

200016

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

Knox R. McMahon, Circuit Court Judge

Case Nos. 2010-GS-32-2318, -1440, & -1444

State of South Carolina, ..... Respondent,

v.

Andrew E. Torrence, Jr., ..... Appellant.

**RECORD ON APPEAL  
VOLUME I**

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**S.C. Supreme Court**

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ORIGINAL

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF LEXINGTON )  
 )  
THE STATE, )  
 )  
vs. )  
 )  
ANDREW E. TORRENCE, JR., )  
Defendant )  
\_\_\_\_\_ )

COURT OF GENERAL SESSIONS

FILED

2011 JUN 11 2:51  
ORDER

2010-GS-32-02318, 2011-GS-32-01440  
& 2011-GS-32-01444  
CLERK OF COURT  
LEXINGTON, SC

On June 3, 2011, Andrew E. Torrence, Jr. was convicted of Voluntary Manslaughter, Possession of a Weapon during the Commission of a Violent Crime, and Unlawfully Carrying a Firearm onto a Premises of Business Selling Alcoholic Liquors, Beers or Wines for On-Premises Consumption.

This matter is before me upon motion of Wayne Floyd, attorney for the Defendant, requesting a new trial and a reconsideration of the sentences.

After reviewing the motion, the following is hereby ordered:

- 1) The motion for a new trial is denied;
- 2) The motion for reconsideration of the twenty-five (25) year sentence as being excessive is denied; and
- 3) The five (5) year sentence imposed on Indictment 2011-GS-32-01444 is hereby amended to three (3) years

IT IS SO ORDERED.

  
The Honorable Knox R. McMahon  
Circuit Court Judge

Lexington, South Carolina  
June 13, 2011  
1571

STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS  
COUNTY OF LEXINGTON ) -3 10-02  
Case No.: 10-GS-32-02318, 11-GS-32-01440,  
11-GS-32-01444

THE STATE OF SOUTH CAROLINA )  
Plaintiff, )  
vs. ) MOTION FOR A NEW TRIAL  
AND FOR RECONSIDERATION  
OF SENTENCE  
ANDREW E. TORRENCE, JR., )  
Defendant, )  
\_\_\_\_\_ )

On June 3, 2011 Defendant was convicted in the Lexington County General Sessions Court of violation of, §16-03-0050, Voluntary Manslaughter, §16-23-0490, Possession of Weapon during violent crime, §16-23-465, taking gun on premises where alcohol is served. Defendant was sentenced to twenty-five (25) years on the manslaughter charge and five (5) years each on the weapons and the alcohol charge. Defendant now moves that this court to grant him a new trial in this matter and to reconsider the sentences given to the Defendant for these convictions.

Defendant moves this Honorable Court to grant him a new trial for the following reasons:

1. the court erred when it refused Defendant's request to charge the jury on the lesser included defense of involuntary manslaughter at the conclusion of the trial;
2. the court erred when it refused Defendant's request to charge the jury on the lesser included defense of involuntary manslaughter

after the jury sent a question to the Judge as to whether or not the jury could consider the crime of involuntary manslaughter;

3. the court erred when it refused Defendant's motion to dismiss for prosecutorial misconduct for each of the following actions:

- a. improper questioning of the Defendant inferins that he was drinking alcohol while working at Rush's when there was no evidence on that point;
- b. improper jury argument of placing the weapon on the jury rail and arguing that a verdict of not guilty would put the Defendant back in the community with his weapon when the Prosecution knew that the Defendant would not be given that weapon back even if found not guilty as he is now a convicted felon;
- c. manipulation of the General Sessions trial docket to obtain a conviction for impeachment purposes of the Defendant for an offense committed over a year after the incident at trial.

4. the court erred when it allowed over Defendant's objection the use of the Defendant's guilty plea to Assault 2<sup>nd</sup> for impeachment purposes for the following reason:

- a. the prejudicial nature of the conviction outweighed it's probative value;

- b. the conviction occurred after the commission of the offense at trial and should not have been allowed;
  - c. State should not have been allowed to use the conviction to attack the creditability of the Defendant as they obtained the conviction through manipulation of the trial docket.
- 5. the court erred when it suppressed the admission of the video and audio recording made of the Defendant in Officer Griffin's vehicle as the audio on the tape showed the jury Defendant's state of sobriety and state of mind at and shortly after the alleged incident.
  - 6. the court erred when it denied the Defendant's motion for directed verdict at the conclusion of the State's case and at the conclusion of the entire case as the State failed to establish probable cause between the incident in question and the death of the victim;
  - 7. the court erred when it refused Defendant's motion for directed verdict for all the reasons set forth above and for any other motions made during the trial.

Defendant moves that this Honorable Court to reconsider the sentences given to the Defendant in connection with his convictions. Defendant is informed and believes that the sentence of twenty-five (25) years is excessive considering the circumstances of this crime and Defendant's prior criminal record. The incident in question was precipitated by the violent physical assault upon the Defendant by the victim and, although Defendant was wrong to take the firearm into the bar, a firearm was never raised toward the victim till after the victim charged the Defendant reaching toward the weapon.

The evidence clearly established self defense whether legally perfect or not, and a sentence of twenty-five (25) years is excessive, particularly when considered in light of the jury's request to be allowed to consider involuntary manslaughter.

Defendant is also informed and believes that the sentence of five (5) years for carrying a weapon into premises that serves alcohol is excessive in that it exceeds the statutory punishment for that offense.

WHEREFORE Defendant prays that this Honorable Court grant him a new trial or, in the alternative sentence reduce his sentence for the reasons set forth above.

Respectfully submitted,

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By: Wayne Floyd

West Columbia, South Carolina

June 8, 2011.

1 the Defendant. So I will give it my complete and undi-  
2 vided attention, and I know you will.

3 If you cannot hear a particular witness, please  
4 raise your hands and give my attention. I will have  
5 that witness speak up. If you can't hear the evidence  
6 you won't be able to determine what the true facts of  
7 the case are.

8 Any objections to anything I have addressed with  
9 the jury, from the State?

10 MR. GRAHAM: No, Your Honor.

11 THE COURT: From the Defense?

12 MR. FLOYD: No, Your Honor.

13 THE COURT: We will now begin the trial, ladies  
14 and gentlemen. Please give the parties your complete  
15 and undivided attention.

16 Mr. Solicitor, you may address the jury.

17 MR. GRAHAM: Thank you, Your Honor.

18 To be the man, you've got to beat the man. Sep-  
19 tember 28, 2008, at a bar in West Columbia called  
20 Shaggy's, at approximately three to three thirty A.M.,  
21 a Sunday morning/Saturday night, Andrew Earl Torrence,  
22 Junior, decided he was going to be the man.

23 He was at that bar, ladies and gentlemen, talking  
24 to a lady by the name of Donna Muszynski.

25 While he was talking to her, in walked the victim

1 in this case, Zachary or Zach Chaplin.

2 At that moment, ladies and gentlemen, Donna  
3 Muszynski turned her attention to Zach, ignoring Andrew  
4 Torrence.

5 That started the Defendant's ratchet. He was  
6 being ignored by the woman he was giving his attention  
7 to, because of Zach Chaplin.

8 Shortly thereafter, two acquaintances of Andrew  
9 Torrence came in the bar, Tonya Mozenko and Steven Smith.  
10 They sat down, and Mr. Torrence sat down with them.  
11 They engaged or tried to engage in conversation, and  
12 you will hear testimony that Andrew Torrence's atten-  
13 tion was toward Zach Chaplin, calling him names.

14 He was upset, and the ratchet was getting tighter.  
15 That first step toward the ultimate act of murder took  
16 place.

17 During these conversations with Tonya and Steve  
18 not once, not twice, but multiple times he made the  
19 statement, I should go to my truck, get my gun, and  
20 shoot him.

21 I should go to my truck and get my gun and shoot  
22 him.

23 Tonya and Steve basically have enough of hearing that  
24 talk. They left. They went their separate ways.

25 Zach is going back to the bar and getting drinks

1 with his lady friend, Donna, and another individual comes  
2 in that bar, a gentleman by the name of Lee Buchanan.

3 Lee, you're going to learn, is gay. That's his sex-  
4 uality, and Andrew Torrence decides to ratchet it up a  
5 little bit more, because, you see, Zach and Lee were friends,  
6 and comments were made by Andrew Torrence, hey, faggot;  
7 faggot-guy, or something to that effect.

8 It wasn't enough that he's on one side of the bar but  
9 on the other side of the bar sat Zach and Donna and Lee.  
10 Andrew Torrence had to get up, go around the bar, and sit  
11 beside Lee Buchanan.

12 Another step closer to murder, tightening up that  
13 ratchet, and he whispers in Lee's ear, do you want to kiss  
14 my ass, and he's being told, that's enough; go back where  
15 you came from; we don't want to hear that talk.

16 So what does he do? He says it again. Hey, faggot-  
17 guy or faggot-- and that's when Zach goes towards Andrew  
18 Torrence and punches him.

19 They get into a scuffle but Lee stands up between  
20 them. Lee is acting as the peace-maker. He's trying to  
21 separate them. He's trying to keep Andrew and Zach sep-  
22 arated, and eventually he is successful in doing that.

23 Zach does knock Andrew Torrence's glasses off, and  
24 what does Lee do, once they are separated? Lee helps Andrew  
25 Torrence.

1           He reaches down, grabs his glasses, gives them to  
2           him, and he escorts him out the back door of Shaggy's. He  
3           pretty much tells him, go on home; it's over. Let it go,  
4           and Andrew Torrence -- he leaves.

5           He goes to his car or his truck. Remember what he  
6           told Tonya and Steve earlier? I should go to my truck  
7           and get my gun and shoot Zach Chaplin.

8           Approximately seven minutes -- seven minutes passes,  
9           and there is a knock (demonstrating knock) on that back  
10          door.

11          It is not uncommon for patrons that go to Shaggy's  
12          to knock on the door. Lee gets up, opens the door, and  
13          sees Andrew Torrence and tells him, go on home; we're get-  
14          ting ready to close up here. It's over.

15          The next thing he sees is the barrel of a Glock twenty-  
16          three semi-automatic pistol. Lee runs back on this side  
17          of the bar to a corner next to the wall.

18          Andrew Torrence walks in. Zach is pushing a female  
19          out of the way, and people are fleeing the bar because it  
20          is yelled out, he's got a gun.

21          Torrence holds up that gun and then addresses his  
22          attention back over to Lee Buchanan; tells him, put your  
23          hands up on the bar. Well, he does it. The man's got a  
24          gun.

25          Zach realizes that Donna and Lee are still in there

1 with Andrew Torrence, the man with the gun.

2 He grabs a bar stool and tosses it over and charges  
3 Andrew Torrence. That ratchet, that step toward murder,  
4 is coming, and it's coming quick.

5 Zach comes around the bar. He's down low. The gun  
6 comes up and (sound of gun firing). Zach falls. He's been  
7 hit and he's fallen down.

8 Andrew Torrence follows him with that gun (sound of  
9 gun firing) and backs up. Two shots.

10 One shot enters his arm right here, breaks this bone,  
11 and lodges in Zach Chaplin's armpit area.

12 The other shot enters right there to the back of his  
13 head and lodges into his spine, immediately paralyzing him,  
14 and as a result of those two gunshots, approximately six  
15 weeks later, Zach Chaplin dies.

16 To be the man, you've got to beat the man. Andrew  
17 Torrence defines beat as kill the man.

18 THE COURT: Thank you very much, Solicitor.

19 MR. FLOYD: Thank you, Your Honor.

20 Ladies and gentlemen of the jury, this man is Andrew  
21 Torrence, Junior.

22 He's the man you are about to make one of the most  
23 important decisions about that you have ever made about  
24 anybody, if you're just now getting it.

25 You are going to decide this week, based upon the

1 evidence you hear in this Courtroom whether or not he should  
2 be branded a criminal.

3 If you've never served on a criminal jury before, you  
4 almost have to set aside human nature. Some of you may  
5 have a thought in your mind that because Drew was arrested,  
6 which he was; because he was charged with a crime of murder,  
7 which he was; was sent before you to be judged, which he  
8 was; then he must be guilty.

9 Well, if you've got that kind of thoughts, you'd bet-  
10 ter release it. You've got to release it.

11 Drew has got the same rights we all have. One of the  
12 most important rights is what we call the presumption of  
13 innocence.

14 What that means is that you must look at Drew Torrence  
15 right now and you must say in your mind and in your heart  
16 Drew Torrence is innocent. Drew Torrence is innocent.

17 It doesn't matter that he's been arrested. It doesn't  
18 matter that he's been charged. It doesn't matter that he  
19 sits before you to be judged. He is innocent in the eyes  
20 of the law and he must be innocent in the eyes of the jury  
21 until and unless the State proves his guilt beyond a reason-  
22 able doubt.

23 So we welcome your presence here.

24 Now, we heard this this morning, what the State is  
25 trying to weave about this night in question. We say this,

1    thank God for the video, because, you see, this is what hap-  
2    pened.

3           The State is trying to put together some kind of story  
4    that will justify a charge of murder. All we ask is that  
5    you listen closely and look at this video tape.

6           What you will see right from the start is that Drew  
7    Torrence didn't have intention to hurt anybody.

8           They talk about a fight. Look at it. You will see  
9    Drew Torrence sitting at the bar. You will see this man,  
10   Zach Chaplin, attack him. You will see Lee Buchanan hold-  
11   ing Drew Torrence, and you will see him hitting Drew  
12   Torrence -- Zach Chaplin does -- twelve times, in the face.

13          He doesn't attack and retaliate. Drew Torrence does  
14   not retaliate.

15          He's a security guard, so he has a gun in his car,  
16   and he goes out and gets it.

17          Now, you watch him when he comes in the bar. He does  
18   not have that gun pointed at anybody. He doesn't come in  
19   that bar shooting, like he's out to kill people.

20          He does get the one guy on the bar. He's detaining  
21   him. He's making a citizen's arrest. They've attacked  
22   him.

23          He put his hands on the bar and the other guy -- he  
24   goes toward him. Never before that was there a weapon  
25   raised. It ends like this.

1           So we ask you to look at it. You know, they can put  
2 together a story and try to make it look like Drew Torrence  
3 is a killer, a man out to murder, and may God forgive  
4 him.

5           But you can look at that and see that that is a story  
6 they're trying to sell. Don't buy it.

7           We thank you for being here and for your attention.  
8 It's a important day in the life of this young man, Drew  
9 Torrence.

10          You know, the police can arrest you and charge you.  
11 You can go to jail, and the only time you get your day as  
12 a defendant is when you come to Court and get to tell  
13 your story; to have twelve people consider what went on,  
14 and they make a decision about you.

15          This is Drew Torrence's day in Court. He's thankful  
16 for it, and in his behalf I'd like to thank you very much.

17          The way the system works is that the State gets to  
18 go first. The Defendant doesn't even have to present any  
19 evidence because the State must prove the Defendant's guilt  
20 beyond a reasonable doubt.

21          The State gets to go first, and all we can ask is  
22 that you keep an open mind. Don't make your mind up until  
23 you hear everything you're going to hear in this case.

24          I would suggest to you that you will then determine  
25 that the only fair and just verdict in connection with

1 this incident is not guilty of the charge of murder.

2 Thank you very much.

3 THE COURT: Thank you, Mr. Floyd.

4 Now, Solicitor, you may call your first witness.

5 SOLICITOR: Thank you, Your Honor.

6 The State calls Johnny Dollar.

7 THE COURT: Come around and be sworn, please.

8 JOHNNY DOLLAR, being duly sworn,  
9 testified as follows:

10 CLERK: Please have a seat on the witness stand,  
11 and when you are seated state your full name, spelling  
12 your last name.

13 WITNESS: John V. Dollar, D O L L A R.

14 DIRECT EXAMINATION

15 BY SOLICITOR GRAHAM:

16 Q. Sergeant Dollar, is that correct?

17 A. That's correct. Yes, sir.

18 Q. Where are you employed, sir?

19 A. The City of West Columbia Police Department.

20 Q. How long have you worked at the West Columbia Police  
21 Department?

22 A. Twenty and a half years.

23 Q. And in what capacity are you currently serving, Ser-  
24 geant Dollar?

25 A. My official job title is court liaison officer, but

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1 my primary function is custodian of records.

2 Q. Talking about some of the records that you keep, what  
3 kind of records are you referring to?

4 A. Paper records, and they are generated by our Records  
5 Division. Police incident reports, arrest records, book-  
6 ing reports.

7 I'm also responsible for the recording device in the  
8 Communications Center which records nine one one calls,  
9 telephone calls, radio traffic and fire radio.

10 Q. In addition to that, tell us about something called  
11 CAD. What is that?

12 A. It's a program sometimes referred to as Computer As-  
13 sisted Dispatch.

14 Q. What is that?

15 A. Essentially what it does is -- the computer did away  
16 with the whole handwritten logs, or the old time clock  
17 function that we used to use every time we'd dispatch a  
18 call.

19 The device is set up where the dispatcher creates a  
20 call unless it comes in on nine one one. The dispatcher  
21 creates a call, assigns units, and as she is doing so they  
22 record -- the system keeps up with what units went, when  
23 they were dispatched, what time they were dispatched, what  
24 time a call was received, what time they arrived on the  
25 scene or left the scene.

SGT. DOLLAR ON DIRECT

1           It is all maintained on the server in another part  
2 of the building.

3       Q.    Let me show you a document and ask if you recognize  
4 this document.

5       A.    Yeah. This is what's called a CAD operation report.  
6 These are generated for multiple purposes, for various  
7 reasons, and at the request of different people for dif-  
8 ferent purposes.

9       Q.    And is that CAD report specific to the call in this  
10 case that occurred on September 28, 2008, at Shaggy's  
11 Bar?

12      A.    Yes, it is.

13      Q.    And as part of your job as records custodian, is it  
14 made in the regular course of your business?

15      A.    Yeah. The information is digital. It is stored on  
16 a server, and then when these are requested it is just  
17 simply pulling a report.

18           It pulls out information, and this is the format it  
19 prints out in.

20      Q.    And the information on that report is made at the time  
21 the incident occurs?

22      A.    Yes.

23      Q.    And the information is entered by somebody with the  
24 knowledge of what is happening?

25      A.    The actual dispatcher. The person working at that

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SGT. DOLLAR ON DIRECT

1 particular work station would be the person entering that  
2 information.

3 SOLICITOR: Your Honor, the State would offer the CAD  
4 report in evidence.

5 THE COURT: Any objection, Mr. Floyd?

6 MR. FLOYD: Let me look at it.

7 (Brief pause in proceeding)

8 MR. FLOYD: I have no objection.

9 THE COURT: All right. What number?

10 REPORTER: Number 2, Your Honor.

11 THE COURT: State's Exhibit 2 is entered in evidence  
12 without objection.

13 (CAD report admitted in evidence without objection  
14 as State's Exhibit 2)

15 BY SOLICITOR:

16 Q. Looking at State's Exhibit, the CAD report, would  
17 you tell the jury what time the call came in, Sergeant  
18 Dollar?

19 A. The call came in at six forty-four A.M.

20 Q. And what was the phone number it came from?

21 A. It came from area code 803, 796 2441.

22 Q. And are you able to tell from the CAD report whether  
23 that number is a land line?

24 A. Yeah. The trigger for that is, it's -- when a nine  
25 one one call comes in from a land line, it pulls in the

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SGT. DOLLAR ON DIRECT

1 caller's name or business name, if it came from a busi-  
2 ness. It pulls in the address where the call came from.

3 In this case it shows a physical street address of  
4 746 Sunset, and it shows a caller name, Grog Shop.

5 So that tells me that it was a land line.

6 Q. Let me show you another item, and I would ask if you  
7 recognize this?

8 A. Yeah, it's a map of part of the City of West Columbia.

9 Q. And does that fairly and accurately represent the  
10 streets and roads of that particular area of West Columbia?

11 A. Yes, it does.

12 Q. And do you see the address for the Grog Shop?

13 A. Yeah, that's it right here at the top, 746 Sunset  
14 Boulevard.

15 Q. Approximately how far from the West Columbia Police  
16 Department is Shaggy's Bar?

17 A. Maybe two and a half miles -- something like that.

18 SOLICITOR: Your Honor, the State would offer into  
19 evidence that map at this time.

20 THE COURT: Mr. Floyd?

21 MR. FLOYD: No objection to the map.

22 THE COURT: State's 3 is in evidence without objec-  
23 tion then.

24 (Map admitted in evidence without objection as State's  
25 Exhibit 3)

SGT. DOLLAR ON DIRECT

1 BY SOLICITOR:

2 Q. In general terms, Sergeant, would you tell the jury  
3 where Shaggy's is located?

4 A. Show them or tell them?

5 Q. However -- if you want to show them you can step down.

6 A. Yes, sir.

7 SOLICITOR: Your Honor?

8 THE COURT: You may step down but keep your voice  
9 up since you don't have a microphone there.

10 A. Shaggy's would be located right here, off Highway 378  
11 near North Locust.

12 Q. Sergeant Dollar, are you aware of whether that loca-  
13 tion is in Lexington County?

14 A. Yes, it is in Lexington County.

15 Q. And in addition to CAD information, are you also re-  
16 sponsible for maintaining the actual recordings of the  
17 nine one one calls?

18 A. Yes.

19 Q. And, again, you are the custodian of those records?

20 A. Yes. I am the only person who can actually pull that  
21 information.

22 Q. Let me show you a disc and ask if you recognize this  
23 disc?

24 A. Yes, I do.

25 Q. And how do you recognize that?

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SGT. DOLLAR ON DIRECT

1 A. I recognize it because I listened to it not more than  
2 a couple of hours ago, and my initials are right here.

3 Q. Is that the JD on the side of the disc?

4 A. Well, it's actually JVD, but . .

5 Q. Those are the nine one one calls that are related to  
6 this case?

7 A. Yes.

8 Q. How do you go about finding that on your system?

9 A. I take the time the call came in. In this case, it  
10 was at six forty-four in the morning.

11 When I do this, what I do to make sure I cover every-  
12 thing is start my search at six o'clock and run it through  
13 to seven o'clock.

14 So in this case, I would have checked every nine one  
15 one call that came in between six A.M. and seven A.M. on  
16 that morning.

17 Q. And how many calls did you find that were related to  
18 this case?

19 A. I found these three.

20 Q. Did you find any hang-ups that were unexplained?

21 A. No.

22 Q. You found no other nine one one calls that were re-  
23 lated to an incident at Shaggy's or an assault for Mr.  
24 Torrence?

25 A. Those were the only ones you found?

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SGT. DOLLAR ON DIRECT

1 A. No, just the three that I found.

2 Q. Those three calls, did you record on that disc?

3 A. Calls on this disc?

4 Q. Are the calls that are on that disc the ones that you  
5 recorded?

6 A. Yes, they are.

7 Q. And are they fairly and accurately the same as what  
8 you pulled from your system?

9 A. Yes, they are.

10 SOLICITOR: Your Honor, the State would offer that  
11 into evidence at this time.

12 THE COURT: They are in evidence without objection.

13 (State's Exhibit 4, CD containing nine one one calls,  
14 admitted in evidence with no objection noted)

15 BY SOLICITOR:

16 Q. Thank you, Sergeant. Please answer any questions  
17 the Defense has for you.

18 A. Yes, sir.

19 THE COURT: Thank you, Solicitor.

20 Mr. Floyd.

21 CROSS EXAMINATION

22 BY MR. FLOYD:

23 Q. Good afternoon, Sergeant Dollar.

24 A. Good morning -- afternoon.

25 Q. May I look at your Exhibit?

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1 A. Sure.

2 (Brief pause in the proceeding)

3 BY MR. FLOYD:

4 Q. Are these supposed to be in chronological order?

5 A. I'm sorry?

6 Q. Are the entries on there from the log -- are they in  
7 chronological order?

8 A. I assume you are referring to this?

9 Q. Yes, I am. The disc you were talking about.

10 A. Okay. Not necessarily. This is basically a dis-  
11 patcher comment log.

12 Depending on the dispatcher and depending on what is  
13 going on, the severity of the situation, how many other  
14 calls she has coming in, or whatever.

15 The dispatchers will enter the information as they  
16 have time, but it is not necessarily in chronological or-  
17 der.

18 Q. What was the first call that was received? What time  
19 was the first called received?

20 A. The first nine one one call we got that was generated  
21 on this report was at six forty-four A.M.

22 Q. Let me ask you about it. Would you agree that the  
23 entry that goes between eight ten forty-three and eight  
24 thirty-eight forty-four -- there's an entry that it says  
25 came at six forty-three in the morning?

SGT. DOLLAR ON CROSS

1 A. What you're looking at there is you're looking at  
2 dispatcher's notes, and the time you are referring to,  
3 the eight thirty-eight right there, is just the time she  
4 got around to putting that note in there.

5 It does say six thirty-three A.M., but that is the  
6 dispatcher's note, and that is not -- that is not the time  
7 generated by the system. It would be what the dispatcher  
8 actually typed.

9 Q. When she wrote down she got the call?

10 A. I don't know. You'd have to ask her.

11 Q. Is it true that in that document there is an entry  
12 that says at six thirty-three A.M. a call was received  
13 about this incident?

14 A. Yes.

15 Q. It says there had been a shooting, does it not?

16 A. Actually it says I think someone -- shots have been  
17 fired at Shaggy's on 378.

18 Q. That was six thirty-three A.M., according to that  
19 entry, is that correct?

20 A. That is what she typed.

21 Q. You only have in West Columbia nine one one calls --  
22 calls starting at six forty-five?

23 A. The first nine one one call was at six forty-four  
24 fifty-seven. Right there at six forty-five.

25 Q. Okay.

1 (Brief pause in proceeding)

2 BY MR. FLOYD:

3 Q. Sergeant Dollar, you are not the person yourself  
4 who makes those entries, are you?

5 A. No.

6 Q. And that is a document that was generated by some-  
7 one in your department?

8 A. Yes.

9 Q. And there is no question but that there is one entry  
10 that says at six thirty-three there was a call received  
11 about a shooting at Shaggy's?

12 A. That is what it says, yes.

13 Q. And then the nine one one call was copied and every-  
14 thing though began at six forty-five or six forty-six?

15 A. Are you referring to the ones that are on the CD?

16 Q. Yes.

17 A. Those three calls on there are the only three calls  
18 that occurred between six and seven in the morning, and  
19 according to the time on the CAD report the first one  
20 would have been about six forty-four in the morning and  
21 fifty-seven seconds.

22 Q. Well, there was one at six thirty-three that was re-  
23 ceived, is that correct?

24 A. There is a difference. Six forty-four is a computer-  
25 generated time. When nine one one rings, it automatically

SGT. DOLLAR ON CROSS

1 connects to the CAD server. The CAD server automatically  
2 connects to the CAD position, which is where the dispatcher  
3 is sitting.

4 That is where that time comes from. That is not an  
5 entry made by the dispatcher, nor can it be changed.

6 So the first nine one one call was at six forty-four  
7 A.M. and fifty-seven seconds.

8 Q. What if somebody calls up not nine one one but the  
9 794 0731?

10 A. I don't understand the question.

11 Q. What if a call came in to the --not the nine one one  
12 number, but the police department number?

13 A. Well, that wouldn't automatically populate CAD. That  
14 would have to be done manually.

15 Q. And can you tell whether or not there is a nine one  
16 one call corresponding to the note from six thirty-three?

17 A. The only nine one one calls are the ones that are on  
18 that CD. There are only those three wave files.

19 Q. Okay.

20 A. On the old system that we used, a recording back then  
21 did not date and time-stamp calls. So according to this,  
22 the first one was at six forty-four.

23 I have no reason to believe that that's not accurate.

24 Q. Would you agree with me that the nine one one calls  
25 that are captured on this disc are different than the entry

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1 for six thirty-three?

2 A. Wayne, I'm not sure I understand the question.

3 Q. Okay. You see the information that is contained in  
4 the entry that's supposed to be six thirty-three there?

5 A. I see where the dispatcher made a note that at six  
6 thirty-three A.M. a male called. That does not coincide  
7 with the six forty-four.

8 Q. Okay, and the information contained with that does  
9 not coincide with the information that is on the nine one  
10 one call, does it?

11 A. Well, keep in mind that on those nine one one calls  
12 on the disc there is no date and time-stamp.

13 So when you play the call, it doesn't say six forty-  
14 four.

15 Q. Yes, sir, but it has the information as to what the  
16 person says. Right?

17 A. The communication part of the call, yes.

18 Q. The words between the two speakers?

19 A. Yes.

20 Q. Okay.

21 A. Yes.

22 Q. Thank you.

23 MR. FLOYD: I have no further questions, Your Honor.

24 THE COURT: Redirect.

25 SOLICITOR: Briefly, Your Honor.

SGT. DOLLAR ON REDIRECT

1 REDIRECT EXAMINATION

2 BY SOLICITOR:

3 Q. Sergeant Dollar, your testimony is that there are no  
4 other nine one one calls related to Shaggy's or Andrew  
5 Torrence or this case other than the three that you have  
6 recorded for us?

7 A. Only the three that are on that disc.

8 Q. So the six thirty-three entry was typed in by the  
9 dispatcher, is that correct?

10 A. Yes.

11 Q. Would you read exactly what that is, what it actually  
12 says?

13 A. All right. It's 9 28 2008, zero eight thirty-eight  
14 forty-four hours, which would be eight thirty-eight in the  
15 morning, at position two which is our main terminal, D.  
16 Knotts was the person who was logged in.

17 And what it says is that at six thirty-three A.M.,  
18 male called in nine one one from Horizon cel phone 803 543  
19 8376, stating I think someone -- I think some shot been  
20 fired at Shaggy's on 378. We just left. Cops on the  
21 way.

22 A guy that was in there and somebody was talking  
23 trash about him, and, um, then he left and then he came  
24 back and started popping off.

25 Right below that it says part of conversation with

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SGT. DOLLAR ON REDIRECT

1 possible witness.

2 Q. Thank you, sir.

3 SOLICITOR: No other questions, Your Honor.

4 THE COURT: Mr. Floyd?

5 MR. FLOYD: No further questions, Your Honor.

6 THE COURT: Thank you very much. You may step down,  
7 sir.

8 WITNESS: Thank you.

9 (Witness excused from stand)

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

12 SOLICITOR: Your Honor, the State calls Debra Knotts.

13 THE COURT: All right, if you'd come around and be  
14 sworn, please.

15 (Witness coming forward)

16 DEBRA KNOTTS, being duly sworn,  
17 testified as follows:

18 CLERK: Have a seat, please. State your full name  
19 and spell your last name.

20 WITNESS: Debra Knotts, K N O T T S.

21 THE COURT: All right, Solicitor.

22 DIRECT EXAMINATION

23 BY MR. GRAHAM:

24 Q. Good afternoon, Ms. Knotts.

25 A. Hi.

MS. KNOTTS ON DIRECT

1 Q. Would you tell the jury where you're employed?

2 A. For the West Columbia Police Department.

3 Q. And what are your job duties there?

4 A. I'm a dispatcher.

5 Q. You're a dispatcher. Does that -- can you tell the  
6 jury what that encompasses?

7 A. A lot. Yes, sir. I receive phone calls, whether it  
8 be regular phone, nine one one. I got the information as  
9 much as possible and dispatch it to the other officers as  
10 they're assigned.

