON COUNTY SHERIFF'S OFFICE

WITNESS  

DATE 3/10/2021

TIME _____

STATE OF NORTH CAROLINA

File No.

13CRS54359

ROBESON County

In The General Court Of Justice
District Superior Court Division

Civil: Plaintiff:
Criminal

Additional File Numbers
13CRS3511

STATE
VERSUS

Name Of Defendant

CLARENCE WENDELL ROBERTS

ORDER FOR DISPOSITION
OF
PHYSICAL EVIDENCE
(OTHER THAN DEADLY WEAPONS
AND ALCOHOLIC BEVERAGES)

The Court finds that this case has been concluded.

It is ORDERED that the evidence listed below be:

- 1. returned to the rightful owner,
2. returned to the offering party or the attorney.
3. delivered to the sheriff Other law enforcement agency (specify):
a. to be destroyed.
b. to be disposed of according to law.
c. to be used by
4. disposed of according to Rule 14 of General Rules of Practice for the Superior and District Courts.
5. Other: (specify)

Description (List items or attach exhibits/evidence log)

See list.

Date 2/22/2021 Name Of Judge (Type Or Print) J G Bell Signature Of Judge J G Bell

TO BE COMPLETED WHEN EVIDENCE TURNED OVER TO SOMEONE ELSE
Date 3/9/2021 Name Of Recipient (Type Or Print) Lt. Kevin Graham Signature Of Recipient

TO BE COMPLETED IF CLERK DISPOSES OF EVIDENCE
Date Of Disposition 3-9-21 Signature Deputy CSC Assistant CSC CSC

Signature Of Witness

NOTE: For firearms and other deadly weapons, see G.S. 14-269.1 and form AOC-CR-218. For alcoholic beverages, see G.S. 18B-503 and form AOC-CR-920M.

(NOTE: This form may be used in both civil and criminal cases.)

STATE OF NORTH CAROLINA

No.

13CRS54359

ROBESON County

In The General Court Of Justice
 District Superior Court Division

Civil: Plaintiff: _____
 Criminal **STATE VERSUS**

Additional File Numbers
 13CRS54360 13CRS3511 13CRS3512

Name Of Defendant
 CLARENCE WENDELL ROBERTS

EXHIBITS/EVIDENCE LOG

PLAINTIFF (P) DEFENDANT (D)
 STATE (S) BOTH

Rule 14, General Rules of Practice for the Superior and District Courts

Name And Address
 LUTHER JOHNSON BRITT
 500 N ELM ST
 LUMBERTON, NC 28358

Name And Address
 CARL IVARSSON
 PO BOX 196 FAY'VILLE NC 28302
 TIFFANY POWERS
 213 N ELM ST LTON NC 28358

Plaintiff's Attorney Prosecutor Party

Defendant's Attorney Party

Exhibit No.	Description And Notes, If Applicable	Date Offered (1)	Date Admitted	Biological (2) (✓)	Collecting Agency (3)	Item Received Or Retained By (4)
1	PHOTO-WOODEN POLE & 3 BOTTLES-PUB	04/25	04/25		LPD	MCM <i>pub</i>
2	PHOTO-FRONT FLOOR BOARD-FORD-PUB	04/25	04/25		LPD	MCM <i>pub</i>
3	PHOTO-FRONT PASSENGER SEAT W/SPORTS ILL. MAG PUB	04/25	04/25		LPD	MCM <i>pub</i>
4	PHOTO-FRONT PASSENGER FLOOR BOARD-PUB	04/25	04/25		LPD	MCM <i>pub</i>
5	PHOTO-BACK FLOOR BOARD W/ITEMS-PUB	04/25	04/25		LPD	MCM <i>pub</i>
6	PHOTO-TRUNK AREA W/BOOT, JEANS, TIRE-PUB	04/25	04/25		LPD	MCM <i>pub</i>

NOTE: See reverse for additional description.

Date Stored In Vault After Trial Ends: 5-5-17
 Signature Of Clerk Storing Exhibits: *[Signature]*
 Appeal Taken: Yes 5-5-17 (Date) No

General Rules of Practice, Rule 14: Exhibits received by the Clerk shall be removed by the party offering them (except as otherwise directed by the Court) within thirty (30) days after final judgment if no appeal is taken; if the case is appealed, then, within sixty (60) days after certification of a final decision from the appellate division. If the party offering an exhibit fails to remove such article, the Clerk shall write the attorney of record, calling attention to provisions of this Rule. If the articles are not removed within thirty (30) days after mailing of such notice, they may be disposed of by the Clerk. (NOTE: To give notice the Clerk may use form AOC-G-151. The Clerk may wish to obtain an order of the Court to remove or dispose of exhibits/evidence in criminal cases.)

RECEIPT FOR REMOVAL

DISPOSITION

Date Of Final Judgment Or Certification		Date Notified In Writing To Remove Exhibits/Evidence		Date Disposed	Date Of Court Order, If Applicable
Date Released	Exhibit No.(s) Released	Date Released	Exhibit No.(s) Released	Exhibit No.(s)	
Signature Of Party Removing Exhibits/Evidence		Signature Of Party Removing Exhibits/Evidence		Signature Of Clerk Disposing Of Exhibits/Evidence	
Signature Of Clerk Releasing Exhibits/Evidence		Signature Of Clerk Releasing Exhibits/Evidence		Signature Of Witness	

Additional Documentation Of Disposition

- (1) If item not admitted or retained by counsel or party, Clerk may add any relevant information as a note.
- (2) If exhibit is found "reasonably likely to contain biological evidence," as provided in G.S. 15A-268(a3), indicate it here.
- (3) Indicate here the agency identified by the court as the "collecting agency" for biological evidence.
- (4) Clerk's initials go in this column, or name of counsel or party.

(NOTE: This form may be used in both civil and criminal cases.)

STATE OF NORTH CAROLINA

No. 13CRS54359

ROBESON County

In The General Court Of Justice
District Superior Court Division

Civil: Plaintiff:
Criminal STATE

Additional File Numbers
13CRS 54360 13CRS 3511 13CRS 3512

Name Of Defendant
CLARENCE WENDELL ROBERTS

EXHIBITS/EVIDENCE LOG
PLAINTIFF (P) DEFENDANT (D)
STATE (S) BOTH

Rule 14, General Rules of Practice for the Superior and District Courts

Name And Address
LUTHER JOHNSON BRITT
DISTRICT ATTORNEY 16B
500 NORTH ELM STREET
LUMBERTON NC 28358

Name And Address
CARL IVARSSON
POB 196 FAYVILLE NC 28302
TIFFANY POWERS
213 N.ELM ST. L'TON, NC 28358

Plaintiff's Attorney Prosecutor Party

Defendant's Attorney Party

Table with 7 columns: Exhibit No., Description And Notes, Date Offered, Date Admitted, Biological, Collecting Agency, Item Received. Contains 7 rows of exhibit data.

NOTE: See reverse for additional description.

Date Stored In Vault After Trial Ends 5-5-17
Signature Of Clerk Storing Exhibits
Appeal Taken Yes 5-5-17 No

General Rules of Practice, Rule 14: Exhibits received by the Clerk shall be removed by the party offering them...

RECEIPT FOR REMOVAL

DISPOSITION

Table for Receipt for Removal and Disposition with columns for Date of Final Judgment, Date Notified, Date Released, and Signatures.

Additional Documentation Of Disposition

- (1) If item not admitted or retained by counsel or party, Clerk may add any relevant information as a note.
(2) If exhibit is found "reasonably likely to contain biological evidence," as provided in G.S. 15A-268(a3), indicate it here.
(3) Indicate here the agency identified by the court as the "collecting agency" for biological evidence.
(4) Clerk's initials go in this column, or name of counsel or party.

(NOTE: This form may be used in both civil and criminal cases.)

State vs. Clarence T. Roberts

130885435

8511, 12

pages?

Exhibit No.	Description And Notes, If Applicable	Date Offered (1)	Date Admitted	Biological (2) (✓)	Collecting Agency (3)	Item Received Or Retained By (4)
8	SUPPLEMENTAL REPORT FILED BY DET. WILLIFORD					
9	PHOTO -STREET SIGN NEXT TO BASKETBALL COURT	04/24/17	04/24/17			
10	PHOTO - SIDE OF HOUSE	04/24/17	04/24/17		L'TON P.D.	SLH
11	PHOTO - NUMBERED CRIME SCENE MARKERS	04/24/17	04/24/17		L'TON P.D.	SLH
12	PHOTO -	04/24/17	04/24/17		L'TON P.D.	SLH
13	PHOTO - BLOOD IN STRAW AREA ON GROUND	04/24/17	04/24/17		L'TON P.D.	SLH
14	PHOTO - CLOSE UP OF EXHIBIT # 13	04/24/17	04/24/17		L'TON P.D.	SLH
15	PHOTO - CRIME SCENE MARKER # 2	04/24/17	04/24/17		L'TON P.D.	SLH
16	PHOTO - CLOSE UP OF EXHIBIT # 15	04/24/17	04/24/17		L'TON P.D.	SLH
17	PHOTO - CELL PHONE ON GROUND	04/24/17	04/24/17		L'TON P.D.	SLH
18	PHOTO - CLOSE UP OF EXHIBIT # 17	04/24/17	04/24/17		L'TON P.D.	SLH
19	PHOTO - TIRE TRACKS IN GRAVEL	04/25/17	04/25/17		L'TON P.D.	MCM pub
20	PHOTO - CLOSE UP OF EXHIBIT # 19	04/25/17	04/25/17		L'TON P.D.	MCM pub
21	PHOTO - CLOSE UP DIFFERENT ANGLE OF EXHIBIT # 19	04/25/17	04/25/17		L'TON P.D.	MCM pub
22	PHOTO - CLOSE UP DIFFERENT ANGLE OF EXHIBIT # 19	04/25/17	04/25/17		L'TON P.D.	MCM pub
23	PHOTO - CLOSE UP DIFFERENT ANGLE OF EXHIBIT # 19	04/25/17	04/25/17		L'TON P.D.	MCM pub
24	PHOTO - TIRE TRACKS IN GRASS AREA	04/25/17	04/25/17		L'TON P.D.	MCM pub
25	PHOTO - TIRE TRACKS IN GRASS AREA	04/25/17	04/25/17		L'TON P.D.	MCM pub
26	PHOTO - TIRE TRACKS IN GRASS AREA	04/25/17	04/25/17		L'TON P.D.	MCM pub
27	PHOTO - TIRE TRACKS IN GRASS AREA	04/25/17	04/25/17		L'TON P.D.	MCM pub
28	PHOTO - CLOSE UP OF TIRE TRACKS IN GRASS AREA	04/25/17	04/25/17		L'TON P.D.	MCM pub
29	PHOTO - CLOSE UP OF TIRE TRACKS IN GRASS AREA	04/25/17	04/25/17		L'TON P.D.	MCM pub
30	PHOTO - CLOSE UP OF TIRE TRACKS IN GRASS AREA	04/25/17	04/25/17		L'TON P.D.	MCM pub
31	PHOTO - GRASSY AREA ON EDGE OF BASKETBALL CT.	04/25/17	04/25/17		L'TON P.D.	MCM pub
32	PHOTO - GRASSY AREA ON EDGE OF BASKETBALL CT.	04/25/17	04/25/17		L'TON P.D.	MCM pub
33	PHOTO - GRAVEL & GRASS AREA WITH TIRE TRACKS	04/25/17	04/25/17		L'TON P.D.	MCM pub
34	PHOTO - GRAVEL & GRASS AREA WITH TIRE TRACKS	04/25/17	04/25/17		L'TON P.D.	MCM pub
35	PHOTO - EDGE OF BASKETBALL COURT AND POLE	04/25/17	04/25/17		L'TON P.D.	MCM pub
36	PHOTO - CLOSE UP WOODEN POLE AND GRASS AREA	04/25/17	04/25/17		L'TON P.D.	MCM pub
37	PHOTO-CLOSE UP WOODEN POLE W/ WHITE TEE SHIRT	04/25/17	04/25/17		L'TON P.D.	MCM pub
38	PHOTO - WOODEN LOG NEXT TO WOODED AREA	04/25/17	04/25/17		L'TON P.D.	MCM pub

(1) If item not admitted or retained by counsel or party, Clerk may add any relevant information as a note.
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Exhibit No.	Description And Notes, If Applicable	Date Offered (1)	Date Admitted	Biological (2) (✓)	Collecting Agency (3)	Item Received Or Retained By (4)
39	PHOTO-CLOSE UP WOODEN POLE W/ RED TEE SHIRT	04/25/17	04/25/17		LPD	MCM pub
40	PHOTO - FACIAL PHOTO OF VICTIM JOSHUA COUNCIL	04/25/17	04/25/17		LPD	MCM pub
--	TAKEN IN SERMC ER	----	----		----	-----
41	PHOTO - LOWER BODY PHOTO OF VICTIM JOSHUA	04/25/17	04/25/17		LPD	MCM pub
--	COUNCIL TAKEN IN SERMC ER	----	----		----	-----
42	PHOTO - WOUND ON RIGHT SIDE OF VICTIM JOSHUA	04/25/17	04/25/17		LPD	MCM pub
--	COUNCIL TAKEN IN SERMC ER	----	----		----	-----
43	PHOTO - WOUND ON LEFT SIDE OF VICTIM JOSHUA	04/25/17	04/25/17		LPD	MCM pub
--	COUNCIL TAKEN IN SERMC ER	----	----		----	-----
44	PHOTO - REAR OUTSIDE - WHITE FORD TAURUS	04/25/17	04/25/17		LPD	MCM pub
45	PHOTO - LEFT REAR SIDE OF WHITE FORD TAURUS	04/25/17	04/25/17		LPD	MCM pub
46	PHOTO - DRIVERS SIDE OF WHITE FORD TAURUS	04/25/17	04/25/17		LPD	MCM pub
47	PHOTO - DRIVERS SIDE OF WHITE FORD TAURUS	04/25/17	04/25/17		LPD	MCM pub
48	PHOTO - FRONT LEFT SIDE OF FORD TAURUS	04/25/17	04/25/17		LPD	MCM pub
49	PHOTO - FRONT LEFT SIDE OF FORD TAURUS	04/25/17	04/25/17		LPD	MCM pub
50	PHOTO - FRONT OF WHITE FORD TAURUS	04/25/17	04/25/17		LPD	MCM pub
51	PHOTO-RIGHT FRONT OF FORD TAURUS WITH MUD	04/25/17	04/25/17		LPD	MCM pub
52	PHOTO - CLOSE UP OF EXHIBIT # 51	04/25/17	04/25/17		LPD	MCM pub
53	PHOTO - OUTSIDE LOOKING INTO FORD TAURUS	04/25/17	04/25/17		LPD	MCM pub
54	PHOTO - INSIDE REAR AREA OF FORD TAURUS	04/25/17	04/25/17		LPD	MCM pub
55	PHOTO - BACK SIDE OF A PAIR BLUE SHORTS	04/25/17	04/25/17		LPD	MCM pub
56	PHOTO - FRONT SIDE OF A PAIR BLUE SHORTS	04/25/17	04/25/17		LPD	MCM pub
57	PHOTO - LPD IDENTIFICATION CARD TAKEN PRIOR TO	04/25/17	04/25/17		LPD	MCM <i>Subst.</i>
--	AUTOPSY PHOTOS BEING TAKEN WITH OCA # & INFOR	----	----		----	-----
58	AUTOPSY PHOTO-VICTIM JOSHUA COUNCIL HOSPITAL	04/25/17	04/25/17		LPD	MCM
59	AUTOPSY FACIAL PHOTO - VICTIM JOSHUA COUNCIL	04/25/17	04/25/17		LPD	MCM
60	AUTOPSY PHOTO - VICTIM JOSHUA COUNCIL'S	04/25/17	04/25/17		LPD	MCM
--	LEFT UPPER TORSO & HEAD	----	----		----	-----
61	AUTOPSY PHOTO - JOSHUA COUNCIL'S RIGHT SIDE	04/25/17	04/25/17		LPD	MCM
62	AUTOPSY PHOTO - JOSHUA COUNCIL RIGHT SIDE	04/25/17	04/25/17		LPD	MCM
--	WOUND.	----	----		----	-----

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Exhibit No.	Description And Notes, If Applicable	Date Offered (1)	Date Admitted	Biological (2) (✓)	Collecting Agency (3)	Item Received Or Retained By (4)
63	PHOTO-UPCLOSE SHOT OF EXHIBIT 62 PUB	04/25	04/25		LPD	MCM
64	PHOTO-SMALL PLASTIC BAGPROJECTILE FROM VICTIM JC-PUB	04/25	04/25		LPD	MCM
65	PHOTO-LPD ID PHOTO CARD CCA	04/25	04/25		LPD	MCM
66	PHOTO-DAYTIME PHOTO STREET SIGNS	04/25	04/25		LPD	MCM
67	PHOTO-DAYTIME PHOTO INTERSECTION	04/25	04/25		LPD	MCM
68	PHOTO-DAYTIME PHOTO HAYSWOOD HUT	04/25	04/25		LPD	MCM
69	PHOTO-DAYTIME WHITE HOUSE	04/25	04/25		LPD	MCM
70	PHOTO-DAYTIME CLOSE UP SHOT OF MARKERS	04/25	04/25		LPD	MCM
71	PHOTO-DAYTIME CLOSE UP OF WHITE HOUSE	04/25	04/25		LPD	MCM
72	PHOTO-DAYTIME FRONT OF HOUSE	04/25	04/25		LPD	MCM
73	PHOTO-DAYTIME RIGHT SIDE OF HOUSE	04/25	04/25		LPD	MCM
74	PHOTO-DAYTIME-PEACHTREE ST AREA	04/25	04/25		LPD	MCM
75	PHOTO-DAYTIME LOOKING AT BASKETBALL COURT	04/25	04/25		LPD	MCM
76	PHOTO-DAYTIME BASKETBALL COURT	04/25	04/25		LPD	MCM
77	PHOTO-DAYTIME BASKETBALL COURT	04/25	04/25		LPD	MCM
78	PHOTO DAYTIME AREA	04/25	04/25		LPD	MCM
79	PHOTO BASKETBALL COURT/D	04/25	04/25		LPD	MCM
80	PHOTO-DAYTIME AREA	04/25	04/25		LPD	MCM
81	PHOTO-DAYTIME AREA	04/25	04/25		LPD	MCM
82	AUTOPSY REPORT	04/25	04/25		LPD	MCM
83	SHENA BRITT-EYE WITNESS INSTRUCTIONS-SIGN ON PHOTO LINEUP INSTRUCTIONS	04/25	04/25		LPD	MCM <i>pub</i>
83-1	PHOTO-FROM PHOTO LINE UP	04/25	04/25		LPD	MCM <i>pub</i>
83-2	PHOTO-FROM PHOTO LINE UP	04/25	04/25		LPD	MCM <i>pub</i>
83-3	PHOTO-FROM PHOTO LINE UP(ID'ED) BY WITNESS AS PERSON DRIVING WHITE FORD TARUS	04/25	04/25		LPD	MCM <i>pub</i>
83-4	PHOTO FROM PHOTO LINE UP	04/25	04/25		LPD	MCM <i>pub</i>
83-5	PHOTO FROM PHOTO LINE UP	04/25	04/25		LPD	MCM <i>pub</i>
83-6	PHOTO FROM PHOTO LINE UP	04/25	04/25		LPD	MCM <i>pub</i>
83-A	SHENA BRITT SIGNATURE AS TO PERSON	04/25	04/25		LPD	MCM <i>pub</i>

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Exhibit No.	Description And Notes, If Applicable	Date Offered (1)	Date Admitted	Biological (2) (V)	Collecting Agency (3)	Item Received Or Retained By (4)
	SELECTED FROM PHOTO LINE UP THAT SHE SELECTED					
	AS PERSON DRIVING WHITE FORD TAURUS					
84	EYE WITNESS INSTRUCTIONS SIGNED BY CHRISTOPHER MCGIRT	04/25	04/25		LPD	MCM <i>pub</i>
84-1	PHOTO FROM PHOTO LINE UP	04/25	04/25		LPD	MCM <i>pub</i>
84-2	PHOTO FROM PHOTO LINE UP (ID'ED) BY WITNESS	04/25	04/25		LPD	MCM <i>pub</i>
	AS PERSON DRIVING WHITE FORD TAURUS					
84-3	PHOTO FROM PHOTO LINE UP	04/25	04/25		LPD	MCM <i>pub</i>
84-4	PHOTO FROM PHOTO LINE UP	04/25	04/25		LPD	MCM <i>pub</i>
84-5	PHOTO FROM PHOTO LINE UP	04/25	04/25		LPD	MCM <i>pub</i>
84-6	PHOTO FROM PHOTO LINE UP	04/25	04/25		LPD	MCM <i>pub</i>
84A	CHRISTOPHER MCGIRT SIGNATURE AS TO PERSON	04/25	04/25		LPD	MCM <i>pub</i>
	SELECTED FROM PHOTO LINE UP THAT HE SELECTED					
	AS PERSON DRIVING WHITE TAURUS					
85	COPY OF SUBPOENA ON JOHN MCCOLLUM	04/26	04/26		LPD	SLH
86	LINDOR SAMMONS STATEMENT	05/02	05/02			
87	STATEMENT OF JOHN MCCOLLUM	05/02	05/02		LPD	SLH
88	CITATION NCSHP TROOPER S. HUNT-PUB	05/01	05/01		SHP	SLH <i>pub</i>
89	SHEENA BRITTS STATEMENT	05/01	05/01		LPD	SLH
90	ADULTS RIGHTS FORM-DEFT	05/01	05/01		LPD	SLH
91	ADULTS RIGHTS FORM WITH SIGNATURES	05/01	05/01		LPD	SLH <i>pub</i>
92	CD OF INTERVIEW WITH DEFT-PUB	05/01	05/01		LPD	SLH
93	REPORT PREPARED BY OFFICER RANSOM & CAIN					
94	CD1 RECORDED CALLS-PUB	05/02	05/02		SFF	SLH <i>pub</i>
95	CD2 RECORDED CALLS-PUB	05/02	05/02		SFF	SLH <i>pub</i>
96	SOULSKI STEPHENS PHOTO					
97	ALEX STEPHENS PHOTO					

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Handout 6

Jennifer Slis Projectile
Email

From: [Slish, Jennifer](#)
To: [Myers, Mackenzie C.](#); [Matoian, Catherine L.](#)
Subject: RE: NCIIC - State v. Clarence Roberts - R201318022
Date: Tuesday, June 20, 2023 8:06:39 AM
Attachments: [image001.png](#)
[image003.png](#)

You don't often get email from jslish@ncdoj.gov. [Learn why this is important](#)

No problem.

The diameter of a bullet is one of three main characteristics we look at to determine caliber. The other two are weight and design. The conversion of a 0.9 cm diameter works out to be approximately 0.35433... inches. Bullets of this diameter are associated with the 38 caliber family which includes 380 Auto, 9mm Luger, 38 Special, and 357 Magnum. There are many others within this class but these four are the most common. Without the bullet's weight and design characteristics to analyze it would be difficult to narrow down the caliber.

Also, without knowing the bullet was majority intact, the diameter could have been made off just the core of a bullet. Often when a bullet is fired and makes impact with some type of medium, the bullet can become damaged in a way where parts of the bullet might separate. One of the more common separations is the bullet jacket (often made of copper) will separate from the bullet core (often made of lead). If the diameter measurement was made on a core, then the caliber would be expected to be larger than where it measures. For example, if the 0.9 cm/0.35433 inches was the core, then the core with the addition of the jacket would be 38 Class or larger. There is some variation within the diameter measurements within 38 Class itself so most likely it would not be ruled out.

Of course, nothing definitive could be made without analysis of the item of evidence.

I have a meeting this afternoon during the tour, but if I happen to be introduced to the tour group, please say hello!

Thanks,

Jenn

From: Myers, Mackenzie C. <mackenzie.c.myers@nccourts.org>
Sent: Monday, June 19, 2023 12:48 PM
To: Slish, Jennifer <jslish@ncdoj.gov>; Matoian, Catherine L. <catherine.l.matoian@nccourts.org>
Subject: RE: NCIIC - State v. Clarence Roberts - R201318022

Hi Jenn,

I am so sorry for not getting back to you sooner. What we have been able to determine is that the projectile was destroyed. However, it is documented in the Autopsy Report that the projectile was "... gold in color and measured approximately 1.2 cm in length x 0.9 cm in diameter." A google search of what this means may be entirely sufficient, but we wanted to see if you had any opinion as to what kind of bullet and thus firearm would have been used. We'd be happy to speak to you over the phone about this if that would be better. We will also be touring the Crime Lab tomorrow

Thanks so much, Jenn!
Mackenzie



Mackenzie C. Myers
Staff Attorney
919-890-1580 Office
919-890-1937 Fax
www.InnocenceCommission-NC.gov

E-mail correspondence to and from this address may be subject to the North Carolina public records laws, and if so, may be disclosed.

[Redacted text block]

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Handout 7

Ludas Email

From: [Marty Ludas](#)
To: [Matoian, Catherine L.](#)
Subject: Re: NCIIC - State v. Clarence Roberts answers
Date: Tuesday, August 1, 2023 10:21:09 AM
Attachments: [image001.png](#)

- Would you ever be able to positively link a tire track to a tire when comparing via photos, like in this case. Do you need the actual tire and casts from the tire tracks to make a conclusive match?

Making what would be considered a match, positive attribution or identification is very difficult and unlikely with just photographs unless they are of significant clarity. If there was a poured dental stone cast impression in sand or soil and an actual tire it is very possible to find the exact tire elements and then you try to determine if there are defects or attachments like a nail or embedded stone that could rise to an attribution. Taking it to a level of concluding it is an identification is very rare. I would not make any identification from just a photograph especially in this case the photographs were mostly general that a vehicle passed through. Based on the photographs that were taken I really don't know what they thought somebody could do with the angle shots and no close ups. This happens all the time it's frustrating that photographs are not taken seriously and properly and the examiner is expected to evaluate even the most simple options. In this case it was can't exclude.

- For the tire tracks that you could not exclude the Taurus from, are there tires that are specific to a Taurus? Or would a variety of makes and models potentially use the same type/size of tires. The tires for Mr. Roberts' car were identified as Goodrich Touring TA tires. Are these a particularly unique tire brand/type? Or fairly common?
- I've owned several Taurus cars and one Mercury sable over and 15 year period and bought tires often. There is not a special tire, you can pick any of the manufacturers as long as they are the right size for the vehicle. Manufacturers install a certain size tire when the car is new and often you just replace the tires with that same type. Or you can pick out a different style based on cost and performance.
- In the tracks you were unable to exclude, was that a track from a single wheel or more than one wheel?
- It was just based on the type of tire, not a particular one.
- If it is from both sides of the car, would you be able to measure the distance between wheels to tell whether the car that made them was an SUV or sedan?
- The crime scene guy could have made these measurements. I don't know if the SUV and sedan have same dimensions but I expect they sometimes would because they often share the same frames. These basic steps could have been done, but weren't.

- When you say you couldn't exclude, were there any unique/identifying characteristics in the photos of the tire tracks and the photos of the tires on the Taurus?
- Nothing was notable, I was just looking at the general features.
-

This case is currently scheduled to go to hearing on August 15th. Right now, the Commission does not intend to call you but we would like to have you on a standby subpoena in case the Commissioners have any questions. Would you be willing to accept service via email? If they did want to speak to you, I anticipate it would be the afternoon of the 15th or the morning of the 16th. We could certainly work with your schedule.

Send me a subpoena and advise me as soon as you know the date. I just have one other evidence review, date unknown but as things go they may conflict.

Also Catherine, I regret this turned out this way, me unable to find the original report and video.

I really struggled trying to find out what was going on in this case and because I was not getting feedback, I issued an interim bill expecting my video and report was good enough. Then I never heard anything else. DNA has completely reinvented how evidence is presented in court all while the nuts and bolts of collecting impression evidence at the scene is going backward. I am working a tire track case now that was so poorly photographed I continue to try to get in the mind of what was being photographed. Teenagers on tik tok could do better video and photos at crime scene than what is being done now. I also appreciate you, thanks for the kind words, glad to know you are still there!

Regards
Marty

Thank you again for looking, we appreciate it.

On Monday, July 31, 2023 at 10:57:59 AM PDT, Matoian, Catherine L. <catherine.l.matoian@nccourts.org> wrote:

Marty,

Thank you for looking. We do appreciate it. I have a few questions that I hope you can answer based on what we have from your report. As you may remember, the Commission is a neutral agency. I'm not seeking any answer other than the truth, whether that positive or negative or Mr. Roberts. If you do not remember, please

Handout 8

Karen Morrow CV



Name: Karen W. Morrow
Laboratory: Raleigh Crime Laboratory
Job Title: Forensic Scientist Manager
Date: February 3, 2023

CASEWORK

Laboratory Section: Latent Evidence Section

Discipline(s) of Casework: Latent Print Comparison, Latent Print Processing, Impression Evidence Processing, Impression Evidence Comparison

EDUCATION

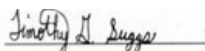
Institution	Dates Attended	Major	Degree Completed
University of North Carolina- Chapel Hill	1996-1999	Biology	Bachelor of Science
Craven Community College	1993-1996	Transfer Student	N/A

PROFESSIONAL AFFILIATIONS AND CERTIFICATIONS

- International Association for Identification (IAI)
- IAI Certified Latent Print Examiner (CLPE)
- NC International Association for Identification (NCIAI)
- NC Chair SAFIS User Committee (NCIAI)
- Certified – Clandestine Laboratory Response
- Certified – ANAB ISO 17025 Assessor
- Certified – ASCLD/LAB ISO 17025 Assessor
- NC Advanced Law Enforcement Certificate
- NC Law Enforcement Assistance Program (NCLEAP)
- Certified Public Manager Program (CPM)
- North Carolina Society of Certified Public Managers (Secretary)
- American Society of Crime Laboratory Directors (ASCLD)

COURTROOM TESTIMONY

Discipline	Date Authorized	Approximate Testimony Appearances
Latent Prints * Examination and Comparison	September 4, 2003	31
Footwear (Impression)* Examination and Comparison	October 15, 2007	10
Tire Tread (Impression)* Examination and Comparison	October 8, 2014	3





*Cases where testimony included multiple disciplines were listed separately.

TRAINING AND EXPERIENCE

Discipline #1 Date	Title
April 2021	Implementing the Expanded OSAC Conclusion Scale On-line via Evolve Forensics
March 2021	New England IAI- Latent Print Webinar On-line Training
November 2020	Fingerprint Symposium 2020 Foster Freeman on-line
September 2020	Error Rates, Human Factors, and Quality Management Systems On-line via Evolve Forensics
May 2020	Discrimination Power of Friction Ridge Arrangements On-line via Evolve Forensics
May 2020	West Virginia University- Emerging Trends in Research Forensic Science On-line
April 2020	RTI Forensic Technology Center of Excellence- ASCLD 2016 Latent Prints On-line course National Institute of Justice
December 2012	FBI ULW Software Workshop <i>Updated instructions on the FBI IAFIS search program ULW for searching fingerprints in the federal database system.</i> <i>Raleigh, NC</i>
December 2011	North Carolina State University Forensic Science Symposium <i>Symposium to explore the future of forensic DNA Analysis, Veterinary Forensic Science, Firearms Identification, and the value of Forensic Entomology.</i> <i>Raleigh, NC</i>
October 2011	OSHA Hazardous Waste Operations (Meth Operations) <i>Safety and training updates on the processing of methamphetamine clandestine labs.</i> <i>Raleigh, NC</i>
April 2006	Aircraft Crash Response and Investigations <i>Raleigh, NC</i>
March 2005	Advanced Forensic Digital Imaging Training (Foray Technologies) <i>Course designed to introduce Foray Imaging System for enhancements with Photoshop CS.</i> <i>Raleigh, NC</i>
April 2004	Advanced Crime Scene Technology <i>Course designed to instruct students on the advanced processing of crime scene and evidence collection.</i> <i>Raleigh, NC</i>
January 2004	Weapons of Mass Destruction Awareness <i>Raleigh, NC</i>
November 2003	Advanced Palmprint Comparison Techniques

A handwritten signature in black ink that reads "Timothy H. Suggs".




*Workshop designed to improve the ability of the latent print examiner to conduct latent palmprint comparisons in a more timely and effective manner.
Salemberg, NC*

- November 2003 **Court Room Testimony Techniques “Success Instead of Survival”**
*This seminar is specifically designed to aid the student in understanding and accepting natural fear and taking that concern and channeling it in a positive direction to make them a better witness.
Salemberg, NC*
- December 2001 **Clandestine Lab Safety Certification**
*This course is for personnel working clandestine drug laboratories with emphasis on methlabs. It covers meth production, chemical and physical hazards, hazard evaluation, protective clothing, respiratory protection, and other related topics. These topics are reinforced through the following hands-on practical exercises in air monitoring, decontamination, and team assessment.
Raleigh, NC (NES)*
- November 2001 **Crime Scene Technology**
*Course designed to instruct students on the basics of crime scene processing and evidence collection.
Raleigh, NC*
- April 2001 **Science of Fingerprint Identification**
*Course designed to instruct the latent print examiner on the evaluation, comparison, and identification/elimination process of friction ridge skin.
Raleigh, NC*
- November 2000 to July 2001 **NCSCCL in-house training program for Latent Print Examiners**
Raleigh, NC
- May 2000 to November 2000 **NC State Bureau of Investigation Academy**
Raleigh and Salemberg, NC- NC Justice Academy

Discipline #2
Date

Title

- March 2021 **New England IAI- Footwear and Tire Track Webinar**
On-line Training
- January 2014 **Collecting Footwear Impressions in the Snow**
RTI-NIJ’s Forensic Science Technology Center of Excellence, On-Line Course
*This presentation will review techniques for photographing and casting snow impressions found at the crime scene. Methods for utilizing dental stone, fast setting plaster, and sulfur cement casting of snow impressions will be examined, showing how the type of snow and weather conditions may determine which casting technique to use.
Raleigh, NC*
- October 2006 **SICAR Training (Shoe Imaging Capture and Retrieval System)**
Raleigh, NC
- October 2005 **Examination of Tire and Tire Track Evidence**





Course covers all aspects of both tire tread and tire track evidence; basic information regarding tires and tire molds; tire manufacturing; tire retreading; dual tired vehicles; special crime scene recovery considerations; methods of taking known exemplars of tires; the examination process; evaluation of class and identifying characteristics; report writing; and numerous comparison exercises.

Jacksonville, FL – Bodziak Forensics

October 2004

The Detection, Recovery, and Examination of Footwear Impression Evidence

Course designed for new and intermediate level footwear examiners who examine footwear evidence and testify to their findings. It reviews, from the examiner's perspective, the recovery and evaluation methods for photography, casting and lifting; the chemical enhancement of impressions; manufacturing methods of footwear as they relate to the examination; the evaluation of class and identifying characteristics, the examination process; footwear sizing issues; producing known exemplars, etc. Each student independently works approximately 25-35 exercises, including approximately 20 separate comparative examinations.

Jacksonville, FL – Bodziak Forensics

December 2003 to
June 2004

NCSCCL in-house training program for Footwear and Tire Track Impressions Analysis
Raleigh, NC

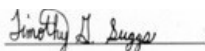
In-Service, Re-Certifications

Date	Title
October 2022	Clandestine Laboratory Recertification <i>Raleigh, NC</i>
June 2022	SBI Annual In-Service Training <i>Raleigh, NC</i>
April 2022	IAI Latent Print Certification- Recertification <i>Raleigh, NC</i>
October 2021	Clandestine Laboratory Recertification <i>Raleigh, NC</i>
July 2021	SBI Annual In-Service Training <i>Raleigh, NC (multiple classroom sessions)</i>
November 2020	Clandestine Laboratory Recertification <i>Raleigh, NC</i>
December 2020	SBI Annual In-Service Training <i>Raleigh, NC (multiple classroom sessions)</i>
October 2019	Clandestine Laboratory Recertification <i>Raleigh, NC</i>
June 2019	SBI Annual In-Service Training <i>Raleigh, NC (multiple classroom sessions)</i>
October 2018	Firearms Lowlight Shooting <i>Smithfield, NC</i>
October 2018	Clandestine Laboratory Recertification <i>Raleigh, NC</i>

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April 2018	SBI Annual In-Service Training <i>Raleigh, NC (multiple classroom sessions)</i>
October 2017	Clandestine Laboratory Recertification <i>Raleigh, NC</i>
June 2017	SBI Annual In-Service Training <i>Raleigh, NC (multiple classroom sessions)</i>
December 2016	Hazardous Materials Update <i>Raleigh, NC</i>
October 2016	SBI Annual In-Service Training <i>Raleigh, NC (multiple classroom sessions)</i>
September 2016	Clandestine Laboratory Recertification <i>Raleigh, NC</i>
December 2015	Hazardous Materials Update <i>Raleigh, NC</i>
October 2015	Clandestine Laboratory Recertification <i>Raleigh, NC</i>
June 2015	SBI Annual In-Service Training <i>Raleigh, NC</i>
December 2014	Hazardous Materials Update <i>Raleigh, NC</i>
October 2014	Clandestine Laboratory Recertification <i>Raleigh, NC</i>
July 2014	SBI Annual In-Service Training <i>Raleigh, NC</i>
November 2013	Clandestine Laboratory Recertification <i>Raleigh, NC</i>
October 2013	SBI Annual In-Service Training <i>Raleigh, NC</i>
October 2012	SBI Annual In-Service Training <i>Raleigh, NC</i>
October 2012	Clandestine Laboratory Recertification <i>Raleigh, NC</i>
October 2011	Clandestine Laboratory Recertification/Hazardous Waste Operations: Methamphetamine Operations <i>Raleigh, NC</i>
May 2011	SBI Annual In-Service Training <i>Raleigh, NC</i>
October 2010	SBI Annual In-Service Training <i>Raleigh, NC</i>
October 2010	Clandestine Laboratory Recertification <i>Raleigh, NC</i>
October 2009	SBI Annual In-Service Training <i>Raleigh, NC</i>
October 2009	Clandestine Laboratory Recertification <i>Raleigh, NC</i>





October 2008	SBI Annual In-Service Training <i>Raleigh, NC</i>
December 2008	Clandestine Laboratory Recertification <i>Hickory, NC</i>
November 2007	Clandestine Laboratory Recertification <i>Raleigh, NC</i>
October 2007	SBI Annual In-Service Training <i>Raleigh, NC</i>
October 2006	SBI Annual In-Service Training <i>Raleigh, NC</i>
October 2006	Clandestine Laboratory Recertification <i>Raleigh, NC</i>
June 2006	FEMA: National Incident Management System Training: Introduction to the Incident Command System National Incident Management System, and Introduction ICS for Single Resources and Initial Action Incidents National Response Plan an Introduction <i>Raleigh, NC (on-line)</i> <i>Raleigh, NC (NES)</i>
October 2005	SBI Annual In-Service Training <i>Raleigh, NC</i>
December 2005	Clandestine Laboratory Recertification <i>Raleigh, NC</i>
November 2004	Clandestine Laboratory Recertification <i>Raleigh, NC</i>
October 2004	SBI Annual In-Service Training <i>Raleigh, NC</i>
November 2003	Clandestine Laboratory Recertification <i>Raleigh, NC</i>
October 2003	SBI Annual In-Service Training <i>Raleigh, NC</i>
November 2002	Clandestine Laboratory Recertification <i>Raleigh, NC</i>
September 2002	SBI Annual In-Service Training <i>Raleigh, NC</i>
December 2001	Clandestine Laboratory Safety Certification <i>This course is for personnel working clandestine drug laboratories with emphasis on meth labs. It covers meth production, chemical and physical hazards, hazard evaluation, protective clothing, respiratory protection, and other related topics. These topics are reinforced through the following hands-on practical exercises in air monitoring, decontamination, and team assessment.</i>
October 2001	SBI Annual In-Service Training <i>Raleigh, NC</i>

Jinothy H. Suggs



Management Training, ISO/IEC 17025, and Other
Date Title

October 2022	Certified Public Managers Annual Training Conference Raleigh, NC
October 2021	ANAB update- Technical Assessor in the ISO/IEC 17020/AR3120 program On line
June 2020	DOJ All in Talks: Diversity and Inclusion NCDOJ Training
August 2020	Interrupt Your Bias in the Moment Class Series NCDOJ Training
October 2020	Layers- Legacy= Lenses Diversity Training NCDOJ Training
October 2019	Certified Public Manager Program <i>Raleigh, NC</i>
March 2018	Lean Business Process with Simulation Effective Problem Solving and Root Cause Analysis Training <i>Raleigh, NC</i>
November 2017	State Government Mediation Conference <i>Raleigh, NC</i>
June 2017	Operation Vigilant Catamount Disaster Training NC National Guard Joint Domestic Operations <i>DuPont Park, NC</i>
May 2017	Females in Leadership Roles <i>Central Piedmont Community College- Huntersville, NC</i>
March 2017	Mass Casualty and Disaster Response Training- FBI/CMPD <i>Charlotte, NC</i>
September 2016	LAAL-Managers High Performance Coaching (OSHR) <i>Raleigh, NC</i>
June 2016	Lean Six Sigma and Quality Systems Training (Bode Cellmark) <i>Raleigh, NC</i>
April 2016	NCLEAP- Crisis Intervention, Suicide Prevention, Stress Management <i>Raleigh, NC</i>
April 2016	Suicide- Prevention, Intervention, and Postvention (Wake Tech) <i>Raleigh, NC</i>
March 2016	Critical Incident Stress Management (CISM) (Wake Tech) <i>Raleigh, NC</i>
March 2016	Group Crisis Intervention (Wake Tech) <i>Raleigh, NC</i>
October 2015	ASCLD/LAB/ISO Assessment Maryland State Crime Lab
September 2015	TANIX Meeting (Triangle Information and Exchange Meeting) NCLEAP <i>Cary, NC</i>
September 2014	ASCLD/LAB Certified Technical Assessor <i>Certification- ISO17025</i>

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August 2014	ASCLD/LAB ISO Assessment TBI State Crime Lab <i>Nashville, TN</i>
July 2014	ASCLD/LAB Technical Assessor Refresher Training/Measurement Traceability On-line
March 2014	Recruitment and Retention for Generations (OSHR) <i>Raleigh, NC</i>
February 2014	OSHR Employment Mediation Training (Carolina Dispute Settlement Services) <i>Raleigh, NC</i>
August 2013	Communication for Leadership Success (OSHR) <i>Raleigh, NC</i>
February 2013	Management Roundtable for Leaders (SBI) <i>Raleigh, NC</i>
October 2012	Crisis Negotiator Training and Recertification (SBI) <i>Raleigh, NC</i>
March 2012	Leading for a Change (OSHR) <i>Raleigh, NC</i>
January- December 2012	SBI Diploma Management Program <i>Raleigh, NC</i>
July 2011	Crisis Intervention Team Training (CNT) <i>Greenville, NC (Pitt Community College)</i>
March 2011	Ethics II: Ethics of Leadership and the Leadership of Ethics <i>RTI/NIJ- On-line</i>
October 2010	Supervisory/Management Training (ASAC Training) <i>Raleigh, NC</i>
May 2010	Supervisor Toolkit Series and Performance Management (DOJ HR) <i>Raleigh, NC</i>
May 2010	Discipline- (DOJ HR) <i>Raleigh, NC</i>
April 2010	ASCLD/Lab International Testing Lab Assessor Training <i>Raleigh, NC</i>
April 2010	Northeast Regional Forensic Institute- Leadership Assessment Workshop – Developing the Next Generation Leaders <i>Albany, NY</i>
March 2010	Advanced Negotiator Training (Pitt Community College) <i>Greenville, NC</i>
November 2009	Ethics I- To Hell and Back <i>RTI/NIJ On-line Training</i>
May 2009	FBI 37th Annual FBI Crime Laboratory Development Symposium <i>Madison, WI</i>
March 2009	FBI Sponsored Latent Print Daubert Testimony Training and Court Testimony <i>Raleigh, NC</i>
December 2008	Managing Effective Performance Program (54hrs) OSHR <i>Raleigh, NC</i>
October 2008	Managing Differences: Women in the workplace (OSHR) <i>Raleigh, NC</i>

A handwritten signature in blue ink that reads "Timothy H. Suggs".



July 2008	From Temptation to Prison- Tarnished Badge- Executive Chiefs of Police <i>Atlantic Beach, NC</i>
October 2007	FBI Hostage Crisis Negotiator School <i>Edneyville, NC</i>
September 2006	EEOI- Equal Employment Opportunity Institute- OSHR <i>Raleigh, NC</i>
June 2006	FEMA Emergency Management Institute- <i>Raleigh, NC</i>
May 2005	Interaction Management (NCDOJ HR) <i>Raleigh, NC</i>
January 2006	General Instructor Training (Wake Tech) <i>Raleigh, NC</i>

Meetings and Conferences

Date	Title
September 2022	NCIAI Annual Training Conference <i>Greensboro, NC</i>
April 2022	NC Latent Print Examiners Meeting <i>Durham, NC</i>
August 2021	IAI National Educational Conference <i>Nashville, TN</i>
November 2019	NC Latent Print Examiners Meeting <i>Durham, NC</i>
September 2019	IDS Defense Meeting- Presentation <i>Raleigh, NC</i>
March 2019	CSAFE Conference Duke Law School <i>Durham, NC</i>
September 2018	IDS Defense Meeting- Presentation <i>Raleigh, NC</i>
May 2018	IDEMIA User Conference (SAFIS) <i>Costa Mesa, CA</i>
April 2017	NCIAI Annual Training Conference <i>Wilmington, NC</i>
November 2016	NC Latent Print Examiners Meeting <i>Raleigh, NC</i>
May 2016	NCIAI Annual Training Conference <i>Raleigh, NC (NCSU)</i>
November 2015	NC Latent Print Examiners Meeting <i>Raleigh, NC</i>
August 2015	IAI Educational Conference 100th Meeting <i>Sacramento, CA</i>
May 2015	NCIAI Annual Training Conference <i>Greensboro, NC</i>
October 2014	NC Latent Print Examiners Meeting

Timothy H. Suggs



March 2014	<i>Raleigh, NC</i> NCAI Spring Conference
April 2013	<i>Fayetteville, NC</i> NCAI Spring Conference
October 2012	<i>Cary, NC</i> NC Latent Print Examiners Meeting
October 2011	<i>Raleigh, NC</i> NC Latent Print Examiners Meeting
May 2010	<i>Raleigh, NC</i> NCAI Spring Conference
July 2007	<i>Raleigh, NC</i> IAI National Educational Conference
May 2007	<i>San Diego, CA</i> Latent Print Examiners Conference
July 2006	<i>Raleigh, NC</i> IAI National Educational Conference
April 2006	<i>Boston, MA</i> NCAI Spring Conference
November 2004	<i>Cary, NC</i> NCAI Fall Conference
August 2004	<i>Charlotte, NC</i> IAI National Educational Conference
September 2002	<i>St. Louis, MO</i> NCAI Fall Conference
	<i>Asheville, NC</i>

EMPLOYMENT HISTORY

Tenure: May 1, 2000–Present

- **Employer:** North Carolina State Crime Laboratory
- **Job Title:** Forensic Scientist Manager (2012- Present)
- **Primary Duties:**

The primary purpose of the Forensic Scientist Manager are to direct, review, and evaluate the work of subordinates, approve recommended method and technique changes, and review laboratory reports for accuracy, content, and consistency with approved standards of the NC State Crime Laboratory. Supervisory duties may include:

- Directing the performance of subordinates through section organization and monitoring of work product.
- Communicate with staff, management, the Criminal Justice Community.
- Coordination, planning, research and development, and fiscal management of the personnel, equipment, and supplies of the Latent Evidence Section to meet established goals and objectives.
- Administrative management of daily operations.
- Technical Assessor – ISO/IEC 17025 programs and serves as internal assessor for the Crime Laboratory.
- ANAB Technical Assessor
- Serves and coordinates the section on the State Disaster Response Team and Mass Causality Team.

Justine H. Suggs



Casework

- Latent Print Examination - responsible for the preparation, analysis, comparison, interpretation, and reporting of routine, specialized, and highly complex latent print evidence
- Footwear and Tire Track Examination - responsible for the preparation, analysis, comparison, interpretation, and reporting of routine, specialized, and highly complex footwear and tire track evidence.
- Certified Latent Print Examiner, CLPE- IAI
- Authorized to perform administrative/technical, verification, and clerical case file reviews.
- Qualified to testify as an expert witness in state and federal court.
- Response and processing of crime scenes statewide when assistance is requested
- Response and processing of clandestine methamphetamine laboratories when assistance requested
- Member of the state-wide mass disaster response team (Latent Evidence).
- Externally proficiency tested annually (Latent print comparisons, Latent Print processing, Footwear Impressions evidence).

OTHER QUALIFICATIONS

Training, Instructing and Presentations

- General Instructor (NC Training and Standards) 2006-Present
 - SBI Academy, SBI In-service, SHP Patrol School, Internal Laboratory Training, other local Law Enforcement Agencies.
- Laboratory Tour Guide-Presentations to public visitors.
- September 2022- NCAI Accreditation presentation
- September 2022- Conference of District Attorneys Latent Evidence Presentation
- November 2019 NCSCSL updates- NCAI Latent Print User Meeting
- May 2018 IDEMIA User Conference- SAFIS Hit presentation, NC SAFIS Hits Stats.
- October 2017 Indigent Defense Services (IDS) Open Forum with NCSCSL- Presentation Latent Evidence
- December 2016 American Academy of Applied Forensics- "Introduction to Computer Forensics"
- December 2016 American Academy of Applied Forensics- "Introduction to Cybercrimes".
- August 2016- Johnston County School Board Presentation- - "Internet Safety/Social Media for Students and Parents".
- June 2016 NC Governors Crime Commission for Safer Schools Task Force presentation- "Internet Safety/Social Media for Students and Parents".
- 2016 "Internet Safety/Social Media for Students and Parents"- 7 local area Middle Schools.
- 2015 Duke Law School "Whiskey in the Courtroom: Evolving Trends in Forensic Science"
- 2011 & 2013 Campbell Law School Presentation "Forensic Evidence".
- 2006 NCAI Spring Training Conference- Presentation "Detection, Preservation, and Submission of Footwear Impression Evidence".
- 2005-2006- State Coordinator for FBI IAFIS Database and provided several training sessions to Local Law Enforcement Agencies.
- 2005-NCAI Fall Training Conference Presentation "RFES-FBI IAFIS Database".
- 2001-2014 Special Olympics North Carolina Torch Run and Associate Director for three years.

Janeth H. Suggs



 Timothy H. Suggs

Handout 9

Dextor Stephens Criminal History Chart

DEXTOR STEPHENS

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
ATTEMPT TO DISCHARGE WEAPON INTO OCCUPIED DWELLING/ MOVING VEHICLE	ROBESON	06/07/2010	09/07/2011
RESISTING PUBLIC OFFICER	ROBESON	02/11/2010	04/13/2010
POSSESSING ALCOHOL UNDER 21	ROBESON	06/21/2005	07/27/2005

***Note: Dextor Stephens has an unserved warrant for Assault Inflicting Serious Injury (m) out of Cumberland County.**

Handout 10

Dextor Stephens Photo
Packet



Photo from Facebook
Dated 12/12/19



9:11p
Thu 8/1

10:00p
Critical Condition

Charlie Rose III
Exposure
American Greed

Channels I Get (Fox)

Photo From Facebook
Dated 8/1/13



**
IMAGE CAPTURE DATE: 2020-05-27
IMAGE CAPTURE TIME: 11.28.09
**
* END OF MESSAGE *

Handout 11

Linder Sammons
Criminal History Chart

LINDER SAMMONS

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
MISD SIMPLE WORTHLESS CHECK	ROBESON	05/24/2001	10/30/2001

Handout 12

Sheena Britt Criminal History Chart

SHEENA BRITT

CRIMINAL RECORDS

Conviction	Jurisdiction	DOO	Date of Conviction
MISD POSSESS DRUG PARAPHERNALIA	DURHAM	01/18/2003	03/17/2003
MISD POSSESS STOLEN GOODS / PROPERTY	DURHAM	01/18/2003	03/17/2003
MISD SOLICIT FOR PROSTITUTION	DURHAM	11/20/2002	11/22/2002

Handout 13

John McCollum
Criminal History Chart

JOHN MCCOLLUM

CRIMINAL RECORDS

Conviction	Jurisdiction	DOO	Date of Conviction
COMMON LAW ROBBERY	CUMBERLAND	04/16/2018	12/13/2019
SECOND DEGREE KIDNAPPING	CUMBERLAND	04/16/2018	12/13/2019
OBTAIN PROPERTY BY FALSE PRETENSE	CUMBERLAND	03/19/2018	12/13/2019
MISD LARCENY	ROBESON	12/19/2015	07/19/2016
MISD POSSESS HANDGUN BY MINOR	ROBESON	05/07/2013	02/12/2015

Handout 14

Eric Monroe Criminal History Chart

ERIC MONROE

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
BREAKING AND/OR ENTERING	ROBESON	09/21/2022	05/25/2023
BREAKING AND/OR ENTERING	ROBESON	03/18/2020	03/04/2021
LARCENY AFTER B&E	ROBESON	03/18/2020	03/04/2021
BREAKING AND/OR ENTERING	ROBESON	03/18/2020	03/04/2021
LARCENY AFTER B&E	ROBESON	03/18/2020	03/04/2021
CONSPIRE TO B&E	ROBESON	03/18/2020	03/04/2021
OBTAIN PROPERTY BY FALSE PRETENSE	ROBESON	03/18/2020	03/04/2021
FORGERY OF INSTRUMENT	ROBESON	03/18/2020	03/04/2021
UTTERING FORGED INSTRUMENT	ROBESON	03/18/2020	03/04/2021
POSSESSION OF STOLEN PROPERTY	ROBESON	03/18/2020	03/04/2021
OBTAIN PROPERTY BY FALSE PRETENSE	ROBESON	03/17/2020	03/04/2021
BREAKING AND/OR ENTERING	ROBESON	03/17/2020	03/04/2021
LARCENY AFTER B&E	ROBESON	03/17/2020	03/04/2021
CONSP ROBBERY WITH DANGEROUS WEAPON	HOKE	10/14/2015	11/09/2016
ATT OBTAIN PROPERTY BY FALSE PRETENSE	ROBESON	08/24/215	03/31/2016

Handout 15

Eric Monroe DAC
Handout

Sealed by Order of the
Court.

Handout 16

Photo with Markings
(Eric Monroe)



ENC Monroe 12-13-22

PENGAD 600-631-6689
EXHIBIT
20

Handout 17

Brandon LeSane
Criminal History Chart

BRANDON LESANE

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
POSSESSION OF A FIREARM BY A FELON	ROBESON	10/17/2010	11/10/2011
RECKLESS DRIVING TO ENDANGER	ROBESON	04/10/2009	11/30/2009
TRAFFICKING IN MARIJUANA	ROBESON	03/01/2006	06/25/2007
TRAFFICKING IN MARIJUANA	ROBESON	03/01/2006	06/25/2007

Handout 18

Katovias LeSane
Criminal History Chart

KATOVIAS LESANE

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
POSSESSION OF MARIJUNA UP TO ½ OZ	ROBESON	04/15/2017	09/13/2017

Handout 19

Ricky Stephens Criminal History Chart

RICKY STEVENS

CRIMINAL RECORDS

Conviction	Jurisdiction	DOO	Date of Conviction
MISD DISORDERLY CONDUCT	ROBESON	04/11/2013	10/10/2014

Handout 20

DeShane Leach
Criminal History Chart

DESHANE LEACH

CRIMINAL RECORDS

Conviction	Jurisdiction	DOO	Date of Conviction
MISD POSSESS DRUG PARAPHERNALIA	ROBESON	04/23/2021	07/30/2021
MISD POSSESS MARIJUANA UP TO 1/2OZ	CUMBERLAND	03/07/2014	09/30/2014
MISD POSSESS STOLEN GOODS / PROPERTY	ROBESON	01/15/2012	05/01/2012

Handout 21

Cyrstal Allen Motion
for Material Witness
with Affidavit

STATE OF NORTH CAROLINA
COUNTY OF ROBESON

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
13 CRS 3511, 13 CRS 54359

STATE OF NORTH CAROLINA)
)
 v.)
)
 CLARENCE ROBERTS)
)
 _____)

**MOTION FOR MATERIAL WITNESS
ORDER**

NOW COMES the North Carolina Innocence Inquiry Commission (hereinafter “Commission”), through the undersigned counsel, and moves pursuant to N.C.G.S. § 15A-1467(d) and § 15A-803 respectfully moves this Court to enter an order assuring the attendance of Crystal Allen (hereinafter “Allen”), a material witness, at a deposition or in court before the Commission in the above-captioned matter. In support of this motion, the undersigned shows the Court the following:

1. On June 14, 2013, Joshua Council (“the Victim”), Allen, and several others were gathered at Hayswood Hut (“the Hut”) in Lumberton, NC. At some point that evening, a vehicle sped down the dirt road that ran parallel to the Hut, came to a halt, reversed, and finally came to a stop. Testimony and witness interviews state that the person driving this vehicle pulled out a firearm and began shooting. The Victim, along with others, began to run. Allen, who was standing near her vehicle, immediately ducked down upon hearing the shots being fired, placed her small child on the floorboard, and got into the driver’s seat. At this point, Allen saw that the shooter was standing next to another individual who was ducked down and trying to get into Allen’s vehicle. Allen observed this individual tell the shooter, “It wasn’t me,” at which point the shooter got back into his vehicle and drove off.

2. Allen was able to get away unharmed; however, the Victim, while attempting to run away from the shooter, was shot and died at the scene.

3. On May 5, 2017, after a jury trial, Clarence Roberts ("Roberts") was found guilty of Second-Degree Murder and Assault with a Deadly Weapon (misdemeanor) all related to the shooting death of the Victim and another surviving witness. Roberts was sentenced to a total of 300 to 372 months in prison.

4. Originally, Roberts had been charged with the Attempted First-Degree Murder of Allen, in addition to two more counts of the same for two other surviving victims. Both of those surviving victims, one of whom is Allen's brother, testified at trial; however, Allen could not be located and thus did not testify.

5. On November 5, 2019, the North Carolina Court of Appeals denied Roberts' appeal and found no prejudicial error.

6. On November 15, 2017, Roberts submitted a claim of factual innocence to the North Carolina Innocence Inquiry Commission, pursuant to Article 92, Chapter 15A of the General Statutes.

7. The Commission has initiated a formal inquiry in the above matter pursuant to N.C.G.S. § 15A-1467(b).

8. Further, Roberts has signed a sworn Affidavit of Innocence asserting his innocence for the crimes for which he was convicted and waived his procedural privileges and safeguards pursuant to N.C.G.S. § 15A-1467(d).

9. Based on the Commission's investigation thus far, which includes reviews of law enforcement files, the trial transcript, and witness interviews and depositions, it is necessary for the Commission to depose Allen. Because the Commission's investigations are confidential

pursuant to N.C.G.S. §15A-1468(g), the Commission is providing an affidavit from the undersigned with exhibits regarding Allen's involvement in this case, attached here as *Exhibit 1*, to be reviewed by the Commission's Chair *in camera*.

10. After Commission staff made several attempts to speak with Allen directly, Allen was properly served on March 1, 2023 pursuant to Rule 45(b) of the North Carolina Rules of Civil Procedure by the Robeson County Sheriff's Office with a subpoena to appear for a deposition on March 15, 2023 at 10:00 AM in the Second Floor Conference Room in the Angel Exchange Building at COMtech in Pembroke, North Carolina regarding information pertaining to her knowledge of the above-mentioned matter. The subpoena is attached here as *Exhibit 2*.

11. Also on March 1, 2023, Allen sent a text message at 10:57 PM to Victim Services Program Manager, Emma Paul (hereinafter "Paul"), stating she was "very upset" about being served with the subpoena at 11:00 PM. Allen also stated that she did not testify previously in this case and would not be testifying now. Paul responded to Allen on March 2, 2023 and apologized to Allen and stated that being served that late at night was inappropriate. This text message exchange is attached here as *Exhibit 3*.

12. It should be noted that the undersigned followed up with the Robeson County Clerk's Office and the Robeson County Sheriff's Office about obtaining a copy of the subpoena that had been served on Allen. Neither agency had a copy. The undersigned spoke with Captain Kevin Deese (hereinafter "Deese") at the Robeson County Sheriff's Office who confirmed that the subpoena was served on Allen at 10:00 PM and provided an affidavit regarding the subpoena that was served on Allen. Deese signed the affidavit as the supervisor of the deputy who served it. This affidavit is attached here as *Exhibit 4*.

13. On March 14, 2023, the day before Allen's deposition, Paul reached out to Allen to see if she had any questions. Allen responded a few hours later stating she would not be attending the deposition and that she wanted to be left alone. Allen also put in the text message that she had called and left a message about this. At the time Allen called, the undersigned and Paul were not in the office, but did attempt to call Allen within a few minutes of receiving the text message. Allen did not answer and her voicemail was too full to leave a message. Paul then reached out to Allen via text. This text message exchange is attached here as *Exhibit 5*.

14. Case Manager Jason Fitts ("Fitts") answered the Commission's main line when Allen called. Fitts then took down the message Allen left and sent this in an email to the undersigned. Fitts wrote that Allen stated she was not going to show up for the deposition. A copy of this email is attached here as *Exhibit 6*.

15. Since March 14, 2023, Paul has reached out to Allen via text message on two separate occasions. The first text was sent to Allen on March 27, 2023 and the second was sent on March 29, 2023. A screenshot of these texts are attached here as *Exhibit 7* and *Exhibit 8*, respectively.

16. In April of 2023, the Commission contracted with a private investigator, Ash Simmons (hereinafter "Simmons"), who was tasked with, among other things, serving Allen with a subpoena for a deposition to take place on May 2, 2023. Simmons attempted to serve Allen on two separate occasions. The first time Simmons attempted service, which occurred on April 15, 2023, no one was home. On April 17, 2023, Simmons attempted service a second time. Simmons was able to make contact with a male at the residence who became "extremely agitated and confrontational." Simmons decided at that point that it was "best to back off." A copy of the subpoena containing Simmons' notes and an email from Simmons regarding his second attempt are attached here as *Exhibit 9* and *Exhibit 10* respectively.

17. On May 10, 2023, the Commission made its final attempt to serve Allen with a subpoena for a deposition to take place on June 12, 2023 via certified mail return receipt requested. The subpoena and Certified Mail Receipt are attached here as *Exhibit 11* and *Exhibit 12*, respectively.

18. According to USPS, the subpoena was delivered to an individual at Allen's address on May 15, 2023, which is attached here as *Exhibit 13*.

19. As of the date of this motion, Allen has not contacted the Commission or made any additional efforts to complete the deposition.

20. N.C.G.S. § 15A-803(a) provides that a judge may issue a material witness order "when there are reasonable grounds to believe that the person whom the State or a defendant desires to call as a witness in a pending criminal proceeding possesses information material to the determination of the proceeding and may not be amenable or responsive to a subpoena at a time when his attendance will be sought."

21. Pursuant to N.C.G.S. § 15A-1467(d), the Commission may use "any measure provided in Chapter 15A of the General Statutes and the Rules of Civil Procedure as set out in G.S. 1A-1 to obtain information necessary to its inquiry."

22. Although the subpoenas served on Allen was for a deposition upon oral examination pursuant to Rule 30 of the North Carolina Rules of Civil Procedure, Commission investigations are criminal proceedings within the meaning of N.C.G.S. § 15A-803 of the General Statutes.

23. The Legislature, through enactment of N.C.G.S. § 15A-1467(d), clearly intended to grant the Commission authority to use all measures, both civil and criminal, to ensure its access to evidence and information necessary to complete its inquiries.

24. Allen's disregard for compliance with properly served subpoenas and subsequent unresponsiveness is indicative that there are reasonable grounds to issue a material witness order to secure her appearance in order to complete the deposition.

25. Allen has information necessary to the Commission's inquiry in this case. Therefore, it is necessary for the Commission's inquiry to question Allen under oath, either while at a deposition or in court.

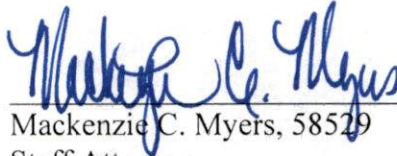
26. The Commission will ensure that Allen is properly served with a subpoena for her to appear at a hearing on this motion. Should Allen not appear at the hearing, the Commission will request an order for her arrest.

WHEREFORE, the North Carolina Innocence Inquiry Commission prays that this Court enter an order pursuant to its inherent authority:

1. That the Court find Crystal Allen a material witness pursuant to N.C.G.S. §15A-803(d) and compel her to testify at a deposition or in court before the Commission in the above-styled matter and remain in custody until the deposition or testimony in court is completed.
2. That the Court order *Exhibit 1*, the affidavit of the undersigned, to be placed under Judicial seal to maintain confidentiality of the Commission's files.
3. Such other and further relief the Court deems just and appropriate.

This the 7th day of July, 2023.

**NORTH CAROLINA INNOCENCE
INQUIRY COMMISSION**



Mackenzie C. Myers, 58529

Staff Attorney

North Carolina Innocence Inquiry Commission

Post Office Box 2448

Raleigh, North Carolina 27602

Telephone: (919) 890-1580

Facsimile: (919) 890-1937

Mackenzie C. Myers, being first duly sworn, deposes and says:

That she has read the foregoing Motion and that the same is true of her own knowledge except as to those matters and things therein stated upon information and belief and that as to those matters and things therein so stated she believes them to be true.

Mackenzie C. Myers
Mackenzie C. Myers

Sworn to and subscribed before me this 7th day of July, 2023

Catherine Matom
Notary Public

My Commission Expires: 3.19.28

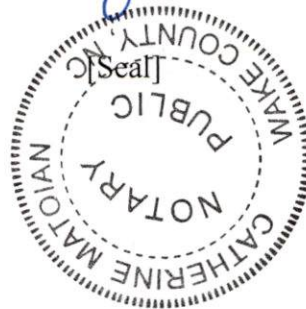


EXHIBIT 1

STATE OF NORTH CAROLINA
COUNTY OF ROBESON

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
13 CRS 3511 and 13 CRS 54359

STATE OF NORTH CAROLINA,)
)
)
 v.)
)
 CLARENCE ROBERTS)
)
)
 _____)

AFFIDAVIT

NOW COMES, the affiant, after having first been duly sworn, and states as follows:

1. I am an adult over the age of 18, do not suffer from any disability, am competent to make this affidavit, and make this affidavit of my own free will, stating facts of which I have personal knowledge.
2. I am a Staff Attorney for the North Carolina Innocence Inquiry Commission (hereinafter "Commission").
3. During the Commission's investigation into the above-captioned matter, the Commission received files from the Lumberton Police Department (hereinafter "LPD"), the North Carolina State Bureau of Investigation (hereinafter "SBI"), defense attorney files, and a copy of the trial transcript. The SBI file contains a report regarding an interview conducted with Crystal Allen (hereinafter "Allen") who was present during the shooting and was originally considered a victim in this case.
4. This shooting occurred at the Hayswood Hut (hereinafter "the Hut") in Lumberton, NC on June 14, 2013. Also present with Allen was her small child, her brother, John Allen (hereinafter "John"), and her cousin, Joshua Council (hereinafter "the Victim").
5. In her interview with the SBI, Allen stated that when the white Ford Taurus first drove by, the driver appeared to be "looking for someone without being noticed." After the vehicle slowly

drove by the area where Allen, John, the Victim, and several others were standing, the driver stopped abruptly "as though he had found what he was looking for." The vehicle then backed up and stopped in front of Allen's vehicle. Allen stated that the driver got out and yelled, "You going to kill me?" and then began shooting.

6. Allen's description of the shooter was that he was a dark-skinned black male, who appeared to be about 5'9" to 6'0", and who was thin but muscular. She also stated she did not recall that the shooter had any facial hair, and stated he also appeared to be between 35 to 45 years old. Clarence Roberts (hereinafter "Roberts"), at the time of his arrest, was 6'2" and had facial hair.
7. Further, Allen stated that after the shots were fired, she immediately ducked down, placed her small child in the floorboard, and then got into the driver's side floorboard. Although she heard the shots being fired by this individual, she did not recall seeing the gun.
8. After the shots stopped, Allen stated she looked up and saw the shooter standing next to a young, black male who was not wearing a shirt. She noticed the young black male was trying to get into her vehicle. He then said to the shooter, with his hands up, "It wasn't me." Allen then left the area soon after the shooting ended. From a review of the files, in addition to interviews and depositions conducted by the undersigned, the young black male was Ricky Stephens (hereinafter "Stephens").
9. According to another witness in this case, Micheal Burgess (hereinafter "Burgess"), he and Stephens spoke about the shooting after the fact. Burgess told the Commission that he knew who the shooter was because he saw him, that Stephens also knew who the shooter was, and that the shooter was an individual named Dextor Stephens (hereinafter "Dextor").
10. Also based on a review of the investigative files in this case, along with interviews and depositions, Allen is familiar with Dextor and was familiar with him at the time of this crime.

- 11. A photo lineup was also shown to Allen where she did not identify Roberts as the shooter.
- 12. In order to diligently investigate this case as objectively as possible, the deposition with Allen needs to be completed because Allen's testimony is critical to the Commission's investigation into Roberts' claim of innocence.
- 13. I swear that the statements in this affidavit are based on my own personal knowledge and are true and correct statements of the events described therein.

This the 7th day of July, 2023.



Mackenzie C. Myers
Staff Attorney
N.C. Innocence Inquiry Commission

STATE OF NORTH CAROLINA
COUNTY OF Wake

Sworn to and subscribed before me,
this 7 day of July, 2023.



Notary Public

(Seal)



My Commission Expires: 3.19.28

EXHIBIT 2

STATE OF NORTH CAROLINA

File No.

13 CRS 3511

Robeson County

In The General Court Of Justice
District Superior Court Division

State of North Carolina

Additional File Numbers
13 CRS 54359

VERSUS

Clarence Roberts

SUBPOENA

G.S. 1A-1, Rule 46; 8-59, -61, -63; 15A-801, -802

Party Requesting Subpoena

State/Plaintiff Defendant

NOTE TO PARTIES NOT REPRESENTED BY COUNSEL: Subpoenas may be produced at your request, but must be signed and issued by the office of the Clerk of Superior Court, or by a magistrate or judge.

Name And Address Of Person Subpoenaed
Crystal Allen

Alternate Address

Telephone No.

Telephone No.

YOU ARE COMMANDED TO: (check all that apply)

- appear and testify, in the above entitled action, before the court at the place, date and time indicated below.
appear and testify, in the above entitled action, at a deposition at the place, date and time indicated below.
produce and permit inspection and copying of the following items, at the place, date and time indicated below.
See attached list. (List here if space sufficient)

PURSUANT TO N.C.G.S. 15A-1467(d), AND 1A-1, RULE 45, you are commanded to appear and testify in the above-captioned matter. Pursuant to 1A-1, RULE 30(b)(4), testimony will be recorded by sound and visual means and a stenographer will not be present.

Name And Location Of Court/Place Of Deposition/Place To Produce

Angel Exchange Building at COMtech
Second Floor Conference Room
201 Livermore Drive
Pembroke, NC 28372

Date To Appear/Produce, Until Released

3/15/2023

Time To Appear/Produce, Until Released

10:00

AM PM

Date

3/1/23

Signature

Mackenzie Myers

Name And Address Of Applicant Or Applicant's Attorney

Mackenzie Myers
North Carolina Innocence Inquiry Commission
P.O. Box 2448
Raleigh, NC 27602

- Deputy CSC Assistant CSC Clerk Of Superior Court
Magistrate Attorney/DA District Court Judge
Superior Court Judge

Telephone No. Of Applicant Or Applicant's Attorney

(919) 890-1580

RETURN OF SERVICE

I certify this subpoena was received and served on the person subpoenaed as follows:

- personal delivery registered or certified mail, receipt requested and attached.
telephone communication by Sheriff (use only for a witness subpoenaed to appear and testify).
telephone communication by local law enforcement agency (use only for a witness subpoenaed to appear and testify in a criminal case).
NOTE TO COURT: If the witness was served by telephone communication from a local law enforcement agency in a criminal case, the court may not issue a show cause order or order for arrest against the witness until the witness has been served personally with the written subpoena.

I was unable to serve this subpoena. Reason unable to serve:

Table with 4 columns: Service Fee, Date Served, Name Of Authorized Server, Signature Of Authorized Server, Title/Agency

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

AOC-G-100, Rev. 2/18

(Please see reverse side)

© 2018 Administrative Office of the Courts

NOTE: Rule 45, North Carolina Rules of Civil Procedure, Subsections (c) and (d).

(c) Protection of Persons Subject to Subpoena

- (1) **Avoid undue burden or expense.** - A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.
- (2) **For production of public records or hospital medical records.** - Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.
- (3) **Written objection to subpoenas.** - Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:
- The subpoena fails to allow reasonable time for compliance.
 - The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
 - The subpoena subjects a person to an undue burden or expense.
 - The subpoena is otherwise unreasonable or oppressive.
 - The subpoena is procedurally defective.
- (4) **Order of court required to override objection.** - If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.
- (5) **Motion to quash or modify subpoena.** - A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

- (6) **Order to compel: expenses to comply with subpoena.** - When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.
- (7) **Trade secrets; confidential information.** - When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.
- (8) **Order to quash: expenses.** - When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.

(d) Duties in Responding to Subpoena

- (1) **Form of response.** - A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.
- (2) **Form of producing electronically stored information not specified.** - If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.
- (3) **Electronically stored information in only one form.** - The person responding need not produce the same electronically stored information in more than one form.
- (4) **Inaccessible electronically stored information.** - The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitations of Rule 26(b)(1a). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.
- (5) **Specificity of objection.** - When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

NOTE: If you have any questions about being subpoenaed as a witness, you should contact the person named on Page One of this Subpoena in the box labeled "Name And Address Of Applicant Or Applicant's Attorney."

DUTIES OF A WITNESS

- Unless otherwise directed by the presiding judge, you must answer all questions asked when you are on the stand giving testimony.
- In answering questions, speak clearly and loudly enough to be heard.
- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to court or to the deposition.
- You must continue to attend court until released by the court. You must continue to attend a deposition until the deposition is completed.

BRIBING OR THREATENING A WITNESS

It is a violation of State law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a case, you should promptly report that to the district attorney or the presiding judge.

WITNESS FEE

A witness under subpoena and that appears in court to testify, is entitled to a small daily fee, and to travel expense reimbursement, if it is necessary to travel outside the county in order to testify. (The fee for an "expert witness" will be set by the presiding judge.) After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the Clerk's office and certify your attendance as a witness so that you will be paid any amount due you.

EXHIBIT 3



Wed, Mar 1, 10:57 PM

I am very upset about the harassment y'all caused my family today I'm in my house asleep at 11:00 at night and here comes a sheriff knocking on my door I am not testifying about a case that happened a long time ago I did not testify then and I'm not testifying now y'all should think more about people then what y'all do trying to subpoena somebody for something they're not willing to be a part of

Thu, Mar 2, 11:37 AM

Hi, thanks for texting me. I am so sorry that the sheriff came to your house so late. That was not our intention and I don't think that was appropriate. The Innocence Commission is



Text Message





[Redacted name]

Thu, Mar 2, 11:37 AM

Hi, thanks for texting me. I am so sorry that the sheriff came to your house so late. That was not our intention and I don't think that was appropriate. The Innocence Commission is required by statute to investigate claims of innocence made by people convicted of crimes in NC. To fully investigate Mr. Roberts claim, the investigators must speak to the witnesses of the crime. The Commission is not working for Mr. Roberts, our investigators are neutral and are only interested in the truth. I'm sorry this investigation is having a negative impact on you. Unfortunately, this is the process we are required to follow.



Text Message 





negative impact on you. Unfortunately, this is the process we are required to follow. Your deposition will not be held at a courthouse. It will be private and while the investigation is ongoing, your deposition is confidential. I am not an investigator - it's my job to answer your questions and provide support. Please give me a call if you want to discuss the Commission process in more detail.

Tue, Mar 14, 10:40 AM

Hi Cyrstal,
Please let me know if you have any questions about your deposition tomorrow. It will be held in an office building in a private room. There is plenty of




Text Message 



EXHIBIT 4

ROBESON CO. SHERIFF'S OFFICE

**CIVIL DIVISION
120 Legend Rd.
Lumberton, NC 28358
Phone: (910) 671-6825**

Date: April 24, 2023

Docket/Case # 13CRS3511

Civil ID: 266285

Plaintiff Name STATE OF NC	AFFIDAVIT OF SERVICE SUBPOENA
Versus	
Served to: ALLEN, CRYSTAL	

A copy of SUBPOENA, or that service was obtained on the defendant in accordance with N.C. General Statute G.S. 1A-1, Rule 4 (Supp. 1979). (Explanation of other than personal service)

Personal Service _____

Leave a copy _____

By Serving _____

Unable to Locate _____

Associated Fees: Mileage: \$0.00 Other: \$0.00 Total Fees: \$0.00

Date: 3-1-23 Time: 100pm

Cpt. Kevin Deese - supervisor
Agent For Server

Burnis L. Wilkins , Sheriff
Robeson County

EXHIBIT 5



Tue, Mar 14, 10:40 AM

Hi Crystal,
Please let me know if you have any questions about your deposition tomorrow. It will be held in an office building in a private room. There is plenty of parking around the building. If you have any trouble finding the room please text or call me. While the investigation is ongoing, your deposition will be completely confidential. If you have any concerns about security or confidentiality, I'm here to hear you out.

- Emma Paul, Victim Advocate

Tue, Mar 14, 2:23 PM

I just called and left your office a message I will not be attending any deposition



Text Message






attending any deposition tomorrow or whatever you want to call it I want y'all to leave me alone I don't have anything to say to you all about nothing leave me alone I will be at my job tomorrow where my life is that pay my bills

Tue, Mar 14, 3:32 PM

Hi Cyrstal, I know this crime must be a very difficult memory to revisit. I'm sorry that our investigation is bringing it up again. Our investigator Mackenzie just wants to sit down with you and ask you a few questions. Her goal is to understand the truth of what happened that night and she needs to interview all the people who were witnesses. We will do our best not to take



Text Message 





to revisit. I'm sorry that our investigation is bringing it up again. Our investigator Mackenzie just wants to sit down with you and ask you a few questions. Her goal is to understand the truth of what happened that night and she needs to interview all the people who were witnesses. We will do our best not to take up too much of our time. We can absolutely reschedule the deposition for a time that you aren't in work. I apologize for not being in the office when you called earlier but I am available to talk about any concerns you have.

Monday 12:05 PM

Hi Crystal, would you mind giving me a call? You can reach




Text Message 



EXHIBIT 6

From: [Fitts, Christopher J.](#)
To: [Myers, Mackenzie C.](#)
Subject: Phone Call - Crystal Allen
Date: Tuesday, March 14, 2023 2:26:33 PM
Attachments: [image001.png](#)

Mackenzie,

Crystal Allen just called the main line to say that she is refusing to show-up for the deposition tomorrow. She was upset during the call. Crystal stated she does not want to be apart of this case and wants to be left alone. She said she refused to testify at trial and refuses to talk with us now. Crystal mentioned that she will be at her job tomorrow and told me that might mean she will be locked up. The number on the caller ID was [REDACTED]

Thanks,



Jason Fitts

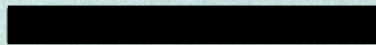
Case Manager

919-890-1580 Office

919-890-1937 Fax

www.InnocenceCommission-NC.gov

EXHIBIT 7



Monday 12:05 PM

Hi Cyrstal, would you mind giving me a call? You can reach me at this number (919-903-2541) at any point or at 919-890-1577 during the work day. It is still important that our investigator speak to you, but we can make that as flexible as possible. You can choose the location you are most comfortable with and the time of the interview. You can also bring someone along with for support. Please let me know what you think. I'm available to discuss all the options and I'd appreciate the chance to talk to you.
-Emma

Today 2:40 PM




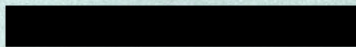
Text Message 



EXHIBIT 8



Today 2:40 PM

Cyrstal, could you give me a call by Friday? I need to speak with you about the next steps for the investigation. I am here to hear you out and I would like to know more about where you are coming from. Unfortunately, the investigators must interview all of the people who witnessed the crime. If we cannot reach you, the investigator will move forward with asking a judge to declare you a material witness, which means you will be issued a court date and assigned an attorney. I don't mean this as a threat, but I do want you to know what to expect next. Again, I'm available to talk. You can reach me on this number.

- Emma



Text Message 



EXHIBIT 9

STATE OF NORTH CAROLINA

File No.

13 CRS 3511

Robeson County

In The General Court Of Justice
District Superior Court Division

State of North Carolina

Additional File Numbers
13 CRS 54359

VERSUS

Clarence Roberts

SUBPOENA

G.S. 1A-1, Rule 45; 8-59, -61, -63; 15A-901, -802

Party Requesting Subpoena

State/Plaintiff Defendant

NOTE TO PARTIES NOT REPRESENTED BY COUNSEL: Subpoenas may be produced at your request, but must be signed and issued by the office of the Clerk of Superior Court, or by a magistrate or judge.

Name And Address Of Person Subpoenaed

Cyrstal Allen

Alternate Address

Telephone No.

Telephone No.

YOU ARE COMMANDED TO: (check all that apply)

- appear and testify, in the above entitled action, before the court at the place, date and time indicated below.
appear and testify, in the above entitled action, at a deposition at the place, date and time indicated below.
produce and permit inspection and copying of the following items, at the place, date and time indicated below.
See attached list. (List here if space sufficient)

PURSUANT TO N.C.G.S. 15A-1467(d), AND 1A-1, RULE 45, you are commanded to appear and testify in the above-captioned matter. Pursuant to 1A-1, RULE 30(b)(4), testimony will be recorded by sound and visual means and a stenographer will not be present.

Name And Location Of Court/Place Of Deposition/Place To Produce

Robeson County Courthouse
Jury Room 2B
505 N. Elm Street
Lumberton, NC 28359

Date To Appear/Produce, Until Released

May 2, 2023

Time To Appear/Produce, Until Released

10:00

AM PM

Date

04/12/2023

Name And Address Of Applicant Or Applicant's Attorney

Mackenzie C. Myers
North Carolina Innocence Inquiry Commission
P.O. Box 2448
Raleigh, NC 27602

Signature

[Handwritten Signature]

Deputy CSC

Assistant CSC

Clerk Of Superior Court

Magistrate

Attorney/DA

District Court Judge

Superior Court Judge

Telephone No. Of Applicant Or Applicant's Attorney

(919) 890-1580

RETURN OF SERVICE

I certify this subpoena was received and served on the person subpoenaed as follows:

- personal delivery
telephone communication by Sheriff
telephone communication by local law enforcement agency

NOTE TO COURT: If the witness was served by telephone communication from a local law enforcement agency in a criminal case, the court may not issue a show cause order or order for arrest against the witness until the witness has been served personally with the written subpoena.

I was unable to serve this subpoena. Reason unable to serve:

Service Fee

Paid Due

Date Served

Name Of Authorized Server (type or print)

Signature Of Authorized Server

Title/Agency

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

AOC-G-100; Rev. 2/18

(Please see reverse side)

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4/15/23 Attempted @ address - no one home

4/17/23 Attempted @ address left car & male subject at residence

EXHIBIT 10

From: [Smith, Alexandria D.](#)
To: [Ash Simmons](#)
Subject: Re: MOU
Date: Tuesday, April 18, 2023 12:38:09 PM
Attachments: [image001.png](#)

I appreciate you trying. I am actually in Lumberton today and out of the office, but you can leave the file at the front desk like before.

Get [Outlook for iOS](#)

From: Ash Simmons <coythedog@gmail.com>
Sent: Tuesday, April 18, 2023 8:45:41 AM
To: Smith, Alexandria D. <alexandria.d.smith@nccourts.org>
Subject: Re: MOU

Good morning my Cousin,

So, unfortunately this is a half glass status update. We have been able to locate and serve subpoena on [REDACTED] Unfortunately, we couldn't serve Miss Allen. We were able to verify residence and made contact with a male subject at that location. He verified that Allen did reside there, but she wasn't there currently. Male was extremely agitated and confrontational. Demanded that we stop harassing Allen and they are going to sue.

Based upon his aggressive behavior, I felt it best to back off.

I am sorry we couldn't get both, just ran out of time within the constraints of the contract. I will drop off the package today.

Respectfully,

EXHIBIT 11

STATE OF NORTH CAROLINA

File No.

13 CRS 3511

Robeson County

In The General Court Of Justice
 District Superior Court Division

State of North Carolina

Additional File Numbers
 13 CRS 54359

VERSUS

Clarence Roberts

SUBPOENA

G.S. 1A-1, Rule 45: 8-59, -61, -63; 15A-801, -802

Party Requesting Subpoena
 State/Plaintiff Defendant

NOTE TO PARTIES NOT REPRESENTED BY COUNSEL: Subpoenas may be produced at your request, but must be signed and issued by the office of the Clerk of Superior Court, or by a magistrate or judge.

TO Name And Address Of Person Subpoenaed
 Crystal Allen

Alternate Address



Telephone No.

Telephone No.

YOU ARE COMMANDED TO: (check all that apply)

- appear and testify, in the above entitled action, before the court at the place, date and time indicated below.
- appear and testify, in the above entitled action, at a deposition at the place, date and time indicated below.
- produce and permit inspection and copying of the following items, at the place, date and time indicated below.
 - See attached list. (List here if space sufficient)

PURSUANT TO N.C.G.S. 15A-1467(d), AND 1A-1, RULE 45, you are commanded to appear and testify in the above-captioned matter. Pursuant to 1A-1, RULE 30(b)(4), testimony will be recorded by sound and visual means and a stenographer will not be present.

Name And Location Of Court/Place Of Deposition/Place To Produce
 Robeson County Courthouse
 Jury Room 2B
 505 N. Elm Street
 Lumberton, NC 28359

Date To Appear/Produce, Until Released
 June 12, 2023

Time To Appear/Produce, Until Released
 10:00

AM PM

Date

05/10/2023

Name And Address Of Applicant Or Applicant's Attorney
 Mackenzie C. Myers
 North Carolina Innocence Inquiry Commission
 P.O. Box 2448
 Raleigh, NC 27602

Signature

- Deputy CSC
- Assistant CSC
- Clerk Of Superior Court
- Magistrate
- Attorney/DA
- District Court Judge
- Superior Court Judge

Telephone No. Of Applicant Or Applicant's Attorney
 (919) 890-1580

RETURN OF SERVICE

I certify this subpoena was received and served on the person subpoenaed as follows:

- By personal delivery. registered or certified mail, receipt requested and attached.
- telephone communication by Sheriff (use only for a witness subpoenaed to appear and testify).
- telephone communication by local law enforcement agency (use only for a witness subpoenaed to appear and testify in a criminal case).
- NOTE TO COURT:** If the witness was served by telephone communication from a local law enforcement agency in a criminal case, the court may not issue a show cause order or order for arrest against the witness until the witness has been served personally with the written subpoena.
- I was unable to serve this subpoena. Reason unable to serve: _____

Service Fee \$ <input type="checkbox"/> Paid <input type="checkbox"/> Due	Date Served	Name Of Authorized Server (type or print)	Signature Of Authorized Server	Title/Agency
---	-------------	---	--------------------------------	--------------

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

AOC-G-100, Rev. 2/18

(Please see reverse side)

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NOTE: Rule 45, North Carolina Rules of Civil Procedure, Subsections (c) and (d).

(c) Protection of Persons Subject to Subpoena

- (1) **Avoid undue burden or expense.** - A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.
- (2) **For production of public records or hospital medical records.** - Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.
- (3) **Written objection to subpoenas.** - Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:
 - a. The subpoena fails to allow reasonable time for compliance.
 - b. The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
 - c. The subpoena subjects a person to an undue burden or expense.
 - d. The subpoena is otherwise unreasonable or oppressive.
 - e. The subpoena is procedurally defective.
- (4) **Order of court required to override objection.** - If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in which the deposition or production of materials is to occur.
- (5) **Motion to quash or modify subpoena.** - A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in which the trial, hearing, deposition, or production of materials is to occur.

- (6) **Order to compel: expenses to comply with subpoena.** - When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.
- (7) **Trade secrets; confidential information.** - When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.
- (8) **Order to quash: expenses.** - When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.

(d) Duties in Responding to Subpoena

- (1) **Form of response.** - A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.
- (2) **Form of producing electronically stored information not specified.** - If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.
- (3) **Electronically stored information in only one form.** - The person responding need not produce the same electronically stored information in more than one form.
- (4) **Inaccessible electronically stored information.** - The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitations of Rule 28(b)(1a). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.
- (5) **Specificity of objection.** - When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

NOTE: If you have any questions about being subpoenaed as a witness, you should contact the person named on Page One of this Subpoena in the box labeled "Name And Address Of Applicant Or Applicant's Attorney."

DUTIES OF A WITNESS

- Unless otherwise directed by the presiding judge, you must answer all questions asked when you are on the stand giving testimony.
- In answering questions, speak clearly and loudly enough to be heard.
- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to court or to the deposition.
- You must continue to attend court until released by the court. You must continue to attend a deposition until the deposition is completed.

BRIBING OR THREATENING A WITNESS

It is a violation of State law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a case, you should promptly report that to the district attorney or the presiding judge.

WITNESS FEE

A witness under subpoena and that appears in court to testify, is entitled to a small daily fee, and to travel expense reimbursement, if it is necessary to travel outside the county in order to testify. (The fee for an "expert witness" will be set by the presiding judge.) After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the Clerk's office and certify your attendance as a witness so that you will be paid any amount due you.

EXHIBIT 12

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

\$

Extra Services & Fees (check box, add fee as appropriate)

- Return Receipt (hardcopy) \$ _____
- Return Receipt (electronic) \$ _____
- Certified Mail Restricted Delivery \$ _____
- Adult Signature Required \$ _____
- Adult Signature Restricted Delivery \$ _____

Postage

\$

Total Postage and Fees

\$

Sent To

Crystal Allen

Street and Apt. No. or PO Box No.

City, State, ZIP+4®

Fairmont, NC 28340-5656

Postmark
Here

7016 1370 0001 3287 2417

Certified Mail service provides the following benefits:

- A receipt (this portion of the Certified Mail label).
- A unique identifier for your mailpiece.
- Electronic verification of delivery or attempted delivery.
- A record of delivery (including the recipient's signature) that is retained by the Postal Service™ for a specified period.

Important Reminders:

- You may purchase Certified Mail service with First-Class Mail®, First-Class Package Service®, or Priority Mail® service.
- Certified Mail service is *not* available for international mail.
- Insurance coverage is *not* available for purchase with Certified Mail service. However, the purchase of Certified Mail service does not change the insurance coverage automatically included with certain Priority Mail items.
- For an additional fee, and with a proper endorsement on the mailpiece, you may request the following services:
 - Return receipt service, which provides a record of delivery (including the recipient's signature). You can request a hardcopy return receipt or an electronic version. For a hardcopy return receipt, complete PS Form 3811, *Domestic Return Receipt*; attach PS Form 3811 to your mailpiece;
 - Restricted delivery service, which provides delivery to the addressee specified by name, or to the addressee's authorized agent.
 - Adult signature service, which requires the signee to be at least 21 years of age (not available at retail).
 - Adult signature restricted delivery service, which requires the signee to be at least 21 years of age and provides delivery to the addressee specified by name, or to the addressee's authorized agent (not available at retail).
- To ensure that your Certified Mail receipt is accepted as legal proof of mailing, it should bear a USPS postmark. If you would like a postmark on this Certified Mail receipt, please present your Certified Mail item at a Post Office™ for postmarking. If you don't need a postmark on this Certified Mail receipt, detach the barcoded portion of this label, affix it to the mailpiece, apply appropriate postage, and deposit the mailpiece.

IMPORTANT: Save this receipt for your records.

EXHIBIT 13

Tracking Number:

Remove X

70161370000132872417

Copy

Add to Informed Delivery (<https://informedelivery.usps.com/>)

Latest Update

Your item was delivered to an individual at the address at 11:35 am on May 15, 2023 in FAIRMONT, NC 28340.

Get More Out of USPS Tracking:

USPS Tracking Plus[®]

Delivered

Delivered, Left with Individual

FAIRMONT, NC 28340

May 15, 2023, 11:35 am

Departed USPS Regional Facility

FAYETTEVILLE NC DISTRIBUTION CENTER ANNEX

May 15, 2023, 3:54 am

In Transit to Next Facility

May 14, 2023

Arrived at USPS Regional Facility

FAYETTEVILLE NC DISTRIBUTION CENTER ANNEX

May 13, 2023, 4:26 am

Departed USPS Regional Facility

RALEIGH NC DISTRIBUTION CENTER

May 12, 2023, 9:05 pm

Arrived at USPS Regional Facility

RALEIGH NC DISTRIBUTION CENTER

May 12, 2023, 8:12 pm

● **Hide Tracking History**

See More ✓

Track Another Package

Enter tracking or barcode numbers

Need More Help?

Contact USPS Tracking support for further assistance.

FAQs

Handout 22

Order for Show Cause
– Cyrstal Allen

File No. 13CRS 3511, 13CRS 54359

STATE OF NORTH CAROLINA

SHOW CAUSE ORDER, FINDINGS AND JUDGMENT - FAILURE TO PAY FINE AND/OR COSTS, TO OBEY JURY SUMMONS, TO APPEAR PURSUANT TO CRIMINAL SUMMONS, OR FOR CONTEMPT

Robeson/Johnson County In The General Court Of Justice
[] District [X] Superior Court Division [] Before The Clerk

STATE VERSUS/IN THE MATTER OF

Name And Address Of Defendant/Contemnor
Crystal Allen

To the Defendant/Contemnor Named To The Left: Upon motion of the moving party named herein or on its own motion, the Court finds probable cause to believe that you should be held in contempt of court or fined for your:

County Of Residence Telephone No.
Robeson 910.747.9755
Race Sex Date Of Birth Age
B F 10/9/85 37
Social Security No. Drivers License No. & State

[] I. Failure To Pay Fine And/Or Costs [G.S. 15A-1364]
Failure to pay the fine and/or costs as ordered in this case. The Court will conduct a hearing and decide whether you should be imprisoned for your failure to pay the fine and/or costs. The amount of the fine and/or costs that you were ordered to pay and the balance due as of the date of this Order are as follows:

Table with 2 columns: Amount Of Fine And/Or Costs Ordered Paid, Balance Due As Of The Date Of This Order. Both are \$.

Name And Address Of Moving Party, If Not The Court
NC Innocence Inquiry Commission
901 Corporate Center Drive
Raleigh, NC 27607

[] II. Failure To Obey Jury Summons [G.S. 9-13]
Failure to report for jury duty as directed pursuant to a jury summons issued on (date) _____.

[] III. Failure To Obey Other Order Of The Court [G.S. 5A-11; G.S. 5A-21]
Failure to obey the order of the Court indicated below:

Table with 4 columns: Date Of Order, File Number, County, Name Of Official Who Entered Order.

Describe Action(s) Ordered And Facts Constituting Contempt

RETURN OF SERVICE

I certify that this Order was received and served as follows:
[] By personally serving the defendant/contemnor named above with a copy of this Order.
[] Defendant/contemnor WAS NOT served for the following reason:

[] IV. Failure To Obey Order To Appear Pursuant To Criminal Summons [G.S. 15A-303(e)(3); G.S. 5A-11]
Failure to appear before this Court as directed by a criminal summons issued and duly served on you, ordering you to appear before this Court and answer to the offense(s) indicated below:

Table with 4 columns: Date Summons Issued, File Number, County, Name Of Official Who Issued Summons.
Table with 3 columns: Date Summons Served, Date Of Failure To Appear, Offense(s).

Date Received Date Served Time Served [] AM [] PM Date Returned

Name Of Officer (type or print)

Signature Of Officer

Department Or Agency

County Of Department/Agency

[X] V. Other Criminal Contempt [G.S. 5A-11; G.S. 15A-1344(e1)]
Act of criminal contempt described below: (NOTE TO COURT: The grounds provided in G.S. 5A-11(a) are exclusive.)

The contemnor was subpoenaed to be present in Johnson County Court on 8/3/23 @ 2pm regarding a material witness order and failed to come to court on that date and time.

You are ORDERED to appear before the Court as indicated below and show cause why you should not be punished for contempt or for failure to comply with the Court's order as described above. If you do not appear, the Court may issue an order for your arrest or may enter other sanctions against you in your absence.

NOTE TO CLERK: An Order under No. I is filed in the original criminal/infraction case. An Order under No. II is either a Miscellaneous or Registration file, based on its disposition; see Rule of Recordkeeping 16. An Order under No. III establishes a new CR/CRS case if prosecuted as criminal contempt, but it is filed in the existing case file if disposed as civil contempt. An Order under No. IV or V establishes a new CR/CRS case in the court in which filed.

Location Of Court Johnson County Courthouse #2 Court Date 8/14/23 Court Time 10 AM [X] AM [] PM

Date Order Issued 8-3-2023 Name Of Issuing Official (type or print) Thomas H. Lock Signature Of Issuing Official [Signature]

[X] Superior Court Judge [] District Court Judge [] Magistrate [] Clerk Of Superior Court [] Assistant CSC [] Deputy CSC

Attorney For State/Moving Party
Attorney For Defendant/Contemnor

Def. Not Indigent Waived Appointed Retained

APPEAL ENTRIES - CRIMINAL CONTEMPT

NOTE TO COURT: If finding of contempt was made by a judicial official inferior to a Superior Court Judge, the appeal is to Superior Court. G.S. 5A-17. On appeal from criminal contempt imposing confinement, there must be a bail hearing "within a reasonable time period" after confinement is imposed. The contemnor may not be confined more than 24 hours without a bail hearing. See G.S. 5A-17(b) for officials who may conduct the hearing.
 The defendant/contemnor gives notice of appeal from the judgment of the District Court to the Superior Court.

The defendant/contemnor gives notice of appeal from the judgment of the Superior Court to the Appellate Division. Appellate entries and any conditions of post-conviction release are set forth on form AOC-CR-350.

Date Name Of Presiding Judge (type or print)

Signature Of Presiding Judge

CERTIFICATION

I certify that this Judgment and attachment(s) marked below is a true and complete copy of the original which is on file in this case.
 Appellate Entries (AOC-CR-350)
 Other:

Date Date Certified Copies Delivered To Sheriff

SEAL Signature Of Clerk

Deputy CSC Assistant CSC Clerk Of Superior Court

FINDINGS

The defendant/contemnor having appeared not appeared before the Court, the Court makes the following findings:
Contempt, G.S. Chapter 5A. (NOTE: The Court may not find both civil and criminal contempt for the same conduct. G.S. 5A-12(d), 5A-21(c), and 5A-23(g).)

that the defendant/contemnor is not in criminal or civil contempt.
 that the defendant/contemnor is in criminal civil contempt of court, based on the Court's findings of fact beyond a reasonable doubt and conclusions of law herein: (attach additional pages if necessary)

Failure To Obey Jury Summons, G.S. 9-13.

that the juror was summoned to appear, was served with a jury summons, failed to appear, and has has not rendered an excuse deemed sufficient for that failure to appear.
 Other:

Failure To Pay Fine And/Or Costs, G.S. 15A-1364.

that the defendant has defaulted in payment of the fine and/or costs imposed in this case, for which defendant had the ability to comply or failed to make a good faith effort to obtain the necessary funds for payment.
 Other:

JUDGMENT

Dismissal. All proceedings pursuant to this Show Cause Order are dismissed.
 Criminal Contempt, G.S. 5A-12. It is ORDERED that the defendant: (check all that apply)
NOTE TO COURT: If suspending a sentence for contempt, impose judgment on form AOC-CR-604.
 1. is hereby censured for contempt. 2. shall pay a fine of \$ _____ (max \$500.00). 3. shall pay the costs of court.
 4. be imprisoned for a term of _____ days in the custody of the Sheriff Other: _____
The defendant shall be given credit for _____ days' pretrial confinement. Work release is recommended.
 This sentence shall run at the expiration of the sentence imposed in file number _____
 Civil Contempt, G.S. 5A-21. It is ORDERED that the contemnor be imprisoned in the custody of the Sheriff until the contemnor purges himself/herself of the contempt by: (describe conduct to purge) _____

The Sheriff shall release the contemnor from custody unconditionally upon finding pursuant to G.S. 5A-22 that the contemnor has satisfied the purge condition(s) above or upon notice from a judicial official of such satisfaction.

Rehearing Date. If the contemnor is not sooner released, the Sheriff is hereby ORDERED to produce him/her before this Court at the time, date, and location below for a de novo hearing on the issue of contempt.

NOTE TO COURT: A person committed for civil contempt for nonpayment of a monetary obligation other than child support may not be imprisoned more than 90 days at one time. Recommitment is allowed only after a de novo hearing for contempt. G.S. 5A-21(b2).

Location Of Court Court Date Court Time AM PM

Failure To Obey Jury Summons, G.S. 9-13. The juror is ordered to pay a fine of \$ _____ (not to exceed \$50.00). If the fine is not paid by (date) _____, the Clerk shall docket a civil judgment for that amount and issue an execution against the juror's estate.

Failure To Pay Fine And/Or Costs, G.S. 15A-1364. The Court hereby orders that:
NOTE TO COURT: To activate a suspended sentence imposed at the time of conviction, use form AOC-CR-343, AOC-CR-607, or AOC-CR-608.

the defendant be imprisoned for _____ days (not to exceed 30) in the custody of the Sheriff, N.C. DAC.
 The Court finds that the defendant is is not suitable for placement in a county satellite jail/work release unit.
 the defendant's fine and cost obligations are modified as follows: _____
 upon receipt of notice from a judicial official that the defendant has paid or satisfied the remaining obligation for the fine and costs, the custodian designated above shall release the defendant from custody.
 The Clerk shall docket the fine of \$ _____ and costs of \$ _____ against the defendant as a civil judgment, G.S. 15A-1365.
 but pursuant to the defendant's election to serve a sentence of imprisonment for the default, no execution may issue thereon.

ORDER OF COMMITMENT

It is ordered that the Clerk deliver two certified copies of this Judgment and Commitment to the Sheriff or other qualified officer and that the officer cause the defendant/contemnor to be delivered with these copies to the custody of the agency named above to serve the sentence imposed or until the defendant/contemnor shall have complied with the conditions for his/her release.

SIGNATURE OF JUDICIAL OFFICIAL

Date Name Of Presiding Judicial Official (type or print) Signature Of Presiding Judicial Official

Handout 23

John Allen Criminal History Chart

JOHN ALLEN

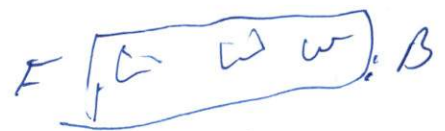
CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
DWLR	ROBESON	09/13/2008	07/09/2012
POSSES MARIJUANA UP TO 1/2 OZ	ROBESON	11/27/2010	07/09/2012
POSSES DRUG PARAPHERNALIA	ROBESON	01/16/2009	10/14/2009
DWLR	ROBESON	01/16/2009	10/14/2009
POSSES MARIJUANA UP TO 1/2 OZ	ROBESON	01/16/2009	10/14/2009
POSSES MARIJUANA UP TO 1/2 OZ	ROBESON	04/01/2008	05/21/2008
POSSES MARIJUANA UP TO 1/2 OZ	ROBESON	02/29/2008	04/30/2008
DWI- LEVEL 5	ROBESON	01/27/2008	09/25/2008
PWISD MARIJUANA	ROBESON	01/27/2008	01/12/2009
POSSES DRUG PARAPHERNALIA	ROBESON	01/27/2008	01/12/2009
POSSES MARIJUANA UP TO 1/2 OZ	ROBESON	01/11/2008	02/14/2008
POSSES ALCOHOL	ROBESON	01/11/2008	02/12/2008
POSSES MARIJUANA UP TO 1/2 OZ	ROBESON	01/2/2004	08/18/2004
SHOPLIFTING CONCEALMENT OF GOODS	ROBESON	02/27/2001	09//24/2001
B&E	ROBESON	11/29/1999	02/12/2001

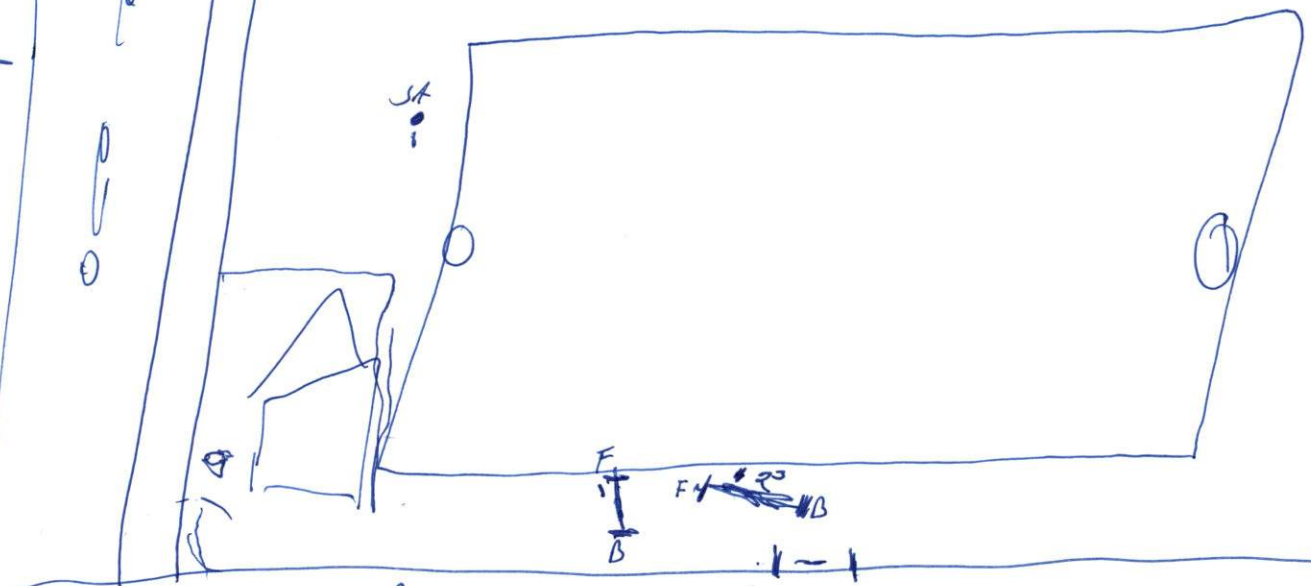
Handout 24

John Allen Diagram

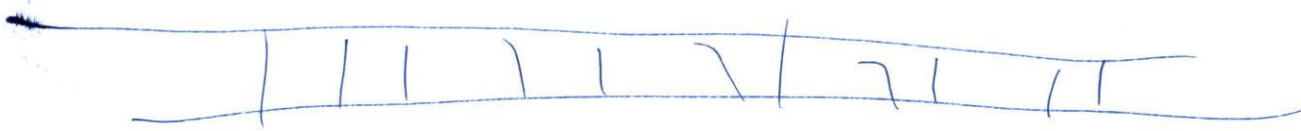
Playground



town



Peachtree



John Allen
March 16, 2023

Handout 25

John Allen Text Packet



Text Message
Thu, Mar 23, 10:21 AM

Hey John, this is Mackenzie with the Commission. Do you have a couple minutes for me to talk with you this morning? Thanks!

iMessage
Wed, Mar 29, 9:58 AM

Hey John - it's Mackenzie with the NC Innocence Inquiry Commission. I just left you a voicemail. Please give me a call. Thank you!

Thu, Mar 30, 11:03 AM

Hello I can call round 1

Absolutely. Talk to you then.

Thu, Mar 30, 1:20 PM



iMessage



Absolutely. Talk to you then.

Thu, Mar 30, 1:20 PM

Is now a good time for you?

Wed, Jul 19, 11:09 AM

Hi John, this is Mackenzie with the NC Innocence Inquiry Commission. We finally received the draft transcript for your deposition and I want to get that to you as soon as I can. Do you have an email address I can send it to so that I can get that to you today? Thanks!

Thu, Jul 20, 11:13 AM

Good morning and yes. Hope all is well.

all is well.

Mon, Jul 24, 12:16 PM

Hey John, I sent over all the information you need to review your testimony last Friday. Please let me know if you have any questions. Additionally, the hearing has been moved to August 15th-17th and I will need to give you an updated subpoena. Please let me know when the best time will be for me to get that to you. Give me a call any time. Thanks!

Tue, Aug 1, 9:05 AM

John - can I meet you somewhere today to give you your updated subpoena for the hearing?

need to give you an updated subpoena. Please let me know when the best time will be for me to get that to you. Give me a call any time. Thanks!

Tue, Aug 1, 9:05 AM

John - can I meet you somewhere today to give you your updated subpoena for the hearing?

Monday 9:44 AM

Hi John, we will be in touch with you soon regarding which day you will be called to testify. I imagine, at this point, it will be next Wednesday, 8/16. Once we have a better idea, we will let you know. Please call me when you read this. Thanks!

Delivered

Handout 26

John Allen DAC
Handout

Sealed by Order of the
Court.

Handout 27

Michael Burgess Criminal History Chart

MICHAEL BURGESS

CRIMINAL RECORDS

Conviction	Jurisdiction	DOO	Date of Conviction
POSSESSION OF FIREARM BY FELON	ROBESON	12/11/2015	05/05/2017
ROBBERY WITH DANGEROUS WEAPON	ROBESON	12/11/2015	05/05/2017
BREAKING AND / OR ENTERING	ROBESON	09/22/2013	12/11/2013
LARCENY AFTER BREAK/ENTER	ROBESON	09/22/2013	12/11/2013
MISD CARRYING CONCEALED GUN	ROBESON	05/13/2013	07/08/2013
MISD DISCHARGE WEAPON WITHIN CITY LIMITS	ROBESON	05/13/2013	07/08/2013

Note: He has pending charges in Robeson County for two counts of Misd Assault by Pointing a Gun, Possession of Cocaine, Possession of Firearm by Felon, and Possession of Scheduled I Controlled Substance.

Handout 28

Elhodge Kirby Criminal History Chart

ELHODGE KIRBY

CRIMINAL RECORDS

Conviction	Jurisdiction	DOO	Date of Conviction
MISD RESISTING PUBLIC OFFICER	ROBESON	02/01/2017	10/24/2017
MISD UNAUTHORIZED USE OF MOTOR VEHICLE	ROBESON	02/01/2017	10/24/2017
MISD FLEE / ELUDE ARREST WITH MOTOR VEHICLE	ROBESON	02/01/2017	10/24/2017
MISD RESISTING OFFICER	ROBESON	04/17/2016	05/10/2016
MISD INTOXICATED AND DISRUPTIVE	ROBESON	04/17/2016	05/10/2016
MISD LARCENY	ROBESON	04/17/2016	05/10/2016
LARCENY	ROBESON	08/13/2015	05/06/2016
MISD FAIL TO RETURN RENTAL PROPERTY	COLUMBUS	07/07/2014	05/13/2016
POSSESSION OF FIREARM BY FELON	SCOTLAND	03/19/2005	09/21/2005
ROBBERY WITH DANGEROUS WEAPON	SCOTLAND	03/19/2005	09/21/2005
MISD PUBLIC DISTURBANCE	ROBESON	12/28/2004	09/07/2005
MISD LARCENY	ROBESON	01/13/2005	02/18/2005
MISD POSSESS DRUG PARAPHERNALIA	ROBESON	09/27/2004	11/30/2004
MISD PUBLIC DISTURBANCE	ROBESON	09/27/2004	11/30/2004
MISD COMMUNICATING THREATS	ROBESON	09/27/2004	11/30/2004
MISD SECOND DEGREE TRESPASS	ROBESON	09/21/2004	10/15/2004

MISD SECOND DEGREE TRESPASS	ROBESON	09/17/2004	10/15/2004
MISD FIRST DEGREE TRESPASS	ROBESON	09/06/2004	10/15/2004
MISD LARCENY	ROBESON	02/20/2004	05/21/2004
MISD LARCENY	ROBESON	12/11/2003	01/13/2004
MISD SIMPLE ASSAULT	ROBESON	12/11/2003	01/13/2004
MISD COMMUNICATING THREATS	ROBESON	12/11/2003	01/13/2004
MISD PUBLIC DISTURBANCE	ROBESON	12/11/2003	01/13/2004
MISD POSSESS DRUG PARAPHERNALIA	ROBESON	12/11/2003	01/13/2004
MISD RESISTING PUBLIC OFFICER	ROBESON	12/11/2003	01/13/2004
MISD LARCENY	ROBESON	09/03/2003	10/03/2003
MISD LARCENY	ROBESON	07/30/2003	10/03/2003
MISD LARCENY	ROBESON	07/22/2003	10/03/2003
MISD SECOND DEGREE TRESPASS	ROBESON	06/12/2003	07/23/2003
MISD RESISTING PUBLIC OFFICER	ROBESON	04/06/2003	04/28/2003
MISD SECOND DEGRESS TRESPASS	ROBESON	04/06/2003	04/28/2003
MISD SHOPLIFTING CONCEALMENT OF GOODS	ROBESON	03/31/2003	04/25/2003
MISD COMMUNICATING THREATS	ROBESON	01/21/1999	03/15/1999
MISD SECOND DEGREE TRESPASS	ROBESON	01/21/1999	03/15/1999
MISD ASSAULT ON FEMALE	ROBESON	03/12/1998	03/30/1998
MISD RESISTING PUBLIC OFFICER	ROBESON	09/06/1995	09/26/1995

MISD ASSAULT WITH A DEADLY WEAPON	ROBESON	11/15/1993	05/25/1994
FIRST DEGREE BURGLARY	ROBESON	11/15/1993	05/25/1994
MISD INJURY TO PERSONAL PROPERTY	ROBESON	10/30/1993	01/12/1994
PWISD COCAINE	ROBESON	02/06/1992	10/13/1992
MISD RESIST / OBSTRUCT PUBLIC OFFICER	ROBESON	04/22/1992	05/05/1992
MISD ASSAULT ON FEMALE	ROBESON	01/05/1992	12/14/1993
POSSESS STOLEN GOODS / PROPERTY	ROBESON	12/16/1991	10/13/1992
MISD ASSAULT ON GOVT OFFICIAL	ROBESON	08/03/1992	08/26/1992
MISD SHOPLIFTING CONCEALMENT OF GOODS	ROBESON	01/17/1992	05/28/1992
SECOND DEGREE BURGLARY	ROBESON	07/10/1988	03/08/1989
MISD ASSAULT WITH DEADLY WEAPON	ROBESON	07/19/1988	08/01/1988
MISD ASSAULT ON A FEMALE	ROBESON	04/20/1987	01/15/1988
MISD ASSAULT ON A FEMALE	ROBESON	04/20/1987	01/15/1988

Note: Pending charges in Robeson County for Attempted 1st Deg. Rape, 1st Deg. Kidnapping, and 1st Deg. Force Sex Offense.

Handout 29

Shawn Chacon Criminal History Chart

SHAWN CHACON

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
FIRST DEGREE KIDNAPPING	ROBESON	12/07/2013	01/22/2020
LARCENY OF A MOTOR VEHICLE	ROBESON	12/07/2013	01/22/2020
COMMON LAW ROBBERY	ROBESON	12/07/2013	01/22/2020
ROBBERY WITH A DANGEROUS WEAPON	ROBESON	12/07/2013	01/22/2020
FIRST DEGREE KIDNAPPING	ROBESON	12/07/2013	01/22/2020
ASSAULT SERIOUS BODILY INJURY	ROBESON	12/07/2013	01/22/2020
DWI- LEVEL 2	ROBESON	08/25/2012	02/25/2014
DWI- LEVEL 4	CUMBERLAND	06/12/2012	03/14/2013
POSESS MARIJUANA UP TO ½ OZ	BLADEN	02/23/2010	03/09/2010
MISD ASSAULT	HARRISONBURG VA	12/29/2009	04/06/2010
MISD VIOLATE CONDITION OF RELEASE	HARRISONBURG VA	12/20/2004	02/23/2005
MISD LARCENY	HARRISONBURG VA	09/17/2004	02/23/2005
ASSAULT AND BATTERY	HARRISONBURG VA	05/02/2004	06/03/2004

Handout 30

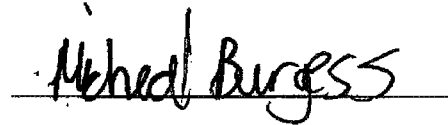
Burgess Statement to
Defense

STATEMENT OF MICHAEL TREY'ANNES BURGESS

1. My address is 227 Summer Lane, Lumberton, NC. My date of birth is December 19, 1996.
2. I was present at the basketball court on Peachtree Street when Joshua Council was shot and killed. Prior to Joshua Council's death, I knew Joshua Council for about a year. We used to hang out together.
3. I do not know the make or model of the white car. I recall that the white car had black or dark paint on the fender trim over the front passenger side tire.
4. I did not tell law enforcement that the shooter's car was a white Ford Taurus. But it was a white car. I did not recognize the make or model of the white car.
5. I recall that the white car that the shooter was in had a 30-day tag on it instead of a regular license tag.
6. The shooter was short and bald. He did not have any hair on his head. The shooter was short enough that he could barely see over the steering wheel.
7. As far as I could tell the shooter did not have any distinguishing features. I could not tell what the shooter was wearing.
8. I am certain that Clarence Roberts was not the shooter. I am presently housed in the same cell block with Clarence Roberts in the Robeson County Jail. I did not know or meet Clarence Roberts prior to meeting him in the Robeson County Jail on December 13, 2015.
9. John Allen and I used to be in the same gang, "EHB."
10. I did not see the shooter actually shooting.
11. In fact, prior to the time that the shooter fired, I heard gunshots from a different gun.
12. I heard 4-6 shots that did not come from the shooter in the white car. After I heard the 4-6 initial shots, I then heard bigger or louder gunshots come from the shooter in the white car. I heard about 10 of these shots. I know that I heard two different guns being fired. I told law enforcement this information.
13. I did not tell law enforcement that the shooter in the white car got out of the white car. If the shooter got out of the white car, I did not see him get out of the car.
14. After the shots were fired, John Allen and I got into Joshua Council's red Chevy Blazer and drove around looking for Joshua until we found him. I have been in or ridden in Joshua Council's red Chevy Blazer about 15-20 times. Joshua Council used to drive a black Mercedes Benz.
15. I stayed at the crime scene until law enforcement arrived.

I have read each of the paragraphs in this two page document and they are true and correct.

This the 14th day of December, 2014.



MICHAEL TREY'ANNES BURGESS



CARL IVARSSON



STEVE MCLAMB

Handout 31

Michael Burgess

Motion for Material

Witness with Affidavit

STATE OF NORTH CAROLINA
COUNTY OF ROBESON

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
13 CRS 3511, 13 CRS 54359

STATE OF NORTH CAROLINA)
)
 v.)
)
 CLARENCE ROBERTS)
)
)
)
)
)

**MOTION FOR MATERIAL WITNESS
ORDER**

NOW COMES the North Carolina Innocence Inquiry Commission (hereinafter “Commission”), through the undersigned counsel, and moves pursuant to N.C.G.S. § 15A-1467(d) and § 15A-803 respectfully moves this court to enter an order assuring the attendance of Micheal Burgess (hereinafter “Burgess”), a material witness, at a deposition or in court before the Commission in the above-captioned matter. In support of this motion, the undersigned shows the Court the following:

1. On June 14, 2014, Joshua Council (“the Victim”), Burgess, and several others were gathered at Hayswood Hut (“the Hut”) in Lumberton, NC. At some point that evening, a vehicle sped down the dirt road that ran parallel to the Hut, came to a halt, reversed, and finally came to a stop. Testimony and witness interviews state that the person driving this vehicle pulled out a firearm and began shooting. The Victim, along with Burgess and others, began to run. While attempting to flee, the Victim was shot and died at the scene. Burgess was able to get away unharmed.

2. On May 5, 2017, after a jury trial, Clarence Roberts (“Roberts”) was found guilty of Second-Degree Murder and Assault with a Deadly Weapon (misdemeanor) all related to the shooting death of the Victim, and a surviving victim, John Allen (“Allen”). Roberts was sentenced to a total of 300 to 372 months in prison.

3. On November 5, 2019, the North Carolina Court of Appeals denied Roberts' appeal and found no prejudicial error.

4. On November 15, 2017, Roberts submitted a claim of factual innocence to the North Carolina Inquiry Commission, pursuant to Article 92, Chapter 15A of the General Statutes.

5. The Commission has initiated a formal inquiry in the above matter pursuant to N.C.G.S. § 15A-1467(b).

6. Further, Roberts has signed a sworn Affidavit of Innocence asserting his innocence for the crimes for which he was convicted and waived his procedural privileges and safeguards pursuant to N.C.G.S. § 15A-1467(d).

7. Based on the Commission's investigation thus far, which includes reviews of law enforcement files, the trial transcript, and an incomplete deposition of Burgess that took place on November 17, 2022, it is necessary for the Commission to finish the deposition of Burgess. Because the Commission's investigations are confidential pursuant to N.C.G.S. §15A-1468(g), the Commission is providing an affidavit from the undersigned with exhibits regarding Burgess' involvement in this case, attached here as Exhibit 1, to be reviewed by the Commission's Chair *in camera*.

8. On November 8, 2022, Burgess was properly served pursuant to Rule 45(b) of the North Carolina Rules of Civil Procedure by Grant Staff Attorney Danielle Smith with a subpoena to appear for a deposition on November 17, 2022 at 10:00 AM in the Second Floor Conference Room in the Angel Exchange Building at COMtech in Pembroke, North Carolina regarding information pertaining to his knowledge of the above-mentioned matter. The subpoena is attached here as Exhibit 2.

9. On November 17, 2022, Burgess did not appear for the deposition at 10:00 AM. At 10:30 AM, the Commission's Victim Services Program Manager, Emma Paul ("Paul"), sent a text message to Burgess' cell phone, but did not receive a response back. The undersigned then called Burgess' cell phone number, but it was no longer in service. The undersigned then called a phone number belonging to Burgess' mother, Mary Ransom ("Ransom"), who picked up and stated she did not know where Burgess was. Ransom, however, then called out for Burgess several times. Burgess eventually picked up the phone and told the undersigned that he had forgotten about the deposition, but that he could be there in twenty (20) minutes. This call was recorded.

10. The undersigned then called Ransom's phone back after waiting for Burgess for approximately thirty (30) minutes. Ransom then provided a cell phone number for Burgess which the undersigned then called. Upon answering, Burgess stated he thought the deposition was set for the afternoon and that it was too cold for him to drive his scooter to the deposition location. The undersigned informed Burgess that Commission staff could pick him up and provide him with ride to which Burgess agreed.

11. Associate Director Catherine Matoian ("Matoian") and Paul left the deposition location to pick Burgess up at the address he provided. The undersigned remained at the deposition location.

12. Matoian, Paul, and Burgess then returned at 12:25 PM and the undersigned began the deposition at 12:29 PM.

13. Burgess' testimony included new information that had not been heard before. Because the Commission's investigations are confidential pursuant to N.C.G.S. §15A-1468(g), the Commission is providing an affidavit from the undersigned with exhibits regarding Burgess'

deposition testimony in this case, attached here as Exhibit 1, to be reviewed by the Commission's Chair *in camera*.

14. During the deposition Burgess expressed he was fearful of what would happen to his family if he said on camera who the perpetrator of this crime was. Based on his testimony, the undersigned, with Matoian's approval, paused the deposition but did not release Burgess from the subpoena. Burgess agreed to complete the deposition on Monday, November 21, 2022 and asked if Commission staff would provide him a ride on this date. The undersigned confirmed with Burgess that Commission staff would be picking him up from his home at 10:00 AM.

15. Commission staff also provided Burgess with a ride back to the location he was picked up at. Prior to Burgess getting out of the car, the undersigned confirmed with Burgess again that the deposition would be completed on November 21, 2022 and that Commission staff would pick him up at 10:00 AM.

16. On Friday, November 18, 2022, the undersigned received a phone call from Burgess and the undersigned again confirmed the upcoming deposition date with Burgess. Only part of this phone call was recorded.

17. On Monday, November 21, 2022 at 9:28 AM, Paul sent a text message to Burgess to let him know that Commission staff would be picking him up in approximately thirty (30) minutes for the deposition. A screen shot of this text message is attached here as Exhibit 3.

18. At approximately 10:00 AM, Commission staff pulled into the driveway of Burgess' home. Matoian stayed in the Commission vehicle while the undersigned and Paul went to the front door of Burgess' home and knocked. Ransom answered the door and then called for Burgess. It took Burgess approximately five (5) minutes to come to the door.

19. At that time, the undersigned asked Burgess if he was ready. Burgess replied that he was not ready and was tired. The undersigned agreed to come back to Burgess' home at 11:15 AM.

20. Commission staff then left Burgess' home and went to a nearby coffee shop. Shortly after arriving, Paul received a text message from Burgess at 10:16 AM stating that he was "really tired". Paul responded to Burgess letting him know that Commission staff would be picking him up at 11:15 AM and that the deposition needed to be completed. A screen shot of this text message exchange is attached here as Exhibit 3.

21. Further texts were exchanged between Paul and Burgess. Paul explained to Burgess that if he was in non-compliance with the subpoena and refused to complete the deposition that Commission investigators would ask the Commission's chair to compel Burgess to complete it. A screen shot of this text message exchange is attached here as Exhibit 3.

22. The undersigned called Burgess on December 9, 2022 to see if he would be willing to complete the deposition on December 15, 2022. Paul was also present during this phone call. Burgess initially agreed to complete the deposition in the afternoon of December 15th. The undersigned then told Burgess that if he did not show for this deposition, the undersigned would ask the Commission's chair to make Burgess a material witness. Burgess then stated he would then come to the deposition and would immediately end the deposition so that the Commission could not take any legal action against him. The undersigned told Burgess that was his right but that the Commission would still ask that Burgess be made a material witness. Burgess made several statements and then hung up. This call was recorded.

23. Paul then sent a text message to Burgess on December 9, 2022 at 11:32 AM but did not receive a response. A screen shot of this text message is attached here as Exhibit 4.

