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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Appeal from Pickens County
Honorable Perry H. Gravely, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

RANDY DOYLE MARCHBANKS,

APPELLANT

APPELLATE CASE NO 2021-001533

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# RECORD ON APPEAL

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:**
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| | ) | COURT OF GENERAL SESSIONS |
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| | ) | |
| | ) | |
| THE STATE | ) | |
| PLAINTIFF | ) | |
| vs. | ) | TRANSCRIPT OF RECORD |
| | ) | |
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| DEFENDANT | ) | |

December 13-15, 2021
Pickens, South Carolina

B E F O R E:

THE HONORABLE PERRY H. GRAVELY, Judge; and a jury.

A P P E A R A N C E S:

BLAIN PLEMING, ESQ.
Attorney for the State

AARON DEBRUIN, ESQ.
Attorney for the Defendant

APRIL HERRON
Official Court Reporter

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(WHEREUPON, State's Exhibits Nos. 1-30 were marked for identification only.)

THE COURT: All right, everybody ready?

MR. PLEMING: Yes, sir.

MR. DEBRUIN: Yes, sir.

THE COURT: Okay.

All right. All right, ladies and gentlemen, thank you for serving this week. And just kind of for your information, it looks like there's some matters that we will have to go over this afternoon so this case will start at 9:30 in the morning. We'll go ahead and select the jury today on this case. And then let me pull that information up. And then just to kind of let you know we'll pick one panel and they'll start in the morning. And then the rest of the jury panel will be calling back in the evening and give you further instructions about when we will start our next case, so.

All right. This is as, I indicated to you earlier, this is what we call general sessions court. And general sessions is what we call our criminal court. And this is The State vs. Randy Marchbanks. And I'm going to read you the charges against Mr. Marchbanks. And again, I'm going to tell you

right up front that these are merely charges, these are merely allegations of what The State indicates that they will have the burden of proof in proving Mr. Marchbanks guilty of these charges. He's come into this courtroom, he's pled not guilty to these, which makes The State have the burden of proof.

But these are the allegations against Mr. Marchbanks. The first one is pointing and presenting a firearm. That Randy Dole Marchbanks did in Pickens County, on or about September 10, 2018, point and present a firearm in the presence of Casey Nalley, okay. Then there's an indictment for discharging a firearm into a dwelling. And the allegations there are that Randy Dole Marchbanks did in Pickens County, on or about September 10, 2018, unlawfully discharge or caused to be discharged a firearm into the dwelling of Melissa Karr, located at [redacted] North Old Pendleton Road, Liberty, South Carolina.

All right, first of all, is anybody aware of anything regarding the facts? Do you know any of the facts about this case? If so, please stand.

(There was no response.)

All right. And, Mr. Marchbanks, if you could stand and just face the jury for a second.

MR. DEBRUIN: That's correct, Your Honor.

THE COURT: So that kind of makes that mute but if you want to put anything on the record. But, I think. . .

MR. DEBRUIN: As far as, you know, you're right. I do make an objection but like you said, none of those jurors were called. So there's no need to strike them.

THE COURT: Okay. All right. The other request for a continuance, I'll be glad to hear from you.

MR. DEBRUIN: Thank you, Your Honor. Again, I'd like to put on the record that my motion to continue, Your Honor, I still think it's a relevant motion and necessary in this case. The client -- my client's grandson, who is the victim's son, is willing to testify in this case. Unfortunately, he can't get here, he's in Michigan for work. I believe he's a vital witness, Your Honor. There was an incident that happened at my client's house a week prior to this, where she called the police stating her brother and my client had struck her. This young man was present as well. And will testify -- would have testified that when the police officer came, he talked to the police officer and told him how she had made up stories like this before in the past.

That, in this case, in the incident that happened a week prior, I spoke with him and he has indicated that she was outside the bathroom, didn't have any blood on her face. Walks into the bathroom by herself, comes out, has blood all over her. Talks to the officer when the officer gets there, claiming that she was hit by her brother. And the officer didn't make any arrests. Indicated in his report that there's a strong possibility that she made it up herself. Again, no report even though she was bloody. Now, we've got a week later, where now my client is being accused of pointing a gun at somebody. And, I think, this goes directly to, you know, a common scheme that she has making in these allegations.

There's also an allegation that the grandson, the son of the victim, witnessed a situation where the victim, the alleged victim, and her ex-husband got into an argument. She burns herself with a curling iron and then calls the police and says that she had been choked by her ex-husband. Again, the young man, actually, saw this happen. Saw her inflicting injuries to herself. Again, goes to a common scheme of her making up allegations against folks that she then calls the police about.

So this is a paramount witness to my client that goes directly to the credibility of their, the government's, main witness, in this case, the victim. Or the alleged victim. I think it's paramount that we get him here in this case.

THE COURT: Well, I mean, I think that, again, based on what has been presented to me beforehand -- at one time this was an attempted murder charge; correct?

MR. PLEMING: That's correct, Your Honor.

THE COURT: You know, I think, if that was still the case, then, I think, it would be quite stronger. But, I mean -- and, again, I'm not -- just to me that doesn't sound as crucial in a matter where you have independent witnesses saying, Oh we saw him shoot a gun. I mean, I don't know how that would really go to refute that. I mean, these are totally independent witnesses.

MR. DEBRUIN: Well, the other charge is pointing and presenting, Your Honor.

THE COURT: Yeah.

MR. DEBRUIN: And that would be -- because, again, those other witnesses that you indicated -- already in the house. This young man indicates she's already in the house. So there's no pointing and

presenting at her, she's already in the house. It's the witnessing him pulling out the gun, if that's the case.

There's a poss -- I think she'll testify that the pointing and presenting happened prior to the altercation that happened out in the street, inside the house that she'll indicate that my client pulled out a gun and pointed it at the boyfriend inside the house. Which would be the main facts of the pointing and presenting. Which, I guess, the government is going to do. So that would be a crucial part of his testimony. To that her varicosity to tell the truth inside the house. Again, you know, obviously, I don't think -- we're not trying to get the shooting into the house or on the screen porch. It's what occurred prior to the fight outside, inside the house.

THE COURT: And just also for the record, it's my understanding that this case was set -- it's been put on a couple trial rosters but, actually, was continued for one. I think there was -- somebody was sick.

Was it your?

MR. DEBRUIN: It was my client's wife.

THE COURT: Okay. And I realize that's

legitimate. And then this was placed on this roster, basically, first up at the request of The Defendant. I realize that sometimes that comes back to haunt you. But in light of -- with the huge backlog, we've got -- again, that's not the driving force but we've also got to look at the -- at what point -- I guess -- so we had notice of this, that y'all were going to put it on this roster, at what point?

MR. DEBRUIN: Two weeks ago, Your Honor.

MR. PLEMING: Official notice back in early part of November. I agreed to not -- to take the case off the trial roster in November, if we put in on for December 13th as the first trial up. So as far as, we're talking about the December 13th date since early November. So it's been more than a month. About six weeks.

THE COURT: Right.

What's The State's position?

Oh, did you -- did I let you finish?

MR. DEBRUIN: Well, again, Your Honor, as far as the notice to the witness, one is my indication -- or one, I believe, that he was going to be subpoenaed by the government, as well, in this case. Two, you know, he made no indication to me that he wasn't going to be able to be appearing in trial until last

week when I was talking to him. And then it started kind of unraveling on me as far as him getting here. We weren't able to send him out a subpoena because of the nature of his work, he travels. So he's up in Michigan, not at any kind of residence of his. He's living at a hotel right now. And so no subpoena would have gotten to him is kind of what I'm getting at. So again, that's. . .

THE COURT: But, again, why, I guess, first I'm hearing about it, though, is this morning at the roster meeting. I mean, was there -- I mean, I don't know, have y'all reached out to the Chief Admin Judge last week on this issue? I mean, that's another essential problem is that The State doesn't have the chance to get some other stuff together, this magnitude and a case of this age.

So what's The State's position on this request for continuance?

MR. PLEMING: Your Honor, The State, for many of the reasons that Your Honor has already said, we strongly oppose the continuance in this case. The case, we first attempted to place on the trial roster back in August of this year. So it's been four months that we have been trying to get this case moved and for one reason or another have had to

either continue it or it has not been reached. It sounds, based on the merits, the reason for why Mr. DeBruin believes that he's an essential witness, is it sounds more that goes to his ability to attack the credibility of one of my other witnesses than it does -- especially as Your Honor said, if this was an attempted murder case, it would be a little bit more merit to that argument because there would be an issue as to proven the specific intent to kill.

This witness, in this case, was a State's witness. We, actually, prepared a subpoena for him, emailed it to him, did not officially serve it on him because we weren't able to locate him. But he gave a statement in writing and on body camera that pretty much is the same statement that the victim in this case gave. Other than he said, he qualified it with, I'm not sure that he knew we were in the house when he shot at the house. But he confirms that his grandfather shot multiple rounds into the house, following this altercation in the yard.

His exact statement says that he -- My grandpa shot at the porch out of anger.

Following his statement of what had transpired before that. Because the charge now, discharging a firearm into a dwelling and there's multiple,

independent witnesses that will testify about that, that don't differ in any material way from the statement that this particular witness, Mr. Spearman, gave in the first place. The State doesn't see a strong merit for The Defense to have to call him. They've had four months, we believe, to have him prepared to be here. If he was out of state and not unavailable. It's our position that they had four months to make arrangements to have him here. And it's a three year old case and in the interest of judicial economy, we just ask that the continuance be denied.

THE COURT: Mr. DeBruin, based on -- obviously, this guy has recanted his statement or a little bit different version of it now?

MR. DEBRUIN: That's correct, Your Honor. He was, actually, outside when my client, possibly, shot into the house. Or shot into the screened-in porch. And that his mom was already inside the house, in the kitchen. And the two parts are separated as well.

THE COURT: Well, as I told you, I think in light of everything, based on that it had been previously continued, that it was first of November, sounds like both sides kind of agreed to have it set for today. And here's the other thing is, I know

that you say he can come back if this case was continued, but there's no guarantee that he could be here then either.

And so, I mean, if it was something like that he's gone on vacation or just couldn't be -- well, you know, one of those kinds of things. But just the fact that he's not willing to come down and miss any work and, you know, I don't know you say he's not working in January but I don't know what their status -- I just don't think that there's a guarantee that he can be back here, if we did continue it. So I think based on that and all the other factors that we discussed, I think that we're going to need to go forward.

MR. DEBRUIN: Your Honor, I guess that leads me to the next. If you're denying that, I would ask that he would be allowed to testify via WebEx or some kind of web service. I don't feel like that's too much of a burden for us to set up--

THE COURT: Again, I don't know what arrangements upstairs, because we'll be in the courtroom up there, is available.

Are they still doing pleas up there?

MR. PLEMING: Yes, sir, Your Honor, last time I checked. I don't know if they finished for the day

or not.

THE COURT: At some point we just have to --

What's your position on him?

MR. PLEMING: Well, I would -- I would not consent to that, I would oppose it on the basis that I don't know whether or not the technology is sufficient to accommodate that request. Also, I -- I anticipate that I would have to impeach this witness if his -- since it sounds like his statement has changed. And he's recanted his previous statement, I would need to be able to impeach him with his previous written statement, as well as the video statement that he gave on the officer's body cam video. And the logistics of being able to present those items to him to impeach him, sounds troublesome. So for those reasons I wouldn't agree to that.

THE COURT: And that may be a problem, I don't know.

Mr. DeBruin? But you don't know if he's subject to WebEx or not?

MR. DEBRUIN: WebEx doesn't seem like it's a very difficult thing for us to get in place for him. I've seen other pleas or people joining via WebEx for pleas when we were shut down for corona. So I don't

really know if it's that much of a burden.

THE COURT: Well, you know, with the issues with cross-examination, it's not a standard kind of cross-examination. But like I said, if -- it's not a burden if he's got a good WiFI somewhere. But if he doesn't have good WiFI, if he's out on some job site, then that's not going to happen. I mean, then you can have -- you maybe could do phone but that's kind of hit or miss too.

MR. PLEMING: Your Honor, I also mention the difference between having someone present for a plea by WebEx versus testifying in trial where The State could be severely prejudiced if there's a technology glitch, things goes wrong, the jury doesn't hear accurate testimony from The Defendant for one reason or another and we don't have the opportunity to properly cross-examine him, that could be far too prejudicial to The State's case. And I would not want to take that risk.

THE COURT: Let me think about that and I'll let you know.

MR. DEBRUIN: Thank you, Your Honor.

THE COURT: All right, anything else we need to address today?

MR. PLEMING: I don't believe so, Your Honor.

MR. DEBRUIN: Not today.

THE COURT: So we're going to plan on starting in the morning. And if your officer can get here, he can get here, if not -- and he does get here then we'll have a -- at some point have to have a Jackson v. Denno hearing.

MR. PLEMING: Yes, sir. As I stated previously, I do not see him a essential witness in this case and The State's prepared to go toward tomorrow whether or not he's available or not. We would not want to delay the case any longer just to accommodate that one particular witness.

THE COURT: All right. Okay, we'll be ready to go at 9:30 in the morning. We'll be upstairs.

MR. DEBRUIN: Thank you, Your Honor.

MR. PLEMING: Thank you, Your Honor.

(WHEREUPON, the proceedings were concluded for the day to be reconvened on December 13, 2021.)

December 14, 2021

THE COURT: All right, is The State ready?

MR. PLEMING: Just one quick item, Your Honor. Since both these charges were directly presented indictments, The Defendant, unless he is willing to waive arraignment, will need to be arraigned on these charges, I believe.

THE COURT: All right, Mr. DeBruin.

MR. DEBRUIN: Your Honor, my client's going to waive the arraignment.

THE COURT: All right.

MR. PLEMING: Thank you, Your Honor.

The State is ready to proceed.

THE COURT: All right, The Defense ready?

MR. DEBRUIN: Yes, sir, Your Honor.

THE COURT: All right.

Anything before we bring the jury in?

MR. DEBRUIN: Your Honor, if you don't mind, can we sequester the witnesses for this case? I see a couple of witnesses. I was just wondering if we could do that.

MR. PLEMING: Because there's victims in the case, Your Honor, I believe that they have a right to be present. Mr. -- Ms. Karr is the victim of discharging a firearm into a dwelling charge, I would

argue. And Mr. Nalley is the victim of pointing and presenting.

THE COURT: All right. Then you have your main officer?

MR. PLEMING: Yes, sir, Your Honor, the case agent.

THE COURT: I think based on that, I mean -- are those -- are there any other witnesses?

MR. PLEMING: We have more witnesses but they're not in the courtroom.

THE COURT: Okay.

MR. PLEMING: And I have no objection to sequestration of any additional witnesses.

THE COURT: Sequester any additional witnesses?

MR. DEBRUIN: Anyway we can just wait until after opening to have them come in?

THE COURT: I mean, I don't know, I think if they're not sequestered, then, I think, there's no prohibition for them sitting in the opening statements.

MR. DEBRUIN: All right. Your Honor, I think yesterday we talked about WebEx, whether or not you're going to rule on that as well?

THE COURT: I mean, do we have the ability to do that?

MR. PLEMING: I have not checked. I--

THE COURT: I haven't done anything as far as -- what is -- and I think your position was your --

What's The State's position on that?

MR. PLEMING: As we stated yesterday, my main concern is I don't know -- we don't know where this witness even is and what his technological capabilities are. And because we also have statements in writing on video that I would need to impeach his testimony with. I just have concerns that we wouldn't be able to do that properly if he testified through WebEx.

THE COURT: You know, I kind of -- and I know we've actually got it coming up in this next one. I'm not aware of any use of WebEx for witnesses unless both parties consent to it. I mean, the time that I've done it before in Oconee, both of them consented to it. And I think both sides are consenting to it if we have to use it on the next trial, in fact. But I don't know that I can -- I don't know that I have the authority to enforce that without consent, quite frankly. So I'm sorry.

MR. DEBRUIN: Okay.

MR. PLEMING: Thank you, Your Honor.

THE COURT: All right, anything else?

MR. PLEMING: Nothing more from The State, Your Honor.

THE COURT: All right, bring the jury.

And what I do is I do a little -- I have a little preliminary thing that I talk to them about and then I'll turn it over to y'all for opening statements.

MR. PLEMING: Thank you, Your Honor.

(WHEREUPON, the jury came into open court at approximately 9:45 a.m.)

THE COURT: All right, sorry about this is very -- this is called COVID protocol. So it takes you a little bit of getting use to making your way into the jury box. But, at least, this way when you're sitting there you can take off your mask, if you'd like to. All right, I'm -- we're getting ready to start the case. And before I give you some kind of introduction remarks, I'm going to ask the clerk to administer the Oath.

So, Mr. Welborn.

THE CLERK: All right.

Now, that you've been seated, would you please stand. Raise your right hand. And after the Oath is administered, answer by saying, I will.

(WHEREUPON, the jury was sworn.)

to get in there, so.

And as far as our foreperson, Mr. Clement, I'm going to ask that you be the foreman for the jury. And that means that you will be -- you'll just lead the discussions and have any communications with the court if needed. And you get a special chair. I think you need to be right here, so. When you -- that's just next time you go out and come back in.

With that being said, I will now turn it over to the attorneys for opening statements.

OPENING STATEMENT

MR. PLEMING: Thank you, Your Honor, may it please the Court.

Good morning, ladies and gentlemen, I apologize for my voice is strained a little bit this week, I probably yelled a little bit too loud Sunday at the Clemson National Championship Soccer game. But I think we'll be able to get through it. Sometimes, ladies and gentlemen, people feel justified to do things even though they're clearly wrong. Some people can't sometimes see that what they've done is wrong without the need for someone to point it out and hold them accountable. And that's what we have in this case because of Randy Marchbanks.

The Defendant in this case stands before you

charged with two offenses. Pointing and presenting a firearm and discharging a firearm into a dwelling. Your job in this case is to act as the triers of fact. Just as a the Judge just advised you and you're here to answer just two very simple questions. It's not a very simple case to the extent that it's a very important case. But your job comes down to answering two questions. Did Randy Marchbanks on September 10, 2018, either point or present a firearm to another person? And second, did Randy Marchbanks discharge that firearm into a dwelling that day? That's it. Those are the two questions that you're here to decide.

The evidence in this case will make that job fairly easy in this case, I submit to you. It's very straightforward. Whether or not The Defendant was trying to shoot anyone that morning is not a question that is before you. That is not one of the elements of either of these charges. He does not have to have been trying to hurt anyone physically to be guilty of either of these two charges. That is not what The State is seeking to prove and it does not matter in order for you to do your jobs of determining did he present a gun without justification and did he fire rounds from that gun into someplace where people were

living? My job is to prove his guilt of each of these two offenses beyond a reasonable doubt. And at the conclusion of this case, once you've heard all the evidence, I submit to you that you will be firmly convinced that he is guilty of both of these offenses.

This incident occurred at The Defendant's home where he was also living with his daughter, his grandson, his wife. And in the days before, leading up to this incident, there is a disagreement between The Defendant and his daughter's boyfriend. And The Defendant did not want him coming back to the house. The morning of the incident, The Defendant wakes up to see that Casey Nalley, his daughter's boyfriend, was there. He was there to pick her up to take her to start a new job that she had just been hired to work that morning. When he saw him there he became angry. He got his gun, he went into the hallway or kitchen where Mr. Nalley was standing and he fired a round into the ceiling. He then chased Mr.~Nalley out of the house telling him that, basically, telling him that he didn't want him there, he's kicking him out.

Once they're outside, he tosses the gun and the two get into a physical altercation. Some folks

intervene, Mr. Nalley gets on his motorcycle and drives away from the house. And The Defendant's daughter, Melissa Karr, who had followed them outside and was trying to break up the fight. The Defendant then punches her and then chases her back into the house. As she's fleeing back into the house, Mr. Marchbanks picks the gun back up, fires multiple rounds in her direction, striking the ground a couple of times. And then as she turns and enters through the porch on left side of the house, he fires three more rounds into the porch.

You will hear from multiple witnesses to the incident, including neighbors of The Defendant and the victim. One of which called 911, heard gun shots. The other, actually, saw The Defendant fire that gun at the house. And you'll hear from her later today. Detectives arrived at the scene, they found three bullet holes. Fresh marks in the porch area of that house that you'll see photographs. And you'll receive testimony from the detective that handled the forensic side of this investigation, he'll explain to you -- and there were five shell casings found in the grass that will match the holes in the porch.

You'll hear testimony from Ms. Karr and

Mr. Nalley, of course, will tell you how all this started and what they recall from that morning. You'll also hear from two officers, see body cam footage from Detective Genther who, as he first arrives, records this Defendant referring to Casey Nalley saying, if I wanted him dead, he would be dead. You'll also -- we'll also present to you the gun that was recovered from inside the house. And the shell casings from outside the home.

Ladies and gentlemen, Mr. Marchbanks may have felt justified in what he did that day but he was not. And thank goodness nobody was shot and thank goodness nobody was killed that day. His actions were not protected by the law and they shouldn't be. The law allows us to protect our homes from real threats but there are boundaries and limits to what we can do in the name of self-defense. And so at the end of this trial, I'm going to stand before you again and ask you to hold him accountable. And to tell him that he crossed the line that morning. And that when he did -- and that he crossed the line by breaking these two laws. And for those reasons, I'm going to ask you to find him guilty as charged on both counts.

Thank you.

THE COURT: Mr. DeBruin.

OPENING STATEMENT

MR. DEBRUIN: Thank you, may it please the Court, Your Honor.

Good morning, ladies and gentlemen of the jury, our homes are where we feel the safest, for most of us. That's where we feel we're in control. When the world is crazy around us, home is where we feel safe. Where we feel in control. That's why there's no wonder why there's so many phrases about home. Home sweet home. There's no place like home. Home is where the heart is. A man's home is his castle. We're supposed to feel safe in our homes. We're supposed to feel in control in our homes. But for Randy, that safety, that security, was taken away from him.

Randy is on disability, he's got some medical issues. His wife, Susan, behind him, she has dementia. She has a bunch of medical issues as well. The two of them found themselves in a place where a lot of American's find themselves with adult children, one of them living in the home. There's supposed to be enjoying their later years in life but they have a child that lives in the home. A child that's disruptive, has her own issues, you'll hear

about those later today. Doesn't contribute. Brings home boyfriends who mooch off Randy and his wife. And so Randy got tired of it and he told him to leave. To get out of his house and don't come back.

And a few days later he walks home -- or gets -- comes through his house and there is Casey in his house again. A man that you will hear later on has threatened to kill my client, had threatened bodily harm in the past. You'll hear from other witnesses today telling you that. So Randy asked him to leave, they got into a verbal altercation. There's no gunshots inside the house. These are lies. Lies made up by those two. They got into a verbal altercation and Randy told him to leave. Casey didn't leave the property, he stayed outside.

Randy, again, goes out to confront him, has a verbal altercation. Turns around and gets punched in the back of the head. He gets beat up so bad that he breaks his rib. And still messed up today. Sticks out of his body. My client right there, gets beat up by that guy. You'll hear about that today. And the effects that it had on my client. My client's not charged with shooting anybody or trying to shoot anybody. His control in his home was taken away from him.

And the government's got the burden of proof to prove beyond a reasonable doubt that my client committed all the crimes that they alleged. There was no other reason for what happened or that my client didn't have a valid reason for doing what he did. If at all he did anything. It's their burden of proof. And you're going to hear from their witnesses. And as the Judge told you earlier, you're allowed to determine whether or not those witnesses are liars or if they're telling you the truth. Then you get to make the decision as far as what truth you believe. You are the finders of facts. You don't have to go along with just what the witnesses say or what the government's telling you. You get to make that decision as far as what's fact in this case. Again, throughout the whole case, the government has the burden of proof.

Now, they came up and they told you a story. But I want you to stop -- don't make any opinions or conclusions about this case until everything is done. Until you've had a chance to hear all the evidence, hear from all witnesses. And, finally, when we're done talking again to you, because we'll have one more opportunity to directly talk to you, then you make your decision. I'm asking you to do that for

me. Hold off making any decisions until you hear from everybody. Because I'm confident that if you wait, if you wait to make your conclusions, you'll find my client is not guilty of these charges.

Thank you.

THE COURT: All right, call your first witness.

MR. PLEMING: Thank you, Your Honor.

The State calls Melissa Karr.

THE CLERK: Please raise your right hand.

MELISSA KARR, after being duly sworn{,}testified as follows:{F}

THE CLERK: Please state your name for the record.

THE WITNESS: May name is Melissa Karr.

DIRECT EXAMINATION

BY MR. PLEMING:

Q Good morning, Ms. Karr. Ms. Karr, do you know The Defendant in this case, Randy Marchbanks?

A Yes, sir.

Q Okay. And what is your relationship to Mr. Marchbanks?

A He's my father.

Q Okay. Let me go back to September 10, 2018, were you living with your father, Mr. Marchbanks, on that date?

A Yes, I was.

Q And who else was living in that home on that date?

A My son, and my parents and my brother.

Q Okay. And what is the address of the home you were living in?

A It's [redacted] North Old Pendleton Road, Liberty.

Q Is that in Pickens County?

A Yes, sir.

Q Are you still living there?

A Yes, sir.

Q And who else is still living there with you now?

A Just myself and Casey.

Q Where is your son currently living?

A He has his own apartment.

Q Okay.

A He's grown now.

Q Okay. And do you know where he works?

A I do not.

Q Okay. Does he still live in this area?

A Last I heard he was in Spartanburg. He doesn't speak to me.

Q Okay.

A My father -- he only--

Q That's okay. Where is your father living now?

A With my sister.
Q And when did he move out?
A About a year ago.
Q Okay.
A I think.
Q I want to go back to the incident that occurred on the 10th of September 2018, what were you doing that morning?
A I was getting ready for work in the bathroom.
Q Okay. And who else was there at the house that morning?
A My mom and dad.
Q Anybody else?
A My son was there, yes. But he had left.
Q Do you know where he left to go to that morning?
A He went to Spinx.
Q Okay. And while your son was out at the Spinx and you were getting ready for work, tell us about the job you were getting ready to go to. When did you get that job?
A Casey got a job at the signs supply. And he was working there. And they offered me a secretary job.
Q Okay.
A So it was the first day, I was getting ready.
Q Okay. And Casey's your boyfriend?

A Yes, sir.

Q And how long have the two of you've been together?

A Almost 10 years.

Q Okay. And so you're getting ready for work to start this new job and what happened while you were getting ready for work?

A Casey came to pick me -- he rides a motorcycle. And I was going to follow him in my car because I didn't know where it was. So I wasn't ready. They're circumstances that led up to me, you know, so it was taken me a little bit of time.

Q Okay.

A I told him to come on in. It was like 7:30 in the morning. Everybody was asleep. And Casey -- I don't know how to. . .

Q Well, okay, so it's 7:30 in the morning, you're getting ready, everybody's a sleep--

A I'm looking in the mirror getting ready, Casey is standing by the door.

Q Okay.

A And next thing I heard is a clip being pulled. And he had a gun.

Q Who had a gun?

A My -- Randy had a gun pointed at the back of

Casey's head. And told him he had two seconds to get out of his GD house or he'd blow his brains out.

Q Okay. And how long had Casey been there before this happened?

A About maybe five, ten -- maybe five or ten minutes. Not long at all. He had just -- I'd say five at the most.

Q Okay.

A He was just standing there.

Q And where was he standing in relation to where you were in the bathroom?

A This is the mirror, I was standing here, here's the door and he was just standing, you know, facing me. I was turned this way in the mirror, he was standing right here in the bathroom door.

Q Okay. How many feet away from you do you think he was?

A From Casey?

Q From you? How far away was Casey from you?

A About two foot.

Q Okay. And so after your father pointed the gun at Casey's head and told him to get out of the house, what happened?

A He turned around and went to leave.

Q What did your dad do at that time? After

threatening him?

A When he got to the kitchen and my dad took the -- I call it a pistol, I don't know what it is. And put it right here beside Casey's ear and fired a shot into the ceiling.

Q Okay. After firing that round into the ceiling, what did Casey do? What did your dad do?

A Casey went straight out the door, got on his motorcycle.

Q And what?

A And my dad followed with the gun.

Q Okay. What did you do?

A I was following -- I was just -- I didn't want him to hurt him. And my dad is capable of hurting somebody.

Q Okay. So what did you do?

A I just kept saying, Daddy, please stop. Please stop, please put the gun down. I'm just trying to go to work, we're leaving, put the gun down.

Q Did you follow them outside?

A I did.

Q Okay. And once you all were outside, what did you observe happen between your father and Casey?

A He followed Casey to the road. Casey was in the middle of the road on his bike. He didn't want to leave

me. He was afraid to leave me there. But I thought the situation would be better if he was gone.

Q Okay. And what did your father do as Casey was trying to leave?

A He went up to the road, pointed the gun at him, screaming obscenities, telling me he was going to blow his brains out.

And that's when Casey said, Randy, put the gun down and fight like a man.

And daddy threw the gun down. And Casey hit my dad, Randy, one time in the face. And it broke his glasses. And had knocked him down. He got up, come at Casey again, hit him again and he did hit him in the ribs, he did not mean to hit him. My dad is frail, he has health issues. We weren't trying to hit him, we were trying to contain him.

