## STATE OF MICHIGAN

IN THE THIRD JUDICIAL CIRCUIT COURT, CRIMINAL DMSION

THEPEOPLE OF THE STATE OF MICHIGAN,

vs

## THELONIOUS SEARCY,

Plaintiff,

*>*

Circuit Cour No. 04-0128 !lJ- 90 \_01 \_FC

## Honorable Timothy M. Kenny

4 1

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## Defendant.

The People's Answer to Defendant's Motion for Relief from Judgment with Appendices A -and B

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### The People's Recitation of Facts

Although the People are cognizant that this Court, having presided over the jury trial in this case, is likely knowledgeable of the facts of the case, by way ofthe testimony and evidence that was presented at the jury trial, the People, nevertheless. submit their version of the facts, as testified lo,

or as othe1wise admitted by stipulation at the various proceedings in this case.

Defendant was charged with first-degree premeditated murder, pertaining to the death of Jamal Segars, in violation ofMCL 750.316 (Count I); assault with intent to murder, pertaining to Brian Minner, in violation of MCL 750.83 (Co1mt II); and felony firearm, in violation of MCL

750.227b.

These offenses were alleged to have occurred on September 5, 2004, in the area of Conner and Whithorn in the City of Detroit.

**Jury Trial**

### Testimony and Evidence Prosecution

**Antoinette Segars**

Antoinette Segars testified that on September 4, 2014, she wasmarried to Jamal Segars ((Jury Trial Transcript, Vol II, 14). They had one child together (14).

On September 5, 2004, she learned that he husband was in the hospital (15). She went to the hospital, where she saw the deceased body of her husband (15). She identified People's Exhibit No. 1 as a photograph of her husband (16).

She did not know anybody named DeAnthony Witcher, nor was she aware of her husband knowing any person by that name (16).

On ci:oss-examin ation, the witness was asked if she knew Defendant (17). She responded that she did not (17). Nor was she aware of her husband knowing Defendant (17). She was asked where her husband had worked (18). She responded that he had worked for a mortgage company (18). She did not remember the name of the mortgage company (18). She was not aware that her husband worked anywhere else or did anything else (18).

### Detroit Police Evidence Technician Velma Tutt

Detroit Police EvidenceTechnician Velma Tutttestified that on September *5,*2004, she was

dispatched to the area of Conner and Whithom (Jury Trial Transcript, Vol TI, 19-20). She arrived at that location at around 9:00 p.m. (20-21). When she arrived, the victim had been transported from the scene (21).

The area of Conner and \Vhithorn was a residential area on the east side of thecity, west of City Airport (21). The area was poorly lit, but there was a street light at the comer of Conner and

Whith om , where a Shell gas station was located (21-23). There was also a party store located at 11742 Conner and a vacant building south of the party store (23-24). The width of Conner was 54 feet (24). She noted that there were two vehicles in the street, one of which was a silver Corvette

(24).

She found a numher of pieces of firearms evidence in the street (24-25). She found four (4) Federal brand .45 caliber fired shell casings, which she placed on evidence tags 07171904, 07172 l 04, 07 l 73204 and07172504, three (3) CBS brand .45 caliber fired shell casings, which she

placed on evidence tags 07l 72004, 07172204, and 07172404, and eight (8) Smith and Wesson brand

.40 caliber Winchester fired shell casings, which she placed on evidence tags 07172604, 07l 72704, 071728041 07172904, 07173004, 07173104, 07173204, and 07173304 (27-30). One of the .40

caliber casings, the oneon evidence tag 07173104, was found on the rear of the silver Corvette (29). The casings were recovere<l from the street and the sidewalk (20).

The silver Corvette, which was photographed at the scene by her partner, Officer Nathan

Johnson, and later photographed at the tow yard, had seven (7) suspected bullet holes in it (21; 25; 27).

