

**IN THE DISTRICT COURT OF THE UNITED STATES  
DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

**UNITED STATES OF AMERICA**

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**v.**

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**CRIMINAL NO.: 2:16-378**

**MICHAEL SLAGER**

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**GOVERNMENT’S SENTENCING MEMORANDUM**

COMES NOW, the United States of America, through undersigned counsel, and submits this Sentencing Memorandum to assist the Court in this matter. The defendant Michael Slager pleaded guilty to one count of Deprivation of Rights Under Color of Law in violation of 18 U.S.C. § 242, for the unjustified shooting of Walter Scott, which resulted in his death. Sentencing is scheduled to take place between December 4 and 6, 2017.

The government respectfully submits that, in calculating the sentence in this matter, the Court should find the underlying offense to be second degree murder, as defined by U.S.S.G. §2A1.2. During his plea, the defendant acknowledged he willfully used unreasonable force when he shot Walter Scott, even though Scott was unarmed and posed no threat. This admission by the defendant establishes malice and negates the existence of “heat of passion,” thus precluding a finding of voluntary manslaughter. The government accordingly objected to the PSR’s cross-reference to voluntary manslaughter.

Second, the government respectfully submits that the obstruction of justice enhancement is applicable here because the defendant repeatedly obstructed justice – by moving his Taser after the shooting; providing false and misleading information to his supervisors and state

investigators; and, providing misleading and inaccurate testimony under oath during proceedings in state and federal court – and accordingly, the defendant’s offense level should be increased by two points pursuant to §3C1.1. The government objected to the PSR’s failure to apply obstruction of justice points.

Third, the defendant’s reply to the Government’s objections suggests that he may no longer be accepting responsibility for his actions. Should the defendant pursue a false factual narrative and/or assert an imperfect self-defense theory at sentencing, the defendant should not receive the three-point reduction for acceptance of responsibility that is currently included in the PSR.

Fourth, no downward departure is appropriate pursuant to 5K2.10’s specified factors for extreme wrongful conduct on the part of the victim.

**I. FACTUAL BACKGROUND**

**A. Factual Basis For the Plea**

On May 2, 2017, the defendant acknowledged that he shot Walter Scott without legal justification. The defendant acknowledged the following facts during his plea of guilty:

On April 4, 2015, Michael Slager was a commissioned police officer with the North Charleston Police Department (NCPD). Slager was on duty as a police officer when he stopped Walter Scott’s vehicle after observing that the center brake light was not working. During the stop, Scott fled the scene on foot. Slager engaged in a foot chase of Scott for approximately 200 yards. During the chase, Slager deployed the probes of his Taser. His first attempt to use his Taser was unsuccessful in stopping Scott. Slager ultimately caught up to Scott and deployed his Taser probes a second time.

After the second Taser deployment, Scott fell to the ground. Scott managed to get off the ground and again run away from Slager. The defendant’s Taser dropped to the ground behind the defendant. As Scott was running away, Slager fired eight shots at him from his department issued firearm. During the time that each of the eight shots were fired, Scott was unarmed and running away from Slager. Five shots hit Scott, all entering from behind. Scott suffered bodily injury and died on the scene as a result of the injuries from the gunshots.

The defendant used deadly force even though it was objectively unreasonable under the circumstances. The defendant acknowledges that his actions were done willfully, that is he acted voluntarily and intentionally and with specific intent to do something that the law forbids.

### **B. The Shooting of Walter Scott**

The following facts are established by the defendant's admissions in the plea agreement; video and audio sources;<sup>1</sup> an independent civilian eyewitness's observations of the encounter; the autopsy report; photogrammetry<sup>2</sup> experts; the defendant's training records, and statements of the defendant's supervisors.<sup>3</sup>

On April 4, 2015, North Charleston Police Department (NCPD) Officer Michael Slager stopped Walter Scott's vehicle after observing its center brake light was not functioning. After the stop, Scott fled on foot, and the defendant ran after him. During the chase, the defendant unsuccessfully deployed his Taser probes one time. Seconds later, the defendant caught up to Scott and deployed his Taser probes a second time, bringing Scott to the ground.<sup>4</sup>

The defendant got on top of Scott, but Scott continued to attempt to get away. While Scott was on the ground, the defendant used his Taser against Scott at least three times in drive-

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<sup>1</sup> All of the video and audio – plus evidence from Scott's phone records and the defendant's Taser records – were combined by crime scene recreation expert Bill Williams into a single exhibit that allows the viewer to follow the synchronized video and audio evidence in actual time. Williams found common anchor points in the different video/audio recordings, which enabled him to link the different recordings together accurately. Williams' work product is submitted with the document as Attachment A. Due to the size of the files, this attachment will be provided on a thumb drive.

<sup>2</sup> Reverse projection photogrammetry is a technique utilized to determine information, such as distances, from two-dimensional photographs or video.

<sup>3</sup> The government notes that the PSR's offense summary omits material facts and, at times, relies solely on the defendant's account – an account that was flatly contradicted by the evidentiary record, including bystander video and the testimony of an independent civilian eyewitness. *See, e.g.*, PSR, para. 16.

<sup>4</sup> In probe mode, the Taser ejects wires with two probes at the end from a cartridge. When both probes attach to the subject's clothing or skin, the device will send pulsating electrical charges that induce involuntary muscle contractions by overriding the brain signals to the sensory and motor nervous systems.

stun mode.<sup>5</sup> Scott nonetheless managed to get off the ground and again run away from the defendant. As Scott ran away, the defendant fired eight shots at him from his department-issued firearm. Five shots hit Scott, who died on the scene from his injuries.

Feidin Santana<sup>6</sup> was walking to work when he noticed the defendant chasing Scott. Santana did not know either Scott or the defendant. Santana lost sight of the two men and then saw Scott on the ground with the defendant on top. Testimony of Feidin Santana, November 14, 2016 (“Santana”), at 115-116. Santana heard what sounded like “electricity,” followed by what appeared to be a punch to Scott’s right side by the defendant. *Id.* at 21. At no point did Santana see Scott attempt to assault, punch or fight with the defendant. *Id.* at 121-122, 154. Santana never saw the Taser in Scott’s hand or Scott moving towards the defendant with the Taser. *Id.* at 24, 50, 127. He never saw Scott on top of the defendant. *Id.* at 25, 150. In Santana’s opinion, Scott was merely attempting to get away. *Id.* at 128-129, 154-155.

Santana filmed portions of the incident on his cellular phone.<sup>7</sup> The first few seconds of Santana’s video contain blurry and indecipherable activity. The first clear moment of the video shows Scott pulling away from the defendant. A freeze-frame of the video shows the defendant grabbing Scott’s right arm, with the defendant’s left hand. *See* frame 396. Scott’s right hand was empty. Scott was holding a cell phone in his left hand, which can be seen in later frames as Scott

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<sup>5</sup> In drive stun mode, the Taser is placed directly against a subject, and electric current runs through contact points and causes localized pain.

<sup>6</sup> References in this memo cite to Santana’s testimony during the defendant’s state murder trial, a draft transcript of which was previously provided to the Court. The government anticipates that Santana will testify before the Court in the upcoming sentencing hearing.

<sup>7</sup> Santana briefly stopped recording after the shooting, and then resumed recording. Thus, there are two Santana videos. The original Santana videos were modified in two respects to facilitate viewing and identification: first, by adding time and frame stamps and, second, by rotating the image when necessary to maintain landscape perspective. The frame images themselves were not altered. The two videos are submitted as Attachment B and C, and are provided on a thumb drive due to the size of the file. The videos are best viewed using QuickTime, which enables the viewer to move through the video one frame at a time.

ran away from the defendant. *See* frames 467, *et seq.* Shortly after the two men separated, the defendant's Taser bounced along the ground, coming to rest approximately eleven feet behind where the defendant was standing. *See* frames 406, *et seq.* The Taser came from the defendant's right hand, when he threw it down in order to free his hand to reach for his service weapon.

After Scott broke away from the defendant, Scott ran away from the defendant at a relatively slow pace. Scott was unarmed – he possessed no Taser, no firearm or other weapon. Scott did not present an imminent danger of serious physical injury to the defendant or the community. Santana's video shows that, as Scott ran away, the defendant fired eight shots, and then Scott fell to the ground. Santana's video shows that Scott was unarmed, with his back to the defendant and running away from the defendant when all eight shots were fired. As the defendant knew through his training at the South Carolina Criminal Justice Academy (SCCJA) and at regular in-service training at NCPD, a police officer may not use deadly force to seize an unarmed, nondangerous fleeing suspect.

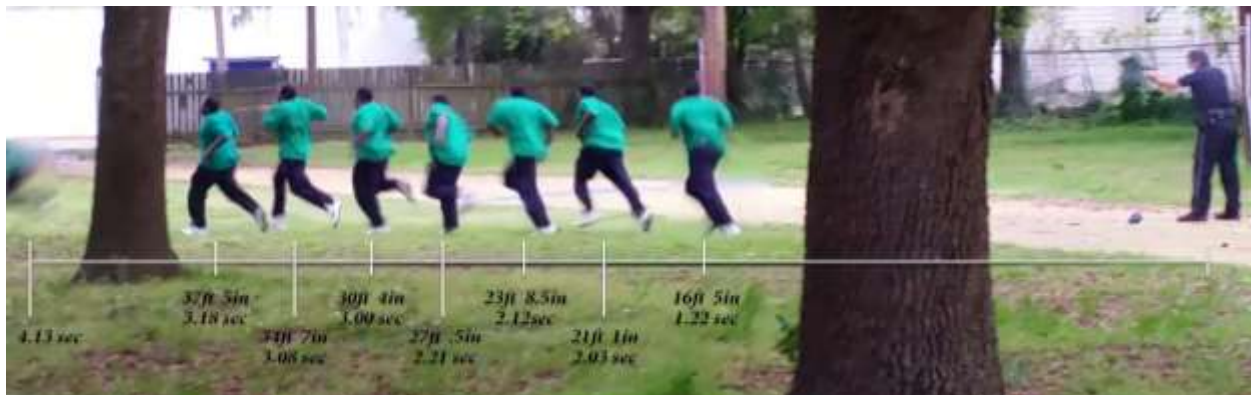
An autopsy<sup>8</sup> revealed that all five shots hit Scott from behind, and the coroner concluded that Scott died as a result of gunshot wounds to the torso. The autopsy identified five gunshot wounds: an entrance wound on his posterior right shoulder (which exited the front shoulder); an entrance wound to posterior right chest (which perforated Scott's right lung and heart); an entrance wound to his right buttocks; an entrance wound to his right flank; and a graze wound to the right ear. The autopsy findings confirmed that Scott was shot from behind. The autopsy also revealed abrasions to Scott's back and left forearm, as well as contusions to the left cheek bone and left wrist.

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<sup>8</sup> The autopsy is attached as Attachment I (R5 SAW 153-158).

Experts using reverse projection photogrammetry estimated that the defendant fired his first shot when Scott was sixteen to eighteen feet away. Reverse projection photogrammetry is a technique to determine information, such as distances, from two-dimensional photographs or video. In this case, both FBI Forensic Examiner Anthony Imel and Crime Scene Reconstruction Expert Bill Williams separately analyzed the Santana video to determine when each shot was fired. Then, both separately went to the scene of the shooting, and both identified fixed reference points from the original video (such as telephone poles, trees, and the paved road). Using an exemplar cellphone, both determined where Santana's camera had been located and where Scott and the defendant were located during seven of the eight shots, and then measured the distances. (Because of motion blur, the eighth shot could not be determined precisely using this method.) During each of the eight shots, Scott ran further away from the defendant. The defendant fired the final shot when Scott was over forty feet away. Scott then fell to the ground.

Imel determined the approximate distances from Scott to the defendant as follows:



Williams determined the approximate distances from Scott's position to the defendant's position as follows:



Williams also estimated the distance between where the defendant fired and Scott fell to be approximately 50 feet.<sup>9</sup>

### C. The Defendant's Persistent Efforts to Obstruct Justice

After the shots, the defendant got on his radio and falsely claimed that Scott “grabbed [his] Taser.” The defendant walked over and handcuffed Scott. The defendant immediately jogged over to the area behind where he fired his weapon. He picked up his Taser, returned to Scott’s body, and dropped the Taser next to the body. *See* frame 1917, *et seq.*



*Frame 1918: Defendant Picks Up Taser*

*Frame 2614: Defendant Drops Taser*

<sup>9</sup> The defendant’s expert, Eugene Liscio, determined that Walter Scott was approximately 18 feet away when Slager fired the first shot. He did not measure any additional shots.

Approximately thirty seconds later, the defendant picked up the Taser again and placed it in his duty belt. The Taser was ultimately collected from the defendant's duty belt. The defendant would later claim to SLED that he found the Taser between where he was shooting and where Scott ultimately fell. However, according to Bill Williams's estimation using reverse projection photogrammetry, the Taser was located approximately eleven feet behind where the defendant fired his weapon.



*Frame 423: Location of Taser at Time of Shooting*

For over two years following the shooting, the defendant gave false (and evolving) accounts of the circumstances surrounding the shooting in an effort to justify the killing of Walter Scott. The defendant gave these false accounts to his supervisors at the North Charleston Police Department, to criminal investigators from SLED, under oath at the defendant's state murder trial,<sup>10</sup> and under oath at a pre-trial hearing in the Federal case.<sup>11</sup>

### **1. On-Scene Statements**

Immediately following the shooting, before he was aware that the incident had been recorded by a bystander, the defendant justified the shooting to both on-scene supervisors and

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<sup>10</sup> A draft transcript of the defendant's state court testimony on November 29, 2016, will be referenced as "State Trial Testimony." It is attached as Attachment D.

<sup>11</sup> Transcripts of the defendant's testimony in Federal Court on April 21 and 24, 2017 will be referenced as "April 21 Hearing" and "April 24 Hearing," respectively. They are attached as Attachments E and F.

later to SLED investigators solely on the false assertion that Scott had taken the defendant's Taser and was coming towards him with the Taser pointed at the defendant.<sup>12</sup> The defendant did not allege any other assaultive conduct by Scott. The defendant said he struggled to handcuff Scott on the ground and then he falsely claimed that Scott rolled over, took the Taser from him, and pointed it at him. The defendant falsely claimed he drew his weapon and fired while Scott was coming towards him with the Taser. At no point during his conversation with his supervisors did the defendant assert that Scott had punched, kicked, drive-stunned, or gotten on top of the defendant. At no point during the conversation did the defendant acknowledge that he shot Scott in the back while he was running away. The defendant also claimed that he had rendered emergency aid to Scott until other officers arrived,<sup>13</sup> although the Santana videos show no such effort. The defendant made similar statements to Sergeant Ronald Webb, the defendant's supervisor, who was working off-duty at the time, but responded to the scene of the shooting.

## **2. Statement to SLED**

On April 7, 2015, three days after the shooting, but prior to viewing the video recording, the defendant voluntarily provided a similarly false, but more detailed, account of the shooting to investigators from South Carolina Law Enforcement Division (SLED).<sup>14</sup> The defendant was represented by counsel and a defense investigator was present.

The defendant again described struggling with Scott on the ground after the defendant brought him to the ground with his Taser. However, during this hour and forty minute interview, he never claimed that Scott punched him, kicked him, or otherwise assaulted him. To the contrary, the defendant described Scott's conduct as "wiggling." The defendant never claimed

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<sup>12</sup> Lieutenant Daniel Bowman was the lieutenant in charge. Sergeant James Gann was the sergeant on duty at the time of the shooting. Lt. Bowman's account of the defendant's statement is attached as Attachment H (R5 SAW 97-98).

<sup>13</sup> Bowman statement, p. 1 (R5 SAW 97).

<sup>14</sup> A summary of the defendant's statement to SLED is attached as Attachment G.

that Scott had gotten on top of him, or that Scott had attempted to drive-stun him with his Taser. The defendant even reenacted this portion of the event with a defense investigator playing the role of Scott. At no point during the reenactment did the defendant have the investigator assault him, drive-stun him, or get on top of him.

The defendant claimed that while they were on the ground, Scott grabbed the Taser with his left hand, and then brought up his right hand to grab the Taser. Both the defendant and Scott stood up at the same time. The defendant claimed Scott pulled the Taser away from the defendant with both hands, and then pointed it directly at the defendant and moved towards him. The defendant asserted that he stepped to his side and fired his gun multiple times. The defendant claimed that, as he fired, Scott was turning to his left. Scott then ran off and stumbled into the grass. The defendant did not acknowledge shooting Scott in the back as he ran away. He did not acknowledge that Scott had already run a substantial distance when the defendant first fired his weapon.

The defendant falsely claimed that he located the Taser in between the place where he had been shooting and where Scott fell to the ground. According to the defendant, he grabbed his Taser and holstered it because he did not know who was coming to the scene to help Scott. He did not acknowledge that he initially dropped the Taser by Scott's body.<sup>15</sup> The defendant's false and self-serving statements are flatly contradicted by all other available and unbiased evidence.

### **3. State Court Testimony**

After the defendant was charged with murder in state court, he embellished his false narrative of the incident. After the defendant became aware of the evidence and witnesses

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<sup>15</sup> Following the interview, the agents read their notes to the defendant and permitted him to make changes. The SLED agents told the defendant that if he did not submit a written statement, their report of interview would be his official statement. The defendant never submitted a written statement to SLED.

against him through discovery in the state case, the defendant falsely and variously claimed that Scott had “attacked” him,<sup>16</sup> that Scott “overpowered” him;<sup>17</sup> that Scott had been “on top” of him,<sup>18</sup> and that Scott drive-stunned him with a Taser.<sup>19</sup> As the defendant would later acknowledge during the federal hearings, his memory changed as it was “refreshed” by preparing for trial and reviewing the evidence against him in state court. April 21 Hearing, p. 100; April 24 Hearing, p. 21.

All of the defendant’s false claims that Scott had acted aggressively towards him before the shooting were made in attempt to justify his unlawful shooting of the victim. Where the defendant had no viable explanation for events clearly depicted in the video, such as dropping the Taser next to Scott’s body after the shooting, he falsely asserted that he had memory loss.<sup>20</sup>

#### **4. Preliminary Hearing Testimony in Federal Court**

On two separate days, the defendant testified in support of his motion to suppress statements he made to SLED. ECF Doc. 54. The defendant provided perjured testimony during this hearing, both by making false claims about the shooting and by falsely claiming memory loss.

During the federal hearing, the defendant claimed to remember new details about the incident that bolstered his defense – such as claiming for the first time that Scott punched him while they were on the ground, *see* April 21 Hearing, p. 91. He also claimed that he now had a better memory of Scott “on top” of him – something he admitted he had never told SLED investigators within days of the shooting. *Id.*, p. 89.

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<sup>16</sup> State Trial Testimony, p. 110.

<sup>17</sup> State Trial Testimony, p. 29.

<sup>18</sup> April 21 Hearing, p. 89-90.

<sup>19</sup> State Trial Testimony, pp. 35 (“he grabs my Taser, he uses it on me, tries to use it again”), 109.

<sup>20</sup> State Trial Testimony, p. 33.

Conveniently, the defendant claimed that he did not have any memory of critical portions of the incident, most notably those that undermined his defense. When confronted about shooting Scott in the back while he was running away, the defendant claimed that he simply did not remember that he had shot Scott while he was running away. *Id.*, p. 75. The defendant claimed that, during “the period from when [Scott] allegedly grabbed [his] Taser to the point that [the defendant] fired [his] weapon, [he was] not entirely sure what happened.” *Id.*, p. 97.

On the second day of testimony, the defendant claimed further memory loss in an obvious effort to avoid having to answer difficult questions. He suddenly could not remember parts of his statement to SLED – a statement that he had remembered only days before. Whereas on April 21, the defendant remembered telling SLED agents that his justification for shooting Scott was that Scott was “continuously coming towards him” with a Taser, April 21 Hearing, p. 85, three days later he claimed he could not recall whether he told this to SLED. April 24 Hearing, p. 14. Similarly, on April 21, the defendant remembered that he had not told SLED he had been drive-stunned by Scott. April 21 Hearing, p. 91. On April 24, he could no longer recall whether he had told that to SLED. April 24 Hearing, p. 14. By the end, the defendant simply claimed, repeatedly, that he could not remember either what happened during the shooting or what he told SLED. April 24 Hearing, pp. 14-25. The defendant concluded his false and misleading testimony by saying that he could not recall anything he had told SLED on April 7, 2015. April 24 Hearing, p. 25.

### **III. LEGAL ANALYSIS**

#### **A. Sentencing Guidelines Computation Generally**

The defendant pleaded guilty to violating 18 U.S.C. § 242 for depriving Walter Scott of his constitutional right to be free from unreasonable force by a police officer acting under color

of law. The offense resulted in Scott's death. For this offense, U.S. Sentencing Guidelines (USSG) §2H1.1(a)(1) directs the court to begin by applying the offense level applicable to the underlying offense. In this case, the underlying offense should be second degree murder. Pursuant to §2A1.2, the base offense level is 38. Pursuant to §2H1.1(b)(1)(B), the offense level is increased by six levels because the offense was committed under color of law, for a total offense level of 44. Pursuant to §3C1.1, the offense level should be increased by two levels because the defendant willfully obstructed justice, for a total offense level of 46. Should the defendant continue to accept responsibility, his offense level would be decreased by three levels pursuant to §3E1.1, for a total offense level of 43. Because the defendant is a criminal history category of I, the recommended guidelines range for the defendant is life imprisonment.

The PSR calculated the offense level the total offense level to be 32, *see* para. 42, because it wrongly applied the voluntary manslaughter cross-reference, *see* para. 33, and failed to apply the obstruction of justice enhancement, *see* para. 37.<sup>21</sup> The final PSR did not provide any legal analysis justifying the application of the voluntary manslaughter cross-reference. *See* Addendum to PSR, p. 3. In addition, the PSR neglected to include any legal analysis supporting its decision not to include an enhancement for obstruction of justice. *Id.* In order to accurately determine the sentencing guidelines, the Court must make factual findings supporting the appropriate cross-reference for the underlying substantive offense, and must determine whether the defendant's conduct obstructed justice.

### **B. Standard of Proof**

The standard of proof for factual findings at sentencing is a preponderance of the evidence standard. *United States v. Grubbs*, 585 F.3d 793, 803 (4th Cir. 2009) ("Preponderance

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<sup>21</sup> Because the defendant is a criminal history category of I, the recommended guidelines range for the defendant at a total offense level of 32 would be 121 months to 151 months imprisonment.

of the evidence is the appropriate standard of proof for sentencing purposes.”); *United States v. Chandia*, 675 F.3d 329 (4th Cir. 2012) (affirming the use of the preponderance of the evidence standard to establish the requisite intent for a terrorism enhancement). “As the Supreme Court has explained, ‘[t]he burden of showing something by a preponderance of the evidence ... simply requires the trier of fact to believe that the existence of a fact is more probable than its nonexistence.’” *United States v. Span*, 789 F.3d 320, 334 (4th Cir. 2015), quoting *Concrete Pipe & Prods. of Cal., Inc. v. Constr. Laborers Pension Trust for S. Cal.*, 508 U.S. 602, 622, 113 S.Ct. 2264, 124 L.Ed.2d 539 (1993) (internal quotation marks and citation omitted).

### **C. The Offense Should Be Characterized As Second Degree Murder**

The evidentiary record and the defendant’s admission that he acted objectively unreasonably when he willfully shot Walter Scott without justification together establishes that his conduct constituted second degree murder. In order to apply the cross-reference to second degree murder, the government must establish, by a preponderance of the evidence, that (1) the defendant unlawfully killed another human being; and (2) the defendant did so with malice aforethought. There is no question here that the defendant unlawfully killed Walter Scott. The question for the Court, then, is whether the defendant acted with malice aforethought.

Under federal law, malice is satisfied by either an intent to kill, an intent to cause serious bodily injury, or the existence of extreme recklessness and wanton disregard for human life. *United States v. Browner*, 889 F.2d 549, 552 (5th Cir. 1989). Intent to kill can be reasonably inferred when, as here, a defendant uses a deadly weapon in a manner reasonably likely to cause death. *See Lannon v. Hogan*, 719 F.2d 518 (1st Cir. 1983) (approving a jury instruction that permitted the jury to infer an intent to kill from the use of a deadly weapon in a deadly manner).

Similarly, by willfully firing a firearm at Scott, the defendant evinced – at a minimum – an intent to cause serious bodily injury. Thus, the defendant’s willful shooting thus establishes malice.

Malice aforethought may also be established by “evidence of conduct which is ‘reckless and wanton and a gross deviation from a reasonable standard of care, of such a nature that [the factfinder] is warranted in inferring that defendant was aware of a serious risk of death or serious bodily harm.’” *United States v. Williams*, 342 F.3d 350, 356 (4th Cir. 2003); *United States v. Medina-Garcia*, 226 Fed.Appx. 281 (4th Cir. 2007) (unpublished) (same); *United States v. Ashford*, 718 F.3d 377 (4th Cir. 2013) (affirming the Court’s finding of attempted second degree murder where defendant shot a fleeing victim who did not pose a danger). To prove malice aforethought, the government does not have to show that the defendant harbored hatred or ill will against the victim or others. *United States v. Fleming*, 739 F.2d 945, 947 (4th Cir. 1984). Second-degree murder also does not require a finding of premeditation. *Williams*, 342 F.3d at 356.

As the defendant acknowledged during his plea, he willfully used unreasonable force when he shot and killed Walter Scott, even though Scott was unarmed and was running away from a traffic stop. The defendant admitted that he acted “voluntarily and intentionally and with specific intent to do something that the law forbids.” The defendant plainly intended to at least cause serious bodily harm when he unlawfully and repeatedly shot Scott in the back. As the defendant knew at that time from his law enforcement training, he was prohibited from using lethal force in this situation because using lethal force against an unarmed, non-dangerous fleeing subject was a gross-deviation from reasonable conduct. This satisfies the “malice” element of second-degree murder.

### 1. Voluntary Manslaughter is Not An Appropriate Cross-Reference

In order to negate the malice established by the defendant's actions and find that the shooting constituted voluntary manslaughter, the Court would need to find that the unlawful killing occurred "upon a sudden quarrel or heat of passion." *United States v. Ashford*, 718 F.3d 377 (4th Cir. 2013), citing 18 U.S.C. § 1112(a). The evidence in this case establishes that "heat of passion" is not applicable here.

"Heat of passion" means "a passion of fear or rage in which the defendant loses his normal self-control as a result of circumstances that would provoke such a passion in an ordinary person, but which did not justify the use of deadly force." *United States v. Harris*, 420 F.3d 467, 476 (5th Cir. 2005); *Browner*, 889 F.2d at 552 (explaining the common law origins of voluntary manslaughter). "Sudden quarrel," a term which traces its origins to the medieval practice of mutual combat, has no modern meaning independent of "heat of passion." See *United States v. Martinez*, 988 F.2d 685, 696 (7th Cir. 1993) (noting the evolution of manslaughter jurisprudence.)

In order to find the absence of malice due to "sudden quarrel" or "heat of passion," there must be a "provocation" that "would arouse a reasonable and ordinary person to kill someone." *United States v. Collins*, 690 F.2d 431, 437 (5th Cir. 1982); see also *United States v. Elk*, 658 F.2d 644, 649 (8th Cir. 1981) (the evidence must show that, "at the time of the killing, the reason of the accused was obscured or disturbed by passion to such an extent as would cause the ordinary reasonable person to act rashly and without deliberation and reflection, and from such passion, rather than from judgment." (citing 2 E. Devitt & C. Blackmar, *Federal Jury Practice and Instructions* s 41.14 (1977))). See also *Martinez*, 988 F.2d at 696 (describing the history of the "sudden quarrel" doctrine).

As many courts have emphasized, in order for voluntary manslaughter to apply, the defendant's "heat of passion" must be "reasonable." *See, e.g., United States v. Lofton*, 776 F.2d 918, 921 (10th Cir. 1985) ("Provocation, in order to be adequate to reduce the offense from murder to manslaughter, must be such as might naturally induce a reasonable man in the passion of the moment to lose self-control and commit the act on impulse and without reflection."); *Elk*, 658 F.2d at 649; *Collins*, 690 F.2d at 437; *Harris*, 420 F.3d at 476. Courts have looked to the nature of the provocation that caused the defendant to lose self-control. *See, e.g., Lofton*, 776 F.2d at 919 (holding voluntary manslaughter instruction should have been given when wife killed her husband after finding out that he had been sexually abusing her daughter and that the county attorney would not bring charges); *Browner*, 889 F.2d at 549 (district court found voluntary manslaughter instruction appropriate when wife killed abusive husband after husband chased her through the house, threatened to kill her, and backed her into a corner).

In this matter, there was no provocation that would cause an ordinary, reasonable person to lose self-control. First, the defendant acknowledged in the factual basis for his plea that the shooting of Walter Scott was objectively unreasonable. The defendant's admission expressly negates that he acted in the "heat of passion." Instead, the defendant admitted that he acted with "the specific intent to do something the law forbids," namely, to use unreasonable force. Thus, the defendant's own guilty plea precludes a finding of voluntary manslaughter.

Furthermore, the defendant's conduct after the shooting demonstrates that he was not acting in fear or rage. The defendant maintained his composure throughout the incident and its immediate aftermath. He was not confused, disoriented, or enraged. Rather, knowing that he had contravened his police training and violated the law when he shot Scott in the back as he ran away, the defendant immediately began inventing facts in an effort to falsely justify his unlawful

use of his firearm. The defendant also demonstrated that he was both in control of his emotions and using analytical thinking by taking steps that a police officer would be expected to take following a lawful shooting. He informed dispatch of “shots fired,” checked his gun clip to determine how many rounds he had fired, and asked for a unit to secure his car. At no point did the defendant’s demeanor or behavior evince real fear or rage as required to sustain a voluntary manslaughter cross-reference.

Furthermore, the evidence does not support that there was a “sudden quarrel.”<sup>22</sup> Walter Scott did not pose a threat to the defendant or the community as he fled. As the video shows, and Feidin Santana corroborates, Scott was only trying to get away when the defendant repeatedly fired at his back. The physical contact between the defendant and Scott was over, and the brief physical contact that occurred consisted of Scott trying to get away. The only assertion that Scott was in any way assaultive comes from the defendant’s self-serving false claims, which are contradicted by Santana’s independent testimony and video.

By concocting a story and reconfiguring the crime-scene layout by moving the Taser, the defendant demonstrated a deliberate and analytical calculation – one that proves that he was not operating in the heat of passion as is required to negate malice and support a finding of voluntary manslaughter. As a result, this Court should find that the appropriate cross-reference for the instant offense is the guideline for second degree murder.

#### **D. An Enhancement for Obstruction of Justice Applies**

The evidentiary record shows that a two-point enhancement for obstruction is appropriate at sentencing. Section 3C1.1 of the Sentencing Guidelines provides for a two-level enhancement of the defendant’s base offense level where:

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<sup>22</sup> As noted above, “sudden quarrel” has no meaning distinct from “heat of passion.” However, even using the modern-day colloquial meaning of the phrase, there was no “sudden quarrel” in this case.

(A) the defendant willfully obstructed or impeded, or attempted to obstruct or impede, the administration of justice during the course of the investigation, prosecution, or sentencing of the instant offense of conviction, and  
(B) the obstructive conduct related to (i) the defendant's offense of conviction ...; or (ii) a closely related offense.

Here, the defendant obstructed justice by: tampering with the crime scene; misleading his colleagues in local law enforcement; lying to state investigators; providing false testimony under oath at a state court proceeding; and perjuring himself at a federal court proceeding.

### **1. The Defendant Moved His Taser to Obstruct Justice**

After shooting the unarmed victim in the back as he attempted to run away, the defendant tampered with the crime scene by moving a key piece of evidence (his Taser) in order to support his false justification for the shooting.

Application note 1 states that obstructive conduct that occurred prior to the start of the investigation of the instant offense of conviction may be covered by this guideline if the conduct was purposefully calculated and likely to thwart the investigation or prosecution of the offense of conviction. Application note 4(d) to § 3C1.1 directs that the enhancement applies to conduct such as “concealing...evidence that is material to an official investigation ... or attempting to do so....” The Fourth Circuit has found that an enhancement under §3C1.1 is appropriate if a defendant moves, hides or destroys crucial evidence, or attempts to do so. *United States v. Hicks*, 948 F.2d 877, 884 (4th Cir. 1991) (throwing away drugs during a chase constituted obstruction of justice), *citing United States v. Franco-Torres*, 869 F.2d 797, 800 (5th Cir. 1989) (throwing a weapon in an attempt to hide it from investigators is obstruction of justice).

As the defendant acknowledged in the factual basis for his plea, Walter Scott was unarmed and running away when the defendant shot him. The defendant specifically admitted during the plea that Scott did not possess the Taser when the defendant fired his weapon. This

admission highlights how the defendant obstructed justice for years by falsely claiming that he shot Scott because he had taken the Taser and turned it on the defendant, and by falsely claiming that the Taser had been found along the path that Scott had run.

Following the shooting, the defendant moved the Taser to the area where Scott lay on the ground and planted the Taser next to Scott's body. When the defendant dropped the Taser next to Scott, he did so with the intent to construct a false justification for his use of his firearm, namely a threat from Scott. The defendant has admitted that there was no legitimate law enforcement reason to place the Taser next to Scott's body. April 24 Hearing, p. 22-23. Approximately thirty seconds later, the defendant changed course, picked up the Taser, and placed it in his duty belt, where it was ultimately collected, thereby compromising the integrity of the crime scene.

The precise location of the Taser at the time of the shooting was a key piece of evidence against the defendant because it proved that Scott did not have the Taser when the defendant fired his weapon, contrary to the defendant's repeated false claims. Moving the Taser next to Scott's body significantly impeded the investigation because it prevented investigators from determining the precise location of the Taser during the shooting. The defendant's obstructive purpose in moving the Taser became evident when the defendant falsely claimed to SLED investigators that he found the Taser between where he shot Scott and where Scott ultimately landed.<sup>23</sup> However, the video demonstrates that the Taser was located several feet behind where the defendant fired his weapon and even farther from Scott, who had fled in the opposite direction. Had this video from a civilian eyewitness not existed, there would be no way to disprove the defendant's false claim. Accordingly, the defendant's relocation of the Taser supports the two-point enhancement for obstruction.

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<sup>23</sup> SLED Report of Interview, 4/7/15, p. 10 (R5 SAW 52).

## **2. The Defendant Obstructed Justice By Repeatedly Lying About His Conduct**

For over two years, the defendant continuously lied about his conduct on April 4, 2015, propagating a false and evolving narrative that he was attacked by Walter Scott. In support of his cover story, the defendant gave false statements to supervisors on the scene; to investigators at SLED; during his state trial testimony; and during two separate days of federal testimony during pretrial hearings. The obstruction of justice enhancement is appropriate for the defendant's repeated lies about his justification for shooting Scott, his later-created false claims about the circumstances before he shot Scott, and for his lie to SLED about where he picked up the Taser at the scene. But for the existence of bystander cell phone video, it is likely that the defendant would have succeeded in covering up his criminal conduct that resulted in the death of Walter Scott.

Once the video and other evidence became available to the defendant, his false story changed. Immediately after the incident, the defendant claimed to on-scene supervisors, and later to SLED investigators, that he had fired only because Scott had taken his Taser and was moving towards him. However, after viewing the video, for the first time, the defendant invented a "fight on the ground," and falsely claimed that Scott was on top of him, after seeing blurry still frames of video. State Trial Testimony, pp. 31, 89, 106; April 21 Hearing, p. 89-90. *See* frame 158. Similarly, he also falsely suggested that he was drive-stunned by Scott, but only after receiving a report from SLED shortly before his state trial that could not eliminate a Taser as a source of microscopic marks on his uniform. State Trial Testimony, p. 35; Testimony of Megan Fletcher, November 21, 2016, p. 44.

As legal proceedings continued against him in both state and federal courts, the defendant made calculated choices to provide false testimony that he thought would advance his defense, as

set forth infra in section I(C)(3) and (4). Where the video flatly contradicted the defendant's narrative, he falsely claimed to have a "fuzzy" memory of the shooting as a result of stress. April 24 Hearing, p. 16.

The Fourth Circuit has found that an enhancement under §3C1.1 is appropriate if the defendant perjured himself. *United States v. Jones*, 308 F.3d 425 (4th Cir. 2002) (applying obstruction enhancement for perjury during pre-trial release hearing); *United States v. Akinkoye*, 185 F.3d 192, 205 (4th Cir.1999) ("We have held that perjurious testimony given in pre-trial proceedings may be considered in determining whether to apply the enhancement."). The defendant's false and misleading testimony in both state and federal court warrants the application of the enhancement for obstruction.