11 Q. Let me take you back to September 28, the morning  
12 hours. Were you working that day?

13 A. Yes, sir.

14 Q. What time did you come to work?

15 A. I usually get there at six twenty, six twenty-five.

16 Q. That's when you would have gone to the dispatch room,  
17 is that correct?

18 A. Yes.

19 Q. And did you receive any nine one one calls?

20 A. Yes, sir.

21 Q. Can you tell us what calls you received?

22 A. The first one I received was from Shaggy's on 746  
23 Sunset. The lady on the line -- it was really hard to un-  
24 derstand, to hear her.

25 It was as if she had a cordless phone and she was

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MS. KNOTTS ON DIRECT

1 fading out real bad. I could hear her say ambulance, or  
2 what I thought was ambulance.

3 So after several times -- and in the meantime we were  
4 disconnected.

5 Q. Okay. As a result of that call, what did you do?

6 A. I got my units en route, stating unknown problem at  
7 that address, at Shaggy's; that it sounded like she was  
8 requesting ambulance or something along that line, and I  
9 called Shaggy's back.

10 Q. You said units en route. What type of units?

11 A. Police officers.

12 Q. Police officers?

13 A. Yes.

14 Q. Okay, and you said that you called back, is that cor-  
15 rect?

16 A. Yes sir.

17 Q. When you called back, what happened?

18 A. A male answered the phone. I told him who I was. He  
19 stated that -- I'm paraphrasing here, but that a man had  
20 been -- a man was down. He had been shot, and to let the  
21 officers that were responding know that someone had a gun,  
22 and that's pretty much what I remember of that phone call.

23 Q. Okay, and after that phone call, did you receive  
24 another phone call?

25 A. Yes, sir. I got one more phone call . .

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1 Q. Was that a nine one one call?

2 A. Yes, sir.

3 Q. Okay.

4 A. It's on the log, and it was another male, stating  
5 some -- stating that -- in reference to a shooting at  
6 Shaggy's as well.

7 And he was trying to leave, and I was trying to get  
8 more information from him, and he said, the cops are right  
9 here now.

10 Q. Okay. Once you received information that there was  
11 in fact a shooting at Shaggy's, did you notify your offi-  
12 cers of that information?

13 A. Yes.

14 SOLICITOR: May I approach, Your Honor?

15 THE COURT: Yes, sir.

16 BY SOLICITOR:

17 Q. Ms. Knotts, do you recognize what has been marked  
18 as State's Exhibit 4?

19 A. Yes.

20 Q. And what is that?

21 A. Those are my initials on the DVD of the nine one one  
22 calls.

23 Q. Have you had an opportunity to listen to the con-  
24 tents of this DVD?

25 A. Yes.

MS. KNOTTS ON DIRECT

1 Q. And does it fairly and accurately describe the calls  
2 that you either received or made on September 28th of 2008?

3 A. Yes, sir.

4 SOLICITOR: At this time, Your Honor, I would ask per-  
5 mission to publish this for the jury.

6 THE COURT: You may publish.

7 (Whereupon, State's Exhibit 4, CD of nine one one  
8 calls, was played for the jury)

9 BY SOLICITOR:

10 Q. Ms. Knotts, what you just heard were the calls you  
11 told the jury about. Is that correct?

12 A. Yes, sir.

13 Q. And I believe you say on the second call, when you  
14 called back, is it -- explain to the jury.

15 When you get a nine one one call and you are not sure  
16 what is going on, what, if any, actions do you take?

17 A. I try to call them right back, and if I've got a  
18 land line and I don't get an answer I can send the officer  
19 to that address.

20 Many times even if I do make contact with somebody,  
21 and they sound like things are okay, there are times I  
22 still send someone to confirm that everything is okay.

23 That's what I did.

24 Q. Okay. Let me show you . .

25 SOLICITOR: May I approach, Your Honor?

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1 THE COURT: Yes, you may.

2 BY SOLICITOR:

3 Q. I show you State's Exhibit 2, and on page three of  
4 six, where it references the -- at six thirty-three A.M.

5 Would you read that to the jury, please?

6 A. At six thirty-three A.M. male called in nine one one  
7 from Horizon cel phone 803 543 8376, stating I think  
8 some shots been fired at Shaggy's on 378.

9 We just left. Cops on the way.

10 A guy that was in there and somebody was talking  
11 trash about him. Then he left. Then he came back in and  
12 started popping off.

13 A part of the conversation with the witness.

14 Q. All right. On the DVD recording, is that what you  
15 are referencing? Did you enter that?

16 A. Yes, I did.

17 Q. Is that what you are referencing, is that call?

18 A. Yes, sir.

19 Q. Okay. Did that call occur at six thirty-three A.M.?

20 A. No, sir, it did not.

21 Q. Can you explain to the jury why you entered it as six  
22 thirty-three?

23 A. I made a typo.

24 Q. Thank you.

25 SOLICITOR: Your Honor, that's all the questions I

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MS. KNOTTS ON DIRECT

1 would have of this witness.

2 THE COURT: Thank you, Solicitor.

3 Mr. Floyd?

4 MR. FLOYD: Thank you, Your Honor.

5 CROSS EXAMINATION

6 BY MR. FLOYD:

7 Q. Ms. Knotts, what time did you come on duty that morn-  
8 ing?

9 A. Six twenty, six twenty-five.

10 Q. Six twenty, six twenty-five?

11 A. Yes, sir.

12 Q. Would there have been somebody there before you?

13 A. Yes, sir.

14 Q. So it is manned twenty-four hours?

15 A. Yes, sir.

16 Q. Now, I refer you back to State's Exhibit 2. You can  
17 see this, okay, because it's kind of difficult to see.

18 A. Okay.

19 Q. Was there not a dropped call or hang-up call?

20 A. I don't understand what you're asking me.

21 Q. Okay. Can you see through the line? I know it's dif-  
22 ficult to see.

23 A. Okay, that would have been it.

24 Q. This says nine one one hang-up?

25 A. Right, and then I changed it.

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MS. KNOTTS ON CROSS

- 1 Q. I'm sorry. You changed that to what?
- 2 A. It would have been to the shooting or shots fired.
- 3 Q. How many nine one one calls were there?
- 4 A. I received two and I dialed out one.
- 5 Q. And what numbers did you receive two from?
- 6 A. The first one I received from -- the nine one one
- 7 calls from Shaggy's at 746 Sunset Boulevard. That's the
- 8 first nine one one call.
- 9 Then the second call came from a witness.
- 10 Q. And at what time was that hang-up call?
- 11 A. At six forty-six twenty-five.
- 12 Q. And does it say down here a call from a witness came
- 13 at six fifty?
- 14 A. . .
- 15 Q. Isn't that right above that?
- 16 A. Where are you?
- 17 Q. Here.
- 18 A. Oh, right here?
- 19 Q. Uh hm.
- 20 A. Okay, what was your question?
- 21 Q. Doesn't that say the call by the witness or from a
- 22 witness was at six fifty?
- 23 A. It's the same call from the witness that we just
- 24 heard on the -- heard from the witness on the nine one
- 25 one tape.

MS. KNOTTS ON CROSS

1 Q. What time was the initial call from Shaggy's?

2 A. The initial call came in at -- okay, I received it  
3 at six forty-six. I received at six forty-five the in-  
4 formation.

5 Q. Six forty-five?

6 A. Six forty-five, six forty-six.

7 Q. I mean, which one?

8 A. Well, call received six forty-five O six and it has  
9 X mint O six forty-six thirteen. Dispatched six forty-six  
10 thirteen.

11 Q. But you also got a hang-up call, did you not, at six  
12 forty-six twenty-five?

13 A. Right there? Well, that's what it has on there but  
14 this is all one call.

15 It's the only one I received.

16 Q. So you are saying that this document may not be a  
17 hundred percent accurate?

18 A. I'm not telling you that.

19 Q. You say you received two calls, is that right?

20 A. Yes.

21 Q. And you made one?

22 A. Yes.

23 Q. Yet three calls are on here, plus your call to  
24 Shaggy's?

25 A. . .

1 Q. Counting the hang-up call, the initial call from  
2 Shaggy's, and then the call from the additional wit-  
3 ness?

4 A. (Pause) The only calls I received from -- only calls  
5 I received is the one from Shaggy's and then the possible  
6 witness.

7 Those are the only two calls I received on nine one  
8 one, and however this was taken care of or how this was  
9 printed out I do not know. I do not understand.

10 Q. Got you. So you don't have personal memory of every  
11 call you got on September 28, 2008?

12 A. On that morning those three, I do.

13 Q. You personally remember that from 2008?

14 A. Yes, the first phone call I received that morning.

15 Q. And you recall you received three?

16 A. No, I received two and I called back on one.

17 Q. And, of course, the documents seem to say there was  
18 at least three received?

19 A. Well, it's not so much -- to me, I don't understand  
20 that, because to me it was like it was within seconds.  
21 So I don't know what that one is, if it -- to me it's the  
22 same thing as when I got this.

23 Q. Do you know, for example -- you're saying now that  
24 was an error when you said you got the call at six thirty-  
25 three? That's a typographical error?

1 A. That's one of my typos.

2 Q. And what time should that have been?

3 A. It should have been after -- right around six -- on  
4 page four of six, close to the bottom -- it has six fifty,  
5 and in that area I have another nine one one call came in  
6 after initial call and it has a cel phone number.

7 Q. Okay.

8 A. And it shows that.

9 Q. Got you, and your first call, the one you see on the  
10 first page, the one from Shaggy's?

11 A. That's mine.

12 Q. Your first call?

13 A. Yes, my first call.

14 Q. Your records?

15 A. Yes, sir.

16 Q. What is the entry for six forty-six twenty-one on  
17 there?

18 A. . .

19 Q. Where it says cross streets -- there on page four?  
20 Do you see down there at the bottom?

21 A. Uh hm.

22 Q. Cross streets for Lucas Street . . .

23 A. Uh hm.

24 Q. What does that have to do with this?

25 A. It helps give the location -- like the address. It

MS. KNOTTS ON CROSS

1 gives us kind of the area that it's in.

2 Q. All right, so who puts that entry in there?

3 A. It's automatic.

4 Q. From where?

5 A. I don't know.

6 Q. Does it have like -- if somebody calls, a cel phone, can  
7 it tell you the location of the cel phone?

8 A. No, sir, not on my system.

9 Q. What is a GEO comma two A? What does that mean?

10 A. Where is that at?

11 Q. Right there where it says cross streets.

12 A. That's -- we have areas from a map. We have differ-  
13 ent areas like if you are in a specific area in that way  
14 we are able to assign officers in those particular areas.

15 Q. And when you called the bar, someone answered and  
16 said . . .

17 A. Yes, sir.

18 Q. . . there had been a shooting?

19 A. Yes.

20 Q. That somebody had attacked him and there had been  
21 a shooting?

22 A. (witness nodding)

23 Q. You have to state your answer.

24 A. I apologize. Yes..

25 Q. And they needed EMS? Do you recall that being said

1 too?

2 A. No. I don't recall that.

3 Q. You don't recall that being said?

4 A. No.

5 Q. Thank you.

6 MR. FLOYD: Your Honor, no further questions.

7 THE COURT: Redirect?

8 SOLICITOR: Yes, sir, Your Honor.

9 REDIRECT EXAMINATION

10 BY SOLICITOR:

11 Q. Ms. Knotts, I'm going to attempt to clarify maybe  
12 some of these questions Mr. Floyd had.

13 If you will look at page one of six.

14 A. Okay.

15 Q. And right above the typing, it has zero six forty-  
16 four fifty-seven. You see that?

17 A. No.

18 Q. Right there.

19 A. Okay.

20 Q. What does that indicate?

21 A. I believe that's when the person is calling in on  
22 number one.

23 Q. That would have been the first call?

24 A. That would have been the first call.

25 Q. Okay, and after that if you will scan over to your

1 right.

2 A. Uh hm.

3 Q. It has the word dispatch.

4 A. Yes, sir.

5 Q. At zero six four six one three. Is that correct?

6 A. Yes, sir.

7 Q. What does that mean?

8 A. Dispatching them out.

9 Q. You dispatched them to . .

10 A. My officers.

11 Q. Okay, and then it says en route or in route zero six  
12 forty-six thirteen.

13 What does that tell you?

14 A. That officers are responding.

15 Q. Okay, and finally there it has on scene six four eight  
16 O five?

17 A. Yes.

18 Q. What does that indicate to you?

19 A. They were on the scene at that time.

20 Q. Okay. If you will look at page four of six, down to  
21 the bottom right.

22 A. Yes.

23 Q. Complaints zero six four six two five -- complaint  
24 nine one one hang-up.

25 A. Yes, sir.

MS. KNOTTS ON REDIRECT

1 Q. What does that mean?

2 A. Like a -- that is -- that is a call -- a call coming  
3 in, I guess.

4 Q. Would that have been the first call?

5 A. . .

6 Q. Would you have considered that as a dispatcher a hang-  
7 up based on the fact that you called back to that line  
8 at Shaggy's? Called back to that land line at Shaggy's?

9 A. Could have been.

10 Q. All right. Once you came to work, did you get any  
11 calls that referenced Andrew Torrence being assaulted?

12 A. Repeat that one more time.

13 Q. Once you got to work, . .

14 A. Uh hm.

15 Q. . . and you're at dispatch, . .

16 A. Yes.

17 Q. . . did you receive any calls, whether nine one one  
18 or the general 794 0721 number, about Andrew Torrence  
19 being assaulted?

20 A. No. I did not.

21 Q. That's all I have.

22 THE COURT: Recross, Mr. Floyd?

23 MR. FLOYD: Yes, sir.

24 RECROSS EXAMINATION

25 BY MR. FLOYD:

1 Q. What time was your first call from Shaggy's that you  
2 answered?

3 A. I got it at 0 six forty-four fifty-seven.

4 Q. So that has nothing to do with this six forty-six  
5 twenty-five hang-up, does it?

6 A. I don't know.

7 Q. You don't know?

8 A. No. That's the only call I -- that's the first call  
9 I got, was from Shaggy's.

10 Q. That's the first call you remember?

11 A. That's the first call I received from Shaggy's, the  
12 first call of the morning.

13 Q. You remember that?

14 A. Yes, sir, I do remember that.

15 Q. You don't recall receiving a call from somebody say-  
16 ing they had been assaulted at Shaggy's?

17 A. When I called back.

18 Q. When you called back?

19 A. That's when I called back. That was with the male  
20 subject at that time. The male subject said that.

21 Q. Now, is the system supposed to capture all of the  
22 calls?

23 A. Sir?

24 Q. Is the system supposed to capture all the calls?

25 A. Yes, sir.

1 Q. Does it tell you where they came from?

2 A. I'm not understanding your question.

3 Q. Does it tell you what number the call came from?

4 A. Um, it will -- like from cel phones?

5 Q. Uh hm.

6 A. For the most part, yes.

7 Q. Yes. You show a hang-up at six forty-six, and it  
8 doesn't tell us what number that was from, does it?

9 A. Okay.

10 Q. Right here.

11 A. No, it doesn't say that.

12 Q. So it doesn't tell us where that phone call came from,  
13 does it?

14 A. No.

15 Q. What number that was from?

16 A. Okay.

17 Q. Thank you.

18 MR. FLOYD: No further questions, Your Honor.

19 THE COURT: Thank you very much, Ms. Knotts. You  
20 may step down.

21 (Witness excused from stand)

22 THE COURT: Ladies and gentlemen, I believe we'll take  
23 about a fifteen minute recess.

24 Please remember to leave your notes upside down on  
25 your chairs.

1 Do not discuss this case with anyone during the brief  
2 recess. Remember to keep an open mind and do not begin  
3 your deliberations until you've heard all the evidence and  
4 testimony in the case.

5 With that being said, you can go to your jury room  
6 with the bailiff.

7 (Jury excused from Courtroom)

8 THE COURT: All right, we'll take a fifteen minute  
9 recess and about thirty more minutes of testimony after that.  
10 Thank you very much.

11 (Whereupon, the Court took a recess, after which  
12 the matter resumed)

13 THE COURT: Anything from the State before we bring  
14 in our jury?

15 SOLICITOR: No, Your Honor.

16 THE COURT: From the Defense, Mr. Floyd?

17 MR. FLOYD: No, Your Honor.

18 THE COURT: All right. Bring them in.

19 (Jury returned to the Courtroom)

20 THE COURT: All right. Welcome back, ladies and gen-  
21 tlemen.

22 We will continue with the trial of the case and the  
23 presentation of testimony by the State.

24 Please continue to give the parties your complete  
25 attention. The next witness will be our last for the

1 day.

2 Solicitor, you may call your next witness.

3 SOLICITOR: Thank you, Your Honor.

4 The State calls Dr. Janice Ross.

5 THE COURT: All right, Doctor. If you would come  
6 around and be sworn, please.

7 JANICE ROSS, being duly sworn,  
8 testified as follows:

9 CLERK: Please be seated, Doctor, and once you are  
10 seated state your full name, spelling your last name.

11 WITNESS: Janice Edwards Ross, R O S S.

12 DIRECT EXAMINATION

13 BY SOLICITOR

14 Q. Dr. Ross, are you a forensic pathologist?

15 A. Yes.

16 Q. What is a forensic pathologist?

17 A. A forensic pathologist -- we -- I have a medical de-  
18 gree, my M.D., from State Medical Center in Syracuse,  
19 New York.

20 I've done further, four plus years, of pathology  
21 training. A physician who is a pathologist learns how  
22 to identify cancers in tissue samples, and how to use a  
23 laboratory for diagnosis of diseases like leukemias and  
24 anemias.

25 We also are trained in how to do an autopsy to find

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1 a cause of death.

2 A forensic pathologist has further training. The  
3 word forensic means legal, so we use our pathology train-  
4 ing for legal matters, such as homicides, suicides, ac-  
5 cidents, for rape victims.

6 So we use that knowledge in order to do an autopsy,  
7 to find out causes of death and to identify patterns of injury

8 Q. How many forensic autopsies have you done?

9 A. Over five hundred.

10 Q. And how many times have you been qualified as an ex-  
11 pert in forensic pathology in the State of South Carolina?

12 A. Over sixty.

13 SOLICITOR: Your Honor, at this time the State would  
14 offer Dr. Janice Ross as an expert in the field of for-  
15 ensic pathology.

16 THE COURT: Mr. Floyd?

17 MR. FLOYD: No inquiry is necessary, Your Honor.

18 THE COURT: Ladies and gentlemen of the jury, nor-  
19 mally a person cannot give opinion testimony.

20 Normally when a person testifies they must testify  
21 to what they saw or heard or sensed by smell or something  
22 of that nature.

23 However, there is an exception when someone quali-  
24 fies in a particular art, science or profession because  
25 of education or experience or training.

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1           They are permitted to give their opinion in certain  
2 areas if the Court qualifies them that way.

3           Dr. Janice Ross would be qualified in the area of  
4 forensic pathology to give opinion testimony in that re-  
5 gard.

6           That does not mean that you must accept the opinion  
7 but it is evidence for you, the jury, to use in any way  
8 that you see fit.

9           Thank you, Solicitor.

10 BY SOLICITOR:

11 Q.   Dr. Ross, would you describe for the jury how you  
12 do a forensic autopsy?

13 A.   Yes. The body is sent to us. We do it in the morgue  
14 at Newberry County Memorial Hospital under authorization  
15 and request by the County Coroner.

16       The body comes to us in a body bag, and we open it  
17 up and do an inventory of clothing, take photographs,  
18 take the clothing off and do photographs externally, and  
19 then we do a methodical routine of autopsy, looking for  
20 injuries externally and, by looking at each organ, intern-  
21 ally, to further identify any kind of injuries.

22       Also to take samples for toxicology.

23 Q.   And did you in this case do an autopsy of Zachariah  
24 Chaplin?

25 A.   Yes.

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1 Q. What day was your autopsy performed?

2 A. On November 14, 2008.

3 Q. And when did Mr. Chaplin die?

4 A. He died on November 12, 2008.

5 Q. In addition to doing the autopsy, did you also review  
6 approximately eighteen hundred pages of medical records?

7 A. I didn't have those at the time of the autopsy, but  
8 I have since reviewed those medical records, yes.

9 Q. I want to show you a disc. All the medical records  
10 are on this disc. I would ask if you recognize that?

11 A. Yes, these are the medical records on the disc.

12 SOLICITOR: Your Honor, I think by stipulation with  
13 Mr. Floyd these will be introduced in evidence at this  
14 time. .

15 MR. FLOYD: That's correct, Your Honor.

16 THE COURT: All right. State's Exhibit 5?

17 REPORTER: Yes, sir.

18 THE COURT: In evidence without objection.

19 (Medical records on disc admitted in evidence pursuant  
20 to stipulation as State's Exhibit 5)

21 BY SOLICITOR:

22 Q. Dr. Ross, would you describe the autopsy that you  
23 performed on Mr. Chaplin?

24 A. Yes. We found -- we did x-rays, knowing that he  
25 had been shot.

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1       As I said, we looked at all of his injuries extern-  
2 ally. He had some surgical scars and wounds, especially  
3 one on the outside of his right arm, and he had some  
4 other scars.

5       We saw by x-ray the bullet in the upper right arm,  
6 and there was also a bullet in the upper chest, which we  
7 were able to retrieve.

8       Q.   After you do an external examination, what do you  
9 do next?

10      A.   We do internally. We open up the body and look at  
11 each organ internally.

12      Q.   What did you find when you went inside Mr. Chaplin's  
13 body?

14      A.   We found a lot of blood and blood clot in the abdo-  
15 men. He had fifty-five hundred CCs of blood, which is  
16 approximately eleven units of blood, which is a signifi-  
17 cant amount.

18      Q.   Were you able to determine the approximate height  
19 and weight of Mr. Chaplin?

20      A.   He was seventy-eight inches in length, which is  
21 five feet ten inches, and we estimate the weight to be  
22 a hundred and forty-five pounds.

23      Q.   What, if anything, did you find remarkable -- remark-  
24 able as far as his history and his records?

25      A.   Well, that he was quadraplegic. We could see that

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1 he had some muscle waste of especially his legs.

2 We could see that he had a tube in his stomach to  
3 feed him. He did have a little decubitus ulcer on his  
4 sacral area, the rear.

5 He had an enlarged liver and spleen, and we retrieved  
6 the bullets from the body.

7 Q. In reviewing the -- in reviewing Mr. Chaplin's body  
8 during the external examination, as well as the medical  
9 records, were you able to determine where Mr. Chaplin  
10 was shot?

11 A. After I reviewed the records, we knew that the bul-  
12 let ended up in the spine where the neck and the chest-  
13 spine segments connect or right in that area, but we  
14 weren't exactly sure where it came from.

15 There were so many little scars -- when someone is  
16 shot and they have an open entrance wound, the gunshot  
17 wound is very often closed up with sutures and leaves an  
18 oval scar or a linear scar.

19 I didn't have the medical records at the time to tell  
20 me where the entrance wound was.

21 There was some evidence on the x-rays which showed  
22 a partial track of pieces of metal from a bullet to show  
23 us that it was coming down to this area of the neck.

24 Q. So were you able to -- regarding the wound to the  
25 neck area, roughly where was the entrance wound?

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1 A. The medical records showed that the entrance wound  
2 was behind the right ear.

3 Q. If you describe the mastoid bone to the skull, where  
4 would that be?

5 A. It's behind the right ear. You can almost feel it  
6 right behind the ear.

7 Q. Let me show you a diagram if that will assist you in  
8 explaining to the jury the mastoid bone.

9 A. Yes.

10 SOLICITOR: Your Honor, the State would offer that  
11 in evidence at this time.

12 THE COURT: Mr. Floyd?

13 MR. FLOYD: Is that -- (examining proposed exhibit)  
14 -- no objection.

15 THE COURT: State's 6 in evidence without objection.

16 (Diagram of skull admitted in evidence without objec-  
17 tion as State's Exhibit 6)

18 BY SOLICITOR:

19 Q. Doctor, you stated that you performed x-rays?

20 A. Yes.

21 Q. What did you discover on the x-rays regarding or re-  
22 lating to the entrance below the mastoid bone?

23 A. There is -- the x-ray showed some trail of metal  
24 coming down towards where the bullet ended up.

25 Q. Let me show you another Exhibit and ask if you

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1 recognize this?

2 A. Yes.

3 Q. Does that fairly and accurately depict what you were  
4 just describing?

5 A. Yes.

6 Q. Would it assist you in explaining that to the jury?

7 A. Yes.

8 SOLICITOR: Your Honor, we'd offer the photograph  
9 of that x-ray in evidence.

10 MR. FLOYD: No objection.

11 THE COURT: State's 7 in evidence without objection.

12 (Photograph of x-ray admitted in evidence without objec-  
13 tion)

14 BY SOLICITOR:

15 Q. The other gunshot wound, were you able to confirm  
16 -- were you able to determine from the medical records  
17 that you reviewed where the wound entered Mr. Chaplin's  
18 body?

19 A. The entrance wound was not exact. There was, as I  
20 said, a large open wound from the surgery. They had to  
21 go in and pin the fractured bone, and in that area there  
22 were a few scars that were -- one of which was probably  
23 the entrance wound.

24 Q. Let me show you a photograph and ask if you recog-  
25 nize that?

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1 A. Yes.

2 Q. And does that depict what you're describing right  
3 now?

4 A. Yes.

5 SOLICITOR: Your Honor, the State would offer this  
6 photograph in evidence.

7 MR. FLOYD: Your Honor, may we approach?

8 THE COURT: Yes, sir.

9 (Conference at the bench between counsel and the  
10 Court off the record)

11 THE COURT: State's 8 and 9 are allowed, subject to  
12 objection.

13 Without commenting on the facts, ladies and gentlemen,  
14 it appears that there may have been surgical intervention  
15 prior to the photographs that are referenced being taken.

16 That would not be for your consideration that there  
17 was surgical intervention. It does not depict the wounds  
18 as they would appear on the early morning hours of 28 Sep-  
19 tember 2008, but at the time of autopsy, which, of course,  
20 would have been post-surgery.

21 REPORTER: Just one second, Your Honor.

22 (Photos of arm of victim admitted over objection in  
23 evidence as State's Exhibits 8 and 9)

24 THE COURT: Solicitor, you may continue.

25 BY SOLICITOR:

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1 Q. I show you two more photos and ask if you recognize  
2 those?

3 A. Yes.

4 Q. And do they fairly and accurately depict the projec-  
5 tile bullets that you recovered from Mr. Chaplin's body?

6 A. Yes.

7 SOLICITOR: We would offer these two photographs in  
8 evidence.

9 MR. FLOYD: No objection.

10 THE COURT: All right, State's 10 and 11 are in evi-  
11 dence.

12 (Photos of bullets admitted in evidence without  
13 objection as State's Exhibits 10 and 11)

14 BY SOLICITOR:

15 SOLICITOR: Your Honor, if I could have Dr. Ross to  
16 step down?

17 THE COURT: Yes, sir. Dr. Ross, if you'd keep your  
18 voice up, please, since you will be away from the micro-  
19 phone.

20 WITNESS: Yes, sir.

21 Q. Doctor, if you would stand up here.

22 A. Yes.

23 Q. Discussing the wound in the arm, referring to State's  
24 Exhibit Number 8, in looking for the entrance wound there  
25 had obviously been some surgery.

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1 A. Yes.

2 Q. What does that depict?

3 A. This is the right arm, the outer right arm, and you  
4 can see a cut through the skin, which is from surgery,  
5 where they went in and pinned the bone.

6 The bullet fractured the bone. The bullet ended up  
7 inside the -- almost in the arm pit, so the direction  
8 would be going from outside into inside. Exactly where  
9 in that surgical wound I cannot tell.

10 Q. Referring to State's Exhibit Number 9, what does it  
11 depict, Doctor?

12 A. This shows the arm pit, the right arm pit, and it  
13 shows where we had cut into the skin to expose the bullet.  
14 You can see it's on the inside of the right arm.

15 Q. Referring to State's Exhibit Number 10, are you able  
16 to recognize that, related to State's Exhibit 9?

17 A. Yes. This is a bullet we got out of this area at  
18 autopsy.

19 Q. State's Exhibit 7, do you recognize that as the  
20 x-ray you were discussing?

21 A. Yes.

22 Q. Tell the jury what that x-ray is?

23 A. This is a part of the chest. You can see ribs and  
24 you can see the backbone.

25 The metal object here is the bullet. It is very

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1 faint and you have to kind of look closely.

2 But there is some little debris, little pieces of  
3 metal, coming down that way. Just to show you a little  
4 bit about the direction of the bullet.

5 THE COURT: Doctor, would you show that down at this  
6 end also.

7 BY SOLICITOR:

8 Q. Would you step down here and explain that at this  
9 end here?

10 A. Sure. This is the bullet, and the little, tiny bits  
11 of metal coming down this way. It shows the track of the  
12 bullet. As the bullet came down, it fragmented off in  
13 little pieces of metal.

14 Q. Referring to State's Exhibit Number 11, related to  
15 what we are looking at on x-ray in State's Exhibit 7?

16 A. That is the bullet we got out of that area, in the  
17 backbone and the bottom of the cervical spine, the neck  
18 spine and beginning of the chest spine.

19 Q. Showing you another item, I would ask if you recog-  
20 nize this item, or these items, I should say, Doctor?

21 A. Yes, these are the bullets that you just saw a pic-  
22 ture of. We sealed them in plastic and signed them. They  
23 were put in a sealable package that goes to SLED for ballis-  
24 tics.

25 SOLICITOR: Your Honor, the State would offer these

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1 in evidence at this time.

2 I believe this is without objection.

3 MR. FLOYD: No objection.

4 THE COURT: All right, Number 12 is in evidence,  
5 without objection, or by stipulation.

6 (Two spent bullets admitted in evidence without ob-  
7 jection as State's Exhibit 12)

8 BY SOLICITOR:

9 Q. Doctor, discussing the angle of the wounds, using  
10 me as Mr. Chaplin, would you show the jury where you be-  
11 lieve the first wound is and where you recovered the bul-  
12 let and so forth; the pathway through Mr. Chaplin's body  
13 visavis the wound in the arm?

14 A. The wound in the arm depends on how high it was.

15 The bullet ended up in here so it may have come in  
16 here, if you have your arms up high, and gone through.

17 Or it could have been a little further up. You  
18 have two people.

19 Q. You have the gun itself and then you have the big  
20 entrance wound and then where the bullet ended up, is that  
21 correct?

22 A. Yes.

23 Q. If you line those up, you should have a straight  
24 line?

25 A. Yes.

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1 Q. Okay.

2 A. Bullets go straight.

3 Q. The projectile that was the second bullet, the one  
4 that went in Mr. Chaplin's mastoid bone near the ear  
5 there, using me, explain to the jury where the entrance  
6 wound roughly was?

7 A. The entrance wound was here, and the bullet would  
8 have ended up right in here in the spine.

9 Q. And were you able to determine between those two  
10 points the approximate path of how that would be?

11 A. Bullets go straight so you would most likely be in  
12 the bent-over position. Further down.

13 Or even on the ground where the shooter was in a  
14 standing position. In a standing position it goes down-  
15 ward.