On cross-examination, Officer Tutt testified that from the silver Corvette, she recovered a cell phone (38). She did not check the calls on the cell phone inasmuch as her job was simply to collect and document evidence (38). She also found United States currency on the center console glove box in the amount of $294.00 (38-40).

Also on cross, Officer Tutt testified that thegas station wason the northeast corner of Conner and Whitham (45). The party store was on the southeast comer (46). Next to the party store was a parking lot that was about 100 feet long, and at the rear of this parking lot was a rather high wall,

and on the other side of this wall was an alley (47A 8).

# Brian Minner

Brian Minner testified that he was 27 years old (Jury Trial Transcript, Vol II, 51). He was in the area of Conner and Whitham on the evening of September 5, 2004 (52). There was an event going on in that area on that evening that caused there to be a lot of traffic in the area (52). In fact, the traffic was moving very slowly,just inching along (52). As he was in front of the "Black Party" on Conner, be received a phone call from his friend Jamal Segars (52). He was on foot at that time (53). Jamal told him that he was in traffic, that he was not moving, and Jama] told him where he

was, which was down by the gas station and the party store (54). He (the witness) beaded on foot in that direction (54). He saw Jamal's gray Corvette (54). Heidentified People's Exhibit No. 2 as a photograph ofJamal's Corvette (55). Jamal was in the driver's seat of the Corvette (55). He (the witness) got in the Corvette on the passenger side (55-56), As soon as he sat down, shots started cotning into the vehicle from outside (56), He could not tell from what direction the shots were coming (56). He ended up getting hit, and he knew that Jamal got hit (56). The shots seemed to come from the rear because when Jamal1got hit, he (Jamal) went forward (57). When he himself got bit, he dove out of the passengerseat of the car and laid down on the side of it (57). He got hit in the hip (57), in the left thigh area (58). He then moved away from the Corvette (58). Eventually, he went to the hospital that night (58).

He did not know anybody named DeAnthony Witcher, nor did he know Defendant (58-59).

On cross-examination, the witness testified that he was at Conner and Whitham when hegot into the Corvette (59). He reiterated that the area was crowded, bumper to bumper,and no carswere moving (61) .

He knew Jamal very well (61). He knew that Jamal sold houses (62).

Jamal's Corvette was a '04, brand new (62). The Corvette was a convertible, and Jamal had the top down that night (62). When he got into Jamal's Corvette, the Corvette was headed towards Gratiot (62). When he got in the Corvette, there were other cars alongside the Corvette, inching

along as well (64). He could not tell if the shots were being fired from different guns (64). He just

beard shooting (64). Once he got out of the Corvette and started moving away from it, he headed towards the front of the airport entrance (66).

He could not identify theshooter (66). Henever saw the shooter (66). Allthat he knew was that the shooter had to have been behind them (67), When he got out of the Corvette, shots were still being fired (67).

**Tiffany King**

Tiffany King testified that she was 26 years old (Jury Trial Transcript, Vol Il, 77), She testified that on September 5, 2004, she was in the area of Conner and Whithorn in the City of Detroit when a shooting occun·ed (77).

Just prior to the shooting, she was in her car, in traffic (77). She was going to a " black

party" affair that night (77-78). She was going to park her car in valet parking (78). As she got close to where the valet parking area was, while she was sitting in her car, she saw two guys, African-American males, in a Corvette come out from the center lane of traffic and try to get into the lane next to hers (78-79). She was in the right lane by the curb (78). She did not know either of the two men in the Corvette (79). She turned her head because she thought that the two guys in

the Corvette were going to say something to her (78). When she did that, she saw a guy run up to

the Corvette and start shooting at the Corvette (78). She identified People's Exhibit No. 2 as a photograph of the Corvette that was being shot at (78).

She did not know the person who was shooting into the Corvette (79). The shooter ran up to the driver's side of the Corv-ette from behind (79). She was asked if the shooter was in the courtroom (79). She responded that he was, identifying Defendant in court as this person (79-80). She heard at least six shots fired into the Corvette as she looked at the shooter (80). All in all, she heard 12 to 13 shots fired that night (80). She never did see any other person shooting (80).