Q Okay. So after that, Casey had struck him the second time --

A He left. Our neighbor across the street come, got a hold of daddy and Casey left. He was going to the Spinx and I told him I'd meet him there. I was trying to get my son to go to leave.

Q Okay. And you said your son was at the Spinx?

A Yeah, he come back during the brawl in the road.

Q Okay.

A Yeah.

Q And once the fight was broken up and Casey was able to leave the home, then what happened?

A The neighbor let my dad go and he punched me here. And busted both of my lips opened.

Q Okay. And then what happened?

A The neighbor tried to get a hold of him again and before he could he swung and got me in the side and broke two of my ribs.

Q And what did you do after your father struck you?

A I panicked. I was pouring blood from my mouth. I just started down the driveway.

Q In which direction?

A Uh?

Q In which direction?

A Toward the house.

Q Okay. What -- what do you recall happening as you walked back to the house?

A I just seen grass flying. Bam, bam, grass, grass coming up next to my feet.

Q When you say, bam, bam, what are you referring to?

A Like the gun was going off and I could see where it's going in the dirt. Like, pushing it up. Yeah,

around my feet. One of the sides, yeah.

Q All right. And after -- what happened next, what did you do?

A I got to the porch, my son was standing there, he was in a panic because I was just gushing blood. So we're on the -- he meets me at the door of the porch and my daddy starts shooting at the porch. And we get inside in the bathroom and my son's trying to help me, you know, hold what wet cloths to stop the bleeding.

Q Okay.

A And the next thing you know, I have a 911 caller on my phone. I don't know who called them. And I was talking to the 911 lawyer -- I mean, 911 operator, I apologize. I'm nervous, I'm so sorry.

Q Let me stop you right there. I've got eight photographs marked previously for identification as State's Exhibits No's. 22, 30 and then 1 through 6.

Let me show the photographs to the defense counsel at this time.

Hand these exhibits up to you at this time and--

THE COURT: All right, any objection to those?

MR. DEBRUIN: No, Your Honor.

Your Honor, I know he's going to probably go through, as far as trying to get them all in. I'm

okay with all of them being admitted at this time.

THE COURT: Okay and that's exhibits what?

MR. PLEMING: Exhibits 1 through 6, then 22 and 30.

THE COURT: So 1 through 6 and 22 and 30.

(WHEREUPON, State's Exhibits Nos. 1-6, 22 and 30 were admitted into evidence.)

BY MR. PLEMING:

Q Take just a minute to look through those photographs. Do you recognize the scenes depicted there?

A Yes, sir.

Q Do those photographs fairly and accurately depict the scene as it was that morning?

A Yes, sir.

MR. PLEMING: With The Court's permission, I'd like to publish State's Exhibit No. 22 for the jury at this time.

THE COURT: You may.

BY MR. PLEMING:

Q Is there a laser pointer? If you'd use that laser pointer, point at State's Exhibit 22 and point out for the jury where was the porch that you entered when your dad was shooting at you?

A Okay, you want me to mash the red?

Q Yes.

A I'm sorry.
Q Yes.
A From where he--
Q The red button that says, Laser on it.
A From where he shot at?
Q Where were you when you heard the bullets?
A Right here.
Q Okay. I may have shown these out of order but let me -- State's Exhibit No. 4, can you point out -- is that the porch there on the left side of the house we've just looked out in State's Exhibit 22?
A Yes.
Q Okay. And can you point out where your dad was standing when you first heard the gun -- I mean, the bullets.
A Toward the porch. At the porch. I don't know.
Q Okay.
A I was just trying to get my son off the porch because there was bullets.
Q Okay.
A But I can tell you right in here is where he shot through.
Q Okay. Were those car there, parked there, when this happened?
A Honestly, I do not know.

Q Everybody -- once everything happened, everybody came--

THE COURT: Watch that microphone there, you're rubbing your coat.

THE WITNESS: Oh, I'm sorry.

THE COURT: You might want to pull it out of the way.

BY MR. PLEMING:

Q All right. All right, let's move on. So after you, I believe, you stated that you got to the bathroom and you were cleaning yourself up. And your dad came back inside the house while you were in the bathroom the second time? And what happened then?

A He pointed the gun at my head and told me I had two GD minutes to get out of his house or he'd blow my F'n brains out.

Q And what did you do?

A I went and got in my -- I left. The police were already on their way. She told me not to leave but she told me to go park at the end of the driveway. Like, pull in this way in case he came back I could go. But she said that the cops were almost there.

Q Okay. And--

Beg the Court's indulgence just a moment.

Showing Defense counsel what's been marked

as State's Exhibit No. 7.

Handing State's Exhibit No. 7 up to you at this time, do you recognize that disk?

A Yes, sir.

Q And how are you able to recognize it?

A I watched it with you.

Q Okay. You watched it or did you listen to it?

A Well, listened to it, I'm sorry.

Q Okay. And what was recorded on that disk when you listened to it?

A 911 calls.

Q Is that the 911 call that you made?

A Yes.

Q Okay. And did you -- after listening to the call recorded on that disk, did you initial the disk with the -- with your initials and include the date on which you listed to it?

A Yes, sir.

Q Okay. And is the recording on that a fair and accurate depiction of the conversation you had with the 911 dispatcher that morning?

A Yes, absolutely true.

MR. PLEMING: The State moves to introduce State's Exhibit No. 7 into evidence at this time, Your Honor.

THE COURT: Any objection?

MR. DEBRUIN: No, Your Honor.

THE COURT: All right, seven in without objection.

MR. PLEMING: Thank you.

(WHEREUPON, State's Exhibit No. 7 was admitted into evidence.)

MR. PLEMING: If I can just beg the Court's indulgence for a couple of moments to set it up.

I'd like to publish the 911 call at this time.

(WHEREUPON, State's Exhibit No. 7 was published.)

BY MR. PLEMING:

Q Ms. Karr, lastly, do you see your father, who fired those shots at you, in this courtroom today?

A I'm sorry?

Q Do you see your father in this courtroom who shot at you that day?

A Yes, sir.

Q Would you, please, point out where he is sitting and describe what he is wearing?

A Over there in the green shirt.

Q Thank you. The witness has identified The Defendant.

I have no further questions, please answer

any questions Mr. DeBruin may have for you.

THE COURT: Cross-examination.

MR. DEBRUIN: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. DEBRUIN:

Q Melissa, when the solicitor was talking to you, you told him that your dad fired a shot into the ceiling; is that correct?

A I can't hear you.

Q When the solicitor was talking to you, you told him that your dad fired a shot into the ceiling inside the house?

A He did.

Q Okay. Do you remember making a statement to police?

A About the shot, yes, I did.

Q Okay. Do you remember what you said in the statement?

A He shot right beside Casey's head. His left ear, he has ringing in his ear from it that won't go away.

Q All right.

Your Honor, may I approach the witness?

I'm sorry, what's that?

THE COURT: Yeah, to her or me?

MR. DEBRUIN: To her.

THE COURT: Yeah.

MR. DEBRUIN: May I approach the witness, Your Honor?

THE COURT: Yeah.

MR. DEBRUIN: Sorry, I should have clarified that.

BY MR. DEBRUIN:

Q Is that your statement that you made to the police?

A (There was no response.)

Q Is that your statement? You don't have to read it right now.

A (There was no response.)

Q Melissa, is that your statement?

A (The witness nods.)

Q Is that your statement? Can you say yes or no, please?

A Yes, it is.

Q Okay. See that, right where I indicated? Actually, hold on real quick.

Your Honor, may I approach her? I'm going to -- I'm just showing her this.

And you indicated on direct examination that you -- that Randy fired into the ceiling; is that correct?

A Yes, he did.
Q Okay.
A There's pictures where he fired into the ceiling.
Q All right. Read that to yourself right there. Where it's circled.
A What do you mean read it?
Q Read it to yourself.
A It says fired a shot at him.
Q Okay. So in your statement you said that Randy shot a fired -- fired a shot at Casey; is that right?
A He was -- had it behind his head. And then he turned around, took it from behind his head, put it right here beside his ear and fired into our kitchen ceiling.
Q Okay. So that's not at him? Would you agree that that's not at him if he fired it up into the ceiling?
A No.
Q Okay. So that's a different -- what you testified to is different from what you put--
A It's not --
Q -- statement --
A -- different. He was trying to make a point --
Q All right --
A -- that he will shoot him. Because he put the gun right next to his ear said and said --

Q Okay --
A -- I'm going to --
Q -- that's enough --
A -- back of his head.
Q Okay. As far as -- okay, you said that on direct examination that Casey hit your dad first; is that correct?
A No. My dad hit Casey first.
Q But on direct examination you said your dad hit Casey--
A I was--
Q -- Casey hit your dad first --
A -- I told them I didn't need to write a statement.
Q [indiscernible] --
A -- I couldn't function when I was writing that statement. And no, he knocked Casey over on the bike and then Casey got up and that's when Casey subdued him.
THE COURT: All right, need to make sure we have some rules here.
He ask a question and you can answer it.
Make sure y'all don't talk over each other, okay.
BY MR. DEBRUIN:
Q All right. So your position is that your dad

punched Casey first; is that right?

A (The witness nods.)

Q Is that correct?

A Yes.

Q Where did you live on September 8 -- or September 10, 2018?

A [redacted] North Old Pendleton Road.

Q Is that your parents house?

A Yes.

Q That's your dad's house?

A I, actually, wasn't living in the house. I had a camper in the backyard.

Q Okay. But you were living on that property?

A Yes.

Q Okay. And who owned that property, your parents?

A Yes.

Q Do they live there now?

A No.

Q Do you live there now?

A I do.

Q So you live on their property still?

A Yes.

Q Okay. When's the last time you spoke with your father?

A The day he left.

Q Okay. Your mom, she's been diagnosed with dementia; is that correct?

A Yes.

Q She has good days and bad days?

A I wouldn't know.

Q You don't ever talk to her at all?

A He won't let me.

Q Do you ever talk to her at all?

A He won't let me.

Q When's the last time you spoke to your mom?

A I called her two weeks ago because my brother had a baby.

Q Okay.

A And he told me if I called back again, that it would be the last thing I ever did on this earth. And I documented that with the solicitor, with cops.

Q When you talk to your mom, you ever asked her for money to pay electrical bills?

A No.

Q You didn't tell her that--

A She would let me borrow money before, yes, and I paid her back.

Q Okay. So recently you borrowed money from her?

A No.

Q You use to work for a home health care; is that correct?
A I did.
Q You took care of elderly folks?
A I did.
Q You took care of vulnerable adults?
A I did.
Q You have experience with people with dementia?
A I do.
Q You got fired from that job; is that right?
A No.
Q From health care?
A No.
Q You didn't get fired from there?
A I didn't get fired.
Q Okay. You ever been -- you got convicted of a crime relating to elderly folks; is that right?
A Yes.
MR. PLEMING: Objection, Your Honor.
THE COURT: What's the objection?
MR. PLEMING: Beg the Court's indulgence.
I withdraw the objection, Your Honor.
THE COURT: All right.
BY MR. DEBRUIN:
Q You got convicted of a crime regarding elderly

folks, didn't you?

A I did.

Q Specifically, you pled guilty to exploitation of vulnerable adults; is that right?

A I did.

Q Because you were stealing their credit cards?

A No. It had nothing to do with credit cards.

Q You're just exploiting older people?

A It's not exactly -- you. . .

Q You were taking their money?

A No, I wasn't taking their money.

Q But you pled guilty to--

A I pled guilty because I sat in county jail for three months and it can take up to two years to go to trial. And I had every evidence showing that I didn't take it. My sister, who's out in that waiting room, it was her lady. And she can testify that the lady's aunt, because she has no children, was the one stealing her money.

Q But you pled guilty to it?

A Yeah, because my 16 -- 15 year old -- 16 year-old son was coming to see me in jail. And begging me just to take the plea so I could come home.

Q All right. That's not the only thing you pled guilty to, right?

A I have a criminal record but that don't make it okay for him to shoot me.

Q You pled guilty to shoplifting enhanced; is that correct?

A I have shoplifting, yes, I do.

Q That means because you shoplifted more than three times, it's enhanced?

A Yes. And I shoplift when my parents give me nerve pills and asked me to go get them Mucinex, toilet paper, things they need. So --

Q So it's your parents --

A -- if you want to bring up my --

Q -- so it's your parents fault that you shoplifted now, is that what you're saying? You're telling the jury that it's your parents fault that you shoplifted?

A They would give me nerve pills and ask me go get toilet paper, Mucinex because my momma can't breath. And Casey Nalley can testify to that.

Q And that's not the only crime as far as drugs that you've been convicted of?

A I have a criminal record, yes, sir.

Q You've been--

A But that gives my father no right to shoot at me.

THE COURT: Ma'am, you got to answer the question, then you can explain, okay.

BY MR. DEBRUIN:

Q You've also been convicted of possessing methamphetamine; is that right?

A It is.

Q Okay.

A How long ago was that methamphetamine charge?

Q When you pled guilty to exploiting vulnerable adults, did the solicitor go over the elements of the crime? The Judge go over the elements of the crime?

A I signed a plea deal.

Q Okay. You had to go in front of a Judge and tell him that you were guilty; is that right?

A I had to, yeah.

Q Okay. Do you remember something to the effect of improper and unlawful -- or unauthorized use of funds, assets, property of a vulnerable adults by a person for the profit or advances of that person. Do you remember them talking about that?

A No. The only thing with that was oatmeal. They said I took a pack of oatmeal and dollar that she had hid that she pays -- she would pay me to iron clothes for her.

Q So you pled guilty to taking a pack of oatmeal; is that what you're saying?

A Yeah, I pled guilty.

Q Okay. All right. On September 10, 2018; you told police that your dad had blacked your eyes a couple days before; is that right?

A He didn't black my eye, he beat me senseless.

Q Okay. You said your dad did that?

A Yeah, my dad did that.

Q And that you had called the police a couple of days before about that situation?

A Yeah. Actually, my mom did.

Q Okay. But it was your dad that beat you up?

A Yeah.

Q Okay.

A The cops took pictures of me the day they came out because two days before he beat me so bad. I had two black eyes. I had stitches from end to end on my lips.

Q So you remember the police coming out a couple days before?

A I do.

Q Remember the police officer filling out a police report?

A Yes, sir.

Q And he was talking to you about the situation?

A Yes, sir.

Q Officer Brandon Morris ring a bell to you?

A I don't remember.
Q Okay. Do you remember telling Officer Morris, though, that it was your brother who beat you up?
A My brother was holding me.
Q Okay --
A In the corner while my daddy was beating the tar out of me, yes.
Q So now your brother was beating you up--
A No, my brother --
Q -- he was --
A -- my brother never laid a hand on me. He held me back my while my daddy beat me.
Q Okay.
A And my momma's, actually, the one that called the cops out there that day. Because they were beating me.
MR. DEBRUIN: Your Honor, if you don't mind, can you instruct the witness--
THE COURT: You need to only answer questions and not -- you can answer the question and you can explain your questions -- answers. But other than that, that's kind of how we do this, all right.
BY MR. DEBRUIN:
Q When the police came to your a couple days beforehand and you told them that your brother had beat

you up or your brother had held you down and your dad had beat you up, the police make -- and you're all bloody and black and blue; is that right?

A (The witness nods.)

Q Did the police make any arrest that day?

A No.

Q Do you recall because your son told them that you make up stories about things?

A My son didn't tell them I made up stories. My momma asked me not to press charges.

Q Do you remember the police officer looked at both your brother and your dad's knuckles and neither of them had any indication of red marks --

A It wasn't knuckles. It was knees and elbows. He had his--

Q Did you -- do you remember the police looked at your brother and your dad -- and you were bleeding that day; is that right?

A Yes, I was bleeding.

Q They were looking at your brother and your dad and they didn't have any blood on them, did they?

A No, they didn't.

Q But they beat you senseless and bloody but they didn't have any blood on them when the officer got there. Is that what you're telling--

A The blood was coming from my face.
Q And they continued to beat you up after the blood started coming?
A Yes.
Q But no blood on you?
A There was blood on me.
Q No blood on them; is that right? Is that right; no blood on them?
A I don't know.
Q Okay. But, again, nobody was arrested that day that you claimed your brother and your dad held you down and beat you--
A I have the hospital records, I can get them.
Q But nobody was arrest that day--
A Because they begged me -- my momma begged me not to press charges on it.
Q Please answer the question. Nobody was arrest that day?
A No, nobody was arrested that day.
I need a break. I need a break.
THE COURT: You can break after this.
BY MR. DEBRUIN:
Q So you're still living in your dad and mom's house where your dad and mom asked you to leave?
A They never asked me to leave.

Q They never asked you to --

A He told me when he left.

Q Okay. Your boyfriend, who was told to leave by your dad, is back on the property again too?

A He wasn't asked to leave by my dad. My dad asked him to leave that Friday.

And he said, I just don't want you to live here with her.

Q Okay. But he's living there now?

A Yes, he living there now. We're fixing to get married.

My dad said, Here you take the house. You can have it. I'm going to stay with Mandy. So we've been doing the upkeep and--

Q So your boyfriend got, on that September day, your boyfriend got into a fight with your father; is that right?

A My boyfriend was defending himself, yes.

Q And your son came to defend his grandfather; is that right?

A My son pulled up, he was at the Spinx. All he seen was my boyfriend and my dad in the road fighting with neighbors.

Q And he came --

A And, of course, his first thought, that's my

grandpa.

Q Okay. So he came and defended your --

A He --

Q -- father?

A -- he only hit Casey one time and--

THE COURT: Let him finish the question, ma'am, then you can answer.

THE WITNESS: I don't know how to answer it.

THE COURT: Well, I'm just saying let him finish the question.

BY MR. DEBRUIN:

Q Your dad -- or your boyfriend -- or your son defended your father from your boyfriend; is that right?

A Yes, he did.

Q Okay. And your boyfriend punched and kicked your son?

A No, he did not.

Q He didn't touch your son at all?

A No, he did not.

Q Okay. Broke your father's rib?

A Yeah, he did.

Q Put a knot on his head?

A There was no knot on his head.

Q Okay. Got into a fight with him; is that right?

A Of course, he was fighting him. He was trying

to shoot us.

Q All right.

A If you had a gun pointed at you, what are you going to do?

Q But this man who beat up your father, wasn't supposed to be back at the property--

A He wasn't on the property, they were in the middle of the road.

Q Let me finish the question.

A So he wasn't on my dad's property.

Q Let me finish the question. This man, who beat up your dad, who your dad had told not to come back to the property, who is now on the property living there now, you're still with this guy; is that right?

A Yes.

Q After your dad went to jail, you started using his car?

A No.

Q Okay.

A My brother did.

Q Your brother did, not you?

A No.

Q Okay. You'll do anything you want to get what you want? You'll say anything to get what you want, want you?

A Excuse me?

Q You'll say anything you want to get what you want, want you?

A I didn't drive his car. My brother drove the Mustang.

MR. DEBRUIN: Your Honor, I have no further questions.

THE COURT: Any redirect?

MR. PLEMING: No redirect, Your Honor.

THE COURT: All right, you may step down.

THE WITNESS: I need to speak to you.

I need a recess.

THE COURT: All right, ladies and gentlemen, we're going to take a short break. So I'm going to ask you to go back to the jury room, do not discuss the case and we'll bring you out in just a few minutes.

(WHEREUPON, the jury left open court at approximately 10:55 a.m.)

THE COURT: All right, we'll take five, ten minutes.

MR. PLEMING: Thank you, Your Honor.

(WHEREUPON, a short break was taken.)

THE COURT: All right, The State ready?

MR. PLEMING: Yes, sir, Your Honor.

THE COURT: The Defense ready?

MR. DEBRUIN: Yes, sir.

THE COURT: All right.

Are they ready?

If they are, bring them in.

(WHEREUPON, the jury entered open court at approximately 11:10 a.m.)

THE COURT: All right, State, call your next witness.

MR. PLEMING: Thank you, Your Honor, The State calls Casey Nalley.

THE COURT: Come forward to be sworn.

THE CLERK: Please stand, raise your right hand.

CASEY NALLEY, after being duly sworn{,}testified as follows:{F}

THE CLERK: If you would, please have a seat, state your name for the record, please.

THE WITNESS: My name is Charles Casey Nalley.

DIRECT EXAMINATION

BY MR. PLEMING:

Q Mr. Nalley, what is your relationship to Melissa Karr?

A She's my girlfriend.

Q And how long have the two of you been together?

A Nine, 10 years.

Q Okay. When you -- do you know her father, Randy Marchbanks?

A Yeah.

Q And how well have the two of you gotten along during the time that you've been dating his daughter?

A I thought we got along good.

Q Okay. In September of 2018, did the two of you have a disagreement.

A Not--

Q Did--

A No.

Q -- was he upset with you about anything?

A Not that I can think of.

Q Okay. Do you know what caused him to behave the way he did the morning of September 18th -- September 10th?

A This is what I had heard. Somebody had told him that I had punched holes in the roof of his car with a screwdriver.

Q Did you do that?

A No.

Q Okay.

A And even went out there and checked and showed one of the officers that there was no holes in the top of the car.

Q And when did you show that to one of the officers?

A I think it was the day that it happened or late -- I can't remember but I showed somebody.

Q Okay. Was that before the day of the incident on--

A No.

Q Okay.

A This would have been after.

Q Okay. In the days prior to September 10, 2018, had you been staying there at that house at [redacted] Old North Pendleton?

A Yes.

Q And when did you stop staying there?

A I stopped staying there, it was the Friday night before all this happened.

Q Okay. And how many days before this happened was that?

A So Saturday, Sunday, then I went and picked her up for Monday.

Q Okay.

A For work.

Q Okay.

A So I stayed away the weekend.

Q Okay. So what is it that caused you to leave

that Friday and stopped staying there?

A He told me he didn't want me to live there no more.

Q Did he tell you why?

A (The witness shakes his head.) His exact words was nothing against me, just didn't want nobody to live there no more.

Q All right.

A And I respected it and left.

Q All right. And so were you present for the incident that happened where the police were called out days before September 10th?

A No, uh-huh.

Q Okay. And let's talk about September 10th, 2018. What -- why did you come over to the house that morning?

A To pick Melissa up for work -- or she was going to follow me to work. I just had got her a job at J.R. Topman Sign. I was manufacturing signs for him and he needed a secretary. She needed a job. So we were working to get her her own place.

Q All right. And tell us what you remember when you arrived at the house that morning.

A I met her at the door. And she said, I'm not quite ready yet, just come stand at the bathroom door,

I'll be ready in a few seconds.

So I went and stood at the bathroom. And then I heard the gun cock at the back of my head. And I turned around, he had the gun, I turned around, started walking off. He fired and he said that was my one shot, the next one would go in my head.

Q Okay. And after he fired that one shot in the house, what did you do?

A I went to my motorcycle and started pushing it to the road.

Q Okay. What did Mr. Marchbanks do?

A He followed me out there.

Q And tell us what you recall happening once you got out close to the road.

A I, finally, seen that he wasn't going to give up and I told him to put the gun down and fight like man.

Q And what did he do when you said that to him?

A I can't remember if he dropped the gun or turned it around backwards or -- I don't remember but when he got close to me, close enough to where I could get to him, I hit him so I could get the gun away from him. I remember when he hit the ground, I'm grabbed the gun and threw it.

Q Oaky.

A That way he couldn't get his hands back on it to shoot me.

Q Okay. And after getting the gun away from him and after hitting him, what did you do? What happened next?

A I got up. Well, her son come over, you know, during the mix of the, you know, the skirmish. Well, you know, I got him off of me, you know, pushed him off. And I was, like, you don't even know what's going on. And then I tried to get Melissa to come with me on the motorcycle, she didn't want to leave him. And I left and went straight to the police department.

Q Okay. That's son you're referring to, that's Blain Spearman, Melissa's son?

A Yeah, Blain.

THE COURT: Can I interrupt you?

Need to approach one second.

(WHEREUPON, an off-the-record bench conference was held in the presence of the jury but out of the hearing of the jury.)

THE COURT: All right. We had sequestered witnesses, so that's why I had to ask.

MR. PLEMING: Not a problem.

THE COURT: I just need to check on that. Sorry about that. Sorry about the interruption.

BY MR. PLEMING:

Q When is the last time that you saw Blain,

Melissa's son?

A It's been, at least, six months, maybe longer.

Q Okay. Do you have any idea where he is nowadays?

A No. I know he does, like, construction, he jacks up flooring in houses. So he probably travels a good bit.

Q Okay. Did you know him to travel when you were still talking to him?

A Yeah. He worked out of town a good bit.

Q Okay. All right. So once you -- once the skirmish ended and you're able to get to your motorcycle, what did you do?

A I left.

Q And did you -- what did you observe as you were leaving? What's the last thing you remember seeing or observing there at the scene before you left?

A The neighbors were over there, I was trying to get Melissa to get on the motorcycle with me but she wouldn't leave Blain. Randy come over and, actually, tried to push my motorcycle down but I caught it as he pushed it. And then I just got on it and left and told her that I would meet up with her later. I then went to J.R. Topman sign and told them what happened so I wouldn't get fired. Then went straight to the sheriff's

department.

Q Okay.

A Which they were waiting on me.

Q Okay. And did you talk to anyone from the sheriff's office about what happened that morning?

A Yeah, I can't remember the officers name but there were two of them they took me in the back room and that's where I wrote my statement and all of that.

Q All right. All right, I have no further questions. Please answer any questions that Mr. DeBruin may have for you.

CROSS-EXAMINATION

BY MR. DEBRUIN:

Q Just for the record, let me clarify this. You said in direct examination that you hit Randy first; is that correct?

A Yeah, he had a gun.

Q Okay. You said inside the house Randy shot one shot?

A In the back of my head.

Q All right. Did he shoot anytime else?

A It happened in such a phase. I know he shot other times but I was gone.

Q You were gone by then?

A Yes.

Q So he only shot one time while you're in the house?

A (The witness nods.)

Q Is that right?

A That's right.

Q And before the fight, he only shot one time, per your testimony; is that right?

A Right.

Q All right. You gave a statement to -- you gave a statement to police; is that right?

A Yeah.

Q Okay.

May I approach the witness, Your Honor?

THE COURT: You may.

BY MR. DEBRUIN:

Q Read this to yourself.

A (The witness complies.) Yeah.

Q In your statement, you said that Randy came out of the house and shot three shots at you and then you heard the gun start clicking; is that right?

A Yeah.

Q That's what you said in your statement?

A (The witness nods.)

Q That's not what you said here today; is it?

A No but you got to remember all this was -- this

was in a haze. I mean, you can't expect -- I mean, you get shot at and see how accurate your stories are.

Q So you admit that your story has changed from when you made the statement to what it is now today; is that correct?

A Either way I got shot at.

Q Okay. Randy told you to come -- or leave his house, right?

A He told me -- he told me I couldn't live there on Friday.

Q Okay. And Melissa had told you about a incident that happened a couple of days beforehand where the police were called; is that right?

A Yeah, I guess, I don't know what she's talking about.

Q She didn't tell you about a incident that happened between her and her dad, possibly--

A Where he beat her up?

Q What's that?

A Where he beat her up.

Q Right. Did you--

A Yeah, I knew about that.

Q Right. And she told you about that?

A Yeah.

Q All right.

A And I went and stayed with a buddy of mine.
Q Okay. Do you remember talking to Randy and telling him that you're going to kill him?
A No, not at all.
Q This incident happened prior to the incident that happened on September 10; is that right?
A That's correct.
Q And he told you to stay out of his house? When he told you to leave. He told you to stay out of my house?
A He said that I couldn't live there no more.
Q And you came back anyway?
A Well, I still had to get my stuff. No eviction notice was served or nothing.
Q Okay. Are you still living in this house?
A Yeah.
Q Even though you know he doesn't want you living there, you're still living there?
A He doesn't live there.
Q It's his house, right?
A No eviction notice.
Q Okay. Do you pay rent?
A Yeah.
Q You did. You pay rent to them?
A I pay rent to the mortgage company.

MR. DEBRUIN: No further questions, Your Honor.

THE COURT: Any redirect?

MR. PLEMING: Just real briefly.

REDIRECT EXAMINATION

BY MR. PLEMING:

Q Okay, Mr. Nalley, there was a little bit confusion there. Do you recall hearing additional shots after he fired at you inside the house as you were trying to flee?

A It all come in -- it was all such a haze but yeah, I mean, I was -- the adrenaline.

Q Did you just make that up?

A No, I didn't, I didn't just make it up.

Q Okay.

A What I wrote on the statement was probably the most accurate because it just had happened. You got to remember this has been what, three or four years ago.

Q Yes, sir.

A So yeah, what I wrote on the statement is probably the most accurate.

Q Okay. And do you think that Mr. Marchbanks has any problems with you living at the house now that he's no longer living there?

A I don't have any -- no, I never see him.

Q Okay.

All right, that's all I have for you. Thank you.

THE COURT: All right, you may step down.

Next witness.

MR. PLEMING: Your Honor, the state calls Joshua Genther.

THE COURT: If you'd come forward to be sworn.

THE CLERK: Raise your right hand.