24. On January 18, 2023 at 2:28 PM, Paul sent a text message asking if Burgess would call her, but did not receive a response back. Paul also called Burgess and was unable to leave a voicemail. A screen shot of this text message is attached here as Exhibit 5.

25. On January 23, 2023 at 11:19 AM, Paul sent a text message to Burgess letting him know that the Commission was willing to work with him regarding completing the deposition. Paul did not receive a response back from Burgess. A screen shot of this text message is attached here as Exhibit 5.

26. The undersigned sent a text message to Burgess on March 7, 2023 and asked Burgess if he had a few minutes this week to speak and that he would not need to be on video. As of the date of this Motion, Burgess has not replied. A screen shot of this text message is attached here as Exhibit 7.

27. As of the date of this motion, Burgess has not contacted the Commission or made any additional efforts to complete the deposition.

28. N.C.G.S. § 15A-803(a) provides that a judge may issue a material witness order “when there are reasonable grounds to believe that the person whom the State or a defendant desires to call as a witness in a pending criminal proceeding possesses information material to the determination of the proceeding and may not be amenable or responsive to a subpoena at a time when his attendance will be sought.”

29. Pursuant to N.C.G.S. § 15A-1467(d), the Commission may use “any measure provided in Chapter 15A of the General Statutes and the Rules of Civil Procedure as set out in G.S. 1A-1 to obtain information necessary to its inquiry.”

30. Although the subpoena personally served on Burgess was for a deposition upon oral examination pursuant to Rule 30 of the North Carolina Rules of Civil Procedure, Commission

investigations are criminal proceedings within the meaning of N.C.G.S. § 15A-803 of the General Statutes.

31. The Legislature, through enactment of N.C.G.S. § 15A-1467(d), clearly intended to grant the Commission authority to use all measures, both civil and criminal, to ensure its access to evidence and information necessary to complete its inquiries.

32. Burgess' disregard for compliance with a properly served subpoena and subsequent unresponsiveness is indicative that there are reasonable grounds to issue a material witness order to secure his appearance in order to complete the deposition.

33. Burgess has information necessary to the Commission's inquiry and access to evidence in this case. Therefore, it is necessary for the Commission's inquiry to question Burgess under oath, either while at a deposition or in court.

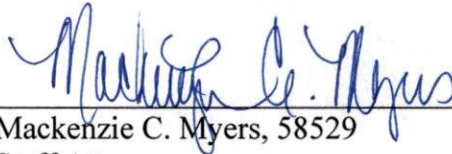
34. The Commission will ensure that Burgess is properly served with a subpoena for him to appear at a hearing on this motion. Should Burgess not appear at the hearing, the Commission will request an order for his arrest.

WHEREFORE, the North Carolina Innocence Inquiry Commission prays that this court enter an order pursuant to its inherent authority:

1. That the Court find Micheal Burgess a material witness pursuant to N.C.G.S. §15A-803(d) and compel him to testify at a deposition or in court before the Commission in the above-styled matter and remain in custody until the deposition or testimony in court is completed.
2. That the Court order Exhibit 1, the affidavit of the undersigned, be placed under judicial seal to maintain confidentiality of the Commission's files.
3. Such other and further relief the Court deems just and appropriate.

This the 9th day of March, 2023.

**NORTH CAROLINA INNOCENCE
INQUIRY COMMISSION**

A handwritten signature in blue ink, appearing to read "Mackenzie C. Myers", is written over a horizontal line.

Mackenzie C. Myers, 58529

Staff Attorney

North Carolina Innocence Inquiry Commission

Post Office Box 2448

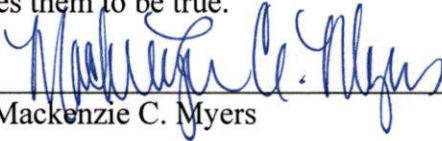
Raleigh, North Carolina 27602

Telephone: (919) 890-1580

Facsimile: (919) 890-1937

Mackenzie C. Myers, being first duly sworn, deposes and says:

That she has read the foregoing Motion and that the same is true of her own knowledge except as to those matters and things therein stated upon information and belief and that as to those matters and things therein so stated she believes them to be true.


Mackenzie C. Myers

Sworn to and subscribed before me this 9th day of March, 2023


Notary Public

[Seal]



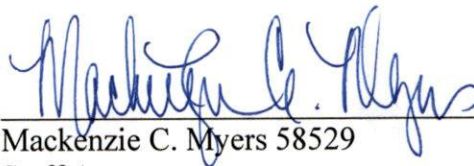
My Commission Expires: 3.12.23

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing *Motion* (excluding *Exhibit 1*) was served upon the following interested parties or their attorneys by depositing a copy of the same, postage pre-paid, in an official depository of the United States Postal Service, addressed as follows:

Micheal Burgess
6 McCollum Street
Lumberton, NC 28358

This the 9 day of March 2023.



Mackenzie C. Myers 58529
Staff Attorney
North Carolina Innocence Inquiry Commission
P.O. Box 2448
Raleigh, NC 27602
Tel: (919) 890-1580
Fax: (919) 890-1937

EXHIBIT 1

STATE OF NORTH CAROLINA
COUNTY OF ROBESON

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
13 CRS 3511 and 13 CRS 54359

STATE OF NORTH CAROLINA,

v.

CLARENCE ROBERTS

)
)
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AFFIDAVIT

NOW COMES, the affiant, after having first been duly sworn, and states as follows:

1. I am an adult over the age of 18, do not suffer from any disability, am competent to make this affidavit, and make this affidavit of my own free will, stating facts of which I have personal knowledge.
2. I am a Staff Attorney for the North Carolina Innocence Inquiry Commission (hereinafter "Commission").
3. During the Commission's investigation into the above-captioned matter, the Commission received files from the Lumberton Police Department (hereinafter "LPD"), the North Carolina State Bureau of Investigation (hereinafter "SBI"), defense attorney files, and a copy of the trial transcript. The SBI file contains a report regarding an interview conducted with Micheal Burgess (hereinafter "Burgess") who was present during the shooting and was originally considered a victim in this case. Burgess was sixteen (16) years old at the time of the shooting which occurred on June 14, 2013. Burgess stated that while at Hayswood Hut (hereinafter "the Hut"), a white Ford Taurus pulled up and the driver yelled out the passenger side window, "So you going to kill me?" Burgess stated that the driver was a black male with either a short hair cut or was bald. Burgess stated that after the driver yelled out the window, he shot one time and then proceeded to get out of the vehicle and continue shooting. Burgess began running

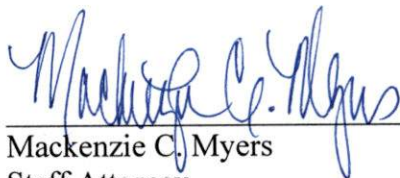
away from the area. Once the shots stopped, Burgess, along with another witness, John Allen (hereinafter "Allen"), returned to the scene and found Joshua Council (hereinafter "the Victim") shot.

4. The SBI file also includes a statement Burgess made regarding a conversation he had with another witness that was at the scene, Ricky Stephens (hereinafter "Stephens"). Stephens told Burgess that he was trying to get into a vehicle during the shooting but was unable to. Stephens told Burgess that at one point the shooter, who was right beside him, looked at Stephens. Stephens then told the shooter, "It wasn't me", and the shooter reached for his gun and then walked away. Stephens told Burgess that the shooter had a tattoo on the right side of his neck.
5. On December 14, 2014, one of Roberts' trial attorneys and the private investigator working on his case interviewed Burgess while he was incarcerated at the Robeson County Detention Center. Burgess stated during this interview that he did not tell law enforcement that the suspect's vehicle was a white Ford Taurus. Burgess states, however, that the vehicle was white. He also states that the vehicle had a 30-day tag on it. Burgess also describes the suspect as being bald and short enough to where he could not see over the steering wheel. Burgess states that the suspect was not Roberts and that he is certain it is not Roberts. At the time this interview occurred, Burgess was being housed in the same cell as Roberts.
6. In the trial transcript, Burgess testifies that he saw the shooter's face and states that he was "brown skinned, he had a little low haircut, he had tattoos on his face and grills in his mouth." Burgess testifies that Roberts is not the shooter. He further testifies that the suspect was driving a white vehicle but that he cannot remember the make, model, or shape of the vehicle.

7. Burgess also testifies that after the suspect yelled out, "Y'all gonna kill me," someone then shot at the suspect's vehicle. After this first shot, the suspect then began firing shots. Burgess testifies that he did not shoot at the suspect first, but that he did have a gun on him at the time.
8. On November 17, 2022, the undersigned deposed Burgess. On that date, Burgess stated that the vehicle he saw was white in color and looked like a Ford Taurus. Burgess also stated that there was one large gray spot above the right front wheel. The undersigned showed Burgess a photograph of the right front wheel of the vehicle Roberts was driving the night of the crime, and Burgess stated that was not the vehicle the suspect was driving the night of the crime.
9. During the deposition, the undersigned asked Burgess if he was able to see inside the vehicle. Burgess responded by testifying that "... after we shot at the car, they had got out of the car. And that's how I seen – that's how I seen the dude's face." The undersigned then asked Burgess to clarify if he shot at the vehicle or if someone else shot at the vehicle. Burgess testifies that he was not the only person to shoot at the vehicle, but stated that the vehicle "... had already parked, and we was like who is that. And he wasn't saying nothing. So I was afraid, I ain't going to lie. I was the first person to start shooting ... And I started hearing more gunshots. And then I just – I took off running. I seen the man face. I – goddamn. I know who did it." The undersigned then asked Burgess who the shooter was, but Burgess stated he couldn't tell the undersigned. The undersigned then showed a photograph of an alternate suspect in this case, Dextor Stephens (hereinafter "DS"), and Burgess looked at the photograph and then placed his head on the table. The undersigned asked Burgess why he could not say who shooter is and he responded, "Man, come on, now. Y'all know better than that ... I could be in the dirt for the rest of my life."

10. The undersigned, with approval from the Commission's Associate Director Catherine Matoian (hereinafter "Matoian"), agreed to pause the deposition at that time but not release Burgess from the subpoena after Burgess stated he needed time to think about whether or not to tell the undersigned who the shooter was. Burgess subsequently agreed to continue the deposition to Monday, November 21, 2022 at 10:30 a.m.
11. After the deposition had ended and the video camera was turned off, Burgess made the following statement: "I feel a lot safer without the video camera on me ... It was Dexter Stephens. He did that shit, man."
12. On November 21, 2022, Burgess refused to comply with the subpoena and complete the deposition. The Commission has since made several attempts, as outlined in the Motion, to work with Burgess on completing the deposition, but to no avail.
13. Burgess provided information during his deposition with the Commission that has never been heard before, including testifying to firing the first shots the night the Victim was killed during the Commission's deposition and naming DS as the person responsible for the Victim's death, although this information was said after the deposition had been paused.
14. In order to diligently investigate this case as objectively as possible, the deposition with Burgess needs to be completed in order for the undersigned to finish asking questions of Burgess that are critical to the Commission's investigation into Roberts' claim of innocence.
15. I swear that the statements in this affidavit are based on my own personal knowledge and are true and correct statements of the events described therein.

This the 9th day of March, 2023.



Mackenzie C. Myers
Staff Attorney
N.C. Innocence Inquiry Commission

STATE OF NORTH CAROLINA
COUNTY OF Wake

Sworn to and subscribed before me,

this 9th day of March, 2023.

 (Seal)
Notary Public

My Commission Expires: 3.12.23



EXHIBIT 2

STATE OF NORTH CAROLINA

File No.

13 CRS 54359

Robeson

County

FILED

In The General Court Of Justice
District Superior Court Division

State of North Carolina

2022 DEC 19

Additional File Numbers
P 12-CRS 3511

VERSUS

ROBESON CO., C.S.C.

SUBPOENA

Clarence Roberts

BY

G.S. 1A-1, Rule 45; 8-59, -61, -63; 15A-801, -802

Party Requesting Subpoena

State/Plaintiff Defendant

NOTE TO PARTIES NOT REPRESENTED BY COUNSEL: Subpoenas may be produced at your request, but must be signed and issued by the office of the Clerk of Superior Court, or by a magistrate or judge.

Name And Address Of Person Subpoenaed

Michael Burgess
6 McCollum Street
Lumberton, NC 28358

Alternate Address

Telephone No.

(910) 733-3579

Telephone No.

YOU ARE COMMANDED TO: (check all that apply)

- appear and testify, in the above entitled action, before the court at the place, date and time indicated below.
appear and testify, in the above entitled action, at a deposition at the place, date and time indicated below.
produce and permit inspection and copying of the following items, at the place, date and time indicated below.
See attached list. (List here if space sufficient)

PURSUANT TO N.C.G.S. 15A-1467(d), AND 1A-1, RULE 45, you are commanded to appear and testify in the above-captioned matter. Pursuant to N.C.G.S. 1A-1, RULE 30(b)(4), testimony will be recorded by sound and visual means and a stenographer will not be present.

Name And Location Of Court/Place Of Deposition/Place To Produce

Angel Exchange Building at COMtech
Second Floor Conference Room
201 Livemore Drive
Pembroke, NC 28372

Date To Appear/Produce, Until Released

11/17/2022

Time To Appear/Produce, Until Released

10:00

AM PM

Date

11/8/22

Signature

Mackenzie C. Myers

Name And Address Of Applicant Or Applicant's Attorney

Mackenzie C. Myers, Staff Attorney
North Carolina Innocence Inquiry Commission
Post Office Box 2448
Raleigh, NC 27602

Telephone No. Of Applicant Or Applicant's Attorney

(919) 890-1580

Deputy CSC

Magistrate

Assistant CSC

Attorney/DA

Clerk Of Superior Court

District Court Judge

Superior Court Judge

RETURN OF SERVICE

I certify this subpoena was received and served on the person subpoenaed as follows:

- personal delivery.
telephone communication by Sheriff (use only for a witness subpoenaed to appear and testify).
telephone communication by local law enforcement agency (use only for a witness subpoenaed to appear and testify in a criminal case).

NOTE TO COURT: If the witness was served by telephone communication from a local law enforcement agency in a criminal case, the court may not issue a show cause order or order for arrest against the witness until the witness has been served personally with the written subpoena.

I was unable to serve this subpoena. Reason unable to serve:

Service Fee

Paid

Date Served

Name Of Authorized Server (type or print)

Signature Of Authorized Server

Title/Agency

\$

Due

11/8/22

Danielle Smith

[Signature]

AW/NCIC

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

AOC-G-100, Rev. 2/18

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(Please see reverse side)

NOTE: Rule 45, North Carolina Rules of Civil Procedure, Subsections (c) and (d).

(c) Protection of Persons Subject to Subpoena

- (1) **Avoid undue burden or expense.** - A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.
- (2) **For production of public records or hospital medical records.** - Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.
- (3) **Written objection to subpoenas.** - Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:
- The subpoena fails to allow reasonable time for compliance.
 - The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
 - The subpoena subjects a person to an undue burden or expense.
 - The subpoena is otherwise unreasonable or oppressive.
 - The subpoena is procedurally defective.
- (4) **Order of court required to override objection.** - If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.
- (5) **Motion to quash or modify subpoena.** - A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.
- (6) **Order to compel expenses to comply with subpoena.** - When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.
- (7) **Trade secrets; confidential information.** - When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.
- (8) **Order to quash expenses.** - When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.

(d) Duties In Responding to Subpoena

- (1) **Form of response.** - A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.
- (2) **Form of producing electronically stored information not specified.** - If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.
- (3) **Electronically stored information in only one form.** - The person responding need not produce the same electronically stored information in more than one form.
- (4) **Inaccessible electronically stored information.** - The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitations of Rule 28(b)(1a). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.
- (5) **Specificity of objection.** - When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

NOTE: If you have any questions about being subpoenaed as a witness, you should contact the person named on Page One of this Subpoena in the box labeled "Name And Address Of Applicant Or Applicant's Attorney."

DUTIES OF A WITNESS

- Unless otherwise directed by the presiding judge, you must answer all questions asked when you are on the stand giving testimony.
- In answering questions, speak clearly and loudly enough to be heard.
- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to court or to the deposition.
- You must continue to attend court until released by the court. You must continue to attend a deposition until the deposition is completed.

BRIBING OR THREATENING A WITNESS

It is a violation of State law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a case, you should promptly report that to the district attorney or the presiding judge.

WITNESS FEE

A witness under subpoena and that appears in court to testify, is entitled to a small daily fee, and to travel expense reimbursement, if it is necessary to travel outside the county in order to testify. (The fee for an "expert witness" will be set by the presiding judge.) After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the Clerk's office and certify your attendance as a witness so that you will be paid any amount due you.

EXHIBIT 3



+1 (910) 674-9728 >

Text Message
Today 9:28 AM

Hi Michael, this is Emma from the Innocence Commission. We will be picking you up in 30 minutes.

I'm really tired

We're planning to be back at 11:15. We need to get this done today

Pleaseeee I'm sleepy

I'm afraid we can't be flexible. The options are to complete the deposition today or the investigators in this case will go to the Commission's chair to compel you to complete the deposition, which would involve



Text Message





+1 (910) 674-9728 >

I'm afraid we can't be flexible. The options are to complete the deposition today or the investigators in this case will go to the Commission's chair to compel you to complete the deposition, which would involve you going before our judge in a courtroom to explain why you are refusing to complete the deposition. Let's just get it done today.

I don't have to do this they can't lock me up for being sleepy and honestly I don't have to really talk to yall period cause at the end of the day IM FREE that's all I'm worried about living my life. Like they say better him then me



Text Message





+1 (910) 674-9728 >

Micheal, we understand you're really tired. Doing the deposition today would be less than 2 hours of your time today. Give us a call back

We gotta reschedule I gotta go wash my clothes and everything and I really don't feel good why we can do it here

We can't do it at your home. We are going to head back to Raleigh. The next step is that you will be given a date to show up to court.

For ?

I should've never did this bs in the first place



Text Message





+1 (910) 674-9728 >

We gotta reschedule I gotta go wash my clothes and everything and I really don't feel good why we can do it here

We can't do it at your home. We are going to head back to Raleigh. The next step is that you will be given a date to show up to court.

For ?

I should've never did this bs in the first place

For refusing to compile with your subpoena. Mackenzie and I will contact you with next steps

Whatever 🙄



Text Message



EXHIBIT 4



+1 (910) 674-9728 >

Fri, Dec 9, 11:32 AM

Hi Michael, this is Emma from the Innocence Commission. I wanted to say that I am your advocate for this investigation and I do not want you to feel threatened. I have asked Mackenzie to try to complete the deposition with you in Lumberton before going to the judge and giving you a court date. I don't want the investigation to go down that path for you. I just want you to have information about what can happen. You can give me a call and we can have a conversation without Mackenzie. I'm here to hear you out.

Wed, Jan 18, 2:28 PM

Hey Michael, this is Emma from



Text Message



EXHIBIT 5



+1 (910) 674-9728 >

Wed, Jan 18, 2:28 PM

Hey Michael, this is Emma from the Innocence Commission. Can you give me a call when you get the chance?

Mon, Jan 23, 11:19 AM

Hi Micheal, this is Emma from the Innocence Commission. I have been trying to contact you to discuss what is happening with the investigation on our end. You were subpoenaed to be disposed by Mackenzie - the subpoena is an order that you have to appear at a certain place and time to testify. When you finished your deposition you would have been released from your subpoena. You probably remember that Mackenzie caused the



Text Message 





+1 (910) 674-9728 >

have to finish the deposition for the records of our investigation. I think finishing the deposition would take 30 minutes to an hour. We want to work with you to do this, and we want to take your schedule into consideration. Is there a time and date when you would be available to finish the deposition?

If we can't get this scheduled, Mackenzie will have a judge issue a court date to compel you to comply with the subpoena. I really don't want to waste your time or ours by having a court date.

Unfortunately, finishing the deposition isn't totally up to us - it is something we have to do. Will you work with us to finish the deposition?



Text Message



EXHIBIT 6



+1 (910) 674-9728 >

Text Message
Today 10:58 AM





Hey Mike - this is Mackenzie with the Commission. Do you have a few minutes this week for me to finish asking you a few questions? I'll meet you wherever is most convenient for you. I will not take up more than a few minutes of your time, and you do not need to be on video.



Text Message 

123   space return

Q W E R T Y U I O P
A S D F G H J K L
↑ Z X C V B N M 

Handout 32

Michael Burgess DAC
Handout

Sealed by Order of the
Court.

Handout 33

Michael Burgess DAC
Calls Handout

Micheal Burgess Phone Calls from Prison

	DATE/TIME	TO	RELEVANT PORTION
1.	1/20/2018 3:08pm	Phone Call from Clarence Roberts to Mary Ransom (Burgess' Mother)	Roberts introduces himself as “Woo” from “the hill” and asks where Burgess is at. He asks Ransom to keep her number for when he goes back to court. He tells her “they” tried to get Burgess to lie on him. Ransom says that Burgess told her that. He tells her to have Burgess go to Harnett because of their programs and he will get up with him there.
2.	1/25/2018 9:48am	Phone Call from Micheal Burgess to Mary Ransom (Mother)	Ransom tells Burgess that “Woo” called the other day. Burgess asks her what she’s talking about and she says he wanted to know where Burgess was at. Ransom tells Burgess that Woo said that they were trying to get Burgess to testify against him. Burgess says “Yeah” and asks where Woo is at.

Handout 34

Detective Orellano
Email

Teresa Currey

From: Pedro Orellano
Sent: Friday, May 01, 2015 4:25 PM
To: Police Special
Subject: Garret Alford Homicide

In the morning hours of 09/04/2012, the FPD responded to the wooded path behind 213 Colonial Drive after a citizen found a body in the woods. Officers identified the victim as Garret ALFORD and found the victim had been shot multiple times. Garret ALFORD was an active member of the Bloods gang in Robeson County. The investigation revealed ALFORD had been involved in a disagreement with the leader of the gang Steven MOORE aka "Champ". MOORE was a high ranking leader of the Bloods in the region. MOORE enlisted the help of Rasheed WILLIAMS aka "Gino" to kill the victim. WILLIAMS was a leader of the Bloods in Fayetteville. WILLIAMS lured the victim from Robeson County to Fayetteville under the pretenses of committing an armed robbery for the gang. MOORE lied in wait in the woods and shot the victim multiple times. The FPD arrested MOORE and WILLIAMS a few days after the homicide.

On 05/01/2015, MOORE and WILLIAMS pled guilty to Armed Robbery and sentenced to 8-10 years in prison. The DA's office accepted the plea due to the circumstances surrounding the victim's death and lack of cooperation from witnesses due to Defendants' involvement with the Bloods. I appreciate all the cooperation from Officers, Forensic Technicians, Evidence Technicians and Detectives who assisted during the investigation. All subpoenaed personnel have been released.

Detective P. Orellano
Homicide Squad
Fayetteville Police Department
910-433-1421 (O)
910-988-6543 (C)

Information contained in this email could contain records of criminal intelligence and/or investigations conducted by a public law enforcement agency which are exempt from the public records law of North Carolina pursuant to NCGS 132-1.4(a). Such records may be released only by court order or through discovery pursuant to NCGS 15A-901, et. seq.

Handout 35

Dennis Stephens
Criminal History Chart

DENNIS STEPHENS

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
B&E	ROBESON	07/05/2016	12/07/2017
LARCENY AFTER B&E	ROBESON	07/05/2016	12/07/2017
B&E	ROBESON	07/05/2016	12/07/2017
LARCENY AFTER B&E	ROBESON	07/05/2016	12/07/2017
B&E	ROBESON	07/05/2016	12/07/2017
LARCENY AFTER B&E	ROBESON	07/05/2016	12/07/2017
B&E	CUMBERLAND	01/15/2016	11/30/2017
HABITUAL B&E	CUMBERLAND	01/15/2016	11/30/2017
OBTAIN PROP BY FALSE PRETENSES	CUMBERLAND	01/09/2016	11/30/2017
OBTAIN PROP BY FALSE PRETENSES	CUMBERLAND	01/07/2016	11/30/2017
B&E	CUMBERLAND	01/06/2016	11/30/2017
HABITUL B&E	CUMBERLAND	010/6/2016	11/30/2017
B&E	CUMBERLAND	12/02/2015	11/30/2017
HABITUAL B&E	CUMBERLAND	12/02/2015	11/30/2017
B&E	CUMBERLAND	05/22/2013	02/18/2014
LARCENY AFTER B&E	CUMBERLAND	05/22/2013	02/18/2014
B&E	CUMBERLAND	05/20/2013	02/18/2014
LARCENY AFTER B&E	CUMBERLAND	05/20/2013	02/18/2014
OBTAIN PROP BY FALSE PRETENSES	CUMBERLAND	04/28/2013	02/18/2014
B&E	CUMBERLAND	04/28/2013	02/18/2014
LARCENY AFTER B&E	CUMBERLAND	04/28/2013	02/18/2014
OBTAIN PROP BY FALSE PRETENSES	CUMBERLAND	04/16/2013	02/18/2014
B&E	CUMBERLAND	12/27/2012	02/18/2014
LARCENY AFTER B&E	CUMBERLAND	12/27/2012	02/18/2014

OBTAIN PROPERTY FALSE PRETENSES	CUMBERLAND	11/06/2012	02/18/2014
OBTAIN PROPERTY FALSE PRETENSES	CUMBERLAND	11/06/2012	02/18/2014
B&E	CUMBERLAND	11/06/2012	02/18/2014
LARCENY AFTER B&E	CUMBERLAND	11/06/2012	02/18/2014
HABITUAL B&E	CUMBERLAND	11/06/2012	02/18/2014
B&E	CUMBERLAND	02/14/2011	09/30/2011
LARCENY AFTER B&E	CUMBERLAND	02/14/2011	09/30/2011
OBTAIN PROPERTY FALSE PRETENSES	CUMBERLAND	12/29/2010	09/30/2011
B&E	CUMBERLAND	09/20/2010	09/30/2011
LARCENY AFTER B&E	CUMBERLAND	09/20/2010	09/30/2011
MISD PROTECTIVE ORDER VIOLATION	ROBESON	07/18/2006	11/03/2009
MISD PROTECTIVE ORDER VIOLATION	ROBESON	07/18/2006	11/03/2009
B&E	CUMBERLAND	06/30/2008	04/06/2009
LARCENY AFTER B&E	CUMBERLAND	06/28/2008	04/06/2009
B&E	CUMBERLAND	06/28/2008	04/06/2009
LARCENY AFTER B&E	CUMBERLAND	05/26/2008	04/06/2009
B&E	CUMBERLAND	05/26/2008	04/06/2009
LARCENY AFTER B&E	CUMBERLAND	02/11/2008	04/06/2009
B&E	CUMBERLAND	02/11/2008	04/06/2009
LARCENY AFTER B&E	CUMBERLAND	02/07/2008	11/17/2008
B&E	CUMBERLAND	02/07/2008	11/17/2008
MISD ASSAULT ON FEMALE	ROBESON	06/25/2006	08/23/2006

MISD SECOND DEGREE TRESPASS	ROBESON	1/12/2005	01/10/2006
B&E	ROBESON	09/03/2000	08/15/2001
UTTERING A FORGED INSTRUMENT	ROBESON	09/03/2000	08/15/2001
UTTERING A FORGED INSTRUMENT	ROBESON	09/03/2000	08/15/2001
B&E	ROBESON	08/31/2000	08/15/2001
B&E	ROBESON	08/31/2000	08/15/2001
FORGERY OF AN INSTRUMENT	ROBESON	08/29/2000	08/15/2001
UTTERING FORGED INSTRUMENT	ROBESON	08/29/2000	08/15/2001
MISD UNAUTHORIZED USE OF A MOTOR VEHICLE	ROBESON	04/28/2000	07/28/2000
MISD DISORDERLY CONDUCT	ROBESON	04/16/2000	06/27/2000
MISD RESISTING PUBLIC OFFICER	ROBESON	10/31/1999	11/08/1999
MISD CRIMINAL CONTEMPT	ROBESON	10/31/1999	10/31/1999
POSSESSION OF STOLEN GOODS	ROBESON	05/03/1999	06/10/1999
MISD UNAUTHORIZED USE OF A MOTOR VEHICLE	ROBESON	03/31/1998	06/04/1999
UTTERING FORGED ENDORSEMENT	ROBESON	03/11/1998	10/06/1998
OBTAIN PROPERTY FALSE PRETENSES	ROBESON	03/21/1998	10/05/1998
OBTAIN PROPERTY FALSE PRETENSES	ROBESON	03/20/1998	10/06/1998

OBTAIN PROPERTY FALSE PRETENSES	ROBESON	03/20/1998	10/06/1998
FELONY LARCENY	ROBESON	03/20/1998	10/06/1998
FELONY LARCENY	ROBESON	03/19/1998	10/6/1998
B&E	ROBESON	03/19/1998	10/06/1998
FORGERY OF AN INSTRUMENT	ROBESON	10/24/1997	10/06/1998
UTTERING FORGED INSTRUMENT	ROBESON	10/24/1997	10/06/1998
MISD INJURY TO PERSONAL PROPERTY	ROBESON	07/07/1997	08/1/1997
MISD SECOND DEGREE TRESPASS	ROBESON	05/14/1996	05/15/1996
MISD POSSESS MARIJUANA >1/2 TO 1/2OZ	ROBESON	04/12/1996	05/15/1996
MISD POSSESS MARIJUANA >1/2 TO 1/2OZ	ROBESON	02/08/1996	05/15/1996
MISD NOISE ORDINANCE VIOLATION	ROBESON	09/20/1995	05/15/1996
MISD RESISTING PUBLIC OFFICER	ROBESON	03/12/1996	04/19/1996
MISD INFLICT SERIOUS INJURY	ROBESON	03/24/1995	03/31/1995
MISD RESIST / OBSTRUCT POLICE OFFICER	ROBESON	05/02/1993	6/21/1993
MISD LARCENY	ROBESON	03/28/1993	04/12/1993

Handout 36

Ash Simmons PI Report

Cost of Process Service

Dexter Lamar Stephens and Ricky Stephens

Service rate @ \$55.00 per hour (12.5 hours)

\$ 687.50

- **03/23/23:** Initial contact with Attorney Danielle Smith regarding process service on behalf of NC Innocence Inquiry Commission. Received copy of Subpoena for Ricky Stephens and Cover Letter/Motion for DNA Collections for Dexter L Stephens. (N/A)
- **03/24/23:** Conduct OSINT on individuals. Reviewed social media, public records, law enforcement sources, and local contacts. Numerous phone, text, and email attempts made possible contacts for individuals, associates, and family members. Contact law enforcement contacts with Cumberland and Robeson County Sheriff's Departments, Lumberton Police Department, and various state agencies. Received last contact/known residences for individuals. (2.5 hours)
- **03/27/23:** Received information from law enforcement contacts. Recent list of contacts with individuals. Advised that both individuals currently have outstanding process (warrant for arrest) and are being sought for service. (1 hour)
- **03/28/23:** Numerous calls and text messages to individuals, associates, and family members. Travel to and attempt service at the following physical addresses, start 1520 hours. 2313 Arnold Str, Lumberton, NC (public records, negative Dexter)
2702 MLK Jr Dr, Lumberton, NC (public records, negative Dexter)
245 Burch Rd, Lumberton, NC (LEO provided, negative Ricky)
2675 7th Street RD, Lumberton, NC (public records, negative Ricky)
2657 Gavinton RD, Apt 6G, Lumberton, NC (LEO provided, negative Dexter)
6115 Parkton Rd, Hope Mills, NC (Dad's residence, negative Ricky)
504 Eaton Str, Fayetteville, NC (Mom's residence, negative Dexter)
(4 hours)
- **03/29/23:** Numerous calls and text messages to individuals, associates, and family members. Travel to and attempt service at the following physical addresses, 0600 hours: 504 Eaton Str, Fayetteville, NC (Mom's residence, negative Dexter)
1928 Chason Rd, Lumber Bridge, NC (LEO provided, negative Dexter)
6115 Parkton Rd, Hope Mills, NC (Dad's residence, negative Ricky)
245 Burch Rd, Lumberton, NC (LEO provided, negative Ricky)
2657 Gavinton RD, Apt 6G, Lumberton, NC (LEO provided, negative Dexter)
2675 7th Street RD, Lumberton, NC (public records, negative Ricky)
2702 MLK Jr Dr, Lumberton, NC (public records, negative Dexter)
214 Hearty Rd, Lumberton, NC (LEO provided, negative Dexter)
2313 Arnold Str, Lumberton, NC (public records, negative Dexter)
(5 hours)
- **03/30/23:** Received contact from Robeson County Sheriff's Department. Individuals are currently believed to be in South Carolina based on their efforts to locate and serve outstanding process. (NA)

**Cost of Process Service
Dexter Lamar Stephens and Ricky Stephens**

Mileage rate @ \$0.655 per mile (597 miles)

\$ 391.04

- **03/28/23:** 293 miles
- **03/29/23:** 304 miles

Total: \$ 1078.54

Starting Date: 03/23/23

Ending Date: 03/30/23

Payment to: Ashley C. Simmons

[REDACTED]
[REDACTED]

General Summary
Legal Service on Select Individuals

a. Danyell Gurley

Contact #'s (910) 816-6091, (910) 633-6081

Residences: 2651 Gavintown Rd, Apt 6G, Lumberton, NC 28358

2702 MLK Jr Drive, Lumberton, NC 28358

3003 Huntley Str, Spring Lake, NC 28390

b. Shaniece Burnette

Residences: 214 Hearty Road, Lumberton, NC 28358

2313 Arnold Str, Lumberton, NC 28358

2. RICKY STEPHENS DOB 11/15/1996 B/M

Contact #: (910) 785-2994

████

████████████████

████████████████████

Ricky.stephens@gmail.com

scorpio102878@gmail.com

Social Media: "Top Floor Boogey" Facebook

Primary Residence: 6115 Parkton Road, Hope Mills, NC 28348, Cumberland County *NOTE: This residence belongs to the subject's father

Residence (last known contact per law enforcement 03/23/2023)

245 Burch Road, Lumberton, NC 28358

Known Associates:

a. Sandra Grimmage 2675 Seventh Street Rd. Lumberton, NC 28358

b. Reya Velasquez 606 Snake Rd, Lot 13, Lumberton, NC 28358

STATE OF NORTH CAROLINA

File No.

13 CRS 3511

Robeson County

In The General Court Of Justice
District Superior Court Division

State of North Carolina

Additional File Numbers
13 CRS 54359

VERSUS

Clarence Roberts

SUBPOENA

G.S. 1A-1, Rule 45; 8-59, -61, -63; 15A-801, -802

Party Requesting Subpoena

State/Plaintiff Defendant

NOTE TO PARTIES NOT REPRESENTED BY COUNSEL: Subpoenas may be produced at your request, but must be signed and issued by the office of the Clerk of Superior Court, or by a magistrate or judge.

Name And Address Of Person Subpoenaed

Alternate Address

Ricky Stephens
1000 Parkview Dr. Apt. J3
Lumberton, NC 28358

Telephone No.

Telephone No.

YOU ARE COMMANDED TO: (check all that apply)

- appear and testify, in the above entitled action, before the court at the place, date and time indicated below.
appear and testify, in the above entitled action, at a deposition at the place, date and time indicated below.
produce and permit inspection and copying of the following items, at the place, date and time indicated below.
See attached list. (List here if space sufficient)

PURSUANT TO N.C.G.S. 15A-1467(d), AND 1A-1, RULE 45, you are commanded to appear and testify in the above-captioned matter. Pursuant to 1A-1, RULE 30(b)(4), testimony will be recorded by sound and visual means and a stenographer will not be present.

Name And Location Of Court/Place Of Deposition/Place To Produce

Angel Exchange Building at COMtech
Second Floor Conference Room
201 Livermore Drive
Pembroke, NC 28372

Date To Appear/Produce, Until Released

04/03/2023

Time To Appear/Produce, Until Released

10:00

AM PM

Date

03/21/2023

Name And Address Of Applicant Or Applicant's Attorney

Mackenzie C. Myers, Staff Attorney
North Carolina Innocence Inquiry Commission
P.O. Box 2448
Raleigh, NC 27602

Signature

[Handwritten Signature]

- Deputy CSC Assistant CSC Clerk Of Superior Court
Magistrate Attorney/DA District Court Judge
Superior Court Judge

Telephone No. Of Applicant Or Applicant's Attorney

(919) 890-1580

RETURN OF SERVICE

I certify this subpoena was received and served on the person subpoenaed as follows:

- personal delivery registered or certified mail, receipt requested and attached.
telephone communication by Sheriff (use only for a witness subpoenaed to appear and testify).
telephone communication by local law enforcement agency (use only for a witness subpoenaed to appear and testify in a criminal case).

NOTE TO COURT: If the witness was served by telephone communication from a local law enforcement agency in a criminal case, the court may not issue a show cause order or order for arrest against the witness until the witness has been served personally with the written subpoena.

I was unable to serve this subpoena. Reason unable to serve: Unable to locate individual; may be in SC

Service Fee \$

Paid Due Date Served

Name Of Authorized Server (type or print)

Ashley C Simmons

Signature Of Authorized Server

[Handwritten Signature]

Title/Agency

Private Investigator

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

AOC-G-100, Rev. 2/18

(Please see reverse side)

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3/30/2023 - MEG Contact

3/28/2023 - X3 Address - NEG

3/29/2023 - X3 Address, LEO Contact

NOTE: Rule 45, North Carolina Rules of Civil Procedure, Subsections (c) and (d).

(c) Protection of Persons Subject to Subpoena

- (1) **Avoid undue burden or expense.** - A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.
- (2) **For production of public records or hospital medical records.** - Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.
- (3) **Written objection to subpoenas.** - Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:
- The subpoena fails to allow reasonable time for compliance.
 - The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
 - The subpoena subjects a person to an undue burden or expense.
 - The subpoena is otherwise unreasonable or oppressive.
 - The subpoena is procedurally defective.
- (4) **Order of court required to override objection.** - If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.
- (5) **Motion to quash or modify subpoena.** - A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

- (6) **Order to compel expenses to comply with subpoena.** - When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.
- (7) **Trade secrets; confidential information.** - When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.
- (8) **Order to quash expenses.** - When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.

(d) Duties in Responding to Subpoena

- (1) **Form of response.** - A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.
- (2) **Form of producing electronically stored information not specified.** - If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.
- (3) **Electronically stored information in only one form.** - The person responding need not produce the same electronically stored information in more than one form.
- (4) **Inaccessible electronically stored information.** - The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitations of Rule 26(b)(1)(a). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.
- (5) **Specificity of objection.** - When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

NOTE: If you have any questions about being subpoenaed as a witness, you should contact the person named on Page One of this Subpoena in the box labeled "Name And Address Of Applicant Or Applicant's Attorney."

DUTIES OF A WITNESS

- Unless otherwise directed by the presiding judge, you must answer all questions asked when you are on the stand giving testimony.
- In answering questions, speak clearly and loudly enough to be heard.
- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to court or to the deposition.
- You must continue to attend court until released by the court. You must continue to attend a deposition until the deposition is completed.

BRIBING OR THREATENING A WITNESS

It is a violation of State law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a case, you should promptly report that to the district attorney or the presiding judge.

WITNESS FEE

A witness under subpoena and that appears in court to testify, is entitled to a small daily fee, and to travel expense reimbursement, if it is necessary to travel outside the county in order to testify. (The fee for an "expert witness" will be set by the presiding judge.) After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the Clerk's office and certify your attendance as a witness so that you will be paid any amount due you.



DEXTER LAMAR STEPHENS

Offender ID: 0905833
 Probation/Parole/Post Release Status: INACTIVE
 Gender: MALE
 Race: BLACK/AFRICAN AMERICAN
 Ethnic Group: AFRICAN
 Birth Date: 04/02/1988
 Age: 34

Name(s) Of Record				
Last Name	Suffix	First Name	Middle Name	Name Type
STEPHENS		DEXTER	LAMAR	COMMITTED
DAVIS		COREY		ALIAS

Most Recent Incarceration Summary	
No Incarceration Record Found	

Offender Sentence History					
Most Recent Period of Supervision Record					
Sentence Number: 02-001 Conviction Date: 09/07/2011 Punishment Type: INTERMEDIATE SS Sentence Type 1: PROBATION Sentence Type 2: SUSPENDED SENTENCE Sentence Type 3: DEPT OF CORR DIV OF PRISONS			Commitment Type: PROBATION/PAROLE County Of Conviction: ROBESON		
INITIAL	10055228	DISCHG FIREARM-OCC PROPERTY (ATTEMPTED)	06/07/2010	FELON CLASS E	

Offender Sentence History**Previous Period of Supervision Record**

Sentence Number: 01-001
Conviction Date: 07/27/2005
Punishment Type: COMMUNITY SS (DCC)
Sentence Type 1: PROBATION
Sentence Type 2: COUNTY JAIL

Commitment Type: PROBATION/PAROLE
County Of Conviction: ROBESON

Initial	Case Number	Description	Date	Classification
INITIAL	05008350	PURCHASE MALT BEV LESS 19 YRS (PRINCIPAL)	06/21/2005	MISD. CLASS 1 MISDEMEANOR SS



The North Carolina Innocence Inquiry Commission*

Judge Thomas H. Lock
Chair

Administrative Office of the Courts
North Carolina Innocence Inquiry Commission
P.O. Box 2448
Raleigh, NC 27602
Phone: (919) 890-1580
Fax: (919) 890-1937
www.innocencecommission-nc.gov

Lindsey Guice Smith
Executive Director

Dear Mr. Stephens,

The North Carolina Innocence Inquiry Commission is a state agency that reviews and investigates post-conviction claims of innocence pursuant to N.C.G.S. § 15A-1467. We are currently investigating the innocence claim of Clarence Roberts.

Pursuant to N.C.G.S. § 15A-1467(d), the Commission has deemed it necessary that you submit to DNA testing for Commission investigative purposes only. If you agree to submit to testing voluntarily, please contact Danielle Smith at 919-890-1580 within 48 hours of receipt of this letter and attached motion to arrange a time for buccal swab collection.

If you object to submission of DNA testing, you have a right to a hearing before the Commission chair in his capacity as a superior court judge. If you object to submission of DNA testing and would like to request a hearing before the Commission chair, please notify Danielle Smith at 919-890-1580 within 48 hours of receipt of this letter.

If you fail to respond to this letter within 48 hours, the Commission will move forward with submission of the attached motion to the Commission chair in his capacity as a superior court judge, who may order that you submit to DNA testing.

Best Regards,

Danielle Smith

*More Information, Contact Mackenzie Myers or Danielle Smith
Service Attempt (919) 890-1580

3/28/2023 - x4 physical address, NEG *hlf*
3/29/2023 - x6 physical address, NEG *aw*
3/30/2023 - Leo contact, fled to SC *aw*

STATE OF NORTH CAROLINA
COUNTY OF ROBESON

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
13 CRS 3511, 13 CRS 54359

STATE OF NORTH CAROLINA)
)
 v.)
)
 CLARENCE ROBERTS)
)
)
)
)
)

**MOTION FOR COLLECTION OF DNA
SAMPLE**

NOW COMES the North Carolina Innocence Inquiry Commission (hereinafter “Commission”), through the undersigned counsel, and moves pursuant to N.C.G.S. § 15A-1467(d), for an order commanding Dexter Stephens to appear and provide a DNA sample to the Commission. In support of this motion, the undersigned shows the Court the following:

1. On June 14, 2014, Joshua Council (“the Victim”) and several others were gathered at Hayswood Hut (“the Hut”) in Lumberton, NC. At some point that evening, a vehicle sped down the dirt road that ran parallel to the Hut, came to a halt, reversed, and finally came to a stop. Testimony and witness interviews state that the person driving this vehicle pulled out a firearm and began shooting. While attempting to flee, the Victim was shot and died at the scene.
2. On May 5, 2017, after a jury trial, Clarence Roberts (“Roberts”) was found guilty of Second-Degree Murder and Assault with a Deadly Weapon (misdemeanor) all related to the shooting death of the Victim, and a surviving victim, John Allen (“Allen”). Roberts was sentenced to a total of 300 to 372 months in prison.
3. On November 5, 2019, the North Carolina Court of Appeals denied Roberts’ appeal and found no prejudicial error.
4. On November 15, 2017, Roberts submitted a claim of factual innocence to the North Carolina Inquiry Commission, pursuant to Article 92, Chapter 15A of the General Statutes.

5. The Commission has initiated a formal inquiry in the above matter pursuant to N.C.G.S. § 15A-1467(b).

6. Roberts has signed a sworn Affidavit of Innocence asserting his innocence for the crimes for which he was convicted and waived his procedural privileges and safeguards pursuant to N.C.G.S. § 15A-1467(d).

7. Lumberton Police Department with the assistance of the North Carolina SBI investigated this case. This investigation included collecting and retaining evidence from the crime scene.

8. Pursuant to N.C.G.S. § 15A-1471, the Commission has taken custody of certain items of physical evidence collected from the crime scene.

9. Pursuant to N.C.G.S. § 15A-1467(d), the Commission “may use any measure provided in Chapter 15A of the General Statutes . . . to obtain information necessary to its inquiry.”

10. The authority to seek nontestimonial identification orders appears in Article 14 of Chapter 15A. See, N.C.G.S. § 15A-271. However, this procedure applies “only to suspects and accused persons before arrest, and persons formally charged and arrested, who have been released from custody pending trial.” *State v. Irick*, 291 N.C. 480, 490, 231 S.E. 2d 833, 840 (1977).

11. Pursuant to N.C.G.S. § 15A-1471(d), “The Commission shall have the right to subject physical evidence to forensic and DNA testing, including consumption of biological material, as necessary for the Commission's inquiry.”

12. Although the Legislature, through the enactment of N.C.G.S. § 15A-1467(d) and § 15A-1471(d), clearly intended to grant the Commission authority to obtain DNA samples for comparison purposes, it provided no procedural mechanism through which the Commission could do so under the current circumstances.

13. In this case, biological evidence exists which may lead to the exoneration of Clarence Roberts. Comparison of relevant individual's profiles to any unknown DNA profiles developed through testing in this case is necessary to a neutral investigation into the claims of innocence made by Clarence Roberts.

14. Based on the Commission's investigation thus far, which includes review of law enforcement files, it is necessary for the Commission to obtain a DNA sample from Dexter Stephens. Because the Commission's investigations are confidential pursuant to N.C.G.S. 15A-1468(g), the Commission is providing an affidavit from the undersigned as Exhibit A to be reviewed by the Commission's Chair *in camera* in the Chair's judicial capacity pursuant to N.C.G.S. 1467(d).

WHEREFORE, the Commission prays that this Court enter an order pursuant to its inherent authority that:

1. Dexter Stephens is required to submit a DNA sample by the swabbing of his cheek or through an alternative method to a staff member of the North Carolina Innocence Inquiry Commission or its designee;
2. That the DNA sample will be collected as soon as practicably possible following service;
and
3. That the Court order the affidavit of the undersigned marked Exhibit A be placed under judicial seal to maintain confidentiality of the Commission's files.

4. Such other and further relief the Court deems just and appropriate.

Respectfully submitted, this the 24th day of March, 2023.

**NORTH CAROLINA INNOCENCE
INQUIRY COMMISSION**



Danielle Smith

Bar No. 57570

Grant Staff Attorney

North Carolina Innocence Inquiry Commission

Administrative Office of the Courts

P.O. Box 2448

Raleigh, NC 27602

Tel: (919) 890-1580

Fax: (919) 890-1937

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing *Motion for Collection of DNA Sample* has this day been served by delivering a copy personally to:

Mr. Dextor Stephens

This the ____ day of March, 2023.

Ashley Simmons

Handout 37

Dextor Stephens
Commission Interview
Transcript

IN THE NORTH CAROLINA GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

* * * * *

STATE OF NORTH CAROLINA,)	
Plaintiff,)	
	)	ROBESON COUNTY
v.	)	13 CRS 003511
	)	13 CRS 054359
CLARENCE ROBERTS,)	
Defendant.)	
)	

* * * * *

TRANSCRIPT

* * * * *

Transcript of interview between Dextor Stephens,
Attorney Danielle Smith, and Attorney Mackenzie Myers.

O'Connor Legal, Medical & Media Services, Inc.
127 F Street - Suite 103
Brunswick, GA 31520
(912) 689-0090

1 ATTORNEY SMITH: Hello?

2 MR. STEPHENS: Hello.

3 ATTORNEY SMITH: Hey, is the is Dextor Stephens?

4 MR. STEPHENS: Yeah.

5 ATTORNEY SMITH: Hey. This is Danielle Smith,
6 and I'm an Attorney with the North Carolina Innocence
7 Inquiry Commission. How are you?

8 MR. STEPHENS: All right.

9 ATTORNEY SMITH: All right. I'm calling because
10 my Agency investigates post-conviction claims of
11 innocence.

12 And we are a neutral state agency, so we're not
13 law enforcement, we're not prosecutors, and we're not
14 defense attorneys. But we are investigating the case of a
15 man named Clarence Roberts who was convicted of
16 second-degree murder of Joshua Council back in June of
17 2013.

18 It was a shooting at the Hayswood Hut. And we're
19 just calling because have some questions. And we're just
20 trying to follow up on some things.

21 And we wanted to see if there would be a time
22 that we could speak to you in person because there are
23 some pictures and things that we would like to show you.
24 And it doesn't have to be --

25 MR. STEPHENS: I don't know nothing about that.

1 I don't know nothing about that. I wasn't even there.
2 So, I can't answer nothing.

3 ATTORNEY SMITH: Well, do you know who Clarence
4 is -- Clarence Roberts is?

5 MR. STEPHENS: Huh-uh.

6 ATTORNEY SMITH: He go -- do you know who John --

7 MR. STEPHENS: I haven't been in Lumberton
8 forever.

9 ATTORNEY SMITH: Well, well, this was back in
10 2013, so it was a while ago. Do you know who John Allen
11 is?

12 MR. STEPHENS: Yeah, I know him.

13 ATTORNEY SMITH: You do know him?

14 MR. STEPHENS: Yeah, I know him.

15 ATTORNEY SMITH: Okay. Have you -- had you heard
16 anything about this shooting or the car that was used in
17 the shooting?

18 MR. STEPHENS: No. I just know John Allen was
19 there. Other than that, no.

20 ATTORNEY SMITH: Say that again, I'm sorry.

21 MR. STEPHENS: I said, John Allen was there.

22 ATTORNEY SMITH: John Allen what?

23 MR. STEPHENS: Can't tell you more or anything.

24 ATTORNEY SMITH: Right.

25 MR. STEPHENS: Yeah.

1 ATTORNEY SMITH: And, and so, we understand that
2 you weren't there. But we did have, like, some photos and
3 things that we would like to show you just to get a better
4 idea of anything you may know about it. And so, I
5 wanted --

6 MR. STEPHENS: I don't know nothing about
7 nothing.

8 ATTORNEY MYERS: Oh, no. Ask him where he stay
9 at.

10 ATTORNEY SMITH: Hold on one second, I'm sorry.
11 Ask him about what? He's on mute.

12 ATTORNEY MYERS: The PI. Ask him --

13 ATTORNEY SMITH: Oh.

14 ATTORNEY MYERS: -- without talking --

15 ATTORNEY SMITH: Do you know if you ever spoke to
16 a private investigator back then, probably between 2013
17 and 2015?

18 MR. STEPHENS: Man, I done had so many polices up
19 my ass around then, it was great. So, it is -- and
20 everything new.

21 Trying to pin everything on me through this and
22 the third. And I -- yeah. That's the whole reason I left
23 from around there, because they just do too much.

24 They tear up my house. They did a bunch of damn
25 shit for no fucking reason. So, I, I just chose to stay

1 the fuck out that situation.

2 ATTORNEY SMITH: It wasn't -- what --

3 MR. STEPHENS: What a --

4 ATTORNEY SMITH: Was that about this case?

5 MR. STEPHENS: It wasn't no private investigator,
6 like, fucking US Marshals, and all kinds of shit. It was
7 for other shit, other fucking cases -- and I, I don't
8 know.

9 ATTORNEY MYERS: Ask him about the car.

10 ATTORNEY SMITH: Okay. Yeah, I don't -- so --

11 ATTORNEY MYERS: Ask him if he was ever talked to
12 about -- by anybody about this case.

13 ATTORNEY SMITH: So, do you know if you were -- I
14 know said you've dealt with police a lot. But do you know
15 if anyone ever talked to you about this particular case,
16 about that shooting at Hayswood?

17 MR. STEPHENS: Oh no, never. They ain't never --
18 nah, they ain't never talked to me about that, ever.

19 ATTORNEY SMITH: Nobody? Okay.

20 ATTORNEY MYERS: What kind of car do you drive?

21 MR. STEPHENS: Do you know what kind of car you
22 were driving back during that time, in June of 2013?

23 MR. STEPHENS: No. I ain't have a car. I don't
24 have a car. I ain't never had a car.

25 ATTORNEY SMITH: You didn't have a car?

1 MR. STEPHENS: (No audible reply).

2 ATTORNEY SMITH: Do you know who Kimberly Lowery
3 is? I'm sorry, not Kimberly Lowery --

4 MR. STEPHENS: I don't.

5 ATTORNEY SMITH: -- Amber Lowery, Amber Lowery?

6 MR. STEPHENS: Yes.

7 ATTORNEY SMITH: And how do you know her?

8 MR. STEPHENS: I know her from my neighborhood.
9 We grew up together.

10 ATTORNEY MYERS: Ask him for his [indiscernible]
11 there.

12 ATTORNEY SMITH: Do, do you know what kind of car
13 she was driving during that time?

14 MR. STEPHENS: No.

15 ATTORNEY SMITH: What were you going to --

16 ATTORNEY MYERS: Ask him if we can show him some
17 pictures in person.

18 ATTORNEY SMITH: And so, I know you said, like,
19 you don't know anything about this. But would it be
20 possible for us -- and we can meet you anywhere. It
21 doesn't have to be at your house, or --

22 ATTORNEY MYERS: Five minutes --

23 ATTORNEY SMITH: -- it --

24 ATTORNEY MYERS: -- for five --

25 ATTORNEY SMITH: -- for, for, like, five minutes

1 for us to show you some photos.

2 MR. STEPHENS: Ain't no use because I don't know
3 nothing. I can't help you with nothing.

4 ATTORNEY SMITH: Well, you don't know what I'm
5 going to show you.

6 MR. STEPHENS: Well, I know -- I choose not to be
7 involved with nothing dealing with legal shit because I
8 already know how that shit go. So --

9 ATTORNEY SMITH: Well, we --

10 MR. STEPHENS: -- I'm not. I choose not to.

11 ATTORNEY MYERS: Ask him why his name would be
12 brought up.

13 ATTORNEY SMITH: Do you know why --

14 MR. STEPHENS: I'm not incriminating myself for
15 nobody.

16 ATTORNEY SMITH: Oh, I'm not --

17 MR. STEPHENS: I ain't got nothing to do with
18 nothing, and I'm --

19 ATTORNEY SMITH: And, and I'm not --

20 MR. STEPHENS: I don't know.

21 ATTORNEY SMITH: -- I'm not, I'm not asking you
22 to at all. Do you know why your name would have been put
23 in this? Why somebody would put your name in this?

24 MR. STEPHENS: Because, because I used to be a
25 gang leader back in the day. So, that's how that

1 happened.

2 ATTORNEY SMITH: What gang?

3 MR. STEPHENS: I been retired. I was a Blood.

4 ATTORNEY SMITH: Okay. You say you've been
5 retired?

6 MR. STEPHENS: Yeah. I had to go to the -- I was
7 in community threat group. So, they had put me in that.
8 So, that's, that's -- and let me on out.

9 ATTORNEY MYERS: Ask him if he knows
10 Josh Council.

11 ATTORNEY SMITH: Did you know Joshua Council?

12 MR. STEPHENS: No, I ain't know him.

13 ATTORNEY MYERS: Did, did he have issue --

14 MR. STEPHENS: I don't even know how he look or
15 nothing.

16 ATTORNEY SMITH: Did you know -- did you ever
17 have any issues with John Allen?

18 MR. STEPHENS: No. He was, he was up under me.

19 ATTORNEY SMITH: In, in the gang you mean?

20 MR. STEPHENS: Yeah. He may have had the same
21 rank at the time.

22 ATTORNEY SMITH: Y'all were the same rank at the
23 time. Is that what you said?

24 MR. STEPHENS: Um-hmm.

25 ATTORNEY SMITH: Were you -- is it EHB --

1 E-Ricket? Is that what --

2 MR. STEPHENS: Yeah.

3 ATTORNEY SMITH: Okay. And that's the only set
4 you were involved in?

5 MR. STEPHENS: Yeah, at that time. You know, you
6 switch sets all the damn time as a gang.

7 ATTORNEY SMITH: Okay. Okay. Hold on one
8 second, I'm sorry. Okay. All right. I think that's all
9 we have for you.

10 I appreciate you talking to me. If there's
11 anything else you think of regarding this, if you remember
12 something, you have my number, and feel free to give me a
13 call.

14 MR. STEPHENS: All right.

15 ATTORNEY SMITH: Okay. Thank you.

16 MR. STEPHENS: Yeah.

17 ATTORNEY SMITH: Bye.

18 (Call ended.)

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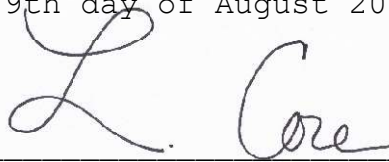
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CERTIFICATION OF TRANSCRIPT

This is to certify that the foregoing transcript of interview, consisting of 9 pages is a true and accurate transcript of the proceeding from the recording I have been provided. I further certify that I am not related to any Party or Attorney, nor do I have any interest whatsoever in the outcome of this action.

THIS 9th day of August 2023.



LATORRIA CORE, Transcriptionist

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Handout 38

Dextor Stephens DAC
Handout

Sealed by Order of the
Court.

Handout 39

Sherena Jolly Criminal History Chart

SHERENA JOLLY

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
MISD POSSESS MARIJUANA UP TO ½ OZ (PRAYER FOR JUDGMENT CONTINUED)	ROBESON	10/03/2016	01/03/2018

Handout 40

Sherena Jolly Interview

A P P E A R A N C E S

Ms. Mackenzie Myers
Staff Attorney
North Carolina Innocence Inquiry Commission

Ms. Alex Strombotne
Staff Attorney
North Carolina Innocence Inquiry Commission

Ms. Sherena Jolly

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P R O C E E D I N G S

of Tuesday, August 1, 2023:

MS. MYERS: Hey.

MS. JOLLY: Hey there.

MS. MYERS: Are you Sherena Jolly?

MS. JOLLY: Yes, ma'am.

MS. MYERS: Okay. This is kind of a weird question. My name is Mackenzie. I work for a state agency -- you are not in any trouble. I work for a state agency that investigates claims of innocence made by people who have been convicted of certain felonies in North Carolina. I'm investigating a case by a claimant whose name is Clarence Roberts.

One of the names that has -- and this was a shooting that happened in Lumberton, like back in 2013. One of the names that came up in this case was Dextor Stephens. Are you --

MS. JOLLY: I haven't talked to Dextor in about 10 years.

MS. MYERS: That's okay.

MS. JOLLY: He tried -- he gave me living -- he gave me a hard time, and I -- I kicked him out.

MS. MYERS: Okay. And I don't mean to like drag anything up, but I just --

MS. JOLLY: No. But I don't know a Clarence

1 Roberts.

2 MS. MYERS: And that's okay.

3 MS. JOLLY: Maybe they called him another
4 name?

5 MS. MYERS: They called him Woo.

6 MS. JOLLY: Woo?

7 MS. MYERS: My question to you is mostly
8 about -- I know Dexter was on -- no, you're fine. I know
9 Dexter was on -- sorry.

10 MS. JOLLY: That's okay.

11 MS. MYERS: Dexter was on probation at that
12 time. And so the reason why I came to you is because I
13 know that, like -- and you can keep smoking, that does
14 not bother me -- is like he had this listed as one of his
15 homes, and that like he had dated you around this time.
16 And this would have been June of 2013. The shooting
17 happened June 14th of 2013. And he was living here. He
18 had just like gotten out of jail.

19 MS. JOLLY: That sounds about the time where
20 we were breaking -- I broke up with him.

21 MS. MYERS: Okay.

22 MS. JOLLY: And sounds about -- I was with
23 him about seven years. I broke up with him around that
24 time, about 2013.

25 MS. MYERS: Okay. Do you remember like what

1 kind of cars he was driving around that time? Like did
2 he ever drive like a white vehicle of any kind?

3 MS. JOLLY: Dextor had a lot of women.

4 MS. MYERS: Okay.

5 MS. JOLLY: And so he -- there ain't no
6 telling whose car. I'm trying to think of what I was
7 driving at that time. I think I had a gray -- I did. I
8 had a gray Sentra, a Nissan Sentra.

9 MS. MYERS: Okay.

10 MS. JOLLY: White cars. He had a guy friend
11 named Lamar that had like a Crown Victoria, a long, black
12 car that looked like.

13 MS. MYERS: Okay.

14 MS. JOLLY: But that was a friend that kind
15 of worked and took care of his kids. And I don't think
16 he would let Dextor, you know, use his vehicle like that.

17 MS. MYERS: Okay. Did you know a girl named
18 Amber Lowery?

19 MS. JOLLY: Amber Lowery? Yeah. That was
20 one of the girls that I had got into with it about --

21 MS. MYERS: Can you tell me, like what that
22 was -- like, what was his relationship with her?

23 MS. JOLLY: With her. She had a sister that
24 stayed out in Davis Heights at the time.

25 MS. MYERS: Was the sister a sheriff's

1 officer or something?

2 MS. JOLLY: She used to work with the police
3 department at one time.

4 MS. MYERS: Okay.

5 MS. JOLLY: Her name was Brittany Lowery.

6 MS. MYERS: Okay.

7 MS. JOLLY: But that was her sister. And
8 Dexter was friends with Brittany's boyfriend. So they
9 would be over there, hanging out, and, yeah. Then I
10 ended up finding messages in his phone where they had
11 went out to eat and stuff like that, you know.

12 MS. MYERS: Yeah. Did he -- did you ever
13 see him drive a car that like belonged to Amber Lowery or
14 anything?

15 MS. JOLLY: I don't remember what kind of
16 car she had.

17 MS. MYERS: That's okay.

18 MS. JOLLY: If she had a car at the time.

19 MS. MYERS: Do you remember him ever driving
20 a car that had like gunshots in it or bullet holes or
21 anything like that?

22 MS. JOLLY: Not right off. Not right off.
23 Now, this has been like about 10 years ago.

24 MS. MYERS: I know. That's okay.

25 MS. JOLLY: I'm just trying to remember.

1 And he's not -- I'm not a fan of his. So anything that I
2 could help you with, I wouldn't hesitate.

3 MS. MYERS: That's okay. Well, I'm sorry
4 that you had like -- that that happened.

5 MS. JOLLY: Oh, it's okay. Hey, you know,
6 you've got to have -- maybe a bad one every now and then.
7 I was the type, I liked the bad boys back then. And then
8 I went okay, that ain't for you. Time to get a new one.

9 MS. MYERS: Yeah.

10 MS. JOLLY: Yeah.

11 MS. MYERS: He had -- did he have a
12 permanent grill in his mouth at that time, do you
13 remember?

14 MS. JOLLY: He -- he was known for trying to
15 keep a little gold grill in his mouth.

16 MS. MYERS: Okay.

17 MS. JOLLY: But I don't think it was
18 anything permanent. I think it was something that --

19 MS. MYERS: Okay. I'm trying to think if I
20 have any other questions for you about him, just in
21 general.

22 MS. JOLLY: He actually did that right
23 there. His cousin was sitting on the couch, playing
24 around with his cousin. And he, oh, okay, say that
25 again, you know, okay. And then he shot right through my

1 dern -- I was like --

2 MS. MYERS: Dextor did that?

3 MS. JOLLY: Yeah.

4 MS. MYERS: So he was like pretty -- like he
5 was --

6 MS. JOLLY: I think he was just meaning to
7 scare him. You know, like people are --

8 MS. MYERS: Yeah.

9 MS. JOLLY: But I'm like, this is my house,
10 like, you shouldn't have done it.

11 MS. MYERS: Did he -- like did he carry a
12 specific type of gun on him? Or like, do you know if he
13 did?

14 MS. JOLLY: I -- I'm not sure of what. I
15 know he would -- he was good for keeping a gun. But I
16 can't remember exactly what kind.

17 MS. MYERS: Okay. Do you know if he ever
18 dated somebody named Shonda Lyons?

19 MS. JOLLY: Shonda Lyons.

20 MS. MYERS: And she would have had a son
21 named Deavon Maultsby who went by Webbie.

22 MS. JOLLY: Shonda Lyons. I don't remember
23 that name.

24 MS. MYERS: That's okay.

25 MS. JOLLY: I'm trying to think, was there

1 a -- maybe because they'll call people other stuff.

2 MS. MYERS: Yeah. I don't know another name
3 for her.

4 MS. JOLLY: Because that Lyons sounds
5 familiar, but that Shonda don't.

6 MS. MYERS: Yeah. Okay. Did he ever tell
7 you about like killing anybody?

8 MS. JOLLY: Um, no, not that I can -- I
9 think I would remember something like that. But I'm
10 not -- I'm not sure. I heard at one time his name being
11 mixed up in something. But he didn't never come out and
12 tell me that he did.

13 MS. MYERS: Okay.

14 MS. JOLLY: But back -- way back then, I
15 think there was a boy named Randy shot in like Victoria
16 Estates, and I think they were looking at him and another
17 dude they called Tom-Tom. His name was Thomas Rogers.
18 And I think they was --

19 MS. MYERS: And he went by Tom-Tom?

20 MS. JOLLY: Yeah. I don't think there
21 was -- there was maybe a couple of dudes that they had
22 asked about.

23 MS. MYERS: Okay. Okay. Okay. And do you
24 remember what year that was? And it's okay if you don't.

25 MS. JOLLY: It had to have been right time I

1 was meeting him.

2 MS. MYERS: Okay.

3 MS. JOLLY: And it seemed like one of my
4 friends was like, you know you were saying that he's not
5 -- he didn't do this and that. But it seems like that he
6 was questioned and stuff, and they ended up letting him
7 go.

8 MS. MYERS: Okay. Yeah.

9 MS. JOLLY: So I was like maybe it's just --
10 but yeah.

11 MS. MYERS: Did you know of him being like a
12 CI, like a confidential informant?

13 MS. JOLLY: He -- he used to help out Jose
14 Hernandez --

15 MS. MYERS: Okay.

16 MS. JOLLY: -- that was with gang
17 enforcement.

18 MS. MYERS: In Lumberton?

19 MS. JOLLY: I think. There was one time he
20 got locked up, and those boys had ended up jumping on
21 him, and had cut his -- he had like a little paw print
22 tattoo there.

23 MS. MYERS: Yeah.

24 MS. JOLLY: And they end up cutting where
25 his -- right there. And so I think they were trying to

1 like kick him out the gang while they were in there. I
2 don't know what happened. And so I think he ended up
3 kind of leaning on Jose some, and helping. I know he
4 would help Jose some. He would -- Jose would come and
5 pick him up. They would go riding or whatever. And then
6 he'd drop him back off, you know.

7 MS. MYERS: Okay.

8 MS. JOLLY: But I don't know.

9 MS. MYERS: Do you remember when he would
10 have like gotten the cuts on his face, like around what
11 year that would have been, perhaps?

12 MS. JOLLY: God, I can't remember what he
13 was locked up for that time.

14 MS. MYERS: Do you know who WeDo is?

15 MS. JOLLY: WeDo? Yeah.

16 MS. MYERS: Would it have been before WeDo's
17 death or after, do you know?

18 MS. JOLLY: Before

19 MS. MYERS: Before WeDo's death?

20 MS. JOLLY: Before, yeah.

21 MS. MYERS: Okay. Okay.

22 MS. JOLLY: Because after that, that dude
23 Champ, he had ended up coming home from prison. And
24 before, it was like those boys really weren't taking
25 nothing serious. But then when Champ come home, it's

1 like he was on like -- and I don' t know what the deal
2 was with there. WeDo and Dextor had got in a fight a
3 couple weeks beforehand, and it seemed like WeDo was
4 trying to -- WeDo had ended up messaged him. And it was
5 something like, basically like, it's kind of like he
6 didn't mean to send the message to him, but it was
7 something about them going after him. So I don't know if
8 he was just trying to give him a heads up some kind of
9 way. But --

10 MS. MYERS: You said they were going after
11 him? Is that what you said?

12 MS. JOLLY: Dextor.

13 MS. MYERS: Dextor was going after WeDo?

14 MS. JOLLY: You know how gangs are.

15 MS. MYERS: Yeah.

16 MS. JOLLY: I don't know if WeDo was
17 supposed to do something to Dextor, and he didn't, so
18 they did something to WeDo or something kind of deal.

19 MS. MYERS: Okay.

20 MS. JOLLY: I don't know. I just hear bits
21 and pieces, and I don't want to ask any questions.

22 MS. MYERS: Yeah.

23 MS. JOLLY: But yeah. I'm glad I got away
24 from all that.

25 MS. MYERS: Yeah.

1 MS. JOLLY: Because that -- and that, too,
2 was really like, look, I ain't having this mess around my
3 house, because if they come for you, I got me and my kids
4 here. You know?

5 MS. MYERS: Right. Yeah. I understand
6 that. Okay. So they -- was he a member of EHB, E-Ricket
7 Hunter Blood? Do you know if it --

8 MS. JOLLY: I know it was some kind of Blood
9 he was freak with.

10 MS. MYERS: Okay. But for WeDo, that was
11 either like they killed WeDo because WeDo didn't do
12 something to Dextor?

13 MS. JOLLY: WeDo, they -- Wedo, they were
14 kicking WeDo out the gang -- the thing, from what I
15 heard.

16 MS. MYERS: Okay.

17 MS. JOLLY: And WeDo was supposed to be
18 going to be with some boys that he knew Latin -- the
19 Latin King or some kind of deal like that.

20 MS. MYERS: Okay.

21 MS. JOLLY: Did Dextor have something to do
22 with WeDo's murder, do you think? Or do you know?

23 MS. JOLLY: No. No. Dextor -- Dextor
24 was -- Dextor was -- he's -- basically, he told me, like,
25 he didn't think that the boy was going to do it. That

1 the boy had mentioned doing something to WeDo, but he was
2 always talking about he was going to do this or that to
3 the Champ dude.

4 MS. MYERS: Okay.

5 MS. JOLLY: Yeah. So from what I think,
6 Dextor got a phone call, and he's like, yeah, I'm going
7 to do this, and I'm going to that, and just -- and
8 basically told Dextor what he was going to do. But
9 Dextor didn't take him serious.

10 MS. MYERS: Okay.

11 MS. JOLLY: And then, when he got the phone
12 call that he did do it, then he was really upset then,
13 you know, crying. Because those boys had knew each other
14 since childhood, you know. And they might have got in a
15 fight a little two weeks before that WeDo passed.

16 MS. MYERS: Yeah.

17 MS. JOLLY: But that -- he, you know --

18 MS. MYERS: Do you know what the fight was
19 about?

20 MS. JOLLY: Huh-uh. (Negative)

21 MS. MYERS: No?

22 MS. JOLLY: No. I don't know. I don't
23 know. That was sad.

24 MS. MYERS: Yeah.

25 MS. JOLLY: That was really sad.

1 MS. MYERS: Did people blame Dexter for
2 WeDo's murder?

3 MS. JOLLY: I think that they might have
4 thought that he -- because they had got in that -- they
5 had got in like a little squabble at Taco Bell from what
6 I heard. And I think that because of that happening so
7 short to before --

8 MS. MYERS: Yeah.

9 MS. JOLLY: -- they probably thought, you
10 know.

11 MS. MYERS: So do you think, was Dexter like
12 high up in the gang? Or was Champ higher up than he was?

13 MS. JOLLY: Yeah. Champ was over all of
14 them.

15 MS. MYERS: Champ was over all of them.

16 MS. JOLLY: Uh-huh. (Affirmative)

17 MS. MYERS: Okay. Do you know who a guy
18 named John Allen is?

19 MS. JOLLY: John Allen is one that they
20 brought -- Champ had brought John Allen in. And he
21 actually -- I remember Dexter feeling some kind of way
22 because he was going to put John Allen in a higher
23 position, basically, than him. Because John Allen knew
24 more people. And I guess --

25 MS. MYERS: Okay. Is there any chance that

1 like -- did Dextor ever talk about like taking John Allen
2 out?

3 MS. JOLLY: No. Huh-uh. (Negative)

4 MS. MYERS: Okay.

5 MS. JOLLY: I know he just kind of felt
6 salty about him, you know, getting as high up, and he
7 just started. And you know how they feel, like oh, I've
8 been doing this and all --

9 MS. MYERS: Yeah. Right.

10 MS. JOLLY: -- and he just started. And
11 they just basically like beat him in or whatever, and now
12 he's going to go all the way up, you know.

13 MS. MYERS: Okay. Okay. Can you think of
14 anything, Alex?

15 MS. STROMBOTNE: No.

16 MS. JOLLY: If you need my number, I'll give
17 you my number.

18 MS. MYERS: Yeah. Is that okay?

19 MS. JOLLY: It's no problem. It's no
20 problem.

21 MS. MYERS: And I'll give you my card. So
22 I -- this is -- my name is name is Mackenzie. And
23 everything we do is confidential

24 MS. JOLLY: Right.

25 MS. MYERS: We have a hearing that's going

1 before our commissioners in a couple of weeks for this
2 guy named Clarence Roberts who was convicted of second
3 degree murder for a shooting that happened at Hayswood
4 Hut. And this happened on June 14th of 2013. So it's
5 been a while. Dextor's name came up as a possible, like
6 alternate suspect.

7 MS. JOLLY: Right.

8 MS. MYERS: And so I like -- and because we
9 are investigators, we get like a lot of different like
10 material. And so when I had seen that he had lived here
11 with you, that's why I wanted to just talk to you --

12 MS. JOLLY: Right.

13 MS. MYERS: -- and see like if there was
14 anything that kind of jogged your memory about anything.

15 We do not represent Clarence Roberts. We
16 are neutral. So, you know, if he's guilty, he's guilty.
17 If he's innocence, then hopefully, we'll be able to, you
18 know --

19 MS. JOLLY: Right.

20 MS. MYERS: -- get what we need to show our
21 commissioners that.

22 MS. JOLLY: Yeah.

23 MS. MYERS: You don't mind giving me your
24 number in case I think of something else?

25 MS. JOLLY: Yeah. It's 910-785-3059.

1 MS. MYERS: 910-785-3059. Thank you so
2 much. I really appreciate you.

3 MS. JOLLY: No problem. And the name's
4 Sherena.

5 MS. MYERS: Jolly.

6 MS. JOLLY: Yeah.

7 MS. MYERS: Is it weird that I know? I'm
8 sorry that I know that. It's probably a little bit
9 strange.

10 MS. JOLLY: Yeah. Because you did say
11 hello, are you Sherena.

12 MS. MYERS: Yeah. No, that's okay. Thank
13 you. So much for speaking with me. I really, really
14 appreciate you.

15 MS. JOLLY: Oh, it's no problem. I'm sorry
16 I look so bad.

17 MS. MYERS: No, look. We both wearing --

18 MS. JOLLY: You know, it's that time of the
19 month --

20 MS. MYERS: I understand. We're both
21 wearing leopard print.

22 MS. JOLLY: Oh yeah.

23 MS. MYERS: So we're like twins.

24 MS. JOLLY: I guess we are.

25 MS. MYERS: If you think of something, do

1 you mind just giving me a call?

2 MS. JOLLY: Yeah. No problem, baby.

3 MS. MYERS: Okay. Thank you. So much. It
4 was really nice to meet you.

5 MS. JOLLY: Thank you. Nice to meet you.

6 MS. MYERS: Take care. Thank you.

7 MS. JOLLY: Okay.

8 (WHEREUPON, the foregoing interview
9 was concluded on Tuesday, August 1, 2023.)

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Handout 41

Sheila McKeithan

Facebook Post

6/15/2013



Sheila Mckeithan

June 15, 2013 · 🌐



im not ready to say goodbye he said he going be here dis morning get his hair done so im wait on him just not ready to say goodbye

👍 4

Share



Sheila Mckeithan

June 15, 2013 · 🌐



lil josh is up play and talk only if he new wht happen he tryin put a smile on my face he look just like his daddy

👍 5

Share



Sheila Mckeithan

June 15, 2013 · 🌐



Cant belive he gone i love tha boy we was just fuss over da last icecream bar lol Josh was a good daddy evertime josh come to the house lil josh jump up and down and lil josh never want get out his arms i just cant belive dis look at lil josh n c his daddy

👍 6

1 comment

Share



Bre'anna McDougald
I'm here if yu need me



9y



Handout 42

Clarence Roberts Criminal History Chart

CLARENCE ROBERTS

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
2nd DEGREE MURDER (F)	ROBESON	06/14/2013	05/05/2017
ASSAULT WITH A DEADLY WEAPON (M)	ROBESON	06/14/2013	05/05/2017
DWI – LEVEL 5	ROBESON	06/15/2013	09/03/2015
INTOXICATED AND DISRUPTIVE	ROBESON	06/13/2008	08/10/2010
RESISTING PUBLIC OFFICER	ROBESON	06/13/2008	08/10/2010
COMMUNICATING THREATS	ROBESON	06/13/2008	08/10/2010
SECOND DEGREE TRESPASS	ROBESON	06/13/2008	08/10/2010
SECOND DEGREE TRESPASS	CUMBERLAND	05/06/2008	07/21/2008
ASSAULT ON A FEMALE	CUMBERLAND	06/30/2008	07/15/2008
DWI – LEVEL 4	CUMBERLAND	07/14/2001	02/08/2005
DWLR	CUMBERLAND	07/14/2001	02/08/2005
INTOXICATED AND DISRUPTIVE	CUMBERLAND	06/08/2008	07/16/2001
LOITERING	ROBESON	03/31/1999	08/30/1999
ASSAULT ON A FEMALE	ROBESON	05/24/1999	08/30/1999
RESISTING PUBLIC OFFICER (PJC)	ROBESON	03/31/1999	06/02/1999
FELONY POSSESSION OF COCAINE	CUMBERLAND	12/12/1996	01/15/1998
DWLR (PJC)	CUMBERLAND	02/10/1995	04/06/1995
POSSESSION MARIJUANA UP TO ½ OZ	CUMBERLAND	07/19/1993	07/27/1994

PWIMSD COCAINE	CUMBERLAND	04/26/1993	06/23/1993
PWIMSD COCAINE	CUMBERLAND	04/04/1992	06/23/1993
PWIMSD COCAINE	CUMBERLAND	02/12/1993	06/23/1993
SECOND DEGREE TRESPASS	CUMBERLAND	03/30/1993	05/14/1993
SECOND DEGREE TRESPASS	CUMBERLAND	03/11/1993	05/14/1993
SIMPLE ASSAULT	CUMBERLAND	01/14/1993	01/15/1993

Handout 43

Clarence Roberts
Transcript with Digest
and Exhibits

July 18, 2023

Interview of Clarence Roberts by Mackenzie Myers and Taylor Miller

Page #	Description of Roberts' Interview	Exhibit
4-12	<ul style="list-style-type: none">Commission Staff Attorney Mackenzie Myers (MCM) and Grant Staff Attorney Taylor Miller (TNM) interviewed Clarence Roberts (Roberts) at Pender CI on 7/18/2016. His attorney, Reid Cater (Cater), was also present. MCM goes over preliminary matters and a discussion about doing the interview in a private space. MCM also describes the hearing process.	
12-13	<ul style="list-style-type: none">MCM asks Roberts about his earliest memory from the day of the crime. Roberts says his girlfriend, Vanessa (Vanessa), woke him up at 4:30am to take his son to meet his mother at a Maxway in St. Paul's. MCM confirms that Roberts' son is Jarod Lowery. MCM asks if it was a pre-arranged drop-off. Roberts says yes. They talked at 11pm and talked about meeting because Roberts had a job to go to in the morning. MCM asks who dropped Jarod off and Roberts says he thinks he (Roberts) picked Jarod up.	
13-14	<ul style="list-style-type: none">MCM confirms that Roberts was living at 623 River Front Lane in Fayetteville. Roberts says he was living with Vanessa and her two daughters, Keeley and Selena.	
14-15	<ul style="list-style-type: none">MCM asks if it was his first day at that job. Roberts says it was. The job was at Murphy-Browns. MCM asks what time he got to work. Roberts says he think it was 6am. He was late because they didn't give him the right lot number.	
15-16	<ul style="list-style-type: none">MCM says she read somewhere that Roberts had to shower before he started work. Roberts says yes. Roberts explains that he went to the temp service two days before and they told him he had to "wash in and out." They're working with livestock and hogs. He asked Vanessa to pack a bag and she put in soap and a towel and other clothing.	
16	<ul style="list-style-type: none">MCM asks what Roberts was wearing that morning. He was wearing a Jack Nicholson shirt with golds in his mouth, black jeans, and steel-toed boots. He put his tennis shoes in his trunk.	
16-17	<ul style="list-style-type: none">MCM asks if he was given something to wear after he washed in at the right lot. Roberts says they gave him some kind of suit, gloves, and soap. He thought he needed to bring things to wash in and wash out, but they provided it. MCM says then he didn't need the things Vanessa packed and Roberts says yes.	
17-18	<ul style="list-style-type: none">MCM asks what time he got off of work. Roberts says 12pm. MCM asked what the process was to leave work. First, Roberts says he had to wash out. Then he says he just had to wash in. It was a Friday and he wanted to make sure he did his work well because they were going to think about hiring him back on Monday. MCM asks if that's because the job was through a temp agency and Roberts says yes. They told him he was a good worker and said he would be back on Monday.	

July 18, 2023

Interview of Clarence Roberts by Mackenzie Myers and Taylor Miller

Page #	Description of Roberts' Interview	Exhibit
18	<ul style="list-style-type: none">Roberts sat in the parking lot for a little bit. He called his cousin Jennifer Gurley. She wanted to go to his aunt's wake. She didn't pick up.	
18-19	<ul style="list-style-type: none">MCM asks if Roberts changed back into the clothes he wore before going into Murphy-Browns. Roberts says yeah. Black jeans and a white shirt with Jack Nicholson on it. MCM asks if Jack Nicholson had a grill in his mouth on the shirt. Roberts says yes. MCM asks if there were words on the shirt and Roberts said "I'm still shining" or something. MCM asks where he found the shirt. Roberts says at a flea market. He liked it.	
19	<ul style="list-style-type: none">MCM asks what Roberts' aunt's name was. He says Geraldine Jasper. MCM asks if Gurley answered his call. Roberts says she did not. Roberts says he had a drinking habit. He called Vanessa and said he didn't think he should go alone and asked her to come with him. She was in St. Paul's about 10 minutes away so she was like, might as well go ahead.	
20-21	<ul style="list-style-type: none">Roberts said his car tags were not right and he didn't have a license. He felt more comfortable with Vanessa coming with him. MCM clarifies that he called both Vanessa and Gurley. MCM asks how long he was sitting in the parking lot. Roberts says two hours. He got off of work at noon. MCM asks who he called first. Roberts says Gurley. Then Vanessa because she got off of work at 2-3pm.	
21-22	<ul style="list-style-type: none">MCM asks when he left the parking lot. Roberts says 2:10pm. His friend, Robert Smith, asked why he was sitting in the parking lot. Roberts said he was thinking about going to Lumberton. Roberts said he was going to pick up Gurley for his aunt's wake. Robert Smith let him know that Tar Heel Road was close. MCM asks if Murphy-Brown's was close to the Smithfield plant. Roberts says yes it was on Chicken Foot Road.	
22	<ul style="list-style-type: none">MCM asked if it was prearranged that he would go with Gurley and Roberts says yes. She would bring his son down when she came. Gurley had told him the week before when their aunt passed that she wanted him to come.	
23	<ul style="list-style-type: none">MCM asks what happens after Robert Smith points out Tar Heel Road. Roberts says he left. If it was that close, he thought he could go ahead and make it. MCM asks if he was alone and Roberts says he was. He stopped at a store called Last Stop in Lumberton close to Gurley's. He got two Bud Ices in 24 oz cans.	
23-25	<ul style="list-style-type: none">Roberts says that when he got to the house around 3pm, "they" had just come in. Her son Dasmie McQueen had graduated. They call Dasmie Cornbread. MCM asks who "they" is and Roberts says Gurley, Gurley's mother, and Cornbread. Then he says Cornbread came up later. Gurley is Roberts' mom's brother's daughter.	
25-26	<ul style="list-style-type: none">MCM asks when he got to Gurley's. Roberts says 2:45-3pm. MCM asks if he drank beer while he was there and Roberts says yes. MCM asks if he drank both 24oz and Roberts says no. He popped	

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Interview of Clarence Roberts by Mackenzie Myers and Taylor Miller

Page #	Description of Roberts' Interview	Exhibit
	his beer and started drinking. Then Cornbread, Patrick, and a bunch of younger guys came. He knew one guy as being named Moose. Moose stayed with Roberts a few times. MCM asks about Moose's government name and Roberts doesn't know it. He's 16-17. MCM asks who Patrick is. Patrick is Gurley's other nephew.	
26	<ul style="list-style-type: none">MCM asks what Roberts was doing with the younger guys. He talked to them about graduating. They told him he didn't need to drink any of the beer he brought and showed him lots of beer in their truck. MCM asks what kind and Roberts says Bud Ice.	
26-28	<ul style="list-style-type: none">MCM says she's going to ask Roberts questions about what he was drinking that day. MCM asks if Bud Ice was Roberts' drink of choice. Roberts says he really likes Budweiser but drinks Bud Ice some. MCM asks if they had a truck full of Bud Ice. Roberts thinks they had two cases. MCM asks if he finished his own beer that he had popped and Roberts said yes. MCM asks if that meant he had one 24oz left and Roberts says yes.	
28-29	<ul style="list-style-type: none">MCM asks how much beer Roberts drank at Gurley's. He thinks he drank two of the younger guys' beers. They had 16oz cans. MCM asks if he had anything other than the one 24oz and two 16 oz beers and Roberts says no.	
29-30	<ul style="list-style-type: none">MCM asks what they were doing. A lady named Glossie/Gloria Roberts came across the street. MCM confirms that Gurley lived in Turner Park and Roberts says yes. Roberts says Glossie's nephew stayed across the street. He knew Glossie from being one of his customers when he sold drugs. Glossie came over and said she hadn't seen Roberts in a long time. Roberts told her he was out of the streets. She said she could tell and she was out of the streets as well. They hugged.	
30	<ul style="list-style-type: none">While Roberts was talking to Glossie, Gurley came out and Roberts asked if they were going to go. Gurley said she couldn't because she had staples in her stomach. Roberts told her she knew he came all the way to Lumberton and his tags aren't right. She said she was sorry. He wanted her to drive because she had her license.	
30-31	<ul style="list-style-type: none">MCM asks why Roberts' tags weren't right. Roberts says he just bought a car from his sister and was trying to get it changed over. He had to put a motor in it and it was leaking. Roberts says he's never had a license. MCM asks why. Roberts says he got into an accident when he was 13-14 and his mom couldn't pay for the damages. He could never get his license because of money.	
31	<ul style="list-style-type: none">MCM asks what sister he bought the car from and Roberts says Tasha. MCM asks who Heather Rae Conn is and Roberts says she's related to Vanessa.	
31-32	<ul style="list-style-type: none">MCM asks if the car was the white Ford Taurus. MCM asks if it was Vanessa's car and Roberts says it was his car but he bought it to give it to her. Vanessa never had a license or a car. MCM asks if it is fair to say he bought the car from his sister but was sharing it	

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Interview of Clarence Roberts by Mackenzie Myers and Taylor Miller

Page #	Description of Roberts' Interview	Exhibit
	with Vanessa. Roberts says he bought it from his sister to give to Vanessa. MCM asks if it was common for Roberts to drive the car. Roberts says yes because Vanessa could not drive.	
33-34	<ul style="list-style-type: none">MCM asks why the car was registered to Heather Rae Conn. Roberts says he was in a financial bind, Roberts was on unemployment, and so they went and got plates from an aunt because she owned a Taurus or something. MCM asks how long Roberts and Vanessa had been dating at that point. Roberts says since around 2011 but they'd known each other since junior high school.	
34-35	<ul style="list-style-type: none">MCM circles back to Gurley not being able to go because of her stitches. Roberts says he then sat around when Cornbread was on the phone with his dad, Eric "E" McQueen. Cornbread passed Roberts the phone and E told Roberts to come to New Town.	
36-37	<ul style="list-style-type: none">Roberts says Jennifer told him to not go over to New Town because E is trouble when he drinks. Roberts explains that E likes to drink and Jennifer knew that if Roberts went there, they would drink. MCM asks how long Roberts was at Jennifer's. Roberts says probably an hour, it would have been close to 4pm he thinks. Roberts thinks he got to Jennifer's at 2:45-3pm.	
37	<ul style="list-style-type: none">MCM asks what did he do after he left Jennifer's house. Roberts says he went to New Town where E was at which was Roberts' Aunt Mildred's.	
37-38	<ul style="list-style-type: none">MCM asks if New Town is Booker Avenue. Roberts confirms this. MCM shows Roberts Ex. 77. Roberts identifies the photo as his Aunt Mildred's house. This was the first place he went to in New Town.	Ex. 77 – Photo of 1825 Booker Ave.
39	<ul style="list-style-type: none">MCM asks if Roberts had anything to drink from the time he left Jennifer's to the time he got to Aunt Mildred's. Roberts says just one 24 oz. can in the front yard of Mildred's house. MCM asks who else was at Mildred's house. Roberts answers E's mother, Christine, Aunt Mildred and her brother, Robert Lee.	
40-42	<ul style="list-style-type: none">Roberts adds that Tammy Jones was also there. She was E's girlfriend. Roberts describes Tammy as having brown skin and was wearing overalls. Roberts asked the group if they wanted anything to drink and Tammy was the only one who answered saying she wanted a Heineken. Roberts asked Tammy where E was and she said Jakelie just came by and got him. Jakelie McQueen is E and Jennifer's daughter and she drove a black Honda that day.	
42	<ul style="list-style-type: none">Roberts explains Tammy said E went to a job interview. While waiting for E to come back the police drove by which make Roberts nervous because his plates were not right.	
43	<ul style="list-style-type: none">MCM asks how long Roberts was at Mildred's waiting for E. Roberts thinks it was within 30 minutes. Roberts only had the one 24 oz. can while at Mildred's.	

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44	<ul style="list-style-type: none">MCM and Roberts discuss how Roberts is related to Christina, Mildred, Jennifer, and E.	
45-48	<ul style="list-style-type: none">MCM shows Roberts Ex. 78. MCM explains this is another house that Mildred had on Booker Street. MCM asks if this was the house Roberts went to that afternoon and he answered yes. MCM clarifies that they have been calling it Booker Street but it is really Booker Avenue. MCM and Roberts discuss where his car was parked while at Mildred's house.	Ex. 78 – photo of 1832 Booker Ave.
48-49	<ul style="list-style-type: none">MCM asks if Roberts went to Mildred's other house. Roberts said no. they just walked behind to go around the corner to Charles Burns' house. Roberts explains that Mildred's husband, Heavy, stayed at the other house and Head, whose real name is Gary, is their son. MCM asks who went with him to Charles Burns' house. Roberts says it was him and E and they walked there. MCM asks Roberts if he drank anything on his walk over the Burns'. Roberts thinks he did but is not sure. If he did it would have been a beer. Roberts says he stopped at the store right by Booker Street to get it.	
50-51	<ul style="list-style-type: none">MCM asks when he went there. Roberts says it was right before E pulled up and he brought Tammy a beer too. MCM asks if the store was called Sun-Do. Roberts thinks it was called that; it was on Elizabethtown Rd. and Godwin Avenue. Roberts drove to the store, got himself a 24oz. beer, possible it was another Bud Ice, and Tammy her Heineken. MCM asks how much cash Roberts started off with. Roberts says \$40. Roberts returned back to the house after leaving the store.	
52	<ul style="list-style-type: none">MCM asks where Burns' house in relation to the house in Ex. 77. Roberts says its right behind it on the next street over.	
53	<ul style="list-style-type: none">MCM shows Roberts Ex. 79 and asks if he went to either of the two homes pictured. Roberts pointed at one of the houses and identified it as Burns' house but does not know the address.	Ex. 79 – Ash Street Bootlegger House
54-55	<ul style="list-style-type: none">MCM asks Roberts to talk about Charles Burns. Roberts had not seen Burns in a long time and recalls there being a lot of people there. Once Roberts gave Burns a ride to rehab and gave him money for a bus to Charlotte. Burns poured Roberts a big drink of some kind of brown liquor but is not sure what kind. It was in a big Styrofoam cup.	
56-57	<ul style="list-style-type: none">MCM asks if Burns' house was a liquor house. Roberts says people said Burns sold liquor but he did not sell anything to Roberts. Roberts recalls seeing Dave Simpson, some people he did not know, and Fly. Fly was Burns' brother. Roberts continues to say that Soulski Stephens pulled up and then Stanton McLaurin was there.	
58-59	<ul style="list-style-type: none">Roberts says Soulski was just driving through; he does not think Soulski got out of his car. Roberts remembers having a casual conversation with Soulski and then the police pulled up. MCM asks if the police got out of their car. Roberts says no, they were just	

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	neighborhood patrolling. But they did stop and talk to Stanton. One of the officers asked Stanton who Roberts was and Stanton told them Roberts' name was Woo. Roberts says the officers then just drove off.	
59-61	<ul style="list-style-type: none">MCM shows Roberts Ex. 9. Roberts identifies Soulski Stephens as the individual in the photos. Roberts says Stanton McLaurin has since passed away. MCM shows Roberts Ex. 85. Roberts identifies Stanton McLaurin as the person in the photos. MCM asks how Roberts knew Stanton. Roberts says he used to go over to Stanton's house a lot because his Uncle Abdulu was married to Stanton's family member. MCM asks why Stanton would be talking to police. Roberts says Stanton was like the neighborhood community watch since he had lived in that neighborhood for so long.	Ex. 9 – Soulski Stephens DPS photos Ex. 85 – Stanley McLaurin DAC photos
61-62	<ul style="list-style-type: none">Roberts says he told Stanton that Stanton should not have told police his name and then Roberts decided to leave. MCM asks how long Roberts was at Burns' house. Roberts answers about 20 minutes. MCM asks if Roberts had finished that cup of brown liquor by time they left. Roberts says he was sharing it with E but was not sure if they finished it before leaving.	
62	<ul style="list-style-type: none">MCM asks Roberts if he walked back to his car at that point. Roberts says they walked back to his car and then drove to East Pine. Roberts and E did not make any stops on the way to East Pine.	
63	<ul style="list-style-type: none">MCM asks if Roberts had anything to drink on the way to East Pine. Roberts cannot recall if they still had the cup of liquor or not. But if they did have it in the car, E was drinking it while Roberts was driving. Roberts did not want to have a cup in his hand.	
63-65	<ul style="list-style-type: none">MCM asks Roberts how much he had to drink from that cup versus E. MCM asks if Roberts drank a significant portion of it. Roberts says yes but he was still capable of driving though. MCM shows Ex. 86 to Roberts. Roberts says he went to the house in this photo but it was later on after they were on East Pine.	Ex. 86 – Photo of house on 7th street
66-67	<ul style="list-style-type: none">Roberts says the house they went to on East Pine was a two-story white house. MCM shows Roberts Ex. 87. Roberts says that it looks like the house he was at but is not sure. He thought the house was a bigger two-story home. MCM says she thinks this house may be a two-story home it was just hard for her to get a good photo of it.	Ex. 87 – Photo of East Pine House 1
67	<ul style="list-style-type: none">MCM asks Roberts what was at this house. Roberts recalls there was a lot of people in the yard. He saw Mike-Mike, Sugar Daddy and a lot of other people Roberts knew from back in the day. There were some women out there too. MCM asks if there was anything in front of the house. Roberts says there was a railroad track and thinks a funeral home was down the street.	
67-70	<ul style="list-style-type: none">MCM shows Roberts Ex. 88, a different angle of the East Pine house. Roberts says this is a better photo. MCM and Roberts	Ex. 88 – Photo of East Pine House 2

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	discuss where he parked his car while at the East Pine house. Roberts says there were a lot of cars there. MCM and Roberts discuss where the other cars were parked at.	
70-72	<ul style="list-style-type: none">MCM asks if the East Pine house was a liquor house. Roberts answers yes. Roberts adds that he had been to this house before that day, maybe three weeks before. MCM asks who lived at this house. Roberts says it was a lady from Florida and a man he did not know. MCM asks if Roberts remembers anyone else who was there that day. Roberts says Two Dollar, Mike-Mike (Michael Shaw) and Sugar Daddy (Brian McArn). Roberts does not know Two Dollar's real name.	
72-73	<ul style="list-style-type: none">Roberts continues and says Rodney Cade was there too. MCM asks if Roberts knew all the people that were at the East Pine house. Roberts says no. MCM asks if Roberts had any alcohol while at this house. Roberts says yes. He thinks he bought a shot and the lady there gave him extra. MCM asks how big the shot was. Roberts says it was a little cup, like a standard shot.	
73	<ul style="list-style-type: none">MCM asks what kind of liquor Roberts drank there. Roberts says it was brown but does not know. MCM asks Roberts to explain a liquor house. Roberts says they usually have Travelers Club, brown or gin, and they serve it out of little shot glasses. You pay cash.	
73-74	<ul style="list-style-type: none">MCM clarifies that Roberts bought one shot. Roberts says yes but he thinks the lady gave him two instead. The lady put both shots in one cup and Roberts sipped on it. MCM asks how long Roberts was at this house. Roberts says it was a long time because he remembers talking with the people he knew there.	
75	<ul style="list-style-type: none">Roberts answers he was at the shot house for more than an hour. MCM follows up asking if he was there for more than two hours and Roberts responds that he was there for probably right at two hours. MCM asks if Roberts had any more than the two shots he previously mentioned drinking. Roberts responds that someone brought him some shots and he drank them. Then Roberts said he went back to the store. Roberts' best guess was that he had two to three shots more. MCM clarifies that Roberts had approximately four to five shots while at the house and Roberts confirms.	
75-76	<ul style="list-style-type: none">MCM asks Roberts why he left the house at the time he did. Roberts responds that E wanted to go see Gary or Head and Roberts wanted to see him too because he had not seen him in awhile. Roberts states he was driving his car and had E and Rodney in the car with him. They stopped at the house on Summit. MCM asks if the house in Ex. 86 is where they stopped at and Roberts confirms. MCM asks Roberts if he went to the store first but Roberts cannot recall, he can just remember he went to the store at some point. To clarify MCM asks if they left the house on East Pine and drove to the house on Summit. Roberts confirms that is	86

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	correct. MCM further clarifies that Roberts was with E and Rodney Cade and again Roberts confirms that was correct.	
77	<ul style="list-style-type: none">Roberts recalls E and Rodney Cade in the car and he thinks they ended up at the house on Summit but they went to Head's house also. Roberts continues, it was two apartments that were Head's girlfriend's house or something and she stayed behind the school. MCM clarifies that they stopped at the house on Summit and stopped at the apartments and Roberts confirms. Roberts has trouble remembering which order they stopped in but they ended at the house on Summit. MCM asks Roberts what he did while at the apartments. Roberts says there were some women there and one gave him a shot. Roberts adds that Head pulled up while they were at this house.	
78	<ul style="list-style-type: none">MCM asks Roberts if he knew any of the women at the apartments but Roberts does not know them. MCM asks Roberts how long they stayed at the apartments. Roberts says they were only there until Head got there. MCM clarifies that Head was not there when they arrived but lives in the apartments and Roberts confirms that is correct. Roberts cannot remember the name of the apartments; it was just two small apartments. Head lived there with a woman who people called Head's girlfriend but the two were not dating.	
79	<ul style="list-style-type: none">Roberts does not know the name of this woman. MCM asks how long they were at the apartments. Roberts thinks it was probably an hour. MCM asks Roberts what he had to drink while there. Roberts thinks he had two shots but is not sure. MCM asks Roberts about when they left the apartments whether they then went to the house on Summit and Roberts responded that was correct.	
80	<ul style="list-style-type: none">MCM asks why they left the apartments to go to the house on Summit. Roberts answers that Rodney wanted to go there because he thinks that's where Rodney stayed at. Roberts recalls Rodney wanting to see someone at the house but cannot remember who. Roberts walked to the house on Summit from the apartments but is not sure. MCM asks how long Roberts stayed at the house on Summit. Roberts answers saying they did not stay long because he remembers standing outside of the house.	
81-83	<ul style="list-style-type: none">MCM asks if Roberts ever went inside this house and Roberts responds he did not go inside. Roberts does not recall who lived at this house but remembers being there with Rodney Cade. MCM asks if E or Head was there also but Roberts could not remember about E, but did think Head was there. Roberts could not recall if Head's girlfriend was at the house also. After sitting at this house for awhile, Roberts and Rodney decided to go to the store. They were sitting outside the house drinking when they decided to go. Roberts adds that E may have been in the car but he is not certain. Roberts remembers leaving this time because they went by the police station where they were remodeling it and there was a lot of	

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	<p>trash in dumpsters. The police station was on Godwin Avenue. Roberts continues on to say they went to the same store as earlier. MCM clarifies they went to the same store that he got the Heineken for Tammy and Roberts confirms. While there this time, Roberts says he bought beer, Rodney bought him a beer, and Roberts thinks he bought a book also.</p>	
84	<ul style="list-style-type: none">• Roberts is not sure but knows someone bought a book with LeBron James on it. MCM asks if Roberts thinks the book came from this store and Roberts responds he does because he remembers looking at it. MCM asks what kind of beer Roberts bought for himself. Roberts answers that he bought Bud Ice or Budweiser; a 20oz. Rodney bought him the same thing. MCM then asks if Roberts then returned to the house on Summit. Roberts answers they went back to the apartments then.	
85	<ul style="list-style-type: none">• MCM asks how long he stayed at the apartments this time. Roberts cannot recall but it started looking like it was getting dark. Roberts thinks it was approximately 6-7pm because he remembers some guys walking like they were headed to the basketball court or coming from it. MCM asks if Roberts saw where they were coming from. Roberts thinks they came from the side road where the two-story house was on Peachtree or they came the back way on 6th street. MCM asks if Roberts recognized any of the people walking. Roberts says he only recognized Larry or L Boogie.	
86	<ul style="list-style-type: none">• Roberts adds Larry was a guy he used to know from way back who is approximately three years younger than Roberts. MCM asks if Roberts spoke with Larry. Roberts answers he did speak to Larry and Larry was on his bicycle. But when the others in the group came up there was a bunch of younger people he did not know. Roberts continues, there was one guy who kept looking at him and blowing on about "what's up." Larry turned to the guy and said he knew Roberts and told the guy Roberts was good people; after that nothing else was said. Roberts says there was someone sitting in a white car parked on the side of the road, too, but he did not know who it was. Roberts' car was parked on one side and this car was parked on the other side.	
87-88	<ul style="list-style-type: none">• MCM asks Roberts to describe their location. Roberts says they are at the apartments and the school is right in front of them. They all were sitting on the porch of the apartments. The school is called Rowland Norment. MCM asks if the apartments are called Magnolia and Roberts says no, Magnolia was down the street. Roberts adds there are a lot of apartments. MCM clarifies that Larry was on his bike when Roberts saw him and the others were just walking; Roberts confirms. Roberts adds the others were coming from 6th street and additional people were coming from Magnolias which is in a different direction.	

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89-90	<ul style="list-style-type: none">Roberts later found out the guy who approached him when he was talking with Larry is named Jose Locklear. MCM asks what Roberts learned about Jose. Roberts answers Jose had a bad attitude but Roberts was not bothered by the incident. Roberts later met him in the jailhouse and the two got to talking. Jose did not remember anything from that night either because he was drunk too. MCM asks where the group was walking towards that night. Roberts thinks they were headed towards the basketball court or they were going to the store. MCM asks Roberts how many people were in this group and Roberts answers it was at least 15 to 20 people.	
91-92	<ul style="list-style-type: none">MCM clarifies that Roberts sees this group of people, including Larry and Jose, when he was standing outside of the apartments that Head lived in. Roberts confirms this is correct. MCM asks if Roberts' car was parked at the apartments. Roberts says yes. MCM then asks Roberts about the other white car that was parked at the apartments. Roberts says it was parked on the other side of the street and facing towards the Magnolia apartments. Roberts says he thought it was Kendrick's car but is not sure. There was someone sitting on top of the car but nothing about the car concerned him. MCM asks what Roberts did next. Roberts says he got a little nervous because he does not like being around a lot of young guys and suggested they go back to 6th street. MCM asks Roberts why young guys make him nervous. Roberts says young guys are reckless and he can't take that. While Roberts was still there he saw someone acting crazy so he left to go back to the house and Head rode his scooter there.	
93-94	<ul style="list-style-type: none">MCM asks Roberts to clarify what he means. Roberts says the person was clutching and he wants to get away from that stuff. MCM again asks Roberts to clarify. Roberts says clutching means they have a gun on them. This person was in front of the street. After Roberts left, he did not see this person again. Roberts leaves the apartments with E and thinks he took E to 14th Street. At the time he did this, he did not know that's where E stayed. Later on, a man named Steve told him that's where E lived. Steve is one of Glossie's people. MCM clarifies that Glossie was the woman who lived across from Jennifer. Roberts corrects MCM saying her nephew stayed there but Glossie stayed on 14th Street.	
94-95	<ul style="list-style-type: none">Roberts recalls walking upstairs to an apartment. Tammy was drinking a Heineken when he got there but Roberts decided it was time for him to go. Roberts left and ended up in New Town again where he ran into Bug. MCM asks where Roberts ended up in New Town. Roberts says they were just in the road near Stanton McLaurin's house which was right up the street from Mr. Burns' house.	
96	<ul style="list-style-type: none">Roberts cannot recall seeing anyone else at E's apartment other than Tammy but know he was not there for long. Roberts thinks E left with him but is not sure. Roberts then went back to New Town	

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	and adds Tammy was mad at E for drinking. MCM clarifies that he then saw a bunch of guys standing around New Town. Roberts says yes and he got out of his car and started walking and talking with them. They were just walking back and forth from Charles' house to the street. MCM asks Roberts if he was drinking. Roberts says he was and he thinks they went back to the store.	
97	<ul style="list-style-type: none"> MCM announces a break. Interview resumes 	
98	<ul style="list-style-type: none"> MCM clarifies that when Roberts left E's apartment he went back to New Town. Roberts confirms. MCM asks Roberts about where he was walking in New Town, and Roberts confirms it was between Mr. Burns' house and Stanton McLaurin's. 	
99	<ul style="list-style-type: none"> MCM asks who else was with Roberts at this point. Roberts thinks E was with him but is not certain. Roberts adds he later left New Town and went to Kim's house. MCM then asks Roberts if he remembers hitting anything that night like a mailbox or if he ran something over. Roberts says he almost hit Stan's house. Roberts adds he was drunk by then. MCM asks if Roberts felt like he was drunk before this point. Roberts says yes. Roberts adds he thinks his cousin Oink, David Roberts, was there too. 	
100-101	<ul style="list-style-type: none"> Roberts continues saying Oink might have been there but he recalls Oink seeing him drunk. Oink told Roberts that Roberts needed to go park his car. Roberts believes it was about 7pm or a little before when he saw Oink. Roberts does not think he parked right then. MCM asks Roberts if Stanley said anything when Roberts almost hit his house. Roberts says Stanley yelled out, "Woo, Woo. He's drunk." MCM asks if anyone else was present. Roberts says Bug was there but cannot remember anyone else. MCM clarifies that Bug is Alex Stephens and Roberts confirms. MCM clarifies this is the second time Roberts has been to New Town that night and Roberts confirms. 	
101-102	<ul style="list-style-type: none"> MCM asks if this all occurred after Roberts had gone to East Pine. Roberts they were riding back and forth so much he cannot recall specifically. MCM ask Roberts how long he thinks he was at Stanley's this last time, when he almost hit the house. Roberts says he was not there long and after Stanley yelled "Man, you drunk", Roberts felt he was drunk then. It was getting close to dark and Roberts went to Kim's before it got dark. He left New Town, went through Davis Heights and drove the back way, then through Meadow View. It was at that point Roberts ran into Patrick again. MCM asks Roberts if he ever went back to the house on East Pine. Roberts thinks he went back there two to four times but does not think he went there after leaving New Town. 	
103-104	<ul style="list-style-type: none"> MCM asks Roberts if he recalls seeing anyone drive up on a motorcycle when he was at the house on East Pine or at the white house. Roberts responds that Head was riding a scooter. MCM then asks if Roberts returned to the house on East Pine after almost 	

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	hitting Stanley's house. Roberts is not sure but thinks he might have but does not remember. MCM asks Roberts why he does not remember now. Roberts says its been awhile. MCM then asks if alcohol impacts the way Roberts remembers things. Roberts says yes. Roberts adds as long as he's awake he does not have blackout periods but once he sleeps it is hard for him to re-remember everything. Pieces of that night he remembers and he knows he did not do this murder.	
104	<ul style="list-style-type: none">MCM clarifies that Roberts went to Meadow View after he left New Town and after he left Stanley's house. Roberts confirms and adds when he went through Meadow View, he jumped out of the car to pee beside a building. He then ran into Levi, Patrick who is Cheese. Patrick Cheese is Jennifer's nephew. Roberts adds he spoke with Levi about his previous case regarding Levi's niece, Bianca Davis. Levi's sister is Jackie Davis.	
105-106	<ul style="list-style-type: none">MCM shows Roberts Ex. 89. Roberts recognizes the exhibit as Meadow View. MCM asks when Roberts first drove to Meadow View who was with him. Roberts answers he is by himself. MCM then asks if Roberts was drinking from the time he left New Town to the time he arrived at Meadow View. Roberts might have had some beer in the car but is not sure. MCM asks for Roberts to point out on the exhibit which way he came from New Town and drove into Meadow View. Roberts indicates he left off Booker Street and made a left, went across Roberts Avenue and turned by the Pier 41. MCM asks if Roberts was on E-Town. Roberts says yes and adds he always goes the same routes. Roberts goes to Pier 41 because his son works there and then he goes all the way up into Davis Heights, taking that Davis Heights road all the way out.	Ex. 89 – Meadow View Aerial Photo
107-108	<ul style="list-style-type: none">Roberts says Davis Heights is a project and he saw a few people he knew but does not think he stopped there. MCM asks who he saw that he recognized. Roberts saw a man named Michael but does not know his last name. Roberts indicates different roads on Ex. 89. MCM asks where he would have parked his car and gotten out once he drove in. Roberts indicates on the exhibit and says there were some people sitting there but he got out and went around the side to use the restroom.	
108	<ul style="list-style-type: none">MCM clarifies that Roberts drove up Meadow View Road and turned left into what looks like a square parking lot. Roberts corrects saying it's a cul de sac. MCM then clarifies there is a red car in the exhibit and that is where Roberts parked his car. Roberts answers yes. MCM asks if Roberts parked on the passenger side of the red car assuming it was parked towards the building and again Roberts answers yes.	
109	<ul style="list-style-type: none">MCM clarifies that Roberts got out of his car and asks if he immediately came to the side of the building to pee. Roberts	

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	<p>answers yes. This is where Roberts saw Levi and Cheese. Cheese is Patrick, Jennifer's nephew.</p>	
110-111	<ul style="list-style-type: none"> MCM shows Roberts Ex. 90. Roberts identifies the exhibit as a photo of Levi, the same Levi he saw while in the location included in Ex. 89. Roberts does not remember seeing anyone else during this time other than Levi and Cheese. Roberts says he and Levi were good friends. Levi ran a bootlegger spot, a liquor house. MCM asks if Roberts uses the term bootlegger to describe liquor houses. Roberts answers yes. MCM asks if Levi lived in Meadow View. Roberts was not sure because he had not seen him in a long time but knew him from Davis Heights. MCM asks if Roberts lived in Davis Heights. Roberts answers he stayed with Jennifer on the main street. 	Ex. 90 – Levi Freeman DAC Photo
111-112	<ul style="list-style-type: none"> MCM asks how long Roberts talked with Levi and Cheese. Roberts says it was not long. Roberts was asking Levi why Levi let Roberts sit in jail for so long for the crime involving his niece and how Roberts did not do it. The conversation upset Levi and Roberts just decided to leave and head to Kim's house. This was the first time Roberts talked to Levi about this case since Roberts had gotten out of jail for it. The conversation upset Roberts as well. 	
113-114	<ul style="list-style-type: none"> MCM asks what Cheese said or did during this conversation. Roberts said Cheese might have said to let it go or something similar but he cannot remember. MCM asks if the conversation with Levi made Roberts mad. Roberts says he was not mad, but it upset him because Levi let him sit in jail. When that case originally occurred, Roberts had just left Levi's house and told Levi he was going home, it was about midnight. Roberts got picked up maybe a week later. Kim called him and said he was charged with rape but could not say who it was regarding. Roberts did not know that Levi and Jackie were sister and brother. But the girl involved was Jackie's daughter. Roberts says the little girl told them it was not him but they still made it look like it was him who did it. Levi had his own house but Jackie's brother Skeeter was staying with her. 	
114	<ul style="list-style-type: none"> MCM then asks what did it look like outside when Roberts was leaving Meadow View. Roberts says it was just about to turn/turning dark. It was getting ready to get dark. MCM clarifies that Roberts left Meadow View and went to Kim's house in Laiken Estates. Roberts confirms. 	
115	<ul style="list-style-type: none"> Kim's house would have been just a couple minutes away, approximately three to four minutes. MCM asks who was with Roberts when he left Meadow View. Roberts answers he was by himself. Roberts cannot recall if he was still drinking at that point but knows he was good and intoxicated by then. MCM asks Roberts if he was definitely drunk at that point. Roberts says he was. Roberts cannot recall if he drank while in Meadow View; he may have had a beer there. 	

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115-116	<ul style="list-style-type: none">MCM asks if Roberts still had a beer in the car when he drove from Meadow View to Kim's. Roberts says he might have had beer in the car. MCM then asks what happened once Roberts got to Kim's house. Roberts says he knocked on the door, walked in the house, and Kim got upset because he'd been drinking. MCM asks what Roberts' relationship was like with Kim at this time. Roberts answers that they talked some and were alright. Mostly friendly because of Jarod.	
117-118	<ul style="list-style-type: none">When Roberts walked in Kim and Brooklyn were in the house. Roberts asked if he could use the bathroom and Kim said no. Roberts then sat down on the couch for a bit. MCM clarifies that Brooklyn is Jarod's sister. Roberts corrects and says Brooklyn was adopted by Kim. While sitting on the couch Roberts turns to Kim and says they should make another baby or something crazy and Kim called him crazy. Kim then told Roberts to get out. MCM asked if Kim was angry at Roberts or if she was playing around. Roberts says he did not know. Kim might have been more upset this time because of Roberts' drinking. Roberts then sat out on the porch for a bit. Kim did come out on the porch with him for a bit and then said she had to go pick up Jarod. Roberts thinks this was around 9:30-10pm. Roberts stayed at the house while Kim left and Brooklyn went with Kim. Kim shut the door and locked it.	
119	<ul style="list-style-type: none">MCM asks how long Roberts sat on the porch waiting for Kim to return. Roberts says it was not long since Pier 41, which was where Jarod worked, was right down the street. When Kim returned, Jarod and Brooklyn were with her. MCM asks if Sha'Brea was home at this point. Roberts says that she was still at work. MCM asks about Roberts' interaction with Jarod. Roberts says Jarod got out of the car and said Roberts was drunk and Kim was talking junk to him in the car about Roberts. Roberts says in turn that Jarod was then mad at Roberts because he was drunk.	
120-121	<ul style="list-style-type: none">MCM asks how long Roberts was at Kim's house at up to this point. Roberts believes it was at least an hour then corrects himself saying it was about 30 minutes. MCM asks Roberts if he recalls how he was acting at this point because he was drunk. Roberts says Kim said he was acting crazy but he was actually asking for some "cooter". Roberts was able to walk around still despite being drunk and does not recall falling down or anything.	
121	<ul style="list-style-type: none">MCM asks how long Roberts was at Kim's house in total. Roberts recalls he was there for a long time. MCM then asks if anyone else comes to the house. Roberts answers Sha'Brea arrived at the house. MCM asks Roberts about his relationship with Sha'Brea. Roberts says they did not have one. Roberts had not seen her in a long time, so it was a shock when he did see her.	
121-122	<ul style="list-style-type: none">MCM asks if Roberts spoke with Sha'Brea when he saw her. Roberts says he asked her how she was doing. Sha'Brea also	

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	<p>worked at Pier 41 but got home at a different time than Jarod. MCM asks if she drove herself. Roberts says yes, Sha'Brea had her own car. MCM again asks how long Roberts stayed at Kim's house. Roberts says he stayed for a little bit longer but he and Kim got to talking and Roberts ended up sitting back in the house. Roberts recalls watching a little flat screen and then ended up going back outside. Roberts says the alcohol was kicking and starting to come out.</p>	
123	<ul style="list-style-type: none">• MCM asks if he started to smell like alcohol. Roberts says yes and that is why Kim wanted him back outside. Roberts told Kim he needed to get home and asked if Jarod could drive him. Kim said no. MCM circles back to ask Roberts about needing to use the bathroom. Roberts says he went around the house and went to the bathroom. This was back when Kim was getting ready to go pick up Jarod.	
123-124	<ul style="list-style-type: none">• After Kim picked up Jarod, they walked back in the house. They were getting ready to then come back outside when Jarod said something about the police doing a neighborhood check. Roberts says after the police left, he went out and sat on the porch again. Roberts says he was then going to sleep in his car out front of Kim's house but she said no. Roberts says he then decided to go to his grandma's house. She lived on 74. MCM asks when Roberts left Kim's. Roberts says it was around 11pm.	
125	<ul style="list-style-type: none">• MCM asks if Roberts had anything to drink while at Kim's. Roberts answers no. MCM asks who was with Roberts when he left Kim's. Roberts answers he was by himself. Roberts says he went back through the same route through Meadow View/Meadow Road and believes he came out Davis Heights. Then he went to 14th Street from there. Roberts says he was trying to find Glossie's house to find where E stayed at because he knew the road but just did not know what street it was on.	
126	<ul style="list-style-type: none">• Roberts says when he got out there he saw an Indian man but could not recall his name; he was one of the ones at his trial. Roberts asked him if he knew Glossie or E and the man said no. Roberts then asked the man for a light for a cigarette and recalls the man being fidgety but the two started talking. Roberts recalls almost being out of gas at that point and asked the man if he needed a ride anywhere so he could get some gas money. Roberts says the man was acting nervous so he just went back to his car.	
127	<ul style="list-style-type: none">• Roberts continues that he got back to his car and hit the door. He was messing with the radio and then pulled off. Roberts recalls his music being really loud and remembers shouting out. The man's statement said that Roberts yelled out that he's a gangster or something, but Roberts does not know. MCM asks if that is something that Roberts would normally say. Roberts responds that he does say stuff like that but he does not think he said it that night.	

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	MCM asks if it is possible that Roberts said that, that night. Roberts answers that it is possible but does not remember saying that.	
127-128	<ul style="list-style-type: none">MCM asks why Roberts was looking for Glossie. Roberts answers because Glossie knew exactly where E was. MCM asks how does Roberts know that Glossie knows where E lives. Roberts answers because they're from the same neighborhood. MCM asks if he had seen the Indian man before, the one who testified at his trial. Roberts answers no. Roberts thought because this man was Indian that he might know Glossie because Glossie was Indian. Glossie's family stayed on that street too.	
129	<ul style="list-style-type: none">MCM asks if Roberts remembers this conversation separate and apart from reading through his discovery. Roberts says yes he remembers. Roberts just did not know the street E lived on but knew it was in the perimeter. MCM asks if Roberts smoked cigarettes at that time. Roberts says he smoked Newports.	
130-131	<ul style="list-style-type: none">MCM asks how many packs a day would Roberts smoke generally around this time. Roberts says if he was not drinking, one, but if he was drinking, two or three. MCM asks if Roberts would smoke in his car. Roberts answers yes. MCM asks if Roberts chain smokes the cigarettes. Roberts answers yes. MCM then asks how many packs Roberts smoked that night. Roberts cannot recall specifically that night but usually keeps two or three packs on him.	
131-132	<ul style="list-style-type: none">Roberts adds that if he's drinking, he always buys an extra pack. MCM asks if E also smoked. Roberts answers yes. MCM asks if Roberts had a lighter on him. Roberts answers he did not. MCM clarifies that Roberts was smoking in his car that night. Roberts answers yes and adds he had a lighter in his car. MCM asks why he asked the man for a light then. Roberts says he was looking for Glossie and had a cigarette in his hand already. MCM asks from the time Roberts got arrested, how many packs of cigarettes Roberts would have gone through at the point. Roberts answers a lot.	
132-133	<ul style="list-style-type: none">MCM clarifies that Roberts says this man was a little scared of him. Roberts confirms. MCM then asks what Roberts did after that. Roberts says the man got real nervous and it made him nervous because of the way the man was moving and acting. Roberts then got in his car, he ran into his door, and started messing with his music. The man kept looking at him and Roberts thought the man must think he's going to be robbed, so Roberts got out of there. Roberts turned up his music and he pulled off. Roberts states he does not recall making the statement the man said he did. Roberts adds then when he pulled out, he went the opposite way because the police were sitting the other way.	
133-134	<ul style="list-style-type: none">MCM asks Roberts to clarify where the police were sitting. Roberts says they were near the Triangle Ice place across the street on Peachtree. MCM asks Roberts where he goes next. Roberts answers	

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	he went past Jennifer's house, by the jail, and got on 74. When he crossed 74, he was trying to find the BP. Roberts was still planning on going to his grandma's house. Roberts adds his grandma had passed but his aunt was still living there.	
134	<ul style="list-style-type: none">Roberts' aunt's name is Joyce Nevins. Roberts continues on to describe he made it over the bridge but he did not see the BP. Roberts made a detour, taking a left on a road he had never been on before. He made another left and came back out on 41 but was not sure which way to go to get to Lumberton. Instead Roberts ended up turning towards Fairmont. When he realized he was heading towards Fairmont he tried to turn around but he slid and ended up riding into a ditch. MCM asks if Roberts remembers hitting the ditch. Roberts responds he does.	
135-136	<ul style="list-style-type: none">Roberts continues he went into the field to try to find a 2x4. He previously tried to put the car in neutral to get out and was trying to not have his tires spin when he hit the gas. Roberts then found a brick and a stick and again attempted to get out of the ditch but it did not work. The tires were spinning and starting to make a hole. Roberts adds it then started raining. He went to sleep for a bit in his car and when he woke up, there were some lights. He flagged down the truck with two people in it and asked them to help. They said they would help but their chains were at their house so they would be right back. Roberts says before they could return, a state trooper was coming up.	
136	<ul style="list-style-type: none">MCM asks if Roberts was outside of the car or inside when the trooper pulled up. Roberts says he was outside and then got back in, so he thinks he was inside when the trooper pulled up. Roberts says the trooper saw the smoke from Roberts' tailpipe and said that he saw Roberts driving. Roberts told the trooper there was no way he could have seen Roberts driving and the two got in an argument. Roberts says he was pretty upset. The trooper pulled Roberts out of the car and said that Roberts tried to drive off on him. MCM asks if Roberts remembers doing that. Roberts responds no, the car could not move. Roberts continues, the trooper pulled him out and threw him against the car. Roberts says he and the trooper got to arguing and Roberts told the trooper he had a good lawyer, Gerald Beaver.	
137-138	<ul style="list-style-type: none">MCM asks what did Roberts have a lawyer for. Roberts says he had Beaver for his lawsuit and he just wanted to use him. Roberts continues on to say the trooper slapped him in the car and told Roberts later that he fell asleep Roberts says he kind of remembers sleeping in the car. When they got to the police station the trooper was trying to talk junk to him but Roberts was not saying anything back. MCM asks what the trooper was saying to Roberts. Roberts says the trooper was calling him a punk. Roberts responded to the trooper saying he did not remember saying anything to him and kept telling the magistrate to get his officer. The magistrate then set his bond to \$2,000.	