16 Q. Again, you have the muzzle, the approximate entrance,  
17 and then where the bullet was recovered, and that is a  
18 straight line?

19 A. Yes.

20 Q. Please have a seat, Dr. Ross. Thank you.

21 A. (Resuming witness stand)

22 Q. Did you have an opportunity to view the video that  
23 is involved in this case at all?

24 A. Yes.

25 Q. Looking at that and knowing the wounds and where

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1 the bullets ended up, did you come to an opinion as to  
2 which -- obviously Mr. Chaplin was shot twice. Were you  
3 able to determine which was first and second?

4 A. Yes.

5 Q. What is your medical opinion as to which one was  
6 first?

7 A. The first wound would be to the arm. A shot to the  
8 spinal cord causes immediate paralysis of the lower ex-  
9 tremities so the person would just drop.

10 If there was any -- a little bit of momentum going,  
11 he may go a little further, but that injury to the spinal  
12 cord would cause basically your legs to go out from un-  
13 derneath you.

14 So it is my best opinion that the arm wound was the  
15 first one.

16 Q. And the wound to the spinal cord was the second  
17 one?

18 A. Correct.

19 Q. Now, Mr. Chaplin didn't die right away?

20 A. No.

21 Q. You testified he was paralyzed. Approximately what  
22 part of his body was paralyzed?

23 A. Well, from the chest down. I guess he did have  
24 some use of his arms.

25 Q. He lived for approximately six weeks before dieing?

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1 A. Yes.

2 Q. You discussed in your autopsy that there was a large  
3 amount of blood inside Mr. Chaplin's chest area or stomach  
4 area?

5 A. Yes.

6 Q. And that is what you told the jury?

7 A. Yes. When somebody is paralyzed like that, they  
8 lose control of their bowels and their urine, and they  
9 are not able to move their diaphragm to breathe well.

10 And all these organs start failing because of that,  
11 and the fact that there is -- you've lost control of your  
12 urine and your bowels, then you have catheters in, and  
13 you have access for bacteria to get into the body and to  
14 cause an infection and what we call sepsis.

15 That is an infection that is blood-borne and goes  
16 through the whole body through the blood system.

17 And it causes secondary problems in other organs.

18 Q. More problems than were caused for Mr. Chaplin?

19 A. For Mr. Chaplin, the bleeding was caused after the  
20 infection and the sepsis. That causes liver failure and  
21 other organ failure.

22 The liver makes factors that causes or helps your  
23 blood to clot. You cut yourself and the blood clots and  
24 bleeding stops.

25 When you don't have those clotting factors, you are

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1 just able to bleed without any hesitation, without any  
2 stopping.

3 That was a complication that he suffered in the end.  
4 He had a sudden drop in hemoglobin which is a measurement  
5 of how much blood you have in your system.

6 At that sudden drop on the 11th, they did transfuse  
7 him. They tried to give him more clotting factors, but  
8 it was just overwhelming with the sepsis and the bleeding,  
9 and he was -- he basically bled out from shock.

10 Q. There was some references in the medical records to  
11 Mr. Chaplin refusing respiratory therapy. Were you aware  
12 of that?

13 A. Yes.

14 Q. And do you know what they were referring to when  
15 they were talking about respiratory therapy?

16 A. . .

17 Q. How would that relate to somebody that was para-  
18 lyzed?

19 A. Well, when you have lost a lot of muscle control,  
20 you can't open your chest up and you don't have your dia-  
21 phragm to help bring air in and get rid of old air --  
22 you don't have that exchange of air and the respiratory  
23 therapists come and they do some pressure treatments,  
24 breathing treatments, to help clear out the airways.

25 They suck out any kind of mucus and they help your

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1 breathing so that you don't build up bacteria and other  
2 things to cause pneumonia.

3 Q. Were you able to determine whether Mr. Chaplin had  
4 pneumonia at his death?

5 A. I was able to test it, yes.

6 Q. What did you find?

7 A. That he didn't have pneumonia. He did not have  
8 pneumonia.

9 Q. Were you able to determine which gunshot wound was  
10 responsible for Mr. Chaplin's death?

11 A. Yes.

12 Q. Which gunshot wound?

13 A. The gunshot wound to the head and neck that caused  
14 the paralysis.

15 Q. And so the paralysis led -- you took us from the gun-  
16 shot wound to him being paralyzed to him dieing, because  
17 it took six weeks for him to die?

18 A. Yes..

19 Q. Explain to the jury why the gunshot wound is the  
20 proximate cause of Mr. Chaplin's death?

21 A. Yes, the paralysis causes the loss of control of  
22 urine and bowels, so that you have to be catheterized.

23 There is also problems with getting air in and out  
24 due to paralysis of the chest and diaphragm, but the in-  
25 fections that can occur when you have to be constantly

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1 catheterized to relieve your bladder of urine, and when  
2 you have basically an opening of the bowel in and out,  
3 you get infection, secondary infection as a complication  
4 of the paralysis, and it can get into the bloodstream and  
5 further cause organ failure.

6 In this case, there is evidence of lack of clotting  
7 factors. The person was -- the gentleman was bleeding,  
8 and it was not -- his body was unable to control the  
9 bleeding through clotting factors.

10 Q. Thank you.

11 SOLICITOR: I don't have any further questions for  
12 Dr. Ross.

13 THE COURT: Thank you, Solicitor.

14 Mr. Floyd.

15 MR. FLOYD: Thank you, Your Honor.

16 CROSS EXAMINATION

17 BY MR. FLOYD:

18 Q. Dr. Ross, you say that the bullet always travels in  
19 a straight line? Is that what you're saying?

20 A. Yes.

21 Q. That is not what the Warren Commission found in the  
22 Kennedy assassination, was it?

23 A. That's a complicated story, because the surgeons  
24 cut through the gunshot wound, so it was quite -- kind  
25 of inexact.

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1 But bullets go straight.

2 Q. Now, you can't really tell us where the entry or en-  
3 tries were of these bullets with medical certainty, can  
4 you?

5 A. No, sir. Just through the chart.

6 Q. And in fact, it is speculation, is it not, as to  
7 which one of these gunshot wounds occurred first?

8 A. Well, with the video that I saw, I didn't see any  
9 evidence of immediate paralysis. When you can see the  
10 first shot that went off -- as I say, when you shoot  
11 through the spine cord, there is immediate paralysis, so  
12 the legs become limp.

13 Q. Would you say you could see what happened after the  
14 first shot on that video?

15 A. You could see get an idea of the positioning of the  
16 people and what they were doing, yes.

17 Q. Did he have movement in his arms, even after being  
18 shot?

19 A. Well, after the second shot he was going down behind  
20 the counter so it's hard to know exactly how much he was  
21 moving.

22 Q. He wasn't quadriplegic, was he?

23 A. He had some use of his arms, yes.

24 Q. That's what I mean. He still had use of the arms?

25 A. But he . . .

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1 Q. He still had use of his arms, did he not?

2 A. Some, yes.

3 Q. So are you saying you are basing your opinion on  
4 which gunshot wound was first from the video?

5 A. And the facts and where the injuries were.

6 Q. Did you have the video at the time you did this re-  
7 port?

8 A. Not when I did this report, but I have since then  
9 reviewed it along with the report.

10 Q. In fact, you didn't even have the hospital records  
11 at that time, did you?

12 A. No, I did not.

13 Q. And when was he released from the Richland Memorial  
14 Hospital?

15 A. I don't recall the exact date. It was -- I think  
16 it was the end of October. Around there.

17 Q. Wasn't he in fact released to the Veterans Adminis-  
18 tration Hospital in Augusta, Georgia, for rehabilitation?

19 A. Yes.

20 Q. Your records don't reflect that?

21 A. No.

22 Q. In fact, you talked about a steady downward course,  
23 but that's not accurate, is it?

24 A. Well, I think it is.

25 Q. He was released to rehab, was he not?

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1 A. Yes.

2 Q. He was out of danger and he was released to rehab  
3 at the Veteran's Medical Center, is that correct?

4 A. Yes, and he kept getting . .

5 Q. He was sent not for medical treatment, but for rehab,  
6 is that correct?

7 A. Yes.

8 Q. His medical treatment had ended when the Richland  
9 County Memorial Hospital released him, as far as his  
10 emergency situation?

11 A. Well, he still had medical treatment for wounds,  
12 for gastroscopies, and . .

13 Q. Well, if they think a man is about to die, they  
14 don't send him to rehab?

15 A. Oh, no.

16 Q. That's what I was getting at.

17 Now, the bleeding you saw, that was intra-abdominal  
18 bleeding, I think you said?

19 A. Yes.

20 Q. Now, that didn't come from the gunshot wound to  
21 the arm?

22 A. No.

23 Q. Was there any bleeding from the gunshot wound to the  
24 neck?

25 A. No.

1 Q. And so the bleeding is not connected at all with  
2 the sites of the gunshot wounds?

3 A. It's connected to the injury of the gunshot wound  
4 but not to a site of the gunshot wounds.

5 Q. All right, we'll get to all that, but not to the  
6 sites of the gunshot wounds, correct?

7 A. Correct.

8 Q. And so you have got -- your theory is that bleeding  
9 occurred when his liver broke down and the blood did  
10 not clot any more. Is that correct?

11 A. Correct.

12 Q. Well, you opened his liver, did you not?

13 A. Correct.

14 Q. The liver was perfect, was it not?

15 A. No, it was twice as large as it should be.

16 Q. Was it smooth and glistening?

17 A. Yes.

18 Q. Do you know of any type of problem with the liver?

19 A. No. Microscopically, you'd see something.

20 Q. But you didn't see anything, did you?

21 A. Just that it was enlarged.

22 Q. Well, you don't know whether it was enlarged because  
23 he was shot or whatever?

24 A. It could be everything overall failing. When the  
25 heart fails and it's not pumping blood forward, so the

1 blood backs up and enlarges the liver and spleen.

2 Other factors can cause it, including infection.

3 Q. Was there indeed infection present at autopsy?

4 A. We did not take any blood cultures because the per-  
5 son -- he was on so many antibiotics that a post-mortem  
6 blood culture after death wouldn't tell anything.

7 Q. Did you review any records other than the Richland  
8 Memorial Hospital records?

9 A. Yes.

10 Q. What other records did you review?

11 A. The VA Hospital.

12 Q. And was -- the gunshot wounds occurred on September  
13 28th?

14 A. Right.

15 Q. And the actual date of death was November the 12th?

16 A. Yes.

17 Q. So he lived some forty-five days or something like  
18 that?

19 A. Yes.

20 Q. And in fact didn't you say in your report that he  
21 was in and out of the hospital since his injury?

22 A. . .

23 Q. Do you have a copy of it there?

24 A. I said that he was hospitalized Palmetto Richland  
25 Hospital and then in Augusta, Georgia.

1 Q. I ask if you can -- does this have anything to do  
2 with Georgia?

3 A. That would be it. This is the information that we  
4 got from the coroner, an initial phone call asking us to  
5 do the autopsy.

6 Q. And they told you he had been in another hospital?

7 A. Yes. We subsequently found out more -- a little  
8 more.

9 Q. So basically he was treated for a while at Richland  
10 Memorial Hospital?

11 A. Yes, sir.

12 Q. Until they -- until they felt he was out of danger,  
13 and they transferred him to the VA Medical Center for  
14 rehabilitation. Is that correct?

15 A. Yes.

16 Q. And he was down there for about two weeks before he  
17 died?

18 A. Yes.

19 Q. Now, there is no question that he was not bleeding  
20 from the sites of the gunshot wounds?

21 A. Correct.

22 Q. And did you notice how many times he refused treat-  
23 ment?

24 A. I didn't write them down, but there were several  
25 times he refused respiratory therapy.

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1 Q. Didn't he also refuse treatment at the Richland  
2 Memorial Hospital?

3 A. I believe so.

4 Q. And did you see the notation of any illegal drugs  
5 in his system at Richland Memorial Hospital?

6 A. Yes.

7 Q. And what kind of drugs did he have?

8 A. As I recall, there was some cocaine.

9 Q. So he had cocaine in his system?

10 A. On admission.

11 Q. On admission?

12 A. Yes.

13 Q. The cocaine use can create some problems with the  
14 organs?

15 A. It can cause some spasms of arteries and some heart  
16 problems.

17 Q. So it can cause problems in the organs?

18 A. Yes.

19 Q. Would the long-term use of cocaine cause any addi-  
20 tional problems?

21 A. Yes. Mostly in the heart.

22 Q. Now, did you see that one gunshot wound entered be-  
23 hind the ear?

24 A. Yes.

25 Q. And lodged in the neck area?

1 A. Yes.

2 Q. Is that correct?

3 A. Yes.

4 Q. And you are not sure, are you, where -- what the --  
5 the way the victim was positioned when he received that  
6 wound?

7 A. No, except for what's on the video.

8 Q. Except for what's on the video?

9 A. Yes.

10 Q. And that was -- and the second gunshot wound, what  
11 you call number two, is in the arm or outside of the  
12 arm, correct?

13 A. Yes.

14 Q. But you are not sure exactly where on the outside  
15 arm?

16 A. Correct.

17 Q. And you are not sure exactly the angle of the wound?

18 A. Correct.

19 Q. And any opinion you have given us today as to which  
20 gunshot wound was first and which gunshot wound was sec-  
21 ond is based on your interpretation of the video?

22 A. Based on my knowledge of what happens when you hit  
23 the spinal cord, as well as the video. Yes.

24 Q. Well, if you get a blow to the spinal cord, it does-  
25 n't immobilize your limbs? You can still move them, can

1     you not?

2     A.    When you -- well, sometimes just the shock of the  
3     bullet going near the spinal cord will cause interruption  
4     of the relay of information from the brain to the feet  
5     to tell the feet to stay underneath him.

6           When you go through the spinal cord itself, the in-  
7     terruption is like electrical. It is like a wire with  
8     electricity. When you cut that, then you don't have the  
9     brain telling the feet to move or the legs to stay under-  
10    neath you.

11    Q.    Now, Dr. Ross, in the video, isn't it true that Mr.  
12    Chaplin is actually diving toward Mr. Torrence?

13    A.    Yes, and once you -- once he gets under the counter  
14    you can't see what he's doing, but, as I say, you can  
15    have a loss of muscle control, and if you are going in a  
16    certain direction the force is going to continue -- to  
17    continue that until he falls.

18    Q.    That's what I'm getting at. He's going forward, so  
19    his momentum is going to take him to the floor?

20    A.    Yes.

21    Q.    No matter whether he's shot or not?

22    A.    Yes, sir.

23    Q.    So to suggest that the first shot would be in the  
24    neck because he was on the floor, that is just speculation,  
25    correct?

1 A. . .

2 Q. Because his momentum could have taken him to the  
3 floor?

4 A. Well, when you see the first shot, it doesn't show  
5 that he pretty much collapsed at that time.

6 Q. Did you say it does or does not?

7 A. It does not.

8 Q. Okay, that's -- what I meant was that his momentum  
9 just carried him forward, not that he was shot and col-  
10 lapsed. Isn't that true?

11 A. If his first shot was in the cervical spine, accord-  
12 ing to what I saw in the video, I would expect him to have  
13 dropped very quickly before the second shot went off.

14 Q. But his momentum would have carried him down?

15 A. He was going down but he didn't just drop.

16 I mean, when your legs become limp, it just -- you  
17 would drop to the floor.

18 Q. But your body would continue to go forward? Your  
19 upper body would continue to go forward?

20 A. I'm sorry.

21 Q. I say, your upper body would continue to go forward  
22 in the path in which it has started, would it not?

23 A. Yes.

24 Q. A bullet is not going to stop that?

25 A. No.

1 Q. If you got shot with a bullet, your momentum is  
2 going to carry you forward, isn't that right?

3 A. Yes.

4 Q. And you cannot point out any specific thing, can you,  
5 that relates the gunshot wound to the bleeding in the ab-  
6 domen, can you?

7 A. Yes, I can relate it. Paralysis causes all of these  
8 other complications. Without this paralysis, he would be  
9 fine.

10 He wouldn't have the clotting problems or the organ  
11 problems that he did.

12 Q. How do you know that?

13 A. From medicine. I mean, this is what happens with  
14 people who have spinal cord injuries. We have all of the  
15 secondary complications of organ failure, infection.

16 You may end up with this coagulation or clotting  
17 problem.

18 Q. But a spinal cord injury doesn't always result in  
19 death, does it?

20 A. No. No, it does not.

21 Q. In fact, you have people with spinal cord injuries  
22 that do not die, don't you, but live a long time?

23 A. Correct.

24 Q. In fact, this man did respond to treatment and was  
25 released by Richland Memorial?

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1 A. Well, at that time, yes, but his problems continued  
2 on.

3 Q. And no question that there was no bleeding from the  
4 site of either gunshot wound?

5 A. Correct.

6 Q. Thank you.

7 MR. FLOYD: No more questions.

8 THE COURT: Redirect, Solicitor?

9 SOLICITOR: Just one.

10 THE COURT: All right.

11 REDIRECT EXAMINATION

12 BY SOLICITOR:

13 Q. Doctor, is it your opinion that if Zach Chaplin had  
14 not been shot in the neck, he would not have received the  
15 spinal cord paralysis or anything else, so that he would  
16 be alive today?

17 A. Yes.

18 Q. Thank you.

19 THE COURT: Recross, Mr. Floyd?

20 MR. FLOYD: Thank you, Your Honor.

21 RECROSS EXAMINATION

22 BY MR. FLOYD:

23 Q. Dr. Ross, the Solicitor asked you if Zach Chaplin  
24 had not been shot in the neck . .

25 THE COURT: I can't quite understand you. I'm sorry.

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1 BY MR.FLOYD:

2 Q. Dr. Ross, have you read Zach Chaplin's hospital  
3 notes from September 27th or 28th?

4 A. I have read the chart, and that tells you pretty  
5 much what happened but not a hundred percent.

6 Q. And in fact, the chart might cover two hours every  
7 day. Is that right?

8 A. Yes.

9 Q. And the other twenty-two hours, you don't know what  
10 went on as far as his care, do you?

11 A. No.

12 Q. Can you tell us the specific thing, a specific  
13 thing, that caused him to bleed, other than speculation  
14 about, well, this can happen, or might happen?

15 A. . .

16 Q. You cannot say with certainty but you have to resort  
17 to speculation?

18 A. Complications of spinal cord injury.

19 Q. What complication caused the bleeding, if you can  
20 tell us?

21 A. Organ failures that caused the liver not to be able  
22 to make the clotting factors which caused the bleeding.

23 Q. Would you say that liver failure and clotting prob-  
24 lems is the only thing that can cause bleeding?

25 A. No. Sometimes you are born with problems like

1 hemophilia. Sometimes you can have this problem imme-  
2 diately after an injury.

3 Q. So there are other things that can -- organ failure  
4 can cause bleeding problems?

5 A. Yes.

6 Q. Thank you. No further questions.

7 THE COURT: Thank you.

8 Thank you very much for being with us this after-  
9 noon, Dr. Ross. You may step down.

10 (Witness excused from stand)

11 SOLICITOR: Your Honor, may we excuse Dr. Ross at  
12 this time.

13 MR. FLOYD: No objection, Your Honor.

14 THE COURT: Dr. Ross, you may leave.

15 (Witness excused)

16 THE COURT: All right, I believe now would be an  
17 appropriate time for us to take our evening recess.

18 Please remember my instructions to you. Do not  
19 discuss this case with anyone, and that includes your  
20 fellow jurors, your family members, or anyone else.

21 If anyone tries to talk with you about the case,  
22 please let me know.

23 Do not read, watch or listen to any news accounts,  
24 should there be any, about the case.

25 Do not use your computer, cellular phone or any

1           Has any member of the jury panel discussed the  
2 case with anyone? If so, please stand.

3           (No response)

4           Thank you very much, and please remember my instruc-  
5 tions in that regard, not to read, watch or listen to  
6 any news reports about the case, and, further, you are  
7 not authorized to discuss the case with anyone until  
8 such time as you have heard all the evidence and testi-  
9 mony, the closing statements by the attorneys, and my  
10 instructions on the law by the Court. You will then be  
11 directed to begin your deliberations with your fellow  
12 jurors in your jury room.

13          We are continuing the trial of the case. The State  
14 is still presenting evidence and testimony in its case in  
15 chief.

16          You will continue to give the parties your complete  
17 and undivided attention. Recall my instruction that if  
18 at any time you need to take a break raise your hand,  
19 and we can take our break and you can take your break.

20          With that being said, Solicitor, you may call your  
21 next witness.

22          SOLICITOR: State calls Ms. Tonya Mozenko.

23          THE COURT: All right, if you would come around,  
24 please, Ms. Mozenko, and be sworn.

25                       TONYA MOZENKO, being duly sworn,

1 testified as follows:

2 CLERK: Have a seat on the witness stand, and once  
3 you are seated speak up loud and clear and state your  
4 full name, spelling your last name.

5 WITNESS: Tonya Crawford Mozenko, M O Z E N K O.

6 CLERK: Is Tonya T A N?

7 WITNESS: T O N Y A.

8 THE COURT: All right, Solicitor.

9 DIRECT EXAMINATION

10 BY SOLICITOR

11 Q. Tonya, where are you employed?

12 A. Allegiance Industries. I'm director of security.

13 Q. And what is Allegiance Industries?

14 A. It's a facilities management for janitorial and  
15 for security.

16 Q. What position do you hold?

17 A. Director.

18 Q. And tell the jury what your job duties include?

19 A. I have around twenty sites that go from North  
20 Carolina, South Carolina, Georgia and Florida. There are  
21 around may be a hundred and twenty-five employees that  
22 are employed by me, that I take care of.

23 I license them, I train them, I schedule them. I  
24 basically run the entire company, from paper work to  
25 hiring, to firing. Everything.

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1 Q. And does Allegiance provide janitorial service as  
2 well as on site security service?

3 A. Right.

4 Q. How long have you been doing that?

5 A. I've been with Allegiance for four years.

6 Q. How long have you been in the security field?

7 A. Nine years.

8 Q. Do you know Drew Torrence, the Defendant?

9 A. Yes.

10 Q. When did you first meet him? How long ago?

11 A. Approximately around seven years ago I met him.

12 Q. And where? Would you tell the jury how that came  
13 about?

14 A. I had went to a football game, and I had stopped  
15 by and had a drink at the bar that was close to my home.  
16 He was sitting at the bar, and in the time I sat there  
17 and had a couple of drinks I had met him.

18 He'd asked me if I would take him to his home or  
19 give him a ride, and I told him I'd give him a ride.  
20 I told him once he got in the car that I was not going  
21 to take him to his house; that I would just take him to  
22 another bar.

23 So I ended up dropping him to a bar that was right  
24 down the street.

25 Q. And after that first time, did you see Mr. Torrence

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1 again?

2 A. Off and on, around.

3 Q. And at some time did you begin to see him more  
4 often?

5 A. Yes.

6 Q. What were the circumstances of that?

7 A. He actually was the roommate to a guy that I was  
8 dating, and so once we started dating I saw him a lot  
9 more because they lived together.

10 So when I went over there he was there, and we hung  
11 out a lot more at that time because we would all go out  
12 together.

13 And so I saw him a good bit at that time.

14 Q. At that time, how would you describe your relation-  
15 ship with Mr. Torrence?

16 A. Acquaintances.

17 Q. Did it change from an acquaintance relationship  
18 to some other kind of relationship?

19 A. Yes. I actually hired him. He had needed a job  
20 and he had prior military experience. He wanted a  
21 full time job but I could only offer him a part-time  
22 job when he started for me.

23 And so I hired him and our relationship at that  
24 time strictly became that he was my employee.

25 Q. What did he do for you?

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1 A. He was a part-time security guard at PVR, which is  
2 located in West Columbia. He manned the gate.

3 He worked on the weekends, Saturday and Sunday,  
4 and he basically just checked trucks in.

5 They had to check all the temperatures. They had  
6 to circle the premises, walk around every hour. Just  
7 basic security work.

8 Q. What is PVR?

9 A. They produce RPM gauges.

10 Q. What kind of training did he have to have to be  
11 a security guard?

12 A. Well, he had to go through -- in order to be a  
13 security guard you have to go through SLED training,  
14 and then once you finish that training he gets trained  
15 on site, which is not a very difficult training.

16 He just basically is told about the paperwork,  
17 told how to handle any issues, and when he was trained  
18 he went on site and started.

19 Q. Did he have to have training on making arrests?

20 A. No.

21 Q. What authority did you tell him he would have with  
22 his SLED training when he was working on site?

23 A. I myself do not cover anything on arrests on the  
24 site. Because of the position that my guards are in,  
25 I don't cover anything about that, but just let them

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1 know that you are a security guard and you do have the  
2 power on site you are working at -- do have arrest  
3 power, but I encourage all of my officers not to do  
4 that.

5 We are basically there to be eyes and ears, and  
6 if there is a problem call the police. Get all the  
7 information you can. You could detain somebody, but  
8 if it starts a ruckus or anything call the police.

9 Q. And that was the authority he had on site when he  
10 was working?

11 A. Correct, and it states on the back of the SLED  
12 card that they are issued.

13 Q. Did he carry a gun working for you?

14 A. No.

15 Q. How long did he work for you?

16 A. Around three months.

17 Q. And at some point did he stop working for you?

18 A. He was terminated. I had to fire him.

19 Q. Do you remember approximately when that was?

20 A. It was at the end of May, maybe the beginning of  
21 June. He had . . .

22 Q. When you fired him, what was his reaction?

23 A. He didn't act like he cared.

24 Q. Did you get a feeling there was any personal ani-  
25 mosity between you and him?

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1 A. No, absolutely not. I mean, I have a relationship  
2 with my employees that is just cut and dry. I mean,  
3 if he didn't do the job then I could find somebody else.  
4 It was nothing personal.

5 Q. Approximately how long did he work for you?

6 A. Around three months.

7 Q. And that was the -- did you say the end of June or July?

8 A. May.

9 Q. May of 2008?

10 A. Yes.

11 Q. And after May of '08, did you continue to have any  
12 contact at all with Mr. Torrence?

13 A. I would see him around. I mean, I go out -- we  
14 live around the same area and I'd see him around sporadi-  
15 cally.

16 Q. Did he ever talk to you when you saw him after  
17 that?

18 A. Oh, yeah, we spoke. Yeah, we spoke and there  
19 was no animosity there. He just couldn't do the job  
20 that I needed him to do. It was nothing personal.

21 Q. The night of September 27, 2008, do you remember  
22 that night?

23 A. Yes, sir.

24 Q. At some point, did you end up at the State Street  
25 Pub?

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1 A. I did.

2 Q. Before you went to the State Street Pub, what were  
3 you doing?

4 A. I was baby-sitting my Godson. He -- his father  
5 works at a restaurant and they needed me to keep him  
6 because he was very young.

7 So I babysat him up until around eleven forty-five.

8 Q. After you baby-sat your Godson, where did you go?

9 A. I went to the State Street Pub to meet a friend be-  
10 cause it was about to be my birthday, and he was going  
11 to take me out for a birthday drink since it was Satur-  
12 day Night.

13 I had been baby-sitting all night long, so he had  
14 said, let's meet up for a drink. So I met him.

15 Q. The person you were meeting, what's his name?

16 A. Stephen Smith.

17 Q. And did you in fact meet him at State Street?

18 A. Yes, I did.

19 Q. Do you remember roughly what time that was?

20 A. I left my house at around eleven forty-seven, and  
21 I got there probably around twelve o'clock.

22 Q. Where is the State Street Pub?

23 A. On State Street in West Columbia, right off Gervais.

24 Q. Down by the river?

25 A. Uh hm.

1 Q. Did you -- when you got there, was Stephen already  
2 there, or did you have to wait for Stephen?

3 A. We arrived around the same. He had been coming  
4 from somewhere else and I was closer, so we got there  
5 around the same time.

6 Q. When you got there -- had you been drinking before  
7 you got there?

8 A. No.

9 Q. You were baby-sitting?

10 A. Correct.

11 Q. At some point, did you see Drew Torrence?

12 A. I saw him as soon as we got into the bar. The bar  
13 at that time didn't have a whole lot of people in it,  
14 and he was sitting at the bar.

15 And so, of course, when I got there he recognized  
16 me. He always referred to me as boss-lady, so he be-  
17 gan talking to me immediately.

18 Q. And he came over and sat down with you and Steve?

19 A. Uh hm.

20 Q. Were you at a table or at the bar?

21 A. We were at the bar.

22 Q. Did he sit next to you or sit next to Stephen?

23 A. He sat next to me.

24 Q. What kind of things was he saying to me?

25 A. He was telling me about how he had gotten a new

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1 job, and that he was getting paid more money than I was  
2 able to pay him because it was an armed position, which  
3 automatically means it pays more.

4 And he told me that he was getting more hours than  
5 forty hours a week, so he was getting overtime as well.  
6 He wanted to buy me a couple of shots because he was  
7 doing well and that he could at that time.

8 Q. Did he buy you those?

9 A. He did.

10 Q. So when you say an armed guard, what's the differ-  
11 ence between the job he had with you and being an armed  
12 guard?

13 A. In the State of South Carolina, an unarmed guard  
14 can work at any site with six hours of SLED training.  
15 An armed guard has to have not only the SLED training  
16 but also has to have training at a range and then they  
17 can often be armed.

18 I don't have any armed positions in South Carolina.

19 Q. And what was his attitude about becoming an armed  
20 security guard?

21 A. He was very excited about it.

22 Q. Do you remember him saying anything?

23 A. When I hired him, he made the comment that he  
24 wanted me to arm him, to be an armed guard. So he had  
25 said he would take the job in security and unarmed should

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1 not be in the same sentence.

2 But he continued to accept the position, and he  
3 started working for me.

4 Q. During your conversation at State Street, did he say  
5 anything to you about now that he'd become an armed  
6 guard what his future plans were going to be?

7 A. He had mentioned several times that he had wanted  
8 to be an officer; that that was his ultimate goal; that  
9 he would like to be a police officer.

10 Q. At some point at State Street, did Mr. Torrence seem  
11 to be over the top?

12 A. Yes.

13 Q. That was the phrase you had used earlier when we  
14 had talked. What does that mean?

15 A. He was sitting beside me, and you could tell he  
16 was getting a little intoxicated. He was getting louder,  
17 getting closer, right over my shoulder, right on top of  
18 me.

19 I told him a couple of times to sit back down, and  
20 he was proceeding to get more and more, so we ended up  
21 having to walk out. We walked out of the bar to go to  
22 another bar to get away.

23 Q. What kind of things was he saying at that point  
24 to make you feel uncomfortable?

25 A. He said some pretty inappropriate things. He had

1 mentioned, you know, me being his boss-lady; how he  
2 enjoyed that; that he thought I was a very attractive  
3 woman, and that he was proud to say that I was his boss-  
4 lady.

5 He had taken it to a different level, being a lit-  
6 tle bit over the top with flirting, and it just -- it  
7 was too much.

