

VOLUME I OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Dec 16 2022

SC Court of Appeals

Appeal from Richland County

Honorable Clifton B. Newman, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MIKAH NELSUN GREEN,

APPELLANT.

APPELLATE CASE NO. 2022-000297

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State of South Carolina) In the Court of General Sessions
County of Richland) Fifth Judicial Circuit
2022-GS-40-00105
2022-GS-40-00106

State of South Carolina,)
vs.) Transcript of Record
Mikah Nelsun Green,) Volume 1 of 3
Defendant.)
_____)

February 28-March 2, 2022
Richland County Judicial Center
Columbia, South Carolina

B E F O R E:

The Honorable Clifton B. Newman, Judge; and a jury

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Certified Verbatim Reporter - Master
Certificate of Merit
Realtime Verbatim Reporter - Master

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PROCEEDINGS

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(Whereupon, State's Exhibits 1 through 32 and 39 through 46, as well as Court's Exhibits 1 and 2, were premarked for identification prior to the commencement of the proceeding.)

(Whereupon, the proceeding commenced at 12:24 p.m.)

THE COURT: So, Mr. Duncan?

MR. DUNCAN: Yes, sir.

THE COURT: Who's that you have with you?

MR. DUNCAN: Sir?

THE COURT: Who's that you have with you?

MR. DUNCAN: This is my client, Mikah Green.

THE COURT: Okay. Mr. Green, if you'll stand.

THE DEFENDANT: Yes, sir.

THE COURT: How you doing today?

THE DEFENDANT: I'm doing good. How you doing today, sir?

THE COURT: I'm doing pretty good.

So, Mr. Duncan, Mr. Green is charged with murder and possession of a weapon during a violent crime and possession of handgun by a person convicted of crime of violence. How do you want to deal with this indictment for possession of handgun by person convicted of a crime of violence?

1 MR. NEELY: Your Honor, I -- I'm fine with saying
2 that he's a -- a felon and has a -- a crime of violence
3 on his record and keeping it that and keeping it general.

4 THE COURT: Okay.

5 MR. NEELY: I think that's probably the safest ---

6 THE COURT: Yes, sir.

7 MR. NEELY: --- thing to do.

8 THE COURT: And I appreciate your answer. But I'd
9 asked Mr. Duncan.

10 MR. NEELY: Oh, I'm sorry.

11 MR. DUNCAN: Yeah. Well, Your Honor, I obviously
12 don't want -- I don't want it read the way you just read
13 it. He's charged with possession -- can you read the
14 charge one more time? I'm -- I apologize.

15 THE COURT: He's got -- charged with murder,
16 possession of a weapon during the commission of a violent
17 crime, and possession of handgun by person convicted of a
18 crime of violence.

19 MR. DUNCAN: Can we just -- can we say possession of
20 a gun by a person with a felony -- is a felon?

21 MR. NEELY: Well, I mean, the -- the -- I will say,
22 the -- the statute says -- requires that it's a crime of
23 violence and not just a felony, which is why I think that
24 might be more appropriate to say he's -- he's been
25 convicted of a felony and a crime of violence.

1 THE COURT: Well, the whole thing is, you know,
2 whether you're -- whether it's proper to tell the jury
3 that the defendant has a criminal record.

4 MR. DUNCAN: Right. Right.

5 THE COURT: And he's volunteering something right
6 there.

7 MR. DUNCAN: Sir?

8 (Off the record briefly.)

9 THE COURT: All right. As you all figure on that
10 question, that seems to be a complex question.

11 Mr. Duncan, had there -- has there been plea -- have
12 there been plea negotiations in this case?

13 MR. DUNCAN: Your Honor, the state made a plea offer
14 approximately a month ago. Mr. Green appeared in front
15 of Judge Robert Hood and rejected that plea. That's the
16 only -- that's the only plea that I have received.

17 THE COURT: And what was that plea offer?

18 MR. DUNCAN: That plea offer -- and I stand to be
19 corrected -- but it -- it wrapped up some other charges
20 of Mr. Green, but it essentially was a plea to voluntary
21 manslaughter for a term of years, a range of 20 to 30
22 years.

23 THE COURT: All right. Is that right, Solicitor?

24 MR. NEELY: That's correct, Your Honor. It also
25 included a trafficking cocaine and the dismissal of a

1 burglary first-degree, as well as some other charges that
2 were Clarendon County, and dismissal of the armed robbery
3 charge also pending.

4 THE COURT: From Clarendon County?

5 MR. NEELY: Yes.

6 MR. DUNCAN: Clarendon County. He's from Manning,
7 Your Honor.

8 THE COURT: Okay. Yeah. So down my way?

9 MR. DUNCAN: Yes, sir. He is -- he's a graduate of
10 Manning High School, class of 2014, Monarch.

11 THE COURT: I -- I went -- I hit the game-winning
12 shot at Manning Training School in 1967 -- maybe '68.

13 MR. DUNCAN: For -- for Manning Training School?

14 THE COURT: No.

15 MR. DUNCAN: Against Manning ---

16 THE COURT: Against ---

17 MR. DUNCAN: --- Training School.

18 THE COURT: --- Manning Training School.

19 MR. DUNCAN: For Kingstree High? Oh, where were --
20 where were you, Your Honor?

21 THE COURT: For C.E. Murray.

22 MR. DUNCAN: C.E. Murray?

23 THE COURT: Which was Williamsburg County Training
24 at the time.

25 MR. DUNCAN: Okay. Yeah. See, I know C.E. Murray

1 High School.

2 THE COURT: Yeah. All of those -- all of the Black
3 schools were training schools.

4 MR. DUNCAN: Okay.

5 THE COURT: And they've changed into high schools

6 ---

7 MR. DUNCAN: Right.

8 THE COURT: --- regular high schools.

9 MR. DUNCAN: Okay. But you -- it -- Williamsburg
10 County Training School ---

11 THE COURT: Yes.

12 MR. DUNCAN: Well, don't -- don't be mad at me just
13 because we beat your team.

14 THE COURT: That was way before ---

15 MR. DUNCAN: That was -- that was a while back.

16 THE COURT: So the -- let's put Mr. Green under oath
17 for the purposes of this, Mr. Truitt.

18 DEPUTY CLERK OF COURT: Yes, Your Honor.

19 Would you raise your right hand, sir.

20 THE DEFENDANT: (Complied.)

21 MIKAH GREEN, having been first duly sworn,
22 testified, responded, and stated as follows:

23 THE COURT: So, Mr. Green, you're indicted for
24 murder, which carries 30 years to life; possession of a
25 weapon during the commission of a violent crime, which

1 carries 5 years; and possession of a handgun by a person
2 convicted of a crime of violence.

3 How many years does that carry?

4 MR. DUNCAN: Ruston, what's the penalty for that,
5 possession of a violent -- a gun for a violent crime?

6 MR. NEELY: Zero to 5 years, Your Honor. Zero to
7 five.

8 THE COURT: Which carries an additional 5 years.
9 Solicitor indicates that -- and your lawyer have
10 indicated that they offered you to plead guilty to
11 voluntary manslaughter, recommending a sentencing range
12 between 20 and 30 years, to plea to these charges, plus
13 all other pending charges that you have, including
14 trafficking of ---

15 MR. NEELY: Cocaine.

16 THE COURT: --- cocaine, which carries up to,
17 depending on the weight, 3 to 10 or 10 to 30 or ---

18 MR. NEELY: I think it's 3 to 10, Your Honor.

19 THE COURT: --- 3 to 10. First-degree burglary?

20 MR. NEELY: First-degree burglary from Clarendon
21 County, which is 15 to life.

22 THE COURT: Fifteen to life. And has -- has the
23 Third Circuit Solicitor agreed to wrap all this into one
24 plea?

25 MR. NEELY: He did agree, Your Honor.

1 THE COURT: All right. So do you understand that
2 plea offer, Mr. ---

3 THE DEFENDANT: Yes, sir.

4 THE COURT: --- Green?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And according to Mr. Duncan, you
7 rejected that plea offer.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Is that right?

10 You do not want to plead guilty?

11 THE DEFENDANT: No, sir.

12 THE COURT: All right. And you want a jury trial?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. Thank you.

15 (Off the record briefly.)

16 THE COURT: So is there anything else before we
17 bring the jury in? I know you are still pondering how
18 you want me to deal with this possession of gun by a
19 person convicted of a crime of violence ---

20 MR. DUNCAN: It -- Your Honor ---

21 THE COURT: --- namely, burglary.

22 MR. DUNCAN: Your Honor ---

23 MR. NEELY: Yeah.

24 MR. DUNCAN: --- for -- what I'm disputing at this
25 point -- and Mr. Green has told me -- that he has not

1 been convicted of a burglary-second. He has receiving
2 stolen goods, but I don't think that qualifies as a ---

3 THE COURT: Well, what's on the rap sheet?

4 MR. DUNCAN: He's got a charge, but I don't think he
5 has a conviction. And I believe the one ---

6 THE COURT: Mr. Green ---

7 MR. DUNCAN: --- but ---

8 THE COURT: --- have you ever been convicted of
9 burglary?

10 THE DEFENDANT: No, sir.

11 THE COURT: You were charged with burglary?

12 THE DEFENDANT: Yes, sir. I was -- I was charged
13 with burglary, and they -- they -- they dropped it. They
14 -- my plea was receiving stolen goods, sir.

15 THE COURT: Okay. All right. And that was in
16 Manning?

17 THE DEFENDANT: Yeah ---

18 THE COURT: Or Sumter?

19 THE DEFENDANT: It was in Sumter County, sir.

20 MR. DUNCAN: Lee County.

21 THE DEFENDANT: Right. Yes, sir.

22 MR. DUNCAN: Lee County.

23 THE COURT: Bishopville.

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And that's what you have on your ---

1 MR. NEELY: Your Honor, if -- if I -- if I -- if I
2 may, I've got a manila envelope ---

3 THE COURT: Yeah.

4 MR. NEELY: --- in my office ---

5 THE COURT: All right.

6 MR. NEELY: --- that has the ---

7 THE COURT: Well, you know, he has two charges which
8 are the same thing. So for purposes as jury selection,
9 can I just tell the jury that he has charges including
10 murder and possession of a weapon during the commission
11 of a violent crime; if the other should be added, they
12 can understand that we're picking a jury on all three.
13 Because two of the -- the other two are possession
14 charges, gun -- handgun possessions ---

15 MR. DUNCAN: That's ---

16 THE COURT: --- or weapon charges. So -- so I don't
17 need to tell them that twice for jury selection.

18 MR. DUNCAN: From -- for my purposes that would be
19 fine.

20 THE COURT: Yeah. And then, we'll just clear it up
21 by the time it goes to a jury, which is later on.

22 But it -- if the -- it should not be necessary to
23 say that the defendant has been convicted of a felony, a
24 burglary, or whatever -- during jury selection. Now, by
25 the time we get to the opening statement, maybe it'll be

1 clearer, which won't be until tomorrow. Okay.

2 MR. NEELY: Right.

3 THE COURT: So you have plenty of time to figure
4 that out.

5 MR. DUNCAN: I -- I agree with what you propose to
6 do, Your Honor.

7 THE COURT: All right.

8 MR. NEELY: No objection, Your Honor.

9 THE COURT: Okay. So -- so we're ready for the
10 jury.

11 MR. DUNCAN: I -- the defense is, Your Honor.

12 MR. NEELY: State's ready as well, Your Honor.

13 THE COURT: All right.

14 (The Court went off the record at 12:34 p.m.)

15 (Whereupon, the jury panel entered the courtroom at
16 12:39 p.m.)

17 (The Court went on the record at 12:45 p.m.)

18 THE BAILIFF: Your Honor, the jury is present.

19 DEPUTY CLERK OF COURT: Should be 49 in the jury,
20 Your Honor.

21 THE COURT: All right. Thank you.

22 Now, welcome, ladies and gentlemen. I am Clifton
23 Newman, and I am presiding in this courtroom. And you
24 all have been sent up here for jury selection in the case
25 that we are about to try.

1 If the solicitor will call this case.

2 MR. NEELY: Your Honor, the case -- the state calls
3 the case of Mikah Green.

4 THE COURT: All right.

5 MR. NEELY: He's been ---

6 THE COURT: Thank you.

7 Ladies and gentlemen, the state has called for trial
8 the case of the *State v. Mikah Nelsun Green*. Mr. Green
9 has been indicted for the offense of murder and
10 possession of a weapon during the commission of a violent
11 crime. He has pled not guilty to those charges.

12 He is presumed to be not guilty of those charges.
13 He cannot be found guilty unless a jury determines that
14 -- determines that he is guilty beyond a reasonable
15 doubt. And that is the purpose of a trial: to determine
16 whether the state can meet that burden of proof.

17 Mr. Mikah Nelsun Green, if you will stand and face
18 the jury panel.

19 THE DEFENDANT: (Complied.)

20 THE COURT: And, Counsel, if you will stand along
21 with Mr. Green and introduce yourself to the jury.

22 MR. DUNCAN: Yes, sir.

23 Ladies and gentlemen, my name's Mike Duncan. I'm an
24 attorney who's -- I've practiced law here in Columbia
25 since about 1993. During the pandemic, I have started

1 practicing with my daughter, Elizabeth Heydary. So we
2 practice as Duncan and Heydary Law. My client is Mikah
3 Green, who is a native of Manning, South Carolina --
4 Clarendon County.

5 THE COURT: All right. Thank you.

6 And the state is represented through the Fifth
7 Circuit Solicitor's Office.

8 And, Solicitor, if you'll introduce yourself, along
9 with anyone else who should be introduced.

10 MR. NEELY: Thank you, Your Honor.

11 My name is Ruston Neely. I am a assistant
12 solicitor. I work here on fifth circuit for Byron
13 Gipson. He's your elected solicitor. And we are here
14 representing him in this case.

15 MR. COURY: (Stood.)

16 MR. NEELY: This is Phil Coury; he's my second
17 chair. He'll be assisting me in this trial, as well as
18 interviewing witnesses. And sitting down is Melissa
19 Green. She's a paralegal; she'll be helping me with
20 paralegal things throughout the trial.

21 THE COURT: And the third person, would you stand so
22 the jury can see you.

23 MS. MELISSA GREEN: (Complied.)

24 THE COURT: All right. Thank you.

25 Our goal here this afternoon is to select 14 jurors.

1 So I think we have 49; we're going to pick 14 of you to
2 serve on the jury. And we want 14 fair and impartial
3 folks to sit on the jury. We want 14 people who are --
4 who -- who are not so preoccupied with other things in
5 your life that you cannot be a fair and impartial juror.

6 So if there is -- if there is any reason why you
7 should not be selected, I want you to let me know and we
8 will not put you on the jury, if it's a justifiable
9 reason. We want people who are ready, willing, and able
10 to serve on jury duty. As you can imagine, this is an
11 important case. And we want people who will serve in a
12 manner that recognizes that fact.

13 Now, as -- as I indicated, this indictment comes
14 into court as a result of a -- a -- a case comes into
15 court as a result of an indictment returned by the grand
16 jury. And it -- it alleges: On or about March 31, 2019,
17 that Mr. Green committed the offense of murder and other
18 criminal offenses by shooting and killing Stacy Rhodes
19 and that this occurred at the Lakeshore Apartments
20 located at 74 -- 7645 Garners Ferry Road here in Richland
21 County.

22 If any member of the jury panel knows anything about
23 this case or if you have heard anything about this case,
24 please stand.

25 (Whereupon, no potential juror stood.)

1 THE COURT: And no one is standing.

2 Now, I want to remind you, ladies and gentlemen,
3 that you are sworn, as you were sworn earlier this
4 morning, to give complete and truthful responses to all
5 questions that you are asked during -- earlier this
6 morning during the jury-qualifications process and -- and
7 then also, as extends to this jury selection. I know
8 that many people don't like to stand and voluntary -- and
9 volunteer information in -- in crowds. So if you do not
10 wish to answer any question openly, I'll give you an
11 opportunity to come forward at the end to share those
12 responses here at the bench with me in the presence of
13 counsel. But you must give complete and truthful
14 responses to all these questions.

15 If any member of the jury panel is acquainted with
16 the victim, Mr. Rhodes; the defendant, Mr. Green; or any
17 of the solicitors involved in the case -- friend,
18 relative, associate, or acquaintance -- of any of them --
19 if so, please stand.

20 (Whereupon, no potential juror stood.)

21 THE COURT: If any member of the jury panel or any
22 close friend or relative of yours has ever been the
23 victim of a violent crime -- a violent crime includes
24 rape, robbery, murder, or first-degree burglary or
25 burglary -- if you or any of your immediate family has

1 been the victim of a violent crime -- rape, robbery,
2 murder, burglary, or any other serious assaults -- if so,
3 please stand.

4 (Whereupon, potential jurors stood.)

5 THE COURT: And when you stand, I need to know your
6 juror number and tell me why you're standing.

7 Yes, sir, in the ---

8 POTENTIAL JUROR: I'm 58.

9 THE COURT: --- front row.

10 POTENTIAL JUROR: Number 58.

11 THE COURT: All right.

12 POTENTIAL JUROR: And I was burglarized myself.

13 THE COURT: And your home was burglarized?

14 POTENTIAL JUROR: Yes.

15 THE COURT: All right. And would that affect your
16 ability to be a fair and impartial juror in this case?

17 POTENTIAL JUROR: I don't think so. No.

18 THE COURT: Pardon?

19 POTENTIAL JUROR: No.

20 THE COURT: All right. Thank you, sir.

21 (Whereupon, the potential juror returned to their
22 seat in the jury panel.)

23 THE COURT: Yes, ma'am.

24 POTENTIAL JUROR: Juror 43 -- 43.

25 THE COURT: Number 43. Yes, ma'am.

1 POTENTIAL JUROR: My husband was murdered last year.

2 THE COURT: Is that case still pending, or is it
3 over?

4 POTENTIAL JUROR: No. It's still pending.

5 THE COURT: Still pending?

6 POTENTIAL JUROR: (Nodded head up and down.)

7 THE COURT: And do you believe that fact will
8 prevent you from being a fair and impartial juror in a
9 case where the defendant is charged with murder?

10 POTENTIAL JUROR: No.

11 THE COURT: You'll be able to set aside the fact of
12 what occurred with your husband and decide this case
13 solely on the facts, evidence, and law applied to this
14 case?

15 POTENTIAL JUROR: Yes.

16 THE COURT: All right. Thank you, Ms. Brown.

17 (Whereupon, the potential juror returned to their
18 seat in the jury panel.)

19 THE COURT: Yes, sir.

20 POTENTIAL JUROR: Juror 289.

21 THE COURT: Yes, sir.

22 POTENTIAL JUROR: Yes. My little brother was killed
23 in 2010.

24 THE COURT: All right. And would that prevent you
25 from being a fair and impartial juror in this case?

1 POTENTIAL JUROR: I'd be ---

2 THE COURT: It's either ---

3 POTENTIAL JUROR: --- fair.

4 THE COURT: --- a "yes" or a "no."

5 POTENTIAL JUROR: Yes, sir. Yes, sir.

6 THE COURT: Okay. And what -- all right. And Juror
7 No. 289, Mr. ---

8 POTENTIAL JUROR: Daryl Scott.

9 THE COURT: What's your name?

10 POTENTIAL JUROR: Daryl Scott.

11 THE COURT: Mr. Scott -- all right. I see you, Mr.
12 Scott. All right. Mr. Scott, if you'll stay with us,
13 but we won't put you on this jury.

14 (Whereupon, the potential juror returned to their
15 seat in the jury panel.)

16 THE COURT: Yes, ma'am.

17 POTENTIAL JUROR: Juror No. 173.

18 THE COURT: Yes, ma'am.

19 POTENTIAL JUROR: In 1995 my first cousin was
20 murdered.

21 THE COURT: All right. And now, would that prevent
22 you from being a fair and impartial juror in this case?

23 POTENTIAL JUROR: I don't believe so.

24 THE COURT: All right. Thank you.

25 (Whereupon, the potential juror returned to their

1 seat in the jury panel.)

2 THE COURT: Yes, ma'am.

3 POTENTIAL JUROR: Juror 296. I'm a sexual assault
4 victim, and my home was also burglarized.

5 THE COURT: And would the -- you said 296?

6 POTENTIAL JUROR: (No audible response.)

7 THE COURT: And would that prevent you from being a
8 fair and impartial juror in this case?

9 POTENTIAL JUROR: No, sir.

10 THE COURT: All right. Thank you.

11 (Whereupon, the potential juror returned to their
12 seat in the jury panel.)

13 THE COURT: Yes, sir.

14 POTENTIAL JUROR: 238 and my home was burglarized.

15 THE COURT: All right. And would that prevent you
16 from being a fair and impartial juror in this case?

17 POTENTIAL JUROR: No.

18 THE COURT: Thank you, sir.

19 (Whereupon, the potential juror returned to their
20 seat in the jury panel.)

21 THE COURT: Yes, sir.

22 POTENTIAL JUROR: 303, Your Honor. My cousin was
23 murdered in 2019.

24 MR. DUNCAN: I'm sorry. 333?

25 POTENTIAL JUROR: 303.

1 MR. DUNCAN: 303.

2 THE COURT: All right. And, sir, would that prevent
3 you from being a fair and impartial juror in this case?

4 POTENTIAL JUROR: No. No.

5 THE COURT: All right. Thank you.

6 (Whereupon, the potential juror returned to their
7 seat in the jury panel.)

8 THE COURT: Has any member of the jury panel or
9 anyone close to you have had any experience in law
10 enforcement? If any of you or anyone -- anyone close to
11 you have -- has ever had experience in law enforcement?
12 If so, please stand.

13 (Whereupon, potential jurors stood.)

14 THE COURT: And tell me about it -- juror number and
15 tell me about it.

16 Yes, ma'am.

17 POTENTIAL JUROR: Juror 355; my husband is Richland
18 County sheriff deputy.

19 THE COURT: Thank you.

20 (Whereupon, the potential juror returned to their
21 seat in the jury panel.)

22 THE COURT: Yes, sir.

23 POTENTIAL JUROR: Juror No. 145; I was the deputy
24 solicitor for the Sixth Judicial Circuit from 1993 to
25 2003.

1 THE COURT: Is that ---

2 POTENTIAL JUROR: And then I was the police advisor
3 for the City of Columbia Police Department.

4 THE COURT: Is that Michael Hemlepp?

5 POTENTIAL JUROR: Yes, sir. Yes, Your Honor.

6 THE COURT: Okay. How you doing?

7 POTENTIAL JUROR: I'm doing well. Thank you, Your
8 Honor.

9 THE COURT: All right. So you've gotten a beard
10 since I saw you last.

11 POTENTIAL JUROR: I'm in disguise. I also gained my
12 COVID weight.

13 THE COURT: Would the fact of that experience affect
14 your ability to be fair and impartial juror?

15 POTENTIAL JUROR: It would not, Your Honor.

16 THE COURT: All right. Thank you.

17 (Whereupon, the potential juror returned to their
18 seat in the jury panel.)

19 THE COURT: Yes, ma'am.

20 POTENTIAL JUROR: Jury No. 306; my mom worked for
21 the St. Paul Police Department for 20 years.

22 THE COURT: She worked where?

23 POTENTIAL JUROR: *Excusez-moi?* In St. Paul,
24 Minnesota -- my mom.

25 THE COURT: Okay.

1 POTENTIAL JUROR: She was in the gang-violence unit.

2 THE COURT: All right. Thank you.

3 (Whereupon, the potential juror returned to their
4 seat in the jury panel.)

5 THE COURT: Yes, ma'am.

6 POTENTIAL JUROR: 296; my sister's husband used to
7 be employed with Richland County Sheriff's Department.

8 THE COURT: Boy, you know, I'm in this glass
9 enclosure or plastic enclosure, so I'm straining to hear
10 you. If you'll ---

11 POTENTIAL JUROR: Sorry. My -- my sister's husband
12 used to be employed with the Richland County Sheriff's
13 Department.

14 THE COURT: All right. Thank you.

15 (Whereupon, the potential juror returned to their
16 seat in the jury panel.)

17 THE COURT: Yes, sir.

18 POTENTIAL JUROR: Juror No. 234; my mom was a
19 probation and parole officer.

20 THE COURT: All right. Thank you.

21 (Whereupon, the potential juror returned to their
22 seat in the jury panel.)

23 THE COURT: Yes, ma'am.

24 POTENTIAL JUROR: Juror 109; I work at Department of
25 Juvenile Justice. And I used to be housed in here. We

1 used -- I used to do intake. I used to be a intake
2 officer.

3 THE COURT: All right. Thank you.

4 (Whereupon, the potential juror returned to their
5 seat in the jury panel.)

6 POTENTIAL JUROR: Juror 150; I used to be a
7 correctional officer in 1993 or 1994, but ---

8 THE COURT: So you did, or someone that you know?

9 POTENTIAL JUROR: (Gestured.)

10 THE COURT: You were a sheriff ---

11 POTENTIAL JUROR: Correctional officer.

12 THE COURT: All right. What kind?

13 POTENTIAL JUROR: Correctional officer for ---

14 THE COURT: Correctional ---

15 POTENTIAL JUROR: --- Richland ---

16 THE COURT: --- officer. All right.

17 POTENTIAL JUROR: --- Richland County.

18 MR. DUNCAN: I apologize. What -- what juror number
19 was she?

20 POTENTIAL JUROR: 150.

21 MR. DUNCAN: 150.

22 THE COURT: 150. It's here.

23 Did you say 150?

24 POTENTIAL JUROR: It's 150, yes.

25 THE COURT: And what's your name?

1 POTENTIAL JUROR: Latiesha Holston Hook.

2 THE COURT: All right.

3 (Whereupon, the potential juror returned to their
4 seat in the jury panel.)

5 THE COURT: Now, as to any of you who just stood,
6 would that fact of employment, if it would affect your
7 ability to be a fair and impartial juror, please stand.

8 (Whereupon, no potential juror stood.)

9 THE COURT: All right. Moving right along, if any
10 member of the jury panel, if you have any opinions or
11 belief about guns which would affect your ability to make
12 an impartial decision, please stand.

13 (Whereupon, no potential juror stood.)

14 THE COURT: Now, in this case, there are -- are a
15 number of people who are -- who may testify. And I need
16 you to listen carefully, because I need to know if you
17 know any of them, if you have any relationship with any
18 of them: Investigator William Hilton; Investigator
19 Matthew McCoy; Investigator Kevin Reese; Investigator
20 G.P. Starcher; Investigator Nell Mauney, M-a-u-n-e-y;
21 Investigator Robert Henry; Dr. Amy Durso; C.S.I., which
22 is for crime scene investigator, George Wise; Columbia
23 Police Department Officers Forest Fulmore, Todd Ballard,
24 George Potash, Ivan Birochak, Wesley Fitch, Christopher
25 Gunter, Justin Niscia -- that's N-i-s-c-i-a; Sheriff

1 Department Officer Campbell Streater; Sheriff's
2 Department Officer Caraly Alvarez; Crystal Ellidge -- and
3 if any of these people are here, I need you to stand --
4 Crystal Ellidge; Lashonda Rhodes ---

5 MS. LASHONDA RHODES: (Stood.)

6 THE COURT: And Lashonda Rhodes is standing in the
7 -- the back. All right. Thank you.

8 MS. LASHONDA RHODES: (Returned to seat.)

9 THE COURT: Mackenzie Smith; Gabriel Reese; Daundre
10 Wilson; James Archie; Alexis Smith -- Alexia Smith;
11 Diamond Sanders; Monetta Powers; Carey Shealy or --
12 and/or Booker Henley.

13 If any juror knows -- if you know any of those
14 folks, have had any relationship with any of them, please
15 stand.

16 (Whereupon, a potential juror stood.)

17 THE COURT: All right, Mr. Hemlepp.

18 POTENTIAL JUROR: I -- I lost track of the number of
19 Columbia police officers I know.

20 THE COURT: All right. So you are integrally
21 involved with the police in your capacity of advising and
22 representing and -- and all of that?

23 POTENTIAL JUROR: I was, Your Honor. I left the
24 Columbia Police Department in June of 2019.

25 THE COURT: All right. Considering that this

1 offense occurred -- or allegedly occurred, well, March
2 2019 and you were employed there at the time, any
3 objection by any counsel for Mr. Hemlepp not being
4 considered for service in this case?

5 MR. DUNCAN: Your Honor, I -- I have no objection to
6 that.

7 MR. NEELY: And no objection from the state either,
8 Your Honor.

9 THE COURT: All right. If you'll stay with us, Mr.
10 Hemlepp, we won't put you in that position. Thank you.

11 POTENTIAL JUROR: Thank you, Your Honor.

12 (Whereupon, the potential juror returned to their
13 seat in the jury panel.)

14 THE COURT: If you know of any reason why you cannot
15 be a fair and impartial juror, if there's anything else
16 you have to do this week that would preoccupy you from
17 serving on this jury, please stand.

18 (Whereupon, potential jurors stood.)

19 POTENTIAL JUROR: Hello. My name is Evette
20 Milligan. I'm juror ---

21 THE COURT: Okay. And I'm going to have you come
22 forward. I don't want you to give anyone else any reason
23 to ---

24 POTENTIAL JUROR: Oh, you want me to come ---

25 THE COURT: --- I'm going to have you come forward.

1 Yeah. Both of the -- two of you to come forward.

2 And if any of you did not answer any question, if
3 any of you did not answer any question that you should --
4 did not want to answer openly, please come forward at
5 this time. If you didn't answer any question that you
6 didn't want to answer openly, please come forward. Or if
7 you know of any reason why you should not be selected,
8 please come forward.

9 And I want to add, ladies and gentlemen, when we
10 have a trial, we don't work a -- a normal 9-to-5. We
11 work until it's time to go, which could be 5:30,
12 sometimes even six o'clock. So if you have any
13 scheduling conflicts or anything that would prevent you
14 from serving, please come forward.

15 (Whereupon, a potential juror came forward.)

16 THE COURT: Yes, ma'am.

17 DEPUTY CLERK OF COURT: What's your number?

18 POTENTIAL JUROR: 224.

19 DEPUTY CLERK OF COURT: 224:

20 POTENTIAL JUROR: Yes.

21 DEPUTY CLERK OF COURT: Juror 224, Your Honor.

22 (Whereupon, the potential juror came forward.)

23 THE COURT: All right. Ms. 224, what's up?

24 POTENTIAL JUROR: You were talking about undivided
25 attention till five o'clock.

1 THE COURT: Okay.

2 POTENTIAL JUROR: I have to pick my daughter all the
3 way up on the other side of the county. And after that
4 ---

5 THE COURT: All right. Wouldn't that be a mess if
6 we have a witness on the stand, so you got to be out of
7 town tomorrow, and you hit five o'clock and so you have
8 to go?

9 POTENTIAL JUROR: Yeah.

10 THE COURT: That would really mess us up, wouldn't
11 it?

12 POTENTIAL JUROR: Yeah. It -- yeah. I have to have
13 her by six.

14 THE COURT: Yeah. I understand. I mean, we're not
15 -- that's why you see all those people lining up. So we
16 have plenty so ---

17 POTENTIAL JUROR: Yeah.

18 THE COURT: --- we just want the folks who are --
19 who don't have a conflict. So I'm ---

20 POTENTIAL JUROR: Sorry.

21 THE COURT: --- sure you'd love to serve.

22 POTENTIAL JUROR: Yeah. I could serve until five
23 but ---

24 THE COURT: But then what happens?

25 POTENTIAL JUROR: I have to go. I'm sorry.

1 THE COURT: That's all right. I'm sure you'd have
2 been an excellent juror. You can't call nobody and say
3 ---

4 POTENTIAL JUROR: I would ---

5 THE COURT: --- and say, "Judge Newman's got me tied
6 up for a while"?

7 POTENTIAL JUROR: I just didn't expect to stay here
8 ---

9 THE COURT: Well ---

10 POTENTIAL JUROR: --- today. I -- I thought I would
11 be done by five until the other judge said it could last
12 until six or six-thirty.

13 THE COURT: Oh, no. You'll -- you'll be -- you'll
14 be gone at five today.

15 POTENTIAL JUROR: Okay.

16 THE COURT: Because we're getting ready to let --
17 but not the other days.

18 POTENTIAL JUROR: Okay.

19 THE COURT: You got to make some -- set up ---

20 POTENTIAL JUROR: Yeah.

21 THE COURT: --- arrangement for another day. All
22 right. In fact, the other jurors today are going to be
23 leaving pretty soon after we get this juror -- jury
24 selected.

25 POTENTIAL JUROR: Okay.

1 THE COURT: So you going be able to serve or not?

2 POTENTIAL JUROR: I just -- it's going be too -- no,
3 I won't be able to.

4 THE COURT: Okay.

5 POTENTIAL JUROR: I'm sorry.

6 THE COURT: All right. 224, you're excused. And
7 thank you.

8 POTENTIAL JUROR: Want me to go back up?

9 THE COURT: Not yet, though.

10 DEPUTY CLERK OF COURT: Please have a seat back
11 there.

12 POTENTIAL JUROR: Okay.

13 (Whereupon, the potential juror returned to the jury
14 panel.)

15 DEPUTY CLERK OF COURT: Call out their number,
16 Ronnie.

17 THE BAILIFF: 279.

18 THE COURT: Okay. Just have a seat where you came
19 from. You're good.

20 (Whereupon, the potential juror came forward.)

21 THE COURT: Hey, 279.

22 (Off the record briefly.)

23 POTENTIAL JUROR: I'm just a little bit confused on
24 the case. There's -- well, it's a death penalty if ---

25 THE COURT: Huh?

1 POTENTIAL JUROR: --- they play it on this -- this
2 case or no?

3 THE COURT: Say what, now?

4 POTENTIAL JUROR: Is the death penalty, like, in
5 question in this case or no?

6 THE COURT: Who's that?

7 POTENTIAL JUROR: No. The death penalty is, I mean
8 ---

9 THE COURT: Use it -- say ---

10 POTENTIAL JUROR: --- don't matter ---

11 THE COURT: --- that word ---

12 POTENTIAL JUROR: --- or no?

13 THE COURT: --- again.

14 MR. NEELY: She said death penalty.

15 POTENTIAL JUROR: Are we ---

16 THE COURT: No. It's not a death penalty case.

17 POTENTIAL JUROR: Okay. Then, I think I'm good.

18 THE COURT: Are you good?

19 POTENTIAL JUROR: Yeah. Yeah.

20 THE COURT: Okay. You're opposed to the death
21 penalty?

22 POTENTIAL JUROR: Yeah. I don't ---

23 THE COURT: You -- you ---

24 POTENTIAL JUROR: --- want to get ---

25 THE COURT: You don't like to -- you don't want to

1 do that?

2 POTENTIAL JUROR: No.

3 THE COURT: It's not a death penalty ---

4 POTENTIAL JUROR: Okay.

5 THE COURT: --- case. Okay.

6 POTENTIAL JUROR: All right.

7 THE COURT: All right.

8 POTENTIAL JUROR: Thank you.

9 THE COURT: All right. She's good to go.

10 You can have your seat.

11 (Whereupon, the potential juror returned to the jury
12 panel.)

13 THE BAILIFF: 109.

14 (Whereupon, the potential juror came forward.)

15 DEPUTY CLERK OF COURT: I'm sorry, Ronnie. I didn't
16 catch that number.

17 THE BAILIFF: 109.

18 DEPUTY CLERK OF COURT: Thank you.

19 POTENTIAL JUROR: Hi.

20 THE COURT: All right, Ms. 109. Come and talk to me
21 right here.

22 POTENTIAL JUROR: Okay. I have ---

23 THE COURT: So it's ---

24 POTENTIAL JUROR: --- a job interview ---

25 THE COURT: --- not too loud.

1 POTENTIAL JUROR: Okay. I have a job interview
2 tomorrow at one o'clock, a virtual interview.

3 THE COURT: Uh-huh. That sounds like lunchtime.

4 POTENTIAL JUROR: Okay. Well, just to let you know,
5 that's fine.

6 THE COURT: 109?

7 POTENTIAL JUROR: Yeah.

8 THE COURT: So yeah. We don't mind quitting for --
9 how long that -- that'll be?

10 POTENTIAL JUROR: It should -- I -- they have it
11 slated for a hour and 15 minutes.

12 THE COURT: All right. So ---

13 POTENTIAL JUROR: And it's virtual.

14 THE COURT: Okay.

15 POTENTIAL JUROR: Okay.

16 THE COURT: We should be able to work around that --
17 should be.

18 POTENTIAL JUROR: All right. Thank you.

19 THE COURT: We hope. Yeah.

20 POTENTIAL JUROR: Okay.

21 (Whereupon, the potential juror returned to the jury
22 panel.)

23 THE BAILIFF: 56.

24 (Whereupon, the potential juror came forward.)

25 THE COURT: 56. Come on, Ms. 56. You got -- you

1 got to talk where we can hear what you're saying.

2 POTENTIAL JUROR: Okay. So my name is Roxie
3 Chisolm. I'm a nurse practitioner in the primary care
4 office.

5 THE COURT: Uh-huh.

6 POTENTIAL JUROR: I was already out 2 1/2 weeks at
7 the beginning of the year, recovering from COVID. So I
8 had to reschedule patients. And just we've had COVID
9 throughout our office. So me and my colleagues is --
10 we're just stressing, so ---

11 THE COURT: Uh-huh.

12 POTENTIAL JUROR: --- we're just trying to ---

13 THE COURT: All right.

14 POTENTIAL JUROR: -- get patients seen. And so ---

15 THE COURT: All right. Well, anyone who has to deal
16 with that, they -- I understand.

17 POTENTIAL JUROR: Yeah. So we're ---

18 THE COURT: So ---

19 POTENTIAL JUROR: --- just trying to kind of get
20 caught up ---

21 THE COURT: Well ---

22 POTENTIAL JUROR: --- you know, and just get people
23 seen. Because people are sick, you know.

24 THE COURT: Uh-huh. Okay. So we're not going
25 consider you for this case. We'll just have you have a

1 seat back.

2 POTENTIAL JUROR: Okay.

3 THE COURT: All right.

4 (Whereupon, the potential juror returned to the jury
5 panel.)

6 THE BAILIFF: 326.

7 (Whereupon, the potential juror came forward.)

8 THE COURT: 326.

9 POTENTIAL JUROR: Hey.

10 DEPUTY CLERK OF COURT: Everybody, please take your
11 hands out of your pockets when you approach the judge,
12 please.

13 THE COURT: Yeah. I don't like you to walk up on me
14 like that.

15 (Off the record briefly.)

16 POTENTIAL JUROR: That's me.

17 THE COURT: Okay. I got you, Mr. Van. What's up?

18 POTENTIAL JUROR: It's been years, but I know the
19 defense attorney.

20 THE COURT: Oh.

21 POTENTIAL JUROR: Yeah. You used to speak at my
22 church ---

23 MR. DUNCAN: Oh, okay.

24 POTENTIAL JUROR: --- years ago when we ---

25 (Off the record briefly.)

1 THE COURT: What church you attended?

2 POTENTIAL JUROR: It's not the same church now, but
3 it was Bethany Chapel.

4 (Off the record briefly.)

5 THE COURT: Well, that would not -- would affect
6 your ability to be fair and impartial?

7 POTENTIAL JUROR: No.

8 THE COURT: Okay. Well, thanks for letting us know.

9 POTENTIAL JUROR: Yeah.

10 THE COURT: Okay.

11 MR. DUNCAN: Good to see you.

12 POTENTIAL JUROR: Good to see you, sir.

13 (Whereupon, the potential juror returned to the jury
14 panel.)

15 THE BAILIFF: 129.

16 THE COURT: 129.

17 (Whereupon, the potential juror came forward.)

18 POTENTIAL JUROR: How you doing?

19 THE COURT: Hey there.

20 POTENTIAL JUROR: Number 129.

21 THE COURT: I know.

22 POTENTIAL JUROR: My name is Sahirah Green. I have
23 a 15-year-old and a 10-year-old. So when they get out of
24 school, I don't have anyone to watch them. And my oldest
25 son get out of school at 3:15. He's in high school. And

1 my daughter is in middle school.

2 THE COURT: The 10-year-old?

3 POTENTIAL JUROR: Uh-huh.

4 THE COURT: Well ---

5 POTENTIAL JUROR: She's in fifth grade.

6 THE COURT: All right. And what do you -- what --
7 what generally happens? You're normally at home?

8 POTENTIAL JUROR: Yes. I work from five o'clock in
9 the morning till two o'clock in the afternoon ---

10 THE COURT: All right.

11 POTENTIAL JUROR: --- around my kids' schedule.

12 THE COURT: Uh-huh.

13 POTENTIAL JUROR: So ---

14 THE COURT: Where ---

15 POTENTIAL JUROR: --- if I'm ---

16 THE COURT: --- where do you work?

17 POTENTIAL JUROR: I'm a manager at the McDonald's on
18 Gervais Street.

19 THE COURT: Oh, okay. McDonald's on Gervais.

20 POTENTIAL JUROR: In the Vista.

21 THE COURT: Okay. We won't -- we'll not pick you on
22 this case. Just have a seat.

23 POTENTIAL JUROR: All right. Thank you.

24 (Whereupon, the potential juror returned to the jury
25 panel.)

1 THE BAILIFF: 96.

2 THE COURT: She's -- we won't choose her.

3 (Whereupon, the potential juror came forward.)

4 THE COURT: Come on, Ms. Evans.

5 POTENTIAL JUROR: Uh-huh.

6 THE COURT: What's up?

7 POTENTIAL JUROR: I'm a mom of four. I work from
8 home. I have two and 7-year-olds.

9 THE COURT: How many?

10 POTENTIAL JUROR: I got twins. They're 7.

11 THE COURT: Seven?

12 POTENTIAL JUROR: Uh-huh. And a 10 -- well, she
13 just turned 11.

14 THE COURT: Uh-huh.

15 POTENTIAL JUROR: And then, I have a high-schooler,
16 but he doesn't come out until after the -- the ---

17 THE COURT: All right.

18 POTENTIAL JUROR: --- elementary comes out.

19 THE COURT: So you normally stay home and take care
20 of them?

21 POTENTIAL JUROR: No. I -- I work from home, so I'm
22 ---

23 THE COURT: You said ---

24 POTENTIAL JUROR: --- there until ---

25 THE COURT: Oh, you're home.

1 POTENTIAL JUROR: Uh-huh. I'll walk ---

2 THE COURT: Okay.

3 POTENTIAL JUROR: --- to the bus stop.

4 THE COURT: All right. So we're not going pick you.

5 POTENTIAL JUROR: Okay.

6 THE COURT: All right. Stay with us.

7 POTENTIAL JUROR: Okay.

8 (Whereupon, the potential juror returned to the jury
9 panel.)

10 THE BAILIFF: 179.

11 THE COURT: 179.

12 (Whereupon, the potential juror came forward.)

13 THE COURT: I can do this and we have plenty, you
14 know.

15 POTENTIAL JUROR: Hey.

16 THE COURT: Come on, Ms. Kelly. Come on talk to me.

17 POTENTIAL JUROR: I have a appointment on Friday.

18 THE COURT: Friday?

19 POTENTIAL JUROR: Yeah.

20 THE COURT: What time?

21 POTENTIAL JUROR: With the doctor's -- it's actually
22 at 11. I was wondering: Do I need to reschedule it or
23 ---

24 THE COURT: I think we need to see how it's going,
25 you know, .

1 POTENTIAL JUROR: Okay.

2 THE COURT: We might be through by then.

3 POTENTIAL JUROR: Okay.

4 THE COURT: We don't know.

5 POTENTIAL JUROR: All right.

6 THE COURT: But we're going to ---

7 POTENTIAL JUROR: That's fine.

8 THE COURT: --- let's just -- just -- you know,
9 you'll -- you'll get a feel for what's going on, what you
10 need to do between now and then. That's a long time
11 away, isn't it?

12 POTENTIAL JUROR: I know. I just wanted to give you
13 a heads-up.

14 THE COURT: Okay. I appreciate it. All right. You
15 stay with us.

16 POTENTIAL JUROR: All right. Thank you.

17 (Whereupon, the potential juror returned to the jury
18 panel.)

19 THE BAILIFF: 306.

20 (Whereupon, the potential juror came forward.)

21 POTENTIAL JUROR: When you asked the -- you know,
22 any association with police, right?

23 THE COURT: Right.

24 POTENTIAL JUROR: I raised money for a police union
25 in Northern Virginia ---

1 THE COURT: Okay.

2 POTENTIAL JUROR: --- direct mail. And two, I
3 worked -- you said something about guns, right?

4 THE COURT: Right.

5 POTENTIAL JUROR: I worked for a group called
6 Citizens for a Safer Minnesota. I raised money for them,
7 which was against gun violence ---

8 THE COURT: Okay.

9 POTENTIAL JUROR: --- and guns.

10 THE COURT: So do you think any of that would
11 prevent you from being fair and impartial?

12 POTENTIAL JUROR: I don't think so.

13 THE COURT: Okay.

14 POTENTIAL JUROR: But I just want to disclose ---

15 THE COURT: Any ---

16 POTENTIAL JUROR: --- everything.

17 THE COURT: Any question -- this is Ms. Stankiewicz
18 -- Stankiewicz?

19 POTENTIAL JUROR: (Nodded head up and down.)

20 THE COURT: She used to work -- used to do -- say --
21 say it again.

22 POTENTIAL JUROR: I used to raise money for a police
23 union in Northern Virginia -- you know, a union -- doing
24 their direct mail.

25 THE COURT: Right.

1 POTENTIAL JUROR: And I worked for a group called
2 Safer for -- Minnesotans for a Safer Minnesota, which was
3 a gun-violence ---

4 THE COURT: And how'd you land in Columbia ---

5 POTENTIAL JUROR: I work ---

6 THE COURT: --- in Richland?

7 POTENTIAL JUROR: --- I work in politics. I work
8 for ---

9 THE COURT: In politics?

10 POTENTIAL JUROR: --- the -- I work for the South
11 Carolina Democratic Party.

12 THE COURT: What's that -- aviators and ---

13 POTENTIAL JUROR: Oh, it's Biden-Harris.

14 THE COURT: Oh, what's that, a lawyer -- lawyer?

15 POTENTIAL JUROR: It was an inaugural fundraiser.

16 THE COURT: It's -- it's what?

17 POTENTIAL JUROR: It's -- I'm a -- aviators and ---

18 THE COURT: Oh, aviators. Okay. I got you.

19 POTENTIAL JUROR: You know, Biden-Harris.

20 THE COURT: Oh. Oh, okay. I got you.

21 POTENTIAL JUROR: Yes.

22 THE COURT: Okay. Thank you. All right.

23 (Whereupon, the potential juror returned to the jury
24 panel.)

25 (Off the record briefly.)

1 MR. NEELY: Your Honor, if -- if -- if we can, can
2 we have 150 called up?

3 THE COURT: What's his name?

4 MR. NEELY: It's Tess Holston Hook.

5 THE COURT: Number 150, if you'll come forward,
6 please, Mr. Hook -- Ms. Hook.

7 THE COURT: What's up?

8 MR. NEELY: I -- it's my understanding that she's my
9 solicitor's office investigator's ex-sister-in-law.

10 THE COURT: Okay. What -- what ---

11 MR. NEELY: Just to make sure ---

12 THE COURT: --- which -- who is the solicitor's
13 investigator?

14 MR. NEELY: Sly Culler.

15 THE COURT: Who?

16 MR. NEELY: Sly Culler.

17 THE COURT: Sly Culler -- ex -- what, now?

18 MR. NEELY: Ex-sister-in-law.

19 THE COURT: Ex-sister-in-law.

20 MR. NEELY: Because he -- he hasn't been here.
21 Normally, he would.

22 THE COURT: Okay.

23 (Whereupon, the potential juror came forward.)

24 THE COURT: How you doing?

25 POTENTIAL JUROR: All right.

1 THE COURT: Do you know Sylvester Culler?

2 POTENTIAL JUROR: Yeah.

3 THE COURT: He's your ex ---

4 POTENTIAL JUROR: Brother-in-law.

5 THE COURT: --- ex-brother-in-law.

6 POTENTIAL JUROR: Yes.

7 THE COURT: All right. And -- and you know he works
8 for the solicitor's office?

9 POTENTIAL JUROR: I didn't know that.

10 THE COURT: You don't know where he works, because
11 he's an ex.

12 POTENTIAL JUROR: Many ---

13 THE COURT: Ex -- I know.

14 POTENTIAL JUROR: --- I know.

15 THE COURT: Okay. And would that affect your
16 ability to fair and impartial?

17 POTENTIAL JUROR: No.

18 THE COURT: Okay. All right. All right. Thank
19 you.

20 POTENTIAL JUROR: All right.

21 MR. NEELY: Thank you.

22 (Whereupon, the potential juror returned to the jury
23 panel.)

24 (Off the record briefly.)

25 THE COURT: All right. Ladies and gentlemen, we're

1 ready to strike the jury. If you'll give Mr. Truitt your
2 undivided attention.

3 Strikes are five and ten.

4 MR. DUNCAN: Five and ten. Okay.

5 DEPUTY CLERK OF COURT: Yes, Your Honor.

6 All right. Ladies and gentlemen of the jury, if I
7 call out your number, please come forward to this area
8 right in front of me; turn around; face -- face the
9 crowd; stand there till I give you further instructions.
10 If you have any personal items -- books, coats, umbrella,
11 etc. -- bring those with you if I call out your name.

12 First -- first juror, No. 167, 167.

13 (Whereupon, the potential juror came forward.)

14 DEPUTY CLERK OF COURT: All right. What says the
15 state?

16 MR. NEELY: Please present the juror.

17 DEPUTY CLERK OF COURT: What says the defense?

18 MR. DUNCAN: Please seat this juror.

19 DEPUTY CLERK OF COURT: Sir, if you would, please
20 have a seat over here in the jury box as directed by the
21 bailiff right there.

22 (Whereupon, the juror came forward into the jury
23 box.)

24 DEPUTY CLERK OF COURT: Number 251, 2-5-1.

25 (Whereupon, the potential juror came forward.)

1 DEPUTY CLERK OF COURT: All right. What says the
2 state?

3 MR. NEELY: Please excuse the juror.

4 DEPUTY CLERK OF COURT: All right. Sir, if you
5 would, please, return to the back of the courtroom where
6 you see that bailiff standing right there.

7 POTENTIAL JUROR: Yes, sir.

8 (Whereupon, the potential juror returned to the jury
9 panel.)

10 DEPUTY CLERK OF COURT: Thank you.

11 Number 203, 2-0-3.

12 (Whereupon, the potential juror came forward.)

13 DEPUTY CLERK OF COURT: What says the state?

14 MR. NEELY: Please present this juror.

15 DEPUTY CLERK OF COURT: What says the defense?

16 MR. DUNCAN: Please excuse this juror.

17 DEPUTY CLERK OF COURT: Sir, if you would, please
18 return to the back of the courtroom where you see the
19 bailiff.

20 (Whereupon, the potential juror returned to the jury
21 panel.)

22 DEPUTY CLERK OF COURT: 29, 29.

23 (Whereupon, the potential juror came forward.)

24 DEPUTY CLERK OF COURT: What says the state?

25 MR. NEELY: Please present this juror.

1 DEPUTY CLERK OF COURT: What says the defense?

2 MR. DUNCAN: Please excuse this juror.

3 THE COURT: Ma'am, if you would, return to the back
4 of the courtroom where you see that bailiff.

5 (Whereupon, the potential juror returned to the jury
6 panel.)

7 DEPUTY CLERK OF COURT: Number 173.

8 (Whereupon, the potential juror came forward.)

9 DEPUTY CLERK OF COURT: What says the state?

10 MR. NEELY: Please present this juror.

11 DEPUTY CLERK OF COURT: What says the defense?

12 MR. DUNCAN: Please seat this juror.

13 DEPUTY CLERK OF COURT: Ma'am, if you would, please
14 have a seat here in the jury box.

15 (Whereupon, the juror came forward into the jury
16 box.)

17 DEPUTY CLERK OF COURT: Number 12, 12.

18 (Whereupon, the potential juror came forward.)

19 DEPUTY CLERK OF COURT: What says the state?

20 MR. NEELY: Please present the juror.

21 DEPUTY CLERK OF COURT: What says the defense?

22 MR. DUNCAN: Please seat this juror.

23 DEPUTY CLERK OF COURT: Sir, if you would, please
24 have a seat here in the jury box.

25 (Whereupon, the juror came forward into the jury

1 box.)

2 DEPUTY CLERK OF COURT: Number 296, 2-9-6.

3 THE COURT: 2-9-6.

4 MR. DUNCAN: 2-9-6?

5 DEPUTY CLERK OF COURT: 296.

6 (Whereupon, the potential juror came forward.)

7 DEPUTY CLERK OF COURT: What says the state?

8 MR. NEELY: Please present this juror.

9 DEPUTY CLERK OF COURT: What says the defense?

10 MR. DUNCAN: Please excuse this juror.

11 DEPUTY CLERK OF COURT: Ma'am, if you would, please
12 return to the back where you see the bailiff.

13 (Whereupon, the potential juror returned to the jury
14 panel.)

15 DEPUTY CLERK OF COURT: Number 21, 2-1.

16 (Whereupon, the potential juror came forward.)

17 DEPUTY CLERK OF COURT: What says the state?

18 MR. NEELY: Please excuse this juror.

19 DEPUTY CLERK OF COURT: Sir, if you would, please
20 return to the back of the courtroom where you see the
21 bailiff.

22 (Whereupon, the potential juror returned to the jury
23 panel.)

24 DEPUTY CLERK OF COURT: Number 273, 2-7-3.

25 (Whereupon, the potential juror came forward.)

1 DEPUTY CLERK OF COURT: What says the state?

2 MR. NEELY: Please excuse this juror.

3 DEPUTY CLERK OF COURT: Sir, please return to the
4 back of the courtroom where you see the bailiff.

5 (Whereupon, the potential juror returned to the jury
6 panel.)

7 DEPUTY CLERK OF COURT: Number 312, 312.

8 (Whereupon, the potential juror came forward.)

9 MR. NEELY: What's that number?

10 DEPUTY CLERK OF COURT: 312.

11 What says the state?

12 MR. NEELY: Please present this juror.

13 DEPUTY CLERK OF COURT: What says the defense?

14 MR. DUNCAN: Please seat this juror.

15 DEPUTY CLERK OF COURT: Sir, please have a seat here
16 in the jury box.

17 (Whereupon, the juror came forward into the jury
18 box.)

19 DEPUTY CLERK OF COURT: Number 100, 100.

20 (Whereupon, the potential juror came forward.)

21 DEPUTY CLERK OF COURT: What says the state?

22 MR. NEELY: Please seat this juror.

23 DEPUTY CLERK OF COURT: What says the defense?

24 MR. DUNCAN: Please seat this juror.

25 DEPUTY CLERK OF COURT: Please have a seat here in

1 the jury box, sir.

2 (Whereupon, the juror came forward into the jury
3 box.)

4 DEPUTY CLERK OF COURT: 325, 3-2-5.

5 (Whereupon, the potential juror came forward.)

6 DEPUTY CLERK OF COURT: What says the state?

7 MR. NEELY: Please present this juror.

8 DEPUTY CLERK OF COURT: What says the defense?

9 MR. DUNCAN: Please excuse this juror.

10 DEPUTY CLERK OF COURT: Ma'am, if you would, return
11 to the back of the courtroom where you see the bailiff.

12 (Whereupon, the potential juror returned to the jury
13 panel.)

14 DEPUTY CLERK OF COURT: 234, 2-3-4.

15 (Whereupon, the potential juror came forward.)

16 DEPUTY CLERK OF COURT: What says the state?

17 MR. NEELY: Please present this juror.

18 DEPUTY CLERK OF COURT: What says the defense?

19 MR. DUNCAN: Please excuse this juror.

20 DEPUTY CLERK OF COURT: Sir, please return to the
21 back of the courtroom where you see the bailiff.

22 (Whereupon, the potential juror returned to the jury
23 panel.)

24 DEPUTY CLERK OF COURT: 177, 1-7-7.

25 (Whereupon, the potential juror came forward.)

1 DEPUTY CLERK OF COURT: What says the state?

2 MR. NEELY: Please present this juror.

3 DEPUTY CLERK OF COURT: What says the defense?

4 MR. DUNCAN: Please seat this juror.

5 DEPUTY CLERK OF COURT: Ma'am, please have a seat
6 over here in the jury box.

7 (Whereupon, the juror came forward into the jury
8 box.)

9 DEPUTY CLERK OF COURT: 355, 3-5-5.

10 (Whereupon, the potential juror came forward.)

11 DEPUTY CLERK OF COURT: What says the state?

12 MR. NEELY: Please present this juror.

13 DEPUTY CLERK OF COURT: What says the defense?

14 MR. DUNCAN: Please excuse this juror.

15 DEPUTY CLERK OF COURT: Please return to the back of
16 the courtroom where you see the bailiff.

17 (Whereupon, the potential juror returned to the jury
18 panel.)

19 DEPUTY CLERK OF COURT: 131, 131.

20 (Whereupon, the potential juror came forward.)

21 DEPUTY CLERK OF COURT: What says the state?

22 MR. NEELY: Please present this juror.

23 DEPUTY CLERK OF COURT: What says the defense?

24 MR. DUNCAN: Please seat this juror.

25 DEPUTY CLERK OF COURT: Sir, please have a seat here

1 in the jury box.

2 (Whereupon, the juror came forward into the jury
3 box.)

4 DEPUTY CLERK OF COURT: 113, 1-1-3.

5 (Whereupon, the potential juror came forward.)

6 DEPUTY CLERK OF COURT: What says the state?

7 MR. NEELY: Please present this juror.

8 DEPUTY CLERK OF COURT: What says the defense?

9 MR. DUNCAN: Please seat this juror.

10 DEPUTY CLERK OF COURT: Ma'am, please have a seat
11 here in the jury box.

12 (Whereupon, the juror came forward into the jury
13 box.)

14 DEPUTY CLERK OF COURT: Number 3-0-3, 3-0-3.

15 (Whereupon, the potential juror came forward.)

16 DEPUTY CLERK OF COURT: What says the state?

17 MR. NEELY: Please present this juror.

18 DEPUTY CLERK OF COURT: What says the defense?

19 MR. DUNCAN: Please seat this juror.

20 DEPUTY CLERK OF COURT: Sir, please have a seat
21 there in the jury box.

22 (Whereupon, the juror came forward into the jury
23 box.)

24 DEPUTY CLERK OF COURT: 295, 2-9-5.

25 (Whereupon, the potential juror came forward.)

1 DEPUTY CLERK OF COURT: What says the state?

2 MR. NEELY: Please seat this juror.

3 DEPUTY CLERK OF COURT: What says the defense?

4 MR. DUNCAN: Please seat this juror.

5 DEPUTY CLERK OF COURT: Ma'am, please have a seat
6 here in the jury box.

7 (Whereupon, the juror came forward into the jury
8 box.)

9 DEPUTY CLERK OF COURT: 3-0-6, 3-0-6.

10 (Whereupon, the potential juror came forward.)

11 DEPUTY CLERK OF COURT: What says the state?

12 MR. NEELY: Please present this juror.

13 DEPUTY CLERK OF COURT: What says the defense?

14 MR. DUNCAN: Please seat this juror.

15 DEPUTY CLERK OF COURT: Ma'am, please have a seat
16 here in the jury box.

17 (Whereupon, the juror came forward into the jury
18 box.)

19 DEPUTY CLERK OF COURT: 43, 4-3.

20 (Whereupon, the potential juror came forward.)

21 DEPUTY CLERK OF COURT: What says the state?

22 MR. NEELY: Please present this juror.

23 DEPUTY CLERK OF COURT: What says the defense?

24 MR. DUNCAN: Please excuse this juror.

25 DEPUTY CLERK OF COURT: Ma'am, if you would, please

1 return to the back of the courtroom where you see the
2 bailiff.

3 (Whereupon, the potential juror returned to the jury
4 panel.)

5 DEPUTY CLERK OF COURT: 141, 141.

6 (Whereupon, the potential juror came forward.)

7 DEPUTY CLERK OF COURT: What says the state?

8 MR. NEELY: Please present this juror.

9 DEPUTY CLERK OF COURT: What says the defense?

10 MR. DUNCAN: Please seat this juror.

11 DEPUTY CLERK OF COURT: Ma'am, please have a seat in
12 the jury box.

13 (Off the record briefly.)

14 THE COURT: Pick two alternates. Strikes are one
15 and two ---

16 DEPUTY CLERK OF COURT: Yes, sir.

17 THE COURT: --- as to each alternate.

18 DEPUTY CLERK OF COURT: 269, 269.

19 (Whereupon, the potential juror came forward.)

20 DEPUTY CLERK OF COURT: What says the state?

21 MR. NEELY: Please excuse this juror.

22 DEPUTY CLERK OF COURT: Sir, please return to the
23 back of the courtroom where you see the bailiff.

24 (Whereupon, the potential juror returned to the jury
25 panel.)

1 DEPUTY CLERK OF COURT: 279, 2-7-9.

2 (Whereupon, the potential juror came forward.)

3 DEPUTY CLERK OF COURT: The state challenge for
4 cause?

5 MR. NEELY: The state does not.

6 DEPUTY CLERK OF COURT: What says the defense?

7 MR. DUNCAN: Please seat this juror.

8 DEPUTY CLERK OF COURT: Ma'am, please have a seat
9 there in the jury box.

10 (Whereupon, the juror came forward into the jury
11 box.)

12 DEPUTY CLERK OF COURT: 114, 1-1-4.

13 MR. DUNCAN: 114?

14 DEPUTY CLERK OF COURT: Yes, sir.

15 (Whereupon, the potential juror came forward.)

16 DEPUTY CLERK OF COURT: What says the state?

17 MR. NEELY: No challenge.

18 DEPUTY CLERK OF COURT: You've got a strike.

19 THE COURT: You have a ---

20 DEPUTY CLERK OF COURT: You have a ---

21 THE COURT: Strikes are one and two as to each
22 alternate.

23 MR. NEELY: I've already used my strike.

24 DEPUTY CLERK OF COURT: You get ---

25 MR. NEELY: Oh. I'm sorry. Please forgive me.

1 Please present this juror.

2 DEPUTY CLERK OF COURT: What says the defense?

3 MR. DUNCAN: Please excuse this juror.

4 DEPUTY CLERK OF COURT: Ma'am, if you would, please
5 return to the back of the courtroom there.

6 (Whereupon, the potential juror returned to the jury
7 panel.)

8 DEPUTY CLERK OF COURT: 79, 7-9.

9 (Whereupon, the potential juror came forward.)

10 DEPUTY CLERK OF COURT: What says the state?

11 MR. NEELY: Please present this juror.

12 DEPUTY CLERK OF COURT: What says the defense?

13 MR. DUNCAN: Please seat this juror.

14 DEPUTY CLERK OF COURT: Sir, if you would, please
15 have a seat here in the jury box.

16 THE COURT: Are there any matters of law regarding
17 the jury selection?

18 MR. NEELY: Not from the state, Your Honor.

19 MR. DUNCAN: Not from the defense.

20 THE COURT: All right. Ladies and gentlemen, you
21 all have been selected to be the jury in this case.

22 And, ladies and gentlemen, those of you who are not
23 selected ---

24 What do you want to have them do, Mr. Truitt?

25 DEPUTY CLERK OF COURT: Report down to the jury-

1 assembly room. We'll put them on callback system, Your
2 Honor.