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138-139	<ul style="list-style-type: none">MCM then asks if Roberts knows Antonio or Tony Gavin. Roberts says he's a guy he met a long time ago who used to sell him drugs. They had become good friends. MCM asks if Roberts was in Lumberton when he was selling drugs. Roberts answers yes. MCM asks if Roberts ever sold drugs in Fayetteville. Roberts answers yes.	
139	<ul style="list-style-type: none">MCM asks where Roberts knew Tony from. Roberts says he knew him from Lumberton in Davis Heights. Tony stayed a couple streets away from Davis Heights. MCM asks if Roberts recalls seeing him the night of the incident. Roberts says he does not recall seeing him that night. MCM asks if Tony would hang out at any of the bootlegger houses or anything. Roberts responds that Tony would hang out at those places.	
139-140	<ul style="list-style-type: none">MCM asks Roberts if he recalls writing the Commission a letter that included information about Roberts talking with Tony when in jail. Roberts recalls writing the letter. Roberts goes on to say Tony was in jail in Lumberton for child support. Tony said to Roberts that he did not know they locked up Roberts for a murder. Tony told Roberts that he and Roberts' Uncle Duke, Thurman Roberts, his mom's brother, would talk about Roberts all the time.	
140-141	<ul style="list-style-type: none">Roberts says Tony went on to say there is no way in the world Roberts shot someone. Tony said he would have been so drunk that Roberts could not even hold a gun. Roberts says Tony told him Roberts would have shot himself before he shot anybody else. Tony then told Roberts he knew who did the murder. Tony went on to tell Roberts it was someone in a white dodge stratus that had bullet holes in the windshield. Amber Lowery was arguing with a man named Dextor about the car. Roberts asked Tony if he would testify on that or make a statement. Tony gave Roberts his phone number and said he would but Roberts did not get the chance to speak with him anymore.	
141	<ul style="list-style-type: none">MCM asks if Tony was certain that this was the murder that Roberts had been charged for. Roberts answers yes. When this conversation occurred it was years after Roberts was already incarcerated for the murder. Roberts thinks Mike Burgess was in jail, too, at that time. MCM asks if there is any reason why Tony would say these things if it did not happen. Roberts says he does not know, he would not think there would be.	
142-143	<ul style="list-style-type: none">MCM asks who else was around for Roberts' conversation with Tony. Roberts says there were a lot of people around. Roberts cannot remember anyone else specifically being around though. MCM then shows Roberts Ex. 91. Roberts identifies the person in the photos as Orlando. MCM asks if Roberts saw Orlando the night of the crime. Roberts thinks he saw Orlando somewhere that night but cannot remember exactly where. Roberts thinks it might have been on 6th street.	Ex. 91 – Orlando Stephens DAC photos

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143	<ul style="list-style-type: none">MCM asks how he knows Orlando. Roberts says he used to sell Orlando drugs. Orlando used to cop, buy double ounces, from Roberts a lot. Orlando would spend 100 and Roberts would give him 200 so Orlando could make a profit.	
144	<ul style="list-style-type: none">MCM shows Roberts Ex. 92. Roberts does not know the individual in the photos. MCM asks if the name Quintin Mitchell sounds familiar. Roberts answers no. MCM asks if Michael Shaw has a nickname. Roberts answers Mike-Mike. MCM asks if Shaw goes by L Shaw. Roberts says not that he knows of and adds that might be a different person. MCM asks where Roberts saw Michael Shaw that night. Roberts says he saw him on 6th street.	Ex. 92 – Quintin Mitchell DAC photos
144-145	<ul style="list-style-type: none">MCM clarifies that Roberts went to 6th street three or four times that night. Roberts confirms. MCM asks how many times Roberts saw Shaw on 6th street that night. Roberts says he saw Shaw three times that night on 6th street. Roberts remembers seeing him because Shaw was in a black dodge car. Shaw also was showing Roberts that he had just gotten shot or something. Roberts says he thinks Shaw knew who shot him but was not sure. Roberts also does not know why someone would shoot Shaw.	
145-146	<ul style="list-style-type: none">MCM asks if Shaw had a girlfriend that he was with that night. Roberts says he knows Sugar Daddy, Brian McArn, was with Shaw that day. MCM then asks if Roberts got into an argument with anyone at the house on 6th street that day. Roberts says he and E probably did because E tries to take over his car and tell Roberts what to do. E feels like he's Roberts' bigger cousin and can tell him what to do. MCM asks if Roberts remembers getting into an argument with a female at all about a seat. Roberts says no. MCM asks if that is something Roberts would remember. Roberts says he would remember something like that.	
146-148	<ul style="list-style-type: none">MCM asks if Roberts would remember something like that despite being intoxicated. Roberts says yes and adds it could have happened but he doesn't believe so. Roberts does not remember that. MCM asks if Roberts knows a guy named Evan. Roberts answers no. MCM asks if there was a man named Bill who ran a bootlegger house in that area. Roberts answers that he does not know. Roberts thinks that might be the owner of the white house but he does not know him, he knows the girlfriend. The girlfriend was the lady from Florida. Roberts adds that woman might be his wife. MCM clarifies that Roberts had been there previously and the woman had given him extra shots. Roberts answers yes, he'd been there before and that was his second time.	
148	<ul style="list-style-type: none">MCM asks if it's possible that Roberts got in an argument with that woman. Roberts answers no, not that he knows of. Roberts adds that he could have but he does not remember. MCM then clarifies that when Roberts went to the house on 14th street, he spoke with a man named Christopher McGirt. Roberts confirms. MCM clarifies	

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	<p>that Roberts was looking for someone named Floss. Roberts says yes, that's what they tried to make it seem like. MCM asks Roberts if he had clarified with law enforcement that he was not looking for Floss and was looking for Glossie. Roberts says he's told them that a hundred times.</p>	
148-149	<ul style="list-style-type: none"> MCM asks who Roberts would have told that to. Roberts answers he told that to Det. Al Collins and Bill the SBI agent. MCM shows Roberts Ex. 93. Roberts identifies the individual as Floss, Kenny Ray Floyd. MCM clarifies that Floss is not Gloss. Roberts confirms. 	Ex. 93 – Kenny Ray Floyd DAC photos
150-151	<ul style="list-style-type: none"> Roberts explains that Floss shared a cell with him when Roberts was in for the first-degree burglary and first degree sex offense charges. Roberts says he and Floss were not enemies but he did not trust Floss. MCM asks Roberts if Floss had anything to do with this case. Roberts answers no. MCM asks why does Roberts think Floss' name was brought up. Roberts says that is something that Floss and the police have going on, Roberts did not bring his name up. Roberts talked about Glossie. Roberts recalls Glossie's name, Gloria Rogers. 	
151-152	<ul style="list-style-type: none"> Roberts kept telling officers that he was saying Glossie but they kept making up a story. MCM asks when this conversation was. Roberts says it was when he was in the interrogation room. MCM asks how many interrogations Roberts went through. Roberts answers two. MCM tells Roberts that his interrogations are videotaped and transcribed and Roberts never clarifies the name to the officers in either interrogation. Roberts maintains that he told them Glossie. Roberts says he told them about Glossie from the start and that Glossie was at Jennifer's trailer. The officer kept bringing up Floss. Roberts did not know Floss was even in this case until the officer brought his name up. 	
152-153	<ul style="list-style-type: none"> Roberts thought they were bringing up Floss' name for something else. Officers then tried to say Floss and Roberts were beefing. Roberts says he and Floss never ran across one another in the streets. MCM adds that officers also wanted to know if Roberts had issues with Soulski. Roberts says that Soulski told them no, that they did not have any problems. MCM asks Roberts if he had problems with Soulski. Roberts says he did back in the 90's but they worked through it and are now friends. MCM asks if Roberts had any issues with Soulski the night of this case. Roberts says no. 	
153	<ul style="list-style-type: none"> MCM asks if he told Kim that he had problems with Soulski that night. Roberts says no. MCM then asks if he told Kim that he had any issues with anyone that night. Roberts again says no. MCM asks if Roberts had any issues with Soulski from the prior burglary and sex offense case. Roberts cannot remember but thinks his name might have come up. Roberts does not know why Soulski's name would have come up in that case. 	

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153-154	<ul style="list-style-type: none">MCM asks if Roberts knows James Bell. Roberts says he used to go over Bell's house. Bell was involved in the Bianca Davis case and Roberts believes he was one of the witnesses against Roberts.	
154	<ul style="list-style-type: none">MCM pauses for a quick break.	
154-156	<ul style="list-style-type: none">MCM shows Roberts Ex. 94 which contains pages 111-114 of Mr. Ivarsson's file. MCM explains that this is an interview Ivarsson did with Roberts on July 5, 2013 while Roberts was in jail. MCM asks Roberts if he remembers this interview. Roberts answers that he does not. MCM direct Roberts to look at page 112 where Roberts is talking about the case from 2002. MCM continues, in the last sentence Roberts discusses some of the witnesses against him being James Bell and Soulski Stephens. MCM asks if Roberts remembers talking to anyone about that. Roberts says no.	Ex. 94 – 7/5/13 Defense Interview of Roberts
156	<ul style="list-style-type: none">MCM clarifies Mr. Ivarsson was not actually assigned to Roberts' case on July 5th. Roberts says he was not assigned. MCM discusses that she knows how now Judge Powers is and this could have been something she had done and maybe the date is just wrong on it. MCM asks whether Roberts remembers speaking to one of his attorneys and telling them about the witnesses. Roberts says no, he does not recall this at all.	
156-157	<ul style="list-style-type: none">MCM directs Roberts to the top of page 113 where it talks about Kimberly Lowery and her daughter Sha'Brea. MCM goes on to say this page states the deceased victim's name in this case is Benjamin Council but that is incorrect. The deceased victim's name is Joshua Council. MCM then clarifies that the night of this case, Roberts said it was the first time he'd seen Sha'Brea in a while. Roberts confirms. MCM asks if Roberts knew who Sha'Brea was dating at the time. Roberts says he did not even know she had a boyfriend. MCM asks if at the time of this case, did Roberts know who Joshua Council was. Roberts answers no.	
157	<ul style="list-style-type: none">MCM directs Roberts to the next paragraph on page 113 where it says that Roberts talked to Gary Jenkins in jail and Gary told Roberts that people in the community were saying that someone else did the shooting. MCM asks if Roberts remembers this conversation at all.	
158-159	<ul style="list-style-type: none">Roberts says he is trying to think who Gary Jenkins is but thinks he's seen that name before. MCM says she has come across many misspellings in this case including name misspellings. MCM shows Roberts Ex. 95. Roberts identifies the person in the photos as Tank, whose real name is Gary Jennings. MCM asks if Tank also went by the name Montreal. Roberts says not that he knows of.	Ex. 95 – Gary Jennings DAC photos
159-160	<ul style="list-style-type: none">MCM asks if Gary's middle name might be Montreal. Roberts answers he has no idea. MCM asks if Roberts ever spoke with Tank while he was incarcerated. Roberts says yes, they were in the same block and Tank asked him a question about the case or something but cannot recall specifically. Roberts cannot recall when this	

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	<p>conversation took place. MCM asks if Roberts remembers if he talked to Tank about Roberts' case. Roberts says he did not talk about his case but did tell Tank that he did not do it.</p>	
160	<ul style="list-style-type: none"> MCM asks if Tank ever told Roberts anything he'd been hearing about Roberts' case. Roberts says there was a lot of people telling him different things. Roberts cannot recall what Tank told him specifically. MCM asks if Roberts knew Tank pretty well. Roberts answers yes. MCM then asks who Tank's mom is. Roberts says he does not know Tank's mom but knew his brother and uncles. Tank's family and Roberts' family are close. 	
160-161	<ul style="list-style-type: none"> MCM redirects Roberts to look at Ex. 94. MCM reads that about seven or eight months prior, Roberts and Tamika Jordan were drinking. MCM then asks Roberts who is Tamika Jordan. Roberts answers that she's his cousin. MCM reads that Tamika said Roberts had blacked out. Roberts responds that he probably did. MCM asks if Roberts remembers that. Roberts says no. MCM then asks if Roberts remembers having a conversation about blacking out. Roberts says no, Tamika never said anything to him but he does not remember. MCM reads that Vanessa said Roberts had blacked out before and that he does not remember things. Roberts says the blackouts are when he goes to sleep, he does not remember. MCM clarifies that when Roberts goes to sleep and then wakes up, he does not remember what happened. Roberts confirms. 	<p>Ex. 94 – 7/5/13 Defense Interview of Roberts</p>
162-163	<ul style="list-style-type: none"> MCM asks if Roberts' memory comes back later on. Roberts answers that certain things come back. That is the kind of blackout they're talking about. MCM asks Roberts to explain what it was like getting arrested for the DWI and then interrogated by officers. Roberts says he was in a state of shock. MCM clarifies that the officer first pulled up to Roberts at about 12:09am that night, which would have been June 15th. Roberts confirms. MCM then clarifies that Roberts was interviewed by police in terms of what Roberts knows on Tuesday, June 18th. Roberts confirms. 	
163	<ul style="list-style-type: none"> MCM asks Roberts if there was a time between the 15th and 18th where he had heard anything about what had gone on. Roberts says no. MCM asks Roberts what it was like going into the interrogation room with Collins and Brady. Roberts answers that he was scared, he thought the feds had caught him. MCM asks why the feds would have gotten him. Roberts says it's because back in the day he was selling drugs. MCM asks if any of those cases were still pending at the time. Roberts says he used alias names on those cases, so he thought something was coming back to bite him. 	
164	<ul style="list-style-type: none"> MCM asks if that was why Roberts had used alias names in the past, because he was selling drugs. Roberts answers yes. MCM asks if one of those names was Michael Brown. Roberts answers yes. MCM asks if Roberts used other names. Roberts says he used a lot. MCM clarifies that Roberts had two interrogations: one on 	

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	June 18 th and one on June 20 th . Roberts confirms and adds the 20 th was a Thursday.	
165	<ul style="list-style-type: none">MCM shows Ex. 96 to Roberts which contains the transcript from Roberts' first interrogation on 6/18/13. MCM directs Roberts to look at pg. 33, near line 14 where Roberts is talking about drinking at the big white house.	Ex. 96 – Transcript of 6/18/13 Interrogation
166	<ul style="list-style-type: none">MCM reads the big white house has a high porch and it's near Willow Street. MCM asks if this is the house Roberts referred to as East Pine on 6th Street. Roberts answers yes, that is the same house he is referring to. MCM reads people were sitting in the yard and drinking. MCM then directs Roberts to pg. 34. MCM clarifies that Roberts had said it was a girl and her boyfriend that ran this house and the girl was from Florida. Roberts confirms.	
167-168	<ul style="list-style-type: none">MCM directs Roberts to line 12 of pg. 34 and reads that someone had brought Roberts drinks and it was like Roberts had blanked out, like someone had given him something. MCM asks Roberts to explain more about that. Roberts says he was drinking and then went and took a nap in the car while at 6th street. He was listening to music and took a nap. Roberts says he is not sure what time it was but it was getting kind of late. MCM asks what it looked like outside.	
168-169	<ul style="list-style-type: none">Roberts answers it was starting to turn dusty dark. He was wanting to go before it got too late so he was sitting in his car and he just fell asleep for a minute. Roberts heard this from other people because he wanted to find out what happened during that time. Roberts spoke with Rodney Cane and Cane said he went through Roberts trunk while Roberts slept, trying to change the CDs or something. MCM asks Roberts why did he need to figure out what happened during this period. Roberts says he was scared and was trying to find out all the details.	
169-170	<ul style="list-style-type: none">MCM asks Roberts why he was scared. Roberts says because people were trying to pin a murder on hm. Roberts was scared someone had taken his car and did something. MCM asks if Roberts was scared when he was outside of the 6th Street house. Roberts says no, he was scared when he got to booking and with the interrogation. MCM asks if that is when Roberts started calling people for details. Roberts says yes. Roberts adds he had E and Rodney in the car so he was wondering if he blacked out and one of them took his car while he went to sleep.	
170	<ul style="list-style-type: none">MCM asks what did Roberts do once he woke up outside the 6th street house. Roberts says E and them were still sitting in the yard but he is not sure. MCM asks if Roberts slept because he was drunk or if he was tired. Roberts says yes, he was tired too since he had been up since 4:30am. Roberts adds he had not eaten anything but a sandwich from McDonald's because that is where Vanessa was working at; so he was hungry too.	

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171	<ul style="list-style-type: none">Roberts says after he woke up he thinks that is when he left to go back to New Town. He was trying to get to Kim's or somewhere where he could be safe. Roberts means he wanted to be with people he knew. MCM asks if Roberts did not feel safe at 6th street. Roberts says no, he had seen a lot of people with guns there and it made him nervous. He thinks he mentioned that during his interrogation but is not sure. MCM asks who had guns there. Roberts says he does not really want to give the names out but Michael Shaw and Sugar Daddy each had one. Roberts adds a lot of kids coming down the street had them too.	
172	<ul style="list-style-type: none">MCM asks how Roberts knew the kids coming down the street had them. Roberts says the boys were clutching and he had seen two guns. MCM asks Roberts to clarify. Roberts says Sugar Daddy pulled his out first. MCM asks if it was in an attempt to show Sugar Daddy should not be messed with. Roberts says yes. He knew Sugar Daddy had a .40.	
172	<ul style="list-style-type: none">MCM then asks who else had a car at that point. Roberts says Michael had a black dodge, one of those little, small wagons. Sugar Daddy did not have a car, he rode with Mike.	
173-174	<ul style="list-style-type: none">Roberts adds there were a lot of cars but as he said he did not know a lot of the people there. Rodney was riding with Roberts. MCM asks if Roberts saw Rodney with a gun. Roberts says no. MCM asks if Michael Shaw or Sugar Daddy ever got into Roberts' car. Roberts says no. MCM then clarifies that Roberts knows a man named Two Dollar but does not know his real name. Roberts confirms and adds that Two Dollar was at the 6th street house the first time Roberts was there and the last time Roberts were there.	
174	<ul style="list-style-type: none">Roberts says he thinks during the second time, Two Dollar was accusing E of stealing a TV. MCM then directs Roberts to pg. 42 of Ex. 96. MCM reads that Det. Collins and Brady are asking Roberts about the Hayswood Hut area. MCM asks Roberts how familiar he is with the Hayswood Hut. Roberts says at that time he was not familiar with it but as they got to talking and telling him where it was, then he realized where it was and that he had been there before. MCM asks why Roberts had been there before. Roberts says they used to throw parties there at the Hut; you could rent the building.	Ex. 96 – Transcript of 6/18/13 Interrogation
174-176	<ul style="list-style-type: none">MCM then direct Roberts to pg. 42 line 5 of Ex. 96. In reference to this portion of the exhibit, Roberts explains that Eric used to have a house right beside the Hut but Eric was not living there the night of the shooting. Roberts says he'd been to that house maybe only one time.	
176	<ul style="list-style-type: none">Roberts says when he got arrested for the rape charge he went back to Fayetteville and quit going to Lumberton. MCM asks if Roberts grew up in Lumberton or Fayetteville. Roberts says Fayetteville but he moved to Lumberton to avoid getting picked up by the feds.	

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	MCM asks Roberts if he ever did get picked up by the feds. Roberts answers no.	
177-179	<ul style="list-style-type: none">MCM shows Ex. 97 to Roberts which contains the transcript from Roberts' second interrogation on 6/20/13. MCM references Roberts mentioning seeing Soulski and Stan McConnell that day. MCM corrects name to be Stan McLaurin. Roberts saw Dee (Demetrius) Simpson in New Town that day.	Ex. 97 – Transcript of 6/20/2013 Interrogation
180-181	<ul style="list-style-type: none">MCM shows Roberts Ex. 98, a photograph of a t-shirt depicting The Shining t-shirt that Roberts was wearing on the night of his arrest. Roberts describes the shirt he had on had a black and white photo on it of Jack Nicholson's face and the character's mouth was "golded out" like wearing a grill. On the back it said in red something like, "I'm still shining" and the front might have had some red words on it too. Roberts says the t-shirt was white.	Ex. 98 – The Shining T-Shirt photo
181-182	<ul style="list-style-type: none">MCM discusses the DWI wreck with Roberts. Roberts confirms the woman he is describing in Ex. 96 is the same native American woman he mentioned earlier. That he saw her when he ran his car into the ditch that night. MCM reads from Ex. 96 that Roberts had said this woman called the police because there was a scent. Roberts clarifies that the woman and her boyfriend said they smelled alcohol on him, but it was really the chains. MCM asks if he could smell alcohol on himself, though. Roberts answers yes.	
182-183	<ul style="list-style-type: none">MCM asks if it was common for Roberts to smell alcohol coming out of his body. Roberts says he did not drink every day but when he would binge drink he'd smell of alcohol. He can smell it because of sweat. Roberts explains that he would binge by drinking on the weekend. That night Roberts was drinking to celebrate getting a job because he had been out of work for so long.	
183-184	<ul style="list-style-type: none">MCM directs Roberts to pg. 30 line 7 of Ex. 96. MCM asks if the road mentioned here is Peachtree Street. Roberts confirms. Roberts says that he went through that road that day but it was earlier, though. Roberts explains he used that road to get over to East Pine instead of going all the way around. Roberts adds going this way avoids driving by the police station. MCM clarifies that the Hut though is near the police station. Roberts says it's like two blocks from it or something.	
185-187	<ul style="list-style-type: none">MCM and Roberts continue to describe the roads by the Hut and the ways to navigate around it or near it. MCM asks Roberts to clarify where he went after he left New Town the first time with E. MCM asks if they went to the bootlegger house. Roberts says yes, they went through Peachtree and then went over there. Roberts says there is a chance he drove through there one more time but it was not at night.	
187-188	<ul style="list-style-type: none">Roberts tells MCM that when he was answering police questions about when he travelled certain roads, he was referring to daytime and not the night of the shooting. Roberts says he does not hang out	

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Interview of Clarence Roberts by Mackenzie Myers and Taylor Miller

Page #	Description of Roberts' Interview	Exhibit
	<p>in that part of town at night because he is aware is that it is dangerous.</p>	
189-190	<ul style="list-style-type: none"> MCM asks Roberts why he didn't call Vanessa directly while at the jail instead of Kim and he indicates you couldn't make a free call from Fayetteville to Lumberton. Roberts says Kim said to him "Boy, why you kill Sha'Brea's boyfriend" and Roberts' response was, "Girl, you crazy, what are you talking about, I don't even know him." 	
191	<ul style="list-style-type: none"> MCM asks Roberts about another incident in which Roberts says he got picked up for an incident in New Town a long time ago just based on hearsay. Roberts says his aunt was tied up and the perpetrator, Hector was killed that night. Roberts says he was picked up on it, but once they discovered he was in jail at the time, he was released. 	
192-195	<ul style="list-style-type: none"> Roberts says Kim frequently "throws his name in stuff". He references a sexual assault that he says Kim put his name into. He says Kim put his name into this murder. 	
196	<ul style="list-style-type: none"> MCM asks Roberts if his "big time" cousins ever paid for him to do any jobs and Roberts replies no. Roberts indicates people think he had something to do with the shooting of Hector, but that's not true. 	
197-199	<ul style="list-style-type: none"> MCM asks about any past gun incidents. Roberts says he once pulled a gun on Shonda who he was dating. Roberts found Shonda in a car with a guy and pulled an unloaded gun on her and was arrested. 	
200-202	<ul style="list-style-type: none"> MCM asks about an incident where Roberts was robbed. Roberts says he was at a store with a good friend of his. Some of his friend's friends arrived and put a gun to his head. Roberts says he was held at knife-point and they tried to rob him of money in his car, and Roberts ended up shooting the guy. Clarence says that the person he shot, "Nathaniel" is now in prison for killing Donnie McFadden. 	
202-204	<ul style="list-style-type: none"> MCM shows Ex. 99 to Roberts. MCM asks about the significance of Roberts statements regarding WeDo. Roberts indicates that WeDo was a well known Blood and that WeDo worked at the same location as Jennifer Gurley. Roberts says that he spoke to Jennifer Gurley when she called and asked if he knew WeDo. Roberts said no. Gurley said that WeDo's mother wanted to speak to him. WeDo's mother told Roberts he was a Blood. Roberts told her that because he was killed in Blood territory it must be an inside job. 	<p>Ex. 99 – Mitigation Interview of Roberts</p>
205	<ul style="list-style-type: none"> MCM asks Roberts if he knows who killed WeDo. Roberts says he heard Dextor Stephens killed WeDo. 	
206-207	<ul style="list-style-type: none"> Roberts discusses the murder of his brother-in-law, Mike in Wilmington, and also the murder of Lamont, Mike's step-son in Lumberton. 	

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Interview of Clarence Roberts by Mackenzie Myers and Taylor Miller

Page #	Description of Roberts' Interview	Exhibit
208-209	<ul style="list-style-type: none"> Roberts found out at the funeral that Lamont was in the Bloods. Roberts says there was going to be a drive-by by Dexter's cousins because the Bloods were going to kill Dexter. During this drive-by Lamont got hit in the head by a bullet. 	
210	<ul style="list-style-type: none"> MCM asks if Roberts knows the people in Ex. 27 and 29. Roberts says no. 	Exhibit 27 – Amber Lowery FB photo Exhibit 29 – Joshua Council Photo
211-215	<ul style="list-style-type: none"> MCM hands Ex.2 to Roberts. Roberts says the photo looks like Henry Stephens, Dexter Stephens' brother. Roberts says that Henry told him that Dexter killed WeDo and Dexter's mother hid the car because it was shot up. Roberts said he heard it was Amber's car, a Dodge Stratus. 	Ex. 2 – photo of Henry Stephens
216	<ul style="list-style-type: none"> MCM asks Roberts if he recognizes Ex. 8. Roberts indicates that is a photo of Michael Burgess. Roberts says he met Burgess while in jail. 	Ex. 8 – Michael Burgess DPS Photos
217-219	<ul style="list-style-type: none"> Roberts says that when Burgess came into jail he was high. After two days passed and Burgess was no longer high, Roberts asked Burgess if he knew him (Roberts). Burgess said he did not know Roberts to which Roberts asked Burgess why he had said he (Roberts) was the shooter in this case. Roberts said he showed Burgess the police statements given by Burgess and Burgess said the police had lied. Roberts says that Burgess told him the suspect vehicle had a black fender and that he or someone at the Hut had shot at the car. Roberts said Burgess said the people at the park seemed to recognize who was in the car and opened fire first and then the person in the car returned fire. Roberts could not recall whether Burgess ever said the shooter was Dexter Stephens. 	
220-222	<ul style="list-style-type: none"> MCM asks Roberts about some prison calls in which he talks to Burgess' mother. Roberts said he was asking Burgess to do an affidavit for him, but never got one. 	
223	<ul style="list-style-type: none"> MCM shows Roberts Ex. 100. Roberts denies knowing the person in the photo. MCM tells Roberts it's a photo of Gucci, or Antonio Alford. MCM hands Roberts Ex.14, Roberts denies knowing the person in the photo. MCM shows Ex. 16 to Roberts. Roberts recognizes the photo of Deavon. MCM asks whether he knew if Deavon was at the shooting. Roberts says he thinks so but that he heard that from Shonda Lyons. 	Ex. 100 – Antonio Alford FB photo Ex. 14 – John Allen DAC photos Ex. 16 – Deavon Maultsby FB photo
224-225	<ul style="list-style-type: none"> MCM asks Roberts if he spoke to Shonda Lyons directly. Roberts says that he talked to Lyons while he was in jail. Lyons told Roberts that Dexter Stephens said to her that Stephens was the 	Ex. 17 – Ricky Stephens FB photo

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Interview of Clarence Roberts by Mackenzie Myers and Taylor Miller

Page #	Description of Roberts' Interview	Exhibit
	shooter. Roberts said that Lyons had FB messaged that information to Roberts' sister, not knowing he was in jail and accused of the shooting. MCM asks if those FB messages were preserved, and Roberts indicated they were not and that Lyons blocked both of his sisters on FB. MCM shows Roberts Ex. 17 but Roberts does not recognize the person in the photo.	
226	<ul style="list-style-type: none">MCM asks if Roberts remembers being given a polygraph. Roberts says he does and that the police said he flunked it. Roberts says they asked him if he ever hurt anyone, and he didn't want to talk about the shooting where he was being robbed so he said "no."	
227	<ul style="list-style-type: none">MCM asks if Roberts' gold teeth are permanent. Roberts says they are not. They can be put in or taken out.	
228-229	<ul style="list-style-type: none">MCM asks Roberts why he did not take the plea deals offered to him. Roberts says that he did not do it, that John Allen testified the shooter was 5'6- 5'9, and that when the District Attorney pointed out Roberts in the courtroom as the shooter to Sheena Britt, Britt said that Roberts was not the shooter. MCM shows Roberts Ex. 101 and Roberts identifies John McCollum.	Ex. 101 – John McCollum DAC photos
230	<ul style="list-style-type: none">Roberts says that McCollum was a snitch on another case. MCM asks him to explain. Roberts says that McCollum had a robbery charge and he snitched and Roberts believes that's why McCollum lied on him at trial, because the people in the other case were after him.	
231	<ul style="list-style-type: none">TNM and Roberts discuss Agent Bill Brady in the case. Roberts did not know Brady specifically but the two stayed around the same area in Fayetteville.	
232	<ul style="list-style-type: none">MCM asks Roberts his height. Roberts replies 6'3. TNM asks if Roberts currently has any tattoos. Roberts says no.	
233	<ul style="list-style-type: none">MCM asks Roberts about having any tattoos removed. Roberts replies he has not. MCM asks whether he used to routinely carry a firearm. Roberts replies he did not. MCM asks if Roberts had a gun on June 14, 2013. Roberts says no. MCM asks if Roberts had a reason to be mad at anyone at the Hayswood Hut. Roberts says no. MCM asks Roberts if he shot anyone with someone else's gun that night. Roberts again says no.	
234-236	<ul style="list-style-type: none">MCM concludes interview.	

STATE OF NORTH CAROLINA
COUNTY OF ROBESON

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

STATE OF NORTH CAROLINA,

-vs-

CLARENCE ROBERTS,

Defendant.

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File No. 13 CRS 3511

File No. 13 CRS 54359

INTERVIEW

OF

CLARENCE ROBERTS

July 18, 2023

This is the transcript of an interview of **CLARENCE ROBERTS**. The interview was conducted by Mackenzie C. Myers, Staff Attorney for the North Carolina Innocence Inquiry Commission, and Taylor Miller, Grant Staff Attorney for the North Carolina Innocence Inquiry Commission. The interview took place at the Pender Correctional Institution, 906 Penderlea Highway, Burgaw, North Carolina 28425, on Tuesday, July 18, 2023.

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* * * * *

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P R O C E E D I N G S

of Tuesday, July 18, 2023:

MS. MYERS: Mr. Roberts, my name is Mackenzie Myers. We've talked on the phone before.

MR. ROBERTS: Okay.

MS. MILLER: Taylor Miller. Nice to meet you.

MS. MYERS: We're with the North Carolina Innocence Inquiry Commission. Okay?

MR. ROBERTS: Okay.

MS. MYERS: So we're here to interview you today. We are the ones, Taylor and I, that are investigating your claim of innocence. All right?

MR. ROBERTS: Okay.

MS. MYERS: Really quick, what I was just talking to Captain Shaver about was, what we like to do is, we want this to be completely confidential so that no inmate, nobody comes in here and hears what we are saying. Okay?

MR. ROBERTS: Okay.

MS. MYERS: Our investigations are completely confidential. So even some of the stuff that we're doing, I can't even tell you, even though it's your claim. Which I know seems a little bit strange. And that's, unfortunately, just the way that it is.

1 But with that said, I don't want anybody else to hear
2 either. Okay?

3 So what I was asking him about is if there
4 was a more private place for us to go to. Because I want
5 you to feel totally comfortable, and I don't want this to
6 be compromised whatsoever. Okay?

7 So with that said, if at any point you feel
8 like, hey, this is not confidential, and I'm starting to
9 feel weird, like --

10 MR. ROBERTS: Yeah.

11 MS. MYERS: Mr. Cater is your attorney here.
12 Okay? He's representing you. You can -- we can talk
13 about it, and go from there.

14 So what I was saying is that I asked him to
15 find another spot for us that would be completely
16 confidential. Because there are some other inmates that
17 are coming in and doing a Webex interview. I don't want
18 them to hear anything. And I don't want that to
19 interfere with our interview of you whatsoever.

20 MR. ROBERTS: Yeah, I got you.

21 MS. MYERS: Is that okay?

22 MR. ROBERTS: Yeah.

23 MS. MYERS: Are you comfortable with all of
24 that too?

25 MR. CATER: Yes. And the plan is to see how

1 it goes for a bit. And then it --

2 MS. MYERS: Yeah. Let's do that. I figured
3 like, I'm not sure what time it is.

4 MS. MILLER: It's 11:40.

5 MS. MYERS: I figured by 1 o'clock, I think
6 that's probably a good time for all of us to maybe go to
7 the bathroom or just take a little break or something.
8 Okay?

9 MR. ROBERTS: Okay.

10 MS. MYERS: I don't know how long it's going
11 to take today. But I don't want to be rushed by any
12 means. But we'll just kind of reevaluate in a little
13 bit. Does that sound okay?

14 MR. ROBERTS: Yes, ma'am.

15 MS. MYERS: All right. Sounds good. We are
16 recording. We do this for all of our interviews. Okay?
17 I don't want you to -- don't think about it being here.
18 I know that's kind of ironic, because I know you can see
19 it. But that holds us accountable to what we say. It
20 also helps me remember everything that you tell me.
21 Okay?

22 MR. ROBERTS: Okay.

23 MS. MYERS: And so that's the importance of
24 the recorder. All right?

25 MR. ROBERTS: Okay.

1 MS. MYERS: We use two, because if mine
2 messes up, you never know. Okay?

3 MR. ROBERTS: Okay.

4 MS. MYERS: So I have a list of questions
5 that I want to kind of ask you about.

6 Our purpose here today is, you know, you
7 applied to the Commission a few years ago. I think
8 you -- I can't remember the date you applied. And your
9 case, your claim, has been investigated by our agency the
10 past couple years. And it is now in our last stage,
11 which is called formal inquiry. Okay?

12 Your claim of innocence is set to go to a
13 hearing before our Commissioners. So you're at the last
14 stage. Okay? It's set to go before our Commissioners
15 from August 15th, which is a Tuesday, until Thursday,
16 August 17th. Okay? You're going to be writted in to
17 Wake County for that hearing. Okay?

18 On the last day, I'm assuming -- you're
19 going to testify at this hearing. Okay?

20 MR. ROBERTS: Yes, ma'am.

21 MS. MYERS: And Mr. Cater can go into more
22 detail about all this, but just to kind of give you an
23 overview.

24 Typically on the last day, we'll have our
25 claimants testify before our Commissioners. Okay? So it

1 would be on that day, most likely the 17th, that you
2 would come into the building. You would see Taylor and I
3 there. Mr. Cater will be there. There will be other
4 people. And you'll just answer questions. Okay?

5 MR. ROBERTS: Okay.

6 MS. MYERS: Yeah. So that's kind of where
7 we're at. All right?

8 So we wanted to just come in here and talk
9 to you, and kind of just generally about what you
10 remember about that day. I've got some questions that
11 part of our investigation is to go through the original
12 investigation, and, you know, ask questions of law
13 enforcement officers or other witnesses and things like
14 that. So I've got some questions for you that, you know,
15 I need to ask you based on my review of those things or
16 talking to other people. Okay?

17 MR. ROBERTS: Okay.

18 MS. MYERS: One of the things that I would
19 tell you is that I want you to be, obviously, totally
20 truthful with me today. Okay?

21 If I ask you a question, you have no idea
22 what I'm saying, just be like, Mackenzie, I have no idea
23 what you're asking me. And that's fine. Because I
24 probably worded it strangely. Okay? And I will reword
25 my question to you.

1 MR. ROBERTS: All right.

2 MS. MYERS: If I ask you a question and you
3 don't know the answer, that is fine. Okay?

4 MR. ROBERTS: Okay.

5 MS. MYERS: Please don't feel like you need
6 to give me an answer just because I'm asking you a
7 question. Okay? If the truthful or the honest answer is
8 that you just don't know, totally fine. Okay?

9 MR. ROBERTS: Uh-huh.

10 MS. MYERS: Please don't make up an answer.

11 MR. ROBERTS: Okay.

12 MS. MYERS: Just answer me. You know, this
13 happened a while ago. I don't expect that your memory is
14 going to be perfect. Okay? And that's okay. If I ask
15 you a question and later on, while we're talking, it jogs
16 your memory to something that I already asked you about,
17 just let me know. Okay?

18 MR. ROBERTS: Okay.

19 MS. MYERS: And that's totally fine. I have
20 several things that I'm going to show you. And so some
21 of that I want to know who these people are. They might
22 be interviews you've done. So I'll ask you questions
23 about that.

24 If you think that I have something that
25 might jog your memory, let me know. Okay? And if I do

1 have it, I'll show it to you. Okay?

2 MR. ROBERTS: Okay.

3 MS. MYERS: Is there anything else that I'm
4 kind of missing? Do you have any questions for me before
5 we kind of get started with anything?

6 MR. ROBERTS: No.

7 MS. MYERS: Okay. If you think of
8 something, just let me know. If you need a break before
9 we hit 11:00, just -- we can do that. Okay?

10 MR. ROBERTS: Okay.

11 MS. MYERS: All right.

12 MR. CATER: Could I ask something just to
13 clarify for him?

14 MS. MYERS: For sure.

15 MR. CATER: If you ask a question, and
16 he -- I guess, some things he may know from his personal
17 experience, being the one remembering something
18 specifically. Or something may be, oh, well, I -- it's
19 not something I directly remember, but I've heard -- you
20 know. Should he, you know, give as much information --
21 oh, well, I -- you know. Does that make sense?

22 MS. MYERS: Good question. Yeah,
23 absolutely. So it might not be something -- I think this
24 is what you're saying. You might not have direct
25 knowledge of something. Right?

1 MR. ROBERTS: Yeah.

2 MS. MYERS: But you might have heard from
3 the street or from somebody in a jail cell. I do want
4 that information. Okay?

5 MR. ROBERTS: Yeah. Okay.

6 MS. MYERS: You know, if you have concerns
7 about anything, about telling me something, I want to
8 know what your concerns are, and why you have those
9 concerns. Okay? But I want to know who these people
10 are. Okay?

11 MR. ROBERTS: Uh-huh. (Affirmative)

12 MS. MYERS: Our job as investigators here is
13 to -- you know, we do not represent you. That's why
14 Mr. Cater is here. But Taylor and I want to do the most
15 thorough job we possibly can. So part of that is
16 gathering as much information as we can. So even if it's
17 not something that you know directly, but, you know, you
18 know somebody who said that, and that's something that
19 could point us in the right direction, that's great.
20 Okay? There's no wrong answer here. Okay?

21 MR. ROBERTS: Okay.

22 MS. MYERS: All right. With that said, I
23 don't want you to feel pressured to give me an answer.
24 Okay?

25 MR. ROBERTS: Okay.

1 MS. MYERS: So let me just say that. All
2 right. Let me see here. All right.

3 So I have a lot of stuff here. Not all this
4 I'm going to go through, so don't be stressed out. Okay?

5 MR. ROBERTS: Okay.

6 MS. MYERS: I'm saying that because it might
7 stress me out if somebody pulled out all this stuff. All
8 right.

9 So I guess kind of generally speaking, I
10 want to kind of -- I just want to talk to you about how
11 your day start -- so this case happened on Friday, June
12 the 4th [sic] of 2013. Okay?

13 Let's start at the very beginning. Okay?
14 What do you -- what is your earliest memory from that
15 day?

16 MR. ROBERTS: What I did that morning?

17 MS. MYERS: Yeah. Like tell me about when
18 you literally woke up from your bed.

19 MR. ROBERTS: Um, that morning, I got up
20 like 4:30. And my girlfriend, Vanessa, woke me up to
21 take my son to meet his mother at a Maxway in St. Pauls.

22 MS. MYERS: Okay. So I'm going to move this
23 a little bit closer because you are kind of soft-spoken,
24 which is fine.

25 MR. ROBERTS: Okay.

1 MS. MYERS: So I'm going to move this so
2 that we can totally hear you. Okay? All right. So your
3 son is Jarod?

4 MR. ROBERTS: Jarod Lowery.

5 MS. MYERS: Okay. And he spent the night
6 with you that night?

7 MR. ROBERTS: Yes.

8 MS. MYERS: And you took him to Maxway's,
9 which is a gas station?

10 MR. ROBERTS: It's a clothing -- I guess
11 it's a clothing -- it's like a Walmart.

12 MS. MYERS: Okay. Okay. And that was in
13 St. Pauls?

14 MR. ROBERTS: Yes.

15 MS. MYERS: Okay. Do you know about -- and
16 that was like a pre-arranged drop off?

17 MR. ROBERTS: Yeah. We talked that night, I
18 think around 11:00, right before she went to bed, and
19 talked about meeting, because I had a job to go to that
20 next morning.

21 MS. MYERS: Okay. Who dropped Jarod off at
22 your home?

23 MR. ROBERTS: His -- I want to say I picked
24 him up.

25 MS. MYERS: You think you picked him up?

1 MR. ROBERTS: Yeah.

2 MS. MYERS: And you were living down in
3 Fayetteville?

4 MR. ROBERTS: Yes, ma'am.

5 MS. MYERS: And it was River Front Road? Is
6 that right?

7 MR. ROBERTS: Yeah. 623 River Front Lane.

8 MS. MYERS: Okay. And who lived in that
9 home with you?

10 MR. ROBERTS: Me, Vanessa, and her two
11 daughters.

12 MS. MYERS: What were Vanessa's daughter's
13 names?

14 MR. ROBERTS: Keely (phonetic) and Selena.

15 MS. MYERS: And the job that you -- so that
16 Friday, when you woke up, you dropped Jarod off. That's
17 the first day that you started this job?

18 MR. ROBERTS: Yes.

19 MS. MYERS: You had not worked there ever
20 before?

21 MR. ROBERTS: Huh-uh. (Negative)

22 MS. MYERS: And what was the name of the
23 place that you were working at?

24 MR. ROBERTS: It was Murphy-Brown's.

25 MS. MYERS: What time did you have to be at

1 work that day?

2 MR. ROBERTS: I want to say it was like
3 6:00. But I was late because they didn't give me the
4 right coordinates to go to, the right lot number.

5 MS. MYERS: Okay. What was your -- I read
6 somewhere, and I have it somewhere, so I'll probably be
7 showing it to you at some point. But when you started
8 that job, did you have to shower before you started work?

9 MR. ROBERTS: Yes.

10 MS. MYERS: Okay. Talk to me about, like,
11 what that looked like in terms of like what you put on
12 after you showered.

13 MR. ROBERTS: Okay. Well, the day before, I
14 went to the -- I want to say two days before, I went to
15 the -- what you call that -- the temp service. And they
16 told me I have to wash in and out.

17 MS. MYERS: You said washed in and out?

18 MR. ROBERTS: Yeah. Wash to go in.

19 MS. MYERS: Okay. Okay.

20 MR. ROBERTS: And then come out. Because of
21 the -- we were working with livestock, hogs. And I
22 remember I told Vanessa to pack me a bag, because I have
23 to wash in and wash out. So she packed me soap and
24 towel, and stuff like that.

25 MS. MYERS: She packed you a suit and tie?

1 MR. ROBERTS: No. Soap and --

2 MS. MYERS: I'm sorry.

3 MR. ROBERTS: Soap and a towel.

4 MS. MYERS: Got you.

5 MR. ROBERTS: And some more clothing.

6 MS. MYERS: Okay. Do you remember what you
7 wore like to -- like what you wore when you woke up that
8 morning?

9 MR. ROBERTS: Yeah. I had on a Jack
10 Nicholson shirt with golds in his mouth, and black jeans,
11 and a pair of boots, steel-toed boots. And I put my
12 tennis shoes in the back trunk.

13 MS. MYERS: Okay. And so you got to
14 Murphy-Brown's after you got to the right lot?

15 MR. ROBERTS: Yeah.

16 MS. MYERS: Okay. You washed in?

17 MR. ROBERTS: Yeah.

18 MS. MYERS: When you washed in, did they
19 give you something to wear?

20 MR. ROBERTS: Yes. They gave me a -- some
21 kind of suit to put on. And gave me some gloves that I
22 put on. But they gave me the soap and stuff. So I
23 thought I had to bring it because we had to wash in and
24 out. But they gave me everything.

25 MS. MYERS: Okay. So you didn't have to use

1 what Vanessa had packed?

2 MR. ROBERTS: Yeah. Yeah.

3 MS. MYERS: Okay. Got you. I would have
4 thought the same thing.

5 MR. ROBERTS: Yeah.

6 MS. MYERS: What time did you get off work
7 that day?

8 MR. ROBERTS: I got off, I want to say 12
9 o'clock.

10 MS. MYERS: Okay. When you got off at 12
11 o'clock, tell me what that process looked like when you
12 were leaving there. Like did you wash out, I mean?

13 MR. ROBERTS: Yeah. We washed out. I think
14 I washed out. I want to say we did. No, we didn't wash
15 out. But we had to wash in, going in.

16 MS. MYERS: Okay.

17 MR. ROBERTS: But anyway, it was a Friday,
18 so they wanted to make it sure if I did my work good,
19 they was going to think about hiring me back Monday.
20 Which I did.

21 MS. MYERS: Because this was through a temp
22 job?

23 MR. ROBERTS: Yes.

24 MS. MYERS: Okay. Got you.

25 MR. ROBERTS: And the people that worked

1 there, the worker was like, he's a good worker. So the
2 man said we'll see you back on Monday. And from right
3 now, what you look like you got the job.

4 So when we got off, I wanted to stay --
5 because it was my first day, and I wanted me a check.
6 But, anyway. I sat in the parking lot for a little bit.

7 And while I was sitting in the parking lot,
8 I called my cousin Jennifer. I called Jennifer Gurley
9 because she wanted to go to my aunt wake, which was her
10 wake. So when I called her, she didn't pick up.

11 MS. MYERS: Let me interrupt you really
12 fast. I want to go back before I forget to ask you.
13 When you changed out from -- did you change out from
14 Murphy-Brown's?

15 MR. ROBERTS: Yes.

16 MS. MYERS: You didn't wash out, but did you
17 change back into the clothes you wore?

18 MR. ROBERTS: Yeah. Yeah.

19 MS. MYERS: Okay. So then, did you put back
20 on the black jeans?

21 MR. ROBERTS: Black jeans and a white shirt.

22 MS. MYERS: Okay. And the white shirt --

23 MR. ROBERTS: Had Jack Nicholson on it.

24 MS. MYERS: And the photograph -- or the
25 shirt that you had, Jack Nicholson had a grill in his

1 mouth on the shirt?

2 MR. ROBERTS: Yes.

3 MS. MYERS: Were there words on the shirt?

4 MR. ROBERTS: Yeah. It say "I'm still
5 shining" or something.

6 MS. MYERS: Okay. Where did you find that
7 shirt?

8 MR. ROBERTS: I bought it from -- I want to
9 say like a flea market.

10 MS. MYERS: Okay. Okay.

11 MR. ROBERTS: And I liked it.

12 MS. MYERS: Okay. So your aunt, what was
13 your aunt's name?

14 MR. ROBERTS: Geraldine Jasper.

15 MS. MYERS: So sorry, I interrupted you. So
16 go back to Jennifer did not answer your call?

17 MR. ROBERTS: Yeah. She didn't answer. So
18 I have like a drinking habit. So I called Vanessa, and I
19 was like, Vanessa, I don't think I should go up there by
20 myself, I want you to come with me. And she was like,
21 you already in St. Pauls, so it ain't nothing but like 10
22 minutes away. So she was like, might as well go ahead.

23 MS. MYERS: When you say that you had a
24 drinking problem, like what about that impacted you in
25 that moment when you called Jennifer? What do you mean?

1 Explain that.

2 MR. ROBERTS: Well, when I called Jennifer,
3 she didn't -- she didn't answer. And plus, my car -- my
4 tags and stuff weren't right, and I ain't got license.
5 So I felt comfortable with Vanessa, you know, coming
6 with me.

7 MS. MYERS: I'm sorry. You called -- okay.
8 Vanessa or Jennifer?

9 MR. ROBERTS: I called both of them.

10 MS. MYERS: You called both of them?

11 MR. ROBERTS: Yeah.

12 MS. MYERS: Okay. How long were you sitting
13 in the parking lot?

14 MR. ROBERTS: I sat in the parking two
15 hours.

16 MS. MYERS: So you were -- so you got off
17 work at about noon.

18 MR. ROBERTS: Uh-huh.

19 MS. MYERS: And then you sat there until
20 about 2 o'clock?

21 MR. ROBERTS: Yes.

22 MS. MYERS: Okay. Who did you call first,
23 Jennifer or --

24 MR. ROBERTS: Jennifer.

25 MS. MYERS: You called Jennifer. And then

1 she didn't answer?

2 MR. ROBERTS: Yeah, she didn't answer.

3 MS. MYERS: And then you called Vanessa?

4 MR. ROBERTS: Yes.

5 MS. MYERS: Okay.

6 MR. ROBERTS: Because she get off of work
7 like 2:00 to 3 o'clock.

8 MS. MYERS: Okay. Were you drinking when
9 you were sitting in the parking lot?

10 MR. ROBERTS: No.

11 MS. MYERS: Okay. At what point did you
12 leave the parking lot?

13 MR. ROBERTS: I left probably about 2:10. I
14 had a friend that was there, Robert. And he was like,
15 man, why you just sitting in the parking lot? I said,
16 man, I'm contemplating about going to Lumberton. He was
17 like, you going to Lumberton today? I said yes. Robert
18 Smith was his name.

19 MS. MYERS: Okay.

20 MR. ROBERTS: He said what you got going on?
21 I said I got to pick up Jennifer for my aunt wake. And
22 he said, you know, it's right there. I said what you
23 mean it's right there? He said Tar Heel Road is right
24 there, all you got to do is make a right and make a left,
25 and make another left, and you're on Tar Heel Road. I

1 said it's that close? Like that.

2 MS. MYERS: So Murphy-Brown's then, is it by
3 the Smithfield plant?

4 MR. ROBERTS: Yes. It's on Chicken Foot
5 Road.

6 MS. MYERS: Okay. And that is close to --
7 okay. So Robert, did he work with you there?

8 MR. ROBERTS: Yes.

9 MS. MYERS: Okay. When you said that you
10 had to pick up Jennifer, at some point did you talk to
11 her again, like after you called and she didn't answer?

12 MR. ROBERTS: Yeah. So --

13 MS. MYERS: Was this prearranged with
14 Jennifer? Did she know that you guys were going to go
15 together?

16 MR. ROBERTS: Yeah.

17 MS. MYERS: Okay.

18 MR. ROBERTS: Well, she stayed with me like
19 a week before then. I always keep, like, my son every
20 week, and she -- or she'll bring him down when she come.

21 MS. MYERS: Okay.

22 MR. ROBERTS: And we had talked the weekend
23 before, like, when my aunt passed, and she had told me
24 that she wanted me to come.

25 MS. MYERS: Okay. All right. So he tells

1 you Tar Heel Road is right over there. And then what
2 happened next?

3 MR. ROBERTS: So I leaves. I say if it's
4 that close, I can go ahead and make it. And I drove
5 there.

6 MS. MYERS: Were you alone when you drove
7 there?

8 MR. ROBERTS: Yes. And soon as I got to
9 Lumberton, close to Jennifer house, I stopped at a store
10 called Last Stop.

11 MS. MYERS: Okay.

12 MR. ROBERTS: And I walked in there, and I
13 went straight to the beer cooler, got me a beer.

14 MS. MYERS: What kind of beer?

15 MR. ROBERTS: Bud Ice. I got like two. I
16 think I got two beers.

17 MS. MYERS: Two Bud Ices.

18 MR. ROBERTS: Uh-huh.

19 MS. MYERS: Were they in the can?

20 MR. ROBERTS: Yes. Twenty-four ounces.

21 MS. MYERS: Okay. Was that the first --
22 like the first alcohol you had that day?

23 MR. ROBERTS: Yes. I didn't open it right
24 then. But when I got to Jennifer house, I opened it.

25 MS. MYERS: Okay.

1 MR. ROBERTS: And when I got to Jennifer
2 house, they had just came in. So that was about 3
3 o'clock.

4 MS. MYERS: Three o'clock. Where had they
5 just come in from?

6 MR. ROBERTS: They had just came in from --
7 from a graduation. Her son, Dasmine, had just graduated.

8 MS. MYERS: Dasmine is his name?

9 MR. ROBERTS: Yeah. But we call him
10 Cornbread.

11 MS. MYERS: Okay. Cornbread is Dasmine?

12 MR. ROBERTS: Yeah.

13 MS. MYERS: Okay. Is Dasmine's last name
14 McQueen?

15 MR. ROBERTS: Yes.

16 MS. MYERS: And when you say they had just
17 come back in, who is they?

18 MR. ROBERTS: Jennifer, her mother, and
19 Cornbread.

20 MS. MYERS: Okay.

21 MR. ROBERTS: Well, Cornbread didn't come
22 with them. He came up later.

23 MS. MYERS: He came up later?

24 MR. ROBERTS: Yeah.

25 MS. MYERS: Jennifer is related to you how?

1 MR. ROBERTS: That's my uncle, my mom
2 brother.

3 MS. MYERS: Okay. Your mom's brother's
4 daughter?

5 MR. ROBERTS: Yeah.

6 MS. MYERS: Okay. Got you. So she's your
7 first cousin?

8 MR. ROBERTS: Yes.

9 MS. MYERS: Okay. And tell me again, you
10 said you think you got to Jennifer's about what time?

11 MR. ROBERTS: It had to be like 3:00. It
12 was 2:45 to 3 o'clock.

13 MS. MYERS: Okay. And then you drank beer
14 while you were there?

15 MR. ROBERTS: Yeah.

16 MS. MYERS: Did you drink both the 24s you
17 got?

18 MR. ROBERTS: Nah. I popped it. And when
19 I -- I had popped my beer and started drinking. And
20 that's when Cornbread, Patrick, and a bunch of younger
21 guys that I knew -- or I knew one dude that used to stay
22 with me. He stayed with me a couple times.

23 MS. MYERS: Who is that?

24 MR. ROBERTS: His name was Moose.

25 MS. MYERS: Moose?

1 MR. ROBERTS: Yeah.

2 MS. MYERS: Do you know his government name?

3 MR. ROBERTS: No.

4 MS. MYERS: Okay. How old was he about?

5 MR. ROBERTS: They had to be like 16 around
6 that time. Sixteen or 17.

7 MS. MYERS: Okay. And who is Patrick?

8 MR. ROBERTS: Patrick is Jennifer other
9 nephew.

10 MS. MYERS: Her nephew. Okay. So when
11 those younger guys got there, what were you guys doing?

12 MR. ROBERTS: First, I congratulate [sic] them
13 for graduating. And I was like, man, I didn't know it
14 was your graduation. And he was like, yeah, I meant to
15 tell you, but I knew you had to work. So I missed it.
16 Because I was keeping them that weekend, him and my son.

17 But he said, man, you ain't got to open
18 that -- you ain't got to drink no more of your beer. We
19 got plenty of beer in the car. So they came up in a
20 truck. So when I looked in the truck, they had plenty of
21 beer.

22 MS. MYERS: What kind of beer did they have?

23 MR. ROBERTS: Bud Ice.

24 MS. MYERS: But Ice. Okay. Was that -- and
25 I want to say this to you, too, Mr. Roberts. There is no

1 judgment here. Okay? So I'm going to ask you very
2 specific questions about what you were drinking.

3 MR. ROBERTS: Yeah.

4 MS. MYERS: If you smoked any -- any, all of
5 those. Okay? I'm not trying to make you feel bad. That
6 is the last thing I want to make you feel.

7 MR. ROBERTS: Okay.

8 MS. MYERS: But it is important for us to
9 know what you consumed that day. Okay?

10 MR. ROBERTS: Okay.

11 MS. MYERS: So please, do not lie. I want
12 you to be a hundred percent with me on it. Okay?

13 MR. ROBERTS: Yeah. Okay.

14 MS. MYERS: And I'm sorry for that, because
15 I don't -- I don't want to make you feel bad about it.
16 Okay?

17 MR. ROBERTS: Okay.

18 MS. MYERS: So please know that's not my
19 intention.

20 MR. ROBERTS: Okay.

21 MS. MYERS: Okay. So Bud Ice, that was kind
22 of -- was that like your drink of choice?

23 MR. ROBERTS: No. I really like Budweiser.
24 But I drank Bud Ice some.

25 MS. MYERS: Okay. So they had like a truck

1 full of Bud Ice? Or what would you say?

2 MR. ROBERTS: Yeah. They had -- I would say
3 they had like two cases.

4 MS. MYERS: Okay. All right. So during the
5 time that you were there, you had popped one of your
6 beers though. Right?

7 MR. ROBERTS: Yes.

8 MS. MYERS: Did you finish that beer?

9 MR. ROBERTS: Yes.

10 MS. MYERS: Okay. So you still had one
11 left? One 24-ounce left?

12 MR. ROBERTS: Yeah.

13 MS. MYERS: How much beer did you drink?

14 MR. ROBERTS: At Jennifer?

15 MS. MYERS: Yeah. If you could estimate.
16 Like more than one?

17 MR. ROBERTS: Yeah, I drunk more than one.
18 I think I drunk like two of theirs.

19 MS. MYERS: Two?

20 MR. ROBERTS: Of theirs.

21 MS. MYERS: Two of theirs?

22 MR. ROBERTS: Yeah. They had the little
23 one.

24 MS. MYERS: Just like the 8-ounce can or --

25 MR. ROBERTS: The 16-ounce can.

1 MS. MYERS: Sixteen ounce. Okay. So you
2 drank those two, and you had your 24 ounce.

3 MR. ROBERTS: Uh-huh. (Affirmative)

4 MS. MYERS: Did you have anything else
5 there? Any shots or anything like that?

6 MR. ROBERTS: No.

7 MS. MYERS: No?

8 MR. ROBERTS: Huh-uh. (Negative)

9 MS. MYERS: Okay. What did y'all do -- like
10 y'all just -- tell me what you guys were doing.

11 MR. ROBERTS: Yeah. A lady came across the
12 street while I was standing there. Her name was Glossie,
13 Gloria Rogers.

14 MS. MYERS: Okay. And she went by Glossie?

15 MR. ROBERTS: Yeah, Glossie.

16 MS. MYERS: Okay. And Jennifer lived in
17 Turner?

18 MR. ROBERTS: Park.

19 MS. MYERS: Turner Park. Okay.

20 MR. ROBERTS: Okay. And Glossie nephew
21 stayed across the street from -- well, Glossie was a lady
22 I knew from way back when I was selling drugs. And she
23 used to be one of my customers.

24 MS. MYERS: Okay.

25 MR. ROBERTS: But anyway, she came over.

1 And she was like, I ain't seen you in a long time. I
2 said yeah. I said I'm out the streets now, you know.
3 I'm doing my thing. I'm trying to do right.

4 And she was like, I can tell. She say, you
5 know, I'm out the streets too. So I said you look good,
6 girl, something like that. And she was like I'm glad to
7 see you, and she hugged me, and stuff like that.

8 And while we're standing there, Jennifer
9 come out. And I'm like Jennifer, we still going? She
10 was like no, I can't go, because I got the staples in my
11 stomach. I said, yeah, you did say you were going to
12 have that staple. I said but, dang, Jennifer, I came all
13 the way to Lumberton. You know my tags ain't right, you
14 know. And she was like I'm sorry, but, you know, I can't
15 make it. Because I was going to get her to drive,
16 because she got her license.

17 MS. MYERS: Got you. Okay. Now let me ask
18 you this. Why were your tags not right, why were they --

19 MR. ROBERTS: I was -- just had bought the
20 car from my sister, and I was trying to get it changed
21 over. So I had to put a motor in it. It was leaking.

22 MS. MYERS: Okay.

23 MR. ROBERTS: I never had a license. And
24 Vanessa --

25 MS. MYERS: Ever? You've never had a

1 license ever?

2 MR. ROBERTS: Never have.

3 MS. MYERS: Why not?

4 MR. ROBERTS: Because when I was younger, I
5 got in a car wreck when I was like 13, 14. And I pulled
6 the gear down and hit a parked van, and the price of that
7 van was like \$800. So my mom didn't have it. So I went
8 and got my permit. But I just couldn't never get my
9 license.

10 MS. MYERS: Because of money?

11 MR. ROBERTS: Yes.

12 MS. MYERS: Okay. And so you said that you
13 bought the car from your sister?

14 MR. ROBERTS: Yes.

15 MS. MYERS: Which sister?

16 MR. ROBERTS: Tasha.

17 MS. MYERS: Who is Heather Rae Conn?

18 MR. ROBERTS: That was one of Vanessa aunt
19 or cousin or somebody.

20 MS. MYERS: Okay. Related to Vanessa?

21 MR. ROBERTS: Yes.

22 MS. MYERS: Okay. And the car was not -- so
23 you bought the car. So was this car the white Ford
24 Taurus, that was your car?

25 MR. ROBERTS: Yeah.

1 MS. MYERS: It was not Vanessa's car?

2 MR. ROBERTS: No. It was my car.

3 MS. MYERS: Okay.

4 MR. ROBERTS: But I bought it to give to
5 her, because she never had a license, she never had a
6 car, none of that. So --

7 MS. MYERS: Is it fair to say that you
8 bought the car from your sister, but you were sharing it?
9 Or it was her car?

10 MR. ROBERTS: I bought it from my sister to
11 give to her.

12 MS. MYERS: Okay. Okay. But was it common
13 for you to drive this vehicle?

14 MR. ROBERTS: Yes. Because she couldn't
15 drive.

16 MS. MYERS: Okay. So you bought her the
17 car, but then she just never drove it?

18 MR. ROBERTS: Yeah. She couldn't drive.

19 MS. MYERS: That's okay. I might be asking
20 you questions that you're like, why don't you understand.
21 Anyway. So okay. You bought it. She still never drove.

22 MR. ROBERTS: Yeah. I supposed to been
23 teaching her how to drive. But I've been in so many car
24 wrecks.

25 MS. MYERS: That you -- okay.

1 MR. ROBERTS: I didn't want to teach her.

2 MS. MYERS: That's fair. Okay. All right.

3 So what was I going to ask you about that? I might think
4 about it later now. Okay.

5 So Heather Rae Conn. So why was the car
6 registered to Heather Rae Conn?

7 MR. ROBERTS: Well, when I had this job
8 interview, we needed to have some plates on the car to go
9 to the job so I could get the car straightened out,
10 but -- till I got the car straightened out. But we was
11 like in a financial bind. I was still getting
12 unemployment, but I think I was on the last stage. And I
13 needed to get to work, and she needed to get to work. So
14 I mean, she went and got some plates from her aunt
15 because she had a Taurus or something.

16 MS. MYERS: Okay. Okay. So you were on
17 unemployment for a while. Was that with Mountaire?

18 MR. ROBERTS: No. That was with House of
19 Raeford.

20 MS. MYERS: House of Raeford. Okay. And
21 then, you had to get the car situation good for
22 Murphy-Brown?

23 MR. ROBERTS: Yeah. So I can go to -- so I
24 can get back and forth to Murphy-Brown.

25 MS. MYERS: Okay. Did Murphy-Brown need to

1 have proof that you could drive?

2 MR. ROBERTS: No, no. No, no.

3 MS. MYERS: You just --

4 MR. ROBERTS: I just trying to get back and
5 forth to work.

6 MS. MYERS: Okay.

7 MR. ROBERTS: And she needed a way back and
8 forth to work.

9 MS. MYERS: Vanessa did?

10 MR. ROBERTS: Yeah.

11 MS. MYERS: Okay. How long had y'all been
12 dating at that point?

13 MR. ROBERTS: I want to say from '11, 2011.
14 I want to say around that time.

15 MS. MYERS: But you had been knowing her for
16 a while. Right?

17 MR. ROBERTS: Yeah. I been knowing her
18 since junior high school. We used to talk back in junior
19 high school.

20 MS. MYERS: Okay. So fast forward. Sorry.
21 Back to Jennifer had told you she couldn't go, she was
22 worried about her stitches.

23 MR. ROBERTS: Yeah.

24 MS. MYERS: But you had known previously
25 that she had had that surgery?

1 MR. ROBERTS: Yeah, yeah. Yeah, she told
2 me.

3 MS. MYERS: Okay. So she tells you all
4 that, that she can't go. And then, what happens after
5 that?

6 MR. ROBERTS: After she told me that, I sat
7 down, and like I said, I -- I was kind of upset. But I
8 was like, I understand. But while I was sitting there,
9 Cornbread come out the house. Because he had done went
10 in and used the bathroom or something. And his dad
11 called. And that's Eric McQueen. When he called, he put
12 me on the phone. My dad want to talk to you. So I
13 talked to him.

14 He said, man, come to New Town where I'm at.
15 I heard you got a job and stuff, and you doing all right.
16 He said, man, I want to get a job. I said, now, I'm
17 going to tell you like this, and it's a good job, and I
18 want you to be -- if you want to work, they need a lot of
19 help. And he said okay. So I said I'll come over there,
20 but I ain't going to stay long. Said man, come on over,
21 I ain't seen you in a long time. So I went over there.
22 When I got there --

23 MS. MYERS: I'm going to pause you. And I'm
24 sorry. I don't mean to be annoying about this. But I
25 want to back up a little bit. Okay?

1 MR. ROBERTS: Okay.

2 MS. MYERS: So you talked to E on the phone.
3 Right?

4 MR. ROBERTS: Uh-huh.

5 MS. MYERS: Okay. And he tells you that.
6 Did Jennifer ever make any comment to you after that?

7 MR. ROBERTS: Yeah. She said, "Boy, don't
8 even go over there." That's what she said.

9 MS. MYERS: Why did she say that?

10 MR. ROBERTS: Because E is trouble.

11 MS. MYERS: He's trouble?

12 MR. ROBERTS: Yeah. Like his drink, he's
13 trouble.

14 MS. MYERS: Okay.

15 MR. ROBERTS: Like not as far as getting
16 into stuff, but he like to drink. And she knew that if I
17 ever got with him, we drink.

18 MS. MYERS: Okay. All right. How long, in
19 total, would you say that you were over at Jennifer's
20 house before you left to go to E, meet up with E?

21 MR. ROBERTS: Probably about a hour.

22 MS. MYERS: Okay. So at this point, are we
23 thinking like 3:30-ish that you would have left?

24 MR. ROBERTS: It'd been about close to 4:00.
25 Because I think I got there 2:45 to 3 o'clock. So it was

1 about close to 4:00.

2 MS. MYERS: Do you have any memory from like
3 while you were out that day of -- at least up until this
4 time point -- where you had looked at a clock or somebody
5 said the time to you?

6 MR. ROBERTS: No.

7 MS. MYERS: Okay. And that's okay. That's
8 okay. So you leave there. Say it again what time you
9 said. I'm sorry.

10 MR. ROBERTS: It was about close to 4:00.
11 It had to be close to 4:00.

12 MS. MYERS: Close to 4:00.

13 MR. ROBERTS: Yeah.

14 MS. MYERS: Do you think it was after 4:00?

15 MR. ROBERTS: It could have been. I'm not
16 for sure.

17 MS. MYERS: That's okay. That's okay. So
18 you leave Jennifer's, and then what do you do?

19 MR. ROBERTS: When I gets to New Town, I
20 goes to where he be at, which is my Aunt Mildred.

21 MS. MYERS: Okay. I'm going to pause just
22 for a second. And I want to make sure that I know which
23 place this is. And so I'm going to show you an exhibit.
24 Give me just one second so I can find it. New Town is
25 Booker Avenue?

1 MR. ROBERTS: Yeah. Booker Street.

2 MS. MYERS: Booker Street. Okay. I am
3 going to show you -- I promise, I'm organized.

4 MR. ROBERTS: I'm a little nervous.

5 MS. MYERS: Don't be nervous. Sorry. It's
6 way easier for me to tell you not to be nervous. But do
7 your best not to be nervous. Okay?

8 I know I put them in here. Okay. I am
9 going to show you what I'm marking as Commission Exhibit
10 77. And tell me if this is the first place you went to.
11 I'm going to show you Exhibit 77. Do you recognize that
12 place?

13 (Commission Exhibit 77 marked and
14 handed to Mr. Roberts.)

15 MR. ROBERTS: Yeah. This is Aunt Mildred
16 house.

17 MS. MYERS: That's your Aunt Mildred's
18 house? Okay. When you went to New Town, is that the
19 first place that you went to?

20 MR. ROBERTS: Yes.

21 MS. MYERS: And I'm sorry, because I did not
22 make an extra copy for you. Okay. But that was the
23 first house that you went to?

24 MR. ROBERTS: Yeah.

25 MS. MYERS: Okay. When you got -- when you

1 left Jennifer's -- between the time you left Jennifer's
2 and you went there, did you have anything in the car to
3 drink?

4 MR. ROBERTS: That one 24.

5 MS. MYERS: You had that one 24?

6 MR. ROBERTS: Yeah.

7 MS. MYERS: Did you drink that entire 24
8 between that time period?

9 MR. ROBERTS: Yeah. I think I drunk it -- I
10 drunk it right there in the yard, Mildred house.

11 MS. MYERS: You drank it not while you were
12 driving?

13 MR. ROBERTS: No.

14 MS. MYERS: You drank it while you were in
15 this front yard?

16 MR. ROBERTS: Yes.

17 MS. MYERS: Okay. When you get up to this
18 front yard, who else is here?

19 MR. ROBERTS: It was E mother.

20 MS. MYERS: E's mother?

21 MR. ROBERTS: Yeah. Her name was Christine.

22 MS. MYERS: Christine?

23 MR. ROBERTS: Yeah. Aunt Mildred and her
24 brother, Robert Lee.

25 MS. MYERS: Mildred's brother?

1 MR. ROBERTS: Yeah. Robert Lee.

2 MS. MYERS: Okay.

3 MR. ROBERTS: Yeah. He got one leg. But
4 anyway, I asked him did he want something to drink, was
5 he drinking. He says I don't drink no more.

6 MS. MYERS: Okay.

7 MR. ROBERTS: And I said you don't drink no
8 more? Robert Lee don't drink? Like that. And he was
9 like, no, I don't drink no more. And I looked at him,
10 and I said, man, you sure look different too.

11 MS. MYERS: Because he lost a leg?

12 MR. ROBERTS: No. Because he don't drink no
13 more, his skin cleared up, brightened up.

14 MS. MYERS: I'm sorry. I got you. Okay.

15 MR. ROBERTS: And I was like, you don't
16 drink no more. Because he used to be a big drinker.

17 MS. MYERS: Okay. Got you.

18 MR. ROBERTS: But anyway, when I see that
19 he didn't drink no more -- and Tammy was there,
20 E girlfriend.

21 MS. MYERS: E's girlfriend?

22 MR. ROBERTS: Yeah. Her name was Tammy
23 Jones.

24 MS. MYERS: What did she look like?

25 MR. ROBERTS: That day she had on --

1 MS. MYERS: What was her skin color?

2 MR. ROBERTS: Brown skin.

3 MS. MYERS: Okay. Okay.

4 MR. ROBERTS: And she had on a farmer suit.

5 MS. MYERS: Farmer suit?

6 MR. ROBERTS: Yeah. You know, like a

7 overall.

8 MS. MYERS: Okay. I got you.

9 MR. ROBERTS: Yeah. Because it was hot.

10 And I was like, what you doing -- I was saying it to

11 myself.

12 MS. MYERS: Yeah.

13 MR. ROBERTS: What she doing in that farmer
14 suit. But anyway, I asked them did they want anything to
15 drink or sodas. They said no. And Tammy said she wanted
16 a Heineken.

17 MS. MYERS: Okay.

18 MR. ROBERTS: I said where your boyfriend
19 at? And she say Jakelie just came and got him.

20 MS. MYERS: So E was not there when you
21 first got there?

22 MR. ROBERTS: Yes.

23 MS. MYERS: Okay.

24 MR. ROBERTS: His daughter, Jakelie, which
25 is Jennifer daughter, had done picked him up. She had a

1 black Honda that day. And I said --

2 MS. MYERS: Jakelie?

3 MR. ROBERTS: Jakelie.

4 MS. MYERS: Jakelie.

5 MR. ROBERTS: Yeah.

6 MS. MYERS: Her last name McQueen?

7 MR. ROBERTS: Yeah.

8 MS. MYERS: Jakelie McQueen?

9 MR. ROBERTS: Yeah.

10 MS. MYERS: Okay.

11 MR. ROBERTS: So I said he done got me
12 drive all the way over here, and he ain't here? She said
13 oh, he went to a job interview. And I said that's what
14 he called me for a job, he wanted a job.

15 MS. MYERS: That was quick.

16 MR. ROBERTS: Yeah. So he went -- but he
17 called her while I was standing there, and say, don't you
18 leave, I'm going to be right back in a few minutes. I'm
19 about there. I said, man, you got me standing over here.
20 And the police -- I'm on the phone when the police went
21 by. I see the police. That made me nervous anyway. So
22 when I see the police car, I went, are they still hot
23 over here. He was like I be on the way in a minute.

24 MS. MYERS: Why were you nervous?

25 MR. ROBERTS: Because my tags weren't right.

1 MS. MYERS: Okay.

2 MR. ROBERTS: And in Robeson County, they
3 got a habit of messing with me.

4 MS. MYERS: A habit of messing with you. Is
5 that what you said?

6 MR. ROBERTS: Yeah.

7 MS. MYERS: Okay. And we'll get to that in
8 a little bit too. Okay? Don't let me forget to ask you
9 about that. All right?

10 MR. ROBERTS: Yeah. Okay.

11 MS. MYERS: How long would you say you were
12 there at your Aunt Mildred's until E got there? Or how
13 long of a time period was that do you think?

14 MR. ROBERTS: I want to say within 30
15 minutes. It weren't that long before he came back.

16 MS. MYERS: Okay. Did you have anything to
17 drink during that 30-minute time period?

18 MR. ROBERTS: Yeah. That 24.

19 MS. MYERS: That's when you drank the 24?

20 MR. ROBERTS: Yeah.

21 MS. MYERS: Okay. When E got there, did you
22 drink anything else while he was there too?

23 MR. ROBERTS: No. We didn't drink in the
24 yard at all with him while he was there.

25 MS. MYERS: Okay.

1 MR. ROBERTS: Because she won't let him
2 drink in the yard. Well, I guess because she --

3 MS. MYERS: Your Aunt Mildred won't let him?

4 MR. ROBERTS: Yeah.

5 MS. MYERS: Okay. Okay.

6 MR. ROBERTS: I guess. Cause she ain't seen
7 me in a while, she let me drink.

8 MS. MYERS: Got you. Are Christina, E's
9 mom, and Mildred, are they sisters?

10 MR. ROBERTS: Sisters, yes.

11 MS. MYERS: Okay. So your cousin is
12 Jennifer, whose ex-husband is E?

13 MR. ROBERTS: Yeah. But E -- this is how it
14 is. My uncle married E aunt, which is Mildred's sister.
15 My mama brother married Mildred's sister.

16 MS. MYERS: Married Mildred's sister. Okay.

17 MR. ROBERTS: All right. So they were
18 married before I was born probably.

19 MS. MYERS: Okay.

20 MR. ROBERTS: All right. But I didn't -- E
21 and Jennifer are not related, like, you know. But we
22 just -- they just married into the family.

23 MS. MYERS: Got you. Okay.

24 MR. ROBERTS: But Jennifer is my mother
25 brother daughter.

1 MS. MYERS: Daughter. Okay. So E gets
2 there -- all right. Well, I'm going to show you one
3 other picture, and I'm going to mark this as Commission
4 Exhibit 78. I'll just put those right there.

5 MR. ROBERTS: I guess you would call it
6 cousins-in-law.

7 MR. CATER: I'm glad you explained. I was
8 like, wait, you're related to both of them, and then they
9 had a kid together. But I see it's kind of on different
10 sides.

11 MR. ROBERTS: Yeah, it's different side.
12 That's my cousin-in-law.

13 MR. CATER: My mom has double first cousins
14 because basically, my grandfather and his brother
15 married, you know --

16 MR. ROBERTS: Two sisters.

17 MR. CATER: -- my grandmother and his
18 sister. So then their cousins were related on both
19 sides. So you're really almost -- we're basically as
20 related as siblings, but even though you're cousins
21 because you're related to both families.

22 MS. MYERS: Yeah. Isn't that interesting.

23 All right. I'm going to show you Commission
24 Exhibit 78. And I just want to know if you recognize
25 this home.

1 (Commission Exhibit 78 marked and
2 handed to Mr. Roberts.)

3 MR. ROBERTS: I think that's Mildred house
4 over here. No, that ain't Mildred house.

5 MS. MYERS: So this is different. So what I
6 can tell you -- because sometimes I think it is hard when
7 you're shown pictures like this, and you don't have a lot
8 of orientation. These are both on Booker.

9 MR. ROBERTS: Yeah. Booker. This is
10 June -- where June used to stay at. Well, Mildred stay
11 down the street in that house now.

12 MS. MYERS: Yes. She stays here now.

13 MR. ROBERTS: Yeah.

14 MS. MYERS: But she had this -- like these
15 were both her houses. Is that your understanding?

16 MR. ROBERTS: Yeah.

17 MS. MYERS: Okay. So when you first got to
18 Booker Street, you were at this house?

19 MR. ROBERTS: Yeah.

20 MS. MYERS: And I want to be clear that
21 we're calling it Booker Street, but it's actually Booker
22 Avenue.

23 MR. ROBERTS: Okay.

24 MS. MYERS: Which seems weird to me, because
25 I keep calling it Booker Street. But when I looked it

1 up, it's Booker Avenue.

2 MR. ROBERTS: Yeah.

3 MS. MYERS: So for this purpose, we'll keep
4 calling it Booker Street. But know it's Booker Avenue
5 for the record.

6 MR. ROBERTS: Okay.

7 MS. MYERS: Okay. So you came to this house
8 first. Is that right?

9 MR. ROBERTS: Yes.

10 MS. MYERS: When you drove up.

11 MR. ROBERTS: Yeah.

12 MS. MYERS: At any time did you go down to
13 this house?

14 MR. ROBERTS: My car was parked right across
15 the street from it, right there at the parking lot right
16 there.

17 MS. MYERS: Would it have been more across
18 from this house?

19 MR. ROBERTS: No. It was across from this
20 one.

21 MS. MYERS: Okay. Across from this house?

22 MR. ROBERTS: Yeah, yeah. It's a parking
23 lot because of the park right here.

24 MS. MYERS: Right. Okay. So your car was
25 parked down there, but you were hanging out here?

1 MR. ROBERTS: Yeah. Here.

2 MS. MYERS: And you never went to this house
3 at all?

4 MR. ROBERTS: No. I didn't go -- we walked
5 -- we walked that way, but we went on -- we went to the
6 other side. We went behind Mildred house. Soon as E
7 got there, he said let's go around the corner to Charles
8 Burns' house.

9 Mildred told me about she had got that
10 house. But she stayed there, and Heavy stay -- her
11 husband stayed at that house. And that's how I knew
12 about that house.

13 MS. MYERS: Who stayed at the other house?

14 MR. ROBERTS: Heavy, her husband.

15 MS. MYERS: Heavy?

16 MR. ROBERTS: Yeah.

17 MS. MYERS: And then Head is their son?

18 MR. ROBERTS: Yes. Gary.

19 MS. MYERS: Okay. Got it. Okay. So you
20 leave with Eric or E. Right? Did anybody else leave
21 with you when you left here?

22 MR. ROBERTS: Just me and Eric.

23 MS. MYERS: Just you and Eric.

24 MR. ROBERTS: Yeah.

25 MS. MYERS: Did you walk to the next place

1 or did you drive to the next place?

2 MR. ROBERTS: We walked. We walked.

3 Because I remember that police came through, and we
4 walked.

5 MS. MYERS: And you walked. Okay.

6 MR. ROBERTS: Yeah.

7 MS. MYERS: When you were walking down the
8 street to the next place, did you have anything -- were
9 you drinking anything?

10 MR. ROBERTS: Yeah, I think I did drink.
11 I'm not for sure though.

12 MS. MYERS: That's okay.

13 MR. ROBERTS: I'm not for sure. I'm not for
14 sure.

15 MS. MYERS: If you did have something to
16 drink at that time, would it have been a beer?

17 MR. ROBERTS: Yeah, it would have been a
18 beer.

19 MS. MYERS: Who would you have gotten that
20 from?

21 MR. ROBERTS: I went to the store. I went
22 back to the store. I went to that store right by Booker
23 Street. I remember I went back to the store.

24 MS. MYERS: At what time did you go to that
25 store?

1 MR. ROBERTS: Right before E pulled up.
2 Because I asked Tammy did she want a beer. And I brought
3 her -- I want to say I brought her a beer too.

4 MS. MYERS: Because she had asked for a
5 Heineken?

6 MR. ROBERTS: Yes.

7 MS. MYERS: Okay. Was it the Sun-Do?

8 MR. ROBERTS: Yeah. I think that's what you
9 call it.

10 MS. MYERS: Was it on Carthage?

11 MR. ROBERTS: No. It was on Elizabethtown
12 Road and Godwin Avenue.

13 MS. MYERS: Elizabethtown and Godwin?

14 MR. ROBERTS: Yeah.

15 MS. MYERS: And it was a gas station?

16 MR. ROBERTS: Yes.

17 MS. MYERS: Okay. So you go here first.
18 You check in with everybody.

19 MR. ROBERTS: Yeah.

20 MS. MYERS: And then do you drive down to
21 that station?

22 MR. ROBERTS: Yeah, I drove to the store.

23 MS. MYERS: You drove back to the station?

24 MR. ROBERTS: Yeah.

25 MS. MYERS: Okay. You got yourself a beer?

1 MR. ROBERTS: And her a Heineken.

2 MS. MYERS: What kind of beer did you get
3 for yourself?

4 MR. ROBERTS: I want to say I got another
5 Bud Ice, because that's what I was drinking that day.
6 And that was a little bit cheaper than what I usually
7 drink.

8 MS. MYERS: Okay. And was it a 24 ounce?

9 MR. ROBERTS: Yes.

10 MS. MYERS: Did you have cash that day?

11 MR. ROBERTS: Yes.

12 MS. MYERS: Okay. How much cash did you
13 start the day off with?

14 MR. ROBERTS: Forty dollars.

15 MS. MYERS: Forty dollars. Okay. And
16 presumably, you're using that \$40 when you're stopping at
17 these places?

18 MR. ROBERTS: Yes. Yes.

19 MS. MYERS: Okay. So you go to that store,
20 you get those two beers, you come back to this home right
21 here. Right?

22 MR. ROBERTS: Uh-huh. (Affirmative)

23 MS. MYERS: Okay. In Exhibit 77. Okay.
24 And then you're hanging out. E comes by.

25 MR. ROBERTS: Uh-huh. (Affirmative)

1 MS. MYERS: After E gets there, a cop drives
2 down the road. You guys walk to the next place?

3 MR. ROBERTS: Uh-huh. (Affirmative)

4 MS. MYERS: Okay. What was the next place
5 that you went to?

6 MR. ROBERTS: Charles Burns' house.

7 MS. MYERS: Charles Burns' house.

8 MR. ROBERTS: Yeah.

9 MS. MYERS: And where was that in relation
10 to when you were here in Exhibit 77?

11 MR. ROBERTS: It's just right behind it on
12 the next street over.

13 MS. MYERS: Okay. I'm going to show you
14 another picture, and I'm going to label this one as
15 Exhibit --

16 MR. ROBERTS: I want to --

17 MS. MYERS: What?

18 MR. ROBERTS: I want to say it's Haywood
19 Street.

20 MS. MYERS: Hay -- oh, okay. All right.
21 I'll show you what I've got, and you tell me if this
22 is -- I don't know if this is the place. So you tell me
23 if it is.

24 Okay. So the picture I'm going to show you
25 is actually two different houses on the same street. And

1 I just -- I'm going to label this as Commission Exhibit
2 79. And tell me if you recognize either of these homes.

3 (Commission Exhibit 79 marked and
4 handed to Mr. Roberts.)

5 MR. ROBERTS: Okay.

6 MS. MYERS: Did you go to either of those
7 homes afterwards?

8 MR. ROBERTS: Yeah. This Charles Burns'
9 house right here.

10 MS. MYERS: Charles Burns.

11 MR. ROBERTS: Yes.

12 MS. MYERS: Is that what you said?

13 MR. ROBERTS: Uh-huh. (Affirmative)

14 MS. MYERS: Okay. Charles Burns is in that
15 one?

16 MR. ROBERTS: Yes.

17 MS. MYERS: And I think that's actually
18 1007 Ash Street. Does that sound familiar?

19 MR. ROBERTS: I don't know the street.

20 MS. MYERS: That's okay. That's okay. I do
21 have a map, too, so I can show you. But when I have
22 driven this, it goes Booker, and then it kind of curves
23 around.

24 MR. ROBERTS: Curves, yeah.

25 MS. MYERS: Is that right? Does that sound

1 right to you?

2 MR. ROBERTS: Yeah. Yeah.

3 MS. MYERS: Okay. So that's Ash Street.

4 And then -- so this house -- you were not at this house?

5 MR. ROBERTS: No.

6 MS. MYERS: You were at this house?

7 MR. ROBERTS: Yeah.

8 MS. MYERS: This is Charles Burns. Tell me
9 about Charles Burns.

10 MR. ROBERTS: Okay. Well, we was sitting
11 there. Charles, ain't seen me in a long time. So it was
12 a lot of people out there. And he said, man -- man, I
13 got to get you a drink, because when you was back in
14 Lumberton, you remember you gave me -- he had -- he was
15 going to a rehab, and I gave him a ride to the rehab. I
16 gave him some money to catch a bus all the way to
17 Charlotte.

18 And he said, man -- he said you want
19 something to drink? So E was like, yes, I want something
20 to drink. He said I ain't talking to you, E, I'm talking
21 to him. I ain't seen him in a long time. So he poured
22 us a big cup. I said, E, you can drink with me out of
23 this cup.

24 MS. MYERS: What did he pour you guys?

25 MR. ROBERTS: It was some kind of liquor. I

1 can't remember.

2 MS. MYERS: What color was it, do you
3 remember?

4 MR. ROBERTS: Brown.

5 MS. MYERS: Brown. Okay. When you've had
6 brown liquor, what kind of liquor is that typically? Is
7 it like --

8 MR. ROBERTS: It was some kind of like -- I
9 want to say it was like whiskey. I can't --

10 MS. MYERS: That's okay. Did you have any
11 mixers or anything to drink with it?

12 MR. ROBERTS: No.

13 MS. MYERS: It was just straight up like a
14 cup of brown liquor?

15 MR. ROBERTS: Yeah.

16 MS. MYERS: How big was the cup?

17 MR. ROBERTS: One of them -- a Styrofoam, a
18 big one.

19 MS. MYERS: Was it like -- you said
20 Styrofoam cup?

21 MR. ROBERTS: Yeah. A big one.

22 MS. MYERS: Okay. So was Mr. Burns, was
23 he -- I mean, did -- what kind of house was this? Did he
24 live there?

25 MR. ROBERTS: Yeah, he lived there.

1 MS. MYERS: Was it a liquor house? Was it
2 just a place people hung out at?

3 MR. ROBERTS: They say that he sold liquor.
4 But he didn't sell me none. But they said he did. But
5 he stayed there. And I've been knowing him for a long
6 time, him and his brother.

7 MS. MYERS: Okay. What time did you get to
8 Mr. Burns' house do you think?

9 MR. ROBERTS: Soon as E got there, we left
10 from Tammy and them, and went straight to them.

11 MS. MYERS: Okay. You said you saw a lot of
12 people at that house. Right? Tell me about who you saw
13 there.

14 MR. ROBERTS: It was Dave Simpson. Some
15 people I didn't know. And Fly was sitting on the porch,
16 which is his brother.

17 MS. MYERS: You said who was sitting on the
18 porch?

19 MR. ROBERTS: A dude named Fly, which was --

20 MS. MYERS: Fly?

21 MR. ROBERTS: Yeah. That was his brother.

22 MS. MYERS: Whose brother?

23 MR. ROBERTS: Charles Burns' brother.

24 MS. MYERS: Okay. And the two of them, you
25 had been knowing for a while?

1 MR. ROBERTS: Yeah.

2 MS. MYERS: Okay.

3 MR. ROBERTS: And while we was standing
4 there, Soulski pulled up. Soulski Stephens.

5 MS. MYERS: Okay.

6 MR. ROBERTS: And soon as he pull off, the
7 police pulled back up. Oh, Stanton McLaurin was there.

8 MS. MYERS: Okay.

9 MR. ROBERTS: And there was a few more
10 people. But soon as Soulski pulled off, I -- because I
11 talked to him for a little bit, and asked him how his
12 brother was doing.

13 MS. MYERS: Who is his --

14 MR. ROBERTS: Brother's name is named Alex
15 Stephens.

16 MS. MYERS: Alex?

17 MR. ROBERTS: Yeah. But we call him Bug.

18 MS. MYERS: You call him what?

19 MR. ROBERTS: Bug, B-u-g.

20 MS. MYERS: B-u-g. Okay.

21 MR. ROBERTS: And while he was sitting
22 there, the police would come, and somebody say, the
23 police come. And he pulled on off.

24 MS. MYERS: Okay. Was he -- like, so was he
25 just driving through?

1 MR. ROBERTS: Yeah, he was just driving
2 through.

3 MS. MYERS: Was he drink -- like, did he
4 stop to have a drink or anything or hang out?

5 MR. ROBERTS: I don't know if he -- I don't
6 think he got out. I don't think he got out at the time.
7 He just drove through.

8 MS. MYERS: Okay. But you spoke to him?

9 MR. ROBERTS: Yeah. I spoke to him.

10 MS. MYERS: And what was that like?

11 MR. ROBERTS: We was just kind of saying, we
12 was chopping it up about when last time we seen each
13 other. And he was like, man, I be back through later on.

14 MS. MYERS: Later on.

15 MR. ROBERTS: You know, you be out here.
16 And he said I'm going to let Bug know you're here. And
17 that was it. And the police pulled up.

18 MS. MYERS: But he -- so the cops pull up.
19 Did they get out, or they were just driving around?

20 MR. ROBERTS: They just neighborhood
21 patrolling, I guess.

22 MS. MYERS: Okay.

23 MR. ROBERTS: And when they pulled -- they
24 pulled right here, and Stanton was standing right here
25 somewhere. And the police was talking the Stanton. And

1 he looked at the porch. I guess he knew everybody else.

2 He was like, who is that right there?

3 MS. MYERS: Meaning who?

4 MR. ROBERTS: Talking about me.

5 MS. MYERS: The cop asked Stanton that?

6 MR. ROBERTS: Yeah. And Stanton was like,
7 man, that's old -- that's Woo, like that. And he said
8 Woo? He looked. And so everybody like, Stan, why you
9 giving that man name like that. And then the police just
10 pulled off.

11 MS. MYERS: But the cop remained in his car.

12 Is that right?

13 MR. ROBERTS: Yeah.

14 MS. MYERS: Okay. I want to show you -- I'm
15 going to show you what was previously marked as Exhibit
16 9, and I want you to tell me if you know who this person
17 is. Okay?

18 (Hands Exhibit 9 to Mr. Roberts.)

19 MR. ROBERTS: That's Soulski.

20 MS. MYERS: That's Soulski Stephens?

21 MR. ROBERTS: Yeah.

22 MS. MYERS: Okay. And Stanton McClaren or
23 McLaurin?

24 MR. ROBERTS: Yeah, McLaurin.

25 MS. MYERS: McLaurin. I don't know if I

1 have a picture of him, but let me see if I was able to
2 find one.

3 MR. ROBERTS: I know he passed since I've
4 been in.

5 MS. MYERS: He has? Okay.

6 Yes. Okay. I am going to show you what I
7 am marking as Commission Exhibit 85. And I want you to
8 tell me if you recognize the person in this photograph or
9 series of paragraphs.

10 (Commission Exhibit 85 marked and
11 handed to Mr. Roberts.)

12 MR. ROBERTS: Yes, that's him.

13 MS. MYERS: That's Stanton?

14 MR. ROBERTS: Yeah.

15 MS. MYERS: Okay. How did you know Stanton?

16 MR. ROBERTS: I used to go to his house a
17 lot. My uncle was married to his cousin.

18 MS. MYERS: Okay.

19 MR. ROBERTS: My Uncle Abdulu (phonetic) was
20 married to his -- I think it was his cousin or his aunt
21 for a long time.

22 MS. MYERS: Okay. So Stanton, was he -- why
23 would he have -- like did he talk to the cops?

24 MR. ROBERTS: Yeah. He was like the
25 neighborhood community watch. Because he stayed in that

1 neighborhood for a long time.

2 MS. MYERS: Okay. Did he tell you about why
3 the cops would have been asking about you? Did you have
4 a conversation with him about that?

5 MR. ROBERTS: I can't remember. But I
6 remember I said, man, you shouldn't have told that police
7 my name like that.

8 MS. MYERS: And what did he say?

9 MR. ROBERTS: He said something. And
10 they -- I know that people start -- I said, man, it's
11 time for me to go. And that's when we left.

12 MS. MYERS: That is when you left?

13 MR. ROBERTS: Yeah.

14 MS. MYERS: When you -- okay. So how long
15 would you say that you had been at Mr. Burns' house at
16 that point?

17 MR. ROBERTS: Probably about 20 minutes.

18 MS. MYERS: Twenty minutes. So not very
19 long it doesn't sound like.

20 MR. ROBERTS: It wasn't that long. It
21 wasn't long.

22 MS. MYERS: So like you were sharing that
23 Styrofoam cup of brown liquor with E?

24 MR. ROBERTS: Yeah, with E. Yeah.

25 MS. MYERS: Was it gone by the time y'all

1 left?

2 MR. ROBERTS: I'm not quite sure. But I
3 know we jumped in the car. We walked back to the car.
4 And he holler, let's go to East Pine. Because I told
5 him, I said, man, it's hot down through here. He says
6 let's go to East Pine.

7 MS. MYERS: So you leave there after 20
8 minutes?

9 MR. ROBERTS: Yeah.

10 MS. MYERS: And you walk back to your car,
11 which is still parked in front of --

12 MR. ROBERTS: The house by the park.

13 MS. MYERS: That house.

14 MR. ROBERTS: By the park.

15 MS. MYERS: Okay. And then you drive to a
16 house on East Pine?

17 MR. ROBERTS: Yes.

18 MS. MYERS: All right. Between the time you
19 went from Mr. Burns' place to East Pine, did you stop
20 anywhere?

21 MR. ROBERTS: No. We went straight there.

22 MS. MYERS: You went straight there?

23 MR. ROBERTS: Yeah.

24 MS. MYERS: Who all was in the car with you?

25 MR. ROBERTS: Me and E.

1 MS. MYERS: Was anybody else in the car?

2 MR. ROBERTS: No.

3 MS. MYERS: Okay. Did you have anything to
4 drink while you were driving from Burns' place to East
5 Pine?

6 MR. ROBERTS: I don't know if we brung that
7 cup of liquor or we finished it. I don't -- I'm not for
8 sure. If we did, E was -- E was drinking it, because I
9 weren't drinking while I was driving. I know that. I
10 weren't -- I didn't have the cup in my hand.

11 MS. MYERS: Okay. And it's okay if you were
12 drinking it while you were driving. Okay?

13 MR. ROBERTS: Yeah.

14 MS. MYERS: So if you were, I want you to
15 tell me that though.

16 MR. ROBERTS: I'm not -- I don't think I was
17 drinking while -- I think E had the cup.

18 MS. MYERS: You think E had it?

19 MR. ROBERTS: Yeah.

20 MS. MYERS: And if he didn't, then y'all had
21 already finished it?

22 MR. ROBERTS: Yeah.

23 MS. MYERS: Okay. How much would you say
24 you had to drink out of that cup versus what E had to
25 drink out of that cup?

1 MR. ROBERTS: Well, we both knocked it down
2 a little bit.

3 MS. MYERS: When you say knocked it down a
4 little bit?

5 MR. ROBERTS: Yeah. I got probably the neck
6 after E -- he kept --

7 MS. MYERS: You drank a significant portion
8 of it?

9 MR. ROBERTS: Yeah.

10 MS. MYERS: Is that fair to say?

11 MR. ROBERTS: Yeah. Yeah. Well, I could
12 drive still though.

13 MS. MYERS: Okay. Enough so that you could
14 drive?

15 MR. ROBERTS: Keep focused on driving, yeah.

16 MS. MYERS: Okay. So you go straight from
17 Mr. Burns' house to the place on East Pine. And then --
18 so let me -- and you had E in the car.

19 I am going to show you what I am marking as
20 Commission Exhibit 86. And I want you to take a look at
21 this. I'm going to mark this as Commission Exhibit 86.

22 So the neat thing about being able --
23 because I'm looking -- trying to look up these places in
24 person, but then also on Google Maps.

25 MR. ROBERTS: Yeah.

1 MS. MYERS: And you can look back and see as
2 close to the time period as possible. So some of these
3 pictures were taken in June of 2012, which is exciting
4 for me.

5 MR. ROBERTS: Okay.

6 MS. MYERS: So hopefully it looks a lot more
7 like what you had experienced when you were out driving
8 around than what it might look like now.

9 MR. ROBERTS: Okay.

10 MS. MYERS: So I'm going to show you what I
11 just marked as Commission Exhibit 86. Does that look
12 like the place you would have gone to when you left
13 Mr. Burns' house?

14 (Commission Exhibit 86 marked and
15 handed to Mr. Roberts.)

16 MS. MYERS: And to give you some orientation
17 to that, that is Summit and 7th Street.

18 MR. ROBERTS: Yeah. We went there later
19 though. We went to -- we went there later on.

20 MS. MYERS: Okay. So this place on East
21 Pine, you went there before this place?

22 MR. ROBERTS: Yes.

23 MS. MYERS: Okay. All right. So tell me
24 about -- so you can put that down. We'll come back to
25 that. So you tell me about this place you went to on

1 East Pine.

2 MR. ROBERTS: When we went to East Pine, we
3 went to a -- we went to a two-story house, white.

4 MS. MYERS: Okay. I am going to show you
5 what I'm going to mark -- I've got two of these pictures,
6 so a couple different angles of this house. So I'm going
7 to show you -- the first one I'm going to show you is
8 what I'm going to be marking as Commission Exhibit 87.
9 And I think this is what you're talking about. And I
10 have another photograph, too, from kind of a different
11 angle. But does that home look familiar to you?

12 (Commission Exhibit 87 marked and
13 handed to Mr. Roberts.)

14 MR. ROBERTS: Yeah. I thought bigger -- I
15 thought it was bigger than that. But yeah, I guess this
16 is it.

17 MS. MYERS: Is that what you're talking
18 about when you're saying East Pine?

19 MR. ROBERTS: Yes. I'm thinking this the
20 house.

21 MS. MYERS: If you're not sure, that's okay.

22 MR. ROBERTS: Yeah. I'm not sure. But I
23 remember this kind of like road right here. But I
24 thought it was a two-story house.

25 MS. MYERS: So I'm going to show you

1 another -- so it's hard to get a -- I couldn't get like a
2 front picture of that. I think it is a two-story home,
3 to be honest with you.

4 MR. ROBERTS: Yeah.

5 MS. MYERS: Tell me about -- what do you --
6 what was around this house? What do you remember being
7 around this house?

8 MR. ROBERTS: There was a lot of people
9 sitting in the yard. And I remember when we first pulled
10 up, it was Mike-Mike, Sugar Daddy, a lot of people I knew
11 from back in the days was at this house. And they was
12 all sitting in the yard. There was few females out
13 there.

14 MS. MYERS: Okay. Was there anything in
15 front of that house?

16 MR. ROBERTS: A railroad track, and I want
17 to say like a funeral home was down the street from
18 there.

19 MS. MYERS: All right. I'm going to show
20 you another angle of that home. And I'm going to mark
21 this as Commission Exhibit 85 [sic].

22 And now that I'm looking at it, it's
23 probably not that helpful. But I'm going to show it to
24 you. Oh, I'm sorry, 88. Commission Exhibit 88. See if
25 that kind of helps orient you.

1 (Commission Exhibit 88 marked and
2 handed to Mr. Roberts.)

3 MR. ROBERTS: Yeah. That's kind of a better
4 -- yeah. Because they was sitting out right up under
5 this tree, like --

6 MS. MYERS: Sorry. Point it out to me.

7 MR. ROBERTS: I think they were sitting up
8 under the tree, right here.

9 MS. MYERS: Okay. So you go from E's -- or
10 I'm sorry -- to Mr. Burns' house to this home.

11 MR. ROBERTS: To this. Yeah.

12 MS. MYERS: And this is East Pine to you.
13 Is that right?

14 MR. ROBERTS: Yes.

15 MS. MYERS: Okay. So what is in front of
16 that house is the train tracks. Is that right?

17 MR. ROBERTS: Yes.

18 MS. MYERS: Okay. And you are driving.
19 Where do you pull your car up?

20 MR. ROBERTS: I pulled right over here.

21 MS. MYERS: Were you in this driveway area
22 when you pulled up?

23 MR. ROBERTS: Yes.

24 MS. MYERS: Okay. What other cars were
25 there?

1 MR. ROBERTS: There was a lot of more cars.
2 But I think I parked by this gray car right here.

3 MS. MYERS: You think -- and I'm going to
4 tell you right now that I don't know if this gray car was
5 there at this --

6 MR. ROBERTS: Yeah. But I think I was
7 parked close. I'm just saying just right there.

8 MS. MYERS: Just generally speaking, you
9 would have been parked next to this gray car?

10 MR. ROBERTS: Yeah.

11 MS. MYERS: So on this car's driver's side
12 is where you would have parked?

13 MR. ROBERTS: Yeah.

14 MS. MYERS: Would you have been parked
15 towards the house?

16 MR. ROBERTS: Yeah.

17 MS. MYERS: You would have been pulled in
18 that way?

19 MR. ROBERTS: Yeah. I'm pointed towards the
20 house.

21 MS. MYERS: Okay. Where were these other
22 cars that you saw?

23 MR. ROBERTS: They was some pulled over on
24 the side, some was sitting like that.

25 MS. MYERS: Were they in the yard or on the

1 street?

2 MR. ROBERTS: Yeah, they was -- some was on
3 the street, and some was -- it was packed.

4 MS. MYERS: It was packed. Okay. Was this
5 a liquor house?

6 MR. ROBERTS: Yes. This was a liquor house.

7 MS. MYERS: This was a liquor house.

8 MR. ROBERTS: Yeah.

9 MS. MYERS: How did you know the setup of
10 this house to be? Like, was one person living there,
11 were there multiple people in there?

12 MR. ROBERTS: The whole time, I thought it
13 was one big house.

14 MS. MYERS: You thought it was one -- okay.

15 MR. ROBERTS: Yeah. I didn't -- I didn't
16 know --

17 MS. MYERS: And I think at one time it was.
18 I think it might have been split up into apartments. But
19 I don't know. So if that's -- if you don't know either,
20 that's okay. I don't know if it was like that then.

21 MR. ROBERTS: Yeah. But I have -- I had
22 been to this house prior to -- towards this incident. Me
23 and E went to this house before.

24 MS. MYERS: Okay.

25 MR. ROBERTS: And I think it was like three

1 weeks before. It was like three weeks before that day.

2 MS. MYERS: Okay. Who lived in this house?

3 MR. ROBERTS: I know the lady was from
4 Florida. I didn't know the dude.

5 MS. MYERS: Okay. You mentioned some people
6 that you saw. You said there were a lot of people there.

7 MR. ROBERTS: Yeah.

8 MS. MYERS: Tell me some of those names that
9 you -- you said something about Two Dollar?

10 MR. ROBERTS: Yeah. It was -- yeah. I know
11 Two Dollar was there too.

12 MS. MYERS: Did you say that name or am
13 I -- okay. I'm sorry.

14 MR. ROBERTS: Yeah. But Mike-Mike was one
15 of them.

16 MS. MYERS: Mike-Mike?

17 MR. ROBERTS: Yeah.

18 MS. MYERS: Do you know his government name?
19 Mike Something probably.

20 MR. ROBERTS: Michael Shaw.

21 MS. MYERS: Oh, Michael Shaw. Okay.

22 MR. ROBERTS: Yeah. And Brian McArn, we
23 call him Sugar Daddy.

24 MS. MYERS: Okay.

25 MR. ROBERTS: Two Dollar, I don't know his

1 real -- I don't know his name.

2 MS. MYERS: Okay.

3 MR. ROBERTS: It was -- see who else there.
4 Rodney Cade. It was so many, I can't remember.

5 MS. MYERS: That's okay.

6 MR. ROBERTS: But these was the guys I knew.

7 MS. MYERS: Those were the guys -- were
8 there other people there?

9 MR. ROBERTS: Yeah. There was other people
10 there too.

11 MS. MYERS: And did you know all the people
12 that were there?

13 MR. ROBERTS: No, I didn't know them.

14 MS. MYERS: Okay. Did you drink while you
15 were here?

16 MR. ROBERTS: Yes. Like I said, I had been
17 to this house before. And I spent some money with them.
18 And I want to say it was like three weeks before this.
19 And they gave me some more alcohol. They -- I think I
20 bought a shot, and they gave me extra, the lady did.

21 MS. MYERS: Okay. You think you bought a
22 shot there. And when you're buying a shot at a liquor
23 house, how big is that shot?

24 MR. ROBERTS: A little cup.

25 MS. MYERS: Like your standard kind of shot

1 size?

2 MR. ROBERTS: Yeah, yeah.

3 MS. MYERS: Okay. Do you remember what kind
4 of liquor you drank?

5 MR. ROBERTS: It was just brown. I don't
6 know.

7 MS. MYERS: That's okay. When you go to a
8 liquor house, can you just tell me about like what is
9 that like. Like how do you order, where do you order,
10 what are your options typically. From your experience.

11 MR. ROBERTS: Well, when I go, they usually
12 have Travelers Club, brown or gin. And they serve it out
13 of a little shot glass.

14 MS. MYERS: Okay. And how, like do you pay
15 -- you just probably pay cash for those?

16 MR. ROBERTS: Yeah. Pay cash.

17 MS. MYERS: Okay. And you don't have -- it
18 sounds like you don't have a ton of options.

19 MR. ROBERTS: Yeah, yeah.

20 MS. MYERS: You basically go and order what
21 they have?

22 MR. ROBERTS: Yeah.

23 MS. MYERS: Okay. And so you think you
24 bought one shot?

25 MR. ROBERTS: Yeah. And I think she gave me

1 two shots instead.

2 MS. MYERS: Okay. So you had three shots
3 total or two shots total?

4 MR. ROBERTS: Two shots.

5 MS. MYERS: Two shots total. Okay. Would
6 you have taken those back to back?

7 MR. ROBERTS: She put it all in one cup.
8 Yeah. So I sipped on it.

9 MS. MYERS: Okay. How long would you say
10 you were there at that time?

11 MR. ROBERTS: Well, that's when we first got
12 there. And I sat there for a long time. We sat there
13 for a while.

14 MS. MYERS: How long would you say you sat
15 there for?

16 MR. ROBERTS: I can't remember. Because we
17 talked. And I can't remember.

18 MS. MYERS: When you say we talked, who did
19 you talk to?

20 MR. ROBERTS: Sugar Daddy, Mike-Mike, and
21 you know, the people that I knew there. And people was
22 coming up. Some people I knew, and some people I didn't.

23 MS. MYERS: Okay. Would you say you were
24 there for more than an hour?

25 MR. ROBERTS: Yeah, it was more than an

1 hour.

2 MS. MYERS: Was it more than two hours?

3 MR. ROBERTS: Probably right at two hours.

4 MS. MYERS: Probably right at two hours.

5 Okay. And did you -- you had those two shots. Did you
6 have anything else to drink while you were there?

7 MR. ROBERTS: Yeah. Somebody brought me
8 some shots, and I drunk some shots with them. And then I
9 went back to that store.

10 MS. MYERS: Okay. Hold on. When you say
11 some shots, how many shots is that, to the best of your
12 knowledge?

13 MR. ROBERTS: Probably about two or three
14 more.

15 MS. MYERS: Two or three more. Okay. So
16 possibly four to five shots while you were there?

17 MR. ROBERTS: Uh-huh. (Affirmative)

18 MS. MYERS: Okay. What made you leave at
19 that time, like when you left there?

20 MR. ROBERTS: E wanted to go see Gary or
21 Head. And that's who I really wanting to see because I
22 ain't seen him in a while.

23 MS. MYERS: Okay. So you leave there, and
24 are you driving your car?

25 MR. ROBERTS: Yeah.

1 MS. MYERS: And who is in the car with you?

2 MR. ROBERTS: E and Rodney. And we stopped
3 at that house where you're talking about on Summit.
4 Because I didn't know that name of that street.

5 MS. MYERS: So house on --

6 MR. ROBERTS: Summit, right here.

7 MS. MYERS: This one?

8 MR. ROBERTS: Yeah.

9 MS. MYERS: The house in Exhibit 86?

10 MR. ROBERTS: Yeah.

11 MS. MYERS: So you went back -- did you go
12 to the store first?

13 MR. ROBERTS: I'm not for sure.

14 MS. MYERS: That's okay.

15 MR. ROBERTS: I know I went to the store at
16 some time though.

17 MS. MYERS: That's okay.

18 MR. ROBERTS: But I'm not for sure if it was
19 then.

20 MS. MYERS: So you go back to this house
21 from the house on East Pine, so right down the road.

22 MR. ROBERTS: Yeah.

23 MS. MYERS: And you're with E, Rodney Cade?

24 MR. ROBERTS: Uh-huh. (Affirmative)

25 MS. MYERS: Michael Shaw. Is that who you

1 said?

2 MR. ROBERTS: No.

3 MS. MYERS: Sorry.

4 MR. ROBERTS: When we -- it was me, E, and
5 Rodney Cade jumped in the car, and we left. I think we
6 ended up here. But we went to Head house, it was two
7 apartments. His girlfriend house or something. She
8 stayed in behind the school.

9 MS. MYERS: So the school is like right
10 across from here?

11 MR. ROBERTS: Yeah. I want to say --

12 MS. MYERS: So there was another place that
13 you went to that was not this house?

14 MR. ROBERTS: Yes.

15 MS. MYERS: Did you go to this house first
16 or did you go to the apartments first?

17 MR. ROBERTS: I want to say we went to this
18 house first. And then we went to the apartments. I
19 think we went to the apartment, then we ended up in here.
20 We did it either way. We ended up at this house.

21 MS. MYERS: Okay. The apartments, what did
22 you do when you were at the apartments?

23 MR. ROBERTS: There was some females there.
24 Head had -- Head pulled up while we was there, and she
25 had gave me a shot.

1 MS. MYERS: Who was the female, do you know?

2 MR. ROBERTS: Huh-uh. (Negative)

3 MS. MYERS: How long would you have been at
4 those apartments?

5 MR. ROBERTS: We just stayed there till Head
6 got there. And then --

7 MS. MYERS: Okay. So Head was not there at
8 the time?

9 MR. ROBERTS: Yeah.

10 MS. MYERS: But did Head live in that
11 apartment?

12 MR. ROBERTS: Yes.

13 MS. MYERS: He did?

14 MR. ROBERTS: Yeah.

15 MS. MYERS: Okay. Do you remember what the
16 apartments were called?

17 MR. ROBERTS: They were -- they were just
18 two small apartments.

19 MS. MYERS: Two small apartments. Okay.

20 MR. ROBERTS: Uh-huh. (Affirmative)

21 MS. MYERS: Who did Head live there with, do
22 you know?

23 MR. ROBERTS: They said it was his
24 girlfriend. But she was like -- she didn't date Head.

25 MS. MYERS: Do you know what her name was?

1 MR. ROBERTS: No.

2 MS. MYERS: All right. So you go there.

3 And how long do you think you stay here for?

4 MR. ROBERTS: Probably about an hour or
5 something.

6 MS. MYERS: About an hour. And you have how
7 much to drink here?

8 MR. ROBERTS: We had plenty to drink by that
9 time.

10 MS. MYERS: How much would you say you had
11 while you were there at the apartment?

12 MR. ROBERTS: About two shots over there.
13 That might have been two shots over there. I'm not for
14 sure.

15 MS. MYERS: Two shots there?

16 MR. ROBERTS: I'm not for sure. Because we
17 was drinking.

18 MS. MYERS: Okay. I'm going to count on you
19 guys to tell me when it's 1:00 or when you need a break.
20 Okay?

21 MS. MILLER: Yeah. I'll let you know.

22 MS. MYERS: Okay. So probably had two
23 shots. You stayed there an hour. Okay. And then you
24 come to this house on Summit. Is that right?

25 MR. ROBERTS: Yeah.

1 MS. MYERS: Okay. Why did you leave Head's
2 to go here?

3 MR. ROBERTS: Rodney want to go there.
4 Rodney -- I think this was where Rodney stayed at. And
5 he wanted -- he wanted to see somebody. I don't know who
6 it was. But we end up going there. I want to say I
7 walked right there.

8 MS. MYERS: You walked from the apartments
9 to here?

10 MR. ROBERTS: Yeah.

11 MS. MYERS: Are you certain of that?

12 MR. ROBERTS: I'm not for sure.

13 MS. MYERS: That's okay.

14 MR. ROBERTS: But I want to say we walked
15 there. It weren't too far away.

16 MS. MYERS: Okay. So then you go from
17 the apartments to this house on Summit, which is in
18 Exhibit 86.

19 MR. ROBERTS: Yeah.

20 MS. MYERS: How long would you have been at
21 this house?

22 MR. ROBERTS: We didn't stay long, because I
23 was -- I remember standing about right here.

24 MS. MYERS: You were standing outside?

25 MR. ROBERTS: Yeah.

1 MS. MYERS: Did you ever go inside the
2 house?

3 MR. ROBERTS: Not that I remember.

4 MS. MYERS: Okay. Who else was at this
5 house right here?

6 MR. ROBERTS: I can't remember who was
7 staying at the house. I can't remember.

8 MS. MYERS: And who did you go to this house
9 with? You and Rodney?

10 MR. ROBERTS: Yeah. With Rodney Cade.

11 MS. MYERS: And who else?

12 MR. ROBERTS: I can't remember who else went
13 with us. But I know me and Rodney was out there.

14 MS. MYERS: Would E have gone with you?

15 MR. ROBERTS: I'm not for sure.

16 MS. MYERS: Would Head have gone with you?

17 MR. ROBERTS: I don't think Head was there
18 with us -- yeah, Head was with us.

19 MS. MYERS: He was with you?

20 MR. ROBERTS: Yeah.

21 MS. MYERS: Okay.

22 MR. ROBERTS: Head would have been with us.

23 MS. MYERS: But you don't know if E was
24 there?

25 MR. ROBERTS: Yeah. I don't think E was

1 there. I'm not for sure though. Like I know Head was.

2 MS. MYERS: You know Head was there?

3 MR. ROBERTS: Yeah. I think Head was.

4 MS. MYERS: Okay. Was Head's girlfriend
5 there too?

6 MR. ROBERTS: I'm not for sure.

7 MS. MYERS: Okay. When you get to this
8 house, are you drinking?

9 MR. ROBERTS: Yeah. We was sitting out
10 drinking. I remember we went to the store, I think right
11 then we went to the store. I think Rodney bought me a
12 beer.

13 MS. MYERS: Okay. So you go to the store at
14 what point?

15 MR. ROBERTS: After we sat there for a
16 while.

17 MS. MYERS: After you sat at this house for
18 a while?

19 MR. ROBERTS: Yeah.

20 MS. MYERS: Then you go to the store?

21 MR. ROBERTS: Yeah. Somebody asked to go to
22 the store.

23 MS. MYERS: You did not go?

24 MR. ROBERTS: Yeah, we -- yeah. We left
25 together.

1 MS. MYERS: Okay.

2 MR. ROBERTS: Me, Rodney, and -- me and
3 Rodney, and I want to say E was in the car. I'm not for
4 sure though about that. But I remember when I left this
5 time, went by the police station. And they was
6 remodeling the police station because there was a lot of
7 trash in the dumpsters. I say what they doing to that
8 police station? They said, oh, they remodeling it. I
9 said okay. So that was on Godwin Avenue.

10 And we went back -- right back to that same
11 store from New Town.

12 MS. MYERS: Okay. The same store that you
13 had gone to when you got the Heineken for --

14 MR. ROBERTS: Yeah.

15 MS. MYERS: -- for April? What was her
16 name?

17 MR. ROBERTS: Tammy.

18 MS. MYERS: Tammy. Sorry. Are you driving
19 back to that store?

20 MR. ROBERTS: Yeah.

21 MS. MYERS: When you go to that store, do
22 you buy beer or does somebody else buy beer?

23 MR. ROBERTS: I bought beer, Rodney bought
24 me a beer, and while I was in there, the lady said
25 something to me, and I think I bought a book. But I --

1 like I said, I didn't have no -- but like --

2 MS. MYERS: You thought you bought a book?

3 MR. ROBERTS: Yeah. I want to say I bought
4 a book from there. I'm not for sure. Somebody bought a
5 book with Lebron James on it.

6 MS. MYERS: Okay. And you think it happened
7 from that store?

8 MR. ROBERTS: Yeah. Cause I remember
9 looking at it.

10 MS. MYERS: All right. What kind of beer
11 did you buy for yourself?

12 MR. ROBERTS: I'm going to say it was still
13 the Bud Ice or Budweiser. It was either one.

14 MS. MYERS: Twenty-four ounce?

15 MR. ROBERTS: Yeah.

16 MS. MYERS: And the one that Rodney bought
17 you, same thing?

18 MR. ROBERTS: Yeah.

19 MS. MYERS: Okay. So you go to the store.
20 And then do you go back to this house?

21 MR. ROBERTS: Yeah. I think we went back to
22 the apartments then.

23 MS. MYERS: You went back to the apartments
24 that Head lived in?

25 MR. ROBERTS: Yeah.

1 MS. MYERS: How long did you stay at the
2 apartments that Head lived in?

3 MR. ROBERTS: I'm not quite sure. But I
4 know it was getting kind of -- it start looking like it
5 was getting dark. When I pulled up, I said, man -- E
6 said -- it was getting -- turning like 6:00, 7:00, 6:30,
7 7 o'clock. Because I remember there was some guys
8 walking from the -- like they were going to the
9 basketball court or coming from the basketball court.
10 And --

11 MS. MYERS: Did you see where they were
12 coming from?

13 MR. ROBERTS: Nah. I think they came from
14 that side road, where that house was that I'm telling you
15 about, that two-story house.

16 MS. MYERS: The Peachtree?

17 MR. ROBERTS: Yeah. Or they came from the
18 back -- the back way, on the 6th Street.

19 MS. MYERS: Sixth Street. Okay. Did you
20 recognize any of these guys?

21 MR. ROBERTS: Larry. That was the only one
22 I recognized.

23 MS. MYERS: Who is Larry? What's his name?

24 MR. ROBERTS: They call him L Boogie.

25 MS. MYERS: L Buggy?

1 MR. ROBERTS: L Boogie. Yeah.

2 MS. MYERS: Boogie. Okay.

3 MR. ROBERTS: Yeah.

4 MS. MYERS: Was he like a younger guy?

5 MR. ROBERTS: Yeah. He was a guy I used to
6 know from way back. But he was -- he's like -- I want to
7 say he about three years younger than me or more.

8 MS. MYERS: Okay. Did you speak to him when
9 you saw him?

10 MR. ROBERTS: Yeah. Yeah. He was on a
11 bicycle, and I spoke.

12 MS. MYERS: He was on a bicycle?

13 MR. ROBERTS: Yeah.

14 MS. MYERS: Okay.

15 MR. ROBERTS: But when the guys came up,
16 there was a bunch of young cats I didn't know. And one
17 guy, he kept looking at me. And blowing on about what's
18 up. And when L Boogie seen him doing that, he was like,
19 oh, man, that's Woo. Man, that's my man. He good
20 people. And from then on, it was clean, nothing -- no
21 more is said.

22 And somebody was sitting in the car, a white
23 car was parked on the side of the road. I don't know who
24 car that was. But it was a white car on this side, and
25 my car was parked on this side. But they were facing the

1 other way.

2 MS. MYERS: And when you're talking about
3 the -- like orient me to where you're at when this is
4 happening.

5 MR. ROBERTS: Right in front of the -- we
6 was in that apartment, and the school right in front.

7 MS. MYERS: This house?

8 MR. ROBERTS: No.

9 MS. MYERS: This house?

10 MR. ROBERTS: It's -- it's --

11 MS. MYERS: The apartments house?

12 MR. ROBERTS: Yeah.

13 MS. MYERS: The apartments -- do you -- what
14 do those buildings look like?

15 MR. ROBERTS: They little white, two
16 apartments. The school right in front of us. And we're
17 just sitting on the porch. And the back of the school is
18 sitting right there.

19 MS. MYERS: Is it Magnolia?

20 MR. ROBERTS: It's called Rowland Norment.

21 MS. MYERS: The school is?

22 MR. ROBERTS: Yeah.

23 MS. MYERS: Are the apartments called
24 Magnolia?

25 MR. ROBERTS: Nah. Magnolia is down the

1 street.

2 MS. MYERS: Down the street. Okay.

3 MR. ROBERTS: Yeah. That's a lot of
4 apartments.

5 MS. MYERS: Around there. Okay.

6 MR. ROBERTS: But right here, just two.

7 MS. MYERS: Just two apartments right there.

8 MR. ROBERTS: Yeah. Just two apartments.

9 MS. MYERS: Okay. And so you see these
10 guys, Larry and some younger guys.

11 MR. ROBERTS: Yeah.

12 MS. MYERS: Larry is on a bike.

13 MR. ROBERTS: Yeah.

14 MS. MYERS: Younger guys are just walking?

15 MR. ROBERTS: Yeah. Yeah, they were coming
16 from 6th Street.

17 MS. MYERS: They're coming from 6th Street.

18 MR. ROBERTS: And I want to say some more
19 people was coming from Magnolias. I'm not for sure. But
20 I think they were coming from Magnolias.

21 MS. MYERS: From Magnolia?

22 MR. ROBERTS: Yeah.

23 MS. MYERS: So would that have been from a
24 different direction?

25 MR. ROBERTS: Yeah.

1 MS. MYERS: Okay. So when Larry looks at
2 this younger guy and says he's -- like he's Woo, like
3 leave him -- or whatever.

4 MR. ROBERTS: Yeah.

5 MS. MYERS: What did this younger guy look
6 like?

7 MR. ROBERTS: I found out later on who he
8 was. His name was Jose.

9 MS. MYERS: Jose?

10 MR. ROBERTS: Jose Locklear.

11 MS. MYERS: Okay. What did you find out
12 about him? I mean, does he just have like a bad
13 attitude? Or like what --

14 MR. ROBERTS: Yeah. He had a bad attitude.

15 MS. MYERS: Okay. So it wasn't like
16 necessarily like a personal thing?

17 MR. ROBERTS: Yeah. He's just -- yeah,
18 yeah. He's just --

19 MS. MYERS: Were you pissed off about that?

20 MR. ROBERTS: No. I was just -- I was just
21 listening, because, you know, when somebody --

22 MS. MYERS: It's weird. Right?

23 MR. ROBERTS: Yeah. You know, like what in
24 the world up with him? And he don't know me, you know.

25 MS. MYERS: Okay.

1 MR. ROBERTS: But he was like that, I guess
2 automatically. Because I met him later on in the
3 jailhouse.

4 MS. MYERS: Okay.

5 MR. ROBERTS: And that's -- then, as we
6 talked, he said he had remembered me.

7 MS. MYERS: Okay. Did he tell you any of
8 the other guys he was with that night?

9 MR. ROBERTS: Nah. Because he didn't
10 remember nothing. He was drunk too.

11 MS. MYERS: Okay. Okay. All right. So
12 Larry tells Jose to chill out, whatever.

13 MR. ROBERTS: Yeah. He tell --

14 MS. MYERS: Okay. They keep walking. Do
15 you know where they're walking to? Did they tell you
16 where they were going?

17 MR. ROBERTS: Yeah. I think they said they
18 were headed towards the basketball court. Or they were
19 going -- they were going to the store or something. They
20 were going somewhere.

21 MS. MYERS: Okay. And when you're saying
22 it's like a group of them, do you know about how many
23 people do you think you saw with them that night?

24 MR. ROBERTS: It was at least about 15 to
25 20.

1 MS. MYERS: Oh, it was a lot of people?

2 MR. ROBERTS: Yeah. It was a lot of them.

3 MS. MYERS: Okay. And the only person you
4 recognized was Larry?

5 MR. ROBERTS: Yeah.

6 MS. MYERS: And now, Jose, in retrospect?

7 MR. ROBERTS: Yeah.

8 MS. MYERS: Because he was mean look mugging
9 you or whatever.

10 MR. ROBERTS: Yeah.

11 MS. MYERS: All right. So when you see
12 them, you're standing outside of the apartments that Head
13 lived in?

14 MR. ROBERTS: Uh-huh. (Affirmative)

15 MS. MYERS: Your car is parked at those
16 apartments?

17 MR. ROBERTS: Uh-huh. (Affirmative)

18 MS. MYERS: You said there was another white
19 car?

20 MR. ROBERTS: Yeah. There was a white car
21 parked on this side of the street, but it was facing
22 towards Magnolia apartments.

23 MS. MYERS: What was the significance of
24 that car to you at the time?

25 MR. ROBERTS: I was looking at -- I'm like

1 who car is that. I want to say that was -- I want to say
2 that was Kendrick's (phonetic) car, but I'm not for sure.

3 MS. MYERS: Was somebody in the car or
4 anything?

5 MR. ROBERTS: Yeah. They were sitting on
6 top of the car.

7 MS. MYERS: Oh, okay. But you weren't
8 concerned about this car. Is that right?

9 MR. ROBERTS: Nah. No, no.

10 MS. MYERS: Okay. So you see all those
11 people, you're still at the apartments. What do you do
12 when you -- like, what happens after that?

13 MR. ROBERTS: Well, after that incident, I
14 got a little nervous. Man, I don't like being around a
15 lot of young guys. So, man, let's go on back to 6th
16 Street. So Head was like, let's go over here.

17 MS. MYERS: And why didn't you like being
18 around a lot of young guys?

19 MR. ROBERTS: Because young guys, they
20 reckless, and I can't take that. So I said, let's go,
21 you know. And then, while I was over there, I seen
22 somebody like -- they were acting crazy, so I -- I shot
23 on back to the house. Head rode his scooter around
24 there.

25 MS. MYERS: What do you mean somebody was

1 acting crazy?

2 MR. ROBERTS: Like, you know, be clutching
3 and stuff like that. So I don't -- I want to be trying
4 to get away from that stuff.

5 MS. MYERS: Tell me what do you mean by
6 clutching?

7 MR. ROBERTS: Like -- like they got a gun on
8 them. That's all.

9 MS. MYERS: Okay. And where did you see
10 this person?

11 MR. ROBERTS: They was -- they was in front
12 of the street. So that automatically told me it wasn't
13 right.

14 MS. MYERS: Did you see that person again
15 that night or anything?

16 MR. ROBERTS: Nah. Because after I got
17 there, it was starting to get dark. And I remember
18 they -- I want to say they came -- they walked over that
19 way, and that's when I left.

20 MS. MYERS: Okay.

21 MR. ROBERTS: I left and went.

22 MS. MYERS: Okay. So you leave, and who do
23 you leave with?

24 MR. ROBERTS: Me and E. I want to say I
25 took him to 14th Street. But I didn't know at that time.

1 I take that back. Because I didn't know at that time
2 where he stayed, whatever. I took him to 14th Street. I
3 found out later on where I took him at.