In summary, the defendant repeatedly obstructed justice in an attempt to avoid being held accountable for shooting Walter Scott in the back as he ran away unarmed. The defendant tampered with the crime scene; misled local law enforcement; lied to state investigators; provided false testimony in state trial proceedings; and perjured himself in federal court. Any one of these attempts to impede or obstruct the investigation into his use of excessive force warrants imposition of a two-point enhancement under §3C1.1.

**E. The Defendant Must Continue To Accept Responsibility In Order to Qualify for a Reduction in His Offense Level**

"[M]erely pleading guilty does not entitle one to a downward adjustment." *United States v. McKenzie-Gude*, 671 F.3d 452, 463 (4th Cir. 2011) (internal quotation marks omitted). To receive a reduction under §3E1.1, a defendant must prove by a preponderance of the evidence that he has clearly recognized and affirmatively accepted "personal responsibility for his criminal conduct." *Id.*; *United States v. Martinez*, 901 F.2d 374, 377 (4th Cir.1990).

In the plea agreement, the United States agreed to recommend a three-level reduction in the applicable offense level for acceptance of responsibility. However, the plea agreement specifically notes that “the Government will not be required to recommend an adjustment based on acceptance of responsibility if, after entering this Plea Agreement, the defendant engages in conduct inconsistent with accepting responsibility.” The agreement states that “should the defendant falsely deny or falsely attempt to minimize his involvement in relevant offense conduct...the Government will not be required to recommend an adjustment for acceptance of responsibility.”

In response to the government’s objections to the PSR, the defendant, through counsel, appeared to minimize the conduct at issue in this case and deny an essential element of the offense. *See* Defense Reply to Government’s Objections, September 18, 2017. For example, the defendant claimed that “[a]t the time Slager made the decision to use lethal force, he was alone, exhausted, had been stripped of his Taser and was overpowered by Scott.” *Id.*, p. 11. The defendant claimed that he deployed lethal force against Scott only because he was “in fear of his life,” and that the fear was “objectively reasonable.” Though the defendant acknowledges that “[a]t some point, the firing became objectively unreasonable,” the defendant asserted that he remained “in fear of his life.” *Id.*

If this is, in fact, the defendant’s position at sentencing, he is continuing to offer to this Court a false narrative of the incident. His self-serving statement that he had been stripped of his Taser and overpowered by Scott is contradicted by an independent eyewitness and the video. In asserting an imperfect self-defense claim, the defendant is now denying the *mens rea* element (willfulness) of 18 U.S.C. §242. *United States v. Cobb*, 905 F.2d 784, 787 (4th Cir. 1990) (explaining elements of 18 U.S.C. §242).

Failure to accept responsibility for each and every element of the offense is not acceptance of responsibility for the purposes of §3E1.1. *See United States v. Burns*, 781 F.3d 688, 692 (4th Cir. 2015) (affirming district court’s denial of downward adjustment for acceptance of responsibility where the defendant admitted the conduct, but denied the *mens rea*.); *United States v. Castner*, 50 F.3d 1267, 1279-80 (4th Cir. 1995) (affirming district court’s refusal to adjust downward where the defendant disputed a *mens rea* element of the offense of conviction, while admitting to the physical act.)

Though the defendant acknowledged in his reply that his conduct constituted a constitutional violation by agreeing that the shooting was “objectively unreasonable,” he denied that he was “willful,” claiming instead to have acted under an “objectively reasonable fear.” This is at odds with his plea admission in which he acknowledged acting with “a specific purpose to do what the law forbids.” If this is the defendant’s position at sentencing, he will not be entitled to any offense level reduction for acceptance of responsibility.

**F. Objection: A Departure Under §5K2.10 Is Not Appropriate**

The government strongly objects to any departure based on Walter Scott’s conduct. Pursuant to §5K2.10, a Court may reduce the sentence below the guideline range to reflect the nature and circumstances of the offense if “the victim’s wrongful conduct contributed significantly to provoking the offense behavior.” In deciding whether this departure is appropriate the Court should evaluate specific factors:

- (1) *The size and strength of the victim, or other relevant physical characteristics, in comparison with those of the defendant.*

The victim in this case had no particular physical advantage over the defendant. Though the victim and the defendant were roughly similar sizes, Scott was an overweight, fifty-year-old man, while the defendant was younger and fitter.

- (2) *The persistence of the victim's conduct and any efforts by the defendant to prevent confrontation.*

Scott did not instigate a physical confrontation with the defendant; to the contrary, he sought to avoid a confrontation by running away. The defendant escalated the situation by using deadly force when none was warranted. Though the victim persisted in attempting to run away, he was at no point assaultive towards the defendant. The only assaultive conduct was by the defendant. Any claim that Scott was assaultive turns entirely on the defendant's thoroughly discredited account.

- (3) *The danger reasonably perceived by the defendant, including the victim's reputation for violence.*

At the time of the shooting, the defendant had no information about Scott's background, other than that he had a broken tail light, and that he was running away. The defendant had no reasonable perception of danger from the victim.

- (4) *The danger actually presented to the defendant by the victim.*

The unarmed victim was fleeing when the defendant gunned him down. The victim presented no actual danger, and the defendant has acknowledged as much during his plea.

- (5) *Any other relevant conduct by the victim that substantially contributed to the danger presented.*

There is no other relevant conduct of the victim to consider, with respect to this departure.

- (6) *The proportionality and reasonableness of the defendant's response to the victim's provocation.*

The defendant's use of deadly force was manifestly disproportionate to the victim's conduct. Merely attempting to run away from a police officer cannot be considered a "provocation" that would excuse the use of unreasonable force. Even if it were, the court must consider the "proportionality and reasonableness of the defendant's response to the victim's provocation." USSG §5K2.10. "[E]ven highly provocative behavior does not justify a downward departure if the defendant's response is disproportionate." *United States v. May*, 359 F.3d 683, 690 (4th Cir. 2004). Given that the victim was unarmed and fleeing and presented no actual danger to the defendant when he fired his weapon, the defendant's use of deadly force was manifestly disproportionate.

When the specific factors set forth in §5K2.10 are considered, it is clear that no downward departure is appropriate pursuant thereto.

#### **IV. CONCLUSION**

For the foregoing reasons, the United States respectfully submits this sentencing memorandum to support a cross-reference to the guideline for second degree murder and application of an enhancement for obstruction of justice.

Respectfully submitted,

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1 THE WITNESS: Michael Slager, S-l-a-g-e-r.

2 BY MR. SAVAGE:

3 Q. May it please the Court:

4 THE COURT: Yes, sir.

5 Q. Good morning?

6 A. Good morning, sir.

7 Q. Are you the same Michael Thomas Slager that's been  
8 charged with murder in this case?

9 A. Yes.

10 Q. On April 4 of 2015 while employed with the North  
11 Charleston police department, did I shoot Walter Scott?

12 A. I did.

13 Q. Did your shooting of Mr. Scott result in his  
14 death?

15 A. Yes.

16 Q. When you shot him, were you filled with ill will  
17 or grave heart of malice?

18 A. No, I was not.

19 MR. DuRANT: Your Honor, I would ask that he  
20 not lead this witness.

21 THE COURT: All right. Don't lead the  
22 witness. You may proceed.

23 BY MR. SAVAGE:

24 Q. At the time you shot him, did you possess an  
25 uncontrolled impulse to do evil?

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1 MR. DuRANT: Once again, Your Honor, I would  
2 ask he not lead this witness. He can ask what was on his  
3 mind but he is basically testifying.

4 THE COURT: All right. Don't lead the  
5 witness. You may proceed.

6 BY MR. SAVAGE:

7 Q. Tell us why you shot Mr. Scott.

8 A. To start at the beginning, that morning, it was a  
9 normal Saturday morning. I woke up, came to work and  
10 answered a couple calls in the morning, for an alarm,  
11 normal Saturday morning.

12 And then I was back to my zone, in Charleston  
13 Farms where I'm assigned. At that time I was driving  
14 down Rivers Avenue -- I'm sorry driving down Remount Road  
15 toward Rivers Avenue doing the circle around Charleston  
16 Farms and I was coming down Remount toward Rivers. I  
17 observed a vehicle without a brake light. The one in the  
18 rear-view mirror, third brake light.

19 Q. Were you looking for that particular vehicle, did  
20 you know anything about that particular vehicle, were you  
21 focussed on any individual or was this just a Saturday  
22 morning?

23 A. No, I didn't notice the vehicle at all until I was  
24 behind it, coming up behind it. It was a normal Saturday  
25 day. At that time I waited a little bit and then I saw

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1 the vehicle come up to the railroad tracks on Remount  
2 and. At that time I confirmed that the brake light was  
3 out.

4 Q. Are there procedures that govern your conduct at  
5 times like that?

6 A. Yes.

7 Q. Did you follow your procedures?

8 A. I did.

9 Q. Tell us what you did.

10 A. When I was behind the vehicle, I double-checked to  
11 make sure that light was out and then I conducted the  
12 traffic stop.

13 Q. For what purpose?

14 A. You know, a lot of times people don't know their  
15 brake lights are out. People don't know their headlights  
16 are ounce, their turn signals are out. I no he my car it  
17 doesn't tell me when the brake light is out, so I stop  
18 him, is you know, to write him a warning and just to tell  
19 him hey, your brake light is out and you need to get the  
20 bulb fixed. It's always a state issue at night or in the  
21 daytime, you know, if all the brake lights aren't  
22 working, you could cause an accident.

23 Q. Is that technically -- or in the be technically,  
24 is that a violation of a state statute?

25 A. Yes, it is.

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1 Q. And have you stopped people before for equipment  
2 failures for taillights or turn signals, brake lights or  
3 whatnot, headlights?

4 A. Yeah, I have. I would say hundreds of times.

5 Q. And what is the usual practice? What within your  
6 procedures what discretion do you have on what you  
7 typically do?

8 A. What I typically do is I make contact with the  
9 driver and tell him the problem and I write him a  
10 warning. It's just --

11 Q. And a warning, what does that require, a court  
12 appearance, a fine?

13 A. It requires nothing. It's just a warning paper  
14 that tells him that they have an equipment violation,  
15 there's no fine, there's no points on their license, they  
16 don't go to court.

17 Q. And what was your intent when you stopped the  
18 vehicle that morning?

19 A. To write a warning.

20 Q. And did you follow procedure by interviewing,  
21 talking to the driver of the vehicle?

22 A. I did.

23 Q. Take us through that discussion until you returned  
24 to your unit.

25 A. I got out of my car and walked up to the vehicle

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1 and with the window rolled down identified who I was,  
2 Officer Slager, and I said with North Charleston, and I  
3 asked for Mr. Scott's license, registration, and  
4 insurance card.

5 Q. Did you tell him why you stopped him?

6 A. I did. I told him it was because his third brake  
7 light was out.

8 Q. I know -- if you could just speak up a little bit,  
9 it may be my hearing or your voice, I'm not sure, but did  
10 you tell him why you stopped him.

11 A. I did.

12 Q. And did you follow procedures in terms of calling  
13 into headquarters or dispatch to advise him where you  
14 were and what you were doing?

15 A. I did.

16 Q. And did you follow all procedures in your  
17 interview, your questioning of Mr. Scott?

18 A. Yes.

19 Q. Did you make any observations of Mr. Scott or  
20 anyone else in the vehicle?

21 A. When I walked up to the vehicle and I was standing  
22 at the window, I observed the passenger in the vehicle,  
23 and the passenger was just looking straight ahead like he  
24 wasn't even stopped. I think he was doing something with  
25 his phone, I don't really recall. And then I observed

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1 Mr. Scott, and he was going through his pockets with his  
2 hands, trying to locate something, I think.

3 Q. Prior to -- when did you first recognize the race  
4 and gender of the occupants of that vehicle?

5 A. When I walked up to the vehicle and made contact.

6 Q. And did this continue to be a routine stop?

7 A. Yes, it was.

8 Q. And when you asked for identification, were you  
9 provided with a driver's license?

10 A. I was.

11 Q. Were the you provided with a registration and  
12 insurance?

13 A. No, I was not.

14 Q. And tell us what happened.

15 A. I asked for those documented. Mr. Scott gave me  
16 his license and I asked for the license and -- I'm sorry,  
17 the registration and insurance card. When I did, he  
18 stated that the vehicle wasn't his car, then he stated it  
19 was his car and the story -- it went back and forth from  
20 it was my car to I was buying my car.

21 Q. And did you ask or direct him to provide the  
22 insurance?

23 A. I did.

24 Q. Did you suggest anything to him?

25 A. Yes. I suggested to look in the glove box because

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1 that's where I think everybody -- that's where I keep my  
2 insurance and registration card.

3 Q. And what was his response?

4 A. He stated that he didn't own the car and it wasn't  
5 in there.

6 Q. Now, up to that point, Officer Slager, despite the  
7 observations you made, was everything normal in the  
8 context of your experience in traffic stops?

9 A. Yes, everything was normal.

10 Q. Have you ever conducted a traffic stop blue lights  
11 day or night where the driver was not nervous?

12 A. Yes, many times.

13 Q. It must be a rare occasion when people aren't  
14 nervous. So the activities of Mr. Scott at that time,  
15 the observations of him were within that parameter of a  
16 normal traffic stop?

17 A. To me, yes.

18 Q. And when you returned to your vehicle, what -- for  
19 what purpose?

20 A. I walked back to my vehicle with the license and I  
21 was going to write him a warning ticket. Also, I have to  
22 check the license and the vehicle tag to make sure the  
23 license is good or if there's it any warrants, also to  
24 check the tag to make sure the car it wasn't stolen.  
25 Also, I wanted to check the tag because of the

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1 conflicting story it about who the owner of the car was.

2 Q. But nothing unusual about that.

3 A. No, that's normal procedure I do every day.

4 Q. And how do you go about doing that? Do you radio  
5 in to dispatch?

6 A. I used to, but at the time I had a new computer  
7 program with a laptop in my car that I could type the  
8 information in.

9 Q. And tell the jury, if you will, how that works.

10 A. It's a computer program called NCIC, and it's a  
11 federal database that has everybody's information in it,  
12 so I put his driver's license in there, his driver's  
13 license number or his name and date of birth, and it  
14 sends the information to the FBI and it comes back to  
15 whatever's on record for that individual and also the  
16 tag, I do the same with the tagging, through that  
17 database or you could run the tag through South Carolina  
18 DMV and it will give you the information about the owner  
19 of the vehicle, description of the vehicle.

20 Q. Did you do that in this instance?

21 A. No. I didn't have time.

22 Q. Tell us what you did when you got back in your  
23 unit?

24 A. When I got back to my unit I had to log on to the  
25 computer program, and that takes a minute to load up. At

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1 that time I was waiting for that to load up, I had to get  
2 my ticket book, which has my warning book in it too.  
3 It's combined, and I was getting the warning out. I also  
4 had to reach above my visor to get my cheat sheet because  
5 I can't remember all the statutes, there's too many  
6 statutes for me to remember, and I was in the process of  
7 getting all the information together, and then  
8 Mr. Scott's door opened.

9 Q. And it was your intent at that time to write what?

10 A. A warning.

11 Q. For what?

12 A. The brake light that was not working.

13 Q. What about the absence of an insurance card?

14 A. What I do -- it's important to have insurance for  
15 the vehicle, so what I usually do is I'll write a ticket  
16 for no proof of insurance, and I'll tell the driver, you  
17 know, your Court date's in two weeks. If you come to  
18 Court with your insurance card, I'll drop the ticket and  
19 the judge is pretty acceptable with that. So it's  
20 basically a fix it ticket.

21 Q. What?

22 A. A figure it ticket.

23 Q. What does that mean?

24 A. That basically means if you fix the problem, I  
25 dismiss the ticket.

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1 Q. Nothing personal to you. Now, when you got in  
2 your car, you're entering that data into the computer,  
3 did you make any further observations of the driver of  
4 the vehicle you had stopped?

5 A. While I was in my vehicle?

6 Q. Yes.

7 A. There was some movement going on, but I was pretty  
8 much paying attention to trying to get this information.

9 Q. And what happened next?

10 A. When the door opened --

11 Q. What door?

12 A. I'm sorry, when Mr. Scott's door opened, Mr. Scott  
13 jumped out of the car and I observed this so I had to  
14 throw everything on my lap in the front seat and I got  
15 out of my car, and when I got out of my car, I told  
16 Mr. Scott to have a seat in his car.

17 Q. And what happened? Did he get back in his car?

18 A. Yeah, he complied and got back in his car and shut  
19 the door.

20 Q. Even after that situation where the activities  
21 that morning, what you observed within the normal context  
22 of a traffic stop?

23 A. Correct.

24 Q. Was there anything that alarmed you at that point  
25 in time that you would call for backup or anything like

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1 that?

2 A. No.

3 Q. And then, after Mr. Scott followed your directives  
4 what did you do?

5 A. I resumed -- I had to reach in my passenger seat  
6 and get my warning book and my little cheat sheet and I  
7 was going to write the warning.

8 Q. And what did you observe next?

9 A. I observed the door open of the vehicle again and  
10 Mr. Scott jumped out of the car and started running down  
11 the street.

12 Q. And when he did that, what did you do?

13 A. I got out of my car, locked the door, shut the  
14 door, and took a couple steps. I don't really recall how  
15 many steps, and then I called over the radio 223  
16 dispatch --

17 Q. Time out what is 223?

18 A. That's my badge number.

19 Q. So you were identifying yourself to dispatch?

20 A. I was.

21 Q. You used in your number what was that?

22 A. 1080 on foot I'm on a foot chase. I'm running  
23 after somebody.

24 Q. And at this time had the normal circumstances  
25 changed to something else?

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1 A. Yes.

2 Q. And is it customary for somebody to run with a  
3 brake light being out?

4 A. No.

5 Q. So what was in your mind at that time?

6 A. That in Scott must have been running for another  
7 reason.

8 Q. And did you follow him?

9 A. I did.

10 Q. Tell us what happened next.

11 A. We ran down Craig Street, and I told him to stop,  
12 and he didn't, continued to run. We got a little start  
13 down Craig Street --

14 Q. When you told him, did you shout it out?

15 A. Yes, yes. I shouted as loud as I could because he  
16 was running away and I wanted to make sure he heard me.

17 Q. And did he comply with your instructions at that  
18 time?

19 A. No. He continued to run.

20 Q. And what did you do next?

21 A. I yelled Taser three times.

22 Q. You yelled Taser, Taser, Taser?

23 A. Correct, as loud as I could.

24 Q. And did he comply?

25 A. No, he did not.

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1 Q. What did he do?

2 A. Continued to run down Craig Street.

3 Q. Did you keep him under your observation at that  
4 point?

5 A. When we were going down Craig Street, yes.

6 Q. And continue. What happened as you were running  
7 down Craig Street?

8 A. We come to the yellow brick road, which is a road  
9 into an old trailer park home on Craig Street, and it as  
10 he turns right down that road, I lost sight of him.

11 Q. When you say I lost sight of him tell us what you  
12 mean by that.

13 Q. When we turned corner there's a fence that goes  
14 partially around the property, and when he turned right  
15 on the yellow brick road, there's a bunch of vegetation  
16 so I couldn't see him when he turned the corner? But  
17 that was a second or two?

18 A. That he -- no.

19 Q. That you lost sight. I mean you're running after  
20 him. He moves, you continue to run after him?

21 A. Correct.

22 Q. What was he doing at that time? Was he talking to  
23 you? Was he -- you at this time had yelled stop, you had  
24 yelled Taser, Taser, Taser?

25 A. Correct.

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1 Q. Did he in any way indicate that he was going to  
2 comply with your directives?

3 A. No, he did not. He did not.

4 Q. And what happened next?

5 A. I used my Taser. I pointed it -- it was in my  
6 hand and I had it in my hand and I had to wait a minimum  
7 because he was holding his right arm behind his back as  
8 we were rounding the corner.

9 Q. And when you say something with his right hand,  
10 tell the jury what he was doing? Put them in your mind  
11 at that time and tell us what you observed.

12 A. When we rounded the corner, and I was yelling  
13 Taser, he was using his right hand to do this motion  
14 (indicating.) And I know at the time I had the Taser so  
15 the first thought in my mind was he was trying to prevent  
16 me from using the Taser on him, and I know that because  
17 I've heard other officers talk about it, and I've seen it  
18 with other officers too. I don't know how Mr. Scott knew  
19 that, but he was going this direction to try to prevent  
20 the little prongs from coming out, I guess maybe he was  
21 trying to knock them away, I don't know.

22 Q. And what did you do?

23 A. I had to wait a minute, because I knew --

24 Q. When you say a minute, people -- you waited 60  
25 seconds?

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1 A. I'm sorry. I waited maybe a second, two seconds.

2 Q. And what did you do?

3 A. And then after he stopped with his arm movement, I  
4 pulled the trigger and activated the Taser and the two  
5 barbs shot out.

6 Q. And was it effective?

7 A. I don't think so, because he continued to run down  
8 the road.

9 Q. Where did the prongs go?

10 A. I don't know. One might have went into him  
11 because you need two for it to work, so one might have  
12 went in, maybe the second one went past him, and then  
13 landed on the road somewhere or maybe they both went past  
14 him, I don't know.

15 Q. Did that cause him to comply with your directives?

16 A. No, he continued to run down the road.

17 Q. And what did you do next?

18 A. I think I told him to stop again. I'm not really  
19 sure. And then I reloaded the cartridge, I took the  
20 cartridge off the Taser and put the new one on to use the  
21 Taser again.

22 Q. And did he in any way express, I've had enough?

23 A. No. He continued to run down the road.

24 Q. And did you fire your Taser?

25 A. I did.

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1 Q. Well, tell us about it.

2 A. Before I fired, I yelled Taser again.

3 Q. You warned him?

4 A. Correct, gave him a warning I was going to use it  
5 again.

6 Q. Did you tell him to stop?

7 A. Yes.

8 Q. Did he comply with your directives?

9 A. No, he continued to run.

10 Q. And then what happened?

11 A. I shot -- I used the Taser, activated it and the  
12 two barbs came out. I'm assuming it hit him because he  
13 went down on the ground, he went down on the ground.

14 Q. Did you know -- did you know at that time whether  
15 or not the Taser was effective?

16 A. At that time I thought it was, but now, sitting in  
17 court, I don't think it was, so when he went down, I  
18 thought it worked. I thought it was working because  
19 that's what usually happens, they fall to the ground.

20 Q. And did he comply at that time with your  
21 instructions?

22 A. No. He was trying to get off the ground, and I  
23 pulled the trigger again.

24 Q. All right. Take us through that slowly. Go back  
25 to you instructing him to stop, instructed him that a

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1 Taser was coming again and there was no compliance and  
2 you shot the Taser?

3 A. I did.

4 Q. Take us through those moments, though seconds of  
5 what you recall.

6 A. So I changed the cartridge and then I yelled,  
7 Taser again, once, twice, I don't recall how many times I  
8 yelled it, and then I pulled the trigger and activated  
9 the Taser. When I activated the Taser, the two prongs  
10 came out and then the next thing I know is Mr. Scott fell  
11 to the ground.

12 Q. Do you know what caused him to fall to the ground?

13 A. At the time I thought it was the Taser.

14 Q. And as a result of what you believed to be at the  
15 time, what did you do?

16 A. I thought that everything was going to be good.  
17 At that time, knowing the Taser worked, I approached  
18 Mr. Scott to handcuff him.

19 Q. And did you handcuff him?

20 A. No. I wasn't able to.

21 Q. Now, let's go back to where you stopped Mr. Scott.  
22 Do you recall the name of the store where you pulled in?

23 A. I think it was Auto Zone.

24 Q. From that location when you got out of your car,  
25 if you know, how far did you run before you got to the

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1 yellow brick road?

2 A. At that time, I don't know the distance. It was  
3 far.

4 Q. And do you know how far you ran to where Mr. Scott  
5 was on the ground?

6 A. At that time, I don't know the distance, but I  
7 know it was pretty far. I know the distance now.

8 Q. But at the time?

9 A. No.

10 Q. Now, tell us what you were wearing when you were  
11 in that chase.

12 A. I was wearing boots socks, underwear, T-shirt, my  
13 homeowner bulletproof vest, my uniform pants, and my  
14 uniform shirt, and then I had shirt stays that went from  
15 my shirt to around my feet to keep my uniform shirt  
16 tucked in.

17 Then I had my duty belt, and under underneath my  
18 duty belt I had an inner belt. I also had six belt  
19 keepers and then a firearm, OC, two handcuff cases, some  
20 gloves, a Taser, two handcuff keys, a radio --

21 Q. So, Mr. Slager, you were in court the other day  
22 when not Chief Driggers, his son, we lies but he  
23 indicated this was the equipment you were -- or similar  
24 to the equipment you were assigned that day; is that  
25 correct?

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1 A. Yes, it is.

2 Q. And did you have a vest on that day?

3 A. Yes, I did.

4 Q. Tell the jury, if you would, how you were fitted  
5 for the vest and whether or not that restricts your  
6 moving and your breathing.

7 A. When the police department buys you a bulletproof  
8 vest, you sit down and they measure you, I don't know the  
9 exact -- they measure around your waist and around your  
10 chest and I guess from your Adams apple down to your  
11 belly button so they measure you in different locations  
12 to make sure that the vest will cover your body  
13 completely around your whole torso.

14 Q. And I assume that's effective when you're standing  
15 still?

16 A. Yes.

17 Q. And what does it do when you're running?

18 A. So when you put it on, those two Velcro strips  
19 that you have to go across your chest to keep it in a  
20 spot and you need to wear it tight so doesn't move around  
21 so when you breathe and your chest expands, it will  
22 restrict that movement and also when you move around it  
23 restricts the movement too.

24 Q. So we're back now at the point where Mr. Scott was  
25 on the ground, tell us, do you recall any instructions

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1 any responses from Mr. Scott? And, again, I don't want  
2 you to say what you know from being in court the last two  
3 weeks, or four weeks, two months, whatever, tell us --  
4 put your mind back a few months and tell you what  
5 happened neck.

6 A. Mr. Scott was on the ground. He started to get up  
7 for the first time, and I pushed -- pulled the trigger  
8 for the Taser again to make him comply, so I could  
9 handcuff him. And then when that happened, I remember  
10 standing next to him and I reached to detain him, to put  
11 him in handcuffs. At that time he was -- he had his  
12 hands -- he was in a pushup position getting up, so I  
13 grabbed for his hand to put so I could detain him because  
14 I don't know why he's running for a brake light. It  
15 didn't make any sense to me when he was given a warning  
16 and he's in the parking lot of the auto parts store. I  
17 don't know. You know in the back of my mind from my  
18 experience there's other factors other things going on.

19 So I tried to grab his left hand to put behind his  
20 back to handcuff him, and as I'm doing that, he's in the  
21 pushup position trying to get up at the same time and  
22 when that happens at the same time, his pushup and the  
23 hand behind his back, he must have rolled over to his  
24 side, and then now he's on his back, facing me, and I'm  
25 on top of him. I'm just thinking, what's going on? I

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1 don't understand why he's doing all this? Why he's not  
2 stopping?

3 So I have the Taser in my hand and for the Taser,  
4 is the wires that come out of the Taser, if you turn --  
5 if you pull the trigger on the Taser, the wires -- if you  
6 touch the wires, you can be shocked too. The current  
7 runs through it. There's not really of protection, I  
8 guess, because I've had that happen to me before, so I  
9 think that's why I took the bridge off. I don't remember  
10 taking it off. That's the only reason I think I could  
11 have taken it off at the time thinking back, so I'm  
12 trying to held hold him down with my elbow, and I have  
13 the Taser in my right hand, you know, trying to hold him  
14 down, and he's still trying to fight and trying to get  
15 up. He's not listening to what I'm saying.

16 Q. Well, what were you saying?

17 A. I think I was telling him, you know, to get on the  
18 ground, to stop. I was saying something, but now I know  
19 what I said after being in the courtroom.

20 Q. But back then, do you remember independently from  
21 the courtroom environment or preparing for the courtroom,  
22 do you have an independent recollection of what you were  
23 saying and what he was saying to you?

24 A. I don't recall what I had was saying. I think I  
25 said get on the ground, but that's what I always say, so

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1 maybe I reverted back to that. I don't really recall.

2 Then I'm holding him down, and I want him to stop,  
3 so I use the drive stun on the side to make him comply to  
4 make them stop so I could take him into custody because  
5 he's not, he's not stopping.

6 At that point, I knew Mr. Scott was a lot stronger  
7 than I was because he was pushing me and I just knew I  
8 was going to lose the fight I knew I was going to lose  
9 because with my weight on top of him he was just like,  
10 keep on going.

11 I think, you know, at that time, I think we're  
12 rolling around on the ground, some of that is really  
13 fuzzy in my mind, and then I remember, you know, when I  
14 called for Habersham.

15 Q. Let me ask you if this radio was part of your  
16 equipment that day?

17 A. Yes.

18 Q. If you would, put it on to the best of your  
19 ability so that the jury can get a visual of when you  
20 called for Mr. Habersham.

21 A. So the radio -- Your Honor, can I stand up?

22 THE COURT: Yes.

23 THE WITNESS: So the radio is on my belt in  
24 this position here.

25 BY MR. SAVAGE:

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1 Q. Can you put it in your pocket for now?

2 A. So it's over in this position. And I have it come  
3 up behind me and it clips on to my shirt like this.

4 Q. So stay standing so that the jury can see you, and  
5 obviously you weren't standing at the time, but tell us  
6 what was in your mind and what you did.

7 A. So I have my radio like this because the button is  
8 here, and I can hit it with my thumb on my left hand, or  
9 I can reach with my finger, so that's why I keep it here.  
10 So I'm holding Mr. Scott down and he's destroying to get  
11 up. He's fighting, we're rolling around on the ground,  
12 and, you know, it happened so fast, I don't recall every  
13 single movement, and I have the Taser in my right hand,  
14 and I used it on him to make, you know, so he would  
15 comply, so I could take him into custody.

16 As I'm doing that, I know I'm starting to figure  
17 out I'm losing the fight, so I'm holding him down with my  
18 elbow and my forearm. I lift my hand up to call for  
19 Habersham to come, because Habersham's my partner.

20 And I knew he would be there the quickest. And as  
21 I'm doing that, the only part I have on Mr. Scott is my  
22 elbow, and I think it's in this area, holding him down,  
23 and my right hand's pointed away and at that time I'm  
24 calling for Habersham, 156, step it up, which 156 is  
25 Habersham's badge number, and 156 means come faster, and

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1 as I do that, Mr. Scott grabs the Taser with his hand and  
2 starts yanking on it, and then he grabs it with his other  
3 hand and yanks on it with both hands, and then he rips it  
4 out of my hand and then that day, I had some cuts on my  
5 fingers and stuff, so I don't, maybe it came from there,  
6 maybe it came from when we were rolling on the ground, I  
7 don't know, it.

8 Q. And?

9 A. And he takes the Taser out of my hand with such  
10 force, it comes out of my hand, and then I see him with  
11 the Taser in his hand, and I see him spin it around.  
12 That's the only thing I see is that Taser, coming at me,  
13 I see that barrel, like this big, coming at me. And I  
14 knew I was in trouble. I knew I had called backup. I  
15 needed backup. I knew I was being overpowered. And I  
16 saw that Taser coming at me, coming at me, coming at me  
17 like this, and he's coming after me, I'm trying -- my  
18 eyes, I don't know what's going on, and I'm trying to get  
19 away. I'll trying to get away, and I think -- as I'm  
20 backing up or trying to get back on the ground, I think  
21 we both stand up at the same time, I don't know, but  
22 we're both up, and that's when I see --

23 Q. So let me interrupt you. You're on the ground.  
24 The Taser is taken away. The Taser is being used against  
25 you. Are you moving away or are you -- what are you

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1 doing, do you remember?

2 A. If I remember correctly, I'm backing up, trying to  
3 get away from the Taser.

4 Q. And what was Mr. Scott doing?

5 A. He was coming towards me.

6 Q. When he got up when you disengaged, did he turn  
7 around and run away?

8 A. No, no. He continued towards me.

9 Q. So after you disengaged on the ground, you're  
10 backing up and he didn't turn around and run off?

11 A. No. He was extending his right arm, leaning  
12 forward, coming at me with that Taser for the second  
13 time.

14 Q. And I know you've seen some photographs of that,  
15 some still shots from Mr. Santana's video. If you could  
16 put the jury in the place of what you observed when you  
17 observed it with respect to the getting up off the  
18 ground.

19 A. We were like this close (indicating.) Arm's  
20 length away, how far it was.

21 Q. And what did you do when he -- tell me his  
22 position. Was he standing up, was he turning away, his  
23 toes, his feet, his body presence, what is it that  
24 communicated with you nonverbally but communicated with  
25 you by his person and his movements?

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1 A. Can I stand up?

2 Q. Sure.

3 A. When we got off the ground, I instructed Mr. Scott  
4 to turn right away and go, but he didn't. He stood up,  
5 we both stood up, he's leaning forward, right arm  
6 extended out, facing me, coming towards me.

7 Q. This is after what happened on the ground?

8 A. Correct.

9 Q. After he had taken possession of the Taser?

10 A. Yes.

11 Q. He stayed in the fight?

12 A. Yes.

13 Q. What did you decide at that time? What was in your  
14 mind?

15 A. In my mind, fear. I was scared. With everything  
16 leading up to this, from the run to not cooperating to  
17 the fight on the ground, to Mr. Scott with the Taser  
18 coming after me while we were on the ground in the chest  
19 area and us breaking apart as we're standing up and  
20 coming at me again, you know, it was total fear that  
21 Mr. Scott didn't stop, continued to come towards me.

22 Q. Did he ever give you any indication of compliance  
23 or surrender?

24 A. No, not at all.

25 Q. And what did you do next?

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1 A. At that time I pulled my firearm and I pulled the  
2 trigger.

3 Q. How many times?

4 A. I don't know. I fired until the threat was  
5 stopped, like I'm trained to do.

6 Q. Did you fire every bullet that was in your weapon?

7 A. No.

8 Q. Did you handcuff Mr. Scott?

9 A. I did, yes.

10 Q. Why did you do that?

11 A. After the shooting and Mr. Scott was on the  
12 ground, I didn't know if I hit him. I didn't know if he  
13 tripped, if he fell. And he is still at threat at that  
14 time, and in the police academy and North Charleston  
15 training, you always handcuff a subject, always.

16 Q. Did you do that out of malice or ill will?

17 A. Absolutely not.

18 Q. Did you do it because you were trained to do it?

19 A. Yes.

20 Q. Did you realize at that time or any time before  
21 that that Mr. Scott did not have your Taser?

22 A. No.

23 Q. When did you determine that he did not have your  
24 Taser?

25 A. When I went and handcuffed Mr. Scott, I was

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1 looking around and I didn't see it, so I looked on the  
2 ground, like this, and I saw it in the road and I ran  
3 over and got it.

4 Q. And what did you do with it?

5 A. I grabbed it and I ran back over to Mr. Scott.

6 Q. And what did you do with the Taser?

7 A. After that, you know, I must have thrown it on the  
8 ground by Mr. Scott's body. You know, I don't remember  
9 doing that.

10 Q. But we see it on the video now.

11 A. Yeah.

12 Q. And did you pick it back up?

13 A. I did.

14 Q. Did you try to plant evidence or do anything that  
15 would try to be deceptive or deceitful?

16 A. No.

17 Q. After you fired your weapon at Mr. Scott, what  
18 does procedure require you to do in terms of  
19 communication?

20 A. Call on the radio right away and tell dispatch  
21 what happened.

22 Q. Do you remember what you said to dispatch?

23 A. Yes.

24 Q. Tell the members of the jury what you said and why  
25 you said what you said.

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1 A. I came over the radio and said two two three  
2 dispatch, shots fired, suspect down and he grabbed my  
3 Taser. So I was telling dispatch that I used my weapon  
4 and the subject was hit, was down on the ground, and that  
5 he grabbed my Taser.

6 Q. And the suspect down, what message does that send  
7 to emergency response?

8 A. That a subject needs immediate care and dispatch  
9 will automatically send the fire truck, which is across  
10 the street and the ambulance.

11 Q. And did you have time to reflect and think about  
12 I'll make up a story and tell them that he grabbed my  
13 Taser?

14 A. Into the.

15 Q. How many seconds if you know after you fired your  
16 shots did you call dispatch?

17 A. It was right away. I don't recall how long,  
18 but --

19 Q. And that's why you shot Mr. Scott.

20 A. Yeah.

21 Q. At any time during your interaction with Mr. Scott  
22 that morning, did he ever say anything to you or did he  
23 ever send a signal to you that he was going to comply  
24 with your instructions?