3 THE COURT: All right. If you all will go back
4 downstairs, you'll get some more instructions down there.
5 Thank you all for your cooperation.

6 (Whereupon, the unselected jury panel exited the
7 courtroom.)

8 (Off the record briefly.)

9 THE COURT: So once -- so, ladies and gentlemen,
10 once you are selected on a jury, you're not allowed to
11 discuss the case in any form or fashion, with each other
12 or with anyone else not on the jury. You're not to
13 engage in any form of research, investigation, or
14 anything of that nature.

15 And you're to have no contact with anyone involved
16 in the case, including any of the lawyers, witnesses, or
17 the like. And -- and you're not to, at any time, mill
18 around the outer areas of the courtroom where people who
19 may have an interest in this state -- in the case might
20 congregate.

21 Now, the -- our plan is to deal with some other
22 matters this afternoon and have you return at 10 tomorrow
23 morning. So we want you to go to the jury-room area and
24 get some instructions from the bailiffs as to how are you
25 going to come and go. And we'll look forward to seeing

1 you all at ten o'clock tomorrow morning.

2 DEPUTY CLERK OF COURT: Follow the bailiff out that
3 way.

4 (Whereupon, the jury exited the courtroom at 1:33
5 p.m.)

6 (Off the record briefly.)

7 THE COURT: All right. Well, we're going to do a
8 relatively quick lunch and then get into the stand-your-
9 ground.

10 MR. DUNCAN: All right, sir.

11 THE COURT: So it's now 1:35. We'll start back at
12 2:15.

13 MR. DUNCAN: That -- that works for me, Your Honor.

14 MR. NEELY: That'll work, Your Honor.

15 THE COURT: Okay. We'll reconvene at 2:15.

16 MR. DUNCAN: Thank you.

17 THE COURT: Yep.

18 (The Court went off the record at 1:35 p.m.)

19 (The Court went on the record at 2:29 p.m.)

20 THE COURT: Okay. Mr. Duncan?

21 MR. DUNCAN: Yes, sir, Your Honor.

22 THE COURT: Yes, sir.

23 MR. DUNCAN: Your Honor, I would call Mikah Green

24 ---

25 THE COURT: Okay.

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1 MR. DUNCAN: --- to the stand.

2 THE COURT: All right. This is the stand-your-
3 ground hearing, Mr. Green.

4 (Whereupon, the witness came forward.)

5 MIKAH GREEN, having been first duly sworn,
6 testified as follows:

7 DEPUTY CLERK OF COURT: Please have a seat there,
8 sir. State your full name for the record.

9 THE WITNESS: My name is Mikah Nelsun Green.

10 DIRECT EXAMINATION

11 BY MR. DUNCAN:

12 Q Good afternoon, Mr. Green.

13 A Good afternoon.

14 Q How are you, sir?

15 A I'm doing good. How you doing today, sir?

16 Q Fine. Mr. Green, are you nervous?

17 A Yes, sir.

18 Q All right. Be calm. Mr. Green, would you tell the
19 Court how you came to be at the Lakeshore Apartments at
20 7645 Garners Ferry Road in Richland County on the
21 Saturday afternoon, March 31st, 2019?

22 A Well, it was -- I stopped by to visit a friend named
23 Beasley. And ---

24 Q Beezie?

25 A Beezie or Beasley -- we call him Beezie. Yes, sir.

1 He -- we were talking. He -- we -- it came to the
2 discussion of having a cookout, putting something on the
3 grill. So I end up spending time with him for that day,
4 sir.

5 Q Okay. All right. Did -- did you go to the store?
6 I mean, how -- how -- you said you were going put
7 something ---

8 A Yeah.

9 Q --- on a grill.

10 A I ---

11 Q What happened?

12 A We were talking. I was -- I went -- I went out -- I
13 left the house. I went out to go get my female friend
14 something to eat from Waffle House. While waiting on the
15 food from Waffle House, I stopped by the apartments.

16 And we were talking. It was a beautiful day
17 outside. He said, "Man, we need to put something on the
18 grill." Said, "It'd be a nice day to put something on
19 the grill."

20 I said, "All right." I said, "Well, I'm about to go
21 get the meat. You going cook it?"

22 He said, "Yeah."

23 So I went out. I got the meat from Walmart; got
24 some charcoal, and I pulled back on and we -- he started
25 cooking on the grill.

1 Q So ---

2 A We were having cookout.

3 Q --- at -- at that time -- at that -- at that point
4 in time, is this early in the afternoon? Is it middle of
5 the afternoon? Do you remember?

6 A At this time, it's, like -- it's, like -- probably,
7 like twelve/one o'clock at this time.

8 Q Okay. In the -- in the daytime?

9 A Yeah. I can't -- I can't remember exactly the time.
10 But it -- it was, like -- it was -- it was early. It --
11 it was still early.

12 Q All right. Mr. Green, at -- at that point in time,
13 middle of the day ---

14 A Yeah.

15 Q --- and you're getting meat with your friend,
16 Beezie, were there -- were there other people out around
17 his apartment ---

18 A It probably ---

19 Q --- or ---

20 A --- it probably was a couple. You know, people
21 starts coming more and more gradually. Yeah. People
22 started coming more and more ---

23 THE COURT: Hold on.

24 A --- gradually, sir.

25 THE COURT: Hold on a moment.

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1 THE COURT REPORTER: Mr. Duncan -- Your Honor, I
2 just -- they're talking over each other, and it's hard
3 for me to pick out which one I'm supposed to be paying
4 attention to.

5 THE COURT: Okay.

6 THE WITNESS: I apologize.

7 MR. DUNCAN: I'm -- it's probably my fault too, but
8 we'll -- we'll try to do better.

9 THE COURT REPORTER: Thank you, sir.

10 Q So, Mr. Green, you were -- you were saying that you
11 and Beezie had begun to cook out; is that correct?

12 A Yes, sir.

13 Q And a couple of other people had come by?

14 A Yes, sir.

15 Q And when you said "come by," you -- where -- his --
16 where was his apartment?

17 A His apartment -- his apartment's right -- oh, I'm --
18 you done?

19 Q Yes, sir.

20 A All right. I apologize for that. His apartment's
21 right there on the front of the apartment when you first
22 turn in. It's on the first -- first entranceway.

23 Q Okay. So ---

24 A I don't know the exact number, sir.

25 Q So coming -- coming right off of Garners Ferry Road,

1 is it on the left-hand side as you're coming in?

2 A Yes, sir.

3 Q Okay. All right. And were you -- were you in the
4 -- in the parking lot or were you, like, in -- on a grass
5 -- where -- where were you?

6 A On his front porch.

7 Q Front porch?

8 A Yes, sir.

9 Q All right. What -- what happened after -- what
10 happened after that?

11 A People started coming. I think -- I dropped --
12 first, I dropped the food off. Then I left and I went
13 and got some clothes. After that, I put my clothes on
14 and came back.

15 I thought he was going bring out a big grill, but he
16 end up bringing out a small one. So it was -- it was
17 going take forever to cook the meat. We just out there.

18 Somebody -- we started gambling, I -- people started
19 gambling. A lot of other things started taking place,
20 just waiting on the meat to get cooked.

21 Q When -- when you said you started gambling, what
22 kind of gambling? What were you doing?

23 A We were rolling dice.

24 Q All right.

25 A Yes, sir.

1 Q So you -- playing a dice game?

2 A Yes, sir.

3 Q All right. Mr. Green, I -- obviously, you know why
4 we're here ---

5 A Yes, sir.

6 Q --- today. It's about the death of Stacy Rhodes.

7 A Yes, sir.

8 Q Did -- tell the Court -- tell the judge how you knew
9 Mr. Rhodes.

10 A All right. I knew Mr. Rhodes from -- I knew Mr.
11 Rhodes from gambling. We were -- we -- we're gambling
12 partners, I guess. Every day he'll call me or -- every
13 day we'll see each other -- whenever he -- we see each
14 other, he ask me to gamble, so we gamble.

15 Q What -- you said you were gambling partners.

16 A Yes, sir. We were friends.

17 Q About how long had you known Mr. Rhodes?

18 A A -- a couple months.

19 Q All right. And what kind of gambling did y'all --
20 did y'all do?

21 A We rolled -- we rolled dice, bet on games, things
22 like that.

23 Q Play cards?

24 A Not really cards.

25 Q Okay.

1 A No cards.

2 Q All right. So, Mr. Green, on this -- on this
3 particular day, did -- did Mr. Rhodes live in that
4 apartment complex?

5 A Yes, sir, he did stay in the apartment complex. He
6 had a apartment out there. But it wasn't on -- on that
7 -- from that front side, it was on the -- on the other
8 side.

9 Q Had -- had you been to his home, to his apartment?

10 A Before -- yes, sir. I had -- I'd been there before.

11 Q All right. Had ---

12 A Yes, sir.

13 Q Had you ---

14 A Numerous of times.

15 Q Numerous times.

16 A Yes, sir.

17 Q All right. So, I mean, would you consider Mr.
18 Rhodes a -- a friend?

19 A Yes, sir. He -- at -- at that time, yes, sir. He
20 was -- he was -- I consider him as a friend.

21 Q All right. All right. So you said y'all -- you --
22 y'all were gambling. Now, how -- about how many people
23 were out gambling, playing dice?

24 A Like, four or five, five/six. About five to six
25 people -- four to five people ---

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1 Q And ---

2 A --- five or six people.

3 Q --- at -- did you know who the people were? And I
4 don't mean their legal name, but you -- did you know
5 them?

6 A Yes, sir.

7 Q And Mr. Stacy Rhodes was one of them?

8 A Yes, sir.

9 Q What -- how did you -- what did you call him? What
10 was his name?

11 A I called him Boi.

12 Q Boi?

13 A Yes ---

14 Q Like ---

15 A --- Boi. Yes, sir.

16 Q --- like B-o-y?

17 A B-o-i, yeah.

18 Q Okay. All right. I mean, was that how he was known
19 in the apartment complex or in the neighborhood, as far
20 as you know?

21 A Yes, sir.

22 Q All right. All right. And so y'all playing dice,
23 shooting dice, and what happened next?

24 A We started shooting dice. I'm go at -- we were
25 shooting dice. You know, the game lasted for a while.

1 I'm going to fast-forward -- long story short, it was a
2 -- it -- I'm going to fast-forward to the part that I
3 feel like you want me ---

4 Q Yeah. Well ---

5 A --- to ---

6 Q --- I tell you what: Did -- did you -- did y'all
7 get in a argument?

8 A He said -- yes, sir. At ---

9 Q He said.

10 A He -- he ---

11 Q Who?

12 A --- he argued. Yes, sir. He -- it was a -- it
13 wasn't a argument because I didn't engage in an argument.
14 I was trying to calm him down, sir.

15 Q Yeah. And we're talking about Mr. Rhodes?

16 A Yes, sir.

17 Q And what did -- what did Mr. Rhodes say?

18 A Mr. Rhodes went to go pick up a phone call. His
19 number that he rolled was very low, so it was not like he
20 was going win anyways. Someone else snatched -- snatched
21 -- tried to snatch the pot.

22 I won. Somebody else tried to snatch the pot. It
23 was something over me and -- me and another person. The
24 die rolled to the side. It was -- it was something.

25 I can't remember exactly what it was. But it was

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1 something. And it was -- it was basically over the
2 money. You get what I'm saying?

3 I -- I already was up, so it was no need for me to
4 be mad about it. You get what I'm saying? I just said,
5 "You" -- I -- I told -- I told -- I told the guy he lost;
6 it wasn't his.

7 Mr. Rhodes been lost. He took a phone call like he
8 didn't care. He just turned his back, like, "Yeah, I'm
9 out here. Come on, pull up."

10 So -- excuse my language. After that, it just
11 escalated and escalated and escalated. It's like he kept
12 escalating the situation. He ran off, and he came back
13 with a pistol.

14 Q He -- all right. So Mr. Rhodes had walked away from
15 the -- from the game ---

16 A Yes, sir.

17 Q --- from the dice game?

18 A No. He ran away from the game and ran to apartment
19 and grab a pistol and came back, sir.

20 Q All right. And you say he grabbed a pistol. Did
21 you see the pistol?

22 A Yes, sir.

23 Q What -- what did Mr. Rhodes say to you when he came
24 back to the -- back to the location, back to the ---

25 A He came back ---

1 Q --- apartment?

2 A --- he came back inside of a vehicle with a -- a
3 male, some -- some man. The man that came -- that --
4 that came -- that got out -- got out of the -- when he
5 got out of the vehicle, he said, "I'm going gun you down
6 on your own blood. I'm going to gun you down like that."

7 Q Who said that?

8 A Mr. -- Mr. Rhodes said that. And the man hopped out
9 of the vehicle. He said, "Hold, wait, wait, wait. You
10 like my nephew; he like my nephew. Y'all stop. You
11 stop. Stop. You talking about shooting him? Stop."

12 Q So the other -- the other fella ---

13 A Yeah.

14 Q --- knew you ---

15 A From -- through Mr. Rhodes -- he knew -- he knew a
16 family member. He knew my -- my father from back in the
17 days. And I guess they had some type of relationship.
18 And I met him a couple nights before at Mr. Rhodes'
19 house. And I told him who I was. So that's how I knew
20 him.

21 Q Okay.

22 A I don't really know him. I just know of him, sir.

23 Q All right. But this -- this gentleman who was
24 driving the vehicle -- is that right?

25 A Yes, sir, he was driving the vehicle that Mr. Rhodes

1 came back in. Yes, sir. First they went down; then they
2 came back up. And when they came through, people started
3 running because they thought it was going be a drive-by.

4 Q All right. The -- the ---

5 A It -- they -- they -- they -- they drove in
6 aggressively with the -- they drove in aggressively and
7 he hop -- the way he hopped out ---

8 Q And ---

9 A --- with a gun in his hand.

10 Q And Mr. Rhodes threatened you at that time?

11 A Yes, sir. He said, "I'll -- I'll -- I'm a -- I'm a
12 -- I'll gun you down out here. On blood, I'll gun you
13 down out here. I'll kill you."

14 He kept running up towards me with the gun,
15 aggressively. He stated that -- at -- at one point, he
16 stated he wanted me to pull my gun and shoot him. I
17 said, "Why would you want me to do that?" He ---

18 Q All right. Let me stop you for one second. So you
19 -- you had a pistol?

20 A Yes, sir. The whole time, I had one on me. Yes,
21 sir.

22 Q All right. All right. Had -- the driver of the
23 vehicle, did -- was -- was he able to calm the situation?

24 A No. It seemed like Mr. Rhodes got aggressive --
25 very aggressive. I don't know if it was the alcohol he

1 was drinking earlier, what made him so aggressive. I
2 don't know what it was. He just got more and more
3 aggressive, sir.

4 Q What ---

5 A I -- I tried to tell him, "Man, it ain't that
6 serious. Man, calm down."

7 It seemed -- after every dice game we that we have
8 anyways, I -- I -- I usually give him something back if
9 he lose.

10 Q All right.

11 A So it's no need to really even be mad about
12 something that petty, sir.

13 Q How -- how much money was on the -- on the ground in
14 the pot?

15 A If it's five people, \$20 a person, that's \$100.
16 Maybe you betting a hundred -- a hundred -- a hundred
17 piece on the side. It -- it -- it -- I couldn't -- I
18 can't even remember. But I know it -- it -- it was
19 probably about \$100 ---

20 Q Okay.

21 A --- altogether.

22 Q Had -- you said y'all gambled regularly, you and Mr.
23 Rhodes.

24 A Yes, sir.

25 Q Had y'all been gambling earlier in the week?

1 A Yes, sir. We gambled night before.

2 Q What had happened then?

3 A It -- I won, like -- I think, like, a thousand
4 dollars off him. I gave him 200 back. I left with,
5 like, 800. After that, the next day I seen him, he came
6 to me about gambling when I seen him outside that day.
7 He said, "Come on. You got to let me get some of my
8 money back."

9 Q Okay.

10 A Altogether ---

11 Q So ---

12 A --- within that whole month, I won a nice little
13 penny off of him. I -- I -- I don't know exactly how
14 much it was.

15 Q All right. But the night before, you had won, like,
16 \$800 off ---

17 A Yes, sir.

18 Q --- Mr. Rhodes?

19 A Yes, sir.

20 Q All right. All right. And you -- you've said Mr.
21 Rhodes got more aggressive it -- it -- just ---

22 A Yeah.

23 Q --- kept getting ---

24 A Like ---

25 Q --- more aggressive?

1 A --- like got -- trying to -- trying to justify a
2 reason, I guess, to go ahead and rob me. That's what I
3 felt like, sir. I was scared -- I -- I felt like he was
4 -- he was trying to rob me. Yes, sir. He was getting
5 more and more aggressive.

6 Q So at ---

7 A Somebody offered him the money back. He said, "No.
8 I don't want that money. I want his money." He said,
9 "On blood, I'll gun you down out here. On blood, I'll
10 kill you."

11 It's just -- he started -- he -- he made it a gang
12 situation. After that, people started huddling around --
13 I -- I don't know. I was -- I was terrified. I was
14 scared for my life, sir.

15 Q All right. What -- did he -- did he pull a pistol?
16 Did ---

17 A Yes, sir.

18 Q --- he show you the pistol?

19 A Yes, sir. Numerous of times. He would pull it out,
20 and he'd put it back up; pull it out; put it back up.
21 Yes, sir. Cock it back. Yes, sir.

22 Q Why didn't you leave?

23 A He told me if I left -- he told me if I left -- if I
24 was to leave -- when he first ran and he ran to the top
25 of the entry, he said, if -- if I leave out of here with

1 that money, he said, "I'm going kill you, like" -- he
2 said, "I'm a gun -- I'm a -- I'm a" -- how he said? I
3 want to give you the exact words, what he said. Give me
4 one second.

5 I believe his exact words was he was going Swiss-
6 cheese the car or he was going do -- he was going to
7 shoot the car or he was going do something to the car if
8 I was to leave, like, with the money. Then, he was right
9 there at the top of the entrance. I can't -- the house
10 that he ran into to get the gun, he already at the house,
11 basically. So we got -- I couldn't -- I couldn't really
12 go no place, so ---

13 Q How -- how had you arrived at the apartments? Had
14 you driven a ---

15 A I drove -- I drove over there. Yes, sir.

16 Q Could you get to your car?

17 A No, sir.

18 Q All right. All right. So Mr. Rhodes was getting
19 more aggressive. And -- and then -- and then what?

20 A We tried -- they tried to calm him down; I tried to
21 calm him down; tried to talk to him. He -- he kept
22 pulling the gun out. Just kept -- he just kept going,
23 kept going.

24 And I'm a give you a whole story. I'm about to go
25 and start from -- I'm a go and start from when -- when it

1 basically -- and I'm going ---

2 Q All right.

3 A --- finish the whole thing.

4 When he came back with the gun, he came inside of a
5 vehicle. He hopped out. He said that he was going gun
6 me down right here.

7 Guy said, "You talking about shooting him? No,
8 don't shoot him. He like my nephew; you like my nephew."

9 He -- he ran towards me. He's on me with the gun.
10 You got people trying to calm down; I'm trying to calm
11 him down.

12 "Man, stop. Stop. Hold on. Wait, wait, wait. It
13 ain't that serious."

14 Somebody offered him the money. Was, like, "Man,
15 here. Man, I got -- I got the" -- somebody said, "I got
16 the money. Here go to -- here go -- here go the money
17 back, bro. Here your money that you put in that."

18 And he was, like, "I don't want that money. I want
19 his money."

20 His brother went to the side of the car on the other
21 side of the car, like how a police officer would. I
22 guess, a -- a subject's trying to rob a bank -- say, a
23 subject's trying to rob a bank. And they got a -- and
24 they got a firearm on them. He's like this. He's --
25 he's basically like this right here; the car right there

1 on top of the hood. It's getting on like he -- he has a
2 firearm.

3 He -- he's still steady threatening me. Somebody
4 pulled up. He -- somebody pulled up. He -- he's still
5 going on. "I'm a -- I'm a kill you. I'm a gun you
6 down," like that.

7 Somebody, like, what's -- I heard somebody say,
8 "What's wrong with you? What you got going on? Calm
9 down."

10 He said -- he said, "Oh, I'm about to kill this
11 pussy-ass nigger. On blood, I'm about to kill him."

12 I heard shots in which time I ran. I was here --
13 like, I -- I squatted. I ran. I pulled the gun off me
14 and I -- I shot while -- I shot while I was running, sir.

15 Q All right.

16 A And I ran for my life. I had people behind me,
17 shooting. It was still shots going on. I ran and I ran.
18 I ran to the top of the -- where the apartments at. I
19 was going jump over the gate, but it was a big ditch.

20 So I stopped right there, and I kept -- I went
21 straight; kept going towards the Citgo. I ran past the
22 Citgo. I kept going; kept going; kept going, until I was
23 able to find someplace to go where it would be -- where I
24 stopped hearing shots.

25 Q All right.

1 A And when I got there, I was -- I was dripping in
2 sweat. I was trembling; I was scared for my life. The
3 -- the next -- I -- I -- I go to a -- a place where I
4 felt comfortable. The next day I called law enforcement
5 and I informed them -- informed them of what happened,
6 sir.

7 Q Did -- when you were running, did you throw down the
8 gun?

9 A The gun fell one time. I -- I went to go -- to go
10 grab the gun -- by the time I got where I was going, I
11 don't know what happened to the gun. The gun was gone.

12 When I got where I was going, I was dripping in
13 sweat. I was scared. I don't know exactly where I
14 dropped the gun at. I don't know where -- I know I
15 dropped it.

16 Evidently, I dropped it. I had to pay somebody to
17 take me to get where I was going. When I got -- started
18 looking for the gun, I noticed it was gone. Either I
19 could've dropped it on the path; I could've dropped it in
20 the front of Lakeshore. I could've -- I don't know
21 exactly where it was at -- where it was at, sir.

22 Q You -- you ran -- well, did -- how many shots did
23 you fire -- do you remember firing?

24 A Like, one, maybe -- it couldn't been no more than
25 three. I remember the gun had no more than three

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1 bullets. That's what I -- I remember about the gun: It
2 had no more than probably about three bullets, I think.

3 Q All right. All right. You -- do you know -- do you
4 know, as you sit there today, do you know if you hit
5 Stacy Rhodes? Do you know if your shots hit Stacy
6 Rhodes?

7 A I -- I -- I can't say, because I was running when I
8 shot. I didn't just sit there and -- I was scared for my
9 life, sir. It was so much going on. I heard
10 shots. All I remember is him keep pulling the gun
11 on me: "I'm -- I'm a gun you down and I'm -- on blood,
12 I'll kill you. I'll -- if you leave, I'm -- I'll kill
13 you."

14 I -- I was scared for my life, sir. I ain't never
15 been through nothing like that before a day in my life
16 ---

17 Q Do you ---

18 A --- never.

19 Q Do you -- do you remember telling Investigator
20 Hilton with the City of Columbia that you closed your
21 eyes before you shot?

22 A I remember telling him, I closed my eyes. I -- I
23 did like this. When I went to go tell him -- tell him
24 about the shots, I remember he said something about:
25 "Oh, wait a minute." I remember he told me to wait,

1 because he had something to do or something like that.

2 I can't remember exactly what I told him. But I
3 remember -- I remember what happened, sir. I remember --
4 I closed my eyes. I heard -- I was closing my eyes,
5 because I -- I was, like -- I was in disbelief that this
6 was happening.

7 I really was scared. I was in disbelief that it was
8 happening. I was shaking my head. I can't belief this
9 going on.

10 Next thing you know, I hear: "I'm about to kill
11 this pussy-ass nigger on blood," again. I hear it again.
12 I hear the -- tcht-tcht (phonetic) -- I hear the shots:
13 doom, doom, doom, doom, doom (phonetic) -- doom, doom --
14 like, I hear them.

15 So I go to duck; take, like, you know, try to -- I'm
16 -- I'm not trying to get hit. So I duck, and I go to
17 running. And I come off the hip and I just -- I just --
18 I -- I shot.

19 Q And, Mr. Green, you -- you described leaving the
20 apartments, running. And you would up on Garners Ferry
21 Road; you ---

22 A I -- I ---

23 Q --- said the Citgo.

24 A By the Citgo. I had -- I -- I don't -- I had shots
25 behind me. I remember hearing: tcht-tcht, tcht-tcht,

1 tcht-tcht, tcht-tcht, tcht (phonetic). I don't know if
2 they were shots coming past my ear. If -- I don't know
3 if that was the shots. I don't know -- I don't know what
4 it was.

5 I just kept going. I remember hearing shots. I
6 just kept going until I got to a destination that was
7 safe; that I at least knew I felt like I was safe.

8 I paid somebody for a ride. I was smoking
9 cigarettes back to back to back. I was dripping in
10 sweat; I was trembling. I was scared for my life, sir.

11 Q And -- all right. And so the -- was it the next --
12 this is Saturday night when you get -- get the ride --
13 you get a ride back to your place?

14 A Yes, sir. It's Saturday afternoon.

15 Q Saturday evening.

16 A Yes, sir. Yes, sir.

17 Q All right. All right. On -- on Sunday morning, you
18 call -- you called the police; is that correct?

19 A Yes, sir.

20 Q And you -- you called the Richland County Sheriff's
21 Department?

22 A Yes, sir.

23 Q And what did you do? What -- what happened with
24 that?

25 A I told them that -- the situation that I was in.

1 And it -- they -- and they informed me that -- I -- I
2 didn't want -- I didn't want -- this is what I was scared
3 of: You see a lot of times where people -- it's
4 situations where they come and they -- they lock people
5 up or they -- they -- they -- people get hurt; people get
6 shot.

7 I knew I -- I knew I wouldn't do anything wrong. I
8 was out there, minding my business. I didn't do anything
9 -- I was not there to hurt nobody. I didn't do anything
10 wrong.

11 So I said, You know what? Let me turn myself in. I
12 said -- I was supposed to call the police that night.
13 But I waited till I got to a safe location to call the
14 police. It was already in my plans to call the police.
15 I waited till I got to a safe location to call the police
16 and inform them of what happened.

17 Q And did -- did someone take you over to the
18 sheriff's department on Two Notch, or how'd -- how'd you
19 get there?

20 A I met -- I met -- Officer Streater and Investigator
21 Alvarez at the Walmart on Garners Ferry. And they took
22 me to -- they took me to the ---

23 Q Two Notch Road or somewhere else?

24 A The City of Columbia, sir.

25 Q City of Columbia.

1 A Yes, sir.

2 Q Okay. All right.

3 A Yes, sir.

4 Q All right. And you -- I -- you told them basically
5 what you just told me and the Court just now?

6 A Yes, sir.

7 Q Okay. All right. Mr. Green, answer any questions
8 that the state has.

9 A Yes, sir.

10 CROSS-EXAMINATION

11 BY MR. NEELY:

12 Q Mr. Green?

13 A Yes, sir.

14 Q You just told us that you were trying to calm Mr.
15 Rhodes down?

16 A Yes, sir.

17 Q Was that kind of consistent throughout the whole
18 day?

19 A Basically, yeah. Because it seemed like he was
20 building himself up for this.

21 Q So you -- you weren't hyped?

22 A No, sir.

23 Q He was hyped?

24 A Yes, sir.

25 Q You weren't being aggressive?

1 A No, sir.

2 Q You remember giving a statement to law enforcement
3 on March 31st?

4 A Yes, sir.

5 Q You remember telling law enforcement: "I got kind
6 of aggressive; kill a fire by smothering it"?

7 A No.

8 Q You don't recall saying that?

9 A No, sir. I would never say nothing like that.

10 Q You would never say anything like that?

11 A No. I'm not that type of person, sir.

12 Q Oh, okay. But if I played that video, that clip,
13 you were law -- you were with law enforcement and you did
14 give that statement, right?

15 A Can you -- can you play it? I -- I don't remember
16 saying that.

17 Q Okay. I'm just asking right now.

18 A Yes, sir.

19 MR. NEELY: Your Honor, the state would move to
20 enter Mikah Green's statement.

21 THE COURT: Did you -- haven't you all stipulated
22 that the statement is ---

23 MR. DUNCAN: It's in.

24 THE COURT: --- in evidence?

25 MR. DUNCAN: I mean, can come in. Yes.

1 THE COURT: Can come in? All right. So it's in.

2 Q So -- but you did give a statement to law
3 enforcement?

4 A Yes, sir.

5 Q They did Mirandize you and -- and tell you that you
6 had -- all about your rights beforehand ---

7 A Yes, sir.

8 THE COURT: Okay.

9 Q --- at the beginning ---

10 THE COURT: So let's mark ---

11 Q --- of the statement?

12 THE COURT: --- that as a Court's exhibit, number
13 something.

14 MR. NEELY: This would be Court's No. 3, Your Honor.

15 THE COURT REPORTER: Yes, sir.

16 (Whereupon, Court's Exhibit 3 was marked for
17 identification.)

18 MR. NEELY: Thank you.

19 THE COURT REPORTER: Yes, sir.

20 Q But you would never say that, right?

21 A I don't think I'd say anything like that. No. No,
22 sir.

23 Q All right. You also said: "I would never do
24 anything to hurt him." Remember saying that?

25 A I might've would say something like that. Because I

1 wouldn't -- I -- I wouldn't want to do nothing to hurt
2 him. No, sir, I wouldn't.

3 THE COURT: Mr. Solicitor, I couldn't -- can't
4 understand ---

5 A I don't -- I don't remember saying it, though.

6 THE COURT: I can't understand your question. What
7 did you ask him?

8 MR. NEELY: I asked him ---

9 THE COURT: Is your mic -- can you turn it around?

10 MR. NEELY: And I'll try to speak up, Your Honor.

11 THE COURT: All right.

12 Q You said to law enforcement when -- during the
13 interview: "I would never do anything to hurt him."
14 Isn't that what you said?

15 A I might've would've said something like that. But I
16 don't remember if I said that that day. No, sir, I don't
17 remember that.

18 Q Okay. And just to clarify the time line, you said
19 Waffle House was before or after dice?

20 A Waffle House before, because when I woke up, she
21 said she wanted some Waffle House, sir.

22 Q Okay. And so if, in your statement to law
23 enforcement, you said that you were gambling and then
24 your girlfriend called you for something to eat, that's
25 not how it happened?

1 A No, sir. I don't -- I don't -- I don't -- I don't
2 recall that.

3 Q Okay. So if you said: "We started rolling dice --
4 like, we were rolling dice.

5 "My girlfriend called me -- my girlfriend called me
6 and said: 'I'm hungry; I want something to eat.'

7 "I said: 'Go ahead and order your food and I'll
8 pick it up when it's ready.'"

9 A No.

10 Q You don't -- you don't recall saying that?

11 A Because this is how it happened, sir. Can I -- can
12 I say something? This is how it happened. I -- when I
13 woke up, she said she said she wanted something to eat.
14 So I went and got -- I went and -- I -- either she placed
15 the order or I went and placed the order, and then I
16 rolled back from the neighborhood. And I was outside,
17 talking to my friend Beasley and we came up with the --
18 the -- however -- to -- to cook out on the grill, sir.

19 Q But you -- you said you were gambling all day,
20 right?

21 A I didn't say we were gambling all day.

22 Q You ---

23 A How ---

24 Q --- didn't say you were ---

25 A How -- how ---

1 Q --- gambling ---

2 A --- can I ---

3 Q --- all day?

4 A --- how can I say we were gambling all day when I
5 woke up and got Waffle House; then I -- I went to ---

6 Q So you're saying you weren't gambling all day?

7 A We were gambling for a good period of time, sir.
8 Yes, sir.

9 Q When did you start gambling?

10 A I don't really want to put a time, but I don't want
11 to lie to you, sir.

12 Q Afternoon?

13 A Yeah. It can be afternoon time, sir.

14 Q Okay. And then, you know gambling is illegal,
15 right?

16 A I -- I don't know if it or not.

17 Q You don't know if it's legal?

18 A Or you said it's illegal?

19 Q Yes.

20 A Okay. Yes, sir.

21 Q Okay. So you know that gambling is illegal ---

22 A I -- I didn't -- I didn't -- I -- I mean, you were
23 telling me this. Yes. I'm listening to you. Yes, sir.

24 Q Oh, I asked you. I -- so you don't know if gambling
25 is legal?

1 A I -- I just gamble, sir.

2 Q Do -- do you know that carrying a pistol without a
3 unlawful -- or without a concealed-weapons permit is
4 illegal?

5 A I -- I heard that. Yes, sir.

6 Q Okay. So you knew that.

7 Did you know that having a felony on your record and
8 possessing a pistol is also illegal?

9 A I don't -- I don't have a felony -- felony on my
10 record, sir. I have misdemeanors on my record, sir.

11 Q When you pled guilty, you pled guilty to receiving
12 stolen goods ---

13 A Yes, sir.

14 Q --- two to ten thousand?

15 A Huh? Say again?

16 Q Two to ten thousand?

17 A Uh, that might be -- I don't know exactly what it
18 was. I don't -- I don't want to lie to you. You have to
19 call my attorney that I had on that case, Charles David.

20 Q But if I had sentencing sheets that -- is this your
21 signature right here?

22 A Let me see. Mikah Nelsun -- I usually do -- I
23 usually do three m's -- three -- three or ---

24 Q So you're saying this is not your signature?

25 A It -- it's -- it -- it might be. I -- I -- it looks

1 like it. Let me see again. Let me see it one more time,
2 please.

3 Q What's your -- what's your date of birth?

4 A [REDACTED] [REDACTED]

5 Q Okay. And your social is [REDACTED]---

6 A --- [REDACTED].

7 Q --- [REDACTED]?

8 A Yes, sir.

9 Q Okay. But that -- that might not be your signature?
10 You don't remember pleading in court? Do you ---

11 A I -- I ---

12 Q --- remember ---

13 A --- I remember ---

14 Q --- signing ---

15 A --- signing the plea. I remember signing the plea
16 here. Yes, sir. I think it was in front of Judge -- I
17 can't remember his name.

18 Q But those documents are court documents, so ---

19 A It has to be real, then. I guess I signed it. Yes,
20 sir.

21 Q And so if receiving stolen goods, two to ten
22 thousand dollars, is a felony, you know it's illegal?

23 A I didn't know that. So I guess I -- I pled to a
24 felony. I didn't know -- I didn't know that.

25 Q Did you -- did you listen when the judge was giving

1 you ---

2 A They were saying -- they were saying misdemeanors.

3 That's what -- that's -- that's what I thought they said.

4 That's what I thought ---

5 Q Okay.

6 A --- was said.

7 Q So you're telling us that -- that they told you

8 misdemeanors ---

9 A I can't say that's what they said. I thought that's
10 what I heard, sir.

11 Q Okay.

12 A Thought that's what I heard.

13 Q That's what -- that's what you thought ---

14 A I thought receiving stolen goods was a misdemeanor.
15 That's what I thought it was.

16 Q Okay. Who was your attorney for those charges?

17 A Charles David Brown, sir.

18 Q Did he explain the charges to you?

19 A Yes, sir. He explained it. I -- I guess I -- I
20 might've wasn't listening.

21 Q Okay. But you told the judge that you were -- that
22 you understood, though, right?

23 A Yes, sir.

24 Q Okay. And then, so whenever you mentioned the
25 victim coming back with a pistol -- Mr. Rhodes ---

1 A Yes, sir.

2 Q --- why didn't you tell that to law enforcement?

3 A I did.

4 Q You did?

5 A Yes, sir.

6 Q You told law enforcement that he came back at --
7 with a pistol?

8 A I told them he ran off and he came -- he ran off and
9 went to the house, grabbed a pistol, and came back inside
10 a vehicle with a man. I -- I know for a fact I told him
11 that.

12 Q And that you saw the pistol?

13 A Yes, sir.

14 Q What'd the pistol look like?

15 A It was black. I know that. It ---

16 Q But ---

17 A --- was a pistol.

18 Q Did you tell law enforcement that?

19 A Yes, sir.

20 Q You told law enforcement that he pointed the -- the
21 gun at you?

22 A Yeah. He kept pulling it out. He kept -- he --
23 yes, sir. I told him all that.

24 Q And he also told you that Mr. -- Mr. Rhodes told you
25 that he wanted you to pull the gun and shoot him?

1 A At one point he did state that. I don't know what
2 would make him say that, but he said that at one point.

3 Q And you also told him -- told the Court here that he
4 was trying to rob you; that was the feeling that you got.

5 A It -- if -- if you say that -- if somebody offers
6 you the money back and you say, "I don't want that money;
7 I want his money," that sounds like -- that sounds like a
8 robbery, sir.

9 Q It doesn't sound like he thought you might've
10 cheated him?

11 A I -- when I ---

12 Q Is that not ---

13 A --- when I ---

14 Q --- is that not a reasonable interpretation of those
15 events?

16 A I mean, I offered -- it -- it got offered back to
17 you. Why didn't you take it?

18 Q But you didn't offer it back to him, right? Right?

19 A I mean, I'm ---

20 Q I mean, it's ---

21 A --- well, I'm ---

22 Q --- a "yes" or "no" ---

23 A --- I -- I -- I ---

24 Q --- question.

25 A --- didn't lose. I -- I -- I didn't ---

1 Q I'm just ---

2 A --- I didn't ---

3 Q --- asking a ---

4 A --- I didn't ---

5 Q --- asking a question.

6 THE WITNESS: Oh -- oh ---

7 MR. NEELY: I'm sorry.

8 THE WITNESS: --- I'm sorry. I apologize.

9 Q Did you offer the money back to him?

10 A I can't remember if I did. I felt like I did,
11 though.

12 Q Okay. You felt like you did?

13 A Yeah, I felt like I did. Knowing me, I probably
14 did. I -- I'm not trying to go through all that gun --
15 gunshots. I -- I -- I'm scared -- I -- I'm -- I'm not
16 like that, man. I -- I -- I don't like guns, period. I
17 don't ---

18 Q You don't -- you don't like guns?

19 A I don't like guns like that, period. I -- I don't
20 like guns like that, period. Like, having to harm
21 somebody or somebody harming me, I don't want to go
22 through that.

23 Q All right. So you acquired a gun that morning,
24 right?

25 A Yes, ma'am. I mean, yes -- excuse me. Yes, sir.

1 Q And that's what you told law enforcement?

2 A Yes, sir.

3 Q And you didn't even know what kind of gun you were
4 buying?

5 A It was a pretty gun. I was in the hall -- I was in
6 the hallway when I was taking the meat inside. He
7 stopped me. He said: "Man, check this out." I think it
8 was, like, a hundred/hundred-fifty. I told him I would
9 bring him something later on or something like that.

10 And -- and -- what happened? I got it. I put it on
11 my hip. It ain't had nothing but like three bullets in
12 there. I remember that. And I remember it was gold. I
13 remember it was black.

14 Q And that three-bullets thing, you didn't tell law
15 enforcement about that either, did you?

16 A Say again?

17 Q The three bullets, you didn't tell law enforcement
18 about that either ---

19 A I -- I may ---

20 Q --- did you?

21 A --- not have. I may not have. If they -- it
22 probably wasn't asked.

23 Q Okay. And you also didn't tell law enforcement that
24 you were shooting while running away, did you?

25 A I remember telling -- I -- I -- I remember -- I

1 think I remember telling him that. Yes, sir.

2 Q Do you remember telling law enforcement ---

3 A But I also remember him telling me: "Hold, hold,
4 hold" and then him going to do something else. And I was
5 just sitting there too. I remember that. But I -- I
6 can't ---

7 Q You were just sitting there when?

8 A I mean, go -- ask the question again, sir.

9 Q Well, I was asking -- you said you were sitting
10 there. I was -- I said: You were sitting there when?

11 A Oh, I -- I was sitting there -- when he told me he
12 had something he had to do, he -- he stepped out for a
13 minute. He came back, sir.

14 Q And you told law enforcement that Mr. Rhodes was
15 bullying you, right?

16 A Basically, yeah. When you pulling out a gun and
17 kept pulling out, I'm not threatening you; I'm not doing
18 nothing to you. Basically, you're bullying.

19 Q So ---

20 A But I don't remember telling him he was bullying --
21 I don't remember saying in that -- in those words. But
22 basically, that's what that was.

23 Q Okay.

24 A You hit it on the head.

25 Q Does the -- does the size of a person matter if they

1 have a gun in their hand?

2 A That gun is power. I -- I -- I'm scared of a gun.
3 I don't -- if you could be 2 feet tall and got a gun at
4 me, I -- you can -- your word is whatever you say. I
5 don't want ---

6 Q And you had a gun that day, right?

7 A Yeah. But that's -- that's ---

8 Q And what were you saying that day?

9 A I wasn't on that.

10 Q You weren't on that?

11 A No. No, sir.

12 Q And ---

13 A No, sir.

14 Q --- you -- you were drinking all day, right?

15 A No.

16 Q You weren't?

17 A I weren't drinking all day. When I gamble, I -- I
18 -- I -- I -- I tend not -- I -- I really tend not to
19 drink.

20 Q So you weren't drinking ---

21 A You lose concentration. No -- no, sir. I wasn't --
22 I -- if I did drink, I probably took a -- a sip or I -- I
23 -- I don't remember drinking, though. I don't recall
24 that.

25 Q Okay. So -- so you weren't drinking all day.

1 A No, not ---
2 Q You weren't ---
3 A --- drinking ---
4 Q --- gambling ---
5 A --- all day.
6 Q --- all day.
7 A We were gambling afternoon.
8 Q Afternoon.
9 A Yes, sir.
10 Q Okay. But not that morning?
11 A No. Weren't gambling none of that morning. No.
12 Q Okay. And ---
13 A Now, he was drinking. He -- he was drinking.
14 Q Would it surprise you to learn that he only had a
15 0.03 blood-alcohol level?
16 A He was drinking.
17 Q So that -- that would surprise you, then?
18 A I -- what is that? That's -- that's -- that's a lot
19 or is that a little bit?
20 Q Very little.
21 A Okay.
22 Q So that surprises you?
23 A No.
24 Q No? It doesn't surprise you? I thought you -- I
25 thought you said he was drinking all day.

1 A I didn't say he was drinking all day. I said ---

2 Q Oh, okay.

3 A --- he was drunk.

4 Q Oh, he ---

5 A I said ---

6 Q --- was drunk?

7 A Yeah. I -- I said he drinking. I didn't say he was
8 drinking all day.

9 Q Okay.

10 A You were saying that they were drinking all -- you
11 -- I don't know. I -- I apologize.

12 Q So you're saying he was drunk, right, but not
13 drinking all day?

14 A I -- I -- I don't know if he was drunk. I don't
15 know. I just know he drank. That's it.

16 Q Okay. So you don't know if he was drinking or not?

17 A I mean, I said he drank. I said I've seen him
18 drink. I -- I mean, put -- putting it to his lip. I --
19 I think I remember that. Yeah.

20 Q Okay. Well, it seemed earlier whenever you were by
21 the victim, that you -- you -- you thought that he was
22 escalating because he might be on something; is that
23 right?

24 A I said that -- I -- I -- I think I said that inside
25 of my -- inside of that tape that you got. I think I

1 said this in my interview, sir.

2 Q I'm sorry. Say again?

3 A I said I think I said that in -- inside of my
4 interview, sir. I think I did say that. And I think I
5 did just tell -- I may have just said that to you. I
6 can't remember exactly.

7 You're shooting a lot of questions at me. I can't
8 even remember exactly what you saying. But I'm -- I'm
9 trying to -- I'm trying to keep up with you -- I'm trying
10 to keep up with you.

11 Q If I'm going too fast, I will slow down. I -- I
12 really don't want to over -- over-bore you here.

13 But you told Mr. Duncan just now that the victim
14 kept pulling the gun out; kept pulling the gun out.

15 A Yeah. He kept reaching for it and pulling it out
16 and keep putting it back on him and kept -- and keep
17 getting louder and louder and more ---

18 Q Okay.

19 A --- and more aggressive, seemed like. The more it
20 seemed like -- yeah.

21 Q Okay. But ---

22 A Yes, sir.

23 Q --- you didn't -- you didn't tell law enforcement
24 that, did you?

25 A Yes, I did.

1 Q You did?

2 A Yes, I did. I told him he kept -- he had a gun; he
3 kept getting aggressive. He pulled it out on me; kept
4 ---

5 Q All right.

6 A --- pulling it out; told me he was going to kill me.
7 He put it on blood that he would kill me. Then -- that
8 -- when he put it on blood, that's now gang-related
9 situation and to where other people are looking like, Oh,
10 I -- I . . .

11 Q And you told law enforcement that you heard a gun
12 racking and then you -- you pulled your gun, closed your
13 eyes, and shot; isn't that right?

14 A I can't remember exactly what I said. But I know
15 what I heard. I heard shots.

16 Q You heard ---

17 A I heard ---

18 Q --- shots?

19 A --- I heard tcht-tcht, tcht-tcht, tcht (phonetic).
20 Maybe law enforcement said -- he said something -- I -- I
21 don't know. But I know what I said. I heard shots, sir.
22 I know what I heard.

23 Q All right. Well, the sound you're making, the tcht-
24 tcht, tcht-tcht, tcht (phonetic) ---

25 A That's when I was running away. I -- I'm hearing

1 that. I don't know if that's bullets flying past ---

2 Q Well, that's when you're running away.

3 A That's when I'm running away. But I hear -- before
4 I'm running away, I hear: thoom-thoom, thoom-thoom,
5 thoom-thoom, thoom (phonetic). I'm hearing shots.

6 I hear glass being -- I hear glass being shattered
7 from a car. Like, I don't know if it was one of the cars
8 beside me.

9 I don't really -- I'm a tell you exactly what -- I'm
10 a tell you exactly what I -- when I started hearing
11 shots, sir, first thing in my head said: Go; get away;
12 run. That's what -- that's what -- that's what was in my
13 head, sir: run.

14 Q But that's not the first thing you did, though,
15 right?

16 A The first thing I -- I -- I ran.

17 Q You didn't pull your gun?

18 A I ran. Then -- it was all -- I don't even remember
19 -- listen, I don't remember exactly how the motion went,
20 but I remember getting away. I remember trying to get
21 away, sir.

22 Q So you didn't even know if you were shooting at him?

23 A I know the initial threat.

24 Q The initial threat?

25 A I know the threat, the threat -- where the threat

1 was coming from. I just -- I -- I shot in the direction
2 where I thought I heard the gunshots coming from, sir.

3 Q You shot in the direction that the gunshots were
4 coming from?

5 A Oh, all -- anything I did that day, sir, I was -- I
6 was trying to get away, man. I was trying to get away.
7 I was trying to get away, Mr. Solicitor.

8 Q And so let's go -- we'll go back a little bit. You
9 said glass was being shattered. You heard glass
10 shattering with gunshots?

11 A I heard ---

12 Q Is that what you heard?

13 A If that's what I said ---

14 Q I mean, you just said it.

15 A I'm hearing gunshots. I'm hearing things that sound
16 like tcht-tcht, tcht-tcht (phonetic). I'm hearing all
17 type of stuff. I -- I know it's -- I know -- I know -- I
18 know my life is in danger. I know I got to get away.

19 Q So you knew you were scared?

20 A Yeah, I knew that I was scared. I knew I was
21 terrified.

22 Q Did you know where Stacy Rhodes was standing
23 whenever you shot? You can come off the stand if you
24 want to, to show.

25 A No. I'm about to give you a -- because this is

1 right here already. I'm about to give you a -- a brief
2 description. Probably from about right -- right there
3 ---

4 Q Where's right there?

5 A We were between two cars. Every time I tried to get
6 away from where he was standing at -- because I'm trying
7 to walk around the car, just in case he does shoot. You
8 get what I'm saying? He'll get back in front of me again
9 and started threatening me again and waving a gun in my
10 face and -- and doing all type of crazy stuff.

11 One point they had him -- they -- "Calm down; calm
12 down, man. I -- here."

13 Or -- but he hopped back in front of me again. This
14 is car; this is car. I'm in between two cars. I'm going
15 this way. He hopped back in front of me this way. And
16 then he started threatening me again with a gun, sir.

17 Q And do you remember getting tissues that day?

18 A Say again.

19 Q You remember getting tissues that day?

20 A Tissues?

21 Q Yeah.

22 A Tissues, tissues, tissues. I don't recall that.
23 What was I getting tissues for?

24 Q I don't know. I was going to ask you.

25 A Tissues -- I don't recall that. May have; I don't

1 -- I don't recall that, though.

2 Q So what you're telling me here is that Stacy Rhodes
3 was the threat, not James Archie; is that right?

4 A (No audible response.)

5 Q Not the victim's brother, right?

6 A James Archie -- I -- I can't -- I can't really say.
7 I mean, I know they together. They're brothers. You get
8 what I'm saying?

9 I remember one time he did state: "If you -- if you
10 pull that gun on my brother, you going see some gangsta
11 shit." I remember hearing that.

12 But as far as, like, him -- him -- I didn't really
13 look at him as a threat. No. Not -- not -- not too
14 tough as a threat. No, sir. Not James, no.

15 Q Okay. So Archie wasn't really threatening you; it
16 was all Rhodes?

17 A Yes, sir. But -- but they're together. They're --
18 they're brothers. He said: "If you pull that gun on my
19 brother, you going see some gangsta shit." He did say
20 that. That was a threat.

21 Q When -- when you pulled a gun ---

22 A I -- I didn't even pull a gun out. I -- the gun was
23 ---

24 Q You ever ---

25 A --- on my ---

1 Q --- pulled it out?

2 A It was on my hip. I didn't ---

3 Q What's that ---

4 A --- pull a ---

5 Q --- mean?

6 A --- gun.

7 Q What's that mean? What's that mean, on your hip?
8 Just show me, like on your body.

9 A Say this is a gun. It's right here. My shirt's
10 over it.

11 Q Okay. So it's in your waistband.

12 A I -- I didn't -- yeah. In my -- in my -- on my
13 waist.

14 Q Okay.

15 A Yes, sir.

16 Q And your shirt was over it?

17 A Yes, sir.

18 Q Did they know you had a gun on you?

19 A I mean, I don't know.

20 Q You don't know?

21 A (No audible response.)

22 Q You never showed it to him?

23 A I don't even flash guns, sir. That's not something
24 I do.

25 Q Okay. And you say you don't like guns. Is this the

1 first gun you ever had?

2 A No. I wouldn't say that. I wouldn't say it's the
3 first gun I ever had. But -- I wouldn't say that. No,
4 sir.

5 Q So who -- who'd you buy that gun from that day?

6 A It was a guy in the hallway. He -- he said: "Rich,
7 I got this."

8 Q And Rich is you, right?

9 A That's -- that's my nickname. That's what they call
10 me, sir.

11 Q Okay. And what was his name again?

12 A I don't remember his name.

13 Q Don't remember his name?

14 A No.

15 Q Okay. So it was surprise you if other people said
16 they'd seen you with that gun before?

17 A I mean, yeah. Yeah. I mean, other people can say
18 they seen me with a gun, but -- I mean, all gun -- what
19 are you alluding to? I mean, what are you saying?

20 Q I'm asking a gun.

21 A Yes.

22 Q I don't feel like -- I don't feel like I got an
23 answer there.

24 A Say -- ask me that again. Say it one more time.

25 Q Say would -- would it surprise you that -- if

1 somebody else described you as having that gun on you
2 before?

3 A What they said, seen it on me that day?

4 Q I said beforehand, not that day.

5 A I mean, I guess that would be. Yeah. Because I
6 bought it that day. Yes, sir.

7 Q Okay. But you don't know the guy's name?

8 A No, sir.

9 Q When you bought your other gun that you've had ---

10 A Which one you talking about? The -- the gun I got
11 stopped with in the -- the traffic? That's what you're
12 asking me?

13 Q Yeah.

14 A I think that was given to me from a friend. That
15 was in -- that was -- that was given to me. He told me:
16 "Here. Man, you going -- here."

17 Q Okay. So a friend gave you the other gun. Was that
18 your first gun?

19 A I mean, uh, I can't say -- I can't -- I ---

20 Q Do you remember what caliber that gun was?

21 A I don't recall exactly what caliber that gun was. I
22 know I got stopped with it in traffic and all.

23 Q Okay. Did you know that the gun that you had on you
24 the day of the incident was cocked? Had a bullet in the
25 chamber?

1 A One -- yeah. One -- like, yeah. Probably, yeah.

2 Q And how did you know that?

3 A I mean, I don't -- I'm just saying ---

4 Q Did you ---

5 A --- though ---

6 Q --- cock the gun at some point in time?

7 A Probably early -- when I first got the gun, I think
8 one was in -- one -- one might've been in there. I don't
9 know for sure. I remember telling you it had three
10 bullets.

11 Q Okay.

12 A I remember that mark -- remember -- and I remember
13 it was gold and it was -- I remember it was black. I
14 remember that.

15 Q Yeah. So gold and black gun ---

16 A Yeah.

17 Q --- with three bullets?

18 A Yeah.

19 Q And you don't remember what caliber it was?

20 A I want to say it was -- I don't want to lie to you.
21 I want to say it was a -- a 9 -- a 9-millimeter or I -- I
22 don't -- don't want to lie to you, sir.

23 Q It sounds like you don't remember, right?

24 A I don't remember, sir.

25 Q You didn't ask him?

1 A Again, it was so fast: Man, I got this gun. It's
2 gold and black. It's nice. One-fifty? Okay. I'm a buy
3 it. I got it.

4 Q So you weren't looking for a gun; he just offered?

5 A That's typically how it goes. You -- you just don't
6 go looking for things like that. You -- it -- one thing
7 I learned about trouble, it finds you; you don't go find
8 it.

9 Q So to prepare yourself, in the -- that morning ---

10 A I -- I wasn't preparing myself for anything. I just
11 bought it because it looked nice. That's why I bought
12 it, sir.

13 Q Well, you just said that ---

14 A I didn't -- I didn't -- I didn't want this situation
15 to happen. Nobody wants a situation like this to happen
16 in life, sir. Nobody wants to lose a friend. Nobody
17 wants to go through that. Nobody wants to go through
18 this.

19 Q So why didn't you walk away?

20 A I tried to. I tried to.

21 Q You left there twice, didn't you?

22 A How'd I leave there twice?

23 Q Isn't that what you told us?

24 A I told -- no. I never told you that. Never told
25 you that. I never told you that.

1 Q You never told law enforcement you left the scene
2 twice?

3 A I don't believe I told law enforcement I left the
4 scene twice during this incident. No. No, sir.

5 Q Today you're saying you left once?

6 A No. I'm not saying that either. Because I never --
7 how could I leave if he told me: "If you leave -- if you
8 leave up out of here, I'm going to shoot -- I'm -- I'm --
9 I'm -- I'm -- I'm a Swiss-cheese that car."

10 That means he's going shoot the car. You think I'm
11 trying to get shot while I'm -- I'm inside of a vehicle,
12 sir?

13 Q Well, why didn't you tell law enforcement that three
14 years ago, the day ---

15 A I told ---

16 Q --- after this ---

17 A --- him that. I know for a fact I told him that.

18 Q You -- you told him -- you told law enforcement?

19 A Man, I told -- man, listen, he -- listen, it was
20 even at one point we also got a video of some type of
21 disturbance and a vehicle driving off. I told -- I said:
22 "If you got a vehicle driving off and you got him running
23 to go get the gun and him coming back with the gun" -- I
24 said that. And I keep saying that in my head.

25 Q Because ---

1 A And I'm telling you ---

2 Q --- not because ---

3 A --- it happened.

4 Q --- you assumed it; because you saw it?

5 A Because I know it. Yes.

6 Q Okay. And do you think you told law enforcement
7 that?

8 A I'm quite sure I told law enforcement that.

9 Q Because that would definitely be important to tell
10 law enforcement ---

11 A Yes, sir.

12 Q --- right?

13 A Yes, sir.

14 Q That could be -- that could be integral to
15 understanding your case?

16 A Yes, sir.

17 Q So you would tell law enforcement all the threats
18 and -- that the victim was making, right?

19 A Yes, sir.

20 Q Okay. But you didn't tell me that he had a gun on
21 him and he kept pulling it out, did you?

22 A I did tell him he had a gun.

23 Q Okay. I'm sorry.

24 (Off the record briefly.)

25 Q So for positioning, you went over positioning a

1 little bit with law enforcement. You remember doing
2 that?

3 A Say again?

4 Q You remember going over positioning with law
5 enforcement, right?

6 A And what do you mean by "positioning," sir?

7 Q Where everybody was standing when it happened.

8 A Okay. Maybe a little bit throughout the -- the
9 thing -- but -- throughout us talking. But not really us
10 just: "Oh, he was here; he was here; this was this."
11 No. I don't remember doing that, sir.

12 Q Okay. And -- but your testimony today is you heard
13 the gun racking; you heard gunshots; and so you started
14 running and fired the direction of Mr. Rhodes?

15 A I'm not saying the direction that -- in direction of
16 where I thought I heard the -- the gunshots sounded like
17 they was right on my neck; it was right on my head. You
18 get what I'm saying? So whoever was behind me shooting a
19 gun, when I ran, I shot.

20 Q But you didn't even know who was shooting; you
21 didn't see it, right?

22 A I remember -- I remember his finger -- I remember he
23 -- he -- having a gun out, him talking and going like
24 this: "I'm going gun -- I'm -- I'm -- on blood, I'm
25 going shoot him. I'm going" -- I remember all that

1 craziness.

2 I remember that. I remember that. That's all --
3 that's what I remember, sir.

4 Q But you ---

5 A I remember seeing a gun. I remember: "On blood,
6 I'm going kill him. I'm going" -- I remember all that,
7 sir. That's what I remember, sir.

8 Q Did you ---

9 A That's what I remember.

10 Q Did you remember that the day after it happened?

11 A Yes, sir.

12 Q Then, why didn't you tell law enforcement about it?

13 A Listen, I keep telling you. I'm quite sure I told
14 law enforcement this. Everything that happened, I --
15 that we're talking about now, I told law enforcement,
16 sir. I feel like I told law enforcement, sir.

17 Q You've told us that you don't have much experience
18 with a gun. You ever fired a gun before that day?

19 A I mean -- you say I told you what?

20 Q That you didn't have much experience with guns; you
21 didn't like them.

22 A I -- I didn't tell you that I don't -- don't have
23 much experience with guns. I told you I don't really
24 like being around guns like that. I don't want to be --
25 I don't like being in certain situations with -- with

1 guns in it. It -- now, if it was okay -- I was hunting
2 or something like that, that -- that'll be cool. But I
3 really didn't do that too, too much.

4 Q But -- but even though ---

5 A I mean ---

6 Q --- you didn't like guns, you were experienced with
7 guns?

8 A Not really experienced. I don't -- I don't -- no,
9 I'm not experienced with guns at all. No. Because if
10 you give me a gun right and you tell me to hit something,
11 I -- I -- I wouldn't be able to do it.

12 I never took a -- a aiming class or nothing like
13 that. I never took a -- I never been to a gun range.
14 No, sir.

15 Q So if you were going to shoot something and hit it,
16 you'd have to be pretty close, right?

17 A I might miss that. I'm -- just me being honest with
18 you, I -- I -- I'm not -- I'm not a expert shooter, sir,
19 if that's what you're getting at. I -- I don't know how
20 -- I don't know -- I don't know what I'm doing when it
21 comes to guns.

22 Q So let's ---

23 A When it ---

24 Q --- just ---

25 A --- comes ---

1 Q --- let's -- let's just go through that piece by
2 piece.

3 A Yes, sir.

4 Q You and Mr. Rhodes are arguing, right?

5 A No. He was getting -- he ---

6 Q Sorry.

7 A --- yeah.

8 Q He was arguing with you.

9 A He was -- yeah. He was -- he was trying to start --
10 he was trying to, I guess, get me -- I don't know what to
11 call it. He was mad. He was upset. He was -- I was
12 trying to calm him down. That's what was going on, sir.

13 Q Okay.

14 A Everybody was trying -- everybody that was out there
15 was basically trying to calm him down.

16 Q So everybody out there but Stacy Rhodes wasn't a
17 threat?

18 A Repeat that question one more time.

19 Q Everyone out there but -- but Stacy Rhodes wasn't a
20 threat?

21 A I mean, I know he was the initial threat. He was
22 the reason why it started. I know that. I can't say
23 what it ---

24 Q He was -- he was the reason why you started?

25 A No. It -- he was the reason -- he -- he's the

1 reason -- he -- excuse me. I apologize. He's the one
2 who started his argument of whatever-whatever. He's the
3 one that did what he did, sir.

4 Yes, sir. That's what I'm saying. I -- he's the
5 one that was yelling and cursing and screaming. He ---

6 Q Okay.

7 A --- was the one.

8 Q So let's go from yelling and cursing and screaming.

9 A Yeah.

10 Q And then a blue car pulls up; is that right? You
11 remember that?

12 A I remember -- I -- I think I remember a -- I can't
13 recall the -- what color it was, but I remember it was a
14 car -- I remember it was a white car. That was the car
15 he pulled up in -- I mean, the white car he pulled back
16 up in with the gun ---

17 Q You don't ---

18 A --- and he ---

19 Q --- remember ---

20 A --- hopped out.

21 Q --- you don't remember the blue car?

22 A Blue car? I remember -- I think I do remember a --
23 a -- I think I do remember a blue car. I think I do.

24 Q You remember telling law enforcement that a blue car
25 with some females pulled up in it?

1 A I think I did say that. I think I did.

2 Q Okay. And that was right before the shooting,
3 right?

4 A Matter of fact, a car pulled up and -- and asked
5 him: "What you out here doing?" If that's what you
6 talking about, yeah.

7 He was -- it -- matter of fact, yeah. Two cars
8 right here and they blocked me and that one blocked --
9 and we -- he was standing in front me and blocked him in
10 from the back. And he stated -- they asked: "What you
11 doing?"

12 He said -- he stated -- he said -- what was his
13 words? -- "I'm about to gun this pussy-ass nigger down.
14 I'm about to kill him, on blood." That's what he said.

15 Q And you ---

16 A He kept ---

17 Q --- told law ---

18 A --- screaming ---

19 Q --- enforcement that?

20 A --- he kept screaming: On blood, on blood, on
21 blood, that was going kill me. I don't know what --
22 where this was coming from.

23 All I know is in life, that when people threaten
24 you, take it seriously. And I was scared for my life,
25 man. I -- I can't -- and tell you word for word exactly

1 what happened or -- or what happened that day. But I can
2 remember -- I remember -- you got to realize this is
3 three years ago.

4 Q So your memory would probably be better the day
5 after it happened, right?

6 A I mean, yeah and no. Because I know, when certain
7 parts came back to me, I said: Yeah. You know what? I
8 -- I might've needed to say -- you get what I'm saying?
9 -- tell -- tell -- tell -- what was the investigator name
10 on the case?

11 Q Investigator Hilton.

12 A Investigator -- so maybe I -- I'm -- I should've
13 told him to go check the video to see if this -- you get
14 what I'm saying? I was thinking -- I was thinking like
15 that. But I didn't say that in that day, because I was
16 still kind of fidgety and scared from the situation.

17 I was still kind of -- you get what I'm saying? It
18 was still -- you got to realize, it -- it really break --
19 it took a mental -- it -- it -- it took a mental toll on
20 me. That situation took a mental toll.