JOSHUA GENTHER, after being duly sworn{,}testified as follows:{F}

THE CLERK: Thank you, sir. If you would, have a seat, state your full name for the record, please.

THE WITNESS: Detective Joshua Genther with the Pickens County Sheriff's Office.

DIRECT EXAMINATION

BY MR. PLEMING:

Q Detective Genther before we begin, let me pause for a minute.

Your Honor, may we approach for just a minute?

THE COURT: Sure.

(WHEREUPON, an off-the-record bench conference was held in the presence of the jury but out of the hearing of the jury.)

THE COURT: All right, ladies and gentlemen, we

need to take a short break just before we get started with this witness. Just be a few minutes, step back in your jury room, then we'll bring you right back out. And don't discuss the case.

(WHEREUPON, the jury left open court at approximately 11:26 a.m.)

THE COURT: All right, have all the proper precautions be taken with the gun?

MR. PLEMING: It looks that it has. I talked to Officer Raines about this a few days ago to make sure that the gun was completely disabled. We need to follow the protocol and check with court security to ensure that.

THE COURT: You want to do that, make sure it meets your approval?

All right, y'all ready?

MR. PLEMING: All right, we are now ready. I would just like to pre-mark the exhibits before the jury comes back.

THE COURT: Okay.

(WHEREUPON, State's Exhibits Nos. 31-41 were marked for identification only.)

MR. PLEMING: State's ready, Your Honor.

THE COURT: All right, let's get Mr. DeBruin back in here.

All right, are you ready?

Y'all got the gun premarked and everything you need?

MR. PLEMING: Yes, Your Honor.

THE COURT: If they're ready, bring them in.

(WHEREUPON, the jury entered open court at approximately 11:35 a.m.)

THE COURT: All right, you may proceed.

MR. PLEMING: Thank you, Your Honor.

BY MR. PLEMING:

Q Would you please state your name and occupation?

A Yes, it's Detective Joshua Genther with the Pickens County Sheriff's Office.

Q Detective Genther, how long have you been with the Pickens County Sheriff's Office?

A Been with Pickens County coming up on five years, four years at this point. And I've been an officer for about 10 years.

Q What's your current position?

A I'm a detective with the Special Victims Unit.

Q How long have you been a detective?

A Around four or five months.

Q Okay. And prior to becoming a detective, what was your position and your duties?

A So I was a road patrol officer. We handle most

entry calls that come in throughout the day.

Q And were you in that position, working in that position on September 10th, 2018?

A I was.

Q On that date, did you respond to a incident at [redacted] North Old Pendleton Road?

A I did.

Q What was the nature of that call?

A The call came in as a possible disturbance in progress, a shooting incident. When we--

Q I'm sorry, I didn't realize you were finished. And what did you find when you arrived on the scene there?

A Well, when I first arrived on the scene I spoke to Mr. Spearman, which would have been the grandson of Mr. Marchbanks. He said that him and --

Q Let me stop you there. Don't repeat the statements that anybody else made.

MR. DEBRUIN: Your Honor, if I may real quick, one of the jurors, I think, maybe couldn't hear or something.

PROSPECTIVE JUROR: Having a hard time hearing.

THE COURT: Okay, thank you.

THE WITNESS: You guys hear me good now?

PROSPECTIVE JUROR: Lean into the microphone a little bit more. Here repeat now it.

THE WITNESS: How about now? Okay, my apologies.

BY MR. PLEMING:

Q I was, actually, going to ask if you could pull the mic a little bit closer. When you arrived there on the scene responding to that call, what did you first observe? Without getting into anything that anybody said to you.

A Mr. Spearman was the first person who I observed.

Q Okay. Did you talk to him about what had happened?

A I did.

Q Okay. And after speaking -- how long did you talk to him?

A It was a very brief conversation before I [indiscernible] Mr. Marchbanks to speak with him.

Q Okay. And did he then go get Mr. Marchbanks to speak to you?

A He did.

Q Describe Mr. Marchbanks demeanor and appearance when he came out to talk to you.

A He was visibly upset and frustrated.

Q Did -- did you detain him before getting his side of the story?

A No, not at that moment, he wasn't placed in detention or investigative detention.

Q Did you check to make sure he was not armed?

A I did due to the nature of the call. I did a pat down, terry frisk, just to make sure he didn't have any weapons on him.

Q Okay. And did he voluntarily speak to you before you had ever asked him any questions?

A Yes, at that time he did.

Q Okay. What do you recall him saying when he first came out to you before you had a chance to even ask him anything?

A He initially said that he got into a physical altercation with Mr. Casey and that he was going to handle it himself.

Q Okay. And did he make any other comments or statements that you recall about--

A I believe during it he said, If I wanted him dead, he would have been dead.

Q Okay. And did he -- after making the two statements, If I had wanted him dead, he would be dead. And saying that he would handle it himself, did he provide you with anymore details about what had happened?

A No. He did show me a mark on his -- right side of his rib. Which he believed got injured during the

altercation.

Q Okay. And after speaking with Mr.~Marchbanks, him making those couple of statements and then checking him, his injuries, what happened next?

A Well, he made allegations that Casey was the one who assaulted him. So asked him if he wanted to pursue charges? In which he said he did not want to pursue charges. And as he, previously said, he was going to handle it himself. So I wanted to get him to fill out what -- we have a Waiver of Rights form, if you don't want to pursue charges, you sign a form that you're not wishing to pursue charges.

Q Okay. And at point, had you even spoken to Melissa Karr or any other. . .

A Melissa Karr wasn't on the scene at the time, neither was Casey.

Q Okay. And were you, eventually, able to talk to her?

A She arrived a short time after, while I was speaking to Mr.~Marchbanks; and I made contact with her.

Q Okay. And how did she arrive? Where did you see her?

A So I would be sitting in the driveway at the point. Mr.~Marchbanks was by my car, I was having a conversation with him, getting that paperwork filled out.

She approached from behind me, off the street, in her vehicle.

Q Okay. She was in her vehicle?

A Yes.

Q Okay. And describe her appearance after she got out. Did you observe any physical marks or any injuries to her?

A Not at that moment when I spoke to her. She was visibly upset and frustrated.

Q Okay. And did you -- after speaking to her, were you able to observe any injuries to her?

A Yeah, she had a cut on her mouth, on her lip.

Q Okay. And after talking to her, did you -- did you also talk to her son, Blain Spearman?

A I did.

Q Okay. And did you take statements from Ms. Karr and her son about what happened?

A I did.

Q And after getting those statements, about what happened that morning, what did you decide to do?

A We determined that Mr.~Marchbanks discharged a firearm into a dwelling and pointed and presented the firearm at her. And he was placed under arrest at that time.

Q Okay. And--

A My apologies, he was placed in investigative detention at that time.

Q Okay. And when you placed him into custody, did you attempt to advise him of his Miranda rights?

A I did attempt to, I was interrupted half way through. I asked him if he understood, he made a note as if he did. He wasn't asked any questions by me after that point.

Q Okay. And now, when you made the decision to charge him for the offense, what charges did you initially charge him with? Based on the statement that you received from Ms. Karr and her son?

A From my understanding the charges that initially were made were attempted murder and the use of a weapon during the commission of a violent crime.

Q Okay. And after you'd spoken to Mr.~Marchbanks again, did you then inspect the house?

A I did. So me and another deputy walked towards the house to inspect it.

Q What did you observe when you inspected the house?

A So Deputy Moon, who was walking in front of me, he observed a bullet hole on the outside of the porch, it's a enclosed porch, what we saw a little bit earlier today. There was a bullet there. And I believe when we

walked onto the porch there were several more entry points.

Q Okay. And after observing these bullet holes -- describe more, specifically, where each of those holes that you observed were located?

A So first one that we located was, if you're looking at the porch, I believe she pointed to it earlier, it would have been towards this area. Say this was the door to the entry of the porch that you see, we found one that was directly to the right of it, if you're looking at it. There was fresh debris from where it seemed like a recent event. And we were able to determine that it wasn't any bullet holes, previously, before we responded to the scene.

Q And what do you mean when you refer to debris that would indicate that it was fresh?

A Entry exit point. Entry points usually smaller because that's where the initial impact is and then it expands, pushing out debris from the wood. So it would have been debris from the wood.

Q Okay. And did you recover any of the spent shell casings?

A I did not recover them. They were recovered on scene by forensic.

Q Did you observe any while you were inspecting

the area?

A I did.

Q Okay. And after observing the bullet holes and the shell casings outside the home, did you go inside the home?

A I met with Ms. Spearman at the door and I asked her where the gun was. And she walked me towards her bedroom where the gun was.

Q Okay. And where was the gun?

A It was in a closet, which I assumed was a bedroom at the time. She had a locked closet. And she had placed it -- she had told me that she placed in it there.

Q Okay. And what type of gun was it that she recovered for you?

A A Sig Sauer, 40 Smith and Wesson was the caliber.

Q Okay. And was that consistent with the shell casings that you found?

A As far as my knowledge, yes.

Q Okay.

At this time--

THE COURT: Before we get to that. . .

(WHEREUPON, an off-the-record bench conference was held in the presence of the jury but out of

the hearing of the jury.)

THE COURT: All right, consulted with counsel and there's no objection to the particular charge.

Ladies and gentlemen, I'm going to charge you, at this time, that it's my understanding that the next -- the solicitor, at this time, plans to offer into evidence a firearm. And I want to assure y'all that this firearm has been checked by our security, courthouse security. And it has been disabled and is inoperable and does not pose any threat. And that at all times it will be only handled under the protocol for safety that we use in the courtroom, so.

All right, you may proceed.

MR. PLEMING: Thank you, Your Honor.

BY MR. PLEMING:

Q I've shown defense counsel what's been previously marked as State's Exhibit No. 8. I'm going to hand State's Exhibit No. 8, as well as, State's Exhibits number 37 through 41 all for identification purposes, and ask you to identify what's contained in these exhibits.

A Want me to read them out, sir?

Q Yeah, you can open it up.

A The Sig Sauer that we found inside the house with two magazines. One of the magazines that was located on Mr.~Marchbanks when I placed him into investigative

detention. And these would be the five shell casings that were located on the scene.

Q Okay. And that firearm marked as State's Exhibit No. 8 and the clips contained in that box, as well, do those all appear to be in substantially the same condition and appearance today as they were when you received them September 10, 2018?

A Yes, yes, sir.

MR. PLEMING: The State moves to introduce State's Exhibit No. 8 into evidence at this time.

THE COURT: Any objection?

MR. DEBRUIN: No, Your Honor.

THE COURT: All right. In without objection, State's Exhibit 8. What's the others?

MR. PLEMING: And the shell casings are marked as exhibits 37 through 41.

All right.

(WHEREUPON, State's Exhibit No. 8 was admitted into evidence.)

BY MR. PLEMING:

Q And do the shell casings marked as State's Exhibits 37 through 41 appear to be in substantially the same condition and appearance as they were when you found them?

A They do.

Q Okay.

And The State moves to introduce State's Exhibits 37 through 41 at this time, as well.

THE COURT: All right, any objection to those?

MR. DEBRUIN: None, Your Honor.

THE COURT: All right, in without objection.

(WHEREUPON, State's Exhibits Nos. 37-41 were admitted into evidence.)

MR. PLEMING: I am now opening State's Exhibit No. 8 and presenting the weapon to the jury at this time.

BY MR. PLEMING:

Q Detective Genther, who else did you speak with during the course of your investigation that morning?

A I spoke to Mr. Spearman, Ms. Nalley [verbatim] Karr, Mr.~Marchbanks and we received information from a neighbor across the street that observed the incident.

Q Okay. And did you receive any cell phone video footage of the altercation that took place in the roadway or by the roadway that morning?

A Yes. The neighbor was able to provide a recording of the altercation that happened in the middle of the road to the sheriff's office.

Q And how would you describe the quality of that recording?

A You're able to view and see some of the individuals. It's grainy, it's not the best quality or recording.

Q Were you able to, from seeing that, determine, I mean, who was hitting who or anything like that or was it too grainy or how would you describe it?

A Yeah, you could see, obviously, see, a physical altercation occurring. You see two individuals walk off, yeah.

Q Okay.

THE COURT: Pull that mic down just a little closer.

THE WITNESS: Oh, I'm sorry.

BY MR. PLEMING:

Q But from that video could you even identify the people that were in the video?

A Not without previous knowledge, no.

Q Okay, that's all I wanted to ask about that. Were you wearing a body worn camera?

A I was.

Q At the scene that morning?

A I was.

Q Okay. And have you had a chance to review the footage that was recorded from that camera that morning?

A I have.

Q All right.

At this time I'm showing defense counsel State's Exhibit No. 10 and 11, as previously marked.

I'm going to hand these two disk up to you at this time and ask if you recognize the markings on these disks?

A I do.

Q And how are you familiar with them?

A Those are my signatures.

Q Okay. And did you initial them and sign and date on the last time that you watched these videos?

A I did.

Q Okay. And are the videos recorded on these disks fair and accurate depictions of the incident as it was recorded by your body camera?

A They are.

MR. PLEMING: Okay, at this time, The State moves to introduce State's Exhibits Nos. 10 and 11 into evidence.

THE COURT: Any objection?

MR. DEBRUIN: Your Honor, if I may just real quickly.

THE COURT: Okay.

MR. DEBRUIN: No objection, Your Honor.

THE COURT: All right.

(WHEREUPON, State's Exhibits Nos. 10 & 11 were admitted into evidence.)

BY MR. PLEMING:

Q Has the audio been redacted from portions of this video?

A I believe they have.

Q Okay.

Your Honor, The State would like to publish State's Exhibit No. 10 followed by State's Exhibit No. 11 at this time.

THE COURT: All right, you can proceed.

(WHEREUPON, there were technical issues.)

MR. DEBRUIN: Your Honor, may we approach real quick?

(WHEREUPON, an off-the-record bench conference was held in the presence of the jury but out of the hearing of the jury.)

THE COURT: All right, just bear with us a few moments.

All right, you got any other?

MR. PLEMING: This is the last that I have with this witness is just to play the video, Your Honor. So once we can get this issue resolved.

THE COURT: I guess, maybe, take a break for

lunch.

MR. PLEMING: Everything seems good on this end but I don't know why it's not receiving this.

THE COURT: If you'll recall, when I charged the jury, I did not say anything about this being any of my duties.

I tell you what, let's just take a short break and see just because of this witness -- I mean, I would like to go ahead and finish up this witness before lunch. But that may not be possible. So I'm going to send you back to your jury room and we'll bring you out just as soon as we get this -- we may bring you back out and send you to lunch. But don't discuss the case and we'll have you back out in just a few minutes.

(WHEREUPON, the jury left open court at approximately 12:00 p.m.)

(WHEREUPON, a short break was taken.)

THE COURT: All right, The State ready?

MR. PLEMING: Yes, sir, Your Honor.

THE COURT: Defense ready?

MR. DEBRUIN: Yes, sir.

THE COURT: All right, if the jury is ready, bring them in.

(WHEREUPON, the jury entered open court at

approximately 12:06 p.m.)

THE COURT: All right, I think we got the technical difficulties ironed out. So you may proceed.

MR. PLEMING: Thank you, Your Honor.

(WHEREUPON, State's Exhibits No.s 10 and 11 were published.)

BY MR. PLEMING:

Q Detective Genther, just for the jury's consideration, has this portion of the video been redacted or is this [indiscernible].

A It's been redacted. It's been removed.

(WHEREUPON, State's Exhibits No.s 10 and 11 were continued to be published.)

BY MR. PLEMING:

Q Detective Genther, I'm going to zip ahead. Is there anything relevant to the evidence collection between this point in the video and where you began speaking with him?

A No, at that time, I'm just collecting his information and documenting on the Waiver of Rights form.

Q Okay.

(WHEREUPON, State's Exhibit No. 10 was continued to be published.)

MR. PLEMING:

Q And skipping ahead to seven minute, 48 seconds into the video, describe what we're seeing here.

A So this, as I previously stated, I was with Mr.~Marchbanks in front of my vehicle, behind me Ms. Karr pulls up in her vehicle and I go to approach her.

Q Okay. And I believe this portion has been audio redacted as well. But I'm going to play just a little bit of it just so the jury can see the appearance of Ms. Karr.

(WHEREUPON, State's Exhibit No. 10 was continued to be published.)

BY MR. PLEMING:

Q And tell us what's happening at this point. I just skipped ahead about a minute from where we just were.

A So I'm still talking to Ms. Karr and what I believe to be her brother arrives on scene and he's going to talk to his father.

Q Okay. Now, let's skip four minutes ahead in the video. At this point, what were you doing during this portion that we're skipping here?

A Just gathering Ms. Karr's statement about what happened without writing it down at it this point. Just collecting her statement.

Q This lady in the blue shirt, do you know who that is?

A Not off the top of my head, sir. I believe that

was either a family friend or family member.

Q Okay. Do you recall -- was she there when you arrived?

A Not to my knowledge.

Q Okay.

A No, she was wasn't there when I arrived, she arrived after Ms. Karr did.

Q Okay.

(WHEREUPON, State's Exhibit No. 10 was continued to be published.)

BY MR. PLEMING:

Q About 13 minutes in the video, I'm going to now skip ahead to the 16 minute mark. And feel free to describe for the jury what we're seeing in this part of video.

A So, at this point, we determined that Mr.~Marchbanks -- or we had enough reasonable suspicion to believe that he possibly committed a crime at this point. I go to approach him to put him in investigative detention. I know that kind of sounds like a whole of bunch of police talk, but we believed he committed a crime and I'm placing him in investigative detention until I'm able to determine the rest of the case and get their written statements.

Q And at this point, had you gone into the house

or inspected the house?

A I have not. So, at this point, I've only been approached by Mr. Spearman, spoken to Mr.~Marchbanks and then spoke to Ms. Karr where she stated that Mr.~Marchbanks discharged a firearm at her.

Q Thank you.

(WHEREUPON, State's Exhibit No. 10 was continued to be published.)

BY MR. PLEMING:

Q What did you just ask him and what did he say?

A At that point, I asked him where his gun was at and he say -- I believe, I recall him saying, I placed it in the house. Or it's in the house.

(WHEREUPON, State's Exhibit No. 10 was continued to be published.)

MR. PLEMING: At this time, I'm going to, with The Court's permission, publish State's Exhibit No. 11, the second disk containing Detective Genther's body cam video.

THE COURT: All right.

(WHEREUPON, State's Exhibit No. 11 was published.)

BY MR. PLEMING:

Q All right. If you would, just describe what's happening at the beginning of this video.

A So on these clips, it's after he's been placed in investigative detention and put in the back of my car. Me and Deputy Moon are approaching the house to further investigate this incident, to see if we can find any evidence.

(WHEREUPON, State's Exhibit No. 11 was continued to be published.)

BY MR. PLEMING:

Q Describe what we're seeing in this frame.

A As I was previously stating, if you're looking at that porch, to the right, the lower part, which you can't fully see, I don't believe in this screen, is where one of the -- we found one of the bullet entry points.

(WHEREUPON, State's Exhibit No. 11 was continued to be published.)

A That's Detective Moon pointing out where he located the bullet.

(WHEREUPON, State's Exhibit No. 11 was continued to be published.)

MR. PLEMING: Beg the Court's indulgence for just a moment.

THE COURT: Let me just -- one last thing.

(WHEREUPON, an off-the-record bench conference was held in the presence of the jury but out of the hearing of the jury.)

THE COURT: Ladies and gentlemen, what you're going to see now, you're going to continue seeing the video but counsel has agreed to mute part of it. Because there's other people that are making statements that are not in this courtroom. So under our rules of evidence that presents a little bit of some issues there. So that's why you're going to continue seeing the video but they have muted it until they get to a certain point that, I believe, one of the witnesses that happens to testify. So that's the reason for this.

(WHEREUPON, State's Exhibit No. 11 was continued to be published.)

BY MR. PLEMING:

Q Detective, tell us what you're doing while you're on the porch there and as you entered into the home?

A Just during this process we're inspecting to see if there any other bullet holes that we can see, visibly, at that time. I'm looking at, around this point, the debris that's in the house from the exit.

MR. DEBRUIN: Your Honor, if I may, I object to referring to them as bullet holes. It -- haven't determined if these are bullet holes, they are holes, obviously. But if he can just refrain from calling

them bullet holes.

THE COURT: All right, sustained.

Ask that that be stricken from the record.

And the jury, you're not to consider that in your deliberations.

(WHEREUPON, State's Exhibit No. 11 was continued to be published.)

BY MR. PLEMING:

Q Detective, what did you ask Ms. Spearman to do? Or Ms.~Marchbanks to do?

A I asked Ms. Spearman [verbatim] where the weapon was. She walked me over to the bedroom and a closet where she handed me the firearm.

Q Okay. Did you just retrieve the firearm from her?

A That was all I retrieved. The firearm that contained, I believe, it contained a magazine inside of it.

Q We're going to skip ahead to five minutes, for the sake of time, was there anything relevant that we're?

A So when I initially walked in I observed what I believe to be was a shell casing, right there in the kitchen area. As I was walking back I was able to confirm that. And asked Ms.~Marchbanks to step out so we could secure that for evidence. Right there, I'm pointing to

the casing. Which if you walk into the kitchen, it's directly behind the table against the wall, in that area.

Q And do you know if that particular shell casing was ever collected?

A I'm not aware if it was or not.

Q Did you collect any of the casings or physical evidence from the scene yourself or did another?

A I did not besides taking possession of the firearm from Ms.~Marchbanks. And that's the only thing I collected.

Q Thank you.

All right, I have no further questions at this time. Just please answer any questions Mr. DeBruin has for you.

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. DEBRUIN:

Q Detective, I'm sorry, I want to make sure I heard that right. So you didn't pick up the shell casing that you said you found inside the house?

A I did not.

Q And to your knowledge nobody else did either?

A To my knowledge, no, sir.

Q So forensic guys, they didn't come in and pick up that shell casing?

A It was my understanding that was the desired outcome but I'm not sure if they did.

Q Okay. You're the lead detective -- you're the lead investigator on this case, right?

A I was the officer that arrived on the scene.

Q So again, you don't know if anybody picked up?

A I do not, no.

Q Okay. So there was no chance of possibly fingerprinting that shell casing to determine if somebody else, maybe, Melissa, picked it up and brought it inside the house?

A I would not know.

Q Okay. Or determine if it's an older shell casing that somebody had picked up and been laying on the floor in the kitchen for a while?

A Yes, sir.

Q So you don't know if it been laying there for a while?

A No.

Q Okay. You can't even tell if it was the shell casing from that gun, can you?

A No.

Q Okay. So really that shell casing in the kitchen, you really have no information about it at all; is that correct?

A It has no information.
Q You don't have any--
A That we located on it, yes, sir.
Q Okay. Were you able to confirm any kind of holes inside the house?
A Not inside the actual house, we weren't able to locate -- I did not locate any bullet hole inside of the house.
Q No bullet holes inside the house?
A Inside the house.
Q So nothing consistent with somebody firing into the ceiling inside the house?
A No, sir.
Q Okay. So if somebody, hypothetically, said that my client had shot a gunshot -- a gunshot inside the house, up at the ceiling, you found no evidence of that at all, right? Is that correct?
A Except the shell casing.
Q So no bullet hole in the ceiling?
A Not that I observed.
Q Hypothetically, if you had heard that, would you determine that person is probably not telling the truth?
A It would be conflicting with the evidence found on the scene.
Q Okay. In Mr. Casey's statement he says that

that Randy shot three shots at him coming out of the house. Talking coming out -- so outside the house, is that consistent with any evidence you collected or discussions with any witnesses, i.e., the neighbor?

A No. There was no shell casings other than that one I found inside the house.

Q Okay. Were you able to -- when you're investigating these cases, do you ever look into the background of a potential victim or witness?

A No, not all the time. At this point, I wasn't a detective, I was a road patrol officer and we usually don't get the time as we do in the detective division to find some of the back story and to look further into the case.

Q Okay. So you were unaware that police were called out to that residence a couple days before?

A Not at the time. We handled the situation as it was presented to us at that point.

MR. DEBRUIN: Your Honor, beg The Court's indulgence real quick.

BY MR. DEBRUIN:

Q Did you -- as far as Mr.~Marchbanks goes, you observed a injury to his rib?

A I did.

Q Okay. Did you -- I think on the video you can

see a knot on his head, did you observe that as well?

A Not that I recall.

Q But after looking at the video, though, you can clearly see that he had a knot on his head?

A Uh-huh.

Q Is that right? Do you see a knot on his head right now?

A And if I could step away because there's two different screens right there.

Q Oh, I'm sorry, all right. Does it look like he's in -- does he have a knot on his head today?

A Not that I can see.

Q Okay. So Mr.~Marchbanks incurred injuries to, obviously, his head and his ribs during this altercation, would be your opinion; right?

A Yes, visibly to that -- to his, I believe, right ribcage.

Q Now, we've heard kind of conflicting reports as far as who hit somebody first. But from your investigation, you would agree that Mr. Nalley Casey hit Mr.~Marchbanks first?

A From the original statement that I got from Mr.~Marchbanks, he was the victim. And that's why I asked him if he wanted to waive his rights.

Q Okay. So you believe that he was hit -- he was

struck first?

A From my understanding, at that point, yes.

Q Okay. Did you take any measurements or did anybody take any measurements as far as the holes in the wall?

A I believe forensics did.

Q Just the down rod, that was it?

A I'm not sure the extent of what they did but I believe so.

Q You're not sure what they did, okay. So I guess that's a question for them then.

A Yes, sir.

MR. DEBRUIN: Your Honor, I have no further questions for this witness.

THE COURT: Any redirect?

MR. PLEMING: Just a couple of questions real quick.

REDIRECT EXAMINATION

BY MR. PLEMING:

Q So when you had first spoken with Mr.~Marchbanks and you had asked him about whether he wanted to press charges, that's before you had the full picture of what had happened that day; correct?

A Yes. At that time, receiving information as it comes through.

Q Okay. And once you got in more information, your assessment of the case, did it change?

A Yes. That our understanding was that Mr.~Marchbanks discharged a firearm towards Ms. Karr.

Q And is that why you conducted the investigations?

A Yes, because it was constantly developing changes during the investigation.

MR. PLEMING: Thank you, no further questions.

THE COURT: All right, you may step down.

All right, ladies and gentlemen, we're going to take a break for lunch. Got some -- a few things we need to go over. So I'm going to give you until two o'clock. So be back in your jury room at two o'clock. Give you a nice little break. Now, my four rules, don't discuss the case, don't do any type of research or don't pay any attention to media coverage, I'm not aware of any. Any social media. If anybody should contact you, other than somebody from the clerk's office, please let the bailiffs know. Other than that, have a good lunch and we'll see you back at two o'clock.

(WHEREUPON, the jury left open court at approximately 12:33 p.m.)

THE COURT: I do want to say something, this is

to all witnesses involved.

And, Ms. Karr, I understand you thought you were being helpful but you are not to add anything, to make any comments during this trial except if you're on the witness stand, okay. Do you understand that?

MS. KARR: Yes, sir.

THE COURT: All right. And do not be distracting and moving around during other peoples testimony, as well, so.

And that goes for all witnesses.

What else y'all needed to take up when the jury is out?

MR. DEBRUIN: Your Honor, we did a sidebar about the video that, my understanding, got muted because there are some hearsay issues on the video. It wasn't muted, you can hear some people who are not going to testify in this case talking. I just want to put that on record, my objection to that.

THE COURT: All right. And I don't think there was anything at a particular point that -- I'm just trying to remember, I don't. . .

MR. DEBRUIN: Again, my -- obviously, my concern is later on when the jury is deliberating if they want to hear it.

THE COURT: Right. We'll have to mute it and

have them hear it out here or something.

MR. DEBRUIN: Thank you, Your Honor.

THE COURT: Anything else?

MR. PLEMING: Nothing else, Your Honor.

THE COURT: All right, we start back at 2:00, how long do you think?

MR. PLEMING: I only have three witnesses left. Two of them will be very short. The other is the forensic investigator that took -- so we got a number of photographs of the scene with the bullet holes and that sort of thing. That's the only thing that will take a while. It will probably be -- I'll probably only need another hour and a half.

THE COURT: We wouldn't be going to the jury this afternoon, doesn't look like.

MR. PLEMING: It all depends on how much of a case the defense puts up.

MR. DEBRUIN: No, Your Honor. I think probably tomorrow morning.

THE COURT: Okay. All right, I just want to make sure. If y'all have any charges, by all means send them to me.

MR. PLEMING: I would have some basic charges but nothing special.

THE COURT: How many pages last time I asked

that?

THE LAW CLERK: Thirty-six?

THE COURT: Yeah, 36 pages. All right.

MR. DEBRUIN: Thank you, Your Honor.

MR. PLEMING: Thank you, Your Honor.

(WHEREUPON, a lunch break was taken.)

(WHEREUPON, Defendant's Exhibit No. 1 was marked for identification only.)

(WHEREUPON, State's Exhibit No. 42 was marked for identification only.)

THE COURT: All right, it's come to my attention that there has been some discussions among witnesses and parties and stuff outside the courtroom, and I just admonish everybody if y'all can't get along, let's not have any discussion. If anything that happens in this courthouse is within the jurisdiction of The Court and contempt powers. So I would admonish everybody to abide by their best manners while they're in the courthouse.