8 Q. Do you remember any particular statements or words  
9 he used at the time?

10 A. I do but I don't feel comfortable repeating that  
11 in a Court of Law.

12 THE COURT: Gentlemen, approach.

13 (Conference at the bench between counsel and the  
14 Court off the record)

15 THE COURT: Solicitor, ask your next question.

16 BY SOLICITOR:

17 Q. Tonya, at some point did you decide that you wanted  
18 to leave?

19 A. I had my friend with me. We were trying to -- he  
20 was taking me out for my birthday. We were trying to  
21 have a casual drink together, you know. We hadn't seen  
22 each other for a while.

23 So I was trying to celebrate my birthday, and he  
24 was just being too much. So at that time we decided  
25 that we were going to try to leave, to go out of the

1 front door of the bar to the next bar down because we  
2 had known somebody that was down there on the outside  
3 -- playing in a band outside.

4 Q. At that time, do you remember -- do you remember  
5 how much you had had to drink?

6 A. I had definitely had six shots that we both had  
7 together, and I probably had two beers over that.

8 Q. You had six shots or you and Drew split six shots?

9 A. Drew and I split six shots.

10 Q. Do you know if you saw him drink anything else?

11 A. He was drinking also along with those shots, but I  
12 did not pay attention to what he was drinking.

13 Q. What time do you think that you and your friend,  
14 Stephen, left the State Street Bar?

15 A. It was around an hour and fifteen minutes. I can't  
16 tell you the exact time but we were there around an  
17 hour and fifteen minutes before it just got too much and  
18 then we tried to leave.

19 Q. Did you have any conversations with Mr. Torrence  
20 when you were trying to leave?

21 A. Actually we slipped out the front door so he  
22 wouldn't see and know we were leaving and follow us.

23 Q. Did he -- did Mr. Torrence say anything to you  
24 about where were you going?

25 A. No, we didn't speak about that.

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1 Q. After you and Stephen left State Street, where  
2 did you go?

3 A. We walked down State Street and down the sidewalk  
4 because we were going to go to a bar a little bit down  
5 because, like I said, our friends were playing out  
6 there.

7 When we arrived they had finished up, so we had  
8 to -- to get to your vehicle -- we were parked behind  
9 the bar and we had to go back through State Street to  
10 get back to our car.

11 When we came back through State Street he was gone  
12 so we ended up staying.

13 Q. Roughly what time would that have been if you know?

14 A. That we came back through?

15 Q. Yes.

16 A. It was around -- it was only maybe twenty minutes  
17 that it took us to walk down and come back.

18 Q. How much longer did you stay at the State Street  
19 Pub?

20 A. We stayed there for about three and a half hours  
21 in all.

22 Q. At some point did you leave State Street and go  
23 somewhere else?

24 A. Yes. The bar had closed. They will keep the bar  
25 open -- if you know the bartenders they will keep the

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1 bar open, and you can stay in there and drink while  
2 they are cleaning up and counting everything down.

3 And so we stayed there until the very last time  
4 that we could, and we had to leave, so on the way home  
5 we stopped at another bar.

6 Q. Was the bar you stopped at Shaggy's?

7 A. Correct.

8 Q. When you went into Shaggy's, tell me what the bar  
9 looked like? How many people were there?

10 A. It was -- I mean, it wasn't packed. There were  
11 a good many people there. There were two seats for us  
12 to go sit at the bar, but it was busy.

13 Q. And is the bar where you and Steve went?

14 A. Uh hm.

15 Q. Who did you run into?

16 A. Drew was actually back at the bar -- I mean, at  
17 the pool tables, so when we came in and sat down we  
18 didn't notice he was there.

19 But once we sat down, he recognized it was us, so  
20 he came and sat down right beside me.

21 Q. Did you see any other people in the bar that you  
22 knew?

23 A. Yes.

24 Q. Name some of the people that you saw.

25 A. Lynn -- I'm not sure what her last name is -- she

1 was there, and Donna Muszynski. There is a regular  
2 that is called by O.B. I think his name is Orlando, and  
3 that's the only ones I paid attention to because I was  
4 there to hang out with Steve.

5 That is just all I saw at that time.

6 Q. You stayed there -- well, you said Mr. Torrence  
7 came over to you, and what did he say to you when he  
8 came up?

9 A. I don't recall his words right when he came up,  
10 but he started -- you know, he just started talking.

11 Q. And what was his demeanor?

12 A. He seemed exactly the same way he was at State  
13 Street.

14 Q. At some point then did Zach come in?

15 A. Yes.

16 Q. Prior to Zach coming in, did you see Mr. Torrence  
17 have any contact or conversations with Donna?

18 A. No, I did not see it.

19 Q. Prior to Zach coming in, did Mr. Torrence say any-  
20 thing to you about Donna?

21 A. He did. He had told me how he was upset because  
22 he said that once he got there that he was speaking  
23 with Donna and he was trying to buy her a drink, and  
24 as he was talking to her I guess Zach had arrived, and  
25 she gave all of her attention to him.

1           Once he arrived, she didn't pay attention to Drew  
2   any more and he was upset about that.

3   Q.   What did he say to you at that time?

4   A.   He called Zach several names.  Um, . . .

5   Q.   What names did he call him?

6   A.   Faggot.  He called him Wolverine because Zach had  
7   his hair -- it was very spikey.  It looked like Wolver-  
8   ine in the movie, so he called him Wolverine - just very  
9   aggravated.

10  Q.   Were those things Mr. Torrence was saying to you,  
11  or was he saying those to Zach?

12  A.   Saying them to me and Zach.

13  Q.   Okay.

14  A.   Sometimes when we would be sitting there, we would  
15  be talking and if they came up to the bar -- whether  
16  they came up to get a drink or change for the juke box  
17  or whatever, he would speak his mind to him.

18       He called him names and would be very aggravated  
19  towards him.

20  Q.   Did Zach respond?

21  A.   No.

22  Q.   What, if anything, did you say to Torrence about  
23  his behavior?

24  A.   I told him he needed to stop.  I told him right  
25  away, you need to stop.  You don't have any chance with

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1 this girl, so there's no reason for you to get all upset  
2 about it.

3 I told him to relax and let's have some drinks,  
4 and don't worry about that. I mean, he wouldn't have  
5 a chance with her, so why get upset because she's talk-  
6 ing to another gentleman.

7 Q. Was Mr. Torrence continuing to drink at that time?

8 A. Yes.

9 Q. Do you have any idea how much he had to drink while  
10 you were there?

11 A. No, I do not.

12 Q. How would you describe his -- had you drank with  
13 him before that night?

14 A. Yes.

15 Q. Been out with him before that night?

16 A. Uh hm.

17 Q. How would you describe him when he was having his  
18 conversation with you as far as his judgment, his speech,  
19 things like that, regarding his alcohol consumption?

20 A. You could tell he was getting very, very intoxi-  
21 cated. He was not to that limit yet, but you could tell.  
22 He also had proceeded to take shots there too, so he  
23 was getting very intoxicated.

24 Q. At some point -- how many times do you think that  
25 he called Zach names?

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1 A. We were there -- we were there probably around two  
2 hours, and he mentioned -- I mean, sticking with him,  
3 right to him?

4 Where I saw him, around five or six times, prob-  
5 ably.

6 Q. Other than calling Zach faggot and wolverine, did  
7 he make any other statements?

8 A. You mean to Zach or to me?

9 Q. To you?

10 A. Yes, he did. After a while -- after, I'd say,  
11 the second or third time that he was getting upset when  
12 they would come up to the bar, he leaned over to me and  
13 said, I should go to my truck and get my gun and shoot  
14 him.

15 Q. When he said that, what did you say?

16 A. I told him, don't be stupid. I felt like he was  
17 just being intoxicated and riled up, and just basically  
18 talking words. I didn't believe him and I told him  
19 not to say that.

20 Q. Did you ask him specifically about the gun?

21 A. Yes.

22 Q. What was his response to you when you told him to  
23 not say that?

24 A. He listened to me, and after saying that to him,  
25 don't be stupid, I calmed him down, and they walked

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1 away then and he wouldn't talk about it.

2 Q. What would happen the next time Zach and Donna came  
3 up to the bar?

4 A. He would get riled up again and say how he took  
5 his woman; he mentioned that he was going to go get his  
6 gun several times and shoot him.

7 He said it in several different ways. I should  
8 go get my gun and come in and shoot him. I need to go  
9 to my truck and get my gun and shoot him -- several  
10 different ways.

11 Q. At some point, did you decide to leave?

12 A. It got to be a bit much. He was getting intoxi-  
13 cated. I was trying to be rational with him and he just  
14 wasn't listening to me, and I felt like -- I had seen  
15 him very intoxicated before, so I just felt like it  
16 was something I didn't want to deal with.

17 I was trying to relax and have birthday drinks,  
18 and I'd rather just go home than have to baby him.

19 Q. Let me show you a photograph and ask you if you  
20 recognize it?

21 A. Yes.

22 Q. Is that a photograph of the security camera in the  
23 bar?

24 A. Yes.

25 Q. And do you recognize the people in there?

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1 A. I do.

2 Q. And did you in fact label for identification with  
3 arrows pointing to all the people that were in the bar?

4 A. Uh hm.

5 SOLICITOR: Your Honor, at this time the State would  
6 offer this photograph in evidence.

7 MR. FLOYD: No objection.

8 THE COURT: State's 13 in evidence without objec-  
9 tion.

10 (Photograph from security camera admitted in evi-  
11 dence without objection as State's Exhibit 13)

12 SOLICITOR: May I have Ms. Mozenko step down?

13 THE COURT: Yes. If you would, please keep your  
14 voice up.

15 BY SOLICITOR:

16 Q. Just identify it -- it's not the best quality, but  
17 if you could identify for the jury the names of persons  
18 in the bar.

19 A. This right here is Jen Reynolds. She's the bar-  
20 tender who was bartending that evening.

21 Right here is Lee Ann Stovall. She was playing  
22 a game -- there's a game right here, and next to Orlando  
23 Boyd.

24 Here is -- she is referred to as Tee, and she is  
25 married to Orlando. That's his wife.

1           Here is Zach. This one is Donna. Here is Lee, and  
2           then here is Drew.

3       Q.    Tonya, do you remember roughly what time you and  
4           Steve left that morning?

5       A.    Give or take -- five, five thirty.

6       Q.    The next morning did you have occasion to drive  
7           by Shaggy's?

8       A.    I did. We left the bar and since it was my birth-  
9           day my friend, Stephen, had quit drinking when he met  
10          me at the first bar. That way I could drink since it  
11          was my birthday.

12          So when we left the first bar, we left my vehicle  
13          there. He drove us -- he was going to drive us home,  
14          and we just ended up stopping at that next bar.

15          Well, the next morning we got up and he had to  
16          take me to my car. So we got up around nine o'clock,  
17          and when we went past Shaggy's we saw that they had all  
18          of the security tape around.

19       Q.    And who, if anybody, did you call?

20       A.    At that time I telephoned Sonny Narang, the owner  
21          of the bar. I telephoned him and asked him if Drew  
22          had shot Zach.

23          And also I texted Lee Ann because she was there  
24          at the bar and asked her the same thing, did this hap-  
25          pen.

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1 Q. And had anybody told you that?

2 A. No.

3 Q. Why did you ask that question?

4 A. Because of what he had said before we left.

5 Q. Have you had an opportunity to listen -- I want  
6 to show you -- let me show you State's Exhibit Number  
7 4, Tonya.

8 Tell me if you recognize that?

9 A. Yes.

10 Q. And have you had an opportunity to listen to it?

11 A. Yes.

12 Q. The second call on there has the female dispatcher  
13 calling back to the bar. Did you hear that call?

14 A. Yes, sir.

15 Q. The male who answered the phone, whose voice was  
16 that?

17 A. It was Drew.

18 Q. And in listening to that call, what, if anything,  
19 do you have as far as an opinion about his sobriety at  
20 that time?

21 A. He sounded inebriated.

22 Q. Thank you. Please answer any questions Mr. Floyd  
23 may have.

24 THE COURT: Cross examine, Mr. Floyd.

25 MR. FLOYD: Thank you, Your Honor.

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MS. MOZENKO ON CROSS

1 CROSS EXAMINATION

2 BY MR. FLOYD:

3 Q. Ms. Mozenko, your testimony is you arrived at the  
4 State Street Pub around midnight?

5 A. Correct.

6 Q. And that Drew was already there?

7 A. Correct.

8 Q. Is that correct?

9 A. Yes.

10 Q. Are you sure you have the right night?

11 A. I'm sure I have the right night.

12 Q. You say you terminated Drew, is that correct?

13 A. I can't hear you.

14 Q. You say you terminated Drew's employment?

15 A. Correct.

16 Q. When was that?

17 A. That was in either the end of May or the beginning  
18 of June. I don't know the exact date.

19 He had been scheduled to work on a Saturday, and  
20 he did not get up for work, so I had to call his room-  
21 mates to try to wake him up but he wouldn't get out  
22 of bed. So I had to terminate him.

23 Q. In fact, he was already working for Allegiance --  
24 I mean for Hawkeye?

25 A. I do not know that.

MS. MOZENKO ON CROSS

1 Q. And your termination form is dated June 15th?

2 A. That is the date it was filled out.

3 Q. In fact, you filled this out after the incident,  
4 didn't you?

5 A. After the incident?

6 Q. The incident at Shaggy's.

7 A. No, the incident at Shaggy's was in September.

8 Q. You say his last date of work was in June -- June  
9 of '08?

10 A. I'm not sure of the date. It was either the end  
11 of May or beginning of June.

12 Q. Do you have a copy of this?

13 A. Yes, I have a copy of this. It was filled out on  
14 June 15th, as I told you. That is when I put in the  
15 termination through HR. That doesn't mean it's the last  
16 day he worked. This is the month and year.

17 Q. In fact, he had already gone to work at Hawkeye in  
18 May, had he not?

19 A. Like I say, I did not know that.

20 Q. You did not know that?

21 A. No.

22 Q. Now, you gave a statement to the police in December  
23 of '08, did you not?

24 A. Yes, sir, I did.

25 Q. In fact, you've got it right there in front of

1 you, do you not?

2 A. Yes, sir, I do.

3 Q. Isn't it true that in that statement you didn't  
4 say anything involving calling Sonny the next day and  
5 asking him who shot Zach?

6 A. No, I did not put that in my statement. I tried  
7 to remember everything when I was there.

8 Q. So in December of '08, just a couple of months  
9 after this, you didn't say anything about calling anyone?

10 A. When they told me to come in and make a statement,  
11 they told me to say everything from the time that I had  
12 known him up to when this happened.

13 So I didn't put that in there.

14 Q. That wasn't the question. Did you say that you  
15 called Sonny and told or asked him if Drew shot Zach?

16 A. No.

17 Q. Did you say that in your statement?

18 A. No, I did not.

19 Q. Thank you. Now, in fact, isn't it true that they  
20 got to you because Drew gave them your name as a poten-  
21 tial witness?

22 A. No, it's not.

23 Q. Now, you said you had had three shots but in your  
24 statement you don't say anything about baby-sitting on  
25 that night?

MS. MOZENKO ON CROSS

1 A. I didn't think that was a relevant.

2 Q. And you say you got there about midnight, and you  
3 left at first around one fifteen?

4 A. I was there about an hour and fifteen minutes. I  
5 don't know exactly what time I left, but I was there  
6 about an hour and fifteen minutes before we left.

7 Q. And you had three shots and two beers.

8 A. Six shots.

9 Q. Six shots and two beers?

10 A. That's right. They were shared, which basically  
11 comes down to three shots.

12 Q. And then you went back into State Street, and how  
13 long did you stay a second time?

14 A. We left around three thirty.

15 Q. So you were back in for another couple of hours?

16 A. Uh hm.

17 Q. And how many shots and beers did you have in that  
18 couple of hours?

19 A. I did not have any shots at that time. I was only  
20 drinking beers because the shots we were taking were  
21 basically all purchased by Drew at both the different  
22 places.

23 I was drinking beer, and then I was mixing it up  
24 and maybe having a liquor drink, but not really.

25 Q. How many beers did you have the second time you

1 were there?

2 A. Three -- three or four.

3 Q. And how many mixed alcohol drinks?

4 A. One.

5 Q. And then you went from there to Shaggy's?

6 A. We were on the way home and we decided to stop in  
7 there because it's right on the way.

8 Q. What time did you get to Shaggy's?

9 A. I don't know exactly what time but I'd say probably  
10 around three thirty.

11 Q. And what time did you leave Shaggy's?

12 A. Five or five thirty.

13 Q. And in those two hours, how many beers did you  
14 have?

15 A. Where? Which two hours?

16 Q. Shaggy's.

17 A. Maybe only like two beers. I didn't drink much  
18 there. I had had a couple of shots with Drew there  
19 but I didn't drink many beers because I had been drink-  
20 ing and it was later.

21 We were conversating a lot so when you are talk-  
22 ing you don't drink as much as you do if you're playing  
23 pool or getting up.

24 Q. So two beers, two shots there. So that night you  
25 consumed approximately seven beers and five or six shots,

1 is that right?

2 A. More like five beers. Around --- if you want to  
3 count it as a full shot, maybe four or five shots, and  
4 one liquor drink.

5 Q. Well, now, didn't you say that you first had six  
6 shots and two beers?

7 A. I first had . .

8 Q. You said six?

9 A. Correct.

10 Q. And then you went back in and you had three beers  
11 and a mixed drink, is that correct?

12 A. Right.

13 Q. Then at Shaggy's you had two more beers and two  
14 shots?

15 A. Correct.

16 Q. So wouldn't it be seven beers and five or six shots?

17 A. In a shot, when you take a shot and order a full  
18 shot, you split it. So if you call it -- I would have  
19 one shot two waves, and technically it is not a full  
20 shot. It's a half shot.

21 So if you want to ask me the shots, then you have  
22 to half it, in the amount I've told you.

23 Q. Okay, so you had six, eight -- eight half shots,  
24 four full shots?

25 A. Uh hm.

1 Q. One alcohol drink?

2 A. Uh hm.

3 Q. And I assume you didn't take a half drink there  
4 but it was a full alcohol drink?

5 A. It was a full shot -- I mean, a full drink.

6 Q. So seven beers, four shots, one alcohol drink, is  
7 that correct?

8 A. Uh hm.

9 Q. And that's from -- in five and a half hours?

10 A. Correct.

11 Q. So you were intoxicated?

12 A. I wouldn't say I was intoxicated, but I had a buzz.

13 Q. In fact, you couldn't drive home?

14 A. I wasn't planning on driving. If I'm drinking al-  
15 cohol I have a driver with me. I'm not even going to  
16 take a chance.

17 Q. And that just gave you a buzz, that much alcohol?

18 A. Yeah, I was -- I had a buzz.

19 Q. And in the conversations you had with Drew about  
20 his gun, did you tell anybody about them?

21 A. I was sitting -- when he mentioned it on several  
22 occasions, Stephen Smith was sitting beside me, and I  
23 brought it to his attention and told him to listen to  
24 what he was saying.

25 He heard him say it also.

MS. MOZENKO ON CROSS

1 Q. And did you go and tell Zach?

2 A. No.

3 Q. Because you didn't think it was real?

4 A. Yeah, I didn't believe it. I didn't first think  
5 he had a gun and then I thought he was talking smack.

6 Q. Barroom talking?

7 A. Right.

8 Q. A lot of that goes on in a bar, does it not?

9 A. No. Talking about getting a gun is not barroom  
10 talk. I was talking to him, barroom talk, and then he  
11 brought that up.

12 Q. Now, did you not say -- maybe I misunderstood you  
13 -- you did not see him with Donna that night? Did you  
14 not say that?

15 A. Uh hm.

16 Q. Did you say it or did you not say it?

17 A. Did I see him talking with Donna?

18 Q. Yes.

19 A. No, I did not.

20 Q. So when you got there at Shaggy's, was Zach already  
21 there?

22 A. When we arrived at Shaggy's, was Zach already there?  
23 Yes, he was.

24 Q. What was Zach doing at that time?

25 A. When we arrived in, Zach and Donna were at the

MS. MOZENKO ON CROSS

1 juke box in the very back of the bar, and they were  
2 putting music in the bar -- I mean, in the juke box.

3 Q. And I believe you testified Drew was at the pool  
4 tables?

5 A. He was back near the pool tables. When we sat  
6 down, he came from behind me. So I don't know exactly  
7 where he was at, but he came from behind me.

8 Q. And no question in your memory that Drew was at the  
9 State Street bar when you got there that night at mid-  
10 night?

11 A. He was at the State Street bar when we got other  
12 at midnight, yes.

13 Q. And in your mind, are you sure that Drew was at the  
14 State Street bar when you got there?

15 A. Yes, I am positive. I had had no alcholic bever-  
16 ages. I was very clear-minded.

17 Q. Thank you.

18 MR. FLOYD: Your Honor, I have no further questions.

19 THE COURT: Thank you.

20 Redirect, Solicitor?

21 SOLICITOR: Yes, Your Honor.

22 REDIRECT EXAMINATION

23 BY SOLICITOR:

24 Q. Tonya, had you been drinking so much that you don't  
25 remember the conversation between you and Drew Torrence

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1     that evening?

2     A.    Absolutely not.

3     Q.    Did he make those statements to you about getting  
4     his gun and shooting Zach?

5     A.    Several times.

6     Q.    Do you have any reason to make this up?

7     A.    Absolutely not.

8     Q.    You're telling the truth?

9     A.    Yes, sir.

10    Q.    No further questions.

11           THE COURT:   Recross?

12           MR. FLOYD:   Yes, sir, Your Honor.

13    RE CROSS EXAMINATION

14    BY MR. FLOYD:

15    Q.    Are you saying your abilities to observe, remember  
16    and comprehend were not at all affected by consuming seven  
17    beers, four shots and an alcohol beverage over a five  
18    hour period?

19    A.    I am.

20           SOLICITOR:   Objection, Your Honor, as beyond the  
21    scope of Redirect.

22           THE COURT:   Overruled.   Read Rule 611.

23           WITNESS:    Can he repeat the question?

24    BY MR. FLOYD:

25    Q.    Are you saying that your ability to observe, to

1 remember and comprehend were in no way affected by your  
2 consumption of four shots and seven beers and one alco-  
3 hol drink, over a five hour period?

4 A. I will tell you that I am sure it impaired my  
5 ability to remember every single thing that happened,  
6 but I work for a security company and it is my profes-  
7 sion to know what's going on.

8 I was paying attention and I knew what was going  
9 on, and I spoke of everything that was remembered.

10 If I didn't put it in my statement, it is just be-  
11 cause it was time after that I had to put my statement  
12 in, but, yes, I was able to remember and know exactly  
13 what was going on.

14 Q. Just like you remember that Drew was at the State  
15 Street Pub when you arrived there?

16 A. Correct.

17 Q. And that is a good test of your memory, is it not?

18 A. I'm telling you what happened.

19 Q. Nothing further.

20 THE COURT: Thank you very much, Ms. Mozenko. You  
21 may step down.

22 (Witness excused from stand)

23 THE COURT: You may call your next witness, Solic-  
24 itor.

25 SOLICITOR: Sonny Narang.

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

3 SONNY NARANG, being duly sworn,  
4 testified as follows:

5 CLERK: Have a seat, sir. Once you are seated,  
6 speak up loud and clear and state your full name,  
7 spelling your last.

8 WITNESS: Sanjiv Sonny Narang. N A R A N G.

9 CLERK: Spell your first name.

10 WITNESS: S A N J I V.

11 CLERK: And when you say Sonny, is it S O N N Y?

12 WITNESS: S O N N Y.

13 THE COURT: All right, Solicitor.

14 SOLICITOR: Thank you, Your Honor.

15 DIRECT EXAMINATION

16 BY SOLICITOR

17 Q. Sonny, tell the jury a little bit about Shaggy's.  
18 Where is it, and what is your relationship to it?

19 A. I am the owner of Shaggy's Backroom. It is a pri-  
20 vate club located on Sunset Boulevard, Highway 378.

21 It is behind a liquor store and a convenience  
22 store.

23 Q. What's the name of the liquor store?

24 A. Grog Shop.

25 Q. So it is the Grog Shop in front and then it is in  
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1 the back?

2 A. At that time it was a party shop next to the liquor  
3 store, and a restaurant next to that.

4 Q. When -- how long have you been involved with the  
5 Grog Shop?

6 A. The Grog Shop is actually a family business. My  
7 parents purchased it in '87, in 1987, and I purchased  
8 it from them in 1998.

9 Q. When did Shaggy's open?

10 A. Shaggy's opened in 2000.

11 Q. You say it is a private club. What is a private  
12 club?

13 A. Um, a private club is -- it is basically three  
14 stages of bar. It has members and it has some benefits  
15 of being a private bar by not having to serve food,  
16 not having to have a special license to open on Sundays.  
17 Presently in a private bar -- you can smoke in private  
18 bars in West Columbia right now, so that is another  
19 benefit.

20 Q. What kind of drinks do you usually serve there?

21 A. We serve liquor drinks, beers and wine.

22 Q. And that is on premises that you can drink those  
23 drinks?

24 A. On-premises consumption, yes.

25 Q. Do you remember the night of November 27th between

MR. NARANG ON DIRECT

1 the late hours and November 28th?

2 A. Yes.

3 Q. Being the owner, do you actually work at the bar  
4 sometimes as well?

5 A. Yeah, being the owner of a business, you can have  
6 employee problems and, yes, sometimes I have to work.

7 Q. Did you have to work the night of November 27th --  
8 I'm sorry, of September 27th?

9 A. Yes.

10 Q. Why did you -- why were you there that night?

11 A. I was there because I had to fire one of our bar-  
12 tenders, and so I needed -- since I had to fire I had to  
13 cover the shift.

14 Q. Do you remember approximately what time you would  
15 have gotten there?

16 A. Well, I had to get there at eight. I had to be  
17 there before eight because our shift changes occur at  
18 eight o'clock.

19 The afternoon shift bartender works from four to  
20 eight, and the next shift starts at eight.

21 Q. And the next shift, is that broken into two times?

22 A. Yes.

23 Q. At some point did you actually tend the bar your-  
24 self?

25 A. Yes. I actually had the happy hour bartender stay  
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MR. NARANG ON DIRECT

1 a bit longer so that I could talk to the bartender I was  
2 going to fire and get her key. So I had the happy hour  
3 bartender stay a little bit longer, and then after I  
4 fired her I went back and relieved the happy hour bar-  
5 tender and started to work myself.

6 Q. At some point -- do you remember approximately what  
7 time that you went home?

8 A. I had to be at home before five o'clock because my  
9 wife and mother in law were going <sup>to Mississippi</sup> to a funeral, and  
10 so I had to -- I had to be home before five, so I got  
11 there about four thirty, actually.

12 Q. Do you remember seeing Drew Torrence?

13 A. Yes.

14 Q. Do you see him in the Courtroom today?

15 A. Yes.

16 Q. The man sitting with a blue shirt on by Mr. Floyd?

17 A. Yes.

18 Q. What do you remember about him from that night or  
19 that morning?

20 A. Well, I remember him -- the reason he stands out  
21 is he kept using the employee entrance behind the bar,  
22 which I didn't want him doing because it gives access  
23 to the bar. So ...

24 Q. While you were there, how busy was the bar?

25 A. Um, it was pretty busy. It was a good night, I

MR. NARANG ON DIRECT

1 mean, as far as business-wise.

2 Q. Do you remember seeing Donna there?

3 A. Yes.

4 Q. How about Zach?

5 A. No.

6 Q. At some point after going home, did you get a phone  
7 call telling you that something had happened in your  
8 bar?

9 A. Yes.

10 Q. And based on that, where did you go?

11 A. Straight to the bar.

12 Q. When you got to the bar were the police there?

13 A. Yes.

14 Q. And what, if anything, did they have to say?

15 A. They asked me about my cameras, and that's the main  
16 thing I remember, them asking about the cameras, and  
17 they asked me to make them copies of the videos.

18 Q. Let me show you three different videos and ask you  
19 if you recognize these?

20 A. Yes, these are the CDs or DVDs I burned for them.

21 SOLICITOR: Your Honor, at this time the State  
22 would offer these three CDs into evidence.

23 THE COURT: Mr. Floyd?

24 MR. FLOYD: Just a moment.

25 (Brief pause in the proceeding)

MR. NARANG ON DIRECT

1 MR. FLOYD: No objection.

2 THE COURT: All right, this will be 14, 15 and 16,  
3 without objection.

4 REPORTER: Yes, sir.

5 (CDs admitted into evidence without objection as  
6 State's Exhibits 14, 15 and 16)

7 BY SOLICITOR:

8 Q. Sonny, tell the jury a little bit about the secur-  
9 ity cam system which you had set up at the time on that  
10 night?

11 A. It is a security system I bought from Sam's Whole-  
12 sale. It has four cameras -- yeah, four cameras, and  
13 it records to a computer hard-drive.

14 Q. How many cameras were inside?

15 A. There are two cameras inside Shaggy's and two in-  
16 side the liquor store.

17 Q. And they recorded what is on the exhibits we are  
18 discussing here but there wasn't any reason to take any-  
19 thing out of the liquor store?

20 A. Correct.

21 Q. So the information on there is from inside Shaggy's  
22 then?

23 A. Correct. One camera is behind the bar facing to-  
24 ward the customers, and the other camera is at the back  
25 of the bar facing toward the bar.

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MR. NARANG ON DIRECT

1 Q. And did you go through there yourself and pull  
2 out what you felt was relevant to give to the police?

3 A. Actually, my -- the way it works is when you record  
4 it records into segments. So you can go to one -- you  
5 can go, you know, to the thirty-fifth minute of the  
6 hour or thirty-ninth minute.

7 Q. And this is exactly what you recorded and gave to  
8 the police?

9 A. Yes.

10 Q. Did you give consent to the West Columbia Police  
11 Department to come in and process your building?

12 A. Yes. In fact, they have an open invitation. I  
13 let them know that they can come in at any time.

14 Q. Did you also get a call from Tonya that morning?

15 A. Yes, I did.

16 Q. Do you remember anything Tonya said to you?

17 A. When I said hello, the first thing she asked me  
18 was did Drew shoot Zach.

19 Q. Thank you, Sonny. Please answer any questions Mr.  
20 Floyd may have.

21 THE COURT: Thank you, Solicitor.

22 Mr. Floyd?

23 MR. FLOYD: Thank you, Your Honor.

24 CROSS EXAMINATION

25 BY MR. FLOYD:

MR. NARANG ON CROSS

1 Q. What time did you leave the bar to go to your home,  
2 sir?

3 A. I think it was around four twenty or four thirty.

4 Q. And you say you had not seen Zach in all that time?

5 A. No.

6 Q. So Zach didn't come into the bar until sometime  
7 after four thirty?

8 A. Correct.

9 Q. You knew Zach, did you not?

10 A. Yes, I knew Zach.

11 Q. I don't have any further questions at this time.

12 Thank you.

13 THE COURT: Any Redirect?

14 SOLICITOR: No, sir.

15 THE COURT: All right. If you would please step  
16 down, sir. Thank you.

17 (Witness excused from stand)

18 THE COURT: I'm going to give you all a fifteen min-  
19 ute recess at this time. It will probably be a little  
20 longer than that because I need to take up a matter, and  
21 we need to take our break as well.