21 And I never been through nothing like that a day in
22 my life. I never really been through nothing like that.
23 Never really been through nothing like that. Never
24 really been through nothing like that. Just never really
25 been through nothing like that, sir.

1 Q And so this huge event in your life and you think
2 you recall it ---

3 A Didn't -- well, I ---

4 Q --- better ---

5 A --- I would ---

6 Q --- then ---

7 A --- I would say this is not a every -- this is not
8 something that happens to a person every day. This is
9 not something that goes on with me personally. You --
10 you don't ---

11 Q So you remember it, right?

12 A What -- remember what?

13 Q So you remember how it happened? Because this
14 doesn't happen every day.

15 A Sir, I'm -- I'm telling you what I knew. I told you
16 what I remember. You acting like I'm leaving -- I'm
17 leaving something out or forgot or I'm not telling you
18 something. So I'm telling you everything that's going
19 on, sir.

20 Q Well, break it down second to second before it
21 happened.

22 A Okay. I thought I just did that, but I'll do it
23 again. I -- I'm a go ahead and start -- start my day
24 off, because it seemed like it ---

25 Q Well, let's ---

1 A --- was some ---

2 Q --- not go ---

3 A --- type of ---

4 Q --- that far back.

5 A Because -- because it seemed like it was something
6 -- it was something with that. So I'm -- I'm a go ahead
7 and start my day.

8 Q No. Let's -- let's not go that far back.

9 A All right. So where you want me to start at?

10 Q Let's start when the blue car pulls up.

11 A Okay. We start where the blue car pulls up.

12 Q With the females in it.

13 A Okay. At this point I'm right here; I'm right here.
14 No. No. A -- a -- a vehicle right here, a vehicle right
15 here. I walk between the vehicles. He's on the other
16 side at one point. He ends up coming around.

17 "Whoa, whoa, what you -- pull that -- pull that gun
18 out. I want you to pull the gun out. I'll kill you out
19 here. Pull the gun out. On blood, I'm going kill you."

20 Then after that, I think -- "Whoa, what you -- Boi,
21 what you out here doing? What's wrong?"

22 "I'm about to kill this pussy-ass nigger, this
23 bitch-ass nigger, this -- on blood, I'm about to kill
24 him."

25 I hear shots: thoom-thoom, thoom-thoom, thoom-

1 thoom, thoom (phonetic). I hear shots.

2 Q Did you hear the gun cocking or the shots first?

3 A Man, I'm quite sure he had -- I'm very sure that he
4 had ---

5 Q I'm asking you what you heard.

6 A I'm very sure he had one inside the chamber, because
7 he -- I'm quite sure he already knew what he had planned
8 to do. You get what I'm saying? I heard shots.

9 Q You heard shots ---

10 A I heard ---

11 Q --- and then the gun cocking?

12 A I don't -- I -- I can't remember exactly. I don't
13 know what you talking about with the gun cocking. I -- I
14 might've heard a gun cocking. But I remember hearing
15 shots, sir. I remember hearing shots.

16 Q You remember telling law enforcement you heard a
17 kck-kck (phonetic)?

18 A Oh. If I said that, you know why I probably said
19 that? Because it was someone on the other side of the
20 car. I remember telling him I heard -- I heard them
21 cocking back a gun at one point. I remember saying that.
22 I remember saying that, sir.

23 Q So you heard the gun cocking from a direction that
24 wasn't Stacy Rhodes?

25 A This is a lot. Say -- repeat all that one more

1 time, please.

2 MR. DUNCAN: Hold up. Your Honor -- Your Honor, at
3 some point we going introduce this video, right? I mean,
4 we are going play the video so we can clear up some of
5 the confusion about what he might've said and when he
6 said it and all that. I mean, that -- that will be part
7 of our submission here in a -- momentarily, just to ---

8 A I know I heard gunshots. I know -- I -- I'm -- I'm
9 quite sure I heard a gun cock. Yeah. I probably heard a
10 gun cock.

11 Q Okay. Probably heard a gun cock ---

12 A It was a lot going on. I know I heard gunshots.
13 And I -- and I -- I know what I did when I heard
14 gunshots.

15 Q And how'd the gunshots sound?

16 A Thoom-thoom-thoom, tcht-tcht, tcht-tcht (phonetic).
17 I remember, when I was running, it seemed like I heard
18 bullets whizzing past my ear: tchew-tchew, tchew-tchew,
19 tchew (phonetic). I remember that. At -- when I was in
20 the -- right there, I heard: Thoom-thoom thoom-thoom,
21 thoom (phonetic). I remember hearing that, sir.

22 Q So you -- you heard: doom-doom-doom (phonetic).
23 And then what did you do?

24 A At that time I was really in disbelief, shaking my
25 head. I heard -- and I ran. I -- I tried ---

1 Q Okay. So ---

2 A --- going through ---

3 Q --- you heard the shots and you started running?

4 A Started running. I came -- came out to here and
5 started running. It was all, like, one motion. It was
6 like I just -- survival mode, I guess, if that's what you
7 want to call it. I was scared for my life. I'm being
8 honest.

9 Q So you ---

10 A I'm being honest.

11 Q So you didn't hear a gun cocking, hear gunshots,
12 close your eyes, and shoot? You didn't pull -- you
13 didn't pull your gun, close your eyes, and shoot, right?
14 You were running.

15 A If I was running when I -- I was -- I was trying to
16 get away when I shot. I -- I didn't just close my eye --
17 I -- I -- yeah. I closed my eyes. I remember closing my
18 eyes because I was -- I was in disbelief, like, Yeah,
19 this is really getting hectic.

20 I can't remember exactly what happened, man. But I
21 know I tried to get away. I tried to get away from this
22 situation. I was scared for my life. That's what I
23 remember.

24 I can't remember exactly, second for second, split
25 for split, or what happened. I remember getting away.

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1 And when I got to where I was going, I was dripping in
2 sweat and I was shaking. I was scared for my life. I do
3 remember that, sir, Mr. Solicitor. I remember that.

4 Q But you don't know even what you were scared of, do
5 you?

6 A I know what I was scared -- I was scared of the
7 gunshot. I was scared of the threat. I was scared of
8 being killed. Someone put it on -- on blood, on a gang,
9 that they were going to kill me. What was I -- what --
10 what -- what -- what I supposed to do, other than get on
11 through -- get -- try to -- try to get to safety?

12 At this time I really couldn't run too good anyways
13 because I just suffered a leg injury. I -- I'm lucky to
14 really even -- I guess to even be here. I thank God
15 every day.

16 Q But you don't know who the threat was?

17 A I'm telling you the threat was. Mr. Rhodes
18 threatened me and said he was going kill me.

19 Q Did -- did you see Mr. Rhodes attack you?

20 A What you mean by did I see if he attacked me? What
21 you mean by that?

22 Q Did you see him attack you?

23 A I can't see ---

24 Q Did you ---

25 A --- what the ---

1 Q --- see him --

2 A --- I can't see a bullet come out of a chamber.

3 Q Did you see him point the gun at you?

4 A Yeah.

5 Q Before he shot?

6 A Yeah. He was pointing the gun at me back and forth
7 the whole time.

8 Q So he was pointing the gun at you whenever you
9 started shooting?

10 A Say again?

11 Q He was pointing the gun at you when you started
12 shooting?

13 A "I'm a kill you out here. On blood, I'm about to --
14 I'm a kill him," going back and forth, back and forth,
15 waving the gun. That's all I remember, sir. That's all
16 I remember. I remember hearing shots. I remember where
17 the initial threat came from.

18 I remember -- I know, if someone puts it on a gang,
19 it's serious and they got to do it, because I -- I just
20 -- that's just what I -- I -- I'm -- I'm in a facility
21 now where you got ignorant people say that all day and
22 they do dumb stuff all day, because -- just because they
23 -- they put it on a gang. You get what I'm saying? It
24 ---

25 Q So you didn't see him point the gun at you ---

1 A I did see him pointing a gun at me. I keep telling
2 you that, Mr. Solicitor.

3 Q No. I'm talking about right now. I'm not talking
4 about prior in the day.

5 A This is right now. This is one scenario.

6 Q So he's pointing a gun at you with the blue car
7 right there?

8 A He going: "I'm about to gun this pussy-ass nigger
9 down. I'm about to him," this, that, and the other.
10 That's why I'm here. Yeah. This is why I'm here. He's
11 ---

12 Q I'm asking what you're seeing. Was the gun pointed
13 at you?

14 A I told you. I ---

15 Q You don't think ---

16 A I'm not ---

17 Q --- you recall ---

18 A --- going to ---

19 Q --- that?

20 A --- lie to you about nothing. I'm ---

21 Q Okay. Well ---

22 A --- not going ---

23 Q --- if you don't know ---

24 A I'm not ---

25 Q --- that's okay.

1 A I'm not going to lie you to about nothing. That's
2 not what I'm -- I'm not going to lie to you about
3 nothing. I told you, I remember closing my eyes, shaking
4 my head in disbelief. Hey, man, I can't believe this is
5 going on. You get what I'm saying?

6 Q So you close your eyes, shake your head in disbelief
7 ---

8 A Yeah. I heard gunshots.

9 Q Okay.

10 A They're very, very close to me. Thoom-thoom, thoom-
11 thoom, thoom-thoom, thoom (phonetic).

12 Q So how many shots?

13 A I -- I can't even say, man. I didn't -- it was --
14 it was a couple shots. It was a couple shots. I know at
15 that time it was time for me -- I did -- survival mode
16 kicked in. I just ran in the -- I -- in one motion, ran
17 in the direction -- shot -- got on through.

18 Q So you're -- so ---

19 A And that's when -- that's when you got me running
20 from a crowd of -- crowd of people on the side of Garners
21 Ferry Road. I keep hearing: Tcht-tcht-tcht (phonetic).
22 I was going jump over the ditch, but I couldn't. I just
23 suffered a leg injury. Plus, the ditch kind of big.

24 So I just kept -- I -- I ran in different direction
25 and -- and I still -- I'm still hearing gunshots. I got

1 -- I got away. When I got to where I was going ---

2 Q So were you shooting over your shoulder like ---

3 A Yes ---

4 Q --- this?

5 A --- sir.

6 Q Was it like this? With the gun over -- over your,
7 like -- or the ---

8 A I can't remember if it was like this or if it was
9 like this. But I remember -- I remember ---

10 Q So it was either like this or like this?

11 A I can't -- I don't -- I -- I -- I don't want to lie
12 to you. Like I said, I'm not going to lie to you about
13 nothing.

14 Q You don't remember how you were shooting that gun?

15 A I was scared for my life, man. I was scared for my
16 life.

17 Q So you just don't recall?

18 A I don't recall. I know I was trying to get on
19 through.

20 Q And that gun you got that day? You lost it that
21 same day?

22 A By the time I got to where I was going, I didn't
23 have it. I didn't have it. It ---

24 Q Did it ---

25 A --- wasn't on me.

1 Q Did you put it somewhere?

2 A I was running. I remember dropping it. I remember
3 going to pick it back up, putting it on my hip. I
4 remember running through a path. I remember jumping over
5 a fence. I remember I had to jump over a fence in
6 Yorktown just to get to Harbour Landing. And that's
7 where I got a ride from. You get what I'm saying?

8 I thought I dropped it over there by -- over by
9 Lakeshore Apartments. But that might not have been the
10 case. They didn't find it over there by Lakeshore
11 Apartments. All my main focus was, sir, was to get away,
12 sir. I was scared for my life.

13 Q Okay. So you don't know if you dropped the gun at
14 Lakeshore Apartments?

15 A I don't know exactly where I would've been -- where
16 I dropped the gun at. But I know it's -- I know I
17 dropped the gun.

18 Q Okay.

19 A Because I didn't have it on me when I got to the
20 house. I could've dropped it -- I could've -- I could've
21 put it down inside the car, shaking, smoking cigarettes
22 back to back, and left it in the person car that -- I
23 drove -- drove in the car with. I don't know exactly
24 where -- I know, when I got to the house, I did not have
25 the gun on me, sir.

1 Q So you just don't remember where it went?

2 A That's not -- I told you it dropped. I remember it
3 dropped.

4 Q Well, you just told me it could've been in the car.

5 A I remember it drop. I went to go pick it up. I --
6 I'm just -- I'm just giving an example, man.

7 Q Okay.

8 A You get what I'm saying? I'm giving an example,
9 bro.

10 Q I'm -- I'm ---

11 A I'm giving ---

12 Q --- just making ---

13 A --- an example.

14 Q --- sure, because that example didn't make sense to
15 me.

16 A Okay. All right.

17 MR. NEELY: Beg the Court's indulgence.

18 (Off the record briefly.)

19 Q Something we hadn't really talked about yet is the
20 cocked-dice incident. You remember that?

21 A (No audible response.)

22 Q When did that happen?

23 A I remember, at one point, he slammed them. I think
24 that -- that might've been the cocked-dice incident. Or
25 maybe that was the cocked-dice incident when -- but when

1 this situation alluded, you get what I'm saying? Well,
2 started. I -- allude might not be this -- the word to
3 say for that. But when that situation started, sir.

4 THE BAILIFF: Excuse me, sir.

5 THE WITNESS: Yes, sir.

6 THE BAILIFF: Don't hit the thing.

7 THE WITNESS: Oh, I apologize. I apologize, sir.

8 Q Let's just go back over the incident. What happened
9 while you're gambling? What happened that caused the
10 cocked dice? Tell us what happened in that incident.

11 A Okay. Sometimes you got -- you got cracks in the
12 ground, like a -- dice might get in sideways instead of
13 landing flight -- landing flat. I think it was -- me and
14 another person might've been -- I don't know exactly what
15 happened, man.

16 But I know, whatever the situation was, it could've
17 been settled. It could've been handled. It would --
18 didn't have to go beyond an extreme to where he took it.
19 That's all I know. I know that for a fact.

20 Q Well, you didn't say that he took it to extremes.
21 You say he laughed it off, right?

22 A No. Never said that.

23 Q You didn't say he laughed off, slamming you?

24 A If you talking about earlier -- earlier ---

25 Q Yeah. That's where we're at.

1 A Or that's where we at earlier. We not at the
2 situation where he ran off and got the gun. Because when
3 he ran off and got the gun, he -- he was serious. He ran
4 off, got the gun, and came back and put it on blood that
5 he was going kill me.

6 Q And was ---

7 A He put it on his -- on his mom. He put it on
8 everything in the book that he was going kill me.

9 Q Well, let's go back to the cocked dice. You said
10 they dice was cocked, right? Is that right?

11 A What -- what part of the day are you talking about,
12 now?

13 Q Was there a point in the day where you said the dice
14 were cocked so you wanted your money back?

15 A I never -- listen, if I lose, I lose. If the dice
16 -- if the dice cock, I'll say we roll or -- or either you
17 could say we roll or whatever. You get what I'm saying?
18 I'm not too tough to sit and argue. I win the majority
19 of the times.

20 You know why I win? Because I don't deal with -- I
21 don't be -- I don't be no bullshit. I don't be petty. I
22 don't -- I -- I put good energy out there, so I'm -- I'm
23 always going win, even if I lose, I feel like. You get
24 what I'm saying? I'm always going win.

25 Q Always going to win.

1 A If -- even if I lose, I'm always going to win. At
2 the end of the day, I'm not going lose everything,
3 because I know when to quit. I know when to quit, sir.

4 Q You weren't feeling like a winner that day, were
5 you?

6 A What you mean? I was up. I just won \$800 the night
7 before. I just won 2,000 probably -- off of probably
8 like that Monday or -- or a -- a -- a -- a couple days
9 before that. I -- I had a good streak the whole month.

10 I mean, I didn't feel like a winner because the
11 situation that came out to play. You get what I'm
12 saying? At the end, no, I didn't feel like a winner.
13 No. No. Because that was bullshit. Excuse my language.

14 Q I'll try to redirect your attention back again, the
15 cocked-dice incident. Earlier in that day, was there --
16 was there an incident where -- where you said the dice
17 were cocked and Stacy Rhodes disagreed with you?

18 A I -- I don't want to lie. I don't remember -- I
19 don't -- I don't remember all that.

20 Q You don't remember that?

21 A If you -- if it's on -- if you could get it on the
22 disc and play it, just play it, then. Because I -- I
23 don't want to go into all that and not -- and then you
24 say I'm lying to you or anything. I don't -- I don't
25 want -- I don't want to be called a liar. I don't want

1 to be put out as a liar. So I'm not going lie about
2 that, sir. I'm not going lie about that.

3 Q Okay. So if you don't remember the cocked dice,
4 that's fine.

5 A I'm not going lie.

6 Q You remember him slamming you?

7 A I remember getting slammed earlier that day. Yeah.
8 And he -- he -- he laughed it off. But that was part of
9 him building hisself up more and more aggressively.

10 Basically, he was Deebo'ing the game. That's what
11 he basically was doing the whole day: Deebo'ing the
12 game. That's what was going on. He was bullying the
13 game the whole day. That's what really was going on.

14 Q Okay. So he -- he was bullying ---

15 A The game.

16 Q --- the game?

17 A Basically, Deebo'ing the game. That -- that -- I
18 guess that's -- that's your way you come up, but all
19 you're doing -- you -- you going lose. You losing.
20 Because you're -- you're focused on the wrong things.

21 Q So that -- that \$20/\$40 wouldn't upset you?

22 A No.

23 Q Does being called a cheater upset you?

24 A I don't cheat.

25 Q Does being called a liar upset you?

1 A A -- a liar? I mean, it -- I'm a say it like this:
2 I -- words are words. I done been called every word in
3 the book. It's not ---

4 Q So if ---

5 A --- too much that's going hurt me, sir.

6 Q So if somebody called you a cheater, it wouldn't
7 bother you that much?

8 A (Gestured.)

9 Q If someone called you a liar, you'd shrug it off?

10 A (Gestured.)

11 Q Is that right?

12 A I been called worse things by better -- by -- by --
13 I been called worse things, sir.

14 Q Okay. So that wouldn't bother you?

15 A I'll -- I'll tell you if I am. I'll tell you if I'm
16 not.

17 Q Okay. You -- you'll tell me to -- so you're saying
18 that if you got a problem, you'll tell somebody?

19 A No. If -- if you said that I'm cheating, you have
20 to prove that I'm cheating. I don't cheat. So how am I
21 cheating? You get what I'm saying?

22 Tell me how I'm cheating. I'm the type person, I'll
23 correct it if you feel like I'm cheating. If -- if I
24 cheated without knowing, I'll correct it.

25 Q So you -- you want the record straight so nobody

1 thinks you're a cheater; is that right?

2 A Yeah, basically.

3 Q So I'll -- it sounds like somebody calling a cheater
4 would upset you a little bit.

5 A (Gestured.)

6 Q No?

7 A All I can do is explain to you how I'm not cheating.
8 If -- if -- if I was cheating, not make sense, sir.

9 Q Okay. So you were just explaining why you weren't
10 cheating. But you -- but calling -- being called a
11 cheater wouldn't make you upset.

12 A I'm called worse things by -- by better people, sir.

13 Q And when you were shooting, you weren't looking; is
14 that right?

15 A I'm be honest. I was trying to get away, Your -- I
16 mean, Mr. Solicitor. I was trying to get away, man.

17 Q So is that a "yes"?

18 A Was it? No.

19 Q I'm asking.

20 A No.

21 Q So you were looking when you -- when you shot?

22 A No, I wasn't looking.

23 Q You weren't?

24 A I was -- I was trying to run. I was trying to get
25 away.

REDIRECT EXAMINATION BY MR. DUNCAN - MIKAH GREEN 140

1 Q Okay. So you were running, not looking, and
2 shooting?

3 A Yes, sir. I'm trying to get away. I heard
4 gunshots. I know it initialed right here on me. It's on
5 me. I'm scared for my life.

6 Q Thank you. That's all the questions I have.

7 MR. DUNCAN: Very briefly.

8 THE COURT: Yes, sir.

9 REDIRECT EXAMINATION

10 BY MR. DUNCAN:

11 Q Mr. Green, what -- do you recall the clothing you
12 were wearing on the day we've been talking about?

13 A Yes, sir. I was wearing a -- a -- a -- a -- a -- a
14 blue jersey -- a blue -- a blue -- a blue baseball -- a
15 -- a Dodgers jersey.

16 Q Okay.

17 A Yes, sir. Dodgers jersey.

18 Q Okay. And what kind of -- do you remember the pants
19 you were wearing?

20 A I had on some long blue -- blue jeans.

21 Q All right.

22 A Yes, sir.

23 Q And, Mr. Green, do you recall -- you recall well
24 going to the City of Columbia with Investigator Alvarez
25 from Richland County and Mr. -- Investigator Streater?

REDIRECT EXAMINATION BY MR. DUNCAN - MIKAH GREEN 141

1 A Yes, sir. Campbell Streater and -- yeah -- Alvarez.
2 Yes, sir. Investigator Alvarez.

3 Q And they -- they basically just gave -- took you to
4 the City of Columbia; is that correct?

5 A Yes, sir.

6 Q And at the City of Columbia, what the solicitor has
7 been asking you about is a statement that you gave to
8 Investigator Hilton? Do you ---

9 A That -- that ---

10 Q --- recall that?

11 A --- statement was from a -- my girlfriend. She went
12 back to go pick the -- pick the vehicle up. She picked
13 the -- you talking about ---

14 Q I'm -- I'm sorry.

15 A What ---

16 Q I'm ---

17 A --- what ---

18 Q --- saying -- I -- I'm ---

19 A I apologize.

20 Q Stop -- stop for a second.

21 A Yeah. I'm sorry.

22 Q Do you recall an interview with Investigator Hilton?

23 A Yes, sir. I remember -- I recall that. I recall
24 that.

25 Q Okay. And that's -- you've been answering questions

1 about some of that interview with the solicitor, correct?

2 A Yes, sir.

3 Q And you -- you stand by -- generally stand by that
4 interview that you gave the day after this incident.

5 A Yes, sir.

6 Q Okay. And you -- you have said: "I'd like to see
7 the -- play the video."

8 A We can play it. Yes, sir.

9 Q Okay. All right. And you recall a incident earlier
10 in the day, early part of the day, when y'all were
11 gambling -- and I don't mean -- I -- I know it was in the
12 afternoon. But there was an incident where Mr. Rhodes,
13 Stacy Rhodes, slammed you?

14 A Yes, sir.

15 Q And tell me what "slammed" is. What does that mean?

16 A Like ---

17 Q Like body slam?

18 A Yeah. Like pick me up and -- and slam me. Yes,
19 sir. And, like: "Oh, I had to slam my homeboy. Ha, ha,
20 ha."

21 And I'm, like: "You getting kind of aggressive over
22 a little -- yeah. You getting a little aggressive. You
23 can have it." I just told him he could have it.

24 At that point I was, like: "You can have it." At
25 -- earlier that day I was, like: "You can have it. I

REDIRECT EXAMINATION BY MR. DUNCAN - MIKAH GREEN 143

1 was just ---

2 Q It -- it -- you -- you would say that that argument
3 did kind of chill. Y'all -- it had calmed down.

4 A Yeah. That was -- that was nothing. That wasn't
5 even an argument. That was really nothing -- nothing to
6 argue. It was just him being aggressive.

7 I -- like I told you, I'm not going to argue. I'm
8 not going to just sit and argue with a person. I'm not
9 going to argue. It's no need to argue with a person.

10 Q Your ---

11 A No need.

12 Q Is it correct to say, when Mr. Rhodes left the
13 premised for a while and came back in the vehicle, is
14 when you say you got afraid?

15 A Yeah. Yeah. When he ran off, he said: "You better
16 not leave up out of here with that money. I'm a Swiss
17 cheese that car."

18 He ran -- he -- he ran. I'm talking about ran a
19 couple houses down; went inside; came back out; hopped in
20 the car. I guess that's the person he was on the phone
21 with at that time when he turned his back and hopped on
22 the phone. I guess that's -- that's who he was talking
23 to, because evidently, he must've been waiting on him
24 right there.

25 Came back inside a vehicle, a white vehicle. I

1 think it was some type of Dodge or something like that.
2 I don't know exactly what it was. But he came back
3 inside of the vehicle.

4 And he said -- he drove down; rode back. When he
5 hopped out, a couple people started to running, because
6 they felt like it was going be some type danger. I went
7 to the side of the car, because I felt like if you're
8 going shoot me, you're going shoot -- he found -- said
9 he's going shoot, he's going shoot.

10 Everybody basically ducked. Everybody basically --
11 then he ran straight towards me. The person was in front
12 seat, he was, like: "Oh, you talking about killing him?
13 You talking about shooting him? You like my nephew; you
14 like my nephew."

15 And he kept escalating -- he kept getting more and
16 more aggressive and more and more aggressive. That's
17 what happened.

18 Q That's -- that's all the questions I have.

19 THE COURT: All right. Anything further from the
20 state?

21 MR. NEELY: Just briefly, Your Honor.

22 RECROSS-EXAMINATION

23 BY MR. NEELY:

24 Q When you were shooting that pistol, were you trying
25 to hit the victim, Stacy Rhodes?

RE CROSS-EXAMINATION BY MR. NEELY - MIKAH GREEN 145

1 A I was -- I was trying to get away. I was trying to
2 -- I was trying to do whatever it take to defend my life.
3 I was trying to get away, man. I was scared for my life.

4 I was trying to get whatever was on me up off of me.
5 I was trying to -- I hear gunshots. I was scared, man.
6 I was terrified.

7 Q Okay. So you were or you were not aiming at Stacy
8 Rhodes?

9 A He threatened -- okay. If I'm -- can I -- can I
10 just -- can I -- can I -- can I -- can I, uh -- a car
11 right here; a car right here. I'm going this way; you
12 hop in front of me. I'm trying to get away. I'm trying
13 to get away from you.

14 Because every -- every time you get in front of me,
15 you're waiving a gun; you're pulling out a gun on me. I
16 don't know what to do.

17 Q So every time you tried to -- you tried to get away?
18 So you're trying to get away?

19 A I'm trying to walk away. I'm trying to -- I'm
20 trying to get from me front of you so you won't pull this
21 gun out on me and -- and -- a gun. Because sometime guns
22 go off just on accident. Sometime -- sometimes guns -- I
23 could be sitting here, boom. Somebody accidentally got
24 shot for no reason.

25 I'm trying to -- I'm trying to get behind something

1 so just in case, I'm -- I'm not trying to get shot.

2 That's not something I'm trying to do. No, sir. I'm not
3 trying to get shot.

4 Q You pulled the trigger on your pistol, right?

5 A Say again?

6 Q You pulled the trigger on your pistol?

7 A I remember one -- pulling out a gun when I heard
8 shots. And I remember shooting over my shoulder at
9 whoever was behind -- whoever was -- was shooting -- I
10 guess shooting at me or whoever was right there,
11 shooting. Yes, sir.

12 Q But you didn't see anybody shooting.

13 A I heard shots. I heard a thoom-thoom, thoom-thoom,
14 thoom-thoom, thoom-thoom, thoom-thoom, thoom (phonetic).
15 That's what I heard, sir. That's what ---

16 Q And so ---

17 A --- I heard, sir.

18 Q --- you started running and fired over your
19 shoulder?

20 A Yes, sir.

21 Q Not looking where you're aiming?

22 A If that's what you want to -- if that's what you
23 want to call it. I -- I would -- I -- I was trying to
24 get away, sir. I call it me getting away.

25 Q But you weren't looking at him, right?

1 A No, sir.

2 Q Okay.

3 MR. NEELY: No further questions, Your Honor.

4 THE COURT: You may step down.

5 (Off the record briefly.)

6 (Whereupon, the witness exited the witness stand.)

7 THE COURT: Next witness.

8 MR. DUNCAN: Your Honor, I'm going call Booker
9 Henley.

10 THE COURT: All right. Booker Henley.

11 MR. DUNCAN: Booker Henley is in custody, Your
12 Honor.

13 THE COURT: All right. We have somebody that can
14 get him?

15 (Off the record briefly.)

16 MR. DUNCAN: Your Honor, I don't -- I'm not -- I'm
17 willing to do however. I want to introduce Mr. Green's
18 interview. I mean, it's stipulated that we would -- it
19 would come in. And there's a 911 call that I'd like to
20 play. And I don't know how we ---

21 THE COURT: All right. Maybe you can play it while
22 they're trying to find Mr. Henley.

23 MR. DUNCAN: I was going to say: The 911 call is
24 very short.

25 THE COURT: All right. Yeah. All that's in

1 evidence, so we just need to mark it Court's Exhibit.

2 Did -- have you marked all of them or anything?

3 THE COURT REPORTER: Your Honor, I marked as Court's
4 Exhibit 1 the stipulation of counsel; Court's 2, Mr.
5 Neely asked to mark a pathology report; and Court's 3,
6 the DVD.

7 MR. DUNCAN: I'm sorry. What -- No. 1 was what?

8 THE COURT REPORTER: The stipulation between you and
9 Mr. Neely.

10 MR. DUNCAN: Okay. And No. 2 is the autopsy?

11 THE COURT REPORTER: Yes, sir.

12 MR. DUNCAN: Okay.

13 THE COURT: All right.

14 MR. DUNCAN: And the ---

15 THE COURT: So what do you have now you want to
16 introduce?

17 MR. NEELY: Number 3 is the interview.

18 MR. DUNCAN: Number 3 is Mr. Green's interview.
19 It's about 40 minutes, right?

20 THE COURT: All right.

21 MR. DUNCAN: It's about ---

22 THE COURT: And what's ---

23 MR. DUNCAN: --- 40 ---

24 THE COURT: --- Number 4?

25 MR. DUNCAN: Number 4, I want a 911 call that we

1 refer to in the stipulation.

2 THE COURT: Okay. That's No. 4. If you can have
3 her mark it. She's already marked No. 3.

4 MR. DUNCAN: Okay. Right. And I -- actually, I'm
5 not sure I have -- it's the clip that y'all sent me,
6 like, Thursday.

7 MR. COURY: Of what?

8 MR. DUNCAN: It's a 911 call.

9 MR. COURY: Oh.

10 MR. DUNCAN: 9-1 -- you know what I'm talking about?
11 It's a -- a -- it's, like, a four-minute call. It's
12 initial -- I think it's the initial phone call.

13 MR. COURY: Okay.

14 MR. DUNCAN: It's anonymous. You -- you have -- I
15 have one.

16 MR. NEELY: The judge has a copy. We can ---

17 MR. DUNCAN: That'll work. That'll work. That'll
18 work. That'll work.

19 THE COURT: All right. While you all are trying to
20 find that, we're going to take a two-minute break.

21 MR. DUNCAN: Sure.

22 (The Court went off the record at 3:54 p.m.)

23 (Whereupon, Court's Exhibit 4 was marked for
24 identification while off the record.)

25 (The Court went on the record at 4:01 p.m.)

DIRECT EXAMINATION BY MR. DUNCAN - BOOKER HENLEY 150

1 THE COURT: All right.

2 MR. DUNCAN: Your Honor, I'm going call Mr. Henley
3 to the stand.

4 THE COURT: Okay.

5 (Whereupon, the witness came forward.)

6 BOOKER HENLEY, having been first duly sworn,
7 testified as follows:

8 DEPUTY CLERK OF COURT: Thank you. Please state
9 your name for the record.

10 THE WITNESS: Booker Henley.

11 DIRECT EXAMINATION

12 BY MR. DUNCAN:

13 Q Good afternoon, Mr. Henley.

14 A Good afternoon.

15 Q Mr. Henley, as you -- as you know, my name's Mike
16 Duncan, and I represent Mr. Mikah Green in -- in regard
17 to a shooting incident that resulted in the death of a
18 gentleman named Stacy Rhodes. Are you -- are you
19 familiar with a shooting out at the Lakeshore Apartments
20 in March of 2019?

21 A Yes, sir.

22 Q I -- I'm going to ask you, if it's all right, if he
23 can pull his mask down. Is that all right? I -- so I
24 got a fighting chance to hear you.

25 A Yes, sir.

DIRECT EXAMINATION BY MR. DUNCAN - BOOKER HENLEY 151

1 Q Thank you, sir. Do -- do you know my client, Mr.
2 Green?

3 A Yes, sir.

4 Q How -- where do you know -- what's the name you know
5 him as?

6 A Rich.

7 Q Rich?

8 A Yes, sir.

9 Q All right. And, Mr. Henley, did -- did you know the
10 gentleman who died on March 31st, 2019, Mr. Stacy Rhodes?

11 A Yes, sir.

12 Q How -- how did you know him or what did you know him
13 as?

14 A Boi.

15 Q Boi?

16 A Yeah.

17 Q All right. How -- how did you know him?

18 A I just know him from around the neighborhood ---

19 Q Okay.

20 A --- both of them.

21 Q Where did you live?

22 A I don't live nowhere around. I live across the
23 street in Austin Woods.

24 Q Okay. All right. That's -- that's where you lived
25 prior ---

1 A Yeah.

2 Q --- you -- right now you're incarcerated?

3 A Yes, sir.

4 Q Okay. But your address is Arthur Woods; that's
5 where you live.

6 A Austin Woods.

7 Q Austin Woods. I ---

8 A Yes, sir.

9 Q --- I'm sorry.

10 A Across the street from the apartments.

11 Q On -- off of Garners Ferry Road?

12 A Yes, sir.

13 Q Okay. All right. Were you -- were you gambling --
14 were -- excuse me. Were you outside of the Lakeshore
15 Apartments on the afternoon in question that we're
16 talking about?

17 A Yes, sir.

18 Q And what was going on out there?

19 A People -- a lot of people was out. They were
20 cooking on the grill, gambling, just things like that,
21 just the neighborhood out -- on a sunny day. You feel
22 me?

23 Q Did -- did you see the gentleman you knew as Boi out
24 there ---

25 A Yes, sir.

DIRECT EXAMINATION BY MR. DUNCAN - BOOKER HENLEY 153

1 Q --- Mr. Rhodes?

2 A Yes, sir.

3 Q What -- what did you see Mr. Rhodes doing?

4 A Everything was cool at first. Then they got it --
5 they got into an altercation about gambling. And then I
6 seen what -- it calmed down for a little minute.

7 And then I seen -- was it -- Rich walk away. And I
8 seen Boi follow him up the street. They both had guns.
9 You feel me?

10 And then next thing I know, gunshots rang out. I
11 got behind the car. And I guess that's when -- when the
12 dude -- Boi, he was on the ground. When everybody came
13 back out, he was on the ground.

14 Then his family pulled up; took the gun off him; put
15 him in the car. And I guess they tried to take him to
16 the emergency room, I guess.

17 Q But is it correct to say you saw Mr. Rhodes, Boi,
18 with ---

19 A Yeah.

20 Q --- a gun?

21 A Yeah.

22 Q Did you hear Mr. Rhodes being loud and aggressive?

23 A Yeah.

24 Q Did you hear him threaten Rich?

25 A Yes, sir.

CROSS-EXAMINATION BY MR. NEELY - BOOKER HENLEY 154

1 Q Did Mr. Rhodes -- did Boi instigate -- did he start
2 the altercation?

3 A Yes. You could say that. Rich walked away, and Boi
4 followed him up the street.

5 Q Okay. So from what you saw, Mr. Green, Rich ---

6 A Yes, sir.

7 Q --- had tried to leave the scene?

8 A Yes, sir.

9 Q And Boi followed him with a gun?

10 A Yes, sir.

11 Q Okay. I think that's all the questions I have. The
12 solicitor will have some.

13 CROSS-EXAMINATION

14 BY MR. NEELY:

15 Q So you say you saw Boi following Green up the
16 street?

17 A Yes, sir.

18 Q What street was that?

19 A It's right where it happened at, in the beginning of
20 the apartments. Like, he -- Rich was going up towards
21 the exit, and Boi followed him up toward the exit.

22 Q If I showed you pictures of that apartment complex,
23 would you recognize them?

24 A Yes, sir.

25 (Off the record briefly.)

1 Q Do you -- do you recognize this?

2 A That's a top view of it. Yeah, yeah. I can see.

3 Yeah. I -- I can see where he was in the apartments.

4 Yeah.

5 Q And this is the Lakeview Apartment complex?

6 A I -- I -- from the top view, I really can't tell.

7 Q Oh, you can't tell?

8 A Yeah.

9 Q That's okay.

10 Do you remember in which -- in front of which
11 building Boi was shot?

12 A It's in the first buildings, soon as you come back
13 there, to the left.

14 Q Okay. So that'd be, like, 1001?

15 A I don't know about numbers.

16 Q But it was the first building on the left?

17 A Soon as you come in the neighborhood, go to the
18 left.

19 Q Okay. And you say you saw Rhodes' family come and
20 take the gun off him?

21 A Yes, sir. What -- when they came -- yeah. They
22 came and picked him up and put in the car and took the
23 gun away from him. Yes, sir.

24 Q So you -- you saw all of that?

25 A Yes, sir.

1 Q And where were you?

2 A I was out in the neighborhood, on the front -- like,
3 on the front in the front buildings.

4 Q At -- on the front of the front building?

5 A Yeah, in the front of the front building. Yeah. It
6 was a lot of people out there that might've seen.

7 Q And you didn't -- you didn't see how the actual
8 incident went down?

9 A No, sir. Once the gunshots went up, I ducked behind
10 a car.

11 Q How old are you?

12 A I'm 20 -- 26 -- 27. I'm sorry.

13 Q And how many criminal charges do you have on your
14 record?

15 A Not sure.

16 Q More than a few?

17 A Misdemeanors.

18 Q All right. What you in jail for right now?

19 A I got a couple charges.

20 Q Got a couple charges?

21 A Yes, sir.

22 Q And you and Mr. Green are friends?

23 A I know him from the neighborhood.

24 Q You know him from the neighborhood?

25 A (No audible response.)

CROSS-EXAMINATION BY MR. NEELY - BOOKER HENLEY 157

1 Q You tell anybody else about this?

2 A About what?

3 Q About seeing the victim's family take the gun off of
4 Rhodes?

5 A I mean, no. I -- I don't have no reason to tell
6 nobody else about that.

7 Q So this is the first time you ever tell anybody?

8 A Yeah.

9 Q Okay. So you didn't see the whole thing go down;
10 you just saw Boi and Green walk away?

11 A Could you rephrase that?

12 Q I'm sorry. You saw Boi walk away, right? You -- or
13 you saw ---

14 A I ---

15 Q --- Green walk away and Boi followed him; is that
16 correct?

17 A I was out there the whole time, so I -- I saw pretty
18 much everything.

19 Q So you saw the shooting?

20 A No, I didn't see the -- I -- when the gunshots went
21 off, I ducked behind a car. But I was right there.

22 Q Do you remember what the gunshots sounded like?

23 A No, sir. What you mean? Like, what did they sound
24 like?

25 Q I'm curious if -- if -- do you remember how many

1 shots went off?

2 A No, sir.

3 Q You remember what kind of gun Mr. Green had on him?

4 A No, sir.

5 Q Did he ever show it to you?

6 A No, sir.

7 Q You -- you know what kind of gun Rhodes had on him?

8 A No, sir.

9 Q Were you drinking that day?

10 A No, sir.

11 Q Not a drinker?

12 A No, sir.

13 Q Was Green drinking that day?

14 A I'm not sure.

15 Q Was Rhodes drinking that day?

16 A I'm not sure.

17 Q Okay. You don't know?

18 A Yeah. I'm not sure if they were drinking.

19 Q You remember what Rhodes was wearing that day?

20 A No, sir.

21 Q No?

22 A (No audible response.)

23 Q You remember what Green was wearing that day?

24 A No, sir.

25 Q It's been a long time since the incident, hasn't it?

REDIRECT EXAMINATION BY MR. DUNCAN - BOOKER HENLEY 159

1 A Right.

2 Q Hard to remember particulars?

3 A Yeah. Yeah, yeah.

4 Q Hard to remember particulars?

5 A Yes, sir.

6 Q Do you remember which members of Mr. Rhodes' family
7 picked him up and took the gun off him?

8 A No, sir. Not -- not in particular, sir.

9 Q You can't identify them?

10 A No, sir.

11 Q Did you know Mr. Rhodes' family?

12 A No, sir.

13 Q Okay. No further questions.

14 THE COURT: Anything else?

15 MR. DUNCAN: Very briefly.

16 REDIRECT EXAMINATION

17 BY MR. DUNCAN:

18 Q Mr. Henley, it has been nearly three years since
19 this situation, but any question in your mind that Boi,
20 Mr. Rhodes, had a gun that afternoon?

21 A No, there's no question in my mind.

22 Q And no question that he went after -- followed Mr.
23 Green, who was trying to walk away?

24 A No, sir.

25 Q Thank you.

1 MR. DUNCAN: And that's all, Your Honor, with ---

2 THE COURT: Anything else?

3 MR. NEELY: Nothing from the state, Your Honor.

4 THE COURT: Okay. You may step down.

5 (Whereupon, the witness exited the witness stand.)

6 THE COURT: Next witness.

7 MR. DUNCAN: Your Honor, that's -- that's all the
8 witnesses we have. We do have this 911 call.

9 THE COURT: Okay.

10 MR. DUNCAN: It -- and I'm going ask assistance in
11 making that machine work.

12 THE COURT: All right.

13 (Whereupon, Mr. Neely and Mr. Duncan conferred.)

14 MR. NEELY: Your Honor, may we approach?

15 THE COURT: I guess. If it's necessary. Is it
16 something that's off the record?

17 MR. NEELY: Your Honor, I was going to ask if you
18 wanted to play the video out here or in your chambers.

19 THE COURT: Well, right here. I'm looking --
20 looking -- I guess it's on that screen, isn't it?

21 MR. DUNCAN: Yes, sir. That's going be a phone
22 call. And then following that would be ---

23 THE COURT: All right. Whatever -- yeah. We're ---

24 MR. DUNCAN: Just ---

25 THE COURT: --- sitting here ---

1 MR. DUNCAN: Okay.

2 THE COURT: --- looking at it. That's -- I don't
3 have the TV in chambers.

4 (Whereupon, a portion of audio recording was
5 published in open court.)

6 MR. DUNCAN: Your Honor, I was going to say the --
7 the rest of that is the 911 operator saying: "Hello,
8 ma'am," and the lady never responds again. So ---

9 THE COURT: All right. Was this call transcribed?

10 MR. NEELY: It was not, Your Honor.

11 THE COURT: Okay. All right. Next witness.

12 MR. DUNCAN: All right. Your Honor, I would
13 introduce -- or seek to publish or play Court's Exhibit
14 No. 3, Mr. Green's interview, the ---

15 THE COURT: Well ---

16 MR. DUNCAN: --- redacted portion.

17 THE COURT: Okay.

18 (Off the record briefly.)

19 THE COURT: Was this one transcribed?

20 MR. NEELY: That's correct, Your Honor. There's no
21 transcription.

22 THE COURT: All right. So -- so the jury is
23 supposed to decipher all this from all these phone calls
24 and so forth?

25 MR. NEELY: From the audio, yes, sir.

1 (Whereupon, a portion of video was published in open
2 court.)

3 THE COURT: Can the volume go up any louder?

4 (Off the record briefly.)

5 (Whereupon, a portion of video was published in open
6 court.)

7 THE COURT: All right. Mr. Duncan, any other
8 witnesses?

9 MR. DUNCAN: Your Honor, the -- the only other thing
10 that I would offer is -- I don't know -- is a video --
11 security-camera video. Really, all I wanted to show is
12 what my client was wearing that day and may -- it's --
13 it's a -- solicitor stipulates to it. I -- I don't -- I
14 mean, can you do that?

15 MR. NEELY: Yeah. Your -- Your Honor, this is
16 already stipulated to.

17 THE COURT: Okay. No disagreement on what he was
18 wearing.

19 MR. DUNCAN: Okay. Then, that's -- that's our case
20 for ---

21 THE COURT: All right.

22 MR. DUNCAN: --- in the ---

23 THE COURT: From the state?

24 MR. NEELY: I'm sorry, Your Honor?

25 THE COURT: From the state. You have witnesses?

1 MR. NEELY: Your Honor, we have witnesses coming in
2 tomorrow morning.

3 THE COURT: Regarding the stand-your-ground?

4 MR. NEELY: Regarding stand your ground here. Yes,
5 Your Honor.

6 THE COURT: Sir?

7 MR. NEELY: Yes, sir, Your Honor.

8 THE COURT: And who is that?

9 MR. NEELY: We have Alexia Smith and Investigator
10 Hilton.

11 THE COURT: Wow. I didn't know that you didn't have
12 all your witnesses.

13 MR. NEELY: I'm sorry, Your Honor. I -- I believed
14 this would take us into tomorrow morning.

15 THE COURT: Well, it would have to if you don't have
16 your witnesses here. You said you believed that it
17 would. Is that what you're saying?

18 MR. NEELY: Yes, sir, Your Honor. I -- we've
19 checked on having Investigator Hilton come in this
20 afternoon after the break and to make -- but we told him
21 that based on this, we would be able to figure it out and
22 we believed it would carry us into tomorrow. So we told
23 him to come tomorrow morning.

24 THE COURT: So what witnesses do you have today?

25 MR. NEELY: I don't have any witnesses to call

1 today, Your Honor.

2 THE COURT: All right. So we're going to have the
3 jury come at 10 and just wait around?

4 MR. NEELY: I'm sorry, Your Honor. I did not think
5 that ---

6 THE COURT: No. This -- I mean, we -- we gave the
7 jury time to come back. I think it was around 1 --
8 1/1:30. And -- did you know at the time that your
9 witnesses weren't here or weren't going be able to be
10 here?

11 MR. NEELY: I wasn't sure at the beginning of the
12 day how long the day was going to take ---

13 THE COURT: I said ---

14 MR. NEELY: --- because that was ---

15 THE COURT: --- when -- when we let the jury go at
16 1:30, you -- did you know then?

17 MR. NEELY: When we let the jury go was when we
18 began calling them, because we weren't sure.

19 THE COURT: Well, so you -- again, you have Alexis
20 Smith?

21 MR. NEELY: Alexia Smith, Your Honor. Yes.

22 THE COURT: Yeah, Alexia. She was out there?

23 MR. NEELY: I'm sorry?

24 THE COURT: Was she there?

25 MR. NEELY: Yes, sir, Your Honor. She was the

1 driver of the blue car.

2 THE COURT: The driver of the blue car. And then,
3 the other person is?

4 MR. NEELY: Investigator Hilton.

5 THE COURT: Was that him whose -- we just listened
6 to?

7 MR. NEELY: That is.

8 THE COURT: All right. And he's going to tell us
9 what we just listened to or something else?

10 MR. NEELY: I -- I think he's just going to lay out
11 the scene for Your Honor. I -- I think it may be an
12 easily discernible diagram.

13 THE COURT: Okay.

14 MR. NEELY: Or I hope it is.

15 THE COURT: Well, all right. Well, we'll start at --
16 -- the jury is coming at 10, right?

17 MR. NEELY: That's correct.

18 THE COURT: Or 9:30?

19 MR. NEELY: I think ---

20 MR. DUNCAN: You -- you told them 10.

21 THE COURT: Ten. All right. So we'll start at
22 9:30. But based on what I've heard at this point -- I'm
23 not drawing any conclusion at this time. But the thing
24 about these stand-your-ground hearings is, as reflected
25 in those cases, it -- it seems to be preferable that the

1 Court have a written order. So I want the state to
2 prepare a proposed written order. The defense can do the
3 same, if you want to.

4 MR. NEELY: Yes, sir, Your Honor.

5 THE COURT: Not that I will not change it -- agree
6 with it, but so that in the event I deny the stand-your-
7 ground, we can deal with the written order and press on.

8 MR. NEELY: Yes, sir, Your Honor. We'll have the
9 order ready.

10 THE COURT: All right. Anything else today?

11 MR. NEELY: Nothing from the state, Your Honor.

12 MR. DUNCAN: No, sir, Your Honor.

13 THE COURT: All right. Well, we'll kick it off at
14 9:30 tomorrow morning.

15 MR. DUNCAN: Thank you, sir.

16 MR. NEELY: Thank you, Your Honor.

17 THE COURT: Yep.

18 MR. CORY: Thank you, Your Honor.

19 THE COURT: All right. Have a good evening.

20 (Whereupon, the proceeding adjourned at 5:05 p.m.)

21 --- END OF TRANSCRIPT OF RECORD ---

22 VOLUME 1 OF 3

23

24

25

CERTIFICATE

I, the undersigned Maryann S. Nevers, CVR-M-CM, RVR, RVR-M, Official Court Reporter (Retired) for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of Volume 1 of the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Circuit Court for Richland County, South Carolina, for the portion of trial held on the 28th day of February, 2022.

I do further certify that I am neither of kin, counsel, nor interest in any party hereto.



Maryann S. Nevers, CVR-M-CM, RVR, RVR-M
Official Court Reporter (Retired)

Leland, North Carolina

April 21, 2022

State of South Carolina) In the Court of General Sessions
) Fifth Judicial Circuit
County of Richland) 2022-GS-40-00105
) 2022-GS-40-00106

State of South Carolina,)
)
 vs.) Transcript of Record
)
Mikah Nelsun Green,) Volume 2 of 3
)
 Defendant.)
)

February 28-March 2, 2022
Richland County Judicial Center
Columbia, South Carolina

B E F O R E:

The Honorable Clifton B. Newman, Judge; and a jury

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Attorneys for State of South Carolina

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Circuit Court Reporter
Certified Verbatim Reporter - Master
Certificate of Merit
Realtime Verbatim Reporter - Master

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NO.	DESCRIPTION	I.D.	EVID.
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PROCEEDINGS

TRIAL DAY 2 - 03/01/22

(Whereupon, the proceeding resumed at 9:35 a.m.)

THE COURT: All right. Good morning.

MR. COURY: Good morning, Judge.

THE COURT: You may proceed with stand your ground.

MR. NEELY: Yes, Your Honor.

MR. DUNCAN: Defense is ready.

THE COURT: Okay. The state's next witness,
whatever you have.

MR. NEELY: The state would call Investigator
William Hilton.

MR. COURY: I know where he is. I'll get him.

(Off the record briefly.)

(Whereupon, the witness came forward.)

WILLIAM HILTON, having been first duly sworn,
testified as follows:

DEPUTY CLERK OF COURT: Please have a seat there,
sir, and state your full name for the record.

(Off the record briefly.)

THE WITNESS: My name is William Hilton.

DIRECT EXAMINATION

BY MR. NEELY:

Q Mr. Hilton, where are you currently employed?

A Oh, I'm retired, sir.

1 Q When did you retire?

2 A August 2021.

3 Q So where were you employed on March 30th, 2019?

4 A City of Columbia Police Department.

5 Q And in what capacity were you employed there?

6 A I was an investigator.

7 Q And did you become involved in the investigation of
8 Mikah Green?

9 A I did.

10 Q And would -- would you give us just, like, how you
11 became involved in an investigation?

12 A On that day I know I got called out to the scene. I
13 don't remember the address, but I know it's the apartment
14 complex. I believe it's 7645 Garners Ferry Road.

15 Q And ---

16 A And there was a shooting incident out there.

17 Q Okay. I'm going to show you a picture that's been
18 marked as State's Exhibit 1 for ID purposes.

19 (Off the record briefly.)

20 THE COURT: You may proceed.

21 Q Do you recognize the location?

22 A I do.

23 Q And what is that?

24 A That's the incident -- that's the location where the
25 -- that's the location of the incident.

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1 Q And is that the same picture that's located on the
2 big board?

3 A Yes, sir.

4 Q And would -- would you mind coming down ---

5 THE COURT: Is this trial testimony or ---

6 MR. NEELY: Stand your ground.

7 THE COURT: What's the purpose of this testimony?

8 MR. NEELY: To -- to establish the scene and where
9 things were on the scene, Your Honor.

10 THE COURT: Say again?

11 MR. NEELY: To establish the scene and where things
12 were located on the scene.

13 Q Investigator Hilton?

14 A Oh.

15 (Whereupon, the witness exited the witness stand.)

16 Q And I'm -- I'm going to show you what's been --
17 what's been marked as State's Exhibit No. 6 for ID
18 purposes. Do you recognize this picture?

19 A Yes. That's -- that's out there ---

20 THE COURT REPORTER: Your -- Your Honor, I'm sorry.
21 I can't hear the witness.

22 (Off the record briefly.)

23 A Yes. This is -- this is the -- the incident
24 location of the night that this happened.

25 Q And are those shell-casing markers?

1 A Yes, those are.

2 Q And is this the number of the apartment that it was
3 in front of?

4 A That's that -- yes. This is where they were.

5 Q And could you show us on this picture where those
6 casings are and ---

7 A This is Garners Ferry Road here ---

8 MR. DUNCAN: I'm sorry. Where is Garners Ferry?

9 THE WITNESS: I'm thinking this is Garners Ferry
10 here. You'll come in here.

11 MR. NEELY: That's correct.

12 MR. DUNCAN: Okay. All right. I got you.

13 A There's a gas station here.

14 Q All right.

15 A And as you come down, the white -- this building
16 with the white columns here and they were shell ---

17 THE COURT: All right. Sir, you can have -- take
18 your seat. She can't hear you talking from there, so you
19 need to have a seat where there's a mic.

20 A You want me to take this with me?

21 THE COURT: Do you have a pointer or laser or
22 anything? Because it's no point in talking if we can't
23 hear him.

24 DEPUTY CLERK OF COURT: Your Honor, I do have a
25 pointer in my office.

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1 (Off the record briefly.)

2 THE WITNESS: But I'll -- I'll try to speak up, Your
3 Honor. Is this better?

4 THE COURT: Yes, sir.

5 THE WITNESS: Okay. I'll try to keep it up here.

6 A This is Garners Ferry Road here. And the entrance
7 the apartment complex -- this is Garners Ferry Road right
8 here. This street right here, you can see this. Up here
9 is a gas station. This is the entrance in.

10 You will come down here and I -- the building with
11 the white columns here -- I'm trying to remember where
12 this fire hydrant -- and there were shell casings -- now,
13 there -- there -- there were shell cases all strewn
14 throughout the area here. The initial call had the
15 officers go down into the back of the -- to the back of
16 the apartment complex.

17 But as they came back up, the -- the -- the kids in
18 the back were ushering the police up to the front, up
19 here where the shooting took place.

20 Q And is this -- this is the third building of this
21 apartment complex?

22 A I -- I would believe if you said it was. Yes.

23 Q And was the -- was the blood also found and the
24 shell casings in front of that third building?

25 A Yes.

1 Q Okay. Was there a grouping of shell casings with
2 the blood?

3 A Yes, sir, there was a grouping. And there -- it was
4 some blood -- I think it was -- there was something on a
5 car that was parked out there that was right next to a
6 car. Yes.

7 Q Okay. And so when we're looking at these -- at
8 these markers, we have 1, 2, 3, and 4 in front of that
9 building?

10 A (No audible response.)

11 Q Is that correct?

12 A Yes, that's -- that's correct.

13 Q And are 1, 2, and 3 shell casings and 4 ---

14 A Yeah.

15 Q --- the blood splatter?

16 A Yep. That's right. That's this thing.

17 Q Okay. Thank you. You can take your seat.

18 (Whereupon, the witness reentered the witness
19 stand.)

20 MR. NEELY: Your Honor, that's all the questions I
21 have from this witness.

22 THE COURT: Mr. Duncan, any questions?

23 MR. DUNCAN: No, Your Honor.

24 THE COURT: All right. Thank you, sir.

25 THE WITNESS: Thank you.

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1 (Whereupon, the witness exited the witness stand.)

2 (Off the record briefly.)

3 THE COURT: Next witness.

4 MR. NEELY: All right. The state would call Alexia
5 Smith.

6 (The Court went off the record at 9:43 a.m.)

7 (The Court went on the record at 9:48 a.m.)

8 (Whereupon, the witness came forward.)

9 ALEXIA SMITH, having been first duly sworn,
10 testified as follows:

11 DEPUTY CLERK OF COURT: Please have a seat up here
12 and state your full name for the record.

13 THE WITNESS: Alexia Smith.

14 DIRECT EXAMINATION

15 BY MR. NEELY:

16 Q Good morning, Ms. Smith. How you doing this
17 monring?

18 A Good morning. How are you? Good.

19 Q Getting right to it, did you know Stacy Rhodes?

20 A Yes, I did.

21 Q And what did you call him?

22 A I called him Stacy.

23 Q How did you know Stacy?

24 A I met him at McEntire Produce. I was his line lead
25 at the time.

1 Q So you knew him through work?

2 A Yes.

3 Q Do you recall the day of March 30th, 2019?

4 A Yes, I do.

5 Q And how well do you remember that day?

6 A I'll never forget it. Pretty well.

7 Q What were you doing that day before the shooting?

8 A I worked that day. I worked that day.

9 Q And after you got off work, where'd you go?

10 A I went home and changed clothes and me -- got three
11 of my kids. We got in the car, and we drove to my
12 friend's, Deon's, house.

13 Q And where was that house located?

14 A Um ---

15 Q Was it Lakeshore Apartments?

16 A Lakeshore Apartments, yes.

17 Q And when were you leaving that friend's house?

18 A I don't remember the exact time. But I just stopped
19 at Deon house for a short period. The kids were actually
20 in the car.

21 Q And so when were you were leaving Deon's house, what
22 did you see?

23 A When I was pulling out -- well, on the way in, I
24 seen a lot of chaos on the left side. And I noticed
25 Stacy was out there. So I was kind of concerned about

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1 that.

2 I went into Deon's house. We talked for a few
3 minutes. And Deon walked me out to my car and told me to
4 get my kids out of there because all the chaos. And I
5 was yelling over to Stacy to try to get him to walk to
6 where I was at to get him in the car, because it was just
7 a lot of chaos.

8 Q All right.

9 A So when I ---

10 Q So I'm going to ---

11 A --- pulled out ---

12 Q --- have you -- can you stop right there?

13 A Uh-huh.

14 Q I'm going to have you come down and -- and indicate
15 on the board where these things are taking place.

16 MR. NEELY: And this is on State's Exhibit, for ID
17 purposes, 1.

18 (Whereupon, the witness exited the witness stand.)

19 (Off the record briefly.)

20 MR. COURY: You can see this, Your Honor?

21 THE COURT: I'm fine.

22 MR. COURY: Okay. Can you see it?

23 MR. DUNCAN: Yeah. That's fine.

24 Q Where were you parked, Ms. Smith?

25 A Um ---

1 Q If this -- this is Garners Ferry and this is the
2 entrance up here.

3 A Okay. This is the entrance. I came in the
4 entrance, and I pulled in. And I would turn right here.
5 So I was right here.

6 Q And -- and ---

7 A Oops. Sorry.

8 Q --- and when -- and when you pulled out, where did
9 you see Stacy Rhodes?

10 A It was right here in this area?

11 Q In the middle of the road right there?

12 A No. It was a bunch of guys out there ---

13 Q Okay.

14 A --- like, in the grass.

15 Q And when you saw Stacy Rhodes, did he have a gun ---

16 THE COURT: Fine ---

17 Q --- on him?

18 THE COURT: --- except I can't see through her.

19 MR. NEELY: Oh.

20 DEPUTY CLERK OF COURT: Use the pointer.

21 Q And when you saw Stacy Rhodes, did you see him with
22 a gun?

23 A No.

24 Q Did you pull over to stop and talk to him?

25 A Yes. I called him to my car a couple times, and he

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1 finally came over.

2 Q What'd you call him as?

3 A Stacy.

4 Q So you were in the car and you called him over to
5 the car?

6 THE COURT: Okay. So now we're having a personal
7 conversation between the two of you that does not involve
8 me or the court reporter being able to hear what's being
9 said.

10 MR. NEELY: Okay.

11 THE COURT: That's why we have witness stands.

12 MR. NEELY: You can take the seat now.

13 THE WITNESS: Okay.

14 (Whereupon, the witness reentered the witness
15 stand.)

16 MR. NEELY: Thank you.

17 Q And while -- while you were calling Stacy over, did
18 he come over?

19 A Yes. He walked to the car.

20 Q And would -- would you have pulled over and called
21 for him with your -- with your kids in the car if he had
22 a gun in his hand?

23 A Absolutely not.

24 Q Did you see who he was arguing with?

25 A No. It was just a bunch of guys outside, just a lot

1 of loud talking.

2 Q Okay. Loud talking on all sides?

3 A From my recollection, yes.

4 Q Okay. When Stacy walked over to the car, what
5 happened next?

6 A I was just trying to tell him why don't he get in
7 the car with us.

8 Q Why'd you tell him that?

9 A Because you just -- I could just tell that it was --
10 just looked like a bad situation, just a lot of arguing
11 ---

12 Q So ---

13 A --- a group of guys.

14 Q So you offered to let him in your car and -- and
15 come with you?

16 A Yes.

17 Q What happened next?

18 A A guy just walked out and shot him in the back. And
19 I remember Stacy turned around and saying: "Man, you
20 shot me."

21 Q How many ---

22 A And ---

23 Q How many shots were fired?

24 A I remember two at that time, at that moment. I
25 didn't want to leave Stacy there. But I had my kids in

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1 the car. And my daughter was saying: "Mom, you got to
2 go."

3 And so when I was pulling out of the apartments,
4 before I could even make a right onto Garners Ferry,
5 that's when I heard all kind -- you know, more gunfire.

6 Q Okay. So there was two shots and then more gunfire
7 followed?

8 A Yes.

9 Q Were the shots that you saw hit Stacy Rhodes the
10 first shots fired?

11 A Oh, yes. They definitely hit him.

12 Q Were they the first shots fired? Did you hear
13 gunshots happen before those shots?

14 A No. It was no other shots.

15 Q There was no other shots before those shots?

16 A No. No shooting at all.

17 Q Until Stacy Rhodes was shot in the back?

18 A Until Stacy Rhodes was shot.

19 Q Thank you.

20 MR. NEELY: That's all the questions I have.

21 A Okay.

22 Q Please answer any questions the defense has.

23 MR. DUNCAN: Briefly ---

24 THE COURT: Yes, sir.

25 MR. DUNCAN: --- Your Honor.

(Off the record briefly.)

CROSS-EXAMINATION

BY MR. DUNCAN:

Q Good morning, Ms. Smith.

A Good morning.

Q Ms. Smith, you -- you testified that you -- you worked -- you were -- you were, like, Mr. Stacy Rhodes' boss; is that essentially what -- what it was?

A I was the next position under supervisor.

Q Okay. And ---

A His line lead.

Q Line lead at -- at McEntire?

A Uh-huh.

Q Okay. All right. And you had -- you just had a friend at these apartment -- at this apartment complex who you had come to visit?

A Yes. We all worked together.

Q You all -- okay. So the friend, Deon, also worked at McEntire?

A Yes.

Q Okay. All right. And I -- you -- is it correct to say your kids -- were your kids outside the apartment, or were they -- where -- where were they ---

A They were in the car.

Q They were in your car?

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1 A Yes.

2 Q You -- in other words, you were getting ready to
3 leave?

4 A Yes.

5 Q And you just hadn't -- you hadn't made it to your
6 car yet?

7 A No. I had made it to my -- when I was getting ready
8 to leave, I got in my car.

9 Q I'm -- okay. I -- you were talking about chaos.
10 You were talking about there was a lot of chaos ---

11 A Yes.

12 Q --- and there -- I -- I thought the kids were
13 somewhere away from you and you had to -- you kind of
14 went to get with them. Did ---

15 A No. My ---

16 Q --- did I ---

17 A --- kids ---

18 Q --- misunderstand?

19 A Definitely ---

20 Q All right.

21 A --- misunderstand.

22 Q So it -- you were just getting ready to go?

23 A I was pulling in. When I pulled into those
24 apartments, I seen, to the left side of those buildings,
25 a bunch of guys arguing and I noticed Stacy was out

1 there.