25 A. One time he did. And that was when I told him to

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1 get back in the car the first time. That was the only  
2 time he complied when I told him to do.

3 Q. If -- this time on Saturday morning, at 9:30, you  
4 were still a police officer.

5 A. Yes.

6 Q. And you were riding down Remount Road and what you  
7 described earlier, would you do it again?

8 A. The traffic stop?

9 Q. Well, the whole incident, what happened that  
10 morning. (If at this time.)

11 A. You know, Mr. Savage, that's a hard question to  
12 answer, because things that I know now, 218 months later  
13 compared to what I knew on the scene and had to make a  
14 split second choice, you know --

15 Q. So what are those things that you either knew or  
16 didn't know at that moment you decided to engage with  
17 Mr. Scott and to continue following him and Tasing him  
18 and trying to detain him? What was in your mind at that  
19 time? What were the variables that were present?

20 A. In my mind at that time, people don't run from the  
21 broken taillight. There's always another reason. And  
22 with him running and continually escalating the  
23 situation, he's running from something he's also fighting  
24 me on the ground and he grabs my Taser, he uses it on me,  
25 tries to use it again, Mr. Scott is getting away -- he

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1 wants to get away for some reason he -- I don't know.

2 Q. Had at any time during the stop or prior to you  
3 using your weapon did you have an opportunity to -- tell  
4 the jury what a -- what do you call it, Terry stop is,  
5 frisk?

6 A. Correct.

7 Q. Tell the jury what that is.

8 A. That's when you have some kind of suspicion and  
9 you ask the person to exit the car, or if they're on the  
10 street you basically just do a quick frisk for weapons,  
11 if they have any weapons on them.

12 Q. And did Mr. Scott's actions in any way prior to  
13 his running give you reasonable suspicion to search him?

14 A. No.

15 Q. To pat him down for weapons?

16 A. No.

17 Q. So did you know at the time whether he was armed  
18 or not?

19 A. I did not know.

20 Q. Were his actions consistent with somebody who  
21 believed they could overtake you?

22 A. I --

23 MR. DuRANT: Leading question, Your Honor.

24 BY MR. SAVAGE:

25 Q. What did his actions, what message did it send you

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1 that morning, what he was doing?

2 A. On the traffic stop, it was normal. After the  
3 traffic stop, the message was is that he would do  
4 anything to get away.

5 Q. And did you know who the passenger was?

6 A. No, I had no idea who the passenger was.

7 Q. At the time you engaged in the ground fight, did  
8 you know where the passenger was?

9 A. I did not know.

10 Q. At the time you were chasing him, was Mr. Scott  
11 using his cellphone?

12 A. I think so, yes.

13 Q. You say you think so. Tell us a little bit more  
14 about that.

15 A. I remember one incident where he had the phone in  
16 his hand, running, yelling, I'm on Remount Road, I'm on  
17 Remount Road. From my experience he was giving  
18 directions to somebody where he was. I don't know if he  
19 was calling somebody to come and pick him up, I don't  
20 know what he was doing.

21 Q. And tell us about the phone. Did you see the  
22 phone when you were engaged in the fight?

23 A. Yeah. It was on the ground.

24 Q. And did you hear anything from the phone at that  
25 time?

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1 A. I did.

2 Q. Tell the jury what you heard.

3 A. I heard a voice on the phone stating, stop. Do  
4 what the police say, to that effect. I don't remember  
5 how many times it was.

6 Q. And what was in your mind? How did you interpret  
7 that?

8 A. That it was another officer coming to back me up,  
9 coming from behind to back me up, telling the person,  
10 telling Mr. Scott to stop and do what the police say and  
11 then nobody was there.

12 Q. So in your mind, you thought what was coming out  
13 of the phone was what?

14 A. Another officer behind me.

15 Q. Present.

16 A. Correct.

17 Q. And, of course, when you're asked would you do it  
18 again, there are things that you've found out in the past  
19 18 months?

20 A. Correct.

21 Q. We can go into those.

22 A. Okay.

23 Q. That may have changed your mind. What do you know  
24 now that you didn't know then?

25 A. About Mr. Scott's history.

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1 Q. Just --

2 MR. DuRANT: Objection. Relevance.

3 THE COURT: The objection is sustained.

4 BY MR. SAVAGE:

5 Q. Are the things that you've learned -- for instance  
6 we hear unarmed?

7 A. Correct.

8 Q. We know that now.

9 A. Yes.

10 Q. There are other matters about parties involved,  
11 what they were doing, who they were with and whatnot that  
12 we know now.

13 A. Yes.

14 Q. As a result of what you know now, would you have  
15 ever gotten out of your car?

16 A. Absolutely not.

17 Q. What would you have done?

18 A. I would have called for backup right away.

19 Q. Now, let's go you've been here all week. Let's go  
20 back to high school.

21 THE COURT: We're going to take a break right  
22 now. Ladies and gentlemen, if you go to the jury room,  
23 please do not discuss the case.

24 (In open court, jury not present.)

25 THE COURT: As we started the live feed went

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1 out so they've been trying to get me to take a break 1,  
2 2, 3, 12, 2015.

3 (Recess taken.)

4 (In open court, jury not present.

5 THE COURT: You can bring the jury.

6 (In open court, jury present.)

7 THE COURT: Yes, sir. You may proceed.

8 MR. SAVAGE: May it please the Court:

9 THE COURT: Yes, sir.

10 BY MR. SAVAGE:

11 Q. When we took the break, I was just about to ask  
12 you about your upbringing, if you would start in high  
13 school.

14 A. I went to high school in New Jersey, graduated and  
15 then I did a little work at a restaurant, a banquet  
16 house, and then at the same time I started college but  
17 that really didn't work out for me, I guess, so I joined  
18 the military.

19 Q. Tell me about your family. What -- when you say  
20 you group up in New Jersey, tell us maybe go back before  
21 that.

22 A. So I lived with my parents, they got divorced when  
23 I was young.

24 Q. That's your dad and your mom?

25 A. Yes, they're here, and so I went with my mom, I

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1 think I was ten years old maybe, so I went with my mom to  
2 Texas. Stayed there for a little bit, and then I went to  
3 live with my dad in New Jersey. I went to high school  
4 there, and that's when I ended up joining the military.

5 Q. In high school did you have -- were you involved  
6 in outside activities?

7 A. I was. In high school, we had a TV station, a  
8 TV station in the school, so we did a morning show. The  
9 TV was in each classroom, and, you know, the kids would  
10 come on and say the morning announcements and then  
11 also --

12 Q. What was your role in that?

13 A. I worked in the back. I worked with editing and  
14 the cameras.

15 Q. And did you work outside -- did you have any  
16 activities outside of the act determine anything  
17 environment? Did you work?

18 A. I did. I worked at a restaurant and I also  
19 volunteered at EMS.

20 Q. Emergency medical services?

21 A. Yes.

22 Q. And that was county or city what?

23 A. It was the city.

24 Q. And did you do any boating?

25 A. I did. We had a boat, my dad had a boat probably

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1 all the way through middle school, high school so I was  
2 on the boat all the time, worked on the boat.

3 Q. So when you tried out in college, you decided --  
4 what branch of the service did you go in?

5 A. I enlisted in the Coast Guard.

6 Q. In the Coast Guard, how long were you serving in  
7 the Coast Guard?

8 A. Six years.

9 Q. And during your tenure in the Coast Guard, what  
10 type of jobs did you have? What was did your -- did they  
11 have an MOS?

12 A. Yes, in the Coast Guard there's only 11 jobs.

13 Q. How many?

14 A. 11 jobs, so you have your main job and everybody  
15 has collateral duties, so I was at a station in Florida  
16 and I had a handful of collateral duties.

17 Q. You went into law enforcement?

18 A. I did, I did, sit was a boarding team member. I  
19 was also on the customs joint task force in the port  
20 there.

21 Q. And did you have any captain's masts or  
22 disciplinary problems, did you have any issues when you  
23 were in the Coast Guard?

24 A. No issues, no problems.

25 Q. What type of discharge did you receive?

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1 A. Honorable and.

2 Q. And that was after --

3 A. Six years.

4 Q. Six years. What did you do after you -- were you  
5 married at that time this time? Tell us --

6 A. No, I wasn't married at the time. When I was  
7 getting out of the Coast Guard, I had a buddy who lived  
8 in North Charleston, and he was telling me that North  
9 Charleston police department was hiring at the same time  
10 I was getting out, so I thought to myself, I'll move to  
11 South Carolina. And I did.

12 Q. How old were you when you came to South Carolina?

13 A. I think I was -- six years ago, I was 29.

14 Q. And were you married at that time?

15 A. I was not.

16 Q. And did you -- were you accepted by the North  
17 Charleston police department?

18 A. Yes, I was.

19 Q. And what did you do when you were accepted?

20 A. When I was accepted, I went to a three week pre  
21 academy at the department and that basically means that  
22 we go to the range one time and fire and qualify on the  
23 firearm, and then we had to get OCed with OC pepper spray  
24 but I didn't have to do that because I did that in the  
25 military, and basically we sat in a room and we went over

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1 the legal material before we went to the academy.

2 Q. And how long were you in the academy?

3 A. It was nine weeks.

4 Q. And we've heard a little bit about the academy,  
5 academic training, physical training, whatnot?

6 A. Yes.

7 Q. Physical requirements?

8 A. Yes. We had to do an obstacle course when we got  
9 there.

10 Q. And since you took that obstacle course in your  
11 career as a law enforcement officer what physical  
12 training or obstacle courses have you had since?

13 A. None.

14 Q. And you've heard the testimony this week I don't  
15 want to be repetitive but a lot of classroom work, a lot  
16 of firing range work. What about Tasers what do they  
17 tell you in the criminal justice academy about Tasers?

18 A. Nothing.

19 Q. What do you mean, nothing?

20 A. At the criminal justice academy doesn't teach  
21 about Tasers.

22 Q. And where did you learn with Tasers?

23 A. At North Charleston police department.

24 Q. And after you -- I'm assuming you graduated.

25 A. I did. I graduated.

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1 Q. And you weren't sent back at all for repeating  
2 classes or anything like that?

3 A. No, I passed all my classes.

4 Q. And when you got to North Charleston, what type of  
5 capacity did you serve in then?

6 A. After I graduated from the academy I went to  
7 TO training.

8 Q. If you would speak up and don't use initials,  
9 because we don't know what that means. You went to what  
10 type of training?

11 A. I was assigned to a field training officer. That  
12 basically means a veteran police officer on in the  
13 department who I work with and he teaches me how to be a  
14 police officer on the street.

15 Q. And when you came to court today, did you bring  
16 some notes to refresh your memory of the different  
17 activities that you participated in?

18 A. I did.

19 Q. Why don't we take a look at the daily observation  
20 reports. I don't want you to read from them but you're  
21 entitled to read from them to refresh your memory to tell  
22 the jury the type of reports that were written up by you  
23 during your field training.

24 A. Okay.

25 Q. The field activity reports were daily; is that

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1 correct?

2 A. Yes.

3 Q. Well, let's look at March 24th and tell the jury  
4 what your officer wrote up about you.

5 MR. DuRANT: Objection. Hearsay.

6 THE WITNESS: I don't have that one.

7 BY MR. SAVAGE:

8 Q. All right. Well, let's go to April 13th.

9 A. I don't have --

10 Q. Are you looking at your field training records?

11 A. Yes, sir.

12 THE COURT: This is April 13th of what year?

13 MR. SAVAGE: 2010.

14 MR. DuRANT: Your Honor, I would object to  
15 this entire line of questioning. Basically what he's  
16 doing is having him read what that person wrote about  
17 him. If they want to put that person up fine, but this  
18 is nothing but hearsay.

19 THE COURT: Mr. Savage?

20 MR. SAVAGE: What I've asked him to do is to  
21 refresh his memory from these activities that occurred  
22 years ago by looking at those reports, if he needed to  
23 refresh his memory but not to testify from them. He's  
24 not reading from the reports. He's testifying, refreshed  
25 recollection of what he did on those dates.

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1 THE COURT: As to what he did or what someone  
2 said about him?

3 MR. SAVAGE: What he did. Now, if he didn't  
4 write these reports, I agree, but these are his notes of  
5 his activities of that day which refreshes his memory of  
6 what he did.

7 THE COURT: I overrule the objection.

8 MR. SAVAGE: May I see your records, please.

9 BY MR. SAVAGE:

10 Q. So if you would take a look at your activity  
11 report from March 24th, don't read from it refresh your  
12 memory as to what you did that day, and tell the jury.

13 A. So on that day, I was with my field training  
14 officer and we got out with a couple of individuals,  
15 waking the street. At that time we made contact with  
16 them and they were arrested due to the act of carrying  
17 concealed weapon and having narcotics on them.

18 Q. And on April 14th, what did you do that day?

19 A. That day I was with my field training officer and  
20 we were driving around in Union Heights. I observed a  
21 gentleman riding a bicycle in and out of cars on the  
22 wrong side of the street and we went to make contact with  
23 him and he ran away. At that time, I chased and detained  
24 the subject and upon a search he had a whole bunch of  
25 narcotics in his pocket.

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1 Q. On those dates, was anybody hurt?

2 A. No, sir.

3 Q. On April 22 of 2010, refresh your memory as to  
4 what you did that day.

5 A. At that time, I was with another officer on day  
6 shift --

7 MR. DuRANT: I'm going to have to object to  
8 relevance, Your Honor. This is all very interesting but  
9 what does it have to do with the issues before this jury?

10 THE COURT: Response, Mr. Savage.

11 MR. SAVAGE: As I understand relevance it's  
12 evidence that will help the jury make a determination in  
13 the case and the fact that he was a rookie engaged in a  
14 number of foot chases and detentions and arrests in high  
15 crime neighbor neighborhoods without any violence  
16 perpetrated I think is important for the jury to know.

17 THE COURT: Solicitor?

18 MR. DuRANT: Once again, Your Honor, I mean,  
19 it's all well and good and we would acknowledge that  
20 Officer Slager never killed anybody before April the 4th  
21 but it has nothing to do with his behavior on April the  
22 4th of 2015.

23 THE COURT: I sustain the objection.

24 BY MR. SAVAGE:

25 Q. During the time period in which you were under a

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1 field training officer, did you have a variety of  
2 experiences in detaining, arresting people who were armed  
3 and dangerous narcotics dealers and that sort of thing?

4 A. Yes.

5 Q. And that's all reflected in --

6 MR. DuRANT: Same objection, Your Honor.

7 BY MR. SAVAGE:

8 Q. Reflected in the report that the solicitor has had  
9 for 18 months?

10 A. Yes, sir.

11 Q. And certainly these are public records that the  
12 solicitor, or anyone else could get to read to learn  
13 about your background?

14 A. Yes, sir.

15 Q. And the --

16 MR. DuRANT: Your Honor, I made an objection  
17 on relevance. My objection on relevance is continuing,  
18 and I just don't see how this has anything to do with the  
19 issues before this Court.

20 THE COURT: And I rule on a question by  
21 question basis. Is there an objection to the last  
22 question or the next question?

23 MR. DuRANT: I'm objecting to the entire line  
24 of questioning, Your Honor. I don't think this has  
25 anything to do with the issues before this Court.

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1 THE COURT: I rule on a question by question  
2 basis.

3 MR. SAVAGE: I'll move on, Your Honor.

4 THE COURT: Yes, sir.

5 BY MR. SAVAGE:

6 Q. There's been a lot of talk by the solicitor in  
7 their questioning of witnesses about your use of force?

8 A. Yes.

9 Q. Have you ever had an instance of use of force in  
10 which you had been reprimanded or sanctioned or in any  
11 way charged with any abuse of authority or violation of  
12 procedure?

13 A. No.

14 Q. Well, let's go through each and every one of them  
15 so you can tell the jury what you did, starting with the  
16 first use of force employed. Do you have those reports  
17 in front of you?

18 A. I do, sir.

19 Q. And you can take a look at them and you can tell  
20 us the date, if you will, and you can tell us what the  
21 issue was that caused you to use force.

22 A. Yes.

23 Q. So is the first date is what, sir?

24 A. 6/7/2010.

25 Q. And what did the suspect do that caused you to use

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1 force and what type of force was it?

2 A. This was a traffic stop. The subject stated that  
3 he had a gun under the front seat and he refused to get  
4 out of the car with that loaded gun under the front seat.

5 Q. And what type of force was employed?

6 A. At that time I used my Taser, presented my Taser,  
7 and then he complied.

8 Q. And you said there was compliance?

9 A. Yes, sir.

10 Q. On -- the next event when did that take place?

11 A. April 20, 2011.

12 Q. And what was the circumstance of that use of  
13 force?

14 A. That use of force was another officer located a  
15 stolen vehicle. At that time he wanted another unit to  
16 help him to effect a traffic stop on the car. At that  
17 time the vehicle fled and a chase happened. We went into  
18 Accabee neighborhood. As the car is driving down the  
19 road, the driver and the passenger both jump out of the  
20 moving vehicle and proceed to run into the neighborhood.  
21 The driver runs under a house and tries to hide, and then  
22 I chase after the passenger who also ran. At that time  
23 the passenger would not stop, would not comply and a  
24 Taser was used.

25 Q. And did the suspect then comply with the

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1 directives?

2 A. Yes.

3 Q. What is the third use of force?

4 A. Third one is dated June 20th, 2011. If I remember  
5 correctly that incident, a gentleman parked his moped in  
6 front of the door of a gas station, convenience store, on  
7 the sidewalk and I went to make contact with him and have  
8 tell him to move his moped to the parking spot. At that  
9 time he proceeded to flee the area, to drive away, and he  
10 proceeded to run a stop sign at the corner of -- I think  
11 Harvey and South Allen, in that area, Dorchester Wayland  
12 and then I initiated a traffic stop. He did not comply.  
13 He continued to elude and a car chase ensued and he went  
14 across the street into oncoming traffic, no regard for  
15 anyone, and then he came to a wooded field where he  
16 jumped off the moped and ran into the woods towards the  
17 CSX railroad property. At that time he gave chase,  
18 commands to stop. He refused and a Taser was used.

19 Q. Without further incident?

20 A. Correct.

21 Q. He was in compliance?

22 A. I'm sorry?

23 Q. He was in compliance?

24 A. Yes.

25 Q. And the next incident, please, in July of 2011.

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1 A. July 22 of 2011, myself and Sergeant Ghi were in  
2 Chicora-Cherokee. We were at the corner of out to two  
3 and carver and we observed a mail subject walking around,  
4 exposing himself in front of other neighbors. We made  
5 contact and he proceeded to flee and the Taser was used  
6 and my was arrested for indecent exposure.

7 Q. Any further incident result of that?

8 A. No.

9 Q. Next one please November of 2012.

10 A. November of 2012. That's going to be one where we  
11 were at a bar due to the fact of multiple shootings  
12 violent crimes. The whole team had to go to this bar  
13 when it closed. One of vehicles left the parking lot and  
14 ran into another car. We followed and made contact with  
15 the driver at his house. At that time it was him and his  
16 brother there, and he did not want to talk to me. I  
17 proceeded to be very boisterous and loud (he) then he  
18 proceeded to throw his wallet at me and run on foot. At  
19 that time I gave chase and the Taser was used and then we  
20 were on the ground, trying to handcuff him, a fight  
21 happened, and he proceeded to grab my Taser. At that  
22 time, luckily, another officer got there right at that  
23 incident so no more force was used except for handcuffing  
24 the individual.

25 Q. Any repercussions or first incidents result of

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1 that?

2 A. No.

3 Q. Suspect acted in compliance?

4 A. After he was handcuffed, yes.

5 Q. By the way each and every one of these instances  
6 are these signed off by your superiors?

7 A. Yes, they are.

8 Q. So your sergeant, lieutenant, captain and the  
9 chief and the deputy chief?

10 A. Correct.

11 Q. In June of 2013 when you were involved in another  
12 incident?

13 A. Yes, I was. This one happened actually in front  
14 an officer's home. An individual was breaking into  
15 vehicles and the officer came home and located him hiding  
16 in the driveway. At that time I assisted the officer and  
17 we took him to the ground with an armed bar take down and  
18 he was detained.

19 Q. And how was the Taser utilized in that situation?

20 A. If I remember correctly, it was a drive stun.

21 Q. And any further repercussions?

22 A. No.

23 Q. On July 17 of 2013, tell us what happened that  
24 day.

25 A. I'm sorry. July 17th, 2013?

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1 Q. Correct.

2 A. That was the one where -- my memory -- we received  
3 a call to a home in reference to a six-foot-three 280  
4 pound man, intoxicated, causing a problem in his mother's  
5 home, arrived on scene and we told him he needed to leave  
6 due to his mother's request. At that time, he was  
7 becoming more and more upset and then he proceeded to  
8 punch his girlfriend in the face and she flew across the  
9 room. At that time I utilized my Taser to take him into  
10 custody.

11 Q. And at that time did he comply?

12 A. Yes.

13 Q. The next incident, please.

14 A. Yes. That one is going to be on 8/31/2013. This  
15 one we responded to a call at an apartment complex where  
16 a female was inside and her boyfriend was trying to get  
17 in the door. At that time we arrived on scene and as we  
18 arrive coming on scene we were notified by dispatch that  
19 the suspect was still on scene so we turned our  
20 headlights off and we parked down the street so he  
21 wouldn't see us coming. At that time, we arrived on  
22 scene and he continued to kick in the door trying to, I  
23 guess, get her. At that time, we told him to come down.  
24 He was very upset and he proceeded to fight officers,  
25 fight me. My Taser was used and two other officers were

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1 on scene also and he was taken into custody.

2 Q. And how was the Taser employed at that time?

3 A. At that time, it was -- I'm sorry. I didn't use  
4 the Taser, another officer used the Taser, and that was  
5 with the probes.

6 Q. And so why is there a use of force report in your  
7 file when you didn't use the Taser?

8 A. Because I was on scene, so if you have 20 officers  
9 on scene for use of force, every officer's in that  
10 report.

11 Q. All right. On September 15th of 2013, what  
12 happened?

13 A. Is August 312015? I have September 15th, am I  
14 wrong. I don't have that one, sir.

15 Q. What is the next one you have?

16 A. This one is -- I'm sorry, it is September 15th. I  
17 read the wrong date. We got a call to a resident in  
18 Union Heights in reference to a man who broke into a home  
19 and tried to rape a woman. At that time, myself and  
20 another officer figured out who the gentleman was. We  
21 went to his house and when he opened the door, he was  
22 very sweaty and he stated he had just woken up from a  
23 dead sleep. They had the same name and we wanted to talk  
24 to him. At that time the individual became belligerent  
25 and slammed the door in our faces. At that time we tried

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1 to restrain the subject and he proceeded to fight us.

2 At that time a Taser was used to put the gentleman  
3 in custody.

4 Q. Did it effect compliance?

5 A. Yes, it did.

6 Q. In all these records we've been reading, these  
7 were when you were working in the south area?

8 A. Yes.

9 Q. And your shift at that time was what hours?

10 A. It was 10 p.m. to 8 a.m.

11 Q. So all these incidents were in the early morning  
12 hours?

13 A. Yes.

14 Q. What about in December, December 22 of 2013?

15 A. This one happened at 5:22 in the morning. Another  
16 officer got out with a subject who was intoxicated. At  
17 that time the officer was going to take the person into  
18 custody and he resisted, grabbing on to a car. At that  
19 time, the subject turned around and bear hugged the  
20 officer and tried to grab his equipment on his belt. At  
21 that time I used the Taser due to the fact this gentleman  
22 was assaulting the other officer.

23 Q. The gentleman was how tall and what did he weigh?  
24 6 foot three, 245 pounds?

25 A. Yes, sir, six foot 3, 245 pounds.

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1 Q. And on February 25 of 2014?

2 A. I -- we -- I was dispatched to a domestic violence  
3 call.

4 Q. What time was that?

5 A. That was at 3:52 in the morning. And it was in  
6 Union Heights and when we arrived on scene, the daughter  
7 met us at the door and stated that her mom was being beat  
8 up by the boyfriend. As I went through the house into  
9 the bedroom, I observed the female laying on the bed, on  
10 her back, and the male was on top of her, choking her and  
11 told her that you better not tell the police what I'm  
12 doing.

13 At that time he was taken into custody without any  
14 kind of issue, and then when we got to the vehicle he  
15 refused to get into the vehicle. He was handcuffed and  
16 refused to get into the vehicle. At that time, after  
17 telling him and instructing him multiple times by myself  
18 and a sergeant on scene we decided to use eye Taser in a  
19 drive stun mode to drive stun him in the pelvic bowl area  
20 which is the pelvic region so he could wind of bend down  
21 and get limb in the vehicle that's the only way he could  
22 have gotten into the scar. After that he complied.

23 Q. On May 4 of 2014, on this incident here, it was at  
24 10:44 p.m., and we responded to a call where a roommate  
25 would not SLED another roommate inside the house. I

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1 guess they were having some kind of an argument, I don't  
2 knee what we call that as we arrived we were outside and  
3 we could hear the roommate inside stating -- I'm saying  
4 that are you ready for this, to that effect. When he  
5 opened the door, he didn't see the police and proceeded  
6 to punch the roommate in the face and the roommate fell  
7 to the ground. At that time we were told he was -- we  
8 told him he was under arrest and we had to use our Taser  
9 to effect the arrest? Did he comply at that time?

10 A. He did.

11 Q. Then on May 4 of 2014?

12 A. On that date officer Clement, another officer, it  
13 was at 3:33 in the morning conducted a traffic stop on a  
14 subject. At that time, he called for backup and I  
15 arrived on scene and the officer wanted to get the  
16 subject out of the vehicle to do an arrest and the  
17 subject ran away.

18 At that time, we ran across Rivers Avenue into a  
19 field and I'm pretty sure -- he was not listening to what  
20 officers were saying, continued to run, and I used my  
21 department issues Taser, but it missed the subject. And  
22 then I followed up with the drive stun and he was in  
23 compliance. He was handcuffed.

24 Q. And on May 27th of 2014.

25 A. This is somewhat the same incident as the last

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1 one. The subject was in a vehicle at a traffic stop was  
2 conducted for speeding and he also ran from the vehicle  
3 and he was not compliant with officer's request and he  
4 was Tased and taken into custody.

5 Q. So the one on May 4th, when you say speeding, what  
6 types of speeds are you talking about?

7 A. I'm sorry. On May 4th it was no turn signal and  
8 on May 24th it was speeding.

9 Q. And what type of speeds are you talking about?

10 A. The officer initiated a traffic stop, stated he  
11 was going at a high rate of speed through the  
12 neighborhood.

13 Q. 100 miles an hour?

14 A. Could have been, yes.

15 Q. And did we do August 8 2014?

16 A. August 8 of 2014, I responded to a gas station at  
17 5:19 in the morning to assist another officer who was  
18 doing a traffic stop in the parking lot. At that time,  
19 they were ran through the computer and they had warrants.  
20 The person resisted, did not comply, tried to run away,  
21 and a Taser was used to effect the arrest.

22 Q. Suspect was in compliance?

23 A. Correct.

24 Q. And on August 25th of 2014?

25 A. Yes. On August 25th, 2014, another officer

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1 conducted a traffic stop on a vehicle. When that officer  
2 conducted a traffic stop, he realized that the license  
3 was suspended and he called for another unit. I arrived  
4 on scene and another officer arrived on scene. At that  
5 time the officer walked up to the vehicle and told the  
6 subject to get out of the vehicle, that you're under  
7 arrest. The officer told the subject eight to ten times  
8 that he was under arrest for driving under suspension and  
9 the subject would not comply. He stated no and would not  
10 get out of his vehicle. At that time myself and two  
11 other officers opened the door and proceeded to get him  
12 out of the car. We had to physically pull him out of the  
13 car because my was resisting after he was told he was  
14 under arrest.

15 When he was in the car, he leaned over to the  
16 passenger side and proceeded to grab a bat, a bat or a  
17 club. At that time, we yanked him out of the car because  
18 he was grabbing that weapon, and if I remember correctly  
19 the other officer on scene used -- pulled his firearm out  
20 due to the fact that this individual was grabbing a bat.  
21 As we pulled him out of the vehicle, we had to pull him  
22 out pretty strong he was grabbing a bat we didn't know  
23 what he was doing the bat so we yanked him out of the car  
24 and he was on the ground. At that time the officers are  
25 telling him put his hands behind his back, giving hip

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1 commands he's refusing, he continually putting his hands  
2 underneath his stomach in his waistband area and at that  
3 time I used my Taser due to the fact of everything that  
4 SLED up to the incident and he was taken into custody.

5 Q. He was compliant at that time?

6 A. He was.

7 Q. In a situation like that, is that recorded on a  
8 video?

9 A. Yes, that incident it was recorded on two car  
10 videos in in two different locations.

11 Q. And these can be ugly situations.

12 A. Yes.

13 Q. But this was investigated?

14 A. It was.

15 Q. And there were four officers presented?

16 A. There three officers and then a sergeant arrived  
17 on scene.

18 Q. And you were cleared from any wrongdoing.

19 A. I was.

20 Q. Have you ever been put on the early warning  
21 system?

22 A. Not to my knowledge, no.

23 Q. Well, you would know if you were, wouldn't you?

24 A. Yes, I would have.

25 Q. And have you ever been reprimanded in any way as a

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1 result of your use of force?

2 A. No.

3 Q. And have those uses of force been investigated in  
4 preparation for this case by outside law enforcement  
5 agencies?

6 A. Yes.

7 Q. And have you been reprimanded or in any way told  
8 you did something wrong?

9 A. No.

10 Q. The last use of force we talked about was on  
11 August 25th of 2014. That's approximately six months  
12 before this incident. What changed in your career status  
13 at that time, or about that time?

14 A. My wife becoming pregnant.

15 Q. And as a result of her pregnancy, what changed in  
16 your work hours, your shift, your location?

17 A. Honestly, my wife sort of nagged me a little bit  
18 to go to a normal schedule, so --

19 Q. Is this your wife in the courtroom here?

20 A. Yes.

21 Q. And I guess I forgot to ask, when did you get  
22 married?

23 A. We got married September 2010. September 25,  
24 2010.

25 Q. And as a result of that have you accepted

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1 financial and emotional responsibility for the children  
2 of a previous marriage?

3 A. Yes.

4 Q. How old are they now?

5 A. They're 13 and 15.

6 Q. And as a result of your marriage, did you have  
7 plans to have a family?

8 A. Yes.

9 Q. In addition to those two children?

10 A. Yes.

11 Q. Tell us about that.

12 A. I've always wanted a son or a daughter, so due to  
13 some medical issues we had to do IVF.

14 Q. Pardon me?

15 A. In vitro fertilization because of some medical  
16 conditions so we had to go to a doctor, take out a loan,  
17 and they basically make the baby.

18 Q. Did it work?

19 A. It worked. The first time it did not work and we  
20 had to do it for the second time. It worked the second  
21 time.

22 Q. And I assume that the birth of -- is it a son?

23 A. Yes.

24 Q. Was it a joyous occasion that you attended?

25 A. No, I did not attend.

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1 Q. Why not?

2 A. I was in jail.

3 Q. Why?

4 A. (Pause.) I was in jail.

5 Q. For this case?

6 A. Yes, sir.

7 Q. Do you have a copy before you of Defendant's 101,  
8 100, and 102? Let me give you these copies and ask you  
9 if you recognize these documents.

10 A. I do, yes.

11 Q. During the course of working, have you received  
12 letters from people you've arrested?

13 A. I have, yes.

14 Q. Have you received letters from the chief of  
15 police?

16 A. Yes, I have.

17 Q. Have you received letters from Ms. Wilson's  
18 office?

19 A. Yes, I have.

20 MR. SAVAGE: Your Honor we'd ask to introduce  
21 as evidence Defendant's Exhibits 101, 100, and 102.

22 MR. DuRANT: Objection. Hearsay.

23 THE COURT: I sustain the objection.

24 BY MR. SAVAGE:

25 Q. So without telling us the details of that, have

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1 you heard back from a woman you arrested?

2 A. I did.

3 Q. And you've heard from the chief of police?

4 A. Yes.

5 Q. And you've heard from the solicitor's office.

6 A. Yes.

7 Q. Without going into details regarding your  
8 excellence in police work?

9 A. Yes.

10 Q. With respect to Taser training, and I want to stay  
11 brief on this, but is sergeant -- is Sergeant Ghi a  
12 trainer?

13 A. Yes. He trained me one time, yes.

14 Q. If you would step down, Mr. Slager, and show us  
15 with specificity the type of training you received at  
16 North Charleston police department regarding the use of a  
17 Taser that this jury hasn't heard yet.

18 A. We had training where an officer had his -- a  
19 rubber firearm in his holster and then another officer  
20 had a Taser in his hand, with a drive stun mode, and the  
21 officer with the Taser would have it his side, down,  
22 straight like this, with his hand, with your hand down,  
23 and we were a certain amount distance away, back up some  
24 more, sir --

25 Q. More than 27 inches?

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1 A. Yes, sir, maybe a little bit more, give or take  
2 about that area. And what we had to do is the officer  
3 had to pull his rubber gun out and say bang before the  
4 officer used the live Taser to hit the officer with the  
5 firearm.

6 Q. Now, we haven't heard about this before. Who is  
7 the sergeant the instructor?

8 A. Sergeant Ghi.

9 Q. And who is the partner you were dealing with in  
10 this?

11 A. Michael Bridges.

12 Q. And tell us what happened.

13 A. So when sergeant Ghi was saying go, Mr. Savage  
14 would bring his hand up and run towards me with the Taser  
15 on, clicking, and try to get me with it. As soon as it  
16 went I had to pull the rubber gun out and say bang at the  
17 same time so whatever the object was to shoot before I  
18 got Tased. It didn't work. There was multiple times  
19 where he would say go by the time I pulled my gun out, it  
20 was only coming up to this Mr. Savage would already be  
21 with me with the Taser in the hand.

22 Q. Did you actually get hit with the Taser?

23 A. I did, a couple times.

24 Q. In the drive stun?

25 A. Yes.

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1 Q. And what happened to your weapon?

2 A. It went flying 20 feet this way, I don't know  
3 where it went pain shooting up my arm, all down here. I  
4 was stunned, I didn't know what to do.

5 Q. Reverse roles. Now you got Ghi supervising who  
6 was the officer?

7 A. The officer would being Mike bridges.

8 Q. So bridges now has the weapon and you have the  
9 Taser?

10 A. Correct.

11 Q. Same result?

12 A. Correct. Same result.

13 Q. While you're down here, I'm not going to ask you  
14 to take off your shoes, tell us about the penny trick.  
15 Stand in front of the jury and tell us about the penny  
16 trick?

17 A. So as you've seen before this is the shirt stay  
18 this closed loop would go around your foot. This metal  
19 would go around your shirt, a little grommet here so your  
20 shirt would be between and they would lock it in, and  
21 what I did is I used a penny and you stick it between the  
22 shirt and the back of rubber grommet like so and that  
23 prevents this rubber grommet from coming down at all so  
24 your shirt cannot come loose.

25 Q. Let go. You want me to let go or do you want to

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1 get go?

2 A. No, don't get go, sir.

3 Q. And your shirt stayed?

4 A. Absolutely. Your shirt will never come off.

5 MR. SAVAGE: Now retake the stand and answer  
6 any questions the prosecutor may have.

7 CROSS-EXAMINATION

8 BY MR. DuRANT:

9 Q. Let's talk a little bit about your career at the  
10 North Charleston police department. When did you start,  
11 once again?

12 A. I was hired in 2009.

13 Q. And when did you actually begin policing, was that  
14 when you started actually doing policing or is that when  
15 you were with the field training officer or what?

16 A. With North Charleston, when you get into your  
17 field training officer, when you're riding with them  
18 that's when you actually start.

19 Q. So that was in when of 2008?

20 A. That was in 2010.

21 Q. Okay (2009 previous question) and of course as  
22 being a law enforcement officer, you have a oath, don't  
23 you?

24 A. Yes.

25 Q. And you took an oath, correct?

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1 A. Correct.

2 Q. And that oath requires you among other things to  
3 safeguard lives and property?

4 A. Yes.

5 Q. To never abuse your authority?

6 A. Correct.

7 Q. And to never employ unnecessary force.

8 A. Correct.

9 Q. And as a police officer, you're also governed by a  
10 code of ethics are you not?

11 A. Yes.

12 Q. And these are things that basically an oath you  
13 swear to God on the code of ethics you signed, correct?

14 A. Correct.

15 Q. And it's very similar in its contents, correct?

16 A. I think so, yes.

17 Q. And according to your code of ethics the  
18 fundamental duty of the police officer is to safeguard  
19 lives and property?