All right, State ready?

MR. PLEMING: Yes, Your Honor.

THE COURT: Defense ready?

MR. DEBRUIN: Yes, sir, Your Honor.

THE COURT: All right, if they're ready bring them in.

(WHEREUPON, the jury entered open court at approximately 2:15 p.m.)

THE COURT: All right, hope everybody had a good lunch. And sorry we're a little bit later getting back, we had a few things to go over. At this time The State is still in their case.

So, at this time, you may call your next witness.

MR. PLEMING: Thank you, Your Honor. At this time, The State calls Kate Mobley.

THE COURT: All right, if you'd come forward to be sworn.

THE CLERK: Place your left hand on the Bible raise your right hand.

KATE MOBLEY, after being duly sworn{,}testified as follows:{F}

THE CLERK: Thank you, ma'am. I believe someone has turned that microphone off. Thank you, ma'am. If you would have a seat, state your name for the record.

THE WITNESS: Kate Mobley.

DIRECT EXAMINATION

BY MR. PLEMING:

Q Thank you, Ms. Mobley. Will you, please -- where do you live?

A At [redacted] Soul Sky Lane, Liberty.

Q How long have you lived there?

A Going on four years.

Q Okay. And who do you live there with?

A My husband and children.

Q Okay. And were you living -- were you living at that address on September 10th of 2018?

A Yes.

Q Okay. And do -- did you know your neighbors at [redacted] Old North -- or North Old Pendleton?

A No.

Q Okay. And have you ever met them before?

A No.

Q Okay. Do you recall on that date, September 10, 2018, witnessing a fight or some sort of physical altercation in the street on Old North Pendleton Road?

A Yes.

Q And, at this time, before I ask you -- well, tell me what you recall observing? About how it came to your attention and what you saw?

A I recall just people yelling and hearing just loud voices outside. And when I looked out my front door I saw people, I guess, fighting in the middle of the road. But from where I'm located, you couldn't really see a whole lot.

KATE MOBLEY-DIRECT BY MR. PLEMING

Q Okay. Were you able to see, from your house, were you able to see the house that the -- the house at that location where that fight was taking place?

A It was taking place in the middle of the road.

Q Okay. Did you observe how it broke up and what happened after the fight was over?

A Not necessarily how it broke up. I believe that I remember, when I looked back out, they were walking back towards the house across the street.

Q Okay. And do you recall hearing anything else after the fight ended?

A At some point, I remember hearing a couple gunshots.

Q Okay. And did you call 911 to report what you were observing?

A I did.

Q Okay. Before you get to that 911 call, I'm showing Defense State's Exhibit No. 42, as previously marked. I'm going to hand this exhibit up to you. Do you recognize what's depicted in that photograph?

A Yes, our neighborhood.

Q Okay. And can you see your house?

A Yes.

Q And can you see the area where you observed this fight taking place?

A Yes.

Q Okay. And is that a fair and accurate depiction of the aerial view of your neighborhood --

A Yes --

Q -- as it would have appeared on that date?

A Yes.

Q Okay, thank you.

At this time, The State moves to introduce State's Exhibit No. 42 into evidence.

THE COURT: Any objection?

MR. DEBRUIN: No, Your Honor.

THE COURT: All right, in without objection.

That's what number?

MR. PLEMING: 42, Your Honor.

THE COURT: All right.

(WHEREUPON, State's Exhibit No. 42 was admitted into evidence.)

BY MR. PLEMING:

Q There should be a laser pointer here right. Press that button. I'm going to have you point out where your house is located. Actually, to avoid any technical difficulties, I'm going to switch out the HDMI cable. Actually, going to come back to that, I apologize.

Going to show Defense what's marked as State's Exhibit No. 36.

Showing State's 36 to you, do you recognize that disk?

A Yes.

Q And how do you recognize it?

A I listened to it and initialed it.

Q And what's recorded on this disk?

A When I called the 911 dispatch.

Q Is it a fair and accurate depiction of that recording?

A Yes.

MR. PLEMING: At this time, The State moves to introduce State's Exhibit No. 36.

THE COURT: Any objection?

MR. DEBRUIN: No, Your Honor.

THE COURT: All right, in without objection.

(WHEREUPON, State's Exhibit No. 36 was admitted into evidence.)

(WHEREUPON, State's Exhibit No. 36 was published.)

BY MR. PLEMING:

Q Ms. Mobley, that's going to conclude all the questions I have for you. If you can -- actually, if you will, please, using that laser pointer and pressing the red button, will you point out where your house is located?

A Right there.

Q There one with the swimming pool?

A Yes.

Q Okay. And can you point out the area in the road on North Old Pendleton, where the altercation took place?

A Right out here.

Q Okay, thank you.

A Uh-huh.

MR. PLEMING: I have no further questions. Please answer any questions that Mr. DeBruin may have for you.

THE COURT: Cross-examination.

MR. DEBRUIN: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. DEBRUIN:

Q Ms. Mobley?

A Yes.

Q Did you witness the beginning of the fight?

A I did not.

Q All right. So it was already in progress?

A Yeah, I had just started hearing loud yelling and that's when I looked out.

Q You mentioned that you heards gunshot?

A Uh-huh.

Q So the gunshots occurred only after the fight; is that right?

A Yes.

Q You never heard any gunshots prior to?

A No.

Q Okay. No sound of maybe a gunshot going off in somebody's house earlier than the fight?

A Not that I recall.

Q Okay. But you recall again after the fight--

A After the fight, whenever the dispatch call, it was a play by play?

MR. DEBRUIN: Your Honor, I have no further questions.

THE COURT: Any redirect?

MR. PLEMING: No, sir, Your Honor.

THE COURT: All right, you may step down.

Thank you.

MR. PLEMING: Thank you, Ms. Mobley.

THE COURT: All right, call your next witness.

MR. PLEMING: Your Honor, at this time, The State calls Michelle Rodriguez.

THE CLERK: Raise your right hand.

MICHELLE RODRIGUEZ, after being duly sworn{,}testified as follows:{F}

THE CLERK: Please have a seat, state your name

for the record.

THE WITNESS: My name is Michelle Rodriguez.

THE COURT: Need to pull your mask down.

DIRECT EXAMINATION

BY MR. PLEMING:

Q Thank you, Ms. Rodriguez. Where do you live?

A I live at [redacted] North Old Pendleton Road, Liberty.

Q And were you living at that address on September 10, 2018?

A Yes, I was.

Q Do you know The Defendant, in this case, Randy Marchbanks?

A I do.

Q How do you know Mr.~Marchbanks?

A He was my neighbor at the time.

Q Okay. And describe where your house is in relation to where Mr.~Marchbanks lived?

A I live on the right side of the house.

Q Okay. I have up here a photograph, aerial photograph, that's already been admitted into evidence, do you -- can you recognize the scene depicted in that photograph?

A Yes.

Q And can you see your house?

A I can.

Q Okay. If you'll use this laser pointer right there. Press the red button and please indicate for the jury where your house is in that photograph.

A Right there.

Q Okay. And can you point out where Mr.~Marchbanks house was?

A Right here.

Q And I see that there's a row of trees separating the two, is there a clear line of sight through those trees from your house to his?

A Yes, for the most part, yes.

Q Okay. All right, thank you. Is there a clear line of sight from your front porch to the driveway in front of his house?

A Yes.

Q Thank you. And on September 10, 2018, do you recall witnessing a fight in the road in front of his house?

A I do.

Q And tell us what you remember seeing that morning.

A I remember they were -- I heard a altercation, so I walked out -- I was on the porch so I got up, I was looking. And I seen Randy walk up towards the road. And when he got towards the road he threw his gun down. And

then I heard the altercation. They turned around when they got done fighting or whatever, they turned around and come back down the driveway. And then I see Randy pick up the gun and then he started walking back towards the house. And then he engaged the gun towards the house.

Q Okay. Could you tell exactly what he was shooting at?

A No.

Q Okay. But you say it was in the direction of the house?

A Yes.

Q Okay. Could you see directly to the house from where you were standing?

A No.

Q Do you recall how many shots he fired?

A I'm going to say, at least, three, maybe, four. I'm not exactly sure.

Q Okay. And could you, by any chance, tell what those bullets were hitting while he was shooting the gun?

A No.

Q Okay.

All right, I have no further questions. Please answer any questions Mr. DeBruin has.

THE COURT: Cross-examination.

MR. DEBRUIN: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. DEBRUIN:

Q How you doing?

A I'm good.

Q Good. Ms. Rodriguez, if you -- you heard gunshots that day?

A Yes.

Q Is that right? Were they pretty loud?

A Yes.

Q Okay. You were in your house?

A I was sitting on my porch.

Q Sitting on your porch?

A Yes.

Q So the only gunshots you heard were after the fight; is that right?

A Yes, correct.

Q So you were sitting on your porch?

A Yes.

Q You would have noticed the gunshot that went off inside the other house, if it would have gone off?

A Earlier or?

Q Yeah, before the fight.

A Oh, no. I would have heard it, yes.

Q You would have heard it?

A Yes.

Q You didn't hear it?
A No, I did not.
Q The only gunshot you heard was after the fight?
A After the fight.
Q So if Randy, hypothetically, was running out after somebody and firing the gun, you would have heard that?
A Yes, I would have heard that.
Q And you didn't?
A No.
Q So in your opinion that didn't happen?
A No, that didn't happen.
Q Okay. After the fight, you heard or you saw Randy shooting into the ground; is that right?
A I saw him shooting towards house.
Q Okay. All right. But you don't know where it struck?
A No, I couldn't see where the gun was actually pointing because it's a good little ways from my porch--
Q You didn't hear it hitting the house or striking the house?
A No.
Q Okay. So you don't know if he, actually, shot the house?
A Yeah, I don't know.

Q Okay. Again, hypothetically -- well, did you see Melissa at all?

A No.

Q So she wasn't around at all?

A I didn't see her.

Q And he wasn't shooting at her feet?

A Not that I know of, no.

Q Okay. So you didn't see that happen at all?

A No.

Q So if she would have, hypothetically, if somebody would say that Randy was shooting at her feet, you would say that did not happen?

A No.

Q Okay. All right. But you didn't see any of the fight; is that correct?

A No, I did not see a fight.

Q Okay. All right.

Your Honor, beg The Court's indulgence one second, please. Your Honor, I have no further questions.

THE COURT: Any redirect?

MR. PLEMING: No, sir, Your Honor.

THE COURT: All right, you may step down. Thank you.

MR. PLEMING: Your Honor, request the witness be free to go.

THE COURT: Any objection?

MR. DEBRUIN: No, Your Honor.

THE COURT: All right, she may be released.

Call your next witness.

MR. PLEMING: Your Honor, the State calls Anthony Raines of the sheriff's office.

THE CLERK: Raise your right hand.

ANTHONY RAINES, after being duly sworn{,}testified as follows:{F}

THE CLERK: Thank you, sir, have a seat and state your name for the record, please.

THE WITNESS: My name is Anthony Raines.

THE COURT: You can take your mask off. May want to pull that microphone as close as you can.

THE WITNESS: Anthony Raines.

THE COURT: All right, thank you.

DIRECT EXAMINATION

BY MR. PLEMING:

Q What is your current occupation?

A I am the lieutenant of the forensics division, Pickens County Sheriff's Office.

Q How long have you been with the sheriff's office?

A I've been with the sheriff's office just over 15 years now.

Q And describe what your duties are as the lieutenant of the forensics division.

A I respond to calls. And I also supervise all the rest of the forensic division, the detectives in the forensics division. We go out and respond to calls, we process scenes, we photograph and collect evidence at crime scenes.

Q And did you have the occasion to respond to the scene at [redacted] North Old Pendleton Road on September 10, 2018?

A I did.

Q And what were you called to do at that location?

A To process the scene of a shooting incident that had already occurred.

Q Okay. And can you describe what you observed when you arrived on the scene there?

A When I arrived on the scene I spoke with Deputy Genther, at that time. And he kind of described what had gone on. And his description to me was that there was a shooting incident that occurred outside the house, that there were five or six gunshots that were fired. And that there were projectiles that had struck the house. He showed me two shell casings, I believe, that they had already found, photographed those. We found the strike marks on the house. He told me what -- that he had spoke

with witnesses and where they had -- the suspect in this case had been seen, apparently, firing the weapon. And showed me the location where that, allegedly, occurred.

I went to the location and as I was searching around I found three more shell casings on the ground. I photographed those, marked them. And then at that point, we went to the house and started marking where the strikes were on the house.

Q Okay. And can you describe where on the house you located those strike marks?

A They were -- there were several strike marks on the house that were outside on the -- it's kind of a screened-in porch. It's got a wood bottom with like a screened-in area all the way around. And then it's wood with vinyl siding at the top and the bottom, above and below the screen area.

Q Okay. And from your observations and your inspection of those three strike marks on that porch area, were you able to make a determination as to when those holes were created?

A It appeared -- I mean, there were several holes there. There were a couple holes that were -- appeared to me to be older. Because they were just breaks in the vinyl siding. And there was kind of a weather proofing material behind that. I don't know if it was installation

barrier or just a weather proof stuff but you can tell that the installation or the weather proofing behind the vinyl siding had been weathered. Where there were three holes, I believe it was, that were -- I mean, it was fresh. The installation was really white. So you could tell that that area right there was something that appeared to have just recently occurred.

Q Okay. So you say that you found other holes where it appeared older due to the weathered installation?

A Correct.

Q You're not referring to the three strike marks that you --

A Correct. The three we marked were distinctly different because the installation, it's styrofoam, I believe is what the material is made out of. And that styrofoam, after a while of sitting there weathering, just like the temperature change, rain, snow, sleet, whatever's come on the side of the house, plus just dirt. On the other areas that I didn't mark, as what we thought were bullet holes, those others -- those areas -- the ones that we found that were like that, we didn't mark those because they were weathered. I mean, instead of white, the styrofoam there, instead of being white, it was dark brown or black. So you can tell it had been there for a while.

Q Okay. So just to be clear, in addition to these

old weathered holes, you had three distinct strike marks that appeared to be freshly made?

A Correct. The Styrofoam inside those holes was white and it was -- it didn't appear to be weathered at all.

Q Okay. And did you -- you said that you had found -- you first located two shell casings in the yard and that you then later found three additional shell casings?

A Correct.

Q So that's a total of five shell casings that you found in the yard?

A Yes, sir.

Q Oaky. And what was -- what observations did you make with respect to the location of those shell casings and the three strike marks that were freshly made?

A Well, those strike marks, what we were told by the witnesses, what Deputy Genther and the other detectives that were there had been told, there was a specific area where the shots were supposedly fired from. So in order to add to that, we used dowel rods. And we would take those dowel rods and stick them through the holes that were in the siding of the house. And we tried to get a dowel without deforming the hole at all. We take a dowel that fits in the hole snugly, stick the dowel

through there. You try to make two points of contact. That way the dowel is going through and it gives you a trajectory.

Q Okay.

A So you can see if it's making two points of contact, your dowel's not moving out and back like this or up and down. It doesn't give you a perfect trajectory but it gives you a general direction of where those -- the rounds would have come from. So as we put those dowels in there, we can see that from where the shell casings were, that was the general direction that the shots would have been fired from.

Q Okay. And you said you photographed the location of those shell casings and the strike marks on the house?

A Correct.

Q Okay. Did you measure the distances between the location of the shell casings and the strike marks?

A I measured to the porch because we don't know which shell casings would have been which hole in the side of the house. So I just got a general measurement from the steps of the porch to each shell casing. And with that, I can tell that -- that -- and we don't know which shot was fired first for the shell casing and which one was last. I mean, if someone was moving forward or moving

backwards. We just know that the closest one to the house, I believe, is 20 feet. And 37 feet, 37 inches, I think, was the location of the furthest one away from house. And they were all sort of in a line, in that general area.

Q Okay. At this time, I'm showing what's been marked previously as --

Beg the Court's indulgence just a minute, got things a little out of order.

I have some photographs marked State's Exhibit Nos. 12 through 29 and 31 through 35, I'm showing those photographs to Defense counsel at this time.

THE COURT: All right, any objection?

MR. DEBRUIN: No objection, Your Honor.

THE COURT: All right.

(WHEREUPON, State's Exhibits Nos. 12-21; 23-29 and 31-35 were admitted into evidence.)

COURT REPORTER'S NOTE: State's Exhibit No. 22 was previously entered into evidence during prior testimony.

BY MR. PLEMING:

Q All right, State's Exhibits 12 through 29 --

THE COURT REPORTER: Give me just a second, please.

(WHEREUPON, the court reporter had technical

difficulties.)

Thank you.

BY MR. PLEMING:

Q All right. I'm handing those exhibits to you now, at this time. Take a moment please to look through them and tell us if you are familiar with the photographs I have handed you.

A Those appear to be the photographs I took on the incident date out at the scene.

Q Thank you. And are they a fair and accurate depictions of the scene as it appeared that day?

A They are.

Q Okay. At this time, I'm going to go through some of them and ask you to -- ask you some specific questions about what is depicted. Going through State's Exhibit 12, 13, 14 -- and can you use that laser pointer there next to you, the red button, just kind of hard to see up on the screen, but can you point out where the shell casings are that are labeled here by the markers?

A That one's really hard to see. And that one is right there. And this one is right here.

Q Okay. I believe this might be a little bit obstructed. But we'll move on.

A There it is right there. Yeah, that's the same shell casing but that's number three there.

Q All right.

A And there's that one.

Q All right. Now, showing State's Exhibit No. 13, can you point out where each of the markers indicate the location of the shell casings are in this picture?

A I think, they're starting back here with -- I'm not sure if this is one, two, three but these are one, two, three, four and five. Because, I think, I marked them, the furthest back would be one and the closet into the porch, the steps to the porch, would be number five.

Q Okay. So based on your previous testimony, placard number five is approximately 20 feet from the porch?

A Correct.

Q And placard number one would be approximately 37 feet?

A Correct, yes.

Q Okay. This is Exhibit 19. State's Exhibit No. 20. And can you, in this photograph, indicate approximately where the bullet holes were located or the strike marks, as you referred to them?

THE COURT: Hold on.

MR. DEBRUIN: I was objecting to reference to bullet holes, Your Honor.

THE COURT: Okay. He's qualified to answer

that.

MR. PLEMING: I had a line of questioning to get there, Your Honor. But if--

THE WITNESS: As I recall, there was a hole here, up here and there was one in the screen there.

BY MR. PLEMING:

Q Okay. And continue to go through the photographs and we'll have some additional questions for you. State's Exhibit No. 23?

A Yeah, there's one right there.

Q Okay. And?

A Yes, that's the same hole right there.

Q Okay. And showing you now State's Exhibit No. 25, point out for the jury, what are we seeing in this picture?

A This is the opposite side. So if you're standing at the porch, there's the exterior wall and then the porch. And then there's a interior wall of the house. So this would be the wall that goes into the house. So it comes through the porch and underneath this chair. And then there's a dowel rod that you'll see is coming out of that hole there. And, I think, that went into, actually, into a piece of wood there, through the sheetrock or whatever that siding is there. I'm not sure if it was a sheetrock or like a plywood type siding. And then goes

into a piece of wood there. So that's what the dowel rod was making two points of contact so that it's kind of keeping the dowel rod in position, kind of trying to show a trajectory.

Q Okay. And based on that trajectory, were you able to form an opinion as to whether the same projectile caused both of those holes or marks?

A It appears that a projectile came through the outer wall, straight across the porch and into the inner wall.

Q Thank you. What do you--

A I believe that's just a continuation from that chair that we just saw, going straight on out.

Q All right. Showing you State's Exhibit 27, describe what's visible in this photograph.

A That, I think, that one came out from under the chair and came straight across. And that's where I was saying it went into a piece of wood there.

Q Okay. Showing you State's Exhibit No. 28. What's the location of this marker?

A I think that's the hole that was above the screened window portion.

Q Okay. State's Exhibit 29?

A Yes, that's where it goes through the plywood, it goes through the vinyl siding, then the, whatever

installation is there, then the plywood. And that's the dowel rod showing the trajectory of that going in through the porch.

Q State's Exhibit 31?

A That is, I believe, right here in this area, I believe, there's a hole there. It's kind of hard to see in the screen. But you can see in here on the wall inside. I think I have another photograph of that, as the -- where a projectile would have gone through the screen and struck the side of the house.

Q That may be cleared up here in State's Exhibit 32?

A Yes, that's the -- that's this hole here. And then there's the hole back here. I think there's another photograph of a dowel rod being held through that hole so you can see it a little bit better.

Q All right.

A That's closer up.

Q That's the same hole you were just referring to?

A Correct. And in this you can see behind here, you can see that pretty good. The white -- that's that styrofoam installation behind the vinyl siding that I was speaking of earlier.

Q Okay. State's Exhibit 34?

A That's the same hole from outside the screened

window.

Q Just exposure to see the hole is more clearly visible. Then lastly, State's Exhibit No. 35?

A And that's with the dowel coming through the screen. And you can kind of see the trajectory I was speaking of.

Q Okay. And over the course of your career, conducting these types of investigations, is there any way for you to estimate how many cases involving shootings in buildings or inside or into buildings you've been involved with?

A I'd hate to even estimate it. It's been quite a few. I wouldn't want to assign a number to it, just off the top of my head because it's -- I mean, in 15 years I've been to a great number of shootings. That I've worked either as a deputy, a road deputy, as a detective or as a forensic investigator.

Q Okay. Do you believe you -- it would be more than 50?

A I would say it's more than 50, yes.

Q Would it be more than 100?

A Possibly more than 100. But I would not say two or 300, I'd hate to say that many.

Q Okay.

A It's probably between 50 and 100, maybe a few

more than a 100, I'm not exactly sure.

Q All right. And, in this case, based on the information that you had received when you responded to the scene, did you go inside the house at all and do any sort of inspection inside the home?

A I did not. As far as I knew, on my initial response and the -- and I get a general briefing of, hey, this is what happened. And my understanding of what happened here is most everything occurred outside the house. I wasn't aware of anything occurring inside the house. So I didn't make any kind of entry into the house other than the porch. That's as far in as I went.

Q So did you ever even go inside the kitchen?

A I did not, no.

Q And did you, at any point after the investigation was complete, learn of any more information that, had you known at the time, would have expanded the scope of your investigation?

A I did not. As far as I knew everything -- this was an outdoor crime scene that I went and investigated because all the allegations were based on, from my knowledge, was based on the shooting that occurred outside the residence.

Q Okay. And based on -- have you ever -- have you investigated any cases, previously, in which you confirmed

that there was a shooting involved -- involving a building and been unable to locate a corresponding bullet hole?

A Oh Absolutely, yes.

Q And what are the size of the bullet holes that would have been caused? Let me ask you this, did you collect the gun that was alleged to have caused these strikes?

A I did. I collected it from Deputy Genther. I did not collect it from its location inside the house or wherever it was found. Deputy Genther had it, when I arrived on the scene, I collected it from him.

Q Okay. And, you know, we looked at photographs but can you provide for the jury, what's -- approximately what size are the holes that would be caused by a caliber bullet fired from the one collected and marked as State's Exhibit No. 8.

A That's a 40 caliber handgun. I mean, it's 40 caliber. But in terms of, most people understand, I would say it's about a quarter inch diameter hole, maybe a little smaller than a quarter inch. I think I generally use about a 3/16 or quarter inch dowel is the size dowel that generally goes through a 40 caliber hole.

Q Okay. And based on your observations of the bullet holes in the porch and the outside wall at the scene here, were those consistent with the 40 caliber

bullet?

A They were, yes, sir.

Q Okay. And if -- if there were any additional shots fired and if someone had, hypothetically, collected the shell casings from those shots, would there be any way for you to determine whether additional shots were fired?

A I mean, if there was a shell casing it could be compared, the shell casing itself, could be compared to the shell casings that we have. I could send them to a lab, have them compared to see if it came from the same gun. But yeah, I guess, theoretically, it could be compared but.

Q All right.

I have no further questions at this time.

THE COURT: Cross-examination?

MR. DEBRUIN: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. DEBRUIN:

Q What's the diameter of a 40 caliber projectile?

A I'm not sure exactly the diameter, I'm not positive.

Q What's the diameter of a 9 millimeter?

A I'm not sure exactly the diameter of it.

Q Okay. The dowel rod that you put through the hole, what size is that?

A That was, I think, it was a quarter inch dowel rod that I used through there.

Q But you don't know if that matches the diameter --

A It's, approximately, the same size but it's not exact.

Q Okay.

A You know, I don't have an exact size dowel rod.

Q Would it be the same size dowel rod you put through, maybe, a 9 millimeter hole?

A Nine millimeter hole, I think, uses like a 3/16 dowel rod. It's just to put the rod through so it doesn't shake up and down.

Q I see. All right. You know what -- were you able to -- did you collect any projectiles?

A I did not, no.

Q Did you see any indication that the projectile went through the house and maybe out the front of the house?

A No. The -- everything that trajected that we had and where the shell casings were at, those would not have gone out the front of the house because it was traveling from the front of the house into the side.

Q What is this a picture of?

A That's, I think, that's probably like 8x8 piece

of wood that's on the porch that -- there's another photograph that it came through the porch, through the piece of wooding, underneath that chair and then went into this piece of wood.

Q Was the piece of wood bolted down?

A I don't think it is. I think it's just sitting there. Probably pretty heavy.

Q Your dowel rod, does it go all the way through?

A No, it does not.

Q Did you take this piece of wood and cut it in half and see if you can find a projectile?

A No purpose in that for me.

Q Okay. So there's holes in the siding?

A Yes.

Q And there's a piece of wood that doesn't have an exit and there's no purpose for you to see if there's a projectile in there?

A From what we were told, given the witness statements, collecting shell casings and holes in the sides and where the witnesses said the gun was shot and someone saw a gunshot and the totality of the circumstances, would say that there's probably a projectile in there. But the projectile would not be able to be compared to anything.

Q But you didn't look at it to check to see if it

was in there?

A No.

Q Okay. All right. This hole right here, you said that's possibly a bullet hole too?

A Correct, yes.

Q Okay. Looks like there's pieces of material ripped away from wall?

A Yes.

Q Did you find any of that material anywhere around here?

A The material there?

Q Yes.

A It's like plywood. It's like splinters.

Q But those splinters weren't on the floor or anything around?

A So much stuff on the floor, I couldn't tell you.

Q Okay. So you didn't look for. . .

A No.

Q Okay.

THE COURT: I think we'll have a course after the first of the year.

BY MR. DEBRUIN:

Q So you're saying this is a bullet hole, possibly?

A Yes.

Q Is this a piece of siding that chipped away, too?

A I believe that's what that is, yes.

Q That's white, probably about the same color as that siding?

A Well, that's on the -- that's kind of the outside of the hole but this right here, I mean, if you look here and here on the inside of that hole, I don't believe those go all the way through but that one does. Because I put a dowel rod through it and it's not discolored at all. Where the others are kind of discolored.

Q Okay. All right. This right here is a piece of siding missing.

A But it doesn't go all the way through.

Q It that discolored at all?

A No.

Q It's pretty white, right?

A Yeah.

Q About the same consistency as this?

A Correct.

Q And if somebody was shooting a 40 caliber, it probably wouldn't bounce off here, right?

A A 40 caliber--

Q It wouldn't bounce off, right?

A I wouldn't think so.
Q It would go all the way through?
A It would go all the way through.
Q So this is, probably, not done by a 40 caliber?
A Correct.
Q But it's still a piece of siding missing, right?
A It is.
Q Okay. And we don't know when that was done, right?
A I don't have a clue.
Q Okay. And you really don't know when this was done either, do you?
A I don't, just based on my knowledge and experience, it appeared to be.
Q Okay. So just, again, to sum up, you didn't find any bullets at all, on the porch at all?
A I didn't find any projectiles.
Q Projectiles, I'm sorry.
A Correct.
Q I know, I get that for you. Okay.

All right, Your Honor, I don't feel like I have any other questions.

Thank you.

THE COURT: Redirect?

MR. PLEMING: Just briefly.

REDIRECT EXAMINATION

BY MR. PLEMING:

Q So State's Exhibit 24 that we were just looking at, so we were just talking about this hole, this mark right here?

A Correct.

Q To be clear, why did you not believe that was as a result of a bullet strike?

A Well, it's a defect in the siding. I don't know how that defect occurred. But there was no allegation that anybody had gone over and hit the siding with hammer or something. But it was, obviously, not made by something that would have gone all the way through.

Q Okay. So is that what -- how you distinguished this hole from this hole?

A Correct. I mean, it's -- whatever made that other hole in the siding, did not have enough velocity to go through a piece of styrofoam. And if you've ever used a styrofoam cup, it doesn't take much to go through a piece of styrofoam. What made the hole on the left that I marked -- excuse me, whatever made the hole on the left and what I determined was probably a bullet hole or made by a projectile, went all the way through it. It had enough velocity to go through the vinyl siding, the styrofoam, whatever wood material was on the inside and

then continued traveling across the porch and go into that 8x8.