2 Q All right.

3 A That's the only guy I knew.

4 Q When you were -- so that's when you were entering

5 ---

6 A That's when I was ---

7 Q --- when ---

8 A --- entering.

9 Q --- entering the apartment complex ---

10 A Yes, sir.

11 Q --- there were a -- a bunch -- and I'm not asking
12 for a number.

13 A Right.

14 Q But, I mean, were there more than ten?

15 A I can't say exactly if it was more than ten. To me
16 it just looked like just a bunch of guys. I didn't count
17 at all, sir.

18 Q I understand. And the bunch of guys, though, you
19 saw -- you saw your friend, Stacy, who you worked with,
20 out there. Did it make you nervous, or -- or it -- it --
21 don't -- don't let me characterize it. Did ---

22 A No. You don't have to characterize it. I -- just
23 your instinct, if anybody seen a crowd of guys arguing,
24 you know, that looks like something's wrong. It's the
25 group of people arguing.

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1 Q Okay.

2 A Just heard a lot of loud talking.

3 Q The -- all right. And you -- as -- so as you're
4 pulling in, you hear -- you hear a lot of talking?
5 arguing? chaos?

6 A Yes. That's what I call it.

7 Q Okay. All right. And that's -- I was trying to get
8 -- did -- did you actually go into your friend's
9 apartment, or did you stay in the car?

10 A No. I ran into his apartment.

11 Q Just for a moment, a couple minutes, or is -- or did
12 you stay a little bit? I'm -- I'm just ---

13 A No.

14 Q --- trying to figure out how long you were there.

15 A Probably about five minutes.

16 Q Okay. Not long?

17 A No. I ---

18 Q Not long ---

19 A --- can't remember ---

20 Q --- but a ---

21 A --- exactly ---

22 Q --- little bit.

23 A --- but it was not long, because I had three kids in
24 the car.

25 Q All right. And the kids did not get out of the car?

1 A No, sir.

2 Q All right. That's what I -- I think I understood.

3 Did someone -- did someone else indicate to you that
4 something was -- it was elevating outside and you need to
5 get to the kids? Well, I -- I was ---

6 A When ---

7 Q --- trying to ---

8 A --- my friend Deon was walking me outside the car,
9 he said they had been arguing for a while and he said:
10 "You need to get your kids out of here."

11 Q Okay.

12 A That's exactly what he said. Why he said that, I
13 don't know. He ---

14 Q All right.

15 A --- lives out there. That's ---

16 Q Okay.

17 A --- his neighborhood. Uh-huh.

18 Q All right. And so -- and so you did. I mean, you
19 got in your car and started to leave?

20 A Yes. Because I was on my way leaving anyway.

21 Q All right.

22 A Uh-huh.

23 Q All right. And so you were starting to leave, at
24 which point you stopped and called Mr. Rhodes to try to
25 get him to get in your car?

1 A Yes.

2 Q But he -- he did not -- he didn't get in your car?

3 A Well, he really didn't have a chance to, sir.

4 Q Okay. All right. All right. And you -- you
5 described the -- the chaos continued while you were
6 pulling up and Stacy Rhodes was walking over to your car.
7 Was there still the loudness and talking and yelling and
8 all that kind of stuff?

9 A Yes, it was. And that's why I was trying to get
10 Stacy in my car: to remove him from a situation.

11 Q All right. All right. And once shots were fired,
12 you -- you said a moment ago you didn't want to leave
13 Stacy there, but you had your three kids and you -- you
14 needed to go -- you needed to protect them.

15 A Yes. I didn't want to leave him on the ground.

16 Q All right. And as you were pulling out -- as you
17 were leaving the apartment complex, other -- you heard
18 gunshots -- other gunshots?

19 A Before I can make a right to Garners Ferry, which to
20 pull from that park from in front of that building to
21 Garners Ferry, it probably takes about 30 seconds ---

22 Q Sure.

23 A --- without traffic, just without traffic. And I
24 was ---

25 Q Right.

1 A --- making a right. So before I even can make it, I
2 started hearing gun -- all kind of gunfire.

3 Q Okay. That's all the questions I have. Thank you.

4 A Uh-huh.

5 THE COURT: Anything further?

6 MR. NEELY: Nothing from the state, Your Honor.

7 THE COURT: Thank you, ma'am. You may step down.

8 (Whereupon, the witness exited the witness stand.)

9 THE COURT: Next witness.

10 MR. NEELY: This is the end of the state's case,
11 Your Honor.

12 THE COURT: All right. Any argument on the issue --
13 by first, Mr. Duncan?

14 MR. DUNCAN: Yeah. Your Honor, I would -- I would
15 argue that based on the testimony presented by my client,
16 that Ms. Smith based -- the interviews that were
17 admitted, there was a chaotic situation at the scene of
18 the apartment complex. My client testified that he was
19 in fear for his life. I think that was a reasonable fear
20 at that point in time, considering all the circumstances.

21 And I think he tried to protect himself -- it --
22 it's a unusual position because I'm not sure that he shot
23 anybody. I -- I'm not -- I haven't been able to ---

24 THE COURT: Well, you ---

25 MR. DUNCAN: --- determine that.

1 THE COURT: --- have the witness who said he came up
2 and shot the -- Rhodes in the back.

3 MR. DUNCAN: No, sir.

4 THE COURT: That's what this witness just ---

5 MR. DUNCAN: She didn't ---

6 THE COURT: --- said.

7 MR. DUNCAN: --- say that.

8 THE COURT: No, she ---

9 MR. DUNCAN: She just ---

10 THE COURT: --- didn't ---

11 MR. DUNCAN: --- said somebody shot him. She didn't
12 identify ---

13 THE COURT: Yeah.

14 MR. DUNCAN: --- again ---

15 THE COURT: Well, that's not my interpretation ---

16 MR. DUNCAN: I ---

17 THE COURT: --- of the testimony.

18 MR. DUNCAN: I -- I hear you. But she ---

19 THE COURT: No.

20 MR. DUNCAN: --- didn't identify anybody. She
21 didn't describe anybody. Said: "A man came up and shot
22 him."

23 THE COURT: All right.

24 MR. DUNCAN: You know, I -- if -- if -- presumably,
25 if she knew the man, she would have said that, and then

1 the solicitor would have elicited ---

2 THE COURT: Okay.

3 MR. DUNCAN: --- that testimony. But there's a 911
4 call that we listened to yesterday that describes someone
5 wearing a -- a white shirt, shorts, and being a short guy
6 with short black hair. That is who shot a man in the
7 back. That is clearly not Mr. Green.

8 And I understand I get a little off-field here in
9 the stand-your-ground. Mr. Green had the right to be at
10 the apartment complex. He had the right to defend
11 himself. And if he is responsible for shooting Mr.
12 Rhodes, which we do not concede, he had a right to be
13 protecting himself under the law of South Carolina.

14 THE COURT: All right. What says the state?

15 MR. NEELY: Thank you, Your Honor. As the statute
16 says -- or as the case law says, they have to go through
17 the elements of self-defense and prove those as well as
18 evidence see. In this case we have "Must be without
19 fault in bringing in the difficulty." *State v. Williams*
20 tells us that the question is not who else might've been
21 at fault, but whether the defendant was without fault.

22 In this case we have -- we have testimony that the
23 defendant brought a loaded weapon onto the scene of a
24 heated argument that had taken place. We have testimony
25 that he left the scene potentially two or three times.

1 Obviously, though, that testimony was contradicted by
2 testimony that he gave -- or that -- his testimony at the
3 hearing contradicted his interview with law enforcement
4 on a number of issues and I -- one of which was that he
5 saw the victim with a gun in his hand and the gun was
6 pointed at him. It was never mentioned to law
7 enforcement; that's a new story.

8 Further, the -- the defendant must be defending
9 himself to claim self-defense. The -- without -- if --
10 he's claiming that he didn't fire the shots that -- that
11 -- that hit him, that he didn't see who was shooting,
12 that he was shooting indiscriminately, then he was not
13 purposefully defending himself. He was not meeting force
14 with force, which is what's required by the act.

15 He was engaged in unlawful activity in that he had
16 -- was gambling; also was unlawfully possessing of a
17 firearm. And we -- the state does not believe that a --
18 the defendant, who claims if it wasn't actual danger, the
19 circumstances would not warrant a person of ordinary
20 firmness, prudence, and courage to strike that blow to
21 save himself. He certainly could not save himself
22 whenever he did not know where the danger was coming from
23 and was firing indiscriminately.

24 Thank you, Your Honor.

25 THE COURT: All right. I deny the motion to -- to

1 end the case based on the stand-your-ground law. The --
2 the defendant has failed to show the elements of self-
3 defense by preponderance of the evidence. The -- there
4 any -- there are any numbers of inconsistencies between
5 the -- the defendant's recorded statement the day after
6 the shooting and the -- his testimony here yesterday on
7 the witness stand.

8 The -- there was also inconsistent testimony from
9 the defendant on the witness stand. And certainly, Mr.
10 -- the defendant's testimony is inconsistent with the
11 testimony of the young lady who just testified. Was it
12 Ms. -- what's her name?

13 MR. NEELY: Alexia Smith, Your Honor.

14 THE COURT: Ms. Smith, who provided eyewitness
15 testimony. The defendant's testimony is not credible,
16 based on the facts and circumstances surrounding the --
17 the shooting. And there's some question as to whether --
18 particularly testimony concerning -- from Mr. -- from the
19 defendant concerning whether he was gambling the morning
20 and then left after being body-slammed and returned with
21 a weapon or whether he was there during the entire period
22 of time. He testified about having this weapon on his --
23 tucked in his shirt; also, being body-slammed earlier in
24 the morning.

25 And it was -- it's almost inconceivable that one

1 being body-slammed will -- with a weapon in their -- in
2 the -- in the -- in their shirt or waist would leave it
3 intact, which could give rise to leaving and getting a
4 weapon. The -- the testimony is not credible to
5 establish proof beyond a reasonable doubt that defendant
6 did not bring on the difficulty himself that ---

7 MR. NEELY: Your Honor, I just believe you said
8 proof beyond a reasonable doubt.

9 THE COURT: No. I -- I didn't say anything about
10 proof beyond a reasonable doubt.

11 MR. NEELY: Okay.

12 THE COURT: I said to believe that he -- and
13 certainly, I've noticed you're correcting me, as Judge
14 Harrington misspoke in her case by saying a substantial
15 preponderance of evidence or whatever she said. But
16 clearly, the standard is by a preponderance of the
17 evidence and not proof beyond a reasonable doubt. So I
18 correct myself if I -- did I say beyond a reasonable
19 doubt? Okay. Thank you for correcting me.

20 No. He -- there's clearly not testimony that
21 establishes by a preponderance of the evidence that the
22 elements of -- of self-defense, which is the defendant's
23 burden at this point in time. Of course, during the
24 trial, then the state's burden would be to disprove self-
25 defense. The admittedly was engaged in an illegal

1 activity, which is -- was gambling, and also armed
2 illegally with a weapon.

3 And then, the -- the parties stipulated through
4 photographs and other evidence that the -- the picture of
5 the body is -- has been stipulated to as part of this
6 hearing?

7 MR. DUNCAN: It's part of the hearing. Yes, sir.

8 THE COURT: Yeah. So the -- the photographs
9 indicate that the deceased was shot twice in the back and
10 Mr. -- Mr. Green's testimony of -- of -- about the manner
11 in which he was shooting while running away you -- is not
12 credible as to the shooting of the victim twice in the
13 back, as compared to the testimony of Ms. Smith, who said
14 that Mr. Green came up to the defendant and shot -- to
15 the victim and shot him in the back.

16 That's my interpretation of the testimony. Even
17 though she -- the -- direct examination might not have
18 clearly had her identify who did what when, it -- it --
19 based on the facts and circumstances presented in court
20 and there only being one dead person on the scene having
21 been shot in the back would indicate that the shooter was
22 Mr. Green and no one else.

23 And so I deny the stand-your-ground.

24 MR. CORY: Thank you, Your Honor.

25 THE COURT: So I requested the state to prepare a

1 proposed order, which would've been nice for me to be
2 looking at, if you prepared it. Maybe you prepared it
3 for your own benefit. I don't know.

4 MR. NEELY: Sorry, Your Honor. I -- I -- I was
5 going to add any of your rulings into it.

6 THE COURT: Well ---

7 MR. NEELY: But I do ---

8 THE COURT: --- I -- well, I think we have a problem
9 communicating, you know.

10 Okay. The stand-your-ground is denied. The jury is
11 ready. Anything else before they come in?

12 MR. NEELY: No, Your Honor. Would you like me to
13 get the proposed order?

14 THE COURT: No. We're going to start the trial at
15 this point. You -- whether you do it or not is up to
16 you. I requested it yesterday, but you didn't do it.
17 And we're ready to start the trial.

18 MR. DUNCAN: Defense is ready, Your Honor.

19 THE COURT: All right. Anything before the jury
20 comes in?

21 MR. DUNCAN: Not from the defense.

22 THE COURT: Your Honor, may I retrieve my -- my
23 notes for opening statements?

24 THE COURT: Pardon?

25 MR. NEELY: May I retrieve my notes for opening

1 statements?

2 THE COURT: Yes, sir. How many minutes you need?

3 MR. NEELY: Three.

4 THE COURT: Three minutes. All right. We'll take a
5 three-minute break.

6 (The Court went off the record at 10:14 a.m.)

7 (The Court went on the record at 10:20 a.m.)

8 MR. NEELY: Your Honor, may I -- may I approach?

9 THE COURT: Can't hear you.

10 MR. NEELY: May I approach?

11 THE COURT: Yes, sir.

12 MR. NEELY: Here's a paper copy of the order that I
13 prepared. If you'd like me to e-mail you a copy over to
14 lunch to look over ---

15 THE COURT: Pardon?

16 MR. NEELY: If you'd like me to e-mail a copy over
17 lunch to look over in a Word format, I can ---

18 THE COURT: Oh.

19 MR. NEELY: --- absolutely do that as soon as we're
20 done here.

21 THE COURT: Okay. Bring the jury.

22 (Off the record briefly.)

23 THE COURT: Now I need to have them hold the jury
24 for a second while I address this other charge.

25 (Off the record briefly.)

1 THE COURT: So regarding these three charges --
2 specifically, the possession of a handgun by a person
3 convicted of a crime of violence -- have you found any
4 evidence that he has been convicted of a crime of
5 violence?

6 MR. NEELY: The state is withdrawing that charge,
7 Your Honor.

8 THE COURT: Okay. Well, that's important to know.
9 All right.

10 All right. You can bring the jury on.

11 (Off the record briefly.)

12 (Whereupon, the jury entered the courtroom at 10:22
13 a.m.)

14 THE BAILIFF: Jury is present, Your Honor.

15 THE COURT: All right. Thank you.

16 Good morning.

17 JURORS: Good morning.

18 THE COURT: Welcome back.

19 If -- you may swear the jury, Mr. Truitt.

20 DEPUTY CLERK OF COURT: Yes, Your Honor.

21 Ladies and gentlemen, I know you just sat down. I
22 need you to stand back up. I need to put you under oath.

23 Raise your right hand. Please answer "I do" or "I
24 will" at the end of my statement if you accept this oath.

25 (Whereupon, the jury was duly sworn at 10:23 a.m.)

1 DEPUTY CLERK OF COURT: Thank you so much.

2 INTRODUCTION BY THE COURT

3 THE COURT: All right. Ladies and gentlemen, you've
4 been selected and sworn to be the -- the jury in the
5 trial of this case, the case of the State v. Mikah Nelsun
6 Green. Mr. Green has been indicted by the grand jury of
7 this county, charging him with murder and possession of a
8 weapon during the commission of a violent crime.

9 He's pled not guilty to these two charges. And that
10 plea of not guilty places the burden on the state to
11 prove the defendant guilty. Should the state fail to
12 meet that burden of proof, then you are required to find
13 him not guilty. Should the state meet that burden of
14 proof, you are required to find him guilty.

15 Your role as jurors will be to determine the facts
16 of this case. And as jurors, you are the sole judge of
17 the facts of this case. That's why it's essential that
18 you pay attention, remain focused, so that at the end of
19 the case, you will be in a position to make a meaningful
20 participant in the deliberations of the jury.

21 Now, just as only you can determine the facts of the
22 case, as the presiding judge, I am the judge of the law.
23 And you must accept as correct the law as I state it at
24 this time during the trial and in greater detail at the
25 end of the trial.

1 Now, the -- you will determine the facts from the
2 testimony which will come primarily from the witness
3 stand and be your obligation to evaluate the credibility
4 of the witness and the testimony, as well as any other
5 evidence introduced through exhibits or stipulations by
6 the parties.

7 Later in the process, I will appoint one of you to
8 serve as foreperson of the jury. And that person will
9 have -- will be the spokesperson for the jury, will have
10 the responsibility of presiding over the jury
11 deliberations and of completing the verdict form, which
12 will represent the unanimous verdict of the jury.

13 In just a moment, the state will make an opening
14 statement in which the solicitor will outline what he
15 thinks the evidence will show. The defense will follow
16 with having that same opportunity. I hope you give them
17 your attention, as you've just given me, and we will
18 press on at this time.

19 Yes, sir.

20 MR. NEELY: Thank you, Your Honor.

21 OPENING STATEMENT BY MR. NEELY

22 MR. NEELY: Mikah Nelsun Green, this man right here,
23 has been charged with murder. And that is the trial that
24 y'all are about to see, the trial of Mikah Nelsun Green
25 for murder and possession of a weapon during the

1 commission of a violent crime, the violent crime
2 obviously being the murder of Stacy Rhodes, who's the
3 victim in this case.

4 As the prosecutor of this case, I have the
5 responsibility of presenting the evidence to you, the
6 jury. And it is your responsibility to consider -- and
7 your oath to consider all the evidence, the testimony,
8 and then make findings of fact. And what that means is
9 that you all are the finders of fact. You decide what
10 happened that day.

11 And based on deciding what happened that day and
12 applying the law that the judge will give you at the end
13 of the trial, you will determine whether Mikah Nelsun
14 Green is guilty or innocent. And how we do that is the
15 state has the burden of providing proof beyond a
16 reasonable doubt.

17 Now, those are words that you've even heard before,
18 maybe in a TV show or a movie. I remember, when I --
19 when I was a brand-new attorney, I was talking to my mom
20 about reasonable doubt in trials and things of that
21 nature. I mentioned it, and she said: "Oh, I know what
22 that is. That's proof beyond a shadow of a doubt."

23 And I was, like: "Wait a minute. That's not
24 right." Almost nothing in this world can proven beyond a
25 shadow of a doubt. There's always doubt. We're never

1 going to have all the context unless we have a full video
2 of everything that happened. And that just doesn't
3 happen very often. In some cases we have DNA and
4 building of a forensic scene and you're trying to figure
5 out who did it and it's a -- it's a law enforcement case
6 where lots of law enforcement officers are called up and
7 -- and they -- they show you how they follow the trial to
8 figure out who did it.

9 This case isn't like that. This case is a direct-
10 evidence case, not a circumstantial-evidence case. And
11 this case hinges on testimony of eyewitnesses. And it's
12 your job as the jury, when a person takes that witness
13 stand, to judge their credibility. You decide whether
14 they're telling the truth or not.

15 And then, once you've heard all the testimony, once
16 you've considered all the evidence, it is your job as the
17 jury to determine whether the state has proved its case
18 beyond a reasonable doubt. If you don't believe we've
19 met that burden, then you should find Mikah Green
20 innocent. If you believe that we have met that burden,
21 then you should find him guilty.

22 Now, what -- what is that burden? What is beyond a
23 reasonable doubt? Well, the judge is the arbiter of the
24 law. He is the final say in the law.

25 Everything I say is -- is just

1 argument/description/explanation and you can take
2 everything I saw with that in mind. It's not evidence.
3 What I say is not evidence. Where you see the testimony
4 on the stand, the things that are sent back with you to
5 the jury room that you have to consider, that is
6 evidence. And the judge gives you the law. He -- that
7 is his job.

8 But what is proof beyond a reasonable doubt? Well,
9 at the end of this trial, I submit to you that the judge
10 is going to tell you that proof beyond a reasonable doubt
11 is proof that leaves you firmly convinced of the
12 defendant's guilt. And in -- in the U.S.A., in America,
13 how we do things, if we can get 12 strangers to agree
14 they are firmly convinced that the person did it, they
15 are guilty.

16 And I will tell you, that is not an easy thing to
17 do. Convincing 12 strangers of anything is difficult to
18 do, especially in a -- a case where so much hinges. But
19 if each of you is firmly convinced of Mikah Nelsun
20 Green's guilt at the end of this trial, you should find
21 him guilty.

22 I'm not going to talk too much about the evidence,
23 because you haven't seen any of it yet. And nothing I
24 say is evidence. But direct evidence in -- in this case
25 will show you that Mikah Green, this man here, shot the

1 victim, Stacy Rhodes. Two shots hit Stacy Rhodes: one
2 in the back, one to the back of the neck. And you're
3 going to see those photos.

4 Now, we tried to edit out as -- as much graphic
5 stuff as we can. We're not going to present you with --
6 with things that are going to shock and disturb you. We
7 don't want that to influence you.

8 But we -- but we do need to show how the shooting
9 took place. And you will hear that the victim and the --
10 and the defendant were friends up until this day. They
11 were gambling buddies. And that's what they were doing
12 on this day: They were gambling.

13 And on this day there was two gambling disagreements
14 that arose between the victim and the defendant. The
15 accusation from the victim was that the defendant was
16 cheating, taking money out the pot that wasn't his. The
17 defendant, I submit to you -- you -- you'll see him
18 become angry, upset at this disrespect; he wanted to
19 clear his name.

20 You know, I've seen some wild-west movies where
21 somebody accuses somebody of cheating, and it ends up in
22 a shootout. And that's not unlike what's happened here.
23 But this is not the wild west.

24 And like I say, you will hear from the pathologist,
25 the autopsy, that the defendant [sic] was shot in the

1 back. You will hear eyewitness testimony from people who
2 were there who saw it happen. This happened in broad
3 daylight, right around seven o'clock.

4 And you will see the defendant fleeing the scene.
5 We have a video from a -- from a camera that was located
6 at Citgo on the corner across. It didn't capture any of
7 the incident, but did capture him leaving the scene.

8 You will hear testimony from Alexia Smith, a
9 coworker who knew the victim -- again, an eyewitness to
10 this incident that happened in broad daylight. She had
11 her kids in the car with her. She saw her coworker
12 involved in an argument.

13 She pulled up, rolled down the window; yelled:
14 "Stacy" -- because she knew him as Stacy from work.
15 Everybody else called him Boi. That's just what he went
16 by, Boi. But she knew him as Stacy because she knew him
17 from work.

18 And she saw him in an argument, and she was
19 concerned for him. And so she called him over. He comes
20 over to the car. Seconds later -- bang, bang, bang --
21 two shots hit Stacy Rhodes in the back while he was right
22 at that car.

23 You will hear Stacy words -- Stacy Rhodes' tragic
24 last words: "Damn, he shot me." He couldn't believe
25 that a friend would shoot him in the back.

1 But please pay attention to all the testimony that
2 you will hear, all the evidence that you will see. I
3 know that being a juror, with getting that letter in the
4 mail, is not the most fun thing in the world; that if
5 y'all could be somewhere else, y'all would probably be
6 somewhere else.

7 But also, remember that the people that are
8 testifying feel that same way, if not stronger. This is
9 not easy or fun for them either. And so do them the
10 respect and courtesy of paying them the attention they
11 deserve for being here and testifying.

12 I thank you for your earnest attention, which I'm
13 sure we will have, and ask that you give an honest
14 verdict. Verdict is Latin for "speak the truth." So
15 that's all that I'm asking you to do, is at the end of
16 this case, speak the truth.

17 And we, the state, believes the evidence will show:
18 The truth is that Mikah Nelsun Green is guilty of murder
19 and possession of a weapon during the commission of a
20 violent crime. Thank you.

21 THE COURT: All right. Mr. Duncan?

22 MR. DUNCAN: Thank you, Your Honor. May it please
23 the Court.

24 THE COURT: Yes, sir.
25

1 OPENING STATEMENT BY MR. DUNCAN

2 MR. DUNCAN: Ladies and gentlemen, my name's Mike
3 Duncan. I -- I've been a lawyer here in Columbia about
4 30 years. My client is Mikah Nelsun Green, young man
5 from Manning, South Carolina.

6 Y'all, thank you for being here. The system doesn't
7 work without you. This -- you know, there's not that
8 many things, as Americans, that we have to do -- we're
9 required to do. I guess that's a funny thing to say
10 these days with everybody wearing masks. And it's been a
11 strange two years.

12 But one of the things that is required as an
13 American citizen is to participate in jury service. And
14 I -- I thank you on behalf of my client and -- and for --
15 I just thank you for your willingness to serve.

16 And I'll tell you, you know, it has been a strange
17 two years. You don't need me to tell you that. But I'm
18 a little rusty. It's -- it's different. And it's been
19 different when you -- you don't even sit in the box the
20 way you usually used to. I mean, everybody sat in the
21 box. We didn't have this extra spots here.

22 This case, though, is -- it's an important -- it's
23 important for the participants very much. This group of
24 family members of the deceased man who are here, it --
25 it's a -- no question, it's a tragic loss of a young

1 man's life. And I'm very sorry for their loss. And they
2 want answers.

3 Here's the -- here's my position as the advocate for
4 the defendant: They're barking up the wrong tree. Not
5 the family, but the -- the state has not solved this
6 crime.

7 You're going to hear testimony. You're going to
8 hear that there was a chaotic situation out at an
9 apartment complex; and on a Saturday afternoon, going
10 into the evening, about seven o'clock, at the end of
11 March, so still daylight -- still daylight outside.
12 Argument -- lot of -- lot of arguing, and gunshots are
13 fired and a young man winds up dead.

14 My client, Mr. Green, leaves the scene, fearing for
15 his life. Admits shooting a gun; doesn't admit shooting
16 anybody. As the case unfolds, you -- you have to decide
17 what the evidence shows and what the testimony showed.
18 What -- what we know is a young man lost his life; a
19 young man is on trial for that.

20 And Mr. Neely, our -- our solicitor, a fine -- fine
21 solicitor, has indicated, you know, what -- talked about
22 a -- beyond a reasonable doubt. And Your Honor will do
23 -- at the end of the case, will define that. But I can
24 -- I can assure you that maybe/maybe not is not beyond a
25 reasonable doubt.

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1 And I think, when you hear -- when -- I submit to
2 you that when you hear the testimony, you're going be
3 left with: Maybe Mr. Green is responsible, and maybe
4 not. And if it's maybe/maybe not, that's a verdict of
5 acquittal. That's a not-guilty decision.

6 Ladies and gentlemen, again, I -- I won't take any
7 more of your time. What I'm saying isn't evidence.
8 That'll come from that witness stand. Thank you again
9 for your attention and we will -- I'll talk to you at the
10 end.

11 THE COURT: All right. You may call your first
12 witness.

13 MR. COURY: The state calls George Wise to the
14 stand.

15 THE COURT: All right. If you'll come forward,
16 please.

17 (Whereupon, the witness came forward.)

18 GEORGE WISE, having been first duly sworn,
19 testified as follows:

20 DEPUTY CLERK OF COURT: Thank you, sir. Please have
21 a seat and state your full name for the record.

22 THE WITNESS: My name is George Calvin Wise.

23 DIRECT EXAMINATION

24 BY MR. COURY:

25 Q Mr. Wise, thank you for being here today. Would you

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1 mind telling the jury where you currently work?

2 A I'm now employed by the CMC, Commercial Metal
3 Company, now. I'm a crane operator for that location at
4 this time.

5 Q Okay. And when did you start that job?

6 A Back in February of 2021.

7 Q All right. Where did you work March 30th, 2019?

8 A I worked for the Columbia Police Department.

9 Q In what capacity did you work for the Columbia
10 Police Department, Mr. Wise?

11 A I was a crime scene investigator.

12 Q All right. And how long had you worked for Columbia
13 Police Department?

14 A If I recall, I think it was like 27 years now.

15 Q Wow. Let's talk about March 30th, 2019. So you --
16 did you receive a call for service? Were you dispatched
17 anywhere that evening?

18 A I actually received a phone -- actually, dispatched
19 over the radio of, like, a shooting incident on Garners
20 Ferry Road and units were responding. I recall they had
21 a shooting incident. But at that time, as I was
22 responding, they couldn't find the victim.

23 Q Okay. Understood. Were you dispatched to that
24 scene?

25 A Yes.

1 Q Okay. Will you please read for the jury the address
2 you were dispatched to? And, Mr. Wise, you have your
3 report; is that correct?

4 A Yes, sir, I do.

5 Q Okay. Just so the jury knows what you're reading.

6 A Pulled on March 30th, 2019, at 1935 hours, or basic
7 term would be 7:35 in the -- in the evening time. I was
8 responding to 7645 Garners Ferry Road.

9 Q And is that in the county of Richland?

10 A Yes.

11 Q South Carolina?

12 A Yes.

13 Q All right. Thank you, Mr. Wise.

14 Why don't you go ahead and describe for the jury the
15 scene as you saw it when you arrived.

16 A Once I arrived on scene, there were -- already had
17 units responding at that location; had already
18 established somewhat of a crime scene by placing of crime
19 scene tape, if I recall. There were some traffic cones
20 placed up -- also placed around some empty shell casings
21 that the patrol units had found.

22 Q Thank you. I'm going to show you State's Exhibit 1
23 through 4.

24 (Off the record briefly.)

25 Q Please take a look at those. Do you know what those

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1 State's Exhibit 1 through 4 are?

2 A Yes. It's showing kind of like a aerial photo of
3 the showing -- I'm sorry -- shooting location.

4 Q Okay. And -- and that's a fair and accurate
5 depiction of the -- of the location you were at ---

6 A Yes.

7 Q --- that day?

8 And the crime scene?

9 A Yes.

10 Q Thank you.

11 MR. COURY: Your Honor, at this time the state moves
12 to enter State's 1 through 4 into evidence.

13 MR. DUNCAN: No objection to that, Your Honor.

14 THE COURT: All right. They're admitted.

15 Q I'll go ahead and take those photos from you, Mr.
16 Wise. Thank you.

17 Whereupon, State's Exhibits 1 through 4 were entered
18 into evidence.)

19 Q Mr. Wise, while they get this TV set up, why don't
20 you explain for the jury how you went about processing
21 the crime scene.

22 A Oh, like I said, once I arrived on the scene and I
23 got information from the police officers what actually
24 took place and once I got that information, I did what we
25 call a walk-through examination of the crime scene. I

1 wanted to see where everything was at within the crime
2 scene, where my shell casings were at, what type of
3 vehicles were in the area.

4 Basically, once I do my walk-through examination, it
5 gives me an idea of what course of action I need to take,
6 as far as, like, taking pictures or am I going to be
7 processing the scene for fingerprints? Am I going to be
8 doing the processing for DNA? So my walk-through
9 examination just gives me an idea of what course of
10 action I need to take to process the scene.

11 Q Thank you, Mr. Wise.

12 Did you take any photos that day?

13 A Yes.

14 Q Thank you, Mr. Wise.

15 MR. COURY: Beg the Court's indulgence.

16 (Off the record briefly.)

17 Q So you say you did take photos?

18 A Yes.

19 Q Okay, Mr. Wise. What I'm going to place before you
20 is State's Exhibits 5 through 30. Would you please take
21 a look at these photos.

22 A Uh-huh.

23 Q And take your time, Mr. Wise, if you wouldn't mind
24 looking them.

25 A Yes.

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1 Q That'd be great.

2 (Off the record briefly.)

3 Q You have a chance to look at all those, Mr. Wise?

4 A Yes.

5 Q Are those the photos you took of the scene that day?

6 A Yes.

7 MR. COURY: Your Honor, at this time the state moves
8 to enter 5 through 30 into evidence.

9 Thank you, Mr. Wise.

10 MR. DUNCAN: No objection ---

11 THE COURT: All right.

12 MR. DUNCAN: --- Your Honor.

13 THE COURT: They're admitted.

14 (Whereupon, State's Exhibits 5 through 30 were
15 entered into evidence.)

16 Q Mr. Wise, did you collect any physical evidence from
17 the scene?

18 A Yes, I did.

19 Q Thank you.

20 And how did you process that physical evidence, Mr.
21 Wise?

22 A Pretty much just like I said: photographing the
23 scene. I placed markers alongside the evidence I
24 collected. Once the photographs were taken, the evidence
25 was collected, preserved, and tagged by placing them in

1 either paper bags/envelopes; secure them; and then I
2 place them into the evidence room.

3 Q Okay. Mr. Wise, I'm going to approach you here with
4 State's -- State's 33 through State's 35. Tell me what
5 this is.

6 A It is empty shell casings I collected from the
7 scenes. It was actually marked as Marker 1, Marker 2,
8 and Marker 3.

9 Q And when you say "marker," what do you mean?

10 A It's the placard I put right beside the ---

11 Q Okay. I ---

12 (Indistinguishable cross-talk)

13 A --- the shell casing to show ---

14 Q And what -- what -- you said those were casings?

15 A Yes. Empty shell casings.

16 Q Is there a denotation of caliber on those casings?

17 A Yes. First envelope here with Marker No. 1 is empty
18 shell casing of a .40 -- .40-cal. The second envelope is
19 Marker No. 2, empty shell casing of a .40-cal. And then,
20 like was said, Marker No. 3 indicates a empty shell
21 casing of a .40-cal.

22 Q Okay. Investigator Wise, can you tell me what these
23 are?

24 A Yes, sir.

25 Q I'm going to -- I'm going to put the individual

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1 markers on those, if you could leave them out.

2 A You want me to leave them?

3 Q Yeah.

4 THE COURT REPORTER: Mr. Coury, did you want those
5 marked?

6 MR. COURY: I have a -- I have a marker, thank you.

7 THE COURT REPORTER: I -- no. I have not marked
8 them.

9 MR. COURY: Oh.

10 THE COURT REPORTER: Do you want them marked?

11 MR. COURY: Yes, I would.

12 THE COURT REPORTER: And these are State's 32?

13 MR. COURY: State's 33, 34, and 35 are what we have,
14 Ms. -- Ms. Court Reporter.

15 (Whereupon, State's Exhibits 33 through 35 were
16 marked for identification.)

17 Q Have you had time to look at them?

18 A Yes. Yes.

19 Q I'm sorry, Mr. Wise.

20 What are those?

21 A I have three envelopes in front of me. Marker No.
22 7, empty shell casing with 9-millimeter; next is a Marker
23 8. It's listed as empty shell casing, 9-millimeter. And
24 then, Marker No. 9 listed as a empty shell casing, 9-
25 millimeter.

1 Q Thank you, Mr. Wise.

2 And are those the casings that you processed and
3 collected from the scene?

4 A Yes.

5 Q Okay. And how do you know that?

6 A Basically, I'm always -- every time I collect shell
7 casings, I always put it in an individual envelope, and
8 it looks like a little coin envelope. And then, I'll
9 mark it was it is, as far as the number marker that I
10 placed by this empty shell casing and what the empty
11 shell casing was.

12 Q All right.

13 A Then, I would individually package them.

14 Q Thank you, Mr. Wise. I'll take those.

15 A All right.

16 MR. COURY: Madam court reporter, could you please
17 mark these as State's Exhibit 55, 56, 57.

18 Your Honor, at this time the state moves to enter
19 State's 55, 56, 57 into evidence.

20 MR. DUNCAN: No objection ---

21 THE COURT: All right.

22 MR. DUNCAN: --- to those.

23 THE COURT: They're admitted.

24 (Whereupon, State's Exhibits 55 through 57 were
25 marked and entered into evidence.)

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1 Q Investigator Wise, let me take you right back to
2 State's 34, 35, and 36. You -- you were just talking
3 about these three. Did you collect these .40-cal casings
4 from the scene? Are those the .40-cals you collected
5 from the scene?

6 A Yes. Yes.

7 Q And ---

8 A Yes.

9 Q --- and how do you know those were those .40-cal
10 shells?

11 A Again, individually packed. And then, like I said,
12 I'm always putting the marker number that the shell
13 casing was beside; and then, what the empty shell casing
14 was listed as, like I said, .40-cal.

15 I even went as far as putting the type of brand.
16 You got a .40-cal PPU; got a .40-cal Speer; and then, you
17 got a .40-cal Speer. So I go as far as even listing it
18 as to brand.

19 Q Thank you, Mr. Wise.

20 MR. COURY: Your Honor, at this time the state moves
21 to enter -- the state moves to enter State's 33, 34, and
22 35 into evidence.

23 MR. DUNCAN: No objection, Your Honor.

24 THE COURT: They're admitted.

25 (Whereupon, State's Exhibits 33 through 35 were

1 entered into evidence.)

2 Q Thank you, Mr. Wise.

3 Mr. Wise, I'm going to bring before you -- make sure
4 I have the exhibit number right. All right. I'm going
5 to bring before you State's 36. Can you tell us what
6 that is?

7 A This is Marker No. 6. I have it listed as a live
8 round, .40-cal. And again, the brand name is S&B.

9 Q Okay. And was -- did you collect that one from the
10 scene?

11 A Yes.

12 Q How do you know that's the shell you collected from
13 the scene?

14 A Well, again, like I said, the way list it: Marker
15 No. 6 and my ---

16 Q Same procedure?

17 A Yes, sir, same procedure.

18 Q Okay. All right.

19 MR. COURY: Your Honor, at this time the state moves
20 to enter State's 36 into evidence.

21 MR. DUNCAN: No objection, Your Honor.

22 THE COURT: It's admitted.

23 MR. COURY: So it'd be marked as 36.

24 (Whereupon, State's Exhibit 36 was marked and
25 entered into evidence.)

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1 Q Investigator Wise, one more for you. It's going to
2 be State's 58. Can you tell us what that is?

3 A That'd just be Marker No. 5, listed as a live round,
4 9-millimeter Winchester.

5 Q And is that the round you collected from the scene?

6 A Yes.

7 Q Thank you, Mr. Wise.

8 Same procedure as last time?

9 A Yes.

10 Q Thank you. All right.

11 MR. COURY: Your Honor, at this time, the state
12 moves to enter State's 58 into evidence.

13 MR. DUNCAN: No objection.

14 MR. COURY: So it'll be marked as ---

15 THE COURT: It's admitted.

16 MR. COURY: --- Exhibit 58.

17 (Whereupon, State's Exhibit 58 was marked and
18 entered into evidence.)

19 Q Thank you, Mr. Wise.

20 At this point, Mr. Wise, I'm going to use this
21 photo. This is -- well, if I can get this working.

22 MR. COURY: Thank you, good sir. Make sure
23 everybody in the jury can see.

24 Q Now, Investigator Wise, this is State's Exhibit 1
25 with a small zoom applied. Like you said, this is the

1 scene you were at; is that correct?

2 A Yes, that's correct.

3 Q Okay. Now, to help everybody understand, Mr. Wise,
4 I would like to go through where your markers were and
5 what was on those markers.

6 MR. COURY: Move that for a second. All right.
7 Thank you.

8 (Off the record briefly.)

9 Q All right, Investigator Wise -- Mr. Wise. I'm
10 sorry, no longer investigator. This is State's 9 again.

11 A Yes. That's -- that's the photo I took there at the
12 scene.

13 Q And what does State's 9 -- I'm sorry -- yeah --
14 appear to show you?

15 A It's showing Markers 1, 2, and 3, and then, 4.

16 Q And that's what can be seen in that photo, those --
17 those four markers?

18 A Yes.

19 Q Okay. Investigator Wise, if I -- I'm sorry. Mr.
20 Wise, would you mind stepping down from the stand so we
21 can indicate on this map where those placards were
22 placed.

23 A Okay.

24 THE WITNESS: Thank you, sir.

25 THE BAILIFF: Uh-huh.

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1 (Whereupon, the witness exited the witness stand.)

2 MR. CORY: Your Honor, is this -- is this fine with
3 you, Your Honor? I just want to make sure.

4 THE COURT: Is -- is what fine with me?

5 MR. CORY: Having the witness ---

6 THE COURT: Oh, he's already down.

7 MR. CORY: Okay.

8 THE COURT: He's right there.

9 THE WITNESS: Do you ---

10 MR. CORY: Perfect.

11 THE WITNESS: --- need to see, Your Honor -- Your
12 Honor?

13 THE COURT: No. You're already there.

14 Q Go ahead and take this, Mr. Wise. Thank you.

15 And, Mr. Wise, if you wouldn't mind standing over
16 here -- oh, I'm sorry ---

17 A Okay.

18 Q --- so we -- actually, stand over here -- just stand
19 here so we don't ---

20 A Here?

21 Q --- block the jury. Would you go ahead and ---

22 (Off the record briefly.)

23 Q Would you please, to the best of your ability, go
24 ahead and point where Placard 1 is.

25 A If I -- if I may say this, this photograph was taken

1 several days after the shooting incident. So what you
2 see here, these cars were not actually in the scene at
3 the time I actually -- but what I'm going to do is, based
4 on my diagram, I actually have three cars in my diagram,
5 one being almost -- almost in the same spot. Then, you
6 have two cars in here.

7 So what I'm going to do is, even though this was --
8 the cars were not actually in the crime scene at the time
9 of the incident, I'm going kind of use them as my
10 pinpoint area, if that's okay.

11 I don't want to confuse you, but almost the cars
12 were kind of like identical in the diagram I have. So
13 I'm going to utilize this. But again, this photo was
14 taken days after the shooting incident.

15 Q So let's talk about Placard 1. And I'll go ahead
16 and touch the screen. You just go ahead and point to
17 where Placard 1 would be.

18 A All right. Placard 1 -- 1 might be -- (inaudible)
19 -- so I'm going say probably right there.

20 Q There? Okay. Well, that was a great dot. We'll
21 use that. So that's going to be Placard 1.

22 All right. And Placard 2?

23 A Placard 2 would almost be in sequence. It would be
24 just almost right beside -- (inaudible) ---

25 Q Okay.

DIRECT EXAMINATION BY MR. CORY - GEORGE WISE 229

1 A --- but ---

2 Q That's okay. This is just a diagram so everyone can
3 understand.

4 And Placard 3?

5 A And Placard 3 -- (indicated) -- right here.

6 Q Right there? Okay.

7 Now, can you tell for the jury what's at Placard 1,
8 2, and 3?

9 A Marker No. 1 would be a empty shell casing, .40-cal.
10 Marker No. 2 is an empty shell casing, .40-cal. And
11 Marker 3 is an empty shell case, .40-cal.

12 Q Thank you. Let's talk about Placard No. 4, yeah?
13 Could you go ahead and indicate to the jury where Placard
14 4 was ---

15 A Placard ---

16 Q --- on this map?

17 A Placard No. 4 was actually beyond Markers 1, 2, and
18 3 -- (inaudible) ---

19 THE COURT REPORTER: Mr. Wise -- I'm sorry. I need
20 for you either to speak up or turn towards me, because I
21 can't hear you.

22 THE WITNESS: All right. What you -- what do you
23 want me to repeat? Just speak up louder or ---

24 THE COURT REPORTER: Your last answer. Thank you.

25 A Placard No. 4 would be at this location.

1 Q Okay. Understood. And this is Placard No. 4,
2 correct?

3 A Yes.

4 Q Go ahead and show that to the jury.

5 What is your description of what's located at
6 Placard 4?

7 A Placard No. 4 is showing a red stain in the roadway.

8 Q And that is where you indicated on the map?

9 A Yes. Just beyond Markers 1, 2, and 3, just beyond
10 that would be Marker No. 4.

11 Q Understood. So at 1, 2, and 3, we have casings, and
12 at 4 we have this stain?

13 A Yes. A red stain.

14 Q Red stain? All right. Understood.

15 All right. Let's talk about State's 17. Grab that
16 real quick. All right. Thank you.

17 This is State's 17. What does that appear to show
18 you, Mr. Wise?

19 A That is a photograph I took of Markers 5, 6, 7, and
20 9.

21 Q Go ahead and let the jury get a look at this. So
22 it's another grouping of placards.

23 A Yes.

24 Q Okay. And you said 5 through 9?

25 A Yes. Does not include No. 8. It just ---

DIRECT EXAMINATION BY MR. CORY - GEORGE WISE 231

1 Q Okay. Okay. Yeah. Understood.

2 Can you go ahead and indicate on this map where 5
3 was.

4 A (Inaudible) more or less, kind of right in this area
5 here.

6 Q All right.

7 THE COURT REPORTER: Mr. Wise, I'm sorry. I'm sorry
8 to keep interrupting.

9 THE WITNESS: Yeah.

10 THE COURT REPORTER: I -- I just can't hear you.

11 THE WITNESS: Okay.

12 Q Go ahead and mark on the board and then turn and
13 speak ---

14 A Yeah. I'm ---

15 Q --- just so ---

16 A --- just going ---

17 Q --- the court ---

18 A --- when I start ---

19 Q --- reporter ---

20 A --- to talk, I'm going to ---

21 Q Okay.

22 A --- talk in her direction.

23 Q Perfect.

24 A So ---

25 Q So which placard was the one you just indicated?

1 A Placard No. 5.

2 Q Okay. And let's do Placard No. 6.

3 A Placard No. 6 would be right ---

4 Q Great.

5 A --- right -- it should be really closer to that --
6 should be ---

7 Q Right ---

8 A --- a little bit closer to this vehicle tire.

9 Q Okay. And let's do Placard No. 7.

10 A Placard No. 7 would be, like, on the sidewalk.

11 Q All right. And you said -- you said 8 was not
12 listed in the photo. Let's talk about 9. No. Lets --
13 does -- does your report indicate where 8 was, Placard 8?

14 A Yes. Eight should be -- Marker No. 8 should've been
15 in front of this vehicle here -- (inaudible) ---

16 Q There? Okay.

17 And then, 9, that was the last one in ---

18 A Then ---

19 Q --- this photo.

20 A Marker No. 9 would be -- (inaudible) ---

21 Q All right. And do you know what are at these
22 markers as well?

23 A Yes. Number -- Marker No. 5 was a live round 9-
24 millimeter. Marker No. 6 was a live round .40-cal.
25 Number 7 was an empty shell casing of a 9-millimeter.

DIRECT EXAMINATION BY MR. COURY - GEORGE WISE 233

1 Marker No. 8 was an empty shell casing of a 9-millimeter.
2 And Marker No. 9 was an empty shell casing of a 9-
3 millimeter.

4 Q Understood. And, Mr. Wise, you may take the stand
5 again. Thank you.

6 (Whereupon, the witness reentered the witness
7 stand.)

8 Q Now, Investigator Wise, those shell casings that I
9 presented to you earlier, those are the ones from this
10 scene, correct?

11 A Yes.

12 Q That it's going to be in these photos of these
13 placards, correct?

14 A Yes.

15 Q And as you stated, just to refresh, Placards 1
16 through 4 are located here, correct?

17 A Yes.

18 Q Okay. Placards 1 through 3, which are spent .40-
19 caliber casings, are indicated right here.

20 A Yes.

21 MR. COURY: Oh, I touched it again. I'm sorry.

22 Q And Placard 4, which was this stain, that's
23 indicated by the red spot on the diagram, correct?

24 A Yes. That's correct.

25 Q Okay. Now, we have our other little grouping of

1 shells and casings. That's 5 through 9, correct?

2 A Yes.

3 Q We have two live rounds here, a .40-cal and a 9?

4 A Yes.

5 Q Okay. And then, we have three shell casings here,
6 correct? Empty shell casings, that is.

7 A Yes.

8 Q And those are what caliber?

9 A They were 9-millimeter caliber.

10 Q So we have spent .40s over here at 1 through 4 and 1
11 through 3, and then, we have spent 9-millimeter over here

12 ---

13 A Yes.

14 Q --- as well as the two live bullets?

15 A Yes.

16 Q Understood. Thank you, Mr. Wise.

17 What other involvement did you have in this case,
18 Mr. Wise?

19 A If I recall, sir, that -- that's about the only part
20 of the case I had as actually processing the shooting
21 scene.

22 Q Understood. Did you speak with anyone there?

23 A Just basically the officers or supervisor on the
24 scene, just to get my information on what actually took
25 place. But other than that, no, I did not speak to any

DIRECT EXAMINATION BY MR. COURY - GEORGE WISE 235

1 -- any -- any individual. I just spoke to the police
2 officers.

3 Q Understood. And what -- and what, if anything, you
4 discern from your findings at the scene?

5 A I'm sorry. Say again?

6 Q What can -- what can you discern from your findings
7 at the scene? What can you say for certain?

8 A I -- I can only say for certain that with you having
9 two types of calibers -- like, say, a -- a .40-cal and a
10 9-millimeter -- I can only say you had two weapons used
11 in the shooting.

12 Q Thank you. Other than processing the scene, no
13 other involvement?

14 A No other involvement. No, sir.

15 Q Thank you, Mr. Wise. No further questions from the
16 state. Please answer any questions the defense might
17 have for you.

18 (Off the record briefly.)

19 THE COURT: Mr. Duncan?

20 MR. DUNCAN: I don't think I have any. Your Honor,
21 I don't have any questions of this witness.

22 THE COURT: All right. Thank you. You may step
23 down.

24 (Whereupon, the witness exited the witness stand.)

25 MR. NEELY: Your Honor, the state has a matter of

1 law to take up before the next witness.

2 THE COURT: Ladies and gentlemen, we're going to
3 have you go to the jury room. Please do not discuss the
4 case.

5 (Whereupon, the jury exited the courtroom at 11:13
6 a.m.)

7 (Off the record briefly.)

8 THE COURT: Yes, sir.

9 MR. NEELY: Your Honor, the next involves an
10 identification of the defendant, which requires an in-
11 camera *Neil v. Biggers* hearing. This is the hearing that
12 I had mentioned to Your Honor on -- on Monday that wasn't
13 able to take place until today.

14 THE COURT: Okay. You may proceed.

15 MR. NEELY: State calls James Archie.

16 DEPUTY CLERK OF COURT: Right up here, sir.

17 (Whereupon, the witness came forward.)

18 JAMES ARCHIE, having been first duly sworn,
19 testified as follows:

20 DEPUTY CLERK OF COURT: Please have a seat there,
21 sir. Speak into that microphone and state your full name
22 for the record.

23 THE WITNESS: My name James Archie.

24 THE COURT: Mr. Archie, you can pull your mask down
25 so we can hear you more clearly, hopefully.

DIRECT EXAMINATION BY MR. NEELY - JAMES ARCHIE 237

1 THE WITNESS: Yes, sir.

2 DEPUTY CLERK OF COURT: You don't have to get right
3 on top of it.

4 THE WITNESS: Okay.

5 DIRECT EXAMINATION

6 BY MR. NEELY:

7 Q Mr. Archie, did you know Mikah Green on the date of
8 March 30th, 2019?

9 A Yes, sir.

10 Q And you knew what he looked like?

11 A Yes, sir.

12 Q What did you know him as, a nickname?

13 A I didn't know him by his nickname.

14 Q Okay. So you knew him as Mikah Green?

15 A Yes, sir.

16 Q Okay. And how many times had you seen him before
17 that date in question?

18 A Numerous of times.

19 Q Okay. So fair to say that -- that you knew -- you
20 knew what he looked like?

21 A Yes, sir.

22 Q And did you identify the defendant as the shooter to
23 law enforcement?

24 A Yes, sir.

25 Q Is that because he was the shooter?

1 A Yes, sir.

2 Q And so Mikah Green shot your -- Stacy Rhodes in the
3 back?

4 A Yes, sir.

5 Q And that's how you identified him to law
6 enforcement?

7 A Yes, sir.

8 Q Did law enforcement ask you any leading questions
9 when they -- when you identified Mikah Green as the
10 shooter?

11 A No, sir.

12 Q Did you have a full opportunity to view Mikah Green
13 the day in question?

14 A Yes, sir.

15 Q Did you have a good view of him whenever he started
16 shooting?

17 A Yes, sir.

18 Q What was the -- what Mr. Green was wearing that day,
19 do you recall?

20 A He wearing white shirt and I want to say, like, some
21 bluish jeans.

22 Q Bluish jeans?

23 A (No audible response.)

24 Q Do you remember it being a white shirt?

25 A Yeah. Yes, sir.

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1 Q Okay. But you know it was -- you remember it being
2 Mikah Green; is that correct?

3 A Yes, sir.

4 Q Did you fail to identify Mikah Green at any point
5 during this investigation?

6 A No, sir.

7 Q And how long between the time and the
8 identification? Do you recall?

9 A Sir?

10 Q How many -- how many days were between the
11 identification to law enforcement and the crime actually
12 taking place?

13 A What do you -- we got up there, like -- give me a --
14 what do you mean?

15 Q Did you meet with law enforcement on April 4th,
16 2019?

17 A I don't -- yes, sir. That what was it was. If I'm
18 not mistaken, that was the time when my mother took me to
19 the police station.

20 Q Okay. And was that with Investigator Hilton?

21 A Yes, sir.

22 Q Okay. And you give a statement to Investigator
23 Hilton that identified Mikah Green as the shooter?

24 A Yes, sir.

25 Q Thank you. That's all the questions I have. Please

1 answer any questions the defense has.

2 THE COURT: Mr. Duncan?

3 MR. DUNCAN: Thank you, Your Honor. Briefly.

4 CROSS-EXAMINATION

5 BY MR. DUNCAN:

6 Q Mr. Archie, you testified that you had -- you had
7 seen my client, Mr. Green, on several occasions before
8 the date in question of -- of the shooting?

9 A Yes, sir.

10 Q And you had seen him and your -- and -- you'd seen
11 him at your brother's apartment or -- or where had you
12 see him?

13 A As in my -- at my brother's apartment. He used to
14 -- he -- like, he used to come over all the time. That's
15 how -- that's how I meet him: through my brother. I
16 didn't even know him until my brother introduced me to
17 him.

18 He was, like -- I guess he was my brother -- my
19 brother, like, friend. Because, you know, like, he come
20 over. You know, he played dice with my brother in the
21 kitchen. He eat food; watch us play the video game. He
22 -- I thought he was a friend.

23 Q I got you.

24 A Yes, sir.

25 Q And did you -- you -- you said you met him through

CROSS-EXAMINATION BY MR. DUNCAN - JAMES ARCHIE 241

1 your brother. So did -- did you live with your brother?

2 A Yes, sir.

3 Q Okay.

4 A I started -- I had moved from Sumter, and my brother
5 got me the job at McEntire Produce where he was working
6 at.

7 Q Okay.

8 A That's -- that's -- that's how I move up to Columbia
9 in the apartment with my brother.

10 Q And so you had been -- you had been in Columbia for
11 -- for, like, a couple months or something like that?

12 A Yes, sir.

13 Q Okay. That's all the questions I have.

14 THE COURT: You may step down. You can get down.

15 THE WITNESS: All right.

16 (Whereupon, the witness exited the witness stand.)

17 THE COURT: Yes, sir.

18 MR. NEELY: Your Honor, the state would move to --
19 to -- well, there -- if there's no objection, this -- beg
20 the Court's indulgence.

21 (Off the record briefly.)

22 MR. NEELY: The state submits that ---

23 THE COURT: What -- what is this? What ---

24 MR. NEELY: It's an out-of-court ---

25 THE COURT: What ---

1 MR. NEELY: --- identification, Your Honor.

2 THE COURT: What -- why is this hearing necessary?
3 Under what legal requirement? What matter of law are you
4 claiming that you have?

5 MR. NEELY: Your Honor, the case law that I was
6 reading said that it was a -- a requirement for any time
7 a -- a defendant intends to challenge ---

8 THE COURT: See, if you're ---

9 MR. NEELY: --- an identification ---

10 THE COURT: --- you know, you focus on reading to me
11 and reading to the witness, or reading as you're talking.
12 I can't follow your conversation.

13 MR. NEELY: Please forgive me, Your Honor.

14 THE COURT: I'm just asking ---

15 MR. NEELY: It would be ---

16 THE COURT: --- the question: Why are -- what --
17 what is the matter of law? Why did I need to send the
18 jury out?

19 MR. NEELY: For the *Neil v. Biggers* hearing.

20 THE COURT: Okay. Now, so you're reading something
21 to me? Tell me what you're reading to me, if -- if
22 you're reading something to me. I'm -- because I asked
23 ---

24 MR. NEELY: I'm reading ---

25 THE COURT: --- a question, and then you started

1 reading, it appears.

2 MR. NEELY: I wasn't reading right there, but I was
3 about to read from the *State v. Liverman* ---

4 THE COURT: Okay. All right.

5 MR. NEELY: --- which is a -- the defendant
6 challenges the identification as having been obtained
7 under unnecessarily suggestive circumstances ---

8 THE COURT: But when did the defendant challenge the
9 identification?

10 MR. NEELY: I -- I wanted to have an in-camera
11 hearing to make sure that there was not going to be any
12 challenge to the identification.

13 THE COURT: Yeah. But do you think that on every
14 witness that -- that's coming, that they need to come up
15 and -- and give testimony before they give their
16 testimony, testimony outside of the presence of the jury
17 on -- for a lay witness? I mean, what is the legal issue
18 here?

19 MR. NEELY: Well, normally ---

20 THE COURT: Let me ---

21 MR. NEELY: --- Your Honor ---

22 THE COURT: --- go to Mr. Duncan first and then I'll
23 come back to you.

24 MR. DUNCAN: Your Honor, I -- we -- we don't contest
25 this witness's knowledge of Mr. Green.

1 THE COURT: And how is that a legal issue, period?

2 MR. DUNCAN: I -- I -- I don't -- I don't think it
3 is, Your Honor.

4 THE COURT: Yeah. I mean, every -- it -- it's not a
5 law enforcement officer. It's not the police trying to
6 pick someone out of a lineup.

7 MR. DUNCAN: He -- again, this -- this gentleman --
8 this gentleman picked my client out of a lineup. I'm --
9 I -- I'm convinced that he knows Mr. Green.

10 THE COURT: Yeah. Well, yeah. And I'm sure a lot
11 of people know Mr. Green.

12 What -- all right. Go ahead. Back to you,
13 Solicitor.

14 MR. NEELY: Without -- if Mr. Duncan has no
15 objection, then the state's ready for the jury to be
16 called back in.

17 THE COURT: Well -- oh, you didn't respond to my
18 question.

19 MR. NEELY: I'm sorry.

20 THE COURT: You didn't respond to my question. What
21 is the legal issue? Why was this necessary?

22 MR. NEELY: Your Honor, it's an out-of-court
23 identification of the defendant. And I wanted to make
24 sure that his due process rights were guaranteed. Even
25 thought it might not have required a preliminary judicial

1 determination, I -- I wanted to have -- have one in -- in
2 hopes of being as safe as possible, Your Honor,
3 preserving the record.

4 THE COURT: Yeah. Well -- all right. There's no
5 issue here. He -- he identified him; he knows him.
6 There's no need for this *Neil v. Biggers* hearing. In my
7 view, there's no hint of any suggestive identification by
8 law enforcement. We're just wasting time.

9 Let's bring the jury back. Well, let's give
10 everybody a three-minute break this time, and then we'll
11 press on.

12 MR. CORY: Thank you, Your Honor.

13 (The Court went off the record at 11:24 a.m.)

14 (The Court went on the record at 11:29 a.m.)

15 THE COURT: Bring the jury.

16 (Off the record briefly.)

17 (Whereupon, the jury entered the courtroom at 11:30
18 a.m.)

19 THE BAILIFF: Jury is present, Your Honor.

20 THE COURT: All right. You may call your next
21 witness.

22 MR. NEELY: The state would call James Archie to the
23 stand.

24 THE COURT: All right.

25 MR. NEELY: The bailiff has gone out to get them,

1 Your Honor.

2 (Off the record briefly.)

3 THE BAILIFF: He went downstairs, Your Honor.

4 THE COURT: You have another witness?

5 MR. NEELY: Your Honor, I was planning -- planning
6 on calling James Archie next.

7 THE COURT: Well, yeah. He's not here.

8 (Off the record briefly.)

9 (Whereupon, the witness came forward.)

10 JAMES ARCHIE, having been first duly sworn,
11 testified as follows:

12 DEPUTY CLERK OF COURT: Please have a seat there,
13 sir. State your full name for the record.

14 THE WITNESS: My name is James Archie.

15 DIRECT EXAMINATION

16 BY MR. NEELY:

17 Q Mr. Archie, what do you go by?

18 A J.J.

19 Q J.J.?

20 A (No audible response.)

21 Q And how do you know Stacy Rhodes?

22 A That's my big brother.

23 Q And how do you know Mikah Green?

24 A Through my brother.

25 Q Were they friends?

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1 A Yes, sir.

2 Q They gambled together?

3 A Yes, sir.

4 Q Drank together?

5 A Yes, sir.

6 Q Do you recall the day of March 30th, 2019?

7 A Yes, sir.

8 Q Start us at the beginning of that day and walk --
9 walk us through it. What happened at the beginning of
10 that day?

11 A From when we wake up?

12 Q From when you woke up.

13 A When we woke up, me and my brother got ready for
14 work. We went to work, and we got off of work.

15 Q When did you get off of work?

16 A We got off of work like two-something.

17 Q When'd you go in to work?

18 A We go to work. We get in, like -- we got to be in
19 before -- I got to clock in before 5:30. He come in,
20 like, 15 minutes behind me.

21 Q Okay.

22 A So I say, like, about 5:45. We got to be on the
23 line by six o'clock.

24 Q Okay.

25 A Yes, sir.

1 Q So y'all got off at two, and then what did y'all do
2 after that?

3 A When we got off of work, I went home. My brother, I
4 guess he must be went up to the -- you know, where -- I
5 guess where they be throwing a little dice at that day.

6 Q Was that Lakeshore Apartments?

7 A Yes, sir. That where me and my brother had stayed
8 at.

9 Q Okay. And after you went home, where did you go?

10 A After I went home?

11 Q (No audible response.)

12 A I went to the store.

13 Q Okay. What'd you get at the store?

14 A I just went to go get me a pack of cigarettes and
15 something to drink.

16 Q Okay. And what'd you do after that?

17 A After that, you know, like -- because we walk in the
18 -- you know, like, the way we got to walk back, the store
19 -- the Citgo is, like, right there by the apartment
20 complex.

21 Q Okay. So the Citgo is right by there?

22 A It's, like, walking distance.

23 Q Okay. And what happened after you got that and came
24 back?

25 A It was, like -- I guess it was a -- I guess a feud

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1 or -- or a argument or -- or something, whatever. I
2 didn't -- I don't -- I didn't know what was going on. I
3 just know it was, like, arguing. He -- you could hear it
4 from walking from the store. It was, like, a lot of
5 commotion.

6 Q So a loud argument?

7 A Yes, sir.

8 Q And who was the argument between?

9 A I guess one -- you know, like, once you got closer
10 and -- and realized what was going on, I guess it was a
11 argument between him and my brother.