When she observed the shooting, the Corvette was next to her vehicle, on the driver's side of her vehicle, meaning that the Corvette was to her left (80). The djstanoe between where she was and where Defendant was was about 12 feet (80-8 l). She was close enough to feel the thunder from the gun (81).

She gave a statement to the police on the day of the shooting, September 5 (81). This was

her first time testifying in the case(81). She had not been shown a photo lineup (81). She was sure that Defendant was the shooter (81-82). '

Oncross-examination,the witness reiterated that the policedid not show her anyphotographs

(83). Nor did she ever view a live lineup (83). Thus, her only contact with Defendant was on September 5, and today , in court (83). She did not know any of the parties in the case (83).

The witness reiterated that she only saw one person shooting (84} She did not see a policeman shooting (84).

She was going in the direction of Gratiot at the time of the shooting (85). The Corvette was to the left of her, going in the same direction (85). She testified that this meant the shooter was also to her left (87). She reiterated that she was in the 1ane closet to the curb (87). She saw the shooter run up to the Corvette (88). He seemed to be by himself (88).

She did see a person leave the Corvette after the shooting (88). This was the person in the

passenger seat (88). She saw this person lift his hand out of the car and lift thecar handle (88). This person tben leaned out of the car and kind of fell out of it (88).

After the shooter (Defendant) firushed shooting into the Corvette, he fired his gun down towards Gratiot (90). She then saw Defendant rnn away, in the direction of the gas station and the patty store (91). She did not see where Defendant ended up running to (92). This was because she

laid down in her car, which wasa delayed reaction on her part (94). She agreed, however, that when she saw Defendant running, he was running in a northerly direction, which would have been away from Gratiot (92-95).

# Latasha Boatwright

Latasha Boatwrighttestified thatshe was 31 years old (Jury Trial Transcript, Vol ll, 95). She testified that on September 5, 2004, she was in the area of Conner and Whithom in the City of Detroit, at around 9:00 p.m. (95-96). There was a party going on at that time (96). There was a lot of traffic and it was moving slowly (96).

She was in 1he area when a shooting occurred (96). Where she was exactly was in the parking lot of a store (96). The store actuaUy had two parking lots (97). She was in the parking lot south of the store (97). She was talking to a couple of her friendsin the parking lot (98).

As she was talking to her friends, they were in the process of letting one of their friends out of the parking lot (98). The friend who was leaving got to the end of the parking lot driveway to tum right onto Conner (98). She turned to faceher friend, and, when shed-id so, she heard "a whole bunch of gunshots" (98). She turned back around to look at where the shots were being fired and she saw a man walking up with a gun and shooting into a car, a silver Corvette (98). She identified People's Exhibit No. 2 as a photograph of the Corvette that got shot at (99; 119). She saw the man shooting into the car (99). The man was standing in the back of the car shooting into the car, over the bump (99). She identified Defendant in court as the shooter (99-l 00). She did not know

Defendant prior to this incident **(l** 00). She could not tell many shots Defendant fired (l 00). Defendant walked from behind the Corvette continuing to shoot (100). There were other gunshots as well (100) , She never saw who was doing this shooting (100-101).

After the shooting ended, she saw Defendant come towards the crowd and go through the parking lot (101). There was a brick wall in the parking lot, and Defendant must have realized that he could not get away by going that way (101). Defendant came out of the parking lot, came towards Whithom, and then went into the store (101). She ran through the alley.up Whithorn (101).

She saw Defendant again that night (l 01-102). She was on the left sideof Whithom, which was the north side ofWbithom, thesideof Whithom where the ga station was, and Defendant was also on that side of Whitham (102). At that time, she and Defendant were no more than five inches

away from her (103). Defendant was with three other people (103-105).

