

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Cherokee County

Honorable G.D. Morgan, Jr., Circuit Court Judge

EDDIE MOTTS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2022-001264

APPENDIX

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5	PLAINTIFF,	)	OF
6	VS.	)	RECORD
7	EDDIE JEROME MOTTS,	)	2018-GS-11-600
8	DEFENDANT.	)	2018-GS-11-601

September 9th - 11th, 2019
Gaffney, South Carolina

13 | B E F O R E:

14 THE HONORABLE J. MARK HAYES, II, Judge; and a jury.

APPEARANCES:

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SOLICITOR
Attorney for the State

19 TRENT PRUETT and DEAN COOK
20 ESQ.
Attorneys for the Defendant

MICHAEL WATTS
Circuit Court Reporter

23

24 | Transcribed by Pamela E. Green, Circuit Court Reporter

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P R O C E E D I N G S

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3 THE COURT: We will now move into the selection of the
4 jury -- of the first jury for the week.

5 SOLICITOR BARNETTE: May we approach for one second,
6 Your Honor?

7 THE COURT: Sure.

8 (WHEREUPON, a bench conference was held out of the
9 hearing of the jury at this time.)

10 THE COURT: Ladies and gentlemen, we are -- ladies and
11 gentlemen, we're about to begin the case of the State of
12 South Carolina versus Eddie Jerome Motts.

13 Mr. Motts, if you will, Mr. Motts -- tell you what,
14 ladies and gentlemen. The Clerk of Court needs to swear you
15 in one more time. So, please stand and raise your
16 right-hand.

17 (WHEREUPON, the jury panel was placed under oath at
18 this time.)

19 THE COURT: Thank you, ladies and gentlemen.

20 Ladies and gentlemen, we are now about to begin the
21 trial of the State of South Carolina versus Eddie Jerome
22 Motts.

23 Now, I have some -- before we actually do the jury
24 selection, there's some questions that I need for you to
25 please listen to. Again, if you ever can not hear me, raise

1 your hand, and I will speak up. But if you need to respond
2 to the questions, I would ask, if you would, just please
3 stand and let me call on you.

4 (WHEREUPON, a juror stands at this time.)

5 THE COURT: Yes, sir, you want to stand up?

6 THE JUROR: I just wanted you to speak up a little bit
7 more.

8 THE COURT: Thank you very much. I will do that.
9 Thank you for -- all right. Again, ladies and gentlemen,
10 we're about to begin the trial of The State versus Eddie
11 Jerome Motts.

12 Mr. Motts, if you would, please stand. Face the ladies
13 and gentlemen of the jury.

14 (WHEREUPON, the Defendant complies.)

15 THE COURT: Ladies and gentlemen of the, of the jury,
16 this is Mr. Edward Jerome Motts. Now, he is charged by way
17 of indictment of two counts of attempted murder that the
18 indictment, the indictment provides, in general, that, in
19 Cherokee County, on or about March 26th, 2018, with intent
20 to kill, attempted to kill a Mr. Brandon Ramsey with malice
21 aforethought, expressed or implied, by shooting him with a
22 handgun, and that he did -- in that he did, on that same
23 date in Cherokee County, with intent to kill, intend to kill
24 Tony Lipscomb with malice aforethought, expressed or
25 implied, by shooting him with a handgun, and he's also

1 charged with the offense of possession of a weapon during
2 the commission of a violent crime in that the indictment
3 provides that he did, in Cherokee -- in Gaffney -- in the
4 city of Gaffney, located in Cherokee County, on or about
5 March 26th, 2018, possess or visibly display a firearm or
6 a knife during the commission of a violent crime.

7 Now, ladies and gentlemen, he has pled not guilty to
8 these indictments, and, therefore, that is the subject of
9 this trial.

10 But, ladies and gentlemen, if you are related by blood
11 or marriage to Mr. Motts or if you have a close personal or
12 social relationship with Mr. Motts, I need for you to please
13 stand at this time.

14 (WHEREUPON, one juror responds.)

15 THE COURT: Thank you, Mr. Motts. You may be seated.

16 (WHEREUPON, the Defendant complies.)

17 THE COURT: Yes, sir, you want to come forward?

18 THE BAILIFF: Number 88, Your Honor.

19 (WHEREUPON, the following takes place outside the
20 hearing of the remaining jurors.)

21 THE COURT: You are Mr. McCraw?

22 THE JUROR: Yes. Yes, sir. He's my uncle's brother.

23 THE COURT: Uncle's brother.

24 THE JUROR: Yeah.

25 THE COURT: All right. And the fact that if he is your

1 uncle's brother, would that in any way affect your ability
2 to give both the State and the defense a fair and impartial
3 trial in the event you're selected as a member of the jury?

4 THE JUROR: Yes, I'd rather not have to do---

5 THE COURT: All right.

6 THE JUROR: --- (indiscernible).

7 THE COURT: Thank you, sir. Just go back and have a
8 seat.

9 THE JUROR: Thank you.

10 (WHEREUPON, the following takes place within the
11 hearing of the entire jury panel.)

12 THE COURT: Now, ladies and gentlemen, when I read the,
13 read the indictment, I referenced Mr. Raymond Ramsey.

14 If you would, please stand and face the ladies and
15 gentlemen of the jury.

16 (WHEREUPON, the witness complies.)

17 THE COURT: And I also referenced Mr. Tony Lipscomb.

18 If you would, please stand and face the ladies and
19 gentlemen of the jury.

20 (WHEREUPON, the witnesses complies.)

21 THE COURT: Ladies and gentlemen, if you are related by
22 blood or marriage to either of these two individuals, or if
23 you have a close personal or social relationship with either
24 of these two individuals, I need for you to please stand at
25 this time.

1 (WHEREUPON, jurors respond.)

2 THE COURT: Thank you, gentlemen. Y'all may be seated.

3 (WHEREUPON, the witnesses comply.)

4 THE COURT: All right. Y'all want to come forward
5 right over here.

6 THE BAILIFF: Number 137, Your Honor.

7 THE CLERK: Ms. Boland, if you can speak up just a
8 little bit louder please. Thank you.

9 (WHEREUPON, the following takes place outside the
10 hearing of the remaining jurors.)

11 THE COURT: Give me one second.

12 THE JUROR: Yes, sir.

13 THE COURT: 137. You're Ms. Stacey?

14 THE JUROR: Yes.

15 THE COURT: Yes, ma'am.

16 THE JUROR: Um.

17 THE COURT: Who is it that you know?

18 THE JUROR: Well, I use to work in the bank, banking,
19 and he had an account with us, and I helped him a lot there,
20 and his wife is my dental hygienist.

21 THE COURT: All right. And the fact that you know him
22 in that way, would that in any way affect your ability to
23 give both the State and the defense---

24 THE JUROR: Absolutely not.

25 THE COURT: ---a fair---

1 THE JUROR: Yes. Yes, I would.

2 THE COURT: Let me ask the question first cause I want
3 to be sure I understand your answer.

4 THE JUROR: Yes.

5 THE COURT: If you got selected to be as a member of
6 this jury, would that in any way affect your ability to give
7 both the state and the defense a fair and impartial trial?

8 THE JUROR: I could, yes, sir.

9 THE COURT: You could?

10 THE JUROR: It would not affect it.

11 THE COURT: Okay.

12 THE JUROR: No, sir.

13 THE COURT: Thank you, ma'am.

14 THE JUROR: Uh-huh. (Affirmative).

15 Thank you.

16 THE BAILIFF: Number 6, Your Honor.

17 THE COURT: You're Ms. Bailey?

18 THE JUROR: I would just like to ask you---

19 THE COURT REPORTER: You got to---

20 THE COURT: He needs to be able to hear you.

21 THE JUROR: So that dealing with what I just asked you
22 a while ago.

23 THE COURT: Right.

24 So, you know Mr. Lipscomb?

25 THE JUROR: Uh-huh. (Affirmative).

1 THE COURT: Would that in any way affect your ability
2 to give both the state and the defense a fair and impartial
3 trial in the event you're selected as a member of this jury?

4 THE JUROR: Say that one more time.

5 THE COURT: In the event that you're selected as a
6 member of this jury, would the fact that you know him in any
7 way affect your ability to be fair and impartial to both the
8 state and the defense?

9 THE JUROR: I would rather take another case if it was
10 fine.

11 THE COURT: All right. You're not answering my
12 question. I don't care what your answer is. I just need to
13 get an answer.

14 Okay. If you got selected to be on this jury, would
15 the fact that you know him affect your ability to give both
16 the state and the defense a fair and impartial trial?

17 THE JUROR: Yes.

18 THE COURT: Okay. Thank you.

19 THE JUROR: What do I need to do?

20 THE COURT: You can just have a seat back there.

21 THE JUROR: Sit back down?

22 THE COURT: Yes.

23 THE BAILIFF: Number 96, Your Honor.

24 THE COURT: Let's see. You are Ms. Mullinax?

25 THE JUROR: Yes, sir.

1 THE COURT: Yes, ma'am.

2 THE JUROR: I've known Raymond Ramsey. Life long
3 friend.

4 THE COURT: Okay. And would the fact that you have
5 known him, would that in any way affect your ability to give
6 both the state and the defense a fair and impartial trial?

7 THE JUROR: No, sir.

8 THE COURT: It would not?

9 THE JUROR: No.

10 THE COURT: Thank you.

11 THE JUROR: You welcome.

12 THE BAILIFF: Number 66, Your Honor.

13 THE COURT: Who is -- you're Mr. Holcombe?

14 THE JUROR: Yes, sir.

15 THE COURT: Yes, sir. Who is it that you know?

16 THE JUROR: I know Tony---

17 THE COURT: Okay.

18 THE JUROR: ---with business owner and all.

19 THE COURT: All right.

20 THE JUROR: I was good friends with his father, but I
21 don't think that would interfere.

22 THE COURT: All right. So, in the event that you're
23 selected as a member of the jury, it would not affect your
24 ability to give both the state and the defense a fair and
25 impartial trial?

1 THE JUROR: I don't think it would.

2 THE COURT: Okay. Thank you, sir.

3 THE JUROR: Okay.

4 THE BAILIFF: Number 107, Your Honor.

5 THE COURT: Give me just a moment.

6 You are Ms. Peterson?

7 THE JUROR: Uh-huh. (Affirmative).

8 THE COURT: Yes, ma'am, who is it that you know?

9 THE JUROR: Tony Lipscomb.

10 THE COURT: All right. And the fact that you know Mr.
11 Lipscomb, would that in any way affect your ability to give
12 both the State---

13 THE JUROR: No.

14 THE COURT: ---and the defense a fair and impartial
15 trial?

16 THE JUROR: No, cause it's been over 30 years. I
17 worked for him 30 years ago.

18 THE COURT: Okay.

19 THE JUROR: I just wanted to make that known.

20 THE COURT: Oh, absolutely. Thank you for telling us.

21 THE JUROR: So I'm good to sit back---

22 THE COURT: Yes, ma'am, you can sit back down.

23 THE JUROR: Thank you.

24 (WHEREUPON, the following takes place within the
25 hearing of the entire jury panel.)

1 THE COURT: All right. Ladies and gentlemen, I'm now
2 going to ask the lawyers who will be participating in the
3 trial of this case to please stand and introduce themselves
4 to you.

5 MR. COOK: My name's Dean Cook. I'm an attorney here
6 in Gaffney. I represent Mr. Eddie Jerome Motts.

7 MR. PRUETT: My name's Trent Pruett. I also work here
8 in Gaffney with Mr. Cook.

9 SOLICITOR BARNETTE: Barry Barnette, solicitor for the
10 Seventh Circuit, Cherokee and Spartanburg Counties.

11 THE COURT: Thank you, gentlemen.

12 Ladies and gentlemen, I need for you to please stand if
13 you're related by blood or marriage to any of the -- or, or
14 if you have a close personal, social relationship with any
15 of the attorneys involved in this case, if so, please stand
16 at this time.

17 (WHEREUPON, there was no response.)

18 THE COURT: Ladies and gentlemen, I would also ask that
19 you please stand at this time if you have ever been a, been
20 a victim of an alleged crime that has been prosecuted by the
21 Seventh Circuit solicitor's Office, if so, please stand at
22 this time.

23 (WHEREUPON, there was no response.)

24 THE COURT: I would ask that you please stand if you or
25 a member, or a member of your immediate family has ever been

1 prosecuted by a crime prosecuted against you or a member of
2 your immediate family by the Seventh Circuit solicitor's
3 office, please stand at this time.

4 THE JUROR: I was---

5 THE COURT: You want to stand up?

6 THE JUROR: Okay.

7 THE COURT: All right. If you would, just come right
8 down here please.

9 THE BAILIFF: Number 107, Your Honor.

10 (WHEREUPON, the following takes place outside the
11 hearing of the remaining jurors.)

12 THE COURT: Yes, ma'am.

13 THE JUROR: I don't know that I can, can't say who, who
14 prosecuted who, but I know they probably some family member.

15 THE COURT: Of yours?

16 THE JUROR: Uh-huh. (Affirmative).

17 THE COURT: Of your immediate family?

18 THE JUROR: They probably a nephew or a niece---

19 THE COURT: Okay.

20 THE JUROR: ---or somebody like that, but nobody I'm
21 close to.

22 THE COURT: Would that in any way affect your
23 ability---

24 THE JUROR: No.

25 THE COURT: Let me ask the question.

1 THE JUROR: Okay.

2 THE COURT: Would that in any way affect your ability
3 to give both the State and the defense a fair and impartial
4 trial?

5 THE JUROR: Oh, no.

6 THE COURT: Okay. Thank you very much.

7 THE JUROR: Cause, like I said, I don't even know. I'm
8 just sure they have.

9 THE COURT: Sure.

10 THE BAILIFF: 96, Your Honor.

11 THE COURT: Yes, ma'am, Ms. Mullinax.
12 Who, who is it that got prosecuted?

13 THE JUROR: My brother.

14 THE COURT: All right. And the fact that that
15 occurred, would that in any way affect your ability to give
16 both the State and the defense a fair and impartial trial?

17 THE JUROR: No, not at all.

18 THE COURT: Thank you, ma'am.

19 THE JUROR: You're welcome.

20 THE BAILIFF: Number 110, Your Honor.

21 THE COURT: You're Mr. Phillips?

22 THE JUROR: Yes.

23 THE COURT: Yes, sir.

24 You got prosecuted or a member of your family?

25 THE JUROR: I have a brother, still (phonetic)

1 Phillips.

2 THE COURT: And he got prosecuted?

3 THE JUROR: I think he had a murder charge he got.

4 THE COURT: You think?

5 THE JUROR: Well, I know he did.

6 THE COURT: Okay. And would that in any way affect
7 your ability to give both the state and the defense a fair
8 and impartial trial?

9 THE JUROR: No.

10 THE COURT: Okay. Thank you, Mr Phillips.

11 THE BAILIFF: Number 17, Your Honor.

12 THE COURT: Yes, sir, Mr. Blanton.

13 THE JUROR: Yes, sir, I'm -- I didn't understand all
14 the words in that context. So --.

15 THE COURT: What I said was -- the question was have
16 you or a member of your immediate family ever been a party
17 that was prosecuted for an offense by the Seventh Circuit
18 solicitor's office.

19 THE JUROR: See, I've got a, a -- I've not been
20 convicted, but I've been charged.

21 THE COURT: Right.

22 THE JUROR: And I don't know if that matters or
23 whatever.

24 THE COURT: Well, would that in any way affect your
25 ability to give both the state and defense a fair and

1 impartial trial?

2 THE JUROR: No. No.

3 THE COURT: What are you charged with?

4 THE JUROR: Assault and battery third degree.

5 THE COURT: Okay. All right. That -- and, again, that
6 wouldn't affect your ability---

7 THE JUROR: No.

8 THE COURT: ---to give both the parties a fair trial?

9 THE JUROR: No, sir.

10 THE COURT: Thank you.

11 THE JUROR: Yes, sir.

12 THE COURT: Yes, sir.

13 THE BAILIFF: Number 134, Your Honor.

14 THE COURT: You're Mr. Smith?

15 THE JUROR: That's right. Hopefully this don't mean
16 nothing, but my brother was charged with child molesting in
17 Cherokee County.

18 THE COURT: Say that one more --.

19 THE JUROR: I said child molester in Cherokee County.

20 THE COURT: Okay. And---

21 THE JUROR: I don't have nothing to do with that guy.

22 THE COURT: Right. But the -- thank you for sharing
23 that with us.

24 would the fact that that has occurred, would that in
25 any way affect your ability to give both the State and the

1 defense a fair and impartial trial?

2 THE JUROR: No, sir.

3 THE COURT: Okay.

4 THE JUROR: I'll be honest.

5 THE COURT: Thank you, sir.

6 THE JUROR: Thank you.

7 THE BAILIFF: Number 150, Your Honor.

8 THE COURT: You're Mr. Watkins?

9 THE JUROR: Yes.

10 THE COURT: All right.

11 THE JUROR: That done sendd my nephew -- my nephew I
12 think. send my nephew.

13 THE COURT: To prison?

14 THE JUROR: Yes, sir.

15 THE COURT: All right. And what did he go to prison
16 for?

17 THE JUROR: Manslaughter. Manslaughter.

18 THE COURT: Okay. And the fact that that has occurred,
19 would that in any way affect your ability to give both the
20 state and the defense a fair and impartial trial?

21 THE JUROR: No, sir.

22 THE COURT: Thank you for sharing that with us.

23 (WHEREUPON, the following takes place within the
24 hearing of the entire jury panel.)

25 THE COURT: All right. Ladies and gentlemen, if you or

1 a member of your immediate family has ever been represented
2 by one of the -- either Mr. Pruett or Mr. Cook, I need for
3 you to please stand at this time if you or a member of your
4 immediate family.

5 (WHEREUPON, jurors respond.)

6 THE COURT: Yes, sir, y'all want to come up?

7 THE BAILIFF: Number 22, Your Honor.

8 (WHEREUPON, the following takes place outside the
9 hearing of the remaining jurors.)

10 THE COURT: Mr. Bridges?

11 THE JUROR: Yes.

12 THE COURT: Who is it that was represented?

13 THE JUROR: Trent Breahm (phonetic) that was in---

14 THE COURT: Trent Pruett?

15 THE JUROR: Pruett. Yeah, he represented me.

16 THE COURT: And the fact that that has occurred, would
17 that in any way affect your ability to give both the State
18 and the defense a fair and impartial trial in the event
19 you're selected as a member of this jury?

20 THE JUROR: (Nods negatively.)

21 THE COURT: That's a no?

22 THE JUROR: That's a no.

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

24 THE JUROR: Yeah.

25 THE BAILIFF: Number 96, Your Honor.

1 THE COURT: And, Ms. Mullinax, who was it?

2 THE JUROR: My brother was represented by Trent Pruett.

3 THE COURT: Mr. Pruett.

4 The fact that that has occurred, would that, in any
5 way, affect your ability to give---

6 THE JUROR: No, sir.

7 THE COURT: Let me ask the question. He takes it down
8 and I need to be able to understand your answer.

9 okay. The fact that that occurred, would that in any
10 way affect your ability to give both the State and the
11 defense a fair and impartial trial?

12 THE JUROR: No, sir.

13 THE COURT: Thank you, ma'am.

14 THE BAILIFF: Number 17, Your Honor.

15 THE COURT: Who is it that represented---

16 THE JUROR: Mr. Pruett represents me now.

17 THE COURT: He represents you now?

18 THE JUROR: Yes, sir.

19 THE COURT: All right. The fact that that has
20 occurred, would that in any way affect your ability to give
21 both the State---

22 THE JUROR: No, sir.

23 THE COURT: ---and the defense a fair and impartial
24 trial?

25 THE JUROR: No, sir.

1 THE COURT: Thank you, Mr. Blanton.

2 (WHEREUPON, the following takes place within the
3 hearing of the entire jury panel.)

4 THE COURT: All right. Ladies and gentlemen, I'm now
5 going to read a list of potential witnesses who may be
6 called as part of this trial. I'm gonna need for you to
7 please listen to these names. At the -- after I go in --
8 through all of these names, I'm gonna ask that you please
9 come forward if you're related by blood or marriage to any,
10 any of these individuals, or if you have a close personal or
11 professional relationship with any of these individuals, but
12 please listen to these names. Again, raise your hand if you
13 can not hear me.

14 All right. Potential witnesses who may be called as
15 part of this trial is Charles -- I'm sorry. We've already
16 done Mr. Lipscomb and Mr. Ramsey.

17 Kathy Jane Calvert.

18 Charles Huskey.

19 Christopher Tyler Burnett.

20 Seth Allen Harper.

21 Wilmer Lee Littlejohn.

22 David Mitchell Tucker.

23 Marshall Eugene Upchurch.

24 Officer Brent Heflin.

25 Officer Candice Mabry.

1 Officer Charles Hampton.
2 Sergeant Brian Blanton.
3 Detective Jeff Sizemore.
4 Sergeant Michael Hadden.
5 Sergeant Cody Turner.
6 Chief Chris Skinner.
7 Brandon Peeler.
8 Investigator Richard Burgess.
9 SLED Officer Paul S. Greer.
10 SLED Officer Ila Simmons.
11 SLED Officer Ryan Dewane.
12 SLED Officer Thomas Darnell.
13 SLED Officer Jackie Davis.
14 SLED Officer Bethany Davidson.
15 SLED Officer Lisa Chapman.
16 SLED Officer Doris Yarbrough.
17 SLED Officer Jennifer Nates.
18 Betty Lanier.
19 Ben Hendricks.
20 Ladies and gentlemen, if you're related by blood or
21 marriage to any of those individuals or if the -- or if you
22 have a close personal or professional relationship with any
23 of those individuals, I need for you to please stand at this
24 time.
25 (WHEREUPON, jurors respond.)

1 THE COURT: If y'all will, just come right down here.

2 THE BAILIFF: Number 96, Your Honor.

3 (WHEREUPON, the following takes place out of the
4 hearing of the remaining jurors.)

5 THE COURT: Who is it that you know, Ms. Mullinax?

6 THE JUROR: Chris Skinner and Jeff Sizemore.

7 THE COURT: Okay. And the fact that you know those
8 individuals, would that in any way affect your ability to
9 give both the State and the defense a fair and impartial
10 trial?

11 THE JUROR: No, sir.

12 THE COURT: Thank you, ma'am.

13 THE JUROR: You're welcome.

14 THE BAILIFF: Number 33, Your Honor.

15 THE COURT: You're Mr. Childers?

16 THE JUROR: Yes, sir.

17 THE COURT: Who is it that you know?

18 THE JUROR: Michael Hadden. I worked with him several
19 years ago before he was an officer.

20 THE COURT: Okay. And the fact that you know Mr.
21 Hadden, would that in any way affect your ability to give
22 both the State and defense a fair and impartial trial?

23 THE JUROR: No, sir, I just wanted it to be known.

24 THE COURT: Certainly. Thank you for sharing that with
25 us.

1 THE BAILIFF: Number 87, Your Honor.

2 THE COURT: You're Ms. McCoy?

3 THE JUROR: Yes. You said a Brandon Peeler was on the
4 list?

5 Is he -- I work with a Brandon Peeler. works at 9-1-1
6 over at the administrative building. I don't know if that's
7 the same one or not.

8 SOLICITOR BARNETTE: Yes, sir, it is.

9 THE COURT: Okay. The fact that you know him, would
10 that in any way affect your ability to give both the state
11 and the defense a fair and impartial trial?

12 THE JUROR: No.

13 THE COURT: Thank you, ma'am.

14 THE JUROR: You're welcome.

15 (WHEREUPON, the following takes place within the
16 hearing of the entire jury panel.)

17 THE COURT: Is any member of the jury panel a member of
18 any organization that does not recognize the government of
19 the United States or the State of South Carolina, if so,
20 please stand at this time.

21 (WHEREUPON, there was no response.)

22 THE COURT: Does any member of the jury have a
23 religious belief or moral philosophy that would prevent him
24 or her from sitting in judgment of another or rendering a
25 verdict in this case either guilty or not guilty based on

1 the evidence and the Court's instruction on the law, if so,
2 please stand at this time.

3 (WHEREUPON, there was no response.)

4 THE COURT: Is there any member of the jury panel that
5 has been a frequent customer of Harold's, also known as
6 Harold Tindall's, in the last two years, if so, please stand
7 at this time.

8 (WHEREUPON, jurors respond at this time.)

9 THE COURT: If you would, just stand up -- come --
10 stand up over here.

11 THE BAILIFF: Number 66, Your Honor.

12 (WHEREUPON, the following takes place outside the
13 hearing of the remaining jurors.)

14 THE COURT: You're Mr. Holcombe?

15 THE JUROR: Yes, sir.

16 THE COURT: Yes, sir, the fact that that has occurred
17 -- you've been a customer there?

18 THE JUROR: I've stopped in and had burgers and stuff
19 like that.

20 THE COURT: And the fact that that has occurred, would
21 that in any way affect your ability to give both the state
22 and the defense a fair and impartial trial?

23 THE JUROR: No, sir.

24 THE COURT: Thank you.

25 THE JUROR: I would do my best.

1 THE COURT: Thank you, sir.

2 THE BAILIFF: Number 6, Your Honor.

3 THE JUROR: Hello.

4 THE COURT: Hey.

5 And the fact that that has occurred, Ms. Bailey, would
6 that in any way affect your ability to give both the state
7 and the defense a fair and impartial trial?

8 THE JUROR: Yeah.

9 THE COURT: Okay. Thank you very much.

10 MR. COOK: What did she say?

11 THE COURT: She said yes.

12 MR. COOK: Okay.

13 THE BAILIFF: Number 110, Your Honor.

14 THE JUROR: Ralph Phillips.

15 THE COURT: Yeah, there you are, Mr. Phillips.

16 So, you've been a customer in there?

17 THE JUROR: Yes.

18 THE COURT: And the fact that that has occurred, would
19 that in any way affect your ability to give both the state
20 and the defense a fair and impartial trial if you're
21 selected as a juror?

22 THE JUROR: No.

23 THE COURT: Thank you, Mr. Phillips.

24 THE BAILIFF: Number 130 -- 29, yes, Your Honor. 129.

25 THE COURT: You're Ms. Simpson?

1 THE JUROR: Yes, sir.

2 THE COURT: The fact that that has occurred, would that
3 in any way affect your ability to give both the State and
4 the defense a fair and impartial trial?

5 THE JUROR: No.

6 THE COURT: Thank you, ma'am.

7 (WHEREUPON, the following takes place within the
8 hearing of the entire jury panel.)

9 THE COURT: Has any member of the jury panel formed or
10 expressed an opinion about any issue or matter involved in
11 this case, if so, please stand at this time.

12 (WHEREUPON, there was no response.)

13 THE COURT: Is any member of the jury panel aware of
14 any bias or prejudice towards either the State or the
15 defense in this case, if so, please stand at this time.

16 (WHEREUPON, there was no response.)

17 THE COURT: Is there any member of the jury panel that
18 was a member of the Grand Jury which issued the indictments
19 in this case, if so, please stand at this time.

20 (WHEREUPON, there was no response.)

21 THE COURT: Is there any member of the jury panel who
22 is a member of or contributor to any group which has as its
23 primary concern the promotion of law enforcement or victim's
24 rights?

25 Now, these groups would include, but certainly be not

1 limited to such groups as MADD, SADD, or CAVE, Citizens
2 Against Violent Crimes, if so, please stand at this time.

3 (WHEREUPON, there was no response.)

4 THE COURT: Does any member of the jury panel know of
5 any reason whatsoever why he or she should not serve as a
6 juror in this case with particular emphasis being placed on
7 your ability to be fair and impartial to both the state and
8 the defense in this case, if so, please stand at this time.

9 (WHEREUPON, there was no response.)

10 THE COURT: Does the State have any additional
11 questions?

12 SOLICITOR BARNETTE: None from The State, Your Honor.

13 THE COURT: Does the defense have any additional
14 questions?

15 MR. COOK: Yes, Your Honor. Defense Question Number 1.

16 THE COURT: Is any member of the jury panel related by
17 blood or marriage or a, or a close friend to your immediate
18 family of a person who is employed in law enforcement, which
19 would include the Sheriff's Office, the City Police
20 Department, Highway Patrol, SLED, or the Solicitor's Office,
21 if so, please stand at this time.

22 (WHEREUPON, jurors respond.)

23 THE COURT: All right. All right. If you would, just,
24 the two of you, just come right over here.

25 THE BAILIFF: Number 95, Your Honor.

1 SOLICITOR BARNETTE: 95, Madam Bailiff.

2 THE CLERK: I think she said 95.

3 THE BAILIFF: 95.

4 THE CLERK: 95.

5 SOLICITOR BARNETTE: Thank you.

6 (WHEREUPON, the following takes place outside the
7 hearing of the remaining jurors.)

8 THE COURT: Just one second. And who is it that's---

9 THE JUROR: They're actually North Carolina.

10 THE COURT: Okay.

11 THE JUROR: But it's my brother.

12 THE COURT: Okay. would the fact that he---

13 THE JUROR: But that is not in South Carolina, but I
14 wasn't sure.

15 THE COURT: Thank you.

16 THE JUROR: So --.

17 THE COURT: And the---

18 THE JUROR: And that was---

19 THE COURT: The fact that he works in that capacity,
20 would that in any way affect your ability to give both the
21 State and the defense a fair---

22 THE JUROR: No.

23 THE COURT: ---and impartial trial?

24 THE JUROR: No.

25 THE COURT: Thank you, ma'am.

1 THE JUROR: I just wanted to make sure.

2 THE COURT: Oh, absolutely. Thank you for sharing that
3 with us.

4 THE JUROR: Okay. Thank you.

5 THE BAILIFF: Number 130, Your Honor.

6 THE COURT: You're Mr. Smith?

7 THE JUROR: Yes, sir.

8 THE COURT: Yes, sir.

9 THE JUROR: I know---

10 THE COURT: Who is that---

11 THE JUROR: I know Gerald Lee Smith.

12 THE COURT: And he works---

13 THE JUROR: He's my cousin, yes.

14 THE COURT: And---

15 THE JUROR: He works in the law enforcement office.

16 THE COURT: He's with the Sheriff's Department?

17 THE JUROR: Yeah, here in Cherokee County, yeah.

18 THE COURT: And the fact that your uncle works in that
19 capacity, would that in any way affect your ability to give
20 both the state and defense a fair and impartial trial in the
21 event you're selected as a member of this jury?

22 THE JUROR: It shouldn't, no. I shouldn't be able
23 to---

24 THE COURT: Do you think it would?

25 THE JUROR: No, cause I don't really ever talk to him

1 much.

2 THE COURT: Okay.

3 THE JUROR: I don't talk to him much.

4 THE COURT: Thank you.

5 THE JUROR: Okay.

6 THE COURT: Thank you for sharing that with us.

7 (WHEREUPON, the following takes place within the
8 hearing of the entire jury panel.)

9 THE COURT: Okay. Lawyers approach a moment.

10 (WHEREUPON, a bench conference was held out of the
11 hearing of the jury at this time.)

12 THE COURT: Ladies and gentlemen, thank you. That
13 concludes the, the questions.

14 when I was a young lawyer, and that has -- certainly
15 has been a while now since I was a younger lawyer, but then
16 we would actually pick jury trials. We did not have the
17 technology that we do today. So, we would actually bring in
18 a wooden barrel, and, in Spartanburg, we would bring in
19 someone that was visually challenged from the school for the
20 Deaf and Blind, and we would put everybody's name in that
21 barrel. We'd spin them around and have that person reach in
22 and pick one name out at a time. Sometimes jury selection
23 would take the entire day.

24 But, with technology, what the clerk of court is doing
25 now is she is -- the computer's randomly selecting a list of

1 your names. In just a moment that, that list is gonna be
2 produced, and we're going to do what is called the striking
3 process in order to select the members of -- that will serve
4 on this jury.

5 when your name is called, I would like for you to -- I
6 ask that you bring all of your personal belongings up with
7 you. If you have a book, a pocketbook, or something with
8 you, please come forward and you will come up here, and the,
9 the, the bailiff will let you in, and you will come and
10 stand right in front of the Clerk of Court, and face that
11 way, and then we will do the striking process.

12 I tell you about that wooden barrel because we actually
13 had a computer glitch about a year ago in Spartanburg, and
14 we actually had to bring the barrel back out. And when we
15 brought the barrel back out, you could of seen people that
16 it -- on the juror's faces well, oh, my God, they really
17 have the barrel. And so, if we do -- if something happens,
18 we will bring the barrel back.

19 So, just give us a moment, and we will do the jury
20 striking process. If you will, the Clerk of Court will call
21 your name, and, if you would, please come forward and bring
22 your personal belongings.

23 It's agreed it's five and five.

24 (WHEREUPON, the jury panel was selected at this time.)

25 THE COURT: Anything concerning the matter and method

1 of selection of the jury from the State?

2 SOLICITOR BARNETTE: None from the State, Your Honor.

3 THE COURT: Any from the defense?

4 MR. COOK: No, Your Honor.

5 THE COURT: Thank you, gentlemen.

6 Ladies and gentlemen, congratulations on being selected
7 our first jury of the week. Give me just a moment. I need
8 to speak with these people who unfortunately did not get
9 selected to be part of this jury.

10 (Pause.)

11 THE COURT: All right. Ladies and gentlemen,
12 congratulations on being selected our first jury for the
13 week.

14 I need to give you some preliminary instructions. What
15 you are about to be, be asked to do in this case is you're
16 going to hear evidence. At the end of the trial, you're
17 going to -- and also I'm gonna charge you on the law.

18 At the end of the trial you're going to engage in
19 what's known as your deliberations. Your deliberations will
20 be where you will decide the issues that are involved in
21 this case. I will instruct you now that, until you begin
22 your deliberations, which occurs at the end of this case,
23 you're not to have any discussion with anyone about anything
24 involved in this case.

25 That includes like, on a lunch break, you go and see a

1 friend or family, oh, great you got selected to be on a
2 jury. What kind of case is it or what, what case is it.

3 You, very politely, tell them the judge has instructed
4 me I can not talk to anyone about anything that's involved
5 in this case while it's still going on. Once it's over, you
6 can talk to them as much as you want to. But until you
7 start, and until you begin your deliberations, you can not
8 discuss with anyone.

9 Let me make one other point. You can not even discuss
10 the case among yourselves until your deliberations start.
11 So, don't, at breaks, or when you go back to the back to the
12 jury deliberation room to use the restroom, do not engage in
13 discussions among yourselves about anything involving this
14 case. The only time you will discuss this case with anyone
15 is at the end of the trial when all the evidence has been
16 presented, I've instructed you on the law, and then the
17 bailiff has told you to begin your deliberations. That's
18 one part, one preliminary instruction.

19 The other type of preliminary instruction that I'll
20 give you is you've now heard -- I've introduced the case to
21 you. You've heard a little bit about the facts of, of the
22 case through the way, the way of the indictment or what,
23 what the indictment alleges that the facts are. You're not
24 to do any type of independent research or investigation in,
25 into anything involving this case because your

1 deliberations, the decisions that you will make in this
2 case, has to be based solely on the information you receive
3 in this courtroom, and the law that I tell you.

4 So, don't go out and say okay, I'm gonna do a, do a
5 little research or I'm gonna go look something up or I'm
6 gonna drive by a location. You -- they -- you can not do
7 any of that. You also can not -- because I don't want --
8 because it has to be based solely on the information
9 provided in this trial, and I also don't want to place a
10 burden on you to feel like you need to go do something.

11 So, even if one of the lawyers or I use a word that you
12 don't even understand, do not go and pull Webster's
13 Dictionary off the shelf and look it up. Allow the lawyers
14 and allow me to educate you as to what certain things mean.

15 So, you don't have any discussions with anyone about
16 anything involving the case until your deliberations begins,
17 and, two, don't do any type of independent research or
18 investigation into anything involved in this case. That,
19 that type of research includes don't go Google my name or
20 one of the lawyer's names and figure out -- more about us.
21 Just allow us to tell you what the information is that you
22 will use to make your decisions in this case.

23 With that being said, I'm going to allow you to have a
24 lunch break before we actually begin the trial of this case.
25 Looking at that clock back there on the wall, I'm gonna ask

1 you, if you would, to please be back in the deliberation
2 room, the bailiff will show you where that is, by a
3 quarter -- by 2:45. So, if you will -- so, you may now go
4 with the bailiff. They will show you where the jury
5 deliberation is, and we'll see you back at 2:45.

6 (WHEREUPON, the following takes place outside the
7 presence of the jury.)

8 THE COURT: All right. Anything before we step down?

9 SOLICITOR BARNETTE: Nothing from the State, Your
10 Honor.

11 MR. COOK: Nothing from the defense, Your Honor.

12 THE COURT: Lawyers want to approach a moment.

13 (WHEREUPON, a bench conference was held at this time.)

14 THE COURT: All right. We will step down.

15 All right. We'll be at ease.

16 (WHEREUPON, Court was in recess for the lunch hour.)

17 (WHEREUPON, State's Exhibit Nos. 1 through 76 were
18 marked at this time. Defendant's Exhibit Nos. 1 through 13
19 were marked as this time. All of the above exhibits were
20 for identification purposes only at this time.)

21 THE COURT: All right. We can go on the record.

22 I believe there was a matter that the Court needed to
23 hear from the lawyers.

24 MR. PRUETT: Actually -- Your Honor, they're actually
25 two matters that I'm afraid we're gonna address real quick,

1 housekeeping matters.

2 One of them was, as we discussed with the prosecution
3 earlier, that they were not gonna proceed on Count 2 of an
4 indictment alleged that Mr. Motts was in possession of a
5 weapon being a convicted violent felon. I understand
6 Mr. Barnette has elected not to proceed on that particular
7 count.

8 Is that correct?

9 SOLICITOR BARNETTE: That's correct, Your Honor. He's
10 been convicted of a felony, but not a violent felony under
11 16-1-60. So, we couldn't go forward on it anyway---

12 THE COURT: Okay.

13 SOLICITOR BARNETTE: ---from that standpoint.

14 MR. PRUETT: And the other matter, housekeeping matter,
15 Judge, is we have premarked all of the related exhibits
16 dealing with the security of the video at the scene, and
17 there's gonna be no objection I understand from either the
18 State or the defense as those exhibits are introduced during
19 the trial into evidence.

20 Is that correct, Mr. Barnette?

21 SOLICITOR BARNETTE: That's correct, Your Honor.

22 THE COURT: All right. And the court reporter was kind
23 enough to provide the Court with a list of the, of the
24 exhibits. So, we will try to mark them off as they are
25 properly introduced.

1 MR. PRUETT: Mr. Watts also provided it to the defense
2 and we appreciate that.

3 THE COURT: Okay.

4 MR. PRUETT: The last matter, Your Honor, related to a
5 matter we discussed briefly in chambers, and that is the
6 sequestration of the lay witnesses during the course of the
7 trial. The defense has no objection to experts or police
8 officers remaining in the courtroom during the presentation
9 of any evidence or testimony. So, I recognize that the
10 chief investigating officer has a right to be present as
11 well as I think the custodian of the evidence.

12 We are asking for sequestration of the lay witnesses
13 for the prosecution. It's my understanding and, again, just
14 from speaking with Mr. Barnette a moment ago in chambers,
15 that he intends to call in order first Chief Skinner,
16 followed by Tony Lipscomb, then followed by Floyd Ramsey,
17 Brandon Floyd Ram -- he, he is also an alleged victim in one
18 of the indictments.

19 We have an objection to him being present in the
20 courtroom while Mr. Lipscomb is testifying. I -- I'm, I'm
21 asking this, Your Honor, for the reason that, in most cases,
22 this is an unusual case in many respects, but in most cases
23 we have recorded and written statements from the principal
24 actors in the offenses. In this particular case, there is,
25 to our knowledge, no recorded statement, no written

1 statement of any kind, taken from Tony Lipscomb or Brandon
2 Ramsey.

3 And so the cases in the past where I've made a motion
4 to sequester, and one of the purposes, as a alleged victim,
5 the response by the prosecution or the Court as where you've
6 got a statement, and if they testify inconsistently with
7 that statement, you're free to impeach them under Rule 613
8 as a prior inconsistent statement. I don't have that
9 ability to do that in this case, and there's no way for us
10 to know whether or not the witnesses may or may not be
11 conforming their testimony so that would be consistent with
12 the prior witness or witnesses.

13 And, obviously, in a trial, when jurors are trying to
14 determine the credibility of witnesses, one of the things I
15 think the judge will instruct the jury is that the testimony
16 of a witness, if it's inconsistent with other testimony or
17 evidence, it can be used to assess the credibility of that
18 witness. So, that's the -- our purpose and basis for
19 requesting the sequestration of lay witnesses in this case
20 where we have no written statements to go by and to
21 potentially impeach a, a witness.

22 I understand that the State's relying upon the
23 constitutional provisions about the victim's right to be
24 present during proceedings. That right, I think, has to be
25 counterbalanced with the right of every accused person to

1 receive a fair trial. No constitutional right is absolute.
2 There had to be a balance one against the other, and which
3 one is the more concerned at the moment as they become an
4 issue in the case.

5 I would say Mr. Ramsey will only be out of the
6 courtroom a short while during the testimony of Mr.
7 Lipscomb. And if he wanted to later, to know what occurred,
8 he can certainly obtain a transcript, read over Mr.
9 Lipscomb's testimony. I would say that his right to be
10 present during proceedings will only be briefly prejudiced
11 as opposed to potentially the long term implications of Mr.
12 Motts right to have a fair trial if there is some potential
13 conformity of his testimony with that of Mr. Lipscomb.

14 SOLICITOR BARNETTE: Thank you, Your Honor.

15 I think there's a constitutional right, Your Honor, for
16 the victim in this case. The Constitution -- our South,
17 South Carolina Constitution gives us the Victim Bill of
18 Rights, Section 24, Your Honor, and one of those things was
19 to be available for all Court proceedings from there. And
20 Mr. Ramsey's just as much as a victim as Mr. Lipscomb in
21 this case, and then I've also got the statute, Your Honor.

22 There's a statute that's even been passed by our
23 Legislature, legislative intent, 16-3-1505.

24 I have a copy for---

25 MR. PRUETT: I'm familiar with it.

1 SOLICITOR BARNETTE: Okay. May I approach the bench,
2 Your Honor?

3 And, Your Honor, I think the General Assembly, by the,
4 the passing of this statute, as well as the Constitutional
5 rights that they've passed, wanted to make sure that all
6 victims are given these rights.

7 I understand what Mr. Pruett's arguing, but I think the
8 problem with sequestration is not a constitutional right.
9 It's a Court procedure. It's been followed throughout time.
10 Obviously it's up to the Judge's discretion in this case.
11 But I think we have a statute as well as a constitutional
12 amendment that's been added to get these victims the rights
13 to be present for the courtroom.

14 I personally have not been in a case where a victim has
15 not been in a courtroom, and I've been doing this for quite
16 a while, and I think Your Honor's being doing it for quite a
17 while. I don't know if you've ever had that experience
18 yourself being on the bench.

19 So -- but I would strongly object to it. I'd ask for
20 both victims to be present here. The other way that
21 witnesses -- and I don't have any problem with that. I
22 understand where they're coming from, but I think a victim
23 must be treated much differently than a lay witness.

24 MR. PRUETT: Your Honor, I -- again, the right to a
25 fair trial is grounded in the Sixth Amendment of the U.S.

1 Constitution, and that's where the Rule of Sequestration
2 comes from. So, there is a counter imposing constitutional
3 right to a, to a trial by jury which means a right to a fair
4 trial. And, again, given the minimal, the minimal prejudice
5 we're talking about to Mr. Ramsey, I would think, in this
6 particular instance, that the concern about Mr. Motts having
7 a fair trial given the serious charge that he has would
8 outweigh a minimal prejudice to Mr. Ramsey.

9 And, again, I'm gonna concur with Mr. Barnette. It is
10 unusual, but it's unusual -- I can't recall a case where the
11 named victims in the case, who were competent to give
12 statements, did not because, in all the other cases I've had
13 where there's been a issue of victims being present, the
14 Court can point to you've got statements to impeach in the
15 event there's any inconsistency or change in testimony.

16 THE COURT: So, your -- you, you are making the
17 proposition that this Court is to do a balancing test
18 balancing between the Defendant's right to a fair trial, and
19 to the victim's right to be present during all proceedings?

20 MR. PRUETT: Yes, sir, that's exactly right.

21 THE COURT: Where, where is the -- I, I know very
22 little about the facts other than what y'all've enlightened
23 me about and shown in pictures. Everything's recorded on
24 this visually.

25 MR. PRUETT: Well, not with the statements for -- those

1 are a time period, Judge, leading up to the shooting. Mr.
2 Motts was in this same bar for two hours before the
3 shooting. So, the shooting didn't happen in a vacuum, and
4 Mr. Ramsey and Mr. Lipscomb are seated back behind them.

5 I know the court's kind of coming in in this from
6 back -- understandably knowing all of the facts of the case
7 or maybe any facts, but there's a period of time there where
8 Mr. Ramsey and Mr. Lipscomb are seated behind Mr. Motts, and
9 they're apparently discussing something, and we can't tell
10 what because there's no sound on the video. And there may
11 be other questions we have to ask them regarding exactly
12 what occurred and more or less to narrate what's on that
13 video.

14 So, there is something of an issue there as to what
15 actually transpired.

16 THE COURT: Is there a prohibition to where you
17 couldn't have gotten the solicitor's Office and asked them
18 what statements or what, what the -- Mr. Motts was gonna or
19 Mr. Lipscomb or Mr. Ramsey was -- what their positions were?

20 MR. PRUETT: We did ask for statements.

21 THE COURT: And you didn't have any?

22 They didn't give you---

23 MR. PRUETT: They said they didn't have any, which I
24 find remarkable, and I find that problem might be the
25 case -- my guess is, Judge, and I, and I don't want to

1 assume too much, is that they were spoken to. They did
2 interview them. They did talk to them. But there was no
3 record ever made, and if they've got statements, then it's,
4 it's news to us.

5 So, we don't have that available to us, and that's
6 the -- again, that's the whole point of sequestration is to
7 prevent parties colluding and conforming their testimony,
8 and, in this instance, we wouldn't know that or not.

9 THE COURT: I'm having difficulty understanding where
10 the prejudice would be when the way that y'all have
11 presented the facts to me, a lot of the facts are not in
12 dispute.

13 MR. PRUETT: We don't know some of the facts. The
14 facts that we know probably are not disputed. The facts
15 that we don't know, we can't say we agree with or not.

16 THE COURT: So, in doing this balancing test, I am to
17 just say okay, there's facts out there nobody knows about.
18 So, to not know what those facts are that nobody's taking a
19 look at or they didn't get recorded, then I'm suppose to
20 then violate the Constitution or weigh that Constitution,
21 balance that constitutional right for a victim to be
22 present, and just say he -- that victim's got to be out of
23 the courtroom?

24 MR. PRUETT: Yes, sir, and I'll give you an analogy.
25 We do it all the time.

1 This is not something that's unheard of or new. We do
2 it in terms of confrontation where you have a young, maybe a
3 child, and you got a confrontational issue or we -- some
4 people would say the Defendant's got an absolute right to
5 confront that witness, but that right is not absolute, and
6 it can be modified to accommodate the victim who may be of
7 somebody young or tender age. Sometimes you have someone
8 who's elderly or infirm, and the statutes allow for
9 alternative means of presenting that testimony even though
10 they actually curtail or infringe upon, in some instances,
11 the right of the Defendant to have that face-to-face
12 confrontation.

13 So, nobody's absolute. No constitutional right is
14 absolute. You have to mold a remedy in every case where you
15 have conflicting or competing constitutional provisions.

16 THE COURT: But, in that situation, you've got a, a
17 small child, an elderly person, you've -- they probably have
18 been presented some information that a judge could make an
19 objective determination that okay, that child is in fear for
20 herself or him, or himself. You're asking me to exclude a
21 victim from being in the courtroom, although be it just a
22 short amount of time, for something that you have
23 absolutely -- you want the Court to speculate about engaging
24 in this balancing test.

25 MR. PRUETT: I'm only speculating because the State

1 hasn't prevented me -- presented us with any statements,
2 and, Judge, I'll say this. I don't have cases on hand, but
3 I know of other cases in other jurisdictions where, to
4 accommodate that right, that you'll find, if you want to
5 know what happened, you'll go get a copy of the transcript,
6 and that would be a remedy to -- I mean being present in the
7 courtroom, one of the purposes for Mr. Ramsey has to be
8 present, other than just to sit through one person's
9 testimony, but how is that gonna prejudice us if you step
10 out for a few minutes while that part of the trial proceeds.
11 And, if it's so important to him, he can get a transcript
12 later.

13 THE COURT: Any reply?

14 SOLICITOR BARNETTE: Yes, sir. The issue is I haven't
15 seen any cases. I'm not saying there isn't any cases. I
16 don't know of -- me personally have not looked this up. But
17 I would think, if they had cases, they'd supply it to you.
18 I don't know how sequestration is a constitutional right
19 with a fair trial. I've never seen that. I've seen it
20 being basically procedural that the court talks about that.

21 My argument is you have a constitutional right from
22 that standpoint. The witnesses are -- I want to make sure
23 this is clear. I didn't -- these witnesses are available if
24 they wanted to talk to Mr. Pruett or vice versa. I mean
25 they've been there -- the reason why they didn't give

1 statements was that they were both taken to get medical
2 attention.

3 So, neither one made statements or talked to the police
4 after the fact, but, but, to me, to, to bootstrap this into
5 the, the sixth -- their amendment right, I don't see, I
6 don't see the connection while we do have a constitutional
7 right on behalf of the victim in this case, Your Honor.

8 THE COURT: All right. I'm going to allow the witness
9 to stay. I think he'd got a constitutional right to stay as
10 well as a statutory right.

11 I am not seeing, even if I did this type of balancing
12 test, that there would be -- it's, it's an un -- it -- I
13 can't see where the prejudice is to the Defendant other than
14 just to say okay, we think they might be fabricating their
15 testimony or they might change their testimony when
16 there's -- when this seems to be, based on what y'all've
17 presented to me, a, a majority of what I believe are going
18 to be facts presented to, to the jury is on videotape.

19 So, if the witness testifies contrary to that, you've
20 got the ability to cross-examine the witness as -- you know,
21 to, to the information that's on the videotapes. So, I'm
22 gonna allow it -- them to stay.

23 SOLICITOR BARNETTE: And you---

24 THE COURT: Mr. Barnette.

25 SOLICITOR BARNETTE: Just for the record too, there's a

1 9-1-1 call that Mr. Ramsey makes, and that's gonna be part
2 of the record too in our case.

3 THE COURT: Okay.

4 MR. PRUETT: All right. And I respectfully except to
5 the Court's ruling if I can just make an exception for the
6 record.

7 THE COURT: Okay. And if you wanted -- if, if, if you
8 can get those case law to enlighten the Court prior to Mr.
9 Lipscomb testifying, I'll be happy to take a look at it.

10 MR. PRUETT: I understand.

11 THE COURT: But that's my ruling for now.

12 Anything else prior to us getting going?

13 SOLICITOR BARNETTE: Nothing from the State, Your
14 Honor.

15 THE COURT: Okay.

16 SOLICITOR BARNETTE: I do -- I've gonna leave the
17 police officers. The way I understand it, it's not under
18 sequestration. Just be the lay -- the other lay witnesses,
19 is that correct, Your Honor?

20 If I could just go back and make sure that -- we make
21 sure that nobody comes in, Your Honor.

22 MR. PRUETT: We have one witness present, and we've
23 already explained the rule, which I assume you want us to
24 comply with that.

25 SOLICITOR BARNETTE: Yeah.

1 (Pause.)

2 THE COURT: All right. We'll bring the jury in.

3 Okay. Ask Juror Number 87, Myra McCoy, if she will be
4 our forelady.

5 THE BAILIFF: Okay.

6 (WHEREUPON, the following takes place within the
7 presence of the jury.)

8 THE COURT: Ladies and gentlemen, thank y'all for
9 coming back and being back on time. The bailiff informed me
10 that all of y'all were here on time.

11 As you will learn, there are often times during a trial
12 that you have to be excluded from the courtroom. So, I
13 didn't want you to think we were just -- didn't -- weren't
14 ready for y'all, we weren't doing anything out here. We
15 actually had matters of law that we had to take up with the
16 attorneys outside of your presence. So, we've been -- done
17 that. Felt like it would be more productive if we delayed
18 to bring you out so hopefully we would proceed more
19 smoothly. But thank you for being on time.

20 I need for you to please stand. The Clerk of Court
21 needs to swear you in.

22 (WHEREUPON, the jury was placed under oath at this
23 time.)

24 THE COURT: Ladies and gentlemen, we will now begin the
25 trial of the case of The State versus Eddie Jerome Motts.

1 But before we begin the trial, I want to tell you that this
2 trial probably would be different from what you might
3 expect. Many people do not have the chance to attend an
4 actual court session as you are doing now, and may think,
5 from watching television, or movies, or readings books, that
6 trials are always full of high drama, intense action, and
7 rivetting circumstances.

8 while all of these things may be true at times, ladies
9 and gentlemen, this trial is not for entertainment. It is a
10 fundamental part of our democracy. Trials are often slow,
11 deliberate, and repetitive, just the opposite of what you
12 may have seen on television, or in movies, or read about in
13 books.

14 This courtroom is a place of honor dedicated to the
15 protection and preservation of citizen's rights through what
16 many have called the greatest justice system ever created.
17 The attorneys appearing before you, they are advocates for
18 their -- for the parties that they represent, but first and
19 foremost, they are officers of the court sworn to uphold the
20 integrity and fairness of our judicial system.

21 You should expect them to be professional, competent,
22 and ethical in the representation of their client's
23 interest, but remember that you have taken an oath to try
24 this case, and reach a fair and just verdict. And you're
25 also expected to be professional, reasonable, and ethical.

1 And I thank you for accepting the important responsibility
2 of jury service and for your contribution today to our
3 justice system.

4 what I will now say is intended to serve as an
5 introduction of the trial of this case. My remarks are not
6 a charge on the law in this case. I'll instruct you on the
7 law applicable to this case at the end of the trial before
8 you retire to consider the verdict. This is merely an
9 explanation of the procedure that we will follow in the
10 trial of this case so that you may better understand what
11 may be happening.

12 The Defendant is charged by way of indictment filed in
13 this Court, in this Court with two charges of attempted
14 murder, and one count of possession of the weapon during the
15 commission of the violent crime.

16 Now, the elements of these charges will be explained to
17 you later. These indictments are simply the charge by which
18 the case is brought into Court, and they are not, in any
19 sense, evidence of any of the allegations contained in them.
20 The Defendant has pled not guilty to these indictments. The
21 State, therefore, has the burden of proving each of the
22 elements in the indictment beyond a reasonable doubt, and it
23 will be your duty, ladies and gentlemen, to decide whether
24 or not the State has met that burden.

25 Your purpose, as jurors, is to find and determine the

1 facts. You are the sole judge of the facts. If, at any
2 time during this trial I make a comment regarding the facts,
3 you must disregard my comment. You are to determine the
4 facts and the testimony you hear, and any other evidence
5 that is introduced in the court. It is up to you to
6 determine the inferences, the inferences which you feel may
7 be properly drawn from the evidence, and it is especially
8 important that you perform your duty of determining the
9 facts diligently and conscientiously because, ordinarily,
10 there is no way to correct an erroneous determination of
11 facts that is made by a jury.

12 On the other hand and with equal emphasis, the same law
13 that makes you the judge of the facts makes me the judge of
14 the law. The law, as given by the Court, is the only law
15 that you may consider. You must accept and follow it even
16 though you may disagree with it. I can not tell you what
17 the facts are, and you can not dis -- and you got -- and you
18 can not disagree with me about what the law is or what the
19 law should be.

20 Your job is to take the law as I give it to you and
21 apply it to the facts as you find them from the testimony of
22 the witnesses, and any other evidence that is introduced.
23 After doing that, you will render your verdict, a true and
24 just verdict, under the solemn oath that you just took as
25 jurors.

1 Now, until I advise you to begin your deliberations you
2 must not discuss the case with anyone including your fellow
3 jurors, friends, family members, and anyone that is involved
4 in this case. It is -- this includes discussions that are
5 face-to-face and those by telephone, email, text, blog, or
6 any other method of communication. You may not use a
7 computer, a cell phone, or other electronic device with
8 communication capabilities at anytime while in this
9 courtroom or during your deliberations.

10 During your breaks, or meals, or overnight, if
11 necessary, you may use those devices. However, you may not,
12 at any time, use those devices to get or send information
13 about this case. This includes do not research or get
14 information about a party, a witness, an attorney, a Court
15 officer. Don't read news accounts about the case. Do not
16 research any topic raised, any -- or any topic that you may
17 think might be helpful in you deciding the case or any
18 testimony presented by any witness.

19 During the trial, do not read, listen to, or watch any
20 news reports about this case. This includes anything that
21 might be in the newspaper, or on the Internet, radio, or
22 television. You must not consider anything that you have
23 read or heard about the case outside of the courtroom
24 whether before or during the trial.

25 Now, after the case is submitted to you, you must

1 discuss it only in the jury room with your fellow jurors.
2 The attorneys and the parties in this case have been advised
3 that they are not to talk to you at all. So, if you see
4 anyone involved in this case, and they do not even say hello
5 to you, they are not being unfriendly. They are just
6 following my instructions.

7 It is important that you keep an open mind and not
8 decide any issue in the case until all of the evidence has
9 been presented, the parties have made their closing
10 arguments, and I have instructed you on the law of this
11 case. It is your solemn responsibility to determine the
12 guilt or innocence of the Defendant, and your verdict must
13 be based solely on the evidence as it is presented to you in
14 this trial, and the law as I instruct you during and at the
15 close of the trial.