12 Q Him being Mikah Green?

13 A Yes, sir.

14 Q And were they both exchanging loud words?

15 A You know, it was a argument. Yes. How -- you know
16 how people exchange words when they be arguing.

17 Q Were -- were threats exchanged?

18 A Not from my apartment -- not from -- no, sir. I
19 didn't hear no threat.

20 Q What happened after that? After you came back and
21 there was an argument ongoing, what happened?

22 A All right. It was a argument, I guess. And then a
23 car -- all right. Him and -- I guess, Mikah Green and my
24 brother was arguing. And I guess the feud had calmed
25 down a little bit.

1 He -- because it -- it -- it -- because, really, me,
2 I thought it was, like, it was just a little argument.
3 Because I -- you know, I thought he was my brother's
4 friend. You know, he come to the house here, and he --
5 you know, I thought he -- you see my -- I never look at
6 him, nothing of it.

7 And then, it was like a big feud and then a -- you
8 know, a car. A car had called my brother, you know,
9 after, I guess, they was arguing about whatever they was
10 arguing about, the dice game. And then it was a car. It
11 was a car calling my brother to the car. And it was lady
12 who worked with my brother.

13 Q Okay. So there's an argument ongoing between Mikah
14 Green and your brother.

15 A Yes, sir.

16 Q They separate; is that correct?

17 A Yes, sir. There was -- they -- there was -- there
18 was, like -- there was distance apart. They were, like
19 -- like, from -- there was distance.

20 Q And the victim got a phone call?

21 A Huh?

22 Q You say the victim got a phone call?

23 A No. The -- the -- they had called my brother to the
24 car.

25 Q Oh, the car. Okay.

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1 A And ---

2 Q So let's go back a little bit ---

3 A Yes, sir.

4 Q --- before then. Did -- did Mikah Green ever leave
5 and then come back ---

6 A Yes, sir.

7 Q --- during the argument?

8 Can you tell us about that?

9 A Well, I guess when they were arguing, he -- he must
10 be ran to his car or whatever, I guess. And then he came
11 back.

12 Q And when he came back, was anything different?

13 A I know I know -- I know that -- you know, I noticed
14 he had, you know -- he had a -- he had a firearm on him.

15 Q He had a gun on him?

16 A Yes, sir.

17 Q And you knew that?

18 A Yes, sir.

19 Q Did you -- how -- did you see the firearm that day?

20 A Yes, sir.

21 Q What'd it look like?

22 A It was a gold and black 9-millimeter.

23 Q Do you know it was a 9-millimeter?

24 A I don't know it. But I -- I done -- I done seen --
25 I saw that -- I saw that gun before.

1 Q Okay. So you'd seen him with that gun before?

2 A Yes, sir.

3 Q Not on that day or that day?

4 A I saw him with that gun that day and before that
5 day.

6 Q Okay. Do you recall when you saw him with that --
7 with that gun?

8 A On that day?

9 Q Before.

10 A Before, when he came to my brother house.

11 Q Okay. So he was just showing off his gun?

12 A Yeah. Just -- you know, how -- you know -- you
13 know, I guess, flashing, however -- you know, how people
14 do when -- you know, I guess so.

15 Q And when Mikah Green came back from his car, was his
16 gun in his waistband?

17 A Yes. His gun was in the waistband and -- till my
18 brother walked to the car. And then after my brother
19 walked to the car, that's when he pulled his gun; walked
20 behind my brother. He pulled his gun and fired two
21 shots. That's when my brother got hit.

22 Q When -- so when your brother walked to this car?

23 A Yes, sir.

24 Q Did you know the people in the car?

25 A Yes. Because like I said, the -- the lady who had

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1 called my brother to the car, she is, like, a lead person
2 over my brother at the job. That's how I know them.
3 That's how I know them: because, you know, all us work
4 together.

5 Q So she's like a manager at the place that you and
6 your brother worked at?

7 A Yes, sir. Like a supervisor or something. You
8 know, I know it's higher than my -- what my brother was.

9 Q Okay. And so she pulls up. Did you -- do you hear
10 what she says?

11 A She was, like: "Stacy" -- you can hear her, like,
12 calling him, you know. Because, you know, like, I guess
13 she was calling him to try to calm the altercation down,
14 try to -- try to -- try, you know, before it escalate to
15 what it had got to.

16 Q And is Stacy what you call your brother?

17 A Yes, sir. I call him Boi, but that's his real name:
18 Stacy.

19 Q Okay. But you -- but you generally call him Boi if
20 y'all are around the house?

21 A Yeah. Because that's my brother.

22 Q Okay. Do most people call him Boi?

23 A By people -- by -- like if ---

24 Q Friends?

25 A Yeah, friends, if you know him.

1 Q Okay. And she yells out "Stacy," because she knows
2 him from work?

3 A Yes, sir.

4 Q All right. And he walks to the car?

5 A Yes, sir.

6 Q Just give me step by step. Where -- where are you
7 whenever he's walking to the car?

8 A When he's walking to the car, I'm, like -- the car
9 is probably from -- in the apartment complex -- all
10 right. You got -- you got the cars parked. You got the
11 cars parked on, like -- like, a little diagonal.

12 So you got to walk, like, to the trunk of it. Like,
13 if you walking to your trunk. And then, you got the
14 road, like where you drive through.

15 And then my brother walked to the car.

16 Q Okay.

17 A Like -- if, like -- you know, like, how you drive in
18 and driving out a place, you know, like, the road. And
19 then, we got parking lots, like, you know, it's
20 diagonally, the way it's in the parking lot.

21 Q And how far away was Mikah Green from your brother
22 when you he walked to the car?

23 A I'll say -- if my -- if the car is right there where
24 the table at, Mikah Green got to be probably right here
25 where these two booths at. I guess on the sidewalk. You

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1 could say the sidewalk. Or, like, in between -- you
2 could say the sidewalk -- he was, like, in -- by the
3 sidewalk and, like, in between the cars.

4 Q I'm going to -- to show you what's been entered into
5 evidence as State's Exhibit No. 6. Do you recognize this
6 location?

7 A Yes, sir.

8 Q Is that where your brother was shot?

9 A My brother was shot right there in the -- in, like
10 -- in the road, like, the driveway or -- like you driving
11 -- like you just driving past the leave-out-type area,
12 like in that.

13 (Off the record briefly.)

14 Q And after your brother was shot ---

15 A Yes, sir.

16 Q --- what happened to him?

17 A My brother? My brother?

18 Q (No audible response.)

19 A He had fall.

20 Q He fell to the ground?

21 A (No audible response.)

22 Q Was he -- was he bleeding pretty bad?

23 A (No audible response.)

24 Q You know, I don't want to upset you, but if -- if
25 No. 4 -- if this is No. 4, would you say that's about

1 where your brother fell?

2 A Yes, sir.

3 Q All right. After your brother fell, what did you
4 do? After your brother fell or -- back up a little bit.
5 Did you have a firearm on you?

6 A Yes, sir.

7 Q And after your brother was shot, did you return
8 fire?

9 A After my brother fall, yes, sir.

10 Q Were you trying to stop him from shooting anybody
11 else?

12 A Sir?

13 Q Were you trying to stop him from shooting anybody
14 else or defend your brother?

15 A Yes, sir. That was -- that -- that was the only
16 reason.

17 Q Mr. Archie, is it fair to say that you really don't
18 want to be up on this witness stand?

19 A I don't. I don't. But, you know, that was my big
20 brother. And I -- I just -- you know, my mom and all --
21 so I'm just doing the right thing.

22 Q Did you hear anything -- any, like, specific words
23 that Mikah Green was saying at -- at your brother? Or do
24 you recall that? That was a long time.

25 A No, I don't recall the words he was saying.

1 Q Just arguing?

2 A Yeah, it was just -- but if -- if you -- if you
3 would've known and you would've known and you probably
4 was there, you would've know the relationship. Like, I
5 saw that him and my brother -- I -- I wouldn't think the
6 situation would've escalated to something, like, big like
7 that.

8 Q Did -- did your brother act like he thought Mikah
9 Green was going to shoot him?

10 A No, sir. My brother thought -- like, I thought and
11 my brother thought -- I thought he was, like, good
12 peoples. Like, you know, when you bring somebody-your-
13 house-type area and where-you-stay-at-type, you -- you
14 know, you not just going bring anybody to your house.
15 You going bring somebody that, like, you would probably
16 think they good peoples.

17 Q So that's how well you and -- or ---

18 A That's like -- that's how I -- I meet him through my
19 brother.

20 Q Right. After the shooting happens and your brother
21 falls, what does Mikah Green do? Do you -- do you know
22 what Mikah Green did? Did you see it?

23 A He tried to run.

24 Q He ran?

25 A Yeah. He tried to. Yeah.

1 Q Did he get away?

2 A Yeah.

3 Q Where'd he run to?

4 A He ran, like, behind the -- it was like -- like, he
5 ran, like -- like, where the cars were -- like, where you
6 show me where the car -- he ran behind the car and then
7 he ran, like, behind the apartment complex.

8 Q Do you remember whether he was still shooting or
9 still had the gun in his hand?

10 A He only fired -- he only fired it two shots, when he
11 shot my brother.

12 Q You don't recall if there were any more shots after
13 that?

14 A No, sir.

15 Q And what -- what caliber pistol did you have that
16 day?

17 A I had a .40-cal.

18 Q Okay. And after you shot at him as he -- as he ran
19 away with the gun in his hand and he left, what did you
20 do then?

21 A After he shot my brother -- and I -- I -- I acted in
22 defense of ---

23 Q After ---

24 A --- just seeing to my brother and -- and praying
25 that nobody else get hurt out there.

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1 Q After Green was gone, did you get your brother to
2 take him to the hospital?

3 A Yeah. After -- after Green -- after everything, you
4 know, all the shots were fired, you know me. I rushed
5 back to my big brother. He was ---

6 Q And do you recall what car y'all were driving?

7 A We was riding in a white -- a little white car.

8 Q It was a white car?

9 A (No audible response.)

10 Q Okay. And how long do you think it was before you
11 had your brother in that car and were on the way to the
12 hospital?

13 A You know how my brother kind of heavy. So you know
14 me, being little, it probably take probably about like --
15 like approximately -- I say two to three minutes putting
16 him in the car.

17 Q Or it felt like two/three minutes?

18 A Yes. It probably -- probably -- yeah. Because --
19 yeah. Because you know, he's -- he is a -- he was a big
20 guy. You know, me being little, it was kind of hard.

21 Q And did y'all take him to the hospital?

22 A Yes, sir.

23 Q And ---

24 A I took -- I -- I took him inside the hospital.

25 Q Yeah. What -- what happened?

1 A We got -- we pulled -- all right. We was riding
2 through traffic, you know, trying to rush and get him to
3 the hospital. We got him to the hospital. I took him
4 out the car. You know, he heavy so I can't hold him too
5 long. So I put him, you know, in a wheelchair. And, you
6 know, I push him, because, you know, I couldn't -- I
7 couldn't push him forward, because he just been shot.

8 You know, he ain't -- he ain't got no -- no -- you
9 know, so I pushing him into the hospital, but I actually
10 done push him in to the wrong side of the hospital. And
11 I saw a nurse or a doctor or whatever it was. And I was,
12 like: My big brother just been shot."

13 But I couldn't push him forwards. I had to turn him
14 around facing me, you feel me? And I looked -- you know,
15 pushing and pushing, trying to get help -- trying to get
16 help.

17 I just -- you know, like, if you ever saw a dead
18 body, you -- you would -- you would -- you can see, like
19 -- like, the look I saw in his eyes, like, I know -- I
20 know he was gone. I know he was gone.

21 Q Was he able to -- to say anything to you?

22 A He couldn't say nothing else. He didn't say nothing
23 when -- you know, like, from when we put him in the car
24 and got him to the hospital, he was just, like, just
25 looking. He was just looking in my eyes. Like, he was

DIRECT EXAMINATION BY MR. NEELY - JAMES ARCHIE 261

1 just looking.

2 (Off the record briefly.)

3 Q I know this is hard. I really do.

4 When the argument was taking place, did -- did Mikah
5 Green ever rack his gun?

6 A Yeah. He cock his gun back.

7 Q Did you cock yours back?

8 A No. I already -- I already had -- I already had,
9 like -- this was, like, before he ran and got his gun.
10 Like, I already had -- already -- you know, I already had
11 a bullet, you know, in the chamber of my -- that just,
12 like, all the time. Like, you know, that just, like, all
13 the time -- like, all the time.

14 Q Did you see Mikah Green with a gun before he left
15 and came back?

16 A No. He -- he didn't went nowhere. He didn't have
17 no gun before. He had the gun after he left and come
18 back. That's when he had the gun.

19 Q And he left to his car?

20 A Yeah. He went to the car.

21 Q And did you see him?

22 A Yeah. His car was, like, parked, like right there,
23 like, close by, like, by the -- by the trash can little
24 -- where the -- where the mail -- where -- where your
25 mail will go out, like, you know, in the apartment

1 complex.

2 Q I'm going to show you what's been entered into
3 evidence as State's Exhibit No. 1. Can you show us on
4 this -- and if you just turn it to the jury so they can
5 see -- where Mikah Green was parked?

6 A All right. This the apartment complex?

7 Q Yes. If this is Garners Ferry, this ---

8 A All right.

9 Q --- is the entrance.

10 A All right.

11 Q And this ---

12 A Like, when ---

13 Q --- indicated as the scene, with -- with the third
14 building.

15 A There where it had to been, like, park, like, over
16 there border them trash cans. Because it's some
17 mailboxes right there. It's like -- you're, like ---

18 Q Speak up for the court reporter.

19 A Like, over here, like to the left.

20 Q Okay.

21 A Because this -- if this the inside, this, like,
22 where my brother got -- my brother got shot, like, up in
23 this area.

24 Q All right. And that's where y'all were, you and
25 your brother?

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1 A Yes, sir.

2 Q Okay. So when Mikah Green went to his vehicle, that
3 was in eyeshot?

4 A Sir?

5 Q When Mikah Green went to his vehicle, that was
6 within eyeshot?

7 A Yes, sir. It -- like, if you running, it wouldn't
8 take far. It wouldn't take long.

9 Q And so you're indicating on this map -- and it's
10 basically the left bottom where Mikah Green's car was, as
11 indicated right here for defense.

12 MR. DUNCAN: Where ---

13 MR. NEELY: And he indicated that he and his brother
14 were in this area when Mikah Green went to his car over
15 here in the ---

16 MR. DUNCAN: Your Honor, I -- I need a question.
17 I'm ---

18 THE COURT: Sir ---

19 MR. DUNCAN: --- I'm sorry.

20 THE COURT: --- are you asking a question of the
21 witness? Solicitor, are you asking a question?

22 MR. NEELY: Sorry. I was -- I -- I was ---

23 THE COURT: Pardon?

24 Q Would you point out on this map where -- towards the
25 jury where the car was?

1 A Like, over there.

2 Q And then, where y'all were?

3 A It was, like -- we was, like, right up in -- we was,
4 like, right here. Like, right here in front of, like,
5 these apartments. And, you know, running distance, it
6 was, like, right here, like, up in there by the trash
7 cans. Trash cans -- like, where the -- where the trash
8 cans and the mailboxes be at out there.

9 MR. NEELY: Sorry, Your Honor. It's difficult to
10 deal with the jury ---

11 THE COURT: And ---

12 MR. NEELY: --- and the ---

13 THE COURT: --- you can't ---

14 MR. NEELY: --- positions.

15 THE COURT: --- you cannot argue to the jury or
16 explain anything to the jury. Ask questions of the
17 witnesses.

18 MR. NEELY: Yes, sir, Your Honor.

19 Q How long do you think it was before you returned
20 fire on Mikah Green?

21 A It -- like, after he shot my brother, like, right
22 when -- like -- like, a couple seconds, but right behind
23 him, like, right behind him.

24 Q So a few -- a few seconds?

25 A Yes, sir.

CROSS-EXAMINATION BY MR. DUNCAN - JAMES ARCHIE 265

1 Q Not too long?

2 A Not too long.

3 Q He was still on the scene?

4 A Yes. He was -- he was -- he was -- after he shot,
5 he was trying, I guess, leave or trying to run. And I
6 was -- you know, after it -- I was trying to try to --
7 try to catch up.

8 Q Thank you. That's all the questions I have.

9 A Yes, sir.

10 THE COURT: Mr. Duncan?

11 MR. DUNCAN: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. DUNCAN:

14 Q Good morning, Mr. Archie.

15 A Good morning, sir.

16 Q Mr. Archie, you -- you described my client, Mr.
17 Green, and your brother, you -- you felt like they were
18 friends.

19 A Yes, sir. From -- from ---

20 Q Did ---

21 A --- my recognizing, yes, sir. I thought they were
22 friends.

23 Q And Mr. Green -- Mr. Green had been to your
24 brother's home there at Lakeshore Apartments a few times?

25 A Yes, sir. Numerous of time.

1 Q Numerous times.

2 A Yes, sir.

3 Q And they had gambled together; that was something
4 they regularly did?

5 A Yes, sir. With no -- like, no feuds.

6 Q All right. What -- just playing video games,
7 watching television ---

8 A Eat -- eat. Like, my brother cook on the grill, you
9 feel me? If he over there, he get a bite. He get -- you
10 feel me? He get something to eat. He probably drank a
11 little beer if it -- if my brother got beers in the --
12 like, a family -- like -- like, somebody a friend to the
13 family-type stuff.

14 Q Okay. And did you -- like a ---

15 A Like you're -- like -- like -- like a friend, like,
16 you know, like, somebody have that you would, like, come
17 over -- like, come over to your house where you -- where
18 you stay at.

19 Q All right. Okay. So, I mean, that's -- that's the
20 way you felt about Mr. Green. I mean, you -- you met Mr.
21 Green through your brother ---

22 A Yes, sir.

23 Q --- correct?

24 A Yes, sir.

25 Q So he -- you -- that's how you had gotten to know

CROSS-EXAMINATION BY MR. DUNCAN - JAMES ARCHIE 267

1 him: Your big brother treated him like -- kind of like
2 family.

3 A Yeah. Yes, sir. A friend, you know, a friend of
4 the family.

5 Q A good ---

6 A Friend ---

7 Q --- friend?

8 A A good friend. A good friend.

9 Q Okay. All right. And I was -- I was listening to
10 your testimony. And you talked about coming home from
11 work that afternoon and being, like, the middle of the
12 afternoon, correct?

13 A Yes, sir.

14 Q All right. And you -- your -- your brother went and
15 was -- was playing -- or he went -- y'all separated,
16 correct?

17 A Yes, sir.

18 Q And you went to the store.

19 A I went -- I -- when we first got off of work?

20 Q Yeah.

21 A I went home.

22 Q Okay.

23 A Then I went to the store. I walked back. I went to
24 the store.

25 Q Did you and your brother go home together?

1 A No. My brother drop off -- no. He -- he -- when we
2 got in there, he got -- he automatically got out and went
3 up top. Because that's, I guess -- when -- you know,
4 when you get off of work on a Saturday, you know -- you
5 know, it's payday and, you know, they -- that's what they
6 do out there, I guess. That's what they was doing:
7 rolling dice.

8 Q All right. And, Mr. -- Mr. Archie, you said
9 Saturday -- it was Saturday afternoon; you got off of
10 work; it was payday. You went to your -- to your house
11 or your apartment, and your brother just stopped -- I
12 think you said up top. Is that what you just called it?

13 A No. I -- I -- I just ---

14 Q I must ---

15 A --- know he was in the apartment complex.

16 Q I'm sorry. I ---

17 A It's in ---

18 Q --- wasn't ---

19 A --- the apartment complex.

20 Q Okay. I misunderstood where he -- where he went.

21 A Yes, sir.

22 Q What did you call it? I -- I ---

23 A I guess, like, a -- in the top of the apartments.

24 That's ---

25 Q That -- I -- I just didn't hear your words.

CROSS-EXAMINATION BY MR. DUNCAN - JAMES ARCHIE 269

1 A Yes, sir.

2 Q All right. All right. So he stopped and there were
3 -- there were people there already gambling or ---

4 A Yeah. They was already, I guess, getting it on,
5 rolling dice before we even got there, before we even got
6 into the apartment complex. Who all was up there, they
7 was already rolling dice.

8 Q All right. But were you -- were you driving?

9 A No, sir.

10 Q Your brother was driving?

11 A Yes, sir.

12 Q So he dropped you off and then went back down, or
13 how -- how ---

14 A No.

15 Q --- did it go? I'm just trying to figure out how
16 ---

17 A When we ---

18 Q --- he got ---

19 A --- pulled in ---

20 Q --- there.

21 A --- he -- he driving when we got off of work. We
22 drive from work. He saw they was rolling dices up there.

23 Q Yes, sir.

24 A He got out. I drove the car to the house. The
25 house is, like, right -- like, a couple blocks, like one

1 -- not -- like, right there, like, right there from where
2 my brother got shot. It was right there.

3 Q Okay. You -- you live -- you stayed a little bit
4 further up, but not far?

5 A Probably in the second building from when it
6 happened at, like ---

7 Q Yeah.

8 A --- short distance.

9 Q All right. And so you were -- you were in your
10 house for a little bit?

11 A Yes, sir.

12 Q And then you went to the store.

13 A Yes, sir. I walked to the store.

14 Q You walked to the store.

15 A Yes, sir.

16 Q To the Citgo right there on Garners Ferry Road.

17 A Right there by the apartment complex.

18 Q Right. I mean, definitely easy walking distance, is
19 that ---

20 A Yes, sir.

21 Q --- football field maybe, a hundred ---

22 A No.

23 Q --- yards.

24 A Not -- I -- I -- I -- I don't know how far it is.

25 Q Not ---

CROSS-EXAMINATION BY MR. DUNCAN - JAMES ARCHIE 271

1 A I just know ---

2 Q --- far ---

3 A --- it's walking distance.

4 Q Not -- not very far away.

5 A Not far.

6 Q All right. So you went to the Citgo, got -- got a
7 pack of cigarettes and stuff, and then were walking ---

8 A I got a pack of cigarettes and something to drink.

9 Q Okay. And then you were walking back to the -- to
10 your house?

11 A Yes, sir.

12 Q Do -- I think I heard you testify that there was
13 already some arguing, loud voices, going on at the edge
14 of the apartment complex; is that -- did I hear that
15 right or not?

16 A At the edge of the apartment ---

17 Q At -- at -- where your brother and them was ---

18 A Yeah.

19 Q --- rolling dice.

20 A Where -- where they was not at, it -- they was --
21 where they was rolling, like, in that area, in that area
22 where they was rolling at.

23 Q Yeah. Was it -- when you were coming back, was it
24 -- was there some arguing going on at that time?

25 A Yes, sir. When I was walking back from the store,

1 that's when I heard it. You could've hear it, because
2 it, you know, like, yelling. You can hear it.

3 Q And you -- you described it as your brother and
4 Mikah Green. Were there other people out there?

5 A It was a lot people out there. It was ---

6 Q A lot of people out there.

7 A It wasn't -- it -- I wouldn't say a lot of people,
8 but it was -- it was a -- a -- a -- a good count of
9 people.

10 Q I mean, I -- I'm not -- if you know. I mean, I
11 don't -- it wouldn't be regular for you to have counted
12 the people.

13 A Yes, sir.

14 Q But you said a lot of people were there. Is that
15 ten people out there?

16 A You'd probably say probably -- yes, sir.

17 Q All right. And ---

18 A And you got -- you know, you got -- you saw. You
19 know, you got kids and people. And, you know, people who
20 stay out there was outside. Because, you know, it was,
21 like -- it's hot. It was kind of hot.

22 Q It's -- it's Saturday afternoon.

23 A Yes, sir.

24 Q On a nice spring day.

25 A Yes, sir.

CROSS-EXAMINATION BY MR. DUNCAN - JAMES ARCHIE 273

1 Q Okay. All right. All right. And so I'm -- I'm
2 trying to get straight, is -- was there an argument --
3 were there lots of people -- several people arguing?

4 A Nah. It was just Mikah Green and my brother. That
5 was the whole argument. Mikah Green and my brother was
6 arguing.

7 Q Okay. All right. Did you -- did you stop at that
8 time, or did you walk on back to your home?

9 A I -- I -- I -- what you mean?

10 Q Like, when you were -- you're coming back from the
11 store.

12 A Uh-huh.

13 Q You got your cigarettes and your drink. And you
14 hear the fussing, arguing, going on between your brother
15 and Mikah Green.

16 A Yes, sir.

17 Q And I'm saying: Did you stop at the dice game, or
18 did you go back to your -- did you go ---

19 A I stopped -- I stopped up at -- you -- if -- I
20 didn't stop at the dice game. But I -- yeah. I -- you
21 might want to say I stop at the dice game. Yes, sir.
22 After leaving the store.

23 Q You didn't go back to your ---

24 A No, sir.

25 Q --- home?

1 A I didn't go -- I didn't go back to my home.

2 Q All right. And you described -- you've said in
3 questions from the solicitor a minute ago, you talked
4 about having a -- having your gun.

5 A Yes, sir.

6 Q And, I mean, did you have your gun on you -- like,
7 when you walked to the store, you had your gun the ---

8 A Yes, sir.

9 Q --- whole time?

10 A I have -- I have my gun with me the whole -- when I
11 walk to the store.

12 Q From -- from the time you got home ---

13 A Yes, sir.

14 Q --- you put -- you put on your gun ---

15 A Yeah. Yes, sir.

16 Q Put it in your waistband, or what'd you do?

17 A In my waistband.

18 Q All right. Like on your right side?

19 A In my waistband. Yes, sir.

20 Q Okay. And what kind of -- what kind of pistol you
21 have?

22 A I had a Smith & Wesson .40-cal.

23 Q A 40 -- .40-cal Smith & Wesson.

24 A Yes, sir.

25 Q All right. And is -- and you said -- I think you've

CROSS-EXAMINATION BY MR. DUNCAN - JAMES ARCHIE 275

1 told me you had the -- a bullet in the chamber. I mean,
2 that ---

3 A Yes, sir.

4 Q And that was normal. I mean ---

5 A Yes, sir.

6 Q --- that was regular.

7 A Yes, sir.

8 Q And you did that because you were protecting
9 yourself?

10 A What you mean?

11 Q Well, I'm asking ---

12 A Talking about ---

13 Q --- you the ---

14 A --- with my gun in the -- with the bullet in the
15 chamber?

16 Q I ---

17 A That was just there just to -- just, like, on a -- a
18 regular day -- like, a regular day.

19 Q All right.

20 A Yes, sir.

21 Q All right. So on regular day -- I mean, your
22 regular day, you would carry that gun with you?

23 A Yes, sir.

24 Q Okay. All right. And so you had -- you had taken
25 it to the store; walked back. You just -- I mean, you

1 just have it with you.

2 A Yes, sir.

3 Q Okay. All right. Was it the same for your brother?

4 Did he regularly have a gun with ---

5 A No. My -- my brother -- my brother, he -- he stay -

6 -- he -- he didn't have no gun on him.

7 Q I'm ---

8 A He don't ---

9 Q --- I'm ---

10 A --- have ---

11 Q --- trying to ---

12 A --- no -- he don't -- he didn't -- he didn't carry

13 no gun.

14 Q It -- that -- he just didn't do that?

15 A No. No. He -- he -- he -- you know, he had -- he

16 had, you know, history. But he didn't have no gun on

17 him.

18 Q I'm saying -- well, all right.

19 A Well -- all right. Explain to me what you're

20 saying.

21 Q Okay. Let me ask you this: You just said ---

22 (Indistinguishable cross-talk)

23 A You said the day that my brother -- did my brother

24 regularly have a gun on him. No, sir.

25 Q All right. Now, I'm -- I'll ask you and I'll wait

CROSS-EXAMINATION BY MR. DUNCAN - JAMES ARCHIE 277

1 for your answer ---

2 A Okay.

3 Q --- okay? All right.

4 You just testified that on a regular day, you
5 carried a pistol.

6 A Yes, sir.

7 Q On a regular day for your brother, did he carry a
8 pistol?

9 A No, sir.

10 Q Okay. Not on this particular day, but on ---

11 A No ---

12 Q --- day ---

13 (Indistinguishable cross-talk)

14 A --- no regular day. My brother don't carry no
15 weapon, sir.

16 Q He just didn't do that.

17 A No, sir.

18 Q Okay. All right. All right. Why did you -- why
19 did you feel the need to carry a gun on a regular day?

20 A I just ---

21 MR. NEELY: And, Your Honor ---

22 A --- I just ---

23 MR. NEELY: --- I'm going to object to relevance
24 here.

25 THE COURT: What is the question?

CROSS-EXAMINATION BY MR. DUNCAN - JAMES ARCHIE 278

1 MR. DUNCAN: I asked him: Why did he carry a gun?

2 THE COURT: Why did he carry ---

3 MR. DUNCAN: Yes ---

4 THE COURT: --- a gun?

5 MR. DUNCAN: --- sir.

6 THE COURT: I'll overrule the objection.

7 Why did you carry a gun normally?

8 THE WITNESS: You know, like -- you know, because --
9 you know, in -- in this world that's going on, you never
10 know who -- you never know what might happen. You never
11 know what -- what -- what may goes on. That just -- that
12 just me. I can't -- I can't account for everybody else
13 in the world. That just me.

14 Q Okay. All right. And so on this Saturday afternoon
15 when you stopped by the -- you stopped and ---

16 A Stopped.

17 Q --- the dice game is going on. Is it -- is it fair
18 to say you get involved in the dice game ---

19 A No, sir.

20 Q --- or is the dice game over?

21 A From -- from when I'm -- when the -- when I'm
22 leaving the store and the altercation's going on, the
23 dice -- you might want to say the dice game is over.
24 It's -- it just a argument going. Nobody rolling no dice
25 no more. Every -- it just -- you hear the big

CROSS-EXAMINATION BY MR. DUNCAN - JAMES ARCHIE 279

1 altercation. You hearing, fussing, fussing, fussing.

2 Q All right. Did -- did you -- did you talk to your
3 brother? Did you try to get your brother to calm down?

4 A I didn't have the chance to get my brother to calm
5 down, because somebody already done called my brother to
6 the car and tried to calm my brother down. Like, it
7 happened, like, fast -- like, fast. It happened fast.

8 Q All right. Let me ask you, Mr. Archie: You didn't
9 testify about this a moment ago. But do you recall
10 talking to -- well, you didn't say you went to the
11 Columbia Police Department to talk to an investigator.
12 You remember that?

13 A Yes. That was the day that my mother took me down
14 there.

15 Q Right. Do you -- do you recall that interview,
16 generally? I know it was, like, three years ago. But
17 you -- you remember going in there and talking to the
18 investigator?

19 A Yes, sir.

20 Q Okay. All right. Do you recall talking about there
21 was a lot of stuff going on out at the apartment complex?
22 You remember -- I mean, is that what you're talking with
23 me about now, like ---

24 A I -- I'm giving you the same story that I gave him.

25 Q That stuff was going on out there?

1 A It was the altercation between ---

2 Q All right. And this -- there's other people -- I
3 mean, it's -- it -- there's loud voices going on. Are
4 you telling me it's just Mikah Green and your brother?
5 Nobody else is arguing? Nobody else is in the ---

6 (Indistinguishable cross-talk)

7 A The other voices -- the other voices probably was
8 out there was trying to calm the whole situation down,
9 like, trying to escalate -- like -- like, trying to, you
10 know, like, stop it before it escalate to what it had got
11 to. It was, like, y'all -- like -- like -- they were,
12 like: "Come on. Come on, y'all. Leave it alone here."
13 You feel me? Because it was only about \$40.

14 Q There you go. Yeah. I was going to say: Did you
15 know -- did you know what the dispute was about?

16 A Yes, sir. It was the dice game, about \$40. It was
17 -- my -- my brother had won. But you know when -- when
18 it -- I guess -- I guess from, you know -- all right.

19 My brother had won. You know how, you know, it be
20 confusion when it's a whole lot going on in a dice game.
21 My brother had won the dice game. But I guess you --
22 Mikah Green thought he had won it.

23 But the people around him told him that my brother
24 had won the \$40; it was my brother money. But Mikah
25 Green didn't want to -- he didn't even want to give the

CROSS-EXAMINATION BY MR. DUNCAN - JAMES ARCHIE 281

1 money -- he didn't -- he saying that it was his money.

2 He's saying: "It's mine. I won it." But he didn't even
3 won.

4 Q Okay. And you ---

5 A That -- and that's from -- I'm hearing all this.

6 I'm hearing, like, all this, because they yelling. And

7 I'm coming back from the store. I'm hearing this. I'm
8 hearing this.

9 Q You didn't -- you didn't see the -- the dispute
10 start. You didn't see the -- the dice game. You heard
11 everybody talking about the dice game.

12 A I saw -- I saw, walking -- I -- I -- I know they
13 were -- I know it was about the dice game because that
14 where everybody was at: at the dice game. It wasn't
15 nothing else going on but they was just rolling dice.

16 Q Okay.

17 A So when you coming back and -- and you -- when you
18 coming back from the store, you are pretty sure if -- if
19 you saying \$40 and the dice and this and that. You hear
20 "dice," you automatic know it's about the dice game.

21 You -- you -- like, if ---

22 Q You ---

23 A --- it don't take a -- a -- a third -- you see what
24 I'm -- a third ---

25 Q I understand. It wasn't ---

1 A If you -- if you got common sense, you will know
2 what it's about. If you out there hearing, you will know
3 what's it about if you was out there.

4 Q Got it.

5 A You'll know.

6 Q All right. And when you -- when you returned --
7 when you returned and then they were arguing, you said
8 your -- your brother and Mikah Green were several feet
9 away. Were they as far as from me to you, away from you?

10 A From ---

11 Q How -- where were you?

12 A What -- in -- in -- in which situation? Like, when
13 they was arguing or ---

14 Q Yeah.

15 A --- before -- before everything escalated and -- and
16 got to where it got to?

17 Q Let's do this. When they were arguing -- when you
18 walked up and you heard them arguing, where were they to
19 you? How far away were you from ---

20 A They wasn't ---

21 Q --- your brother?

22 A --- they -- I was -- they was probably -- like, them
23 two arguing, they was, like, close by each other. They
24 was close. When -- you talking about arguing before the
25 -- you talking about arguing ---

CROSS-EXAMINATION BY MR. DUNCAN - JAMES ARCHIE 283

1 Q Yeah.

2 A --- before or after?

3 Q I ---

4 A That's what I'm -- because you saying argument. I
5 don't know if you talking about before or after the dice
6 game.

7 Q I'm talking about when you saw them arguing.

8 A I saw them arguing coming back from the store.

9 Q All right. Well, that's what I'm talking about.

10 A Yeah. Okay.

11 Q Where -- were they -- you said they were close? I
12 mean, were they as close as me and this gentleman right
13 here? Closer?

14 A Probably from me to -- from -- probably from -- from
15 -- probably from me to you.

16 Q Okay. So the -- close but not on top of each other,
17 not face to face, not eye to eye?

18 A No, sir.

19 Q Okay. Where were you?

20 A I was on, like, the sidewalk area in between the
21 cars. Like, on the sidewalk.

22 Q So if -- if your brother and Mikah Green are from me
23 to you now ---

24 A Uh-huh.

25 Q --- were you as far back as your family?

1 A No. That was -- that was, like, a little bit. I
2 was, like -- I was closer than that.

3 Q Closer than that.

4 A I was closer than that.

5 Q All right. And you had -- you had a gun on you? No
6 question about that?

7 A Yes, sir. But not -- not on -- when you saying --
8 when you saying that -- when you bringing my gun up. Now
9 you saying argument. When you was talking about that
10 argument, what -- like, when they was close, what -- in
11 which situation: after Mikah Green ran to the car?
12 That's what you saying?

13 Q I -- I ---

14 A I -- that's all -- I -- because ---

15 Q I wasn't ---

16 (Indistinguishable cross-talk)

17 A --- you confusing me.

18 Q I -- I ---

19 A You confusing ---

20 Q --- wasn't there.

21 A --- me.

22 Q I'm -- and I'm sorry. I'm ---

23 A You confusing me with your -- with the question that
24 you -- like, you flipping.

25 Q Okay. All right. Well, you -- you're doing good.

CROSS-EXAMINATION BY MR. DUNCAN - JAMES ARCHIE 285

1 Stop me, because I don't want to -- I -- I want to figure
2 out what you saw. You -- is it correct that you were on
3 the -- in the sidewalk area and your brother and Mr.
4 Green were arguing?

5 A When they was arguing? When they was arguing, I was
6 coming from the store. They was already arguing before I
7 even got back to the scene where they was at. They was
8 already -- they had to been arguing while I was in the
9 store. They had to been.

10 Q All right.

11 A Because the altercation was already, like,
12 escalating.

13 Q All right. When you got back -- when you saw it --
14 yeah. I don't want to know what you -- at ---

15 A When I got back from the store, I guess they was
16 arguing. Mr. Green ran to -- Mr. Green ran to his car.
17 I guess whenever he ran to his car, he went to go get the
18 firearm that he shot my brother with.

19 Q That's ---

20 A Then ---

21 Q --- I mean, that's what you ---

22 (Indistinguishable cross-talk)

23 A I -- I -- I'm ---

24 (Indistinguishable cross-talk)

25 A No. I saw this. I saw this. Because I was -- you

1 feel me? Like, I saw my brother -- I saw my brother get
2 shot. I saw him fall. I saw this. This ain't
3 speculation. This is what I saw.

4 Q You didn't Mr. Green beforehand with a gun or
5 without a gun ---

6 A He didn't ---

7 (Indistinguishable cross-talk)

8 A --- have no gun on him until after he ran to the
9 car.

10 Q How do you know that?

11 A Because I saw him run to the car.

12 Q When you were at the store?

13 A No. I was done -- I been done come back from the
14 store. I just told you. I done came back from the store
15 when Mr. Green ran that that car. That's what I just
16 told you.

17 Q I'm trying to figure out that out. You ---

18 A Yes, sir.

19 Q --- said there was an argument. And you said the
20 argument happened -- must've been happening while you
21 were not there.

22 A They was -- they had to been already -- already
23 arguing when I was coming back from the store. They was
24 already arguing. Because you could hear it from -- like,
25 you can hear, like, loud commotion. Like ---

CROSS-EXAMINATION BY MR. DUNCAN - JAMES ARCHIE 287

1 Q Okay.

2 A --- you can hear it.

3 Q Now ---

4 A Like, the sidewalk is right there in the apartment
5 complex where they rolling at. It's, like, right there
6 too. Like, everything is, like, close by. So, like, you
7 can, like -- if you -- if you, like -- if you hear
8 somebody -- you in Walmart and you hear somebody fussing
9 and you close by, you going hear what they arguing about.

10 Q All right. And you -- your testimony is when you
11 got back, you didn't join in the altercation ---

12 A No, sir.

13 Q --- at all.

14 A No, sir.

15 Q Didn't have nothing to do with it.

16 A No, sir. I -- I didn't have nothing do with it,
17 because I wasn't rolling dice. I don't even -- I -- I --
18 I didn't have nothing to do with it.

19 Q But you went to the sidewalk area ---

20 A I was already on the sidewalk area, walking from the
21 store.

22 Q Okay. At what point did you say: "Man, this is" --
23 did -- at what point did you do something?

24 A The point I did something, after my brother had got
25 shot. That's when I got into it.

1 Q So you were ---

2 A I wasn't ---

3 Q --- on the sidewalk area and you heard them --
4 argument -- heard your brother and ---

5 A Walking ---

6 Q --- Mr. Green ---

7 A --- from the store. I'm walking, like -- I'm
8 walking, like -- they arguing. I'm walking from the
9 store. Like, I'm walking, like, up, like you can hear it
10 while I'm walking, like, down the sidewalk. You can hear
11 it, like, in the area where they at. You can hear them.
12 Like, you can hear the fussing.

13 Q And there's several other people around in the --
14 who'd been in the game ---

15 A Yeah. It was ---

16 (Indistinguishable cross-talk)

17 A It wasn't just one or two people rolling. It was,
18 like -- like, three/four/five people out there rolling
19 dice.

20 Q Three or four -- five -- maybe five people rolling
21 dice, and then some other people out there too.

22 A It was just -- just, I guess, sitting around.

23 Q All right. Were there -- of the five people in the
24 game, were they all -- are they saying: "Chill out;
25 y'all, cool out -- you know, calm down" ---

1 A They was just ---

2 Q --- or are they hollering, you know ---

3 A From -- from -- from what I -- from what I heard,
4 they was -- I guess they was just telling him, like:
5 "Like, bro, you lost the money. Like, that -- that --
6 like, that's not yours. Like, it ain't your money. That
7 Boi money. That Boi money. Boi win."

8 But he's saying it his money, I guess, because he be
9 done lose -- you feel me? -- like, lose money, I guess.

10 Q All right. But we're talking about 40 bucks.

11 A Yes.

12 Q Okay. All right. All right. And then, you -- you
13 talked about a car -- a car coming up with the lady you
14 knew from work.

15 A Yes, sir.

16 Q Okay. And the car came up where? Between you and
17 your brother?

18 A The car -- I was already -- I already -- I already
19 wasn't, like -- I wasn't -- I -- I wasn't -- when the car
20 -- when the car pull up, I was, like -- I was still in
21 the side or in the same area, like, walking -- coming
22 down. I'm on the sidewalk area.

23 This was after, I guess, you know, every -- he ran
24 the -- you know, and came back and then my brother --
25 while he was coming back, my brother walked to the car.

1 The lady had called my brother.

2 She was, like: "Stacy, calm down. Stacy, get in
3 the car. Just come on."

4 And by time my brother -- when my brother got to the
5 car, by the time -- even -- even if my brother tried to
6 get in the car, even if he tried to, he didn't even have
7 a chance. Because, like, soon as my brother got to the
8 car, that's when the shots fired. That's when you see
9 ---

10 Q And -- and again, you were on the other side of the
11 car; is ---

12 A I'm, like ---

13 Q --- that correct?

14 A If you want to say -- if you want -- now, you would
15 say I'm at -- if you want to say, I'm at the -- the hood
16 of the car and the altercation happened at the trunk of
17 the car.

18 Q All right. Is that -- are -- are you that close?

19 A Yes, sir.

20 Q Okay. You at the front ---

21 A I'm at ---

22 Q --- right-hand ---

23 A --- the front ---

24 Q --- side.

25 A --- and the -- and the way the apartment complex,

CROSS-EXAMINATION BY MR. DUNCAN - JAMES ARCHIE 291

1 the front is, like, facing the front door of one of the
2 houses, just say -- just might say.

3 Q All right. So you had -- let me -- I'm just trying
4 to get straight.

5 A Yes, sir.

6 Q You're standing at the front-passenger side of the
7 vehicle.

8 A I'm -- I was on the sidewalk. I want to say at the
9 hood, like, at the hood. I'm at the hood of the car.
10 And the altercation happened, like, at the trunk of the
11 car. Like, I'm, like right there, like.

12 Q All right. And you saw a -- a -- a fella come up
13 and shoot your brother?

14 A I saw the defendant, Mikah Green, walk behind my
15 brother and shot my brother. That's what I saw.

16 Q He had on a white shirt that day?

17 A White shirt and some -- I want to say some -- like,
18 I couldn't -- I want to say some type of bluish jeans or
19 -- or ---

20 Q Long pants?

21 A I want to say.

22 Q Okay. All right. All right. All right. So
23 immediately after your brother went -- you saw him go
24 down; is that correct?

25 A What do you mean?

1 Q Like, hit the ground.

2 A I saw him fall.

3 Q Fall.

4 A Yes, sir.

5 Q Yeah. And you pulled your gun at that point and
6 started shooting?

7 A Yes, sir. After my brother was shot.

8 Q I -- I mean, I understand what you're saying. You
9 started shooting and you started -- you -- did you give
10 chase to Mikah Green?

11 A Yes, sir. After he shot my brother. That was
12 after. I started shooting after my brother was shot. I
13 never pull my gun. I never flash my gun. I never got in
14 an altercation about none of -- I never did indulge in
15 none of the argument about the dice game or none of that.

16 Q You were over -- you were over yonder.

17 A What do you mean, over yonder?

18 Q I mean, I don't know. I -- you say ---

19 (Indistinguishable cross-talk)

20 A You saying I'm over yonder.

21 Q You ---

22 A I don't know. I'm -- I'm trying to figure out what
23 you saying.

24 Q All right.

25 A Yes, sir.

CROSS-EXAMINATION BY MR. DUNCAN - JAMES ARCHIE 293

1 Q You say you didn't have anything to do with the
2 altercation.

3 A No, sir. I didn't -- I didn't -- I didn't have
4 nothing to do with the altercations till after my brother
5 was shot.

6 Q All right.

7 A You seeing your brother get shot in front of you,
8 you're going to attend to it too, right? You're --
9 you're going to try to defend or -- or -- or -- or help
10 your -- any which way you can.

11 Q All right.

12 A That just how I react. I react in -- that's how I
13 react.

14 Q All right. And did -- did you literally give chase?
15 I mean, did you chase Mr. Green across the back of the
16 apartment -- I mean, did you -- did you ---

17 A I chased ---

18 Q --- chase him ---

19 A --- him behind the -- after -- after -- after --
20 from behind the apartment and all the shots were fired, I
21 ran back in front of the apartment to pick my brother up.
22 And I rush my brother to the hospital.

23 Q All right. And you said all the shots were fired.
24 There were other people started shooting?

25 A Nah. It was just me and him -- I guess -- he shot

1 my brother and then I was shooting.

2 Q Okay. All right. That's all the shots that you
3 were aware of?

4 A Yes, sir.

5 Q Okay. All right. Your testimony is you had never
6 pulled your gun, shown your gun, done anything with your
7 gun ---

8 A No, sir.

9 Q --- before your brother got shot?

10 A Till after my brother got shot. That's when I pull
11 my gun.

12 Q All right.

13 A And that's when I -- I act -- I act then a way any
14 person would act if they was there around they big
15 brother or saw any -- you feel me? -- saw anybody being
16 shot or any -- any situation.

17 Q You live -- you'd been living in the apartment at
18 Lakeshore -- at -- at that apartment complex for about
19 two months?

20 A I'd say it was probably two to three -- probably
21 about three months. I was working at -- I move from
22 Sumter. That working on -- when I move from Sumter, my
23 brother got me to move from Sumter to come to Columbia to
24 get a job. My brother got me the job at McEntire.
25 That's how I started working at McEntire.

CROSS-EXAMINATION BY MR. DUNCAN - JAMES ARCHIE 295

1 Q And ---

2 A And that's how I started staying with my brother,
3 because my brother came and got to Sumter and I move in
4 with him.

5 Q All right. And when you -- you moved in with your
6 brother, the only place you've lived in Columbia at that
7 time was at your brother's ---

8 A Yes, sir. That was the only place I stayed at.

9 Q All right. And you -- you -- you described, again,
10 why you -- why you carried a gun on a regular basis. Did
11 -- did people in that complex know you had a gun?

12 A No, sir.

13 Q And that ---

14 A Nobody wouldn't -- I'm -- because I'm not -- I'm not
15 the type to -- I'm not no flashy type. I mean, I'm not
16 the type to go indulge in the -- to start something
17 because I know I have a gun. I'm not the type to go
18 start it or nothing.

19 I'm not -- like, that just -- I'm, like -- I -- I
20 just got it on me to protect me -- protect me. That's
21 what I was on me for, to protect me at all time. Way
22 before I even move to Columbia, I always have me a gun,
23 you know, just to protect me.

24 Because, you know, like -- the -- the way life going
25 on now, you never know -- you never know what might

REDIRECT EXAMINATION BY MR. NEELY - JAMES ARCHIE 296

1 happen. You never where you might be at and a situation
2 might occur. You never know what might, like -- life is,
3 like, unpredictable now.

4 Q Your ---

5 A Life is, like -- it's shorter and it's
6 unpredictable. Everything happen fast, like, everything.

7 Q Your -- your understanding or your -- your testimony
8 and belief, as you sit here today ---

9 A Yes, sir.

10 Q --- is that the dispute that resulted in your
11 brother's death was over 40 dollars.

12 A Yes, sir.

13 MR. DUNCAN: Beg the Court's indulgence just a
14 moment.

15 (Off the record briefly.)

16 Q No further questions.

17 THE COURT: Redirect.

18 MR. NEELY: Just briefly, Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. NEELY:

21 Q I'm just going to take you back to right when it
22 happened. Blue car has pulled up. His coworker yells
23 out "Stacy," and he goes over there.

24 You said you were -- if -- if -- if this desk is a
25 car and this is the passenger side, you were at the hood

REDIRECT EXAMINATION BY MR. NEELY - JAMES ARCHIE 297

1 of ---

2 A Yeah.

3 Q --- the car?

4 A Yes, sir. I'm always say it like I'm at -- like, at
5 the -- at the hood of the car.

6 Q All right. And so ---

7 A But they ---

8 Q --- your brother was to your left?

9 A My brother was, like -- if this the hood of the car,
10 my brother is, like, at the trunk of the car. But, you
11 know, you got the road. You got the road. So, like,
12 really, what I'm trying to say, my brother was, like, at
13 the trunk, at -- at the back end of the car.

14 Q Okay.

15 A That's what I'm trying to say.

16 Q And Mikah Green was kind of on the far side of the
17 that?

18 A Mikah Green -- he was, like -- he was, like, on the
19 side of -- on the side, like, in between the cars.

20 Q Oh, in between the cars?

21 A Yes, sir.

22 Q Like, right next to the sidewalk?

23 A Yes. Like -- like -- like -- yes, sir. Yeah. If
24 you -- see, you . . .

25 Q Other than today and the couple of picture have I --

1 I've shown you, have I shown you any pictures of the
2 scene?

3 A Sir? No, sir.

4 Q Have we talked before today?

5 A No, sir. This the first time we ever talked.

6 Q Thank you. That's all the question I have.

7 THE COURT: Anything further?

8 MR. DUNCAN: No, sir.

9 THE COURT: You may step down.

10 THE WITNESS: Yes, sir.

11 (Whereupon, the witness exited the witness stand.)

12 (Off the record briefly.)

13 THE COURT: Next witness.

14 MR. NEELY: The state would call Alexia Smith.

15 (Off the record briefly.)

16 (Whereupon, the witness came forward.)

17 ALEXIA SMITH, having been first duly sworn,
18 testified as follows:

19 DEPUTY CLERK OF COURT: Please have a seat up here.
20 State your full name for the record.

21 THE WITNESS: Alexia Smith.

22 DIRECT EXAMINATION

23 BY MR. NEELY:

24 Q Ms. Smith, how did you know Stacy Rhodes?

25 A I met Stacy at McEntire Produce. I came to work one

DIRECT EXAMINATION BY MR. NEELY - ALEXIA SMITH 299

1 day; had a new person on my team. I noticed that he
2 worked extremely different from the others. He never
3 complained. A lot of complaints in that job, because it
4 was a semi-harsh environment to work in.

5 Q What kind of job was it?

6 A We produce lettuce, tomatoes, onions.

7 Q Food processing? Is that fair?

8 A Pretty much, yes.

9 Q Where do you work now?

10 A I currently work for the IRS, their payment system.

11 Q Okay. So longer for McEntire?

12 A No, sir.

13 Q And Stacy Rhodes was on your team?

14 A Yes.

15 Q Fair to say that y'all spent a lot of time together
16 at work?

17 A Yes, we spent -- spent a lot of time together at
18 work.

19 Q Did you know him outside of work at all? Were y'all
20 friendly?

21 A Eventually, we became friendly. But no. My initial
22 meeting of him was at McEntire.

23 Q And do you recall seeing him bring anybody with him
24 to work or he -- he had somebody that he brought?

25 A He would bring his brother to work. If other

1 coworkers needed a ride, you know, he would do that as
2 well. Yes.

3 Q And we're going to jump forward a little bit. Do
4 you recall the day of March 30th, 2019?

5 A I do. I have that day in my notes in my phone.

6 Q You have that saved in your phone to this day?

7 A Uh-huh.

8 Q Was it a stressful day?

9 A It was a tragic day, very unexpected events.

10 Q Tell us how you ended up at Lakeshore Apartments.

11 A Another coworker of mine, Deon, he asked me to stop
12 by after work, you know, just peek my head in to see him
13 and his wife. So I -- after I got off, I went home;
14 changed; got my kids. We probably were going somewhere
15 else. I can't remember, because I left them in the car.
16 I was just peeking my head in. And ---

17 Q When you arrived ---

18 A But ---

19 Q --- at -- sorry. When you -- when you arrived at
20 Lakeshore, did you notice anything?

21 A Yes. So when I was pulling in, it was a lot of
22 chaos I seen, a lot of loud talking. And when I looked
23 over, I seen Stacy, which bothered me.

24 Q Did you recognize anybody else that was there?

25 A No, I did not.

DIRECT EXAMINATION BY MR. NEELY - ALEXIA SMITH 301

1 Q So Stacy was really the only one in that group that
2 you knew?

3 A Yes, that I recognized that -- yes.

4 Q So when you go into Deon's house ---

5 A Uh-huh.

6 Q --- how long did that take?

7 A Couldn't have been no more than four or five
8 minutes. It wasn't that long. I don't know exactly.
9 Wasn't long at all, because I had kids in the car.

10 Q How old are your kids?

11 A At the time my daughter was 18. I had a 9-year-old
12 and one that was 14 in the car.

13 Q Okay. So older kids.

14 A Yes.

15 Q Once you got in the car to leave, what happened
16 next?

17 A Deon walked me outside because of all the commotion.
18 He said that it had been going on for a while. It wasn't
19 anything physical; it was just a lot of loud -- loud
20 talking. And he was, like: "You need to get your kids
21 out of here."

22 So when I was pulling off, I just didn't want to
23 drive by Stacy. So I stopped to try to convince him to
24 get in my car, just to get away from what you can tell is
25 a chaotic situation.

1 Q And when you saw Stacy, did -- was he holding a gun?

2 A No. No. Not at all.

3 Q Did he -- did he appear to have a gun on him?

4 A No. If I would've seen guns, I would've kept going,
5 despite who was out there.

6 Q So you're -- you're telling me that if the victim
7 had a gun on him, you wouldn't have stopped with your
8 three girls in the car?

9 A No, I wouldn't have. No.

10 Q So when -- when you stopped, did you roll the window
11 down?

12 A Yes. The windows were down.

13 Q Did you call out for him?

14 A Yeah. I called his name a time or two, maybe even
15 three; can't be exact. And he finally walked to the car.
16 And we had slim to no conversation.

17 Q So whenever you called him over to the car, what did
18 you know him by?

19 A Stacy.

20 Q Okay. So you said "Stacy"?

21 A Yes.

22 Q Do you know he has a nickname?

23 A I'm not familiar with his nickname till the funeral

24 ---

25 Q Okay.

DIRECT EXAMINATION BY MR. NEELY - ALEXIA SMITH 303

1 A --- and then ---

2 Q And was ---

3 A --- after the fact.

4 Q So you knew him as Stacy because you knew him from
5 work?

6 A Right.

7 Q Okay. So you -- you roll the window down; yell
8 "Stacy."

9 A Uh-huh.

10 Q What happened next?

11 A He eventually walks to the car.

12 Q Is the argument still going on at this point?

13 A Yes, still some -- I don't know what to call it --
14 trash-talking. But Stacy was walking to my car, so he
15 was focused on us now. And I think he said, you know:
16 "Hey, baby girl," to my daughter.

17 And we were trying to figure out what was going on.
18 I was trying to tell him to get in the car. And then I
19 heard gunfire.

20 Q How many shots did you hear?

21 A I want to say ---

22 Q If you don't remember, that's okay.

23 A Yeah. I really don't want to specify now. It
24 could've been two or three. And he -- he turned around
25 and said -- excuse my language -- "Damn, you shot me."

1 Q Stacy said?

2 A Yes. And I didn't want to leave him there. But I
3 had the kids. And so my daughter is, like: "Ma, you
4 can't stay. We got to get out of here." And so before I
5 can even hit the corner to get to the main road, I
6 started hearing other gunshots.

7 Q Okay. So basically, from the time it takes you to
8 get from Stacy to the corner ---

9 A Uh-huh.

10 Q --- is kind of when you start hearing other
11 gunshots. Does that sound right?

12 A Yes. I heard other gunshots before I can make it --
13 I was almost turning on Garners Ferry.

14 Q Did ---

15 A So ---

16 Q Did you see James Archie at the scene?

17 A I'm -- I can't identify who was at the scene. It
18 was guys out there. But I know a particular African-
19 American walked up and just, you know, shot Stacy in the
20 back.

21 Q Okay. But you don't even know who that was? You
22 don't recognize him.

23 A I don't. I couldn't identify anybody out there.

24 Q Okay.

25 A Because ---

DIRECT EXAMINATION BY MR. NEELY - ALEXIA SMITH 305

1 Q When the shooting happened, was your attention on
2 Stacy?

3 A Yes.

4 Q He -- he was at the car, right?

5 A Yes. My mind couldn't register to try to see who
6 did it. It was just ---

7 Q Were there -- were there any shots that -- that
8 happened before Mr. Rhodes was shot?

9 A Absolutely not. I was sitting in a car with my
10 kids. I would've not been there if there was other shots
11 going on, not at all.

12 Q So the -- and Stacy was shot; said his words; fell.
13 Were those -- those were the first shots?

14 A Yes, absolutely.

15 Q And the other shots happened after you were turning
16 the corner?

17 A After the fact, when I was pulling out.

18 Q And what car were you -- what kind of car were you
19 driving that day?

20 A It was a friend of mine's. It was a -- a greenish-
21 blue Mercury. I think it was a Mercury.

22 Q And did you pull out almost immediately after this
23 incident happened?

24 A Probably within a minute when my daughter had to
25 snap me out of it -- less than a minute. Uh-huh.

1 Q So it was pretty quick.

2 A Pretty quick. Seemed longer, but it was quick.

3 Q And did you -- did you see anybody else with guns on
4 -- out?

5 A No. The only one I seen with a gun is the guy who
6 stood there and shot Stacy by my car. I'm -- I mean, I
7 heard the shots first, and I look and I just seen a male
8 standing there with a gun. I'm just, like ---

9 Q Do you -- do you remember what the gun looked like?

10 A Unh-unh.

11 Q That's fine.

12 MR. NEELY: Beg the Court's indulgence.

13 (Off the record briefly.)

14 Q That's all the questions the state has. Please
15 answer any question the defense has.

16 THE COURT: Mr. Duncan?

17 MR. DUNCAN: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. DUNCAN:

20 Q Good afternoon, Ms. Smith.

21 A Hello, sir.

22 Q Ms. Smith, about -- about how long had you worked
23 with Mr. Stacy Rhodes at McEntire?

24 A Had to have been at least -- I want to say six
25 months at the least, because he wasn't in my department

CROSS-EXAMINATION BY MR. DUNCAN - ALEXIA SMITH 307

1 before I recommended him for a promotion. It was a issue
2 with him not being there fully nine -- 90 days. It
3 might've been six/seven/eight months. I'm not sure.

4 Q All right. And the solicitor asked you about his --
5 his brother, James. You recall James -- did James work
6 in your department or not?

7 A He did not work in my department, but he did work at
8 McEntire.

9 Q And did -- so you knew him, like, by sight; is it
10 fair to say, or not really?

11 A Yeah. Yes. By sight. I knew him as Stacy's
12 brother. I mean, I'm -- we spoke: "Hey, you know, how
13 you doing?" But ---

14 Q All right. And so you -- your time at Lakeshore --
15 let me get it -- let me get it straight. You came in
16 with your -- with your children -- 18, 14, and 9. Y'all
17 drove in. You popped your head in to your friend's
18 apartment; is that correct?

19 A That is correct.

20 Q And your children stayed in the car?

21 A Uh-huh.

22 Q Okay. And after a few -- after a couple -- not very
23 long -- and I -- don't -- don't let me say -- about how
24 long -- about how long?

25 A How long what? Going into the house?

1 Q Yes, ma'am.

2 A Maybe five/six minutes, not that long ---

3 Q Okay.

4 A --- if that long.

5 Q After that, say, five/six-minute period, your
6 friend, Deon ---

7 A Uh-huh.

8 Q --- said to you: "You -- some stuff's going on
9 outside. You need to get your kids"?

10 A No. He ---

11 Q Okay.

12 A --- he walked me outside. And he was, like:
13 "That's been going on for a while over there." He
14 pointed to where Stacy and whoever else was out there.
15 He just said that they'd been arguing for a while. "You
16 need to get your kids out of here." He was saying that
17 ---

18 Q Okay.

19 A --- as we were walking out the door.

20 Q Okay. And ---

21 A I was leaving anyway.

22 Q Got you. And -- and you -- there was -- there were
23 a few people over in that other area in the -- like, the
24 parking lot area where Stacy -- where you saw Stacy?

25 A It was people, not in the parking lot, but in the

1 grass. I don't ---

2 Q When ---

3 A --- know whose apartment they were at. Yeah. It
4 was a good amount of people.

5 Q Okay. All right. And again, other than Stacy, I
6 mean, that -- you -- you didn't recognize anybody else?
7 You couldn't identify anybody else?

8 A With me not being from Columbia, South Carolina --
9 was fairly new here at the time to this state -- anybody
10 I met was from my job. So no. I wasn't familiar with
11 anyone.

12 And because of what I seen going on and just try to
13 keep down trouble, you know, my focus was on Stacy, not,
14 you know, who was out there. Because I'm not really -- I
15 wasn't trying to figure out -- I don't know how to say it
16 -- what kind of gossip is going on or -- you know, I'm
17 just focused on that day, that's my coworker, my friend.
18 He -- he's a leader now. He needs to come on. That was
19 my focus.

20 Q Okay.

21 A So, you know ---

22 Q All right. And again, you -- I -- I know you didn't
23 know him well, other than just to see him, but you don't
24 recall seeing Stacy's little brother -- younger brother,
25 James, out there?

1 A I can't say I do.

2 Q Okay.

3 A I wasn't -- no. I was just looking at Stacy.

4 Q All right. All right. And ---

5 A And a crowd of people, so ---

6 Q Where -- you -- you said there was -- it was, like,
7 chaotic. I think you said those words. I -- might've
8 been another witness. I apologize.

9 A Uh-huh.

10 Q I've heard several witnesses.

11 A Yes, sir.

12 Q Would you describe it as chaotic?

13 A To me, it's chaotic.

14 Q Okay.

15 A It was very chaotic. Because if you pull into an
16 apartment complex and you just hear a -- a bunch of loud,
17 aggressive talking, that's just chaos -- or that -- even
18 if it was just arguing then, that's a scene that you
19 would think could lead to chaos.

20 Q What -- when Stacy made it -- came over to your car
21 ---

22 A Okay.

23 Q --- came over to the vehicle you were driving, was
24 -- you -- I think you said there was still, like, trash-
25 talking going on. Is that -- did I hear that right?

CROSS-EXAMINATION BY MR. DUNCAN - ALEXIA SMITH 311

1 A Yes, sir.

2 Q Was it coming from -- both directions with -- from
3 both sides of your car or ---

4 A Yes. It was just arguing, just loud talking -- I
5 don't know how to just -- just bunch of arguing.

6 Q But Stacy -- at that moment when he made it over to
7 your car, he wasn't arguing anymore ---

8 A He was ---

9 Q --- at that ---

10 A --- no longer talking because after I called his
11 name a time or three, he finally walked over to the car.
12 And, you know, it was still -- I don't know if I'd call
13 it music in the background, noise in the background. But
14 he was now talking to me and -- and my kids.