At the time of the shooting, she did know a person named DeAnthony Witcher (117). 10 or 15 minutes prior to the shooting, she saw Witcher in the area (117-118). Witcher was driving up Conner in a Corvetie that looked similar to the one that was shot into, samecolor (118). Witcher

was not in the car that got shot at(]19), She later saw the person who had been shot (119); it was

not Witcher (120).

She was shown an array of photographs on September 8, 2004 (126). She identified People' s Exhibit No. 12 as the photographic array that was displayed to her (126) From that array, she selected photo number 5 as being the shooter (126). Defendant was the persondepicted inphoto

number 5 (127). On the photo lineup form, she was asked the following questions and gave the

following responses:

Q Who do you recognize?

A Yes, number five.

Q From where do you recognize the person identified?

A This is him. He's the one I saw in lhe store and on the comer. He's the one that was doing the shooting.

(127-128).

Finally, the witness testified that she had testified at the preliminary examination and had identified Defendant at that proceeding as well (128).

On cross-examination, the witness acknowledged that she knew DeAnthony Witcher very well (129-130). She testified that she and her two friends were not the only people in the parking lot (130-131). Th.ere were other people, and there were also a lot ofcars (129-131). The parking lot held about 12 cars (131).

On cross, the witness testified that the car that she let out of the parking lot, the car that her friend was driving, wasa burgundy Marauder (133-134). There were blockingthings inthe parking lot, and she had to move one of the things to let cars in and out of the parking lot (138). That was what she did to let her friend in the Marauder out of the parking lot (138), As her friend in the Marauder turned onto Conner, she heard shooting, and her friend in the Marauder took off (135). She was still in the parking lot (135). She testified that her friend in the Marauder did not get very far before he hit a police car (140; 144).

The witness acknowledged that one of the friends she was with was Kimberly Jeffries, who was her cousin (146). She acknowledged that both she and her cousin were friendly with DeAnthony Witcher (146). She (the wimess)ran over to the Corvette that had been shot upon after the shooting subsided (147-148). She did not know who thedriver of the Corvette was that got shot at(l53).

The witness testified that when Defendant was in the e-001pany of the three other men, the three men who were surrounding him, one was in frontof Defendant, another was to the side of him, and the third was in back of him (158).

Defendant was wearing a hat, which he never took off (158).

### Kimberly Jeffries

Kimberly Jeffries testified that she was 31 years old (JuryTrial Transcript, Vol II, 165). She testified that she was in the area of Conner and Whithom in Detroit on September 5, 2004 when a shooting occurred there (165). At the moment of the shooting, she was walking back from the comer of St. Patrick and Conner towards the comer of Conner and Whitborn, where there was a liquorstore(166). She was on the sideof Conner that the liquor store was on, which was on the east

side of Conner (167).

There was a parking lot next to the store that one would come to firstfrom the direction that she was coming from before reaching the store itself (167), When she got midway in the parking lot, she heard two shots1 which sounded like firecrackers (167-168). There was one shot, a pause, and then another shot (168). She looked north towards Whitham and saw a silver Corvette and a man standing on the driver's side of the Corvette where the gas tank would be (168-169). She identified People's Exhibit No. 2 as a photograph of the Corvette that she saw (169). The man standing on the driver's side of the Corvette was shooting into the Corvette (169). She identified Defendant in court as the man she saw shooting into the Corvette (169-170). Defendant was

holding bis baseball cap as he was shootinginto the Corvette (170). After the first two shots, there was a delay and then more shots, a Jot of shots, were fired (170). It sounded like the shots were coming from two different guns, although she only saw one shooter (171).

After the shooting subsided, Defendant ran in the direction of the store parking lot (171). She did not know where Defendant went after that, and she never saw him again after that (17 l ). After the shooting, she went up to the silver Corvette (172). She did nol know the person seated in the driver's seat of the vehicle (172).

She knew DeAnthony Witcher (172). She had met Witcher when she as 14 years old and had not seen him until yesterday (thefirst day of trial) (172). She had seen another silver Corvette that night, but she did not know who was driving that (172).