20 A. Yes.

21 Q. Respect the constitutional rights of all to  
22 liberty, equality, and justice?

23 A. Yes.

24 Q. To develop self-restraint and be constantly  
25 mindful of the welfare of others?

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1 A. Correct.

2 Q. To be honest and thought and deed in both your  
3 personal and official life?

4 A. Yes.

5 Q. To be exemplary in obeying the law and the  
6 regulations of your department?

7 A. Yes.

8 Q. To enforce the law never employing unnecessary  
9 force or violence?

10 A. Correct.

11 Q. And that you alone are responsible for your own  
12 standard of professional performance.

13 A. That's what it says, yes.

14 Q. And would you agree with that, that you alone are  
15 responsible for your own standard of professional  
16 performance?

17 A. Yes, everyone is.

18 Q. And as you stated in your direct testimony, you've  
19 had quite a bit of training; is that correct? And not  
20 just starting with North Charleston police department.

21 A. Uh-huh.

22 Q. Your training began when you were in the Coast  
23 Guard, correct?

24 A. Correct.

25 Q. And in the Coast Guard, you were trained in the

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1 use of force?

2 A. Yes.

3 Q. You were trained in defensive tactics level one  
4 through four?

5 A. Yes.

6 Q. You were trained in arrest techniques?

7 A. I was.

8 Q. You were trained in handcuffing?

9 A. Yes.

10 Q. You were trained in weapons retention?

11 A. Yes.

12 Q. And you won the pistol marksman ribbon?

13 A. Yes, I did.

14 Q. Which means you're a pretty good shot?

15 A. If you say so, yes.

16 Q. I don't guess they give you that if you're not a  
17 good shot, do they?

18 A. No, you do practice.

19 Q. And since going with the North Charleston police  
20 department in 2010 is when you really started, I guess,  
21 you have training there, correct?

22 A. Yes. We have three days of training every year.

23 Q. And I believe it's been referred to throughout  
24 this trial as AIMS training?

25 A. Yes.

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1 Q. And that's annual in service manual training,  
2 correct?

3 A. Yes.

4 Q. And with AIMS training you've been involved in  
5 active shooter training twice?

6 A. One time.

7 Q. I believe in 2013 and the end of 2014, according  
8 to your training log.

9 A. I remember one time.

10 Q. Okay. And would you agree with what's been  
11 testified that those are kind of shoot, don't shoot type  
12 of scenarios?

13 A. Some of them are, yes.

14 Q. You've been trained in cardiopulmonary  
15 resuscitation and first aid in 2012 12, 2013, 2015?

16 A. No, I'm not CPR certified. North Charleston  
17 police department does not certify police officers in  
18 CPR.

19 Q. I didn't say you were certified I said you  
20 received training in CPR and first aid as part of your  
21 AIMS training in 2011, 2013, and 2015?

22 A. First aid, yes.

23 Q. And during high school, you worked as a volunteer  
24 EMT?

25 A. I did.

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1 Q. And about 16 hours a week for three to four years?

2 A. Correct. No, that's not correct, I'm sorry. It  
3 was about two years.

4 Q. You have received training as a police officer in  
5 defensive tactics?

6 A. Yes.

7 Q. Pepper spray?

8 A. Yes.

9 Q. Practical problems?

10 A. Yes.

11 Q. Firearms training every year?

12 A. No, firearms qualification every year.

13 Q. Well, firearms qualification every year then,  
14 correct?

15 A. Correct.

16 Q. Use of force?

17 A. Correct.

18 Q. Use of deadly force?

19 A. Correct.

20 Q. Legal updates every year?

21 A. Yes.

22 Q. Taser training every year?

23 A. Yes.

24 Q. And specific courses on the use of force in  
25 addition to the use of force you get with your various

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1 other weapons training.

2 A. Okay.

3 Q. You were instructed on North Charleston's use of  
4 force policy?

5 A. Correct.

6 Q. And, in fact, had to certify that you were  
7 familiar with the use of force policy every year as part  
8 of your AIMS training, correct?

9 A. I think so, yes.

10 Q.

11 THE COURT: Ladies and gentlemen I'll have  
12 you if to the jury room for a few minutes. Please do not  
13 discuss the case.

14 (Recess taken.)

15 (In open court, jury not present.)

16 THE COURT: Okay. You can bring the jury.

17 (In open court, jury present.)

18 BY MR. DuRANT:

19 Q. Officer Slager, Mr. Slager, I hand you what  
20 previously has been marked as State's Exhibit 258 for  
21 identification, I believe, and ask if you recognize that?

22 A. Yes, I do.

23 Q. And what is that?

24 A. It's the North Charleston use of force policy.

25 Q. And is that the North Charleston police department

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1 use of force policy that was in effect at the time you  
2 were a policeman on April 4 of 2015?

3 A. Yes, it was.

4 Q. And, if you would, could you read for the jury  
5 section two of what the policy of the North Charleston  
6 police department is regarding the use of force.

7 A. The North Charleston police department recognizes  
8 and respects the value of human life is immeasurable.  
9 Police officers because of the sworn responsibility to  
10 protect life and property may be required to utilize  
11 deadly force or less than deadly force to carry out duty  
12 however the protection of life must always take priority  
13 over the apprehension of criminals or the protection of  
14 property. An officer the North Charleston police  
15 department while he she is engaged in a lawful execution  
16 of his her legal duties of a law enforcement officer will  
17 use only the force which is reasonably and necessary to  
18 effect his or her objectives. The officer's  
19 responsibility for protecting life must and does include  
20 his or her own.

21 Q. Okay. And regarding the use of deadly force,  
22 flipping to page four of that document, I believe, under  
23 subsection (B), what are the parameters for the use of  
24 deadly force under section one?

25 A. (B)1?

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1 Q. Yes, sir, (b)1 A and B?

2 A. Officer may use deadly force only when the officer  
3 reasonably believes that the action is in defense of  
4 human life including the officer's own or the defense of  
5 any person in immediate danger of serious physical  
6 injury. And B is to prevent the escape of a fleeing  
7 felon who the officer can clearly establish facts that  
8 indicated that the felon if allowed to flee will pose an  
9 immediate threat to human life and, E.

10 Q. And, finally, moving on to, I believe, page 11,  
11 section M, what does it say?

12 A. You said section M?

13 Q. Yes, sir.

14 A. In all cases of use of force, whether deadly or  
15 now deadly force medical treatment consistent with any  
16 injuries sustained by an individual will be immediately  
17 provided in the form of immediate minor first aid or  
18 request for EMS.

19 Q. Now, as part of your training as a police officer,  
20 you underwent training at the academy?

21 A. Yes.

22 Q. As well, correct, South Carolina Criminal Justice  
23 Academy, and what do they teach you in terms of the use  
24 of deadly force and I believe it's been referred to as  
25 ability, opportunity, jeopardy. Did you learn that as

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1 well?

2 A. Yes.

3 Q. And could you explain to the jury what that means.

4 A. Act is the ability for somebody to use it.

5 Opportunity is the opportunity to do it, and jeopardy is

6 if the person has a weapon, they're going to do it.

7 Q. Okay. So the person has to have the ability to

8 cause death or serious bodily injury, correct?

9 A. Correct.

10 Q. The opportunity to do that, correct?

11 A. Correct.

12 Q. And the officer or the public actually has to be

13 in jeopardy?

14 A. Correct.

15 Q. Now, with regard to this particular morning, April

16 the 4th of 2015, that was a Saturday morning was that

17 correct?

18 A. Yes.

19 Q. And how long had you been working days?

20 A. Maybe six, seven months.

21 Q. Okay. And had you been in Charleston Farms that

22 whole time?

23 A. I was assigned to Charleston Farms, correct, the

24 whole time.

25 Q. And is Saturday morning, that time Saturday

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1 morning typically a high crime time?

2 A. Crime happens at any time during the day.

3 Q. I understand?

4 A. I can't answer that question.

5 Q. So it wasn't your experience as a police officer  
6 that when you were on nights that it was frequently more  
7 busy than it was during the daytime?

8 A. I also worked a different area of and I didn't  
9 work Charleston Farms.

10 Q. Okay. Fair enough. When you were on duty you  
11 monitor the radio, correct?

12 A. Correct.

13 Q. And when somebody like Officer Habersham or  
14 Officer Baniyas has to go to city hall for whatever do  
15 they generally radio (C) that in?

16 A. Sometimes for the warrants the warrant officer  
17 might call in on the telephone so they might. I don't  
18 remember.

19 Q. But you knew what the staffing issues were that  
20 day, correct?

21 A. I don't recall now.

22 Q. So you don't recall it was you and Habersham and  
23 Baniyas and Heather Lawrence being on duty that day?

24 A. I don't recall.

25 Q. And you would agree it was your decision to make

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1 the traffic stop, correct?

2 A. That's correct.

3 Q. And you didn't know that Officer Banias and  
4 Officer Habersham were at city hall?

5 A. No, I didn't.

6 Q. Were you aware it took Officer Habersham  
7 two-and-a-half minutes to get to your location, correct?

8 A. I didn't know that did no now -- I'm sorry I  
9 didn't know that then. I know that now.

10 Q. You know that now, and is that an unreasonable  
11 amount of time?

12 A. No.

13 Q. I had got there pretty quick, didn't he coming  
14 from city hall?

15 A. Had he would have got there quicker if he was in  
16 Charleston Farms with me.

17 Q. And after you stopped the car, you went up to the  
18 car and got the driver's license, correct?

19 A. Correct.

20 Q. Did you ever check the driver's license?

21 A. I don't recall. I might have glanced at it.

22 Q. Wouldn't that be the first thing you do is to  
23 check the driver's license to see if the guy you're  
24 looking at is the same face you're looking at on the  
25 driver as license?

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1 A. Correct, but sometimes the driver's license  
2 picture is taken years before.

3 Q. That's true. And you had the suspect's car there,  
4 correct?

5 A. He was parked in the parking lot.

6 Q. Okay. And there was a passenger in the car?

7 A. Correct.

8 Q. And if I understand this correctly, you said that  
9 when Mr. Scott ultimately ran, you got out and locked  
10 your car?

11 A. Correct.

12 Q. Did you have to do that with a key?

13 A. I have a key fob.

14 Q. So it was a key fob. And you determined to chase  
15 him?

16 A. Correct.

17 Q. And that was within policy, correct?

18 A. We don't have a foot chase policy.

19 Q. I'm told you have a policy regarding taking  
20 someone into custody, right?

21 A. Correct.

22 Q. So the ultimate decision as to whether you're  
23 going to put someone in custody is once again yours to  
24 make?

25 A. Correct.

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1 Q. And again they ran?

2 A. He did.

3 Q. And he didn't threaten you before he ran?

4 A. No.

5 Q. And Mr. Pierre Fulton didn't threaten you before  
6 Mr. Scott ran, correct?

7 A. I didn't talk to the passenger.

8 Q. And neither one of them were belligerent to you at  
9 the car, correct?

10 A. No.

11 Q. And Mr. Scott go give the story about him being in  
12 the process of buying the car?

13 A. He stated had he owned the car and he stated he  
14 did not own the car and he was in the process of buying  
15 it.

16 Q. He said he was getting the car from a neighbor?

17 A. I don't recall that.

18 Q. And they were supposed to go to DMV Monday and  
19 consummate that?

20 A. That's correct.

21 Q. And that's what he told you?

22 A. He told me about the DMV on Monday, yes.

23 Q. And he ran. There's no question about it.

24 A. Yes.

25 Q. And it is true that someone would not normally run

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1 for an equipment violation?

2 A. Not in my experience.

3 Q. You've had people run for other traffic kind of  
4 stuff but not for like an equipment violation?

5 A. Correct.

6 Q. In your experience as a police officer is having a  
7 warrant a good reason that someone generally runs from  
8 you?

9 A. It's one of the reasons.

10 Q. It certainly is one of the reasons because if  
11 somebody's got a warrant and they know they got a warrant  
12 and they know they're going to jail, it's normal for them  
13 to run, correct?

14 A. You could say that, yes.

15 Q. And did you have any reason at the time to believe  
16 that Mr. Scott had done anything to violate the law at  
17 the time that he ran other than the insurance situation  
18 and the ownership situation?

19 A. When you conduct a traffic stop and somebody is  
20 detained, so he was fleeing after being detained, and  
21 when he got out of the car the first time, when I  
22 instructed him to get back in the vehicle he was not flee  
23 to leave, that was another reason.

24 Q. I understand that, and then -- so he was not free  
25 to leave?

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1 A. Correct.

2 Q. But he ran.

3 A. He did.

4 Q. And you determined to chase him?

5 A. Yes.

6 Q. And you did chase him.

7 A. I did.

8 Q. And some ten to 15 seconds later you decided you  
9 were going to use the Taser?

10 A. I don't recall the time at the time.

11 Q. And you told him that you were going to use the  
12 Taser?

13 A. I did.

14 Q. And you took the Taser, your Taser out and yelled  
15 Taser, Taser, Taser?

16 A. I don't recall if I yelled at first then took it  
17 out or I took it out and then yelled.

18 Q. And at that time, had Mr. Scott done anything to  
19 escalate the situation other than running?

20 A. No.

21 Q. And at that time had Mr. Scott done anything to  
22 threaten you other than just trying to get away?

23 A. No, not at that time.

24 Q. Now, let's talk a little bit about the video. And  
25 I believe you've already conceded you are the officer on

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1 that video, correct?

2 A. That's correct.

3 Q. And I believe you have also conceded that  
4 Mr. Scott, the man with the green shirt on the video was  
5 the man you killed.

6 A. That's correct.

7 Q. Would you concede from watching the video that  
8 Mr. Scott did not have your Taser at the time that you  
9 killed him?

10 A. No.

11 Q. You don't concede that?

12 A. At the time I was there, I did not know.

13 Q. I'm saying, from watching the video, sir, do you  
14 concede that at the time that you shot Mr. Scott he did  
15 not have your Taser?

16 A. Yes, after learning information now, I do.

17 Q. Okay. Well, let's look at it. I'd like to direct  
18 your attention to State's Exhibit 237. And I'd like to  
19 ask you some questions regarding this video, if I could.

20 Let me go back to the beginning of this. I want  
21 to turn it up a little bit. Did you hear the clicking  
22 noise at the beginning of this?

23 A. I did.

24 Q. And that was you Taser, could you agree?

25 A. I believe so.

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1 Q. And would you agree that was the last activation  
2 of your Taser?

3 A. I don't have the Taser log, no.

4 Q. You don't hear it on here after that incident, do  
5 you?

6 A. I don't.

7 Q. Okay. This is the first time y'all come into view  
8 on this other than the struggle on the ground. This is  
9 the first time that y'all come into view on this  
10 videotape; is that correct? That's at 13 seconds.

11 A. I think at frame four maybe.

12 Q. Pardon me?

13 A. I think two frames back you can see.

14 Q. Yes, there are frames back, but would you agree  
15 this is the first time that you can see what's happening?

16 A. No, I think you can see --

17 Q. Well, let me go back a frame.

18 A. I can see --

19 Q. Okay. Or another frame or another frame or  
20 another frame or another frame or another frame. Would  
21 you agree that this is the first time you can see,  
22 basically what happened?

23 A. I think the frame before you can see.

24 Q. Okay. And you are grabbing Mr. Scott's right hand  
25 with your left hand, correct?

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1 A. Correct.

2 Q. And Mr. Scott's hand, right hand, appears to be  
3 empty?

4 A. It appears to be.

5 Q. Okay. And we know that Mr. Scott had a phone in  
6 his left hand, correct?

7 A. Correct.

8 Q. And would you agree he's not holding a Taser in  
9 that scene shot?

10 A. At the time? No, but after looking at the video,  
11 yes.

12 Q. Okay. And if you look down between your legs,  
13 there appears to be a dark object there. Do you know  
14 what that is?

15 A. It could be my shoe.

16 Q. Could be. Could be the Taser too, couldn't it?

17 A. It could be, yes.

18 Q. Okay. And your right leg goes back towards,  
19 correct?

20 A. It might go to the side --

21 Q. It might go to the side but it might go backwards  
22 too, correct?

23 A. It could, but I don't recall.

24 Q. Okay. Let's see where it ends up. Okay. Now  
25 would you agree your right leg is behind you?

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1 A. With the angle of the camera it could be to the  
2 side.

3 Q. Okay. And what is that thing rolling along the  
4 ground behind you?

5 A. That would be the Taser.

6 Q. Okay. And what is Mr. Scott doing now?

7 A. He's moving away.

8 Q. So would you agree that this -- at this time he is  
9 not armed and he is running away from you.

10 A. Like I stated, at the time, before, I would say  
11 no, but after watching the video, yes.

12 Q. Okay. Would you agree that Mr. Scott was roughly  
13 in that position when you had you fire the first shot?

14 A. When I fired the first shot.

15 Q. Yes.

16 A. At the time I would say no. After watching the  
17 video I would say yes.

18 Q. You appear to be looking down at the ground behind  
19 you there. Would you tell us what you're looking at?

20 A. Yes. After firearms qualification we're trained  
21 to scan, to look to the left and to the right.

22 Q. Are you trained to scan them on the ground?

23 A. I don't think I was looking to the left and right.  
24 I don't recall where I was looking if I was looking to  
25 the ground consider my head might be down but my eyes

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1 might be looking this way.

2 Q. Do you agree that you appear to be looking down  
3 and you appear to be looking behind you?

4 A. The video, yeah, it appears to do but I don't  
5 think that's true.

6 Q. Okay. Now, I believe at this time you said you  
7 did not know if Mr. Scott was armed or not.

8 A. Correct.

9 Q. Correct? Aren't you generally trained when you're  
10 approaching someone that you think might be armed you are  
11 trained to have your weapon on them it and aimed in case  
12 in fact he's armed and he turns around to shoot you?

13 A. Yeah, (C) but in this situation everything leading  
14 up to the shooting, I was tired, I ran 200 yards, I was  
15 in a fight on the ground, Mr. Scott was coming after me  
16 with the Taser twice. In my mind, I don't -- my mind was  
17 like spaghetti.

18 Q. You were in the fight still?

19 A. I was in the fight, yes.

20 Q. Because you had been provoked.

21 A. I'm sorry?

22 Q. Because you had been provoked, right?

23 A. No.

24 Q. Oh, you hadn't been provoked?

25 A. No.

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1 Q. Okay. So you don't consider Mr. Scott coming at  
2 you with a Taser as being provoked?

3 A. To defend myself? Self-defense, yes.

4 Q. Or provoked period.

5 A. No. I was doing my job.

6 Q. Okay. Who are you yelling at there?

7 A. We're trained in training and also active shooter  
8 training to make loud verbal commands for a subject to  
9 put their hands behind their back.

10 Q. You sound like you could be angry there, but it  
11 you're not angry, right?

12 A. No, I was giving loud verbal commands like I was  
13 trained to do.

14 Q. To the corpse?

15 A. I'm sorry?

16 Q. To the corpse?

17 A. At that time I did not know if Mr. Scott was  
18 armed, I didn't know if Mr. Scott had passed.

19 Q. And you handcuffed him, right?

20 A. I did.

21 Q. And that's what you're trained to do?

22 A. Yes. Department policy says that's what we're  
23 supposed to.

24 Q. Didn't search him for a weapon?

25 A. If I recall when I was handcuffing him I was

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1 looking at his waistband on his back.

2 Q. Didn't roll him over to see if he was on a weapon?

3 A. Did not.

4 Q. Didn't look for the Taser?

5 A. After I handcuffed him I looked for my Taser.

6 Q. And just to be clear, that is your Taser that you  
7 picked up?

8 A. That is correct.

9 Q. Okay. And that is the same Taser that we just saw  
10 that was eight feet behind you when the shooting started?

11 A. At the time of the shooting I didn't know the  
12 Taser was behind me.

13 Q. I'm talking about what the video shows. Is that  
14 the same Taser that was eight feet behind you at the time  
15 the shooting started?

16 A. That's correct.

17 Q. All right. And who is that arriving?

18 A. That's Officer Habersham arriving calling for his  
19 kid to render aid to Mr. Scott.

20 Q. Okay. We're going to back that up because that's  
21 kind of hard to miss, isn't that, sir?

22 A. I'm sorry?

23 Q. It's kind of hard to miss, isn't it?

24 A. Miss Habersham rendering aid?

25 Q. No, miss what you did with that Taser it's kind of

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1 easy to miss, isn't it? This is the part I'm talking  
2 about that is pretty easy to miss?

3 A. Okay.

4 Q. And what is dropping out of your right hand?

5 A. It appears to be the Taser.

6 Q. Okay. Would you agree by this time Mr. Santana  
7 moved around and was in clear view of you?

8 A. Appears to be.

9 Q. And clearly taping you at this point?

10 A. It appears to be, yes.

11 Q. And that's when you decided to pick up the Taser?

12 A. That's when I picked up the Taser, yes.

13 Q. Now -- and would you agree that you know where all  
14 that videotape, did you ever administer any first aid to  
15 Mr. Scott other than walk up to him at one point and  
16 check his pulse?

17 A. I did not. When I came back, Officer Habersham  
18 was administering first aid and at that time, you know, I  
19 had run -- I had been in that whole fight, the whole  
20 situation, and I don't remember what happened after that.  
21 I don't remember dropping the Taser. I don't remember  
22 anything.

23 Q. Well, you have a pretty clear recollection what  
24 went on here. It seems like you're just not remembering  
25 the things that are bad for you?

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1 A. Some things I remember, I don't remember Walter  
2 Scott on top of me. I don't remember Walter Scotts arm  
3 around my neck, certain things -- I don't remember the  
4 ground fight.

5 Q. We're going to go into some of that stuff in some  
6 depth. We're going to start talking about that. After  
7 this incident, you told lieutenant Bowman what happened,  
8 correct?

9 A. Yes. He asked me what happened and I told him the  
10 best of my knowledge and the best of my memory what  
11 happened.

12 Q. And you told him pretty much what you testified to  
13 today except you told him that you drive stunned him  
14 twice?

15 A. I don't have the statement. I need to look at  
16 that.

17 Q. Okay. I believe you said pretty much the same  
18 thing, you stopped him, he ran, you chased him, you Tased  
19 him once it didn't work you Tased him again he locked up,  
20 went on the ground, continued to struggle with you and  
21 you drive stunned him once in the side and once in the  
22 back.

23 A. Like I said, I need to look at that statement.

24 Q. Okay. And would you agree that your Taser was  
25 activated six different times on that occasion?

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1 A. Yes, it was.

2 Q. And referring to State's Exhibit 14, have you seen  
3 that before?

4 A. Yes, I have.

5 Q. Okay. And that is basically the activation times  
6 for the Taser; is that correct?

7 A. Yes, it is.

8 Q. And there's a short two second one at the  
9 beginning of the day, was that a spark test?

10 A. Yes, it was.

11 Q. And what is a spark test again?

12 A. When we come on shift in the morning, we take the  
13 cartridge out and we turn it on just to make sure the  
14 unit is working.

15 Q. Okay. And you did that that morning, correct?

16 A. Yes, I did.

17 Q. And then it shows a five second burst from 9:36:26  
18 to 9:36:31, that is the one that had no effect on  
19 Mr. Scott?

20 A. Yes, I think so.

21 Q. Okay. And then it shows a second eight seconds  
22 later it shows a second deployment that went from 9:36:39  
23 to 9:36:44, another five section burst; is that correct?

24 A. Correct.

25 Q. Followed one second later by a section five second

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1 burst, correct?

2 A. Correct.

3 Q. Okay. And that is the Taser deployment that  
4 brought Mr. Scott down, correct?

5 A. Yeah, to my knowledge. At the time, yes, but now,  
6 after looking at the evidence, I don't think it did.

7 Q. I believe what you said to the officers on the  
8 scene and Lieutenant Ghent and Angela Peterson was that  
9 he locked up and went down?

10 A. I said that, yes.

11 Q. Okay. And what did you mean by locked up?

12 A. He became stiff and fell down.

13 Q. Which is what happens when someone is Tased and  
14 NMI is achieved, correct?

15 A. Right.

16 Q. And then it shows a six second gap?

17 A. Yes.

18 Q. And then another Taser deployment, correct?

19 A. Correct.

20 Q. And then there's a 24 second gap and then another  
21 Taser deployment, correct?

22 A. Correct.

23 Q. And then there's a three second gap and a final  
24 Taser deployment, correct?

25 A. Yes, that's correct.

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1 Q. And -- which I believe is the last one we hear on  
2 that video, correct?

3 A. It appears to be, yes.

4 Q. And when you talk to lieutenants Ghent and  
5 Peterson son April the 7th, would you agree that you told  
6 them that you never smelled any marijuana or suspected  
7 that Mr. Scott had any guns or suspected Mr. Scott had  
8 any illegal drugs or anything of that nature?

9 A. At the time, yes.

10 Q. Okay. And I believe you acknowledged that you  
11 didn't have an opportunity to run his license and his  
12 criminal history, correct?

13 A. Correct.

14 Q. So you didn't know that Mr. Scott had a child  
15 support warrant, correct?

16 A. No, I also didn't know he was armed and dangerous  
17 and violent tendencies.

18 Q. Oh, he was, huh? How was he armed and dangerous?

19 A. That's something I learned later.

20 Q. Okay. And for what?

21 A. I'm sorry?

22 Q. For what?

23 A. I --

24 Q. Because he had a simple assault conviction 25  
25 years before, correct?

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1 A. I don't.

2 Q. Is that what you're talking about when you said  
3 you wouldn't get out of the car because he had a simple  
4 assault conviction 25 years before?

5 A. No, sir. What happens is when you run the  
6 computer program, NCIC, it comes back -- been ALERT will  
7 come back.

8 Q. Right?

9 A. And it will say armed and dangerous with violent  
10 tendencies.

11 Q. Right?

12 A. So at that point --

13 Q. I understand that --

14 MR. SAVAGE: Allow the witness to answer the  
15 question.

16 MR. DuRANT: I'm list letting hip answer the  
17 question.

18 MR. SAVAGE: I object.

19 MR. DuRANT: The fact of matter is he already  
20 testified that he had not run his he criminal history.

21 THE COURT: The objection is sustained.

22 MR. SAVAGE: Thank you, Your Honor.

23 THE COURT: Allow the witness to answer the  
24 questions.

25 BY MR. DuRANT:

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1 Q. Had you run his criminal history?

2 A. I did not.

3 Q. Okay. You have seen his criminal history since  
4 then, have you not?

5 A. I have seen it since this occurred, yes.

6 Q. And he doesn't have a history for being armed and  
7 dangerous, does he?

8 A. I don't know.

9 Q. You've seen the rap sheet?

10 A. I have.

11 Q. The only thing that he had on his rap sheet in the  
12 last 25 years was for child support and traffic?

13 A. Something -- if I remember correctly he had said  
14 about a bludgeoned object, I don't know.

15 Q. In 1989, correct?

16 A. I would have to see that.

17 Q. And so when you blurt out that he was armed and  
18 dangerous, that's why he was armed and dangerous; is that  
19 correct?

20 A. I don't know -- I haven't read the report. I need  
21 to recall that rap sheet.

22 Q. But you have seen the rap sheet?

23 A. A couple months ago, yes, sir.

24 Q. Uh-huh. Okay. And you knew that he had a phone  
25 in his hand while you were chasing him?

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1 A. Correct.

2 Q. You saw the phone in his hand?

3 A. Correct.

4 Q. You heard people talking to him through the phone  
5 in his hand?

6 A. Correct, because he was on speaker phone.

7 Q. Right, and telling him to do what you said,  
8 correct?

9 A. Correct.

10 Q. During the chase never threatened you, correct?

11 A. I'm sorry?

12 Q. During the chase in Tase one and Tase two never  
13 turned around and confronted you?

14 A. Yes, he did.

15 Q. During the chase and before Taser one and Taser  
16 two are you changing your story now. Now you're saying  
17 he did turn around and after you gave him 50 thousand  
18 volts and he locked up on the ground?

19 A. I'm sorry. I thought you said the whole incident  
20 I didn't know you were you can talking about between  
21 Taser one and Taser two. So between Taser one and Taser  
22 two he was running away.

23 Q. And then we get to him being on the ground.

24 A. Correct.

25 Q. You only had two cartridges with you that day,

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1 correct?

2 A. Yes, I did.

3 Q. And you had used both of those cartridges correct?

4 A. Correct.

5 Q. And you had ejected both of those cartridges from  
6 your Taser?

7 A. Correct.

8 Q. Before Mr. Scott gained possession of it?

9 A. Correct.

10 Q. So at that point, that Taser was a threat in drive  
11 stun mode only, correct?

12 A. To me, yes.

13 Q. Now, you said that Mr. Scott jerked the Taser out  
14 of your hand?

15 A. Yes.

16 Q. And toned it towards you, correct?

17 A. Correct.

18 Q. Was that when you were on the ground or was that  
19 after you all stood up?

20 A. We were on the ground.

21 Q. Okay. And then y'all stood up?

22 A. Yeah, because I was trying to get away from him  
23 when he was coming after me with the Taser, coming at me  
24 with the Taser.

25 Q. Kind of like he was trying to get away from you

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1 earlier, correct?

2 A. No. He was coming towards me, if he was trying to  
3 get away he would have gone the other way, so he was  
4 coming towards my with the Taser.

5 Q. I'm talking about from advance auto all the way  
6 from the time you Tased him twice would you agree he had  
7 done nothing at that point other than try to get away  
8 from you.

9 A. Correct. He was fleeing.

10 Q. Okay. And would you agree that you -- after you  
11 drive -- you Tased him and you locked up, you drive  
12 stunned him once, at least once and perhaps twice, based  
13 upon your previous statements?

14 A. Once, perhaps twice.

15 Q. And have you ever been Tased?

16 A. Yes, I have.

17 Q. And does that feel good?

18 A. No, it does not.

19 Q. And you haven't barb Tased and drive stunned or  
20 both?

21 A. Both.

22 Q. Okay. And when you were getting Tased with the  
23 drive stun, what is your natural reaction?

24 A. To get away.

25 Q. To make it stop, right?

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1 A. Right.

2 Q. To get away. And that's what Mr. Scott was doing,  
3 wasn't he?

4 A. He wasn't complying the whole scenario.

5 Q. He was trying to get away?

6 A. He would any -- he never stopped, after I gave him  
7 multiple commands to stop, even before the Tasing.

8 Q. Now -- and you told Lieutenant Ghent and Agent  
9 Peterson that he was on his feet coming at you with the  
10 Taser extended?

11 A. Correct.

12 Q. And would you agree that you were focussed on that  
13 Taser?

14 A. I was focussed on him and the Taser and I can see  
15 the Taser coming at me when we were on the ground.

16 Q. Okay. And I wasn't clear from your direct  
17 testimony. Are you saying that he Tased you or didn't  
18 Tase you or what?

19 A. That whole situation, I don't remember everything  
20 that happened. Some things I remember and some things I  
21 don't.

22 Q. You would agree that you never told anybody that  
23 he had Tased you, correct?

24 A. That's correct but I told Sergeant Webb and  
25 Driggers when he turned the Taser around and he was

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1 coming at me. I told him at the scene.

2 Q. I think you told everybody that he turned it  
3 around and was come being at you toward it but you never  
4 told anybody that he Tased you with it, correct?

5 A. I might not have remembered in the fight, some  
6 things I don't remember.

7 Q. And do you recall telling them -- again, I'm back  
8 to Ghent and Peterson, that you located the Taser in  
9 between where you shot and where Mr. Scott came to rest  
10 on the ground?

11 A. I did. When I told them that three days later, I  
12 wasn't out there measuring distances. I wasn't out there  
13 measuring where the shell casings were. I wasn't  
14 measuring where the Taser was, so this, to the best of my  
15 knowledge the best I remember so I can't give an exact  
16 distance where it was, but from what I thought and what I  
17 remember, that's what I told them (distance).

18 Q. Okay. But you have to acknowledge that  
19 Mr. Scott's hat was right there, right where you were  
20 shooting and his body was 55 feet away and it wasn't  
21 found in between those two Landmarks was it?

22 A. No, it wasn't.

23 Q. And you also told him that you picked up the Taser  
24 and put it in your holster?

25 A. Correct.

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1 Q. Because you were concerned that somebody may be  
2 coming to help Mr. Scott.

3 A. Correct.

4 Q. And that was true, correct?

5 A. What was true?

6 Q. That you eventually put it in your holster because  
7 you thought somebody was coming, but you neglected the  
8 part about dropping it by Mr. Scott's body; is that  
9 correct, would you agree with that?

10 A. Yeah. At that time, I don't remember that  
11 happening. You know, I grabbed the Taser off the ground,  
12 like you stated because somebody else coming, where the  
13 passenger was, who Mr. Scott was talking to on the phone,  
14 and I don't -- you don't leave a weapon in the middle of  
15 a field like that, so I picked it up and I don't know why  
16 I dropped it on the ground, but I did pick it up seconds  
17 later. It wasn't because I was policing my gear. I  
18 can't even answer to that.

19 Q. Yeah, I have no problem with you consolidating  
20 your gear, sir if you pick it up and put it in your  
21 holster, that's how you consolidate it, correct?

22 A. You also consolidate on the scene too.

23 Q. What?

24 A. Consolidate on the scene.

25 Q. Sir, if you're going to secure your Taser, you

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1 pick it up from the ground and you put it where?

2 A. In my holster.

3 Q. Do you agree that when you talked to Ghent and  
4 Peterson that you never told them that you thought  
5 Mr. Scott had a weapon?

6 A. Rephrase that question.

7 Q. Do you agree that you never told Agents Ghent and  
8 Peterson that you thought Mr. Scott had a weapon, other  
9 than your Taser, I into he about your Taser, correct?

10 A. Yes. I think I did state to them that I didn't  
11 know if he had anything else on him.

12 Q. And that you never saw him, you know, throwing  
13 down drugs or anything like that that Mr. Savage has  
14 intimated 15 or 20 times during this trial?

15 A. Well, when we ran around the corner with the fence  
16 and the foliage I lost sight of Mr. Scott and with that  
17 arm movement I don't know what he was doing, was he  
18 trying to SWAT --

19 Q. His arm movement as you described as doing this?

20 A. Correct.

21 Q. Okay, take that many times to throw something to  
22 the ground beside you?

23 A. I don't know, sir.

24 Q. The fact of the matter is you're starting to make  
25 up things as we go along, aren't you?

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A. No.

Q. Never said that a year-and-a-half ago?

A. I need to look at the report. I'm pretty sure I told Angela Peterson that.

Q. Never said anything that you were afraid he was going to run and hide behind a tree and shoot you with a gun?

A. I need to look at that report.

Q. Any said anything about him punching you?

A. No, like I said, we were rolling around on the ground and, you know, he was on top of me.

Q. Never said anything about that, did you, him being on top of you?

A. No, because I don't remember that.

Q. Okay. Never said anything about him kicking you?

A. No.

Q. Or scratching you, correct?

A. The kicking part, like I said we were in a fight on the ground. I don't remember everything that happened.

Q. Okay. Or biting you?

A. I don't think he bit me.

Q. Or cursing you?

A. I don't -- I don't recall what -- some of the things Mr. Scott said and what I said, I don't recall

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1 some of them.

2 Q. Or Tasing you?

3 A. No. I stated on the scene that he grabbed my  
4 Taser and I showed officers what he did and he was coming  
5 after me, so I don't, you know, recall what happened.

6 Q. I understand, and you testified to that. I'm  
7 saying what you didn't tell me, okay, and would you agree  
8 that you didn't tell them this stuff?

9 A. Direct and the reason I probably didn't say  
10 anything is because I don't remember it happening.

11 Q. Or that he had gotten on top of you?

12 A. That's correct. I never told anyone that because  
13 I don't remember.

14 Q. Or that he had you in a head lock, never said  
15 anything about that?

16 A. No, I don't remember.

17 Q. Or that he had you in a choke hold?

18 A. I don't remember that, sir.

19 Q. Or that he had ever at any point during this  
20 donnybrook had any kind of tactical advantage over you at  
21 all?

22 A. Like I stated, we were rolling around on the  
23 ground, fighting, and I don't remember everything that  
24 happened.

25 Q. You described it as him wiggling and trying to get

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1 away?

2 A. Correct, he was.

3 Q. Did agent Peterson go over her notes with you?

4 A. She read them back to me.

5 Q. When she read them back to you, did you agree that  
6 that is what happened?

7 A. I think -- I know Mr. Aylor said we had to end the  
8 meeting so we left. I don't recall.

9 Q. So you don't recall whether or not she went over  
10 her notes with you line by line for some 45 minutes?

11 A. I don't recall.

12 Q. Okay. And do you recall telling her that that was  
13 a true and accurate account of what had happened to you  
14 that day?