15 Q But you were still hearing, like -- I'm going call
16 it barking at each other -- or arguing at each other from
17 some -- from both sides of your vehicle.

18 A I would say from the side of my vehicle, because my
19 vehicle, on the right side, the grass was right here, the
20 building. So just in that little area.

21 Q So on the driver's side of your vehicle, there were
22 people ---

23 A On the passenger.

24 Q On -- on the ---

25 A On my way ---

1 Q --- passenger ---

2 A --- way coming out on the passenger's side.

3 Q Okay. All right. All right. And that's where the
4 people were. The grass was on the driver's side; is that
5 right?

6 A The -- the building was on the passenger's side.

7 Q Okay.

8 A Because when I'm pulling out, my car is now facing
9 -- the driver's -- the passenger's side is on the right
10 pulling out. Coming ---

11 Q All right.

12 A --- in is the driver's side. So pulling out is the
13 passenger's side.

14 Q Pulling out is the passenger's side. All right.

15 And so people had -- the people and the argument is
16 happening from which side?

17 A Pulling in?

18 Q I'm -- I'm saying, when you're -- as -- as you're
19 leaving, they're on the ---

20 A The ---

21 Q --- your side of the vehicle ---

22 A The ---

23 Q --- or the other side?

24 A The passenger's. I was the driver. It was on the
25 passenger's side.

REDIRECT EXAMINATION BY MR. NEELY - ALEXIA SMITH 313

1 Q Okay. All right. And Mr. -- Mr. Rhodes was
2 standing on your side of the vehicle?

3 A No. He was ---

4 Q He was on the other side vehicle.

5 A He was on ---

6 Q Okay.

7 A --- the other side where everyone else was until ---

8 Q All right.

9 A --- I called him to the vehicle.

10 Q Got it. All right. All right. And once -- once
11 shots were fired, you got out of there as -- pretty much,
12 as quickly as possible.

13 A No. I kind of froze. My daughter had to tell me,
14 like: "Mom, we got to go." Because I didn't want to
15 leave, you know, my friend on the ground.

16 Q As you were leaving, you heard additional gunshot?

17 A Uh-huh.

18 Q That's all the questions I have.

19 THE COURT: Any further questions?

20 MR. NEELY: Just briefly, Your Honor. Thank you.

21 REDIRECT EXAMINATION

22 BY MR. NEELY:

23 Q When you were leaving the apartment complex, how far
24 -- how -- how long had it been since you turned? Were
25 you -- when you turned onto that road to leave the

1 apartment complex, did you drive far forward? Were you,
2 like, the first building or the second building or in
3 front of the third building? Do you recall?

4 A Can you repeat that?

5 Q Sure.

6 THE COURT: She asked could you repeat the question.

7 Q I'm going to pull up State's 1 on the big board.

8 THE COURT: You withdraw the question?

9 MR. NEELY: (No audible response.)

10 THE COURT: Solicitor, you withdraw the question?

11 MR. NEELY: No -- no -- Your Honor, I'm about to --
12 about to ask the question in a hopefully more intelligent
13 manner.

14 THE COURT: Okay.

15 Q On this -- on this map, can you see about where you
16 were parked?

17 A When I was pulling out?

18 Q When you were pulling out from Deon's.

19 A I'm going to say somewhere around those -- around
20 that white car.

21 Q Around this white car?

22 A No, no -- no. Pulling out? No. Over there.

23 Q Okay. So if this Garners Ferry, this is the Citgo,
24 and this is the entrance into Lakeshore ---

25 A Now, when I pulled in, I was parked over on this

REDIRECT EXAMINATION BY MR. NEELY - ALEXIA SMITH 315

1 side.

2 Q Okay. So when ---

3 A By that ---

4 Q --- you came ---

5 A --- car.

6 Q --- in, you were parked here?

7 A Yes, sir.

8 Q Okay. So Deon's house was here?

9 A Yes. In that first building.

10 Q You're gesturing off the side of the map. And so
11 when you pulled out in your vehicle, you came along this
12 way?

13 A Yeah. When I pulled out, I'm going that way. And I
14 stopped where they were.

15 Q And you stopped kind of where these dots are all
16 kind of congregated?

17 A Yes, somewhere in that area.

18 Q All right. And that's where Stacy was at your car?

19 A Yeah. At -- around those buildings, wherever I was
20 stopped, he was on that side. Because now it's on my
21 passenger's side.

22 Q It's kind of in the middle of the road? Does that
23 sound about right?

24 A Yeah.

25 Q And was he standing towards the front or the rear of

1 your vehicle? Do you remember?

2 A No. He was at the -- my daughter's passenger
3 window.

4 Q All right. So the passenger's side?

5 A Yes.

6 Q By your daughter's window?

7 A Uh-huh.

8 Q Thank you. That's all the question I have.

9 MR. DUNCAN: Nothing further.

10 THE COURT: Thank you. You may step down.

11 (Whereupon, the witness exited the witness stand.)

12 (Off the record briefly.)

13 THE COURT: I think we'll break now for lunch and
14 resume at two o'clock. Please remember, do not discuss
15 the case and we'll see you at two.

16 (Whereupon, the jury exited the courtroom at 12:48
17 p.m.)

18 (Off the record briefly.)

19 THE COURT: All right. Who's going to be your next
20 witness?

21 MR. NEELY: Your Honor, I believe it'd be Columbia
22 Police Department Officer George Potash.

23 THE COURT: All right. You've seen him today or
24 talked to him today or ---

25 MR. NEELY: We spoke with him today. Yes, sir.

1 THE COURT: He's going be here at two o'clock?

2 MR. NEELY: Yes, sir. That's what he told us. Oh,
3 he's right there.

4 THE COURT: Oh, he's right here now.

5 MR. NEELY: All right. He's right here.

6 THE COURT: Good.

7 MR. NEELY: He's here substantially before two
8 o'clock, Your Honor.

9 THE COURT: Pardon?

10 MR. NEELY: He's here substantially before two
11 o'clock, Your Honor.

12 THE COURT: All right. Good. We'll see -- see
13 everyone at two.

14 MR. NEELY: Thank you, Your Honor.

15 MR. DUNCAN: Thank you.

16 MR. COURY: Thank you, Your Honor.

17 (The Court went off the record at 12:49 p.m.)

18 (Whereupon, State's Exhibit 47 was premarked for
19 identification while off the record.)

20 (The Court went on the record at 2:11 p.m.)

21 THE COURT: Ready for the jury?

22 MR. NEELY: Your Honor, may we approach?

23 THE COURT: Well, just talk. I don't like this
24 approaching too much, unless it's absolutely necessary.

25 MR. NEELY: Noted ---

1 THE COURT: What ---

2 MR. NEELY: --- Your Honor. I just wanted to -- to
3 let Your Honor know kind of where we are in the
4 scheduling. We have, looks like, four witnesses for this
5 afternoon.

6 THE COURT: Okay.

7 MR. NEELY: And then, we have a total of three
8 witnesses tomorrow morning. And the state's case, it
9 should be done.

10 THE COURT: Okay.

11 MR. NEELY: So we should be finishing the state's
12 case tomorrow morning. I think that that should take us
13 to five o'clock. But the other ones had ---

14 THE COURT: Okay.

15 MR. NEELY: --- schedules with -- conflict with
16 schedules.

17 THE COURT: Yeah. Well -- okay. I just want to
18 finish it this week. And -- and so ---

19 MR. NEELY: I anticipate ---

20 THE COURT: --- when you ---

21 MR. NEELY: --- the state's ---

22 THE COURT: --- start out with how many witnesses,
23 75 or 25 or something.

24 MR. DUNCAN: It's 28.

25 THE COURT: Oh, 28.

1 MR. NEELY: It's 28 and I think we end it with about
2 10, Your Honor.

3 THE COURT: All right. Well, we're good.
4 Everything's good.

5 MR. NEELY: Thank you, Your Honor.

6 THE COURT: Mr. Duncan will probably have a long
7 defense that might take us some days. I don't know.

8 MR. NEELY: Certainly might.

9 MR. DUNCAN: We'll see. We ---

10 THE COURT: All right.

11 MR. DUNCAN: --- I -- I do ---

12 THE COURT: Well, let's ---

13 MR. DUNCAN: --- need -- I'll need ---

14 THE COURT: --- bring them on.

15 MR. DUNCAN: --- my man tomorrow ---

16 MR. NEELY: Okay.

17 MR. DUNCAN: --- again, you know, Henley.

18 (Off the record briefly.)

19 (Whereupon, the jury entered the courtroom at 2:13
20 p.m.)

21 THE BAILIFF: Jury is present, Your Honor.

22 THE COURT: Okay. Next witness.

23 MR. CORY: The state calls Patrolman Potash.

24 (Whereupon, the witness came forward.)

25 GEORGE POTASH, having been first duly sworn,

1 testified as follows:

2 DEPUTY CLERK OF COURT: Please have a seat there,
3 sir. Spell your -- state your full name for the record
4 and spell your last.

5 THE WITNESS: Officer George D. Potash, Columbia
6 Police Department.

7 THE BAILIFF: Potash, how do you spell your last
8 name?

9 THE WITNESS: P-o-t-a-s-h.

10 DIRECT EXAMINATION

11 BY MR. COURY:

12 Q Patrolman Potash, thank you for being here today.

13 THE COURT: All right. And ---

14 Q Will you ---

15 THE COURT: --- you can ---

16 Q --- please tell this jury where ---

17 THE COURT: --- remove your mask so we can hear you
18 a little better, more clearly.

19 THE WITNESS: Thank you, Your Honor.

20 THE COURT: Yes, sir.

21 MR. COURY: Thank you.

22 Q Will you please tell the jury where you work?

23 A I work for the Columbia Police Department. I am
24 assigned to the Columbia Police Department Crime Scene
25 Investigations Unit.

DIRECT EXAMINATION BY MR. COURY - GEORGE POTASH 321

1 Q Okay. And how long have you worked for Columbia
2 Police Department?

3 A I have worked for Columbia Police Department for 20
4 years.

5 Q Twenty years. All right.

6 Did you -- so you worked there March 31st, 2019?

7 A I did.

8 Q Understood. Were you given any assignments that
9 day?

10 A Yes. I responded to a murder.

11 Q Patrolman Potash, are you reading from -- what are
12 you reading from?

13 A I'm reading from a report that I had filed regarding
14 a autopsy.

15 Q So this was your report ---

16 A Yes.

17 Q --- that you made? Okay.

18 A I -- I had ---

19 (Indistinguishable cross-talk)

20 A --- responded to the autopsy at Prisma Richland
21 Hospital in the morgue.

22 Q Okay. So you were dispatched -- you were dispatched
23 to that location?

24 A Well, it was -- it was -- I was assigned to it ---

25 Q Okay.

1 A --- that morning. The medical examiner determined
2 the time they were going to have the autopsy, and then I
3 responded at that time.

4 Q Okay. So you showed up to the autopsy. What was
5 your role in the autopsy?

6 A Basically, what I do is I take photographs at the
7 direction of the medical examiner and collect any
8 evidence that -- that is discovered.

9 Q And who else was there with you at the autopsy? Do
10 you remember?

11 A Dr. Durso, who is the medical examiner, and Deputy
12 Coroner Rick McGee.

13 Q Okay. And you said took photos, collected evidence?

14 A Yes, I did.

15 (Off the record briefly.)

16 Q Patrolman Potash, I want to show you State's 39
17 through 45. Will you take a look at those, please.

18 A Yes.

19 Q You need a second to look at them?

20 A I'm -- I'm done looking at them. They are -- they
21 ---

22 Q Okay.

23 A --- appear to be consistent with photos that I had
24 taken during that autopsy.

25 Q Okay. These are the photos you took?

DIRECT EXAMINATION BY MR. COURY - GEORGE POTASH 323

1 A Yes. They appear to be. Yes.

2 Q Okay. Are these photos a fair and accurate -- and a
3 fair -- excuse me -- and accurate representation ---

4 A I would say they were. Yes.

5 Q Okay. --- of what you observed in that autopsy?

6 A (No audible response.)

7 MR. COURY: Your Honor, state moves to enter State's
8 39 through 46 into evidence.

9 THE COURT: What says the defense?

10 MR. DUNCAN: No objection, Your Honor.

11 THE COURT: They're admitted.

12 (Whereupon, State's Exhibits 39 through 46 were
13 entered into evidence.)

14 Q Okay. Patrolman Potash, you said that another part
15 of your role there was to collect any physical evidence?

16 A Yes.

17 Q Was there any physical evidence?

18 A Yes. There was a projectile recovered by Dr. Durso
19 and -- which I took possession of. And there was also a
20 gunshot residue conducted on the victim.

21 (Off the record briefly.)

22 A Finger and palm prints were also taken of the
23 victim.

24 Q Okay. Patrolman Potash, I'm going to show you --
25 this is State's Exhibit 47. Go ahead and tell me what

1 that is.

2 A This is the exterior envelope from the projectile
3 that I collected. And it's still sealed the way I sealed
4 it.

5 Q Will you go ahead and look what's in there?

6 A And this package is also sealed. This is the
7 internal packaging. And it is -- appears to be the
8 projectile that I had taken photographs of during the
9 autopsy.

10 Q Could you go ahead and show that projectile to the
11 jury, please.

12 A (Complied.)

13 Q Go ahead and hold it up, because we got jurors over
14 here.

15 A (Complied.)

16 Q Thank you, Patrolman Potash. Will you please secure
17 that into the envelope to make it easier for the court
18 reporter.

19 A (Complied.)

20 Q And how do you know that's that projectile?

21 A The expansion characteristics on the projectile are
22 consistent with the ones in the photos.

23 Q Okay. That's how you can tell that's -- this is the
24 projectile ---

25 A Yes.

DIRECT EXAMINATION BY MR. COURY - GEORGE POTASH 325

1 Q --- you collected?

2 A The -- the shaping of the expansion.

3 Q Okay.

4 MR. COURY: Your Honor, at this time, the state ---

5 A Also, please -- please note that that is
6 biohazardous.

7 Q Understood.

8 MR. COURY: Your Honor, at this time the state moves
9 and -- moves State's 47 into evidence.

10 MR. DUNCAN: No objection.

11 THE COURT: So admitted.

12 (Whereupon, State's Exhibit 47 was entered into
13 evidence.)

14 MR. COURY: Thank you.

15 Q So, Patrolman Potash, you were an observer here; you
16 took photos and collected evidence, correct?

17 A Yes.

18 Q All right. What other involvement, if any, did you
19 have in this investigation?

20 A None.

21 Q Okay. And who was the victim who was being -- the
22 autopsy was being conducted on?

23 A According to the information provided me, Stacy
24 Rhodes or Rhodes, Stacy. I was -- I was -- information
25 presented (as read): "Black male; date of birth,

1 12/03/1989."

2 Q That's fine. Thank you, Patrolman Potash. No
3 further questions from the state. Please answer any
4 questions the defense might have. Thank you.

5 THE COURT: Mr. Duncan.

6 MR. DUNCAN: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. DUNCAN:

9 Q Mr. -- Mr. Potash, you went -- you went to the
10 medical examiner -- the doctor's office to -- is that
11 what ---

12 A The morgue, yes.

13 Q You went to the morgue ---

14 A Yes.

15 Q --- and took those photographs with the medical
16 examiner or the doctor?

17 A Yes. As -- as I was directed to.

18 Q And the projectile that you looked at or you have a
19 report, what -- what was the weapon that was used -- what
20 type ---

21 A I -- I can't make ---

22 Q You ---

23 A --- that determination.

24 Q You don't know. You don't. Okay.

25 A. All -- all I can say is I collected a projectile. I

DIRECT EXAMINATION BY MR. COURY - FORREST FULMORE 327

1 -- I cannot determine the -- the exact weapon that it
2 came from.

3 Q Okay. All right. Okay. And again, other than that
4 one day of going to the morgue and taking those
5 photographs, you have no information about this case?

6 A No.

7 Q Okay. That's all I have. Thank you.

8 THE COURT: Anything further?

9 MR. COURY: Nothing from the state, Your Honor.

10 THE COURT: All right. Thank you, sir.

11 (Whereupon, the witness exited the witness stand.)

12 THE COURT: Your next witness.

13 MR. COURY: The state calls Officer Fulmore.

14 (Off the record briefly.)

15 (Whereupon, the witness came forward.)

16 FORREST FULMORE, having been first duly
17 affirmed, testified as follows:

18 DEPUTY CLERK OF COURT: Please have a seat there and
19 state your full name for the record and spell your last.

20 THE WITNESS: First name is Forrest; last name is
21 Fulmore, F-u-l-m-o-r-e.

22 DIRECT EXAMINATION

23 BY MR. COURY:

24 Q Officer Fulmore, thank you for being here.

25 A Pleasure.

1 Q Please tell this jury where you work.

2 A The Columbia Police Department.

3 Q And how long have you worked for the Columbia Police
4 Department?

5 A Going on six years.

6 Q All right. So you worked for CPD on March 30th,
7 2019?

8 A That's correct. I did.

9 Q Can you tell the jury about your day that day?

10 A I responded, along with other South Region units, to
11 a shooting incident. That's about it.

12 Q Where were you when you got the call?

13 A That's a good question. But I was definitely --
14 just started my -- my patrol.

15 Q Okay.

16 A So probably along the Devine Street area.

17 Q All right. Would you say you were one of the first
18 officers on scene?

19 A Yes.

20 Q All right. Go ahead and describe for the jury the
21 scene when you got there.

22 A Well, when I got there, it -- it's a lot of
23 commotion, a lot of vehicles. There were -- a couple
24 other units had got there before me, but I was definitely
25 amongst one of the few handfuls that were there first.

DIRECT EXAMINATION BY MR. CORY - FORREST FULMORE 329

1 And at that point, I didn't want it to be a funnel to
2 where medical professionals couldn't access the victim,
3 of course. So I started directing traffic out of the
4 complex.

5 Q Did you see a victim?

6 A No.

7 Q Okay. So that was more of a precaution ---

8 A Yes.

9 Q --- precautionary -- okay.

10 A It -- it -- it had -- it had been communicated
11 through the radio that -- that we did have one. So it --
12 it was confirmed, but ---

13 Q All right.

14 A --- personally, I did not see him.

15 Q You just weren't sure where the victim was.

16 A That's correct.

17 Q Understood. How would you describe the scene? I
18 mean, was -- in a few words.

19 A Probably, chaotic.

20 Q That's -- that works.

21 A As -- as expected, of course. You know ---

22 (Indistinguishable cross-talk)

23 Q Were there a lot of people there?

24 A Yes.

25 Q All right. Can you ballpark it?

1 A I can't ballpark it. But this -- it was definitely
2 a lot of people. I mean, you -- it's a -- it's a
3 apartment complex that, you know -- it's -- it's not
4 uncommon for there to be a lot of foot traffic and
5 vehicle traffic.

6 Q Okay. Would you say there was over ten people?

7 A Certainly.

8 Q Okay. Certainly. All right.

9 Without going into what anyone said on scene, did
10 you -- did you speak with people around?

11 A Yes.

12 Q Did anyone want to provide any information about
13 what just happened?

14 A No.

15 Q Understood. But you tried.

16 A I -- I did. Even to the extent of approaching
17 vehicles that were, I guess, approaching. Does that make
18 sense? So I'm in the road; vehicles approaching me; I
19 approached the vehicle.

20 Q And the people didn't really want to talk with you?

21 A Not really.

22 Q Okay. Is that frustrating as an officer?

23 A Honestly, yes. Because, you know, it -- it -- it
24 almost seems as if, a lot of times with law enforcement,
25 we care about the situation a little bit more than they

DIRECT EXAMINATION BY MR. CORY - FORREST FULMORE 331

1 do.

2 Q I can see how that works.

3 Did you see any evidence of a crime at the scene?
4 Other than the chaos and the people, did you see any
5 physical evidence?

6 A No.

7 Q No? All right.

8 A No. That -- that wasn't my role.

9 Q I understand. And what exactly was your role, would
10 you say?

11 A I -- I kind of assumed it, honestly. I'm one of the
12 master police officers on that squad. So it -- it's --
13 it's kind of my, I guess, duty to either see that there's
14 an area that could use a tighten-up and either getting on
15 the radio and saying, "Hey, let's -- let's get this
16 done," or just go ahead and doing it. And since it was
17 so much chaos, I just assumed responsibility of trying to
18 get the residents and people out.

19 Q Okay. So you were mostly working with the
20 bystanders around?

21 A That's correct.

22 Q Understood. Were there other officers on scene with
23 you?

24 A Not in the immediate area that I was in. But at the
25 crime scene and in the area of that, yes.

1 Q Okay. So you pretty much described your involvement
2 and what you were doing there. Did -- is there anything
3 else that you did while you were there?

4 A No. My -- my -- my stint there was pretty -- pretty
5 short.

6 Q All right. What happened next?

7 A After that, I reported to the hospital because,
8 again, as a master police officer on that squad, getting
9 information is very important -- accurate information, of
10 course. So I took the initiative of responding to the
11 hospital, since my role was not as significant as the
12 other guys that were closer to the scene.

13 Q Right.

14 A So we responded to Prisma Health Richland.

15 Q I understand.

16 A Well, I said "we," but I responded to Prisma Health
17 Richland.

18 Q Who was at -- who was at the hospital when you were
19 there? When you showed up, who -- who was on scene?

20 A When -- when I got there, it was the victim's
21 family. And what was described to me were the two
22 individuals that were present on the scene at the time of
23 the incident.

24 Q Understood. Without going into what everybody was
25 talking about specifically, what -- what was the general

DIRECT EXAMINATION BY MR. COURY - FORREST FULMORE 333

1 mood of the family? How did they appear to you?

2 A Concerned.

3 Q Okay.

4 A Extremely concerned. Because, again, you know, we
5 -- we work cases where people get dropped off and they're
6 there by themselves.

7 Q Right.

8 A But this -- this scene was not like that.

9 Q At this point, did anyone know if the victim was
10 alive or not?

11 A They did not know.

12 Q Okay. Other than your -- did -- what were you able
13 to discern from your -- from you showing up at the
14 hospital? Did that -- how did that aid your
15 investigation?

16 A It -- it -- it -- it did critically because we kind
17 of had an idea of -- of what was going on, like what kind
18 of led up to it, to -- to the incident. Because, again,
19 a lot of times, when we get out there on foot, the people
20 there, they're not going to want to talk to you.

21 Q Understood.

22 A So it's a -- it's a little bit easier to get
23 information from those when you're kind of isolated.
24 And, of course, it's loved ones that are present.

25 Q Right. Right. People that care about him.

CROSS-EXAMINATION BY MR. DUNCAN - FORREST FULMORE 334

1 A Yeah.

2 Q Okay. And you showed up to the scene; showed up to
3 the hospital. What other involvement in this case, if
4 any, would you say you had?

5 A That would be the extent of my involvement.

6 Q Understood. Thank you for your testimony, Officer
7 Fulmore. Please answer any questions the defense might
8 have.

9 MR. DUNCAN: Briefly, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. DUNCAN:

12 Q Good afternoon, Officer Fulmore.

13 A Good afternoon, sir.

14 Q Officer Fulmore, so on March 30th, 2019, I think you
15 said your shift had just started, pretty much.

16 A Yeah.

17 Q You -- did you go on at six o'clock at night or
18 something like that?

19 A Yeah. So I -- the shift generally starts around
20 that time, around six o'clock/six-thirty.

21 Q Okay. And so this -- you reported -- do you -- do
22 you know when you reported to the apartment complex?

23 A I can't give you that exact time. No, sir.

24 Q Again, you -- you say there were -- there were a
25 couple of law enforcement folks who were already on the

CROSS-EXAMINATION BY MR. DUNCAN - FORREST FULMORE 335

1 scene when you arrived?

2 A Yeah.

3 Q Is that ---

4 A Yeah. You could -- you could hear it on the radio
5 of -- of units responded. It's -- it's a code. It was
6 probably not relevant to this, but it's a code that we
7 utilize on law enforcement radio traffic that lets you
8 know that somebody's on the scene.

9 Q Okay. All right. And so when -- I -- I -- I heard
10 you say that you took the initiative to, you know, kind
11 of find a -- a spot. And I -- I -- I thought it sounded
12 like you were kind of directing traffic. I mean, you
13 were at -- near the entrance of the apartment, or did I
14 misunderstand?

15 A Yeah. This -- that's about accurate. Because, of
16 course, you've got vehicles coming in, vehicles coming
17 out. So it -- it -- in the sense of directing traffic,
18 you could use that as -- as, I guess, a way to describe
19 it. But vehicles got to go. They can't ---

20 Q Certainly.

21 A --- they can't pile up in the -- in -- in the -- in
22 a funnel when you're trying to get emergency services on
23 the scene.

24 Q I see. And so you -- you said -- you've talked
25 about emergency services. But the -- do you know if --

1 do you know if an ambulance or -- do you know if an
2 ambulance came?

3 A No. I'm not -- I'm not sure if they did or not. I
4 know that it's standard protocol that we dispatch an
5 ambulance a fire to any type of incident that includes
6 bodily harm.

7 Q Okay. All right. And you were -- you -- you've
8 described kind of being -- being there at the scene and
9 staying -- I mean, did you -- approximately how long did
10 you stay?

11 A It wasn't long.

12 Q Not long meaning 15 minutes or ---

13 A Give or take.

14 Q Okay. All right. A few minutes, and then you --
15 again, you -- you've described you were the master --
16 tell me what -- tell me what you were. You said master
17 officer, something like that.

18 A Yeah. Master police officer.

19 Q Which means shift supervisor or something or what
20 does that mean?

21 A No. So you have patrolmen; you have master police
22 officers, corporal, sergeant -- goes up the ranks that
23 way.

24 Q I got you. I got you. But you -- you were above
25 any patrol officer, if I'm hearing that right.

CROSS-EXAMINATION BY MR. DUNCAN - FORREST FULMORE 337

1 A By -- by rank, yes.

2 Q By rank.

3 A But we have the same duties.

4 Q Sir?

5 A By rank, yes. But we have the same duties.

6 Q I -- okay. I understand. You were still fairly new
7 on the force; you'd been there about three years at the
8 time?

9 A That's correct.

10 Q Okay. All right. And so anyway, no one assigned
11 you to the hospital; you went to the hospital because you
12 felt like you could be helpful there.

13 A I don't remember if there was a supervisor that got
14 on the radio. Because again, there's -- it's a lot of
15 hectic -- but I know that that -- that is something that
16 needs to be done.

17 Q All right.

18 A And as far as I remember, yes. I took the
19 initiative to do that. But we -- we have to go. There's
20 no way around it.

21 Q Officer Fulmore, other than March 30th, 2019, you
22 know, other than that Saturday evening -- Saturday
23 afternoon/evening ---

24 A Uh-huh.

25 Q --- into the night, have you had any other

1 involvement in this case?

2 A Not to my knowledge.

3 Q All right. That's all the questions I have.

4 THE COURT: Anything further?

5 MR. CORY: Nothing from the state, Your Honor.

6 THE COURT: All right. Thank you, Officer Fulmore.

7 THE WITNESS: Thank you.

8 (Whereupon, the witness exited the witness stand.)

9 (Off the record briefly.)

10 THE COURT: Your next witness?

11 MR. NEELY: The state would call McKenzie Smith.

12 (Off the record briefly.)

13 (Whereupon, the witness came forward.)

14 DEPUTY CLERK OF COURT: Right here. Right here.

15 MCKENZIE SMITH, having been first duly sworn,
16 testified as follows:

17 DEPUTY CLERK OF COURT: Please have a seat up here.
18 State your full name for the record.

19 THE WITNESS: McKenzie Smith.

20 DIRECT EXAMINATION

21 BY MR. NEELY:

22 Q Good morning, Ms. Smith. How are you doing?

23 A Good.

24 Q You can take your mask down while you're back there.

25 A (Complied.)

DIRECT EXAMINATION BY MR. NEELY - MCKENZIE SMITH 339

1 Q How did you know Stacy Rhodes?

2 A He was in a relationship with my mother.

3 Q At -- whenever -- on March 30th, 2019?

4 A Well, they had been in a relationship before,
5 because she moved out there before. But they were still
6 in a relationship -- well, talking.

7 Q Okay. So you had seen Stacy around because he was
8 dating your mother at the time?

9 A Uh-huh.

10 Q Have you ever seen Stacy with a gun on him?

11 A No.

12 Q Do you recall the day of March 30th, 2019?

13 A Yes.

14 Q Walk us through that day. Do you remember in the
15 morning?

16 A Yes. I had been at a friend's right up front of it,
17 but I didn't necessarily see anything going on with them
18 arguing.

19 Q Okay. And start -- let me -- let me step back a
20 little bit.

21 A Okay.

22 Q Where did you live at the time?

23 A I was living at Spring Lakes.

24 Q Spring Lakes?

25 A Well, what it's called now. But ---

1 Q But were you at Lakeshore on March 30th?

2 A Uh-huh.

3 THE COURT: It's a "yes" or "no."

4 THE WITNESS: Yes.

5 Q And what were you doing that day, that morning?

6 A I was up from the apartment that happened that were
7 friends, getting ready to go out to go shopping.

8 Q And did you hear an argument start at Lakeshore?

9 A Yes.

10 Q Did you see who it involved?

11 A No. I just seen -- I just knew Stacy had been over
12 there and seen him over there.

13 Q Okay. So you had seen Stacy over in the area where
14 the argument came from?

15 A Uh-huh.

16 THE COURT: "Yes" or "no"?

17 Q You need ---

18 THE WITNESS: Yes.

19 Q You need to say "yes" or "no." We have a court
20 reporter. And so she can't take down "mm-hmms" or "uh-
21 huh."

22 A All right.

23 Q And so "yes" or "no" just works way better.

24 So you could hear the argument but you couldn't see
25 it?

DIRECT EXAMINATION BY MR. NEELY - MCKENZIE SMITH 341

1 A Yes.

2 Q About how far from the argument were you?

3 A I was in the bedroom ahead of it where the
4 townhouses are.

5 Q Okay. And where was the argument taking place?

6 A In the building right down from it.

7 Q And was that 1003?

8 A Uh-huh.

9 Q Okay. With the pillars in front?

10 A Yeah.

11 Q So while you were there and you heard the argument,
12 could you tell the from the voices who it was between?

13 A No.

14 Q No?

15 So you just heard the argument?

16 A Yes.

17 Q Was it more than one voice? Do you recall?

18 A Yes.

19 Q Okay. So there was two loud voices?

20 A It was a group of people so ---

21 Q A group of people?

22 A (No audible response.)

23 Q Were they all being loud?

24 A Yes. They were just going back and forth.

25 Q How long had they been going back and forth?

CROSS-EXAMINATION BY MR. DUNCAN - MCKENZIE SMITH 342

1 A I had left while they were still arguing, to leave
2 to go out and go shopping.

3 Q And so when did the argument start, if you can --
4 you can remember a time line?

5 A When we was getting ready to head out.

6 Q And do you recall when that was?

7 A Not the time, specifically. But it was that day.

8 Q Okay. And when did you leave to go shopping?

9 A I'm not sure what time.

10 Q Okay. So you -- you didn't see the arguers.

11 A No.

12 Q And you couldn't identify them by their voice?

13 A No.

14 Q All right. Thank you. That's all the questions I
15 have. You stay ask any -- questions the defense might
16 have.

17 A Okay.

18 MR. DUNCAN: Maybe -- maybe a couple.

19 CROSS-EXAMINATION

20 BY MR. DUNCAN:

21 Q Good afternoon, Ms. Smith.

22 A Good afternoon.

23 Q So you -- you -- did you live at Lakeshore
24 Apartments at the time?

25 A Yes.

CROSS-EXAMINATION BY MR. DUNCAN - MCKENZIE SMITH 343

1 Q And that -- you still live there?

2 A Yes.

3 Q And it's -- the apartments have changed names now;
4 is that right?

5 A Yes, sir.

6 Q That's what you were saying, Spring Lake?

7 A Yeah.

8 Q Okay.

9 A It was called Lakeshore back then but ---

10 Q Okay. Back then but same place, just got a
11 different name?

12 A Yes.

13 Q Okay. And you were in a building up from where this
14 argument was taking place; is that right?

15 A It was in the townhouses.

16 Q You were in the -- you lived in the townhouse?

17 A No. I lived in the back. But my friend had stayed
18 up in the townhouses.

19 Q Okay. And that's -- that's where you were on that
20 Saturday, March 30th?

21 A Yes.

22 Q Okay. And you heard -- is it fair to say multiple
23 people -- several people arguing, several voices?

24 A Yes. It was a group of people just going back and
25 forth.

1 Q Okay. And again, you don't -- you don't know -- you
2 couldn't tell who any of those voices were?

3 A No.

4 Q Okay. Thank you. No further questions.

5 THE COURT: Anything further?

6 MR. NEELY: Nothing from the state, Your Honor.

7 THE COURT: Thank you. You may step down.

8 (Whereupon, the witness exited the witness stand.)

9 (Off the record briefly.)

10 THE COURT: Your next witness?

11 MR. NEELY: Your Honor, my paralegal has -- has gone
12 to find the next witness. If we may have a -- a brief
13 recess.

14 THE COURT: All right. Ladies and gentlemen, if
15 you'll go to the jury room. Please do not talk about the
16 case.

17 (Whereupon, the jury exited the courtroom at 2:41
18 p.m.)

19 (Off the record briefly.)

20 THE COURT: Yes, sir.

21 MR. NEELY: Your Honor, Investigator Hilton should
22 be on the way. He told us he'd be here at 2:30, so he
23 should be here very, very shortly, we anticipate.

24 THE COURT: All right. Let's take a break and see
25 if we can find him -- or you can find him.

1 MR. NEELY: Thank you, Your Honor.

2 (The Court went off the record at 2:42 p.m.)

3 (Whereupon, State's Exhibits 49, 50, 53, 59, 60, 61,
4 and were marked for identification while off the
5 record.

6 (The Court went on the record at 3:15 p.m.)

7 THE COURT: Okay. Bring the jury.

8 I think this is the only courthouse I've been where
9 totally revolves around the witnesses coming and going
10 and being out of place. It's amazing that you all get
11 anything done or even attempt to -- or accomplish
12 anything when you attempt to. This is just ridiculous.
13 I know Mr. Duncan said you all are out of practice, but
14 ---

15 (Off the record briefly.)

16 (Whereupon, the jury entered the courtroom at 3:16
17 p.m.)

18 THE COURT: Ms. Keller?

19 JUROR: (Raised hand.)

20 THE COURT: I'm going to put you -- where is the --
21 where is the foreperson seat, Mr. Brown?

22 THE BAILIFF: Okay.

23 THE COURT: Where -- what seat you want her to be
24 in?

25 THE BAILIFF: Right -- right here.

1 THE COURT: All right. Take that seat he's pointing
2 you.

3 JUROR: Me? Oh.

4 THE COURT: Ms. Keller.

5 THE BAILIFF: Right there. Y'all just switch seats.

6 JURORS: (Complied.)

7 THE BAILIFF: Okay. The jury is all present, Your
8 Honor.

9 THE COURT: Thank you.

10 All right. Ms. Keller, I'm appointing you to serve
11 as the foreperson of the jury. And the foreperson has
12 the responsibility of serving as a spokesperson for the
13 jury, presiding over the jury deliberations, and
14 completing the verdict form representing the unanimous
15 verdict of the jury at the end of the trial. All right?

16 THE FOREPERSON: Okay.

17 THE COURT: You think you up to the task?

18 THE FOREPERSON: Yes, sir.

19 THE COURT: Oh, yeah. I'm sure you are. Very good.
20 Next witness.

21 MR. NEELY: Thank you, Your Honor. The state calls
22 Investigator William Hilton.

23 (Whereupon, the witness came forward.)

24 WILLIAM HILTON, having been first duly sworn,
25 testified as follows:

DIRECT EXAMINATION BY MR. NEELY - WILLIAM HILTON 347

1 DEPUTY CLERK OF COURT: Thank you. Please have a
2 seat in the witness and state your full name for the
3 record.

4 THE WITNESS: My name is William Hilton.

5 DIRECT EXAMINATION

6 BY MR. NEELY:

7 Q Mr. Hilton, where are you currently employed?

8 A I'm retired.

9 Q You're retired.

10 A I'm actually retired.

11 Q What -- what'd you retire from?

12 A I retired from the Columbia Police Department.

13 Q And what title did you have there when you retired?

14 A Sir?

15 Q What title did you have there when you retired?

16 A Oh. I was an investigator.

17 Q And were you investigator for Columbia Police
18 Department on March 30th, 2019?

19 A Yes, sir.

20 Q And were you assigned an investigation of Mikah
21 Green's case?

22 A That's correct.

23 Q I'm going to show you what's been marked as State's
24 31 and 32. Do you recognize these pictures?

25 A Yes, sir. Those are -- these are pictures of the

1 crime scene.

2 Q And are they a fair and accurate representation of
3 the crime scene that day?

4 A Yes, sir.

5 THE WITNESS: Can I get my file?

6 MR. NEELY: Oh. I can get it.

7 THE WITNESS: Is that it?

8 MR. NEELY: Your Honor -- one second. I need to
9 retrieve the investigator's file.

10 (Off the record briefly.)

11 MR. NEELY: The state would seek to introduce
12 State's Exhibit 31 and 32, pictures of the scene.

13 MR. DUNCAN: No objection.

14 THE COURT: It's admitted.

15 (Whereupon, State's Exhibits 31 and 32 were entered
16 into evidence.)

17 Q I'm going to show you what's been marked as State's
18 Exhibit 61. You recognize this?

19 A Yes, sir. This is the photo lineup that I showed of
20 the witnesses that came up and they've signed ---

21 Q And what witness did you show this to?

22 A I -- Mr. Archie.

23 Q And that's ---

24 A James Archie is his name and he signed it and
25 initialed and dated it.

DIRECT EXAMINATION BY MR. NEELY - WILLIAM HILTON 349

1 Q So this is James Archie's signature?

2 A Yes, sir.

3 Q Is this your signature?

4 A Yes, sir.

5 Q And this interview took place April 4th, 2019?

6 A Right.

7 Q And who did Mr. Archie indicate?

8 A He circled No. 3, which is the defendant, Mr. Green.

9 Q And is that defendant in this building today?

10 A Yes, sir.

11 Q Could you point him out to the jury.

12 A He's at the defense table.

13 MR. NEELY: Let the record reflect he pointed at the
14 defendant.

15 Q I'm going to show you three DVDs that are labeled
16 State's 49, 59, and 60. Do you recognize these DVDs?

17 A Yes, sir. These are -- this one is the 911 call.
18 And these are Statewide videos from Mr. Shealy.

19 Q And during the course of your investigation, did you
20 collect those?

21 A I did.

22 Q And do those videos accurately depict ---

23 A Yes, sir.

24 Q --- the scene that -- that day?

25 A Oh, yes, sir.

1 MR. NEELY: Your Honor, the state would seek to
2 introduce State's Exhibit 49, 59, and 60, the 911 call,
3 and two Statewide security-camera videos.

4 MR. DUNCAN: No objection to those.

5 THE COURT: They're admitted.

6 (Whereupon, State's Exhibits 49, 59, and 60 were
7 entered into evidence.)

8 Q During your investigation of Mikah Green's case, was
9 the -- walk us through it. What was the first thing you
10 did?

11 A When I got the call, first thing I did is went out
12 to the scene. I went to the scene to see if we could see
13 what we could find at the scene, initially. But prior to
14 me getting to the scene, I understood that the victim had
15 been transported to the hospital by car.

16 So once I got to the scene, the victim was already
17 gone. And the defendant was not there either. There was
18 not a lot of people out there. Well, it was a lot of
19 people out there, but they -- but none of them saw
20 anything, as they -- no one wanted to come forward with
21 any information to talk to me or any other uniform patrol
22 officers outside to give us any information as to who was
23 outside doing what.

24 Q So you -- you spoke with people that were on the
25 scene when you arrived and with the law enforcement that

DIRECT EXAMINATION BY MR. NEELY - WILLIAM HILTON 351

1 had been speaking to people on scene?

2 A Right.

3 Q And nobody you were talking to on scene wanted to
4 say anything?

5 A Nobody. Even the ones that's just standing over --
6 you know, come outside, the nosy Nellies. No one saw
7 anything.

8 Q And what happened next?

9 A After that I go to the -- I called Mr. Shealy. I
10 believe I called Mr. Shealy to get the -- those very same
11 videos of the scene and make the request for the 911 so
12 we can actually see what happened and who called.

13 Other officers went to the hospital and interviewed
14 some of the family members and some of the people who
15 were there at the hospital with the victim. From my
16 understanding, on the night of the incident, no one at
17 the hospital was being very helpful either.

18 It wasn't until a couple of days -- should I go into
19 the next couple days? I got a phone call from one of the
20 family members. I believe it was the sister.

21 Q So let me stop you there.

22 A Okay.

23 Q So before the family member came in, did you hear
24 anything from the defendant?

25 A Did I hear anything from the defendant?

1 Q Yeah. Did you speak with the defendant?

2 A That night? No, sir.

3 Q Or -- or the next night?

4 A The next day I got -- I got a call from -- I believe
5 it was the next day. I got a call from a Richland County
6 sheriff's deputy -- their name escapes me right now; it's
7 -- it's been a while -- saying that the defendant wanted
8 to come and turn himself and wanted to come speak to law
9 enforcement about what took place that night or -- the
10 previous day out at -- on Garners Ferry Road.

11 Q During that statement, did Mikah Green indicate to
12 you that he had fired shots?

13 A Right, he did.

14 Q Did he indicate that he had fired shots at the
15 victim?

16 A The way he explained that he fired shots was that he
17 closed his eyes and pulled the trigger and ran.

18 Q So he -- he admitted to being on the scene?

19 A Yes.

20 Q He admitted to having a gun?

21 A Yes.

22 Q He admitted to shooting?

23 A Yes.

24 Q Did he admit to being in an argument with the
25 victim?

DIRECT EXAMINATION BY MR. NEELY - WILLIAM HILTON 353

1 A Yes.

2 Q Over gambling?

3 A Yes. It was over 20 -- \$20 -- it was 10 or 20
4 dollars, something like that.

5 Q A small amount of cash?

6 A Yes.

7 Q Did the defendant ever claim that the victim pointed
8 a gun ---

9 THE COURT: Solicitor ---

10 Q --- at him ---

11 THE COURT: --- and Defense Lawyer, if you'd come
12 forward.

13 (Whereupon, a bench conference was held off the
14 record in the presence of the jury, but out of the
15 hearing of the jury.)

16 THE COURT: Madam Forelady and members of the jury,
17 I'll have you step out for a moment.

18 (Whereupon, the jury exited the courtroom at 3:27
19 p.m.)

20 THE COURT: Solicitor, you just can't dive into a
21 statement of a defendant to a police officer without
22 establishing certain parameters. And Mr. -- Mr. Duncan,
23 I understand you are not challenging the voluntariness of
24 the statement?

25 MR. DUNCAN: That -- that's correct, Your Honor.

DIRECT EXAMINATION PROFFER BY MR. NEELY - WILLIAM HILTON 354

1 Mr. -- Mr. Green -- Mr. Green contacted the law
2 enforcement that he knew with Richland County and wanted
3 to tell the Columbia city investigator what had went
4 down, as he understood it: that he was defending himself
5 ---

6 THE COURT: Yeah. I ---

7 MR. DUNCAN: --- and that ---

8 THE COURT: --- understand. Doesn't matter what he
9 said. The question is if he gave a statement, then you
10 have to go through certain parameters with the law
11 enforcement to -- to clarify what the scenario was
12 surrounding him getting a statement or -- and as -- so
13 proceed with that, Mr. Solicitor.

14 MR. NEELY: Yes, sir, Your Honor. Right now?

15 THE COURT: Yeah.

16 DIRECT EXAMINATION - PROFFER

17 BY MR. NEELY:

18 Q When you received the statement from Mikah Green ---

19 A Uh-huh.

20 Q --- was that audio-video-recorded?

21 A It was audio-video-recorded at the Columbia Police
22 Department. And prior to him speaking to me, I made sure
23 I read him his *Miranda* rights.

24 Q Okay. And was -- was he given the opportunity to
25 have a drink or use the bathroom?

DIRECT EXAMINATION PROFFER BY MR. NEELY - WILLIAM HILTON 355

1 A Yes.

2 Q Did you ask him -- were you asking him leading
3 questions or were you letting him tell his story?

4 A No. I let him tell the story.

5 Q Okay. So he came in to tell his story, and you kind
6 of let him tell his story?

7 A Yes.

8 Q After you Mirandized him?

9 A Yes.

10 Q And was he charged at the time?

11 A Yes.

12 MR. DUNCAN: He was charged, wasn't he?

13 A He was charged.

14 Q And he ---

15 A I mean -- you mean was he charged when I read him
16 his rights, or was he charged ---

17 Q When you read ---

18 A --- afterwards?

19 Q --- him his rights.

20 A No. He was not charged at the time I read him his
21 rights.

22 Q Okay. So he was charged after ---

23 A He was ---

24 Q --- gave a ---

25 A --- charged ---

DIRECT EXAMINATION PROFFER BY MR. NEELY - WILLIAM HILTON 356

1 Q --- statement ---

2 A --- after the statement.

3 Q Okay. But the -- the statement -- did you threaten
4 him or coerce him?

5 A Oh, no.

6 Q And it's all on video?

7 A It's all on video. Yes, sir.

8 THE COURT: Mr. Officer, when you were testifying
9 before I sent the jury out, were you talking about a -- a
10 statement prior to *Miranda*? Were you speaking of an --
11 an oral statement that he gave?

12 THE WITNESS: I didn't get -- I didn't get any
13 statements from him prior to *Miranda*.

14 THE COURT: All right. And after going through his
15 *Miranda* rights, did he make a verbal statement before a
16 written or did it all -- a verbal statement before the
17 recorded statement, or did you turn on the -- the
18 recorder and go right into it?

19 THE WITNESS: Oh. The recording was on all the
20 time.

21 THE COURT: Okay. All right.

22 All right. Continue with your questions.

23 Q Was there any point in the interview that Mr. Green
24 asked for an attorney or asked to stop?

25 A No.

CROSS-EXAMINATION PROFFER BY MR. DUNCAN - WILLIAM HILTON 357

1 Q And how long did the total interview take?

2 A About -- it was an hour maybe, under a hour. It was
3 -- it wasn't ---

4 Q Roughly ---

5 A --- very ---

6 Q --- an hour?

7 A --- it -- roughly an hour, somewhere in there.

8 Q And at any point, did the defendant request to stop?

9 A No.

10 MR. NEELY: Your Honor, that's -- that's ---

11 THE COURT: All right. Any question about it --
12 you, Mr. Duncan?

13 CROSS-EXAMINATION - PROFFER

14 BY MR. DUNCAN:

15 Q Investigator Hilton ---

16 A Yes, sir.

17 Q --- the -- the circumstances were -- were that Mr.
18 Green -- is it correct that Mr. Green was brought to the
19 Columbia Police Department by other law enforcement?

20 A Right.

21 Q And you -- you were informed by other law
22 enforcement, the Richland County deputy, that he wanted
23 to make a statement to you; is that right?

24 A Right. That's what I remember. They wanted -- he
25 wanted to come in, give his -- it was either turn himself

CROSS-EXAMINATION PROFFER BY MR. DUNCAN - WILLIAM HILTON 358

1 in and/or give his statement. But he wanted to come in
2 and speak with law enforcement.

3 Q And -- and it's correct that under those
4 circumstances, you put him in a room with a recording
5 from the -- from the beginning -- from the jump?

6 A Well, yeah. That's -- that was -- that's Columbia
7 Police policy.

8 Q Okay. So any -- anybody that you were interviewing,
9 your testimony is you would always done ---

10 A Oh, absolutely.

11 Q --- it that way? Okay.

12 MR. DUNCAN: I -- I think that's all I have about
13 it.

14 THE COURT: All right. I find the statement was
15 freely and voluntarily given after he had been advised of
16 his constitutional rights, including all the rights
17 outlined in *Miranda v. Arizona*.

18 All right. We'll take a two-minute stretch and
19 bring the jury in after two minutes.

20 MR. NEELY: Thank you, Your Honor.

21 (The Court went off the record at 3:33 p.m.)

22 (The Court went on the record at 3:36 p.m.)

23 THE COURT: You can bring the jury.

24 THE BAILIFF: Bring the jury.

25 MR. CORY: Your Honor, I believe Assistant

DIRECT EXAMINATION BY MR. NEELY - WILLIAM HILTON 359

1 Solicitor Neely might be using the restroom. He just
2 stepped out.

3 THE COURT: All right. Guess you ---

4 MR. COURY: Just wanted ---

5 THE COURT: --- you got to ---

6 MR. COURY: --- to let you know.

7 THE COURT: --- take over, then.

8 MR. COURY: I'm not sure he'd be too happy with me
9 if I did that, but ---

10 THE COURT: Well, he'd be all right. He -- he knows
11 what two minutes is, right?

12 MR. COURY: I hope so, Your Honor.

13 (Whereupon, the jury entered the courtroom at 3:36
14 p.m.)

15 THE COURT: You may proceed.

16 THE BAILIFF: Jury is all present.

17 MR. NEELY: Thank you, Your Honor.

18 DIRECT EXAMINATION

19 BY MR. NEELY:

20 Q Investigator Hilton ---

21 A Yes.

22 Q --- before this interview took place, did you
23 Mirandize Mr. Green?

24 A Yes, I did.

25 Q And what does that mean?

1 A The way I -- I give *Miranda* to anyone is I -- I go
2 down the sheet and I explain it to them. And I let them
3 know that the first thing is they do not have to talk to
4 me. That is the first thing: You do not have to talk to
5 me.

6 And you will be provided with counsel if you request
7 it. If you ask for it, it's yours. Now, I -- I would
8 believe that would bear out in the video.

9 Q And so did he seek to give you this statement?

10 A Sir?

11 Q Did he seek to give you the ---

12 A Oh.

13 Q --- statement?

14 A Yes, sir.

15 Q And during that statement, does he say that he was
16 scared of the victim?

17 A (No audible response.)

18 Q And if you don't recall, that's okay.

19 A Somewhere in there, it -- I think close to the end
20 -- I don't know if he say he was scared of the victim.
21 But I think I remember him saying he was scared at some
22 point.

23 Q And then, as a result of that interview, what did
24 you do?

25 A Well, at the end of the interview, I contacted the

DIRECT EXAMINATION BY MR. NEELY - WILLIAM HILTON 361

1 solicitor's office and secured a warrant.

2 Q Well, let's -- okay. I'm sorry. Secured a warrant?

3 A Yes, sir.

4 MR. NEELY: Your Honor, at -- at this time I'd like
5 to publish portions of what's been admitted into evidence
6 as State's Exhibits 49, 59, and 60.

7 THE COURT: Is there any objection to those exhibits
8 being in -- in evidence?

9 MR. DUNCAN: No objection to those.

10 THE COURT: They are admitted.

11 (Whereupon, a portion of video was published in open
12 court.)

13 Q So, Investigator Hilton, what are we looking at
14 here?

15 A Okay. That is the Citgo gas station right there at
16 the entrance of the apartment complex.

17 MR. NEELY: And I'm going to show Investigator
18 Hilton what's been marked as State's -- or what's been
19 entered into evidence as State's Exhibit 1.

20 Q Do you recognize this picture?

21 A Yes.

22 Q And what is that a picture of?

23 A That -- that's the apartment complex where the
24 incident took place.

25 Q And so if you wouldn't mind standing up and showing

1 the jury where the Citgo is in relation to that picture.

2 A This is -- let me get it right. This is Garners
3 Ferry Road. And as you turn in, this double road here --
4 it's probably hard for you guys to see it. But the Citgo
5 gas station would sit right here -- right here. Because
6 there's a camera that shoots down into the driveway. It
7 would be the back over here, and this is where the Citgo
8 gas station would be.

9 Q And did the cameras capture -- capture any of the
10 actual incident or shooting?

11 A The camera on the back wasn't working, so it did not
12 capture on the shooting.

13 Q So this ---

14 MR. NEELY: Beg the Court's indulgence.

15 (Off the record briefly.)

16 (Whereupon, a portion of video was published in open
17 court.)

18 Q And this part's been fast-forwarded; is that right?

19 A (No audible response.)

20 Q Right here, if you follow this Jeep, and -- I think
21 we actually missed the last part.

22 (Whereupon, a portion of video was published in open
23 court.)

24 MR. NEELY: Sorry. I'm having some technical
25 difficulties.

DIRECT EXAMINATION BY MR. NEELY - WILLIAM HILTON 363

1 (Whereupon, a portion of video was published in open
2 court.)

3 Q If you look at the clock.

4 A (No audible response.)

5 Q Investigator Hilton, why do you think those kids
6 jumped like that at 9:42 -- or 7 -- 7:09:42?

7 A That -- that was close to the time that would be the
8 time that the shooting -- that the incident took place.
9 Because the -- right there at the side of the -- the --
10 the -- the gas station, it -- you're going to see
11 straight down on the illustration I was showing you guys.
12 You're going to see straight down into the apartment
13 complex.

14 Q So is that kind of where these kids are looking?

15 A Well, yeah. That's -- looking that way would lead
16 down into the -- the complex.

17 Q To where the gunfire ---

18 A Yeah. The gunfire was that way.

19 (Whereupon, a portion of video was published in open
20 court.)

21 Q And then, at 9:51, the kids run away again?

22 A Right.

23 Q They continue running?

24 A Yes, sir.

25 (Whereupon, a portion of video was published in open

1 court.)

2 Q And is it 7:10 starting off?

3 (Off the record briefly.)

4 MR. DUNCAN: Your Honor -- one second. I'm trying
5 to get this so my client can see what in the world is
6 going on in there. I don't know how to do that. In the
7 -- my client would like to see the TV screen. I don't
8 know how we can arrange.

9 MR. NEELY: Your Honor, I'm not sure if there's a --
10 a -- a way to have the jury and the defendant able to see
11 the video in a clear way, unless we could have him
12 brought around.

13 MR. DUNCAN: Can we -- can we approach, Your Honor?

14 THE DEFENDANT: Or you show one at a time? I'm just
15 making a suggestion.

16 (Whereupon, a bench conference was held off the
17 record in the presence of the jury, but out of the
18 hearing of the jury.)

19 (Off the record briefly.)

20 MR. NEELY: Your Honor, I can play the clip and turn
21 it around and play it again.

22 MR. DUNCAN: Listen, however y'all want to do it.

23 (Off the record briefly.)

24 MR. NEELY: Your Honor, I really don't think there's
25 a way for the defendant and for the jury -- the whole

DIRECT EXAMINATION BY MR. NEELY - WILLIAM HILTON 365

1 jury to be able to see this video.

2 (Off the record briefly.)

3 Q Investigator Hilton, according to your -- your
4 involved with -- with Mikah Green, who is that in the
5 blue jersey?

6 A That would be the defendant.

7 Q That's Mikah Green in the video in the blue jersey?

8 A Yes.

9 (Whereupon, a portion of video was published in open
10 court.)

11 Q And is that exit right Mikah Green on the video
12 screen the last time we see Mikah Green on the Citgo
13 videos?

14 A Yes, on the Citgo video. That's correct.

15 Q Were there any more surveillance cameras that you
16 were able to -- to find, other than the Citgo videos?

17 A Yeah. There -- there is one right at the -- at the
18 -- at the entrance of the roadway when you turn off of
19 Garners Ferry. There's a camera right in -- at the head
20 of the road ---

21 Q Is that ---

22 A --- that sits -- yeah. Yeah. That's it.

23 Q Can you see Mikah Green running down?

24 A Yeah, it is.

25 Q And does it appear that these people are looking for

1 Mikah Green ---

2 A Right.

3 Q --- or for somebody?

4 A Looking for someone.

5 Q Did they find him?

6 A No. No, they did not find him.

7 Q And this is the apartment complex we're talking
8 about?

9 A That's it. Yes, sir.

10 Q And based on your -- your speaking with -- with
11 James Archie, who is in that -- who is that white car?
12 Do you remember? Do you know?

13 A I think that's the car that the victim was in. They
14 was taking him to the hospital.

15 Q That's around 7:15 ---

16 A Yes, sir.

17 Q --- and 45?

18 And it -- did it appear the shooting took place at
19 7:09 and 42 seconds?

20 A Right. The call came in at the -- at the department
21 at 7:13. And the first officer arrived at 7:20,
22 according to the report.

23 Q And do we have -- have you listened to the 911 call,
24 the first ---

25 A Yes.

DIRECT EXAMINATION BY MR. NEELY - WILLIAM HILTON 367

1 Q --- 911 call that law enforcement received?

2 A (No audible response.)

3 (Whereupon, a portion of audio recording was
4 published in open court.)

5 Q After you interviewed Mikah Green -- Mikah Green and
6 got the warrants in the case, was there any more
7 investigation that was done?

8 A Right. Tried to find that young lady. Couldn't.

9 Q You said there was a number of people that you spoke
10 to that didn't want to say anything?

11 A Right. There was a -- there's a lot of people
12 outside when we got there.

13 THE COURT: Can the jurors hear the witness?

14 JURORS: Yes.

15 THE COURT: Okay. I guess it's just me.

16 Q Try to speak up.

17 A Yeah. There was a -- there -- there were a lot of
18 people outside when we got there. But no one wanted to
19 come forward; no one wanted to give any information to
20 the police about anything they saw or who was involved.

21 Q The night of the incident, do you recall what the
22 victim was wearing?

23 A I'm sorry?

24 Q The night of the incident, do you recall what the
25 victim was wearing?

1 A No, I -- I don't.

2 MR. NEELY: That's all the questions I have, Your
3 Honor.

4 THE COURT: All right.

5 MR. DUNCAN: Thank you.

6 CROSS-EXAMINATION

7 BY MR. DUNCAN:

8 Q Good afternoon, Investigator ---

9 A Good afternoon ---

10 Q --- Hilton.

11 A --- sir.

12 Q Mr. Hilton ---

13 A Yes.

14 Q --- you -- you indicated that you got to the scene
15 -- when did you get to the scene?

16 A I didn't get to the scene -- let's see. I arrived
17 to the scene approximately -- I remember it being about
18 7:45, is when I was notified. And I went from there to
19 the scene -- from the office to the scene.

20 Q You went -- I'm -- I'm sorry. You -- you were
21 notified at 7:45?

22 A Right.

23 Q And you were downtown Columbia, or where were you?

24 A I was downtown Columbia.

25 Q At ---

CROSS-EXAMINATION BY MR. DUNCAN - WILLIAM HILTON 369

1 A It was ---

2 Q --- at your ---

3 A --- at the office.

4 Q I'm sorry.

5 A I was at the office.

6 Q Okay. Washington Street?

7 A Yes.

8 Q Okay. So you -- you were a couple blocks from here?

9 A Right.

10 Q And you had to get out to Garners Ferry Road. Do --
11 do you recall about where that is on Garners Ferry Road?

12 A Yes.

13 Q So it's 15 minutes? Longer than that?

14 A Ah, 15 minutes is about right -- 20 minutes, maybe.

15 Q All right. So estimated, ballpark, you got to the
16 scene maybe at 8 p.m.?

17 A Maybe, roughly. Yes.

18 Q All right. And that 911 call that we just heard, I
19 think -- did -- did you see the time on that? I thought
20 it was about 7:10.

21 A Oh, I didn't -- I didn't -- I didn't see the -- I
22 didn't pay attention to the time. But I have the -- the
23 report right here.

24 Q What -- what's your report say is the time it was
25 called in?

1 A 7:13.

2 Q 7:13?

3 A 7:13.

4 Q Okay. All right. And I'm -- the young lady making
5 the phone call said she didn't want to give her name.

6 And is it correct that you were never able to track down
7 that young lady?

8 A That's -- that's correct.

9 Q Okay. And you heard -- you heard the young lady say
10 that the shooter was wearing a white shirt and shorts and
11 a short guy? Did you hear that?

12 A I did.

13 Q Okay. All right. When -- when you did arrive at
14 Garners -- at the apartment complex, I think you
15 testified there were a number of -- a number of people
16 kind of milling around? Is that a good ---

17 A That'd ---

18 Q There may be a better characterization.

19 A Yeah.

20 Q What ---

21 A That's ---

22 Q --- what you ---

23 A --- about right.

24 Q --- describe?

25 A Yeah. They were just standing around, watching the

CROSS-EXAMINATION BY MR. DUNCAN - WILLIAM HILTON 371

1 police.

2 Q Doing what?

3 A Watching the police.

4 Q Watching the ---

5 A Yeah.

6 Q --- police ---

7 A They were ---

8 (Indistinguishable cross-talk)

9 A --- outside, just seeing what was going on.

10 Q Okay. And again, you weren't able to get anyone to
11 talk to you?

12 A No, sir. Not one.

13 Q All right. Okay. All right. And so the next --
14 the next day, my client, Mr. Green, volunteered -- I
15 mean, he came to see you, right?

16 A That's correct.

17 Q And told you he wanted to tell you what had
18 happened?

19 A Yes, sir.

20 Q Okay. And, Investigator Hilton, you -- that
21 interview was recorded?

22 A Yes.

23 Q And you recall it?

24 A Sir?

25 Q Do you -- do you recall it? I know you do a lot of

1 interviews. I mean, you -- do you recall the interview?

2 A Yes. I do, somewhat.

3 Q Do you -- do you recall Mr. Green -- I mean, Mr. --

4 Mr. Green -- his purpose of coming in was to tell you

5 that he -- he was trying to defend himself? Is -- isn't

6 that basically what he -- the reason he was there?

7 A Right. He -- he wanted to tell his side of the

8 story of what happened, is what I got out of that. Yes,

9 sir.

10 Q And his side of the story was that he was threatened

11 by other individuals at the scene, right?

12 A (No audible response.)

13 Q Specifically, Mr. Rhodes?

14 A Yes. At the latter part of the interview, I

15 remember him saying that Mr. Rhodes said he would have

16 his brother -- I -- I forget the name -- do it ---

17 Q J-5, maybe?

18 A Yeah, that's it, J-5.

19 Q And he said he would have J-5 do what?

20 A Do him.

21 Q Do him?

22 A Yeah.

23 Q Which, to you, means what?

24 A To probably shoot him.

25 Q Okay. And again, Mr. -- Mr. Green had made a --

CROSS-EXAMINATION BY MR. DUNCAN - WILLIAM HILTON 373

1 made a point to get up to your office -- make arrangement
2 to get to your office to tell you that the following day.

3 A That's correct.

4 Q Okay. Was Mr. Green the first person from the scene
5 that you had been able to talk to?

6 A Yes, sir, as a matter of fact.

7 Q All right.

8 A Right.

9 Q And you -- besides see Mr. Green here today in
10 court, you recall him from your interview and that's how
11 you were able to identify the man in the blue jersey as
12 Mr. Green?