4 MS. MYERS: But do you remember where you
5 took him to?

6 MR. ROBERTS: Nah. I didn't remember.

7 MS. MYERS: Who is telling you you went to
8 14th Street after this?

9 MR. ROBERTS: A dude named Steve, which is
10 Glossie people.

11 MS. MYERS: Glossie's people. And Glossie
12 was the person -- the woman that lived across from
13 Jennifer?

14 MR. ROBERTS: Yeah. Right. That's where
15 her nephew stayed at. But Glossie stayed on 14th Street.

16 MS. MYERS: Glossie stayed on 14th Street?

17 MR. ROBERTS: Yeah.

18 MS. MYERS: Okay. So what is your next
19 memory though when you leave the apartments?

20 MR. ROBERTS: After I leave the apartments,
21 I remember I went into -- I want to say I went to E
22 house, but I didn't know what street it was. I ain't
23 going lie. But I walked upstairs. They stayed in a
24 upstairs apartment.

25 And him and Tammy was drink -- Tammy was

1 drinking a Heineken, and I said something. But I was
2 like, man, it's time for me to go. And I walked back
3 downstairs. And I remember I end up in New Town again.
4 And I ran into Bug.

5 MS. MYERS: You ran into Bug?

6 MR. ROBERTS: Yeah.

7 MS. MYERS: Okay. In New Town?

8 MR. ROBERTS: Yeah.

9 MS. MYERS: So where would you have gone
10 back in New Town? Where?

11 MR. ROBERTS: We just -- they was just
12 standing out in the road.

13 MS. MYERS: Where in the road? Like was --

14 MR. ROBERTS: By Stanton McLaurin house.

15 MS. MYERS: By Stanton McLaurin's house?

16 MR. ROBERTS: Yeah.

17 MS. MYERS: And where did he live in
18 relation to Mr. Burns' house?

19 MR. ROBERTS: Right up --

20 MS. MYERS: Right up the street?

21 MR. ROBERTS: Yeah. Right there.

22 MS. MYERS: Okay. Who was with you when you
23 go here? You leave E's apartment which is on the top
24 floor, you see Tammy there. Is anybody else at E's place
25 when you're there?

1 MR. ROBERTS: Not that I remember. I can't
2 remember that.

3 MS. MYERS: How long would you have been
4 there for?

5 MR. ROBERTS: I didn't stay long.

6 MS. MYERS: Who left with you?

7 MR. ROBERTS: I want to say E left with me.
8 I'm not for sure though.

9 MS. MYERS: And then you go back to New
10 Town?

11 MR. ROBERTS: Yeah. Because Tammy was mad
12 because he was drinking.

13 MS. MYERS: Okay. You go back to New Town.
14 You see a bunch of these guys standing around.

15 MR. ROBERTS: Yeah. And I just got out of
16 the car and start walking with them and talking with
17 them.

18 MS. MYERS: Where did y'all walk to?

19 MR. ROBERTS: We're just walking back and
20 forth from Charles' house to -- and walking out in the
21 street.

22 MS. MYERS: Okay. And then you are -- are
23 you drinking?

24 MR. ROBERTS: Yeah. I think we went back to
25 the store.

1 MS. MYERS: You go back to the store?

2 MR. ROBERTS: Yeah.

3 MS. MYERS: All right. Why don't we, if
4 it's okay with you, Mr. Cater, do you want to take a
5 pause here? Do you need a break or do you need a
6 bathroom break?

7 MR. CATER: I need a cheeseburger and fries.
8 But I won't get that here. But yeah, we can take a quick
9 break. That's fine. That works for me.

10 MS. MYERS: Do you want to do that?

11 MS. MILLER: Yeah.

12 MS. MYERS: Are you good? Or do you want to
13 keep -- I'm fine with whatever you guys want.

14 MR. ROBERTS: Yeah. I've got to use the
15 bathroom.

16 MS. MYERS: Okay. All right. That sounds
17 good.

18 CAPTAIN SHAVER: I've got a spot for you
19 guys if you want to take a break.

20 MS. MYERS: Oh, wonderful. Yeah.

21 (Interview was recessed for a break
22 and for relocation to a new room.)

23 MS. MYERS: All right, Mr. Roberts. Change
24 of scenery.

25 CAPTAIN SHAVER: If y'all need anything,

1 just come right down the hall.

2 MS. MYERS: Can we get him a glass of water?
3 Is that okay? Do you need a glass of water? Would that
4 be --

5 MR. ROBERTS: Yeah, I can get one.

6 CAPTAIN SHAVER: All right. If y'all need
7 anything, I'll just be right down the hallway.

8 MS. MYERS: Cool. Great. Thank you so
9 much. I know I need water when I have to talk a lot, so
10 figured you might want some.

11 MR. ROBERTS: Yeah.

12 MS. MYERS: Did you eat?

13 MR. ROBERTS: Yeah, I ate.

14 MS. MYERS: All right. So we are -- I'm
15 going to move these up closer to you. Okay? We left
16 off -- I guess they're bringing your water right now.
17 Thank you, Captain.

18 So where we had just left off, you were
19 talking about you had left E's apartment.

20 MR. ROBERTS: Uh-huh. (Affirmative)

21 MS. MYERS: You had gone back to New Town.
22 Right? Okay. When you had gotten back to New Town, you
23 guys were walking between Mr. Burns' house and whose
24 house?

25 MR. ROBERTS: Stanton McLaurin.

1 MS. MYERS: Okay. And who else -- E was
2 with you. Is that right?

3 MR. ROBERTS: Yeah. E, and I'm not for sure
4 if he was, but I think he was. I'm not for sure though.
5 Because I remember -- I left New Town. I went to Kim
6 house.

7 MS. MYERS: Okay. Did you at any point --
8 do you remember hitting anything? Did you hit anything,
9 like a mailbox? Or like run something over?

10 MR. ROBERTS: I like to hit Stan house. I
11 remember.

12 MS. MYERS: You hit his house?

13 MR. ROBERTS: No. I almost hit his house.

14 MS. MYERS: You almost hit his house?

15 MR. ROBERTS: Yeah.

16 MS. MYERS: Okay. Tell me about that.

17 MR. ROBERTS: I was drunk then. I was drunk
18 by then. But anyway --

19 MS. MYERS: Did you feel like you were drunk
20 before then though?

21 MR. ROBERTS: Yes. Because I -- yeah, I
22 want to say I did. I want to say one of my cousin was
23 out there. I want to say Oink.

24 MS. MYERS: Who?

25 MR. ROBERTS: Oink, David Roberts.

1 MS. MYERS: David Roberts. And you called
2 him Oink?

3 MR. ROBERTS: Yeah. But he might have been
4 there. He seen me drunk, I remember that. And he said,
5 man, you need to go park that car. And I think he said
6 I'm going on up to aunt -- I'm going up to the wake.
7 Because I remember, I said, dang, what time is it? And
8 he was like, it's about to be 7:00 after a while.

9 MS. MYERS: It was about to be 7:00 when you
10 saw your cousin?

11 MR. ROBERTS: Yeah. It was a little bit
12 before 7:00.

13 MS. MYERS: Okay.

14 MR. ROBERTS: But it was -- I seen him, I
15 want to say it was in New Town. But anyway, I don't
16 think I parked right then. We ended up going back to
17 what's the name. That was a little early when I seen
18 him. I can't remember the exact time. Because I didn't
19 have no watch, and my phone was at home.

20 MS. MYERS: That's okay. But when you
21 almost hit Stanley's house, you --

22 MR. ROBERTS: He yelled.

23 MS. MYERS: He yelled?

24 MR. ROBERTS: Yeah. What are you --

25 MS. MYERS: What did he yell?

1 MR. ROBERTS: Woo, Woo. He's drunk.

2 MS. MYERS: Okay. Who else was around that
3 would have seen that?

4 MR. ROBERTS: I want to say Bug and -- I
5 can't remember who was all out there. But I remember
6 that. Yeah, I remember that part.

7 MS. MYERS: And Bug is Alex Stephens?

8 MR. ROBERTS: Yeah.

9 MS. MYERS: Okay. So by the time that you
10 almost hit Stanley's house, this is the second time
11 though that you went to New Town that night.

12 MR. ROBERTS: Yeah.

13 MS. MYERS: Is that right?

14 MR. ROBERTS: Yeah.

15 MS. MYERS: Okay. So it had been -- after
16 you had gone to East Pine --

17 (Computer alert interrupts. Brief
18 discussion to correct problem.)

19 MR. ROBERTS: I don't -- we was riding back
20 and forth so much, I really don't.

21 MS. MYERS: Yeah. And I know that that's
22 got to be hard. And so I get that, like if you don't
23 have a super clear timeline, that's okay. I just want to
24 make sure that like to the best of your knowledge, like
25 where you had been, and in the order that you think.

1 Okay?

2 MR. ROBERTS: Yeah. Because as I was
3 sitting here thinking, I ended -- one house we went into,
4 it was another spot, and -- yeah, we went a lot of
5 different place back and forth though.

6 MS. MYERS: When you were at Stanley's, you
7 almost hit his house, how long would you have been in
8 that area for?

9 MR. ROBERTS: It wasn't that long. But when
10 he yelled, man, you drunk. And he said, mama -- he was
11 in the shed. I think he was in the shed. But anyway, I
12 felt I was drunk then. It had to be -- it was getting
13 close to dark. Because I know I went in before it got
14 dark.

15 MS. MYERS: What do you mean you went in
16 before it got dark?

17 MR. ROBERTS: I went to -- I went to Kim's.
18 When I left New Town, I went through Davis Heights, and I
19 rode the back way, and went through Meadow View. And
20 that's when I ran into Patrick again.

21 MS. MYERS: Okay. Did you ever go back to
22 the house on East Pine?

23 MR. ROBERTS: Yeah, I went there about two
24 or three, four times. But I don't think I went back
25 after I left New Town.

1 MS. MYERS: Okay. But you did go back there
2 at least two times throughout that night?

3 MR. ROBERTS: Yeah. Yeah.

4 MS. MYERS: Okay. At any time when you were
5 at the house on East Pine, or like the white house, on
6 the porch and stuff, did you ever see anybody drive up on
7 a motorcycle?

8 MR. ROBERTS: Head was riding a scooter.

9 MS. MYERS: Okay. So by the time you almost
10 hit Stanley's house, do you ever go back to that house on
11 East Pine after that?

12 MR. ROBERTS: I'm not for sure. I might
13 have did, but then again, I don't think --

14 MS. MYERS: But not that you remember right
15 now?

16 MR. ROBERTS: Yeah. Yeah.

17 MS. MYERS: Okay. Why do you think you
18 don't remember now? Is it because of how long it's been?

19 MR. ROBERTS: It's been a while. Yeah.

20 MS. MYERS: And that's okay. Do you think
21 that alcohol at all impacts the way that you remember
22 things now?

23 MR. ROBERTS: Yeah. Yeah. Alcohol do.

24 MS. MYERS: How does it impact you?

25 MR. ROBERTS: Well, like this how it does

1 me. When I drink and -- I don't have blackouts like long
2 as I'm up. But once I go to sleep, it's hard for me to
3 re-remember everything when I wake back up. But pieces
4 of that night, I remember. And like I said, I know I
5 didn't have a gun that night. I knew I didn't do this
6 actual murder. I knew that for a fact.

7 MS. MYERS: Okay. And I'm going to ask you
8 some more specific questions about those things. When
9 you said, though, that you had gone to Meadow View
10 apartments, and you think you went there after you left
11 New Town and hit Stanley's house. Right?

12 MR. ROBERTS: Yeah. About ran into -- I
13 remember when I went to Meadow View, I jumped out the car
14 and went and took a piss beside the building. And I ran
15 into Levi, Patrick, which is Cheese.

16 MS. MYERS: Patrick Cheese, who is?

17 MR. ROBERTS: Jennifer nephew.

18 MS. MYERS: Jennifer's nephew.

19 MR. ROBERTS: Uh-huh. (Affirmative) And I
20 remember I -- when I saw Levi, I asked him, I said, man,
21 why you let me stay in jail that long for your niece.
22 And that was my case before this case.

23 MS. MYERS: Okay. Who is Levi's niece?

24 MR. ROBERTS: Her name would be -- well, his
25 sister is Jackie Davis. And his niece is Bianca Davis.

1 MS. MYERS: Okay. So I want to -- let me
2 make sure I've got this right. I believe the exhibit
3 number I need to show you is 89.

4 MS. MILLER: Yeah, 89. I'm sorry.

5 MS. MYERS: That's not your fault, that's my
6 fault for not remembering. Give me just one second. I
7 want to make sure that I -- I was more organized before.

8 I'm going to show you what I'm marking as
9 Exhibit 89. So this is an aerial photograph. Okay? So
10 if it doesn't make sense to you, that's totally fine.
11 But just tell me if it -- you know, you recognize this.
12 So I'm going to show you what I've just marked as
13 Commission 89.

14 Does that area at all, from that angle,
15 because that's the best I could do for this purpose, does
16 that look familiar to you?

17 (Commission Exhibit 89 marked and
18 handed to Mr. Roberts.)

19 MR. ROBERTS: Yeah.

20 MS. MYERS: What does that look like to you?

21 MR. ROBERTS: That's Meadow View.

22 MS. MYERS: That is Meadow View. Okay. So
23 tell me about when you -- in Exhibit 89, when you drive
24 there -- first off, when you drive there, who are you
25 with?

1 MR. ROBERTS: I was by myself.

2 MS. MYERS: Okay. And were you drinking
3 from when you left New Town to when you got to -- to when
4 you arrived there in Meadow View?

5 MR. ROBERTS: I don't think -- I might have
6 had some beer in the car, but I'm not for sure.

7 MS. MYERS: But you were definitely alone?

8 MR. ROBERTS: Yeah.

9 MS. MYERS: Okay. So tell me which way you
10 would have gone from New Town, and gone into that -- into
11 Meadow View.

12 MR. ROBERTS: I would have -- I left off of
13 Booker Street. Most like, I left off Booker Street, made
14 a left, went cross Roberts Avenue, and turned down --

15 MS. MYERS: Roberts Avenue?

16 MR. ROBERTS: Yeah. And turned by the
17 Pier 41.

18 MS. MYERS: Okay. So you're on E-town?

19 MR. ROBERTS: Yeah. And I go -- I always go
20 these same routes.

21 MS. MYERS: Okay.

22 MR. ROBERTS: So I go Pier 41, because my
23 son work there. Then I go all the way up into Davis
24 Heights. Take that Davis Height road all the way out.

25 MS. MYERS: Is Davis Heights an area or is

1 it a road?

2 MR. ROBERTS: It's a project.

3 MS. MYERS: It's a project. Okay.

4 MR. ROBERTS: Yeah.

5 MS. MYERS: Did you stop in Davis Heights at
6 all, or did you just drive through there?

7 MR. ROBERTS: I drove through there. I seen
8 a few people I knew, but I don't think I stopped though.

9 MS. MYERS: Okay. Who did you see that you
10 knew when you drove through there?

11 MR. ROBERTS: A dude name Michael. But I
12 don't know his last name. But I think I -- I don't think
13 I stopped. But I goes all the way to -- I want to
14 say -- I can't think of this road, but it's another road
15 right there. I take that back way. And when I come in
16 Meadow View, I take this road, and I always come all the
17 way to this end and park the car, because I know that's
18 Meadow Place right here.

19 MS. MYERS: Okay. So when you drove in
20 there, do you -- can you tell us where you would have
21 parked and gotten out of your car?

22 MR. ROBERTS: Yeah. I parked right here.

23 MS. MYERS: Like -- okay.

24 MR. ROBERTS: And there was some people
25 sitting right here. But I got out the car, and I walked

1 to the side, right there, and used the restroom.

2 MS. MYERS: On the side of here?

3 MR. ROBERTS: Yeah.

4 MS. MYERS: So the way that I'm looking at
5 this, just to make this super clear for the record, is
6 you would have driven in. This is Meadow View Road.

7 MR. ROBERTS: Yeah.

8 MS. MYERS: You would have driven up Meadow
9 View Road, and then turned left into what looks kind of
10 like to me, kind of like a square parking lot?

11 MR. ROBERTS: Yeah. It's a cul de sac.

12 Yeah.

13 MS. MYERS: Okay. And then, when you're
14 looking at this, there's two buildings that -- I'm not
15 going to do a good job explaining this. But like where
16 this red car is, right here in this photograph.

17 MR. ROBERTS: Yeah.

18 MS. MYERS: You parked on the passenger side
19 of that vehicle?

20 MR. ROBERTS: Yeah.

21 MS. MYERS: Assuming it was parked towards
22 the building.

23 MR. ROBERTS: Yeah.

24 MS. MYERS: Okay. And then, did you go
25 inside either of these buildings?

1 MR. ROBERTS: No.

2 MS. MYERS: So you get out of your car, you
3 park it. Do you immediately come to the side of the
4 building to take a piss?

5 MR. ROBERTS: Yes.

6 MS. MYERS: And you do that right here?

7 MR. ROBERTS: Yeah.

8 MS. MYERS: And you saw who there?

9 MR. ROBERTS: Levi and Cheese, which is --

10 MS. MYERS: Levi and Cheese?

11 MR. ROBERTS: Yeah. And that's Patrick,
12 which is Jennifer nephew.

13 MS. MYERS: That's right. Patrick McQueen
14 is Cheese?

15 MR. ROBERTS: Yeah.

16 MS. MYERS: Is his last name McQueen?

17 MR. ROBERTS: No, I don't think his last
18 name McQueen.

19 MS. MYERS: All right.

20 MR. ROBERTS: Yeah. That's Jennifer nephew,
21 so I think he got his mother last name anyway.

22 MS. MYERS: Patrick is Jennifer's nephew.
23 I'm sorry. I got you.

24 MR. ROBERTS: Her brother's son. Her
25 brother son.

1 MS. MYERS: All right. Give me just one
2 second. I'm going to show you what I am now marking as
3 Exhibit 90. This isn't a super clear picture, so
4 hopefully you can get a good look of the person in this.
5 But if you can't, then please let me know. But I'm going
6 to show you what I just marked as Commission Exhibit 90.
7 Do you recognize who that person is?

8 (Commission Exhibit 90 marked and
9 handed to Mr. Roberts.)

10 MR. ROBERTS: That's Levi.

11 MS. MYERS: Is that the Levi that you saw in
12 Exhibit 89?

13 MR. ROBERTS: Yes.

14 MS. MYERS: Okay. So when you went to
15 Meadow View, you saw Levi, you saw Cheese. Do you
16 remember anybody else that was there in Meadow View?

17 MR. ROBERTS: Not that I can remember.

18 MS. MYERS: Okay.

19 MR. ROBERTS: But I remember them two.

20 MS. MYERS: Okay. And had you just known
21 Levi for a while, or like what was your relationship to
22 him?

23 MR. ROBERTS: Yeah. Me and Levi was like
24 good friends. He ran a bootlegger spot.

25 MS. MYERS: When you say bootlegger spot.

1 MR. ROBERTS: A liquor house.

2 MS. MYERS: A liquor house. Okay. Did you
3 mostly refer to them as bootlegger houses when you --

4 MR. ROBERTS: Yeah.

5 MS. MYERS: So me saying liquor house isn't
6 what y'all called it?

7 MR. ROBERTS: Yeah. We called them
8 bootleggers.

9 MS. MYERS: Bootleggers. Okay. So that's
10 how you knew him was from that?

11 MR. ROBERTS: Yeah.

12 MS. MYERS: Did he live in Meadow View at
13 the time?

14 MR. ROBERTS: I'm not for sure. Because I
15 ain't seen him in a long time. But I knew him from Davis
16 Heights.

17 MS. MYERS: Did you ever live in Davis
18 Heights?

19 MR. ROBERTS: Yeah. I stayed with Jennifer.
20 But I stayed outside of Davis Heights, right in -- well,
21 the projects was Davis Heights, but I used to stay on the
22 main street.

23 MS. MYERS: Okay. And so how long did you
24 stay in that area talking to Levi and Cheese?

25 MR. ROBERTS: Not long. Because me and --

1 when I asked Levi -- asked him why he let me sit in the
2 jailhouse so long for his niece, knowing that I didn't do
3 it, and he got upset. And when he got upset, he started
4 -- you know, he was drinking, so he was real upset. So I
5 was like, man, you know I didn't do it, and you and your
6 sister did me like that, and I thought you was a friend.
7 And I walked off, and jumped in the car, and I went to
8 Kim house.

9 MS. MYERS: When you left, had you talked to
10 him since that -- and I'm going to ask you a little bit
11 more about that case. But when you talked to him, was
12 that the first time you had talked to him since you had
13 gotten out of jail on that?

14 MR. ROBERTS: Yeah. Yeah.

15 MS. MYERS: Okay. So that pissed him off?

16 MR. ROBERTS: Yeah.

17 MS. MYERS: His reaction, how did that make
18 you feel?

19 MR. ROBERTS: It made me feel like he was a
20 piece of crap.

21 MS. MYERS: Like you were or that he was?

22 MR. ROBERTS: That he was.

23 MS. MYERS: He was. Were you pissed off?

24 MR. ROBERTS: I was upset, but I had to bite
25 my tongue and leave, you know. But I was upset, yes.

1 MS. MYERS: Did you -- okay. So you leave.
2 Did Cheese see this happen? Was he there when this
3 happened?

4 MR. ROBERTS: I want to say he was. And he
5 might have, like, Cuz, let that go, or something like
6 that. I can't remember. But I know he was there. But I
7 don't know if he heard what me and him brought that up.

8 MS. MYERS: Okay. So you confront him, he
9 gets pissed off, then you leave.

10 MR. ROBERTS: Yeah.

11 MS. MYERS: Are you angry at this point
12 though?

13 MR. ROBERTS: I weren't mad, mad, but I
14 was -- I was upset more because he let me sit in the
15 jailhouse.

16 MS. MYERS: Okay. Why did you feel like he
17 had let you sit there?

18 MR. ROBERTS: Because I had left his house
19 that night when this -- when the case -- you already know
20 what I'm talking about. When that case happened, I had
21 just left his house, telling him I was going home that
22 night. And it was about 12 o'clock.

23 And when I got picked up, I got picked up
24 two days later -- I want to say a week later. Kim called
25 my house, which is my baby mama, talking about they had

1 me for a rape charge. And I said a rape charge? And she
2 told me -- she just say I can't tell you who it is, but I
3 know you going to get locked up for rape.

4 And come to find out, it was -- I didn't
5 even know him and Jackie was sisters and brothers. But
6 anyway, it was her daughter. And the little girl tell
7 them that it weren't me, but they still made it look like
8 it was me.

9 MS. MYERS: Okay. Did he live with Jackie
10 at the time or no?

11 MR. ROBERTS: Yeah, he was -- well, I
12 don't -- nah. He had his own house. He had his own
13 house. And her brother -- other brother was staying
14 with her, Skeeter.

15 MS. MYERS: At the time that you're leaving
16 Meadow View, is it -- like what does it look like
17 outside?

18 MR. ROBERTS: It was just about to turn --
19 it was turning dark. It was dark. It weren't dark yet,
20 but it was getting ready to get dark.

21 MS. MYERS: Okay. So you leave Meadow View.
22 And then you go over to Kim's house?

23 MR. ROBERTS: Yeah.

24 MS. MYERS: And she lived in Laiken Estates?

25 MR. ROBERTS: Yes.

1 MS. MYERS: And that's like a couple
2 minutes. Right?

3 MR. ROBERTS: Yeah. Three, four minutes
4 away, yeah.

5 MS. MYERS: Okay. When you left Meadow
6 View, who were you with?

7 MR. ROBERTS: By myself.

8 MS. MYERS: Okay. Were you drinking?

9 MR. ROBERTS: I'm not sure. I'm not for
10 sure. But I know I was good intoxicated right then.

11 MS. MYERS: At that point you were
12 definitely drunk?

13 MR. ROBERTS: Yeah.

14 MS. MYERS: When you were in Meadow View --
15 and I can't remember if I asked you this, so I apologize
16 if I'm repeating myself. But did you drink while you
17 were there?

18 MR. ROBERTS: I might have. I can't
19 remember. I might have drunk a beer there.

20 MS. MYERS: Okay. You might have.

21 MR. ROBERTS: Yeah. I didn't stay long
22 though.

23 MS. MYERS: Okay. When you drive from
24 Meadow View to Kim's, did you have the beer that you had
25 in the car still? Were you still sipping on that?

1 MR. ROBERTS: Yeah. I might have still had
2 a beer in the car.

3 MS. MYERS: Okay. So you get to Kim's, and
4 when you get to Kim's. tell me what happens.

5 MR. ROBERTS: Well, I remember when I got to
6 Kim house, I walked in. She got upset because I was
7 drinking.

8 MS. MYERS: When you say you walked in --

9 MR. ROBERTS: Yeah. I knocked on the door,
10 and walked in.

11 MS. MYERS: And then you walked into the
12 house?

13 MR. ROBERTS: Yeah.

14 MS. MYERS: Okay.

15 MR. ROBERTS: But when she saw me drinking,
16 she was like, oh, my God. You know, she don't like me to
17 drink like that. But anyway.

18 MS. MYERS: What was your relationship like
19 with her at that time?

20 MR. ROBERTS: We talked. But we weren't
21 like -- we was all right. We weren't like -- we don't
22 talk much. But I got to see my son, so I keep him a lot,
23 so she -- I'd say we was friends. But nothing -- but not
24 like on a social, talking, just because of Jarod.

25 MS. MYERS: So you get there, you walk in.

1 She sees that you're drunk?

2 MR. ROBERTS: Yeah. It was her and Brooklyn
3 in the house. And I asked her could I use the bathroom.
4 And she was like no. I said I can't use the bathroom?
5 She was like no. So I sat down on the couch for a little
6 bit. And I remember Brooklyn like, Jarod look just like
7 him.

8 MS. MYERS: And Brooklyn is Jarod's little
9 sister. Is that right?

10 MR. ROBERTS: Yeah. She -- well, that's not
11 his sister, but she adopted her.

12 MS. MYERS: Oh, okay. Kim adopted her?

13 MR. ROBERTS: Yeah.

14 MS. MYERS: Okay. All right. So you're
15 sitting on the couch. Brooklyn says that comment to you.
16 What happens after that?

17 MR. ROBERTS: I ask Kim could we make
18 another baby or something crazy.

19 MS. MYERS: Okay.

20 MR. ROBERTS: And she said, boy, you crazy,
21 or something like that. And before I know it -- she say
22 something. But anyway, she tell me to get out.

23 MS. MYERS: Was she angry at you or was she
24 playing around?

25 MR. ROBERTS: I don't know. Because she --

1 Kim sometimes -- so she might have been upset then
2 because I was drinking though. I know that. But any --
3 if I asked any other time, it weren't been like that.

4 But I think she put me out. And I sat out
5 on the porch for a little while. Matter of fact, we
6 might have sat in for a little bit. But I end up -- she
7 put me out, I know that.

8 MS. MYERS: When she put you out, and you
9 said you were on the porch?

10 MR. ROBERTS: Yeah.

11 MS. MYERS: Was she out there on the porch
12 with you?

13 MR. ROBERTS: Yeah, she came out. And
14 then she told me she had to go pick up Jarod. And that
15 was -- it was around -- it had to be around 9:30, 10
16 o'clock by then.

17 MS. MYERS: Okay. And so do you go with her
18 to pick up Jarod?

19 MR. ROBERTS: Nah. I stayed on the porch.
20 I told her I was going to sit there till she came back.

21 MS. MYERS: Did Brooklyn stay in the house
22 or did she go with Kim?

23 MR. ROBERTS: She went with Kim. She shut
24 the door and locked the door.

25 MS. MYERS: I'm sorry. Say that again.

1 MR. ROBERTS: She shut the door and locked
2 it. So I sat on the porch.

3 MS. MYERS: Okay. So you sat on the porch.
4 And then how long was she gone for?

5 MR. ROBERTS: Not long. Pier 41 right down
6 the street.

7 MS. MYERS: Okay. And so when she came
8 back, who was with her at that point?

9 MR. ROBERTS: Jarod.

10 MS. MYERS: Okay. And was Brooklyn still
11 there?

12 MR. ROBERTS: Yeah.

13 MS. MYERS: Okay. Was Sha'Brea at home at
14 this point?

15 MR. ROBERTS: No. She was still at work.

16 MS. MYERS: Okay. So tell me about when you
17 saw Jarod.

18 MR. ROBERTS: Well, Jarod got out of the
19 car, he said, man, you drunk, mama already talking junk.
20 I guess she talked junk to him. Because we looked just
21 alike. But she talked junk to him. And he get upset
22 when she's talked junk to him. So he took it out on me.

23 MS. MYERS: He took it out on you?

24 MR. ROBERTS: Yeah. Like he was mad with me
25 because I came drunk.

1 MS. MYERS: How long would you say that like
2 you were there at that point?

3 MR. ROBERTS: At least a hour.

4 MS. MYERS: Okay.

5 MR. ROBERTS: No, no, no, no. Let me take
6 that back. About 30 minutes. About 30 minutes.

7 MS. MYERS: Okay. So at this point you said
8 that you -- I mean, you were drunk. So when you were at
9 this point and you were drunk, like how were you acting?
10 Like what do you remember about how you were acting at
11 that time? Like you said something to Kim about like --

12 MR. ROBERTS: Yeah. That's -- I weren't
13 acting like -- she say I be acting crazy. But I was
14 actually asking for some cooter.

15 MS. MYERS: You were what?

16 MR. ROBERTS: Asking for some cooter.

17 MS. MYERS: Okay. Asking -- okay.

18 MR. ROBERTS: Yeah.

19 MS. MYERS: So when you were -- what are
20 your movements like at this point? Like so, you're
21 having those conversations with her. Are you able to
22 walk, are you able to like move around?

23 MR. ROBERTS: Yeah. Yeah, I was able to
24 walk. Uh-huh. (Affirmative)

25 MS. MYERS: Okay. At any point do you

1 recall like falling down or anything?

2 MR. ROBERTS: No.

3 MS. MYERS: You don't recall that. Okay.

4 Or you didn't do it. Okay. So you think you were at
5 Kim's house for a total of 30 minutes? Or how long in
6 total do you think you were there for?

7 MR. ROBERTS: I was there for a long time.

8 MS. MYERS: Okay. At any point does anybody
9 else come to the house?

10 MR. ROBERTS: Brea come there.

11 MS. MYERS: Bree?

12 MR. ROBERTS: Yeah. Sha'Brea.

13 MS. MYERS: That's Sha'Brea?

14 MR. ROBERTS: Yeah.

15 MS. MYERS: Okay. What was your
16 relationship like with Sha'Brea?

17 MR. ROBERTS: Me and her didn't have a
18 relationship. I ain't having seen her -- I haven't seen
19 her in a long time. So it was a shock when I saw her.
20 Because I always see her other sister, but I ain't seen
21 her in a long time.

22 MS. MYERS: The other sister's name is?

23 MR. ROBERTS: Shanika.

24 MS. MYERS: Okay. Did you speak to Sha'Brea
25 when you saw her?

1 MR. ROBERTS: Yeah. I'm like hey, Brea, how
2 you doing. You know. And she go like, hey.

3 MS. MYERS: Did she also work at Pier 1 at
4 that --

5 MR. ROBERTS: Pier 41.

6 MS. MYERS: -- Pier 41.

7 MR. ROBERTS: Yeah.

8 MS. MYERS: But she got home at a different
9 time than Jarod?

10 MR. ROBERTS: Yeah. Yeah.

11 MS. MYERS: Did she drive herself?

12 MR. ROBERTS: Yeah. She had her own car.

13 MS. MYERS: Okay. So at what point -- so
14 you see Sha'Brea, you haven't seen her in a while, you
15 speak to her. How long are you still -- like do you stay
16 at this home for?

17 MR. ROBERTS: I stayed for a little bit
18 longer. But I -- me and Kim got to talking. I end up
19 sitting back in the house. But I started talking to her
20 for a little bit. And I remember watching a little flat
21 screen. She had a flat screen. And we end up going
22 outside. Because the alcohol was kicking, and my
23 clothes, I know -- she said --

24 MS. MYERS: What do you mean?

25 MR. ROBERTS: The alcohol start coming out.

1 MS. MYERS: So you start to smell like
2 alcohol?

3 MR. ROBERTS: Yeah, yeah. So she wanted --
4 we went outside. And I told her I needed to get home.
5 And I asked her could Jarod drive me home. And she was
6 like no. My boy ain't going to get on 95. I'm saying he
7 don't got to get on 95, he can take me up 301. Because
8 Jarod know how to drive. So I said he can take me up
9 301, it goes straight to my house. It ain't nothing but
10 10, 15 minutes away from here.

11 MS. MYERS: When you were out -- like you
12 had said that you had to go to the bathroom, and she
13 didn't let you go in the house. At any point did you
14 leave to go to the bathroom?

15 MR. ROBERTS: Yeah. I went around the house
16 and used the bathroom.

17 MS. MYERS: Was that at the same time that
18 you both walked outside, or did you do that separately?

19 MR. ROBERTS: Yeah. I walked out -- well,
20 when she got ready to go to pick up Jarod, that's when I
21 went around the house and used the bathroom.

22 MS. MYERS: Okay. When you and Kim were
23 standing outside, and you asked her if Jarod could take
24 you home, what else happened while y'all were out there?

25 MR. ROBERTS: We walked back -- after she

1 picked up Jarod, we walked back in the house. And I
2 remember before we come -- we were fixing to come back
3 out. Jarod said something about the police. And I said
4 the police? I always get nervous when the police -- when
5 you talk about the police. Especially in Robeson County.
6 But anyway, I said what are they doing? He said, oh,
7 they doing the neighborhood check.

8 MS. MYERS: So did he think that that was
9 normal?

10 MR. ROBERTS: Yeah. He thought it was
11 normal. So I come on out after the police left, and sat
12 on the porch.

13 MS. MYERS: Okay. And how much longer did
14 you stay there?

15 MR. ROBERTS: I stayed for a little bit
16 longer. And then, since she told me -- I told her I was
17 going to sleep in the car right there. And she was like,
18 nah, you ain't going to sleep in front of my house. So I
19 said, well, I guess I'll go to my grandma lane, and go
20 out there and go to sleep.

21 MS. MYERS: Where did your grandma live?

22 MR. ROBERTS: On 74.

23 MS. MYERS: Okay. So at what point do you
24 think you left Kim's house?

25 MR. ROBERTS: Around 11:00.

1 MS. MYERS: And did you have anything to
2 drink while you were there?

3 MR. ROBERTS: No.

4 MS. MYERS: So you leave Kim's house, and
5 who were you with when you leave Kim's house?

6 MR. ROBERTS: By myself.

7 MS. MYERS: Okay. And so you leave and you
8 go where?

9 MR. ROBERTS: I went back through that same
10 route, all the way -- the Meadow View.

11 MS. MYERS: What is that same -- okay.

12 MR. ROBERTS: Meadow View, Meadow Road, and
13 all that. And ended up coming out on -- I want to say I
14 came out Davis Heights. And then I went to 14th Street
15 from there. I remember I looked, and I seen the police
16 lights over there. And I turned to go on 14th Street.
17 And when I was going over there, I was trying to find
18 Glossie house to find out where E stayed at. Because I
19 knew the road, I just didn't know what street it was.

20 MS. MYERS: And you're on 14th when you're
21 doing this?

22 MR. ROBERTS: Yes.

23 MS. MYERS: And you're looking for somebody
24 named Glossie?

25 MR. ROBERTS: Yeah.

1 MS. MYERS: Got it. Okay. Okay. Keep
2 going. Sorry.

3 MR. ROBERTS: So when I get out there, I
4 seen the Indian dude.

5 MS. MYERS: Who is the Indian dude?

6 MR. ROBERTS: I can't recall his name, but
7 he was one of the ones in my trial.

8 MS. MYERS: Okay.

9 MR. ROBERTS: I asked him, I said do you
10 know Glossie. Or do you know E. And he was like nah. I
11 couldn't think of Glossie cousin name. But I end up
12 seeing him later in the jailhouse. And that's how I
13 found out what street E stayed on too. But anyway, he
14 was like, yeah, man, he stayed on 14th Street.

15 But when I'm talking to the dude, I asked
16 him, did he have a light for a cigarette. I remember he
17 was -- he was fidgety. He was real scared, like -- I
18 said, man, I ain't going to do nothing to you. And he
19 was like, nah, I was just trying to find -- so I asked
20 him for a light. And me and him start talking.

21 And at the time, I was -- I had -- was close
22 to running out of gas. So I asked him did he need a ride
23 anywhere, because I needed some gas money. And he was
24 so -- I guess he was scared. But he was acting nervous.
25 So I was like, man, let me go.

1 And when I -- I remember I ran back to the
2 car, and I hit the door. And I was messing with my
3 radio, because I always listen to my music. I always
4 ride around with my music loud. And I started messing
5 with my radio. Then I pulled off.

6 And I say something, but I guess I can't
7 remember exactly. But I know my music was bumping loud.
8 And then I shout out. And from my statements I seen that
9 he said I said I'm a gangster or something. That was
10 crazy. I don't know.

11 MS. MYERS: Is that something that you think
12 you would have said?

13 MR. ROBERTS: I say stuff like that. But I
14 don't think I said it that night.

15 MS. MYERS: You don't remember saying it?

16 MR. ROBERTS: I don't remember saying it.

17 MS. MYERS: Is it possible that you could
18 have said that?

19 MR. ROBERTS: Yeah. It's probably possible.
20 But I don't remember saying that.

21 MS. MYERS: Okay. Why would you have been
22 looking for Glossie?

23 MR. ROBERTS: Because Glossie knew exactly
24 where E was. And she --

25 MS. MYERS: How do you know that?

1 MR. ROBERTS: Because we from the same
2 neighborhood.

3 MS. MYERS: Had you seen this guy before?

4 MR. ROBERTS: Who? That dude?

5 MS. MYERS: Uh-huh. That testified at your
6 trial?

7 MR. ROBERTS: No. I ain't never saw him.

8 MS. MYERS: So how did you know that he knew
9 Glossie?

10 MR. ROBERTS: Because he was Indian.
11 Glossie Indian. So I felt that being that he was Indian,
12 he would know them.

13 MS. MYERS: Okay.

14 MR. ROBERTS: Because it's a small street.

15 MS. MYERS: Okay. And did Glossie live on
16 that street too?

17 MR. ROBERTS: Yes. Well, her family stay
18 over there.

19 MS. MYERS: Her family stayed over there.

20 MR. ROBERTS: Yeah. But --

21 MS. MYERS: And because she is Native and
22 this guy looked Native, or you knew he was Native --

23 MR. ROBERTS: Yeah.

24 MS. MYERS: -- and they lived in the same
25 area, you thought that they might know each other?

1 MR. ROBERTS: Yeah.

2 MS. MYERS: Okay. And that's why you asked
3 that?

4 MR. ROBERTS: Uh-huh. (Affirmative)

5 MS. MYERS: And you remember asking this guy
6 that?

7 MR. ROBERTS: Yeah.

8 MS. MYERS: Okay. And do you remember this
9 conversation with this guy separate and apart from
10 reading through your discovery?

11 MR. ROBERTS: Yeah. I remember -- I just
12 didn't know the street, and I didn't know -- E stayed
13 over there. But I mean, I knew like E house was
14 somewhere in this perimeter.

15 MS. MYERS: Okay. Like general area?

16 MR. ROBERTS: Yeah.

17 MS. MYERS: Okay. So you -- and let me ask
18 you this. So did you smoke at that time?

19 MR. ROBERTS: Nah, I didn't smoke.

20 MS. MYERS: Cigarettes.

21 MR. ROBERTS: Yeah, I smoked cigarettes.
22 Yeah.

23 MS. MYERS: Okay. What kind of cigarettes
24 did you smoke?

25 MR. ROBERTS: Newports.

1 MS. MYERS: Okay. When you -- how many
2 packs a day would you smoke? Just generally, like on any
3 given day around this time.

4 MR. ROBERTS: Well, one if I'm not drinking.
5 And two or three if I am drinking.

6 MS. MYERS: Packs. Okay. Did you smoke in
7 the car?

8 MR. ROBERTS: Yes.

9 MS. MYERS: So when you are drinking, does
10 that make you -- you just answered that question. It
11 makes you smoke more.

12 MR. ROBERTS: Uh-huh. (Affirmative)

13 MS. MYERS: And you do smoke in the car.

14 MR. ROBERTS: Uh-huh. (Affirmative)

15 MS. MYERS: So are you kind of chain
16 smoking?

17 MR. ROBERTS: Yes.

18 MS. MYERS: Like one right after the other?

19 MR. ROBERTS: Yeah.

20 MS. MYERS: How many packs of cigarettes did
21 you have on you that night?

22 MR. ROBERTS: Usually -- I don't know about
23 that night. But usually, I keep two or three.

24 MS. MYERS: You normally keep two or three
25 packs on you?

1 MR. ROBERTS: Yeah.

2 MS. MYERS: Or just like in your car?

3 MR. ROBERTS: Yeah. Like if I'm drinking, I
4 always buy a extra pack.

5 MS. MYERS: Did E also smoke?

6 MR. ROBERTS: Yes.

7 MS. MYERS: Okay. So did you have a lighter
8 on you?

9 MR. ROBERTS: No.

10 MS. MYERS: So would you have been smoking
11 in your car that night?

12 MR. ROBERTS: Yeah. I got a lighter in the
13 car.

14 MS. MYERS: In the car.

15 MR. ROBERTS: Yeah.

16 MS. MYERS: Why did you ask this guy for a
17 light?

18 MR. ROBERTS: Because I was looking for
19 Glossie, and when I got out, I had a cigarette already in
20 my hand.

21 MS. MYERS: Okay. And so that's why. Okay.
22 I got you. Okay. And you were definitely smoking
23 cigarettes around this time period?

24 MR. ROBERTS: Yeah. Yeah.

25 MS. MYERS: And do you know, by the time you

1 got arrested, how many cigarettes you would have gone --
2 or how many packs you would have gone through at that
3 point?

4 MR. ROBERTS: A lot.

5 MS. MYERS: A lot. Okay. All right. So
6 you're on 14th. You ask this guy for a light.

7 MR. ROBERTS: Yeah.

8 MS. MYERS: You said he like seemed a
9 little -- like he was a little bit scared of you?

10 MR. ROBERTS: Yeah. Yeah.

11 MS. MYERS: What do you do after this?

12 MR. ROBERTS: Well, he gets so scared, like
13 real nervous. I mean, he was -- it was crazy. He got so
14 scared. I want to say he -- I don't know if he was
15 putting stuff on the car, whatever. But I got scared
16 because of the way he was moving and acting. So I jumped
17 in my car. Like I say, I ran into my door. And I start
18 messing with my music.

19 And he start -- he kept on looking at me
20 like -- when I looked up, and I seen him still looking, I
21 said, dang, he must think I'm going to rob him or
22 something. Let me get on out of here.

23 MS. MYERS: Okay. Okay.

24 MR. ROBERTS: So I cut my music up, and I
25 pulled on off. And like I said, I don't remember making

1 the statement he said. But I pulled off. And when I
2 came back out -- matter of fact, I left out the opposite
3 way because the police was sitting this way.

4 MS. MYERS: Where were they sitting?

5 MR. ROBERTS: Where the ice -- Triangle Ice
6 place at. That's the way I turned.

7 MS. MYERS: Triangle Ice place?

8 MR. ROBERTS: Yeah. And that's how I know
9 that street because of the Triangle Ice place.

10 MS. MYERS: The cops were by Triangle Ice or
11 you were?

12 MR. ROBERTS: Yeah. They was -- they -- the
13 cops -- the Triangle Ice place right here. The cops was
14 across the street. And that would be Peachtree.

15 MS. MYERS: And that would be Peachtree?

16 MR. ROBERTS: Uh-huh. (Affirmative)

17 MS. MYERS: Okay. So you pull out of that
18 area, and where do you go?

19 MR. ROBERTS: I goes to -- I goes past
20 Jennifer house, by the jailhouse, and get on 74. When I
21 cross 74, I was trying to find the BP. But they had done
22 changed everything around. So I end up making a left. I
23 said, dang, the BP ain't -- because I was going to go to
24 my grandma house and go to sleep. My aunt was still
25 living. My grandma was already passed, but my aunt --

1 MS. MYERS: What was your aunt's name?

2 MR. ROBERTS: Joyce Nevins.

3 MS. MYERS: Joyce. Okay.

4 MR. ROBERTS: But I could have made -- well,
5 when I got over there, over the bridge, I didn't see the
6 BP no more, and it weren't going to her house. So I had
7 to make a detour. So I made a left. When I make this
8 left, I never been on this road before. And I end up
9 making another left. And then when I came back out, I
10 was back on 41. But I didn't know which way to go to
11 Lumberton, and I end up turning towards Fairmont.

12 MS. MYERS: Towards Fairmont. Okay. All
13 right. So you were driving towards Fairmont. And then
14 what is the next thing that you remember happening?

15 MR. ROBERTS: I got in a -- I ran into a
16 ditch trying to -- well, when I seen the sign say
17 Fairmont or something I seen -- I seen something and
18 recognized that I was heading to Fairmont. And I was
19 trying to turn around. I was going to turn around to go
20 back to Lumberton, but I end up sliding and then riding
21 into the ditch.

22 MS. MYERS: Do you remember when you hit the
23 ditch?

24 MR. ROBERTS: Yes.

25 MS. MYERS: Okay. So when you hit the

1 ditch, what happens next?

2 MR. ROBERTS: I walked out into the field
3 and try to find me a 2-by-4. First I tried to put it in
4 neutral and get it out. And I was trying not to hit my
5 gas to make the tire spin.

6 But I end up finding a brick and some kind
7 of a stick. And I started putting it up under my tire.
8 And I put something on the gas pedal, put it in neutral,
9 and went outside and seen the car, it was spinning. And
10 that's when I noticed it was start digging the hole. So
11 I said, dang, man, I done got stuck in this ditch. And
12 then it start like raining.

13 And I sat there and cut on my A/C, and went
14 to sleep, laid back for a little bit. And when I wake
15 up, I remember I seen some lights coming from behind me.
16 And I got out the car, I flagged the lights down. It was
17 a truck. Looked like two Native American, or Caucasians
18 was in there -- but I think they were Native. And I
19 asked them could they give me a chain to pull my car out.
20 And they said yeah. And said hold on for a minute.

21 So he said I ain't got the chains in my
22 truck. But I stay right here, and I'll go to the house
23 and get it out. So I seen where their tail lights
24 hit -- the brake lights head to their house.

25 And I was sitting there. It took them a

1 minute. So I said, dang, well, they ain't came back yet.
2 And next thing I know, a state trooper was coming up
3 there.

4 MS. MYERS: Okay. When the state trooper
5 came up, were you out of your car or inside the car?

6 MR. ROBERTS: I was out the car. But I got
7 back in. I got back in the car. But I --

8 MS. MYERS: So when the trooper came up and
9 talked to you, were you in the car or outside the car?

10 MR. ROBERTS: I think I might have been
11 inside the car. I'm not for sure. But I remember him
12 saying that he saw the smoke from my tailpipe. And he
13 said that I seen you drive. I said no way you saw me
14 driving. Me and him got to arguing. And I was upset,
15 pretty upset. And he pulled -- he pulled me out the car.
16 He said I tried to drive off on him.

17 MS. MYERS: Do you remember doing that?

18 MR. ROBERTS: No. The car couldn't move.

19 MS. MYERS: Okay.

20 MR. ROBERTS: So he pulled me out the car,
21 threw me against the car. And I said whoa, man, whoa.
22 Like that. Me and him got to arguing. And I remember I
23 told him I got a good lawyer, and told him who it was.
24 It was Gerald Beaver at the time.

25 MS. MYERS: It was who?

1 MR. ROBERTS: Gerald Beaver.

2 MS. MYERS: Okay. What did you have a
3 lawyer for at that time?

4 MR. ROBERTS: I just had -- I always --
5 well, he had -- I had him for my lawsuit. But I always
6 used him anyway.

7 MS. MYERS: Okay. For prior cases that you
8 had?

9 MR. ROBERTS: No. I just wanted to use him.
10 If they were going to lock me up -- because he was trying
11 to give me a DWI. And I told him I had Gerald Beaver.

12 MS. MYERS: Okay.

13 MR. ROBERTS: And he got upset. And I told
14 him something. I forgot what I told him. But we end up
15 arguing. And he slapped me in the car. He said I went
16 to sleep. I don't -- I kind of remember going to sleep.
17 But I know when we got to the police station, he was
18 trying to talk junk to me. And I won't even say
19 anything. I weren't cussing like I was when we was on
20 the side of the road.

21 MS. MYERS: Okay. What was he saying to you
22 when you were in the police station?

23 MR. ROBERTS: He was saying you punk, talk
24 all that junk you were talking when you was outside on
25 the side of 41. I said, man, what are you talking about?

1 Like that. I said, man, I don't remember saying nothing
2 to you. And I said, man, get your officer -- that's what
3 I kept telling the magistrate. So the magistrate say I'm
4 going to make his bond 2,000. He ain't saying nothing,
5 and you started grabbing on him. And he kept pulling me
6 and struggling like that.

7 MS. MYERS: Okay.

8 MR. ROBERTS: So he just made my bond 2,000.

9 MS. MYERS: Okay. All right. I want to
10 talk to you about some of the people that you might -- we
11 talked a little bit about some of the people you might
12 have already encountered throughout your night. Okay?

13 MR. ROBERTS: Uh-huh. (Affirmative)

14 MS. MYERS: Who is Antonio Gavin to you?

15 MR. ROBERTS: Antonio Gavin?

16 MS. MYERS: Uh-huh. Or Tony Gavin.

17 MR. ROBERTS: Tony Gavin. Tony Gavin is a
18 dude I met a long time ago. I used to sell him drugs.
19 And we had became good friends, like we always talked and
20 stuff like that. He used to give me rides.

21 MS. MYERS: When you were selling drugs, was
22 that in Lumberton?

23 MR. ROBERTS: Yes.

24 MS. MYERS: Did you ever sell drugs in
25 Fayetteville?

1 MR. ROBERTS: Yes.

2 MS. MYERS: Where did you know Tony from?

3 MR. ROBERTS: Lumberton in Davis Heights.
4 He stayed on the street over -- a couple streets away
5 from Davis Heights.

6 MS. MYERS: Did you see him at all this
7 night, like at one of the bootlegger houses or anything?

8 MR. ROBERTS: I don't recall seeing him.

9 MS. MYERS: Is that a place where he would
10 have hung out at?

11 MR. ROBERTS: Yes.

12 MS. MYERS: Okay. You had written us a
13 letter, and I should have brought a copy of this. But
14 you wrote us a letter stating that you had talked to him
15 in jail. Do you remember that?

16 MR. ROBERTS: Yes.

17 MS. MYERS: Tell me about that.

18 MR. ROBERTS: Well, I seen him. He came in
19 for child support.

20 MS. MYERS: Was this in Lumberton?

21 MR. ROBERTS: Yes. And while we sitting
22 there, he said, man, I didn't know they locked you up for
23 a murder. I said yeah, man. He said, man, me and your
24 uncle be talking about you all the time, man. He said,
25 man --

1 MS. MYERS: Who is your uncle? Which uncle?

2 MR. ROBERTS: My uncle named Duke.

3 MS. MYERS: Duke. On your mom's side?

4 MR. ROBERTS: Yes. But anyway --

5 MS. MYERS: Okay. What's his first name or
6 his real first name?

7 MR. ROBERTS: Thurman Roberts.

8 MS. MYERS: Thurman? Okay.

9 MR. ROBERTS: Thurman Roberts. And he said,
10 man, I told your uncle, man, no way in the world you shot
11 nobody. I been around you, and I know you for years.
12 You would have been so drunk -- you would have been so
13 drunk, you couldn't even hold a gun. You would have shot
14 yourself before you shot anybody else.

15 So as we got to talking, he said, man, I
16 know who did that murder. And that's when he started
17 telling me about the Dodge Stratus, which I had already
18 knew, was somebody in a white car, a Stratus. But he
19 started to describing it, and he told me about the bullet
20 holes that was in the window, the windshield of it. And
21 how the girl, Amber Lowery, was arguing with a dude named
22 Dextor about the car. "What you do to my car? What you
23 done did with my car." And he said Dextor said
24 something, and they were arguing out there in Davis
25 Heights.

1 And when he told me that, I said, man, would
2 you testify on that or do a statement for me. So he gave
3 me his phone number and stuff like that. And let them
4 know that it was a Dodge Stratus. And he said yeah. And
5 he gave me his information. But I never got a chance to
6 talk no more to him.

7 MS. MYERS: And Tony was certain that this
8 was the murder that you had been charged for?

9 MR. ROBERTS: Uh-huh. (Affirmative)

10 MS. MYERS: When you had this conversation
11 with Tony, about what time period was this at?

12 MR. ROBERTS: It was years later down the
13 road.

14 MS. MYERS: Had you already been -- gone to
15 trial?

16 MR. ROBERTS: Incarcerated. Yeah. I had
17 been incarcerated for a while though. But he was --
18 during the time, I want to say Mike was in there too.
19 But I'm not for sure.

20 MS. MYERS: Mike who?

21 MR. ROBERTS: Burgess.

22 MS. MYERS: Okay. Is there any reason why
23 Tony would say that this didn't happen?

24 MR. ROBERTS: I don't know. You know, I
25 don't know. I wouldn't think there would be.

1 MS. MYERS: When you had this conversation
2 with Tony, who else was around? Was Micheal Burgess
3 around you?

4 MR. ROBERTS: There was a lot of people
5 around.

6 MS. MYERS: Do you know anybody else that
7 heard this conversation then?

8 MR. ROBERTS: My cell was switching over so
9 much, I don't know. Because -- I can't remember.
10 Because it was like a lot of -- our cells, people was in
11 and out, making bond, coming in and out. I can't
12 remember.

13 MS. MYERS: Okay. Did you ever -- I'm going
14 to show you what I'm going to be marking as Exhibit 91.
15 Do you recognize the person that is in these photographs?
16 That's Commission Exhibit 91.

17 (Commission Exhibit 91 marked and
18 handed to Mr. Roberts.)

19 MR. ROBERTS: This Orlando.

20 MS. MYERS: Did you see him at all that day?

21 MR. ROBERTS: I'm going to say yeah. I'm
22 going to say I did see Orlando somewhere.

23 MS. MYERS: Do you know where you would have
24 seen him at? And if you don't know, that's okay.

25 MR. ROBERTS: I can't remember exact. But I

1 want to say it might have been on 6th Street. But I'm
2 not for sure about it.

3 MS. MYERS: On 6th Street. Okay. How did
4 you know him?

5 MR. ROBERTS: I used to sell him drugs too.

6 MS. MYERS: You used to sell him drugs too.
7 Okay.

8 MR. ROBERTS: Yeah. And he used to be one
9 person that used to cop for me a lot.

10 MS. MYERS: Say that again. He's --

11 MR. ROBERTS: He used to cop for me lot.
12 Buying double ounce.

13 MS. MYERS: He used to what for you? I'm
14 sorry.

15 MR. ROBERTS: Buy drugs where he spend 100
16 and I give him 200 for doing it.

17 MS. MYERS: Got it.

18 MR. ROBERTS: Where he can make a profit.

19 MS. MYERS: Okay. Give me just one second.
20 Okay. But you don't know for certain if you saw him that
21 night?

22 MR. ROBERTS: No. I'm not for sure.

23 MS. MYERS: That's okay. All right. I am
24 going to show you what I'm marking as -- you don't have
25 to hold that unless you just want --

1 MR. ROBERTS: Okay.

2 MS. MYERS: I'm going to mark this one as
3 Commission Exhibit 92. Do you recognize the person in
4 these photographs, in Commission Exhibit 92?

5 (Commission Exhibit 92 marked and
6 handed to Mr. Roberts.)

7 MR. ROBERTS: No, I don't know him.

8 MS. MYERS: You don't? Okay. Does the name
9 Quintin Mitchell sound familiar to you at all?

10 MR. ROBERTS: Huh-uh. (Negative)

11 MS. MYERS: Okay. Does Michael Shaw have a
12 nickname?

13 MR. ROBERTS: Mike-Mike.

14 MS. MYERS: Mike-Mike. Does he go by L
15 Shaw?

16 MR. ROBERTS: Not that I know of.

17 MS. MYERS: Is that a different person?

18 MR. ROBERTS: Yeah, that might be a
19 different person.

20 MS. MYERS: Okay. When you saw Michael Shaw
21 that night, where do you know for certain you saw him at?

22 MR. ROBERTS: I saw him on 6th Street.

23 MS. MYERS: You saw him on 6th Street?

24 MR. ROBERTS: Uh-huh. (Affirmative)

25 MS. MYERS: Okay. Did you see him -- so you

1 think you went to 6th Street three or four times that
2 night?

3 MR. ROBERTS: Yeah. Yeah. Two or three
4 times, yeah.

5 MS. MYERS: Two or three times that night?

6 MR. ROBERTS: Yeah.

7 MS. MYERS: Okay. Did you see him all the
8 times that you went there, one of the times you went
9 there?

10 MR. ROBERTS: I seen him about three times
11 when I went there.

12 MS. MYERS: Three times?

13 MR. ROBERTS: Yeah. The reason why I
14 remember him, because he was in a black car. Another
15 Dodge car. And he was showing me he had just got shot or
16 something. He had just got shot again.

17 MS. MYERS: Okay. Did he know who shot him?

18 MR. ROBERTS: I think he did, but I'm not
19 for sure.

20 MS. MYERS: Why would somebody shoot him, do
21 you know?

22 MR. ROBERTS: Nah. I ain't been around him
23 in a long time, so I don't know.

24 MS. MYERS: Okay. Did he have a girlfriend?
25 And I might have already asked you that, so I apologize

1 if I did. But did he have a girlfriend that he was with
2 that night?

3 MR. ROBERTS: Now, I know Sugar Daddy was
4 with him that day I saw him.

5 MS. MYERS: And Sugar Daddy is Brian McArn?

6 MR. ROBERTS: Yes.

7 MS. MYERS: Okay. At any point when you
8 were at the house on 6th Street did you get into an
9 argument with anybody at all? That you remember.

10 MR. ROBERTS: Probably me and E. Cause E be
11 trying to take over my car and tell me what to do.

12 MS. MYERS: E was doing that?

13 MR. ROBERTS: Yeah. He always do that.

14 MS. MYERS: Okay. Where he tries to take
15 your car?

16 MR. ROBERTS: Nah. He always try to tell me
17 like -- he feel like he's my bigger cousin, and he can
18 tell me what to do.

19 MS. MYERS: Okay. Do you remember getting
20 in an argument with a female at all about like a seat?

21 MR. ROBERTS: No.

22 MS. MYERS: Do you think that's something
23 you would remember?

24 MR. ROBERTS: Yeah, I would remember that.

25 MS. MYERS: Despite how intoxicated you are,

1 you would still remember something like that?

2 MR. ROBERTS: Yeah. I mean, it could have
3 happened, but I don't believe. I don't remember.

4 MS. MYERS: Okay. Do you know who a guy
5 named Evan is?

6 MR. ROBERTS: No.

7 MS. MYERS: Have you ever heard -- do you
8 know of anybody named Evan that you would have
9 encountered that night?

10 MR. ROBERTS: (Inaudible response.)

11 MS. MYERS: Okay. Was there a guy named
12 Bill who ran a bootlegger house in that area anywhere?

13 MR. ROBERTS: I don't know. I don't know
14 Bill. But I want to say that's the owner of that white
15 house. But I didn't know him, like I told you before. I
16 know his girlfriend.

17 MS. MYERS: Who is his girlfriend?

18 MR. ROBERTS: The lady that was from
19 Florida.

20 MS. MYERS: The lady that was from Florida
21 was his girlfriend?

22 MR. ROBERTS: Or wife.

23 MS. MYERS: Okay. And you had been there
24 previously. She gave you extra shots.

25 MR. ROBERTS: Yeah. I been there before.

1 That was my second time.

2 MS. MYERS: Second time. Do you think it's
3 possible you had gotten into an argument with her at all?

4 MR. ROBERTS: No, not that I know of.

5 MS. MYERS: Okay.

6 MR. ROBERTS: But I could have. But I don't
7 remember.

8 MS. MYERS: But you don't know?

9 MR. ROBERTS: I don't remember.

10 MS. MYERS: All right. One of the things
11 that I just -- or people I kind of want to clear up.
12 From the records, it looks like when you had stopped at
13 the house on 14th Street, and you had spoke to that
14 gentleman, his name is Christopher McGirt.

15 MR. ROBERTS: Uh-huh. (Affirmative)

16 MS. MYERS: And it had looked like you were
17 looking for somebody named Floss.

18 MR. ROBERTS: Yeah. That's what they try to
19 make it seem like.

20 MS. MYERS: Okay. Do you remember when they
21 had -- did you ever say I wasn't looking for Floss, I was
22 looking for Glossie?

23 MR. ROBERTS: I've told them that a hundred
24 times.

25 MS. MYERS: Okay. Who would you have told

1 that to?

2 MR. ROBERTS: I told that to that detective,
3 Al Collins. And I told the SBI agent, Bill. Because me
4 and him stays on the same street.

5 MS. MYERS: Okay. In Fayetteville?

6 MR. ROBERTS: Uh-huh. (Affirmative)

7 MS. MYERS: Okay. So just for our purposes,
8 I'm going to show you what I'm now going to mark as
9 Commission 93. And I want to know if you recognize the
10 person that is in these photographs right here.

11 (Commission Exhibit 93 marked and
12 handed to Mr. Roberts.)

13 MR. ROBERTS: This Floss.

14 MS. MYERS: Okay. That is Floss. Do you
15 know him by another name, like his government name or
16 anything?

17 MR. ROBERTS: Yeah. I know him by his
18 government name, Kenny Ray Floyd.

19 MS. MYERS: Floss is not Gloss. Correct?

20 MR. ROBERTS: Yes.

21 MS. MYERS: Okay.

22 MR. ROBERTS: I been knowing him. I know
23 him from the last bit I did. And me and him was in the
24 same block.

25 MS. MYERS: From the last bid you did?

1 MR. ROBERTS: Yeah.

2 MS. MYERS: Explain what you mean to me.

3 MR. ROBERTS: Well, when they had me on the
4 -- the first degree burglary and the sex -- first degree
5 sex offense, he was in the cell with me.

6 MS. MYERS: Okay. Like what was your
7 relationship like with him?

8 MR. ROBERTS: We was -- we was all right.
9 But we weren't enemies or nothing. But I just didn't
10 trust him.

11 MS. MYERS: Okay. Does he at all, to your
12 knowledge, have anything to do with this case that I'm
13 here talking to you about today?

14 MR. ROBERTS: No. No.

15 MS. MYERS: Okay. To your knowledge, why
16 would his name be brought up in this case?

17 MR. ROBERTS: That's something him and the
18 police got going on. But I didn't bring his name up.

19 MS. MYERS: You didn't bring his name up,
20 because you never talked about Floss.

21 MR. ROBERTS: Yeah.

22 MS. MYERS: Is that right?

23 MR. ROBERTS: Yes.

24 MS. MYERS: You talked about Glossie. I
25 just want to make that very clear.

1 MR. ROBERTS: Yeah. And I told them -- I
2 just couldn't think of Glossie name at that time. But it
3 came back to me, it was Gloria Rogers.

4 MS. MYERS: Gloria Rogers. Okay.

5 MR. ROBERTS: Yeah. And I kept telling the
6 dude, I'm saying Glossie. And I kept telling him. But
7 he kept making this story -- I was trying to help this
8 man in this investigation. But he kept on. So I told
9 him the stores I went to and everything.

10 MS. MYERS: When you had that conversation
11 with the officers, when would that have been?

12 MR. ROBERTS: When they had me on -- in the
13 sheriff office in the little room, interrogation.

14 MS. MYERS: Okay. How many interrogations
15 did you go through?

16 MR. ROBERTS: Two.

17 MS. MYERS: So those interrogations are
18 videotaped. I will tell you that I have watched them.
19 We got them transcribed. There is not any -- at any
20 point where you correct them on the name.

21 MR. ROBERTS: I told them Glossie. Matter
22 of fact, I had told him -- when I told them which store I
23 went to, and I told him about Glossie from the start, who
24 were -- Glossie was at Jennifer trailer. And that's what
25 I told him. And he kept bringing up Floss. I didn't

1 even know nothing about Floss even being in the case till
2 he brung his name up.

3 MS. MYERS: Okay. So you thought that they
4 were bringing Floss up independently?

5 MR. ROBERTS: Yeah. I'm thinking they
6 bringing him up for something else.

7 MS. MYERS: Okay. I also just -- okay.

8 MR. ROBERTS: Then they were trying to say
9 me and Floss was beefing. Me and Floss ain't never ran
10 cross each other in the streets.

11 MS. MYERS: So you never had any issues with
12 him?

13 MR. ROBERTS: Yeah. I never seen him in the
14 street.

15 MS. MYERS: Okay. They also wanted to know
16 if you had issues with Soulski.

17 MR. ROBERTS: And they find out -- Soulski
18 told them no, we didn't have no problems.

19 MS. MYERS: Okay. Did you ever have
20 problems with Soulski?

21 MR. ROBERTS: Yes. When -- back like in the
22 '90s. But we been -- chalked that up and been friends
23 ever since.

24 MS. MYERS: Okay. Did you have any issues
25 with Soulski that night?

1 MR. ROBERTS: No.

2 MS. MYERS: Did you tell Kimberly at all
3 that you had any issues with Soulski that night?

4 MR. ROBERTS: No.

5 MS. MYERS: Did you tell Kimberly that you
6 had any issues with anybody that night?

7 MR. ROBERTS: No.

8 MS. MYERS: Okay. Did you have any issues
9 with Soulski in the case where you had been arrested for
10 the sex offense and the burglary? Did he come up at all
11 in that case?

12 MR. ROBERTS: I don't know. I can't
13 remember. But his name might have did come up.

14 MS. MYERS: Do you know why his name would
15 have come up?

16 MR. ROBERTS: Huh-uh. (Negative)

17 MS. MYERS: Do you know the name James Bell?

18 MR. ROBERTS: Yes. I remember James Bell.
19 We used to go to his house. Yeah.

20 MS. MYERS: Okay. Did James Bell happen --
21 did he have anything to do with the --

22 MR. ROBERTS: Yes. He was one of the
23 witnesses.

24 MS. MYERS: Against you?

25 MR. ROBERTS: Yes, I believe.

1 MS. MYERS: With the Bianca Davis case?

2 MR. ROBERTS: Yes.

3 MS. MYERS: Okay. All right.

4 MR. CATER: Could I have a moment here. I
5 need to use the restroom.

6 MS. MYERS: Sure. Go ahead. No, that's
7 totally fine. Do you need to take a break too,
8 Mr. Roberts?

9 MR. ROBERTS: Yeah.

10 (Interview was recessed.)

11 MS. MYERS: I am going to label this -- I'm
12 going to show you an exhibit. We're going to -- I have a
13 couple things I just want to ask you about.

14 MR. ROBERTS: Okay.

15 MS. MYERS: So I am going to label this as
16 Commission Exhibit 94.

17 MS. MILLER: Did you do 93?

18 MS. MYERS: I did.

19 MS. MILLER: You did do 93?

20 MS. MYERS: Ninety-three is Floss. All
21 right. So I'm going to do this as 94. So what I am
22 showing you -- so part of our investigation, we get as
23 many files that exit on your case. Okay. So I'm going
24 to hand you what is Exhibit 94. And this came out of
25 Mr. Ivarsson's file. Okay?

1 (Commission Exhibit 94 marked and
2 handed to Mr. Roberts.)

3 MS. MYERS: So the pages that I handed you
4 are in Mr. Ivarsson's file, page 111 to 114. And there's
5 a couple questions that I've got for you. Some of this
6 stuff we kind of already addressed.

7 So it looks like at the top, on the first
8 page, it's an interview that he did with you on July 5th
9 of 2013 while you were locked up in the jail. Do you
10 have any recollection just like by me saying this that --
11 do you remember this interview whatsoever?

12 MR. ROBERTS: Huh-uh. (Negative)

13 MS. MYERS: No. Okay. All right. So I
14 want you to look down at page 112, which would be on like
15 the second page. And at the very bottom of that page,
16 you talk about --

17 MR. CATER: Back here, I think.

18 MS. MYERS: Yeah. Sorry. It's a little bit
19 kind of strange.

20 At the very bottom of that page though,
21 you're talking about the case from 2002. Kind of at the
22 bottom where it says --

23 MR. ROBERTS: Yeah, I see it.

24 MS. MYERS: -- stated in 2002 you were
25 locked up. Okay. And the very last sentence you talk

1 about some of the witnesses against you in that case were
2 James Bell and Soulski Stephens. Do you remember talking
3 to anybody about that?

4 MR. ROBERTS: Huh-uh. (Negative)

5 MS. MYERS: No. Okay. I'm going to be real
6 honest to you. I think that maybe these dates -- this
7 will be a note for me to kind of figure out a little bit
8 more. Because I'm not sure that Mr. -- I don't think
9 Mr. Ivarsson was actually assigned to your case on
10 July 5th. Right?

11 MR. ROBERTS: He weren't.

12 MS. MYERS: I know who is now Judge Powers
13 is. So this could be something that she had --

14 MR. ROBERTS: Yeah.

15 MS. MYERS: -- maybe done an interview with
16 you potentially. Maybe the date is wrong. So we will
17 figure that out. But regardless of those two things, do
18 you remember speaking to one of your attorneys and
19 telling them about that?

20 MR. ROBERTS: No, I don't recall this at
21 all.

22 MS. MYERS: That's okay. On the next page,
23 at the top, on page 113, it talks a little bit about
24 Kimberly Lowery. She had a daughter who lived in the
25 home. The daughter's name was Sha'Brea. Do you see

1 that?

2 MR. ROBERTS: Yeah.

3 MS. MYERS: And it talks about the deceased
4 in this case being Benjamin Council. That's not his
5 name. His name is Joshua Council. And I know that you
6 had said that the night that this happened, you had seen
7 Sha'Brea, but it was the first time you had seen her in a
8 while.

9 MR. ROBERTS: Had been a long time.

10 MS. MYERS: At that point, did you have any
11 idea who she was dating?

12 MR. ROBERTS: No. I didn't even know she
13 had a boyfriend.

14 MS. MYERS: You didn't know she had a
15 boyfriend?

16 MR. ROBERTS: No.

17 MS. MYERS: Okay. Did you at that time know
18 who Joshua Council was?

19 MR. ROBERTS: No.

20 MS. MYERS: Okay. All right. Go down, the
21 next paragraph down there says that you had talked to a
22 guy names Gary Jenkins at the jail, and he told you that
23 people in the community were saying that someone else had
24 done the shooting and not you. Do you remember that at
25 all?

1 MR. ROBERTS: I kind of -- I'm trying to
2 think who Gary Jenkins is. I've seen that name before.

3 MS. MYERS: So I'll just be honest. What I
4 have found in this case is that a lot of things are
5 misspelled. A lot of names are not correct. They might
6 be kind of similar to them. So I'm going to -- I'm going
7 to show you a photograph. Okay?

8 MR. ROBERTS: Sound like Tank. But his name
9 ain't Gary, I don't think.

10 MS. MYERS: All right. Give me just one
11 second. Okay. I am going to show you what I'm marking
12 as Commission Exhibit 95. And I want to know if you
13 recognize the person that is shown in those photographs.

14 (Commission Exhibit 95 marked and
15 handed to Mr. Roberts.)

16 MR. ROBERTS: Yeah, that's Tank.

17 MS. MYERS: That's Tank?

18 MR. ROBERTS: Uh-huh. (Affirmative)

19 MS. MYERS: Okay. So Tank's name was Gary
20 Jennings.

21 MR. ROBERTS: Yeah.

22 MS. MYERS: Does that sound familiar to you?

23 MR. ROBERTS: Yes.

24 MS. MYERS: Did he also go by the name
25 Montreal?

1 MR. ROBERTS: Not that I know of.

2 MS. MYERS: Could his name been maybe Gary
3 Montreal Jennings? Does that at all --

4 MR. ROBERTS: I don't have no idea.

5 MS. MYERS: You have no idea? That's okay.

6 MR. ROBERTS: Yeah.

7 MS. MYERS: But you definitely know this guy
8 is Tank?

9 MR. ROBERTS: Tank.

10 MS. MYERS: Okay. Did you ever speak to
11 Tank at all while you were incarcerated?

12 MR. ROBERTS: Yeah. He was in the block
13 with me, and -- I don't -- he was talking about the case.
14 I want to say he -- he asked me a question about -- we
15 talked, but I don't remember what we talked about.

16 MS. MYERS: When would that have been when
17 you talked to him in jail? Like within the first year of
18 you being in jail on this case?

19 MR. ROBERTS: I can't remember because I --
20 there was so many people coming through. He came through
21 about two or three times.

22 MS. MYERS: Okay. Got you. Got you. Do
23 you remember any conversations that you specifically had
24 with him about this case?

25 MR. ROBERTS: I didn't ever talk about my

1 case. But I told him I didn't do it.

2 MS. MYERS: Okay. Did he tell you anything
3 about your case that he had heard about?

4 MR. ROBERTS: There was a lot of people
5 telling me different things.

6 MS. MYERS: Do you remember specifically
7 what he told you though?

8 MR. ROBERTS: Nah. I can't remember.

9 MS. MYERS: Did you know him pretty well?

10 MR. ROBERTS: Yeah.

11 MS. MYERS: Who is his mom?

12 MR. ROBERTS: I don't know his mom. But I
13 know his brother and his uncles and all them. His family
14 and my family are close.

15 MS. MYERS: Pretty close?

16 MR. ROBERTS: They went to school together.
17 My mother went to school with his uncle.

18 MS. MYERS: Okay. All right. So I want to
19 take your attention back to this exhibit that's from
20 Mr. Ivarsson's file. Okay? And you can put that exhibit
21 down unless you want to keep looking at it.

22 So you had said -- so a little bit down from
23 that, that about seven or eight months prior, you and
24 Tamika Jordan -- I guess you and Tamika Jordan were
25 drinking.

1 MR. ROBERTS: Uh-huh. (Affirmative)

2 MS. MYERS: Who is Tamika Jordan to you?

3 MR. ROBERTS: That's my cousin.

4 MS. MYERS: Okay. And she had said that you
5 had blacked out.

6 MR. ROBERTS: Probably did.

7 MS. MYERS: Do you remember that at all?

8 MR. ROBERTS: Huh-uh. (Negative)

9 MS. MYERS: I mean, which I guess is an
10 ironic question if you blacked out. But do you remember
11 ever having a conversation with you about blacking out?

12 MR. ROBERTS: Huh-uh. (Negative) She ain't
13 never said nothing to me. But I don't remember.

14 MS. MYERS: And right under that it says
15 Vanessa said that you had blacked out before, and that
16 you don't remember things.

17 MR. ROBERTS: Yeah.

18 MS. MYERS: Did you ever -- ironically, I'm
19 asking you this.

20 MR. ROBERTS: Well, the blackouts I recall
21 are like I told you, when I go to sleep and don't
22 remember. I don't remember what, like --

23 MS. MYERS: So when you go to sleep, and you
24 wake up, you don't remember what happened?

25 MR. ROBERTS: Yeah.

1 MS. MYERS: Does your memory come back to
2 you later on?

3 MR. ROBERTS: Like certain stuff come back
4 to me.

5 MS. MYERS: Okay. Okay.

6 MR. ROBERTS: Yeah. That's the kind of
7 blackout they talking about.

8 MS. MYERS: I got you. Okay. When you were
9 first in -- when you first got arrested for the DWI, and
10 then you -- tell me about what it was like when you get
11 arrested for that. And then -- now you're in this
12 interrogation with two cops. Like what did that look
13 like for you, from going from like a drunk -- like a
14 drunk cell, I guess, right, to like this room?

15 MR. ROBERTS: I was in a stage of shock. I
16 was like, my God, what happened. That's how I --

17 MS. MYERS: Did you hear anything about this
18 between the time that you first got arrested to -- I'll
19 tell you, you got arrested around like -- I think the cop
20 first pulled up on you at like 12:09 a.m. that night.

21 MR. ROBERTS: Yeah.

22 MS. MYERS: Okay. Which would have been
23 then June -- like right now, June 15th.

24 MR. ROBERTS: Yeah.

25 MS. MYERS: And then you were first

1 interviewed by the police in terms of what I know --

2 MR. ROBERTS: Tuesday.

3 MS. MYERS: Yeah. So that was June 18th.

4 MR. ROBERTS: Yeah.

5 MS. MYERS: Was there a time between the
6 15th and the 18th that you heard about anything that had
7 gone on?

8 MR. ROBERTS: No.

9 MS. MYERS: Okay. So talk to me about when
10 you first got into that interrogation room with Collins
11 and Brady, what did that kind of look like for you?

12 MR. ROBERTS: I was scared. I thought the
13 feds had caught --

14 MS. MYERS: Why would the feds have --

15 MR. ROBERTS: I thought they were coming
16 like for old -- for me back in the day selling drugs.
17 That's what I thought.

18 MS. MYERS: Oh, okay. Okay. But you had
19 already been sentenced on all of those cases. Right?
20 Actually -- yeah. Like, I mean, was any of that still
21 pending? Were you still worried about that stuff?

22 MR. ROBERTS: Yeah. Cause I like -- I used
23 alias names on them cases. So I thought maybe that was
24 something that was coming back to bite me.

25 MS. MYERS: Alias names. Okay.

1 MR. ROBERTS: Uh-huh. (Affirmative)

2 MS. MYERS: Is that why you had used alias
3 names in the past?

4 MR. ROBERTS: Yes.

5 MS. MYERS: Was because of selling drugs?

6 MR. ROBERTS: Yes.

7 MS. MYERS: Okay. Was one of those names
8 Michael Brown?

9 MR. ROBERTS: Yes.

10 MS. MYERS: Did you use any other ones?

11 MR. ROBERTS: I used a lot.

12 MS. MYERS: Okay. You used a lot.

13 MR. ROBERTS: Yeah.

14 MS. MYERS: Okay. So here's -- I've got the
15 transcript from both of your interrogations. So you had
16 one on June 18th, and you had one on the 20th. Okay?

17 MR. ROBERTS: Yeah. Which was Thursday.

18 MS. MYERS: Uh-huh. So I have certain
19 things that I'm going to ask you about that you said from
20 those interrogations. Okay?

21 MR. ROBERTS: Okay.

22 MS. MYERS: So one of the things that
23 you -- let me go to this page. I'm going to introduce
24 both of these exhibits or transcripts as like full
25 exhibits, and I'm just going to point your attention to,

1 okay, what I'm talking about.

2 MR. ROBERTS: Yeah.

3 MS. MYERS: So the first transcript, I'm
4 going to label this entire transcript as Exhibit 96. And
5 then I'm going to direct your attention first to page 34.
6 Okay?

7 MR. ROBERTS: Uh-huh. (Affirmative)

8 MS. MYERS: So I'm going to hand this to
9 you.

10 (Commission Exhibit 96 marked and
11 handed to Mr. Roberts.)

12 MR. ROBERTS: You said that I should start
13 at page 34?

14 MS. MYERS: Yeah. Go ahead to page 34. And
15 when you get to that page, let me know.

16 MR. ROBERTS: Okay.

17 MS. MYERS: All right. So down kind of
18 towards line 12, it says -- well, I guess to give a
19 little bit of context, let's go a little -- let me tell
20 you where to go before this. You're talking about
21 drinking at the big, white house. Okay. So on page 33,
22 they're asking you about like where you went. You
23 say -- this is -- I'm looking at line 14.

24 MR. ROBERTS: You said on page 33?

25 MS. MYERS: On page 33.

1 MR. ROBERTS: Okay.

2 MS. MYERS: Yeah. Just to give a little bit
3 more context to where we're at that I'm going to direct
4 your attention to.

5 MR. ROBERTS:: Okay.

6 MS. MYERS: And you're talking about this is
7 a big, white house, it's got a high porch, and it's like
8 by Willow Street.

9 MR. ROBERTS: Uh-huh. (Affirmative)

10 MS. MYERS: So that's the house you referred
11 to as East Pine, 6th Street?

12 MR. ROBERTS: Yes.

13 MS. MYERS: Same thing?

14 MR. ROBERTS: Yes.

15 MS. MYERS: Okay. And you're talking about
16 everybody was sitting in the yard, drinking right there.
17 Okay. Go over to page 34, and you talk about -- okay.
18 So I guess we addressed this before. You had said it was
19 a girl and her boyfriend that you thought ran it. The
20 girl is the one that's from Florida?

21 MR. ROBERTS: Uh-huh. (Affirmative)

22 MS. MYERS: Okay.

23 MR. ROBERTS: Where we at?

24 MR. CATER: Down here.

25 MS. MYERS: I'm sorry. Page --

1 MR. ROBERTS: Okay.

2 MS. MYERS: Yeah. Go to line 3. You said
3 it's a girl and her boyfriend, I guess, that run it.

4 MR. ROBERTS: Okay.

5 MS. MYERS: So we had already kind of talked
6 about that. On line 12, further down there, you said
7 that somebody brought you some drinks. Do you see that?

8 MR. ROBERTS: Yes.

9 MS. MYERS: You talked about how -- it says
10 it was like I blanked out, like somebody gave me
11 something.

12 MR. ROBERTS: Uh-huh. (Affirmative)

13 MS. MYERS: Tell me more about that.

14 MR. ROBERTS: When I said that, it was like
15 when I was drinking, I had went -- I took a nap in the
16 car. I went out in the car.

17 MS. MYERS: When you were where?

18 MR. ROBERTS: At 6th Street. I sat in the
19 car. I was listening to music.

20 MS. MYERS: And at which time -- so you had
21 gone to that house.

22 MR. ROBERTS: I can't remember which -- what
23 time. But it was -- it was getting kind of late, I know
24 that.

25 MS. MYERS: What did it look like outside?

1 What was the lighting situation?

2 MR. ROBERTS: It was start -- it was
3 starting to turn like dusty, dark. Because I was like,
4 dang, bro, I fixing to go in before it get too late. And
5 I was sitting in the car, and I guess I fell out for a
6 minute. Now, I heard this through other people, so don't
7 quote me on this. But I wanted to find out what happened
8 during that period. So I called and ask --

9 MS. MYERS: When you passed out?

10 MR. ROBERTS: Yeah. And I end up getting in
11 contact with Rodney Cade somehow. I don't know how I got
12 in contact with him. But he say he had went through my
13 back trunk while I was sleeping.

14 MS. MYERS: Why?

15 MR. ROBERTS: I don't know.

16 MS. MYERS: Why did he tell you that?

17 MR. ROBERTS: He say he was changing CDs,
18 changing my CDs or something. But I don't know. But
19 like I said, I had fell out.

20 MS. MYERS: Why did you feel like you
21 needed -- why did you feel like you needed to find out
22 what had happened during the time you passed out?

23 MR. ROBERTS: Because I want -- because I
24 wanted to -- I wanted to find out like -- I was scared.
25 So I was trying to find out all details, any details I

1 could find out. Yeah.

2 MS. MYERS: Why were you scared?

3 MR. ROBERTS: Because these people were
4 pinning a murder on me. And I was -- I was scared. And
5 I was trying to find out did anybody throw something on
6 me or anything, you know. And I wanted -- because at the
7 time, I was scared somebody had took my car and did
8 something.

9 MS. MYERS: Okay. So I want to make sure
10 that I'm understanding what you're saying. Were you
11 scared when you were outside of the 6th Street house?

12 MR. ROBERTS: No. I'm saying I was scared
13 when I got in booking.

14 MS. MYERS: When you got in the booking.
15 Okay.

16 MR. ROBERTS: The interrogation. So I was
17 so scared, like --

18 MS. MYERS: Okay. And that's when you
19 started calling people?

20 MR. ROBERTS: Yeah. I started calling --

21 MS. MYERS: To find out what happened?

22 MR. ROBERTS: Yeah.

23 MS. MYERS: Okay.

24 MR. ROBERTS: Because now, I'm -- a couple
25 times I had a couple -- E and Rodney in the car. So I'm

1 wondering, damn, did I blank out and they took my car
2 while I went to sleep or something.

3 MS. MYERS: Okay. But you did fall asleep
4 while you were outside that house on 6th Street?

5 MR. ROBERTS: Yeah. Yeah, I fell asleep.

6 MS. MYERS: Okay. And so when you woke up,
7 at that time though, what did you do, when you woke up,
8 when you were outside of 6th Street?

9 MR. ROBERTS: E and them was still sitting
10 in the yard, I want to say. I'm not for sure. But I
11 know I fell out for a little bit. Like I napped. I took
12 a little nap, cat nap.

13 MS. MYERS: Was that because you were drunk
14 or because you were tired?

15 MR. ROBERTS: Yeah. I was tired, too,
16 because I had been up all morning. I'd been up since
17 4:30.

18 MS. MYERS: Okay.

19 MR. ROBERTS: And then I haven't ate nothing
20 but like a sandwich. I think Vanessa gave me a
21 McDonald's sandwich from McDonald's, because that's where
22 she was working at. And I was kind of hungry too at the
23 same time.

24 MS. MYERS: Okay. So you wake up from this
25 cat nap in the car.

1 MR. ROBERTS: Uh-huh. (Affirmative)

2 MS. MYERS: And then what do you do?

3 MR. ROBERTS: I want to say that's when I
4 left to go back to New Town. I was trying to make my way
5 in then. And I didn't --

6 MS. MYERS: Okay. And when you say make
7 your way in, you mean go back home?

8 MR. ROBERTS: Yeah. Trying to go to Kim's
9 or somewhere where I could be safe.

10 MS. MYERS: Got you. And by safe, what do
11 you mean by to be safe?

12 MR. ROBERTS: Be with people I know.

13 MS. MYERS: Okay. Did you not feel safe at
14 6th Street?

15 MR. ROBERTS: No. Because there was a lot
16 of -- I seen -- I don't know if I brung it up. But I
17 seen a lot of people with guns there. I don't know if I
18 told that in -- I want to say I did say that in the
19 interrogation, but I'm not for sure. But I seen a couple
20 of people with guns there, and it made me nervous.

21 MS. MYERS: Who had guns there?

22 MR. ROBERTS: I don't want to really give
23 the names out. But Michael Shaw had one. Sugar Daddy
24 had one. And there was a lot of kids coming down the
25 street had them.

1 MS. MYERS: Okay. And how did you know the
2 kids coming down the street had them?

3 MR. ROBERTS: Because they was -- them boys
4 was talking about it, and they said they were clutching.
5 But I seen them two guns. But when they seen them, and
6 they started clutching, I was like what in the world
7 going on.

8 MS. MYERS: Were they like showing each
9 other that they each had guns or some -- like what do you
10 mean that they were like --

11 MR. ROBERTS: Well, Sugar Daddy pulled his
12 out, out the gate.

13 MS. MYERS: Just to be like don't mess with
14 me or something?

15 MR. ROBERTS: Yeah. And I know he had a
16 .40. So when I see that, I was like, what in the world.

17 MS. MYERS: Okay. And who else at this
18 point had a car? Like what were people driving at this
19 point?

20 MR. ROBERTS: Michael had a black Dodge, one
21 of them little small wagons. I don't know what you call
22 them.

23 MS. MYERS: Did Sugar Daddy have a car?

24 MR. ROBERTS: No. He was riding with
25 Mike -- yeah.

1 MS. MYERS: Okay. Okay.

2 MR. ROBERTS: There was other cars. Like I
3 said, I didn't know a lot these --

4 MS. MYERS: Did Rod -- sorry. I'm sorry for
5 cutting you off.

6 MR. ROBERTS: Rodney was riding with me.

7 MS. MYERS: He rode with you. At what point
8 did you find out Rodney had a gun?

9 MR. ROBERTS: I didn't see Rodney with a
10 gun.

11 MS. MYERS: You never saw Rodney with a gun?

12 MR. ROBERTS: No.

13 MS. MYERS: Okay. Did Michael Shaw ever get
14 into your car?

15 MR. ROBERTS: No.

16 MS. MYERS: Did Sugar Daddy ever get into
17 your car?

18 MR. ROBERTS: No.

19 MS. MYERS: Okay. And a guy named Two
20 Dollar, you don't know what his government name is. Is
21 that right?

22 MR. ROBERTS: Right, yeah. I know he
23 was -- he was there the last time I went to that house
24 and the first time.

25 MS. MYERS: Okay. And you're talking about

1 the house on 6th Street?

2 MR. ROBERTS: Yeah. That was the first time
3 I ever went there. And then the second time, he was
4 there. Because I believe he was accusing E of stealing
5 a TV.

6 MS. MYERS: Two Dollar did?

7 MR. ROBERTS: Yeah.

8 MS. MYERS: Okay. Okay. So in that same
9 transcript, go to page 42. And on this page, on 42 -- so
10 in this kind of time period, Detective Collins and Brady,
11 they're kind of asking you about the Hayswood Hut area.
12 Okay? How familiar are you with Hayswood Hut?

13 MR. ROBERTS: At that time I weren't
14 familiar with it. But as they got to talking and telling
15 me where it was located, that's when I -- I realized
16 where it was, and I had been there before.

17 MS. MYERS: Okay. Why had you been there
18 before?

19 MR. ROBERTS: We used to throw parties at
20 that place.

21 MS. MYERS: Okay. Like at the hut itself,
22 or like --

23 MR. ROBERTS: Yeah, at the hut. You could
24 rent the building. My people used to do it.

25 MS. MYERS: Okay. So on page 42, kind of

1 where it starts at line 4, do you see where those kind of
2 numbers are on the sides?

3 MR. ROBERTS: Yeah.

4 MS. MYERS: And it says -- well, I guess
5 it's line 5. I know exactly where you're talking about
6 now, because Eric used to have a house right there.

7 MR. ROBERTS: Yeah. Eric had a house over
8 there too. That was like -- now that was -- when he had
9 this house, that's where he was staying at the last time
10 I went, you know, and seen him like in the three weeks.
11 The house was right beside the hut.

12 MS. MYERS: So the three weeks later, so
13 this night that you get arrested on --

14 MR. ROBERTS: Yeah.

15 MS. MYERS: -- was he living in that house
16 then?

17 MR. ROBERTS: No. He was -- I don't know
18 what transpired, but he was --

19 MS. MYERS: Gone.

20 MR. ROBERTS: I found out he was on 14th
21 Street. He said he got -- I think he said he got put out
22 that house. But that's where he was staying at.

23 MS. MYERS: Before?

24 MR. ROBERTS: Yeah.

25 MS. MYERS: So you had been there before.

1 How often had you gone there?

2 MR. ROBERTS: I ain't been there but like
3 one time to that house.

4 MS. MYERS: Okay.

5 MR. ROBERTS: I was back in Fayetteville, so
6 I didn't -- when I got arrested for that other charge, I
7 really quit going to Lumberton like that.

8 MS. MYERS: The?

9 MR. ROBERTS: Rape charge.

10 MS. MYERS: Okay. Okay. And so that's kind
11 of why you moved to Fayetteville?

12 MR. ROBERTS: Yes.

13 MS. MYERS: Okay. Did you grow up in
14 Lumberton or Fayetteville?

15 MR. ROBERTS: Fayetteville.

16 MS. MYERS: Fayetteville. Okay. And then
17 why did you move to Lumberton?

18 MR. ROBERTS: My cousin -- my older cousins
19 got picked up by the feds there, and I wanting to get out
20 the way before the feds picked me up.

21 MS. MYERS: Okay. Did you ever get picked
22 up by the feds?

23 MR. ROBERTS: Huh-uh. (Negative)

24 MS. MYERS: Okay. We're done with that
25 exhibit. I am going to now introduce that Thursday, June

1 20th interrogation that you had with the police. And
2 same thing. Got a few questions about some stuff that's
3 in there. Okay?

4 MR. ROBERTS: Yeah.

5 MS. MYERS: All right. So I'm going to
6 label this transcript as Commission Exhibit 97. All
7 right? And I'm going to hand that to you.

8 (Commission Exhibit 97 marked and
9 handed to Mr. Roberts.)

10 MS. MYERS: And then I'd like for you --
11 let's go to page 16.

12 MR. ROBERTS: Sixteen?

13 MS. MYERS: Uh-huh. Some of these -- if you
14 go down -- let me know when you're there. I'm sorry.

15 MR. ROBERTS: Yeah. All right.

16 MS. MYERS: I want you to go down to line
17 14. And you're talking about like -- you're telling them
18 who you had talked to that day. And you say that you had
19 talked to Soulski. That was in New Town. And we
20 discussed that today. Who is Stan McConnell?

21 MR. ROBERTS: Stan McConnell, the house I
22 like to ran into.

23 MS. MYERS: Say it again. The what?

24 MR. ROBERTS: The house, the one that we was
25 talking about, the picture.

1 MS. MYERS: Okay. Is it Stan McLaurin?

2 MR. ROBERTS: McLaurin, yeah.

3 MS. MYERS: Okay. Got you. Got you. Thank
4 you. You mentioned this person before. And if I asked
5 you before, and I'm repeating it, I apologize. Dee
6 Simpson.

7 MR. ROBERTS: Yes.

8 MS. MYERS: Who is Dee Simpson?

9 MR. ROBERTS: Him and my cousin was good
10 friends. And Dee was a dude that worked for a health
11 department or something like that.

12 MS. MYERS: Okay.

13 MR. ROBERTS: And I always looked up to him.
14 So he was there, and we was talking.

15 MS. MYERS: Did you see him in New Town?

16 MR. ROBERTS: Yes.

17 MS. MYERS: Did you see him anywhere else
18 that night?

19 MR. ROBERTS: Nah. Just in New Town.

20 MS. MYERS: And he worked at the health
21 department?

22 MR. ROBERTS: Yeah. He worked down in
23 Fayetteville.

24 MS. MYERS: In Fayetteville. Okay. Was his
25 first name Dee?

1 MR. ROBERTS: Demetrius Simpson.

2 MS. MYERS: Demetrius Simpson?

3 MR. ROBERTS: Yeah, I think that's his name.

4 MS. MYERS: Okay. Got you. And he's from
5 Fayetteville?

6 MR. ROBERTS: No, he's from Lumberton.

7 MS. MYERS: He's from Lumberton, but he was
8 working in Fayetteville. Is that right?

9 MR. ROBERTS: Yeah. Uh-huh. (Affirmative)

10 MS. MYERS: Got you. Okay. I think we had
11 talked about this a little bit with the Jack Nicholson
12 shirt. And I'm sorry. Go ahead and go to page 27. And
13 I'm just kind of generally -- it's -- Agent Brady asked
14 you if you remember what you were wearing that night.
15 And you've talked about it. You had said the same thing
16 to me here today.

17 This is probably -- I'm not sure if this
18 will be helpful or not. But I do want to just kind of
19 get a general sense from you. Because I have not seen
20 this shirt. I've seen your arrest photo, and so I've
21 seen the very top of it. But I haven't seen anything
22 else.

23 MR. ROBERTS: Yes.

24 MS. MYERS: So I'm going to show you a
25 general "Shining" picture. And I want you to let me know

1 what is different about this picture compared to what you
2 wore that night. Okay? It will help me understand a
3 little bit more.

4 I'm going to mark this -- label this as
5 Commission Exhibit 98. And I'm going to hand that to
6 you. And I can tell you, I think it was Danielle, who
7 was previously working on your case with me, Googled "The
8 Shining" T-shirts. And so that's what we came up with.

9 (Commission Exhibit 98 marked and
10 handed to Mr. Roberts.)

11 MS. MYERS: So you had talked about that the
12 Jack Nicholson character on the shirt was wearing a
13 grill.

14 MR. ROBERTS: Yeah. He had gold in both --
15 his whole mouth was golded out.

16 MS. MYERS: And it was a white T-shirt?

17 MR. ROBERTS: Yeah. And it had red -- red
18 writing on the back of it, like "I'm still shining". And
19 it might have had a couple words on the top in red.

20 MS. MYERS: Okay. Was the picture in color
21 or was the picture in black --

22 MR. ROBERTS: Black and white.

23 MS. MYERS: It was black and white. Okay.
24 So the whole picture of Jack Nicholson's face --

25 MR. ROBERTS: Black and white.

1 MS. MYERS: -- was black and white. The
2 words were red.

3 MR. ROBERTS: Was red.

4 MS. MYERS: Got it. Okay. Is there
5 anything else about -- that stands out to you about that
6 shirt as you're looking at this one, which is very
7 clearly not the shirt you wore that night?

8 MR. ROBERTS: It was white, and that's it.

9 MS. MYERS: Okay.

10 MR. ROBERTS:: It was white.

11 MS. MYERS: Okay. And it definitely -- he
12 had a grill on his top and bottom teeth?

13 MR. ROBERTS: Yeah.

14 MS. MYERS: Okay. All right. Turn to page
15 28 over there. And it looks like you're talking
16 about -- you're talking about the DWI or the -- when
17 your car had gone into the ditch. And kind of going
18 down towards line 9, you talk about I was sitting there
19 like -- and I was sitting like this right here. And you
20 demonstrate how you were sitting, I guess, in the
21 vehicle. And you said a lady was coming down in a truck.

22 MR. ROBERTS: Uh-huh. (Affirmative)

23 MS. MYERS: Was that lady one of the Native
24 people that you thought you saw?

25 MR. ROBERTS: Yeah. It was her and her

1 boyfriend.

2 MS. MYERS: Her and her boyfriend. Okay.
3 And then you say down on page -- or I'm sorry. Same
4 page, but line 15 and 16 -- well, actually, starting on
5 line 14. You had said I guess when the alcohol -- she
6 called the police.

7 MR. ROBERTS: Yeah.

8 MS. MYERS: Because I had a scent. I could
9 smell the scent myself.

10 MR. ROBERTS: She -- no. What I said, I
11 said -- well, I put it about like that. But she said you
12 smell like alcohol. And that's when her boyfriend -- she
13 looked at her boyfriend, and she's like you got a heavy
14 scent of alcohol. But they was talking about the chains.
15 And then, that's when they went on up to the house. So I
16 said -- I guess when she smelled it, that's when I -- you
17 know.

18 MS. MYERS: Okay. Did you smell it? Could
19 you smell alcohol on you though?

20 MR. ROBERTS: Yeah.

21 MS. MYERS: Okay. How often in your life
22 have you drank something and then drank so much that you
23 could smell yourself? Like smell the alcohol coming out
24 of your body. I mean, was that common? Was it every
25 once in a while?

1 MR. ROBERTS: I didn't drink every day. But
2 it was mostly like when I do go on my binge, I be
3 smelling like alcohol. Or you know, like I can smell it
4 because of sweat. I don't sweat much, but when I sweat,
5 I could smell it.

6 MS. MYERS: Okay. And when you say when you
7 go on a binge, tell me what that means to you.

8 MR. ROBERTS: Weekend drinking. When I
9 drink. Like I might do it for a couple months, and then
10 I do it again. Like that night -- that day there, I was
11 celebrating because I had got a job, and I had been out
12 of work for so long.

13 MS. MYERS: Okay. I want to direct your
14 attention to page 30. Okay? So go up a couple. You're
15 kind of being -- sorry. I'll let you get to that before
16 I start questioning you.

17 You are asked about kind of the general area
18 around like the Hut. Okay? And so on line 7 -- this is
19 page 30, line 7. Agent Brady says because there might be
20 a legitimate reason why you rode down that road. And the
21 road he's referring to, I can tell you, is Peachtree
22 Street. Okay?

23 MR. ROBERTS: Uh-huh. (Affirmative)

24 MS. MYERS: And why people say that car was
25 down that road. You might have just rode by there, I

1 don't know. And then you say that's -- because that's
2 usually the shortcut way. So talk to me about like that
3 being a shortcut.

4 MR. ROBERTS: Okay. Like well, I went
5 through that road. I ain't going to sit here and lie
6 about that. I went through that road. But that was
7 early during that day.

8 MS. MYERS: Okay.

9 MR. ROBERTS: That was -- when we first went
10 over there, that's the road that we went through.

11 MS. MYERS: From where? How would you have
12 -- at what point --

13 MR. ROBERTS: From New Town, it's like
14 diagonal from New Town. So when we turn, the Triangle
15 Ice place right here. We go through that way to get on
16 over to East Pine instead of going all the way around or
17 don't -- and we don't like going by the police station,
18 so we took that way.

19 MS. MYERS: Right. Okay. And the Hut -- I
20 mean, but the Hut is right by the police station.

21 MR. ROBERTS: Yes. It's just like two
22 blocks away from it. One block or something.

23 MS. MYERS: Okay. But if you take Peachtree
24 down from E-town?

25 MR. ROBERTS: We are coming back from New

1 Town.

2 MS. MYERS: Are you going Booker?

3 MR. ROBERTS: If we come -- if I come from
4 New Town, I'm going to hit Elizabethtown Road, and then
5 hit Peachtree.

6 MS. MYERS: Okay. And then you would take a
7 left on Peachtree?

8 MR. ROBERTS: Yes.

9 MS. MYERS: Okay. You take a left on
10 Peachtree. Got it. And then from there, you would go --

11 MR. ROBERTS: It would come out to 11th
12 street.

13 MS. MYERS: Okay. And then do you turn left
14 or right?

15 MR. ROBERTS: Summit Street and all right
16 here.

17 MS. MYERS: Which way?

18 MR. ROBERTS: I guess that -- that road,
19 Summit, I didn't know that road. But that would be
20 Summit after you switch over to Summit or something like
21 that. I didn't know that.

22 MS. MYERS: And that's how you would get to
23 East Pine?

24 MR. ROBERTS: Yeah.

25 MS. MYERS: So you would get to 11th, and

1 then turn where? I didn't catch you. To get to East
2 Pine.

3 MR. ROBERTS: You would be right there in
4 East Pine from that road.

5 MS. MYERS: Okay. If you just stay
6 straight?

7 MR. ROBERTS: All this East Pine, yeah.

8 MS. MYERS: Got you. Okay. The area is
9 called East Pine?

10 MR. ROBERTS: Yeah. That's the name of the
11 whole neighborhood right there.

12 MS. MYERS: Even the neighborhood that
13 encompasses the Hut? Or is it further down?

14 MR. ROBERTS: Yeah. All that's the East
15 Pine.

16 MS. MYERS: Got you. Okay. Got you.
17 That's helpful. So you had been down there earlier that
18 day to get over there.

19 MR. ROBERTS: Uh-huh. (Affirmative)

20 MS. MYERS: Where would you have gone from
21 when you went from New Town, and then that's when you
22 immediately went to -- tell me where you went after you
23 left New Town that first time with E.

24 MR. ROBERTS: When I left New Town.

25 MS. MYERS: And then you went to the

1 bootlegger house.

2 MR. ROBERTS: Yeah. We went through
3 Peachtree, and then went over there. Because I had
4 told -- I told the officers that day, yeah, I went
5 to -- I went through Peachtree.

6 MS. MYERS: Right. Right. Okay.

7 MR. ROBERTS: And that was earlier.

8 MS. MYERS: Is there a chance you would have
9 gone by there at all later on?

10 MR. ROBERTS: I probably rode through there
11 one more time, but it weren't at night.

12 MS. MYERS: Okay.

13 MR. ROBERTS: The police made me -- when
14 they asked me these questions, I was -- I was thinking of
15 daytime of all the stuff they were asking me. But if
16 they would have -- like I was trying to help them in
17 their investigation.

18 MS. MYERS: Is there any chance that you
19 would have gone by there at night though?

20 MR. ROBERTS: No.

21 MS. MYERS: No. Why not?

22 MR. ROBERTS: Because when I left, I been
23 gone -- I left when -- I told you I went past the police
24 station and seen that they was rebuilding it.

25 MS. MYERS: And then you kept --

1 MR. ROBERTS: Yeah. I kept on going on out.

2 MS. MYERS: Okay. And when you --

3 MR. ROBERTS: The reason why I wouldn't have
4 been there at night, because I don't hang out at night in
5 that -- not in that part of town. I don't know nothing
6 about it. And I already know it's dangerous through
7 there.

8 MS. MYERS: Okay. Okay. So when you were
9 in Lumberton before, though, what area were you in?

10 MR. ROBERTS: Davis Heights and Meadow View.

11 MS. MYERS: Got you. Not East Pine?

12 MR. ROBERTS: East Pine. East Pine is not
13 anywhere I'd be at like that.

14 MS. MYERS: Okay. I got you. All right.
15 Go to page 35, and at the very top of that page, you
16 are -- you say that y'all said somebody got killed, and
17 that you heard it on the street. Do you recall saying
18 that to them?

19 MR. ROBERTS: Yeah. I want to -- I'm not
20 quite sure. But it's been so long, like it's getting me
21 puzzled. But I don't know when I talked to Kim. I can't
22 remember the date that I talked to Kim.

23 But I remember while I was in jail,
24 somewhere during that time -- I want to say it was
25 Saturday morning, but I'm not for sure. I want to say it

1 was Saturday morning. That Saturday, I called Kim, and
2 told her to call Vanessa to make -- so I could make bond.

3 MS. MYERS: Why didn't you call Vanessa
4 directly?

5 MR. ROBERTS: Because I was in Lumberton,
6 and you can't make a free call --

7 MS. MYERS: To Fayetteville?

8 MR. ROBERTS: Yeah.

9 MS. MYERS: Okay.

10 MR. ROBERTS: And I don't know if this was
11 the day that she said, boy, you kill Brea boyfriend? I'm
12 not for sure. But I know I talked to her, and she said
13 that on the phone.

14 MS. MYERS: And what was your reaction?

15 MR. ROBERTS: I'm like, girl, you crazy?
16 What is you talking about? And I said I didn't even know
17 Brea boyfriend.

18 MS. MYERS: Okay.

19 MR. ROBERTS: And when she found out it
20 weren't me, when the newspaper came out. Because the
21 newspaper told the time. And I never forget, some Indian
22 boys came to the -- man, you all on the news and
23 everything. But I didn't -- I didn't know -- I didn't
24 watch the news none that weekend. I was sleeping that
25 alcohol off the whole time. So when they came, the guys

1 showed me the newspaper after they charged me.

2 MS. MYERS: You were still sleeping alcohol
3 off?

4 MR. ROBERTS: Nah. I was -- I was laying
5 down.

6 MS. MYERS: Okay.

7 MR. ROBERTS: But the first interview, it
8 had me puzzled. But the second one, when they charged
9 me, that's when the newspaper came out. So that's when I
10 found out. Oh, I didn't do this. Because it was night.
11 When they said night, I knew it wasn't me from then on.

12 MS. MYERS: Okay. All right. Turn to page
13 38. So on page 38, you're talking about -- so a little
14 bit before this, they're asking you about, like did
15 somebody make you mad, and like, did they say something
16 to you. And Agent Brady says that -- he asked you -- you
17 said last time you were accused of this before. Who
18 accused you of this before. And then you said somebody
19 got killed in New Town a long time ago, and I was picked
20 up on just hearsay. I was in the jailhouse the whole
21 time. Do you -- tell me what that was about.

22 MR. ROBERTS: This guy tied up my aunt. And
23 that's my uncle, David Roberts, and his son, they tied up
24 -- well, David was locked up, but they tied up my aunt.
25 And I called home, and they tell me about this situation.

1 And before I knew it, like, they came and got me. Like
2 your name was brought up. But when they got there and
3 found out how long I had been in jail, they was like, no
4 way in the world he did it.

5 MS. MYERS: So at the time that this guy
6 gets killed in New Town --

7 MR. ROBERTS: Yeah, I had been in jail.

8 MS. MYERS: Do you remember the guy's name?

9 MR. ROBERTS: Hector.

10 MS. MYERS: Hector. Hector tied up your
11 aunt?

12 MR. ROBERTS: Yeah. Well, his -- some
13 people that he sent.

14 MS. MYERS: Went and tied up your aunt?

15 MR. ROBERTS: Yeah. They tied up her and my
16 little cousin. He was going to ECU then.

17 MS. MYERS: And then later on -- was Hector
18 ever -- did he or any of his people ever get in trouble
19 for this with your aunt?

20 MR. ROBERTS: Yeah. He got killed that
21 night.

22 MS. MYERS: Okay. And so you were
23 interviewed after that?

24 MR. ROBERTS: Yeah, they came --

25 MS. MYERS: And you were in jail at the

1 time?

2 MR. ROBERTS: Yeah.

3 MS. MYERS: Okay. So they then were like,
4 okay, there's no way Clarence Roberts killed Hector
5 because he's in jail?

6 MR. ROBERTS: Yeah. I guess they went and
7 listened to my calls. And they were trying to do all
8 kind of stuff. But they found out it weren't me.

9 MS. MYERS: Okay. Because you were in jail?

10 MR. ROBERTS: Yeah.

11 MS. MYERS: And where were you in jail at?

12 MR. ROBERTS: Lumberton.

13 MS. MYERS: You were in jail in Lumberton.

14 Okay. Go to page -- so the next page, so 39 and 40.

15 This is when you start talking about the sexual assault

16 case. And at the very bottom of this page you say that

17 the same people, like this boy -- it's like his name was

18 in this last case too. And it's like I don't know why.

19 I don't got no beef with him. But I don't know why they

20 keep throwing my name and stuff.

21 Do you know what they're talk -- or who that
22 boy is that you're referring to here?

23 MR. ROBERTS: I don't -- I can't remember.

24 But it might be Soulski, but I'm not for sure. Because

25 it was -- I know a lot of people be throwing my names and

1 stuff. And like Kim threw my name in this murder. She
2 threw my name in that rape.

3 MS. MYERS: Why? Why would she do that?

4 MR. ROBERTS: That's some question I want to
5 know myself.

6 MS. MYERS: Okay.

7 MR. ROBERTS: But the same people that was
8 in -- Dee saw the people I be around. And these are the
9 same people that put me in different situations. And
10 that's the second time that they did. And I just don't
11 know why. But any time my name come up far as anything,
12 I'm picked up.

13 MS. MYERS: Okay. So you're not sure who
14 you're talking about there, but you think it could be
15 Soulski?

16 MR. ROBERTS: Yeah, it could be Soulski.
17 There's a lot of people throw my name, and like it's --
18 there's a lot of people that just --

19 MS. MYERS: Why would people throw your name
20 into things?

21 MR. ROBERTS: Because they might see me --
22 might see me earlier, just -- just my under -- like with
23 this rape charge. Like I told you, I seen Levi that
24 night. I went to James Bell house that night. I went
25 to -- I seen her other brother, Arthur that night.

1 But me and Kim got in an argument that
2 night. I never forget. She told my son to kick me.
3 That was the first time I ever spanked -- well, that's my
4 second time spanking him. Because he called her a "B"
5 one time. And he kicked me. And I hit him with a --
6 like a paddle, and I spanked him. But she called the
7 police on me that night, and described the clothes I had
8 on. And I went home, and that was about 12 o'clock, me
9 and -- Machine was with me that night.

10 MS. MYERS: You and who?

11 MR. ROBERTS: A dude named Machine. But --

12 MS. MYERS: Okay.

13 MR. ROBERTS: He's in that case. But
14 anyway, he died. But I went home, and she called the
15 next day and tell me that I was -- I'm being -- the
16 police looking for me for that rape. And I said what in
17 the world you talking about? And like I said, somehow
18 they threw my name up, and I got picked up for it.

19 MS. MYERS: Okay. Okay. Page 40. Kind of
20 like -- this is kind of backing up, kind of -- or going
21 off of what I had just kind of asked you about a little
22 bit, is why does your name keep getting thrown around.

23 You talk about like people -- I think
24 you're -- I'm going to go up to line 2 on that page, and
25 you say but I don't know why they keep throwing my name

1 and stuff. Like certain things -- and it's like when I
2 come around, it's like, oh he's this, he do this, people
3 pay him to do this, and do that. I don't know what
4 they're talking about. What do people pay you for?

5 MR. ROBERTS: They be -- they saying
6 like -- what I meant by that, they saying my family, my
7 cousins, they were big time. And when I come around, a
8 lot of people be nervous. Like Bug, for instance,
9 Soulski. Just a lot of people in general that I used to
10 hang with. If they did something to them, they feel like
11 my cousin and them paid me to do something to them. And
12 they feel like -- like they -- they actually think I did
13 kill Hector.

14 MS. MYERS: Okay. Who are your cousins that
15 are big time?

16 MR. ROBERTS: Anthony Ingram and David
17 Roberts.

18 MS. MYERS: Okay. What are they big time
19 for?

20 MR. ROBERTS: They was big-time selling
21 drugs. But they, you know, stopped. They stopped for a
22 while. Anthony just came home from the feds.

23 MS. MYERS: Got you. Okay. Did they ever
24 pay you to do something?

25 MR. ROBERTS: No.

1 MS. MYERS: Why do people think that?

2 MR. ROBERTS: Because that's the type of
3 person they are. But, you know.

4 MS. MYERS: But there's nothing to back that
5 up?

6 MR. ROBERTS: No, there ain't -- they ain't
7 proved nothing. But they -- like I said, I was locked
8 up. I can't help what they do. But I was locked up. It
9 don't be me.

10 MS. MYERS: Okay. And you're referring to
11 the Hector thing?

12 MR. ROBERTS: Yeah.

13 MS. MYERS: Okay. Got you. Turn to page
14 46. I think I know the answer to this, but just to be
15 super clear, I want to just make this a little bit clear
16 for us. Agent Brady, at the very top of page 46, he
17 asked about if you have phone. And then you give him a
18 phone number. Was that your house number?

19 MR. ROBERTS: Yeah. That was my --

20 MS. MYERS: Okay. Not your cell phone
21 number. Okay. Because I think you talk about it in
22 this, so I just want to be clear that --

23 MR. ROBERTS: I told him my phone was broke.

24 MS. MYERS: Right.

25 MR. ROBERTS: It was on the bed.

1 MS. MYERS: Okay. So did you have a cell
2 phone at all this night on your person?

3 MR. ROBERTS: No.

4 MS. MYERS: Okay. Got you. And did you
5 have a working cell phone at all during this time period?

6 MR. ROBERTS: It was working, but it was
7 like -- it was broke. I had a -- the first Galaxy. So
8 if you drop it, you know, it breaks easy.

9 MS. MYERS: Okay. Got you.

10 MR. ROBERTS: So I had to get this phone
11 renewed about four or five times.

12 MS. MYERS: Okay. Have you ever used a gun
13 before?

14 MR. ROBERTS: What you mean as far as using
15 a gun?

16 MS. MYERS: Like against somebody else.

17 MR. ROBERTS: Like pulling it?

18 MS. MYERS: Uh-huh.

19 MR. ROBERTS: Yeah. I had pulled one out on
20 Shonda a long time ago.

21 MS. MYERS: All right. Tell me about that.

22 MR. ROBERTS: Well, she went out one weekend
23 on a Friday, and I had her son.

24 MS. MYERS: What was her son's name?

25 MR. ROBERTS: Deavon. And we was in a

1 relationship. And she didn't come -- I didn't see her no
2 more till Sunday. Her aunt came over looking for her.
3 And she ask where Shonda at? I said I don't know, I
4 ain't seen her since Friday, I thought maybe you would
5 know. But anyway, she said let's ride to McDonald's or
6 something. I said, yeah, I need to go to McDonald's
7 because I got to get him something to eat.

8 MS. MYERS: Meaning Deavon?

9 MR. ROBERTS: Deavon. And he was young
10 then. But anyway, we get to McDonald, and she was in the
11 car with a dude. And it had me mad. Her little cousin
12 had a gun on him. And it was in the truck. She didn't
13 know I was in the truck because it had tinted windows.
14 But I told her to go straight to the house. When she
15 realized that I was in the truck, I said you better go
16 straight to the house right now. And her little cousin
17 wouldn't give me the gun. So I went to my brother-in-law
18 house.

19 MS. MYERS: Who was her cousin?

20 MR. ROBERTS: His name was Casey.

21 MS. MYERS: Casey?

22 MR. ROBERTS: Uh-huh. (Affirmative)

23 MS. MYERS: Okay.

24 MR. ROBERTS: But I went to my brother-in-
25 law house, and grabbed a gun.

1 MS. MYERS: Who was your brother-in-law?

2 MR. ROBERTS: His name is Shane Lowery.

3 MS. MYERS: Shane Lowery?

4 MR. ROBERTS: Uh-huh. (Affirmative)

5 MS. MYERS: Is he a white guy?

6 MR. ROBERTS: Nah. He's -- but he look

7 Black and Indian, I guess that's what he would be.

8 MS. MYERS: Okay.

9 MR. ROBERTS: And the dude had a gun. He
10 pulled out a 12-gauge. But when he saw me coming across
11 the street with the gun, he took off. And I took the
12 clip out, and the one out the chamber, and pointed it at
13 her. And I got arrested.

14 MS. MYERS: Okay. Have you ever used a gun
15 for anything else?

16 MR. ROBERTS: Not that I remember.

17 MS. MYERS: Were you ever almost robbed?

18 MR. ROBERTS: That's the one I didn't want
19 to talk about. But yeah.

20 MS. MYERS: Say that again. You what?

21 MR. ROBERTS: I didn't want to talk about
22 that. But yeah.

23 MS. MYERS: Okay. Sorry. I want to talk
24 about it. Okay?

25 MR. ROBERTS: Well, I ended up shooting

1 that guy.

2 MS. MYERS: Okay. You shot him. And tell
3 me about that incident. Because were you ever arrested
4 for that?

5 MR. ROBERTS: No.

6 MS. MYERS: Okay. Well, tell me about why
7 you shot him.

8 MR. ROBERTS: He came up, him and some other
9 guys in Fayetteville. I was at a store. And this dude,
10 me and him was good friends. And we ate it from the same
11 table a long time. And I thought I could trust him.

12 When I went out to the store, him and his
13 homeboys came out with a TEC-9, put it to my head. And
14 the other guy had a knife, and they was trying to rob me.
15 I had the money in the car. I ended up shooting him.

16 MS. MYERS: Okay. What was that guy's name?

17 MR. ROBERTS: I don't remember -- know his
18 real name. It's been so long.

19 MS. MYERS: That's okay. What did you know
20 him by?

21 MR. ROBERTS: He changed his name. But we
22 used to call him Big Daddy Kane nephew. Because he was
23 like uncle -- Big Daddy Kane, the rapper, was his uncle.

24 MS. MYERS: Okay. But you were really close
25 to this guy that you had to shoot?

1 MR. ROBERTS: Yeah. His name was Nathaniel.

2 MS. MYERS: Nathaniel what?

3 MR. ROBERTS: I don't know his last name.

4 MS. MYERS: Okay. And is he in prison now?

5 MR. ROBERTS: Yeah. For killing somebody.

6 MS. MYERS: Okay. How can I find him? I

7 mean, how could I look him up on the DAC website?

8 MR. ROBERTS: I don't know.

9 MS. MYERS: So is he from Cumberland?

10 MR. ROBERTS: Uh-huh. (Affirmative)

11 MS. MYERS: Do you know when he was put in

12 prison for murder? Or when he killed somebody? Do you

13 know about the year?

14 MR. ROBERTS: I know the person he killed.

15 MS. MYERS: Who was the person he killed?

16 MR. ROBERTS: Donnie McFadden.

17 MS. MYERS: Donnie McFadden? Okay. Did you

18 shoot anybody else during that incident or was it just

19 him?

20 MR. ROBERTS: Just him.

21 MS. MYERS: Okay. And then after that

22 incident, you shot him, what happened? Did everybody

23 else run off?

24 MR. ROBERTS: No. I don't know if they

25 reported me. Fayetteville and Lumberton different.

1 In Fayetteville, people don't tell on you,
2 because they know what I do, and they know I don't start
3 trouble. But Lumberton, they feel like I start trouble.

4 MS. MYERS: Why does Lumberton feel like you
5 start trouble?

6 MR. ROBERTS: I guess cause my cousin and
7 them reputation.

8 MS. MYERS: Okay. Could it be because of
9 your own reputation from selling drugs too?

10 MR. ROBERTS: No. I didn't -- I weren't
11 carrying -- I was carrying guns, but not like -- like --
12 like my cousins and them was.

13 MS. MYERS: Okay. Do you remember Toni
14 Elliott?

15 MR. ROBERTS: Yeah. She was my mitigation
16 specialist.

17 MS. MYERS: Yeah. Let me introduce this as
18 an exhibit. I'm going to introduce this as Commission
19 Exhibit 99. I've got one quick question for you on this
20 thing. Some of this we've kind of already talked about.
21 And so I don't need to ask you about it. But I'm handing
22 you what I just labeled as Commission Exhibit 99.

23 (Commission Exhibit 99 marked and
24 handed to Mr. Roberts.)

25 MS. MYERS: I want you to go to page -- at

1 the very bottom, it's labeled 1178. So it's the last
2 page.

3 MR. ROBERTS: I got you.

4 MS. MYERS: And go to number 30 right there.
5 Let me know when you get there. But it starts with WeDo
6 works at the same place as Jennifer Gurley.

7 MR. ROBERTS: Okay.

8 MS. MYERS: Down at number 30. There's like
9 a star by it.

10 MR. ROBERTS: Uh-huh. (Affirmative)

11 MS. MYERS: Tell me about what you -- why
12 did you tell Toni about that? Like what was the
13 significance of that?

14 MR. ROBERTS: Toni?

15 MS. MYERS: Yeah. Like about when you said
16 WeDo works at the same place as Jennifer Gurley does, and
17 his mother called me one time to see where he was.

18 MR. ROBERTS: Toni -- oh, oh. Well, this
19 guy right here, he was a well-known Blood.

20 MS. MYERS: Did you know him?

21 MR. ROBERTS: No.

22 MS. MYERS: Okay.

23 MR. ROBERTS: But during this time, I was in
24 the house -- Jennifer used to come to stay with me almost
25 every weekend.

1 MS. MYERS: When you were living in
2 Fayetteville?

3 MR. ROBERTS: Yeah. Yeah.

4 MS. MYERS: Okay.

5 MR. ROBERTS: I kept her -- she stayed with
6 me, Cornbread and Jarod. But during this time, she
7 called me, and asked me did I know WeDo. And I told her
8 no. His mom --

9 MS. MYERS: Jennifer Gurley called you and
10 asked you if you knew him?

11 MR. ROBERTS: Yeah.

12 MS. MYERS: Okay.

13 MR. ROBERTS: But anyway, she said this lady
14 wanted to talk to you. And I said who is it. Said this
15 his mother, she work with me. And when she tell me he
16 got killed, I said I don't know your son, but where did
17 he get killed at? And she tells me he got killed in
18 Fayetteville, on Colonial.

19 And I said do he bang? She said yeah. I
20 said, what is he? She said he Blood. I said, well, if
21 he Blood, it's an inside job. Because that's a Blood
22 neighborhood. And she was going like I don't know how
23 you know, but that's the same thing I'm hearing down
24 here.

25 MS. MYERS: Well, how did you know that?

1 MR. ROBERTS: Because I go through that
2 neighborhood. I know all the streets.

3 MS. MYERS: Okay.

4 MR. ROBERTS: Fayetteville.

5 MS. MYERS: Did you know anything about
6 WeDo's murder?

7 MR. ROBERTS: I heard that it was Dextor.

8 MS. MYERS: Who did you hear that from?

9 MR. ROBERTS: I heard that from a lot of
10 people.

11 MS. MYERS: And when you heard that it was
12 Dextor -- when was the first time you ever heard of
13 Dextor? Was it with this case?

14 MR. ROBERTS: It started --

15 MS. MYERS: With WeDo's case?

16 MR. ROBERTS: Yeah. It started from WeDo
17 case. Then Lamont case. Lamont was Certified.

18 MS. MYERS: Lamont was Certified?

19 MR. ROBERTS: His name -- he was named
20 Certified. I don't know Lamont last name.

21 MS. MYERS: I'm sorry. Lamont was
22 Certified. Say that again.

23 MR. ROBERTS: His nickname was Certified.

24 MS. MYERS: His nickname was Certified.
25 Okay.

1 MR. ROBERTS: His real name was Lamont.

2 MS. MYERS: Was he really young?

3 MR. ROBERTS: Yes. He was young.

4 MS. MYERS: Like 15?

5 MR. ROBERTS: No. He was a little bit -- I
6 want to say he was a little older than that.

7 MS. MYERS: Okay. I think I'm thinking of
8 somebody else then.

9 MR. ROBERTS: But during this time, I goes
10 to this kid, Furman (phonetic), because my brother got
11 killed in Wilmington, named Mike. I know y'all probably
12 read about that.

13 MS. MYERS: Uh-huh.

14 MR. ROBERTS: But anyway, this was his
15 stepson.

16 MS. MYERS: Lamont was his stepson?

17 MR. ROBERTS: Yeah.

18 MS. MYERS: Was your brother's stepson?

19 MR. ROBERTS: Yeah. But anyway, I didn't
20 know Lamont banged or nothing. I had seen Lamont a
21 couple months before this happened. He was like what's
22 up Uncle Woo. My sister called me. I want to say it was
23 Tasha. I don't know which one, but they called me, and
24 like, Bro, you know little Lamont got killed. I said
25 Lamont who? Said Lisa's son. I said Lisa's son? Said

1 yeah. But nobody's telling me where he get killed at,
2 they just told me he got killed.

3 MS. MYERS: But it was in Fayetteville?

4 MR. ROBERTS: It was in Lumberton.

5 MS. MYERS: It was in Lumberton. Okay.

6 MR. ROBERTS: All right. Well, he got
7 killed out there I think where Jennifer is staying now.

8 MS. MYERS: Okay.

9 MR. ROBERTS: But anyway, I go to the
10 funeral. I'll never forget. It was his wake or his
11 funeral, one of the two. And I goes to it. And I walked
12 to his casket. And he got on this red shirt with Polo
13 black jeans.

14 And all the young guys start standing up
15 behind me. And I looked around, and Lisa wasn't in
16 there, so I'm like what in the world going on? They
17 start standing up like he was Big Blood or something.

18 And when Lisa come in, she was like, nah,
19 he's okay. That's Woo, that's his uncle. They say, oh
20 you're Woo. Oh yeah, he talked about you a lot.

21 MS. MYERS: Did you know who any of these
22 guys were?

23 MR. ROBERTS: No.

24 MS. MYERS: Did they have any reason to like
25 carry any animosity with you after this or anything?

1 MR. ROBERTS: No.

2 MS. MYERS: Okay.

3 MR. ROBERTS: I walked out. But I'll never
4 forget when we was there, it was like a car came by. And
5 I don't know what they said, but they said something
6 disrespectful, and all the young guys ran out.

7 And after -- I'll never forget. I told
8 Tasha, let's get in the car, and let's go. And I said,
9 man, I didn't even know he banging.