Now, when it went into that 8x8 piece of timber, which it's -- bullets are made out of -- the projectile, they're made out of lead and most of time brass. And these right here would, based on other things that we saw that day, was the same as most bullets that you find, lead and brass. And so when they hit something hard like that they collapse. Or they just disintegrate. There are times when I've gone in to look for a piece of -- fragments most of the time is what you will find of a projectile after it has struck multiple hard objects. And there are times when you go in and you do cut the board apart and there's nothing there. Because it has completely disintegrated into just vapor.

Q Okay.

A And you'll find that sometimes.

Q Okay. So, in this case, why did you feel there's no need to search for projectiles?

A Because there's -- I mean, it's -- based on the fact that we have somebody saying that there was a gunshot, there's holes, there's casings lying on the ground and there's holes in the side of the house that the trajectory matches up to what eye witnesses are saying, then we would assume that there is a projectile in there.

Because it all lines up. You got step one, step two, step three, so there's probably going to be something there. It's gone through so many hard objects that it's not going to be -- you couldn't compare that piece of lead to a piece of lead that you could fire from that gun. I know you see on TV where someone will fire a gun and then they'll take that and they'll check the riffling on the projectile and stuff. But once a projectile goes through multiple hard objects, there is no comparison, you can't do it.

Q So, if the projectiles, in this case, hadn't been completely fragmented to the point that you were able to collect them but how much -- what would it take to, actually, go in and dig out whatever is left of that projectile?

A You can do it, it would be an arduous task that you would have to go in and cut those boards and everything apart. And we would have had to tore the house -- you know, that wall of the house, we would have caused great damage to the house to do that. For something that's, in my experience, is not a worthwhile task to undertake because it's not a comparable item.

Q Okay.

All right, thank you, I have nothing further.

THE COURT: All right, you may step down.

All right.

MR. PLEMING: Your Honor, The State rests.

All right, ladies and gentlemen, The State has rested their case in chief. So there's some things I got to go over with the attorneys at this point, you can go back to your jury room and do not discuss the case and we'll bring you back out in just a few minutes.

(WHEREUPON, the jury left open court at approximately 3:10 p.m.)

THE COURT: All right.

State has rested, anything from The Defendant?

MR. DEBRUIN: Your Honor, I move for a directed verdict, in this case, to dismiss the two indictments. First, with the pointing and presenting, I don't think there's any kind of credible evidence that my client pointed a weapon at anybody and presented it in a harmful manner. Again, so that the government has failed to meet their burden of proof for that. I ask you to dismiss that charge.

As to the discharging a weapon into a dwelling, again, I don't think there's any credible witness testimony about that, the projectile going into the

A Yes, sir.

Q And you don't need any additional time to discuss this with your attorney or anyone else?

A No.

Q Okay.

I'll accept your decision, I find that it was voluntarily and freely made. So that will be -- again, you can, actually, change your mind if you need to but I think I just need to go over these with you at this point.

Anything else, Mr. DeBruin?

MR. DEBRUIN: No, Your Honor.

THE COURT: All right, is The State ready?

MR. PLEMING: Yes, sir, Your Honor.

THE COURT: Okay.

Defense ready?

MR. DEBRUIN: Yes, sir.

THE COURT: All right.

(WHEREUPON, the jury entered open court at approximately 3:31 p.m.)

THE COURT: All right, ladies and gentlemen, before your break, as you will recall, The State rested. So now The Defendant will put forth whatever testimony or evidence that they feel is appropriate.

So, Mr. DeBruin.

MR. DEBRUIN: Thank you, Your Honor.

THE COURT: Turn it over to you.

MR. DEBRUIN: Defense calls Deputy Brandon Morris.

THE CLERK: Raise your right hand.

BRANDON MORRIS, after being duly sworn{,}testified as follows:{F}

THE CLERK: Thank you.

Have a seat, state your name for the record.

THE WITNESS: May name is Deputy Brandon Morris.

DIRECT EXAMINATION

BY MR. DEBRUIN:

Q Good afternoon Deputy Morris. Sir, can you tell us where you work?

A I work at the Pickens County Sheriff's Office.

Q All right. Do you remember an incident that happened on September 8th, 2018?

A Yes, sir, I do.

Q Could you tell us a little bit about what happened there?

A Yes, sir. It was, actually, on September the 7th that I was assigned the call for 911 call hang up at [redacted] North Old Pendleton Road in Liberty. Which is within the county limits of Pickens.

Q All right. When you got there what happened?

A When I got there, Susan Mr.~Marchbanks had initially called us. She told our dispatcher everything was okay. I greeted Ms. Susan Marchbanks and her husband, Randy Dole Marchbanks. Mr.~Marchbanks informed me that he and his daughter, Melissa Karr, were arguing about her and her boyfriend owing money to him. According to Mr.~Marchbanks everything settled down. I went into the residence to make sure that everyone was okay.

When I got in there, Melissa Karr, I noticed that she had bleeding from her mouth and swelling to the right side of her face, near the cheek bone. I asked her what happened and she told me that her brother had inflicted the wounds to her face and that her dad choked her.

Q So she didn't say her dad hit her, she said her brother hit her?

A Correct, yes, sir.

Q I'm sorry, go ahead.

A Mr.~Marchbanks told me that he did not choke his daughter and was only pushing on her throat to keep her and his son, which he alleged to have attacked her, Randy Tyler Marchbanks, separated. Mr.~Marchbanks told me that his daughter was fine after the verbal altercation between her and her brother. Shortly after that, Melissa Karr's minor son advised me that Melissa had injured herself in

the past. And he stated that--

MR. PLEMING: Objection, Your Honor. I'm not sure this is -- what the relevance is to rule -- under Rule 608, evidence and character and conduct [indiscernible] witness.

MR. DEBRUIN: Your Honor, may I respond?

THE COURT: Yes, sir.

Are you through?

MR. DEBRUIN: Oh, I'm sorry.

MR. PLEMING: I don't believe that this is -- it's -- one, it's hearsay evidence and it's not -- I don't believe it complies with Rule 608 as admissible character evidence. And I don't believe what he's testifying about, I don't believe this witness is qualified to be able to testify about the thing that he's talking about. It's hearsay for one. But I believe there's multiple objections.

THE COURT: All right.

MR. DEBRUIN: First of all, it's not hearsay, Your Honor. I'm not offering it for the truth of the matter asserted for collateral issue. Two, it goes to a common scheme or a plan of Melissa Karr, as far as making allegations up that are not true. So for those two reasons, I believe it's admissible, Your Honor.

THE COURT: I'll let you go into on a limited basis but, I mean, as far as what he did but I'm not going to let him testify as far as what anybody, as far as, said. Because that would be hearsay.

BY MR. DEBRUIN:

Q All right. So she had a lot of blood on her; is that correct?

A Yes, sir, that's correct.

Q Okay. Did you look at the two gentlemen that were in the house?

A Yes, sir, I did.

Q Did either one of them have blood on them?

A No, sir, they did not.

Q What about their hands, did they have any marks on their hands?

A No, sir. No blood, no abrasions and saw no sign of any.

Q And she had told you that they punched her? The brother punched her.

A That the brother did, yes, sir.

Q But no marks or abrasions on either one of their hands?

A No, sir.

Q And, obviously, in your experience, a bruise or a swelling like that would cause, possibly, redness in the

hands; is that correct?

A At the very minimum, yes, sir.

Q Okay. So you spoke to her minor son -- and also did that investigation, at the conclusion of that, what was your conclusion? Was anybody arrested?

A No, sir. No one was arrested. Melissa, she waived her rights, as a victim. But even if she wouldn't have, I would not have--

MR. PLEMING: Objection, Your Honor. I don't know the relevance to as far as it goes to attacking the credibility of Ms. Karr.

THE COURT: Sustained.

MR. DEBRUIN: Your Honor, just to be specific, what are you sustaining?

THE COURT: I sustain -- I'm not sure that this is proper under 608 or any other basis.

MR. DEBRUIN: Again, I believe it goes to a common scheme here. Which, I believe, would make it allowable under the rules of evidence.

THE COURT: No, I'm going to sustain the objection.

MR. PLEMING: Thank you, Your Honor.

BY MR. DEBRUIN:

Q But, again, if you believed a crime had been committed, you would have arrested somebody?

A Yes, sir.

Q Did you make any arrest at all?

A No, sir.

Q Did you draw any kind of conclusions to this case? Well, actually --

MR. PLEMING: Objection, Your Honor --

(WHEREUPON, the attorneys were talking over one another.)

MR. PLEMING: This is completely improper.

THE COURT: Right.

MR. DEBRUIN: And, Your Honor, actually, that was my last question anyway.

So thank you very much.

THE WITNESS: Yes, sir.

MR. DEBRUIN: Please answer any questions from The State.

THE WITNESS: Yes, sir.

MR. PLEMING: I have no further questions, Your Honor.

THE COURT: All right, you may step down.

All right, next witness.

MR. DEBRUIN: Thank you, Your Honor.

The Defense calls Amanda Knecht.

THE CLERK: Raise your right hand.

AMANDA KNECHT, after being duly

sworn{,}testified as follows:{F}

THE CLERK: Thank you, have a seat. State your name for the record.

THE WITNESS: Mandy Leigh Knecht.

DIRECT EXAMINATION

BY MR. DEBRUIN:

Q Good afternoon, Mandy.

A Hi.

Q Can you tell us how you know -- actually take off your mask. Can you tell us how you know The Defendant?

A He's my dad.

Q That's your dad?

A Uh-huh.

Q How many children does he have?

A Four.

Q Did you witness any altercation at the property that day?

A I came afterwards, I wasn't there during.

Q And when you came afterwards, what was your dad's mental state?

A He was really confused. He kept calling me his sister's name at one point.

And I was like, I'm Mandy, Dad.

And he was like, I know who you are.

But he just seemed to be talking to her instead of me.

Q Okay. And what name was he calling you?

A Felicia, that's his sister's name.

Q Okay. Does he have a relationship with his sister?

A No, they don't really talk very much at all.

Q But you believe he was confused?

A I do, yes.

Q Did you notice any injuries on him?

A Yes. His nose looked to be broken. He had a black eye starting to form. And he was having rib pain.

Q Okay. Did you speak with your nephew about this case?

A I have.

Q Did he -- what did he tell you about your dad's injuries and how he sustained them?

A He said that when he pulled up that Casey and may dad were actively fighting. My dad was on the ground and he said that Casey was stomping --

MR. PLEMING: Objection, Your Honor, hearsay.

MR. DEBRUIN: Again, it goes to a collateral issue of why he was acting--

THE COURT: I believe that's hearsay, I'm going to sustain the objection.

MR. DEBRUIN: All right.

BY MR. DEBRUIN:

Q So -- but your dad had marks on his face?

A He did.

Q Okay. All right. He had bruised ribs?

A (The witness nods.)

Q As well. And he was acting?

A A little confused.

Q Confused, okay. As far as the holes in the back porch, how many grandsons does Randy have?

A Seven.

Q Seven. Okay. Any of them ever have any other toys or anything like that that might be a little bit dangerous?

A Yeah, they had bows and arrows at one point. They got in trouble for shooting the bows and arrows into the porch.

Q The back porch?

A Yeah, the siding on the porch.

Q Okay. Were they -- the arrows were puncturing through the siding?

A Yes.

Q And going into the--

A They were like homemade, wooden, but they had points on them. So they went into the siding.

Q Okay. And they made holes; is that correct.
A They did. And they were taken away after that because we didn't realize that they were that dangerous.
Q Did you work at home health care?
A I have at one point, yes.
Q Did you work there with your sister?
A I worked in the nursing home with her, actually.
Q You helped elderly folks?
A Uh-huh.
Q And was she fired from that job?
A I'm sorry, I didn't work with her at that one. That was Samantha.
Q Oh, okay.
A My other sister, yes.
Q All right.
A We worked in the nursing home together.
Q All right.

Your Honor, if may-- Your Honor, that's all the questions I have.

THE COURT: All right, cross-examination.

CROSS-EXAMINATION

BY MR. PLEMING:

Q Ms. Knecht?
A Knecht.
Q I apologize.

A That's okay.

Q So you acknowledge that your dad seemed very confused, mentally, that day when you came out?

A He did, yes.

Q Other than calling you the wrong sister's name, what else was he doing that made you feel like he was confused or not mentally--

A He was crying for one, my dad doesn't normally cry. He just seemed like he didn't know where he was. He was thinking for some reason that they were in a argument about a hot tub.

Q Okay.

A Which wasn't anything to do with anything.

Q Did he display any other irrational behaviors that might have--

A I didn't get to see, it was only, briefly, before he was taken away that I talked to him. It was maybe, like, a minute and a half, two minutes.

Q Okay. Had you ever seen him in that sort of mental state before?

A No.

Q Okay. And did -- do you recall anything that he did or anything else that he said to you during that time that made you think that he was prone to making decisions and acting in a manner that he normally wouldn't

otherwise?

A No, like I said, that was only -- it was just a brief encounter with him for a couple of minutes before he was taken away.

Q Okay. Did his confusion and mental state cause him to appear abnormally aggressive?

A He wasn't aggressive with me, no.

Q Was he, when talking about this argument over the hot tub, did he show any abnormal levels of aggression with respect to people involved in that argument?

A Not that I would say, no.

Q Okay. Has your -- in general, has your dad ever been treated for mental illness?

MR. DEBRUIN: Objection, Your Honor.

THE COURT: I think that's relevant line of questioning.

THE WITNESS: He was at one time in his life, yes.

BY MR. PLEMING:

Q Okay. And do you know around the time of September 2018, if he was undergoing any mental health treatment?

A I'm not sure, I didn't live in the home with him at that time.

Q Okay. And following this incident, do you know

if he sought out any mental health treatment or is he--

A Yes, he received -- he was, actually, hospitalized at one point and got put on medication and has been treated since then.

Q Okay. Thank you. You refer to your nephews having bow and arrows that got in trouble with for shooting at the house. Were you -- are you suggesting that any of those wooden bow and arrows, actually, penetrated through multiple layers of siding?

A Yes.

Q Okay. And are you suggesting that the bullet holes -- or excuse me, that the strike marks on the walls in this case, might have been caused by bows and arrows?

A It could be. There were already a lot of them on there that were caused by them because I was there when they were done.

MR. PLEMING: All right, I have no further questions. Thank you.

THE COURT: Redirect?

MR. DEBRUIN: No, Your Honor.

THE COURT: Thank you, you can step down.

THE WITNESS: Thank you.

THE COURT: All right.

MR. DEBRUIN: Your Honor, may we take a brief recess? I'd like to confer with my client.

THE COURT: Okay.

All right, ladies and gentlemen, we'll take a short break. Don't discuss the case, we'll bring you back out in just a minute.

(WHEREUPON, the jury left open court at approximately 3:48 p.m.)

THE COURT: All right, be at ease for 10 minutes, if that's enough time.

MR. DEBRUIN: Do you mind if we use one of the rooms back there?

(WHEREUPON, a short break was taken.)

THE COURT: All right, ready to proceed?

MR. PLEMING: Yes, sir, Your Honor.

THE COURT: Defense ready?

MR. DEBRUIN: Yes, Your Honor.

THE COURT: If the jury is ready, bring them in.

(WHEREUPON, the jury entered open court at approximately 3:48p.m.)

THE COURT: All right, Mr. DeBruin.

MR. DEBRUIN: The Defense calls Samantha Childress, please.

THE COURT: All right, if you'd come around to be sworn.

THE CLERK: Raise your right hand.

SAMANTHA CHILDRESS, after being duly

sworn{,}testified as follows:{F}

THE CLERK: Have a seat, state your name for the record.

THE WITNESS: Samantha Childress.

THE COURT: All right, Mr. DeBruin, you may. . .

MR. DEBRUIN: Thank you, Your Honor.

DIRECT EXAMINATION

BY MR. DEBRUIN:

Q You mind if I call you Samantha?

A That's fine.

Q Okay. Where do you live? I know you're nervous but got to speak up for them.

A I can't hear you.

Q Maybe I need to speak up then. Can you state your name, please?

A My name?

Q Yes.

A Samantha Childress.

Q Okay. And --

THE COURT: You may want to pull up a little bit closer to the microphone and pull it back so. . .

THE CLERK: Move the microphone closer to you.

BY MR. DEBRUIN:

Q Where do you live?

A In Easley.

Q What county is that?
A Pickens.
Q Okay. Do you know the gentleman sitting at this table?
A Yes, sir.
Q Who is that?
A My father.
Q Where do you work?
A Plan home care.
Q What do you do?
A Home health aid, personal care assistant.
Q You take care of the elderly?
A I do.
Q Okay. Again, just -- you weren't there during any of the incident, you arrived after; is that correct?
A Yes, sir.
Q Okay.
A It was after everything was done.
Q What was your dad's mental state when you saw him?
A Not good. He was very confused. From what I understand, he didn't even know I was there. And I stood directly in front of him to speak to him and he looked like he was, like, looking straight through me. Like, he wasn't standing there or I wasn't standing there.

Q Do you remember if he had any injuries on him?

A He did, he had a rib sticking out, like.

Q Was your understanding that he got hit in the head, too?

A Yes. I think -- I'm pretty sure some facial injuries also.

Q Okay. But from conversations you had with him afterwards, you don't believe he knew you were even at the house?

A Yeah. And he has no recollection of talking to me. He doesn't remember speaking to me in the yard that day.

MR. PLEMING: Objection, Your Honor.

MR. DEBRUIN: Yes, ma'am -- that's okay, I have no further questions, Your Honor.

THE COURT: All right, cross-examination.

CROSS-EXAMINATION

BY MR. PLEMING:

Q When did you, actually, arrive? When did you arrive that day?

A Honestly, just a -- probably a few minutes after the police arrived. There were still some pulling in, actually, when I pulled in.

Q Okay. All right. Beg the Court's indulgence. Were you -- have you had the opportunity to watch the body

camera video from this case?

A No, sir.

Q Not at all. Okay. When you arr -- do you recall what you were wearing that day?

A Yes, because I was in my pajamas. I was home with a sick child and I came from my house. So I was still in my pajamas.

Q What color were your pajamas? That's a weird question.

A I think I had on, like, a dark-gray jogging pants and a t-shirt. I don't remember the color, honestly.

Q Was it a blue t-shirt?

A Possibly a navy blue, maybe.

Q Do you recall sitting on the porch smoking a cigarette when the officers arrived and started conducting the investigation?

A No, sir, I was never on the porch.

Q Okay, okay, then. I was confusing you with someone else. I have no further questions.

THE COURT: All right, any redirect?

MR. DEBRUIN: No, Your Honor.

THE COURT: All right.

Thank you, you may step down.

THE WITNESS: Thank you.

MR. DEBRUIN: Your Honor, I call Mr. Marchbanks.

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

THE CLERK: Please raise your right hand.

RANDY MARCHBANKS, after being duly sworn{,}testified as follows:{F}

THE CLERK: Thank you, have a seat.

State your name for the record.

THE WITNESS: Randy Dole Marchbanks.

DIRECT EXAMINATION

BY MR. DEBRUIN:

Q Randy, how tall are you?

A Sir?

Q How tall are you?

A I'm 5'6, I think. 5'6, 5'7, I'm not sure. I'm kind of shrinking, I'm getting older.

Q Okay. How much do you weigh?

A Probably 120 pounds, maybe.

Q Okay. On September -- a couple days prior to September 10th, Casey was living at your house; is that correct?

A Yes.

Q Okay. And you -- did you -- did you have a conversation with him about--

A Yeah, it wasn't nothing, you know, we didn't

argue or nothing. I just told him that he needed to go back and live with his parents and. . .

Q Okay. Why was that? Why did you--

A Because it's hard to explain but my daughter is influencing him to do stuff that is not right.

Q Okay.

A And I was trying to help him.

Q Okay. But you told him not to come back to your house?

A Yes.

Q That morning, did he come back to your house?

A Yes. And he just opened the door, came in and it made me angry.

Q Okay. Did you --

A If had knocked--

Q Did he ever have any conversations with you before where he threatened you?

A No, sir. Not that I can recall.

Q Okay. Do you have your concealed weapons permit?

A Yes, sir.

Q Okay. And so you had -- you carry a gun around, even in your house?

A I hadn't been carrying a gun.

A couple weeks before this incident, my

wife and I were home alone and we had fallen asleep, late in the evening, fallen asleep watching TV in our chairs. And my son came home from work and told me that my bedroom door was locked and he could hear people in there.

And I woke up and sure enough, he kicked the door, because it only locks from the inside, and somebody had been in there. The window was opened and they ransacked, took stuff and there was stuff laying in the yard. And that made me uncomfortable in my own home. I didn't feel safe anymore. So I went and got my permit. If I'm going to carry a gun, I want to be legal.

Q Okay. And so you carried it around your house then after that?

A Yes.

Q Was this at nighttime this happened or was it during the daylight?

A It was right at dark.

Q Okay. All right. But you started carrying it around because you felt unsafe in your house?

A Yes.

Q Okay. And then when Mr. -- when Casey came into the house, did you ever pull a gun on him?

A No, sir.

Q Did you ever--

A No, sir.

Q You didn't point it at him?
A No, sir.
Q Okay. But he, eventually, left your house; is that right?
A Yes.
Q You just had a verbal altercation in the house?
A Yes.
Q Okay. And you told him to leave; is that correct?
A Yes.
Q And did he leave your property?
A No, he was sitting in my driveway.
Q And so did you have another -- did you go out there?
A I just told him he needed to leave. And then it kind of got -- both of us got heated, I guess. But, you know.
Q Okay. Did you ever pull the gun and point at him?
A No, sir.
Q Okay. Was he aware that you carried a gun?
A Yes, sir.
Q Okay. And did he ask you to drop the gun?
A Yes, sir.
Q But you didn't have it out, did you?

A No, sir, it was concealed in my. . .
Q So what did you do with it?
A I turned my back to him, I took the gun out and I laid it down and that's the last thing I remember. Lights went out.
Q So you don't remember anything else after that?
A No.
Q Well, tell us a little about your injuries.
A Broken rib, which I'm glad I don't remember because that's very painful to get, I've had them before. Broken rib, head, I had a whole day -- I have little flashes but I can't tell if they're real or true or not. It was late that night that I, actually, kind of came back to myself and realized where I was at.
Q But you don't recall the fight at all?
A No, I have no memory of that.
Q Do you recall anything else after that?
A Not that I can trust. Like I said, it's little flashes. I -- I -- I don't know how to. . .
Q Okay. Did you -- did you go to the hospital?
A I think the officer took me to the hospital.
Q You don't remember?
A I -- I want -- it seems like there was a nurse. But like I say, it's just flashes.
Q Do you still suffer from any of the injuries

that occurred that day?

A Yes, I have problem with my rib.

Q Is it still protruding?

A Yes.

MR. DEBRUIN: Your Honor, I'm going to ask that he be allowed to stand up and show the jury his injury?

MR. PLEMING: Objection, relevance.

THE COURT: I will very briefly.

BY MR. DEBRUIN:

Q All right, just -- would you mind showing them your protruding rib.

A (The witness complies.)

Q Okay. That's from the injuries you sustained that day?

A Yes, sir.

Q Okay. Again, you don't really recall too much else after that?

A No.

Q Okay.

Your Honor, I have no further questions.

Well, actually, I'm sorry, I do. The solicitor talked about your mental health, you had been treated for mental health?

A Yes.

Q Okay. Was that inpatient or outpatient?
A It was outpatient.
Q Okay. And how many years before this incident?
A It's probably 15. It's when I was in my 40's. It's got to be, at least, 20 years ago, close to it.
Q Okay. All right. And you had gotten help because something that happened?
A Yeah, I got depressed. You know, you reach a certain age, some people it just happens.
Q Okay.
A But it wasn't ordered or anything like that, I just went.
Q Well, Randy, thank you very much.
A Yes, sir.
MR. DEBRUIN: The solicitor is going to have some questions for you.
THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. PLEMING:
Q So, Mr.~Marchbanks, you said you don't remember much of what happened following your altercation with Mr. Casey?
A Yes, sir.
Q But you said you have flashes?
A Yes.

Q Of things come back to you?

A I can remember being in the police car. But from what I've seen on the video, it's not what's real. So I was, in my mind, I was -- there was a black officer, I don't remember his name, that I thought came to the house and talked to us about the incident days before that. And I thought it was the same officer, in my head that's what I see. And I know it's not real. So I don't know -- I really don't trust myself to say this was that or that was this because I really don't remember. I have no memory.

Q Okay. But you say you do have some recall?

A Yes, sir.

Q From the 24 hours after this incident, what do you recall of -- from that morning and the day following?

A You mean from the start?

Q Uh-huh.

A Now, I remember good until the point where I got hit. I don't remember anything after that.

Q Okay.

A So.

Q But you said you do remember putting the gun down when Casey asked you to?

A Yes, sir.

Q Okay. But you said that you had the gun

concealed up until that point, right?

A Yes, sir.

Q How did Casey know that you had a gun on you to tell you to put it down, if it was concealed?

A They knew -- they were there all the time, they knew I went and took the course and why I did it and they knew.

Q Okay. It was 7:30 that morning?

A Roughly, I guess.

Q Okay. And how did you -- where was the gun concealed on you?

A It was in my front, down in here.

Q Okay. Was it typical for you to arm yourself and concealed weapon that early in the morning?

A No, sir but after my break in, yes.

Q Okay. And once you put the gun down, per Casey's request, what do you remember after that, if anything? Just want to be clear on what you are able--

A Like I said, I remember being in the police car but the officer doesn't match my memory, after seeing the body cam.

Q Okay. You, obviously, have been here throughout the whole trial and you saw the body cam video?

A Yes.

Q Did that -- you said you sometimes have flashes

of memory from that day, watching that video, did that help you recall anything from what happened that day?

A No, sir, it's still blank. I mean, like I say, other than -- my daughters talking to me, I have no memory of that. Nothing.

Q Okay. Do you recall saying to the officer, If I wanted him dead he would be dead?

A No, sir.

Q Okay. When you said, I'll handle it. When the officer asked if you wanted to press charges you said, I'll handle it. Do you have any idea what you meant by that?

A I got a good idea. I was trying to -- I don't want to -- I don't want to jam them up, you know. Even though they hurt me real bad, I don't -- I'm not the type of person I want to see them go to jail. And I was trying to help.

Q Okay. After you put the gun down and you got in a fight with Casey, do you deny -- I mean, you say you can't remember anything, does that you're not -- I mean, are you able or do you have any reason to deny what anybody else said they saw happen that day?

A No, I can't honestly say that whatever they're saying is not true. Because I have no memory.

Q Okay. So when Michelle Rodriguez said that she

saw you with a gun walking back towards your house and fired that gun at your house, you can't deny -- you can't say that she's mistaken?

A No, sir. I don't understand what reason would I have to do, though? I mean, what they come up here and said is not true. None of it's true. This is all about how to get me out of the house so they can take over. I'm here because of them.

Q But you don't have any reason to -- you don't know of any reason why Michelle Rodriguez, the neighbor, would make that up about what she saw?

A No.

Q And you don't have any reason to believe that Kate Mobley, the other neighbor across the street, didn't hear gunshots?

A No, never met the lady but I'm sure she's a honest person.

Q Okay. And so if you believe that she's a honest person and that Ms. Michelle Rodriguez has no reason to make this up against you, then would you admit that you may have shot the gun at your house that day?

A I have no memory. It's a possibility. I'm not going to say it's not but I don't have -- I don't know what happened to be honest, after I got hit. I mean, it went black. I never had that in my life but.

Q You said you never had that happen?
A Never had --
Q Lost your memory?
A Not in my -- nothing.
Q Not--
A Not the first time.
Q Not even since the incident happened?
A No.
Q Okay. Do you not find it a little bit convenient that this is the one day in your life that you can't remember?
A Let me ask you a question, if I get up and hit you in the back of the head as hard as I can before you even realize that anybody is doing anything, and you're stunned, let's see how your memory is. I mean, I don't mean that argumentative or mean, I'm just trying to make a point.
Q Do you recall the conversation, any conversation, you had with the officer that took you to the hospital?
A No, sir.
Q You don't at all?
A No.
Q Okay.
A Like I said, I have little flashes. I remember

a nurse but I don't remember what they did, what they said. I remember being there but that's it.

Q Okay.

A I have little snips of memory.

Q Okay. And based on what you've been able to recall, based on the evidence that's been presented against you as to the way you behaved that day, do you have any regrets?

A Only that I should have just stayed in the house and not got hit in the head.

Q Okay. Do you think that you did anything wrong that day?

A No, I do not. I'm not that kind of person. I will not hurt anybody.

Q Based on everything that's been presented to you about how you behaved that day and how you acted and what you did, even now, you don't believe that you've done anything wrong?

A No, sir, I don't. No.

Q Just a few more questions. You said that you told Casey that you wanted him to go back and live with his parents, that you didn't want him living with you anymore; correct?

A Yes.

Q So you said the reason why you did that was

because your daughter was negatively influencing him; correct?

A Yes. They go out shoplifting, con people, that's their job, as they call it.

Q So was your daughter -- you were concerned about the way Casey was influence by your daughter but not the other way around?

A I can't do anything. I've tried for years with my daughter. My daughter has -- there's no helping my daughter. I know that now. I didn't then but I do now.