13 A Yeah. I -- well, I -- I remembered him on the
14 video. I remember ---

15 Q You remember him in the video ---

16 A Oh, yes, sir.

17 Q --- wearing the No. 31 ---

18 A Yes, sir.

19 Q --- Piazza shirt?

20 A Sir?

21 Q The Dodgers jersey had ---

22 A Right.

23 Q --- blue ---

24 A I didn't know who it was, but yes, sir, the -- the
25 blue jersey.

REDIRECT EXAMINATION BY MR. NEELY - WILLIAM HILTON 374

1 Q Blue jersey. Okay.

2 And you -- you don't have any question that that was
3 him?

4 A Oh, no, sir.

5 Q Okay. I think that's all the questions I have,
6 Investigator Hilton.

7 THE COURT: Any redirect?

8 REDIRECT EXAMINATION

9 BY MR. NEELY:

10 Q The statements that Mr. Duncan's referring to, those
11 are statements by Mikah Green about what happened,
12 correct?

13 A I'm sorry?

14 Q The statements that we're referring to are
15 statements by Mikah Green about what happened, correct?

16 A Well, I only have -- I know about another statement.
17 He only made one ---

18 Q I'm sorry. The statements that Mr. Duncan was
19 referring to you in questions, the statements that came
20 -- that you received in your interview from Mikah Green
21 ---

22 A Right.

23 Q --- that was the defendant's statements?

24 A Yes.

25 Q What he was claiming happened that day?

REDIRECT EXAMINATION BY MR. NEELY - WILLIAM HILTON 375

1 A Yes.

2 Q And as a result of his statement, what did you do?

3 A At the of the interview with the defendant, I called
4 the solicitor's office to get a warrant.

5 Q Okay. Thank you. That's all the questions I have.

6 THE COURT: Anything further?

7 MR. DUNCAN: No, sir.

8 THE COURT: You may step down.

9 (Whereupon, the witness exited the witness stand.)

10 THE COURT: Next witness.

11 MR. NEELY: Your Honor, we have Dr. Durso coming in,
12 in the morning. She's the pathologist in this case. We
13 would ask that we take a recess until that time.

14 THE COURT: All right. Ladies and gentlemen,
15 that'll be it for this day. We'll need you back at 9:30
16 tomorrow morning. Please do not discuss the case.

17 (Whereupon, the jury exited the courtroom at 4:08
18 p.m.)

19 (Off the record briefly.)

20 THE COURT: Anything else?

21 MR. DUNCAN: Not from the defense, Your Honor.

22 MR. NEELY: Not from the state, Your Honor.

23 THE COURT: Well, the -- the -- what is that? -- I
24 know this 911 call that -- and ---

25 (Off the record briefly.)

1 THE COURT: Well, one of your -- the DVD doesn't
2 work, but that's okay. I think we saw it when you played
3 it. But we'll resume at 9:30 tomorrow morning.

4 MR. DUNCAN: Thank you, Your Honor.

5 MR. CORY: Thank you, Your Honor.

6 (Whereupon, the proceeding adjourned at 4:09 p.m.)

7 --- END OF TRANSCRIPT OF RECORD ---

8 VOLUME 2 OF 3

9

CERTIFICATE

I, the undersigned Maryann S. Nevers, CVR-M-CM, RVR, RVR-M, Official Court Reporter (Retired) for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of Volume 2 of the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Circuit Court for Richland County, South Carolina, for the portion of trial held on the 1st day of March, 2022.

I do further certify that I am neither of kin, counsel, nor interest in any party hereto.



Maryann S. Nevers, CVR-M-CM, RVR, RVR-M
Official Court Reporter (Retired)

Leland, North Carolina
April 27, 2022

State of South Carolina) In the Court of General Sessions
) Fifth Judicial Circuit
County of Richland) 2022-GS-40-00105
) 2022-GS-40-00106

State of South Carolina,)
)
 vs.) Transcript of Record
)
Mikah Nelsun Green,) Volume 3 of 3
)
 Defendant.)
)

February 28-March 2, 2022
Richland County Judicial Center
Columbia, South Carolina

B E F O R E:

The Honorable Clifton B. Newman, Judge; and a jury

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<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVID.</u>
C-5	DVD - Statewide Clips		
S-37	***OMITTED BY STATE***		
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S-48	***OMITTED BY STATE***		
S-51	***OMITTED BY STATE***		
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PROCEEDINGS

TRIAL DAY 3 - 03/02/22

(Whereupon, the proceeding resumed at 9:32 a.m.)

THE COURT: Good morning.

MR. CORY: Good morning, Your Honor.

MR. NEELY: Good morning, Your Honor.

MR. DUNCAN: Good morning.

THE COURT: Anything before the jury comes in?

MR. NEELY: Not from the state, Your Honor.

MR. DUNCAN: Not from the defense.

THE COURT: All right. Well, what about the fact that Mr. William Dimer being on the jury, Juror Number -- he is an alternate. His daughter is a public defender. Of course, public defender is not on this case.

MR. DUNCAN: His -- his daughter is a public defender in this office, in Richland?

MR. NEELY: Yes.

THE COURT: In this building?

MR. NEELY: Hope Dimer.

THE COURT: Hope Dimer's father, William, J. Dimer, is on the jury as an alternate.

MR. DUNCAN: He's a alternate. He ---

MR. NEELY: If he's an alternate, I would ask that he be excused and we keep the other alternate at this point, Your Honor.

1 MR. DUNCAN: That's -- Your Honor, that's fine with
2 me. I mean, I -- I -- if I recall, he's the Alternate
3 No. 2. '

4 THE COURT: He is.

5 MR. DUNCAN: Again, fine -- fine with me. We've got
6 -- as long as we've got 12.

7 THE COURT: I don't know what question that might've
8 been asked, whether you're kin to anyone in law
9 enforcement or solicitors -- I don't know if I asked that
10 or not.

11 MR. NEELY: I know normally, if somebody's employed
12 in the -- in the bounds of the courthouse, Your Honor ---

13 THE COURT: Yeah. Okay. So we'll bring Mr. Dimer
14 out. We need Mr. Dimer.

15 THE BAILIFF: Dimer?

16 THE COURT: Number 79.

17 THE BAILIFF: Number 79?

18 THE COURT: Yes, sir. Have him come out.

19 (Off the record briefly.)

20 (Whereupon, the juror entered the courtroom at 9:34
21 a.m.)

22 THE COURT: Mr. Dimer, good morning.

23 JUROR: Good morning.

24 THE COURT: How are you today?

25 JUROR: So I'm doing well. How are you?

1 THE COURT: Okay. It's come to my attention that
2 your daughter is Hope ---

3 JUROR: Yes.

4 THE COURT: --- Dimer, and she works here as
5 attorney in the public defender's office?

6 JUROR: Yes, sir.

7 THE COURT: And I don't know if the parties knew
8 that at the time of jury selection.

9 No one knew that, did they?

10 MR. NEELY: No, sir, Your Honor.

11 MR. DUNCAN: No, sir.

12 THE COURT: Yeah. Typically, people connected with
13 lawyers in the courthouse don't make it on the jury for
14 -- for whatever reason. And -- and typically, the public
15 defender's office is defending in a case as well. Public
16 defender is not involved in this case. But I think both
17 parties prefer to not have you in the jury, based on that
18 relationship.

19 Is that correct, Mr. Solicitor?

20 MR. NEELY: That is, Your Honor. And I -- I do
21 believe I had strikes left over at the end of the
22 selection.

23 THE COURT: All right.

24 MR. NEELY: And I would've used that strike in this
25 case.

1 THE COURT: Okay. You know how the solicitors are
2 arch enemies of public defenders, so they wouldn't put
3 you on the jury, I don't think. But all that considered
4 -- and I'm just using that word, you know, in a casual
5 sense, more or less, even though they do fiercely contest
6 each other. Because the public defender is generally in
7 the spot of Mr. Duncan in these cases.

8 But all that being considered, we're not going to
9 use you as a juror. We picked -- not that you would've
10 served in deliberations, because the -- all 12 jurors
11 were here are the first 12 selected, and we picked two
12 alternates. And we will let you go, and that'll leave us
13 with him.

14 JUROR: Okay.

15 THE COURT: All right. Thank you very much. I hope
16 you've enjoyed the experience thus far.

17 JUROR: So far.

18 THE COURT: All right.

19 JUROR: Can I get my things out of the ---

20 THE COURT: Yeah. I told the bailiffs to have you
21 bring your things out because it's -- they -- they --
22 didn't hear that part.

23 Mr. Bowen ---

24 THE BAILIFF: I didn't hear that part, Your Honor.

25 THE COURT: Yeah. Gentleman jurors -- yeah. He

1 should've brought his things out with him.

2 Can you -- what do you have in there?

3 JUROR: I have a pad and a crossword puzzle and a
4 deck of cards.

5 THE COURT: All right. Can you -- oh, you came
6 ready.

7 JUROR: Yes, sir.

8 THE COURT: Can you get those three things?

9 THE BAILIFF: Yes, sir. We'll go get it.

10 THE COURT: And he'll -- he'll get those out for
11 you. And just when someone leaves the jury, they -- they
12 leave because they don't go back in there.

13 JUROR: Yes. I figured that's what would happen.

14 THE COURT: They -- they -- they might go back and
15 might say: "The judge has kicked me off the jury or the
16 state didn't want me," or whatever. So it's best to have
17 them come out and then ---

18 JUROR: That's fine.

19 THE COURT: Yes, sir.

20 JUROR: Thank you.

21 THE COURT: So that will take care of your jury
22 services this week. And certainly, we thank you for --
23 for serving.

24 JUROR: Thank you.

25 THE COURT: Okay.

1 (Whereupon, the juror exited the courtroom at 9:37
2 a.m.)

3 (Off the record briefly.)

4 THE COURT: Is there anything else before the jury
5 comes in?

6 MR. NEELY: Your Honor, the only thing that I have
7 left to address would be the potential matter for the
8 impeachment of Booker Henley if he's called by the
9 defense ---

10 THE COURT: Booker Henley?

11 MR. NEELY: That's correct, Your Honor.

12 THE COURT: All right.

13 MR. DUNCAN: Your Honor, that's the gentleman who
14 testified Monday in the stand-your-ground. He was
15 brought from Alvin S. Glenn. And we would intend to call
16 him, you know, once the state finishes its case.

17 THE COURT: Okay. So what -- what is the
18 impeachment?

19 MR. NEELY: Your Honor, I have information that
20 Mikah Green and Booker Henley stayed at the same dorm for
21 a period of time in Alvin S. Glenn.

22 THE COURT: All right.

23 MR. NEELY: And I certainly think that ---

24 THE COURT: Well, that's cross-examination. I mean,
25 what else do you have? Do you have, like ---

1 MR. NEELY: Well, Your Honor, what I was ---

2 THE COURT: I mean, I don't need to know what you
3 plan to ask him. You know, that -- that's -- that's like
4 the smoking gun you save for cross-examination and not --
5 not -- not telegraphed in advance.

6 MR. NEELY: Well, Your Honor, if -- if I may? I was
7 concerned about bringing up Mr. Green's detention in --
8 in ASG ---

9 THE COURT: Oh, okay.

10 MR. NEELY: --- from the state. And I wanted to
11 make sure that we had cleared this as -- this meets the
12 standard for ---

13 THE COURT: Oh, so it becomes a nonissue if the
14 defendant testifies, maybe.

15 MR. NEELY: Maybe.

16 MR. DUNCAN: There's a -- there would be a way
17 around it. But obviously, he can ask the question when
18 he wants to. Clearly, Mr. Green and Mr. Henley knew each
19 other. That's what they were doing out there on the
20 afternoon when they were planning some ---

21 THE COURT: Yeah. Well, they're -- and that they're
22 roommates.

23 MR. DUNCAN: Yes, in a manner of speaking.

24 THE COURT: What you're asking now, does that --
25 that satisfy it for you or you want to say once you were

1 roommates at the jail?

2 MR. NEELY: Your Honor, I -- I think it's important
3 that they were in the jail together. I think that adds a
4 little bit of the jailhouse-snitch drama that we need to
5 deal with whenever we're calling from the jail. And it
6 shows their connection and the time they had together do
7 nothing else.

8 THE COURT: All right.

9 MR. DUNCAN: The defense ---

10 THE COURT: This is obviously not the very first
11 time in history that someone from jail has come to
12 testify against -- on behalf of someone else, a -- a
13 codefendant or defendant. So how has -- how have the
14 courts dealt with that issue before?

15 MR. NEELY: Your Honor, I believe that it is a test
16 of the prejudicial value versus the ---

17 THE COURT: Have -- how have courts dealt with it
18 before?

19 MR. NEELY: Your Honor, I do not have any case law
20 on that right here in front of me. But I did want to
21 bring it to Your Honor's attention first. Because ---

22 THE COURT: Okay. Well ---

23 MR. NEELY: --- there's a rule ---

24 THE COURT: --- I'm glad you did.

25 MR. DUNCAN: Well, that's -- that's fine. I mean, I

1 -- seems to me, I'd be ready to deal with it at the time
2 I would call Mr. Henley.

3 THE COURT: All right. Well, you know, obviously,
4 the -- the state would have -- have -- has the right to
5 show bias when we -- by the person and -- and that if the
6 evidence shows that they were huddled together after the
7 incident or in a position huddled together, then that
8 could be important. But I don't know. I -- you know,
9 you all just kind of throw these random questions at the
10 judge so -- for the judge to figure out what to do. That
11 -- you know, I'll really have to try to find some law or
12 something on that. As I say, I'm sure it's not the first
13 time it's happened in the history of the state of South
14 Carolina -- well, not in South Carolina -- in the United
15 States. And somebody has filed an appeal, claiming that
16 it shouldn't -- shouldn't have been done.

17 MR. NEELY: Certainly, Your Honor. I can check on
18 that maybe while the -- Mr. Duncan talks to his client
19 about whether he wants to testify.

20 THE COURT: Well, you have other witnesses, don't
21 you?

22 MR. NEELY: I do, Your Honor. They are here and
23 ready to be called.

24 THE COURT: Okay. All right. Well, that's gives us
25 some time to ponder on that question.

1 MR. DUNCAN: All right. Thank you, sir.

2 THE COURT: All right. Let's bring the jury.

3 (Off the record briefly.)

4 (Whereupon, the jury entered the courtroom at 9:43
5 a.m.)

6 THE BAILIFF: Jury is seated, Your Honor.

7 THE COURT: All right. Thank you.

8 Good morning.

9 JURORS: Good morning.

10 (Off the record briefly.)

11 THE COURT: All right. Madam Forelady, how is the
12 jury doing?

13 THE FOREPERSON: They're doing good.

14 THE COURT: Okay. Good. Welcome to Day No. 3.

15 Continuing with the state's case, you may call your
16 next witness.

17 MR. NEELY: Thank you, Your Honor. May it please
18 the Court. The state would call Dr. Amy Durso.

19 (Whereupon, the witness came forward.)

20 DEPUTY CLERK OF COURT: Could you state your full
21 name, please.

22 THE WITNESS: Amy Durso.

23 DEPUTY CLERK OF COURT: Could you spell you first
24 name, please.

25 THE WITNESS: Amy, A-m-y; Durso, D-u-r-s-o.

DIRECT EXAMINATION BY MR. NEELY - AMY DURSO 392

1 DEPUTY CLERK OF COURT: D-u-r-s-o?

2 THE WITNESS: Yes.

3 AMY DURSO, having been first duly sworn,
4 testified as follows:

5 DEPUTY CLERK OF COURT: Thank you. You may be
6 seated.

7 THE BAILIFF: Watch your step.

8 DIRECT EXAMINATION

9 BY MR. NEELY:

10 Q Dr. Durso, how are you doing this morning?

11 A Good. How are you?

12 Q Good. Thank you for being here.

13 Where are you employed?

14 A So I'm employed by Professional Pathology Services
15 here in Columbia, South Carolina, as a forensic
16 pathologist.

17 Q So I know what that means, and you know what -- you
18 know what that means. But they probably don't. So what
19 does a forensic pathologist do?

20 A So a forensic pathologist is a medical doctor that
21 basically examines bodies after death to determine cause
22 of death, as well as to document any abnormalities,
23 injuries, anything like that.

24 Q And did you receive education to that effect?

25 A I did. So after four years of college, I went to

DIRECT EXAMINATION BY MR. NEELY - AMY DURSO 393

1 University of North Carolina in Chapel Hill to get my
2 M.D. for four years. And then I went on to Wake Forest
3 University Medical Center for four more years to do a
4 pathology-residency program. And then I stayed an
5 additional year at Wake Forest to do a fellowship year in
6 forensic pathology, specifically.

7 Q And how long have you been doing it since then?

8 A Almost 12 years.

9 Q And have you ever been qualified as an expert
10 witness before?

11 A Yes. Many times.

12 Q Ballpark?

13 A Forty/fifty times, maybe.

14 MR. NEELY: Your Honor, at this point I would offer
15 Dr. Durso as an expert in forensic pathology.

16 MR. DUNCAN: I -- no objection to that.

17 THE COURT: All right. Ladies and gentlemen, this
18 is an expert witness in forensic pathology. It means
19 that she can offer opinions, where other witnesses
20 cannot.

21 Q Now, Dr. Durso, did you have occasion to perform an
22 autopsy on Stacy Rhodes?

23 A I did, on March 31st, 2019.

24 Q And what were your general observations, starting
25 out?

1 A So we start out just by looking at the outside of
2 the body, taking everything from, like, hair color and
3 height, weight, all of that. But obviously, we also look
4 for injuries. And it was noticeable that on top of -- of
5 a lot of medical intervention, he also had what appeared
6 to be two gunshot-entrance wounds.

7 Q And, Dr. Durso, I'm going to show you what's been
8 entered into evidence as State's Exhibit 39, 40, 41, 42,
9 43, 44, and 46. Could you tell me if you recognize those
10 photos and what they are?

11 A So these all appear to be photographs taken at the
12 time that I did my autopsy ---

13 Q And are ---

14 A --- on Mr. Rhodes.

15 Q And are those accurate ---

16 A Yes.

17 Q --- on that day?

18 I'm going to put up on the big screen some of those
19 pictures to look at.

20 (Off the record briefly.)

21 Q Dr. Durso, can you tell us what we're looking at
22 here?

23 A So yeah. This is the back of Mr. Rhodes. And you
24 can see there are two defects: one kind of up towards
25 the top near his neck; and then, around the right back.

DIRECT EXAMINATION BY MR. NEELY - AMY DURSO 395

1 And those are both gunshot-wound entrances.

2 Q Is it possible to tell from a gunshot or from that
3 autopsy how far away the shooter was?

4 A So the things we look for are soot and stippling.
5 So soot would be the actual, you know, soot coming out of
6 the end of the gun, which is usually -- it would have to
7 be within 6 inches to cause soot deposition. The other
8 thing we look for is stippling, which actually the little
9 flakes of gunpowder that actually hit the body and cause
10 these little pinpoint abrasion. And usually, that's
11 within 18 to 24 feet (verbatim), depending on the gun and
12 the kind of gunpowder used. I did not see either of
13 these on Mr. Rhodes' body.

14 The other thing you would have to take into account
15 is if the bullet went through an object before hitting
16 him. So, you know, if it went through a door, that would
17 actually stop the soot and the stippling. But as long as
18 it didn't go through any large object or really heavy
19 clothing, like multiple layers of clothing, I could say
20 that these are at least, you know, 18 to 24 inches away,
21 is when he was shot.

22 Q Okay. So at least 2 feet away, but we really can't
23 tell more than that?

24 A After that, I cannot tell. No.

25 Q Okay. And in this case, did we have stippling or

1 soot?

2 A There was no soot or stippling, no.

3 Q And would -- would you expect to find soot or
4 stippling in a -- a wound to the neck like this if it was
5 less than 2 feet?

6 A Yes.

7 Q And when you perform an autopsy, how -- what do you
8 do to determine the path of the bullet?

9 A So obviously, I write down and I document all the
10 wounds I see on the outside, but you can never match them
11 up until you actually open up the body. And also, can I
12 add that before we even open the body, we do X-rays of
13 all of our gunshot-wound victims to look to see where
14 there might be a projectile remaining with the body. So
15 we make sure that we collect it at autopsy and hand it
16 over to law enforcement.

17 Q And is this one of those X-rays? I'm holding up
18 State's Exhibit No. 42.

19 A Yes.

20 Q All right. And could you show the jury where the
21 bullet is in this X-ray?

22 A So this is taken from the side, so this is called a
23 lateral X-ray. So that'd be going into through side.
24 And this is the back, and this is the front. And you see
25 this little projectile right here that's kind of almost

DIRECT EXAMINATION BY MR. NEELY - AMY DURSO 397

1 like in the abdominal fat, kind of in the front of him.

2 Q And if you could also just turn that picture to show

3 ---

4 A I'm sorry.

5 Q --- it to the jury.

6 A (Complied.)

7 Q And indicate to them where the bullet is.

8 A And the bullet is right here.

9 Q And was this the projectile recovered from the body?

10 A Yes.

11 Q And you recovered that projectile?

12 A I did.

13 Q Was only one projectile recovered from the body?

14 A That's -- at autopsy, yes.

15 Q At autopsy. Okay.

16 And were you able to determine the path of the
17 bullet as they went through the body?

18 A Right. So after we do the X-rays, we kind of
19 document everything. Then we open up the body. So we do
20 this in every autopsy, is that we reflect back the chest
21 skin; remove the chest plate. We look for collections of
22 fluids, if it's blood; document everything.

23 And then, we actually have, you know, metal rods we
24 kind of line up before we remove any of the organs to
25 line up the actual trajectory of the body to figure out

1 where things go. Because bullets are going to travel
2 straight. You know, they're not going to curve around.

3 So the one that enters the -- the upper back near
4 his neck goes through the left first rib in the back. It
5 then goes through -- so it -- now it's into the pleural
6 cavity. It actually doesn't go through. It's so far up,
7 it doesn't actually hit the lung. It just causes a
8 little bruise to the lung, what we call a pulmonary
9 contusion.

10 It then goes through the left subclavian artery and
11 vein. So these are the major artery and vein that kind
12 of are heading towards and bringing all the blood flow to
13 the left arm. So these are major vessels in the body.
14 That would cause immediate bleeding. And a lot of this
15 blood ended up collecting in the left chest cavity, which
16 would prevent his lung from inflating.

17 It then goes to the left clavicle. So this is the
18 clavicle here, this bone in front. And it then goes into
19 the soft tissue of this left shoulder.

20 And he had had surgery -- emergency surgery prior to
21 autopsy. So they had actually collected the projectile
22 during surgery. It was not there at autopsy, but I was
23 able to track the path of it.

24 Q And you -- you described the anatomy, the direction
25 of the bullet. But which direction from, I guess ---

1 A Right.

2 Q Up/down, left/right perspective?

3 A Right. So it's going back-to-front. So you think
4 it's coming in back here. It's going towards the front
5 slightly. It's going right-to-left. And it's going just
6 slightly downwards.

7 Q And what about the ---

8 A So the second gunshot wound I described goes into
9 the right-lower back. It goes between the eighth and
10 ninth ribs on the back-right side. It then goes through
11 the right-lower lobe of the lung. So this one does go
12 through the lung.

13 It actually then goes through the diaphragm, which
14 is what divides the chest cavity from the abdominal
15 cavity. It then hits the liver, which is on the right
16 side. And then it goes through the right seventh and
17 eighth ribs in the front. So your liver actually sits up
18 under your rib cage on the right.

19 And then it goes into the soft tissue there. And
20 that's where I recovered the projectile that you saw in
21 the X-ray here.

22 Q And kind of, again, for a layman's perspective,
23 which direction was that?

24 A Right. So that is going from back-to-front, right-
25 to-left slightly, and slightly downwards as well.

1 Q And during the course of an autopsy, do you get a
2 toxicology on the victim?

3 A Right. So all of our autopsies that we do, as long
4 as there's fluids to collect, we collect blood, urine,
5 and the juice fluid from the eye, as long as it's
6 available. And it's submitted for toxicology testing.

7 Q And in this case was -- was a toxicology ---

8 A Yes.

9 Q --- report done?

10 And were there any illegal drugs in the victim's
11 system?

12 A There were no illegal drugs, no.

13 Q Were there any legal drugs, other than alcohol, in
14 his system?

15 A No.

16 Q How much alcohol was in his system?

17 A So his level was 0.037 percent.

18 Q Okay. The testimony so far is that he was at a
19 barbecue, potentially drinking. There are picture of --
20 of handles of liquor around. How much alcohol is 0.03?

21 A So the driving limit is 0.08, so he's a half of even
22 the limit to drive. So it's -- it's a very small amount.

23 Q Okay. So he could've driven and, even if a cop
24 pulled him over, he'd be fine?

25 A Correct.

DIRECT EXAMINATION BY MR. NEELY - AMY DURSO 401

1 Q So it was a very small amount of alcohol?

2 A Yes.

3 Q No drugs.

4 A (No audible response.)

5 Q Dr. Durso, based on the -- the wounds to his body
6 and the direction, the downward direction of the bullet
7 trajectory, would these wounds be consistent with a
8 person firing a gun from a higher height?

9 A Yes.

10 Q From 10 to 15 feet away?

11 A It's consistent with that, yes. As I say, I can't
12 tell distance, but it's consistent with it.

13 Q Dr. Durso, did you do a diagram kind of showing this
14 for your autopsy report?

15 A I did.

16 Q Do you have that with you?

17 A I do. The one with just the gunshot wounds?

18 Q (Nodded head up and down.) And did -- did you make
19 this report?

20 A This -- yeah. So the diagram is like a generic male
21 diagram. And then, I make a lot of notes. So I have
22 kind of a messy one. And then, this is the neat one that
23 is actually able for other people to read.

24 Q And is this an accurate diagram of the autopsy
25 position of the bullets?

1 A As accurate as I can make it on that generic
2 diagram. Yes.

3 Q All right.

4 MR. NEELY: Your Honor, at this time the state would
5 enter this into evidence as ---

6 MR. DUNCAN: Can I see that?

7 (Off the record briefly.)

8 THE COURT: Any objection?

9 MR. DUNCAN: No objection.

10 THE COURT: It's admitted.

11 (Whereupon, State's Exhibit 62 was marked and
12 entered into evidence.)

13 THE COURT REPORTER: Mr. Neely, this will be Exhibit
14 62 entered into evidence.

15 MR. NEELY: 62?

16 MR. DUNCAN: 52?

17 THE COURT REPORTER: 62.

18 MR. NEELY: 62.

19 MR. DUNCAN: 62. Got you.

20 Q Dr. Durso, is there anything else that you can tell
21 us from your autopsy that would be informative, or -- or
22 is this kind of the whole -- like, what could you tell
23 that's not specific; is that correct?

24 A I'm sorry. I don't ---

25 Q Sorry.

DIRECT EXAMINATION BY MR. NEELY - AMY DURSO 403

1 A --- really ---

2 (Indistinguishable cross-talk)

3 Q Let me rephrase that question. That question was
4 poorly asked. Is there anything else you can tell us
5 about this body that would help the jury understand what
6 happened before you saw him?

7 A Do you want me to go through any other findings I
8 have?

9 Q What other findings did you have?

10 A So the other findings he had were just a lot of
11 abrasions on his face. And I believe there were some on
12 his hands and his arm. But those are very consistent
13 with someone that falls face-first.

14 So anyone that loses consciousness, you know, from
15 blood loss, which is a gunshot wound, or even falls
16 unconscious from a heart attack, sometimes we see
17 abrasions. And we look for these abrasions on
18 protuberant parts of the body, of the face. So they were
19 on the bridge of his nose, his chin. And they were all
20 consistent with what we call a terminal fall, or someone
21 falling because they're dying or aren't conscious
22 anymore.

23 Q And I'm going to show you what's been marked as
24 State's Exhibit 44. Is this a picture of Stacy Rhodes'
25 hand?

1 A Yes. So again, they're just some abrasion on his
2 hands that are, again, consistent with just falling or
3 scraping. They're not specific for anything, really.

4 Q So why do you -- why would you take a picture of the
5 victim's hands?

6 A It's just standard to make sure we document
7 everything we can.

8 Q And if the defendant was engaged in a fistfight,
9 would you expect to see different kinds of wounds on his
10 hands?

11 A So the pattern of injury, you know, we're taught
12 about in training is for fistfights, this would be more
13 like the prominent knuckles of the hands, because that's
14 what would hit first.

15 Q But in this case, it looks -- looks like there's no
16 defensive wounds to the victim's hands?

17 A I wouldn't really call those defensive wounds. But
18 ---

19 Q Well ---

20 A --- no. There's no abrasions on the prominent parts
21 of the knuckles, no, that would indicate he was
22 definitively in a fight or anything. No.

23 Q Thank you, Dr. Durso. That's all the questions I
24 have.

25 (Off the record briefly.)

CROSS-EXAMINATION BY MR. DUNCAN - AMY DURSO 405

1 THE COURT: Mr. Duncan.

2 CROSS-EXAMINATION

3 BY MR. DUNCAN:

4 Q Good morning, Dr. Durso.

5 A Good morning.

6 Q Dr. Durso, you -- you have -- you've been employed
7 at Professional Pathology -- I think you said self-
8 employed; is that right?

9 A Professional Pathology Services. So it's a group of
10 pathologists. And I'm an employee.

11 Q I see. Okay. And you've been there about 12 years?

12 A Yes.

13 Q So you -- the way you are asked, then who -- does
14 the coroner ask you to examine a body? Is that the way
15 that works?

16 A Right. So usually, it's the Richland County
17 Coroner's Office that requests the autopsy. They're
18 called to the scene or to the hospital. And then, they
19 determine if an autopsy is needed, and then they request
20 the autopsy through us.

21 Q Okay. Do you have your report in front of you now?

22 A I do.

23 Q Okay. All right. And I think I have some -- some
24 issue -- questions to follow up. You say that there's no
25 soot or stippling -- stippling identified on the skin; is

1 that correct?

2 A That is correct.

3 Q All right. And if I understood what you said about
4 soot, soot would be a very close-range gunshot ---

5 A That is ---

6 Q --- right?

7 A --- correct.

8 Q And did I hear 6 inches?

9 A Yes, 6 inches is standard. Again, everything kind
10 of varies between gun and the kind of ammunition. And we
11 kind of would leave that more to, you know, ballistics
12 experts. But yes. Standard is about 6 inches.

13 Q Okay. Did you -- you removed one projectile during
14 the autopsy. Do you recall what caliber that was?

15 A I don't ever determine the caliber. I hand it over
16 ---

17 Q That's not what you do.

18 A Correct.

19 Q I mean, that's -- you -- you took it out and you put
20 it over there and ---

21 A I looked at it and, yes, I handed it over to law
22 enforcement.

23 Q And return it -- give it to law enforcement, that's
24 what you -- that's what you did?

25 A Correct.

CROSS-EXAMINATION BY MR. DUNCAN - AMY DURSO 407

1 Q Okay. And again, you testified about two -- two
2 wounds, two -- so two projectiles. And one, you believe,
3 had been removed during surgery.

4 A Correct. It was not there at autopsy. That's why
5 we do the X-rays. So we had X-rayed not just the chest
6 and the abdomen, but we had X-rayed the arm and it was
7 not there. And there was no exit wound, so ---

8 Q I understand.

9 A --- I assume it had been removed during surgery.
10 And I haven't looked at the medical records since 2019.
11 I assume the surgeons documented that somewhere.

12 Q I see. Okay. All right. And the -- the stippling
13 that you testified about, you would expect to find that
14 in gunshots of -- how -- how far did you say? I heard 18
15 to 24. It was 18 to 24 ---

16 A Yeah ---

17 Q --- feet?

18 A --- 18 to 24 inches ---

19 Q Inches?

20 A --- away. Yes.

21 Q All right. So the -- the lack of stippling would --
22 would indicate -- generally indicate to you that the
23 distance was more than 2 feet.

24 A Correct.

25 Q But that's about -- that's as much as you can say,

1 right?

2 A That is as much as any forensic pathologist can say.
3 Yes.

4 Q Okay. All right. And you're -- you got this -- you
5 got this body on the 31st of -- let's see -- March ---

6 A That is correct, March 31st.

7 Q I'm trying to look -- it looks like 8 -- is it 8
8 a.m.?

9 A That is correct.

10 Q Okay. All right. And again, maybe -- maybe beyond
11 what -- again, what you're asked to do. Is there any --
12 as you examine a body, do you do any kind of like gunshot
13 residue? Would you -- would you have noted that in ---

14 A That is something that law enforcement collects. So
15 usually, if it's a homicide or any really suspicious
16 death as a gunshot wound, law enforcement attends the
17 autopsy. They're given the start time. And they're able
18 to collect what they need. Or they can collect it, you
19 know, at the scene or at the hospital. That's not in
20 what -- the realm of what a forensic pathologist would
21 collect.

22 Q Okay. So you -- you don't know -- well, you don't
23 know if any was collected in this case?

24 A I do not know.

25 Q Okay. All right. Okay. And you say -- you

CROSS-EXAMINATION BY MR. DUNCAN - AMY DURSO 409

1 testified that -- in questioning from Mr. Neely that
2 there was a toxicology screen done, like, a -- it's a --
3 is that a routine ---

4 A Yeah.

5 Q --- part ---

6 A It's standard. It looks for major drugs of abuse
7 and some other medications, like opioids, that sort of
8 thing. I don't have the list in front of me. And it --
9 I think it changes. You would have to ask SLED what they
10 tested for in 2019.

11 Q But you -- you -- in other words, you -- what do you
12 do, a blood draw ---

13 A Right.

14 Q --- or you ---

15 A But actually, I looked back in this point. This was
16 actually admissions blood that was collected ---

17 Q I'm sorry.

18 A --- at the hospital.

19 Q Oh.

20 A He went to the hospital first. So this wasn't
21 actually blood I took. At -- in this case, it was
22 actually blood that was taken at the hospital when he
23 arrived.

24 Q Okay. All right. And so that -- you had that blood
25 and you ---

1 A The Richland County Coroner's Office collected that
2 blood and submitted it. So I never had possession of
3 that blood.

4 Q Okay. So in your report in the toxicology
5 screening, it looks like -- looks like that's added --
6 well, I know it was added later, right, if -- if -- I
7 think it says 5/17/19 on page 6 of your report.

8 A That's correct. It takes a few months or -- to come
9 back. So we add it later, so we can go ahead and sign
10 out our initial report.

11 Q Okay. Got it. And -- and so you note on there (as
12 read): "A routine drug and alcohol screen of the
13 admissions blood is positive for ethanol."

14 So in -- alcohol?

15 A Exactly.

16 Q And you say it's 0.037 percent, so just under half
17 of the legal limit to drive in South Carolina.

18 A Exactly.

19 Q Okay. So he had some alcohol in his system, but not
20 -- not a whole lot, but some alcohol.

21 A Correct.

22 Q All right. Do you -- I -- I heard you say that you
23 reviewed medical records back in 2019 at some point; is
24 that right?

25 A Correct. Usually, when they come in to the hospital

REDIRECT EXAMINATION BY MR. NEELY - AMY DURSO 411

1 review, but sometimes some of the surgeon reports aren't
2 even in yet. So I try to look at them at the time of the
3 autopsy to make sure I'm not missing anything.

4 Q So you -- I mean, do you recall having that on that
5 early morning? I mean ---

6 A So Prisma Health Richland, I have privileges there.
7 So I'm able to pull up their electronic-medical-record
8 system.

9 Q Okay. Like -- like nurse's notes and those kinds of
10 things in basically -- not real time, but you can get
11 them almost immediately.

12 A Once they're in, yes.

13 Q All right. Okay. I mean, as soon as the -- as soon
14 as the nurse or doctor enters the report, you can see it.

15 A Right.

16 Q Okay. All right. Dr. Durso, at -- after amending
17 your report in May of 2019 to indicate the presence of
18 alcohol from the SLED results, have you had any other
19 involvement in this case until today?

20 A No.

21 Q Okay. Thank you. I don't have anything further.

22 MR. NEELY: Just briefly, Your Honor.

23 REDIRECT EXAMINATION

24 BY MR. NEELY:

25 Q Dr. Durso, can a toxicology report change the

1 opinion of cause of death?

2 A In some cases. Typically not in gunshot-wound
3 cases.

4 Q But in this case, what caused the death?

5 A The cause of death in this case was -- make sure I
6 word it correctly -- multiple gunshot wounds involving
7 the torso, so the major part of the body.

8 Q And the -- the wound to the neck had a downward
9 trajectory?

10 A Slightly downwards. Yes.

11 Q And how tall was Mr. Rhodes?

12 A He was 70 inches tall, so that would be 5 feet 10
13 inches.

14 Q That's all the questions I have.

15 MR. DUNCAN: Nothing further.

16 THE COURT: You may step down.

17 THE WITNESS: Thank you.

18 (Whereupon, the witness exited the witness stand.)

19 (Off the record briefly.)

20 THE COURT: Next witness.

21 MR. NEELY: The state would call Diamond Sanders.

22 THE COURT: All right.

23 (Off the record briefly.)

24 (Whereupon, the witness came forward.)

25 DEPUTY CLERK OF COURT: State your full name,

DIRECT EXAMINATION BY MR. NEELY - DIAMOND SANDERS 413

1 please.

2 THE WITNESS: Diamond Sanders.

3 DEPUTY CLERK OF COURT: Spell it.

4 THE WITNESS: It's D-i-a-m-o-n-d ---

5 DEPUTY CLERK OF COURT: Say that one more time.

6 THE WITNESS: Diamond Sanders, D-i-a-m-o-n-d; last
7 name Sanders, S-a-n-d-e-r-s.

8 DIAMOND SANDERS, having been first duly sworn,
9 testified as follows:

10 DIRECT EXAMINATION

11 BY MR. NEELY:

12 Q And, Diamond, you can pull your mask down while
13 you're answering questions.

14 A (Complied.)

15 Q Ms. Sanders, are you a little bit nervous right now?

16 A Yes.

17 Q That's okay. Take -- take your time. If you need a
18 break let us know, okay?

19 A Can I get one now? I'm having anxieties now.

20 Q You need a bottle of water or ---

21 A Uh-huh.

22 Q Okay.

23 MR. NEELY: Your Honor, can we have a short recess
24 to get her some water?

25 THE COURT: No. We have water. We'll get her some

1 water.

2 (Off the record briefly.)

3 Q Diamond, did you know Stacy Rhodes?

4 A Yes.

5 Q How did you know Stacy Rhodes?

6 A I'm met him through my family.

7 Q Oh, you -- you knew ---

8 MR. DUNCAN: I'm sorry. Your -- Your Honor, I'm --
9 I'm sorry. I don't mean to interrupt. I -- I can't -- I
10 can't hear any of that.

11 THE WITNESS: Can you hear me now?

12 MR. DUNCAN: Yes.

13 THE COURT: Yes.

14 Q Would you repeat that, please?

15 A Yeah. I met Stacy through my family.

16 Q And specifically, who in your family?

17 A My mother.

18 Q And who's your mother?

19 A Alexia Smith.

20 Q Alexia Smith?

21 A (Nodded head up and down.)

22 Q She testified earlier this week?

23 A Right.

24 Q Were you in the car with your mom when she went to
25 Lakeshore Apartments?

DIRECT EXAMINATION BY MR. NEELY - DIAMOND SANDERS 415

1 A Yes.

2 Q And where in that car were you?

3 A Passenger's side.

4 Q Do you remember what y'all were doing at Lakeshore
5 Apartments?

6 A We were visiting a friend.

7 Q You remember who that friend was?

8 A Deon.

9 Q Deon?

10 A (Nodded head up and down.)

11 Q Do you recall noticing anything as -- as you entered
12 Lakeshore Apartments?

13 A No.

14 Q Not really?

15 A (Shook head from side to side.)

16 Q Do you recall noticing anything as y'all were
17 beginning to leave Lakeshore Apartments?

18 A No.

19 Q Okay. Did it seem like there was an argument going
20 on?

21 A No.

22 Q No?

23 A (No audible response.)

24 Q As y'all were leaving the apartment complex, did
25 your mother ever stop the car?

- 1 A Yes.
- 2 Q Why did she stop the car?
- 3 A Because we saw Stacy.
- 4 Q And did you roll your window down?
- 5 A Yes.
- 6 Q Were you calling for Stacy too?
- 7 A I'm sorry?
- 8 Q Were you calling for Stacy, too, or just your mom?
- 9 A I was too.
- 10 Q Okay. After y'all called for Stacy, did he come
- 11 over?
- 12 A Right. Yes.
- 13 Q As he was coming over, did you see him say anything
- 14 -- or did you hear him say anything?
- 15 A Yes.
- 16 Q What'd he say?
- 17 A Pardon my language. He said that: "This bitch-ass
- 18 nigga mad about a game."
- 19 Q He -- he said what?
- 20 A "This bitch-ass nigga is mad about a game."
- 21 Q That's what Stacy Rhodes said?
- 22 A Right.
- 23 Q Did you have any idea what he's talking about?
- 24 A I guess they were playing some kind of a game.
- 25 THE BAILIFF: Judge, the juror said she couldn't

DIRECT EXAMINATION BY MR. NEELY - DIAMOND SANDERS 417

1 understand the last statement she made.

2 THE COURT: Why don't you just back off, please,
3 just a little bit back, just a little bit.

4 (Off the record briefly.)

5 THE COURT: Could you repeat your last answer?

6 THE WITNESS: Yes.

7 A When Stacy came to the car, he said: "This bitch-
8 ass nigga mad about a game."

9 Q Was that the first thing he said to you?

10 A Uh-huh.

11 THE COURT: "Yes" or "no"?

12 THE WITNESS: Yes.

13 Q And did -- did he indicate who he was talking about?

14 A He looked back, but he didn't point or anything.

15 Q Okay. So he looked back like that?

16 A Right.

17 Q What happened next?

18 A So when he said that, a black came behind him. And
19 he said: "Nigga, what you said?" And he shot him in the
20 back while Stacy was talking to me through the window.

21 And Stacy said: "Oh, you shot me."

22 Q So a black man went behind Stacy Rhodes?

23 A Yes.

24 Q And he said what?

25 A He said: "Bitch-ass nigga, what you said?" And

1 then he shot him.

2 Q How many times did he shoot him?

3 A The shots were, like -- they weren't back to back.
4 When he first shot him, Stacy was still standing.

5 THE BAILIFF: Judge ---

6 A And then my ---

7 THE BAILIFF: --- the jurors saying that they having
8 difficulty understanding what she's saying, speaking fast
9 ---

10 Q Just try to move back a little bit further.

11 THE COURT: If they ---

12 Q And slow down. I know you're nervous. I know this
13 is a -- it's a anxiety-filled situation. Take a big
14 breath and slow down.

15 And you heard Stacy say what? Just try to be slow.

16 (Off the record briefly.)

17 A So Stacy came to the car. And Stacy said: "That
18 nigga mad -- that bitch-ass nigga mad about a game."

19 Q All right. Slow that down a little bit, because
20 that's so fast. I -- I know -- I know it's cuss words.
21 It's kind of a strange situation to be saying those kind
22 of things.

23 A Yeah. I feel weird saying it.

24 Q Okay. So just kind of slow it down. What -- what
25 did Stacy say?

DIRECT EXAMINATION BY MR. NEELY - DIAMOND SANDERS 419

1 A He said: "That nigga mad about a game."

2 Q And then a black male came up behind Stacy?

3 A Right.

4 Q And what did he say?

5 A He said: "Nigga, what did you say?" And then he
6 shot him.

7 Q Twice?

8 A Correct.

9 Q Do you remember what the shooter had on that day?

10 A Yes.

11 Q What'd he have on?

12 A He had a blue shirt on and some blue denim jeans.

13 Q Do you remember this incident well?

14 A Not vividly.

15 Q Do you remember what the shooter looked like, other
16 than the description of his clothing?

17 A I didn't really get a good look.

18 Q You were focused on Stacy?

19 A Correct.

20 Q Okay. When Stacy looked over his shoulder, did he
21 look in the direction of -- of the person that shot him?

22 A Yes.

23 Q And the person seemed to respond to Stacy saying
24 that?

25 A Yes.

1 Q Did it appear that that's why the shooter shot
2 Stacy? Or was ---

3 A Yes.

4 Q --- it -- was it immediately thereafter?

5 A Could you say that again?

6 Q Was -- was the shooting immediately after he said
7 something back to Stacy?

8 A Yes.

9 Q Was the first shot?

10 A Yes.

11 Q And you said there was a -- a -- a pause?

12 A A pause.

13 Q And then ---

14 A Uh-huh.

15 Q --- two shots?

16 A (No audible response.)

17 Q What happened after the shots?

18 A So the first shot, Stacy said: "Ow, you shot me."
19 But he was still standing up.

20 My mother tried to get out the car. But we had two
21 babies in the back. So I told her, like: "We -- we have
22 to go, Mom. Like, he going kill us too."

23 And he shot him again, but we was already riding
24 off. But I stick my -- I stuck my head out the window,
25 and I saw Stacy on the ground.

DIRECT EXAMINATION BY MR. NEELY - DIAMOND SANDERS 421

1 Q And were there more shots after y'all were pulling
2 away?

3 A Yes.

4 Q A lot of shots?

5 A (No audible response.)

6 Q If you don't recall, that's okay.

7 A Yeah. I can't say exactly how many, but there were
8 a few more shots. Yes.

9 Q I'm going to ---

10 (Off the record briefly.)

11 Q I'm going to put on the big board what's been marked
12 as -- or entered into evidence as State's Exhibit No. 59.

13 THE COURT: Okay. Now, the -- position it like --
14 you had it in the perfect spot where the jury could turn
15 around and see it and everyone over here can see it. So
16 leave it there.

17 (Off the record briefly.)

18 Q Do you recognize this car, Diamond?

19 A Yes.

20 Q Is that the car you and your mom were in?

21 A Yes.

22 Q And is that -- we can kind of see you hanging out
23 the passenger's side?

24 A Yes.

25 Q And you were looking back at Stacy?

1 A Yes.

2 Q As he was on the ground.

3 A Yes.

4 Q And was he lying in the middle of the road or in the
5 road?

6 A In the road, not in the middle.

7 Q In the parking lot on the road?

8 A Right. Yes, sir.

9 Q How far away from you was he when he was shot?

10 A Like, literally right in the window -- like, not all
11 the way in the window, but he was just standing at the
12 door, talking to me.

13 Q All right. So he was standing at the door, talking
14 to you like this?

15 A Yes.

16 Q Did you call 911 that day?

17 A Yes, I did.

18 Q And I'm going to play this and see if you recall
19 this.

20 (Whereupon, a portion of audio recording was
21 published in open court.)

22 Q All right. I paused it right there. The white
23 shirt with shorts on, short guy with a black haircut,
24 that's the victim, Stacy?

25 A Yes.

DIRECT EXAMINATION BY MR. NEELY - DIAMOND SANDERS 423

1 Q Okay.

2 (Whereupon, a portion of audio recording was
3 published in open court.)

4 Q So now are you talking about Stacy or the shooter?

5 A When I say he left on foot?

6 Q Yes.

7 A The shooter.

8 Q Okay.

9 (Whereupon, a portion of audio recording was
10 published in open court.)

11 Q Is it fair to say that you didn't want to leave your
12 name because you really didn't want to get called as a
13 witness?

14 A No. I was scared.

15 THE COURT: Solicitor -- Solicitor, you asked the
16 question and answered the question?

17 MR. NEELY: (No audible response.)

18 THE COURT: You ask the question and answer it?

19 MR. NEELY: I'm sorry, Your Honor.

20 Q Why -- why were you scared -- or why didn't you
21 leave your name?

22 MR. DUNCAN: Your Honor, I'll object to that. He
23 needs to -- I move to strike that: "Why were you
24 scared?" She didn't testify to that.

25 THE COURT: All right. The objection is sustained

1 as to the leading nature of the question.

2 MR. DUNCAN: Thank you.

3 Q What emotions were you feeling?

4 A I was scared.

5 Q Thank you. And is that why you didn't leave your
6 name?

7 A Right. Yes.

8 Q I'm going to play you a video that's State's Exhibit
9 59 in evidence, the portion of that.

10 (Whereupon, a portion of video was published in open
11 court.)

12 Q And this is Lakeshore Apartments we're talking
13 about?

14 A Yes.

15 Q And is this y'all in the car right here?

16 A Yes.

17 (Whereupon, a portion of video was published in open
18 court.)

19 Q Is that the man with the blue jersey you said went
20 behind your car?

21 A Yes.

22 Q Is that the shooter?

23 A Yes.

24 Q Thank you, Diamond. No more questions.

25 A Thank you.

CROSS-EXAMINATION BY MR. DUNCAN - DIAMOND SANDERS 425

1 Q Please answer any questions the defense has.

2 CROSS-EXAMINATION

3 BY MR. DUNCAN:

4 Q Ms. Sanders, on the afternoon of -- evening of March
5 the 30th, were you in the vehicle that was just shown --
6 were you in that vehicle the whole time y'all were at the
7 Lakeshore Apartments?

8 A Yes.

9 Q Okay. So your mother had exited the car for a
10 little -- for a little bit and went in an apartment?

11 A Yes.

12 Q All right. Leaving you and a 14-year-old and a 9-
13 year-old in the car; is that right?

14 A Yes.

15 Q Okay. And you were in -- is it correct, you were in
16 the front-passenger's side?

17 A Yes, sir.

18 Q All right. And I heard -- I just heard the 911 call
19 again. We've played it a few times in here. But would
20 it -- you say -- I realize there wasn't a thousand people
21 out there. But you said there were -- there was clearly
22 a lot of people out there.

23 A Yeah. A large crowd.

24 Q And was the large crowd out there the whole time you
25 were sitting in the car?

1 A They live -- they were in a -- near a different
2 building than the building we were at. So I don't know
3 if they were there when we were at our other friend's
4 house.

5 Q All right. So you sitting -- you were sitting near
6 -- I don't know. Where -- you -- when y'all were
7 sitting, were you anywhere near Stacy -- who -- the --
8 the gentleman you knew as Stacy Rhodes?

9 A When we stopped to see him?

10 Q No, ma'am. When you came in and you were in the
11 apartment complex ---

12 A Uh-huh.

13 Q --- were you -- did you see Stacy Rhodes or any of
14 the group of people that you later referred to?

15 A No. Not that I recall. No.

16 Q You -- were you up -- a building or two up?

17 A Yes.

18 Q Okay.

19 A Really ---

20 Q And you ---

21 A --- over. So this was where was Stacy was killed,
22 and the building was over here. It was another building
23 over here. And I was ---

24 Q All right.

25 A --- at this building.

CROSS-EXAMINATION BY MR. DUNCAN - DIAMOND SANDERS 427

1 Q And you were -- and y'all were in the parking lot of
2 that building?

3 A Yes.

4 Q All right. And so as you were -- as y'all were
5 leaving, I mean, your mother -- your mother got in the
6 car and y'all were getting ready to leave; is that
7 correct?

8 A Yes.

9 Q And as you were departing or getting ready to
10 depart, what did you see?

11 A That's when I pulled up -- we pulled up to the
12 building. I seen a large crowd out there. And we called
13 for Stacy and he came to the car.

14 Q All right. Did -- did you have your -- you said
15 something about rolling your window down. Did you have
16 your window down already or not?

17 A (No audible response.)

18 Q It's all right.

19 A I -- yeah. It was three years ago. I don't
20 remember ---

21 Q You don't remember ---

22 A I think it was down already, though.

23 Q All right. Here's my -- here's the question: Were
24 you -- as y'all were driving, was it obvious that there
25 was something going on down in that area where -- where

1 the person that you knew, Stacy Rhodes, was? Was it
2 clear that there was some arguing, some altercation,
3 something?

4 A Yes.

5 Q Okay. What -- what were you hearing when -- did you
6 say: "Mama, let's stop"? Or did you say -- did you say
7 anything or was that just your mom stopped the car?

8 A No. It -- we seen Stacy and we stopped the car
9 automatically because that's our friend.

10 Q All right. So your testimony is, you stopped the
11 car to say hey to your friend?

12 A Yes.

13 Q And there wasn't any -- you didn't see anything
14 going on to disturb you or -- or were you -- I mean, you
15 -- at the time were you 18?

16 A Yeah, I was 18.

17 Q All right. So now you're 21.

18 A Yes, sir.

19 Q All right. So 18-year-old young lady -- you didn't
20 see anything that made you nervous as y'all were stopping
21 the car?

22 A No.

23 Q All right. Were there -- were there a lot of people
24 gathered around? Were there a number of people gathered
25 there, just, you know, like, hanging out ---

CROSS-EXAMINATION BY MR. DUNCAN - DIAMOND SANDERS 429

1 A Yes.

2 Q --- cooking out? What -- what ---

3 A Hanging out.

4 Q Just, like, standing around, hanging out?

5 A Right. Yes, sir.

6 Q But again, you didn't see anything to worry you?

7 A No, sir.

8 Q All right. Okay. All right. And I gather -- in
9 response to your -- you -- you made the 911 call.

10 A Yes, sir.

11 Q And did you make it when y'all were -- you remember
12 when you made it? When did you call?

13 A When were leaving out.

14 Q As you made -- I mean, Mr. Neely just showed a
15 picture of y'all's car. Had you made it out to Garners
16 Ferry Road -- had you made it to the main road when you
17 called, or do you know?

18 A I don't remember. It was just on the way leaving
19 out. I don't remember exactly when I -- I don't remember
20 exactly where we were stopping at or where we were
21 exactly at. But we were in the middle of leaving out of
22 the apartments when I made the 911 call.

23 Q All right. You -- besides Stacy Rhodes, did you
24 know anybody else out there?

25 A Not that I recall. No.

1 Q All right. Did you know Stacy Rhodes' younger
2 brother?

3 A No.

4 Q Had never -- you -- you -- you can -- your mom knew
5 him, but you didn't know him?

6 A Correct.

7 Q All right. Because your mom worked with -- with
8 him.

9 A Yes, sir.

10 Q But you didn't know him by sight; you didn't know
11 him by face.

12 A No, sir.

13 Q So you can't tell me if he was leaning on your car
14 or not.

15 A If Stacy's younger brother was ---

16 Q Yes.

17 A --- leaning on my car?

18 Q Uh-huh.

19 A Oh. No ---

20 Q Correct.

21 A --- sir.

22 Q All right. You don't -- you don't or you -- or you
23 -- was anybody leaning on your car besides Stacy Rhodes?

24 A Not that I recall.

25 Q All right. So the only -- only one individual is at

CROSS-EXAMINATION BY MR. DUNCAN - DIAMOND SANDERS 431

1 your -- at your vehicle, like, kind of -- kind of with
2 his head in the window?

3 A Yes.

4 Q And nobody else is there.

5 A Not that I remember. No, sir.

6 Q Okay. All right. And at that point was any kind of
7 -- any kind of yelling or screaming or anything like that
8 going on?

9 A No.

10 Q Okay.

11 A Only when Stacy walked to the car. That's when I
12 heard the actual argument. But it was only, like --
13 Stacy said something; he said something. And that's when
14 ---

15 Q All right.

16 A --- he got shot.

17 Q Okay. All right. And on the -- on the 911 call,
18 clearly, you were -- you were upset, no ---

19 A Yeah.

20 Q --- question. I -- I know that. But they just --
21 they just played it. I know it's been three years, but
22 they just played it again. Did you hear the 911 operator
23 ask you: "The -- the man with the gun, what did he have
24 on?" Did you hear that just now?

25 A Yes. I heard it on the recording.

1 Q And you said: "A white shirt and shorts, short guy
2 with a haircut." Did ---

3 A Yeah. I'm ---

4 Q --- you hear those words?

5 A Yeah. I may have -- I may have misinterpreted what
6 they said, but I was panicking so ---

7 Q Okay. But you -- I mean, you don't disagree that
8 that's what you said ---

9 A Yeah, I did say that.

10 Q All right. Short guy with a haircut.

11 A (Nodded head up and down.)

12 Q All right. Okay. With a white shirt.

13 And again, obviously, from that call, you -- you --
14 they asked you, did you want to leave your name. And you
15 said: "No, I don't want to leave my name."

16 A Correct. Yes, sir.

17 Q And so the first time you've talked to law
18 enforcement about this case was about -- a couple weeks
19 ago?

20 A Yes, sir.

21 Q Okay. So three years after the fact is when you
22 came forward.

23 A Yes, sir.

24 Q Okay. Thank you very much.

25 THE COURT: Anything further?

REDIRECT EXAMINATION BY MR. NEELY - DIAMOND SANDERS 433

1 MR. NEELY: Just briefly, Your Honor.

2 REDIRECT EXAMINATION

3 BY MR. NEELY:

4 Q Was Stacy wearing a white shirt and the blue-jean
5 shorts that day?

6 A Yes.

7 Q Was Stacy acting crazy whenever he spoke to you?

8 A No.

9 Q Did you see Stacy with a gun?

10 A No.

11 Q Were the shooter's eyes open when he shot?

12 MR. DUNCAN: Your Honor ---

13 A Yes.

14 THE COURT: Sir?

15 Q Thank you. No further questions.

16 THE COURT: Anything further?

17 MR. DUNCAN: No, sir.

18 THE COURT: You may step down. Thank you.

19 THE WITNESS: Thank you.

20 (Whereupon, the witness exited the witness stand.)

21 (Off the record briefly.)

22 THE COURT: Next witness.

23 MR. NEELY: Your Honor, that's the state's case.

24 THE COURT: All right. Ladies and gentlemen, that
25 is the state's case. I need you to go to the jury room.

1 Please do not discuss the case.

2 (Whereupon, the jury exited the courtroom at 10:40
3 a.m.)

4 (Off the record briefly.)

5 THE COURT: Any matters of law?

6 MR. DUNCAN: Yes, sir. Your Honor, the defense
7 would move for a directed verdict on the -- pursuant to
8 Rule 19 of the Rules of Criminal Procedure on the basis
9 that the state has failed to produce sufficient evidence
10 by which a reasonable jury could find my client guilty of
11 murder beyond a reasonable doubt, given the -- the
12 particular inconsistency that I would point to would be
13 the 911 call identification of a individual who was
14 wearing a white shirt, shorts, short guy, with a -- and
15 -- and they say with a haircut.

16 I don't -- I don't -- I don't want to say that's not
17 a possibility if he might could -- but moments -- seconds
18 later, they show a picture of my client leaving the
19 apartment complex in a blue -- clearly a blue jersey. I
20 know the young lady says: "Well, I just -- I misspoke."
21 But I think she said it twice immediately ---

22 THE COURT: No. She said that she may have -- they
23 may have misinterpreted there or she might've
24 misinterpreted them; she was panicking.

25 MR. DUNCAN: Yeah. I -- yes, sir.

1 THE COURT: She didn't say that she misspoke.

2 MR. DUNCAN: She -- no. She did not say she
3 misspoke. She said she misunderstood about that. She
4 may have misunderstood. May have misunderstood.

5 THE COURT: All right.

6 MR. DUNCAN: And again, Your Honor, the -- the
7 testimony presented of that individual who -- who puts a
8 finger on my client today clearly conflicts with about
9 every other testimony offered about what was going on at
10 the apartment complex.

11 THE COURT: Yeah. That's for the jury to evaluate.
12 I -- I didn't hear a lot of conflict.

13 MR. DUNCAN: Yes, sir.

14 THE COURT: Not at this point.

15 MR. DUNCAN: Your Honor, again, I -- I submit that
16 they have -- the state has not made a case sufficient to
17 convict of my client of murder and would make that motion
18 pursuant to Rule 19.

19 THE COURT: All right. What says the state?

20 MR. NEELY: Your Honor, I think there's been ample
21 evidence that Mikah Green was the shooter. He admitted
22 to law -- Investigator Hilton indicated he had a blue
23 jersey on in the confession. We have the video that
24 shows him leaving the scene. He was identified as the
25 shooter by Diamond on the stand.

1 Further, we have the testimony of James Archie,
2 saying that Mikah Green did exactly what Alexia Smith
3 did, although she wasn't able to identify him. And
4 Diamond was only able to identify him by the color of his
5 clothes. It was consistent with Mikah Green being upset
6 about an argument, approaching the victim's back. The --
7 and the autopsy shows that two shots were fired in the
8 back.

9 The statement from Archie was that the defendant was
10 between two vehicles and that he fired from -- from a
11 raised position, causing a downward angle to the neck of
12 -- of a man that's five-ten. I think that the state's
13 amply provided to provide its burden to get to a jury.

14 THE COURT: All right. The evidence presented
15 indicates that the defendant shot the victim in the back
16 without apparent justifiable cause. That is the evidence
17 presented, if believed by the jury. And it's up to a
18 jury to determine whether or not they believe that
19 evidence or disbelieve that evidence or whether they're
20 convinced beyond a reasonable doubt of the guilt of the
21 defendant based on that -- that evidence.

22 Rule 19 that's -- has been suggested says (as read):
23 "On motion of the defendant, the Court shall direct a
24 verdict in the defendant's favor on any charge if there
25 is a failure of competent evidence tending to prove the

1 charge in the indictment. In ruling on the motion, the
2 trial court shall consider only the existence or
3 non-existence of the evidence and not its weight."

4 So the weight of the evidence is for the jury to
5 determine. There is direct evidence from which the jury
6 -- there's an abundance of direct evidence from which the
7 jury could conclude that the defendant is guilty, if they
8 believe that evidence.

9 MR. DUNCAN: Yes, sir.

10 THE COURT: So I deny the motion.

11 MR. DUNCAN: Thank you, Your Honor.

12 MR. NEELY: Thank you, Your Honor.

13 THE COURT: All right. Ready for the defense?

14 MR. DUNCAN: Yeah -- yes, sir. I -- I would begin
15 with calling Booker Henley.

16 THE COURT: I mean, is he ready for the defense?
17 First, we're going to take a break ---

18 MR. DUNCAN: Yeah, sure.

19 THE COURT: --- for -- for a couple minutes but ---

20 MR. DUNCAN: I'm -- I'm ---

21 THE COURT: --- if you need ---

22 MR. DUNCAN: --- indicating ---

23 THE COURT: All right. Regarding your client, do
24 you want me to question him on his right to testify or
25 not to?

1 MR. DUNCAN: I -- I -- Your Honor, I would like to,
2 during a break, if -- if we could take that brief break
3 and then you could question him or ---

4 THE COURT: Okay. Let's do that now.

5 MR. DUNCAN: All right. Good.

6 THE COURT: All right. We'll take ten minutes.

7 MR. DUNCAN: Thank you, Your Honor.

8 MR. NEELY: Thank you, Your Honor.

9 (The Court went off the record at 10:46 a.m.)

10 (The Court went on the record at 11:33 a.m.)

11 MR. NEELY: Your Honor, if I may approach?

12 THE COURT: Yes, sir.

13 (Off the record briefly.)

14 MR. NEELY: Your Honor, we -- we were unable to find
15 anything directly on point. This has the *Van Arsdall*
16 factors, which set forth facts upon a court should
17 consider ---

18 THE COURT: I can't ---

19 MR. NEELY: --- to determine ---

20 THE COURT: --- can't hear you. I don't know what
21 you're saying.

22 MR. NEELY: Your Honor, this case is not directly on
23 point. But I -- I -- I marked on the side of the
24 paragraphs where an incarcerated spoke to that effect,
25 and the Court reviewed it for error. It looks like a --

1 a standard 403 probative value substantially outweighed
2 by prejudicial effect.

3 MR. DUNCAN: Your Honor, we are -- my plan is to
4 offer the testimony of Mr. Henley, which would be
5 substantially -- it's what he said Monday afternoon at
6 the stand-your-ground hearing to establish that he was
7 present at the Lakeshore Apartments the date of the
8 incident. He saw the decedent, Stacy Rhodes, with a
9 firearm and heard Mr. Rhodes make certain threats to
10 Rich, is my -- I don't -- I'm -- I don't think Mr. Henley
11 knows Mr. Green's real name. But he knew him on the --
12 in the neighborhood -- knew him.