10 But after I got locked up, I find out who
11 killed him, and the reason behind it and all of that.
12 And then I heard it was behind Dextor, because Dextor
13 killed WeDo, and they supposedly wanted to kill Dextor.
14 And they was in the car with his nephews which was Justin
15 Stephens and Joshua Stephens.

16 MS. MYERS: Dextor's nephews?

17 MR. ROBERTS: Yeah. When they found out it
18 was Dextor -- when they found out that they was coming to
19 kill Dextor, they shot (inaudible), shot Lamont in the
20 back of the head, and shot his friend. And he played
21 dead.

22 And that's when I started finding out more
23 about my case. And all the younger dudes that just like
24 stayed with me during the summer, started telling me who
25 Dextor was, and I might want to -- and who he talk to.

1 And we started dealing with -- we were dealing with the
2 same females, and I did not know it.

3 MS. MYERS: You and Dextor were dealing with
4 the same females? Like who?

5 MR. ROBERTS: Shonda and Amber.

6 MS. MYERS: Who else?

7 MR. ROBERTS: The girl Amber. I didn't deal
8 with her, but I used to know her mama real good. Which
9 is Elaine.

10 MS. MYERS: Elaine Lowery?

11 MR. ROBERTS: Yes.

12 MS. MYERS: Okay. I'm going to show you
13 Commission Exhibit 27, and I want to know, do you know
14 who this person is?

15 (Hands Exhibit 27 to Mr. Roberts.)

16 MR. ROBERTS: No.

17 MS. MYERS: Okay. If I told you that was
18 Amber Lowery, does that make any difference to you?

19 MR. ROBERTS: She was little when I last saw
20 her. She was a child.

21 MS. MYERS: How many kids did Elaine have?

22 MR. ROBERTS: Two.

23 MS. MYERS: Amber and who else?

24 MR. ROBERTS: Brittany.

25 MS. MYERS: Okay. Just for purposes of

1 right now. I didn't show you this before. I'm going to
2 show you what was previously marked as Exhibit 29. Do
3 you know who this person is?

4 (Hands Exhibit 29 to Mr. Roberts.)

5 MR. ROBERTS: No.

6 MS. MYERS: No. Okay.

7 MR. ROBERTS: I don't know. His face look
8 kind of familiar, but I don't know.

9 MS. MYERS: I am going to show you what was
10 previously marked as Commission Exhibit 2. Do you
11 recognize this person?

12 And, Mr. Roberts, you do not have to hold
13 all those things. You are welcome to. But please feel
14 free to put them back up on the desk.

15 (Hands Exhibit 2 to Mr. Roberts.)

16 MR. ROBERTS: This guy here look like Henry
17 Stephens.

18 MS. MYERS: You're right. It is. Tell me
19 about how do you know Henry Stephens?

20 MR. ROBERTS: Well, Henry -- me and Henry
21 did time together. And he used to come cop from me
22 sometime, like buying weight. And I know his sister,
23 Mug, which is Justin mama. I didn't know that till --

24 MS. MYERS: His sister's name is Mo?

25 MR. ROBERTS: Mug.

1 MS. MYERS: Mug?

2 MR. ROBERTS: Uh-huh. (Affirmative)

3 MS. MYERS: Okay. Is he related to Dextor
4 Stephens?

5 MR. ROBERTS: They brothers.

6 MS. MYERS: Okay. Did you have any -- when
7 were you incarcerated with him?

8 MR. ROBERTS: The day of my trial. When I
9 was started going to trial, and when I got sentenced.

10 MS. MYERS: Did you have any conversations
11 with him about your case?

12 MR. ROBERTS: Yeah. He the one told me --
13 he told me that Dextor did it.

14 MS. MYERS: How did he know Dextor did it?

15 MR. ROBERTS: He said his mama hid the car,
16 and the car was shot up. He remember when the car was
17 shot up.

18 MS. MYERS: Henry Stephens remembered when
19 the car was shot up because his mother hid the car?

20 MR. ROBERTS: Yeah. Because he said his
21 mother smoked the dope.

22 MS. MYERS: Because his mom what?

23 MR. ROBERTS: His mom used to smoke -- smoke
24 dope.

25 MS. MYERS: Smoke dope, meaning what?

1 MR. ROBERTS: Cocaine.

2 MS. MYERS: Okay. Where did she hide the
3 car?

4 MR. ROBERTS: He didn't say. But he's like,
5 man, I hate that he taking a good person down.

6 MS. MYERS: What kind of car -- did he tell
7 you anything about the car?

8 MR. ROBERTS: He told me it was a Dodge
9 Stratus.

10 MS. MYERS: Henry Stephens told you it was a
11 Dodge Stratus. Okay. Did he tell you whose car it was?

12 MR. ROBERTS: Nah. He didn't know who car
13 it was.

14 MS. MYERS: Okay.

15 MR. ROBERTS: He said it could have been a
16 white girl. I forgot the white girl name. But --

17 MS. MYERS: A white girl that does not look
18 like Amber Lowery?

19 MR. ROBERTS: Yeah. But he said it could
20 have been Amber. But I know the cats that I got the
21 information from, they knew them, and they said it was
22 Amber car.

23 MS. MYERS: Who are these people that you
24 got that information from?

25 MR. ROBERTS: It's been a long time. I

1 can't think of this young boy name. But he was in jail
2 with me, in the holding cell.

3 MS. MYERS: Okay.

4 MR. ROBERTS: And when he found out that I
5 was locked up for it, he was like, man, I remember when
6 we used to come to your house, man, and go get the shoes
7 and get jobs down there.

8 MS. MYERS: What were these younger guys
9 doing at your house? Like you've mentioned that a couple
10 times. So explain to me what you mean by that.

11 MR. ROBERTS: I were -- my Uncle Abdulu, he
12 Muslim. So when they come --

13 MS. MYERS: Your uncle had what?

14 MR. ROBERTS: He's Muslim. And he --

15 MS. MYERS: Oh, your uncle is Muslim. Okay.

16 MR. ROBERTS: And he got this business that
17 I be helping like clean up his yard, and going to put the
18 rocks on the Muslim grave. And I take them out, cut
19 grass, and show them how to -- like when I was young, 15,
20 I had a job working at Fayetteville State University.
21 So, I be trying to show them that.

22 MS. MYERS: Got you.

23 MR. ROBERTS: And I know I had to go through
24 all the work to get them. But I help them get school
25 clothes and stuff like that.

1 MS. MYERS: Got you. When -- you called him
2 Dennis Stephens. Did you know him as Henry Stephens too?

3 MR. ROBERTS: I knew him -- I know him --
4 that's all I know him by Henry.

5 MS. MYERS: Oh, Henry. I'm sorry. Did you
6 know -- and you didn't know him by Dennis. Okay.

7 When you -- did Henry tell you -- or when
8 Henry had this conversation with you, was anybody else
9 around that would have heard this?

10 MR. ROBERTS: Well, Darick McArthur, my
11 uncle was in there.

12 MS. MYERS: Okay.

13 MR. ROBERTS: Elhodge.

14 MS. MYERS: Okay.

15 MR. ROBERTS: Shawn Chacon.

16 MS. MYERS: Okay.

17 MR. ROBERTS: They had just took Mike out.

18 MS. MYERS: Okay. Anybody else that you can
19 think of?

20 MR. ROBERTS: They had stopped switching the
21 cell, I can't remember. But I know them three for sure.

22 MS. MYERS: Okay. Anything else about that
23 conversation that I didn't ask you about?

24 MR. ROBERTS: Huh-uh. (Negative)

25 MS. MYERS: No?

1 MR. ROBERTS: Huh-uh. (Negative)

2 MS. MYERS: All right. I'm going to show
3 you what was previously marked as Commission Exhibit 3.
4 So you recognize this person?

5 (Hands Exhibit 3 to Mr. Roberts.)

6 MR. ROBERTS: No.

7 MS. MYERS: No. Okay.

8 MR. ROBERTS: Oh yeah. He told me that
9 Dextor had golds like me.

10 MS. MYERS: Okay.

11 MR. ROBERTS: And we favored.

12 MS. MYERS: And what?

13 MR. ROBERTS: And we favored a lot.

14 MS. MYERS: So I'll tell you, that's a
15 picture -- that's a photograph of Dextor Stephens. Does
16 that change your mind about like whether you recognize
17 it? Have you ever seen Dextor in person?

18 MR. ROBERTS: They say I have met him. But
19 I don't remember. Because I be -- if they's younger than
20 me, you know, I --

21 MS. MYERS: Sure.

22 MR. ROBERTS: They said we been in the same
23 spot. But I don't --

24 MS. MYERS: But you don't have any
25 recollection of that?

1 MR. ROBERTS: No.

2 MS. MYERS: Okay. I'm going to show you
3 Commission Exhibit 8. Do you recognize the person in
4 that photograph?

5 (Hands Exhibit 8 to Mr. Roberts.)

6 MR. ROBERTS: Is this Micheal Burgess?

7 MS. MYERS: Okay. Tell me about Micheal
8 Burgess.

9 MR. ROBERTS: Well, he was one of the young
10 kids I met when I was --

11 MS. MYERS: When did you meet him?

12 MR. ROBERTS: I met him in -- I don't know
13 if it was '13 or '14, in the jailhouse.

14 MS. MYERS: Okay. And what did he tell you
15 about this case? Because at some point -- at first, did
16 you know that he was a victim in the cases that you had
17 been charged with?

18 MR. ROBERTS: Yeah. How I found out,
19 though, through the younger crowd, like I'm telling you.
20 These younger people that I used to look out for, they
21 was in the jailhouse.

22 MS. MYERS: Okay.

23 MR. ROBERTS: And when he came in, this girl
24 named Libra McRae son was in there with us.

25 MS. MYERS: Who?

1 MR. ROBERTS: Libra McRae.

2 MS. MYERS: Librum McRae?

3 MR. ROBERTS: Libra.

4 MS. MYERS: Libra McRae.

5 MR. ROBERTS: And there was some more
6 younger guys. But Libra worked at the Nissan place on
7 Roberts Avenue.

8 MS. MYERS: Okay.

9 MR. ROBERTS: And when this young guy right
10 here came in, they were like -- he was drunk, high,
11 whatever. But they told me he who he was. So I let him
12 sober up and stuff, about two days. And I asked him did
13 he know me. He was like, no. I said, well, why you got
14 me in this jailhouse? And he said what you mean? Said
15 ain't these your statements that I showed him.

16 MS. MYERS: How did you have your statements
17 at that point?

18 MR. ROBERTS: My motion to discover.

19 MS. MYERS: Okay.

20 MR. ROBERTS: But he started telling me what
21 he said. And he said the police had lied. He said I
22 told --

23 MS. MYERS: Burgess told you the police had
24 lied?

25 MR. ROBERTS: Yeah. He said I told them

1 that the -- he told them that the car had the black
2 fender. And he also told me about him shooting at the
3 car.

4 MS. MYERS: Burgess told you he shot at the
5 car?

6 MR. ROBERTS: Yeah. Somebody shot at the
7 car. I don't -- I want to say it was him, but I'm not
8 for sure.

9 MS. MYERS: Okay.

10 MR. ROBERTS: But somebody shot at the car
11 and hit the windshield.

12 MS. MYERS: Specifically hit the windshield?
13 Did he say whether or not who shot first?

14 MR. ROBERTS: They did from the park.

15 MS. MYERS: The car shot first?

16 MR. ROBERTS: The people from the park.

17 MS. MYERS: Shot first. Okay.

18 MR. ROBERTS: Like they knew who it was.

19 MS. MYERS: Who was it?

20 MR. ROBERTS: I don't know. But I'm saying
21 that's how they -- like they knew who it was.

22 MS. MYERS: You thought that they knew who
23 it was based on what he told you?

24 MR. ROBERTS: Yeah.

25 MS. MYERS: Or did he say I know who it is,

1 but I'm not telling?

2 MR. ROBERTS: Yeah, yeah. But I'm just
3 saying like when they saw the car --

4 MS. MYERS: Yeah.

5 MR. ROBERTS: If somebody shooting, you know
6 who that person is.

7 MS. MYERS: Okay. But Micheal Burgess is
8 saying me and my guys -- or whether it's Micheal or not,
9 he's saying they shot at this vehicle first?

10 MR. ROBERTS: Yeah.

11 MS. MYERS: And your impression was that
12 they knew who was in that vehicle?

13 MR. ROBERTS: Yeah. So --

14 MS. MYERS: But Micheal never told you who
15 was in the vehicle. Is that correct?

16 MR. ROBERTS: No. I can't remember. But --

17 MS. MYERS: Is that something you would
18 remember though if he told you?

19 MR. ROBERTS: I want to say he did, he may
20 have, you know. But I know everybody was saying Dextor.

21 MS. MYERS: Did Micheal Burgess ever tell
22 you it was Dextor Stephens?

23 MR. ROBERTS: I'm not for sure.

24 MS. MYERS: Okay.

25 MR. ROBERTS: But he -- he mentioned that's

1 the name, though, I know that. But I don't know for sure
2 if he's saying that it was Dextor that did the shooting.

3 MS. MYERS: Okay. Do you know Micheal's
4 mother?

5 MR. ROBERTS: Yes.

6 MS. MYERS: How do you know her?

7 MR. ROBERTS: I met her at -- we used to
8 hang out and drink.

9 MS. MYERS: Okay. So I'll just tell you
10 that we listened to your calls in prison.

11 MR. ROBERTS: Yeah.

12 MS. MYERS: So you have called Ms. Ransom a
13 few times.

14 MR. ROBERTS: Yeah.

15 MS. MYERS: And in one of the calls you kind
16 of -- or I guess a couple of them, you kind of mentioned
17 like sending something to Micheal.

18 MR. ROBERTS: Yes.

19 MS. MYERS: Tell me what that was. Because
20 I couldn't tell from the call.

21 MR. ROBERTS: I was trying to get him to do
22 a affordavid [sic] for me.

23 MS. MYERS: Okay.

24 MR. ROBERTS: The reason why I was trying to
25 get him to do a affordavid [sic] because my lawyers and

1 them never gave me a affidavit. I'm the one --

2 MS. MYERS: Okay. And I think you mean
3 affidavit. Is that right?

4 MR. ROBERTS: Yeah. Affidavit, yeah.

5 MS. MYERS: Okay.

6 MR. ROBERTS: But anyway, they never gave me
7 this.

8 MS. MYERS: From Micheal?

9 MR. ROBERTS: Yes.

10 MS. MYERS: Okay.

11 MR. ROBERTS: They told me -- I got them to
12 find everybody. I was the one found these people myself.

13 MS. MYERS: Sure.

14 MR. ROBERTS: And they didn't find nobody.
15 I found them. When I found out about Dextor being in
16 jail, they was late coming to get him.

17 MS. MYERS: When was Dextor in jail?

18 MR. ROBERTS: He was in jail a couple of
19 times.

20 MS. MYERS: While you were incarcerated?

21 MR. ROBERTS: Yeah.

22 MS. MYERS: Did you ever have any
23 conversations with him?

24 MR. ROBERTS: No. But some guys told me he
25 was over there. And I called my lawyer, I called the --

1 I even have Mr. What's-the-name regular phone number.
2 Stephen McLamb.

3 MS. MYERS: Uh-huh. He was the private
4 investigator. Okay.

5 MR. ROBERTS: Yeah. But he didn't never get
6 brought home.

7 MS. MYERS: Okay.

8 MR. ROBERTS: He did a affidavit for me.

9 MS. MYERS: He did one recently?

10 MR. ROBERTS: Nah. But he was -- I didn't
11 know how to do -- go about it. But I was telling her to
12 let him know to get me a affidavit.

13 MS. MYERS: Okay. And you never got
14 anything from him. Is that right?

15 MR. ROBERTS: Right.

16 MS. MYERS: Okay. Did Micheal ever tell you
17 anybody that was at the park? Did he mention anybody
18 else who was there?

19 MR. ROBERTS: He told me Gucci. He told me
20 a lot of different names.

21 MS. MYERS: All right. I'm going to label
22 what I'm marking as Commission Exhibit 100. I want you
23 to tell me is you know who this person is. That is 100.

24 (Commission Exhibit 100 marked and
25 handed to Mr. Roberts.)

1 MR. ROBERTS: No.

2 MS. MYERS: Okay.

3 MR. ROBERTS: But he look familiar.

4 MS. MYERS: So I will tell you that that is
5 Gucci. That's Antonio Alford.

6 MR. ROBERTS: Yeah.

7 MS. MYERS: Does that change your mind about
8 who that is or anything?

9 MR. ROBERTS: (Inaudible response.)

10 MS. MYERS: Okay. So Micheal told you he
11 was there. Who else did Micheal tell you was there?

12 MR. ROBERTS: He named a bunch of young
13 kids.

14 MS. MYERS: Okay. I'm going to show you
15 what I'm marking as Commission 14 -- or what was
16 previously marked as Commission Exhibit 14. Do you know
17 who that person is?

18 (Hands Exhibit 14 to Mr. Roberts.)

19 MR. ROBERTS: No.

20 MS. MYERS: Okay. I'm going to show you
21 what was previously marked as Commission Exhibit 16. Do
22 you know who this person is?

23 (Hands Exhibit 16 to Mr. Roberts.)

24 MR. ROBERTS: That look like Deavon.

25 MS. MYERS: It is. Did Micheal ever say

1 whether or not he was there?

2 MR. ROBERTS: I want to -- I didn't hear it
3 from Micheal. But I think Shonda said he was there.

4 MS. MYERS: Did you ever have a direct
5 conversation with Shonda Lyons?

6 MR. ROBERTS: Yeah.

7 MS. MYERS: When was that?

8 MR. ROBERTS: July the 12th.

9 MS. MYERS: So while you were incarcerated
10 in Lumberton County Jail?

11 MR. ROBERTS: Yeah. It was like from 2:00
12 to 3 o'clock.

13 MS. MYERS: And what did she tell you?

14 MR. ROBERTS: She told me Dexter told her
15 that he did it.

16 MS. MYERS: Shonda told you this directly?

17 MR. ROBERTS: Yeah.

18 MS. MYERS: And how would she know that?

19 MR. ROBERTS: Because she was going with him
20 at that time.

21 MS. MYERS: At the time of this shooting.
22 Why would Dexter tell her he killed Josh Council?

23 MR. ROBERTS: People be pillow talking.

24 MS. MYERS: And when you're talking about
25 pillow talking --

1 MR. ROBERTS: They feel -- they feel
2 they -- it's like if you kill somebody, it's be on their
3 conscience. And he probably releasing it and told her.
4 But she text my sister on Facebook, and she didn't know I
5 was locked up for it. And she --

6 MS. MYERS: Those Facebook messages, were
7 those ever documented or printed out or anything?

8 MR. ROBERTS: No.

9 MS. MYERS: Do your sisters still have
10 those?

11 MR. ROBERTS: She blocked my sister.

12 MS. MYERS: Shonda blocked your sisters?
13 When was that?

14 MR. ROBERTS: She blocked her -- I guess it
15 was when I got my time.

16 MS. MYERS: Okay. Did she block both of
17 your sisters?

18 MR. ROBERTS: Yeah.

19 MS. MYERS: Okay. All right. I'm going to
20 show you what was previously marked as Commission Exhibit
21 17. Do you know who this person is?

22 (Hands Exhibit 17 to Mr. Roberts.)

23 MR. ROBERTS: No, I don't know who this is.
24 Yeah. I don't know who this is.

25 MS. MYERS: Okay. I actually only have a

1 couple more questions, then I promise I'll turn to
2 Taylor, and see if Taylor has anything she wants to ask
3 you. Do you remember being given a polygraph exam?

4 MR. ROBERTS: (Inaudible response.)

5 MS. MYERS: Okay. Tell me about that.

6 MR. ROBERTS: Well, when I did a polygraph,
7 they asked me questions. They said I flunked it. That's
8 what they said. But --

9 MS. MYERS: Okay. Do you remember anything
10 about that experience at all?

11 MR. ROBERTS: Yeah. The same thing I just
12 experienced with you. They asked me did I hurt anybody.
13 And I said no. Because I didn't want to tell about that
14 incident of that --

15 MS. MYERS: Oh, okay. About shooting the
16 guy that --

17 MR. ROBERTS: Yes.

18 MS. MYERS: And do you think that's what set
19 you off?

20 MR. ROBERTS: Yes.

21 MS. MYERS: Because one of the questions was
22 if you had ever --

23 MR. ROBERTS: Yeah. Have I ever hurted
24 anybody.

25 MS. MYERS: Okay. And you did not clarify

1 that with them. Is that correct?

2 MR. ROBERTS: No, I didn't.

3 MS. MYERS: Okay.

4 MR. ROBERTS: The reason why, because it
5 weren't ever on record.

6 MS. MYERS: Okay. But you told Toni Elliott
7 about it previously. Because she knew about it.

8 MR. ROBERTS: My sister probably told her.

9 MS. MYERS: You've never told anybody about
10 that?

11 MR. ROBERTS: I don't think I told her about
12 that.

13 MS. MYERS: Were you ever talked to by the
14 police?

15 MR. ROBERTS: No.

16 MS. MYERS: Okay. Your gold teeth, they are
17 permanent. Correct?

18 MR. ROBERTS: No. They're --

19 MS. MYERS: They are not permanent?

20 MR. ROBERTS: They pull out. In and out.

21 MS. MYERS: Okay. Are these the same teeth
22 that you had in 2013?

23 MR. ROBERTS: (Inaudible response.)

24 MS. MYERS: Okay. So like you can take them
25 out. I don't want you to. But can you take them out

1 right now?

2 MR. ROBERTS: Uh-huh. (Affirmative)

3 MS. MYERS: And you're allowed to have that
4 here?

5 MR. ROBERTS: No. But they -- they don't
6 bother me. I don't bother nobody.

7 MS. MYERS: You mean the cops here? Is that
8 what you're saying?

9 MR. ROBERTS: Yeah.

10 MS. MYERS: Okay. Okay.

11 MR. ROBERTS: Everywhere I go.

12 MS. MYERS: Okay.

13 MR. ROBERTS: I guess I'm a likeable person.

14 MS. MYERS: Okay.

15 MR. ROBERTS: Especially when I ain't
16 drinking.

17 MS. MYERS: Got you. All right. You were
18 given some plea deals.

19 MR. ROBERTS: Yeah.

20 MS. MYERS: Tell me why you didn't take
21 those.

22 MR. ROBERTS: I didn't take them pleas
23 because in court, they were telling them I didn't do it.
24 And John Allen basically told them I didn't do it. He
25 said it was a man five six to five nine. This other girl

1 who says she saw me, Sheena Britt, she couldn't point me
2 out in the courtroom. And she basically said -- when the
3 DA pointed me out to her, she still said that ain't him.

4 The other guy that I met in the County that
5 I didn't know was in my case, the McCollum, John
6 McCollum, he basically lied because he knew where I was
7 from because he was in jail with me, which was Jose
8 cousin, Jose Locklear.

9 MS. MYERS: John McCollum?

10 MR. ROBERTS: And Jose Locklear are cousins.

11 MS. MYERS: John Prentice McCollum?

12 MR. ROBERTS: Yes. And he started
13 hollering, yeah, he from Fayetteville. But that's
14 because I was locked up with him, and didn't know he was
15 on my case.

16 MS. MYERS: All right. Really quickly, I'm
17 going to show you what I'm marking as Commission Exhibit
18 101. And do you know who this person is in these
19 photographs?

20 (Commission Exhibit 101 marked and
21 handed to Mr. Roberts.)

22 MR. ROBERTS: Yeah.

23 MS. MYERS: Who's that?

24 MR. ROBERTS: That's John McCollum.

25 MS. MYERS: Okay. So you felt like you

1 didn't want to take a plea -- I don't want to put words
2 into your mouth. But you didn't want to take a plea deal
3 because --

4 MR. ROBERTS: They tell them. And plus, I
5 know I didn't do it.

6 MS. MYERS: Okay. Do you have anything in
7 your possession that you have not sent to us in terms of
8 any of your discovery? I know we've got stuff that you
9 have sent to us. But is there anything new that you know
10 you have not given to us?

11 MR. ROBERTS: Now that you showed me that
12 picture, he was a snitch on another case.

13 MS. MYERS: On what other case?

14 MR. ROBERTS: A case where he had a robbery
15 charge. And that's why I believe he said it was me,
16 because them guys was wanting to get at him. And they
17 told me to relay the message to him. And I was like, I
18 ain't getting into that.

19 MS. MYERS: So you think he lied at your
20 trial on you because of that?

21 MR. ROBERTS: Uh-huh. (Affirmative)

22 MS. MYERS: Taylor, do you have anything?

23 MS. MILLER: Just a few. Earlier you had
24 mentioned that you might have known Agent Brady, Bill
25 Brady was his name, prior to the case.

1 MR. ROBERTS: Uh-huh. (Affirmative)

2 MS. MILLER: How did you know him?

3 MR. ROBERTS: No, I didn't know him. But we
4 stayed around the same area.

5 MS. MILLER: In Fayetteville?

6 MR. ROBERTS: Yeah.

7 MS. MILLER: And was this prior to you
8 knowing him from this case?

9 MR. ROBERTS: Yeah. He told -- when
10 Detective Al Collins left out, he told me that he stayed
11 on Cliffdale.

12 MS. MILLER: Okay. So you both pieced it
13 together --

14 MR. ROBERTS: Yeah.

15 MS. MILLER: -- while he was investigating
16 this case?

17 MR. ROBERTS: His actual words was you stay
18 in a good neighborhood, why would you be in a case like
19 this. I said, man, I didn't do this case that you're
20 talking about.

21 MS. MILLER: Okay. And this may seem like
22 an odd question. But how tall are you right now?

23 MR. ROBERTS: Six two, six three.

24 MS. MYERS: Do they measure you when you're
25 here at all? Like, do you know the last time you were

1 measured?

2 MR. ROBERTS: Yeah. I'm like six three.

3 MS. MYERS: Have you grown since 2013?

4 MR. ROBERTS: Not that I know of.

5 MS. MYERS: You hear about people shrinking.

6 MR. ROBERTS: Yeah.

7 MS. MILLER: I don't have anything that
8 comes to mind now. I just want to look over my notes if
9 you don't mind. Do you have any?

10 MS. MYERS: No. The last thing I have
11 is -- so in some of the records, you've been treated in
12 the past for mental health disorders. Depression,
13 bipolar. How does any of that impact your memory or how
14 you remember -- or does it impact you at all, how you're
15 remembering things from back then?

16 MR. ROBERTS: Well, it's my life, so I try
17 to keep it -- I try to keep up with that, you know.

18 MS. MYERS: Yeah.

19 MR. ROBERTS: And I always study on my case
20 to try to figure out like how I can get home.

21 MS. MYERS: Can you think of anything?

22 MS. MILLER: Yeah. And I apologize if
23 Mackenzie had already asked you this. But do you have
24 any tattoos?

25 MR. ROBERTS: No.

1 MS. MILLER: No.

2 MS. MYERS: Did you have any tattoos in 2013
3 that you've had removed? Sorry.

4 MR. ROBERTS: No.

5 MS. MILLER: I know you touched on this a
6 little bit earlier. But have you at any point in your
7 life ever carried a gun? I know we talked about those
8 two instances --

9 MR. ROBERTS: Yeah.

10 MS. MILLER: -- where you obtained a gun.
11 But did you ever regularly carry?

12 MR. ROBERTS: No. When I sold drugs, but it
13 weren't like that. Because I always sold around people
14 that I knew, where I knew I weren't going to get harmed.
15 People around me might have carried them, but I didn't
16 personally.

17 MS. MYERS: All right. Did you have a gun
18 on Friday, June 14th of 2013?

19 MR. ROBERTS: No.

20 MS. MYERS: Did you have any reason to be
21 mad at anybody at Hayswood Hut at that basketball court?

22 MR. ROBERTS: No.

23 MS. MYERS: Did you shoot anybody with
24 somebody else's gun that night?

25 MR. ROBERTS: No.

1 MS. MYERS: Is there anything that we
2 haven't asked you that you think we should have asked you
3 about?

4 MR. ROBERTS: No.

5 MS. MYERS: If you were me, who would you go
6 talk to next?

7 MR. ROBERTS: If I was you?

8 MS. MYERS: Uh-huh.

9 MR. ROBERTS: I guess the DA or the
10 innocence authority -- release.

11 MS. MYERS: That's who I am. Witness-wise,
12 who?

13 MR. ROBERTS: Witness-wise?

14 MS. MYERS: Uh-huh.

15 MR. ROBERTS: Well, I guess y'all talked to
16 everybody, cousin. My son would be definitely one.
17 Because he know I didn't know Josh. And he stayed with
18 me most of the time. So he stayed with me Monday through
19 Thursday. He had to go to school. He had to go back to
20 work on Thursday. He worked Thursday, Friday, and
21 Saturday. And he wasn't in school on Friday. That's the
22 only day.

23 MS. MYERS: All right. Anybody else?

24 MR. ROBERTS: Huh-uh. (Negative)

25 MS. MYERS: Thank you. I took up a lot of

1 your time today. Taylor and Mr. Cater are probably not
2 super happy with me right now because of that. But I
3 appreciate you being so honest and truthful with me, and
4 talking to me today. I know that it's not easy to be in
5 the hot seat and being like bombarded with this many
6 questions. But I really appreciate you. Okay.

7 Mr. Cater is your attorney. If you need
8 anything at this stage, I would tell you that he would be
9 the first person you should contact about anything at
10 this point. But your hearing is set for August 15th
11 through the 17th. Okay?

12 MR. ROBERTS: Uh-huh. (Affirmative)

13 MS. MYERS: And Taylor and I will be there.
14 Mr. Cater will be there. And if there's anything that
15 you think of between now and then that Taylor and I need
16 to know about, please give that to Mr. Cater so that he
17 can pass that on to us. Okay?

18 MR. ROBERTS: Okay.

19 MS. MYERS: All right. I thank you very
20 much.

21 MR. ROBERTS: All right.

22 MS. MYERS: It was good to meet you in
23 person.

24 MR. ROBERTS: Yeah.

25 MS. MYERS: I'm tired of reading about you.

1 I'm kidding.

2 MR. ROBERTS: You're the one -- I've seen
3 your name before.

4 MS. MYERS: Probably. Because I've written
5 you letters. And then I -- yeah. It was very nice to
6 meet you, Mr. Roberts.

7 MR. ROBERTS: Okay.

8 MS. MILLER: It was nice to meet you,
9 Mr. Roberts.

10 MR. ROBERTS: Okay. Have a good one.

11 MS. MILLER: You too.

12 MS. MYERS: All right. Take care.

13 (WHEREUPON, the foregoing interview
14 was concluded on Tuesday, July 18, 2023.)

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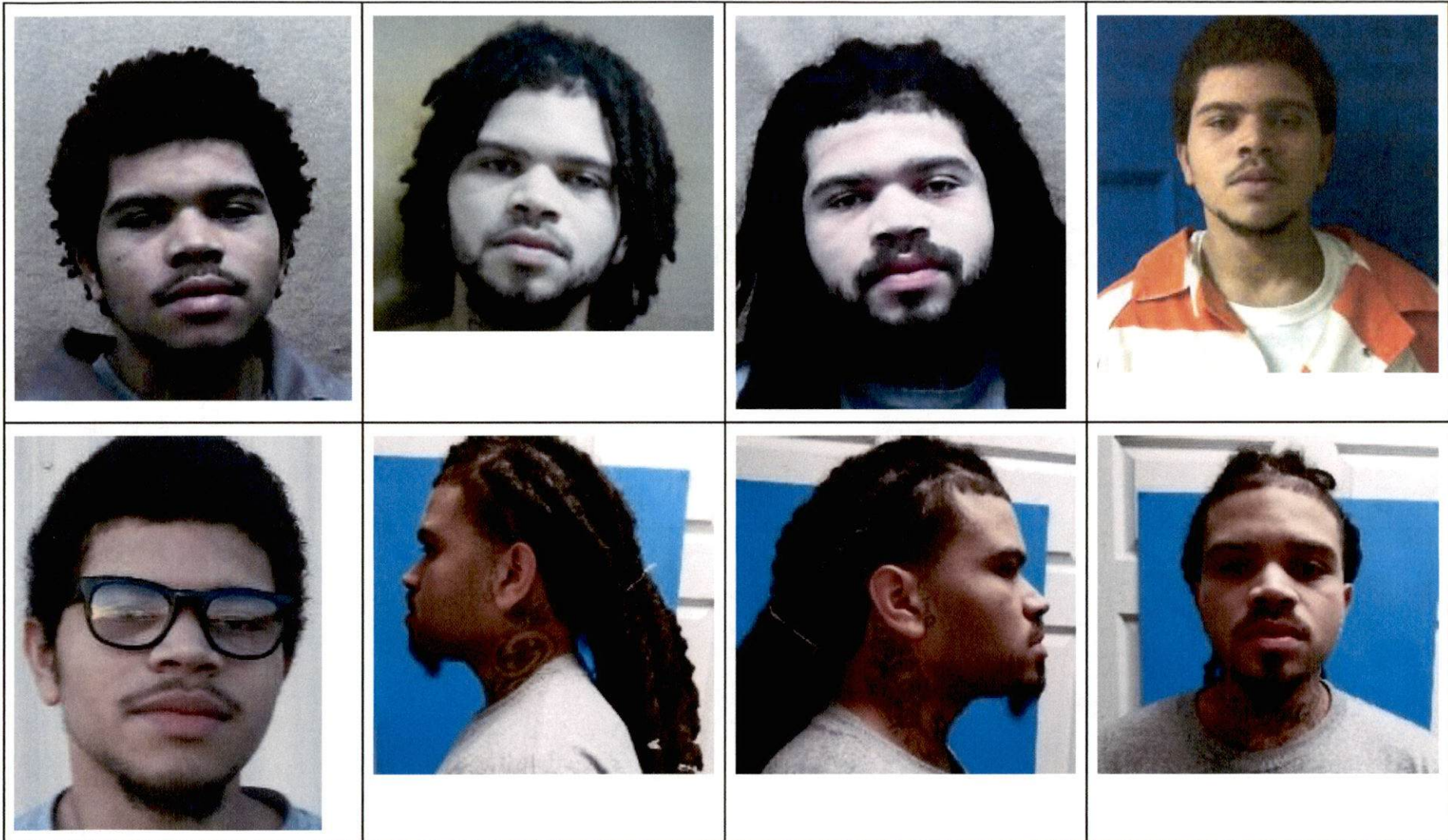
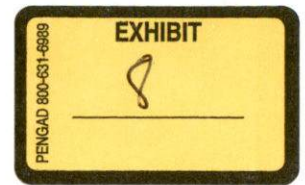
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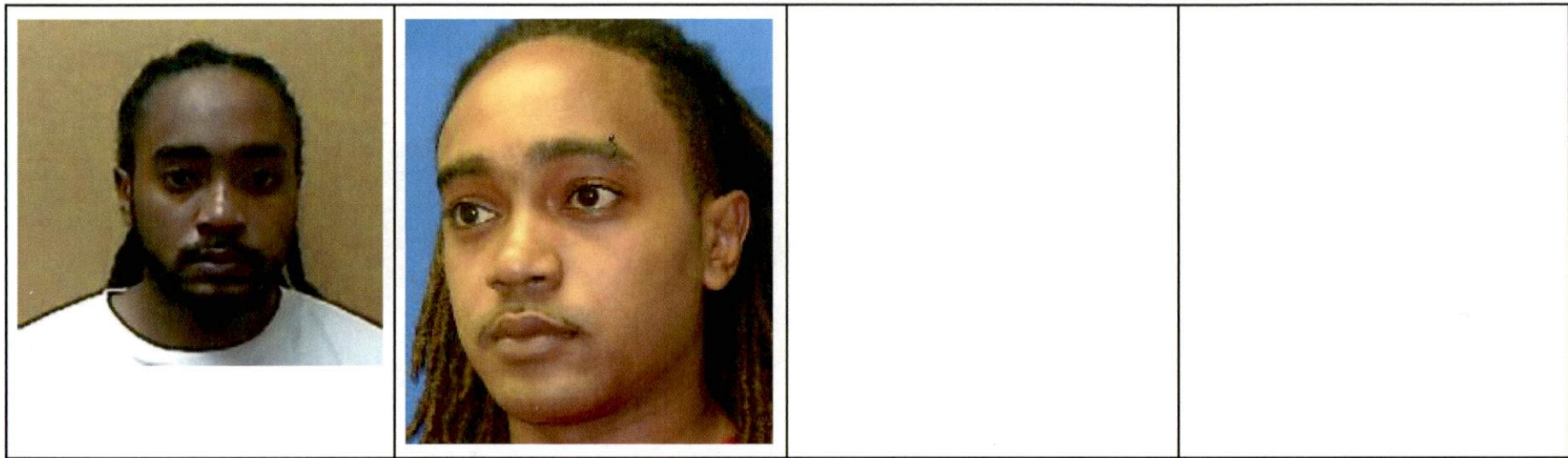
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PENGAD 800-631-6888
EXHIBIT
14



PENGAD 800-631-6889
EXHIBIT
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PENGAD 800-631-6989
EXHIBIT
17



EXHIBIT
27



Lumberton, North Carolina
Google Street View
May 2022 See more dates



Image capture: May 2022 © 2023 Google



1825 Booker Ave

All

Street View & 360°



Lumberton, North Carolina
Google Street View
May 2022 See more dates



Image capture: May 2022 © 2023 Google



1832 Booker Ave

All

Street View & 360°



Lumberton, North Carolina

Google Street View

Jun 2012

See latest date



Image capture: Jun 2012 © 2023 Google





Lumberton, North Carolina
Google Street View
Jun 2012 See latest date

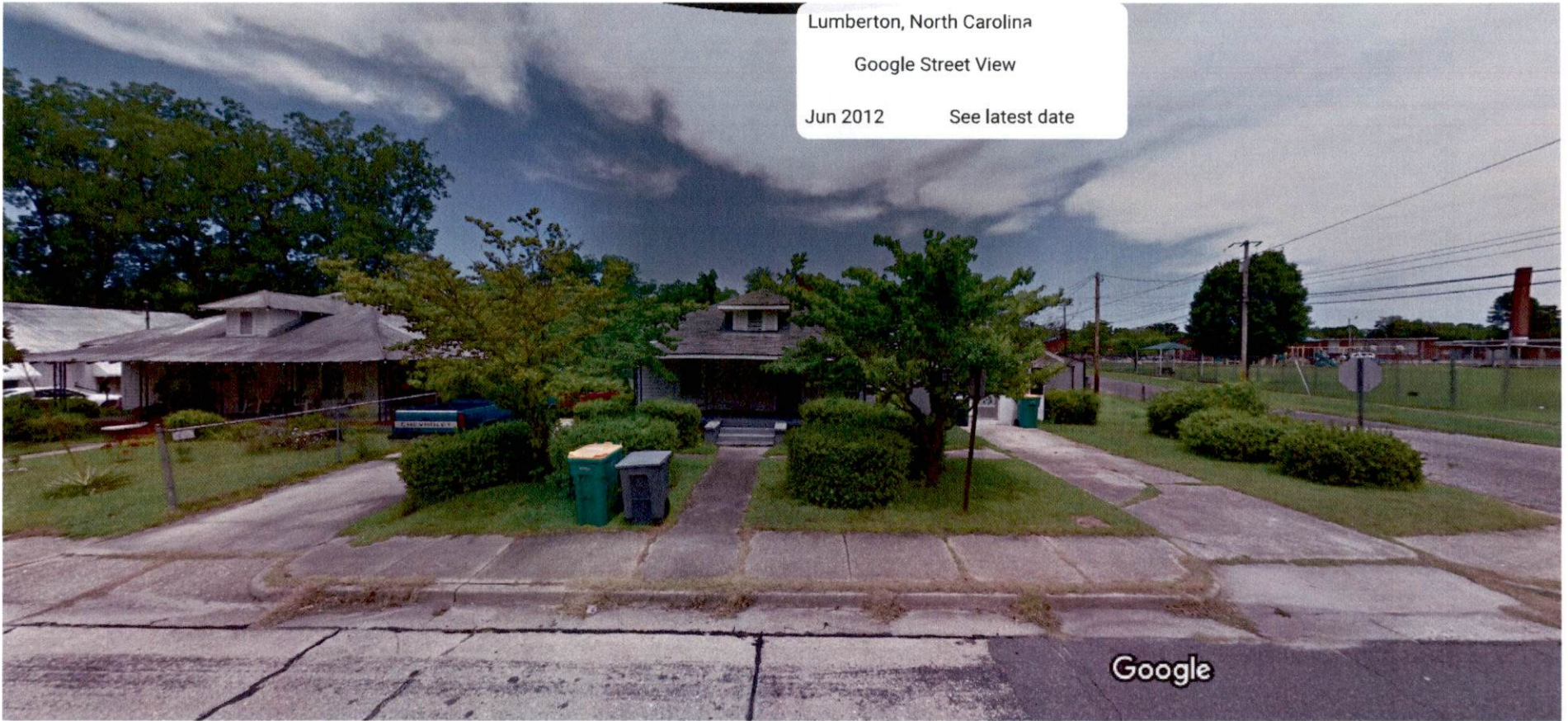


Image capture: Jun 2012 © 2023 Google



Lumberton, North Carolina
Google Street View
Feb 2023 See latest date

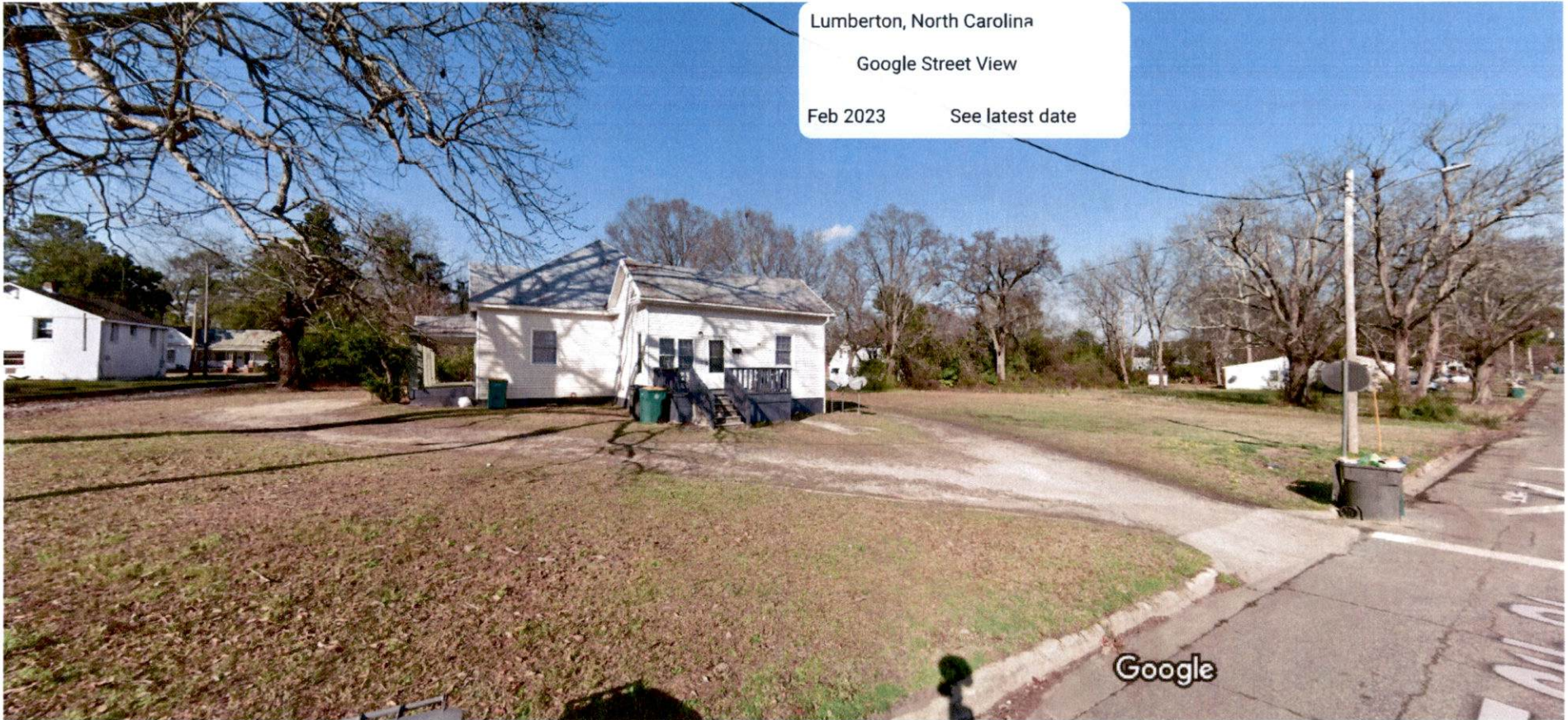


Image capture: Feb 2023 © 2023 Google



801 E 6th St

All

Street View & 360°



Lumberton, North Carolina

Google Street View

Jun 2012

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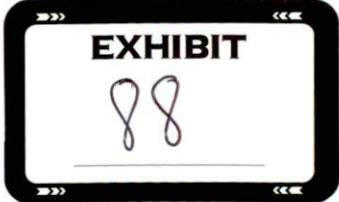
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801 E 6th St

All

Street View & 360°



Google Maps 3650 Meadow View Dr



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3650 Meadow View Dr



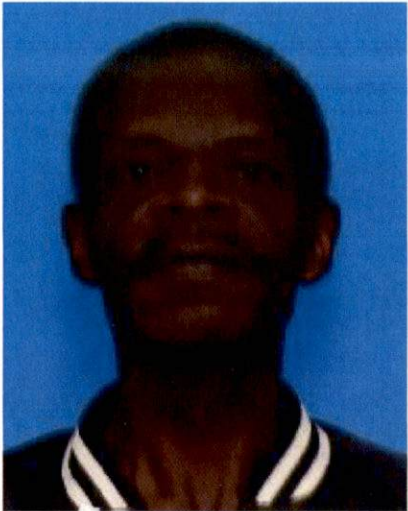
			
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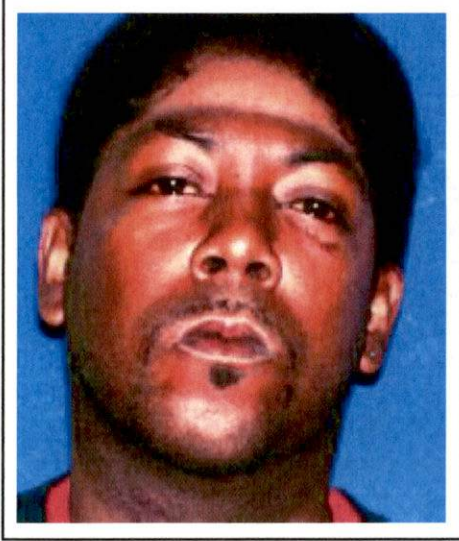
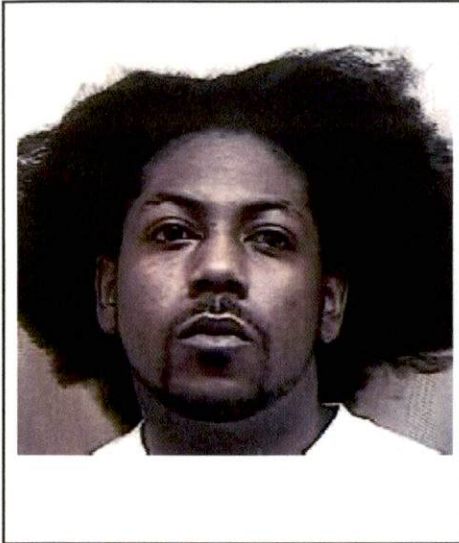


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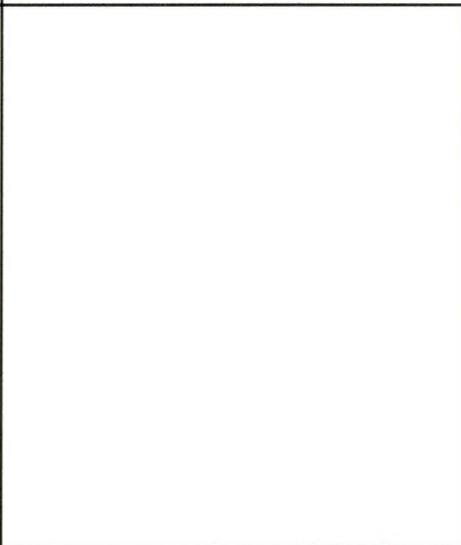
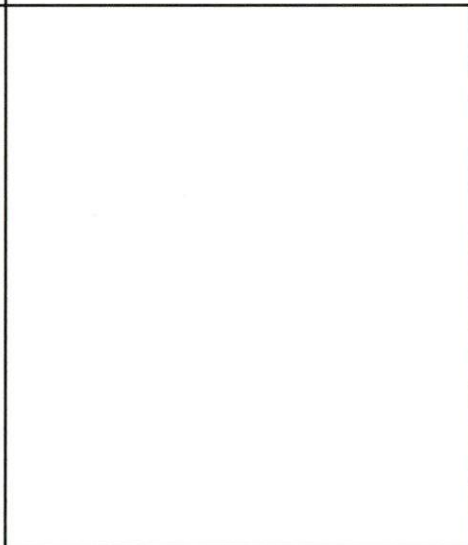
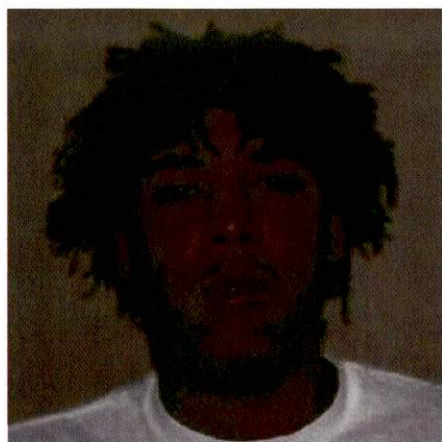


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CLARENCE WENDELL ROBERTS

7-5-13 INTERVIEW AT JAIL LOCK-UP BASEMENT OF COURTHOUSE

Girlfriend name- Vanessa Lock cell # 910-316-5374

Arrested 12 am in Fairmont Area 6-15-13 for DWI Trp. S. C. Hunt after car got stuck in ditch.

After been in jail for about 3 days Detective Collins and an SBI Agent from Fayetteville came to the jail and interviewed him about a shooting at a play ground.

When arrested for DWI said he was driving his girlfriends car which was a 1999 White Ford Taurus SE, registered to Vanessa. Vanessa has had that car about 2 years.

Stated he thinks the car is stored at Bailey's in Fairmont. He said car was on hold when Vanessa went to get it and they would not let her get it out even though she had the money to get it then. After it has been on hold for the police department she can't afford to get it out.

Stated he gave police permission to search the car and he gave them his clothes that he was wearing the night he was arrested for DWI for his belongings at the jail.

Stated Det found a cell phone at the scene and was asking him about it and a blue polo shirt and asked him if he had a beef with Solsky Stevens.

Stated he was wearing a white plain t-shirt with Jack Nickelson's "Shinning" face on it, black denim jeans and black and brown Jordan high tops.

Stated he had an extra pair of clothes in the trunk, which were black denim pants and a plain white t-shirt.

Stated police kept asking him about a blue polo shirt and a cell phone.

Stated he wears a 3X size shirt and he does not have a cell phone and does not carry anyone else's.

Stated he got off work that day at Murphy-Brown hog farm on Chicken Foot Rd out of St. Pauls. Last farm on the right. Supervisor name was Ron. First week he started back to work.

Stated he got off work at around 12 PM, that Friday and drove to Lumberton to take cousin Jennifer Gurley to their aunt's wake.

Stopped at the Last Stop in Lumberton on Hwy 41 to get a beer. Got there about there between 1 and 2.

Then went to Jennifer's house in Turner Mobile home park on hwy 41. (take first left, go all way to the back trailer on last road) (has a blue lasabre, beige truck and a burgundy altima.



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Talked to Jennifer and her husband "cornbread". While he was there Jennifer's son brought him the phone and said Eric McQueen said he wanted to talk to Clarence. Eric wanted Clarence to come to Booker Street.

Stated Jennifer told him that he probably should not go over there because those guys have changed but he went anyway.

Stated stopped at the Sundo on Carthage Road to get a beer about 4 PM.

He met Eric McQueen on Booker Street (last house on the left) Mildred her, husband "heavy" and Tammy Jones and Eric's Mother Tina Ingram were also there.

Stated the fourth place he went was right around corner in New Town. He saw Stanton Mcarn, Charles Burns and Demetris Sampson.

Solsky Stevens pulled up in a brown car. Stated he drank 3 shots here, either vodka or gin. This house was green or bluish in color.

Stated left this house with Eric McQueen and they went to a house on called East Pine. It was across from Rowland-Norment School. There were several people on the porch. Saw a Gary Ingram there.

Left there and went to a house at 8th and Willow St. big white two story house, here he saw Michael Shaw, Sugar Daddy and Two Dollar, there were also 6 or 7 other persons there. Gary Ingram came to this house too, but Clarence did not know if he rode with him or walked. Some guys pulled up in a blue car and he went and talked to them.

Stated he went back to East Pine and saw Rodney Cade and Gary Hudson there.

Clarence Roberts stated he attended T. C. Berrian Elementary, Reid Ross and Hillcrest Junior High. Stated he attended Terry Sanford and Douglas Byrd High schools but did not graduate.

Stated he dropped out of high school at age 19 and was in the 11th grade.

Stated he was taking a GED course on Line at Corner Stone Academy but has not finished that yet.

Stated in 2002 was locked up in Robeson County for 1st degree burglary, 1st degree sex offense and indecent liberties. He was represented by Diane Phillips Surgeon. Stated he was exonerated by DNA Evidence. The victim was Bianca Davis, mother was Jackie Davis were living in the Area of Carver St., (victims) Was in Jail from 2002 to 2005.

Stated sued Police Department for wrong prosecution and had to see a pycyharist Named Ms. Sutton from Charlotte.

Some of the witnesses against him were James Bell and Solski Stevens.

Baby momma Kimberly Lowery had a daughter who lived in the home when she and Clarence were together. Her name is Shabrea Lowery around age 21. The deceased Benjamin Council was Shabrea's boyfriend.

Clarence stated that he talked to Gary Jenkins at the Jail and he told him that people in the community was saying someone else done the shooting, and it was not Clarence.

Said in addition to Solski Stevens being a witness against him, they were also in a fight around year 2000, Solski was drunk and running his mouth.

Stated he had to take a drug test for employment at Murphy-Brown.

Stated he was drinking about 7 or 8 months ago and Tomieka Jordan said he blacked out.

Vanessa said has blacked out before and doesn't remember things he did.

Stated has assaulted Tori Deal before IF for having a guy in the house when they were living together.

July 12, 2013

I went to Sundo 1404 Carthage Rd., Lumberton to check for a video surveillance tape. Manager Steve McNeill stated he believed the tape recorded back for 30 days. However I would need to return at 2 PM during shift change to give him time to record same.

I then went to the last stop at 3100 MLK drive, Lumberton North Carolina. I spoke with manager Mohamed Aziz. The manager stated that their video rolled over every seven days, and he would have no video footage for that time frame.

I located peach tree street which is a dirt street becomes out our Elizabeth town road. Also located a basketball court on Peachtree Street. I went to Ready Ice in reference to a surveillance video. I met with manager Dawn Neverson. The manager lady they do have security cameras and she would check to see if there is any footage for June 14th, 2013.

I went to styles salon at 906 Elizabethtown Road Rd. the manager stated that they did not have any exterior cameras. However the manager stated that she has a client named peaches whose real name is either Lola or Lena McNatt and this person had been talking about seeing the shooting.

I then went to Bo's Foods at 1000 N. Pine St. , Lumberton North Carolina the manager stated they did have cameras on the rear of their building but they have had a problem with their computer system and have lost all of the footage prior to the last three days.

I went to Mike Thompson's garage and spoke with him which is beside Doug's Barbershop. Mr. Thompson stated that he did not have any video cameras. Mr. Thompson also said he saw a news story on Channel 14 news. Mr. Thompson said the media had reported that the person killed was not the person the shooter was trying to kill.

I spoke to some ladies at Doug's barbershop and they stated they did not have any exterior cameras and have no knowledge of the shooting.

Mike Turner 1610 Elizabethtown Rd., Mr. Turner stated that he does not have any exterior cameras.

I have gone to Townsend Electric Company and have been unable to contact anyone.

July 24, 2013

Clarence Roberts Robeson County Jail, I came back to Jail today to see Clarence at his request through Tiffany's office, at least 2 times he had important new information on his case.

Shonda Liles 910-391-5535 on July 5th 2013, told Tosha Moore (Clarence's Sister) 910-591-8289 That Dexter told Shonda he done it.

Shonda's son Devon Maultsby was on ball court during time of the shooting. Knows Clarence and said he believes it was not Clarence because he thinks he could have ID Clarence if it had been him.

Shooter's name is supposed to be Dextor with a dog paw on his face. Is a high Lieutenant in the Blood gang. Dextor is supposed to drive a white charger.

Clarence said he was at Kimberly Lowery's house at 10:05 in Laken Estates on NC 41 South. I can call Jerrod, Kimberly's son 301-4598 to get Kimberly's number.

Shonda has told that Dextor told her that he did it.

Shonda told Tosha that Dextor told her he did it.

Detectives went behind Kimberly's house looking for the gun because they knew Clarence was there the night of the shooting.

Kimberly Lowery is Shabrea's mom. Shabrea used to date Joshua Council the deceased.

Get Jennifer's number from Vanessa 316-5374, also Jennifer saw Clarence early in the day of shooting and dates Eric Mcqueen.

Clarence said he was in the Meadow View Projects in the big parking lot at back and saw and spoke to "Levi". Tosha may know who Levi is.

Brother Joseph Roberts said he heard the police got in a chase with the car that night and it hit some other cars getting away. (Joseph is now in DOC). Clarence said he remembers the Detectives were asking him about driving drunk and hit peoples cars.

Shonda said cell phone was Dextor's.

Clarence Roberts has a Face Book account.

Clarence said Tosha put on Face Book that Clarence had got messed up by something he didn't do, and people started hitting her up on Face Book. Shonda told Tosha on Face Book that Dextor done it.



EXHIBIT
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EXHIBIT
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ATTORNEY WORK PRODUCT

To: Tiffany Peguise-Powers and Carl G. Ivarsson, Jr
Case: Clarence Wendell Roberts
Case No: 13 CR054359-60 Robeson County
Date of Interview: 9-9-15 Updated
Person Interviewed: Clarence Roberts at Robeson County Detention Center in Lumberton, NC

Information was obtained at that time from Clarence "Woop"

1. Clarence said he was in an MVA where he flipped his car on 301 in Cumberland County in his 20's. EMT was called and he was taken to Cape Fear Valley Medical Center.
2. Clarence said he was also hit in the face with a gun once but he didn't go to the hospital.
3. When he was five years old he and his cousin were playing and Clarence was running from him and ran into the front of his mother's car and knocked out his front teeth. At that time they put silver caps on him.
4. In 2009, He was in another MVA and was taken by EMT to CFMC
5. Clarence said that his cousin Jennifer Gurley lives close to the jail where he is at. She lives in Turner Trailer Park. He doesn't know the number but said you turn left and go past the gas station and turn right at the Trailer park sign (1st entrance -sign missing now). Go to the end of the road and then make a left and go to the very end of that road and Jennifer's house is on the left. He said there was a wooden deck front and back. She lives there with her mother Betty Gurley who drives a La Sabre and Jennifer drives a gold Hyundai Santa Fe. His cousin Patrick "cheese" also lives there.
6. Jennifer works at Golden Living Center in Lumberton on Willis Street. She gets off at 3.
7. Her brother "Cornbread" lives close to her. His number is 910-474-6770.
8. Norman "Biz" Gurley is her other brother and his number is 910-258-3596
9. His brother Joseph Brown is living with his fiancé Darlene Davis. His phone number is 910-234-6846. House number of Darlene is 910-527-1310.



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NCIC - Atty Tiffany Powers Files

10. He said that Kimberley Lowry is living with her other daughter Shabree. They live at 18 Selena drive off Little Town Road in Littlefield Trailer Park in Lumberton. Shabree's phone number is 910-370-0039. She works at the Smithfield Hog Plant in Tar Hill. Kimberley Lowery takes care of kids at home. Clarence said he heard people saying that Shabree had children but she had no children. She was talking to Joshua, the victim.
11. Kim's other daughter Shaniqua works at a nursing home and came to see him recently.
12. His son Jarod is a senior at Lumberton High School.
13. Eric McQueen's phone number is 910-785-7142 (not sure if it is still good)
14. Shanda Lyon's is an ex girlfriend of Clarence's. Clarence said he went with her a long time. He said they had a lot of fights, but he was always good to her. The only problems they had is when Clarence would catch her with a guy in their crib in bed. Clarence said that Devin's mother (guy on basketball court that night) told Shanda that Devin told her Dexter is the one that did it.
15. Dexter Stevens is the one everyone in the jail says did it. Clarence said from what he has heard is Dexter who is very high up in the Bloods was trying to take out John Allen that night, who was higher up than him (head of the bloods) so Dexter could take his place. He got Joshua instead.
16. Dexter's girlfriend Amber Lowery, no relation to Kimberley his baby's mama drives a white Status and it had been shot a couple of times. She got a new car. Her sister is Brittany Lowery who works for Lumberton PD.
17. Clarence said when his mother left Brown his mother took him to live with his Aunt Velma Roberts Brown and his sisters went to live with Aunt Mary. Joe Brown took his boys.
18. Clarence said he will always feel bad about telling Joe Brown about his mother sitting in a car with another man. Clarence said he had no idea that Joe Brown would beat his mother half to death over it. That is when Clarence bit him in the back trying to stop him.
19. Clarence said the cops would come out but they were afraid of Joe Brown because he was so mean and big. One time he knocked the policeman out and took his gun.
20. **Clarence said he was 15 (1989 approx.) when he got a gun and told Joe Brown that if he ever touched his mother again he would shoot him.
21. ***Clarence said when he was 19 (1993-approx) a guy was robbing him and had a gun to him and Clarence said he shot the guy two times in the chest. The guy is now in prison and was a very bad dude who the cops at the time were trying to catch. They did not put Clarence in jail. ***Need to check on this. Clarence said after that he put the gun down and never touched a gun until.....
22. **Clarence said that in 2000 (27 years old-approx.) he was staying with Shanda Lyons a car and grabbed a gun because he was so upset and pointed it at them. He said he didn't shoot it and asked Shanda "why would you just do me like that". He pulled out the clip and got drunk and gave Shanda the

gun. She turned him into the police. Clarence said they came out and picked him up but didn't keep him. Clarence said there should be a record of that. They broke up after that. She ended up having a baby with the guy she was with that day. Clarence said Shanda was a very violent person and she told him that too. They have always remained friends however.

23. Vanessa is the person who took charges out against him but Clarence said he never touched her. He said he did put a hole in the wall. Police just told him to walk away. She is now living with a very old man who lives in the trailer park near Tasha. Those were the simple assault charges. He never went to jail or was arrested.

24. ***Clarence said he was dating a girl named Tory Deal in 2009 and he was working at Mountainair Farms. She started messing with a guy Clarence rode to work with and he caught them. He said that he just walked away and got drunk and went back to Plant and that is how he got the 2nd degree trespassing and the intox and disruptive charges. Tory now has a arm robbery charge.

25. Clarence said he used to work at the Fayetteville State University Book Store for the Summer Youth Programs. He was a stock clerk and he worked there from age 15-19. They wanted to hire him full time. His supervisors were Miss MacNeil and Mr. Pratt or Prall.

26. Clarence told me that he heard Tiffany tell the Judge when they were in court for the traffic ticket that they were trying to get Clarence out of jail next month???? I told him I had not heard anything.

27. He said they thought the Judge was going to dismiss the case but Tiffany got the officer to say that Clarence was sleeping in the car and couldn't stand up. He was blurried eyed and smelled of alcohol.

28. Clarence said he had been in a AA program since he has been at Robeson County Jail. He goes every Wednesday. We need to get a copy of that info.

29. He said the police officer did not remember what he had on that night but Kimberley Lowrey would. Girls remember stuff like that.

30. * WEDO, works at the same place as Jennifer Gurley does and his mother called me one time to see where he was. He was in the Bloods and I told her he was hanging out with them?

31. Clarence said he thinks Kimberley doesn't want to have to go to court and she may be avoiding us.

32. Tasha Roberts Moore has a new phone number. It is 910-401-8364.

33. His cousin Howard Roberts works at the jail as a cook at Cumberland County Or used to.

34. His son is 19 and he thinks he may be with his mom. 910-733-9754???? He is not sure it is hook up yet.

35. His brother Joseph's number is 910-234-6846, the one on Rayford Avenue in Fayetteville



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Handout 44

Roberts Arrest Photo



Handout 45

Clarence Roberts DAC
Chart

Sealed by Order of the
Court

Handout 46

Clarence Roberts DAC
Calls Chart

Clarence Roberts Phone Calls from Prison

	DATE/TIME	TO	RELEVANT PORTION
1.	6/24/2017 2:30pm	Uncle Dill	Roberts explains how his case went and that he rejected a plea for 18 months, emphasizes the racial inequality in the jury. Roberts also mentions a phone call that was played during trial. Roberts mentions again about pictures that were in his trial that he did not have, states that his attorney Tiffany P. might have sold him out. Also states that the witnesses were coached.
2.	6/28/2017 5:22pm	Roberts' Sister and Kimberly Lowery (via 3-way call)	<p>Roberts says he was thinking about what Kimberly and Bre said at trial. Roberts says he was at Kimberly's house that night. Roberts adds that he wasn't sure what "E" was trying to do but "E" should of just told the truth. Roberts recalls that "E" said Roberts was with "E" but Kimberly had said Roberts was with her at 10pm. Kimberly responds saying Roberts was at her house. Roberts then says that "E" doesn't know what happened.</p> <p>Roberts says that John McCollum got on the stand and lied too. Kimberly asks if he means John Allen. Roberts says "no" then adds that John Allen did not know anything either.</p> <p>Roberts then says he felt like Tiffany sold him out and if he knew she was going to do "that" then he would of presented his own case.</p>
3.	1/11/2018	Tasha Williams (Sister)	<p>Roberts thinks the Commission will take his case, but he's not going to use them right now. He's going to see what his lawyer can do first.</p> <p>He asks Tasha to "keep Anissa around" so she can tell "them people" the same thing. Roberts says when he gets out he has to get out of NC. Tasha says that's so no one else can blackmail him.</p> <p>Roberts says he thinks he'll be home by the end of the year. If he isn't out by then, then he's going "to be going with these people." His case would then go in front of three judges instead of one. Right now though his attorney filed a "change of venue" and it will be heard before the "US District Court" in Raleigh. All the bias against Roberts for when he sued "them" is going to be "thrown out the window."</p> <p>Roberts says if the case doesn't make it out of the Dist. Court then Roberts is going to have his lawyer send it to the Supreme Court where they'll automatically over turn it because the victims during trial said "this is not the man." The victims said the car got "shot up and everything" but the forensic man testified that it could not have been Roberts because "it" would have been all over Roberts.</p> <p>Roberts says when he called home and told Nell to go to the bank to get money for his bond – it was used as evidence of guilt.</p>

Clarence Roberts Phone Calls from Prison

	DATE/TIME	TO	RELEVANT PORTION
4.	1/18/2018 7:24pm	Crystal	Roberts thinks he'll be back in court in October. If his lawyers can't get his conviction overturned, he's going somewhere else. Roberts thinks "they" talked to the jury when he went back to the jail that day. Roberts says they let him know "they was gonna burn me" and says he didn't take the plea offered to him.
5.	1/20/2018 3:08pm	Mary Ransom (Burgess' Mother)	Roberts introduces himself as "Woo" from "the hill" and asks where Burgess is at. He asks Ransom to keep her number for when he goes back to court. He tells her "they" tried to get Burgess to lie on him. Ransom says that Burgess told her that. He tells her to have Burgess go to Harnett because of their programs and he will get up with him there.
6.	1/20/2018 7:56pm	Kimberly and Jarod Lowery	Roberts wants to know if Kimberly can talk to the Commission and promises she won't have to go back to court. Roberts has not written the Commission back yet because he wants to see what his lawyer can do first.
7.	1/20/2018 8:16pm	Kimberly and Jarod Lowery	Roberts really needs Kimberly to talk to the Commission because what Kimberly had said and what Bre had said can get him home.
8.	1/27/2018 4:44pm	Kimberly Lowery	Roberts starts to discuss his case and Kimberly says she does not want to get involved. Roberts answers that she's the one who got him in "this mess." Roberts says it was her and Bre who put his name in this case. Kimberly responds that they didn't say anything. Roberts indicates it was her and Bre who said his car matched the one used in the case. Kimberly again denies ever saying such a thing and tells Roberts to not call her anymore.
9.	2/27/2018 6:28pm	Kimberly Lowery	Roberts apologizes for how their last conversation ended but said he's going by what's on his papers. Kimberly responds that the papers are lying and they never said such things re: putting Roberts name into this case.
10.	3/9/2018 7:14pm	Unknown Male	Roberts' lawyer did not want him to go with the Commission yet because it might shoot him in the foot. Roberts says he knows he'll come home if the Commission takes his case. All the Victims during trial said it was not Roberts. The forensic man also said there was no way Roberts could be the shooter. The unknown male asks what was it that lead them to thinking it was Roberts. Roberts says it was his child's mother's daughter who pointed them his way; but during trial when his child's mother and her daughter found out what time this all happened at they said Roberts was at their house, therefore there's no way Roberts could have done it. All the witnesses who had said it was Roberts changed their minds once they got to court to say it was not Roberts. Roberts' car was not shot up or nothing. Roberts' car has already been sold and his

Clarence Roberts Phone Calls from Prison

	DATE/TIME	TO	RELEVANT PORTION
			<p>other set of clothes is gone too. They never got the receipts from the stores Roberts said he went to.</p> <p>Roberts says the prosecutor pointed him out to the victims and the victims still said Roberts was not the shooter. Roberts does not have any tattoos and they were saying the shooter had tattoos.</p>
11.	4/10/2018 7:02pm	Kimberly Lowery	<p>They discuss having Kimberly talk to the Commission again. Kimberly still does not want to be involved. Kimberly says the papers are lying. Roberts recalls the papers saying that Bre said that Roberts was locked up for a DWI.</p> <p>Roberts says that Kimberly called him one time after the newspaper came out and said how could he have done this when he was at her house. Kimberly says she told those people there was no way that Roberts could have done this. Kimberly says they twisted everything around. Kimberly hopes that Roberts does come home but she does not want to be involved.</p> <p>Roberts says they'll want to know if he had on pants because Kimberly said he was wearing pants but someone else said he was wearing shorts.</p> <p>Roberts thinks he's going to send in his paperwork and be automatically released. Kimberly says "they" would take her license and her childcare license if she wouldn't get involved originally in this case.</p>
12.	4/11/2018 10:02pm	Darlene	<p>Roberts asks her if she was in court the day the victims said it was not Roberts. Darlene says she was not there that day. Roberts then says they sold his car and got rid of his clothes. Darlene asks if they got rid of the clothes they showed in court. Roberts says no, he had another pair they took and got rid of those.</p>
13.	4/18/2018	Tasha	<p>Roberts is talking about his trial and is talking about a girl who testified who thought Roberts was the lawyer. The girl kept saying Roberts was not the shooter and the DA kept asking if she was sure. Tasha responds asking if Roberts remembers when a boy got on the stand and the DA asked him who it was and the boy responded that he was not at liberty to say.</p>
14.	4/19/2018	Darlene	<p>Roberts says during his case people were trying to say he was a part of a gang or something. Darlene says she has never known Roberts to be into any of that.</p>
15.	9/26/2018	Darlene	<p>Roberts says his child's mother put him in this mess and he was not even there.</p>
16.	11/30/2018 8:22pm	Shanell "Nell" Vinston (Sister)	<p>Roberts talks about how he might take the plea if they give him one because he just wants to be home. Nell tells him he did nothing wrong and he should not take a plea. Roberts says "these people might try to kill me while I'm here."</p>

Clarence Roberts Phone Calls from Prison

	DATE/TIME	TO	RELEVANT PORTION
17.	3/12/2019 6:30pm	Kimberly Lowery	Roberts says he didn't kill anyone. The only thing he did that day was get drunk.
18.	4/23/2019 6:32pm	Kimberly and Jarod Lowery	Roberts says they are trying to vacate his sentence but does not think that'll happen. Roberts goes on to say that his family members were supposed to testify but they never did. The jury members were "sleep" during the trial. Roberts says Kimberly won't be needed to go testify again.
19.	5/1/2019 7:02pm	Kimberly and Jarod Lowery	Roberts says he might put Jarod's name forward for people to come talk to him since no one talked to him the first time around. Jarod says he saw "E" recently but he was drunk as hell. Roberts needs "E's" number too so he can put him forward for people to talk to as well. Roberts is trying to get out and did not do this. He thinks Bre would be willing to talk.
20.	7/2/2019 6:27pm	Jarod Lowery and Tasha	Roberts is going back to court in a couple months. He needs Tasha, Nell and Vanessa to be there because "they" want to use "that call" against Roberts. The three need to be there so they can explain the call. Tasha talked about speaking with someone was "down there" when Roberts was drunk and almost ran into the houses. Roberts says "the call" was used against him. Roberts asks if Tasha remembers this person telling her that she should of come down to pick up Roberts that day. Tasha answers "mmhm." Roberts needs to know who Shonda texted on the computer saying who committed the crime. Tasha says Shonda told her over the phone and it was not on the computer.
21.	8/7/2019 8:49pm	Jarod Lowery and Alex "Bug" Stephens	Roberts says Kimberly told "them" that Bug and Roberts used to beef and that is why "they" went and talked to Soulski. Roberts was so drunk he couldn't have even held a gun. Roberts says the people in the courtroom said it wasn't him.
22.	11/15/2019 8:01pm	Unknown Female	The unknown female recalls the little man that stays across the street from the restoration center said it was a black car that day.
23.	12/5/2019 6:32pm	Call via PIN of Michael Hughes to Mary Ransom (Burgess' Mother)	Roberts asks if Burgess is home and where he is. Roberts says he knows that Burgess did an affidavit for him. Roberts' appeal was turned down. If he can find Burgess and get a written affidavit, they'll have to let him out in seven days. Roberts says witnesses are stepping up and saying it wasn't him, even the victim's cousins. Roberts says "they" tried to say he was shooting at them. Half of the people grew up with Roberts' kid and said it wasn't Roberts.

Clarence Roberts Phone Calls from Prison

	DATE/TIME	TO	RELEVANT PORTION
			<p>Roberts says this case taught him a lesson. He was getting drunk but still working. He works with young kids and that's how he started finding out who killed the Victim.</p> <p>Ransom asks if Roberts was at the wrong place at the wrong time. Roberts says his car looked just like the car. "Amber" was talking to a guy named Dextor Stephens, who was a young boy that came up on the hill. One of Roberts' children's mothers used to date Stephens and he told her about the crime. The child's mother says that they look just alike but Stephens is shorter.</p> <p>Roberts says this is the second time he was put in prison for something he didn't do and this is the "get back."</p>
24.	12/10/2019 10:44am	Jarod Lowery and Attorney's Office	<p>Roberts calls an attorney's office via 3-way call to inquire about getting an affidavit from an inmate at Foot Hills, Micheal Burgess, who will say Roberts was not the shooter. Secretary informs Roberts that his current lawyer should be pursuing that and he should not need a second lawyer. Roberts says his original attorney did not follow up on this and that's part of the reason he is incarcerated now. Roberts says he was at Kimberly's house during the shooting. Burgess is one of the victims. Burgess completed an affidavit before but it was not "given." Roberts thinks the this affidavit was not shown originally because of his previous lawsuit against Lumberton PD.</p>
25.	5/27/2020 4:53pm	Call via PIN of Jerry Hunter to Mary Ransom (Burgess' Mother)	<p>Roberts asks if Burgess is home yet, where he's housed, and what his OPUS number is. Roberts says he has a way to get out of prison and wants to write to Burgess. Roberts says that if Burgess writes the statements he told Roberts, they'll bring Roberts back to court. Roberts believes that when the media finds out what "they" did to Burgess, they'll both get out of prison.</p> <p>Roberts says they tried to make Burgess testify that it was Roberts and when he said it wasn't, that's why Burgess was sent to prison.</p> <p>Ransom asks about Roberts' sentence. Roberts says 30 years. Roberts says Burgess told them that Roberts didn't do it and he has proof that what Burgess says is true in his transcript.</p> <p>Roberts says his conviction will be overturned and "they" won't want to go to trial. Roberts says Amber had a car that was involved in the shootout and Roberts didn't know that until "this boy" told me.</p> <p>Ransom says she'll let Burgess know when talks to him.</p>

Clarence Roberts Phone Calls from Prison

	DATE/TIME	TO	RELEVANT PORTION
26.	6/8/2020 7:40pm	Mary Ransom (Burgess' Mother)	Roberts speaks to Mary Ransom's daughter and asks for their address. She provides it. Roberts says he's going to send a letter to Ransom for her to send to Burgess.
27.	6/15/2020 8:12pm	Unknown Female	Roberts says the DA pointed him out to her and that is a fundamental error. Roberts says the car was shot up and says he needs to get an affidavit because Mike said the car was shot up. He also says they put a trooper on the stand and it was a trooper who arrested him and had a conflict of interest.
28.	7/29/2020 6:41pm	Mary Ransom (Burgess' Mother)	Ransom tells Roberts she sent the papers to Burgess but hasn't heard anything about them. Roberts tells her that he has innocence people working on his case and they told him to write them. Roberts says he wants to get these affidavits done. Ransom tells Roberts to write to Burgess.
29.	9/17/2020 11:41am	Unknown Male	Roberts needs this person to send a certified letter to one of the people in his case so they can write an affidavit to get Roberts home. He says once it is signed, he'll get back to court.
30.	9/24/2020	Aunt	Roberts says he is going to need her help getting affidavits from people. He said there was a phone call played that never should have been played in court.
31.	10/5/2020 7:00pm	Nell	Roberts asks her to go look up information about his other cases as it may affect his sentencing. Roberts says he is going to send a letter to Nell with a letter inside for Micheal Burgess and he needs Nell to send that letter to Micheal Burgess to give him an update on what's going on. Roberts says he needs Burgess to write an affidavit about what "they" told Burges to do to Roberts. Roberts says Burgess already stepped up and said Roberts didn't do it.
32.	10/5/2020 7:17pm	Nell	Roberts talks about the letter to Micheal Burgess again. Roberts says that if Burgess does not do the affidavit, he'll hire a private investigator and Roberts will do it in front of them.
33.	10/12/2020 8:01pm	Mary Ransom (Burgess' Mother)	Roberts says he is calling to see if she heard back from Burgess. Roberts says he wrote to him. Ransom says she hasn't gotten the papers back yet.

Clarence Roberts Phone Calls from Prison

	DATE/TIME	TO	RELEVANT PORTION
			Roberts asks Ransom to tell Burgess that Roberts will let Burgess know when Roberts needs Burgess. Roberts says they're going to get him back to court and release him. Roberts says "they" violated him in all kinds of ways.
34.	10/26/2020 7:44pm	Nell	Roberts asks her if the affidavits are completed and she says no. He says her, Vanessa, and Tasha need to get together to do the affidavits and get them to him immediately.
35.	11/8/2020 2:01pm	Jarod Lowery	Roberts asked if Tasha contacted him about the affidavit and Jarod says no. Roberts says Kimberly needs to write an affidavit for him to help get him out. Roberts says Kimberly needs to tell what he had on and that he was at her house.
36.	11/20/2020 10:55am	Jarod Lowery and Equal Justice Initiative (via 3-way call)	Roberts speaks to someone in intake. Roberts says that he is innocent, that he has everything to prove it, and wanted to know if someone could come see him so he can show them everything. He's got the victim saying it's not Roberts, that Roberts is too tall, and the person who did it had tattoos on his neck and face and Roberts has none. He's got expert witnesses that say it could not be him because the way the car was made and tracks on the car. Roberts says he's got prosecutorial misconduct. Roberts says he has sued these people before.
37.	11/26/2020 2:34pm	Vicky	Roberts says he is innocent and the only thing he had to do is get back to court. Roberts says Ricky is the person that stepped up for Roberts by saying the guy had tattoos all over his face. Roberts does not have tattoos. Roberts says he was picking up Jarod at the time and Jarod's mother, Kimberly, put him in it and she knows Roberts was at her house.
38.	1/17/2021 7:40pm	Jarod Lowery	Roberts needs to send Jarod an affidavit form so Jarod can say Jarod was in court every day and that Jarod could of testified that Roberts was at Kim's house that day. Jarod responds that Roberts was at Kim's house that day. Roberts says that everyone knows Jarod was "there." Jarod again says he was with Roberts.
39.	5/28/2021 6:54pm	Call from PIN of Howard Kirkland to Mary Ransom (Burgess' mother)	Roberts asks if Burgess is home yet and Ransom tells him not until next year. Roberts says that "the people" just took his case. They're going to come see him and have already seen his family. This means they're seeing things and he can come home at any time. He says he's going to come home soon and they've had his car for four years. Roberts says he told Burgess that him telling the truth (something unintelligible). Ransom asks if Burgess finally sent the affidavit. Roberts says he knows where Burgess

Clarence Roberts Phone Calls from Prison

	DATE/TIME	TO	RELEVANT PORTION
			is and can send it to him over there. "They" might go to see him. Roberts says he'll let her know when "they" come to see Burgess. Roberts says all Tasha needs to say is that she gave Shonda's phone number to Roberts. Roberts says he is running out of time and needs to get it done soon. He hopes that Mike will do what he is going to do soon.
40.	11/4/2021 8:55pm	Unknown	Roberts talks about the gangs and police in prison and how he should have just taken the 18 months that was offered. However, he then says he did not do anything so why would he have taken it.
41.	1/16/2022 1:43pm	Aunt	Roberts talks about Ronnie Roberson saying it was a black car and a white car. Roberts talks about how Roberson was a witness for the state because they thought Roberson was going to say it was a white car doing the shooting.
42.	1/16/2022 3:01pm	Jarod Lowery	Roberts says he was so drunk, he "fell out." He said he went to sleep and someone went and killed somebody and here he is, locked up and he didn't do anything.

Handout 47

Christopher Lennon Criminal History Chart

CHRISTOPHER LENNON

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
SECOND DEGREE MURDER	ROBESON	09/06/2014	06/26/2018
MURDER OF AN UNBORN CHILD	ROBESON	09/06/2014	06/26/2018
INTERFERRING WITH EMERGENCY COMMUNICATION	ROBESON	11/28/2008	06/18/2009
RESISTING A PUBLIC OFFICER	ROBESON	11/28/2008	06/18/2009
DWI- LEVEL 5	BLADEN	05/21/2005	03/07/2006
SECOND DEGREE TRESPASS	BLADEN	07/12/2004	08/03/2004
RESISTING A PUBLIC OFFICER	BLADEN	07/10/2003	12/15/2003
MALICIOUS INJURY TO PERSONAL PROPERTY	HORRY (SOUTH CAROLINA)	09/07/2009	10/11/2007
MALICIOUS INJURY TO PERSONAL PROPERTY	HORRY (SOUTH CAROLINA)	09/07/2009	10/11/2007

Handout 48

Soulski Stephens
Criminal History Chart

SOULSKI STEPHENS

CRIMINAL RECORDS

Conviction	Jurisdiction	DOO	Date of Conviction
MISD POSSESS MARIJUANA PARAPHERNALIA	ROBESON	05/08/2021	09/30/2022
MISD POSSESS MARIJUANA UP TO 1/2OZ	ROBESON	05/08/2021	09/30/2022
POSSESSION OF COCAINE	ROBESON	09/06/2017	08/08/2018
MISD POSSESS DRUG PARAPHERNALIA	ROBESON	09/06/2017	08/08/2018
MISD LARCENY	ROBESON	05/04/2008	07/14/2008
MISD ASSAULT INFLECTING SERIOUS INJURY	ROBESON	03/05/2002	06/27/2002
MISD SECOND DEGREE TRESPASS	ROBESON	01/13/2000	08/20/2001
POSSESSION OF COCAINE	ROBESON	01/13/2000	08/20/2001
MISD LOITERING	ROBESON	12/14/1999	12/28/1999
MISD LOITERING	ROBESON	12/07/1999	12/28/1999
SECOND DEGREE TRESPASS	ROBESON	05/16/1999	06/02/1999
MISD RESISTING PUBLIC OFFICER	ROBESON	03/19/1999	04/07/1999
MISD SECOND DEGREE TRESPASS	ROBESON	08/27/1998	10/27/1998
MISD CITY/TOWN VIOLATION	ROBESON	09/18/1998	10/08/1998
MISD RESISTING PUBLIC OFFICER	ROBESON	10/12/1997	11/18/1997
MISD RESISTING PUBLIC OFFICER	ROBESON	10/12/1997	11/18/1997
MISD ASSAULT ON A FEMALE	ROBESON	01/31/1997	11/18/1997
MISD CARRYING CONCEALED WEAPON	ROBESON	10/19/1995	03/19/1997

MISD SECOND DEGREE TRESPASS	ROBESON	11/04/1995	01/22/1996
MISD SECOND DEGREE TRESPASS	ROBESON	11/04/1995	01/22/1996
MISD SECOND DEGREE TRESPASS	ROBESON	11/02/1995	01/22/1996
MISD RESISTING PUBLIC OFFICER	ROBESON	11/02/1995	01/22/1996
MISD SECOND DEGREE TRESPASS	ROBESON	03/01/1995	01/22/1996
MISD SECOND DEGREE TRESPASS	ROBESON	09/11/1994	11/09/1994
MISD POSSESS MARIJUANA >1/2 TO 1 ½ OZ	ROBESON	09/11/1994	11/09/1994
MISD DISORDERLY CONDUCT	ROBESON	06/05/1994	11/09/1994
MISD RESISTING PUBLIC OFFICER	ROBESON	06/05/1994	11/09/1994
MISD LARCENY	ROBESON	01/31/1994	03/09/1994
MISD RESIST / OBSTRUCT PUBLIC OFFICER	ROBESON	01/31/1994	03/09/1994
MISD INTOXICATED AND DISRUPTIVE	ROBESON	01/31/1994	03/09/1994

Handout 49

Jarod Lowery Criminal History Chart

JAROD LOWERY

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
ATTEMPTED POSSESSION OF FIREARM BY FELON	RICHMOND	01/29/2020	09/27/2021
MISD ASSAULT AND BATTERY	ROBESON	04/15/2018	07/19/2018
MISD SECOND DEGREE TRESPASS	ROBESON	04/11/2018	01/16/2019
CONSPIRACY BREAK/ENTER	ROBESON	12/07/2013	06/06/2018
MISD SECOND DEGREE TRESPASS	ROBESON	06/04/2017	05/09/2018
MISD SHOPLIFTING / CONCEALMENT OF GOODS	ROBESON	04/05/2015	07/12/2016
MISD SECOND DEGREE TRESPASS	ROBESON	04/04/2014	04/16/2015
MISD DISORDERLY CONDUCT – SCHOOL	ROBESON	02/24/2014	08/20/2014
MISD RESISTING PUBLIC OFFICER	ROBESON	02/24/2014	08/20/2014
MISD ASSAULT GOVT OFFICIAL / EMPLOYEE	ROBESON	02/24/2014	08/20/2014
MISD DISORDERLY CONDUCT – SCHOOL	ROBESON	10/29/2013	08/20/2014
MISD RESISTING PUBLIC OFFICER	ROBESON	10/29/2013	08/20/2014
RESISTING PUBLIC OFFICER	ROBESON	10/19/2012	12/07/2012
MISD RESISTING PUBLIC OFFICER	ROBESON	11/16/2012	12/07/2012

MISD SIMPLE ASSAULT	ROBESON	11/16/2012	12/07/2012
MISD DISORDERLY CONDUCT PUBLIC BUILDING	ROBESON	11/16/2012	12/07/2012
MISD DISORDERLY CONDUCT – SCHOOL	ROBESON	10/19/2012	12/07/2012
MISD INJURY TO PERSONAL PROPERTY	ROBESON	10/19/2012	12/07/2012
MISD RESISTING PUBLIC OFFICER	ROBESON	10/19/2012	12/07/2012
MISD RESISTING PUBLIC OFFICER	ROBESON	09/20/2012	12/07/2012
COMMUNICATING THREATS	ROBESON	09/20/2012	12/07/2012

Note: Pending charges for Discharge Firearm within Enclosure to Incite Fear, AWDWIKISI (x2), Possession of Firearm by Felon (x2), and Discharge Weapon into Occupied Property Serious Bodily Injury

Handout 50

Eric McQueen Criminal History Chart

ERIC MCQUEEN

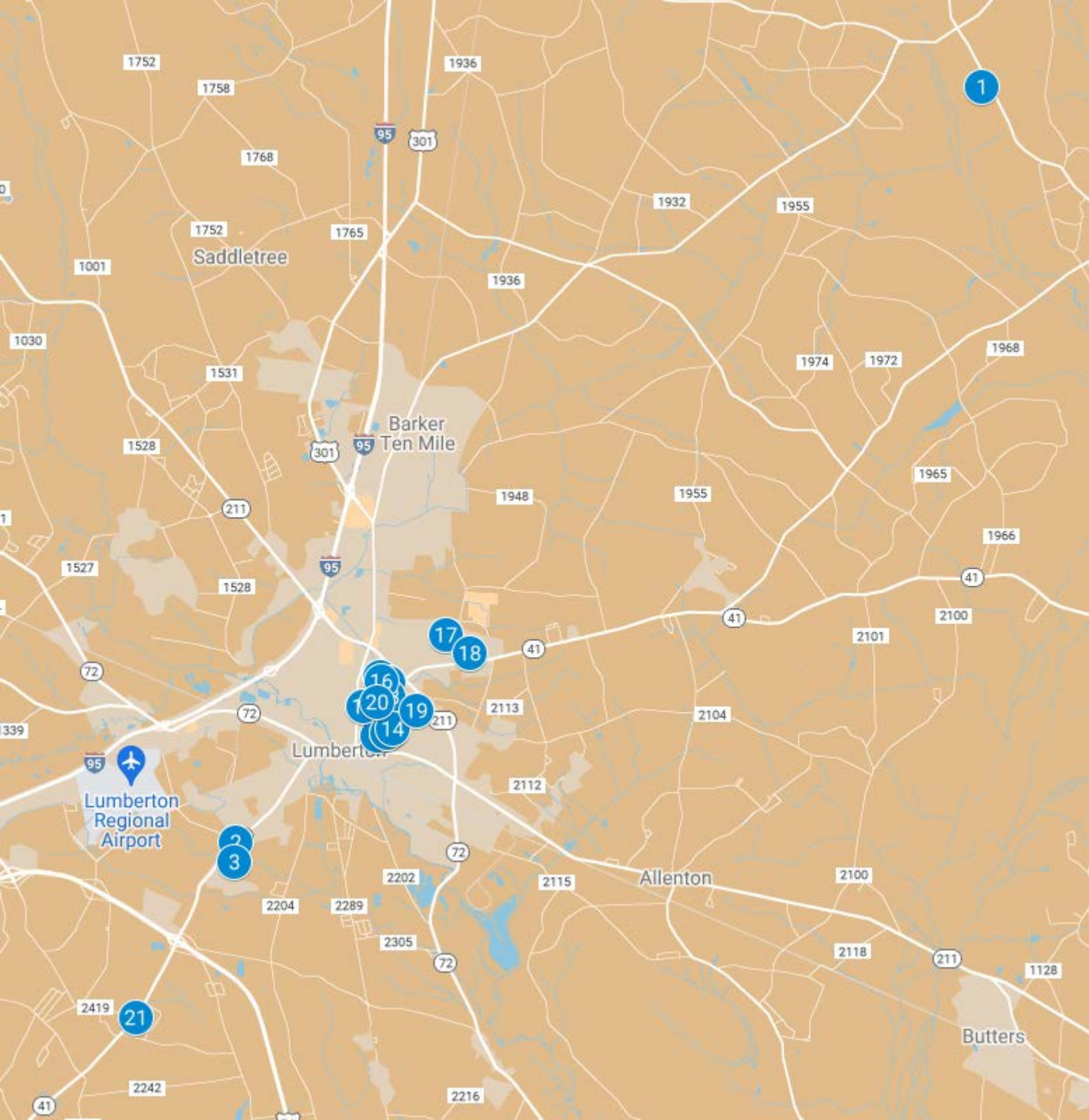
CRIMINAL RECORD

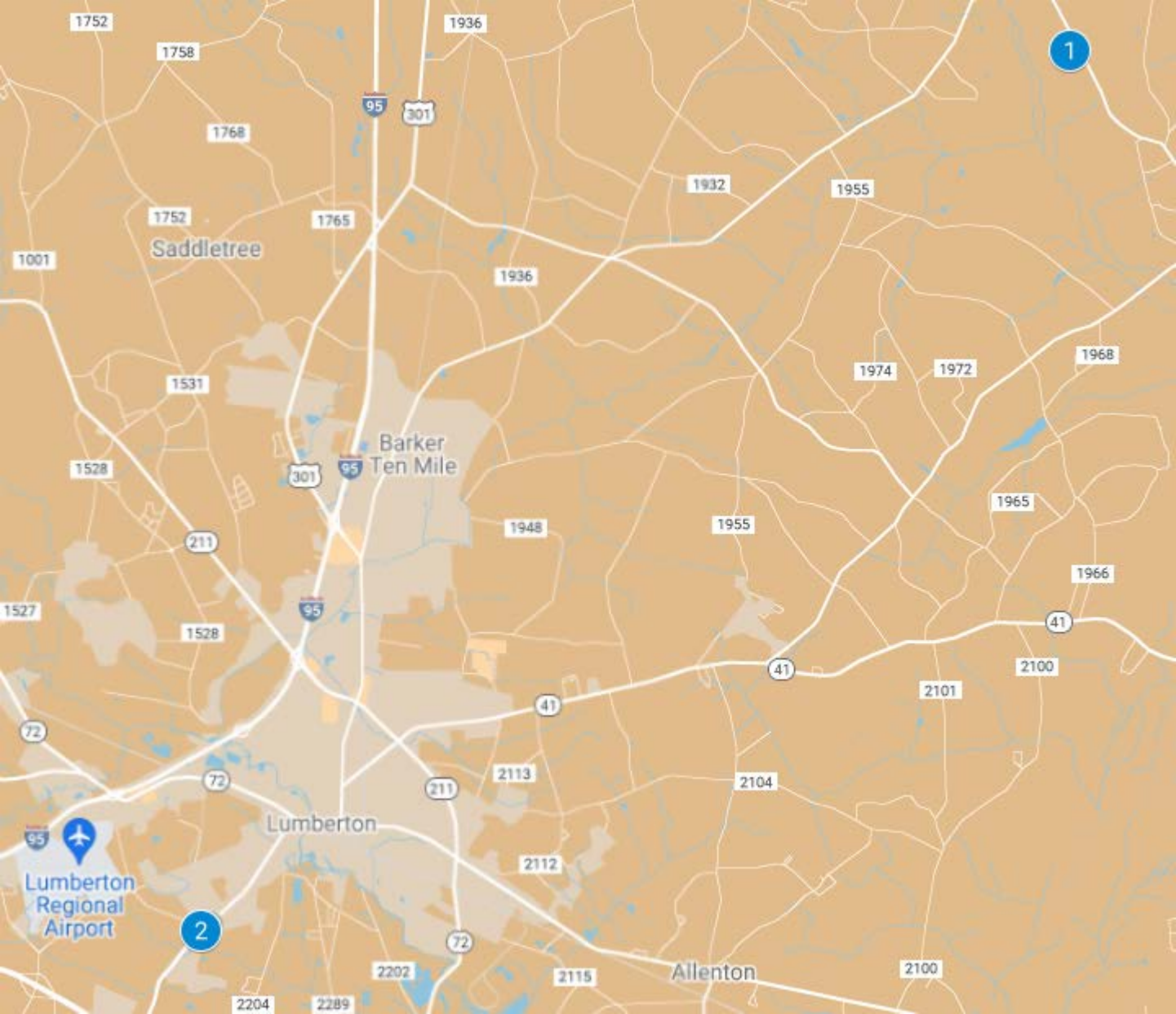
Conviction	Jurisdiction	DOO	Date of Conviction
MISD ASSAULT ON FEMALE	ROBESON	10/11/2013	05/27/2014
MISD POSSESS/SELL ALC BEV NO PERMIT	ROBESON	01/26/2013	12/28/2014
TRAFFICKING IN COCAINE (X4)	ROBESON	03/201997	08/23/1999
PWISD COCAINE	ROBESON	03/20/1997	08/23/1999
POSSESS DRUG PARAPHERNALIA	ROBESON	03/20/1997	08/23/1999
DWI LEVEL 4	ROBESON	09/10/1995	09/25/1995
MISD RESISTING PUBLIC OFFICER	BLADEN	07/09/1995	09/20/1995
PWISD COCAINE	BLADEN	07/09/1995	11/27/1995
CONSPIRACY TO SELL/DELIVER CRACK COCAINE (X2)	ROBESON	09/28/1991	09/14/1992
PWISD CRACK COCAINE	ROBESON	09/28/1991	09/14/1992
MISD REMAIN ON PROPERTY WHILE PARK CLOSED	ROBESON	10/06/1991	11/04/1991
MISD RESIST/OBSTRUCT PUBLIC OFFICER	ROBESON	07/25/1991	10/02/1991
MISD VIOLATION OF COURT ORDER	ROBESON	07/12/1990	05/13/1991
POSSESS CRACK COCAINE	ROBESON	01/02/1991	04/15/1991
MISD CARRYING CONCEALED WEAPON	ROBESON	07/12/1990	09/25/1990
POSSESSION OF COCAINE	ROBESON	11/19/1989	04/15/1991
MISD LITTERING PUBLIC/PRIV PLACE	CUMBERLAND	10/22/1988	12/14/1988

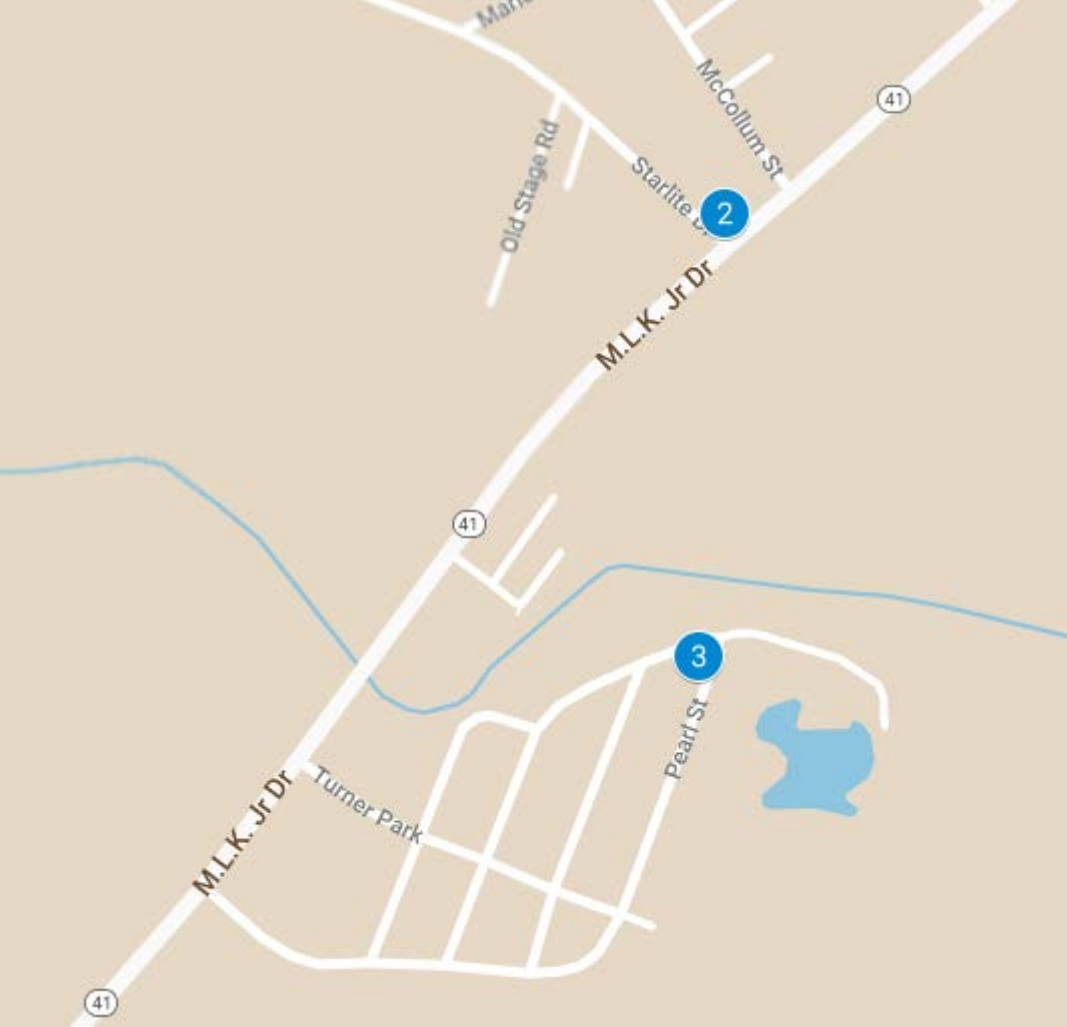
MISD POSSESS STOLEN GOODS/PROP	CUMBERLAND	06/03/1988	09/15/1988
MISD LARCENY	CUMBERLAND	05/21/1988	09/15/1988

Handout 51

Google Earth Location Packet







Mar...

McCollum St

41

Old Stage Rd

Starlite Dr

2

M.L.K. Jr Dr

41

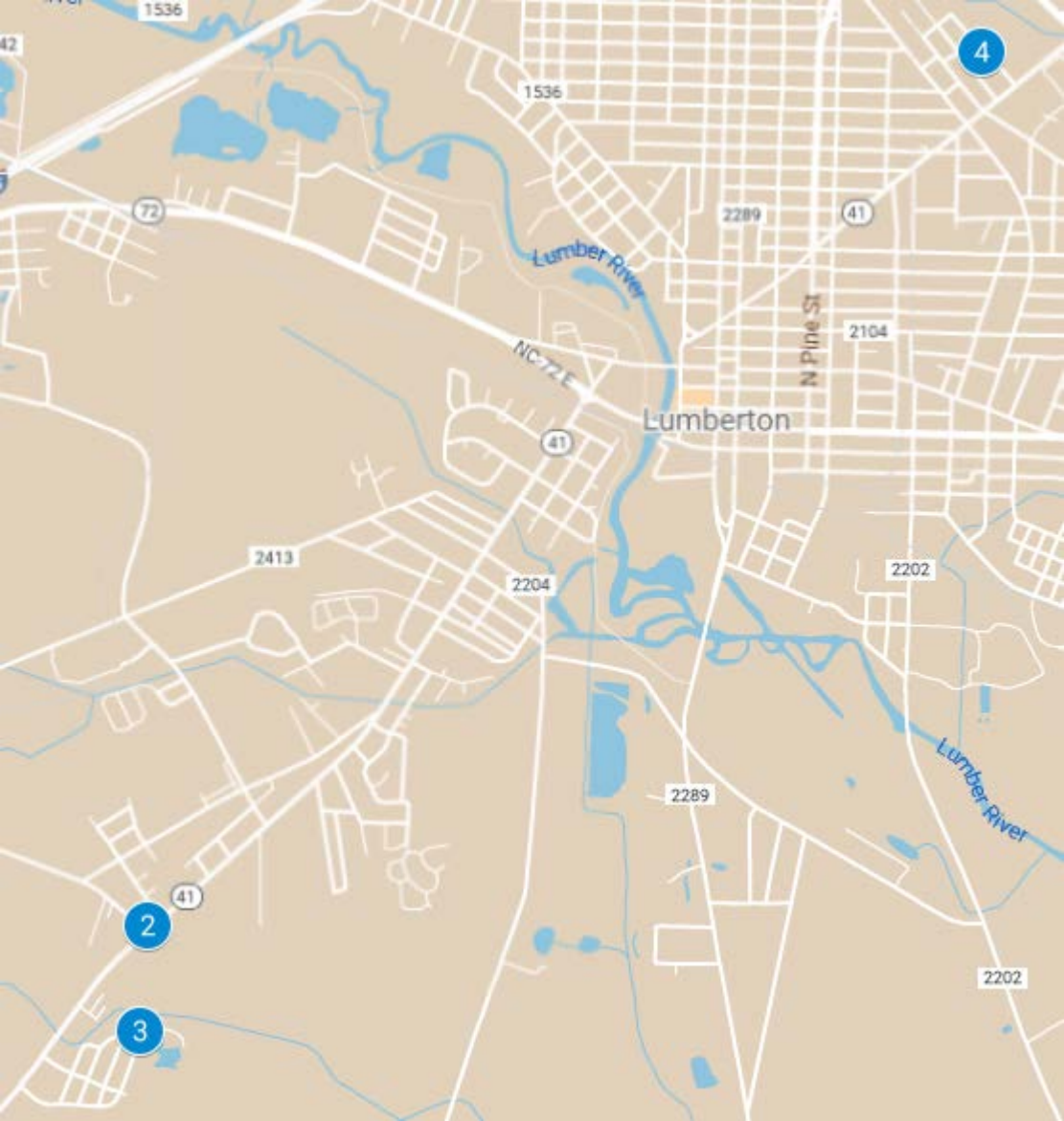
3

Pearl St

M.L.K. Jr Dr

Turner Park

41



4

1536

2289

41

72

NC 72E

N Pine St

2104

Lumberton

41

2413

2204

2202

Lumber River

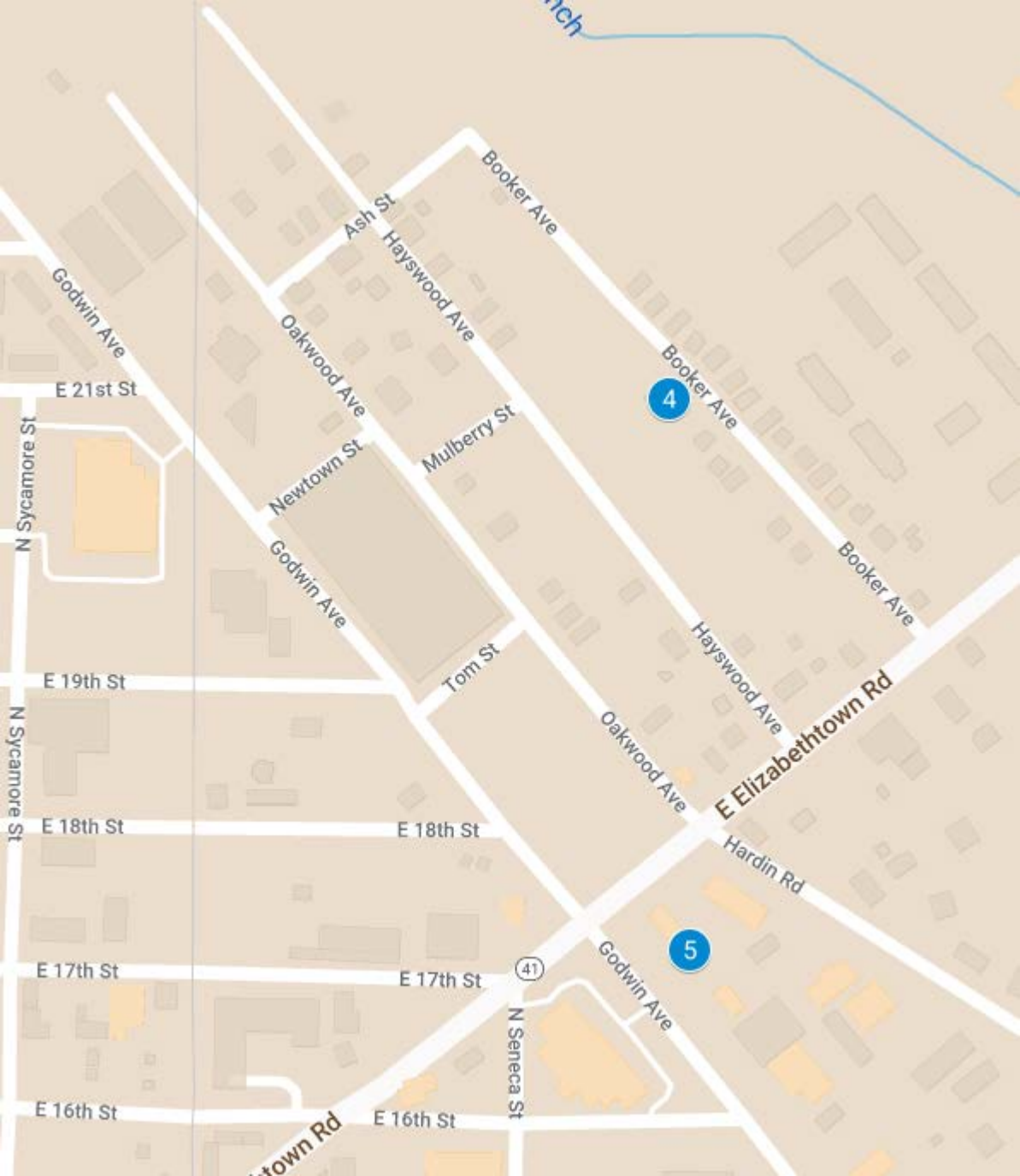
2289

2202

2

41

3



ch

Godwin Ave

E 21st St

N Sycamore St

Ash St

Hayswood Ave

Booker Ave

Oakwood Ave

Newtown St

Mulberry St

4

Booker Ave

Booker Ave

Godwin Ave

Tom St

Hayswood Ave

E 19th St

N Sycamore St

E Elizabethtown Rd

E 18th St

E 18th St

Oakwood Ave

Hardin Rd

E 17th St

E 17th St

41

N Seneca St

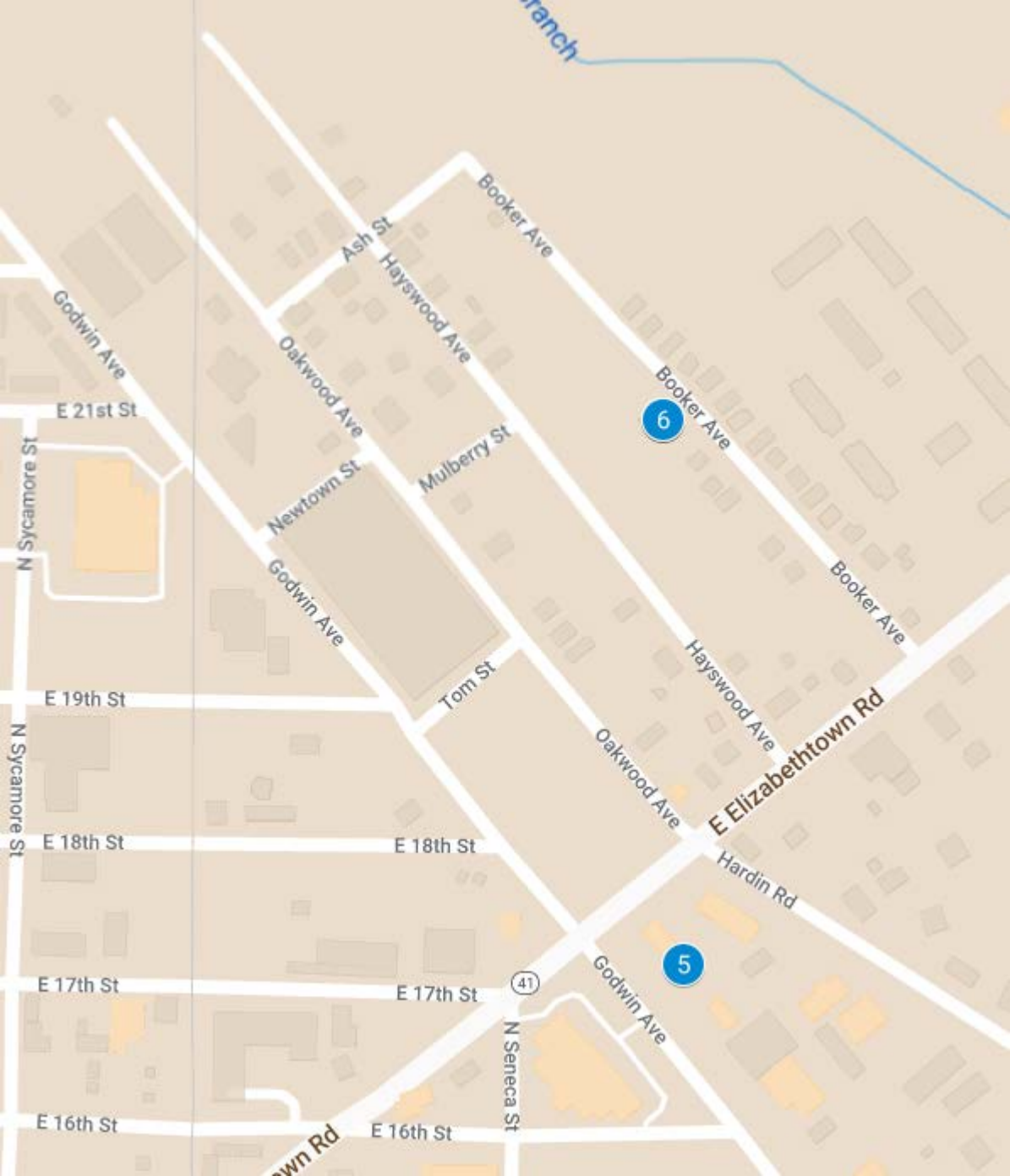
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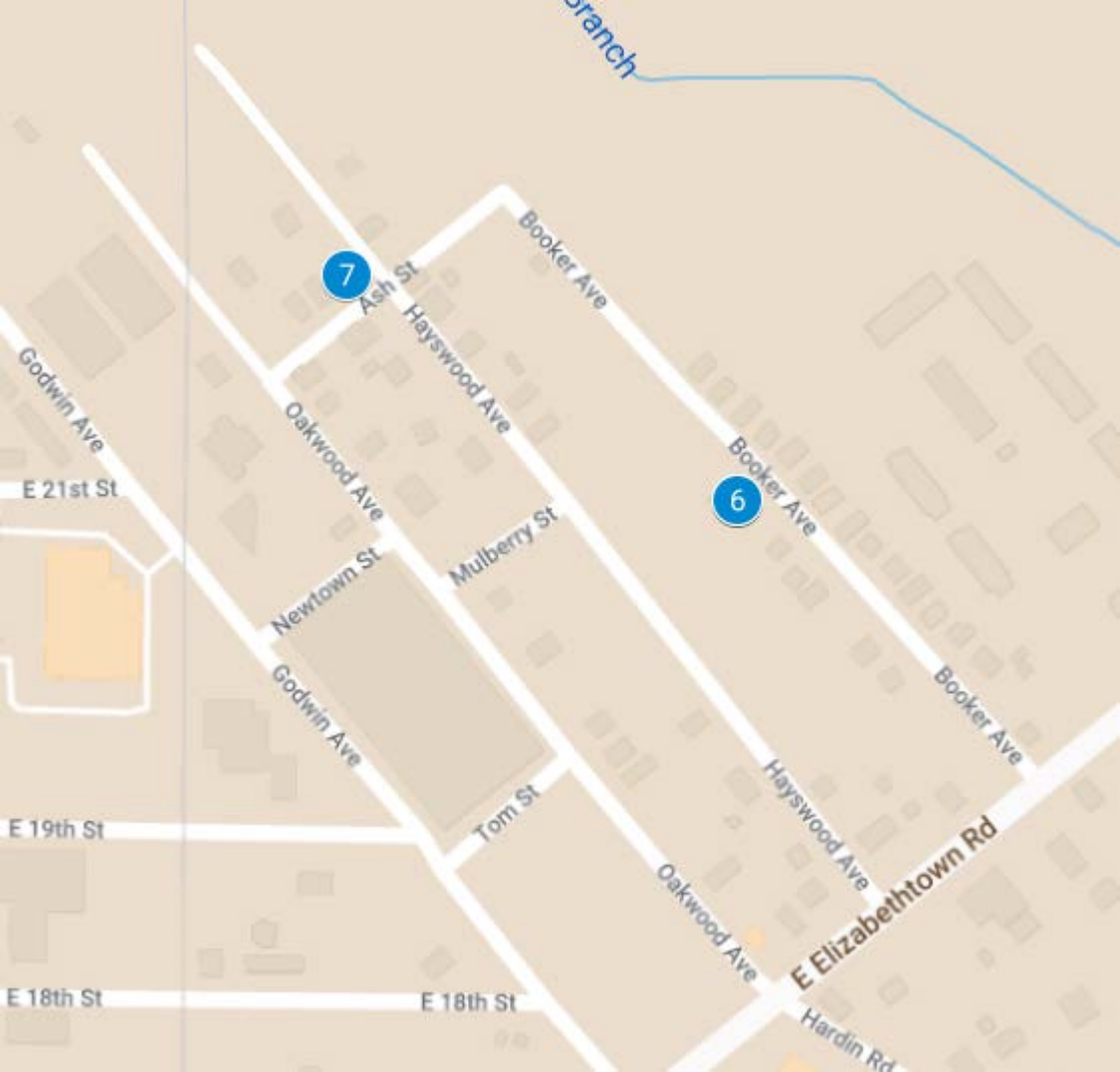
Godwin Ave