22 Please leave your notes upside down on your chair.

23 Do not discuss the case.

24 (Jury excused from Courtroom)

25 THE COURT: We'll be in recess briefly.

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1 (Jury returned to Courtroom)

2 THE COURT: Well, I did warn you it might be a little  
3 longer than fifteen minutes, didn't I?

4 Your time is very important to me, and I don't manage  
5 it well sometimes. I apologize for that.

6 We will move along and continue with the cross exam-  
7 ination of Mr. Narang by Mr. Floyd.

8 Mr. Floyd, you may proceed.

9 MR. FLOYD: Thank you, Your Honor.

10 CROSS EXAMINATION CONTINUED

11 BY MR. FLOYD:

12 Q. Mr. Narang, you say you were there until about four  
13 thirty that morning?

14 A. Yes, sir.

15 Q. And were you tending the bar during that time you  
16 were there?

17 A. Um, I was tending bar until another bartender came  
18 in to cover for me.

19 Q. Do you know what time that would have been?

20 A. I believe about two o'clock.

21 Q. About two?

22 A. Yeah.

23 Q. And you were just around from then on but you not  
24 tending bar?

25 A. Right. I was attending bar some, and I was checking

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1 on things, you know. You know, drinks on tables and that  
2 sort of stuff.

3 Q. Now, you personally made copies of the videos?

4 A. Yes.

5 Q. And were the police with you when you did that?

6 A. Um, I believe there was an officer there most of the  
7 time period.

8 Q. And who decided where to stop and where to start?

9 A. I guess I did. What it was is, like I said before,  
10 when you record it records into it and prints, so I guess  
11 the main thing I did was go onto the film where what oc-  
12 curred occurred and recorded that part.

13 I recorded, yeah, the closest the machine recorded  
14 to the occurrence, to the event that occurred.

15 Q. So did you go to the point where there was some ini-  
16 tial interaction between Zach and Drew? At whatever time  
17 that started between Drew and Zach?

18 A. I'm sorry.

19 Q. Did you go to the point where there was initial in-  
20 teraction between Zach and Drew?

21 A. Right.

22 Q. At whatever ten minute frame this started, is that  
23 what you recorded?

24 A. Right.

25 Q. And did you record in ten minute increments before

1 that?

2 A. No.

3 Q. Did the police ever ask for them?

4 A. No.

5 Q. Was that available if they wanted them?

6 A. Uh, up to a certain point because it's a hard drive.  
7 It basically records on its primary bank hard drive, and  
8 then when it reaches the end it loops back and starts re-  
9 cording over that.

10 Q. Do you know how many days it would record or how  
11 many days would be available?

12 A. At that time, it was probably about seven or eight  
13 days.

14 Q. Thank you, Mr. Narang.

15 MR. FLOYD: I have no further questions, Your Honor.

16 THE COURT: Thank you very much, Mr. Floyd.

17 Any Redirect from the State?

18 SOLICITOR: No, Your Honor.

19 THE COURT: Thank you very much. You may step down,  
20 sir.

21 WITNESS: Thank you.

22 THE COURT: Yes, sir.

23 (Witness Narang was excused from the witness stand)

24

25

1 THE COURT: Solicitor, you may call your next  
2 witness.

3 SOLICITOR: We would call Steve Smith.

4 THE COURT: All right. If you'd come around and  
5 be sworn, please?

6 STEPHEN SMITH, being duly sworn,  
7 testified as follows:

8 CLERK: Please have a seat on the witness stand,  
9 and when you are seated state your name on the record,  
10 spelling your last name.

11 WITNESS: Stephen Edward Smith, S M I T H.

12 CLERK: How do you spell Stephen?

13 WITNESS: S T E P H E N.

14 DIRECT EXAMINATION

15 BY SOLICITOR:

16 Q. Good morning, Mr. Smith.

17 A. Good morning.

18 Q. Do you know Andrew Torrence?

19 A. Yes, I do.

20 Q. And would you tell the jury how you know him?

21 A. He became a friend of someone I grew up with and  
22 that was when I was younger. I met him probably in my  
23 senior year of high school, his freshman year of high  
24 school.

25 Q. All right. Let me take you to September 27, 2008.

MR. SMITH ON DIRECT

1 A. Okay.

2 Q. That night what were you doing?

3 A. On September 27th, I went with one of my friends  
4 to watch a Carolina football game while I was waiting  
5 on Tonya to get through baby-sitting so I could buy  
6 her a couple of drinks for her birthday at State Street.

7 Q. All right, and how much did you have to drink while  
8 you were watching the game?

9 A. Approximately three beers.

10 Q. All right, and do you know what time Tonya left  
11 from baby-sitting?

12 A. She called me around eleven forty-five, and I went  
13 to meet her at the State Street Pub.

14 Q. And approximately what time did you meet her?

15 A. Somewhere around twelve or a little after.

16 Q. Was she there when you got there?

17 A. Yes, she was.

18 Q. And was anyone else there when you got there?

19 A. Drew was there.

20 Q. Drew Torrence was there at the bar?

21 A. Yes.

22 Q. What time was that?

23 A. I'd say it was around twelve. She was kind of  
24 walking in as I was pulling in.

25 Q. All right, and did you and Tonya have an opportunity

MR. SMITH ON DIRECT

1 to interact with Drew Torrence?

2 A. At the State Street bar?

3 Q. Yes.

4 A. Yes, we did.

5 Q. Okay, could you tell the jury the content of the  
6 interaction?

7 A. He was intoxicated. He said he had been drinking  
8 since six o'clock that afternoon or that evening.

9 He was all over Tonya and Zachary -- he said a  
10 few derogatory remarks. I don't really recall what  
11 they were, but they kind of aggravated her.

12 Q. As a result of that, did you all do anything?

13 A. After hearing it for a little while, we walked out  
14 front of the State Street Pub to take a break, and we  
15 were going to go down to the New Brooklyn Tavern.

16 Q. And did you all do that?

17 A. We walked on down to the Brooklyn, but the fellow we  
18 were going to see, his van was gone, so we walked on  
19 back.

20 Q. After that, what did you do?

21 A. We went back to the State Street Pub.

22 Q. Was Mr. Torrence still there?

23 A. No, he wasn't.

24 Q. About what time was that? Do you recall?

25 A. I want to say we were inside there about an hour

MR. SMITH ON DIRECT

1 and fifteen minutes -- maybe an hour -- and we walked  
2 out and smoked a cigarette; walked down to the Brooklyn;  
3 turned around and walked back -- it took maybe fifteen  
4 minutes or so.

5 So it would be approximately one thirty.

6 Q. While on State Street, how much did you have to  
7 drink?

8 A. One beer.

9 Q. And did you observe Tonya drink?

10 A. Yes, I did.

11 Q. How about Mr. Torrence?

12 A. Yes.

13 Q. Do you recall how much he had to drink?

14 A. I don't recall -- I recall him doing shots, but I  
15 don't recall how many shots, and I recall Tonya drink-  
16 ing beer because I was paying for it. How many I don't  
17 exactly remember.

18 Q. What time did you all leave State Street the last  
19 time?

20 A. The last time, it had to be around three thirty.

21 Q. And where did you all go?

22 A. We went to Shaggy's.

23 Q. And when you got to Shaggy's, who was there?

24 A. When we walked in Shaggy's, there was a few people  
25 there. I didn't know everybody that was there.

MR. SMITH ON DIRECT

1 Donna was there and Zach was there. Drew was walk-  
2 ing from the pool table area as we were sitting down.

3 Q. And did you all go in the side door or the back  
4 door into Shaggy's?

5 A. In the back door.

6 Q. And as you walked in, could you describe for the  
7 jury how the bar is set up? As you walk in that back  
8 door?

9 A. The bar is set up sort of like in a U, and then  
10 the back door is over here, and when we walked in we  
11 walked past the bar and sat on the corner on this side  
12 over here.

13 Q. Now, when you all sat down, did you have any action  
14 or interaction with Mr. Torrence?

15 A. Mr. Torrence come up and spoke with Tonya, and he  
16 was talking loud enough I could hear and he said a couple  
17 of things.

18 He was more drunk than he was previously on State  
19 Street. It was more or less -- he was hitting on her  
20 again.

21 Q. What was the content of his conversation with you  
22 all?

23 A. He was also upset about Donna choosing Zach over  
24 him, which he referred to Zach as the wolverine or faggot,  
25 is what he referred to.

MR. SMITH ON DIRECT

1 Q. He referred to him as . . .

2 A. Wolverine or faggot.

3 Q. And did you hear him say anything else in reference  
4 to Zach?

5 A. He was -- he said that he should go get his gun  
6 from his car, is what I heard, and shoot him. More than  
7 once.

8 Q. More than once?

9 A. More than once.

10 Q. Do you recall specifically how many times?

11 A. At least three. No more than five.

12 Q. At the time he said it, did you take it seriously?

13 A. No, I did not.

14 Q. In regard to him being upset about Donna, what,  
15 if anything, did you say?

16 A. I told him to be a man and go talk to her; if you  
17 get nowhere, let it go.

18 Q. And what time did you and Tonya leave Shaggy's?

19 A. Around five thirty.

20 Q. Why did you all choose to leave at that time?

21 A. It was -- I was tired of hearing it. I had heard  
22 it all night.

23 Q. Tired of hearing what?

24 A. Him talk about he didn't like Zach hitting on Tonya.  
25 It was getting old and we couldn't have a good time any

MR. SMITH ON DIRECT

1 more.

2 Q. What, if anything, did you and Tonya do the next  
3 morning?

4 A. We got up the next morning and I took her to the  
5 State Street Pub to get her car.

6 Q. And what route did you take to get to the State  
7 Street Pub?

8 A. Tonya lives on Mohawk Drive. I made a left onto  
9 378, went down 378 past Shaggy's, and we saw the police  
10 tape around Shaggy's.

11 Q. Okay.

12 A. The yellow . .

13 Q. When you saw the police tape, did you observe Tonya  
14 do anything?

15 A. Yes. She called -- she said she called someone.

16 Q. She said she called someone.

17 Q. What, if anything, from that conversation did she  
18 relate to you?

19 A. I heard her say, did Drew shoot that guy -- is  
20 what I heard.

21 Q. So whoever she called, . .

22 A. Uh hm.

23 Q. . . you heard her ask, did Drew shoot that guy?

24 A. Right.

25 SOLICITOR: Beg the Court's indulgence.

MR. SMITH ON DIRECT

1 THE COURT: Yes, sir.

2 BY SOLICITOR:

3 Q. Mr. Smith, that's all I have. Answer any questions  
4 Mr. Floyd may have.

5 A. All right.

6 THE COURT: Thank you, Solicitor.

7 Mr. Floyd?

8 MR. FLOYD: Thank you, Your Honor.

9 CROSS EXAMINATION

10 BY MR. FLOYD:

11 Q. Mr. Smith, you said you got to the State Street  
12 Pub around midnight?

13 A. Yes, sir.

14 Q. And your testimony is that Andrew Torrence was al-  
15 ready there, and he already was drinking?

16 A. Yes, sir.

17 Q. And you said he hit on your girlfriend?

18 A. No, sir. She was not my girlfriend. She was my  
19 friend.

20 Q. So he hit on her?

21 A. He hit on her, yes.

22 Q. Now, Mr. Smith, were you the one driving?

23 A. Excuse me?

24 Q. Driving -- were you driving this night?

25 A. Yes, sir.

MR. SMITH ON CROSS

1 Q. And what time did you arrive at Shaggy's?

2 A. Approximately three forty-five.

3 Q. Your testimony is that Drew was already there?

4 A. Yes, sir.

5 Q. Did you know Zach?

6 A. No, sir.

7 Q. And did Tonya know Zach?

8 A. Not that I know of.

9 Q. Now, you first talked to the police about this  
10 in December?

11 A. Yes, sir.

12 Q. So from September 27th or 28th until early Decem-  
13 ber, you had no contact with the police about this  
14 incident?

15 A. No, sir.

16 Q. And Tonya didn't either, did she?

17 A. Not that I know of.

18 Q. So you didn't think anything that you saw or you  
19 heard on that night was important enough to talk to the  
20 police about?

21 A. No, sir.

22 Q. I have no further questions.

23 THE COURT: Thank you, Mr. Floyd.

24 Redirect, Solicitor?

25 REDIRECT EXAMINATION

MR. SMITH ON REDIRECT

1 BY SOLICITOR:

2 Q. One question, Mr. Smith.

3 During that time period from the incident until  
4 you gave your statement to law enforcement were you  
5 worried that you may have done something wrong by not  
6 speaking up before?

7 A. Yes, I was, and I can explain to you how it come  
8 about that I gave a statement.

9 Q. Okay.

10 A. I walked in to the West Columbia Police Department  
11 to speak with a man about an unrelated incident. So I  
12 spoke with him and I told him that I was there that  
13 night and asked if I needed to give a statement, and  
14 he told me, yes, that I needed to give a statement.

15 Q. And that was the first time you gave your state-  
16 ment?

17 A. Yes.

18 SOLICITOR: That's all I have, Your Honor.

19 THE COURT: Any Recross?

20 MR. FLOYD: Yes, sir.

21 RECROSS EXAMINATION

22 BY MR. FLOYD:

23 Q. So when you talked to the police, it was when you  
24 were there on an unrelated matter?

25 A. Yes, sir.

MR. FLOYD ON RECROSS

1 Q. In December?

2 A. Yes, sir. It was in December.

3 Q. And you just testified that you didn't think any-  
4 thing you saw or heard was important enough to go and  
5 talk to them?

6 A. I was concerned but I did not come forward until  
7 after I spoke with the man on an unrelated incident.

8 Q. But you just testified that you didn't think it  
9 was important enough, isn't that correct?

10 A. That's correct.

11 Q. That's all I have.

12 THE COURT: Thank you very much, Mr. Smith. You  
13 may step down.

14 (Witness excused from stand)

15 THE COURT: All right, Solicitor.

16 SOLICITOR: We would call Agent Joe West to the  
17 stand.

18 THE COURT: All right. Come around and be sworn  
19 for me, please.

20 JOE WEST, being duly sworn, tes-  
21 tified as follows:

22 CLERK: Please have a seat on the witness stand,  
23 and when you are seated state your full name on the re-  
24 cord, spelling your last, please.

25 WITNESS: My name is Joe West, W E S T.

1 DIRECT EXAMINATION

2 BY SOLICITOR:

3 Q. Agent West, where are you employed, please?

4 A. At the State Law Enforcement Division, which is  
5 commonly known as SLED.

6 Q. How long have you been in law enforcement?

7 A. Over twenty years.

8 Q. How long have you been with SLED?

9 A. Twenty years.

10 Q. Over the course of your career, what have you  
11 done with SLED?

12 A. I spent fifteen years in narcotics. I guess for  
13 the past five, going on six, I have been in a unit that  
14 is called Special Operations which is SWAT, blood-hounds,  
15 technical services. Some days I work on what is called  
16 a running dog call.

17 My primary responsibility is in the audio-visual  
18 area. Agencies bring in video content, audio content,  
19 to have us take pictures from the video or to enhance  
20 the photographs or enhance the audio-video.

21 Q. How long have you been doing that?

22 A. Almost six years.

23 Q. You said you were involved also with SWAT and with  
24 blood-hounds. What do you do in your involvement with  
25 SWAT?

AGENT WEST ON DIRECT

1 A. On the SWAT team, we handle State-wide SWAT calls  
2 from state, local, federal and county agencies. We may  
3 have everything from a hostage call to a suspected boys  
4 with guns -- just a variety of things you do on the SWAT  
5 calls.

6 Blood-hounds would be the same way. If there is  
7 a blood-hound call and it's a violent suspect, I will  
8 send more than two trackers which would involve me.

9 In the aviation aspect, if we're going to arrest  
10 you call operations out and we would assist there.

11 As part of the SWAT team, you train a lot. We do  
12 training two days a month, and each individual team  
13 you're on would train further through the month.

14 I've been on the team probably ten years and I've  
15 been through numerous violent situations involving gun-  
16 fire, involving negative outcome of the suspect, of an  
17 officer shooting of weapons, and especially violent sit-  
18 uations.

19 Q. Were you in the Courtroom when Sonjiv testified?

20 A. Yes, sir.

21 Q. There were three discs that were put in through  
22 Mr. Narang. Do you recognize these three discs, State's  
23 14, 15 and 16?

24 A. Yes, sir. State's 14, 15 and 16.

25 Q. In fact, did he go out to SLED with you yesterday

1 with those discs?

2 A. Yes, sir.

3 Q. And he watched them with you?

4 A. Yes, sir.

5 Q. And taking the information that was on those discs,  
6 were you able to put them in a format that will be easier  
7 to view here in the Courtroom?

8 A. Yes, sir.

9 Q. Let me show you a disc and ask you if you recognize  
10 that?

11 A. I do.

12 Q. And what is that disc?

13 A. This is a disc containing the content of -- the  
14 video content of Shaggy's bar, and the date was Septem-  
15 ber 28th, 2008, and there were essentially two blocks of  
16 time on there.

17 One from six thirty to six forty, and one from six  
18 forty to six fifty.

19 Q. Okay.

20 A. Within those blocks are two camera views. One I  
21 recall is the pool camera view that shows the pool tables,  
22 and the other would be the bar view showing the bar area  
23 of Shaggy's.

24 SOLICITOR: Your Honor, the State would offer this  
25 disc in evidence.

AGENT WEST ON DIRECT

1 THE COURT: Mr. Floyd?

2 MR. FLOYD: No objection, Your Honor.

3 THE COURT: State's Exhibit -- is it 17?

4 REPORTER: Yes, sir. I thought I had already marked  
5 it.

6 (Video content of bar on disc admitted in evidence  
7 without objection as State's Exhibit 17.)

8 SOLICITOR: Judge, the original videos are marked  
9 State's Exhibit 14, 15 and 16.

10 THE COURT: Thank you.

11 (State's Exhibits 14, 15 and 16 previously admitted  
12 in evidence)

13 DIRECT EXAMINATION CONTINUED

14 BY SOLICITOR:

15 Q. What is on 17? Would you explain what you did and  
16 how you did it?

17 A. The bar, as stated, has a security system. Basic-  
18 ally it's like a computer, and you have the cameras that  
19 are attached to that.

20 It has a hard drive that records the videos and in  
21 some cases audio, but not in this case.

22 It is like a DVR in your house, if you will, so  
23 that this allows you to go back and review the video on  
24 the various systems that you have in the one central  
25 station.

1           So maybe you need to download the contents of the  
2 video in some cases, just like you will see here, and  
3 sometime you have to go to the establishment and tap  
4 in the back of the video feed and record it to your de-  
5 vice, so that is your evidence.

6           And some devices have the ability to create CDs or  
7 DVDs that have the video content on there.

8           Within that, there are many ways it can copy the  
9 content onto a disc. One of which is the raw video like  
10 it were something you would play in most media or like  
11 you can play in most any machines.

12          But often you have -- the computer installs its  
13 own software onto the disc, and you have to use that  
14 software to get the content on that disc.

15          You will see that this is the case on the videos  
16 we've got from the bar.

17          The software sometimes is very easy to use, or is  
18 very user-prone, and we have seen over the years that  
19 it has become more user friendly for police officers as  
20 well as civilians.

21          In this case, it was a software called black box,  
22 and it was very problematic that the software might change  
23 the resolution on the screen. So that instead of hav-  
24 ing a full screen with all the content on there, you would  
25 have like a portion of it.

1           And we worked on it many days to try to get the de-  
2 vice to play properly. We found that the best way to  
3 view the video was to take that content and to place it  
4 onto a DVD, something that is playable and that you'd  
5 be able to play on a device like you would have in your  
6 house.

7   Q.   Is there any difference other than the ability to  
8 play it and manipulate it frame by frame or reverse and  
9 forward -- easier . .

10 A.   . .

11 Q.   Is what is on the original three discs, is that  
12 the same, the ones in evidence, or is there a difference  
13 in the content of what's on the DVD disc and the origi-  
14 nal discs?

15 A.   There is a difference in the content. Essentially  
16 it is the same video that you would see on the computer.  
17 It is just that it is put in a full screen format and is  
18 able to be played on a DVD player.

19 Q.   But as far as what the cameras have captured, the  
20 footage itself, is there any difference?

21 A.   No, sir.

22 Q.   Did you do anything to manipulate or change the ac-  
23 tual footage of what happened or what the camera is cap-  
24 turing from those original videos and what you put on  
25 the DVD?

A.   Not in this case.

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1           In some videos, when you enhance them, there is  
2 things you can do to brighten it and darken it, and add  
3 contrast -- a different tool you can use.

4           In many case it is for identifying tags.

5           In this case, it was pretty good video so we didn't  
6 need to really enhance it any. In fact, we didn't enhance  
7 it at all.

8 Q.   How does pixelation come into play, and what does  
9 that mean?

10 A.   It is like -- if you think of your digital cameras  
11 many years ago, when you took a picture and you zoomed  
12 in, when it was the smallest picture it looked pretty  
13 good to you.

14       But when you zoomed in, all those little pixels  
15 became big, fat pixels, so you lose that visual image  
16 or quality, if you will.

17       Here we see some pixelation where the nature of how  
18 these recorders work is basically just from pressing the  
19 data or is from compressing the video, so you would lose  
20 some.

21       It is not like you would use your home HD camera  
22 or anything. It is compressing the data just for stor-  
23 age of it.

24       You will see some pixelation, and by that I mean  
25 you will see like little blocks on the screen. If you

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1 -- everything is in little blocks, and if you were to  
2 zoom in you would see the big, fat blocks there.

3 Q. Are you familiar with the TV show, CSI?

4 A. Yes, sir.

5 Q. And is it possible in this kind of footage to be  
6 able to zoom in and expand and see when something is hap-  
7 pening?

8 A. Again, we didn't see the need to enhance this video  
9 because when you did zoom into it it lost the resolu-  
10 tion. It didn't look like a good picture any more.

11 In some cases, we do need to zoom in to get tag  
12 numbers or to get positions of people<sup>or items</sup>, but in this case  
13 the video in its full screen, without enhancement, is  
14 pretty good.

15 Q. So the only thing you did was to put it in a better  
16 format to watch?

17 A. Yes, sir.

18 Q. Thank you.

19 SOLICITOR: Your Honor, at this time, the State  
20 would like to publish State's 17 to the jury.

21 THE COURT: All right. You may publish it, Soli-  
22 citor.

23 SOLICITOR: I may need Agent West to step down.

24 THE COURT: All right, he may step down.

25 (Witness leaving stand)

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1           (Whereupon, State's Exhibit 17 was published to  
2 the jury)

3           SOLICITOR: Your Honor, if you could ask the jury  
4 whether they are able to see the video, as well as the  
5 Defense?

6           THE COURT: All right. Mr. Foreman, ladies and gen-  
7 tlemen of the jury, you see how the Solicitor has the  
8 monitors set up now. If there is a better position as  
9 it comes on, raise your hands and direct him back and  
10 forth, where you can see it better.

11 BY SOLICITOR:

12 Q. Agent West, would you describe what we are watch-  
13 ing now?

14 A. Essentially each box is like a segment. There are  
15 four ten minute segments.

16 Q. Okay.

17 A. The first two are of the bar area. The first one  
18 being at six thirty according to the clock time, and six  
19 forty. From six forty to six fifty. Then the same  
20 thing, six thirty, six forty, six fifty.

21 Q. As far as what you believe to be relevant, was there  
22 one camera that you felt showed more of what happened  
23 than the others?

24 A. The first two, which is the bar cameras, has the  
25 best video of what happened. The second two, which is

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1 the pool camera in back of the bar, is kind of far away.

2 You can see some movement there, but you can't really  
3 see what is going on as you could from the bar cameras.

4 Q. Go ahead and start the camera from the bar angle  
5 that shows a better showing of action, starting with  
6 the first time at six thirty?

7 A. Yes, sir.

8 (Counsel and witness speaking as video is running  
9 for the jury)

10 BY SOLICITOR:

11 Q. As you watch at this time, are you able to tell  
12 what time the Defendant left? What time the Defendant  
13 left the bar?

14 A. There is on the computer -- when you play the con-  
15 tent on the computer, on the top left-hand portion there  
16 is actually a clock or where the time appears.

17 It lets us know what time he left and when he came  
18 back as far as the relation of time, the duration.

19 Q. From the time he left the bar until later when he  
20 comes back, can you determine how long a period that  
21 was?

22 A. Yes, sir.

23 Q. What was it?

24 A. Four forty, four forty-two -- depending on when  
25 you start to count. I counted when he walked through

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1 the threshold door or went through the first time,

2 and I stopped my stop watch when he came through.

3 Q. Four minutes and forty seconds, or four minutes,  
4 forty-two seconds -- somewhere around there?

5 A. Yes, sir.

6 Q. Thank you.. If you would, continue with the second  
7 -- the first video, and would you cue it up to right  
8 where we were when Mr. Torrence comes back in?

9 A. Yes, sir.

10 (Video running)

11 BY SOLICITOR:

12 Q. Agent West, how long have you -- how many years  
13 have you been doing this?

14 A. Twenty years.

15 Q. And how many times have you been asked to do this  
16 type of work over the last five years?

17 A. At least four times a year as an agent, and then  
18 I've worked as a SWAT team agent and team person, as  
19 a tracking person.

20 I have qualified with a handgun and rifle as well  
21 over the years.

22 Q. Is there a term that is used when a gun is fired,  
23 as far as to the sound waves at that time?

24 A. When a gun goes off it is like a small explosion  
25 is contained in the barrel and then the bullet comes

1 out. There is a body of air that is disturbed, and if  
2 you were near a firearm when it was fired you would  
3 know it. The percussion is pretty significant.

4 Q. Okay.

5 A. So, yes, a handgun, you know, produces percussion  
6 or a disturbance in the air which can be felt.

7 Q. Have you fired a handgun in a small space, like  
8 inside where we're looking at?

9 A. Yes, sir, I have.

10 Q. And what effect, if any, does the percussion have  
11 when it is fired as far as dust or other items?

12 A. It has been my experience that it is more signifi-  
13 cant if you are outside. Essentially the gases have  
14 somewhere to go or the air has somewhere to go.

15 When you are inside, it's going to go somewhere  
16 or reflect back and disturb something else.

17 Q. Do you have an opinion as to what, if anything,  
18 is shown to be disturbed on the video during the shoot-  
19 ing?

20 A. It has been my experience with gunfire involved in  
21 shootings that there will be a disturbance of dust that  
22 may fly from a nearby object toward the floor and the  
23 ceiling.

24 Q. Would you go ahead and slow this down to show it  
25 frame by frame?

AGENT WEST ON DIRECT

1 A. Yes, sir.

2 (Video continuing to play)

3 BY SOLICITOR:

4 Q. Agent West, you were talking about the percussion  
5 from firing a weapon a little earlier?

6 A. Yes.

7 Q. Is it fair to say that the larger the caliber of  
8 the gun the bigger the percussion?

9 A. Yes, sir.

10 Q. Would you go through from the small to large hand-  
11 gun, starting off with a twenty-two handgun?

12 A. . .

13 Q. Is that something you . .

14 A. I am qualified with anything from a thirty-two  
15 caliber up to a forty caliber, and even up to a forty  
16 milimeter round, which is a pretty large bullet.

17 When you go from a thirty-two to the thirty-  
18 eight, and from the three fifty-seven to the forty-five,  
19 and the forty milimeter, the bigger the round.

20 Depending upon what kind of ammunition you have  
21 in there, there may or may not be more percussion, and  
22 every weapon is different but all weapons will produce  
23 some concussion or disturbance of air.

24 Q. , And the forty caliber, is that considered a small  
25 handgun or a large handgun?

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1 A. That's a large caliber.

2 Q. Are you familiar with bullets that are hollow  
3 point?

4 A. Yes, sir.

5 Q. Tell the jury what those are.

6 A. Essentially it is -- some reasons for it -- I know  
7 that we use a hollow point if you don't want to over-  
8 penetrate your target, talking about what we're doing  
9 when we're doing our jobs. You want to shoot through a  
10 person.

11 So in essence the bullet is going to expend more  
12 energy when it enters a substance, either body tissue  
13 or a wall.

14 The round is going to form almost like a mushroom,  
15 and it loses energy. That might also -- if there is a  
16 bigger round, it is inviting more force to a target.

17 Q. In addition to -- you were talking about the term  
18 percussion. When a firearm fires, the shock waves  
19 would go out or through . . .

20 A. It's usually from the front of the barrel. You  
21 can detect it in the back when it is fired.

22 Q. Is there a term called recoil?

23 A. Yes, sir.

24 Q. What is recoil?

25 A. It's just the gas from the round coming back on

AGENT WEST ON DIRECT

1 you when you fire a gun. There is a ballistic item coming out the front and you have that explosion of air or  
2 ing out the front and you have that explosion of air or  
3 the gases coming out, so it is like kind of a physics  
4 thing.

5 When there is pressure going from the front it is  
6 going to force pressure to the back which is -- if it's  
7 a revolver, that is not really a consideration.

8 It is just going to cycle round and leave a trail.  
9 If it is an auto pistol or semi-auto, that recoil ejects  
10 a shell and throws the next round in the chamber.

11 Q. So if you were firing a forty caliber, . .

12 A. That's what we carry at SLED, yes, sir.

13 Q. Would you describe the recoil on your arm as you  
14 fire a forty caliber?

15 A. All right. I carry two kind of weapons, a twenty-  
16 two and forty caliber. The ought twenty-two is a bigger  
17 handgun, and you can put more of your hand on the grip.  
18 It has a longer handle.

19 It is pretty significant if you are not used to  
20 firing a weapon on how to control your hand and body  
21 position. If you're not used to recoil and someone sur-  
22 prises you, it can affect you in the way you stand and  
23 the way your arms will move during a shot.

24 The mult twenty-seven, which is a smaller gun --  
25 it's not as long as a twenty-two -- has a much smaller

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1 barrel.

2 In many ways, although it's the same round, and  
3 it's a shorter barrel, it is harder to hang onto that  
4 gun because you don't have much handle there.

5 Q. How does the recoil transmit to your body? From  
6 your hand to your body?

7 What happens to your hand, what happens to your  
8 arm, your body, when you fire?

9 A. I mean, if you were in a shooting position and if  
10 your arms were straight out, and you had a good firm  
11 stance, it shouldn't affect you that much.

12 You know, we're trained essentially to neutralize  
13 the recoil. That way you don't have -- you are in a  
14 pretty good position for that next shot, if you have  
15 to shoot.

16 If you don't have a good stance, if you have kind  
17 of a weak arm position, the recoil is going to come back  
18 from your hand and your arm more significantly than if  
19 you were in a good body position, good fighting posi-  
20 tion.