16 In just a moment this solicitor will make what is
17 called opening statement in which the solicitor will explain
18 to you the issues in this case or at least what the
19 solicitor thinks the issues are in the case. The attorney
20 for the Defendant may also make an opening statement
21 although they are -- he is not required to do so.

22 What the attorneys tell you during their opening
23 statement is not evidence in the -- in this case. It is
24 only their contention as to what the issues are. The
25 evidence in the case will be presented to you by way of

1 sworn testimony from witnesses in this witness stand, and
2 any exhibits that may be introduced during the course of the
3 trial.

4 From time to time, during the trial, you may hear one
5 of the lawyers say something like Your Honor, I believe we
6 have a question of law or a matter of law to discuss with
7 you, or Your Honor, may we approach the bench, or some times
8 I myself may find it necessary to excuse you from the
9 courtroom for a short while so that the attorneys and I can
10 discuss what is referred to as matters of law.

11 The reason for this is because you are the judges of
12 the facts in the case, and sometimes, when discussing
13 matters of law with the attorneys, it may be necessary for
14 me to make some comment about the facts in connection with
15 ruling on whether or not the particular law applies or not.
16 I am not suppose to tell you what I think the facts are.
17 So, I will excuse you from the courtroom while these
18 discussions take place so that you will in no way be
19 influenced by anything that I might say or do in connection
20 with the facts.

21 Now, in determining what the true facts are in this
22 case, you must determine whether or not the testimony of a
23 witness is believable. It will be my responsibility to rule
24 as a matter of law as to whether certain testimony is
25 admissible at all or not. But once the testimony is

1 admitted, whether or not you believe it is solely for you to
2 determine.

3 In deciding whether to believe a witness, you have the
4 right to consider the interest of any witness, the bias of
5 any witness, the prejudice of any witness, the opportunity
6 for the witness to have seen the matters and things about
7 which the witness may testify, and the way the witness acts
8 on the witness stand. You have a right to consider anything
9 that is in the record that will help you evaluate the
10 testimony of the witnesses. That means that it is your duty
11 to pay close attention to the witnesses, to observe the
12 witnesses, to listen to the witnesses, and to pay close
13 attention to the attorneys and the Court.

14 Do not let your thoughts wonder, but give strict
15 attention to the testimony in this case so that, that, at
16 the end of all the testimony, after the arguments of counsel
17 are presented to you, and you're charged the law by the
18 Court, you will then be in a position to determine what the
19 true facts are, to apply the law to those facts, and that
20 you render a true and just verdict.

21 Now, Madam Foreperson, it is your duty to preside in
22 the jury room and to be the jury spokesperson here in this
23 courtroom. It will also be your duty to write the verdict
24 in this case, but I will give you further instructions about
25 that at the conclusion of the case.

1 Now, in order to preserve everyone's rights, I will
2 give the parties an opportunity to object to anything that I
3 have said.

4 Is there any exceptions from the state?

5 SOLICITOR BARNETTE: None from the State, Your Honor.

6 THE COURT: Any from the defense?

7 MR. COOK: No, Your Honor.

8 THE COURT: At this time we will proceed with the
9 opening statements.

10 SOLICITOR BARNETTE: May it please the Court, Your
11 Honor?

12 Good afternoon, Madam Foreladies (sic), members of the
13 jury. Let me introduce the two folks that are victims in
14 this case.

15 Tony Lipscomb and his wife, Holly Lipscomb, and Brandon
16 Ramsey. They were shot by Mr. Motts, and you're gonna see
17 this on video.

18 If you're familiar with Harold's Restaurant here in
19 downtown Gaffney or Harold Tindall's, a lot of people call
20 it from that standpoint, back on March 26th, 2018, it was
21 that evening in that case.

22 Mr. Lipscomb had been working that day in the
23 restaurant side. You have the restaurant side and you have
24 the bar side. If you've been in there before, you've heard
25 about it before.

1 He'd finished his work up, went across to the bar side,
2 was just relaxing, taking it easy. While he was sitting
3 there, Mr. Motts comes up to the bar, and you're gonna see
4 this on the video.

5 In the store, they have actually -- there's three
6 cameras you're basically looking at. Camera 4, which was --
7 most of the action's gonna be on. There's Camera 8 and
8 Camera 1, and you'll see the different angles that they
9 cover. Angle 4 will cover mostly the bar, the bar area.
10 Angle 8 actually goes this way towards the front door from
11 there, and you're gonna see an angle from there. And then
12 there's one that actually watches the front door. There's a
13 pool table out there.

14 And what happened was Mr. Lipscomb is sitting in that
15 table against the wall away from the bar. Mr. Motts sits
16 down, starts talking to Kathy Calver, the bartender. He
17 starts drinking a couple shots, some beer, and this goes on
18 for a period of time. He's probably there at least an hour,
19 hour and a half.

20 I probably won't show you the whole video cause there's
21 a lot of that's not gonna be pertinent to this. He's just
22 sitting there drinking from that standpoint. Ms. Kathy's
23 talking to him. Mr. Lipscomb's over there talking to people
24 as they come in and out.

25 Brandon Ramsey, she (sic) works at McDonald's, and he

1 works for the Masons, and was working on the Mason Farm that
2 day. Had left the Mason Farm on Highway 11 and came in. He
3 comes in about 7:03. When you see these pictures or see the
4 videos, some of them, some of them have the date and time.
5 It's real small on the bottom, and I'm gonna actually give
6 you still pictures so you can follow through with it off the
7 video cause, like I said, it's a very long video, and that
8 way you can see what's going on from that standpoint.

9 Mr. Ramsey sits there. As he's sitting there, he's
10 sitting beside Mr. Lipscomb who's sitting there at the
11 table. Mr. Motts starts getting loud. Ms. Kathy keeps
12 talking to him. You'll see his actions on the video. At
13 that time Mr. Lipscomb decides he needs to go over and check
14 on what's going on, and you'll see his actions.

15 He gets so concerned that, at some point, he gets a
16 pool stick, but he takes it back with him. Doesn't do
17 anything. Doesn't make an action like he's -- acting like
18 he's hitting the thing there. Mr. Motts never saw that. He
19 just -- again, he's getting frustrated with him because he
20 kept arguing with Ms. Kathy, and then he'll testify to
21 that -- tell you about that.

22 And, shortly after that, he gets mad at Mr. Ramsey.
23 supposed there was an altercation that happened several
24 years ago between him and Mr. Ramsey. He gets mad at him
25 and you'll see different members of the bar go talk to him,

1 and discussing this with him. He is -- finally he leaves
2 the bar. You can just see that basically they finally
3 convince him he to needs leave the bar.

4 He goes probably about four to five minutes.
5 Everything goes back to normal. well, he comes back in. He
6 goes to the table. Mr. Lipscomb, Mr. Ramsey's sitting right
7 there, and you're gonna see this on video, and he presents a
8 gun to them. You'll see them immediately react. Both of
9 them jump up.

10 Mr. Lipscomb goes behind the bar. He does have a gun
11 behind the bar. He just reaches for it. Never pulls it out
12 at that point. Never does anything with it from that
13 standpoint.

14 Mr. Ramsey goes away from him. You'll see him go off
15 the screen actually down there later in the bar. He's
16 calling 9-1-1. We've actually got the 9-1-1 call that
17 you're gonna hear when this is going on.

18 They're trying to talk. He's trying to settle him
19 down. He goes just settle down and everything, and he just
20 keeps waving the gun around, and you're gonna see that on
21 the video and the pictures too.

22 Now he gets mad at Mr. Ramsey and wants Mr. Ramsey off
23 the telephone, quit calling the cops. Mr. Ramsey won't do
24 it. Then you see him go after Mr. Ramsey. And you'll even
25 see the angle, the camera angle going towards the front,

1 Camera A. You're actually gonna see where he shoots at
2 Mr. Ramsey. He hits Mr. Ramsey in the butt as he's going
3 out the door, and you'll hear the exact time when he was
4 shot on the 9-1-1 call.

5 He turns around. Mr. Lipscomb sees what happened.
6 Mr. Lipscomb actually had his back to him trying to figure
7 out what he was going to do here. He gets the gun. He
8 points it at him. His gun jams. He tries to shoot it. Mr.
9 Motts follows him, going down through there, shoots at him.
10 shoots him twice in the chest. You'll see one of the shots
11 when he actually reaches, hits him on -- it's near the
12 heart. You're also gonna have a second shot.

13 And, like I said, you're gonna see this on video.
14 You're gonna see where Mr. Motts leaves after even this, and
15 comes back, pulls the weapon when he comes back to the
16 table, presents it. Mr. Lipscomb wasn't even close to his
17 gun. He was over at the table. You're gonna see that on
18 the video. He didn't go get his gun until after Mr. Motts
19 brings a gun into it. He don't actually shoot or do
20 anything, but he shoots Mr. Ramsey for being on the
21 telephone.

22 Shortly after that the Gaffney PD shows up and you'll
23 see his actions in there. You'll see what he says over the
24 body cam. The officers order him -- he finally lays his gun
25 down, they get him. He's staggering. He -- they'll tell

1 you what his appearance was like, the officers will.

2 He goes out to the car. He makes several statements
3 especially about Mr. Lipscomb, and I won't repeat. You'll
4 hear it on there, but basically says you need to take that
5 mother fucker to the hospital. You don't fuck with me is
6 what he keeps say -- he told the cops that. I apologize for
7 the language you're gonna hear, but he meant to shoot both
8 these men. Pretty good shot too if you look at it.

9 He shot five shots. One of them hit Mr. Ramsey. Two
10 of them hit Mr. Lipscomb submit -- and then later on you're
11 gonna hear a recording from a bond hearing. Chief Skinner
12 was there at the bond hearing. You're gonna hear the
13 comments of the Defendant from the bond hearing where
14 he's -- you know, he did it. He said I'm sorry I did it. I
15 was drunk. That's no excuse, ladies and gentlemen, and
16 you'll hear the judge charge you about that.

17 But he shot these two men. He meant to kill them. He
18 had the intent to kill them. You can tell that from his
19 actions, from his words. You can tell it from the facts.

20 Like the judge said, I'm just gonna give you a guide of
21 what was presented here today. You're gonna hear testimony
22 from witnesses. You're gonna see evidence, and, like I
23 said, we're gonna have this video, and we don't have a lot
24 of these type cases on video, but we got this one, and the
25 defense will have an opportunity, if they want to, to

1 present this, but they don't have to. The burden is on us.

2 But, ladies and gentlemen, the evidence is here, and
3 after this case, I'm gonna return back to you and return a
4 verdict of all three counts. Again, thank y'all for being
5 here. Thank you for doing this.

6 Thank you, Your Honor.

7 MR. COOK: Good afternoon.

8 My name's Dean Cook. I represent Mr. Eddie Jerome
9 Motts sitting right there in the white shirt, and you heard
10 the solicitor say that there is a video in this case. And
11 what you're gonna see in that video tells a different story
12 than -- let me back up a minute.

13 That video starts quite a while before Mr. Motts walks
14 in that room, in that bar, okay, and we're talking about
15 drinking. It's a bar. And, before he gets there, you'll
16 see Mr. Lipscomb have quite a few drinks.

17 Okay. He's drinking a lot of beer. He's the owner of
18 the place.

19 Okay. What this case is about, and what I want you to
20 remember is that this case is about bullying. It's about
21 the bullying of a mentally ill man. It's the bullying of a
22 man with Parkinson's Disease. He's suffered numerous head
23 injuries, and you'll hear about it through testimony.

24 Mr. Motts has deteriorated health, Parkinson's Disease,
25 as you know, affects the brain.

1 okay. You're gonna see on that film, that video, and
2 you're gonna be able to see it when I point it out to you.
3 If you just watch it in fast motion, you can't see some of
4 the things. We're gonna point it out to you, and I'd like
5 to state we have some still photos also, and I'm gonna show
6 you these photos, and they're captured off of that video.
7 Just take a still photo off of it, put it on the board, and
8 I'm gonna give it to you.

9 And I want you to keep an open mind during this trial.
10 And I want you to really watch this video critically and
11 listen critically. And I want you to use your common sense
12 also because everybody here has lived life. You've done
13 different things. You know how to read body language or at
14 least somewhat, and that's the, the thing you're gonna have
15 to do cause this video has no sound.

16 okay. But body language doesn't lie, and I know you've
17 all heard that a picture's worth a thousands words, and, in
18 this, a video may be worth a thousands words. But I'll tell
19 you what else is worth a thousands word, and that's a
20 thousand words.

21 okay. And, unfortunately, you can't hear anything on
22 that video, but you can see their actions. You can see Mr.
23 Lipscomb and his actions.

24 okay. You can see what he does. He goes and gets a
25 pool stick, and he walks behind this man and does this.

1 okay. I want you to remember that.

2 Now, Mr. Motts went to that bar. It's a Monday, late
3 in the afternoon, to go -- he was gonna go watch a race,
4 have a few drinks, and go home. You'll see him sitting at
5 that bar, and that's what he does. He sits at that bar. He
6 gets up one time to go to the restroom, comes back, sits at
7 that bar. He is not bothering a soul. Not bothering a
8 soul.

9 okay. I just want you to remember this because this is
10 important. This case is about bullying. It is about
11 bullying. Remember that when you watch this and listen to
12 this testimony, and I appreciate you being here because, if
13 you weren't here, we couldn't have this. He wouldn't have
14 his day in court. A lot of people don't want to do -- don't
15 want to be in jury duty, but it's very important, and we
16 thank you. And that's all I have.

17 THE COURT: Is the State ready to call their first
18 witness?

19 SOLICITOR BARNETTE: State's ready, Your Honor.

20 May it please the Court.

21 I'd like to call Chief Skinner to the stand please.

22 THE COURT: Sir, just come right up here and let the
23 Clerk of Court swear you in.

24 THE CLERK: Please raise your right-hand.

25 CHRIS SKINNER, being first duly

Chris Skinner - Direct examination
by Solicitor Barnette

1 sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY SOLICITOR BARNETTE:

4 Q If you would, sir, please state your full name for the
5 record.

6 A Chris Skinner.

7 Q And where do you work at, sir?

8 A Gaffney Police Department.

9 Q And what is your position there, sir?

10 A Chief of Police.

11 Q And how long have you been in law enforcement, sir?

12 A Close to 34 years.

13 Q Back on March 26th, 2018, did you hear about an
14 incident that occurred at Harold's Restaurant here in
15 Gaffney?

16 A I did.

17 Q And that is in the City of Gaffney and Cherokee County.
18 Is that right?

19 A It is, yes, sir.

20 Q And did your officers respond to that location?

21 A They did.

22 Q And was Mr. Motts taken into custody after that then?

23 A Yes, he was.

24 Q And was there a bond hearing scheduled the next day?

25 A Yes.

chris skinner - Direct examination
by Solicitor Barnette

1 Q And was that bond hearing in front of Judge Seals?

2 A It was.

3 Q And was you present for that bond hearing?

4 A I was.

5 Q And I think you've heard this recording. I finally
6 want to show you State Exhibit 21.

7 Is this a copy of this bond hearing?

8 Does that reflect what happened that night or that day
9 in front of Judge Seals?

10 A Yes, sir.

11 SOLICITOR BARNETTE: Your Honor, I'd like to enter
12 State Exhibit 21 at this time.

13 MR. COOK: No objection.

14 THE COURT: Without objection.

15 (WHEREUPON, State's Exhibit No. 21 was received into
16 evidence at this time.)

17 SOLICITOR BARNETTE: Okay, Your Honor.

18 Your Honor, permission to publish it to the jury?

19 THE COURT: Yes, sir.

20 SOLICITOR BARNETTE: Your Honor, do you mind if I bring
21 the TV around?

22 THE COURT: Certainly.

23 SOLICITOR BARNETTE: Okay. Please let me know if it's
24 too loud. I'm gonna try to get it loud enough for
25 everybody. It will take a little bit of time for it to

chris skinner - Direct examination
by Solicitor Barnette

1 play, and this is just audio. There's no video with it.

2 Just audio.

3 (WHEREUPON, State's Exhibit No. 21 was played for the
4 jury at this time.)

5 Q Chief, while you was at the bond hearing, did he, did
6 the Defendant fill out some paperwork?

7 A Yes, sir.

8 Q Did he fill the paperwork -- filled out properly and
9 handled it properly?

10 A Yes, sir.

11 Q Did he understand what was going on at the time?

12 A Yes, sir, he did.

13 Q And was those the comments he said at the bond hearing?

14 A He did.

15 Q And did he talk about the -- that he'd been drinking,
16 that he thought the alcohol was part of it?

17 A Yes, sir.

18 Q If you would, sir, please answer any questions the
19 defense may have for you.

20 A Yes, sir.

21 Q Thank you.

22 CROSS-EXAMINATION

23 BY MR. COOK:

24 Q Chief Skinner, you've testified that you were employed
25 with the Gaffney Police Department?

chris skinner - Cross-examination
by Mr. Cook

1 A I am.

2 Q Okay. And how long did you say you'd been there?

3 A About 34 years.

4 Q Thirty-four years.

5 During that time that you were employed with Gaffney

6 Police Department, how many times have you responded to

7 Harold's or Harold Tindall's on a call?

8 A In 34 years?

9 Q Yeah.

10 How about the last five years?

11 SOLICITOR BARNETTE: Your Honor, I'm gonna object to
12 this line of questioning. I don't understand the relevance
13 of this.

14 THE COURT: He's on cross-examination. He's got some
15 latitude.

16 Go ahead.

17 MR. COOK: Yes, sir.

18 A Myself, probably in the last 34 years, I would say
19 under 15 times.

20 Q A hundred and 15?

21 A Fifteen.

22 Q Fifteen.

23 A Yeah.

24 Q Okay. What type of calls were they?

25 A Usually disorderly people inside the bar.

1 Q Uh-huh. (Affirmative).

2 A Drunks.

3 Q Did you---

4 A Fights.

5 Q On March 26th, you got a call that day, March 26th,
6 2018?

7 A That's right.

8 Q Okay. And you responded at some point, right?

9 A Yes, sir.

10 Q Okay. When did you arrive?

11 A I was at home, sir. I was already off. I was called
12 by the detectives to respond.

13 Q Once you arrived at Harold's, were you informed of the
14 identity of the shooter?

15 A Yes, sir, I believe I was.

16 Q The suspect.

17 A Yes, sir.

18 Q And they said what?

19 What, what did they tell you -- who did they say was
20 the shooter?

21 A Motts.

22 Q Motts.

23 Okay. Upon -- when you learned that, that the shooter
24 was or could be Eddie Motts, you said, and I quote, I'm
25 quoting you now, that "if he's a Motts, he's crazy enough to

chris skinner - Cross-examination
by Mr. Cook

1 do it"?

2 A Probably so.

3 Q You said that, right?

4 A Probably so.

5 Q And also, and I'm quoting again from a body camera,
6 that you referred to Mr. Motts as a "crazy son of a bitch"?

7 A Probably so.

8 Q Okay. And solicitor Barnette called you here today to
9 talk about what occurred at that bond hearing.

10 A That's right.

11 Q Correct?

12 A Yes, sir.

13 Q And the whole purpose of a bond hearing is for that
14 city judge to set bond for---

15 A Yeah.

16 Q ---Mr. Motts, right?

17 A Yes, sir.

18 Q Okay. Any person charged with a crime, no matter what
19 the crime, even murder, can be given a bond, right?

20 A That's true.

21 Q Okay. So, if you're a person, and you're charged with
22 a crime, and you're trying to get out of -- on bond to get
23 out of jail, okay---

24 SOLICITOR BARNETTE: Your Honor, I'm gonna object at
25 this point. He's asking for speculation on the witness'

chris skinner - Cross-examination
by Mr. Cook

1 part.

2 Q what's the purpose of a bond?

3 THE COURT: Go ahead, yes, sir.

4 Q what's the purpose of the bond hearing?

5 A You talking about --?

6 Q Yes, sir.

7 A Set a bond or deny a bond for a person that's up for
8 bond.

9 Q okay. And when a person makes comments like Mr. Motts
10 did during this bond hearing, does that appear -- does that
11 look like somebody that's wanting to get out on bond or---

12 SOLICITOR BARNETTE: Your Honor---

13 Q ---is that what---

14 SOLICITOR BARNETTE: ---I'm gonna object. That's
15 speculation on part of the witness?

16 THE COURT: All right. He's on cross. I'm gonna allow
17 him to, to answer it the way it's given.

18 Q Let me ask you this.

19 Do you think that his comments that he made, and you're
20 a police officer, you've been doing this for 34 years, do
21 you think those comments helped him or hurt him to make a
22 bond that he made?

23 A I would say it probably hurt him.

24 Q okay. All right. So, a person who made the comments
25 that he made, and I'm quoting you again, "he's crazy", to

chris skinner - Cross-examination
by Mr. Cook

1 make a comment like that if he's wanting to get out on bond?

2 I mean he's not in his right mind?

3 A I don't know whether he's telling the truth. He
4 probably was in his right mind. He's -- he knows right from
5 wrong.

6 Q But you said he was crazy.

7 A I -- the Motts that we've dealt with over the years
8 are -- could be dangerous, yes, sir.

9 Q This Motts you said was crazy.

10 was he crazy or is he not crazy?

11 A He's a Motts.

12 Q Is he crazy or not?

13 A That's up to a doctor. Not me.

14 Q No, you said it.

15 Do you believe it or you're just saying that?

16 SOLICITOR BARNETTE: Objection, Your Honor,
17 argumentative, asked and answered, and speculation.

18 MR. COOK: He---

19 THE COURT: All right.

20 MR. COOK: He's not answering.

21 THE COURT: Ask him one more time and then let's move
22 on.

23 Q Do you think that Mr. Motts is crazy as you said?

24 A I think anybody that would shoot somebody -- two
25 people, yes, I think they're crazy.

chris skinner - Cross-examination
by Mr. Cook

1 Q okay. Now, you testified you know of Mr. Motts, knew
2 Mr. Motts.

3 How about Mr. Lipscomb?

4 A Do I know him?

5 Q uh-huh. (Affirmative).

6 A Yes, sir, I do.

7 Q How long have you known him?

8 A For years. I'm not, I'm not exactly sure.

9 Q Just a guesstimate is fine.

10 A Twenty years, maybe.

11 Q what is Mr. Lipscomb's reputation in the community for
12 violence?

13 A None that I know of.

14 Q Really?

15 okay. well, the night this happened, and when you
16 responded to the bar, there was body cameras on, correct?

17 were you aware of that?

18 A Yes, sir.

19 Q Did you realize you were being recorded?

20 A I -- yes, sir.

21 Q okay. Do you remember saying Tony usually hits them in
22 the head with that stick, that pool stick?

23 A I don't remember---

24 Q You don't recall that?

25 A ---that.

chris skinner - Cross-examination
by Mr. Cook

1 Q well, I've got it on video. It's on your -- y'all,
2 y'all turned it over to us, and that's what you said, and we
3 can play it for the jury if you want to.

4 A That's fine.

5 Q And you said do you know how many people that he's hit
6 in the head with that pool stick. A bunch. That's what you
7 said.

8 Do you recall that?

9 A No, I don't.

10 Q You don't recall it?

11 A I don't.

12 Q okay. well, we, we can play it for you. It's on your
13 body cameras from your officers.

14 A All right.

15 Q So, according to your own statement that you made that
16 was captured on that video and on the audio, Mr. Lipscomb is
17 a violent man?

18 A No, sir.

19 Q So, cracking somebody in the head with a pool stick is
20 not violent?

21 A Not if you're defending yourself, no, sir.

22 Q Not if you're defending yourself.

23 okay. so, have, have you ever responded or any of your
24 officers---

25 A I'm sorry?

1 Q Have you ever responded or any of your officers that
2 you know of responded to Harold's because Mr. Lipscomb
3 struck somebody in the head with a pool stick?

4 A Have I ever, no.

5 Q Does any of your officers?

6 A I don't know.

7 Q You don't know?

8 They didn't tell you that night on the video?

9 A No.

10 Q They didn't?

11 A Not that I---

12 Q well, they did.

13 A Not that I recall.

14 Q oh, they did. okay.

15 A okay.

16 Q So, based on your statements, Mr. Lipscomb has a
17 tendency toward violence or reputation for it?

18 SOLICITOR BARNETTE: Your Honor, objection. Your
19 Honor, we've, we've been asked and answered over this.

20 THE COURT: I'll sustain.

21 MR. COOK: okay.

22 THE COURT: Yes, sir.

23 MR. COOK: That's all I have, Your Honor.

24 THE COURT: Any redirect limited to what he went into?

25 SOLICITOR BARNETTE: Yes, sir.

1 REDIRECT EXAMINATION

2 BY SOLICITOR BARNETTE:

3 Q Chief, how many murders have you worked?

4 A I don't recall. A lot.

5 Q I mean you say all these people are crazy when they
6 kill somebody or shoot somebody?

7 A I do.

8 Q How many shootings have you worked?

9 A Probably hundreds.

10 Q And you said those people are crazy too?

11 A Yes, sir.

12 Q And you've said those -- I mean you've heard people
13 talk about that, and you've said that too, haven't you?

14 A That's exactly right.

15 Q And that's what you're talking about -- Mr. Motts in
16 this case?

17 A That's right.

18 Q To shoot somebody?

19 A It's crazy.

20 Q Especially an unarmed man, right --

21 A Yes, sir.

22 Q -- that's just on a telephone?

23 Shoot another man that's in his own bar trying to
24 protect himself.

25 A Yes, sir.

1 Q That don't mean he's mentally crazy?

2 A That doesn't mean that, no, sir.

3 Q No, what you're talking about, you're talking about the
4 Motts family in general --

5 A That's exactly right.

6 Q -- is what you was talking about.

7 Is that right?

8 A Yes, sir.

9 Q So, you weren't talking about this one specifically?
10 You were just talking about the Motts in general
11 including his family?

12 THE DEFENDANT: Hey, don't tear down -- don't---

13 A Repeat that, sir.

14 Q You was talking about the Motts -- talking about this
15 gentleman when he shoots somebody?

16 A Yes, sir.

17 Q Okay. That's what you was talking about?

18 A Exactly.

19 Q Okay. Thank you, sir.

20 THE COURT: Thank you, sir. You may step down. Watch
21 your step as you're stepping down.

22 THE WITNESS: Yes, sir.

23 THE COURT: Is the State ready -- lawyers approach the
24 bench one moment.

25 SOLICITOR BARNETTE: Yes, sir.

Tony Lipscomb - Direct examination
by Solicitor Barnette

1 (WHEREUPON, a bench conference was held out of the
2 hearing of the jury at this time.)

3 SOLICITOR BARNETTE: Thank you, Your Honor.

4 THE COURT: State ready to call their next witness?

5 SOLICITOR BARNETTE: Yes, sir.

6 Like to call Tony Lipscomb to the stand.

7 TONY LIPSCOMB, being first duly
8 sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY SOLICITOR BARNETTE:

11 Q If you would, sir, please state your full name for the
12 record.

13 A Charles Anthony Lipscomb.

14 Q And where do you work at, sir?

15 A Own and operate Harold's Restaurant.

16 Q And how long have you owned that, sir?

17 A Going on 24 years.

18 Q And was it Harold Tindall's before that or called
19 Harold Tindall's?

20 A It's AKA Harold Tindall's, Tindall's, Harold's
21 Restaurant.

22 Q And it's located here in downtown Gaffney?

23 A [REDACTED] North Limestone Street on Main Street.

24 Q In Cherokee County.

25 Is that correct?

1 A Yes, sir.

2 Q Going back to March 26th of 2018, had you worked that
3 day in the restaurant?

4 A Yes, sir.

5 Q And what hours did you work in the restaurant that day?

6 A Probably went in about 6:00 or 7:00, and got off around
7 4:00 or 5:00. I don't --.

8 Q And later on did, did you go to the bar side?

9 A I did. I went to the bar side to watch a ballgame and
10 drink a few beers.

11 Q Okay. And is there a table there?

12 A There is a table, multiple tables. Three or four
13 people come in, sit down, and we call it the liar's table.
14 There might be 12 or 13 different folks come in and out at
15 different times, you know. So, it wasn't just like I was
16 sitting and speaking to someone. People come in and out.
17 It's right there when you walk in the door.

18 Q And you have a video system in there?

19 A Yes, sir.

20 Q And was it on that night?

21 A Yes, sir.

22 Q Does it have sound on it?

23 A No, sir.

24 Q Okay. And was there a base -- I know they're several
25 cameras, but I think there's three -- there's a Camera 1, 4,

1 and 8 that's in -- I guess that's what they're listed as?

2 A Yes, sir.

3 Q Don't mean you have that many cameras in there, but
4 that's what they're listed as.

5 Is that right?

6 A Yes, sir.

7 Q Let me show you what's been marked as State Exhibits
8 15, 16, 17, and 18. Let me show you State Exhibit 15, and I
9 know you got to see the majority of this -- these videos or
10 whatever.

11 Does these videos fairly represent what happened that
12 night?

13 A Yes, sir.

14 Q Okay. And these State Exhibit 16, 17, 18 are actually
15 from the cameras themselves. This is the complete system.

16 Is that right?

17 A Yes, sir.

18 Q And you can see multiple cameras on this one at
19 different times.

20 Is that right?

21 A Six.

22 Q Yeah.

23 On No. 15 I mean on that.

24 A Uh-huh. (Affirmative).

25 Q And then these are the separate cameras. Like 16 is

1 Camera 4, 17 is Camera 8, and State Exhibit 18 is Camera 1.

2 A Yes, sir.

3 Q Is that right?

4 Your Honor, I'd like to move these into evidence at
5 this time.

6 MR. COOK: No objection, Your Honor.

7 THE COURT: Without objection, State 15, 16, 17, 18.

8 (WHEREUPON, State's 15 through 18 were received into
9 evidence at this time.)

10 Q And if I can show you these two, and I know you got to
11 see these earlier, and I'm not gonna ask you to look through
12 each one cause I'd asked you to look at them before trial.

13 But State Exhibit 22 through 73, these are still shots
14 off that -- off those videos.

15 Are these fair representations of the still shots that
16 was taken off those videos?

17 A Yes, sir.

18 Q And is the time and date, I know it's real small, is at
19 the bottom of the pictures?

20 A Yes.

21 SOLICITOR BARNETTE: Your Honor, I'd like to move
22 State's Exhibit 22 through 73 into evidence at this time.

23 MR. COOK: No objection.

24 THE COURT: Without objections.

25 SOLICITOR BARNETTE: May I publish these to the jury,

Tony Lipscomb - Direct examination
by Solicitor Barnette

1 Your Honor?

2 (WHEREUPON, State's Exhibit Nos. 22 through 73 were
3 received into evidence at this time.)

4 SOLICITOR BARNETTE: Your Honor, with permission to
5 pull the camera -- TV around so we can see it again?

6 Thank you.

7 If you would, sir, please step down for a second.

8 A (WHEREUPON, the witness comes down from the stand.)

9 Q Mr. Lipscomb, if you can stand right over there if you
10 can see it.

11 A (WHEREUPON, the witness complies.)

12 Q Thank you.

13 Okay. And what I'm gonna do is start at seven o'clock,
14 and let you describe to me -- we may go faster. Some parts
15 go faster than others. I can slow it down so that if you
16 could, if you could describe what's going on, Mr. Lipscomb,
17 while we're going through.

18 A Yeah, can I -- there's a glare. I can't really see
19 good right here.

20 Q Okay. You want to come on this side, sir?

21 A Please, if you don't mind.

22 Q Yeah, please do.

23 THE CLERK: Mr. Bailiff, if you'll turn the lights off.

24 Q Is that better?

25 A I'm looking basically at---

1 Q Come on over here if you would.

2 A All right.

3 Q Come around here.

4 THE COURT REPORTER: Please keep your voice up too.

5 THE WITNESS: Okay.

6 THE COURT REPORTER: Please keep your voice up.

7 Q You can step right over here on this side of me.

8 Can you see it now, sir?

9 A Yes, sir.

10 Q Okay.

11 THE COURT: And, if you would, again, speak up loud
12 enough so that the court reporter can hear you, and that
13 last juror way on the other side can hear you as well.

14 THE WITNESS: Okay.

15 Q Okay. This is a couple hours into it. Go back. we
16 might need to move it back.

17 okay. This is actually earlier in the afternoon.

18 Do -- can you describe where you're sitting at, sir?

19 A I'm sitting over to the left in the gray shirt.

20 Q Can y'all see it okay, everybody?

21 okay. And who's at the bar right now?

22 A Looks like Bean, his girlfriend, and Motts.

23 Q Okay. Is that Kathy Calvert talking to him at the bar?

24 A That's Kathy Calvert, the bartender.

25 Q And I guess it's Kathy O'Brian, sir, her maiden name,

1 on the other side?

2 A Yes, sir.

3 Q That's Mr. Motts and everybody else.

4 And so him -- had you even noticed him at this point?

5 A No, I'm, I'm watching -- there's a TV up on the
6 right-hand corner. I'm watching the ballgame. He was --
7 don't -- done nothing wrong, said anything wrong. I didn't
8 even pay him any attention during the conversation, old
9 friends. But I'm looking straight ahead and he never gave
10 me a reason to look at him.

11 Q That's you, sir, talking to those folks there?

12 A Yeah, I mean people come in. One of my managers
13 earlier worked on the other side. There's my manager come
14 and ask me something. And, again, I'm watching a, a
15 ballgame.

16 Q Is your manager Chris Burnett, Chris Burnett?

17 A Chris Burnett, yes, sir.

18 Q I'm gonna fast forward a little bit if that's okay.
19 okay. Going forward a little bit more, is anything
20 changed actually?

21 A No, sir, it looks like someone else sat in front of me.
22 Looks like Danny Huskey.

23 Q Same here, still --?

24 A Still just watching a ballgame and talking to
25 Mr. Huskey.

1 Q still the same?

2 A Yes, sir.

3 Q And is he drinking a shot right now, Mr. Motts?

4 A Yes, sir.

5 Q still nothing going on during this time?

6 A Everything's calm. Some more patrons walk in on the
7 end. Everybody's sitting there watching a -- there's a
8 championship game.

9 Q still doing the same?

10 A Yes, sir.

11 Q Nothing's changed?

12 A No, sir.

13 Q And that's basically a half hour video there?

14 A (WHEREUPON, there was no audible response.)

15 Q Going to the next I guess half hour, still the same?

16 A Yes, sir.

17 Q who's sitting beside him?

18 Is that Christopher there?

19 A That's still my manager.

20 Q Mr. Motts still talking to Kathy?

21 A Yes, sir.

22 Q And Mr. Ramsey just got there.

23 Is that right?

24 A Yes, sir.

25 Q Nothing going on right now?

1 A No, sir.

2 Q Who's this coming in right now, sir?

3 A That's Brandon.

4 Q Has Mr. Motts noticed him?

5 A No, sir, at that point he's asking me to cash a
6 personal check. That's, that's what the Masons pay whenever
7 paid whenever -- when he works at the farm. Normally I
8 don't cash them, but I will cash the Masons.

9 Q So, did Brandon sit beside you at the table?

10 A Yes, sir.

11 Q Nothing's going on at this point?

12 A No, everybody watching the game. I think it's getting
13 close to halftime right there. Everybody's just sitting
14 around talking.

15 Q And nothing's going on at this point?

16 A No, sir.

17 Q Same always -- nothing, nothing's really changed?

18 A No.

19 Q And who is that beside Mr. Motts?

20 Do you know who that is?

21 A On this---

22 Q On the far side.

23 A That far side. I think that was Huskey who was sitting
24 beside me.

25 Q Okay. And, and who is he talking to right now, Mr.

1 Motts talking to, appears to be?

2 A It looks like he's talking to Mr. Tucker down there on
3 this end.

4 Q Still just talking to Mr. Tucker?

5 A Yes, sir.

6 Q Still talking?

7 A Yeah, I mean he's just -- passing time, the whole
8 place. We're just standing around.

9 Q And these segments are half an hour segments it
10 appears.

11 Is that correct, sir?

12 A Yes, sir.

13 Q Okay. Does something get your attention now?

14 A Yes, sir.

15 Q What's getting your attention?

16 A I see him standing up. He looked around and he told
17 the bartender that nobody in this bar can kick my ass, and,
18 when he said that, that's why I walked up. I told him we
19 didn't have any trouble in here. He needed to go ahead and
20 just go home, just leave. Wasn't getting served anymore.
21 Like I said, they're prior friends. She's trying to get him
22 to leave. I just told him to go on out. Didn't want to
23 call the police. Go home. As you can see, he's getting
24 very agitated because I asked him to leave.

25 Q He's still talking to him trying to get him to leave?

1 A Yeah, I mean he's, you know, he's threatening me. He's
2 cussing me telling me he ain't done nothing wrong, and I
3 told him, you know, if you stand up and say something like
4 that in a bar or anywhere, nine times out of 10, I've been
5 in this business 25 years, you're gonna have trouble.

6 Q So now he hasn't said anything to Mr. Ramsey at this
7 point, has he?

8 A No, sir, he's mad at me cause he got to go home or
9 leave.

10 Q I'll move on to the next segment.

11 Are you still trying to get him to leave at this point?

12 A Yeah, I mean I've asked him. I've asked him. He told
13 me he would just kick my ass. He's cussing me and then
14 that's when you see him start directing over at Brandon, and
15 I had no idea that they had a prior altercation or even had
16 problems. They sat there for over an hour and never even
17 acknowledged each other, but he's very loud and boisterous
18 right now, and basically threatening everybody in there that
19 he didn't have to go.

20 Q Did Kathy leave during this time?

21 A She left and went and got my manager figuring there may
22 be trouble.

23 Q Is that the reason why the assistant manager---

24 A That's, that's why the guy in the red shirt comes
25 around. We're just -- asked him to leave. Again, he's,

1 he's basically cussing everyone now, threatening everybody.
2 Mr. Huskey gets up and tries to ask him to leave. Just go
3 on home.

4 I think, by now, he's threatening Brandon. He's
5 definitely threatened me, cussed me. I think Tucker's
6 sitting there talking to him, even though he's not looking,
7 offering him a ride home and telling him look, just go home
8 cause he's got everybody's attention in the bar by now.

9 Q Mr. Huskey's still talking to him?

10 A He's still talking to him. There's another male
11 employee that comes over cause you can hear him on the
12 restaurant side by now.

13 Q what's he telling him now?

14 A He's basically preaching or still threatening. You
15 know, he's talking to David right there, and David's telling
16 him just go home. This went on for a very long time. You
17 know, he -- I think he told us he was gonna finish his
18 bar -- his beer.

19 Q So, what did you do then, sir?

20 A So, when he threatened me the last time, I went and got
21 the pool cue.

22 Q He's drinking a beer now?

23 A Yes, sir.

24 Q Now, why did you do that?

25 A I did that out of frustration. Just tired of arguing

1 with him. If I wanted to hit him I could of hit him. I've
2 never hit anyone with a pool cue. You know, just a -- just
3 ready for him to go. You can see I was looking at the other
4 customers like would he just leave cause he just kept
5 repeating hisself.

6 He's drunk. He would not leave. He would not hush.
7 At some point coming up he tells him, when he decides he's
8 gonna leave, you'll see him stand up, that he's coming back.
9 He's gonna kill Brandon.

10 Q Is that where he's starting to talk to Brandon right
11 now?

12 A Yes, and he's gonna kill me for asking him to leave my
13 establishment.

14 Q That's him and Brandon talking back and forth?

15 A Yeah, you know, they're -- he's not even -- he's
16 getting up like he's gonna jump on Brandon. He, he got
17 win -- got on Brandon and I was just behind him, laid the
18 cue back down, and Mr. Tucker's trying to get him out of the
19 door. Everybody's telling him go on home before those two
20 got into it. I told them they were both gonna have to
21 leave, but I, I plainly told Brandon as well that he was
22 gonna have to go home too, that we weren't having any
23 trouble.

24 Q Did he eventually leave?

25 A He's, he's leaving there, staggering out the door.

1 He's being offered a ride home with a driver, someone to
2 take his car home.

3 Q So, is that the back-door to y'all's establishment he
4 just went out?

5 A Yes, that's, that's the parking lot where he was
6 parked. But, at that time, he'd looked me straight in the
7 eye and said I'm gonna kill you, come back and kill you, and
8 I'm gonna kill him. And I still had no prior knowledge that
9 they'd even been into it.

10 Q Does that seem -- everything seem to go back to normal?

11 A Well, I did -- I thought he was gone. You know, like I
12 said, he'd been offered a ride. He'd been offered a cab
13 ride. Everyone was more concerned about him getting a DUI
14 or hurting someone than they were the threats at the time.
15 I just -- I figured he was gone. We'd gone back to watch
16 the ballgame. My bartender, my bartender felt comfortable
17 enough to come back on this side.

18 Q Again, other people was coming in too?

19 A Yeah.

20 Q Mr.---

21 A Yeah, he's, he's aggravated cause he wouldn't ride home
22 cause he, you know, like he said, we didn't want him to kill
23 somebody or, or hurt hisself or, or get a DUI.

24 Q And the gentleman that just walked up, does he play
25 pool at your establishment?

1 A Yeah, he plays a lot of pool, buddy of mine.

2 Everything goes back to normal everyone thinks. That's the
3 manager's girlfriend. You know, she feels safe to sit in
4 there. Like a -- we just figured he'd gone home.

5 Q Is there several people in the bar when he comes back
6 in?

7 A Yes.

8 Q Is this him coming back in?

9 A Yes. Watch his right-hand or y'all's left.

10 Q What's he doing now?

11 Is he arguing---

12 A He's arguing with the bartender. She says we told you
13 to leave. You know, go back, leave. She's trying to tell
14 him to leave again. At this point I threatened to call the
15 police.

16 Q What is he saying to you or saying to Mike?

17 A He's just -- again, he's telling me he's gonna kill me
18 and Brandon, and he's fixing to pull the gun out right now.

19 Q Is that the gun?

20 A I can't see for the other person. No. Now he's pulled
21 cause, when he pulled it, I got up and Brandon gets up. I
22 walk by. I throw my hands up.

23 Q He's got the gun at you right now?

24 A He's pointing at me right now, following me.

25 Q What do you---

Tony Lipscomb - Direct examination
by Solicitor Barnette

1 A I'm reaching under, under the counter and pulling my
2 gun out. There Mr. Huskey's trying to ask him to leave,
3 just put the gun up. I'm telling him you don't have to
4 leave, just go put that gun up. We'll buy you beer. I'm
5 pleading with -- I'll do anything. You know, just go put
6 the gun up.

7 Q Does Brandon call 9-1 (sic) or is he on the phone?

8 A He was on the phone with 9-1-1 and called immediately
9 when he saw the -- when he, when he pulled the gun out, and
10 he's threatening him now to hang up or he's gonna shoot him
11 if he doesn't hang up. This guy here, he basically keeps us
12 all hostage, he's trying to leave. He breaks his chain and
13 pulls him back and won't let him go out the back door. He's
14 trying to go.

15 Q Do you---

16 A I'm handing the chain to him now.

17 Q You haven't presented your gun yet, have you?

18 A No, sir, he don't know I have a gun.

19 Q What's he telling y'all?

20 A He, he just -- that I should of never told him to
21 leave, you know, and there I am trying to calm him down. I
22 told him don't worry about it, he didn't have to go. You
23 know, basically I'm pleading for my life right here, and I
24 told him that. I said look, man, you don't -- there's no
25 need to shoot anybody over being asked to leave -- leave

1 somewhere, and I didn't -- and I still didn't know that they
2 had been into it.

3 Q Does he go after---

4 A When he goes after him, you can't see, but that's when
5 he shoots. You can see me jump. I try to pull the trigger
6 and my gun's jammed. I try to recoil it. That's where he
7 shot me there. There's where he shot me the second time.
8 He's pleading with him not to shoot him. There come the
9 police on the left from the back-door. We run out on the
10 right side through the restaurant and the kitchen.

11 Q Let me take you to Camera 8. This is from a different
12 angle.

13 Is that right, sir?

14 A Yes, sir.

15 Q And this goes back to the beginning of the last segment
16 we have. This will be four.

17 A Yeah, that -- that's looking out toward Main Street.
18 It shows the parking lot up towards Philco's.

19 Q Okay. Is this when you're talking to him?

20 A Yeah, I'm just telling him just to put the gun up.

21 Q And eventually he chases Brandon towards the front
22 door, is that right, on Main Street?

23 A Yes, he's telling him get off the phone with the police
24 cause, you know, he's aware that he's on the phone with
25 9-1-1, and he'll chase him towards the pool tables in

1 front---

2 Q Is that up in that area right in there we'll see here
3 in a minute?

4 A Yes, sir. He chases him almost to the first pool
5 table.

6 Q Is that where he goes after him?

7 A That's where he goes after him. Brandon's out the
8 front.

9 Q He's shot right there?

10 A That's where he's shot right there. You can see the
11 fire.

12 Q That's where he shot you first and then he shoots you
13 again.

14 Is that right?

15 A Yeah.

16 Q Show one more angle.

17 Is this the, the front door of the establishment out
18 near Main Street?

19 A Yes, sir.

20 Q Is that the gentleman that plays pool down there where
21 you was talking about?

22 A Yeah, that's the guy I talked to earlier.

23 Q And they're leaving, is that right, one of them---

24 A Yeah, it's getting dangerous.

25 Q Is that when Brandon got shot right there?

1 A Right there.

2 Q I can show you here, sir, just show you one more thing
3 before you sit down.

4 Going back to the stills that we'll have, that show --
5 I don't know if the jury can see that or not, but the number
6 and the date's underneath here, and there's different times
7 on the stills. This is Channel 4, that angle there, and it
8 just shows the different pictures. The jury will have
9 these, and I believe this is at 7:26PM and 58 seconds on the
10 bottom there, and it changes -- I'm just going to different
11 ones here, and, at this point here, Mr. Motts has got the
12 gun in this right-hand.

13 Is that right?

14 A Yes, sir.

15 Q Has he already chased y'all from the table?

16 A Yes.

17 Q Had you even got your gun yet?

18 A No.

19 Q Where's his gun at?

20 A In his hand.

21 Q Is it right there?

22 A Yes.

23 Q And Mr. Brandon's calling the police or calling
24 somebody?

25 A Calling 9-1-1.

1 Q So you haven't even got to where your gun is?

2 A No, mine's right where the arrow is.

3 Q And that's Mr. Huskey trying to talk him out of it.

4 Is that right?

5 A Yes.

6 Q And he just---

7 A Trying to get him to leave.

8 Q And you're standing behind the bar?

9 A Yeah, I'm just standing there. I haven't pulled my
10 weapon. It's laying on the bar.

11 Q And where is his gun at?

12 A Still in his hand.

13 Q Is that where he's talking to Brandon about the phone?

14 A Yeah, he's telling him now I think to get off the
15 phone. You can plainly see he's on the phone. He's telling
16 him to hang it up.

17 Q And did he grab this guy trying to leave?

18 A Yeah, that guy tried to leave, and he grabbed him, and
19 threw him back, and he wouldn't leave. He told nobody they
20 could leave.

21 Q And that's when he pulled his chain?

22 A Yes, he jerks him back there and told everybody in
23 there they better not run.

24 Q And he---

25 A And he's waving the gun around.

1 Q Are you just asking him just to leave or do the---

2 A Yeah, I'm pleading with him. I mean I'm basically
3 pleading for my life right now.

4 MR. COOK: Judge, I, I have to object. He's testifying
5 for the, for the witness.

6 THE COURT: All right. Do you want to---

7 SOLICITOR BARNETTE: I'll rephrase the question, Judge.
8 what's going on here, sir?

9 A what's going on there?

10 Q Yes, sir.

11 what's Mr. Motts doing?

12 A Pointing at Brandon.

13 Q what's Brandon doing?

14 A On the phone with 9-1-1. You can hear the 9-1-1 tape.
15 They tell him do not hang up, where's he at, what's he
16 wearing.

17 Q what happens next?

18 A what happens next?

19 He starts chasing him.

20 Q what happened in this picture?

21 A They're both out of the frame it looks like, and, at
22 that point, that's when he shoots. They're having words.

23 Q Okay. And what's -- what do you see in this picture?

24 A Him pointing a gun at me.

25 Q what's in this picture, sir?

1 A I think I've been shot right there, and he's fixing to
2 shoot me again in the stomach.

3 Q Is this the picture -- tell us what you see in this
4 picture.

5 A That's where -- I think he's chasing him back towards
6 the front.

7 Q Is this where he's getting ready to shoot?

8 A Yes, sir.

9 Q What are you doing at this time?

10 A Talking to my manager just saying, you know, I wish
11 he'd leave.

12 Q And what is this picture showing?

13 A It shows where he gets hit in the thigh, and he's -- it
14 was a hell of a shot. Like you said, I don't see how he
15 didn't shoot above us or the time he swung that door opened,
16 he shot him in the leg.

17 Q If you would, sir, please have a seat. If you would,
18 sir, stand right there for a second. I'm gonna try to move
19 the TV out of the way.

20 Mr. Lipscomb, where was you shot at?

21 Can you show the jury where you got shot?

22 Point it out if you could, and step -- no, step
23 towards -- well --.

24 A He shot 2-centimeters from my heart here. I was shot
25 here. I've had three surgeries here, and got to have more

1 surgeries. That's where he shot me first, and this is where
2 he shot me second, and this is the one that brought me
3 dialysis cause this got infected, but I had another surgery.
4 Had to leave it open for six weeks, and then I had another
5 surgery the day before the Thanksgiving is when I was
6 admitted, and I'll have to have more surgeries because the
7 scar tissue probably the rest of my life.

8 Q Thank you, sir.

9 If you would, have a seat.

10 A (WHEREUPON, the witness returns to the stand.)

11 Q After you were shot, sir, where did -- where was you
12 taken to the hospital at?

13 A I was taken to Gaffney first, and I told them to call
14 Regional 1. They took me to Gaffney and Regional 1 picked
15 me up at, at Gaffney or flew me straight to the trauma
16 center at Spartanburg Regional.

17 Q Did you have surgery once you arrived there?

18 A Immediately, yes, sir.

19 Q And how long was you---

20 THE COURT REPORTER: Pull that microphone towards you,
21 sir.

22 THE WITNESS: I'm sorry.

23 THE COURT REPORTER: Pull up -- there you go.

24 THE WITNESS: I'm sorry.

25 Q And, and how long was you in the hospital, sir?

1 A Eleven days, sir.

2 Q Okay. And how many surgeries have you since -- had
3 since that surgery?

4 A Since the original?

5 Q Yes, sir.

6 A Well, the original night I had the first one. Then I
7 had one four days later, and then I had one the day before
8 Thanksgiving.

9 Q Did you -- when he came back in and shot Brandon
10 Ramsey, what did come at -- what came flashing through your
11 mind after he shot him?

12 A When he shot Brandon, you know, I been thinking about
13 it, but I knew that I had to make a, a decision, a split
14 decision, that I defend myself cause I know he's serious
15 enough cause he's fired a gun off. So, I'm sitting there
16 thinking, once he fired the shot at Brandon, I had to
17 protect myself and I tried. That's when I pulled and
18 shoot -- my gun's jammed and then that's when I get shot.
19 But I don't -- the whole -- I'm fearing for my life. I'm
20 protecting myself and my place.

21 Q Who's the first person that pulled a gun out that
22 night?

23 A Motts.

24 Q Do you see him in the courtroom here today, sir?

25 A Yes, sir.

Tony Lipscomb - Direct examination
by Solicitor Barnette

1 Q Can you identify him for us?

2 Can you point at him and identify---

3 A The guy with the white shirt right here.

4 SOLICITOR BARNETTE: Your Honor, I'd ask for the record
5 to reflect that he's identified the Defendant.

6 THE COURT: All right.

7 Q If you would, sir, please answer any questions defense
8 may have for you.

9 MR. COOK: May we approach?

10 THE COURT: Yes.

11 Y'all lawyers want to approach?

12 (WHEREUPON, a bench conference was held out of the
13 hearing of the jury at this time.)

14 THE COURT: All right. Ladies and gentlemen, excuse
15 me. You started the process -- you may step down, sir.

16 You may -- you started the process now of hearing
17 testimony. So, I want to remind you of my charge to you
18 that you are not to have any discussions with anyone about
19 anything involved in the case as well as do not do any type
20 of independent research into this case. You've now heard
21 some testimony. Don't go and try to look up old newspaper
22 articles or TV articles. I don't know if they're out there,
23 but do not do anything like that because that would violate
24 my instruction to you.

25 But we're going to take a break for the evening. The

1 lawyers feel like, and I agree, that this might be a good
2 time just to take our afternoon break.

3 I'm gonna ask, if you would, please be back in the jury
4 deliberation room by 9:30 in the morning, and we will resume
5 the testimony of the case. But I do want to thank you for
6 your patience while we went through the jury selection
7 process as well as your attention to the testimony that has
8 been presented thus far.

9 But, again, anybody ask you that it -- what kind of
10 case it is, just tell them that the Judge will not let me
11 talk to you now. But thank y'all very much. You may go
12 with the bailiff.

13 (WHEREUPON, the following takes place outside the
14 presence of the jury.)

15 THE COURT: All right. Mr. Lipscomb, you're in the
16 process of giving testimony. And so you can not have any
17 discussion with anyone about the substance of your testimony
18 during the break and this, this evening.

19 Do you understand that?

20 THE WITNESS: Yes, sir.

21 THE COURT: Okay. Thank you, sir.

22 All right. Anything else before I step down?

23 SOLICITOR BARNETTE: Nothing from the State, Your
24 Honor.

25 MR. COOK: Not -- none from the defense, Your Honor.

1 THE COURT: All right. We will step down.
2 May I see the lawyers in the back for a moment?

3

4 (WHEREUPON, Court was in recess for the evening.)

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1 Tuesday, September 10th, 2019

2
3 SOLICITOR BARNETTE: May it please the Court, Your
4 Honor.

5 Your Honor, I know we met back in chambers and spoke
6 about Court's Exhibit 4, which is a stipulation between the
7 parties, and we marked it Stipulation Number 1, Your Honor.
8 It's been signed by myself as well as Mr. Cook and
9 Mr. Pruett, the attorneys for the Defendant, as well as the
10 Defendant himself.

11 We've agreed that State Exhibit 1, 2 -- State Exhibit
12 1, which is a .32 audible (sic) caliber pistol, Serial
13 Number 78198 listed as Motts handgun, will come into
14 evidence.

15 Item 2, which is the magazine from that gun, that will
16 come into evidence.

17 Item 3, which is three unfired .32 auto cal -- caliber
18 cartilages (sic), will come in, Your Honor. Items 3 through
19 8, which is five, five fired .32 audible -- auto caliber
20 cartilage (sic) cases will come in.

21 Item 9, which is the gunshot residue kit, and the GSR
22 collected from Mr. Eddie Motts would be entered into
23 evidence, Your Honor.

24 Item 10, which is a .32 audible (sic) caliber pistol,
25 Serial Number 196605, was listed as Mr. Lipscomb's, will

1 come into evidence.

2 Item 11, which is nine, I'm sorry, .32 caliber
3 cartilages (sic) listed as Mr. Lipscomb's will come in, and.

4 Item 13, which is one fired bullet -- bullet will come in
5 too, Your Honor.

6 And there's also a -- State Exhibits -- and basically
7 they've agreed that this was collected by Sergeant Jeff
8 Sizemore. He maintained the valid change of custody on
9 these items from Harold's Restaurant, and then he also
10 videotaped the scene, which is State's Exhibit 74, we've
11 already marked as Attachment 4. That's also be entered into
12 evidence also, Your Honor, by stipulation.

13 These items were taken to SLED, Your Honor. There was
14 reports done on that. On the gun powder residue kit, Your
15 Honor, they -- a report was done in that case by SLED, Your
16 Honor. Ms. Simmons performed the analysis on it for the
17 Defendant, did report on the analysis. It's been marked as
18 State's Exhibit 75. It's also Attachment Number 3 on this
19 stipulation.

20 And also the two guns as well as the three unfired .32
21 caliber cartilages (sic), the five fired ones that was
22 collected from the scene, as well as the nine unfired
23 cartilages (sic) from Mr. Lipscomb's gun, and the one fired
24 bullet from the scene, Your Honor, which is also taken to
25 SLED. Mr. Greer from SLED and that did -- did analysis on

1 those items, Your Honor, and his report -- and his report is
2 attached as a State Exhibit 74, Your Honor, and it is also
3 attached to Number 2. Those items will also come into
4 evidence, Your Honor, and be published to the jury at the
5 appropriate time along with the stipulation, Your Honor, and
6 I'd like to move this in as Court Exhibit No. 4, and move
7 all the items I just listed as evidence in this case.

8 MR. COOK: No objection, Your Honor.

9 THE COURT: Without objection, they'll be admitted.

10 (WHEREUPON, Court's Exhibit No. 4 was received into
11 evidence at this time. State's Exhibit Nos. 1 through 13,
12 and State's Exhibit Nos. 74 through 76 were received into
13 evidence at this time.)

14 THE COURT: So, just for my education, so the issue of
15 chain is -- on those items are -- is not an issue anymore?

16 MR. COOK: No, Your Honor.

17 THE COURT: Okay. So we're not gonna call those
18 witnesses?

19 SOLICITOR BARNETTE: No, none of the, none of the chain
20 witnesses, Your Honor. We have a -- matter of fact, I have
21 all the reports and all the evidence. I have the --
22 Attachment 1 is the crime scene report that was done by
23 Sergeant Sizemore. That's also made part of the stipulation
24 too. So, we have that. We have this videotape. We have
25 the SLED analysis of the firearms as well as the bullets and

1 the shell casings that was found at the scene or bullet
2 found at the scene with the shell casings and the items
3 found there. And we also have the GSR analysis that was
4 done on the GSR kit that was collected from Mr. Motts. And
5 all that's been part of the stipulation, and we move those
6 items into evidence along with the physical pieces of
7 evidence through courts also.