E 16th St

E 16th St

town Rd





7

6

Godwin Ave

E 21st St

E 19th St

E 18th St

Ash St

Oakwood Ave

Newtown St

Godwin Ave

Hayswood Ave

Mulberry St

Tom St

Booker Ave

Booker Ave

Booker Ave

Hayswood Ave

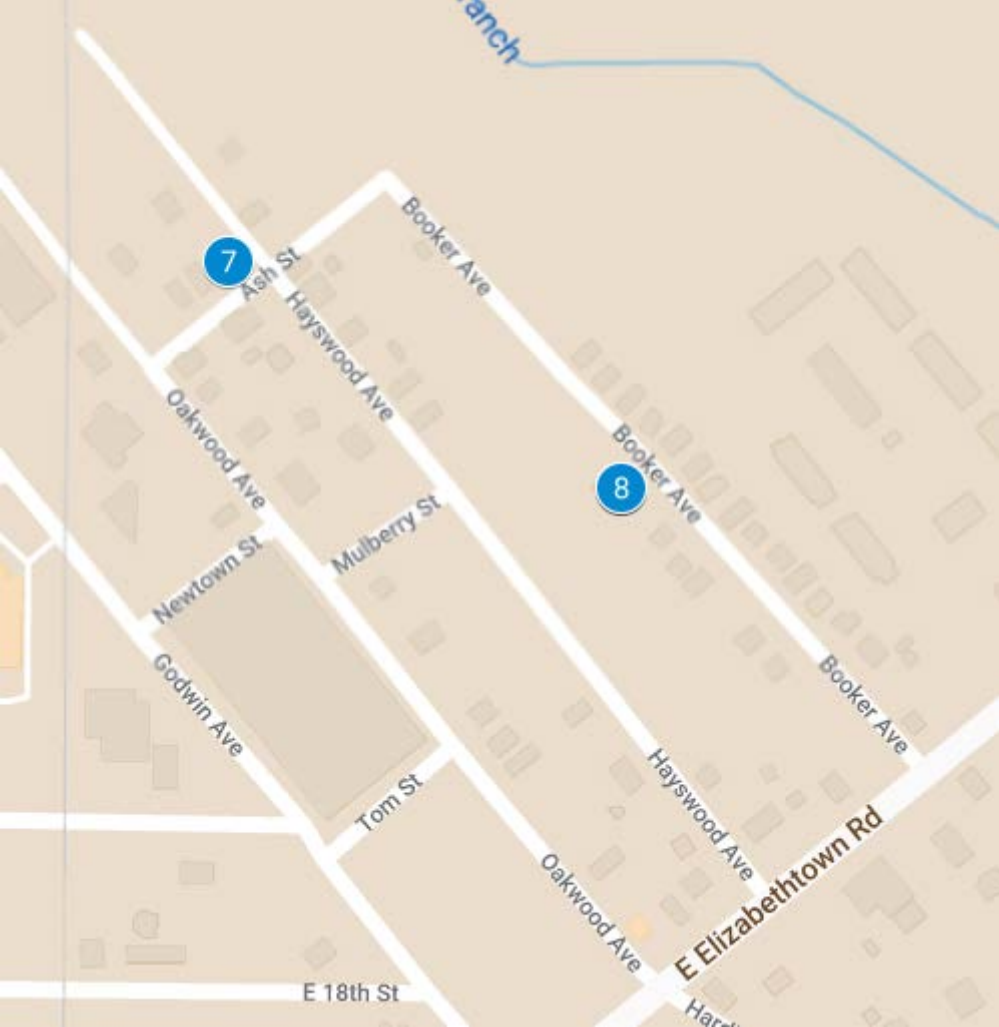
Oakwood Ave

E 18th St

E Elizabethtown Rd

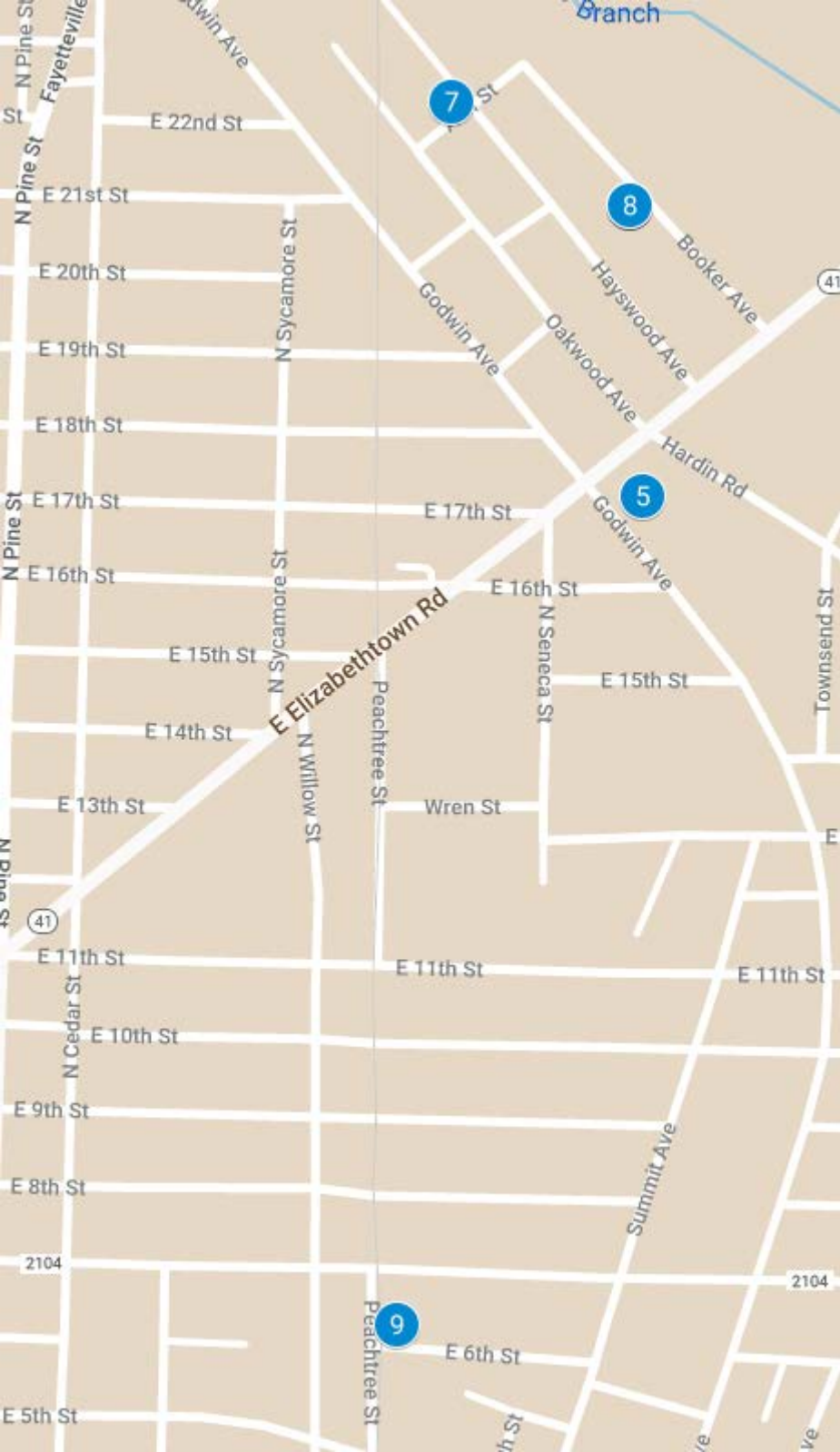
Hardin Rd

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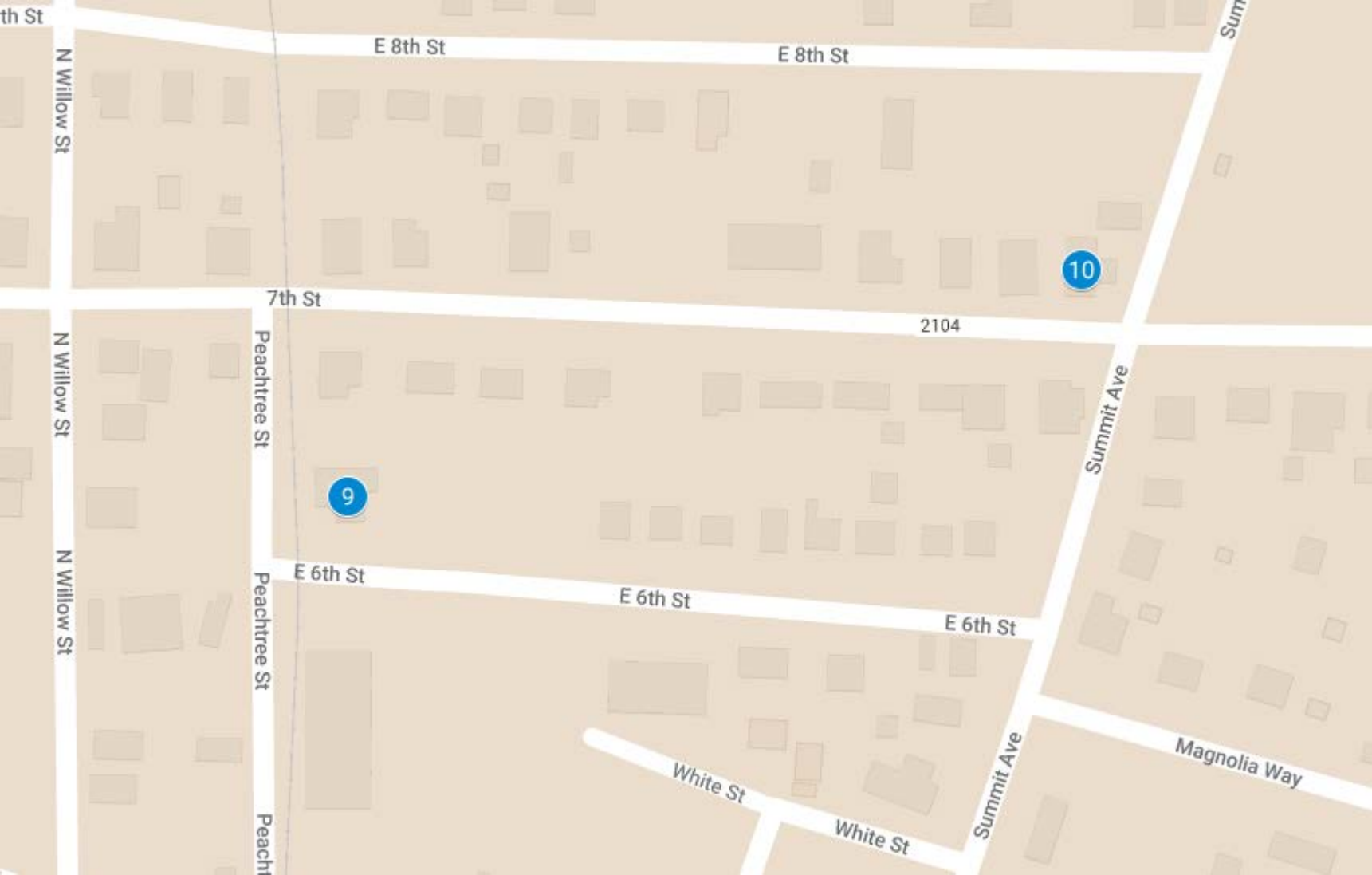
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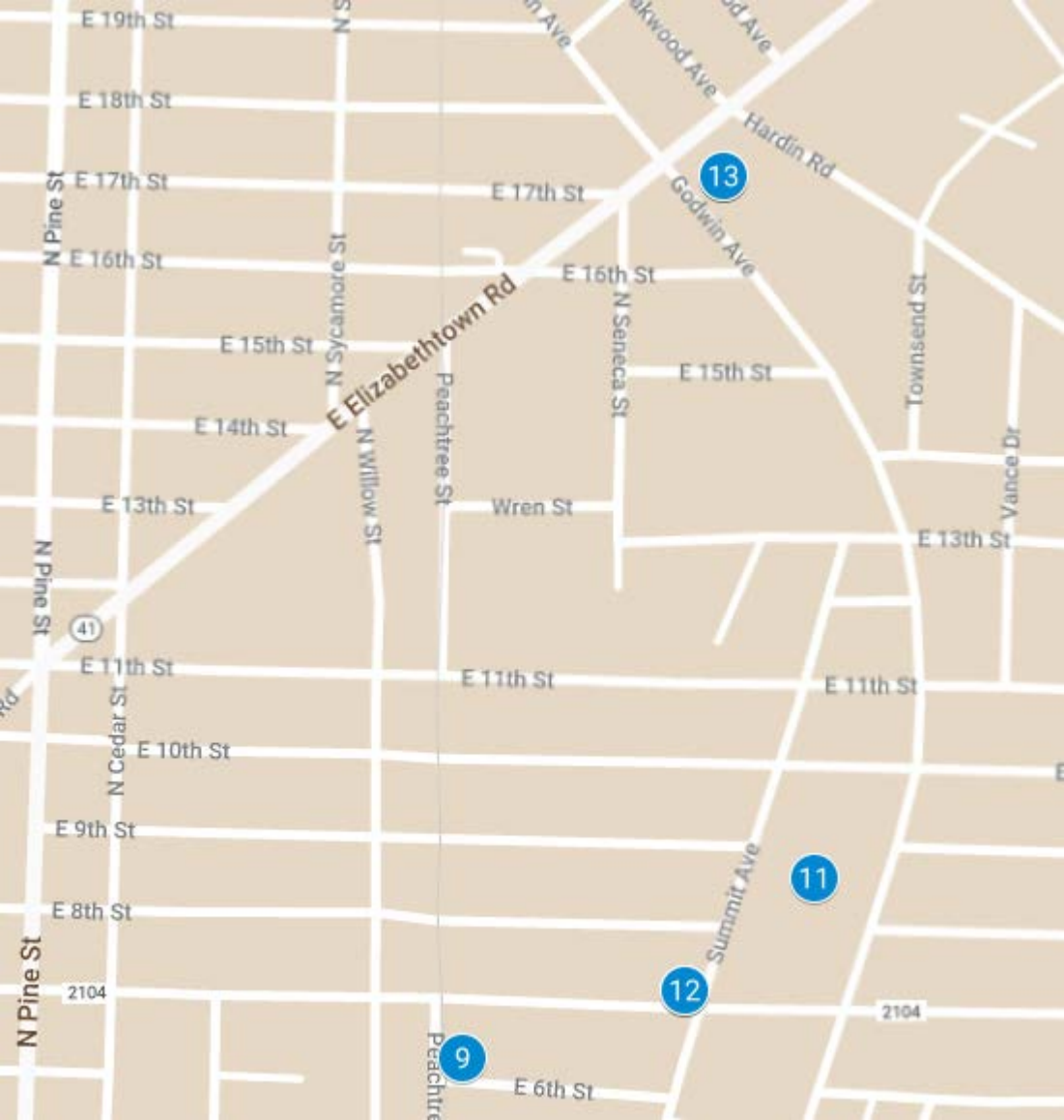
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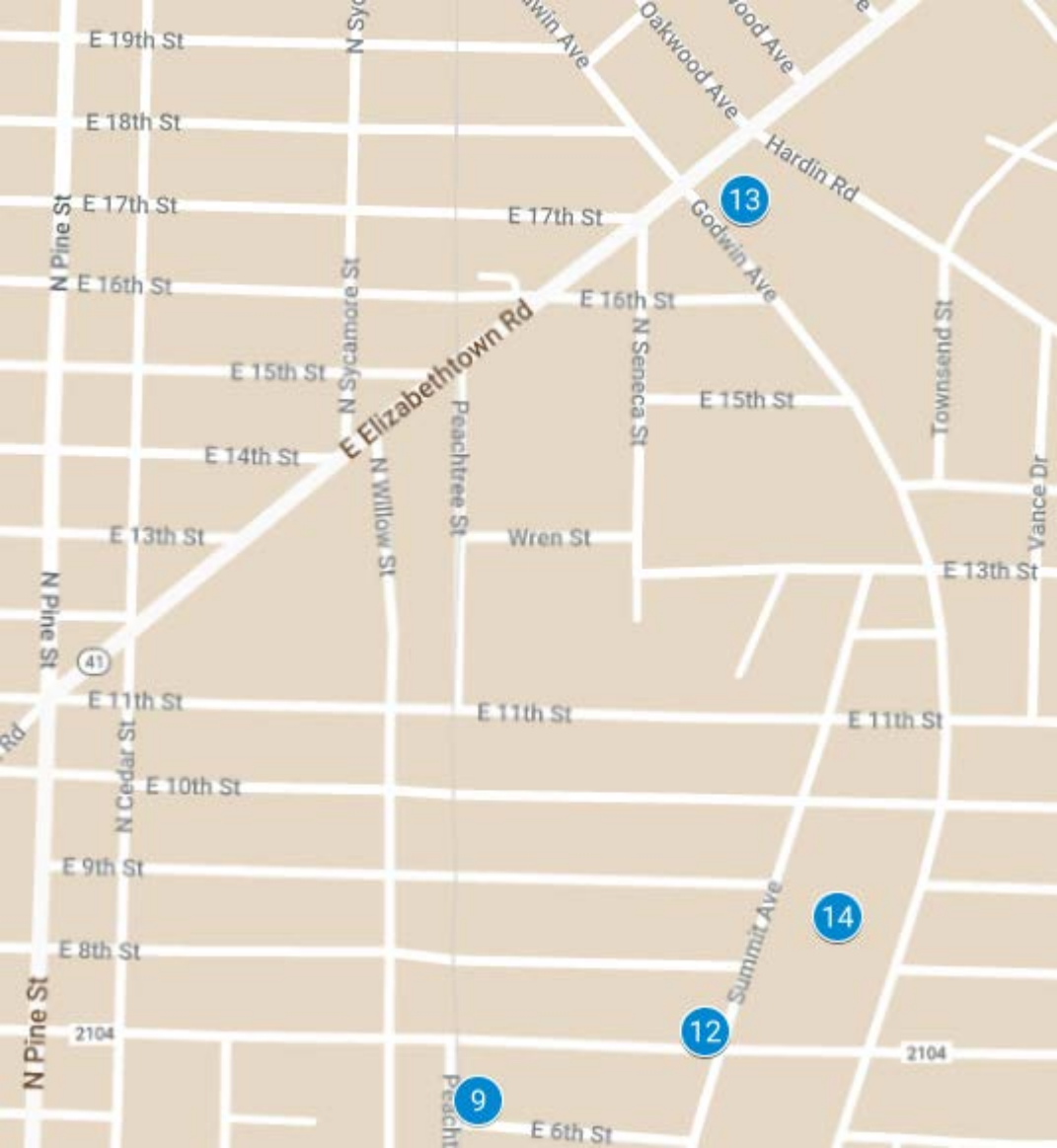
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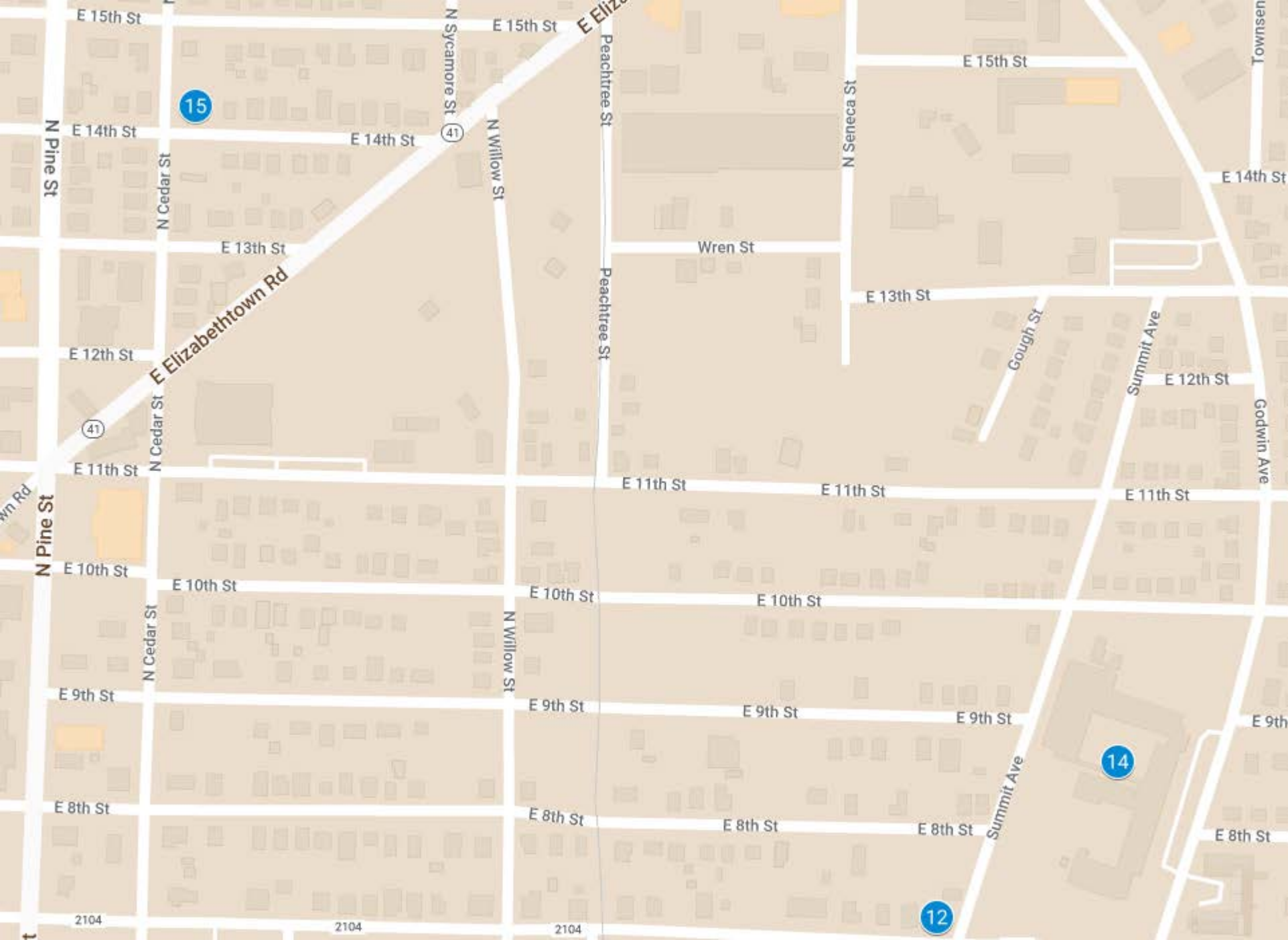
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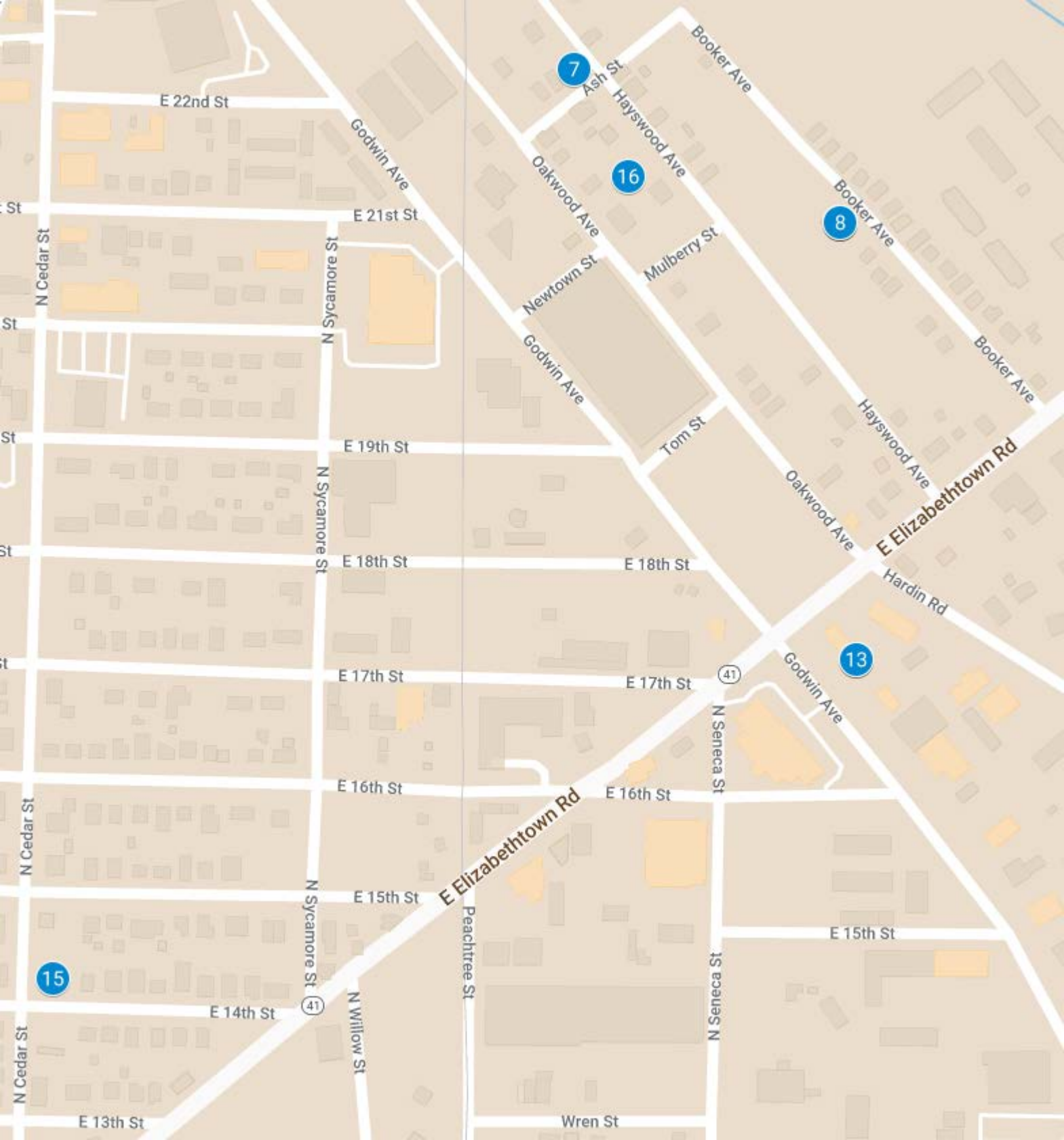
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Carver St

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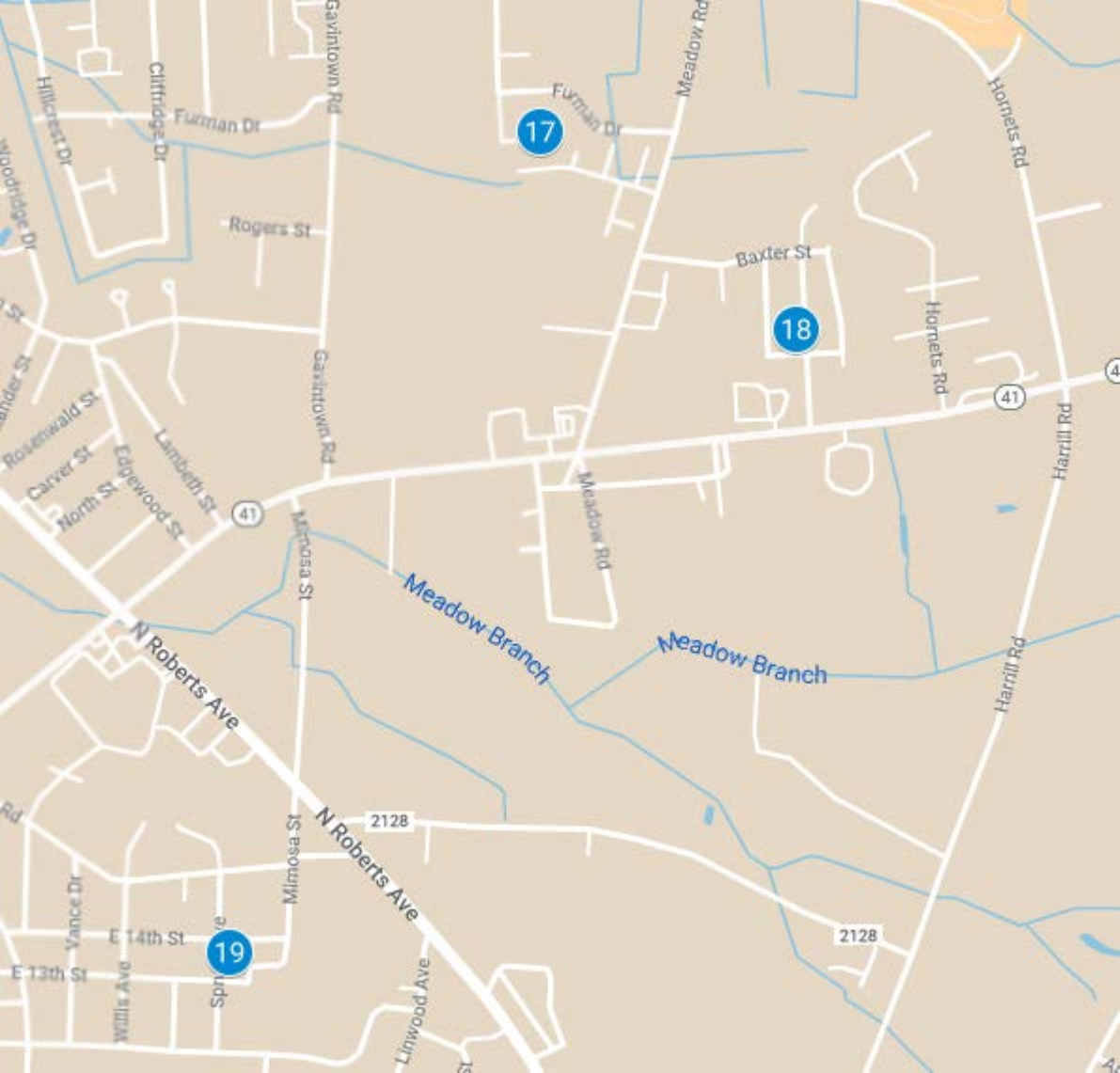
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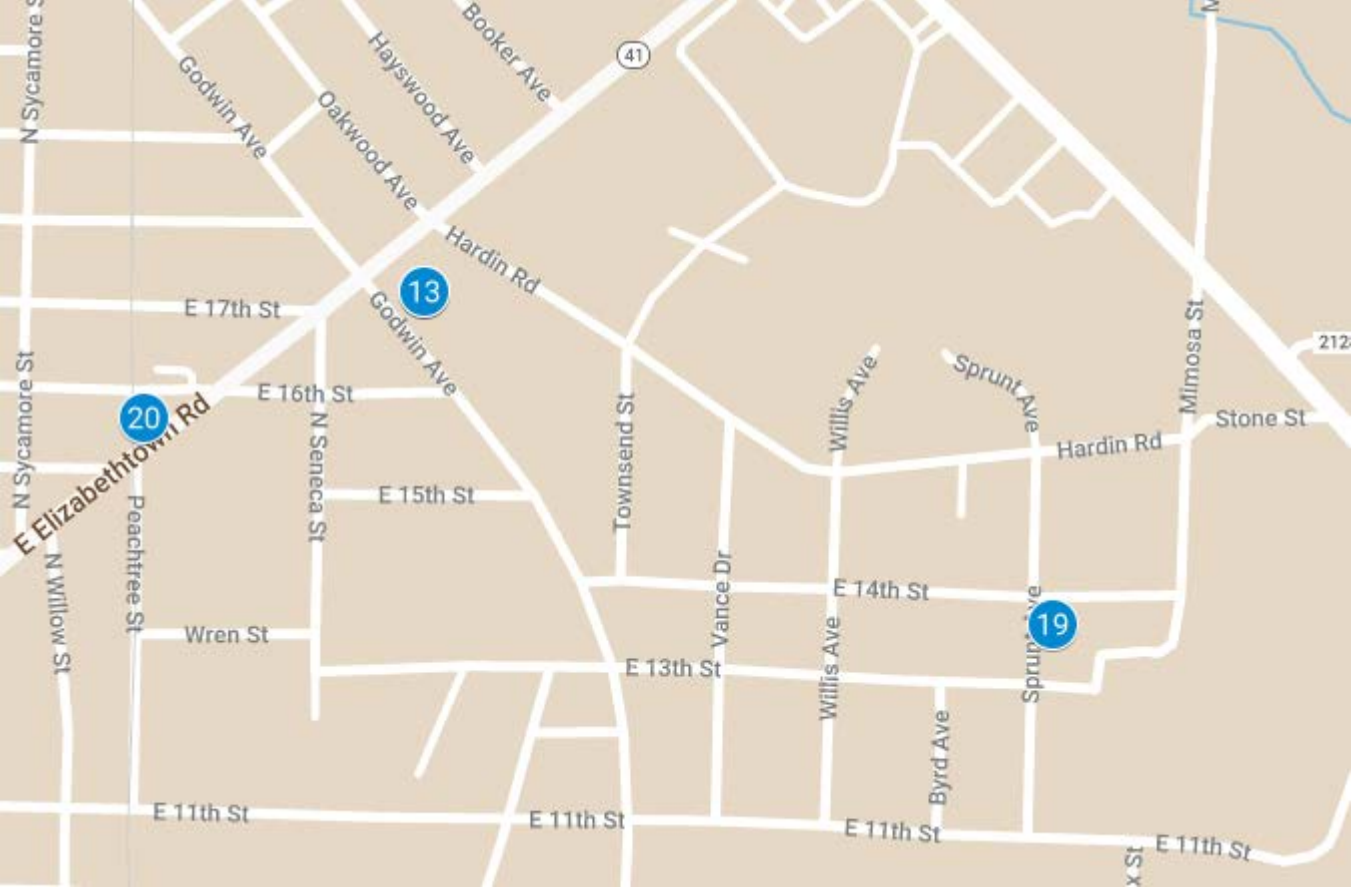
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Vance Dr

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Byrd Ave

Sprunt Ave

Sprunt Ave

Hardin Rd

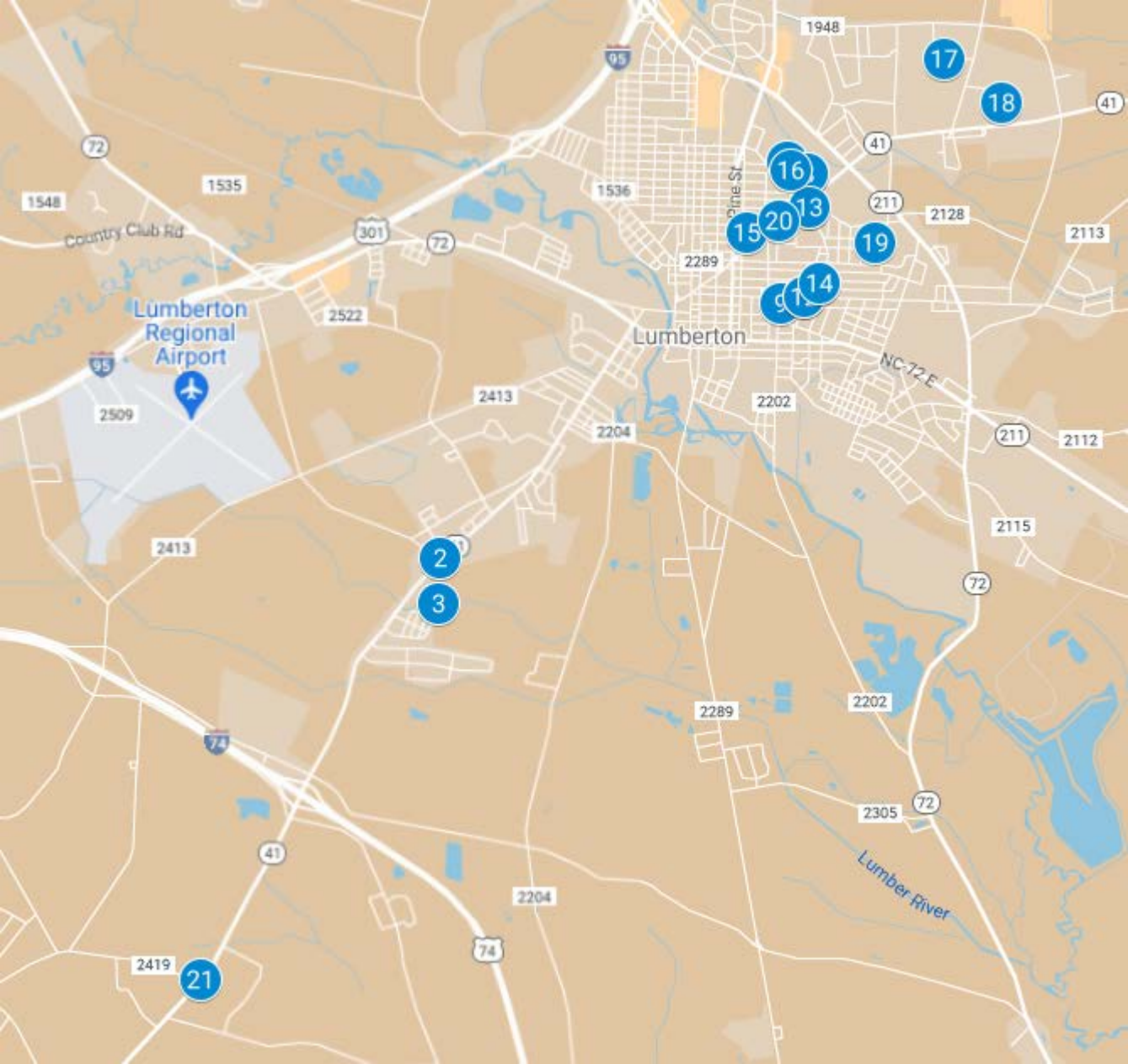
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Handout 52

Roberts Whereabouts Chart

ROBERTS' LOCATION CHART

	Time Frame	Location	Distance/Minutes from Last Location (per Google Maps)	Alcohol Consumed
1	6:00 a.m. – 2:00 p.m.	3129 Chicken Foot Road, St. Pauls, NC <ul style="list-style-type: none"> • Murphy-Brown • Arrives at work and gets off around noon • Remains in the parking lot for approximately 2 hours 	<ul style="list-style-type: none"> • N/A 	<ul style="list-style-type: none"> • None
2	?	3100 M.L.K. Jr., Dr., Lumberton <ul style="list-style-type: none"> • Last Stop • Purchases (2) 24 oz. Bud Ice beers 	<ul style="list-style-type: none"> • 18 miles/27 minutes 	<ul style="list-style-type: none"> • None
3	~ 3:00 p.m. - ~ 4:00 p.m.	300 Pearl Street Lot 149 <ul style="list-style-type: none"> • Home of Jennifer Gurley 	<ul style="list-style-type: none"> • .6 miles/2 minutes 	<ul style="list-style-type: none"> • (2) 16 oz. Bud Ice beers • (1) 24 oz. Bud Ice beer
4	N/A	1825 Booker Avenue <ul style="list-style-type: none"> • Home of Mildred Ingram 	<ul style="list-style-type: none"> • 4.2 miles/9 minutes 	<ul style="list-style-type: none"> • (1) 24 oz. Bud Ice beer
5	N/A	1750 East Elizabethtown Road <ul style="list-style-type: none"> • Based on Roberts' account, this Sunoco is likely the one he is referring to • Purchases a Heineken for someone else and a 24 oz. Bud Ice for himself 	<ul style="list-style-type: none"> • .3 miles/1 minute 	
6	N/A	1825 Booker Avenue (<i>New Town</i>) <ul style="list-style-type: none"> • Home of Mildred Ingram • Walked to the next location 	<ul style="list-style-type: none"> • .3 miles/1 minute 	
7	~ 20 Minutes	1007 Ash Street (<i>New Town</i>) <ul style="list-style-type: none"> • Home of Charles Burns • Known bootlegger house 	<ul style="list-style-type: none"> • .2 miles/1 minute 	<ul style="list-style-type: none"> • Brown liquor poured in a large Styrofoam cup and shared with Eric McQueen

ROBERTS' LOCATION CHART

Time Frame	Location	Distance/Minutes from Last Location (per Google Maps)	Alcohol Consumed	
8	N/A	Booker Avenue (<i>New Town</i>) <ul style="list-style-type: none"> • Walked back to this location to get in car 	<ul style="list-style-type: none"> • .2 miles/1 minute 	<ul style="list-style-type: none"> • Possibly still drinking the brown liquor in the large Styrofoam cup
9	~ 2 Hours	801 East 6th Street (<i>East Pine</i>) <ul style="list-style-type: none"> • Bootlegger house • Note: Roberts believes he went to this house 2-4 more times after this • Location where Ingram and McQueen state they heard gunshots and could account for Roberts 	<ul style="list-style-type: none"> • ~1 mile/3-4 minutes 	<ul style="list-style-type: none"> • 2 shots of brown liquor poured into 1 cup • 2 to 3 more shots
10	N/A	831 7th Street <ul style="list-style-type: none"> • Not for sure they went here at this time 	<ul style="list-style-type: none"> • .2 miles/1 minute 	
11	~ 1 Hour	Unknown Apartments <ul style="list-style-type: none"> • Behind Rowland Norment Elementary School 	<ul style="list-style-type: none"> • N/A 	<ul style="list-style-type: none"> • Possibly had 2 shots
12	Not here for long	831 7th Street <ul style="list-style-type: none"> • Possibly walked from the apartments to this location 	<ul style="list-style-type: none"> • N/A 	
13	N/A	1750 E. Elizabethtown Road <ul style="list-style-type: none"> • Based on Roberts' account, this Sunoco is likely the one he is referring to • Purchased a 24 oz. Bud Ice beer and possibly a "book" with LeBron James on it 	<ul style="list-style-type: none"> • .7 miles/2 minutes 	

ROBERTS' LOCATION CHART

Time Frame		Location	Distance/Minutes from Last Location (per Google Maps)	Alcohol Consumed
	(Continued)	<ul style="list-style-type: none"> Rodney Cade also bought Roberts a 24 oz. Bud Ice beer 		
14	~6:00 p.m./7:00 p.m. -“it was getting dark”	Unknown Apartments <ul style="list-style-type: none"> Behind Rowland Norment Elementary School 	<ul style="list-style-type: none"> ~.7 miles/2 minutes 	
15	Not here long	501 E. 14 th Street <ul style="list-style-type: none"> Does not know at this time that this is where Eric McQueen lives 	<ul style="list-style-type: none"> .9 miles/3 minutes 	
16	Not here for long	<i>New Town</i> <ul style="list-style-type: none"> Hangs out in the street and walks back and forth from 1007 Ash Street to Stanley McLaurin’s house located at 2007 Hayswood Avenue Almost hits Stanley McLaurin’s house with his vehicle 	<ul style="list-style-type: none"> .7 miles/3 minutes 269 feet between these two homes 	<ul style="list-style-type: none"> Drinking here and felt drunk
17	Not here for long N/A	3650 Meadow View Road <ul style="list-style-type: none"> Meadow View Apartments 	<ul style="list-style-type: none"> 1.9 miles/5 minutes 	<ul style="list-style-type: none"> May have had a beer here Roberts says he is intoxicated when he leaves here and may have had a beer in the car when he left
18	~9:30 p.m./10:00 p.m. to ~11:00 p.m.	3381 E. Elizabethtown Rd., Lot 23 <ul style="list-style-type: none"> Home of Kimberly, Sha’Brea, and Jarod Lowery 	<ul style="list-style-type: none"> ~1 mile/3-4 minutes 	
19	N/A	1402 E. 14 th Street <ul style="list-style-type: none"> Home of Christopher McGirt 	<ul style="list-style-type: none"> 1.9 miles/5 minutes 	

ROBERTS' LOCATION CHART

Time Frame	Location	Distance/Minutes from Last Location (per Google Maps)	Alcohol Consumed
20	N/A	903 E. Elizabethtown Road <ul style="list-style-type: none"> • This is a Triangle Ice that is located almost directly across from Peachtree Street • Roberts sees police cars here 	<ul style="list-style-type: none"> • .7 miles/2 minutes
21	June 15, 2013 ~12:09 a.m.	Ditch <ul style="list-style-type: none"> • Roberts crashes into a ditch on Highway 41 going towards Fairmont near Greenville Church Road 	<ul style="list-style-type: none"> • 6 miles/10 minutes

Handout 53

Jennifer Gurley Criminal History Chart

JENNIFER GURLEY

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
MISD FRAUD DISPOSAL MORTGAGE PROP	ROBESON	01/22/1996	02/22/1996
MISD DISORDERLY CONDUCT	ROBESON	03/05/1995	03/13/1995

Handout 54

Gary Ingram Criminal History Chart

GARY INGRAM

CRIMINAL HISTORY CHART

Conviction	Jurisdiction	DOO	Date of Conviction
DWI LEVEL 1	ROBESON	08/17/2008	02/09/2009
MISD ASSAULT ON A FEMALE	ROBESON	04/27/2007	05/17/2007
DWI LEVEL 2	ROBESON	04/13/2007	06/13/2007
DWI LEVEL 4	ROBESON	11/17/2001	02/14/2002
MISD SECOND DEGREE TRESPASS	ROBESON	03/13/1999	04/07/1999
POSSESSION OF COCAINE	ROBESON	05/09/1997	12/03/1997
MISD PUBLIC CONSUMPTION	ROBESON	04/25/1997	05/27/1997
MISD SECOND DEGREE TRESPASS	ROBESON	04/24/1997	05/13/1997
MISD SECOND DEGREE TRESPASS	ROBESON	05/17/1996	07/12/1996
MISD NON IV-D NONSUPPORT ILLEGIT CHILD	ROBESON	05/01/1996	08/27/1996
MISD RESIST / OBSTRUCT PUBLIC OFFICER	ROBESON	03/31/1994	05/04/1994
MISD ASSAULT ON FEMALE	ROBESON	08/21/1993	10/07/1993
SELL OR DELIVER COCAINE	ROBESON	08/06/1992	09/15/1993
SELL OR DELIVER COCAINE	ROBESON	08/06/1992	09/15/1993
MISD PUBLIC CONSUMPTION	ROBESON	08/23/1992	09/14/1992
MISD ASSAULT WITH DEADLY WEAPON	ROBESON	03/27/1992	04/24/1992

MISD NON IV-D NONSUPPORT ILLEGIT CHILD	ROBESON	01/30/1991	05/09/1991
MISD VIOLATION OF COURT ORDER	ROBESON	04/03/1990	03/14/1991
MISD ASSAULT ON A CHILD UNDER 12	ROBESON	07/09/1990	08/21/1990

Handout 55

Chris McGirt Criminal History Chart

CHRISTOPHER MCGIRT

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
MISD LARCENY BY CHANGING PRICE TAG (PRAYER FOR JUDGMENT CONTINUED)	ROBESON	11/14/2008	10/07/2009
DWI – LEVEL 5	ROBESON	11/15/2003	06/24/2004

Handout 56

Antonio Gavin Criminal History Chart

ANTONIO GAVIN

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
MISD LARCENY	CUMBERLAND	09/18/2020	05/12/2022
INTOXICATED AND DISRUPTIVE	ROBESON	04/17/2009	05/27/2009
SHOPLIFTING CONCEALMENT OF GOODS	ROBESON	05/27/2009	11/19/2008
NON IV-D NONSUPPORT OF CHILD	ROBESON	06/08/2005	11/01/2005
NON IV-D NONSUPPORT OF CHILD	ROBESON	08/03/2004	11/02/2004
LITTERING NOT > 15 LBS	ROBESON	06/24/2001	07/25/2001
NON IV-D NONSUPPORT OF CHILD	ROBESON	04/08/1996	05/6/1996
RECKLESS DRIVING TO ENDANGER	ROBESON	08/25/1990	04/10/1991
DRIVING WHILE IMPAIRED	ROBESON	08/25/1990	04/10/1991
DRIVING WHILE IMPAIRED	ROBESON	12/24/1988	02/20/1989
SPEED TO ELUDE ARREST	ROBESON	11/09/1998	02/20/1989
LARCENY OF A MOTOR VEHICLE	ROBESON	12/24/1988	03/17/1989

Handout 57

Darick McArthur
Criminal History Chart

DARICK MCARTHUR

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
SECOND DEGREE MURDER	ROBESON	12/11/2014	1/22/2018
INTOXICATED AND DISRUPTIVE	ROBESON	01/30/2013	03/26/2013
ASSAULT WITH A DEADLY WEAPON	ROBESON	01/20/2011	08/16/2012
COMMON LAW ROBBERY	ROBESON	01/20/2011	08/16/2012

Handout 58

Shannel Vinston
Criminal History Chart

SHANNELL WINSTON

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
SIMPLE WORTHLESS CHECK	CUMBERLAND	01/12/2003	11/19/2004
SIMPLE WORTHLESS CHECK	CUMBERLAND	08/20/2002	05/12/2004
SIMPLE WORTHLESS CHECK	CUMBERLAND	08/17/2002	05/12/2004
SIMPLE WORTHLESS CHECK	CUMBERLAND	12/28/2002	03/05/2004
SIMPLE WORTHLESS CHECK	CUMBERLAND	12/24/2002	05/12/2004
SIMPLE WORTHLESS CHECK	CUMBERLAND	12/23/2002	05/12/2004
SIMPLE WORTHLESS CHECK	CUMBERLAND	12/05/2002	03/05/2004
SIMPLE WORTHLESS CHECK	SAMPSON	11/12/2002	04/15/2003
SIMPLE WORTHLESS CHECK	ROBESON	09/30/2002	04/14/2003
SIMPLE WORTHLESS CHECK	BLADEN	08/26/002	06/26/2003
SIMPLE WORTHLESS CHECK	CUMBERLAND	08/20/2002	11/19/2004
SIMPLE WORTHLESS CHECK	CUMBERLAND	08/18/2002	11/19/2004
SIMPLE WORTHLESS CHECK	CUMBERLAND	08/15/2002	11/19/2004

SIMPLE WORTHLESS CHECK	CUMBERLAND	08/05/2002	11/19/2004
SIMPLE WORTHLESS CHECK	CUMBERLAND	08/04/2002	11/19/2004
SIMPLE WORTHLESS CHECK	CUMBERLAND	08/03/2002	11/19/2004
SIMPLE WORTHLESS CHECK	CUMBERLAND	08/03/2002	11/19/2004

Handout 59

Shonda Lyons Criminal History Chart

SHONDA LYONS

CRIMINAL RECORD

Conviction	Jurisdiction	DOO	Date of Conviction
FININACIAL CARD THEFT	HOKE	07/12/2019	08/16/2022
MISD POSSESS DRUG PARAPHERNALIA (PRAYER FOR JUDGMENT CONTINUED)	ROBESON	05/14/2021	03/04/2022
MISD LARCENY	HOKE	04/18/2014	05/06/2014
MISD SHOPLIFTING CONCEALMENT OF GOODS	SCOTLAND	11/06/2002	04/09/2003
MISD LARCENY	CUMBERLAND	10/18/2001	11/05/2001
SIMPLE ASSAULT	ROBESON	07/31/1998	09/21/1998
MISD LARCENY	ROBESON	04/20/1998	05/14/1998
MISD SHOPLIFTING CONCEALMENT OF GOODS	CUMBERLAND	06/15/1997	07/16/1997

Handout 60

Sunset and Weather
Report 6/14/13

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Weather History for Lumberton, NC

Historical Weather Data for a Location and Date

SEARCH

Data is available up to August 13, 2023.

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The *Old Farmer's Almanac* weather history tool provides access to weather reports from over 1,300 weather stations in cities across the United States and Canada, reporting on past temperatures, precipitation, snow, pressure, dew point, and wind speeds.

How do you use weather history? There are so many practices uses for business from developing informed business forecasts to understanding road and accident conditions. But also there are personal reasons; for example, knowing about typical weather is helpful for vacation travel, planning an outdoor event or wedding, and planning for outdoor activities such as sailing (think wind!).

Looking forward? See the famous *Old Farmer's Almanac* [long-range weather predictions](#).

For the Lumberton Municipal NC USA Weather Station

Temperature	
Minimum Temperature	64.9 °F
Mean Temperature	76.6 °F
Maximum Temperature	87.1 °F
Pressure and Dew Point	
Mean Sea Level Pressure	29.82 IN
Mean Dew Point	60.5 °F
Precipitation	
Total Precipitation	0.59 IN
Rain and/or melted snow reported during the day.	
Visibility	9.4 MI

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ALMANAC

Wednesday, August 16, 2023



Never miss a full moon, eclipse, or meteor shower with reminders from the Almanac Daily newsletter.

HOME

Sunrise and Sunset for Lumberton, NC

Sunrise and Sunset Times by Location

Lumberton, NC	06/14/2013	<input type="button" value="SEARCH"/>
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Position of the Sun	Time of Day	Length of Day
Astronomical Twilight Begins the sun's center is 18° below the horizon	4:16 A.M.	
Nautical Twilight Begins the sun's center is 12° below the horizon	4:56 A.M.	
Civil Twilight Begins the sun's center is 6° below the horizon	5:33 A.M.	
Sunrise	6:01 A.M.	14 Hours 30 Minutes
Transit the sun reaches its highest point in the sky	1:16 P.M.	
Sunset	8:31 P.M.	
Civil Twilight Ends the sun's center is 6° below the horizon	8:59 P.M.	
Nautical Twilight Ends the sun's center is 12° below the horizon	9:36 P.M.	
Astronomical Twilight Ends the sun's center is 18° below the horizon	10:16 P.M.	

Handout 61

Whitney Carter
Interview

STATE OF NORTH CAROLINA
COUNTY OF ROBESON

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

STATE OF NORTH CAROLINA,

-vs-

CLARENCE ROBERTS,

Defendant.

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File No. 13 CRS 3511

File No. 13 CRS 54359

TELEPHONE INTERVIEW

OF

WHITNEY CARTER

July 26, 2023

This is the transcript of a telephone interview with **WHITNEY CARTER**. The interview was conducted by Mackenzie Myers, Staff Attorney for the North Carolina Innocence Inquiry Commission. The interview took place on Wednesday, July 26, 2023.

A P P E A R A N C E S

Ms. Mackenzie Myers
Staff Attorney
North Carolina Innocence Inquiry Commission

Ms. Whitney Carter

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P R O C E E D I N G S

of Wednesday, July 26, 2023:

MS. CARTER: Hello.

MS. MYERS: Hi. Could I please speak to Whitney Carter?

MS. CARTER: This is her.

MS. MYERS: Hey, Whitney. My name is Mackenzie Myers. I'm a staff attorney with the North Carolina Innocence Inquiry Commission.

I had talked to your grandmother the other day, and she gave me your phone number because I am investigating a claim of innocence made by a man named Clarence Roberts who had been convicted of second degree murder in another crime based on a shooting that had happened at the Hut back in June of 2013. And you had been called to testify at his trial. Do you recall all of that?

MS. CARTER: Yeah.

MS. MYERS: Okay. I have just a couple of questions for you about that night that you had seen that car go down the street. Is now a good time to talk to you? I will not take up a ton of your time, I promise.

MS. CARTER: Yeah, it's fine.

MS. MYERS: Okay. So my role in this case is that I do not represent Clarence Roberts. I'm not a

1 prosecutor or a defense attorney. And I'm also not law
2 enforcement. So I am tasked with doing a neutral
3 investigation which involves me going back and looking at
4 the prior -- like the original investigation that had
5 happened, and talking to as many witnesses or other
6 people that just might have some sort of information
7 about this case.

8 And so I just wanted a little -- I just
9 wanted to talk to you just for a little bit about, like
10 kind of generally, what do you remember about that night
11 when you got back to your grandmother's house. Were you
12 living there at the time too?

13 MS. CARTER: Yeah. I was staying there.

14 MS. MYERS: Okay. When you got home, was it
15 dark outside?

16 MS. CARTER: Yeah. I had just got off of
17 work.

18 MS. MYERS: Okay. So when you pulled in,
19 were you -- tell me about like how you parked your car.
20 Did you park in front of your -- in front of the house?

21 MS. CARTER: Yeah. So the way I came into
22 the -- into the driveway in front of the house, I would
23 have passed the dirt -- well, it used to be a dirt road,
24 but they paved it over now.

25 MS. MYERS: Okay.

1 MS. CARTER: But I would have went past the
2 dirt road where the -- where down from the Hut is. So I
3 was facing -- I don't know what direction that would be
4 considered. But I was -- like I came in and passed the
5 dirt road to drive into the driveway.

6 MS. MYERS: Okay. So would -- when you
7 passed the dirt road, and you parked, would you have
8 been -- like to your left, to your immediate left, would
9 it have been the house?

10 MS. CARTER: Yeah. Yeah, it would have
11 been -- yeah, because I was sitting on the -- the
12 driver's side would have been to the left of the house.
13 Yes.

14 MS. MYERS: Okay. Got you. When you -- so
15 tell me -- so you're in your car, and I think you were
16 like talking on the phone, if I'm remembering correctly.

17 MS. CARTER: Yes.

18 MS. MYERS: Okay. Like tell me about, like
19 you're just sitting there, you're on the phone, and then
20 like this car comes down the street. Kind of tell me
21 about that.

22 MS. CARTER: Yeah. So I was sitting in the
23 car, talking on the phone. And I hadn't got out the car
24 yet. And this car is coming down the street, like coming
25 towards me. So it would have been like head-on, coming

1 towards me.

2 MS. MYERS: Okay. Is that why you first
3 noticed it?

4 MS. CARTER: Well, what -- what brought it
5 to my attention was, he kept -- like he was driving, and
6 then he'll stop, and drive, and stop. And then, when he
7 pulled -- he pulled up and got like right like parallel
8 to my car, and stopped. And he was like looking into the
9 car. And I was -- and I remember saying, when I was on
10 the phone, like what's wrong with this guy, like looking
11 at me like this.

12 MS. MYERS: Yeah.

13 MS. CARTER: And then there were two people
14 that were walking from the dirt road. And he drove up to
15 them, and said -- I don't know what he said to them
16 because I was still sitting in the car. And then, next
17 thing I know, he drove down the dirt road. And then
18 after that, I started hearing gunshots. So I was scared
19 to get out the car, because I didn't know where it was
20 coming from.

21 MS. MYERS: Yeah.

22 MS. CARTER: So I kind of scooped down in
23 the car. And then it sounded like it had paused for a
24 little while. So I got out the car, and I went and
25 looked down the edge of the road. And when I went and

1 looked down the edge of the road, I saw the same car.
2 And the guy was like standing over the car, and like
3 shooting.

4 So then I ran in the house because I was --
5 and told my grandma, I was like somebody is down there
6 shooting at the Hut or whatever. And after that I was
7 like, you might want to call the police because I don't
8 know -- I knew there were people down there because I
9 remember seeing them when I pulled into the driveway. At
10 that time you could see if someone was playing basketball
11 on the -- on the basketball court. So knew I had seen
12 cars down there. There was a truck parked down there
13 too.

14 But I didn't know if someone had gotten hurt
15 or anything because there was a lot of -- it was a lot of
16 people that was down there for what I could see. So I
17 had told my grandma to call the police. But I think one
18 of the people that stayed back there had already called
19 the police.

20 And then I went back outside to look again.
21 And when I did, I did see a crowd of people that had ran
22 across the field, down the street from my grandmother's
23 house. But I didn't know who -- I didn't know who any of
24 those people were, so I couldn't give any names or
25 anything like that. But I'm pretty sure they ran from

1 the Hut whenever the gunshots and everything were going
2 on. Because it's a way you can get from back there and
3 run through the woods, and come out on the same street
4 that my grandmother lives on.

5 It used to be -- I think -- I want to -- I
6 don't think they have a -- I don't know if they have a
7 fence up there now or not. But I know back then, you
8 could come run through the woods back there, and you
9 could come out on 11th Street in that vacant lot down the
10 street from my grandma's house.

11 MS. MYERS: Okay. Okay. When that guy
12 pulled up next to you, what stands out to you about that?

13 MS. CARTER: It just -- I mean, it's just
14 that -- how he was -- because, honestly, I even said to
15 the person I was on the phone with, I was like this guy
16 must be drunk or something. Because like he was like
17 driving and like throwing on brakes, and driving and
18 throwing on brakes. And then when he -- like I say, when
19 he pulled up to me, he was looking like he was trying to
20 see if somebody was in -- like it was almost like he was
21 looking for somebody, but I'm not a hundred percent sure.

22 I just remember saying why he looking at me
23 like that. And that was it. And like I said, it didn't
24 cross my mind or anything. I just assumed he was
25 probably drunk. I know in that area, a couple streets

1 over, what some people would call the bootlegger house,
2 there's a lot of people --

3 MS. MYERS: Yeah.

4 MS. CARTER: -- a lot of older people would
5 go there and drink and stuff. So I just assumed maybe he
6 was coming from that area or something, and maybe he was
7 drunk. Or he was coming from somewhere else and was
8 drunk. I didn't really pay it too much of attention. It
9 just -- the way he stopped and was looking, like he was
10 trying to see who was in my car or if somebody was in the
11 car.

12 MS. MYERS: Okay.

13 MS. CARTER: Yeah. It just kind of caught
14 my attention.

15 MS. MYERS: Did he make any gestures --
16 gestures towards you? Or was he trying to talk to you
17 at all?

18 MS. CARTER: I don't -- no, it didn't seem
19 like to me he was trying to talk. I didn't see any
20 gestures or anything. I just saw him like leaning
21 forward, looking. But I didn't -- I don't remember
22 seeing him make any hand gestures or anything.

23 MS. MYERS: Okay. Did he open his mouth at
24 all? Like would you have been able to see inside his
25 mouth? Which is a weird question. But --

1 MS. CARTER: No. Because like whenever he
2 did -- I wasn't looking -- like I was looking at him like
3 from the corner of my eye, but I was -- you know, I was
4 acting like I wasn't paying him no attention.

5 MS. MYERS: Okay.

6 MS. CARTER: But I really was. But I was
7 like --

8 MS. MYERS: I got you.

9 MS. CARTER: -- okay, why is he looking at
10 me like this?

11 MS. MYERS: Yeah. Well, that would be a
12 little bit scary, I would imagine. So -- okay. Did you
13 happen to notice if he was wearing -- like what he was
14 wearing at all? Like a -- shirt-wise, at least.

15 MS. CARTER: I don't remember. I want to
16 say -- I want to say I do remember seeing like a
17 white-colored top.

18 MS. MYERS: Okay.

19 MS. CARTER: Maybe white or tan. I know it
20 was just like a light-colored top. I can't really
21 remember what kind of bottom he had on. But I do want to
22 say -- I think he had on like a white or a tan-color
23 shirt.

24 MS. MYERS: Okay.

25 MS. CARTER: Because like, when I went to

1 the edge of the road to look and see if I could see what
2 was going on, I could -- I remember him kind of tall. I
3 remember he was like standing -- he was still like in the
4 driver's side part of the car, but he was like -- like
5 had his arms stretched out over the hood, the top of the
6 car, like he was shooting.

7 MS. MYERS: And did you see him shoot over
8 the car too?

9 MS. CARTER: I didn't -- I don't -- I don't
10 remember -- I don't think he -- I don't think I saw when
11 he actually shot over the car. Because like I said, when
12 the shots first started, I was still sitting in my car.
13 And it was -- I want to say it was probably like maybe
14 four or five shots that I heard.

15 And then that's when -- when it stopped, you
16 know, I just paused for a second, and then I got out the
17 car, and I went and peeked down the road. And that's
18 when I could see him like lean -- like standing outside
19 the car. His car door was still open. He was standing
20 in between the car door and the car. And he was like --
21 had his arms stretched out over the top of the car.

22 MS. MYERS: Okay.

23 MS. CARTER: And the people that had been
24 coming up the street that he stopped and talked to, they
25 hadn't got all the way down the road yet. So they were

1 like, what in the world? And they was looking down the
2 dirt road too. And I was like, I don't know. And I was
3 like, I don't know what's going on. But I know there was
4 people down there.

5 So that's when I went in the house, told my
6 grandmother, like, hey, might want to call the police
7 because somebody went down there and was shooting at the
8 park, and I know there were people down there.

9 MS. MYERS: Yeah. The shirt that he was
10 wearing though, was it -- could you tell if it was like a
11 button-up shirt or a polo or if it would have been like
12 just a plain T-shirt or anything?

13 MS. CARTER: I don't remember.

14 MS. MYERS: That's okay.

15 MS. CARTER: I just -- I just -- I just know
16 I -- I want to -- like I said, I want to say it was a
17 white or light-colored shirt. But I can't remember if it
18 was like a T-shirt or a polo or a button-up.

19 MS. MYERS: That's okay. Do you recall
20 seeing anything on the shirt? Like, would it have looked
21 like there was like a picture on it or words or anything
22 like that from what you remember?

23 MS. CARTER: No. I wouldn't have been able
24 to see that.

25 MS. MYERS: Okay.

1 MS. CARTER: Because like whenever I looked
2 down the road, he would have been -- like I would have
3 been facing him from the side, kind of like.

4 MS. MYERS: Okay. Okay.

5 MS. CARTER: I wouldn't have been able to
6 see like the front of his shirt or anything like that.

7 MS. MYERS: Okay. When people were running,
8 you talked about them like go -- there was a way to cut
9 through the woods, and they'd be able to come back out
10 on 11th Street to like a vacant lot down by your
11 grandmother's house. Did I hear you correctly when you
12 said that?

13 MS. CARTER: Right.

14 MS. MYERS: Okay. Did anybody run towards
15 the -- like towards the guy that was in the car, or like
16 towards -- like I know where Ronnie Roberson lives. I'm
17 assuming you know where he lives too.

18 MS. CARTER: Uh-huh, yeah.

19 MS. MYERS: Okay. Did anybody run towards
20 like where he lives?

21 MS. CARTER: Not that I -- I didn't see
22 anybody go that way.

23 MS. MYERS: Okay.

24 MS. CARTER: Whenever I -- whenever I had
25 saw the people come from out the field, I had already

1 went in the house and came back outside.

2 MS. MYERS: Got you.

3 MS. CARTER: And when I came back outside,
4 that's when I saw them coming from out the field. And
5 they didn't even come towards my way, they went towards
6 the other way, like going up towards the street.

7 MS. MYERS: Like up toward -- like back
8 towards the basketball court?

9 MS. CARTER: No. Like away from it.

10 MS. MYERS: Okay.

11 MS. CARTER: Like, okay. You know how I
12 said my car -- when I drove into the driveway, my car
13 would have been -- the house would have been to the left
14 of me.

15 MS. MYERS: Yes.

16 MS. CARTER: So they went up -- like if I
17 would have kept driving, they went up the street that
18 way.

19 MS. MYERS: Okay. Okay. I got you. Did
20 you -- was there anything about the car, when he drove up
21 in this car -- and I know, again, you were like trying --
22 you were paying attention, but trying to look like you
23 weren't like looking towards him.

24 What -- tell me the best that you can what
25 sticks out to you about the vehicle he was driving.

1 MS. CARTER: I want to say -- from what I
2 can remember, it was a white Ford Taurus. It was either
3 white or tan. I know it was a Ford though. Because
4 whenever he left from beside of me, and he went to
5 those -- those two people -- I think it was a boy and a
6 girl that had walked up the street, up from the dirt
7 road, and he stopped at them. That's when I was looking
8 back at the car, and I noticed it was a Ford Taurus.

9 And I don't know, like I say, I don't know
10 what he said to them. But whenever -- whatever -- it
11 wasn't a long conversation or anything like that. He
12 like sped down the dirt road. So I was like, what in
13 the world?

14 MS. MYERS: Yeah.

15 MS. CARTER: Like crazy, you know what I
16 mean. But I do remember it was either a -- I want to say
17 it was a Taurus, a Ford Taurus. And it was a white -- it
18 was either white or like a -- I know it was a light-color
19 car. But I want to say it was white.

20 MS. MYERS: Okay. Did you -- was there
21 anything about the license plate on this vehicle that
22 stands out to you as you think about it now?

23 MS. CARTER: I can't remember. I know in
24 court that was asked to me. And I cannot remember to
25 save my life -- so much was going on that night. And I

1 don't know if I would have said something about it
2 whenever the police got there. I know I gave a
3 description of the car. But I cannot remember anything
4 about the license plate.

5 Because I think I might have -- the first
6 description, I think I said it had 30-day tags on it.
7 But I'm not a hundred percent sure. Because I really
8 could not remember. And it was a while after it even
9 happened whenever we went to court. And I was like, I
10 can't remember for sure.

11 MS. MYERS: Yeah. I think -- so what I --
12 and I'm going to pull up -- I have the Lumberton Police
13 Department file. What they had originally -- or what
14 your grandmother had originally said was that when you
15 first came in and told her about what was going on, that
16 you said that it had -- that the vehicle itself had
17 30-day tags.

18 MS. CARTER: Yeah. See, I don't even
19 remember -- I'm not a hundred for sure about that. I
20 know -- I know when I came in the house, I know I said
21 something about what type of car it was.

22 MS. MYERS: Yeah.

23 MS. CARTER: But I can't remember for sure
24 if I said anything about the tags.

25 MS. MYERS: Okay. Let me see where I can

1 find exactly where she said that. But did you -- let's
2 see. Were you -- did you ever talk to the police? Do
3 you remember ever speaking to the police in this case?

4 MS. CARTER: A detective actually came and
5 spoke to me about it afterwards.

6 MS. MYERS: Okay.

7 MS. CARTER: And then that night, I remember
8 I said something to the police that night when they came.
9 But -- and then like I say, the detective later on came
10 and spoke with me. But that was all.

11 MS. MYERS: Okay. You had also -- I
12 guess -- so do you remember -- did you ever see where
13 this -- after the guy got back into the vehicle -- like,
14 and you saw him -- just so I'm clear. Like even if you
15 didn't see him shooting, did you see him holding a gun?

16 MS. CARTER: Uh-huh. (Affirmative)

17 MS. MYERS: You did see him doing that?

18 MS. CARTER: Yeah. Yeah. It definitely
19 looked like he was -- he had a gun in his hand when it
20 was stretched out over the top of the car.

21 MS. MYERS: Can you tell me if it would have
22 been his right hand or his left hand? Were you able to
23 see that?

24 MS. CARTER: I'm not a hundred percent sure.

25 MS. MYERS: That's okay. Were you -- did

1 you see this person like leave the Hut? Did you see him
2 get back in his vehicle and take off?

3 MS. CARTER: Yeah. So whenever he got -- he
4 got in the car, and then like he drove down the rest of
5 the dirt road to -- I believe that road is called
6 Elizabethtown Road.

7 MS. MYERS: Yeah.

8 MS. CARTER: And I want to say he made a
9 right turn on Elizabethtown Road.

10 MS. MYERS: Okay. A right turn. How
11 certain do you feel about that now?

12 MS. CARTER: I'm pretty sure that's where he
13 went.

14 MS. MYERS: Okay.

15 MS. CARTER: I want to say he made a right
16 turn on Elizabethtown Road.

17 MS. MYERS: Okay. Did you ever see -- when
18 you were able to kind of catch a glimpse of that guy that
19 night, had you ever seen him before? Like has anybody
20 ever done this before, to your knowledge?

21 MS. CARTER: No. I mean, there's always
22 been issues down there at that park. Most time, it's not
23 even people that live in the neighborhood. Or even like
24 kids will usually go out there and fight and stuff.

25 MS. MYERS: Okay.

1 MS. CARTER: But as far as like adults or
2 anything like that, I've never seen like adults. It's
3 mostly teenagers and stuff that go out there. They'll
4 meet there to fight and -- or either they'll go --
5 usually on Sundays, they used to go out there and play
6 basketball. And there would normally be a lot of people
7 out there playing basketball.

8 MS. MYERS: Okay.

9 MS. CARTER: But not -- not really no
10 shooting. I mean, after that, of course, it got a lot
11 worse back there. But before that, nothing like that has
12 ever happened.

13 MS. MYERS: Uh-huh. Why do you think it got
14 worse after this shooting?

15 MS. CARTER: Honestly, I don't know. It
16 seemed like around that time, that's when more kids and
17 stuff started going there to do stuff like that.

18 MS. MYERS: Uh-huh.

19 MS. CARTER: And it's just like over time
20 it -- I guess it just ended up kind of like a popular
21 meet-up spot. But I'm not a hundred percent.

22 I didn't know the guy -- I didn't know the
23 guy that got killed either. So I know that after that
24 had happened, I guess some of his friends or relatives
25 would go there and, you know, do like a memorial site

1 there and stuff. But I -- I have no idea why people do
2 that.

3 MS. MYERS: Yeah. Had you ever heard any
4 rumors or anything about who would have done this?

5 MS. CARTER: No. Because I don't -- anyone
6 that I hung out with at that time, they didn't -- they
7 didn't know neither of the parties either.

8 MS. MYERS: Okay.

9 MS. CARTER: So it wasn't -- we wouldn't
10 have been in the same circle or anything like that.

11 MS. MYERS: I got you. When you spoke to
12 the police, do you remember them ever showing you
13 possible photographs of the suspect?

14 MS. CARTER: No. No one never showed me
15 photographs.

16 MS. MYERS: Okay. I don't think that I have
17 any other questions for you. Is there anything I haven't
18 asked you about that you think I should have asked you?

19 MS. CARTER: No. I mean, from what I can
20 recall, that's pretty much all I can remember about the
21 whole situation.

22 MS. MYERS: Okay. When you -- you described
23 him as being tall when you were able to see him kind of
24 from down the street. And I know -- so I've been to
25 that -- I've been to like where your grandmother had

1 lived at that time, so I know that's a little bit of a
2 distance.

3 But could you estimate about -- like when
4 you're saying he looked tall from where you were,
5 what -- to you, what do you -- like what would your
6 estimate be? Or like would you be able to tell me how
7 tall you think he is if you were closer to him?

8 MS. CARTER: Well, I was just going off of
9 like -- because I'm not really that tall. I'm like five
10 five.

11 MS. MYERS: So am I.

12 MS. CARTER: So compared to me, and how tall
13 he was standing over the car he was in, I don't know,
14 it's like he seemed like he was pretty tall. But I would
15 say maybe he was like at least like five eleven to six
16 feet, or maybe a little more than six feet.

17 MS. MYERS: Okay. When he was standing over
18 the car -- do you remember where the hood of the car
19 reached like his torso? If that makes sense.

20 MS. CARTER: You talking about the top part
21 of the car?

22 MS. MYERS: Yeah. Yeah.

23 MS. CARTER: I want to say it probably was
24 like a little below his -- well, right at his chest or a
25 little below his chest I want to say.

1 MS. MYERS: Okay. Okay. And I think my
2 last question for you is, like did he have on -- was he
3 wearing any jewelry at all?

4 MS. CARTER: I wouldn't have been able to
5 tell.

6 MS. MYERS: Okay. Could you see what his
7 hair looked like? Did you know how he wore his hair?

8 MS. CARTER: I don't think he had any hair.
9 Or maybe he had a short haircut. I'm not a hundred
10 percent. I wasn't really paying attention to like stuff
11 like that.

12 MS. MYERS: Yeah. No, I understand. Any
13 facial hair that you remember?

14 MS. CARTER: No. Not that I can -- because
15 whenever -- you know, whenever he pulled up beside me, I
16 couldn't -- I could see like a -- like the structure of
17 his face, but I couldn't really see -- like I wouldn't
18 have been able to actually identify him. Like I could
19 see that somebody was looking into my car.

20 MS. MYERS: Okay.

21 MS. CARTER: And I could tell it was a man.

22 MS. MYERS: Yeah.

23 MS. CARTER: But I couldn't really give any
24 facial features or anything like that.

25 MS. MYERS: I got you. Okay. And I

1 think -- okay. I have one last question. And I really
2 think this will be my last question. I'm sorry.

3 You testified at the trial. So you at that
4 point saw Clarence Roberts who had been arrested for this
5 crime. Do you remember seeing him in court?

6 MS. CARTER: Yeah, I remember seeing him in
7 court. Yeah.

8 MS. MYERS: When you saw him in court, did
9 you have any reaction to seeing him? Like did you think,
10 okay, that was definitely the guy? Or was it not -- did
11 you have any thoughts about that?

12 MS. CARTER: Well, honestly, my main concern
13 was -- because that area is so well-known, I was more
14 worried about someone trying to retaliate. And does he
15 know -- like my grandmother and my great-grandmother were
16 known in that community. So I was more nervous about
17 someone trying to like retaliate for me speaking out.

18 MS. MYERS: Uh-huh.

19 MS. CARTER: But I mean, after seeing him,
20 the description -- well, from what I saw that night,
21 especially with him standing over the car, outside of the
22 car, and then actually seeing him in court, it kind of
23 fit what I remembered seeing as far as like the figure of
24 the person, and his structure, and everything, it was
25 very similar.

1 MS. MYERS: Got you.

2 MS. CARTER: So I mean, I was like okay,
3 maybe. Like that definitely look like who it might have
4 been. But I mean, like I said, I couldn't -- I didn't
5 get any exact facial features. I just remember seeing
6 the tall guy. And I definitely remembered the car. But
7 as far as like actually looking in -- at him in his face,
8 and seeing exactly who he was, I wouldn't have been able
9 to identify him off of facial features.

10 MS. MYERS: I got you. Did you notice
11 anything about the car, like were there any dents in the
12 car or anything that stood out to you?

13 MS. CARTER: No.

14 MS. MYERS: No. Okay.

15 MS. CARTER: Huh-uh. (Negative)

16 MS. MYERS: Okay. Okay, Whitney. Well, I
17 really, really appreciate you speaking with me today. I
18 don't think that I will have any other questions for you.
19 In the even that I do, would you mind if I gave you a
20 call back? And I don't think that I will need to.

21 MS. CARTER: Yeah, it's fine.

22 MS. MYERS: Okay. Well, thank you so much.
23 I really appreciate you talking to me today.

24 MS. CARTER: Sure. No problem. You're
25 welcome.

1 MS. MYERS: All right. Thanks, Whitney.

2 Take care. Bye-bye.

3 MS. CARTER: You too. Bye.

4 (WHEREUPON, the foregoing telephone

5 interview was concluded on Wednesday, July 26, 2023.)

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STATE OF NORTH CAROLINA	IN THE GENERAL COURT OF JUSTICE
COUNTY OF ROBESON	SUPERIOR COURT DIVISION

STATE OF NORTH CAROLINA,	)	File No. 13 CRS 3511
)	
-vs-	)	File No. 13 CRS 54359
	)	<u>INTERVIEW</u>
)	
CLARENCE ROBERTS,	)	<u>OF</u>
)	
Defendant.	)	<u>WHITNEY CARTER</u>
-----	)	July 26, 2023

I, June Robinson, having been assigned to transcribe the above-captioned telephone interview from July 26, 2023, do hereby certify that said interview, pages 1 through 25, is a true and correct, and verbatim transcript of said interview to the best of my ability.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was heard; and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, and am not financially or otherwise interested in the outcome of the action.

This the 13th day of August, 2023.

June E. Robinson

 June Robinson, transcriptionist

Handout 62

Johnson Britt Interview
Transcript with Exhibits

A P P E A R A N C E S

Ms. Danielle Smith
Grant Staff Attorney
North Carolina Innocence Inquiry Commission

Ms. Mackenzie Myers
Staff Attorney
North Carolina Innocence Inquiry Commission

Ms. Taylor Miller
Grant Staff Attorney
North Carolina Innocence Inquiry Commission

Mr. Johnson Britt

* * * * *

E X H I B I T S

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P R O C E E D I N G S

of Thursday, May 25, 2023:

MS. SMITH: So I will spare you the usual spiel we give everyone about what the Commission is, because I'm aware that you -- you know what we are.

MR. BRITT: I know what you are. I know what you do.

MS. SMITH: We're here because we are investigating State v. Clarence Roberts. It was regarding a case that happened back in June the 14th of 2013, at the Hayswood Hut where Joshua Council was killed. I know you already know this because you prosecuted the case.

MR. BRITT: I tried it.

MS. SMITH: So I wanted to just kind of get a little bit of context as to office procedures back during that time, and how cases were tried. I have not been a assistant district attorney or a public defender, so just -- I just want to ask some questions just to make sure I understand everything.

MR. BRITT: Sure.

MS. SMITH: So whenever this case came around in 2013, how long had you been the elected DA?

MR. BRITT: Since 19 -- I was sworn in November of 1994. I was sworn in two months early. My

1 predecessor resigned early, and the governor appointed me
2 to fill the remainder of his two months' term. And then
3 I was sworn into my first elected term in January 1995.

4 MS. SMITH: Okay. During that time period,
5 could you tell me a little bit about the processes taken
6 to like prosecute a murder case?

7 MR. BRITT: Sure.

8 MS. SMITH: More specifically,

9 MR. BRITT: Sure, sure.

10 MS. SMITH: I know that's very broad.

11 MR. BRITT: When I took office in 1994, '95,
12 I inherited 81 untried murder cases, and I inherited
13 close to a dozen McKoy resentencing hearings. And this
14 was before the legislature gave us discretion not to seek
15 the death penalty in cases.

16 So then, from that point forward, we
17 averaged about 30 homicides a year. So the numbers just
18 kept growing and growing and growing.

19 But when I took office, the official policy
20 of the office prior to that was, there was no plea
21 bargain. It was either plead guilty straight up, go to
22 trial. Maybe they'd offer you a plea to like second
23 degree murder, but it was left open for the judge to
24 decide the sentence.

25 And for the lack of a better way to put it,

1 my predecessor didn't have the trial skills nor the
2 personality to make that work like his predecessor had
3 done. And then, the public defender's office had come
4 into existence here in 1989, and it really changed the
5 way defense operated around here. They pushed back to a
6 larger measure because they should have.

7 And so you got discovery -- prior to my
8 taking office, you got discovery after your client got
9 indicted. And you got bare bones discovery at the time.

10 When I took office, we changed that. We
11 made it open file, before it became the law, in an
12 attempt to try to move cases. Because we had another
13 backlog besides the murder cases.

14 So on average at that point, it was
15 around -- on a capital case, four to five years before it
16 actually got to a trial posture. On non-capital, it
17 might be two or three. And part of it was simply there
18 wasn't a lot of communication going back and forth.

19 I implemented plea bargaining as part of the
20 office policy. Authorized my assistants to, you know,
21 when they review the case, decide what they thought was
22 the best offer in the case, what the best charge was in
23 the case, and move forward accordingly.

24 If they had any questions, they could come
25 talk to me about it. But I also was carrying a case

1 load. So there were times I might be in court -- because
2 I was primarily doing capital murder cases, I might be in
3 court six, eight weeks at a time.

4 But I had an experienced staff that they
5 didn't need a whole lot of guidance from me. They just
6 needed assurance that I was going to be there for them if
7 anybody raised any questions about what they had done.
8 And that's what I did for them.

9 So as we implemented plea bargaining, as we
10 implemented open file discovery, we started moving cases,
11 a lot of cases. And we ended up really making a headway
12 into reducing our backlogs. And then our senior resident
13 retired. We got -- our junior judge became the senior
14 resident, and he built a brick wall around what we were
15 doing, and it brought court to a stop. So the backlog
16 grew. It went from, you know, initially 81 untried and
17 12 McKoy hearings to suddenly, it was up over 100, 110,
18 120 pending homicides.

19 So then we started looking at -- then, when
20 they changed the law and gave us discretion, then we took
21 the death penalty off the table in a number of cases.
22 Either during -- you know, prior to trial or in the
23 pretrial stages we were taking it off. Because it had
24 become next to impossible to get a death sentence here.

25 MS. SMITH: Right.

1 MR. BRITT: And you could look at the way
2 things were going across the state, same thing was
3 occurring in other districts.

4 Did that speed things up? Maybe about that
5 much. Not much. So we just kept going.

6 The way cases were assigned when they came
7 in, my administrative assistant, as cases came in,
8 assigned them to the various prosecutors based upon what
9 their experience was, and based upon the types of cases
10 that they were taking. So not everyone on staff took
11 murder cases. That was really about four of us. And
12 then, as new people came in, we tried to integrate them
13 into that, as well.

14 So if a case was assigned to me, it was
15 assigned to me from the beginning. Most of those cases,
16 I directed -- I told her to assign them to me.

17 And so once that came in, probable cause
18 hearings were really a thing of the past. So the object
19 was, how do we keep track of it in court. We had gone to
20 a system -- the clerk's office didn't like having to pull
21 all the felony cases for district court and bringing them
22 to court when nothing was being done.

23 So basically, we came up a solution that
24 didn't end up being a solution, that after -- unless
25 somebody was -- if somebody was out of custody, we didn't

1 set them another court date until they got indicted. If
2 they were in custody, they were in court about every 30
3 days, just trying to keep up with, you know, bond
4 motions, discovery type issues.

5 So as soon as the report came in from the
6 police, it went to a designated person in the office.
7 That eventually became a man by the name of Sam Lockley.
8 And Sam still works there. He's a retired police
9 officer. He was a detective, has an eye for detail. And
10 his job was to review the reports to make sure that they
11 were complete, that we had all the information.

12 If they mentioned that John Jones talked to
13 Charlie Brown, they needed a statement from John Jones
14 and Charlie Brown about what transpired. That was
15 something that law enforcement didn't have a lot of
16 experience doing in terms of following up. They didn't
17 like doing it. And Sam was being meticulous about that.

18 That slowed our process down some, but it
19 also helped us identify what were going to be good cases,
20 what were going to be a bad case, what was a case that if
21 we didn't have anything, we needed to go ahead and get
22 rid of it. And then how to work. And he did that for
23 every major felony that came in. And that slowed it
24 down.

25 And then, with the advent of DAS, he became

1 a guru with it. So they were still for the most part
2 bringing paper files to the office or bringing them on a
3 disc, as opposed to electronically transferring them from
4 the departments.

5 But he takes that, meshes it all through
6 DAS, and then --

7 MS. SMITH: I'm sorry. Tell me what DAS is.

8 MR. BRITT: DAS is automated discovery.

9 MS. SMITH: Got it. Okay.

10 MR. BRITT: And not -- I mean, it's -- yeah.
11 And it works. It's got some limitations in terms of you
12 get some videos that it won't take because they are just
13 too big. So they have to be put on separate discs.

14 But then they download everything that they
15 receive onto the computer. So there's an electronic copy
16 on the computer, as well as a paper copy there. And then
17 they generate a disc. And that's the way we did it, and
18 that's the way they still do it. They rarely generate
19 anything through e-mail.

20 I mean, there are a lot of counties that's
21 the only way they'll do it because it's a good record.
22 But you run into the same problems with it that you do if
23 it comes directly from the DA's office, is that some
24 things are just too large to go on there.

25 So once the discovery came in, the policy

1 was, it goes out. Go ahead and get it in the hands of
2 the defense lawyer. Whether it's good, bad, indifferent
3 for us, get it in their hands so you can go ahead and
4 start working on it, so that we're not having this drag.

5 And then, as it was supplemented, the same
6 thing happened. You know, you might get lab reports a
7 year after you got the actual substantive report from the
8 police. You might get some stuff that you want sent
9 back, and so -- any time anything was supplemented. And
10 then when you sat down and you talked with witnesses, and
11 if their versions of what happened changed significantly,
12 you had -- you know, you had to notate that, get it to
13 the defense attorney. And that probably happens more
14 often than people realize.

15 And so then it was a matter of getting it to
16 the grand jury, getting the indictments, or not. But
17 once it came into superior court, we had created what we
18 referred to as an admin court before it was mandated by
19 statute. We did away with what was our traditional
20 arraignment calendar, which was a novel about that big.
21 It was just cases that, you know, defendants had entered
22 pleas, formally entered a plea.

23 And so we did away with that, and we created
24 an admin calendar where everything that came out of the
25 grand jury from the session before was on that next

1 calendar. That was 30 days after indictment.

2 Then we set it up so that there were two
3 additional settings under the plan. The second setting
4 would occur 60 days after the first. And the third would
5 occur 30 days after the 60. So you're looking at a time
6 frame of roughly 120 days from indictment, hopefully,
7 that things are in a position to move forward. That
8 didn't always work. And so it's been tweaked some more.

9 And then, with murder cases, they kind of
10 took on their own life, they had their own calendar. We
11 created a calendar just to help us manage it from where
12 every June and every December, every murder case pending
13 in superior court is put on a scheduling calendar. Like
14 it meets in two weeks, on Monday afternoon. Defendants
15 don't have to be present. Counsel for the defendants,
16 prosecutors, judge, court reporter are all present. And
17 it's really just try to come up with a plan for the next
18 six months on what cases are going to be tried, where
19 cases are in the process. And it tends to work. You've
20 just got to have somebody making sure that things are
21 being done like they're supposed to so that you don't get
22 to a trial date and it gets continued.

23 But I mean, did everything go according to
24 plan? No. But for the most part, it did.

25 If someone, for example, in this case -- I

1 don't recall if they even made a plea offer in this case.

2 MS. SMITH: Yes.

3 MR. BRITT: I may have. I don't know. I
4 just don't remember. But you know, you make your plea
5 offer early, try to make your best offer up front so that
6 you eliminate the unnecessary back and forth. And then
7 if it -- you know, if it makes it through admin and
8 doesn't result in a trial -- if I had made you an offer,
9 then at trial, my offer came off the table soon as we
10 started picking the jury.

11 MS. SMITH: Okay.

12 MR. BRITT: You know, there were cases where
13 I might put it back on the table if something happened
14 during the course of trial. Like in this case, jury
15 stayed out an unbelievably long time.

16 MS. SMITH: Really?

17 MR. BRITT: Longer than anybody really
18 anticipated. And I'm trying to remember. I think I made
19 him an offer while the jury was out to second. I know I
20 told them that if the jury came back first, I was not
21 going to proceed with the sentencing phase. If they had
22 taken that long to deliberate the issue of guilt,
23 innocence, then it wasn't likely that they were going to
24 return a death sentence in this case.

25 MS. SMITH: Right.

1 MR. BRITT: So like I said, I don't remember
2 if I did or didn't make a plea offer while the jury was
3 out. I know the jury came back, they found him guilty of
4 first. And we moved immediately into sentencing, and
5 bypassed capital sentencing.

6 MS. SMITH: You mentioned Sam Lockley.

7 MR. BRITT: Lockley. Yes.

8 MS. SMITH: What year did he come into
9 the -- or was he in the picture in 2013?

10 MR. BRITT: No. He was a police officer
11 still for Lumberton. He retired. I don't know off the
12 top of my head when I actually hired him.

13 MS. SMITH: Okay.

14 MR. BRITT: I know I specific -- when they
15 created a position, a victim-witness assistant position,
16 and I specifically targeted him, because there was
17 victim-witness, legal. He was more of a legal than he
18 was victim-witness.

19 MS. SMITH: And I want to make sure I
20 understand his role. He would look -- is he the one --

21 MR. BRITT: He receives these. These
22 reports come in to him. They don't come in just to the
23 office. They come in to him.

24 MS. SMITH: Right. Okay.

25 MR. BRITT: So that he's got -- he keeps a

1 running record of when he receives them, what he's
2 gotten, what he's done with it.

3 Before I hired him, it was kind of left up
4 to the assistants. We implemented a screening policy in
5 the late 90s where one experienced assistant was taken
6 out of court for six months' period of time. And their
7 job was to review all felony cases that came into the
8 office.

9 And then, if they believed that it should be
10 something that should be resolved in district court, that
11 was the message that was sent. If it needed to be
12 dismissed, that person did that, as well. If it needed
13 to be indicted, then it went to the person that it was
14 assigned to review, and make sure the indictments were
15 prepared. And if they disagreed with the recommendation
16 of the screener, then we could conference it, the
17 screener, that person, and me. It happened some, but not
18 very often.

19 And then we tried to rotate the screening
20 role. That was to try to avoid some burnout from just
21 being in court constantly. The initial person who did
22 that was Vanessa Burton, who became a district court
23 judge four years ago. She didn't run for reelection.
24 She retired with 30, 35 years with the state.

25 And the next one became a guy named Stan

1 Todd, who had -- when he retired, had 20-plus years of
2 experience as a prosecutor. Then the next person was
3 Marty Duvall, who also retired shortly after I did with
4 30-some years of experience. Then I did it for a little
5 while. And then about that time is when Sam came, and
6 Sam was doing all that.

7 So then it became the responsibility of the
8 person it was assigned to to screen and make the charging
9 decision.

10 MS. SMITH: Okay. So by the time it gets to
11 the person who is going to prosecute it, they have
12 everything they need from law enforcement?

13 MR. BRITT: They are supposed to.

14 MS. SMITH: They are supposed to. Okay.
15 What was -- I guess, around this time period, what was
16 the DA's office relationship with LPD or any specific
17 officers. Did you find that -- and I know I'm asking a
18 bunch of questions back to back. So let's start there.

19 MR. BRITT: That's fine. The relationship
20 with the Lumberton Police Department was always good.
21 The relationship with majority of law enforcement was
22 good.

23 I know we had a run-in with the sheriff's
24 department later on in my tenure when there was a federal
25 investigation that resulted in 20, 30 of them getting

1 arrested for a number of different things. So that
2 relationship really cooled. Particularly from the
3 administration side of things. The officers were good.
4 They knew what their coworkers had done, and had been up
5 to. But it was pretty good.

6 The biggest problem we have with law
7 enforcement was getting the stuff in on time.

8 MS. SMITH: Did you have any issues with
9 maybe the level of detail that they would include in
10 their reports?

11 MR. BRITT: Depending upon who the officers
12 were.

13 MS. SMITH: Are you familiar with Detective
14 Collins?

15 MR. BRITT: Yes.

16 MS. SMITH: Did you ever find any issues
17 with his report writing, particularly with this case?

18 MR. BRITT: Not that I recall.

19 MS. SMITH: If you did have issues with
20 officers' report writing or level of detail, is that
21 something that the screener would go back and maybe ask
22 them to bolster it a little?

23 MR. BRITT: It would go back to them. Yeah.
24 I mean, you remember in grammar school or high school,
25 you'd write a paper for your English teacher. You get it

1 back, and it would bleed red.

2 MS. SMITH: Uh-huh.

3 MR. BRITT: That's what happened with these
4 reports with Sam. I mean, he would go through, and if it
5 mentioned any person's name, it was either highlighted,
6 circled in red, question mark, where is statement, that
7 kind of thing.

8 MS. SMITH: Okay.

9 MR. BRITT: They didn't like getting those
10 back, but it made their cases better.

11 MS. SMITH: And to be clear, they were more
12 so -- so any person who law enforcement may have spoken
13 to or heard about during an investigation, it was
14 expected from the DA's office that they should have
15 basically interviewed everyone who was involved?

16 MR. BRITT: Yes.

17 MS. SMITH: Okay.

18 MR. BRITT: And there were times -- and we
19 had an investigator. So there were times when if the
20 police didn't act quickly enough, we would send him out
21 to find people.

22 MS. SMITH: Okay. Do you remember -- you
23 mentioned the DA's office having discretion as far as
24 whether to try something capitally. Do you remember what
25 year that became? Or was that a thing here?

1 MR. BRITT: No. I mean, it became -- I
2 mean, it became law, and I don't know the year. I mean,
3 it helped. I mean, because you've got -- I mean, you've
4 got cases that can be moved much, much quicker if you
5 just take the death penalty label off of it. I mean,
6 some aren't. But some will be.

7 But I mean, it's -- I want to say -- I want
8 to say it was when Cooper was AG, but I'm not positive.

9 MS. SMITH: Okay. Was it ultimately -- it
10 was the elected DA's -- you made the ultimate call as to
11 whether or not something was going to be tried capitally.
12 Or was that something the assistant would recommend?

13 MR. BRITT: That was something that the
14 assistant and I would talk about. But ultimately, yeah,
15 it rested on me.

16 MS. SMITH: And what factors would you take
17 into account?

18 MR. BRITT: Circumstances of the case. The
19 person's record. How the person was killed, were other
20 people put in jeopardy because of that. Type of weapon
21 that was used. Was it -- you know, did it fall into the
22 category of being especially cruel, heinous, and
23 atrocious. Not many do.

24 But around here, a lot of people got
25 records, and have records for violence.

1 And so the first thing we looked at in
2 screening was what's the evidence that we have to convict
3 somebody of a crime, and can we convict them of first
4 degree murder. If that was an issue, then it wasn't
5 going to be a death case.

6 If it was an issue that we didn't believe we
7 had sufficient evidence to prove first degree murder, you
8 know, the easy way is through felony murder.

9 But if it was simply going to be a
10 premeditation, deliberation, malice, murder, then if we
11 had issues with that, then we indicted on second. Or if
12 it was borderline, somebody might decide, well, I'll
13 indict it -- see if I can get an indictment for first,
14 but it'll be a life case, it won't be a death case.

15 So there was also reevaluation of cases as
16 time would go on in terms of, you know, we need to get
17 this case into court. How can we get it into court most
18 efficiently, quickest way there. And many of them, after
19 they had been sitting there for two, three years with a
20 death declaration, then you took it off, and you know, it
21 may have gotten out on bond. But it became an easier
22 case to try to move.

23 MS. SMITH: Okay. And so if there was a
24 case that was purely circumstantial, was it typical to
25 try that capitally?

1 MR. BRITT: I would.

2 MS. SMITH: Okay.

3 MR. BRITT: I would. I mean, I got
4 criticized by some of the lawyers for the cases I tried
5 capitally. I know that. But circumstantial evidence
6 sometimes is better than direct evidence. And it just
7 would depend upon -- it was case by case.

8 MS. SMITH: And that would be -- your
9 decision would be based off of those factors that you
10 just mentioned as far as previous record level, the way
11 the person was killed.

12 MR. BRITT: Whatever is listed in 15A-2000.

13 MS. SMITH: Yeah. Okay.

14 MR. BRITT: It doesn't say the defendant is
15 a bad guy, therefore, he should die.

16 MS. SMITH: Right. Right.

17 MR. BRITT: That's not in there. So it's
18 not quite that arbitrary.

19 MS. SMITH: Right. I understand. Let's
20 see. Whenever you mentioned that you all have
21 investigators, and they would go out and interview
22 witnesses, especially in the event of law enforcement not
23 moving quick enough, are all of those interviews
24 memorialized in some way?

25 MR. BRITT: Erich Hackney was the first

1 investigator in the office. He was the investigator when
2 I retired. I hired him. The position was created when I
3 was there. If Erich took the trash out, there was a
4 written memo about it.

5 MS. SMITH: Okay. That's good.

6 MR. BRITT: I mean, he would hand you two
7 or three notebooks, you know, like that. And say, okay,
8 this is what I've done in this case.

9 MS. SMITH: Okay. During the course of
10 trial prep and speaking to witnesses that you wanted to
11 put on the stand, dealing with witnesses who may not want
12 to cooperate, how would you deal with that generally?

13 MR. BRITT: Again, it was case by case,
14 individual by individual.

15 MS. SMITH: I'm sorry. Let me clarify. So
16 if the witness is already incarcerated. So say they are
17 incarcerated for something unrelated, how would you go
18 about?

19 MR. BRITT: If they were incarcerated for
20 something unrelated?

21 MS. SMITH: Uh-huh.

22 MR. BRITT: I never talked to them without
23 their lawyer being there. I arranged it to have them to
24 do an interview with the lawyer present.

25 In this case, one of those individuals

1 existed. I can't remember his name. But he got locked
2 up --

3 MS. SMITH: Micheal Burgess?

4 MR. BRITT: Little guy?

5 MS. SMITH: Yeah.

6 MR. BRITT: Claimed to be a member of some
7 crazy-named gang.

8 MS. SMITH: EHB?

9 MR. BRITT: Maybe.

10 MS. SMITH: I can show you a picture.

11 MR. BRITT: Something about squirrels,
12 that's all I remember.

13 MS. SMITH: Squirrels?

14 MR. BRITT: It's just really -- I mean, it
15 was some strange name that they came up with that he
16 supposedly was a member of.

17 MS. SMITH: I'm going to show you what's
18 been marked as Exhibit Number 8.

19 (Ms. Smith hands Exhibit 8 to
20 Mr. Britt.)

21 MR. BRITT: (Reviews document.) Yeah, that
22 might be Micheal. Because Micheal had been -- if that's
23 who it is.

24 MS. SMITH: That's Micheal Burgess.

25 MR. BRITT: That's his name?

1 MS. SMITH: Uh-huh.

2 MR. BRITT: He had been in the same jail
3 cell with Roberts.

4 MS. SMITH: Uh-huh.

5 MR. BRITT: So when I met with he and his
6 lawyer -- because he was charged with an armed robbery.
7 I met with -- his lawyer's name was Ken Ransom.

8 MS. SMITH: Right.

9 MR. BRITT: I had his previous statement,
10 which would have been consistent with what the others had
11 said. They were out there playing basketball, this
12 person pulls up in a gold-colored Taurus, gets out and
13 wants to know if Floss is there. He keeps asking about
14 Floss. Floss was a local gang banger.

15 MS. SMITH: Okay.

16 MR. BRITT: I cannot tell you his real name.
17 I don't think I ever knew his real name. He's now dead.

18 MS. SMITH: Uh-huh.

19 MR. BRITT: You know, the response was no,
20 no, no. And the person left. And then some time passed,
21 the person comes back. He's asking again for Floss.
22 This time he gets out, and he starts shooting.

23 MS. SMITH: Okay.

24 MR. BRITT: Burgess, in the second
25 interview, or the interview that I had with him in

1 preparing, changed his story, and said that there were
2 people in the group on the basketball court who started
3 shooting at him first, at the person in the gold-colored
4 car. And that person shot back in self defense.

5 And I mean, he testified. He didn't testify
6 for me. But I put the defense on notice that he had made
7 those statements, and they called him.

8 But he wanted -- I mean, part of what he
9 wanted was, he wanted a deal on his armed robbery case.
10 I mean, he took this lady's car, and he got caught dead
11 to rights with her car or identified. I'm like, I don't
12 operate that way.

13 MS. SMITH: Okay. So let me be clear. You
14 spoke with him in preparation for this case. He was
15 already locked up for armed robbery. For him to, I guess
16 testify, he was basically saying that he wanted some sort
17 of deal?

18 MR. BRITT: He wanted a deal.

19 MS. SMITH: Okay. Got it. Okay. And that
20 did not -- obviously, he did not get that?

21 MR. BRITT: No.

22 MS. SMITH: Okay. And he did not testify
23 for the State?

24 MR. BRITT: No.

25 MS. SMITH: Okay. Were you familiar with

1 him prior to this case?

2 MR. BRITT: No.

3 MS. SMITH: No. Okay.

4 MR. BRITT: Wasn't familiar with any of
5 these people prior to this case.

6 MS. SMITH: Okay. I would like to talk
7 about the Rule 24 hearing. And I just want to clarify
8 some things. And I'm going to mark the Rule 24
9 transcript as -- let me figure out what exhibit we are
10 at. I'm just going to mark it Exhibit Number 80. I'm
11 going to give you that copy.

12 (Commission Exhibit 80 marked and
13 handed to the Mr. Britt.)

14 MS. SMITH: Could you turn to page 4. And
15 if you could review lines 1 through 9.

16 MR. BRITT: Here's Floss's name.

17 MS. SMITH: I'm sorry?

18 MR. BRITT: Here's Floss, line 15, Kenny Ray
19 Floyd. (Reviews document.) Okay.

20 MS. SMITH: I had a question about the
21 statement made that Micheal Burgess, John Allen, and
22 Crystal Allen were shot. I don't know if that was
23 information that you had at the time.

24 MR. BRITT: It probably should have read
25 they were shot at.

1 MS. SMITH: Okay. And I believe --

2 MR. BRITT: They were attempted.

3 MS. SMITH: Got it.

4 MR. BRITT: No charges were --

5 MS. SMITH: So if you go down to lines 20
6 through 24, you clarify that. And I just wanted to make
7 sure.

8 MR. BRITT: Yes.

9 MS. SMITH: Okay. But at the end, on lines
10 23 and 24, I believe Mr. Burgess actually was struck with
11 bullets. You think maybe that was a mis --

12 MR. BRITT: I don't know.

13 MS. SMITH: Okay. And at the point of the
14 Rule 24 hearing, you've already reviewed the law
15 enforcement file, obviously?

16 MR. BRITT: Yes.

17 MS. SMITH: And it's been screened. Okay.
18 Let's see. Could you turn to page 5, and review lines 3
19 through 13.

20 MR. BRITT: (Reviews document.) Okay.

21 MS. SMITH: Do you remember where the
22 information came from that Roberts made a comment about
23 having shot people?

24 MR. BRITT: I want to say when he drove
25 to -- what was the name? He ended up at a house over in

1 the area of town known as Godwin Heights.

2 MS. SMITH: Was it Chris McGirt?

3 MR. BRITT: It may have been, yes.

4 MS. SMITH: Okay. And that's something that
5 Chris McGirt had stated?

6 MR. BRITT: I believe so, yes.

7 MS. SMITH: Okay. And also, lines 9 and 10,
8 I want to clarify. Whenever you say that Burgess,
9 Allen -- Mr. Allen, John Allen, and Crystal Allen, they
10 were shown a photo lineup, and they identified Clarence
11 Roberts to varying degrees as the person that was shot in
12 the park -- as the person who was the shooter.

13 MR. BRITT: Doing the shooting.

14 MS. SMITH: What do you mean by -- does that
15 mean that they said Clarence Roberts did it, or he
16 matched a description that they were given?

17 MR. BRITT: He matched the description.

18 MS. SMITH: Got it. Okay. So at that point
19 you had -- did you have information that Burgess, John
20 Allen, and Crystal Allen were shown lineups?

21 MR. BRITT: I believe so, yes.

22 MS. SMITH: Okay. So we obviously review
23 all the files and everything. And I don't believe
24 Burgess was shown a lineup, and I don't believe John
25 Allen was shown a lineup. It was just Crystal Allen.

1 And so, obviously, with cases like these, we
2 understand that sometimes we may not get -- maybe things
3 got misplaced or anything. So I just didn't know if that
4 was something that you recall reviewing.

5 MR. BRITT: My recollection is that they
6 were shown lineups.

7 MS. SMITH: Got it. Okay. And that is
8 strictly something that would have been done by LPD?

9 MR. BRITT: Yes.

10 MS. SMITH: Not an investigator at the DA's
11 office?

12 MR. BRITT: No.

13 MS. SMITH: Okay. I'm going to speak more
14 broadly about the case, specific case. What do you
15 remember about -- that may be too broad of a question.

16 So with this case, do you recall it being an
17 issue -- an identification issue?

18 MR. BRITT: Yeah. I mean, it was an
19 identification issue. Was he the person driving the gold
20 car that ended up at the park first time, the second
21 time. Was he the same person that was driving the car
22 that showed up at Chris McGirt's.

23 MS. SMITH: Right.

24 MR. BRITT: Was he the same person that was
25 driving the car that they found abandoned or wrecked that

1 resulted in the DWI charge.

2 MS. SMITH: Right.

3 MR. BRITT: And all of those questions
4 checked those boxes off.

5 MS. SMITH: Okay. And so were you familiar
6 with the Hayswood Hut area?

7 MR. BRITT: Yes. I used to coach Little
8 League Soccer. That's one of the playgrounds that we
9 could utilize to use. But Hayswood Park has been there
10 forever. And it was on the back side of the Lumberton
11 Recreation Department, and it's also next to -- was part
12 of a community.

13 MS. SMITH: Right.

14 MR. BRITT: And some of the best basketball
15 ever played in Lumberton was played on that court.

16 MS. SMITH: Uh-huh.

17 MR. BRITT: Not necessarily at the
18 Recreation Department, in high school, or at a high
19 school, but on that court.

20 MS. SMITH: Okay. During the time of this
21 crime, was it known as being a gang area?

22 MR. BRITT: To a certain extent, yes. You
23 are -- but there were gangs literally all over Lumberton.

24 MS. SMITH: Right.

25 MR. BRITT: This was pre-Hurricane Matthew.

1 So pre-Hurricane Matthew, we had gangs in South
2 Lumberton, East Lumberton, the Pines, which is an area
3 south of town, but just on the outskirts. This area --
4 there is an area called New Town, which is off of
5 Elizabethtown Road, that back in the 80s and 90s was a
6 big drug area. It became a big gang area.

7 The public housing complexes all throughout
8 town -- all over town had gang issues. But yeah, I mean,
9 this was an area where there was gang activity.

10 MS. SMITH: What was the significance of
11 Hurricane Matthew and the gang?

12 MR. BRITT: Hurricane Matthew flooded
13 Lumberton, predominantly the poor sections of town, which
14 forced people out. So the gang problem that existed in
15 the city was greatly diminished by Hurricane Matthew.
16 And then Florence, when it came, because it also flooded
17 the city. So those people dispersed. Whether they went
18 into the county, totally relocated out of state. But our
19 gang issues have dropped since then.

20 MS. SMITH: Okay. That's very interesting.
21 I want to talk about plea deals in this case.

22 MR. BRITT: Okay.

23 MS. SMITH: I know you say you didn't recall
24 if --

25 MR. BRITT: If I made an offer.

1 MS. SMITH: Yeah. So I'm going to show you
2 what I'm marking as Exhibit 81 and Exhibit 82.
3 Eighty-one looks to be a plea deal that was offered in
4 2015, and 82 looks to be a plea deal offered in 2014.

5 (Commission Exhibits 81 and 82 marked
6 and handed to the witness.)

7 MS. SMITH: What would have had to have been
8 happening in a case for you to, I guess, be open to plea
9 negotiations?

10 MR. BRITT: Nothing.

11 MS. SMITH: Oh, okay.

12 MR. BRITT: I mean, every case is subject to
13 being negotiated.

14 MS. SMITH: Got it.

15 MR. BRITT: I mean, nothing in particular.
16 The '14 was a life offer, and '15 was a term of years.

17 MS. SMITH: Right.

18 MR. BRITT: You know, truth of the matter,
19 either one of them, he'd have been in prison for the rest
20 of his life. But sometimes it's easier to sell it on the
21 lesser charge, with the amount of time there, than it is
22 to say, okay, you plead to the greater charge, and you go
23 to prison forever.

24 MS. SMITH: So I'm going to show you what
25 I'm marking as Exhibit 83. And this is a portion of the

1 trial transcript. If you could read lines 16 through 21.

2 (Commission Exhibit 83 marked and
3 handed to the witness.)

4 MR. BRITT: (Reviews document.) Okay.

5 MS. SMITH: So I believe this took place
6 after the pretrial motions. And I'm sorry, I did not
7 bring the complete transcript. And he was offered --
8 well, I believe it's after the pretrial motions, he was
9 offered a plea of voluntary manslaughter. Is there
10 something that would have --

11 MR. BRITT: I don't recall making that
12 offer. They may have.

13 MS. SMITH: They may have. The defense may
14 have attempted?

15 MR. BRITT: Yeah. I don't recall making an
16 offer to voluntary.

17 MS. SMITH: I am going to show you what I'm
18 marking as Exhibit 84. And this was something that we
19 got from Carl Ivarsson's file. If you could read those
20 first few sentences of the last paragraph.

21 (Commission Exhibit 84 marked and
22 handed to the witness.)

23 MR. BRITT: (Reviews document.) Okay.

24 MS. SMITH: You don't recall making --

25 MR. BRITT: I don't recall that.

1 MS. SMITH: Okay. If that did occur, what
2 would have to be going on for you to make a deal like
3 that with the case?

4 MR. BRITT: It could be witnesses being
5 reluctant to testify. It could be any number of things.
6 But I don't recall making that offer.

7 MS. SMITH: Okay. And I'm speaking
8 generally. If this is something that occurred, and that
9 offer was made, and they declined it, is that something
10 that you would still proceed to try capitally?

11 MR. BRITT: Yeah.

12 MS. SMITH: You would?

13 MR. BRITT: In this case, we did.

14 MS. SMITH: Okay. In this case were there
15 any alternate suspects that you had heard of that maybe
16 didn't come up in trial?

17 MR. BRITT: No.

18 MS. SMITH: No. And to your knowledge, did
19 Mr. Roberts ever admit guilt?

20 MR. BRITT: No. Not to my knowledge. I
21 vaguely remember something about a telephone call out of
22 the jail. But I don't recall it being any kind of
23 admission of anything. It was like, they got me charged
24 with murder, what did I do, kind of thing.

25 MS. SMITH: Okay.

1 MR. BRITT: Because he was highly
2 intoxicated.

3 MS. SMITH: Right.

4 MR. BRITT: He was arrested and taken to
5 jail on a DWI. And based upon the testimony at the
6 trial, he was highly intoxicated.

7 MS. SMITH: I know you said you did not know
8 any of the players in this case. Did you ever make
9 contact with Crystal Allen during this case? She was the
10 sister -- well, the cousin of the victim -- who was on
11 the basketball court during the shooting?

12 MR. BRITT: I don't know.

13 MS. SMITH: She did not testify at trial. I
14 believe there was some issues with trying to locate her.

15 MR. BRITT: There may have been. I just
16 don't recall.

17 MS. SMITH: Okay. In a case like this,
18 where there were eyewitnesses to it, what measures are
19 generally taken to try to locate a witness who is
20 difficult to find?

21 MR. BRITT: We asked the investigating
22 officer to go out. We asked the investigator within the
23 office to go out. We would ask other witnesses if they
24 knew how to get in touch with whomever. So there was a
25 concerted effort to find her.

1 MS. SMITH: Okay. So you never -- or you
2 don't recall, like hearing anything regarding why maybe
3 she would have disappeared?

4 MR. BRITT: No. Not that I -- I mean, no.

5 MS. SMITH: Okay. So Roberts was from
6 Fayetteville, but he spent time in Lumberton. Do you
7 recall prosecute -- or not you, personally prosecuting
8 him, but him being prosecuted through this office for
9 separate --

10 MR. BRITT: Only based upon what his record
11 was.

12 MS. SMITH: Okay. So in 2002, he was tried
13 for sexual assault of a young girl, breaking into the
14 house and attempting to assault her. Do you recall
15 anyone by the name of Soulski Stephens? He came up in
16 this case.

17 MR. BRITT: I know the name.

18 MS. SMITH: Okay. You just know the name?

19 MR. BRITT: I just know the name as someone
20 who was a frequent flyer in the court system.

21 MS. SMITH: Got it. Okay. Do you recall
22 anything about Roberts suing -- I think she's now a
23 judge, Diane Surgeon, regarding her representation of him
24 during this 2002 sexual assault case?

25 MR. BRITT: No. I did not know Judge

1 Surgeon even represented him.

2 MS. MYERS: Or Kenneth Ransom?

3 MR. BRITT: I didn't know Kenneth Ransom
4 represented him. Because Kenneth Ransom is who
5 represented Mr. Burgess.

6 MS. SMITH: Right. Do you know who Dexter
7 Stephens is? Does that name ring a bell?

8 MR. BRITT: It's a name.

9 MS. SMITH: Yeah.

10 MR. BRITT: That's all I can tell you.

11 MS. SMITH: Okay. Do you recall if his name
12 ever came up during the prosecution of this case?

13 MR. BRITT: No, not that I recall.

14 MS. SMITH: Okay. Mackenzie?

15 MS. MYERS: Just so I understand about Sam
16 Lockley.

17 MR. BRITT: I'll take you -- I'll introduce
18 him to you.

19 MS. MYERS: I feel like maybe Al Collins was
20 telling us about him too. Like that he worked here now.

21 MS. SMITH: Yeah.

22 MS. MYERS: Right. So I know you said that
23 he -- I guess what I'm trying to get at is, if he did
24 anything on this case, we should have records of it. Is
25 that right? Like if he went out and talked to a witness.

1 MR. BRITT: He didn't go out and talk to
2 witnesses.

3 MS. MYERS: Okay. And I guess that's what I
4 want to make sure is that he didn't.

5 MR. BRITT: He was an intake person.

6 MS. MYERS: Right. Got you.

7 MR. BRITT: He took in all the reports,
8 generate -- I mean, got it downloaded into the computer
9 system, got it downloaded onto the CDs that we used to
10 disperse. I mean, he's got a running record of
11 everything that he receives in every case.

12 MS. MYERS: Okay. So that makes sense to me
13 now. So if he were to get something from LPD, and that
14 looks like there is something missing or he thinks they
15 should follow up on, he then gives that -- he makes a
16 note and then gives it back to them?

17 MR. BRITT: He generates a memo or a letter.

18 MS. MYERS: To them?

19 MR. BRITT: To them. Sends them a copy. He
20 keeps the copy that he has, but he also sends them a copy
21 of the one that he's marked up.

22 MS. MYERS: So had he taken issue or saw
23 something in this case that he found --

24 MR. BRITT: Lacking?

25 MS. MYERS: Yes.

1 MR. BRITT: He would have been all over it.

2 MS. MYERS: So that would have then been
3 part of the DA record for this file that we would have
4 requested?

5 MR. BRITT: Should have been.

6 MS. MYERS: Okay. And then, either way,
7 that would have -- whether or not it made it to LPD's
8 file, then that would be separate. Okay. That's
9 helpful.

10 Do you happen to know -- and I think
11 Danielle asked you this question. So forgive me for
12 repeating it, if I am. Do you happen to know offhand if
13 he looked at this and thought, wait, there's something
14 lacking?

15 MR. BRITT: I don't know. I do not know.

16 MS. MYERS: Sure. Okay. Switching gears.
17 The SBI was called in on this case. Talk to us a little
18 bit about kind of what that relationship was with the
19 SBI. I don't know if the DA's office necessarily had a
20 separate relationship with them that LPD had versus the
21 sheriff's office. But talk to us about kind of what that
22 looked like.

23 MR. BRITT: We had separate relationships
24 with each of the agencies, and that included the SBI. So
25 in this case, I could call the SBI in to investigate a

1 matter where the chief of police can't.

2 MS. SMITH: Uh-huh.

3 MS. MYERS: Okay.

4 MR. BRITT: In this case it was the chief of
5 police. And to a large measure, Lumberton was very good
6 about asking for help if they recognized that they needed
7 help. Because the SBI was involved in the Tarnished
8 Badge investigation, the relationship between the SBI and
9 the sheriff's department --

10 MS. MYERS: Was done. So Tarnished Badge
11 was -- do you recall what years that was? And I feel
12 like it was before this case.

13 MR. BRITT: It probably was. I'd have to --
14 I mean, I don't know.

15 MS. MYERS: That's okay.

16 MR. BRITT: I mean, it went on for -- I
17 mean, the investigation went on for a long period of time
18 without anybody knowing about it except for me and the
19 U.S. Attorney's Office, the SBI, the AG's office, ATF,
20 FBI, IRS. Nobody in the office knew about it.

21 MS. SMITH: Okay.

22 MS. MYERS: Okay. So it doesn't sound like
23 that -- I mean, this case doesn't really involve the
24 sheriff's office anyway.

25 MR. BRITT: No.

1 MS. MYERS: So it shouldn't impact any of
2 that regardless. So the chief at that time had contacted
3 -- or LPD had made that decision to call in the SBI.

4 MR. BRITT: Right.

5 MS. MYERS: So that sounds like that was
6 common for them at that time. Were you familiar with --
7 it was Agent Brady that was --

8 MR. BRITT: Yeah. Bill Brady.

9 MS. MYERS: Uh-huh. So you had worked with
10 him prior?

11 MR. BRITT: I had. He worked out of the
12 Fayetteville office. He actually lived in Clinton, North
13 Carolina. He was -- I mean, he was a crime agent.
14 There's some that are designated drug agents, other
15 are -- and he was a crime agent. He had been down
16 here -- he'd been here a pretty good while when this
17 happened. And I'm not sure what his background was
18 before he came to the SBI.

19 MS. MYERS: Sure. What did you know about
20 the way that the SBI would work with LPD on
21 investigations?

22 MR. BRITT: A lot of it depended upon who
23 the SBI agent was, and their relationship with their
24 counterpart at Lumberton. If it was someone that they
25 had worked with before, they might work very closely,

1 conduct all interviews together. Of course, there was
2 limitations on the SBI about what they can give to local
3 law enforcement. So we could give that to them, but the
4 SBI couldn't give it to them directly. So whatever we
5 got from the SBI, we gave to the Lumberton Police
6 Department.

7 MS. MYERS: Did you do that automatically --

8 MR. BRITT: Yes.

9 MS. MYERS: -- or was that something --

10 MR. BRITT: That was automatically.

11 MS. MYERS: Even at the time of this case?

12 MR. BRITT: Yes. Because we wanted to make
13 sure that -- and the SBI had a copy of Lumberton. We
14 wanted to make sure everybody was operating off the same
15 pages. So without -- I mean, this is comparable to the
16 report.

17 MS. MYERS: Sure.

18 MR. BRITT: But you know, the SBI report,
19 the heading, it would say who is being interviewed, who
20 is conducting the interview, who is present for the
21 interview. Lumberton may not have been quite that
22 thorough. But like, if Brady sat in on a Lumberton
23 interview, he would take notes.

24 MS. SMITH: Okay.

25 MS. MYERS: Okay. Right. Did you ever have

1 any concerns that Detective -- we know he's a lieutenant
2 now. But at that time, that Detective Collins maybe
3 wasn't as informed about the SBI investigation as he
4 should have been?

5 MR. BRITT: I wouldn't be surprised if he
6 wasn't informed completely about it. But in terms of
7 where things were standing, depending upon what was going
8 on, like lab stuff, they may not necessarily know. I
9 mean, it comes back to their evidence custodian. They
10 may get a copy of just the test results, put it in their
11 file, while the evidence guy had the entire SBI lab
12 report. But that kind of thing might happen. But for
13 the most part, I mean, we would meet and try to
14 coordinate who has what, who doesn't have what, who needs
15 what.

16 MS. MYERS: Okay. Do you know how often
17 that would happen?

18 MR. BRITT: There wasn't a set period of
19 time. It's just if something new came up, hey, let's
20 make sure everybody has got it.

21 MS. MYERS: If something new came up that
22 you knew about, then you would call that meeting?

23 MR. BRITT: Yes, uh-huh.

24 MS. MYERS: Okay.

25 MR. BRITT: Or it may not necessarily be a

1 meeting. It may just be, you know, a letter with
2 attachments saying, you know, we received this from the
3 lab today, supplement your report. There's no need to
4 give us a copy because we already have one type thing.

5 Now, we could do that with the Lumberton PD.
6 The SBI was going to give us the whole new bucket of
7 information. So if the new lab report came in, even
8 though we had it, they're going to give it to us anyway.

9 MS. MYERS: So it was just duplicative?

10 MR. BRITT: Yeah.

11 MS. MYERS: Okay. I think that one of the
12 things that Danielle and I have kind of found throughout
13 our investigation, in just speaking to law enforcement
14 officers in this case, when we've gone back to either
15 depose them or interview them, is that there were things
16 that the SBI did in terms of their own interviews that
17 LPD was never involved in. And so LPD never knew about
18 it.

19 So for instance, like an alternate suspect
20 coming up, LPD didn't know about that because the SBI
21 wouldn't tell them that another witness said this. Is
22 that surprising to you?

23 MR. BRITT: It's not surprising the SBI
24 didn't tell them about it. But at the same time, once
25 the paper was generated, Lumberton would have gotten it,

1 because we would have given it to them.

2 MS. MYERS: Right. Okay. So there should
3 be no reason that if an alternate suspect ever came up in
4 this case that LPD did not follow up on that?

5 MR. BRITT: No. Or the SBI.

6 MS. MYERS: Okay. Agent Ana Velez Cruz, I
7 think was relatively new at the time that she was
8 assigned to this case with Agent Brady. Do you --

9 MR. BRITT: I don't remember her.

10 MS. MYERS: You don't? Okay. And that kind
11 of seems --

12 MS. SMITH: A lot of people --

13 MS. MYERS: I don't know that a lot of
14 people seem to remember her.

15 MR. BRITT: I never heard that name. I'm
16 like, who is this.

17 MS. MYERS: No. And I could tell you that
18 we've reached out to try to, obviously, interview them.
19 And I think Agent Cruz -- I don't think she stayed at the
20 SBI very long.

21 MS. SMITH: No. She wasn't there long.

22 MS. MYERS: Okay. So that seems to be par
23 for the course. Because we would obviously like to talk
24 to her. But nobody --

25 MS. SMITH: Seems to know who she is.

1 MS. MYERS: Yeah. Which is okay. That's
2 happens.

3 MS. SMITH: Yeah.

4 MS. MYERS: Anything else about the SBI's
5 relationship with LPD in particular that you knew about
6 that, I don't know, stands out to you that you think that
7 would kind of help us be informed about?

8 MR. BRITT: No. I mean, my impression is
9 that Lumberton and SBI had a good working relationship.
10 And that historically they had.

11 Lumberton kind of went from a law-and-order
12 type department to a community policing department.
13 Which took some adjusting to, because it wasn't so much
14 pro-arrest. And with the drug problem we had here in
15 town, that kind of moved things back into the
16 neighborhoods, which worsened the situation.

17 So the SBI did a lot of undercover work
18 down here, trying to address the drug issues. But it
19 wasn't -- I mean, Lumberton was party to it or privy to
20 it, but they weren't necessarily involved in that.

21 But Lumberton and the SBI had always worked
22 well together. Lumberton and the sheriff's -- I mean the
23 sheriff's department and SBI had always worked together
24 really well. And the other departments in the county are
25 so small, they automatically call the SBI.

1 MS. MYERS: For that assistance. Okay.

2 MR. BRITT: Lumberton and the sheriff's
3 department are the two largest. And you know, sometimes
4 you get a situation where the sheriff thinks they don't
5 need help. And that's what's occurred here. They don't
6 want to ask for that help.

7 MS. MYERS: Okay. I just had another
8 question. What made you -- earlier you had said that you
9 would choose which cases you took on. Why did you choose
10 this case?

11 MR. BRITT: Mr. Council's parents came to
12 talk to me.

13 MS. MYERS: Did you know them prior to this
14 case?

15 MR. BRITT: No.

16 MS. MYERS: Okay.

17 MS. SMITH: Did they seem to know who could
18 have done this? Like, did they think that Roberts --

19 MR. BRITT: They knew basically what
20 everybody else knew, based on the investigation. They
21 didn't have a clue as to -- I mean, he had just come over
22 here to hang out with his buddies.

23 MS. SMITH: Right.

24 MR. BRITT: And he ends up getting killed.

25 MS. MYERS: Right. What was it about -- if

1 you want to share. You don't have to. But what was it
2 about them coming and talking to you about it that made
3 you want to take it?

4 MR. BRITT: Part of it was, one, they were
5 very sincere. The other part was, they were not from
6 this county, they were from Bladen County. And they
7 didn't want -- I mean, my impression was they didn't want
8 this to be kind of swept under the rug because they were
9 not from here. And we ended up developing a really good
10 relationship. In fact, I've seen them since I retired.
11 Just happened to run into them at Walmart one evening. I
12 mean, they were genuinely nice people.

13 MS. MYERS: Sure. Sure. Give me just a
14 moment. Oh, Ronnie Roberson.

15 MR. BRITT: Yeah. I know Ronnie.

16 MS. MYERS: We know him very well.

17 MS. SMITH: Yes.

18 MR. BRITT: Have y'all interviewed him?

19 MS. SMITH: Yeah, we have.

20 MR. BRITT: How long did it take? He's a
21 talker.

22 MS. SMITH: He is.

23 MS. MYERS: I'm not going to go on record
24 about that.

25 MR. BRITT: He's a talker.

1 MS. MYERS: He's a very sweet man.

2 MS. SMITH: He is.

3 MS. MYERS: Or was very kind to us, for
4 sure.

5 MR. BRITT: He is.

6 MS. MYERS: I mean, I feel comfortable
7 telling you that he has like brought this up to us that
8 he had called 911, I believe, at least three times that
9 night. And it seemed -- I think the first time that we
10 had -- or I'm sorry. The first time that he had called,
11 we don't have a record of that. But based on the 911
12 calls and what we can tell, it sounds like he had
13 definitely called that first time as a --

14 MR. BRITT: Concerned citizen?

15 MS. MYERS: Correct. As a concerned
16 citizen, because there was what sounded like I think just
17 either arguing in the park or they were just very loud,
18 and it was after hours, and that no one showed up. So he
19 called a second time. And it just kind of escalated from
20 there.

21 Do you know, was that common, at least at
22 that time? Or did you hear from other people, witnesses,
23 perhaps, that they had called 911, didn't get a quick
24 enough response maybe to their liking, and then had to
25 call again?

1 MR. BRITT: In this case or in other cases?

2 MS. MYERS: In other cases.

3 MR. BRITT: Other cases, yes.

4 MS. MYERS: Okay.

5 MR. BRITT: I recall Ronnie testified. I
6 recall him basically testifying he made multiple 911
7 calls. He had looked out the windows in terms of trying
8 to figure -- because he lives right there across from the
9 park.

10 I take it you've been to the police
11 department. You come out of the back door of the police
12 department and come through a little patch of woods,
13 you're in the park. So a lot of it depended -- I mean,
14 response times would depend on where the officers were
15 assigned. Because, you know, at night, there's a reduced
16 crew.

17 MS. MYERS: Right.

18 MR. BRITT: And so where were they, what
19 were they doing, was there anybody available at the PD to
20 go out. And my recollection, you know, it was several
21 minutes, with the emphasis on several, before anybody
22 showed up at the park.

23 MS. MYERS: But that wasn't anything that
24 stood out in this case because you were familiar with
25 that occurring in other cases?

1 MR. BRITT: Yeah. It wasn't anything
2 unusual.

3 MS. MYERS: Okay. Just kind of going back a
4 little bit to when you were talking about Micheal
5 Burgess, and you said that he said he was part of some
6 gang. And you said something about a squirrel?

7 MR. BRITT: It's the --

8 MS. MYERS: E-Ricket. Does that sound
9 familiar?

10 MR. BRITT: Yes. Ricky-Ticky, something.

11 MS. MYERS: Okay. That's what you're
12 thinking. Okay.

13 MR. BRITT: I'm just like what in the hell
14 is this.

15 MS. MYERS: Is that a gang that you were
16 familiar with?

17 MR. BRITT: No. I mean, understand. We
18 have Bloods, we have Crips, we have Folks, we have MS-13,
19 we have -- you name the gangs.

20 MS. MYERS: Right.

21 MR. BRITT: And then there may be a subset
22 of Folks who took on their own name.

23 MS. MYERS: Okay. Got it.

24 MR. BRITT: Like there was a group called 41
25 Curve, referring to Highway 41, Martin Luther King Drive.

1 And the curve is -- you go down Martin Luther King Drive,
2 past the elementary school, and then there's literally a
3 road curves off the right, it takes you to the high
4 school. The main road turns off with a right, Weaver
5 Court, which is a public housing complex, is right there.

6 You had -- God, we had all these crazy
7 names. And then they would -- you know, East Side, New
8 Town. But they were all subsets of either Folks.

9 MS. MYERS: Folk.

10 MR. BRITT: Yeah. And generally here, Folks
11 and Bloods got along. And you saw more of them than you
12 saw Crips. But you had East Side versus South Side.
13 They may be the same gang, but they were feuding.

14 And one of the things that we came to
15 realize that the gang members, when they ran out of
16 innocent people to victimize, they turn on each other.
17 They rob somebody -- oh, I want your gun. I know you've
18 got \$20 in your pocket, I'm going to rob you, that kind
19 of thing. So we got a lot of garbage cases like that.

20 But when -- that thing that Burgess talked
21 about, I'm like where in the hell is this coming from.

22 MS. MYERS: Were you familiar after -- after
23 hearing about it from Burgess, did you see anybody else
24 that claimed to be a member?

25 MR. BRITT: No.

1 MS. MYERS: Okay. What did you make of not
2 having a whole -- it's pretty clear that there were other
3 people that were at this basketball court. I'm assuming
4 that was not surprising that witnesses did not come
5 forward.

6 MR. BRITT: Oh, heck no. That's an every
7 day occurrence around here.

8 MS. MYERS: Right.

9 MS. SMITH: Right.

10 MR. BRITT: I mean, we've had people --
11 there's a recreation center on the south side of town.
12 We had a young man who --

13 MS. MYERS: Is that Bill Sapp?

14 MR. BRITT: Bill Sapp is the main recreation
15 department. Parkview Activity Center, which is behind
16 Knuckles School. And it's a separate recreation
17 department. It's part of the city's, but it's a
18 separate.

19 MS. MYERS: Okay.

20 MR. BRITT: But we had a young man who got
21 in a gang, and he wanted out of the gang. And to get out
22 of the gang, they had to beat him out of it.

23 This occurred at Parkview Activity Center on
24 a Sunday afternoon, in the middle of the afternoon,
25 beautiful day. And two guys, you know, started beating

1 the kid out of -- beating the kid. But the kid tried to
2 run, and they tackled him. Well then the third guy comes
3 up and shoots him and kills him. There were people
4 looking out at what happened.

5 MS. MYERS: Uh-huh. And saw it.

6 MR. BRITT: In order for the police to
7 even -- those people to even talk to the police, they
8 wouldn't talk that day. Nobody came forward. But they
9 would have to go back and say, okay, come around the side
10 window over here, and I'll talk to you through the
11 window.

12 MS. MYERS: Right.

13 MR. BRITT: They didn't want to be seen. I
14 mean, and that was the problem with the gang shootings
15 that we have is, people are reluctant to get involved.
16 Because one, they're afraid. Two, they know that someone
17 will retaliate against them. And then three, they
18 just -- it's not my business.

19 MS. MYERS: So with Roberts, did you know if
20 he was in a gang or not?

21 MR. BRITT: No.

22 MS. MYERS: So if Roberts was the shooter in
23 this case, then would you think it was weird that people
24 on the court didn't want to talk? If it wasn't gang
25 related?

1 MR. BRITT: Well, part of the issue in this
2 case was Floss. He was one of the gang leaders. And
3 Floss was notorious for hurting people. So I mean, I
4 think the fact that these people were looking for him, or
5 this person was looking for him, kind of sent off some
6 alarms.

7 Floss really didn't hang in the east side of
8 town, he hung on the south side, which would have been
9 unusual for -- you normally don't go places by yourself
10 if it's not your territory.

11 MS. SMITH: What gang was Floss in?

12 MR. BRITT: I think he was a Crip. No, I
13 think he was a Blood.

14 MS. SMITH: Okay.

15 MR. BRITT: And of course, he was murdered
16 sometime later by two guys who he knew and trusted. And
17 his girlfriend witnessed it, but she wouldn't show up for
18 court.

19 But, no, it wasn't unusual for witnesses to
20 kind of disappear or say I'm not testifying, I don't want
21 to get involved in this. You know, I've got to look out
22 for me, I've got to look out for my family, that kind of
23 thing.

24 MS. MYERS: Would Floss have been -- so I
25 know he was kind of like an older -- he was an older guy

1 compared to some of the guys that were on the court that
2 night.

3 MR. BRITT: Floss was probably in his
4 thirties. Burgess is, what, was in his thirties?

5 MS. SMITH: He was a kid, he was 16 at the
6 time.

7 MR. BRITT: No, not Burgess, I mean Roberts.

8 MS. SMITH: Yes.

9 MS. MYERS: Yes.

10 MR. BRITT: In his thirties at the time.

11 MS. MYERS: So Floss would have been known
12 by some of these younger guys though that were out?

13 MR. BRITT: Yes. Oh yeah.

14 MS. MYERS: Okay. The Hut is on the south
15 side or the east side?

16 MR. BRITT: It's on the east.

17 MS. MYERS: East side.

18 MR. BRITT: It's in the area -- it's not
19 totally east. East Lumberton is -- you go this way. And
20 south is the area of town that's called East Lumberton.
21 Hayswood is more to our east and north, northeast from
22 here. Elizabethtown Road, which is Highway 41, runs at a
23 diagonal across that part of town.