15 A. I don't recall.

16 Q. So it's your testimony today that you believe  
17 Mr. Scott had the Taser as he ran away from you, correct?

18 A. Yes, that's correct.

19 Q. And would you agree that that Taser in its current  
20 state at that time was not a threat to you from a  
21 distance?

22 A. No.

23 Q. Okay. And could you explain to the jury how that  
24 Taser was a threat to you at a distance.

25 A. At that time when Mr. Scott was coming after me

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1 with the Taser, I drew my weapon and fired. I was  
2 focussed on the front sight and that's all I know. I  
3 know, you know, he tried to Tase me when we were on the  
4 ground. I'm backing away, getting away he's still coming  
5 after me with the Taser and at that point I made the  
6 decision to use lethal force but Mr. Scott never stopped.  
7 He was always dangerous.

8 Q. 18 feet away from you he was still dangerous with  
9 that Taser?

10 A. At that point when I started shooting -- I didn't  
11 know what was going on with distance I didn't know what  
12 was going on with all that so I fired my firearm until  
13 the threat was stopped.

14 Q. So you can't change your mind.

15 A. I'm sorry?

16 Q. You can't change your mind?

17 A. I made that decision. I did it.

18 Q. And you would acknowledge that he was 18 feet away  
19 from you when you fired the first shot?

20 A. At that time, on April 4th, 2015 I can't tell you  
21 that, but now, 18 months later, sitting in a courtroom  
22 and hearing everybody's testimony, he was 17, 18 feet  
23 away.

24 Q. 18 feet when the first shot was fired, some 40  
25 feet away when the last shot was fired, and it was a nice

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1 long pause between seven and eight, was there not?

2 A. I watched the video. There was.

3 Q. Would you agree that even if Mr. Scott had that  
4 Taser it could not have been used against you at the  
5 distance depicted on that video?

6 A. At that time, I didn't have that information, so I  
7 can't answer that question.

8 Q. That wasn't my question, sir. I wasn't asking  
9 what was in your mind at that time. You've seen the  
10 video.

11 A. I have.

12 Q. And you've heard that he was 18 feet away. Would  
13 you agree that he was not a threat to you with that Taser  
14 without a cartridge from that distance?

15 A. No.

16 Q. Okay. So you're going to stick that that.

17 A. Yes, and the reason is, from 18 feet, he could  
18 have turned around and attacked me again, and they would  
19 have been able to Tase me --

20 Q. Come on down. Okay. In your training-e ever size  
21 Mr. Savage went through with you, y'all were about this  
22 far apart?

23 A. A little farther.

24 Q. Okay. I'll give you that. That far apart. Okay?  
25 And the test was, could you shoot him before he Tased

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1 you.

2 A. Correct.

3 Q. Okay. Both of you have weapons in your hand at  
4 the time or did you have to draw?

5 A. I have to draw from the holster.

6 Q. Okay. So you have to draw from the holster. This  
7 guy's got the weapon in his hand, okay?

8 A. Correct.

9 Q. So, yes, he has to make one step to get to you,  
10 correct?

11 A. Correct.

12 Q. Would you agree -- pull it tight, that this is a  
13 difference perspective?

14 A. It is a different perspective, yes, now it is.

15 Q. And could you tell me, assuming I had the Taser in  
16 my right hand or left hand and I am in this position 18  
17 feet away could you tell the jury how you were threatened  
18 with it?

19 A. At the time, that decision was made when Mr. Scott  
20 was 27 inches, toe to toe, leaned at the waist right hand  
21 extended.

22 Q. Yes, but you didn't shoot him then did you?

23 A. I pulled my issued Glock out and shot.

24 Q. As he was at a dead run, correct?

25 A. I did it as fast as I could.

SC V. SLAGER - ROUGH DRAFT - 11-29-2016

1 Q. You may resume your seat. Thank you, sir. And  
2 regarding the radio transmission which you made, 223  
3 dispatch, shots fired, suspect down, he grabbed my Taser,  
4 that's what you said, correct?

5 A. That's correct.

6 Q. Would you agree that you said he grabbed my Taser,  
7 you never said he took my Taser.

8 A. To me it's the same thing, if you grab something,  
9 if you grab an object, same thing as took.

10 Q. But it could also mean something else, couldn't it  
11 that I had grabbed the Taser and didn't take it?

12 A. Not meet.

13 Q. Because it could also mean that as he was getting  
14 the heck drive stunned out of him he grabbed your Taser  
15 trying to get it away from him?

16 A. Not to me, no.

17 Q. Okay. And we've been through Mr. Savage went  
18 through your use of force incidents and we're not going  
19 to plow through that again in depth, but you would agree  
20 that you had 18 use of force incidents in just over four  
21 years?

22 A. That's what -- do you have the use of form paper I  
23 can confirm with?

24 Q. Pardon me?

25 A. I need to look at the --

SC V. SLAGER - ROUGH DRAFT - 11-29-2016

1 Q. Do you still not have your notes with you?

2 A. Yeah, I do right here.

3 Q. Okay.

4 A. That seems about right.

5 Q. And 14 of those involve Taser use, correct?

6 A. One was just presenting the Taser, not using it,  
7 the other one was the other officer used a Taser, and I  
8 think there's a third, fourth one of the other officer  
9 using a Taser. I did not use the Taser.

10 Q. It's true basically that these things are  
11 investigated by your sergeant, correct?

12 A. Yeah -- from what I know is it goes from my  
13 sergeant to lieutenant and then up the chain of command  
14 all the way to internal affairs.

15 Q. Right, and your sergeant writes it up and it's  
16 rubber stamped on up the chain of command to the chiefs  
17 of police, pretty much?

18 A. I don't know what the lieutenant or above does  
19 with these reports. All I know is when there's use of  
20 force, the sergeant interviews all officers on scene,  
21 talks to the subject, looks at video and does the report.

22 Q. If the subject is available and if the video is  
23 available, correct?

24 A. I'm pretty sure that subject is available.

25 Q. And wouldn't it be safe to say that sometimes the

SC V. SLAGER - ROUGH DRAFT - 11-29-2016

1 suspect's version of what happens differs from the police  
2 officer's version of what happens?

3 A. It could be, yes.

4 Q. And routinely those kind of uses of force are  
5 approved?

6 A. I don't know. I don't have any insight of what  
7 the lieutenant above think about use of force.

8 Q. Because basically the fox is guarding the hen  
9 house?

10 A. I don't know anything about that.

11 Q. And just a for instance you mentioned one where  
12 you went to the house looking for the burglary suspect?

13 A. Correct.

14 Q. And you knocked on the door and he opened the  
15 door?

16 A. Correct.

17 Q. And he said he wasn't who you were looking for and  
18 he didn't want to talk to you and shut the door and you  
19 forced your way in and Tased him.

20 A. It didn't happen like that.

21 Q. Okay. And he wasn't the suspect you were looking  
22 for, was he?

23 A. No, he wasn't.

24 Q. Now, he might have a different view of whether or  
25 not your use of the Taser was okay in that case, wouldn't

SC V. SLAGER - ROUGH DRAFT - 11-29-2016

1 he?

2 A. Everybody has their own view, yes.

3 Q. And the other one you talked about, about the guy  
4 that had been stopped in the Mercedes by another officer  
5 and -- for DUS and there were four officers there, you  
6 and another officer dragged him out of the car, after --  
7 after you dragged him out of the car a third officer  
8 arrived and that guy was being held down on the asphalt  
9 with one cop on each side of him holding his arms when  
10 you said back up I'm going to Tase him and Tased him in  
11 the back?

12 A. I did.

13 Q. So -- and that was approved by the North  
14 Charleston police department, correct?

15 A. I guess it was.

16 Q. So -- and I'm not saying that there's anything  
17 wrong about that, but the use of your Taser can also say  
18 something about your temperament, can't it?

19 A. No, because the ones we went over today, the  
20 subject was physically assaulting the victim or someone  
21 else and --

22 Q. Sometimes they were, sometimes they weren't?

23 A. Right.

24 Q. Sometimes they were just running?

25 A. And the safest is the Taser. So I don't want to

SC V. SLAGER - ROUGH DRAFT - 11-29-2016

1 get into a fight with a person when I can use a Taser  
2 that's going to cause less harm to that person than me,  
3 than an actual fist fight.

4 Q. Or you could in this case and I know Lieutenant  
5 Humphries wouldn't agree to it, but you could have just  
6 taken his license, his car, and if I wanted to arrest him  
7 for anything, you could have gotten a warrant and  
8 arrested him?

9 A. At that time I didn't have any charges on him  
10 except he was not free to leave.

11 Q. Well, you know, you thought it was serious enough  
12 that you chased him and Tased him?

13 A. That's what police officers do.

14 Q. Okay.

15 A. That's our job, we can't just ignore crime.

16 Q. Well, yeah, I guess that's true except you didn't  
17 really have any information that he committed a crime  
18 other than traffic stuff.

19 A. I think I stated had he was detained at the  
20 traffic stop. When he got out of the vehicle he was  
21 instructed to sit back in the car and he was not free to  
22 leave.

23 Q. And are you trained to de-escalate situations?

24 A. I haven't have any de-escalation training, no.

25 Q. Do you think that's a good thing for officers to

SC V. SLAGER - ROUGH DRAFT - 11-29-2016

1 de escalate?

2 A. Yes, the training is useful, yes, but like I say I  
3 haven't had any training.

4 Q. In behind sight do you think you made good  
5 decisions that day even though it was within policy?

6 A. With all the facts and information that I had at  
7 that time, yes, but then going back, 18 months later and  
8 looking at everything, things could have been different.

9 Q. And getting back to the use of force incidents and  
10 the review, your immediate sergeant on the day of this  
11 since again was Sergeant James Gann, correct?

12 A. Yes.

13 Q. And are were you aware he wrote a report clearing  
14 you on April the 6 of 2007 of any violation of policy  
15 before this video came out?

16 A. I haven't seen that report, no.

17 Q. Now, you would agree, would you not, sir, that you  
18 are human like the rest of us?

19 A. Yes.

20 Q. And would you agree that you encounter times of  
21 happiness and sadness and despondency, just like anybody  
22 else?

23 A. Yeah, I think everybody does.

24 Q. And would you agree that just like everybody else,  
25 when you're provoked, you get angry?

SC V. SLAGER - ROUGH DRAFT - 11-29-2016

1 A. Not as a police officer, no.

2 Q. So you're immune from becoming angry because you  
3 are a police officer?

4 A. You can't take the work home with you, and you  
5 can't do that because every day -- it happens every day.

6 Q. I understand that, so your testimony is that when  
7 a suspect fights with you?

8 A. Yes.

9 Q. That you do not have any emotional reaction at to  
10 that at all?

11 A. No, I'm not angry. I'm just doing my job.

12 Q. And so never get angry, never get frustrated?

13 A. No.

14 Q. Never get any of that because you're immune from  
15 that when you put on the blue?

16 A. People aren't -- I'm not immune from it, I've  
17 learned over the years not to take it to heart.

18 Q. Okay. And you're obviously an emotional guy  
19 because you were shedding tears on direct during today's  
20 testimony, correct?

21 A. Correct.

22 Q. You didn't shed a tier on April 4, 2015, did you?

23 A. That's a whole different situation to the fact  
24 that everything that led up to that, the stress, my mind  
25 was like spaghetti, a different kind of incident. (Led

SC V. SLAGER - ROUGH DRAFT - 11-29-2016

1 up.

2 MR. DuRANT: Court's indulgence. Would you  
3 please answer any questions Mr. Savage has for you.

4 THE COURT: Redirect in.

5 MR. SAVAGE: Briefly.

6 THE COURT: Yes, sir.

7 REDIRECT EXAMINATION

8 BY MR. SAVAGE:

9 Q. Mr. Slager, I want to be sure that the jury is  
10 clear on the distinction between knowledge today and the  
11 knowledge you had when you employed lethal force against  
12 Mr. Scott.

13 A. Okay.

14 Q. I want you to look at page eight of the 24 page  
15 record of Mr. Scott of the information you did not have  
16 on April 4th. Did you put any information to the FBI's  
17 history of Mr. Scott?

18 A. No, I did not.

19 Q. What did the FBI say on April 4 of 2015 about  
20 Mr. Scott?

21 A. Wanted person, caution, armed and dangerous,  
22 violent ten densities.

23 Q. Did you have that knowledge on April 4th?

24 A. I did not.

25 Q. Would you have gotten out of your patrol car if

SC V. SLAGER - ROUGH DRAFT - 11-29-2016

1 that information had come on your computer screen?

2 A. Absolutely not.

3 Q. There is some question here about your knowledge  
4 of a video. Are you familiar or were you familiar over  
5 the years with Craig Street and the yellow brick road  
6 area?

7 A. I am, yes.

8 Q. Is that area under surveillance by private  
9 residences and businesses?

10 A. I'm pretty sure there's the Auto Zone store at the  
11 corner, there's a couple other businesses then off of  
12 yellow brick road there's an apartment complex that has a  
13 really big sign that says under individual year  
14 surveillance or video surveillance, something like that.

15 Q. It says under video surveillance?

16 A. Either that or video surveillance or cameras to  
17 that effect, yes.

18 Q. On April 4, 2015?

19 A. Yes.

20 Q. On the location exactly where this incident took  
21 place?

22 A. Correct.

23 Q. Since we have been talking about what you know now  
24 from the videotape and audiotape, did you acknowledge  
25 today continuously instruct Mr. Scott to get on the

SC V. SLAGER - ROUGH DRAFT - 11-29-2016

1 ground?

2 A. Yes.

3 Q. Did you curse him?

4 A. No, I did not.

5 Q. Did you use any racial epithets?

6 A. No.

7 Q. Did you do anything to indicate that you were  
8 angry at him other than for him to get on the ground?

9 A. No.

10 Q. Did he yell at you do you know now after listening  
11 to the audiotape?

12 A. After listening to the audio, yeah.

13 Q. Did you learn that he said fuck the police?

14 A. Yes.

15 Q. Did you react to that?

16 A. No, I did not. I don't remember.

17 Q. And did you warn him before these shots were fired  
18 just as you had warned him about the use of your Taser?

19 A. Yes. You can hear on the video.

20 Q. The prosecutor asked you if you had feelings like  
21 other human beings. As part of your responsibilities of  
22 a police officer, are you trained to control your  
23 emotions?

24 A. Yes.

25 Q. So the type of disparaging remarks that were made

SC V. SLAGER - ROUGH DRAFT - 11-29-2016

1 to you that day is part of the job?

2 A. That's correct. It's part of job.

3 Q. People who drink that say that. People who are  
4 high say that. People who are angry say that. You hear  
5 it all day long.

6 A. Yes.

7 Q. F the police?

8 A. Multiple times a day.

9 Q. People wear it on their T-shirts?

10 A. Yes.

11 Q. Now, Mr. Slager, look at this jury and tell them  
12 whether you were happy on April 4th or whether you have  
13 been happy any day since April 4th?

14 A. I was happy before on the th because Easter was  
15 the next day and I had off the few days, spend time with  
16 my family and after April 4th, it's been a roller  
17 coaster. Can't sleep, nightmares. When I was in jail,  
18 the only thing they wanted to do was give me medicine to  
19 calm down. They wouldn't even talk to me. I remember  
20 the doctor who is in charge of mental health came into my  
21 cell and said I, I'll give you whatever medicine you  
22 want, so, you know, it was a roller coaster. My family  
23 has been destroyed by this. The Scott many family has  
24 been destroyed by this. It's horrible. You know, I  
25 don't know. I just --

SC V. SLAGER - ROUGH DRAFT - 11-29-2016

1 Q. When you were in jail who was in the cell next to  
2 you?

3 A. Dylan Roof.

4 MR. SAVAGE: Answer any questions the  
5 prosecutor might have.

6 THE COURT: Recross?

7 MR. DuRANT: I have nothing further, Your  
8 Honor.

9 THE COURT: All right. You may step down.

10 Ladies and gentlemen: We're going to take  
11 one hour for lunch at this time. Please do not discuss  
12 the case.

13 (In open court, jury not present.)

14 THE COURT: Mr. Savage, how many more  
15 witnesses do you anticipate?

16 MR. SAVAGE: We still have an outside chance  
17 of today, Your Honor, but it's growing dim, but I  
18 would -- if we go into tomorrow -- there's falsity in the  
19 numbers. We have one, maybe two witnesses that might be  
20 of any significant length of time and three or four that  
21 will be ten minutes. Andy's ten minutes.

22 THE COURT: All right. Well, we'll reconvene  
23 in one hour.

24 (Recess taken.)

25 AFTERNOON SESSION

IN THE DISTRICT COURT OF THE UNITED STATES  
DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

1			
2			
3	UNITED STATES OF AMERICA,	)	2:16-CR-378
		)	
4	Plaintiff	)	Charleston,
		)	South Carolina
5	VS	)	April 21, 2017
		)	
6	MICHAEL SLAGER,	)	
		)	
7	Defendant	)	

TRANSCRIPT OF HEARING  
BEFORE THE HONORABLE DAVID C. NORTON,  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

11	For the Plaintiff:	MR. ERIC J. KLUMB
12		Assistant United States Attorney
13		151 Meeting Street
		Suite 200
		Charleston, SC 29401

14	MR. JARED FISHMAN
15	MS. ROSE GIBSON
16	U.S. Department Of Justice
17	Patrick Henry Building
	601 D Street NW
	Room 5118
	Washington, DC 20004

18	For the Defendant:	MR. ANDREW J. SAVAGE, III
19		MR. DONALD LEE McCUNE
20		Savage and Savage
21		P.O. Box 1002
		Charleston, SC 29402

22	MR. SHAUN KENT
23	Kent Law Firm
	P.O. Box 117
	Manning, SC 29102

24	Court Reporter:	Amy C. Diaz, RPR, CRR
25		P.O. Box 835
		Charleston, SC 29402

SLAGER - DIRECT

1 example I used, and I think I probably have done in my own  
2 career, is I'm not going to, as the agent, or even as a  
3 prosecutor, I'm not going to outline what all our evidence  
4 is. Either your client wants to talk with us or he doesn't  
5 and leave it at that.

6 MR. SAVAGE: Thank you. That's all we have, Your  
7 Honor.

8 THE COURT: Okay. Thank you.

9 MR. SAVAGE: Michael Slager.

10 THE CLERK: Place your left hand on the Bible, raise  
11 your right hand.

12 THEREUPON:

13 MR. MICHAEL SLAGER,  
14 Called in these proceedings and after having been first duly  
15 sworn testifies as follows:

16 THE CLERK: Thank you.

17 MR. SAVAGE: We present Mr. Slager for purposes of  
18 this motion.

19 THE COURT: Okay.

20 DIRECT EXAMINATION

21 BY MR. SAVAGE:

22 Q. You are the Mr. Slager that is charged in this  
23 Indictment?

24 A. I am.

25 Q. And with respect to your activities on April 4th, were

SLAGER - DIRECT

1 you a North Charleston police officer at that time?

2 A. I was.

3 Q. Were you a member of the Southern States Police  
4 Benevolent Association?

5 A. Yes.

6 Q. Following the use of your weapon, did you contact the  
7 PBA?

8 A. I did.

9 Q. For what purpose?

10 A. To obtain a lawyer.

11 Q. And did you communicate to the State Law Enforcement  
12 Division representatives that when they attempted to question  
13 you that day, that you had obtained legal counsel?

14 A. I did.

15 Q. And did you direct the inquiring agents to a particular  
16 lawyer?

17 A. Yes, I did.

18 Q. And did you know who that lawyer was at that time?

19 A. I did.

20 Q. And did you know the lawyer's reputation or affiliation  
21 with the PBA?

22 A. Yes.

23 Q. And would you tell us what was in your mind on April 4th  
24 regarding that attorney?

25 A. He was recommended by the PBA at that time associated

SLAGER - DIRECT

1 with the PBA. I trust PBA and I knew Mr. Aylor to be a good  
2 lawyer.

3 Q. And you knew his reputation?

4 A. Yes, around the community.

5 Q. Did you know he had prior experience with police-involved  
6 shootings?

7 A. I did.

8 Q. And on April 4th, you denied cooperating with SLED in  
9 terms of their questioning of you?

10 A. At that time I was sitting in the car, and I gave Agent  
11 Peterson my information, and I told her that I contacted PBA  
12 and David Aylor. And she stated that she knew David Aylor.  
13 And I told her that David Aylor told me to tell Agent  
14 Peterson to give her a call.

15 Q. And did the agent respond that she was familiar with  
16 Mr. Aylor?

17 A. Yes. She stated she knew Mr. Aylor.

18 Q. And that they had worked together --

19 A. Correct.

20 Q. -- previously?

21 A. Correct.

22 Q. And did that give you comfort?

23 A. It did.

24 Q. What was your state of mind with your recollection of the  
25 events that transpired the morning of April 4th at that time?

IN THE DISTRICT COURT OF THE UNITED STATES  
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CHARLESTON DIVISION

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SLAGER - DIRECT

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SLAGER - DIRECT

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SLAGER - DIRECT

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22 Q. And did that give you comfort?

23 A. It did.

24 Q. What was your state of mind with your recollection of the  
25 events that transpired the morning of April 4th at that time?

SLAGER - DIRECT

1 A. At that time after the situation I was tired, I was out  
2 of breath and my mind was foggy. Some things I could  
3 remember and some things I couldn't remember.

4 Q. Did you express any concern to Mr. Aylor about that?

5 A. I'm pretty sure that I told him that I don't really  
6 remember what happened, some of the things I told him.

7 Q. Did your conversation with him include -- first of all,  
8 do you waive any privilege that you might have with,  
9 Mr. Slager, regarding your conversations with him should  
10 Mr. Aylor take the witness stand --

11 A. Yes.

12 Q. -- for the purposes of this hearing?

13 A. Yes.

14 Q. And did you have time to explain to Mr. Aylor the  
15 concerns that you had about your conduct on April 4th?

16 A. Yes.

17 Q. Did you discuss positions of the two parties involved in  
18 the incident --

19 A. Correct.

20 Q. -- at the time of the shooting?

21 A. Yes.

22 Q. And what did you tell him?

23 A. At that time I told him that the incident happened so  
24 fast that I think Mr. Scott might have been turning. I don't  
25 really recall.

SLAGER - DIRECT

1 Q. And was there an issue regarding the autopsy findings  
2 that you brought to Mr. Aylor's attention?

3 A. Yes. After the interview, I told Mr. Aylor that I saw on  
4 the news that the autopsy had already been completed and the  
5 body was returned, Mr. Scott was returned to the family.

6 Q. You say "after the interview". I'm talking about prior  
7 to the interview on April 7th that did you express issues of  
8 evidentiary value that you were concerned with?

9 A. Yes.

10 Q. Was the autopsy one of those?

11 A. Yes.

12 Q. And was that related to Mr. Aylor as documented in the  
13 agent's previous testimony?

14 A. Yes.

15 Q. That you believed that the -- Mr. Scott may have been  
16 turning to his left at the time you fired your weapon?

17 A. Yes.

18 Q. And you have reviewed all the discovery in this case and  
19 it was clear from that discovery that SLED knew that and the  
20 prosecutors knew that?

21 A. Yes.

22 Q. Did you discuss the area where this took place?

23 A. Yes.

24 Q. And is that area considered a high crime area for drug  
25 sales?

SLAGER - DIRECT

1 A. Yes, it is.

2 Q. And were you aware at that time that the North Charleston  
3 Police Department uses video recordings on light poles and  
4 areas where drug activity takes place?

5 A. Yes, I do.

6 Q. Did you discuss the fact of a video, a video from  
7 businesses or other locations in that area?

8 A. Yes.

9 Q. And the reason you did that is why? Why did you ask Mr.  
10 Aylor to find out about that?

11 A. On his own information.

12 Q. You've testified that you were not absolutely certain of  
13 the specifics of the shooting; is that correct?

14 A. Correct.

15 Q. That you wanted him to verify that on a video if a video  
16 existed?

17 A. Correct.

18 Q. Now, were you referring to a video by a witness or were  
19 you referring to the practice of the department you work for  
20 in terms of surveillance?

21 A. Any video, surveillance video of businesses, security  
22 cameras, anything.

23 THE COURT: Can you pull the microphone a little  
24 closer, Mr. Slager? Thank you.

25 Q. Prior to providing a statement on April 7th, did you

SLAGER - DIRECT

1 review in detail with Mr. Aylor what your concerns were?

2 A. Yes.

3 Q. And were you aware that he had questioned the SLED agents  
4 involved about your concerns?

5 A. Yes, I was.

6 Q. And were you aware that he had received a response?

7 A. Yes.

8 Q. And based on Mr. Aylor's background, his reputation and  
9 his representation of the PB -- on behalf of the PBA in a  
10 number of police shootings, did you rely on his advice?

11 A. No.

12 Q. Did you ask him whether or not you should provide a  
13 statement?

14 A. Yes.

15 Q. And did you rely on his advice?

16 A. I did.

17 Q. Would you have given a statement if he had -- if he had  
18 not endorsed you giving a statement and recommended and told  
19 you to give a statement?

20 A. If he stated -- I would have followed everything  
21 Mr. Aylor said, so yes.

22 Q. And prior to that morning, you had denied to give a  
23 statement?

24 A. On the 4th?

25 Q. Yes.

SLAGER - DIRECT

1 A. Yes.

2 Q. But you had cooperated in providing statements to the  
3 North Charleston Police Department?

4 A. Yes, I did on scene.

5 Q. Were you provided with your *Miranda* warnings on  
6 April 7th?

7 A. Yes.

8 Q. And did those warnings include that you were entitled to  
9 have an attorney?

10 A. Yes.

11 Q. And in fact, you had an attorney?

12 A. I did.

13 Q. And the attorney who is present with you advising with  
14 you is the attorney that you had since April 4th?

15 A. Correct.

16 Q. And the warnings that you were given include, "You have  
17 the right to remain silent"?

18 A. Yes.

19 Q. "Anything you say can be used in court as evidence  
20 against you"?

21 A. Yes.

22 Q. "You are entitled to talk to a lawyer now and have him  
23 present now or at any time during questioning"?

24 A. Yes.

25 Q. "If you cannot afford an attorney, one will be appointed

SLAGER - DIRECT

1 for you"?

2 A. Yes.

3 Q. "If you decide to answer questions now without a lawyer  
4 present, you will still have the right to stop answering at  
5 any time"?

6 A. Yes.

7 Q. They knew you had a lawyer present?

8 A. Yes.

9 Q. And that was the lawyer who was advising you and whose  
10 counsel you sought?

11 A. Yes.

12 Q. And you followed his counsel and advice?

13 A. I did.

14 Q. You also have the right to stop answering at any time  
15 until you talk to a lawyer?

16 A. Right.

17 Q. And you had already talked to a lawyer?

18 A. I did.

19 Q. And explained your situation and your concerns?

20 A. Correct.

21 Q. Did you understand those rights?

22 A. I did.

23 Q. And did you -- did you express a desire to give a  
24 statement at that time?

25 A. I did, yes.

SLAGER - DIRECT

1 Q. And why is that?

2 A. Because I followed Mr. Aylor's advice as him being my  
3 lawyer.

4 Q. And then did you sign a statement that said, "I have read  
5 this statement of my rights and I understand what my rights  
6 are"?

7 A. I did.

8 Q. And did you say, "I'm willing to talk now without a  
9 lawyer present"?

10 A. I think so, yeah.

11 Q. But you had a lawyer present?

12 A. I did. Mr. Aylor was present.

13 Q. That was the lawyer you were relying on?

14 A. Correct.

15 Q. If you did not have a lawyer, would you have signed this?

16 A. No.

17 Q. Now, that statement was made in Mr. Aylor's office; is  
18 that correct?

19 A. Yes, it was.

20 Q. And Mr. Aylor and one of his assistants were present?

21 A. Yes.

22 Q. And there were two SLED agents?

23 A. Yes.

24 Q. One was the lead questioner?

25 A. Yes.

SLAGER - DIRECT

1 Q. Female?

2 A. Yes.

3 Q. And the male also asked questions?

4 A. Only a couple.

5 Q. And both took notes?

6 A. Yes.

7 Q. Now, when that statement was over, do you recall the  
8 reason why the meeting was terminated?

9 A. I think we ran out of time.

10 Q. You ran out of time. What does that mean? Who ran out of  
11 time?

12 A. Mr. Aylor had another appointment.

13 Q. So the interview wasn't completed, but Mr. Aylor had to  
14 go to another meeting?

15 A. If I remember correctly, yes.

16 Q. Now, do you ever recall signing a statement that day?

17 A. No.

18 Q. Do you ever recall writing out a statement that day?

19 A. No.

20 Q. Do you ever recall adopting some writings of some  
21 third-party?

22 A. No.

23 MR. SAVAGE: No further questions, Your Honor.

24

25

SLAGER - CROSS

1 CROSS-EXAMINATION

2 BY MR. FISHMAN:

3 Q. Good morning, Mr. Slager.

4 A. Good morning.

5 Q. I want to talk about the interview that you gave to SLED.  
6 That was approximately 72 hours after the shooting had taken  
7 place, correct?

8 A. I guess.

9 Q. The shooting took place on April 4th at approximately  
10 9:30 in the morning, correct?

11 A. Correct.

12 Q. The interview with SLED took place in Mr. Aylor's office  
13 on April 7th at approximately 11 AM in the morning, correct?

14 A. Right.

15 Q. So about three days had passed since the shooting?

16 A. Right.

17 Q. Now during those three days -- well, immediately after  
18 the shooting, Mr. Aylor was assigned to be your attorney,  
19 correct?

20 A. Yes.

21 Q. Got him through PBA? Yes?

22 A. Yes.

23 Q. Did you have an opportunity to speak with Mr. Aylor on  
24 the day of the shooting, April 4th, about your recollection  
25 of events?

SLAGER - CROSS

1 A. I don't think I did at that time because my recollection  
2 was really fuzzy.

3 Q. On April 4th, you agreed that you had a conversation with  
4 Lieutenant Bowman about what took place that day --

5 A. Right.

6 Q. -- correct? And you heard Lieutenant Bowman's testimony  
7 in the State case?

8 A. I did.

9 Q. And do you agree that Lieutenant Bowman accurately  
10 testified as to the nature of your conversation on April 4th?

11 A. Yes.

12 Q. And Sergeant Gann was present during that conversation.  
13 And you heard Sergeant Gann's testimony in the State case?

14 A. Yes.

15 Q. And would you agree that Sergeant Gann's testimony was an  
16 accurate representation of the nature of the conversation  
17 that you had with him on April 4th?

18 A. Yes.

19 Q. And you spoke with Ron Webb, Sergeant Ron Webb, on  
20 April 4th, correct?

21 A. Yes.

22 Q. And you spoke with the chief, Eddie Driggers, also on  
23 April 4th?

24 A. I did.

25 Q. And at the time with respect to all four of those people,

SLAGER - CROSS

1 you told him your account of what happened during the  
2 shooting?

3 A. Yes. What I remembered.

4 Q. And as they have recounted at trial, you would agree that  
5 they gave accurate recounts of what you had told them at that  
6 time?

7 A. Yes.

8 Q. When was the first time you met with Mr. Aylor?

9 A. We had multiple phone conversations. I'm pretty sure I  
10 met with him on Sunday -- Saturday -- Monday. Monday.

11 Q. Monday was April 6th?

12 A. Yes.

13 Q. And you met with him in person?

14 A. Yes.

15 Q. And prior to that time, had you spoke with him multiple  
16 times on the phone?

17 A. Yes.

18 Q. During that time period had you discussed your account of  
19 what had happened on April 4th?

20 A. Um, no, because Easter was the day before, and then I was  
21 with my family. And then when we met in person, that is the  
22 day we were going to talk about everything.

23 Q. And so on April 6th you met with him in person?

24 A. Yes.

25 Q. Approximately how long was the interview that, or the

SLAGER - CROSS

1 meeting that you had with Mr. Aylor?

2 A. Couple hours.

3 Q. Did you have a chance to tell him everything you knew  
4 about the shooting?

5 A. Everything I remembered, yes.

6 Q. And that included your justification for shooting Walter  
7 Scott was that he grabbed your taser, correct?

8 A. Correct.

9 Q. That Walter Scott had both hands on his -- on your taser,  
10 correct?

11 A. Correct.

12 Q. And that Walter Scott was coming towards you with a  
13 taser, correct?

14 A. Right.

15 Q. And that you feared for your life, which is why you  
16 decided to use deadly force, correct?

17 A. Correct.

18 Q. That's what you told your lawyer on April 6th before this  
19 meeting --

20 A. Right.

21 Q. -- correct? And that is ultimately what you had told  
22 Gann, Bowman, Driggers, Webb on April 4th, correct?

23 A. Right.

24 Q. And that is ultimately what you told the SLED agents when  
25 you met with them on April 7th, correct?

SLAGER - CROSS

1 A. Correct.

2 Q. At no point did you tell any of those people that the  
3 reason you shot Walter Scott was that he was a fleeing felon  
4 who posed some threat to the public, correct?

5 A. No, I didn't say that at the time.

6 Q. That wasn't your justification for shooting him, correct?

7 A. At that time, um, the situation acting so fast, um, I  
8 might have forgot things. And after thinking about it two  
9 years later, yeah.

10 Q. So two years later, it's your testimony that the reason  
11 you shot Walter Scott was because he was a fleeing felon who  
12 posed a threat to society?

13 A. I think in my mind it was all in there.

14 Q. You have a chance to speak with two sergeants, a  
15 lieutenant and the Chief immediately after the incident, you  
16 never told told them that, correct?

17 A. I did not.

18 Q. You had a chance to speak with SLED for approximately an  
19 hour and 40 minutes. You never told them that, correct?

20 A. Correct.

21 Q. You had a chance to testify in the State murder trial at  
22 the direction of Mr. Savage and you never said that during  
23 that trial, correct?

24 A. Correct.

25 Q. In fact, at no point between April 4th and right now did

SLAGER - CROSS

1 you acknowledge that you shot Walter Scott while he was  
2 running away, correct?

3 A. Correct.

4 Q. You didn't tell that to anyone at the scene, correct?

5 A. I don't think so.

6 Q. You have never admitted that you shot Walter Scott while  
7 he was running away, correct?

8 A. Right.

9 Q. And is it your testimony that you don't remember that you  
10 shot Walter Scott while he was running away, or is it your  
11 testimony that you just didn't remember, or what exactly is  
12 your testimony on that point?

13 A. I don't remember. I know he -- I said he was turning at  
14 the time and I started firing.

15 Q. Well, and you said in your testimony to SLED -- have you  
16 had a chance to review the memorandum of interview from SLED?

17 A. I have.

18 Q. You've seen this. It was introduced. I don't know if it  
19 was introduced, but you've had a chance to see this through  
20 discovery?

21 A. It wasn't introduced in State Court.

22 MR. FISHMAN: If I could get a sticker and mark it  
23 Government's Exhibit 1 for the purpose of this exhibit.

24 Q. Have you had a chance to read this recently?

25 A. No.

SLAGER - CROSS

1 Q. Did you have a chance to review it in the past?

2 A. I have.

3 Q. Would you agree that the SLED statement, or the  
4 memorandum of interview, is a true and accurate recount of  
5 what happened during the interview you had with Angela  
6 Peterson and Lieutenant Gann?

7 A. I remember reading the one that she wrote, and I remember  
8 reading this one. I remember there is a bunch of differences  
9 in it.

10 Q. What do you feel is in there which you did not actually  
11 say during that interview?

12 A. I don't -- I would have to read through this whole paper  
13 and compare it with the other one. There is a lot of things  
14 that were different.

15 Q. In particular, with respect to your description of the  
16 shooting, did she accurately recount what you told her about  
17 the shooting incident itself?

18 A. Like I stated, I need to compare both of them and read  
19 them.

20 Q. I would want you to read that particular one, that is the  
21 document that I submitted, and I would like you to tell me if  
22 that's a true and accurate representation of what you told  
23 Agent Peterson and Agent -- and Lieutenant Gann on April 7th.

24 A. I'm going to have to read the document.

25 Q. Absolutely. Take your time.

SLAGER - CROSS

1 (Pause in proceedings.)

2 MR. SAVAGE: Your Honor, if I may?

3 THE COURT: Yeah.

4 MR. SAVAGE: This line of questioning has nothing to  
5 do with the motion. The issue is not what he said when he  
6 said it, the issue is whether he was induced by outrageous  
7 conduct to make the statement. So it's not about the  
8 statement's truthfulness or untruthfulness, it's about the  
9 inducement to give a statement. So we don't think that this  
10 line of questioning is relevant for the purposes of this  
11 hearing. It may be during a trial, but for purposes of this  
12 motion, it's not relevant.