8 THE COURT: Okay. They will be admitted.

9 SOLICITOR BARNETTE: I can move these over, Your Honor,
10 next door. Not next door. Next table.

11 THE COURT: Do you need to check and see if those are
12 the right ones?

13 MR. COOK: No, Your Honor. I've got one issue, Judge,
14 before the jury comes in.

15 I have one exhibit that needs to be added to your list.
16 It's Defense Exhibit No. 14. I've shown it to Mr. Barnette
17 already. It's a picture from -- a still picture from the
18 video.

19 SOLICITOR BARNETTE: No objection, Your Honor.

20 THE COURT: Without objection.

21 So we're going ahead and admit that?

22 MR. COOK: Yes. Yes, sir.

23 SOLICITOR BARNETTE: Yes, sir.

24 (WHEREUPON, Defendant's Exhibit No. 14 was received
25 into evidence at this time.)

1 SOLICITOR BARNETTE: And, Your Honor, at the
2 appropriate time I'll read the stipulation. It won't be
3 right now, but at the appropriate time I'll ask the Court
4 for a time to publish that, publish those reports in front
5 of the jury.

6 THE COURT: All right. Just let me know when you want
7 to do that.

8 SOLICITOR BARNETTE: Thank you, Your Honor.

9 THE COURT: I'm told that the -- all, all the jurors
10 are present.

11 Any other things before we bring the jury in?

12 SOLICITOR BARNETTE: None from the State, Your Honor.

13 MR. COOK: Nothing from defense, Your Honor.

14 THE COURT: Sir, come, come on, on up here. Just have
15 a seat. Yes, come up.

16 (WHEREUPON, the witness returns to the stand.)

17 THE COURT: Mr. Lipscomb, I just need to remind you
18 that we -- that you remain under oath.

19 You understand that?

20 THE WITNESS: Yes, sir.

21 THE COURT: Let's bring them in.

22 THE COURT REPORTER: Pull that right up to you, sir.

23 THE WITNESS: Okay.

24 THE COURT REPORTER: That's fine.

25 (WHEREUPON, the following takes place within the

Tony Lipscomb - Cross-examination
by Mr. Cook

1 presence of the jury.)

2 THE COURT: ---presentation of the evidence.

3 Defense ready with their cross?

4 MR. COOK: Yes, Your Honor. Thank you.

5 TONY LIPSCOMB, having been previously
6 sworn, testified as follows:

7 CROSS-EXAMINATION

8 BY MR. COOK:

9 Q Mr. Lipscomb, you testified yesterday that you were the
10 owner of Harold's.

11 A Yes, sir.

12 Q Is that correct?

13 A Yes, sir.

14 Q Is that two separate businesses or is that just one
15 business?

16 A One business.

17 Q It's a restaurant on one side and a bar on the other
18 side?

19 It's the same---

20 A You don't---

21 Q ---for both of them?

22 A Yes, sir.

23 Q Okay. And do you own the building?

24 Do you lease or---

25 A Lease.

1 Q ---what?

2 Lease the building.

3 Okay. As the owner/operator of that business, which
4 includes the bar and the, and the restaurant, do you
5 normally drink at work?

6 A Yes.

7 Q okay.

8 A After work.

9 Q okay. But you're the owner, right?
10 so you're always in charge?

11 A Yes.

12 Q okay. Even, even with your drinking, you're still the
13 ultimate authority?

14 A Yes.

15 Q okay. Do you have any security personnel that work
16 there?

17 A Like a---

18 Q Like a bouncer or something. You know---

19 A On certain nights. Certain days.

20 Q ---on the---

21 A Yes, sir.

22 Q Was there one there that night --

23 A Yes, sir.

24 Q -- or that day?

25 A No, sir.

1 Q okay. So, you didn't have -- you didn't call on
2 anybody to help as far as security?

3 A well, I called -- yeah, when the bartender went to the
4 other side, she called my restaurant manager---

5 Q okay.

6 A ---and he came over and then another male.

7 Q okay.

8 A So---

9 Q He got in as---

10 A But they're there.

11 Q ---as security?

12 A Yes.

13 Q okay. And, in part, would you agree that the main
14 purpose of a bar is to drink alcohol?

15 A No.

16 Q No.

17 was everybody in the bar on the video drinking that
18 night -- that day?

19 A No.

20 Q okay. Could you tell me who was not drinking?

21 A The other two guys at the front of the table -- I mean
22 the front of the building playing pool. Some guys came in,
23 sat down. I don't recall them drinking.

24 Q okay. But of the folks -- and I mean you may or may
25 not know.

1 of the folks in the main part of the video, which
2 included you, Mr. Ramsey, Mr. Huskey, Mr. Motts, Mr. Tucker,
3 Kathy Calvert, the bartender, all of those people were
4 drinking?

5 I mean that's---

6 A Some of them drank a half a beer. Some might of drank
7 more.

8 Q Okay. You monitored that?

9 A I watched it.

10 Q Okay. You did?

11 But you didn't see Mr. Motts come in, but you watched
12 everything that everybody drank?

13 A Not beer per beer, no, sir.

14 Q Okay. So, you don't know.

15 Is that correct?

16 You just don't know?

17 A I'm not, I'm not saying that.

18 Q Okay. And you know that alcohol impairs a person's
19 faculties?

20 It impairs you, alcohol?

21 A Yes.

22 Q And that's the purpose for drinking alcohol is to
23 become impaired?

24 A I don't agree with that, no.

25 Q Do you drink alcohol -- you don't agree that you drink

1 alcohol to become impaired?

2 what do you drink it for?

3 A Socially. I was sitting there watching a ball game and
4 most of the other people were.

5 Q well, I didn't -- you were drinking it socially, but
6 what happens when you drink socially?

7 SOLICITOR BARNETTE: Objection.

8 A I don't have that much to drink in that way.

9 Q How many did you have---

10 THE COURT: Excuse me.

11 SOLICITOR BARNETTE: Objection, Your Honor. That's
12 speculation on what drinking will do.

13 THE COURT: If you want to try to clarify.

14 MR. COOK: I, I will, Your Honor.

15 Q How, how much had you had to drink?

16 A I don't know.

17 Q Let's, let's -- let me make it a little bit clearer.

18 Prior to Mr. Motts coming into that bar, how much had
19 you had to drink?

20 A I don't know.

21 Q You don't know.

22 well, I counted several beers.

23 A How many is several?

24 Q Several.

25 well, that's usually three.

1 A what's you -- I mean fast. Not use.

2 Q well, that's three.

3 You drank about three beers---

4 A Are you saying I drank three beers?

5 Q Before Motts got there. That's right.

6 THE COURT: All right. Gentlemen.

7 Gentlemen, try not to talk over each other. The court
8 reporter can not take down two people talking at one time.

9 THE WITNESS: Okay.

10 Q Did you drink three beers, three beers before he got
11 there?

12 A I don't know.

13 Q You don't remember?

14 You don't know?

15 A Not because I was impaired. I wasn't counting.

16 Q You wasn't impaired?

17 A No, sir.

18 Q You weren't?

19 How many beers---

20 A Not after three beers.

21 Q How many beers can you drink before you become
22 impaired?

23 A I don't know.

24 Q You don't know?

25 A How many can you drink?

Tony Lipscomb - Cross-examination
by Mr. Cook

1 Q Does anybody know---

2 A It depends on what you've eaten---

3 Q ---how many beers---

4 A ---how much you weigh, what you drink.

5 Q Can -- I'm talking about you, Mr. Lipscomb.

6 How much can you drink before you become impaired?

7 A I don't know.

8 Q You don't know?

9 A No, sir.

10 Q Six?

11 A I'm not speculating on that.

12 SOLICITOR BARNETTE: Objection, Your Honor. That's
13 speculation.

14 MR. COOK: It's not speculation.

15 THE COURT: well, he's, he's -- I'm gonna let him ask
16 that, that type of question that he just asked there. But
17 try -- again, gentlemen, try not to -- let him ask the
18 question before you both---

19 THE WITNESS: when I answer, he's jumping back at me.

20 THE COURT: And then he's got to do the same thing. He
21 has to let you finish your answer.

22 Q So, how much alcohol does it take -- I mean to become
23 impaired?

24 A I don't know.

25 Q So is that from lack of experience or you just don't

1 realize when you become impaired?

2 I mean I, I don't understand your---

3 A You're asking about that particular day, correct?

4 Q Right.

5 A I don't know.

6 Q I'm asking also in general.

7 How much do you have to drink to become impaired?

8 A I don't know.

9 Q okay. okay. So, when you drink six beers---

10 SOLICITOR BARNETTE: All right. Objection. Asked and
11 answered.

12 THE COURT: I don't know what the question is either.

13 MR. COOK: I don't know either. You don't know what
14 the question is.

15 when you drink six beers, are you impaired?

16 A I don't know.

17 Q okay. So, your testimony is that you don't know if
18 you're impaired that day when this incident happened?

19 A At that particular time, correct.

20 Q okay. How long had you operated Harold's?

21 A April will be 24 years.

22 Q Twenty-four years.

23 And, during that time, had you had occasion to deal
24 with customers that come in that are, I don't know, a little
25 rowdy?

Tony Lipscomb - Cross-examination
by Mr. Cook

1 A Yes.

2 Q And what do you do?

3 A A lot of times the bartenders take care of it. A lot
4 of times customers are able to take care of it. There's --
5 but, if I need to step in, one, I either ask them to leave.
6 Most people leave.

7 Q well, do you have a policy of how to deal with somebody
8 that you want removed from your bar?

9 A well, everybody acts direct -- differently when they're
10 drinking, and, if they start raising their voice, if they
11 start threatening, like Mr. Motts did, if they start cussing
12 you, like Mr. Motts did, yeah, I got a policy.

13 Q okay.

14 A And we bring in more people.

15 Q Did---

16 A You might let me finish.

17 okay?

18 Q Go ahead.

19 A I respected you.

20 Q No, you really didn't, but go ahead.

21 A so, policy wise, when I am cursed or my employees are
22 cursed, or my customers are cursed, then, yes, certain
23 things begin to happen.

24 Q okay. what was that?

25 A on him?

1 we politely asked him to leave when he stood up and
2 told everybody that he was gonna kick everybody's ass.

3 Q All right.

4 A Nobody in there -- excuse me. Correction.

5 Q I didn't ask you that. So, I'm gonna ask you another
6 question. You're not answering my question.

7 You -- so you say -- your testimony right now is---

8 SOLICITOR BARNETTE: Your Honor, I'm gonna---

9 Q ---stuff begins to happen?

10 SOLICITOR BARNETTE: I'm gonna object. He needs to let
11 him finish his answer.

12 MR. COOK: He didn't answer---

13 THE COURT: Let him finish the answer, and then move to
14 another question.

15 Q Okay. I'll just move to another question unless you
16 want to go ahead and answer.

17 Okay. So, you just testified that---

18 A Oh, you -- I didn't finish testifying.

19 Q Well, I just asked you were you through.

20 A You went---

21 Q Then I asked the next question.

22 A Let me answer your question again.

23 Q You shook your head no.

24 A Well, ask me your question again.

25 Q Tell me about your policy for removing somebody that

1 you want out of your car.

2 A Each individual incident requires different actions.
3 when I am cussed, when I am threatened, when my customers
4 are threatened, when my bartender's threatened, different
5 things happen, and at different, different -- it just
6 depends on who it is. If you have a lady telling you I can
7 kick anybody's ass in here, that's gonna be handled a little
8 different than a man.

9 Q okay. Are you done?

10 A Yeah.

11 Q okay. So, it depends on who it is, is. That
12 determines how you handle it.

13 A well, if it was -- that wasn't exactly. If it's a
14 female, a male, how much they've had to drink.

15 Q okay. So, in this, in this instance, it was Mr. Motts
16 and it depends on who it is on how you handle it.

17 How did you decide to handle this?

18 A when he stood up and told everyone in the bar that
19 nobody in there could kick his ass because I hadn't heard
20 him say anything prior.

21 Q okay. If you haven't answered, I'm giving you a
22 chance.

23 A That's my answer.

24 Q No, you just -- I want to know how you handled it.

25 SOLICITOR BARNETTE: Your Honor, obviously---

1 MR. COOK: He didn't answer the question.

2 SOLICITOR BARNETTE: Objection as to asked and answered
3 and argumentative.

4 THE COURT: I believe it -- I'm gonna have to sustain
5 the objection.

6 MR. COOK: Okay.

7 SOLICITOR BARNETTE: Thank you, Your Honor.

8 MR. COOK: Thank you, Judge.

9 How many times have the police been called to your bar?

10 A In what period?

11 Q well, let's say the last two years.

12 A well, a lot in the last -- since I've been shot cause
13 I've been scared.

14 Q uh-huh. (Affirmative).

15 well, how about the last five years prior to this
16 incident?

17 A I don't know. You'd have to look it up on record.

18 Q And you don't know?

19 You don't have a clue?

20 A well---

21 Q More than 10.

22 A Sure.

23 Q Do you think it would be more than 20?

24 A I'm not speculating.

25 Q I mean it's your owner -- your bar. I'm asking you.

1 You should---

2 A I'm not speculating.

3 Q You don't have to speculate. You work there. You just
4 testified yesterday you're there from 6:00AM until some time
5 eight, nine o'clock at night. So, I mean I'm asking you.

6 It's your, your bar. You're, you're the owner. You don't
7 have to speculate.

8 A well, I don't know the exact number.

9 Q You don't know.

10 okay. Prior to this instance, did you know Mr. Motts?

11 A Absolutely not.

12 Q okay. How long had you been on the bar side drinking
13 prior to Mr. Motts arriving?

14 A I don't know because I don't remember him coming in.

15 Q okay.

16 A Do, do---

17 Q How about how long had you been on the bar side
18 drinking prior to this incident happening?

19 A Probably two hours.

20 Q And yesterday, from your testimony and from the video
21 that we watched and the jury watched, you testified that he
22 was sitting there minding his own business, correct?

23 A Yes.

24 MR. COOK: okay. Judge, at this time I'd like to
25 introduce Defense Exhibit 1 through 14 into evidence.

1 SOLICITOR BARNETTE: No objection, Your Honor.

2 THE COURT: Without objection, be 1 through 14 in
3 evidence.

4 (WHEREUPON, Defendant's Exhibit Nos. 1 through 13 were
5 received into evidence at this time.)

6 Q And before we go to the video, I just want to --
7 permission to approach the witness, Judge?

8 THE COURT: Uh-huh. (Affirmative).

9 Q This is a picture that was taken from the video in the
10 bar.

11 could you tell me what that is, and I can tell you
12 that, that looks -- that's Motts right there.

13 Can you tell me what he's doing?

14 SOLICITOR BARNETTE: Your Honor, permission just to see
15 what they're looking at?

16 MR. COOK: Oh, I'm sorry. I---

17 SOLICITOR BARNETTE: Thank you.

18 THE COURT: And can you tell us what number that is,
19 exhibit number?

20 MR. COOK: This is Exhibit No. 14, Judge.

21 THE COURT: Fourteen.

22 Okay. Thank you.

23 Q That's is Motts. That's Mr. -- what's Mr. Motts doing?

24 A He's hollering at me. He's already I think just---

25 Q what's he doing. Not saying.

1 A what's he doing?

2 Q what's he doing?

3 A He's standing there.

4 Q Is he pointing his finger?

5 A well, he'd already told me he was gonna kill me.

6 Q what's he doing?

7 A I can't see for his head.

8 Q No, right here.

9 A Right here?

10 Q uh-huh. (Affirmative).

11 A Yeah, he's pointing.

12 Q Pointing a finger.

13 what are you doing?

14 A Pointing a gun.

15 Q Okay. Thank you.

16 Judge, I'd like to show the video at this time.

17 SOLICITOR BARNETTE: No objection, Your Honor.

18 THE COURT: Without objection.

19 Do you know how to work it?

20 MR. COOK: Yes, I do. well, I hope I do.

21 SOLICITOR BARNETTE: Where would it be better for you
22 to see?

23 would it better for you to see on this side?

24 Yes, Your Honor.

25 THE WITNESS: Yesterday it was with the sun glaring.

1 THE COURT REPORTER: Can you please speak up louder
2 over here please?

3 MR. COOK: Can everybody see that?

4 (WHEREUPON, the jurors respond in the affirmative.)

5 Q Now, this is the same video that we watched yesterday,
6 and I'm not gonna play the whole video. This is kind of a
7 last second of three segments which you guys saw yesterday.
8 What this is is the last part where Mr. Lipscomb encounters
9 Mr. Motts.

10 (WHEREUPON, a portion of the video was played at this
11 time.)

12 Q Okay. Tell me when he first threatens you.

13 A He threatened me before I even got up there --

14 Q Okay.

15 A -- when I was sitting at the table.

16 Q And what was he doing?

17 A Just even---

18 Q What was his actions, Mr. Motts?

19 Where, where was he at when he threatened you the first
20 time?

21 A Well, if you go back prior to that, he stands up and
22 looks around and says nobody in here can kick my ass. That
23 was a threat --

24 Q Okay.

25 A -- to everyone.

1 Q Did he ever leave the stool?

2 A I walked up to him.

3 Q Okay. All right. Tell me when he threatens you again.

4 A The whole time he's threatening me. He's cussing me,
5 telling me he doesn't have to leave. All I did was ask him
6 to leave.

7 Q Right now he's cussing and threatening you?

8 A Yes, sir.

9 Q What are you saying right there?

10 A Just please leave. I don't have any trouble in here.

11 Q And tell me again does he -- make sure -- we've heard
12 threats cause yesterday you said three times.

13 A Well, he's consistently threatening me, every one in
14 there, and then you see he's talking to Brandon who's behind
15 me now.

16 Q You're saying that he's talking to Brandon Ramsey just
17 sitting back there on his phone?

18 A Brandon's---

19 Q Brandon's sitting---

20 A ---sitting over here like this.

21 Q Just so the jury will know, this is Brandon Ramsey,
22 this is Mr. Lipscomb, and that's Mr. Motts sitting at the
23 bar, and tell me again when he makes a threat.

24 What, what, what are you doing right there?

25 A I'm asking him to leave. He's so loud I mean that's

1 when my manager comes over.

2 Q Did you know he's hard of hearing?

3 A Remember I told you I've never met him.

4 Q Okay. But you would -- do you agree somebody's hard of
5 hearing talks loud?

6 A Well, he wasn't -- he hadn't been talking loud the
7 whole night --

8 Q Okay.

9 A -- until I asked him to leave.

10 Q Cause you testified earlier that he was loud and
11 boisterous on the previous, you know, long time before this.
12 Yesterday you testified that he was loud and boisterous, and
13 that's why you went up to him.

14 A When he said---

15 Q Now you're saying---

16 SOLICITOR BARNETTE: Objection, Your Honor. I'd ask---

17 A I'm not saying---

18 SOLICITOR BARNETTE: He's playing that video and she
19 stands up.

20 THE COURT: All right. Gentlemen, watch your talking
21 over each other.

22 MR. COOK: I want to make sure we got all this down,
23 Judge.

24 He, he testified -- Mr. Lipscomb testified yesterday
25 that Mr. Motts---

1 SOLICITOR BARNETTE: Your Honor, I, I object. I object
2 to the running questioning or whatever. If he wants to ask
3 him questions, again, he needs to let him finish his answer.

4 THE COURT: Yeah, just, just ask the witness a
5 question.

6 Q Did you testify yesterday that he was loud and
7 boisterous?

8 A At what point?

9 Q Before this.

10 A Yes, he stood up and told everybody he's gonna kick
11 everybody's -- nobody in there could kick his ass.

12 Q Did you just say that he became loud and boisterous
13 when you walked up to him?

14 A He was continuing to be.

15 Q Okay.

16 A From the time he stood up, he never hushed. Cussing,
17 threatening, and arguing.

18 Q All right.

19 A I'm, I'm not done.

20 Q Right.

21 MR. COOK: Judge, I'm, I'm just -- I ask a question.

22 THE WITNESS: But you're not letting me finish.

23 THE COURT: Let him---

24 MR. COOK: But he stops---

25 THE COURT: ---the question---

1 MR. COOK: ---talking and---

2 THE WITNESS: I'm, I'm thinking. This is a year and a
3 half ago, folks.

4 okay?

5 SOLICITOR BARNETTE: Your Honor, if he can be given a
6 chance to finish his answer.

7 Q Let's, let's go with this a little---

8 THE COURT: Go ahead.

9 A Like I said, once he stood up, towering over my
10 bartender, turned around, and looked back towards the front
11 door, and told there wasn't nobody in there could kick his
12 ass, turned around and looked at Brandon and said that.
13 That's when I proceeded to stand up and asked him to leave.
14 That's when the attention went on me, and he was very loud
15 and boisterous beyond being deaf.

16 Thank you.

17 Q You through?

18 I just want to make sure.

19 A I said thank you.

20 Q well, that's not telling me you're through.

21 A Are you bullying me?

22 SOLICITOR BARNETTE: Is that a question?

23 THE COURT: All right.

24 SOLICITOR BARNETTE: Objection, Your Honor. If we can
25 have a question---

1 THE COURT: Please don't argue, argue back.

2 Q All right. Tell me what's happening right now.

3 Is he threatening now?

4 A No, the other patrons are trying to get him to leave.

5 Q Okay. So, he's not threatening you now?

6 A He's threatening other customers.

7 Q So, he's sitting at that bar stool looking straight
8 ahead threatening you now?

9 Is that your testimony?

10 A He's turning his head talking to us.

11 Q Is he threatening you now?

12 A Oh, I stepped back after that.

13 Q How, how about now?

14 Is he threatening you?

15 A I don't --.

16 Q All right. Why did you stop---

17 A He's yelling at the whole place.

18 Q Why did you pull that knife out right there?

19 A I was being threatened.

20 Q Well, you just told me that you were not being
21 threatened.

22 Why did you pull that knife out?

23 A I'd been threatened probably 50 times, and he was still
24 threatening everyone in there, and I'm included in everyone
25 in there.

Tony Lipscomb - Cross-examination
by Mr. Cook

1 Q Is this something you normally do?

2 A If I'm being threatened, somebody's told me they gonna
3 kill me, yes, sir.

4 Q Okay. So, you pulled a knife out on him at that point
5 and he's talking to this other man?

6 A (WHEREUPON, there was no audible response.)

7 Q All right. You still got the knife in your hand right
8 there.

9 Is that correct?

10 A When?

11 I can't see.

12 Q He's -- right here you'll see you fold it and put it
13 up.

14 Okay. Everybody's -- right there. You fold it and put
15 it back in your right pocket.

16 Okay. Now, describe to me right now what you're going
17 to do.

18 A I'm going to get a pool stick.

19 Q For what purpose?

20 A Because I've been threatened.

21 Q That man sitting at that bar right there was
22 threatening you?

23 A Yeah, the whole time he was threatening me and
24 everybody in there.

25 Q Okay. What were you doing right here?

Tony Lipscomb - Cross-examination
by Mr. Cook

1 A Right there?

2 Q Uh-huh. (Affirmative).

3 A Acting like I'm gonna hit him.

4 Q Okay. So, you simulated hitting him in the head by
5 that pool stick?

6 A No, I didn't hit him.

7 Q Oh, were you---

8 A I was---

9 Q Were you gonna hit him?

10 A I wasn't gonna hit him period. If I wanted to hit him
11 I would of hit him. I went back cause I was aggravated,
12 frustrated. I went back just like somebody who like just
13 please, leave.

14 Q So you---

15 A I held it back sat the thing down beside him. If I was
16 gonna hit him I would of hit him right then.

17 Q I believe you.

18 Okay. So, what you want -- your testimony here today,
19 you're, you're telling me that you're the one being
20 threatened?

21 A Yes.

22 Q You're the one being threatened, but you've got a pool
23 stick, you just put a knife up, you just pulled a knife on
24 him, now you're simulating striking him in the back of the
25 head with this pool stick, but you're the one being

1 threatened?

2 A When I -- when I've got a patron that won't leave, and
3 they've told me they're gonna kill me, and the guy behind
4 me, yes, I'm gonna do anything in the world to protect
5 myself.

6 Q Okay.

7 A And I go lay it down and sit down.

8 Q What's going on right here?

9 A He's fixing to start charging towards Brandon, and
10 Mr. Tucker grabs his arm.

11 Q Okay. He's charging, charging towards Brandon. Looks
12 like he's walking out the door.

13 SOLICITOR BARNETTE: Now, Your Honor, objection to him
14 testifying to the jury.

15 THE COURT: Sustained.

16 MR. COOK: That's all I have on that, Your Honor.

17 A (WHEREUPON, the witness returns to the stand.)

18 Q Okay. Mr. Motts did ask you to call him a cab,
19 correct?

20 A No, sir.

21 Q If---

22 A No, sir.

23 Q And so he, he never asked you to call him a cab?

24 A No, sir.

25 Q Okay.

Tony Lipscomb - Cross-examination
by Mr. Cook

1 A I had several patrons that offered him---

2 Q That's all. You answered it.

3 All right. You answered no?

4 SOLICITOR BARNETTE: Your Honor, objection. I'd like
5 for him to get a chance to explain his answer.

6 MR. COOK: And he -- he answered no.

7 THE COURT: But he was in the process of giving an
8 answer. So---

9 MR. COOK: Go ahead.

10 THE COURT: ---let him finish.

11 A He did not ask me to call him a cab. Mr. Tucker had
12 offered to take him home as I stated yesterday.

13 Q You can't testify for Mr. Tucker. It's hearsay.

14 A But you asked me---

15 Q No.

16 A ---what happened.

17 Q That's hearsay.

18 SOLICITOR BARNETTE: Objection, Your Honor. Let him
19 answer the question.

20 THE COURT: All right. He can answer the question, but
21 he can -- but it, it is not far from exactly -- we're
22 getting into hearsay.

23 A I had several patrons offer to take him home, drive his
24 car home --

25 Q Okay.

1 A -- and even pay for a cab.

2 Q So, when you were pulling out the knife and, and
3 wielding the pool stick, you were talking to Mr. Motts,
4 correct?

5 A Mr. Motts never saw me doing any of that. I wasn't
6 talking to him.

7 Q You can't speak for what he knew.

8 A I can see him.

9 Q No, you can't---

10 A I can see him.

11 Q ---speak for what he knows.

12 A You're---

13 SOLICITOR BARNETTE: Your Honor, he, he asked the
14 question.

15 MR. COOK: And he tries to take the answer---

16 THE COURT: All right. I would -- it's a -- it's a
17 proper response by the -- I'm going to---

18 THE WITNESS: He doesn't have---

19 THE COURT: I'm going to---

20 THE WITNESS: ---eyes in the back of his head.

21 THE COURT: Sir, I'm gonna---

22 MR. COOK: Hold up. Hold up. Hold up.

23 THE COURT: I'm gonna overrule the objection.
24 Go ahead.

25 Q You knew that Brandon Ramsey and Mr. Motts had a prior

1 altercation, correct?

2 A Absolutely not.

3 Q Okay. Okay. I, I just have one more thing.

4 So, what you've testified to today is that, and what
5 you've testified to yesterday, was that Mr. Motts was
6 threatening you over and over and over and over, correct?

7 A Yes.

8 Q And that he told you he was gonna leave, come back, and
9 kill everybody?

10 A No, he said that he would come back and he pointed at
11 Brandon and said I'm gonna kill him and kill you.

12 Q Okay.

13 A He had threatened everybody previously.

14 Q Okay. And then he left?

15 A Yes.

16 Q Okay. What did you do then?

17 A I just thought he was leaving. He left and stayed gone
18 five minutes.

19 Q So, let me get this straight. He threatened you pretty
20 much continuously through this 40 or threatened to kill you,
21 threatened to kill Mr. Ramsey, and he leaves, and you didn't
22 lock the door. You didn't call the police. You didn't,
23 didn't pull your knife back out cause you were afraid. You
24 didn't go get that gun over there under the counter. You
25 didn't do any of those things. You just went back to

1 drinking beer.

2 Isn't that correct?

3 A Yeah.

4 Q Okay. So, you wasn't too afraid.

5 A Well, you know how many times I've been threatened?

6 Q No, I don't. Tell me.

7 A A lot. In that business you get threatened a lot and
8 usually, when people leave -- I've never been threatened to
9 be killed, and when people leave, most of the time they go
10 home.

11 Q Okay.

12 A So, no, I was not afraid.

13 Q So, you, you weren't afraid. You, you didn't take
14 any---

15 A No.

16 Q ---of the threats seriously?

17 A No, sir.

18 Q So why did you pull a knife on him?

19 A Before?

20 Q Yeah, to the---

21 A Cause he was face-to-face and he was in striking
22 distance.

23 Q Okay. But his -- he was face-to-face with whom?

24 A Me. When he's talking directly to me, I took that as a
25 direct threat. When he's outside in the parking lot, I

1 thought he left. I was not near as threatened.

2 Q So, do you think you were threatening him?

3 A Absolutely not.

4 Q That's just normal behavior to pull a knife on somebody
5 and attempt to strike them in the head with a pool stick?

6 A I didn't intend -- if I would of attempted, I would of
7 hit him.

8 Q well, an attempt is an act that's not completed.

9 A No, not when you're frustrated and I wasn't even in
10 striking range.

11 Q All right.

12 A I went and sat the thing down and sat down.

13 Q You were not in striking range?

14 A Oh, with the knife I was not. With the pool cue I was.

15 Q You -- how far do you think you were behind him?

16 A On which one?

17 Q With the knife pulled out.

18 A Four and a half to 5-feet.

19 MR. COOK: Okay. That's all, Your Honor.

20 THE COURT: Any redirect limited to what he went into?

21 SOLICITOR BARNETTE: None (sic) redirect, Your Honor.

22 THE COURT: All right, sir. You may step down. Watch
23 your step as you're stepping down.

24 THE WITNESS: Thank you.

25 Lawyers want to approach?

1 (WHEREUPON, a bench conference was held out of the
2 hearing of the jury at this time.)

3 THE COURT: Ready to call their next witness?

4 SOLICITOR BARNETTE: Yes, sir, I'd like to call Brandon
5 Ramsey to the stand.

6 THE COURT: Come right up here and let the Clerk of
7 Court swear you in.

8 BRANDON RAMSEY, being first duly
9 sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY SOLICITOR BARNETTE:

12 Q Mr. Ramsey, if you would, give me your full name for
13 the record please.

14 A Full name, Brandon Ramsey.

15 Q And where do you live at, sir?

16 A [REDACTED] West Elm Street.

17 Q And where do you work at, sir?

18 A McDonald's.

19 Q And do you do other work for folks that owns
20 McDonald's?

21 A Yes, I work on the Mason Farm.

22 Q Okay. So you work for the Masons?

23 A Yes, sir.

24 Q And they own -- of course, they own McDonald's too?

25 A Yes, sir.

1 Q what did -- what's -- the day this happened on
2 March 26th, 2018, did you work that day, sir?

3 A Yes.

4 Q where did you work in the morning?

5 A I worked at McDonald's and the Mason Farm.

6 Q okay. so, you worked both places that day?

7 A Yes, sir.

8 Q And did you leave the Mason Farm and come to Harold's
9 Restaurant that evening?

10 A Yes.

11 Q If you would, tell the jury when you arrived and what
12 happened -- I mean where -- what did you do once you got
13 there?

14 A I got there and asked Tony to cash a check for me and I
15 ordered a drink.

16 Q And where did you sit at?

17 A Beside Tony.

18 Q okay. And as you was sitting there, did you see the
19 Defendant at that point, Mr. -- did you notice Mr. Motts?

20 A I didn't notice him then.

21 Q Had you ever seen Mr. Motts at the bar before?

22 A No.

23 Q Had you knew him from prior dealings with him?

24 A Yes.

25 Q okay. But had -- when's the last time you saw him

Brandon Ramsey - Direct examination
by Solicitor Barnette

1 before this incident?

2 A Years.

3 Q So, as you sat at the table, what happened or what
4 brought your attention to Mr. Motts?

5 A First I -- when I noticed him is when he stood up in
6 his chair and started hollering.

7 Q You said he started saying things at that point?

8 A I couldn't -- he just -- he was just yelling. I don't
9 recall what he said.

10 Q And did he yell -- was he yelling just in the bar and
11 back there?

12 A Yes.

13 Q At some point did he start pointing or talking to you
14 or trying to talk to you?

15 A Well, we turned around and looked, and that's when he
16 noticed me.

17 Q So, he hadn't noticed you at that point or appeared to
18 notice you?

19 A Well, when he stood up, I think that's when he noticed
20 me.

21 Q And what happened then?

22 A He just -- that's when he went off. He just kept on --
23 he just, he just started cussing. He wouldn't shut up.

24 Q So, did somebody -- did different people approach him
25 and try to get him to leave?

1 A Multiple people.

2 Q And what -- what did -- what happened next after they
3 started talking to him?

4 A He got more frustrated.

5 Q Did -- did he appear to be coming towards you or going
6 after you or from that standpoint?

7 A I mean he just -- he was at everybody. It wasn't just
8 me. It was everyone.

9 Q So, did he, he eventually leave?

10 A Yes.

11 Q And did you see him leave?

12 A I saw him leave.

13 Q And who took him out?

14 A Tuck.

15 Q Okay. And -- so when he left, what did everybody do?

16 A Went back to normal.

17 Q Did you -- did you see him come back into the bar?

18 A Yeah, I seen him.

19 Q When he came into the bar, where did he go to when he
20 came in?

21 A Stood at the end of the table beside me.

22 Q And at some point did you see a weapon?

23 A Yeah, he was there for a few minutes, about a minute
24 maybe, and then he pulled a gun out.

25 Q Okay. And what gun -- when he pulled the gun out, what

1 did he do with it?

2 A He started talking bad stuff.

3 Q Uh-huh. (Affirmative).

4 And what did you do?

5 A I got on the phone with 9-1-1.

6 Q And did you call 9-1-1?

7 A Yes.

8 Q And was you talking to 9-1-1 while this was occurring?

9 A Yes.

10 Q Have you heard your 9-1-1 call?

11 A Yes.

12 Q Let me show you what's been marked as State's Exhibit
13 No. 20.

14 Is this a fair representation of the 9-1-1 call that
15 you made that day?

16 A Yes.

17 SOLICITOR BARNETTE: Your Honor, I'd like to move State
18 Exhibit 20 into evidence at this time.

19 MR. COOK: No objection.

20 THE COURT: Without objection.

21 (WHEREUPON, State's Exhibit No. 20 was received into
22 evidence at this time.)

23 SOLICITOR BARNETTE: Permission to play it, Your Honor,
24 or publish it to the jury?

25 THE COURT: Yes.

Brandon Ramsey - Direct examination
by Solicitor Barnette

1 SOLICITOR BARNETTE: And, Your Honor, this is just an
2 audio call. This is not a video call.

3 (Whereupon, State's Exhibit No. 20 was published to the
4 jury at this time.)

5 Q Mr. Ramsey, where was you shot at?

6 Can you show the jury?

7 A It was in the back of the thigh and it come out right
8 here.

9 Q And was you, was you taken to the hospital and given
10 treatment?

11 A I was.

12 Q And which hospital was you taken to, sir?

13 A Spartanburg Regional.

14 Q The trauma unit or the ER there?

15 A Yes, sir.

16 Q The gentleman -- the person we've heard yelling in the
17 background, who was that?

18 A Jerome Mott (sic).

19 Q And that's what you're talking about he was just
20 yelling and doing what---

21 A Going crazy, yes, sir.

22 Q And he pointed -- did he point a gun at you?

23 A Yes.

24 Q And did he threaten you with that gun?

25 A Yeah, he's told me he was gonna shoot me if I didn't

1 get off the phone.

2 Q And did he shoot you?

3 A Yeah, he shot me.

4 Q Did he tell that -- did he ask you about the phone?

5 A Yeah, I think he told me -- he, he told me two times to
6 get off the phone.

7 Q And did he come at you at some point?

8 A He run at me.

9 Q And what did you do?

10 A I turned around and run too.

11 Q And did you -- which door did you go out of?

12 A It's the front door.

13 Q And where did he shoot you at?

14 Was, was you---

15 A In the back of the leg.

16 Q No.

17 A In the leg.

18 Q Where was he standing at when he shot you?

19 A I just made it to the door.

20 Q And I think I've showed you pictures and everything.

21 You've seen those pictures.

22 Is that the door you were at when you were shot?

23 A Yes, sir.

24 Q Can you identify the man that shot you that day?

25 A Yeah, him right there, Jerome Motts.

Brandon Ramsey - Direct examination
by Solicitor Barnette

1 Q And what's he dressed in, sir?

2 A Looks like a blue shirt.

3 SOLICITOR BARNETTE: Your Honor, I'd ask for the record
4 to reflect that he's identified the Defendant in this case.

5 THE COURT: All right.

6 Q If you would, sir, please answer any questions that the
7 defense may have for you, sir.

8 A Yes, sir.

9 CROSS-EXAMINATION

10 BY MR. COOK:

11 Q Mr. Ramsey, I just have a few questions for you.
12 when were you released from the hospital?

13 A It was the same night.

14 Q The same night?

15 A Yes.

16 Q And prior to the shooting, how much had you had to
17 drink that day?

18 A I didn't even get to finish what I bought.

19 Q Okay. So, were you impaired at all?

20 A No.

21 Q No.

22 Prior to this incident, did you know Mr. Motts?

23 A Yeah, I knowed him.

24 Q Did you have -- you had a prior violent altercation
25 with him, correct?

1 A It was -- yes.

2 Q Okay. Do you remember when that was?

3 A It was years ago.

4 Q 2013 maybe?

5 A Maybe so.

6 Q And you've been convicted in 2009 of possession of
7 cocaine.

8 Isn't that correct?

9 A Yes.

10 Q And then again in 2016 for felony shoplifting?

11 A Yes.

12 MR. COOK: Okay. That's all I have, Your Honor.

13 THE COURT: Any redirect?

14 SOLICITOR BARNETTE: No, sir.

15 THE COURT: Thank you, sir. You may step down. Watch
16 your step as you're stepping down.

17 THE WITNESS: Okay.

18 THE COURT: Ladies and gentlemen, we're gonna take a
19 short recess at this time. I need to remind you of my
20 ongoing instruction to you that you can not have any
21 discussions among anyone about anything involving the case,
22 and that means while you're in the back. Don't start
23 talking about the case, and we'll get you back just shortly,
24 but you may go with the bailiff.

25 (WHEREUPON, the following takes place outside the

1 presence of the jury.)

2 THE COURT: All right. The game plan after this?

3 SOLICITOR BARNETTE: Let me -- I've got to talk to some
4 witnesses, Your Honor.

5 Can I let you know after the break if I could --

6 THE COURT: All right.

7 SOLICITOR BARNETTE: -- once I talk to them?

8 THE COURT: We'll step down for a few moments.

9 SOLICITOR BARNETTE: Thank you, Your Honor.

10 (WHEREUPON, a short recess was taken at this time.)

11 SOLICITOR BARNETTE: I apologize, Your Honor. We're
12 just basically---

13 THE COURT: All right.

14 SOLICITOR BARNETTE: May we approach for a second, Your
15 Honor?

16 (WHEREUPON, a bench conference was held at this time.)

17 THE COURT: All right. Let's bring the jury in.

18 (WHEREUPON, the following takes place within the
19 presence of the jury.)

20 THE COURT: Is the State ready to proceed?

21 SOLICITOR BARNETTE: The State's ready, Your Honor.

22 Your Honor, I'd like to publish Court Exhibit No. 4,
23 the stipulation agreed to by the -- both parties on the
24 evidence, and the facts, and certainly pieces of the
25 evidence.

1 THE COURT: All right.

2 SOLICITOR BARNETTE: Ladies and gentlemen, this is the
3 facts that the -- both sides have agreed to that comes into
4 evidence for your consideration. I'll be publishing it on
5 the board right here.

6 Can everybody see that okay?

7 (WHEREUPON, the jurors respond affirmatively.)

8 SOLICITOR BARNETTE: The parties hereby stipulate to
9 the following as facts:

10 That Sergeant Jeff Sizemore collected and maintained a
11 chain of custody -- valid chain of custody on several items
12 collected from Harold's Restaurant located at 602 North
13 Limestone, Gaffney, South Carolina, and other items listed
14 in his crime scene report. Please see Attachment 1 to the
15 stipulation. I'll publish that after I read the stipulation
16 to y'all. You'll be able to see that report.

17 Sergeant Sizemore also videotaped the scene, State
18 Exhibit 74. Please see Attachment 4. That will be part of
19 the evidence that's been introduced today.

20 These items were listed as below:

21 Item 1, which is this -- this is Item 1 that's marked
22 as State Exhibit 1. One -- and I apologize if I
23 mispronounce the issue on this next one. Fabrique Nationale
24 (FN) Model 1922 semi pistol .32 audible (sic) caliber.
25 Serial number 78198 listed as Motts handgun.

1 Item Number 2 is listed as the Motts magazine. This is
2 State Exhibit Item 2, which you'll have back in evidence
3 with you. This is the magazine for the weapon.

4 Item 3 is three unfired .32 audible (sic) caliber
5 cartridges.

6 Items 4 through 8 is five fired .32 auto, auto caliber
7 cartridge cases.

8 Here's State's Exhibit 3, which is the three unfired
9 bullets, and you'll have that back there with you in
10 evidence.

11 State Exhibit 4 is a fired shell casing. Five is the
12 same thing, State Exhibit 5.

13 State Exhibit 6 is another un -- another fired shell
14 casing.

15 State Exhibit 7 is another shot fired -- these are all
16 .32 caliber.

17 And State Exhibit 8 is another shell casing that's been
18 fired. You'll have those back with the evidence, five of
19 them.

20 Item 9 is a gunshot residue kit, commonly called a GSR,
21 collected from Eddie Jerome Motts, and State Exhibit 9, this
22 is it. This is the GSR kit, gun residue kit, that was
23 collected from the Defendant, Mr. Motts.

24 Item No. 10 is the one CZ Model VZOR 70 semiautomatic
25 pistol, .32 audible (sic) caliber, Serial Number 196605 with

1 a magazine, magazine listed as Lipscomb's. This is State
2 Exhibit No. 10. You'll have this back with you. This is
3 Mr. Lipscomb's gun. It has the magazine as well as the gun.

4 State -- Item No. 11 is nine unfired .32 audible (sic)
5 caliber cartilages (sic) listed as Lipscomb's, and you'll
6 have those back there, ladies and gentlemen. These are a
7 little -- nine unfired bullets that was in the weapon.

8 And Item 13, which I can also pick up and show to you,
9 is one fired bullet that was found at the crime scene.

10 The evidence collected at the scene was transported to
11 the State Law Enforcement Division, SLED, for analysis by
12 Forensic Scientist Paul S. Greer. His report of his
13 analysis of the above mentioned item's marked as State's
14 Exhibit 76. Please see Attachment 2 to the stipulation,
15 which I'll read to you shortly. It shows the -- it says
16 attached to the stipulation as part of this stipulation.

17 Also that Officer Jeff Sizemore collected gunshot
18 residue kit, GSR, marked as Item 9 from the gunshot primer
19 residue from the hands of the Defendant, Eddie Jerome Motts,
20 and maintained a valid chain of custody on the gun powder
21 residue kit. The kit was sent to State Law Enforcement
22 Division, SLED, for analysis. Forensic Scientist Ila
23 Simmons performed, performed analysis on the gunshot residue
24 kit, GSR, from the Defendant. They did a report on analysis
25 marked as State's Exhibit 75. Please see Attachment 3 to

1 the stipulation, which I'll read to you shortly and show it
2 to you.

3 Both parties agree for the Items 1, 2, 3, 4, 5, 6, 7,
4 8, 9, 10, 11, and 13 to be entered into evidence and
5 published to the jury as well as this stipulation. And the
6 SLED reports, State Exhibit 75 and 76, Attachments 2 and 3,
7 both parties also agree to enter into evidence Sergeant Jeff
8 Sizemore's crime scene report as Attachment 1 as well as his
9 videotape of the scene, State Exhibits 74, Attachment 4,
10 attached to the stipulation. A valid chain of custody was
11 maintained on these items from SLED and the Gaffney Police
12 Department.

13 It's been signed by Mr. Cook and Mr. Pruett, attorneys
14 for Mr. Motts, signed by myself, and signed by the
15 Defendant, Mr. Motts, and if you can't read it, please let
16 me know.

17 Okay. This is gonna be Attachment 1. This is Gaffney
18 Police Department Detective Division Crime Scene Report by
19 Sergeant Sizemore. It has the case number as well as the
20 date and time, which is March 26th, 2018. Below case from
21 [REDACTED] North Limestone Street, Gaffney, South Carolina, 29340.
22 The conditions were clear. The scene was a multistory
23 building inside of Harold's Game Room on the first floor.

24 Observations.

25 Inside walking on from the back-door, shell casing on

1 the floor in-between the bar and the right-hand side wall.
2 shell casings were marked by the responding, the responding
3 officers, and placed in clear plastic cups over the casings.
4 what appeared to be blood next to the front door. Bucket on
5 the bar with a bullet hole. Bullet hole found in the wall
6 behind the bar.

7 Took pictures of the inside of the game room. Marked
8 shell casings with orange cones.

9 Cone 1, .32 caliber shell casings.

10 Cone 2, .32 caliber shell casing.

11 Cone 3, .32 caliber shell casing.

12 Cone 4, .32 caliber shell casing.

13 Cone 5, .32 caliber shell casing.

14 white Marker 5 is a red substance on the front of the
15 bar ruled out not to be blood.

16 white Marker 6 is red in color substance to the right
17 of the jukebox ruled out not to be blood.

18 white Marker 7 red -- believed to be blood on the front
19 door in the front of the front door.

20 videotaped crime scene.

21 The evidence collected was five caliber .32 caliber
22 shell casings.

23 Two swabs from white Marker 7.

24 One .32 auto gun Serial Number 78198.

25 One magazine, three bullets from the .32 auto, auto

1 handgun.

2 One VZOR handgun, Serial Number 196605.

3 One magazine, magazine with nine .32 auto, auto bullets
4 for the handgun.

5 GSR kits from the hands of Eddie Motts.

6 video from Harold's game room was used for the security
7 video system.

8 Blue and white truck, Tag Number KPV720, was taken to
9 Gaffney Police Department Impound Lot.

10 Additional information.

11 Called to respond to shooting at [REDACTED] North Limestone
12 Street.

13 Before responding to scene, went to collect the GSR kit
14 from Eddie Motts at the Gaffney Police Department.

15 Arrived at the crime scene.

16 The crime scene was possessed -- processed for
17 evidence.

18 A video was pulled from the security system.

19 And it just lists the officers present, Sergeant,
20 Sergeant Sizemore, Officer Hampton, Detective Brian Blanton,
21 Officer Mabry, and Officer Heflin. The report was by
22 Sergeant Sizemore.

23 Going in Attachment 2, which is gonna be the firearms
24 report from ballistics. This is done by Mr. Greer. You can
25 read the incident things on there, the case number, who

1 requested it, about the subject and victims.

2 Item 1. One Fabrique Nationale (FN) Model 1922
3 semiautomatic pistol, .32 auto caliber. Serial number
4 78198. Listed as Motts handgun. Results of his
5 examination.

6 Item 1 was physically examined. The pistol was test
7 fired using Item 2 and found to be in working order, and
8 Item 1 is just the test, test gun, one they used to shoot
9 with the weapon.

10 Item 2 is one magazine listed as Motts magazine. Item
11 2 was physically examined. The magazine was the correct
12 magazine assembly for use in Item Number 1, the first
13 pistol.

14 Item 3. Three unfired .32 auto caliber cartilages
15 (sic). Item 3 was physically examined. The auto -- unfired
16 cartilages (sic) was the correct caliber for use in Item 1,
17 Item 10, and other firearms chambered for .32 audible (sic)
18 caliber cartilages (sic).

19 Items 4 through 8. Five fired .32 audible (sic)
20 caliber cartilage (sic) cases. The results. Items 4
21 through eight was physically examined, microscopically
22 compared with each other, and test cartridges fired by Item
23 1 and 10, pistols.

24 From these examinations and comparisons, the following
25 conclusions was reached:

1 Matching individual characteristics was found on Items
2 5 through 8. The test cartridges fired by Item -- pistol
3 Item 1. It is concluded that Items 4 through 8 was fired by
4 Item Number 1, and Item Number 1 was this item.

5 Due to the insufficient and corresponding individual
6 identifying characteristics, the results of comparisons of
7 Items 4 with Item 5 through 8, and test cartilages (sic)
8 fired by Items 1 and 10 were inconclusive. It can not be
9 determined whether or not Item 4 was fired by Item 1 or 10
10 or another firearm. Item 4 may or may not be suitable for
11 identification with other firearms related evidence.

12 Item 10. This one CZ model VZOR 70 semiautomatic
13 pistol, .32 audible (sic) caliber. Serial number 196605
14 with magazine listed as Lipscomb's.

15 The results.

16 Item 10 was physically examined. The pistol was test
17 fired using the subject magazine was found to be in working
18 order. During the examination it was discovered that it may
19 be possible to fire the pistol when using the decocking
20 function of the safety lever. This function was tested.
21 Multiple attempts to fire the weapon -- the pistol was made.
22 The pistol did not fire during those attempts. However, it
23 should be noted that the pistol may be capable of firing
24 when decocking the pistol using the safety lever.

25 Item 10.1, which is basically test items.

1 Item Number 11, nine unfired .32 audible (sic) caliber,
2 caliber cartilage (sic) is listed as Lipscomb's.

3 Results.

4 Item 11 was physically examined. The unfired
5 cartridges was the correct caliber for use in Item 1, Item
6 10, and other firearms chambered for .32 audible (sic)
7 caliber cartridges.

8 Item 13, the one fired bullet. Item 13 was physically
9 and microscopically examined. Based on its observable,
10 physical characteristics, Item 13 was more consistent with
11 bullets loaded into some .32 audible (sic) caliber
12 cartilages (sic). Item 13 was also microscopically compared
13 with tested bullets fired by Items 1 and 10 pistols.
14 Matching individual characteristics were found on Item 13,
15 and test fired with a bullet by Item 1, and it was concluded
16 that Item 13, the fired bullet, was fired by the first
17 pistol, Item Number 1, and the rest of it -- and then it
18 goes from there. And the analysis was done by Paul S.
19 Greer, forensic scientist with SLED.

20 Attachment Number 3 is the trace evidence report that
21 was submitted concerning this case.

22 Item 7 is in the results on this, and Item 9, which is
23 the GSR kit from Eddie Motts. Item 9 was examined or
24 analyzed using scanning electronic microscopic energy
25 dispersive x-ray spectrometry. I'm sorry. I can't

1 pronounce all these big words. I apologize. For morphine
2 (sic), and element composition.

3 The results.

4 Particle characteristics of gunshot primer residue was
5 found. In general, particles characteristic of gun
6 powder -- gunshot primer residue are microscopic, molten
7 particles that contain the elements of lead, barium, and
8 antimony. Gunshot primer residue can come from discharging
9 a firearm, being in the vicinity of -- to the discharge of
10 the firearm, or coming into contact with surface that gun
11 powder residue is on, and Ila Simmons did the analysis,
12 forensic scientist at SLED.

13 And, Your Honor, that would be the publication at this
14 point from the State on these exhibits.

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

16 Is the State ready to call your next witness?

17 SOLICITOR BARNETTE: Yes, sir, I'd like to call Deputy
18 Heflin to the stand please.

19 THE COURT: Sir, come right up here and let the Clerk
20 of Court swear you in.

21 BRENT HEFLIN, being first duly
22 sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY SOLICITOR BARNETTE:

25 Q If you would, sir, please state your full name for the

Brent Heflin - Direct examination
by Solicitor Barnette

1 record.

2 A Brent Charles Heflin.

3 Q And where do you work at, sir?

4 A I currently work at Cherokee Sheriff's office.

5 Q what's your position there, sir?

6 A As a deputy.

7 Q Back on March 26th, 2018, where was you working at
8 then, sir?

9 A Gaffney Police Department as a patrol officer.

10 Q okay. And back in -- did you receive a call at
11 Harold's Restaurant back approximately 7:45 that evening?

12 A I did.

13 Q And what did you do once you received the call?

14 A Basically we went in route. We weren't far away from
15 it. After we were going to it I remember them saying shots
16 were fired. Came in through the, the back-door, and, at
17 that point in time, saw Mr. Motts standing around the center
18 of the, the bar holding a handgun.

19 Q okay. And did you have a body cam video at that time?

20 A I did.

21 Q Have you seen that body cam video?

22 A I have.

23 Q I show you and I think it's -- I think State Exhibit
24 No. 19. I show you State Exhibit No 19.

25 Does this body or this video fairly represent what you

Brent Heflin - Direct examination
by Solicitor Barnette

1 saw that day?

2 A Yes, sir.

3 SOLICITOR BARNETTE: Your Honor, I'd like to move State
4 Exhibit 19 into evidence at this time.

5 MR. COOK: No objection.

6 THE COURT: Without objection.

7 (WHEREUPON, State's Exhibit No. 19 was received into
8 evidence at this time.)

9 SOLICITOR BARNETTE: Permission to publish it to the
10 jury, Your Honor?

11 THE COURT: Yes, sir.

12 That has audio and video?

13 SOLICITOR BARNETTE: Yes, sir, it does.

14 Come on down.

15 THE COURT REPORTER: Keep your voice up please, sir.

16 A (WHEREUPON, the witness comes down from the stand.)

17 THE COURT: Officer, if you would, when you're
18 speaking, be sure you speak up loud enough so that very last
19 juror can hear you, and also that gentleman seated over
20 there that can hear you.

21 THE WITNESS: Yes, sir.

22 (WHEREUPON, State's Exhibit No. 19 was played for the
23 jury at this time.)

24 Q Deputy, I'm gonna play this again. I wanted them to
25 see it first, and I wanted you to describe when you pick up

Brent Heflin - Direct examination
by Solicitor Barnette

1 the gun, where you put the gun at, and everything.

2 A Okay.

3 (WHEREUPON, a portion of State's Exhibit No. 19 was
4 played for the jury at this time.)

5 Q At this point, did you go down and pick something up?

6 A Yes, sir, once Officer Hampton placed him in handcuffs,
7 I then proceed to pick up the weapon.

8 Q Okay. Let me show you State's Exhibit No. 1.

9 Does this appear to be the weapon that you picked up at
10 that time?

11 A Yes, sir.

12 Q It's already in evidence there.

13 (WHEREUPON, another portion of State's Exhibit No. 19
14 was played for the jury at this time.)

15 Q At that point, what did you do with the gun, sir?

16 A At that point I went ahead and unlocked Officer
17 Hampton's car and then placed it on the floorboard passenger
18 seat of the vehicle and left it.

19 (WHEREUPON, another portion of State's Exhibit No. 19
20 was played for the jury at this time.)

21 Q Okay. If you'll have a seat, sir.

22 A (WHEREUPON, the witness returns to the stand.)

23 Q Sir, did he appear to be under the influence to you
24 when you got away from there, his actions, from what you've
25 seen?

Brent Heflin - Direct examination
by Solicitor Barnette

1 A Yes, sir, he appeared to be under the influence.

2 Q And after, after that, did you go back and check on
3 Brandon Ramsey and check on the crime scene itself?

4 A I did. Once Officer Hampton placed Mr. Motts in his
5 patrol vehicle, I then proceeded to Mr. Ramsey to make sure
6 he was all right.

7 Q Okay. And did you go through the crime scene too?

8 A I did.

9 Q And was it secured at a later time?

10 A At that point, once I found out where it happened from
11 Mr. Ramsey, I then secured the crime scene.

12 Q And did Sergeant Sizemore do the, the crime scene, what
13 we talked about earlier?

14 A He did.

15 Q And this occurred in the City of Gaffney in Cherokee
16 County.

17 Is that right?

18 A Yes, sir.

19 Q And, if you would, please answer any questions the
20 defense may have for you, sir.

21 CROSS-EXAMINATION

22 BY MR. COOK:

23 Q Deputy Heflin, when you arrived, was there someone else
24 with you when you arrived at the bar?

25 A Yes, sir, on that day, Officer Hampton.

Brent Heflin - Cross-examination
by Mr. Cook

1 Q okay. who was in charge at that time?

2 A what do you mean?

3 Q well---

4 A Between us two?

5 Q Yeah.

6 A Pretty much whoever wanted to take the lead. I know
7 officer Hampton went inside first, and I followed behind,
8 and we just kind of went from there.

9 Q Doesn't a detective usually work these crime scenes?

10 A They do once after -- we're all, you know, the initial
11 call is done with -- and then we call them.

12 Q okay. Did you ever try to interview Mr. Motts?

13 A I did not.

14 Q Did -- do you know if anyone tried to interview Mr.
15 Motts---

16 A I'm not---

17 Q ---before that?

18 A I'm not aware.

19 Q okay. Did he refuse -- he didn't refuse to cooperate,
20 did he?

21 A No. No, he didn't refuse to cooperate once we got his
22 attention.

23 Q And how, how long had you worked for Gaffney Police
24 Department prior to this incident?

25 A Maybe three, three and a half years.

Brent Heflin - Cross-examination
by Mr. Cook

1 Q And Harold's is located on -- at [REDACTED] North Limestone
2 Street, correct?

3 A Yes, sir.

4 Q And the police department is where?

5 A 201---

6 Q 201.

7 A ---North Limestone Street.

8 Q It's pretty close.

9 How many times in the past had you responded to
10 Harold's on calls?

11 A I'm not sure to tell you the truth.

12 Q Have you ever?

13 A I have.

14 Q And what type of calls?

15 SOLICITOR BARNETTE: Your Honor, I'm gonna object to
16 this point to the relevance of this.

17 THE COURT: All right. I'm gonna allow it briefly.

18 A Say that again.

19 Q Oh.

20 what type of calls did you respond to?