21 Q. With regard to a twenty-two, is that a full size  
22 gun?

23 A. It's one of them. Yes, sir.

24 Q. And that's what you carry?

25 A. Yes, sir.

AGENT WEST ON DIRECT

1 Q. And the twenty-seven, is that called a compact or a  
2 sub-compact?

3 A. It's a compact, but it's called a baby glock.

4 It is much smaller and it holds less rounds. I  
5 keep nine in my magazines, and the twenty-two holds fif-  
6 teen.

7 Q. And are you familiar with the term hollow-point  
8 frame?

9 A. I know what it is, yes, sir.

10 Q. And where does that fit in between the twenty-two  
11 and the twenty-seven?

12 A. I couldn't say. I mean, there are different models.

13 It is going to be smaller than the twenty-two, but  
14 the twenty-two is one of your bigger frames.

15 Q. That's all the questions I have. Please answer  
16 any questions Mr. Floyd has for you.

17 A. Yes, sir.

18 THE COURT: Thank you, Solicitor.

19 All right, you may step down.

20 WITNESS: Yes, sir.

21 (Witness excused from stand)

22 THE COURT: We're going to take our luncheon re-  
23 cess at this time.

24 Ladies and gentlemen, I would remind you again  
25 that you are not to discuss this case with anybody, and

1 that includes your fellow jurors during the lunch break  
2 or with family or friends or with anyone else.

3 If anyone tries to talk with you about the case,  
4 please make it known immediately.

5 Remember my instructions. Do not watch or read or  
6 listen to any news reports about the case, should there  
7 be any.

8 Do not do any independent investigation on the in-  
9 ternet or anywhere else.

10 With that being said, if you would leave your notes  
11 upside down on your chairs, I will have the Clerk's Office  
12 secure them during the recess.

13 I would ask you to please be back -- I keep looking  
14 for my clock back there -- be back at two o'clock.

15 Please be back promptly at two o'clock. Thank you.  
16 I hope you all have a pleasant lunch.

17 (Jury excused for the lunch recess)

18 THE COURT: All right, sir. During this luncheon re-  
19 cess you may not discuss the case with anyone. You may not  
20 discuss your testimony with anyone.

21 AGENT WEST: Yes, sir.

22 THE COURT: Anything from the State before we recess,  
23 Solicitor?

24 SOLICITOR: Yes, Your Honor. I would want to know if  
25 it is possible for the State to have access to the

1 Courtroom during the lunch break, out of the presence of  
2 the Defense?

3 We need to show the video to some of our witnesses  
4 who are coming in.

5 THE COURT: I don't have any objection. Mr. Floyd,  
6 do you have any objection?

7 MR. FLOYD: I have no objection to it, Your Honor.

8 THE COURT: All right. I guess the answer is affirm-  
9 ative since no one objects, Solicitor.

10 Anything to take up, Mr. Floyd, before we take our  
11 recess?

12 MR. FLOYD: No, Your Honor.

13 THE COURT: Thank you very much. We'll be in recess  
14 then. Have a pleasant lunch.

15 (Whereupon, the Court took a lunch recess, after which  
16 the matter was resumed)

17 THE COURT: All right. Anything from the State be-  
18 fore we bring in our jury?

19 SOLICITOR: No, Your Honor.

20 THE COURT: From the Defense?

21 MR. FLOYD: No, Your Honor.

22 THE COURT: Thank you.

23 (Witness Floyd resumed the witness stand)

24 (Jury returned to the Courtroom)

25 THE COURT: Welcome back, ladies and gentlemen.

1 I hope you all had a pleasant lunch.

2 We are continuing with the trial of the case and with  
3 the Cross Examination of Agent West by Mr. Floyd.

4 Please give Mr. Floyd your complete and undivided at-  
5 tention.

6 MR. FLOYD: Thank you, Your Honor.

7 CROSS EXAMINATION

8 BY MR. FLOYD:

9 Q. Agent West, did you count how many times Zach struck  
10 Drew in the face?

11 A. No, sir, but it was several times.

12 Q. Could you get us to that point in the video?

13 A. Yes, sir.

14 Q. If you would step down over here.

15 A. Yes, sir.

16 THE COURT: You may step down.

17 (Portion of video began to play)

18 BY MR. FLOYD:

19 Q. Can you go over that point again where Mr. Torrence  
20 comes back in the bar?

21 A. Yes, sir.

22 (Tape continuing to play)

23 Q. If you would stop it there?

24 A. Yes, sir.

25 Q. Now, as a law enforcement officer, is it reasonable

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1 to detain someone -- is that appropriate action to have  
2 them place their hands on . .

3 SOLICITOR: Objection, Your Honor.

4 THE COURT: Go ahead with your question.

5 BY MR. FLOYD:

6 Q. Is that appropriate action to have them place their  
7 hands where they can watch their hands . .

8 REPORTER: I'm sorry. I can't hear.

9 Q. Are you trained to watch their hands in some fashion  
10 or another?

11 A. You have to watch their hands since that is where any  
12 weapons would be coming from.

13 Q. Thank you.

14 (Brief pause in proceeding)

15 THE COURT: Are you finished with the tape?

16 MR. FLOYD: Yes, Your Honor. I'm sorry.

17 Q. Now, Officer West, did you see an object flying through  
18 the air?

19 A. Yes, sir.

20 Q. Were you able to determine what that object was?

21 A. A bar stool, sir.

22 Q. And is it thrown into the direction of Mr. Torrence?

23 A. Yes, sir.

24 Q. And then after the bar stool is thrown, there is a  
25 charge?

AGENT WEST ON CROSS

1 A. In that direction, yes, sir.

2 Q. And where was he heading?

3 A. He went around the bar.

4 Q. Which is where Mr. Torrence was?

5 A. Yes, sir.

6 Q. You testified that you've investigated officer shoot-  
7 ings?

8 A. We go to many areas of officer shootings, actual field  
9 investigations. That's what I do.

10 Q. Are you familiar that officers have rules they are  
11 supposed to follow when they have any problems?

12 A. Yes, sir.

13 Q. Are you familiar with those rules?

14 A. Yes, sir.

15 Q. When an officer has his weapon drawn and someone is  
16 charging the officer, can the officer use the weapon in  
17 his defense?

18 A. You can use the weapon but training would dictate that  
19 you guard your weapon to keep that weapon from getting in  
20 the hands of others.

21 There's ways to do that. There is training that will  
22 teach you to do that, but that is an option.

23 Q. Because if they get your weapon from you, they can  
24 kill you, shoot you, or any bystanders?

25 A. As a police officer, if you take my weapon, that is

AGENT WEST ON CROSS

1 justifying use of force.

2 Q. All right. Did you do any calculations or  
3 did anyone else do any calculations of the approximately  
4 four minutes and forty-two seconds from his exiting the  
5 bar to his re-entry?

6 A. Yes, sir.

7 Q. What calculations did you do?

8 A. Not other than the length of the video, each one  
9 being approximately ten minutes long.

10 That was the only thing that time-wise we looked at,  
11 sir.

12 Q. No calculations, for example, on the time from the  
13 throwing of the bar stool until the shooting?

14 A. It would be within seconds if you watch the video.

15 Q. Did you actually go out to the scene?

16 A. No, sir.

17 Q. Now, are you aware of the type of weapon that Mr.  
18 Torrence was using?

19 A. No, sir.

20 Q. Are you aware of the type of ammunition that he was  
21 using?

22 A. I believe it was forty caliber.

23 Q. You don't know what type of ammunition other than it  
24 was forty caliber?

25 A. No, sir.

AGENT WEST ON CROSS

1 Q. Are you at all familiar with the licensing of armed  
2 security guards?

3 A. Very little. That is handled by the department at  
4 SLED called regulatory. They are the ones who license the  
5 security companies and the security officers for their job.  
6 I am not that familiar with it.

7 Q. Thank you.

8 A. Yes, sir.

9 MR. FLOYD: No further questions.

10 THE COURT: Solicitor?

11 SOLICITOR: Yes, sir.

12 REDIRECT EXAMINATION

13 BY SOLICITOR:

14 Q. Do you remember when Mr. Floyd asked you the ques-  
15 tion -- it's not your testimony, is it, that you can shoot  
16 an unarmed person who is charging you with . .

17 A. It is my testimony that that is certainly an option.  
18 I'm not saying it's justified, but as far as if you're  
19 being attacked by someone, that is something you can do.

20 Our training would dictate that unless your weapon  
21 is removed from you or you believe it is basically removed  
22 that you won't have that justification.

23 But that is a possibility.

24 Q. You are not telling the jury it's legal or not legal,  
25 but you are just saying it's an option?

AGENT WEST ON REDIRECT

1 A. As a person, if you're holding a weapon, that is one  
2 of the things you may end up doing, discharging your fire-  
3 arm toward a suspect or someone trying to attack you.

4 Q. Do you need to know who the maker is?

5 A. No, sir.

6 Q. What does your training tell you about displaying a  
7 firearm?

8 A. . .

9 Q. When you do that.

10 A. We have very, very strict protocols as far as fire-  
11 arms. Essentially, if you are in uniform you may display  
12 them.

13 On top of that, if you are on a SWAT mission, you wear  
14 it and hold it as you would as a regular agent or a regu-  
15 lar officer.

16 If you are in plain clothes, it should be concealed  
17 at all times. People generally don't want to see a gun,  
18 even if it can be used against a bad person, if you will.  
19 They may not see your badge if it's on your belt, but  
20 typically you want to conceal your gun.

21 In fact, if you look at it, those would have CWPs,  
22 or concealed weapons permit.

23 You don't display your weapon. You just don't do  
24 that.

25 Q. Does displaying a weapon have -- in your opinion,

AGENT WEST ON REDIRECT

1 happen in a particular situation or an escalated situation?

2 A. An extremely escalated situation.

3 Q. Are you familiar with the term use of force contin-  
4 uum?

5 A. Yes, sir.

6 Q. Describe for the jury what that is.

7 A. Essentially it is like a ladder, if you will, and  
8 without it you're just in a circle. There are certain  
9 steps in a continuum. Officer presence, the verbal, plac-  
10 ing your hand on someone to use as an impact weapon upon  
11 them, and then, ultimately, using your firearm against  
12 them, deadly force.

13 It allows the officer to justify his actions, if you  
14 will.

15 He may be in the presence or verbal stage and it can  
16 jump to a deadly force stage just in seconds. So he has  
17 to be aware of where he is in the continuum, knowing that  
18 if he reaches that point of deadly force that's what he has  
19 to do.

20 Q. So the first -- in the use of force continuum, what  
21 is the least -- what is the very first thing you would try  
22 to do?

23 A. You know, as a police officer and as a narcotics  
24 agent, you just don't wear uniforms. That's not the whole  
25 idea. If you were to make an arrest, you don't want to do

AGENT WEST ON REDIRECT

1 it by yourself.

2 You can become involved in a conflict. If you have  
3 your weapon and you are overtaken by a subject or subjects  
4 there is your gun -- it's gone.

5 So typically we never want to see a plain-clothes  
6 person make an arrest. If there was something that I did  
7 in an investigation, whether under-cover or whether off  
8 duty I would involve the police as much as possible,  
9 short of a person's life being placed in jeopardy where  
10 I had to act upon that deadly force.

11 If I were at a mall, for instance, and someone were  
12 shooting, you know, I would have to then not wait for the  
13 police but start shooting myself to try to take out the  
14 suspect.

15 If I was doing an investigation and there is no imme-  
16 diate threatening of life, and the suspect is not running  
17 in the street, I'm not going to use that gun.

18 I'm not going to do violence but I would wait for a  
19 uniform guy to show up. That's why they wear uniforms, is  
20 to be the police to provide a presence of, hey, this is  
21 the law and you need to calm down.

22 Q. What would you do until a police officer came?

23 A. Essentially there is the ability for a police offi-  
24 cer to de-escalate a situation if someone is anxious, if  
25 someone is angry or violent.

1            Oftentimes you can, through your experience, talk  
2 them down, get them to a different plane, until either, A,  
3 they are calm and rational and you can affect an arrest,  
4 or, B, you have backup on the scene to assist you.

5 Q.    Softer hand techniques?

6 A.    Soft hand techniques are those techniques that you  
7 are trained to use when affecting an arrest of someone.  
8 It may be a strike, it may be a grab, or some form of that,  
9 on the arm. You know, generally not pushing someone, but  
10 it is just the ability of trying to restrain and arrest  
11 them.

12 Q.   Does that include to use your hands to disengage or  
13 keep a distance?

14 A.   That's right.

15 Q.   What are hard hand techniques?

16 A.   Hard hand techniques is going up in the scale of your  
17 level of violence, if you will. You either want to grasp  
18 that person or hurt them so you can arrest that person.

19       So it is raising the scale. You're going to go for  
20 different strikes and different techniques and at differ-  
21 ent points on their body to affect the arrest.

22 Q.   And gas line?

23 A.   That is something that is rarely used any more. It  
24 is like pepper spray or a kind of mace that was popular  
25 before pepper spray came into effect.

AGENT WEST ON REDIRECT

1           We now -- most police officers now carry pepper spray.

2   Q.   And use of batons?

3   A.   Yes, sir. We used to use it as a weapon. It was  
4   essentially years ago when police officers had a baton or  
5   a stick with a side handle on it.

6           Now it is essentially the small baton, if you will,  
7   and when you provide a motion to a mass, at the time it  
8   will extend out. It is a metal baton, and you learn dif-  
9   ferent strike techniques when you use this weapon.

10  Q.   So do you have an opinion as to if an unarmed suspect  
11  is charging you and you have already chosen to display  
12  your weapon -- does that mean that you get to shoot?

13  A.   I say this from experience that I have had. As a  
14  narcotic agent I had someone grab my gun one time when I  
15  was trying to affect an arrest on them.

16           It was potentially a lethal situation where I thought  
17  the suspect had a weapon. I presented my weapon to the  
18  suspect. He then grabbed it.

19           He had my gun in his hand, and there are techniques  
20  that you use to remove yourself from that situation.

21           So I've had my gun grabbed, and I would control my  
22  weapon without shooting the suspect.

23  Q.   So on this video, did it appear to you that the vic-  
24  tim -- did there appear to be a struggle over the weapon,  
25  or was there a charge?

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1 A. You know, I didn't see him grab the gun. There was  
2 a lot going on behind that bar counter back there. I did  
3 not see the struggle over the weapon.

4 He seemed to maintain control over the weapon. He  
5 pulled it back a couple of times, trying to bring the wea-  
6 pon close to his body.

7 Short of that, as you will see in the video, he was  
8 presenting the weapon, ready for -- coming up on the tar-  
9 get.

10 Q. Thank you.

11 SOLICITOR: Nothing further.

12 THE COURT: Mr. Floyd.

13 RECROSS EXAMINATION

14 BY MR. FLOYD:

15 Q. When a policeman is on the beat, he has his gun on,  
16 doesn't he, and it's in full view?

17 A. Yes, sir.

18 Q. As opposed to someone working undercover or in that  
19 type operation?

20 A. Yes, sir.

21 Q. So in that situation when the policeman goes to arrest  
22 someone, they see the gun. Is that right?

23 A. That's correct.

24 Q. And if the gun had been dropped, would you agree --  
25 would you agree with me the gun was in Mr. Torrence's hand

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1 in this video and was pointed to the ground?

2 A. He was. He was pointing the weapon toward the  
3 ground prior to the incident, with the exception of the  
4 time that he shot the subject.

5 Q. And that is when he was charged? That's when the bar-  
6 rel came up?

7 A. You know, I don't know. I don't know what he was  
8 thinking at that point in time.

9 Q. But if a policeman has a gun and the suspect charges  
10 the policeman, the policeman is authorized to use that  
11 weapon?

12 A. If the officer has reason to believe that there is deadly  
13 force or his life is in imminent danger, that he's going  
14 to die -- if there is something there -- does the guy have  
15 a knife in his hand?

16 Does he have a weapon? Is there a weapon in front of  
17 you? Did he get a weapon from you or did he carry a second  
18 weapon? Then you can explore those deadly force options.

19 But, again, if someone is charging for your weapon  
20 and not getting your weapon, it does not present something  
21 that is a dangerous -- it's not a life situation. I must  
22 have control of my weapon at all times.

23 Q. Are you trying -- are you saying that you don't have to  
24 shoot him until he takes your weapon?

25 A. What I'm saying, sir, is that it has been my experience

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1 in situations that I've been involved with -- again, I  
2 mentioned the one where a suspect grabbed my weapon --  
3 but I could have shot people plenty of times.

4 Just because you can shoot someone does not mean you  
5 should.

6 Q. I'm not asking you if you should shoot someone. The  
7 question is, as a law enforcement officer, if a suspect  
8 were to charge you and you've got a weapon in your hand  
9 and they charge you, and you perceive it as a threat, as  
10 an officer of the law would it authorize you to shoot,  
11 once you were in danger -- to shoot a suspect?

12 A. I would not . .

13 SOLICITOR: Your Honor, . .

14 THE COURT: Ladies and gentlemen, please go to your  
15 jury room. Please leave your pads on your chairs during  
16 this time.

17 Do not discuss the case, and we will bring you back  
18 in fairly quickly.

19 (Whereupon, the jury was excused from the Courtroom)

20 THE COURT: All right, Solicitor. Your objection?

21 SOLICITOR: Yes, Your Honor. First as to relevancy,  
22 and multiple grounds really.

23 He has already answered this question, and, secondly,  
24 Mr. Torrence is not a law enforcement officer, and what  
25 this officer or any other officer would do in the regular

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1 course of business in upholding the law. That has nothing  
2 to do with what Mr. Torrence was doing.

3 It is a jury question to answer as to whether he was  
4 acting properly or not properly in what happened here.

5 THE COURT: If that was the case, why was there even  
6 any Redirect?

7 I mean, I don't understand why you would continue  
8 with it.

9 SOLICITOR: I was trying, Your Honor -- the way I was  
10 trying to do this, Your Honor, was that this had nothing  
11 to do with him being a law enforcement officer, and Mr.  
12 Floyd continued to go down that road.

13 I didn't know where I was on it, and I felt like I  
14 had to address it.

15 THE COURT: You did go down that road. He asked one  
16 question, I believe, and you had this officer on the stand  
17 and qualified him as -- you had him talk about SWAT calls  
18 and a barricaded subject, and also firearms.

19 You know, the question is, even if he was a law en-  
20 forcement officer, as a law enforcement officer he had  
21 been drinking for twelve and a half hours in at least two  
22 bars; then go outside and get a deadly weapon, go back in  
23 the bar, does that lead to deadly force?

24 I mean, that's the whole thing. It is not like the  
25 cop on the beat who goes into a bar with a weapon displayed

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1 on his side, in uniform. That is something different.  
2 I mean, that is not apples and oranges. That's fruits  
3 and vegetables, a lot different from apples and oranges.  
4 But now it's -- I mean, I have a lot of respect for what  
5 this officer is saying.

6 He has been in his field and being an undercover nar-  
7 cotics officer for -- I believe he said fifteen years, al-  
8 though maybe not all of that was undercover.

9 Maybe it was. Maybe they were trying to punish him  
10 for some reason. Fifteen years -- I don't know, but be  
11 that as it may, my overruling your objection was on  
12 the point of not whether or not Mr. Torrence is an offi-  
13 cer. We all know that he is not.

14 He may be a -- he may be -- I don't know if he's a  
15 certified SLED security officer or not. I don't have any  
16 idea of that.

17 I don't know, but whether or not he thinks he's mak-  
18 ing a citizen's arrest, that ability to control a person's  
19 hands whom he is attempting to make a citizen's arrest on,  
20 but to my knowledge he clearly would not have the author-  
21 ity to arrest as an officer on the law.

22 I would agree with you in that regard, Solicitor, but  
23 it appears I'm -- maybe he felt trapped, and now I feel  
24 trapped in this regard.

25 What's your question, Mr. Floyd?

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1 MR. FLOYD: Well, Judge, I was going back in -- I was  
2 just on Recross after Mr. Graham had asked him questions  
3 to guide him kind of back on what I thought was the answer  
4 he gave on Cross Examination.

5 THE COURT: What question do you want to ask?

6 MR. FLOYD: Just on whether or not an officer has a  
7 weapon out and a suspect charges him if he is authorized  
8 to discharge his weapon.

9 THE COURT: It seems to me that this whole line of  
10 questioning in a sense causes this witness to have to make  
11 so many mental calculations that are not a part of the  
12 question in this particular scenario.

13 He could be thinking one thing in his mind and -- I  
14 mean, he has testified that as an undercover officer I had  
15 a suspect get control of my weapon, and even in that situ-  
16 ation I did not have to use deadly force.

17 To me, that doesn't bode well for the Defendant, so,  
18 I mean, you know, just the answer to that question. Some-  
19 one else had my weapon and I still did not have to use  
20 deadly force. I could have.

21 But he has to do all sorts of mental calculations  
22 that are not a part of this case.

23 I mean, you can ask him can an officer go into or  
24 stay in a bar all night, and then go out to his vehicle  
25 and get a loaded gun and go back in, to make a citizen's

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1 arrest.

2 MR. FLOYD: Your Honor, I am asking for an opinion  
3 on this case, and I asked him about just what . .

4 THE COURT: You were referring him back to the video.  
5 You were referring him back to the bar stool, referring  
6 back to being charged.

7 I mean, it's almost like State versus Alice Postell  
8 Wilkins, when an expert witness, which he had not been  
9 qualified as an expert, testified as to the ultimate issue  
10 for the jury's determination.

11 What are you asking me to do, Solicitor? Sustain  
12 the objection?

13 SOLICITOR: Yes, Your Honor.

14 THE COURT: Anything else?

15 SOLICITOR: Only my explanation, if you want to hear  
16 it, Your Honor.

17 THE COURT: I do want to hear it. Yes, sir.

18 SOLICITOR: This doesn't have anything to do with  
19 him as an officer. I just wanted to point out all the  
20 different options he had if he's in a situation to con-  
21 trol a suspect.

22 Mr. Floyd is implying that he has some knowledge of  
23 what the police do, and I was going to try to get at other  
24 options where you don't have to arrest or say you are going  
25 to arrest somebody.

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1           You can use your voice to arrest somebody, but you  
2   have other options. Using your hands, or assault tech-  
3   niques. You can use pepper spray.

4           You can call law enforcement to come and arrest some-  
5   body, to assist.

6           THE COURT: Well, he knows that as a law enforcement  
7   officer. I mean, that's the foundation for that knowledge  
8   he has.

9           SOLICITOR: And I know for myself that Mr. Torrence  
10   has received the same training.

11          I know that you don't know that.

12          THE COURT: I don't know what you all know about your  
13   case.

14          SOLICITOR: That's why I brought that out, Your  
15   Honor.

16          THE COURT: I'm not fussing at you or Mr. Floyd. I  
17   don't mean it like that. In that regard you all are too  
18   good of trial lawyers. I'm not telling you how to try your  
19   case.

20          I just feel like we're down the road that we've gone  
21   down, and the witness is being asked -- tell me what ques-  
22   tion you want to ask him.

23          MR. FLOYD: Your Honor, I withdraw that last ques-  
24   tion.

25          THE COURT: Anything else to take up before we bring

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1 the jury back in?

2 SOLICITOR: No, Your Honor.

3 THE COURT: Thank you, Mr. Floyd. Thank you,  
4 Solicitor.

5 (Jury returned to the Courtroom)

6 THE COURT: All right. Welcome back, ladies and gen-  
7 tlemen. Thank you for your patience with the Court.

8 We were on Recross Examination. Please give the  
9 parties your complete and undivided attention.

10 Mr. Floyd, you may ask your next question.

11 MR. FLOYD: Thank you, Your Honor.

12 RECROSS EXAMINATION CONTINUED

13 BY MR. FLOYD:

14 Q. Agent West, did you try to secure any audio on this  
15 tape?

16 A. No, sir.

17 Q. Is there any audio?

18 A. I don't believe there was, sir.

19 Q. Now, I think you testified this wasn't your area of  
20 SLED, but to your knowledge does SLED authorize armed se-  
21 curity guards?

22 A. They license the security companies and, therefore,  
23 they license security guards for different firms.

24 You know, there are different sites that require dif-  
25 ferent needs. Some are armed and some are unarmed. SLED

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1 would have information on who was an armed officer and who  
2 was not.

3 Q. And is it a fact that to be an armed security guard  
4 there are regulations you would have had to have been li-  
5 censed by SLED?

6 A. A license is essentially -- it's not like a police  
7 officer who has training for twelve weeks. It was eight  
8 when I went through.

9 I'm not sure what kind of training they have, but it  
10 certainly is not as intensive as a police officer's train-  
11 ing would be.

12 Q. But there is some type of training and testing that  
13 they go through?

14 A. I would imagine so, yes, sir.

15 Q. I have no further questions.

16 THE COURT: Thank you very much.

17 Thank you, Agent West. You may step down.

18 WITNESS: Yes, sir.

19 (Witness excused from stand)

20 THE COURT: All right, Solicitor. You may call your  
21 next witness.

22 SOLICITOR: The State calls Lee Buchanan.

23 THE COURT: All right. Mr. Buchanan, if you'd come  
24 around and be sworn?

25 WITNESS: Yes, sir.

1                   LEE BUCHANAN, being duly sworn,

2 testified as follows:

3           CLERK: Please have a seat. Once you're seated, speak  
4 up loud and clear and state your full name on the record,  
5 spelling your last name.

6           WITNESS: Lee Buchanan, Third. B U C H A N A N.

7 DIRECT EXAMINATION

8 BY SOLICITOR GRAHAM:

9 Q. Mr. Buchanan, where do you live or what state are  
10 you in?

11 A. Georgia.

12 Q. Back in September of 2008, where were you living?

13 A. Here. In West Columbia, actually.

14 Q. You are familiar with Shaggy's Bar?

15 A. Yes.

16 Q. How many times have you been to Shaggy's Bar?

17 A. Um, quite a few times. Off and on.

18 Q. Do you know the Defendant, Drew Torrence?

19 A. No, I do not.

20 Q. Did you know Zach Chaplin?

21 A. Yes, I did.

22 Q. How did you know Zach?

23 A. Through some mutual friends, and just hanging out  
24 with him at Shaggy's occasionally.

25 Q. How long do you think you knew Zach?

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- 1 A. Some months.
- 2 Q. Did you know Donna Muszynski?
- 3 A. No, I did not.
- 4 Q. Tonya Mozenko?
- 5 A. No.
- 6 Q. Stephen Smith?
- 7 A. No.
- 8 Q. Lee Ann Stovall?
- 9 A. Yes.
- 10 Q. Do you remember being in Shaggy's in the early morn-
- 11 ing hours of September 28, 2008?
- 12 A. I do.
- 13 Q. And what brought you to Shaggy's that morning?
- 14 A. Just to shoot pool and hang out before I went home.
- 15 Q. And do you remember who you went there with?
- 16 A. Some friends of mine.
- 17 Q. Do you remember about what time you got there?
- 18 A. No, I do not.
- 19 Q. When you got there, who do you remember seeing?
- 20 A. Zach and Donna and Lee Ann and the bartender.
- 21 Q. Did you know Donna before then?
- 22 A. I met her that night.
- 23 Q. Do you remember the bartender's name?
- 24 A. Jennifer.
- 25 Q. Did your friends stay or did they leave at some

1 point?

2 A. They left.

3 Q. When they left, were you there by yourself?

4 A. By myself and hanging out with Zach and Donna.

5 Q. At some point -- I know you don't know the name Drew  
6 Torrence, but do you recognize -- at some point did some-  
7 body begin to say things to you that bothered you?

8 A. They did.

9 Q. Do you see that person in the Courtroom today?

10 A. Yes, I do.

11 Q. Would you point him out for me, please?

12 A. (Gesturing)

13 Q. Is that the person in the blue shirt sitting next to  
14 Mr. Floyd?

15 A. It is.

16 Q. Tell me about what you heard or noticed -- what you  
17 heard first that made you begin to be uncomfortable?

18 A. In reference to being gay. Derogatory remarks in  
19 reference to being gay.

20 Q. Those were said by who?

21 A. By Drew Torrence.

22 Q. Do you remember where in the bar you were when that  
23 happened?

24 A. I believe he was sitting across the bar, and then he  
25 got up and came and sat next to me and continued to

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1 comment -- to talk to me.

2 Q. When he came over and sat next to you, do you remem-  
3 ber what he was saying?

4 A. I don't remember what he was saying. I just remem-  
5 ber telling him to leave me alone, and I used a few choice  
6 words.

7 That I was over it, I was tired of it and hearing it;  
8 to leave me alone. I turned my back to him.

9 That was basically it.

10 Q. You don't remember his exact words, but you remember  
11 what he was talking about?

12 A. Yeah, me being gay, and things like that.

13 Q. Do you remember anything he said or do you remember  
14 him asking a question?

15 A. He -- can I speak frankly? I don't . . .

16 Q. I would like you to say what he said.

17 A. Okay, he asked if I wanted to kiss his ass.

18 Q. And where was that comment made?

19 A. In Shaggy's.

20 Q. Where in Shaggy's, if you remember?

21 A. I don't remember if it was when I first got there or  
22 as he sat next to me. I would like to think it was as he  
23 sat next to me.

24 Q. How many times or how long did the conversation go  
25 on?

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1 A. . .

2 Q. Him talking to you about your sexuality?

3 A. Throughout the night when I was there, off and on.

4 Q. Did you hear him make any comments that you consid-  
5 ered to be derogatory toward Donna?

6 A. Yes, I did. In reference to her dancing, her what-  
7 have-you.

8 Q. When Mr. Torrence was sitting next to you at the bar  
9 who was right next to you?

10 A. Donna was to my right. Donna and Zach both were to  
11 my right, and he came and sat next to me, to my left.

12 Q. And as he was sitting by you, that's when he was mak-  
13 ing comments to you, is that right?

14 A. That's correct.

15 Q. Did you talk to him?

16 A. I asked him to leave me alone.

17 Q. Did he?

18 A. No. He sat right there and continued to talk.

19 Q. Did Zach ever say anything about his comments to you  
20 and Donna?

21 A. I believe Zach told him to leave us alone. I don't  
22 really remember any details of what was said.

23 SOLICITOR: Your Honor, at this time I would ask if  
24 Mr. Buchanan can step down. I would like him to look at  
25 the video as we go on.

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1 THE COURT: All right, you may step down, Mr.  
2 Buchanan.

3 Please keep your voice up as you will be away from  
4 the microphone and the Court Reporter.

5 (Witness leaving witness stand)

6 BY SOLICITOR:

7 (Solicitor speaking to someone operating video)

8 SOLICITOR: If you could go to right before Zach  
9 comes out of his chair, and after they are over on this  
10 side.

11 OPERATOR: Yes, sir.

12 SOLICITOR: Right before the comment where Mr. Chaplin  
13 gets up and there is a fight.

14 MR. FLOYD: Your Honor, I object to him calling it a  
15 fight.

16 He can call it a meeting but I object to him call-  
17 ing it a fight.

18 Q. Right before there is contact between the parties,  
19 tell the jury what was going on?

20 A. . .

21 THE COURT: You know what they're talking about?

22 WITNESS: Yes, sir, I do.

23 THE COURT: All right.

24 Q. What is Mr. Torrence doing at this point to cause  
25 things to change?

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1 A. It is all in reference to me being gay. You can  
2 clearly see that I'm kind of ignoring him, and he is ag-  
3 gravated. I mean, it is all in reference to me being  
4 gay.