13 THE COURT: Okay. Yes, sir?

14 MR. FISHMAN: He has put the voluntariness of that  
15 statement and what was said in that statement at issue in  
16 this hearing, and I'm asking him whether or not the statement  
17 that has been accounted is accurate or not.

18 THE COURT: Okay. I'll overrule your objection. I  
19 didn't know whether you were done reading or not.

20 THE WITNESS: No, sir.

21 THE COURT: Keep on reading.

22 THE WITNESS: There is 12 pages. It's going to take  
23 me --

24 THE COURT: Okay. Why don't we -- this might be a  
25 good time to take a break so you can read the statement.

SLAGER - CROSS

1 And, you know, don't talk to anybody about -- you are on the  
2 stand. You can't talk to anybody about your testimony right  
3 now, at least with regard to the statement. And then we'll  
4 start again in about ten minutes, okay?

5 MR. FISHMAN: Thank you, Your Honor.

6 (Thereupon, there was a recess.)

7 THE COURT: Okay. Mr. Slager, did you have plenty  
8 of time to read the --

9 THE WITNESS: Yes, sir?

10 THE COURT: All right. Yes, sir.

11 Q. You've had a chance to review all 12 pages of that  
12 memorandum?

13 A. Yes, I have.

14 Q. And do they truly and accurately reflect what you told  
15 SLED Agent Peterson and Lieutenant Gann on April 7th, 2015?

16 A. No.

17 Q. Will you please tell us where it is accurate and where it  
18 is inaccurate?

19 A. I'm going to need to reference the first memo, not the  
20 revised one, to compare the answers.

21 Q. Are you talking about her handwritten notes?

22 A. Correct.

23 Q. Absolutely.

24 MR. FISHMAN: We can get those, Your Honor. We don't  
25 have them with us right now.

SLAGER - CROSS

1 THE COURT: Okay. Sure.

2 Q. Are you unable to say which portions of the SLED report  
3 are inaccurate?

4 A. Correct. I made that statement over two years ago, and I  
5 don't recall everything.

6 Q. And you've reviewed it in preparation for trial?

7 A. For today?

8 Q. In preparation for your trial that took place a few  
9 months ago.

10 A. Yes, I reviewed it last year.

11 Q. And did you have a chance to review the notes in  
12 preparation for that trial?

13 A. Yes.

14 Q. We will get you the notes so that you can refer.

15 MR. FISHMAN: I don't know if Your Honor -- if the  
16 Court would want to resume this on another day to allow him  
17 to have adequate time to find the errors that he has in a  
18 particular report.

19 THE COURT: Has anybody got it in the courtroom?

20 MR. FISHMAN: I'm sorry?

21 THE COURT: Does anyone have it here?

22 MR. KLUMB: I don't.

23 MR. SAVAGE: There were actually three documents:  
24 There is the notes that were taken, the memorandum of  
25 interview and the incident report or the -- there are three

SLAGER - CROSS

1 different ones provided in discovery of that one interview,  
2 and they are not consistent.

3 MR. FISHMAN: The question is specifically with  
4 respect to this document, what the defendant believes is  
5 inaccurate or not accurate based on his memory of that  
6 interview.

7 THE COURT: Okay. Why don't you get those documents  
8 together. Since we are going to be back together on Monday,  
9 we can do it on Monday.

10 MR. FISHMAN: I imagine you would like to review and  
11 compare them side by side?

12 THE WITNESS: Yes.

13 MR. FISHMAN: Well, then I believe we will need to  
14 get those for him to save the Court's time.

15 THE COURT: We can resume the testimony on this  
16 matter on Monday when we are back together.

17 MR. FISHMAN: That's fine, Your Honor. We can do  
18 that.

19 THE COURT: Okay. Besides that, is there anything  
20 else you want to go into?

21 MR. KLUMB: Hold on.

22 MR. FISHMAN: With respect to this statement, I mean,  
23 I have some followup statements with respect to the  
24 voluntariness of the statement, the conditions that it was  
25 taken in, what he said, what he adopts as being the statement

SLAGER - CROSS

1 that he made on such a day.

2 THE COURT: Do you want to do that today or Monday?

3 MR. FISHMAN: Well, I could get some of it out of the  
4 way right now, Your Honor.

5 THE COURT: Sure. We are here.

6 BY MR. FISHMAN:

7 Q. Now, you would agree that this meeting took place in your  
8 attorney's office?

9 A. Yes.

10 Q. That location was chosen by you and your attorney,  
11 correct?

12 A. Correct.

13 Q. At the time -- 11 AM on April 7th was chosen by you and  
14 your attorney?

15 A. Correct.

16 Q. At the time that you gave the statement, you were not  
17 under arrest?

18 A. No.

19 Q. You were not in custody at that time?

20 A. Not at that time.

21 Q. You were *Mirandized* by Lieutenant Gann?

22 A. Right.

23 Q. And as a police officer, you are familiar with *Miranda*  
24 warnings?

25 A. I am.

SLAGER - CROSS

1 Q. Had you given them to people before?

2 A. Yes.

3 Q. You carried a *Miranda* statement in your wallet?

4 A. Yes.

5 Q. You understood the full scope of the rights that  
6 individuals have pursuant to *Miranda*?

7 A. Correct.

8 Q. During that interview that lasted about an hour and  
9 40 minutes, give or take, does that sound accurate?

10 A. Sounds accurate.

11 Q. Any point during that, do you ask to stop the interview  
12 for any reason?

13 A. My attorney stopped it.

14 Q. There was one point where your attorney asked to stop the  
15 interview and the interview did, in fact, stop, correct?

16 A. Correct.

17 Q. You resumed a few minutes later, correct? The answer --  
18 the interview did stop, correct?

19 A. Yes, it did.

20 Q. And then it resumed a few minutes later, correct?

21 A. Yes.

22 Q. You never asked to end the interview with the agents,  
23 correct?

24 A. No.

25 Q. The interview did, in fact, terminate earlier than

SLAGER - CROSS

1 expected because your attorney had some other engagements,  
2 correct?

3 A. Correct.

4 Q. You left that interview without being arrested, correct?

5 A. Correct.

6 Q. You then resumed the interview a number of hours later;  
7 is that correct?

8 A. I think so, yes.

9 Q. So between the time of the first and the second  
10 interview, you were free to leave?

11 A. Correct.

12 Q. At no point during that interview did the agents display  
13 their guns to you?

14 A. They had them on them.

15 Q. They had them on. They weren't pointing their guns to  
16 you and letting them know that they were armed?

17 A. I knew they were armed.

18 Q. They weren't coercing you in any way to give a statement,  
19 correct?

20 A. No.

21 Q. The statement you gave them was voluntary, correct?

22 A. On my attorney's advice.

23 Q. Let's talk a little bit about your conversation with your  
24 attorney that took place before you gave the statement. You  
25 mentioned in your direct testimony that you were concerned

SLAGER - CROSS

1 about two particular things; is that correct?

2 A. Correct.

3 Q. And one of those things is that you were concerned about  
4 the existence of a video, correct?

5 A. Correct.

6 Q. And you patrol this area, so you are familiar with this  
7 area, correct?

8 A. Correct.

9 Q. And you are aware of video cameras on surrounding  
10 businesses, correct?

11 A. Yes, I was.

12 Q. So you were aware there was a possibility there was a  
13 video of this incident?

14 A. Correct.

15 Q. And you were concerned that a video may exist that would  
16 contradict the statement that you were given to SLED, were  
17 you not?

18 A. No.

19 Q. You were not?

20 A. No.

21 Q. You were concerned about the existence of the autopsy,  
22 correct?

23 A. I knew the autopsy was completed because I saw it in the  
24 news.

25 Q. And was it your concern that the autopsy would be

SLAGER - CROSS

1 problematic because you knew Walter Scott had been shot in  
2 the back?

3 A. No. I stated that he was turning when I fired.

4 Q. Well, let's talk a little bit about the turning. Your  
5 statement was that he was turning as you were firing,  
6 correct?

7 A. Correct.

8 Q. At no point did you suggest that the first shot was fired  
9 from a distance of approximately 16 to 18 feet away, correct?

10 A. I don't recall that.

11 Q. You never told Sergeant Gann that the first shot that you  
12 fired was from a distance of 16 to 18 feet away from Walter  
13 Scott, correct?

14 A. No.

15 Q. In fact, to the contrary. The statement that you told  
16 Sergeant Gann and Bowman, as well as the SLED agents, is that  
17 you fired as he was coming at you with a taser, correct?

18 A. No, I'm pretty sure I said I fired when he was turning.

19 Q. You said at page 8, "As Scott rotated his body to the  
20 left towards Slager and was continuously coming forward at  
21 him with a taser, Slager said he believed Scott was trying to  
22 hit him with a taser. Slager said his goal was to get away  
23 from it because he was scared."

24 Do you recall that portion of the statement?

25 A. That's -- yes.

SLAGER - CROSS

1 Q. And that's a true and accurate reflection of what you  
2 told the SLED agents?

3 A. Yes, I believe so.

4 Q. And that is also consistent with what you told Sergeant  
5 Gann?

6 A. I would have to review their report. I haven't looked at  
7 their report in a long time.

8 Q. You then said that you were -- at page 9 -- "Slager was  
9 focused right on the taser and the barrel coming straight at  
10 him and Scott's arm extending straight out. He did not  
11 notice where Scott's left hand was. Slager stepped off to  
12 his left side, 'shuffle stepping'" -- in quotes -- "and he  
13 said, as he said he was trained to do, to get out of the  
14 way."

15 That was what you told the SLED agents during this  
16 interview, correct?

17 A. Correct.

18 Q. Slager said that he was going to the left, he pulled his  
19 gun and fired multiple times. Correct?

20 A. Correct.

21 Q. Slager said that Scott was turning to his left as Slager  
22 fired, correct?

23 A. Correct.

24 Q. Now, at no point in discussing Scott's movements did you  
25 suggest that the first shot was fired from a distance of

SLAGER - CROSS

1 approximately 16 to 18 feet, correct?

2 A. I know I didn't say that.

3 Q. In fact, you have never suggested that between April 4th,  
4 2015 until today that the first shot was fired from a  
5 distance of approximately 16 to 18 feet?

6 A. I never said that.

7 Q. I'm sorry?

8 A. Correct. I never said that.

9 Q. And you certainly never told SLED agents that the last  
10 shot you fired, Mr. Scott had already obtained a distance of  
11 approximately 40 feet, correct?

12 A. I never said that.

13 Q. But your statement to SLED was that you fired as he was  
14 turning?

15 A. Correct.

16 Q. That Mr. Scott managed to get 10 to 12 steps and that he  
17 then fell on the grass, correct?

18 A. Correct.

19 Q. And that's a true and accurate recount of what you told  
20 SLED on April 7th, 2015?

21 A. Correct. As I remember.

22 Q. I'm sorry?

23 A. As I remember.

24 Q. Now, as you testified here today, do you remember  
25 something differently?

SLAGER - CROSS

1 A. No.

2 Q. Your testimony today is the same memory as what appeared  
3 in the SLED statement of 2015?

4 A. Correct.

5 Q. Now, during your interview with SLED, you talked about  
6 the moments before you fired your weapon and chose to use  
7 deadly force and you talked about what happened on the  
8 ground.

9 A. Correct.

10 Q. Do you recall that?

11 A. Yes.

12 Q. As you were attempting to handcuff and detain Mr. Scott,  
13 correct?

14 A. Correct.

15 Q. And you told SLED that you drive stunned Mr. Scott?

16 A. Like I stated, I'm going to need to look at the original  
17 one to confirm that.

18 Q. Is your memory today that while Mr. Scott was on the  
19 ground, you drive stunned him?

20 A. That's correct.

21 Q. How many times?

22 A. Two, three, I don't recall. Three times, maybe twice,  
23 one time.

24 Q. Somewhere between one and three drive stuns to Mr. Scott  
25 while he was on the ground?

SLAGER - CROSS

1 A. One time. One time.

2 Q. That's what you told them?

3 A. I just wrote yes.

4 Q. That is reflected in SLED's memorandum, correct?

5 A. I need to look at the other two to confirm whether that's  
6 right or not.

7 Q. I'll give you a chance to do that over the weekend.

8 Now, while you were talking to SLED about what  
9 happened on the ground prior to the allegation that Mr. Scott  
10 grabbed the taser, you never told SLED that Walter Scott was  
11 on top of you at any point, correct?

12 A. No. Obviously in a situation like that, I can't remember  
13 everything.

14 Q. Is it your testimony today that you remember Walter Scott  
15 being on top of you at some time during this incident?

16 A. I think my memory has come back since that date, but yes.

17 Q. I'm sorry?

18 A. Some of my memory has come back since that date. Some  
19 things are fuzzy and some things I don't recall.

20 Q. Tell me what is more clear in your head today than it was  
21 on April 7th when you gave the statement to SLED.

22 A. The part when we were rolling around on the ground, him  
23 being on top of me.

24 Q. So now you recall that Walter Scott was on top of you at  
25 some point?

SLAGER - CROSS

1 A. Yes.

2 Q. Now, you never told that to Sergeant Gann, correct?

3 A. Correct.

4 Q. You never told that to SLED on April 7th, correct?

5 A. Correct.

6 Q. And you never mentioned that during your testimony that  
7 took place in November, correct?

8 A. Correct.

9 Q. So now a little over two years later you recall for the  
10 first time that you were rolling around on the ground and  
11 that at some point Mr. Scott was on top of you?

12 A. Yeah. Some things come back and some things don't. I  
13 could recall that, or that could just be watching the video.

14 Q. So perhaps seeing still frames of the video has caused  
15 you to have new memories?

16 A. Could.

17 Q. Now, let's talk about when you were on the ground. In  
18 your statement to SLED you never told SLED that you were  
19 drive stunned by Walter Scott, correct?

20 A. Correct.

21 Q. In fact, your statement to them was that you were -- that  
22 you did not know if Scott was able to activate the trigger at  
23 any point and you did not recall hearing the sounds of  
24 activation. Was that what you told SLED on that day?

25 A. What page are you on, sir?

SLAGER - CROSS

1 Q. Page 8, second full paragraph, first two sentences.

2 A. Like I stated, I'm going to have to look at the original.

3 Q. Is that your memory today, that you don't recall hearing  
4 any sounds of the taser while Mr. Scott allegedly had the  
5 taser?

6 A. I don't recall. I have an earpiece in my ear with the  
7 radio that goes directly into my ear, with that and then with  
8 the shouting, I don't recall if there is a taser sound or  
9 not. I don't know.

10 Q. You certainly didn't tell SLED that you believed you were  
11 drive stunned by Mr. Scott; is that correct?

12 A. Correct. I didn't tell them that.

13 Q. And you didn't tell Sergeant Gann, Lieutenant Bowman,  
14 Chief Driggers, Sergeant Webb, you didn't tell them that you  
15 believed you had been drive stunned by Walter Scott?

16 A. I told SLED that I was punched in the chest.

17 Q. And that is not reflected in there?

18 A. I'm pretty sure it's in the original statement.

19 Q. Okay. We'll allow you an opportunity to change that.  
20 Your recollection today is that you were punched in the chest  
21 one time by Mr. Scott?

22 A. Yes, I stated that.

23 Q. You didn't tell that to Sergeant Webb, did you?

24 A. No, because I -- I probably only talked to Sergeant Webb  
25 for a minute.

SLAGER - CROSS

1 MR. SAVAGE: We object again. This is not even the  
2 statement that is the subject of this motion. The only  
3 statement is the April 7th statement. We believe that this  
4 cross is beyond the scope of the motion.

5 MR. FISHMAN: His testimony is about what he does and  
6 does not remember about what he told SLED, particularly about  
7 the exact same substance, if his contemporaneous statements  
8 and what he recalls are accurate, go directly to his  
9 credibility on this point.

10 THE COURT: Overruled. Go ahead.

11 Q. Did you tell Sergeant Gann that you had been punched in  
12 the chest?

13 A. I don't recall. I need to look at their statements again  
14 to confirm.

15 Q. You didn't tell Lieutenant Bowman that you had been  
16 punched in the chest?

17 A. Like I said, I don't know. I need to look at their  
18 statements. I haven't looked at their statements in over a  
19 year.

20 Q. And it wasn't your testimony in the most recent trial  
21 that you had been punched in the chest by Walter Scott?

22 A. If I said that in court, yes.

23 Q. You believe you said that in court?

24 A. I would have to look at a transcript. I was on the stand  
25 for five hours. I don't recall everything I said.

SLAGER - CROSS

1 Q. Is it your -- it is your memory today that you were  
2 punched in the chest once by Walter Scott?

3 A. Yes.

4 Q. Other than that one punch, allegedly from Walter Scott,  
5 did he punch you anywhere else?

6 A. I don't remember. I don't know.

7 Q. You don't have any recollection of him pummeling you, for  
8 example?

9 A. We were rolling around on the ground. I don't know where  
10 his arms were every moment.

11 Q. You don't have any recollection of him kicking you,  
12 correct?

13 A. Like I say, we were rolling around on the ground. I  
14 don't recall what his legs were doing and what his arms were  
15 doing at the time. I don't know what -- if he was kicking me  
16 or punching me, I don't know.

17 Q. And the rolling around part was not something that you  
18 told SLED back when you were interviewed, correct?

19 A. I told SLED that we were on the ground.

20 Q. But you did not tell SLED that you were rolling around  
21 while you were on the ground in this scuffle that you are now  
22 describing?

23 A. Correct.

24 Q. Is it your testimony today that your memory of the event  
25 is better today than it was on April 7th when you gave this

SLAGER - CROSS

1 statement?

2 A. No.

3 MR. FISHMAN: The Court's indulgence.

4 THE COURT: Sure.

5 Q. When was it that you first remembered that Walter Scott  
6 had punched you in the chest?

7 A. When I was in jail.

8 MR. FISHMAN: Your Honor, it was brought to our  
9 attention that we do, in fact, have both sets of notes with  
10 us in court. I do think, for the efficiency of the Court, it  
11 would make sense to allow the defendant to read them over the  
12 weekend and compare them then, and then we can follow up with  
13 this remaining portion.

14 THE COURT: Okay. Since we are going to be here  
15 together again, that is fine with me. Give him more time to  
16 go over it.

17 Any objection to that, Mr. Savage?

18 MR. SAVAGE: Not at all.

19 THE COURT: Okay. There are actually three  
20 different summaries of that.

21 THE COURT: If he -- whatever there is, just make  
22 sure he has them over the weekend.

23 BY MR. FISHMAN:

24 Q. With respect to the notes that you will be seeing, at the  
25 end of your interview, Agent Peterson read her notes back to

SLAGER - CROSS

1 you, correct?

2 A. I don't recall. I don't remember.

3 Q. You don't remember her reading them?

4 A. No.

5 Q. You don't remember you making corrections as to things  
6 that maybe she misunderstood?

7 A. No.

8 Q. You don't recall her circling her notes and making the  
9 changes in her notes based on your direction?

10 A. No, I do not.

11 Q. Are you suggesting that didn't happen or you just have no  
12 recollection of that?

13 A. I have no recollection. That was over two years ago. I  
14 don't remember. I don't know.

15 Q. As it relates to Mr. Aylor, is it my understanding that  
16 you told Mr. Aylor that your memory of the incident was so  
17 bad that you were concerned about giving a statement?

18 A. That's in any police shooting.

19 Q. I'm talking about what you told your attorney with  
20 respect to whether or not you should give a statement in this  
21 case. Did you tell Mr. Aylor that you were concerned that  
22 your memory was so bad that you didn't know whether or not  
23 you should give a statement?

24 A. We went over the incident. I told Mr. Aylor that I don't  
25 remember everything, and I took Mr. Aylor's advice to give a

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1 statement of what I remember.

2 Q. But what you told him was, consistently, that Mr. Scott  
3 had taken your taser and that's why you fired your weapon,  
4 correct?

5 A. Right.

6 Q. And you didn't tell Mr. Aylor that the first shot was at  
7 a distance of approximately 16 to 18 feet away, correct?

8 A. I don't recall.

9 Q. Would that have been an important fact for you to tell  
10 Mr. Aylor for him to give you advice as to whether or not to  
11 give a statement or not?

12 A. I can only tell Mr. Aylor what I remember of the  
13 incident.

14 Q. And so it was your memory at the time you have no  
15 recollection that the first time you fired your weapon,  
16 Mr. Scott had already reached a distance of 16 to 18 feet?

17 A. No. All I remember is Mr. Scott having a taser, coming  
18 at me with it, and I pulled my firearm and fired.

19 Q. And is it your testimony that from that point -- at what  
20 point did you regain your memory of the incident?

21 A. I'm sorry. Say that again.

22 Q. How long of a period are we talking about? You remember  
23 handcuffing Mr. Scott?

24 A. Correct.

25 Q. And so my question is: From the period that Mr. Scott

SLAGER - CROSS

1 allegedly had the taser and to the period that you handcuffed  
2 Mr. Scott, at what point do you remember what happened again?

3 A. Just that Mr. Scott had a taser. He was coming at me  
4 with it. I pulled my firearm as he was turning and I fired.  
5 At that point I remember getting on the radio and then  
6 handcuffing Mr. Scott and then sitting in a patrol car.

7 Q. So basically it's just the period from when he allegedly  
8 grabbed your taser to the point that you fired your weapon  
9 that you are not entirely sure what happened?

10 A. Correct.

11 Q. And you would agree there is a video of this particular  
12 shooting -- I know you've seen it -- correct?

13 A. Correct.

14 Q. And the officer in the video shooting, that's you,  
15 correct?

16 A. Correct.

17 Q. And that's on this date in time in question, April 4th,  
18 2015, correct?

19 A. Right.

20 Q. In Charleston, here in South Carolina?

21 A. North Charleston.

22 Q. North Charleston. Here in South Carolina?

23 A. Yes.

24 MR. FISHMAN: Your Honor, we would allow him to  
25 resume his testimony after he's had a chance to compare the

SLAGER - REDIRECT

1 notes and everything he wishes to see that documented that  
2 interview and compare it with the SLED report.

3 THE COURT: Okay. We'll just adjourn the testimony  
4 until --

5 MR. SAVAGE: I would like to ask him some questions  
6 on what the testimony has been so far. And I would like the  
7 Court to rule on whether or not I can meet with Slager to go  
8 over documents that are subject to this. I know that  
9 typically we can't, but in light of this type of examination,  
10 perhaps I'll ask him some questions and that might help.

11 THE COURT: Okay. That's fine.

12 REDIRECT EXAMINATION

13 BY MR. SAVAGE:

14 Q. So Mr. Slager, did you attend the Criminal Justice  
15 Academy?

16 A. I did.

17 Q. Did you attend continuing training at the North  
18 Charleston Police Department?

19 A. I did.

20 Q. Do you recall your training with respect to being  
21 involved in a violent episode?

22 A. Yes.

23 Q. And what is the training that you received?

24 A. The South Carolina Criminal Justice Academy states that  
25 an officer should not give a statement for some time, I think

SLAGER - REDIRECT

1 it's three days, due to the fact of memory issues, and it has  
2 to do with your brain.

3 Q. So you are aware from your training both at the Criminal  
4 Justice Academy and from the North Charleston Police  
5 Department that it is very often the case that officers don't  
6 have 100 percent recall of a traumatic event?

7 A. Correct. I know -- I talked -- after this incident  
8 happened --

9 Q. Don't go into that. Either yes or no.

10 A. Yes, sir.

11 Q. And so you were aware of that on April 4th, 5th and 6th  
12 and 7th?

13 A. Correct.

14 Q. And did you communicate that to Mr. Aylor?

15 A. Yes.

16 Q. And when you were interviewed by the various parties that  
17 interviewed you on those dates, did you give them an honest  
18 response?

19 A. I did.

20 Q. And an honest response means that is what you recalled  
21 and you did tell them truthfully what was in your mind at  
22 that time?

23 A. Yes.

24 Q. But you are also aware that it was well-known  
25 academically at the Criminal Justice Academy, and

SLAGER - REDIRECT

1 academically at North Charleston, everybody is trained that  
2 their memory is not accurate in the immediate aftermath of a  
3 shooting?

4 A. Right.

5 Q. Correct?

6 A. Yes, sir.

7 Q. And that is why you presented the issues that weren't  
8 clear to you to Mr. Aylor?

9 A. Correct.

10 Q. And those issues were about the position of Mr. Scott  
11 when you shot him?

12 A. Yes.

13 Q. Now, did you know he was 16 or 18 feet away when you shot  
14 him the first time?

15 A. No, I did not.

16 Q. Do you know that today?

17 A. Now I do, yes.

18 Q. And how do you know that? When Mr. Fishman asks you about  
19 your memory since April 7th, have you spent a minimum of 250,  
20 500 hours, a thousand hours with your attorney going over  
21 documents and video?

22 A. Yes, I have.

23 Q. Has that affected your memory?

24 A. It has.

25 Q. So the question I think that is appropriate is at the

SLAGER - REDIRECT

1 time you were questioned, did you give a full and truthful  
2 answer on the information you had at that time?

3 A. I did, yes.

4 Q. And do you know now that the information you gave on  
5 April 7th was not complete, and that your memory has been  
6 refreshed by this exhaustive amount of review of documents  
7 and video and whatnot?

8 A. Yes.

9 Q. Do you know how the Government knows how far away  
10 Mr. Scott was?

11 A. That they measured it on the video.

12 Q. From the video, right?

13 A. Correct.

14 Q. And the autopsy as you now know it from reviewing it, you  
15 know that you didn't shoot Mr. Scott in the back?

16 A. That's correct.

17 Q. And that you shot him in the side, absolutely consistent  
18 with your memory as it existed on April 7th?

19 A. Yes. Yes.

20 Q. Now, on April 7th, did they ask you how many shots you  
21 had fired?

22 A. I think one of my sergeants might have asked, or --

23 Q. And did you give an honest and truthful answer?

24 A. I did.

25 Q. And you know now that that was incorrect?

IN THE DISTRICT COURT OF THE UNITED STATES  
DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

1			
2			
3	UNITED STATES OF AMERICA,	)	2:16-CR-378
		)	
4	Plaintiff	)	Charleston,
		)	South Carolina
5	VS	)	April 24, 2017
		)	
6	MICHAEL SLAGER,	)	
		)	
7	Defendant	)	

TRANSCRIPT OF HEARING  
BEFORE THE HONORABLE DAVID C. NORTON,  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

11	For the Plaintiff:	MR. ERIC J. KLUMB
12		Assistant United States Attorney
13		151 Meeting Street
		Suite 200
		Charleston, SC 29401

14		MR. JARED FISHMAN
15		MS. ROSE GIBSON
16		U.S. Department Of Justice
17		Patrick Henry Building
		601 D Street NW
		Room 5118
		Washington, DC 20004

18		
19	For the Defendant:	MR. ANDREW J. SAVAGE, III
20		MR. DONALD LEE McCUNE
21		Savage and Savage
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		Charleston, SC 29402

22		MR. SHAUN KENT
23		Kent Law Firm
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		Manning, SC 29102

24		
25	Court Reporter:	Amy C. Diaz, RPR, CRR
		P.O. Box 835
		Charleston, SC 29402

1 THE COURT: Okay. I'm ready when y'all are.

2 MR. KLUMB: We will call the case of *United States*  
3 *vs. Michael Slager*, Case Number 2:16-378. We are here for a  
4 continuation on the hearing of a motion to suppress, a  
5 *Daubert* hearing with respect to Megan Fletcher, and a motion  
6 by the Government to preclude evidence relating to the  
7 victim's character.

8 THE COURT: Okay. I guess we ought to take Mr.  
9 Slager first since that is left over.

10 MR. KLUMB: On Friday I told the Court I would be  
11 delivering 75 pages of travel expenses detailing Mr. Santana.  
12 I bypassed that and gave it directly to the defense on  
13 Saturday.

14 THE COURT: All right. Mr. Slager, do you want to  
15 come on up?

16 MR. SAVAGE: The -- on Friday, we brought to the  
17 Court's attention that the line of questioning that he's  
18 pursuing, if he remembers, does he not remember, whatnot, is  
19 not the issue that is before the Court. The issue before the  
20 Court is that the Government's conduct with regard to  
21 statements made to Mr. Aylor violated Mr. Slager's due  
22 process rights.

23 The information that is now being elicited we do not  
24 believe is relevant to that motion; and further, the  
25 Government is posturing a line of questioning as to obtain a

1 statement from Mr. Slager and Mr. Slager has not made a  
2 statement at all in this case. The evidence that the Court  
3 has before it regarding the SLED agents is not his statement.  
4 That's the SLED agent's statement. You would look at the  
5 notes that were taken and they were not verbatim. He never  
6 signed them, he had never acquiesced to them. He has not  
7 adopted a statement. There is an observation made by the  
8 SLED agents, but that -- what we are doing now is  
9 cross-examining Mr. Slager and what the Government should do.

10 The Government has the statements that they believe  
11 are appropriate for introduction, but they should not be in a  
12 position to ask Mr. Slager to compare one to the other. That  
13 is their work product. That is no obligation of Mr. Slager  
14 to testify, providing a new statement to adopt statements  
15 that he has not previously adopted. So we object to this  
16 line of questioning.

17 We ask the Court to restrict the information that  
18 the Court rules on to those matters that are pertinent to  
19 that which is did the Government intentionally mislead or lie  
20 to Mr. Aylor and did that misinformation, that disinformation  
21 cause Mr. Aylor to provide the evidence to Mr. Slager? The  
22 Government itself that day told Mr. Slager in writing to rely  
23 on Mr. Aylor, knowing that Mr. Aylor had been misled and  
24 provided with false, misleading information.

25 So we would object to the substance of the

1 statements that were taken by note that day, and that's for  
2 another motion at another time.

3 THE COURT: Okay. Mr. Fishman?

4 MR. FISHMAN: The issue is whether or not Mr.  
5 Slager's statement to SLED was voluntary or not, and the  
6 contents to what he said during that statement is fair game.

7 When he testified as to the surroundings, about what  
8 took place at that particular interview, ultimately how it  
9 was recorded and what was said, is completely relevant to  
10 whether or not his underlying statement was voluntary. With  
11 respect to the adoption, the Government would argue that the  
12 notes taken by Agent Peterson were, in fact, adopted  
13 admissions. The evidence that has come forward so far was  
14 that she read the notes back with Mr. Slager, that she gave  
15 him a chance to make corrections; corrections were, in fact,  
16 made. Ultimately those were turned into a report of  
17 interview. The Government's line of questioning is whether  
18 or not the defendant agrees as to the accuracy of the report  
19 itself and whether or not that contained and documented his  
20 statement.

21 THE COURT: Okay. All right. I'll overrule your  
22 objection.

23 Come on up, Mr. Slager.

24 THE CLERK: Left hand on the Bible.

25

SLAGER - CROSS

1 THEREUPON:

2 MICHAEL SLAGER,

3 Called in these proceedings and after having been first duly  
4 sworn testifies as follows:

5 CROSS-EXAMINATION

6 BY MR. FISHMAN:

7 Q. Good afternoon, Mr. Slager.

8 A. Good afternoon.

9 Q. Now, we were talking last Friday about the interview that  
10 you gave to SLED on April 7th, 2015. I'm going to pick up  
11 where we left off. Would you agree that the purpose of the  
12 interview with SLED was for you to be able to give a  
13 statement about the shooting of Walter Scott?

14 A. The conversation, yes.

15 Q. And based on your training, you were aware that SLED  
16 investigates police shootings, correct?

17 A. I do.

18 Q. And as part of your training, you were told that use of  
19 excessive force could possibly expose you to administrative  
20 penalties, civil penalties and possible criminal penalties,  
21 correct?

22 A. Yes.

23 Q. And you were aware that criminal penalties could be both  
24 state crimes or federal crimes, correct?

25 A. Correct.

SLAGER - CROSS

1 Q. You know that the FBI investigates federal crimes?

2 A. I do.

3 Q. And you know that the FBI and SLED regularly share  
4 information with respect to police shootings?

5 A. I did not know that.

6 Q. SLED Agents Peterson and Gann questioned you about the  
7 shooting, correct?

8 A. Correct.

9 Q. Your attorney, David Aylor, was present?

10 A. Yes.

11 Q. Defense investigator Levi Miles was present during the  
12 questioning?

13 A. I don't recall. He might have been.

14 Q. You don't recall him being present?

15 A. He might have been, yes.

16 Q. Do you recall him being present during the portion of the  
17 interview where you acted out the incident between you and  
18 Walter Scott?

19 A. I don't recall. It was over two years ago. He could  
20 have been there. If he said he was, he most likely was.

21 Q. Do you remember a period of the SLED interview where you  
22 acted out the shooting of Walter Scott?

23 A. Yes.

24 Q. You just don't recall whether or not Levi Miles was a  
25 part of that?

SLAGER - CROSS

1 A. Correct.

2 Q. Now, as I understood your testimony on Friday, you were  
3 not present when your attorney allegedly asked SLED about the  
4 existence of a video; is that correct?

5 A. I was. We were all in the room together.

6 Q. So your testimony now is that you were present when your  
7 attorney asked for whether or not there was a video?

8 A. I don't know how many times Mr. Aylor asked SLED agents.  
9 He could have asked them on the phone, like you stated on  
10 Friday, at the time when we were in the room. I know he did  
11 say something to that effect, yes.

12 Q. What did he say?

13 A. About the video, any kind of witnesses, any surprises or  
14 anything to that effect.

15 Q. And did he ask it as a single question or multiple  
16 questions?

17 A. I don't really recall. I know the topics were brought  
18 up. Like I say, that was over two years ago. I don't  
19 remember every single verbatim.

20 Q. And is it your testimony today that Agent Peterson said  
21 there were no videos?

22 A. Like I say, I don't recall everything that went on in  
23 that interview.

24 Q. My question is for the purpose of this hearing, do you  
25 know whether or not State Agent Peterson said there were no

SLAGER - CROSS

1 videos?

2 A. I've -- if I remember correctly, I'm pretty sure she said  
3 there was no videos.

4 Q. But you are not certain that she said that?

5 A. Like I stated, it was two years ago, sir, I don't  
6 remember everything that was said in that interview.

7 Q. Is it your testimony that you heard Agent Peterson deny  
8 having any information about an autopsy?

9 A. Yes, I remember that.

10 Q. And it's your testimony that you heard Agent Peterson  
11 deny the existence of any witnesses?

12 A. Like I stated, I don't remember.

13 Q. Now, have you had sufficient time to review the report of  
14 interview from your interview with SLED on April 7th, 2015,  
15 which was previously marked as Exhibit 1?

16 A. No, I have not.

17 Q. You have not had a chance to review that?

18 A. No.

19 Q. Did we not stop the hearing on Friday for a half an hour  
20 to give you an opportunity to review the report of that  
21 interview?

22 A. Yes, you did.

23 Q. And did you also ask for the weekend to be able to review  
24 the handwritten notes taken by Agent Peterson and by  
25 Lieutenant Gann?

SLAGER - CROSS

1 A. Yes.

2 Q. Have you done so?

3 A. No, I have not.

4 Q. Why have you not done that?

5 A. The advice of my attorney. Also my attorney was out of  
6 town this weekend and I couldn't meet with him.

7 MR. FISHMAN: Your Honor?

8 THE COURT: Mr. Savage?

9 MR. SAVAGE: Yes?

10 THE COURT: You told him not to do it?

11 MR. SAVAGE: I told him he didn't need to do it, yes,  
12 I did.

13 THE COURT: Any basis for that?

14 MR. SAVAGE: Yes.

15 THE COURT: What is that?

16 MR. SAVAGE: He has not waived his Fifth Amendment  
17 right to make an additional statement. If the Government has  
18 the three statements, they can certainly go through them and  
19 make their own determination, but I instructed him not to do  
20 the Government's work for it by making a comparison of the  
21 three statements. And any statement he would give today is a  
22 subsequent statement. And I've told him he has no obligation  
23 to do that. Now, if the Court instructs him to do that  
24 against my advice to him, we can address that, but I  
25 certainly don't follow the advice of the United States

SLAGER - CROSS

1 Attorney.

2 THE COURT: Um, was this something that came out of  
3 the blue after the hearing -- I mean, did you -- were you  
4 planning on doing that before we recessed on Friday?

5 MR. SAVAGE: No, I wanted to go back and reflect on  
6 the day's proceedings and to see whether my thinking at that  
7 time was correct. I believe that it is. And that is that he  
8 has never adopted the statements. They are handwritten  
9 statements, as the Court knows, are not verbatim. They are  
10 notes and that there are obvious discrepancies within those  
11 three statements that I don't feel that Mr. Slager is  
12 obligated to show the Government what those discrepancies  
13 are.