21 A The only one that I can remember is just like a public
22 disorderly conduct.

23 Q Okay. And on March 26th of 2018, you got another --
24 you got a call to go to Harold's, correct?

25 A Yes, sir.

1 Q okay. And so you and Officer Hampton initially
2 responded to Harold's, and it was just you two at that time?

3 A It was us two with Officer Mabry behind us.

4 Q okay. So, when you got there, Mr. Motts didn't pose a
5 threat to you or Officer Hampton, correct?

6 A Upon arrival, once he made entry into the bar area,
7 that's when we saw Mr. Motts standing in there holding a
8 handgun.

9 Q How, how was he holding it?

10 A He just had it at his side.

11 Q could you demonstrate for me exactly how he was holding
12 it?

13 A He was just standing there holding it.

14 Q okay.

15 A I mean he wasn't pointing it, but he was standing there
16 holding it.

17 Q okay. So, he wasn't threatening?

18 A At the moment he was not a threat.

19 Q okay. So, later, while at the scene, why did you tell
20 Officer Green, I'm gonna quote from the camera, okay, that
21 you should of shot him and you could of got away with it?

22 A Pretty much I still had a little bit of an adrenaline
23 rush from the situation, and it seemed like it took a lot
24 longer than I thought. As -- watching the video camera or
25 the body camera, it goes by pretty quick, but being on

Brent Heflin - Cross-examination
by Mr. Cook

1 scene, it seemed like he wasn't wanting to cooperate. It
2 seemed like it was taking a while for him to drop that gun,
3 and that's -- at the time, I had a lot of adrenaline rush
4 going on right there. So, that's all I could say to that.

5 Q Okay. So -- would, would it surprise you that it was
6 about an hour and a half later when you said that?

7 A It does. I mean it still was going on from there. It
8 wasn't over with. I mean plus I -- we had other calls. I
9 was going -- bouncing back and forth to other calls at the
10 time, and it was still kind of adrenaline rush at the time.

11 Q So, Mr. Motts was gone from the scene pretty quick?

12 A Once, once I left Mr. Motts with Officer Hampton, I
13 was -- I didn't see him again. I went ahead and secured the
14 scene at that point.

15 Q Okay. So, when you said I would love to take one out
16 before I leave, Steve---

17 SOLICITOR BARNETTE: Objection, Your Honor. I don't
18 understand the relevance of this.

19 MR. COOK: It---

20 SOLICITOR BARNETTE: Hour and a half afterwards. We
21 got this on video.

22 MR. COOK: It---

23 THE COURT: All right. I'll allow it briefly.

24 MR. COOK: It goes to bias of the witness, Judge.

25 THE COURT: Go ahead.

1 Q You've said that this one would of been easy. I
2 wouldn't even of gotten in trouble.

3 A I don't recall that.

4 Q It's on the -- so, you're saying you didn't say it or
5 you don't recall?

6 A I don't remember saying it.

7 Q Okay. But it's on the audio provided by the Gaffney
8 Police Department to us.

9 A Okay. I just don't remember saying it.

10 Q well, do you remember saying I believe if you shoot
11 someone in Spartanburg you might get in a little more
12 trouble than here?

13 A No, I don't remember saying that either.

14 Q You don't remember it --

15 A Hu huh. (Negative).

16 Q -- or you didn't say it?

17 A I don't remember saying it.

18 Q Okay. well, it's on the body -- it's on the cameras.
19 So, you haven't listened to them?

20 A Not those. I ain't listened to those.

21 Q Do you remember saying can we turn these body cameras
22 off now?

23 A I might have said that. I, I don't really remember. I
24 don't remember. That's something I'd say all the time
25 though. That ain't nothing. So I---

Brent Heflin - Cross-examination
by Mr. Cook

1 Q well, what's the purpose of the body cameras?

2 A well, once the scene -- once everything's said and
3 done, sometimes I'd ask my supervisor we get to turn our
4 body cameras off now.

5 Q so, after you turned the body camera off, then
6 everything was done, but --.

7 A Pretty much. I mean I don't remember.

8 Q okay. But it was later on when you said I wished I
9 could take one out---

10 SOLICITOR BARNETTE: Objection, Your Honor. Asked and
11 answered. He's asked that.

12 THE COURT: I'll sustain the objection.

13 Q so, was your adrenaline still going?

14 A Pretty much the entire time I was there. It was the
15 whole night.

16 Q Do you remember saying that still it wouldn't look good
17 if I did that?

18 SOLICITOR BARNETTE: Objection.

19 Q we're waiting on the---

20 SOLICITOR BARNETTE: Objection.

21 A I can't remember.

22 SOLICITOR BARNETTE: Asked and answered.

23 THE COURT: I'm gonna sustain the objection. Move on
24 to something else.

25 Q well, let, let me ask you this.

1 Do you recall saying, and this is on body camera, as
2 long -- talking to the people that were still left in the
3 bar, as long as y'all stayed here, you're gonna have to go
4 to Court?

5 A I don't remember.

6 Q Don't remember that?

7 A No.

8 Q You're talking about the witnesses here to this
9 incident.

10 A I don't remember saying that.

11 Q Okay. And then later on you made the comment that
12 nobody wants to write a statement for nothing.

13 A I don't remember.

14 Q You don't remember much?

15 A well, I mean it was a good year and a half ago or more.
16 So --.

17 Q It is.

18 well---

19 A I just remember the initial---

20 Q It's all in evidence.

21 A ---the initial point, but --.

22 Q It's in the evidence.

23 You didn't review this before coming to Court?

24 A The only thing that I reviewed was me going in there
25 and basically the video you just watched. I ain't seen the

Brent Heflin - Cross-examination
by Mr. Cook

1 other body cams.

2 Q But you would agree it's very important to get the
3 names, addresses, things like that from witnesses?

4 A I agree.

5 Q Okay. Did you ever take a statement from either of the
6 victims?

7 A Did we?

8 Q At any point.

9 A No.

10 Q Do you know if a statement was given by any of the
11 victims?

12 A I do not. My main goal was to find the crime scene and
13 secure it.

14 Q Okay. So, when you make the statement of if you're
15 staying here, you're gonna have to give us -- you're gonna
16 be in court, do you---

17 SOLICITOR BARNETTE: Objection, Your Honor. Asked and
18 answered.

19 THE COURT: I'll sustain the objection.

20 Q Do you realize that that's running off potential
21 witnesses?

22 A It could. I don't remember saying it.

23 Q Do you remember who would not give a statement?

24 A I do not.

25 Q And some statements were taken, correct?

1 A I'm not sure to be honest with you.

2 Q And now you -- so, you were the only one on the scene,
3 you and the -- Officer Hampton for a while, and you're
4 telling me you don't remember hardly anything?

5 A Once I -- once I found the crime scene, and found out
6 it happened inside Harold Tindall's bar, at that point I
7 made sure to stay in that area, and I assumed Officer
8 Hampton and, and Officer Mabry, you know, they would start
9 going and doing the rest. I could not let anybody inside
10 that bar at that point. So, I had to stay in there.

11 Q Would you have been responsible for taking the
12 statements from the victims in this case or somebody else?

13 A I mean I do remember asking people if they wanted
14 statements, but when it came around to it, I think they,
15 they denied it, but I don't know who they were. There's a
16 lot going on at the time. Just trying to find where the
17 crime scene happened so we can secure it.

18 MR. COOK: Just one moment, Your Honor.

19 (Pause.)

20 Q If you were not in charge of taking the statements, who
21 was in charge of taking those statements?

22 A I do not know.

23 Q Who's your -- what's your chain of command?

24 A Chain of command?

25 Q Yeah.

Brent Heflin - Cross-examination
by Mr. Cook

1 A Basically who we had there at the time was Officer,
2 Officer Hampton and Officer Mabry. So, I'm busy with this.
3 They're tending to them. So, not putting it off on them,
4 but I had nobody -- I couldn't do statements at the time
5 cause I was trying to clear the bar out and get, you know,
6 the crime scene figured out.

7 MR. COOK: Okay. I, I don't have any other questions,
8 Your Honor.

9 THE COURT: Any redirect?

10 SOLICITOR BARNETTE: No redirect, Your Honor.

11 THE COURT: Sir, watch your step as you're stepping
12 down, but you can step down.

13 Any reason why the witness can not be excused?

14 SOLICITOR BARNETTE: I'd ask the witness be excused,
15 Your Honor.

16 MR. COOK: Fine.

17 THE COURT: You may be excused, sir. Thank you.

18 SOLICITOR BARNETTE: May we approach for a second, Your
19 Honor?

20 (WHEREUPON, a bench conference was held out of the
21 hearing of the jury at this time.)

22 THE COURT: Ladies and gentlemen, it's a little bit
23 early, but we're gonna take a lunch break. I've talked to
24 the lawyers about scheduling. They think this is probably
25 the best use of your time. Just go ahead and let you have

1 an early lunch break now.

2 I need to remind you not to have any discussion among
3 yourselves or with anyone else about anything involved in
4 the case. Also, do not do any type of independent research
5 or investigation. I know you've now heard of a location.
6 Don't sort of accidentally drive by the location, you know,
7 to, to check it out because the decisions you make in this
8 case have to be made based on the evidence that is presented
9 during the trial, and the law that I will instruct you
10 later.

11 But I'm gonna let you go to lunch. Looking at the
12 clock on the wall, I'm gonna ask, if you would, to please be
13 back in the jury deliberation room by 1:15. we'll resume
14 with the presentation of the case.

15 Thank you very much. You may go with the bailiff.

16 (WHEREUPON, the following takes place outside the
17 presence of the jury.)

18 THE COURT: All right. we will step down. Before
19 y'all leave to go to lunch, if y'all step back.

20 Thank you.

21 (WHEREUPON, Court was in recess for the lunch break.)

22 THE COURT: What's the---

23 SOLICITOR BARNETTE: May we approach the bench?

24 (WHEREUPON, a bench conference was held at this time.)

25 THE COURT: Officer Heflin, come on back up.

Brent Heflin - Direct examination
by Solicitor Barnette

1 (WHEREUPON, the witness complies.)

2 THE COURT: Just have a seat up here. Watch your step
3 as you're stepping up. I just need to remind you that you
4 remain under oath.

5 You understand?

6 THE WITNESS: Yes, sir.

7 THE COURT: Let's go ahead and bring the jury in.
8 Just pull the microphone up to you.

9 (WHEREUPON, the following takes place within the
10 presence of the jury.)

11 THE COURT: Yes, sir.

12 SOLICITOR BARNETTE: Your Honor, the State would like
13 to call -- recall Officer Heflin to the stand.

14 THE COURT: Okay.

15 BRENT HEFLIN, having been previously
16 sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY SOLICITOR BARNETTE:

19 Q Officer Heflin, just to clear up, clear up anything
20 from that standpoint, have you had a chance to review the
21 information that Mr. Cook asked you about?

22 A Yes, sir.

23 Q Did you make the statements that he asked you about?

24 A Yes, sir.

25 SOLICITOR BARNETTE: That'd be all the questions the

1 State would have, Your Honor.

2 MR. COOK: I don't have any questions, Your Honor.

3 THE COURT: All right. Thank you, sir. You may step
4 down.

5 SOLICITOR BARNETTE: We ask the witness be excused,
6 Your Honor.

7 THE COURT: Watch your step as you're stepping down.
8 Any objection to this witness being excused?

9 MR. COOK: No, Your Honor.

10 THE COURT: Thank you, sir. You may be excused as
11 well.

12 THE WITNESS: All right. Thank you, sir.

13 THE COURT: Ladies and gentlemen, this is one of those
14 times where I have to take up a matter of law with the
15 attorneys. I'm gonna ask, if you would, to not have any
16 discussion among yourselves about anything involving the
17 case, but very quickly just kind of back to the jury
18 deliberation room. We'll get you back just shortly.

19 (WHEREUPON, the following takes place outside the
20 presence of the jury.)

21 MR. COOK: Okay. Your Honor, I have a defense motion
22 for directed verdict as to all charges for insufficient
23 evidence, not enough evidence, Your Honor, to establish the
24 elements for attempted murder. Attempted murder is a
25 specific intent to kill crime. It's specific intent.

1 The State has not shown that he has specific intent to
2 kill in this case. We feel the charge of assault and
3 battery first degree is proper especially as to Mr. Ramsey.
4 Mr. Ramsey was shot in the leg. He was released the same
5 day from the hospital, and required minimal medical
6 attention.

7 That's all. That's it.

8 SOLICITOR BARNETTE: Thank you, Your Honor.

9 We would say that obviously special intent that can be
10 gathered from the -- in the light most favorable to the
11 moving -- nonmoving party, which is us, Your Honor.

12 Basically you had a gentleman making threats in a bar
13 from that standpoint. He leaves the bar, has a weapon with
14 him when he comes back in, points the weapon at Mr. Ramsey
15 specifically. Basically threatened to kill him from that
16 standpoint. Mr. Ramsey was on the phone. He tells him to
17 get off the phone twice. Then he runs at him. You can see
18 that on the video, chases him, and shoots him as he's going
19 out the door.

20 To me, there's no question there's specific intent
21 enough to let the jury make that decision, Your Honor.

22 THE COURT: Any reply?

23 MR. COOK: No, Your Honor.

24 THE COURT: All right. The standard which this Court
25 must apply when ruling on directed verdicts is that I have

1 to view the existence of evidence in a light most favorably.
2 For that -- to look for the existence of evidence. Then I
3 have to view that evidence in a light that is most favorable
4 to the State, and, in doing so, I would have to deny the
5 motion.

6 Anything else before we pro---

7 MR. COOK: No, Your Honor.

8 THE COURT: Did you want me---

9 SOLICITOR BARNETTE: Did you have something else
10 about---

11 MR. COOK: That's right, Your Honor. I apologize.

12 Defense Exhibits Nos. 3, 4, 5, and 6 are withdrawn from
13 evidence.

14 (Pause.)

15 THE COURT: All right.

16 MR. COOK: Judge, I had one more thing. There was a --
17 those exhibits that I just withdraw -- withdrew from
18 evidence, it was a misunderstanding between myself and the
19 solicitor as to what I was putting into evidence this
20 morning. Those were, those were body cam videos
21 specifically, and we're withdrawing that at this time.

22 THE COURT: Okay. All right. Is the defense ready to
23 proceed?

24 MR. COOK: Yes, Your Honor.

25 THE COURT: Anything -- your first witness will not be

1 the Defendant?

2 MR. COOK: That's correct, Your Honor.

3 THE COURT: Okay. All right. Then let's bring the,
4 bring the jury back.

5 (WHEREUPON, the following takes place within the
6 presence of the jury.)

7 THE COURT: Is the defense ready to call their first
8 witness?

9 MR. COOK: Yes, Your Honor.

10 Defense calls Mrs. Betty Lanier.

11 Betty Lanier.

12 THE COURT: Just come right up here.

13 THE WITNESS: Here?

14 THE COURT: Yes.

15 THE CLERK: Stand in front of me. Raise your
16 right-hand. Place your left-hand on the Bible.

17 BETTY LANIER, being first duly sworn,
18 testified as follows:

19 THE CLERK: Okay. Watch your step.

20 DIRECT EXAMINATION

21 BY MR. COOK:

22 Q Good afternoon, Ms. Lanier.

23 would you state your name, your full name for the
24 record please?

25 A Betty Lanier.

Betty Lanier - Direct examination
by Mr. Cook

1 Q Okay. And do you work anywhere now, Mrs. Lanier?

2 A No, I'm retired.

3 Q Okay. And what is your relationship to Mr. Eddie
4 Jerome Motts?

5 A We use to be married. We got divorced, but then we got
6 back together.

7 Q Okay. What's your relationship now?

8 Do y'all -- is it a -- just tell me how you---

9 A Friend. We're real good friends.

10 Q And are you aware that he has Parkinson's Disease?

11 A Yes, I do.

12 Q How do you know that he has Parkinson's Disease?

13 A He---

14 SOLICITOR BARNETTE: Your Honor, I'm gonna object at
15 this point cause that would be a medical opinion. That's
16 --.

17 THE COURT: All right. The way it's been -- of course,
18 I'd have to sustain the objection.

19 Q Have you ever been to the doctor with Mr. Motts?

20 A Yes, I have.

21 Q And why was that?

22 A Because of the Parkinson's.

23 Q What kind of changes have you noticed in him since you
24 know that he had Parkinson's Disease since he was, since he
25 was diagnosed?

Betty Lanier - Direct examination
by Mr. Cook

1 A There is some times that he couldn't remember. There
2 was a couple times that he told me that he couldn't remember
3 if he would -- took his blood pressure medicine, and I told
4 him, I says, well, if you don't remember, don't take it.
5 So, I started helping him, you know, put out his medicine,
6 all his medicine that he was suppose to take.

7 Q Okay. Is there any specific incidents that you can
8 recall where he would not act normal with you?

9 A I noticed that he really didn't seem like he could do
10 like he used to besides forgetting stuff.

11 Q Okay. Was there one night in particular that you had a
12 opportunity to observe him watching television?

13 A That he was hallucinating, yes.

14 Q What was he hallucinating?

15 A I had went to bed. He had stayed up and the light was
16 on. So, I got up and I asked him what was he doing, and he
17 says Ben, one of his friends, he's here and sitting in the
18 recliner talking to me and says---

19 SOLICITOR BARNETTE: Your Honor, I'm gonna have to
20 object. That's gonna be hearsay.

21 THE COURT: Sustain the objection as to what she
22 told -- talked about -- what other people said to her.

23 Q What did he -- what kind of a hallucination was he
24 having?

25 A That he -- he was seeing people.

1 Q Okay. Did he mention to you what he saw?

2 SOLICITOR BARNETTE: Your Honor, I'm gonna have to
3 object at this point. Hearsay.

4 THE COURT: I'll allow that. That's a party.
5 Go ahead.

6 A And what was the question again?

7 Q Did he mention to you what he was seeing?

8 A The people, that they were a bunch of people sitting in
9 our living room, and he had duct tape. He said he had to
10 tape, tape them up, and he said that they parked their cars
11 down at Gunther's, that -- that's the man that he would go
12 and help and he had to take them up.

13 Q And did -- was any of that really happening?

14 A No. I told him, I says there's nobody here but me and
15 you. I said try to lay back down and go to sleep.

16 Q Did he have -- did you have the opportunity to speak
17 with him on a, on a jail -- from the Cherokee County Jail
18 phone when he was taken to the hospital in Spartanburg from
19 the jail?

20 A Yes.

21 Q And do you recall any specific conversation that you
22 had with him?

23 SOLICITOR BARNETTE: Your Honor, I'm gonna have to
24 object at this point. It's hearsay.

25 THE COURT: I'm gonna allow this -- it to a point right

Betty Lanier - Direct examination
by Mr. Cook

1 now.

2 Go ahead.

3 A Yes. He -- they was one day he didn't call me, and I
4 was kind of worried because I know he'd been having
5 problems. The next day he called me and he told me that
6 they had to take him to the hospital. He'd been over all
7 night and half the day. And he said that he thought that he
8 had shot and killed the girl, and he said finally they told
9 him that it didn't happen. And they told him that he had a
10 stroke, and it killed some of his brain cells.

11 SOLICITOR BARNETTE: Your Honor, I'm gonna have to
12 object to this on two fronts, hearsay, and this occurred
13 after the crime.

14 THE COURT: All right. I'll sustain it on that -- on
15 the hearsay --

16 SOLICITOR BARNETTE: Okay.

17 THE COURT: -- position.

18 Q Have you noticed any other changes to Mr. Motts'
19 behavior in the last -- well, since he was diagnosed with
20 Parkinson's or any other mental health issues?

21 A He's been having a -- problems with his heart.

22 Q Okay.

23 A I do know that.

24 MR. COOK: All right. That's all I have, Your Honor,
25 of this witness. Answer any questions Mr. Barnette has.

Betty Lanier - Cross-examination
by Solicitor Barnette

1 SOLICITOR BARNETTE: May it please the Court, Your
2 Honor?

3 CROSS-EXAMINATION

4 BY SOLICITOR BARNETTE:

5 Q Mrs. Lanier, you've taken care of his medication.

6 Is that right, ma'am?

7 A Yes.

8 Q what kind of medications does he take?

9 A well, he takes Xanax for his nerves. He was taking
10 Parkinson's medicine, but since this happened, he, he hasn't
11 been able to go to see the doctor. He takes Hydrocodone.
12 He -- well, he was taking that. No, not Hydrocodone.

13 what is it?

14 It starts with an H.

15 Q Okay.

16 A Hydroxine (phonetic). He takes that for itching and
17 he, he was taking Seroquel. That was for the Parkinson's.
18 And Lexapro. They wanted him to take that for the
19 Parkinson's also.

20 Q Okay. I'm assuming you took care of the bottles and
21 everything for him?

22 A Yes.

23 Q I'm assuming there's bottles, especially the Xanax, and
24 I think the Lexapro, does it have warnings that you don't
25 drink alcohol with it?

1 A It don't say that on them.

2 Q Okay. Does he drink?

3 A He use to.

4 Q Before this incident occurred, did he drink?

5 A Before this incident, no. Well, if he did, I didn't
6 see it.

7 Q Okay. Obviously you wasn't with him at Harold's
8 Restaurant---

9 A No.

10 Q ---back on March 26th?

11 When is the next time -- you didn't come to the bond
12 hearing here, did you?

13 A I didn't what?

14 Q You weren't at the bond hearing either on March 27th,
15 the next day, were you?

16 A The first -- no.

17 Q So you wasn't at the first one?

18 A I didn't get to come, no.

19 Q You didn't come.

20 So, you weren't at either -- you weren't at Harold's
21 when the event occurred. You wasn't at the bond hearing.

22 A No.

23 Q Correct?

24 The gun that he had, the .32, where did he get that
25 from?

1 A He had bought it from this man that sells guns. As far
2 as who he did, I do not know.

3 Q Okay. Did he -- so, you knew he had bought the gun?

4 A Yeah.

5 Q And it's this gun.

6 Had you seen -- did you see the gun?

7 A Yeah.

8 Q Let you look at it there for a second.

9 Your Honor, this is State Exhibit 1 that I'm showing
10 you.

11 A Yeah, that's it.

12 Q That's his gun?

13 A Uh-huh. (Affirmative).

14 Q And how long did he have the gun?

15 A How long what?

16 Q How, how long did he have it?

17 A I'm not really sure. I don't know. Maybe three years,
18 four years. I'm not sure.

19 Q And did you know -- did he buy ammunition for it also?

20 A I'm assuming he did from that man, yes.

21 Q Okay. And did he, did he, at one time, I, I don't know
22 how to do this, did he use to cut meat up for folks when
23 they, when they brought (indiscernible) in?

24 A Yes.

25 Q So he'd cut up I guess deer meat, things like that?

Betty Lanier - Cross-examination
by Solicitor Barnette

1 A Yes.

2 Q So, he was used to hunting, and guns, and things like,
3 like that?

4 A Yes, and he donated a lot of that meat to the hunger.

5 Q Oh, I understand that.

6 But did -- so, he was used to guns, hunters, and people
7 bringing stuff in to him.

8 Is that right?

9 A Yes.

10 SOLICITOR BARNETTE: One moment, Your Honor, please.

11 (Pause.)

12 Q Thank you for answering my questions, ma'am.

13 THE COURT: Any redirect limited to what he went into?

14 MR. COOK: Just one thing, Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. COOK:

17 Q Mrs. Lanier, is there a reason why you have not
18 recently seen Mr. Motts hallucinating?

19 Is there any -- let me rephrase that.

20 Is there any particular thing that he started doing so
21 that you wouldn't see him?

22 A Well, that night that it happened that he was
23 hallucinating, it, it really scared me and I really didn't
24 know what to do, you know.

25 SOLICITOR BARNETTE: Your Honor, I'm gonna have to

Ben Hendricks - Direct examination
by Mr. Cook

1 object. I don't know where this is follow-up on cross.

2 THE COURT: I would have to -- you need to -- it -- if
3 you intend to pursue it, it needs to relate to something new
4 that happened -- something that he brought up in, in cross.

5 MR. COOK: I'll withdraw the question.

6 THE COURT: Anything else?

7 MR. COOK: That's all, Your Honor.

8 THE COURT: All right. Thank you, ma'am. You may step
9 down. Watch your step and you're stepping down.

10 The defense ready to call their next witness?

11 MR. COOK: Yes, Your Honor.

12 Defense calls Ms. Ben Hendricks.

13 BEN HENDRICKS, being first duly
14 sworn, testified as follows:

15 THE CLERK: Okay. Watch your step.

16 DIRECT EXAMINATION

17 BY MR. COOK:

18 Q State your full name for the record please.

19 A My name is Bennie H. Hendricks.

20 Q Where do you live at, Mr. Hendricks?

21 A I reside at [REDACTED] Beaver Ridge Road, Gaffney, South
22 Carolina. I'm in a -- I'm in Carson County, Texas at this
23 time. I'd been out there for five months on a project.

24 Q What type of work do you do?

25 A I'm a construction manager.

Ben Hendricks - Direct examination
by Mr. Cook

1 Q All right. How long have you known Mr. Eddie Jerome
2 Motts?

3 A Since 1973.

4 Q And how did you meet him?

5 A He come to work for me when I was out at Timken
6 Bearing. I was a general foreman and they brought him in as
7 a young man and put him with me.

8 Q Okay. Was he a hard worker?

9 A Yes, he was.

10 Q He -- do you know of him ever being injured on-the-job?

11 A Yeah.

12 Q Would you describe that?

13 A Well, he, he fell one time and broke his back. It
14 wasn't on my particular project, but I know he, he fell and
15 broke his back, and also fell out of a tree about two years
16 ago, and messed him up pretty bad.

17 Q Okay. Do you know of his medical issues?

18 Do you know Mr. Motts to suffer from any disease?

19 A Yeah, he's got Parkinson. I've took him to his
20 Parkinson doctor in Spartanburg many a times. When Eddie
21 was a young boy, he, he had the mind of about a 14-year old.
22 I'm gonna be honest, he -- once you give him directions---

23 SOLICITOR BARNETTE: Your Honor, I apologize.

24 A ---he would get kind of---

25 SOLICITOR BARNETTE: I object to the---

1 THE WITNESS: Huh?

2 SOLICITOR BARNETTE: This is---

3 THE WITNESS: What did he say?

4 SOLICITOR BARNETTE: I'm sorry, sir.

5 THE WITNESS: I can't hear.

6 THE COURT: You just hold for a second.

7 SOLICITOR BARNETTE: I apologize.

8 I object, Your Honor. Basically he's going to areas
9 saying a mind of a 14-year old or whatever. I don't know
10 what basis he's got to have the minor or the ability to know
11 what he has to.

12 THE COURT: All right. I would tend to agree.

13 You want to try to rephrase the question?

14 MR. COOK: Yes, Your Honor.

15 Have you ever observed Mr. Motts have a hallucination?

16 A Yes, I have.

17 Q Could you tell us about the time you observed him
18 having a hallucination?

19 A Well, he was at my house. He, he was watching TV with
20 me and he's looking over there, and looked kind of strange,
21 and he says looks like that paint's peeling off your wall,
22 Ben. I said no, I ain't got no paint on my wall, Jerome.
23 You crazy, you know, and he said no, I'm serious, man.

24 Q Is---

25 A But that's -- you know, then they's another time we's

Ben Hendricks - Direct examination
by Mr. Cook

1 on the back porch. He smokes and I don't. We was out there
2 and just sitting in the shade, and he said hey, you see them
3 deer and them lions over there, and I said what? Lions and
4 stuff. I said Jerome, that's -- no, you're kidding me,
5 ain't you? No, I'm serious, Ben.

6 Q So, so, when he told you about the lions and the other
7 animals, was that really happening?

8 A I didn't see no lions or nothing like that to be
9 honest.

10 Q Tigers?

11 A No, no tigers.

12 Q Was he with you on March 26th, 2018?

13 That's the day of this incident.

14 Was he---

15 A Yeah.

16 Q Did you see him?

17 A He'd come over. I had a knee replacement, and I asked
18 Eddie to come over and help me -- feed me and take care of
19 my dogs. I had no wife at that time and he come and stayed
20 with me all day, take the dogs out. I had some big old
21 Rhodesian Ridgeback dogs that he knowed them, and he take
22 them out, and use the bathroom and feed me and all.

23 Q And what -- did you see Mr. Motts drink anything that
24 day?

25 A No, I didn't. No.

Ben Hendricks - Direct examination
by Mr. Cook

1 Q And what time did he leave your house?

2 A It was around 5:15 because I told him, I said Jerome.
3 I said wait a little bit. My son will be home from work,
4 and he said nah, I think I'm gonna go on, Ben, and that's
5 about the time he left best I can remember.

6 Q How was he -- that day, how was he acting?

7 A He, he kind of acted withdrawn to me, and he's normally
8 happy and jovialable (sic). I don't know. I, I couldn't
9 tell you if he had something on his mind or I couldn't tell
10 you that. But all I know he was not as happy and jovial,
11 you know, as he normally was.

12 Q Okay. Thank you very much and answer any questions the
13 solicitor would have for you.

14 A Yes, sir.

15 SOLICITOR BARNETTE: May it please the Court, Your
16 Honor.

17 CROSS-EXAMINATION

18 BY SOLICITOR BARNETTE:

19 Q Mr. Hendricks, if you don't understand me, please let
20 me know.

21 A Oh, yeah.

22 Q Am I talking loud enough for you?

23 A Yes, sir.

24 Q Okay.

25 A I can hear you now.

1 Q No problem.

2 But you weren't at Harold's when this all happened?

3 A No, I wasn't. No.

4 Q And you---

5 A Definitely not.

6 Q okay. And you wasn't at the bond hearing the next day?

7 A No, I was not.

8 Q okay. And the gun I -- actually, do you know the -- do
9 you know the gun that he had that day?

10 A No, I don't.

11 Q okay. Had you ever -- let me show you this gun, sir.

12 This is marked as State's Exhibit No. 1 one.

13 Had you ever seen that gun before?

14 A Yeah, I had.

15 Q okay. And who had it, sir?

16 A Eddie did.

17 Q okay. So, it's his gun?

18 A Yeah, as far as I know. If that's the gun. The Luger.

19 Q okay.

20 A Is that a Luger?

21 Q I don't know, sir. I'm just asking -- just asking---

22 A I mean---

23 Q ---you.

24 A ---it looks like the gun.

25 Q Yeah.

1 A But you got to remember that was a year or so ago when
2 he was showing me his toys, you know.

3 Q Okay. And what point up -- when you're talking about
4 toys -- let me step back here.

5 A A gun, pistol. You know, he deer hunts, you know.

6 Q And what kind of toys -- I mean, I mean -- what kind of
7 guns does he have?

8 Maybe I should ask that.

9 A Oh, shoot. I couldn't tell you. He never showed them
10 all to me. I know he has some deer hunting rifles and
11 stuff, and he's right there -- that pistol over there --.

12 Q And he had rifles for deer hunting and things like
13 that?

14 A Huh?

15 Q Oh, excuse me.

16 He had rifles for deer hunting?

17 A Yeah.

18 Q Did you ever see him with ammunition, bullets?

19 A No.

20 Q Okay. And did you see that gun that day?

21 A No, I did not, sir.

22 Q Did not.

23 Okay. And you say he left at 5:15 that day?

24 A It's right at that, sir.

25 Q Thank you, sir, for answering my questions.

Ben Hendricks - Cross-examination
by Solicitor Barnette

1 A Yes, sir.

2 THE COURT: Any redirect limited to what he went into?

3 MR. COOK: No, Your Honor.

4 THE COURT: Thank you, sir. You may step down. watch
5 your step as you're stepping down.

6 THE WITNESS: Okay. All right. Thank y'all.

7 THE COURT: Any reason why the witness can not be
8 excused?

9 (WHEREUPON, there was no response.)

10 THE COURT: Any reason why the witness can not be
11 excused?

12 MR. COOK: No, Your Honor.

13 SOLICITOR BARNETTE: No objection, Your Honor.

14 THE COURT: Sir, you may be excused as well. Thank you
15 for coming.

16 THE WITNESS: Your Honor, I'm gonna have to go back to
17 Texas.

18 THE COURT: Yes, sir, you're---

19 THE WITNESS: Can I please hug my -- him please?

20 THE COURT: All right. You can shake his hand.

21 THE WITNESS: Sir?

22 THE COURT: You can shake his hand.

23 THE WITNESS: I love you, son. You hang in there.

24 MR. COOK: Judge, the defense calls Mr. Eddie Jerome
25 Motts.

1 THE COURT: All right. Ladies and gentlemen, I need to
2 ask you to retire back to the jury assembly room for a
3 moment. There's a matter of law we have to take up before
4 we proceed. Do not have any discussions among yourselves
5 about anything involving the case. We'll get you back just
6 shortly.

7 (WHEREUPON, the following takes place outside the
8 presence of the jury.)

9 THE COURT: All right. Mr. Motts, I need for you to
10 please stand, and let the clerk of court swear you in.

11 THE CLERK: Please raise your right-hand.

12 (WHEREUPON, the Defendant was placed under oath at this
13 time.)

14 THE CLERK: You can put your hand down.

15 THE COURT: Thank you, Mr. Motts.

16 Mr. Motts, I've not heard any indication that you're
17 hard of hearing.

18 Is that, is that correct?

19 THE DEFENDANT: No, I'm pretty good into a microphone.

20 THE COURT: All right. If ever you can't hear me, just
21 let me know and I will speak up.

22 okay?

23 THE DEFENDANT: I will.

24 THE COURT: Mr. Motts, at this time I'm going to
25 explain to you certain of, of your rights, and if you do not

1 understand anything that I say, please let me know. If you
2 want me to explain anything in more detail, please let me
3 know that as well.

4 Do you understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Okay. Mr. Motts, we have now reached the
7 stage of the trial where you may present a defense, and you
8 have the right to claim the protections given to you by the
9 Fifth Amendment to the Constitution of the United States.

10 Now, this amendment states in part no person shall be
11 compelled, in any criminal case, to be a witness against
12 himself. This means that you can not be required to testify
13 in this case. You have the right to testify on your own
14 behalf. However, no one can make you testify. This is a
15 personal right and no one can waive this right except you.
16 If you decide to testify, you will be subject to the same
17 rules that govern other witnesses, and you may be examined
18 and cross-examined on any relevant issue in the case.

19 In addition, if you have any conviction involving
20 dishonesty or false statement or for crimes punishable by
21 imprisonment for more than one year, and this court
22 determines that the probative value of admitting this
23 evidence outweighs its prejudicial effect to you, the
24 solicitor will be able to introduce your prior criminal
25 record to attack your credibility. If you decide to

1 testify, this decision on your part must be freely,
2 voluntarily, and intelligently made with knowledge of the
3 protections given to you by the Fifth Amendment and
4 consequences of your decision to testify.

5 If you decide not to testify, I will instruct the
6 jurors that they can not give the fact that you did not
7 testify any consideration whatsoever, and that there is to
8 be absolutely no prejudice to you because you did not
9 testify. It is left entirely up to you whether or not you
10 testify.

11 You may talk with your attorney. You may talk with any
12 family members or friends you desire or anyone else. The
13 final decision will be left entirely up to you.

14 Now, Mr. Motts, do you understand what I have just
15 explained to you?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Do you have any questions about what I have
18 just explained to you?

19 THE DEFENDANT: No, Your Honor.

20 THE COURT: Have you discussed with your lawyers
21 whether you should or should not testify?

22 THE DEFENDANT: No, not really.

23 THE COURT: All right. Then I would want you to take a
24 moment to speak with your lawyers about that.

25 THE DEFENDANT: No, I'm ready.

1 THE COURT: I need for you to speak with your lawyers
2 about that.

3 THE DEFENDANT: I want to testify.

4 MR. COOK: Okay. He wants to testify.

5 THE DEFENDANT: I just did.

6 THE COURT: All right. And, Mr. Motts, so do you feel
7 the need to want to speak with your lawyers anymore about
8 this decision to testify?

9 THE DEFENDANT: No, not really, Your Honor.

10 THE COURT: All right. And so, Mr. Motts, is it your
11 decision to testify in this case?

12 THE DEFENDANT: My own.

13 THE COURT: All right. All right. I will find that
14 the decision to testify has been made freely, voluntarily,
15 knowingly, and intellectually by him.

16 And, Mr. Motts, nobody's threatened you or promised you
17 anything in order to get you to make this decision to
18 testify?

19 THE DEFENDANT: No, they have not.

20 THE COURT: And that has been freely and voluntarily
21 made?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. Then we will both take a short
24 recess, and we'll come right back, and we'll let you
25 testify.

1 okay?

2 THE DEFENDANT: All right.

3 THE COURT: Step---

4 SOLICITOR BARNETTE: There is one matter we need to
5 discuss with Your Honor before he testifies.

6 THE COURT: You -- on the record or---

7 SOLICITOR BARNETTE: We can do it in the back.

8 THE COURT: Okay.

9 (WHEREUPON, the Defendant's rap sheet was marked as
10 Court's Exhibit No. 5 for identification purposes only at
11 this time.)

12 (WHEREUPON, a short recess was taken at this time.)

13 SOLICITOR BARNETTE: May it please the Court, Your
14 Honor.

15 I know we had a brief conversation back in the
16 chambers. What the State would like to do -- Your Honor,
17 I've marked as Court's Exhibit 5 is the Defendant's rap
18 sheet.

19 In this case, Your Honor, he has convictions from --
20 not that I'm asking to introduce the convictions. I know
21 they're well too remote from that standpoint. But he was
22 convicted of assault on an officer and given a three year
23 suspended to nine months and final two years probation.
24 Restitution to the Sheriff's Office. And that -- also had
25 an interference with a police officer and resisting arrest.

1 so, looks like a multiple, I guess, but under that and
2 the Federal Law, 18 U.S. 922(g) section code under the
3 federal code, he is not suppose to be able to possess a
4 weapon. I, I would obviously like to ask him a question
5 that he's -- that he understands that he wasn't suppose to
6 be possessing a weapon under federal law.

7 THE COURT: And I believe that I shared with the
8 attorneys that my position right now is that it would be
9 unduly prejudicial comparing it to the probative value of
10 it. However -- so, I, I would not allow it just based on
11 pre-examination of the witness about that. I would not
12 allow that to be gone into. But it may be that, during the
13 course of the examination or cross-examination of the
14 witness, that a door might be opened by the witness that
15 would change the court's opinion that that, in fact, could
16 be used or the fact that it's a potential violation of
17 federal law it could be used.

18 SOLICITOR BARNETTE: Thank you, Your Honor.

19 THE COURT: Anything else?

20 MR. COOK: No, Your Honor.

21 THE COURT: All right. Let's bring the jury in.

22 (WHEREUPON, the following takes place within the
23 presence of the jury.)

24 THE COURT: Is the, is the defense ready to call their
25 next witness?

1 MR. COOK: Yes, Your Honor.

2 Defense calls Mr. Eddie Jerome Motts.

3 THE COURT: Sir, just come right up here and let the
4 Clerk of Court swear you in.

5 THE CLERK: Please raise your right-hand. Place your
6 left-hand on the Bible.

7 THE DEFENDANT: I'm not gonna be swearing on that
8 Bible.

9 THE CLERK: Okay.

10 EDDIE MOTTS, having first duly
11 affirmed, testified as follows:

12 THE CLERK: Okay. Watch your step.

13 THE COURT: Watch your step, sir, and have a seat in
14 the chair, and pull the microphone up to you.

15 THE WITNESS: Yes, sir.

16 DIRECT EXAMINATION

17 BY MR. COOK:

18 Q State your full name for the record please.

19 A Eddie Jerome Motts.

20 Q Where do you reside, Mr. Motts?

21 A [REDACTED] Hammett Street.

22 Q And where do you work at?

23 A At -- right now I do -- I use to work as an engineer
24 and industrial piping Denire (phonetic). I read blueprints
25 for GE Nuclear systems, and I also done engineerings on

1 refrigerations all over the United States. And right now
2 though I'm not employed because of the accidents I've had in
3 my past.

4 Q Okay. And what type, type of accident have you -- did
5 you have?

6 A Well, I fell, fell 35-foot off of a frozen scaffold,
7 and I ended upside down on my head. It broke my back in
8 three places, and---

9 Q Okay.

10 A And --.

11 Q Is that what caused your disability?

12 Are you on disability?

13 A That was the main one, yeah.

14 Q So, you're on disability, social security disability---

15 A Right.

16 Q ---right now?

17 A Yeah.

18 Q And have you had any other accidents?

19 A Yes, about three years ago, four years ago maybe, about
20 four or a little -- maybe a little over -- longer than that
21 I fell around 62-foot from a, a new deer stand I had bought.
22 I put it in an oak tree and climbed the tree and I went
23 around 62-foot. And so whenever I got ready to come down,
24 it dropped me a foot -- at least three up to -- and dropped
25 me out. And whenever I went down, I went to the side and

Eddie Motts - Direct examination
By Mr. Cook

1 it -- my head went up against the tree right there where
2 that scar is and see it broke my skull right through there
3 --

4 Q okay.

5 A -- and busted all my, all my bones that come through my
6 legs and my ankles. Broke my feet off, crushed my feet, and
7 broke my ankles off, and the bones come there, and I broke
8 my knees off, and, right knee, it ain't got no knee at all.
9 It's just steel and bones all the way out, and the whole
10 knee, it was shattered, and my feet.

11 Q okay.

12 A So, yeah, I ain't in the, in the best shape in the
13 world, no.

14 Q How long were you in the hospital for that?

15 A I was approximately -- in the hospital for I believe --
16 I stayed in a coma for around six months and then, after I
17 come out -- well, I mean after I come out of the coma, well
18 then they started working on my legs and all that trying to
19 get them back right, and well -- what they do is they could
20 and then -- so they did -- I stayed, I stayed in there for
21 probably about a year or maybe a little over or somewhere
22 along in that area.

23 Q And did you have a head injury also you say?

24 A Yeah, I cracked my skull and had some bleeding all over
25 my brains and stuff.

Eddie Motts - Direct examination
By Mr. Cook

1 Q And you have a history of taking medication, correct?

2 A Of course I do.

3 Q Okay. Could you tell me what medications that you are
4 on right now?

5 A Right now -- some of the medicines that I've tried was
6 like hallucinogenics. I can't handle that. Just sort of
7 like a LSD or acid.

8 Q Who prescribed you that?

9 A The Parkinson's specialist and they have real bad trips
10 all the time on them. So, yeah, I wouldn't take them.

11 Q Okay. Do you remember when you were diagnosed with
12 Parkinson's?

13 A Probably somewhere around -- I'm gonna say since I've
14 been locked up, it's probably been about eight, maybe nine,
15 maybe nine years ago I'd say. I'm not real sure.

16 Q Okay. Just -- could you, could you tell me what --
17 you, you have Parkinson's.

18 Could you give us some effects of that disease?

19 What does Parkinson's cause in your case?

20 A As, as time goes on, the hallucinations, and the
21 shakes, the shortness of breaths, and the, the brain can't
22 really absorb a lot as far as people. They get -- I get
23 agitated real good -- quick, and I just can't handle stupid
24 people---

25 Q Is---

Eddie Motts - Direct examination
By Mr. Cook

1 A ---or people in general. They don't make -- they don't
2 have to be stupid.

3 Q Is---

4 A I mean people in general.

5 Q Does the effects of -- that you experience, is it worse
6 or better when you're in a crowd of people?

7 A Nah, I have to get by myself. I can not stand to be
8 around people really.

9 Q okay. Could you describe some hallucinations that
10 you've had?

11 A I have some good ones, beautiful ones, and then I have
12 some that's damn ugly, and the degree of graphic that --

13 Q well, could you describe---

14 A -- anybody shouldn't have.

15 Q could you describe some?

16 A I have a lot about cats, and I also have all -- some
17 about giant eagles, and they're beautiful. I mean and
18 they're real. Like being a scientist. we, we study them
19 because of the -- where they're -- they ain't many of them.

20 Q And that's an eagle you---

21 A Yeah, eagle. Anything that's in, in that decline of
22 state, you know.

23 Q okay.

24 A The eagles and---

25 Q At, at the time -- you -- you've said you have

1 hallucinations.

2 Do you know, know that you're having hallucinations at
3 that time?

4 A No, you can't distinguish them. Sometimes they're real
5 just -- to me, this right here might be a damn
6 hallucination. Hello, ladies and gentlemen.

7 Q And---

8 A I mean really?

9 Q And you said that you were observing these giant eagles
10 with a scientist?

11 A Yeah.

12 Q Okay. And, and what were you doing?

13 Do you, do you recall?

14 A Well, I was, I was out -- I had -- I was hired to find
15 the eagles --

16 Q Okay.

17 A -- for the scientist and all that cause I was a tracker
18 and all that. So, whenever I went to find them, I tracked
19 them and I found them and then they was a big pine tree,
20 huge pine tree running close to pine line. And the eagle --
21 there's one sitting in the nest on top of a huge pine.
22 There was a big really than any of the other trees around
23 and all that.

24 So, with that, there's one flying off in the distance,
25 and then there's another one. He -- it was coming in and it

1 was flying and it throwed it feet out to land. whatever it
2 started throwing its feet out to land, the breeze was barely
3 blowing. But then whenever he gets to the top of that pine,
4 he just bolted the pine and all over. And it hit the
5 ground.

6 so, me and this scientist, we went to see if they's
7 eggs in it or whatever in it, chicks, whatever the sole
8 could save if we could within in the eagle mess around and
9 cause---

10 Q Did, did you later find out this is not real?

11 A Yeah. Yeah. I, I do that a lot down there in the
12 cell. I always at -- think of somewhere. I said nah, it
13 can't be cause I ain't got nothing but four damn walls of
14 concrete.

15 Q Has, has anybody been with you when you've had these
16 hallucinations?

17 A Yeah.

18 Q Could you give me a couple of examples who was with
19 you?

20 A Boyce Childers and really Ben and Betty. She'd been
21 around. And other side -- other -- I've got to where though
22 I have them so many and so graphic and stuff I try not to
23 tell nobody --

24 Q Okay.

25 A -- because of where I -- what -- I'm scared that other

Eddie Motts - Direct examination
By Mr. Cook

1 people will see it and say well then, you know, we don't
2 want to be around him cause of what is going on with him.
3 So, I just play it off --

4 Q okay.

5 A -- with -- if you'd say that.

6 Q Did you stop telling Betty, your---

7 A Of course.

8 Q ---wife, about this?

9 A I've started -- I stopped really telling any damn body.

10 Q why did you stop telling Betty in particular?

11 A Because it scared the hell out of her. I mean I, I
12 admit that. Hell, they don't -- they scare me.

13 Q All right.

14 A I mean no, it was a damn nightmare all the time besides
15 other people. Other people is a whole new nightmare.

16 Q Do you ever feel paranoid?

17 A I stay -- yeah, all the time.

18 Q And let me ask you this.

19 The day that -- of this incident, where were you at
20 prior to going to Harold's?

21 A I was over at Ben's.

22 Q Okay.

23 A Hendricks.

24 Q What was you -- what were you doing over there?

25 A I went over there to help him some because he had had

1 some knee replacements and all and I always help. I done
2 throughout -- I'd always go down whenever I could cause he
3 was an old man. He couldn't do stuff. So, yeah, always
4 called me to do it and him being there too because then he
5 couldn't get around because of his knees and all that. So,
6 I'd go over there and help him out and stuff because they
7 lived by their self --

8 Q Okay.

9 A -- and they didn't have nobody to help them.

10 Q How long were you at Ben's on the day of this incident?

11 A I don't really -- I can't recall no time cause it
12 wasn't important to me.

13 Q Okay. Were you having a good time with Ben?

14 I mean did you -- it wasn't a bad time. I know -- do
15 you remember anything about it at all?

16 A Yeah, I mean I sat and talked to him and all that and
17 then --

18 Q Okay.

19 A -- I just --.

20 Q Okay. And you left there and went straight to
21 Harold's?

22 A Right. Correct.

23 Q Let me ask you this.

24 When, when you first walked into Harold's, what did you
25 do?

- 1 A I sat down on the stool and then, Kathy O'Bryant, she
2 come in -- over there. She was already sort of there.
3 Well, she was coming in and I started getting on the stool.
4 That -- oh, there's that guy down to the other -- left right
5 there beside of me. He asked Kathy, he said, Kathy, let's
6 me and you go get married today, and she said nah, I ain't,
7 I ain't the marrying kind. And then so I told her just -- I
8 said well, just let me have a kiss cause I knowed her for
9 years ever since she was a little, her and her sisters and
10 all that, and then she said no, my boyfriend might get mad.
11 Q Okay.
12 A And then she started cutting her eyes back at Mr. --
13 Tony I guess. Tony.
14 Q Okay. So --.
15 A Several times.
16 Q So, what were you doing you -- while you were sitting
17 at the bar?
18 A Well, then, no, I just told her, I said, well, you
19 know, give me a beer and I said I'll drink that. So, I got
20 a beer and I started watching the race. The race was on.
21 So, I started watching it, and then, after we got -- after I
22 told -- I told Kathy, I said you don't know who I am, do
23 you, and she said nah, hu huh. I said Jerome Motts and she
24 said ah, Jerome Motts, and I said yeah. And then I got to
25 talking to her, and I was telling her, you know, cause I

1 knowned her family, her sister, and all the brothers and all
2 that.

3 So, we got to talking about how like her daddy had got
4 killed or died. The Highway Patrol was chasing a Mexican
5 out of Chesnee and run, hit him -- hit her in the back end
6 and it flipped the SUV around. Whenever it started
7 flipping, well they throwed her partial of the way out, and
8 then it started flopping her with the van. Killed her and
9 then her brother. You know, we talked about him, you know,
10 that Ben got killed. And then so we started talking about
11 the young -- one of the youngins. He got killed or died
12 rather, and then it wasn't long after that -- after Kathy
13 said my name that -- and the one there in the checked shirt,
14 then he started with him contemplating on that I always
15 carried a gun or a knife in my boot or on me.

16 Q All right. Let me ask you this.

17 A All right.

18 Q Did -- so, you were having -- you were just sitting at
19 the bar kind of reminiscing with the bartender --

20 A Yeah.

21 Q -- cause you knew her?

22 Okay. And so you just described some things that you
23 said was going on around you.

24 Did you notice that the -- did the bartender do
25 anything out of the ordinary at that time?

1 A well, after, after that got started, then the one said
2 he owns the bar, well then he gets up. He, he calls her
3 back there. So, she gets another beer and carries it back
4 to the table to him I guess. That's where I sort of cut my
5 eyes, and that's where she was headed with another beer.
6 And she bent down and started whispering in his ear, and
7 then it wasn't long she come back up there and went back
8 around the bar, and got something out from under the bar,
9 and she had something -- two things in her hand.

10 she come back around and got in behind my stool, and
11 she bent down -- I could see her in the corner of my eye,
12 her bending down, bending over, and she was putting
13 something under my stool.

14 Q And what---

15 A what---

16 Q ---was it?

17 A That -- I thought it was -- it was a billfold and a
18 pistol.

19 Q Can you describe that pistol?

20 A The pistol, on the plastic handle, it had a white
21 button looking like thing on it with something silver
22 speck -- spots on it.

23 Q okay.

24 A I don't know exactly what was what, but it was dark to
25 me in there anyway.

1 Q okay. Did -- and what happened to that gun?

2 A I don't know. She come back and got it --

3 Q okay.

4 A -- that, and the billfold and took it back. I don't
5 know. And then she brung it around, and she handed it to
6 the blonde headed lady that was done stopped -- stood and
7 she got up and went around to the bar there. And then she
8 come around, then hand it to her, and then she went on down
9 and then Kathy went back into the eating place.

10 And then it wasn't long he comes up and started telling
11 me to leave, and I told him, I said, man, I ain't, I ain't
12 done nothing, and then he, he started -- he kept on and on
13 and on. Started cussing me and all that, and then I heard
14 Ramsey start hollering fuck that damn Jerome, that son of a
15 bitch. I said man, you know, and I knew, I knew right then
16 cause he kept ohh, ohh, and so I got to thinking.

17 So, he might not have knew, knew it, you know, and then
18 so, finally, whenever he told me to leave, I got up and I
19 put both my arms on the -- like on the stool there, turned
20 around, and I seen him. whenever I seen him, you know
21 what's what, and I don't have to sit here and tell.

22 Q So you stood up from the bar, and at that time had
23 anybody threatened to harm you?

24 A Oh, I could tell cause they'd been back there talking
25 about guns and all that stuff, and I heard him say that he

Eddie Motts - Direct examination
By Mr. Cook

1 had a gun on him. And then he said he had some under the
2 counter up there. I said well, damn, I said here I am, I'm
3 sitting here, I ain't done nothing, and then they want to
4 start that crap with me.

5 Q okay. And so has -- you had an altercation with
6 Mr. Ramsey before?

7 A Oh, yes.

8 Q And that was two---

9 A Me and him, we go way back.

10 Q 2013?

11 A Somewhere about that area.

12 Q okay.

13 A why don't you smile for the camera?

14 Q Did you, did you hear anyone say behind you that was
15 threatening to kill you?

16 A Oh, yeah, they was talking about it. Him and I don't
17 know. I didn't, I didn't really pay attention -- that much
18 attention to them because I didn't want to turn around and
19 look at them cause I know they was -- I know what they was
20 already planning, and everybody in there was siding.

21 Everybody was in there with him siding. I don't care what
22 nobody says. It was all, all a gang, get together to where
23 that they could murder me, and I know it beyond a shadow of
24 a doubt.

25 Q So, did you feel intimidated?

1 A Oh, yeah, I did.

2 Q And you felt threatened?

3 A I know I was. It ain't that I felt nothing. I knew.

4 Q Did, did you have that gun on you when you first walked
5 in that bar?

6 A I always carry it.

7 Q Okay. So, when you first sat down at -- just to have
8 your first drink, you had that gun---

9 A Yes.

10 Q ---with you?

11 A I've carried one for almost close to I'm gonna say 56
12 years, and I ain't never had a incident like that that I've
13 had to use it.

14 Q Did anybody on that day from the police try to
15 interview you and ask you what went on?

16 A You talking about during or after?

17 Q Well, after. After. So --.

18 A Now, after the fact, the one that was up here --
19 whenever y'all started within and, and all within I was
20 standing there, and he was pointing the gun and all
21 within -- whenever -- I couldn't -- so, I knew I had to
22 disarm him cause the law had already pulled up. I seen the
23 law whenever they was pulling up there at the back-door
24 there through the glass.

25 So, he was standing there and he was trying to eject

Eddie Motts - Direct examination
By Mr. Cook

1 another shell, get another shell in the gun. So, whenever
2 I, I shot, I shot him in the lower part of the right-hand
3 stomach, and then the second shot, he didn't flinch whenever
4 I first shot him. So, the second shot I put in-between his
5 brisket and his tit so that it -- and whenever I shot him, I
6 seen the bullet go all the way through and come out and
7 lodge in the card where you take the cards or gambling cards
8 or whatever. And, yeah, I use to go up there a lot -- some
9 time another with some other people. We gambled and then
10 he'd do our payoffs, whether he knows it or not.

11 Q Did you intend to kill anybody that day?

12 A No, that was the farthest thing -- killing anybody is
13 the farthest thing ever in my mind. I don't, I don't
14 even -- I don't want to die with nobody else's blood on my
15 hands because the Bible says don't have no blood on your
16 hands if you -- when you leave.

17 Q Well, Mr. Motts, where did you get that gun at, the one
18 that the---

19 A I bought---

20 Q The one---

21 A I bought that from June Sharbar (phonetic) years ago
22 for -- years ago really and he use to be -- work with the
23 CIA and he use to go up there to New York with the FBI. And
24 he got it from some FBI agents in the CIA, and he brung it
25 back, and I bought the damn thing.

1 Q Okay. Let me ask you just a few more things here.

2 Were you interviewed by a doctor employed by the State
3 of South Carolina?

4 A Yes, I was.

5 Q Okay. But nobody else from the police department has
6 ever interviewed you?

7 A If they did, I done got so hyper and all that that I
8 couldn't really pay no attention.

9 Q I want to show you one picture and I want you to see if
10 you can identify it -- what this is for us. Somebody took
11 my picture.

12 Judge, I want to publish Defense Exhibit No. 14.

13 THE COURT: All right.

14 MR. COOK: It's already entered in evidence.

15 THE COURT: All right.

16 MR. PRUETT: Can you turn that light back on?

17 I think we can see it better.

18 THE BAILIFF: Thank you.

19 You can see it better?

20 MR. PRUETT: Yes, thank you.

21 MR. COOK: Okay. Your Honor, can he -- can the witness
22 step down so he can this?

23 Can you see that?

24 A Not real good.

25 Q All right. You can step down just a minute.

Eddie Motts - Direct examination
By Mr. Cook

1 A (WHEREUPON, the witness comes down from the stand.)

2 THE COURT: Now, Mr. Motts, you're stepping away from
3 the microphone. So, when you speak, speak up loud enough so
4 that that very last juror over there can hear you, and also
5 the gentleman behind you over here, and the court reporter
6 can hear you.