5 (Video still running)

6 Q. What are you doing at this point?

7 A. Me?

8 Q. Yes. What are you . . .

9 A. I'm trying to subdue the situation, to try to get  
10 him to straighten up, to stop the fight.

11 Q. Were you attacking Mr. Torrence at any point?

12 A. No, I'm not.

13 Q. Can you describe what you're doing here?

14 A. I'm trying to get in between the two of them, to  
15 stop the fight.

16 Q. Okay.

17 A. I'm trying to pull Drew in this direction.

18 Q. And what is Mr. Torrence doing while you are trying  
19 to do that?

20 A. Pushing against me. Like he's using his body  
21 against me to go toward Zach. As we move along -- see,  
22 I'm right in front of him, and Zach is clearly hitting  
23 him and I'm being pushed toward Zach.

24 Q. Are you pulling yourself?

25 A. No, I'm not. I'm trying to push him away in one

1 direction. What I'm doing there is putting my arms back  
2 to keep Zach from coming up behind me.

3 Q. Are you saying anything at this point?

4 A. I can't recall.

5 Q. Okay.

6 A. So it's like he is charging as I'm trying to push  
7 him away.

8 There I go to push Zach away.

9 Q. Did you ever throw any punches?

10 A. No, I did not.

11 Q. Were you actually hit with any punches that were  
12 thrown?

13 A. I was struck a couple of times.

14 Q. Were you a fighter?

15 A. Not particularly, no. No, I'm not. I'm trying to  
16 get Zach to back off. That's what I'm trying to do, to  
17 get him to back off.

18 Q. And at this point were you talking? Talking to Zach?

19 A. I believe I was saying that everything was okay; so  
20 let's chill out. Let's all go home. It's over and done  
21 with. It's late, and then you'll see him back off.

22 Drew's glasses got knocked off, and he says he can't  
23 see, he can't see. So I eventually helped him find his  
24 glasses and put them on for him.

25 And I'm saying, let's just go home. It's time for me

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1 to go home. Let's go home.

2 Q. And did he again ask you if you wanted to kiss his  
3 ass while you were helping him?

4 A. That's while I was helping him. Putting his glasses  
5 on him.

6 (Video still running)

7 BY SOLICITOR:

8 Q. What are you saying there?

9 A. Telling him to back away, back away. I'm trying to  
10 have him leave, telling him it's best just to go home.  
11 Pat him on the back and go home. See?

12 Q. What's going on now?

13 A. I'm kind of angry still but I'm trying to calm down  
14 the situation.

15 Q. Was anybody celebrating about what happened?

16 A. We were discussing what happened, but I don't recall  
17 what we talked about, but I don't believe . .

18 Q. Why did you open the door there?

19 A. I heard someone banging on the door.

20 Q. And what's happening right now?

21 A. I'm talking. It's Drew at the door wanting to come  
22 back in. I said, no, you all just got into a fight. It's  
23 late, go home.

24 Q. What was he saying?

25 A. Talking about wanting to come in.

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1 Q. As he was talking about wanting to come in, what was  
2 he saying?

3 A. I don't know if it was at that point that he said  
4 this has nothing to do with you, this doesn't involve you,  
5 or whether it was a few moments later where he was tell-  
6 ing me to get up off the ground and get my hands on the  
7 bar.

8 But he told me this has nothing to do with you; it  
9 isn't about you.

10 Q. What does he have in his hand when he comes in the  
11 door?

12 A. A gun.

13 Q. What does he do with it?

14 A. As I'm standing in the door, he points it at me.

15 Q. Okay..

16 A. Now he's not pointing at me here, but I'm still  
17 trying to subdue the situation, saying, don't do this and  
18 calm down, and he tells me to put my hands on the bar.

19 Q. Did he ever say anything about shooting anyone?

20 A. He did not.

21 Q. He told you when he was holding the weapon that it  
22 doesn't have anything to do with you?

23 A. Exactly.

24 Q. Did he say what having the gun had to do with?

25 A. He didn't say anything that I remember.

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1 Q. At this point Drew Torrence was between you and the  
2 door, is that correct?

3 A. That's correct.

4 Q. Did you have any other means of getting out?

5 A. No, I did not.

6 Q. If you had continued to walk out of the bar there,  
7 what would be there?

8 A. This stops right here. It's just a little hall with  
9 nothing there. It's the end of the bar and then the wall.

10 Q. What are you doing at this point?

11 A. I think that is when I jumped over the counter.

12 Q. Why did you do that?

13 A. To get away. I was in fear for my life. I didn't  
14 know what to do, so I just jumped over the bar.

15 Q. Are you okay?

16 A. I'm fine.

17 (Video continuing to run)

18 BY SOLICITOR:

19 Q. Would you describe for the jury the gunshots as you  
20 heard them?

21 A. I'm sorry?

22 Q. Would you describe for the jury the gunshots as you  
23 heard them?

24 A. It was -- it wasn't like bam-bam, but it was like bam  
25 (pause) bam, or pop pop.

- 1 Does that make sense?
- 2 Q. And what did you do after that?
- 3 A. I stepped back into safety.
- 4 Q. Did anyone else come over the bar or where you were?
- 5 A. Several.
- 6 Q. Several?
- 7 A. Yes.
- 8 Q. You may take your seat again.
- 9 A. (Witness resuming witness stand)
- 10 Q. Thank you, Mr. Buchanan. Please answer any questions
- 11 Mr. Floyd may have for you.
- 12 THE COURT: Mr. Floyd?
- 13 MR. FLOYD: Thank you, Your Honor.
- 14 CROSS EXAMINATION
- 15 BY MR. FLOYD:
- 16 Q. Mr. Buchanan, did you discuss your testimony with any-
- 17 body at the Solicitor's Office?
- 18 A. What do you mean?
- 19 Q. Did you discuss what you were going to say with any-
- 20 one from the Solicitor's Office?
- 21 A. No.
- 22 Q. You never have?
- 23 A. Like have I discussed it with the Solicitor's Office?
- 24 I talked about what happened.
- 25 Q. Did you talk about what you were going to testify to?

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1 A. I don't understand the question.

2 Q. Did you talk with them about what you were going to  
3 testify to?

4 A. I talked with them about what happened.

5 Q. Did you see the video?

6 A. Yes, I did.

7 Q. When did you see the video?

8 A. Yesterday.

9 Q. Okay, did you discuss with them then what you were  
10 going to testify about today?

11 A. You can say that.

12 Q. You gave your statement to the police department in  
13 West Columbia in September of 2008, did you not?

14 A. Yes, sir.

15 Q. You gave a statement to the police officers in Decem-  
16 ber of '08?

17 A. That's right.

18 Q. And isn't it true that at that time you say, I heard  
19 one shot? Did you say that?

20 A. I don't know.

21 Q. Would you like me to show you the statement?

22 A. Sure.

23 (Brief pause)

24 Q. Did you say I heard one shot?

25 A. I did.

1 Q. And today you're telling us you heard two -- two  
2 shots?

3 A. I did.

4 Q. Is that correct?

5 A. That's correct.

6 Q. Today you've seen the video and you have talked with  
7 the Solicitor's Office?

8 A. Okay.

9 Q. But back then you said, I only heard one shot, is  
10 that correct?

11 A. Yes.

12 Q. Thank you. Isn't it true that while you were hold-  
13 ing Drew that Zach was striking him in the face numerous  
14 times?

15 A. When Zach was striking Drew in the face numerous  
16 times I wasn't holding Drew.

17 Q. Doesn't the video show your arms around him?

18 A. I am trying to push him in one direction.

19 Q. While Zach is hitting him?

20 A. I couldn't control what was going on behind me.

21 Q. Well, you were helping Zach out, weren't you?

22 A. I don't know.

23 Q. I thought you saw the video yesterday?

24 A. What I'm trying to say is . . .

25 SOLICITOR: Your Honor, I think the video will speak

1 for itself, and it is for the jury to decide what is hap-  
2 pening.

3 He said he didn't see what was . .

4 WITNESS: I was punched myself in the video, and don't  
5 recall . . .

6 BY MR. FLOYD:

7 Q. But we just spent five or ten minutes with you ex-  
8 plaining the video.

9 THE COURT: Ask him a question.

10 Q. When looking at this video we see your arms around  
11 Drew, and we see Zach punching Drew in the face, don't we?

12 A. We do.

13 Q. And when Mr. Torrence comes back in the bar, he did-  
14 n't point the gun at you, did he?

15 A. He put -- see, I thought the gun -- he had the gun  
16 pointed toward me, yes.

17 Q. And you said you gave a statement to the West  
18 Columbia Police Department?

19 A. I just read the statement.

20 Q. Do you say he pointed the gun at you?

21 A. Not in the statement.

22 Q. But these are things you told the police right after  
23 it happened?

24 A. Correct.

25 Q. And you never told them he pointed the gun at you?

MR. BUCHANAN ON CROSS

1 A. Correct.

2 Q. That's correct, isn't it?

3 A. Yes.

4 Q. Now, when he came back in the bar from what we see  
5 in the video, he doesn't point the gun at you in the video,  
6 does he?

7 A. You can't even see him with the gun in the doorway.

8 Q. But he gets inside?

9 A. Right.

10 Q. And he's pointing the gun at the ground?

11 A. That's correct.

12 Q. And he tells you to put your hands on the bar?

13 A. Correct.

14 Q. And after you put your hands on the bar, that's when  
15 the barstool comes flying. Is that correct?

16 A. Yes.

17 Q. Who threw the barstool?

18 A. Zach.

19 Q. You didn't tell the cops that, did you?

20 A. . .

21 Q. In your statement, you didn't say Zach threw the bar-  
22 stool, did you?

23 A. No, I did not.

24 Q. You didn't say in your statement Zach came out swing-  
25 ing, hitting him in the face?

MR. BUCHANAN ON CROSS

1. A. No, I did not.

2 Q. You said it was a fight?

3 A. That's what it really was, was a fight.

4 Q. Who threw the first blow?

5 A. Zach.

6 Q. He never threw the first blow at all, did he?

7 A. . .

8 SOLICITOR: Objection, Your Honor. Again, that's  
9 for the jury to decide.

10 BY MR. FLOYD:

11 Q. You never saw Drew throw any punch, did you?

12 A. Repeat the question.

13 Q. You never saw Drew throw any punch, did you?

14 A. No, I did not. I didn't see Zach throw even the  
15 first punch. I had my back to Zach when it happened. I  
16 was speaking to Drew, and Zach come around and started  
17 punching Drew.

18 I got in the middle to defuse the situation, and in  
19 the middle of it I got hit. Okay?

20 Q. You then saw Zach throw several punches, didn't you?

21 A. Of course.

22 Q. Zach -- you had your arms around Drew and Zach was  
23 punching . .

24 A. I was trying to push Drew in one direction to keep  
25 them from fighting.

MR. BUCHANAN ON CROSS

1 Q. Okay, but isn't it true that you had your arms around  
2 Drew . .

3 A. If you want to put it like that.

4 Q. . . and Zach came around . . .

5 A. If you want to put it like that.

6 Q. Isn't that true?

7 A. If you want to put it like that.

8 THE COURT: That answer is not however he wants to  
9 put it. The answer is -- if you don't recall, that can  
10 be the answer.

11 Do you understand what I'm saying.

12 WITNESS: Yes, sir.

13 THE COURT: All right, so you can answer the question.  
14 Did he do so or not? That's the answer. I don't know.

15 Restate your question, Mr. Floyd.

16 BY MR. FLOYD:

17 Q. Isn't it true that you had your arms around  
18 Drew and Zach is punching Drew in the face?

19 A. That's correct.

20 Q. No further questions.

21 THE COURT: Mr. Solicitor or Solicitor?

22 REDIRECT EXAMINATION

23 BY SOLICITOR:

24 Q. Mr. Buchanan, do you have a copy of your statement  
25 in front of you?

1 A. I do not.

2 Q. Let me show you your statement. Do you recognize that  
3 as your statement?

4 A. That's correct.

5 Q. And that's the statement you gave to Investigator  
6 Wade of the West Columbia Police Department?

7 A. Yes.

8 Q. Did you write down everything that happened in there?

9 A. That I recalled.

10 Q. And there is no reference in there about you being  
11 gay, anywhere in there, is there?

12 A. In my statement?

13 Q. Yes. I'll strike that question. My question is  
14 more -- my question is does the statement say that Mr.  
15 Torrence was calling you names?

16 A. Yes.

17 Q. Does it . .

18 A. In my statement -- let me read it.

19 Q. Okay.

20 A. Okay, I've got it -- I worded it that there were  
21 things that were being said to myself and to everyone  
22 else.

23 I didn't write that down.

24 Q. Is it fair to say that because you didn't write it  
25 down that it didn't happen?

MR. BUCHANAN ON REDIRECT

1 A. It happened. It is fair to say that it happened.

2 Q. You testified . .

3 A. Everything I've just said happened, and those com-  
4 ments that were made in reference to me being  
5 gay.

6 Q. Thank you.

7 THE COURT: Recross, Mr. Floyd?

8 MR. FLOYD: I have no further questions of this wit-  
9 ness.

10 THE COURT: Thank you. Thank you very much, Mr.  
11 Buchanan. You can step down.

12 (Witness excused from stand)

13 THE COURT: Call your next witness, Solicitor. How  
14 long will your next witness be?

15 SOLICITOR: Probably ten minutes.

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

17 SOLICITOR: Call Lee Ann Stovall.

18 THE COURT: All right. If you'd come around to be  
19 sworn, please?

20 LEE ANN STOVALL, being duly sworn,  
21 testified as follows:

22 CLERK: Please have a seat on the witness stand, and  
23 once you are seated, speaking up loud and clear, state  
24 your full name, spelling your last name.

25 WITNESS: Lee Ann Stovall, S T O V A L L.

1 CLERK: How do you spell Lee Ann?

2 WITNESS: L E E A N N, middle name.

3 DIRECT EXAMINATION

4 BY SOLICITOR GRAHAM:

5 Q. Ms. Stovall, where do you live?

6 A. Greenville.

7 Q. And where are you employed?

8 A. Carolina Elm House.

9 Q. How long have you been employed at Carolina Elm House?

10 A. Three years.

11 Q. Three years?

12 A. Yes, sir.

13 Q. Did you work for Carolina Elm House somewhere other

14 than prior there in Greenville?

15 A. I worked for Carolina Elm House for three years, but

16 Greenville just opened recently and I transferred there

17 in June.

18 Q. Let me take you back to September of 2008. Were you

19 familiar with a club called Shaggy's in West Columbia?

20 A. Yes, sir.

21 Q. How were you familiar with that club?

22 A. I used to be employed there.

23 Q. You were employed there?

24 A. Yes.

25 Q. Do you remember when you began your employment?

1 A. It was Halloween of '07, so October or the beginning  
2 of November.

3 Q. And what were your duties there?

4 A. I started out as a bartender and later became a  
5 manager as well.

6 Q. On the particular night of September 28, 2008, can  
7 you tell me what time you arrived at Shaggy's?

8 A. It was around three in the morning.

9 Q. Three in the morning?

10 A. Yes.

11 Q. And where were you coming from?

12 A. I had just got off work.

13 Q. And when you got to Shaggy's, did you recognize any-  
14 one -- any of the patrons inside?

15 A. Yes, sir.

16 Q. Who did you recognize?

17 A. I recognized Jennifer. It was the reason I came, to  
18 see her, the bartender. O.B. was there, Tee was there. I  
19 don't recall if Drew was there before I got there, but he  
20 was there.

21 Q. Andrew Torrence?

22 A. Yes, sir.

23 Q. Is that who you're referring to?

24 A. Yes, sir.

25 Q. And so you knew Andrew Torrence?

1 A. Yes, sir.

2 Q. What was your relationship with him? How would you  
3 describe it?

4 A. Acquaintances.

5 Q. Acquaintances?

6 A. Yes, sir.

7 Q. To your knowledge, had he been to Shaggy's before  
8 this night?

9 A. Yes, sir. He would come five or six times a month --  
10 not too often. Semi-regularly.

11 Q. Zachariah Chaplin, did you know him?

12 A. Yes, sir. We were good friends.

13 Q. And he was also a patron of Shaggy's?

14 A. Yes, sir.

15 Q. On that night, did you see Drew with Donna?

16 A. Yes, sir.

17 Q. And what time was that? Do you know?

18 A. Um, it was after I got there that I seen them  
19 talking and walking around the tables.

20 Q. And were they together for a long time?

21 A. Um, I can't recall.

22 Q. At some point in time, did you see Donna with  
23 someone else?

24 A. Yes, I saw her with Zach and Lee, talking.

25 Q. And where were they?

MS. STOVALL ON DIRECT

- 1 A. On the opposite side of the bar.
- 2 Q. So, if you would, the bar is U-shaped. Is that cor-  
3 rect?
- 4 A. Yes, sir.
- 5 Q. And the back door -- let's assume the back door is  
6 over here.
- 7 A. Okay.
- 8 Q. Where were you seated on this U-shaped bar?
- 9 A. I'm seated by the employee entrance. In the video,  
10 I'm at the bottom.
- 11 Q. So you are away from the other side of the bar?
- 12 A. Yes. I'm facing the main entrance, yes.
- 13 Q. If I'm understanding you, Donna, Zach and Lee were  
14 on the other side of the bar?
- 15 A. Yes, sir.
- 16 Q. Do you know where Drew Torrence was at that time?
- 17 A. Sitting at the bar on the corner to my left.
- 18 Q. So he was on the same side as you, but down the bar?
- 19 A. Yes, sir.
- 20 Q. Just a few feet?
- 21 A. Yes, sir.
- 22 Q. Is that accurate?
- 23 A. Yes, sir.
- 24 Q. What, if anything, did you hear Drew Torrence say?
- 25 A. Drew had asked me why I was mean to him previously

MS. STOVALL ON DIRECT

1 in the past two months, and I told him it was because I  
2 didn't like him.

3 He kept asking me over and over again, and I ignored  
4 him.

5 Q. Was there anything else that Drew said to anyone that  
6 you heard?

7 A. Not that I can recall.

8 Q. Did you see any type of confrontation that night?

9 A. Oh, I did see Drew talking to Lee and hearing Lee get-  
10 ting upset with Drew. I did hear Drew say while Lee was  
11 getting upset something along the lines of -- I just heard  
12 the words gay man, and then I heard Lee's voice getting  
13 extremely irritated, and I hollared over the computer game  
14 that I was playing to leave him alone.

15 Q. So that I understand you correctly . .

16 A. Yes, sir.

17 Q. . . you are on the opposite side of the bar playing  
18 a video game?

19 A. Yes.

20 Q. On some type of device, and Drew Torrence is on the  
21 other side of the bar sitting next to Lee?

22 A. Yes, sir.

23 Q. And Lee is next to Donna, and next to Donna is Zach,  
24 is that correct?

25 A. Yes.

MS. STOVALL ON DIRECT

1 Q. And you were able to hear comments from Drew  
2 Torrence calling or saying, hey, gay man, or something  
3 like that?

4 A. That's the only thing I heard.

5 Q. And what did you hear from Lee?

6 A. I could hear his voice get louder and louder with  
7 him asking him to leave him alone and to stop.

8 Q. And what did you do?

9 A. I yelled around to leave him alone.

10 Q. And did Drew Torrence respond to you at all?

11 A. No, sir.

12 Q. Okay. After that, was there a confrontation that  
13 you observed?

14 A. I heard a fight start, and I looked across and saw  
15 the three guys over there in a -- in some kind of commo-  
16 tion.

17 Q. Describe that commotion to the jury or your percep-  
18 tion -- how you saw it, and what was going on?

19 A. The computer game was in front of me, so looking  
20 around it I saw Lee trying to separate the two of them,  
21 and then Zach coming back in and hitting Drew.

22 Q. So would it be fair to say that in your opinion Lee  
23 was acting as a peace-maker?

24 A. Definitely.

25 Q. Did you see that confrontation end?

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1 A. Yes, sir.

2 Q. And what did you see occur after it ended?

3 A. I saw Lee trying to talk to Drew and calm him down,  
4 helping him get his glasses off the ground, and help him  
5 out the door and Zach away from him.

6 Q. And was Lee successful in doing that?

7 A. Yes.

8 Q. Once Drew Torrence left the premises or inside the  
9 bar, what occurred?

10 A. We went back to the normal bar activities, playing  
11 the games and hanging out.

12 Q. So everything just went back to normal?

13 A. Yes.

14 Q. Was there any event thereafter that caught your at-  
15 tention?

16 A. Um, the knock on the door.

17 Q. And what happened after the knock on the door?

18 A. I was still playing this game with O.B. to my left,  
19 and the knocking on the door -- I could hear someone talk-  
20 ing over there, and I heard, oh, shit, and when I stood  
21 up Drew was coming in.

22 And I heard, he's got a gun, and that's when I ran  
23 and ducked down by the back -- by the employee entrance.

24 Q. Do you remember who said, he has a gun?

25 A. No, sir, I do not.

MS. STOVALL ON DIRECT

1 Q. And what, again, did you do?

2 A. I crouched down back by the back door, and then  
3 Jennifer was hiding on the other side of the beer  
4 coolers, down low too, and she was telling me to grab a  
5 phone.

6 So I popped back up and I grabbed the cordless tele-  
7 phone, and that's when Zach threw a chair over the bar,  
8 and I started calling nine one one.

9 When I heard shots being fired I was already dialing  
10 nine one one and trying to get out the back door.

11 Q. And were you able to make contact with nine one one?

12 A. I could hear her but she couldn't hear me. I was  
13 trying to talk to her but she couldn't hear anything I  
14 said.

15 And so then I came back inside and I tracked down my  
16 cel phone, and Drew was in there and there was no one else  
17 in there.

18 And Drew looked at me and said for me to call them,  
19 call them.

20 Q. What did you do in response to that?

21 A. Took off. We went outside and we got in my truck and  
22 we fled.

23 Q. When Drew Torrence directed you to call them, call  
24 them, could you describe his demeanor to the jury?

25 A. It was a scary kind of eerie calm. Telling me to

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MS. STOVALL ON DIRECT

1 call them, call them.

2 Q. Was he upset?

3 A. No.

4 Q. Was he hysterical?

5 A. No.

6 Q. Was he screaming?

7 A. No.

8 Q. He was calm?

9 A. Yes, sir.

10 Q. Mainly during this time while you were at Shaggy's,  
11 you were there doing what?

12 A. Playing the game.

13 Q. And during that course of time that you were there,  
14 did you have any alcoholic beverages?

15 A. I had about three or four. Not much.

16 Q. Beers?

17 A. Cocktails.

18 SOLICITOR: Beg the Court's indulgence.

19 THE COURT: Yes, sir.

20 (Brief pause in the proceeding)

21 BY SOLICITOR:

22 Q. You said that you were employed or began your em-  
23 ployment with Shaggy's in 2007?

24 A. Yes, sir.

25 Q. And that continued until when?

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MS. STOVALL ON DIRECT

1 A. Around May of '08.

2 Q. May of '08?

3 A. Yes.

4 Q. And what were your job functions?

5 A. Bartender slash manager.

6 Q. And I believe you said that Mr. Torrence was a some-  
7 what frequent patron of Shaggy's?

8 A. Yes, sir.

9 Q. Have you had the occasion to see Mr. Torrence, in  
10 your opinion, intoxicated?

11 A. Yes, sir.

12 MR. FLOYD: Your Honor, I'm going to object. What  
13 is the relevance of that?

14 THE COURT: Restate the question, Solicitor.

15 SOLICITOR: In -- during her time of employment at  
16 Shaggy's, had she had the occasion, being a bartender, to  
17 see, in her opinion, Mr. Torrence being intoxicated.

18 THE COURT: I would sustain that objection.

19 BY SOLICITOR:

20 Q. Ms. Stovall, do you have an opinion when you spoke  
21 to Mr. Torrence in the early morning hours of September 28,  
22 the time of the shooting and thereafter, on his intoxica-  
23 tion?

24 A. Yes. He was very intoxicated. He was being irri-  
25 tating.

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MS. STOVALL ON DIRECT

1 Q. Thank you very much.

2 SOLICITOR: That's all I have, Your Honor.

3 THE COURT: Mr. Floyd?

4 MR. FLOYD: Thank you, Your Honor.

5 CROSS EXAMINATION

6 BY MR. FLOYD:

7 Q. Ms. Stovall, what time did you arrive at Shaggy's?

8 A. Around three A.M.

9 Q. And from that point on, you had three or four cock-  
10 tails?

11 A. Yes, sir.

12 Q. Where had you been before?

13 A. Work.

14 Q. Where did you work?

15 A. The Carolina Elm House in the Vista.

16 Q. And did you have any alcohol while you were there?

17 A. We are not allowed.

18 Q. You didn't have any after you finished work?

19 A. No, sir.

20 Q. Did you give a statement to the police in connection  
21 with this?

22 A. Yes, sir.

23 Q. And didn't you tell them back on September 28th that  
24 you saw Zach reach across and punch Drew in the head?

25 A. Yes.

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MS. STOVALL ON CROSS

1 Q. And Lee tried to keep them apart which made Zach hit  
2 him in the head?

3 A. Yes.

4 Q. So whatever he was doing was causing Lee to get  
5 hit in the head?

6 A. Yes, accidentally.

7 Q. Now, when Drew saw you after the shots were fired,  
8 he asked you to call the police or call nine one one?

9 A. He didn't say police. He said call them.

10 Q. Speak up a little bit for me, please.

11 A. He just said, call them.

12 Q. Who did you think he was referring to?

13 A. Obviously the police.

14 Q. And did you ever see anybody in shock?

15 A. No, sir.

16 Q. Do you know whether or not Drew could have been in  
17 shock?

18 A. No. I do not know whether or not he was in shock.

19 Q. No more questions.

20 THE COURT: Any further questions, Solicitor?

21 SOLICITOR: Just one question, Your Honor.

22 REDIRECT EXAMINATION

23 BY SOLICITOR:

24 Q. In your statement to law enforcement, how did you  
25 describe the confrontation between Drew Torrence and Zach

MS. STOVALL ON REDIRECT

1 Chaplin?

2 A. How did I describe the confrontation?

3 Q. Yes.

4 A. It was a fight.

5 Q. That's all I have, Your Honor.

6 THE COURT: Recross?

7 RECROSS EXAMINATION

8 BY MR. FLOYD:

9 Q. Did you see anything that is not on the video?

10 A. No, sir.

11 Q. A fight is when two people are hitting each other,  
12 is that right?

13 A. Yes, sir.

14 Q. Thank you.

15 MR. FLOYD: No further questions.

16 THE COURT: Thank you, Ms. Stovall. You may step  
17 down.

18 (Witness excused from stand)

19 THE COURT: All right, ladies and gentlemen, we'll  
20 take our afternoon recess. Please leave your notes up-  
21 side down on your chairs.

22 Do not discuss this case with anyone during this  
23 brief recess.

24 (Jury excused from Courtroom)

25 THE COURT: All right, the Court will be in recess

1 for fifteen minutes.

2 (Whereupon, the Court took a brief recess after which  
3 the case was resumed)

4 THE COURT: Anything before we bring in our jury  
5 from the State?

6 SOLICITOR: No, sir, Your Honor.

7 THE COURT: Mr. Floyd?

8 MR. FLOYD: No, sir.

9 THE COURT: Let's have our jury.

10 (Jury returned to the Courtroom)

11 THE COURT: All right, Solicitor. You may call your  
12 next witness.

13 SOLICITOR: Your Honor, the State calls Jennifer  
14 Reynolds.

15 THE COURT: All right, come around, please, and be  
16 sworn.

17 JENNIFER REYNOLDS, being duly  
18 sworn, testified as follows:

19 CLERK: Please have a seat on the witness stand and,  
20 speaking up loud and clear, state your full name, spelling  
21 your last name.

22 WITNESS: Jennifer Warren Reynolds, R E Y N O L D S.

23 DIRECT EXAMINATION

24 BY SOLICITOR GRAHAM:

25 Q. Ms. Reynolds, how are you today?

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1 A. Great. How are you?

2 Q. Good, thank you.

3 Are you familiar with a club in West Columbia called  
4 Shaggy's?

5 A. Yes, sir.

6 Q. How are you familiar with that bar?

7 A. I was an employee there.

8 Q. And when did you start your employment there?

9 A. It was April of '08 -- 2008.

10 Q. Okay. Specifically, let me take you to September  
11 28, 2008. Were you working that night?

12 A. I came in at two o'clock that morning.

13 Q. Two o'clock?

14 A. In the morning. Yes, sir.

15 Q. Where were you coming from?

16 A. Coming from my other job. I had closed that place  
17 down. I was the manager.

18 Q. And then you would work at Shaggy's?

19 A. Yes, sir.

20 Q. Okay, and your job at Shaggy's was . .

21 A. Bartender.

22 Q. Do you know the Defendant in this case, Andrew  
23 Torrence?

24 A. Yes. I don't know him very well, but I do know of  
25 him.

MS. REYNOLDS ON DIRECT

1 Q. And how do you know him?

2 A. From Shaggy's.

3 Q. How about Zachariah Chaplin? Did you know him?

4 A. Yes, sir. He was a very good friend of mine.

5 Q. And where do you know him from?

6 A. From Shaggy's also.

7 Q. Let me take you back to that night. Did you have  
8 any contact with or do you remember seeing Andrew  
9 Torrence?

10 A. Yes, sir. Yes, sir.

11 Q. Okay. Was he drinking?

12 A. Yes, sir.

13 Q. Do you know what he was drinking?

14 A. Southpaw.

15 Q. Softball?

16 A. A Softpaw -- beer.

17 Q. Beer?

18 A. Yes, sir.

19 Q. Did you see him with anyone while you were there?

20 A. I saw him with Donna. I can't -- I don't know her  
21 last name. Sorry.

22 But I saw her and him talking around the pool table  
23 area.

24 Q. And at that time when you saw him with Donna, do you  
25 recall Zachariah -- if he was there?

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MS. REYNOLDS ON DIRECT

1 A. I don't remember Zach being there. It was -- I came  
2 in and he came in shortly after that. I think he had left  
3 and came back.

4 But he arrived shortly after I had gotten there or  
5 I saw him shortly after I got there.

6 SOLICITOR: Your Honor, may Mr. Floyd and I approach  
7 the bench?

8 THE COURT: Yes, sir.

9 (Conference at the bench between counsel and the Court  
10 off the record.

11 SOLICITOR: Thank you very much.

12 BY SOLICITOR:

13 Q. Ms. Reynolds, that night how would you describe Andrew  
14 Torrence's demeanor?

15 A. He was very derogatory towards me and Donna at the  
16 bar. I never heard what he said to Donna, but she was  
17 sitting at the bar and I was cleaning up, trying to get  
18 out of there, when I saw Donna -- she just had this look  
19 on her face, a disgusting look on her face. He had said  
20 something derogatory toward Donna.

21 Q. Who was with Donna after Andrew Torrence and Donna  
22 split apart?

23 A. Zach and Lee.

24 Q. Do you recall how many beers you served Mr. Torrence  
25 during that morning?

MS. REYNOLDS ON DIRECT

1 A. Somewhere between -- excuse me -- somewhere between  
2 six and eight.

3 Q. Somewhere between six and eight?

4 A. Yes, sir.

5 Q. Did you hear Mr. Torrence make any derogatory com-  
6 ments to anyone else that night?

7 A. Besides me? No, sir, and Lee. He called Lee gay  
8 guy -- that's what I heard him say. Hey, gay guy.

9 Q. And where was Andrew Torrence when he said, hey, gay  
10 guy?

11 A. Like if I'm -- this is the bar, and I was here clean-  
12 ing off. Lee was sitting at the corner right here, and  
13 Zach and Donna and Lee were by the door.

14 Q. And did you hear any response to his comment toward  
15 Lee?

16 A. Um, his comment -- Drew's comment towards Lee?

17 Q. No, Lee's response to gay guy.

18 A. Yes. Zach said, don't call him that; do not call  
19 him that.

20 Q. After that, what did you observe?

21 A. I was cleaning up and had my back to him the whole  
22 time. I just saw bits and pieces.

23 I saw Drew get up and walk around the bar and come  
24 sit by Lee, which was right close to the end of the bar  
25 -- the other side of him.

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MS. REYNOLDS ON DIRECT

1 Q. Okay. Were you in a position to hear anything that  
2 was said?

3 A. No, sir. I was stocking beer in the coolers and every-  
4 thing.

5 Q. Did you observe any type of confrontation that then  
6 occurred?

7 A. No, sir. I saw the last bit of it when they were  
8 arguing.

9 Q. They being who?

10 A. Drew and Lee -- I mean, Drew and Zach. Sorry.

11 Q. Drew and Zach?

12 A. Yes.

13 Q. They were arguing when you observed them?

14 A. Yes, sir.

15 Q. Did Andrew Torrence ask you to contact law enforce-  
16 ment?

17 A. No, sir. Not one time.

18 Q. He didn't ask you to call the police?

19 A. No, sir.

20 Q. Did he ask you to call nine one one?

21 A. No, sir.

22 Q. What did Andrew Torrence do once there was separa-  
23 tion between he and Zach?

24 A. They were looking for something. I don't know what  
25 they were looking for, and then I . . .

300

1 Q. Who is they?

2 A. Drew and Lee were looking for something. I don't  
3 know what it was but as soon as they found what they were  
4 looking for then Drew went out the door, and Lee kind of  
5 -- he kind of moved him on out the door. No physical  
6 harm or nothing, but . .

7 Q. He escorted him out the door?

8 A. Yes, sir.

9 Q. Business went back to usual?

10 A. Yes, everything was normal. I was cleaning up and  
11 I went over there to see if Zach was okay -- to calm down,  
12 you know; don't leave yet until Drew leaves. Give him time  
13 to leave. Calm down.

14 Then everything went back to normal.

15 Q. What, if anything, happened after that?

16 A. I heard the knocking on the door. I heard that, and  
17 I saw Lee go to the door and open the door, and I had my  
18 -- I was standing at the game talking to someone, and I  
19 had my back toward the door but I turned my head to see  
20 who was coming through the door. And it was Drew coming  
21 through the door.

22 Also, I heard, he's got a gun, and that's when I  
23 went behind the bar.

24 Q. Do you recall who stated, he has a gun?

25 A. I think it was Zach but I'm not sure.

MS. REYNOLDS ON DIRECT

1 Q. You aren't sure?

2 A. No, sir.

3 Q. When that happened, what did you do?

4 A. I ran and I crawled up by the sink behind the bar on  
5 the other side.

6 Q. Okay. What -- from the position you were hiding,  
7 what, if anything, did you observe or hear?

8 A. All I heard was those two gunshots and the second  
9 gunshot I heard I sat there for a minute and looked over  
10 toward Drew was standing right there because Zach was  
11 right there -- they were literally three feet away from me.

12 I lifted my head up and saw Drew. I never saw the  
13 gun, but he was standing over Zach, after the second gun-  
14 shot.

15 Then I got back down and that's when I decided to  
16 run out the bar.

17 Q. So you heard two gunshots?

18 A. Yes, sir.

19 Q. Would you describe to the jury how the -- how the gun-  
20 shots were?

21 A. It was probably twenty seconds apart. There was a  
22 first one and then about twenty seconds later the next one.

23 Q. So it wasn't a bam-bam?

24 A. No, sir.

25 Q. More a bam (pause) bam?

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MS. REYNOLDS ON DIRECT

1 A. Yes, sir.

2 Q. While you were employed at Shaggy's, to your know-  
3 ledge, was Andrew Torrence ever employed as a security  
4 guard at Shaggy's?

5 A. No, sir, he was no kind of employee. No bar-back,  
6 no security, nothing.

7 Nothing at all. I was all that.

8 Q. Would it be accurate to say Andre Torrence was a  
9 beer-drinking patron of Shaggy's?

10 A. Yes, sir.

11 Q. That's all the questions I have, Ms. Reynolds, and  
12 would you please answer any questions Mr. Floyd has for  
13 you?

14 A. Yes, sir.

15 THE COURT: Okay, Mr. Floyd.

16 MR. FLOYD: Thank you.

17 CROSS EXAMINATION

18 BY MR. FLOYD:

19 Q. Ms. Reynolds, you were the bartender that night?

20 A. Yes, sir.

21 Q. And you came in at three or so in the morning?

22 A. Yes, sir, or maybe a little bit after two.

23 Q. And when you came in, was Mr. Torrence already  
24 there?

25 A. I don't think he was. Like I say, I came in to a

303

1 busy bar and I was trying to clean up, so I really didn't  
2 pay attention to who was there and who wasn't.

3 Q. So Mr. Chaplin wasn't there?

4 A. He wasn't in the bar.

5 Q. And what time did you see him?

6 A. It was shortly after I got there. Maybe twenty min-  
7 utes but maybe not even that.

8 Q. Mr. Chaplin was a friend of yours?

9 A. Yes, sir.

10 Q. So how long had you known him?

11 A. I would say I met Zach shortly after I started to  
12 work at Shaggy's, and that was in April -- like the mid-  
13 dle of April I started.

14 So I met him at the end of April.

15 Q. Now, do you recall when Mr. Torrence came in?

16 A. No. I saw him -- I noticed him as he came into the  
17 bar, and then he got his beer, and that's when he had  
18 started walking around.

19 Q. Was he intoxicated?

20 A. I couldn't tell. Not really. He sat down and said,  
21 can I have a beer?

22 Q. So you couldn't tell if he was intoxicated?

23 A. Not until he started walking around. I mean, he  
24 wasn't stumbling or anything, but when he started talking  
25 the way he was talking to people I could tell that he was.

MS. REYNOLDS ON CROSS

1 Q. And what time was that?

2 A. It was -- I can't recall. I might have been there  
3 thirty minutes, an hour.

4 Q. And this incident you described occurred about three  
5 hours after you got there?

6 A. Yes, sir.

7 Q. Did you continue to serve him after that?

8 A. No, I had to stop actually. I cut him off.

9 Q. When did you cut him off?

10 A. It was between -- like I said, he had had six or  
11 eight, and that was when I cut him off.

12 Q. How soon did you cut him off?

13 A. He had maybe -- he was on his last beer. I don't  
14 know. I can't recall how long it was.

15 Q. So are you saying you had cut him off?

16 A. Yes, sir.

17 Q. And he still had a beer in his hand, didn't he?

18 A. That was his last beer.

19 Q. And when had you served him that last beer?

20 A. He had it about an hour because I had cut him off.  
21 So he was pretty much baby-sitting that one, the beer.

22 Q. And you don't recall when he came in that night?

23 A. No, sir.

24 Q. So there was nothing about his coming in the bar that  
25 caught your attention?

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1 A. No, sir.

2 Q. You remember Zach coming in?

3 A. Yes, sir.

4 Q. And you say he came in about a half hour after you?

5 A. Maybe not even that. Say an hour -- I mean, twenty  
6 to thirty minutes. Somewhere around there.

7 Q. And when -- did he leave at some point?

8 A. Zach did not leave.

9 Q. Zach never left?

10 A. I don't know if he was in there when I got there,  
11 but when he came to the bar is when I knew he was there.

12 Q. And you did not see Zach hitting Drew in the face?

13 A. No, sir. My back was to me -- I mean, my back was  
14 to them. I was in and out the back door, cleaning up.

15 Q. Did you hear blows being struck?

16 A. I heard the last blow.

17 Q. The last blow?

18 A. But I still had my back -- I mean, it could have  
19 been somebody pushed up against the wall. I don't know  
20 for sure, but it could have been, somebody being pushed  
21 up against the wall, or somebody's elbow hitting into  
22 the wall.

23 MR. FLOYD: May I have just a moment?

24 THE COURT: Yes, sir.

25 (Brief pause in the proceeding)

MS. REYNOLDS ON CROSS

1 MR. FLOYD: No further questions, Your Honor.

2 THE COURT: Any Redirect?

3 SOLICITOR: Briefly, Your Honor.

4 REDIRECT EXAMINATION

5 BY SOLICITOR:

6 Q. Ms. Reynolds, do you recall how many alcoholic  
7 beverages you served Zachariah?

8 A. Yes, sir. It was three. Vodka red boys -- Zach's  
9 bar tab was Nine Dollars.

10 SOLICITOR: That's all I have, Your Honor.

11 THE COURT: Recross?

12 MR. FLOYD: Yes, sir.

13 RECROSS EXAMINATION

14 BY MR. FLOYD:

15 Q. How many drinks did you serve Mr. Buchanan?

16 A. It was between six to eight. In fact, I -- the rea-  
17 son I know how many I served Zach was because Zach had a  
18 tab.

19 Q. You said six to eight for him and six to eight for  
20 Mr. Torrence?

21 A. No, I said six to eight for Mr. Torrence. It was  
22 three drinks for Zach because he had a tab. I remember  
23 when he paid his tab.

24 Q. How about Mr. Buchanan? How many did you serve him?

25 A. Oh, I have no idea.

MS. REYNOLDS ON RECROSS

1 Q. You have no idea?

2 A. He didn't have a tab.

3 Q. And how many did you serve Ms. Mozenko?

4 A. I think -- nobody had a tab. At the time I got there  
5 Zach was the only one who had a tab, and I opened his tab  
6 for him.

7 Q. How many did you serve Ms. Stovall?

8 A. She -- nobody had a tab. He was the only one with a  
9 tab.

10 Q. Mr. Torrence didn't have a tab either, did he?

11 A. No, sir. He was paying cash.

12 Q. So you can't remember how much anybody else had to  
13 drink?

14 A. Nobody else had a tab. That's why I remember what  
15 he had. It was my only tab when I was there.

16 Q. I understand he had a tab, Ms. Reynolds?

17 A. Right.

18 Q. And nobody else had a tab?

19 A. No, sir.

20 Q. So you have no idea how much anybody else had to  
21 drink?

22 A. No, sir.

23 Q. Thank you.

24 MR. FLOYD: Nothing further.

25 THE COURT: Thank you very much. You can step down,

1 Ms. Reynolds.

2 (Witness excused from stand)

3 THE COURT: All right, you may call your next wit-  
4 ness, Solicitor.

5 SOLICITOR: The State calls Orlando Boyd.

6 THE COURT: All right. Come around and be sworn,  
7 please, sir.

8 ORLANDO BOYD, being duly sworn,  
9 testified as follows:

10 CLERK: Have a seat, please, and once you are seated  
11 state your full name on the record, spelling your last  
12 name.

13 WITNESS: Orlando Boyd, B O Y D.

14 CLERK: Spell Orlando.

15 WITNESS: O R L A N D O.

16 DIRECT EXAMINATION

17 BY SOLICITOR GRAHAM:

18 Q. Mr. Boyd, how you doing this afternoon?

19 A. All right.

20 Q. Are you familiar with a club or nightclub in West  
21 Columbia called Shaggy's?

22 A. Yes, I am.

23 Q. Let me take you back to September 28th -- the night  
24 of September 27th into the morning hours of September 28th.  
25 Were you there?

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1 A. Yes, sir.

2 Q. What time did you arrive at Shaggy's?

3 A. I believe it was around nine o'clock.

4 Q. Nine P.M. on the 27th?

5 A. Right.

6 Q. Saturday night?

7 A. Right.

8 Q. Okay, and what were you doing there?

9 A. Just hanging out, shooting pool.

10 Q. Okay, were you there by yourself?

11 A. No. Me and my girlfriend, my wife now.

12 Q. All right. Who else was there that you knew?

13 A. At that particular moment, at nine when we arrived  
14 at the bar?

15 A. I'll tell you what. Let's advance on to around three  
16 A.M. on the 28th. Who do you recall being in that bar?

17 A. Um, I know me and my wife were there, and Zach and  
18 I guess Drew.

19 Zach was there with some other girl. There was some  
20 other girl who worked there and I believe Jennifer was  
21 there as well.

22 Q. Jennifer? Jennifer being . . .

23 A. The bartender.

24 Q. Okay, and what was going on during that period of  
25 time?

1 A. I was shooting pool and dancing.

2 Q. Did you have the occasion to interact with Andrew  
3 Torrence?

4 A. I believe I probably spoke him at some time but I  
5 had no other interaction.

6 Q. All right. Do you recall specifically anything you  
7 said or did in relation to Mr. Torrence?

8 A. I believe I was at the bar and bought him a shot. I  
9 bought shots a lot because I didn't want to drink by my-  
10 self.

11 Q. So it's not uncommon for you to buy shots for people  
12 at the bar?

13 A. Right.

14 Q. Shaggy's is one of your hangouts. Is that accurate?

15 A. Yeah.

16 Q. Okay. Did you know Zachariah Chaplin?

17 A. Yes.

18 Q. How long had you known him?

19 A. Approximately about a year.

20 Q. Okay. How would you describe your relationship with  
21 Zach?

22 A. We weren't like buddy-buddy, but whenever I'd go  
23 and he was there we would talk, go in and shoot pool, and  
24 hang out.

25 Q. Okay. Did you know a guy by the name of Lee Buchanan?

MR. O. BOYD ON DIRECT

1 A. Before that night?

2 Q. Before that night, did you know Lee Buchanan?

3 A. I don't recall knowing him before that night, no.

4 Q. Okay. No way, shape or form did you know Lee  
5 Buchanan?

6 A. No, sir.

7 Q. Did you hear any type of derogatory comments from  
8 Drew Torrence towards anyone that night?

9 A. At one point, I recall him and Lee getting into it.  
10 I don't recall what it was about but you could tell it  
11 was a heated discussion.

12 Q. At that point in time, in that U-shaped bar, where  
13 were you?

14 A. I believe I was over by the machine at the time.

15 Q. The machine -- let's say that's the back door.

16 A. Uh hm.

17 Q. You were at the bar and the machine is over here on  
18 this side?

19 A. Yes.

20 Q. And you were up here near or at the machine?

21 A. Right.

22 Q. And when you hear this -- these comments, where is  
23 Andrew Torrence?

24 A. I believe -- I don't recall exactly but I'm pretty  
25 sure over in that area on the other side.

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MR. O. BOYD ON DIRECT

1 Q. On the other side?

2 A. Near the entrance.

3 Q. Okay. Who all was over there?

4 A. My girlfriend, Zach, the girl he was with, Lee, and  
5 I guess Drew.

6 Q. Okay. Were you able to make out what was being said?

7 A. I don't recall. Like I said, all I know is that it  
8 was kind of heated.

9 Q. How did you know it was heated?

10 A. Just by the raised voices and that kind of thing.

11 Q. Any physical gesturing from anyone?

12 A. I believe from Zach and Drew primarily had some heated  
13 argument or something.

14 Q. Okay. After that, was there any type of confronta-  
15 tion that you saw?

16 A. Yeah, there was a fight between Drew and -- you know,  
17 some fight, and Drew was asked to leave.

18 Q. Okay. Did you see the fight?

19 A. I knew there was a fight.

20 Q. Okay. Would you describe that to the jury, please?

21 A. As the guys got into it, more or less one thing led  
22 to another, and it kind of blew into -- you know, into a  
23 physical thing, and Zach was asked to leave.

24 Q. All right. Do you recall Lee Buchanan and what he  
25 did during the fight?

313

MR. O. BOYD ON DIRECT

1 A. As I recall, I remember Lee trying to break it up.

2 It looked like he was trying to break it up.

3 Q. You said that after that Andrew Torrence left?

4 A. Right.

5 Q. After that, what, if anything, happened?

6 A. Things kind of settled down and we went back to what  
7 we were doing, just -- I mean, it's not uncommon for some-  
8 one to get in a fight in Shaggy's.

9 Q. So things kind of de-escalated and there were no more  
10 problems inside the bar?

11 A. Right.

12 Q. Subsequently, did anything happen that drew your at-  
13 tention?

14 A. Um, when Drew came back into the bar, and somebody  
15 said something about a gun, and I think everyone was kind  
16 of scared. I know I was scared when I heard he had a gun  
17 in there.

18 And then Drew approached Lee and Zach, and there was  
19 a chair thrown, and the next thing I know shots went off,  
20 and that's what we heard.

21 Q. Okay. How many shots do you recall hearing?

22 A. Two shots.

23 Q. And could you describe the shots?

24 A. Um, there was a shot and there was like a one or two  
25 second hesitation, and then another one.

314

MR. O. BOYD ON DIRECT

1 Q. So it was actually not bam-bam, but bam (pause) bam?

2 A. Right.

3 Q. What did you do after the gunshots?

4 A. My wife or my girlfriend at the time grabbed me and  
5 said, let's get out of here, and we ran. I eventually  
6 called nine one one.

7 Q. You called nine one one?

8 A. Yes, sir.

9 Q. Describe that to the jury. Where were you when you  
10 called nine one one?

11 A. I believe we were at the gas station, the Little  
12 Cricket up the road, and we called nine one one and told  
13 them what was going on. Then during the conversation I  
14 could see the cops going down toward the bar.

15 Q. Okay. Mr. Boyd, have you had an opportunity to lis-  
16 ten to nine one one calls that were made that morning?

17 A. Yes.

18 Q. And were or was your call one of the calls you lis-  
19 tened to?

20 A. Yes.

21 Q. And what, if you recall, did you tell the nine one  
22 one operator?

23 A. I told her that a guy had got into it with another  
24 guy and that he came back in and shots were fired; that  
25 somebody needed some help over there.

315

MR. O. BOYD ON DIRECT

1 Q. Did you tell them your name?

2 A. No.

3 Q. Was there a reason why you didn't tell them your  
4 name?

5 A. At the time, and it's six o'clock in the morning,  
6 and we had been drinking all night in the bar.

7 Q. Were you drunk?

8 A. No, sir.

9 Q. Whose phone did you use to call?

10 A. It was my phone or my wife's.

11 Q. I'm sorry.

12 A. We both had phones and it was either mine or my  
13 wife's.

14 Q. Your girlfriend at the time?

15 A. Yes, sir.

16 Q. And you spoke to a nine one one dispatcher in West  
17 Columbia?

18 A. Yes.

19 Q. Mr. Boyd, you had been there since nine P.M.?

20 A. Roughly, yes.

21 Q. Okay, and it is roughly around six forty-five or so?

22 A. Yes, six something in the morning.

23 Q. What were you drinking that night?

24 A. What didn't I drink? Beer and some shots.

25 Q. That's all the questions I have, Mr. Boyd.

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MR. O. BOYD ON DIRECT

1 Please answer any questions Mr. Floyd may have.

2 A. Yes, sir.

3 THE COURT: All right, thank you.

4 Cross examine, Mr. Floyd.

5 MR. FLOYD: Thank you, Your Honor.

6 CROSS EXAMINATION

7 BY MR. FLOYD:

8 Q. Mr. Boyd, did you overhear some conversation between  
9 Drew and Zach during that evening?

10 A. I don't recall anything that was said.

11 Q. Do you recall Mr. Chaplin asking Mr. Torrence how  
12 much money he had in his pocket or something like that?

13 A. No, sir.

14 Q. Did you know Mr. Buchanan?

15 A. Before that evening, no, sir.

16 Q. Did you in fact say anything to Mr. Torrence about  
17 Mr. Buchanan's sexuality?

18 A. I don't recall saying anything like that. I mean, I  
19 am pretty sure that was not said.

20 Q. You gave a statement to the police earlier, did you  
21 not?

22 A. Yes, sir.

23 Q. And did you tell them you didn't ever remember see-  
24 ing Drew come in?

25 A. Seeing him come in?

317

MR. O. BOYD ON CROSS

1 Q. See him with a gun?

2 A. I don't believe I actually saw a gun.

3 Q. So you didn't actually see the shots?

4 A. No, but I kind of assumed them.

5 Q. Thank you.

6 MR. FLOYD: No further questions, Your Honor.

7 THE COURT: Redirect?

8 SOLICITOR: No sir.

9 THE COURT: Thank you very much, Mr. Boyd. You  
10 may step down.

11 (Witness excused from stand)

12 THE COURT: All right, you may call your next wit-  
13 ness, Solicitor.

14 SOLICITOR: The State calls Torehejar Boyd.

15 THE COURT: All right, if you'd come around and be  
16 sworn, please.

17 TOREHEJAR BOYD, being duly sworn,  
18 testified as follows:

19 CLERK: Have a seat and once you are seated speak up  
20 loudly and tell us your full name, spelling your first  
21 and last name, please.

22 WITNESS: Torehejar Boyd. T O R E H E J A R, Elum,  
23 E L U M, Boyd, B O Y D.

24 DIRECT EXAMINATION

25 BY SOLICITOR

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MS. T. BOYD ON DIRECT

1 Q. Ms. Boyd, where are you employed?

2 A. Palmetto Health Richland.

3 Q. And what do you do there?

4 A. I work as a medical laboratory technician.

5 Q. Back in September of 2008 -- your last name is Boyd  
6 now, but it wasn't then, was it?

7 A. It was not.

8 Q. What was your relationship with Orlando Boyd that  
9 night?

10 A. We were in a boyfriend-girlfriend relationship.

11 Q. And now you're married?

12 A. Yes.

13 Q. How often -- were you a regular at Shaggy's, or how  
14 would you describe how often you went there?

15 A. Um, I would consider myself a regular.

16 Q. Do you remember the night hours -- the evening hours  
17 of September 27th into the morning hours of September the  
18 28th?

19 A. I don't quite remember exact details, but I do remem-  
20 ber somewhat of what happened.

21 Q. Were you there with Orlando the whole time?

22 A. I was.

23 Q. How much do you think you had to drink over the course  
24 of the night?

25 A. Well, I didn't drink Tequila so it -- I was only

319

MS. T. BOYD ON DIRECT

1 drinking beer and not that much of it.

2 I'm not a big drinker like Orlando.

3 Q. Would you consider yourself intoxicated that night  
4 or that morning?

5 A. That night, yes, but going into the morning I  
6 believe I had sobered up a little bit.

7 Q. Did you know Zach at the time?

8 A. At the time, yes.

9 Q. Who all did you know -- what other people do you re-  
10 member seeing in the bar?

11 A. . .

12 Q. Did you know Donna?

13 A. I do not know Donna.

14 Q. Did you know Tonya or Steve?

15 A. Tonya -- not so much Tonya. We had seen her in and  
16 out, but I didn't know her.

17 Q. Jennifer, the bartender?

18 A. Yes.

19 Q. Lee Ann?

20 A. Lee Ann -- yes.

21 Q. How about -- does the name Lee Buchanan mean any-  
22 thing to you?

23 A. It does not.

24 Q. Do you remember Drew Torrence being there?

25 A. Yes.

320

MS. T. BOYD ON DIRECT

1 A. Yes.

2 Q. Do you remember him having any conversations -- when  
3 is the first time you remember him being there, and I'm  
4 not asking for a time, but what was going on the first  
5 time you recall him being there?

6 A. I remember being in the middle of the U-shaped bar  
7 having a drink because I remember Orlando bought him a  
8 drink.

9 Q. What is the next thing that stands out in your mind  
10 as far as Drew being there in the bar?

11 A. I remember him being in a conversation with Donna and  
12 Zach, me and Lee.

13 Q. You are saying Lee?

14 A. I didn't know him that night. That was my first  
15 time seeing him.

16 Q. What part of the bar -- you say the U-shaped bar,  
17 but where . .

18 A. Next to the door.

19 Q. In the corner?

20 A. The entrance door.

21 Q. Oh, I'm sorry. The corner of the bar?

22 A. Yes.

23 Q. And you were over there with them?

24 A. Right.

25 Q. What do you hear of the conversation which Mr.

321

1 Torrence said, if he said anything?

2 A. I don't really remember all the conversation, but --

3 I do remember him having a conversation with Donna about  
4 menses or PMS. Do you know what menses is?

5 Q. And what did that mean to you?

6 A. Menses is basically are you on the rag or PMSing.

7 Q. How did you take the statement about menses that Mr.  
8 Torrence asked Donna?

9 A. I didn't pay really any attention.

10 Q. And what did Donna say?

11 A. Donna was like, I know what it is, but she was cool to  
12 him as she said it.

13 Q. What was the body language between the two of them?

14 A. His body language I'm not quite sure, but I do speci-  
15 fically remember Donna's body language.

16 Q. What was she doing?

17 A. She was being -- kind of like shrugging him off.

18 Q. Did she continue to talk to him after that?

19 A. No.

20 Q. Do you remember whether Mr. Torrence said anything  
21 about Zach at that time?

22 A. No.

23 Q. Do you remember whether Mr. Torrence said anything  
24 to the person you are calling Lee, the other person, ask-  
25 ing him if he was -- whether he was white or black,

MS. T. BOYD ON DIRECT

1 or asking Zach if he was white or black?

2 A. What other male? Lee?

3 Q. Lee.

4 A. Lee is a caucasian.

5 Q. Did Mr. Torrence say anything to Lee around that  
6 same time?

7 A. Yeah, it was like right after him talking with her  
8 -- with Donna.

9 Q. Do you remember what was said?

10 A. He was calling him basically gay and making like  
11 gay interjections to Lee.

12 Q. And were you telling from Lee's body language how  
13 he was reacting to that?

14 A. He was quite irritated by it, and he wanted him to  
15 stop.

16 Q. Do you remember if Zach said anything at that point?

17 A. I don't quite remember what Zach said, but he was  
18 getting irritated with it too.

19 Q. What is the next thing you remember happening?

20 A. I guess when it broke into a fight.

21 Q. What did you do when the fight broke out?

22 A. I just backed away.

23 Q. At some point, did that end?

24 A. It did end, and he was asked to leave.

25 Q. Did he leave?

323

MS. T. BOYD ON DIRECT

1 A. He did leave.

2 Q. Do you remember him saying anything when he was leav-  
3 ing?

4 A. He did not.

5 Q. What's the next thing you remember involving Mr.  
6 Torrence?

7 A. I remember going to the juke box and that's when  
8 Lee had -- after he left, Lee had opened the door and he  
9 said, he's got a gun.

10 Q. When you heard the statement he's got a gun, what did  
11 you do?

12 A. I ran to the bathroom.

13 Q. How long did you stay there?

14 A. Not very long. I listened a minute and then I came  
15 out.

16 Q. Could you tell what was going on?

17 A. Zach threw a chair. I'm sorry. Zach threw the chair  
18 before I went to the bathroom.

19 Then when I went to the bathroom and came out of the  
20 bathroom is when I looked over at Orlando and I said, do  
21 you believe Drew has a gun?

22 And he said, I don't know but I'm going to stick  
23 around to find out, and as we were leaving out the door  
24 is when we heard the gunshots.

25 Q. You say gunshots. How many shots did you hear?

324

MS. T. BOYD ON DIRECT

1 A. I heard two.

2 Q. Describe for the jury whether they were close to-  
3 gether or far apart from what it sounded like to you?

4 A. It seemed like they were close together but as  
5 I was running out the door it was just adrenalin. So I  
6 . . .

7 Q. Can you describe that to the jury? Make the noise  
8 of the gunshot?

9 A. Pow pow.

10 Q. When you and Orlando ran out the door, where did you  
11 go?

12 A. We went to the convenience store up the street.

13 Q. Did you all walk or drive?

14 A. We drove. Actually, I drove.

15 Q. Why did you drive?

16 A. Because Orlando was intoxicated.

17 Q. Did one of the two of you call nine one one?

18 A. I might have dialed it but he answered the phone.

19 Q. Whose phone was it?

20 A. It was mine.

21 Q. Were you present in the car when Orlando was on the  
22 phone?

23 A. Yes, I was.

24 Q. And have you heard that nine one one call?

25 A. Yes.

325

MS. T. BOYD ON DIRECT

1 Q. And does that fairly and accurately depict the con-  
2 versation Orlando had with nine one one?

3 A. Yes.

4 Q. You never went to the police, is that correct?

5 A. This is correct.

6 Q. At some point later, did you get contacted by the  
7 police?

8 A. I did.

9 Q. Do you remember who contacted you?

10 A. Um, it was a black gentleman. I think it was Wade  
11 or -- Officer Wade.

12 Q. Was it Detective Wade?

13 A. Yes. There he is.

14 Q. Did he call you or come by and see you, or how was  
15 the first contact made?

16 A. He called me.

17 Q. Did he call you on the cel phone that Orlando had  
18 used that night to call nine one one?

19 A. He did.

20 Q. Please answer any questions Mr. Floyd may have for  
21 you.

22 A. Yes, sir.

23 THE COURT: Thank you, Mr. Solicitor.  
24 Mr. Floyd?

25 MR. FLOYD: Thank you, Your Honor.

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MS. T. BOYD ON CROSS

1 CROSS EXAMINATION

2 BY MR. FLOYD:

3 Q. Did you see Mr. Torrence come into the establishment  
4 that evening? Did you see what time he came in?

5 A. No.

6 Q. What time did Mr. Chaplin come in?

7 A. In an hour.

8 Q. Were they there when you first got there?

9 A. I --to be honest, I really don't know that. All I  
10 remember is being -- I saw Zach and Donna together, and  
11 I remember commenting on them, like I thought they were  
12 there together.

13 Q. And did you see Zach get hit?

14 A. He hit Drew. He did.

15 Q. Did you see him hit Drew more than once?

16 A. I don't recall. He might have. He was quite  
17 irate with him.

18 Q. Someone had to get him off of Drew?

19 A. Repeat the question.

20 Q. Someone had to pull him off of Drew?

21 A. Yes.

22 Q. Because he was hitting Mr. Torrence because he was  
23 irate?

24 A. Yes. He was displaying his feelings.

25 Q. Nothing further.

327

1 THE COURT: Any Redirect?

2 SOLICITOR: Nothing further.

3 THE COURT: Thank you very much, Ms. Boyd. You  
4 may step down.

5 (Witness excused from stand)

6 THE COURT: All right, Solicitor. You may call  
7 your next witness.

8 SOLICITOR: Your Honor, I expect the next witness  
9 to be fairly long and I don't know if you want to con-  
10 tinue or not.

11 THE COURT: Well, it depends on what you mean by  
12 fairly long.

13 SOLICITOR: Also, we may have a legal matter on that  
14 witness.

15 THE COURT: All right. Well, then what I will do  
16 is release the jury and take up the legal matter, to save  
17 them from waiting, and you can call your witness in the  
18 morning.

19 All right. Mr. Foreman and ladies and gentlemen of  
20 the jury, Ms. Boyd will be the last witness of the day  
21 as far as the jury is concerned.

22 I remind you that during this recess you are not to  
23 discuss the case with anyone, and that includes your fel-  
24 low jurors, family, friends, or anyone else.

25 Do not watch, listen to or read any reports about