24 So when you go by Bill Sapp, you hit Bethany
25 Presbyterian Church. You can turn on Bethany

1 Presbyterian -- or beside that, which -- and then the
2 park is actually on Peachtree Street, which is on the
3 other side of the railroad track.

4 MS. MYERS: Right. Okay.

5 MR. BRITT: And it's referred to as
6 something Pines. It always has been. It's not New Town,
7 because New Town is once you get beyond Godwin Avenue and
8 on E-town Road.

9 MS. MYERS: And that's more like Booker
10 Avenue?

11 MR. BRITT: That's Booker Street.

12 MS. MYERS: Booker Street. Okay.

13 MR. BRITT: Yeah, yeah.

14 MS. MYERS: You said that Floss was
15 typically found more on the south side?

16 MR. BRITT: South side.

17 MS. MYERS: So it wouldn't necessarily
18 be -- or would it be unheard of for somebody to be
19 looking for him at the Hut?

20 MR. BRITT: I don't know. I mean, I don't
21 know what his connection would have been to the Hut.

22 MS. MYERS: Sure. Sure. Or is somebody was
23 looking for -- like if Roberts was driving around looking
24 for somebody named Floss, it's not unheard of that he
25 would be somewhere that was considered like --

1 MR. BRITT: One of the locations?

2 MS. MYERS: Yeah.

3 MR. BRITT: No, it wouldn't be surprising.

4 MS. MYERS: Okay. To switch gears a little
5 bit. Kimberly Lowery, do you recall her?

6 She was the -- and we do not have a
7 photograph of her. So she was the mother of Clarence
8 Roberts' son. And he had gone to her home that night.

9 MR. BRITT: Yeah. The lady that lived out
10 east of town.

11 MS. SMITH: Laiken Estates.

12 MS. MYERS: Laiken, uh-huh.

13 MR. BRITT: Yeah. And he went to the mobile
14 home, and she wouldn't let him in.

15 MS. MYERS: Yeah.

16 MR. BRITT: He was drunk, and he went off
17 into the woods to use the restroom or something. They
18 searched it for a gun.

19 MS. MYERS: Uh-huh. Do you remember
20 anything about her?

21 MR. BRITT: She was very reluctant to
22 testify.

23 MS. MYERS: Did you have any thoughts about
24 her being reluctant?

25 MR. BRITT: I just know what she told me.

1 She didn't want to be involved in it. She didn't want to
2 have anything to do with him. She didn't let him in her
3 house that night because she knew he was drunk.

4 MS. MYERS: I'm sorry to pause you. But did
5 you speak -- did you speak to her prior to trial?

6 MR. BRITT: Yes.

7 MS. MYERS: Okay. And do you remember
8 meeting with her?

9 MR. BRITT: Yeah. We met in my office. She
10 didn't tell me anything differently. She didn't tell me
11 anything new. She just was reluctant to testify.

12 MS. MYERS: And other than she didn't want
13 to -- where did that reluctance come from? Did you know?

14 MR. BRITT: Because she's the mother of his
15 child.

16 MS. MYERS: Okay. Did you know if she was a
17 foster mom or trying to be licensed?

18 MR. BRITT: I have no clue.

19 MS. MYERS: Okay. Did you have an opinion
20 about her credibility as a witness?

21 MR. BRITT: In terms of was she telling me
22 the truth about what happened there that night?

23 MS. MYERS: Uh-huh.

24 MR. BRITT: I questioned it. But I mean,
25 given her reluctance to even testify. I mean, the

1 biggest thing for me was that he showed up at her house
2 with the same car, description of the same car. He left
3 in that car, headed back into town. And where he went
4 from there, she doesn't know. Did he go back to the Hut,
5 and this shooting occurred. Did he drive out where he
6 ended up wrecking, then was arrested. I don't recall
7 that.

8 MS. MYERS: Okay. Do you recall anybody
9 ever saying that they saw Clarence Roberts specifically
10 with a gun that night?

11 MR. BRITT: No. Other than the people who
12 say the person that pulled up asking for Floss started
13 shooting. Other than that.

14 MS. MYERS: And do you distinctly -- like,
15 do you remember people being at that court telling you
16 that the person was looking for Floss?

17 MR. BRITT: Yeah. Because basically what
18 I -- here's the basketball court. Okay?

19 MS. MYERS: Uh-huh.

20 MR. BRITT: There used to be telephone
21 poles --

22 MS. MYERS: Right. Right.

23 MR. BRITT: -- that lined the street to keep
24 people from driving onto the -- when I say they were
25 lined up, they were turned over on their sides sort of

1 like a bench.

2 MS. MYERS: Right.

3 MR. BRITT: So you couldn't drive. So they
4 were set up between the basketball court and there. And
5 this car pulls in, and that person gets out and starts
6 asking about Floss. Leaves. Then that car comes back
7 in. They're still there. And it's dark at this point.

8 MS. MYERS: Okay.

9 MR. BRITT: And again asking about -- and
10 then that person who gets out of the car starts shooting.

11 MS. MYERS: So in our review of everything,
12 the only time -- which is LPD's file, obviously, the DA
13 file, the defense files, the trial transcript. The only
14 time Floss ever comes up is when Christopher McGirt is
15 interviewed. Nobody from the interviews that we have
16 read where it's documented, nobody brings up Floss except
17 for Chris McGirt.

18 MR. BRITT: Okay.

19 MS. MYERS: So my question is, you have an
20 independent recollection outside of that, that people at
21 that court heard the person in that vehicle ask where
22 Floss was?

23 MR. BRITT: Yes.

24 MS. MYERS: Okay. Do you know specifically
25 who those witnesses were that would have said that?

1 MR. BRITT: No, not off the top of my head.
2 Not even if I probably went back and looked at this.

3 MS. MYERS: Sure. And that's fair.

4 MS. SMITH: And these are things they told
5 you, not anything that you reviewed from the LPD file?

6 MR. BRITT: Those are probably things that
7 they told me. Which were consistent with -- I mean,
8 things.

9 MS. MYERS: When you would talk to
10 witnesses, what was your kind of note-taking style, or
11 how did you go about doing that?

12 MR. BRITT: Generally, I would either have
13 an officer present or I'd have a victim-witness assistant
14 present. Much of what I would do would initially be to
15 try to develop a rapport with the people. And then ask
16 them to -- you know, this is why you're here. We're
17 getting ready to prepare this case. I'd like you to
18 review the statement that you gave the police. If you
19 remember it differently, please tell me.

20 MS. MYERS: Right. Right.

21 MR. BRITT: If there are things that need to
22 be added that you felt like you told them and it's not
23 included, tell me that, as well. If there are things
24 that need to be taken out, same thing.

25 If they said --you know, for example, if

1 somebody read their statement and said, well, I don't
2 recall saying that. Not I didn't say that, but I don't
3 recall saying that.

4 MS. MYERS: Right, uh-huh.

5 MR. BRITT: That wasn't as significant as I
6 didn't say that. If somebody said I didn't say that,
7 then there was a note taken of that.

8 MS. MYERS: Okay.

9 MR. BRITT: If someone added something new,
10 I would write that down as well.

11 MS. MYERS: Okay.

12 MR. BRITT: If something was told to me in
13 those interviews that was potentially exculpatory, the
14 defense got it.

15 MS. MYERS: Right.

16 MR. BRITT: So it would be a conversation.
17 And then it might be, well, let me ask you specific
18 questions. I'm going to go back to what we talked about,
19 tell me about this. And then I might -- you know, I
20 would write things down.

21 MS. MYERS: Okay. And then would those
22 notes, those would not be put into the DA file?

23 MR. BRITT: It would go into what would be
24 the manilla folder, you know, the file that was utilized,
25 that contained all the information. It would be my

1 handwriting, which it's doubtful many people can read,
2 not even me, that includes me. But yeah, my notes would
3 go into the file.

4 MS. MYERS: So any notes that you had from
5 any interview that you've done --

6 MR. BRITT: Interviews, jury selection, all
7 that should be in that file.

8 MS. MYERS: Would be made part of the DA
9 file. Okay. And if they weren't part of a file that we
10 requested, do you know why they wouldn't be part of that?

11 MR. BRITT: No. Because my practice was,
12 if I tried the case, once it was over, I was the one
13 that -- the victim assistant would get it and go through
14 and close things out. I would get it back to know what
15 was being placed in the box. Because most of these were
16 large files, went into like a banker's box, and we had an
17 archives in the basement where everything was stored.

18 MS. MYERS: When you say the victim-witness
19 would close things out, what do you mean?

20 MR. BRITT: Just go through and take
21 out -- for example, we cannot keep the criminal record
22 check. So we have to take that out, the actual DCI
23 printout.

24 MS. MYERS: Right.

25 MR. BRITT: That has to come out and be

1 destroyed.

2 MS. MYERS: Got you.

3 MS. SMITH: Got it.

4 MR. BRITT: Just to make sure that we have
5 the right follow-up numbers and things if we needed to
6 get in touch with someone, you know, later on down the
7 road because there are notifications. But then it would
8 come back to me, and I would be the one that boxed it up.

9 MS. MYERS: Okay. So this case happened in
10 2013. Obviously, Roberts was arrested for the DWI June
11 15th, I think. And then it was -- I think he was
12 formally arrested for this, I believe, on June the 20th
13 was his last interrogation. The trial wasn't until April
14 of 2017. And then he was -- the jury came back, and he
15 was sentenced on May the 5th.

16 Tell us about kind of what -- did that feel
17 like a long time to you? I mean, I know it wasn't --

18 MR. BRITT: For which? The length of the
19 trial, the life of the case?

20 MS. MYERS: No. Just I guess, from the --
21 yeah, the life of the case.

22 MR. BRITT: No.

23 MS. MYERS: No? Okay.

24 MR. BRITT: See, you've got to understand,
25 the first case I tried as DA was James Jordan. So that

1 actually occurred in 1993.

2 MS. MYERS: Okay. Right.

3 MR. BRITT: I took office in November of
4 '94. And then nothing had been taking place in that case
5 in the interim. And then, in 1995, I get it, and I'm
6 having to prepare for motions as I'm learning about the
7 case. And so we're hearing motions, and then we actually
8 started the case in -- started selecting a jury in I
9 think October 1995. And we finished it in March of '96.

10 But no, it didn't seem like a long time.
11 It's about average. It's about average. That's about
12 the average age of a capital case in North Carolina.

13 MS. MYERS: Okay. When the jury came back
14 and they found him guilty of second degree murder, just
15 generally, like what were you feeling at that time? Were
16 you disappoint -- like do you have feelings at that
17 point? You had waited, the anticipation of all of that.

18 MR. BRITT: It depends upon -- it depended
19 upon the case. It also depended upon the length of
20 deliberate -- and to me, these deliberations were long.
21 Which meant -- I'm trying to remember if this was a
22 straight premeditation, deliberation, malice case, or if
23 it went as a felony murder case. I just don't remember
24 if that -- because you had these other charges that
25 obviously would have supported it.

1 MS. MYERS: Yeah. Right.

2 MR. BRITT: But I don't remember which way
3 it went. But no. At that point, they had been out long
4 enough for me to have some concerns about what they were
5 going to do.

6 MS. MYERS: Okay.

7 MR. BRITT: And then I became pretty good at
8 being able to graciously accept verdicts. And until
9 really the last case I tried, which just crushed me,
10 which was the murder of a police officer. And the jury
11 came back second. But early on, no, I didn't take
12 adverse verdicts very well. And I've had my share.

13 MS. MYERS: Were you surprised that they
14 came back at second with this case?

15 MR. BRITT: Not really. Not really. I
16 mean, given the length of the deliberations. Again, it
17 was a circumstantial evidence case. There was no gun,
18 there was no positive identification of him as the actual
19 shooter. He just --

20 MS. SMITH: In the area.

21 MR. BRITT: This set of circumstances, this,
22 this, and then -- and linked them together.

23 MS. MYERS: Just kind of added up. Okay.
24 Did you have any concerns about Al Collins as an
25 investigator on this case?

1 MR. BRITT: No.

2 MS. MYERS: Did you have any concerns about
3 Agent Brady as an investigator in this case?

4 MR. BRITT: No.

5 MS. MYERS: I'm not going to ask you about
6 Agent Cruz.

7 MR. BRITT: Didn't know her long enough to
8 form an opinion.

9 MS. MYERS: Right. To have any opinion
10 about it. Taylor, do you have any questions or anything?

11 MS. MILLER: None that I can think of. I
12 don't think so.

13 MS. MYERS: Do you have anything else that
14 you can think of? I feel like I'm going to think of
15 something later on.

16 MS. SMITH: Yeah.

17 MS. MYERS: Is there anything -- I mean,
18 you're kind of unique that you know us as an agency and
19 kind of what we do. Is there anything that you think we
20 should have asked you that we haven't?

21 MR. BRITT: No. I mean, when I got the
22 letter about this, I assumed it's an ID case.

23 MS. MYERS: Okay.

24 MR. BRITT: So that's --

25 MS. MYERS: Meaning that you didn't remember

1 anything offhand about this case necessarily?

2 MR. BRITT: No, no, no. Just that
3 there's -- that it's an -- no, no, no, no. That it's an
4 identification -- that's the issue y'all are looking at
5 is whether or not he was the actual perpetrator. I
6 clumped that into an ID case.

7 MS. MYERS: Got you.

8 MR. BRITT: That's all I know.

9 MS. MYERS: Did you ever have any -- I mean,
10 did he ever try to -- Clarence Roberts, did he ever try
11 to talk to you or say anything to you?

12 MR. BRITT: No.

13 MS. MYERS: Okay. One other question I do
14 have before I forget. Because this was interesting to
15 us. And you had brought it up, too, that Micheal Burgess
16 was housed in the same cell as Clarence Roberts. And
17 I have not toured the jail, and I'm not sure that that
18 was -- was that the same jail that they have now?

19 MR. BRITT: Yes.

20 MS. MYERS: So that's interesting.

21 MS. SMITH: Should that have happened?

22 MR. BRITT: No.

23 MS. SMITH: Okay. I figured not.

24 MS. MYERS: So we were told by another
25 witness that we interviewed that was also housed in the

1 same cell was that, at least at that time, they were able
2 to pick what cell they wanted to be in, and that that
3 actually would cut down --

4 MR. BRITT: That doesn't surprise me.

5 MS. MYERS: Okay.

6 MR. BRITT: Cuts down on the violence inside
7 the jail.

8 MS. SMITH: Yeah.

9 MR. BRITT: I do know that they tried to
10 keep gang members with gang members, keeping them in the
11 same group. I'm trying to remember who the general
12 administrator was at the time.

13 MS. MYERS: Yeah. And I don't know who.

14 MR. BRITT: But that wouldn't have surprised
15 me, knowing how this jail operated, that they could make
16 a reservation and pick what suite they wanted to be in.
17 But it's -- one, it shouldn't have happened. And then of
18 course, when they discovered that Burgess was in the same
19 cell, he was taken out.

20 MS. MYERS: So he was taken out when you
21 realized he was in the same cell?

22 MR. BRITT: Yes. Yes.

23 MS. MYERS: So kind of going back to that.
24 You realized he was in the same cell when you went and
25 talked to him?

1 MR. BRITT: He came -- he was brought to the
2 courthouse. And I'm like, you've got to be kidding me.

3 MS. MYERS: And he was brought to the
4 courthouse, was that to testify at the trial?

5 MR. BRITT: No. That was to talk to me.

6 MS. MYERS: Oh, to talk to you.

7 MR. BRITT: Talk with me, and Mr. Ransom was
8 present. And yeah, I mean it's -- alleged victims and
9 their perpetrator shouldn't be in the same cell, or even
10 witnesses.

11 MS. SMITH: Yeah.

12 MS. MYERS: Sure.

13 MR. BRITT: Now, did the jail have any
14 knowledge that he was a witness in this case? I doubt
15 it. Since it wasn't a sheriff's department case.

16 MS. SMITH: Got it.

17 MS. MYERS: And you clearly did not and
18 would not have the capacity to go through and see who is
19 being housed together in the jail?

20 MR. BRITT: Oh, I could do it. But I'm not
21 going to spend much -- I mean, I can pull up the --

22 MS. MYERS: Housing, whatever.

23 MR. BRITT: -- the jail list.

24 MS. MYERS: Right.

25 MR. BRITT: I can pull up the big one or I

1 can pull up the little one. The little one is just an
2 alphabetical. It says how long they've been in and what
3 they're -- what cell they're assigned to. The other
4 includes all their charges and their bond.

5 MS. MYERS: But there's no reasonable way
6 for you to have known that they were housed together
7 unless Burgess was saying, like we're housed together,
8 and I know he did -- or whatever he said.

9 MR. BRITT: Yeah. Because at the time he
10 was initially interviewed, he wasn't in jail.

11 MS. MYERS: Right.

12 MR. BRITT: So he came in after Roberts. I
13 don't know what the jail does to try to avoid that issue.

14 MS. MYERS: Sure. Sure. Go ahead.

15 MS. SMITH: So to be clear, you found out
16 that he was housed with him whenever you were
17 interviewing him, and he stated that he wanted some sort
18 of a deal. That was the same conversation?

19 MR. BRITT: Yeah. And then in that same
20 deal, he tells me he's in the cell with him. I'm like,
21 this shouldn't have happened.

22 MS. SMITH: Right.

23 MR. BRITT: So we corrected it right then.

24 MS. SMITH: Okay.

25 MS. MYERS: So could you, to the best of

1 your knowledge, kind of repeat to us kind of what Burgess
2 said to you?

3 MR. BRITT: Burgess basically said that the
4 gold car pulled in, started asking for Floss, was told he
5 wasn't there. And that the people -- when I met with him
6 in my office with his lawyer -- that there were people
7 that he was with that had guns, and they started shooting
8 at the guy in the gold car first. And that the guy in
9 the gold car was returning fire.

10 MS. SMITH: Okay.

11 MS. MYERS: So Burgess was one of the people
12 then who would have brought up Floss to you at that time?

13 MR. BRITT: Yes.

14 MS. MYERS: Okay. And you feel certain
15 about that as you're telling us, that he definitely did.
16 Okay. When Burgess had said to you though that, by the
17 way, I'm also in the cell, like talk to us about, like
18 how that kind of came about.

19 MR. BRITT: How long have you been there.
20 Did you ask him questions. You know, general. What I
21 wanted to find out was had he been placed there by the
22 police as a snitch.

23 MS. MYERS: If who had been placed there as
24 a snitch.

25 MR. BRITT: Burgess. But even -- I mean --

1 MS. MYERS: Oh. Because he was in the same
2 cell?

3 MR. BRITT: Yeah. That was the issue.

4 MS. MYERS: Got you.

5 MR. BRITT: Like how did you end up. And it
6 was basically, that's where they put me. And that's from
7 the jail, the administration. And like how long have you
8 been there. I can't tell you how long he had been there.
9 What did y'all talk about the case.

10 And then he went into the self-defense spiel
11 on behalf of Roberts. That Roberts never pursued it as
12 a self-defense case. It was just I wasn't there. And
13 so -- but I made sure that by the time he got back to the
14 jail, his stuff was in another cell.

15 MS. MYERS: When he talked to you about he
16 wanted this deal, tell us about how that would have been
17 communicated or how you remember it.

18 MR. BRITT: Oh, he just flat asked. I mean,
19 he just flat asked. He said, you know, I want a deal. I
20 want -- I've got this robbery charge. I said I'm aware
21 of that. I've got the charge of stealing this lady's
22 car. I said I'm aware of that. I think he was already
23 on probation for some stuff. And he wanted like
24 probation. I was like you don't get probation for armed
25 robbery. And I'm not going to give you -- I'm not going

1 to make you an offer. And you're a potential witness in
2 a case. Right?

3 I mean, I'm not even handling your case.
4 That's an assistant. That's -- and I won't handle your
5 case. Because I don't want to be accused of any type of
6 potential wrongdoing and favoritism. So made sure that
7 by the time he left the courthouse to go back to the
8 jail, he had a new cell assignment.

9 MS. SMITH: When he said something to you
10 about -- you mentioned he said something regarding
11 self-defense in regards to Roberts.

12 MR. BRITT: Uh-huh.

13 MS. SMITH: Was he saying that Roberts shot
14 in self-defense?

15 MR. BRITT: Yeah. He was saying the people
16 on the basketball court shot at Roberts first, and
17 Roberts was returning fire.

18 MS. SMITH: And did he identify Roberts?

19 MR. BRITT: He said whoever it was.

20 MS. SMITH: Whoever it was.

21 MR. BRITT: Now, he identified him because
22 he had talked to him in the jail cell.

23 MS. SMITH: But he didn't --

24 MR. BRITT: That's not his first -- his
25 statement to the police was consistent with what

1 everybody else said.

2 MS. SMITH: Got it.

3 MR. BRITT: We're out here playing
4 basketball, we're in a break. This car comes back, and
5 this guy gets out and starts shooting at us. And we
6 started running. And Council got hit.

7 MS. SMITH: Got it. Okay.

8 MS. MYERS: But he never said -- he never
9 told you --

10 MR. BRITT: He never calls Roberts -- he
11 never said -- and then, I mean, other than say that I'm
12 in the cell with him.

13 MS. SMITH: Got it.

14 MR. BRITT: But in terms of his interviews
15 to the police, he never identifies Roberts as the
16 shooter. Just the person that got out of the car.

17 MS. MYERS: Obviously he has some
18 credibility issues with wanting, obviously, like a deal.
19 But outside of that, if you can set that aside, what
20 would you -- how would you, if you were just having --
21 you know, what would you make of Burgess coming to you
22 and saying these things had he not said --

23 MR. BRITT: I wouldn't have believed him.

24 MS. MYERS: Okay.

25 MS. SMITH: Okay.

1 MR. BRITT: Because the other statements
2 from the other witnesses and what he had originally said.

3 MS. MYERS: Okay.

4 MS. SMITH: Okay.

5 MS. MYERS: Did you ever feel like other
6 people had shot first at this car?

7 MR. BRITT: No.

8 MS. MYERS: Did you ever speak to anybody
9 that made you think there were other witnesses that
10 needed to be found?

11 MR. BRITT: We found the young lady that
12 lived in the house at the corner of -- is it Peachtree or
13 is it --

14 MS. MYERS: It's Peachtree and 7th, I think.
15 Is that Linder Sammons?

16 MR. BRITT: No. It would have been
17 Peachtree and 11th, 12th. She lived with her
18 grandmother.

19 MS. SMITH: Oh, Chris --

20 MS. MYERS: Whitney Carter.

21 MS. SMITH: Whitney Carter.

22 MR. BRITT: Yeah.

23 MS. MYERS: Okay. So talk to us --

24 MR. BRITT: Because my recollection, she had
25 seen the car because the car almost ran over the mailbox,

1 and had seen him as the driver.

2 MS. MYERS: And saw Roberts as the driver?

3 MR. BRITT: Yeah.

4 MS. MYERS: Do you remember her saying that
5 there was a 20- to 30-day tag on the plate?

6 MR. BRITT: No.

7 MS. MYERS: Do you remember her talking
8 about him wearing a grill in his mouth?

9 MR. BRITT: Uh-huh.

10 MS. MYERS: Okay. Do you know if he had a
11 grill in his mouth when he was arrested?

12 MR. BRITT: I have no clue. If he did, it
13 would be in his personal -- it would have been in his
14 personal property at the jail.

15 MS. MYERS: Okay. What happens to personal
16 property at the jail when somebody gets shipped off to
17 prison?

18 MR. BRITT: It goes with them. With the
19 exception of some stuff. They're not going to send
20 grills.

21 MS. MYERS: So what would they do with the
22 grill after that?

23 MR. BRITT: They could have ordered it
24 destroyed.

25 MS. MYERS: So there should be a destruction

1 order for the grill if he was --

2 MR. BRITT: If not -- or perhaps return it
3 to --

4 MS. SMITH: The family.

5 MS. MYERS: The family.

6 MR. BRITT: Yeah.

7 MS. MYERS: Okay.

8 MS. SMITH: So Joshua Council was shot.
9 Obviously, the bullet was removed from him. Is that
10 something that would have been tested by you all to see
11 what type of gun?

12 MR. BRITT: It would have -- it should have
13 been submitted to determine what caliber it was.

14 MS. SMITH: Right.

15 MR. BRITT: I mean, if it couldn't be
16 determined on its own or if there wasn't a shell casing
17 found somewhere that had the imprint, you know,
18 conceivably, you could have -- if it had been sent, and
19 it was in good enough condition, they could have entered
20 it in IBIS to see if it had been used in any other
21 shootings to try to identify who was involved in that.

22 MS. SMITH: Is that something LPD would have
23 had to do or something you all --

24 MR. BRITT: LPD could have done it. SBI
25 could have done it.

1 MS. SMITH: But not the DA's office?

2 MR. BRITT: Not the DA's office.

3 MS. SMITH: Got it. Is that something that
4 you all would have requested them to do?

5 MR. BRITT: We could -- we may have. We
6 could have. Because LPD was the custodian of the
7 evidence, so it would have come -- it had to have gone to
8 them to have it delivered to the lab.

9 MS. SMITH: So if it wasn't -- if that was
10 not done, and you all did not request it of them, I
11 guess, how would you make the determination of whether or
12 not to conduct testing, or if the testing was necessary?

13 MR. BRITT: Part of it would depend upon do
14 we have a gun. I mean, that's the big issue. You need
15 the gun to make a positive identification on a fired
16 projectile.

17 MS. SMITH: Got it. Okay.

18 MR. BRITT: Unless you have a situation
19 where that gun had been used in another crime that had
20 already been submitted, and in IBIS, it would pop up.
21 And then they would compare the two to make sure that the
22 detail is sufficient to make an identification.

23 MS. MYERS: So the likelihood of LPD or the
24 SBI asking for that to be submitted to figure out what
25 caliber it was, if we don't have a gun in a case, it's

1 probably not going to be sent?

2 MR. BRITT: It's probably not going to be
3 done.

4 MS. MYERS: Okay. Got it.

5 MS. SMITH: That's good to know.

6 MS. MYERS: Yeah, that's helpful. You had
7 said before -- do you need a break? I'm sorry. We're
8 just --

9 MR. BRITT: I'm good. I'm good.

10 MS. MYERS: John Allen, you had said before
11 that you were not familiar with anybody else in this case
12 prior to it kind of coming to you.

13 MR. BRITT: Well, McGirt -- the McGirt boy,
14 we knew.

15 MS. MYERS: Okay. How did you know him?

16 MR. BRITT: I didn't really know him. There
17 was a young man who was killed here in a stabbing. Two
18 teenage boys seeing the same girl. And one was very
19 jealous of her boyfriend. And she was playing them
20 against each other.

21 And the girlfriend was on her phone at -- it
22 was at her parents' house -- or maybe it was -- no, it
23 somebody else. It was at their boyfriend's house. But
24 there was a group of them there, and the boyfriend sees
25 on her phone, like who are you talking to. And he takes

1 the phone, and he sees it's the other guy. So he sends
2 him a text message, you know, basically, I'm going to
3 whip your ass. You know, you meet me at such and such.

4 They meet at a shopping center parking lot
5 at the intersection of Elizabethtown Road and Roberts
6 Avenue, which is Highway 211 and Highway 41. It's a
7 Sunday night -- Friday night. I think this was Sunday
8 night. There's a whole group of people that show up for
9 this fight.

10 And the McGirt -- the young man that was
11 charged, his last name was Floyd. Chris McGirt and
12 another guy were with Floyd. They rode over there. The
13 young man that was killed, his last name was Arnette, he
14 went and picked up a friend and drove, and they basically
15 -- it was a standoff where nobody really wanted to fight.
16 The two boyfriends, I mean, it was back and forth.
17 Arnette kid had a T-ball bat. You know what a T-ball is?

18 MS. MYERS: Yeah.

19 MR. BRITT: So it's a miniature baseball
20 bat, in his car. Floyd got out with a hunting knife. So
21 Arnette got his bat. And you know, likr you put the bat
22 down. He says no, I'm not putting the bat down until you
23 put the knife down. And it went back and forth, back and
24 forth.

25 So basically, they had come to a resolution,

1 they were not going to fight. The other young man, not
2 the McGirt, but the other young man that was with Floyd
3 started yapping. Just talking smack, and just building
4 it all back up. And all of a sudden he rushes the
5 Arnette kid. Arnette kid still has the baseball bat in
6 his hand. He whacks him in the head with it.

7 Floyd has picked up, unbeknownst to anybody,
8 the hunting knife that he had put on the hood of his
9 truck. And Arnette hits the other kid a couple of times,
10 and goes back to hit him again, and McGirt -- if y'all
11 have interviewed him, he's like six six, six seven, he's
12 tall. He reaches across and grabs the -- and can reach
13 the bat to keep Arnette from coming down with it. And
14 then the Floyd kid stabs him. And stabs him in the
15 stomach.

16 And at that point, the Arnette kid looks at
17 his friend and says we got to go, get in the truck. He
18 starts driving to the hospital. Whatever rent-to-own
19 furniture store or something that was over there -- he's
20 losing so much blood internally. He just kind of does a
21 banana turn off of the road through the window of the
22 store, and ends up almost at the back of the store. And
23 he dies. He bleeds to death.

24 And so we knew McGirt from that case. And
25 he had actually testified on behalf of both the State and

1 the defense in that case. And so when his name popped up
2 in this -- I didn't try the case. I was familiar with
3 the other case. I knew both families.

4 And ended up as we were putting this
5 together, Tammy Cummings, who was my victim assistant and
6 is now the administrative assistant over there, she's
7 like, oh, I know Chris. I know how to get in touch with
8 him. I've got his cell. Because we didn't have his cell
9 number, we just had -- she said I know how to get in
10 touch with him. And so that was my first introduction to
11 him was in this case.

12 MS. MYERS: Got you. You had brought up
13 Floyd, so then this made me think of Floss again. And I
14 do have one -- this might be my last question.

15 When we had interviewed or deposed now
16 Lieutenant Collins, he had been under the impression that
17 Soulski and Floss were the same person. We know that
18 that is not true. But it sounds like Floss was pretty
19 well-known in this area, or should have been well-known
20 to LPD.

21 MR. BRITT: Oh yeah.

22 MS. MYERS: So that, to me, sounds strange
23 that he would get the two of those people confused.

24 MR. BRITT: I would think that that's -- I
25 mean, like I said, I know the name Soulski Stephens. He

1 at one time was a regular. I don't know what he's doing
2 now. Floss was a regular. Floss was into a lot of
3 stuff.

4 MS. MYERS: But no one should ever confuse
5 those two people?

6 MR. BRITT: No. Not at all.

7 MS. MYERS: Okay. Is it safe to say that
8 Floss is somebody who probably would not willingly come
9 in and speak to law enforcement. Obviously he can't now.
10 Unless he sends his ghost, I guess.

11 MR. BRITT: He wasn't going to get caught
12 dead talking to the cops.

13 MS. MYERS: Okay. So there was at one point
14 during -- I believe it was the first --

15 MR. BRITT: Let me put it this way. If
16 Floss talked to cops, it was on the down low.

17 MS. SMITH: Okay.

18 MS. MYERS: Okay.

19 MR. BRITT: He wasn't going to be seen
20 publicly with a police officer.

21 MS. MYERS: Got you. So at some point
22 Collins reaches out, has somebody reach out to Floss, or
23 something about -- because in Collins' mind at this
24 point, he believes that Floss is Soulski. And so when he
25 hears Soulski, my understanding, and correct me if this

1 is not your understanding, but he puts out some feelers.
2 Somebody gets in contact with Floss, and they say we have
3 no issue -- he has no issue with Clarence Roberts.

4 MR. BRITT: With Soulski Stephens or with --

5 MS. MYERS: So that's what is -- so the way
6 that Collins communicated this to us is, there is in
7 Collins' notes, he states that during his interview of or
8 interrogation of Roberts on June the 18th, I believe it
9 was, not the one on the 20th, he receives word that
10 Soulski has no beef with Woo, Clarence. And that's it.

11 So when we questioned him about that, he
12 said -- I believe he just told us that he had somebody
13 reach out to him, and that's all that was.

14 Do you know or do you recall speaking to
15 Collins about --

16 MR. BRITT: Soulski Stephens?

17 MS. MYERS: Yeah. Or just about had he
18 ever -- so in Collins' mind, Soulski is Floss. So did
19 Collins ever talk to you about Floss or having any kind
20 of communication with him about this case?

21 MR. BRITT: No.

22 MS. MYERS: Do you know if anybody
23 communicated to Floss about whether Roberts was looking
24 for him that night?

25 MR. BRITT: I do not. I'd have to go back

1 through this to see.

2 MS. MYERS: It's not in there.

3 MR. BRITT: It's not in there?

4 MS. MYERS: I can tell you that. So if it's
5 somewhere, we don't have it.

6 MR. BRITT: Okay.

7 MS. MYERS: Just independent recollection,
8 you do not have one?

9 MR. BRITT: I don't know.

10 MS. MYERS: Okay. All right. Do you have
11 anything else? Do you have anything else? Is there
12 something that we should have asked you? Like now, do
13 you feel like there's something that we should have asked
14 you that we have not?

15 MR. BRITT: No. I mean, it's -- not that I
16 can think of. It's been --

17 MS. SMITH: It's been a while.

18 MR. BRITT: -- six years.

19 MS. MYERS: Yeah. And I'm assuming he's
20 never written to you from prison or anything?

21 MR. BRITT: No. If he has, it goes over
22 there. I don't get that. Even though I get my stuff
23 from the supreme court, it's funny. District Attorney
24 Johnson Britt.

25 MS. MYERS: Well, we really appreciate you

1 speaking with us today.

2 MS. SMITH: Yes. Thank you.

3 MR. BRITT: You're welcome.

4 MS. SMITH: And your willingness to like
5 reschedule after --

6 MS. MYERS: That was a while ago.

7 MS. SMITH: Yeah. Seems like we --

8 MR. BRITT: It's a good thing we didn't
9 schedule it for last week, because we would have been
10 rescheduling. Because I was out sick last week.

11 MS. SMITH: Oh no. Well, I hope you're
12 feeling better.

13 MR. BRITT: Yeah. And then I had a friend
14 who died last Thursday.

15 MS. SMITH: Sorry to hear that.

16 MS. MYERS: Sorry.

17 MR. BRITT: He had had a heart attack
18 Thursday previous. He was at the beach. And it didn't
19 sound good from the get-go. His family ended up having
20 to make the decision to pull the plug. He had no brain
21 activity. They had him on ventilator, and then he
22 started having seizure activity.

23 MS. MYERS: I'm sorry.

24 MS. SMITH: I'm sorry.

25 MR. BRITT: Then he developed pneumonia.

1 And then that just --

2 MS. MYERS: No quality of life.

3 MR. BRITT: And I'm not sure how long he
4 would survive once they pulled the plug. But he was 69.
5 His brother was a year older than I am. His brother was
6 the first person I think I ever -- I have any
7 recollection of meeting. They were -- we were neighbors.
8 But it was just sad. If you looked at him, you would
9 have never thought he was a person to have a heart
10 attack.

11 MS. SMITH: Right.

12 MS. MYERS: That's scary.

13 MR. BRITT: Fitness freak, watched what he
14 ate, went to the doctor religiously. Never been told --
15 and he had two major arteries that were blocked.

16 MS. MYERS: Wow. I'm sorry. That is scary.

17 MR. BRITT: So that's where I was Monday.
18 Well, where was I Monday. Tuesday and Wednesday I was in
19 Raleigh. So --

20 MS. MYERS: That's very scary.

21 MR. BRITT: But you never know.

22 MS. SMITH: No, you don't.

23 MS. MYERS: Well, this case is set to go to
24 a hearing beginning on August the 15th. Expected to be
25 two, three days at the very most.

1 MR. BRITT: I'm not going to be there.

2 MS. MYERS: Obviously, anything can change
3 between now and then.

4 MR. BRITT: Oh, I know.

5 MS. MYERS: You know how that goes. We will
6 subpoena you for this.

7 MR. BRITT: Oh, okay.

8 MS. SMITH: Sorry.

9 MS. MYERS: It's going to be really fun.

10 MR. BRITT: Really? Fun?

11 MS. MYERS: To be on this side of things.

12 MR. BRITT: Yeah. I get to sit at the end a
13 and answer questions. Let me know, because my
14 anniversary is the 14th.

15 MS. MYERS: The 14th. Okay. So we will
16 talk a little bit closer. I'll get in contact with you.
17 I'll reach out to you, and we can either drop it by your
18 office, however you would like to accept it.

19 MR. BRITT: Just mail it to me.

20 MS. MYERS: Just mail it to you. Okay. But
21 we'll talk more. We can always -- what we've done in the
22 past, as you know, is have people on telephone standby.

23 MR. BRITT: I know.

24 MS. MYERS: So that is always an option.
25 And so, obviously, we don't want to interfere with your

1 anniversary or any plans that you might have. So we can
2 always do that. That's always an option. You do not
3 have to come to Raleigh. As you probably know, most
4 people do not like having to travel to Raleigh to testify
5 at a Commission hearing.

6 MR. BRITT: I just don't like traveling to
7 Raleigh, period.

8 MS. SMITH: Yeah.

9 MS. MYERS: That's a pretty --

10 MR. BRITT: The traffic's bad.

11 MS. MYERS: It's a pretty tough drive, as we
12 have come to know it pretty well over the last few
13 months.

14 MS. SMITH: Oh yeah.

15 MS. MYERS: So we can empathize with that.
16 So I think that is -- that's kind of all the information
17 we've got for you about that.

18 MR. BRITT: Okay.

19 MS. MYERS: We really appreciate you taking
20 the time to do this.

21 MS. SMITH: Thank you so much.

22 (WHEREUPON, the foregoing interview
23 was concluded on Thursday, May 25, 2023.)
24
25

STATE OF NORTH CAROLINA	IN THE GENERAL COURT OF JUSTICE
COUNTY OF ROBESON	SUPERIOR COURT DIVISION

STATE OF NORTH CAROLINA,	)	File No. 13 CRS 3511
)	
-vs-	)	File No. 13 CRS 54359
	)	<u>INTERVIEW</u>
)	
CLARENCE ROBERTS,	)	<u>OF</u>
)	
Defendant.	)	<u>JOHNSON BRITT</u>
-----	)	May 25, 2023

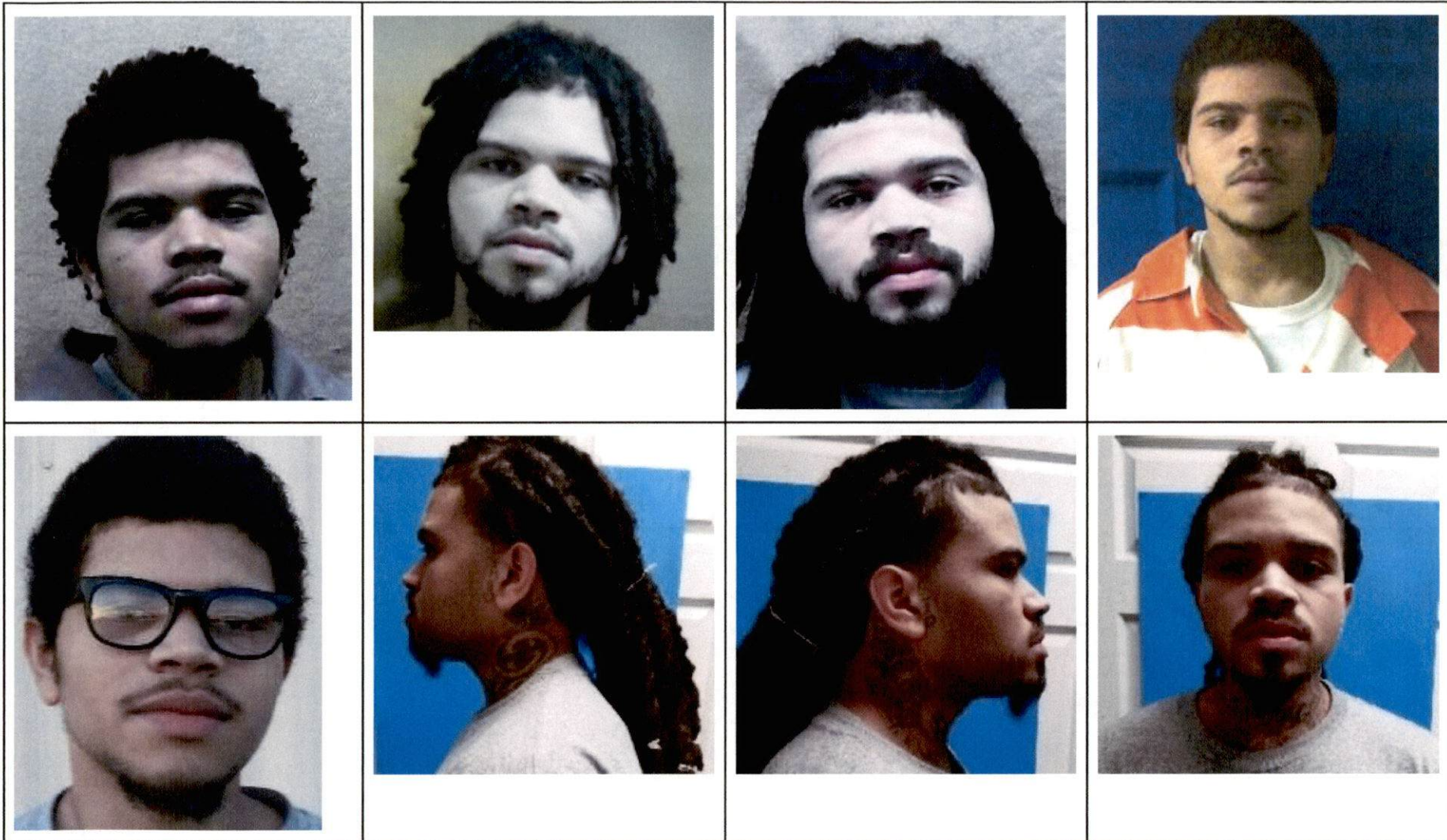
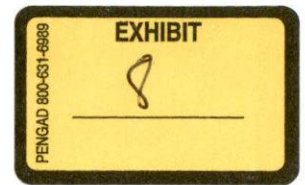
I, June Robinson, having been assigned to transcribe the above-captioned interview from May 25, 2023, do hereby certify that said interview, pages 1 through 90, is a true and correct, and verbatim transcript of said interview to the best of my ability.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was heard; and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, and am not financially or otherwise interested in the outcome of the action.

This the 16th day of July, 2023.

June E. Robinson

 June Robinson, transcriptionist



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I N D E X

Rule 24 motion

3:4

1 The State, again, formally announces its intent to
2 seek the death penalty in the case should Mr. Roberts be
3 convicted of first degree murder. The State would be relying
4 upon aggravating circumstance of course of conduct. It's
5 15A-2000(e)(11) in that all of these shootings occurred at the
6 same time with the result being that Joshua Council was shot and
7 killed. Michael Burgess was shot, John Allen was shot, Crystal
8 Allen was shot. This occurred here in the City of Lumberton
9 back on June the 14th, 2013.

10 Mr. Council and the others were at a community park
11 commonly known as Hazelwood Playground, Hazelwood, but off of
12 Elizabethtown Road here in Lumberton playing basketball.
13 while they were there, a vehicle drove up. The individual asked
14 if a person by the name of Floss was out in the park playing
15 basketball. Floss is someone who is known as Kenny Ray Floyd.
16 He was told that he was not there. The car pulled down the
17 street and came back. And when the car came back, the only
18 occupant of the car, the driver, then opened fire on a group of
19 people that were in the park.

20 Mr. Council actually was a resident of Bladen County
21 and was over visiting and playing basketball with some friends.
22 He was shot and killed. Mr. Burgess, Mr. Allen, and Ms. Allen
23 were also shot at. I believe it was Mr. Burgess actually was
24 struck with bullets a short time --

25 well, later that same evening, North Carolina Highway

1 Patrol stopped an automobile, responded to a single car wreck in
2 which Mr. Roberts was the operator of that car. At that time he
3 was in an intoxicated state. There was no weapon found in the
4 vehicle, but the investigation led to information that
5 Mr. Roberts had shown up at a house a short distance from the
6 park, made some comment with regard to having shot people; and
7 then, based upon the description the police had, a photo lineup
8 was created. Based upon the photo lineup, Mr. Burgess,
9 Mr. Allen and Ms. Allen identified the defendant to varying
10 degrees as the person that was at the park inquiring about an
11 individual known as Floss and was the same occupant of the car
12 when he came back and opened fire on the group. But for purpose
13 of the Rule 24 hearing, that would be our basis.

14 THE COURT: All right. For the defendant?

15 MS. POWERS: Your Honor, we would ask the Court to
16 deny the State's motion. The evidence in this case is very
17 shaky at best. The witnesses did identify my client to varying
18 degrees, which to us would certainly not be to any certainty,
19 and my client was not found with a gun. There was no one who
20 could say positively that my client was actually the
21 shooter there at the ballpark. My client had been in the area
22 in a white car, had been drinking. There's evidence that my
23 client was at the home of his child's mother during the time
24 that this occurred, that he was at the home for about 15
25 minutes, and the home was a far enough distance away that he

1 could not have been at the park at the time that the shooting
2 actually occurred.

3 There's evidence that whatever happened at the park,
4 that the individuals waited several minutes before anyone called
5 911. There's information that people were shooting back and
6 forth from the park to the vehicle. There were no bullet holes
7 in my client's vehicle. He does not have a recollection of
8 anything that happened after a certain period on that day after
9 leaving his girlfriend's -- well, his child's mother's home
10 until he ends up at Greenville Church Road. But there are
11 witnesses that say definitively that the car that my client was
12 driving was not the car. There was multiple cars that were
13 indicated in our investigation, Your Honor.

14 Based on the fact that the evidence in this case
15 varies to such a degree, we believe it would be egregious and a
16 travesty of justice that the State be allowed to proceed
17 capitally on a case of this nature, and I'd ask the Court to
18 deny the State's motion.

19 THE COURT: All right. So, the Court will allow the
20 state to proceed capital, grant the State's request on the Rule
21 24. Mr. Britt, prepare an order.

22 MR. BRITT: Yes, sir.

23 THE COURT: Let's see, we need to have IDS appoint a
24 second counsel.

25 MR. BRITT: Yes, sir.

1 THE COURT: So we'll prepare that paperwork. So,
2 Mr. Roberts, Ms. Powers will continue to be your attorney but a
3 second attorney will be appointed. I can't tell you right now
4 who that would be, but somebody else will be contacting you
5 along with Ms. Powers, okay? So, you should feel free to be
6 able to talk to that attorney about your case.

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Have you got any questions?

9 THE DEFENDANT: No, sir.

10 THE COURT: All right.

11 MS. POWERS: Thank you, Your Honor.

12 THE COURT: Is there another court date?

13 Mr. BRITT: I'm going to suggest the May 5th admin.
14 That's 60 days from now.

15 Ms. POWERS: Yes, sir.

16 Mr. BRITT: That will give IDS sufficient time.

17 THE COURT: May 5th, sir, that's your next court
18 date.

19 * END OF TRANSCRIPT *

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State of North Carolina
General Court of Justice
Prosecutorial District Sixteen B
LUMBERTON, NC 28358

LUTHER JOHNSON BRITT, III
DISTRICT ATTORNEY

ROBESON COUNTY
COURTHOUSE PMB 19
TEL: (910) 272-5910
FAX: (910) 272-5911

October 19, 2015

Mrs. Tiffany Powers
Attorney at Law

Mr. Carl Ivarsson
Attorney at Law

Re: **State v. Clarence Roberts**
Amended Plea Offer

Dear Mrs. Powers and Mr. Ivarsson:

Based upon the charge, the evidence against the defendant, and the defendant's prior criminal record, **9 points, Level III felony sentencing**, the State makes the following plea offer:

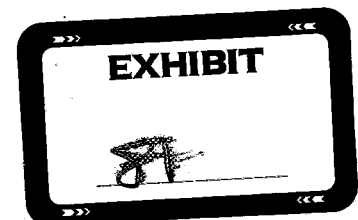
The charge of First Degree Murder will be reduced to Second Degree Murder and all charges will be consolidated for judgment and the defendant will receive an aggravated level sentence of 397 months minimum – 489 months maximum (397 x 120% = 476.4 rounded up to 477 + 12 = 489).

This is a one-time offer and is not negotiable.

Please let me know how your client wishes to proceed.

Sincerely,


Luther Johnson Britt III



000776
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State of North Carolina
General Court of Justice
Prosecutorial District Sixteen B
LUMBERTON, NC 28358

LUTHER JOHNSON BRITT, III
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November 6, 2014

Mrs. Tiffany Powers
Mr. Carl Ivarsson
Attorneys at Law

Re: **State v. Clarence Roberts**
13 CRS 54359; 54360; 3511; 3512

Dear Mr. Ransom;

Based upon the charge, the evidence against the defendant, and the defendant's prior criminal record, **9 points, Level III felony sentencing**, the State makes the following plea offer:

The defendant may plead guilty as charged and all charges will be consolidated for judgment and the defendant will receive a sentence of life without parole.

Please let me know how your client wishes to proceed.

Sincerely,


Luther Johnson Britt III



000812
NCIC - Atty Carl Ivarsson Files

1 PROSPECTIVE JURORS: (No response.)

2 THE COURT: All right. Follow the Court's cautionary
3 instructions, return back at 2:30 to courtroom 2B on this
4 floor.

5 (All prospective jurors exit the courtroom
6 at 12:33 p.m.)

7 THE COURT: Let the record reflect that these
8 proceedings are taking place out of the hearing and presence
9 of all trial jurors. You may proceed, Mr. D. A.

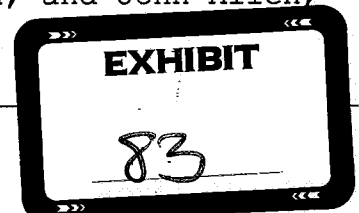
10 MR. BRITT: Your Honor, the State will be calling the
11 matter of Clarence Wendell Roberts for trial, file numbers are
12 13 CRS 54359 and 54360, 13 CRS 3511 and 3512. The State has
13 filed a motion to join these matters for trial. At the
14 appropriate time, I'd like to be heard on that.

15 THE COURT: Now is the appropriate time.

16 MR. BRITT: Your Honor, these are all transactionally
17 related as this is a---

18 THE COURT: Wait just one moment. All right.

19 MR. BRITT: These matters are transactionally related
20 to each other. To give the Court some background, the
21 allegations in this case are Mr. Roberts is alleged to have
22 randomly open fire at a group of teenagers, individuals, that
23 were in a neighborhood playground on the evening of June 14,
24 2013. As a result, Joshua Council was killed. The other
25 individuals, Michael Burgess, Crystal Allen, and John Allen,



1 were in the vicinity of Mr.--of Joshua Council at the time.
2 They all ran but were--their lives were placed in danger as
3 well. I don't wish to be heard any further.

4 THE COURT: So the State is moving to join one charge
5 of first-degree murder, three counts of attempted first-degree
6 murder, and three counts of assault with a deadly weapon with
7 intent to kill. Is that correct?

8 MR. BRITT: Yes, sir.

9 THE COURT: Any objections?

10 MR. IVARRSON: In all candor, Your Honor, the events
11 as Mr. Britt described that's the State's case, then clearly,
12 in my opinion, they're joinable. All those--the list of
13 crimes happened within seconds of each other at the same
14 location. That's the reality. Yes, sir.

15 THE COURT: The State's motion to join for trial 13
16 CRS 54359, first-degree murder, with 13 CRS 54360, count one
17 attempted first-degree murder, assault with a deadly weapon
18 with intent to kill, with 13 CRS 3511, count one, attempted
19 first-degree murder, and count two, assault with a deadly
20 weapon with intent to kill, with 13 CRS 3512, count one
21 attempted first-degree murder, and count two, assault with a
22 deadly weapon with intent to kill, is allowed. Those matters
23 are joined for trial. Further, are there any pretrial motions
24 on behalf of the State?

25 MR. BRITT: I want to place on the record the State

1 has filed with the Court its list of potential witnesses, and
2 that has been served on counsel for the defendant.

3 MR. IVARRSON: We received that. Thank you.

4 THE COURT: All right. Is the State proceeding
5 capitally or non-capital?

6 MR. BRITT: The State is proceeding capitally. There
7 was a Rule 24 hearing in this matter conducted before Judge
8 Greg Bell back on March 6th, 2014.

9 THE COURT: How long does the State anticipate this
10 case is going to take to try?

11 MR. BRITT: I would anticipate including jury
12 selection approximately four weeks, hopefully shorter than
13 that.

14 THE COURT: Has the State made any non-jury
15 disposition offers to the defendant?

16 MR. BRITT: Yes, sir. There have been multiple
17 offers made to the defendant. As of now, the defendant has--
18 I've been informed the defendant has declined the last offer
19 that was made. It was that the defendant could plea open to
20 second-degree murder and the State would dismiss the other
21 charges.

22 THE COURT: What prior record level would the
23 defendant be should he chose to accept that at some point?

24 MR. BRITT: If I may have just a second. I think
25 it's a level 3, nine points. Yes, sir, nine points, level 3.

1 THE COURT: All right. Any pretrial motions on
2 behalf of the defendant?

3 MR. IVARRSON: There are, Your Honor. Before we
4 jump in that mess, may I supplement the record as it relates
5 to plea offers?

6 THE COURT: Yes, sir.

7 MR. IVARRSON: On--Mr. Britt is correct. Plea
8 negotiations and discussions have been going on. So the
9 record is clear, on March 23, 2017, I met with Mr. Roberts and
10 relayed the offer that Mr. Britt described. And Mr. Roberts
11 does not want to accept it, and he wants to plow forward to
12 trial. I assume that--I've heard nothing different from Mr.
13 Roberts since that date, and I'm confident that he wants to
14 proceed to trial.

15 The plea offer again was plead guilty to second-
16 degree murder, free to argue, and he would be a criminal
17 history category 3, and that all the other charges would be
18 consolidated into the second.

19 MS. PEGUISE-POWERS: That---

20 THE COURT: I understood they were---

21 MR. BRITT: That was the offer. We spoke--we had a
22 file review. They--defense counsel reviewed the evidence, and
23 I offered on Friday, this past Friday, to modify the offer.
24 But the offer that Mr. Ivarrson is referring to was charged--
25 the murder charge would be reduced to second. All other

1 charges would be consolidated into that for purposes of
2 sentencing and then free to argue. Then I modified that
3 Friday to say that if he'd plea to second the State will
4 dismiss the other matters.

5 MR. IVARRSON: Correct.

6 MS. PEGUISE-POWERS: And, Your Honor, I will tell the
7 Court that on April 7th, I met with Mr. Roberts and advised
8 him that the State offered to dismiss 13 CRS 3512, attempted
9 first-degree murder and assault with a deadly weapon with
10 intent to kill, 13 CRS 3511, attempted first-degree murder and
11 assault with a deadly weapon with intent to kill, as well as
12 13 CRS 54360, attempted first-degree murder and assault with a
13 deadly weapon with intent to kill, in exchange for a plea of
14 guilty, and 13 CRS 54359 to a reduced charge of second-degree
15 murder. The plea is open, and the defendant's prior record
16 level is 3. The defendant rejects the State's offer with the
17 knowledge that the State will proceed capitally. And it's
18 executed by Mr. Roberts.

19 THE COURT: Do you all have any objection to the
20 Court informing your client what the maximum punishment is as
21 to each of these offenses should he be convicted by a jury?

22 MS. PEGUISE-POWERS: No, Your Honor.

23 MR. IVARRSON: That's fine, Your Honor. Thank you.

24 THE COURT: What's the date of offense?

25 MR. BRITT: The date of the offense is June 14, 2013.

MEMO

TO: Clarence Roberts file

FR: CGI

DA: 4-27-17

RE: Summary of recent events.

Today, Steve and I met with Lou Rodriguez of Crown Ford for about 3 hours. Steve previously spent more time with Lou on this issue i.e. the tire tracks in the crime scene photos. Lou has a lot of experience and would be a great witness. However, he can only clearly ID 1 set of tracks. He said that those tracks weren't made by the Taurus b/c those tracks must have been made by a vehicle that had 2 wheel drive in either the front or back wheels. The Taurus only has power to the passenger side front tire. Unfortunately, there is a spaghetti bowl of tracks that Lou can't ID and can not exclude the Taurus as having been a contributor to the tracks. That may leave the door open the Johnson to argue that it is possible that Taurus left track in that mess or tracks. So we decided not to call Lou to testify. State's case has some problems i.e. civilian wits didn't pan out as planned. We don't want to offer any relief by opening doors or drawing attention to something (tire tracks) that the State has not drawn attention to. We have not received any indication or report from Johnson about any tire track expert opinion. He has never alluded to it. So I think that the State may rest on Monday or Tuesday possibly after calling Det Al Collins and John Allen to testify.

Steve, Tiffany and I spoke the phone after our 3 hour meeting with Lou. We decided against calling to Lou to testify for the above reasons. Because Lou could not eliminate the Taurus from all tracks, then best not to create that possibility or argument for Johnson that the Taurus could have made some of the tracks.

Also, Tiffany and I agreed that Eric McQueen and SBI Agt Mike Gurdziel (GSR) would be on the only wits that we would call. Just about all of the wits who we thought about calling already testified for the State.

On Monday April 17, after 1 week of pretrial motions and jury selection, Johnson offered 108 minimum (78 min for the class D vol manslaughter + 30 months for the 3 class E AWDWITKs combined but stacked on top of the vol mansl) for a total min of 108 mos., Cr Hx IV). Clarence, his family, Tiffany and I met in the jury room to discuss it. Clarence flatly refused to take it. WE put this on the record and Judge Webb questioned Clarence about it too. Clarence told Judge Webb on the record that he wanted to proceed to trial. In the jury room, Clarence's family was of no help. Most were e silent. One or two said that if he didn't do it then he should plow on to trial. Of course, none of his family members would serve any sentence. I even asked Clarence if he would authorize me to offer Johnson take 78 months minimum which is the bottom end of the presumptive range Cr Hx IV for class D vol mansl and flatly refused that as well. A day or two later, I met with Clarence in the jail. Right now, I can't remember specifically why I met with him then. He wouldn't even authorize me to take 58 months min (bottom end of the mit range, class D vol mansl Cr Hx IV) to Johnson. He quickly said no. He said that he didn't do it and won't plead to anything he didn't do period. He said if he gets LWOP or death then so be it.

EXHIBIT

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000746

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Handout 63

Judge Powers Transcript

IN THE NORTH CAROLINA GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

* * * * *

STATE OF NORTH CAROLINA,)
Plaintiff,)
) ROBESON COUNTY
v.) 13 CRS 003511
) 13 CRS 054359
CLARENCE ROBERTS,)
Defendant.)
)

* * * * *

TRANSCRIPT

* * * * *

Transcript of interview between Tiffany Powers,
Attorney Taylor Miller, and Attorney Mackenzie Myers.

O'Connor Legal, Medical & Media Services, Inc.
127 F Street - Suite 103
Brunswick, GA 31520
(912) 689-0090

1 JUDGE POWERS: I know you sent me the materials,
2 'cause I looked at them. Okay. That was just for the
3 record. It's loading.

4 ATTORNEY MILLER: No problem. And Judge Powers,
5 while that's loading, I'll just give you a little bit of
6 background.

7 Just so you are aware, I know we've corresponded
8 over email. But I'm a Grand Staff Attorney here at North
9 Carolina Innocence Inquiry Commission.

10 I also have my Co-Investigator on this case,
11 Mackenzie Myers, who is also a Staff Attorney here. She's
12 in the room with me.

13 ATTORNEY MYERS: Hi, Judge Powers.

14 JUDGE POWERS: Hello.

15 ATTORNEY MILLER: So, it's possible that at some
16 point Mackenzie will come up with some questions to ask.
17 But for now, we've got just a, a couple different topics
18 to walk through with you.

19 And I'm sure that you're already familiar with
20 our Agency, just to the extent that we've been emailing
21 you and requesting files. But, just so you're aware,
22 we're a neutral State Agency.

23 We investigate post-conviction claims of
24 innocence. In this case, we do currently have a hearing
25 scheduled for Mr. Roberts.

1 JUDGE POWERS: Oh, okay.

2 ATTORNEY MILLER: That's set for August 15th
3 through the 17th.

4 JUDGE POWERS: Okay.

5 ATTORNEY MILLER: And just to make you aware of
6 what that might look like on your end, typically what we
7 do is anyone that we interview, we will give them a
8 Subpoena for the hearing.

9 And that sounds worse than it is because what we
10 would likely do if we, if we were to issue one to you is
11 we would just put you on telephone standby. Oftentimes,
12 you know, you're not someone that would be called to
13 testify but we like to have you there just in case any
14 Commissioners have questions.

15 So, we would just place you on telephone standby
16 if that's the case. And then as soon as, you know, we've
17 determined that we will no longer need you, we will
18 release you from that telephone standby.

19 So, I just wanted to make you aware of that ahead
20 of time. We don't expect you to be down here in Raleigh
21 for this, by any means, in August, but we would just serve
22 you with that just to be on standby.

23 JUDGE POWERS: Okay. And I just got a message
24 that the trial court -- or the Court Manager wants to give
25 me a call.

1 So, if you don't mind me -- just 'cause -- it
2 should take but a minute. They're scheduling --

3 ATTORNEY MILLER: Sure.

4 Judge POWERS: -- for Monday for a civil matter.

5 ATTORNEY MILLER: Um-hmm.

6 JUDGE POWERS: So, I -- I'll just call her.

7 ATTORNEY MILLER: No problem. If you just want
8 to call me back --

9 JUDGE POWERS: And --

10 ATTORNEY MILLER: -- at the number I called from.

11 JUDGE POWERS: -- and I think you sent -- I know
12 that you sent me the information, because I saw it
13 yesterday on my laptop and now, on my iPad. And for some
14 reason, I can't pull up the case file.

15 ATTORNEY MILLER: Let, let me see -- I can try
16 sending it over to you again, and see --

17 JUDGE POWERS: Okay, good.

18 ATTORNEY MILLER: -- see if that works.

19 JUDGE POWERS: Thank you.

20 ATTORNEY MILLER: Okay, yeah.

21 JUDGE POWERS: I'll, I'll wait for you to do
22 that.

23 ATTORNEY MILLER: Okay, great. Thanks so much.

24 (Off the record)

25 (On the record)

1 ATTORNEY MILLER: Taylor.

2 JUDGE POWERS: Hi. This is Tiffany Powers. I'm
3 ready.

4 ATTORNEY MILLER: Oh, okay, great. And were you
5 able to access that document, then?

6 JUDGE POWERS: Oh, I know it came up.

7 ATTORNEY MILLER: Okay. I -- yeah, I just, I
8 just sent it through. So, it might take just a minute on
9 your end.

10 JUDGE POWERS: Yes. Download file. Okay.

11 ATTORNEY MILLER: Okay. Perfect. And the, and
12 the first few questions I have -- you know, we won't even
13 need the file.

14 I just think later on -- I'm sure you've had many
15 cases since you've looked at this case. So, just -- it
16 might just be easier if I give you page numbers to, kind
17 of, refer back to certain pages.

18 But for the time being, the first little bit, we
19 won't need to use it at all. So --

20 JUDGE POWERS: And --

21 ATTORNEY MILLER: -- and -- all right. So, we
22 will -- if it works for you, I will go ahead and get
23 started. I --

24 JUDGE POWERS: Yes ma'am.

25 ATTORNEY MILLER: Perfect. I just want to ask a

1 few background questions before we kind of get into the
2 weeds of the case. So, first and foremost, Judge Powers,
3 when did you first start working as a Public Defender in
4 North Carolina?

5 JUDGE POWERS: Well, first of all, I've never
6 been a Public Defender.

7 ATTORNEY MILLER: Oh, okay. I apologize. Were
8 you retained in, or -- I'm sorry, appointed to
9 Mr. Roberts' case?

10 JUDGE POWERS: I was working the appointed list.

11 ATTORNEY MILLER: Oh, I see, I see. Okay, great.
12 Okay. And when did you first begin working on the
13 appointed list?

14 JUDGE POWERS: It would have been when the
15 IDS Connection first got started. So, if you know what
16 year that is --

17 ATTORNEY MILLER: Okay. No, that's fine. Okay.

18 JUDGE POWERS: So, every Rob that they've had,
19 I've worked with. 'Cause I believe everybody -- it was
20 either Rob or Bob. Every one of them.

21 ATTORNEY MILLER: Okay.

22 JUDGE POWERS: Bob Trenkle, Rob Sharpe, but there
23 was another Rob in between there.

24 ATTORNEY MILLER: Okay. Okay, great. And do you
25 recall when it would have been that you first learned that

1 you were getting assigned to Clarence Roberts' case?

2 JUDGE POWERS: Oh, not specifically, no.

3 ATTORNEY MILLER: No? Okay.

4 JUDGE POWERS: But I know that -- let's see. I -
5 - yeah, I think I was the first Attorney on the list. And
6 then I think I engaged, I -- what's his name? Carl.

7 ATTORNEY MILLER: Carl, yeah.

8 JUDGE POWERS: Yes.

9 ATTORNEY MILLER: Okay. Had you worked with Carl
10 previously before this case?

11 JUDGE POWERS: Actually, he and I had, had
12 Co-Counsel -- I mean, had Co-Defendants in a -- yeah, a
13 first-degree. And so, at that point, you know, we really
14 clicked.

15 And so, once I had this case, and knowing that he
16 was a Specialist, I was like, okay. He would be great to
17 work with.

18 ATTORNEY MILLER: Oh, great. Okay. Okay. And
19 Judge Powers, were you familiar with Clarence Roberts at
20 all before you were assigned this case for him?

21 JUDGE POWERS: Not before I was assigned.

22 ATTORNEY MILLER: Okay.

23 JUDGE POWERS: Once I met him, I, I recognized
24 that -- him being from Lumberton, that we -- you know,
25 there was some people that we, you know, knew, like, some

1 mutual --

2 MS MILLER: Um-hmm.

3 JUDGE POWERS: Actually, they're mutual
4 relatives. Like, I'm related on one side, he's related on
5 the other side. But we never had any contact before that
6 or anything like that.

7 ATTORNEY MILLER: Okay. And now, this might --
8 we might be going back in the, the weeds a little bit in
9 the case, but do you remember if there was anyone -- you
10 know, when you were first assigned this case, anyone that
11 you were familiar with? Obviously, taking Mr. Roberts out
12 of the equation, anyone else, that their name came up,
13 that you already knew of?

14 JUDGE POWERS: As far as any of the players in
15 the case? Like --

16 ATTORNEY MILLER: Any -- yeah. Any of the main
17 players in the case.

18 JUDGE POWERS: I think I was familiar with one of
19 the people that -- and I'd have to look in the, in the
20 [indiscernible]. I'm still trying to get authorized on
21 this, and back to the paperwork. But there was a, a
22 Defendant -- and when I say familiar, familiar as in the
23 court system -- knowing that that person's been in the
24 court system.

25 ATTORNEY MILLER: Okay.

1 JUDGE POWERS: But there was someone that
2 Mr. Roberts felt like might have been the person that did
3 this, that I --

4 ATTORNEY MILLER: Um-hmm.

5 JUDGE POWERS: -- I think I might have known --

6 ATTORNEY MILLER: Would --

7 JUDGE POWERS: -- who that was.

8 ATTORNEY MILLER: -- would that be
9 Dexter Stephens?

10 JUDGE POWERS: Yes.

11 ATTORNEY MILLER: Okay. Yeah, and, and how are
12 you familiar with Dexter Stephens? Just by, you said by
13 the court system?

14 JUDGE POWERS: The court system --

15 ATTORNEY MILLER: Okay.

16 JUDGE POWERS: -- yes. Just -- nothing personal.

17 ATTORNEY MILLER: Okay. Now, the one question I
18 did have -- kind of jumping around a little bit but
19 speaking of Dexter Stephens, I, I saw a note that maybe
20 you'd represented his cousin before.

21 We believe his cousin's name was
22 Bobby Shawn Jones. Does that sound familiar at all?

23 JUDGE POWERS: It does, and I absolutely did
24 represent Shawn Jones in a first-degree murder case.

25 ATTORNEY MILLER: Okay. And that was prior to

1 representing Mr. Roberts?

2 JUDGE POWERS: Right.

3 ATTORNEY MILLER: Okay. Do you recall about when
4 that case would have taken place?

5 JUDGE POWERS: Not the year, honestly.

6 ATTORNEY MILLER: No --

7 JUDGE POWERS: I mean, it would -- wouldn't be
8 hard to find out. But his case ended up pleading out,
9 which we tried Mr. Roberts case.

10 ATTORNEY MILLER: Sure. Okay. And do you
11 recall, if for whatever reason, through representing Bobby
12 Shawn Jones, if you ever came into contact with Dextor
13 through you representing his cousin?

14 JUDGE POWERS: Absolutely not.

15 ATTORNEY MILLER: No. Okay. Okay.

16 JUDGE POWERS: [Indiscernible]. I didn't even
17 come into contact with Dextor Stephens when I was
18 representing his cousin.

19 ATTORNEY MILLER: Okay.

20 JUDGE POWERS: The, the only reason his name came
21 up in his cousin's information, which -- yeah, I'm not
22 even sure if their even really cousins, but anyway. Was
23 because Mr. Jones was arrested while riding in
24 Mr. Stephens' vehicle.

25 So, Mr. Stephens never came to court. He never

1 came to support anything, 'cause he was always, you know,
2 a nefarious character. So, when -- if you're going to
3 come and, you know, be any support system whatsoever in an
4 actual hard case.

5 ATTORNEY MILLER: Okay, understood. Great, thank
6 you. Okay. And, and Judge Powers, another question I
7 have for you is, in terms of Clarence asserting his
8 innocence, obviously, because we're reviewing the case,
9 that's the assertion he's making. Did he ever relay any
10 sort of information to you, you know, asserting that he
11 was innocent?

12 JUDGE POWERS: Absolutely.

13 ATTORNEY MILLER: Okay.

14 JUDGE POWERS: I mean, and, and, honestly, I
15 really don't think that he did it.

16 ATTORNEY MILLER: Okay.

17 JUDGE POWERS: I just -- I mean, I argued his
18 innocence because I believed in his innocence.

19 ATTORNEY MILLER: Sure.

20 JUDGE POWERS: I mean, and the main thing for me
21 was that as tall as this man is, wearing that
22 Jack Nicholson t-shirt. If he gets out of a car and
23 starts shooting at people -- I mean, yes, if somebody
24 starts shooting, you're gonna duck.

25 But if you can make a description of him wearing

1 a t-shirt, you're gonna see that -- and I can't remember
2 all the details of his T-shirt. But it was just so odd
3 and obvious on this man. Somebody would have said he was
4 wearing that t-shirt.

5 ATTORNEY MILLER: Okay. Um-hmm. And I just want
6 to -- I -- it sounds like you're already getting at this,
7 but I just want to cover all bases. He consistently
8 maintained to you that he was innocent --

9 JUDGE POWERS: Absolutely.

10 ATTORNEY MILLER: -- the entire time you
11 interacted with him? Okay. Thank you. All right. And
12 in terms of a trial strategy in this case, obviously, as
13 you noted that you asserted and maintained Roberts'
14 innocence throughout the trial. Was there ever any, like,
15 trial strategy that was discussed besides arguing
16 innocence in this case?

17 JUDGE POWERS: A trial strategy in the sense of
18 what we're going to -- like, 'cause -- of course the
19 defense was, you know, innocent.

20 ATTORNEY MILLER: Um-hmm.

21 JUDGE POWERS: But also, that he wasn't -- you
22 know, he was not at the scene at that time.

23 ATTORNEY MILLER: Sure.

24 JUDGE POWERS: So, with, you know -- my thought
25 was, one, that he was, you know, probably drunk driving.

1 And he was in the area because, you know, and -- I
2 remember prior to discovery, he was in this man's yard.

3 So, as they are making this sweep of, you know,
4 all of this whole area, looking for, you know, a car that
5 matches the description of the Shooter's car. Here he is,
6 you know, a few blocks down in someone's yard, trying to
7 back out. And then -- yeah, so there's, you know, no word
8 of him from that time until he winds up on 41 going south,
9 like, in a ditch going to Fairmont.

10 ATTORNEY MILLER: Um-hmm. Okay.

11 JUDGE POWERS: And then there were, there were
12 items that -- well, one they never found -- I wanna say
13 there was something that -- as far as what was in the car.
14 There was, like -- the gun was never found in the car.
15 So, I mean, what happened to the gun?

16 ATTORNEY MILLER: Um-hmm. Okay. Sure.

17 JUDGE POWERS: And, and it will not let me log
18 in. I have put in my email address I don't know how many
19 times.

20 ATTORNEY MILLER: Oh, okay.

21 ATTORNEY MYERS: Resend it and do it on -- or the
22 authentication not required.

23 ATTORNEY MILLER: Okay. Let me just try again.
24 Just if you could give me a moment, Judge Powers, we will
25 try to send it a different way.

1 ATTORNEY MYERS: Yeah.

2 ATTORNEY MILLER: Thank you. All right. Judge,
3 I just sent those over to you in a different way. So,
4 hopefully that one will work. Just let me know --

5 JUDGE POWERS: Okay.

6 ATTORNEY MILLER: -- if you're able to go ahead
7 and get them pulled up. Until then, the next question I
8 have for you focuses on some plea offers that were made in
9 this case.

10 So, we know that there were at least a few offers
11 made, ranging in -- my question for you is in terms of
12 your conversations that you were having with Mr. Roberts,
13 what kind of conversations did you have when those plea
14 offers were received?

15 JUDGE POWERS: I know that we discussed the plea
16 offers at length.

17 ATTORNEY MILLER: Um-hmm.

18 JUDGE POWERS: And, you know, what he was
19 actually facing if he -- I mean 'cause one, it was
20 capital.

21 ATTORNEY MILLER: Um-hmm. Yeah. Absolutely.

22 JUDGE POWERS: And so, to me, any move by the
23 State that was, you know, a -- one, life is a win. That's
24 number 1. But any move by the State that is, you know,
25 less than the death penalty, is something that really,

1 really needs to be considered.

2 ATTORNEY MILLER: Sure.

3 JUDGE POWERS: And you got -- so, those are the
4 kinds of conversations that I remember having with
5 Mr. Roberts. And of course, he's adamant about his
6 innocence. And, you know, you, you can't push but so
7 hard.

8 So, once I, you know, I, I laid it out, you know,
9 and Carl and I, and good facts, bad facts, all those
10 things. And you know, ultimately what you're looking at,
11 it -- then it becomes a -- once they really, really make
12 up their minds, it becomes a, oh, now you're working for
13 the State.

14 You know, you're not gonna, you know, work hard
15 for me on this case. So, you have to walk that line as a
16 Defense Attorney.

17 ATTORNEY MILLER: Sure.

18 JUDGE POWERS: So, you know, I, I -- you know, we
19 talked to him, we talked to his family. I remember, you
20 know, us being in Carl's office, and you know, like,
21 interviewing, you know, all the family members that might
22 have had, you know -- especially for mitigating purposes.

23 But, you know, some impact on influencing him and
24 letting him know, look, this is serious. It's a capital
25 case.

1 If they find, you know, you know, first-degree,
2 we're going to the, you know, the death penalty phase.
3 And so, he, he just -- he was adamant that he didn't want
4 to do that. And you know, so, based on that, you know, we
5 went on with trial.

6 ATTORNEY MILLER: Okay, great. Now, in your
7 defense file for this case, there were mentions of a
8 previous case of Clarence's where he said that he had been
9 previously exonerated.

10 And looking at, kind of, your case and the facts
11 of it, I don't know that exonerated was exactly the right
12 word in that situation. But it sounds like that he had
13 been accused of assaulting a 12-year-old girl, and after a
14 lengthy court battle those charges were dismissed by the
15 DA. Do you recall that at all?

16 JUDGE POWERS: To a certain degree; I mean, just
17 the fact that it had -- it happened. But I'm not really
18 clear about, you know, what all those facts were.

19 ATTORNEY MILLER: Okay. That was just my
20 question if you had any more information on it. We're
21 just trying to kind of piece together what happened there.

22 And -- okay. And Judge Powers, another thing
23 that came up throughout the defense file was Mental Health
24 Evaluations that Clarence was receiving.

25 We now that he was evaluated several times by

1 Professionals. In terms of your practice, was having
2 those kind of Evaluations done, was that something that
3 was kind of standard in these cases or was there something
4 about Clarence, specifically, that prompted these to take
5 place?

6 JUDGE POWERS: Well, for me, they're standard.

7 ATTORNEY MILLER: Okay.

8 JUDGE POWERS: Because if, if there is any stone
9 to be, you know, unturned for the benefit of my Client,
10 that's what I intend to do. And there -- 'cause there
11 wasn't any intellectual disability issue with regards to
12 Mr. Roberts. Had we had that, you know, we would have
13 gone straight forward, you know, with it.

14 ATTORNEY MILLER: Sure.

15 JUDGE POWERS: But because we wanted to make sure
16 -- I know that he had some, you know, some issues with his
17 childhood and, you know, you know, some struggles with,
18 you know, alcoholism. But there wasn't any diagnoses that
19 we were aware of that, that prompted us to do these
20 things.

21 ATTORNEY MILLER: Okay, great. Okay. And in
22 terms of, you know, while he was awaiting trial, I know
23 that he was medicated for a variety of issues. I know
24 there were notes in his file that he suffered from
25 depression, bipolar disorder, mood disorder, and auditory

1 hallucinations.

2 Were you ever, like, aware of the impact that any
3 of those issues might have had on his ability to recall,
4 his ability, you know -- not to stand trial? But just
5 his, his recollection, did you have any concerns about
6 that?

7 JUDGE POWERS: No.

8 ATTORNEY MILLER: No? Okay.

9 JUDGE POWERS: He just -- he, he was very
10 consistent about, you know, being in Fayetteville, the
11 person that died, and then, you know, coming to Lumberton
12 to go to the, the setting up, and then --

13 ATTORNEY MILLER: Um-hmm.

14 JUDGE POWERS: -- you know. And you know,
15 actually, the person that was supposed to go with him got
16 sick.

17 And he ended up, I think, drinking. I don't even
18 think he actually made it to the setting up. And then
19 next thing you know, you know, he's on the side of the
20 road.

21 ATTORNEY MILLER: Sure. Okay. I know in the
22 defense file, there was also a note that -- at least at
23 one point, a plan for Mr. Roberts to undergo a Polygraph
24 Examination. Do you know if that ever ended up happening?

25 JUDGE POWERS: We didn't. We offered that --

1 ATTORNEY MILLER: Okay.

2 JUDGE POWERS: -- because of the fact that he was
3 so, you know, adamant about his innocence, and the fact
4 that we -- I mean, we really believed in our Client.

5 ATTORNEY MILLER: Sure.

6 JUDGE POWERS: So, if the State was going to
7 consider a Polygraph in, you know, their offer, or in how
8 they're going to proceed with the case, then, you know,
9 we're willing to do it.

10 ATTORNEY MILLER: Okay.

11 JUDGE POWERS: So --

12 ATTORNEY MILLER: Great.

13 JUDGE POWERS: -- it wasn't like we didn't. And
14 I, I remember our Investigator, because we had somebody
15 lined up that was willing to do it.

16 ATTORNEY MILLER: Okay, great. Okay. And
17 another note in the file for this case, was a mention that
18 Mr. Roberts had spoken to the Mitigation Specialist on
19 this case.

20 And he had mentioned that he previously shot a
21 man for trying to rob him when he was 19, and then he said
22 he, he never did jailtime for this. Did that ever come up
23 in your work on this case or did you ever learn anything
24 else about that interaction?

25 JUDGE POWERS: I didn't.

1 ATTORNEY MILLER: No? Okay.

2 JUDGE POWERS: I think it -- he mentioned that to
3 Tony (phonetic).

4 ATTORNEY MILLER: Um-hmm.

5 JUDGE POWERS: That was not gonna be helpful for
6 us. So --

7 ATTORNEY MILLER: Sure.

8 JUDGE POWERS: But it wouldn't be something I
9 would pursue.

10 ATTORNEY MILLER: Okay, great. Thank you. All
11 right. Another piece of, you know, that conversation with
12 the Mitigation Specialist was Mr. Roberts talked about a
13 relationship he had with a Shonda Lyons.

14 And you might have the same answer in this case.
15 I know that there was some interaction where allegedly he
16 pointed a gun at Ms. Lyons. Did, did you ever hear
17 anything more about that or, or hear anything about
18 Ms. Lyons in general?

19 JUDGE POWERS: Now, Ms. Lyons wasn't the mother
20 of the child, was she?

21 ATTORNEY MILLER: No. She was not.

22 JUDGE POWERS: Okay. I remember that name, but,
23 I mean, she was not an integral part of our case.

24 ATTORNEY MILLER: Okay. All right.

25 JUDGE POWERS: 'Cause I remember he went to visit

1 his son. That was part of it, that, that -- you know, we
2 were -- 'cause, from where the son lived, and him going to
3 visit, and the mama telling him that he couldn't come in
4 the house. I think he went around the house --

5 ATTORNEY MILLER: Um-hmm.

6 JUDGE POWERS: -- to use the bathroom. Okay. I
7 remember that.

8 ATTORNEY MILLER: Yeah.

9 JUDGE POWERS: 'Cause I believe his son worked
10 at, at Pier 41.

11 ATTORNEY MILLER: Yeah, yeah. That's exactly it.
12 Okay, great. And Judge, I just want to switch gears back
13 to Dextor Stephens a little bit.

14 So, I know you had mentioned that he came up in
15 your work on this case. Do you, by chance, recall when
16 his name first came up or how he was initially brought to
17 your attention?

18 JUDGE POWERS: I think Mr. Roberts may have been
19 the one that brought that to my attention. Because now,
20 if I'm recalling this correctly --

21 ATTORNEY MILLER: Um-hmm.

22 JUDGE POWERS: -- I think that he thought that it
23 might have been Dextor Stephens that did the shooting --
24 was involved with these folks. And I think I checked to
25 see if Dextor Stephens was on house arrest --

1 ATTORNEY MILLER: Um-hmm.

2 JUDGE POWERS: -- so that I could determine
3 whether or not he was in the vicinity.

4 ATTORNEY MILLER: Yeah. And that, that actually
5 was one of the questions I had, because I saw that those
6 probation records were pulled up. Were you ever able to
7 substantiate whether he was or was not in the area?

8 JUDGE POWERS: We were not able to
9 substantiate --

10 ATTORNEY MILLER: No?

11 JUDGE POWERS: that. And I don't think that he
12 was on an ankle monitor. I think that was the issue.

13 ATTORNEY MILLER: Okay.

14 JUDGE POWERS: I have since learned that, you
15 know, they monitor people differently, and some of them
16 just kinda show you the area that they're in, and where
17 others can track it like a GPS.

18 ATTORNEY MILLER: Oh, interesting.

19 JUDGE POWERS: And especially back then, it was,
20 you know, much more scattered.

21 ATTORNEY MILLER: Okay, interesting. Another
22 piece of, you know, investigating Dextor Stephens was, I
23 saw that in your file, there were several letters that
24 Dextor Stephens had written to various people.

25 He wrote, like, a letter to Judge Floyd, to one

1 of the ADAs to District Attorney Britt. Do you, by
2 chance, know how you originally obtained those letters?

3 JUDGE POWERS: And if you can -- and because --

4 ATTORNEY MILLER: Sure.

5 JUDGE POWERS: -- it's, it's now downloading.

6 ATTORNEY MILLER: Yeah.

7 JUDGE POWERS: So -- but --

8 ATTORNEY MILLER: And, and I can refer you --
9 once those download, I can, kind of, refer you to the
10 letters. And I should note that, like, none of those,
11 from our review of them, seem to directly pertain to this
12 case.

13 I know in one he -- I believe his letter to
14 DA Britt; he was talking about offering to be, like, the
15 eyes and ears of the street. And his letter to one of the
16 ADAs, I believe it was something along the lines of that
17 he didn't do the crime he was accused of. And, and if you
18 -- we can also table that question until you have a chance
19 to pull up the document if you think that would be
20 helpful.

21 JUDGE POWERS: No, it's just my question is gonna
22 be, did they ever specifically refer to Clarence Robert?

23 ATTORNEY MILLER: No, ma'am. No.

24 JUDGE POWERS: I'm just wondering if the DA
25 didn't give me those letters.

1 ATTORNEY MILLER: Okay. Oh, and that's good.

2 JUDGE POWERS: 'Cause I wouldn't have gotten them
3 directly from, from Dexter Stephens.

4 ATTORNEY MILLER: Um-hmm, okay. Okay, great.
5 All right. And I know we talked a little about Dexter
6 being on probation and, you know, that lead didn't really
7 turn out. Did you ever, by chance, talk to Dexter's
8 Probation Officer when you were looking into that?

9 JUDGE POWERS: I am sure that I did.

10 ATTORNEY MILLER: Okay.

11 JUDGE POWERS: Because that -- I would have had
12 to have found out whether or not he was on a monitor.

13 ATTORNEY MILLER: Sure. Okay.

14 JUDGE POWERS: 'Cause that was, you know, one of
15 the things on my to do list.

16 ATTORNEY MILLER: Okay. Now, I know that you
17 said that Mr. Roberts had initially mentioned Dexter
18 Stephens to you. Do you recall if any other witnesses
19 that you spoke to, or anyone on your team spoke to ever
20 mention Dexter?

21 JUDGE POWERS: Not independently of what
22 Mr. Roberts gave us to look at. So, it's not like, you
23 know, we did an investigation and someone else said I
24 think that, you know --

25 ATTORNEY MILLER: Um-hmm.

1 JUDGE POWERS: Dextor Stephens might be the
2 person. I don't recall that happening.

3 ATTORNEY MILLER: Okay. So, what you're saying
4 is, like, if, you know, Mr. Roberts said, hey, talk to
5 this person.

6 They're gonna agree it was Dextor. Like, that's
7 where you would have heard it from?

8 JUDGE POWERS: Right.

9 ATTORNEY MILLER: Okay. Okay.

10 JUDGE POWERS: Okay.

11 ATTORNEY MILLER: And on that same beat, did you
12 at any point, if you can recall, ever show any witnesses
13 photos of Dextor in an attempt to jog their memory or
14 anything like that?

15 JUDGE POWERS: I don't recall --

16 ATTORNEY MILLER: Okay.

17 JUDGE POWERS: -- doing that but I'm not gonna
18 say that that didn't happen. I just don't recall that.

19 ATTORNEY MILLER: Sure, no problem. Okay. All
20 right. And I did see a note in your file. It says that
21 there -- there's a mention of speaking with a Mr. Bullard,
22 Jamal Roberts' Attorney, because, he may have information
23 on Dextor Stephens. Do any of those names ring a bell to
24 you at this point?

25 JUDGE POWERS: Okay. Now, is there -- when you

1 say Bullard, is that B-U-L-L-A-R-D?

2 ATTORNEY MILLER: Yes. Yes.

3 JUDGE POWERS: Okay. So, that would be
4 Bullard --

5 ATTORNEY MILLER: Oh, Bullard --

6 JUDGE POWERS: -- in Robeson County.

7 ATTORNEY MILLER: Okay. Okay.

8 JUDGE POWERS: And it's probably Greg Bullard.
9 So -- 'cause he's the only Attorney that would have had,
10 like, a serious settlement case during that time whose
11 last name was Bullard.

12 ATTORNEY MILLER: Okay.

13 JUDGE POWERS: So -- and so, you're asking if I
14 ever spoke with Greg Bullard about this?

15 ATTORNEY MILLER: Yeah, and just I, I know, like,
16 the name Jamal Roberts was noted. That name just hasn't
17 come up for me. So, I wasn't sure if, by chance, you
18 could recall why that would have been important in this
19 case?

20 JUDGE POWERS: Okay. Do you have a, a page
21 number? It's, it's up now, so I might be able to --

22 ATTORNEY MILLER: Yes. Yes, ma'am. It's --
23 2,352 should be the page.

24 JUDGE POWERS: Okay.

25 ATTORNEY MILLER: And I, I believe -- I'm just

1 pulling mine up. I believe it was at the bottom of the
2 page. Yeah, that last bullet point.

3 JUDGE POWERS: I'm at 2219. You said 2,352?

4 ATTORNEY MILLER: Yes.

5 JUDGE POWERS: Wait a minute. I have to start
6 back over, I'm sorry.

7 ATTORNEY MILLER: That's okay.

8 JUDGE POWERS: Is it on the Capital Case
9 Consultation Summary?

10 ATTORNEY MILLER: Let me just check. Yes. Yes,
11 Judge --

12 JUDGE POWERS: Okay.

13 ATTORNEY MILLER: -- it should be last bullet
14 point.

15 JUDGE POWERS: Oh, Wiley Bullard, Jamal Roberts'
16 Attorney.

17 ATTORNEY MILLER: Oh, I'm sorry. Yes.

18 JUDGE POWERS: Okay. So, that -- that's somebody
19 else's because I'm not sure who Wiley Bullard is.
20 Wiley Bullard -- seems like he might be a -- I think he
21 was a Probation Officer.

22 ATTORNEY MILLER: Oh, okay.

23 JUDGE POWERS: Yeah. Now, I'm not sure -- yeah.

24 ATTORNEY MILLER: Okay.

25 JUDGE POWERS: And I think Wiley Bullard would

1 have been a, a Probation Officer, not an Attorney. So,
2 these are Carl's notes, I think.

3 ATTORNEY MILLER: Oh, I see. Okay, great. And
4 we do plan to talk to Carl, so I will go ahead and make a
5 note of that. Thank you.

6 JUDGE POWERS: Or -- okay. I'm, I'm looking to
7 see if they -- if these are Carl's or -- but, but I know
8 they're not mine.

9 ATTORNEY MILLER: Okay.

10 JUDGE POWERS: So, yeah. So, so, somebody's got
11 something -- but I wonder, if Jamal Roberts -- was, was
12 that his son's name?

13 ATTORNEY MILLER: No. Jarod was his son.

14 JUDGE POWERS: Jarod?

15 ATTORNEY MILLER: Um-hmm.

16 JUDGE POWERS: Okay. Okay.

17 ATTORNEY MILLER: Great, okay. And I do -- next,
18 I, I just have a few names that I'm gonna run past you
19 and, you know, kind of ask what you can recall about them.

20 The next is the name is Wedo, and that came up.
21 He was a gentleman who was killed a bit before this case
22 took place. Do you remember -- does that name sound
23 familiar to you at all? That ever coming up?

24 JUDGE POWERS: Yeah. That's, that's somebody's
25 street name.

1 ATTORNEY MILLER: Um-hmm. Um-hmm.

2 JUDGE POWERS: And I think maybe he and
3 Mr. Roberts may not have had -- hadn't gotten along.

4 ATTORNEY MILLER: Okay. And --

5 JUDGE POWERS: I, I, I just -- I, I can't
6 remember the context.

7 ATTORNEY MILLER: No, that's okay.

8 JUDGE POWERS: I --

9 ATTORNEY MILLER: Okay.

10 JUDGE POWERS: Or even his real name.

11 ATTORNEY MILLER: It -- and remind me his real
12 name.

13 ATTORNEY MYERS: Garrett Somorick Alford.

14 ATTORNEY MILLER: Garrett Somorick Alford is his
15 real name. And that may have come up in the context of
16 some people saying that Dextor Stephens may have been
17 responsible for his death.

18 I'm not sure if, if that helps ring any bells.
19 And I have a page that might be helpful, if you could just
20 give me one moment, Judge.

21 I just want to pull up -- and, Judge, that's on
22 page 2,187. And I'm not -- again, this might be --
23 sometimes it's hard to tell in these it's Mr. Ivarsson's
24 or yours.

25 But there's kind of a narrative that takes place

1 towards the bottom of the page. And if you, if you mind
2 just letting me know when you're on that page, I can, kind
3 of, direct you to what I'm referring to.

4 JUDGE POWERS: Okay. So, I'm, I'm at 87.

5 ATTORNEY MILLER: Two thousand, one hundred
6 eighty-seven.

7 JUDGE POWERS: Yes.

8 ATTORNEY MILLER: Okay, great. And there's --
9 so, if you scroll to the bottom, there's two small
10 paragraphs at the end. This is the second to last
11 paragraph. It starts by saying Shonda Lyons.

12 JUDGE POWERS: Okay. Okay.

13 ATTORNEY MILLER: Oh. And it's really just that,
14 that paragraph. I just was wondering if you could recall
15 anything else. If he ever came up in any other settings
16 or interviews that you're aware of.

17 JUDGE POWERS: I, I don't think so --

18 ATTORNEY MILLER: Okay.

19 JUDGE POWERS: -- and I know that that guy -- the
20 Jennings guy is dead now. But I think we may have had the
21 Investigator speak with them. You know, just kind of
22 follow up some -- with some of the things that
23 Clarence Roberts told us.

24 ATTORNEY MILLER: Okay, and sorry. When you said
25 -- you're saying Gary Jennings, the Investigator may have

1 followed up with?

2 JUDGE POWERS: Right. 'Cause in those two
3 small paragraphs. One --

4 ATTORNEY MILLER: Um-hmm.

5 JUDGE POWERS: -- is what Shonda Lyons told me.
6 And the second one, Gary Jennings, nickname Tank --

7 ATTORNEY MILLER: Um-hmm.

8 JUDGE POWERS: -- said he was in the cell with
9 some guy. So, when I looked at both of those things, I
10 just knew that, that -- I mean, I knew that Gary Jennings
11 is now dead.

12 ATTORNEY MILLER: Okay, great. Thank you. Okay.
13 All right. And the next name I'd like to run past you is
14 John Allen.

15 So, we know that John Allen was present when the
16 shooting happened. Can, can you, can you recall, you
17 know, interacting with John Allen or his name coming up in
18 this case at all?

19 And, and just to jog your memory, John Allen was
20 initially listed -- or I'm sorry, was considered a Victim
21 in this case. He was present.

22 And, and a little more specifically, Judge, I
23 know there's a note that he was considered a known leader
24 of the Bloods Gang. And I was just wondering if you could
25 recall where that information came from?

1 JUDGE POWERS: Not off the top of my head.

2 ATTORNEY MILLER: Okay.

3 JUDGE POWERS: I think they were trying to make a
4 gang connection with the reason -- 'cause there was
5 absolutely no reason for Clarence Roberts to shoot anybody
6 out there at that -- in a little park.

7 He hadn't had any, you know, problems with
8 anybody. He -- I mean, there was -- he didn't owe anybody
9 any money.

10 They hadn't, you know, you know, done anything to
11 him. Nothing that we could determine was any -- there was
12 no connection between him and these people for him to do
13 what they said he did. And so, I think that's part of why
14 we were running down these kind of, you know, gang
15 connections.

16 ATTORNEY MILLER: Sure.

17 JUDGE POWERS: A lot of people might have been in
18 gangs, because Clarence Roberts was not in a gang. Not
19 that we could determine.

20 ATTORNEY MILLER: Okay. Okay. And I know at one
21 point Clarence told, I believe, Tony, the Mitigation
22 Specialist, that Dextor Stephens may have been trying to
23 take John Allen out on the night of the shooting.

24 I guess for gang related reasons. Did you ever
25 recall hearing that from anyone besides Mr. Roberts?

1 JUDGE POWERS: No ma'am.

2 ATTORNEY MILLER: No? Okay. Okay. All right.
3 The next name, Judge, I'd like to run past you is
4 Soulski Stephens.

5 And, and just to give you a little bit of
6 background, his name came up when -- so, I know you talked
7 about the mother of Mr. Robert's child. So, her name is
8 Kimberly Lowery. That's the woman whose house Roberts --
9 Mr. Roberts was at.

10 Now, she had made mention to Police that when
11 Mr. Roberts went to her house that evening that he had
12 mentioned something about Soulski, who we believe to be
13 Soulski Stephens.

14 Do you, by chance, recall anything about
15 Soulski Stephens? Does that name jog any memories for
16 you?

17 JUDGE POWERS: It -- I remember the name. I'm
18 trying to remember the connection. Yeah, Kimberly Lowery
19 was the -- his child's mother. But now -- oh, was she
20 involved with Soulski Stephens in some kind of way?

21 ATTORNEY MILLER: Not that we are aware of.

22 JUDGE POWERS: It was just --

23 ATTORNEY MILLER: Not that we found.

24 JUDGE POWERS: -- Soulski and, and Clarence had,
25 you know, some relationship.

1 ATTORNEY MILLER: Okay. Do you remember, by
2 chance, what the extent of that relationship was?

3 JUDGE POWERS: I don't. Now, if there's --

4 ATTORNEY MILLER: Okay.

5 JUDGE POWERS: -- something you can refer me to,
6 it might jog --

7 ATTORNEY MILLER: So --

8 JUDGE POWERS: -- my memory.

9 ATTORNEY MILLER: And --

10 JUDGE POWERS: I, I remember him talking about
11 Soulski, but I can't remember what context.

12 ATTORNEY MILLER: Okay. And this may not be
13 helpful because it's really just a note. But on
14 page 1,685 -- this is a Police Report with the Lumberton
15 Police Department.

16 There's just a note that says at 10:35 a.m., I
17 received information that Soulski did not have any beef
18 with Woo. And you know, we're just -- I know he -- that
19 was the only other time that we found that his name really
20 came up.

21 Besides, allegedly, Mr. Roberts had mentioned
22 having some sort of issue with Soulski to Kimberly.
23 But --

24 JUDGE POWERS: Yeah.

25 ATTORNEY MILLER: -- just wanted to see if

1 anything else, by chance, came to mind for you.

2 JUDGE POWERS: Okay. And it's 1,600 and what?

3 ATTORNEY MILLER: And 85.

4 JUDGE POWERS: Eighty-five, okay. When I try to
5 go too fast, it --

6 ATTORNEY MILLER: Oh, yeah.

7 JUDGE POWERS: -- kicks me out, and then I have
8 to wait for it to --

9 ATTORNEY MILLER: That's okay. The, the large
10 documents are difficult to navigate sometimes. And
11 another -- the other context in which Soulski's name may
12 have come up is that -- there's been some mention that he
13 may have been someone that accused Roberts of that initial
14 case we talked about, where Mr. Roberts was accused of
15 assaulting the 12-year-old girl. We believe --

16 JUDGE POWERS: Right.

17 ATTORNEY MILLER: -- Soulski may have had some
18 sort of hand in that. He may have accused him. I'm not
19 sure if that helps ring any bells, but that was the other
20 -- only other context that we were aware of.

21 JUDGE POWERS: But as far as our investigation,
22 we didn't -- we weren't able to determine anything with
23 regard to Soulski. I know that Mr. Roberts did mention
24 him, but we weren't able to put anything together with
25 Mr. Stephens.

1 But I do know that, you know -- I wanna say just
2 about, you know, every viable lead that he, you know, gave
3 us, you know, we tried to make sure that we went down
4 that, you know, and, and checked. Being because of, you
5 know, our belief in, you know, what he was saying to us.

6 ATTORNEY MILLER: Sure. And I know that you
7 mentioned a moment ago that, you know, that you knew that
8 Soulski and Mr. Roberts had some sort of relationship. Do
9 you recall, like, at the time this case was going on, if,
10 if that would have been a positive relationship?

11 JUDGE POWERS: No.

12 ATTORNEY MILLER: No?

13 JUDGE POWERS: I don't, I don't think he liked
14 Mr. Stephens --

15 ATTORNEY MILLER: Okay.

16 JUDGE POWERS: -- and I don't think that
17 Mr. Stephens liked him. And you know, so -- and all the
18 while that Mr. Stephens -- I mean, Mr. Roberts and I
19 interacted, of course, he was in Jail the entire time.

20 ATTORNEY MILLER: Um-hmm.

21 JUDGE POWERS: I don't think -- I don't know
22 about Soulski going in and out during that period of time,
23 but there was no interaction that I would have observed
24 between them two -- those two.

25 ATTORNEY MILLER: Okay, great. Thank you. All

1 right. And Judge, another name I'm going to mention is
2 Floss, who we believe his real name would be
3 Kenny Ray Floyd.

4 JUDGE POWERS: Who is also now dead.

5 ATTORNEY MILLER: I'm sorry, what? I'm --

6 JUDGE POWERS: Who is also now dead.

7 ATTORNEY MILLER: Now dead. Yeah, okay. All
8 right. And, and what can you tell me about his
9 involvement in this case, or if the name came up?

10 And, and just to jog your memory, we know that
11 when -- so, Chris McGirt testified at trial that he
12 believes he had an interaction with Mr. Roberts pulling up
13 beside him.

14 And Mr. McGirt had said that whoever pulled up
15 next to him had said you're kin to Flossy, was asking if
16 him if he was related to Floss, and I'm just wondering if
17 you can recall if Floss came up in any other times? Or, I
18 guess, in general, how you are familiar with Floss?

19 JUDGE POWERS: Now, the way the I'm familiar with
20 Kenny Ray Floss -- I mean, Kenny Ray Floyd is that -- you
21 know, through the court system. And I had, you know,
22 previously raised them -- previously represented him.

23 But in this context, I don't think that there was
24 ever anything from Mr. Roberts saying that he had any, you
25 know, adverse in whatever with Mr. -- 'cause one, if, if

1 I'm -- I think that's something that came up at trial.

2 I don't remember that being in the discovery
3 about, you know, him saying something about Floss and, you
4 know, Kenny Ray Floyd. If, if I'm correct, now I think
5 that might have been something that Mr. McGirt kinda added
6 in at trial. I, I --

7 ATTORNEY MILLER: Okay.

8 JUDGE POWERS: -- just don't remember it being in
9 the discovery. And I don't remember Mr. Roberts saying
10 that he had any issue with Kenny Ray Floyd --

11 ATTORNEY MILLER: Okay.

12 JUDGE POWERS: -- right off the top of my head.

13 ATTORNEY MILLER: Do you recall if Mr. Roberts
14 and Mr. Floyd would have known each other?

15 JUDGE POWERS: Well, now, there's an age
16 difference.

17 ATTORNEY MILLER: Okay.

18 JUDGE POWERS: And Mr. Roberts, you know, really
19 lived in Fayetteville. But he, you know, he was in
20 Lumberton enough that, you know, people who hang out in
21 the street, you know, would, would kinda, you know,
22 interact.

23 He would do some of the same things. So, I'm not
24 going to say that they wouldn't have met before.

25 ATTORNEY MILLER: Sure.

1 JUDGE POWERS: But I, I, I don't know. You know,
2 it's not like they would have gone to school or anything.

3 ATTORNEY MILLER: Okay. And I, I believe you
4 already kind of got at this, but just to make sure, you
5 don't recall any witnesses besides Mr. McGirt ever
6 bringing up anything having to do with Floss in this case,
7 do you?

8 JUDGE POWERS: I don't.

9 ATTORNEY MILLER: No? Okay. All right. Another
10 name, Judge, I have for you is Stanley Love. So, I
11 believe it was through the investigation that your team
12 did.

13 The name, Stanley Love, came up as someone that
14 Mr. Roberts might have spent a significant chunk of time
15 with on the night of the murder. I think that information
16 initially came from Thelma Roberts, which is Mr. Roberts'
17 aunt.

18 She had mentioned in an interview that he was --
19 Mr. Roberts was with her most of the night, and -- or with
20 him most of the night but he died in October of that year.
21 Do you recall anything about Stanley Love or know anything
22 about Stanley Love?

23 JUDGE POWERS: No.

24 ATTORNEY MILLER: No? Okay.

25 JUDGE POWERS: So I remember he went to someone's

1 house, and he was already drinking. But it wasn't at
2 Stanley Love's house. He might have been there with
3 Stanley Love.

4 ATTORNEY MILLER: Okay.

5 JUDGE POWERS: I just can't remember who that guy
6 was, and it --

7 ATTORNEY MILLER: And --

8 JUDGE POWERS: -- what, what house he went to --

9 ATTORNEY MILLER: And --

10 JUDGE POWERS: I can't -- the name might have
11 started with an E.

12 ATTORNEY MILLER: And there's a -- yeah. So, we
13 believe that he would have been with an Eric Monroe at --

14 JUDGE POWERS: That's it.

15 ATTORNEY MILLER: -- for a, a good portion of the
16 night. And I'm sorry Eric McQueen, I apologize.

17 JUDGE POWERS: McQueen. McQueen.

18 ATTORNEY MILLER: Okay. And if, you know, if, if
19 you -- in your experience, if someone would have said that
20 Mr. Roberts was with someone named Stanley Love, do you
21 think that's something that your, your team would have
22 followed that lead or investigated to try to see if that
23 person was still available?

24 JUDGE POWERS: Absolutely. Because I --

25 ATTORNEY MILLER: Okay.

1 JUDGE POWERS: -- know that we surely tracked
2 down Eric McQueen.

3 ATTORNEY MILLER: Sure. Okay.

4 JUDGE POWERS: And, and several people who were
5 at the, you know, what they call the shot house that
6 night.

7 ATTORNEY MILLER: Um-hmm.

8 JUDGE POWERS: And then even got -- you know,
9 even people in the area. Because there was a gentleman,
10 who recalled shots at a time different from the -- those
11 recorded by the Police.

12 And you know, we had -- I think, we had him
13 testify at trial as well. And I think he was retired
14 Military.

15 ATTORNEY MILLER: Okay. Do -- okay, okay. And
16 would that be Ronnie Roberson?

17 JUDGE POWERS: That's it.

18 ATTORNEY MILLER: He lived --

19 JUDGE POWERS: That's it.

20 ATTORNEY MILLER: -- across the street from the
21 Hut?

22 JUDGE POWERS: Yes.

23 ATTORNEY MILLER: Okay, great. Okay, thank you.
24 And, and two other names of individuals that Mr. Roberts
25 said he would have been with that night were Rodney Cade,

1 and Michael Shaw. And Judge, I would direct you to page
2 -- it's 2,363.

3 JUDGE POWERS: Okay. Let me get there. Okay.

4 ATTORNEY MILLER: All right. So --

5 JUDGE POWERS: And my, my page says 63.

6 ATTORNEY MILLER: And it's just a little blurb
7 I'm gonna direct you to. So, it's like --

8 JUDGE POWERS: Okay.

9 ATTORNEY MILLER: -- where the middle --

10 JUDGE POWERS: Hold --

11 ATTORNEY MILLER: -- hole --

12 JUDGE POWERS: -- on.

13 ATTORNEY MILLER: -- punch is directly to the --

14 JUDGE POWERS: Okay.

15 ATTORNEY MILLER: -- right of that. It says,
16 Defendant said those two guys can say they were with him
17 at least some time that night.

18 That the Defendant was drunk, and that the
19 Defendant didn't have a gun. That they went through the
20 Defendant's car, why, I'm not sure, and didn't see a gun.

21 And that -- in the document, it refers to those
22 individuals as being Rodney Cade and Michael Shaw. Does
23 any of that sound familiar to you or are you familiar with
24 whether that was investigated further?

25 JUDGE POWERS: I'm sure that we would have,

1 especially if that -- at -- we saw that Michael Shaw was
2 in the Department of Corrections.

3 ATTORNEY MILLER: Um-hmm

4 JUDGE POWERS: And, and then, I'm not sure about
5 -- as far as, you know, Rod -- I know that, that whenever
6 we got, you know, folks that we had names, we made sure
7 that the Investigator at least tried to find them.

8 ATTORNEY MILLER: Sure.

9 JUDGE POWERS: So, if there is not any
10 information from either one of these two people, either we
11 didn't find them, or they wouldn't talk.

12 ATTORNEY MILLER: Okay. Okay. And this, this
13 may go along with that, but do you know if you ever
14 received any clarification on why Mr. Roberts believed
15 these two guys would have gone through his car and saw
16 that he didn't have a weapon?

17 JUDGE POWERS: Okay. Now, the way I read this,
18 and -- it says, Defendant -- it said those two guys can
19 say they were with him at least some time that night, and
20 that Defendant was drunk, that Defendant didn't have a
21 gun, that they went through the Defendant's car, why, I'm
22 not sure, and didn't see gun. So, now, it may be that
23 they were in the car.

24 ATTORNEY MILLER: Okay.

25 JUDGE POWERS: 'Cause I don't know why they were

1 looking for a gun in the car --

2 ATTORNEY MILLER: Um-hmm.

3 JUDGE POWERS: -- you know, before anybody got
4 shot. So, it may be that he was saying that they were in
5 the car and there, and there, there wasn't a gun. Now,
6 you know, Michael Shaw has been, you know, in and out the,
7 the court system.

8 So, again, what credibility he could provide
9 would have been very slim if he was willing to talk. Now,
10 in Rodney Cade -- I'm not sure about his situation.

11 ATTORNEY MILLER: Okay. All right, great. Thank
12 you, Judge. All right. All right. And another page I'd
13 like to direct you to next is page 2,186. And I apologize
14 for making you jump all over this long document, but just
15 let me know when you're there.

16 JUDGE POWERS: Okay. Is it the one that starts
17 with a neighbor that lived near the ballpark?

18 ATTORNEY MILLER: Yes, Your Honor. Yeah.

19 JUDGE POWERS: Okay.

20 ATTORNEY MILLER: And -- what I'm -- and I'll
21 give you a second to look over and you, you don't need to
22 examine it in detail by any means. I'm just trying to
23 figure out kind of what this document is.

24 It kind of gives a narrative, and I'm trying to
25 figure out who the information came from, only because the

1 accounts that are given here are different than what we
2 have from the Police Reports and all that. So, I'm just
3 trying to figure out if this all came from Roberts
4 directly or some other source?

5 JUDGE POWERS: Okay. And I think this may have
6 come from our Investigator. I'm just trying to see. I'm
7 thinking it may have come from the Investigator, 'cause I,
8 I know that I didn't speak with Jennings --

9 ATTORNEY MILLER: Okay.

10 JUDGE POWERS: -- about this case directly. I
11 think I would have remembered that.

12 ATTORNEY MILLER: Okay.

13 JUDGE POWERS: So, I'm thinking that these are
14 notes that -- based on the discovery, and the Investigator
15 may have been speaking with these people. I think that
16 may have been how that happened.

17 ATTORNEY MILLER: Okay, great. Thank you. All
18 right. And Judge, we're finishing up here just shortly.
19 I do have a couple questions about the trial and after the
20 trial.

21 So, we know that it -- the result, as I'm sure
22 you can recall, was that charges of attempted murder and
23 the assault with a deadly weapon with intent to kill for
24 the, the Victims that were, were not Joshua Council.

25 So, for John Allen, Cyrstal Allen, and, and

1 Micheal Burgess those were ultimately dismissed. Do you
2 recall if you were surprised by that, by that happening
3 during trial?

4 JUDGE POWERS: Well, I'm not sure about being
5 surprised. I was -- I, I know I was happy. And I'm not
6 -- I don't know if surprised was the best word. And when
7 you're trying a case and you have a, a Client who says
8 that they're innocent, and, I mean, you believe that
9 they're innocent.

10 So, I think you just kind of focus on the
11 negative. So, the negative was the guilty. So, I was
12 glad about the other -- you know, the ones that didn't and
13 wasn't convicted of -- but just -- I mean, if he had, you
14 know, killed that person, then it, it seems like he would
15 have been guilty of other things as well. So, I guess
16 surprised is not really the word for it.

17 ATTORNEY MILLER: Okay. All right. And Judge,
18 following the trial, did you, by chance, have an
19 opportunity to speak with the jury?

20 JUDGE POWERS: I don't think I did.

21 ATTORNEY MILLER: No?

22 JUDGE POWERS: And, and that's not something that
23 I really, you know, always feel comfortable doing in, in a
24 case like that.

25 ATTORNEY MILLER: Okay.

1 JUDGE POWERS: So -- but because it's a capital
2 case, and you feel, you know, a whole lot of relief, you
3 know, you don't want to dog them out for, you know, doing
4 something that, you know, you thought they should have,
5 you know, done differently. But I --

6 ATTORNEY MILLER: Sure.

7 JUDGE POWERS: -- don't remember speaking with
8 any Jurors.

9 ATTORNEY MILLER: Okay. All right, great. Thank
10 you Judge. All right. And Judge, if you don't mind, I'm
11 just gonna put you on just a very brief hold. I just want
12 to talk with Ms. Myers for a moment, make sure -- you
13 know, see if we have any follow-up questions --

14 JUDGE POWERS: Oh, that's fine.

15 ATTORNEY MILLER: -- before we let you go. So,
16 if --

17 JUDGE POWERS: I would --

18 ATTORNEY MILLER: -- you don't mind just giving
19 us just a moment here?

20 JUDGE POWERS: That's fine.

21 ATTORNEY MILLER: Great. Thank you.

22 ATTORNEY MYERS: Okay. So, here's what I would
23 ask -- so, I can ask her these or you can do it. It's
24 whatever you want. If -- do you just wanna hop -- is that
25 easier?

1 ATTORNEY MILLER: Sure.

2 ATTORNEY MYERS: Or do you not --

3 ATTORNEY MILLER: Probably. It might just --

4 ATTORNEY MYERS: Is that okay?

5 ATTORNEY MILLER: Yeah. I think that's probably
6 easier as long as you are fine with it.

7 ATTORNEY MYERS: That's totally fine, yeah.

8 ATTORNEY MILLER: Do you even -- she can hear
9 from over there or do you want to move over here? Okay.

10 ATTORNEY MYERS: You can speak to her.

11 ATTORNEY MILLER: All right. Judge Powers, if
12 you don't mind, Ms. Myers just has a few questions for
13 you.

14 JUDGE POWERS: Okay.

15 ATTORNEY MILLER: Okay, great.

16 ATTORNEY MYERS: Judge Powers, can you -- do you,
17 recall -- I guess I'm just curious about the area that the
18 Hut was in, generally speaking. Did it have a reputation?
19 Did you know it to be any type of park or --

20 JUDGE POWERS: Well, definitely -- the Hayswood
21 Hut has a long history in that -- they call it the East
22 Pines area. So -- and it's a place that even to this day
23 that, you know, it has a little park area, it has a, a
24 cinderblock building.

25 People use it for, you know, receptions -- not as

1 much for that now. I think they have meetings there
2 sometimes. There's a basketball goal.

3 And they had the -- a Juneteenth celebration
4 there a couple years ago. So, yeah. I mean, it's got a
5 long history of being a park in the area.

6 MS MYERS: So, I guess my question is more of is
7 it known for gang activity?

8 JUDGE POWERS: The Hayswood Hut is really not
9 known for gang activity in the sense that -- I mean, gangs
10 don't just go there and hang out.

11 ATTORNEY MYERS: Okay.

12 JUDGE POWERS: People -- you know, gangs have
13 developed over the years, and they've changed over the
14 years. And I know that the -- and there's a Stop the
15 Violence Program that made it over there that try to get
16 people out of gangs.

17 I think it's called Colors of Life. I think they
18 met over at the Hayswood Hut. But that area has, you
19 know, when I say, gone down, significantly -- it was a,
20 you know, kind of a -- and up and -- well, it was an area
21 where, you know, like, young couples had families and, you
22 know, things like that, back in the, like, the '50s and
23 '60s. And then, you know they were able to, you know --
24 and I mean, so, there's some prestigious people that come
25 from that area.

1 ATTORNEY MYERS: Okay.

2 JUDGE POWERS: But as, you know, economic
3 situations change and drugs, you know, infiltrated --

4 ATTORNEY MYERS: Sure.

5 JUDGE POWERS: -- our area. So, I mean, there
6 are people there who live on those streets. You know, the
7 -- and they're numbered streets, like, you know, 8th
8 Street, 9th Street, 10th Street that are -- run that way.

9 And then Willow and other streets that run north
10 and south. And some of those people, you know, you know,
11 got really -- you know, got into gang activity, and, and
12 just doing, you know, you know, some violent activity.

13 ATTORNEY MYERS: Sure.

14 JUDGE POWERS: So, it's not like, you know, you
15 say, oh, that's a gang -- in my mind, I -- you know,
16 that's a gang neighborhood. But I mean, I'm sure that
17 there are people there who live in those homes who were
18 members of gangs.

19 ATTORNEY MYERS: Yeah. No, and, and I hear what
20 you're saying. I guess -- and, and I'm sorry. I don't
21 think I'm asking this very well.

22 I, I guess I'm just curious as to whether or not
23 the Hut -- like the basketball court there -- kind of in
24 that Hayswood Hut area, if that's, like, a meeting place
25 for gangs? Or, or if, if you know of --

1 JUDGE POWERS: Not that I'm not aware of. I
2 mean --

3 ATTORNEY MYERS: Okay.

4 JUDGE POWERS: -- it's, like, in a -- like, a
5 block over from the Presbyterian Church.

6 ATTORNEY MYERS: Right.

7 JUDGE POWERS: And I'm not trying to say these
8 things didn't happen, because, of course, somebody got
9 killed at the Hayswood Hut.

10 ATTORNEY MYERS: Sure.

11 JUDGE POWERS: But that's not a place that, you
12 know, I would think of, you know, just known gang
13 activity. There's like a barber shop over there and a
14 beauty shop over there. So --

15 ATTORNEY MYERS: Right.

16 JUDGE POWERS: -- I was aware of gangs just
17 hanging out --

18 ATTORNEY MYERS: And it's right down -- I know
19 it's right down the street from the Police Department.
20 So --

21 JUDGE POWERS: Oh, honey, that means absolutely
22 nothing. So -- but yes, it is right down the street from
23 the Police Department.

24 They were selling drugs, I mean like across the
25 street from the Police Department. Like a drive-thru drug

1 thing for a few -- I don't know how long it went on. But
2 I mean, that was like the biggest joke, the fact --

3 ATTORNEY MILLER: Yeah.

4 JUDGE POWERS: -- that it happened.

5 ATTORNEY MYERS: Okay. So, all right. Not a
6 deterrent. Okay.

7 JUDGE POWERS: That's Robeson County.

8 ATTORNEY MYERS: That's another call that we will
9 have. Just kidding.

10 JUDGE POWERS: Yeah.

11 ATTORNEY MYERS: So, I, I know you had talked
12 about how Mr. Roberts maintained his innocence throughout
13 the time that you represented him, and you really believed
14 in his innocence.

15 And we are totally neutral. So, we are -- I
16 don't want to say we are not on Mr. Roberts' side. But we
17 are neutral, and we're objective.

18 JUDGE POWERS: Okay.

19 ATTORNEY MYERS: So, I guess, kind of, what I
20 want to know though is, did you, did you ever feel like he
21 would give you information -- and I think this is, I think
22 this is separate from believing in his innocence.

23 But did you ever feel like he would give you
24 information that would have served as, as an alibi, but
25 you just felt like it was -- it wasn't true? Like, did

1 you feel, like his -- you ever questioned his credibility
2 based on what he told you?

3 JUDGE POWERS: And no, I didn't.

4 ATTORNEY MYERS: Okay.

5 JUDGE POWERS: Because one -- I mean, I'm going
6 back to Mr. Roberts was an alcoholic. So, he did what
7 alcoholics do and I mean, it was just kinda consistent.

8 He, you know, came down, got with his friends,
9 started drinking, missed his baby mama, went over to her
10 house, went to see his youngin', had to go pee behind her
11 house, and then, you know, probably blacked out for some,
12 you know, for some hours, 'cause, you know, he didn't know
13 -- I, I, really can't account from the time he left
14 Ms. Lowery's house until the time he ended up on 41.

15 ATTORNEY MYERS: Right.

16 JUDGE POWERS: And I, and I -- except for that --
17 being in that man's yard, stuck in -- you know, trying to
18 get his car in reverse. And at that point, he was in the
19 car alone. Not with, you know, all these people that he
20 named.

21 So, I just -- I don't think that he was just, you
22 know, trying to BS. I, I think he was kinda grasping at
23 straws, trying to figure out -- I, I think he was
24 genuinely surprised whenever he was charged with murder.

25 It -- after being -- you know, trying to get out

1 of -- you know, being up for DWI. I, I, I really do.

2 ATTORNEY MYERS: Yeah.

3 JUDGE POWERS: I don't think that he ever just --
4 I mean -- and I'm not gonna say that he's not an, an
5 intelligent individual. I just don't think that he is,
6 you know, so smart as to come up with, you know, so dumb
7 as an alibi.

8 ATTORNEY MYERS: Sure, I understand. Do you
9 recall Mr. Roberts ever talking about a man named
10 Antonio Gavin?

11 JUDGE POWERS: That name does sound familiar.

12 ATTORNEY MYERS: I, I --

13 JUDGE POWERS: I don't know what context.

14 ATTORNEY MYERS: I -- so, don't have a page
15 number for you, but what I can tell you is that
16 Mr. Roberts had stated that Antonio Gavin -- I think they
17 were in Jail together at some point. And Mr. Gavin had
18 told Mr. Roberts that he saw Dextor Stephens driving a car
19 that had gunshot holes in it -- or bullet holes in it.

20 JUDGE POWERS: That does sound familiar.

21 ATTORNEY MYERS: You said it does sound familiar?

22 JUDGE POWERS: Yeah.

23 ATTORNEY MYERS: Okay. Do you recall ever
24 speaking to Mr. Gavin at all about that?

25 JUDGE POWERS: I don't specifically remember, and

1 I don't know when that would have been. As far as him
2 talking to Tony Gavin, and Tony Gavin saying that's
3 Dextor Stephens. So, if -- and speaking with him and
4 putting a timeframe on it, if -- it would not help in
5 this, you know, case, 'cause it wouldn't have been in a
6 relevant timeframe.

7 Then that might have been a reason that we didn't
8 speak with Mr. Gavin. I just don't remember us having a
9 conversation with Mr. Gavin.

10 And as far as Dextor Stephens riding around in a
11 car with bullet holes in it, I -- you know, I'm not sure
12 about that. But you know, that's not an uncommon
13 occurrence in, in Robeson County.

14 ATTORNEY MYERS: Okay. Do you have any
15 recollection -- so, this is not in any of the Reports or
16 any of the files that we've looked at, but do you recall
17 ever hearing from anybody that the vehicle that drove up
18 at the Hut -- when that person got out of that vehicle
19 before they started shooting, that they were asking for
20 Floss? Have you ever heard that before?

21 JUDGE POWERS: That doesn't sound familiar. I
22 know that somebody said that the Shooter said something.
23 I just can't remember.

24 ATTORNEY MYERS: Would it have been something --

25 JUDGE POWERS: I --

1 ATTORNEY MYERS: -- like you going to kill me,
2 you going to kill me, something like that?

3 JUDGE POWERS: Yeah, something like that.

4 ATTORNEY MYERS: But not anything where it was
5 specifically targeted at a person, or where they were
6 specifically calling for somebody?

7 JUDGE POWERS: Right. That-- yeah. I don't
8 remember that part. But I remember them testifying the
9 person got out the car, said something, and started
10 shooting.

11 ATTORNEY MYERS: Gotcha. You had -- when Taylor
12 had, kind of asked you about Wedo, or Garrett Alford, and
13 you -- I heard you say that you thought that Wedo and
14 Roberts may have had an issue with one another. Did I
15 hear you correctly?

16 JUDGE POWERS: Right. And -- but I think that I
17 was thinking about Soulski Stephens. Because when I
18 looked at that Statement about Shonda Lyons saying that
19 Dextor Stephens killed her cousin, that was the part that
20 I had confused.

21 ATTORNEY MYERS: Gotcha.

22 JUDGE POWERS: I knew that, that Wedo and Soulski
23 were two people who -- whose names came up. But I know
24 that Soulski was the one that he had, you know, an issue
25 with.

1 And it had something to do with that, that rape
2 allegation, you know, back in the day. So, they've had
3 bad blood for a long time.

4 ATTORNEY MYERS: Okay.

5 JUDGE POWERS: But -- and reading that blurb from
6 Shonda Lyons, that's what put the, the Wedo part. 'Cause
7 I remember hearing that name, but I couldn't put it into
8 context until I read that part.

9 ATTORNEY MYERS: And do you recall ever speaking
10 to Roberts' sisters?

11 JUDGE POWERS: Oh, yes.

12 ATTORNEY MYERS: Okay. Do you recall them ever
13 telling you that they spoke to Shonda Lyons, and that she
14 had told them Dextor Stephens did this killing?

15 JUDGE POWERS: I don't remember specifically them
16 saying that. But I know that that was what Shonda Lyons
17 was, you know, saying.

18 And I think part of it had to do with maybe her
19 thinking that Dextor killed her cousin, and then her and
20 -- and him having a -- her and Mr. Roberts having a
21 relationship.

22 So, I don't know that that came out of anything
23 specifically that they knew. And just, you know, it --
24 nothing concrete, no evidence to point towards that,
25 'cause I know we ran down that road a lot.

1 ATTORNEY MYERS: Okay. Do you recall -- did you
2 ever speak to Shonda Lyons directly about this case?

3 JUDGE POWERS: I am sure that we did. 'Cause
4 there was a time that -- I think we -- just about every
5 witness of something, you know, significant, that we had a
6 -- either a discussion with, or they came into the --
7 'cause, you know, we went to the -- Fayetteville.

8 And, and -- which was easier for his family
9 members and, and folks like that for us to interview at
10 Carl's office. I, I don't remember to what extent I spoke
11 with Shonda Lyons. But I know that we, collectively,
12 spoke with Shonda Lyons --

13 ATTORNEY MYERS: Oh.

14 JUDGE POWERS: -- on more than one occasion. And
15 I'm sure that -- I think, probably I, in the beginning,
16 more than anyone else, because I was first assigned that
17 that was the girlfriend. And so, I think she was making
18 contact with me initially.

19 ATTORNEY MYERS: So, is it your recollection that
20 Roberts was dating Shonda Lyons at the time this case
21 happened?