7 THE WITNESS: Okay, Your Honor.

8 Q Is, is this you?

9 A Yes, it is.

10 Q What's that?

11 A It looks like my finger. I don't believe at that time
12 I had pulled---

13 SOLICITOR BARNETTE: Judge, can we approach---

14 Q That's your---

15 THE COURT: Approach the bench.

16 A I may---

17 THE COURT: Sir, give us one second.

18 (WHEREUPON, a bench conference was held out of the
19 hearing of the jury at this time.)

20 SOLICITOR BARNETTE: Your Honor, can I move those
21 items?

22 THE COURT: Yes, sir.

23 A Now, I'm just holding my hand up there telling him
24 that -- I had told him several times that I needed a cab
25 cause I had walked outside, and I couldn't hardly keep my

1 footing real good. So, I had told him that I needed to get
2 a cab that he would not do it. And so I -- that's one thing
3 that made me mad at him because I told him, I said all you
4 got to do is call me a cab and I'll leave.

5 Q NOW---

6 A So---

7 Q Okay. So, what are you doing right there?

8 A I'm telling him if he'll call me a damn cab.

9 Q what are you doing?

10 Not saying.

11 what are you doing?

12 A I'm pointing at him---

13 Q Okay.

14 A ---cause I was asking him why---

15 Q what's---

16 A ---has he got a damn gun.

17 Q what's he doing?

18 what's he got in his hands?

19 A He got a damn gun.

20 Q Okay. You can step back up.

21 A (WHEREUPON, the witness returns to the stand.)

22 MR. COOK: One moment, Judge.

23 (Pause.)

24 Q Mr. Motts, I just have a few more questions for you.

25 Did you ever threaten anyone that day?

Eddie Motts - Direct examination
By Mr. Cook

1 A No.

2 Q why did you shoot Mr. Ramsey?

3 A Because he was trying to -- he was trying to kill me
4 cause I heard him start with before it ever got started, and
5 then they would -- he didn't -- after they searched -- after
6 I got through drinking alcohol, then that's whenever they
7 got brave. Until I had drank that alcohol, prior to, to
8 that, whenever that he would -- Ramsey would try to attack
9 me, within -- I hadn't had no alcohol, and I whooped his
10 ass. And so, after that, within -- he caught me drinking --
11 he told me one time before, now this is him, he told me one
12 time before---

13 SOLICITOR BARNETTE: Your Honor, I'm gonna object.

14 THE WITNESS: well, I don't care what you object to.

15 THE COURT: sir? sir? Stop, sir.

16 THE WITNESS: Okay.

17 THE COURT: Yes, sir, the objection?

18 SOLICITOR BARNETTE: I object, Your Honor. Hearsay at
19 this point in talking about events not even related to this.

20 THE WITNESS: well, he asked---

21 THE COURT: sir?

22 THE WITNESS: Said---

23 THE COURT: sir, I need, I need to make a ruling.

24 THE WITNESS: Okay.

25 THE COURT: Okay. All right. I'm gonna allow it in --

1 this testimony briefly.

2 Go ahead.

3 MR. COOK: Yeah, thank you, Judge.

4 So, you were saying why you shot Mr. Ramsey.

5 A Yes.

6 Q And had you had a -- you've said you've had a prior
7 altercation with him. You were about to say something---

8 A Yeah. well---

9 Q ---he had told you.

10 A well, say -- but he had told me one time before, he
11 says no matter what you do or how old you get or how bad
12 your health you in, he said wherever I find -- see you -- he
13 says I'm gonna beat the hell out of you or kill, kill your
14 ass, old ass. And so he tried that, that -- at that time
15 years ago. And so it didn't really end up too good really.

16 Q Okay. But you never threatened anyone this day?

17 A No, that day I hadn't done nothing till he had come in,
18 and they got to -- in the collusion of --.

19 Q Okay. So, you and Ramsey, you have a past. So, what
20 happened this day happened with him, and that was -- were
21 you done at that point?

22 Were you through cause your beef was with him?

23 A Yeah, if had he never -- if he had never pulled that
24 gun, I never would of fooled with him.

25 Q Who pointed---

Eddie Motts - Direct examination
By Mr. Cook

1 A I wouldn't.

2 Q who pointed the gun at who first?

3 A I had heard that gun several times in behind me trying
4 to -- he was trying to shoot me in the damn head, and I knew
5 what it was, and I had turned around one time, and seen him,
6 and he pulled it back down like that, and I seen him on
7 the -- the plastic handle of it, and I seen the two wings on
8 the handle. And it -- the, the pistol had looked like a, a
9 cheap looking blue in that you get from just an old cheap
10 gun shop or wal-Mart or something like that to where you
11 could fix them up, and then it's just like a blue sheen.

12 Q so, if that gun had not misfired, would he have shot
13 you?

14 A Yeah, he'd of killed me.

15 Q And why would you shoot him?

16 A Because it -- the law was coming in, and was -- as soon
17 as I seen the law coming up, I knew that if I didn't try to
18 disarm him that he would -- he would take my life and I
19 wouldn't be -- well, I didn't, I didn't try to kill nobody.
20 So, I just shot to -- trying to -- cause I didn't have much
21 to shoot at with him because his torso would -- head was the
22 only thing above the bar.

23 MR. COOK: Okay. One moment. One second, Your Honor.

24 (Pause.)

25 Q Mr. Motts, did you hear somebody behind you?

1 Did you hear anything in that---

2 A Yes.

3 Q ---bar that day that --?

4 A The -- prior to me shooting him, whenever I was up
5 there and I was getting ready to, they's several people to
6 the left-hand corner of me there, and somebody told, told --
7 said Motts, you better shoot him because, if you don't, said
8 he's been trying to kill you. So, that right there
9 automatically -- I, I shot. I shot him in the low -- the
10 stomach, the lower part of the abdomen, and then jumped up
11 cause he didn't flinch or nothing. I just went ahead and
12 dropped the gun. So, I just jumped on up and hit him
13 between the tit and the brisket there.

14 Q So you heard some voice behind you saying---

15 A Yeah, it was a man. Yeah.

16 Q It was?

17 A Yeah.

18 Q Did you know---

19 A I did not -- I did -- I, I just seen a few people back
20 there. I didn't know who it was.

21 SOLICITOR BARNETTE: Your Honor, I'm gonna object to
22 this line. He's getting in to -- it's hearsay.

23 THE COURT: All right. I'll, I'll sustain the
24 objection.

25 MR. COOK: All right. Judge, it's what he was

Eddie Motts - Direct examination
By Mr. Cook

1 perceiving at the time.

2 THE COURT: All right. If you're gonna argue, we have
3 to send the jury out if you want to argue.

4 SOLICITOR BARNETTE: Let me ask him another question.
5 I'll withdraw that one.

6 You said you heard a voice behind you?

7 A Right.

8 Q Was there anybody behind you?

9 A Yes, there's several women, and maybe a couple of men.
10 They was all wondering where his bullet was gonna go if it
11 went off cause they was sort of in the -- off to the
12 left-hand side of me, behind me cause they was scared
13 because I'd already been shooting. I shot through the front
14 windows of the place at him, and then I shot at him twice,
15 and shot at Ramsey three times cause he had done went out
16 the door and started down the front of the building through
17 the glass. About a foot and a half high off the floor
18 through the glass was there was shot all the way across.

19 Q Okay. Okay. Thank you, Mr. Motts.

20 I don't have any more questions, Your Honor.

21 Answer Mr. Barnette's questions.

22 A Yeah, I will.

23 SOLICITOR BARNETTE: May it please the Court, Your
24 Honor?

25 THE COURT: Yes, sir.

1 CROSS-EXAMINATION

2 BY SOLICITOR BARNETTE:

3 Q Mr. Motts, how many drinks did you have at the bar?

4 A I had four tequila shots and chasing them with a --
5 dill pickle juice, and approximately one beer to start with,
6 and then later -- a little later, later on I had I think
7 another beer.

8 Q Okay. And what medications were you taking at that
9 time?

10 A At that time -- I usually don't take no medications
11 really if I go to drink. I take a stomach tablet and I'll
12 take the Hydroxine (phonetic) and the stuff like that to
13 just to -- because I got where I had a piece of metal that
14 went through my leg. I had -- I got progressive psoriasis.

15 Q Was you taking Xanax also?

16 A No, not at that time I hadn't.

17 Q Okay.

18 A No.

19 Q Okay.

20 A And whenever I fell out of the tree, excuse me, but
21 whenever I fell out the tree, I did not have no kind of
22 medication in my system.

23 Q Okay. All right.

24 A They done the toxicology, toxicology report on me and
25 I, I do drug tests all the time.

1 Q I understand. Yes, sir. You were saying -- I know you
2 was talking about the LSD and the acid or whatever. You
3 know -- you didn't want to take that because you didn't like
4 it or didn't -- you knew the test didn't do any good for
5 you.

6 Is that right?

7 A The hallu -- hallucinogenics?

8 Q Yes, sir.

9 A Yeah. No, it's not that they're not good for you.
10 It's just that I don't -- I already suffer a lot of effects
11 from the Parkinson's, and the onset of the medicines just
12 add real strong -- the, the same stuff. I mean it don't --
13 it might help with some of the shaking or whatever, but as
14 far as the -- it's got to alter the chemicals in the brain,
15 and if something goes to altering the chemicals in your
16 brain, well then you got problems because you don't know
17 which way's up. You don't know which way's down, sideways,
18 nothing else. Nothing ain't real to you or nothing.

19 Q Okay. And you said you was carrying a pistol that day?

20 A Yeah.

21 Q And was that State Exhibit No. 1, the pistol I showed
22 you from (indiscernible)?

23 I did show you.

24 Is that your gun?

25 A Yep.

1 Q okay.

2 A It sure is.

3 Q And that was State Exhibit No. 1.

4 And where was you carrying that gun out with you?

5 A what -- are you talking about on me?

6 Q Yes, sir.

7 A No, I always carried it usually in my boot or down in
8 my ass under my shirt.

9 Q okay. Under your shirt is where you was carrying it?

10 A Yeah, I do. Sometimes I carry it in my boot.

11 Sometimes I'll carry it in my back with my shirt pulled down
12 over it.

13 Q where was you carrying it that day?

14 A I had it in my -- in -- down in my belt so that -- I
15 always, I always hide it. I don't -- I ain't got a habit of
16 showing nobody my gun.

17 Q But where did you have it that day?

18 A I had it in my belt.

19 Q where at, sir?

20 I'm sorry.

21 A In my back.

22 Q In your back.

23 okay. So, you stayed there for two hours with, with it
24 behind you in your back where people---

25 A And everybody looking at my ass seeing if they can see

1 it because he knows I had said -- always said I -- he knew I
2 carried one, Ramsey. And then, all of a sudden, everybody
3 else was back there looking at my ass to see if they could
4 see a gun before they started.

5 Q You realize Mr. Ramsey didn't get in there until 7:03
6 that day -- that night?

7 A Huh?

8 Q He didn't get there till 7:03, 7:03 that night.

9 A That was the main one that started it. So, I mean I
10 don't, I don't know what time it was. Time is not
11 irrelevant (sic) to me.

12 Q uh-huh. (Affirmative).

13 A If that -- you know, it's just not in my character --
14 category to be watching a watch, watch all the time.

15 Q okay. Did -- you drove a truck that day?

16 A Yeah.

17 Q what, what kind of truck did you drive?

18 A I drove an F150. It was a, a, a Larax (phonetic) Ford
19 F150 with extended cab on it, two tone, blue and white, long
20 bed.

21 Q And you drove it from Ben's place to --?

22 A To -- yeah, to the, the bar up there.

23 Q why did you go to the bar that day?

24 A well, it was a nice day and I was just gonna -- haven't
25 seen a, a --.

1 Q And this was a Monday, right?

2 A Yeah.

3 Q And you said you watched a race that day?

4 A Yeah. Exactly what -- whenever I went in I was
5 watching the race.

6 Q When are the races?

7 You was talking about Nascar, right?

8 A It was on, was on TV, yeah.

9 Q Okay. And you sit down and you was talking to Kathy.
10 Is that right?

11 A That's correct.

12 Q I'm gonna show you some pictures, and just kind of put
13 them up on the screen.

14 Can you see from where you're at?

15 A Not real good, but maybe I can make --.

16 Q Can I ask you to stand right here if you would?

17 I believe you're gonna be able to see it from there.

18 A (WHEREUPON, the witness comes down from the stand.)

19 Q Thank you, sir.

20 Let me show you. This has been marked as State's
21 Exhibit 38.

22 Are you saying something to Kathy, the bartender, at
23 that time?

24 A Yeah, me and her is talking.

25 Q Okay. Why are you standing up and leaning towards her

1 in that sense?

2 A That right there is -- I'm not really sure. I mean
3 it's been 18 months ago and a few beers later or earlier --
4 before. I don't know really. I mean, I mean I knew her.
5 And so, like I said, I, I -- maybe she told me to lean over
6 there and talk to her. I don't know.

7 Q well, you realize you've been there almost -- this is
8 at 6:27. So, you've been almost there for almost an hour.

9 Are you---

10 A Yeah. Now whenever I -- I told her that -- one time I
11 told her that I'd like to sit there and let that alcohol run
12 around on me.

13 Q No problem. I mean that's seven---

14 A well, I mean just -- like, like I said, as far as
15 times, I don't really remember.

16 Q Uh-huh. (Affirmative.)

17 A But now -- now I did ask her if I could sit there and
18 drink that alcohol and it wasn't allowed, and I told him
19 that she said that I could sit there. And then he said
20 well, I'm telling you you ain't. So --.

21 Q well, over here's---

22 A I mean there ain't no voice on there. So, what I said
23 then I am not really capable of telling you.

24 Q Okay. I understand, sir, but these two gentlemen over
25 here, are they even looking at you?

1 A No, it looks like one of them there looking down at
2 whatever he's a doing there in that blurred up picture.

3 Q Uh-huh. (Affirmative).

4 A Not really sure what he's doing.

5 Q Well he's not looking at you, is he?

6 A No, absolutely not.

7 Q Okay.

8 A See the back on his hat turned around there?

9 Q Yes, sir.

10 A See where the bill is?

11 It's a pointed out at a 45 right toward the
12 (indiscernible).

13 Q Yes, sir. Let me show you State Exhibit 39.

14 Is that the first time Mr. Lipscomb came over and asked
15 you to leave?

16 A The first time he approached me -- Kathy wasn't even
17 there because, whenever he approached me, I don't know if
18 that's when it was or what. But now whenever I talked to
19 Kathy, whenever he approached me, she wasn't there cause I
20 had done looked to her to tell -- ask -- tell her -- ask her
21 that what I had told her that I could do, and then to tell
22 him that it was all right for me to sit there.

23 Q Well, I know the jury will have the video and
24 everything from there, but---

25 A Right.

1 Q ---at this point is he asking you to, to leave?

2 A I'm not sure if that's the first time or the second
3 time or done or when. I don't, I don't remember that
4 really.

5 Q okay.

6 A I mean I really don't. I mean without video -- I mean
7 without sound I can't tell you. I can't --.

8 Q I understand.

9 A Do you remember what you said then on that day, the
10 first thing you said whenever you got up?

11 I doubt it. So, I mean you know it's, it's a --.

12 Q Let me ask you about State Exhibit 40.

13 Is he still talking to you asking you to leave in that
14 picture?

15 A I don't even know.

16 Q And this is at 7:27:57 seconds.

17 Showing you State Exhibit 41, why are you pointing down
18 to Kathy?

19 A well, it looks like I'm putting a -- cigarette ashes in
20 an ashtray more than likely.

21 Q where's the ashtray?

22 A Right in front of me and the cigarette's right between
23 them two fingers.

24 Q Okay. Yes, sir. Let me show you State Exhibit 42.

25 what are you doing then, sir?

Eddie Motts - Cross-examination
by Solicitor Barnette

1 A Let's see.

2 Q who are you looking at?

3 A I don't really know. His head is at that -- at, at --
4 that lightbulb thing has got his head -- you can't -- them
5 pictures there, they so blurred up. I mean unless you went
6 back and let me look at the shirts. I mean you can't tell
7 who was with him.

8 Q okay. At this time Kathy's not there, is she?

9 A No. And it wasn't in that last picture she wasn't
10 there.

11 Q okay. I show you State Exhibit 44.

12 what are you saying now or what are you doing there,
13 sir?

14 A That's really and truly -- I can't tell. I mean I just
15 can't bring myself to remember every move I made on that day
16 at that time that it -- all that started.

17 Q Do you remember Mr. Tucker coming up to you and putting
18 his hand on your arm?

19 A Mr. Tucker?

20 Q Yes, sir, the gray haired gentleman sitting at the bar.

21 A No.

22 Q State Exhibit 45.

23 Are you walking out of the bar?

24 A I can't tell.

25 Q And you're sitting -- who is this right here?

1 A I can't tell.

2 Q Isn't that you, sir?

3 A That, that may be me he's walking -- got his arm up
4 around --

5 Q Yes, sir.

6 A -- and walking like that. But I do not like for no
7 damn body to touch me whatsoever in any place. You do not
8 suppose to put your hands on anybody no matter who you are.

9 Q Okay.

10 A So that man right there, he hit -- he was insulting me.
11 He didn't even have a right to put his hand on me.

12 Q But you did walk---

13 A Would you -- but wouldn't you not agree?

14 He wouldn't -- he ain't suppose to touch me.

15 Q Okay. I understand, sir.

16 State Exhibit 45.

17 The -- did you walk out and leave?

18 Is that right?

19 A I do not leave. I walked back out through the parking
20 lot there, 45. You can see me and them where I'm walking
21 out there. I turned around and come back, and I walked back
22 in, and I tell him to call me a cab. And he said hell no,
23 I'll call you the law. I said all you got to do is call me
24 a cab, and I said I'll leave -- I had money. I had spent
25 over a hundred dollars sitting in the damn place. I thought

Eddie Motts - Cross-examination
by Solicitor Barnette

1 I rented the barstool for a hundred dollars.

2 Q So, basically you were gonna tell them what was going
3 on?

4 A No.

5 why -- who?

6 Tell who what?

7 Q You're -- you spent a hundred dollars there.

8 You were gonna tell them what you were gonna do,
9 weren't you?

10 A No, absolutely not.

11 Q Okay.

12 A I mean I just thought he have a, a -- be more
13 considerate with me. I mean I didn't trying to enforce
14 no -- you know, like I told you, all they had to do was call
15 me a cab, and I'd go out and get it, and go on home.

16 Q Okay, sir. State Exhibit 46, have you left yet?

17 Are you there?

18 A I'm not really sure if I am or not.

19 Q Okay. State Exhibit 47.

20 Are you present there in the picture or you're out in
21 the parking lot?

22 A I don't know. I really don't.

23 Q When you went out in the parking lot, where did you go?

24 A I went to -- walked out through there at a 45-degree
25 angle to see if I could walk, and I come back, and then I

1 was staggering. So, I went there and told them I wanted to
2 get a cab.

3 Q Do you know how long you were in the parking lot?

4 A No. Time to make it to the railroad.

5 Q Yes, sir.

6 State Exhibit 48.

7 Is this you coming back into the bar?

8 A No, it looks like they got on overalls.

9 Q Okay. Let me show you another picture.

10 State Exhibit 49.

11 Who is that?

12 A Oh, I can't see.

13 Q But did you come back into the bar?

14 A Yeah.

15 Q Didn't you go back in?

16 A Yes, I did.

17 Q Showing you State Exhibit 50.

18 Are you talking to a man right there at the---

19 A I can't tell whether that's me or who it is.

20 Q Okay. Let me show you -- let me show, let me show you
21 the exhibit up close, sir.

22 Is that you pointing at the, the gentleman sitting at
23 the table?

24 A I ain't got my glasses. I can't see.

25 Q Okay. Do you need to get your glasses, sir?

1 A No, get the officer there.

2 Q okay.

3 A That's me standing there. What I'm doing I'm not sure.

4 Q Are you pointing at the gentleman sitting there?

5 A I don't even know who that is, if it's a person.

6 Q We can play, we can play the video for you if you want

7 me to.

8 A I mean but it -- I mean it probably be better than the

9 pictures. I mean I -- if it's better than that then, then I

10 know. If it's up closer. I mean I can't tell who that is.

11 Q okay.

12 A I mean that looks like a hundred yards away.

13 Q okay. If you would, just have a seat there, and I'll

14 get the TV out here, sir.

15 A (WHEREUPON, the witness returns to the stand.)

16 I mean I know I wasn't pointing a gun at that point in

17 time. You know, the only time I pointed a gun is whenever

18 I, I seen Ramsey stand there coming out through there, and

19 then I went toward him. And then he took off running soon

20 as he seen that gun, and he took off running when I -- I let

21 him run out the front door. And whenever he would cut back

22 down, run back down by the glass, that's whenever I ended up

23 shooting him in the leg, and then he was still standing

24 there right behind the bar trying to shoot me with a gun.

25 So -- his pistol. So, that's whenever I turned on him.

Eddie Motts - Cross-examination
by Solicitor Barnette

1 Q Yes, sir.

2 Your Honor, permission to publish -- permission to
3 publish No. 16, Your Honor?

4 THE COURT: Okay.

5 SOLICITOR BARNETTE: State Exhibit 16.

6 THE WITNESS: You want me to get right there?

7 (WHEREUPON, the witness comes down from the stand.)

8 SOLICITOR BARNETTE: Your Honor, where would you like
9 Mr. Motts to stand and see the TV?

10 THE COURT: well, he can stand down at -- by -- right
11 over there. He can stand right there in front of the table.

12 SOLICITOR BARNETTE: Okay. Mr. Motts, if you would,
13 stand right there. I'm gonna move this back a little bit
14 farther so -- can you see that okay, Mr. Motts?

15 A Yeah.

16 Q Okay. Is this you it appears right here?

17 A Yes, sir.

18 Q And at this time does different people talk to you and
19 ask you to leave the bar?

20 A Nah, I think it was mostly Tony right there that sort
21 of toward the -- behind my shoulder as well.

22 Q What happened at that point?

23 A I was talking about him calling me a name, calling me
24 names while I was up there. Asking him to let me -- call me
25 a cab.

1 Q Now, who, who was calling you names supposedly?

2 A Ramsey.

3 Q Okay. And what's Mr. Ramsey look like he's doing right
4 now?

5 Does it appear that he's on his phone?

6 A Huh?

7 Q Looking down.

8 Is he looking at you?

9 A He probably looking down. I wouldn't -- I don't like
10 to look if somebody's mad at me.

11 Q Okay. I understand.

12 Now, is this Mr. Tucker leading you out of the bar?

13 A I don't know him.

14 Q Did this gentleman lead you out of the bar or help you
15 out?

16 A I'm not really sure who he is or what he was doing
17 there anyway. I don't remember Mr. Tucker.

18 Q Okay. But did, did this gentleman help lead you out or
19 go out with you?

20 A I don't know. I really -- you know, I don't think --
21 they wasn't nobody helped me out.

22 Q Okay. But does it appear that he went out with you?

23 A No, I don't know if he did or not.

24 Q Okay. Did you got out to the parking lot?

25 Is that right?

1 A Yeah. I guess, you know. I went down and walked out
2 through the -- sat -- my truck was all the way down to
3 the -- like if you looking in the back-door, it was down to
4 the far right of me. It was the truck and a white car down
5 there.

6 Q Yes, sir.

7 A I pulled down and there up in front of the place. The
8 steps and all, it was wide open at a 45-degree angle.

9 Q And are you not present in the -- you're not there at
10 the bar?

11 A No, not---

12 Q You're gone?

13 A See he give him another beer.

14 Q I understand.

15 A Yeah.

16 Q Now, do you drive your truck every day?

17 A No, not every day, no.

18 Q Did you drive -- I mean that's how you get around town
19 if you --?

20 A Whenever I'm up town, yeah, I usually drive every
21 night -- if I go up town, what time I do go.

22 Q Yes, sir.

23 A I ain't got a habit of driving, no.

24 Q I understand.

25 But you, you drive it to get around when you go

1 somewhere?

2 A Sometimes I will. If I ain't got somebody else either
3 drive me or I'm riding with somebody else.

4 Q But you drove yourself this day.

5 Is that right?

6 A That day I did, yeah.

7 Q Okay. And you're gone for a period of time, aren't
8 you?

9 A Yes, I guess. I'm, I'm not time -- I mean I don't
10 know. I mean I -- you know, I just knows (sic) I walked out
11 through there.

12 Q Okay. You know this gentleman sitting right here?

13 A I can't really see his face, no. No.

14 Q Okay. And is this the gentleman that walked to the
15 back-door with you?

16 A That's who everybody says he is.

17 Q Okay. Okay. So, you're still gone.

18 Is that right?

19 A I'm not in there for sure.

20 Q Now, this gentleman wasn't there when you were in there
21 before.

22 Is that right?

23 A I'm not sure really who all was in there. I really
24 can't say.

25 Q Yes, sir.

Eddie Motts - Cross-examination
by Solicitor Barnette

1 A He got a fuzz in his hands too now.

2 Q Now, is this you coming back into the bar?

3 A Yes, that's me.

4 Q Okay.

5 A I say they still got the cue stick laying up there.

6 Q Well, obviously you didn't feel threatened to come back
7 in the bar, did you?

8 A I was wanting him to call me a damn cab.

9 Is that too much for anybody to ask that don't like to
10 drive and drink?

11 I don't think hardly not.

12 Q Yes, sir.

13 Okay. So you---

14 A Do you drive and drink?

15 Q No, sir, I don't.

16 A All right. Neither -- nothing don't --.

17 Q Okay. What's going on here, sir?

18 A I am talking to or -- I don't know. I guess I'm
19 probably talking back to him telling him that -- I don't
20 know who I'm talking to.

21 Q I understand.

22 Kathy comes back out and tells you to leave, doesn't
23 she?

24 A No.

25 Q Okay. Well, why are you pointing at the fellow that's

1 sitting right there on the corner?

2 He wasn't there when you were there.

3 why are you pointing at that guy right there?

4 A Maybe he opened that mouth whenever she come up there
5 and started talking. If she was running hers, and then he
6 cut in, he gonna get talked to. I promise you.

7 Q okay. But he wasn't even there when you---

8 A No, but he might of opened that mouth while she was
9 there running her --

10 Q Yes, sir.

11 A -- if that's what she was doing.

12 Q All right.

13 A Like I said, I don't know. They ain't no voice at all
14 to these tapes, at least any we've seen. You can't hear
15 nobody saying no nothing in them too. All you do is see
16 people walk, walk, walk, sideways. That's the reason you
17 have TV with sounds on it.

18 Q Have you pulled out the gun at this point?

19 A I can't say.

20 Q okay. Okay.

21 A So, that guy right there in that hat with that checked
22 shirt, flannel shirt on, that was when he was asking me was
23 that me a while ago. No, that's that guy right there. That
24 dude right there, that's the one you was seeing earlier in
25 them other shots.

1 Q Yes, sir.

2 A Him -- cause he got a hat on just like mine, and he got
3 that flannel big checked shirt that you was asking me wasn't
4 that me.

5 Q okay.

6 A Now you see it's not me.

7 Q That's why I got the TV screen to make sure we're on
8 the---

9 A well, I'm just making sure you understand it --

10 Q Yes, sir.

11 A -- or trying to.

12 Q Now, do you have the gun in your hand there, sir?

13 A No, that's my left-hand. No, that's my right-hand,
14 but, yeah, I don't have that gun.

15 Q okay. well, Mr. Lipscomb's not behind the bar at this
16 point.

17 A well, I see him standing there.

18 Q Mr. Ramsey's in away from the table, is that right, or
19 got up from the table?

20 A Now there is more -- all that right there is crammed
21 together, they hell of a whole lot more room right there
22 than you looking at it on that film. I promise you that.

23 Q Yes, sir.

24 A There's a lot of distance between them. That right
25 there and that red bar right there.

Eddie Motts - Cross-examination
by Solicitor Barnette

1 Q Okay.

2 A And they got it crammed up there to where it looks like
3 they ain't even see in-between the two.

4 Q Yes, sir.

5 A It ain't like that.

6 Q Now, you have the gun in your hand right there pointing
7 at people, don't you?

8 A Now I'm not pointing at people. I'm fixing to. You'll
9 see me fixing to start to where -- to what's his name.

10 Q Mr.---

11 A Ramsey.

12 Q Mr. Ramsey?

13 A Yeah.

14 Q That's who you -- but you got the gun out at this
15 point.

16 Is that right?

17 A No, I can't see it. I do know I had it whenever I
18 walked toward him -- to him cause he was on the phone, and
19 then he looked down and seen the gun and he takes off a
20 running.

21 Q Right.

22 So, you pulled the gun at this point?

23 A That ain't whenever he started running.

24 Q Well, he's moving and then---

25 A I mean it's a little bit away from him.

1 Q Mr. Lipscomb's not even behind the bar yet, is he?

2 A No, not --.

3 Q Are you still pointing at Mr. Lipscomb having the gun
4 in your right-hand?

5 A well, I must be because everybody's running like hell,
6 ain't they?

7 Q well, yes, sir.

8 A They are.

9 Q And, at this point, Mr. Lipscomb reaches over, but you
10 can't see what he's reaching for, can you?

11 A I know. He's already told me what he was gonna do.

12 Q okay. But you got the gun on him.

13 You was the only person who showed the gun, didn't you?

14 A Do you -- can you see a gun in my hand there?

15 Q The jury will---

16 A okay. well --.

17 Q The jury can look at it and see.

18 A well, I mean if it is. But if you don't see, you, you
19 what -- can you make a verdict on something that you don't
20 see?

21 Q okay.

22 A That's like me. That's hallucinations.

23 Does that mean they're real?

24 No. So, I seen it. I seen it.

25 Does everybody else see it?

1 No.

2 Q But you already admitted you've pulled a gun at this
3 point?

4 A I didn't say I pulled it at that point. I don't know
5 whenever I pulled that gun really.

6 Q Actually it---

7 A Cause I done gotten mad. I mean you know.

8 Q So you were mad?

9 A Of course I was.

10 Q Okay. And Mr. Hudson -- does the gentlemen that you
11 said that was---

12 A Well, if I had a gun in my hand, those mother fuckers
13 would not come toward me.

14 Q Okay.

15 A They would turn around and be running their ass right
16 back over there with Randy.

17 Q Were they trying to get you to calm down?

18 A Well, look, a man with a gun, you can't talk to a man
19 with a gun in his hand.

20 Q Okay.

21 A How can you talk to a man with a gun in his hand?

22 Q Why did you grab that gentleman right there, the one
23 that's leaving the bar?

24 Why did you grab him?

25 A Pushing him out of my way.

1 Q So, you put your hands on somebody and they can't put
2 them on yours -- you?

3 A They've already started. They put their hand on me
4 first.

5 Q Are they asking you to leave?

6 A No, cause I got the gun in my hand now.

7 Q Okay. And Mr.---

8 A I ain't listen to nobody.

9 Q Okay. Mr. Lipscomb, well, didn't you point him out at
10 the table earlier?

11 A No, my, my left-hand is still -- I mean my right-hand
12 is still down.

13 Q Okay. Is Mr. Ramsey on the phone away from you?

14 A Yeah.

15 Q So, he's probably a good 30 feet from you in there?

16 A No, that bar ain't no 30-feet long.

17 Q How---

18 A It's hard to say. You can't tell -- that picture's
19 right there are very (discernible).

20 Q Okay. So, Mr. Ramsey don't have a gun, does he?

21 A I knew -- I know who he was. He was already talking to
22 what's his name right over there to get him to pull his gun.

23 Q Yes, sir.

24 A And I didn't know if he had a gun or not.

25 Q But Mr. Lipscomb hadn't pulled a gun, hadn't pointed a

1 gun at you, has he?

2 A I -- all I done, because it was dark in there, and all
3 I done was mostly hear, hearsay. I am not -- I went on what
4 they were saying and that's all I really wanted -- mainly
5 went on --

6 Q And then you---

7 A -- hearing the clicks of the gun whenever I was sitting
8 there at the bar. So, I mean it wasn't, you know -- I know
9 that I pulled a gun and I know I used that gun, but I also
10 know that he tried it before I did --

11 Q okay.

12 A -- and threatened me and all that. And whether you or
13 you can see in your eyes, I know when somebody's trying to
14 deliberately murder me.

15 Q okay.

16 A And I promise you, before I let somebody murder me,
17 I'll kill their ass and you-all can just send me straight on
18 out there.

19 Q Yes, sir.

20 A You don't believe me, you come over here and try it.

21 Q Yes, sir.

22 This gentleman right here, he just walks into the bar.
23 You've never seen him, have you?

24 He wasn't---

25 A I ain't never seen none of those people was in there.

1 Q okay. But you didn't---

2 A I didn't see them from them to jump on me. The only
3 one I knew that started anything, Mr. Ramsey right there.

4 Q okay.

5 A That was the only one that I had any beef with. Not
6 nobody else in that place.

7 Q so this---

8 A I don't know what you're trying to make it out to be,
9 but I do not have those -- I don't know them people. I
10 never have talked to them or nothing. So, I don't know.
11 So, they ain't no use messing with none of their names or
12 who I knew or nothing like that. It didn't happen.

13 Q well, I guess you answered my question. You don't know
14 who this guy is right here.

15 A I don't know none of them.

16 Q He just walked into the bar, right?

17 A I guess. I don't know.

18 Q why did you grab him?

19 A Cause he put his hands on me.

20 Do you not see him knock, knock the hell out of me?

21 Open your eyes. Watch him. Back it up and watch him
22 hit me.

23 Q Yes, sir, I will.

24 A And you gonna see why I grabbed him. You go threaten
25 me now, you get, you get what you give.

Eddie Motts - Cross-examination
by Solicitor Barnette

1 Q why did you tear his chain off and throw it?

2 A Cause he run into me like he did.

3 SOLICITOR BARNETTE: Your Honor, I'm gonna mark this.

4 You say he bumped the hell out of you?

5 A Yeah, see him knock me around, and that's the way I
6 could catch him and grab him.

7 Q okay. And so you can put your hands on somebody, but
8 nobody can put their hands on you?

9 A You run into me, I'll grab you. I promise you. You
10 don't need to do it.

11 Q so, you actually take his chain and throw it off of
12 him.

13 Is that right?

14 A You grab what you just -- if somebody's jumping on you,
15 you go grab whatever you can grab because you don't look and
16 see what, what it is.

17 Q And Mr. Lipscomb's just telling you to calm down?

18 A All he had to do was order -- I mean call me a cab.

19 Q Yes, sir.

20 Mr. Lipscomb still hasn't pointed a gun at you, has he?

21 A well, I knowed he had that gun. I could see it.

22 Q No, but I mean he never pointed it at you at this
23 point, did he?

24 A You see me?

25 I ain't pointed no gun at nobody, but I got a gun in my

1 hand. So does he. So, I mean, you know. I mean it -- he
2 had one and he already told me he was -- had one. I thought
3 he had one on him.

4 Q why did you start chasing Mr. Ramsey?

5 A He was running that mouth and cussing me and all that
6 to start with, and then whenever he was calling the law, I
7 just went ahead and I knowed what I had to, what I had to --
8 I let him do what I was gonna do and then that.

9 Q Not -- the jury's heard the 9-1-1 call.

10 A I don't---

11 Q He never said that.

12 what you just said he never said on the 9-1 (sic) call,
13 did he?

14 A what?

15 Q He never said what you just said. Said he was cussing
16 you and everything else. He was talking to---

17 A No, that was prior while he was sitting back there at
18 that table right back there with --.

19 Q why are you chasing him down and shooting him?

20 A I didn't chase him down and shoot him. I just walked
21 right towards the end of the bar, and then he was raising --
22 I run -- let him run outside and he took off down the
23 street. So, I just let him and shot him in the leg.

24 Q How many times did you shoot at him?

25 A I actually hit him the second shot.

1 Q okay. So, how many times did you shoot at him?

2 A well, I just showed him a wild shot, but there's one I
3 shot, but his leg was already behind us. I guess a 4 by 6
4 or something like that, and I hit the 4 by 6. And they just
5 like -- whenever I hit the 4 by 6 there, the other side of
6 the big window, when they reached out to the next one, his
7 leg hit about a, a -- 8-inches back this side of the
8 uprising, and you get a good side on the cash. So, that's
9 where I paid, the cash.

10 Q okay. So, you chased him and you shoot him.

11 Is that right?

12 A I don't chase him. It wasn't a chasing him. I just---

13 Q okay.

14 A ---went---

15 Q At this point, is this the first time Mr. Lipscomb
16 pointed a gun at you?

17 A Oh, no, hu huh. You, you might not see it, but he, he
18 has it.

19 Q okay. All right. I'll back it up a little bit.

20 A And right in there I stopped right in there. See right
21 there, and see there, I stopped.

22 Q And that's the first time he points a gun at you?

23 A See, I done fired three shots by that, that time right
24 there. Now watch him now, now that I get -- I'm fixing to
25 get him. One. Two.

1 Q You shot him where again?

2 A I shot him in the left side of the building. He didn't
3 drop the gun or nothing. So, then I jumped up and hit him
4 right there between the tit and the brisket.

5 Q So you hit him right here?

6 A About right in there.

7 Q What's right there, sir?

8 A Just a top part of your lung.

9 Q How about your heart?

10 A Your heart's on your left-hand side.

11 Q Okay. This bullet went in that side?

12 A Oh, yeah. I know. A lot of policemen don't shoot you
13 there. They shoot you in the heart cause they was trying to
14 shoot to kill.

15 Q Okay. And you come down here, and what are you saying
16 to this gentleman that puts his hands up to you?

17 A At that point I'm not really sure. I have got mad at
18 him.

19 Q You were mad?

20 A Of course I am cause there's (indiscernible) right
21 there.

22 Q So the reason why you shot Tony was you saw the law
23 coming in earlier?

24 A I seen him with a gun and I knew, as soon as them
25 walking in that door, he's gonna throw that gun up and pot

Eddie Motts - Cross-examination
by Solicitor Barnette

1 at me.

2 Q okay. So you shot him because the law---

3 A I beat him to the draw.

4 Q Yes, sir.

5 A Yes, sir. Whatever you look at it. You seen both of
6 us had the guns up. He just did a little late firing --

7 Q I want to show you---

8 A -- or shot between the bullets and give him back the
9 gun or the bullets and the gun.

10 Q I want to show you state I believe it's 17.

11 was this---

12 A That's, that's -- see that -- all that right there is
13 new. That's all in the past there, and that ain't -- I mean
14 that's the future. That ain't all in the past. The door
15 was right here. All the door was right here and them little
16 glass thing come out about 3-foot, and then the door, and
17 then on the outside is the glass that you used to go through
18 that door, back, and through that door again. That's all
19 the new right there.

20 Q So they---

21 A See all that's new.

22 Q They had made that new back in March 26th.

23 Is that right?

24 A Yeah, it wasn't like that. It wasn't done -- shit
25 wasn't there whenever I shot cause I busted every one of

1 them glasses.

2 Q okay.

3 A All three. They're 15 by 5-foot and I shot all three
4 of them. You see them stools and all that seat and stuff
5 wasn't even there.

6 Q uh-huh. (Affirmative).

7 A That right there and all that right there, all that
8 wasn't in there. There's some wires on out the wall right
9 there where he used to have them gambling machines.

10 Q Did you ever go down there?

11 okay. Here's the you gentleman -- here's the gentleman
12 that you grabbed.

13 He wasn't even there when this started, was he?

14 A I don't know where -- I don't know where all that come
15 into play at. I'm telling you that right. They wasn't even
16 in that damn place whenever I was in it.

17 Q okay.

18 A I don't know what you're trying to pull. But that
19 right there, I ain't hallucinating on this. Maybe I am.
20 Like I said, all that stuff right there is new. So that's
21 irrelevant to me. I don't know where you got all that stuff
22 from.

23 Q okay.

24 A You trying to add stuff in right there.

25 Q I'll let you see something else, sir.

1 A I don't care what you show me. I know that right there
2 is a -- is not -- that was not there. If you don't see a
3 bullet -- if you don't see glass through there. But you
4 know though, I did dream that about how that looked right
5 there. Matter of fact way before I seen this picture right
6 here, I had already told one of them guards down there that
7 I actually told her -- described her -- described to them
8 about that right there. That picture right there.

9 Q Yes, sir, I want you to watch this next part if you
10 would.

11 A (WHEREUPON, the witness complies.)

12 Q Who is that running away?

13 A I know who you think or saying it is, but nah. That
14 door -- I'm telling you, that fucking door wasn't there
15 whenever I was there.

16 Q Okay. Well---

17 A I don't care what you say or nobody else says. That
18 door right there was not in -- that door whenever I was
19 there.

20 Q Now I'm asking you who was that.

21 A It -- I don't know who that is running. I can't see
22 his face and his drawers -- pants ain't hung down as far as
23 they was in the last picture. His drawers was down to his
24 ass as far as that goes.

25 Q Is that Brandon running out the door and you shot him?

1 A No. Hell no. I'm telling you that door right there
2 wasn't there. I don't care what you say or nobody else
3 said. Don't put stuff in my eyes. That's just not
4 irrelevant (sic) to me. I don't know what you're trying to
5 do. Are you trying to prove or y'all -- or everybody else,
6 but I'm telling you that shit right there was not there.

7 Q Let me ask you this question.

8 You shot Brandon, right?

9 A Who?

10 Q Brandon, this gentleman right here.

11 A Yeah, I shot him. That door wasn't right there. well,
12 hell, I shot him all the way across the damn thing right
13 there cause that big window, and that big window, and this
14 damn big window right there, all three of them. I shot
15 three shots. It's in the -- right there about where that
16 back there at the bottom of that door is. I shot every shot
17 all the way across there at the same damn heighth as that
18 right there is all, in all three windows at that up railing
19 like I said.

20 where's the pictures that the police took while at
21 their investigation even?

22 Q Uh-huh. (Affirmative).

23 A Uh-huh. (Affirmative).

24 I asked you where they at and you said uh-huh.

25 Is that all you can say to me is uh-huh?

1 Q Yes, sir.

2 So---

3 A Yes, sir.

4 Q So, you disagree with this is what happened here then?

5 A Hell no. I know it wasn't. Y'all ain't have -- no,
6 y'all ain't pulling that shit on me. Y'all are trying to
7 pull some shit like them two right there started off trying
8 to prove or do. I don't give a damn what y'all say or
9 nobody else said. I'm telling you.

10 THE COURT: Sir?

11 A I ain't -- sir?

12 THE COURT: Cut the profanity out.

13 THE WITNESS: Well, I'm just saying that---

14 THE COURT: Cut the profanity out.

15 THE WITNESS: I'm trying to---

16 THE COURT: Please continue.

17 THE WITNESS: All right.

18 THE COURT: Please continue, Mr. Solicitor.

19 Q If you would, sir, have a seat if you would, sir.

20 A (WHEREUPON, the witness returns to the stand.)

21 Q Thank you.

22 A That right there ain't real. I'm hallucinating again.

23 Q Mr. Motts, what's incredible to me is you can remember
24 all kinds of things.

25 A No, that right there, y'all are sitting here telling a

1 lie, and you are right in there with them.

2 what have you got to gain out of it, Mr. Coochie Coos?

3 Q uh-huh. (Affirmative).

4 well, the question is when I started asking you
5 questions, tough questions, you don't want to answer those.
6 You said I'm having a hallucination.

7 A I said, I said that right there was not even there.
8 You're not trying to -- get the pictures I said that the
9 police took of the evidence or where I shot through the damn
10 windows.

11 Q Okay. You shot these two men right here, didn't you?

12 A I shot him through them glasses, Randy. I don't know
13 what y'all are trying to prove, but I'm gonna tell you what
14 it -- whatever.

15 Q There's five shell casings found in the---

16 A I shot three at him and I shot two at him. If you
17 don't believe it, look at his belly and look at his damn
18 chest -- right side of his chest.

19 Q And you mentioned---

20 A And look at his leg. That's where I shot.

21 Q You meant to do that, didn't you?

22 A Because he had a gun pointed at me. You gonna let --
23 would you sit there and let---

24 Q You said you get what else you give him.

25 A No, but you, you can't whoop that -- you can't whoop

1 him. That boy right there will whoop the hell out of you,
2 and then laugh at you and spit blood all in your face.

3 Q He wasn't laughing on the 9-1-1 call, was he, sir?

4 A It wouldn't pay him too and he knowed it.

5 SOLICITOR BARNETTE: I, I have no more questions, Your
6 Honor. Thank you.

7 THE COURT: Any redirect limited to what he went into?

8 MR. COOK: Could we approach the bench, Your Honor?

9 (WHEREUPON, a bench conference was held out of the
10 hearing of the jury at this time.)

11 THE COURT: Any redirect limited to what he went into?

12 MR. COOK: Yes, Your Honor. I would.

13 REDIRECT EXAMINATION

14 BY MR. COOK:

15 Q Mr. Motts, I have one more question.

16 Prior to the shooting -- prior to the first time you
17 shot, did you hear somebody behind you?

18 Did you hear a voice behind you tell you something?

19 A Before the -- before I shot him, they was some people
20 in behind me to the left-hand shoulder of me, and they
21 told -- one of the men there said -- told me that I better
22 shoot him cause he was trying to kill me.

23 Q Okay. Thank you.

24 I have no more questions, Your Honor.

25 A So that's whenever I---

1 THE COURT: Sir, you may step down. Watch your step as
2 you're stepping down.

3 THE WITNESS: Thank you.

4 THE COURT: Thank you.

5 MR. COOK: Judge, we have no more witnesses. That will
6 be it for us, Judge.

7 THE COURT: All right.

8 THE DEFENDANT: Can you believe---

9 THE COURT: Mr. Motts.

10 THE DEFENDANT: ---all the---

11 THE COURT: Mr. Motts. Mr. Motts, just sit, sit down.
12 We're gonna take a break.

13 Ladies and gentlemen, we're gonna take a short recess.
14 I remind you not to have any discussions among yourselves
15 about anything involving the case, but you may retire back
16 to the jury deliberation room. We'll get you back just
17 shortly.

18 (WHEREUPON, the following takes place outside the
19 presence of the jury.)

20 THE COURT: All right. We're gonna step down for a few
21 moments.

22 (WHEREUPON, a short recess was taken at this time.)

23 THE COURT: We'll go back on the record.

24 Yes, sir.

25 MR. COOK: Thank you, Your Honor.

1 we would -- want to renew defense motion for directed
2 verdict at this time. Insufficient evidence to all the
3 charges, the elements.

4 As to attempted murder, it's a specific intent crime,
5 Your Honor. I don't think the State has shown enough
6 evidence of his intent to kill anyone especially as to
7 Mr. Ramsey who we said earlier was shot in the leg. He was
8 released the same day from the hospital, had minimal medical
9 attention, Your Honor, and that's all I have, Your Honor.

10 SOLICITOR BARNETTE: Yes, sir, I, I think the same
11 argument is even stronger now. The Defendant admits
12 shooting both individuals. He said he shot three times with
13 Brandon, twice. He described how he shot them, where he
14 shot them at and everything. So, I said there's no question
15 he has an intent to kill, specific intent to kill.

16 THE COURT: Okay. And any reply?

17 MR. COOK: No, Your Honor.

18 THE COURT: All right. And, again, the standard to
19 which this Court has to view this motion and, and -- is that
20 it must view the evidence in a light that is most favorable
21 to the State, and I think, when that is done, that the
22 motion would have to be denied.

23 All right. Let's bring the jury in. My understanding
24 is going -- at the conference, that the State does not
25 intend to call any rebuttable witnesses. So, let's let the

1 state say that on the record, and then I'll dismiss the
2 jury, and we will reconvene court. we'll get back together
3 at 9:30 in the morning, and we'll bring the jury in at
4 10:00, and argue and charge.

5 THE BAILIFF: Bring the jury.

6 (WHEREUPON, the following takes place within the
7 presence of the jury.)

8 THE COURT: So, Mr. Solicitor.

9 SOLICITOR BARNETTE: Thank you, Your Honor.

10 The state does not have any further reply witnesses.

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

12 Ladies and gentlemen, we have now concluded the
13 presentation of all of the evidence that we will -- that you
14 will have in deciding this case. We have -- we, the
15 lawyers, and the court, has a substantial amount of work to
16 get done in order to get ready to present the closing
17 arguments to you, and also to instruct you on the law.

18 So, we're going to allow you to go home at this, at
19 this time, but I need to remind you, especially now that all
20 the evidence has been presented, that you can not do any
21 type of independent research or investigation into any
22 matter in this case. Not even if it's you -- a party or a
23 lawyer. Don't Google anything. Don't -- again, don't ride
24 by the scene. Allow us tomorrow to conclude this case in a
25 proper manner for you and allow you to begin your

1 deliberations -- properly -- conduct deliberations properly.

2 I do want to thank you for your attention and your
3 service for the last two days, and, and, again, I -- don't
4 talk to anybody as -- was about anything involving the case.
5 But we'll see you back in the morning.

6 If you would, be here at ten o'clock in the morning,
7 and then we will present the closing arguments and the
8 charge of the law to you, and then you'll begin your
9 deliberations, but thank you very much. You may go with the
10 bailiff.

11 (WHEREUPON, the following takes place outside the
12 presence of the jury.)

13 THE COURT: All right. The Court will -- lawyers come
14 up -- approach the bench one moment before we send Mike
15 home.

16 (Whereupon, a bench conference was held out of the
17 hearing of the jury at this time.)

18 THE COURT: All right. We'll step down.

19
20 (WHEREUPON, Court was in recess for the evening.)

21
22
23
24
25

wednesday, September 11th, 2019

THE COURT: All right. We'll go back on the record. We've had extensive conferences in chambers with the attorneys concerning the proposed jury charges as well as the verdict form. I believe the solicitor wants to place something on the record.

SOLICITOR BARNETTE: Yes, sir.

May it please the Court.

Talking about the insanity defense that's been placed on by the defense, Your Honor, we would object to the jury charge concerning that. Under State versus James Joseph Lewis, Your Honor, 328 S.C. 273, 494 S.E.2d 115, Your Honor, 1997 case, Your Honor, basically in that, Your Honor, they found that basically based off the facts of that case showing extensively that the -- he said he's seeing things, that he had threatened to kill himself, he had lost 70 pounds, had different people testify about those events and everything.

In that position, they said that it showed that he had mental illness, and could be found guilty but mentally ill. But showed that he did know the difference between right and wrong in that situation, and the, the judge properly denied the charge or given the verdict form of the insanity -- not guilty by reason of insanity in that situation, Your Honor.

1 I wanted to make sure I put that on the record from there,
2 Your Honor, and what, what we talked back, back in chambers,
3 Your Honor.

4 And then on the self-defense issue, Your Honor, I think
5 the four prongs, and obviously I know we had to prove them
6 beyond a reasonable doubt, but I feel like there's no
7 evidence. I mean he brought in the pistol wouldn't be in --
8 the possession of the state. He leaves the bar. He comes
9 back, has a gun with him. He presents the gun, pointed it
10 at Brandon Ramsey, which was the testimony has been shown in
11 this case. He carries it around, has that.

12 Mr. Lipscomb never went and got -- even touched his gun
13 until after it was presented by the Defendant. He never
14 pulled the gun up, never -- he just had it on his hand to
15 his side during that time. At a certain point the Defendant
16 got mad at Mr. Ramsey. He actually chases him. That's
17 shown on the video through the pictures from the video.

18 He shoots Brandon Ramsey in the leg on the run. He
19 turns back around. That's when Mr. Lipscomb points the gun
20 to him because obviously he's seen him shoot somebody. He's
21 threatened everybody in the, in the bar area. Therefore,
22 he's protecting himself, his property, and his bar, and his
23 patrons at that point. His gun did jam, misfired.

24 At that point Mr. Motts later shoots him. Mr. Motts
25 actually says -- I don't think there's two prongs. The

1 second thing was he could remove himself from the
2 difficulty, and he said he even saw the police outside, and
3 that's the reason why he shot Mr. Motts (sic) because they
4 were gonna work together from there. But he could of easily
5 went to the police at that point, turned himself in, and
6 removed himself from the difficulty.

7 So, I feel like that they have not met two prongs of
8 the self-defense argument, and I think the case law would
9 back me up on that from different parts. State versus
10 Simpson, which is 425 S.C. 522 case, from 2019, just
11 recently, and the thing too.

12 He wasn't able -- he wasn't suppose to be possessing a
13 weapon, and obviously he didn't have a CWP, and he took a
14 weapon concealed into the bar area, and then State versus
15 Slater is another one, 373 S.C. 66. It's a 2007 case. And
16 State versus Bryant was another one. And I realize the
17 burden of proof has shifted, but still it goes with the same
18 thing. These are 336 S.C. 340. It's a 1999 case, Your
19 Honor.

20 So, our position would be that we'd ask for
21 self-defense not to be charged in this case because I don't
22 think they have shown, at least one of them, and probably
23 two of the four prongs that they need to show in this case.

24 Thank you, Your Honor.

25 MR. PRUETT: Your Honor, basically briefly as, as we

1 have discussed throughout the trial that the defense of
2 insanity may be established by lay witnesses, and that
3 there's even case law to the effect that a lay witness may
4 even give an opinion as to whether or not a person is insane
5 or not.

6 So, the issue, of course, back whether or not there's
7 been lay testimony. If it has been, I think the prosecution
8 has taken exception to the quality of it. State v. Lewis
9 says if there's no evidence, no evidence of insanity, then
10 it may be appropriate to not permit an instruction on that
11 to the jury.

12 In this case we've presented evidence. That's for the
13 jury to make that ultimate determination of whether or not
14 that evidence is sufficient or not to support a verdict of
15 not guilty by reason of insanity.

16 As to the self-defense issue, a couple of things I want
17 to kind of put on the record, clarify we discussed in
18 chambers. The prosecution actually requested that a
19 self-defense instruction not be made just as to Mr.
20 Lipscomb. He just asked that the judge give the jury a
21 general instruction without that qualification as it is
22 applying to one individual, which we have, we have no
23 objection to that.

24 I do think self-defense is appropriate in this
25 instance, particularly as to Mr. Lipscomb, where, after the

1 shooting occurred, it is our position that that transaction
2 was complete. It was over. Any animus that Mr. Motts may
3 of had towards Ramsey was, was over at that point.

4 He's actually walking towards the door where he is
5 parked outside. As he's walking, the firearm is down at his
6 side, and I think the evidence is uncontradicted, at that
7 point, as he's walking with the gun down by his side, not
8 pointed at Mr. Lipscomb, Mr. Lipscomb points the gun at him
9 and attempts to fire twice. The gun misfires and it's only
10 after Mr. Lipscomb tries to kill Mr. Motts that Mr. Motts
11 then raises his firearm and responds.

12 So, I think, under those facts and circumstances, it's
13 not a question like assigned to the eye go where (phonetic).
14 It was mere words. There was an actual hostile act taken by
15 Mr. Lipscomb to kill Mr. Motts, and he actually waited until
16 Mr. Lipscomb had a chance to kill him twice before he
17 eventually responded.

18 So, again, it's a jury question as to determining
19 whether or not he was without fault or not in bringing about
20 the difficulty, and the other elements that may apply in
21 self-defense. And I think -- and -- even I understand the
22 State's position. In this particular case, I think the
23 better part of wisdom is to submit those issues to the jury.
24 Let them make that determination.

25 THE COURT: And based upon the standard of review that

1 this Court has to apply viewing the evidence at this
2 juncture, I've made the decision to include the insanity
3 defense because I am not in a position where I can weigh the
4 evidence or comment or, or then -- make my decisions based
5 on how I view the evidence. I have to just look in it for
6 the existence of the evidence.

7 So -- and -- and I have shared with the attorneys my
8 concern about the insanity, but I've gone back through and
9 taken a look at the cases, and, and viewed the facts in a
10 light that is most favorable to the defense in making that
11 determination that I, I will charge the insanity defense.

12 And, and the -- and we had extensive discussions about
13 the self-defense issue, and the parties were wise enough to
14 advise the Court that the prior suggestion, which was only
15 to instruct the jury only to view self-defense in regards to
16 the allegations involving Mr. Lipscomb, that I would not
17 distinguish this self -- that -- that charge between the
18 two. I will let the lawyers make those arguments.

19 Now---

20 SOLICITOR BARNETTE: May I just put something else on
21 the record, Your Honor?

22 Your Honor, obviously I, I, I objected to the
23 self-defense, but the -- and I agree, talking to the Court
24 or whatever, that the problem I have is if we just do it on
25 Mr. Lipscomb, I was afraid it would be a comment on the

1 facts. So, I think it has to be to the both of them from
2 that standpoint, and we'll argue against both of them
3 obviously.

4 THE COURT: Okay. All right. We've got a couple
5 minutes before 10:00.

6 So, I'm gonna step down and come back when all the jury
7 is present, and we'll proceed with the closing arguments.

8 Thank you.

9 (WHEREUPON, a short recess was taken at this time.)

10 SOLICITOR BARNETTE: Judge, may I step back for one
11 second?

12 I'm not -- just going to go to the back right now.

13 (Pause.)

14 THE COURT: All right. I'm told that all the members
15 of the jury are present.

16 Anything else before we bring the jury in?

17 SOLICITOR BARNETTE: None from the State, Your Honor.

18 MR. COOK: None from defense, Your Honor.

19 THE COURT: All right. Let's bring the jury in.

20 (WHEREUPON, the following takes place within the
21 presence of the jury.)

22 THE COURT: All right. Good morning, ladies and
23 gentlemen.

24 We have now -- all of the evidence has been presented
25 to you, and we are now in a position to where we will

1 receive the closing arguments from the attorneys, which --
2 and after that will be followed by the charge on the law by
3 me.

4 But, ladies and gentlemen, the parties have now
5 presented their evidence in the case. It is now time for
6 the parties to make what is called their closing arguments
7 to you.