13 I mean, this incident occurred in 2019. Mr. Henley
14 says he met Rich and Boi ---

15 THE COURT: Yeah. I ---

16 MR. DUNCAN: --- Mr. Rhodes ---

17 THE COURT: --- I recall his ---

18 MR. DUNCAN: Yeah.

19 THE COURT: --- testimony.

20 MR. DUNCAN: Yeah.

21 THE COURT: I was here. That was only two ---

22 MR. DUNCAN: I'm ---

23 THE COURT: --- days ago ---

24 MR. DUNCAN: Yeah.

25 THE COURT: --- day before yesterday. I heard it

1 all.

2 MR. DUNCAN: I'm sorry.

3 THE COURT: Yeah.

4 MR. DUNCAN: I'm sorry. I don't ---

5 THE COURT: That's -- I remember ---

6 MR. DUNCAN: --- I don't ---

7 THE COURT: --- what he said.

8 MR. DUNCAN: I'm sorry. I don't ---

9 THE COURT: Okay.

10 MR. DUNCAN: --- mean to -- I ---

11 THE COURT: So he's going to testify as he did on
12 Monday.

13 MR. DUNCAN: As he did on Monday.

14 THE COURT: Right.

15 MR. DUNCAN: And ---

16 THE COURT: And therefore ---

17 MR. DUNCAN: --- I -- I mean, I think it's
18 significant testimony. And I don't -- I -- I'm -- that's
19 the probative -- probative value on behalf of my case, on
20 behalf of the defendant. And I'm not sure what the -- I
21 mean, obviously, there's potential bias that can be
22 explored.

23 But I don't know what the -- I don't know what the
24 403 analysis really is. I mean, what is prejudicial
25 about his testimony, except it might hurt the state's

1 case a little bit, which, obviously, I hope it does.

2 THE COURT: Yeah. Well, when a witness testifies,
3 the state has a right to impeach the witness based on any
4 bias or ability to know what he's talking about and --
5 and kinds of things. So it -- it's no doubt that the
6 state has a right to cross-examine him to test his -- his
7 -- his story, as well as to try to impeach him based on
8 any corroboration or planning of his testimony and/or
9 anything subsequent to the event, if the state chooses to
10 do that.

11 The issue is whether it's just strictly on whether
12 or not you can introduce the fact that the defendant is
13 locked up. I mean, obviously, the -- the -- the witness,
14 I guess he's in jail clothes.

15 MR. DUNCAN: He -- he's in -- he's in A.S. -- he --
16 he's in ---

17 THE COURT: Yeah.

18 MR. DUNCAN: --- jail garb.

19 THE COURT: Right. So the witness is in jail. The
20 jury doesn't know that the defendant is in jail. But the
21 state has the right to question him on -- "Isn't it a
22 fact that you all are friends? Isn't the fact that you
23 all are roommates? Isn't it a fact that you all have
24 been roommates since -- since" ---

25 MR. DUNCAN: Your Honor ---

1 THE COURT: --- "this occurred?"

2 You -- the place where they're roommates is not --
3 may not be that important.

4 MR. DUNCAN: I'm -- I'm not sure what information
5 the state has as to, you know, their housing. They
6 haven't been housed in the same pod for months and
7 months.

8 THE COURT: That doesn't -- doesn't matter. I mean,
9 it's ---

10 MR. DUNCAN: And I ---

11 THE COURT: --- any time within the last three
12 years.

13 MR. DUNCAN: And again, I -- I don't know. Mr.
14 Henley's been in jail for about nine months.

15 THE COURT: Yeah. So I think the -- just at this
16 point to me -- and of course, who knows what will come
17 out when you all get into asking questions, particularly
18 open-ended questions ---

19 MR. DUNCAN: Yes, sir.

20 THE COURT: --- that the state can establish that
21 that their -- their relationship, and his bias, and --
22 and if they are roommates, live together, slept together,
23 whatever the situation may be. But I think that the
24 place where they were roommates could -- should be
25 excluded at this time.

1 How about that?

2 MR. NEELY: Your -- Your Honor, the -- the only --
3 the only quibble that I have is I'm not sure they were
4 roommates. We have that they were in the same dorm,
5 which ---

6 THE COURT: Well, they were ---

7 MR. NEELY: --- is like a section ---

8 THE COURT: --- dorm mates.

9 MR. NEELY: --- of the jail.

10 THE COURT: They -- they lived in the same dorm, or
11 the same -- lived in the same place -- I mean, whatever
12 words you want to use, other than "Y'all were in jail at
13 Alvin S. Glenn together."

14 MR. NEELY: Okay.

15 THE COURT: You can put them -- you have a right to
16 put them together to -- if you're trying to suggest that
17 -- that they've gotten the chance to get together to talk
18 about this and plan this testimony. But the place that
19 they were together, I don't think -- it may be a bridge
20 too far. And I haven't seen any cases directly on point
21 on the issue.

22 So we can just take that cautious approach. And, of
23 course, by the time we get through with all these
24 witnesses, who knows what'll come out.

25 MR. DUNCAN: Well, let me ask this: Obviously, Mr.

1 Henley's convictions, any -- any felony conviction that
2 he has or -- and -- and maybe we should settle that.

3 THE COURT: All right. What's on his record?

4 MR. DUNCAN: Yeah. That's -- that's ---

5 MR. NEELY: Your Honor ---

6 MR. DUNCAN: --- what I'm saying.

7 MR. NEELY: --- we have, for convictions that are
8 over a year/under ten years, we have a -- a shoplifting-
9 enhanced, 2014.

10 THE COURT: All right. That comes in.

11 MR. DUNCAN: Let me -- let me -- I'm -- I'm sorry.
12 Let me just scribble down what you're talking about.
13 Shoplifting.

14 MR. NEELY: Shoplifting-enhanced, 2014; got a
15 breaking into a motor vehicle, 2016; and possession of a
16 stolen vehicle. We also have from 2016, a pointing and
17 presenting firearms and a possession of a stolen gun.
18 Then, we have, in 2021, a -- a identity fraud to obtain
19 employment. And then, in 2019, we have ---

20 THE COURT: So are those convictions?

21 MR. NEELY: Yes, sir, Your Honor.

22 MR. DUNCAN: 2021 is convicted?

23 MR. NEELY: Yes. With a -- looks like 181 days time
24 served on that. And then, a 2019 Georgia case, where he
25 was convicted of a breaking into a motor vehicle,

1 possession of MDMA or ecstasy ---

2 THE COURT: Well, the ecstasy is out.

3 MR. NEELY: Okay. And the -- another possession of
4 a stolen pistol.

5 THE COURT: All right. What's the -- what's your
6 position on the -- being able to impeach this person?

7 MR. NEELY: We also have a -- sorry -- one more,
8 Your Honor.

9 THE COURT: Okay.

10 MR. NEELY: It's a failure to stop for a blue light
11 out of 2021.

12 THE COURT: All right. What's your position on
13 that?

14 MR. DUNCAN: Your Honor, the ---

15 THE COURT: Per the rule.

16 MR. DUNCAN: The -- I -- I think the fraud type -- I
17 -- identity fraud and the theft crimes, I -- I think come
18 in. I don't -- I would argue that -- and I -- I -- I
19 didn't catch every one necessarily. But I -- I don't
20 think ---

21 THE COURT: Well ---

22 MR. DUNCAN: --- he can -- I ---

23 THE COURT: Yeah. He -- well, if it's involving
24 stealing and dishonesty and all that, it -- the -- the --
25 there's no time limitation. Of course, we're talking

1 about the rule, I think, which talks about the witnesses
2 other than the defendant; is that right?

3 MR. DUNCAN: The -- what? I'm sorry.

4 THE COURT: Witnesses other than -- witnesses other
5 than the defendant.

6 MR. DUNCAN: Right. That's right.

7 THE COURT: But the crimes -- other, like the crimes
8 that are not stealing-type crimes that carry penalties
9 for more than a year, are -- are they -- are they in or
10 are they -- are they out? 609.

11 MR. DUNCAN: I -- I would submit that the balancing
12 would -- I -- the -- of the non-theft crimes, the crimes
13 not involving honesty, would -- would be outweighed by
14 its potential negativity, prejudicial value.

15 THE COURT: Yeah. Well, he's -- but his -- these
16 crimes over a year is admitted under 609(1).

17 MR. DUNCAN: Right.

18 THE COURT: It's (as read): "Evidence that a
19 witness other than the accused has been convicted of a
20 crime shall be admitted, subject to 403" ---

21 MR. DUNCAN: Right.

22 THE COURT: --- "if it's punishable in excess of a
23 year. Evidence that any witness has been convicted of
24 something involving false statement or dishonesty is
25 admitted regardless of punishment."

1 So ---

2 MR. DUNCAN: Right.

3 THE COURT: --- so -- so other ---

4 MR. DUNCAN: Again, I ---

5 THE COURT: --- than the -- other than the ecstasy,
6 the drug charge, which the courts have said is not
7 admitted -- admissible for credibility purposes, but how
8 about all the others that involve the -- either
9 dishonesty, stealing, or -- or punishable of more than a
10 year?

11 MR. DUNCAN: Yeah.

12 THE COURT: Of course, he has so much there that it
13 doesn't really matter after a certain point.

14 MR. DUNCAN: Your Honor -- Your Honor, I don't -- I
15 don't take a strong position in regard to Mr. Henley's
16 record. I -- I didn't hear any -- I -- I was trying to
17 hear if any -- there were any violent crimes. I can't
18 ---

19 THE COURT: No, no violent crimes, other than having
20 a pistol and pointing it at someone or something like
21 that.

22 MR. NEELY: That's correct, Your Honor.

23 THE COURT: He's got ---

24 MR. NEELY: And ---

25 THE COURT: --- some pistol things there.

1 MR. NEELY: And I -- I'm sorry. I did miss one out
2 of Georgia. It's a 2018 giving a false name, address, or
3 birth date to law enforcement.

4 THE COURT: Okay. Well, that's a pretty good one.

5 MR. DUNCAN: Your Honor, I -- I -- I don't think
6 it's -- I don't think he can -- it -- that the solicitor
7 should be able to stand up and elicit every instance he's
8 had with law enforcement. It was -- but there's no --
9 it's -- it's no argument on my behalf that Mr. Henley has
10 not been convicted of -- of past crimes.

11 THE COURT: Yeah. Well, you're -- you're not
12 arguing, but he wants the jury know that they should ---

13 MR. DUNCAN: I understand.

14 THE COURT: --- that they shouldn't believe anything
15 he says.

16 MR. DUNCAN: I -- I understand. And -- and ---

17 THE COURT: And the ---

18 MR. DUNCAN: --- again ---

19 THE COURT: --- reason they ---

20 MR. DUNCAN: --- I don't ---

21 THE COURT: --- shouldn't believe him, because he's
22 a ---

23 MR. DUNCAN: Because he's been ---

24 THE COURT: --- a career ---

25 MR. DUNCAN: --- convicted of ---

1 THE COURT: --- criminal ---

2 MR. DUNCAN: --- been convicted ---

3 THE COURT: --- at this time.

4 MR. DUNCAN: --- of ---

5 THE COURT: Yeah.

6 MR. DUNCAN: --- stuff. And, you know, I -- I
7 understand, you -- you take your witness where you find
8 them. I don't think -- I don't think the -- when I look
9 at 403 analysis ---

10 THE COURT: Yeah. But 403 really doesn't apply to
11 witnesses.

12 MR. DUNCAN: Well, I -- I mean, if -- I'm not trying
13 to argue with the Court. I mean ---

14 THE COURT: No.

15 MR. DUNCAN: --- 609 ---

16 THE COURT: I don't think it does. I'm -- I'm happy
17 to be informed ---

18 MR. DUNCAN: Yeah. Well ---

19 THE COURT: --- of what ---

20 MR. DUNCAN: --- I'm not -- I -- I mean, 609 says,
21 you know (as read): "A witness other than accused has
22 been convicted of a crime shall be admitted, subject to
23 Rule 403 . . ." So I have to look at Rule 403.

24 THE COURT: Yes, sir. That's from 609. Yeah. But
25 I'm saying that it particularly pertains primarily to the

1 defendant. I'm -- other than the "has been accused
2 subject to rule" -- yeah. Okay. I've got you ---

3 MR. DUNCAN: So ---

4 THE COURT: --- 403.

5 MR. DUNCAN: --- you -- you see what I'm saying? I
6 mean ---

7 THE COURT: Yes, sir.

8 MR. DUNCAN: --- that's the -- that's the issue, I
9 mean. My -- there's -- the evidence is relevant, and
10 what's the danger of unfair prejudice, confusion, or
11 misleading the jury?

12 And -- and again, I -- I -- I'm not bringing Mr.
13 Henley in as, you know, the deacon at the church and
14 saying, "Tell me -- tell me what you saw out there." I
15 mean, he was participating in a illegal activity out
16 there in the parking lot that afternoon with his -- with
17 his friends, which his friends include the decedent in
18 this case and ---

19 THE COURT: Yeah.

20 MR. DUNCAN: --- my client.

21 THE COURT: Yeah. Well, I mean, you can explain all
22 that to the jury, whatever you want to tell the jury.
23 But the 403 analysis would -- is more critical as to the
24 defendant than it is as to a witness.

25 MR. DUNCAN: I ---

1 THE COURT: That's my ---

2 MR. DUNCAN: --- I agree.

3 THE COURT: --- point concerning that.

4 MR. DUNCAN: I -- I ---

5 THE COURT: And ---

6 MR. DUNCAN: --- agree.

7 THE COURT: --- this prejudice versus probative
8 analysis, I think, with regard to this witness, we'll
9 just -- we'll cut it off at crimes punishable -- non-drug
10 charges punishable by more than a year and dishonesty.
11 And those -- that's -- that's what he can get into.

12 MR. DUNCAN: That's -- that's fine.

13 THE COURT: All right.

14 MR. DUNCAN: That's fine with me.

15 THE COURT: All right.

16 MR. DUNCAN: And, Your Honor, while we're talking
17 about his crime, I -- we're talking about convictions.
18 And he's sitting back there, nervous about he's got
19 pending charges with your office. So ---

20 THE COURT: Yeah.

21 MR. DUNCAN: --- you ain't -- I -- I'm not -- I'm --
22 I ---

23 THE COURT: Well, they'll ---

24 MR. DUNCAN: --- understand about ---

25 THE COURT: --- they'll ---

1 MR. DUNCAN: --- cross-examination.

2 THE COURT: Yeah.

3 MR. DUNCAN: But you're not ---

4 THE COURT: Well, they ---

5 MR. DUNCAN: --- going ---

6 THE COURT: --- have to ---

7 MR. DUNCAN: --- get into ---

8 THE COURT: --- figure that he's in jail for some
9 kind of reason.

10 MR. DUNCAN: That's right.

11 THE COURT: Okay.

12 MR. DUNCAN: But he -- you're -- in other words, he
13 -- he is nervous that they're going say, "Did you do such
14 and such?"

15 And I'm, like: "I don't think they know anything
16 about your charges" ---

17 THE COURT: Well, we're not ---

18 MR. DUNCAN: --- these ---

19 THE COURT: --- getting into his ---

20 MR. DUNCAN: Okay.

21 THE COURT: --- pending charges, except ---

22 MR. DUNCAN: All right.

23 THE COURT: --- that he's -- he's ---

24 MR. DUNCAN: I'm just ---

25 THE COURT: --- in jail for whatever reason.

1 MR. DUNCAN: I'm just saying, he -- I'm telling ---

2 THE COURT: We won't ---

3 MR. DUNCAN: --- you ---

4 THE COURT: --- get into ---

5 MR. DUNCAN: --- what ---

6 THE COURT: --- that either.

7 MR. DUNCAN: --- he's nervous about. So ---

8 THE COURT: Hey ---

9 MR. DUNCAN: And ---

10 THE COURT: --- that -- he signed up to be a
11 witness. So, you know, all that ---

12 MR. DUNCAN: He ---

13 THE COURT: --- comes with the territory.

14 MR. DUNCAN: He kind of signed up to be a witness.
15 I've ---

16 THE COURT: All right. Well, let's -- let's bring
17 the jury out and get going.

18 MR. DUNCAN: All right. Oh ---

19 MR. NEELY: Did -- Your Honor ---

20 MR. DUNCAN: Your Honor -- sorry.

21 THE COURT: Yeah.

22 MR. DUNCAN: Did -- were you going -- my client does
23 have a decision re testifying.

24 THE COURT: Oh, okay. Well ---

25 MR. DUNCAN: I mean, we can do it after Mr. Henley

1 if you'd -- I mean, whatever.

2 THE COURT: Well, let's just do it -- let's deal
3 with this one, and then we'll ---

4 MR. DUNCAN: Do that ---

5 THE COURT: --- deal with ---

6 MR. DUNCAN: That's great.

7 THE COURT: --- him.

8 MR. DUNCAN: And then ---

9 THE COURT: All right.

10 MR. DUNCAN: --- he can -- yeah.

11 THE COURT: Let's try to get going.

12 MR. DUNCAN: Very good. Thank you.

13 (Off the record briefly.)

14 (Whereupon, the jury entered the courtroom at 11:50
15 a.m.)

16 THE BAILIFF: The jury is seated, Your Honor.

17 THE COURT: All right. Thank you.

18 Ladies and gentlemen, you've heard the state's case.

19 It's now the defense's turn.

20 You may proceed.

21 MR. DUNCAN: Thank you, Your Honor. The defense
22 would call Booker Henley to the stand.

23 (Off the record briefly.)

24 (Whereupon, the witness came forward.)

25 DEPUTY CLERK OF COURT: State your full name,

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1 please.

2 THE WITNESS: Booker Henley.

3 DEPUTY CLERK OF COURT: Speak up.

4 THE WITNESS: Booker Henley.

5 BOOKER HENLEY, having been first duly sworn,
6 testified as follows:

7 DEPUTY CLERK OF COURT: Thank you. You can have a
8 seat right up there.

9 THE BAILIFF: You're going to have to jump up, now.

10 DIRECT EXAMINATION

11 BY MR. DUNCAN:

12 Q Good morning, Mr. Henley.

13 A Good morning.

14 Q Mr. Henley, if -- if you would, again, just state
15 your full name.

16 A Booker Henley.

17 Q Okay. Mr. Henley, I know right -- right now you're
18 at -- are incarcerated at the Alvin S. Glenn Detention
19 Center?

20 A Yes, sir.

21 Q Where -- where do you normally reside -- where do
22 you normally reside when you have not been in jail?

23 A Austin Woods Apartments.

24 Q And that's here in Columbia?

25 A Yes, sir.

1 Q Off of Garners Ferry Road?

2 A Yes, sir.

3 Q All right. And, Mr. Henley, I -- to get it -- get
4 it out in the open, you have some prior criminal record,
5 such -- including a possession of a pistol, possession of
6 a stolen vehicle, identity fraud, and a shoplifting. You
7 remember convictions both in South Carolina and Georgia
8 for those charges over -- over, like, the last eight
9 years or nine years?

10 A Yes, sir.

11 Q Okay. All right. And, Mr. Henley, did you know the
12 person -- deceased person in this case, Stacy Rhodes?

13 A Yes, sir.

14 Q And how did -- did you -- how did -- did you know
15 him as Stacy, or did you know him by a nickname?

16 A As a nickname.

17 Q What was the nickname you knew him as?

18 A Boi.

19 Q Boi?

20 A Yeah.

21 Q Boi, like b-o-y?

22 A Yeah.

23 Q Okay. And I -- this -- it's taken us a while to get
24 to court, so Mr. Rhodes passed in the -- in March of
25 2019. When -- approximately when did you meet Mr. --

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1 meet Boi?

2 A Probably months before that, 2018, probably,
3 something like that.

4 Q So you -- you knew him maybe about a year?

5 A Yeah.

6 Q All right. And the gentleman sitting with me at the
7 table, do you know him?

8 A Yes, sir.

9 Q And do you -- how -- what do you know him as? Do
10 you know him as a nickname?

11 A Rich.

12 Q Rich?

13 A Yes, sir.

14 Q Okay. And, Mr. Henley, did you have a nickname on
15 the street?

16 A Yes, sir.

17 Q What was your nickname?

18 A Dollar.

19 Q Dollar?

20 A Yes, sir.

21 Q Dollar, like dollar bill?

22 A Yes, sir.

23 Q Okay. All right. So to cut -- get to the -- get to
24 the point, on the afternoon of March 30th, 2019, Saturday
25 afternoon, do you recall being at the -- what was then

1 the Lakeshore Apartments?

2 A Yes, sir.

3 Q And is that across the street from Austin Woods?

4 A Yes, sir.

5 Q All right. So did -- did you go over to Lakeshore
6 on a regular basis?

7 A Yes, sir.

8 Q You had friends over there?

9 A Yes, sir.

10 Q Okay. On that particular Saturday afternoon, what
11 -- were you -- what were you doing out there?

12 A Just the normal: chilling in front of the building;
13 people were shooting dice. They were cooking on the
14 grill. Everybody was out in the neighborhood.

15 Q Were they -- you said everybody -- it was a nice
16 Saturday afternoon?

17 A Yes, sir.

18 Q All right. And, I mean, were there -- can you --
19 it's been three years ago, I know.

20 A Uh-huh.

21 Q Can you ballpark the people out there? I mean, were
22 there 15 people out there? 20 people out there? What was
23 out there?

24 A It probably was like 20 people out there.

25 Q Okay.

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1 A Uh-huh.

2 Q And cooking out, roll -- playing -- shooting dice?

3 A Yes, sir.

4 Q Were you -- were you involved in the dice game?

5 A Yes, sir.

6 Q Okay. Again, how -- how many people were involved
7 in the dice game? How many people were shooting dice?

8 A Probably like six people.

9 Q Like six?

10 A Yes, sir.

11 Q Okay. All right. And was -- was Rich one of those
12 people?

13 A Yes, sir.

14 Q And was Boi one of those people?

15 A Yes, sir.

16 Q All right. And you were one of those people?

17 A Yes, sir.

18 Q And then, there were three others in -- involved as
19 well?

20 A Yes, sir.

21 Q Okay. Did -- did an argument arise?

22 A Yes, sir.

23 Q What happened? I mean, what -- what -- as -- as
24 best you recall three years later, what -- what went down
25 about -- that started the argument?

1 A Argument about some money at first. And then you --
2 they -- they argued a minute about it. But it seemed to
3 die down for a little minute. But then it crunk back up.

4 And then Rich had tried to walk away up the street.
5 Boi followed him up the street. The gunshots went off.
6 Everybody ran.

7 I seen Boi on the ground. His people pulled up,
8 picked -- picked the gun up off him, put him in the car,
9 and they took him to the -- I guess, the ambulance or
10 whatever they did.

11 Q All right. You -- you -- you said a lot right then.

12 A Yeah.

13 Q Did you -- you said Rich walked away from the --
14 from the parking lot -- I mean, from the ---

15 A He walked -- it -- from -- it would be, like, the
16 middle -- like -- all right. When you come in the
17 neighborhood, you make the left, go down. They was in
18 the middle. That's where we was shooting dice at, the
19 middle building, right where the -- the street splits at.

20 Rich left from right there; walked all the way up
21 towards, like, be exiting the neighborhood. Boi followed
22 him up there. And that's when the gunshots rang out.

23 And then they came and got him and took him to the
24 ambulance, I guess.

25 Q All right. You said -- you said you saw Boi's

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1 people take a gun off of him.

2 A Yes, sir.

3 Q So ---

4 A He had ---

5 Q --- not ---

6 A --- a gun -- he had a gun in his hand.

7 Q Had a gun in his hand. You ---

8 A Yes, sir.

9 Q --- saw that.

10 A Yes, sir.

11 Q Did you -- did you hear words -- did you hear any
12 threats from Boi to Rich?

13 A I mean, yeah. He was talking loud. But I can't
14 recall the exact words he said.

15 Q He was up -- that -- they were upset ---

16 A Yes, sir.

17 MR. NEELY: Your -- Your Honor, I'm going to object
18 to leading at this point.

19 THE COURT: Okay. Don't lead the witness.

20 MR. DUNCAN: All right.

21 Q Was -- was the -- was the discussion loud?

22 A Yes, sir.

23 Q And it was loud -- was it loud from more than --
24 from multiple people, from several people?

25 A No.

1 Q Who -- who was being loud?

2 A Boi.

3 Q Okay. Did it appear to you that Boi was the one who
4 was upset?

5 A Yes, sir.

6 Q Did it appear to you that Rich was not upset ---

7 A I ---

8 Q --- particularly?

9 A I -- I could say he was upset. But he wasn't going
10 on -- like, going on about it. He tried to leave it
11 alone.

12 Q Okay. All right. Did you -- do you know ---

13 MR. NEELY: Your Honor ---

14 Q Do you know Boi's younger brother?

15 A Not really know of -- I don't know him. No. I
16 didn't ---

17 Q Didn't know him?

18 A Yeah. No. I don't know him.

19 Q Would -- if -- do you know if he was out there that
20 day?

21 A Yeah. He was with somebody.

22 Q So when you say you don't know him, you just don't
23 like him you knew Boi?

24 A Yeah, basically.

25 Q But you had seen him?

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1 A Yes, sir.

2 Q And did you know he lived with Boi?

3 A No, sir.

4 Q Did you know -- had you seen him around Lakeshore
5 Apartments?

6 A Yes, sir.

7 Q Did you -- did you see him that day?

8 A Yes, sir.

9 Q All right. Was he out there ---

10 A Yes, sir.

11 Q Was he involved in the dice game?

12 A No. He wasn't shooting dice.

13 Q Okay. All right. Was -- did you see -- do you know
14 -- do you even know his name?

15 A No, sir.

16 Q Did he have -- do you know a street name?

17 A No, sir.

18 Q All right. But you did see that person out there at
19 Lakeshore that afternoon?

20 A Yes, sir.

21 Q Did he have a gun?

22 A I don't -- I -- I don't -- I'm not sure.

23 Q Okay. All right. Did you know -- did you see --
24 did you see who came to get Boi out of the -- out of the
25 parking lot?

1 A Not -- his family -- I guess that was his family. I
2 know -- I could tell you what -- what, like, he's resided
3 at in Lakeshore. He stayed in the middle on the left-
4 hand side. Like, once you come in where it happened at,
5 you turn -- you go down the street and to the middle
6 part. Make a right, and he stayed on that left-hand-
7 building side. So they came from right there; picked him
8 up.

9 Q And did you -- you happen to remember, like, the
10 car? I mean, like, what -- was it a car or a truck?

11 A It was a car.

12 Q Car.

13 A Uh-huh.

14 Q Vehicle, a passenger car?

15 A Yeah.

16 Q All right. And you were talking about the -- it was
17 a group of people, like 20 people, that are out there
18 earlier, chilling ---

19 A Yeah.

20 Q --- kind of, you know, hanging out.

21 A Yeah.

22 Q When -- when the gunshots rang out, did gunshots ---

23 MR. NEELY: Your Honor, I'm going to object again to
24 leading the witness.

25 Q When the gunshots rang out ---

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1 MR. DUNCAN: I hadn't asked a question.

2 THE COURT: Yeah. I haven't heard a question. Go
3 ahead.

4 Q When the gunshots rang out, were there -- were there
5 multiple gunshots? I mean, was it -- was it just a
6 couple or was it several?

7 A It was a lot of gunshot.

8 Q Okay. All right. And where -- when the gunshots
9 rang out, where did you go?

10 A I was behind a car.

11 Q So it is correct -- did you see anyone get hit?

12 A I didn't see -- I -- I didn't see nobody shooting.
13 But I seen Boi on the ground. After, like, when they
14 stopped, he was on the ground.

15 Q Okay. All right. But you didn't -- you did not --
16 is it correct that you did not see ---

17 MR. NEELY: Your Honor, I'm objecting.

18 MR. DUNCAN: He can anticipate my question, I guess,
19 but I hadn't finished the question.

20 THE COURT: All right. Let's hear the question.

21 MR. DUNCAN: All right.

22 Q Is it correct that you did not see the individual
23 who shot Boi?

24 A No, sir.

25 MR. NEELY: Your Honor, that's a leading question.

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1 THE COURT: I overrule the objection. He's answered
2 the question.

3 Q After the shooting -- after -- after the gunshots,
4 you said you ducked behind a car; is that correct?

5 A Yes, sir.

6 Q Did you see Rich -- were you -- did you ---

7 MR. NEELY: Your Honor ---

8 Q --- pay ---

9 MR. NEELY: --- objection: leading.

10 MR. DUNCAN: What's leading? Did you see him? What
11 in the world? Does that suggest an answer? Did you see
12 him?

13 THE COURT: I overrule the objection.

14 Q Did you see Rich after you heard gunshot?

15 A Yes, sir.

16 Q Where did you see him?

17 A I seen him run up the sidewalk towards the store,
18 the Citgo that's right there.

19 Q Okay. Did you see anyone following him?

20 A No, sir.

21 Q Okay. Is it -- is it accurate to say that you were
22 behind the car?

23 A Yes.

24 MR. NEELY: Your Honor, objection.

25 THE COURT: I think his prior testimony was that he

CROSS-EXAMINATION BY MR. NEELY - BOOKER HENLEY 467

1 was behind the car. All right. So the objection is
2 restating the testimony, I guess.

3 MR. DUNCAN: All right.

4 Q Did -- did you consider Boi, Mr. Rhodes, your
5 friend?

6 A He was cool. Yeah. We ain't never had no bad
7 blood.

8 Q Did you consider -- did you consider and do you
9 consider Rich your friend?

10 A Yeah. He cool. I mean, in the same boat: Don't --
11 don't got no bad blood or nothing.

12 Q I think that's all the questions I have.

13 THE COURT: All right. Cross-examination.

14 MR. NEELY: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. NEELY:

17 Q Mr. Henley, you're currently incarcerated, correct?

18 A Yes, sir.

19 Q And I'm just going to go through these. You had a
20 conviction for shoplifting-enhanced on August 4th, 2015;
21 is that correct?

22 A I plead the Fifth.

23 Q All right. You plead the Fifth?

24 A Yeah.

25 Q Didn't you already plead guilty to it?

1 A Yeah, I guess, you know. I don't -- I don't
2 remember my record. I ain't even going to tell you ---

3 Q You don't remember your record?

4 A No. That's a -- you said enhanced shoplifting?

5 Q Yeah.

6 A I don't think it was enhanced, you know.

7 Q So you did not plead guilty to shoplifting-enhanced
8 on August 4th, 2015?

9 A I -- I guess. I don't ---

10 Q Well, we'll go to the next one.

11 A Yeah.

12 Q Did you plead -- plead guilty to breaking into a
13 motor vehicle on April 25th, 2016, and possession of a
14 stolen vehicle on the same date?

15 A Yes.

16 Q And did you plead to a pointing and presenting
17 firearms at a person and possession of a stolen pistol?

18 A Yes.

19 Q Did you plead guilty to ID fraud?

20 A Yes.

21 Q That'd be on November 8th, 2021?

22 A Yes.

23 Q And you pled guilty to breaking into a motor vehicle
24 and possession of a stolen gun out of Georgia?

25 A No, sir.

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1 Q No?

2 A (No audible response.)

3 Q You weren't put on probation for that and
4 transferred to South Carolina?

5 A That was supposed to be dismissed, breaking in a
6 car. I -- I ain't have that.

7 Q So you don't think that one is one you pled to?

8 A No.

9 Q Well, what about the failure to stop for a blue
10 light on November 8th, 2021?

11 A Yes, sir.

12 Q What about giving a false name, address, or birth
13 date to law enforcement out of Georgia? That would be on
14 2018 ---

15 A Yes, sir.

16 Q --- December 3rd?

17 A Yes, sir.

18 Q And isn't it true that you and Mr. Green were dorm
19 mates from September 28th, 2021, to November 10th, 2021?

20 A Yes, sir.

21 Q Okay. Y'all have a chance to talk about this case?

22 A I mean, yeah.

23 Q Yeah?

24 A Uh-huh.

25 Q He's a friend of yours?

1 A I know him from the street. Yeah.

2 Q Anything much to do in jail?

3 A What you mean?

4 Q I'll withdraw the question.

5 So you're telling us that you saw this incident take
6 place and you saw the victim's family take a pistol off
7 his body?

8 A Yes, sir.

9 Q And you saw ---

10 A He had -- he had the gun on him from -- so
11 obviously, they had to do something when they took him to
12 wherever they took him to.

13 Q So you're saying he basically had the gun in his
14 hand the whole time?

15 A Yes, sir.

16 Q Okay. Yeah. No further questions.

17 THE COURT: Anything further?

18 MR. DUNCAN: No, sir.

19 THE COURT: All right. You may step down.

20 (Whereupon, the witness exited the witness stand.)

21 (Off the record briefly.)

22 THE COURT: Ladies and gentlemen, I need you to go
23 to the jury room once again. Please do not discuss the
24 case. You won't be in there very long, just a few
25 minutes.

1 (Whereupon, the jury exited the courtroom at 12:09
2 p.m.)

3 (Off the record briefly.)

4 THE COURT: All right. Mr. Green, I need you to
5 come forward. I want to ask you some questions.

6 You can swear him just right -- he can swear him any
7 -- he can be sworn right there where he is. That'd be
8 fine. Yeah.

9 (Whereupon, the defendant came forward.)

10 MIKAH GREEN, having been first duly sworn,
11 answered and stated as follows:

12 THE COURT: And before I start, Mr. Green, Mr.
13 Duncan, you said that Mr. Green has made a decision about
14 whether or not he wants to testify?

15 MR. DUNCAN: That -- he -- he has indicated to me
16 that he wishes to testify, Your Honor.

17 THE COURT: All right. So, Mr. Green, I'm going to
18 ask you some questions now to -- regarding your right to
19 testify or not to testify. And I'm going to explain to
20 you certain of your rights. If you do not understand
21 anything I say, please let me know. And if you want me
22 to explain it in more detail, let me know. Know what I
23 mean?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: You understand?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: We have now reached the stage of the
3 trial where you may present your defense. You have the
4 right to claim the protections given to you by the Fifth
5 Amendment to the Constitution of the United States.

6 The Fifth Amendment to the Constitution of the
7 United States, states, in part, that: No person shall be
8 compelled in any criminal case to be a witness against
9 himself. This means that you cannot be required to
10 testify. However, you do have the right to testify. But
11 no one can make you testify. Whether or not you testify
12 is a personal right, and no one can waive this right
13 except you.

14 Know what I mean?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Now, if you decide to testify, you will
17 be subject to the same rules that govern other witnesses.
18 And you may be examined and cross-examined on any
19 relevant issue.

20 In addition, if you have any convictions involving
21 dishonesty or false statement or for crimes punishable by
22 imprisonment more than one year and I determine that the
23 probative value of admitting this evidence outweighs its
24 prejudicial effect to you, the solicitor then will be
25 able to introduce your record to attack your credibility.

1 If you decide to testify, this decision on your part
2 must be freely, voluntarily, and intelligently made, with
3 knowledge of the protections given to you by the Fifth
4 Amendment and the consequences of your decision. If you
5 decide not to testify, I will instruct the jurors that
6 they cannot give the fact that you did not testify any
7 consideration whatsoever and that there is to be
8 absolutely no prejudice to you because you did not
9 testify.

10 It's left entirely up to you whether or not you
11 testify. You certainly may talk with your attorney, Mr.
12 Duncan, with family, with friends, or anyone else you
13 have to talk to. But in the end, in the final analysis,
14 the decision is left entirely up to you.

15 Do you understand what I've explained?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And do you have any questions about what
18 I've explained?

19 THE DEFENDANT: No, sir.

20 THE COURT: You've talked with Mr. Duncan about
21 whether or not you should testify?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you need to talk to him any more
24 about whether or not you should testify?

25 THE DEFENDANT: No, sir.

1 THE COURT: And you've made a decision about
2 testifying?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And what is your decision?

5 THE DEFENDANT: I want to testify, sir.

6 THE COURT: All right. Very good. You may be
7 seated.

8 Well, we're going bring the jury out, so we'll have
9 him seated in the jury box.

10 MR. DUNCAN: Yes, sir. Yes, sir.

11 (Whereupon, the defendant came forward into the
12 witness stand.)

13 THE COURT: All right. And maybe you can just stand
14 right -- stand up -- just stand and stand right there
15 while the jury is coming in. And the jury can come on
16 in. Just stand up.

17 THE DEFENDANT: All right.

18 THE COURT: Yeah. So you can swear him; he's
19 already stood up when the jury comes in.

20 (Off the record briefly.)

21 (Whereupon, the jury entered the courtroom at 12:15
22 p.m.)

23 THE BAILIFF: The jury is seated, Your Honor.

24 THE COURT: All right. Thank you.

25 You may call your next witness.

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1 MR. DUNCAN: Your Honor, I would call my client,
2 Mikah Nelsun Green, to the stand.

3 THE COURT: Okay.

4 DEPUTY CLERK OF COURT: State your full name,
5 please.

6 THE WITNESS: Mikah Green.

7 DEPUTY CLERK OF COURT: Speak up.

8 THE DEFENDANT: Mikah Green.

9 MIKAH GREEN, having been first duly sworn,
10 testified as follows:

11 DEPUTY CLERK OF COURT: Thank you.

12 DIRECT EXAMINATION

13 BY MR. DUNCAN:

14 Q Good afternoon, Mr. Green.

15 A Good afternoon, Mr. Duncan.

16 Q And, Mr. Green, if you would, please just state your
17 full name for the record.

18 A Mikah Nelsun Green.

19 Q And maybe back off that microphone just a little
20 bit.

21 A I apologize, sir.

22 Q You all right.

23 A Mikah Nelsun Green.

24 Q And, Mr. Green, where are you -- where are you from,
25 sir?

1 A From a place called Manning, South Carolina.

2 Q You grew up in Manning, South Carolina?

3 A Yes, sir.

4 Q Did you go to -- go to high school there?

5 A Yes, sir. I went to Manning High School, sir.

6 Q When -- did you -- when did you finish Manning High
7 School?

8 A 2014.

9 Q Okay. And since -- since that time, you have --
10 what have -- what kind of work have you done since
11 graduating high school?

12 A I worked at Food Lion Warehouse, Trioloni
13 (phonetic), Southeast Frozen Foods -- warehouse jobs,
14 sir.

15 Q Okay. And, Mr. Green, do you -- do you -- are --
16 are you married or single?

17 A I'm not married, sir. I'm -- I'm single.

18 Q And you have -- you have children?

19 A Yes, sir.

20 Q What -- who are your children?

21 A I have a -- a -- I have a son named Valentino; he's
22 3. I have a -- a son named Truth; he's about to be 4.

23 Q Okay. All right. And, Mr. Green, you -- how did
24 you -- how did you know the deceased in this case, Mr.
25 Stacy Rhodes?

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1 A He was a gambling partner, sir. I met him in the
2 neighborhood. He was a friend.

3 Q About how long had you and -- how -- what -- did you
4 call him, Stacy Rhodes?

5 A I called him Boi.

6 Q You called him Boi?

7 A Yeah.

8 Q What did he call you?

9 A Rich.

10 Q All right. So when did -- about when did you meet
11 Boi Rhodes?

12 A I can't really remember. I -- I -- I been -- I -- I
13 really been hearing his name. I eventually met him on
14 Garners Ferry Road. I met him on Garners Ferry about --
15 what was that? -- 2000 -- you know it's been a while. So
16 -- but 2000 and -- probably about 2000 and -- this 2022
17 -- 2000 -- 2000 -- probably about 2018/2017. I don't
18 want to lie to you, sir. I don't really ---

19 Q So ---

20 A --- can't remember. But I met him ---

21 Q Maybe ---

22 A Yeah.

23 Q You knew him for about a year?

24 A Yeah, about a year.

25 Q Okay. All right. And you said y'all were gambling

1 partners.

2 A Yes, sir.

3 Q What -- what does that mean?

4 A We see each other just about every day; gamble;
5 talk; laugh; kick the bo boat; and ---

6 Q Kick -- I -- I'm sorry.

7 A Kick the bo boat. Talk ---

8 Q Okay.

9 A --- gamble. Yes, sir.

10 Q All right. And did ---

11 A We were friends.

12 Q You were friends.

13 A Yes, sir. At least I ---

14 Q Did ---

15 A --- I thought we were. Yes, sir.

16 Q Did he -- did he come to your house ever?

17 A No. No, sir.

18 Q Did you go to his residence?

19 A Yes, sir.

20 Q All right. And where was his residence?

21 A In Lakeshore Apartments.

22 Q Okay. As long as you knew him, did he live in
23 Lakeshore Apartment?

24 A At one point when I first met him, he didn't stay
25 out there. And then he eventually moved out there, sir.

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1 Q Okay. All right. Had -- again, you -- you said you
2 saw him about every day?

3 A Just about every day. If not every day, every
4 couple days. It'd be no more than a week that I wouldn't
5 see him.

6 Q Okay. On -- you know, obviously, we're talking
7 about the last Saturday in March of 2019, so about three
8 years ago.

9 A Yes, sir.

10 Q That -- that week, the week leading up to that
11 Saturday, had you been -- you had Mr. -- and Boi been
12 together?

13 A Yeah. Yes, sir.

14 Q What -- what had gone on that -- that week ---

15 A We were ---

16 Q --- in particular?

17 A --- gambling -- gambling, talking. In fact, I
18 remember -- yeah. We were gambling. Yes, sir.

19 Q Had -- had you -- had -- when you say y'all gambled,
20 I mean, you gambled against one another?

21 A Yes, sir. And other people also.

22 Q And other people also.

23 A Yes, sir.

24 Q That -- that week, the week leading up to the last
25 week of March 2019 -- excuse me -- how had your gambling

1 been? You, Rich, how had your gambling been?

2 A I been doing -- I been doing good. I -- I won -- I
3 -- I was winning. I was doing real good. Yes, sir.

4 I won 800 from him one -- one day, the day before
5 the incident. And then I won 2,000 the beginning of that
6 week from him.

7 Q So you -- you were up about \$3,000 that week on --
8 on Boi?

9 A Yes, sir.

10 Q Okay. So on -- on the day -- last Saturday in
11 March, the day that we're here about, what -- what did
12 you do the beginning of that day? How did -- tell me
13 about your day, that day.

14 A I woke -- I woke up. I went out to the
15 neighborhood. I went out to Lakeshore to talk to a
16 friend named Beezie. We -- were just talking for a
17 little while.

18 And then, he was, like: "Man, it's nice outside
19 today, man."

20 I was, like: "Yeah. It's nice outside." I said --
21 I said -- I said: "It's a nice day to throw something on
22 the grill."

23 He said -- either he said it or I said it. Somebody
24 stated it.

25 And I said: "Yeah. You know what, man? I'm about

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1 to go get some" -- I said: "I'm about to go get -- get
2 the meat."

3 He said: "I -- I got the grill."

4 I said: "Okay. We can do something."

5 So I went to Walmart; got the meat. I thought he
6 was going bring out a big grill. He end up bringing out
7 a small grill, so it was going take forever to cook the
8 meat.

9 After that -- you want me to go through the whole
10 day, sir?

11 Q I -- I'll -- I want you to set up a little bit about
12 what -- what was going on out at Lakeshore ---

13 A Okay.

14 Q --- Apartments. Y'all were -- y'all were getting
15 ready to ---

16 A Yeah.

17 Q --- cook out?

18 A Yeah. So we end up having a cookout. We end up
19 having a cookout. We end up putting meat on the grill.

20 I end up -- we end up start gambling. Somebody came
21 about; they wanted to gamble. You -- it's mutual friends
22 came about; they wanted to gamble. So we started
23 gambling.

24 Q And let me ask you: Do you -- you were here ten
25 minutes ago when Mr. Henley testified. Were -- do you

1 recall who was gambling?

2 A Yes, sir. Me, Dollar, Boi, Beasley, probably about
3 one/two other people, people in and out. Oh -- what's
4 his name? I can't -- Black and probably one -- one other
5 person, one -- people in and out the game. And -- oh, I
6 forgot his name -- King. Yes, sir. It was six.

7 Q So, like, five or six people ---

8 A Yes, sir.

9 Q --- were gambling.

10 A Yes, sir.

11 Q And what were you -- what were you doing? What kind
12 of gambling?

13 A We were rolling dice. It was called -- the game's
14 called high-low. Whoever gets the highest number.

15 Q Who gets the highest number on the -- on the one
16 dice?

17 A No. Two dices.

18 Q Two dice?

19 A Yeah.

20 Q Okay.

21 A One through 12.

22 Q Okay.

23 A Yes, sir.

24 Q All right. All right. And so this was, like, the
25 middle of the afternoon?

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1 A I would say. Yes, sir. It's like probably around
2 about twelve o'clock/one o'clock. Yes, sir.

3 Q And did y'all keep -- y'all kept ---

4 A It was ---

5 Q --- hanging ---

6 A --- just ---

7 Q --- out like ---

8 A Yes.

9 Q --- through the afternoon?

10 A Yes, sir.

11 Q All right.

12 A Probably started earlier that day and let -- yeah.
13 Yes, sir. We was hanging out till the afternoon. Yes,
14 sir.

15 Q All right. And you said people were in and out of
16 the game, in -- in and out of the dice game.

17 A Yes, sir.

18 Q Is that correct?

19 A Yes, sir.

20 Q Did -- did you withdraw from the dice game? Did you
21 -- were you in and out of the game, or were you in the
22 game?

23 A Sometimes I would quit, give myself a little break,
24 and -- and get back in the game. Yes, sir. I -- I -- I
25 did stop and get back -- stop and go back to the game --

1 get back -- yes, sir, I did.

2 Q So where -- where would you go ---

3 A Uh ---

4 Q --- like -- hang on. I'm sorry. I -- let me try to
5 -- let me try to ask the question right.

6 Where was -- where were y'all rolling? Where --
7 where were you ---

8 A We were ---

9 Q --- at the apartment ---

10 A We were ---

11 Q --- complex?

12 A --- on the porch of the apartment, sir.

13 Q Sir?

14 A On the porch of the apartment, sir.

15 Q Okay. The -- at -- at, like, the first building?

16 A I can't really explain to you like this. I don't
17 want to lie to you. But I can show it to you on a -- on
18 a picture or wherever -- we were at ---

19 Q You -- you've seen -- hang on. I -- I don't -- the
20 -- the jury don't need to know what apartment number you
21 were in.

22 A Yes, sir.

23 Q The ---

24 A We were on the first -- the first -- the first --
25 when you first come in, take a left. Right there, sir.

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1 Q Okay. And where -- you've seen pictures of ---

2 A Yes, sir.

3 Q --- the apartment -- you were in the first place on
4 the left-hand side.

5 A Yes, sir.

6 Q As you entered Lakeshore Apartments?

7 A Yes, sir.

8 Q And y'all -- y'all were rolling dice there, five or
9 six of you?

10 A Yes, sir.

11 Q But when you -- when y'all -- when you pull out of
12 the game -- and I mean you and the others too -- what --
13 no -- strike that. When you would pull out the game,
14 where would you go?

15 A I might sit back, watch for a little while. Because
16 my luck might not be going good at the time. Or I'll --
17 I'll go take care of family -- like, I took care of
18 family matter -- matter one time.

19 Q Hang on. You ---

20 A Yes, sir.

21 Q --- took care of a family matter.

22 A Yes, sir.

23 Q Did you leave Lakeshore Apartments to do that?

24 A Yes, sir. I believe so -- I did. I can't recall
25 everything I did that day, because it was three years

1 ago, sir. And I don't ---

2 Q Sure.

3 A --- I don't want to lie.

4 Q Sure.

5 A Yes, sir.

6 Q And I -- I'm -- and -- and they don't care ---

7 A Yes, sir.

8 Q --- I mean, about all that. And I'm not trying to
9 get all that. But I'm asking: You weren't constantly at
10 Lakeshore Apartments from noon until eight o'clock p.m.?

11 A Majority of that day, I was there. Yes, sir.

12 Q Majority ---

13 A But ---

14 Q --- of the day, you ---

15 A Yes, sir.

16 Q --- were there.

17 A Yes, sir. I might leave ten minutes/five minutes.
18 Yes, sir.

19 Q All right.

20 A I -- I think I left once for, like, five minutes/ten
21 minutes. That's it. Came right back. Just like when I
22 left to go get the meat, I came back. When I went to go
23 get my -- the mother of my child something to eat ---

24 Q Okay.

25 A --- I came back. Yes, sir.

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1 Q So -- all right. Got you.

2 So at -- at some point, I mean, the -- what we're
3 doing here -- at some point they -- an altercation came
4 up.

5 A Yes, sir.

6 Q Tell the Court -- tell the jury about that. What
7 happened?

8 A Okay. We were outside. We were gambling.
9 Something came up about -- I can't remember exactly what
10 it was. It was three years ago. Something came up about
11 a number. It was something petty, something that
12 could've been avoided.

13 Somebody grabbed money. He -- the deceased went and
14 picked up the phone. He picked up the phone; turned his
15 back to what was going on.

16 Someone picked up the money. I had my -- I -- it's
17 something always. Do I put my foot on my money?
18 Because, you know what, this is my money. If you win,
19 you got it; you can get it.

20 Someone grabbed the money. When he came back, he --
21 I don't want to lie about what happened. It was
22 something about the money, though.

23 And he said that I took the money. I did not take
24 the deceased money. I tried to explain that to him and
25 tell him: "I didn't take your money."

1 But he just going on about it, going on about it;
2 getting aggressive, getting aggressive. I ---

3 Q So ---

4 A Say again?

5 Q So you -- let me -- let me understand. You've said
6 the money -- was there, like -- was there a pot ---

7 A Yes, sir.

8 Q --- laying ---

9 A It was a pot ---

10 Q --- on the ground?

11 A It was a pot laying on the ground. Yes, sir.

12 Q All right. And you said you had your foot on your
13 \$20?

14 A Yes, sir. I -- I -- I want to say that was my -- a
15 side bet or something like that. But everything else was
16 in the pot. Yes, sir.

17 Q All right. And what -- Boi had walked away,
18 correct?

19 A Yes, sir.

20 Q And when he returned -- when he returned, had the --
21 the money was gone? The ---

22 A No.

23 Q --- pot was gone?

24 A No. He hopped ---

25 Q What had ---

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1 A --- on the ---

2 Q --- happened?

3 A He got on the phone. He got on the phone; somebody
4 gave him a phone call. He got on the phone.

5 After he got on the phone, when he turned back
6 around, he looked -- he -- he -- he -- he was trying to
7 figure out who won. Somebody else said they won. I
8 said: "No, you didn't." I said: "But it ain't got
9 nothing to do with me."

10 It end up escalating. He was, like: "No. Hold,
11 hold -- whoa. We roll" -- this, that, the third. They
12 -- he got into it. He was, like -- he was, like: "You
13 got my money."

14 I said: "Well, this mine right here. It's my side
15 \$20 right here." I said: "This mine." You feel me? I
16 just said it was mine.

17 And he was, like: "How I didn't win?" He was,
18 like: "Oh, you stealing my money? You stealing my
19 money?"

20 I got a -- I -- I -- I won. I'm up. I don't -- I
21 have no need to steal your money. But I'm trying to
22 explain that to him.

23 We gambled every day. We never had this problem
24 before. But he got aggressive and aggressiver. He ran
25 off; went and got a firearm; came back inside a vehicle.

1 When he came back inside of the vehicle, he came
2 back like he was going to do a drive-by. People started
3 running. He hopped out of the car. Everybody started
4 running.

5 But before he -- he started running -- before he
6 started running, the car pulled up aggressively, you
7 know, kind of wild, turning in, turning in. He hopped
8 out of the car. After he hopped out of the car, he
9 starting making threats towards me.

10 "I'll kill you out here. I'll gun you down out here
11 in the streets, you bitch-ass nigga. On blood, I will
12 kill you."

13 But before that even happened, the man that was
14 riding with -- that he was riding with told him: "Wait.
15 You like my nephew; he like my nephew. Leave that alone.
16 That's who you talking about shooting."

17 So initially, his intentions was to shoot me.
18 That's what I'm thinking. I -- and ---

19 Q Let me ---

20 A --- the question?

21 Q --- this ---

22 A Yeah.

23 Q --- this gentleman riding with him -- excuse me --
24 who was driving the vehicle ---

25 A Yes, sir.

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1 Q --- did you -- you had -- had you met him before?

2 A I met him the night before through Stacy Rhodes when
3 we were gambling at his house that night. I won \$800 off
4 him, sir.

5 Q And that gentleman -- what you just said was: "He's
6 like my nephew" ---

7 A "You like my" ---

8 Q --- "you're like" ---

9 A --- "nephew."

10 Q --- "my nephew." What does that mean -- I mean ---

11 A I mean, I guess, he -- he took it like he took me --
12 or he -- he -- well, he knows my -- he knows my people.

13 So he -- he was saying: "You like my nephew; he's like"

14 -- just a saying, like, you know, we call older guys

15 "Unk." Or, you know, I -- I guess you -- I don't --

16 yeah.

17 Q He was an older fella?

18 A Yes, sir.

19 Q I mean ---

20 A Probably about 38/40, probably, something like that,
21 sir.

22 Q Okay. Older to you.

23 A Yes, sir. Older to me. Yes, sir.

24 Q I understand.

25 A Yeah. I didn't mean any harm by that.

1 Q None taken.

2 Mr. Green, after -- after the gentleman -- after the
3 other guy tried to kind of settle it down, did it settle
4 down?

5 A No. He got more aggressive, putting it on his gang
6 and stating what he'll do to me. I'm trying to calm him
7 down: "Man, it's not that serious. Hold on. Hold on.
8 Wait. It's not that serious."

9 The person, I guess -- person said: "I got
10 something extra, man. Hold on. I must've -- I must've
11 picked it up. Here, bro. Take this."

12 He said: "Nah. Fuck that. I want his money. I
13 don't want that money. I want his money."

14 Q So hold up. A -- another person in the game offered
15 Boi money?

16 A Yes, sir.

17 Q And that didn't suit him?

18 A No. He said: "Fuck that. I don't want that money.
19 I want his money." That's what he said, sir. That was
20 his words.

21 Q So what happened next?

22 A I'm just really trying to get away from him. He
23 keep running up on me with the gun and -- "I got big
24 shit. I'll kill you out here, on blood. I'll gun you
25 down." Keep pulling it out; putting it back on.

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1 Then at one point it got to him saying: "Pull that
2 gun out on me, and I'll kill you out here."

3 And I said -- no. He said -- he said: "Pull it
4 out. I want you to pull it and shoot me."

5 Q Wait.

6 A I said: "Why would you want me to do that?"

7 Q Hold up one second. So you -- no question, you had
8 a gun on you?

9 A Yes, sir.

10 Q What kind of gun do you have?

11 A I know it was black and gold. I don't want to lie
12 to you about the caliber. I believe it was a 9-
13 millimeter, though, sir.

14 Q All right. When -- when had you -- had -- had you
15 had that gun before or -- when did you acquire ---

16 A I bought it ---

17 Q --- that gun?

18 A I bought it earlier that day, sir. So that's why --
19 I don't -- I didn't want to lie to you about the exact --
20 exact caliber, sir.

21 Q All right. You bought it earlier that day?

22 A Yes, sir.

23 Q Tell me why you needed a gun.

24 A I got back -- when I got back with the meat, someone
25 in the hallway stopped -- we was taking the meat inside.

1 He stopped me in the hallway. He said -- he said: "Man,
2 Rich, check this out."

3 So I looked at it. It was gold and black. It was
4 nice. I said: "You know what? Let me get that."

5 I bought it. I gave him like 150/175 dollars for
6 it; told him I'll give him \$50 later on. I think it was
7 altogether \$200 what I was going to have to pay for it.
8 Yes, sir.

9 Q All right. And so you brought it -- you -- you had
10 that gun with you when ---

11 A That ---

12 Q --- you came back with the meat?

13 A Yes, sir. Earlier that day, I bought -- bought that
14 gun when I -- when I came back with the meat. Yes, sir.

15 Q Did -- did you -- you -- did you drive -- did you
16 drive yourself back to the Lakeshore Apartments?

17 A Yes, sir.

18 Q And what were you driving?

19 A A Ford Fusion.

20 Q Ford Fusion?

21 A Yes, sir. Yeah. A white car.

22 Q All right. And so you -- you parked -- when you got
23 back, you parked in -- kind of close -- where'd you park?
24 Where'd you park?

25 A I parked, like, I don't want -- or like -- like, in

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1 the proximity of where we were at, but not too, too
2 close. But where we were at. Yes, sir.

3 Q All right.

4 A In the parking lot.

5 Q All right. And, Mr. Green, did you -- did you take
6 your gun -- did you have your gun that you had just
7 purchased with you? Did you have it with you?

8 A Yes, sir. I had it on me the whole -- I had it on
9 me the whole day.

10 Q At -- when you came back, you had it on you?

11 A Yeah. The whole day.

12 Q Okay. All right. So I interrupted you. You were
13 telling me about Boi saying -- saying something -- y'all
14 -- bringing out a gun; that he had his gun out and he
15 said to you something.

16 A He said -- he said -- how was that? He said: "Pull
17 it out. Shoot me. I want you to shoot me."

18 I said: "Why would you want me to do that?"

19 And just kept going and going. I guess I -- I don't
20 know why he would say that. I said: "Why would you want
21 me to do that?"

22 And somebody was, like: "Hold -- stop. Like,
23 what's wrong, bro? Calm down." Everybody was just
24 trying to calm him down.

25 Basically, I was -- I was -- I was trying to calm

1 down the situation myself because it's -- this is a
2 friend. I mean, you -- we gambled together every day.

3 Why -- why we arguing about something petty? Why
4 would you want to argue about something as petty as this?
5 I'll -- I'll just give it to you. You get what I'm
6 saying?

7 Q Did -- was anybody at -- I mean, did it ever de-
8 escalate? Did it ever de-escalate? Calm down?

9 A At one point it'll go -- it'll -- it'll calm down,
10 like, it just -- then he'll go back to: "Arr-rarr-rarr-
11 rarr-rarr" (phonetic).

12 Like, I tried to walk away. He'll jump in front of
13 me. He just keep going. They just -- really, I didn't
14 see de-escalating. I just see it keep going. It just
15 really kept going, so I can't really say de-escalate. It
16 might stop for two/three seconds.

17 Then while somebody talking to him, like: "Man,
18 what -- what's going on. Chill, like." Somebody might
19 pull him to the side; try to talk him. And he'll go
20 right back to it. Yes, sir.

21 Q What -- Mr. Green, obvious question: Why didn't you
22 just leave?

23 A I tried ---

24 Q Why didn't ---

25 A --- to, sir.

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1 Q --- you pull away?

2 A I tried to. He told me in the beginning, when he
3 first ran off to go get the gun: "If you leave from out
4 of there, I'm going put -- I'm a Swiss-cheese your car.
5 You know, I'm a shoot the car up. On blood, I'm a shoot
6 the car" -- he'll -- he -- he ran.

7 And he went off to get the gun. That means he's at
8 the front of the entrance now, whenever he ran out to get
9 the gun. He hopped inside of a vehicle.

10 I seen videos of -- of -- I seen videos that they
11 showed. If they can see that side of the building, you
12 can see that car or him riding up and down in that
13 vehicle, back and forth, and then come back inside of the
14 -- inside of the complex. I believe that should be able
15 to be shown.

16 So he ran off; went and got the gun; hopped inside a
17 vehicle; rode up and then rolled back down; then rolled
18 in. The man that was driving -- well, he wasn't driving.
19 He was a passenger.

20 The man that was driving rolled in aggressively.
21 And everybody kind of started scattering a little bit,
22 because he -- I mean, he already said what he was going
23 do. If -- if it was -- he already said what he was going
24 to do, sir.

25 Q All right. And after -- after he had rolled up and

1 you -- people were trying to calm him down, I mean, they
2 -- again, there were like six people playing dice. About
3 how many -- you don't have to give me a count. But
4 ballpark, there 20 people out there?

5 A I could say 15/20 people out there -- 10 -- yes --
6 10/15 people out there. Yes, sir. Closer to 20 ---

7 Q All right.

8 A --- 10 to 15, but that's all -- that's people got --
9 other people got stuff going on. Us -- you get what I'm
10 saying? Yeah. People over next -- just outside. Yes,
11 sir, 20 -- about 20 people.

12 Q From -- from -- from, you know, your -- from your
13 memory of it, was -- were other people upset, hollering?
14 Were -- were other people involved in the dispute, or was
15 it just you and Boi?

16 A It was -- it was Boi. But it -- it -- it was also,
17 in a way, his brother, because he was with his brother.
18 And his -- his -- he stated -- his brother stated: "If
19 you pull that gun out on my brother, you going see some
20 gangsta shit."

21 And his brother was on the side of the car with a
22 pistol, like he was -- like how a police officer would be
23 on the side of a car, like trying to blocking hisself off
24 or -- I -- I can't really explain it. But I get -- I --
25 I feel like you get where I'm coming from.

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1 Like, say, like -- but -- yeah. His -- him and his
2 brother. Yes, sir.

3 Q All right. And is ---

4 A They came together. Yes, sir.

5 Q His -- did his brother have a firearm?

6 A Yes, sir.

7 Q And you -- did you see it?

8 A Yes, sir.

9 Q And when you ---

10 A It was tough, but yes, sir. You could see the
11 print. You could tell he had a firearm. Yes, sir.

12 Q All right. All right. And you -- obviously, you've
13 been here throughout the trial. Is -- is the brother the
14 -- the gentleman, Mr. Archie, who testified yesterday?

15 A Yes, sir. I know him as J-Will, sir.

16 Q You knew him as?

17 A J-Will. Yes, sir. Or either ---

18 Q J-Will?

19 A J-Will, but J-5, J. That's what they call him.
20 Yes, sir.

21 Q All right. All right. And -- and you knew him as
22 well?

23 A Yes, sir.

24 Q Not at -- is it fair to say that you knew Boi much
25 better than you knew J-5?

1 A Yes, sir. Because I met him through Boi. Yes, sir.

2 Q All right. All right. So vehicle is there; Boi is
3 out, hollering, showing you a gun. What happened next?

4 A Kept running up on me with the gun. Kept running up
5 on me with the gun. I see a -- a -- a -- kept running up
6 on me with a gun. Kept running up on me with a gun.

7 They trying to calm the situation down. Eventually
8 -- I'm -- long story short, I'm a tell you the story. We
9 sitting there, talking.

10 I'm shaking my head in disbelief, like ain't no way
11 we still go through this. Ain't no way this is still
12 going on. Try to really come to some type of conclusion
13 for us to leave the situation alone.

14 But I hear -- I hear gunshots. He -- oh. Matter of
15 fact, car pulled up. A car pulled up. When the car
16 pulled up, the car asked him -- was calling his name,
17 trying to get his attention.

18 He's still going on: "I'll kill you out here on
19 blood. I'll kill you out here." Grabbing on the gun --
20 I don't know if it was to intimidate me. The -- I was
21 really scared. I was scared for my life.

22 But I don't know if it was to just keep harassing me
23 or I -- I can't explain -- I'm explaining the situation
24 -- I'm just explain the situation.

25 Q Yes, sir.