14 So when the question is asked of him, do they  
15 accurately reflect something? Number one, that is a  
16 statement; and number two, they obviously don't. And the  
17 Government is in a position to address those deficiencies of  
18 the translation, the copy or the interpretation of those  
19 notes. That's the basis for my advice to him.

20 THE COURT: Did you let anybody know over the  
21 weekend that this was going to be an issue?

22 MR. SAVAGE: No. It should have been obvious.

23 THE COURT: Should have been obvious. It wasn't  
24 obvious to you on Friday, why would it be obvious to anybody  
25 over the weekend?

SLAGER - CROSS

1 MR. SAVAGE: Pardon me?

2 THE COURT: You said it wasn't obvious to you on  
3 Friday.

4 MR. SAVAGE: It wasn't obvious until I went back and  
5 reviewed the three statements.

6 THE COURT: Well, I mean, the question was: Did you  
7 let anybody know this over the weekend so that we might make  
8 other plans or -- you know, we had a hearing scheduled, and  
9 the last thing we did on Friday was Mr. Slager was going to  
10 compare those notes and come back and testify on Monday.  
11 That was the last thing that happened, isn't it?

12 MR. SAVAGE: That's correct.

13 THE COURT: Okay. And so the plans changed over the  
14 weekend, but you didn't want to let anybody know that the  
15 plans changed over the weekend?

16 MR. SAVAGE: Those weren't my plans; those were the  
17 Government's plans.

18 THE COURT: Those were my plans. That is what was  
19 represented to me on Friday, right? There was nobody that  
20 took any issue about Mr. Slager going home over the weekend,  
21 getting those three notes and comparing them, was there?

22 MR. SAVAGE: The questioning --

23 THE COURT: No. The answer to that is yes or no and  
24 then you can explain. To the extent there was an objection  
25 that was overruled by the Court.

SLAGER - CROSS

1 MR. SAVAGE: I would agree that the Court instructed  
2 Mr. Slager to take the time over the weekend to review those  
3 three statements. Yes, I would agree with that.

4 THE COURT: Okay. What's your position now, Mr.  
5 Fishman?

6 MR. FISHMAN: The Court's indulgence.

7 (Pause in proceedings.)

8 MR. FISHMAN: The Government's position is that some  
9 sanction is appropriate in this case. The Court clearly gave  
10 instructions of what this witness was to do over the weekend;  
11 that was review and compare in order to save the Court's  
12 time. It was clear from both the earlier part of the  
13 proceeding, as well as the later proceedings, that that was  
14 being done. I'm prepared to continue cross-examining him.  
15 It may take a lot longer as we go through it line by line  
16 since he's not adequately had the time to review it.

17 THE COURT: Go ahead and see what happens.

18 Yeah?

19 MR. SAVAGE: I've objected and will continue to  
20 object and continue to instruct Mr. Slager not to answer and  
21 be responsive to any of those questions. Those are new  
22 statements that are involuntary statements. If he is  
23 instructed by the Court to answer those questions, then that  
24 testimony ends today and cannot be reused. But I have  
25 instructed him not to allow the Government to do -- to allow

SLAGER - CROSS

1 the Government to have him do their work for them. He has  
2 made it clear that he has not adopted those statements, that  
3 those are not his statements, that those are the statements  
4 of the SLED representative, and that he is now being forced  
5 to give a statement, and we object to that.

6 MR. FISHMAN: The issue before the Court is whether  
7 or not Mr. Slager remembers making those statements or not.  
8 If he does not remember making those statements, that is what  
9 it is. If he remembers making those statements, then that is  
10 what it is. The issue is whether or not he remembers telling  
11 SLED certain key facts that are at the essence of what this  
12 motion is about.

13 THE COURT: Okay. Go ahead and we'll see where we  
14 are going.

15 BY MR. FISHMAN:

16 Q. Do you have a copy of your statement in front of you?

17 A. No, sir.

18 Q. I'll show you the exhibit that has been previously marked  
19 as Government's Exhibit 1. If you could turn to page 8. Do  
20 you recall telling the SLED agents that after Mr. Scott  
21 allegedly took your taser he, quote, "rotated his body to the  
22 left towards you and was continuously coming forward at you  
23 with a taser." Do you recall telling him that?

24 MR. SAVAGE: Objection on the previous grounds, and  
25 that would be a continuing objection, if I may.

SLAGER - CROSS

1 THE COURT: Overruled.

2 THE DEFENDANT: Like I say, this is two years ago. I  
3 don't remember.

4 Q. Did you not tell the SLED agents that Walter Scott was  
5 continuously coming forward at you with a taser?

6 A. Mr. Fishman, like I stated, this was over two years ago.  
7 I don't recall everything that was said at this meeting.

8 Q. Do you recall telling SLED agents that you did not know  
9 if Mr. Scott was able to activate the trigger of the taser?

10 A. Like I stated, Mr. Fishman, this meeting was over two  
11 years ago. I don't recall everything that was said.

12 Q. You certainly didn't tell SLED agents that you were drive  
13 stunned, correct?

14 A. Like I stated, this meeting was over two years ago and I  
15 don't recall everything that was said.

16 Q. Mr. Slager, you have been drive stunned before as a part  
17 of your responsibilities as a police officer, correct?

18 A. Right.

19 Q. And you certainly know what a drive stun feels like,  
20 correct?

21 A. Correct.

22 Q. You certainly don't recall today that you were drive  
23 stunned by Mr. Scott?

24 A. That incident happened over two years ago and I don't  
25 remember everything that happened that day.

SLAGER - CROSS

1 Q. Including being drive stunned by Mr. Scott?

2 A. I couldn't say yes or no to that answer -- question.

3 Q. Do you recall telling the agents that during this  
4 instance, you and Mr. Scott were an arm's length distance  
5 apart?

6 A. Like I stated, I don't remember everything I said, it's  
7 over two years ago.

8 Q. Do you recall telling them that you feared for your life?

9 A. Like I said, Mr. Fishman, the only answers -- I don't  
10 remember everything that happened, so I can't answer any of  
11 these questions.

12 Q. So is it my understanding that you don't recall anything  
13 that you told SLED agents, vis-a-vis what happened on  
14 April 4th?

15 A. Like I stated, that was two years ago and I don't recall  
16 everything I said.

17 Q. Yes or no, Mr. Slager. Do you recall anything that you  
18 told SLED agents on April 7th, 2015?

19 A. No.

20 Q. Your memory of that whole interview has just faded away?

21 A. Like I stated, Mr. Fishman, it's over two years ago, I  
22 don't recall everything. I don't remember.

23 Q. Do you recall describing that the reason you fired your  
24 weapon was that Mr. Scott was coming forward with a taser?

25 A. I don't recall any kind of questions that were -- during

SLAGER - CROSS

1 the meeting.

2 Q. Do you recall telling SLED agents that you side shuffle  
3 stepped to the left to get out of the way of the taser?

4 A. I don't recall any questions of me, it being over two  
5 years ago.

6 Q. Do you recall telling them that as Mr. Scott was coming  
7 forward, you pulled your gun and fired multiple times?

8 A. I don't recall anything. That was over two years ago.

9 Q. That was --

10 A. I can't be 100 percent sure. You know, my mind was  
11 fuzzy. I don't remember everything.

12 Q. Your mind was fuzzy on April 7th about what happened?

13 A. On April 4th, 5th, 6th, 7th, I went through a traumatic  
14 experience.

15 Q. And today your memory is equally as fuzzy?

16 A. Yes. Um-hum.

17 Q. Now, you testified on Friday that there were some things  
18 that you remembered differently now than the way that you  
19 remembered them when you spoke to SLED. Do you recall  
20 testifying to that on Friday?

21 A. I think I did.

22 Q. I just want to make sure that Friday isn't particularly  
23 fuzzy in your mind, as well?

24 A. No.

25 Q. You testified on Friday that now you remember that you

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1 were punched by Mr. Scott; whereas you did not remember that  
2 on April 7th, correct?

3 A. Is that what I said? I don't recall. Do you have a  
4 transcript I can look at to confirm?

5 Q. I'm asking you. Do you recall your testimony as of  
6 Friday?

7 A. I do.

8 Q. Do you recall testifying that Mr. Scott punched you in  
9 the chest?

10 A. I think I said that, yes.

11 Q. And do you recall that you had also testified that you  
12 never told SLED that Mr. Scott punched you in the chest?

13 A. I might have said that, yes. But like I stated, I -- you  
14 know, the incident happened -- the interview was over two  
15 years ago, so I don't recall exactly what I said and what I  
16 didn't say.

17 Q. Do you recall your testimony on Friday that you never  
18 told SLED that you and Mr. Scott were rolling around on the  
19 ground?

20 A. Can you repeat the question?

21 Q. Do you recall your testimony on Friday that you never  
22 told SLED that you and Mr. Scott were rolling around on the  
23 ground?

24 A. I'm pretty sure I -- you know, we were in a fight on the  
25 ground, so I don't remember if we were rolling around. If

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1 he's on top of me, if I was on top of him, I don't -- you  
2 know, it was a fluid situation. I don't recall.

3 Q. You have no recollection of Mr. Scott being on top of  
4 you?

5 A. Like I stated, I don't recall a lot of things that  
6 happened that day, and some things I don't know. Obviously I  
7 know now because of the video.

8 Q. Tell me about that. You have seen the video and now you  
9 are certain that Mr. Scott was on top of you?

10 A. I mean, I don't think that the video lies. Mr. Scott on  
11 top of me, I saw it in state court.

12 Q. And that was the fuzzy still frame of 1/30th of a second,  
13 that is what you are talking about?

14 A. I would have to look at the frame, I don't know. You are  
15 referring to a single still frame from Mr. Santana's video. I  
16 think it was -- I'm not 100 percent accurate. I need to look  
17 at the video again to confirm.

18 Q. And you believe that the video clearly shows Mr. Scott on  
19 top of you?

20 A. I would have to look at the video again to confirm.

21 Q. My question, sir, your testimony is that you saw the  
22 video and you now believe that Mr. Scott was on top of you.  
23 Is that your testimony?

24 A. Correct.

25 Q. And your belief that Mr. Scott was on top of you came

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1 from reviewing the video, correct?

2 A. Correct. Like I stated, a lot of the things I don't  
3 remember. The thing I do remember, you know, watching the  
4 video sort of puts in your mind what happened. I don't  
5 recall -- I can't tell -- I don't remember everything that  
6 happened that day. So I can't sit here and confirm things  
7 that happened over two years ago, sir.

8 Q. So it's safe to say that your memory, as you sit here  
9 today, was shaped by a viewing of the video, correct?

10 A. Maybe parts of it was. I don't know how a mind works, so  
11 I can't answer that question.

12 Q. Leading up to your testimony today, I believe your  
13 testimony on Friday was that you spent over 500 hours  
14 preparing, reviewing documents?

15 A. I don't know how much time it actually was. It could  
16 have been that, it could have been less, it could have been  
17 more.

18 Q. I understand that you are not sure of the exact number of  
19 hours that you spent, I'm just talking about your testimony  
20 on Friday. Do you recall Mr. Savage asked you that you spent  
21 at least 500 hours getting ready for preparation?

22 A. I could have, yes.

23 Q. And part of that included reviewing the video?

24 A. I've seen the video, correct.

25 Q. And that includes reviewing the video frame by frame?

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1 A. Correct.

2 Q. And including the blurry frames?

3 A. I think so.

4 Q. And as a part of your preparations, you reviewed the  
5 report by SLED regarding marks on your uniform, correct?

6 A. I could have. There is so much paperwork. I needed to  
7 see that to confirm.

8 Q. When you gave your statement to SLED, you did not know  
9 about the existence of the video?

10 A. No, they didn't want to tell us.

11 Q. You didn't know about the enhanced video because that  
12 hadn't even been created yet?

13 A. Correct.

14 Q. You hadn't seen a single SLED report, correct?

15 A. Correct. I was in jail.

16 Q. You weren't aware of what any particular witness would or  
17 would not say, correct?

18 A. I don't -- I can't read their minds. I don't know what  
19 they are going to say.

20 Q. But in preparation leading up to your testimony today,  
21 you've had an opportunity to review the discovery in this  
22 case?

23 A. All of the discovery?

24 Q. Any of the discovery?

25 A. Yes.

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1 Q. You've seen witness statements?

2 A. Yes.

3 Q. You've watched the video?

4 A. Correct.

5 Q. You've seen the still frames?

6 A. Yes.

7 Q. You've had access to reports on testing done by SLED?

8 A. Correct.

9 Q. You've had access to testing done by defense experts?

10 A. Correct.

11 Q. And as you come here today, now your memory is somewhat  
12 refreshed from reviewing some of these things?

13 A. At the time this incident happened, I don't recall  
14 everything. And once I see it, it changes. So I can't  
15 answer that question.

16 Q. Now, you also told SLED that after the shooting you  
17 handcuffed Mr. Scott?

18 A. I don't recall what happened. I told them two years ago.

19 Q. Do you recall handcuffing Mr. Scott after shooting?

20 A. Yes.

21 Q. And you just don't recall whether or not you told SLED  
22 about the handcuffing of Mr. Scott after the incident?

23 A. Like I say, that interview was over two years ago. I  
24 don't know exactly what I said in the interview.

25 Q. You told SLED that you observed your taser on the ground,

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1 correct?

2 A. I don't -- I don't -- what page are you on, sir, so I can  
3 look at that?

4 Q. Second paragraph on the bottom, on page 10, Slager said,  
5 "His taser was on the ground and that Scott must have dropped  
6 it. Slager said the taser was located between the place  
7 where he had been shooting and where Scott landed."

8 Do you recall telling that to SLED?

9 A. No.

10 Q. Do you recall that today?

11 A. No.

12 Q. Isn't it true, Mr. Slager, that you picked up the taser  
13 from behind where you had fired your weapon?

14 A. I don't know where I picked it up at.

15 Q. Did you or did you not tell SLED agents that after you  
16 picked up the taser, you dropped it next to Walter Scott's  
17 body?

18 A. I don't -- I don't recall it. I don't remember.

19 Q. Do you recall dropping the taser next to Walter Scott's  
20 body?

21 A. I do not.

22 Q. Do you -- can you think of any law enforcement reason why  
23 you would drop the taser next to Mr. Scott's body?

24 A. I don't know.

25 Q. You have no justification for why you would have dropped

SLAGER - CROSS

1 the taser next to Walter Scott's body?

2 A. Like I stated, I don't even remember doing that.

3 Q. Do you recall what your justification to SLED was for why  
4 you holstered the taser?

5 A. From picking it up?

6 Q. Why you picked it up.

7 A. I don't know of any police officer who would leave the  
8 weapon on the ground.

9 Q. And do you recall telling -- you don't know of any police  
10 officer who would leave their taser laying on the ground,  
11 correct?

12 A. No, I would not.

13 Q. And you certainly don't know any police officer who would  
14 have secured it and then dropped it immediately next to a  
15 suspect?

16 A. After watching the video, I picked it up a couple of  
17 seconds later. And like I stated, I don't remember doing  
18 that.

19 Q. One of the justifications that you gave to SLED was that  
20 you had heard a voice on Mr. Scott's phone?

21 A. Like I stated, I don't recall everything that was said in  
22 that interview. It was over two years ago.

23 Q. Do you recall hearing a voice on the phone?

24 A. I do.

25 Q. And that was a voice of an older woman, correct?

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1 A. I don't know whose voice it was.

2 Q. Could you describe the voice that you heard coming over  
3 the phone?

4 A. A voice.

5 Q. Was it male or female?

6 A. I don't recall.

7 Q. But it is your testimony that not being able to discern  
8 whether or not it was a male or a female, you believed it  
9 initially to be a police officer?

10 A. Correct.

11 Q. Were you aware of any female police officers working that  
12 beat on that morning?

13 A. No. It doesn't mean a police officer was coming home  
14 from an off-duty or driving through the neighborhood, due to  
15 the fact that North Charleston allows police officers to take  
16 their vehicles home and drive them on their own personal use.  
17 There has been multiple times where a situation happens and  
18 an officer will stop when they are not even working.

19 Q. Do you recall, as you testify here today, that Mr. Scott  
20 put his arm around your neck?

21 A. I don't recall making that statement to SLED or even  
22 recalling it at all. I don't remember any of that happening,  
23 because like I said, it was over two years ago.

24 Q. Do you recall -- strike that.

25 Do you recall telling SLED on page 10 that as you

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1 and Mr. Scott got up, Mr. Scott had the taser in his right  
2 hand and was coming towards you, that you stepped back  
3 inside, stepped to the left and then fired?

4 A. Like I stated, I don't recall our conversation with SLED  
5 due to the fact of it being over two years ago.

6 Q. It's not your testimony that you didn't tell this to  
7 SLED, is it?

8 A. My testimony is that I don't remember. It was over two  
9 years ago that I had an interview with them and a  
10 conversation with them, so I can't be 100 percent sure of  
11 what I said over two years ago.

12 Q. Thank you.

13 MR. FISHMAN: The Court's indulgence.

14 Q. Is it fair to say the only thing you remember from your  
15 conversation with SLED is that you were allegedly lied to by  
16 the agents?

17 A. I don't know, sir. It was over two years ago. I don't  
18 know.

19 Q. But the Court should accept your testimony as being  
20 accurate with respect to what questions your attorney asked?

21 A. Um, you would have to ask Mr. Aylor that.

22 Q. I'm talking about your own memory, while you don't  
23 remember the entire substance of the interview, you feel  
24 confident about your testimony of the questions Mr. Aylor  
25 asked the SLED agents?

SLAGER - CROSS

1 A. Correct.

2 Q. And you feel confident about the answers that the SLED  
3 agents gave in response?

4 A. Correct. And also, I received that information from Mr.  
5 Aylor, who was not in the police shooting, who didn't have  
6 all this stuff on his mind.

7 Q. When did you receive that information from Mr. Aylor?

8 A. I'm sorry?

9 Q. When did you receive that information from Mr. Aylor?

10 A. I don't recall if it was within the interview, the day  
11 after, the day before. I don't recall.

12 Q. When you returned back to see the video with SLED, you  
13 are -- immediately following viewing the video, your  
14 attorney-client relationship with Mr. Aylor ended, did it  
15 not?

16 A. No.

17 Q. How long after seeing the video were you informed that he  
18 would no longer represent you?

19 A. I don't recall the day, maybe -- I'm not sure. I don't  
20 remember.

21 Q. The day when you were arrested, that day it was your  
22 understanding that Mr. Aylor was going to continue to be your  
23 attorney?

24 A. Well, SLED came and arrested me and then took me to the  
25 jail. So I really -- I don't know.

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1 Q. Your testimony is Mr. Aylor didn't tell you that day that  
2 he would no longer represent you?

3 A. I think he might have -- like I stated, I don't recall.  
4 I was being arrested. I was trying to call my wife, trying  
5 to call my family. A lot was going on. I don't remember  
6 everything that happened over two years ago, sir.

7 MR. FISHMAN: Thank you for your cooperation today,  
8 Mr. Slager.

9 THE COURT: Anything else, Mr. Savage?

10 MR. SAVAGE: Just for administrative purposes, do we  
11 have the three notes, the memorandum and the incident report,  
12 are those in evidence for you to review?

13 THE COURT: Not that I know of.

14 MR. SAVAGE: We would ask that they be put in in  
15 full.

16 MR. FISHMAN: The notes and the ROI?

17 MR. SAVAGE: The handwritten notes of the SLED agent  
18 or memorandum of opinion, and the incident report, all of  
19 which reflect the interview of April 4th.

20 THE COURT: Okay. Just get a copy. If you don't  
21 have it now, put them in and give them to Catina.

22 MR. SAVAGE: That's fine.

23 THE COURT: Y'all make it a joint exhibit or what do  
24 you want to make it --

25 MR. SAVAGE: I just want to be sure they are in the

SLAGER - CROSS

1 record, whether we put them in or they put them in.

2 MR. FISHMAN: We are happy, to save Mr. Savage the  
3 trouble, and put them in.

4 THE COURT: Government's -- what are the next three  
5 numbers?

6 THE CLERK: 3, 4, 5.

7 THE COURT: Government's 3, 4, 5.

8 MR. FISHMAN: The report is already in as  
9 Government's 1, so the notes will be 3 from Agent Peterson  
10 and 4 from Lieutenant Gann.

11 (Government's Exhibit Numbers 3, 4 and 5 were  
12 received in evidence.)

13 THE COURT: Okay. Good. Anything else, Mr. Savage?

14 MR. SAVAGE: Agent Peterson made an investigative  
15 report dated June 4th, 2015. So the three reports that  
16 Peterson made, one would be the handwritten notes, two would  
17 be the memorandum of opinion of -- memorandum of the  
18 interview, and the third would be the investigative report  
19 June 4th, all which reflect on the questions that were just  
20 proposed to Mr. Slager.

21 MR. KLUMB: What Special Agent Peterson did was  
22 they took handwritten notes that day, so did Gann. They  
23 wrote a report of interview. Those are the three items that  
24 we have marked so far. Then in a later narrative summary  
25 report encompassing her entire investigation, she

SLAGER - REDIRECT

1 incorporated and restated portions of the report of  
2 interview. That's not something that we asked him to review,  
3 so I don't think they have any place in the record at all.

4 MR. SAVAGE: I'll make that -- if I could question  
5 him some more?

6 THE COURT: You can redirect, that's fine.

7 REDIRECT-EXAMINATION

8 BY MR. SAVAGE:

9 Q. Mr. Slager, in preparation for the State trial, did you  
10 get to review all the reports made by the SLED agents who  
11 interviewed you on April 7th?

12 A. Yes.

13 Q. Were they consistent?

14 A. No.

15 MR. SAVAGE: Thank you.

16 THE COURT: Now, do you want -- Mr. Savage, do you  
17 want to put that in?

18 MR. SAVAGE: The investigative report dated June 4th,  
19 yes. And specifically with the June 4th interview -- this is  
20 a marked-up copy. I'll substitute it.

21 THE COURT: Okay. So what is the next Defendant's  
22 Exhibit?

23 THE CLERK: 3.

24 THE COURT: Okay. That will be defendant --

25 MR. SAVAGE: A clean copy.

SLAGER - REDIRECT

1 THE COURT: A clean copy, that will be -- that  
2 investigation report of June 4th will be Defendant's 3.

3 (Thereupon, Defendant's Exhibit Number 3 was  
4 received in evidence.)

5 BY MR. SAVAGE:

6 Q. I want to direct you to page 423 --

7 MR. FISHMAN: Mr. Savage, is that one stamped at the  
8 bottom with a number?

9 MR. SAVAGE: It has the Solicitor's Rule 5 SAW on it,  
10 yes.

11 THE COURT: Why don't you show it to Mr. Fishman, so  
12 you can read off the same page.

13 MR. FISHMAN: Thank you.

14 BY MR. SAVAGE:

15 Q. Would you publish to this Court the last two lines on  
16 paragraph 3, and the last paragraph of page 3, and continue  
17 reading on page 4.

18 A. The last two sentences?

19 Q. The last two complete sentences on page 3 and continue  
20 reading on page 4. Out loud.

21 A. "He believed Scott was trying to use the taser on him and  
22 he was scared. Scott tried to get away" -- I'm sorry --  
23 "Scott tried to get away and got up. He, Slager, was winded,  
24 tired, breathing heavy and in fear for his life. Scott got  
25 to his feet with the taser pointed at him. He stepped to the

SLAGER - REDIRECT

1 left, pulled his weapon and Scott started to turn to the  
2 left."

3 Q. Stop there. Have you seen anything on the video that is  
4 inconsistent with that statement?

5 A. No.

6 Q. Continue to read.

7 A. "As Scott was turning, he fired multiple shots from his  
8 duty weapon."

9 Q. Have you seen the video with respect to that?

10 A. Yes.

11 Q. Is there anything inconsistent on the video with respect  
12 to that statement?

13 A. No.

14 Q. Look in the second paragraph, please. Publish by reading  
15 aloud the words that start with "he located his taser".

16 A. "He located his taser between where he was shooting and  
17 where he and Scott struggled on the ground and he holstered  
18 it."

19 Q. Is that the question that was posed to you this morning  
20 by the Government?

21 A. Yes.

22 Q. Did you give a response to that?

23 A. I couldn't remember.

24 Q. Is the language that the Government used that you said  
25 that the taser was located between where the shooting took

1 place and the body was recovered or did they ask you the  
2 quote from their investigator's incident report?

3 A. The investigator's report.

4 MR. SAVAGE: Thank you, Mr. Slager.

5 MR. FISHMAN: Nothing further, Your Honor.

6 THE COURT: Thank you, Mr. Slager. You can step  
7 down.

8 MR. SAVAGE: We will substitute a clean copy.

9 THE COURT: Great. Just give it to Catina. That's  
10 overwith.

11 Anything else with regard to this issue before we  
12 get on to the next one?

13 MR. FISHMAN: With respect to argument or with  
14 respect to witnesses?

15 THE COURT: Witnesses.

16 MR. FISHMAN: No further witnesses for the  
17 Government.

18 THE COURT: Okay. I mean, do you want to do  
19 argument? That's fine, we can do that.

20 MR. FISHMAN: I believe it's Mr. Savage's motion.

21 THE COURT: Okay.

22 MR. SAVAGE: Judge, I think the Court's aware that  
23 this type of situation does arise frequently. The defense  
24 would stipulate that any misconduct would not be misconduct  
25 if the actions were directed towards Mr. Slager. Our



ATTACHMENT #2

# SOUTH CAROLINA LAW ENFORCEMENT DIVISION

**NIKKI R. HALEY**  
*Governor*



**MARK A. KEEL**  
*Chief*

## MEMORANDUM OF INTERVIEW

**TO:** File # 31-15-0027  
**FROM:** Special Agent Angela Peterson *AMP*  
**RE:** Interview with PFC Michael Thomas Slager  
**COUNTY:** Charleston

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**Name:** Michael Thomas Slager  
**Address:** 1139 Yeoman's Hall Road, Hanahan, SC  
**Phone:** 856-816-7187 (Cell)  
**DOB:** 11/14/1981  
**Employer:** North Charleston Police Department

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On April 7, 2015, Special Agent (S/A) Angela Peterson and Lieutenant (Lt.) Charles Ghent conducted an interview of Patrolman First Class (PFC) Michael Thomas Slager beginning at approximately 11:00 am. The interview was conducted at the David Aylor Law Offices located at 3884 Leeds Avenue in North Charleston, SC. Attorney David Aylor and Levi Miles (an investigator employed by Aylor) was also present for the interview.



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Slager was interviewed in reference to a shooting that occurred on Saturday, April 4, 2015 while he was on duty as a police officer with the North Charleston Police Department (NCPD). The date, location, and approximate start time of this interview was arranged by Slager's attorney (Aylor) after being contacted by S/A Angela Peterson via telephone.

At the start of the interview, Lt. Ghent explained to Slager that this interview was to be conducted as part of a criminal investigation, and that his participation was completely voluntary. Lt. Ghent then asked if Slager would consent to providing a DNA sample to be collected by a buccal swab. Slager agreed and signed a Consent to Search form for the swabs, which were subsequently collected by Lt. Ghent at approximately 11:05 am. Lt. Ghent then provided and explained a Miranda Rights form to Slager, which he also signed at approximately 11:11 am.

Slager provided the following information: He has worked for the NCPD for approximately 5 years and holds the rank of PFC (Private First Class). At the time of the shooting incident he was assigned to Central Team One and was working Day Shift. His supervisor is typically Sgt. Ronald Webb, however Webb was on leave that day (4/4/15) and Sgt. James Gann was covering as the shift supervisor instead.

On April 4, 2015, he was driving westbound on Remount Road heading towards Rivers Avenue. Slager noticed a grey in color Mercedes in front of him and as the vehicle braked, he observed that the third brake light in the back window of the car was out. Slager, whose call number is 223, advised dispatch that he was performing a traffic stop (at approximately 0933 hours). He called out the vehicle description, the tag information, and his location before hitting the #3 button on the control panel for his emergency equipment to activate his blue lights and siren. Slager was in the area of Remount and Dakota Street when he activated his lights and siren. The Mercedes yielded to the middle lane at which point Slager pressed the #2 button which stopped the siren but kept the blue lights on. The vehicle drove forward and turned left into the parking

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lot of the Advance Auto store and then went right facing Craig Street. The vehicle then parked in an open parking space perpendicular to Craig Street.

*Agent's note: Slager initially identified the store as being an "Auto Zone" but later corrected this to Advance Auto during a review at the end of the interview.*

Slager exited his vehicle and approached the driver's side. He identified himself as Officer Slager with the North Charleston Police Department to the driver (who was later identified as Walter Scott) and asked Scott for his license, registration, and insurance. At that point, he noticed that Scott was sitting there with his hands in both pockets. There was a man sitting in the passenger seat and he was doing nothing. Slager was positioned by the driver door of the car at an angle. Scott was reaching into both of his pockets and said that he didn't have his insurance card or registration. He explained that he had just bought the vehicle and didn't have those items yet. Slager replied: "Ok, let's start with your license." Scott handed Slager his driver's license which Slager then tucked into the front right side of his duty belt. Slager noted that this is what he does with all licenses on traffic stops. Slager then told Scott: "If you bought the car, you need to have insurance." Scott then changed his story, saying that he was actually going to buy the car on Monday from a friend. Slager described Scott to be very nervous as he spoke with him and said that Scott kept going through his pockets. Slager stated that prior to the stop, Slager had only seen Scott's vehicle from behind while driving and as he approached it he observed that the brake light was out. He could not tell anything about the identity or race of the driver and he did not notice the passenger until he had approached the driver's side door. The passenger was sitting still and looking straight ahead and did not look at or acknowledge Slager at all. Slager commented that it was as if the passenger was not even being stopped. Slager said he was paying more attention to Scott because Scott kept looking around and seemed real nervous. During the stop, Slager did not note the smell of marijuana, nor did he cite any additional unusual behavior at that time. He again recalled that Scott was reaching into his pockets and the fact that he changed his story about the ownership of the car.

MOI of Michael Slager  
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Slager went back to his patrol vehicle, got inside, and closed the door. He sat down to run an NCIC check on the laptop in his car. He had just hit the touch pad button for NCIC on his computer when he looked up and saw the driver's side door of the Mercedes open. Scott got out of the car and stood up. Slager opened his own door and verbally directed Scott to, "Get back in the car!" Scott moved his arms around as Slager told him to get in the car and Scott then got back inside his vehicle. Slager then closed his vehicle door. He looked up again a few seconds later and the driver's door of Scott's car opened again. Scott then exited his vehicle and ran from the parking lot on foot, making a left turn down Craig Street. Slager said it took him a minute to figure out what was going on. He then opened his vehicle door and jumped out of his car. He shut his door, took three or four steps, and then got on the radio, advising: "223 Dispatch, 10-80 down Craig Street." He also called out a description of the suspect describing him to be a black male. (*Agent's note: Slager stated that Scott was wearing a t-shirt, but did not remember what color it was.*) Slager then ran after Scott. Slager explained that he ran after Scott because he had not yet run his license, nor did he have time to examine it and verify if it was indeed Scott's actual license. Scott had also changed his story about the car, he did not know who Scott was, and the vehicle could have been stolen. Slager ran down Craig Street after Scott and they approached the yellow road to the right side of Craig Street. He stated that as Scott made a right onto the yellow road, Slager pulled out his Taser. Slager said he then yelled: "Taser, Taser, Taser," which is what he was trained to say to notify the suspect and people around them that he was going to deploy it. (Slager noted that he has been certified to carry a Taser for five years.) He estimated that Scott was approximately 15 feet in front of him at this point and was running about the same speed as Slager, but Slager could not catch him.

Slager said that Scott then looked back and started waving his right arm behind his body as if to swat away the Taser prongs or prevent them from making contact. Slager said that he has witnessed this behavior before by someone and has also heard other officers describe it occurring. Slager again cited that people have done it to prevent the prongs from making contact and causing electrical shock. Slager also noted that Scott had a phone in one of his hands at the

MOI of Michael Slager  
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time, but he could not recall which hand. Slager then recalled that earlier when he first made contact with Scott during the stop, Scott was reaching in his pockets and he also reached into the center console. Slager had seen a phone there in the “cubby hole” underneath the radio. The face of the phone was lit up and he believed the phone to be in speaker mode throughout the stop. As Scott continued swatting his hands, Slager ran behind him with his Taser out. He knew not to fire at Scott while he was swatting so he waited. Scott then stopped swatting, looked forward, and returned to a running position, at which point Slager fired the Taser. Slager said that one of the prongs went into Scott’s upper left back. He did not know where the other went, but he could hear the “click, click, click” which he described to be the “electricity” sound. From his observations, Slager knew that the proper connection was not formed and that the Taser was not working due to one probe not making contact with Scott. Slager noted that when you pull the trigger one time it will run for five seconds and he referred to it as a “five second burst”. Scott was still running and Slager continued to chase him, telling him to “stop”. Slager said that he then pulled the spent cartridge off the top that he already expelled and then released it. Slager said that it landed somewhere on the ground. Slager then grabbed the spare cartridge from the bottom of the Taser and reloaded it to the top.

At the request of Lt. Ghent, Slager described his uniform and equipment at the time of the incident. He said that he was wearing his Under Armor boots, black socks, NCPD-issued uniform pants and shirt, and a ballistic vest underneath his uniform shirt. He was wearing his badge and other department-issued equipment. His patrol vehicle was a marked 2011 Ford Crown Victoria, Unit # 162. He noted that officers are issued two Taser cartridges and he had both of them with his person at the time of the incident. He thought that he may have had a third cartridge in his glove compartment but he was not sure. On that day, he had one cartridge loaded on the Taser and another on the handle as a spare for a total of two. He did not carry any others on his belt.

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Scott continued to run and Slager was starting to gain on him. Slager said that Scott was about 14-15 feet in front of him the first time he fired. As he fired the Taser a second time, he estimated that Scott was approximately 8-10 feet away. He advised that the Taser cartridges that he is issued have a range of 25 feet. Slager put his arm straight out in front of him and pulled the trigger on the Taser while still on the run. The prongs hit Scott, causing him to lock up and fall down to his front on the yellow path. Slager said that he was still running behind Scott with his arm extended and he was winded at that point. His adrenaline was starting to come down and he was starting to get tired. He noted a black phone or other black object fall onto the path in front of Scott when he went down. Slager could then hear a voice from somewhere saying: "Stop, do what the officer says." Slager said he hoped at first that the voice was another officer coming to back him up but it was not. He then realized that the voice was coming from the object that he saw, which he now realized was a phone. Slager said the phone was on the ground next to Scott. Slager heard the voice saying "Stop" and "do what the officer says" approximately two or three times. At that point, Slager was standing next to Scott saying: "Stop resisting, put your hands behind your back." He moved to Scott's right side by his knee and hip area.

*Agent's note: At this point in the interview, Slager physically demonstrated some of his actions and the actions of Scott with the assistance of Investigator Levi Miles. These demonstrations were conducted on the floor of the conference room where the interview was taking place. At times during the interview, Slager demonstrated through physical action without using words to describe what happened. On each of those occasion, S/A Peterson requested that in addition to physically demonstrating the actions that Slager also explain the actions step by step in his own words for clarity.*

Slager said that Scott moved his hands to a pushup position. He noted that the initial 5 second burst from the Taser was already over. As Scott pushed up on to all fours, Slager pushed Scott down flat again using his left hand, as his right hand still held the Taser. Scott again started to get up. Slager had his hand in the center of Scott's back near his shoulder blades and he was pushing

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him down. Slager noted that he was still winded and tired from running, and he added: "I'm not a real strong guy." Scott was yelling something, which Slager believed was: "I'm running down Remount, Remount Road," or something to that effect. He seemed to be speaking to the phone and giving his location to whoever was on the line. Slager told him to put his hands behind his back. Slager then grabbed Scott's left wrist with his left hand and tried to put it behind Scott's back. He was unable to do so and Scott started to come back up by raising his hips. Scott then rolled over to his left and on to his back. Slager put his left hand on Scott's upper chest area below his neck to hold him down. Scott was wiggling and Slager was wiggling. Slager still had the Taser in his right hand. He then pressed his left forearm against Scott's sternum area and his elbow was in Scott's bellybutton area. Scott was waving his arm and wiggling to try and get away. He put his right arm on the ground, continued to wiggle, and then pushed Slager back with his left hand in Slager's chest and shoulder area. At that point during the commotion, Slager stated that he realized he still had his Taser in his hand. Slager said he thought that the Taser wires from the second shot had probably broken due to the scuffle on the ground, hence pulling the trigger again would not be effective if he used it. Slager was holding Scott down with his left arm. Slager then brought his right arm in and was then able to remove the second cartridge from the Taser with his left hand. Slager brought his right arm up to Scott's left side rib area and drive-stunned him with the Taser. Lt. Ghent then asked Slager for clarification on how many times the Taser was used in total. Slager said that he pulled the trigger a total of 3 times: One for the first shot which did not connect, two for the second shot which put Scott down, and the third was the drive-stun. After the drive-stun, Slager knew that Scott was going to be out of it for a bit. He then activated his hand held radio with his left hand and said: "156, step it up." Slager explained that he was tired and winded after the struggle, and he was also concerned in the back of his mind that whomever Scott had been shouting locations to on the phone might be coming to assist Scott. He said that the phone was still on and he could hear a voice. He specifically called for 156, who was Officer Clarence Habersham, because he knew that Habersham worked in the same zone (Zone 4) that Slager did. He said "Step it up," meaning he was asking Habersham to

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get there fast. Slager noted that while he was activating his radio with his left hand, his right hand was still on his Taser and he was no longer holding Scott down.

Slager said that Scott then grabbed the barrel of Slager's Taser with his left hand. Slager tried to pull away but could not. Slager was trying to pull the Taser away from Scott with his right hand while trying to push Scott down with his left. Scott did not let go. When Slager pulled the Taser back, Scott had tension on the barrel and he was able to pull Slager's arm back towards him. Scott then brought his right arm up and got both hands on the barrel of Slager's Taser. Scott pulled and with both of his arms, he jerked the Taser out of Slager's hand. Slager said he was then looking right at the Taser and Scott maneuvered the Taser by turning it and pointed the barrel directly at Slager with his arms out. (*Agent's note: Slager demonstrated having both hands on the Taser in the center of his chest, and then pushing them out straight in front of him.*) Slager said his left hand was still holding Scott away and Slager then tried to push away with his hands on Scott's body somewhere (area unknown to Slager). As he did, Scott rotated his body to the left towards Slager and was continuously coming forward at him with the Taser. Slager said he believed Scott was trying to hit him with the Taser. Slager said his goal was to get away from it because he was scared.

Lt. Ghent asked Slager if he believed Scott was trying to use the Taser on him. He replied: "Oh yeah, definitely." He did not know if Scott was able to activate the trigger at any point and did not recall hearing sounds of activation. Slager stated: "I'm afraid now. Is he going to tase me and take my weapon? Am I going home tonight to my pregnant wife? Is he going to take my weapon and shoot me?" Slager expressed thought about Scott's actions: running away, swatting behind him to avoid the Taser prongs, and taking his Taser. They indicated to Slager that Scott did not want to go to jail. Scott rotated towards Slager as Slager was getting up. Scott's arms were extended with the Taser pointed towards Slager as Scott got to his feet. Slager said that he was winded, tired, and breathing heavy and he was in fear for his life. Slager said that Scott took a step forward and was coming at him. Scott had the Taser in his right hand and was pointing it

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directly at him. Slager was focused right on the Taser, at the barrel coming straight at him and Scott's arm extending straight out. He did not notice where Scott's left hand was.

Slager stepped off to his left side, "shuffle-stepping" as he said he was trained to do, to get out of the way. Slager said that as he was going to the left he pulled his gun and fired multiple times. Slager said that Scott was turning to his left as Slager fired. Scott ran off, stumbled into the grass, and fell to the ground. Slager said that he was still standing with his gun pointed at Scott when Scott fell. Slager said that it all happened "so fast."

*Agent's note: Slager was asked to demonstrate his actions during the time when he fired. Slager demonstrated and noted that he took two steps back, sidestepped to the left, and then fired his weapon.*

Slager said that Scott was turning to his left when he fired. Scott was turning in the opposite direction that Slager was moving as he was firing. Scott took 10-12 steps and then fell on his face in the grass. Slager stood there with his weapon on Scott. He then activated his radio and said: "223 Dispatch. Shots fired. Suspect (or subject) down." Slager went up and handcuffed Scott. He noticed a bunch of blood on the right side of Scott's body. After he handcuffed Scott, he felt for his pulse. Slager noted that his own adrenaline was going again. Slager stated that he thought he fired a total of 6 shots.

*Agents Note: At this point in the interview, at approximately 11:28 am, David Aylor, Levi Miles, and Michael Slager got up at Aylor's direction after Aylor noted that Slager was "getting confused." The three then stepped out of the room for a short break.*

*All three returned to the room at approximately 11:30 am and the interview resumed. Aylor directed Slager to resume from the point when Scott was getting off of the ground.*

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Slager stated that the physical confrontation on the ground with Scott lasted around 30 seconds to a minute. As they got up, Scott had Slager's Taser in his right hand and he was coming towards Slager. Slager stepped back and sidestepped to the left, then pulled his weapon and fired.

*Agent's note: Slager again demonstrated stepping back and then sidestepping to the left as he related this part.*

*Agent's note: As is mentioned below, the information he provided was reviewed with Slager at the conclusion of the interview. While going over this portion, Slager stated: "When I shuffled to the left, I just started firing." He also stated that he was firing for 2-3 seconds and that he didn't know for sure what position Scott was in while he was firing.*

Slager estimated that he fired approximately 6 shots and the only reason he was saying so is because he looked at his gun. Slager said that his weapon is a Glock Model 21, .45 caliber pistol. He estimated that it carries 13 or 14 rounds. He said that he carries his weapon fully loaded and topped-off in which it then contains 14 rounds. After Slager fired, Scott was stumbling and he fell to the left (if facing the back of the pawn shop), into the grass between the yellow road and the fence. Slager then holstered his weapon and handcuffed Scott. Slager said his Taser was on the ground and that Scott must have dropped it. Slager said the Taser was located between the place where he had been shooting and where Scott landed. Slager said at that time other officers came on scene. Slager said he grabbed his Taser and holstered it because he didn't know who else was coming to the scene to help Scott, due to the phone call Scott was on during the confrontation. Slager said that he did not want to leave a weapon lying around.

Slager stated that Ofc. Clarence Habersham was first on scene, followed by Sgt. Gann and Sgt. Webb who arrived soon after. Slager noted that Sgt. Webb had been on leave but he still showed up on scene. Slager was taken to Sgt. Webb's patrol car. Sgt. Webb took possession of Slager's firearm and gave him his own duty weapon as a replacement. Lt. Daniel Bowman, upon learning

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this said: "No, no, no." Slager did not question this. He explained that he was tired and had a lot of emotions going on. He assumed that Sgt. Webb had switched guns in order to secure his weapon as evidence. After Lt. Bowman expressed his disapproval of the weapon replacement, Sgt. Webb switched the guns back returning Slager's original weapon. Slager was then put in Sgt. Webb's car where he remembered asking for water. As he sat in the car he noticed that Sgt. Gann was rendering aid to Scott and other officers were also assisting. EMS also arrived and attended to Scott. Slager was then moved to Lt. Bowman's car which was on Craig Street. He remained there the rest of the time that he was on scene. Lt. Bowman took Slager to the NCPD "squad bay" at the North Charleston City Hall. S/A Johnson from SLED Crime Scene took possession of his firearm there. At the time, his gun was out on a table with the magazine out and one loose round on the table. A chain of custody had already been started for all of the items on his duty belt, including his Taser which was still in the holster. Slager did not think that anyone else touched his Taser. Slager remembered that at some point he looked at his magazine to see how many rounds he fired, which is where he came up with his estimated number of shots. He did not recall where he did this but thought it was when he was in either Sgt. Webb or Lt. Bowman's car.

*Agent's note: At approximately 12:50 pm, S/A Peterson reviewed the information provided with Slager and allowed him to make additions and/ or corrections. Agents asked Slager to provide a written statement for the record on the event, and Lt. Ghent told Slager (in the presence of Aylor and Miles) that if Slager did not provide a written statement that Agents would have to use a written memorandum of the interview as the official record. Slager acknowledged this and Aylor stated that a written statement would also be provided later that day, hopefully by 6 pm, as he had an appointment at 1 pm with another client.*

The review was completed at approximately 1:27 pm. It should be noted that at this time the review had naturally concluded, however Aylor stated: "Guys, we gotta wrap this up." Copies of

MOI of Michael Slager

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SLED statement forms were provided to Slager and plans were made with all present to obtain and review the final written statement later that same day.



VOLUNTARY STATEMENT

CASE # 5,150027  
LEAD #

LAST NAME <i>Bowman</i>	FIRST NAME <i>Daniel</i>	MIDDLE NAME <i>Lee</i>	AGE <i>47</i>	D.O.B. <i>8/11/1967</i>
NICKNAME/AKA	<input checked="" type="checkbox"/> M <input type="checkbox"/> F	SSN	STREET ADDRESS <i>2500 City Hall Lane</i>	
CITY <i>N. Charleston</i>	STATE <i>SC</i>	ZIP <i>29406</i>	MAILING ADDRESS IF DIFFERENT	
HOME TELEPHONE	WORK TELEPHONE	CELL TELEPHONE	OCCUPATION <i>Police officer</i>	
EMPLOYER <i>City of North Charleston</i>		EMPLOYER ADDRESS <i>2500 City Hall Lane</i>		
DRIVER'S LICENSE NUMBER/STATE		DATE AND TIME OF INTERVIEW <i>4-7-2015 3:30pm</i>		
LOCATION OF INTERVIEW <i>North Charleston PD headquarters</i>				
INTERVIEWING AGENT <i>C. Barfield</i>	DEPARTMENT <i>SLED</i>	INTERVIEWING AGENT <i>L.T. Harley</i>	DEPARTMENT	

I, Daniel Bowman understand I do not have to say anything, and I volunteer the following information of my own free will, for whatever purposes it may serve. I  can not read and write and completed the 14 grade in school.

*I have reviewed my written statement with Lt. Harley and Agent Barfield with SLED and I am answering the following questions at this time*

Q: Have you spoke with officer Slager since the incident?

A: Yes, I spoke with officer Slager yesterday (4-6-2015). We did not discuss the incident, I was just checking on his well being.

Q: Did officer Slager know the driver of the vehicle had an outstanding warrant on him?

A: No, not to my knowledge. We found out this information later on.

I have read each page of this statement consisting of \_\_\_\_\_ page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contained herein are true and correct.

Date: 4-7-2015 Time: 3:48 Daniel Bowman  
Signature of person giving voluntary statement

WITNESS: C. Barfield WITNESS: L.T. Harley

I certify that I have been given a copy of this statement consisting of \_\_\_\_\_ pages.

3-15-0021  
Statement of Daniel  
Bowman

April 7, 2015

QB This is the statement of Lieutenant Daniel Bowman with the North Charleston Police Department in regards to the officer involved shooting that took place off of Craig Street on Saturday, April 4, 2015. I was the Watch Commander for the entire City on this date. When the call was broadcast over the radio that shots had been fired I responded from the Chicora/Cherokee neighborhood, which is in the South end of the City. I also placed a call to the Duty Captain (Ken Hagge), notifying him of the incident. Upon my arrival I observed Sergeant Gann aiding EMS and NCFD Fire personnel rendering emergency aid to the suspect. I located Officer Slager, who was sitting in a patrol vehicle at the scene. After I determined the scene to be secure I spoke with Officer Slager and asked him what had happened. He gave the following account of the incident: QB

QB He conducted a traffic stop on a vehicle in which the suspect was the driver. The stop was for an equipment violation; a defective brake light. After gathering the suspect's information, Officer Slager returned to his cruiser to utilize his MDT (laptop computer) and check the suspect for outstanding warrants. While doing so Officer Slager observed the suspect exit the vehicle and flee on foot down Craig Street towards the Singing Pines neighborhood. Officer Slager then gave chase on foot. The foot pursuit then went to a vacant field that leads to Rivers Avenue. Officer Slager then utilized his Taser and discharged a cartridge at the suspect. Officer Slager believed that both probes from the Taser did not make contact and the foot chase continued. Officer Slager was able to put another cartridge onto his Taser and deploy it a second time. This deployment achieved the compliance of the suspect and he fell to the ground. Officer Slager then approached with the intent to handcuff the suspect. The suspect was not compliant with Officer Slager's commands to put his hands behind his back. Officer Slager then used his Taser to "drive stun" the suspect two times, once on the side and once in the back. This did not gain the victim's compliance and was able to roll over onto his back. Officer Slager and the suspect were now facing each other. The suspect was trying to get up from the ground and Officer Slager was attempting to keep him down by placing his forearm across the suspect's neck. At this time the suspect was able to use both hands and grab the Taser. After a short struggle for the Taser the suspect was able to wrestle it away. The suspect then stood up and pointed the Taser at Officer Slager. Officer Slager then drew his weapon as he was returning to the standing position and fired multiple times. He was not positive how many times he had fired his weapon but thought it was at least 6. He then noticed blood coming from the suspect, who was now on the ground. Officer Slager then rendered emergency aid until other officers arrived seconds later. He was then escorted to a patrol car. Upon walking to my vehicle we walked by the scene and markers had been put out marking the location of spent shell casings. Officer Slager then stated that he must have fired 6 times because 6 casings had been marked when we walked by. QB

Daniel Bowman  
4-7-2015

DB I then removed Officer Slager from the scene and he sat inside my vehicle, which was parked on Craig Street across from the Advanced Auto Parts store. I made contact with our dispatcher and requested a call from the on call SLED investigator. While waiting for this call I informed Captain Hagge and DC Deckard what I knew so far. DB

DB After speaking with SLED agents over the phone, I transported Officer Slager to our headquarters to await a SLED Crime Scene agent. Upon her arrival she collected evidence from Officer Slager to include his duty weapon, Taser, one magazine and all remaining bullets inside the magazine. His uniform shirt and pants were also collected. I then transported him for a urinalysis and drug screening at Low Country Drug Screening on Goer Drive. I then transported Officer Slager to Roper St. Francis Northwood Hospital for treatment for abrasions to both knees and a small laceration to a finger. He sustained these injuries during the struggle with the suspect. DB

This ends my statement.

Daniel Blumer 4-7-2015



Department of Pathology and Lab Medicine
165 Ashley Avenue, Suite 309
MSC 908
Charleston, SC 29425-9080

COPY

Req.: Lee Marie Tomos, M.D. (1-4115)
Add.: xAutopsy, For Coroner
Loc: ACHA
Client: ACHA-Charleston County Coroner

Patient: Scott, Walter
Med Rec: SCOWAL0405
DOB: 2/9/1965 (Age: 50)
Sex: M Race: Black

Autopsy Final Report
\*\*\* CORRECTED \*\*\*

Date and Time of Autopsy: 4/5/2015 10:43

Accession Number: FA15-217

Corrections

Corrected: 4/22/2015 by Lee Marie Tomos, M.D. (1-4115)
Reason: Typographical Error
Transposition of numbers corrected
Previous Signout Date: 4/20/2015

Hospital/County: ACHA-Charleston County Coroner
Service: Laboratory
Submitting Physician: Lee Marie Tomos, M.D. (1-4115)
Attending Pathologist: Lee Marie Tomos, M.D. (1-4115)
Date/Time of Death: 4/4/2015 09:54
Autopsy Reason: Requested by Coroner
Authorized By: Brittney Martin Deputy Coroner
Autopsy Restrictions: None

(If Injury) How occurred: Shot by another individual
Date of Injury: 4/4/15 Time: ~9:36 am
Place of Injury: Public roadway At Work: No

Diagnosis

- 1. Graze Wound to the Right Ear:
a. Location: Right ear helix
b. Range: No soot or stippling is grossly visible
c. Trajectory: Forward, with no significant up/down or left/right deviation
2. Gunshot Wound to the Posterior Right Shoulder:
a. Entrance: Posterior right shoulder
b. Range: No soot or stippling is grossly visible.
c. Injuries: Perforation of the skin, subcutaneous tissue, muscles, grazing of the clavicle
d. Exit: Anterior right shoulder
e. Trajectory: Forward, slightly to the left and very slightly upward
3. Gunshot Wound to the Posterior Right Chest:
a. Entrance: Posterior right chest
b. Range: No soot or stippling is grossly visible
c. Injuries: Perforation of the skin, subcutaneous tissue, muscles of the back and 9th intercostal space, right lung lower lobe, pericardial sac, the right atrium, septum, and anterior right ventricle of the heart, anterior pericardium, muscles of the left 4th intercostal space, subcutaneous tissues and muscles of the left chest. Associated injuries consist of a collection of 600 ml of blood in the right pleural cavity, 1000 mL of blood in the left pleural cavity, and trace blood in the pericardial sac.

Department of Pathology and Laboratory Medicine
Chair: Steven L. Carroll, M.D., Ph.D.

Anatomic Pathology
Phone: 843-792-3821
Fax: 843-792-8974
Patient: Scott, Walter

Autopsy Pathology
Phone: 843-792-3556
Fax: 843-792-8974

Client Services
Phone: 843-792-0707
Fax: 843-792-4896
Med Rec: SCOWAL0405

Clinical Pathology
Phone: 843-792-0707
Fax: 843-792-4896
Location: ACHA

**COPY****Scott, Walter****FA15-217**

- d. Recovery: Gray metal bullet core recovered from the subcutaneous tissues of the left chest; yellow metal jacket recovered from the pericardial sac.
  - e. Trajectory: Forward, to the left and very slightly upward
4. Gunshot Wound to the Right Flank:
- a. Entrance: Right flank
  - b. Range: No soot or stippling is grossly visible
  - c. Injuries: Perforation of the skin, subcutaneous tissues and the muscles, fracture of the posterior 11<sup>th</sup> rib, laceration of the diaphragm, perforation of the liver, abdominal muscles and subcutaneous tissues. Trace blood around the liver.
  - d. Recovery: Gray metal bullet with yellow metal jacket
  - e. Trajectory: Forward, to the left and very slightly upward
5. Gunshot Wound to the Posterior Right Buttock:
- a. Entrance: Lateral aspect of the right buttock
  - b. Range: No soot or stippling is grossly visible.
  - c. Injuries: Perforation of the skin, subcutaneous tissue and muscles
  - d. Recovery: Gray metal bullet with yellow metal jacket
  - e. Trajectory: Forward, very slightly left and very slightly upward.
6. Taser Barb:
- a. Entrance: Left flank

**Cause of Death****Gunshot wounds to torso****Manner of Death****Homicide****Case History****Gunshot wounds****Clinical Summary**

According to the Charleston County Deputy Coroner, Ms. Brittney Martin, the decedent is a 50-year old male who had a traffic stop by a police officer on the morning of April 4, 2015. A reported altercation ensued, and the officer discharged his weapon several times. The decedent was pronounced at the scene at 9:54 a.m. on April 4, 2015.

**Gross Description****EXTERNAL EXAMINATION**

The body bag was transported to the Medical University of South Carolina sealed with body bag tag number 0000376. At our facility, the deputy coroner and a SLED agent opened the body bag seal, confirmed identification, and sealed the bag with tag number 0000379. The body transport bag is received in the Autopsy Suite sealed with tag number 0000379. Photographs are taken.

The body is clad in previously cut green tee shirt over a previously cut white tank top undershirt, long blue pants, blue boxer underwear, a pair of white socks and a pair of white and green tennis shoes. Personal effects on the body consists of a gray metal necklace around the neck, two five dollar bills (\$5), three one dollar bills (\$1), three quarters, one nickel, and two pennies in the left pants pocket, Visine drops in the left pants pocket, a brochure in the left pants pocket, and a Cowboy's logo woven bracelet around the right wrist. All clothing and personal effects are transferred as evidence to the SLED Special Agent in attendance at the autopsy.

The body is that of a normally developed adult black male which appears consistent with the stated age of 50 years. The body measures 69 inches in length and weighs 209 pounds. There is good preservation in the absence of embalming. Rigor mortis is fully fixed and red lividity is partially fixed on the posterior surfaces. The body is cool to the touch.

The scalp hair is black and gray, curly and averages ½ inch in thickness. The hairline is not receding. Facial hair consists of a moustache and 1 ½ inch long goatee style beard. The irides appear brown and there are no petechiae of the bulbar or

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Med Rec: SCOWAL0405

Location: ACHA

COPY

Scott, Walter

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palpebral surfaces of the conjunctivae. The corneae are slightly clouded. The ears, nose, and lips are of normal configuration. The left ear is pierced twice. The mouth has natural dentition in good condition. The neck is without masses or unusual mobility. The chest and back are normally developed. The abdomen is slightly protuberant. The extremities are symmetric; the toenails are thickened. The external genitalia are those of an adult male.

#### IDENTIFYING MARKS AND SCARS

A 3 ½ inch long vertically oriented scar is on the dorsal left forearm, just below the elbow. A 2 ½ inch linear scar is horizontally oriented on the posterior right thigh. Non-specific scars are on the anterior legs and knees.

#### EVIDENCE OF TREATMENT

A supralaryngeal airway extends into the mouth. Four EKG pads are adhered to the anterior torso. A single Automatic Emergency Defibrillator pad is adhered to the anterolateral left torso, its matched pair is adhered to the clothing.

#### EVIDENCE OF INJURY

**Graze Wound to the Right Ear:** A ¾ inch long x ¼ inch wide graze wound is to the superior aspect of the right ear helix. Drying artifact affects the margins of the graze wound. Oblique lacerations measuring up to 1/8 inch extend anteriorly. No soot or stippling is grossly visible. When in anatomic position, the trajectory of the bullet pathway is forward with no significant up/down or left/right deviation.

**Gunshot Wound to the Posterior Right Shoulder:** A ½ x ½ inch entrance gunshot wound is to the posterior right shoulder 2 ¼ inch from the top of the shoulder and 4 ¼ inch to the right of midline. A near circumferential abrasion border measures less than 1/16 inch and courses from the 1 to the 11 o'clock position. No soot or stippling is grossly visible. The bullet pathway is through the skin, subcutaneous tissue and muscles of the superior right shoulder, grazing the right clavicle, and exiting at a wound on the anterior right shoulder, 2 inches from the top of the shoulder and 3 ¼ inch to the right of midline. The exit wound measures ½ x ½ inch, and has a 1 inch curved laceration extending inferiorly from the 6 to 7 o'clock position. A separate ¼ inch laceration and a 1/8 inch laceration are on the skin at the 7 to 8 o'clock position relative to the exit wound and do not directly involve the exit wound margin. When in anatomic position, the trajectory of the bullet pathway is forward, slightly to the left and very slightly upward.

**Gunshot Wound to the Posterior Right Chest:** A 3/8 x 9/16 entrance gunshot wound is to the posterior right chest, 9 ¼ inch from the top of the shoulder and 6 ¼ inch to the right of midline. A distinct abrasion border is not visualized. Radiating lacerations measuring less than 1/16 inch are at the 7 to 9 o'clock position. No soot or stippling is grossly visible. The bullet pathway is through the skin, subcutaneous tissue and muscles of the back, entering the chest cavity through the posterior 9<sup>th</sup> intercostal space muscles, with perforation of the right lung lower lobe, the posterior pericardial sac, the right atrium of the heart, the interatrial and interventricular septum with destruction of the cardiac valves, the anterior right ventricle of the heart, and the anterior pericardium, where a deformed yellow metal jacket is recovered. The gray metal core of the bullet continues through the pericardial sac and the muscles of the anterior left 4<sup>th</sup> intercostal space to the subcutaneous tissues and muscles of the left chest beneath the left nipple, where the gray metal core of the bullet is recovered. The gray metal bullet core recovered from the subcutaneous tissues measures ½ inch in length and 3/8 inch at the base; the yellow metal jacket recovered from the pericardial sac measures 5/16 inch in length and 7/16 inch at the base. Associated injuries consist of a collection of 600 ml of blood in the right pleural cavity, 1000 mL of blood in the left pleural cavity, and trace blood in the pericardial sac. When in anatomic position, the trajectory of the bullet pathway is forward, to the left and very slightly upward.

**Gunshot Wound to the Right Flank:** A 3/8 x 5/16 inch entrance gunshot wound is to the right flank, 14 ¾ from the top of the shoulder and 5 ¼ inch to the right of midline. An irregular abrasion courses from 9 to 2 o'clock and measures up ¼ inch at the 9 o'clock position. An abrasion extends obliquely at the 6 to 7 o'clock position and measures up to 3/16 inch. Three radiating lacerations measuring 1/16 inch are between 2 and 4 o'clock. No soot or stippling is grossly visible. The bullet pathway is through the skin, subcutaneous tissues and the muscles of the flank with perforation of the muscles of the 10<sup>th</sup> intercostal space and fracture of the posterior 11<sup>th</sup> right rib, laceration of the diaphragm at its costal attachment, perforation of the liver, the anterior abdominal muscles and the subcutaneous tissues of the epigastric area where the deformed bullet is recovered. The gray metal bullet with yellow metal jacket measures ½ inch in length and 7/16 inch at the base. Associated injuries include hemorrhage and destruction along the bullet pathway and trace blood around the liver. When in anatomic position, the trajectory of the bullet pathway is forward, to the left and very slightly upward.

**Gunshot Wound to the Posterior Right Buttock:** A 3/8 x 3/8 inch entrance gunshot wound is to the lateral aspect of the right buttock, 23 5/8 inch from the top of the shoulder and 6 ¾ inch to the right of midline. No soot or stippling is grossly visible. A distinct abrasion border is not present. Several 1/16 inch radiating lacerations extend from the margin of the wound at the 5 to the 11 o'clock position. The bullet pathway is through the skin, subcutaneous tissue and muscles of the right hip and groin where

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the bullet recovered. The gray metal bullet with yellow metal jacket bullet measures  $\frac{1}{2}$  inch and  $\frac{7}{16}$  inch at the base. When in anatomic position, the trajectory of the bullet pathway is forward, very slightly left and very slightly upward.

**Taser Barb:** A Taser barb extends into the subcutaneous tissues of the left flank, 15 inches from the top of the head and  $4\frac{1}{2}$  inch to the left of midline. A semicircular abrasion courses from the 4 to 7 o'clock position and measures  $\frac{1}{8}$  inch in length. The abrasion is located  $\frac{1}{8}$  inch from the barb defect. A second skin puncture is not identified.

#### Other Injuries:

**Head:** A  $1\frac{1}{2} \times 1$  inch abraded contusion overlies the left cheek bone. Reflection of the scalp reveals a  $\frac{1}{2}$  inch contusion of the left parietal scalp, confined to the superficial tissues.

**Torso:** Five punctate abrasions are on the right aspect of the back. A  $\frac{1}{4}$  inch linear abrasion is at the left upper back and another  $\frac{1}{4}$  inch abrasion is at the mid back, overlying a vertebral prominence.

**Arms:** A group of linear abrasions on the posterior and lateral aspect of the left forearm covers the surface area of  $1\frac{1}{2} \times 1$  inch. A  $1\frac{1}{4} \times \frac{1}{2}$  inch contusion is at the posterior aspect of the left wrist. A  $\frac{1}{2} \times \frac{3}{16}$  rectangular abrasion is lateral to the contusion on the posterior left wrist. Abrasions with hemorrhage on the dorsal left hand measure up to  $\frac{3}{8}$  inch. A  $\frac{1}{2}$  inch abrasion with vital reaction is on the dorsal aspect of the 4<sup>th</sup> left finger. A  $\frac{1}{2} \times \frac{1}{4}$  inch abrasion is on the lateral aspect of the right elbow. A  $\frac{1}{2}$  inch abrasion is on the dorsal aspect of the right 1<sup>st</sup> finger (thumb). A  $\frac{1}{4}$  inch abrasion is on the dorsal aspect of the right 3<sup>rd</sup> finger.

**Legs:** A  $\frac{3}{8}$  inch x  $\frac{1}{8}$  inch dry red abrasion overlies the right knee. Three dry red abrasions overlying the left knee measure up to  $\frac{3}{8}$  inch. Abrasions on the knees show no hemorrhage.

#### RADIOGRAPHS:

An anteroposterior radiograph of the chest reveals a radiopaque projectile in the epigastric area to the right of midline, a radiopaque jacket fragment overlying the cardiac silhouette and a radiopaque projectile overlying the left ribs. Anteroposterior and lateral radiographs of the lower abdomen and pelvis confirm the presence of a single projectile in the anterior soft tissues of the right hemipelvis. All projectiles are recovered during the course of the autopsy.

#### CLOTHING:

All clothing is extensively blood-stained, and the fabric color of the tee shirt and pants is dark, limiting the gross examination for the presence of soot.

The green tee shirt has several defects on the posterior aspect which roughly correspond to the entrance gunshot wounds and the position of the Taser barb on the body. The anterior aspect of the shirt has a single defect roughly corresponding to the exit wound on the anterior right shoulder. Examination of the previously cut tank top shirt is limited by extensive blood staining and drying artifact. A single perforation is located at the posterior left back, no other perforations are identified. Examination of the long blue pants reveals two small perforations on the anterior aspect of the left pants leg, overlying the left pocket. These fabric perforations do not correspond to perforations on the body. A perforation on the right posterior aspect of the pants, between the elastic waistline and the zippered back pocket, roughly corresponds to the perforation of the buttock. Two perforations and a fabric tear are at the margin of the left pants pocket. These perforations do not correspond to defects on the body. Examination of the blue boxer underwear reveals a defect on the right posterior aspect, roughly correlating with the entrance gunshot wound to the right buttock; there is also extensive blood staining, urine and feces.

#### EVIDENCE SUBMITTED:

The following items are collected, sealed within appropriately labeled containers, and submitted to Special Agent Dawn Claycomb of SLED Crime Scene Division at 1:40 p.m. on April 5, 2015, at the conclusion of the autopsy:

- A previously cut green tee shirt
- Previously cut white undershirt
- Long blue pants
- Blue boxer underwear
- A pair of white socks
- A pair of white and green tennis shoes
- Gray metal necklace
- Two five dollar bills, three one dollar bills, three quarters, one nickel, two pennies
- Visine drops
- Brochure

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- Cowboy's logo bracelet
- Taser barb
- Pulled scalp hair
- Left fingernail clippings
- Right fingernail clippings
- Blood spot
- Bullet from the abdomen
- Bullet fragment from the left anterior chest
- Bullet jacket from the pericardium
- Bullet from the anterior right hip
- CD with autopsy images

A CD with autopsy images is transferred to Special Agent Angela Peterson of the South Carolina Law Enforcement Division (SLED) at 1:45 p.m. on April 5, 2015, at the conclusion of the autopsy.

A blood spot and a CD with autopsy images is transferred to Ms. Nancy Ritter-Peacock of the Charleston County Coroner's Office on April 7, 2015 at 9:22 am.

#### INTERNAL EXAMINATION

**BODY CAVITIES:** The thoracic and abdominal organs are in their normal anatomic positions. The body cavities contain no adhesions. See "Evidence of Injury" for abnormal collections of fluid.

**HEAD:** The brain weighs 1100 grams. See "Evidence of Injury". The skull is unremarkable. The dura and dural sinuses are unremarkable. There are no epidural, subdural or subarachnoid hemorrhages. The leptomeninges are thin and delicate. The cerebral hemispheres are symmetrical, with an unremarkable gyral pattern. The cranial nerves and blood vessels are unremarkable. Sections through the cerebral hemispheres, brainstem, and cerebellum are unremarkable. There are no hemorrhages within the deep white matter or the basal ganglia. The cerebral ventricles contain no blood. The spinal cord as viewed from the cranial cavity is unremarkable.

**NECK:** The soft tissues, large vessels, and prevertebral fascia are unremarkable. The hyoid bone and laryngeal cartilages are intact. The lumen of the larynx is not obstructed. The lingual mucosa is intact and there is no hemorrhage within the underlying musculature.

**CARDIOVASCULAR SYSTEM:** The heart weighs 470 grams. See "Evidence of Injury". The intimal surface of the abdominal aorta is free of significant atherosclerosis. The aorta and its major branches and the great veins are normally distributed and unremarkable. The pulmonary arteries contain no thromboemboli. The pericardium, epicardium, and endocardium are smooth and glistening. There are no thrombi in the atria or ventricles. The coronary arterial system is free of significant atherosclerosis. The residual cardiac valves are unremarkable. The myocardium is dark red-brown and firm. The left ventricular thickness = 1.6 cm, right ventricular thickness = 0.4 cm, and the interventricular septum = 1.7 cm.

**RESPIRATORY SYSTEM:** The right and left lungs weigh 290 and 200 grams, each. See "Evidence of Injury". The upper airway is not obstructed. The laryngeal mucosa is smooth and unremarkable, without petechiae. The pleural surfaces are smooth and glistening, with a prominent anthracotic pattern. The major bronchi are unremarkable. Sectioning of the lungs discloses a light pink, collapsed parenchyma with focal hemorrhage around perforated areas.

**HEPATOBIILIARY SYSTEM:** The liver weighs 1460 grams. See "Evidence of Injury". Except where disrupted, the liver is covered by a smooth, glistening capsule. The parenchyma is dark red-brown and moderately congested. The gallbladder contains approximately 4 ml of dark green bile, with no calculi.

**GASTROINTESTINAL SYSTEM:** The esophageal mucosa is gray, smooth, and unremarkable. The stomach contains approximately 200 ml of tan-yellow, pasty material. There are no tablets or capsules. The gastric mucosa has normal rugal folds, and there are no ulcers. The small and large intestines are unremarkable. The appendix is present. The pancreas is unremarkable externally and upon sectioning.

**GENITOURINARY SYSTEM:** The right and left kidneys weigh 120 and 130 grams, respectively. The capsules of both kidneys strip with ease to reveal smooth and slightly lobulated surfaces. The cortices are of normal thickness, with well-demarcated corticomedullary junctions. The calyces, pelves, and ureters are unremarkable. The urinary bladder is empty. The mucosa is

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gray, smooth, and unremarkable. The prostate gland is unremarkable both externally and upon sectioning. The sampled right testis is free of lesion.

**LYMPHORETICULAR SYSTEM:** The spleen weighs 110 grams. The spleen is covered by a smooth, blue-gray, intact capsule. The parenchyma is dark red. The cervical, hilar, and peritoneal lymph nodes are not enlarged.

**ENDOCRINE SYSTEM:** The pituitary, thyroid, and adrenal glands are unremarkable externally and upon sectioning.

**MUSCULOSKELETAL SYSTEM:** See "Evidence of Injury". The sternum, pelvis, and vertebral column have no fractures.

**LMT:mtr**

4/8-9/15

4/17/15

4/20/15

### Case Summary

A complete autopsy was performed on the body of Walter Scott at the Medical University of South Carolina Autopsy Suite on April 5, 2015. The postmortem examination began at 9:30 a.m. The prosecutor was Dr. Lee Marie Tormos. The autopsy technician was Mr. Brent Grimball. The autopsy was authorized by the Charleston County Deputy Coroner, Ms. Brittney Martin.

Significant findings at autopsy include a graze wound to the right ear, an entrance gunshot wound at the posterior right shoulder and associated exit wound at the anterior right shoulder, an entrance gunshot wound to the posterior right chest with perforation of the right lung and the heart, leading to bilateral hemothorax and recovery of a fragmented bullet at the anterior pericardium and the anterior left chest, an entrance gunshot wound to the right flank which lacerates the diaphragm and perforates the liver, with recovery of a projectile in the subcutaneous tissues of the epigastric area, an entrance gunshot wound at the lateral aspect of the right buttock with subsequent recovery of a projectile in the soft tissues of the anterior right hip/groin, and a single Taser barb at the left flank soft tissues.

Samples of peripheral blood were sent to NMS laboratory for toxicology testing. Toxicologic analysis of peripheral blood reveals cocaine = 36 ng/mL, cocaethylene = 26 ng/mL and benzoylecgonine = 1300 ng/mL. Results were reviewed by William E. Brewer, PhD, FABFT, Forensic Toxicologist.

In light of the history provided and the autopsy findings, it is my opinion that the decedent died as the result of gunshot wounds to the torso. Furthermore, the manner of death is best deemed homicide.

### Certification Statement

I certify that I personally conducted the diagnostic evaluation of the above specimen(s) and have rendered the above diagnosis(es).

Lee Marie Tormos, M.D. (1-4115)

(Electronically signed by)

Verified: 04/22/2015 14:37

MR/4/9/2015

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37ft 5in  
3.18 sec

30ft 4in  
3.00 sec

23ft 8.5in  
2.12sec

16ft 5in  
1.22 sec

4.13 sec

34ft 7in  
3.08 sec

27ft .5in  
2.21 sec

21ft 1in  
2.03 sec

T7	T6	T5	T4	T3	T2	T1		T0/	
3.35	3.07	2.77	2.47	2.17	1.86	1.49		0	Elapsed Time (sec)



.29	.29	.30	.30	.31	.37	1.49			
34' 9"	31' 7"	29' 3"	26' 8"	23' 8"	20' 5"	17' 1"		D0/	Time between shots (sec)
									Distance from Slager



Gun Shots Wave Form