8 Now, the arguments of the parties are not evidence in
9 this case. Their statements and their arguments to you are
10 meant to help you understand the evidence and apply the law
11 to that evidence. You should disregard any remark,
12 statement, or argument which is not supported by the
13 evidence presented during this trial or the law that I will
14 explain to you after the arguments. But, at this time, we
15 will receive the closing arguments.

16 SOLICITOR BARNETTE: May it please the Court, Your
17 Honor?

18 Madam Forelady, ladies and gentlemen of the jury, I'd
19 like to take you back to -- you heard our opening arguments.
20 Then the defense argued to you basically this is a case of
21 bullying.

22 Well, the one thing I want you to remember is -- and
23 I'm gonna play some parts of here too just to touch base
24 what I think's parts that you need to hear, to look at. You
25 remember the bond hearing the Defendant had. In that case

1 Judge Seals advised him over and over again about that he
2 had a right to remain silent or whatever. But he wanted to
3 tell the judge things that was good for him or whatever, and
4 you're gonna hear those comments.

5 But basically he said I was drunk. I did this. I'm
6 sorry for what happened to these people at that time from
7 there showing that, in that case, he didn't mention any
8 bullying. He didn't mention these folks saying anything to
9 him, anything at the bar. He didn't mention anything about
10 self-defense. He didn't mention any of that. When I told
11 the facts to the judge, he said yeah, I did that and that's
12 what he did, ladies and gentlemen.

13 I'm gonna go through some facts with you, and would
14 like to see the videos and pictures. You'll have all this
15 back with you where you can look at, and I did the stills so
16 you could go through, through a period of time to right
17 where the pictures are.

18 That -- he comes into the bar. He sits down. He
19 starts getting drinks from the bartender. You see Tony
20 Lipscomb just sitting there together. They're not paying
21 any attention to him. This has been going on for a period
22 of time. Mr. Lipscomb never says anything to him, never
23 bothers him, or anything.

24 what draws his attention to him is when he says
25 something out loud in the bar, and y'all remember the 9-1-1

1 call where he was just raising cane the whole time. You can
2 hear him in the background.

3 He goes over and tries to talk to him trying to get him
4 to leave or whatever and he starts arguing with him. Other
5 people start trying to talk to him. He starts arguing with
6 all of them. Eventually, one of them, he goes out with him,
7 and he goes the (indiscernible).

8 Now, he wants you to believe -- you'll have State
9 Exhibit 1 back there with you, that he carried this in the
10 back the whole time with him or whatever. You feel that
11 weapon and see -- he said in the back where nobody could see
12 it?

13 But he goes out and does return with the gun in this
14 period of time that he was gone.

15 So, all this bullying that happened and all these
16 things that happened to him, he's been gone for a period of
17 time. Everybody's back to normal sitting there, sitting
18 there, and you see when he shows the gun. Both of them get
19 up immediately. Ramsey grabs his phone, calls them. Tony
20 Lipscomb, actually he's not even close to the bar at that
21 point. He goes over and he obviously holds on to the gun,
22 call 9-1-1. They're trying to talk to him. Say, you know,
23 do whatever. He claims he came back to ask for a cab.

24 No, he came out to point to them what -- who's in
25 charge. I'm in charge. I'm the one in charge. And when he

1 came up, there's a young man that was sitting there at the
2 front of the table. He grabs a hold of that young man. I
3 asked him, I said why did you grab a hold of him. He had
4 nothing to do with this. He wasn't even in there. He said
5 he's running that mouth too.

6 Now, who's the bully?

7 And he's directing people what to do and everything.
8 The young man that didn't have anything do with this, he
9 just walks in and is gonna walk through. He grabs a hold of
10 him. You see him grab his shirt. He grabs his chain and
11 jerks on it and just throws it. That man didn't have
12 nothing to do with this at all.

13 Brandon Ramsey's just calling 9-1-1, and you can hear
14 his 9-1-1 call when he's talking. He's not saying anything
15 to the Defendant or whatever from that standpoint. He's
16 trying to phone 9-1-1 to get there as quick as you can.

17 There's Jerome Motts' gun again. He's grabbing people,
18 which the video shows. He's harassing. He's pointing a gun
19 at them. He keeps telling Brandon Ramsey to get off the
20 phone. Don't call the cops.

21 One thing they're gonna argue with you is that he's
22 insane, that he didn't know the difference between right or
23 wrong.

24 Well, he knew that Brandon was calling the police. He
25 didn't want him to call the police cause he knows he was

1 doing wrong. He goes after Brandon. He walks right at him.
2 Brandon's running away from him and he shoots Brandon. He
3 says well, I shot him in the leg.

4 Ladies and gentlemen, he went after him and shot him.
5 He meant to shoot him. He meant to kill him. There's not
6 anything more specific than that. He states that he wants
7 to kill him. He points a gun at him. He goes at him and he
8 goes after him.

9 Tony Lipscomb is doing what any normal person would do
10 when that happens. He sees a man -- you notice he never
11 pointed a gun at the Defendant until he shot Brandon. He's
12 had a patron attacked. He's in his place of business.
13 He -- here's a man that's had a gun that's threatened to
14 kill him with it. He just shot a man.

15 Don't you think he would react and do what any normal
16 human being would do?

17 He did.

18 He's there to protect himself, his property, as well as
19 his family, the customers. The gun misfires.

20 Jerome Motts comes up and you can see it on the video.
21 He points a gun. He shoots him once. He didn't even
22 flinch. He said well, I saw the cops out there. He said I
23 know what they were gonna do, that they were gonna arrest
24 me, and he goes -- he's gonna make a man. They call and
25 told what's in his mind. No. He shoots him, he said, right

1 between the brisket and the tit. Just like a hunter would
2 talk. And if that's not shoot to kill I don't know what is.

3 This man's lucky to be alive today. Both of them are
4 lucky to be alive. He shot five times in there, and I --
5 you know, you bring your common sense to the courtroom every
6 day, but that's pretty good shooting on a gentleman
7 prefer -- we got a guy running away from you shooting him.
8 You got a man under a situation shooting him twice. Also
9 missed. You see there's a bullet in the bucket, and I want
10 to show you the crime scene video that Mr. Motts talked
11 about. That was brought in evidence in the stipulation.
12 You can see where the shell casings was and everything from
13 there.

14 You'll have the evidence back there too, the SLED
15 reports and everything else. He's the one that shot. This
16 gentleman never got a chance to shoot. I wish he did. I
17 don't think he would of been shot. He spent 11 days in the
18 hospital, three or four surgeries. These went three -- this
19 gentleman had to go to the hospital.

20 You heard Brandon's 9-1-1 call. You heard him go down.
21 He couldn't move anymore. When somebody's running their
22 mouth -- you can hear the 9-1-1 call. They're just trying
23 to calm him down. He's the one that wants to show who's in
24 charge, and he keeps saying, you know, and he's very precise
25 in what certain things are, where he shot these folks, how

1 he shot them, what he did. He's being real big to go up
2 there.

3 He's had a gun for 56 years, one of his toys as his
4 friend, Ben, calls them. He has at least toys. This was
5 his guns.

6 This man knew what he was doing. He knows the
7 difference between right and wrong. You saw the body cam
8 video, the video afterwards that shows -- I apologize. I
9 apologize for the bad language. I really do cause I don't
10 like using that kind of language. But you don't fuck with
11 me. You better take that mother fucker to the hospital.
12 And then I'm gonna play the tape for you again, but listen
13 to it at the end when he's being put in the police car.

14 I meant to shoot them. He knew exactly what he was
15 doing. He's drunk. He admits himself during the four shots
16 working on this second here. Plus we don't know what
17 medication he was on. And obviously he was taking some
18 medication, and we don't know exactly what he was taking.
19 And then he's at the bond hearing. You see the difference.
20 You can see he's not -- I was wrong. He wasn't drunk at the
21 bond hearing. You can tell the difference between the two.
22 He knows the difference right and wrong from that
23 standpoint.

24 I'd just like to show you some points. Like I said,
25 you'll have these back there with you. I know you've seen

1 some of them already, but this is my chance to argue for
2 these two folks and justice for them cause they don't
3 deserve to be here today, ladies and gentlemen. Don't
4 deserve what they went through, and this is what we put in
5 of the victims and what this man did to them.

6 The first thing, ladies and gentlemen, I'd like to do
7 is play the bond hearing for you. I'm gonna go to the end
8 of it.

9 (WHEREUPON, State's Exhibit No. 21 was played for the
10 jury at this time.)

11 SOLICITOR BARNETTE: And you'll have -- you'll be able
12 to listen to it again if you want to, but -- and the judge
13 will charge you that voluntary intoxication is not a
14 defense. So, him being drunk don't excuse anything that he
15 did in this case. You can not use that excuse in the State
16 of South Carolina. That is the law in this State.

17 He mentions he's drunk. He had an opportunity to say
18 anything about the bullying, about being self-defense. He
19 had the chance to do that. He didn't say any of that. He
20 admitted that he did this. He admitted he was drunk is the
21 reason why he did it. Then he got mad and y'all can see
22 what -- that -- when things that he -- like, for example,
23 the bond hearing. There's stuff -- he didn't get to see the
24 pictures or whatever. He said no, I won't look at that.

25 He will direct you what he wants to do and what he

1 wants to say. You've see that in the courtroom yesterday.
2 And he will speak up and say what he thinks. He didn't say
3 any of that that day.

4 (WHEREUPON, State's Exhibit No. 19 was played for the
5 jury at this time.)

6 SOLICITOR BARNETTE: I'm just going to play the last
7 part of that again. Listen to it as he goes into the police
8 car. I know you can hear the other part, but listen to it.
9 It's a little bit harder to hear.

10 (WHEREUPON, a portion of State's Exhibit No. 19 was
11 played for the jury at this time.)

12 SOLICITOR BARNETTE: I apologize.

13 (WHEREUPON, a portion of State's Exhibit No. 19 was
14 played for the jury at this time.)

15 SOLICITOR BARNETTE: I meant to shot (sic) that mother
16 fucker. That's exactly what he says. If that's not more
17 specific intent that you're trying to kill somebody. He
18 states it. He did it. All his actions and words say the
19 same thing.

20 (WHEREUPON, State's Exhibit No. 20 was played for the
21 jury at this time.)

22 SOLICITOR BARNETTE: You remember Mr. Motts' testimony.
23 He said he was running his mouth off to me.

24 Did you hear him running his mouth off to him on that
25 9-1 (sic) call?

1 Ladies and gentlemen, I suggest you did not hear that,
2 and, like I say, you got that evidence there. You heard
3 what he did to this gentleman.

4 Anyway, I'm gonna show you the video again. I know
5 you've seen it, but I'm gonna go through that with you
6 again. But one thing I want to show you, Mr. Motts
7 mentioned the crime scene video. I wanted to make sure you
8 saw that too that the police took out.

9 (WHEREUPON, State's Exhibit No. 74 was played for the
10 jury at this time.)

11 SOLICITOR BARNETTE: One thing I want to do is take you
12 back and look at the distance from the bar. You got two
13 pool tables. You've got -- between the front door and that
14 area. You go back and they're walking.

15 Look at the distance from where -- and I'm gonna show
16 you on the video. I mean Brandon Ramsey's not even close to
17 this man. There's two pool tables in-between where he
18 shoots him. Brandon Ramsey was no threat whatsoever to him
19 in any way.

20 You can see how far the distance is, and some of the
21 blood spots, and you'll have the crime scene, some of them
22 didn't check out to be blood. They tested them or whatever.
23 You can look at the crime scene report. This one did. No.
24 7 did. And you can see the distance between the door. You
25 got the two pool tables. You've got some tables in-between

1 the bar and then all that area.

2 Now I'd like to take you back and I'm gonna reshow the
3 video. I know you've seen it before, but I'd like to point
4 some things out for you to look at during this.

5 He's going back in the bar. Look where he goes
6 immediately. He's been gone for a period of time. So, he's
7 bringing on the difficulty. He's bringing a gun in with him
8 or has a gun with him. He comes there.

9 There's a gentleman right there at the end of the
10 table. He's talking with him. Had nothing to do with this.
11 He wasn't even close to this area. The bartender comes back
12 out to talk to him, asked him to leave again. You can see
13 she's trying to tell him. At this point you've probably
14 seen a gun. He starts talking. There he brings the gun
15 out.

16 Did you see it?

17 Did you see it right there?

18 Everybody jumps up and then this gets going in a
19 minute. Makes his threat. He's got a gun in his hand.
20 That's when Mr. Lipscomb comes over.

21 But why does he grab that guy?

22 And he's -- supposedly he hates putting his hands --
23 nobody should put their hands on him. He can put his hands
24 on everybody else. He grabs the gentleman there. Has
25 nothing to do with this. He wasn't even there, but he grabs

1 him or touches him. Shoves him. They're trying to talk to
2 him. You can clearly see the gun in his right-hand.
3 They're still talking to him trying to get him settled down.

4 Tony Lipscomb puts his hand up like this as you saw.
5 Brandon's calling 9-1-1. That's the 9-1-1 call you're
6 hearing. Still got the gun in his hand threatening people.
7 Tony Lipscomb's never pointed his weapon at him. Here comes
8 the fellow here has nothing to do with it. He grabs him,
9 pulls his chain off, says you get back over there, but he
10 don't like hands being put on him. He can put on everybody
11 else. Won't let him go.

12 still pleading with him and he still has pointed a
13 weapon at him, and he had every right to at this point. A
14 man comes in, brings a gun into his establishment,
15 threatening his people. This gentleman decides to leave.
16 He's the one doing the talking. He's telling everybody else
17 what to do -- what they're gonna do.

18 Look how he comes after him, walks down, and shoots
19 Brandon. He went after him. That's when Tony Lipscomb
20 decides he's gonna protect himself. Look who pointed the,
21 you know, points at him, shoots him once, shoots him again,
22 and then he comes down to this gentleman, and this guy said
23 I don't want any part of it either, and the police came.

24 Mr. Motts says he saw the police out there. He decided
25 I had to shoot Tony Lipscomb then. He could easily walked

1 out of -- put his gun down, walked to the police, none of
2 that would of happened with Tony Lipscomb.

3 He brought on the difficulty. He's the one that
4 created this whole situation by coming back in the bar even
5 after the confrontation occurred the first time. He caused
6 all that to happen in bringing that -- in brining a gun into
7 a bar.

8 Then he said he saw the police. said he could of went
9 out and just went to the police, gave himself up, but he
10 decided not to do that. He was gonna shoot and kill this
11 man right here after he'd already shot another man.

12 Tony Lipscomb was acting like any rational human being.
13 He did great restraint in trying to talk the gentleman out
14 of it, trying to keep this from escalating, but you saw what
15 happened.

16 You see Tony never raises the gun, never points at him.
17 Just talking to him. There goes Brandon. He's running away
18 from him. He's still on his phone. No weapon or nothing.
19 Turns his back. Brandon's running. You can see the two
20 pool tables. You can see this large area down here.
21 Mr. Motts goes to the end of the bar. You can see there's
22 still a lot of room there. I mean this shot's over a
23 distance, and you'll see the actual shot when you see the
24 flare from the gun. Right there.

25 So, he's at the end of the bar when he shoots. Brandon

1 Ramsey's trying to go out the door when he shoots him. No
2 threat whatsoever. You see him running and you'll see the
3 actual shot, and that's when everybody reacts.

4 Tony Lipscomb don't point to him until after he shoots.
5 He turns onto him. He's trying to protect his property,
6 himself, and everything. His gun will not fire, and you see
7 him put him down. He even talks to the other folks after
8 that and you see that.

9 I can show you the other angles. You've seen that from
10 Brandon running out the door.

11 Ladies and gentlemen, if this is not an attempted
12 murder I don't know what is. He brought on the difficulty.
13 They're gonna charge -- you're gonna be charged
14 self-defense. The defense is gonna ask you for self-defense
15 and insanity, both defenses.

16 self-defense, there's four elements to it that we have
17 to disprove, and we're gonna disprove -- disprove just one
18 of the elements of the four, and the first element is easy.
19 He brought on all the difficulty. He caused all this to
20 happen. These gentlemen had nothing to do with that when he
21 came back in the bar and did what he did.

22 Then he says he sees the police. He could of walked
23 out and walked away from the situation. He had a reason and
24 a solution to it. He didn't even have to make it into that.

25 You saw his action. You saw him go after Brandon

1 Ramsey to shoot him. He shot him from a distance striking
2 him. He said well, I meant to shoot him and whatever. He
3 meant to kill him, and that's what he did.

4 They're asking for insanity. Insanity is when somebody
5 don't know what -- anything that's going on around them.
6 This man knows what he's done. He goes back to what he did.
7 He knew the difference between right and wrong, and they
8 bring up some issues. He talked about his hallucinations,
9 which he may or may not have them. It's amazing, you know,
10 when I started asking him some tough questions in here, he
11 started hallucinating supposedly using it as an excuse.

12 So, if you do think he has mental issues -- there will
13 be four, four forms of verdict you'll have, guilty, guilty
14 but mentally ill, not guilty, not guilty by reason of
15 insanity. If you do think insanity is an issue, guilty but
16 mentally ill will be appropriate.

17 My submission is that had nothing to with this. That
18 if you do think he had mental issues, guilty but mentally
19 ill is proper for that. But -- perhaps his mental issues
20 affected his competence from that standpoint, but it didn't
21 come to the difference between right and wrong, and you
22 heard that in the bond hearing afterwards.

23 Like I said, you'll have this evidence available to
24 you. Please look through these pictures. I know we went
25 through a lot of it with you from that standpoint. You'll

1 see where he had gun powder residue on his hand that showed
2 that he shot the gun. We all know he did it. We can see it
3 in this picture. You saw the shell casings from there, and
4 this is an event that didn't even have to happen.

5 He had a confrontation some time ago. He went out in
6 the parking lot, and you can see how long a period of time
7 it is that he's been out there. He comes in and he's gonna
8 show everybody that he's boss. He's gonna show these two
9 gentlemen right here that he's boss. He's gonna show
10 everyone in the bar that he's the boss, and, like I said, he
11 never mentioned the bullying. Never mentioned self-defense
12 at the bond hearing.

13 wouldn't you think that would be something you'd want
14 to tell the judge?

15 He was drunk, ladies and gentlemen. He meant to do it.
16 He meant to kill them, and what I'm gonna ask you, ladies
17 and gentlemen, is he's guilty of attempted murder on both
18 these gentlemen right here.

19 And I want you to remember the last thing I asked him
20 yesterday. I'm sure you remember it. I said you meant to
21 shoot these two people. He said I shot him in the leg, and
22 I shot him in the chest, and he showed you where I shot him
23 in the chest -- in the stomach and chest, and you saw what
24 he did to Tony Lipscomb, and you saw what he did to Brandon
25 Ramsey. You could hear it on the 9-1-1 call.

1 Ladies and gentlemen, I ask you to return verdicts of
2 guilty, and there's also a pistol -- I mean a weapon during
3 a violent crime, and these are violent crimes, ladies and
4 gentlemen, and I ask you to return guilty on all three
5 charges, to the two attempted murders, possession of a
6 weapon during a violent crime. It don't get much more
7 violent than this, ladies and gentlemen, and you got to see
8 it on the screen, and you have the evidence in front of you.

9 And I ask you what happened to these two gentlemen,
10 their families and everything, that you convict Jerome Motts
11 of this. Guilty or guilty but mentally ill if you decide
12 that mental health is an issue that he needs help for.

13 Thank y'all very much.

14 You need me to leave this on?

15 Okay. You don't need it?

16 MR. COOK: No.

17 THE COURT: Ladies and gentlemen, you want to stand and
18 stretch your legs for a moment?

19 (Pause.)

20 SOLICITOR BARNETTE: Thank you, Your Honor.

21 THE COURT: Yes, sir.

22 MR. COOK: Thank you, Your Honor.

23 I'm not gonna show any videos. I may show you one or
24 two pictures.

25 Okay. Good morning again. All that's remaining now is

1 for you to hear our -- the attorney's closing arguments.
2 The Judge is gonna tell you what the law is. Then you're
3 gonna go back and deliberate.

4 I can't comment on all the evidence that's been put in
5 up until now or it would take as long as the trial. So, if
6 I don't mention something, if I don't comment on a piece of
7 evidence, it's not because I don't think it's important.
8 It's just because I don't have time to get to everything.
9 So, I won't.

10 After I speak, Mr. Barnette will have the opportunity
11 to come back and speak to you again. Now, after he speaks,
12 I, I won't be talking to you again. I can't speak to you
13 again. So, he may say something that I don't agree with
14 when he gets back up, but I can't say anything. I just want
15 you to understand I have to sit over there whether I agree
16 with what he says or not.

17 Okay. This is the only chance I have to talk to you
18 anymore.

19 The Judge will charge you the law, and I, and I think,
20 at the outset of the trial, every, every -- he told you
21 every person accused of a crime is presumed innocent, and
22 that presumption of innocence stays with, in this case, Mr.
23 Motts from the time he was charged, it stays with him during
24 the trial, and he is presumed innocent while you're
25 deliberating. And being presumed innocent, you know, it's

1 thrown around a lot, but what that means is he's innocent
2 until the state meets their burden of proof. He's not
3 guilty because -- simply because he's charged.

4 okay. And also the defense doesn't have to present any
5 evidence.

6 okay. The burden is on the state, and although, in
7 this case, we did present evidence, and testimony, the
8 defense doesn't have a burden of proof to prove he's
9 innocent. The reason for that is simple is that if you
10 think about it, it's hard to prove a negative. Sometimes
11 you can't prove your innocence.

12 okay. But the state has to prove, beyond a reasonable
13 doubt, that he's guilty, and the only way they can do that
14 is to establish that he's guilty beyond a reasonable doubt.

15 Now, when talking about reasonable doubt, I want you to
16 picture kind of a football field, and you've got one end
17 zone here and one end zone here. This end zone he's
18 innocent. The state has to go all the way across that field
19 to beyond a reasonable doubt to convict.

20 okay. And that kind of gives you -- and there's a lot
21 in-between there. It's not reasonable suspicion. It's not
22 probable cause. It's not preponderance of the evidence.
23 It's not clear and convincing evidence. It is beyond a
24 reasonable doubt.

25 okay. The state, they must convince you and persuade

1 you, beyond a reasonable doubt, and beyond a reasonable
2 doubt means, when you go back to that jury room, you
3 shouldn't hesitate. If you hesitate, it's reasonable doubt.
4 Reasonable doubt is -- it's the doubt that causes a
5 reasonable person to hesitate.

6 okay. Reasonable doubt may arise not only from the
7 evidence but also from the lack of evidence.

8 okay. I want you to remember, the lack of evidence can
9 cause reasonable doubt, and, in this case, there's not only
10 been questionable evidence, but there's been a lack of it.

11 okay. The only thing I agree with that the State told
12 you during, during this trial and today is that Mr. Motts
13 shot two people. No -- we've never contested that.

14 okay. What we do contest is why and how this event
15 happened, what started this whole ball rolling.

16 okay. And if you remember, from the beginning, I told
17 you watch carefully. Read the body language on the video,
18 okay, and that's what we talked about from the beginning.

19 Now, the credibility in this case -- the main function
20 of this trial is for you to determine the credibility of
21 what's said, what you see, and do the things you see match
22 up with the things you've heard, and sometimes it can be
23 difficult, and I understand that cause we're all human and
24 we tend to say oh, yeah, this happened. He said it
25 happened. So that must be what it was. But I submit to you

1 that sometimes it's not what it appears to be on first
2 glance.

3 You need to try to determine the credibility of each
4 witness that spoke, each witness that stood over here, and
5 told you this is what's happening now, and this is what's
6 happening now.

7 okay. And you remember who you believed at the time
8 whether you agree with what they were saying or how they
9 were saying it cause we all saw and we all heard some
10 language we don't approve of. That doesn't make you a
11 guilty person.

12 okay. It's -- some people, that's their way of
13 thinking. It's their mentality. I want you to keep that in
14 mind. It doesn't mean that person's not telling the truth.

15 okay. Just because you don't use foul language doesn't
16 mean you're telling the truth, and it's up to you to judge
17 the credibility of each piece of evidence and each
18 testimony, every word that was said, whether you believe
19 them or not, whether you don't.

20 Now, it goes back again to is what I'm hearing matching
21 up to what I'm seeing. Is what I'm hearing about -- now,
22 you heard a lot I don't know, I don't know, I don't
23 remember, I don't know. A lot. A lot. But you heard the
24 brutal, honest truth from that man.

25 You may believe one witness against many. You may

1 begin -- you may believe many witnesses against one or you
2 may believe part of what somebody says, and may not believe
3 part of what somebody says, and that's up to you. In
4 short -- excuse me. In short, you, the jurors, you can
5 believe what you want to believe.

6 Now, I want to talk about motive, bias, consistency.
7 we've hit on consistency a little bit, but in deciding who
8 you believe, I want you to think about does this person
9 who's talking to me now have a bias, and what I mean by that
10 is they have something to gain by saying something in Court.

11 Have they -- are they sticking to this position because
12 they know they're wrong?

13 Are they sticking to this position, this position
14 because that's what they've been told and now they can't
15 back it up?

16 And another thing is, in this case, you heard
17 Mr. Barnette said -- say that Mr. Motts started -- he caused
18 all this. I -- that's not our position as you know, and we
19 went over that video with the victim, Mr. Lipscomb, and
20 pointed out some things to you that I told you you wouldn't
21 see to begin with. So just remember that.

22 Were the facts logically consistent with the way the
23 witness described the events, and we've hit on that some.
24 And, as you noticed, Mr. Barnette didn't have any idea that
25 Tony Lipscomb had pulled a knife on that man. He didn't

1 know it until we showed you.

2 That's a big deal. Somebody pulls a knife on you, it's
3 a big deal, and I submit to you right there that's who
4 started this incident. That's who started it and I'm
5 gonna -- I just want to -- I didn't show you this picture.
6 During, during the deliberations, you'll be able to look at
7 it back in the jury room.

8 what this is is a picture of Mr. Lipscomb holding that
9 knife. It's not a very -- it's -- as you see, a lot of this
10 stuff is not clear, some of the video, but you'll have a
11 chance to look at it. That's what this is. This is a
12 picture of him holding that knife that we pointed out
13 earlier.

14 Common sense. we talked about that during the opening
15 statements too.

16 simply put, does the evidence presented to you by the
17 prosecution make sense to you?

18 Does this case make sense?

19 Does their version of this make sense?

20 And I submit to you again, first glance, of course it
21 does. When you slow it down, you really look at it, it does
22 not. It does not meet that. It's not consistent.

23 Now, you heard the testimony by the police officers in
24 this case. Now, you be the judge of that credibility. You
25 heard testimony that I can't believe Tony didn't hit him in

1 the head with that stick, that pool stick. You heard that.
2 You heard the chief of police say I probably did say it. I
3 probably did.

4 why would he say that?

5 Cause he knows. He knows.

6 why did the police not take any statements?

7 You saw on that video that there was a lot of people in
8 that bar.

9 There was a lot of people in that bar, but yet, what do
10 they do?

11 They put up two people. Nobody came in this courtroom
12 and corroborated anything said by the victims. Nobody. And
13 there was a bar full of them. There was a lot of people in
14 that bar.

15 why?

16 why did they not come in here and back up that story?

17 Cause it wasn't true. It was not true.

18 This is a big case in Gaffney. It's kind of a high
19 profile case. It really is. Right on Main Street. Right
20 down the road from the police station.

21 Yet, what'd they do?

22 Nothing.

23 They didn't, didn't interview people. They didn't
24 bring them in, and you've got to really, really take that
25 into account. There is a reason. Cause, believe me, if

1 they are -- backed up this story, you would of heard from
2 them. You would of heard from them. Most of the time --
3 well, you saw the Defendant get on the stand yesterday. You
4 saw him. He wanted you to hear his side of the story.

5 Now, is he articulate?

6 No.

7 Is he sophisticated?

8 No, he's not.

9 But he tried the best he could, but you remember what I
10 told you. He has some mental problems. He has Parkinson's
11 Disease too. Just understand that. But that doesn't make
12 him guilty.

13 So, just ask yourself why didn't we hear from those
14 people.

15 Why did the state not bring those people in this
16 courtroom so that you could hear, so you could hear what
17 they had to say?

18 They didn't want you to hear it.

19 They had not only eye witnesses they could of brought
20 here, they had people involved in it. You saw it. The man
21 that helps walk Mr. Motts out. You can see he wasn't being
22 violent toward Mr. Motts, Motts, and Mr. Motts wasn't being
23 violent toward him. They walked out.

24 Where's he at?

25 He could of told you a lot about what was said, but yet

1 you've only heard from the state's victims. No witnesses.
2 They could of brought him in. They could of brought the
3 other man that was talking with Mr. Motts in. They heard
4 every single word that went on. They were touching each
5 other as they were talking.

6 Now, the best evidence that the state has that Mr.
7 Motts shot two people is that video cause it shows it. Of
8 course, now he told you that he did it, but that's the best
9 evidence they got that shows this. He shot two people. But
10 you know what the worst evidence they have is that video.
11 It's the same video because we got the opportunity to stand
12 right here with you and go through Mr. Lipscomb's testimony,
13 and I pointed out to you the inconsistencies in that story.

14 Okay. Says he threatened him. You know, he says he
15 threatened him all kind -- all these times. But Mr. Motts
16 is sitting at that bar like this. It defies the truth.
17 Body language doesn't lie. The man sitting at the bar, he's
18 got a man behind him with a knife. He's standing around
19 back there. He whips it out and you can see that. I showed
20 you the picture of it, and it's on the video, but I'm not
21 gonna -- we're not gonna go through that again. I showed it
22 to you yesterday.

23 He admitted it. He admitted he had a knife. He pulled
24 a knife out. At that point there's nothing happening, but
25 he pulls a knife out on the man.

1 Then what's he do?

2 He goes -- that wasn't good enough, and if you want to
3 know who started -- trying to be the bully, and the I'm
4 gonna show you who's in charge, it wasn't him. It was him.
5 I'm the king here. I'll pull this knife on you. I'll go
6 get this pool stick and I'll walk behind you and simulate
7 hitting you in the head. All that happened. They admit it.

8 I didn't notice it probably the first 10, 20 times I
9 watched it. I'll be honest with you. I watched that video.
10 I watched it again, and then finally I slowed it way down,
11 and that's when I took -- I started taking a really hard
12 look at it because he had been telling you that from the
13 beginning, and I'm gonna tell you, they ain't gonna fast
14 forward outside.

15 I know he was consistent for 18 months that I've been
16 representing him over and over. This is what they did to
17 me. I tried to tell them at the bond hearing.

18 Now, the solicitor says well, you heard him at the bond
19 hearing. He didn't say he was being bullied. well, he was
20 trying. The judge cut him off. The judge said I'm not here
21 to try this case, Mr. Motts. We're not gonna try this case.
22 Be quiet. over and over they told him to be quiet. He
23 never got to explain anything, and that was the first thing
24 the man told me when I met him. They wouldn't -- yeah, I
25 said that.

1 SOLICITOR BARNETTE: Your Honor, I'm gonna object at
2 this point. It's suppose to be testimony that's been heard
3 by the jury and not personal opinion.

4 THE COURT: All right. Ladies and gentlemen, as, as
5 I've instructed you, the arguments made by the attorneys are
6 not evidence in the case. The evidence is what -- in the
7 case will be left up to your recollection of what has been
8 presented, and what is presented with you in the back.

9 Go ahead.

10 MR. COOK: Thank you, Judge.

11 So, let's talk about mental illness just a little bit.

12 Okay. He obviously has a mental problem. You, you saw
13 it. You saw that. You've heard, you've heard that. He has
14 a history of hallucinations. He has a history of well both
15 visual and auditory hallucinations. He has Parkinson's
16 Disease, and that's a disease of the brain.

17 Okay. He's had it for, for years, and that is a
18 deteriorating disease. It gets worse over time. It doesn't
19 get better.

20 Mr. Motts' ex-wife, Betty, got on the stand and told
21 you that what she witnessed, how he got up or she got up in
22 the middle of the night to go out, see what he was doing in
23 the living room, and, and she asked him what are you doing.
24 Well, he said I'm talking to Ben.

25 Well, that was the other man you saw testify. Ben

1 wasn't there. He also told his wife well, I've got to --
2 they're -- all these people are out here, and I've got to --
3 I had duct tape. I got to tape them up. It wasn't real.
4 That wasn't real. She told you that that wasn't real, and
5 she told you that -- that it made her afraid. And so she
6 didn't want to hear about them anymore cause it scared her
7 to hear this story.

8 Then you saw his old friend, Ben Hendricks, get up,
9 whose known him since he was a teenager, and tell you he has
10 the hallucinations. He described them to you.

11 Okay. He was seeing -- they told you he was seeing
12 lions, and tigers, and giant eagles. That came from the --
13 Mr. Motts, these giant eagles. There's no doubt that people
14 with Parkinson's Disease, as Mr. Motts, has hallucinations.
15 He also told you something. He said that bartender, which
16 was a, a Ms. Calvert, at one time came around and had a gun
17 in her hand like this and, and laid it under his stool. He
18 described in detail what that gun looked like, but you can't
19 see that on the video. Apparently it didn't happen, but he
20 thought it did.

21 Now, we talked about that video some, and remember what
22 I -- you know, I asked you to pay very close attention to
23 the video, and the State wanted you to pay, pay close
24 attention also, but they didn't want you to see these
25 things. Number one, they didn't know about some of it.

1 Didn't know about it, especially the knives.

2 Now, when you watch it, I want you to remember, or if
3 you watch it back in the jury room again, I want you to
4 remember how we went through that thing and -- with Mr.
5 Lipscomb, and the testimony, I hope you remember it, it
6 matched up to the body language going on on that video.
7 Well, he's threatening me. He's sitting there at that bar.
8 He's threatening me. He's sitting at the bar. He's, he's
9 not threatening me, but I've got a knife on him.

10 It just doesn't make any sense. It's clear who the
11 aggressor is in this case, and, and it's not Mr. Motts. The
12 incident never happens -- it would never have happened but
13 for the taunting of a mentally ill man, the bullying, the
14 pushing, the pushing. That's what happened. The threats
15 against him.

16 You saw it. You saw him on the video. He was
17 threatened by a deadly weapon twice, and, if you recall, I
18 did put this picture up on the overhead, and you will be
19 able to pull it up and take it back with you. This is a
20 picture that depicts Mr. Motts pointing his finger at Mr.
21 Lipscomb, and it depicts Mr. Lipscomb pointing a gun at Mr.
22 Motts.

23 Now, that picture was taken from the video. That's
24 where that was taken. It defies what they're telling you.

25 Now, they make a big deal that Mr. Motts left. He

1 left. He told you he left. He told you why. He said I was
2 gonna go home. He said but I wanted to go outside and see
3 if I was -- I could drive. He told you that. He decided he
4 couldn't. So, he walks back into the bar, and he asked them
5 to call him a cab, and they said F you, F you.

6 Now, don't listen to what people -- oh, you've heard
7 this. You don't want to -- listen to what people say. You
8 watch what they do, and we listened to him talking. Watch
9 what they're doing cause that tells the truth.

10 Now, Mr. Lipscomb told you over and over, I, I can't
11 remember how many times it was, he threatened me, he
12 threatened me, he threatened to kill me, he threatened to
13 kill him, and it just went on and on and on and on. But
14 that's not what the video really tells you. Just watch it.
15 Just watch it.

16 Now, when Mr. Motts does leave, after all these threats
17 that he supposedly made, what do -- what does anybody in
18 that bar do?

19 what do they all do?

20 All of them heard it, I don't know, but Mr. Lipscomb
21 testified he heard it. He said, he said it was being said
22 to him. Mr. Ramsey said he heard it one time that he
23 threatened him, but Mr. Motts leaves. They don't lock the
24 door. They're -- if he's made all these bad threats, they
25 didn't lock the door. They didn't call the police. He

1 didn't pull his knife back out. He didn't go get that gun
2 under that cabinet.

3 what did he do?

4 Right back over to that table. Drinks some more beer.
5 That's what they all done. Ain't nobody afraid there
6 because none of it happened that way. They picked on the
7 man. They thought they was rid of it. We'll go back to
8 drinking. That's what happened.

9 It's not really that complicated. It's not complicated
10 at all. It's just a matter of who you believe, and I'm
11 telling you I'm not asking you to believe me. I'm asking
12 you to believe your own eyes of what we showed you.

13 Now, the credibility of Mr. Motts' testimony is gonna
14 be judged by you also. If anything -- and, and you guys sat
15 through it. If anything, he tells the truth too much.
16 He -- even when it's against his own interest. During the
17 bond hearing. Yes, I, I did that, but I cut him off. He
18 says too much. I'm telling you when a man is telling you
19 the truth that's against his own interest, appears to be
20 credible. He's not been denying that he did it. He just
21 wants you to understand why, why he did it.

22 Now, Mr. Barnette makes a issue out of well, he saw the
23 police and so he went ahead and shot in this direction of
24 him. What Mr. Motts said was I saw the police. He's got a
25 gun pointed at me. Now what do I do. If I put this gun

1 down, he's gonna shoot me in the head. That's what he told
2 you.

3 So, he's in a predicament. He's got a gun shot --
4 pointed at him and he feels, at that point, he's gonna kill
5 me. So, I pull my gun back up. I pull my gun up and I, and
6 I -- and you saw the results.

7 But what's he suppose to do?

8 Let him shoot him in the head?

9 Let him shoot him?

10 I'm asking that you find Mr. Motts not guilty on these
11 charges and -- or not guilty by reason of insanity on
12 attempted murder. Attempted murder is a specific intent
13 crime. Just because you shoot somebody doesn't mean you had
14 a specific intent to kill them. You have lesser included
15 offenses that I believe the judge will charge you on.

16 One of them is assault and battery first degree.
17 Assault and battery first degree takes into account the
18 injuries in this case. Even if you believe everything the
19 state's told you, at best, there's an assault and battery
20 first degree charge as to Mr. Ramsey.

21 The burden of proof's on, on the State.

22 Okay. It's on the State to prove this case beyond a
23 reasonable doubt. Not whether they nudged that ball from
24 one end of the goal line to the other a little. That's not
25 it. It doesn't meet -- they can't even make it to the mid

1 field. They got to go all the way, beyond a reasonable
2 doubt.

3 Now, you remember that, right before this shooting
4 occurred when the police arrived, that Mr. Lipscomb had
5 tried to shoot Mr. Motts two times, and Mr. Motts walking
6 back down that way. The incident with Mr. Ramsey's over.
7 He's walking back down. You'll see the -- he's just walking
8 and he's pointing at him trying to shoot, and then he walks
9 over. He sees the gun pointed at him, and he still doesn't
10 point at Mr. Lipscomb, and then Mr. Lipscomb points it at
11 him.

12 He told you that he shot Mr. Ramsey in the leg on
13 purpose. He didn't try to kill him. He told you that. He
14 shot him in the leg. He didn't threaten to kill him. He
15 told you he never threatened him, and I, I submit to you, if
16 you watch that video, about the whole video he's just
17 sitting at that bar minding his own business.

18 So, what we're asking you to do is to do justice. Do
19 justice in this case. The parties before, the State, the
20 defense, we both came to the courtroom starting on Monday
21 seeking justice, and justice is not just for the rich and
22 the powerful.

23 Okay. It's for the little man too. It's for the man
24 that doesn't have a lot of advocates. That's justice and
25 you have the opportunity to do it, and that's what I'm

1 asking you to do. And, in this case, I'm asking you to
2 return a verdict of not guilty, not guilty by reason of
3 insanity, and thank you for listening, and we appreciate
4 your service.

5 THE COURT: Yes, sir.

6 SOLICITOR BARNETTE: May it please the Court, Your
7 Honor.

8 Ladies and gentlemen, let's say you take the best case
9 scenario on what he just said. They talk about the knife.
10 They talk about the pool stick.

11 Mr. Motts never saw it. If he'd saw it, I'm sure he
12 would of pulled that gun he said he had behind his belt, and
13 he would of protected himself, but he never saw it.

14 He leaves the bar. He's gone for a period of time.
15 Everything's moved back to normal. I don't think
16 Mr. Lipscomb would of acted the way he did from that
17 standpoints unless his -- the guy was making threats from
18 that standpoint.

19 Let's say all that taken aside. He comes back in. He
20 brings the gun out. He does everything that you see on the
21 video, and then he wants you to just look at one picture or
22 one -- he don't want you to listen to the words.

23 You got a 9-1-1 call when this is all going on. You
24 got his words what he said when he went out the body cam
25 with the police officers in the back. You've got all that.

1 You got exactly what he's talking about. You got the bond
2 hearing.

3 So, we try to cut him off. Now, she -- well, wouldn't
4 you think he'd say well, judge, they was bullying me. No, I
5 did this. I was at fault. I'm sorry for what happened to
6 these people. That was the truth. He wasn't facing y'all
7 at the time.

8 They keep talking about what happened after the fact,
9 witness statements, and everything else.

10 well, these folks right here were both at the hospital
11 both being treated for the injuries that was caused by that
12 man right there.

13 I'm gonna read this to you. Judge Hayes, he's actually
14 gonna read it to you. I think he's gonna show it to you
15 also, but this is gonna be his jury charge. He has a
16 reasonable doubt charge in the -- he's gonna read the whole
17 charge to you, but the bottom of his charge says this.

18 Proof beyond a reasonable doubt is proof that leaves
19 you firmly convinced of the defendant's guilt. There are
20 very few things in this world that we know with absolute
21 certainty, and, in criminal cases, the law does not require
22 proof that overcomes every reasonable doubt or every, or
23 excuse me, every possible doubt. If, based on the
24 consideration of the evidence, you are firmly convinced that
25 the Defendant's -- he's guilty of the crime charged, you

1 must find the Defendant guilty. If, on the other hand, you
2 think there is a real possibility the Defendant is not
3 guilty, you must give the Defendant the benefit of the doubt
4 and find him not guilty.

5 One thing I would argue to you, ladies and gentlemen,
6 is this. We don't have to prove every -- beyond any doubt.
7 We just have to prove beyond a reasonable doubt.

8 They keep talking about the football field, that you
9 got to go all the way to score. No. You can kick a field
10 goal. You can drive -- as long as we kick that field goal,
11 and make it from there, we can prove our burden. We can win
12 the game from that standpoint. It's not a game. I'm trying
13 to use that as an analogy for you.

14 What -- they want you to think we have to prove
15 every -- we don't have to prove beyond any doubt. That's
16 all the Judge will charge you. If we leave you firmly
17 convinced this occurred, you're gonna have to find him
18 guilty. If there's a real possibility that he didn't do
19 this, you got to find him not guilty.

20 Another thing too, they talk about insanity defense.
21 Like I said before, it was a situation where, you know,
22 somebody just don't know what's going on. He knows what's
23 going on, and an insanity defense -- and I'll read this to
24 you too. This is part of Judge Hayes charges he'll read to
25 you.

1 we do have to prove, beyond a reasonable doubt, this
2 crime. However, and this is out of the -- with an insanity
3 defense, however the defendant must prove insanity by
4 preponderance of the evidence. Preponderance of the
5 evidence seemingly means the greater weight of the evidence
6 more likely than not. Their job is to prove insanity to
7 you. Preponderance of the evidence. Not as high a level
8 beyond a reasonable doubt, but they still have to show you,
9 through the greater weight of the evidence, that he is
10 insane.

11 Ladies and gentlemen, they haven't done that. Not even
12 close. And like I said before, I've just argued attempted
13 murder to you cause this is what this is. I mean the
14 intent's there, the specific intent. And when we talk about
15 intent, the judge is gonna charge you on malice, and malice
16 there -- and he'll be giving you that jury charge, and he'll
17 charge you malice is hatred, ill will, or hostility towards
18 another person, is the intentional doing of a wrongful act
19 without just cause or excuse or with intent to inflict
20 injury under circumstances that the law would infer an evil
21 intent.

22 Malice aforethought does not require that malice exist
23 for any particular amount of time. It could be that quick.
24 You can make that decision with one split second. But
25 malice must elicit -- exist in the mind of the Defendant

1 just before and at the time that act is committed.

2 Therefore, it must be a combination of the previous evil
3 intent and the act.

4 Malice aforethought may be expressed or inferred.

5 These terms, express and inferred, does not mean different
6 kinds of malice, but merely the manner in which malice may
7 be shown to exist. This is either by direct evidence,
8 evidence you see, hear, feel, touch, or be inferred from the
9 facts and circumstances that are proved.

10 Express malice is shown when a person speaks words
11 which express hatred or ill will for another or when the
12 person prepared beforehand to do the act which was later
13 accomplished. For example, lying in wait for a person or
14 other acts of preparation going to show that the deed was
15 within the Defendant's mind would be express malice.

16 Malice may be inferred from conduct showing a total
17 disregard for human life. If facts are proved beyond a
18 reasonable doubt sufficient to raise an inference of malice
19 to your satisfaction, the inference would simply be an
20 evidentiary fact to be considered by you. The jury -- by
21 you, the jury, along with other evidence in the case. You
22 may give it, the weight of the evidence, that you may decide
23 it receives.

24 Ladies and gentlemen, it's malice shooting the two
25 individuals the way he did, the way he chased down Brandon

1 Ramsey, the way he turned and shot that man, and the way he
2 shot him. The last words he said to you on the stand is
3 exactly how he felt. He meant to kill them. He had
4 specific intent. He had malice in his heart, and that's the
5 reason I'm gonna ask you, ladies and gentlemen, to find him
6 guilty of both counts of attempted murder. And, like I
7 said, if mental illness is an issue, say guilty but mentally
8 ill, and also guilty, guilty for possession of a weapon
9 during a violent crime.

10 Thank y'all for listening to me. Thank y'all for
11 y'all's time in this matter.

12 Thank you, Your Honor.

13 THE COURT: Thank you.

14 Madam Forelady, ladies and gentlemen, we'll take a
15 short recess. Let you retire back to the jury deliberation
16 room, but do not begin your deliberations. I'll get you
17 back just shortly to instruct you on the law and give you
18 instruction to being your deliberations.

19 You may retire back to the jury deliberation room.

20 (WHEREUPON, the following takes place outside the
21 presence of the jury.)

22 THE COURT: All right. We'll step down for a few
23 moments.

24 (WHEREUPON, a short recess was taken at this time.)

25 THE COURT: All right. Let's bring them in.

1 (WHEREUPON, the following takes place within the
2 presence of the jury.)

3 THE COURT: Madam Forelady, ladies and gentlemen, the
4 indictments in this case allege several different offenses
5 against the Defendant. The charges are attempted murder of
6 Tony Lipscomb, attempted murder of Brandon Ramsey,
7 possession of a weapon during the commission of a violent
8 crime.

9 Now, each of the indictments charges a separate and
10 distinct offense. You must decide each indictment
11 separately on the evidence and the law applicable to it
12 uninfluenced by your decision as to any other indictment.
13 The Defendant may be convicted or acquitted on any or all of
14 the offenses charged. You will be asked to write a separate
15 verdict of guilt or not guilty for each of the indictments.

16 Now, ladies and gentlemen, the Defendant has pled not
17 guilty to the indictment, and that plea puts the burden on
18 the State to prove the Defendant guilty. A person charged
19 with committing a criminal offense in South Carolina is
20 never required to prove himself innocent. I charge you that
21 it is an important rule of law that the Defendant, in a
22 criminal trial, no matter what the seriousness of the charge
23 may be, will always be presumed to be innocent of the crime
24 for which the indictment was issued unless guilt has been
25 proven by evidence satisfying you of that guilt beyond a

1 reasonable doubt.

2 This presumption of innocence does not end when you
3 begin your deliberation, but it accompanies the Defendant
4 throughout the trial until you reach a verdict of guilt
5 based on the evidence satisfying you of that
6 guilt beyond a reasonable doubt.

7 The presumption of innocence is like a robe of
8 righteousness placed about the shoulders of the Defendant
9 which remains with the Defendant until it has been stripped
10 from the Defendant by evidence satisfying you of the
11 Defendant's guilt beyond a reasonable doubt. The
12 presumption of innocence is not mere legal theory. It is
13 not just a legal phrase. It is a substantial right to
14 which every Defendant is entitled unless you, the jury,
15 are satisfied, from the evidence, of the Defendant's guilt
16 beyond a reasonable doubt.

17 what is reasonable doubt in the law?

18 A reasonable doubt is the kind of doubt that would
19 cause a reasonable person to hesitate to act. The State has
20 the burden of proving the Defendant guilty beyond a
21 reasonable doubt, and some of you may have served as jurors
22 in a civil case where you were told that it is only
23 necessary to prove that a fact is more likely true than not
24 true, such as by the greater weight or the preponderance of
25 the evidence.

1 In criminal cases, the State's proof must be more
2 powerful than that. It must be beyond a reasonable doubt.

3 Proof beyond a reasonable doubt is proof that leaves
4 you firmly convinced of the Defendant's guilt. There are
5 very few things in this world that we know with absolute
6 certainty, and, in criminal cases, the law does not require
7 proof that overcomes every possible doubt. If, based on
8 your consideration of the evidence, you are firmly
9 convinced that the Defendant is guilty of the crime
10 charged, you must find the Defendant guilty. If, on the
11 other hand, you think there is a real possibility that the
12 Defendant is not guilty, you must give the Defendant the
13 benefit of the doubt and find him not guilty.

14 I remind you that, during this trial, you and I have
15 had certain duties to perform. As the trial judge, it is my
16 responsibility to preside over the trial of this case, and I
17 also have the duty to rule on the admissibility of the
18 evidence offered during this trial. You are to consider
19 only the competent evidence before you. You are to
20 consider only the testimony which has been presented
21 from the witness stand, and any exhibits that have been made
22 part of the record of this case.

23 I have the additional duty to charge you the law
24 applicable to this case. As the presiding judge, I am the
25 sole judge of the law of this case, and it is your duty, as

1 jurors, to accept and apply the law as I now state it to
2 you. If you already have any ideas as to what the law is or
3 what the law ought to be, and it does not agree with what I
4 tell you the law is, you must abandon this idea because
5 you are sworn to accept the law and apply the law exactly as
6 I state it to you.

7 In every case tried in this courtroom before a jury,
8 the jury becomes the sole and exclusive judge of the facts
9 in a case. A trial judge cannot intimate, state, comment
10 on, or make any statement to a trial jury about the facts in
11 a case. Since you, the jury, are the sole judge of the
12 facts in a case, you are not to infer, from what I have said
13 during the progress of this trial, in ruling upon the
14 admissibility of evidence or otherwise, or anything that I
15 say during the course of this instruction to you, that I
16 have an opinion about the facts in the case. The law
17 does not allow me to have an opinion about the facts in
18 the case. This is a matter solely for you, the jury, to
19 determine.

20 As jurors, it is your duty to determine the
21 effect, value, weight, and truth of the evidence presented
22 during this trial.

23 Ladies and gentlemen, there are two types of evidence
24 which are generally presented during a trial, direct
25 evidence and circumstantial evidence. Direct evidence is

1 the testimony of a person who claims to have actual
2 knowledge of a fact such as an eyewitness. Circumstantial
3 evidence is proof of a chain of facts and circumstances
4 indicating the existence of a fact.

5 The law makes absolutely no distinction between the
6 weight or value to be given to either direct or
7 circumstantial evidence nor is a greater degree of certainty
8 required of circumstantial evidence than of direct evidence.
9 You should weigh all of the evidence in the case. After
10 weighing all the evidence, if you are not convinced of the
11 guilt of the Defendant beyond a reasonable doubt, you must
12 find the Defendant not guilty.

13 Necessarily, you must determine the credibility of
14 witnesses who have testified in this case. Credibility
15 simply means believability. It becomes your duty, as
16 jurors, to analyze and evaluate the evidence and determine
17 which evidence convinces you of its truth.

18 In determining the believability of witnesses who have
19 testified in this case, you may believe one witness over
20 several or several witnesses over one. You may believe a
21 part of the testimony of a witness and reject the remaining
22 part of the testimony of that same witness. You may believe
23 the testimony of a witness in its entirety or reject the
24 testimony of the witnesses in its entirety. You may
25 consider whether any witness has exhibited to you any

1 interest, bias, prejudice, or other motive in this case.
2 You may also consider the appearance and the manner in which
3 the witness acted on the witness stand.

4 Ladies and gentlemen, during the presentation of this
5 case, you may have noticed that certain sections of the
6 videos that were presented to you in this case were
7 redacted. This is due to the rules of court, and that was a
8 decision made by me. Please do not speculate as to what may
9 or may not have been contained in these portions, and you
10 are not to hold these portions for or against either party.

11 Ladies and gentlemen, a person who voluntarily becomes
12 intoxicated is just as responsible for the acts committed
13 while intoxicated as when the person is not intoxicated.
14 Voluntary intoxication is only a defense if the intoxication
15 has caused the Defendant to be permanently insane, and had
16 destroyed the Defendant's ability to know the right from
17 wrong.

18 Ladies and gentlemen, the Defendant is charged with
19 attempted murder. In order to prove this crime, the State
20 must prove that the Defendant attempted to kill another
21 person with malice aforethought, either express or implied.

22 Malice is hatred, ill-will, or hostility towards
23 another person. It is the intentional doing of a wrongful
24 act without just cause or excuse, and with an intent to
25 inflict an injury, or under circumstances that the law will

1 infer an evil intent. Malice aforethought does not require
2 that malice exists for any particular time before the act is
3 committed, but malice must exist in the mind of the
4 Defendant just before and at the time the act is
5 committed. Therefore, there must be a combination of the
6 previous, of the previous evil intent and the act.

7 Malice aforethought may be express or inferred. These
8 terms, "express" and "inferred", do not mean different
9 kinds of malice, but merely the manner in which malice
10 may be shown to exist. That is either by direct evidence or
11 by inference from the facts and circumstances which are
12 proved.

13 Express malice is shown when a person speaks
14 words which express hatred or ill will for another or
15 when the person prepared beforehand to do the act which
16 was later accomplished. For example, lying in wait for a
17 person or any other act of preparation going to show
18 that the deed was with -- within the Defendant's mind would
19 be express malice. Malice may be inferred from conduct
20 showing a total disregard for human life. If facts are
21 proved, beyond a reasonable doubt, sufficient to raise an
22 inference of malice to your satisfaction, the inference
23 would be simply an evidentiary fact to be considered by you,
24 the jury, along with other evidence in the case, and you may
25 give it the weight you decide it should receive.

1 A specific intent to kill is an element of attempted
2 murder. There must be proof beyond a reasonable doubt
3 of the -- an intent to commit the murder. Intent means
4 intending the result which actually occurs, not accidentally
5 or involuntarily. Intent may be shown by acts and conduct
6 of the Defendant and other circumstances from which you
7 may naturally and reasonably infer intent.

8 Evidence of the character of the act, the character of
9 the instrument used, the manner in which it was used, the
10 purpose to be accomplished, and the resulting wounds or
11 injuries may be considered in determining the intent with
12 which the act was committed. Intent may also be inferred
13 when it is demonstrated that the Defendant voluntarily and
14 willfully commits an act, the natural tendency of which
15 is to destroy another's life.

16 Ladies and gentlemen, if you find that the state
17 fails -- failed to prove attempted murder, you may consider
18 what are known as lesser included offenses. You may
19 consider whether the State has proved, beyond a reasonable
20 doubt, that the Defendant committed assault and battery of a
21 high and aggravated nature. A person commits the offense of
22 assault and battery of a high and aggravated nature if the
23 person unlawfully injures another person, and great bodily
24 injury to another person results, or the act is accomplished
25 by means likely to produce death or great bodily injury.

1 Great bodily injury means bodily injury which causes a
2 substantial risk of death or which causes serious,
3 permanent disfigurement, or protracted loss, or
4 impairment of the function of a body member or organ.

5 Ladies and gentlemen, if you feel that the State has
6 not met their burden of proof as to that lesser included
7 offense of, of attempted murder, you may also consider the
8 lesser included offense of assault and battery of a high and
9 aggravated nature. I'm sorry. That's the same one. You
10 may also consider the lesser included offense of assault and
11 battery in the first degree.

12 A person commits assault and battery in the first
13 degree if a person may -- may commit the offense of assault
14 and battery in the first degree is the person unlawfully
15 offers or attempts to injure another person with the present
16 ability to do so and the act either is accomplished by means
17 likely to produce death or great bodily injury, or great
18 bodily injury means bodily injury which causes a substantial
19 risk of death or which causes serious, permanent
20 disfigurement or protracted loss or impairment of the
21 function of a bodily member or organ.

22 The Defendant is also charged with possession of a
23 weapon during the commission of a violent crime or attempt
24 to commit a violent crime. The Defendant is charged -- the
25 State must prove, beyond a reasonable doubt, that the

1 Defendant was in possession of a firearm or visibly
2 displayed what appeared to be a firearm during
3 the commission of a violent crime. A firearm means any
4 machine gun, automatic rifle, revolver, pistol, or any
5 weapon which will -- is designed to, or may be readily
6 converted to expel a projectile. A knife means an
7 instrument or tool with a sharp cutting blade, whether or
8 not fastened to a handle, which may be used to inflict a
9 cut, slash, or wound.

10 In order to find the Defendant guilty of possession of
11 a weapon during the commission of a violent crime, you
12 must first find that -- the Defendant guilty of either
13 committing a violent crime or attempting to commit a violent
14 crime. I will charge you that attempted murder is a violent
15 crime. The State must prove, beyond a reasonable doubt,
16 that the weapon furthered, advanced, or helped in the
17 commission of the crime.