Q Okay. And was there any -- do you recall claiming that Casey had damaged your car?

A I have -- no, I don't know where that came from. I mean, I really don't.

Q Okay.

A I don't know what that was about.

Q Okay. And so you had told him several days before that you wanted him to leave?

A Right.

Q Then you saw him show up that morning at your house?

A Yes.

Q Did you know that your daughter was starting a new job that morning?

A No, sir, I didn't even know she was there.

Q Okay. And you said that when you saw Casey back in your house it made you angry?

A No, it wasn't him back the house. If he had knocked on the door, I would have opened the door and let him in. It just made me angry that he just opened the door and came in. He don't live there anymore.

Q Where were you when in he came--

A I was in the living room.

Q Okay. And what did you do immediately after he came inside?

A I went in there and told him that he should have knocked and it's not right. I mean, not in those words, I may have said something angry, you know, it made my angry.

Q Is that when you got your gun?

A No, my gun was already on me. I never thought about a gun.

Q What were you doing in the living before he came?

A Watching TV. Watching the news, I believe.

Q Okay. And did you -- you said that he went outside but he refused to leave; is that right, that was your testimony?

A Yes.

Q And did you -- what did you do try to compel him to leave or make him to leave?

A I told him that he needed to leave my property, to go.

Q Okay. And did he or your daughter not explain to you at that time that they--

A No--

Q -- that they're about to -- hold on --

A I'm sorry --

Q -- if you don't mind.

A I -- I'm sorry.

Q At the point in time that you told him he needed to leave, that you didn't want him there, did -- you're saying he or your daughter -- or neither he nor your daughter explained to you that, we're about to leave in just a few minutes, we're going to start my new job today?

A I never seen my daughter until, I guess, after we were out the door. I didn't know -- I thought she was gone, to be honest.

Q So you thought that he just showed up and your daughter wasn't even there, he showed up on his own for no reason?

A Yeah but I'm not going to say that he didn't think she was there, you know. I know he thought she was there and she was. But I didn't know that.

Q Okay. But it made you angry that he showed up there without your permission. And then once he then left

the house, did you know at that point that your daughter was there?

A I don't understand the question really.

Q Okay. When did you realize your daughter was there?

A I guess when we were arguing out in the yard.

Q But you didn't see your daughter until you were already outside?

A Yes.

Q You said that Casey left the house but then he remained in the driveway before leaving. How long was he waiting outside in your driveway before you decided to go -- before you decided to go outside and confront him?

A I really don't know, maybe a few minutes, something like that. I don't know.

Q And during that time your daughter didn't--

A No-

Q -- come out or make her presence known to you at all?

A No.

Q Where was she during that time?

A I guess she was either in her room or the bathroom. I really don't know.

Q Okay. And then after going outside and confronting -- so it wasn't enough for you that Casey went

outside when he agreed to leave your house and go outside, you wanted him?

A Gone.

Q Completely gone?

A Yes, sir, I did.

Q And when you went outside and confronted him, did he then -- I just want to be clear, did he then agree to leave?

A No, I think it was -- we were more just verbal argument. I don't remember, exactly, what was said but.

Q Okay.

A It got heated and.

Q It got heated and he asked you to put your gun down?

A Yes.

Q And you did and then what happened?

A I took my gun -- turned my back to him, took my gun, laid it on the ground. As soon as the gun touched the ground, the lights went out.

Q Okay. So you don't know--

A No, sir.

Q The lights went out because he hit you?

A Yes, sir.

Q Or you just had a mental--

A I assume so. No, I didn't have a mental

breakdown, I got hit.

Q Okay. All right.

A I had -- I mean -- I don't -- I don't have no memory of a fight, what went on, none of that.

Q You said that when you asked him to go to his parents, he didn't put up a fight at that time --

A No --

Q -- did he?

A -- he didn't. Like I said, we just talked.

THE COURT: Hold on. The court reporter needs to be able to take all this down and she can't take this down when both of you are talking.

Let him finish asking the question, then you answer, then you can explain it.

THE WITNESS: Yes, sir.

MR. DEBRUIN: Your Honor, I believe he's asked these questions, they've been answered over again. I haven't stood up at all but we've repeatedly gone over this as well. I believe this is asked and answered. I ask The Court to tell the solicitor to move on.

THE COURT: Well, I'm going to let him go ahead.

MR. DEBRUIN: Okay.

MR. PLEMING: Thank you, Your Honor.

I don't have much more but I don't believe I've

asked these questions yet at all.

BY MR. PLEMING:

Q So he agreed willingly to leave when you asked him to go--

A Yes--

Q -- live somewhere else?

A He--

THE COURT: Hold on. Wait until he finishes--

THE WITNESS: I'm sorry.

THE COURT: Mr. Marchbanks, wait until he finishes the question, okay?

THE WITNESS: I thought he did.

THE COURT: All right.

THE WITNESS: I'm sorry.

THE COURT: All right.

BY MR. PLEMING:

Q So he agreed willingly to leave and move out when you asked him to, right?

A Yes, sir.

Q Okay. And there was no fight about him damaging your car as they claim?

A No. No.

Q So everything was peaceful up until that morning between the two of you?

A Yes, sir.

Q Had you ever fought with him before?

A No.

Q Had you ever argued with him before?

A Not that I know of.

Q Okay. What on earth would compel him to suddenly attack you that morning just because you asked him to go outside, especially, after he willingly agreed to do that days before?

A I don't know. Other than maybe he -- wherever he went, he wun't [verbatim] going to be able to stay there long.

Q Okay. Does that make sense to you?

A Yes. All right, can I explain? Since this has happened, when I got arrested, I stayed in that jail for two months. I got out. The Judge said to me--

MR. PLEMING: Objection, Your Honor, that's going into hearsay. If it's not a response to the question I ask, I just--

THE WITNESS: Well, how can I explain if I can't go for what it is, you know? I'm sorry, but.

THE COURT: Reask your question.

BY MR. PLEMING:

Q Does it make sense to you that after having no issues with you in the past and agreeing to move out, that he would suddenly that morning be so angry with you that

he would just attack you for no reason?

A I don't know, he has a drug problem--

MR. DEBRUIN: Objection, Your Honor, this calls for speculation. He can't know the mindset of--

THE WITNESS: I--

THE COURT: I guess if he knows. He asked the question, if he knows. If he doesn't know, then it would be speculation.

MR. PLEMING: Just asked if it made sense but I -- that's fine, I beg the Court's indulgence for just a minute.

Your Honor, I have no further questions.

THE COURT: All right, any redirect?

MR. DEBRUIN: No, Your Honor.

THE COURT: All right, you may step down.

All right, Mr. DeBruin.

MR. DEBRUIN: We have no further witnesses, Your Honor.

THE COURT: Does the Defense rest?

MR. DEBRUIN: Yes, Your Honor.

THE COURT: You expect any rebuttal?

MR. PLEMING: No, Your Honor.

THE COURT: All right, ladies and gentlemen, The Defense has rested and The State has rested. They do not plan to put any more evidence up. It's 4:30 now

so it's too late to present the case to the jury at this time. Because we've got quite a bit of stuff we really have to do before it gets to that point. And so we're down to the final stages. So you have all of the evidence which you're going to have to consider when you deliberate on this case. So we will do that. We'll do that in the morning. What we have left will be the closing arguments by the attorneys, that will be first thing. And then I will charge you on the law. At that point, you will go back to your jury room and you can begin your deliberations.

So, at this point, I'm going to go ahead and let you go for the day and be back in here at 9:30 in the morning. Again, y'all have this memorized, I'm sure, but don't discuss the case, don't do any type of research about the case and do not pay any attention regarding any media coverage or social media. If anybody contacts you, other than somebody from the clerk's office, please let the bailiffs know. Otherwise, y'all have a good evening, I will see you at 9:30 in the morning.

(WHEREUPON, the jury left open court at approximately 4:27 p.m.)

THE COURT: All right, any motions from The

Defense?

MR. DEBRUIN: I think I did the directed verdict motion, right?

THE COURT: You renew your motion, again, I think that's a factual issue for the jury.

Anything from The State?

MR. PLEMING: No, sir, Your Honor.

THE COURT: Any specific charges y'all want?

MR. DEBRUIN: I think intent would be the one that we're looking at as well. I'm sure you probably have it.

THE COURT: Yeah, that's a standard. If you want something specific give them to me. But I've got a general intent charge that I do. What I do is I'll work up the charge, let's -- about 9:15, let's go over the charge and then I'll let y'all come out and put anything on the record that y'all need to and then we can go from there.

MR. PLEMING: Thank you, Your Honor.

THE COURT: All right, see y'all in the morning.

MR. DEBRUIN: Thank you, Your Honor.

(WHEREUPON, the proceedings were concluded for the day to be reconvened on December 15, 2021.)

December 15, 2021

THE COURT: All right. Also, we had a conference about the jury charge in chambers. And anything The State wants to put on the record about -- I think everyone was in pretty much agreement on it.

MR. PLEMING: Nothing from The State.

THE COURT: Anything else from The Defense?

MR. DEBRUIN: No, Your Honor.

THE COURT: All right, let me get this. I want to let y'all know that the language that I -- not I but my trustworthy law clerk, found on defining presenting is, Presenting means to offer for observation, show or display. And this is in regards to the case of Spencer, Court of Appeals, 2010. That part I'll add into that definition, so.

MR. PLEMING: Thank you, Your Honor.

THE COURT: And just the normal open in full.

You can argue.

Then you can close.

MR. PLEMING: Yes, sir.

THE COURT: All right.

Anything else before I bring the jury in, from The State?

MR. PLEMING: Nothing from The State.

THE COURT: Anything from The Defense?

MR. DEBRUIN: No, Your Honor.

THE COURT: All right, if the jury is ready, come on out.

(WHEREUPON, the jury entered open court at approximately 9:42 a.m.

THE COURT: Good morning, I hope everybody had a good evening. I hope y'all didn't have dreams about being in those little plastic cylinders. But, anyway, we're now, like I said, at the final stage of the trial. And that is closing argument by the attorneys. And those are their arguments about the case and what has been presented, it is not evidence. And then once they have completed that, I will charge you on the law and then you can, finally, go back again begin discussing the case. So, at this time, I would ask that you give your attention to the attorneys.

Mr. Pleming, you may proceed.

CLOSING STATEMENT

MR. PLEMING: Thank you, Your Honor, may it please the Court.

Good morning, ladies and gentlemen, as I mentioned at the beginning of this trial, The Defendant in this case, Mr.~Marchbanks, doesn't think

he did anything wrong that day. We learned today that he conveniently doesn't seem to remember much of anything from that day. When confronted with the evidence that proves what he did, he still doesn't think he did anything wrong that day. And that's what he told you. But he didn't deny it. He, actually, said that, when confronted with the evidence against him, that while he can't recall anything that happened that day, that based on what the witnesses saw, that he may have done it.

Confronted by the three fresh bullet holes in the porch, the shell casings in the grass, the detailed 911 call, made immediately after the incident; and the testimony of two completely independent neighbors with no stake in this case, no reason to lie, who told you they both observed parts of this incident. Kate Mobley heard the gunshots, she saw the fight in the street. And Michelle Rodriguez, she saw this Defendant in his driveway, fire his gun at or into the house. We know that three bullets struck the house that morning. Two more shell casings were found in the yard. And that is 100 percent consistent with what Melissa Karr said happened.

That as she fled back towards the house, she saw

dirt and grass shooting up in the area around her feet. She heard gunshots. As she turns into the porch to escape into the safety of the house, she heard more gunshots. And she heard bullets hitting the porch. Consistent with the forensics that show five shell casings. Being the first two shots were in the ground and three additional shell casings matching the trajectory of the bullets into the porch. So then she turns to go into the porch, grabs her son, they both flee into the kitchen.

Ladies and gentlemen, this Defendant, he shot at his own daughter that day. That is a fact, that is what the evidence proves. Temporary amnesia is not a defense. Having no memory of your crime is not a defense. And simply believing that you've done nothing wrong is not a defense. His Honor is not going to instruct you on any of those things that is defenses to this crime because they aren't defenses. In the Defendant's mind, he may not think that what he did was wrong. He may feel that he was completely justified to use his gun to run off his daughter's boyfriend. And to fire off rounds because that was his house. But it was wrong. It was unjustified. Unless a person is being threatened, the law does not allow us to pull guns on people just because we don't

want them in our home. The law doesn't allow us to shoot rounds into a occupied house just because that house belongs to us.

You know, in this job you notice that people in many cases want to designate all the individuals in the case as either victims or offenders. And sometimes they're both. When you drop the agendas and look closely, you'll see that sometimes everyone involved in a tragic situation like this is in some way a victim. And, oftentimes, everyone involved in some form legally or otherwise, an offender. The whole situation here is tragic for this family. We have a daughter who clearly has a meth addiction. We saw the effects of that addiction here in this courtroom all week. Well, one day felt like a week. There's a lot of pain in this family. This case is, obviously, split this family apart.

Melissa Karr is not a perfect person. She's battling her own demons of addiction. And she's not blameless. Her personal struggles have probably caused a great deal of pain for her family. And she's responsible for that. But your job as jurors is not -- it's not my job as the prosecutor either, is not my job to judge these men and women on what type of people they are but to focus our attention on

what we know happened, based on the evidence on September 10, 2018. And to determine, in this case, whether the one person on trial today, Randy Marchbanks, violated the laws that he's charged with violating on that day.

As I stated in my opening, we don't have to prove that he intended to cause any physical harm. That's not an element of this offense. You don't have to prove that he was trying to kill anyone or that he was even trying to shoot his daughter. I submit to you that the evidence does indicate that he was trying to shoot his daughter that day. Based on the -- where the bullets landed and how he pretty much -- they followed her path into the house. Can we prove that was his intent to kill her? No. And that's why he's not charged with attempted murder today. He is charged with discharging a firearm into a dwelling. That, he absolutely did. That, the evidence does prove.

But it does suggests also that he was trying to shoot her. And if that was his motivation for shooting into that house, why would he do that? Years, as he testified on the stand, he's been putting up with this for years, he can't get control of his daughter. Could that be what finally made him

snap that day? That and her bringing men to the home? Sure. I don't know. Doesn't matter what caused him to do this, only matters did he? And if that is what caused him to do it, that again, is not a justifiable reason to break the law.

These law apply to all of us. And this Defendant doesn't get a pass just because his daughter has the problems that she does. Whatever personal battles she is weighing, it doesn't help for her own father to try to shoot her as she flees back into their home. But I'm not asking you to judge him or her or to figure out why people behave as they do. As I stated, that's not your job here today. That's not my job as a prosecutor. I'm asking you to follow the evidence in this case, where it leads, which clearly, in this case, proves that on the 10th of September, this Defendant presented a firearm to scare and threaten Casey Nalley, to run him off of his home; and that he discharged that firearm into the home; and that he did so, did both those things with no legal justification. There's been no evidence that he was justified in shooting the gun that day. Or even pulling it out and presenting it in the first place.

Ladies and gentlemen, this Defendant, he's a sad

man. There's no doubt he needs help. His daughter needs help. I submit to you that that help begins by holding him accountable for what he did that day. Hold him accountable for the laws that he violated that day. It doesn't help him or anyone to give him a pass, admittedly, he came across this week as a more sympathetic person, even than his daughter who he shot at. That's not the question before you, of who's the sadder person. The question is whether he did what he is charged with doing that day.

So I just ask you to hold him to the standard of the law that applies to everyone. It's not our job or responsibility to resolve these problems amongst this family. But we have to hold folks accountable when they break the law. We allow the law to dictate who is guilty. And, in this case, the Defendant is guilty of pointing and presenting a firearm and discharging that firearm into a dwelling.

Now, when the Defendant testified yesterday, we saw him express his frustration and anger over his daughter. And that finally he had enough and he snapped. Just like his daughter said he did that day. I'd like to play a portion of the -- of Detective Genther's body cam video at this time.

(WHEREUPON, a video was published.)

MR. PLEMING: If I wanted him dead he would be dead.

Not only does that show the anger and frustration that was coming out that morning. More importantly, that statement, If I wanted him dead, he would be dead. That is an admission that he did present and fire that gun to threaten Casey Nalley. Not to kill him but to threaten him. He was saying, If I wanted him dead, he would be dead. I would have shot him. He's not on trial today for trying to shoot Casey Nalley, he's on trial for pointing and presenting a firearm toward him.

Now, not to beat a dead horse but, obviously, Melissa Karr is not a perfect witness. And she's got an addiction. We saw the signs of that addiction this week. And I wish that in every criminal case that I have, all my witnesses were nuns and priests but that's just not the reality of criminal law. And if I were asking you to make your decision solely based on her testimony alone, with her history and all her other problems, then that might be a problem. But, fortunately, you don't have to rely solely on her testimony in this case. Fortunately, we have substantial, corroborating evidence to prove that what she said happened that morning was the truth.

Perhaps some of the elements were exaggerated at times. Perhaps she didn't recall all the details perfectly, no one ever does. But what she -- what we can know from all the other evidence, is that when she said she was chased back in the house by her father, who was firing those rounds at her in the yard, continued firing those rounds into the house as she fled into it, that part was clearly true. I ask that you pay attention as I play her 911 call for you again.

Let's go ahead and. . .

(WHEREUPON, the 911 call was played.)

MR. PLEMING: We're going to stop it right there. The call is in evidence if you need to listen to it during your deliberations. But as you just heard, she provides a live account of what was happening just after the event. And she gives in details as about just what transpired. People reporting and emergency 911 don't have time to concoct a false story. She just called because there's an emergency, she's just been shot at and she told the dispatcher what happened.

The defense would like you to think that this entire case rests on her credibility as a witness. But while Melissa Karr may not be the most credible

person in general, on that date, she said -- what she said happened is supported by the evidence and the testimony of others, who are independent and unbiased. And that's how you can know that what she said on that day was the truth. Two shots in the dirt, three in the porch. Supported by the forensic evidence and the testimony of Kate Mobley and Michelle Rodriguez.

No reason to lie, no reason to -- Michelle Rodriguez, her testimony was clear as a matter of fact as it could be. She told you what she saw. And there's been nothing brought up in her cross-examination or otherwise, which would give you any reason to believe that she would make that up. Or that she has, you know, any sort of personal vendetta or any bias in this case whatsoever.

Now, I do want to address a couple of things. First, I'm not going to play the full video now, you got it, if you want to go back and look at it but when Deputy Genther, at the time, went into the house, his job was not to do a forensic inspection of the house. He was going in there to collect the gun. And as he comes back through the kitchen, he notices a shell casing on the kitchen floor. If you watch the body cam video, he doesn't look up, he doesn't

spend any time searching for a hole to see, you know, what might be related to that shell casing in the floor.

In fact, at that point in time, I'm not sure that he even had received statements from -- the written statements from victims to know that there's an allegation of a shot fired inside. But that wasn't his job at the time. He was waiting for forensics to come out. So he didn't find a bullet hole but he never looked for one. And as officer -- as Lieutenant Raines testified, when he arrived, unfortunately, there was some poor communication between the law enforcement officers on the scene that day. They're human, they're not always perfect. And he did not know to conduct an investigation inside. He said he never even went inside the kitchen.

So there's reason to believe that there's not a bullet hole somewhere in that house, in the ceiling or in the kitchen corresponding with that spent shell casing that was found. But we know that casing was found because we have Detective Genther's body cam video. And you see on the body cam video where he points it out and says, There's a casing. And you heard his testimony. He's not a liar. He's

credible. So we do know there was a spent shell casing in the kitchen. Which supports the statements provided by both victims in this case. That's how this began.

The Defendant got angry that Mr. Nalley was back at his house and he just snapped. Pulled out the gun, fired it in the kitchen, ran him off. Lieutenant Raines also testified that it's not uncommon at all to be not be able to find a bullet hole from a known shooting. He said he's had a number of cases in which you can prove a shooting occurred but never found a corresponding bullet hole. Bullet holes are tiny. And that messy, disorganized, disheveled house, as it was in this case, it's very possible that a bullet could have struck something in there, got embedded in who knows what and we would never find. But, in this case, we never had a chance to find it because nobody ever looked for it, unfortunately.

But if you consider the alternate account of what the Defendant provided of what happened that day, it just doesn't make any sense. He claims he didn't even know his daughter was inside. That after shouting at Casey get out, his daughter -- he never saw her come out from whenever she was. That Casey,

when he shouted at him and told him to get the F out of his house, that he never just explained, hey, we're leaving in five minutes. I'm just taking your daughter to work. That Casey never explained that to him. He says he never saw his daughter inside. The idea that the Defendant kicked Casey out but then Casey just sat in the driveway, for no other reason just to irritate Mr.~Marchbanks, that doesn't make any sense.

They both admitted that they never had any disagreements or beef with one another. They never fought with one another. So why would Casey suddenly come back there that day just to start trouble for no reason? He wouldn't. What Casey told you and he testified was the truth. He came over to take Ms. Karr to work, the Defendant lost control and lashed out and started firing off his gun. What little that Mr.~Marchbanks claims he can recall from that morning, just doesn't make any sense. That he was just sitting in his living room with a concealed weapon in his pants, that Casey Nalley just walked in, that he chased him out, that he made him leave. That he refused to leave the driveway. And then he went out and confronted him. That Casey was able to tell him to put the gun down. Even though he had

never pulled the gun out in the first place. That case intuitively knew that he had a gun on him. That makes no sense.

Now, as you go back to deliberate, it's true -- our burden is to prove this case to you beyond a reasonable doubt every element of these two offenses. As the Judge will instruct you, beyond all reasonable doubt doesn't mean beyond all possible doubt. As there's few things in this world that we can know with a hundred percent certainty. That's not what the law requires. It requires that we prove this case to you beyond all reasonable doubt. There's no reason for you to doubt the evidence as clear as it is in this case. You are to deliberate -- another definition of reasonable doubt is a doubt which would make one hesitant to act.

But you are required to deliberate on these charges. Just because -- deliberations is not hesitation. Just because you take your time to do your jobs and go through the evidence and look at both sides, that doesn't mean you're hesitating to act, that means you're doing your job as jurors and deliberating.

There's both direct and circumstantial evidence in this case of the Defendant's guilt. We've got

direct testimony of individuals who saw the Defendant commit this crime. Observed every element of the offense. There's also the forensic evidence, which supports all of that. One's not more weighed than the other. You look at all of it together in the totality of the circumstances, you consider, you know, which evidence supports the rest. Consider the credibility of witnesses but you also look at what can we determine, which of the testimony presented in this courtroom this week was corroborated by the rest of the evidence in the case.

And lastly, I'll just remind you that your decision today is not to determine who you personally like more, the Defendant or the victims. Your decision today is not to determine who is the worst person in this case. Your decision is simply to determine whether the Defendant did threaten Casey Nalley with a gun and did fire in the direction or into the house that day. I ask you to focus your attention on that. I'd also like just to remind you that nobody from his family that testified was able to deny what he did.

The evidence is, I would submit to you, simply undeniable. His family members don't want to accept what happened. Maybe because he was confused and

disorientated that day. As I said, he may have some real problems but your job is not to address or solve whatever problems he and his daughter may have. However sad he may appear in this courtroom. We cannot turn a blind eye on the evidence that proves that a person, in this county, has attempted to shoot at another person.

We reduced the charge appropriately based on the full and sympathetic review of the evidence. Presenting a firearm and discharging a firearm into a dwelling, for whatsoever reason, that's what the Defendant did on September 10, 2018. I ask that you just acknowledge the evidence and what it proves, render your verdict accordingly. If you are convinced, as the evidence proves, that he threatened the victim with a firearm and then fired that firearm into the house that morning, then find him guilty. And let the Judge take it from there. Don't give him a pass, it doesn't help anybody do so. You have your common sense, you have the clear evidence before you. When you combine those two, I submit that the evidence will leave you firmly convinced of his guilt as charged on both of those counts. Find him guilty as charged. Thank you.

THE COURT: Mr. DeBruin.

CLOSING STATEMENT

MR. DEBRUIN: Thank you, Your Honor, may it please the Court.

The evidence does not support their position. That's what Detective Genther said about the big lie. About Melissa and Casey's big lie. We all remember that big lie. They both testified that Randy shot in the kitchen, into the ceiling. This wasn't someone misremembering facts or somebody being a little bit fuzzy on the details. This was a deliberate and detailed and crafted lie. Remember, Melissa said Randy pointed the gun at Casey's head and said he was going to blow his mother F'n brains out. Those are specific details in this lie. She then said Randy fired the gun into the ceiling. You heard her say it on the 911 call. That he shot at him in the kitchen. You heard the solicitor said there's no time to make a false story. Well, that's exactly what she did. She made a false story. There was no evidence. The evidence does not support her position. The police didn't see any indication of a bullet hole in the ceiling.

And if he's saying that they didn't do their job, well that's something that you should take into consideration too. Because they didn't do their job.

But there's no indication that there was a bullet hole in the ceiling and their detective even said so. If she were telling the truth, somebody would have seen a bullet hole in that ceiling. They concocted a lie and they got caught in their lie.

Folks, you heard all of her lies. And their lies. Yesterday. There were so many, I couldn't count them all. I probably missed them. And I'm hoping that maybe when you guys go back in the deliberation room, maybe you remember some that I have forgotten. Because there were a lot, I agree. She's battling demons. She's also battling the demon of being able to tell the truth. Because clearly she does not tell the truth.

How do we know that Randy did not fire in the house? What's another reason why? Not just because there's no bullet hole, like he said. What's another reason? The two neighbors. The two neighbors on cross-examination I asked them both, Did you hear any gunshots before the fight? And both of them said, No. Ms. Rodriguez, when she testified, she was sitting outside, just feet away. And heard no gunshots at all. She clearly would have heard that coming from the nextdoor neighbor's house. Randy's house is not sound proof. Okay, a gunshot is pretty

darn loud, we all know that.

She testified that she would have heard a gunshot, even if it was fired inside Randy's house, and she did not hear it. She was outside at the time. So we know that Casey and Melissa were lying to us. To all of you, to me, to the Judge, to the solicitor, she lied to everybody. There were no gunshots before the fight. But that wasn't the only lied she said and he said. Remember, Casey said that Randy fired several shots at him. Going out of the house, before the fight. But again, is that corroborated by any evidence? The evidence does not support their position. Again, the neighbors would have heard that. Gunshots going off before the fight, they did not hear any of that. Again, Ms. Rodriguez's, sitting outside, on her porch, didn't hear any gunshots going off beforehand. The reason why is because those shots were never fired. Again, another lie.

Melissa says to dispatch -- Melissa on the stand, remember she said dispatcher told her to go to the end of the driveway, just park sideways, right? Because if Randy came outside, she's supposed to drive away. But when Officer Genther got there, was she anywhere around? No. You saw on the video. She

wasn't the first one he talked to. He talked to Randy, you saw Susan Marchbanks on the video, you saw her grandson, all those people, she wasn't there. She didn't come until minutes later. Casey said he went directly to the police station. But later on he said, Well, I went to my work first and then I went to the police station.

What's the possibility that the two of them were getting their story straight? I think it's a big, strong possibility. The week before she tried to falsely accuse my client of assaulting her or her brother, depending on what story she's going to tell today. She told two different stories. The week before she's trying to get my client in trouble. She failed in that. He didn't get arrested. So this time she decides she better get a conspirator, an accomplice. And that's exactly what she did. She had her boyfriend and her make up this story. To try to get her father in trouble.

Again, on the 911 call, she's saying things like, oh, he's yelling at me to get out of here, he's got the gun. Did you ever hear Randy on that 911 call? He's not yelling at her. Is it so hard to believe that she might have gone out -- she said on the 911 call she's going in and out of the house.

She's inside the house, she's outside looking for her keys. It is so hard to believe that possibly she picked up one of these shell casings and put it in the kitchen? I think it's possible. It would be nice to have the shell casing, maybe they could have fingerprinted it, but they didn't even pick up. All right, the police didn't do that. They didn't do their job.

Randy is charged with pointing and presenting a firearm at Casey. The only two witnesses who claim that Randy pointed the gun at Casey, were Melissa and Casey. Two known liars. They lied multiple times to you. To this Court. In order for the government to meet its burden of proof, you have to believe their story. People who have lied to you multiple times. But you don't have to believe them. There's no requirements. The Judge is going to talk to you about that in jury instructions. About the credibility of witnesses. You do not have to believe them. And they have lied and got caught in lies multiple times but their credibility is terrible.

Again, Casey says he fired at him multiple times before the fight. But that's not corroborated by the witnesses, the two neighbors. They're lying to you. So the only time Randy could have been pointing or

presenting a firearm at Casey is in the house or right before the fight. Because we know that Randy threw the gun on the ground. And the only two people who said that he pointed the gun inside the house are the two liars.

You heard from Randy who told you the truth. Everyone in that house knew he was carrying a gun. Why was he carry ago gun? Because he got robbed. Somebody broke into their home and stole things out of their house. While they were there. While they were there. How terrifying that must be. Casey and Melissa knew that Randy carried a gun. He got his CWP like he told you. He wanted to get that training and he carried it around with him all the time. So they took that kernel of truth and made a lie up around it. And they said that Randy pulled the gun on Casey. But that never happened.

The government has not met its burden of proof in pointing and presenting. Randy never pointed the gun at Casey. Because Casey's a liar and you don't have to believe anything he says. So I'm asking you to find him guilty -- not guilty on that charge.

So the only other witness who said that she saw Randy shooting into his own home was Melissa. Ms. Rodriguez, remember, she said that she heard the

gunshots, she didn't hear any of them going into the house. She didn't see Melissa running away, getting dirt popped up behind her. Because Melissa is lying, again. Ms. Rodriguez didn't see Randy shooting into his house.

The government says the holes in the porch are bullet holes. But they didn't even bother to gather any evidence for you to support their position. We don't know what caused those bullet holes. Or those holes in the siding. We don't know if they're bullet holes or something else. Why? Because a forensic officer, Lieutenant Raines, didn't do his job. And when police don't do their job, innocent people go to jail. Lieutenant Raines didn't even try to get bullet fragments. Didn't even try. Wouldn't you like to see, at least, give an effort to try? Doesn't Randy deserve that as a defendant? The police trying and doing their job.

Remember this picture? This block of wood. Has a dowel going in, no dowel rod going out. So somewhere, presumably, in this block of wood, the government, if this case is true, would be a bullet. Would be fragments of a bullet. They didn't even try to dig it out. They just assumed this is it. Oh, it must be there. But didn't even try. The most

important day of my client's life and they didn't even try. That block of wood is not bolted down. They could have picked it up, brought it to their lab. Cut it in half, got a saw, try to find some fragments but they didn't do it.

I believe a reasonable person, a reasonable officer, would try to find those fragments. But they didn't. Look at this picture right here. Take a look at where the bullet -- where they say the bullet is, the bullet hole. On the topside of the porch. We all saw Randy. They thought -- this is their trajectory rod, went straight in, across. How tall would Randy have to be to make this shot? I'm 6-foot five, I don't think I can make that shot and make the trajectory go that way. You see the car down here? So it's the car, higher than that, and the bullet has to be going along that plane. This is their investigation. This is what they're saying a bullet hole is. This can't be the trajectory. This can't be the hole. Because Randy's not that tall.

Again, I point out a picture, and I'll show it to you right now. This one, and again, you'll have these pictures when you go back. Remember this little ding right here? Looks pretty white. About the siding. Maybe the same color as what they say is

the hole right here. Again, you will be able to bring these back, I'm not going to fuss around with technology, I'll probably mess it up. So this right here, that hole, that's what they're claiming is fresh. But we don't know what caused the other mark. Is it somebody going by with a lawnmower and a rock kicking out and causing a chip in the siding, maybe?

How long ago was that hole made? Do we know? The lieutenant didn't know it. How long ago? He said, Fresh. Well, what does that mean? We don't know. Days, months, weeks. How long does it take from siding to go from looking fresh to having weather marks? Does any of you know? I don't know. Did they tell you anything? Did they bring in anybody who could tell you how it weathers? Is it days, it is weeks, it is months? It is a year? I don't know. And I don't think you do either.

What made those holes? Do we even know for sure what made those holes? I don't think we do. They didn't find any fragments, they didn't even try to. So they can't confirm that a bullet, actually, went through, they're just speculating. What other alternative did you hear yesterday? You heard that Randy has a lot of grandsons. And the boys were given bows and arrows. Maybe the parents didn't

realize how dangerous those are. That people hunt with those. They testified that the kids shot that porch, that the bows were taken away from them because they didn't realize the kids were going to do that. They shot at the house, they made marks in the house. They punctured and put holes right where they're say the bullets went in. So it could have been the boys who shot arrows into the porch and caused those holes. Again, he doesn't have a brick home, it's siding. It's aluminum and probably plywood that an arrow traveling fast enough would puncture.

Again, you heard that there was debris from holes being made there. Did you see any pictures of debris? I pointed out on one picture, where they claim where something was going into the house, but there's no debris there. When I asked the lieutenant about it, what did he say? He said, well, the porch wasn't clean. Okay, so that's two different stories from two different officers. One says there's debris, one says, Oh, we can't tell if there's debris because there's so much stuff on the porch. Which is it? Again, if there's a conflict, I think that tie should go to my client.

The burden of proof is on the government to

prove beyond a reasonable doubt all the elements of the crime. And if there's any doubt here, any reasonable doubt, and I think there's plenty of it, you should find my client not guilty.

Again, the only person who saw or supposedly saw Randy fire into the porch was Melissa, a known liar. Someone who takes advantage of elderly folks. She's got a conviction for it. She will say and do what she wants to get what she wants. And good luck trying to get her to own up to anything. You heard what she said about her shoplifting charge on the stand. She tried to say my clients drugged her and sent her off to the store to go shoplifting. Are you kidding? Are you kidding me? Even now after she's been convicted of three different crimes, she won't take any ownership of what she's done.

Randy testified truthfully. After he was brutally beaten by a younger and healthier man. Received a broken rib, which you saw, a blow to the back of the head, a knot to the front of his head, which you saw, he has trouble remembering what happened next. He still testified, I don't think I shot into my house. You heard about, from his daughters, about his mental state. One daughter he doesn't even remember being there. Doesn't remember

her, having a conversation with her. One of his daughters, the other one, he was referring to her by her sister's name -- his sister's name. A sister he doesn't even talk to. He was having major mental issues there. He had just gotten beat up, punched repeatedly in the back of the head, he was confused.

But you heard his testimony. He said, I don't think I shot into my house. But if I did, maybe I did, I don't know. That doesn't sound like a liar to me. Why would he admit that if that's what was really going on? If he's conveniently forgetting, like the government wants to assert, why would he say that? He wouldn't. He'd say, no, I didn't shoot into my house.

The Judge is going to talk to you about intent and what criminal intent is. You have to have intent to shoot into your house. Intent to do something wrong. If he's having mental issues then maybe he doesn't have intent to do anything like that. If he's confused, maybe he doesn't know what he's doing. I don't think Randy shot into his house. I think Melissa made it up. But you have to have intent. Because in any case where somebody accidentally has a firearm go off and they're cleaning it inside their house, can be charged with this crime. That's why

the intent is there. To rule out things. You have to intend, criminally intend, to do something.

Again, the only person who says my client shot into the house is a known lair. You know the big lie about the gunshot into the ceiling, that wasn't true. No bullet holes were found, the neighbors don't corroborate it, it's a big lie. But look at all of her other lies. She said that Randy walked up to Casey and punched him and started the fight. That's what she said to me on cross-examination when I was talking to her about her statement. That's what she says. But on direct examination, just minutes earlier, minutes, she says -- the solicitor asked her what her father was doing when Casey was trying to leave?

He went up to the road, pointed a gun at him screaming obscenities, telling me he was going to blow his brains out. And that's when Casey said, Randy put down the gun and fight like a man. Daddy threw the gun down and Casey hit my dad one time in the face and broke his glasses.

So again, two different stories in a matter of minutes. She has no credibility. She would lie to get what she wants. The government's only witnesses are two liars. The evidence does not support their

position. Randy did not point the gun at Casey, he did not shot into the ceiling in his house and he didn't shoot into his own home. You have reasonable doubt, in this case, to go back in that jury room and say, yeah, we doubt that he did this. There is doubt in this case and it's reasonable. You have that ability to go back in that room because the evidence does not support their position. I'll ask you, again, to find my client not guilty of all these charges.

CLOSING STATEMENT

MR. PLEMING: Thank you, Your Honor.

It's a interesting theory but it doesn't change the facts that prove this Defendant guilty of each of these offenses. First of all, Ms. Karr and Mr. Nalley are not sophisticated enough to concoct the grand scheme that Mr. DeBruin claims they did of showing up that morning, just to set her dad up and claim that he fired all these shots. And that they then went outside, scooped up a shell casing, planted it in the kitchen.

But my biggest -- bigger issue that I want to respond to from Mr. DeBruin's closing argument, is the fact that he wants to redefine the law. You need to listen to him the way the Judge -- that His Honor

charges you on the law. Pointing and presenting a firearm, that's how the charge is captioned. But the law makes it -- makes a person guilty for pointing or presenting a firearm. He keeps saying that, well, he never pointed at -- the gun at Casey. As long as he presented the gun, he doesn't have to point it directly at Casey, if he pulls the gun out, in this case, fires it into in the kitchen, that's pointing or presenting a firearm.

Discharging a firearm into a dwelling. His Honor will read the charge that based on the offense and the code of law of South Carolina, which says that it's illegal, that a person is guilty of this offense if they fire -- discharge a firearm into or at a dwelling. A place that's regularly occupied by people. And he keeps saying the only person that saw the Defendant discharge a firearm at the dwelling, is a known liar. That's not true. Michelle Rodriguez is not a liar. She testified that she saw the Defendant discharge a firearm at the house, in the direction of the house. And standing in the driveway, pointing in the direction of the house. That is discharging a firearm into a dwelling. That is direct evidence from a credible witness, no skin in the game, who saw what all the other evidence in

this case tells you happened.

Mr. DeBruin tried to make a big deal about the -- that -- or claiming that no shots were fired before the fight because nobody heard them. Ladies and gentlemen, even if no shots were fired before the fight, the Defendant is still one hundred percent guilty for the shots he fired after the fight. That's just a distraction. And just because nobody, at their own homes, that these neighbors didn't hear a shot from inside the home, doesn't mean that there wasn't one. We didn't go into her cross-examination to find out exactly how long Ms. Rodriguez had been out on her porch, whether she may have stepped inside to use the bathroom or who knows what. Or maybe she just wasn't paying attention and the doors to the Marchbanks home was closed when it happened. It could have happened and she wouldn't have heard it, that doesn't prove anything.

Based on the fact that what she definitely saw and definitely heard, and that is, this Defendant discharging a firearm at or into his house. And we know that it wasn't just at the house, he fired into the house. We have the photographs. The forensics. Those bullet holes weren't caused by bows and arrows. To believe that is just to disregard your own common

sense. Those projectiles went through multiple layers of siding, through an exterior wall, through the porch and into the interior wall of the home. And they would had to tear up the home to find what just may be fragments of that, of the projectiles. With all the other evidence in this case, there's no need do that at this point.

The two marks on the siding that Mr. DeBruin pointed out and he tries to claim -- make a big deal about the fact that we don't know what caused this one. Well, the differences between those two markings are so obvious, so distinct. There's no penetration of that mark on the siding. There's -- look closely at it when you get back there, there's some other photographs that, I believe, zoom in a little bit closer, but that is a bullet hole. There's no question -- and someone with expertise that investigates these crimes told you that was a bullet hole. You can see on the video. Deputy Moon, as soon as they walk in the house, he immediately points to it, was, like, there it is. There's the confirmation of -- for what's been alleged.

And lastly, whatever mental issues the Defendant has or whatever mental issues the Defendant had that morning, were not caused by the events that morning.

They were the cause of the events that morning. And you've heard no testimony, you have no evidence that whatever his state of mind was that day, that that would in any way negate his intent to fire that gun. Okay. It's not -- redefine what criminal intent means. It doesn't -- just because you may be confused and disoriented, that doesn't necessarily negate your intent to commit a crime. And for whatever was motivating him, he armed himself with a gun, he threatened Casey Nalley with it. Then he fired and discharged that gun into the home, at his daughter as she was fleeing after the fight. He had the intent to do that.

For those reasons, for all the reasons I stated before, you know, there's no testimony -- I'm -- I'm -- I'm not going to discuss the depth of mental issues and how that might affect a person's intent and mind. Just ask you to recall that there's certain -- you're the judges of the facts. And any issues related to his mental capacity of that nature, those would be issues of law. So it's not within your purview, it's not your responsibility to determine whether or not his mental health makes him not guilty in this case. You're to judge him based on the facts of what he did. And his criminal intent

in this case, his intent to fire that gun, to use that gun the threaten Casey Nalley, is obvious from his actions and from the things that he said that morning. So I ask you to find him guilty of pointing and or presenting a firearm and for discharging a firearm at or into a dwelling. Thank you.

JURY CHARGE

THE COURT: All right, thank you, counsels.

All right, everybody okay? My portion takes about 20 minutes, does anybody need a break? All right. I tell you what, I always ask everybody if you'd like to take a brief moment to stand and stretch while I move around over here. All right. Now, what I'm going do is charge you on the law of the case. I'm to going to come around because if I'm up there I look -- if I look as distorted as y'all do, then y'all be able to pay attention to what I'm telling you.

So, as I told you in the beginning, there are multiple charges that have been presented here before you. Discharging a firearm at or into a dwelling and pointing and presenting a firearm. And each of these charges are separate and distinct charges. Each of these charges are to be considered differently -- I mean, separately by you. You'll make a decision --

and you will see on the verdict form, you will first consider -- the first one listed is discharging a firearm into a dwelling. You will consider that separately, you will consider the elements of that charge and you will make a decision. All 12 of you will decide if The State has met its burden of proof on that one beyond a reasonable doubt, then you'll find the Defendant guilty. If you find The State has not met its burden on that charge, you'll find the Defendant not guilty. After you have done that, then you will go and consider, separately, the pointing and presenting a firearm. And your decision on one should have no bearing on the other. Consider them totally separate.

Also as I told you in the beginning, the fact that there's indictments, that there's an arrest, that there are charges, is not to be considered by you. Those are merely the papers, that's merely the basis, the allegations that brings this matter to court, to which the Defendant has pled not guilty to these charges. So therefore, the decision that you are to make is based on the evidence that was presented here in the courtroom and the law as I give to you today.

Now, the Defendant has pled not guilty. And in

every case, criminal case, no matter how serious, the Defendant comes into the courtroom with that presumption of innocence. And that stays with him until you find that The State has met its burden. If you find The State has not met its burden, then that presumption of innocence stays with him and you're to find him not guilty. Now, also I told you in the beginning that we have two separate jobs here. Your job is to determine what the facts are. And you do that by you -- you weigh the evidence, you give all the evidence the weight that you feel is appropriate. You consider the evidence. You consider any stipulations of counsel. You consider the testimony. You -- and that's how you determine what the facts are.

If there was any testimony that I ordered to be stricken, then you're not to consider that. You're only to consider those matters which were properly before the court. I also want to comment on sometimes with videos presented in court, there are certain times that we have to -- or the parties have to redact certain portions of that. Redact the audio and mute it. And the reason for that is there may be information, one, that's irrelevant. There may be information that does not meet our rules of evidence.

And that's not to be considered by y'all. Give any kind of inference. You are to consider the actual information that was presented to you.

And therefore, because of that, if you, at some point, if you decide you need to review that video during your deliberations, then we'll have to bring you back out here so that we can properly present it as it was presented in the hearing. I mean, in the trial.

Now, as I said, you're the sole judges of the facts. I'm the judge of the law. And what that means is the law that I'm giving you now is the law of this case. If you feel like the law should be something different or you came into this courtroom thinking, no, that's not what the -- that's not what I thought the law was, and that contradicts what I'm telling you, then you've taken an oath to apply this law here. Also, if I said anything or there's anything I did that made you think I had an opinion on the facts of this case, then you're to disregard that. Because that would be me standing in the jury box and doing your job. And that is not -- that is not my duty. So it's up to you to determine what the evidence is, give it the weight and value and effect that you feel is appropriate.

Now, a very important kind of foundation of our criminal system is the presumption of innocence. And this is just not merely a legal term that we throw out there. This is the Defendant's absolute right under our Constitution. That is that presumption of innocence. And what that means is he comes into this courtroom with that presumption of innocence. The burden in this case, because of that, is clearly on The State to find The Defendant guilty of each -- or find that he -- prove each element of the charges guilty beyond a reasonable doubt. The Defendant has absolutely no burden whatsoever to prove the negative or to prove any defenses. But the burden lies strictly with The State.

What is reasonable doubt? I know we've been throwing this phrase around because that's the burden of proof that The State has to prove their case beyond a reasonable doubt. Reasonable doubt is -- and some of you, I don't know if you've been involved in civil matters or may have served on a jury in civil matters and that's a different standard. That is by preponderance or greater weight of the evidence. Only reason I mention that is because that has no relevance -- that has nothing to do with this case. This is a much higher burden. And that is

beyond a reasonable doubt. Reasonable doubt is the kind of doubt that would make a reasonable person to hesitate to act. Proof beyond a reasonable doubt that leaves you firmly convinced of the Defendant's guilt.

Now, there are very few things in this world that we can know with absolute certainty. And The State is not required to overcome every possible doubt. But if based on your consideration of the evidence, you're firmly convinced that the Defendant is guilty of the charges, then you must find the Defendant guilty. But if on the other hand, you think there's a real possibility that he's not guilty, then you must give the Defendant the benefit of that doubt and find him not guilty. Facts and circumstances that merely place upon the Defendant a grave suspicion with the crime charge, or that merely raises speculation or conjecture, is not enough for a conviction.

So -- all right, there are two types of evidence that can be used during a trial. And that's direct and circumstantial evidence. Direct evidence is when a piece of evidence directly proves the existence of a particular fact and does not require any deduction or inference or a chain of facts to prove that fact.

But circumstantial evidence is when you have to have a kind of a string of facts, to come up with an ultimate conclusion of that particular fact. I always like to give an illustration of this, kind of, I think, makes it a little bit easier to understand. That is direct evidence. If you go home and you pull in your driveway and just as pull in your driveway, it starts raining. Well, you look and you see rain and you go in your house. That's direct evidence that it's raining. But on the other hand, you go in your driveway, the driveway is dry, clouds overhead and you go into your house and you hear thunder. And you come back out and it's not raining but the pavement is covered -- is wet, your car is covered with rain drops. You didn't have direct evidence that it rained but there's a series of facts that you can apply that was evidence, circumstantial evidence, that it, actually, rained.

Now, the law makes no, you know -- and The State can -- the evidence can be presented either direct or circumstantial. The law makes no distinction between the weight or the value you're to give either direct or circumstantial evidence. However, to the extent The State relies on circumstantial evidence, all of the circumstances must be consistent with each other.

And when taken together, point conclusively to the guilt of the accused beyond a reasonable doubt. If these circumstances merely betray the Defendant's behavior as suspicious, then the proof has failed.

The State has the burden of proving the guilt -- the Defendant guilty beyond a reasonable doubt, whether it rests with The State, regardless whether they rely on direct or circumstantial evidence or a combination of the two. Now, one of the things that -- I think I got upside down. There. I don't know, I'm about tired of these masks. Yeah, that's better.

All right, credibility of witnesses. One of the things that you must determine in weighing the evidence is the credibility of witnesses. Credibility just merely means believability. So you just use your own common sense and determine whether somebody's testimony is reliable or not. You can determine whether they have a bias in the matter, you can determine based on their -- how they acted on the stand whether they had any interest or anything along those lines. You may believe one witness against several witnesses. You may believe several witnesses against one witness. You may believe a portion of a witness' testimony and disregard the remaining

portion. Or you may accept all of a witness' testimony and or reject all of a witnesses testimony. So it's up to you to determine how to weigh that witness' testimony.

Also, in considering that a person -- you can consider person's past criminal record. And this record does not affect the ability of the witness to testify. This past record may only be considered by you, if at all, in determining the witness' believability. And you remember, you're the sole judges of the facts and the believability of that witness.

There's also been evidence presented that witnesses have made prior statements which are not consistent with their testimony. You may use the evidence to decide whether to believe the witness, you may also use the evidence to -- of the earlier contradictory statement to determine the truth of those statements. It's up to you decide whether to believe the earlier statement or the testimony given at trial. If a witness is shown to have knowledge -- known to have testified untruthful concerning any material matters, you may consider this in determining whether to trust the witness' testimony. Again, you may reject all the testimony or give a

portion of it the weight you think it deserves. All right.

Now, in every criminal matter, criminal intent is required. For example, the mental state required to be proven by The State for a particular crime, must be purpose, intent, knowledge, recklessness or criminal negligence. Criminal intent must be proven by The State beyond a reasonable doubt as to every element. Criminal intent is always a matter that must be determined by the jury for the circumstances surrounding the situation. Now, there is no way to prove intent by a mathematical certainty or absolutely. So you must determine, based on all the circumstances, whether there was criminal intent. It can be inferred from the circumstances existing at the time.

This is how you make a determination of whether or not the element of intent was present. It's not necessary to establish intent by direct and positive evidence but it can also be established by circumstantial evidence. Criminal intent is a mental state, it's a conscious wrong doing. It is up to you to determine what The Defendant intended to do based on those circumstances. Then criminal intent can arise from action or failure to act, it may arise

from negligence, recklessness or indifference to duty or consequences that is considered by the law to be the equivalent of criminal intent.

All right. Now, I'm going to talk to you about the elements of the charge themselves. All right. The first one I'll talk about is discharging a firearm at or into a dwelling. And, again, The State must prove these elements beyond a reasonable doubt. It's unlawful for a person to discharge or caused to be discharged, unlawfully, firearms at or into a dwelling house or other building, structure or enclosure, regularly occupied by persons. That is the definition of that charge. And that's what The State has the burden to prove.

The second one is pointing and presenting a firearm. The Defendant is charged with pointing and presenting a firearm and The State must prove beyond a reasonable doubt that the Defendant presented or pointed, at another person, a loaded or unloaded firearm. Presented means to offer for observation, show or display. So those are the two crimes that the Defendant has been charged with and that you must determine in your deliberations.

All right, Mr. Foreman, I'm going to give you the verdict form and kind of go through this with

you. All right. Now, the top part is just the caption. And really just a -- and then, if you'll look it says, Please answer each of the questions below. The first question is, As to the charge of discharging a firearm into a dwelling, we, the jury, unanimously find the Defendant, Randy D. Marchbanks -- and you're going to check one. And there's no -- obviously, got to put them in some order, so there's no bearing as to which comes first. But if you find The State has met its burden on this charge, beyond a reasonable doubt, then you would check guilty. If you find The State has not met its burden on this charge, you would find The Defendant not guilty. And all 12 of you jurors must agree to this verdict. On each question.

Then when you complete that analysis, then you would go to the second one. As to the charge of pointing and presenting a firearm, we, the jury, unanimously find The Defendant, Randy Marchbanks-- And again, you check one. If you find that The State has met its burden on that one, you would find The Defendant guilty, you would check guilty. If you find The State has not met its burden, then you would check not guilty. When you have completed both questions and reached a verdict, then you would sign

and date and you let the bailiff know that you have completed your deliberations.

And as I said, all 12 must agree on the answer to each of these questions, it's a unanimous verdict. Your verdict should be based on the evidence presented in the courtroom. It's not to be based on any passion, any prejudice, any sympathy or any emotion. Anything other than what has been presented here in the courtroom and the law which I have presented to you. There's no additional evidence that will be presented. You will have an opportunity, if you have any questions, one of things that you do, as the foreperson, is you would write that question on a piece of a paper, date and sign it and you'll give it to the bailiff. The bailiff will then bring it to me.

Now, I have a couple of ways I can respond to that. I can either answer that question on a piece of paper and send it back to you. Or sometimes it requires that I bring you back into the courtroom and give you some additional charge to it. But I will tell you that we cannot answer any factual questions, we cannot give you any additional evidence. I know sometimes people -- or jurors will send a question back, how about particular medical report or some

report that was referenced in there. That's not into evidence. Only what's into evidence is what you can consider. And again, we can't answer any factual questions.

So now, I'm going speak to my alternates. Y'all have been sitting here, working just as hard as these other folks but, unfortunately, you cannot participate in the deliberations. I mean, your role in this is just as important because if one of the jurors were not able to continue through deliberations, then you would have had to step in and we would not be able to complete the trial. So it's important to have alternates, although, you cannot participate in the deliberations itself. So once the deliberations begins, you'll step out of the jury room at that time.

All right, if you'll put that jury verdict form there on the bar. Because what I've got to do now is I need to check with the attorneys, make sure, one, I haven't left anything out or I haven't misstated something. If I have, then I'll bring you back. I won't redo the whole thing, don't worry. I will just tell you whatever, you know, correct or additional matter I need to bring to your attention. So and then if it's time -- if everything is sufficient and

I don't need to bring you back out, then the bailiff will bring you the verdict form and the evidence, okay. He will trade those for the alternates, at that point the alternate needs to -- will step out. And then y'all can begin your deliberations.

It's eleven o'clock now, so -- or just a little bit after. We can provide lunch for you. After y'all get in there, we'll check with you to make sure we need to order lunch. Usually, it's pizza. So if somebody has a issue with that you just need to let the bailiff know. So at this time, I'm going to ask that you step back in your jury room, including the alternates. Once -- I have to tell you this one more time, don't discuss the case. The signal will be when the bailiff brings the verdict from and the evidence in there. So at this point, if you'd go back to your jury room.

(WHEREUPON, the jury left open court at approximately 11:06 p.m.)

THE COURT: All right, any objection or exceptions from The State?

MR. PLEMING: No, Your Honor.

THE COURT: Any from The Defendant?

MR. DEBRUIN: No, Your Honor.

THE COURT: All right, make sure you got all the

exhibits there. And if y'all go anywhere, make sure Pat has your cell phone number.

(WHEREUPON, deliberations began at approximately 11:10 a.m.)

(WHEREUPON, court was in recess awaiting a verdict.)

(WHEREUPON, Court's Exhibit No. 1 was marked for identification only.)

THE COURT: All right, we've got a note here, we've got Court's Exhibit 1 that says, Written explanation of reasonable doubt. Signed, Robert Clement, foreperson.

I am attaching a printout of the reasonable doubt charge and both The State and The Defendant have reviewed it and no objection, correct?

MR. PLEMING: Correct.

MR. DEBRUIN: That's correct, Your Honor.

THE COURT: Did y'all order lunch for them?

THE CLERK: No, not yet.

THE COURT: We would like to see the statements taken at the scene by the police. I assume that they need clarification. Are they talk about reviewing the video that we saw? And then also testimony of forensic officer and neighbor Rodriguez. And that's the case -- and some adhesive tape. I don't know if

they've torn some of your exhibits or what but they don't explain.

MR. DEBRUIN: Maybe want stick them to the wall.

THE COURT: What I may do is I may bring them out here and ask them some clarification on all those questions. Because she'll have to queue it up and there will be some stuff there. So I'm just going to bring them out, that will be easier to try to communicate here. Okay, any questions before I do that?

Oh, yeah, bring your client in, okay.

Court Reporter says that if they want to listen to the testimony of the forensic officer and the neighbor, it's about 45 minutes combined.

Right?

THE COURT REPORTER: Yes, sir.

THE COURT: Then the other -- again, I'm not sure what they're asking. Okay.

All right, ask the jury to come out. And tell them I'm going to -- I need further clarification, just need to bring them out to do it.

(WHEREUPON, the jury entered open court at approximately 12:17 p.m.)

THE COURT: All right, I thought it would be easier if I brought you out and get some

clarification. First, I want to apologize for a little bit of a delay here. But we were -- we were already in the process of drawing the next jury and it was -- that would have been way too complicated so I apologize for that. I just wanted some clarification, I don't want anybody to indicate anything about what's going on or who wants it but we would like -- I've got a note here.

We would like to see the statements taken at the scene by the police.

And I guess, my question to you is, we cannot produce any statements. I don't know if you're talking about the video portion of that but other than that, any evidence that you're to consider has been presented to you. So if the statements were not introduced or presented, then those are not things for you to consider. So all that you can rely on are the testimony from the stand and the video. Which I wasn't sure but it's not the video you're talking about, you're talking about actual statements. So therefore, we cannot provide you with any additional that has not already been introduced.

Then there's the testimony of the forensic officer and neighbor Rodriguez. The Court Reporter -- what we'll have to do is, we don't have

transcripts of those, we'll have to bring you out and let you listen to that testimony again. And the Court Reporter indicated to me that that was about 45 minutes long. What I'm going to do is I'm going to give y'all this information, I'm going to send you back, then you can tell me what you want to do, all right? Some adhesive tape, I don't know if y'all have torn something or what, that's fine, we'll send back adhesive tape on that.

So then written law -- and this is -- by the way, I have not presumed this, it was handed to me as -- written law on charge number one and charge number two. I can print that out and send that back to you. And then transcript of Casey and Melissa testimony. And again, we don't have transcripts of that but we can bring you back, whatever you want to listen to, we can bring you back and you'll have to just listen to the tape recording of that testimony.

So I think that's all the -- the two questions I have asked there. So what I'm going to do -- and we do -- and I think I forget to order your lunch so it's coming. So we got too many things going on here. Like I said, trying to get things going. All right, I'm going to send you back. Now, that I've given you -- I think that's answered all the

questions you had here. Go back and talk and you let me know then what you want to do and we'll make arrangements, okay. All right. Proceed back.

(WHEREUPON, the jury left open court at approximately 12:21 p.m.)

(WHEREUPON, Court's Exhibits Nos. 2 & 3 were marked for identification only.)

THE COURT: All right, any exception to my charge, additional charge, from The State?

MR. PLEMING: No, Your Honor.

THE COURT: From The Defendant?

MR. DEBRUIN: No, sir.

THE COURT: So y'all welcome to look at this. I guess I'll print out those two charges, I'll let y'all look at this before I send them back.

Mark that as Court's Exhibit 3.

(WHEREUPON, Court's Exhibit No. 4 was marked for identification only.)

(WHEREUPON, the jury entered open court at approximately 12:54 p.m.)

THE COURT: All right, I apologize for sending y'all out so much, we're making this complicated. Okay, the last that I got back from you, Mr. Clement, was the testimony of Rodriguez and then understand you added, We also want to hear Casey's testimony.

My understanding -- that would be -- that's Casey Nalley, who also testified. And what we're going to do -- just the order is easier for the Court Reporter, we're going to start with Mr. Nalley first, is that right? The way we'll do this, we'll just play the audio. Then the Court Reporter has -- so. . .

(WHEREUPON, the testimony of Casey Nalley was played.)

THE COURT: All right, those are the two testimony you requested. So covered what you requested. All right, go back to your jury room and continue deliberations. Let us know if you have any other questions.

(WHEREUPON, the jury left open court and continued deliberations at approximately 1:16 p.m.)

THE COURT: All right, any objection?

MR. PLEMING: No, Your Honor.

MR. DEBRUIN: No, Your Honor.

THE COURT: All right, just sit tight.

(WHEREUPON, court was in recess awaiting a verdict.)

(WHEREUPON, Court's Exhibit No. 5 was marked for identification only.)

THE COURT: Okay.

All right, I got a note, Court's Exhibit 5, says, We have reached a verdict on charge number one, we're unable to reach a verdict on charge number two, signed Robert Clement, 12/15/21. And I've marked it as Court's Exhibit 5. I don't particularly want to read them a Allen charge at this point. And I don't -- it doesn't say what they've reached, it just says they reached a verdict. I would -- my proposal is that I put on the bottom, please deliberate a little further and keep me posted on your progress. Any objection to that? Because then if they come back and say we're unable to reach it, then I'll give them the Allen charge.

The State all right with that?

MR. PLEMING: That sounds fine.

THE COURT: The Defense all right with that?

MR. DEBRUIN: Yes, Your Honor.

THE COURT: All right, y'all want to look at this? All right, I've shown you my response to Court's Exhibit 5.

Any objection from The State?

MR. PLEMING: No, Your Honor.

THE COURT: From The Defense?

MR. DEBRUIN: No, Your Honor.

THE COURT: All right.

(WHEREUPON, a short break was taken.)

THE COURT: All right, basically got another, we have tried and cannot reach a verdict on charge number two, Robert Clement, 12/15. The Allen charge, I think at this, I may -- do any good, I do need to proceed with giving them the Allen charge.

MR. PLEMING: Yes, sir, Your Honor.

THE COURT: Any objection from The State on that?

MR. PLEMING: No objection, Your Honor.

THE COURT: From The Defense?

MR. DEBRUIN: No, Your Honor.

THE COURT: All right, if you'll mark that as our next court's exhibit.

(WHEREUPON, Court's Exhibit No. 6 was marked for identification only.)

THE COURT: All right, anything from The State before I bring the jury in?

MR. PLEMING: No, Your Honor.

THE COURT: Like I said, I'm going to do a pretty standard Allen charge.

Anything from The Defense?

MR. DEBRUIN: No, Your Honor.

THE COURT: All right, bring the jury.

(WHEREUPON, the jury entered open court at approximately 3:05 p.m.)

THE COURT: All right, Mr. Foreman -- and again, I don't want any information about the results you have, I've got a note back that says, We have tried and cannot reach a verdict on charge number two.

And that was after I sent a note saying I wanted y'all to deliberate a little more. Again, I'm not trying to make your afternoon more difficult and I honor what y'all have done and appreciate what you've done up to this point. But we are required by law once a jury tells us that we have tried, we've tried, we cannot reach a verdict, we're required by law to take one other step. And that is what we call an Allen charge. And I'm going to read you this charge at this point. And then after I read this charge, you'll have to go back and then let me know if y'all are able to make any progress at that point.

Ladies and gentlemen, you've stated you've been unable to reach a verdict in this case as to charge number two. As I instructed you earlier, the verdict of the jury must be unanimous. When a matter is in dispute, it isn't always easy for even two people to agree, so when 12 people must agree it becomes even more difficult. In most cases, absolute certainty

cannot be reached or expected. However, you have a duty to make every reasonable effort to reach a unanimous verdict. And I know that y'all have done a huge effort in that regard.

In doing this, you should consult with one another, express your own views and listen to the opinion of your fellow jurors. Tell each other how you feel and why you feel that way. Discuss your differences with open mind. Although, the verdict of the jury must be unanimous, every one of you has the right to your own opinion. The verdict you agree to must be your own verdict. The result of your own convictions and you should not give up your firmly held beliefs, merely to be in agreement with your fellow jurors. The majority should consider the minorities position and the minority should consider the majorities position. You should carefully consider and respect the opinions of each other and reevaluate your position for reasonableness, correctness and impartiality.

You must lay aside all outside matters and re-examine the questions before you, based on the law and evidence in the case. If you do not agree on a verdict in this case, I must declare a mistrial on that charge. In that case, it does not mean that

anybody wins, it just means that at some point in the future, some Judge will try this charge with some other jury sitting where you now sit. The same participants will come and the same lawyers will ask same or similar questions. And get the same or similar answers and we will go through the whole process again. You were selected in the same manner and from the same source as any future jury would be. And there's no reason for me to suppose that the case will ever be submitted to 12 more intelligent, impartial, conscientious and confident jurors than you, that more or clear evidence will be produced on one side or the other.

So -- and I realize that y'all have been at it quite a while. And it may be very difficult. But by law, I have to ask that you go back and continue your deliberations. If it's at the point that you reach a point where you say that you are deadlock, then you will just let me know that at that point. But again, I have to once, again, ask you to go attempt to reach a verdict in this matter. If you're not able to just let me know. So at this point, I will ask that you return to your jury room.

(WHEREUPON, the jury left open court at approximately 3:10 p.m.)

THE COURT: Any objection from The State?

MR. PLEMING: No, Your Honor.

THE COURT: Any objection from The Defense?

MR. DEBRUIN: No, Your Honor.

THE COURT: All right.

(WHEREUPON, deliberations continued.)

(WHEREUPON, court was in recess awaiting a verdict.)

THE COURT: State ready for the jury?

MR. PLEMING: Yes, sir.

THE COURT: Defense ready for the jury?

MR. DEBRUIN: Yes, sir.

THE COURT: All right, everybody. All right, let's keep it down, please. All right, to all the people involved in Mr.~Marchbanks trial, I want to causation you and let you know that regardless of the verdict in this matter, I want complete composure about everybody. We have several officers, I will take you into custody if anybody -- if I have any disruptions whatsoever. So does everybody understand that? All right.

Bring the jury.

(WHEREUPON, the jury entered open court at approximately 4:21 p.m.)

VERDICT

THE COURT: All right, I apologize for delay, we're in the middle of another trial.

Mr. Foreman, I understand you reached a verdict?

THE FOREMAN: Yes.

THE COURT: If you could, hand it to the clerk.

All right, looks like it's in proper order.

If you would publish the verdict.

THE CLERK: Yes, sir.

Your Honor, as to the charge of discharging a firearm into a dwelling, we, the jury, unanimously find The Defendant, Randy D. Marchbanks, guilty.

As to the charge of pointing and presenting a firearm, we, the jury, unanimously find The Defendant, Randy D. Marchbanks, guilty.

Is this your verdict and still your verdict? So say you by raising your right hand.

(WHEREUPON, all members of the jury raised their right hand.)

THE CLERK: Thank you very much.

THE COURT: All right, anything else from the jury from The State?

MR. PLEMING: No, Your Honor.

THE COURT: Anything else from the jury from The Defendant?

MR. DEBRUIN: No, Your Honor.

THE COURT: All right, ladies and gentlemen, I appreciate your service today. I know it's been very difficult. And y'all worked a long time in reaching that verdict. At this time, I'm going to ask that you step back in your jury room, I'll step back there and kind give you further instructions on what may or may not happen the rest of the week. If you can step back there, I'll be back there in just a minute.

(WHEREUPON, the jury left open court and was excused at approximately 4:23 p.m.)

THE COURT: All right, any motions by The State?

MR. PLEMING: Nothing from The State, Your Honor.

THE COURT: Any motions by The Defendant?

MR. DEBRUIN: No, Your Honor.

THE COURT: All right, I'll give y'all just a few minutes to get everything together. I'll step in and talk with them. Then I'll be back out for sentencing.

(WHEREUPON, a short break was taken.)

SENTENCING

THE COURT: All right. I'll be glad -- what I'll do, I'll hear from The State, then I'll hear from anybody, whatever you want me to know, Mr. DeBruin.

MR. DEBRUIN: Thank you, Your Honor.

THE COURT: Anything The State wants to tell me?

MR. PLEMING: Yes, sir, Your Honor. There's not much that I have to say. The Defendant has no prior criminal history. However, from the very first time that I spoke with the victim in the case, who, as you know, is his daughter, she has very strong concerns for his mental health. She feels that she has watched his mental health deteriorate for years. Feels like that culminated with this incident three years ago where he attempted to shoot her.

Obviously, based on the facts and circumstances of the case, The State has, you know, concerns. If his issues are not addressed then -- as for what an appropriate sentence is for, Your Honor, obviously, he created a substantial threat to those involved in this case. I don't know if any other incidents since this time. However, I note that the victim, Ms. Karr, says that he has threatened her life multiple times since this. And she would like to address The Court at the appropriate time.

THE COURT: All right. Let me -- I'd like to hear from y'all last.

Let me hear from the victim, at this time and then hear from y'all. Y'all can respond to anything

she says.

State your name for the record.

MS. KARR: Melissa Dawn Karr.

THE COURT: All right, be glad to hear from you.

MS. KARR: Your Honor, I'd like to start by saying I love my dad. But for, at least, 10 years, the man sitting there is not my father. I don't think, in his mental state, that it is safe for him to be free. I don't think he needs prison but he needs to be put somewhere that he can get the proper help. Because I love him. I want him to be better, I want him to be my dad without wanting to kill me. I call my mom and he takes the phone and tells me if I call again that he'll make sure I'll never be able to call anybody else ever again. So I have no relationship with my mom. Because of his mental state, he's just angry. He's against the world. And now I'm the target. And it's hard. It's hard to live everyday wondering if your dad is going to come and hurt you again.

THE COURT: All right, thank you.

Mr. Nalley, is there anything you want to say?

MR. NALLEY: (Mr. Nalley shook his head.)

THE COURT: All right. Okay.

Anything else from The State?

MR. PLEMING: No, sir, Your Honor.

THE COURT: All right, Mr. DeBruin, I'll be glad to hear from you. Anyone you'd like me to hear from.

MR. DEBRUIN: I believe Randy's daughters would like to speak, Your Honor.

THE COURT: Okay.

State your name, make sure you speak up.

MS. KNECHT: I'm Mandy Leigh Knecht.

MS. CHILDRESS: Samantha Childress.

MRS. MARCHBANKS: Susan Marchbanks.

THE COURT: All right.

MS. KNECHT: Daddy's mental health is under control. We have taken care of that. We make sure he does what needs to be done. He does not contact her, she contacts them. She has multiple times threatened if you don't do what I want, I'll go tell them you're trying to harm me so they'll put you back in jail. He doesn't bother them. He stays at home. He minds his business. And understand things happened that day, but that's not my dad. It's never been my dad. He is not a mean person. He's not an angry person. But you can only put up with so much from people living in your home and taking from you before you can take it anymore. And nothing's ever done.

They're living in his home now. To this day, if she's so scared of him, why does she live in his home? Because she does. Both of them live in my parents house. They can't even go home. They have to live with me or my sister or my brother because they can't have the home I grew up in. Because they live in it. And I just -- I don't think that's right. And my daddy is not a evil man. But he can only take so much of her calling there. She's -- it's a spiteful thing. And I'm sorry, I hate to say that but it is. That's all.

THE COURT: All right.

Anything else?

MS. CHILDRESS: I do agree with her that she does call them and harass them a lot. They've asked her not to bother them anymore and they won't bother -- they don't bother her. They don't go home. She has all of their possessions. They haven't even, like, gotten to take anything out of their home. My mom's had to buy all new clothes, when she has closets full of clothes at home because she can't go home to get them. And even if they could go home to get them, they said that with the meth that's been smoked in the house, it's not healthy. Nothing from their home is healthy anymore. Not our childhood

memorabilia, nothing. It will all have to be thrown away.

My dad has had some issues with depression. He's on medication and he's seeing a doctor. They both live with me. I deal with them everyday. My dad is my mom's primary caregiver. Because I'm a manager, I work about 60 hours a week. So without him there with her, I would probably have to put her in a nursing home because I can't be home with her. Like she needs round the clock care because she has dementia.

MS. KNECHT: We take care of --

(WHEREUPON, Ms. Knecht and Ms. Childress were talking at the same time.)

MS. KNECHT: And we do the best that we can.

MS. CHILDRESS: But my dad's never been arrested, he's never been in trouble. He's never hurt anybody. Ever. Never. And this is the first thing ever, that he's ever done. And some of the circumstances in here today were not made, I think, clear in the situation. I don't agree with what they did after he was hit. But I do believe that my daddy was scared that day. Because of the things that they done to him that -- we didn't even know the extent of -- we had -- I don't even know if I can say it but

it's not part of the trial now so I guess -- seen messages between the two of them where they're plotting to kill them with an overdose of heroin. Because they thought they had insurance policies that have lapsed years ago. If they die, they get -- nobody gets anything. The only thing that ever had is their house. And she has it.

MS. KNECHT: They worked very hard --

MS. CHILDRESS: To pay for --

THE COURT: Let's speak one at a time because the court report --

MS. CHILDRESS: I apologize. So my dad worked his whole life to pay for their house.

MS. KNECHT: He also had a horrible childhood. And he made a point that we didn't.

MS. CHILDRESS: Yeah, we had a good child --

MS. KNECHT: We were stable. We had stability, we had food, we had everything we needed always, always. We never had to go without because he did. And he made it a point to take care of us. And to take care of my mom.

MS. CHILDRESS: And he's cared for her too up until she's 40 years old. She's still living with them. And he's still taking care of her. Even after this incident happened, she was homeless and had no

where to go and he allowed her to come back home.

MS. KNECHT: And she wasn't scared --

MS. CHILDRESS: She moved right back over there--

MS. KNECHT: -- she wasn't terrified --

THE COURT: Okay, one at a time.

MS. CHILDRESS: She was so scared to be around him, then why did she come back home?

MS. KNECHT: I just -- it doesn't make sense.

MS. CHILDRESS: An address that my parents have had for 30 years, you know. If your -- I'm sorry, if I'm that scared, I don't want anybody to know my address. I'm definitely not going to live in the family home. And take everything my parents worked for.

MS. KNECHT: And we love her and we wish that she would turn around what she just said about mental health and health on her herself. Because we would love for her to be herself and to get better and to be her. She's our sister and she's our family and we love her. But we've done everything that we can to the point that, I guess, enabling her and we had to stop. And I think when we stopped doing, doing, doing for her, she comes up with these things to, I don't know if it's to get back at us or to get what

they had or. She's sold everything they've owned. They have nothing.

THE COURT: Okay. Well, thank you.

MS. CHILDRESS: My mom would like to speak.

THE COURT: Would you like to say something?

MRS. MARCHBANKS: Yes, sir. I'm Susan, his wife. And he is a good man. He does have some issues with mental health. Nothing that he normally can -- he can control it. My health is bad. And you -- I love Melissa, she's my daughter, I gave birth to her. I love her, I raised her best I can with my other children. But she was always a daddy's girl, you know. But I hate that this happened between them. Because I love both of them. And I have to -- I don't talk to her because I don't want her to hurt him more. Because I feel like he's been through enough. He spent over two months in jail. He's never been in jail before.

And I love Melissa. And I want to make a point that I do. I -- I want her to be better. But she has taken everything we had. And I would have freely given it to her if I could, if she had asked me. We didn't have to have all of this mess go on. But I know that the gun thing, it's not right. [Indiscernible] he did not fire a gun at my daughter.

He has fought her before. But she would push, push, push until he had to.

And that morning, Randy didn't say anything to her or Casey, he said it to me. And I went in there and told Casey to leave Randy. I knew Randy had a gun, we all knew he had the gun. He always carried it. And I was a nervous wreck about it because I was scared because of the break in. But my husband is a good man. And Melissa use to be a wonderful person, loving. And I feel like I've lost her and I don't have no time much left. And I need my husband. And beg of you, please, don't send him to jail. I need him. I don't want to go in a nursing home. And I love my husband. And I love Melissa too. And I want her to know that because I don't talk to her just to keep down the trouble. But thank you for letting me say that.

THE COURT: Thank you for being here.

MRS. MARCHBANKS: I appreciate it.

THE COURT: Mr. DeBruin.

MR. DEBRUIN: Thank you, Your Honor. Just like to echo what his family has asked for, no jail time. He's never been in trouble before.

THE COURT: Now, how long did he actually serve in jail? Do you have exact date?

MR. PLEMING: I can. I apologize, Your Honor, things got reorganized in my folder.

THE COURT: Yeah, they usually do in trial. You can be looking for that. While you're looking for that, I'll hear from you.

MR. DEBRUIN: Your Honor, just like to reiterate, he's never been in trouble before. I think this was a very hard decision for the jury to make. Obviously, we went through a couple of times where they were possibly hung up on some issues. There were a lot of issues that are surrounding what happened that day. I know Randy has regrets of what happened. Again, he doesn't really have a lot of memory because of what happened. But from what we've talked about, I know he wishes he could go back and changed what happened.

Your Honor, again, I just want to echo what the family had said. They need their dad, they need their husband or Susan needs her husband. We ask you for no jail time in this case.

THE COURT: Mr.~Marchbanks, anything you want to tell me?

MR. MARCHBANKS: Yes, Your Honor. I regret what happened, I really do. And I guess I'm here because of me. And it's eating me alive. I don't know --

something's got to be done about that. It's not my daughter. I feel embarrassed, you know, bringing in everybody seeing this for my family, for my friends, it just tears me apart. And I accept that I don't have a memory of firing the gun. I don't know what I did, what I didn't do. And for that I apologize. And I wish I could take that day back. But I've never pointed a weapon at anyone in my life.

THE COURT: All right, anything else, Mr. DeBruin?

MR. DEBRUIN: No, sir, Your Honor.

THE COURT: I would point out that as the sentencing Judge, my duty is only to sentence you, Mr.~Marchbanks. I don't think I have any authority to do anything else. I do take the allegations that you and your family have stated very seriously. We have a prosecutor and we have many deputies that have also heard this. So that maybe there can be some follow up on some of these allegations. But in everything I've heard, even from the victim, herself, it is clear that I'm not sure that jail time would benefit anybody here. Because one, I don't think you can get the help that it sounds like you may need. And also, it would, I think, put things in a very difficult situation.

So the sentence of the Court, both of these are to run concurrent, is going to be four years, suspended on time served, with three years of probation. Conditions of probation will be mental health counseling and no contact with the victims.

MR. MARCHBANKS: Thank you, sir.

THE COURT: Did you find the number of days?

MR. PLEMING: I could not find the actual bond paperwork but I have my notes that it was approximately three weeks.

MR. DEBRUIN: No, I think it's a lot longer than that.

THE COURT: All right. We can determine that, all right.

So good luck to you, Mr.~Marchbanks.

MR. MARCHBANKS: Thank you.

THE COURT: You need to talk with this guy right here. All right, good luck to you.

MR. DEBRUIN: Thank you, Your Honor.

(WHEREUPON, the proceedings were concluded.)

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA )

COUNTY OF GREENVILLE )

I, APRIL P. HERRON, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Pickens County, South Carolina, on the 13-15 day of December, 2021.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

March 8, 2022

_____

APRIL P. HERRON, Court Reporter

**WITNESSES**

Joshua D Genthner

9/11/2018

**DIRECT PRESENTMENT**

DOB: [redacted]1958

SSN:

**ACTION OF GRAND JURY**

TRUE BILL

Date JUN 2 2 2021

Donya Bola

*Foreperson of Grand Jury*

**VERDICT**

Guilty

*Foreperson of Petit Jury*

*Date:* 12/15/21

DOCKET NO. 2021-GS-39-1382

TBP

**The State of South Carolina**

**County of Pickens**

**COURT OF GENERAL SESSIONS**

JUN 2 2 2021 **TERM 2021**

**THE STATE**

**vs.**

**RANDY DOYLE MARCHBANKS**

**Indictment for**

**0052**

**DISCHARGING FIREARM INTO A DWELLING**

VIOLATION § 16-23-0440(A)

270

STATE OF SOUTH CAROLINA )
) INDICTMENT FOR
) **DISCHARGING FIREARM INTO A DWELLING**
COUNTY OF PICKENS )

At a Court of General Sessions, convened on JUN 2 2 2021 the Grand Jurors of Pickens County present upon their oath:

That RANDY DOYLE MARCHBANKS did in Pickens County, on or about the 10th day of September, 2018, unlawfully discharge or cause to be discharged a firearm into the dwelling of MELISSA KARR, located at [redacted] North Old Pendleton Rd., Liberty, South Carolina. This is in violation of §16-23-440 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

SOLICITOR BAR # 78406

STATE OF SOUTH CAROLINA )
COUNTY OF Pickens )

STATE )
VS. )

Randy Doyle Marchbanks )
AKA: )

Race: WHITE Sex: M Age: 63 )
DOB: [redacted]-1958 SS# )
Address: [redacted] N Old Pendleton )
City,State,Zip: Pendleton, SC 29657-0000 )
DL#: [redacted] SID#: )

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2021GS3901382

A/W#: 2021GS3901382
Date of Offense: 9/10/2018
S.C. Code § : 16-23-0440
CDR Code #: 0052

**SENTENCE SHEET**

0 - 10 years

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☑ CONVICTED OF or ☐ PLEADS

TO: Weapons / Discharging firearms into a dwelling

in violation of § 16-23-0440 of the S.C. Code of Laws, bearing CDR Code # 0052

☑ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
( CSC w/minor 1st or CSC w/minor 3rd )

The charge is: ☑ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

Blaine Pleming 78406
Pleming, Thomas Blaine SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☐ **State Department of Corrections** ☐ **County Detention Center,**

for a determinate term of 4 days/months/(years)/Time Served ☐ **Youthful Offender Act** not to exceed _____ years

and/or to pay a fine of $_____ provided that upon the service of TS days/months/years/Time Served and or payment

of $ _____ ; plus costs and assessments as applicable*; the balance is suspended with **probation** for 3

months/(years) and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run
☑ CONCURRENT or ☐ CONSECUTIVE to sentence on: 12/15/21

☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
_____ days/months
☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

**Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.**

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STATE VS Randy Doyle Marchbanks INDICTMENT/CASE#: 2021GS3901382

**SPECIAL CONDITIONS:** A/W#: 2021GS3901382

☐ **PTUP** after _____ months/years

**And Other Terms Listed Below:**

☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol testing

☐ Attend Voc. Rehab. or Job Corp ☒ No Contact with Victim ☐ Domestic Violence Intervention Program

☒ Mental Health Counseling ☐ May serve W/E beginning : _____

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0_____ days/hours

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

☐ Other: _____

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total: $ _____ plus 20% fee: _____ $ _____

Payment Term _____ ☐ Set by SCDPPPS

Recipient: _____

| | | |
|---|---|---|
| *Fine: | | $ |
| Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ Beginning _____ | | |
| §14-1-206 (Assessments 107.5 %) | | $ |
| §14-1-211(A)(1) (Conv. Surcharge) | $100 | $ 100.00 |
| §14-1-211(A)(2) (DUI Surcharge) | $100 | $ |
| §56-5-2995 (DUI Assessment) | $12 | $ |
| §56-1-286 (DUI Breath Test) | $25 | $ |
| §14-1-212 (Law Enforce. Funding) | $25 | $ 25.00 |
| §14-1-213 (Drug Court Surcharge) | $150 | $ |
| §34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs) | $41 | $ |
| §50-21-114(BUI Breath Test Fee) | $50 | $ |
| §56-5-2942(J) (Vehicle Assessment) | $40/ea | $ |
| 3% to County (if paid in installments) | TBD | $ 3.75 |
| ☐ Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees. | $500 | $ |
| ☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund | TBD | $ |
| | **TOTAL** | $ 128.75 |

Clerk of Court/ Deputy Clerk: Jonathan P. Walker

Court Reporter: April Henson

Presiding Judge: Roger M. Young

Judge Code: 2755

Sentence Date: 12/15/21

DOCKET NO. 2021-GS-39- 2227
TBP

**The State of South Carolina**

**County of Pickens**

**COURT OF GENERAL SESSIONS**

OCT 19 2021

**TERM 2021**

**THE STATE**

**vs.**

**RANDY DOYLE MARCHBANKS**

**Indictment for**

**0122**

**POINTING AND PRESENTING A FIREARM**

VIOLATION § 16-23-0410

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**WITNESSES**

Joshua D. Genthner

Pickens County Sheriff's Office

9/11/2018

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**DIRECT PRESENTMENT**

DOB: [redacted]1958

SSN:

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**ACTION OF GRAND JURY**

OCT 19 2021

Date

Donya Bolan

*Foreperson of Grand Jury*

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**VERDICT**

Guilty

*Foreperson of Petit Jury*

*Date:* 12/15/21

STATE OF SOUTH CAROLINA )
) INDICTMENT FOR
COUNTY OF PICKENS ) **POINTING AND PRESENTING A FIREARM**

At a Court of General Sessions, convened on OCT 19 2021 the Grand Jurors of Pickens County present upon their oath:

That RANDY DOYLE MARCHBANKS did in Pickens County, on or about the 10th day of September, 2018, point or present a firearm, to wit: a Sig Sauer, S & W 40, at or in the presence of CASEY NALLEY. This is in violation of §16-23-410 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Blaine Plemmons
SOLICITOR BAR # 78406

STATE OF SOUTH CAROLINA )
COUNTY OF Pickens )
STATE )
VS. )
Randy Doyle Marchbanks )
AKA: )
Race: WHITE Sex: M Age: 63 )
DOB: [redacted]-1958 SS# )
Address: [redacted] N Old Pendleton )
City,State,Zip: Pendleton, SC 29657-0000 )
DL#: [redacted] SID#: )

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2021GS3902227

A/W#: 2021GS3902227
Date of Offense: 9/10/2018
S.C. Code § : 16-23-0410
CDR Code #: 0122

**SENTENCE SHEET**

0-5 years

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☑ CONVICTED OF or ☐ PLEADS

TO: Weapons / Pointing and presenting firearms at a person

in violation of § 16-23-0410 of the S.C. Code of Laws, bearing CDR Code # 0122

☑ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
( CSC w/minor 1st or CSC w/minor 3rd )

The charge is: ☑ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

Blaine Pleming 78406
Pleming, Thomas Blaine SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☐ **State Department of Corrections** ☐ **County Detention Center,**

for a determinate term of 4 days/months/(years)/Time Served ☐ **Youthful Offender Act** not to exceed _____ years

and/or to pay a fine of $_____ provided that upon the service of TS days/months/years/Time Served and or payment of $ _____ ; plus costs and assessments as applicable*; the balance is suspended with **probation** for 3 months/(years) and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run
☑ CONCURRENT or ☐ CONSECUTIVE to sentence on: 12/15/21

☑ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
_____ days/months
☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

**Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence ) to ship, transport, possess, or receive a firearm or ammunition.**

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STATE VS Randy Doyle Marchbanks INDICTMENT/CASE#: 2021GS3902227

SPECIAL CONDITIONS: A/W#: 2021GS3902227

☐ PTUP after _____ months/years

**And Other Terms Listed Below:**

☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol testing

☐ Attend Voc. Rehab. or Job Corp ☒ No Contact with Victims ☐ Domestic Violence Intervention Program

☒ Mental Health Counseling ☐ May serve W/E beginning : _____

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 _____ days/hours

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

☐ Other: _____

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total: $ _____ plus 20% fee: _____ $ _____

Payment Term _____ ☐ Set by SCDPPPS

Recipient: _____

| | | |
|---|---|---|
| *Fine: | | $ |
| Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ Beginning _____ | | |
| §14-1-206 (Assessments 107.5 %) | | $ |
| §14-1-211(A)(1) (Conv. Surcharge) | $100 | $ 100.00 |
| §14-1-211(A)(2) (DUI Surcharge) | $100 | $ |
| §56-5-2995 (DUI Assessment). | $12 | $ |
| §56-1-286 (DUI Breath Test) | $25 | $ |
| §14-1-212 (Law Enforce. Funding) | $25 | $ 25.00 |
| §14-1-213 (Drug Court Surcharge) | $150 | $ |
| §34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs) | $41 | $ |
| §50-21-114(BUI Breath Test Fee) | $50 | $ |
| §56-5-2942(J) (Vehicle Assessment) | $40/ea | $ |
| 3% to County (if paid in installments) | TBD | $ 18.75 |
| ☑ Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees. | $500 | $ 500.00 |
| ☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund | TBD | $ |
| | **TOTAL** | $ 643.75 |

Clerk of Court/ Deputy Clerk: Harold P. Williams Presiding Judge: Perry H. Mosley

Court Reporter: April Herron Judge Code: 2755

Sentence Date: 12/15/21

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED
Mar 03 2023
SC Court of Appeals

Taylor D Gilliam
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 3rd day of March, 2023.