She viewed a photo lineup on September 8, 2004 (173). Out of the photo lineup, she picked photo number *5,* Defendant's photo, identifying the person in the photo as the shooter (173). What she told the officer who showed her the photo lineup was, ''I recognize number five, but his color is off. He was walking alongside of the Corvette shooting into it" (174). What she meant by his color being off was that Defendant looked darker on the night of the shooting, where his photograph looked light (174-175).

She testified at the preliminary examination, where she identified Defendant as the shooter (l 75). She did not know the victim of the shooting (175). Nobody had asked her to make a false identification in thls case (175).

On cross-examination, the witness clarified that she did not just run up to the Corvette after the shooting subsided (176). She was on her way back, and her cousin ran up to her and said that was DeAnthony in the car (176). So, she went with her cousin to see if it was DeAnthony in the cat (178).

She acknowledged that she described the shooter as being 190 lbs (177). She testified that she just found out that Defendant was referred to as "Skinny Man" (177).

The witness testified that after the shooting, the shooter ran towards the store parking *lot* (l 82). And she testified that she saw the police chasing him (182). She did not know where the shooter and the police went because she then went over to the Corvette, the one that got shot (182). She testified that she was not *in* the parking lot when the shooting occurred (184). Rather,

she was in front of the parking lot (184-185). When asked if it was her claim that from where she was in front of the parking lot, she could see a manstanding in the middle of southbound Conner at 9:00 p.m., she responded that it was gettfng dark, but it was not yet dark (187).

**Dwayne Dye**

Dwayne Dye testified that he was 35 years old (Jury Trial Transcript, Vol ID, 38). He testified that he had his own business, a boot camp for kids with behavioral problems (38).

He testified that he was in **the** area of Conner and Whitham in Detroit on September 5, 2004 (38-39). What he was doing in that area was passing out flyers for his boot c mp program (39). There were a lot of people in the area because there was a "Black Party" going on (39). While he was in the area, there was a shooting (39). At the time of the shooting, he was at the gas station at Conner and Whitham (39).

He first heard shots (40). He looked in thedirection of the shots, which wasin the direction of a store on Conner, just past Whitham (40). He saw a guy, six feet tall, maybe 190 lbs, brown or dark-skinned, shooting a handgun downward into a Corvette (41). He identified People's Exhibit No. 2 as a photo of the Corvette (41). He identified Defendant in court as the person who he saw shooting into the Corvette (41-42). Defendant fired seven or eight shots (42). Defendant then turned towards the store and started numing down Whithom (42). He made an attempt to catch Defendant but was W1successful (42). He explained why he would attempt to catch an anned

person (42). He testified that he had been in the Marine Corps and it was instinctual (42). He was sure that Defendant was the person who he chased (42).

On September 9, 2004, be was asked by the Detroit Police to view a photo lineup, to see if he could identify the shooter (42). He selected Defendant's photo out of the anay (43). Defendant's photo was number five (43). Onthe lineup form, he wrote, "He was up in the Corvette shooting at the driver. Then he turned around and ran toward Whithorn" (43).

He had never seen Defendant before, nor did he know who the victim was in the silver Corvette (44).

On cross-examina1ion, the witness acknowledged that in his statement, he said thal thetime of the shooting was 8:45 or later (51). When asked if it was dark out, the witness responded that it was just getting dark, but the sun had not yet set (52).

The person who he saw do the shootinghad on a white shirt with blue stripes and light blue jeans (56-58).

Also on cross, the witness acknowledged that in his statement, he said that he wanted to be a hero and that was why he chased after the shooter (64). He explained that he just thought that shooting somebody in the back was cowardly and somebody ought to do something about it (84). He started to chase Defendant but then he heard two gunshots and ducked down (64). That was when he lost sight of Defendant (64). He then saw a police officer running and a police car shot past him (the witness) (65). As far as the two shots that he heard as he was chasing Defendant, he did not see Defendant fire these shots (65). Nor did he see the police fireany shots at Defendant (65).

Further on cross, the witness acknowledged that he could not identify Defendant by face, but only by clothes (67).

On redirect, the witness testified that when be first saw the man shooting into the Corvette, he could not identify the man by face (69). He dld get closer to the man as the man catne down Whithom after the shootiµg, but it was blurry (69). He was, nevertheless, able to pick Defendant's photo out of the photo lineup (70).

### DeAnthony Witcher

DeAnthony Witcher testified that he was 31 years old (Jury Tri al Transcript, Vol lll,73). He testified that he knew Defendant, but only by the nickname "Skinny Man"(73). He knew Defendant on November 16, 2003 (74). As of that date, he had known Defendant from four to six months (74). Defendant was somebody he would see in his neighborhood (74). He had seen Defendant 20 or 30 times prior toNovember 16, 2003 (74). Prior to November 16, sometime back attbe end of summer, 2003, Defendant had done home improvement for him,for which he had paid Defendant

$600 (74 75). Defendant ended up losing tbe $600that he had given him by gambling it away(75). He (the witness) would allow gambling at his house, and Defendant had engaged in that (75). When J?efendant lost the $600 he (the witness) had given him, Defendant asked him for more money (75). He did not give Defendant any more money (75). A dispute arose out of this, and Defendant threatened him, saying, "I'm going to act crazy around this bitch" (76).

On November 16, 2003, he came home to find the front door of his house open (76). He also saw smoke (76). When he went inside, he saw that the house had been all tom up, and the " house gun" was on the couch (76). Then he saw Defendant in the comer (76). He said to

Defendant, " What's up my baby?", to which Defendant responded, '' I got to kill you'' (76). Defendant then commenced firing a gun at him (76). He got shot in the hand and the back (76-77).

The bullet that hit him in the back went through his tung and out of his heart (77). He went to St. John's Hospital for his wounds, where he stayed for the whole month (77).

After he was discharged from the hospital, he received threats from Defendant overthe phone (77). Defendant told him that he was going to get him at a club, that heknew that he liked to party (78).

On September 5, 2004, he was in the area of Conner and Whithom sometime around 8:30 or 9:00 p.m. (79). There was a "Black Party" going on in that area at that time (79). He drove his 1998 silver Corvette to the party that evening (79).

He became aware after the event thattherewas a shooting thatevening (79). He did not see the shooting, nor did he bear any shooting (79). Friends of his called him after the event (80). He saw a silver Corvette earlier that was identical to his silver Corvette (80). He identified People's Exhibit No. 2 as a photograph of the silver Corvette that he saw earlier (80). After he heard about the shooting, he walked down and looked at the silver Corvette, which was in the middle of Conner (80-83) . He had parked his own vehicle on the grass of the home of some friends of his who lived on Conner, one block down from the liquor store (82).

There came a time that he was asked ifbe could identify a picture of "Skinny Man," which he did (83-84). He identified People's Exhibit No. 15 as the photo that he identified of"Skinny Man," the person with whom he had had a dispute prior to September 5, 2004 (84).

On September 9, 2004, he gave a witness statement (85). He told the police that he was not pressing charges on his own case with "Skinny Man" (85). He also attended an investigative subpoena proceeding on September 9 (85).

On cross-examination,the witness testified that heworked in real estate, meaning that he got crews together to clean out houses and paint the outsides of them (88). He testified that he was also the manager of a car wash on East Seven Mile and Chalmers (89). When asked ifhe often parked his Corvette at the car wash, the witness responded that he did not (89). He testified that he did not drive the Corvette because somebody was trying to kill him in it (89).

Also on cross, the witness testified that he did not know anybody named Jamal Segars (93).

On redirect, the witness testified tliat whenhe said oncross-examination that somebody was looking for him, he was referring to the threats that "Skinny Man" hadmade to him over the phone, about how he ("Skinny Man") was going to get himat a chili or something because he liked to party (102-103).

### Garden City Police Officer (Former Detroit Police Officer) Micah Hull

Garden City Police Officer (former Detroit Police Officer) Micah Hull testified that on

September 5, 2004, he was a Detroit police officer (Jury Trial Transcript, Vol III, 107). He was on duty that day, working Special Operations (108). He was in civilian clothing with a badge around his neck and was driving a semi-marked police vehicle (108).

On the night of September 5, he was riding with two other officers, Officer Shawn Stallard and Scott Herzog, and had occasion to go to the area of Conner and Whithom at around 9:00 p.m.

(108). He was driving (110). They were southbound on Conner, going towards Whithom, when he beard shots fired (109). The southbound traffic on Conner was heavy; the northbound traffic headed towards Six Mile was hat as heavy (110). He never saw the shooting scene itself nor was he aware at that time of a silver Corvette having been shot at (112).

When he heard the shots, he proceeded southbound on Conner (110). He moved out of his lane of traffic and their vehicle was struck by an oncoming vehicle () 10). The air bags in their vehicle were deployed, and he and his two partners were all injured (11). They all ended up going to the hospital later and were all released (111). After the crash with the other vehicle, he saw a person running, so he gave chase (111). The person was running eastbound on Whitham (111), As he chased the person, he passed a gas station on the north side of Whitham and a liquor store on the south side (112). The person he w chasing was a black male, about 6'2", 200 lbs, wearing a white shirt and some type of baseball hat (112). He could not tell, looking at Defendant in court, whether Defendant was the person who he was chasing that night (112). He did not get a good look at the person who he was chasing because the person was running away from him, and he bad hurt his back in the crash (13). As he was chasing the person, he had his gun out, but he never fired any shots (113). Nor did any other police officers fire their weapons (113). He never heard any shooting after he got out of his police vehicle (114). He first heard five to ten shots, and a couple of seconds later, he heard another volley of five to ten shots (114-115). He could not tell if the shots

were from two different guns (115).

He lost the person who he was chasing when that person got into a vehicle that was facing eastbound on Whithom (113). The vehicle then sped away (I 13).

After the person whohe was chasing got in a vehicle, and that vehicle sped off,he went back to Conner, where he observed the vehicle that the victim had been sitting in (114). The victim was no longer in the vehicle (14). He identified People's Exhibit No. 2 as the vehicle that he observed that had been shot into (l 14).

On cross-examination, Officer Hull was asked if, when he heard shots being fired, he saw who was shooting (124). He responded that he did (124). He saw a person shooting with a handgun (124). He could not tell what color the handgun was, but he saw the muzzle fire from the gun (124). After the vehicle was struck, he kicked open his car door and chased the person who he had seen with the gun (124). As he chased this person, he could not see whether the person had a gun in bis hand because the person was facing away from him (124).

On cross, Officer Hull testified that when he heard the first volley of five to ten shots, while he was in his vehicle, he could not see the Corvette 125). All that he could see at that time was a convertible vehicle one car ahead of theirs and off to the right (125).

Officer Hull clarified that when he heard the first volley of shots, he did not see where the shots were coming from (128). But when he heard the second volley of shots, he could see the shooter because the shooter w.as directly in front of their police vehicle (128; 130).

### Detroit Police Officer Shawn Stallard

Detroit Police Officer Shawn Stallard testified that he wasworking plainclothes withOfficers Scott Herzog and Micah Hull in a semi-marked police vehicle on September 5, 2004 (Jury Trial Transcript, Vol I11i l 38). Officer Hull was driving and he was in the front passenger seat (139). At around 9:00 p.m., they were in the area of Conner and Whithom (138).

As they were heading southbound on Conner, he heard some shots (139). When the shots were fired, traffic cleared somewhat, and he was able to see an individual standingin the street firing a gun (139). He could not tell if Defendant was this person or not (139-140). He did know that the

person was firing a blue steel automatic (140). To try and get around trafftc, Officer Hull pulled