18 The Defendant has raised the defense of self-defense.
19 Self-defense is a complete defense, and, if it is
20 established, you must find the Defendant not guilty. The
21 State has the burden of disproving self-defense by proof
22 beyond a reasonable doubt. If you have a reasonable doubt
23 of the Defendant's guilt after considering all of the
24 evidence, including the evidence of self-defense, then you
25 must find the Defendant not guilty. On the other hand, if

1 you have no reasonable doubt of the Defendant's guilt after
2 considering all of the evidence, including the evidence of
3 self-defense, then you must find the Defendant guilty.

4 The following elements are required to establish
5 self-defense:

6 (1). Without fault.

7 First, the Defendant must be without fault in bringing
8 on the difficulty. If the Defendant's conduct was the type
9 which was reasonably calculated to, and did provoke a deadly
10 assault, the Defendant would be at fault in bringing on the
11 difficulty and would not be entitled to an acquittal based
12 on self-defense. Self-defense is not available to a person
13 who uses language which is so contemptuous that a reasonable
14 person would expect it to bring on a physical encounter, and
15 which did actually contribute to the physical encounter.

16 (2). Imminent danger.

17 The second element of self-defense is that the
18 Defendant was actually in imminent danger of death or
19 serious bodily injury or that the Defendant actually
20 believed he was in imminent danger of death or serious
21 bodily injury. If the Defendant was actually in imminent
22 danger, it must be shown that the circumstances would have
23 warranted a person of ordinary firmness and courage to
24 strike the fatal blow to prevent death or serious bodily
25 injury. If the Defendant believed he was in imminent

1 danger or death -- imminent danger of death or serious
2 bodily injury, it must be shown that a reasonable, prudent
3 person, of ordinary firmness and courage would have had the
4 same belief.

5 In deciding whether the Defendant, Defendant actually
6 was, or believed he was in imminent danger of death or
7 serious bodily injury, you should consider all of the facts
8 and circumstances surrounding the crime, including the
9 physical condition and characteristics of the Defendant
10 and the victim.

11 (3). No other way to avoid danger.

12 The final element of self-defense is that the Defendant
13 had no other probable way to avoid the danger of death
14 or serious bodily injury than to act as the Defendant did
15 in this particular instance.

16 The Defendant, the Defendant has raised the defense of
17 insanity. Criminal intent is required to prove that the
18 Defendant is guilty of the crime charged. A person who is
19 insane can not have criminal intent, and, therefore, can not
20 be found guilty of a crime. In order to be found not guilty
21 by reason of insanity, it must be shown that, at the time of
22 the crime, the Defendant had a mental disease, disease or
23 defect which made him unable to distinguish moral or legal
24 right from wrong, or to recognize the crime as a morally or
25 legally wrong. By raising the defense of insanity, the

1 Defendant does not necessarily admit the crime was
2 committed. The State must still prove, beyond a reasonable
3 doubt, that the Defendant committed the crime. However, the
4 Defendant must prove insanity by a preponderance of the
5 evidence. A preponderance of the evidence simply means the
6 greater weight of the evidence, or more likely than not.

7 If you find there is evidence in the record that, at
8 the time the crime was allegedly committed, it is more
9 likely than not that, because of a mental disease or defect,
10 the Defendant did not know the alleged crime was morally
11 or legally wrong, the State must prove, beyond a
12 reasonable doubt, that the Defendant was sane. It is for
13 you to decide what the state or condition of the Defendant's
14 mind was at the time the alleged crime was committed.
15 Insanity caused by the use of drugs or alcohol may be a
16 defense if the insanity is permanent and destroys the
17 Defendant's ability to know right from wrong. However,
18 when voluntary intoxication has not produced permanent
19 insanity, it is not a defense to a crime. A person who
20 voluntarily becomes intoxicated is just as responsible for
21 the acts committed while intoxicated as if, as if the person
22 were not intoxicated.

23 Ladies and gentlemen, I'm going to -- the Clerk of
24 Court and I are going to come down to the ELMO, and we're
25 going to show you the verdict forms.

1 Ladies and gentlemen, I'm -- stepped away from the
2 microphone. So if ever you can't hear me, just raise your
3 hand and let me know or just speak out.

4 Ladies and gentlemen, Madam Forelady, ladies and
5 gentlemen, we have prepared verdict forms in these cases.
6 These verdict forms list first a charge of the attempted
7 murder. Then it lists the, the other lesser included
8 offense of high -- of assault and battery of a high and
9 aggravated nature, and also assault and battery in the first
10 degree. If you feel -- again, if you feel the State has not
11 met their burden of proof as to the attempted murder, you
12 then move to the assault and batter of a high and aggravated
13 nature. If you feel they have not met their burden as to
14 that, then you move to the assault and battery in the first
15 degree, and then we've got -- both of you -- you would do
16 that on both of the cases, the one involving Brandon,
17 Brandon Ramsey and also involving Tony Lipscomb.

18 Now, the verdict in this case, they are -- there are,
19 there are four possible verdicts in this case. I will --
20 this is -- y'all will look to your right. This is, this is
21 the verdict form.

22 Now, this one involves Brandon Ramsey. We've got one
23 similar to it that involved Tony Lipscomb. But I have
24 listed the four possible verdicts that can be reached in
25 this case, and there's no reason why I listed them this way.

1 It's just that I've got to list them one above, one above
2 the other, but these are the four verdicts.

3 All right. Ladies and gentlemen, if you have any
4 reasonable doubt as to the Defendant's guilt, after
5 considering all the evidence, then you must
6 find the Defendant not guilty. If you have any reasonable
7 doubt that the Defendant committed the crime, but you find
8 that it is more likely than not, because of a mental disease
9 or defect, the Defendant could not distinguish moral or
10 legal right from wrong, or recognize the crime as morally or
11 legally wrong, you must find the Defendant not guilty by
12 reason of insanity.

13 Another possible verdict is guilty but mentally ill.
14 If you have no reasonable doubt that the Defendant committed
15 the crime, and that the Defendant had the mental capacity to
16 distinguish moral or legal right from wrong, or recognized
17 the crime as morally or legally wrong, but you find that it
18 is more likely than not, because of a mental disease or
19 defect, the Defendant could not follow the law, then you
20 must find the Defendant guilty but mentally ill.
21 As with insanity, the Defendant has the burden of proving
22 that he is guilty but mentally ill by preponderance of the
23 evidence.

24 Now, the final possible verdict in this case is guilty.
25 You may only find the Defendant guilty if the state has

1 proved, beyond a reasonable doubt, that the Defendant
2 committed the crime, that the Defendant was able to
3 distinguish moral and legal right from wrong, and to
4 recognize the crime as morally and legally wrong, and that
5 the Defendant was able to follow the law. So, if you find
6 him guilty, then you complete that section.

7 Now, ladies and gentlemen, again, Madam Forelady, you
8 would only go to the lesser included offenses if you feel
9 like the State has not met the burden of proof as to one of
10 the prior offenses, and then we have the verdict form
11 that -- on Brandon Ramsey's -- we have also -- have the
12 charge of possession of a weapon during the commission of a
13 violent crime. Then you would do the same type of review
14 and select which one of those.

15 Now, Madam Forelady, ladies and gentlemen of the jury,
16 your verdict has to be unanimous. And so if, during -- your
17 verdict can not be based on passion, sympathy. It can not
18 be capricious. It must be based solely on the evidence that
19 has been presented during this case, and the law as I've
20 instructed it to you.

21 Madam Forelady, conduct the deliberations only when all
22 12 members are present. If, by chance, somebody has to
23 leave and got to the rest room or, or has an emergency, make
24 a phone call, stop the deliberations and do, and do not
25 begin them again until all 12 are present, and -- oh, one

1 more thing. Once you've reached your verdict, knock on the
2 door and let the bailiff know. We had a jury one time sit
3 back there for hours and hours and hours and hours on a
4 relatively simple case. And we didn't know what -- why they
5 hadn't decided. We finally sent somebody back there. They
6 said, well, you didn't tell us what to do when we got
7 finished. So, please knock on the door and let the bailiff
8 know.

9 Madam Forelady, ladies and gentlemen, I'm gonna allow
10 you the opportunity to retire back to the jury, the jury
11 deliberation room, but do not begin your deliberations until
12 the bailiff has brought you the evidence, and we've told you
13 to begin.

14 Thank you very much.

15 (WHEREUPON, the following takes place outside the
16 presence of the jury.)

17 THE COURT: Any objections from the State?

18 SOLICITOR BARNETTE: None from the State, Your Honor.

19 THE COURT: Any from the defense?

20 MR. COOK: No, Your Honor.

21 THE COURT: Thank you for allowing me to borrow your
22 copy.

23 All right. So we're gonna put the alternates over
24 here?

25 SOLICITOR BARNETTE: That's fine with us, Judge.

1 THE COURT: Okay. We will keep the alternates.

2 Y'all checked all that -- Mike checked them and he said
3 they're all there.

4 SOLICITOR BARNETTE: Yes, sir, we checked with him
5 earlier.

6 THE COURT: Okay.

7 MR. COOK: Yes, sir.

8 THE COURT: All right. You may take that back there.
9 Tell them to begin their deliberations. Bring the two
10 alternates and put them up here or put them wherever Brandy
11 tells you to put them.

12 All right. We will step down.

13 (WHEREUPON, the jury began deliberations at this time.)

14 THE COURT: All right. Let's bring the jury.

15 (WHEREUPON, the following takes place within the
16 presence of the jury.)

17 THE COURT: All right. Madam Forelady, Forelady, and
18 ladies and gentlemen of the jury, I, I thank you for your
19 note. We'll make the note a Court's Exhibit to the
20 proceeding.

21 (WHEREUPON, the note from the jury was marked as
22 Court's Exhibit No. 6 and received into evidence at this
23 time.)

24 THE COURT: I am now going to recharge you on the
25 definition of assault and battery of a high and aggravated

1 nature.

2 If you find that the State has failed to prove
3 attempted murder, you may consider whether the State has
4 proved, beyond a reasonable doubt, that the Defendant
5 committed assault and battery of a high and aggravated
6 nature. A person commits the offense of assault and battery
7 of a high and aggravated nature if the person unlawfully
8 injures another person and great bodily injury to another
9 person results or the act is accomplished, is accomplished
10 by means likely to produce death or great bodily injury.
11 Great bodily injury means bodily injury which causes a
12 substantial risk of death or which causes serious permanent
13 disfigurement or protracted loss or impairment of the
14 function of a bodily member or organ.

15 Ladies and gentlemen, I have also previously instructed
16 you that, for purposes of possession of a weapon during the
17 commission of a violent crime or attempt to do so, that the
18 attempted murder was a violent crime. I need to now
19 instruct you that assault and battery of a high and
20 aggravated nature is also a violent crime.

21 You may return back to the jury deliberation room.

22 (WHEREUPON, the following takes place outside the
23 presence of the jury.)

24 THE COURT: All right. We'll stand at ease.

25 (WHEREUPON, the jury began deliberations again and

1 returned with a verdict.)

2 THE COURT: I've been told the jury has reached a
3 verdict.

4 Anything before we bring them back in from the State?

5 SOLICITOR BARNETTE: None from the State, Your Honor.

6 THE COURT: From the defense?

7 MR. COOK: Nothing from the defense, Your Honor.

8 THE COURT: All right. Let's bring them in.

9 (WHEREUPON, the following takes place within the
10 presence of the jury.)

11 THE COURT: Madam Forelady, I've been informed the jury
12 has reached a verdict.

13 Is that correct?

14 THE FORELADY: Yes, sir.

15 THE COURT: If you will, give it to the bailiff.

16 (WHEREUPON, the Forelady complies.)

17 THE COURT: Madam Clerk, if you would, please publish
18 the verdict.

19 THE CLERK: 2018-GS-11-1600, State of South Carolina
20 versus Eddie Jerome, Jerome Motts, as to the charge of
21 attempted murder against Tony Lipscomb, we, the jury,
22 unanimously find Eddie Jerome Motts guilty. Signed by the
23 foreperson, Myra McCoy.

24 2018-GS-11-1601, State of South Carolina versus Eddie
25 Jerome Motts, as to the charge of attempted murder against

1 Brandon Ramsey, we, the jury, unanimously find Eddie Jerome
2 Motts guilty. Signed by the foreperson---

3 THE COURT: There's one more.

4 THE CLERK: Excuse me.

5 As to Section 2 of the verdict form, as to the charge
6 of possession, possession of a weapon during commission of a
7 violent crime, we, the jury, unanimously find Eddie Jerome
8 Motts guilty. Signed by the foreperson, Myra McCoy.

9 Ladies and gentlemen of the jury, if this is the
10 verdict of you all, please indicate by raising your right
11 hand.

12 (WHEREUPON, all jurors raise their hands at this time.)

13 THE CLERK: Thank you.

14 THE COURT: Thank you, Madam Clerk.

15 Anything from the parties before I dismiss the jury?

16 SOLICITOR BARNETTE: Nothing from the State, Your
17 Honor.

18 MR. COOK: Poll the jury please, sir.

19 THE COURT: Madam Clerk.

20 (WHEREUPON, the jury was polled and all jurors answer
21 in the affirmative that this was and is still their
22 verdict.)

23 THE COURT: Anything else before I dismiss the jury?

24 MR. COOK: No, Your Honor.

25 (WHEREUPON, the jury was dismissed at this time.)

1 THE COURT: Any reason -- any, any other matters that
2 we need to hear?

3 MR. COOK: None from the defense, Your Honor.

4 (Pause.)

5 THE COURT: Ready?

6 SOLICITOR BARNETTE: Yes, sir, we are.

7 THE COURT: All right. All right. Mr. Motts, I just
8 need to remind you that you remain under oath.

9 You understand that?

10 THE DEFENDANT: Huh?

11 THE COURT: You understand that you remain under oath?

12 THE DEFENDANT: Yeah.

13 THE COURT: Okay.

14 THE DEFENDANT: Uh-huh. (Affirmative).

15 THE COURT: All right. Just need to ask you some basic
16 questions at, at first.

17 How old are you?

18 THE DEFENDANT: I'm 61.

19 THE COURT: And how far did you go in school?

20 THE DEFENDANT: Twelfth grade.

21 THE COURT: Did you get a diploma?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Are you married, single, divorced, widowed?

24 THE DEFENDANT: Divorced.

25 THE COURT: Do you have children?

1 THE DEFENDANT: One.

2 THE COURT: How old?

3 THE DEFENDANT: I don't know.

4 THE COURT: And I heard that you are disabled.

5 Is that correct?

6 THE DEFENDANT: That's correct.

7 THE COURT: Ever served in the military?

8 THE DEFENDANT: No.

9 THE COURT: All right. And do y'all know how much
10 credit he's entitled to?

11 MR. COOK: Yes, sir, 535 days.

12 THE COURT: Any prior record?

13 SOLICITOR BARNETTE: Yes, sir, I've got it marked as
14 Court Exhibit 5, Your Honor. Like to enter that as part of
15 the sentencing, Your Honor.

16 In 1982, Your Honor, he was convicted I think on three
17 counts. Assault on an officer, resisting arrest, and
18 interfering with an officer, Your Honor.

19 In 1990, he was convicted of DUI at that time, Your
20 Honor, and I think, in 1991, he had another DUI on his
21 record, Your Honor.

22 In 2007, he was con -- or no, 2004. Well, he was
23 actually -- it occurred in 2004. He was convicted in 2007
24 of DUI, Your Honor.

25 If I can pass that up to Your Honor on those?

1 THE COURT: Is there anyone on behalf of the victim
2 that wishes to address the court?

3 SOLICITOR BARNETTE: Yes, sir, I'd like to address the
4 Court at the appropriate time too.

5 THE COURT: Yes, sir.

6 SOLICITOR BARNETTE: So, if I can address it right
7 before they do?

8 THE COURT: Okay.

9 SOLICITOR BARNETTE: Your Honor, the jury heard this
10 case. I know you saw the facts of the case. You saw the
11 video.

12 Your Honor, we've had way too many shootings in
13 Cherokee County in the City of Gaffney, and this is the
14 baddest one as I've seen. Fortunately there's only two
15 people that was hurt. It could of been a lot more. There
16 was others in that bar. I think you saw the shoot -- where
17 he shot at. When Mr. Ramsey went out the door, there was a
18 gentleman right behind him if you see the picture. There
19 was numerous people in there. We're lucky that both these
20 men are here today. I'm glad they are.

21 What I'm gonna ask this Court is I'm gonna ask for the
22 maximum sentence on each count to run consecutive. I think
23 we need to send a message. I think the jury sent a message
24 by their verdict. The Court, in its wisdom, gave them every
25 possible verdict they could have, gave them insanity defense

1 as well as a self-defense charge on this, and the jury found
2 him guilty of these things. They feel like that he did
3 this. He intentionally did this and meant to kill both
4 these men through their verdict.

5 So, I would ask, before they speak, I'd ask for, like I
6 say, consecutive sentence on each one to run consecutive --
7 I mean the maximum sentence on each one to run consecutive
8 to each other.

9 I know Tony Lipscomb and Holly Lipscomb would like to
10 address the Court. Mr. Ramsey does not want to address the
11 Court from what I understand. I do have Chief Skinner with
12 me also.

13 THE COURT: Mr. solicitor, there were -- I know that we
14 had -- the lawyers and I had a discussion of some additional
15 information you had about the gun.

16 SOLICITOR BARNETTE: well, I think you see the record,
17 Your Honor. On his rap sheet, Court Exhibit 1, on the front
18 of it, he is not -- he is not suppose to have a gun pursuant
19 to Federal law through his convictions, and he should not
20 had a weapon in this situation or had ammunition for that
21 weapon, either one.

22 THE DEFENDANT: But I never have used no weapon at as
23 far as using it toward anybody or anything like that.

24 THE COURT: All right. Sir, at -- what we'll do is
25 I'll hear from the victims, and then I'll hear from your

1 lawyers, then allow you to---

2 THE DEFENDANT: All right.

3 THE COURT: ---also share anything with me---

4 THE DEFENDANT: Okay.

5 THE COURT: ---anything you want me to know.

6 THE DEFENDANT: All right.

7 THE COURT: And, and did I hear that he also did not
8 have a permit for this gun?

9 SOLICITOR BARNETTE: No, sir, I don't know of any
10 permits that he had for the weapon.

11 THE COURT: All right. All right. If you would, just
12 start by giving us your full name and just speak up loud
13 enough so that both the court reporter and I can hear you.
14 I'll be more than happy to hear from you.

15 MR. LIPSCOMB: Charles Anthony Lipscomb.

16 THE COURT: Yes, sir, Mr. Lipscomb.

17 MR. LIPSCOMB: I, I just would like to say again, when
18 this all happened, no one's lived through what I've lived
19 through besides my family, and my three small children.
20 Every time that I came to a bond hearing and saw this man,
21 it was like reliving it over and over and over. And when I
22 saw the way he acted yesterday, no one knew, except for the
23 people in that bar, how dangerous that man was to me, if he
24 gets out, how dangerous he is to himself, and how dangerous
25 he is to society.

1 THE DEFENDANT: You ain't got a hole in your head, have
2 you?

3 MR. LIPSCOMB: And I'm just saying that my three
4 children didn't deserve this. My wonderful wife didn't
5 deserve this, and I have lived through hell, and I ask you
6 to please give him the maximum sentence that is allowed.

7 THE COURT: Thank you, Mr. Lipscomb.

8 MR. LIPSCOMB: You welcome.

9 THE COURT: Ma'am, if you would, just start by giving
10 us your full name.

11 MRS. LIPSCOMB: Holly Lipscomb.

12 THE COURT: Yes, sir.

13 MRS. LIPSCOMB: I'm asking that you give the full
14 sentence.

15 I can't explain what I've been through this year, last
16 year and a half, and my three children explaining to them
17 what happened to their daddy. He missed our son's fifth
18 birthday because he was in the hospital, and our children
19 did not get to see their daddy until 11 days later, and it
20 was around Easter before they got to lay eyes on their
21 daddy.

22 And all they kept asking was is he daddy gonna live,
23 what are we gonna do without daddy. And it was all I could
24 do to explain to these children how that we just hope that
25 people will find Christ, and they will give their life to

1 Jesus. And we forgive him. And we'll move on from this.
2 And I just ask that you will consider the maximum sentence.

3 THE COURT: Thank you, ma'am.

4 SOLICITOR BARNETTE: Thank you, Your Honor. I think
5 that's our presentation on it.

6 THE COURT: All right. Thank you.

7 SOLICITOR BARNETTE: Thank you.

8 THE COURT: Yes, sir.

9 MR. COOK: Judge, I'd just like to start out my
10 touching on his prior record. I -- I've got the indictment
11 from that. I just want to make sure we're straight on the
12 record with that, and I've got it's one resisting arrest
13 charge from 1982.

14 SOLICITOR BARNETTE: It's on the rap sheet.

15 MR. PRUETT: And that was the rap sheet that the
16 solicitor's going off of. I think this is what he was
17 actually convicted of.

18 SOLICITOR BARNETTE: It says resisting arrest B, which
19 would be the assault on an officer.

20 MR. COOK: All right.

21 SOLICITOR BARNETTE: So, that can, that can match up
22 from that.

23 MR. COOK: Judge, you've heard a lot about this case
24 already. A couple things that you hadn't heard about is Mr.
25 Motts has some physical problems. His heart had stopped on

1 him about three weeks prior to this incident, and he was
2 airlifted to Charlotte to the emergency room. Just -- his
3 heart just stops. He stops breathing. We've, we've -- they
4 don't know why yet. This is happened to him again since
5 he's been at the jail. I just want to make the Court aware
6 of that.

7 He's been in jail 535 days, Your Honor, and we would
8 ask that, based on his health, that you, you do not impose
9 the maximum sentence in this case. Your Honor has a lot of
10 leeway here. It carries zero to 30 on each of those
11 attempted murders, and we ask that you take that into
12 consideration that it's not a mandatory sentence.

13 MR. PRUETT: If I could just briefly add, Judge, and in
14 terms of what the sentence may be.

15 I think there's actually case law relative to sending a
16 message to the community. Mr. Motts is not here to answer
17 for all of the evils and ills in Cherokee County. A
18 sentence should be tailored to that individual, his
19 characteristics, his background, his actions, and not for
20 all evils and ills in Cherokee County. If there have been
21 too many shootings, that means there's enough responsibility
22 to go around law enforcement and the community to answer for
23 that.

24 I want to address that in the record it -- State's
25 Exhibits -- Court's Exhibit No. 4, which was the competency

1 and evaluation regarding his ability to conform his conduct
2 to the law, and I would just note that the state's mental
3 health evaluator noted in that that he does have mental
4 illnesses. I know the verdict of the jury isn't -- they
5 didn't have some of that information, and part of that's due
6 to our decision not to have an expert testify. Part of that
7 was the state's decision not to have an expert testify even
8 though they had two in the courtroom.

9 But in that report, Your Honor, that's before you as
10 court's Exhibit No. 4, they -- that evaluator confirmed that
11 he does have hallucinations. These are not things we're
12 making up for trial, but these are things that the evaluator
13 found that he was, he was credible. He was not malingering.
14 He reported that, and even when he was in jail, Your Honor,
15 he -- he was interviewed by that evaluator. She states in
16 his report that he was just emphatic, ranting, that he
17 actually believed that he had killed somebody since he had
18 been in jail.

19 So, we have an individual who I think, unfortunately,
20 does suffer from some mental illnesses. The record is
21 before Your Honor. It's been made a Court Exhibit, and it
22 goes to mitigation. Obviously we would have to accept the
23 verdict of the jury. They found him guilty. They did not
24 find him guilty but mentally ill or insane. But,
25 nonetheless, those are facts in mitigation on behalf of Mr.

1 Motts that I ask you to consider in view of his health,
2 physical health, mental health, and his prior record.

3 THE COURT: Did y'all have someone else to address the
4 Court?

5 MR. PRUETT: Yeah.

6 State your name.

7 THE COURT: Ma'am, if you would, just speak up loud
8 enough so that both the court reporter and I can hear you.
9 Just start by giving us your full name.

10 MS. WILSON: Yes, Your Honor. My name is Linda Wilson.
11 I am not by blood, but I am Jerome Motts' daughter. He
12 has -- he is been responsible in helping my mother raise me
13 ever since I was 10 years old.

14 This is a man that has worked hard all his life. I
15 have -- he has a great heart and I know him to have a good
16 heart. I've never known him to intentionally want to hurt
17 anyone. He's always been a good helper, and this is, this
18 is been hard on my family, and I do understand.

19 It has been -- I couldn't even imagine what the victims
20 have went through, and my heart aches for them, and our
21 thoughts and prayers have been with them, and I am so
22 thankful that they are still here today.

23 My heart aches for him as well. I've seen his health
24 deteriorate over, over the years, Your Honor. And while
25 he's been -- we'll never know exactly what this disease does

1 to people's minds. I truly do think that with, with that
2 taken into consideration, I, I, I would ask you, Your Honor,
3 to have him put in a facility, not impose the maximum
4 sentence, and, and put him in a facility where they can --
5 he can get the help and -- that he needs and the medical
6 attention that he will need to serve out his time for this
7 that he's been convicted of.

8 Thank you.

9 THE COURT: Thank you, ma'am.

10 And, Mr. Motts, do you agree with the statements that
11 have been made by your lawyers?

12 THE DEFENDANT: Don't really think I got a choice, do
13 I?

14 THE COURT: I beg your pardon?

15 THE DEFENDANT: I really don't have a choice.

16 THE COURT: All right. Do you -- is there anything
17 else that you would like to say or want me to know or
18 consider?

19 THE DEFENDANT: Well, all I can say is for the two
20 victims that -- and do you -- I don't, I don't have, have no
21 ill will towards you or your family. What happened between
22 us is been going on for years between me and him. He just
23 happened to get involved in and pulled a weapon. So, what's
24 been done is done and this that, and that's over. Y'all
25 ain't got a hold in this though.

1 SOLICITOR BARNETTE: Your Honor, if I can briefly say
2 just something for the record.

3 I think it's Court's 1 that Mr. -- that Mr. Pruett was
4 talking about. Not four. Yeah, I think it's -- I think
5 it's Court Exhibit No. 1.

6 MR. PRUETT: Is it one?

7 I thought it was four.

8 SOLICITOR BARNETTE: Yeah, it's one.

9 MR. PRUETT: Just the---

10 THE COURT: For the record---

11 MR. PRUETT: Just the report. well, I apologize if I
12 corrected---

13 SOLICITOR BARNETTE: And we did make that part of the
14 record, Your Honor, to---

15 MR. PRUETT: Okay.

16 SOLICITOR BARNETTE: ---make sure that any future
17 proceedings would look at it from that. I know Your Honor
18 got to look at that too I think prior to the trial.

19 THE COURT: I did.

20 SOLICITOR BARNETTE: So from there. And, Your Honor,
21 the only thing I would point out is, is I think you saw the
22 facts of the case. You saw how, how dramatic this was.

23 THE DEFENDANT: well, Judge, can I ask you one thing
24 please?

25 THE COURT: You're more than welcome to just tell me

1 anything that you would like me to know.

2 THE DEFENDANT: Okay. Instead of sentencing me to a
3 long prison term and watching myself go to where that I
4 can't remember nothing and somebody having to wipe my ass
5 and all, I'd sure appreciate it if Thy Honor would just go
6 ahead and send me to the electric chair. I'd sure
7 appreciate that.

8 THE COURT: Thank you, Mr. Motts.

9 Mr. Motts, am, am I correct that -- is the solicitor
10 correct that you did not have a permanent -- have that gun?

11 THE DEFENDANT: I was in the process of that.

12 THE COURT: All right. Is, is the solicitor correct
13 that, under Federal law, you would not have been able to
14 possess that gun?

15 THE DEFENDANT: I don't know of that. I know had, had
16 been dealing with a firearm whenever -- the charges that I
17 got back when they were in -- back whenever they said it
18 said on the paper that I have was in that time I was just
19 convicted for assault. But as far as the -- what do they
20 call where you---

21 (Pause.)

22 SOLICITOR BARNETTE: And, Your Honor, one thing we
23 might want to do is I know Mr. Cook's got a copy of the
24 indictment and the sentence. We may make that a Court
25 Exhibit so there would be no issue about that if that's okay

1 with Mr. Cook.

2 THE DEFENDANT: What do they call it like you call
3 drugs?

4 THE CLERK: I'll take it if you want it.

5 SOLICITOR BARNETTE: Okay. We can make that Court
6 Exhibit --?

7 THE CLERK: Let me make a copy.

8 SOLICITOR BARNETTE: Your Honor, that will be Court
9 Exhibit No. 7. I think that will cover the record
10 concerning that.

11 THE COURT: Under the statute for possession of a
12 weapon during the commission of a violent crime, is it
13 mandatory that it's consecutive?

14 MR. COOK: No, sir.

15 SOLICITOR BARNETTE: Your Honor, I, I take the position
16 I leave it up to the Court's discretion.

17 (Pause.)

18 THE COURT: And did I hear testimony during the trial
19 that, that you purchased that gun from a private -- from a
20 friend?

21 THE DEFENDANT: Yeah, I had -- well, no. He was a, a
22 licensed gun dealer, and it -- he, he was a -- also the CIA
23 gun -- undercover operations and all. So, he would -- he --
24 he'd go to New York City at times. Not for sure what all he
25 did because it was that he couldn't let me know of the --

1 any of the stuff that really he was doing as far as the
2 undercover stings and all.

3 THE COURT: Thank you, Mr. Motts.

4 All right. I'll find that -- well, don't have to
5 accept the plea.

6 I have reviewed Court's Exhibit 5 as well as Court's
7 Exhibit 7.

8 On these cases, these will be under Indictment
9 2018-GS-11-1600, that will be a 30 year sentence in the
10 State Department of Corrections. He will receive credit for
11 535 days.

12 Indictment 2018-GS-11-1601, that will be a 30 year
13 sentence that runs consecutive to 1600. Credit for 535
14 days.

15 On indictment 1601(a), that is the gun charge, that
16 will be a five year sentence which runs consecutive to
17 Indictment 2018-GS-11-1601. Gets credit for 535 days on all
18 of the charges.

19 Good luck to you, sir.

20 SOLICITOR BARNETTE: Thank you, Your Honor.

21 MR LIPSCOMB: Thank you, Your Honor.

22

23

24 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

25

C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for 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 Cherokee County, South Carolina, on the 9th, 10th, and 11th days of September, 20119.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

July 2nd, 2020

PAMELA E. GREEN, Court Reporter

FORM 5

STATE OF SOUTH CAROLINA

County of Richland

IN THE COURT OF COMMON PLEAS

Eddie Jerome Motts 00114054

Full name and prison number (if any) of Applicant

20CP-110168

v.

State of South Carolina

APPLICATION FOR
POST-CONVICTION RELIEF

BRADY W. MCREE

2020 MAR 13 PM 12:06

CLERK OF COURT
CHEROKEE COUNTY, S.C.**INSTRUCTIONS - READ CAREFULLY**

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Kirkland Correctional Institution
2. Name and location of Court which imposed sentence Cherokee County Court
125 E. Floyd Baker Blvd. Gaffney SC 29340
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 18-GS-11-1600 Attempted Murder
 - (b) 18-GS-11-1601 Attempted Murder

(c) 18-GS-11-1601A Possession of Firearm During Violent Crime

5. The date upon which sentence was imposed and the terms of the sentence:

- (a) 3/25/18 - 30 years
 (b) 3/25/18 - 30 years
 (c) 3/25/18 - 5 years

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty _____
 (b) after a plea of not guilty _____
 (c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

no

8. If you answered "yes" to (7), list:

- (a) the name of each Court to which you appealed:
 i. _____
 ii. _____
 iii. _____
 (b) the result in each such Court to which you appealed:
 i. _____
 ii. _____
 iii. _____
 (c) the date of each such result:
 i. _____
 ii. _____
 iii. _____
 (d) if known, citations of any written opinion or orders entered pursuant to such results:
 i. _____
 ii. _____
 iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

- (a) _____
 (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: INAPPROPRIATE ASSESSMENT of Counsel.
- (a) All evidence was not presented at court
- (b) some evidence seemed to be altered (fake)
- (c) feel like I did not get a fair trial
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Gaffney Police Dept. did not hand over all evidence (Police stolen)
- (b) Video showed seemed to be different in the layout of Building
- (c) Lawyer did not show supporting Evidence.
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? no
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? no
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? no
- (d) any other petitions, motions or applications in this or any other Court? _____
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. _____
- iv. _____

3

Given to said Defendant: 2020
9th day of March
2020
216764
 (Notary Public of South Carolina)
 My Commission Expires _____

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

no - not to be known.

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. _____
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) _____
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? yes
 (b) your trial, if any? yes
 (c) your sentencing? yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? no - not known
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
no - not known

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. _____

 ii. _____

 iii. _____

(b) the proceedings at which each such attorney represented you:

i. _____

 ii. _____

 iii. _____

19. State clearly the relief you seek in filing this application:

to be found not guilty

20. Are you now under sentence from any other court that you have not challenged?

NO

STATE OF SOUTH CAROLINA

County of Richland

VERIFICATION

I, Eddie Jerome Molts, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Eddie J. Molts

SWORN to and subscribed before me this 9th day of March, 2020

[Signature] (L.S.)
Notary Public

My Commission Expires: 2/17/24



**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Eddie Jerome Motts, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Eddie J. Motts
Applicant

SWORN or affirmed to and subscribed before me this
9th day of March, _____.

J. Outlaw
Notary Public

My Commission Expires: 2/17/24



STATE OF SOUTH CAROLINA
COUNTY OF CHEROKEE

Eddie J. Motts, #114069,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE SEVENTH JUDICIAL CIRCUIT

Case No.: 2020-CP-11-00168

**RETURN AND MOTION FOR A
MORE DEFINITE STATEMENT**

NOW COMES Respondent, moving for a more definite statement and making its return to the post-conviction relief (hereafter "PCR") application filed on March 13, 2020 by Eddie J. Motts (hereafter "Applicant"). Respondent respectfully offers the following in support of its return:

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Cherokee County Clerk of Court. During its December 2018 term, the Cherokee County Grand Jury indicted Applicant for Attempted Murder (Count One) and Possession of a Firearm by a Person Convicted of a Crime of Violence (Count Two)¹ (2018-GS-11-01600) and Attempted Murder (Count One) and Possession of a Weapon During Commission of a Violent Crime (Count Two) (2018-GS-11-01601). Applicant was represented by Trent Pruett and Dean Cook, Esquires. Solicitor Barry Barnette of the Seventh Circuit Solicitor's Office prosecuted the case. On September 9-11, 2019, Applicant proceeded to trial before the Honorable J. Mark Hayes, II and a jury. Applicant was found guilty as charged on the

¹ At trial, the State decided not to proceed on this count because Applicant had not previously been convicted of a violent felony.

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remaining three counts and Judge Hayes sentenced Applicant to thirty years' imprisonment on each Attempted Murder charge and five years for Possession of a Weapon during Commission of a Violent Crime, sentences running consecutively. Applicant did not pursue a direct appeal.

II. Statement of Facts

On March 26, 2018, Applicant was in a bar drinking with a number of other people. (Tr. 87-95). At one point, Applicant stood up, stated that no one in the bar could "kick his ass", and the bartender, Tony Lipscomb, told him to leave and that he would not be served anymore. (Tr. 95-96). After being asked to leave, Applicant became volatile and began threatening everyone in the bar. (Tr. 96-97). The bartender grabbed a pool cue to hit Applicant with if he continued acting up. (Tr. 97-98). Eventually Applicant left the bar. (Tr. 98-99). Applicant reentered the bar shortly thereafter and then pulled a gun, threatening to kill the bartender and a patron, Brandon Ramsey, whom Applicant had a previous altercation with. (Tr. 101). 911 was called immediately and the bartender began pleading with Applicant to put the gun away. (Tr. 101). Applicant threatened to shoot if the phone was not put away and proceeded to hold everyone in the bar hostage. (Tr. 101). At one point, Applicant chased the patron towards the front door, demanding he get off the phone with 911. (Tr. 102-03). Applicant ultimately shot Brandon in the thigh. (Tr. 103, 107). Applicant then went after the bartender pulls the trigger. (Tr. 101-02). The bartender grabbed his gun, but it was jammed. (Tr. 102). Applicant shot the bartender the second time, the police enter the building and the bartender ran away. (Tr. 102). The bartender was shot in the chest, which required several surgeries and left him with life-long scar tissue. (Tr. 107-08).

III. Current Action before the Court

In his *pro se* PCR application, Applicant alleges he is detained unlawfully for the following reasons (excerpt's verbatim):

1. "Ineffective assistance of counsel."
 - a. "Lawyer did not show supporting evidence."³
2. "All evidence was not presented at court."
 - a. "Gaffney Police Dept. did not hand over all evidence (police statement)."⁴
3. "Some evidence seemed to be altered (fake)."
 - a. "video showed seemed to be different in the layout of building."⁴
4. "Feel like I did not get a fair trial."

Attached to and incorporated herein are Applicant's Cherokee County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, the trial transcript, and the current PCR application. Respondent reserves the right to amend this return upon receipt of additional relevant information.

IV. Argument

Ineffective Assistance of Counsel

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel's performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d

³ This allegation is interpreted as Counsel's failure to build and present a proper defense.

² This is interpreted as State's misconduct in failing to hand over all Brady Material, including

⁴ This is interpreted as an ineffective assistance of counsel claim for failure to object to allegedly altered evidence.

624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel's actions fell outside of the zone of "reasonableness under prevailing professional norms." *Strickland*, 466 U.S. at 688. See also Rule 71.1(e), SCRPC ("The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."). Reasonableness is determined by the "variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant," and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). Judicial scrutiny of counsel's performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually "countless" ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel's deficient performance must have prejudiced the applicant so that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. Realistically, this matters "'only in the rarest case'" because "[t]he likelihood of a different result must be substantial, not just conceivable." *Harrington v. Richter*, 562 U.S. 86, 111-12 (2011) (quoting *Strickland*, 466 U.S. at 697).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S.

at 696. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696-97.

Failure to Build and Present a Proper Defense

Applicant claims that Counsel was ineffective for failing to show all supporting evidence in defense of Applicant. Whether failure to assert a defense constitutes deficient performance ultimately hinges on whether failure to explore the decision was a strategic decision. *Strickland*, 466 U.S. at 680. If there is only one line of defense, counsel must conduct a "reasonably substantial investigation" into that line of defense. *Id.* (quoting *Washington v. Strickland*, 693 F.2d at 1252). However, if there are several lines of defense, counsel may still be effective even if every single line is not explored. *Id.* "[W]hen counsel's assumptions are reasonable given the totality of the circumstances and when counsel's strategy represents a reasonable choice based upon those assumptions, counsel need not investigate lines of defense that he has chosen not to employ at trial." *Id.* at 681 *Id.* (quoting *Washington v. Strickland*, 693 F.2d at 1255). Further, "[w]hen counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect." *Yarborough*, 540 U.S. at 5 (citing *Strickland*, 466 U.S. at 690).

Applicant claims that Counsel was ineffective for failing to show all supporting evidence. However, Applicant fails to state what this evidence consists of, how Counsel's action was unreasonable or not strategic, or how the results of the trial would have been different for not for Counsel's allegedly deficient performance. A more definite statement is needed for Respondent to ascertain whether or not this allegation has merit.

Failure to Object

Applicant claims that Counsel was ineffective for failing to object to altered evidence. Whether failure to object constitutes deficient performance generally hinges on whether or not a valid trial strategy was utilized. *See Thompson v. State*, 423 S.C. 235, 241, 814 S.E.2d 487, 490 (2016) (finding Counsel was deficient because the failure to object was not related to an otherwise valid trial strategy); *Stokes v. State*, 308 S.C. 546, 548, 419 S.E.2d 778, 779 (1992) (where "counsel articulates a valid reason for employing certain strategy, such conduct will not be deemed ineffective assistance of counsel").

Though Applicant claims the evidence was fake, he does not state what evidence was fake, how Counsel was deficient in failing to object to allegedly fake evidence, or how exposing the evidence as being fake would have changed the proceedings at trial. Thus, a more definite statement is needed for Respondent to ascertain whether or not this allegation has merit.

Also, the ineffective assistance of counsel allegations probably raise questions of fact that the record does not conclusively refute. Accordingly, Respondent respectfully requests an evidentiary hearing to fully resolve this issue. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) ("Where an application for post-conviction relief alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court, a question of fact is raised which can only be resolved by an evidentiary hearing").

Prosecutorial/State Misconduct

Applicant alleges he is entitled to post-conviction relief because law enforcement, and the State by extension did not hand over all evidence; specifically, they withheld a police statement. Respondent interprets this as a *Brady* violation. *Brady* violations occur if four conditions are

merit: "the evidence was favorable to the accused", "it was in the possession of or known to the prosecution", "it was suppressed by the prosecution", and "it was material to guilt or punishment." *Gibson v. State*, 334 S.C. 515, 524, 514 S.E.2d 320, 324 (1999).

Here, Applicant states that Law Enforcement, and the State by extension, withheld evidence from the defense. However, he does not state what this evidence consists of, why he was entitled to it, and why he is entitled to relief because of the alleged misconduct. A more definite statement is needed for Respondent to ascertain whether or not this allegation has merit and Respondent requests an evidentiary hearing be held on this matter to resolve the issue.

V. Motion for a More Definite Statement

Respondent moves for a more definite statement regarding Applicant's allegations. Applicant alleges that plea counsel was constitutionally ineffective because of a failure to prepare and present a proper defense and to object to State's evidence. Additionally, Applicant claims the State engaged in misconduct by withholding evidence. However, he does not explain exactly what Counsel and the State did that entitles him to post-conviction relief. Applicant fails to set forth with specificity any facts and circumstances upon the claim is based. The Uniform Post-Conviction Procedure Act requires that applicants must "specifically set forth the grounds upon which the application is based." Section 17-27-50 of the Code of Laws of South Carolina (1976). In a PCR application, it is incumbent upon applicants to make at least a *prima facie* showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. *Welch v. MacDougall*, 246 S.C. 258, 143 S.E.2d 455 (1965); *Blondshaw v. State*, 245 S.C. 285, 140 S.E.2d 784 (1965). The Supreme Court of South Carolina has provided that:

[M]ere allegations of incompetency or ineffectiveness of counsel will not ordinarily suffice as grounds for a new trial under the Post-Conviction Procedure Act. The bare assertion by the appellant that he was deprived of counsel is insufficient.

Coardes v. State, 262 S.C. 493, 497, 206 S.E.2d 264, 265 (1974).

Furthermore, Rule 8(a), SCRCP, requires all civil pleadings include “a short and plain statement of the facts showing that the pleader is entitled to relief.” Respondent moves pursuant to Rule 12(e), SCRCP, to require Applicant to provide a more definite statement of his claims. Respondent moves to require Applicant to file an additional amended application well in advance of any evidentiary hearing concerning this matter. If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, Respondent reserves the right to move to dismiss the allegation.

VI. Other Allegations Denied

Each and every other allegation in Applicant’s PCR application not explicitly admitted, qualified, or explain in this Return is hereby denied by the Respondent.

VII. Assertion of Rights to Notice of Amendments, Experts

Applicant should raise any claims he intends to raise at the PCR evidentiary hearing well in advance of the hearing. Here, Applicant’s court-appointed attorney is the only individual authorized to file amendments to this application, given his representative capacity, Rule 11(a), SCRCP and *pro se* filings will not be considered at the PCR hearing. *State v. Devore*, 416 S.C. 115, 123, 784 S.E.2d 690, 694 (Ct. App. 2016) (*Pro se* filing is a nullity where person was represented by counsel); *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010) (“Since there is no right to ‘hybrid representation’ that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relief counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel.”).

Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent or, in the alternative, continue the

matter to permit adequate time to investigate and address the claims. See *Mangal v. State*, 421 S.C. 85, 805 S.E.2d 568 (2017) (“In most PCR cases . . . we have refused to excuse the pleading and issue-preservation requirements that apply in all civil cases.”); *Love v. State*, 428 S.C. 231, 242, 834 S.E.2d 196, 201 (2019) (“When analyzing the substance of a proposed amendment and any prejudice the State might suffer, a PCR court should consider all relevant circumstances, including, but not limited to, the timing of the motion, the complexity of the new issue, the degree of surprise to the State, the need for and availability of necessary witnesses to defend against the claim, and whether the substance of the proposed amendment is readily apparent from the underlying plea or trial record.”); see also Rules 15(a)-(b), SCRCP (explaining how to amend a pleading). Pursuant to Section 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless the Court grants leave upon good cause shown. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits withheld until the last minute resulting in undue prejudice to Respondent.

VIII. Conclusion

WHEREFORE, Respondent requests that the Court require Applicant to provide a more definite statement and then hold an evidentiary hearing regarding Applicant’s allegations.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

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By: / Chelsey F. Marto
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August 4, 2020

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHEROKEE	)	
	)	
	)	2020-CP-11-00168
	)	
EDDIE J. MOTTS, #114069,	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent,	)	
_____	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return and Motion for a More Definite Statement in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Rodney W. Richey, Esquire
 Richey & Richey, PA
 Post Office Box 10916
 Greenville, South Carolina 29603

DATED this 4th Day of August, 2020.

2020 AUG -6 AM 11:20
 CLERK OF
 CHEROKEE COUNTY S.C.



 Eva D. Cook, Legal Assistant
 For Respondent

State of South Carolina	)	
	)	
County of Cherokee	)	
Eddie Jerome Motts,	)	2020-CP-11-C0168
	)	
Applicant,	)	
	)	
v.	)	Transcript
	)	
State of South Carolina,	)	of
	)	
Defendant,	)	Post-conviction
	)	Relief Hearing
	)	
	)	
	)	
	)	
	)	
	)	

Date: April 18, 2022

Time: 2:32 p.m.

Location: Spartanburg County Courthouse

180 Magnolia St.

Spartanburg, SC 29306

Reported by
Amber Payne, CVR

APPEARANCES

Presiding: The Honorable G.D. Morgan Jr.

For the Applicant: Rodney Richey, Esq.
Richey and Richey Law Firm
33 Market Point Drive
Greenville, SC 29607

For the State: Chelsey Marto, Esq.
South Carolina Attorney
General's Office
1000 Assembly St., Room 519
Columbia, SC 29201

Also Present: E. Dean Cook Jr., Esq.

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 (SW) - Denotes State's Witness

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EXHIBITS

There were no exhibits marked during this hearing.

1 PROCEEDINGS

2 THE COURT: All right. Are we ready to go?

3 MS. MARTO: Yes, Your Honor.

4 THE COURT: All right. I believe this is the
5 case of Eddie Motts; is that correct?

6 MS. MARTO: Yes, Your Honor. This is --

7 THE COURT: All right. Yes, ma'am.

8 MS. MARTO: May it please the Court. This is
9 the case of "Eddie Motts vs. the State of
10 South Carolina." Docket Number 2020-CP-11-
11 00168. Applicant is presently confined in the
12 South Carolina Department of Corrections
13 pursuant to orders of commitment from the
14 Cherokee County Clerk of Court.

15 During its December 2018 term, the
16 Cherokee County Jury -- Grand Jury, indicted
17 applicant for attempted murder and possession
18 of a firearm by a person convicted of a
19 violent crime and attempted murder and
20 possession of a weapon during the commission
21 of a violent crime. He was represented by
22 Trent Pruett and Dean Cook. Solicitor Barry
23 Barnette of the 7th Circuit Solicitor's Office
24 prosecuted the case.

25 The case proceeded to trial September 9th

1 through the 11th, 2019, before the Honorable
2 J. Mark Hayes and a jury. He was found guilty
3 as charged on three counts and the -- one of
4 the weapons possession counts was dismissed
5 prior to the trial. And he was imprisoned on
6 each attempted murder charge for 30 years and
7 on the possession of a weapon during the
8 commission of a violent crime for five years,
9 and the sentences ran consecutively for a
10 total of 65 years. Applicant did not pursue a
11 direct appeal. The post-conviction relief
12 application was filed March 13th, 2020, and
13 the return was made August 4th, 2020. And
14 with that, I'll turn it over to Mr. Richey to
15 state the allegations.

16 THE COURT: All right. Mr. Richey?

17 MR. RICHEY: Okay. We'll call Mr. Motts.

18 THE COURT: All right. Mr. Motts, if you'd
19 come up here and be sworn.

20 (WHEREUPON, the applicant was sworn.)

21 **DIRECT EXAMINATION OF EDDIE JEROME MOTTS**

22 BY MR. RICHEY:

23 Q Sir, would you state your name, please?

24 A Eddie Jerome Motts.

25 Q And, Mr. Motts, are you currently in the Department

1 of Corrections?

2 A Yes. I am.

3 Q And what are you in the Department of Corrections
4 for?

5 A Two attempted murders and possession of a firearm
6 and then --

7 Q Did you -- I'm sorry. Excuse me. Go ahead. Say
8 it again. I'm sorry.

9 A Two attempted murders with a possession of a -- and
10 commission of a violent crime with a weapon --
11 firearm.

12 Q Did -- did you have a trial, and did you plead
13 guilty?

14 A No. I was told that -- that I couldn't plead
15 guilty, so I didn't plead guilty. I took the
16 trial.

17 Q Okay. And who represented you at that trial?

18 A Dean Cook.

19 Q Okay. Did -- did Mr. Pruett -- Trent Pruett, did
20 he represent you any right here?

21 A I didn't know that he was involved with it until
22 later on. To start with, it was just Dean Cook was
23 coming to the county to talk to me. That we had
24 received him for representation of the --

25 Q So -- so your -- your issue is not with Mr. Pruett

1 in this, right?

2 A No. It isn't.

3 Q Okay. So your allegation is solely with Mr. Cook?

4 A With Dean Cook.

5 Q Okay. All right. Did -- well, did you hire Mr.

6 Cook, or was he appointed to you?

7 A No. I hired him.

8 Q Okay. And did you discuss your case with him?

9 A Yes. What was discussed was very little at the

10 time.

11 Q Okay. Okay. Yeah. Let me -- I'm gonna ask you

12 this way: You got arrested, and you did not

13 make -- there was no bond, correct?

14 A No.

15 Q Okay. So you were down at the county jail?

16 A (Shook head no.)

17 Q You've got to answer yes or no so she can take it

18 down.

19 A Yes. Yes. I was.

20 Q Okay. Did Mr. Cook come to the county jail to talk

21 to you?

22 A Yes. I mean, he did, yeah.

23 Q Okay. How many times do you think he came?

24 A What'd you mean?

25 Q Okay. Was it more than two?

- 1 A Yes. Maybe about four times, I'm gonna say.
2 Something like that. I'm not sure.
- 3 Q And when he came to the jail, did he discuss the
4 case with you?
- 5 A No. No. There was no -- was a -- there was not no
6 plans to -- as far as no case or nothing like that.
7 I didn't know -- really know nothing far as the
8 case work and stuff like that until I got into the
9 courtroom, really.
- 10 Q Okay. Well, let me ask you this: When he came to
11 the jail, what did he talk about?
- 12 A I did see a couple of the pictures he had, and --
- 13 Q Uh-huh.
- 14 A -- he was saying that him and Dean -- I meant
15 Pruett -- Mr. Pruett and him that they would come
16 down and it's supposed been like that I was gonna
17 be in court and they was gonna be doing some
18 questioning and stuff like that, but none of that
19 stuff ever happened.
- 20 Q So did he come down to the jail with your discovery
21 and go over your discovery --
- 22 A No.
- 23 Q -- in your case? No. When -- did you ever see the
24 discovery?
- 25 A No.

1 Q You never saw it?

2 A No.

3 Q Sitting here today, have you seen your discovery?

4 A No.

5 Q You have not?

6 A No.

7 Q Okay. And so how did you prepare for the -- your
8 case if you've never seen the discovery?

9 A For the stuff -- stuff it -- whenever I was in the
10 trial, the lies and stuff that was done to me and
11 the -- the evidence that was pre-fabbed (verbatim)
12 on me and the -- the lies that the people told the
13 -- the Court that said I did stuff, like the
14 shooting of one person, I did not never shoot him.

15 Q Well, let me -- let's go back -- let's go back.

16 Where did this happen at?

17 A It happened at Harold Tindall's on Main Street in
18 Gaffney, South Carolina.

19 Q And what is that? What type of place is that?

20 A It's a bar/food. One side of it's food, and the
21 other side's a -- a bar, a beer joint, whatever you
22 wanna call it.

23 Q And -- and had you been there before?

24 A Very -- off and on I had been there. I wasn't no
25 regular visitor there, but I was there a few times.

1 Like I didn't have no habit of going up there or
2 nothing like that, no.

3 Q Okay. And so when you got -- what time was it when
4 you got there?

5 A The time -- far as the time, I didn't really
6 remember, because the -- to me the time wasn't -
7 the irrelevancy of it -- that at -- at that point
8 and stuff, because I had been over at another man's
9 house that -- Dale -- that he had had some knee
10 problems and stuff, so . . .

11 I had went over there and helped him, and
12 whenever I left there, I decided to go up there and
13 sit up there and have a couple of drinks and . . .

14 Q Okay. When you got there, what happened?

15 A I was sitting there, and I got to talking to Kathy
16 Calvert and --

17 Q And who is that?

18 A She was the bartender behind there. And me and her
19 sister had dated years ago prior to this, back
20 toward in my high school days and all that, because
21 I dated her several times. And so she had ended up
22 getting killed in a wreck up on Number 11. The
23 highway patrol was chasing a guy and he run into
24 the back of them and hit the SUV and it knocked her
25 -- she come out of the vehicle and the -- the

1 vehicle fell over on her and killed her. And --
2 but I -- but I started to talking to her and all
3 that. Me and her was talking about stuff like
4 that. And then I noticed she didn't really know
5 who I was. And so I ended up -- after a while, I
6 set there, well, then I ended up telling her my
7 name. I said, "You don't really know who I am, do
8 you?"

9 And she said, "No."

10 And I said, "Jerome Motts." And whenever I
11 said, "Jerome Motts," well, she hollered out my
12 name. And at that point, we sit there and she
13 still kept talking, but it wasn't long, stuff
14 started happening that I didn't -- I didn't know
15 really what it was or nothing like that. And it's
16 just that -- and then she ended up -- finally,
17 after a while, she ended up going to the food side.
18 And then that's whenever Tony come to me. I did
19 not know him or nothing like that. And so he came
20 to --

21 Q Tony came to -- was he already in the bar?

22 A Yes.

23 Q Okay.

24 A He -- he was the owner/whatever you wanna call it.

25 Q Yeah. Yeah.

1 A But he had come -- he had come up there to me, and
2 they said, "You got to leave."

3 And I said, "I haven't done nothing." And I
4 had -- but before Kathy had went over to the food
5 side, I'd asked her, I said, "I drank -- I drank a
6 couple of alcohol drinks," and I said, "I wanna sit
7 here." And there was a -- I don't know if it was
8 an actual race/whatever it was on. They was
9 talking about racing and stuff. So I had told her,
10 I said, "I'd like to sit here and watch the --
11 watch the two races that's on." And I said, "I'll
12 (verbatim) like to sit here a while and let that
13 alcohol level off on me."

14 She said, "Well, that's okay." She went over
15 to the food side.

16 And then it wasn't long, Tony come up to me
17 and leaned up on the bar, and he said, "Hey, you
18 need to get the hell out of here."

19 I said --

20 Q That's Tommy?

21 A Tommy.

22 Q Okay.

23 A I said -- it ain't Tony. I said, "I haven't done
24 nothing."

25 He said, "I didn't say that." He said, "I

1 told you, you have to get the hell out."

2 And I said, "Well, Kathy told me that I can
3 sit here a while."

4 And he said -- he said, "I'm" -- what -- slash
5 -- I don't know if he said the owner or whatever.

6 I don't really remember exactly what he said --

7 Q Right, right.

8 A -- but he -- they got to cussing me, and, "F-that."
9 Well, then that's when -- I know that I was too
10 drunk to drive, because I was telling him, I said,
11 "Well, just call me a cab." And I said, "I'll
12 leave."

13 And he said, "I ain't doing" -- and he just
14 got to cussing. Said, "No. I ain't doing a damn
15 thing. You -- you don't have -- you can't tell me
16 to do nothing." And so at that point -- well, then
17 I'm just trying to get everything calmed back down.
18 And then it wasn't long, I heard somebody else
19 through behind me-like (verbatim) -- it was sorta
20 dark. He done went around from the bar side more
21 to the side here (indicating.) Went around the bar
22 and he was up there and he was leaned up on the
23 bar. And he started saying -- that's whenever I
24 heard somebody, like, in behind me there -- a few
25 feet behind me (verbatim.)

1 And he started to saying, "F Jerome Motts."
2 And he kept -- keeping on, keeping on, and Tony
3 started, too. And then I didn't really know who it
4 was. And then whenever I turned to look and see
5 who it was, I heard something pop, clicking, to the
6 -- behind me; he was back behind me. And -- and
7 then I seen who it was, and I know that me and him
8 had had altercations several years prior to that --
9 Q Well, let me ask you this -- hold up. You heard a
10 popping. Was that gun shots?
11 A No. It was a -- and as I heard that, well, then I
12 turned back around to see what he was doing, and I
13 see him go down like that (indicates). And I seen
14 part of a black thing go down like that
15 (indicates). And I looked up on the bar thing, and
16 there was a bunch of white looking stuff up there
17 near the flag -- American flag on a stick, about
18 that long (indicates) and -- laying there in that
19 white stuff. And he was doing like that right
20 there (indicating.)
21 Q Uh-huh.
22 A And I told him -- I knowed (as spoken) it was a gun
23 clicked. It just snapped.
24 Q Okay.
25 A It was going off. And so, I told him, I said,

1 "Hey," I said, "you don't be cussing. Don't be
2 doing that." I said, "You going to let that damn
3 thing get your ass." And then so he -- that's
4 whenever -- but, now, prior to all that, after he
5 got to telling me to -- to leave, I was gonna try
6 to see if I could walk. And I was -- I was too
7 drunk to really walk and all that. And I was too
8 drunk to drive. I had walked -- it's all on video.
9 You can see me on pictures.