22 JUDGE POWERS: That's what I'm thinking.

23 ATTORNEY MYERS: Okay. So, it's our
24 understanding he was dating a woman named Vanessa Locke,
25 and that they --

1 JUDGE POWERS: Oh.

2 ATTORNEY MYERS: that the two of them --

3 JUDGE POWERS: Wait a minute. You're right.

4 ATTORNEY MYERS: I think he might have had more
5 than one girlfriend. So, I don't --

6 JUDGE POWERS: Yes. Yes, he did. And I remember
7 the name Vanessa Locke. Okay. But now, didn't he date
8 Shonda Lyons?

9 ATTORNEY MYERS: That's our understanding, is
10 that, at some point, he had dated her, and --

11 JUDGE POWERS: Okay. So, Vanessa was the one
12 that he was living with?

13 ATTORNEY MYERS: Yes. Correct.

14 JUDGE POWERS: Okay. All right. So, Vanessa's
15 the one that would have -- so, yes, I, I know that we
16 spoke with Shonda Lyons, but Vanessa would have been the
17 one that was calling me. 'Cause she was, you know, being
18 really -- trying to be persistent.

19 Because once they figured out that he was, you
20 know, a Person of Interest in this murder, she was really
21 trying to get him out. So, that's the part that I recall.

22 ATTORNEY MYERS: Okay. Do you recall anything
23 about Shonda Lyons' son being out at the basketball court
24 when the shooting happened? And his name was
25 DeVon Maultsby.

1 JUDGE POWERS: DeVon Maultsby. I don't remember
2 that specifically.

3 ATTORNEY MYERS: That's okay. I know we kind of
4 talked a lot about Dextor Stephens, but do you recall
5 hearing about any other alternate Suspects in this case?

6 JUDGE POWERS: I don't remember anyone just off
7 the top of my head. And the only reason that the
8 Dextor Stephens thing came up, of course, is 'cause, you
9 know, Mr. Roberts and the information that they had.

10 But I don't think that the Police -- I, I mean, I
11 just really don't think that they looked very hard. Once
12 you, you know, have a Shooter in a car that matches the
13 description, one that you find on the side of the road,
14 and they put that two and two together and get that nasty
15 four, and they were good -- that was good enough for them.

16 ATTORNEY MYERS: Do you know who Mr. Roberts
17 would have heard that information from? That Dextor
18 Stephens possible did this crime?

19 JUDGE POWERS: Anybody in the Jail. I mean --
20 and he was there for a while.

21 ATTORNEY MYERS: Right. Okay.

22 JUDGE POWERS: No. And I mean, 'cause I think
23 during that time, Mr. Stephens was in a -- really into a
24 whole lot of stuff. So, I, I think his name probably
25 appeared in discovery for, you know -- in a whole bunch of

1 folk's discovery.

2 ATTORNEY MYERS: Okay. Okay, I gotcha.

3 JUDGE POWERS: Um-hmm.

4 ATTORNEY MYERS: Did you -- and yeah -- and I
5 know at one point he was housed with Micheal Burgess, who
6 was one of the Victims in this case.

7 JUDGE POWERS: Yeah.

8 ATTORNEY MYERS: Do you recall Mr. Roberts ever
9 telling you about any conversations he had with
10 Micheal Burgess?

11 JUDGE POWERS: Not off the top of my head.

12 ATTORNEY MYERS: That's okay. I wanna go back to
13 something that you said at the beginning. Taylor had
14 asked you about Bobby Jones.

15 And you had represented him previously on a
16 first-degree murder charge. And he was --

17 JUDGE POWERS: Right.

18 ATTORNEY MYERS: -- Dextor's cousin. And I think
19 I heard you say that Dextor was connected, connected to
20 that case because at the time of the murder, Bobby Jones
21 was in Dextor's vehicle?

22 JUDGE POWERS: When -- not the time of the
23 murder.

24 ATTORNEY MYERS: Okay.

25 JUDGE POWERS: At the time of the arrest.

1 ATTORNEY MYERS: Okay.

2 JUDGE POWERS: So, a murder happened in Fayette
3 -- Fairmont, and, you know, so, all the people scattered.
4 And when that happened, this young man is not from
5 Fairmont.

6 He had to make his way back Lumberton. And, and
7 at that point, he's, I think, hiding out somewhere, and
8 then calls Dextor to come pick him up. And I believe the
9 Police arrested him in Dextor's car.

10 ATTORNEY MYERS: Do you --

11 JUDGE POWERS: But it wasn't, like a -- it wasn't
12 a white Taurus or anything like that.

13 ATTORNEY MYERS: Okay. That was my next
14 question.

15 JUDGE POWERS: It was like a 300 or something.

16 ATTORNEY MYERS: Do you recall the year of that
17 case?

18 JUDGE POWERS: It won't be hard to find out
19 because he's still in Jail --

20 ATTORNEY MYERS: Okay.

21 JUDGE POWERS: -- Bobby --

22 ATTORNEY MYERS: Okay.

23 JUDGE POWERS: -- Bobby Shawn Jones. And now,
24 when I say Jail, the Department of Corrections.

25 ATTORNEY MYERS: Yeah, okay. But it was

1 certainly before -- obviously before Mr. Roberts' case.
2 Did, did you ever receive -- I mean, did you -- did Bobby
3 Jones ever tell you that Dexter was involved in this
4 Hayswood Hut shooting?

5 JUDGE POWERS: No, of course not.

6 ATTORNEY MYERS: Okay. For Taylor and I, kind
7 of, like, going forward with our investigation, who, who
8 would you, who would you -- well, let me ask, let me ask a
9 better question or a more concise question. Are there any
10 questions that we haven't asked you right now that you
11 think we should have asked you?

12 JUDGE POWERS: Not that I can think of. And I
13 want -- I'm trying to remember if we got a list of all the
14 911 calls during that period of time.

15 Because I think that was one of the points that
16 Mr. Roberts' son were trying to make with him, was that,
17 like, there might have been a 911 call before this -- the
18 one that brought the Police to the Hayswood Hut.

19 As if -- there might have been some shots, and
20 then another volley of shots after. Like, something else
21 was going on and that, you know, of course,
22 Mr. Roberts wasn't there.

23 But like, you know, like, there might have been
24 some folks coming through shooting, and then he might've
25 come, come down the street behind them. I'm not sure.

1 But I think we were trying to see -- you know, kinda rule
2 that out.

3 Just to see if there were other 911 calls that
4 came in around the time -- that time that might have, you
5 know, kind of verified that theory. Because I just --

6 ATTORNEY MYERS: Okay. So --

7 JUDGE POWERS: I, I can't remember if we actually
8 did that, but I remember that crossing my mind.

9 ATTORNEY MYERS: But it was your understanding
10 that there had been another shooting there?

11 JUDGE POWERS: I think the timeframe that
12 Mr. Roberts' son had was a little bit before --

13 ATTORNEY MYERS: Okay.

14 JUDGE POWERS: -- the 911 calls that came in for
15 the Hayswood Hut shooting.

16 ATTORNEY MYERS: I gotcha.

17 JUDGE POWERS: So, I was trying to say, well, you
18 know, maybe something happened, you know, initially, and,
19 and my Client just kinda comes through on the tail end and
20 they think it's him.

21 ATTORNEY MYERS: Gotcha. Okay.

22 JUDGE POWERS: So, that's the only thing that --
23 and I mean, that just was a theory.

24 ATTORNEY MYERS: Sure.

25 JUDGE POWERS: I'm trying to look up Mr. Jones

1 now to see what year he went in in the NC Locator.

2 ATTORNEY MYERS: All right. Do you have any
3 other questions, Taylor?

4 ATTORNEY MILLER: No.

5 ATTORNEY MYERS: I think we should we say, do you
6 think there is anyone we should talk to?

7 JUDGE POWERS: Okay. Now, it says no match. I
8 know that, that there's a -- an Offender. Let's see,
9 because now there's some --

10 ATTORNEY MILLER: Yeah, I think we should. And
11 Judge Powers, we can always -- please don't worry about it
12 if you're not able to pull it up. I'm sure that we can
13 pull up his records and --

14 JUDGE POWERS: Okay.

15 ATTORNEY MILLER: -- determine that year. So --
16 and so, I -- we appreciate you looking.

17 JUDGE POWERS: Okay.

18 ATTORNEY MILLER: And, and Judge Powers, the only
19 other question I can think of is, is there anyone that you
20 think would be important for us to talk to next in this
21 case?

22 And, and I know I mentioned to you that we do
23 plan on talking to Mr. Ivarsson soon. But does anyone
24 else come to mind that you would think would be important
25 to speak with?

1 JUDGE POWERS: I really can't think of anyone
2 else.

3 ATTORNEY MILLER: And --

4 JUDGE POWERS: And it -- let's see.

5 ATTORNEY MYERS: And Judge, what --

6 JUDGE POWERS: Do you know who the Lead
7 Investigator was in the case?

8 ATTORNEY MYERS: It was Collins -- Al Collins.

9 JUDGE POWERS: Al Collins.

10 ATTORNEY MYERS: Yeah.

11 JUDGE POWERS: Have y'all spoke with him?

12 ATTORNEY MILLER: Yes, we have.

13 JUDGE POWERS: Okay, then. That would be the
14 other person.

15 ATTORNEY MILLER: Okay. Great. And another
16 quick question for you, Judge. Cyrstal Allen was one of
17 the Victims in this case, and we know that she did not
18 show up to the trial.

19 Do you recall anything about that? About
20 attempts to locate her, about maybe why she wasn't there?

21 JUDGE POWERS: I don't, and we were glad that she
22 didn't come.

23 ATTORNEY MILLER: Okay.

24 JUDGE POWERS: That's one of the reasons that --
25 well, I mean, that's -- that her case was -- I mean, that

1 -- he was found not guilty of that one. So, it's not
2 somebody that we would have looked for --

3 ATTORNEY MILLER: Sure.

4 JUDGE POWERS: -- to come. You know, we would
5 have, you know, tried to make contact with her beforehand.
6 But we certainly wouldn't have tried to secure her
7 attendance in court.

8 ATTORNEY MILLER: Okay. And why is that that you
9 wouldn't have wanted her there?

10 JUDGE POWERS: She was supposed to be a Victim,
11 correct?

12 ATTORNEY MILLER: Yes. Yes.

13 JUDGE POWERS: Okay. So, I mean, if the Victim
14 never comes, then your Client, normally, is acquitted.

15 ATTORNEY MILLER: Sure, okay. Okay. Any other
16 reasons that it would have been --

17 JUDGE POWERS: Oh, no, ma'am.

18 ATTORNEY MILLER: Yeah, okay.

19 JUDGE POWERS: There wasn't anything that we were
20 able to glean from that. That would have been any worse
21 for our Client.

22 ATTORNEY MILLER: Okay. Okay, great. Let's see,
23 anything?

24 ATTORNEY MYERS: Taylor hit on this at the
25 beginning about the Subpoena. Would you be willing to

1 accept service of a Subpoena via email? Or would you
2 prefer us to bring that to you in person?

3 JUDGE POWERS: Email would be fine.

4 ATTORNEY MYERS: Okay.

5 JUDGE POWERS: Yeah, that's not a problem at all.

6 ATTORNEY MYERS: And I will tell you that we will
7 give you a Subpoena that is broad -- it -- it's gonna be
8 for telephone standby for the -- over the course of three
9 days, which is -- that -- we just do that very broadly.

10 If we know -- once we, kind of, get closer to the
11 hearing, we will have a better idea of when Commissioners
12 might possibly have questions for you. And so, as we get
13 closer, we will be able to say, hey, Judge, it will be --
14 you know, please be near your phone on Thursday from 1:00
15 to 1:30.

16 Okay. So, we will make that very -- a lot more
17 specific as we get closer. And we will certainly work
18 with your schedule, too. So, if there's something that
19 comes up that, you know -- we understand that as well.

20 JUDGE POWERS: Okay.

21 ATTORNEY MYERS: But I just want to let you know
22 that. And the likelihood that the Commissioners will have
23 questions for you, I think, are very low. But all, all --
24 you know, we obviously can't predict it until we get in
25 there and kinda see what we have --

1 JUDGE POWERS: Okay.

2 ATTORNEY MYERS: -- and what might come up. But
3 that sounds great. We will -- Taylor will send that
4 Subpoena over to you. And if you have questions --

5 JUDGE POWERS: Okay. And for Bobby Jones, I
6 think I was representing them at the same time. And
7 finding his information, I, I think the 2013 murder case
8 where Mr. Roberts was 2014 that -- more than likely.

9 ATTORNEY MILLER: Okay.

10 JUDGE POWERS: And, and you know, they overlapped
11 in some manner.

12 ATTORNEY MILLER: Okay. Thank you.

13 JUDGE POWERS: You're welcome.

14 ATTORNEY MYERS: Anything?

15 ATTORNEY MILLER: No. Well, Judge Powers, thank
16 you very much for your time today. We really appreciate
17 it.

18 And like Mackenzie said, I'll go ahead and get
19 that Subpoena over to you. I'll just mark it as, like,
20 high priority in your email just so you don't miss it.

21 And it is possible -- I, I hope it's not the
22 case, but if we do have any additional questions, I may
23 just reach out to you via email. But --

24 JUDGE POWERS: Okay.

25 ATTORNEY MILLER: -- I think that, that covers

1 everything we have for you for now. So, thank you so
2 much.

3 JUDGE POWERS: All right. Okay.

4 ATTORNEY MILLER: We really do appreciate it.

5 JUDGE POWERS: Give me that date one more time.

6 The, the week that --

7 ATTORNEY MILLER: The -- yes ma'am. That's

8 August 15th through the 17th.

9 JUDGE POWERS: 15th, 15th through 17th. All
10 right. Because I'll just make a note, 'cause I'm sure I'm
11 assigned to court that week.

12 ATTORNEY MILLER: Sure.

13 JUDGE POWERS: So, as soon as I get the email,
14 I'll send it to whomever I need to send it to.

15 ATTORNEY MILLER: Okay, great. Thank you very
16 much, Judge Powers. We really appreciate it. And I hope
17 you have a great weekend.

18 JUDGE POWERS: Y'all have a great weekend.

19 ATTORNEY MYERS: Okay.

20 JUDGE POWERS: You, too. Bye-bye.

21 ATTORNEY MILLER: Thanks, bye-bye.

22 (Call ended.)

23

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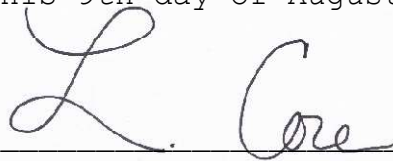
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CERTIFICATION OF TRANSCRIPT

This is to certify that the foregoing transcript of interview, consisting of 70 pages is a true and accurate transcript of the proceeding from the recording I have been provided. I further certify that I am not related to any Party or Attorney, nor do I have any interest whatsoever in the outcome of this action.

THIS 9th day of August 2023.



LATORRIA CORE, Transcriptionist

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Handout 64

Carl Ivarsson Transcript

IN THE NORTH CAROLINA GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

* * * * *

STATE OF NORTH CAROLINA,)
Plaintiff,)
) ROBESON COUNTY
v.) 13 CRS 003511
) 13 CRS 054359
CLARENCE ROBERTS,)
Defendant.)
)

* * * * *

TRANSCRIPT

* * * * *

Transcript of interview between Carl Ivarsson,
Attorney Taylor Miller, and Attorney Mackenzie Myers.

O'Connor Legal, Medical & Media Services, Inc.
127 F Street - Suite 103
Brunswick, GA 31520
(912) 689-0090

1 ATTORNEY MILLER: Taylor Miller. How are you?

2 ATTORNEY IVARSSON: I'm okay.

3 ATTORNEY MILLER: Good. All right. Well, I just
4 wanted to go ahead, and we will start our interview in
5 just a minute.

6 I really appreciate you carving out some time for
7 us today. I just wanna go over a few housekeeping matters
8 kind of before we get started.

9 As you know, I'm Taylor. I'm a Grant Staff
10 Attorney here. I also have my Co-Investigator in this
11 case. Mackenzie Myers here with me. She's another
12 Staff Attorney here.

13 ATTORNEY MYERS: Hi.

14 ATTORNEY MILLER: And we're currently assigned to
15 Mr. Roberts' case. So, just so you know, she might chime
16 in with questions at some point throughout the process.

17 But just to kinda give you an idea of, like, who
18 we are and what we're doing, if you're not already
19 familiar with our Agency, we're with the North Carolina
20 Innocence Inquiry Commission.

21 So, we're a Government Agency that's investigates
22 credible post-conviction claims of innocence. We're
23 speaking with you because Mr. Roberts has applied to our
24 Agency.

25 And for our purposes, we don't work for

1 Mr. Roberts. We -- you know, we're obviously not
2 Defense Attorneys or Prosecutors. We're just a
3 truth-seeking Agency.

4 So, we're really just gonna ask questions about
5 what you might remember about this case. I know that it
6 was quite a bit of time ago, and I'm sure you've had many
7 cases since then.

8 So, if you're able to have that document pulled
9 up, that'll help just kind of referring back to certain
10 pages. And just one additional matter, just so you're
11 aware: this case is currently set to go to hearing in
12 mid-August.

13 What that would mean for someone like you that we
14 -- we're interviewing is, we will typically send a
15 Subpoena to be on telephone standby for the case. Now,
16 generally speaking, if, if we were to have any questions
17 for you at the -- or, I'm sorry.

18 If our Commissioners were to have any questions
19 for you at the time of the hearing, it's likely that it
20 would be extremely brief. We -- I think probably more
21 likely that we wouldn't need you at all, but I do just
22 wanna make you aware of that, that that's a possibility.

23 What that would look like is, if you're okay with
24 receiving a copy of the Subpoena via email, we will send
25 you a copy of that Subpoena. When it gets closer to the

1 hearing, we will let you know a specific time.

2 We'd ask that you be on telephone standby. And
3 then as soon as it comes that either we're not gonna use
4 you or that we, you know, need to call you for a few
5 minutes, I will let you know and release you from that
6 Subpoena as, as soon as possible.

7 ATTORNEY IVARSSON: Sure. Emailed Subpoena will
8 be fine.

9 ATTORNEY MILLER: Okay, great. Thank you. And
10 just so you're aware of those dates, it is August --
11 excuse me, August 15th, 16th, and 17th.

12 But like I said, we won't have you on Subpoena
13 whole -- that whole time. We will let you know a date and
14 an estimated time, and, you know, we will kind of keep you
15 in the loop there, but we really appreciate it.

16 All right. And Mr. Ivarsson, did you have any
17 questions about our Agency or our process before we get
18 started?

19 ATTORNEY IVARSSON: No, thanks. No.

20 ATTORNEY MILLER: Okay, great. Okay. So, just a
21 little bit of background on, on you and how you ended up
22 in this case. Now, when you were first assigned to
23 Mr. Roberts' case, were you a Public Defender at the time?

24 ATTORNEY IVARSSON: No.

25 ATTORNEY MILLER: Okay. Were you working for

1 yourself or with a firm?

2 ATTORNEY IVARSSON: Yes. I was a solo practice
3 then.

4 ATTORNEY MILLER: Okay. And, and when did you
5 make the move to become a Public Defender?

6 ATTORNEY IVARSSON: October 11th, 2019.

7 ATTORNEY MILLER: All right. Great. Thank you.
8 And how did you first learn that you were being assigned
9 to Mr. Roberts' case?

10 ATTORNEY IVARSSON: The Capital Defender's Office
11 contacted me somehow, someway.

12 ATTORNEY MILLER: Okay.

13 ATTORNEY IVARSSON: I think.

14 ATTORNEY MILLER: Okay.

15 ATTORNEY IVARSSON: Yeah. It must have been
16 them. It couldn't have been anybody else.

17 ATTORNEY MILLER: Okay. And were -- we, we know
18 that Ms. Powers -- or Judge Powers, excuse me, was your
19 Co-Counselor on this case. Was she -- did you have a
20 relationship with her before getting assigned to this
21 case?

22 ATTORNEY IVARSSON: Yes, I knew her.

23 ATTORNEY MILLER: Okay. Had y'all ever worked
24 together previously?

25 ATTORNEY IVARSSON: Defining work together as

1 representing the same Defendant before?

2 ATTORNEY MILLER: Yes.

3 ATTORNEY IVARSSON: I don't think so.

4 ATTORNEY MILLER: Okay. All right.

5 ATTORNEY IVARSSON: Well, we -- had we worked
6 together before? Yeah. Had we worked together as
7 Co-Counselor before? No, I don't think so.

8 ATTORNEY MILLER: Okay. All right. And I know
9 that you said at the time of the case, you were a solo
10 Practitioner. Where was your practice based out of?

11 ATTORNEY IVARSSON: Or, or maybe Tiffany called
12 me to ask me to, to be Lead Counsel. I think maybe she
13 had the case.

14 ATTORNEY MILLER: Oh, okay.

15 ATTORNEY IVARSSON: And maybe Tiffany called me.
16 But, anyway, that's just, that's just minutia.

17 ATTORNEY MILLER: Okay. Great. Thank you. And
18 your solo practice, where were you based out of?

19 ATTORNEY IVARSSON: 225 Person Street,
20 Fayetteville.

21 ATTORNEY MILLER: Fayetteville. All right. All
22 right. Well, were you -- before receiving Mr. Roberts'
23 case, had -- were you familiar with him at all?

24 ATTORNEY IVARSSON: Nope.

25 ATTORNEY MILLER: Okay. And I'm assuming I might

1 know the answer, given that you were based out of
2 Fayetteville, but were you familiar with any of the major
3 players in this case, meaning the Victim -- any of the
4 Victims? Anyone else?

5 ATTORNEY IVARSSON: Nope.

6 ATTORNEY MILLER: Okay. All right. And Mr.
7 Ivarsson, throughout your representation of Mr. Roberts,
8 did you have any conversations with him about his
9 innocence?

10 ATTORNEY IVARSSON: Yes.

11 ATTORNEY MILLER: Okay. And what did he tell you
12 about, you know, whether he was claiming innocence or not?

13 ATTORNEY IVARSSON: Wasn't there, I didn't do it.
14 Don't know anything about it.

15 ATTORNEY MILLER: Okay. Did that assertion ever
16 change?

17 ATTORNEY IVARSSON: No.

18 ATTORNEY MILLER: Okay. All right.

19 Mr. Ivarsson, we know that Mr. Roberts was offered several
20 different plea deals throughout this case.

21 And I know that there -- you have -- I believe
22 it's on page 746 of your file. I know that there's some
23 Narrative that you wrote about a lot of your interactions
24 with Mr. Roberts about those plea deals.

25 Can you just kind of summarize what those

1 conversations were, like, about, you know, when
2 Mr. Roberts would receive a plea deal, kind of how he
3 reacted, what your discussions looked like?

4 ATTORNEY IVARSSON: Well, without reading
5 anything, I'm reasonably confident that I probably told
6 him what you tell a Criminal Defendant.

7 ATTORNEY MILLER: And, and what, what is that?

8 ATTORNEY IVARSSON: You, you, you got -- sure.
9 You, you got two major choices: one choice is, damn the
10 torpedoes, full steam ahead.

11 I want a jury trial. and understand that if I'm
12 convicted, I'm gonna get life without Parole, and I'll
13 never get out of Prison, ever. I will die in Prison.

14 The other fork is, well, you know, maybe going to
15 trial's not such a good idea. Maybe I should just try to
16 work out a plea bargain with the Prosecution. And
17 Clarence never wanted to do that as I recall --

18 ATTORNEY MILLER: Okay.

19 ATTORNEY IVARSSON: -- ever. In fact, I can't
20 remember the numbers that were discussed. I'm -- I can't
21 remember the numbers that, that are discussed. They're
22 probably documented in my file. I remember four days -- I
23 think we were about four days into jury selection.

24 Johnson Britt came forward with a plea offer for
25 whatever it is. To be sure, I documented that in my file,

1 and it's probably in the Court transcript, right?

2 ATTORNEY MILLER: Um-hmm.

3 ATTORNEY IVARSSON: Okay. Well, that was
4 whatever it was. What was it?

5 ATTORNEY MILLER: Yeah. I -- it looks like --

6 ATTORNEY IVARSSON: A hundred to 100 -- was it --
7 go ahead. What was it?

8 ATTORNEY MILLER: It looks like you've got a note
9 here on Monday, April 17th, after one week of Pretrial
10 Motions. In jury selection, Johnson offered 108 minimum.
11 That was for 78 minimum for Class D voluntary
12 manslaughter, 30 months for three Class E assault with a
13 deadly weapon with intent to kill.

14 ATTORNEY IVARSSON: Right.

15 ATTORNEY MILLER: Um-hmm.

16 ATTORNEY IVARSSON: I remember that. And, and
17 Judge Webb -- Judge James Webb was the Judge. And when
18 Johnson came in with that, Judge Webb allowed Tiffany and
19 I to meet with Clarence and allowed two, or three, or
20 four family members to come into the conference room with
21 us.

22 And we talked about -- I encouraged him to accept
23 it. I'm sure I did. Because at that point in time, he'd
24 had about half the sentence served, hadn't he?

25 ATTORNEY MILLER: Um-hmm. And --

1 ATTORNEY IVARSSON: So, let's do it, right?

2 ATTORNEY MILLER: And you do have a note about
3 that in the file in your conversation with him.

4 ATTORNEY IVARSSON: Okay. But --

5 ATTORNEY MILLER: He had had so much time
6 served --

7 ATTORNEY IVARSSON: -- but whatever it is -- what
8 it is --

9 ATTORNEY MILLER: Um-hmm.

10 ATTORNEY IVARSSON: -- and he didn't want to do
11 it. He wanted to go forward.

12 ATTORNEY MILLER: Okay.

13 ATTORNEY IVARSSON: So, we went forward.

14 ATTORNEY MILLER: Okay. At the time, did you --
15 would you consider that have -- to have been a good plea
16 offer?

17 ATTORNEY IVARSSON: I thought it was excellent.

18 ATTORNEY MILLER: Okay.

19 ATTORNEY IVARSSON: 'Cause especially since
20 he'd, especially since he'd served whatever your math says
21 -- whatever my math said at the time.

22 ATTORNEY MILLER: Huh-uh.

23 ATTORNEY IVARSSON: He'd served about 100 - a
24 huge hunk of it.

25 ATTORNEY MILLER: Sure. Okay.

1 ATTORNEY IVARSSON: Anyway, go ahead.

2 ATTORNEY MILLER: Okay. And Mr. Ivarsson, I'm
3 gonna change gears just a little bit. So, I know based
4 around your file that at some point in time, Mr. Roberts
5 had been -- I'll use the word exonerated, but kind of
6 loosely.

7 But he'd been exonerated of some other charges
8 several years before this case. It was -- I believe it
9 involved an assault of a 12-year-old. And if you do -- if
10 you'd like to refer to your own file at all, I know that
11 there's at least a mention of it on page 112.

12 ATTORNEY IVARSSON: Slow down. 812?

13 ATTORNEY MILLER: I'm sorry, 112.

14 ATTORNEY IVARSSON: 112.

15 ATTORNEY MYERS: So --

16 ATTORNEY MILLER: And it is -- whenever you're
17 there, it's towards the bottom. It's kind of, like, the
18 third little portion toward -- from the bottom. Started
19 -- starts with stated in 2002.

20 ATTORNEY IVARSSON: But I didn't know if he had
21 first-degree burglary, etc., etc. The second offense was
22 [indiscernible] represented by Diane Phillips Surgeon. He
23 was exonerated by DNA.

24 The Victim was Bianca Davis. The mother was
25 Jackie Davis. They were living on Carver Street. Was in

1 Jail for 3 years -- '02 to '05. Okay.

2 ATTORNEY MILLER: Does that --

3 ATTORNEY IVARSSON: And what --

4 ATTORNEY MILLER: -- sound similar to you at all?

5 Do you recall anything about that case, or any
6 conversations you might have had with Mr. Roberts?

7 ATTORNEY IVARSSON: No, I do not.

8 ATTORNEY MILLER: No? Okay.

9 ATTORNEY IVARSSON: Do I, do I -- is your
10 question, do I now specifically recall any conversation
11 with him about that independently from what I'm looking
12 at? No.

13 ATTORNEY MILLER: Okay. Okay. And do you recall
14 if you ever kind of looked into that case further?
15 Meaning got any other information besides what Mr. Roberts
16 was telling you about it?

17 ATTORNEY IVARSSON: I do not believe I did.

18 ATTORNEY MILLER: Okay. And I know -- and I just
19 have to find -- I know that, at one point, you had reached
20 out to a few of Mr. Roberts' other Attorneys, that, that
21 people had represented him previously. And I'll get to
22 that a little bit later.

23 Diane Surgeon was not one of those Attorneys.
24 So, I -- it -- it's okay if you didn't. I was just
25 wondering if there was, by chance, any other information

1 you were able to get on that case?

2 ATTORNEY IVARSSON: Not that I recall at this
3 time, no. That was, what, 10 years before the homicide?
4 15 years?

5 ATTORNEY MILLER: That --

6 ATTORNEY IVARSSON: Thirteen years?

7 ATTORNEY MYERS: Got it.

8 ATTORNEY MILLER: Yeah, about -- yeah, about 10,
9 nine --

10 ATTORNEY IVARSSON: Okay.

11 ATTORNEY MILLER: -- or 11. I'm sorry, 11.
12 Wrong math. All right. Okay. And Mr. Ivarsson, I have a
13 note.

14 It's on page 823. I'm sorry to make you jump
15 around in this file, and just let me know --

16 ATTORNEY IVARSSON: Page --

17 ATTORNEY MILLER: -- when you're there.

18 ATTORNEY IVARSSON: -- page 823, I'm there.

19 ATTORNEY MILLER: Oh. And this is --

20 ATTORNEY IVARSSON: Brian Davis?

21 ATTORNEY MILLER: Yeah. And that's part of what
22 I was just mentioning that it looks like you had spoken
23 with a Brian Davis. He represent Mr. Roberts at one
24 point.

25 And then we also have a few -- on page 827, you

1 also contacted a Gerald Beaver. They looked like they
2 were both previous Attorneys of Clarence's.

3 Do you recall anything about, about your
4 conversations with them? About what they may have given
5 you in terms of previous case files?

6 ATTORNEY IVARSSON: No. I was probably
7 contacting him about -- to make a guess, 'cause I sit here
8 and look at this. I was probably drilling for mitigation
9 evidence.

10 ATTORNEY MILLER: Okay.

11 ATTORNEY IVARSSON: Stuff, stuff to use in
12 sentencing, which, of course, never -- we never got to,
13 in, in the capital [indiscernible] anyway.

14 ATTORNEY MILLER: Okay. Understood. Okay.
15 Thank you.

16 ATTORNEY IVARSSON: I, I don't -- that -- that's
17 what I'm guessing. I would not guess that I contacted him
18 about -- for information. It would be exculpatory in
19 phase one, you know what I mean? So, that's --

20 ATTORNEY MILLER: Sure.

21 ATTORNEY IVARSSON: -- a completely different
22 animal
23 10-plus years ago, I guess.

24 ATTORNEY MILLER: Sure. Okay.

25 ATTORNEY IVARSSON: 10-plus years prior to the

1 murder. Go ahead.

2 ATTORNEY MILLER: Perfect. Okay. And
3 Mr. Ivarsson, switching gears, I do want to talk about
4 some of the evaluations and medical concerns that
5 Mr. Roberts had.

6 So, just looking through the files in this case,
7 we know that, prior to this case when Mr. Roberts was
8 incarcerated, as well as, you know, after he was charged,
9 our Prison records kind of indicate that he had a history
10 of mental illnesses that he suffered from.

11 I know that there's notes that, at one point, he
12 was medicated for depression, bipolar disorder, and mood
13 disorder, auditory hallucinations. Talk to me about if
14 there was ever any instances where either you were
15 familiar with this, kind of if you ever formed an opinion
16 on how that might impact his credibility or his
17 competency?

18 ATTORNEY IVARSSON: Clarence's defense was --
19 never wavered from I wasn't there, didn't do it, don't
20 know anything about it. Okay. So, the, the mental --
21 that was his posture.

22 That was his position. He wasn't deviating from
23 that. So, if I was digging up mental health history, it's
24 a high probability that it was related to mitigation,
25 capital sentencing hearing, okay?

1 ATTORNEY MILLER: Um-hmm.

2 ATTORNEY IVARSSON: I do recall that Judge Webb
3 also instructed on alibi and diminished capacity, based on
4 the alcohol abuse -- use, right? Ain't that what
5 happened?

6 ATTORNEY MILLER: I believe so.

7 ATTORNEY IVARSSON: Yeah. They got, they got --
8 the jury got instruction on two different defenses, alibi
9 and diminished capacity.

10 ATTORNEY MILLER: Okay.

11 ATTORNEY IVARSSON: Which are conflicting, but
12 I'm not sure I answered your question.

13 ATTORNEY MILLER: No, no, no, that -- no, that's
14 okay.

15 ATTORNEY IVARSSON: But Judge Webb was obligated
16 to instruct on all defenses --

17 ATTORNEY MILLER: Okay.

18 ATTORNEY IVARSSON: -- supported by the evidence,
19 whether they are conflicting or not.

20 ATTORNEY MILLER: Sure. Okay.

21 ATTORNEY IVARSSON: How'd that happen?

22 ATTORNEY MILLER: Now, and, and just a little
23 more generally, like, in your -- aside from, you know,
24 looking at anything for mitigation purposes, in any of
25 your personal interactions with Mr. Roberts, did you ever

1 have concerns about, you know, his, his competency, how
2 his mental illness might come into play during trial?
3 Anything like that?

4 ATTORNEY IVARSSON: I had no questions about his
5 capacity to enter a plea and go forward with the trial.

6 ATTORNEY MILLER: Okay.

7 ATTORNEY IVARSSON: As far as his mental
8 condition, given his position of wasn't there, didn't do
9 it, don't know anything about it. Anything about his
10 mental condition would be for sentencing purposes, because
11 by claiming that he wasn't there, didn't do it, didn't
12 know anything about it, that foreclosed presenting of
13 diminished capacity defense, because to do that, yeah, you
14 know the drill. You have to admit that he was there, but
15 wasn't acting --

16 ATTORNEY MILLER: Sure.

17 ATTORNEY IVARSSON: -- wasn't, wasn't within his,
18 his ability to premeditate, deliberate, and formulate a
19 plan, consider the consequences, and carry it out was
20 impaired.

21 ATTORNEY MILLER: Sure.

22 ATTORNEY IVARSSON: No, that wasn't -- Clarence
23 wasn't letting us go with that.

24 ATTORNEY MILLER: Okay.

25 ATTORNEY IVARSSON: Because his defense was,

1 didn't do it, wasn't there, don't know anything about it.

2 ATTORNEY MILLER: Okay.

3 ATTORNEY IVARSSON: You, you follow me?

4 ATTORNEY MILLER: Yeah. Absolutely.

5 ATTORNEY IVARSSON: Okay.

6 ATTORNEY MILLER: Okay. Great. Thank you. All
7 right. And Mr. Ivarsson, I wanna direct your attention to
8 page 797.

9 ATTORNEY IVARSSON: 797. Hang on.

10 ATTORNEY MILLER: Yeah.

11 ATTORNEY IVARSSON: Okay. I faxed something to
12 Wendy at the Robeson County Jail.

13 ATTORNEY MILLER: Yep.

14 ATTORNEY IVARSSON: Yeah. Just skip
15 [indiscernible] -- okay.

16 ATTORNEY MILLER: No.

17 ATTORNEY IVARSSON: Go ahead.

18 ATTORNEY MILLER: Yeah. And so, obviously, we have this
19 note that Clarence was scheduled to receive a polygraph.
20 Do you recall if, if he ever did follow through with the
21 polygraph; if this polygraph happened?

22 ATTORNEY IVARSSON: Okay. Your question is, do
23 I, do I, as I sit here now, independently recall whether
24 he had a polygraph? The answer is, I don't think I
25 specifically recall.

1 ATTORNEY MILLER: Okay.

2 ATTORNEY IVARSSON: I can say this: Skip
3 probably went down there. She went and done -- Skip --
4 based on what I'm reading on my fax, I just don't
5 independently recall it. But my -- I, I was thinking Skip
6 was down there to do the polygraph, and it was not
7 helpful.

8 ATTORNEY MILLER: Okay.

9 ATTORNEY IVARSSON: Because if Skip went down
10 there and it was helpful, I assure you, our -- I, I would
11 have gotten a written Report from Skip.

12 ATTORNEY MILLER: Oh, yeah.

13 ATTORNEY IVARSSON: And, and I definitely have no
14 recollection of, hey, wow, Clarence passed the polygraph.
15 No.

16 ATTORNEY MILLER: Okay.

17 ATTORNEY IVARSSON: I have no recollection of
18 that. I hope I -- I hope I've answered your question.

19 ATTORNEY MILLER: You, you have. Yeah. So, just
20 to clarify, and correct me if I'm interpreting you
21 incorrectly, but if those results weren't helpful, then
22 you would not have had Mr. Webb come up with a formal
23 Report?

24 ATTORNEY IVARSSON: Correct.

25 ATTORNEY MILLER: Okay, great. Thank you. All

1 right.

2 ATTORNEY IVARSSON: There's absolutely no reason
3 to do that.

4 ATTORNEY MILLER: Okay. Great. All right. And
5 I apologize, because at some points, we're gonna jump
6 around from topic to topic a little bit, but the one thing
7 I wanna touch on is kind of some notes in the file about
8 conversations that -- and, and sometimes, it's a little
9 unclear if Mr. Roberts was speaking to you or to, I
10 believe it was -- is it Steven McClain, the Investigator
11 y'all hired?

12 So, if at any point, just correct me if this is
13 not a conversation you had with him. But there's, there's
14 points in the file, and let me pull up page 421, if you
15 don't
16 mind --

17 ATTORNEY IVARSSON: Okay.

18 ATTORNEY MILLER: -- going there. And this
19 initial interview, I believe was, was with your
20 Mitigation Specialist, so I don't anticipate that you
21 would have been there.

22 But there's a note -- and let me just find
23 exactly where it is. It's actually down in the
24 highlighted portion. So --

25 ATTORNEY IVARSSON: Yeah, page 421?

1 ATTORNEY MILLER: Yes, sir.

2 ATTORNEY IVARSSON: Okay.

3 ATTORNEY MILLER: And the highlighted portion and
4 where I am looking specifically is number 21. So, it's
5 that second highlighted portion, if you -- if you don't
6 mind just reading that over and let me know when you're
7 finished.

8 ATTORNEY IVARSSON: Okay. So, page 421 is a memo
9 from Toni Elliott to Tiffany and me. And it is probably
10 where Toni Elliott, most likely alone, spoke with
11 Clarence Roberts at the Rob. Co. Jail on September 9,
12 2015.

13 Chances, chances -- I worked with Toni a long
14 time, and I, I don't have an independent recollection
15 whether, whether I was there for that interview or not.
16 But probably not, 'cause I think if I was, Toni would have
17 noted it.

18 ATTORNEY MILLER: Okay. That's --

19 ATTORNEY IVARSSON: Tiffany probably wasn't
20 there, either, but anyway, go ahead. What's your next
21 question?

22 ATTORNEY MILLER: My question was, there's a note
23 at the end of number 21 that says, need to check on this,
24 referring to that kind of, like, instance of -- where
25 Mr. Roberts claimed that he had shot someone previously.

1 Do you know if that was ever followed up on by you or
2 anyone on your team?

3 ATTORNEY IVARSSON: I do not have an independent
4 recollection of that.

5 ATTORNEY MILLER: Okay. Do you believe based --

6 ATTORNEY IVARSSON: Sorry, I don't.

7 ATTORNEY MILLER: No, that's okay. No, and I
8 don't want you -- if there's anything you don't remember,
9 that's perfectly fine.

10 It -- do you -- like, in, in -- just in your
11 practice, generally, if there was a note made by
12 Ms. Elliott there, is that something that you anticipate
13 would have been followed up on in some capacity, or does
14 it just depend? I'm not sure exactly, like, when she
15 would make notes like that, what that would mean for you
16 all.

17 ATTORNEY IVARSSON: I, I, I just have to recall
18 and guess. It would depend on a lot of different things.

19 ATTORNEY MILLER: Okay. And that's okay. I
20 don't want you to have to take any guesses. I just --

21 ATTORNEY IVARSSON: Clarence's stance was, wasn't
22 there, didn't do it, don't know anything about it.

23 ATTORNEY MILLER: Um-hmm.

24 ATTORNEY IVARSSON: And, and so, if, if Clarence
25 had wanted to go with diminished capacity, the answer that

1 Clarence is talking about is, it actually happened.

2 ATTORNEY MILLER: Um-hmm.

3 ATTORNEY IVARSSON: It might have been more
4 pressing, but I did not have an independent recollection
5 of drilling into that --

6 ATTORNEY MILLER: Okay. That's fine.

7 ATTORNEY IVARSSON: -- in, in Clarence's
8 particular case.

9 ATTORNEY MILLER: Sure. Okay.

10 ATTORNEY IVARSSON: 27 years old. Statement was
11 -- oh, I don't recall anything about drilling into that,
12 either. I just don't. Sorry.

13 ATTORNEY MILLER: Okay. No, that's okay. Okay.
14 And Mr. Ivarsson, next, I'm gonna go through just a few
15 names that -- to start off, I'm just gonna mention the
16 name to you and see if it jogs your memory, if you have
17 any recollection of it, and then I'll kind of get into
18 more specifics.

19 So, the first name that comes up in this case is
20 Dextor Stephens. Does that sound familiar to you at all?

21 ATTORNEY IVARSSON: I just searched the document
22 for his name. It is -- Dextor Stephens was the one
23 everyone in the Jail says committed the crime.

24 ATTORNEY MILLER: Okay.

25 ATTORNEY IVARSSON: Clarence said Dextor's a

1 Blood. Okay. Go ahead. What's your next question? Is,
2 is -- was your question, do I independently remember
3 Dextor Stephens' name? No.

4 ATTORNEY MILLER: Okay. And so, you might not
5 recall how -- the answer to my next question, but I'll,
6 I'll still ask. Do you, by chance, recall when you first
7 heard the name Dextor, if that came from Mr. Roberts or if
8 that came from someone else?

9 ATTORNEY IVARSSON: I can't recall.

10 ATTORNEY MILLER: No, that's --

11 ATTORNEY IVARSSON: I just can't tell you.

12 ATTORNEY MILLER: Okay, that's okay. And I know
13 that, in some sense, we covered this in the beginning, but
14 were you -- before this case, were you previously familiar
15 with
16 Dextor Stephens at all?

17 ATTORNEY IVARSSON: The chances are close to
18 zero, because, you know, this happened in Robeson County,
19 and I didn't -- I, I didn't practice regularly in Robeson
20 County.

21 ATTORNEY MILLER: Sure. And we actually will --

22 ATTORNEY IVARSSON: Is, is Dextor from Rob. Co or
23 what?

24 ATTORNEY MILLER: No, we believe he may be from
25 Fayetteville, which is why I wanted to ask that.

1 ATTORNEY IVARSSON: Well, no, I don't, as I sit
2 here now, recall --

3 ATTORNEY MILLER: Okay.

4 ATTORNEY IVARSSON: -- any acquaintance with
5 Dexter Stephens.

6 ATTORNEY MILLER: Okay. All right. And this may
7 jog your memory in some sense, this may not, but I, I know
8 that throughout our file, there's mentions of, I believe
9 it was you getting in touch Dexter Stephens' Probation
10 Officer.

11 And I know between, you know, the records we have
12 for you and Ms. Powers, there was discussions about, like,
13 getting access to see if he was, like, being monitored via
14 GPS and things of that nature. Do you recall any of those
15 investigative routes, talking to a Probation Officer about
16 him, anything of that nature?

17 ATTORNEY IVARSSON: No, I do not recall that.

18 ATTORNEY MILLER: Okay.

19 ATTORNEY IVARSSON: Independ -- do I
20 independently recall that? No.

21 ATTORNEY MILLER: Do you recall Mr. Roberts ever
22 saying anything about Dexter Stephens beyond just people
23 in Jail are saying that Dexter Stephens did it?

24 ATTORNEY IVARSSON: No, I do not.

25 ATTORNEY MILLER: Okay. All right. And the next

1 name I'm gonna mention to you, Mr. Ivarsson, is the street
2 name Wedo, and we now know that his name would have been
3 Garrett Somorick Alford. And I'm going to direct your
4 attention to page 108.

5 ATTORNEY IVARSSON: One-eighty?

6 ATTORNEY MILLER: One, one zero eight.

7 ATTORNEY IVARSSON: All right. Let's see --

8 ATTORNEY MILLER: And it is just -- I'm just
9 looking at a, a, a small paragraph. It is the
10 second-to-last paragraph from the page. It starts with
11 Shonda Lyons.

12 ATTORNEY IVARSSON: Shonda Lyons [indiscernible]
13 Dextor supposedly killed her cousin Somorick Alford in
14 Fayetteville. His nickname was Wedo, and he was a Blood
15 in the gang.

16 Rasheed Williams and Steven Moore are charged in
17 Cumberland County in that murder. Okay?

18 ATTORNEY MILLER: So, we know, based on this
19 note, that Wedo's name at least came up from Shonda Lyons.
20 Do you recall anyone else in this case mentioning Wedo or,
21 or that case coming up in any other capacity?

22 ATTORNEY IVARSSON: I do not independently recall
23 that, no.

24 ATTORNEY MILLER: Okay. And Mr. Ivarsson, if you
25 don't mind just scrolling one page up. So, just to

1 page 107. Kind of what we're looking at is this page.

2 It just has Clarence Roberts, and then it's got
3 all these various accounts. I'll give you a second to
4 look at that, but do you, by chance, know who -- if you
5 were the one who wrote this, if it would have been Toni
6 Elliott, if you -- if you know what this page is?

7 ATTORNEY IVARSSON: Page 107?

8 ATTORNEY MILLER: One zero seven and 108, yeah.
9 One zero seven, just the start of the page.

10 ATTORNEY IVARSSON: That's a good question. I'm
11 working on it.

12 ATTORNEY MILLER: Okay.

13 ATTORNEY IVARSSON: No, I don't. I, I just don't
14 know who wrote that.

15 ATTORNEY MILLER: That's okay. And the only
16 other thing, before we move on, I'll just -- I just
17 noticed when scrolling. So, if you scroll down to
18 page 109, so, just another page past that, there's a list,
19 and it says, Things to Subpoena.

20 ATTORNEY IVARSSON: Right.

21 ATTORNEY MILLER: It seems like maybe that's all
22 one document, but I'm not totally sure. Do you know if
23 that Things to Subpoena Page would have been written by
24 you?

25 ATTORNEY IVARSSON: No. I mean, that's not a

1 font that I use, anyway.

2 ATTORNEY MILLER: Okay.

3 ATTORNEY IVARSSON: Probably not.

4 ATTORNEY MILLER: Okay. All right. No problem.
5 All right. And Mr. Ivarsson, the next name I'm gonna
6 mention is John Allen.

7 And just to jog your memory a little bit,
8 John Allen is one of the listed Victims in this case. He
9 was --

10 ATTORNEY IVARSSON: I know the name. Or was he
11 wounded or killed?

12 ATTORNEY MILLER: He was not, no. That was
13 Joshua Council. So, he was just named as someone who was
14 shot at. And we know that he is the cousin of the Victim,
15 Joshua Council. I --

16 ATTORNEY IVARSSON: Okay.

17 ATTORNEY MILLER: I'm gonna direct your attention
18 to page 421.

19 ATTORNEY IVARSSON: Uh-huh.

20 ATTORNEY MILLER: And let me just find -- there's
21 a few bullet points. Let me --

22 ATTORNEY IVARSSON: Yeah.

23 ATTORNEY MILLER: -- find exactly where I'm
24 trying to direct you. So, number 15 says, Dextor Stephens
25 is the one everyone in Jail says did it.

1 Clarence said, from what he has heard, it's
2 Dextor, who's very high up in the Bloods, was trying to
3 take out John Allen that night, who was higher up than
4 him, in parentheses, (head of Bloods). Aside from this
5 note here, do you recall anyone else mentioning that there
6 was any sort of problem between Dextor Stephens and
7 John Allen?

8 ATTORNEY IVARSSON: No.

9 ATTORNEY MILLER: Okay.

10 ATTORNEY IVARSSON: Not that I recall
11 independently at this time, no.

12 ATTORNEY MILLER: Okay. And do you recall
13 independently anyone making mention of John Allen being
14 affiliated with the Bloods?

15 ATTORNEY IVARSSON: I'm sorry, but I don't --

16 ATTORNEY MILLER: That's okay.

17 ATTORNEY IVARSSON: -- I don't recall that,
18 either.

19 ATTORNEY MILLER: Okay. All right. No problem.
20 And we know that this case took place at what's referred
21 to as the Hut.

22 That sort of basketball court/playground area.
23 Do -- were you familiar with the Hut at all prior to being
24 assigned to this case?

25 ATTORNEY IVARSSON: Oh, I went, I went there

1 three or four times.

2 ATTORNEY MILLER: Okay. And was that as a result
3 of being assigned to this case?

4 ATTORNEY IVARSSON: Yes.

5 ATTORNEY MILLER: Were you familiar with it at
6 all before you were assigned to the case?

7 ATTORNEY IVARSSON: No.

8 ATTORNEY MILLER: Kind of in your experience of
9 learning about the Hut and talking to people, did, did you
10 get a sense of whether there's -- the Hut has any sort of
11 reputation, or had any sort of reputation at the time of
12 this case?

13 ATTORNEY IVARSSON: No, not that I recall --

14 ATTORNEY MILLER: Okay.

15 ATTORNEY IVARSSON: -- specifically. I don't
16 independently recall a reputation for that place. There,
17 there was a -- there was a building there, and there was a
18 large asphalt basketball court, right?

19 ATTORNEY MILLER: Um-hmm.

20 ATTORNEY IVARSSON: And by the time we get to
21 trial, wasn't the building destroyed? Removed? Tore
22 down?

23 ATTORNEY MYERS: A house right there.

24 ATTORNEY MILLER: There, there was a house that
25 had been there previously, like, an abandoned house. And

1 then, at some point --

2 ATTORNEY IVARSSON: Yeah.

3 ATTORNEY MILLER: -- in time, that was removed.

4 ATTORNEY IVARSSON: I believe it was removed by
5 the time we got to trial.

6 ATTORNEY MILLER: Okay.

7 ATTORNEY IVARSSON: But to answer your question
8 about reputation, I don't know. But I don't know that an
9 abandoned house has ever -- I don't know that many good
10 things have come out of an abandoned house.

11 ATTORNEY MILLER: Okay. Okay. Yeah.

12 ATTORNEY IVARSSON: That's just kinda common
13 sense.

14 ATTORNEY MILLER: Okay. And just a few more
15 names for you, Mr. Ivarsson. The next name I'm gonna
16 mention is Soulski, Soulski Stephens. And I'm gonna
17 direct you to page 994.

18 And 994 is just gonna have the word
19 Soulski Stephens on it, and then there's a few pictures of
20 him that may jog your memory, that may not. Do you --

21 ATTORNEY IVARSSON: I recognize that -- I
22 recognize that odd name.

23 ATTORNEY MILLER: Does --

24 ATTORNEY IVARSSON: But I don't recall anything
25 in particular about him.

1 ATTORNEY MILLER: No.

2 ATTORNEY IVARSSON: So, what's up with Soulski?

3 ATTORNEY MILLER: So, Soulski -- we know that
4 Soulski was -- so, if you recall in this case that
5 Mr. Roberts, at some point in the evening of the shooting,
6 went to the home of Kimberly Lowery.

7 That was the mother of one of his -- or, of, of
8 his son. I apologize. And she told Police that when
9 Mr. Roberts was there, he mentioned Soulski Stephens'
10 name.

11 And we're just trying to get a sense for, you
12 know, if, if you have any recollection of who
13 Soulski Stephens was, and if Mr. Roberts ever made any
14 mention to you of Mr. Stephens, and what kind of
15 relationship they might have had?

16 ATTORNEY IVARSSON: I recognize that odd name.
17 My recollection is, Clarence probably mentioned it, and I,
18 and I can't remember details beyond that.

19 ATTORNEY MILLER: Okay. And, if you don't mind,
20 and I understand if you don't recall this. That's fine.
21 I do just wanna have you jump to page 112 for just a
22 moment.

23 ATTORNEY IVARSSON: All right. Oh, we was just
24 there, weren't we?

25 ATTORNEY MILLER: Yeah, I apologize. We might be

1 jumping around a little bit.

2 ATTORNEY IVARSSON: All right.

3 ATTORNEY MILLER: And when you're there, it's
4 just slightly above the middle of the page. It starts
5 with Soulski Stephens. It's just three sentences.

6 ATTORNEY IVARSSON: Okay. Pulled up, pulled up
7 in a brown car and drank three shots, either vodka or gin.
8 This house was green or blue-ish. That was probably the
9 liquor house.

10 ATTORNEY MILLER: Um-hmm.

11 ATTORNEY IVARSSON: But okay. Go ahead.

12 ATTORNEY MILLER: Okay. So, this -- and when I
13 scroll up one page, I can see that the title of this kind
14 of narrative is Clarence Roberts, July 5th, 2013.
15 Interview at Jail lock-up basement of Courthouse. One, do
16 you, do you know if that -- these would have been notes
17 from an interview that you conducted, if it was done at
18 the Jail?

19 ATTORNEY IVARSSON: What page you on?

20 ATTORNEY MILLER: Just one page above, so 111.

21 ATTORNEY IVARSSON: If I had to make a guess, and
22 I'm just guessing, that's not a font that I use. That may
23 have been Steve McClain.

24 ATTORNEY MILLER: Okay. Okay. And --

25 ATTORNEY IVARSSON: That was 10 years ago.

1 ATTORNEY MILLER: Sure. Now, I, I understand
2 that's --

3 ATTORNEY IVARSSON: Wow.

4 ATTORNEY MILLER: Now, in terms of Steve McClain
5 being on the case, is that something he would have been --
6 and I, I know that there's a date in here. I -- forgive
7 me. I just don't know what page it's on. Is that
8 something where he would have been brought into the case
9 quite early?

10 ATTORNEY IVARSSON: Steve would have been brought
11 onto the case when I got involved in the case.

12 ATTORNEY MILLER: Okay. Understood.

13 ATTORNEY IVARSSON: So, Steve involved at the
14 beginning of the case, when -- whenever that was. I can't
15 recall. There's court filings and all that. But --

16 ATTORNEY MILLER: Okay.

17 ATTORNEY IVARSSON: -- it's unlikely, 'cause I
18 don't - if my recollection is right, Tiffany was the
19 Attorney to start with, and I believe she called me. And
20 chances are that I contacted Steve, but again, that
21 wouldn't have happened until I got on.

22 To answer -- so, to answer your question, was
23 Steve involved in the beginning of the case? The very
24 beginning? Probably not.

25 ATTORNEY MILLER: Okay. Okay, great. Thank you.

1 Okay. So -- and I'm sorry to kind of sidetrack there for
2 a moment, but what we were looking at just a moment ago,
3 Soulski Stephens pulling up in a brown car. Does that jog
4 your memory at all as anything Mr. Roberts would have told
5 you?

6 ATTORNEY IVARSSON: I, I can't tell you that, I,
7 I can't tell you that I independently resolved --
8 independently recall that, no.

9 ATTORNEY MILLER: Okay. And that's okay. Okay.

10 ATTORNEY IVARSSON: I just --

11 ATTORNEY MILLER: No, that's no problem. If you
12 don't remember, that's perfectly fine. The next name I'm
13 gonna mention is the street name Floss, but we know that
14 his name would have been Kenny Ray Floyd. And there's
15 photos of him on page -- I believe it's 980. Or, sorry,
16 it starts on 981.

17 ATTORNEY IVARSSON: I see him.

18 ATTORNEY MILLER: Okay.

19 ATTORNEY IVARSSON: Page 981. Okay.

20 ATTORNEY MILLER: Yeah. And the, the way that --
21 as far as we know, that name is first mentioned is, if you
22 remember, there's a Chris McGirt in this case who claims
23 that someone, whether it was Mr. Roberts or someone else,
24 pulled up next to him and they kind of had a conversation.

25 And in that conversation, that -- the person

1 driving the car said, you're kin to Flossy, who we believe
2 would have been Kenny Ray Floyd. Do you recall if
3 Mr. Floyd or Floss's name ever came up at any point in
4 your investigation?

5 ATTORNEY IVARSSON: I can't recall specifically.

6 ATTORNEY MILLER: Okay.

7 ATTORNEY IVARSSON: I'm sorry.

8 ATTORNEY MILLER: No, that's okay. And I just --
9 I understand that you, you might not know how to answer
10 these questions. I'm still just gonna ask them, just in
11 case.

12 But I don't want you to feel bad if I keep asking
13 questions that you might not be able to recall at this
14 point. I know it was a long time ago. And just on the
15 other question, going off of that, do you --

16 ATTORNEY IVARSSON: I do remember the name Flossy
17 coming up somewhere, but I, I can't remember in what
18 context.

19 ATTORNEY MILLER: Okay.

20 ATTORNEY IVARSSON: I think I heard Flossy
21 something -- somewhere in the case. I, I --

22 ATTORNEY MILLER: Okay.

23 ATTORNEY IVARSSON: -- can't recall. But I do
24 recall Flossy something.

25 ATTORNEY MILLER: Okay.

1 ATTORNEY IVARSSON: I'm sorry.

2 ATTORNEY MILLER: No, that's okay. Okay. The
3 next name I'm gonna mention is Micheal Burgess. So, if
4 you recall, Micheal Burgess was also a listed Victim. He
5 was not wounded or killed.

6 Mr. Burgess did testify at trial, and I know that
7 Mr. McClain interviewed him at one point. I'm gonna
8 direct your attention to page 2, 825.

9 ATTORNEY IVARSSON: Two thousand, eight hundred
10 and twenty-five.

11 UNKNOWN FEMALE: You're good. You're good.

12 ATTORNEY MILLER: And if you don't mind briefly
13 skimming over this page, just because I think it'll give a
14 little bit of context, and then let me know when you're
15 finished.

16 ATTORNEY IVARSSON: Two thousand, eight hundred
17 and twenty-five. Looks like probably Steve McClain wrote
18 that.

19 ATTORNEY MILLER: Okay.

20 ATTORNEY IVARSSON: I think.

21 ATTORNEY MILLER: Do you know if you personally
22 would have interviewed Mr. Burgess at any point?

23 ATTORNEY IVARSSON: Well, probably so. On pages
24 2825 and 2826. Twenty-eight, eighty-six is where Micheal
25 Burgess signed --

1 ATTORNEY MILLER: Um-hmm.

2 ATTORNEY IVARSSON: -- and I signed, and Steve
3 McClain signed.

4 ATTORNEY MILLER: Okay. And reviewing that page
5 on 2825, does that jog your memory at all about being
6 present for an interview like that?

7 ATTORNEY IVARSSON: No.

8 ATTORNEY MILLER: No? Okay.

9 ATTORNEY IVARSSON: Wait, but --

10 ATTORNEY MILLER: Okay. And --

11 ATTORNEY IVARSSON: And, and the chances are I
12 was, but that's just -- I'm just piecing it together. I
13 think to be sure, I was present when Burgess signed that
14 typed Statement.

15 ATTORNEY MILLER: Sure.

16 ATTORNEY IVARSSON: Okay.

17 ATTORNEY MILLER: Okay. And, and I do just wanna
18 bring your attention to number 13 on that typed Statement.
19 Mr. Burgess says, I did not tell Law Enforcement that the
20 Shooter in the white car got out of the white car.

21 If the Shooter got out of the white car, I did
22 not see him get out. And then -- I'm sorry. Also, number
23 11 says, in fact, prior to the time that the Shooter
24 fired, I heard gunshots from a different gun.

25 ATTORNEY IVARSSON: Okay.

1 ATTORNEY MILLER: Do you, by chance, recall in
2 any conversation with Mr. Burgess, him elaborating on --
3 obviously, he's saying that someone else fired a gun
4 besides the, the Shooter coming out of the vehicle. Do
5 you recall any conversations about that, whether he
6 elaborated on that ever?

7 ATTORNEY IVARSSON: No, I do not. Not beyond
8 what is written, no.

9 ATTORNEY MILLER: Okay. Okay.

10 ATTORNEY IVARSSON: I'm sure we would have asked
11 him -- we asked him further details about that. But
12 anyway --

13 ATTORNEY MILLER: Okay.

14 ATTORNEY IVARSSON: -- go, go ahead.

15 ATTORNEY MILLER: And you may not recall this,
16 and that's okay, but do you recall if you ever formed any
17 sort of opinion as to Mr. Burgess's credibility?

18 ATTORNEY IVARSSON: I do not recall whether I
19 formed any opinion about his credibility.

20 ATTORNEY MILLER: Okay. Not a problem. All
21 right. And I'm next gonna direct your attention to page
22 1509.

23 ATTORNEY IVARSSON: Okay.

24 ATTORNEY MILLER: And right in the middle, we
25 have a section for Harold Jacobs. And correct me if I'm

1 wrong or if you recall it or not, but it, it kind of looks
2 to me like this is a page, I would assume, prepared by
3 either you or Ms. Power -- Judge Powers about questions
4 that you were planning on asking witnesses. Do you know
5 if that would have been the case?

6 ATTORNEY IVARSSON: Okay. Page 1509?

7 ATTORNEY MILLER: Um-hmm. And it does start
8 higher than that if you do wanna scroll up. It looks like
9 it's a memo. It says we need to interview these
10 witnesses.

11 ATTORNEY IVARSSON: Right. Go ahead.

12 ATTORNEY MILLER: Do you recall if that would
13 have been a, a list of questions that you had come up
14 with?

15 ATTORNEY IVARSSON: Probably so.

16 ATTORNEY MILLER: Okay.

17 ATTORNEY IVARSSON: What, what if -- or that --
18 you know, I came up with it, or that Tiffany, and I, and
19 Steve came up with it.

20 ATTORNEY MILLER: Okay. Okay. Now, in the
21 middle of the page, we have a section for Harold Jacobs.
22 We know that he was a bystander who lived on Peach Street
23 -- I'm sorry, Peachtree Street, which is right where that
24 -- the Hut was located.

25 ATTORNEY IVARSSON: And he testified, did he?

1 ATTORNEY MILLER: No. Do you, do you recall if
2 you ever ended up speaking to him?

3 ATTORNEY IVARSSON: I think I got Harold confused
4 with somebody else.

5 ATTORNEY MILLER: I think you're thinking of
6 Ronnie Roberson. And --

7 ATTORNEY IVARSSON: Okay.

8 ATTORNEY MILLER: -- Ronnie Roberson was the
9 gentleman whose house kind -- he had the security camera
10 set up.

11 ATTORNEY IVARSSON: I --

12 ATTORNEY MILLER: Yeah.

13 ATTORNEY IVARSSON: Well, that --

14 ATTORNEY MILLER: But he did --

15 ATTORNEY IVARSSON: I mean, I got --

16 ATTORNEY MILLER: -- he did testify.

17 ATTORNEY IVARSSON: -- Ronny confused.

18 ATTORNEY MILLER: Um-hmm.

19 ATTORNEY IVARSSON: It was 10 plus years ago.
20 Okay.

21 ATTORNEY MILLER: Sure.

22 ATTORNEY IVARSSON: And your question again was
23 what?

24 ATTORNEY MILLER: Was if you recall ever speaking
25 to Harold Jacobs. I know that you prepared these

1 questions as though you might speak to him.

2 ATTORNEY IVARSSON: I do not --

3 ATTORNEY MILLER: No.

4 ATTORNEY IVARSSON: -- have an independent
5 recollection of speaking with Harold --

6 ATTORNEY MILLER: Okay.

7 ATTORNEY IVARSSON: -- Jacobs. I, I do not.

8 ATTORNEY MILLER: Okay. All right. And another
9 name I wanna mention is Cyrstal Allen. If you'll recall,
10 Cyrstal Allen was also a listed Victim in this case; was
11 not shot or wounded in any way.

12 We, we know that she did not show up to testify
13 at trial. Do you, do you recall any information
14 surrounding that? Perhaps why, if you by chance know why
15 she wasn't at trial, or if you were surprised that she did
16 not show up?

17 ATTORNEY IVARSSON: No, I don't recall. I don't
18 remember what she had to say or didn't have to say.

19 ATTORNEY MILLER: And she was just interviewed
20 initially by an SBI Agent. She said that she saw the
21 Shooter.

22 She was given a lineup. She did not identify
23 Mr. Roberts. But if, if you don't recall her, that's
24 okay. Just trying to get a sense for if you recalled
25 anything about her not showing up to trial.

1 ATTORNEY IVARSSON: No, I do not.

2 ATTORNEY MILLER: Okay. All right. And I'm
3 gonna direct your attention to page 813 next.

4 ATTORNEY IVARSSON: Okay.

5 ATTORNEY MILLER: All right. And this is another
6 Memo. I'm not sure if it would have been prepared by you
7 or someone else. But towards the --

8 ATTORNEY IVARSSON: What was it again, 1318?

9 ATTORNEY MILLER: I'm sorry, 813.

10 ATTORNEY IVARSSON: Eight-thirteen. Okay, wait.
11 That was a Memo I prepared.

12 ATTORNEY MILLER: Okay. And towards the middle
13 of the page, it says, Defendant said those two guys can
14 say they were with him at least some time that night. If
15 you just wanna read that little portion?

16 ATTORNEY IVARSSON: Said those two guys can say
17 they were with him at least some time that night, that he
18 was drunk, didn't have a gun, that they went through his
19 car; why, I'm not sure, and didn't see a gun.

20 ATTORNEY MILLER: And we know based on what was
21 mentioned earlier that that's referencing Rodney Cade and
22 Micheal Shaw. And really just that, that note that you
23 kinda responded to the, they went through his car; why,
24 I'm not sure, and didn't see a gun. I was just wondering
25 if you ever got any more information on why Mr. Roberts

1 seemed to think that they would have gone through his car.

2 ATTORNEY IVARSSON: No, I don't recall why they
3 were going through his car.

4 ATTORNEY MILLER: Okay.

5 ATTORNEY IVARSSON: It -- I don't recall Harold,
6 Harold saying why they were going through his car.

7 ATTORNEY MILLER: Okay.

8 ATTORNEY IVARSSON: Yeah, I'm sorry about that.

9 ATTORNEY MILLER: No, that's okay, no. Okay.
10 And next -- and this is my last big section, so just bear
11 with me, if you don't mind.

12 But there's just a few things that are, like,
13 notes throughout your file, where it kind of seemed like
14 you might have made a note to follow up or something. And
15 I'm just gonna ask you questions about whether you got any
16 more information on the topics.

17 The first note that I wanna bring your attention
18 to is on page 1843. And I'm looking at the very last
19 thing on the page that says contact Attorney Brady to see
20 who his Client is who says Dexter Stephens set him up, and
21 if we can talk to him. Do you know who Attorney Brady
22 would have been referring to, if you know -- have a first
23 name?

24 ATTORNEY IVARSSON: It's Ed.

25 ATTORNEY MILLER: Okay.

1 ATTORNEY IVARSSON: Ed Brady. He's a retired
2 Lawyer here.

3 ATTORNEY MILLER: Okay.

4 ATTORNEY IVARSSON: He was somebody -- he worked
5 on the Supreme Court for a couple of terms.

6 ATTORNEY MILLER: Oh, wow. Okay. And at the
7 time, was he practicing out of Robeson County?

8 ATTORNEY IVARSSON: Not regularly that I know of,
9 no.

10 ATTORNEY MILLER: Okay. Okay.

11 ATTORNEY IVARSSON: No. No.

12 ATTORNEY MILLER: All right. And do you recall
13 how you would have gotten that information -- that he had
14 a Client who was saying that Dextor Stephens set him up?

15 ATTORNEY IVARSSON: Wait a minute. Maybe I'll
16 tell you. I was [indiscernible], but then -- and Dextor
17 here in Cumberland County somewhere.

18 ATTORNEY MILLER: Okay.

19 ATTORNEY IVARSSON: You could find that on ASIS.
20 You got that, right?

21 ATTORNEY MILLER: Um-hmm. Okay. So, you
22 think --

23 ATTORNEY IVARSSON: That's just what I'm looking
24 for. I don't see -- Dextor, he was a frequent flyer.

25 ATTORNEY MILLER: Okay.

1 ATTORNEY IVARSSON: But no, I don't -- so, the
2 answer to your question is no, and I'm looking in ASIS
3 right now under Dextor Stephens, and I don't see any -- I
4 don't see, for all the two or three screens he's got, I
5 don't see any Attorney listed.

6 So, the answer to your question is, how did I
7 wind up contacting Ed Brady about Dextor? I don't know.

8 ATTORNEY MILLER: Okay. Okay. And the next note
9 I'm gonna bring you to is, and I apologize for jumping all
10 over, but it's 105. And it is the second portion from the
11 bottom. It starts with Linda Boakye.

12 ATTORNEY IVARSSON: Okay. I see it.

13 ATTORNEY MILLER: Okay. If you don't mind just
14 reading that little bit?

15 ATTORNEY IVARSSON: Okay. I read it.

16 ATTORNEY MILLER: Do, do you recall if your team
17 ever spoke to Linda Boakye after this note was made?

18 ATTORNEY IVARSSON: No, I don't recall.

19 ATTORNEY MILLER: Okay. No problem. All right.
20 All right. And just give me one moment. We've already
21 covered a few things.

22 All right. And Mr. Ivarsson, there's just a
23 couple names that are on, like, a potential Witness List
24 at one point that I just wanna run by you to see if you
25 recall who they are, just because we haven't been able to

1 figure out who they might be referring to.

2 And the one name -- I have a Scott Howell. Would
3 you be -- was he on your team at all? We have reason to
4 think he either might have been a part of your team, or a
5 part of the DA's Team. I know that at one point in
6 your --

7 ATTORNEY IVARSSON: Last name Howell?

8 H-O-W-E-L --

9 ATTORNEY MILLER: Yes, sir.

10 ATTORNEY IVARSSON: No, it -- there wasn't no
11 other Defense Team, no.

12 ATTORNEY MILLER: Okay.

13 ATTORNEY IVARSSON: The Defense Team was, was
14 Tiffany, Toni Elliott, Steve McClain, and me.

15 ATTORNEY MILLER: Okay. And that's it? Okay.

16 ATTORNEY IVARSSON: And I think I had Tom Harbin
17 as a Psychologist for capital sentencing, and he never got
18 there.

19 ATTORNEY MILLER: Okay. And this -- I'm sure
20 this probably won't help you in any way, but if, if you
21 jump to page 1826, there's just a page that just, in
22 handwriting, has Scott Howell. And then the next page
23 has, like, Scott Howell at the top.

24 ATTORNEY IVARSSON: Eighteen what?

25 ATTORNEY MILLER: 1826.

1 ATTORNEY IVARSSON: Scott Howell?

2 ATTORNEY MILLER: Yes, sir.

3 ATTORNEY IVARSSON: I might go out on a limb and
4 make a guess that maybe Scott Howell -- I'm just guessing
5 and speculating. Maybe Tiffany got Scott Howell on as a
6 Private Investigator early in the case.

7 ATTORNEY MILLER: Okay. Okay.

8 ATTORNEY IVARSSON: And, and then, perhaps,
9 maybe, Scott Howell moved on to greener pastures somewhere
10 else.

11 ATTORNEY MILLER: Okay.

12 ATTORNEY IVARSSON: I don't recall meeting the
13 guy.

14 ATTORNEY MILLER: Okay. No, that -- okay.

15 ATTORNEY IVARSSON: So, maybe that's what he --
16 maybe that's what he was.

17 ATTORNEY MILLER: Okay. Great. Thank you.

18 ATTORNEY IVARSSON: But I'm just guessing.

19 ATTORNEY MILLER: No, that's okay. Thank you.

20 No, that -- we appreciate that. Next, I wanna bring your
21 attention to page 141.

22 And this is just a Witness List. One of the
23 Witness Lists that we found in the file. And there's just
24 a --

25 ATTORNEY IVARSSON: Right.

1 ATTORNEY MILLER: -- few names on there. I just
2 wanna see if you know who they are; if they jog a memory
3 for you.

4 The first one is James McKethan, and that is --
5 you know, I apologize. I don't think he's on this Witness
6 List.

7 He is on another one. I just have to find the
8 page. But it didn't have any other information with who a
9 James, James McKethan might be. I'm not sure if that
10 rings any bells for you; if you know who that would be.

11 ATTORNEY IVARSSON: No.

12 ATTORNEY MILLER: No? Okay. And I -- just some
13 information that may or may not jog your memory. So, we
14 know that the Victim, Joshua Council, who was killed in
15 this case, had a child with a woman who, her last name was
16 McKethan. I don't know if by chance, that, that helps at
17 all or not, but we're not sure if --

18 ATTORNEY IVARSSON: Sorry.

19 ATTORNEY MILLER: That's okay. No. And the next
20 name I wanna draw your attention to -- let's see. And
21 this would be towards the bottom, was a
22 Beverly Collins-Hall. Does that name ring any bells?

23 ATTORNEY IVARSSON: Last name's what?

24 ATTORNEY MILLER: Hall. H-A-L-L.

25 ATTORNEY IVARSSON: Beverly Hall?

1 ATTORNEY MILLER: Um-hmm.

2 ATTORNEY IVARSSON: No, it's not ringing -- I'm
3 searching that document, and Beverly is not in there.

4 ATTORNEY MILLER: No? Okay. And --

5 ATTORNEY IVARSSON: And Hall is just a mention
6 that it's a Hall plan.

7 ATTORNEY MILLER: Okay. Sure. No problem.

8 ATTORNEY IVARSSON: So --

9 ATTORNEY MILLER: Okay.

10 ATTORNEY IVARSSON: -- sorry.

11 ATTORNEY MILLER: That's okay. And the last name
12 I'll mention is Sharon Neighbors.

13 ATTORNEY IVARSSON: Did you say Sharon Neighbor?

14 ATTORNEY MILLER: Neighbors, with an S. Yeah.

15 ATTORNEY IVARSSON: Neighbors, with an N. No.

16 ATTORNEY MILLER: Okay.

17 ATTORNEY IVARSSON: I, I was looking for
18 Neighbors in the, in the, in the big document here.

19 ATTORNEY MILLER: Um-hmm.

20 ATTORNEY IVARSSON: There's a Gary Neighbors from
21 -- Toni Elliott found that -- came up with that. I'm
22 looking right here. Shannon, Shannon Neighbors?

23 ATTORNEY MILLER: Sharon.

24 ATTORNEY IVARSSON: Oh.

25 ATTORNEY MILLER: S-H-A-R-O-N.

1 ATTORNEY IVARSSON: Oh, I see.

2 Sharon B. Neighbor. Mother's boyfriend, and he still
3 lives in the house, and called and went by. Oh. She was
4 on Preston Avenue -- lived on Preston Avenue. Okay.

5 ATTORNEY MILLER: And I'm sorry --

6 ATTORNEY IVARSSON: I, I, I don't have any
7 independent recollection.

8 ATTORNEY MILLER: No, that's okay. If you don't
9 mind telling me what page that you're reading from?

10 ATTORNEY IVARSSON: Oh, I'm looking at page 262.
11 Mitigation stuff.

12 ATTORNEY MILLER: Okay. Okay. I understand.

13 ATTORNEY IVARSSON: Toni Elliott's Mitigation
14 Contact List.

15 ATTORNEY MILLER: Okay, perfect. Thank you very
16 much. All right. And --

17 ATTORNEY IVARSSON: I think 117 Preston Avenue is
18 a -- anyway, it's a -- you don't want to go there after
19 dark.

20 ATTORNEY MILLER: Okay. That's --

21 ATTORNEY IVARSSON: You, you don't wanna go there
22 during daylight hours, either.

23 ATTORNEY MILLER: That's a -- I'm sorry, is that
24 a -- were you referring to -- it's, it's in Fayetteville?

25 ATTORNEY IVARSSON: Yeah.

1 ATTORNEY MILLER: Okay.

2 ATTORNEY IVARSSON: But you -- if you do, wear,
3 wear a protective vest and make sure you have a semi-
4 automatic handgun with a large extra capacity magazine
5 with you.

6 ATTORNEY MILLER: Okay.

7 ATTORNEY IVARSSON: Maybe it's been cleaned up.
8 I hope so.

9 ATTORNEY MILLER: Okay. All right.
10 Mr. Ivarsson, next, I wanna direct you to page 772, and,
11 and I just have a few more questions here for you. Don't
12 want to take up too much of your time. But looking at
13 page 772 --

14 ATTORNEY IVARSSON: Right.

15 ATTORNEY MILLER: -- and whenever you're there
16 I'm gonna look to the bottom of the page.

17 ATTORNEY IVARSSON: I got it.

18 ATTORNEY MILLER: All right. So, the last few
19 sentences, it says, I think that on the night of the
20 offense, he was grossly impaired.

21 ATTORNEY IVARSSON: Yeah.

22 ATTORNEY MILLER: So, if you don't mind just
23 reading that section, just kind of where it starts with
24 that. I believe this is, like, just notes that you had
25 taken. But go ahead and read that and tell me if you

1 recall otherwise.

2 ATTORNEY IVARSSON: I don't recall otherwise.

3 ATTORNEY MILLER: Okay.

4 ATTORNEY IVARSSON: No. That -- that's a, that's
5 a Memo I dictated --

6 ATTORNEY MILLER: Okay.

7 ATTORNEY IVARSSON: -- into the file.

8 ATTORNEY MILLER: Okay.

9 ATTORNEY IVARSSON: I think it's just a set of
10 law-related books he read to get out. But that's
11 Clarence. He thinks he's smart enough to figure his way
12 out of this.

13 ATTORNEY MILLER: Do you recall, though -- I'm
14 just looking specifically at where you wrote, I think that
15 on the night of the offense, he was grossly impaired. Do
16 you recall kind of, like, what you meant by that? Can you
17 just elaborate on that if you can recall?

18 ATTORNEY IVARSSON: My recollection is, there
19 was, in the -- Clarence had a drinking problem. Clarence
20 would -- when he got drunk, he was a violent drunk. How
21 he specifically came to be drunk on the night of the
22 offense, I can't specifically remember right now.

23 ATTORNEY MILLER: Okay --

24 ATTORNEY IVARSSON: I believe he got off of work
25 and started drinking. When and where and how and what he

1 drank, I can't recall.

2 ATTORNEY MILLER: Okay.

3 ATTORNEY IVARSSON: And the jury thought the same
4 thing.

5 ATTORNEY MILLER: Okay.

6 ATTORNEY IVARSSON: And I can't remember if they
7 heard that or this at trial, which I can't recall. And I
8 remember they came out with the second-degree verdict.

9 ATTORNEY MILLER: Okay. And I guess kind of,
10 like, reading that, I was trying to get a sense for, you
11 know, when you say, on the night, I think he was grossly
12 impaired, if that was, like, in the sense of, like,
13 grossly impaired and, like, he was involved with the case,
14 or he was just grossly impaired and, like, elsewhere? You
15 know, if, if that makes sense.

16 ATTORNEY IVARSSON: I would, I would think I
17 meant he was grossly impaired and involved in the case,
18 and just -- and he just did not remember much about it.
19 And -- but he was insistent on going with, wasn't there,
20 didn't do it, don't know anything about it.

21 ATTORNEY MILLER: Understood.

22 ATTORNEY IVARSSON: I remember discussing, look,
23 Clarence -- hey, Clarence, you know, maybe we should go
24 with diminished capacity defense. Because you know,
25 Clarence, the problem with that is, you know, you have to

1 -- you, you have to -- our defense will be that you gotta
2 consent.

3 You gotta concede that you committed the act but
4 weren't -- but your ability to think things through was
5 impaired. And though he wasn't -- Clarence wasn't going
6 with that.

7 ATTORNEY MILLER: Okay.

8 ATTORNEY IVARSSON: It was always, wasn't there,
9 didn't do it. Don't know anything about it.

10 ATTORNEY MILLER: Okay. Great. Thank you very
11 much. Okay. And as for the trial itself, Mr. Ivarsson, I
12 believe you might have -- and this would have been, I
13 think, a few years ago at this point.

14 You may have spoken to another Investigator in
15 their office. And I think that you had mentioned to her
16 that you were surprised by the verdict in this case.

17 Do you recall -- and, and just to kind of jog
18 your recollection, that would have been -- there were the
19 dismissal of the attempted murder/assault with deadly
20 weapon with intent to kill charges that were dismissed for
21 several of the other listed Victims.

22 Do you recall if you were indeed surprised by the
23 verdict? If so, what surprised you about the verdict?

24 ATTORNEY IVARSSON: Well, I probably was
25 surprised it was -- inconsistent defenses were submitted

1 to the jury.

2 ATTORNEY MILLER: Okay.

3 ATTORNEY IVARSSON: And that's always not good.
4 Because the jury can think he's -- he -- Roberts' has
5 Defense Team.

6 They're saying he wasn't there, but, but yet
7 they're saying he was there, and he was drunk. And
8 closing argument, we argue he wasn't there.

9 ATTORNEY MILLER: Um-hmm.

10 ATTORNEY IVARSSON: And so, with inconsistent
11 defenses being considered by the jury, and I thought that,
12 that if the jury believed that Clarence was there, but
13 committed the -- but if, if Clarence was present and did
14 the shooting, that I didn't think this really was gonna --
15 you never know.

16 ATTORNEY MILLER: Okay.

17 ATTORNEY IVARSSON: That they would -- I mean, he
18 shot and killed a young person, right? And I didn't think
19 the jury --

20 ATTORNEY MILLER: Yeah.

21 ATTORNEY IVARSSON: He shot and killed a young
22 person. He was drunk, drove up in a rage, committed the
23 shooting, killed a young person. I didn't think the jury
24 was gonna be very forgiving --

25 ATTORNEY MILLER: Okay.

1 ATTORNEY IVARSSON: -- to go to second. But the
2 way we get out during the trial -- there was testimony
3 during the trial that -- I forgot who said what, but that
4 Clarence was drunk -- pretty drunk. I remember he was
5 stopped later on by a State Trooper.

6 ATTORNEY MILLER: Yes, sir. Yeah. Yeah.

7 ATTORNEY IVARSSON: State Trooper said that --
8 yeah, the -- and, and Clarence was convicted of a DWI, I
9 believe. And the State Trooper probably -- if he
10 testified, he probably testified that, in his opinion,
11 that Clarence was appreciably impaired. And I can't
12 remember the timeframes, but it was reasonably close to
13 the homicide, right?

14 ATTORNEY MILLER: Yes, it was.

15 ATTORNEY IVARSSON: And

16 ATTORNEY MILLER: Maybe about two hours.

17 ATTORNEY IVARSSON: So --

18 ATTORNEY MILLER: Or two -- more, more than that.
19 A few hours.

20 ATTORNEY IVARSSON: We, we were certainly
21 relieved that they came back with a verdict of second-
22 degree. And have you, have you ever tried a case where
23 you had anybody sentenced to death?

24 ATTORNEY MILLER: No, sir.

25 ATTORNEY IVARSSON: Yeah. Well, I've had it

1 happen twice. And that changes your perspective.

2 ATTORNEY MILLER: Sure. Absolutely. And --

3 ATTORNEY IVARSSON: One of those was a
4 17-year-old kid.

5 ATTORNEY MILLER: That's --

6 ATTORNEY IVARSSON: But he's still alive without
7 parole now.

8 ATTORNEY MILLER: Okay. Now --

9 ATTORNEY IVARSSON: He got relieved, but I've had
10 two sentenced to death. It's -- you don't forget it.

11 ATTORNEY MILLER: I'm sure.

12 ATTORNEY IVARSSON: The other guy died on death
13 row of age.

14 ATTORNEY MILLER: Oh, wow.

15 ATTORNEY IVARSSON: Yeah.

16 ATTORNEY MILLER: Okay. And do you recall if, at
17 the end of this case, if you would have had the
18 opportunity to speak with the jury?

19 ATTORNEY IVARSSON: I don't recall.

20 ATTORNEY MILLER: No. Okay. Okay. And --

21 ATTORNEY IVARSSON: I just don't -- God, I
22 remember -- I do remember this: after they came out with
23 a guilty verdict, Judge Webb finally told the Jurors,
24 you're free to leave.

25 You can sit there if you want. We're going on

1 with sentencing. Judge Webb's all about to do this.

2 ATTORNEY MILLER: Okay.

3 ATTORNEY IVARSSON: And probably with most of the
4 Jurors sitting in the box, we plowed on with our second-
5 degree sentencing hearing. And so -- but to answer your
6 question specifically, no, I don't recall speaking with
7 Jurors afterward.

8 ATTORNEY MILLER: Okay.

9 ATTORNEY IVARSSON: Whether I did or not.

10 ATTORNEY MILLER: Okay. Great. Thank you.

11 Okay. Mr. Ivarsson, if you don't mind, I'm just gonna put
12 you on a very, very brief hold. I just wanna talk to
13 Ms. Myers and make sure I'm not forgetting anything.

14 ATTORNEY IVARSSON: Sure.

15 ATTORNEY MILLER: And yeah, so just give us just
16 one moment.

17 ATTORNEY IVARSSON: Okay.

18 ATTORNEY MILLER: I'm gonna ask him if he has
19 Toni Elliott's contact information.

20 ATTORNEY MYERS: Okay.

21 ATTORNEY MILLER: We've already been in contact
22 with Steve McClain, right? We don't need --

23 ATTORNEY MYERS: We have.

24 ATTORNEY MILLER: Okay.

25 ATTORNEY MYERS: Yeah. I have a couple

1 questions for him --

2 ATTORNEY MILLER: Yeah. Yeah, no, . You don't
3 know if it's gonna be -- and that's totally fine.

4 ATTORNEY MYERS: -- that I kind of towards him.

5 ATTORNEY MILLER: Yeah. Yeah. All right.

6 Mr. Ivarsson, can you hear me okay?

7 ATTORNEY IVARSSON: Yeah.

8 ATTORNEY MILLER: Okay. Ms. Myers just has a few
9 questions she's gonna jump in and ask you before we wrap
10 up here. So -- and --

11 ATTORNEY MYERS: Hey, Mr. Ivarsson. You had just
12 mentioned that Clarence had drove -- driven up in a rage
13 and then committed the shooting. What -- based on your
14 representation of him, what would have caused him to be in
15 a rage?

16 ATTORNEY IVARSSON: Well, my recollection was
17 that -- I don't know why this is my recollection, but when
18 he got drunk, he was a violent drunk. And didn't another
19 witness testify that, that Clarence made some admission to
20 her afterward that he got into it with so-and-so and
21 so-and-so; whoever it was, fill in the blank?

22 ATTORNEY MYERS: So, that was, yeah, about
23 Soulski. He allegedly had said that to Kimberly Lowery.

24 ATTORNEY IVARSSON: Yeah. And well, I think --
25 okay. That's the best I can give you to the that answer.

1 ATTORNEY MYERS: Okay.

2 ATTORNEY IVARSSON: I am sorry.

3 ATTORNEY MYERS: Other than that, though, was
4 there -- and --

5 ATTORNEY IVARSSON: The, the, the State's case
6 was, Clarence drove up to this basketball court, got out
7 of his car, and opened fire. Maybe rage was an
8 overstatement, but I think you could infer it when you
9 open fire on a bunch of kids on a basketball court.

10 ATTORNEY MYERS: Sure. Did you ever just -- and
11 this would be asking you to speculate. But is there any
12 reason why Clarence would have had any reason to do
13 something like that at that particular -- like, why not
14 somewhere else? Open fire --

15 ATTORNEY IVARSSON: I understand your point and
16 your question. No, I don't know what -- I -- I've always
17 wondered, and this is not a defense, but did -- I'm
18 wondering, if Clarence went to that basketball court and
19 -- to, to, to look for somebody -- and Clarence was so,
20 Clarence was so drunk.

21 The person he was looking for, or the person he
22 had some beef with, some argument with, wasn't actually
23 there. But Clarence erroneously thought he was.

24 ATTORNEY MYERS: Okay.

25 ATTORNEY IVARSSON: And maybe Clarence was just

1 too drunk to think straight, and --

2 ATTORNEY MYERS: Okay.

3 ATTORNEY IVARSSON: That -- that's what I
4 thought. That's -- I guess, looking back on it, and
5 apparently, that's what the Jury thought. 'Cause they
6 sure didn't believe an alibi: wasn't there, didn't do it.

7 ATTORNEY MYERS: Sure. So, our -- so, my next
8 question is, Judge Powers has -- she -- our, our cases are
9 confidential, but I will tell you that we recently spoke
10 to Judge Powers, and she was very adamant that Roberts was
11 innocent in this case. And it sounds like you have a
12 different opinion.

13 Did that ever -- one, are you surprised to hear
14 that she feels like that, or is that something that you
15 were aware of at the time that you were both representing
16 him?

17 ATTORNEY IVARSSON: No, I'm not surprised to, to
18 hear that. No, I'm not surprised to hear that. I, I
19 think I recall Tiffany believed more than I did that
20 Clarence, in fact, did not commit a crime.

21 I kinda -- you know, I, I just didn't know.
22 Course, none, none of us were there.

23 ATTORNEY MYERS: Sure.

24 ATTORNEY IVARSSON: We were all asleep.

25 ATTORNEY MYERS: Sure.

1 ATTORNEY IVARSSON: But Clarence just wouldn't,
2 Clarence just wouldn't listen and do the, do the, do the
3 smart thing and cut a deal.

4 ATTORNEY MYERS: Right.

5 ATTORNEY IVARSSON: Had he done, had he done so,
6 he would have been out right now, right?

7 ATTORNEY MYERS: I believe so.

8 ATTORNEY MILLER: Um-hmm.

9 ATTORNEY IVARSSON: Yes.

10 ATTORNEY MYERS: So, did -- I mean, did that
11 cause there to be any tension between the two of you
12 representing Roberts, or was that not --

13 ATTORNEY IVARSSON: Oh, no.

14 ATTORNEY MYERS: Okay.

15 ATTORNEY IVARSSON: Oh, no. Not at all.

16 ATTORNEY MYERS: Okay. Okay.

17 ATTORNEY IVARSSON: Tiffany and I never argued
18 about whether he, in fact, did it or not. Not that I
19 recall. We just -- the State's case is what it is, and
20 our -- the witnesses we called were what they were.

21 ATTORNEY MYERS: Sure.

22 ATTORNEY IVARSSON: And the jury -- that's why we
23 have jury trials. The jury sorts it out.

24 ATTORNEY MYERS: My next question is, do you
25 recall what Roberts was, was wearing the night that this

1 took place?

2 ATTORNEY IVARSSON: I do not.

3 ATTORNEY MYERS: Okay. Would you -- if I told
4 you that he was supposedly wearing a t-shirt that depicted
5 Jack Nicholson's face from The Shining, would that jog
6 your memory about anything?

7 ATTORNEY IVARSSON: It, it does. It does.

8 ATTORNEY MYERS: Okay. Tell me --

9 ATTORNEY IVARSSON: Because somewhere in this
10 case, Clarence wearing a, a Jack Nicholson t-shirt
11 advertising The Shining, I remember -- I recollect that.

12 ATTORNEY MYERS: Okay.

13 ATTORNEY IVARSSON: But I independently recall
14 that he was wearing it at the time of the offense, or
15 before, or during the time of the offense, or afterwards?
16 No, I can't tell you that there was --

17 ATTORNEY MYERS: Okay.

18 ATTORNEY IVARSSON: I, I, I think he was -- I
19 think he claimed he was wearing it at the time of the
20 offense.

21 ATTORNEY MYERS: Okay. And so, I probably know
22 this question, but to just ask you, did you ever -- you
23 yourself physically lay eyes on this shirt?

24 ATTORNEY IVARSSON: No. Not that I recall, no.

25 ATTORNEY MILLER: Okay. Do you think that's

1 something that you would remember?

2 ATTORNEY IVARSSON: Mm, probably. It wasn't
3 seized as evidence, was it?

4 ATTORNEY MYERS: So, it was, and then it was
5 tested for gunshot residue. The issue that we have found
6 is that that item appears to have been admitted in -- at
7 trial as an item, and, and the items of evidence have
8 since been destroyed in this case.

9 ATTORNEY IVARSSON: Oh. I'll tell you one thing,
10 I'm -- I don't have an independent recollection of it.
11 But I am confident that Tiffany and I went and did an
12 evidence view prior to trial.

13 ATTORNEY MYERS: Okay.

14 ATTORNEY IVARSSON: I think.

15 ATTORNEY MYERS: When you --

16 ATTORNEY IVARSSON: I can't, I, I can't imagine
17 that I wouldn't have.

18 ATTORNEY MYERS: Sure. When you do an evidence
19 view, can you walk us through what that would look like?
20 Does that involve you, like, making a list of what the
21 items are? Taking photographs?

22 ATTORNEY IVARSSON: We can if we want to.
23 Typically, an evidence view, I'm, I'm there, the
24 Prosecutor's there, the Lead Detective's there, there are
25 one or two Forensic Techs there handling the evidence, and

1 unpacking it -- unpackaging it, and opening it up. And we
2 can handle it if we want to.

3 We can take photographs if we want to. And I
4 usually have -- I would have, I would have had in my hand
5 a Evidence List; a Master Evidence List.

6 ATTORNEY MYERS: Okay.

7 ATTORNEY IVARSSON: A Master Evidence List can
8 come in different flavors, depending on how well the Lead
9 Detective organized the file.

10 ATTORNEY MYERS: Sure.

11 ATTORNEY IVARSSON: So, I most likely had an
12 evidence list in my hand when we were there.

13 ATTORNEY MYERS: Okay.

14 ATTORNEY IVARSSON: And typically, when I do an
15 evidence view, I wanna see certain things. For example, I
16 probably don't want to see buccal swabs.

17 ATTORNEY MYERS: Right.

18 ATTORNEY IVARSSON: You know what I mean?

19 ATTORNEY MYERS: I do.

20 ATTORNEY IVARSSON: And so, I hope I've answered
21 your question.

22 ATTORNEY MYERS: Yeah. No. That -- that's
23 helpful. And then I think that the assumption then would
24 be that, had you prepared a Report, or took photographs,
25 or things of that nature, that that would be included in

1 the file that you gave us.

2 ATTORNEY IVARSSON: Yeah.

3 ATTORNEY MYERS: Okay.

4 ATTORNEY IVARSSON: If I felt the need to
5 photograph something, yeah.

6 ATTORNEY MYERS: Sure. Okay.

7 ATTORNEY IVARSSON: But most of, most of the
8 time, like, bloody clothes or forensic photos already
9 done.

10 ATTORNEY MYERS: Sure.

11 ATTORNEY IVARSSON: But anyway -- oh, and there's
12 always the issue about -- I mean, I've done it before:
13 having bloody clothes, bloody clothes opened in the
14 evidence view, and there are flakes of blood that spill
15 off an item of dried blood floating around in the air.

16 ATTORNEY MYERS: Yeah.

17 ATTORNEY IVARSSON: Well.

18 ATTORNEY MYERS: Not, not a, not a fun thing to
19 be a --

20 ATTORNEY IVARSSON: No.

21 ATTORNEY MYERS: -- a witness in, I'm sure.

22 ATTORNEY IVARSSON: But I've done it before.

23 ATTORNEY MYERS: Right.

24 ATTORNEY IVARSSON: And everybody goes, oh my
25 God.

1 ATTORNEY MYERS: Do you recall anything about a
2 grill that Clarence might have been wearing that night?
3 Like, gold teeth?

4 ATTORNEY IVARSSON: It rings a bell.

5 ATTORNEY MYERS: Okay. Okay.

6 ATTORNEY IVARSSON: This homicide was at dusk or
7 nighttime. I can't recall.

8 ATTORNEY MYERS: That's right. So, a, a 911 call
9 start coming in, I believe it was 9:36 PM. It happened in
10 June.

11 ATTORNEY IVARSSON: It was --

12 ATTORNEY MYERS: So, it was June 14th of 2013.

13 ATTORNEY IVARSSON: June 14th. So, it's a week
14 before the longest day of the year?

15 ATTORNEY MYERS: Right.

16 ATTORNEY IVARSSON: It'd still be dark.

17 ATTORNEY MYERS: Right. That's, that's right.

18 Okay. I -- those are all the questions that I have for
19 you, Mr. Ivarsson. Thank you.

20 ATTORNEY MILLER: Mr. Ivarsson, the only other
21 thing I have is, I know you mentioned that you'd had a
22 long relationship working with Toni Elliott. Do you, by
23 chance, have contact information for Ms. Elliott?

24 ATTORNEY IVARSSON: I do.

25 ATTORNEY MILLER: Is, is that something, like,

1 either an email or a phone number that you'd be willing to
2 provide? I'm just trying to get in touch with her, and
3 the information I have for her is from 10 years ago. So,
4 I'm not sure that it's accurate.

5 ATTORNEY IVARSSON: Do you have something to
6 write with?

7 ATTORNEY MILLER: I do. Yes, sir.

8 ATTORNEY IVARSSON: Okay. Hold on. Toni's
9 getting out of the business.

10 ATTORNEY MILLER: Okay.

11 ATTORNEY IVARSSON: But -- oh, she's still up
12 and, she's still up and running.

13 ATTORNEY MILLER: Okay. Yeah. We would just
14 love to ask her a few questions if we're able to get up
15 with her.

16 ATTORNEY IVARSSON: Try 704-906-3513.

17 ATTORNEY MILLER: 704-906 --

18 ATTORNEY IVARSSON: She lives in Matthews, North
19 Carolina.

20 ATTORNEY MILLER: Okay. Wonderful. Thank you.
21 All right. Well, Mr. Ivarsson, thank you so much for your
22 time.

23 We really do appreciate it. And like we talked
24 about earlier, at some point, we will go ahead and we will
25 send you a digital copy of a Subpoena.

1 We will give you some more information about the
2 hearing and what that Subpoena will be like. And other
3 than that, if it's okay with you, if, like, anything else
4 pops up that we need to ask you, we'd love -- like,
5 ideally, we will just be able to limit that to sending an
6 email to you.

7 So, if you wouldn't mind just kinda keeping your
8 eyes peeled for an email from us, if anything else comes
9 up. Other than that, when I do send any information about
10 the Subpoena, I'll make sure to send it high priority to
11 you so, so that you can go ahead and see it and be kept in
12 the loop.

13 ATTORNEY IVARSSON: Who's on the Innocence
14 Commission these days?

15 ATTORNEY MILLER: I'm sorry, what was that?

16 ATTORNEY IVARSSON: Who is on the Innocence
17 Commission these days?

18 ATTORNEY MILLER: Our Commissioners?

19 ATTORNEY IVARSSON: Yes. I wonder who they are.
20 Who are they? Just curious.

21 ATTORNEY MYERS: So, our, our current Commission
22 Chair is Judge Thomas Locke.

23 ATTORNEY IVARSSON: Yeah. Um-hmm.

24 ATTORNEY MYERS: And, and then Judge Sermons is
25 our alternate. We actually got some new ones, so I'm

1 going to just take a moment --

2 ATTORNEY IVARSSON: Don't worry about it. I was
3 just curious to see, see if I knew anybody.

4 ATTORNEY MILLER: Well, Johnson Britt --

5 ATTORNEY MYERS: Johnson Britt, yeah.

6 ATTORNEY MILLER: -- is actually technically --
7 he's on -- well, not technically. He is on our
8 Commission. He is recused from hearing this case,
9 obviously.

10 ATTORNEY IVARSSON: Oh, who is?

11 ATTORNEY MILLER: Johnson Britt.

12 ATTORNEY IVARSSON: Yeah. He's [indiscernible].
13 Yeah.

14 ATTORNEY MILLER: Because it would be, be kind of
15 a big, kind of a big one.

16 ATTORNEY MYERS: Deb, Deb -- Attorney Deb Newton
17 is in his place, I believe.

18 ATTORNEY IVARSSON: That's all right. That's
19 okay. I don't know.

20 MS. ATTORNEY MYERS: Yeah.

21 ATTORNEY IVARSSON: I, I, I recognize Judge
22 Locke's name.

23 ATTORNEY MILLER: Um-hmm.

24 ATTORNEY IVARSSON: I've tried cases with him,
25 with him before -- one or two.

1 ATTORNEY MILLER: DA Ashley Welch out of
2 Cherokee, Clay, Graham, out there in the western --
3 southwestern counties. Todd Williams is the DA out in
4 Buncombe. I'm just trying to tell you some of the ones
5 that are in the legal field. Kieran Shanahan.

6 ATTORNEY IVARSSON: Okay.

7 ATTORNEY MILLER: Beth Tanner. Yeah.

8 ATTORNEY IVARSSON: So, does the entire
9 Commission hear these matters?

10 ATTORNEY MILLER: So, we will have eight
11 Commissioners that will sit and hear the case. The ones
12 who are -- if, if there's more than eight that are
13 available to hear the case, they can do so, but they won't
14 be able to vote on it. So, technically, they can all sit
15 in here, but only eight of the members will be able to
16 actually vote when it comes down to it.

17 ATTORNEY IVARSSON: Okay.

18 ATTORNEY MYERS: Yeah. One last question,
19 Mr. Ivarsson. And since we have been talking to you, do
20 you recall -- has anything else kinda come to the
21 forefront of your mind about this case that we haven't
22 talked about or asked you about?

23 ATTORNEY IVARSSON: No, not that we haven't
24 discussed.

25 ATTORNEY MYERS: Okay.

1 ATTORNEY IVARSSON: Clarence just wouldn't
2 listen. He just wouldn't take a good deal.

3 ATTORNEY MYERS: Did you feel pretty frustrated
4 by that?

5 ATTORNEY IVARSSON: Yeah. Especially when his
6 family came in and, you know, hope springs eternal. I
7 thought there might be a family member who would say, wow,
8 Clarence, you know, you're taking a big risk here.

9 And so, maybe you ought to cut your losses and
10 take this deal. You served 100 -- a good 100 sentence
11 already. But no. Instead, the family members were --
12 they, they were no help.

13 ATTORNEY MYERS: Okay.

14 ATTORNEY IVARSSON: They was just no help. They
15 didn't push him to go to trial. They did not do that. It
16 was -- if I recall, it was just more along the lines of,
17 oh, it's gotta be your decision. And I understand that,
18 but -- okay. No, that's all. He just wouldn't listen.

19 ATTORNEY MYERS: And okay. One last thing that I
20 just, that I just thought of: do you recall there being
21 Jail, Jail calls in this case?

22 ATTORNEY IVARSSON: I do not recall Jail calls
23 being admitted into evidence. I don't recall that
24 independently right now, no.

25 ATTORNEY MYERS: Okay. Okay.

1 ATTORNEY IVARSSON: Were there?

2 ATTORNEY MYERS: There were, and --

3 ATTORNEY IVARSSON: Oh, geez.

4 ATTORNEY MYERS: -- I haven't been able to get a
5 -- or, we haven't been able to get a copy of those. And
6 so, I, I think that I just wanted to know if you happened
7 to remember anything specifically that was on those
8 tapes --

9 ATTORNEY IVARSSON: No.

10 ATTORNEY MYERS: -- or recordings. Okay.

11 ATTORNEY IVARSSON: I do not.

12 ATTORNEY MYERS: All right. Is your State email
13 address sufficient for --

14 ATTORNEY IVARSSON: Hey, when the Jail recordings
15 were admitted into evidence, didn't the Court Reporter
16 take down the contents of the recording? Or not?

17 ATTORNEY MYERS: She did not, no. No, it was --
18 that was off the record.

19 ATTORNEY IVARSSON: Oh. Okay.

20 ATTORNEY MYERS: Or maybe not off -- yeah, I
21 guess off the record. Yeah. 'Cause it's not -- it's not
22 in the trial transcript.

23 ATTORNEY IVARSSON: Okay.

24 ATTORNEY MYERS: So, is your State email address
25 sufficient for us to send the email to regarding the

1 Subpoena?

2 ATTORNEY IVARSSON: That'll would be fine.

3 ATTORNEY MYERS: Okay.

4 ATTORNEY IVARSSON: Yeah.

5 ATTORNEY MILLER: All right. Thank you so much,
6 Mr. Ivarsson. We really appreciate your time, and you'll
7 be hearing from us in the next few weeks about that
8 hearing Subpoena.

9 ATTORNEY IVARSSON: Thank you so much.

10 ATTORNEY MILLER: Thank you. You enjoy the rest
11 of your day.

12 ATTORNEY IVARSSON: You, too. Bye-bye.

13 (Call ended.)

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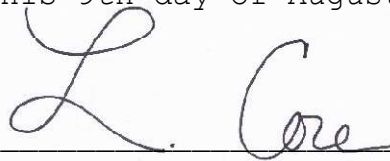
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CERTIFICATION OF TRANSCRIPT

This is to certify that the foregoing transcript of interview, consisting of 75 pages is a true and accurate transcript of the proceeding from the recording I have been provided. I further certify that I am not related to any Party or Attorney, nor do I have any interest whatsoever in the outcome of this action.

THIS 9th day of August 2023.



LATORRIA CORE, Transcriptionist

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2,24 66:22		

Handout 65

Harrell Deposition Excerpt

1 fading. I don't recall if there was, like, sweat on the
2 bottles or not.

3 Q. Um-hmm.

4 A. But again, they were upright, no fading, no
5 dirt or anything. And it was -- the grass and the area
6 was very wet too.

7 And they appeared, you know -- I don't remember
8 if they were -- they wouldn't have been -- they were
9 standing upright. So, they wouldn't necessarily have been
10 wet or dry.

11 Q. Um-hmm.

12 A. But in their overall general appearance, they
13 appeared too not be there long.

14 Q. Okay. So, I'm going to go up to page 47 of
15 that exhibit of your Report.

16 A. Yes, ma'am.

17 Q. And the last paragraph, although it was
18 believed that the Suspect had fired a gun from inside a
19 vehicle.

20 A. Um-hmm.

21 Q. So, I know that you searched the vehicle -- or
22 the area, I'm sorry --

23 A. Yes, ma'am.

24 Q. -- for shell casings.

25 A. Yes, ma'am.

1 Q. Was it typical to not locate shell casings in
2 shooting incidents?

3 A. If it's, if it's shot from a vehicle --

4 Q. Um-hmm.

5 A. -- because obviously if you are in the vehicle,
6 unless you really lean out before the shell casing would
7 eject.

8 Q. Um-hmm.

9 A. I mean, if you're, you know, shooting it even
10 -- especially, you know, and I'm not -- you know, some
11 people may cant their arm or something like that --

12 Q. Um-hmm.

13 A. -- which makes the shell casings go downward,
14 which would still be maybe in the vehicle.

15 Q. Um-hmm.

16 A. If they shot like this, it would be very
17 possible. Generally, with shootings from vehicles, it's
18 like a 50-50 chance of getting them inside the vehicle or
19 outside the vehicle --

20 Q. Okay.

21 A. -- and sometimes both.

22 Q. Okay.

23 A. It really just depends on where the firearm was
24 located when it was fired.

25 Q. Um-hmm.

1 A. But -- and generally, if there is a, like, a, a
2 revolver used, obviously --

3 Q. Okay.

4 A. -- unless they reloaded the whole cylinder,
5 we're not --

6 Q. Yeah.

7 A. -- going to get any shell casings from that.
8 But as a rule of thumb, any shooting we're still going to
9 look --

10 Q. Right.

11 A. -- for shell casings. Whether, you know,
12 whether they said, oh, they opened the back of a van up --

13 Q. Um-hmm.

14 A. -- and shot from the back of a van. We're
15 still --

16 Q. Still look.

17 A. -- obviously going to look for shell casings.

18 Q. Right.

19 A. So, that's just a general rule of thumb. But
20 it wouldn't be -- I wouldn't call -- I wouldn't say that
21 it's not uncommon --

22 Q. Okay.

23 A. -- for there to be a shooting from a vehicle
24 and you not find any shell casings outside.

25 Q. Got it. Okay. Whenever you search for the

1 shell casings or search for anything, are you limited to
2 what's inside of the crime scene tape?

3 A. I wouldn't say limited. But generally, we're
4 going to search the area. If we have evidence to believe
5 that they may -- for instance, say they may have got, you
6 know,

7 100 yards down the road and started shooting again --

8 ATTORNEY SMITH: Right.

9 A. -- then obviously we're going to send somebody
10 down there, and then that would be a secondary scene.

11 Q. Okay.

12 A. So, I wouldn't say that just because the tapes
13 up, at that door --

14 Q. Um-hmm.

15 A. -- that's not to say that we're not going to go
16 on the other side of that tape. You know what I'm saying.
17 More or less, the tape is to keep everybody else from
18 disturbing anything while we try to process. But I
19 wouldn't, I wouldn't say that we were limited to that, no,
20 ma'am.

21 Q. Okay. Do you remember in this case, whenever
22 you were searching for the shell casings, if --

23 A. If I recall, I would have searched that whole
24 grassy area and the, the kind of dirt--

25 Q. Um-hmm.

1 A. -- because from my knowledge, everything
2 happened right there in front of the basketball courts --

3 Q. Um-hmm.

4 A. -- and nothing beyond that.

5 Q. Okay.

6 A. So, we wouldn't have had any kind of -- we
7 wouldn't have had any reason to go beyond that.

8 Q. Okay.

9 A. Again, like I said, if somebody says, hey, you
10 know, and they, they turned the corner down there and
11 started shooting again, then, you know, if we had evidence
12 to show that we needed to go outside of that scene,
13 obviously we would.

14 Q. Right.

15 A. But best I recall in this situation, we didn't
16 have any evidence showing that it would be outside of
17 that.

18 Q. Okay. I'm going to go to page 48 of your
19 Report, and this is towards the middle. It's after you
20 sealed the body bag. It's that paragraph after, after the
21 bag is sealed.

22 A. After the bag was sealed? Yes, ma'am.

23 Q. Um-hmm. So, you and Detective Collins spoke
24 with a Nursing Supervisor --

25 A. Yes, ma'am.

Handout 66

Eric Monroe Excerpt

1 basically when he stepped up to the leader position. And
2 everybody didn't like that, you know what I'm saying?

3 MS. MYERS: Because he just moved in?

4 THE WITNESS: Yeah.

5 MS. MYERS: Okay. WeDo was killed by other
6 members of the Bloods, though; is that right?

7 THE WITNESS: (No audible response).

8 MS. MYERS: Okay. Is that what started kind of a
9 division --

10 THE WITNESS: Mm-hmm.

11 MS. MYERS: Okay. So were people pissed off at
12 John Allen at the time that Josh Council was killed that
13 night?

14 THE WITNESS: No, not really, not at that time.
15 Not at that time.

16 MS. MYERS: Okay. All right.

17 I'm going to show you what was previously marked
18 as Exhibit 3.

19 Do you know who this person is?

20 THE WITNESS: It's Dextor.

21 MS. MYERS: Do you know Dextor's last name?

22 THE WITNESS: Is it Stephens?

23 MS. MYERS: Okay.

24 THE WITNESS: I'm not sure. It might be.

25 MS. MYERS: What -- tell me what you know about --

1 like, how do you know who that is?

2 THE WITNESS: He's been a Blood forever.

3 MS. MYERS: Okay.

4 THE WITNESS: He's just known as a Blood.

5 MS. MYERS: He's just known?

6 THE WITNESS: Yeah, like he's known to be violent,
7 put it that way, and to be a Blood. So ...

8 He's known.

9 MS. MYERS: He's known to be violent?

10 THE WITNESS: (No audible response).

11 MS. MYERS: Okay. Did -- do you know if he had
12 issues with John Allen at the time Josh was killed?

13 THE WITNESS: No, I don't think so, to be honest.
14 I really don't.

15 MS. MYERS: Okay.

16 THE WITNESS: I'm not sure so I'm not going to
17 really put nothing out there that I'm not sure.

18 MS. MYERS: Sure. You don't have to. And I
19 appreciate that.

20 Why did people say that he was the shooter that
21 killed Josh?

22 THE WITNESS: Probably because he's known to shoot
23 people, to be honest.

24 MS. MYERS: He's known to shoot people?

25 THE WITNESS: Yeah.

1 MS. MYERS: Okay.

2 THE WITNESS: That's who hit WeDo.

3 MS. MYERS: He killed WeDo?

4 THE WITNESS: Mm-hmm. So he was locked up, I
5 think, at the time.

6 MS. MYERS: For WeDo?

7 THE WITNESS: I think he were locked up at the
8 time.

9 MS. MYERS: Of this?

10 THE WITNESS: Yeah. I don't know. He might not
11 have been, but I think he was. I don't even -- it's been so
12 long ago. WeDo got killed in, like, 2011. And --

13 MS. MYERS: It was either 2011 or 2009, I can't
14 remember now.

15 THE WITNESS: It wasn't '9 because --

16 MS. MYERS: Okay. Then it was --

17 THE WITNESS: -- it was my freshman year in high
18 school.

19 MS. MYERS: Then it was 2011. You're right.
20 Yeah. Okay.

21 So he's responsible for WeDo's murder?

22 THE WITNESS: Mm-hmm.

23 MS. MYERS: But he's never been held accountable
24 for it?

25 THE WITNESS: Hmm-mm.

1 MS. MYERS: Okay. Did you see him this night?

2 THE WITNESS: Hmm-mm. I -- no, I didn't see him.
3 But it was -- now that you're saying that, it's a
4 possibility, it could have been him, to be honest.

5 MS. MYERS: It's a possibility that what?

6 THE WITNESS: He could've been the shooter. But
7 like -- it do make sense probably because, like, why would
8 the other dude just come through out of the blue and be
9 like, "What y'all gonna do, bust me?" Like, he might have
10 thought -- he got tension around, you know what I'm saying?

11 MS. MYERS: He had tension? Is that what you
12 said?

13 THE WITNESS: Yeah, like tension and everything
14 and stuff like that, because everybody knew that he was
15 responsible for WeDo. Everybody loved WeDo, you know what
16 I'm saying? So ...

17 And he might have just sped through on purpose
18 looking for a reason to do something, you know what I'm
19 saying? And it kind of makes sense now that you bring it --
20 bring it up and say it like that.

21 But I can't say for sure.

22 MS. MYERS: Had you ever heard anybody talk about
23 Dexter Stephens being the shooter?

24 THE WITNESS: Yeah.

25 MS. MYERS: You had?

1 THE WITNESS: Mm-hmm.

2 MS. MYERS: Tell me about that.

3 THE WITNESS: I just heard it was like -- they
4 said it was -- they -- at first, people was saying it was
5 Dextor and stuff like that. And then the -- they said that
6 they caught the other person, and they said the other person
7 was -- like, wasn't even from Lumberton and came down here
8 mad because he got in some altercation with his family or
9 something at home and was just looking for trouble, I guess,
10 like -- but I heard he did it, and then he said they caught
11 the person that actually did do it; so ...

12 MS. MYERS: Who's -- who do you recall said that
13 this was Dextor?

14 THE WITNESS: What, that did it? That shot Josh?
15 I can't remember it now. I call him -- everybody
16 call him "Hot Top." He did my first tattoo ever. But I
17 can't -- I don't know his real name.

18 MS. MYERS: What about anybody at the scene that
19 was there in this picture? Did anybody in this picture ever
20 say that Dextor Stephens -- talk to you about Dextor
21 Stephens doing the shooting?

22 THE WITNESS: Honestly, I can't remember. I mean,
23 I done been through so much and there's so much I can't
24 remember.

25 MS. MYERS: I understand. Do you -- did you ever

1 talk to Dizzy about his experience during the shooting?

2 THE WITNESS: Mm-hmm.

3 MS. MYERS: Do you remember anything Dizzy told
4 you?

5 THE WITNESS: He said he's going -- matter of
6 fact, Dizzy did say that -- I'd say he did say he thought it
7 was Dextor, Dizzy did say that. Because he knows Dextor,
8 you know what I'm saying, personally. I don't know him
9 personally. I --

10 MS. MYERS: You don't know --

11 THE WITNESS: -- heard about him and seen him a
12 couple places, but I haven't sat down and even held a
13 conversation like we are with him.

14 MS. MYERS: When you spoke to Dizzy, was he sure
15 that it was Dextor?

16 THE WITNESS: No, I can't say he was sure but he
17 said he thought it was.

18 MS. MYERS: Okay.

19 THE WITNESS: Because he was the last one to take
20 off running because, like, he was -- he had John Allen's son
21 in his hand. Yeah, dizzy had John Allen's son in his hand
22 or somebody's son because --

23 MS. MYERS: Are you sure it was his son?

24 THE WITNESS: Yeah, or some child -- somebody's
25 child --

1 MS. MYERS: Okay.

2 THE WITNESS: -- out there.

3 MS. MYERS: Yeah. It could have been a son. I
4 don't know.

5 THE WITNESS: Yeah.

6 MS. MYERS: Okay.

7 THE WITNESS: It was a lot of females out there --

8 MS. MYERS: Okay.

9 THE WITNESS: -- you know what I'm saying, so he
10 had somebody's baby in hand and they started shooting. And
11 he had to put the baby in the car and duck down, and that's
12 when the -- was walking towards him, that's when he took off
13 running.

14 MS. MYERS: Okay. Did Dizzy ever have a
15 conversation with the shooter that night that you know of?

16 THE WITNESS: He said something to him, I can't
17 remember, but I -- it's coming back now that he did say he
18 said something to him. But ...

19 "Hold, Bruh, chill" -- something like that --
20 something like that, okay. He did say he said something
21 like that.

22 MS. MYERS: Okay. Do you know how Dizzy knew
23 Dextor?

24 THE WITNESS: From -- I always stayed in the
25 country, but I always went to the Eastside of Lumberton;

1 so -- I don't know. But Dizzy always stayed over there
2 every day so he knew everybody on the Eastside. So ...

3 MS. MYERS: Okay.

4 THE WITNESS: That's how ...

5 MS. MYERS: And Dextor was from the Eastside?

6 THE WITNESS: Yeah.

7 MS. MYERS: Okay. Are you sure he was from the
8 Eastside?

9 THE WITNESS: No, that's where I knew him from
10 predominantly --

11 MS. MYERS: You know him from the Eastside?

12 THE WITNESS: Yeah.

13 MS. MYERS: Okay. And I don't know where he's
14 from; so if that's what -- yeah.

15 Okay. Have you ever seen this guy in person,
16 Dextor Stephens?

17 THE WITNESS: Yeah.

18 MS. MYERS: Do you recall where you saw him in
19 person?

20 THE WITNESS: Brandy's Quick Check in Lumberton.

21 MS. MYERS: Just randomly?

22 THE WITNESS: Yeah.

23 MS. MYERS: All right. Excuse me.

24 So let me go back to -- I'm going to go back to
25 Clarence Roberts, so Exhibit 1 that you already looked at.

1 Can you tell me with a hundred percent certainty
2 that that's who you saw get out of that vehicle and start
3 shooting the night that Josh was killed?

4 THE WITNESS: Hmm-mm.

5 MS. MYERS: No?

6 THE WITNESS: Can't say for certain.

7 MS. MYERS: Okay. Even though you were close to
8 the shooter?

9 THE WITNESS: Even though I was close. It was
10 dark and the window had tint, but he had it rolled down a
11 little bit, you know, and I looked in, but he did have gold
12 teeth in their mouth.

13 MS. MYERS: Okay. Do you remember anything
14 specifically about the vehicle? Like, was there anything --

15 THE WITNESS: It had a dent on the right-hand
16 side.

17 MS. MYERS: It had -- thank you. It had a dent on
18 the right-hand side?

19 THE WITNESS: Mm-hmm.

20 MS. MYERS: Like it had been hit by another car?

21 THE WITNESS: Or it rammed into something,
22 something like that.

23 MS. MYERS: Gotcha.

24 THE WITNESS: It wasn't no big dent. It was a
25 little dent --

Handout 67

National Weather Service Definitions of Twilight

Definitions of Twilight

[Weather.gov](#) > [Sioux Falls, SD](#) > Definitions of Twilight

Sioux Falls, SD

Weather Forecast Office

[Current Hazards](#) [Current Conditions](#) [Radar](#) [Forecasts](#) [Rivers and Lakes](#) [Climate and Past Weather](#) [Local Programs](#)

In its most general sense, twilight is the period of time before sunrise and after sunset, in which the atmosphere is partially illuminated by the sun, being neither totally dark or completely lit. However there are three categories of twilight that are defined by how far the sun is below the horizon.

Civil Twilight:

- Begins in the morning, or ends in the evening, when the geometric center of the sun is 6 degrees below the horizon. Therefore morning civil twilight begins when the geometric center of the sun is 6 degrees below the horizon, and ends at sunrise. Evening civil twilight begins at sunset, and ends when the geometric center of the sun is 6 degrees below the horizon. Under these conditions absent fog or other restrictions, the brightest stars and planets can be seen, the horizon and terrestrial objects can be discerned, and in many cases, artificial lighting is not needed. Civil Twilight is also known as [Civil Dawn and Civil Dusk](#).

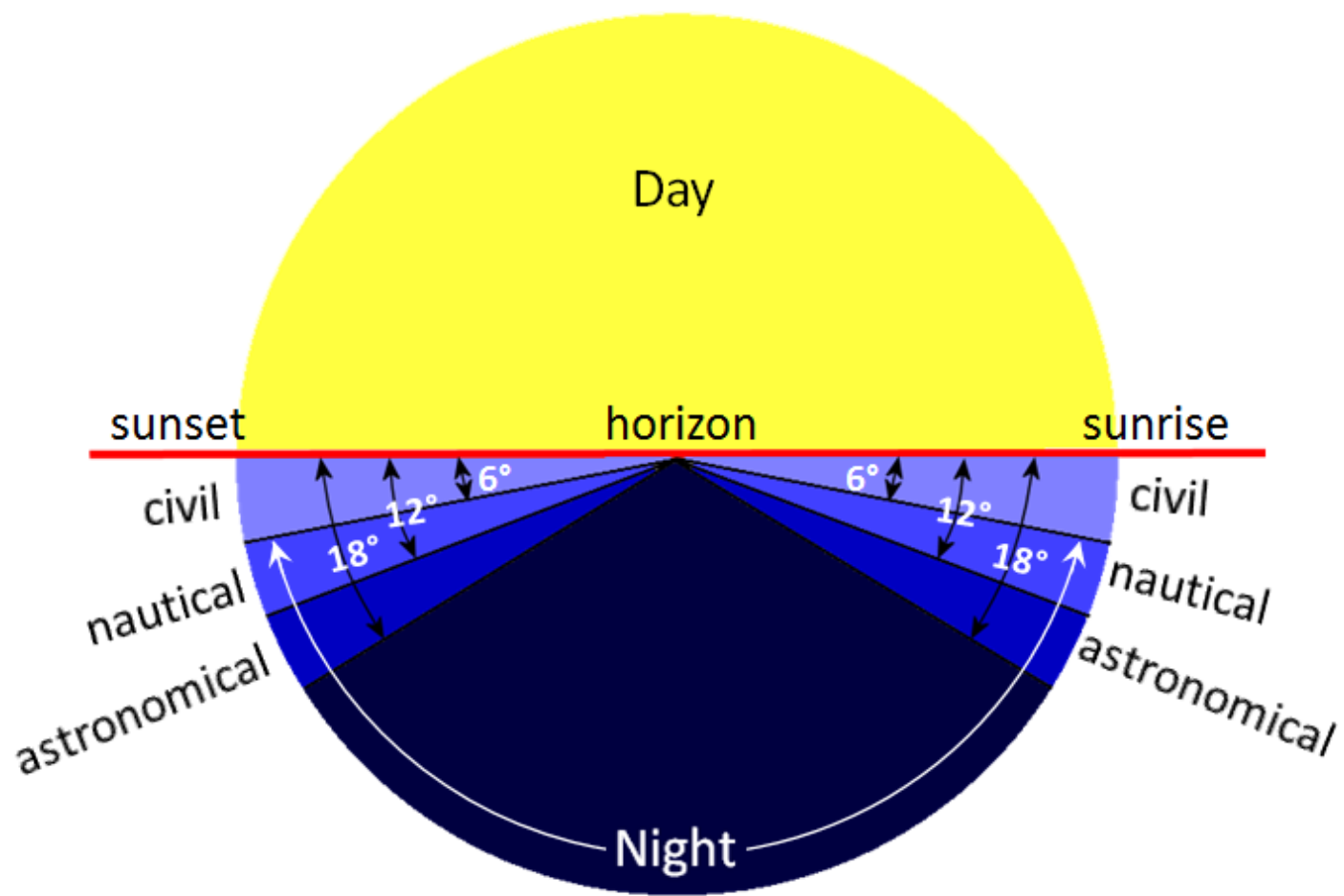
Nautical Twilight:

- Begins in the morning, or ends in the evening, when the geometric center of the sun is 12 degrees below the horizon. In general, the term nautical twilight refers to sailors being able to take reliable readings via well known stars because the horizon is still visible, even under moonless conditions. Absent fog or other restrictions, outlines of terrestrial objects may still be discernible, but detailed outdoor activities are likely curtailed without artificial illumination. Nautical Twilight is also known as [Nautical Dawn and Nautical Dusk](#).

Astronomical Twilight:

- Begins in the morning, or ends in the evening, when the geometric center of the sun is 18 degrees below the horizon. In astronomical [twilight](#), sky illumination is so faint that most casual observers would regard the sky as fully dark, especially under urban or suburban light pollution. Under astronomical twilight, the horizon is not discernible and moderately faint stars or planets can be observed with the naked eye under a non light polluted sky. But to test the limits of naked eye observations, the sun needs to be more than 18 degrees below the horizon. Point light sources such as stars and planets can be readily studied by astronomers under astronomical twilight. But diffuse light sources such as galaxies, nebula, and globular clusters need to be observed under a totally dark sky, again when the sun is more than 18 degrees below the horizon.

The figure below shows civil, nautical and astronomical twilight. Note that the angles are not to scale so as to show the three twilight categories with more clarity.



Source: <https://w1.weather.gov/glossary/>

Handout 68

Facebook Messages
from Michael Burgess
to John Allen

11:11

LTE



Micheal Burgess



Micheal Burgess

Facebook

You're not friends on Facebook

44 mutual friends including Ray Howell and Logan Lo

[View profile](#)

APR 07, 2022 AT 10:49 PM



Wassup

SEP 15, 2022 AT 10:14 PM



Yo

MAR 03 AT 9:19 AM



Damn yo that's how you feel

MAR 05 AT 10:13 PM



Fuck you too then rat ass nigga you
a dub bitch Big Hercules 🦵 GKB
Ososunny

If you reply, Micheal Burgess will also be able to call you and see info like your Active Status and when you've seen messages.

Block

Delete



Aa