10 Q Well, let me ask you this: Did you ever leave the
11 bar and come back?

12 A I had walked outside --

13 Q Okay.

14 A -- and I went down the steps and went out to a 45,
15 to the car parking lot a little way.

16 Q Right.

17 A I couldn't walk. I turned around and come right
18 straight back in.

19 Q Okay.

20 A And then I'm on video coming right back down
21 through there --

22 Q Uh-huh.

23 A -- the way I'm talking about coming, or on a
24 picture, and I'm coming back into the bar.

25 Q Uh-huh.

1 A And whenever I come into the bar, I see him
2 standing there with a group of people --

3 Q Who is "him"?

4 A Tony.

5 Q Tony.

6 A Tony was standing in between his cook and all them
7 other ones standing there. And he had a gun in his
8 left hand out like that (indicates). And whenever
9 I saw it, I said, "What" -- I threw my hands up
10 in the air, and I said, "What are you doing with
11 that gun?" His gun like that right there
12 (indicates) --

13 Q Uh-huh.

14 A -- to hide it. And that's whenever I went back to
15 the stool and that's whenever he got to clicking.
16 And then that's whenever Brandon come back up there
17 -- or he was up there starting that stuff. And
18 then whenever I seen that clicking -- I always
19 carry a gun, because I stay in the woods. I carry
20 a gun and -- and I -- I own a slaughterhouse, and I
21 process meat; I kill meat there --

22 Q Uh-huh.

23 A -- and all that, too. So I always carry a gun on
24 me, because I don't know what's -- goes on. I
25 don't never usually go out -- like town and all

1 that, you know. I just mainly stay in the woods,
2 fishing and hunting, or something, stuff like that.

3 Q Well, let me ask you this: So you heard the gun
4 click, and you have a gun. Did you fire your gun?

5 A No, no, no. No, no -- not at that time, now, I
6 didn't.

7 Q Okay.

8 A I didn't -- and then -- but I -- whenever I noticed
9 he had a gun was then whenever Brandon was up
10 behind me. But then that's --- whenever I turned
11 to see what he was doing and he was standing there
12 and I think he's getting close to me. And he done
13 told me, he -- prior to that fight we had had
14 before, he said, "If I ever catch you, old" -- you
15 know what. He said, "I" -- he said, "No matter
16 what shape you in" -- I'm disabled, anyways. He
17 said, "I don't care what -- how bad of a shape you
18 get in or how old you get or how crippled up you
19 get," he said, "ever son-of-bitching time I see
20 you," he said, "I'm gonna beat the hell out of
21 you."

22 Q Okay.

23 A And so -- and so at that given time, whenever I got
24 -- I turned around and got off the stool and that's
25 whenever I pulled my gun. He took off running. I

1 let him run. I wasn't gonna shoot him. I wasn't
2 gonna shoot. Didn't shoot. And I let him run and
3 he went out the door and he run back down through
4 some big plate glasses down the -- by them plate --
5 plate glass. They're about an inch and a half
6 thick.

7 Q Uh-huh.

8 A And I shot them big -- I shot one plate glass.
9 Cracked it. And whenever I shot the other two, I
10 hit a 12 by 8 piece of wood in the edge of it and
11 cracked the other two. And the other one, I hit --
12 the -- the other bullet, I hit -- hit the corner
13 and then some brick -- concrete brick block about a
14 foot high off the floor.

15 Q So you -- you did --

16 A That's the only three that I shot anywhere toward
17 that. None of that's on the video, no now. But --
18 which they got video for it now.

19 Q Well, let me ask you: You never shot any of these
20 individuals intentionally, did you?

21 A Did I what?

22 Q Did you intentionally shoot anybody in that bar
23 that day?

24 A The only person that I admit to shooting and that
25 was Tony Lipscomb, because whenever I started back

1 down from -- after I shot them three shots into the
2 plate glass windows, I started back down and coming
3 back towards the backdoor. As I started back
4 through the back door -- back down through the
5 backdoor, I heard a click. Another, "Snap, snap,
6 snap, snap." And I turned to look and see what it
7 was, and it was Tony sitting there over at the bar
8 with a pistol. And he had it aimed toward my head
9 and, he went, "Clink, clink, clink." And it didn't
10 go off. So I reached and pulled mine up, and I
11 shot him in the edge of the stomach -- right side
12 of the stomach. Didn't shoot none of them on the
13 left side like they said. All of them was on the
14 right side. I shot him one time on the right side
15 of his edge of the stomach. He didn't flinch. He
16 didn't drop the gun. He had the gun down behind
17 the bar trying to put another bullet in it.

18 Q So you're saying that the guy -- you're saying that
19 Tom -- Tony had a gun pointing to your head, and --
20 and you shot him in self-defense?

21 A Right.

22 Q Okay.

23 A And then he pulled -- then he didn't drop the gun
24 or nothing, so that's whenever I shot him in his
25 right shoulder, and he hit the floor. And he

1 almost fell on his cook. It's on the video. He --
2 they showed the video that he almost fell on his
3 cook (as spoken) -- head. He was down there behind
4 the bar trying to get the gun from Tony so he could
5 shoot. They'd already been planning on murdering
6 me anyhow.

7 Q They'd been planning on murdering you?

8 A Yeah. They'd been planning on killing me.

9 Q Okay. Did you talk to Mr. Cook about that?

10 A I had might have mentioned it. I don't really -- I
11 can't really remember the exact words that I --

12 Q Well, let -- well, let me ask you this way: Right.
13 You -- you said you were defending yourself when
14 you shot that individual, correct?

15 A Correct.

16 Q When Mr. Cook came to the jail to see you, did you
17 and him -- did he talk to you about defending
18 yourself?

19 A He already knowed that. I didn't have to tell him
20 that, because he was telling me about it --

21 Q No, no.

22 A -- too, so --

23 Q Do you -- do you understand that self-defense is a
24 defense against these --

25 A Right.

- 1 Q -- charges, right?
- 2 A Right.
- 3 Q Did you and Mr. Cook talk about the issue of you
4 defending yourself and how it was a defense in your
5 case?
- 6 A He said that the judge wouldn't -- no. They wasn't
7 gonna bring all that up. As far as self-defense,
8 they wasn't gonna let me plead self-defense.
- 9 Q Okay. So he said that -- okay. I'm trying -- I'm
10 gonna try to make this clearer. He said that you
11 cannot have a defense of self-defense. Is that --
- 12 A Right.
- 13 Q -- what you're saying? Don't let me put words in
14 your mouth. Tell me. He said you could -- you
15 could -- did -- let me say it this way: Did he say
16 you don't have a case for self-defense, or did he
17 say they won't let you put forth a case for self-
18 defense? Which one was it?
- 19 A That's what it was. He wouldn't let me put forth a
20 self-defense case.
- 21 Q The judge wouldn't?
- 22 A Or the prosecutor, judge, whichever one. I don't
23 know who all was involved in the -- the legal
24 system there at that point.
- 25 Q Did that seem strange to you that you couldn't do

1 self-defense?

2 A No. It didn't really cross my mind, because I
3 wasn't really -- I didn't really know how -- I
4 didn't know the seriousness as it -- it happened to
5 turn out to be. I didn't know it was that kind of
6 seriousness -- of being serious.

7 Q Okay. Well, at some point, you were down in the
8 jail for a long period of time, right?

9 A I was.

10 Q Okay. And during that time down in the jail, at
11 what point at the jail did you say, "Hey, this is
12 really, really serious"? When did you get to that
13 point?

14 A I never did because I didn't think it was going --
15 ever become -- I thought it -- I did -- didn't know
16 how that it was gonna go in court.

17 Q Okay. Well, let me ask this: Mr. Cook didn't talk
18 to you about the seriousness of the charges?

19 A All I knowed is what was on the papers -- the
20 indictment papers. I don't know even how they come
21 up with that or nothing like that as far as them
22 charging me with two counts of attempted murder
23 whenever I shot just one guy in self-defense.

24 Q Well, let -- let me -- I wanna -- I wanna make sure
25 I understand this. Mr. Cook comes in the jail to

1 see you, okay? And you're facing pretty much a
2 hundred and something years in jail -- 60, 70 years
3 in jail, right? Right?
4 A Yes. It was 19 months.
5 Q And so y'all never had a discussion, "Hey, this is
6 really serious"?
7 A No.
8 Q So you only -- you only felt the seriousness of it
9 after you were sentenced; is that right?
10 A Correct.
11 Q Okay.
12 A And after I got in -- after I got up there in the
13 court whenever I seen all the evidence that they
14 had against me whenever it wasn't so to start with.
15 Q Okay. So some of the evidence you -- you think
16 that -- that --
17 A All --
18 Q -- was not credible, right?
19 A All of the -- the 911 call is not real. The videos
20 that was showing Brandon Ramsey of being shot in
21 the heel is not real. The --
22 Q And let me stop you there for a minute so -- before
23 you go down the list. Some of the stuff you
24 believe because the place was remodeled, right?
25 A Correct.

1 Q And they went and shot the videos after remodeling,
2 right?

3 A Correct.

4 Q Okay. And so, therefore, the tapes that they have,
5 it's your position it didn't accurately reflect at
6 -- at the time all this happened; is that --

7 A And the video --

8 Q -- is that correct?

9 A Correct.

10 Q Okay. Go ahead.

11 A The video that shows me -- that I seen in court,
12 him -- me shooting Tony Lipscomb was pre-staged,
13 fabbed (as spoken), remade, redacted, whichever one
14 you wanna call it. That it was also redone,
15 because it shows me shooting him, and him did not
16 (as spoken) -- he didn't even have a gun. And
17 whenever he falls, he falls over, which he didn't
18 in the original video. He dropped straight down.
19 And whenever he falls over, he grabs his left side
20 of his chest.

21 Q Uh-huh.

22 A And he never was hit in his left side of his chest.
23 He was hit on his right side because I've seen the
24 bullet whenever it went through him into the bar --
25 I mean, into the -- the -- behind -- behind him.

1 Whenever it went through him and in and out of his
2 shirt.

3 Q Okay. Did you -- did you discuss all this with Mr.
4 Cook?

5 A No. Because we was at trial at that given time,
6 and I wasn't able to really do no saying or nothing
7 like that at that time. I didn't know what to say,
8 to tell you the truth, because I was scared to say
9 anything, because all of the evidence that they was
10 saying that was against me and all and the stuff
11 that I was seeing and all. And they said -- said
12 that it went on for close to two hours.

13 Q Close to how many hours?

14 A For -- close to two hours, a hour --

15 Q Two hours, okay.

16 A -- a hour and -- almost two hours. Close to --

17 Q Okay.

18 A -- a hour and 35 minutes or so. They said that I
19 was in there with a gun, hooting and hollering at
20 people, telling them what do to, cussing and all
21 that, threatening, jerking people around. And --
22 and he had a chance -- Tony even had a chance to
23 come up behind me while I was talking to another
24 friend of his, acting like he's gonna beat the hell
25 out of him. He knocked me on the head with a cue

1 stick. And then it shows him in another picture,
2 him with a knife acting like he's gonna stab me in
3 the back.

4 Q Okay. Let me ask you this: You testified in this
5 case, correct?

6 A I did.

7 Q You did testify. And -- and your testimony -- you
8 made what could be some admissions, and those
9 admissions were not true; is that correct?

10 A They're not true.

11 Q Okay.

12 A I shouldn't never got on the stand.

13 Q Okay. Did you and your lawyer discuss your
14 testimony before you gave it?

15 A None of that was discussed.

16 Q Okay.

17 A Nobody knowed what I was going to say. I didn't
18 even know what kind of questions they was gonna ask
19 or nothing.

20 Q Okay. So you testified at trial without talking to
21 your attorney about it?

22 A Yes. I knowed that -- he mentioned, though, that I
23 was gonna testify, but he didn't -- I didn't know
24 as far as -- there was no -- there was nothing
25 prepared.

1 Q And so you -- you said some of this stuff in this
2 transcript because you were nervous; is that
3 correct --
4 A Correct.
5 Q -- accurate?
6 A Yeah. Uh-huh.
7 Q Okay. And you in no way intentionally hurt anybody
8 at the bar that night, correct?
9 A I wouldn't intentionally hurt -- harm nobody at
10 all, really.
11 Q Okay.
12 A I would never shoot nobody. I ain't never wanna
13 try to hurt -- harm nobody as far as any kind of
14 taking of a life or anything like that. I would
15 not take a life, because I do not wanna die with --
16 you ain't supposed to die or nothing like that with
17 blood stains on your hands, especially with another
18 person.
19 Q Did y'all go over the trial strategy?
20 A Trial strategy?
21 Q Yeah. What -- how y'all gonna try the case? What
22 y'all was gonna try to prove?
23 A No. Really, the -- about the only thing that I
24 knew is whenever I was -- got ready to be tried,
25 they pulled me out of the county jail, carried me

1 up there, and that's whenever Dean Cook come out
2 there with a paper and wanted me to sign it. And
3 he said, "You know where all the shell cases and
4 all that stuff are on the floor and all that?"

5 I told him -- I said, "Yes, yes."

6 He said, "That right there'll save a lot." He
7 said, "I'll sign this." He said, "You sign it,
8 then I'll sign it, and let Barry Barnette sign it."
9 I did. And that's the only thing I can figure out
10 why the forensics evidence will -- will set me
11 free. Forensic evidence, medical records, and all
12 that, that right there, will prove what I'm saying.

13 Q Did you and Mr. Cook talk about that about what you
14 said --

15 A No. Because all that happened -- I didn't know all
16 -- none of that until I got into court. And then
17 all the stuff was happening the way it was
18 happening.

19 Q So let me -- okay. Let me sum this up. And,
20 basically, you didn't talk to Mr. Cook at all about
21 your case --

22 A No.

23 Q -- and you discovered all the facts to your case
24 while you were sitting at trial?

25 A At -- yeah.

1 Q Okay.

2 A What was going on and all that. I knew then what
3 was going on that I was having -- that they was
4 doing -- pulling a conspiracy against me. And I
5 got -- I know what a conspiracy means --

6 Q Uh-huh.

7 A -- and I know -- I've done -- I got the paperwork
8 with me to prove that in legal terms of it --

9 Q Uh-huh.

10 A -- exactly what a conspiracy is.

11 Q So you're saying it's a conspiracy with Mr. Cook
12 and somebody?

13 A I'm gonna say that he did know -- he had to know.
14 I'll say this: He had to know what was going on in
15 that trial that of all the videos and pictures and
16 stuff that he had with Barry Barnette and all that
17 and them other guys that was in that bar filming
18 that video with him, he had to know it.

19 Q And --

20 A And none of that stuff was there at the time that I
21 went to jail that -- after the shooting. The
22 police was in on it, and I can prove that, too.

23 Q Okay.

24 A I can -- I've got statements that I can prove that
25 the police lied, and the -- and --

1 Q Well, let me ask you this.

2 A -- police scanner --

3 Q Well, hold -- hold on. Let me ask you this: When

4 you said, "He was in on it," what do you mean in on

5 it? What does that mean?

6 A Well, like I said -- and I don't know how far that

7 Mr. Cook would've went in on that as far as that.

8 I'm gonna say he -- he knew it because he had to

9 know it because Barry Barnette and --

10 Q Well, you say he had to know that all the stuff was

11 altered. Is that what you're saying?

12 A Right. And --

13 Q Okay. All right.

14 A -- and the judge redacted it is what it says. And

15 I -- I got -- there was something else, I'm -- but

16 the redaction part, I got the laws on the redaction

17 that the judge done, but where is that? I never

18 was received a copy of the -- all the -- the stuff

19 that the judge had supposed to have redacted. I

20 never received a copy of that. As far as law and

21 the rights, I was supposed to have gotten a copy of

22 the -- what --

23 Q Uh-huh.

24 A -- the judge had redacted. And I didn't even know

25 that anything was gonna be redacted or reenacted or

1 nothing -- remade or whatever, until I got on that
2 stand, and I got to looking at the videos.

3 Q Okay. So when you got on the stand, that's when --

4 A Then I knew that --

5 Q -- you figured all of it out?

6 A -- that's when everything started.

7 Q Thank you.

8 MR. RICHEY: (To the applicant) Answer any
9 questions the Attorney General has for you.

10 THE COURT: Cross?

11 MS. MARTO: Yes, Your Honor.

12 CROSS-EXAMINATION OF EDDIE JEROME MOTTS

13 BY MS. MARTO:

14 Q So you didn't see any discovery at all; is that
15 correct?

16 A No. I didn't.

17 Q And you didn't discuss any trial strategy at all;
18 is that correct?

19 A No. I didn't.

20 Q Did you bring this up to the Court before the trial
21 started?

22 A Is what now?

23 Q Did you tell this to the Court before the trial
24 started?

25 A I was told there wasn't no use to that; it was

1 gonna be tried (verbatim.)

2 Q Okay. But why would you go to a trial if you
3 didn't know of any strategy or any evidence or any
4 witnesses or anything?

5 A I -- I am not smart enough at that given time to
6 have any kind of a knowledge of -- as far as a log
7 or what I needed to do. That's the reason I hired
8 an attorney that was supposed to have been
9 representing me for those problems.

10 Q So you didn't know what a trial was?

11 A Somewhat, but, no. As far as the meanings and the
12 rulings and all that kind of stuff, the talk of it,
13 no. I don't know it.

14 Q Now, did you shoot one guy or two?

15 A I shot one guy in self-defense, and he's -- and he
16 took out a gun trying to shoot me.

17 Q But you admitted to shooting both guys at trial?

18 A In one place in the thing I did say that I shot
19 him, but I also meant to say the windows, because I
20 was -- Barry Barnette kept saying, "You shot that
21 guy. You shot him. You shot him. You" -- just
22 over and over and over.

23 Q So are you saying the prosecutor tricked you into
24 thinking you shot him when you didn't?

25 A I believe he pulled it out of me, because he kept -

1 - the way he kept pushing it.

2 Q He pulled --

3 A The -- the -- coerced me -- out of me.

4 Q He coerced you into --

5 A Right.

6 Q -- incriminating yourself --

7 A Right.

8 Q -- based upon --

9 A You're right.

10 Q -- false information?

11 A You said it right. That's right.

12 Q So are you telling the truth today?

13 A Yes. I am. And I can prove it.

14 Q Now, you're saying that all of the video evidence

15 and everything is fabricated; is that correct?

16 A Is what`now?

17 Q All of the video evidence was fabricated?

18 A I'm not gonna say every one of the pictures and all

19 were fabricated, but the ones I saw have been

20 remade or redacted or refabricated or remade.

21 Q And did you tell your attorney this, that it was

22 all fabricated at trial?

23 A I started saying something about it, but then all

24 he did -- he had just said be quiet where he could

25 listen -- where he could listen to what was being

1 said.

2 Q Now, you said you think you might have mentioned
3 that you were shooting them in self-defense to your
4 attorney?

5 A I didn't say no "might" to it.

6 Q Okay.

7 A There wasn't no "might." "Might" is not -- not in
8 my vocabulary. Might -- I shot the guy that had
9 the gun pointed toward my head, then he pulled the
10 trigger three times. He pulled that trigger three
11 times. That gun did not go off. Then, whenever I
12 caught him doing that, that's whenever I turned,
13 and I shot him one time in his right side of his
14 low stomach on the outside edge. And he didn't
15 drop the gun. So I raised up my gun and shot him
16 in the right shoulder, and I seen (as spoken) the
17 bullet penetrate him all the way through.

18 Q Okay.

19 A And he went into the back of the -- back of the
20 bar.

21 Q Now, when you were first being told to leave the
22 bar, did you leave for good, or did you come back
23 in?

24 A No, it was just a -- out there and I couldn't walk
25 or nothing. And I'd been trying to get them to get

1 me a cab. He said -- Tony had told that he tried
2 to get me to -- that they was gonna try to get me
3 to go and get me in that truck and they were gonna
4 drive it home and all that. The way they was doing
5 -- y'all -- you don't get into that vehicle. They
6 wasn't trying to help me.

7 Q Okay.

8 A They was trying to kill me.

9 Q But the question --

10 A And I wasn't about to let them.

11 Q But the question is: Did you leave for good the
12 first time, or did you come back in and that's when
13 the shooting started?

14 A The argument had already started. I had just
15 walked out and tried to see if I can walk. I could
16 not walk, because I was too drunk. So I turned
17 around and walked straight back in. I might've
18 been gone a minute.

19 Q Okay. Now, did your attorney say that you could
20 never pursue a self-defense trial, or you couldn't
21 enter a plea of self-defense, and if you wanted to
22 pursue a self-defense defense, it would have to be
23 at trial?

24 A All of that didn't take place, because I -- I did
25 not know the laws and stuff, and I -- it's like I

1 got through saying, that was what I hired an
2 attorney to help me do, figure out what I needed to
3 do. I do know that a firearm -- what it does; it
4 takes a life. It's not a toy. It is a deadly
5 weapon, and it's always used for that. And I know
6 -- but is -- no. I -- you know.

7 Q Okay. So do you think that your attorney thought
8 that the videos were fabricated?

9 A To start with, it wasn't but just maybe -- I'm
10 gonna say close to about maybe no more than six or
11 seven pictures that I had seen total. And the
12 other pictures that was in court, I really never
13 got to see all the evidence that -- like I -- they
14 was -- they had told me to start with from -- to
15 start with I would see all the evidence that was
16 against me before trial. That didn't happen. All
17 I seen was just what few videos that Mr. Cook had
18 showed me before -- while I was down there at the
19 County.

20 And as far as the rest of them, I don't know
21 if they had been -- I didn't -- I don't know
22 whether all of them had been fabricated or they had
23 just been some of them had been pulled off the disk
24 and all that, you know, or exactly what. But I
25 know the ones that I've seen as far as the

1 shootings and all of them that they showed to the
2 jury and all, all of those were fabricated although
3 that was a shooting theyself (as spoken.) And it
4 was of the -- so it had been redacted.

5 Q And did you testify on direct that you thought the
6 solicitor and counsel were conspiring together to
7 frame you? Was that essentially what you were
8 saying?

9 A I'm saying that now.

10 Q Okay. You're saying that now. Did you think that
11 the victims and the witnesses and everybody was up
12 against you?

13 A I don't have to say I think that, just that I'm
14 saying I know.

15 Q Why do you think that's the case?

16 A I don't think nothing. I know that that's the
17 case.

18 Q Why do you know that's the case?

19 A Because of the evidence that I know of that's
20 gotten me 65 years.

21 Q Okay. So you think that because they showed
22 evidence that led to a long sentence then they all
23 must be conspiring against you?

24 A It's all the video evidence and stuff like that and
25 the -- the video who was remade, why would you

1 remake everything if you was going to be -- be
2 upright about it (verbatim)? I mean, why would you
3 -- I mean, a conspiracy -- if you need to know what
4 a conspiracy is, I can show you. I can tell you.

5 Q Sir, did --

6 A Go ahead.

7 Q You never discussed your decision to testify at all
8 with Counsel; is that correct?

9 A Say that again.

10 Q Did you ever discuss your decision to testify or
11 what your testimony would be with Counsel at all?

12 A Not as far as the testimony, but the testifying,
13 yes.

14 Q Okay.

15 A I knowed that I was gonna testify.

16 Q All right.

17 MS. MARTO: No further questions, Your Honor.

18 THE COURT: All right. Redirect?

19 MR. RICHEY: Just one question.

20 **REDIRECT EXAMINATION OF EDDIE JEROME MOTTS**

21 BY MR. RICHEY:

22 Q So you're totally innocent of all of these charges,
23 correct?

24 A Correct.

25 Q You're totally innocent of all the charges,

1 correct?

2 A Yes, sir.

3 Q Okay. Thank you.

4 MS. MARTO: No further questions.

5 THE COURT: Any cross? All right. (To the
6 applicant.) You may step down.

7 (WHEREUPON, the applicant was excused.)

8 MR. RICHEY: We call Mr. Dean Cook.

9 (WHEREUPON, the witness was sworn.)

10 DIRECT EXAMINATION OF DEAN COOK, ESQ.

11 BY MR. RICHEY:

12 Q Sir, would you state your name, please?

13 A Dean Cook.

14 Q And, Mr. Cook, are you a -- you're an attorney,
15 correct?

16 A That's right.

17 Q Okay. And do you recall representing Mr. Motts?

18 A I do.

19 Q And was -- and that was a jury trial, correct?

20 A That's right.

21 Q And you've been in the courtroom and heard the
22 testimony of this case, correct?

23 A Excuse me?

24 Q You've been in the courtroom. You've heard the
25 testimony?

1 A Yes. Yes.

2 Q Let me -- I'm gonna ask you just what some of these

3 issues and -- number one is: Did you discuss self-

4 defense with Mr. Motts?

5 A Yes.

6 Q You did?

7 A I did.

8 Q And -- and was it a self-defense case to you?

9 A It -- no, because the shooting was caught on video.

10 The whole case was on video.

11 Q Okay. When you say it was not -- you heard how Mr.

12 Motts described it as the guy holding the gun on

13 him, and he shot to protect himself. Is that what

14 the case was? Is that how the facts played out?

15 A No. They were not. That's not the way it played

16 out. But we did get a self-defense charge to the

17 jury.

18 Q And so you discussed that with him in detail?

19 A Yes.

20 Q Okay. And the evidence -- did you go over the

21 discovery with him prior to his trial?

22 A Absolutely.

23 Q Okay. Did -- how did you -- did you go to the jail

24 to talk to him?

25 A I went to the jail probably a dozen times.

1 Q Okay. And when you went to the jail, what were the
2 conversations like? I mean . . .

3 A Well, Mr. Motts had several health problems at the
4 time that were kind of an immediate concern, and I
5 say physical health, had some mental health issues,
6 also, and we discussed those at length, as well as
7 the case itself.

8 Q So -- so these videos that -- that appeared in the
9 trial, you went over those with him?

10 A Yes. I did.

11 Q And did you determine that any of the videos had
12 been altered at all?

13 A No. I did not.

14 Q Did -- did Mr. Motts discuss with you about the
15 videos being altered?

16 A No. He mentioned it in trial about -- during his
17 testimony, I believe, he said that to me, but
18 that's -- that's the only time.

19 Q Did some of the -- did any of the videos appear
20 like they were -- the place was remodeled; is that
21 correct? Did you recall that?

22 A I -- I don't think it was remodeled. I think it's
23 -- the videos were of the scene. I've been to
24 Harold's before, and it appeared to be Herold's on
25 the video.

1 Q Okay. So you don't believe that the videos were
2 altered in any form?

3 A I do not.

4 Q In terms of trial -- trial strategy, what strategy
5 did -- did you have for this trial?

6 A An insanity defense.

7 Q And what were you basing that on?

8 A Mr. Motts' prior medical history. He has
9 Parkinson's and has suffered with hallucinations in
10 the past.

11 Q And his testimony, did you discuss that with him at
12 all -- is -- his testimony trial?

13 A Yes. I did.

14 Q Okay. And what did y'all discuss? Do you recall
15 what it was?

16 A We went over the questions I was gonna ask him in
17 trial.

18 Q Do you know of any evidence that -- that was not
19 there initially in the trial? In other words, was
20 there a set of discovery and evidence you got, and
21 then it was supplemented sometime towards the trial
22 -- any new evidence? I'll put it that way.

23 A A week prior to trial, I think I sent a email to
24 the solicitor and just advised and asked and
25 inquired was there any more videos, anymore disks,

1 things like that that was possibly left out. The
2 solicitor actually went and checked the Gaffney
3 Police Department and notified me immediately that
4 there was some body camera footage that had not
5 been provided to the solicitor's office or myself.

6 Q Was he offered anything to plea at trial?

7 A He was not. No offer was made.

8 Q And there was no bond in the case?

9 A No bond. We had a bond hearing and -- and bond was
10 denied.

11 Q Did Mr. Motts discuss with you that he was innocent
12 of these charges? Did he say he was innocent of
13 them?

14 A I -- I don't know if he would say he was innocent
15 of the charges, but he offered some mitigation --

16 Q Okay.

17 A -- and his version of the story.

18 Q Okay. This -- this notion about the seriousness of
19 the charges, did you discuss with him the
20 seriousness of the charges --

21 A Absolutely.

22 Q -- with him? Do you believe -- did he understand
23 that?

24 A I think he did.

25 Q And you believe that -- that at trial, he -- he was

1 suffering from some mental illness? I think the
2 transcript was talking about Parkinson's disease
3 and all that. That -- that affected him at the
4 time of the crime and the trial, or --

5 A I -- I would say both.

6 Q Okay. Hold on a minute.

7 Mr. Cook, in terms of this -- this conspiracy
8 against him, are you aware of the conspiracy
9 against him at all in this case?

10 A I am not.

11 MR. RICHEY: (To the applicant) Thank you.
12 Answer any questions the Attorney General may
13 have.

14 THE COURT: Ma'am?

15 MS. MARTO: Thank you, Your Honor.

16 CROSS-EXAMINATION OF DEAN COOK, ESQ.

17 BY MS. MARTO:

18 Q Now, you discussed the self-defense defense with
19 Mr. Motts prior to trial, correct?

20 A That's right.

21 Q And you actually secured a jury charge upon self-
22 defense, correct?

23 A I did.

24 Q Okay. Now, you didn't -- because you didn't know
25 about a conspiracy, you certainly didn't

1 participate in one against Mr. Motts, correct?

2 A That's right.

3 Q Yeah. Did you try to help him the best you could

4 at trial?

5 A I worked very hard for him.

6 Q Okay. Now, nothing looked fabricated in any of the

7 evidence to you, correct?

8 A No.

9 Q Would you have raised it at trial if it did?

10 A Yes. I would.

11 Q And it was your understanding that Mr. Motts

12 understood the charges he was facing and the

13 potential penalties of going to trial, correct?

14 A Yes.

15 Q Is there anything -- any indication that he didn't

16 understand any of your conversations with him?

17 A No.

18 Q And all discovery was shown to him, correct?

19 A It was.

20 Q Okay. And, in fact, a copy of the discovery was

21 given to him, correct?

22 A Yes.

23 Q Okay.

24 A Before trial and after trial.

25 Q So two separate copies --

1 A Yes.

2 MS. MARTO: No further questions, Your Honor.

3 THE COURT: Any redirect?

4 MR. RICHEY: No -- no questions.

5 THE COURT: (To the court reporter) Did he
6 say no questions?

7 THE COURT REPORTER: No further questions.

8 MR. RICHEY: No questions.

9 THE COURT: No questions. You may step down.
10 Thank you, sir.

11 (WHEREUPON, the witness was excused.)

12 THE COURT: All right. Next witness?

13 MR. RICHEY: That's it. No other witness.

14 MS. MARTO: No other witnesses, Your Honor.

15 THE COURT: All right. All right. Anything
16 from the parties? Anything else from the
17 parties?

18 MR. RICHEY: Thank you, Your Honor.

19 THE COURT: Okay. All right. I'll take it in
20 advisement, and I'll let you know.

21 MR. RICHEY: Thank you.

22 MS. MARTO: Thank you.

23 THE COURT: Thank you.

24 (Whereupon the within hearing was
25 concluded at 3:18 p.m.)

1 [*This transcript may contain quoted material.
2 Such material is reproduced as read or quoted
3 by the speaker.]

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG) CERTIFICATE

I, Amber Payne, Official Court Reporter for the
Seventh 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 the evidence introduced in
the trial of the captioned case, relative to appeal,
in the Court of General Sessions for Spartanburg
County, South Carolina on April the 18th, 2022.

I do further certify that I am neither of kin,
counsel, nor interest to any party herein.



Amber J. Payne, CVR

Date: 12/12/2022
Notary public for South Carolina
My commission expires August 12, 2029

STATE OF SOUTH CAROLINA)
COUNTY OF CHEROKEE)

IN THE COURT OF COMMON PLEAS
FOR THE SEVENTH JUDICIAL CIRCUIT

Eddie Motts, #114069,
Applicant,)

Case No.: 2020-CP-11-00168

v.)

ORDER OF DISMISSAL

State of South Carolina,
Respondent.)

FILED
CLERK OF COURT
2022 AUG 29 AM 9:00
BRENDY W. MCREE

This matter comes before this Court by way of Applicant's post-conviction relief application filed March 13, 2020. Respondent made its return on August 4, 2020, requesting an evidentiary hearing be convened. An evidentiary hearing was held on April 18, 2022, at the Spartanburg County Courthouse. Rodney W. Richey, Esquire, represented Applicant. Assistant Attorney General Chelsey F. Marto represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Counsel H. Dean Cook, Esquire, also testified. After reviewing all records and evidence before this Court, this Court finds Applicant cannot meet his requisite burden of proof of establishing he is entitled to post-conviction relief and denies and dismisses this application with prejudice. Findings of fact and conclusions of law are set forth below.

Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Cherokee County Clerk of Court. During its December 2018 term, the Cherokee County Grand Jury indicted Applicant for attempted murder (count one) and possession of a firearm by a person convicted of a crime of violence (count two)¹ (2018-GS-11-

¹ At trial, the State decided not to proceed on this count because Applicant had not previously been convicted of a violent felony.

01600) and attempted murder (count one) and possession of a weapon during commission of a violent crime (count two) (2018-GS-11-01601). Applicant was represented by Trent Pruett and H. Dean Cook, Esquires. Solicitor Barry Barnette of the Seventh Circuit Solicitor's Office prosecuted the case. On September 9-11, 2019, Applicant proceeded to trial before the Honorable J. Mark Hayes, II, circuit court judge, and a jury. Applicant was found guilty as charged on the remaining three counts and Judge Hayes sentenced Applicant to thirty years' imprisonment on each attempted murder charge and five years for possession of a weapon during commission of a violent crime, sentences running consecutively. Applicant did not pursue a direct appeal.

Summary of Relevant Facts

On March 26, 2018, Applicant was in a bar drinking with several other people. (Tr. 87-95). At one point, Applicant stood up, stated that no one in the bar could "kick his ass", and the bartender, Tony Lipscomb, told him to leave and that he would not be served anymore. (Tr. 95-96). After being asked to leave, Applicant became volatile and began threatening everyone in the bar. (Tr. 96-97). The bartender grabbed a pool cue to hit Applicant with if he continued acting up. (Tr. 97-98). Eventually Applicant left the bar. (Tr. 98-99). Applicant reentered the bar shortly thereafter and then pulled a gun, threatening to kill the bartender and a patron, Brandon Ramsey, whom Applicant had a previous altercation with. (Tr. 101). 911 was called immediately and the bartender began pleading with Applicant to put the gun away. (Tr. 101). Applicant threatened to shoot if the phone was not put away and proceeded to hold everyone in the bar hostage. (Tr. 101). At one point, Applicant chased the patron towards the front door, demanding he get off the phone with 911. (Tr. 102-03). Applicant ultimately shot Brandon in the thigh. (Tr. 103, 107). Applicant then went after the bartender and pulls the trigger. (Tr. 101-02). The bartender grabbed

his gun, but it was jammed. (Tr. 102). Applicant then shot the bartender the second time and the police enter the building, and the bartender ran away. (Tr. 102). The bartender was shot in the chest, which required several surgeries and left him with life-long scar tissue. (Tr. 107-08).

Current Action Before this Court

In his current PCR application, Applicant alleges he is being held in custody unlawfully because of ineffective assistance of counsel in that:

1. "Ineffective assistance of counsel."
 - a. "Lawyer did not show supporting evidence."
2. "All evidence was not presented at court."
 - a. "Gaffney Police Dept. did not hand over all evidence (police statement)."
3. "Some evidence seemed to be altered (fake)."
4. "Video showed seemed to be different in the layout of building."
5. "Feel like I did not get a fair trial."

At the PCR hearing, Applicant proceeded forward on the following allegations:

1. Ineffective assistance of counsel:
 - a. Brevity of time spent in consultation.
 - b. Failure to develop a trial strategy.
 - c. Failure to review discovery.
 - d. Failure to provide Applicant with a copy of his discovery.
 - e. Failure to pursue self-defense defense.
 - f. Failure to pursue a self-defense jury instruction.
 - g. Failure to investigate fabricated evidence.
 - h. Failure to discuss Applicant's trial testimony.
 - i. For participation in a conspiracy with the State.

All other allegations raised in his initial application and amendments are deemed waived and abandoned and, accordingly, will not be addressed in this order.

Summary of the Testimony

Applicant Testimony

Applicant testified that he hired Counsel. He stated they discussed very little about the case. He stated Counsel visited him about four times. He stated that they did not discuss any plans or strategies at the jailhouse meetings. He stated they did not review discovery and he

never saw the discovery in the case.

Concerning the incident, Applicant stated he was told to leave Harold's Restaurant and Bar. He stated he left the bar and went back inside. He stated he was too drunk to drive. He stated when he entered the bar, he saw Tony with the gun in his left hand. Applicant stated he fired three bullets and the only person he intentionally shot was Tony. He stated that Tony had a gun pointed at his head and heard the gun click. He stated he shot Tony in the stomach out of self-defense.

He stated that the State and the Court prevented him from putting forth a self-defense defense. He stated he only felt the seriousness of the crime after he was sentenced. He stated that some of the evidence was fabricated, including the 911 call and some of the videos. He stated that the videos were restaged. He stated he did not tell Counsel about these issues because he did not know what to say. He stated he testified at trial, but never discussed the substance of his testimony with Counsel. He stated he never wanted to harm anyone. He stated he did not discuss trial strategy with Counsel. He stated that the forensic evidence in the case corroborated his story. He testified the State, Counsel, and the police were all a part of a conspiracy to fabricate the evidence in the case so he would be found guilty at trial.

On cross-examination, Applicant stated he was unsure why he decided to go to trial without knowing what the evidence against him was. He stated he was not aware of how a trial worked, which is why he hired Counsel. He stated he tried to tell Counsel that the evidence was fabricated. He stated he testified at trial and that some of the evidence at trial was fabricated. Specifically, he claimed the video footage was fabricated to show he shot Tony in the wrong side of the chest. He stated he was positive that Counsel, the State, the police, the witnesses, and the victims all conspired against him. On re-direct, Applicant stated he was totally innocent of all

charges.

Counsel Testimony

Counsel testified he discussed a possible self-defense defense with Applicant, but stated he did not think it necessarily applied, given the facts of the case. He stated he visited Applicant at the jail about a dozen times. Counsel testified he showed Applicant all the discovery in the case. During their discussions, Counsel testified that Applicant mentioned he thought the videos were modified. However, Counsel testified he did not believe that the videos were altered. Counsel testified that the chosen trial strategy was pursuing the insanity defense. Counsel stated he went over the questions he would ask Applicant on the stand with Applicant before trial. Counsel testified that no plea offer was made, and no bond was given in the case either. Counsel testified that he discussed the seriousness of the charges with Applicant and that he thought Applicant understood the seriousness of the charges. Counsel testified that he had no knowledge of a conspiracy against Applicant, nor did he participate in one. Counsel testified that he provided a copy of the discovery to Applicant before trial and an additional copy after trial.

Findings of Fact and Conclusions of Law

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. Before this Court are the Cherokee County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, the trial transcript, and this PCR action's records. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusion of law as required by South Carolina Code Annotated Section 17-27-80 (2003).

Ineffective Assistance of Counsel

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel's performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel's actions fell outside of the zone of "reasonableness under prevailing professional norms." *Strickland*, 466 U.S. at 688. See also Rule 71.1(e), SCRCP ("The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."). Reasonableness is determined by the "variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant," and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). Judicial scrutiny of counsel's performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually "countless" ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel's deficient performance must have prejudiced the applicant so that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. Realistically, this matters "'only in the rarest case'" because "[t]he likelihood of a different result must be substantial, not just conceivable." *Harrington v. Richter*, 562 U.S. 86, 111-12 (2011) (quoting *Strickland*, 466 U.S. at 697).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696-97.

Brevity of Time

Applicant alleges that Counsel was ineffective for failure to maintain contact with him to properly go over the case. "[B]revity of time spent in consultation with a defendant alone is not indicative of inadequate trial preparation." *Smith v. State*, 404 S.C. 493, 500, 745 S.E.2d 378, 382 (2012). Applicant must show evidence indicating "how additional preparation or communication would have resulted in a different outcome." *Id.* See *Jackson v. State*, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998) (where application failed to show ineffective assistance of counsel based on lack of preparation by neglecting to show evidence of what counsel failed to discover or what defenses counsel could have pursued had he more fully prepared for the case);

Skeen v. State, 325 S.C. 210, 214-15, 481 S.E.2d 129, 132 (1997) (where applicant failed to show ineffective assistance of counsel when he did not present evidence showing how additional preparation would have impacted the trial).

This Court finds Counsel credible in his testimony that he met with Applicant multiple times to discuss the discovery, charges, and trial strategy. Further, there has been no showing that had Counsel met with Applicant more that the results of the trial would have been different. Accordingly, this Court find Counsel acted reasonably and was not deficient. Further, Applicant was not prejudiced by any alleged deficiency on the part of Counsel. Thus, relief is denied on this ground.

Failure to Review Discovery

Applicant claims Counsel was ineffective for failure to review the discovery with him. This Court finds this allegation is without merit. Specifically, Counsel credibly testified that he met with Applicant multiple times and, through their meetings, discussed all the discovery in the case. Counsel also credibly testified that he provided a copy of the discovery to Applicant before trial and an additional copy after trial. Thus, this Court finds this claim to be without merit and denies relief accordingly.

Failure to Provide Applicant with a Copy of the Discovery

Applicant claims Counsel was ineffective for failure to provide Applicant a copy of the discovery. However, Counsel credibly testified that he reviewed all discovery with Applicant and that he provided Applicant with a copy of his discovery before trial and provided him with an additional copy of his discovery after trial. Thus, this Court finds this claim to be without merit and relief is denied on this ground.

Failure to Pursue Self-Defense Defense

Applicant claims Counsel was ineffective for failure to pursue a self-defense defense. Whether failure to assert a defense constitutes deficient performance ultimately hinges on whether failure to explore the decision was a strategic decision. *Strickland*, 466 U.S. at 680. If there is only one line of defense, counsel must conduct a "reasonably substantial investigation" into that line of defense. *Id.* (quoting *Washington v. Strickland*, 693 F.2d at 1252). However, if there are several lines of defense, counsel may still be effective even if every single line is not explored. *Id.* "[W]hen counsel's assumptions are reasonable given the totality of the circumstances and when counsel's strategy represents a reasonable choice based upon those assumptions, counsel need not investigate lines of defense that he has chosen not to employ at trial." *Id.* at 681 *Id.* (quoting *Washington v. Strickland*, 693 F.2d at 1255). Further, "[w]hen counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect." *Yarborough*, 540 U.S. at 5 (citing *Strickland*, 466 U.S. at 690).

Regarding failure to alert the Applicant of a defense specifically, Counsel will not be found ineffective if there was inadequate evidence to support the defense, if the defense did not exist at the time of trial, or another avenue of defense existed. See *McCray v. State*, 317 S.C. 557, 455 S.E.2d 686 (1995) (stating that failure to state an entrapment defense was not ineffective when the applicant denied any wrongdoing); *Arnette v. State*, 306 S.C. 556, 413 S.E.2d 803 (1992) (stating that failing to inform of a defense was not ineffective when there was no evidence at trial that supported the defense); *Robinson v. State*, 308 S.C. 361, 417 S.E.2d 361, 417 S.E.2d 88 (1992) (stating that Counsel was not ineffective when failing to state a defense that was not recognized by the Court until six years later and was just recently acknowledged by

the scientific community).

Counsel credibly testified that he discussed the possibility of a self-defense defense with Applicant but stated that he did not think the facts of the case, as backed by video evidence, fit that defense. Additionally, Counsel credibly testified that the chosen defense was an insanity defense, which he reasonably chose to deploy instead. Finally, Counsel still secured self-defense jury instructions in the case, running counter to the argument that the defense was not deployed at all. Counsel is not deficient for failure to assert an inadequate defense, for focusing on a better defense instead, and for nevertheless securing the proper jury instruction regarding the defense. Additionally, Applicant failed to show how further argumentation regarding the defense would have changed the outcome at trial. Thus, no prejudice has found. Accordingly, relief is denied on this ground.

Failure Pursue a Self-Defense Jury Instruction

Applicant alleges ineffective assistance of counsel for failure to pursue a self-defense jury instruction. However, the trial transcript reflects that Counsel requested the instruction. (Tr. 277-80). After argument from both sides concerning the jury charge, the Court ultimately decided to charge the jury on self-defense. (Tr. 330-32). Thus, Applicant's allegation that Counsel was ineffective for failure to pursue a self-defense jury instruction is refuted by the record and the request for relief denied as a result.

Failure to Develop a Trial Strategy

Applicant claims Counsel was ineffective for failure to develop a trial strategy. However, as discussed above, the chosen defense at trial was the insanity defense. Counsel credibly testified that the insanity defense was the chosen defense and that this was discussed with Applicant. Thus, this Court declines to find Counsel failed to create a trial strategy or failed to

convey this to Applicant. Counsel is not deficient on this ground and no prejudice is found flowing therefrom.

Failure to Investigate Fabricated Evidence

Applicant alleges ineffective assistance of counsel for "failure to investigate." *Strickland* makes clear that Defense counsel "has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." 466 U.S. at 691. When highlighting failure to investigate as a ground for a larger ineffective assistance of counsel claim, judicial determination of this claim's validity is evaluated for "reasonableness [under] all the circumstances" with "a heavy measure of deference to counsel's judgments" applied. *Id.* That said, counsel is required to, at minimum, "interview potential witnesses and make an independent investigation of the facts and circumstances of the case", *Arb v. Caroe*, 372 S.C. 318, 331-32, 642 S.E.2d 590, 597 (2007) (quoting *Troedel v. Wainwright*, 667 F.Supp. 1456, 1461 (S.D.Fla.1986), *aff'd*, 828 F.2d 670 (11th Cir.1987)), including aggressively re-examining all the government's forensic evidence and conducting analyses of all other available forensic evidence." *Id.* (quoting *American Bar Association Guidelines For The Appointment And Performance Of Defense Counsel In Death Penalty Cases*, reprinted in 31 Hofstra L.Rev. 913, 1015 (2003) (emphasis added)).

Counsel is not obligated to "investigate lines of defense that he has chosen not to employ at trial." *Strickland*, 466 U.S. at 682 (quoting *Washington v. Strickland*, 693 F.2d 1243, 1255 (5th Cir. 1982)). Further, "[w]hen counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect." *Yarborough*, 540 U.S. at 5 (citing *Strickland*, 466 U.S. at 690).

Applicant made a blanket assertion that some of the evidence, including the 911 call and

the videos, in his case was fabricated. However, he failed to show what exactly about any of this evidence was fabricated. What little Applicant did say was fabricated, including what side of the chest he shot the victim in, is purely non-consequential. Additionally, Counsel credibly testified that he discussed Applicant's theory of fabricated evidence with him before trial, but that he did not see any indication of fabrication. Thus, this Court finds Counsel was not deficient for failing to investigate evidence that provided no indication of potential fabrication. Additionally, this Court finds that Applicant has made no showing of prejudice on this ground. Accordingly, relief is denied on this ground.

Failure to Discuss Applicant's Trial Testimony

Applicant claims Counsel was ineffective for failure to discuss Applicant's trial testimony with her. However, Counsel credibly stated he went over the questions he would be asked on the stand at trial with Applicant before trial. Additionally, Applicant failed to show what would have changed in his testimony through further preparation or how that would have impacted the proceedings. Thus, relief is denied on this ground.

Conspiracy

Applicant claims Counsel was ineffective for participating in a conspiracy with the State to ensure he would be found guilty at trial. Counsel credibly testified that there was no conspiracy or collusion with the State. This Court also finds no evidence that a conspiracy or collusion took place. Accordingly, relief is denied on this ground.

Conclusion

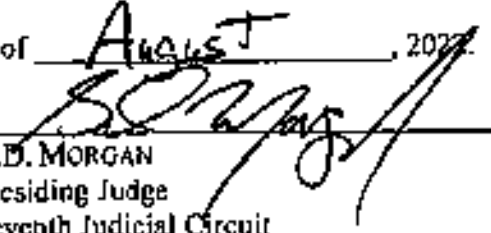
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty days of receipt by counsel of the judgment entry's written notice to secure appropriate appellate review. See Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has the right to appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCF provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate appellate procedures.

IT IS THEREFORE ORDERED:

1. The PCR application be denied and dismissed with prejudice; and
2. Applicant be remanded to the custody of Respondent.

AND IT IS SO ORDERED this 23rd day of August, 2022.


 G.D. MORGAN
 Presiding Judge
 Seventh Judicial Circuit

Spartanburg, South Carolina.

WITNESSES

Gaffney City Police Department

ARREST WARRANT NUMBER

2018A1120200120 and 2018A1120200132

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: 12/20/18

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 18-GS-11-01600

The State of South Carolina

County of Cherokee

Barry J. Barnett, Solicitor

COURT OF GENERAL SESSIONS

Dec 20 2018 TERM

THE STATE

v.

EDDIE JEROME MOTTS

Indictment for

ATTEMPTED MURDER - COUNT I;
POSSESSION OF FIREARM BY
PERSON CONVICTED OF A CRIME OF
VIOLENCE - COUNT II

SC Code 16-03-0020; 16-23-600

CDR Code 3410; 3434

Class PEL-A ; F&L/F

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

2018 DEC 20 AM 10:34

BRANDY W. MCREE

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHEROKEE)

INDICTMENT

At a Court of General Sessions, convened on Dec 20 2018, the
 Grand Jurors of Cherokee County present upon their oath:

ATTEMPTED MURDER - COUNT I

That the Defendant, Eddie Jerome Motts, did in the City of Gaffney located in Cherokee County on or about March 26, 2018, with intent to kill, attempted to kill Tony Lipscomb, with malice aforethought, expressed or implied, by shooting him with a handgun, in violation of Section 16-3-0029, Code of Laws of South Carolina, (1976, as amended).

**POSSESSION OF FIREARM BY PERSON
 CONVICTED OF A CRIME OF VIOLENCE - COUNT II**

That the defendant, Eddie Jerome Motts, did in the City of Gaffney located in Cherokee County on or about March 26, 2018, willfully and unlawfully possess a firearm, he having been convicted of a crime of violence in the Courts of the State of South Carolina, he not being authorized by law to so possess a firearm, in violation of §16-23-500, THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 SOLICITOR

WITNESSES

Gaffney City Police Department



ARREST WARRANT NUMBER

2018A1120200130 and 2018A1120200131

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: 12-20-18

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 18-GS-11-01401

The State of South Carolina

County of Cherokee

Barry J. Bernotte, Solicitor

COURT OF GENERAL SESSIONS

Dec 20 2018

TERM

THE STATE

v.

EDDIE JEROME MOTTS

Indictment for

ATTEMPTED MURDER - COUNT I;
POSSESSION OF A WEAPON DURING
COMMISSION OF A VIOLENT CRIME -
COUNT II

SC Code 16-03-0020; 16-23-490

COR Code 3410; 649

Class FEL-A; FEL-F

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, SC

2018 DEC 20 AM 10:34

BRANDY W. MCSEE

STATE OF SOUTH CAROLINA)
 COUNTY OF CHEROKEE }

INDICTMENT

At a Court of General Sessions, convened on Dec. 20 2018, the
 Grand Jurors of Cherokee County present upon their oath:

ATTEMPTED MURDER – COUNT I

That the Defendant, Eddie Jerome Motts, did in the City of Gaffney located in Cherokee County on or about March 26, 2018, with intent to kill, attempted to kill Brandon Ramsey, with malice aforethought, expressed or implied, by shooting him with a handgun, in violation of Section 16-3-0029, Code of Laws of South Carolina, (1976, as amended).

**POSSESSION OF A WEAPON DURING
 COMMISSION OF A VIOLENT CRIME – COUNT II**

That the Defendant, Eddie Jerome Motts, did in the City of Gaffney located in Cherokee County on or about March 26, 2018 possess or visibly display a firearm or a knife during the commission of a violent crime, to-wit: ATTEMPTED MURDER, in violation of Code §16-23-490, CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Cherokee
STATE VS.Eddie Jerome Motts

AKA: _____

Race: WHITE Sex: M Age: 61Address: Hawthorn StCity/State/Zip: Greenville, SC 29605

SID#:

*CDE Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Assault / Attempted Murder - Court One - (0-30 years)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT CASE#: 2018QS101600A/W#: 2018A1120200129Date of Offense: 3/26/2018S.C. Code §: 16-03-0029CDR Code #: 3410

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSIn violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC) ☐ [17-25-45
Whistle (1st or 2nd Act)]The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentation to Grand Jury. (Defendant's Initials)
Threats: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTORNEY: BARNETTE, BARRY SCB13039 Eddie J. Motts SCB101703
SC Bar Defendant Cook, R. Dean SC Bar
Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOP.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135. 535
Pursuant to 18 U.S.C. Section 921, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-45 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Del. Waiver Hearing ☐ Ordered PTUP _____

Total \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPS _____

Recipient: _____

*Fees:	\$
§14-1-206 (Assessments 107.5%)	\$
§14-1-211(A)(1) (Conv. Surcharge)	<u>\$100</u>
§14-1-211(A)(2) (DUI Surcharge)	<u>\$100</u>
§36-5-2983 (DUI Assessment)	<u>\$12</u>
§36-1-386 (DUI Breath Test)	<u>\$25</u>
Proviso (Public Def/Probation)	<u>\$500</u>
§14-1-212 (Law Enforce. Funding)	<u>\$25</u>
§14-1-213 (Drug Court Surcharge)	<u>\$150</u>
§30-21-114 (BUI Breath Test Fee)	<u>\$50</u>
§36-5-2942(f) (Vehicle Assessment)	<u>\$400</u>
3% to County (if paid in installments)	<u>\$ 3.75</u>

TOTAL \$1,78.25Clerk of Court/ Deputy Clerk: Bryndal McPheeCourt Reporter: Mike Davis

SCCA/217 (04/2018)

_____ days/months Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
payments of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to _____
during probation and shall be collected before
any other fees.

Presiding Judge

Judge Code: 8132Sentence Date: 4/11/19

STATE OF SOUTH CAROLINA

COUNTY OF
STATECharleston
VS.

Eddie Jerome Mott

AKA:

Race: WHITE Sex: M Age: 61

Address: Hannick StCity/State/Zip: Galveston, SC 291400000

SIDR:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
 in disposition of the said indictment notes how the Defendant who was
 TO: Assault / Attempted Murder - Count One (1) (0-30 years)

in violation of § 16-33-029 of the S.C. Code of Laws, bearing CDR Code # 3410
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC) ☐ §17-25-45
 whether 1st or 2nd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Prosecution to Grand Jury. (Defendant's rights)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTORNEY:

BARNETTE, BARRY

SCB13039

SC Bar#

Defendant

Cook, H. Dean

Attorney for Defendant

SCB101793

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____,
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
 which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: to 2018/05/10/1600☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOP.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-133. SSS
 Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-28 or 16-25-65 (Domestic
 Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waiver Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPS

Recipient:

*Fee:	\$
§14-1-206 (Assessment 107.5 %)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100
§14-1-211(A)(2) (DUI Surcharge)	\$100
§56-3-2993 (DUI Assessment)	\$12
§56-1-286 (DUI Breath Test)	\$25
Proviso (Public Def/Probation)	\$500
§14-1-212 (Law Enforcement Filing)	\$35
§14-1-213 (Drug Court Surcharge)	\$130
§30-21-114(B)(1) Breath Test Fee)	\$50
§35-5-2942(1) (Vehicle Assessment)	\$400
3% to County (if paid in installments)	\$ 97.5

TOTAL \$ 1,287.5

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2018GS1101601A/W#: 2018A1120200130Date of Offense: 3/26/2018S.C. Code § : 16-03-0029CDR Code #: 3410

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSObtain GED ☐

Attend Voc. Reimb. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
payments of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
 Proviso requires \$500 by public defender
 during probation and shall be collected before
 any other fees.

Presiding Judge

Judge Code: 2033Sentence Date: 9/10/19

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Cherokee

VS.

Eddie Jerome Monte

AKA:

Race: WHITE

Sex: M

Age: 61

Address: Hawrick St

City/State/Zip: Conway, SC 293400000

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazard Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TD: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death- Court Two (0-5 years)

In violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC

w/monitor Int or Level A/c)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Prosecution to Grand Jury. (defendant's init.:The plan is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the Sta.

ATTORNEY

BARNETTE, BARRY

SCB13039

SC Bar#

Defendant

Cook, H. Dena

Attorney for Defendant

SCB101703

SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:to 2018-05-11-01601☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-60 to be calculated and applied by SCDOC.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDFPPS

Recipient:

*Fees:

§14-1-206 (Assessment 107.5 %)	\$	
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§14-1-211(A)(3) (DUI Surcharge)	\$100	\$
§56-5-2093 (DUI Assessment)	\$12	\$
§56-1-284 (DUI Breath Test)	\$23	\$
Provision (Public Def/Probation)	\$100	\$
§14-1-212 (Law Enforcement Funding)	\$25	\$
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114 (DUI Breath Test Fee)	\$50	\$
§56-5-2042(f) (Vehicle Assessment)	\$400	\$
3% to County (if paid in installments)	\$ 9.75	

TOTAL

\$ 1278.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/211 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2018GS1101601A

APW#: 2018A1120200131

Date of Offense: 3/26/2018

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

Presiding Judge:

Judge Code:

Sentence Date: